

COUNCIL MEETING MINUTES

OCTOBER 25, 2021

DATE COUNCIL CHAMBERS, CITY HALL, CITY OF WOODBURN, COUNTY OF MARION, STATE OF OREGON, OCTOBER 25, 2021

CONVENED The meeting convened at 7:01 p.m. with Mayor Swenson presiding.

ROLL CALL

Mayor Swenson	Present
Councilor Carney	Present
Councilor Cornwell	Present- via video conferencing
Councilor Schaub	Present- via video conferencing
Councilor Swanson	Present - via video conferencing 7:45 p.m.
Councilor Puente	Present- via video conferencing
Councilor Cabrales	Present- via video conferencing

Staff Present: City Administrator Derickson, City Attorney Shields, Assistant City Administrator Row, Police Chief Pilcher, Community Development Director Kerr, Economic Development Director Johnk, Human Resources Director Gregg, Public Works Projects and Engineering Director Liljequist, Public Works Operations Director Stultz, Finance Director Turley, Public Affairs and Communications Coordinator Moore, City Recorder Pierson

PRESENTATIONS

COVID-19 Update – Community Services Director Cuomo provided updated information on COVID-19 in Woodburn.

BUSINESS FROM THE PUBLIC

Arnold Ponce, 3244 McNaught Street, stated that he was at the Council Meeting two weeks ago and spoke to the Council about getting better language into the parking ordinance. He stated that he was told that the City Council decided to table the issue because of the pandemic. He provided a photo of the street parking to the Council. He stated that he hopes the Council will address this issue. Mayor Swenson stated that their rationale for tabling this until later is due to people working from home due to the pandemic. Police Chief Pilcher noted that he did call Mr. Ponce and spoke with him about this issue and the reasons for it being tabled.

Karen Linton, provided a petition signed by over 100 residents of Woodburn Estates to have an off leash area for dogs in Senior Estates Park on the Astor side.

CONSENT AGENDA

- A. Woodburn City Council minutes of October 11, 2021,
 - B. Woodburn City Council Executive Session minutes of October 11, 2021,
 - C. Crime Statistics through September 2021.
- Carney/Cornwell...** adopt the Consent Agenda. The motion passed unanimously.

PUBLIC HEARING

A Public Hearing to consider input on a FY 2021-2022 Supplemental Budget Request. Mayor Swenson declared the hearing open at 7:21 p.m. for the purpose of hearing public input on a FY 2021-2022 Supplemental Budget Request. City Administrator Derickson and Finance Director Turley provided a staff report. Paige Clarkson, Marion County DA, provided testimony in favor of the Supplemental Budget request. Alison Kelly, CEO of Liberty House, provided testimony in

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favor of the Supplemental Budget request. Gabriella Pena and Rick Gaupo with Aware Food Bank provided testimony in favor of the Supplemental Budget request. Curt Jones provided testimony in favor of the Supplemental Budget request. Robert Prinslow with Love Santa provided testimony in favor of the Supplemental Budget request. No members of the public wished to speak in opposition of a FY 2021-2022 Supplemental Budget Request. Mayor Swenson closed the hearing at 7:50 p.m.

COUNCIL BILL NO. 3165 – A RESOLUTION APPROVING TRANSFERS OF FY 2021-2022 APPROPRIATIONS AND APPROVING A SUPPLEMENTAL BUDGET

Carney introduced Council Bill No. 3165. City Recorder Pierson read the bill by title only since there were no objections from the Council. On roll call vote for final passage, the bill passed unanimously. Mayor Swenson declared Council Bill No. 3165 duly passed.

AWARD OF CONSTRUCTION CONTRACT FOR THE LEGION PARK IMPROVEMENT PROJECT

Community Services Director Cuomo provided a staff report. **Carney/Cabrales...** award a contract for the Legion Park Improvement Project to Hellas Construction, Inc. in the amount of \$4,004,694.00. The motion passed unanimously.

WORK SESSION

Ward Redistricting – Lesley Hegewald with Mid-Willamette Valley Council of Governments provided three draft alternatives for Ward Boundary redistricting. Councilors provided comments and asked questions. Lesley stated that she would take the Councilors comments and suggestions into account and provide updated ward boundary alternatives.

CALL-UP BRIEFING: PLANNING COMMISSION APPROVAL OF A CONDITIONAL USE PERMIT, DESIGN REVIEW, AND STREET EXCEPTION APPLICATION PACKAGE FOR THE LINCOLN ELEMENTARY SCHOOL WEST REAR PARKING AREA EXPANSION AT 1041 N. BOONES FERRY ROAD (CU 21-01, DR 21-08, & EXCP 21-04)

The Council declined to call this item up.

CALL-UP BRIEFING: PLANNING COMMISSION APPROVAL OF A DESIGN REVIEW, PLANNED UNIT DEVELOPMENT, AND RIPARIAN CORRIDOR & WETLANDS OVERLAY DISTRICT PERMIT APPLICATION PACKAGE FOR THE WOODBURN SENIOR LIVING APARTMENTS PROJECT AT 2385 SPRAGUE LANE (DR 21-05, PUD 21-01, & RCWOD 21-02)

The Council declined to call this item up.

CITY ADMINISTRATOR'S REPORT

City Administrator Derickson reported the following:

- Thanked everyone who worked on the ARPA funding allocations.
- The Oregon City Managers Association elected him to be their President in 2023.
- There will only be one meeting in November and December due to the holidays.

MAYOR AND COUNCIL REPORTS

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Councilor Cabrales thanked everyone for their hard work.

Carney/Cabrales... meeting be adjourned. The motion passed unanimously.
The meeting adjourned at 8:25 p.m.

APPROVED _____
ERIC SWENSON, MAYOR

ATTEST _____
Heather Pierson, City Recorder
City of Woodburn, Oregon

CITY OF WOODBURN
Community Development Department

MEMORANDUM

270 Montgomery Street

Woodburn, Oregon 97071

(503) 982-5246

Date: November 1, 2021

To: Chris Kerr, Community Development Director

From: Melissa Gitt, Building Official

Subject: Building Activity for October 2021

	2019		2020		2021	
	No.	Dollar Amount	No.	Dollar Amount	No.	Dollar Amount
Single-Family Residential	1	\$256,306	0	\$0	9	\$2,422,594
Multi-Family Residential	0	\$0	0	\$0	9	\$14,377,134
Assisted Living Facilities	0	\$0	0	\$0	0	\$0
Residential Adds & Alts	5	\$126,365	4	\$31,370	0	\$0
Industrial	0	\$0	0	\$0	0	\$0
Commercial	6	\$279,495	2	\$154,000	6	\$533,200
Signs and Fences	0	\$0	0	\$0	0	\$0
Manufactured Homes	0	\$0	1	\$127,000	0	\$0
TOTALS	12	\$662,166	8	\$312,370	21	\$7,886,744
Fiscal Year to Date (July 1 – June 30)		\$3,557,739		\$6,744,416		\$25,219,672

- Totals based off of permit valuation



Agenda Item

November 8, 2021

TO: Honorable Mayor and City Council

FROM: Scott Derickson, City Administrator

SUBJECT: **Ward Boundaries**

RECOMMENDATION:

Adopt the Ordinance.

BACKGROUND:

Each city that elects city councilors on the basis of ward representation is required to examine and, if necessary, modify ward boundaries within the same year the results of the decennial census are released. The City has contracted with the Mid-Willamette Valley Council of Governments (MWVCOG) to update Woodburn's Ward Boundaries in accordance with State law and guidelines as follows:

Each district, as nearly as possible, shall:

- Be contiguous;
- Utilize existing geographic or political boundaries
- Not divide communities of common interest
- Be connected by transportation links
- Be of equal population
- No district shall be drawn for the purpose of favoring any political party, incumbent elected official, or other person
- No district shall be drawn for the purpose of diluting the voting strength of any language or ethnic minority group
- To greatest extent, consider newly drawn legislative and congressional boundaries

The agreement with the MWVCOG provided for development of three reapportionment alternatives.

Agenda Item Review: City Administrator ___x___ City Attorney ___x___ Finance ___x___

DISCUSSION:

During a work session with the City Council at its October 25, 2021 meeting the MWVCOG presented three draft alternatives to the City Council. Council considered the alternatives and provided comments. Attached, for your consideration and approval is an ordinance (and map) that reapportions ward boundaries, pursuant to Alternative 1B which was drafted by MWVCOG after taking Councils comments during the work session into consideration and the 2020 census.

This Ordinance contains an emergency clause so that the City Council's final action can immediately be conveyed to the Marion County Elections Department.

FINANCIAL IMPACT:

None.

COUNCIL BILL NO. 3166

ORDINANCE NO. 2593

AN ORDINANCE RELATING TO REAPPORTIONMENT OF WARD BOUNDARIES, REPEALING ORDINANCE 2483, AND DECLARING AN EMERGENCY

WHEREAS, the City Charter apportions the City into six wards, and requires alteration of the ward boundaries not less than once every ten years to maintain an equal population distribution; and

WHEREAS, the City Council has undertaken and completed a public process to reapportion ward boundaries following the 2020 census; and

WHEREAS, the City Council considered several alternatives, and selected a preferred alternative for reapportionment of ward boundaries which is in accordance with the equal population distribution and other criteria selected by the City Council; and

WHEREAS, formal adoption of the ward boundaries, by City Ordinance, is required; **NOW, THEREFORE**,

THE CITY OF WOODBURN ORDAINS AS FOLLOWS:

Section 1. That the City of Woodburn is hereby divided into six wards, which shall be designated as Wards I, II, III, IV, V, and VI.

Section 2. That the boundaries of the six wards created by section 1 above shall be as indicated on a map known as "Ward Map of 2021", a copy of which is attached hereto and, by this reference, incorporated herein.

Section 3. That two (2) copies of said ward map are on file in the office of the City Recorder, and said map of boundaries indicated thereon are hereby adopted until such time as they shall be amended or abolished by ordinance or Charter.

Section 4. That Ordinance 2483 is repealed.

Section 5. That a copy of this ordinance and the attached Ward Map of 2021 be sent to the Elections Department of Marion County, Oregon.

Section 6. This Ordinance being necessary for the immediate preservation of the public peace, health, and safety, because there has not been an alteration of Ward Boundaries in the last ten years and one is legally

required, an emergency is declared to exist and this Ordinance shall take effect immediately upon passage by the Council and approval by the Mayor.

Approved as to form: _____
City Attorney Date

Approved: _____
Eric Swenson, Mayor

Passed by the Council _____

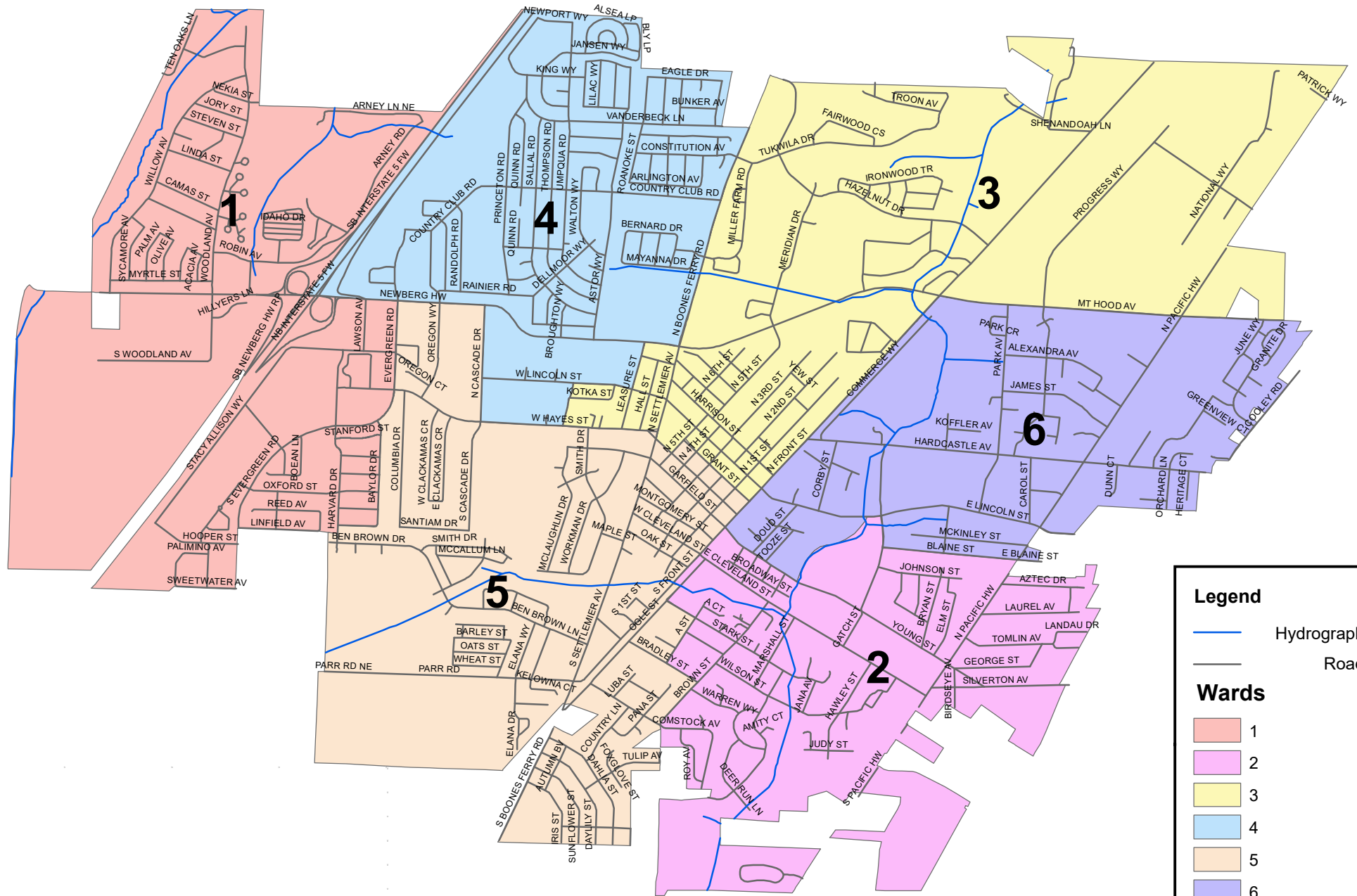
Submitted to the Mayor _____

Approved by the Mayor _____

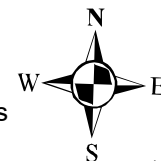
Filed in the Office of the Recorder _____

