BOARD WORK SESSION AGENDA
October 1, 2019

President Bernice Bagnall  
Treasurer Jim Duggan
Vice President Dick Schmidt  
Secretary Todd Sanders
Acting Secretary Jim Doane

Assistive listening devices are available upon request 48 hours prior to the day of the meeting by calling (503) 848-3000. For additional questions or assistance, see the District Recorder seated near the windows.

For online meeting information, Commissioner bios and more, visit www.tvwd.org.

VISION
Delivering the best water • service • value

MISSION STATEMENT
To provide our community quality water and customer service

VALUES
Reliability • Integrity • Stewardship • Excellence • Safety
WORK SESSION – 6:00 PM

CALL TO ORDER

ANNOUNCEMENTS

1. DISCUSSION ITEMS

   A. Solution to Mitigating Risk for Certain Projects: Alternative Project Delivery. *Staff Report – Nick Augustus*

   B. Hillsboro Emergency Water Supply Agreement. *Staff Report – Clark Balfour*

   C. Willamette Water Supply System Commission Update. *Staff Report – Dave Kraska*

ADJOURNMENT
Key Concepts:
- Alternative project delivery methods can be used for several reasons including accelerating project schedules, reducing risk on projects, obtaining specialized expertise, increasing public safety and more.
- The District continues to explore options that allow for alternative project delivery and avoid unnecessary work that might occur when projects use delivery methods which may not be appropriate for the type of work to be performed.
- The District desires to serve the public by delivering projects in a manner that is in their best interest.

Background:
Typically, the traditional approach to public project delivery has been with a design-bid-build method, which includes designs by professional engineers with construction being completed by a “lowest responsive bid” contractor. For many projects, a design-bid-build delivery method provides good results with not much risk of poor quality, delayed schedule or budget exceedance. But for other more complicated projects, this approach may present certain risks. There may be circumstances that require a different delivery method that incorporates feedback and buy-in from the engineer, the contractor and the District. The District’s recent experience with the design-bid-build approach has resulted in a lot of added time and energy to deliver certain projects.

In 2016, the TVWD Board, acting as the Local Contract Review Board, approved an alternative project delivery method to design and construct the Grabhorn Reservoir.

This informational presentation will:
- Recap the advantages of using alternative methods of project delivery
- Review of the process for which approval is obtained from the Local Contract Review Board
- Present lessons learned
- Report the initial results from the District’s Grabhorn Reservoir project

Budget Impact:
There is no budget impact as this presentation is informational in nature.
Staff Contact Information:
Nicholas Augustus, PE; Engineering Division Manager; 971-327-6292; Nick.Augustus@tvwd.org

Attachments:
None

Management Staff Initials:

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To: Board of Commissioners

From: Clark Balfour, General Counsel

Date: October 1, 2019

Subject: Hillsboro Emergency Water Supply Agreement

Key Concepts:

- The City of Hillsboro wishes to obtain an agreement for emergency water supply in the event the Joint Water Commission (JWC) system cannot produce sufficient supply until the Willamette Water Supply System (WWSS) is operational in 2026.
- The City of Portland is willing to supply up to 10 million gallons per day (MGD) to be wheeled through the TVWD system.
- TVWD will wheel water and provide it to Hillsboro at the JWC North Transmission Line (NTL) terminus at NW Cornelius Pass Road and Highway 26.
- Hillsboro will reimburse TVWD for all costs of connection.
- Respective staffs have developed the attached agreement.
- A separate wheeling agreement between TVWD and Hillsboro specifying delivery points and other implementation tasks may be necessary. The Agreement may also provide for exchange of water.
- Staff suggests this matter be placed on the October 16, 2019 regular Board meeting agenda if some additional changes to the calculation of fees and charges can be made. That will require further discussions with Hillsboro and Portland.

