

**AGENDA****REGULAR CITY COUNCIL MEETING****JULY 8, 2024****5:30 p.m.****CITY HALL COUNCIL CHAMBER****313 COURT STREET****and****LIVE STREAMED****[https://www.thedalles.org/Live Streaming](https://www.thedalles.org/Live_Streaming)****CHANGES TO ONLINE PARTICIPATION**

To speak online, register with the City Clerk no later than noon the day of the council meeting.

Email [amell@ci.the-dalles.or.us](mailto:amell@ci.the-dalles.or.us) Phone (541) 296-5481 ext. 1119

When registering include: your first & last name, city of residence, and the topic you will address.

1. CALL TO ORDER
2. ROLL CALL OF COUNCIL
3. PLEDGE OF ALLEGIANCE
4. APPROVAL OF AGENDA
5. AUDIENCE PARTICIPATION

During this portion of the meeting, anyone may speak on any subject which does not later appear on the agenda. Up to three minutes per person will be allowed. Citizens are encouraged to ask questions with the understanding that the City can either answer the question tonight or refer that question to the appropriate staff member who will get back to you within a reasonable amount of time. If a response by the City is requested, the speaker will be referred to the City Manager for further action. The issue may appear on a future meeting agenda for City Council consideration.

6. CITY MANAGER REPORT
7. CITY COUNCIL REPORTS
8. CONSENT AGENDA

Items of a routine and non-controversial nature are placed on the Consent Agenda to allow the City Council to spend its time and energy on the important items and issues. Any Councilor may request an item be "pulled" from the Consent Agenda and be considered separately. Items pulled from the Consent Agenda will be placed on the Agenda at the end of the "Action Items" section.

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**CITY OF THE DALLES**

"By working together, we will provide services that enhance the vitality of The Dalles."

- A. Approval of the June 24, 2024 Regular City Council Meeting Minutes

#### 9. CONTRACT REVIEW BOARD ACTIONS

- A. Authorization to Award Annual Water Treatment Chemical Supply Contract

#### 10. ACTION ITEMS

- A. Authorizing the City Manager to Execute Participation Form and All Other Necessary Documentation for the Kroger Co. National Opioid Settlement
- B. Adopting Resolution No. 24-016, A Resolution Prescribing the Updated City Council Rules and Code of Conduct Policy
- C. Adopting General Ordinance No. 24-1406, an Ordinance Repealing and Revising Certain Provisions of The Dalles Municipal Code Chapter 1.08 (City Council), Chapter 1.36 (Public Library), and Chapter 11.24 (Enterprise Zone) for Legal Sufficiency

#### 11. EXECUTIVE SESSION

In accordance with ORS 192.660(2)(h) to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.

- A. Recess Open Session
- B. Reconvene Open Session
- C. Decision, if any

#### 12. ADJOURNMENT

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This meeting conducted VIA Zoom

Prepared by/  
Amie Ell  
City Clerk

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**CITY OF THE DALLES**

"By working together, we will provide services that enhance the vitality of The Dalles."



## AGENDA STAFF REPORT

**AGENDA LOCATION:** Item #8A

**MEETING DATE:** July 8, 2024

**TO:** Honorable Mayor and City Council

**FROM:** Amie Ell, City Clerk

**ISSUE:** Approving items on the Consent Agenda and authorizing City staff to sign contract documents.

- A. **ITEM:** Approval of the June 24, 2024 Regular City Council meeting minutes.

**BUDGET IMPLICATIONS:** None.

**SYNOPSIS:** The minutes of the June 24, 2024 Regular City Council meeting have been prepared and are submitted for review and approval.

**RECOMMENDATION:** City Council review and approve the minutes of the June 24, 2024 Regular City Council meeting minutes.

MINUTES

CITY COUNCIL MEETNG  
COUNCIL CHAMBER, CITY HALL  
JUNE 24, 2024  
5:30 p.m.

VIA ZOOM/ IN PERSON

**PRESIDING:** Council President Tim McGlothlin

**COUNCIL PRESENT:** Darcy Long, Tim McGlothlin, Rod Runyon, Scott Randall

**COUNCIL ABSENT:** Mayor Richard Mays, Dan Richardson

**STAFF PRESENT:** City Manager Matthew Klebes, City Attorney Jonathan Kara, City Clerk Amie Ell, Public Works Director Dave Anderson, Police Chief Tom Worthy, Finance Director Angie Wilson, Community Development Director Joshua Chandler, Human Resources Director Daniel Hunter, Executive Assistant Abby Jara

**CALL TO ORDER**

The meeting was called to order by Council President McGlothlin at 5:30 p.m.

**ROLL CALL OF COUNCIL**

Roll Call was conducted by Executive Assistant Abby Jara. Long, McGlothlin, Runyon, Randall present. Mays, Richardson absent.

**PLEDGE OF ALLEGIANCE**

Councilor Runyon invited the audience to join in the Pledge of Allegiance.

**APPROVAL OF AGENDA**

McGlothlin noted the addition of item # 10C Special Ordinance No 24-602 Accepting Title to Real Property Located at 3313 West 2nd Street to the agenda.

It was moved by Long and seconded by Randall to approve the agenda as amended. The motion carried 4 to 0, Long, Randall, McGlothlin, Runyon voting in favor; none opposed; Richardson

absent.

### **AUDIENCE PARTICIPATION**

There was none.

### **CITY MANAGER REPORT**

City Manager Matthew Klebes reported;

- Community survey for input on Strategic Investment Program (SIP) funds was open.
- Tourism & Transient Room Tax (TRT) community survey would open on June 29<sup>th</sup> and would be posted on the City Website as well as the City Hall Facebook page.
- Dog River Pipeline project expected to be completed by the end of July. Celebration of completion scheduled for September 13<sup>th</sup>.
- The OCCMA (Oregon City/County Management Association) annual conference was in Hood River this week. Several City staff would be in attendance for sessions centered around city government and management on Thursday. On Wednesday a tour was planned for conference participants of downtown The Dalles to focus on revitalization efforts, Urban Renewal, and Walldogs murals.
- The Sister City Delegation was in Japan.

Klebes invited Police Chief Tom Worthy to report on recent events.

Chief Worthy said there had been two recent incidents of great note and concern. On Tuesday, June 18<sup>th</sup> in the early morning hours, City officers assisted the Wasco County Sheriff's Department in the recovery of a stole vehicle. It had turned into a violent vehicle encounter. A City patrol car was crashed and lost. One of the City officers fired his service weapon on the suspect along with two of the Sheriff's deputies. The officers and deputies would continue to be on administrative leave during the course of the investigation. Grand jury was set for the 12<sup>th</sup> of July where the District Attorney would present the case. No officers were injured, but a patrol car had been lost and would need to be addressed in the near future.

Chief Worthy reported on Saturday in the early morning hours a shooting homicide had occurred at the west end Center Market. Officers responded to the scene and called investigators who continued investigation throughout the night and the next day. They developed leads using a variety of investigative resources and made an arrest. The case would be going to grand jury. There was no threat to the public.

Chief Worthy acknowledged the great work of the Police Department, deputies and partners. They had worked hard for long hours to bring both cases to resolution.

## MINUTES

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Klebes said he appreciated the work of the officers and all they did to keep the community safe and recognized the risks they take in doing so.

### **CITY COUNCIL REPORTS**

Councilor Runyon reported;

- KODL coffee break show with Mayor Mays.
- Oregon Veterans Home welcomed the Patriot Guard Riders as they escorted Alaska Airlines Fallen Soldiers Cart headed for the airport in Nashville, TN. He thanked The Dalles Police Department for helping with intersection controls.
- Met with Wasco County Administrative Officer regarding future Google funds and the endowment idea.

Councilor Randall reported;

- Nothing to report

Councilor Long reported;

- When flying to Washington DC on Alaska Air with the COT (Community Outreach Team) had experienced Honor Flights. It was a moving and powerful experience.
- She was thankful that all law enforcement had been able to go home safely after recent events.
- Urban Renewal Board meeting. She suggested watching the meeting video if interested in board finances or upcoming projects.
- No Sister City meeting this week as they were in Japan.

Councilor McGlothlin reported;

- Urban Renewal Board meeting.
- Airport Board meeting.
- Continued contact with neighborhood in the Scenic area regarding Airbnb. The area remained calm.

### **CONSENT AGENDA**

City Clerk Amie Ell stated an attachment would be added to the minutes from the June 10<sup>th</sup>, 2024 meeting. The attachment was tourism definitions that had been provided as a handout by the City Manager at the June 10<sup>th</sup>, 2024 meeting.

It was moved by Randall and seconded by Long to approve the Consent Agenda as amended. The motion carried 4 to 0, Randall, Long, McGlothlin, Runyon voting in favor; none opposed; Richardson absent.

## MINUTES

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Items approved on the consent agenda were: 1) The minutes of the June 10, 2024 Regular City Council Meeting. 2) Resolution No. 24-015 Authorizing Staff to Submit Transportation Growth Management Grant Application to Oregon Department of Transportation.

### **CONTRACT REVIEW BOARD**

#### Authorization of Annual Amendment to Wastewater Treatment Plant Operations Contract

Public Works Director Dave Anderson presented the staff report.

It was moved by Randall and seconded by Runyon to authorize the City Manager to sign Amendment No. 1 to the OMI agreement in an amount not to exceed \$1,427,254. The motion carried 4 to 0, Randall, Runyon, Long, McGlothlin voting in favor; none opposed; Richardson absent.

#### Awarding Contract No. 2024-005, The Dalles Municipal Wi-Fi Assessment

Special Projects Coordinator Ann Moorhead presented the staff report.

Runyon asked for the dismantling timeline and if portions could be replaced immediately.

Moorhead said the dismantling would take approximately 45 days. Some of the phases could occur simultaneously but it was suggested to do the full removal of current access points. While the majority of current access points had been located there were still 5 that had not been located. Triangulation to find the missing access points would have to occur before new ones were active. There was work that could be done to begin installation before they began sending a signal.

Klebes asked for the timeline of completion for the new system.

Moorhead said in general in each access point would take 15-45 days and some could be done concurrently. She estimated phase 1 would take 100 to 120 days.

Klebes said considering the status of the current system he did not think it would be missed.

Moorhead said the opportunity to educate the public of the new system would encourage greater use of the system.

Runyon asked for clarification of why only phase 1 funding was being requested at this point and not for full project all at once.

Klebes said Moorhead was at the end of her tenure with the City as an AmeriCorps volunteer. Staff may be pursuing grant opportunities to help fund the next phase and someone new would be taking the project over.

MINUTES

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Long said Moorhead would be missed and asked if the IT department was involved and would be continuing the process.

Moorhead said the IT department had been involve and were on the reviewing committee for the RFP and would work with the contractor to connect it with the City's existing infrastructure. Community Development Director Josh Chandler would be managing the project forward.

McGlothlin said the current equipment brand used was Ruckus and asked if this is what would be used again. He asked if the contractor Actual Broadband was local and what would happen with the equipment to be taken down.

Moorhead said she did not believe the contractor would be using the same brand of equipment. The contractor Actual Broadband was local and had given 3 local references including St. Mary's. All references given had been glowing. She said the equipment to be removed was antiquated and would be disposed of.

It was moved by Long and seconded by Runyon to authorize the City Manager to enter into Contract No. 2024-005, a contract with Actual Broadband for Phase 1 of The Dalles Municipal Wi-Fi Assessment, in an amount not to exceed \$150,000. The motion carried 4 to 0, Long Runyon, McGlothlin, Runyon voting in favor; none opposed; Richardson absent.

**ACTION ITEMS**

Authorizations to Apply for Funding from the Clean Water State Revolving Fund and Business Oregon Water/Wastewater Financing Program to Update the City's Wastewater Facilities Master Plan

Public Works Director Dave Anderson presented the staff report.

It was moved by Randall and seconded by Long to authorize staff to apply for funding through the Clean Water State Revolving Fund and the Water/Wastewater Financing Program to update the City's 20-year Wastewater Facilities Master Plan. The motion carried 4 to 0, Randall, Long, McGlothlin, Runyon voting in favor; none opposed; Richardson absent.

Hood Aero Flex Space Lease Renewal

Airport Manager Jeff Renard Presented the staff report.

McGlothlin asked what Hood Aero Tech did at the airport.

Renard said they were the flex-based operator doing the work to provide fuel and maintenance.



It was moved by Long and seconded by Randall to authorize the City Manager to execute the attached Hood Aero 5-year lease as presented. Contingent on Klickitat County approval. The motion carried 4 to 0, Long, Randall, McGlothlin, Runyon voting in favor; none opposed; Richardson absent.

Special Ordinance No 24-602 A Special Ordinance Accepting Title to Real Property Located at 3313 West 2nd Street.

City Attorney Jonathan Kara presented the staff report.

McGlothlin asked if this project was connected to the work being done on West 2<sup>nd</sup> Street.

Anderson said the work being done on West 2<sup>nd</sup> Street was not a part of this project but related as it was connected to the same sewer system. The pipes being installed would receive water from the lift station. The work on West 2<sup>nd</sup> Street was anticipated to be completed by the end of July.

He said the lift system had been paid for by Design LLC and then given to the City.

It was moved by Randall and seconded by Long to adopt Special Ordinance No. 24-602 as presented, by title only. The motion carried 4 to 0, Randall, Long, McGlothlin, Runyon voting in favor; none opposed; Richardson absent.

**EXECUTIVE SESSION**

In accordance with ORS 192.660(2)(h) to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.

Mayor Mays recessed Open Session at 6:27pm

Mayor Mays reconvene Open Session at 6:31pm

**ADJOURNMENT**

Being no further business, the meeting adjourned at 6:31pm

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Submitted by/  
Amie Ell, City Clerk

SIGNED:

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Richard A. Mays, Mayor

ATTEST:

\_\_\_\_\_  
Amie Ell, City Clerk

DRAFT



## AGENDA STAFF REPORT

AGENDA LOCATION: Item # 9A

**MEETING DATE:** July 8, 2024

**TO:** Honorable Mayor and City Council

**FROM:** Dave Anderson, Public Works Director

**ISSUE:** Authorization to Award Annual Water Treatment Chemical Supply Contract

**BACKGROUND:** Each year City staff issues a Request for Proposals (RFP) for the supply of a variety of water treatment chemicals to be used at the Wicks Water Treatment Plant and City wells over the upcoming fiscal year. The supply contracts are awarded based upon the unit pricing (cost per pound or cost per gallon) offered by the suppliers and City staff's estimates of the amount of product that will be needed over the coming year. Once the supply contracts are in place with the lowest responsible proposer, staff places orders throughout the fiscal year as needed. The estimated annual costs of each of those supply contracts is usually below the threshold amount that requires City Council authorization. This year, however, the proposed contract for the supply of aluminum chlorohydrate (ACH) is over that threshold and Council authorization is required.

ACH is a "coagulant" which is the primary chemical used to help clean the water by clumping together ("coagulating") suspended particles in the water into clusters large enough to be removed with the plant's sedimentation and filtering processes. Without use of a coagulant, the particles of dirt and debris that are suspended in the water, which can harbor potentially disease-causing bacteria and viruses, remain too small to remove.

In response to the RFP, the City received four proposals for the supply of ACH during the 2024/25 fiscal year as follows.

Supplier	Price (per wet lb)
Alumichem	\$0.591
Brenntag Pacific, Inc.	\$0.497
Northstar Chemical	\$0.655
Univar Solutions	\$0.598

Prices quoted are for full-load deliveries, 4000 gallons each

The low responsible proposal was received from Brenntag Pacific Inc at \$0.497 per wet pound of product. After significant price increases over the last couple years, this proposed price is a 19% decrease from 2023/24 pricing. At the proposed price, it is estimated that the total purchase cost, and therefore the contract price, for FY2024/25 will be \$120,000.

**BUDGET ALLOCATION:** The adopted FY2024/25 budget includes \$290,000 in line 051-5000-000.60-86 of the Water Fund allocated for purchase of water treatment chemicals. The low proposed price from Brenntag Pacific Inc is estimated to result in a total annual cost of \$120,000.00 for the purchase of aluminum chlorohydrate. There are adequate funds available for this contract.

**ALTERNATIVES:**

- A. **Staff Recommendation:** *Move to authorize the award of Contract No. 2024-007 for the purchase of aluminum chlorohydrate (ACH) to Brenntag Pacific Inc in an amount not to exceed \$120,000.00.*
- B. Deny authorization to award the contract to Brenntag Pacific Inc and provide additional direction to staff on how to proceed.



## AGENDA STAFF REPORT

**AGENDA LOCATION:** Item # 10A

**MEETING DATE:** July 8, 2024

**TO:** Honorable Mayor and City Council

**FROM:** Jonathan Kara, City Attorney

**ISSUE:** Authorizing the City Manager to execute Participation Form and all other necessary documentation for the Kroger Co. national opioid settlement

**BACKGROUND:**

A proposed nationwide settlement agreement has been reached to resolve opioid litigation brought by states and municipalities against the supermarket pharmacy Kroger Co. The settlement agreement requires Kroger Co. to pay about \$1.2 billion to states and municipalities, contains injunctions governing opioid marketing, sale, distribution, and dispensing practices, and releases Kroger Co. from future claims on this issue.

The more Oregon cities and counties participating in the settlement, the more funds will be allocated to Oregon and its municipalities. The City must take affirmative steps to opt-in to participate in the settlement, including executing the Participation Form for the settlement on or before **August 12, 2024**.

Based upon the total number of Oregon Participation Forms received by the settlement administrator on that date, the administrator will then determine whether participation for each settlement is sufficient for the deal to move forward and whether Oregon will receive its maximum potential payment under the settlement. If the settlement moves forward, the City's release will become effective; if the settlement does not move forward, the City's release will not become effective.