ATTEST: _____
Heather Pierson, City Recorder
City of Woodburn, Oregon

City of Woodburn Council Wards, 2021



0.5 0.25 0 0.5 Miles



November 8, 2021

TO: Honorable Mayor and City Council

FROM: Jim Row, Assistant City Administrator

SUBJECT: **Repeal of Ordinance 2237, an outdated Ordinance creating a reimbursement district for the Woodburn Factory Outlet Stores Project**

RECOMMENDATION:

Adopt the ordinance repealing ordinance 2237 (a special ordinance that established a process for the formation of a reimbursement district to address specific legal issues related to the land use applications of Craig Realty Group, LLC, the developer of the Woodburn Factory Outlet Stores) because the Ordinance is outdated and no longer applicable, and declaring an emergency.

BACKGROUND:

In June 1999, the City Council adopted Ordinance 2237 to establish a process for the formation of a reimbursement district related to the extension and improvement of Arney Road and the installation of a traffic signal at State Highway 219 and Woodland Ave. The reimbursement district provided a mechanism for benefitting property owners to participate in the cost sharing of improvements that Craig Realty was required to make.

Since Ordinance 2237 was a special ordinance that only applied to the Factory Outlet project, it has no further use going forward.

With the City now experiencing a significant increase in development activity, some developers have been exploring options for sharing the costs of installing public infrastructure that is sized to provide excess capacity beyond that required to serve their individual projects. The existence of this special ordinance has caused some confusion with developers who mistakenly believe it establishes a process for creating reimbursement districts that can be utilized for their projects. Repealing Ordinance 2237 will help clear up this confusion with developers.

Agenda Item Review: City Administrator ☒ City Attorney ☒ Finance ☒

DISCUSSION:

Currently, System Development Charges (SDC) credits are available to developers who construct public improvements that provide excess capacity. Staff believes that the SDC credits process adequately addresses the excess capacity issue in the vast majority of situations.

However, if the need arises in the future, the City Council could adopt a new ordinance that either, creates a reimbursement district process for another unique individual development project or one that applies to any future development project.

FINANCIAL IMPACT:

N/A


Attachment:

Memorandum Opinion No. 2021-05

MEMORANDUM OPINION NO. 2021-05

TO: Jim Row, Assistant City Administrator

CC: Eric Liljequist, Public Works Projects and Engineering Director
Chris Kerr, Community Development Director

FROM: N. Robert Shields, City Attorney 

DATE: October 28, 2021

RE: Application of Ordinance 2237

Background

In a letter dated October 18, 2021, (Attachment A), Multi/Tech Engineering Services Inc. (“the Applicant”) submitted a request to the City for the creation of a reimbursement district pursuant to Ordinance 2237 (Attachment B), which was adopted by the City Council in 1999.

The Applicant submitted its request even after Public Works Projects and Engineering Director Liljequist had advised that: “The City is not supportive of a reimbursement district for the subject development.” Also, prior to its request, Senior Planner Cortes informed the Applicant that: “There’s no indication that the City Council or staff would consider such a request.”

By making its request despite the hesitancy of these City officials, the Applicant is making at least the tacit assumption that Ordinance 2237 is a general enabling ordinance that allows reimbursement districts to be created. It is this assumption that led to your question.

Question

Your question is whether Ordinance 2237 was enacted as a general ordinance to enable applications for reimbursement districts or was it adopted by the City Council to be a special ordinance to address specific legal issues related to the land use applications of Craig Realty Group, LLC, the developer of the Woodburn Factory Outlet Stores.

Short Answer

Based upon its text, context, and legislative history, it is my legal opinion that Ordinance 2237 is a special ordinance adopted by the City Council to address the specific legal issues related to the land use applications of Craig Realty Group LLC. It is not a general ordinance enacted by the City Council to enable applications for reimbursement districts.

Discussion

General v. Special Ordinances

There are two types of municipal ordinances: general ordinances and special ordinances. A general ordinance is sometimes referred to as municipal legislation and is applicable to activities and individuals within the corporate boundaries of the City. An example of a general ordinance is an animal control ordinance. In contrast, a special ordinance is specific to a particular property, person or corporation. An example of a special ordinance is an ordinance annexing a particular parcel of real property. The annexation ordinance legally changes the City's boundary, but applies only to that property.

Both types of ordinances have the full force of law and are not uncommon. The Woodburn City Council has adopted 93 general ordinances that are in everyday use. Additionally, the City Recorder maintains a list of special ordinances. Currently the City Council has adopted 1577 special ordinances.

Ordinance Construction Process

The Oregon Supreme Court has addressed statutory construction in *Portland Gen. Elec. Co. v. Bureau of Labor & Indus.* 317 Or 606 (1993) and *State v. Gaines*, 346 Or 160 (2009). The legal principles articulated in these cases apply to both state laws and local government enactments such as Ordinance 2237. Under both *PGE* and *Gaines*, the overall goal in the construction of the legislation is to discern the policy maker's intent (i.e., what the City Council meant to do when it adopted the ordinance).

Under Oregon's current framework for statutory construction, the steps are as follows:

1. The first step is to examine the **text** of the enactment (i.e., Ordinance 2237) and the **context** that the City Council adopted it in.
2. The second step is to consider the legislative history (i.e., what related documents and evidence indicate about the City Council's intent).
3. The third step, if the policy maker's intent is still unclear after the first two steps, is to use general maxims of statutory construction to aid in resolving remaining uncertainty.

Text and Context of Ordinance 2237

Applying the statutory construction framework, it is even apparent from its caption that the City Council passed Ordinance 2237 as "a mechanism whereby the properties which will benefit by the construction of the required public improvements by Craig Realty Group Woodburn, LLC, will share in the cost of those improvements." The text of the whereas clauses further explain the context of the ordinance and why the City Council believed its passage was necessary.

More specifically, the first whereas clause references the nine Craig Realty land use applications. The second and third whereas clauses mention that Craig Realty was required by the City to

construct both the Woodland Avenue traffic signal and the Arney Road improvement. Whereas clauses six and seven state that after Craig Realty completes the required improvements, other properties will receive an immediate benefit and that these benefitting properties should share a portion of the cost.

From the text of the whereas clauses, it is clear that the City Council adopted Ordinance 2237 not because it saw a need for a general reimbursement district enabling ordinance but because it needed a specific legal solution to the “fair share” issue that it encountered with Craig Realty. The language of the ninth whereas clause makes it clear that Ordinance 2237 was passed because the City Council believed it was the legal “mechanism” needed to address the Craig Realty situation:

WHEREAS, the City Council finds that establishing a process for the formation of a reimbursement district will provide a mechanism whereby both the previously conditioned properties and the future developable properties will share in the cost of the public improvements constructed by the Developer;

The primary legislative history of Ordinance 2237 is the staff report to the Mayor and City Council from then City Administrator Brown (Attachment C). Like the whereas clauses, this staff report sets out in some detail the Craig Realty “fair share” issue and contains details about how the development costs could be allocated. It specifically states:

A reimbursement district would be a viable means of creating a mechanism to collect the cost of improvements from benefited property owners. Enforcement would be the City’s responsibility, and would take the form of development restrictions for properties failing to pay reimbursements.

After presenting his staff report, City Administrator Brown addressed the City Council about why the creation of a reimbursement district could be a solution to the Craig Realty “fair share” issue. The minutes of the May 10, 1999, City Council meeting (Attachment D) document City Administrator Brown’s remarks:

Administrator Brown expressed his concern that all concerned parties may not want to sign the development agreement. It is his belief that the developer is responsible for the road improvements but at a fair share of the total costs. Other property owners will benefit in both access and an increase in their property value due to the factory stores project. In the event the development agreement is not signed by all parties, he suggested that a reimbursement district be formed and the Council would be asked to establish a fair share for each of the properties based on an engineering analysis done by the Public Works Department. A reimbursement district would provide an enforcement tool in which properties not currently developed would be required to pay their fair share prior to being issued permits.

Finally, the City Council motion (Attachment D) that authorized the drafting of Ordinance 2237 makes it apparent that the ordinance was intended as a specific legal solution to address the Craig Realty situation and not as a general ordinance enabling the formation of reimbursement districts.

FIGLEY/PUGH..... applicant be allowed to proceed with an agreement in lieu of assessments functional equivalent of an LID as a mechanism to complete the financing of the Arney Road and Highway 219 traffic signal improvements and, if the applicant is unable to secure the signatures of the owners of the benefited properties located within the City on this agreement, the City Council initiate the formation of a reimbursement district upon the improvements.
On roll call vote, the motion passed unanimously.

Conclusion

In order to answer your question and arrive at my opinion, it was necessary to apply the Oregon statutory construction rules to the City Council's passage of Ordinance 2237. Both the text and context of this ordinance make it clear that it was intended by the City Council to be a special ordinance to address specific legal issues related to Craig Realty and not a general ordinance to enable applications for reimbursement districts throughout the City. The text/context analysis is bolstered by examining the legislative history, which also supports this conclusion.

Recommendation

Because this issue raised in this opinion involves an ordinance, I believe that it would be a good idea for the City Administrator's Office to bring the issue to the attention of the City Council. If the City Council believes, as a policy matter, that there is no need for a general reimbursement district ordinance, it could repeal Ordinance 2237. This would avoid any future confusion.

Attachments

- A. October 18, 2021, Letter from Multi/Tech Engineering Services Inc.
- B. Ordinance 2237
- C. Staff Report for Ordinance 2237
- D. May 10, 1999, City Council Meeting Minutes



CONSULTANTS
1155 13th Street, S.E.
Salem, Oregon 97302
(503) 363-9227

October 18, 2021

Eric Liljequist, P.E.
Public Works Projects and Engineering Director
City of Woodburn
190 Garfield Street
Woodburn, OR 97071

RE: Woodburn Place Apartments
CU 2019-04, DR 2019-06 & ANX 2019-01
Reimbursement District

Eric,

Based upon Woodburn Ordinance No. 2237 our office is submitting on behalf of the developer - Woodburn Place Apartments, LLC the estimated cost analysis for a Public Improvement for Land Use Decisions CU 2019-04, DR 2019-06 and ANX 2019-01. This estimated cost will be the basis for the creation of a Reimbursement District for this service basin area.

Public Works Conditions of Approval item 9, dated October 13, 2020, requires "Applicant to provide plans, indicating the construction of a new gravity sanitary sewer main in Hwy 211 – Woodburn-Estacada Highway. As indicated on previous meetings, the existing sewer main in Hwy 211 is an abandoned force main. Applicant is responsible for constructing a public gravity sewer main to the proposed development."

The design of this "new gravity sewer" identifies our connection point at an existing manhole west of the site with a depth of over 15'. The existing city of Woodburn 8" force main that we are to abandon prior our construction was TV'd by the city of Woodburn and was found to be constructed with inadequate grade and alignment for public sewer conveyance. The proposed 12" trunk line extension is designed at minimum grade with increased capacity for future development along Hwy 211 in the city of Woodburn and further east potentially to the current Urban Growth Boundary.

The establishment of this Reimbursement District meets the following criteria requirement of Section 3 of Woodburn Ordinance No. 2237:

- A. This public improvement is financed and will make service available to properties, other than that is owned by the Developer.
- B. Property information that will be served by this Reimbursement District are shown on the enclosed Sanitary Sewer Reimbursement District plan, identified as Sheet 1 of 1.