Background:

Except for areas within Hillsboro served by TVWD, Hillsboro obtains its water from the JWC system. The City wishes to obtain an emergency water agreement with Portland to provide part of its demand in the event the JWC cannot produce or deliver water. Once the WWSS is operational in 2026, Hillsboro will have obtained a multiple source system.

Portland is willing to supply up to 10 MGD of emergency water to Hillsboro through June 30, 2026, but it must be delivered through the TVWD system. TVWD is willing to cooperate and deliver water to the Hillsboro system at the terminus of the JWC North Transmission Line where the TVWD system connects. It is possible other connection points could be identified. TVWD is not obligated to deliver a full 10 MGD if that has an adverse impact on TVWD’s system or customers.

Portland fees and charges will be set according to the Regional Water Sales Agreement (RWSA) according to the current draft. This may be impractical as Hillsboro does not have a RWSA. Discussions on this point are ongoing.
TVWD has provided the usual language that requires Hillsboro to pay TVWD for any adverse impacts or additional charges incurred under the contract with Portland if service is provided to Hillsboro. TVWD will also be paid a wheeling charge to be calculated by TVWD staff. The District may need to develop a wheeling agreement with Hillsboro to account for impacted assets used to deliver water to the NTL connection point, or any other connection points. If it turns out to be an exchange of water, the payment may be different than a wheeling calculation.

Hillsboro and TVWD will need to negotiate an agreement with Beaverton regarding service to Beaverton customers if Hillsboro accepts water from the TVWD connection to the NTL (flowing westerly) when Beaverton may be trying to obtain JWC water from the NTL (flowing easterly) for its customers.

This agreement has a six-month termination for convenience clause if any party later determines this is not beneficial. The provision of emergency water to Hillsboro is part of a larger discussion Portland is having with other current wholesale customers, as well as entities, that would like an emergency contract. Portland may wish to develop a uniform template arrangement for Hillsboro and others in the foreseeable future and replace this agreement. It would not affect TVWD because the purchase terms of any agreement are between Portland and Hillsboro. TVWD’s wheeling rates and terms of delivery are between Hillsboro and TVWD and would need to be in place regardless.

**Budget Impact:**
There is no budget impact. TVWD will recover its costs through wheeling rates.

**Staff Contact Information:**
Clark Balfour; General Counsel; 503-848-3061; clark.balfour@tvwd.org
Peter Boone, PE, PLS; Water Operations Division Manager; 503-848-3054; peter.boone@tvwd.org
Paul Matthews; Chief Financial Officer; 503-848-3017; paul.matthews@tvwd.org

**Attachments:**
Draft intergovernmental agreement

**Management Staff Initials:**

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This intergovernmental agreement (Agreement) is entered into by and between the City of Portland, a municipal corporation of the State of Oregon (Portland), the Tualatin Valley Water District, a domestic water supply district organized under ORS Chapter 264 (TVWD), and the City of Hillsboro, a municipal corporation of the State of Oregon (Hillsboro) (singularly a Party and collectively the Parties), pursuant to authority granted by ORS Chapter 190.

RECIPEALS

Whereas, Portland, TVWD and Hillsboro understand the importance of water supply agreements and interconnections to supply water throughout the Portland-Metro region in the event of an emergency; and

Whereas, Portland, TVWD and Hillsboro agree it is important for Portland and TVWD to provide potable water to Hillsboro when Hillsboro’s typical water resources are compromised or not available, so long as providing potable water to Hillsboro customers does not interfere with Portland’s or TVWD’s ability to serve their own customers; and

Whereas, Portland, TVWD and Hillsboro understand it is beneficial to outline the terms and conditions under which Portland and TVWD will provide potable water to Hillsboro’s customers; and

Whereas, Portland, TVWD and Hillsboro understand that a separate agreement may be required in the future to accommodate TVWD’s wheeling operations to supply water to agencies that are not Parties to this Agreement; and

Whereas, ORS 190.003 to ORS 190.130 authorizes local governments to enter into agreements with one another.

