



# City Council Meeting Agenda

December 19, 2016  
6:30 p.m. for Public Meeting  
1000 South B Street

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A complete agenda packet is available on the city's website and at City Hall beginning Friday evening before a meeting. *If you need special accommodations, please give city hall 48 hour prior notice by calling 541-535-1955.* To comment on agenda item, please write your name on the sign-in sheet and include the item number.

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**1. Call to Order / Roll Call / Confirmation of a Quorum**

At least four Councilors are needed for a quorum to conduct city business, unless allowed by the City Charter. If the Mayor is needed for a quorum, then s/he becomes a voting member for that meeting.

**2. Pledge of Allegiance**

**3. Mayor Comments**

- a. State of the City Report
- b. Re-Appointment of City Commissioners
  - 1. Planning Commissioner..... p. 1
  - 2. Parks & Greenway Commissioners..... p. 2
- c. City Staff Employee of the Year Award
- d. Special Recognition of Service to the City

**4. Public Comments**

This item is for people who want to present information or raise an issue not on the agenda. Each person shall have up to three minutes. To comment, please write your name on the sign-in sheet. When your name is called, step up to the podium, state your name and address for the record (only your name will be included in the minutes). While a Councilor or staff may briefly respond to your statement or question, **the law does not permit action on, or extended discussion of, any item not on the agenda** except under special circumstances.

**5. Updates / Reports**

- a. Phoenix Urban Renewal Agency (PHURA)
  - 1. Budget Status
  - 2. Update on Finances Available for Plaza Plans
- b. Parks and Greenway Commission
  - 1. Annual Report ..... p. 5
  - 2. Recommendation for Park Planning Process ..... p.7

**6. Presentations**

**7. Ordinances: Reading / Adoption**

- a. Public Hearing for Second Reading and Adoption of an Amendment to Recreational Marijuana Sales Tax ORDINANCE No. 977 to Impose Penalties and Interest..... p.9

**8. Consent Calendar**

Items on the Consent Calendar are considered routine and will be adopted by one motion. **There will be no separate discussion of these items unless it is requested by a member of the Council, staff, or public.** If so requested, that item will be pulled from the Consent Calendar and considered separately immediately following approval of the remaining items.

- a. Minutes to Note and File
  - 1. Approve City Council minutes for December 5, 2016..... p.12

**9. Consent Calendar Items Pulled for Discussion**

**10. Unfinished Business**

- a. AMENDMENT to City’s Lease Agreement with the Jackson County Fire District 5 – City Manager ..... p.16
- b. AMENDMENT to Intergovernmental Agreement with PHURA – City Manager.....p.25
- c. RESOLUTION No.979 Establishing an Intergovernmental Agreement with the Oregon Department of Revenue for the Administration of the Tax on Retail Sales of Recreational Marijuana Items – City Attorney..... p.34
- d. RESOLUTION No.980 Endorsing Conceptual Land Use and Transportation Plans for PH-3, PH-5, and PH-10 as part of the Urban Growth Boundary (UGB) Expansion – Planning Director..... p.52
- e. Update on Outstanding Balance from Oregon Department of Transportation Grant – Planning Director ..... p.70
- f. Update on Bicentennial Park Wetland Restoration/Mitigation Project – Planning Director ..... p.71
- g. Update on Value Added of Staff Roles: Traffic Safety Officer – Chief of Police..... p.73

**11. New Business**

- a. Opportunities for State Transportation and Infrastructure Funding – Public Works Director ..... p.75
- b. Street Lights along Grove Road – Public Works Director.....p.77

**12. Staff Reports**

- a. Finance Director
  - 1. PHURA Billing for Staffing Resources..... p.80
  - 2. Update on Budget Status: November 2016 Financial Report ..... p.82
  - 3. Update on Annual Fines and Forfeitures..... p.85

- 4. Update on Oregon Public Employee Retirement System (PERS)
  - Funding ..... p.86
- b. City Attorney
- c. City Manager
  - 1. Notice to Businesses with Retail Sales of Recreational Marijuana ..... p.89
  - 2. Update on Action Log
  - 3. Update on Hiring Process for new Planning Director

**13. Council Comments / Reports**

Any Councilor may make an announcement or raise any item of business that is not on the agenda. While other Councilors or city staff may briefly respond or comment, the law does not permit action on, or extended discussion of, any item not on the agenda except under special circumstances. If extended deliberation or potential action on a matter is desired, Council may direct staff to place the item on a future meeting agenda.

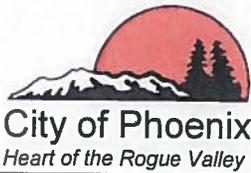
**14. Adjournment**

- a. To Tuesday, January 3, 2017 at 6:30 pm for a Council Meeting at 1000 S. B St.

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**Upcoming City of Phoenix Meetings:**

December 26, 2016	HOLIDAY
December 27, 2016	Planning Commission Meeting
January 2, 2017	HOLIDAY
January 3, 2017	City Council Meeting
January 9, 2017	Planning Commission Meeting
January 11, 2017	Phoenix Urban Renewal Board Meeting
January 16, 2016	HOLIDAY
January 17, 2017	City Council Meeting
January 23, 2017	Planning Commission Meeting



## Agenda Report

**Date:** December 19, 2016  
**To:** City Manager for Mayor and Council  
**From:** Administrative Coordinator  
**Subject:** Re-appointment of Planning Commission Member  
**Action:**  Motion,  Ordinance,  Resolution,  Information only,  Other

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### EXECUTIVE SUMMARY

Planning Commission Chair Micki Summerhays will be reappointed for a four-year term on the Planning Commission. Her current term expires on December 31, 2016.

Micki Summerhays has served as Planning Commission Chair for over ten years. Prior to that, she acted as a Planning Commissioner. Her experience and knowledge of local planning makes her a valuable member of the Planning Commission.

Any new member appointments to the Planning Commission will be postponed until the January 3, 2017 City Council meeting.

### ADVANTAGES & DISADVANTAGES OF ISSUE

Re-appointing Micki Summerhays to the Planning Commission would be beneficial as she continues to serve the city in a volunteer role with a great deal of experience and knowledge of Planning Commission responsibilities.

### FISCAL IMPACT

The Planning Commission is made up of community member volunteers.

### ALTERNATIVES

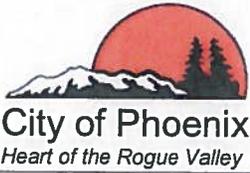
1. Re-appoint Chair Summerhays to the Planning Commission, with a term ending December 31, 2020.
2. Wait to reappoint Chair Summerhays until the January 2017 appointment process for commissions.
3. Refer item back to City Manager for further action (please specify).
4. Note and file information without direction further action on the item.

### RECOMMENDATION

Option 1. "I move to appoint Micki Summerhays to the Planning Commission for a four-year term ending December 31, 2020."

Prepared by: Sarah Lind

Approved by: Jamie McLeod



## Agenda Report

**Date:** December 19, 2016  
**To:** City Manager for Mayor and Council  
**From:** Theresa Syphers, PGC Secretary  
**Subject:** Parks and Greenway Commission Member Appointments  
**Action:**  Motion,  Ordinance,  Resolution,  Information only,  Other

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### EXECUTIVE SUMMARY

The Parks and Greenway Commission shall have seven members serving staggered terms: one member for one year, two members for two years, two members for three years and two members for four years. The Parks and Greenway Commission may make studies, hold hearings and prepare reports and recommendations on its own initiative or at the request of the city council. Any policies adopted by the Parks and Greenway Commission must be expressly approved in advance by the city council. The City of Phoenix Parks and Greenway Commission (PGC) has 4 members whose terms expire on December 31, 2016.

PGC Chair David Van De Velde has been a commissioner on the PGC for over six years. He was last appointed January 2014 for a 2-year term.

Commissioner Laurie Jendre was appointed in January of 2014 for a 2-year term.

Commissioner Dempsey Haller was appointed in January 2012 for a 4-year term.

Commissioner Sandy Wine was appointed in January of 2012 for a 4-year term.

Commissioners David Van De Velde, Laurie Jendre and Sandy Wine are all requesting re-appointment (see attached PGC members list).

In addition, the Council member acting as liaison for the PGC will be terming off the City Council. On January 3, 2017, a new Council member will need to be appointed as the Council Liaison.

### ADVANTAGES & DISADVANTAGES OF ISSUE

Having complete committees encourages volunteerism and community involvement within City government.

Incomplete committee boards may result in a lack of community input in decision making factors of the City.

### FISCAL IMPACT

No fiscal impact.

**SOURCE OF FUNDS**

General Fund,  Water Fund,  Street Fund,  Capital Project Funds,  
 Separate Fund for Local Option Taxes,  Debt Service Funds,  Reserve Funds

**ALTERNATIVES**

1. Reappoint David Van De Velde, Laurie Jendre, and Sandy Wine to the Parks and Greenway Commission and refer appointment of a new Council Liaison to the newly elected Mayor for appointment in January 2017.
2. Consider reappointment of David Van De Velde, Laurie Jendre, and Sandy Wine to the Parks and Greenway Commission at the January 3, 2016 City Council meeting.
3. Refer item back to City Manager for further action (please specify).
4. Note and file information without direction further action on the item.

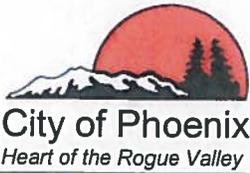
**RECOMMENDATION**

Option 1. "I move to appoint David Van De Velde and Laurie Jendre each for a 2-year term and Sandy Wine for a 4-year term on the Parks and Greenway Commission and refer appointment of a new Council Liaison to the newly elected Mayor for appointment in January 2017."

Prepared by: Theresa Syphers

Approved by: Jamie McLeod



**Agenda Report**

**Date:** December 19, 2016  
**To:** City Manager for Mayor and Council  
**From:** Theresa Syphers  
**Subject:** Parks Commission Annual Report  
**Action:**  Motion,  Ordinance,  Resolution,  Information only,  Other

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**EXECUTIVE SUMMARY**

The Parks and Greenway Commission was created under 2.13 of the Phoenix Municipal Code.

Section 2.13.050 – Secretary reads:

The parks and greenway Commission shall elect or appoint a secretary who need not be a member of the parks and greenway commission. The secretary shall keep and accurate record of all parks and greenway commission proceedings. The parks and greenway commission shall on the first day of October of each year make and file a report of its activities with the city council. (*Ord. 894 1(part), 2007*)

Please accept the following report. The Phoenix Parks and Greenway Commission submits this report of its activities.

- 6 Parks and Greenway Committee meetings held - Minutes attached  
November 5, 2015, January 21, 2016, February 18, 2016, April 14, 2016, July 7, 2016 and  
September 22, 2016 (Minutes not yet approved).
- Various sub-committee meetings for Bee City USA, Easter Egg Hunt and Dog Days of Summer.
- National Pollinator Week June 20 – 26, 2016 recognized by the City Council with a proclamation.
- Worked with the University of Oregon Community Service Center on the Parks Master Plan (in progress).
- A Parks Master Plan Open House was held at Colver Rd Park on June 4<sup>th</sup>.
- Easter Egg Hunt held at Phoenix Elementary School on March 26, 2016.
- Dog Days of Summer event at Colver Rd Park held on July 23, 2016.
- Events approved for 2017 – Dog Days of Summer  
Easter Egg Hunt  
Bee City USA National Pollinator Week event

**ADVANTAGES & DISADVANTAGES OF ISSUE**

**FISCAL IMPACT**

**SOURCE OF FUNDS**

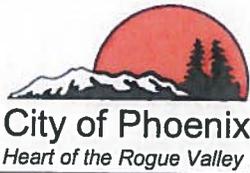
**ALTERNATIVES**

1. Accept the 2016 Parks and Greenway Commission Annual Report.
2. Request further information on the Annual Report prior to accepting it.
3. Refer item back to City Manager for further action (please specify).
4. Note and file information without direction further action on the item.

**RECOMMENDATION**

Option 1. Proposed motion: "I move to accept the 2016 annual report of the Parks and Greenway Commission."

Prepared by: Theresa Syphers    Approved by: . . . . .



## Agenda Report

**Date:** December 19, 2016  
**To:** Mayor and Council  
**From:** Councilor Carolyn Bartell  
**Subject:** Recommendation for Park Planning Process  
**Action:**  Motion,  Ordinance,  Resolution,  Information only,  Other

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### EXECUTIVE SUMMARY

Councilor Carolyn Bartell, the Parks and Greenway Commission Council Liaison, has prepared a report summarizing some of the goals of the Parks and Greenway Commission (attached). These goals are based on feedback from the public, either from surveys or open house events.

The Parks and Greenway Commission recognizes and thanks Public Works for the work they do to maintain the city.

### ADVANTAGES & DISADVANTAGES OF ISSUE

Referring this item to the 2017 Council will allow the item to be incorporated into the coming year's budget and Council process for approval.

### FISCAL IMPACT

This item would impact the 2017-2018 budget for parks and capital project funds.

### SOURCE OF FUNDS

General Fund,  Water Fund,  Street Fund,  Capital Project Funds,  
 Separate Fund for Local Option Taxes,  Debt Service Funds,  Reserve Funds

### ALTERNATIVES

1. Refer further direction on this item to the 2017 Council goal setting and budget process.
2. Refer to City Manager and direct her to have staff and the Parks Commission draft a list of priorities for the 2017-2018 budget.
3. Note and file information without direction further action on the item.

### RECOMMENDATION

Option 1. Proposed motion: "I move to refer further direction on this item to the 2017 Council goal setting and budget process."

Prepared by: Sarah Lind

Approved by: Jamie McLeod

**Councilor Carolyn Bartell, Parks Liaison**

Dec 19, 2016, Report to Council

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In everything Parks members have done, it has always been with the idea of what can we do for the community to bring more enjoyment in the use of the parks and in the attendance of city events. Our parks are really our way of giving to the community a fun place to go & enjoy; a reflection of life in Phoenix. We recognize and thank Public Works for doing a wonderful job keeping our parks looking great, among maintaining our streets, water system, and all the other behind the scenes jobs they do.

With the completion of our Parks Master Plan, we now have the needed plan showing our Parks future; a flexible document that gives us our marching orders for Parks growth & improvements. Let's not let this Master Plan just be filed away; let's make improvements for the Community.

Over the past years, Parks have taken different surveys of the community about what the community wants at our parks. As part of the Parks Master Plan, we had an open house community gathering at Blue Heron Park and at the Dogs Days of Summer event to get more citizen input.

Just a few items mentioned by the community that could be chosen to be done:

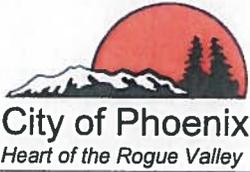
- We do not have any swings at Colver Park, one of the most asked for thing for the park to have.
- We do not really have anything at Blue Heron Park for the middle school/high school kids; a volley ball court has been asked for & could be added there.
- Parking being a major problem at Blue Heron Park, we could add a few more parking spaces throughout the park (without moving or impacting our beautiful new Bee Garden),

These items are new capital improvements that would increase capacity of the parks & could be funded by the Parks SDC funds. Our current City budget set aside \$95,000 in the Parks SDC funds that could go towards projects that could be completed by next summer. We know that our PW staff already has many PW projects and maintenance to do. For some of the Parks projects we could also look at the possibility of the cost of contracting out the projects to see if this is feasible.

Parks would like the opportunity to meet with PW staff the first part of the year to come up with a list of maintenance needs for next year's budget & be included in the presentation to the Budget Committee. Parks would also like to have input with PW staff for what parks capital improvement projects could be done with Parks SDC funds now before this next summer.

On behalf of Parks, asking this Council to voice support of moving these requests forward to our new Council:

- Parks meets with Public Works staff to be part of the input given for additional parks maintenance budget for FY17-18 cycle;
- Dedicate parks SDC funds currently available to spend to parks for spending on any capital improvement projects the first of the year after adopting the Master Plan; and
- Parks meet with PW staff to discuss cap improvement projects to do – some of which could possibly be done by next summer.



## Agenda Report

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**Date:** December 19, 2016  
**To:** Mayor and Council  
**From:** City Attorney  
**Subject:** Second reading of amendment to marijuana sales tax ordinance to impose penalties and interest  
**Action:** Ordinance No. 977 – Second reading

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**TITLE OF AGENDA ITEM:**

Consideration of Second Reading, and adoption of Ordinance No. 977, regarding penalties and interest on untimely payments of taxes imposed on the sale of recreational marijuana.

**PUBLIC HEARING ON THIS DATE:**

Yes.

**EXECUTIVE SUMMARY:**

The imposition and collection of penalties and interest on local recreational marijuana taxes are authorized and approved for collection by the Department of Revenue. Pursuant to the proposed amendment to the ordinance, penalties and interest shall accrue on all late and/or untimely payments of the tax to the maximum extent permitted by ORS 479B.710, 470B.715, ORS 314.400, ORS 305.265, and ORS 305.220. This amendment will allow the Department of Revenue to enforce and collect untimely tax payments to the fullest extent under the law.

**ADVANTAGES/DISADVANTAGES/POLICY:**

The advantages to this amendment are increased tax revenues. There are no disadvantages to this amendment.

**ALTERNATIVES:**

Take no action.

**RECOMMENDATION**

Public hearing on second reading of proposed amended ordinance. Motion to adopt and enact amended ordinance.

"I MOVE TO HAVE AMENDED ORDINANCE NO. 977 ADOPTED AND ENACTED."

**CITY COUNCIL OF THE CITY OF PHOENIX**

**ORDINANCE NO. 977**

**SECOND READING**

**AN ORDINANCE AMENDMENT TO AUTHORIZE THE IMPOSITION OF PENALTIES AND INTEREST ON LATE PAYMENTS OF THE 3 PERCENT TAX ON THE SALE OF RECREATIONAL MARIJUANA ITEMS BY A RECREATIONAL MARIJUANA RETAILER**

**WHEREAS**, the City Council referred to the voters a measure to approve an ordinance which imposes a tax of 3 percent on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city;

**WHEREAS**, the voters of the City of Phoenix cast a majority of votes in favor of the referred ordinance on November 8, 2016;

**WHEREAS**, the City Council finds it in the best interests of the City to amend the referred ordinance to impose penalties and interest on delinquent and/or late payments of the tax herein to the extent permitted by ORS 479B.710, 470B.715, ORS 314.400, ORS 305.265, and ORS 305.220.

**NOW THEREFORE, BASED ON THE FOREGOING, THE CITY OF PHOENIX ORDAINS AS FOLLOWS:**

**3.18.01. DEFINITIONS.** Recreational marijuana ("Marijuana" unless otherwise specified") item has the meaning given that term in Oregon Laws 2015, chapter 614, section 1. Marijuana retailer means a person who sells marijuana items to a consumer in this state. Retail sale price means the price paid for a marijuana item, excluding tax, to a marijuana retailer by or on behalf of a consumer of the marijuana item.

**3.18.02. TAX IMPOSED.** As described in section 34a of House Bill 3400 (2015), the City of Phoenix hereby imposes a tax of 3 percent on the retail sale price of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city.

**3.18.03. COLLECTION AND EXPENDITURE.** The tax shall be collected at the point of sale of a marijuana item by a marijuana retailer at the time at which the retail sale occurs and remitted by each marijuana retailer that engages in the retail sale of marijuana items. All revenues derived herefrom shall be expended for parks, Capital Improvements, general fund and overhead incurred as a result of the tax administration.

**3.18.04. PENALTIES AND INTEREST.** Penalties and interest shall accrue on all late and/or untimely payments of the tax imposed herein to the extent permitted by ORS 479B.710, 470B.715, ORS 314.400, ORS 305.265, and ORS 305.220.

The ordinance is hereby designated within Title 3 of the Phoenix Municipal Code. The City Council hereby approves of the form as designated and formatted herein. The

City Recorder shall place a copy of the ordinance in the official copy of the Phoenix Municipal Code.

**EFFECTIVE DATE OF THIS AMENDMENT.** The provisions added herein by amendment to the ordinance are effective 30 days following its passage by the City Council.