We provide a full spectrum of engineering & related technical services _____
Design, Coordination & Construction Management

- C. Estimated Costs are provided within this request. Final construction costs will be reviewed and approved by Multi/Tech Engineering Services, Inc prior to final submittal to the City of Woodburn. Based upon these final construction costs an Engineering fee of 7.5% will be included with design, survey and required public construction inspection.
- D. The District's percentage costs will be based upon the square footage of each frontage lot of Hwy 211 identified on the enclosed Sanitary Sewer Reimbursement District plan.
- E. An application fee per Ordinance No. 2237 of \$ 1,000.00 is included.
- F. Sanitary public improvements will meet City construction standards.
- G. The sanitary sewer project is in the Public Interest for the creation of a Reimbursement District for development of the adjacent frontage properties and for development potentially to the current Urban Growth Boundary. These properties will derive a benefit from the construction of the public improvements.

I & E Construction has generated a cost estimate for the construction of this sanitary trunk line based upon city of Woodburn Public Works and ODOT plan review. The estimated cost breakdown is \$ 888,518.89. Based upon this estimate, and per Section 4 of Woodburn Ordinance No. 2237 Engineering costs estimated upon the construction estimate would amount to \$ 66,638.92.

The total estimated Reimbursement District for this service area is **\$ 955,157.81.**

Our office is prepared to submit other relevant information to assist in the evaluation of the Reimbursement package as required.

If there are any questions regarding this submittal, I can be reached at (503) 363-9227.



Jeff Bolton
Enclosures

cc: Kiril Ivanov – Woodburn Place Apartments, LLC



Woodburn Place Apartments - Offsite Sanitary Sewer Improvements

Job: 19-010 - Sewer Reimbursement District

Bid Item	Description	Quantity	Units	Unit Price	Extended Price
011500	MOBILIZATION / GENERAL CONDITIONS				
011500-02-	Civil Equipment Mobilization	1.00	LS	91,069.38	\$91,069.37
333000	SANITARY SEWER				
333000-02	Sewer Traffic Control	1.00	LS	28,710.16	\$28,710.16
333000-06	Connect to Existing Sewer	1.00	EA	4,781.43	\$4,781.42
333000-20	12" Sewer Pipe & Fittings	1,334.00	LF	263.81	\$351,922.54
333000-30	48" Sewer Manhole	6.00	EA	9,502.57	\$57,015.40
333000-48	Sewer Temporary Trench Patch / Plates	8,496.00	SF	3.55	\$30,095.32
333000-50	Sewer Trench Restoration	4,320.00	SF	8.97	\$38,736.84
333000-99	Sewer Testing & Certification	1.00	LS	6,987.20	\$6,987.19
311100	SITE CLEARING & GRUBBING / DEMOLITION				
311100-06	Sawcutting	2,317.00	LF	4.65	\$10,758.75
311100-08	Asphalt Removal	13,138.00	SF	0.44	\$5,665.20
311100-12	Utility Removal / Decommission	587.00	LF	77.73	\$45,622.89
312500	EROSION CONTROL				
312500-32	Street Cleaning	1.00	LS	0.00	\$0.00
321100	ROAD PREPARATION / AGGREGATE BASE				
321100-02	Street Traffic Control	1.00	LS	21,435.70	\$21,435.69
321100-06	Street Excavation	13,138.00	SF	4.00	\$52,436.10
321100-08	Street Geotextile Fabric	13,138.00	SF	0.22	\$2,828.54
321100-10	Street Aggregate Base	13,138.00	SF	2.94	\$38,523.38
321100-14	Street Leveling Course	13,138.00	SF	0.71	\$9,240.38
321700-02	Street Asphalt Paving	13,138.00	SF	5.90	\$77,476.31
321700-10	Striping / Marking Insignia	1.00	LS	10,877.35	\$10,877.34
					\$888,518.89

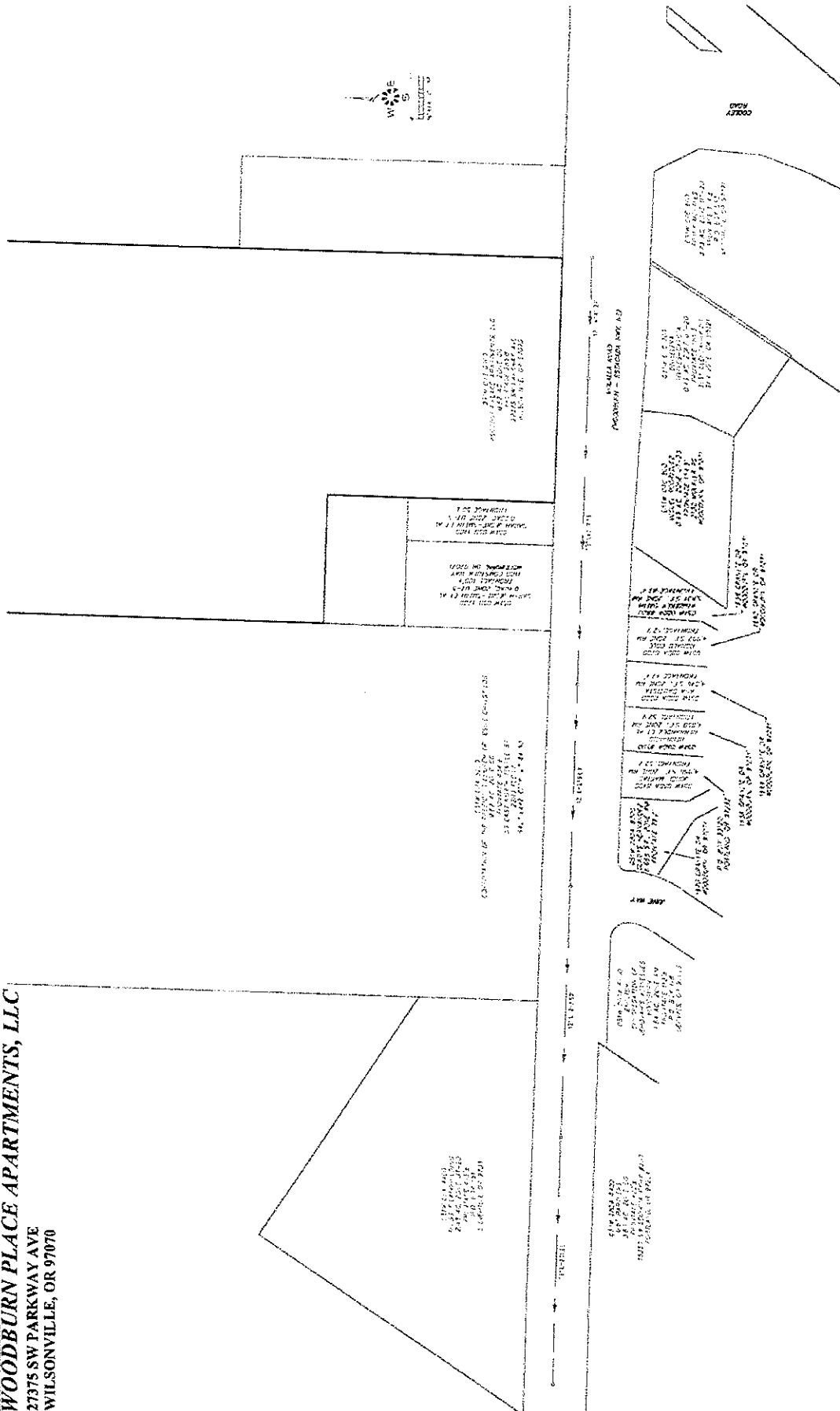
Printed:
Estimator: Will Huffman

I & E Construction

Page: 1

WOODBURN PLACE APARTMENTS

Owner / Developer:
WOODBURN PLACE APARTMENTS, LLC
 27375 SW PARKWAY AVE
 WILSONVILLE, OR 97070



Project No. 6855
 Sheet No. 1 OF 14

SANITARY SEWER
 REIMBURSEMENT DISTRICT

WOODBURN
 PLACE APARTMENTS

Scale: 1" = 40'-0"
 Date: 12/11/13
 Drawn: J. L. L. L.
 Checked: J. L. L. L.
 Project: 6855

NOT TO SCALE
 DIMENSIONS ARE APPROXIMATE

MULTI / TECH
 ENGINEERING & ARCHITECTURE, INC.
 1000 N. 10TH AVE., SUITE 100
 WILSONVILLE, OR 97070

COUNCIL BILL NO. 1976

ORDINANCE NO. 2237

AN ORDINANCE ESTABLISHING A PROCESS FOR THE FORMATION OF A REIMBURSEMENT DISTRICT IN ORDER TO PROVIDE A MECHANISM WHEREBY THE PROPERTIES WHICH WILL BENEFIT BY THE CONSTRUCTION OF THE REQUIRED PUBLIC IMPROVEMENTS BY CRAIG REALTY GROUP, WOODBURN LLC, WILL SHARE IN THE COST OF THOSE IMPROVEMENTS; PROTECTING THE PUBLIC INTEREST; AND DECLARING AN EMERGENCY.

WHEREAS, the City in 1998 previously approved land use applications in City of Woodburn File Nos. Annexation 98-02, Comprehensive Plan Map Amendment 98-01, Zone Map Amendment 98-03, Finding of Conformance 92-01 and 92-02, Site Plan Review 98-05 and Variances 98-04, 98-05 and 98-06 (hereinafter "the land use approvals") submitted by Craig Realty Group, Woodburn LLC (hereinafter "the Developer"); and

WHEREAS, one development condition, contained in the land use approvals, related to the installation of the traffic signal to be located at the intersection of Woodland Avenue and State Highway 219:

"The applicant shall install a traffic signal at the intersection of Woodland Avenue and State Highway 219, using applicant's proceeds, as well as those of previously conditioned applicants, and other subsequently benefitted properties, and funds from any local improvement district ("LID"). In the event the LID is not approved, the applicant shall abide by the cost sharing decision of the City Council. The installation of the signal shall be subject to ODOT approval. (emphasis added)" and;

WHEREAS, another development condition, contained in the land use approvals, related to the improvement and extension of Arney Road to Woodland Avenue and its connection to State Highway 219:

"To accomplish the portion of the project for which costs are to be shared by other benefitted properties, a formal city LID process shall be followed. Exhibits "A" and "B" demonstrate a possible method of sharing costs within the LID. In the event the LID is not approved, the applicant shall abide by the decision of the City Council as to project transportation improvement cost sharing. (emphasis added)" and;

WHEREAS, the Developer cannot now appeal these development conditions to the Land Use Board of Appeals because the time for this appeal has passed; and

WHEREAS, the Developer has not petitioned the City for approval of an LID, no LID has been approved by the City, and according to the terms of both development conditions, if an LID is not approved, the Developer shall abide by the decision of the City Council; and

WHEREAS, there are certain properties not owned by the Developer, (the property owned by Waremart, Inc. and the property owned by Offsprings Holdings LLC) which will benefit from the Developer's construction of the above-referenced public improvements, and which have previously imposed City development conditions which require them to share a portion of the cost of constructing the public improvements after the public improvements are completed (hereinafter "the previously conditioned properties"); and

WHEREAS, there are certain other properties not owned by the Developer, (the property owned by Dale W. Baker and the property owned by Moore Clear Company, Inc) which will benefit from the Developer's construction of the above-referenced public improvements, and which should be required to share a portion of the costs of constructing the public improvements at the time these properties develop (hereinafter "the future developable properties"); and;

WHEREAS, the Developer has benefitted by the land use approvals and is in the process of completing the construction of its project; and

WHEREAS, the City Council finds that establishing a process for the formation of a reimbursement district will provide a mechanism whereby both the previously conditioned properties and the future developable properties will share in the cost of the public improvements constructed by the Developer; and

WHEREAS, the Developer's share of the cost of the required public improvements will be the cost of installing the improvements offset by that portion of the costs that can be recovered by the Developer from the previously conditioned properties and the future developable properties, through the reimbursement district process; and

WHEREAS, the City Council further finds that it has a duty to safeguard any involved public funds and, to the best of its ability, protect the public against any costs or litigation related to private development; **NOW, THEREFORE**,

THE CITY OF WOODBURN ORDAINS AS FOLLOWS:

Section 1. Definitions. The following terms are defined as follows for the purposes of this Ordinance.

A. "City" means the City of Woodburn, Oregon.

B. "Developer" means a person who is required or chooses to finance some or all of

the cost of a street, water or sewer improvement which is available to provide service to property, other than property owned by the person, and who applies to the City for reimbursement for the expense of the improvement.

- C. "Development Permit" means any final land use decision, limited land use decision, expedited land division decision, partition, subdivision, or driveway permit.
- D. "Person" means a natural person, the person's heirs, executors, administrators or assigns; a firm, partnership, corporation, association or legal entity, its or their successors or assigns; and any agent, employee or representative thereof.
- E. "Public Improvement" means any construction, reconstruction or upgrading of water, stormwater, sewer or street improvements
- F. "Public Works Director" means the Public Works Director of the City of Woodburn.
- G. "Reimbursement Agreement" means the agreement between the Developer and the City which is authorized by the City Council and executed by the City Administrator, providing for the installation of and payment for reimbursement district public improvements.
- H. "Reimbursement District" means the area which is determined by the City Council to derive a benefit from the construction of public improvements, financed in whole or in part by the Developer.
- I. "Reimbursement Fee" means the fee required to be paid by a resolution of the City Council and the reimbursement agreement. The City Council resolution and reimbursement agreement shall determine the boundaries of the reimbursement district and shall determine the methodology for imposing a fee which considers the cost of reimbursing the Developer for financing the construction of the improvement within the reimbursement district.

