



22500 Salamo Road
West Linn, Oregon 97068
<http://westlinnoregon.gov>

WEST LINN CITY COUNCIL MEETING MINUTES March 17, 2025

Pre-Meeting

Call to Order and Pledge of Allegiance [6:00 pm/5 min]

Council Present:

Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Kevin Bonnington, and Councilor Carol Bryck.

Council Excused:

Councilor Leo Groner.

Staff Present:

City Manager John Williams, City Attorney Kaylie Klein, City Recorder Kathy Mollusky, Assistant City Engineer Clark Ide, Finance Director Lauren Breithaupt, Library Director Doug Erickson, and Support Services Supervisor Morgan Lovell.

Approval of Agenda [6:05 pm/5 min]

Council President Mary Baumgardner moved to approve the agenda for the March 17, 2025, West Linn City Council Meeting. Councilor Carol Bryck seconded the motion.

Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Kevin Bonnington, and Councilor Carol Bryck.

Nays: None.

The motion carried 4 - 0

[Public Comment \[6:10 pm/10 min\]](#)

Elizabeth Miller requesting an ordinance limiting the amount of time dumpsters and mini storage can be on the street.

Vicki Handy regarding the Parks & Recreation Advisory Board's concerns about the Lady B Tugboat.

[Mayor and Council Reports \[6:20 pm/15 min\]](#)

[Reports from Community Advisory Groups](#)

Mayor Bialostosky had a great time in Washington DC. He met with the Federal delegation, spent time with city councilors from across Oregon, and learned a lot. He would like to give a presentation about what they learned soon.

Councilor Bryck attended the Planning Commission (PC) Meeting, they are looking over the planning docket and had a presentation on the housing production strategy. The Vision43 working group is getting closer to defining the boundaries of where we anticipate zoning changes. The Water Environmental Services group is asking for recommendations for updating their System Development Charges (SDCs) which will now go to the Clackamas County Board of Commissioners.

Council President Baumgardner also attended the National League of Cities (NLC) conference with Councilors Bonnington and Groner, and the Mayor. We learned about interesting advocacy opportunities for transportation related funding and water infrastructure. She attended the American Waterways Association conference events to give testimony to our federal delegation and as her role on the Willamette Falls Locks Authority. She spent time with the Willamette Falls Heritage Association (WFHA) coalition at the board retreat. They are pursuing the national heritage area status for 56 river miles above Willamette Falls. The retreat was held in the newly restored Historic City Hall. She is excited about the upcoming opportunity to hold events there and having the public see it. The Willamette Falls Board trust is being led by former Governor Kate Brown. They are working toward public access and indigenous led cultural interpretation to occur near the falls. This is undetermined exact space with the mill closing and the ongoing conversations with Portland General Electric (PGE).

Councilor Bonnington was also in DC. It was a fantastic experience and he enjoyed spending time with council. It was eye opening interacting with 3,000 people who do what we do. The Parks and Recreation Advisory Board (PRAB) are a very serious group of people and he enjoys

working with them. They discussed and unanimously voted on the recommendation for Council. The PRAB expresses concern about Oppenlander. They want Council to consider costs to operate, upgrade, manage, and maintain the property. Time for community engagement is needed. The PRAB supports all City priorities to determine the need for expanded parkland.

Mayor Bialostosky informed everyone the State of the City will be May 6 at the library at 6:00 pm. He suggested having interactions with the whole Council so they can talk about projects or policies they are interested in. Food will be provided after the event and we are looking at getting the high school jazz band. This information will go out in the OWL.

[Appoint Community Advisory Group Member](#)

Mayor Bialostosky placed before Council appointing Jared Dean to the Economic Development Committee.

Council President Mary Baumgardner moved to approve the Mayor's appointments. Councilor Carol Bryck seconded the motion.

Mayor Bialostosky stated it is always a difficult decision to appoint Community Advisory Group (CAG) Members, and he appreciates everybody applying and serving, and he is glad to have everybody in a role.

Council President Baumgardner appreciates Shannon Knight's service on the Committee for Community Involvement (CCI) and Council would like to offer the opportunity to someone who is not currently serving.

Councilor Bryck appreciates the community stepping up when there are openings on the boards. Having more applicants than openings is a good problem to have.

Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Kevin Bonnington, and Councilor Carol Bryck.

Nays: None.

The motion carried 4 - 0

[Equal Pay Day Proclamation \[6:35 pm/5 min\]](#) **[Proclamation](#)**

Councilor Bryck read the Equal Pay Day proclamation declaring March 25, 2025 Equal Pay Day.

[Consent Agenda \[6:40 pm/5 min\]](#)

[Agenda Bill 2025-03-17-01: Meeting Minutes for February 10, 2025 Council Meeting](#) **[Draft Minutes Information](#)**

Agenda Bill 2025-03-17-02: Amendment to Cooperative Maintenance Agreement between the City and the State of Oregon for OR-43 Multimodal Improvements

[Cooperative Maintenance Agreement Information](#)

Agenda Bill 2025-03-17-03: Transient Lodging Tax Collection Intergovernmental Agreement with the State of Oregon

[Transient Lodging Tax Information](#)

Council President Mary Baumgardner moved to approve the Consent Agenda for the March 17, 2025, West Linn City Council Meeting which includes the February 10, 2025, meeting minutes; the Amendment to Cooperative Maintenance Agreement between the City and the State of Oregon for OR-43 Multimodal Improvements; and Transient Lodging Tax Collection Intergovernmental Agreement with the State of Oregon. Councilor Carol Bryck seconded the motion.

Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Kevin Bonnington, and Councilor Carol Bryck.

Nays: None.

The motion carried 4 - 0

Mayor Bialostosky is disappointed that the cost of HWY 43 went up. When the bond passed in 2018, it was for the stretch between Marylhurst to Hidden Springs all the way down to I205 area. With the delays and costs going up, we can now can only do one intersection. This is one argument for the City to gain control of HWY 43, we could have moved faster and gotten the more of the stretch done rather than going through State of Oregon highway permitting requirements.

Business Meeting [6:45 pm/60 min]

Agenda Bill 2025-03-17-04: ORD 1758, AMENDING WEST LINN MUNICIPAL CODE CHAPTER 4 RELATING TO SURFACE WATER MANAGEMENT

[ORD 1758 Information](#)

City Manager Williams reminded Council they discussed this in a work session on March 3. This ordinance gives the City the authority to adopt the stormwater manual that suits the City's needs which will be brought to Council in April.

Associate City Engineer Ide stated this ordinance is to adopt, amend, and enforce West Linn's stormwater management manual. The City has been utilizing Portland's stormwater management manual. To get more in line with the City's DEQ requirements, it makes more sense to have our own manual. The manual is in draft form and has been put out for public

comment for 30 days. Tonight, we are asking for approval of the ordinance so in the future we can amend and enforce this manual once adopted.

Mayor Bialostosky opened the public hearing.

Public Comments

There were none.

Mayor Bialostosky stated we have not received any written comments either and closed the public hearing.

Council President Mary Baumgardner moved to approve First Reading for Ordinance 1758 amending West Linn Municipal Code Chapter 4 relating to surface water management and set the matter for Second Reading. Councilor Carol Bryck seconded the motion.

Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Kevin Bonnington, and Councilor Carol Bryck.

Nays: None.

The motion carried 4 - 0

Council President Mary Baumgardner moved to approve Second Reading for Ordinance 1758 amending West Linn Municipal Code Chapter 4 relating to surface water management and adopt the ordinance. Councilor Carol Bryck seconded the motion.

Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Kevin Bonnington, and Councilor Carol Bryck.

Nays: None.

The motion carried 4 - 0

[Agenda Bill 2025-03-17-05: Affirmation of West Linn Local Contracting Rule Exemption 10.015: Public Improvement Contracts Invoice Design or Construction Management Contracting Rules Exemption Information](#)

City Manager Williams thanked Support Services Supervisor Morgan Lovell for her work on the operations facilities project, it has been in the works for many years and she has been moving the project along. The item tonight is the sort of detail we must get into to do project correctly. Staff have been working to follow procurement code closely in a transparent matter that is best for the community.

Support Services Supervisor Lovell discussed utilizing an alternative construction procurement method known as construction management general contracting (CMGC). This is a recommended method for this type of facility construction project as outlined in the Agenda Bill and finding of

facts document. Staff recommends adopting the findings of facts that justify this use. Some of the advantages of using the CMGC rather than a design build that we might use for a transportation project is the complexity of project. It is a large site that requires specialized knowledge for site development, civil engineering, mobilization and utilizing a variety of subcontractors. Bringing on the CMGC before the design is done allows contractor to work with final designers and allows us to control costs. Rather than designing an entire project and putting out to bid and finding out it is more expensive than anticipated, the contractor helps us control that cost, helps share the risk in ensuring the project is built on time, and within the negotiated guaranteed maximum price. It allows for early lead items, for instance, if an HVAC system takes nine months to secure, we don't have to wait until the whole project is designed and built. We know it is needed and can source it. We want to get this built and done in an appropriate time amount of time. These are some of the savings this brings to City for procuring and moving forward with this construction method. We have not received any public comments on this, it was published in the Daily Journal of Commerce (DJC) and West Linn Tidings.