PASSED AND ADOPTED, by the City Council and signed by me in authentication thereof on this 19<sup>th</sup> day of December, 2016.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Manager/Designee

APPROVED FOR LEGAL SUFFICIENCY:

\_\_\_\_\_  
J. Ryan Kirchoff

ENDORSED, this \_\_\_\_ day of December, 2016:

\_\_\_\_\_  
Janette Boothe, City Recorder

*Date of 1st Reading: 5<sup>th</sup> day of November, 2016*

*Date of 2nd Reading: 19<sup>th</sup> day of December, 2016*

**City of Phoenix  
City Council Meeting  
Public Works Office  
1000 S. "B" Street  
Monday, December 5, 2016**

**DRAFT**

**1. CALL TO ORDER**

Mayor Jeff Bellah called the regular meeting of the City Council to order on Monday, December 5, 2016 at 6:30 p.m. in the Public Works Office.

**ROLL CALL**

**PRESENT:** Stan Bartell, Bruce Sophie, Carolyn Bartell, Terry Helfrich, Chris Luz, Jim Snyder, Jeff Bellah

**Staff Present:** Jamie McLeod, City Manager  
Janette Boothe, Finance Director/City Recorder  
Derek Bowker, Chief of Police  
Ray Dipasquale, Public Works Director  
J. Ryan Kirchoff, City Attorney

**2. PLEDGE OF ALLEGIANCE**

**3. MAYOR'S COMMENTS:**

Mayor Bellah is working on his last newsletter for this Council. Included in the newsletter will be accomplishments and challenges from the last few years. He asked if anyone has anything they would like included in the newsletter to let him know. Mayor Bellah also noted an upcoming joint study session on December 12, 2016 with the Planning Commission and City Council. On December 13, 2016, another study session will take place with the new Council members and the current Council as a recap of strategic planning items.

**4. PUBLIC COMMENTS**

Public comments are below in relation to item 11.a.

**5. UPDATES/REPORTS:**

a) Phoenix Urban Renewal Agency

Al Muelhoefer, Chairperson of the Phoenix Urban Renewal Agency (PHURA), noted PHURA repaid the \$150,000 loan in full from the City on December 1, 2016. PHURA has a grant from the Oregon Department of Transportation (ODOT) for \$147,000. PHURA has received \$120,000 back from ODOT which was passed on to Knife River. The remaining \$27,000 has been withheld due to addressing non-compliant Americans with Disabilities Act (ADA) issues. The sale of 312 N Main is going well and PHURA is hoping to close by the end of this month. They are working with a surveyor to resolve issues with lot line adjustments.

Ms. Parker added to Mr. Blair's comments. She noted that previously, Peterbilt, La-Z-Boy, and Home Depot were approached about covering the cost of maintaining the light at the intersection, which the businesses declined. She is in favor of a four-way stop at the intersection for safety reasons. Further discussion followed. **MOVED BY SOPHIE, SECONDED BY S. BARTELL, TO REQUEST ODOT TO RE-ESTABLISH A FOUR-WAY STOP AT THE INTERSECTION AND INSTALL ADDITIONAL SIGNAGE AND RESTRIPIING, AS DEEMED APPROPRIATE BY THE PUBLIC WORKS DIRECTOR, AND WORK WITH ODOT TO RECONSTRUCT THE INTERSECTION PROPER TO BETTER FACILITATE THE FLOW OF LARGER TRAFFIC AT A LATER DATE.**

**ROLL CALL VOTE AS FOLLOWS:**

**Ayes: Sophie, C. Bartell, S. Bartell, Luz, Helfrich, and Snyder  
MOTION APPROVED WITH SIX AYES**

**7.a) Resolution No. 976 Certifying Results of November 8, 2016 Election**

The results of the election must be certified by law. **MOVED BY SOPHIE, SECONDED BY C. BARTELL, TO ADOPT RESOLUTION NO. 976, RECITING THE FACT THAT THE GENERAL ELECTION WAS HELD ON NOVEMBER 8, 2016, DECLARING THE FOLLOWING RESULTS: CHRIS LUZ WAS ELECTED TO A TWO YEAR TERM AS MAYOR; SARAH WESTOVER, STUART WARREN, AND TERRY BAKER WERE ELECTED TO FOUR YEAR TERMS AS COUNCIL MEMBERS; AND MEASURE 15-153 PASSED, ESTABLISHING A THREE PERCENT SALES TAX ON RECREATIONAL MARIJUANA ITEMS SOLD BY A RETAILER.**

**ROLL CALL VOTE AS FOLLOWS:**

**Ayes: Sophie, C. Bartell, S. Bartell, Luz, Helfrich, and Snyder  
MOTION APPROVED WITH SIX AYES**

Mayor Bellah congratulated Chris Luz, Sarah Westover, Stuart Warren, and Terry Baker. He said he is very pleased they stepped up and feels as though the Council will acquire three good Councilors.

**8. ORDINANCES: READING/ADOPTION**

**8.a) Resolution no. 977 Authenticating a Recreational Marijuana Sales Tax and consideration of an Intergovernmental Agreement with the Oregon Department of Revenue**

Mayor Bellah noted nearly 75% of votes cast on the ballot measure were for the 3% recreational marijuana tax. **MOVED BY LUZ, SECONDED BY SNYDER, TO APPROVE THE VOTER APPROVED ORDINANCE AND TO PROVIDE FOR ITS PLACEMENT WITHIN TITLE 3 OF THE PHOENIX MUNICIPAL CODE.**

**ROLL CALL VOTE AS FOLLOWS:**

**Ayes: Sophie, C. Bartell, S. Bartell, Luz, Helfrich, and Snyder  
MOTION APPROVED WITH SIX AYES**

Luz noted the two-part motion – **MOVED BY LUZ, SECONDED BY C. BARTELL, TO APPROVE THE EXECUTION OF THE INTERGOVERNMENTAL AGREEMENT WITH**

Councilor S. Bartell stated he abstained from item 9.a.2 due to financial conflict of interest due to the reimbursement going to him and Councilor C. Bartell. Councilor C. Bartell stated she abstained on item 9.a.2 based on financial conflict of interest because the reimbursement is directly to her and Councilor S. Bartell. **MOVED BY SOPHIE, SECONDED BY LUZ, TO APPROVE CONSENT CALENDAR ITEM 9.A.2 AS PUBLISHED.**

**ROLL CALL VOTE AS FOLLOWS:**

**Ayes: Sophie, Luz, Helfrich, and Snyder**

**Abstained: C. Bartell and S. Bartell**

**MOTION APPROVED WITH FOUR AYES AND TWO ABSTENTIONS**

**10. CONSENT CALENDAR ITEMS PULLED FOR DISCUSSION**

No items were pulled for discussion.

**11. UNFINISHED BUSINESS:**

11.a) This item was moved up in the agenda.

11.b) Modifications to Main Street Road Diet

The Public Works Director noted at the November 7, 2016 meeting, Council spoke on the road diet (reduction from 2 lanes to 1 lane) along Main Street and some of the issues associated with it, such as driver confusion for right turns of Main Street. The Public Works Director looked at possibilities for breaking up the bike lane into a partial turn lane. This would entail creating breaks in the bike lane striping to indicate that vehicles may temporarily use the bike lane as a turn lane in the 50 feet before a side street if not bicyclists are present. A diagonal arrow pointing to the right would further indicate a designated right turn area. The intersections where this would be an option are along Main Street at 1<sup>st</sup> and 4<sup>th</sup>. Mayor Bellah suggested testing this option for several months in order to provide the next Council with more information prior to making a decision on the one lane versus two issue. **MOVED BY C. BARTELL, SECONDED BY HELFRICH, TO DIRECT STAFF TO MODIFY STRIPING AT THE INTERSECTIONS OF MAIN STREET AND FIRST STREET AND MAIN STREET AND FOURTH STREET WITH THE DOTTED LINE AND DIAGONAL ARROW.**

**ROLL CALL VOTE AS FOLLOWS:**

**Ayes: Sophie, C. Bartell, S. Bartell, Luz, Helfrich, and Snyder**

**MOTION APPROVED WITH SIX AYES**

11.c) Updating the Main Street Banner Process and Resolution no. 978 Updating Fees

The City Manager noted the banner process has been clarified for businesses or individuals who may like to utilize the banner poles on either side of Main Street. The previously established cost of \$330 was based on the City staff installing the banner. The proposed cost of \$270 is based on a lower contractor cost for installation/removal of the banner. The reduction in cost would be more accessible to members of the public seeking to promote community events. If the banner meets all requirements, it may be approved by the City Manager or designee. However, if not all criteria are met or an applicant seeks to waive the fee, the process would involve bringing the application to the Council. Council noted it would be beneficial to have more secure banner attachments to help the banners in inclement weather. **MOVED BY SOPHIE,**

**14. COUNCIL ITEMS, COMMENTS/REPORTS:**

14.a) Mayor Bellah noted the increase in health insurance for the upcoming year. He met with the City Manager and Board Director for Fire District 5 for a tour of the firehouse. The Mayor suggested amending the lease agreement to reflect Fire District 5 paying for the insurance and maintenance costs of the facility they are leasing. This item will be on the next agenda on December 19, 2016 and the Fire District 5 Board will discuss it on December 19, 2016 at their meeting. The City Attorney will review the agreement before bringing it to Council.

14.b) Councilor Snyder noted he will be out of town for the December 12, 2016 meeting.

14.c) Councilor Sophie discussed the PERS increase for 2017-2019.

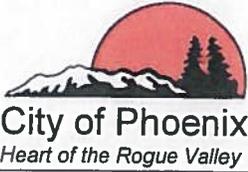
The meeting adjourned at 8:50 P.M.

Respectfully submitted,

Attest:

Sarah Lind  
Administrative Coordinator

Janette Boothe  
Finance Director/City Recorder

**Agenda Report**

**Date:** December 19, 2016  
**To:** City Manager for Mayor and Council  
**From:** Jamie McLeod, City Manager  
**Subject:** Amendment to City's Lease Agreement with the Jackson County Fire District No. 5  
**Action:**  Motion,  Ordinance,  Resolution,  Information only,  Other

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**EXECUTIVE SUMMARY**

Since September 2007, the City has had an ongoing Lease Agreement with Jackson County Fire District No. 5 (Fire District) for lease of the city's fire station building.

Following direction for the City Council, the Mayor and City Manager met with the Fire District Board Chair and Interim Fire Chief to discuss the Lease Agreement. Based on a discussion and walk-through of the facility, the attached Amendment to the current Lease Agreement is proposed. The draft Amendment has been reviewed by the Interim Fire Chief and his comments have been incorporated into the attached document.

The Amendment is also on the Fire District Board Agenda for consideration at their December 20, 2016, meeting.

**ADVANTAGES & DISADVANTAGES OF ISSUE**

The Attachment addressing outstanding issues between the parties, retains the current lease arrangement, and retains the opportunity to consider the sale of the property in the future. Maintaining the lease with the Fire District enhances the safety of Phoenix residents by maintaining the presence of the public safety force within the city.

**FISCAL IMPACT**

Estimated costs are approximately 1 hour of attorney time and 4 hours of staff time to finalize the Lease Amendment (\$350).

**SOURCE OF FUNDS**

General Fund,  Water Fund,  Street Fund,  Capital Project Funds,  
 Separate Fund for Local Option Taxes,  Debt Service Funds,  Reserve Funds

**ALTERNATIVES**

1. Approve the proposed Amendment to the Lease Agreement between the City and Fire District.
2. Approve a modified Amendment to the Lease Agreement between the city and Fire District 5 (please specify).
3. Refer item back to City Manager for further action (please specify).
4. Note and file information without direction further action on the item.

**RECOMMENDATION**

Option 1. "I Move to approve the proposed Amendment to the Lease Agreement between the City and Jackson County Fire District No. 5."

Prepared by: Jamie McLeod

## AMENDMENT

### To the LEASE AGREEMENT

#### Between the CITY OF PHOENIX and JACKSON COUNTY FIRE DISTRICT 5

This serves as an Amendment ("Amendment") to the self-renewing Lease Agreement ("Lease"), effective October 1, 2007, between the City of Phoenix ("City") and Jackson County Fire District 5 ("District"). This Amendment serves as a supplement to the existing Lease. Any issues not specifically addressed in this Amendment remain as specified in the original Lease.

This Lease Agreement provides a mutual benefit to the City and District in our shared mission of providing for the safety of the residents of Phoenix and the surrounding environs.

#### **Pursuant to Section 2. Term:**

If the City intends to terminate the Lease for the purpose of selling or changing the use of the property, the District shall have the right of first refusal on purchasing the property. In such a case, a representative of the City shall meet with a representative of the District to discuss the possibility of the District purchasing the property. The meeting shall be for the purpose of providing the District with the option to purchase the property on terms negotiated at that time, but shall not obligate the City to sell or transfer the property to the District if mutually agreeable terms cannot be negotiated. In the event the District elects to exercise its right of first refusal, such right shall be exercised within 60 days following written notice by the City to the District of the third-party offer to purchase the property from the City.

The City and District shall conduct a mutual review of the Lease within five years of the date this Amendment to the Lease becomes effective; namely, January 1, 2022.

#### **Pursuant to Section 3. Consideration:**

In reference to "additional consideration" provided by the District, "routine maintenance of the leased premises" shall include all preventative, routine, and ongoing maintenance of the property, including the buildings, hardscape, landscaping, and environs. The District shall be responsible for all routine maintenance.

#### **Pursuant to Section 6. Use:**

The office space located on the southeast side of the building, adjacent to the city's Police Department and to City Hall, shall be available to the City for use by the City or other city-affiliated organization as a storage or office use.

**Pursuant to Section 7.1 Material Improvements Require Permission from City:**

While the District retains responsibility for the cost of materials improvements, the Parties (i.e. City and District) may negotiate for potential shared responsibility for the cost of individual projects in excess of \$10,000.

**Pursuant to Section 7.2 General Requirements for All Improvements:**

Any and all improvements shall be paid for by the District, unless separately agreed to in an Addendum to this Lease.

**Pursuant to Section 8.1 Property Insurance:**

The District shall insure said property against fire, theft and other casualty, naming the City as an additional named insured on its liability policies as set forth in the Agreement.8.2 Commercial General Liability Insurance.

The above changes are made in accordance with Section 12 to the Lease, which states: "The provisions of this agreement may be modified, extended, or amended at any time through the mutual written consent of both parties."

IN WITNESS WHEREOF the parties, by the signatures of their authorized representatives, have executed this Amendment to the Lease effective January 1, 2017.

City of Phoenix

Jackson County Fire District 5

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Chairperson, Board of Directors

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

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

**[EXHIBIT "D"]**

**LEASE AGREEMENT**

This Lease Agreement ("Lease") is made and entered into by and between the parties, the City of Phoenix and Jackson County Fire District 5 ("District").

**WITNESSETH**

**WHEREAS**, the parties have entered into a Fire Protection and Emergency Medical Services Agreement ("Agreement") whereby the District will be providing Fire and EMS service to the City of Phoenix beginning October 1, 2007; and

**WHEREAS**, the parties acknowledge that it is in the best interests of both parties that the District lease the Phoenix Fire Station and Fire Dormitory (collectively the "Premises") from the City during the term of the Agreement.

**NOW THEREFORE**, it is agreed as follows:

1. **Description of Premises.** The City of Phoenix agrees to lease to the District the buildings at 116 and 118 West Second Street, Phoenix, Oregon, otherwise known as the Phoenix Fire Station and Fire Dormitory, respectively. The leased premises shall include the buildings and the land upon which they are situated.
2. **Term.** The term of this lease shall run concurrently with the term of the Agreement and any renewal terms thereof and shall automatically self-renew following annexation of the territory of the City of Phoenix into Fire District 5, in five (5) year increments thereafter, unless terminated as herein provided that either party may terminate this lease at any time for any reason upon not less than six (6) months' notice to the other party. The District agrees to surrender the leased premises upon expiration of this lease in the same or better condition as existed upon entry, subject only to any deficiencies that may exist due to any decisions by the City to forego the repairs and maintenance it is responsible for under the terms of the Agreement.
3. **Consideration.** The District shall pay the City of Phoenix TWO DOLLARS (\$2.00) for the October 1, 2007 through June 30, 2008 period and, if the Agreement is renewed, a like amount shall be due and payable upon July 1, 2008 and on July 1 of each year thereafter so long as the Agreement is in effect. As additional consideration, The District agrees to perform routine maintenance of the leased premises as provided in the Agreement.
4. **Utilities.** The cost for operating and maintaining all utilities on the leased premises will be paid by the District, including, but not limited to charges for metered electricity, gas, cable, water and telephone, refuse disposal, janitorial and routine maintenance as provided in the Agreement.
5. **Assignment Prohibited.** No part of the Premises may be assigned, mortgaged, or subleased, nor may a right of use of any portion of the Building be conferred on any third party by any other means, without the prior written consent of Landlord, which may be withheld at Landlord's sole

discretion. Any such assignment, mortgage, or sublease without Landlord's prior written consent shall be void *ab initio*.

6. Use. The Premises shall be used solely as a fire station in support of fire protection and other emergency services to be provided by District to the City of Phoenix under the Agreement, and for no other purpose.

7. Improvements.

7.1 Material Improvements Require Permission from City. District shall make no "Material Improvements" to the Premises without first obtaining City's written consent, which shall not be unreasonably withheld. A "Material Improvement" is any installation, alteration, addition, or other change to the Premises (including installation of a Fixture or Trade Fixture) that involves "structural work" to the Premises (as that term is commonly understood in the construction industry) or exceeds one thousand dollars (\$1,000.00) in total project cost. "Fixture" and "Trade Fixture" shall have the meanings provided by Oregon law.

7.2 General Requirements for All Improvements. All improvements of any kind to the Premises (whether Material Improvements or not) and all work performed by District pursuant to this Lease shall be made in a professional manner, and shall be in compliance with applicable laws, including, without limitation, applicable building codes, ADA and other legal requirements related to applicable accessibility, zoning, and use permits. All Material Improvements shall be made by licensed contractors and subcontractors in accordance with good practice and the requirements of this Lease.

7.3 Restoration of Premises to Original Condition if No Consent Given by City. City, at its option, may require District, at District's sole expense, to remove Material Improvements made by District and restore the Premises to its original condition (the condition prior to installation of the Material Improvements) if (i) the Material Improvements have not been previously approved by City pursuant to Section 7.1 or (ii) the Material Improvements were installed in violation of Section 7.2 or any other provision of this Lease or requirement of law. All work performed pursuant to this Section 7.3 shall be performed as soon as practicable prior to the end of the Term and shall meet the requirements of Section 7.2.

7.4 Ownership And Removal of Fixtures And Trade Fixtures

7.4.1 Trade Fixtures. City acknowledges and agrees that all improvements, fixtures (including Trade Fixtures), furniture, equipment and other property of District located from time to time on the Premises are and shall remain the property of District, subject to lawful claims and liens. District may remove all such property from the Premises and shall repair all damage resulting from removal and restore the Premises as may be required by Section 7.3.

8. Insurance. Each party shall request a waiver of subrogation from its insurance carrier.

8.1 Property Insurance. The City shall insure said property against fire, theft and other casualty, naming the District as an additional named insured on its liability policies as set forth in the Agreement.

**8.2 Commercial General Liability Insurance.** District, at its sole expense, shall maintain at all times during the Term of this Lease commercial general liability insurance in respect of the Premises and the conduct or operation of its business, with City as additional insured, with a combined single limit of not less than Two Million Dollars (\$2,000,000.00). Such policies shall contain such endorsements and deductibles customarily carried by District and reasonably acceptable to City. The policies shall cover bodily injury and property damage claims arising out of District's negligent activities on the Premises. City shall be named as an additional insured on such policy. The insurance shall include an endorsement covering District's contractual obligation for indemnification set forth in this Lease.

9. Indemnity

9.1 District Indemnification of City. District is in control of the Premises. District shall indemnify, reimburse, and hold City (including its elected officials, officers, employees, agents, and volunteers) harmless, and at City's election, defend City (including its elected officials, officers, employees, agents, and volunteers) for, from and against any and all causes of action, obligations, damages, penalties, subrogations, loss, claims, costs, charges, and expenses or other liabilities (including reasonable attorney fees) that may be imposed on or incurred by or asserted against City (including its elected officials, officers, employees, agents, and volunteers) (whether rightfully or wrongfully filed) arising out of or in any way connected with:

9.1.1 Any use of the Premises or any activity conducted by, for or through District (including elected officials, officers, employees, agents, and volunteers) on, near or in conjunction with the Premises (other than to the extent resulting from the negligent, reckless, or intentional acts or omission of City, its elected officials, officers, employees, agents, and volunteers);

9.1.2 Any condition of the Premises and any maintenance (except to the extent that City (including its elected officials, officers, employees, agents, and volunteers) is responsible for providing such maintenance), management, or operation of the Premises to the extent caused or performed by District (including its elected officials, officers, employees, agents, and volunteers, agents, licensees or invitees);

9.1.3 Any failure on the part of District (including its elected officials, officers, employees, agents, and volunteers) to perform or comply with any of the provisions contained in this Lease; and

9.1.4 Any and all federal, state, and local taxes, charges, fees, or contributions required to be paid with respect to District's officers, employees, agents, and volunteers engaged in the performance of services at the Premises (including, without limitation, social security, unemployment insurance, and payroll tax withholding).