I have reviewed the Participation Form for the settlement and recommend the City take all necessary steps to opt-in to the settlement agreement. If the City does not opt-in, it cannot directly share in the settlement funds and it may reduce the amount of money for programs to remediate the Oregon opioid crisis. Any funds the City receives for its

participation in this settlement will be earmarked to be spent on opioid abatement programs and are freely transferable for that purpose to any private or public entity.

**BUDGET IMPLICATIONS:**

The funds potentially available to the City here depend on the level of participation by eligible states and municipalities. The settlement requires Kroger to make annual payments over a period of 11 years consisting of base and incentive payments. For context, the City's previous opioid settlements with (1) McKesson Corporation, Cardinal Health, Inc., and AmerisourceBergen Corporation, (2) Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc., and Janssen Pharmaceutica, Inc., and (3) Walmart, Walgreens, CVS, Allergan, and Teva resulted in about **\$340,000** (total) in earmarked opioid funds allocated to the City after full state and municipality participation.

**COUNCIL ALTERNATIVES:**

1. **Staff recommendation:** *Move to authorize the City Manager to execute the Participation Form and all other necessary documentation for the Kroger national opioid settlement.*
2. Decline formal action and provide Staff additional direction.

**Attachments**

Attachment A – *Kroger Opioid Settlement Participation Form*

New National Opioids Settlement: Kroger  
Opioids Implementation Administrator  
[opioidsparticipation@rubris.com](mailto:opioidsparticipation@rubris.com)

The Dalles city, OR  
Reference Number: CL-796681

***TO LOCAL POLITICAL SUBDIVISIONS:***

**THIS PACKAGE CONTAINS DOCUMENTATION TO PARTICIPATE IN THE NEW NATIONAL OPIOIDS SETTLEMENT. YOU MUST TAKE ACTION IN ORDER TO PARTICIPATE.**

***Deadline: August 12, 2024***

A new proposed national opioids settlement (“*New National Opioids Settlement*”) has been reached with Kroger (“*Settling Defendant*”). This *Participation Package* is a follow-up communication to the *Notice of National Opioids Settlement* recently received electronically by your subdivision.

You are receiving this *Participation Package* because Oregon is participating in the Kroger settlement.

If a state does not participate in a particular Settlement, the subdivisions in that state are not eligible to participate in that Settlement.

This electronic envelope contains:

- The *Participation Form* for the Kroger settlement, including a release of any claims.
- The Oregon Intrastate Allocation Agreement and Addendum

**The *Participation Form* must be executed, without alteration, and submitted on or before August 12, 2024, in order for your subdivision to be considered for initial participation calculations and payment eligibility.**

Based upon subdivision participation forms received on or before August 12, 2024, the subdivision participation rate will be used to determine whether participation is sufficient for the settlement to move forward and whether a state earns its maximum potential payment under the settlement. If the settlement moves forward, your release will become effective. If a settlement does not move forward, that release will not become effective.

Any subdivision that does not participate cannot directly share in the settlement funds, even if the subdivision’s state is settling and other participating subdivisions are sharing in settlement funds. Any subdivision that does not participate may also reduce the amount of money for programs to remediate the opioid crisis in its state. Please note, a subdivision will not necessarily directly receive settlement funds by participating; decisions on how settlement funds will be allocated within a state are subject to intrastate agreements or state statutes.

You are encouraged to discuss the terms and benefits of the *New National Opioids Settlement* with your counsel, your Attorney General's Office, and other contacts within your state. In accordance with the Oregon Intrastate Allocation Agreement, Oregon is implementing and allocating funds for this new settlement the same as the prior opioids settlements in which your subdivision also participated with McKesson, Cardinal, Cencora (formerly AmerisourceBergen), J&J/Janssen, Teva, Allergan, CVS, Walgreens, and Walmart.

Information and documents regarding the *New National Opioids Settlement* and how it is being implemented in your state and how funds will be allocated within your state can be found on the national settlement website at <https://nationalopioidsettlement.com/>. This website will be supplemented as additional documents are created.

### **How to return signed forms:**

There are three methods for returning the executed *Participation Form* and any supporting documentation to the Implementation Administrator:

- (1) *Electronic Signature via DocuSign*: Executing the *Participation Form* electronically through DocuSign will return the signed form to the Implementation Administrator and associate your form with your subdivision's records. Electronic signature is the most efficient method for returning the *Participation Form*, allowing for more timely participation and the potential to meet higher settlement payment thresholds, and is therefore strongly encouraged.
- (2) *Manual Signature returned via DocuSign*: DocuSign allows forms to be downloaded, signed manually, then uploaded to DocuSign and returned automatically to the Implementation Administrator. Please be sure to complete all fields. As with electronic signature, returning a manually signed *Participation Form* via DocuSign will associate your signed forms with your subdivision's records.
- (3) *Manual Signature returned via electronic mail*: If your subdivision is unable to return an executed *Participation Form* using DocuSign, the signed *Participation Form* may be returned via electronic mail to [opioidsparticipation@rubris.com](mailto:opioidsparticipation@rubris.com). Please include the name, state, and reference ID of your subdivision in the body of the email and use the subject line Settlement Participation Form - [Subdivision Name, Subdivision State] - [Reference ID].

Detailed instructions on how to sign and return the *Participation Form*, including changing the authorized signer, can be found at <https://nationalopioidsettlement.com/>. You may also contact [opioidsparticipation@rubris.com](mailto:opioidsparticipation@rubris.com).

**The sign-on period for subdivisions ends on August 12, 2024.**



If you have any questions about executing the *Participation Form*, please contact your counsel, the Implementation Administrator at [opioidsparticipation@rubris.com](mailto:opioidsparticipation@rubris.com), or Adria Decker with the Oregon Department of Justice at [adria.d.decker@doj.oregon.gov](mailto:adria.d.decker@doj.oregon.gov).

Thank you,

New National Opioids Settlement Implementation Administrator

*The Implementation Administrator is retained to provide the settlement notice required by the New National Opioids Settlement and to manage the collection of the Participation Form.*

**Subdivision Participation and Release Form**

Governmental Entity: The Dalles city	State: OR
Authorized Signatory:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above (“*Governmental Entity*”), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated March 22, 2024 (“*Kroger Settlement*”), and acting through the undersigned authorized official, hereby elects to participate in the Kroger Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Kroger Settlement, understands that all terms in this Participation and Release Form have the meanings defined therein, and agrees that by executing this Participation and Release Form, the Governmental Entity elects to participate in the Kroger Settlement and become a Participating Subdivision as provided therein.
2. The Governmental Entity shall promptly, and in any event no later than 14 days after the Reference Date and prior to the filing of the Consent Judgment, dismiss with prejudice any Released Claims that it has filed. With respect to any Released Claims pending in *In re National Prescription Opiate Litigation*, MDL No. 2804, the Governmental Entity authorizes the Plaintiffs’ Executive Committee to execute and file on behalf of the Governmental Entity a Stipulation of Dismissal with Prejudice substantially in the form found at <https://nationalopioidsettlement.com/>.
3. The Governmental Entity agrees to the terms of the Kroger Settlement pertaining to Participating Subdivisions as defined therein.
4. By agreeing to the terms of the Kroger Settlement and becoming a Releaser, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
5. The Governmental Entity agrees to use any monies it receives through the Kroger Settlement solely for the purposes provided therein.
6. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity’s state where the Consent Judgment is filed for purposes limited to that court’s role as provided in, and for resolving disputes to the extent provided in, the Kroger Settlement. The Governmental Entity likewise agrees to arbitrate before the National



Arbitration Panel as provided in, and for resolving disputes to the extent otherwise provided in, the Kroger Settlement.

7. The Governmental Entity has the right to enforce the Kroger Settlement as provided therein.
8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Kroger Settlement, including without limitation all provisions of Section XI (Release), and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Kroger Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Kroger Settlement shall be a complete bar to any Released Claim.
9. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision as set forth in the Kroger Settlement.
10. In connection with the releases provided for in the Kroger Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

**General Release; extent.** A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Kroger Settlement.



11. Nothing herein is intended to modify in any way the terms of the Kroger Settlement, to which Governmental Entity hereby agrees. To the extent this Participation and Release Form is interpreted differently from the Kroger Settlement in any respect, the Kroger Settlement controls.

I have all necessary power and authorization to execute this Participation and Release Form on behalf of the Governmental Entity.

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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



**State of Oregon Subdivision Agreement  
Regarding Distribution and Use of  
Settlement Funds**

**1. Introduction**

Pursuant to the Distributor Settlement Agreement, dated as of July 21, 2021, and any revision thereto (the “Distributor Settlement Agreement”), and the Janssen Settlement, dated as of July 21, 2021, and any revision thereto (the “Janssen Settlement Agreement, and collectively with the Distributor Settlement Agreement, the “Distributor and Janssen Agreements”), including Sections V and Exhibits O to the Distributor and Janssen Agreements, this agreement (the “OR Allocation Agreement”) is entered into between the State of Oregon and the OR Participating Subdivisions (the State of Oregon and OR Participating Subdivisions each a “Party,” and, collectively, the “Parties”) and governs the allocation, distribution, and use of Settlement Fund payments made to Oregon pursuant to Sections IV and V of the Distributor Settlement Agreement and Sections V and VI of the Janssen Agreement. For the avoidance of doubt, this OR Allocation Agreement does not apply to payments made pursuant to Sections IX or X of the Distributor Settlement Agreement or Sections X or XI of the Janssen Agreement.

Pursuant to Exhibits O, Paragraphs 4, of the Distributor and Janssen Agreements, acceptance of this OR Allocation Agreement is a requirement to be an Initial Participating Subdivision.

**2. Definitions**

The following terms shall have the meaning set forth below when used in this OR Allocation Agreement. Additional terms defined within this OR Allocation Agreement shall have that meaning when used in this OR Allocation Agreement. In addition, terms used in this OR Allocation Agreement that are defined in the Distributor and Janssen Agreements will have that meaning unless otherwise defined in this OR Allocation Agreement.

- a) ***OR Participating Subdivision*** means (i) a governmental entity listed on Exhibit A to this OR Allocation Agreement that executes this OR Allocation Agreement and has taken all necessary steps under the Distributor and Janssen Agreements to be entitled to receive Settlement Funds, and (ii) any Additional Participant who becomes entitled to a share of the OR Subdivision Funds as described in Section 4(c)(ii) below.
- b) ***Opioid Defendant*** means any defendant (including but not limited to Johnson & Johnson, Janssen Pharmaceuticals, Inc., Purdue Pharma L.P., Cardinal Health, Inc., Amerisource Bergen Corporation, and McKesson Corporation) named in a lawsuit seeking damages, abatement, or other remedies related to or caused by the opioid public health crisis in any lawsuit brought by any state or local government on or before October 1, 2020.
- c) ***State of Oregon or State*** has the same meaning as “Executive Department” as set forth in ORS 174.112, but does not include the Oregon State Treasurer or the Office of the Oregon State Treasurer. When used in any provision of this OR Allocation Agreement the term State of Oregon or State means, as the context requires, an agency, department, division, board, commission or other entity within the Executive Department that has the authority to undertake the obligations or receive the benefit of the particular provision.
- d) ***Oregon*** means the geographic territory of Oregon and the State and its local governments therein.

- e) **Approved Abatement Uses** means the Opioid Remediation activities described in Exhibits E to the Distributor and Janssen Agreements.
- f) **Litigating Local Governments** means the Counties of Clackamas, Clatsop, Columbia, Coos, Curry, Jackson, Josephine, Lane, Multnomah, Washington, Yamhill, and the City of Portland.

### 3. General Terms

This OR Allocation Agreement is subject to the requirements of the Distributor and Janssen Agreements, as well as applicable law. If the terms of this OR Allocation Agreement conflict with the terms of the Distributor Settlement Agreement or the Janssen Settlement Agreement the terms of the Distributor Settlement Agreement and/or the Janssen Settlement Agreement will take precedence over the inconsistent provisions of this OR Allocation Agreement.

### 4. Allocation of Settlement Funds

- a) **Allocation Generally.** The total Settlement Fund payments made to Oregon pursuant to the Distributor and Janssen Agreements (collectively, the “Oregon Settlement Funds”) shall be combined pursuant to this OR Allocation Agreement, and 45% of the Oregon Settlement Funds shall be allocated to the State of Oregon (such funds, the “OR State Funds”) and 55% of the Oregon Settlement Funds shall be allocated to the OR Participating Subdivisions (such funds, the “OR Subdivision Funds”).

#### b) State of Oregon Allocation

- i. For purposes of this OR Allocation Agreement, “Enabling Legislation” means legislation passed by the Oregon Legislative Assembly and presented to the Oregon Governor for signature, that establishes the authority within the State of Oregon to accept, administer, and expend the OR State Funds, and addresses other matters related to this OR Allocation Agreement. It is the intent of the Parties that the Enabling Legislation will provide, without limitation, that:
  - 1. The OR State Funds will be deposited in a Prevention, Treatment and Recovery Fund (the “PTR Fund”), overseen by a board (the “PTR Board”), which shall be used by the State solely for future Approved Abatement Uses as follows:
    - (i) Administration of the PTR Fund and PTR Board;
    - (ii) Development of a unified and evidence-based state system for collecting, analyzing and publishing data about the availability and efficacy of substance use prevention, treatment and recovery services across the state; and
    - (iii) Funding statewide and regional Approved Abatement Uses.
  - 2. The PTR Board is constituted and authorized so that the State and OR Participating Subdivisions shall have equal representation and voting power on the PTR Board, whether directly or by designated representatives.
  - 3. Effects a release of potential claims against the Settling Distributors and Janssen by local governments or local service districts, as those terms are defined in ORS 174.116, and special government bodies, as defined in ORS 174.117, that have not released their claims through execution of a Subdivision Settlement Participation Form in substantially the form set forth in Exhibit K of the Distributor and Janssen Agreements.
- ii. The OR State Funds will be accepted, administered, and spent in accordance with the Enabling Legislation when it becomes law. The State of Oregon will draft and promote passage of the

Enabling Legislation. The OR Participating Subdivisions acknowledge the need for the Enabling Legislation and will support passage of the Enabling Legislation consistent with Section 4(b)(i)(1)-(2) of this OR Allocation Agreement and will not oppose with respect to any portion of the Enabling Legislation reflecting Section 4(b)(i)(3) of this OR Allocation Agreement. Until the Enabling Legislation becomes law, the OR State Funds shall be deposited in the Oregon Department of Justice's Client Trust Account and may be expended or distributed by the Oregon Department of Justice for Approved Abatement Uses.

**c) OR Subdivision Allocation**

- i. The Settlement Fund Administrator will be instructed to allocate the OR Subdivision Funds to OR Participating Subdivisions based on the allocation model developed in connection with the proposed negotiating class in the National Prescription Opiate Litigation (MDL No. 2804), as adjusted to reflect only those cities and counties that are eligible to receive Settlement Funds, based on population or litigation status. The percentage for each OR Participating Subdivision is set forth in Exhibit A in the column entitled "Abatement Percentage" (the "Local Allocation"). For the avoidance of doubt, non-litigating Oregon towns, cities, and counties with a population less than 10,000 are not eligible to receive an allocation of OR Subdivision Funds.
- ii. An OR Participating Subdivision will be allocated its Local Allocation share beginning on the date it becomes an OR Participating Subdivision but shall not be entitled to any Local Allocation share of Oregon Settlement Funds distributed by the Settlement Administrator before the date it becomes an OR Participating Subdivision.
- iii. The Local Allocation share for a city that is an OR Participating Subdivision will be paid to the county in which the city is located, rather than to the city, so long as: (a) the county is an OR Participating Subdivision, and (b) the city has not advised the Settlement Fund Administrator that it requests direct payment at least 60 days prior to a Payment Date. A Local Allocation share allocated to a city but paid to a county is not required to be spent exclusively for Approved Abatement Uses in that city but will become part of the county's share of the OR Subdivision Funds, which will be used in accordance with Section 4.c of this OR Allocation Agreement and reported on in accordance with Section 5 of this OR Allocation Agreement.
- iv. A city within a county that is an OR Participating Subdivision may opt in or out of direct payment at any time, and it may also elect direct payment of only a portion of its share, with the remainder going to the county, by providing notice to the Settlement Fund Administrator at least 60 days prior to a Payment Date. For purposes of this OR Allocation Agreement, the City of Portland will be deemed to have elected direct payment if it becomes an OR Participating Subdivision.
- v. The State will receive the Local Allocation share of any payment of Oregon Settlement Funds distributed on a Payment Date that would otherwise be paid to a county or city is eligible to become an OR Participating Subdivision but that has not, as of that Payment Date, become an OR Participating Subdivision.
- vi. Funds received by an OR Participating Subdivision, and not expended or encumbered within five years of receipt and in accordance with the Distributor and Janssen Agreements and this OR Allocation Agreement shall be transferred to the fund to which OR State Funds are paid pursuant to Section 4(b)(ii). OR Participating Subdivisions have seven years from receipt of funds to expend or encumber OR Subdivision Funds designated to support capital outlay projects before they must be transferred to the State.
- vii. Except as set forth in Sections 4.d and 4.e, Settlement Funds received by an OR Participating Subdivision shall be used for Approved Abatement Uses.



- viii. For the avoidance of doubt, and subject to the requirements of the Distributor and Janssen Agreements and applicable law, an OR Participating Subdivision may form agreements or ventures, or otherwise work in collaboration with, federal, state, local, tribal or private sector entities in pursuing Approved Abatement Uses funded from the OR Participating Subdivision's Local Allocation. Further, provided that OR Subdivision Funds are used for Approved Abatement Uses, a county and any cities or towns within the county may agree to reallocate their respective Local Allocation shares of OR Subdivision Funds among themselves, provided that any direct distribution may only be to an OR Participating Subdivision and any OR Participating Subdivision must agree to its share being reallocated.
- ix. Each OR Participating Subdivision is responsible for obtaining necessary budget or expenditure authority under applicable law for its distribution or expenditures of OR Subdivision Funds in accordance with this OR Allocation Agreement.