Section 2. Application to Establish a Reimbursement District.

- A. A person who is required to or chooses to finance some or all of the cost of a public improvement which will be available to provide service to property other than property owned by the person may by written application filed with the Public Works Director request that the City establish a reimbursement district. The public improvement must be of a size greater than that which would otherwise ordinarily be required in connection with an application for a building permit or

development permit or must be available to provide service to property other than property owned by the Developer, so that the public will benefit by making the improvement.

- B. The application shall be accompanied by an application fee, in the amount of \$1000, which the City Council has determined reasonable to cover the cost of the preparation of the Public Works Director's Report and notice pursuant to this ordinance.
- C. The application shall include the following:
 - 1. A written description of the location, type, size and cost of each public improvement which is to be eligible for reimbursement.
 - 2. A map showing the boundaries of the proposed reimbursement district, the tax account number of each property, its size and boundaries.
 - 3. A map showing the properties to be included in the proposed reimbursement district; the zoning district for the properties; the front footage and square footage of said properties, or similar data necessary for calculating the apportionment of the cost; the property or properties owned by the Developer; and the names and mailing addresses of owners of other properties to be included in the proposed reimbursement district.
 - 4. The actual or estimated cost of the public improvements.
- D. The application may be submitted to the City prior to the installation of the public improvement but not later than 180 days after completion and acceptance of the public improvements by the City.

Section 3. Public Works Director's Report. The Public Works Director shall review the application for the establishment of a reimbursement district and evaluate whether a district should be established. The Public Works Director may require the submission of other relevant information from the Developer in order to assist in the evaluation. The Public Works Director shall prepare a written report for the City Council that considers and makes a recommendation concerning each of the following factors:

- A. Whether the Developer will finance, or has financed some or all of the cost of the public improvement, thereby making service available to property, other than that owned by the Developer.

- B. The boundary and size of the reimbursement district.
- C. The actual or estimated cost of the public improvement serving the area of the proposed reimbursement district and the portion of the cost for which the Developer should be reimbursed for each public improvement.
- D. A methodology for spreading the cost among the properties within the reimbursement district and, where appropriate, defining a "unit" for applying the reimbursement fee to property which may, with City approval, be partitioned, subdivided, altered or modified at some future date.
- E. The amount to be charged by the City for an administration fee for the reimbursement agreement. The administration fee shall be fixed by the City Council and will be included in the resolution approving and forming the reimbursement district. The administration fee is due and payable to the City at the time the agreement is signed.
- F. Whether the public improvements will or have met City standards.
- G. Whether it is fair and in the public interest to create a reimbursement district.

Section 4. Amount to be Reimbursed.

- A. A reimbursement fee shall be computed by the City for all properties within the reimbursement district, excluding property owned by or dedicated to the City or the State of Oregon, which have the opportunity to use the public improvements, including the property of the Developer, for formation of a reimbursement district. The fee shall be calculated separately for each public improvement. The Developer for formation of the reimbursement district shall not be reimbursed for the portion of the reimbursement fee computed for its own property.
- B. The cost to be reimbursed to the Developer shall be limited to the cost of construction engineering, construction, and off-site dedication of right of way. Construction engineering shall include surveying and inspection costs and shall not exceed 7.5% of eligible public improvement construction cost. Costs to be reimbursed for right of way shall be limited to the reasonable market value of land or easements purchased by the Developer from a third party in order to complete off-site improvements.
- C. No reimbursement shall be allowed for the cost of design engineering, financing costs, permits or fees required for construction permits, land or easements

dedicated by the Developer, the portion of costs which are eligible for systems development charge credits or any costs which cannot be clearly documented.

- D. Reimbursement for legal expenses shall be allowed only to the extent that such expenses relate to the preparation and filing of an application for reimbursement.
- E. Reimbursement for the amount of the application fee required by Section 2 on this ordinance.

Section 5. Public Hearing.

- A. Within 45 days after the Public Works Director has completed the report required in Section 3, the City Council shall hold an informational public hearing in which any person shall be given the opportunity to comment on the proposed reimbursement district. Because formation of the reimbursement district does not result in an assessment against property or lien against property, the public hearing is for informational purposes only and is not subject to mandatory termination because of remonstrances. The City Council has the sole discretion after the public hearing to decide whether a resolution approving and forming the reimbursement district shall be adopted.
- B. Not less than ten (10) days prior to any public hearing held pursuant to this Ordinance, the Developer and all owners of property within the proposed district shall be notified of the public hearing and the purpose thereof. Such notification shall be accomplished by either regular and certified mail or by personal service. Notice shall be deemed effective on the date that the letter of notification is mailed. Failure of the Developer or any affected property owner to be so notified shall not invalidate or otherwise affect any reimbursement district resolution or the City Council's action to approve the same.
- C. If a reimbursement district is formed prior to construction of the improvement(s), a second public hearing, subject to the same notice requirements, shall be held after the improvement has been accepted by the City. At that time, the City Council at its discretion may modify the resolution to reflect the actual cost of the improvement(s).

Section 6. City Council Action.

- A. After the public hearing held pursuant to Section 5(A), the City Council shall approve, reject or modify the recommendations contained in the Public Works Director's report. The City Council's decision shall be contained in a resolution.

If a reimbursement district is established, the resolution shall include the Public Works Director's report as approved or modified, and specify that payment of the reimbursement fee, as designated for each parcel, is a precondition of receiving any city permits applicable to development of that parcel as provided for in Section 10.

- B. The resolution shall establish an interest rate to be applied to the reimbursement fee as a return on the investment of the Developer. The interest rate shall be fixed and computed against the reimbursement fee as simple interest and will not compound.
- C. The resolution shall instruct the City Administrator to enter into an agreement with the Developer pertaining to the reimbursement district improvements. If the agreement is entered into prior to construction, the agreement shall be contingent upon the improvements being accepted by the City. The agreement shall contain at least the following provisions:
 - 1. The public improvement(s) shall meet all applicable City standards.
 - 2. The total amount of potential reimbursement to the Developer shall be specified.
 - 3. The total amount of potential reimbursement shall not exceed the actual cost of the public improvement(s).
 - 4. The Developer shall guarantee the public improvement(s) for a period of twelve (12) months after the date of installation.
 - 5. A clause in a form acceptable to the City Attorney stating that the Developer shall defend, indemnify and hold harmless the City from any and all losses, claims, damage, judgments or other costs or expense arising as a result of or related to the City's establishment of the reimbursement district, including any City costs, expenses and attorney fees related to collection of the reimbursement fee should the City Council decide to pursue collection of an unpaid reimbursement fee under Section 10(H).
 - 6. A clause in a form acceptable to the City Attorney stating that the Developer agrees that the City, can not be held liable for any of the Developer's alleged damages, including all costs and attorney fees, under the agreement or as a result of any aspect of the formation of the reimbursement district, or the reimbursement district process, and that the Developer waives, and is estopped from bringing, any claim, of any kind, including a claim in inverse condemnation, because the Developer has

benefited by the City's approval of its development and the required improvements.

7. Other provisions the City determines necessary and proper to carry out the provisions of this Ordinance.

- C. If a reimbursement district is established by the City Council, the date, of the formation of the district shall be the date that the City Council adopts the resolution forming the district.

Section 7. Notice of Adoption of Resolution. The City shall notify all property owners within the district and the Developer of the adoption of a reimbursement district resolution. The notice shall include a copy of the resolution, the date it was adopted and a short explanation specifying the amount of the reimbursement fee and that the property owner is legally obligated to pay the fee pursuant to this ordinance.

Section 8. Recording the Resolution. The City Recorder shall cause notice of the formation and nature of the reimbursement district to be filed in the office of the Marion County Clerk so as to provide notice to potential purchasers of property within the district. Said recording shall not create a lien. Failure to make such recording shall not affect the legality of the resolution or the obligation to pay the reimbursement fee.

Section 9. Contesting the Reimbursement District. No legal action intended to contest the formation of the district or the reimbursement fee, including the amount of the charge designated for each parcel, shall be filed after sixty (60) days following the adoption of a resolution establishing a reimbursement district and any such legal action shall be exclusively by Writ of Review pursuant to ORS 34.010 to ORS 34.102.

Section 10. Obligation to Pay Reimbursement Fee.

- A. The applicant for a permit related to property within any reimbursement district shall pay the City, in addition to any other applicable fees and charges, the reimbursement fee established by the Council, if within 10 years after the date of the passage of the resolution forming the reimbursement district, the person applies for and receives approval from the City for any of the following activities:
 1. A building permit for a new building;
 2. Building permits(s) for any addition(s) modification(s), repair(s) or alteration(s) of a building, which exceed twenty five percent (25%) of the value of the building within any 12-month period. The value of the building shall be the amount shown on the most current records of the

county Department of Assessment and Taxation for the building's real market value. This paragraph shall not apply to repairs made necessary due to damage or destruction by fire or other natural disaster;

3. A development permit, as that term is defined by this ordinance.
 4. A City permit issued for connection to a public improvement.
- B. The City's determination of who shall pay the reimbursement fee and when the reimbursement fee is due is final.
- C. In no instance shall the City, or any officer or employee of the City, be liable for payment of any reimbursement fee, or portion thereof, as a result of the City's determination as to who should pay the reimbursement fee. Only those payments which the City has received from or on behalf of those properties within a reimbursement district shall be payable to the Developer. The City's general fund or other revenue sources shall not be liable for or subject to payment of outstanding and unpaid reimbursement fees imposed upon private property.
- D. Nothing in this ordinance is intended to modify or limit the authority of the City to provide or require access management.
- E. Nothing in this ordinance is intended to modify or limit the authority of the City to enforce development conditions which have already been imposed against specific properties.
- F. Nothing in this ordinance is intended to modify or limit the authority of the City, in the future, to impose development conditions against specific properties as they develop.
- G. No person shall be required to pay the reimbursement fee on an application or upon property for which the reimbursement fee has been previously paid, unless such payment was for a different type of improvement. No permit shall be issued for any of the activities listed in subsection 10(A) unless the reimbursement fee, together with the amount of accrued interest, has been paid in full. Where approval is given as specified in subsection 10(A), but no permit is requested or issued, then the requirement to pay the reimbursement fee lapses if the underlying approval lapses.
- H. The date of reimbursement under this Ordinance shall extend ten (10) years from the date of the formation of a reimbursement district formation by City Council resolution.

- I. The reimbursement fee is immediately due and payable to the City by property owners upon use of a public improvement as provided by this ordinance in section 10(A). If connection is made or construction commenced without required city permits, then the reimbursement fee is immediately due and payable upon the earliest date that any such permit was required.
- J. Whenever the full reimbursement fee has not been paid and collected for any reason after it is due, the City Administrator shall report to the City Council the amount of the uncollected reimbursement, the legal description of the property on which the reimbursement is due, the date upon which the reimbursement was due and the property owner's name or names. The City Council shall then, by motion, set a public hearing date and direct the City Administrator to give notice of that hearing to each of the identified property owners, together with a copy of the City Administrator's report concerning the unpaid reimbursement fee. Such notice may be either by certified mail or personal service. At the public hearing, the City Council may accept, reject or modify the City Administrator's report. If the City Council determines that the reimbursement fee is due but has not been paid for whatever reason, the City Council may, at its sole discretion, act, by resolution, to take any action, it deems appropriate, including all legal or equitable means necessary to collect the unpaid amount. After the City Council has made the determination that the reimbursement fee is due but has not been paid, the Developer shall have a private cause of action against the person legally responsible for paying the reimbursement fee.

Section 11. Public Improvements. Public improvements installed pursuant to reimbursement district agreements shall become and remain the sole property of the City.

Section 12. Multiple Public Improvements. More than one public improvement may be the subject of a reimbursement district.

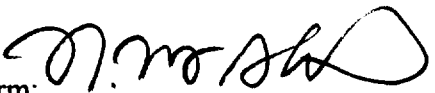
Section 13. Collection and Payment; Other Fees and Charges.


- A. The Developer shall receive all reimbursement collected by the City for reimbursement district public improvements. Such reimbursement shall be delivered to the Developer for as long as the reimbursement district agreement is in effect. Such payments shall be made by the City within ninety (90) days of receipt of the reimbursements.
- B. The reimbursement fee is not intended to replace or limit, and is in addition to, any other existing fees or charges collected by the City.

Section 14. Nature of the Fees. The City Council finds that the fees imposed by this Ordinance are not taxes subject to the property tax limitations of Article XI, section 11(b) of the Oregon Constitution.

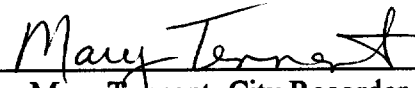
Section 15. Severability. If any part of this ordinance is held invalid by a court of competent jurisdiction, the remainder of this ordinance shall remain in effect.