9.2 City Indemnification of District. City shall indemnify, reimburse, and hold District (including its elected officials, officers, employees, agents, and volunteers) harmless, and at District's election, defend District (including its elected officials, officers, employees, agents, and volunteers) for, from and against any and all causes of action, obligations, damages, penalties, subrogations, loss, claims, costs, charges, and expenses or other liabilities (including reasonable attorney fees) that may be imposed on or incurred by or asserted against District (including its elected officials, officers, employees, agents, and volunteers) (whether rightfully or wrongfully filed) arising out of or in any way connected with:

9.2.1 Any use of the Premises or any activity conducted by, for or through City (including its elected officials, officers, employees, agents, and volunteers) on, near or in conjunction with the Premises (other than the negligent acts or willful misconduct of District, its elected officials, officers, employees, agents, and volunteers);

9.2.2 Any condition of the Premises and any maintenance (except to the extent that District, including its elected officials, officers, employees, agents, and volunteers are responsible for providing such maintenance), management, or operation of the Premises to the extent caused or performed by City (including its elected officials, officers, employees, agents, and volunteers, agents, licensees or invitees);

9.2.3 Any failure on the part of City (including its elected officials, officers, employees, agents, and volunteers) to perform or comply with any of the provisions contained in this Lease.

**10. Destruction.** The City of Phoenix shall be under no obligation to restore the leased premises in the event of partial or total destruction.

**11. Disputes.** In the event of any disputes over the terms of this lease, the City of Phoenix Administrator and the District Fire Chief will meet and attempt to resolve any differences. If they cannot reach agreement, then the City Council and the District Board of Directors will consider the matter and use reasonable efforts to reach a good faith resolution of the matter between them. The parties agree that if any dispute regarding this agreement is still not resolvable, the dispute shall be resolved by arbitration. The arbitration shall be administered by the Arbitration Service of Portland unless the parties consent to another arbitration service. The parties shall select one (1) arbitrator, who shall possess a minimum of ten (10) years of relevant experience in the matter to be arbitrated or such alternate qualifications that are mutually agreeable to the parties. In the event the parties are unable to agree to a single arbitrator, each party shall select its own arbitrator, and the two (2) arbitrators shall select a third, all of whom shall possess the qualifications required herein. The parties shall split the fee of the single arbitrator or the arbitrator selected by the parties' arbitrators. Each party shall be solely responsible for the fees of any arbitrator selected solely by the party itself. All arbitration shall be conducted in Jackson County, Oregon, in accordance with the following provisions:

(a) Except as otherwise provided herein, the arbitration shall be conducted in accordance with the rules of the Arbitration Service of Portland.

(b) Arbitration proceedings under this Agreement may be consolidated with arbitration proceedings pending between the parties if the arbitration proceedings arise out of the same transaction or relate to the same subject matter. Consolidation will be by order of the arbitrator in any of the pending cases or, if the arbitrator fails to make such an order, the parties may apply to any court of competent jurisdiction for such an order.

(c) Notwithstanding the requirements herein for arbitration, a party may seek from a court any interim or provisional relief that may be necessary to protect the rights or property of that party pending the establishment of the arbitration (or pending the arbitrator's determination of the merits of the dispute, controversy, or claim).

(d) The arbitrator shall have authority to issue preliminary and other equitable relief unless such relief has been validly requested in a court of competent jurisdiction and is otherwise allowable under this Agreement.

(e) Discovery proceedings of the type provided by the Oregon Rules of Civil Procedure shall be permitted both in advance of and during recesses of the arbitration hearings. Any dispute relating to such discovery shall be resolved by the arbitrator.

(f) The arbitrator shall have the discretion to order a prehearing exchange of information by the parties and an exchange of summaries of testimony of proposed witnesses.

(g) The arbitrator shall have the authority to award any remedy or relief that an Oregon court could order or grant, including, without limitation, specific performance of any obligation created under this Agreement, the issuance of an injunction, or the imposition of sanctions for abuse or frustration of the arbitration process, except that the arbitrator shall not have authority to award punitive damages or any other amount for the purpose of imposing a penalty as opposed to compensating for actual damage suffered or loss incurred.

(h) The award shall be in writing, shall be signed by the arbitrator, and shall include a statement regarding the disposition of any claim. The arbitration proceeding and all documents, orders, determinations and award thereof shall be kept confidential to the fullest extent permitted by law.

12. Amendments. The provisions of this agreement may be modified, extended, or amended at any time through the mutual written consent of both parties.

13. Nonwaiver. Failure of either party at any time to require performance of any provision of this Agreement shall not limit the party's right to enforce the provision (except to the extent expressly set forth in a writing signed by such party), nor shall any waiver of any breach of any provision constitute a waiver of any succeeding breach of that provision or a waiver of that provision itself.

IN WITNESS WHEREOF the parties, by the signatures of their authorized representatives, have executed this Lease effective October 1, 2007.

City of Phoenix

Jackson County Fire District 5

Charles D. Brown  
Mayor

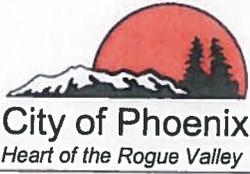
Robert M. Miller  
Chairperson, Board of Directors

Date: 9-27-07

Date: Sept 26 2007

ATTEST:

Betty S. Smith  
City Recorder

**Agenda Report**

**Date:** December 19, 2016  
**To:** City Manager for Mayor and Council  
**From:** Jamie McLeod, City Manager  
**Subject:** Phoenix Urban Renewal Agency Amendment to Intergovernmental Agreement  
**Action:**  Motion,  Ordinance,  Resolution,  Information only,  Other

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**EXECUTIVE SUMMARY**

The Phoenix Urban Renewal Agency (PHURA) serves the city by addressing blight and enhancing the properties within the designated urban renewal area with funding through tax increment funding. The City of Phoenix works in partnership with PHURA to enhance the appearance and marketability of the city.

To address inconsistent staffing levels at PHURA, the city and PHURA established an Intergovernmental Agreement (IGA) in May 2016 (attached) to enable the city to provide staffing resources to PHURA. Due to anticipated changes in staffing and future needs, the City Manager and PHURA Board Chair discussed amending the existing IGA. Attached is the proposed Amendment. The PHURA Board unanimously approved the proposed Amendment at their December 14, 2016, meeting.

In summary, the proposed Amendment provides for:

- Ongoing city staff support even if PHURA hires an Exec Director,
- Clarification on city staff roles to avoid past conflicts,
- Updated staff costs,
- Flexibility for PHURA on repayment to city for costs incurred,
- Expanded ability for PHURA to rent city facilities

Overall, the Amendment is intended to provide PHURA with greater flexibility on access to city resources while clarifying the request/reporting structure to avoid future conflicts between the City and PHURA.

**ADVANTAGES & DISADVANTAGES OF ISSUE**

The Amendment clarifies the request for staffing process, costs, and provides for potential future needs.

**FISCAL IMPACT**

No overall fiscal impact as the IGA anticipates full repayment to the city for staffing resources utilized by PHURA.

**SOURCE OF FUNDS**

General Fund,  Water Fund,  Street Fund,  Capital Project Funds,  
 Separate Fund for Local Option Taxes,  Debt Service Funds,  Reserve Funds

**ALTERNATIVES**

1. Approve the proposed Amendment to the May 2016 IGA between the city and PHURA.
2. Approve a modified Amendment to the May 2016 IGA between the city and PHURA (please specify).
3. Refer item back to City Manager for further action (please specify).
4. Note and file information without direction further action on the item.

**RECOMMENDATION**

Option 1. "I move to approve the proposed Amendment to the May 2016 Intergovernmental Agreement between the city and PHURA."

Prepared by: Jamie McLeod

## AMENDMENT

### to the INTERGOVERNMENTAL AGREEMENT between the CITY OF PHOENIX and the PHOENIX URBAN RENEWAL AGENCY

This serves as an Amendment ("Amendment") to the Intergovernmental Agreement ("IGA"), effective May 16, 2016, between the City of Phoenix ("City") and the Phoenix Urban Renewal Agency ("PHURA"). This Amendment serves as a supplement to the existing IGA. Any issues not specifically addressed in this Amendment remain as specified in the original IGA.

#### **Pursuant to Section 1.1: Term and Termination.**

The term of this IGA is not limited to PHURA hiring an Executive Director if PHURA maintains a need for City resources in order to successfully accomplish the mutually agreed upon Urban Renewal Plan.

#### **Pursuant to Section 2.1: Employees Provided by the City.**

As available to the City, the City shall provide administrative, technical, and development services to PHURA on an as-needed basis. The request for such services shall be made by the Chairperson of the PHURA Board of Directors (Chair) to the City Manager. The City Manager shall serve as the City's liaison to PHURA and shall determine the availability of staff to meet PHURA's requested staffing needs. City staff shall not serve concurrently as city staff and PHURA-designated staff. If requested by the Chair, the City Manager may assist PHURA in coordinating the activities of PHURA and city staff.

#### **Pursuant to Section 2.2: Consideration.**

**2.2.1. Personnel Costs.** The current personnel costs – inclusive of wages, salary, and benefit costs – are as provided below. These rates are subject to adjustment per the City's Collective Bargaining Agreements.

<b><u>Title</u></b>	<b><u>Cost/Hour</u></b>
City Manager	\$58.98
Public Works Director/City Engineer	\$57.56
Planning Director	\$50.14
Finance Director/City Recorder	\$47.88
Assistant Planner	\$34.79
Admin Coordinator	\$29.60
Public Works Administrative Assistant	\$31.68
City Hall Administrative Assistant	\$27.34

**2.2.2. Payment Due Date.** Reimbursement to the City for resources utilized by PHURA, including but not limited to personnel costs and rental of facilities or equipment, shall be reviewed on a quarterly basis, beginning one year following the execution of the original IGA, effective May 16, 2016. At the time of review, the City may require payment in full within thirty

days, or except a partial payment within thirty days, or establish a payment plan for reimbursement at a later date.

**Pursuant to Section 2.4: City Facilities and Equipment.**

PHURA may rent City facilities and/or equipment at a rental rate and for a duration negotiated by the City Manager and PHURA Chair, and agree-to by the Council.

IN WITNESS WHEREOF the parties, by the signatures of their authorized representatives, have executed this Amendment to the IGA effective January 1, 2017.

City of Phoenix

Phoenix Urban Renewal Agency

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Chairperson, Board of Directors

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

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

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN THE CITY OF PHOENIX AND PHOENIX URBAN RENEWAL AGENCY**

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is entered into between the City of Phoenix, an Oregon municipal corporation established under ORS Chapter 221 ("City"), and the Urban Renewal Agency of the City of Phoenix, an Oregon quasi-municipal corporation ("Agency"), established under ORS Chapter 457 and duly activated by the City.

**RECITALS**

1. The Agency is a public body, corporate and politic, duly activated by the City, exercising its powers to engage in urban renewal activities as authorized under ORS 457 (Urban Renewal), the City of Phoenix Municipal Code and the City of Phoenix Urban Renewal Plan ("Plan").
2. The Agency prepared an Urban Renewal Plan as defined by ORS 457.010(16) (the "Plan").
3. The Plan was approved by the City of Phoenix.
4. The Agency will undertake redevelopment activities to carry out the Plan.
5. The City has experience in the provision of administrative services for local governmental activities including the areas of budgeting, financial reporting, planning, project management, engineering, and constructing public improvements, and desires, pursuant to ORS 457.320, to assist the Agency in the planning and carrying out the Plan by providing all administrative and development services necessary and proper for carrying out the Agency's duties and responsibilities related to administering and implementing the Plan.
6. ORS 190.010 and ORS 457.320 authorize the City and the Agency, and the City and Agency desire, to enter into an Agreement whereby the City provides administrative and development services to the Agency.
7. The City and the Agency desire to clarify the relationship between them with respect to administrative services provided by the City to the Agency, the Agency's obligation to pay for those services, and various other issues related to their relationship as separate legal entities working towards completion of the Plan.

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

**Article 1: Term and Termination.**

Section 1.1: Term and Termination. This Agreement becomes effective upon the date of the last signature hereon, and continues in full force and effect until the Agency is dissolved or terminated, or until the Agency hires an Executive Director, whichever is sooner, and unless sooner terminated as provided herein. This Agreement may be

terminated at any time by either party by giving the other party not less than 30 days written notice of that party's intent to terminate this Agreement.

## **Article 2: Duties of the City**

Section 2.1: Employees Provided by the City. The City shall provide, where available by the City, administrative and development services on an as-needed basis to the Agency to undertake urban renewal activities as set forth in adopted urban renewal plans, including but not limited to: staff support for public meetings including the preparation of meeting notices, agendas, minutes and mailings; record keeping including filing Agency resolutions; budget preparation, accounting, and financial reporting; contract procurement and administration; real estate procurement and property management; project engineering and project management services; planning related to plan administration and implementation, project development; and economic development services and other duties and functions as may from time to time be required by the Agency. In so doing, the City shall provide such services in compliance with the laws of the State of Oregon, and in accordance with the Plan and this Agreement. Nothing herein shall be construed as prohibiting the Agency from contracting with third parties to provide all or a portion of staff services.

Section 2.2: Consideration. On an annual basis, the Agency shall reimburse the City for all reasonable costs incurred by the City in providing administrative and development services pursuant to this Agreement, with the first payment due no later than thirty days after the expiration of one year after the execution of this Agreement. No interest will be charged during this time for repayment.

The City shall provide to the Agency on at least a monthly basis, and as provided in Section 2.5, an invoice made by the City in providing administrative and development services pursuant to this Agreement. As set forth below, personnel costs shall be determined by hourly rate, and by position, according to the City's annual budget, inclusive of wages, salary and benefits costs. Any objections or disagreements with the amounts submitted in a monthly statement shall be deemed waived unless articulated in writing and delivered to the City Manager within thirty days after the date the monthly statement of expenditures is submitted to the Agency. Prior to or within thirty days after the first year of this Agreement, the City may meet with the Agency to confer regarding any adjustments to the amounts invoiced to the Agency.

Section 2.3: City Staff Time. City staff time spent on providing services to the Agency shall be separately recorded and documented for purposes of determining the appropriate reimbursement to the City in accordance with Section 2.2. It is the intent of the parties that the services performed by City employees on behalf of the Agency shall not interfere with the ability of such employees to carry out their duties and responsibilities for the City. City employees shall record the time expended for Agency on an hourly basis. Copying costs and supplies shall also be recorded for expenditure and reimbursement purposes.

Section 2.4: City Facilities and Equipment. City staff working on behalf of the Agency are authorized to utilize City office space, furnishings and equipment, including but not limited to telephones, fax machines, printers, photocopiers, computers, office supplies and similar equipment, to carry out Agency business.

Section 2.5: Invoices. The City shall submit to the Agency, monthly, one or more invoices detailing the specific services rendered by the City and other expenses incurred by the City on behalf of the Agency. The invoices shall identify a specific time period covered by the invoice and shall include the employee's hourly rate, inclusive of salaries, benefits, insurance and other costs incurred by the City on a prorated basis, and shall sufficiently state the service performed by the City so that the Agency may properly determine the accuracy of the invoices.

Section 2.6: Employee Status of City Staff. The parties agree that City Staff assigned to perform services and duties for the Agency as part of this Agreement are employees of the City only and that the City has final and exclusive authority over decisions to hire, terminate and discipline City Staff employed by the City and assigned to support and implement the Agency Plan. The parties agree that the Agency retains the right to hire its own employees. If the Agency chooses to hire its own employees, it will provide the City with at least 30 days written notice of its intent to do so in order to avoid any duplication of services or duties.

### **Article 3: Duties of the Agency**

Section 3.1: Agency Reimbursement of City Costs. The Agency shall reimburse the City for all costs incurred by the City in providing services and supplies pursuant to this Agreement. Unless the Agency objects to an invoice submitted by the City within 30 days of the date of the invoice, the Agency shall be deemed to approve the invoice for payment to the City and the Agency must make payment to the City as required in Section 2.2.

### **Article 4: Conflicts**

Section 4.1: Conflict. The City reserves the right to withhold any administrative support due to conflicts of interest and/or instances in which limited resources are available.

### **Article 5: Non-Agency Relationship**

Section 5.1: Non-Agency Relationship. Nothing in this Agreement is to be interpreted as creating or constituting an agency relationship between the parties. Each party remains separate and neither assumes the debts or obligations of the other by entering into this Agreement. Each party is solely responsible for carrying out its duties and functions in accordance with all applicable laws and regulations.

### **Article 6: Indemnification**

3 – INTERGOVERNMENTAL AGREEMENT BETWEEN CITY OF PHOENIX AND CITY OF PHOENIX URBAN RENEWAL AGENCY

Section 6.1: Indemnification. The City agrees to save and hold harmless the Agency against all claims, suits, or actions whatsoever which arise out of the or result from the negligent or intentional acts of the City's officials, employees and agents as providing the services pursuant to this Agreement.

**Article 7: Insurance**

Section 7.1: Insurance. Each party shall maintain in force, at its own expense, worker compensation insurance for all covered workers of that party in compliance with Oregon law, and general liability insurance in amounts not less than the limits of the Oregon Tort Claims Act as it may be amended from time to time.

**Article 8: Modification**

Section 8.1: Modification. This Agreement may not be altered, modified, supplemented, or amended in any manner whatsoever except by mutual Agreement of the parties in writing. Any such alteration, modification, supplementation, or amendment, if made, shall be effective only in the specific instance and for the specific purpose given, and shall be valid and binding only if signed by the parties.

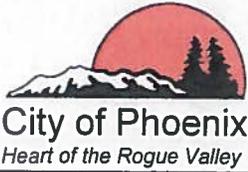
**Article 9: Waiver**

Section 9.1: Waiver. No provision of this Agreement may be waived except in writing by the party granting a waiver of compliance with this Agreement. A waiver of a provision of this Agreement shall not constitute a waiver of any other provision, whether similar or not, nor shall any one waiver constitute a continuing waiver. Failure to enforce any provision of this Agreement shall not operate as a waiver of such provision of any other provision.

**Section 10: Severability.**

Section 10.1: Severability. The parties agree that if any term or provision of the Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.



**Agenda Report**

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**Date:** December 19, 2016  
**To:** Mayor and Council  
**From:** City Attorney  
**Subject:** Consideration of Resolution 979, authorizing City to enter into Marijuana Tax Collection Intergovernmental Agreement with the Department of Revenue for the administration of retail sales of recreational marijuana items  
**Action:**   X   Motion,    Ordinance,    Resolution,    Information only,    Other

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**EXECUTIVE SUMMARY**

The Department of Revenue has been authorized to assume by agreement with local governments the administration of enforcing and collecting local marijuana taxes. The agreement is attached and entitled Marijuana Collection Agreement. The essential terms of the agreement: (1) the city will receive payments from DOR on a quarterly basis, trailing one quarter behind each quarter; (2) DOR retains 4% of the tax payments each quarter to cover its operating costs; at the end of the year, DOR will calculate its actual costs and use the three fees described in paragraph (5)(a)-(c) of the agreement.

**ADVANTAGES & DISADVANTAGES OF IGA**

Advantages in favor of the agreement with DOR appear to far outweigh any disadvantages. Further advantages may arise in the future if/when DOR consolidates both state and local tax payments via the Department of Administrative Services.

**FISCAL IMPACT OF IGA**

The costs of the collection and enforcement are unknown/undeterminable, but are estimated at 4% of the tax revenues collected by DOR. Staff time to comply with administrative

**ALTERNATIVES**

Effectuate the voter-approved ordinance and collect the tax locally.

**RECOMMENDATION**

Motion to authorize the execution of the Marijuana Tax Collection Intergovernmental Agreement with the Department of Revenue.

