



City of Tualatin

## CITY OF TUALATIN Staff Report

**TO:** Honorable Mayor and Members of the City Council  
**THROUGH:** Sherilyn Lombos, City Manager  
**FROM:** Kevin R. McConnell, City Attorney  
**DATE:** November 13, 2023

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### **SUBJECT:**

Consideration of Ordinance No. 1482-23, Amending Tualatin Municipal Code Chapter 1-21 Delegating Authority to the City Manager to Approve Certain Intergovernmental Agreements, Grants, and Similar Agreements

### **RECOMMENDATION:**

Staff recommends that Council adopt the ordinance.

### **EXECUTIVE SUMMARY:**

Ordinance No. 1482-23 adds a new provision to the City's Public Contracting Rules, which expands the City Manager's authority to approve and sign certain classes of intergovernmental agreements (IGA's), grants and similar agreements. The ordinance adds new section 1-21-270 to Chapter 1-21 of the Tualatin Municipal Code (TMC).

There has historically been confusion as to when the Manager must forward certain draft IGA's, grants and similar agreements to the City Council for review and approval and when such action is not required. After review of the City Charter and TMC, the City Attorney has determined that unless the Council has specifically authorized the Manager to enter into IGA's, grants and similar agreements (either by resolution or set out in the TMC), all such agreements must be forwarded to Council for review and approval.

Section 6 of the Tualatin City Charter states in pertinent part that except as the Charter otherwise provides, all powers of the City shall be vested in the Council. The City's Public Contracting Rules (the Rules) apply to all public contracts of the City except for the classes of contracts that are declared exempt from the Oregon Public Contracting Code. Per the Rules, the Council reserves to itself the exercise of all of the duties and authority of a contract review board and contracting agency under Oregon State law, unless expressly delegated to the Purchasing Manager (the Manager). The Council has reserved to itself the power to approve all contracts that exceed the Manager's approval authority- which is currently set at \$150,000. However, the Oregon Public Contracting Code does not apply to IGA's and grants. As such, the Rules as currently written do not apply to IGA's and grants.

Therefore, the Council retains the authority (per Section 6 of the Charter) to approve all IGA's and grants unless some other Charter or TMC provision specifically delegates that authority to the Manager. No City Charter or TMC provision grants this broad authority. When the Council does delegate the Manager authority to approve an IGA or grant- it does so explicitly. For example, TMC

13-1-050 provides that the Manager is authorized to enter into an IGA with the state for the administration, collection, distribution, and enforcement of the local 3% marijuana tax.

This ordinance will expand the Manager's authority to approve and sign the following types of IGA's and similar agreements (e.g., memorandums of agreement and understanding):

- Agreements that do not exceed \$150,000;
- Mutual aid agreements for equipment and personnel; involvement in task forces;
- Agreements that implement Council policy decisions; and
- Renewals and extensions of agreements originally approved by the Council.

The ordinance also delegates to the Manager authority to approve and sign grant and loan agreements for which funds are already included in the budget (including grants where the City will donate or receive funds). Finally, the ordinance does not preclude the Manager from referring any agreement so delegated to the Council for review and approval.

This expanded grant of approval authority is similar to the delegation already provided to the Manager for public contracts, and otherwise delegates authority to approve and sign agreements with other governmental entities and nonprofits without undue delay.

#### **ALTERNATIVES TO RECOMMENDATION:**

The Council could decide to not adopt the ordinance, which would require the Council to review and approve the vast majority of IGA's, grants and similar agreements that are before the City.

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#### **ATTACHMENTS:**

Ordinance 1482-23