**d) Provision for State Back-Stop Agreement**

- i. The OR Participating Subdivisions will establish an Oregon attorney fee back-stop fund (the "OR Back-Stop Fund"). The OR Back-Stop Fund will be funded by and deducted from OR Subdivision Funds prior to the distribution of any Local Allocation share to any OR Participating Subdivisions, shall be equal to no more than \$2,500,000, and may be used only to pay the contingency fees due to Contingency Fee Counsel of the Litigating Local Governments, subject to the limitations set forth in Section 4(d)(ii).
- ii. The parties will notify the Settlement Fund Administrator to withhold and pay the OR Back-Stop Fund from the OR Subdivision Funds according to the national fee fund payment schedule, and the Parties will otherwise cooperate to so instruct the Settlement Fund Administrator. In addition, the Parties will notify the Settlement Fund Administrator to distribute the amounts in the OR Back-Stop Fund to private counsel seeking contingency fees from a Litigating Local Government ("Contingency Fee Counsel") in accordance with this OR Allocation Agreement.
- iii. Contingency Fee Counsel must first seek contingency fees and costs from the Attorney Fee Fund or Cost Funds created under the Distributor and Janssen Agreements and only upon receiving the maximum amount of fees available under the Distributor and Janssen Agreements may a Contingency Fee Counsel seek payment of any fees from the OR Back-Stop Fund. In addition, under no circumstances shall the cumulative fees paid from the Attorney Fee Fund and the OR Back-Stop Fund exceed 12% of the Litigating Local Government's Local Allocation share of 50% of the Oregon Settlement Funds. For the avoidance of doubt, below is the formula to calculate the amount any particular Contingency Fee Counsel for a Litigating Local Government may be paid from the OR Back-Stop Fund:

$[[\text{OR SETTLEMENT FUNDS}] \cdot .5 \cdot [\text{DIRECT ALLOCATION PERCENTAGE OF CONTINGENCY FEE COUNSEL'S LITIGATING LOCAL GOVERNMENT}] \cdot .12] \text{ minus } [\text{AMOUNT OBTAINED BY COUNSEL FROM ATTORNEY FEE FUND FOR COUNSEL'S LITIGATING LOCAL GOVERNMENT}]$

- iv. A Contingency Fee Counsel may only receive fees paid from the OR Back-Stop Fund pursuant to a written Oregon Back Stop Agreement, substantially in the form of attached hereto as Exhibit B, between the Contingency Fee Counsel, the Litigating Local Government it represents, and the Oregon Department of Justice.
- v. For the avoidance of doubt, this OR Allocation Agreement does not require a Litigating Local Government to request or enter into an Oregon Back-Stop Agreement, and no Oregon Back-Stop Agreement shall impose any duty or obligation on the State of Oregon or any of its agencies or officers, including without limitation the Oregon Department of Justice.



General.

**e) Additional Costs**

- i. Each OR Participating Subdivision may contribute up to 5% of its Local Allocation to pay opioid related expenditures such as unreimbursed administrative expenses, costs, professional fees and attorney fees of outside legal counsel and in-house legal counsel employed by the OR Participating Subdivision (collectively, “Additional Costs”). Each OR Participating Subdivision is responsible for determining the amount of its Local Allocation that it uses to pay Additional Costs (subject to the limit in the previous sentence and as set forth in Section 4(e)(ii) below), and which Additional Costs it chooses to pay.
- ii. The Additional Costs may only be used consistent with the Distributor and Janssen Agreements, and pursuant to the August 6, 2021, order by Judge Polster of the US District Court for the Northern District of Ohio issued an Order (the Order), docket number 3814, in In Re National Prescription Opiate Litigation, MDL 2804, addressing contingent attorney fee contracts between political subdivisions eligible to participate in the Distributor and Janssen Agreements and their counsel. In addition, to the extent the Additional Costs are used to pay the attorney’s fees of Contingency Fee Counsel, the cumulative amount of such fees paid to the Contingency Fee Counsel for a Litigating Local Government from the Attorney Fee Fund, the Cost Fund, the OR Back-Stop Fund, and as Additional Costs may not exceed 15% of the Litigating Local Government’s share of 50% of the Oregon Settlement Funds.
- iii. Each OR Participating Subdivision that pays Additional Costs shall report such payments as required by the Distributor and Janssen Agreements and this OR Allocation Agreement.
- iv. Neither the State of Oregon, including the Oregon Department of Justice, nor the Oregon Attorney General shall have any responsibility for any Additional Costs, and shall have no responsibility or authority to resolve any disputes among the OR Participating Subdivisions, Contingency Fee Counsel of the Litigating Local Government, or any other parties with respect to any claims for payment of Additional Costs.

**5. State and Subdivision Reporting and Oversight**

- a) Prior to September 1 of each year each OR Participating Subdivision receiving payment of OR Subdivision Funds under this OR Allocation Agreement shall deliver an annual report to the Oregon Department of Justice, to the attention of the Deputy Attorney General regarding how it expended OR Subdivision Funds during the prior fiscal year (July 1 – June 30). The Oregon Department of Justice may share those reports with the PTR Board (or its equivalent as established by the Enabling Legislation) and other State entities to ensure expenditures of OR Subdivision Funds were made and will be made in accordance with the Distributor and Janssen Agreements and this OR Allocation Agreement. Each report delivered under this Section 5(a) will also include a certification that all OR Subdivision Funds received by the OR Participating Subdivision during the prior fiscal year have been used in compliance with the Distributor and Janssen Agreement and this OR Allocation Agreement. Each annual report delivered pursuant to this Section 5.a shall include, for the fiscal year that is the subject of the report, (1) the amount of the OR Subdivision Funds received by the reporting OR Participating Subdivision, (2) the allocation of any amounts of OR Subdivision Funds awarded or expended by the OR Participating Subdivision (by journal entry or substantially equivalent report, provided such report shall include, at a minimum, the amount awarded or expended, payee (if applicable) and a description of the expenditure), and (3) the amounts actually disbursed under any award reported under item 2. OR Participating Subdivisions may, for their convenience, adapt existing forms or reports otherwise used by the OR Participating Subdivision to meet the foregoing requirements.

- b) If the State has a reasonable basis to suspect that an OR Participating Subdivision's use of OR Subdivision Funds is inconsistent with the Distributor and Janssen Agreements or this OR Allocation Agreement the State may request from the OR Participating Subdivision, and the OR Participating Subdivision will provide, existing data or information about the use of the OR Subdivision Funds received by that OR Participation Subdivision. All requests for information must be reasonable.
- c) If an OR Participating Subdivision has a reasonable basis to suspect that the States' use of OR State Funds is inconsistent with the Distributor and Janssen Agreements or this OR Allocation Agreement an OR Participating Subdivision may request from the State, and the State will provide, existing data or information about the use of the OR State Funds received by the State. All requests for information must be reasonable.
- d) The State will prepare an annual written report regarding the use of Oregon Settlement Funds until those funds are fully expended and for one year thereafter. These reports will be made publicly available by the State.
- e) The State, the PTR Board (or its equivalent as established by the Enabling Legislation) and all OR Participating Subdivisions receiving OR Subdivision Funds will track all deposits and expenditures in accordance with Oregon laws each party is subject to. Each OR Participating Subdivision is responsible solely for the OR Subdivision Funds it receives. A county is not responsible for oversight, reporting, or monitoring of OR Subdivision Funds received by a city within that county that receives direct payment of OR Subdivision Funds.
- f) In each year in which the State prepares an annual report the State will also host a public meeting to discuss the annual report.

## **6. Audits**

- a) If the State or any OR Participating Subdivision has a reasonable basis to suspect that an OR Participating Subdivision's use of OR Subdivision Funds or the State's use of the OR State Funds is inconsistent with the Distributor Settlement Agreement, the Janssen Settlement Agreement, or this OR Allocation Agreement, such Party may request the Oregon Secretary of State conduct an audit pursuant to ORS Chapter 297, provided, however, if the Oregon Secretary of State declines to conduct such an audit, the Parties will select a third party auditor mutually agreed to by the Parties.
- b) No audit may be commenced under Section 6(a) related to a specific expenditure of funds more than five years after the date on which the OR Participating Subdivision's expenditure of the funds subject to the audit was last reported to the State in an annual report submitted pursuant to Section 5(a).
- c) Notwithstanding the foregoing, this OR Allocation Agreement does not limit the statutory or constitutional authority of the State of Oregon or a local agency or official to conduct audits, investigations, or other oversight activities, or to pursue administrative, civil, or criminal enforcement actions.

## **7. Medicaid Clawback**

The Parties understand that the United States may claim a portion of the OR Settlement Funds for Medicaid reimbursement pursuant to § 1903 (d)(3)(A) of the Social Security Act. The Parties agree that, to the extent a claim for Medicaid reimbursement is made, the Parties shall bear the liability for the reimbursement based upon the particular claims made by the United States pursuant to with § 1903 (d)(3)(A) of the Social Security Act. The Parties agree to meet, confer, and cooperate in good faith concerning the allocation of any such liability.

## 8. Applicability

This OR Allocation Agreement applies to all funds received by Oregon for the McKesson, Cardinal Health and AmerisourceBergen ("Distributors"), and manufacturer Janssen Pharmaceuticals, Inc. and its parent company Johnson & Johnson (collectively, "J&J") settlements. In addition, the allocation percentage contained herein (45% to the OR State Fund, 55% to OR Subdivision Fund), shall apply to future multistate opioid settlements with distributors, manufacturers, and pharmacies, subject to consideration of other terms of such settlements that impact allocation considerations. For the Purdue bankruptcy, the allocation of funds set forth in this Section 8, shall apply to Oregon's share of funds under the bankruptcy plan confirmed by Judge Drain on September 17, 2021 (the "Purdue Bankruptcy Plan"). However, any additional amounts paid under the Purdue bankruptcy resulting from Oregon and other states' appeal of the that plan's confirmation shall be paid directly to the State of Oregon, and any such additional amounts shall not be included in the calculation of the amount of the OR State Funds due to the State of Oregon under Section 4. The Parties acknowledge that in order to obtain settlement funds under the Purdue Bankruptcy Plan the Parties will need to file with the bankruptcy court that approved the Purdue Bankruptcy Plan a proposed allocation agreement that complies with the approved Purdue Bankruptcy Plan, and, to the extent permitted by the Purdue Bankruptcy Plan, the default allocation set forth in the proposed allocation agreement shall provide that 45% of the funds distributed to Oregon under the Purdue Bankruptcy Plan will be allocated to the State of Oregon, and 55% of the funds distributed to Oregon under the Purdue Bankruptcy Plan will be allocated to OR Participating Subdivisions. The Parties further agree that they will reasonably cooperate with one another to complete the timely filing of the allocation agreement within any deadlines established by the bankruptcy court. In addition, this OR Allocation Agreement, and allocation percentages set forth in this Section 8, shall not apply to any legal actions pursued by or settled by the State of Oregon as an individual state or any legal actions pursued by or settled by any OR Participating Subdivisions as individual cities or counties.

## 9. Releases

All Parties agree to release all claims as required to participate in the Distributor and Janssen Agreements as set forth in Exhibits K to the Distributor and Janssen Agreements and execution of such releases is a condition of receiving Oregon Settlement Funds under this OR Allocation Agreement.

## 10. Miscellaneous

- a) **Enforcement.** The State or any OR Participating Subdivision may bring a motion or action in any Oregon State court having competent jurisdiction to enforce the requirements of this OR Allocation Agreement. Before filing such a motion or action the Party intending to file the motion or action will meet and confer with the Party that is or will be the subject of the anticipated motion or action.
- b) **No Intended Third Parties.** Except as provided in the Distributor and Janssen Agreements, this OR Allocation Agreement is not enforceable by any party other than the State and the OR Participating Subdivisions. There are no intended third-party beneficiaries to this OR Allocation Agreement, and this OR Allocation Agreement does not confer any rights or remedies upon, and shall not be enforceable by, any person, legal entity, or public body that is not a Party to this OR Allocation Agreement.
- c) **Severability.** Except as provided in the OR Allocation Agreement, if any provision of this OR Allocation Agreement or the application thereof to any person, entity, or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this OR Allocation Agreement, or the application of such provision to persons, entities, or circumstances other than those as to which it is invalid or unenforceable, will not be affected thereby, and each other provision of this OR Allocation Agreement will be valid and enforceable to the fullest extent permitted by law. In the event any provision or part of this OR Allocation Agreement is found to be invalid or unenforceable, only that particular provision or part so found, and not the entire OR Allocation Agreement, will be inoperative.

- d) **Additional Litigation.** Nothing in this OR Allocation Agreement alters or is intended to alter or change the right of the State of Oregon or any OR Participating Subdivision to pursue its own claims against any defendant, other than Janssen and the Settling Distributors, through separate opioid-related litigation.
- e) **Construction.** With regard to each and every term and condition of this OR Allocation Agreement, the Parties understand and agree that the same have or has been mutually negotiated, prepared and drafted. If at any time the Parties or any court, administrative hearings officer, mediator, arbitrator, or arbitration panel, are required to interpret or construe any such term or condition, no consideration shall be given to the issue of which Party actually prepared, drafted or requested any term or condition thereof.
- f) **Entire Agreement.** This OR Allocation Agreement contains the entire agreement between the Parties and supersedes and cancels all previous negotiations and agreements, if any.
- g) **Amendments.** Any and all amendments to this OR Allocation Agreement must be in writing and must be signed by all Parties.
- h) **Authority.** Each Party that enters into this OR Allocation Agreement represents that it has authority to enter into this OR Allocation Agreement and that all actions or authorizations by the Party's respective Commissions, Councils, Boards, or other governing bodies necessary to authorize the Party to enter into this OR Allocation Agreement have been completed or obtained.
- i) **Legal Advice.** Each Party to this OR Allocation Agreement acknowledges that it has been advised to seek legal counsel and has had the opportunity to have this OR Allocation Agreement reviewed by legal counsel.
- j) **Governing Law.** Except as provided in the Distributor and Janssen Agreements, this OR Allocation Agreement shall be governed by and interpreted in accordance with the laws of the State of Oregon.

**Exhibit A**  
**OR PARTICIPATING SUBDIVISIONS**  
**AND LOCAL ALLOCATIONS**

Participating Subdivision	Percentages
Albany City	1.1574421234%
Ashland City	0.5725593238%
Astoria City	0.1859283065%
Baker County	0.4771636205%
Beaverton City	0.9709676029%
Bend City	0.9443519043%
Benton County	1.0219885306%
Canby City	0.1716812437%
Central Point City	0.1718730043%
Clackamas County	7.7713142577%
Clatsop County	1.1423692099%
Columbia County	1.0096699413%
Coos Bay City	0.2538945929%
Coos County	1.5633002470%
Cornelius City	0.0949750265%
Corvallis City	0.6633711425%
Cottage Grove City	0.0910229575%
Crook County	0.3513229911%
Curry County	0.7612961295%
Dallas City	0.1606964683%
Deschutes County	2.2569753600%
Douglas County	2.5689481047%
Eugene City	2.7611039932%
Forest Grove City	0.2522169415%
Gladstone City	0.1181360032%
Grants Pass City	0.8232581895%
Gresham City	0.9831942718%
Happy Valley City	0.0103506009%
Hermiston City	0.1316304314%
Hillsboro City	1.5083519364%
Hood River County	0.3553687498%
Independence City	0.0808970601%
Jackson County	4.0769510640%
Jefferson County	0.3674692915%
Josephine County	1.6536523798%

**Exhibit A**

Keizer City	0.1916558451%
Klamath County	1.2169628601%
Klamath Falls City	0.3209275214%
La Grande City	0.2715648669%
Lake Oswego City	0.6934160342%
Lane County	6.3326808234%
Lebanon City	0.3269345282%
Lincoln County	1.5190343268%
Linn County	1.8185376689%
Malheur County	0.5014027023%
Marion County	4.1636475308%
McMinnville City	0.4803592635%
Medford City	1.5540758598%
Milwaukie City	0.2113647118%
Monmouth City	0.0706960930%
Morrow County	0.1351544937%
Multnomah County	13.9643815662%
Newberg City	0.4093257361%
Newport City	0.1908392623%
Ontario City	0.1869780182%
Oregon City	0.2765040475%
Pendleton City	0.3521049458%
Polk County	0.7074299681%
Portland City	8.2736702858%
Prineville City	0.0924861843%
Redmond City	0.1550311086%
Roseburg City	0.6370799877%
Salem City	3.0438221421%
Sandy City	0.0775015682%
Sherwood City	0.1404204928%
Silverton City	0.0775630731%
Springfield City	1.1667234659%
St. Helens City	0.1964453077%
The Dalles City	0.1723418738%
Tigard City	0.5049875956%
Tillamook County	0.9001228870%
Troutdale City	0.0899929610%
Tualatin City	0.1551565618%
Umatilla County	0.9738633884%

**Exhibit A**

Union County	0.4153841374%
Wasco County	0.4116278731%
Washington County	7.2167622210%
West Linn City	0.1600504983%
Wilsonville City	0.1383351396%
Woodburn City	0.2069349266%
Yamhill County	1.4120246444%



**EXHIBIT B**

**OREGON BACK-STOP AGREEMENT**

On August 6, 2021, Judge Polster of the US District Court for the Northern District of Ohio issued an Order (the Order), docket number 3814, in In Re National Prescription Opiate Litigation, MDL 2804, addressing contingent attorney fee contracts between political subdivisions eligible to participate in the Distributor and Janssen Agreements and their counsel.

In light of the Order, and at the request of [SUBDIVISION], the [SUBDIVISION], its counsel [COUNSEL], and the Oregon Department of Justice, on behalf of the State of Oregon, are entering into this Oregon Back-Stop Agreement (Back-Stop Agreement). Terms used herein have the meaning set forth in the Distributor and Janssen Agreements or the OR Allocation Agreement, as applicable.