Prepared by: Ryan Kirchoff

**CITY OF PHOENIX  
RESOLUTION NO. 979**

**RESOLUTION APPROVING MARIJUANA TAX COLLECTION  
INTERGOVERNMENTAL AGREEMENT WITH THE  
OREGON DEPARTMENT OF REVENUE**

**WHEREAS**, the voters of the City of Phoenix cast a majority of votes in favor of measure to approve an ordinance which imposes a tax of 3 percent on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city;

**WHEREAS**, The Department of Revenue is by law authorized to assume the administration of enforcing and collecting city-imposed taxes for retail sales of recreational marijuana;

**WHEREAS**, the City Council determines that collection of the tax in such a manner is beneficial to the City via the Marijuana Tax Collection Agreement; and

**WHEREAS**, ORS 190.110, ORS 305.620 and the home-rule authority of the City authorize the City to enter into written agreements with other government units for the performance of functions and activities the City has the authority to perform, including the enforcement and collection of taxes from the sale of recreational marijuana within the City jurisdiction.

**NOW, THEREFORE, THE CITY OF PHOENIX RESOLVES AS FOLLOWS:** The City Manager and/or Mayor are authorized to execute the Marijuana Tax Collection Agreement with the Department of Revenue.

**PASSED AND ADOPTED**, by the City Council and signed by me in authentication thereof on this 19<sup>th</sup> day of December, 2016.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Manager/Designee

APPROVED FOR LEGAL SUFFICIENCY:

\_\_\_\_\_  
J. Ryan Kirchoff

## MARIJUANA TAX COLLECTION INTERGOVERNMENTAL AGREEMENT

This Marijuana Tax Collection Agreement (“Agreement”) is entered into between the State of Oregon, acting by and through its Department of Revenue (the “Department”) and the City of Phoenix (“City”), under the authority of ORS 305.620.

In consideration of the conditions and promises hereinafter contained, it is mutually agreed by the parties that the Department shall supervise and administer, according to the terms and conditions set forth in this Agreement, the Local Tax on sales of marijuana items by Marijuana Retailers authorized under ORS 475B.345 and approved by the voters of City.

**(1) Definitions.** As used in this Agreement the following terms have the meanings ascribed to them:

(a) “Confidential Information” means the information on Local Tax returns administered pursuant to ORS 305.620, any information in the reports required under Sections 8 and 9 of this Agreement from which information about a particular Local Taxpayer is discernable from the report due to a small number of Local Taxpayers in City or similar factors, and any other information exchanged between the Department and City related to this Agreement, that is confidential under ORS 314.835.

(b) “Fees” means collectively the Administrative Services Fee, the Business Fee and the Core Systems Replacement Fee described in Section 5 of this Agreement.

(c) “Local Government” means a city or county that has entered into a form of this agreement with the Department under the authority of ORS 305.620 for the Department to collect Local Taxes authorized under ORS 475B.345.

(d) “Local Tax” or “Local Taxes” means the Marijuana Tax imposed by City, together with any additional interest or penalties provided for by statute or the Department’s rules; it does not include any additional penalties or fees that City may assess against its Local Taxpayers.

(e) “Local Taxpayer” means a licensed Marijuana Retailer located in the taxing jurisdiction of City.

(f) “Marijuana Retailer” has the meaning given in ORS 475B.015.

(g) “Marijuana Tax” means the tax imposed on sales of marijuana items by Marijuana Retailers pursuant to ORS 475B.345.

(h) “Marijuana Taxpayer” means a licensed Marijuana Retailer that is subject to the Marijuana Tax imposed by a Local Government.

(i) “Ordinance” means the ordinance adopted by the governing body of City and approved by the voters of City on 11/8/2016, a copy of which is attached hereto as Exhibit B and by this reference incorporated herein.

**(2) General Administration.** The Department shall be responsible for all aspects of Local Tax administration, including, but not limited to, adopting administrative rules; auditing

returns; assessing deficiencies and collecting the Local Tax and penalties and interest under applicable statutes, including but not limited to ORS 305.265, ORS 305.220, and ORS 314.400; making refunds; holding conferences with Local Taxpayers; handling appeals to the Oregon Tax Court; issuing warrants for the collection of unpaid taxes; determining the minimum amount of Local Tax economically collectible; and taking any other action necessary to administer and collect the Local Taxes. The Department has adopted rules addressing the requirements for paying taxes with currency and other matters related to the taxation of marijuana under ORS chapter 475B. City understands and agrees that such rules will be applied to Local Taxpayers.

(3) **Level of Service**. In performing its duties, the Department may in its sole discretion determine what action shall be taken to enforce provisions of the law and to collect the Local Tax. In exercising its discretion, the Department shall provide a level of services that are comparable to the level of services it provides in the administration of the State of Oregon marijuana tax laws and the collection of such taxes owed to the State of Oregon. If the Department deems it necessary to vary substantially from this standard, the Department shall first notify City of the need and obtain City's consent. The Department shall provide all forms necessary for implementation of the Local Tax, including forms for Marijuana Tax returns, exemptions and refunds.

(4) **Transfer of Taxes to City**. Beginning at the end of the first full quarter after execution of this Agreement, the Department shall remit to City the amount of Local Taxes collected in the preceding quarter less amounts withheld to pay the Department's Fees and other costs as described in this Agreement within 60 days of the return due date for the quarter. The Department shall notify City if, because of inability to move funds electronically or otherwise through the banking system, a force majeure event described in Section 26 of this Agreement or other exigent circumstance, the Department is unable to transfer the Local Tax collected to City as provided in this Section. In that event, the Department shall provide an estimate, if possible, of when it expects to be able to transfer the Local Taxes collected to City. The Department may enter into an agreement with another state government agency to fulfill the requirements of this Section 4, provided that said government agency can comply with the requirements of this section.

(5) **Costs**. In order to recover its costs to collect and transfer the Local Tax as provided in this Agreement the Department shall be paid the following three fees:

(a) "Administrative Services Fee": Pays for the establishment and maintenance of financial systems needed to administer and distribute Local Taxes. The fee shall be calculated annually as a percentage of the equivalent of 60 hours of work conducted for the Department of Revenue by the Department of Administrative Services, divided among the Local Governments in proportion to the number of Marijuana Taxpayers in each Local Government.

(b) "Business Fee": Pays for the Local Tax administration activities set forth in this Agreement. The fee shall be calculated as a percentage of the Department's Business Division annual expenses for the administration of all marijuana taxes, with the total fee increasing in direct proportion to the number of Local Taxpayers. The total amount per Local Taxpayer billed

to City under the Business Fee shall not exceed 0.05 percent of the Department's Business Division expenses for the administration of all marijuana taxes;

(c) "Core Systems Replacement fee": Charged only one time after execution of this Agreement and calculated as a flat fee per Local Taxpayer. The total Core Systems Replacement Fee shall not exceed two hundred dollars (\$200.00) per Local Taxpayer in the first full quarter following execution of this Agreement.

FOR EXAMPLE, in a hypothetical with the following assumptions:

250 Marijuana Taxpayers

50 Local Taxpayers in the City of Mainville

2 Local Taxpayers in the City of Middletown

Business Division's Marijuana Expenses: \$500,000 per year

Hourly DAS rate: \$99/hour

The fees would be calculated as follows:

Administrative Services Fee =  $(\$99/\text{hour} * 60 \text{ hours}) / 250 \text{ Marijuana Taxpayer} =$   
\$23.76 per Local Taxpayer per year

Business Fee =  $\$500,000 \text{ in marijuana expenses per year} * 0.05\% =$  \$250 per  
Local Taxpayer per year

Core Systems Replacement Fee = \$200 per Local Taxpayer, one time

City of Mainville, year 1:  $(\$23.76 \text{ Administrative Services Fee} + \$250 \text{ Business}$   
 $\text{Fee} + \$200 \text{ Core Systems Replacement Fee}) * 50 \text{ Local Taxpayers} =$  \$23,688 in  
costs

City of Mainville, subsequent years:  $(\$23.76 \text{ Administrative Services Fee} + \$250$   
 $\text{Business Fee}) * 50 \text{ Local Taxpayers} =$  \$13,688 in costs

City of Middletown, year 1:  $(\$23.76 \text{ Administrative Services Fee} + \$250 \text{ Business}$   
 $\text{Fee} + \$200 \text{ Core Systems Replacement Fee}) * 2 \text{ Local Taxpayers} =$  \$947.52 in  
costs

City of Middletown, subsequent years:  $(\$23.76 \text{ Administrative Services Fee} +$   
 $\$250 \text{ Business Fee}) * 2 \text{ Local Taxpayers} =$  \$547.52 in costs

(e) In addition to the Fees described above, the Department may withhold or invoice City for the Department's costs to administer extraordinary services not described in this Agreement related to the Local Tax; such extraordinary costs may include, without limitation, requests for audits from City that exceed the scope of the Department's normal audit procedures, requests for research or advice from the Department or the Oregon Department of Justice attorneys, or specially appointed counsel, regarding the Local Tax.

(f) If the Department determines that its costs cannot be covered by the maximum fees outlined in this Section 5, the Department will notify City of the amount by which the Department has determined the Fees must increase. If the Department and City do not agree upon a Fee increase and related amendment to this Agreement, then this Agreement may be terminated by either party in accordance with Section 16 of this Agreement.

(g) The Department shall not collect more in fees than its costs to administer the Local Tax, per ORS 305.620(5). It is using the above formula in the interests of producing its best estimate of costs.

**(6) Withholding for Fees and Rebate.** The Department shall withhold from the Local Taxes collected and each transfer to City an amount equal to four percent (4%) of the Local Taxes collected. In the first quarter of each calendar year the Department will reconcile the amounts withheld in the previous year with the total fees assessed, and provide such reconciliation in the Department's annual report described in Section 9 of this Agreement. If the amount withheld in a calendar year exceeds the amount of the Department's Fees, the Department will rebate the balance of the Local Taxes withheld to City by the end of the first quarter following the year of withholding. If the amount withheld does not cover the Department's Fees for the preceding year, the amount of the shortfall will be withheld from subsequent transfers of Local Taxes collected until the Department's Fees are fully paid, or in its discretion the Department may invoice City for the unpaid amount of the Department's Fees.

**(7) Recovery of Overpayments.** If the amount of Local Taxes paid to City under this Agreement, exceed the amount to which City is entitled, the Department may, after notifying City in writing, withhold from later payments due City under this Agreement, such amounts, over such periods of time, as are necessary to recover the amount of the overpayment.

**(8) Department Quarterly Reports.** Beginning with the first full calendar quarter after the execution of this Agreement and continuing each calendar quarter thereafter, within sixty (60) days after the due date for quarterly Local Tax returns, the Department shall provide City with a report indicating the amount of Local Taxes collected, any extraordinary costs assessed, the amount withheld under Section 6 of this Agreement and the cumulative amount of delinquent Local Taxes for each Marijuana Retailer in City's jurisdiction. The information in this report must be treated as potentially revealing Confidential Information, and shall be protected as described in Section 15. City should make all efforts to prevent Confidential Information from being released. The Department and City shall disclose any non-confidential information in a report when required to do so by law, including the Oregon Public Records Law, ORS 192.410 to 192.505.

**(9) Department Annual Reports.** In the first calendar quarter of each year, the Department shall make a written annual report of the preceding calendar year to City showing the total amount of Local Taxes collected, refunds paid, the expenses of administering and collecting the Local Tax, and other pertinent information. The report shall show the total amount withheld by the Department under Section 6 of this Agreement, and shall show the Department's expenses by its Fee categories. In such report, the Department shall also make recommendations

concerning changes in Local Tax Ordinances, procedures, policies, Local Tax administration and related matters, as the Department deems necessary and appropriate. The information in this report must be treated as potentially Confidential Information, and shall be protected as described in Section 15. City should make all efforts to prevent Confidential Information from being released. The Department and City shall disclose any non-confidential information in the report when required to do so by law, including the Oregon Public Records Law, ORS 192.410 to 192.505.

**(10) City Reports.** Within sixty (60) days of the effective date of this Agreement, City shall provide the Department with a list of Local Taxpayers in its jurisdiction and a list of zip code areas that are within its jurisdiction for purposes of imposing the Local Tax. City shall provide an updated list of Local Taxpayers to the Department each calendar quarter thereafter. City shall review all reports and reconciliations provided by the Department and promptly notify the Department of any perceived errors or omission in such reports.

**(11) Records Maintenance and Access.** Each party shall maintain its records relevant to this Agreement, the Local Taxes and Local Taxpayers for the period of time specified and in the manner required under the document retention and archiving requirements applicable to it that are established under ORS 192.005 to 192.170. Upon written request, each party may examine the records of the other party at a time and location that is convenient and without extra cost to the holder to the records; provided, however, any requests for records made in connection with litigation or other efforts to collect the Local Tax shall be immediately provided in the time and manner requested.

**(12) Ordinance and Notification of Changes.** Contemporaneous with the execution of this Agreement, City shall provide a copy of the Ordinance to Department for incorporation into this Agreement as Exhibit B. In order to insure consistency in administration of the Local Tax, each party shall notify the other of any change in the Ordinance and any state or local regulations or rulings interpreting the Local Tax or the Ordinance, any changes in rates or changes in the City's boundary at least ninety (90) days prior to the effective change, unless it is not legally possible to provide ninety (90) days' notice or both parties mutually agree to effect such changes in less than ninety (90) days. Each party shall notify the other of any change in administration of the Local Tax under this Agreement. The parties shall cooperate in amending the Ordinance or in seeking amendments to ORS 475B.345 or ORS 305.620 which they deem necessary.

**(13) Information.** The parties will cooperate in the exchange of information and making public announcements to facilitate effective administration of the Local Tax and maintain consistency in public announcements and information. Policy announcements, announcement of changes in the Ordinance, and all correspondence relating to public relations will be handled by City. The Department shall promptly notify City of any matter arising in the administration of the Marijuana Tax that would require any legislative change or affect City's policy, including any policy that relates to the amount of Local Tax collected. Nothing in this section shall prohibit the Department from conducting its own outreach activities to increase awareness and knowledge of local tax obligations.

**(14) Limits and Conditions.** To the extent limited by applicable provisions of Article XI of the Oregon Constitution or other governing law, and within the limits of the Oregon Tort Claims Act applicable respectively to the Department and City, each party shall indemnify the other for damage to life or property arising from their respective duties and obligations under this Agreement, provided neither party shall be required to indemnify the other for any such liability arising out of a party's own negligent or wrongful acts.

**(15) Confidentiality.**

(a) Confidential Information may be disclosed only to City as principal, by the Department as its agency, for purposes of carrying out the administration of the Local Tax imposed by City. Requests for Confidential Information shall be made by City by giving not less than ten (10) days' notice to the Department, stating the information desired, the purposes of the request, and the use to be made of such information. If the compilation of information is not feasible, the Department shall so advise City.

(b) ORS 314.840(3) requires that employees and representatives of City who receive Confidential Information must be advised in writing of the provisions of ORS 314.835 and 314.991(3), relating to the penalties for unlawful disclosure. Prior to being given access to Confidential Information, all City employees involved in the performance of this Agreement must review the DOR Secrecy Clause and sign the DOR Secrecy Laws Certificate (substantially in the form of Exhibit A, attached hereto and by this reference incorporated herein) certifying the employee understands the confidentiality laws and the penalties for violating them. Annually thereafter, (on or before a date specified by the Department), or upon request by the Department, such City employees must review and sign the latest versions of the Secrecy Clause and the Secrecy Laws Certificate. All signed Secrecy Laws Certificates must be immediately emailed to both the designated Department Authorized Representative (indicated below) and the Department's Disclosure Office ([disclosure.office@oregon.gov](mailto:disclosure.office@oregon.gov)). When the employee terminates employment with City, City will forward the certificate to the Department's Disclosure Officer indicating the employee is no longer employed by City. A listing of every person authorized to request and receive Confidential Information identified in this Agreement will be sent to the following designated representative:

John Galvin, Marijuana Tax Program Manager, [marijuanatax.DOR@oregon.gov](mailto:marijuanatax.DOR@oregon.gov)

(c) Upon request and pursuant to the instructions of DOR, City shall return or destroy all copies of Confidential Information provided by DOR to City, and City shall certify in writing the return or destruction of all such Confidential Information.

(d) The administrative rules implementing ORS 314.835 and ORS 314.840 as amended from time to time during the term of this Agreement, shall apply to this Agreement.

**(16) Term.** The term of this Agreement shall be from the date it is executed by all parties and until it is terminated by operation of law or by either party at its discretion upon at least ninety (90) days prior written notice. Prior to the termination date specified in written notice provided under this section or Section 17 below, City and the Department will continue to

perform their respective duties and obligations of under this Agreement. After the termination date, the Department will cease all collection and other activities under this Agreement, unless prior to the termination date the Department and City agree in writing that the Department may continue actions that are pending before the Oregon Tax Court or the Oregon Supreme Court, or are being collected after judgment or stipulation. In addition, after the termination date the Department will continue to remit to City any Local Taxes received by the Department, after deduction of the Department's actual costs, until all matters pending on the date of termination have been resolved or collected. The Department will administer the Local Tax for City for each calendar quarter commencing after this Agreement is executed; provided, however, if this Agreement is fully executed on or before the 15<sup>th</sup> day of the calendar quarter, the Department will administer the Local Tax for the quarter in which this Agreement is executed.

**(17) Default and Remedies.** A party shall be in default under this Agreement if it fails to perform any of its duties and obligations under this Agreement, and fails to cure such nonperformance within ninety (90) days after the other party provides written notice specifying the nature of the nonperformance. If the nonperforming party does not cure its nonperformance, or provide a satisfactory explanation to the other party of its performance under this Agreement, the other party may terminate this Agreement immediately or at a later date specified in written notice provided to the nonperforming party. In addition to termination of this Agreement, in the event of default by a nonperforming party, the other party may pursue any remedies available in law or equity, including an action for specific performance.

**(18) Notices.** All notices, documents, and information shall be sent as follows:

City of Phoenix  
City Manager  
P.O. Box 330  
Phoenix, OR 97535

Oregon Department of Revenue  
Marijuana Tax Program  
PO Box 14630  
Salem, OR 97309

**(19) Amendments.** The provisions of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties.

**(20) Successors and Assigns.** This Agreement shall be binding and inure to the benefit of the parties, their assigns, and successors.

**(21) Severability.** If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**(22) Representations.** Each party represents to the other that the making and performance of this Agreement: (a) have been duly authorized by its governing body or official, (b) does not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board or other administrative agency or any provision of any applicable local charter or other organizational document, and (c) do not and will not result in the

breach of, or constitute a default or require any consent under any other agreement or instrument to which the party is bound.

**(23) Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively "Claim") between the Department and City regarding the enforcement or interpretation of this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon. The parties understand and agree that any action brought to determine the amount of Local Tax owed by a Local Taxpayer, whether brought solely by the Department or in conjunction with City shall be brought solely in the Oregon Tax Court.

**(24) Nonappropriation.** The obligation of each party to perform its duties under this Agreement is conditioned upon the party receiving funding, appropriations, limitation, allotment, or other expenditure authority sufficient to allow the party, in the exercise of its reasonable administrative discretion, to meet its obligations under this Agreement. Nothing in this Agreement may be construed as permitting any violation of Article XI, sections 7 or 10 of the Oregon Constitution or any other law limiting the activities, liabilities or monetary obligations of each party.

**(25) Survival.** All rights and obligations of the parties under this Agreement will cease upon termination of the Agreement, other than the rights and obligations arising under Sections 14, 16 and 17, and those rights and obligations that by their express terms survive termination of this Agreement; provided, however, that termination of this Agreement will not prejudice any rights or obligations accruing to a party prior to termination.

**(26) Force Majeure.** Neither party is responsible for any failure to perform or any delay in performance of an obligation under this Agreement caused by fire, civil unrest, labor unrest, natural causes, or war, which is beyond that party's reasonable control. Each party shall, however, make all reasonable efforts to remove or eliminate such cause of failure to perform or delay in performance and shall, upon the cessation of the cause, diligently pursue performance of its obligation under this Agreement.

**(27) Counterparts.** This Agreement may be executed in counterparts, all of which when taken together shall constitute one agreement, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Agreement so executed constitutes an original.

**(28) Merger.** This Agreement and any exhibits constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements or presentations, oral or written, not specified herein regarding this Agreement.

Each party represents that this Agreement, when fully executed and delivered will constitute a legal, valid and binding obligation of the party in accordance with its terms, and that the person signing below is the authorized representative of the party with full power and authority to bind his/her principal to this Agreement.