TERMS AND CONDITIONS

1) **Start and End Dates.** This Agreement is effective on October 1, 2019 and continues through June 30, 2026, unless the Agreement is terminated or extended as provided below.
2) **Agreement Documents.** This Agreement consists of these Terms and Conditions and two exhibits, attached and incorporated by reference, Exhibit A (Party Responsibilities) and Exhibit B (Operations Plan). Any conflict between the documents shall be resolved with the following priority: Terms and Conditions, Exhibit A, Exhibit B.

3) **Payment.** Portland has entered into Regional Water Sales Agreements with several Portland-Metro regional local governments to provide potable water. For emergency water supplies under this Agreement, Hillsboro shall pay Portland and TVWD the rates and charges for interruptible water set forth in the most recently effective Regional Water Sales Agreement. In addition, Hillsboro shall pay Portland and TVWD for any costs of providing emergency water as mutually agreed upon by Portland, TVWD and Hillsboro.

4) **Termination.**

   a) **Termination for convenience.** A Party may terminate this Agreement at the end of any Party’s fiscal year by providing no less than six (6) months’ written notice to the other Parties.

   b) **Termination for cause.** Any Party may terminate this Agreement immediately upon written notice, or at such later date as may be established in such a notice, to the other Parties upon the occurrence of the following events: One Party commits any material breach under this Agreement, fails to perform the services under this Agreement within the time specified, or so fails to pursue the services as to endanger the performance under this Agreement in accordance with its terms.

5) **Changes.** Modifications to this Agreement are valid only if made in writing and signed by all Parties. Exhibit A and Exhibit B may be amended by the Parties in writing upon the signature of the Administrator of the Portland Water Bureau, Chief Executive Officer of TVWD and the Water Department Director of Hillsboro.

6) **Indemnification.** Subject to the limitations of liability for public bodies set forth in the Oregon Tort Claims Act, ORS 30.260 to 30.300, and the Oregon Constitution, each Party agrees to hold harmless, defend, and indemnify each other, including their officers, agents, and employees, against all claims, demands, penalties, actions and suits (including the cost of defense thereof and all attorney fees and costs, through all appeals) arising from the indemnitee’s performance of this Agreement where the loss or claim is attributable to the negligent or intentional acts or omissions of that Party or its officers, employees or agents.

7) **Action, Suits or Claims.** A Party shall give the other Parties immediate written notice of any action or suit filed or any claim made against that Party that may result in claims or litigation in any way related to this Agreement.
8) **No Third-Party Beneficiaries.** This Agreement is between the Parties and creates no third-party beneficiaries. Nothing in this Agreement gives or shall be construed to give or provide any benefit – direct, indirect or otherwise – to third parties.

9) **Remedies, Non-waiver.** The remedies provided under this Agreement shall not be exclusive. The Parties shall also be entitled to any other equitable and legal remedies that are available. No waiver, consent, modification or change of terms of this Agreement shall bind the Parties unless in writing and signed by all Parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of a Party to enforce any provision of this Agreement shall not constitute a waiver by a Party of that or any other provision.

10) **Oregon Law, Dispute Resolution and Forum.** This Agreement shall be construed according to the laws of the State of Oregon. The Parties shall negotiate in good faith to resolve any dispute arising out of this Agreement. If the Parties are unable to resolve any dispute within fourteen (14) calendar days, the Parties are free to pursue any legal remedies that may be available. Any litigation between the Parties arising under this Agreement shall occur, if in the state courts, in the Multnomah County Circuit Court, and if in the federal courts, in the United States District Court for the State of Oregon located in Portland, Oregon, and no other place.

11) **Assignment.** No Party shall assign its rights or obligations under this Agreement, in whole or in part, without the prior written approval of the other Parties.