Section 16. Emergency Clause. This ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist and this ordinance shall take effect immediately upon passage by the City Council and approval by the Mayor.

Approved as to form:  6-25-99
City Attorney Date

APPROVED: 
Richard Jennings, Mayor

Passed by the Council	<u>June 28, 1999</u>
Submitted to the Mayor	<u>June 30, 1999</u>
Approved by the Mayor	<u>June 30, 1999</u>
Filed in the Office of the Recorder	<u>June 30, 1999</u>

ATTEST: 
Mary Tennant, City Recorder
City of Woodburn, Oregon

May 10, 1999

TO: Mayor and City Council
FROM: John C. Brown, City Administrator
SUBJECT: Cost Apportionment for Arney Road and Highway 219 Traffic Signal Improvements – Woodburn Company Stores

Recommendation:

It is recommended the City Council:

Allow the applicant to proceed with an agreement in lieu of assessments (the functional equivalent of an Local Improvement District) as the mechanism to complete the financing of the Arney Road and Highway 219 Traffic Signal improvements within the following parameters:

- a. The applicant would still be required to complete the necessary improvements prior to issuance of occupancy permits for the Woodburn Company Stores project;
- b. The fair share cost apportionment will reflect:
 1. the ratio of land area per benefited property to the total land area benefited, for the Highway 219 traffic signal improvement; and
 2. a combination of square footage and Arney Road street frontage for the Arney Road improvements;
- c. No additional public funds would be committed to complete the improvements, either in the form of apportioning a cost of the Arney Road or Traffic Signal improvements to the City of Woodburn and/or requiring the City to advance financing for those improvements on behalf of any benefited property.

Background:

In 1992, the City Council approved a Comprehensive Plan and Zone Map amendment on the property upon which the Woodburn Company Stores project is being constructed. Conditions of approval in 1992 required the applicant to extend Arney road to Woodland Avenue. 1992 conditions of approval were incorporated in the City Council's 1998 approval of the Woodburn Company Stores project. Added conditions were imposed in 1998 which required the applicant install a traffic signal the intersection of Highway 219 and Woodland Avenue using the applicant's proceeds and those of

previously conditioned applicants and other subsequently benefited properties, and funds from any local improvement district (LID). That condition provided if an LID were not approved, the applicant would abide by the cost sharing decision of the City Council.

Most recently, the applicant held two meetings at City Hall in March 1999 to discuss a cost sharing arrangement with representatives of properties benefited by the signal and Arney Road improvements. Representatives of the applicant and some of the benefited properties located within the City attended these meetings. Absent from the meeting were any representatives of the Moore Clear Company, properties outside the City, and ODOT. The consensus of those attending the meeting appeared to be that:

- The applicant chose not to initiate the formation of and LID, due to cost and timing considerations;
- Benefited properties, for the purpose of cost sharing should include properties with no previous conditions to share in the cost of improvements (Miles Chevrolet), properties within the UGB but outside City Limits (Stampley and Sprague), and property owned by the State (ODOT);
- A reimbursement district would be a viable means of creating a mechanism to collect the cost of improvements from benefited property owners. Enforcement would be the City's responsibility, and would take the form of development restrictions for properties failing to pay reimbursements;
- It should be the City's responsibility to obtain any right-of-way, and wetland approvals needed to make the Arney Road improvements.

A cost sharing formula for each project was accepted by those at the table. Attachments 1 and 2 reflected those formulas. It was acknowledged by those in attendance that the property owners who were not in attendance would most likely not want to participate in the reimbursement district, and it was proposed the City advance the funding needed to cover the costs apportioned to those properties. That cost sharing proposal was forwarded to the City the following week (Attachment 3).

Discussion:

Staff expressed serious concerns regarding the March 1999 proposal. Concerns regarded the limits of City jurisdiction in extending a duty to reimburse to properties outside city limits and those owned by state agencies, and any arrangement whereby the City pays or advances public money to complete the improvements required of the Company Stores project. City staff had fewer concerns with right-of-way and wetland issues, and has in fact obtained the right-of-way that is needed. Staff is also working to obtain wetlands approvals, and expects to receive those shortly.

The City Attorney provided a legal opinion on the issues involved in this matter, and the legal limits of a reimbursement district. A copy of his opinion and its attachments

are included as Attachment 4 to this report. The City Attorney concluded a reimbursement district, as proposed by the applicant, is limited as a mechanism to replace an LID because it could not legally be extended to properties outside the City's jurisdiction and would not create a legally binding obligation on ODOT. The City Attorney recognized that there is no legal mechanism to enforce reimbursement requirements if properties in the district did not subsequently seek development approvals or permits from the City. He also pointed out that the Council has a fiduciary responsibility to taxpayers to avoid committing city funds to make a loan when there is little likelihood the loan will be repaid.

This information was conveyed to Craig Realty Group (the applicant), who accepted the attorney's opinion. Staff and Craig's attorney then undertook efforts:

- Develop a reimbursement district scenario to include only those properties that could legally be included in the district;
- Consider establishing concurrent reimbursement districts in and out of the City limits, with county approval; and
- Create a development agreement mechanism to accommodate collection from benefited parties, as an alternative to the reimbursement district approach.

Ultimately, Craig decided to pursue the development agreement alternative to collect the costs of the contemplated improvements (Attachment 5). City staff took the lead in drafting a development agreement. A copy of that draft was provided to Craig's attorney for review. A copy of that draft is provided as Attachment 6 for the Council's information.

On April 22, 1999, a revised cost sharing allocation for Arney Road improvements was provided by Craig (Attachment 7). Properties proposed to be party to the cost sharing are the:

Baker property
Moore Clear Co. Parcel 1
Moore Clear Co. Parcel 2
Craig Realty Group, Phase 1
Craig Realty Group, Phase 2
Hershberger Motors property

The allocation shown in Attachment 7 uses the formula the Council is being asked to approve as the fair share apportionment for the Arney Road improvements. A revised cost allocation for the traffic signal to be installed at Highway 219 and Woodland Avenue was not provided by the time this report was prepared, but uses an apportionment based on the ratio of land area per benefited property to the total land area benefited. That

apportionment includes the same parties, and includes Waremart, which was conditioned with its development approvals to pay a share of the costs of the signal.

Craig anticipated, in providing cost sharing allocations, that the City will advance payments on behalf of the Moore Clear Company parcels. Staff has consistently indicated the City is not willing to obligate any funds to this project, or advance funds on behalf of any benefited property.

Following receipt of the April 22nd revision, staff contacted Craig to determine why Arney Road costs had increased significantly from \$450,000 from March 1999 to \$700,000 in the April 22nd revision. Staff was advised April costs are based on the construction bid for the work, as opposed to the preliminary estimate provided by Craig Realty Group. Staff was also advised that the actual cost of Arney Road improvements will be \$825,000 rather than \$700,000. Construction Bid documents were provided to City Staff on May 6, 1999 for review (Attachment 8). As of the writing of this report, Public Works staff was reviewing the bid information. Craig also advised Staff that the costs of the traffic signal have changed, but the change represents a decrease from original estimates. Revised schedules for both improvements have not yet been provided by Craig, but are anticipated before Monday night's meeting. As of the writing of this report, it did not appear that Craig had held any conversations with the benefited properties regarding the changes in construction cost estimates since March 1999.

Conclusion:

The City Council will be asked to approve a fair share distribution of costs to a limited number of property owners as an alternative to forming an LID. The Council will also be asked to approve the concept of a development agreement as the mechanism for insuring reimbursement of improvement costs by the benefited properties. It would be the responsibility of the applicant to see that this agreement is executed by the property owners.

There may be some opportunity, after staff's review of the bid documents to reduce construction costs to be apportioned. Consequently, it is recommended that your Council approve the fair share distribution formulas, and participants in cost sharing, rather than a set cost per participant. It is expected the actual cost of improvements, as opposed to estimates, will be passed onto those properties identified in the development agreement as having a fair share apportionment of costs.

JCB

**COUNCIL MEETING MINUTES
MAY 10, 1999**

**TAPE
READING**

decision as to how the parties come to an agreement.

- 1578 Administrator Brown expressed his concern that all concerned parties may not want to sign the development agreement. It is his belief that the developer is responsible for the road improvements but at a fair share of the total costs. Other property owners will benefit in both access and an increase in their property value due to the factory store project. In the event the development agreement is not signed by all parties, he suggested that a reimbursement district be formed and the Council would be asked to establish a fair share for each of the properties based on an engineering analysis done by the Public Works Department. A reimbursement district would provide an enforcement tool in which properties not currently developed would be required to pay their fair share prior to being issued permits.

FIGLEY/PUGH..... applicant be allowed to proceed with an agreement in lieu of assessments functional equivalent of an LID as a mechanism to complete the financing of the Arney Road and Hwy. 219 traffic signal improvements and, if the applicant is unable to secure the signatures of the owners of the benefitted properties located within the City on this agreement, the City Council initiate the formation of a reimbursement district upon the improvements.
On roll call vote, the motion passed unanimously.

- 1835 Administrator Brown stated that the City staff will give the developer their full cooperation to expedite the permit process. Two issues that need to be clarified are 1) timing of the improvements and 2) Council's wishes on the indemnification clause. During Council discussion on the improvement issue, it was the consensus of the Council to have the roadway (paving improvements) completed by the July 15th opening date and they suggested that the second lift of paving be laid in the evening hours rather than daytime hours.

Mr. Craig stated that the traffic light is on order and it is anticipated to be operational prior to the Grand Opening.

PUGH/FIGLEY... accept Attorney Shields advice regarding the indemnity language. The motion passed unanimously.

2100 REVIEW OF OPTIONS ON MONTEBELLO SUBDIVISION.

Mayor Jennings recommended that the Council adopt the option of status quo and, if adopted, he and Councilor Figley will personally visit every resident on the west side of Columbia Drive to talk to them individually. He stated that he did not feel that the City is in a position to hold up the Montebello development any further and, since a consensus could not be reached when staff met with all parties, he feels that meeting with each owner will be more beneficial to arriving at a solution.

Harold Spohr, 813 S. Columbia Dr., distributed a letter to the Council which suggested that another meeting be held with the residents living on the west side of Columbia which

COUNCIL BILL NO. 3167

ORDINANCE NO. 2594

AN ORDINANCE REPEALING ORDINANCE 2237 AS PART OF THE ORDINANCE REVIEW/REVISION PROJECT AND DECLARING AN EMERGENCY

WHEREAS, in June 1999, the City Council adopted Ordinance 2237, a special ordinance that established a process for the formation of a reimbursement district to address specific legal issues related to the land use applications of Craig Realty Group, LLC, the developer of the Woodburn Factory Outlet Stores; and

WHEREAS, as required by their land use conditions of approval, Craig Realty Group, LLC completed improvements to Arney Rd and the installation of a traffic signal at Woodland Ave and State Highway 219; and

WHEREAS, Ordinance 2237 was utilized as a mechanism to ensure that benefitting property owners shared in the cost of these public improvements; and

WHEREAS, Ordinance 2237 served its intended cost sharing purpose and is not applicable to future development projects; and

WHEREAS, repealing Ordinance 2237 will decrease the confusion that developers may have regarding its applicability to current and future development projects; and

WHEREAS, the City Council finds, after an operational review by the involved department(s) and upon legal advice by the City Attorney's Office, there is no longer a need for Ordinance 2237; **NOW, THEREFORE**,

THE CITY OF WOODBURN ORDAINS AS FOLLOWS:

Section 1. The City Council finds there is no longer a need for Ordinance 2237.

Section 2. Ordinance 2237 is repealed.

Section 3. This Ordinance being necessary for the immediate preservation of the public peace, health and safety (so that the modifications made by the City Council in the course of the Ordinance Review/Revision Project may be implemented without delay) an emergency is declared to

exist and this Ordinance shall take effect immediately upon passage by the Council and approved by the Mayor.

Approved as to form: _____
City Attorney Date

Approved: _____
Eric Swenson, Mayor

Passed by the Council _____
Submitted to the Mayor _____
Approved by the Mayor _____
Filed in the Office of the Recorder _____

ATTEST: _____
Heather Pierson, City Recorder
City of Woodburn, Oregon

November 8, 2021

TO: Honorable Mayor and City Council (acting in its capacity as the Local Contract Review Board) through City Administrator

FROM: Jesse Cuomo, Community Services Director

SUBJECT: **Award of Construction Contract for Aquatic Center DX Recovery Unit Repair**

RECOMMENDATION:

Authorize the City Administrator to enter into a Professional Services Agreement (PSA) with Envisé Inc. for the Aquatic Center DX Recovery Unit Repair in the amount of \$113,392.00.