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**Oregon Department of Revenue**

Name/Title:

Signature:

Date signed:

**City of Phoenix**

Name/Title: Jamie McCloud  
City Manager

Signature: \_\_\_\_\_

Date signed: December \_\_, 2016.

**EXHIBIT A**

**DOR**

**SECURITY CLAUSE**

**and**

**SECURITY LAWS CERTIFICATE**

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## SECURITY CLAUSE

Taxpayer information is confidential and protected by Oregon law. Only authorized persons may have access to taxpayer information, or to secure buildings where taxpayer information is handled. Oregon law requires that you sign a Secrecy Certificate before being allowed access to this confidential information or secure areas. By signing the certificate, you certify that you understand the confidentiality laws and the penalties for violating them.

This applies to everyone with access to taxpayer information, including:

- Department of Revenue employees
- Employees of other government agencies
- Vendors and contractors
- Business partners

### Penalties for unauthorized disclosure of state tax information

- **Income tax\***—Class C felony; up to \$125,000 fine; up to five years imprisonment; dismissal from state employment; no public office for five years. [ORS 314.991(2)]
- **Inheritance tax**—Class C felony; up to \$125,000 fine; up to five years imprisonment; dismissal from state employment; no public office for five years. [ORS 118.990(3)]
- **Industrial property tax**—Up to \$10,000 fine; up to one year imprisonment. [ORS 308.990(5)]
- **Timber tax**—Up to \$5,000 fine; dismissal from state employment. (ORS 321.686)
- **Employment Department**—May result in dismissal from state employment, or other discipline. [ORS 657.665(6)]
- *These provisions also apply to transient lodging tax (ORS 320.330), cigarette tax (ORS 323.403), tobacco products tax (ORS 323.595), emergency communications tax (ORS 403.230), oil and gas production tax (ORS 324.170), hazardous substances tax (ORS 453.410), and petroleum products tax (ORS 465.124).*

### Penalties for unauthorized disclosure of federal tax information

- **IRC Sect. 7213**—Felony; up to \$5,000 fine; imprisonment of up to five years; cost of prosecution, damages\*\*.
  - **IRC Sect. 7213A**—Up to \$1,000 fine; imprisonment of up to one year; cost of prosecution, damages\*\*.
- \*\* Damages may include \$1,000 per act, actual damages, punitive damages, cost of legal action, attorney fees. See Section 7431.

## Instructions

Please read the following laws. They explain the types of information that are confidential. If you have questions during your employment or performance of duties, ask your supervisor or a Disclosure officer before accessing or disclosing information.

After reading this information, fill out the last page and return it to the Department of Revenue. Keep the other pages for your records.

## Oregon Income Tax Laws

### ORS 314.835

(1) Except as otherwise specifically provided in rules adopted under ORS 305.193 or in other law, it shall be unlawful for the Department of Revenue or any officer or employee of the department to divulge or make known in any manner the amount of income, expense, deduction, exclusion or credit or any particulars set forth or disclosed in any report or return required in the administration of ORS 310.630 to 310.706, required in the administration of any local tax pursuant to ORS 305.620, or required under a law imposing a tax upon or measured by net income. It shall be unlawful for any person or entity to whom information is disclosed or given by the department pursuant to ORS 314.840 (2) or any other provision of state law to divulge or use such information for any purpose other than that specified in the provisions of law authorizing the use or disclosure. No subpoena or judicial order shall be issued compelling the department or any of its officers or employees, or any person who has acquired information pursuant to ORS 314.840 (2) or any other provision of state law to divulge or make known the amount of income, expense, deduction, exclusion or credit or any particulars set forth or disclosed in any report or return except where the taxpayer's liability for income tax is to be adjudicated by the court from which such process issues.

(2) As used in this section:

(a) "Officer," "employee" or "person" includes an authorized representative of the officer, employee or person, or any former officer, employee or person, or an authorized representative of such former officer, employee or person.

(b) "Particulars" includes, but is not limited to, a taxpayer's name, address, telephone number, Social Security number, employer identification number or other taxpayer identification number and the amount of refund claimed by or granted to a taxpayer.

### ORS 314.991

(2) Violation of ORS 314.835 is a Class C felony. If the offender is an officer or employee of the state the offender shall be dismissed from office and shall be incapable of holding any public office in this state for a period of five years thereafter.

### Applicability to other tax programs

The above provisions of ORS 314, concerning the confidentiality of returns and penalties, also apply to:

150-800-033 (Rev. 2-11)

• Transient lodging tax	ORS 320.330
• Cigarette tax	ORS 323.403
• Tobacco products tax	ORS 323.595
• Emergency communications tax	ORS 403.230
• Oil and gas production tax	ORS 324.170
• Hazardous substances tax	ORS 453.410
• Petroleum products tax	ORS 465.124

## Oregon Inheritance Tax Laws

### ORS 118.525

(1) It shall be unlawful for the Department of Revenue or any of its officers or employees to divulge or make known in any manner any particulars disclosed in any return or supporting data required under this chapter. Except for executors or beneficiaries and their authorized representatives, it shall be unlawful for any person or entity who has acquired information pursuant to subsections (3) and (4) of this section to divulge or make known such information for any purpose other than that specified in the provisions of law authorizing the use or disclosure. No subpoena or judicial order shall be issued compelling the department, or its officers or employees, or persons described in subsections (3) and (4) of this section, to divulge or make known any particulars disclosed in any such return or supporting data except where the liability for inheritance taxes is to be adjudicated by the Oregon Tax Court. Nothing in this section shall prohibit the publication of statistics so classified as to prevent the identification of particulars in any return or supporting data covered by this section.

(2) As used in this section:

(a) "Officer," "employee" or "person" includes an authorized representative of the officer, employee or person, or former officer, employee or person, or an authorized representative of such former officer, employee or person.

(b) "Particulars" includes, but is not limited to, a taxpayer's name, address, telephone number, Social Security number and the amount of refund claimed by or granted to a taxpayer.

### ORS 118.990

(3) Violation of ORS 118.525 is a Class C felony. If the offender is an officer or employee of the state the offender shall be dismissed from office and shall be incapable of holding any public office in this state for a period of five years thereafter.

## Oregon Property Tax Laws

### ORS 308.290

(11)(a) All returns filed under the provisions of this section and ORS 308.525 and 308.810 are confidential records of the Department of Revenue or the county assessor's office in which the returns are filed or of the office to which the returns are forwarded under paragraph (b) of this subsection.

ORS 308.413

(1) Any information furnished to the county assessor or to the Department of Revenue under ORS 308.411 which is obtained upon the condition that it be kept confidential shall be confidential records of the office in which the information is kept, except as follows:

(a) All information furnished to the county assessor shall be available to the department and all information furnished to the department shall be available to the county assessor.

(b) All information furnished to the county assessor or department shall be available to any reviewing authority in any subsequent appeal.

(c) The department may publish statistics based on the information furnished if the statistics are so classified as to prevent the identification of the particular industrial plant.

(2) The Department of Revenue shall make rules governing the confidentiality of information under this section.

(3) Each officer or employee of the Department of Revenue or the office of the county assessor to whom disclosure or access of the information made confidential under subsection (1) of this section is given, prior to beginning employment or the performance of duties involving such disclosure, shall be advised in writing of the provisions of this section and ORS 308.990 (5) relating to penalties for the violation of this section, and shall as a condition of employment or performance of duties execute a certificate for the department or the assessor in a form prescribed by the department, stating in substance that the person has read this section and ORS 308.990 (5), that these sections have been explained to the person and that the person is aware of the penalties for violation of this section.

ORS 308.990

(5) Subject to ORS 153.022, any willful violation of ORS 308.413 or of any rules adopted under ORS 308.413 is punishable, upon conviction, by a fine not exceeding \$10,000, or by imprisonment in the county jail for not more than one year, or by both.

**Forestland Tax Laws**

ORS 321.682

(1) Except as otherwise specifically provided by law, it shall be unlawful for the Department of Revenue or any officer or employee of the department to divulge or make known in any manner the amount of the tax or any particulars set forth or disclosed in any report or return required to be filed under ORS 321.045 or 321.741 or any appraisal data collected to make determinations of specially assessed value of forestland pursuant to ORS 321.201 to 321.222. It shall be unlawful for any person or entity to whom information is disclosed or given by the department pursuant to ORS 321.684 (2) or any other provision of state law to divulge or use such information for any purpose other than that specified in the provisions of law authorizing the use or disclosure. No subpoena

150-800-033 (Rev. 2-11)

or judicial order shall be issued compelling the department or any of its officers or employees, or any person who has acquired information pursuant to ORS 321.684 (2) or any other provision of state law, to divulge or make known the amount of tax or any particulars set forth or disclosed in any report or return except where the taxpayer's liability for timber tax is to be adjudicated by the court from which such process issues.

(2) As used in this section, "officer," "employee" or "person" includes an authorized representative of the officer, employee or person, or any former officer, employee or person, or an authorized representative of such former officer, employee or person.

ORS 321.686

Violation of ORS 321.682 is subject to a fine not exceeding \$5,000 or, if committed by an officer or employee of the state, dismissal or removal from office or employment, or both fine and dismissal or removal from office or employment.

**Oregon Employment Department Laws**

ORS 657.665

(4)The Employment Department may: ... (i) Disclose information to the Department of Revenue for the purpose of performing its duties under ORS 293.250 or under the revenue and tax laws of this state. The information disclosed may include the names and addresses of employers and employees and payroll data of employers and employees. The information disclosed is confidential and may not be disclosed by the Department of Revenue in any manner that would identify an employing unit or employee except to the extent necessary to carry out the department's duties under ORS 293.250 or in auditing or reviewing any report or return required or permitted to be filed under the revenue and tax laws administered by the department. The Department of Revenue may not disclose any information received to any private collection agency or for any other purpose. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the Department of Revenue.

(6) Any person or any officer or employee of an entity to whom information is disclosed by the Employment Department under this section who divulges or uses the information for any purpose other than that specified in the provision of law or agreement authorizing the use or disclosure may be disqualified from performing any service under contract or disqualified from holding any appointment or employment with the state agency that engaged or employed that person, officer or employee. The Employment Department may immediately cancel or modify any information sharing agreement with an entity when a person or an officer or employee of that entity discloses confidential information, other than as specified in law or agreement.



## SECRECY LAWS CERTIFICATE

Required by ORS 314.840(3), ORS 118.525(6),  
ORS 308.413(3), ORS 321.684

I have read the laws prohibiting disclosure of confidential information for the tax programs below.  
The laws have been explained to me.  
I have been furnished with a copy of the laws.  
I understand Oregon's disclosure laws and the penalties for violating them.

Income tax	ORS 314.835; ORS 314.991(2)
Inheritance tax	ORS 118.525(1); ORS 118.990(3)
Industrial property tax	ORS 308.290(11); ORS 308.413; ORS 308.990(5)
Forestland tax	ORS 321.682; ORS 321.686
Employment Department tax	ORS 657.665(4)(i) and (6)
Transient lodging tax	ORS 320.330
Cigarette tax	ORS 323.403
Tobacco products tax	ORS 323.595
Emergency communications tax	ORS 403.230
Oil and gas production tax	ORS 324.170
Hazardous substances tax	ORS 453.410
Petroleum products tax	ORS 465.124
Federal tax laws	IRC Sections 7213, 7213A, 7431

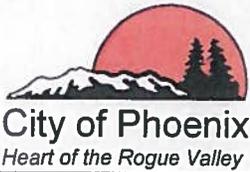
VENDORS, CONTRACTORS, BUSINESS PARTNERS	
PRINT your full name	Business telephone number
Print full name of business or organization for which you are acting in an official capacity	
Address of business or organization	SSN (Collection agency employees only)
What is the nature of your business?	Duration of contract or visit
Revenue contact	Area where you'll be working
Signature <b>X</b>	Date

REVENUE EMPLOYEES	
PRINT your full name	Date
Signature <b>X</b>	

AGENCY USE	
<input type="checkbox"/> In Compliance	<input type="checkbox"/> Not in Compliance





**Agenda Report**

**Date:** December 19, 2016  
**To:** Mayor and Council  
**From:** Matt Brinkley, Planning Director  
**Subject:** Resolution endorsing the Conceptual Land Use and Transportation Plan for PH-5 and PH-10  
**Action:**  Motion,  Ordinance,  Resolution,  Information only,  Other

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**EXECUTIVE SUMMARY**

The City, working with RVCOG staff consultants, began to plan for future development in Urban Reserve Areas known as PH-5 and PH-10. The areas include approximately 470 acres of land that may eventually be developed for employment, residential, and open space uses. PH-3 may go into the Urban Growth Boundary (UGB) Amendment at a later date.

In partial fulfillment of its responsibilities under the Regional Problem Solving Plan (RPS) a Conceptual Land Use and Transportation Plan (attached) must be prepared by the City prior to making application for any Urban Growth Boundary Amendments that would expand the current UGB into an Urban Reserve Area. The City has been preparing a UGB Amendment over the past 2 years, and anticipates submitting its application to Jackson County in the first half of 2017.

Ratification of the Conceptual Land Use and Transportation Plan presented here is the first step in that process. The Planning Commission has reviewed the Plan and recommended that the City Council endorse the Plan with its 3 different scenarios. Endorsement will occur through approval of this resolution; approval of the resolution is not a land use decision, per se, as defined under Oregon land use statutes and implementing regulations.

**ADVANTAGES & DISADVANTAGES OF ISSUE**

Endorsement of the resolution is the first step in changing and (likely) expanding the City's current UGB, which has been in place since 1984. Other recent studies (Housing Needs Assessment, Regional Economic Opportunity Study, Local Economic Analysis, Parks, Recreation and Open Space Master Plan update) suggest that expansion of that UGB will be necessary in order to meet the City's population and employment projections over the next 20 years.

**FISCAL IMPACT**

The majority of the cost to produce this study has been covered by a Transportation and Growth Management grant through the Oregon Department of Transportation. The City has contributed in-kind services through the allocation of staff time, including that of an independent consultant. All expenditures were anticipated and budgeted.

**SOURCE OF FUNDS**

X General Fund, \_\_\_ Water Fund, \_\_\_ Street Fund, \_\_\_ Capital Project Funds, \_\_\_ Separate Fund for Local Option Taxes, \_\_\_ Debt Service Funds, \_\_\_ Reserve Funds, X Grant Funds

**ALTERNATIVES**

1. Approve revised Resolution approving a conceptual Land Use and Transportation Plan for PH-5 and PH-10.
2. Table consideration of the resolution until a later meeting.
3. Note and file information without further direction on the item.

**RECOMMENDATION**

Option 1. "I move to approve Resolution no. 980, approving a conceptual Land Use and Transportation Plan for PH-5 and PH-10, Urban Reserve Areas of Phoenix, Oregon."

Prepared by: Matt Brinkley

Reviewed by: Jamie McLeod

# CITY OF PHOENIX

## RESOLUTION NO. 980

### A RESOLUTION APPROVING A CONCEPTUAL LAND USE AND TRANSPORTATION PLAN FOR PH-5 AND PH-10, URBAN RESERVE AREAS OF PHOENIX, OREGON

WHEREAS, on August 6, 2012 the City Council adopted the Greater Bear Creek Regional Plan, also known as the Regional Problem Solving Plan or Regional Plan, as an element of the City's Comprehensive Plan; and

WHEREAS, the Regional Plan requires the City to adopt a Conceptual Plan Land Use and Transportation Plan (the Plan) for an Urban Reserve Area (URA) prior to the expansion of the City's urban growth boundary (UGB) into the applicable URA; and

WHEREAS, the Plan for PH-5 and PH-10 has been prepared in accordance with the applicable provisions of the adopted Regional Plan, including all applicable performance indicators set forth in that document; and

WHEREAS, the Conceptual Land Use and Transportation Plan for PH-5 and PH-10 has been reviewed by the Planning Commission of the City of Phoenix, and have been found to comply with applicable performance indicators set forth in the Regional Plan, and has recommended that the Phoenix City Council formally endorse these plans; and

WHEREAS, the Conceptual Land Use and Transportation Plan for PH-5 and PH-10 has been reviewed by the members of the Phoenix City Council, who, after hearing public testimony and deliberating upon the Plan and its findings and conclusions, accept this recommendation.

**NOW, THEREFORE, BE IT RESOLVED** that the City of Phoenix hereby endorses the PH-5 and 10 Conceptual Land Use and Transportation Plan as presented in Exhibit "A", and further directs the City's Planning Department to include the Plan and Findings of Fact and Conclusions of Law contained therein with any Urban Growth Boundary Amendment application made in the future that would affect an expansion of the City's UGB into PH-5 or PH-10.

**APPROVED** by the City of Phoenix this 19<sup>th</sup> day of December, 2016.

**Attest:**

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Recorder

# **NORTH PHOENIX CONCEPT PLAN**

***A CONCEPTUAL LAND USE AND TRANSPORTATION PLAN FOR***

***PH-5 and PH-10***

***URBAN RESERVE AREAS OF THE CITY PHOENIX***

City of Phoenix

Adopted by City Council Resolution \_\_\_\_\_, \_\_\_\_\_, 2016

This project is partially funded by a grant from the Transportation and Growth Management (TGM) Program, a joint program of the Oregon Department of Transportation and the Oregon Department of Land Conservation and Development. This TGM grant is financed, in part, by federal Safe, Accountable, Flexible, Efficient, Transportation Equity Act: a Legacy for Users (SAFETEA-LU), local government, and the State of Oregon funds. The contents of this document do not necessarily reflect views or policies of the State of Oregon.



**PART 1. INTRODUCTION**

The Regional Plan Element of the Phoenix Comprehensive Plan requires that before any portion of an urban reserve area can be incorporated into an Urban Growth Boundary the city must prepare a Conceptual Land Use plan and Conceptual Transportation Plan showing how the addition will comply with commitments made in the Regional Plan. This document addresses that requirement for the urban reserve areas known as PH-5 and PH-10. Figure 1 illustrates PH-5 and PH-10’s relationship to the city and the other urban reserve areas.

Figure 1 – Phoenix Urban Reserve Areas

As used in this report the term ‘concept plan’ refers to a document setting forth a written and illustrated set of general actions designed to achieve a desired goal that will be further refined over time as the planning process moves from the general (concept plan) to the specific (site development). In the case of PH-5 and PH-10, the goal to be achieved is a first generation refinement of how the land use distributions and applicable performance indicators of the Greater Bear Creek Valley Regional Plan (GBCVRP) will be applied to PH-5 and PH-10.

The *Concept Plan* is a general land use guide prepared in accordance with, and intended to facilitate implementation of the Regional Plan Element. It does not address compliance with the Oregon

Statewide Land Use Planning Goals, applicability of land use planning law, or comprehensive plan compliance. These items will be addressed at such time as the area’s planning proceeds through inclusion in the urban growth boundary, annexation, zoning, site plan approval, and ultimately development, with each step being guided by the *Concept Plan*.

The *Concept Plan* illustrates the City’s basic development program for PH-5 and PH-10, which is presented in Part 2 of this document. The remainder of the document (Part 3) is dedicated to providing background information used in preparation of the *Concept Plan*, including findings of compliance with the land use distribution and applicable Performance Indicators in the city’s comprehensive plan Regional Plan Element.

In summary the *Concept Plan* has been prepared in accordance with the Regional Plan Element and Greater Bear Creek Valley Regional Plan, including all applicable performance indicators set forth in these documents. The development concepts for PH-5 and PH-10 complement and support local and regional objectives relative to land use distribution and needed transportation corridors identified in the *Greater Bear Creek Valley Regional Plan*.

Figure 2 – PH-5 Urban Reserve Concept Plan Study Area

## **PART 2. THE CONCEPT PLAN**

The long-term objective for PH-5 and PH-10 is to provide land for employment and residential development at the north end of the city northeast of Interstate 5. The area is generally east of North Phoenix Road and north of Fern Valley Road, although a portion of PH-5 is west of North Phoenix, abutting Medford Urban Growth Area MD-5. The dominant use of PH-5 is employment, while residential uses dominate in PH-10.

The Concept Plan is composed of two elements:

### **a. The Conceptual Land Use Plan (‘Land Use Plan’)**

The primary objective of the Land Use Plan is to refine the land use categories and spatial distribution of those categories throughout PH-5 and PH-10. This is necessary because the Regional Plan Element addresses land use only in terms of general land use types; e.g., residential, employment, and percentage distribution of the land use.