12) **Severability and Survival of Terms.** If any provision of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the provision shall be stricken if the purposes of this Agreement can be achieved such that the Parties obtain the benefits of this Agreement without adverse fiscal, operational, or other impacts. If there are impacts, the Parties shall attempt to negotiate amendments to the Agreement within thirty (30) calendar days. If unsuccessful in achieving a mutually agreeable solution, this Agreement shall be terminated. All provisions concerning indemnity survive the termination of this Agreement for any cause.

13) **Interpretation of Agreement.** This Agreement shall not be construed for or against any Party by reason of the authorship or alleged authorship of any provision. The Section headings contained in this Agreement are for ease of reference only and shall not be used in construing or interpreting this Agreement.

14) **Notice.** Except as otherwise expressly provided in this Agreement, any notices shall be given in writing by personal delivery, facsimile or mailing, postage prepaid, to the Parties at the address or number set forth below.
15) **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

This writing is intended both as the final expression of the Agreement between the Parties with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement.

All of the aforementioned is hereby agreed upon by the Parties and executed by the duly authorized representatives of the Parties signing on the next page.
The Parties agree to all provisions of this Agreement:

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City of Hillsboro

Signature

Name (Printed)

Title

Date

Approved to Form:
Exhibit A: Party Responsibilities

Hillsboro’s Responsibilities

- Review and, if deemed satisfactory by Hillsboro, approve plans, drawings and technical data provided by TVWD to modify one of TVWD’s water facilities (the Intertie) in no more than fifteen (15) business days from the date TVWD provided the plans, drawings and technical data to Hillsboro. The Intertie is located at the junction of the North Transmission Line (NTL) and TVWD’s water distribution system and TVWD’s modification of the Intertie is necessary to wheel water to Hillsboro. Hillsboro understands and agrees that no additional upgrades or modifications to Portland or TVWD’s water systems will be made as a result of this Agreement.

- Within thirty (30) calendar days of receipt of an invoice from TVWD, reimburse TVWD for all expenses and costs associated with modification of the Intertie. Expenses and costs include, without limitation, materials, construction, reconstructed functionality testing of the NTL and the Intertie, and TVWD’s staff expenses directly relating to all of the above at TVWD’s standard rates which include an allowance for benefits and other indirect cost allocations.

- Adopt an Emergency Declaration following applicable City procedures to demonstrate the need for an emergency water supply. A qualifying emergency is defined as one or more of the following events:
  - Joint Water Commission’s (JWC) Water Treatment Plant is incapacitated;
  - No raw water is available due to untreatable Tualatin River contamination;
  - North Transmission Line (NTL) and South Transmission Line are both disrupted;
  - Some other urgent and unforeseen event occurs that disrupts water supplies to an extreme level.

- Send a copy of the adopted Emergency Declaration to Portland and TVWD and request that water delivery begin as soon as possible.

- Develop an agreement with the City of Beaverton (Beaverton) and TVWD to establish how water will be provided to Beaverton wheeling customers within the TVWD service area if the Joint Water Commission’s (JCW) NTL is utilized for Hillsboro’s emergency purposes.

- Hold Portland and TVWD harmless from any costs that arise from adverse fiscal or operational impacts as a result of this Agreement, including without limitation additional costs related to the Regional Water Sales Agreements, the Beaverton/TVWD Water Services Agreement, the JWC Intergovernmental Agreement, or any other obligations.

- Within thirty (30) calendar days of receipt of an invoice from Portland and TVWD, pay Portland and TVWD for the provision of emergency water supplies as provided in the Agreement, Section 3. Hillsboro understands and agrees that no costs are expected to be paid by the other Parties.
• Follow Exhibit B (Operations Plan).

**Portland’s Responsibilities**

• Provide potable water to Hillsboro if: (1) Hillsboro adopts and delivers to Portland a Declaration of Emergency; and (2) providing emergency water to Hillsboro will not impact, in Portland’s sole discretion, Portland’s ability to serve its own customers.