In response to Council questions, staff replied:

- An Owners Rep is the professional consultant that really are specialized in these kinds of construction projects. The City does not build facilities of this nature often. Staff focus on civil engineering, not site development and construction of a 50,000 sq.ft. operations facility.
- The Owners Rep helps make sure all the boxes are checked, negotiate contracts, and are on the job site with us acting on the City's behalf to make sure the contract is enforced, that construction is going forward in the manner outlined.
- They help through the design process along with our architect to help set schedules and timelines and make recommendations on how to move forward.

Mayor Bialostosky opened the public hearing.

Public Comment

There were none.

Mayor Bialostosky stated notice was provided in both the DJC and the West Linn Tidings. He closed the public hearing.

Councilor Bryck has delt with this contracting and with complex contracts; this works well and allows staff to stay on top of it.

Council President Mary Baumgardner moved to Affirm use of the existing exemption found in section 10.105 of the City Local Contracting Rules adopted via Resolution 2023-09, and approve and adopt the findings in Attachment 1, and allow for staff to proceed with a CM/GC procurement method. Councilor Carol Bryck seconded the motion.

Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Kevin Bonnington, and Councilor Carol Bryck.

Nays: None.

The motion carried 4 - 0

Support Services Supervisor Lovell stated the next steps are releasing the competitive bid for the Request for Proposal (RFP) to procure CMGC services which will be open for one month. Staff hopes to have lots of proposals and will interview the top candidates. We will be bringing a contract to Council in early June to award and finalize the design. Construction should begin in late summer, early fall. It is a development project so we will be going through the Planning Commission and all the other requirements. The pre-application is scheduled for the beginning of April and our architect consultants will be the applicant on behalf of the City. There has been contact with the neighborhood association and they have been provided updates. Part of the scope of the owner's rep and GMGC will be on engagement and community outreach on the progress.

[Agenda Bill 2025-03-17-06: Investment Policy Update](#)
[Investment Policy Information](#)

Finance Director Breithaupt introduced Dian Woodry and Whitney Mayor who are Government Portfolio Advisers (GPA). They were hired to revise the City's investment policy that hasn't been updated since 2008 and begin some investments. There is a cap on the local government investment pool (LGIP) and for first time ever, West Linn is close to meeting the cap which is 15 percent. Therefore, we would not be able to put more money in the LGIP and would have to invest elsewhere. We have more in our reserves because our expenditures are higher. When expenditures go up the reserves go up. The City has issued debt for the waterline of \$12 million that is still sitting in the account, the Oregon Department of Transportation (ODOT) has not begun to draw on that yet. In addition, the City is still finalizing the 2018 General Obligation (GO) Bond which is still in there. The balance will be going down over next few years. Right now it makes sense to start investing outside of the pool. We retained GPA, this is what they do for other local governments in Oregon. They based the policy out of the Oregon short-term fund board policy. The City took the policy to the board in January who gave it a favorable review. This policy will be brought back to Council with minor changes.

Dian Woodry is proud to have West Linn join their family of cities in Oregon and gave the background of GPA. In 2022, West Linn had a balance of \$27 million. The policy was vetted and have done a thorough analysis to find the right balance for West Linn.

Councilor Bryck believes people think investment is risky. There are the rules the City must go by and the new investment policy is based on that, so there are no concerns. In the last budget, money was put aside for the operations building that has not been built yet so that is one of the reasons there is a large balance.

Finance Director Breithaupt added the City will be issuing debt for the building and will need somewhere to invest it.

Ms. Woodry stated the City will have policy steps in place to manage the project. The first step we will be looking at is investing the \$10 million in the US treasury and agency securities. Interest rates have been fluctuating, and this is a good opportunity to invest about 4 percent to anchor your portfolio down. Right now having 100 percent in the LGIP as the federal rates move down, you are exposed.

Council President Mary Baumgardner moved to approve the City of West Linn's updated Investment Policy. Councilor Carol Bryck seconded the motion.

Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Kevin Bonnington, and Councilor Carol Bryck.

Nays: None.

The motion carried 4 - 0

[Agenda Bill 2025-03-17-07: Arts & Culture Commission Recommendations for the Commissioning of an Artist for Art for the Willamette Main Street Bicycle Kiosk](#)
[Bike Kiosk Information](#)

Library Director Erickson stated there are a few adjustments that had to be made. There has been an increase in cost due to tariffs and other things. He introduced Charity Hudnut and Shatrine Krake from the Arts & Culture Commission (ACC).

Ms. Hudnut reminded Council they approved this project and then an increase of cost happened. She explained the increased costs including insurance and materials.

Ms. Krake added the size of bike kiosk is different and went over the agenda bill discussing the individual costs.

Library Director Erickson stated the percent for the arts fund has \$130,000 in it, the ACC has not spent any money. The fund has been accruing a percentage through the GO bond and Public Works projects. The ACC is working to get this first contact done and will learn and will continue at a faster pace in the future. This is the first public art piece commissioned by Council with recommendation by ACC. The art is woven into the actual fabric of the kiosk rather than a standalone art piece. In the Code, there is 1.5 percent for art - 1 percent for acquisition and .5 for maintenance. This is way under 1 percent of the overall cost of the Willamette Falls project.

Council President Mary Baumgardner moved to Authorize the City to enter into a contract with artist Travis Pond, at the increased quoted amount, for the purposes of a contract for the commission of art for the Historic Willamette Main Street Bicycle Kiosk with the understanding

there may be materials cost changes even with regard to this updated quote. Councilor Carol Bryck seconded the motion.

Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Kevin Bonnington, and Councilor Carol Bryck.

Nays: None.

The motion carried 4 - 0

City Manager Report [7:45 pm/5 min]

City Manager Williams stated Council just got an insight into Staff's Day, 30 minutes on this, 30 minutes on that. He is excited to see art coming out of the Main Street project and appreciates the ACC's work. He went over the agenda items for the next few meetings.

- Staff along with Doug Riggs are trying to stay on top of all the legislative bills, transportation and housing are the big pieces and there are a lot of smaller bills in every aspect of government business.
- The Robert Moore award deadline is April 3. Community grant applications are due April 30.
- Staff have been working on the budget and the draft budget is heading to the designers. Costs are rising, including labor; revenues are flat. West Linn has a very low municipal tax rate compared to other cities which prevents us from providing the level of service this community wants and that neighboring cities can provide. The budget will be a status quo budget. School districts and other cities are making cuts, we are not looking at that this year; however, will discuss what the future looks like. Four years out is not great. The City has to carefully guard expenditures and maximize revenues.
- Some of the other events going on are the Lucky Leprechaun contest that gets people out into our parks and the library is having a jigsaw puzzle swap.
- Some of the other items being worked on are Oppenlander, Lady B tugboat, ordinance options, and next week is Spring Break.

Council discussed what they would like from staff prior to the budget meetings.

Council President Baumgardner is having another open conversation Thursday at 4:00 pm at the Vintage on Main Street in Willamette area.

Councilor Bonnington is having a cars and coffee event this Saturday from 8:00 am to 10:00 am.

Adjourn [7:50 pm]

Minutes approved 4-14-25.



22500 Salamo Road
West Linn, Oregon 97068
<http://westlinnoregon.gov>

CITY COUNCIL AGENDA

Monday, March 17, 2025

5:30 p.m. – Pre-Meeting – Bolton Room & Virtual*

6:00 p.m. – Business Meeting – Council Chambers & Virtual*

1. Call to Order and Pledge of Allegiance [6:00 pm/5 min]
2. Approval of Agenda [6:05 pm/5 min]
3. Public Comment [6:10 pm/10 min]

The purpose of Public Comment is to allow the community to present information or raise an issue regarding items that do not include a public hearing. All remarks should be addressed to the Council as a body. This is a time for Council to listen, they will not typically engage in discussion on topics not on the agenda. Time limit for each participant is three minutes, unless the Mayor decides to allocate more or less time. Designated representatives of Neighborhood Associations and Community Advisory Groups are granted five minutes.

4. Mayor and Council Reports [6:20 pm/15 min]
 - a. Reports from Community Advisory Groups
 - b. Appoint Community Advisory Group Member
5. Equal Pay Day Proclamation [6:35 pm/5 min]
6. Consent Agenda [6:40 pm/5 min]

The Consent Agenda allows Council to consider routine items that do not require a discussion. An item may only be discussed if it is removed from the Consent Agenda. Council makes one motion covering all items included on the Consent Agenda.