[SUBDIVISION] and [COUNSEL] intend this Back-Stop Agreement to constitute a State Back-Stop Agreement as that term is used in the Order and in Exhibits R (Agreement on Attorneys’ Fees, Expenses and Costs) of the Distributor and Janssen Agreements.

[COUNSEL] certify that they first sought fees and costs from the Attorney Fee Funds and Cost Funds created under the Distributor and Janssen Agreements before seeking or accepting payment under this backstop agreement. [COUNSEL] further certify that they are not seeking and will not accept payment under this Back-Stop Agreement of any litigation fees or costs that have been reimbursed through prior settlements or judgments.

[COUNSEL] certify that it is requesting [\$ \_\_\_\_\_] (“Requested Amount”) from the OR Back-Stop Fund, which amount is to be paid in equal payments over the first seven Payment Dates set forth in the Distributor and Janssen Agreements. Counsel certify that the Requested Amount does not exceed an amount equal to:

[[OR SETTLEMENT FUNDS]\*.5\*[DIRECT ALLOCATION PERCENTAGE OF CONTINGENCY FEE COUNSEL’S LITIGATING LOCAL GOVERNMENT]\*.12] minus [AMOUNT OBTAINED BY COUNSEL FROM ATTORNEY FEE FUND FOR COUNSEL’S LITIGATING LOCAL GOVERNMENT]

Notwithstanding the provisions of this Backstop Agreement, [SUBDIVISION] may pay to [COUNSEL] additional fees consistent with the provision of Section 4(e)(i) and (ii) of the OR Allocation Agreement.

The Oregon Department of Justice is executing this agreement solely because the definition of “State Back-Stop Agreement” in Exhibits R of the Distributor and Janssen Agreements requires such agreements to be between “a Settling State” and private counsel for a Participating Subdivision. Neither the Oregon Department of Justice nor the State of Oregon have any obligations under this Back-Stop Agreement, and this Back-Stop Agreement does not require the payment of any funds of the State of Oregon, including OR State Funds (as defined in the OR Allocation Agreement) to [SUBDIVISION], [COUNSEL], or any other party.

[DATE] [SUBDIVISION SIGNATURE BLOCK]

[DATE] [COUNSEL SIGNATURE BLOCK]

[DATE] [OREGON DOJ SIGNATURE BLOCK]



**Oregon Supplement to Statewide Allocation Agreement  
under the**

**MALLINCKRODT PLC, *et al.* Bankruptcy and Additional Settling Company Agreements**

This Oregon Supplement to Statewide Allocation Agreement (this “Agreement”) is between the State of Oregon and the OR Participating Subdivisions and supplements the terms and conditions of the OSA (defined below) and governs the allocation, distribution and use of (i) NOAT II Funds paid to Oregon for NOAT II Approved Abatement Uses under the Mallinckrodt Reorganization Plan, (ii) Additional Company Settlement Funds paid to Oregon for Opioid Remediation under each of the Additional Settling Company Agreements described in Section 1.b below, and (iii) additional settlement agreements arising out of multi-state opioid related litigation as set forth in Section 4(d) of this Agreement and Section 8 of the OSA. It is the Parties’ intent that this Agreement is made a part of the OSA as of the effective date of the OSA.

**1. Introduction**

- a. **Mallinckrodt.** Mallinckrodt PLC *et al* (“Debtors”), filed for bankruptcy protection in October 2020. *In re Mallinckrodt plc*, U.S. Bankruptcy Court, D. Del., Case No. 20-12522 *et al.* (JTD) (jointly administered). On April 20, 2021, Debtors filed their *Joint Plan of Reorganization of Mallinckrodt plc and Its Debtor Affiliates Under Chapter 11 of the Bankruptcy Code*, ECF No. 2074 (as amended from time to time,<sup>1</sup> the “NOAT II Reorganization Plan”). The NOAT II Reorganization Plan contemplates the filing of Plan Supplements with proposed forms of the operative documents to implement the NOAT II Reorganization Plan upon its confirmation. On August 6, 2021, the Debtors filed the proposed form of the *National Opioid Abatement Trust II Agreement* (as amended from time to time, the “NOAT II Agreement”) as Exhibit D to the Plan Supplement, ECF No. 3610-1. On September 4, 2021, Debtors filed the proposed form of trust distribution procedures for the National Opioid Abatement Trust II (as amended from time to time,<sup>2</sup> the “NOAT II Distribution Procedures”), ECF No. 4149. To qualify for distributions under the NOAT II Distribution Procedures, each state may file a Statewide Allocation Agreement providing an agreed-upon allocation or method for allocating the NOAT II Funds for that state.
- b. **Additional Settlements.** Each of the Additional Settling Companies (as defined below) has entered into a separate settlement agreement with multiple states, including Oregon (each, such agreement, an “Additional Settling Company Agreement” and, collectively, the “Additional Settling Company Agreements”), under which each Additional Settling Company agrees to pay amounts into a national settlement fund, from which a fund administrator established as set forth in the Additional Settling Company Agreements may distribute funds to individual states to be used for Opioid Remediation pursuant to the terms of each of the Additional Settlement Company Agreements. To qualify for distribution of settlement funds under each Additional Settling Company Agreement, each state may file a Statewide Allocation Agreement providing an agreed-upon

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<sup>1</sup> Debtors have filed amended proposed plans of reorganization on September 9, 2021, December 2, 2021, December 29, 2021, and January 6, 2022, and may further amend the Plan prior to the Bankruptcy Court’s ruling on confirmation.

<sup>2</sup> Debtors filed an amended proposed form of the NOAT II Trust Distribution Procedures on October 11, 2021, ECF No. 4664.

allocation or method for allocating the Additional Company Settlement Funds for that state with respect to funds distributed to the state under the Additional Settling Company Agreement.

- c. **Statewide Allocation Agreement.** In December 2021, the State of Oregon and OR Participating Subdivisions entered into the State of Oregon Subdivision Agreement Regarding Distribution and Use of Settlement Funds (“OSA”) in which the State and its subdivisions agreed to distribution allocations of Oregon Settlement Funds paid to Oregon under the Distributor and Janssen Agreements and related opioid matters. It is the intention of the State and the OR Participating Subdivisions that the portions of OSA incorporated into this Agreement, constitute a Statewide Allocation Agreement for purposes of both the NOAT II Plan and each of the Additional Settling Company Agreements. To that end, Oregon submitted the OSA to the NOAT II trustees in satisfaction of the SAA requirements under the NOAT II Distribution Procedures. On July 1, 2022, the NOAT II trustees acknowledged Oregon’s filing of the OSA in the Mallinckrodt bankruptcy proceeding. In addition, Oregon has submitted the OSA to describe the distribution plan for each of the Additional Settling Company Agreements.
- d. **Relationship to OSA.** Section 8 of the OSA provides that the allocation percentages between the State of Oregon and the OR Participating Subdivisions, and between and among the OR Participating Subdivisions, set forth in the OSA will apply to future multistate opioid settlements with distributors, manufacturers and pharmacies, subject to consideration of the terms of such settlements. The purpose of this Agreement is to clarify which provisions of the OSA are applicable to (i) the distribution of NOAT II Funds to avoid any potential confusion in the administration of the NOAT II Funds in accordance with the NOAT II Plan, and (ii) the distribution of the Additional Company Settlement Funds to avoid any potential confusion in the administration of the Additional Company Settlement Funds in accordance with the Additional Settling Company Agreements.

## 2. Definitions

The following terms shall have the meaning set forth below when used in this Agreement. Additional terms defined within this Agreement shall have that meaning when used in this Agreement. In addition, terms used in this Agreement that are defined in the OSA will have that meaning unless otherwise defined in this Agreement.

- a. *Additional Company Settlement Funds* means funds distributed to Oregon for Opioid Remediation under an Additional Settling Company Agreement.
- b. *Additional Settling Company* means, each of the following entities individually, and *Additional Settling Companies* means the following entities collectively:
  - i. *Allergan*, which means Allergan Finance, LLC (f/k/a Actavis, Inc., which, in turn, was f/k/a/ Watson Pharmaceuticals, Inc.) and Allergan Limited (f/k/a Allergan plc, which, in turn, was f/k/a Actavis plc). Allergan does not include Teva Pharmaceuticals Industries Ltd. (“Teva Ltd.”), Teva Pharmaceuticals USA, Inc. (“Teva USA”), Cephalon, Inc. (“Cephalon”), Actavis LLC (f/k/a Actavis Inc.) (“Actavis LLC”), Watson Laboratories, Inc. (“Watson”), Actavis Pharma,

Inc. (f/k/a Watson Pharma, Inc.) (“Actavis Pharma”), Actavis Elizabeth LLC (“Actavis Elizabeth”), Actavis Kadian LLC (“Actavis Kadian”), Actavis Laboratories FL, Inc. (f/k/a Watson Laboratories, Inc. - Florida) (“Actavis Labs FL”), Actavis Laboratories UT, Inc. (f/k/a Watson Laboratories, Inc. - Utah) (“Actavis Labs UT”), Actavis Mid Atlantic LLC (“Actavis Mid”), Actavis South Atlantic LLC (“Actavis South”), Actavis Totowa LLC (“Actavis Totowa”), or Anda, Inc. (“Anda”).

- ii. *CVS*, which means CVS Health Corporation and CVS Pharmacy, Inc. and all of their past and present direct and indirect parents and subsidiaries.
  - iii. *Teva*, which means (i) Teva Pharmaceutical Industries Ltd. and (ii) all of its respective past and present direct or indirect parents, subsidiaries, divisions, affiliates, joint ventures, predecessors, successors, assigns, including but not limited to Teva Pharmaceuticals USA, Inc., Actavis LLC (f/k/a Actavis Inc.), Actavis Elizabeth LLC, Actavis Kadian LLC, Actavis Pharma, Inc. (f/k/a Watson Pharma, Inc.), Actavis Kadian LLC, Actavis Laboratories UT, Inc. (f/k/a Watson Laboratories, Inc. - Utah), Actavis Mid Atlantic LLC, Actavis Totowa LLC, Actavis Laboratories FL, Inc. (f/k/a Watson Laboratories, Inc. - Florida), Actavis South Atlantic LLC, Warner Chilcott Company LLC, and Watson Laboratories, Inc., and Anda Inc.
  - iv. *Walgreens*, which means Walgreen Co., and
  - v. *Walmart*, which means Walmart, Inc.
- c. *Additional Settlement Funds* means both NOAT II Funds and Additional Company Settlement Funds.
  - d. *NOAT II Plan* means, collectively, the NOAT II Reorganization Plan and its Plan Supplements, the NOAT II Agreement, and the NOAT II Distribution Procedures, and any modifications or supplements to any of the foregoing.
  - e. *NOAT II Funds* means any funds distributed under the NOAT II Plan to the State and the OR Participating Subdivisions for NOAT II Approved Abatement Uses.
  - f. *NOAT II Approved Abatement Uses* means opioid remediation activities for which NOAT II Funds may be used pursuant to Schedules A and B of the NOAT II Distribution Procedures.
  - g. *Opioid Remediation*, when used herein in reference to the expenditure of Additional Company Settlement Funds, has the meaning set forth in the Additional Settling Company Agreement under which the Additional Company Settlement Funds were paid to Oregon.

### 3. General Terms

- a. This Agreement is subject to the requirements of the NOAT II Plan and applicable law with respect to the distribution of NOAT II Funds. Terms used in this Agreement relating

solely to the distribution of NOAT II Funds have the same meaning as in the NOAT II Plan unless otherwise defined herein.

- b. This Agreement is subject to the requirements of each individual Additional Settling Company Agreement and applicable law with respect to distribution of Additional Company Settlement Funds distributed under that Additional Settling Company Agreement. Terms used in this Agreement relating to the distribution of Additional Company Settlement Funds under an Additional Settling Company Agreement have the same meaning as in that Additional Settling Company Agreement unless otherwise defined herein.
- c. This Agreement applies to:
  - i. the distribution of NOAT II Funds under the NOAT II Plan and does not affect any other distribution of funds under the NOAT II Plan, including but not limited to attorney fees;
  - ii. the distribution of Additional Company Settlement Funds dedicated to Opioid Remediation under each Additional Settling Company Agreement, and does not affect any other distribution of funds under that or any other Additional Settling Company Agreement, including but not limited to attorney fees.
- d. Pursuant to the NOAT II Plan, all NOAT II Funds distributed pursuant to this Agreement will be used for NOAT II Approved Abatement Uses.
- e. All Additional Company Settlement Funds distributed pursuant to this Agreement and the Additional Settling Company Agreement to which Allergan is a party (the “Allergan Agreement”) will be used for Opioid Remediation pursuant to and as defined in the Allergan Agreement.
- f. All Additional Company Settlement Funds distributed pursuant to this Agreement and the Additional Settling Company Agreement to which CVS is a party (the “CVS Agreement”) will be used for Opioid Remediation pursuant to and as defined in the CVS Agreement.
- g. All Additional Company Settlement Funds distributed pursuant to this Agreement and the Additional Settling Company Agreement to which Teva is a party (the “Teva Agreement”) will be used for Opioid Remediation pursuant to and as defined in the Teva Agreement.
- h. All Additional Company Settlement Funds distributed pursuant to this Agreement and the Additional Settling Company Agreement to which Walgreens is a party (the “Walgreens Agreement”) will be used for Opioid Remediation pursuant to and as defined in the Walgreens Agreement.
- i. All Additional Company Settlement Funds distributed pursuant to this Agreement and the Additional Settling Company Agreement to which Walmart is a party (the “Walmart Agreement”) will be used for Opioid Remediation pursuant to and as defined in the Walmart Agreement.

#### **4. Oregon State Allocation of Additional Settlement Funds**

As provided in the OSA, the Additional Settlement Funds payable to Oregon, and the amounts paid to Oregon under the NOAT II Plan and each of the Additional Settlement Agreements shall be

allocated as follows: 45% to the State (“State of Oregon Allocation”) and 55% to the OR Participating Subdivisions (“Oregon Participating Subdivision Allocation”).

- a. **State of Oregon Allocation.** Forty-Five percent (45%) of the total Additional Settlement Funds paid to Oregon will be allocated to the State and used by the State for (i) with respect to NOAT II Funds distributed to the State under the NOAT II Plan, for NOAT II Approved Abatement Uses, and (ii) with respect to Additional Company Settlement Funds distributed under an Additional Settling Company Agreement, for Opioid Remediation as defined and permitted by the terms of that Additional Settling Company Agreement.
- b. **OR Participating Subdivision Allocation.** Fifty Five percent (55%) of total Additional Settlement Funds paid to Oregon will be allocated to OR Participating Subdivisions and used by the OR Participating Subdivisions for (i) with respect to NOAT II Funds distributed to the State under the NOAT II Plan, for NOAT II Approved Abatement Uses, and (ii) with respect to Additional Company Settlement Funds distributed under an Additional Settling Company Agreement, for Opioid Remediation as defined and permitted by the terms of that Additional Settling Company Agreement. Additional Settlement Funds allocated to OR Participating Subdivisions, whether NOAT II Funds or Additional Company Settlement Funds, shall be distributed to OR Participating Subdivisions in the same proportion and manner as OR Subdivision Funds are distributed under the Section 4(c) of the OSA.
- c. **Administration of Distributions.** Direct distributions of Additional Settlement Funds shall be administered according to (i) with respect to NOAT II Funds, the NOAT II Plan, and (ii) with respect to Additional Company Settlement Funds, the Additional Settling Company Agreement under which such Additional Company Settlement Funds are paid, each consistent with this Agreement and the instructions submitted to the applicable administrator of the NOAT II Plan or Additional Settling Company Agreement by the OR Participating Subdivisions.
- d. **Other Settlements.** This Agreement applies to the distribution of NOAT II Funds received by Oregon under the NOAT II Plan and the Additional Company Settlement Funds received by Oregon under the Additional Settling Company Agreements. In addition, consistent with Section 8 of the OSA, the allocation and distribution between the State and OR Participating Subdivisions of any funds other than the NOAT II Funds, the Additional Settlement Funds or the Oregon Settlement Funds (as defined in the OSA) received by Oregon under any other multistate opioid settlements based on the liability of distributors of opioids, manufacturers of opioids, pharmacies for the selling or marketing of opioids, or the consultants, agents or associates of distributors, manufacturers or pharmacies (such funds, “Future Settlement Funds”), will be governed by Sections 3, 4(a)-(c), 5-8, and 10 of the OSA, as well as any additional agreements entered into between the State and the OR Participating Subdivisions relevant to the Future Settlement Funds, subject to consideration of other terms of such settlements that impact allocation of Future Settlement Funds; provided that any reference in those sections of the OSA to either the Distributor Settlement Agreement or the Janssen Settlement Agreement shall be read to mean the applicable settlement under which Oregon receives the Future Settlement Funds with respect to distribution of those Future Settlement Funds.



