



CITY COUNCIL AGENDA ITEM

Department: Finance

Staff Contact: Paul Lewis, Finance Consultant

Agenda Date: September 12, 2018

Item: Proposed Latecomer Agreement with the Cowlitz Indian Tribe

Action Requested: None; Receive Briefing and Provide Opportunity for Public Comment

Background:

The Cowlitz Indian Tribe spent \$4.26 million to construct a sewer pump station and trunk line from the wastewater treatment plant up La Center Road to the I-5 junction. State law and La Center Municipal Code (LCMC) provide the opportunity for the Tribe to recover their costs over time from property owners that benefit from the infrastructure. Wallis Engineering developed the methodology to allocate the cost of the pump station and trunk line to benefitting property owners who will pay the fee when they develop their property and connect to City sewer service. The Latecomer Agreement will outline the terms under which the City will collect the fee and the Tribe will receive payment. LCMC 13.10.240 requires two notices to property owners that benefit from any privately financed infrastructure and that will be subject to the latecomer fee. The first notice, the Preliminary Notice identified in LCMC 13.10.240 (3), was mailed on or around August 15th and is attached for reference.

Briefing and Public Comment on Proposed Latecomer Agreement:

The Preliminary Notice to property owners indicated that additional information and an opportunity to provide City Council with comments would be available at the September 12 City Council meeting. See the attached presentation on the proposed latecomer agreement with the Cowlitz Indian Tribe to be reviewed at the City Council meeting. After the presentation the public will be invited to provide comments to City Council.

Budget/Financial Impact:

Not applicable.

Recommendation/Council Action:

None.

Attachments:

- Preliminary Notice to Property Owners Regarding Latecomer Agreement
- Presentation on Proposed Latecomer Agreement with the Cowlitz Indian Tribe



**CITY OF LA CENTER PRELIMINARY NOTICE TO PROPERTY OWNERS
LATECOMER AGREEMENT FOR LA CENTER ROAD SANITARY SEWER IMPROVEMENTS**

August 14, 2018

Dear Property Owner:

As authorized by R.C.W. 35.91 and La Center Municipal Code 13.10.240, the City of La Center has received an application from the Cowlitz Indian Tribe for the establishment of a Latecomer Agreement for reimbursement of costs associated with the construction of the La Center Road Pump Station and Sanitary Sewer Improvement project. Establishment of the Latecomer Agreement will create a requirement for pro rata reimbursement (e.g., fair share reimbursement) of project costs by benefitting properties. The reimbursement will be due at the time a benefitting property connects to the City's sewer system. Benefitting properties are shown on the map includes as Attachment A. Latecomer Fee assessments will be due only if a property within the benefitting area boundaries connects to the public sewer system within a 20-year timeframe.

The amount of the Latecomer Fee assessment that will be due at the time of connection is based on the project costs and the estimated Equivalent Residential Units (ERU) served by the project in each basin (see Attachment A). The preliminary Latecomer Fee for each basin/benefitting area is as follows:

Sewer Basin (See Attachment A)	Latecomer's Assessment per ERU
A	\$6,173.96
B	\$4,616.00
C	\$972.21
D	\$972.21

The ERUs associated with a specific development will be calculated at the time of connection in accordance with La Center Municipal Code 13.10.350 (see Attachment B). The fee estimate per ERU above is based on preliminary final costs for the project.

Establishment of the Preliminary Latecomer Fee will be discussed at the La Center City Council meeting at 6:30 pm on September 12, 2018. Public comment will be taken at that time.

Property owners may, upon payment of a \$250.00 appeal fee, request an appeal hearing. The appeal request and the fee must be received by the City within 20 calendar days of the mailing of this Preliminary Notice. The appeal based on receipt of a Preliminary Notice is limited to the issue of whether or not a specific property benefits from the La Center Road Pump Station and Sanitary Sewer Improvements and should be included in the area required to pay the Latecomer Fee. A Final Notice will be mailed to property owners 20 days before the final Latecomer Agreement takes effect. An appeal on the methodology used to calculate the final Latecomer Fee may be made after the Final Notice is mailed.