• Meter the water delivered to TVWD for wheeling to Hillsboro or provide a good-faith estimate of delivered water, whichever is possible using Portland’s existing meter infrastructure. Provide an invoice to Hillsboro of water delivered to TVWD for Hillsboro’s use.

• Follow Exhibit B (Operations Plan).

**TVWD’s Responsibilities**

• Wheel potable water supplied by Portland to Hillsboro if: (1) Hillsboro adopts and delivers to TVWD a Declaration of Emergency; and (2) wheeling emergency water to Hillsboro will not impact, in TVWD’s sole discretion, TVWD’s ability to serve its own customers.

• TVWD will wheel up to 10 million gallons per day (MGD) during the emergency, or as much as TVWD’s water system, in TVWD’s sole discretion, can deliver without negatively impacting TVWD’s customers or the hydraulic grade line of the system.

• Meter the water wheeled to Hillsboro and provide an invoice to Hillsboro.

• When agreed-to by the Parties, exchange water that TVWD would otherwise be entitled to receive from the JWC with Hillsboro by accepting replacement water from Portland. Replacement water will be treated as if it had been wheeled from Portland to Hillsboro.

• Coordinate with Parties and non-parties, as needed, to facilitate wheeling of water to non-parties.

• Follow Exhibit B (Operations Plan).
Exhibit B: Operations Plan

This Operations Plan describes the requirements to provide up to 10 MGD of Portland water to Hillsboro, wheeled through TVWD’s system, during an emergency. The water will be delivered to Hillsboro at TVWD’s Intertie.

Portland’s Operations

Portland will typically provide emergency flow through its existing 24” meter on the Washington County Supply Line (WCSL) until flows reach a level that cannot be accommodated through Portland’s meter with reasonable accuracy. When the existing 24” meter is overwhelmed, Portland will provide flow in one of two ways:

1) Portland will open its existing 54” valve on the WCSL and allow flow through this connection. If the 54” meter is found to be inaccurate at the time of the emergency, the meter may be recalibrated after the emergency has passed through a “bucket test” conducted jointly by Portland and TVWD. Portland and TVWD invoices to Hillsboro will be based on the estimate of the actual water delivered based on the results of the “bucket test.”

2) Portland will open its connection at the Arlington Heights Tank. This route may be used if the flow through the WCSL is insufficient, or if Portland must change the flow location due to operational issues.

TVWD’s Operations

TVWD will typically wheel water to Hillsboro by opening a 36” valve (Valve #1 on Figure 1) on the NTL and closing another valve (Valve #2 on Figure 1) on the inlet pipe receiving water from the JWC.

TVWD will upgrade its SCADA system to automatically control Valve #1 operations. Hillsboro will pay for all necessary upgrades to Valve #1.

If needed, TVWD will program Valve #1 to automatically control the flow rate based on existing bi-directional flow meter readings and pressure gauge readings so that the TVWD-side of the hydraulic grade line shall not fall below four hundred and twenty (420) feet.

If Hillsboro adopts a Declaration of Emergency prior to TVWD’s completion of upgrades to Valve #1 and its SCADA system, TVWD will manually and partially open Valve #1 and use its 16” valve on the Intertie to control flow and pressure limits. TVWD can adjust settings remotely as needed.

In both existing and upgraded (Valve #1 and SCADA system) conditions, TVWD will record emergency flows at its existing bi-directional 20” flow meter on the Intertie.
To: Board of Commissioners
From: David Kraska, PE, Willamette Water Supply System Commission General Manager
Date: October 1, 2019
Subject: Willamette Water Supply System Commission Update

Key Concepts:
At each monthly work session, we are planning to provide the TVWD Board with an update on the current activities at the Willamette Water Supply System (WWSS) Commission. Since the TVWD Board has one representative on the WWSS Commission Board, these reports provide a means of keeping the other TVWD Board members up-to-date on relevant information. The topics of this month’s update are:

- Review the October WWSS Commission Board Meeting agenda
- Review of the Approvals and Procurements Forecast
- Update on Willamette Water Supply Program (WWSP) activities

Since this is the first of these reports, we will be looking to hear from the TVWD Board regarding the level of detail provided on these topics and if there are other items to include in future reports.