The Regional Plan Element designates land uses within the 454-acre PH-5 as 66 percent employment, 22 percent residential, and 12 percent open space. The area currently is zoned Exclusive Farm Use (EFU). PH-10 also is zoned EFU and contains 43 acres, of which 85 percent is designated residential and 15 percent is employment. Approximately 2.25 acres are included in the National Wetlands Inventory, and will not be available for residential or commercial development, but will be part of the open space allocation.

Figure 3 – PH-5 Conceptual Planning Transportation Alternatives

LEAVARD

**b. The Conceptual Transportation Plan (“Transportation Plan”)**

The only regionally significant transportation corridors affecting PH-5 are North Phoenix Road and Fern Valley Road. RVTD manages a bus route along the highway, and the Bear Creek Greenway abuts the eastern edge of the growth area, providing the primary bicycle commuting route between Ashland and Central Point. The plan anticipates a transit hub in PH-10.

Figure 4 – Phoenix URCP, Functional Classification and Freight Facilities

Figure 5 – Phoenix URCP, Bicycle/Pedestrian Systems & Transit Route

**c. Implementation Guidelines**

The following guidelines are intended to serve as future action items:

**Policy PH-5.1 Land Use:** At time of inclusion in the City’s urban growth boundary (UGB) the property will be shown on the City’s General Land Use Plan Map as Residential, Employment, and Open Space/Parks.

**Policy PH-5.3 Irrigation District Coordination.** As properties within PH-5 are added to the City’s urban growth boundary, and further proceed through the development process, i.e. annexation, zoning, site development, the City and property owner/developer shall collaborate with MID as outlined in the protocols set forth in Jackson County’s Agricultural Element.

**Policy PH-5.4 Concept Plan Modification.** Modifications to the Concept Plan shall be subject to the same review and collaboration procedures used in approving the original Concept Plan, and shall be processed by the County as a Type 4 permit.

**PART 3. SUPPORT FINDINGS**

The findings presented in this section provide both background information and address the Regional Plan Element’s Performance Indicators.

**a. Current Land Use Characteristics**

This section describes the general character of PH-5 and PH-10 in their current condition.

**Natural Landscape:** The area ranges from relatively level ground to hillsides perched above the Bear Creek Valley, increasing in slope generally from southwest to northeast. A ridge bisects a portion of PH-5, creating distinct viewsheds throughout the property. **(Expand)**

Figure 6 – Phoenix URCP, Environmental Considerations

**Cultural Landscape:** PH-5 and PH-10 compose a 453\*-acre block of parcels spread among five owners, with farming being the dominant use. The three parcels in PH-5 also are farmed, but include residences as well. (\*Need to reconcile with numbers in Table)

Table 1 – PH5/PH-10 Current Parcel Characteristics

Assessor's No.	Acreage	Zoning	Land Use	Ownership
381W03 TL 1500	32.17	EFU	Vineyard/Winery	California Pistachio LLC
381W03 TL 1600	234.55	EFU	Ranch	Arrowhead Ranch Holding Company LLC
381W04 TL 500	42.90	EFU	Ranch	Arrowhead Land/Cattle Company
381W04 TL502	9.03	EFU	Undeveloped	Bear Creek Orchards
381W09A TL100	3.07	EFU	Ranch	Arrowhead Land/Cattle Company
381W09A TL 101	9.20	EFU	Undeveloped	Bear Creek Orchards
381W09A TL 103	4.55	EFU	Ranch	Arrowhead Land/Cattle Company
381W09A TL105	1.00	EFU	Ranch	Arrowhead Land/Cattle Company
381W10 TL100	72.36	EFU	Ranch	Arrowhead Ranch Holding Company LLC
381W10 TL101	7.01	EFU	Ranch	Arrowhead Land/Cattle Company
381W10 TL103	2.64	EFU	Ranch	Arrowhead Ranch/Cattle Company
381W10 TL600	15.24	EFU	Farm/Residential	Cunningham
381W10 TL 700	7.75	EFU	Farm/Residential	Vivrett/Bettinger
381W10 TL800	20.27	EFU	Farm/Residential	Camp
Total Acres	441.47			

**b. Current Land Use Designations & Zoning**

All of PH-5 and PH-10 is currently planned and zoned Exclusive Farm Use (EFU).

**c. Existing Infrastructure**

**Water**

Public water service is not currently available to the area, but can be easily extended from existing Phoenix water lines to the south and west.

**Sanitary Sewer**

A Rogue Valley Sewer Services has an 8-inch sewer line on Grove Road at its intersection with North Phoenix Road and 8-inch sewer lines along Fern Valley Road serving the residential subdivisions in east Phoenix. A 15-inch sanitary trunk begins just east of the I-5 interchange and crosses under the freeway to connect with the main trunk line.

**Storm Drainage**

Rogue Valley Sewer Services provides stormwater management for the cities of Phoenix, Talent, Central Point and urbanized, unincorporated Jackson County. In March 2004, RVCOG and a

consultant firm prepared a Stormwater Program Guide to help local governments in the Rogue Valley achieve compliance with National Pollutant Discharge Elimination System (NPDES) requirements. The overarching objective is to minimize adverse effects of development on the region's water quality. Stormwater drainage will be required as the area develops, and was raised as a concern particularly near the wetlands at the east edge of PH-5.

**Street System**

North Phoenix Road is the primary through street serving PH-5 and connecting Phoenix with East Medford. Fern Valley Road serves as the southern boundary of PH-10. Both roads tie into the Phoenix freeway interchange. Campbell Road proceeds eastward from North Phoenix Road in the northern portion of PH-5. No other public roads exist in the study area.

**Irrigation District**

A Medford Irrigation District canal bisects PH-5 from north to south, enters the Phoenix UGB for a short distance, and then crosses PH-10 from northwest to southeast. MID is evaluating the feasibility of piping the canal to reduce potential conflicts with urbanization. As properties within PH-5 and PH-10 are added to the City's urban growth boundary, and further proceed through the development process, i.e. annexation, zoning, and site development, the City and property owner/developer are required to collaborate with MID as outlined in the protocols set forth in Jackson County's Agricultural Element.

**d. Performance Indicators**

Implementation of the Regional Plan Element is guided by a series of 22 primary and 21 secondary performance indicators, not all of which apply to every urban reserve area. Table 2 identifies the primary Performance Indicators applicable to the PH-5/ PH-10 Concept Plan.

Table 2 - Performance Indicators Specific to Conceptual Plans

Applicability			
Number	Description	Yes	No
2.1	County Adoption		X
2.2	City Adoption		X
2.3	Urban Reserve Management Agreement		X
2.4	Urban Growth Boundary Management		X
2.5	Committed Residential Density	X	
2.5.1	Minimum Residential Density Standards	X	
2.6	Mixed-Use/Pedestrian Friendly Areas	X	
2.7	Conceptual Transportation Plans	X	
2.7.1	Transportation Infrastructure	X	
2.8	Conceptual Land Use Plans	X	
2.8.1	Target Residential Density	X	
2.8.2	Land Use Distribution	X	
2.8.3	Transportation Infrastructure	X	
2.8.4	Mixed Use/Pedestrian Friendly Areas	X	
2.9	Conditions Specific to Certain URAs	X	
2.9.8	Employment Land in PH-5 restricted to industrial zoning. Visual distinction between City of Phoenix and City of Medford	X	

2.9.9	Prior to expansion of UGB into PH-1,PH-1a, PH-3, PH-5, and PH-10, the region shall agree on a mechanism to assist Phoenix in justifying the regional need for PH-5.	X	
2.10	Agricultural Buffering	X	
2.11	Regional Land Preservation Strategies	X	
2.12	Housing Strategies	X	
2.13	Urban Growth Boundary Amendments	X	
2.13.1	UGB Expansions Outside of URAs		X
2.14	Land Division Restrictions	X	
2.14.1	Minimum Lot Size	X	
2.14.2	Cluster Development	X	
2.14.3	Land Division and Future Platting		X
2.14.4	Land Division and Transportation Plan		X
2.14.5	Land Division Deed Restriction		X
2.15	Rural Residential Rule Ashland		X
2.16	Population Allocation		X
2.17	Park Land	X	
2.18	Buildable Land Definition		X
2.19	Greater RVMPO Coordination	X	
2.19.1	Prepare Conceptual Transportation Plan	X	
2.19.2	Designate and Protect Planned Transportation Infrastructure	X	
2.19.3	Regionally Significant Transportation Strategies	X	
2.19.4	Supplemental Transportation Funding	X	
2.20	Future Coordination with RVCOG	X	
2.21	EXPO		X
2.22	Agricultural Task Force	X	

**e. Applicable Performance Indicators**

The following addresses each applicable performance indicator per Table 2:

**2.5. Committed Residential Density.** Land within the URA and land currently within an Urban Growth Boundary (UGB) but outside the existing City Limit shall be built, at a minimum, to 6.6 dwelling units per gross area from 2010 to 2035, and 7.6 units per gross area from 2036-2060. This requirement can be offset by increasing the residential density in the City Limit.

**2.5.1.** Prior to annexation, each city shall establish (or, if they exist already, shall adjust) minimum densities in each of its residential zones such that if all areas build out to the minimum allowed the committed densities shall be met. This shall be made a condition of approval of a UGB amendment.

**Finding:** Phoenix intends to establish several residential zones in PH-5 and PH-10 that range from lower single-family densities near the eastern edge to higher densities in multi-family and mixed use zones, concentrating those higher densities in the southern portion of PH-5 and in PH-10, A housing needs analysis completed in March 2016 proposed a range of from 13 to 22 units per acre in high density areas. Minimum densities will need to be added to the Zoning Code to

ensure the committed residential densities are met in areas not currently outside of the existing city limits. If the City chooses not to apply minimum densities throughout Phoenix, it can apply them to its Urban Reserve Areas through an overlay.

**Conclusion:** Will comply upon implementation of the City's development standards of the zoning code if target densities are assured prior to a UGB amendment.

**2.6 Mixed-Use/Pedestrian Friendly Areas.** For land within a URA and for land currently within a UGB but outside of the existing City Limit, each city shall achieve the 2020 benchmark targets for the number of dwelling units (Alternative Measure No. 5) and employment (Alternative Measure No. 6) in mixed-use/pedestrian-friendly areas as established in the 2009 Regional Transportation Plan (RTP) or most recently adopted RTP. Beyond the year 2020, cities shall continue to achieve the 2020 benchmark targets, or if additional benchmark years are established, cities shall achieve the target corresponding with the applicable benchmarks. Measurement and definition of qualified development shall be in accordance with adopted RTP methodology. The requirement is considered met if the city or the region overall is achieving the targets or minimum qualifications, whichever is greater. This requirement can be offset by increasing the percentage of dwelling units and/or employment in the City Limit. This requirement is applicable to all participating cities.

**Finding:** In order to contribute to the region's compliance with Regional Transportation Plan Alternative Measures, Phoenix will include areas of mixed residential and employment uses. Typically, residential uses are provided on upper floors of commercial buildings. While DLCDC acknowledged an overall density in future growth areas of 6.6 units per acre for residential development, increasing to 7.6 units per acre for development after 2035, Alternative Measures call for 49 percent of new development in mixed use pedestrian-friendly areas (activity centers) within ¼ mile of a transit stop to be at a minimum density of 10 units per acre.

**Conclusion:** Complies.

**2.7. Conceptual Transportation Plans.** Conceptual Transportation Plans shall be prepared early enough in the planning and development cycle that the identified regionally significant transportation corridors within each of the URAs can be protected as cost-effectively as possible by available strategies and funding. A Conceptual Transportation Plan for a URA or appropriate portion of a URA shall be prepared by the City in collaboration with the Rogue Valley Metropolitan Planning Organization, applicable irrigation districts, Jackson County, and other affected agencies, and shall be adopted by Jackson County and the respective city prior to or in conjunction with a UGB amendment within that URA.

**2.7.1. Transportation Infrastructure.** The Conceptual Transportation Plan shall identify a general network of regionally significant arterials under local jurisdiction, transit corridors, bike and pedestrian paths, and associated projects to provide mobility throughout the Region (including intra-city and inter-city, if applicable).

**Finding:** No new arterials are proposed, but the concept plans include a network of collector streets providing access to all sectors of the future growth areas. Preparation

of the *Concept Plan* included a review of the City's Transportation System Plan (TSP), the County's Transportation System Plan, and the RVMPO's 2013-2038 Regional Transportation Plan. Figures 4 and 5 show existing facilities that will provide the connections for new facilities in PH-5 and PH-10. The ODOT Transportation Analysis Unit conducted a high level analysis of the original five scenarios, which led to three scenarios recommended for more detailed modeling. A primary focus of the analysis was to determine the effect on the existing transportation system, particularly North Phoenix Road and the freeway interchange. RVTD recommends consideration of a transfer station in the mixed use area of PH-10.

**Conclusion:** Complies.

**2.8. Conceptual Land Use Plans:** A proposal for a UGB Amendment into a designated URA shall include a Conceptual Land Use Plan prepared by the City in collaboration with the Rogue Valley Metropolitan Planning Organization, applicable irrigation districts, Jackson County, and other affected agencies for the area proposed to be added to the UGB as follows:

**2.8.1. Target Residential Density:** The Conceptual Land Use Plan shall provide sufficient information to demonstrate how the residential densities of Section 4.1.5 above will be met at full build-out of the area added through the UGB amendment.

**Finding:** See *Finding 2.5*.

**Conclusion:** Will comply upon adoption of minimum densities in zones applied to future growth areas.

**2.8.2. Land Use Distribution.** The Conceptual Land Use Plan shall indicate how the proposal is consistent with the general distribution of land uses in the Regional Plan, especially where a specific set of land uses were part of the rationale for designating land which was determined by the Resource Lands Review Committee to be commercial agricultural land as part of a URA, which applies to the following URAs: CP-1B, CP-1C, TA-4, CP-6A, CP-2B, MD-4, MD-6, MD-7mid, MD-7n, PH-2, TA-2, PH-5.

**Finding:** Because PH-5 is commercial agricultural land, it is not appropriate to assign conventional urban designations to the area. The primary purpose of including PH-5 was to create a regional employment center. A regional economic opportunities analysis completed in \_\_\_ noted the uniqueness of the site to accommodate large-lot corporate development, when compared with other freeway interchanges between Redding, California and Eugene, Oregon.

**Conclusion:** Complies.

**2.8.3. Transportation Infrastructure.** The Conceptual Land Use Plan shall include the transportation infrastructure required in Section 2.7.1 above.

**Finding:** The required transportation infrastructure per 2.7 is included in the PH-5 Concept Plan (see *Finding 2.7*).

**Conclusion:** Complies.

**2.8.4. Mixed Use/Pedestrian Friendly Areas.** The Conceptual Land Use Plan shall provide sufficient information to demonstrate how the commitments of Section 2.6.1 above will be met at full build-out of the area added through the UGB amendment.

*Finding:* See Finding 2.6.

*Conclusion:* Complies.

**2.9.8 Employment Land in PH-5 restricted to industrial zoning. Visual distinction between City of Phoenix and City of Medford.**

*Finding:* The Regional Plan designated PH-5 as a regional employment center, intending for the area to accommodate large scale traded sector and campus settings for corporations, with other uses serving a supporting role. Stand alone retail uses will not be permitted. The visual distinction between Medford and Phoenix reacts to concerns about urbanizing the valley to the point that one community is not discernible from another. Difference in sign styles, landscaping, and other features appear to be the most achievable means of creating this distinction.

*Conclusion:* Complies

**2.9.9 Prior to expansion of UGB into PH-1,PH-1a, PH-3, PH-5, and PH-10, the region shall agree on a mechanism to assist Phoenix in justifying the regional need for PH-5.** Phoenix contracted with E.D. Hovee and Company to prepare a Regional Economic Opportunities Analysis. (Expand)

**2.10. Agricultural Buffering.** Participating jurisdictions designating Urban Reserve Areas shall adopt the Regional Agricultural Buffering program in Volume 2, Appendix III into their Comprehensive Plans as part of the adoption of the Regional Plan. The agricultural buffering standards in Volume 2, Appendix III shall be adopted into their land development codes prior to a UGB amendment.

*Finding:* Phoenix adopted agricultural buffering standards when it adopted the Regional Plan. PH-5 and PH-10 abut farm land; some of the abutting farm land is in a Medford future growth (MD-5) area to the west and north, properties to the east will remain in farm use for the foreseeable future. By definition land adjacent to PH-10 and a small portion the east edge of PH-5 is considered "high potential impact" farmland because its soils are Class IV or better. Because new uses at the east edge of the area will be residential, they are considered "sensitive" receptors and will have the most restrictive setback and buffering requirements to minimize potential conflicts between residential and agricultural uses, which include animal husbandry and crops.

Higher quality soils are in MD-5, which will require buffering until the land is urbanized. These requirements will be imposed as a condition of development approval.

*Conclusion:* Complies.

**2.11. Regional Land Preservation Strategies.** Participating jurisdictions have the option of

implementing the Community Buffer preservation strategies listed in Volume 2, Appendix V of approval of a UGB amendment.

**Finding:** A community buffer was mapped proposed to ensure continued physical separation of Talent and Phoenix, but because of concerns about the effect of such a designation without compensation to property owners, the buffer was not adopted. The area is predominantly agricultural land, helping to preserve the separation between the two communities, and the concern was more pronounced west of the freeway than in the vicinity of PH-5 and PH-10.

**Conclusion:** Complies. The strategy of establishing community buffers is optional, not mandatory.

**2.12. Housing Strategies.** Participating jurisdictions shall create regional housing strategies that strongly encourage a range of housing types throughout the region within 5 years of acknowledgement of the RPS Plan.

**Finding:** Planners from participating jurisdictions are completing a regional housing strategy, drawing from existing innovative policies throughout the region, including incorporation of state policies on housing.

**Conclusion:** Complies

**2.13 Urban Growth Boundary Amendment.** Pursuant to ORS 197.298 and Oregon Administrative Rule 660-021-0060, URAs designated in the Regional Plan are the first priority lands used for a UGB amendment by participating cities.

**Finding:** The Regional Plan Element includes a provision that requires adoption of a concept plan prior to urban growth boundary expansion into an urban reserve area. The PH-5 and PH-10 Concept Plan addresses this requirement in anticipation of an urban growth boundary application into PH-5.

**Conclusion:** Complies.

**2.14 Land Division Restrictions.** In addition to the provisions of Oregon Administrative Rule 660-021-0040, the following apply to lots or parcels which are located within an URA until they are annexed into a city:

**2.14.1** The minimum lot size shall be ten acres

**Finding:** Five parcel exceed 20 acres and will be subject to this limitation until they are added to the Urban Growth Boundary.

**Conclusion:** Land Divisions creating parcels smaller than 10 acres are not possible until the parcels are in an urban area.

**2.17 Park Land.** For purposes of UGB amendments, the amount and type of park land included shall be consistent with the requirements of OAR 660-024-0040 or the park land need shown in

the acknowledged plans.

**Finding:** This Performance Indicator responds to proposed park and open space allocations in several communities that appear to exceed OAR allowances when a community proposes to modify its UGB. Phoenix did not propose parks whose size approaches these limitations.

**Conclusion:** Complies.

**2.18 Buildable Lands Definition.**

**Finding:** The term “buildable lands” as defined in OAR 660-008-0005(2) is used by the City in managing its Buildable Lands Inventory and is the basis for determining future need.

**Conclusion:** Complies.

**2.19. Greater Coordination with the RVMPO.** The participating jurisdictions shall collaborate with the Rogue Valley Metropolitan Organization (RVMPO) to:

- 2.19.1. Prepare the Conceptual Transportation Plans identified in Section 4.1.7.
- 2.19.2. Designate and protect the transportation infrastructure required in the Conceptual Transportation Plans identified in Section 4.1.7 to ensure adequate transportation connectivity, multimodal use, and minimize right of way costs.
- 2.19.3. Plan and coordinate the regionally significant transportation strategies critical to the success of the adopted Regional Plan including the development of mechanisms to preserve rights-of-way for the transportation infrastructure identified in the Conceptual Transportation Plans; and
- 2.19.4. Establish a means of providing supplemental transportation funding to mitigate impacts arising from future growth.

**Finding:** The PH-5 and PH-10 Concept Plan was prepared in collaboration with RVMPO with attention given to the effective implementation of the Regional Plan. On \_\_, 201\_\_, the RVMPO Technical Advisory Committee reviewed and provided comments to the Policy Committee, which drafted a letter including those comments on \_\_, 201\_\_. The letter will become part of the City’s UGB amendment record.