## 5. Additional Compliance Obligations

- a. **NOAT II Funds.** Each OR Participating Subdivision that receives a distribution of NOAT II Funds is responsible for meeting all requirements of the NOAT II Plan, including limitations on spending the funds and accounting and reporting requirements. These include, but are not limited to, the following:
  - i. In accordance with the terms of the NOAT II Plan, no OR Participating Subdivision that receives an allocation may expend more than 5% of the NOAT II Funds for expenses incurred in administering the distributions for the NOAT II Approved Abatement Uses, including the process of selecting programs to receive distributions of NOAT II Funds.
  - ii. In accordance with the terms of the NOAT II Plan, no portion of any NOAT II Funds may be used to pay attorneys' fees or costs.
  - iii. All OR Participating Subdivision receiving direct distribution of funds through this Agreement must comply with the reporting requirements set forth in the NOAT II Plan. Reporting for cities that do not elect direct distribution will be the responsibility of the County to whom that City's funds were distributed.
  - iv. NOAT II Funds distributed to a county are not required to be spent exclusively for NOAT II Approved Abatement Uses in any city, but must be used only for NOAT II Approved Abatement Uses and reported in accordance with all requirements of the NOAT II Plan.
- b. **Additional Company Settlement Funds.** Each OR Participating Subdivision that receives a distribution of Additional Company Settlement Funds under an Additional Settling Company Agreement is responsible for meeting all requirements of the Additional Settling Company Agreement under which it received the Additional Company Settlement Funds, including limitations on spending the Additional Company Settlement Funds and accounting and reporting requirements under the Additional Settling Company Agreement under which it received the Additional Company Settlement Funds. These include, but are not limited to, the following:
  - i. No OR Participating Subdivision that receives an allocation of Additional Company Settlement Funds may expend the funds for expenses incurred in administering the funds for Opioid Remediation in excess of any limits set forth in the Additional Settling Company Agreement under which it received the Additional Company Settlement Funds.
  - ii. No portion of any Additional Company Settlement Funds may be used to pay attorneys' fees or costs.
  - iii. With respect to reporting requirements applicable to the expenditure of Additional Company Settlement Funds, reporting for cities that do not elect direct distribution will be the responsibility of the County to whom that City's funds were distributed.
  - iv. Additional Company Settlement Funds distributed to a county are not required to be spent exclusively for Opioid Remediation in any city, but must be used only for Opioid Remediation in compliance with the Additional Settling Company Agreement under which they were paid to

the county.

- c. **OSA Reporting and Auditing.** The provisions of Sections 5 (State and Subdivision Reporting and Oversight) and 6 (Audits) of the OSA apply to the OR Participating Subdivision's reporting of expenditures and the Parties' respective audit rights related to Additional Settlement Funds; provided that any reference in those sections of the OSA to either the Distributor Settlement Agreement or the Janssen Settlement Agreement shall be read to mean (i) the NOAT II Plan with respect to the reporting of the use of and audits related to the NOAT II Funds, and (ii) the Additional Settling Company Agreements with respect to any Additional Company Settlement Funds. The Parties may cooperate to coordinate reporting obligations under the OSA and this Agreement with respect to the Distributor Settlement Agreement, the Janssen Settlement Agreement, the NOAT II Plan, and the Additional Settling Company Agreements.

## 6. Agreements Among Local Governments

OR Participating Subdivisions may form agreements or ventures, or otherwise work in collaboration with federal, state, local, tribal or private sector entities in pursuing NOAT II Approved Abatement Uses or Opioid Remediation, subject to any restrictions applicable to such federal, state, local, tribal or private sector entities. Further, provided that (i) all NOAT II Funds are used for NOAT II Approved Abatement Uses, a county and any cities or towns within the county may agree to reallocate NOAT II funds paid to them among themselves, provided that all direct distributions of NOAT II Funds must meet the requirements of the NOAT II Plan, including regular accountings; and (ii) all Additional Company Settlement Funds paid under an Additional Company Settlement Agreement are used for Opioid Remediation consistent with the Additional Settling Company Agreement under which the Additional Company Settlement Funds were distributed, a county and any cities or towns within the county may agree to reallocate Additional Settlement Funds paid to them pursuant to an Additional Settling Company Agreement among themselves, provided that all direct distributions of the Additional Settlement Funds must meet the requirements of the Additional Settling Company Agreement under which they were distributed.

## 7. Designation of Additional Settlement Funds

By signing this Agreement, the Attorney General designates the Additional Settlement Funds distributed to the State under this Agreement as paid to the State pursuant to judgments or settlements arising from the liability of distributors of opioids, manufacturers of opioids, pharmacies for the selling of opioids, or the consultants, agents or associates of distributors, manufacturers or pharmacies. Accordingly, all Additional Settlement Funds paid to the State shall be deposited in the Opioid Settlement Prevention, Treatment and Recovery Fund established by Oregon Laws 2022, Chapter 63, Section 5(1).

## 8. Miscellaneous

- a. **Interpretation.** This Agreement supplements, is made a part of, and is incorporated into the OSA. Except as set forth herein, the terms of the OSA govern the distribution, use and other obligations related to the Additional Settlement Funds.
- b. **Signature Page; Counterparts.** This Agreement may be executed electronically and in counterparts, each of which shall be considered an original, but which together shall constitute one and the same agreement.

### Signature Page

**OR Participating Subdivisions:**

OR Participating Subdivisions have executed this Agreement via DocuSign

Oregon Subdivision:

\_\_\_\_\_

By: \_\_\_\_\_

**State of Oregon, acting by and through the Oregon Department of Justice**

Title: \_\_\_\_\_

By: \_\_\_\_\_  
Lisa M. Udland  
Deputy Attorney General





## AGENDA STAFF REPORT

**AGENDA LOCATION:** Item # 10B

**MEETING DATE:** May 28, 2024

**TO:** Honorable Mayor and City Council

**FROM:** City Attorney Jonathan Kara  
City Clerk Amie Ell

**ISSUE:** Adopting Resolution No. 24-016, a resolution prescribing the updated City Council Rules and Code of Conduct Policy

**BACKGROUND:** At its June 12, 2023, regular meeting, Council directed Staff to commence the process of revising the City Council Rules and Code of Conduct Policy (**Rules**) by reviewing the current Rules (last updated January 2020) for legal sufficiency and updating them consistent with governance best practices. The City Attorney and City Clerk collaborated to perform a comprehensive review of the current Rules with an eye towards spotting opportunities for comprehensive improvement of both the City's governmental efficiency and transparency.

At its May 28, 2024, regular meeting, Council discussed our original draft proposed Rules and provided key feedback on the below 4 items. Since no other direction was given, no changes were made to the original draft proposed Rules other than those 4 described above. Accordingly, the final draft proposed Rules (for your consideration tonight) are attached to and made part of this Staff Report and are otherwise identical to the original draft proposed Rules from May 28, aside from:

1. **Council's substantive amendments to proposed ordinances:** Council directed adjusting the proposed Rules to add a new requirement any proposed ordinance amended by Council at a meeting be re-noticed to the public and not adopted at the same meeting where it was substantively amended, consistent with the identical requirement already applicable to the City's substantive amendments of proposed land use ordinances by operation of Oregon law. That adjustment is reflected in proposed **Rule III(G)(12)(c)**.

2. **Agenda noticing requirements**: Council directed adjusting the minimum time required for noticing agendas from 10 days to 7 days, with the understanding Staff will strive to meet or exceed that time when feasible to ensure the public and Council has sufficient notice and an opportunity to prepare for Council's meetings. That adjustment was previously reflected in the original draft proposed Rules considered by Council at its May 28 meeting and that proposed **Rule III(C)(1)** is unchanged here.
  
3. **Public comment**: Council directed removing the proposed changes recommended by the League of Oregon Cities connected with best-practice guidelines for public comment, including setting a maximum time limit on the public comment portion of the agenda and prohibiting the Mayor and Councilors from engaging in back-and-forth dialog with commenters. For Council's regular meetings, the proposed **Rule III(G)(6)** now reflects:
  - (a) the Presiding Officer must open the floor to public comment on any topic not appearing on that meeting's agenda;
  - (b) each commenter at the same meeting is entitled to the same amount of time to comment, up to 3 minutes per commenter;
  - (c) if a response from the City is requested, the Presiding Officer shall refer the matter to the City Manager for further action;
  - (d) *in-person comment*: commenters must sign the attendance sheet provided at the entrance to Council Chambers before the Presiding Officer calls the meeting to order;
  - (e) *virtual/electronic comment*: commenters must contact the City Clerk's Office by noon on the meeting day to coordinate interactive access privileges to provide such comment; and
  - (f) *written comment*: commenters must either email or provide at least 9 printed copies of their written comment to the City Clerk before the Presiding Officer calls that meeting to order. Note: any person may still email any Councilor at any time.
  
4. **Council-appointee evaluation process**: Council directed it not to directly include the process for evaluating the performance of Council-appointees (i.e., City Manager, City Attorney, and Municipal Judge) in the Rules but to instead include its authority to adopt the standards, criteria, and policy directives used for such evaluations (including the formation of a subcommittee for the purpose of recommending an appropriate evaluation process to Council). That change is reflected in proposed **Rule VIII(A) and (B)**. Further, at the May 28 regular meeting, Council formed such a subcommittee (comprising Councilor McGlothlin and Councilor Long) to provide recommendations to Council within 6 months.

**BUDGET IMPLICATIONS:** None.

**COUNCIL ALTERNATIVES:**

1. **Staff recommendation:** *Move to adopt Resolution No. 24-016, as presented.*
2. Make modifications to then move to adopt Resolution No. 24-016, as amended.
3. Decline formal action and provide Staff additional direction.

**Attachments**

Attachment A – *City Council Rules and Code of Conduct Policy (Effective July 9, 2024)*

**RESOLUTION NO. 24-016**

**A RESOLUTION PRESCRIBING UPDATED  
CITY COUNCIL RULES AND CODE OF CONDUCT POLICY**

**WHEREAS**, Section 11 of the 2020 City of The Dalles Charter (**Charter**) requires Council to, by resolution, prescribe rules to govern its meetings and proceedings;

**WHEREAS**, at its January 13, 2020, regular meeting, Council approved that certain City Council Rules and Code of Conduct Policy to govern its meetings and proceedings from that date;

**WHEREAS**, best practices and changes in Oregon and federal law since January 2020 connected with public meetings, government ethics, land use, constitutional rights, and other legal areas require Council update the Rules for legal sufficiency; and

**WHEREAS**, Council intends this Resolution to satisfy the obligation imposed on it through the Charter to prescribe rules governing its meetings and proceedings.

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF THE DALLES  
RESOLVES AS FOLLOWS:**

1. Updated Rules Adopted. The *City Council Rules and Code of Conduct Policy (Effective July 9, 2024)* (**Rules**) attached to and made part of this Resolution as its **Exhibit A** are hereby approved and adopted as the rules governing the City Council’s meetings and proceedings.
2. Previous Rules Repealed. All previously adopted documents providing rules governing the City Council’s meetings and proceedings, including the January 13, 2020, City Council Rules and Code of Conduct Policy, are hereby repealed.
3. Future Effective Date. This Resolution shall be effective July 9, 2024, and the Rules shall govern all City Council meetings and proceedings from that date until the Rules are amended or repealed and replaced by Resolution.

**PASSED AND ADOPTED THIS 8<sup>TH</sup> DAY OF JULY, 2024,**

<b>Voting Yes</b>	Councilors:	_____
<b>Voting No</b>	Councilors:	_____
<b>Abstaining</b>	Councilors:	_____
<b>Absent</b>	Councilors:	_____

**AND APPROVED BY THE MAYOR THIS 8<sup>TH</sup> DAY OF JULY, 2024.**

ATTEST:

\_\_\_\_\_  
Richard A. Mays, Mayor

\_\_\_\_\_  
Amie Ell, City Clerk



# **CITY OF THE DALLES**

## **CITY COUNCIL RULES AND CODE OF CONDUCT POLICY**

*Effective July 9, 2024*

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**CITY COUNCIL RULES  
CODE OF CONDUCT POLICY**  
*Effective July 9, 2024*

**I. AUTHORITY**

- A. Council.** Except as specifically prescribed by the [2020 City of The Dalles Charter \(Charter\)](#) and the Oregon constitution (as amended), all powers of the City are vested in the City Council (**Council**). Council comprises 5 Councilors; provided, however, in cases of unfilled Council vacancies, Council comprises only those Councilors whose offices are not vacant. Regardless of any vacancies, and notwithstanding any other provision of this Policy, the term **Council-majority** means 3 Councilors.
- B. Rules Authorized.** [Section 11 of the Charter](#) requires Council to prescribe rules governing its meetings and proceedings by resolution—accordingly, the provisions of this Policy binds the Mayor, Councilors, and Staff and their respective successors and assigns until it is duly replaced or amended. This Policy is adopted pursuant to Resolution No. 24-016 (which Council intends to satisfy that Charter requirement) and may be referred to as the **Council Rules**.
- C. Control.** Nothing in this Policy is intended to supersede or contravene the [Charter](#) or other applicable and controlling law (collectively, **Applicable Law**), including the provisions of the [Oregon Public Meetings Law \(ORS 192.610 et seq.\)](#). The City Attorney shall decide all questions of interpretations of this Policy or Applicable Law. If the provisions of this Policy appear inconsistent with Applicable Law, the City Attorney shall attempt to reconcile those apparently inconsistent provisions so as to harmonize them; if the City Attorney determines they are unable to be harmonized, then the provisions of Applicable Law control.
- D. Effective Date.** This Policy is effective and shall govern all Council conduct and meetings held commencing July 9, 2024, until Council duly adopts a new Policy by resolution.
- E. Robert’s Rules.** Unless otherwise provided by this Policy or Applicable Law, the procedure for Council meetings shall be guided (i.e., not governed) by the most recent edition of *Robert’s Rules of Order*; provided, however, Councilors are encouraged to avoid invoking the finer points of parliamentary procedure found with *Robert’s Rules of Order* when such points obscure the issues before Council or have a reasonable likelihood of confusing members of the public. The City Attorney shall be Council’s parliamentarian.
- F. Waiver.** At any time during an open meeting, any Councilor may move to waive any provision of this Policy for a specific situation; if seconded and affirmatively approved by a Council-majority, that provision shall be waived for purposes of that situation; provided, however, Council may not so waive any provision of Applicable Law, [Rule I \(Authority\)](#), or [Rule II \(Charter Requirements\)](#).





## II. CHARTER REQUIREMENTS

A. Council Meetings. The following provisions applicable to Council meetings are governed by the Charter and may not be waived by Council:

1. **Oath**. Before assuming City office, a Councilor-elect shall take an oath affirming they will faithfully perform the duties of the office and support the constitution and laws of the United States, the State of Oregon, and City ordinances. See [Rule III\(B\) \(Oath of Office\)](#).
2. **Term Commencement**. The term of office of a Councilor elected at a general election begins at the first Council meeting of the next calendar year immediately after the election and continues until the successor to the office assumes their office.
3. **Regular Meetings**. Unless otherwise noticed, Council shall meet regularly at a time and place designated by this Policy and may meet at other times in accordance with this Policy. See [Rule III\(C\)\(1\) \(Regular Meetings\)](#).
4. **Mayoral Powers and Duties**. When present at Council meetings, the Mayor shall be the Presiding Officer and preside over Council's deliberations, preserve order, enforce this Policy, and determine the order of business. The Mayor has no veto power and shall sign all ordinances and resolutions passed by Council within 3 days after passage; provided, however, the Mayor may vote on any question before Council to resolve tie votes from the Councilors present at a meeting.
5. **Council President Powers and Duties**. The Council shall appoint a Council President at its first meeting of each odd-numbered year. When the Mayor is absent from a Council meeting or is otherwise unable to function as the Mayor, the Council President shall function as the Mayor (e.g., as Presiding Officer, signing resolutions or ordinances approved at such meetings, etc.); provided, however, the Council President may still vote on questions before Council in such cases.
6. **Minutes**. The City Clerk's Office is responsible for recording the minutes of all Council meetings consistent with the provisions of the Oregon Public Meetings Law and Council is responsible for authenticating such minutes at a regular meeting.

B. Formal Action. The following provisions applicable to Council actions are governed by the Charter and may not be waived by Council:

1. **Quorum and Vote Required**. 3 Councilors constitutes a quorum for its business and the *express concurrence of a majority of the Councilors present and constituting a quorum* is necessary to decide affirmatively a question before Council; provided, however, if Council has 2 vacancies, a quorum requires 2 Councilors, but—in all cases—no resolution, ordinance, or motion shall be passed except upon a favorable vote of at least 3 Councilors.
2. **Ordinances**.
  - a. Single Meeting. Council may adopt an ordinance by title only and at a single meeting by unanimous vote if the proposed ordinance is available to the public at



least 1 week before that meeting, a copy of the ordinance is provided for each Councilor, and notice of ordinance availability is given by written notice posted at City Hall, 2 other public places in the City, and (in the City Clerk's discretion) via social media.

- b. Two Meetings. Unless the requirements of a single-meeting adoption are met, adoption of an ordinance requires approval by a Council-majority at two meetings.
  - c. Substantive Amendments. Any substantive amendment to the proposed ordinance must be read aloud or made available in writing to the public before Council adopts an amended proposed ordinance at that meeting. See [Rule III\(G\)\(12\)\(c\) \(Ordinances\)](#).
  - d. Immediate Effect. Emergency ordinances (i.e., ordinances necessary to have immediate effect for the preservation of the peace, health, or safety of the City) may take effect upon adoption if it states the reasons for the emergency in a separate section and if approved by an affirmative vote of at least a Council-majority. Non-emergency ordinances are effective 30 days after adoption unless Council prescribes a later day in the ordinance.
- C. Vacancy and Appointment. The following provisions applicable to vacancies and appointments are governed by the Charter and may not be waived by Council:
1. **Vacancies**.
    - a. Occurrence. A Councilor vacates their office upon that Councilor's death, adjudicated incompetence, recall from the office, or resignation. The Council may also declare a vacancy of a Councilor's office if an elected or appointed Councilor fails to qualify for the office within 10 days after the time their term commences, if a Councilor is absent from the City for 30 days without Council's consent or from all Council meetings within a 60-day period, if a Councilor ceases to reside in the City, if a Councilor ceases to be a qualified elector under Oregon law, or if a Councilor is convicted of a public offense punishable by loss of liberty.
    - b. Filling. Vacancies in the office of the Mayor or a Council position shall be filled by a Council-majority appointment; such appointees must meet the Charter's qualification requirements and their terms of office shall run from the time of their qualifying for the office after appointment until expiration of the term of their predecessor.
    - c. Temporary Vacancy. A Council-majority may appoint a person meeting the Charter's qualification requirements as Councilor pro tem to fill a vacancy resulting from a Councilor's disability to serve on Council or during a Councilor's absence from the City.
  2. **Mayoral Appointments**. The Mayor shall appoint (subject to Council confirmation) members of committees and commissions established by City ordinance or created or otherwise required by Council (collectively, **Subcommittees**).