BACKGROUND:

In September, the City issued a Request for Proposals (RFP) seeking a qualified HVAC firm to perform repair and maintenance services on Woodburn Aquatic Center's DX Recovery Unit. The two proposals received by the October 12, 2021 deadline were evaluated and ranked by a City employee review panel consisting of the Community Services Director, Project Engineer, and Parks and Facility Maintenance Supervisor. The committee evaluated the proposals based on the responding firms' qualifications, demonstrated accomplishments, understanding of the project, organization, staffing of the proposed firm, and evaluation of fee schedule. With the highest possible score of 100, the responding firms were ranked as follows:

<u>Firm</u>	<u>Score</u>
1. Envisé Inc.	91
2. Hydro-Temp Inc.	80

The contract award is in conformance with public contracting laws of the State of Oregon as outlined in ORS Chapter 279C and the laws, regulations of the City of Woodburn, therefore, staff is recommending the contract be awarded.

Agenda Item Review: City Administrator __x__ City Attorney __x__ Finance __x__

DISCUSSION:

The continued improvements to the Aquatic Center mechanical equipment for increased energy efficiencies and savings has been a key component in the cost recovery goal of 50% over the past several years. The improvements of the previous components that have been replaced in previous years include wading pool heater, lap pool heater, natatorium LED lighting upgrade and spa heater.

The next phase of mechanical equipment improvements for increases in energy efficiencies include the repair of the Munters unit. The Munters unit replaced the original Natatorium HVAC System in 2009. The Munters system has a flat plate heat exchanger, DX Recovery, and a gas-fired heater. The DX recovered heat can be returned to the supply air/or used to heat the pool water. The DX piping has failed, leading to catastrophic compressor failure, on three occasions. The system controls temperature and humidity very well, but without DX, recovery is more expensive to run.

In 2019, the Woodburn Aquatic Center went through a Technical Analysis Study to find additional energy cost-saving opportunities. The report submitted by Nexant in partnership with the Energy Trust of Oregon found that replacing the internal heat recovery system of the Munters unit which had failed would allow for estimated annual savings of 106,207 kWh and 21,945 therm savings annually. Additionally, this project is eligible for an incentive of \$65,835.00 from the Energy Trust of Oregon upon completion of the project.

FINANCIAL IMPACT:

The subject project is identified in the adopted fiscal year 2021/22 Budget and funded by the Capital Improvement Fund, with an estimated incentive reimbursement from the Energy Trust of Oregon of \$65,835.00.

**CITY OF WOODBURN
PERSONAL SERVICES AGREEMENT**

THE WOODBURN AQUATIC CENTER DX RECOVER REPAIR PROJECT

THIS AGREEMENT is made and entered into as of the date first indicated on the signature page, by and between the City of Woodburn, an Oregon municipal corporation (hereinafter referred to as "CITY"), and Enviser, Inc. (hereinafter referred to as "CONTRACTOR").

WHEREAS, CITY needs certain CONTRACTOR services; and

WHEREAS, CITY wants to engage CONTRACTOR to provide these services by reason of its qualifications and experience; and

WHEREAS, CONTRACTOR has offered to provide the required services on the terms and in the manner set forth herein,

NOW, THEREFORE, IT IS AGREED as follows:

SECTION 1 – SCOPE OF SERVICES

The Scope of Work to be performed by CONTRACTOR under this Agreement is described in **Exhibit A**, which is attached to this Agreement.

SECTION 2 – DUTIES OF CONTRACTOR

- A. CONTRACTOR shall be responsible for the quality and coordination of all work furnished by CONTRACTOR under this Agreement.
- B. CONTRACTOR represents that it is qualified with the necessary training and skills to furnish the services described in this Agreement.
- C. CONTRACTOR shall provide, at its sole expense, all equipment and materials necessary to perform the services described in this Agreement.
- D. CONTRACTOR shall be responsible for employing or engaging all persons necessary to perform its services and will abide by all applicable State and Federal laws regarding the employing or engaging said persons including, but not limited to, tax reporting, anti-discrimination, and workers compensation.
- E. CONTRACTOR is engaged as an independent contractor and is responsible for any federal or state taxes applicable to any payments made under this Agreement.

- F. CONTRACTOR shall obtain and maintain a valid business registration with the City of Woodburn.

SECTION 3 – DUTIES OF CITY

- A. CITY shall provide CONTRACTOR the pertinent information regarding CITY's requirements for the services to be provided.

SECTION 4 – TERM

The services to be performed under this Agreement shall commence upon execution of the Agreement by both parties and be completed on or before March 31, 2022.

SECTION 5 – PAYMENT

Payment shall be made by CITY to CONTRACTOR only for services rendered. In consideration for the full performance of the services set forth in **Exhibit A**, CITY agrees to pay CONTRACTOR a fee of **\$113,392.00**. Compensation shall be only for actual services provided based on the rates specified in **Exhibit A**. CITY will issue one-half of the fee (\$56,696.00) to CONTRACTOR as a deposit for work with the remaining balance paid upon submission of a payment request and CITY approval of the work performed.

SECTION 6 – TERMINATION

Without limitation to such rights or remedies as CITY shall otherwise have by law, CITY shall have the right to terminate this Agreement or suspend services for any reason upon written notice to CONTRACTOR. CONTRACTOR agrees to cease all work under this Agreement upon receipt of said notice.

SECTION 7 – CONFIDENTIALITY

All documents or information including, but not limited to, lists of customers and participants, future plans, and other business affairs provided by CITY to CONTRACTOR shall be considered as confidential. CONTRACTOR shall not make any such documents or information available to any individual or organization not employed by CONTRACTOR or CITY without the written consent of CITY before any such release. CONTRACTOR shall not use any such documents or information for any purpose other than providing the services set forth in this Agreement.

SECTION 8 – CONTRACTOR'S STATUS

It is expressly agreed that in the performance of the professional services required under this Agreement, CONTRACTOR shall at all times be considered an independent contractor, under control of CITY as to the result of the work but not the means by which

the result is accomplished. Nothing herein shall be construed to make CONTRACTOR an agent or employee of CITY while providing services under this Agreement.

Section 9 – INDEMNITY

CONTRACTOR agrees to hold harmless and indemnify CITY, its officers and employees from and against any and all claims, loss, liability, damage, and expense arising from the negligent, or claimed negligent, performance of this Agreement by CONTRACTOR, its officers or employees. CONTRACTOR agrees to defend CITY, its officers or employees against any such claims. This provision does not apply to claims, loss, liability or damage or expense arising from the sole negligence, or willful misconduct, of CITY.

Section 10 – INSURANCE

CONTRACTOR shall provide and maintain:

- A. Commercial General Liability Insurance with a limit of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
- B. Automobile liability Insurance with a limit not less than \$1,000,000 per occurrence-combined single limit or \$1,500,000 bodily injury and \$1,000,000 property damage.
- C. If applicable, Workers Compensation in at least the minimum statutory limits.
- D. All insurance shall:
 - 1. Include CITY as an additional insured with respect to this Agreement and the performance of services in this Agreement.
 - 2. Be primary with respect to any other insurance or self-insurance programs of CITY and be non-contributory and waive subrogation rights.
 - 3. Be evidenced, prior to commencement of services, by properly executed policy endorsements in addition to a certificate of insurance provided to CITY.
 - 4. No changes in insurance may be made without the written approval of CITY.

SECTION 11 – NONASSIGNABILITY

Both parties recognize that this Agreement is for the personal services of CONTRACTOR and cannot be transferred, assigned, or subcontracted by CONTRACTOR without the prior written consent of CITY.

SECTION 12 – WAIVERS

The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of the party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

SECTION 13 – NOTICES

All notices hereunder shall be given in writing and mailed, postage prepaid, addressed as follows:

TO CITY:
City of Woodburn
Jesse Cuomo, Community Services Director
270 Montgomery Street
Woodburn, OR 97071

TO CONTRACTOR:
Envisé Inc.
Chris Conrad
4750 N. Channel Ave.
Portland, OR 97217

SECTION 14 – STATE PUBLIC CONTRACT PROVISIONS

All requirements of ORS Chapters 279A, 279B, and 279C including but not limited to the following, as applicable, are incorporated herein by reference.

- A. If CONTRACTOR fails, neglects or refuses to make prompt payment of any claim for labor or services furnished by any person in connection with this Contract as such claim becomes due, CITY may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due CONTRACTOR by reason of the Contract. The payment of a claim in the manner authorized above shall not relieve the CONTRACTOR or its surety from its obligation with respect to any unpaid claims.
- B. CONTRACTOR and its subcontractors, if any, are subject to Oregon Workers' Compensation Law, which requires all employers that employ subject workers who work under this Contract in the State of Oregon to comply with ORS 656.017 and provide the required workers' compensation coverage, unless such employers are exempt under ORS 656.126. CONTRACTOR shall ensure that each of its subcontractors, if any, complies with these requirements.
- C. CONTRACTOR shall, upon demand, furnish to the CITY, written proof of workers' compensation insurance coverage. CONTRACTOR is required to submit written notice to the CITY thirty (30) days prior to cancellation of said coverage.
- D. CONTRACTOR is engaged as an independent contractor and will be responsible for any federal or state taxes applicable to any payments made under this Contract.

- E. Pursuant to ORS 279B, CONTRACTOR specifically represents and warrants that CONTRACTOR has complied with all applicable federal, state, and city tax laws, including but not limited to ORS 305.620 and ORS chapters 316, 317 and 318.
- F. CONTRACTOR covenants to comply with all tax laws referenced above during the term of this contract and that any failure to comply is an express breach and City may terminate this Contract and seek damages as allowed herein or under applicable law.
- G. CONTRACTOR agrees and certifies that it is a corporation in good standing and licensed to do business in the State of Oregon. CONTRACTOR agrees and certifies that it has complied and will continue to comply with all Oregon laws relating to the performance of CONTRACTOR's obligations under this Contract.
- H. CONTRACTOR shall:
 - 1. Make payment promptly, as due, to all persons supplying to the CONTRACTOR labor and material for the prosecution of the work provided for in the contract documents;
 - 2. Pay all contributions or amounts due to the State Accident Insurance Fund incurred in the performance of this Contract;
 - 3. Not permit any lien or claim to be filed or prosecuted against the CITY on account of any labor or material furnished; and
 - 4. Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
- I. The CONTRACTOR shall promptly as due, make payment to any person, co-partnership or association or corporation furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to the employee of such CONTRACTOR, of all sums which the CONTRACTOR agrees to pay for such services and all moneys and sums which the CONTRACTOR collected or deducted from the wages of employees pursuant to any law, contract or Agreement for the purpose of providing or paying for such service.
- J. The CONTRACTOR shall pay employees for overtime work performed under the contract in accordance with ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29USC201 et. seq.).
- K. An employer must give notice to employees who work on a contract for services in writing, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.

- L. CONTRACTOR will comply with 279.835 et seq. in the procurement of products and services from a nonprofit agency for disabled individuals.

SECTION 15 – AGREEMENT CONTAINS ALL UNDERSTANDINGS; AMENDMENT

This document represents the entire and integrated Agreement between CITY and CONTRACTOR and supersedes all prior negotiations, representations, and agreements, either written or oral.

This document may be amended only by written instrument, signed by both CITY and CONTRACTOR.

SECTION 16 – ATTORNEY FEES

In the event a suit or action is instituted to enforce any right guaranteed pursuant to this Agreement, the prevailing party shall be entitled to, in addition to the statutory costs and disbursements, reasonable attorney fees to be fixed by the trial and appellate courts respectively.

SECTION 17 – GOVERNING LAW

This Agreement shall be governed by the laws of the State of Oregon.

IN WITNESS WHEREOF, CITY and CONTRACTOR have executed this Agreement the day and year written.

CITY OF WOODBURN:

CONTRACTOR:
Envisé Inc.

By: _____

By: _____

Print: _____

Print: Chris Conrad

Title: _____

Title: Sales and Services Manager

Date: _____

Date: _____



Proposal to Provide HVAC Repairs at:

AQUATIC CENTER DX RECOVERY REPAIR

Woodburn, Oregon



Proposal to provide HVAC Repairs for: **WOODBURN AQUATIC CENTER**

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EXECUTIVE SUMMARY/COVER LETTER

October 8th, 2021

To: **City of Woodburn**
RE: **Aquatic Center DX Recovery Repair**

Dear Pete Gauthier,

Envisé appreciates this opportunity to respond to the Woodburn Aquatic Center request to provide HVAC & plumbing repair. We believe that Envisé is the optimal fit for the City of Woodburn's needs and that with our skillset, track record, and shared values, we can ensure a cooperative relationship that will meet and exceed your expectations of value, innovation, safety, and sustainability.

We understand that mechanical systems at the Aquatic Center are a significant investment and some systems are mission-critical to the success of your business. That is, if the systems go off-line when unplanned, we know it can cause the facility significant and unnecessary expenses; not only in repairs, but in lost operation time. Our strong belief in both collaboration and integrity underline our determination to provide best-in-class service for the Aquatic Center. Envisé is committed to preventing system breakdowns, just as much as you and your organization are committed to delivering a quality service to your own customers. We are confident that our extensive experience, culture, innovativeness, and journey with Lean practices places us at the forefront of our competition. Our goal is always to preserve the integrity of your systems and its efficiency.