**Conclusion:** Complies.

**2.20 Future Coordination with the RVCOG.** The participating jurisdictions shall collaborate with the Rogue Valley Council of Governments on future regional planning that assists the participating jurisdictions in complying with the Regional Plan performance indicators. This includes cooperation in a region-wide conceptual planning process if funding is secured.

**Finding:** Any future modifications to the *Concept Plan* will be prepared in collaboration with the RVCOG.

**Conclusion:** Complies.

## 2.22 Agricultural Task Force.

**Finding:** The Agricultural Task Force submitted their recommendations to the County in the form of amendments to the County’s Agricultural Lands Element. The County amended the Agricultural Lands Element to include a policy requiring coordination with applicable irrigation districts. Implementation Strategies require evaluation of the effect of development on the district’s ability to provide irrigation for agricultural purposes, and determination of any system changes or mitigation measures that would be necessary to ensure continued conveyance of irrigation water. Mitigation measures include relocating canals, piping canals, transferring water rights, quit-claiming water rights to the district, and co-location of irrigation district and public works facilities. Medford Irrigation District indicated that the most likely solution for PH-5 would be to require piping of the canal that serves as a portion of the northern boundary.

**Conclusion:** Complies, subject to implementation when UGB amendments are proposed.



## Agenda Report

**Date:** December 19, 2016  
**To:** City Manager for Mayor and Council  
**From:** Matt Brinkley, Planning Director  
**Subject:** Update on Outstanding Balance from the Oregon Department of Transportation Grant  
**Action:**  Motion,  Ordinance,  Resolution,  Information only,  Other

### EXECUTIVE SUMMARY

The Oregon Department of Transportation (ODOT) awarded the City a "Fixit" grant in the amount of \$44,500 in 2015. The grant is intended to assist the City in repairing and replacing Americans with Disabilities Act (ADA) curb ramps that do not comply with current ADA standards. ODOT identified a number of ramps in the vicinity of the City's downtown at intersections at the corners of Main Street and 4<sup>th</sup>, 3<sup>rd</sup>, 2<sup>nd</sup>, and 1<sup>st</sup> Streets, and Bear Creek Drive and 1<sup>st</sup> and 4<sup>th</sup> Streets. The terms of the grant provide the City broad discretion in the selection of specific ramps to be repaired and the particular method of remedial action.

In the course of completing improvements along Main Street, \$27,000 of grant funds were used to replace ADA ramps at several intersections. The remaining \$17,500 should be used to replace additional ramps, and the Planning and Public Works directors have been working to identify the most beneficial use for the remaining funds.

### ADVANTAGES & DISADVANTAGES OF ISSUE

The City has an ADA Transition Plan that requires it to improve its ADA facilities over time. Ramp improvement is a necessary project undertaken by the City.

### FISCAL IMPACT

The grants does not require a local match, although local resources have been used to complete work related to the grant. All expenditures were anticipated and budgeted.

### SOURCE OF FUNDS

General Fund,  Water Fund,  Street Fund,  Capital Project Funds,  Separate Fund for Local Option Taxes,  Debt Service Funds,  Reserve Funds,  Grant Funds

### ALTERNATIVES

This agenda item is information only, and no action is required at this time.

### RECOMMENDATION

No action proposed.

Prepared by: Matt Brinkley

Reviewed by: Jamie McLeod

**Agenda Report**

**Date:** December 19, 2016  
**To:** City Manager for Mayor and Council  
**From:** Matt Brinkley, Planning Director  
**Subject:** Bicentennial Park Wetland Restoration/Mitigation Project  
**Action:**  Motion,  Ordinance,  Resolution,  Information only,  Other

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**EXECUTIVE SUMMARY**

As discussed previously by City Council during deliberations at its meetings March 21, 2016 and May 16, 2016, the City and Urban Renewal have begun restoration of a delineated wetland located between Main Street and Bear Creek Drive. The wetland will eventually become the central feature of a "wetland park" and city center redevelopment project that has been discussed in the City's comprehensive plan since 1997.

Mark Kellenbeck is the developer of a self-storage facility to be constructed at 3850 Fern Valley Road. Construction has been delayed, but is anticipated to begin in early 2017. While purchasing the property, Mr. Kellenbeck's environmental consultant discovered that a wetland had been illegally filled more than 10 years ago. In purchasing the property he has assumed legal responsibility to mitigate the loss. The Department of State Lands has given preliminary approval of a mitigation plan that would involve restoration of impacted wetland on City owned property.

City Council has approved two agreements needed to complete this project: a Memorandum of Understanding (MOU) between the City and Mr. Kellenbeck and a Professional Services Contract (PSC) with wetland consultant Northwest Biological. The MOU establishes the terms and conditions of the arrangement between Mr. Kellenbeck and the City to restore approximately ¼ acre of wetland located to the west of Bear Creek Drive. In short, Mr. Kellenbeck will contribute \$49,900 to cover all estimated capital and operations and maintenance costs for 5 years. The PSC designates Northwest Biological as the consultant responsible for a scope of work that includes permitting, design and engineering, construction, and regulatory monitoring and reporting. Any work must be specifically authorized through a Notice to Proceed.

To date, Northwest Biological has completed a Compensatory Wetland Mitigation Plan (CWMP) and Joint Permit Application (JPA) which were submitted to the Department of State Lands (DSL) and Army Corps of Engineers. The consultant has notified City staff that the DSL has given preliminary approval to the plan, but a permit has not yet been issued. Work will not proceed until that permit has been issued and Mr. Kellenbeck has contributed funds required to cover costs of related tasks identified in the Scope of Work (SOW). Given current construction and environmental conditions, construction (primarily excavation, grading, and planting) is not anticipated until spring, 2017.

**Key Issues/Questions**

The work to be performed could be expanded through separate contract to address unfinished parts of the Phoenix Plaza project including completion of stormwater management facilities and other landscaping needs. The restoration project will generate spoils from excavation which could be placed elsewhere in the Plaza Project area and used to achieve final grading and establishment of planting beds. The City and PHURA could benefit from economies of scale if complementary work is performed at one time and with a single contractor by avoiding costs of multiple mobilizations.

**ADVANTAGES & DISADVANTAGES OF ISSUE**

N/A

**FISCAL IMPACT:** The cost of work authorized to date is \$5,000, all of which has been paid by Mr. Kellenbeck.

The total cost of the project, including required maintenance and monitoring, was estimated at \$49,900 by the consultant. Mr. Kellenbeck will pay the City the full cost of the project. Northwest Biological will complete the project on a Total Maximum Cost Not to Exceed basis (according to the approved contract), thereby containing the City's exposure to additional costs. The City would need to assume responsibility for longer term maintenance of the project area, though not under the any particular rules or statutory requirements and not for 5 years after completion of the project. At that point, maintenance would be absorbed the City's routine maintenance of the City's park facilities. Maintenance costs for the first 5 years after construction are covered by the MOU and could be performed by the City or contracted service provider.

**SOURCE OF FUNDS**

X General Fund, \_\_\_ Water Fund, \_\_\_ Street Fund, \_\_\_ Capital Project Funds, \_\_\_ Separate Fund for Local Option Taxes, \_\_\_ Debt Service Funds, \_\_\_ Reserve Funds, X Grant Funds

**ALTERNATIVES**

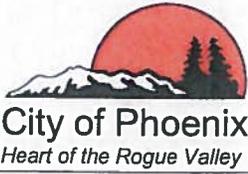
This agenda item is information only, and no action is required at this time.

**RECOMMENDATION**

N/A

Prepared by: Matt Brinkley

Approved by: . . . . .

**Agenda Report**

**Date:** December 19, 2016  
**To:** City Manager for Mayor and Council  
**From:** Derek Bowker, Chief of Police  
**Subject:** Update on Value Added of Staff Roles: Traffic Safety Officer  
**Action:**  Motion,  Ordinance,  Resolution,  Information only,  Other

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**EXECUTIVE SUMMARY**

**Responsibilities:** The role of the Traffic Safety Officer (TSO) is dedicated to promoting and improving traffic safety through education, analysis and enforcement in and around the City of Phoenix. This is accomplished through enforcement and education of Oregon Revised Statutes. The TSO responds to and investigates the majority of traffic collisions to keep patrol officers free to respond to calls for service, handle specific traffic related complaints from citizens. The TSO supports and assists the patrol division when necessary and provides training.

A significant portion of the TSO's time and efforts are concentrated in areas with the most serious risk of safety issues. School zones, construction zones and residential areas are where the TSO spends most of their time.

**Disposition:** Since the inception of the Traffic Safety Officer program, the Phoenix Police Department has received no complaints from the public concerning the increased traffic patrols and increase in enforcement of the Oregon Revised Statutes. I believe this is due to the fact that we have not changed the department's mind set when it comes writing citations. The Traffic Safety Officer does not enforce traffic laws any differently or more stringently than any of the normal patrol officers. The TSO is given the same discretion after stopping someone, whether a citation or warning is appropriate. The TSO is not given a "quota" to meet. The significant increase in citations issued is due to the fact that we now had an individual whose sole purpose was to enforce traffic regulations.

**ADVANTAGES & DISADVANTAGES OF ISSUE**

The public benefits from understanding the value that different city staff roles bring to the city.

**FISCAL IMPACT**

The annual cost of this position is \$107,264; however, the cost of the program is actually a wash within the budget. During the first year, the increase in fines and forfeitures covered the cost of the officer for the program. This year, the numbers are down because we had to suspend the program as two officers left the department and the TSO had to resume

normal patrol duties. This has also had no effect on the budget, as during the 4 months we were short two officers, the city saved over \$50,000 in salary and benefits for those two positions. As soon as the two new officers are trained and on solo status, the TSO will resume their duties.

Prepared by: Derek Bowker

Reviewed by: Jamie McLeod

**Agenda Report**

**Date:** December 19, 2016  
**To:** City Manager for Mayor and Council  
**From:** Ray DiPasquale, Public Works Director  
**Subject:** Opportunities for State Transportation and Infrastructure Funding  
**Action:**  Motion,  Ordinance,  Resolution,  Information only,  Other

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**EXECUTIVE SUMMARY**

Staff was asked to review Governor Brown's recently proposed 2017-19 State budget to assess potential funding streams for local improvements relative to ongoing initiatives and future assessments relative to strategic planning goals and potential inclusion of UGB areas into city boundaries.

The Infrastructure Finance Authority (IFA) is a good option for low cost loans for major water system infrastructure improvements, such as the water storage tank on the east side of the city needed to support inclusion of Urban Growth Boundary (UGB) areas into the city boundaries. To qualify, you only need to serve 25 year-round residents and the IFA reserves 15% of funds for communities with a population of less than 10,000. This provides a compelling reason to pursue that funding stream if the city chooses to make major improvements to infrastructure components. Recent appropriations have also included funding for program planning, which could be advantageous for the city.

Connect Oregon VII looks to have received an 8% increase over the life of the budget cycle, which is basically keeping up with increased costs, but staff can potentially look for bike and pedestrian money from that source. Staff has prepared the city's State Transportation Improvement Program (STIP) project list which is a response to short-term high-need project list from the city's Transportation Plan. As funding procedures utilize a competitive process, it will be challenging to bring in the funding from this source. Staff can also look at the Small Cities Allotment (SCA) grant, but it has become very competitive with no significant increase in funding that staff is aware of, and the SCA grant requires a 50% community match.

Oregon Department of Transportation's (ODOT) full time equivalent (FTE) allocation appears to be staying flat, and that likely means less support from them, which staff utilize given our roadway network connectivity to the state system. Staff suggests the best course of action would be to strengthen relationships with ODOT staff as they can provide technical, logistical and sometimes direct construction support to the work the city does in the area. Sometimes it is equipment or materials or traffic control, and it is not always an "on the books" expenditure from ODOT specifically listed in a state budget. But given that

their staffing is projected as remaining flat, it appears as if ODOT's resources will be strained.

### **ADVANTAGES & DISADVANTAGES OF ISSUE**

Seeking opportunities for state transportation and infrastructure funding could create a more bike and pedestrian accessible community without dipping into the city's budget for all those types of projects.

Not seeking outside funding for projects means some projects may be prioritized over others based on what the budget allows.

### **FISCAL IMPACT**

The immediate fiscal impact would be in the form of staff time expended further examining funding source opportunities. Further fiscal impacts would be determined based on the source of outside funding and match percentages.

The cost for the proposed allocations of staff time include: \$2,302.40 for 40 hours for the Public Works Director and \$633.60 for 20 hours for the Public Works Administrative Assistant.

### **SOURCE OF FUNDS**

General Fund,  Water Fund,  Street Fund,  Capital Project Funds,  
 Separate Fund for Local Option Taxes,  Debt Service Funds,  Reserve Funds

### **ALTERNATIVES**

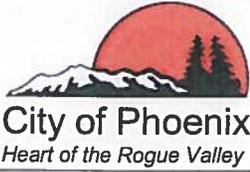
1. Direct staff to allocate up to 40 hours of the Public Works Director's time and up to 20 hours of the Public Works Administrative Assistant's time and other city staff members to further examine funding source opportunities over next several months in conjunction with anticipated needs to support the Phoenix Comprehensive Plan and inclusion of urban reserve areas into the city boundaries.
2. Direct staff to not expend any time further examining funding source opportunities.
3. Refer item back to City Manager.
4. Note and file information without further direction or action on the item.

### **RECOMMENDATION**

Option 1. Proposed motion: "I move to authorize the Public Works Director, Public Works Administrative Assistant, and other city staff members to further examine funding source opportunities during the next quarter in conjunction with anticipated needs to support the Phoenix Comprehensive Plan and inclusion of Urban Reserve Areas into the city boundaries."

Prepared by: Theresa Syphers

Reviewed by: Ray DiPasquale

**Agenda Report**

**Date:** December 19, 2016  
**To:** City Manager for Mayor and Council  
**From:** Ray DiPasquale, Public Works Director  
**Subject:** Street Lights along Grove Road  
**Action:**  Motion,  Ordinance,  Resolution,  Information only,  Other

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**EXECUTIVE SUMMARY**

Staff was asked to look into cost estimates to install lighting on Grove Road between North Phoenix Road and Fern Valley Road.

Staff spoke with the Oregon Department of Transportation (ODOT) to get a preliminary estimate for lighting on Grove Rd with the estimate based on the following specifications:

- 40' Mounting Height
- 215w LED Luminaire
- 1900 LF of Lighting Needed
- Luminaire Installed
- Conduit Including Wire Installed
- Base Mounted Service Cabinet
- Power Company Hook-up

Staff was given a very preliminary estimate range of \$150,000 - \$200,000 depending on lights whether the lights are installed on one side of the Grove Road or on both sides. This price range includes a varying number of lights installed.

**ADVANTAGES & DISADVANTAGES OF ISSUE**

Lighting this section of Grove Road would create safer driving conditions during the night for local business patrons and those that live in the neighboring residential areas. Based on community feedback, lighting along this section would be desirable for local business and residents.

Opting to not install lights along Grove Road between North Phoenix Road and Fern Valley Road maintains current conditions with limited street lighting in the area.

**FISCAL IMPACT**

Preliminary fiscal impact of \$150,000 - \$200,000.

There may be Diesel Tax funds available to be used for this lighting project. In fiscal year 2015/16 the City received \$54,955 in diesel tax and the budget amount to be received in fiscal year 2016/17 is \$81,475, of that amount \$31,475 has been collected to date.

Managerial, technical, and administrative man-hour allocations will be required to develop the plans and contracts for the project, along with administering the contract through to completion. Long term costs include man-hours and materials for maintenance and repair activities

#### **SOURCE OF FUNDS**

General Fund,  Water Fund,  Street Fund,  Capital Project Funds,  
 Separate Fund for Local Option Taxes,  Debt Service Funds,  Reserve Funds

#### **ALTERNATIVES**

1. Direct staff to further investigate cost of lighting Grove Road between North Phoenix Road and Fern Valley Road.
2. Direct staff to not expend any time further investigating cost of lighting Grove Road between North Phoenix Road and Fern Valley Road.
3. Refer item back to City Manager.
4. Note and file information without further direction or action on the item.

#### **RECOMMENDATION**

Option 1. Proposed motion: "I move to direct the Public Works staff to further investigate the cost of lighting Grove Road between North Phoenix Road and Fern Valley Road."

Prepared by: Theresa Syphers

Reviewed by: Ray DiPasquale

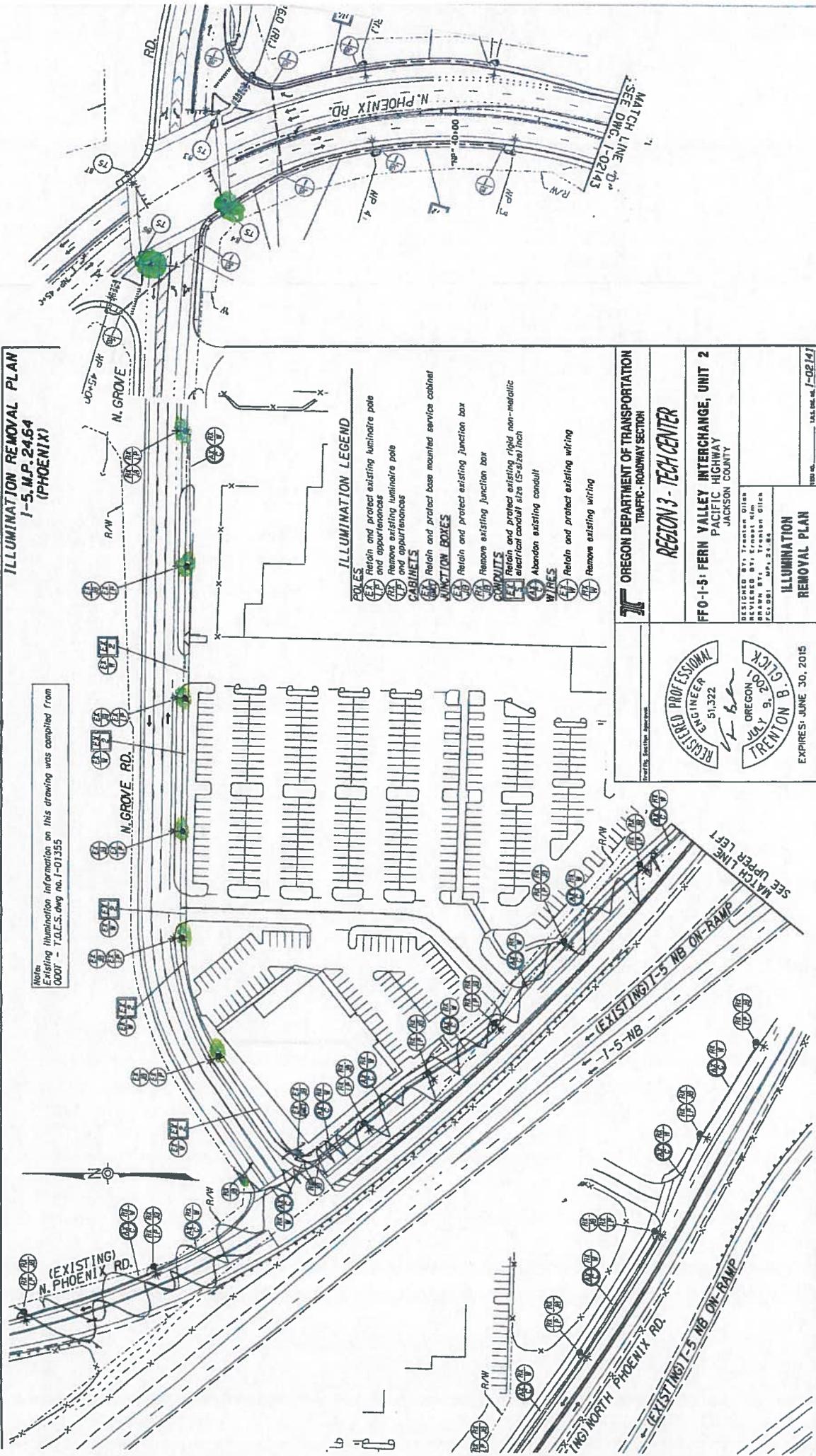
High Pressure - vs. LED =  
 14617 Contract Plans

Φ 300-35K  
 3 lights

LED - \$1,000 =

**ILLUMINATION REMOVAL PLAN**  
 I-5, M.P. 24.64  
 (PHOENIX)

Note:  
 Existing illumination information on this drawing was compiled from  
 0007 - T.O.E.S. dwg no. I-01355



**ILLUMINATION LEGEND**

- POLES: Retain and protect existing luminaire pole and appurtenances
- POLES: Remove existing luminaire pole and appurtenances
- CABINETS: Retain and protect base mounted service cabinet
- JUNCTION BOXES: Retain and protect existing junction box
- REMOVE: Remove existing junction box
- CONDUITS: Retain and protect existing rigid non-metallic electrical conduit sizes (5-61/2) inch
- CONDUITS: Abandon existing conduit
- WIRES: Retain and protect existing wiring
- WIRES: Remove existing wiring

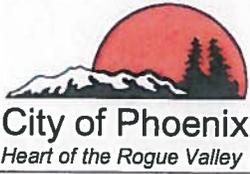
<p>REGISTERED PROFESSIONAL ENGINEER          51,322          OREGON          TRENTON B. GLICK          JUN 30 2015          EXPIRES: JUNE 30, 2015</p>	
<p>OREGON DEPARTMENT OF TRANSPORTATION          TRAFFIC-ROADWAY SECTION  <b>REGION 3 - TECH CENTER</b></p>	
<p>FFO-1-5: FERN VALLEY INTERCHANGE, UNIT 2          PACIFIC HIGHWAY          JACKSON COUNTY</p>	
<p>DESIGNED BY: TRISHAN OILS          CHECKED BY: TRISHAN OILS          DRAWN BY: TRISHAN OILS          PLOTTED BY: TRISHAN OILS          DATE: 06/24/13</p>	
<p><b>ILLUMINATION REMOVAL PLAN</b></p>	

5/20/13 5/4/13

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## Agenda Report

**Date:** December 19, 2016  
**To:** City Manager for Mayor and Council  
**From:** Jamie McLeod, City Manager  
**Subject:** Phoenix Urban Renewal Agency Billing for Staff Resources  
**Action:**  Motion,  Ordinance,  Resolution,  Information only,  Other

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### EXECUTIVE SUMMARY

The Phoenix Urban Renewal Agency (PHURA) serves the city by addressing blight and enhancing the properties within the designated urban renewal area with funding through tax increment funding. The City of Phoenix works in partnership with PHURA to enhance the appearance and marketability of the city.