Background:
The next WWSS Commission Board meeting is scheduled for October 3, 2019, and the agenda for that meeting is attached to this staff report. At the October Board meeting, we are acting on two business agenda items that help address the WWSP’s current real estate requirements and two significant design contract amendments. Informational items on the agenda include a summary of the intergovernmental agreements that are planned as business agenda items for the November meeting and a summary of the planned event to celebrate the Water Infrastructure Finance and Innovation Act (WIFIA) loans.

The Approvals and Procurements Forecast is a tool that was developed for the WWSP. It provides a summary of recent decisions made, and a look-ahead of what decisions and approvals are coming up in the next few months. This forecast is divided along the various types of approvals and procurements that occur on the WWSP and the different approval levels: Program Director, WWSS Committees and WWSS Board. This document is a companion to the Management Authority Matrix that was approved by the WWSS Commission Board at its September 5, 2019 meeting.

Activity on the WWSP will continue to increase over the next several years as more of our projects enter the construction phase. To enable this, we are working to complete our planning, permitting and real estate activities, though some of these are likely to continue for the next couple years. Active final design work will also continue for the next few years. We currently have four projects in construction. At
the work session, the Board will be provided a brief overview of all these efforts.

**Budget Impact:**
Informational item only. No budget impacts.

**Staff Contact Information:**
David Kraska, PE; WWSS Commission General Manager; 503-941-4561; david.kraska@tvwd.org

**Attachments:**
WWSS Commission October Board Meeting Agenda

**Management Staff Initials:**

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Willamette Water Supply System
Board Meeting Agenda
Thursday, October 3, 2019 | 12:00 – 2:00 PM
Tualatin Valley Water District – Board Room
1850 SW 170th Avenue, Beaverton, OR 97003

To prepare to address the Willamette Water Supply System Board, please fill out the Public Comment Form located on the table near the main door to the meeting room. **Assistive Listening Devices (ALD) are available upon request 48 hours prior to the day of the meeting by calling (503) 941-4580.** **All testimony is electronically recorded.**

BOARD LUNCH/EXECUTIVE SESSION – 11:30 AM

REGULAR SESSION – 12:00 PM

CALL TO ORDER

1. GENERAL MANAGER’S REPORT – Dave Kraska
   (Brief presentation on current activities relative to the WWSS Commission)

2. PUBLIC COMMENT
   (This time is set aside for persons wishing to address the Board on items on the Consent Agenda, as well as matters not on the agenda. Additional public comment will be invited on agenda items as they are presented. Each person is limited to five minutes, unless an extension is granted by the Board. Should three or more people testify on the same topic, each person will be limited to three minutes.)

3. CONSENT AGENDA
   (The entire Consent Agenda is normally considered in a single motion. Any Commissioner may request that an item be removed for separate consideration.)
   
   A. Approve the September 5, 2019 meeting minutes.

4. BUSINESS AGENDA
   
   A. Adopt PLM_1.2 Resolution of Need
   B. Adopt Updated PLW_1.3 Resolution of Need
   C. Contract Amendments
      i. WTP_1.0 Design Amendment for Value Engineering Concepts Incorporation
      ii. PLW_1.2 Design Amendment for Realignment
   D. Consider changing the January 2, 2020 Board meeting date to January 9, 2020.
5. INFORMATION ITEMS
   A. Planned November Business Agenda items
   B. Upcoming WIFIA Event
   C. The next Board meeting is scheduled on November 7, 2019, at Tualatin Valley Water District – Board Room.

6. COMMUNICATIONS AND NON-AGENDA ITEMS
   A. None scheduled.

ADJOURNMENT