3. ***Appointive Offices.*** A Council-majority shall appoint and may remove the City Manager, City Attorney, and Municipal Court Judge. A Council-majority may also create, abolish, and combine additional appointive offices and (except as a Council-majority prescribes otherwise) fill such offices by appointment and vacate them by removal.

a. *City Manager.*

(i) *Appointment.* Council's appointment of the City Manager shall be without regard to political considerations and be based solely on the basis of administrative qualifications. The City Manager shall be appointed for an indefinite term and may be removed by Council at its pleasure. If the City Manager's Office remains vacant for 6 consecutive months, Council shall appoint a person meeting the Charter's qualification requirements to fill the vacancy. When the City Manager is absent from the City or disabled from acting as manager, or when the City Manager's Office becomes vacant, Council shall appoint a City Manager pro tem having all the powers and duties of the City Manager except their appointment and removal of Staff requires Council approval; provided, however, no person is authorized to serve as City Manager pro tem more than 6 consecutive months.

(ii) *Influence.* Except during a Council meeting, no Councilor may directly or indirectly, by suggestion or otherwise, influence the City Manager or a candidate for the City Manager's Office with respect to Staff appointment, discipline, or removal or in decisions regarding City property or contracts. Any Councilor who violates that prohibition may be removed from office by a court of competent jurisdiction. During a Council meeting, Councilors may discuss with or suggest to the City Manager anything pertinent to City affairs.

b. *City Attorney.* The duties of the City Attorney's Office may be assigned by contract.

c. *Municipal Judge.* Council may authorize the Municipal Judge to appoint Municipal Judges pro tem for terms of office set by the Municipal Judge or Council. Council may transfer some or all of the functions of the Municipal court to an appropriate State court.



### III. COUNCIL MEETINGS

- A. General. All Council meetings shall be held in accordance with the provisions of this Policy and Applicable Law. Council should strive to keep meetings focused with the intent of adjourning within 3 hours from commencement and no Council action shall be deemed invalid solely on the basis that it occurred after 3 hours into a meeting.
- B. Oath of Office. The City Clerk (if they are a notary public or otherwise meet the requirements of [ORS 44.320](#), otherwise such person designated by the City Manager and qualified pursuant to that law) shall administer oaths of office for Councilors- and Mayors-elect. If Council's first regular meeting in a given calendar year after an election is cancelled, the City will privately organize an oath ceremony with and for Councilors- and Mayor-elects to ensure they have taken their oaths prior to (or at) such first meeting.
- C. Meeting Types. A Council **meeting** is the convening of Council for which a quorum is required to make a decision or deliberate toward a decision on any matter, but does not include Council's on-site inspection of any project or program or Councilor attendance at any national, regional, or state association to which the City or Councilors belong. All meetings are public meetings generally classified either by their purpose or notice requirements:
1. **Regular Meetings**. Regular meetings are consistently held meetings required by the Charter and intended for Council's consideration of the City's regular business. Unless otherwise noticed, regular meetings shall be held on the second and fourth Mondays of each month at 5:30 p.m. Pacific Prevailing Time in Council Chambers on the Second Floor of [City Hall](#). For a regular meeting, the City Clerk's Office should strive to notice the agenda 7 days before a given meeting and shall notice the agenda at least 24 hours before that meeting.
  2. **Special Meetings**. Special meetings are all meetings other than regular meetings and are intended for Council's consideration of specific issues. The Mayor, a Council-majority, the City Manager, City Attorney, or City Clerk may timely notice special meetings. For special meetings, the City Clerk's Office should strive to notice the agenda as soon as reasonably practicable before a given meeting and shall notice the agenda at least 24 hours before that meeting.
  3. **Emergency Meetings**. Emergency meetings are a type of special meeting called on less than 24 hours' notice and are only authorized in cases of actual emergencies—specifically, an emergency meeting's minutes must describe the emergency justifying less than 24 hours' notice. Any claimed actual emergency must relate to the matter discussed at the emergency meeting (i.e., Councilor unavailability or inconvenience is not sufficient grounds for an emergency meeting). A Council-majority may call for an emergency meeting after City Attorney approval, unless the expected time for such legal sufficiency approval reasonably frustrates the purpose of the emergency meeting. For emergency meetings, the City Clerk's Office shall notice emergency meetings as is appropriate to the circumstances, including contacting the media and other interested persons to inform them of the meeting using any practicable means (including by telephone or email).



4. **Work Sessions.** Work sessions are a type of special meeting and are intended to provide Council background information as a preliminary discussion on future Council items. Work sessions typically answer Council's questions and provide information to facilitate Council's informed direction to Staff on a particular issue. While Council typically does not take public comment at work sessions, community member groups and committees may make presentations. By their nature, work sessions do not usually include Council's formal action. For work sessions, the City Clerk's Office should strive to notice the agenda as soon as reasonably practicable before a given meeting and shall notice the agenda at least 24 hours before that meeting.
  5. **Executive Sessions.** Executive sessions are a type of meeting (or part of a meeting) closed to certain persons for Council's deliberations on certain matters. The permissible purposes of an executive session are limited to those codified as [ORS 192.660\(2\)](#). The City Clerk's Office shall notice executive sessions with the notice for the meeting at which the executive session will be held, except Council may always add an executive session to an otherwise noticed meeting's agenda so long as Council's deliberations are limited to the topics authorized in the specific authorizing statute. The authorized person calling or convening the meeting shall ensure the City Attorney authorizes the specific authorizing statute serving as the basis for all executive sessions.
- D. **Virtual/Electronic Meetings.** For all meetings except executive sessions, Council (through the City Manager) shall provide to the public an opportunity to access and attend the meeting by telephone, video, or other virtual/electronic means to the extent reasonably possible. In such cases, the City Manager shall make available to the public at least one place where (or at least one electronic means by which) the public can listen to the communication at the time it occurs, and such place may be a place where no Councilor is present. In the alternative, the City Manager shall provide the public with an access code or other means to attend the meeting using virtual/electronic means. If public comment or testimony would have been allowed but for a person's virtual/electronic attendance, the City shall provide an opportunity for such virtual/electronic attendees to offer public comment or testimony by virtual/electronic means consistent with [Rule IV \(Public Participation\)](#).
- E. **Recess and Holidays.** Council is in recess during the month of August unless the City determines a special meeting is in the City's best interests. If a regular meeting coincides with a holiday recognized by the City, that meeting will either be cancelled or rescheduled.
- F. **Notice.** The City Clerk's Office is responsible for timely noticing the time and place of all Council meetings to each Councilor, appropriate Staff, interested persons (including news media) who have requested notice, and the public, and shall do so in a manner reasonably calculated to give actual notice and providing a list of the principal subjects anticipated to be considered by Council at each meeting (**Agenda**). Other items may be placed on the Agenda after it is noticed if the Mayor, a Councilor, City Manager, City Attorney, or City Clerk explain the necessity and the City Clerk timely notices the supplemental item as soon as practicable.





- G. Regular Agendas.** The Agenda for regular meetings shall be substantively as follows; provided, however, the Presiding Officer or a Council-majority may modify the order of any Agenda Items as convenient:
1. **CALL TO ORDER.** The Presiding Officer shall call the meeting to order.
  2. **ROLL CALL OF COUNCIL.** The City Clerk or designee shall take Council's and the Mayor's attendance by roll call and shall note any Councilor's absence (and the times of any Councilor's or the Mayor's subsequent presence and absence during the meeting) in the meeting's minutes. If the Presiding Officer or City Attorney determines no quorum is present for a meeting, the Councilors present shall not take any final action at that meeting unless and until a sufficient number of Councilors are present at the meeting to constitute a quorum.
  3. **PLEDGE OF ALLEGIANCE.** The Presiding Officer shall lead Council in reciting the Pledge of Allegiance. The City is prohibited from compelling any person to salute the flag, remove their hats during, or stand for or recite the Pledge of Allegiance.
  4. **APPROVAL OF AGENDA.** The Presiding Officer shall call for Council's approval of the Agenda. Any corrections or additions to the Agenda should be addressed prior to Agenda approval. **Note:** Any Councilor intending to remove items noticed on the Consent Agenda for placement elsewhere on the Agenda for a given meeting should vocalize that intent prior to Agenda approval.
  5. **PROCLAMATIONS/PRESENTATIONS.** For *Proclamations*, the Presiding Officer shall provide the City's formal recognition of a particular matter and all such matters must be sponsored by the Mayor or at least one Councilor. For *Presentations*, the Presiding Officer shall recognize a prearranged speaker to present information to Council.
  6. **PUBLIC COMMENT.** The Presiding Officer shall open the floor to public comment on any topic not appearing on that meeting's Agenda. To conserve meeting time and ensure all have an opportunity to speak, the Presiding Officer shall uniformly allow each commenter at a given meeting no more than 3 minutes of comment. If a response from the City is requested, the Presiding Officer shall refer the matter to the City Manager for further action. All commenters intending to appear before Council personally must sign the attendance sheet provided at the entrance to Council Chambers **before** the Presiding Officer calls the meeting to order. All commenters intending to appear before Council virtually/electronically must contact the City Clerk's Office **by noon on the meeting day** to be provided the opportunity to offer virtual comment. All commenters intending to submit written comment to Council must either email or provide at least 9 printed copies of their written comment to the City Clerk **before** the Presiding Officer calls the meeting to order.
  7. **CITY MANAGER'S REPORT.** The City Manager shall provide Council general information on their and the City's notable or current activities. The City Manager may solicit and Council may offer direction (as appropriate) during this Agenda Item.
  8. **COUNCILOR REPORTS.** The Presiding Officer shall offer each Councilor the opportunity to report on their City-related activities. Councilors should report on both



the substance of and their attendance at any recent City Subcommittee meeting or on any other of their activities relevant to the City's affairs during this Agenda Item.

9. **CONSENT AGENDA.** Items are placed on the Consent Agenda when they are of a routine and non-controversial nature. Before Council approves the Agenda, any Councilor may remove a noticed Consent Agenda item for separate consideration; however, after the Agenda is approved, such removal from the Consent Agenda requires Council-majority approval. **Note:** Councilors who were absent from a previous meeting should abstain from voting on approval of the Consent Agenda—which typically includes an Item approving the previous meetings' minutes—unless they watched a recording of that meeting prior to voting. **Examples:** *meeting minutes approval, property surplusage, abatement assessments, cost-of-living adjustments.*
  
10. **PUBLIC HEARINGS.** Public hearings are governed by Oregon law and follow unique rules depending on the nature of the hearing—most hearing types involve offering the public an opportunity to testify in favor of, in opposition to, or in any way relating to the subject matter of the particular hearing; provided, however, the Presiding Officer may restrict any irrelevant or repetitious testimony offered by the public. The City Attorney shall provide (and the Presiding Officer shall follow) a legally sufficient hearing script with detailed rules and any applicable criteria for all public hearings. Public hearings required by Applicable Law shall have higher priority than other scheduled Agenda Items.
  - a. Quasi-Judicial Hearings. Council is the City's final decision-maker on particular questions between particular parties—specifically, Council must apply preexisting criteria to concrete facts and must then make an impartial decision after giving involved parties an opportunity to be heard and present and rebut evidence. Oregon law requires Councilor disqualification from voting on certain quasi-judicial hearings due to impartiality, bias, or ex parte communications, and disqualification requires a two-thirds Council vote. Oregon law also restricts a Councilor's ability to participate in any deliberations or decision regarding certain quasi-judicial matters if that Councilor was absent for the evidentiary portion of the hearing unless the Councilor reviewed all presented evidence and submitted testimony. The City Clerk's Office shall develop and maintain a record and written findings adequate to permit judicial review of Council's quasi-judicial hearing and decision. **Examples:** *land use appeals, economic improvement or reimbursement district appeals, liquor license appeals.*
  - b. Legislative Hearings. Council is the City's policy-maker when it adopts ordinances of broad applicability throughout the City. The Presiding Officer shall allow public testimony on certain proposed ordinances that are subject to legislative hearing requirements by Applicable Law. The City Attorney is responsible for determining whether proposed ordinances require Council to hold a legislative hearing prior to adoption. **Examples:** *annexations, supplemental budget changes over 10%, establishing new or revising existing truck routes, land use and development ordinance adoption.*
  
11. **CONTRACT REVIEW BOARD ACTIONS.** Council is the City's Local Contract Review Board (**LCRB**) when it authorizes procurements consistent with the provisions of the City's LCRB Rules. **Examples:** *awarding procurements having*



*contract prices exceeding the City Manager's spending authority, sole-source determinations.*

12. **ACTION ITEMS.** Council's final decision-making after considering Staff's recommended approvals and authorizations relating to the City's business and not otherwise falling under a more specific Agenda Item. Action Items include:
- a. Other Authorizations. Council approves Staff-proposed action or authorizes the appropriate Staff to enter an agreement exempt from the City's LCRB Rules. **Examples:** *leases, intergovernmental agreements, pay table adjustments.*
  - b. Resolutions. Resolution adoption is the primary manner Council implements its executive power and Resolutions typically address matters of a special or temporary nature to reflect the City's formal and written expression of its position, opinion, or policy. Functionally, Resolutions carry the same municipal force as a Council-majority vote. **Examples:** *mayoral appointments, forming reimbursement or local improvement districts, annual fee schedule adoption, special assessments for economic development districts.*
  - c. Ordinances. Ordinance adoption is the primary manner Council implements its legislative power and is an exclusive function of the Charter and Applicable Law. The City Attorney shall prepare all Ordinances for Council's consideration. If Council makes substantive amendments to a proposed ordinance to such a degree that the publicly noticed version would not reasonably describe the City's ultimately adopted version, Council shall not adopt that proposed ordinance without further consideration of such amendments at a future Council meeting. Council may adopt 3 types of Ordinances:
    - (1) *General Ordinances.* General Ordinances are local laws of general applicability equally throughout the City's corporate limits and become effective at least 30 days after adoption. General Ordinances either create new or amend existing provisions of The Dalles Municipal Code.
    - (2) *Special Ordinances.* Special Ordinances are local laws of specific applicability to distinct parties, areas of the City, or parcels of land located within the City's corporate limits and become effective at least 30 days after adoption. **Examples:** *annexations, dedications, vacations, franchises, creating and continuing special reserve funds, authorizing revenue bonds, accepting real property for dedication.*
    - (3) *Emergency Ordinances.* Emergency Ordinances are local laws necessary to have immediate effect for the preservation of the peace, health, or safety of the City and are effective upon adoption. Council shall ensure the City Attorney confirms all legal requirements are satisfied prior to Council's adoption of an Emergency Ordinance.
13. **DISCUSSION ITEMS.** Staff presents Agenda Items not requiring or requesting Council's immediate final action (i.e., not an Action Item) but generally requesting Council direction before Staff commits additional resources to a particular matter. While Discussion Items are intended to provide the City an opportunity to explore





and evaluate different approaches to resolving a matter at a future meeting, Council is not strictly prohibited from making a final action during this Agenda Item (as appropriate).

14. **EXECUTIVE SESSION.** Council recesses the open session portion of the meeting to enter executive session, which is a portion of the meeting closed to certain persons other than the Mayor, Councilors, City Manager, City Attorney, City Clerk or designee, designated Staff or consultants, and news media representatives authorized by applicable law. News media representatives intending on attending an executive session must attend in-person and the City will not provide virtual/electronic access to executive sessions for news media representatives unless compelled by Applicable Law as determined by the City Attorney. Council is prohibited from taking any final action in executive session; provided, however, Council may provide Staff direction and even take informal votes in executive session with the understanding official or required Council final decisions and action are only made when it returns to an open session available for public attendance.

15. **ADJOURNMENT.** The Presiding Officer shall adjourn the meeting; provided, however, a Council-majority may overrule the Presiding Officer's call for adjournment to continue discussing City-related business.

H. **Special Agendas.** Agendas for special meetings are typically focused on a single or limited Items and do not necessarily follow an established ordering of Items; provided, however, the Presiding Officer or a Council-majority may modify the order of any Agenda Items as convenient.

I. **Staffing.** The City Manager shall attend all meetings unless excused and shall have the right to take part in all Council discussions and may make recommendations to Council, but shall have no vote. The City Attorney shall attend all regular meetings unless excused and shall provide a legal opinion upon Council's request on any matter relating to the City's business. The City Clerk or designee shall attend all meetings to keep minutes and perform such other duties as assigned or needed for the orderly conduct of meetings. Department Managers shall attend all meetings upon the City Manager's direction.



#### IV. PUBLIC PARTICIPATION

##### A. Communications to Council.

1. **Written Communications.** Any person may address the Mayor and/or Councilors in writing by submitting 9 printed copies of the writing to the City Clerk's Office or by email addressed to the Mayor and/or Councilors. Unsolicited written communications to the Mayor and/or Councilors concerning matters not on an Agenda shall be forwarded to the Mayor and/or Council but shall not be included in the Agenda packet; provided, however, the City Manager or a Council-majority may bring any matter raised by an unsolicited communication before Council for its consideration.
2. **Oral Communications.** Any person may speak on any matter not appearing on the Agenda during a meeting's scheduled public comment section, consistent with [Rule III\(G\)\(6\) \(Public Comment\)](#).
3. **Private Communications.** The Mayor and Councilors receiving information relevant to the affairs of the City at any time shall timely act to ensure the entire Council is made aware of such information, typically accomplished by contacting and apprising the City Manager or City Attorney, as appropriate.
4. **Forms.** Any person intending on addressing Council during a meeting shall provide the City Clerk or designee with their name and contact information.
5. **Remarks to Council as a Whole.** Generally, the public should address Council as a body rather than directing comments towards a particular Councilor; provided, however, the public may ask questions of a Councilor with the Presiding Officer's permission, subject to [Rule III\(G\)\(6\) \(Public Comment\)](#).