In accordance with the Intergovernmental Agreement (IGA) the City needs to provide PHURA with a billing statement for city staff time used for PHURA projects. Attached is the current billing statement.

### ADVANTAGES & DISADVANTAGES OF ISSUE

#### FISCAL IMPACT

No overall fiscal impact as the IGA anticipates full repayment to the city for staffing resources utilized by PHURA.

#### SOURCE OF FUNDS

General Fund,  Water Fund,  Street Fund,  Capital Project Funds,  
 Separate Fund for Local Option Taxes,  Debt Service Funds,  Reserve Funds

#### ALTERNATIVES

1. Approve the proposed current proposed billing statement from the City to PHURA.
2. Approve a modified version of the billing statement from the City to PHURA (please specify).
3. Refer item back to City Manager for further action (please specify).
4. Note and file information without direction further action on the item.

#### RECOMMENDATION

Option 1. "I move to approve the proposed current billing statement from the City to PHURA."

Prepared by: Jamie McLeod



**City of Phoenix**  
Heart of the Rogue Valley

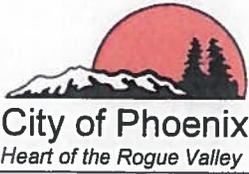
# Monthly Billing

112 W 2nd Street  
PO Box 330  
Phoenix, OR 97535

Bill to: Phoenix Urban Renewal  
157 S Main St  
PO Box 330  
Phoenix, OR 97535

Month:

Staff Member	Hourly Rate	Year to Date, Billable Hours	Year to Date, Sub-total	Current Month, Billable Hours	Current Month, Sub-Total	Total
City Manager	\$58.98	100.0	\$5,898.00	2.0	\$117.96	\$6,015.96
Finance Director	\$47.88			1.0	\$47.88	\$47.88
Planning Director	\$50.14	2.0	\$100.28	3.0	\$150.42	\$250.70
PW Director	\$57.56					
Assistant Planner	\$34.79					
Admin Coordinator	\$29.60	5.0	\$148.00			\$148.00
Admin Asst, City Hall	\$27.34			3.0	\$82.02	\$82.02
Admin Assistant, PW	\$31.68			1.0	\$31.68	\$31.68
<b>Totals</b>		<b>107.0</b>	<b>6146.3</b>	<b>10.0</b>	<b>430.0</b>	<b>\$6,576.24</b>
<b>Paid to Date:</b>						<b>\$5,000.00</b>
<b>Remaining Balance:</b>						<b>\$1,576.24</b>



## Agenda Report

**Date:** December 19, 2016  
**To:** City Manager for Mayor and Council  
**From:** Janette Boothe, Finance Director  
**Subject:** Update on Budget Status: November 2016 Financial Report  
**Action:**  Motion,  Ordinance,  Resolution,  Information only,  Other

### EXECUTIVE SUMMARY

The November 30 financial statements reflect the first five months or 41.67% of the fiscal year. Following a review of the activity during this period, I am confident we are in line with anticipated results.

General Fund	Year-to-Date	Budget	% of Budget	Prior Year
<b>Revenues</b>	<b>\$ 1,145,849</b>	<b>\$ 1,878,540</b>	<b>61%</b>	<b>\$ 1,138,323</b>
Expenditures				
Executive	\$ 31,384	\$ 92,565	34%	\$ 44,474
Admin	\$ 47,210	\$ 133,985	35%	\$ 49,220
Police	\$ 478,466	\$ 1,188,885	40%	\$ 487,438
Planning	\$ 55,723	\$ 185,130	30%	\$ 52,869
Building	\$ 28,425	\$ 122,075	23%	\$ 39,413
Parks	\$ 36,466	\$ 106,435	34%	\$ 43,655
Interdepartment	\$ 19,941	\$ 45,335	44%	\$ 22,560
Transfers	\$ -	\$ 2,485	0%	\$ -
Contingency		\$ 100,000	0%	\$ -
<b>Total Expenditures</b>	<b>\$ 697,615</b>	<b>\$ 1,976,895</b>	<b>35%</b>	<b>\$ 739,629</b>
Revenues over/(under)				
Expenditures	\$ 448,234	\$ (98,355)		\$ 398,694

**General Fund:** Fiscal year to date, revenues exceed expenditures by \$448,234 (\$1,145,849 vs. \$697,615). The primary reason for the excess in revenues is property tax revenue received in November totaling \$887,385. Property tax revenue received is coming in as anticipated, approximately \$12,000 more than received at this point in the prior year. Overall, the revenue is coming in at 61.23% of the budget; while fines and forfeitures are lower than expected, planning and building charges for services are up, assisting in the slightly higher revenues overall compared to the prior fiscal year. Expenditures are nearly \$42,000 less than the prior year, primarily due to a decrease in personnel expenses. Monitoring expenses will continue to be a priority as we approach the second half of our fiscal year.

<b>Street Fund</b>	<b>Year-to-Date</b>	<b>Budget</b>	<b>% of Budget</b>	<b>Prior Year</b>
<b>Revenues</b>	<b>\$ 228,373</b>	<b>\$ 598,025</b>	<b>38%</b>	<b>\$ 240,849</b>
<b>Expenditures</b>				
Operating				
Personal Services	\$ 47,667	\$ 213,095	22%	\$ 68,790
Materials & Supplies	\$ 69,805	\$ 254,150	27%	\$ 114,949
Capital Outlay	\$ -	\$ -	0%	\$ 10,837
Non-Operating				
Transfers	\$ -	\$ 42,915	0%	\$ -
Contingency	\$ -	\$ 75,000	0%	\$ -
<b>Total Expenditures</b>	<b>\$ 117,472</b>	<b>\$ 585,160</b>	<b>20%</b>	<b>\$ 194,576</b>
Revenues over/(under)				
Expenditures	<b>\$ 110,901</b>	<b>\$ 12,865</b>		<b>\$ 46,273</b>

**Street Fund:** Revenues overall show slightly below the 41.67% expected for the period. The decrease in revenues received compared to the prior year is primarily due to receiving a lump sum of franchise fees from Rogue Valley Sewer Services in the first quarter of 2015. However, the expenditures are significantly lower than the prior year. The decrease is largely attributed to the crack sealing project on Main Street and Bear Creek Drive, the consultant fees for performance of review of the chip seal project, and the purchase of a truck for the PW department accomplished in the prior year. Overall, the Street Fund's progress thus far is favorable, with revenues exceeding expenditures by nearly \$111,000.

<b>Water Fund</b>	<b>Year-to-Date</b>	<b>Budget</b>	<b>% of Budget</b>	<b>Prior Year</b>
<b>Revenues</b>	\$ 642,931	\$ 1,298,615	50%	\$ 595,058
<b>Expenditures</b>				
Operating				
Personal Services	\$ 151,857	\$ 423,240	36%	\$ 171,500
Materials & Supplies	\$ 282,088	\$ 553,320	51%	\$ 301,462
Capital Outlay	\$ -	\$ -	0%	\$ 10,837
Debt Service	\$ 100,868	\$ 130,795	77%	\$ 100,829
Non-Operating				
Transfers	\$ -	\$ 183,296	0%	\$ -
Contingency	\$ -	\$ 100,000	0%	\$ -
<b>Total Expenditures</b>	\$ 534,813	\$ 1,390,651	38%	\$ 584,628
Revenues over/(under)				
Expenditures	\$ 108,118	\$ (92,036)		\$ 10,430

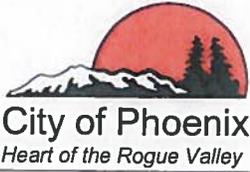
**Water Fund:** Revenues overall show above the 41.67% expected for the period. Primarily attributing to the increase over prior year at this point is the \$40,000 the City received from Talent for the settlement regarding water loss. Personal Services overall decreased compared to prior year, by approximately \$20,000, chiefly due to the position of the Public Works Director. Materials and Services expenditures appear higher than the levels expected for the period; however, these operating expenses are approximately \$20,000 less than that of the prior year comparatively. Overall, the water fund is very healthy, with revenues exceeding expenditures by \$108,118 (\$642,931 vs. \$534,813).

#### **ADVANTAGES & DISADVANTAGES OF ISSUE**

Given finance reports periodically, the Mayor and City Council are well informed of the financial status of the City. This knowledge assists in the Council's consideration of upcoming projects, areas that may be of concern, and addresses the overall budget status of the major funds in the City. Additionally, it is imperative Council receive this information in a timely manner, as it is vital to ensure funds are received and expensed within the budget parameters.

Prepared by: Janette Boothe

Reviewed by: Jamie McLeod



## Agenda Report

**Date:** December 13, 2016  
**To:** City Manager for Mayor and Council  
**From:** Janette Boothe, Finance Director  
**Subject:** Update on Annual Fines and Forfeitures  
**Action:**  Motion,  Ordinance,  Resolution,  Information only,  Other

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### EXECUTIVE SUMMARY

During the City of Phoenix City Council meeting on December 5, 2016, Councilor Chris Luz asked about the status of Fines and Forfeitures as compared to last year.

2015: \$187,502

2016: \$167,207 (Thru December 12<sup>th</sup>)

While these numbers give you a general idea of where we are at compared to last year, there are some factors that must be considered:

1. The numbers above are actual collection of Fines and Forfeitures collected, not necessarily the actual amounts of Fines and Forfeitures imposed by the Phoenix Municipal court.
2. Several people enter into payment agreements with the Municipal Court when they are not able to pay their full fine up front. This may cause some monies in 2015 to be from citations issued in a prior year and some monies in 2016 to be from citations issued in prior years.
3. As one might notice, the total monies collected in 2016 are down by approximately \$20,000. There are many factors to consider regarding this reduction; however, a majority of this shortfall was caused by the resignation of two police officers, which caused the Phoenix Police Department to temporarily suspend the Traffic Safety Officer Program (TSOP).
4. With the suspension of the TSOP, came a decrease in Fines and Forfeitures; however, by having two less officers for three months the City experienced a decrease in expenditures of approximately \$50,000 in salary and benefits.

### SOURCE OF FUNDS

General Fund,  Water Fund,  Street Fund,  Capital Project Funds,  
 Separate Fund for Local Option Taxes,  Debt Service Funds,  Reserve Funds

Prepared by: Janette Boothe

Reviewed by: Jamie McLeod

## Agenda Report

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**Date:** December 13, 2016  
**To:** City Manager for Mayor and Council  
**From:** Janette Boothe, Finance Director  
**Subject:** Oregon Public Employee Retirement System (PERS) Funding  
**Action:**  Motion,  Ordinance,  Resolution,  Information only,  Other

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### EXECUTIVE SUMMARY

During the City of Phoenix City Council meeting on December 5, 2016, Councilor Bruce Sophie reported on the League of Oregon Cities (LOC) update regarding PERS, titled *Latest PERS Forecast Disconcerting*. The article explains the PERS Board received a forecast of the large employer rate increases that were adopted for the 2017-19 biennium are projected to be duplicated in the 2019-21 and 2021-23 rate cycles. System wide averages are expected to plateau at 30 percent of payroll in 2023 and begin to slowly decline in 2025, with rates falling below 20 percent 2035.

### PERS Background:

PERS was established in 1946 to assist members to plan for financial security after retirement from public employment. All state agencies, including institutions of higher education, community colleges, and all public school districts are covered by PERS. Additionally, County and City governments and political subdivisions participate in PERS.

According to the PERS Employer Manual, there are approximately 910 active employers with staff totals ranging from one to over 5,900 participating in PERS.

The Public Employees Retirement Board consists of five members who are responsible for the administration and management of PERS. Appointments require state Senate ratification. Specifically, the Board consists of the following:

- three people with experience in business management, pension management, or investing who are not members of the PERS system;
- one person who is either an employee of the state in a management position or a person who holds an elective office in the governing body of a participating public employer other than the state; and
- one person representing public employees.

PERS administers two pension programs: Tier One and Tier Two and the Oregon Public Service Retirement Plan (OPSRP) Pension Program. New members become members of OPSRP upon completing their eligibility requirements. The OPSRP program consists of

two rates: General Service and Police and Fire. Tier One/Tier Two consist of members hired before August 29, 2003. Both programs include an Individual Account Program (IAP) as of January 2004. Employees contribute 6 percent of their annual wages into the IAP. Employers, at their discretion, may pay the 6 percent into the IAP on behalf of their employees.

The increase in PERS Employer Contribution Rates was issued September 30, 2016. Attached is a summary of PERS Employer Contribution Rates, the Net Employer Contribution Rate increase excluding contributions to the IAP account:

Employer Contribution Rates for 7/1/15 – 6/30/17:

- Tier One/Tier 2 7.73%
- OPSRP General Service 1.49%
- OPSRP Police and Fire 5.60%

Employer Contribution Rates for 7/1/17 – 6/30/19:

- Tier One/Tier 2 12.70%
- OPSRP General Service 5.23%
- OPSRP Police and Fire 10.00%

To better demonstrate the estimated increase in dollar amounts; please see the attached calculated rates for 2015. If the increase was implemented January 1, 2015, the overall impact is calculated at an additional contribution of \$49,758 for the year.

The LOC report further states short-term options are limited; however, mitigating the long-term liability is possible if actions are taken in the 2017 session. Measures currently being explored by legislators include: redirecting employee contributions into the pension plan and away from individual accounts; reducing the annuity or "money-match" rate to more accurately reflect market earnings; disability reform; and changing retirement calculations.

Employers participating in PERS will need to prepare for significant increases in rates over the next several years. The City should expect biennial increases at least equivalent to the 2017 increase for 2019 and 2021 and likely for 2023. However, if earnings do not come in as anticipated or the board drops the assumed rate again, the City's funded status may fall below 70% and rate increases would be even higher.

#### **SOURCE OF FUNDS**

General Fund,  Water Fund,  Street Fund,  Capital Project Funds,  
 Separate Fund for Local Option Taxes,  Debt Service Funds,  Reserve Funds

Prepared by: Janette Boothe

Reviewed by: Jamie McLeod

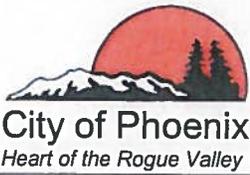
**2015 PERS Contribution**

	Subject Wages	Contribution Rate	Total Member Contribution
Employer	\$ 1,169,826.67	6%	\$ 70,189.60
Tier 1/Tier 2	\$ 282,177.62	7.73%	\$ 21,812.33
OPSRP General	\$ 503,466.11	1.49%	\$ 7,501.65
OPSRP Police	\$ 384,182.94	5.60%	\$ 21,514.24
			<b>\$ 121,017.82</b>

**2015 PERS Contribution with New Rates**

	Subject Wages	Contribution Rate	Total Member Contribution
Employer	\$ 1,169,826.67	6%	\$ 70,189.60
Tier 1/Tier 2	\$ 282,177.62	12.70%	\$ 35,836.56
OPSRP General	\$ 503,466.11	5.23%	\$ 26,331.28
OPSRP Police	\$ 384,182.94	10%	\$ 38,418.29
			<b>\$ 170,775.73</b>

Estimated increase: \$ 49,757.91



## Agenda Report

**Date:** December 19, 2016  
**To:** City Manager for Mayor and Council  
**From:** Jamie McLeod, City Manager  
**Subject:** Notice to Businesses with Retail Sales of Recreational Marijuana  
**Action:**  Motion,  Ordinance,  Resolution,  Information only,  Other

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### EXECUTIVE SUMMARY

At the November 21, 2016, meeting Council directed staff to formalize the city's collection process for the voter-approved tax on retail sales of recreational marijuana and negotiate an Intergovernmental Agreement (IGA) with the Oregon Department of Revenue (DOR) for the collection, disbursement, and enforcement of the tax. The attached letter was sent to businesses engaging in retail sales of recreational marijuana.

### ADVANTAGES & DISADVANTAGES OF ISSUE

Fully inform the businesses of the pending tax and put them on notice of a proposed modification to the voter-approved Ordinance.

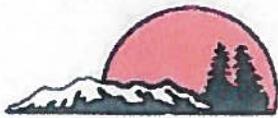
### FISCAL IMPACT

Estimated costs are approximately 1 hour of staff time.

### SOURCE OF FUNDS

General Fund,  Water Fund,  Street Fund,  Capital Project Funds,  
 Separate Fund for Local Option Taxes,  Debt Service Funds,  Reserve Funds

Prepared by: Jamie McLeod



City of Phoenix  
*Heart of the Rogue Valley*

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Phoenix, OR 97535  
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541-535-1955 x317

December 9, 2016

Gregg Kerr, Owner  
Fireside Dispensary  
4149 S Pacific Hwy - Suite A  
Phoenix, OR 97535  
*sent via email: [greggfireside@yahoo.com](mailto:greggfireside@yahoo.com)*

Wade Hall, Owner  
Top Shelf Wellness  
205 Fern Valley Road – Suite C  
Phoenix, OR 97535  
*sent via email: [info@topshelfwellnesscenter.com](mailto:info@topshelfwellnesscenter.com)*

**RE: Voter-Approved Tax on Retail Marijuana Businesses**

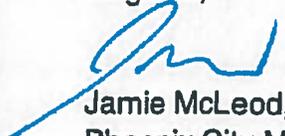
Dear Gregg Kerr and Wade Hall,

This letter provides you with official notice that citizens of the City of Phoenix voted to pass Measure 15-153 on November 8, 2016, which imposes a tax on retail sales of recreational marijuana items. The City Council certified the election results on December 5, 2016.

The City Council is considering an Intergovernmental Agreement (IGA) with the Oregon Department of Revenue (DOR) to have DOR administer collection, enforcement, and disbursement of the tax. The draft IGA is based on DOR's model Marijuana Tax Collection Agreement and includes imposing penalties and interest as part of the administration of the tax fees. Council reviewed the draft IGA and conducted a First Reading of an Amendment to Recreational Marijuana Sales Tax Ordinance to Impose Penalties and Interest at their meeting on December 5, 2016. Council will consider approval of the IGA and conduct a Second Reading of the Amendment at their December 19, 2016 meeting.

Please note that while the process for tax collection has not yet been finalized, your business is expected to maintain records sufficient to successfully administer the tax. Let me know if you would like additional information on this issue. I look forward to working with you to successfully implement the voter-approved Measure.

Regards,

  
Jamie McLeod,  
Phoenix City Manager