- a. Agenda Bill 2025-03-17-01: Meeting Minutes for February 10, 2025 Council Meeting
- b. Agenda Bill 2025-03-17-02: Amendment to Cooperative Maintenance Agreement between the City and the State of Oregon for OR-43 Multimodal Improvements
- c. Agenda Bill 2025-03-17-03: Transient Lodging Tax Collection Intergovernmental Agreement with the State of Oregon

7. Business Meeting

[6:45 pm/60 min]

Persons wishing to speak on agenda items shall complete the form provided in the foyer and hand them to staff prior to the item being called for discussion. A separate slip must be turned in for each item. The time limit for each participant is three minutes, unless the Mayor decides to allocate more or less time. Designated representatives of Neighborhood Associations and Community Advisory Groups are granted five minutes.

- a. Agenda Bill 2025-03-17-04: ORD 1758, AMENDING WEST LINN MUNICIPAL CODE CHAPTER 4 RELATING TO SURFACE WATER MANAGEMENT
- b. Agenda Bill 2025-03-17-05: Affirmation of West Linn Local Contracting Rule Exemption 10.015: Public Improvement Contracts Invoice Design or Construction Management
- c. Agenda Bill 2025-03-17-06: Investment Policy Update
- d. Agenda Bill 2025-03-17-07: Arts & Culture Commission Recommendations for the Commissioning of an Artist for Art for the Willamette Main Street Bicycle Kiosk

8. City Manager Report

[7:45 pm/5 min]

9. Adjourn

[7:50 pm]

PROCLAMATION

West Linn, Oregon

WHEREAS, March 25 is Equal Pay Day this year, a date that fittingly falls within Women's History Month and highlights the persistent issue of the pay gap; and

WHEREAS, we highlight the injustice of gender wage gaps by marking how far into this year women must work, on average, to earn what men made last year; and

WHEREAS, women's labor force participation is the highest it has been in decades, and the gender pay gap is the narrowest it has ever been on record; and

WHEREAS, despite this progress, the fight for equal pay continues; and

WHEREAS, according to the American Association of University Women, women working full time earn around 83 percent of what their male counterparts make, with the gap even wider for women of color; and

WHEREAS, we are making tremendous progress; however there is still much more we must do; and

WHEREAS, let us ensure women get the pay they have earned and deserve and give our daughters the same opportunities as our sons.

NOW, THEREFORE, BE IT PROCLAIMED BY THE CITY COUNCIL OF THE CITY OF WEST LINN, that March 25, 2025 is:

EQUAL PAY DAY

DATED THIS 17TH DAY OF MARCH, 2025

RORY BIALOSTOSKY, MAYOR

ATTEST:

KATHY MOLLUSKY, CITY RECORDER



Agenda Bill 2025-03-17-01

Date: March 10, 2025

To: Rory Bialostosky, Mayor
Members, West Linn City Council

From: Kathy Mollusky, City Recorder *KM*

Through: John Williams, City Manager *JRW*

Subject: Draft Meeting Minutes

Purpose: Approval of City Council Meeting Minutes.

Question(s) for Council:

Does Council wish to approve the attached City Council Meeting Minutes?

Public Hearing Required: None required.

Background & Discussion:

The attached City Council Meeting Minutes are ready for Council approval.

Budget Impact: N/A

Sustainability Impact:

Council continues to present its meeting minutes online, reducing paper waste.

Council Options:

1. Approve the Council Meeting Minutes.
2. Revise and approve the Council Meeting Minutes.

Staff Recommendation:

Approve Council Meeting Minutes.

Potential Motions:

Approving the Consent Agenda will approve these minutes.

Attachments:

1. February 10, 2025, Council Meeting Minutes
2. February 25, 2025, Council Meeting Minutes



CITY OF
West Linn

22500 Salamo Road
West Linn, Oregon 97068
<http://westlinnoregon.gov>

WEST LINN CITY COUNCIL MEETING NOTES February 10, 2025

Pre-Meeting

Call to Order and Pledge of Allegiance [6:00 pm/5 min]

Council Present:

Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Carol Bryck, Councilor Kevin Bonnington, and Councilor Leo Groner.

Staff Present:

City Manager John Williams, City Attorney Kaylie Klein, City Recorder Kathy Mollusky, Planning Manager Darren Wyss, Police Chief Peter Mahuna, Community Service Officer Nichola Higbee, and Legal Counsel Ashleigh Dougill.

Approval of Agenda [6:05 pm/5 min]

Council President Mary Baumgardner moved to approve the agenda for the February 10, 2025, West Linn City Council Meeting removing 4a appointment for CAG to future meeting. Councilor Leo Groner seconded the motion.

Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Carol Bryck, Councilor Kevin Bonnington, and Councilor Leo Groner.

Nays: None.

The motion carried 5 - 0

Public Comment [6:10 pm/10 min]

Michael Tayler re: school bonding amount.

Amelia Chapin re: condition of streets.

Dean Suhr re: Tolling and Oppenlander.

Anthony Bracco re: Robinwood Neighborhood Association.

RJ Cook re: SB 592, Land Development Grants.

Mayor and Council Reports [6:20 pm/15 min]

~~a. Community Advisory Group Appointments~~

This item was removed from the agenda.

Reports from Community Advisory Groups

Councilor Bryck reported on Career Day at Rosemont Ridge where she had an opportunity to speak with eighth graders. She would like to see other career days at the high school as students approach the end of their public school careers. She also attended the quasi-judicial training with the Planning Commission and Historic Review Board.

Mayor Bialostosky reported that he went to Salem on Wednesday for a legislative meeting, where he met with Bruce Starr, Vice Chair of the Joint Transportation Committee, and Senator Ron Wyden, the Senate President, to continue discussion on and advocating against tolling, as well as concerns about Highway 43 and seeking State funding for that roadway.

Councilor Groner found the quasi-judicial training useful and appreciated the curious kids at Rosemont Ridge career day.

Councilor Bonnington reported that he attended Career Day and visited Historic City Hall, noting the warm and welcoming building was nearly complete.

City Manager Williams stated after its rehabilitation, Historic City Hall would be turned over to the Willamette Falls and Landings Area Heritage Coalition in the spring. The nonprofit was still fundraising to prepare the building for use as a museum and cultural center but may not open to the public until 2026. The City would use the building to hold events and offer tours.

[Adopt City Council 2025-2027 Priorities](#)

[2025-2027 Council Priorities Information](#)

Mayor Bialostosky thanked the City Manager and Staff for working with the Council to get the document to the point of adoption.

City Manager Williams reported at the all-day, January 4 retreat Council defined priorities for 2025-2027 that aligned with the biennial budget cycle ending in 2027. After reviewing the priorities in a work session the previous week, Council asked Staff to bring them forward for adoption. The priorities outlined how Council wished to focus its time and energy, identifying key projects and issues at the City, State, Metro, and County levels that reflected Council interests and signaled the City's commitment to key initiatives, collaboration on regional issues, and focus on projects that would benefit the community. It also highlighted areas where Council sought engagement or support from other agencies to advance shared goals.

Councilor Bryck said she liked the goal document's setup and appreciated the introductory language emphasizing it as a living document and that Staff would provide progress updates.

Council President Mary Baumgardner moved to adopt the City Council 2025 to 2027 Priorities. Councilor Leo Groner seconded the motion.

Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Carol Bryck, Councilor Kevin Bonnington, and Councilor Leo Groner.

Nays: None.

The motion carried 5 - 0

[Adopt City Manager Goals](#)

[City Manager Goals Information](#)

Mayor Bialostosky said the City Manager Goals were prepared by himself in consultation with City Manager Williams with suggestions from Councilor Bryck.

City Manager Williams stated that aligning the Council's goals with community expectations helped define the City Manager's responsibilities. The City's 140 employees would continue essential operations throughout the year while the goals provided clear priorities for his focus. The framework included five broad goals with specific implementation examples, serving as a flexible blueprint that could be adjusted as needed throughout the year.

Council President Mary Baumgardner moved to adopt the Council's Goals for City Manager John Williams as posted. Councilor Leo Groner seconded the motion.

Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Carol Bryck, Councilor Kevin Bonnington, and Councilor Leo Groner.

Nays: None.

The motion carried 5 - 0

[Consent Agenda \[6:35 pm/5 min\]](#)

Agenda Bill 2025-02-10-01: Meeting Minutes for January 6 and 13, 2025 Council Meetings
[Draft Minutes Information](#)

Agenda Bill 2025-02-10-02: Public Works Operations Complex Construction Owners' Representative Contract
[PW Ops Complex Information](#)

Agenda Bill 2025-02-10-03: City Attorney Employment Contract Amendment
[City Attorney Employment Amendment](#)

Council President Mary Baumgardner moved to approve the Consent Agenda for the February 10, 2025, West Linn City Council Meeting which includes the January 6 and 13, 2025, meeting minutes - correcting the January 6 Scribner's error changing Mayor Bialostosky's from voting to abstaining on MIP-24-02/VAR-24-05, 2830 Coeur D' Alene; the Public Works Operations Complex Construction Owners' Representative Contract; and City Attorney Employment Contract Amendment. Councilor Leo Groner seconded the motion.

Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Carol Bryck, Councilor Kevin Bonnington, and Councilor Leo Groner.

Nays: None.

The motion carried 5 - 0

[Business Meeting \[6:40 pm/90 min\]](#)

Agenda Bill 2025-02-10-04: Public Hearing – ORDINANCE 1757, RELATING TO VACATING A PORTION OF THE 5TH STREET AND 4TH AVENUE RIGHTS-OF-WAY

[ORD 1757 Information](#)

[Presentation](#)

[Public Comment](#)

Mayor Bialostosky called to order the public hearing.

Ashleigh Dougill, Legal Counsel, Beery, Elsner & Hammond, read the legal parameters and confirmed there were no declarations of a potential or actual conflict of interest or bias, and

no ex parte contacts.

Mayor Bialostosky, Council President Baumgardner, and Councilor Bryck each declared making individual site visits and confirmed they could make an impartial decision.

Planning Manager Wyss presented the Agenda Bill and attachments included in the meeting packet, noting the rights-of-way (ROWs) were within a wetland area where the City has no intention of building a road or running utilities, so the ROWs were not needed. The public comment memo sent this afternoon included the four public comments received prior to the noon deadline. The four additional comments received after the deadline were not part of the record. He clarified how the colored areas in the map indicated the different values of habitat in the wetlands: high (red), medium (dark yellow), low (light yellow), or no-value (purple), and reviewed how the applicable approval criteria were met.

Planning Manager Wyss addressed questions from Council as follows:

- While two-thirds of the properties in the impacted area were required to approve the ROW vacation, the petitioner, SDG-2 LLC, owned more than two-thirds of the property so no signatures were needed from other property owners. He confirmed the petitioner could have sought and potentially obtained the signatures of other owners, but it was not required.
- The petitioner did pay the \$6,000 application fee set by City Council and would have to pay recording fees at the County if the petition was approved. No other compensation would be received the City, however if the vacated property would go back on the tax rolls.
- In response to public comments received today, he had briefly reviewed the Parks Master Plan and did not see the specific three ROWs mentioned.
 - City Attorney Dougill noted that to create a park in the area or areas currently designated as a ROW, the City would need to complete its own vacation process. A park could not be built on a ROW unless the site was vacated, then it could be declared a public park and developed accordingly.

Applicant Presentation

Mercedes Serra, 3J Consulting, presented the application request to vacate three ROW portions of 4th and 5th streets. The ROWs were primarily located in habitat areas and a large wetland, with a portion of the 5th Street ROW outside of the high-value habitat.

- The areas were not identified in the City's adopted plans for access and did not extend services to surrounding properties. The Applicant had consolidated the properties into one tax lot to be recorded, and if approved, the vacation would not leave any individual tax lot without access. The vacation would not impede future development of neighboring properties, as the ROWs were internal to the site and not needed for connectivity.

- Per City Code requirements, the areas were protected habitat, and any future development would be subject to applicable habitat regulations, including Chapter 32.
- To the Applicant's knowledge, the ROW areas were not identified in the Parks Master Plan as an area for park access.

Garrett Stephenson, Legal Counsel, Schwabe, Williamson & Wyatt, provided additional commentary and addressed questions from the Mayor, Council President Baumgardner, and Councilor Bonnington as follows:

- Many public comments expressed concerns about future development of the broader area, but that was not the issue before Council. The request was a ROW vacation of just over one acre of roads that had been platted since 1908 but never used for transportation. This was not a land use case, but a question of whether the City needed the ROW for transportation purposes, as outlined in ORS 271.080 and related statutes.
- ORS 271 established three criteria for vacation. First, the Applicant was required to secure consent from a two-thirds majority of the property owners within 200 feet of the ROW, which the Applicant had obtained. Second, the Applicant needed to show that vacating the ROW would not prejudice the public interest. The statute did not require demonstrating public benefit, only that the ROW was not necessary for access. The ROW had existed for more than 100 years without being used, and the Planning Manager confirmed there were no current plans for transportation or utility use in the ROWs. The Council would have to decouple this from anticipated questions about whether the area should be developed.
- Any future proposal would be subject to the City's land use ordinances, including the Comprehensive Plan, the Zoning Code, Parks Master Plan, and wetland protection regulations, but those considerations were not relevant to the current decision.
- The ROW was originally plated for streets, not for parks, habitat preservation, or any other purpose. The 1908 plat dedicated the streets for public use, but the City had never used them. As such, under ORS 271, the property would revert to abutting landowners upon vacation. Compensation was not required because the ROW was originally dedicated to the City for free and had remained an unused public easement.
- The City Charter strictly protected parks and open spaces, requiring a citywide vote to sell or grant an easement on such properties. However, the ROWs did not fall under those protections, as they were never designated as open space, greenspace, wetland, or habitat.
- He acknowledged concerns from neighbors about potential future development but stated the vacation process should not be used as a growth control mechanism. The City had a comprehensive land development code to regulate growth, and the vacation decision was solely about whether the ROWs were needed for transportation. The Applicant had demonstrated that it was not, and City Staff agreed.
- For these reasons, the Applicant urged the Council to approve the petition for vacation.

The Applicants representatives responded to Councilor questions as follows:

- Ms. Serra explained the motivation for the vacation request was that the Applicant planned to develop the site; however, most of the ROW areas would not be developed. A portion of the northern part of 5th Street was potentially suitable for development, but it was the Applicant's burden to demonstrate its appropriateness, which would be addressed in a separate application. Part of the process involved cleaning up the plat and consolidating the site into a single lot under one ownership. There were benefits under the Development Code to removing public ROW from areas that would not be developed, and the habitat within the ROW could be used for restoration as identified in the Code.
- Mr. Stephenson understood that 90 percent of the ROW area would not be developed.
- Ms. Serra explained the vacation was necessary to consolidate the area under one ownership, allowing for habitat restoration in accordance with the City's Code, as required in a future development application. It would also enable the Applicant to provide appropriate density on the site and apply PUD criteria as a single lot rather than a bifurcated lot. Additionally, the vacation would allow the areas to be protected and maintained within a single future tract rather than remaining City-owned land that was not maintained.
- Ms. Serra confirmed a tax lot map submitted to the City had received preliminary plat approval; however, the final plat could not be approved until the ROW that bifurcated the two parcels were vacated. The Applicant did have a map that showed everything north of the pond as one tax lot that would include the three subject ROWs. Because the ROWs were on the edge of the lot, she would need to consult a map to confirm if the ROWs were on the plat applied for by the Applicant.
- Ms. Serra clarified that having the Applicant/property owner sign the vacation consent met the burden required by law to provide consent from two-thirds of affected property owners. The application did show other affected property owners, but the Applicant was not required to seek or provide those signatures to meet the two-thirds requirement. She confirmed that Bob Schultz was the only person who signed the form.
- Ms. Serra agreed reaching out to affected property owners could have been a nice gesture. The Applicant sought to meet the requirements for the affected area and submit it to the City.
- Mr. Stephenson added he did not believe many people were concerned about their inability to improve these ROWs and use them to access property. He understood that there had been neighborhood development, and that process had a lot of procedural safeguards to it that the Applicant was undertaking to file an application for development. None of those things were required either in the City Code or the statute for the simple vacation of unused ROW.
- Ms. Serra understood that over time, the wetland had been enlarged by the beaver population and the culvert on 4th Avenue and so the area was now protected whereas it was not in the 1970s when the ROWs were established. There was not any expectation at this time that roads or utilities would ever go through the areas.
- Mr. Stephenson noted that, from a legal and land use planning standpoint, it was highly unlikely that the State of Oregon or West Linn would eliminate wetland protections or

seek to drain existing wetlands. He did not see any possibility of the roads being used for public access, at least not in a way that would allow for easy pedestrian or vehicle use.

- Regarding defining whether the public interest would be prejudiced by the vacation, Mr. Stephenson stated the City had discretion in determining the public interest, but there was a distinction in legal language between rules that state something "shall conform to" versus "shall not be inconsistent with" a requirement. The statute regarding public interest did not define the term explicitly, but its meaning could be inferred from the surrounding rules on vacations. The three criteria outlined in the statute included consent from all abutting landowners, consent from two-thirds of the affected area, and whether the public interest would be prejudiced. The third criterion, when considered in the context of the first two, appeared to focus on whether the ROW was still needed for its originally dedicated purpose as a road. If the statute had intended for public interest to be broadly defined, it would have stated that the City could determine it in any way, but instead, it specifically stated that the public interest "shall not be prejudiced." Reasonable minds could differ on this interpretation, but the first two criteria primarily addressed the impact on abutting property owners. Under the statute, only affected property owners had standing to appeal a vacation decision. Unlike a typical land use proceeding where anyone who testified could appeal to the Land Use Board of Appeals (LUBA), the statute specified that only those within the affected area had the ability to challenge the decision in circuit court.