Rest assured that Envisé currently has the capacity and manpower to successfully complete the scope of work for the Woodburn Aquatic Center. We have a rigorous internal Proposal Authorization Request (PAR) process to ensure our company only works on projects where we can effectively accommodate our clients while meeting our core values which include providing only the highest of quality products, installations and services. The Aquatic Center Project was selected through the PAR process due to its proximity, importance within the community as well as its complexity. In the following pages you see Envisé has accepted all terms and conditions contained in the Woodburn Aquatic Center DX Recovery Repair RFP.

We look forward to the opportunity to work with the City of Woodburn. If there is anything we can do to assist you in your important decision, please do not hesitate to contact me directly with any questions you may have.

Best



Chris Conrad
Sales & Service Manager
CConrad@Enviseco.com
503-488-1796

FIRM BACKGROUND INFORMATION



nation. As a company that has always prided itself on innovation and collaboration, Southland continues to pave the way as an industry leader in sustainability and energy efficiency to improve the way buildings are designed, built, and operated.

LOCATIONS

Phoenix, AZ
Garden Grove, CA
San Diego, CA
Union City, CA
Laurel, MD
Las Vegas, NV
Portland, OR
Dulles, VA

MARKET SECTORS

Data Center,
Government,
Advanced Technology,
Manufacturing, Biotech
& Biopharm, Life Science
& Laboratory, Education,
Healthcare, Hospitality &
Commercial, Mixed-Use,
Sports & Entertainment,
Aviation & Aerospace

FINANCIAL

\$97 million net worth
\$50 million revolving
line of credit

ANNUAL REVENUE

\$945 Million FY 2020
\$1.07 Billion FY 2019
\$1.05 Billion FY 2018
\$879 Million FY 2017

BONDING CAPACITY

In excess of \$750M

Connected Solutions

From conception through completion and beyond, our expertise spans the entire building lifecycle. With a variety of dedicated resources, our connected business lines collaborate to better serve each stage of a project and offer connected solutions that make the most sense for each customer's facility and business.

Expertise

Value: True Design-Build, In-House Expertise, Holistic Approach, Prefabrication & Modular, Owner Costs Reductions

Services: HVAC (Pipefitting and Sheet Metal), Plumbing, Fire Protection, Process Piping, Modular Assemblies

Qualified Employee Base

Totaling approximately 2,500 people, Southland employs professional engineers, energy engineers, project managers, field supervisors, and skilled craftsmen. In addition, our in-house staff includes a vast number of employees that have achieved industry-specific certifications at all levels.

Safety

At Southland, we have always recognized the importance of a safe work environment. Both our divisions and projects are staffed with highly qualified safety professionals committed to providing continuous training, in addition to ensuring our job sites are as safe as possible.

Enviser

As a building management systems integrator, Enviser unites analytics, building automation, and equipment lifecycle management. Helping to manage both facilities and budgets, our knowledgeable Envisers™ form long-term, collaborative partnerships to meet your goals and deliver customized building solutions.

TCM is a wholly owned subsidiary of Southland Industry and is based in Portland, Oregon. Established in 1953, TCM offers full mechanical contracting including piping, plumbing and sheet metal services. TCM's portfolio includes numerous projects involving upgrades at sites where it is critical that operation not be interrupted; varied projects such as hospitals, data centers, and silicon wafer manufacturing facilities.

Southland Industries

Taking a holistic approach to all projects, our in-house experts drive next generation solutions that elevate building operations, lower energy consumption, and reduce overall owner costs.

Southland Engineering

From leading expertise in building information modeling to prefabrication and modular design experience, our practical solutions address lean principles, speed to market, and alternative construction strategies while enhancing value.

Southland Energy

As a qualified energy service company (ESCO) and comprehensive energy services firm, our goal is to holistically and efficiently help you overcome significant energy challenges.



FIRM BACKGROUND INFORMATION

we speak
buildings

In the face of shrinking operational budgets, today's building owners and facilities staff are constantly challenged to do more with less.

Enviser can help.

BUILDING SOLUTIONS THAT SIMPLIFY LIFE

Quite simply, Enviser exists to make your life as a building owner or facility manager easier. By uniting analytics, building automation, mechanical service, and lifecycle management, we provide inspired, technology-focused solutions that optimize your facilities, reduce your utility costs, and proactively address potential operational risks before they occur.

BUILDING MANAGEMENT

When your buildings aren't performing at their best, neither is your business. Enviser designs, installs, and services state-of-the-art systems to help you control, monitor, and compare your building's consumption on an ongoing basis. By integrating systems and utilizing analytics to establish a baseline for performance expectations, we can help you run your facility at peak performance.

TECHNOLOGY INTEGRATION

Many of today's buildings consist of a host of disparate products and systems that may actually be working against each other to increase operational expenses and potential downtime. With the fully integrated systems working harmoniously, your facility will operate more efficiently and provide an improved working environment. Enviser can help you develop the correct technology strategy for your building and proactively address integration challenges.

ENERGY MANAGEMENT

You face plenty of challenges. Rising energy costs should not be one of them. By leveraging technology and taking your property's design and operations into account, Enviser can holistically evaluate your facility and develop energy-efficient solutions that can positively impact both your cost levels and revenue.

CONNECTED SOLUTIONS

Enviser is a wholly owned subsidiary of Southland Industries, one of the nation's largest MEP building systems experts. With expertise that spans the entire building lifecycle — including engineering, construction, building automation, operations & maintenance, and energy services — our connected business lines collaborate to better serve each stage of a project and offer connected solutions that make the most sense for each client's facility and business. As a company that has always prided itself on innovation and collaboration, Southland continues to pave the way as an industry leader in improving the way buildings are designed, built, and operated.



MATT SHIREY, C.E.M.

SR. PROJECT MANAGER

Experience Since
2000

With Firm Since
2019

Education
(BS)
Construction Management
Eastern Michigan
University
Ypsilanti, MI

Licenses /Certifications
LEED AP
Certified Energy Manager
Associate Constructor

Matt has nearly 20 years of experience in the mechanical and controls industry, developing, designing, estimating and managing projects. As a C.E.M. and LEED AP, he views projects with an eye toward sustainability, and energy efficiency. His expertise across all project phases contributes to projects that consistently meet the client's unique needs.

KEY RESPONSIBILITIES

Matt will be responsible for managing the schedule, maintaining the budget through construction end, leading field operations, enforcing safety standards and supporting the buildings transition to the owner.

RELEVANT PROJECT EXPERIENCE

MGM Grand Casino – Detroit, MI

Chilled Water Plant Upgrades – new Water Cooled Chiller Plant with (3) new Trane CenTraVac chillers, cooling towers, and associated control work. Total capacity of 180 tons of Chilled Water. Project was complete with the Casino operating.

Greek Town Casino – Detroit, MI

Player Club Build Out – New 12,000 SF addition to the Greek Town Casino. Project included new duct systems, chilled and hot water piping, and controls upgrade. Utilized existing future AHU units to supply new space with HVAC.

Project Frostbite | Gresham, OR

A 210,000 SF diamond manufacturing facility. Scope of work included a type II DI water Process Cooling System that served 78 reactors. Also included roof mounted HVAC equipment, ventilation systems, process chilled water systems and a VRF HVAC system and plumbing for office space.

Flushing Community Schools | Flushing, MI

Performance contract covering 5 elementary, middle and high schools. Developed the ECM's that aligned with the need for infrastructure upgrades. This included high efficiency lighting upgrades, solar arrays, boiler plant modifications and new DDC controls through the district.

Saline Schools | Saline, MI

Consisted of 5 elementary, middle and high schools. Scope included replacement of the HVAC control systems with a new DDC controls system. This included VAV's, AHU's, fan coils, boiler plants, chiller plants, and class room unit ventilators. Scope also included providing a campus-wide DDC control system interface and furnishing new HVAC equipment, including air cooled chillers and units ventilators for install by the mechanical contractor.

Royal Oak Schools | Royal Oak, MI

Performance contract energy project spanning 4 elementary and middle schools. The project involved lighting upgrades, boiler plant upgrades and other conservation measures to fund new AC. The new AC system comprised of air cooled chilled water plant serving ceiling mounted fan coil units. Ventilation was provided by energy recovery units. New DDC Controls throughout the district and a campus DDC control system interface was installed.



TIM PRASOLOFF PE, LEED AP DESIGN MANAGER

Experience Since
1997

With Firm Since
2019

Education
(BS) Engineering & Physics
University of California
Berkeley, CA

**Registrations /
Certifications**
Professional Engineer - OR
(#81034PE)

Tim has a deep background in design, beginning in 2007, with experience in the hospital, lab, higher education and K-12, industrial, data center, vivarium and office building markets. Possessing strong communication skills, Tim is more than capable and proven in taking a project from the design phase through to the end of construction. He leads with a proactive approach in solving design challenges and is an effective team leader.

KEY RESPONSIBILITIES

Tim's responsibilities include conceptual design including interpreting guidelines from clients and team members, engineering design, quality, and scheduling for the engineering team.

RELEVANT PROJECT EXPERIENCE

Confidential Client | Fort Collins, CO

85,000 SF Research and Development Facility Expansion. Included 25,000 SF of ISO 6 and ISO 7 ballroom style cleanroom. New 1500 ton central plant and 9000 MBH boiler system with back feed to existing building.

Confidential Client | Fort Collins, CO

200,000 SF semiconductor fabrication facility expansion. Included 75,000 SF of ballroom style ISO 6 clean rooms, new 1650 ton central plant, boiler system redesign and expansion, RO makeup water heat recovery, new acid and solvent exhaust systems with scrubbers, and new evap cooled data center. First cleanroom was online within 15 months from start of design.

Confidential Client | Vancouver, WA

15,000 SF retrofit of existing manufacturing facility for use as a vertical micro green grow room and processing plant. Included repurposing and redistribution of 300 tons of mechanical cooling as well as humidification and dehumidification.

Level 3 Data Center Infrastructure Upgrades | Denver, CO

Cooling infrastructure upgrades at level 2 data center at 910 15th st.

Confidential Facility | Fremont, CA

100,000 SF retrofit of shelled multi-use space for a data center and research and development lab spaces.

New Orleans East Hospital, | New Orleans, LA

270,000 SF new construction and renovation of 80-bed acute-care hospital with urgent Primary Care Clinics and Central Utility Plant.

OHSU West Campus, ASB-1 Addition | Beaverton, OR

Vivarium expansion with new HVAC and plumbing systems supporting primate housing for research purposes.

OTHER PROJECTS

- Santiam Memorial Hospital
- OHSU Kohler Pavilion (2009-2013)
- Bonneville Power Maintenance Headquarters Wash Bay & Conference Room Add.
- OHSU – Richard Jones Hall – 5th floor Cytology Lab Remodel
- Confidential Client – Fort Collins, Colorado – Solvent Exhaust Upgrades – Regenerative Thermal Oxidizer



CHRIS BENJAMIN

COMMISSIONING MANAGER

Industry Experience Since:
1989

With Firm Since:
2014

Education:
(MA) Public Administration
- Washington State University - Vancouver, WA

(BA) History - Western
Washington University -
Bellingham, WA

Chris brings over 30 years of experience in the industry through commissioning, project management, estimating, and supply chain management. His range of experience extends to projects in healthcare, mission critical, commercial office, higher education, industrial, and wastewater treatment. His knowledge of HVAC systems, DDC controls, installation practices, and HVAC equipment troubleshooting enables him to resolve any issue that may arise in the commissioning and closeout period of construction projects..

KEY RESPONSIBILITIES

Chris is responsible for system design and installation review, DDC controls verification, and functional testing of HVAC equipment to ensure that all systems and components are designed, installed, tested, operated, and maintained according to the operational requirements of the owner.

Relevant Project Experience

Franklin High School Modernization | Portland, OR

High school modernization project including renovation of the existing facility with an additional 60K SF add-on which includes a new auditorium, gymnasium, kitchen and cafeteria. \$3.5 million HVAC piping & plumbing scopes with multiple phases and re-location of students while working around occupied buildings.

McKenzie-Willamette Vertical Tower Expansion | Springfield, OR

TCM provided sheet metal, piping and plumbing services for a 132,000 SF 4-story patient tower, including power house replacement, and an additional 67,000 SF remodel of the existing hospital.