B. Public Hearing Testimony. Any person may testify in favor of, in opposition to, or in any other way relating to the subject matter of a noticed public hearing, consistent with [Rule III\(G\)\(10\) \(Public Hearings\)](#); provided, however, the Presiding Officer may take immediate action to stop any member of the public's testimony if it is or becomes disruptive, irrelevant, or repetitious—in such cases, the Presiding Officer shall first warn the testifier of the pending action and offer the testifier the right to explain why their testimony is not so disruptive, irrelevant, or repetitious; if the Presiding Officer or City Attorney then determines the restriction on such testimony is reasonable in light of the purpose served by the hearing, the Presiding Officer may restrict the testifier from further input during that hearing. Any person who testifies must provide their full name, whether they are testifying on their own or on someone else's behalf, and their mailing address, and the record of the meeting must reflect that information for all persons testifying before Council.

C. Public Attendance. Any person intending to appear personally at a meeting must wear at least a shirt, pants, and shoes. The Presiding Officer or City Manager may determine the public health requires attendees at a given meeting to wear protective face-coverings consistent with Applicable Law.



**D. Disruptive Conduct.**

1. **Disruption.** Disruptive conduct is conduct actually disturbing or impeding a meeting, and typically includes: speaking without being formally recognized by the Presiding Officer, violations of law, damaging or defacing property, making personal attacks or threats (including the use of threatening language or gestures), subjecting participants to reasonable annoyance or alarm (including creating unreasonable noise), using obscene, vulgar, or discriminatory language, or in any way discouraging anyone else from participating in the meeting. The City shall not consider a person's expressed viewpoint on a matter as the basis for determining whether their conduct is disruptive.
2. **Removal.** At any time during any meeting, the Presiding Officer may interrupt anyone engaging in disruptive conduct to warn them their conduct qualifies as disruptive pursuant to this Policy. Councilors believing a person's conduct qualifies as disruptive may interrupt any portion of the meeting to ask the Presiding Officer to warn the suspected disrupter. After any such warning, any person who the Presiding Officer or a Council-majority determines is disrupting the meeting may be excluded from the meeting (or muted in a virtual meeting) by order of the Presiding Officer or any City law enforcement officer present if removal is necessary to maintain order, conduct City business efficiently, reasonably allow others to participate, upon that person's commission of a crime subjecting them to arrest or lawful detainment, or otherwise as authorized by Applicable Law.
3. **Immediate Action.** While the Presiding Officer is strongly encouraged to first warn any disrupter their continued disruptive conduct may result in their removal from a meeting, the City may stop disruptive conduct immediately (i.e., without warning), especially in cases of health and safety concerns or the use of discriminatory language. Council's intent is to minimize all disruptions by addressing them as efficiently and uniformly as possible.
4. **Formal Recognition.** In all cases, any person (including Councilors) intending to speak during a meeting must be recognized by the Presiding Officer. Once recognized, no person shall be interrupted unless the Presiding Officer, City Attorney, or a Council-majority determines a violation of this Policy or Applicable Law is or would occur but for the interruption.



## V. COUNCIL PARTICIPATION

- A. Discussions. The Presiding Officer retains the right to manage meeting time but should invite participation by all Councilors and each Councilor is encouraged to participate in all Council discussions. Councilors should review Agenda materials in advance and come to each meeting prepared to make decisions supporting the City's best interests.
- B. Councilor Attendance. Councilors are required to attend all meetings in person unless excused by the Presiding Officer or Council-majority. If a Councilor is unable to personally attend a meeting, Councilors may attend the meeting electronically or virtually (upon reasonable notice to the Mayor, City Manager, and City Clerk) if that Councilor determines their physical absence is in the interest of their health or safety or is due to unforeseen or excused circumstances. Any Councilor unable to attend a meeting will inform the Mayor, City Manager, and/or City Clerk at the earliest practicable opportunity. If the Mayor is unable to attend a meeting, they will inform the Presiding Officer, City Manager, and City Clerk at the earliest practicable opportunity.
- C. Meeting Decorum.
1. **Civility**. Councilors are expected to practice decorum and civility in discussions and debate. The Mayor and Councilors are all subject to this Policy's provisions on disruptive conduct listed in [Rule IV\(D\) \(Disruptive Conduct\)](#); provided, however, the Mayor and Councilors are only subject to removal from a meeting for their commission of a crime subjecting them to arrest or lawful detention or otherwise as authorized by Applicable Law. Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of a democracy in action—those do not allow, however, Councilors to make belligerent, personal, slanderous, threatening, abusive, harmful, or disparaging comments.
  2. **Order**. Councilors may not delay or interrupt Council's orderly proceedings, disturb any Councilor while speaking, or refuse to obey the Presiding Officer's or Council-majority's orders at and connected with a meeting.
  3. **Interruptions**. Councilors should not be interrupted when speaking except on a question of order. If a point of order is raised by another Councilor, the Presiding Officer, City Manager, City Attorney, or City Clerk, the then-speaking Councilor should cease speaking until the question of order is determined. A point of order may legitimately be raised if the provisions of this Policy or Applicable Law appear likely to have been or are imminently about to be broken and if the point must be resolved before the meeting's business can continue. The Presiding Officer or City Attorney will rule on the point.
- D. Outside Statements. The Mayor and Councilors shall refrain from disclosing confidential information, publicly expressing an opinion contrary to an official vote or formal position of Council without stating as such, and conducting themselves in a manner so as to bring discredit on the City. When speaking in an official capacity as a City representative before another public body, Subcommittee, community organization, or the news media, the Mayor and Councilors shall only express their personal opinions on a matter if they clarify those statements do not represent the position of Council.



- E. Complaints or Questions. Councilors shall not ask people to appear before Council at a meeting to notice a complaint or raise a question—instead, as a first step, Councilors shall refer such matters to the City Manager or designee or ask that the matter be placed on an Agenda with the appropriate background information. When contacted by citizens about a complaint or question relating to the City’s affairs, Councilors shall encourage such citizens to contact the City Manager’s Office and to put their complaint or question in writing addressed to the Councilor.



## VI. COUNCIL RELATIONSHIP WITH STAFF

- A. Mutual Respect. Both Council and Staff are expected to base their relationship on mutual respect of their roles and responsibilities during all meetings. Staff shall acknowledge Council as the City's policymaker and Council shall acknowledge Staff as the administrator of such policies.
- B. Influence. Unless in a meeting, neither the Mayor nor Council (including any Councilor) shall attempt to coerce or influence Staff in appointments, contract awards, consultant selection, development application processing, granting or denying of City licenses and permits, or any other such administrative functions; provided, however, Council may discuss with, or suggest to, the City Manager anything pertinent to City affairs during a meeting.
- C. Interference. Neither the Mayor nor Council (including any Councilor) shall attempt to change or interfere with any City Department's operating rules and practices. Council acknowledges the City Manager as the appropriate authority to designate Staff to conduct the City's (including Council's) business, including handling correspondence, arranging appointments, and making travel arrangements.
- D. Mail. Staff shall open any mail addressed to the Mayor or Council as a whole and shall circulate such mail as soon as practicable after receipt; provided, however, Staff shall not open any such mail labeled "personal", "confidential", or any mail addressed to an individual Councilor.
- E. Staff Direction. The only Staff the Mayor or Council have the authority to direct are the City Manager, City Attorney, and Municipal Judge. Neither the Mayor nor any Councilor shall direct Staff to initiate any action or prepare any report or project requiring reasonably significant City resources or effort without Council-majority approval.
- F. Staff Requests. The Mayor and Council (including any Councilor) may request information from Department Managers directly so long as they also timely inform the City Manager of their request; provided, however, if the request would create or change a work assignment for Staff (excepting the City Attorney), the Mayor or Council (including any Councilor) shall make such request through the City Manager. Staff shall submit to the City Manager all written informational material requested by the Mayor or individual Councilors with a notation indicating which Councilor requested the information (as the case may be), and the City Manager or designee shall forward such information to Council.





## VII. COUNCIL SUBCOMMITTEES

- A. Subcommittees.** The City encourages regular rotation of Councilors assigned to Subcommittees consistent with Applicable Law. Depending on the specific Subcommittee, Councilors may be assigned as voting members or as ex officio non-voting liaison members. The Mayor may request assistance from Councilors when making a recommendation for Council's appointment to any Subcommittee. City Subcommittees include (without limitation):
1. City Budget Committee;
  2. Columbia Gateway Urban Renewal Agency Board (and Budget Committee);
  3. Columbia Gorge Regional Airport Board;
  4. Historical Landmarks Commission;
  5. Planning Commission;
  6. Traffic Safety Commission; and
  7. Beautification and Tree Committee.
- B. Limited Service.** To encourage broad participation, service on any City Subcommittee is limited to specific terms and citizens are prohibited from concurrently serving the City or representing the City's interests on more than one Subcommittee; provided, however, citizens may serve on budget committees without violating that limitation so long as that citizen is not the chairperson for both Subcommittees.
- C. Citizen Removal.** The Mayor may remove a citizen from any Subcommittee prior to the expiration of the term of office. Reasons for removal include (without limitation): missing 2 consecutive regular meetings; disruptive behavior prior to, during, or after a meeting prohibiting the Subcommittee from completing its business in a timely manner; and not acting in the City's or its citizens' best interests. When the Mayor is satisfied the City's and Subcommittee's best interests would be served with the removal, a citizen may be removed by the following process:
1. The Mayor shall request the citizen to submit a letter of resignation within 10 days from the Mayor's notification to the citizen and containing the reasons for requesting the resignation. The citizen may submit a letter of response as to why they should remain on the Subcommittee and that letter will be reviewed by Council prior to action on the Mayor's removal request.
  2. The Mayor shall request the item be placed on a regular meeting Agenda for Council's consideration of removal of the citizen from the Subcommittee. The City Clerk's Office shall notify the citizen of the Council meeting date when the issue will be discussed.
  3. If the Council approves the Mayor's request for removal, the Mayor shall send a letter to the citizen informing them they have been removed from the Subcommittee.
- D. Liaison.** The City Manager may assign Staff as City administrative liaisons to any Subcommittee to provide support coordination and guidance consistent with applicable law. The Mayor shall make appointments of Councilors to ex officio non-voting liaison positions on certain Subcommittees. Councilors appointed to liaison positions are not members of those Subcommittees but attend their meetings and participate in their



discussions to both provide Subcommittees with the Councilor's or Council's perspective on and to keep Council apprised of Subcommittee business. Subcommittees with Council liaisons include the Historic Landmark Commission, Traffic Safety Commission, and other Subcommittees pursuant to Applicable Law; provided, however, since land use appeals from the Planning Commission are subject to Council review and Oregon law requires impartial decisionmakers for land use decisions, the Mayor and Councilors shall not serve the Planning Commission in any capacity.

- E. Influence. Councilors have the right to attend all Subcommittee meetings but should refrain from any discussion at such meetings unless they are a liaison member to that Subcommittee, especially to avoid the risk of violating the Oregon Public Meetings Law's prohibitions on serial communications; provided, however, Councilors are discouraged from viewing recordings of or attending certain Planning Commission meetings where quasi-judicial or legislative public hearings occur to remain impartial if/when such hearings could be brought before Council. No Councilor shall attempt to lobby or influence Subcommittees (including Subcommittee members) on any item under or potentially under their consideration to avoid prejudicing or hindering the Councilor's role in reviewing their recommendation as a Councilor.
  
- F. Oregon Laws Applicable. Subcommittees and Subcommittee members (as the case may be) are subject to and encouraged to review this Policy's [Rule X \(Oregon Public Records, Meetings, and Ethics Laws\)](#).





## VIII. EVALUATIONS

- A. Appointed Evaluations. Council shall regularly evaluate the performance of the City Manager, City Attorney, and Municipal Judge. The Mayor, Councilors, and the City Manager, City Attorney, or Municipal Judge shall determine the evaluation form used for the evaluation.
- B. Process. Council shall adopt the standards, criteria, and policy directives used for evaluating the performance of Council-appointees in accordance with Applicable Law. Council may create a Subcommittee for the purpose of providing Council its recommendation on a given evaluation process. Council shall determine when completed evaluations are due and who will collect the relevant documents from evaluators and evaluated Council-appointees. Upon Council's request, the Human Resources Director shall provide Council with copies of each employment agreement and all original employment agreements shall be maintained in the City's official records. Any changes to the employment agreement for any appointed Staff shall be prepared by the City Attorney and be slated for Council's consideration and approval at a regular meeting on the Consent Agenda; provided, however, Council is encouraged to retain contracted conflict counsel for reviewing changes to the City Attorney's employment agreement.
- C. Executive Session Default. Council shall hold evaluations for appointed Staff in timely noticed executive sessions if the person whose performance is being reviewed and evaluated does not request an open hearing in accordance with Applicable Law, in which case Council shall conduct the evaluation in open session. During the evaluation, the employee is entitled to a summary of review comments and individual comments by Councilors. The employee retains the option to respond after receiving all comments from Council.



## IX. EXPENSES

- A. Reimbursements. The Mayor and Council shall follow the same rules and procedures for reimbursement as those which apply to City employees. The Mayor and Councilors are reminded to review the provisions of [Rule X\(C\) \(Government Ethics Law\)](#) whenever discussing adoption of new rules and procedures with the potential to implicate the Mayor's or Councilor finances.
- B. Stipends. Council may authorize reasonable stipends for the Mayor and Councilors to defray the costs associated with their time commitments and other costs of service; provided, however, Council's approval of such stipend increases only become effective for and when their successors assume office after an intervening election.
- C. Conferences and Trainings. The Mayor and Councilors are urged to educate themselves about local government and the City has an interest in an informed governance—to that end, and as funding allows, Councilors are encouraged to attend League of Oregon Cities functions at the City's expense. Requests for the City to pay for the Mayor's or a Councilor's attendance at and expenses from other local government-related conferences, trainings, and meetings shall be approved through the City's budget process or otherwise presented for Council approval.
- D. Other Expenditures. Mayoral and Councilor expenditures for expenses other than reimbursements or budgeted items will follow the same rules and procedures which apply to City employees, including Oregon Local Budget Law and LCRB Rules. The Mayor and Councilors are reminded to review the provisions of [Rule X\(C\) \(Government Ethics Law\)](#) whenever discussing adoption of new rules and procedures with the potential to implicate the Mayor's or Councilor finances.



## X. OREGON PUBLIC RECORDS, PUBLIC MEETINGS, AND ETHICS LAWS

- A. Public Records Law. Under the [Oregon Public Records Law \(ORS 192.311 et seq.\)](#), a “public record” is broadly defined to include *any writing containing information relating to the conduct of the public’s business and prepared, owned, used, or retained by the City (including the Mayor and Councilors) and including (without limitation whatsoever) handwritings, typed materials, emails, text messages, photographs, and recordings*—Oregon courts have determined city councilor notes on or about agendas or any other city business and taken and before, during, or after city council meetings are public records subject to disclosure. Council shall follow the same rules and procedures connected with public records which apply to the City, including the City’s Public Records Policy, Oregon Secretary of State administrative rules applicable to records retention, and Oregon Public Records Law. The Mayor and Councilors are responsible for maintaining their own records (including notes taken before, during, or after meetings) and assisting the City Attorney’s Office and City Clerk’s Office in gathering records in response to a public records request. The Mayor or any Councilors with specific questions related to the City’s responsibilities under those authorities are encouraged to contact the City Attorney’s Office.
- B. Public Meetings Law. Communication between Councilors (regardless of format, such as in-person communication, telephone, text message, email, social media, etc.) may constitute a “meeting” under the [Oregon Public Meetings Law](#) if it involves discussion of public business and depending on whether the communication involves a Council-majority or if the communication qualifies as a serial communication. Councilors are accordingly discouraged from discussing public business with each other outside of noticed Council meetings (including Subcommittee meetings), except for briefing sessions duly organized by the Mayor, City Manager, or City Attorney.
- C. Government Ethics Law.
1. **General**. The Mayor and Councilors shall review and abide the requirements of the [Oregon Government Ethics Law \(ORS 244.010 et seq.\)](#). Most critically: the liabilities imposed by that law are personal to each public office—put another way, the City does not face liability for a public official’s violations of the [Oregon Government Ethics Law](#) but the individual themselves faces such liability, which is often (but not always) a financial punishment. The Mayor or any Councilors with general questions relating to government ethics or specific questions related to the City’s role in its public officials’ ethics are encouraged to contact the City Attorney’s Office.
  2. **Financial Gain**. The [Oregon Government Ethics Law](#) specifically prohibits the use of public office for private financial gain. Councilors shall give public notice of any actual or potential conflicts of interest and the City Clerk shall record all such disclosures in meeting minutes. Councilors shall timely file Statements of Economic Interest with the Oregon Government Ethics Commission.
  3. **Conflicts of Interest**. Councilors shall not participate in any matter where they have or could reasonably have a financial conflict of interest. Under Oregon law, an *actual conflict of interest* is defined as one that would result in the private financial benefit of the Councilor, a relative, client, or business with which the Councilor, a relative, or client is associated. A *potential conflict of interest* is one that could result in private



financial benefit to those named entities. In cases of actual conflicts of interest, and in addition to publicly disclosing that conflict, Councilors must also refrain from participating in deliberations and voting on the issue unless required by Oregon or Applicable Law. Councilors not participating in deliberations and voting because of a conflict of interest shall leave dais after publicly declaring the conflict.

4. ***Beyond Government Ethics Law.*** In addition to matters of financial interest, the Mayor and Councilors shall maintain the highest standards of ethical conduct and assure fair and equal treatment of all persons, claims, and transactions coming before the Council—that general obligation includes the duty to refrain from:
  - a. disclosing confidential information or making use of special knowledge or information before it is made available to the general public;
  - b. making decisions involving business associates, customers, clients, and competitors;
  - c. violations of this Policy;
  - d. promoting relatives, clients, or employees for Subcommittees;
  - e. requesting preferential treatment for themselves, relatives, associates, clients, coworkers, or friends;
  - f. seeking employment of relatives with the City;
  - g. actions benefiting special interest groups at the expense of the City as a whole;
  - h. expressing an opinion contrary to Council’s official position without so stating; and
  - i. whether at a meeting or elsewhere during the course of official duties, harassing or discriminating against any Staff, Council or other Councilors, the Mayor, a Subcommittee or Subcommittee members, or the public or members of the public.