Mayor Bialostosky stated that he tried to find a case interpreting the meaning of the phrase but was unable to and noted the City Council found itself in a situation of being asked to interpret a State law.

Mr. Stephenson agreed, noting he had handled dozens of similar cases over the years, but no case had ever been contested because typically it was very clear—does the City still need the ROW, have any interest in maintaining it for transportation purposes, and have the requisite of consent?

Attorney Dougill added there was some flexibility in whether this was a land use decision, depending on the City's common treatment of vacations. Any written ordinances or regulations regarding vacations would determine this, but in this case, none existed. However, the City had a common practice of treating these vacations as land use regulations and holding quasi-judicial hearings when deciding them. The process proceeded under the more stringent requirements of a quasi-judicial land use proceeding to fulfill that standard, and in that context, it could arguably be appealed to the LUBA. She agreed that reasonable minds could differ on the interpretation of the statute, and there was discretion in how the City, as a local entity, decided to interpret it. The City had chosen not to further interpret it at a local level at this time, leaving only the statutory language as guidance. The language was broad so could be interpreted through a narrow statutory lens as Mr. Stephenson suggested, or it could be interpreted differently. At minimum, the neighbors would have standing to appeal the vacation, but also any interested party including any individuals who have testified at this

hearing and essentially have a stake in the decision-making process.

Councilor Baumgardner understood the standing to appeal extends beyond the property owner himself to those consulted and those whose signatures were not required because they were not necessary.

Mr. Stephenson agreed with Attorney Dougill that the statute was ambiguous regarding who had standing to appeal. ORS Chapter 271 stated, “any property owner affected by the order of vacation or the order awarding damages or benefits in such vacation proceedings may appeal to the circuit court of the County where the City is situated in the manner provided by the City Charter.” Based on that language, he interpreted it to mean that an appeal would need to go to circuit court. While not foreclosing the possibility that someone could appeal to LUBA if such an appeal were filed, he would submit a motion to dismiss, as the local government had no separate criteria concerning vacations. He had no definitive answer but believed that because vacations are not in the City’s land use statutes, which are governed by ORS 197, 197(a), and 227, the subject request was not within LUBA’s jurisdiction.

Attorney Dougill agreed, adding unfortunately, it was not clear because vacations are not in West Linn’s Development Code or Municipal Code. An affected property owner or an affected party who and presented testimony at this hearing or filed written testimony could attempt to file at LUBA and then proceed under ORS 271.130 in circuit court, if desired.

Mr. Stevenson explained his intent in responding to the Mayor’s question was not to discuss the appeals process, but to examine the context of the statute to determine who it was designed to protect and why.

Public Testimony

Kathie Halicki, President Willamette Neighborhood Association (WNA), requested a delay or continuance on the decision until Staff met with WNA members to provide information on the benefits and drawbacks of a ROW street vacation. She noted that none of the surrounding property owners, aside from the LLC, had signed in favor of the vacation, and it was unclear whether they had been informed of its implications. The Applicant did not provide this information at the WNA meeting and indicated they were unable to answer any questions, and their legal representative could not provide details on the number of lots, residences, potential price, or lot sizes. WNA requested that Staff attend its 7:00 pm meeting on Wednesday to educate members on the topic, allowing them to present their recommendations.

Mayor Bialostosky noted that a continuance had been requested, and it was the first evidentiary hearing.

Attorney Dougill advised that Council could either grant the request by continuing the public hearing or leave the record open for additional written evidence, arguments, and testimony. She understood the WNA would like more time to potentially present additional evidence or

testimony and review the existing evidence, so Council could choose to leave the record open for an additional period, if desired, to accomplish that.

Mayor Bialostosky said the continuance issue would be addressed following public testimony.

Michael Taylor, West Linn, reminded that the decision before Council was strictly a street vacation. The 35-acre site did contain a sludge pond, and the vacation was the first step toward removing the sludge pond and subsequent improvements. Regarding the continuance, future opportunities would be available for WNA members to engage in discussions about development. The wetlands would not be affected, and no homes were being approved. Between PGE's 105 acres and this 35-acre parcel, there were two sludge ponds and an area frequently used by walkers, and something in that area had to give. He did not attend the WNA meeting with the Applicant but understood that three residents were removed for being rude to the Applicant. The Applicant could not provide any development details until the approval was granted. It was an iterative process and tonight involved the street vacation.

Eric Griswold, Stafford Hamlet, discussed Native American Elder Chief Joe Copper Jack's approach to land use negotiations, which reserved a seat for "No Voice" to represent the planet, forests, rivers, and non-human beings. Inspired by this, he presented a photo compilation as a reminder to consider the needs of the planet and all living beings. He also submitted a letter of support for protecting the Willamette wetlands, signed by approximately 40 members of the Unitarian Universalist Congregation of Willamette Falls. Development in the area would seriously impact wildlife. There was an increase in road accidents involving animals, including beavers and birds, over the past few years and he was concerned that additional housing would lead to more traffic and serious impacts on wildlife.

Terence Shoemaker, West Linn, Friends of Willamette Wetlands member, urged Council to vote no on Vacation Ordinance 1757. Approving the vacation would be the first step toward a development that would damage a valuable wetland. The City should retain the ROW to incorporate it into the Waterfront Plan, as supported by most respondents to the Waterfront Vision Plan survey. The Highway 43 Vision Plan and the Waterfront Master Plan provided a framework for thoughtful residential and commercial development, but the Schultz proposal was the worst possible plan in the worst possible location, encroaching on wetlands and the floodplain.

- Approving a development in this location defies the spirit and intentions of City Codes, which include buried loophole-ridden obfuscations that allow developers to circumvent the spirit of the Code. For example, according to Chapter 32.090-C-2, planned development would result in a net loss of water resource area. Additionally, Chapter 32.070 and Chapter 32.080 provide convenient workarounds for developers to again circumvent the spirit and intention of City Codes. The anticipated Shultz development would fail to meet any requirements in Chapter 32.080 Section B, and would completely violate Chapter 24.100 Section B. A planned unit development on 5th Avenue ran totally against the spirit and intention of the Community Development

Code (CDC), especially, Chapter 32. Approving these ROW vacations would contradict the City's goals for Highway 43 and the waterfront project area, because Council knows what is coming.

- Even though the Waterfront Vision Plan survey questions were severely flawed, the Pond District Survey results still showed the greatest number of responses favored wetland trails with viewing platforms, and a visitor and nature center. Schultz' planned development would also violate the goals of the Sustainable West Linn Strategic Plan, which provided the best framework for responsible governance. Council should preserve the last wetlands in the city and prevent an invasive development that would degrade the wetlands, negate Safe Routes to School, create extremely unsafe walking routes in a community with narrow streets and no sidewalks, disturb and congest the neighborhood with construction vehicles and create a highly untenable situation for emergency vehicles.
- Friends of Willamette Wetlands had gathered nearly 3,000 signatures of those opposing development and supporting the protection and rehabilitation of the wetlands. The Friends was committed to fighting the coming project for as long as necessary. Newly discovered documents and studies regarding the lack of structural integrity of the settlement pond and the risk of toxic waste leaking into the wetlands would further strengthen opposition within the community. He urged Council to vote no on the vacation ordinance.

Nicole Jackson, West Linn, opposed the vacation, highlighting key issues from the written testimony she submitted earlier as follows:

- Public interest played an important role in the approval criteria, as Oregon Statute 271.120 required the governing body to determine whether public interest would be prejudiced. In this context, prejudice meant "to cause harm to," and approving the ROW vacation would harm the public interest.
- The Friends of Willamette Wetlands petition attached to her written testimony highlighted the interest in stopping the development and protecting West Linn's largest wetland, of which the developer owned 9 to 10 acres. Community engagement summaries for the Waterfront Vision Plan also emphasized public interest in preserving the area with limited development, such as viewing platforms or walking trails, which could be great use of a ROW along 5th Avenue.
- Page 61 of the 2019 Parks and Recreation Master Plan identified the area as a planned riverfront park and the City had been working to make the area a park before it was sold without the City Council's knowledge. The only documentation she found about this being mentioned was in a memo from a former City Manager noting that the property was for sale, but no decision was brought to Council regarding its purchase from Clackamas Water Environment Services. This shows that the City recognized the subject area as a place for public benefit.
- ROW should be considered for more than just streets and utilities. The City of Portland, when considering the prejudice of public interest in vacations, accounts for view corridors, viewpoints, stormwater functions, tree retention, and more, which could be a

viewing platform. The subject area was in the floodplain and served important stormwater functions as a wetland.