P:\Admin-Office\Construction Management\Shared Folders\Construction Folders\1435B 700 Construction\712 Latecomer's Agreement\DRMT Technical Memorandum\Exhibits\LaCenter Road Basin Map.dwg, 3/13/2018

Westerly Gravity Sewer

Northeasterly Gravity Sewer

Central Force Main

Pump Station Location

NW La Center Road

Basin A

Basin D

Basin B

Basin C

I-5 Corridor



0 350 700
SCALE IN FEET

Legend

- Parcel Lines
- Service Area
- Basin A
- Basin B
- Basin C
- Basin D
- Gravity Sewer
- Force Main

Latecomer's Agreement Service Area

City of La Center

La Center Road Pump Station and Sanitary Sewer

WE:1436B

March 2018

Class of Service	ERU Assignment
Residential	
1. Single-family dwelling	1 ERU
2. Multifamily dwelling	1 ERU per dwelling
3. Trailer courts	
– Permanent mobile home parks	1 ERU per rental space provided sewer service
– Transient RV parks	0.33 ERU per RV site provided sewer service
4. Bed and breakfast	1 ERU, plus 1 ERU per 5 rental rooms
5. Home business (residential primary use)	1 ERU
Nonresidential	
6. High schools, junior high/middle schools and community colleges	1 ERU per 24 students
7. Elementary schools, preschools, day care	1 ERU per 54 students
8. Churches	1 ERU per 150 seats
– If parsonage	1 ERU additional
– If weekday child care or church school	1 ERU per 54 students additional
9. Hospitals – General	1 ERU per bed
10. Convalescent/rest homes	1 ERU per 2 beds
11. Hotels, motels	1 ERU per 2 rooms
– If quality restaurant	1 ERU per 8 seats additional
12. Quality restaurants	1 ERU per 8 seats
13. Fast food	1 ERU per 9 seats
14. Tavern	1 ERU per 15 seats
15. Service stations (without car wash)	2 ERUs
16. Car wash	
– Wand	1.5 ERUs per stall
– Rollover	7.0 ERUs
– Tunnel	7.5 ERUs
17. Laundromats	1 ERU per machine or actual or projected flow calculations approved by the city engineer. See subsection (1)(b) of this section for more information about actual and projected flows.

Class of Service	ERU Assignment
18. Commercial (commercial shall include all classes not otherwise included in this table)	1 ERU per 1,600 sq. ft. or less of interior floor space. For commercial establishment in excess of 1,600 sq. ft. of interior floor space, the city may use actual or projected flow calculations approved by the city engineer; provided, however, the minimum connection fee shall not be less than one equivalent residential unit. If projected flow calculations are used, the connection fee shall be adjusted after the first year of operation of the establishment to reflect actual flow usage in the event the flows were underestimated. (See subsection (1)(b) of this section for more information about actual and projected flows.)
19. Light industrial waste with: – 30 lbs. to 200 lbs. of S.S. per day, or – 30 lbs. to 200 lbs. of BOD per day, and – Less than 10,000 gallons per day	Based on projected average monthly flows during peak season – 700 cu. ft. If projected flows are unknown then basis is same as Class 16.
20. Heavy industrial waste with more than: – 200 lbs. of BOD per day, or – 200 lbs. of S.S. per day, or – 10,000 gallons or more per day	Same as Class 17, 1 ERU per machine

(a) Where seating is on benches or pews, the number of seats shall be computed on the basis of one seat for each 18 inches of bench or pew length.

(b) Where actual or projected flows are used, the minimum connection fee shall not be less than one equivalent residential unit. If projected flow calculations are used, the connection fee shall be adjusted after the first year of operation of the establishment to reflect actual flow usage in the event the flows are underestimated. If projected flow calculations are proposed, it shall be the responsibility of the applicant to provide the engineered water consumption or other information necessary to determine the sewer flow, expressed in gallons per day.

(2) Capital Facility Charge.