## XI. VIOLATIONS

- A. Enforcement. Council shall enforce this Policy and ensure compliance with Applicable Law. Sanctions for violations of these Rules should be generally geared towards changing problem behaviors rather than punishment and be measured against the severity and frequency of the violations and their impact on the City and/or Council's operations and effectiveness. The Mayor or any Councilors concerned with violations or potential violations of these Rules are encouraged to contact the City Attorney's Office.
- B. Discipline. If a Council-majority determines a Councilor violates these Rules or Applicable Law, Council may take action to protect its integrity and discipline the Councilor with a public reprimand and removal from assigned Subcommittees. Council may meet in executive session noticed pursuant to [ORS 192.660\(2\)\(b\)](#) to consider disciplining a Councilor or to hear complaints or charges brought against a Councilor, unless the Councilor requests an open hearing—in that case, Council shall meet in a duly noticed open session to so deliberate and the Councilor need not be present, has no right to postpone the hearing to permit an attorney to attend, and has no right to a formal hearing unless Applicable Law provides those rights.



## **XII. MISCELLANEOUS**

- A. Gifts.** Council may authorize (on occasion and as funding allows) City funds be spent to purchase a gift or memento for another government, entity, or person. When gifts are presented to the Mayor or Council, the main gift shall be the City's property and individual gifts to the Mayor or Councilors are for their personal use. While the [Oregon Government Ethics Law](#) imposes personal liability on any public official for their violations, the Mayor and Councilors are reminded Oregon law defines "gift" as *something of value given to a public official from any single source who could reasonably be known to have a financial interest in the official actions of that public official for which the official does not pay an equal value*, and Oregon law prohibits any public official to receive any gift or gifts with a total value of more than \$50. The Mayor or any Councilors with general questions relating to government ethics (including receiving gifts) are encouraged to contact the City Attorney's Office.
- B. Seating.** During regular meetings, the Mayor shall be seated in the center of the dais. The City Manager and City Attorney shall be seated on each side of the Mayor. No other seats are designated and there is no specified seating arrangement for special meetings.
- C. Severability.** Any provision of this Policy deemed illegal or unenforceable is severed from this Policy and the other provisions remain in full force and legal effect.
- D. Successors.** Within 1 month from the day a successor to the office of the Mayor or any Council position takes office, Council shall require such successor to timely review and agree to the provisions of this Policy. This Policy may be signed in 1 or more counterparts, each of which is an original, and all of which constitute 1 active Policy. All successors must review and sign a copy of this Policy's [Rule XIII \(Signatures\)](#), which will be maintained with and affixed to the original copy of this Policy in the City Clerk's Office.



**XIII. SIGNATURES**

**ADOPTED** BY THE COUNCIL OF THE CITY OF THE DALLES AT ITS JULY 8, 2024, REGULAR MEETING PURSUANT TO THE PROVISIONS OF **RESOLUTION NO. 24-016**.

By my signature below, I indicate I have read and agree to abide this ***City Council Rules and Code of Conduct Policy*** and understand the consequences of violating this Policy.

\_\_\_\_\_ **Mayor**

\_\_\_\_\_ **Name**

\_\_\_\_\_ **Date**

\_\_\_\_\_ **Councilor Position #1**

\_\_\_\_\_ **Name**

\_\_\_\_\_ **Date**

\_\_\_\_\_ **Councilor Position #2**

\_\_\_\_\_ **Name**

\_\_\_\_\_ **Date**

\_\_\_\_\_ **Councilor Position #3**

\_\_\_\_\_ **Name**

\_\_\_\_\_ **Date**

\_\_\_\_\_ **Councilor Position #4**

\_\_\_\_\_ **Name**

\_\_\_\_\_ **Date**

\_\_\_\_\_ **Councilor Position #5**

\_\_\_\_\_ **Name**

\_\_\_\_\_ **Date**





## AGENDA STAFF REPORT

AGENDA LOCATION: Item # 10C

**MEETING DATE:** July 8, 2024

**TO:** Honorable Mayor and City Council

**FROM:** Jonathan Kara, City Attorney

**ISSUE:** Adopting General Ordinance No. 24-1406, an ordinance repealing and revising certain provisions of The Dalles Municipal Code Chapter 1.08 (*City Council*), Chapter 1.36 (*Public Library*), and Chapter 11.24 (*Enterprise Zone*) for legal sufficiency

### **BACKGROUND:**

From time to time, Staff or I will flag certain provisions of our municipal code requiring repeal or amendment—when an adequate number of such provisions are flagged, I typically compile our recommendations into an omnibus housekeeping ordinance for Council’s consideration.

Copies of TDMC Chapter 1.08, Chapter 1.36, and Chapter 11.24 are attached to and made part of this Staff Report. Here, I recommend Council repeal or amend the following provisions of The Dalles Municipal Code, as described:

- **TDMC Chapter 1.08** (*City Council*)

This Chapter was adopted in 1992 and prescribes then-interim rules governing Council meetings. The Chapter itself identifies it was designed to be temporary in nature pending Council’s adoption of a “complete set of rules and procedures for Council meetings by resolution”—at the time of this writing, I expect Council would have just adopted Resolution No. 24-016 to adopt the *City Council Rules and Code of Conduct Policy*, which would obviate the need for this Chapter in and of itself. However, if Council declined to so adopt, previous iterations of those rules since 1992 have already satisfied the Chapter’s intent to be temporary in nature. Accordingly, I recommend Council repeal **TDMC Chapter 1.08** (*City Council*) in its entirety.

- **TDMC Chapter 1.36** (*Public Library*), **Section 1.36.020** (*Library Board*)



This Section currently reads:

**1.36.020 Library Board.**

*Pursuant to the Third Intergovernmental Agreement between the Wasco County Library Service District and the City of The Dalles, effective July 1, 2010, as revised by the First Amendment to the Third Intergovernmental between the Library Service District and the City dated July 28, 2010 (which agreements are hereinafter referred to as “IGA”), the Library Service District shall appoint a Library Board. The responsibilities of the Library Board shall be set forth in the IGA. The IGA shall also include provisions for the operation, funding, and maintenance of the public library.*

As Council may recall, the City Manager and Finance Director negotiated the Fourth Intergovernmental Agreement between the City and Wasco County Library Service District earlier this year, which in and of itself is sufficient cause for amending this Section (which references the Third Intergovernmental Agreement). Aside from outdated references, though, this Section appears to attempt to exceed the scope of the City’s legislative authority by compelling the Wasco County Library Service District to appoint a Library Board—the City does not have the legal authority to compel a library service district to create a subcommittee. The City similarly does not have the authority to compel by ordinance the content of an intergovernmental agreement, which is negotiated between units of local government pursuant to the provisions of ORS Chapter 190. Accordingly, I recommend Council repeal **TDMC Section 1.36.020 (Library Board)** in its entirety.

- **TDMC Chapter 11.24 (Enterprise Zone)**

Council adopted this Chapter in 1986 and I believe it has not been referred to since then, as the authority for entering enterprise zones and offering local incentives is a function of ORS Chapter 285C. This Chapter contains references to outdated citations of the Oregon Revised Statutes and other legally unnecessary (i.e., repeating what is already codified in and preempted by Oregon law) or insufficient provisions. Notably, TDMC 11.24.010(C) requires the City to process certain permit applications for qualifying enterprise zone firms ahead of all other applications but does not carve out any exception for instances where such prioritization might result in the City’s violation of Oregon land use law (which has strict timelines the City must follow for land use approvals). Accordingly, and as described further in the proposed Ordinance, I recommend some provisions of this Chapter be repealed in their entirety and some provisions be amended to ensure the City’s legal exposure is mitigated to the maximum extent feasible while also supporting the Wasco County Joint Enterprise Zone by offering incentives to qualifying firms.

**BUDGET IMPLICATIONS:**

None.

**COUNCIL ALTERNATIVES:**

1. **Staff recommendation: Move to adopt General Ordinance No. 24-1406 as presented and by title only.**
2. Make and read aloud any non-substantive modifications to then move to adopt General Ordinance No. 24-1406 as amended and by title only.

3. Make substantive changes to then direct Staff to bring the amended General Ordinance No. 24-1406 back for Council's consideration at a future meeting.
4. Decline formal action and provide Staff additional direction.

CHAPTER 1.08  
CITY COUNCIL

**§ 1.08.010. Meeting Places.**

The City Council shall hold its regular meetings at least once each month, at a time and place designated by the Council. Any regular or special meeting of the City Council may be adjourned to a specified date and time thereafter, and any business may be transacted at such adjourned meeting that might be legally transacted at any regular meeting.

( Ord. 92-1151 )

**§ 1.08.020. Duration of Meetings.**

The City Council shall have the power to adopt rules determining the times for the convening and adjournment of Council meetings. The time provisions can be adopted by motion of the Council, on an interim basis, until the Council adopts a complete set of rules and procedures for Council meetings by resolution.

( Ord. 92-1151 ; Ord. 93-1159 )

**§ 1.08.030. Order of Business.**

The business of the City Council shall be taken up and considered in the order listed upon the agenda for the meeting, unless the Mayor directs that a different order of business shall be followed. The order of business for all other meetings shall be determined by the presiding officer. All meetings shall be conducted in accordance with Roberts' Rules of Order.

( Ord. 92-1151 )

**§ 1.08.040. Minutes.**

At each regular meeting of the Council, subject to the requirements of Section 1.08.030 of this chapter, the minutes of the last regular meeting and the minutes of any other meeting which have not been previously approved, shall be examined by the Council. The Council shall approve the minutes by motion with any necessary corrections. No corrections shall be made except as approved by a majority vote of those members of the Council present and no change shall be made which is at variance with any taped record of the meeting. Once approved by the Council, no changes shall be made to the minutes.

( Ord. 92-1151 )

CHAPTER 1.36  
PUBLIC LIBRARY

**§ 1.36.010. The Dalles-Wasco County Public Library Established.**

- A. A public library is hereby established and continued for the City of The Dalles under the provisions of ORS 357.400 to 357.621.
- B. The public library shall be financed through the use of general fund monies, revenue obtained from the operation of the library, intergovernmental agreements, grants, gifts, donations and bequests received and designated to be used for library purposes, and any tax levies that may be authorized by the electors.
- C. The public library shall be the public agency responsible for providing and making freely accessible to all residents in the City of The Dalles library and information services suitable to persons of all ages.

( Ord. 88-1094 )

**§ 1.36.020. Library Board.**

Pursuant to the Third Intergovernmental Agreement between the Wasco County Library Service District and the City of The Dalles, effective July 1, 2010, as revised by the First Amendment to the Third Intergovernmental between the Library Service District and the City dated July 28, 2010 (which agreements are hereinafter referred to as "IGA"), the Library Service District shall appoint a Library Board. The responsibilities of the Library Board shall be set forth in the IGA. The IGA shall also include provisions for the operation, funding, and maintenance of the public library.

( Ord. 18-1364 )

**§ 1.36.030. Prohibited Actions.**

It is unlawful for any person to willfully or maliciously detain any library materials belonging to the public library for 30 days after notice in writing from the librarian of the library that the library material is past due. The notice shall bear upon its face a copy of ORS 357.975 and 357.990 as now constituted.

( Ord. 18-1364 )

**§ 1.36.040. Penalties.**

Violation of any provision of this chapter shall be punishable upon conviction by a fine not to exceed the sum of \$1,250.00. Such conviction and payment of the fine shall not be construed to constitute payment for library material, nor shall a person convicted under this chapter be relieved of any obligation to return such materials to the public library.

( Ord. 18-1364 )

CHAPTER 11.24  
**ENTERPRISE ZONE**

**§ 11.24.010. Enterprise Zone.**

- A. Upon annexation of industrial or commercial property to the City of The Dalles, the City of The Dalles taxes will be subject to negotiated adjustment pursuant to ORS 221.111(3) to provide City property tax relief for a period of not to exceed 10 years, in accordance with the statute.
  - B. For any firm locating within the Enterprise Zone within the City of The Dalles and qualifying under ORS Chapter 284, there shall be a 50% reduction of all City permit fees.
  - C. All City permit applications to firms qualifying under ORS Chapter 284 shall be processed ahead of all other applications.
  - D. The Planning Director of the City of The Dalles is hereby designated permit coordinator and will expedite and assist in the approval of all local, state and federal permits to all firms qualifying under ORS Chapter 284 within the City and within the Enterprise Zone.
  - E. The City of The Dalles acting through its Planning Director shall provide assistance in grant and loan applications or job creation within the City of The Dalles portion of the Enterprise Zone.
- ( Ord. 86-1075 )

**GENERAL ORDINANCE NO. 24-1406**

**AN ORDINANCE REPEALING AND REVISING  
CERTAIN PROVISIONS OF THE DALLES MUNICIPAL CODE  
CHAPTER 1.08 (CITY COUNCIL), CHAPTER 1.36 (PUBLIC LIBRARY), AND  
CHAPTER 11.24 (ENTERPRISE ZONE) FOR LEGAL SUFFICIENCY**

**WHEREAS**, the 2020 City of The Dalles Charter (**Charter**) provides Council shall, by resolution, prescribe rules to govern its meetings;

**WHEREAS**, The Dalles Municipal Code (**TDMC**) Chapter 1.08 (*City Council*) codified General Ordinance Nos. 92-1151 and 93-1159 and prescribes then-interim rules governing Council meetings designed to be temporary in nature pending Council’s adoption of a “complete set of rules and procedures for Council meetings by resolution”;

**WHEREAS**, at its July 8, 2024, regular meeting, Council adopted Resolution No. 24-016 to adopt the *City Council Rules and Code of Conduct Policy (Policy)*, which obviates the need for TDMC Chapter 1.08 (*City Council*) and the City Attorney has recommended Council repeal TDMC Chapter 1.08 for legal sufficiency;

**WHEREAS**, TDMC Chapter 1.36 (*Public Library*) codified General Ordinance Nos. 88-1094 and 18-1364 and establishes The Dalles-Wasco County Public Library;

**WHEREAS**, on May 15, 2024, the City entered that certain *Fourth Intergovernmental Agreement for Library Services* with the Wasco County Library Services District;

**WHEREAS**, TDMC 1.36.020 (*Library Board*) references a previous, outdated, and superseded intergovernmental agreement for library services and the City Attorney has recommended Council repeal TDMC 1.36.020 for legal sufficiency;

**WHEREAS**, TDMC Chapter 11.24 (*Enterprise Zone*) codified General Ordinance No. 86-1075 and provides various and legally insufficient provisions the City Attorney has recommended Council repeal or revise; and

**WHEREAS**, Council finds the recommended repeal and amendment of certain provisions of TDMC Chapter 1.08 (*City Council*), Chapter 1.36 (*Public Library*), and Chapter 11.24 (*Enterprise Zone*) supports the public health, safety, and welfare by ensuring the City’s legal sufficiency.

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF THE DALLES ORDAINS  
AS FOLLOWS:**

Section 1. This Ordinance’s revisions appearing in ~~striketrough~~ shall denote deletions from and **bolded underline** shall denote additions to the existing text of The Dalles Municipal Code.

Section 2. The text of **TDMC Chapter 1.08** (*City Council*) shall be deleted and repealed in its entirety and **TDMC Chapter 1.08** shall be labeled *RESERVED* for the City’s future use.

Section 3. The text of **TDMC Chapter 1.36** (*Public Library*), **Section 1.36.020** (*Library Board*) shall be deleted and repealed in its entirety and **TDMC 1.36.020** shall be labeled *RESERVED* for the City’s future use.

Section 4. The text of **TDMC Chapter 11.24** (*Enterprise Zone*) shall be revised to read:

**11.24.010 Enterprise Zone.**

~~A. Upon annexation of industrial or commercial property to the City of The Dalles, the City of The Dalles taxes will be subject to negotiated adjustment pursuant to ORS 221.111(3) to provide City property tax relief for a period of not to exceed 10 years, in accordance with the statute.~~

~~A. B.~~ For any firm locating within the Enterprise Zone within the City of The Dalles and qualifying under ORS Chapter 284~~5C~~, there shall be a 50% reduction of all **applicable** City **Community Development Department** permit fees **as such fees appear on the effective City Fee Schedule at the time of application submission.**

~~B. C.~~ **To the extent reasonably practicable, A** all City permit applications **submitted by** firms qualifying under ORS Chapter 284~~5C~~ shall be processed ahead of all other applications; **provided, however, in no event shall the City prioritize such applications if prioritization would result in the City’s violation of applicable law, including land use approval timelines prescribed by Oregon law or The Dalles Municipal Code Title 10 (Land Use and Development).**

~~D. The Planning Director of the City of The Dalles is hereby designated permit coordinator and will expedite and assist in the approval of all local, state and federal permits to all firms qualifying under ORS Chapter 284 within the City and within the Enterprise Zone.~~

~~E. The City of The Dalles acting through its Planning Director shall provide assistance in grant and loan applications or job creation within the City of The Dalles portion of the Enterprise Zone.~~

Section 5. This Ordinance shall be effective 30 days after adoption.

**PASSED AND ADOPTED THIS 8<sup>TH</sup> DAY OF JULY, 2024,**

Voting **Yes** Councilors: \_\_\_\_\_  
Voting **No** Councilors: \_\_\_\_\_  
**Abstaining** Councilors: \_\_\_\_\_  
**Absent** Councilors: \_\_\_\_\_

**AND APPROVED BY THE MAYOR THIS 8<sup>TH</sup> DAY OF JULY, 2024.**

\_\_\_\_\_

Richard A. Mays, Mayor

ATTEST:

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Amie Ell, City Clerk