WSU Vancouver New Engineering & Computer Science Building | Vancouver, WA

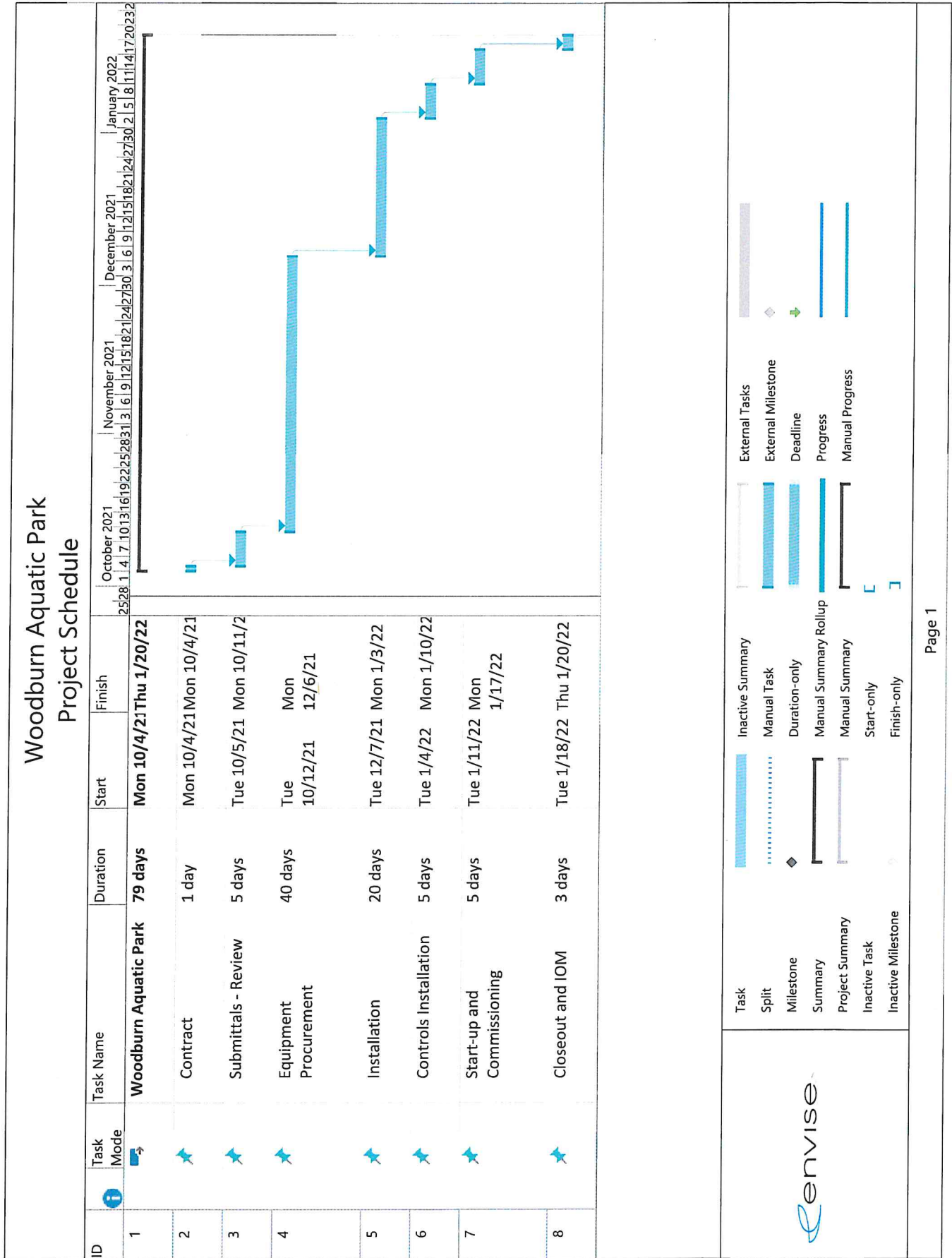
Construction of a new 60,000 sf science building. Systems included high purity air systems, domestic piping and ductwork for clean room applications, acid waste, heating and chilled water systems. \$2.4 million overall complete mechanical duct, piping, and plumbing project.

Evergreen High School Renovation & Addition | Vancouver WA

High school modernization project including renovation of the existing facility with an additional 50,000 sf addition, which includes a new gymnasium, kitchen, and cafeteria, science classrooms, wood shop, welding shop, and industrial exhaust and air systems. \$6 million complete HVAC piping & plumbing scopes with 17 phases of work, continuously occupied, performed over a two year time period.

OTHER PROJECTS

- Portland State University Viking Pavilion and Stott Center | Portland, OR
- Confidential Merchandising Building | Beaverton, OR
- Old Trapper Beef Jerky Plant | Forest Grove, OR
- Mid-Columbia Medical Center | The Dallas, OR
- University of Western States | Portland, OR
- PDX Quick Turnaround Facility | Portland, OR



FEE ESTIMATE

Hourly Rate @ \$165.00 – Estimated 176 Hrs

SCOPE	COST
Labor & Travel	\$29,040
Demolition & Disposal	\$4,970
Startup & Commissioning	\$10,560
Equipment & Material	\$29,455
Project Administration	\$4,200
Controls Subcontract	\$35,167
TOTAL	\$113,392

SECTION B

Envisé has operated for 6 years having been founded in 2015 under its parent company Southland Industries, which was formed in 1949 and having operated for 72 years.

The Envisé NW Branch has 19 employees, not including its access to TCM's combined office staff resources (105 additional employees). Nation wide Envisé has 110 employees.

The Envisé NW branch had a volume of over 8 million in 2020

SECTION C

Envisé is a resident bidder under ORS 279A.120.

SECTION D

Envisé Tax ID: 47-3439812

Envisé Oregon Contractor ID: 208047

SECTION E

Please see attached signed Non-Discrimination Form – Attachment C, below.

SECTION F

Please see Pg 1.

SECTION G

See work authorization page for scope details.

SECTION H

- Estimate of Billable Hours for Required Work: 176 Hrs
- Please see the Fee Estimate at the top of this page for an estimate of total costs.

SECTION I

- Please see our team resumes provided above within this proposal for our teams extensive HVAC and Plumbing experience.
- Additionally we have listed relevant project work in the pages below that demonstrate our natatorium capabilities.

SECTION J

Wings and Waves Water Park

DENIS BRUNTMYER

Facilities Director

Denis.Bruntmyer@McMinnvilleProperties.com

503-687-2416

Fujimi Corporation

TIM CURTISS

Sr Manager of Operations

tcurtiss@fujimico.com

Clackamas Water Park

JASON KEMMERICH

Aquatic and Recreation Supervisor

jasonkem@clackamas.us

503-794-8080

SECTION K

Based on the schedule of this project and its relation to our current and planned future work, Enviser is fully confident in our ability to provide a highly skilled team comprised of management and skilled craft workers. We recognize that the market is active, but we have identified this project as a high value target for Enviser. Through the use of an extensive PAR process to evaluate each work opportunity, we are able to determine our ability to properly support a potential project and whether to pursue it. That process identified the Aquatic Center DX Recovery Repair an opportunity Enviser should pursue.

SECTION L

Enviser will be self performing the majority of the scope of work. We will be utilizing Johnson Barrow for the controls scope of the repaired unit. Johnson Barrow is a well established company that we have used on many occasions to successfully complete scopes in their field of expertise.

SECTION M

- Enviser Hourly Rate: **\$165**
- Estimated Hours: **176**



October 12, 2021

WORK AUTHORIZATION

Proposal # 6081220

This Authorization is made by and between:

Contractor:	Customer:
Matt Cooper 971-349-2316 mcooper@enviseco.com	Pete Gauthier 503-980-980-2429 pete.gauthier@ci.woodburn.or.us
Envisi 5016 N. Channel Ave. Portland, OR 97217	Woodburn Aquatic Center 190 Oak Street Woodburn, Oregon 97071

Re: Munters Heat Recovery System

The Munters Heat recovery System has history of compressor failure and was recently diagnosed defective by others. This system also has a defective controller and interface that will need to be upgraded to gain access and proper control of the components, monitor operation of the equipment, and protect the new compressors. With the history of compressor failure, we suspect the system was not commissioned and/or not controlling properly. The purpose of this proposal is to replace the damaged compressors, replace the controller and interface, re-commission the system, and send the damaged compressors to the factory to be analyzed for cause of failure.

PROJECT SCOPE

- Provide in-house engineering support, supervision, labor, and material to complete job
- Provide and replace (2) compressors
- Replace suction drier cores, install shell and cores on liquid line with ball valves for ease of clean up
- Leak check system, evacuate system under 500 microns, and perform refrigerant system clean-up
- Charge system with R-407C refrigerant
- Replace I/O Controller, and BACview HMI
- Remap BMS points as necessary
- Perform start-up
- TCM commissioning team to perform sequence testing of all components, adjustments as needed and verify proper operation of overall recovery unit.
- Send compressors to factory for analysis and provide report to customer with recommendations
- A separate proposal will be submitted should analysis report suggest additional steps be taken and/or additional components are found defective after start-up and commissioning.

T&M Budget.....\$113,392.00

Excludes overtime and shift work.

Terms and Conditions:

Price is valid for 30 days and is subject to revision anytime thereafter. Proposal is intended solely for CUSTOMER. ENVISE assumes no responsibility for delays, problems, or damages due to circumstances or conditions beyond its control, including but not limited to: Acts of nature, unknown or concealed conditions, strikes or future building codes. Terms may be subject to credit approval. Invoice Net-30. CUSTOMER is responsible for any applicable local, state, and or federal taxes. A late payment charge equal to the lesser of: (i) one and one-half percent (1.5 %) per month, or (ii) the maximum amount allowed by applicable law will be applied against past due amounts, including taxes. The late payment charge will be applied to any disputed portion of the unpaid balance that is resolved against the customer.

Proposal Acceptance

Signature

Printed Name

Title

Date

EXPERIENCE PORTFOLIO



EVERGREEN WINGS & WAVES **Natatorium | McMinnville, OR**

Provided mechanical, plumbing and piping services for an indoor waterpark. The facility included café, educational areas, and special considerations for the high-humidity environment. Project achieved LEED Platinum certification.



CLACKAMAS AQUATIC PARK **Natatorium | McMinnville, OR**

Providing facility services to maintain the heating, air conditioning and dehumidification equipment at this aquatic park located in Clackamas, Oregon.



HISTORIC PORTLAND BUILDING **Commercial Office | Portland OR**

Design-Assist complete mechanical, plumbing and controls retrofit and renovation of the Historic Portland Building. Included 400,000 SF of office space. Mechanical system was overhauled with 6 new air cooled heat recovery chillers to serve heating and cooling of office spaces via hot water coils.



PROVIDENCE NEWBERG MOB II **Medical Office | Portland | OR**

Design-Build delivery and installation of full mechanical and plumbing. This project included a stand-alone Medical Office Building, approximately 63,000 square feet split into 3 stories of class A medical office space, as well as surface parking, landscaping and street improvements on the east side of Providence Drive.



TOWNE STORAGE PHASE 1&2 **Commercial Office | Portland OR**

Design-build delivery for a full HVAC mechanical and plumbing project consisting of a 6 floor commercial mixed use TI. The project included an exposed timbers & ceiling system and creative office space.



BOY SCOUTS OF AMERICA **Commercial Office | Portland, OR**

During the initial projected scope and maintenance startup process, irreparable refrigerant leaks of the rooftop unit (RTU) and outdated sections of the building management system were discovered in the Cascade Pacific Council's half-century old, two-story office building. To fix existing issues and to improve occupant comfort, the Cascade Pacific Council elected to change the scope of the project and partnered with Enviser to get the job done.

SAFETY PROGRAM

Safety as a Core Value

Safety is a core value of Enviser, one which is intrinsically linked to our culture. Our people are our most important resource and we are passionately committed to ensuring that all employees are provided with a safe and healthy working environment. To accomplish this, we provide routine safety training, jobsite-specific training, safe tools and equipment, as well as a dedicated staff of professional safety representatives.

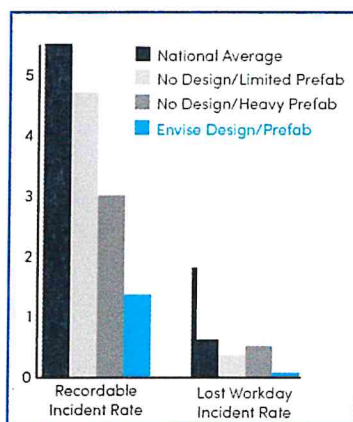
ENVISER CORE VALUE

SAFETY

- We empower Envisers™ to say “no” to unsafe acts.
- We commit to recognize and correct unsafe acts or conditions.
- We lead by example.

Safety Numbers

Enviser strives to achieve a zero accident rate. Through extensive safety training, proper instruction, and effective loss/control processes we are approaching our goal. Our recent experience modification rates (EMR), Lost Workday Incident Rate (LWDIR), and the Recordable Incident Rate (RIR) have trended well below industry standards. This attention to safety benefits our clients in terms of reduced unit labor rates, reducing risk, and helps to ensure that our employees enjoy a safe, positive, and rewarding place to work.



YEAR	WORKED HRS	EMR	LWDIR	RIR
2020	550,750	0.50	0.00	0.00
2019	496,887	0.49	0.00	0.40
2018	443,517	0.46	0.00	1.80

Our dedicated safety professionals are committed to eliminating hazards and to training our personnel to work safely. The Enviser corporate safety program encompasses:

- Weekly “toolbox” safety training for all field personnel
- A comprehensive, written Code of Safe Practices / Safety and Health Rules
- A detailed Injury Prevention Program
- Maintaining a team of dedicated safety professionals
- Active participation in all aspects of the safety program from management to the newest employee
- 24-hour availability of the safety director and field safety representative
- A Return to Work Program to eliminate lost time accidents
- Quarterly foreman’s safety training meetings and BBQs to facilitate communication between field employees and the safety department and to show corporate enthusiasm and recognition in regard to safety performance
- A program for injury reporting, injury investigation and tracking
- A Safety Incentive Program