(a) So that the property owners shall bear their equitable share of the cost of the wastewater system and as authorized in RCW [35.92.035](#), there shall be paid a capital facilities charge at the time the application is approved for wastewater service. The city council by resolution will establish the amount of the capital facilities charge and may amend the charge as the council may deem necessary.

(b) For projects not completed within 180 days after approval and where the permit has expired in accordance with LCMC [13.10.145](#), the capital facilities charge shall be refunded to the applicant subject to a five percent processing fee. Latecomer and permit inspection fees are nonrefundable. Applicant shall be charged fee rates in effect at time of payment. [Ord. 2011-02 § 2 (Exh. 1), 2011.]

13.10.360 Effective date of charges.

Rates, capital facilities and systems development charges shall be in full force and effect August 1, 2006, as established per LCMC [13.10.030](#). [Ord. 2011-02 § 2 (Exh. 1), 2011.]

City of La Center City Council Meeting

Latecomer Agreement with the Cowlitz Indian Tribe: Council Briefing and Public Comment

September 12, 2018



Agenda

- Latecomer Agreement Summary
- Regulatory Framework
- Overview of the Project
- Project Expense Summary
- Expense Allocation Methodology
- Proposed Fee & Payment
- Process Overview & Next Steps

Latecomer Agreement Summary

- The Cowlitz Indian Tribe spent \$4.26 million to construct a sewer pump station and trunk line from the wastewater treatment plant up La Center Road to the I-5 junction
- State law and La Center municipal code provide the opportunity for the Tribe to recover their costs over time from property owners that benefit from the infrastructure
- Wallis Engineering developed the methodology to allocate costs to benefitting property owners who pay the fee when they develop their property and receive City sewer service
- The Latecomer Agreement outlines the terms under which the Tribe will receive payment

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Regulatory Framework

Revised Code of Washington 35.91.020

- Authorizes private property owners to construct required water or sewer infrastructure and to be reimbursed for their costs from other property owners
- Infrastructure has to comply with City infrastructure standards and City comprehensive planning
- Reimbursement from property owners who subsequently connect to or use the water or sewer facilities, but who did not contribute to the original cost of the facilities
- Reimbursement occurs over 20 years

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Regulatory Framework

La Center Municipal Code 13.10.240

- Provides local requirements for submitting and processing requests by private parties to build infrastructure and be eligible for reimbursement
- Provides guidance on allocating project costs among the property owners based on their pro rata share of costs
- Identifies that payment is due when a building permit is issued or when a connection is made to the City system
- Requires two notices to property owners that will be subject to the latecomer agreement

Regulatory Framework

La Center Municipal Code 13.10.240

- Provides for property owner appeal with each notice
 - Preliminary Notice: Appeal only based on property's inclusion in area subject to the latecomer fee/reimbursement
 - Final Notice: Appeal of costs and fee methodology
- Provides a 15 year term for reimbursement
 - Needs to be updated to conform to State law
 - On Council agenda for September 26
- Outlines City Council approval process

Overview of the Project

Constraints

- Much of the area is characterized by steep slopes and/or landslide hazards
- McCormick Creek in center is low point



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Project Expense Summary

- Total Project Cost = \$4,256,508

Cost Category	Amount	Vendors
Bond Issuance & Wire Fees	\$ 197,258	Various
Interest Expense to June 30, 2018	\$ 209,488	Columbia Bank
Initial Design & Engineering	\$ 179,300	Kittleson Engineering
Construction	\$ 3,328,789	Tapani Construction
Material Testing, Engineering & Misc.	\$ 29,745	Columbia West; Olson Engineering
Project Management	\$ 224,298	Wallis Engineering; City of La Center
Power/Electricity	\$ 57,510	Clark PUD
System Testing & Integration	\$ 30,121	The Automation Group (TAG)
Total Project Costs	\$ 4,256,508	

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Expense Allocation Methodology