- Concerns raised about the integrity of the settlement pond were not addressed in the Contaminated Media Management Plan provided by the property owner. In the 2014 Department of Environmental Quality (DEQ) documents, no liner of the settling pond was found in any testing conducted by DEQ or the consultants. A large presence of nutria in the area created potential exposure and leak risk due to their burrowing as well as the potential hydraulic communication with the groundwater given the lack of a liner.
- The Council should be alarmed enough not to vacate the ROW until further testing was conducted by DEQ, given that the developer had already received approval to build along the hillside before remediating the sludge pond.
- Without any conservation easements or similar protections in place, the ROW vacation moved the developer one step closer to planned development, which as written in the pre-application, had significant violations of City Code, including the 100-foot wetland buffer, putting West Linn's largest wetland at risk. The Council should consider whether this development would be part of its legacy.
- She requested a pause or postponement of any decision until further evidence could be presented to ensure the safety of the public, and the wildlife in the wetland. The City's land use training also referred to constitutional takings, which could involve either taking property with just compensation or imposing a limiting easement.

Bruce Jackson, West Linn, noted a typo in the presentation for the date given for sign posting, which was 6/23/23, but should likely read, "6/23/24". He described his expertise and experience with chemicals, especially those used in the paper and pulp industry, stating the settling pond on the property was a major concern. Remediation had been discussed for over a decade, yet no known or proper remediation had taken place, and no current reports on the structural status of the pond exist.

- It was understood that the pond was constructed as a continuous earthen berm and a 2014 DEQ assessment found dioxins, heavy metals, and other chemicals typical of a pulp and paper plant in the structure. Environmental and human health regulations had changed, and a pond of this type could no longer be built, especially an earthen based settling pond with chemicals in it. If the pond was leaking due to structural deficiencies or the lack of a liner, remediation would be required. In 2015, estimated remediation costs were \$5 to \$10 million, which would be significantly higher today.
- Despite DEQ's determination that no liner was present, its approval for the developer to build on part of the property relied on a report nearly a decade old. Without any remediation, denying the ROW vacation would prevent the project from proceeding until further testing was conducted for the benefit of public interest.

Connie Johnson, West Linn, lived near the ROWs and opposed the proposed vacations. She believed keeping the land as public property would preserve options for future use in alignment with the Waterfront Vision Plan. She urged Council to retain the property for public

use as greenspace, trails, walkways, or viewing platforms.

Larry Reed, West Linn, loved the diversity of the West Linn's parks, and believed the subject area would add even more diversity, for parks, hiking trails, and viewing next to the country's second largest waterfall.

- More time was needed for comprehensive planning. A no vote for vacating the ROW was not, as the Applicant's representative said, for growth control, but in the interest of the public to have time to see what really needed to be done with the area. It was too valuable to end, and too much development could affect the area in the future. The Applicant had not stated the full intent of his plans.
- Toxic ponds were another problem that should be cleaned up as part of the comprehensive plan and should coincide with any development in the area to restore the wetlands.

Russ Axelrod, West Linn, stated that Chapter 32 was rewritten to address complications in developing West Linn while preserving its remaining water resources. In his first year as Mayor, he recognized the need to master plan the waterfront area, and the process began in 2016. He was shocked to see the wetlands and the floodplain area designated for dense urban development, which conflicted with the district planning framework developed to demonstrate environmental stewardship and protect and restore the City's water resources.

- Tonight's decision could not be decoupled from the bigger picture of West Linn and its planning framework. The master planning was done due to so many similar complications when past incremental development led to unintended consequences and a disrupted community. The community wants to work productively with City Planning to avoid or minimize conflicts.
- The only reason for the ROW vacation was to support dense housing urban development in the wetland. The Council's authority was to recognize where it can keep the city on track, and this was one of those decision points.
- ROWs historically served many public purposes beyond roadways, as several speakers addressed. However, this development project was not in the public's interest. Denying the ROW vacation was necessary to protect the City's future management options in the area. Approval of BAC-24-01 would prejudice the public's interest in violation of ORS 271.120. The city's infrastructure needs in the future were unknown.
- Additional research regarding the pond contamination revealed several uncertain issues. The City's Parks Plan and framework for the waterfront area outlined a clear vision for this area to preserve water resources, as well as the water park idea of recouping part of the ponds' landscape.
- Council should deny BAC-24-01 to help the planning and development of the district get back on track.
- He asked Council to direct the City Manager to have the Planning Department and Planning Commission immediately address the loophole issues in Chapter 32.080, Alternative Review Process, which had remained idle on the Commission docket for two

years. Staff had relied on this section to circumvent aspects of the Code to get some actions and projects approved that otherwise would have failed, and this was the section being relied on to move forward.

- He urged the Councilors to deny the request and expressed appreciation for their service.

City Attorney Dougill reminded that the decision before the Council tonight regarded the vacation, and any future land use decision regarding the subject land would come before the Council in a separate application.

Mr. Stephenson requested a decision on the continuance to determine how to proceed with rebuttal. If a continuance or open record was allowed, he would reserve most of his rebuttal for a written response.

City Attorney Dougill suggested a brief recess to discuss the continuance, confirming that Council could request an extension to the 120-day land use clock which would end on March 26, 2025.

Attorney Dougill explained Council's options when a continuance was requested was to continue the public hearing or leave the record open for at least seven days. Council had decided to close public testimony and leave the record open for a set period for interested parties to present additional evidence or testimony, followed by an additional period for the Applicant to respond.

- She confirmed that continued hearing on March 17, 2025 would be for Council deliberations only with no additional oral testimony, and that the Applicant could submit evidence in response to new information received by March 3rd as well as final written arguments on March 10th.

Mayor Bialostosky confirmed that the public, including the neighborhood association, could submit written testimony until March 3rd at 12 pm; the Applicant could submit final written arguments with any potential evidence in response, by March 10th at 12 pm; and Council deliberations and the vote would take place at 6 pm on March 17th when the full Council would be available.

Mr. Stephenson stated the Applicant supported that proposed timeline and confirmed he could provide brief oral testimony before the public hearing concluded and respond to any additional questions from City Council. His additional comments were as follows:

- In his initial testimony, he raised a concern that this process was being used to encumber or prevent development on his client's property. The City could take a broad view of what constituted the public interest, but the Applicant's position was that the public interest should be informed by the original purpose of the ROWs, which was to

provide a transportation facility. Some testimony suggested that the ROWs could be used for public pathways or hiking trails, but such a use would require filling wetlands. The City was subject to the same prohibitions on filling wetlands as a private developer, making it impractical for the City to easily use the ROWs as a future transportation facility of any kind. Some portions of the ROWs were standing water.

- This was not a popular project amongst people in attendance and making choices in favor of the developer when constituents expressed opposition was difficult. However, the statute allows the Council to do so, and the Applicant believed the criteria had been met. No testimony presented convincing evidence or argument that the City had a principled reason to retain the ROWs for transportation, the purpose for which they were originally intended. The process provided the public an opportunity to voice concerns about the forthcoming land use application, but that application had not yet been submitted. He did not believe the City had a policy or embedded priority that would prevent a development application from being approved if it met City Code, regardless of whether the ROWs were vacated. The City had 117 years to determine whether to use these streets and had not done so. The streets would not serve any future transportation purpose unless the City obtained a permit from DSL to fill the wetlands, which his client had no plans or proposal to do.
- Based on the record, he did not see a reason for the City to keep the ROWs unless the intent was to use them to encumber or complicate development that would otherwise be allowed under the Code near the wetlands. When the development application was submitted, the Council would have the opportunity to determine whether it complied with the City's adopted policies and rules concerning development near wetlands. At that stage, it would be appropriate to consider the Comprehensive Plan, applicable land use plans, and wetland and wildlife habitat conservation codes, but this was not the appropriate context for such considerations. If the Council denied the petition for that reason, it would be doing so with limited information, as no development application had been submitted.
- He understood the pressure the Council was under and acknowledged its discretion. However, the Council should consider that these vacations were for the specific purpose of determining whether the City had an interest in maintaining the ROWs for transportation. The Applicant submitted that it did not. He noted he would respond in writing to the comments heard tonight by the March 10th deadline.
- He clarified that if open written testimony could be submitted until March 3rd, new evidence might be submitted that required a response from the Applicant. If the City placed the burden of proof on the Applicant, and evidence was presented that required a response, the Applicant would not be able to submit that evidence during the first open record period and would need to do so by March 10th.

City Attorney Dougill stated that while the final rebuttal period was for arguments only, the City could allow a written request to keep the record open in a limited context for a set period for the Applicant to respond.

Mr. Stephenson proposed two open record periods, allowing anyone to provide testimony in

response to new submissions during either period while the Applicant would submit final written argument during the second open record period.

City Attorney Dougill confirmed the Applicant could respond to materials submitted on or before March 3rd with both argument and evidence on March 10th.

Mayor Rory Bialostosky moved to Close the public testimony portion of the hearing, leaving the record open for written testimony until March 3, 2025 at 12 pm, allowing the Applicant to submit final written argument until March 10, 2025 at 12 pm, and continuing the public hearing to March 17, 2025 at 6 pm. Council President Mary Baumgardner seconded the motion.

Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Carol Bryck, Councilor Kevin Bonnington, and Councilor Leo Groner.

Nays: None.

The motion carried 5 - 0

[Agenda Bill 2025-02-10-05: ORDINANCE 1756, RELATING TO ATTRACTING OR FEEDING WILD ANIMALS AND AMENDING WEST LINN'S MUNICIPAL CODE](#)

[ORD 1756 Information](#)

Police Chief Mahuna stated that in September 2024, public comments were received regarding the unintended consequences of feeding wild animals, which had attracted skunks into neighborhoods and caused disruptions. The Police Department found that the issue was not isolated to one resident or area and that enforcement under the current Code was inconsistent. The Department examined similar ordinances in other cities and crafted an ordinance which was then discussed before Council multiple times and changes were made to reflect community input and feedback. The new ordinance would allow the Police Department to formally address wild animal feeding when it reached the level of a public nuisance. It was not a prohibition on feeding animals or birds but required that the issue be creating a public nuisance or health concern for surrounding properties.

[Public Comment](#)

Tony Bracco, West Linn, said he was glad to hear there were amendments to the ordinance, but remained concerned that it was primarily driven by complaints against a single person, though he now understood there had been others. He felt the ordinance created a new way for neighbors to turn on each other when existing ordinances already addressed nuisances like trash attracting vermin. He questioned whether feeding outdoor cats, which might attract local wildlife, should be a crime and whether punitive fines or enforcement would truly solve the problem or simply burden citizens and waste City and police resources.

Mayor Bialostosky stated that at the last meeting, he learned the City's current Municipal Code required nuisance enforcement hearings before the City Council, making this ordinance a

better way to handle neighbor-on-neighbor disputes. The Police Department took an education-first approach, and the ordinance was intended to address public health issues, such as large numbers of skunks being fed in neighborhoods, rather than prevent people from feeding birds and squirrels.

Council President Mary Baumgardner moved to approve First Reading for Ordinance 1756, relating to attracting or feeding wild animals and amending West Linn's Municipal Code, and set the matter for Second Reading. Councilor Leo Groner seconded the motion.

Council President Baumgardner acknowledged the issue had become a heated topic on social media and assured those following the discussion that the ordinance was not an attempt by the City to micromanage. It provided a responsible way to support public safety without impacting or even being noticed by most of the community, as most residents were already acting reasonably.

Councilor Bonnington was aware of four of the situations currently going on, so the situation was not isolated, and the City was not adopting a law around one instance.

Mayor Bialostosky added that other cities had similar Codes, which West Linn's Staff referenced when drafting the ordinance.

Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Carol Bryck, Councilor Kevin Bonnington, and Councilor Leo Groner.

Nays: None.

The motion carried 5 - 0

Council President Mary Baumgardner moved to approve Second Reading for Ordinance 1756, relating to attracting or feeding wild animals and amending West Linn's Municipal Code, and adopt the ordinance. Councilor Leo Groner seconded the motion.

Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Carol Bryck, Councilor Kevin Bonnington, and Councilor Leo Groner.

Nays: None.

The motion carried 5 - 0

[Agenda Bill 2025-02-10-06: Proposed 2025 Historic Inventory of the Robinwood Neighborhood](#)

[Historic Inventory Information](#)

City Manager Williams explained that West Linn and other certified local governments in Oregon were eligible for grants to support historic preservation efforts. During a joint meeting with the Historic Review Board (HRB), the Council discussed a work program that included

conducting a historic inventory of the Robinwood Neighborhood, which contained older homes and structures that might qualify for historic designation. Other areas of the city had been studied, and this effort would align with the Vision 43 work.

- The proposed grant request would fund an inventory of 560 properties in the Robinwood area, north of Mary S. Young Park, with the City providing a matching contribution in time or resources. The inventory would not designate properties but would provide information for commercial, residential, or public property owners to consider historic designation. It would also help determine if a historic district should be considered, as had been done in the Willamette area.
- The HRB had recommended moving forward with the grant request, but Council had the option to proceed now and conduct outreach after submission or delay the request until the next grant cycle to allow for more neighborhood communication. Tonight's agenda item was based on the grant cycle, and while Staff was open to delaying the request, they wanted to present the HRB's recommendation for Council's consideration.

City Manager Williams addressed questions as follows:

- A hired consultant would perform the inventory and be paid with State funds.
- Staff's capacity to fill out the grant form would not be an issue. The two main impacts were processing the grant and communication with the neighborhood.
- The grant was a one-to-one match, but he believed the one-to-one could include Staff and volunteer time.

Councilor Bryck noted that ideally there should have been a discussion with the neighborhood association beforehand but grant funding opportunities were not always predictable. Since the inventory did not require anyone to act, it would be fine to proceed with the grant request while also having Staff or herself communicate with the neighborhood association to inform them about the funding request.

Council President Mary Baumgardner moved to support a grant request in February 2025 to develop a new historic inventory for the Robinwood Neighborhood, with the understanding that the City must provide a 50% matching fund for consulting services. Councilor Leo Groner seconded the motion.

Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Carol Bryck, Councilor Kevin Bonnington, and Councilor Leo Groner.

Nays: None.

The motion carried 5 - 0

Agenda Bill 2025-02-10-07: Stafford Area Urban Reserves Updates

Stafford Development - Ready Land Study Information

Mayor Bialostosky noted he had requested this agenda item because the Stafford Area was continually under discussion with several legislative bills being introduced this session as well as several intergovernmental agreements (IGAs) and other things that predated Council, so he wanted Council brought up to date.

City Manager Williams noted he had managed the rural and urban reserves at Metro before coming to West Linn. The Stafford Basin had been a long-standing and complex issue, with ongoing debates about agriculture, forestry, open spaces, and urban development. It was unique as the only area inside the main freeway ring but outside the urban growth boundary, with a freeway exit serving rural land.

Staff provided updates on State legislation, a legal case at the Land Conservation and Development Commission (LCDC), and a Clackamas County study as follows:

- City Manager Williams note the region and Clackamas County had designated Stafford as Urban Reserve, making it a priority for future urban use if additional land was needed. The designation was controversial and led to two intergovernmental agreements (IGAs). One involved Tualatin, Lake Oswego, West Linn, Clackamas County, and Metro. The second agreement was between the three cities alone and established stricter planning timelines. The agreement required three lanes on I-205 before any development could occur to ensure urban-level transportation infrastructure as a baseline. It also prohibited concept planning for areas north of the Tualatin River before May 2029. Some property owners, particularly near the Wankers Corner area and Stafford Road interchange, were interested in development.
- City Attorney Klein provided a high-level overview on *Marks v. Land Conservation and Development Commission (LCDC)*, which had been moving through LCDC and the Oregon court system since 2020. Mr. Marks, a landowner in the Stafford area, claimed that the five-party and three-party IGAs violated Metro's Regional Framework Plan by unlawfully creating contractual barriers to development and urbanization in the Stafford area.
- In January 2025, LCDC Staff recommended the LCDC decline issuing an enforcement order against the five local government parties, including the City of West Linn. LCDC voted to adopt this recommendation and directed Staff to prepare a final order. The City expected the final order soon, at which point Mr. Marks would have 60 days to consider an appeal to the Court of Appeals.
- City Manager Williams stated that last month, Clackamas County submitted a \$1 million planning grant to Metro for a high-level development readiness study. This initiative stemmed from Clackamas County Commission discussions in 2024 about addressing housing challenges in Oregon by evaluating all urban reserve areas within the county for development potential. Similar studies had been conducted before, but the

Commission wanted to be part of the discussion about how new land areas in Clackamas County might contribute to solving the housing crisis.

- After concerns were expressed about potential conflict with the IGAs between West Linn and other city councils, Clackamas County amended the grant application to be a very high-level study and on only a couple areas. Staff hoped the Stafford areas would not be studied. This aligned with long-standing West Linn City Council positions that planning for the Stafford Basin was not a priority or of interest. If that position changed, the Council could discuss and inform Staff about a potential change in policy. Council would want to be part of the work if other cities became involved, so West Linn was not left out of the discussion.
- Based on legal review, the current grant version likely no longer violated the IGAs, as the planning was high level, and without a willing city partner, further planning work of Stafford was unlikely.
- Because Cities were unwilling to cooperate in planning and some property owners were frustrated, Senator Meek sponsored Senate Bill 592, which would require the State to study the formation of a new city in the Stafford Basin. The bill could be aimed at coaxing cities into the discussion; however West Linn was already engaged in addressing housing needs, and Staff was not certain that creating a new city was the best approach to addressing the housing needs crisis. If Council wanted further discussion, the topic could be added to a future agenda.

Mayor Bialostosky noted that the mayors of Lake Oswego and Tualatin had expressed concern after Senate Bill 592 was introduced.

Councilors discussed speaking with Staff regarding the issue to be informed and to be prepared and able to pivot should things start moving forward. Damascus was cited as an example of how not to incorporate a city via legislation.