- Each property owner is required to pay a fee equal to their proportionate share of the new sewer pump station and trunk line cost – if and when those properties connect to the City's sewer system
- Project costs were allocated to the four basins based on the cost of the infrastructure used to serve each basin
 - Properties in Basin A furthest away from the City's wastewater treatment plant and near the La Center Road/I-5 junction will pay a higher fee than properties in Basins C & D closer to the wastewater treatment plant and near NW Timmen Road

Expense Allocation Methodology

- Project costs were allocated to the properties in the four basins using the same methodology used for the design
 - The project was designed to handle the estimated future demand in total Equivalent Residential Units (ERUs) – the estimated sewer service demand associated with one single family home
 - The ERUs associated with each basin were based on developable acres and Clark Regional planning guidelines for sewer demand
 - Estimated developed acres were adjusted for acres required for streets and other infrastructure and for environmental constraints
 - Estimated ERUs/Acre per CRWD: Commercial = 4.4; Industrial = 6.7; Mixed Use = 7.0; and Residential = 4.95

Expense Allocation Methodology

■ Expense Allocation and Fee by Basin

Basin	Allocated Costs	Estimated Basin ERU	Estimated ERU (Cumulative)	Basin Cost/ ERU	Cumulative Cost/ERU	Total Cost by Basin
Basin A	\$ 708,947	455	455	\$1,558.13	\$ 6,174.61	\$ 2,809,447
Basin B	\$ 2,507,193	233	688	\$3,644.18	\$ 4,616.48	\$ 1,075,640
Basins C&D	\$ 1,040,368	382	1,070	\$ 972.31	\$ 972.31	\$ 371,421
TOTAL	\$ 4,256,508	1,070				\$ 4,256,508

Source: Wallis Engineering

- Flow from ERUs in Basin A flows through Basins A, B, C & D and pays a prorated share of each segment's cost
- Flow from ERUs in Basin B use the pump station and flows through Basins B, C & D and pays a prorated share of costs for those segments only
- Flow from ERUs in Basins C & D pay a prorated share of Basin C & D cost

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Proposed Latecomer Fee & Payment

- The proposed latecomer fee per ERU by basin:
 - Basin A: Junction Area = \$6,174.61 per ERU
 - Basin B: Middle Section = \$4,616.48 per ERU
 - Basins C & D: Lower Section = \$972.31 per ERU
- The actual latecomer fee charged for any proposed development will be based on the ERUs associated with that development as determined by the schedule provided in La Center Municipal Code Section 13.10.350
 - Example: General commercial = 1 ERU per 1,600 square feet
 - Example: Hotel = 1 ERU for every two rooms

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Proposed Latecomer Fee & Payment

- Payment of the latecomer fee is due at the time the building permit is issued or, for a subdivision, when a connection is made to the City sewer system
- The latecomer fee is in addition to the system development charge (SDC) of \$5,841 for all basins subject to the fee
 - The SDC primarily pays for treatment plant expansion and would be higher if the sewer line had not been built by the Cowlitz Tribe
- Total latecomer fee and system development charge:
 - Basin A: Junction = \$12,015.61 per ERU
 - Basin B: Middle Section = \$10,457.48 per ERU
 - Basins C&D: Lower Section = \$6,813.31 per ERU

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Process Overview & Next Steps

Process Overview

- Preliminary notice to property owners – mailed August 15
- Presentation and public comment to City Council – September 12
- City Council approval of latecomer agreement – Scheduled for September 26
- Final notice to property owners – After City Council approval but before agreement is signed
- Agreement signed 20 days after Final notice mailed – if no property owner appeal is filed

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Process Overview & Next Steps

Next Steps

- Tonight
 - Opportunity for public comment and Council feedback
- September 26: Consideration of Latecomer Agreement
 - Opportunity for Council feedback on proposed agreement
 - Code change: make maximum term for latecomer agreement 20 years to conform to State law
- October: Final agreement signed by the City and the Cowlitz Indian Tribe if no appeal
 - Consideration of Final Notice appeals if any are filed

Questions/Discussion

- Agreement and Process Summary
- Regulatory Framework
- Overview of the Project
- Project Expense Summary
- Expense Allocation Methodology
- Proposed Fee and Payment
- Process Update/Next Steps