Mayor Bialostosky suggested Councilors have individual conversations with Staff before adding the topic to a future agenda. The issue was controversial and had been on several cities' radar for a long time.

Council President Baumgardner, Council's liaison to the Stafford Hamlet community, noted that West Linn was now poised to do some long-range planning with the waterfront and Highway 43, both of which included adding density. These plans could be shared with Senator Meek to demonstrate that the City was actively contributing to housing solutions. She does value the rural and potential agricultural uses to keep food production close to the community. The Stafford Hamlet community had done a good job advocating for themselves.

[City Manager Report \[8:10 pm/5 min\]](#)

City Manager Williams reported on the following items:

- The Department Head retreat was a success, featuring discussions on Council goals, the upcoming budget process, and internal topics, all of which aligned with Council's recently adopted goals for the City Manager.
- A special Council meeting was scheduled for Tuesday, as City Hall would be closed for President's Day. The Youth Advisory Council would present on traffic safety, and Council would hold a work session with the Planning Commission to discuss housing production. As requested by Council, an open-house-style discussion on Oppenlander Park was also on the agenda to provide community members an opportunity to share their thoughts and for Council to discuss next steps. The public was encouraged to attend at 7 pm after the main business concluded.
- Council had three regular meetings scheduled in March with the agendas still being finalized.
- Heron Watch at Maddox Woods would begin the week after next.

Councilor President Mary Baumgardner noted that *Oregon Field Guide* aired a segment on Thursday featuring Mike Houck, a well-known birder and longtime leader with Portland Audubon, who gave a presentation on West Linn's herons. She was unsure if the program specifically identified the location as Maddox Woods in West Linn.

City Manager Williams noted that many West Linn residents had never been to Maddox Woods or knew how to find it. Heron season was a unique experience, and many residents could walk from their homes to see it.

[Adjourn \[8:15 pm\]](#)

Draft Minutes.

22500 Salamo Road
West Linn, Oregon 97068
<http://westlinnoregon.gov>

WEST LINN CITY COUNCIL MEETING NOTES February 25, 2025

[Call to Order \[6:00 pm/5 min\]](#)

Council Present:

Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Kevin Bonnington, Councilor Carol Bryck, and Councilor Leo Groner.

Staff Present:

City Manager John Williams, City Attorney Kaylie Klein, City Recorder Kathy Mollusky, and Community Relations Coordinator Danielle Choi.

[Approval of Agenda \[6:05 pm/5 min\]](#)

Council President Mary Baumgardner moved to approve the February 25, 2025 Special Meeting of the City Council. Councilor Leo Groner seconded the motion.

Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Kevin Bonnington, Councilor Carol Bryck, and Councilor Leo Groner.

Nays: None.

The motion carried 5 - 0

[Public Comments \[6:10 pm/10 min\]](#)

There were none.

[Oppenlander direction on next steps \[6:20 pm/60 min\]](#)

[Oppenlander Information](#)

[Public Comment - Dean Suhr](#)

[Public Comment - Ed & Roberta Schwarz](#)

[Public Comment - Theresa Cummings](#)

[Public Comment - Vince Miles](#)

Multiple speakers expressed their support for preserving the park and urged the council to consider a bond measure. The Friends of Oppenlander are committed to continuing their efforts, whether or not the bond measure is approved.

[Public Comment](#)

Linda Parker
Stephanie Kendall
Harlan Borow
Michael Hedges
Roberta Staff
Susan Nicholson
Dean Suhr

[Council Discussion](#)

Council discussed the issue of Oppenlander Park, including the need for a vote and concrete direction, support for preservation, potential bond measure, school district's stance, city's financial needs, ownership status of Oppenlander, exploring alternative options for ballfields, budget constraints, storm cost and reimbursement, and potential public-private partnership for purchasing Oppenlander.

- The school district is not willing to negotiate on the price or timeline for the property.
- The city has other critical financial needs for infrastructure and public safety projects.
- Placing a \$10 million bond measure on the May ballot may jeopardize support for other projects.
- The city owns 600 acres of parkland, not including Oppenlander, which is maintained by the parks department.
- The city is facing budget constraints and has other pressing capital needs.
- The council is open to exploring other options for ballfields and wants to continue the conversation.

- The city does not have a big contingency in the budget and struggles to meet minimums.
- The possibility of forming a public-private partnership for purchasing Oppenlander needs further exploration.

Council President Mary Baumgardner moved to not place a new bond measure to purchase Oppenlander on the May ballot for the reasons stated during this meeting, and direct staff to evaluate and pursue a public-private partnership for the City to purchase some of Oppenlander Field for use as a City park, utilizing existing voter-approved resources or other funding sources. Councilor Leo Groner seconded the motion.

Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Kevin Bonnington, Councilor Carol Bryck, and Councilor Leo Groner.

Nays: None.

The motion carried 5 - 0

[Adjourn \[7:20 pm\]](#)

Draft Minutes.

Agenda Bill 2025-03-17-02

Date Prepared: March 5, 2025

For Meeting Date: March 17, 2025

To: Rory Bialostosky, Mayor
West Linn City Council

Through: John Williams, City Manager

From: Erich, Lais, Department Director

Subject: Amendment to Cooperative Maintenance Agreement between the City of West Linn and the State of Oregon for OR-43 Multimodal Improvements.

Purpose:

To present information regarding proposed amendment to existing Cooperative Maintenance Agreement between the State and the City of West Linn for transportation improvements along the OR-43 corridor.

Question(s) for Council:

Does the Council want to amend the Maintenance Agreement to clarify the boundaries of maintenance responsibility held by the City?

Public Hearing Required:

None Required.

Background & Discussion:

An original project Intergovernmental Agreement (IGA) was executed on or around March 1, 2018 and outlines the requirements and responsibilities of the State and the City with regards to design, funding and deliverance of multimodal improvements along the OR-43 corridor. In addition to the project construction IGA, the City entered into a Cooperative Maintenance Agreement outlining maintenance responsibilities of both parties after project completion.

The original project IGA was amended on June 3, 2024 in order to reduce the scope of the project due to an increase of costs related to timeline extension and design amendments. The significant changes to the scope of original project and scope of delivery included:

- Changes project scope and exhibits from the original project boundaries (Arbor Dr. to Hidden Springs Rd.) to the Marylhurst intersection.
- Changes project intent from multimodal improvements throughout original project boundary to a protected intersection at Marylhurst Rd/OR-43.

Changes to project scope, design and delivery throughout project development has resulted in amendments to the maintenance responsibilities of the parties for the project once completed. A first

amendment to the Cooperative Maintenance Agreement was executed on November 16, 2022. This amendment reduced the scope of maintenance responsibility of the City and incorporated a new project Exhibit C. Upon final design of the project, which was amended as referenced on June 3, 2024, and described above, the project was further reduced to the intersection of Marylhurst and Highway 43.

The proposed second amendment to the Cooperative Maintenance Agreement is now needed to clarify the project boundaries that are now under jurisdiction of the City for required ongoing maintenance.

A revised Exhibit A shall be deleted in its entirety and replaced with a revised Exhibit A. All references to “Exhibit A” and “Revised Exhibit A” shall now be referred to as 2nd Revised Exhibit A”. The Exhibit C, that was added through the 1st Cooperative Maintenance Agreement Amendment will now be deleted in its entirety.

The proposed Amendment 2 for the Cooperative Maintenance Agreement is attached to this report.

Budget Impact:

Budget impacts are not specific but maintenance responsibilities, and therefore costs, are reduced by this amendment.

Sustainability Impact:

Not applicable.

Council Options:

1. Approve the proposed amendment to solidify the City’s reduced maintenance responsibilities.
2. Deny the amendment or request further information.

Staff Recommendation:

Approve the proposed amendment to solidify the City’s reduced maintenance responsibilities. Staff agrees with the proposal and the amendment is needed to keep the project moving forward.

Potential Motion:

1. I move to approve the proposed amendment 2 to the City’s Cooperative Maintenance Agreement with ODOT for Highway 43 Multimodal Improvements and direct staff to execute the required documents.

Attachments:

1. Amendment 2 Cooperative Maintenance Agreement

**AMENDMENT NUMBER 02
COOPERATIVE MAINTENANCE AGREEMENT
OR43 Multimodal Transportation Project: Maintenance Services
West Linn**

This is Amendment No. 02 to the Agreement between the **State of Oregon**, acting by and through its Department of Transportation, hereinafter referred to as “State,” and **City of West Linn**, acting by and through its elected officials, hereinafter referred to as “Agency,” entered into on February 27, 2018 and Amendment Number 01 entered into on November 16, 2022.

It has now been determined by State and Agency that the Agreement referenced above shall be amended to accommodate budget constraints that will reduce the project scope as reflected in the exhibits.

1. **Effective Date.** This Amendment shall become effective on the date it is fully executed and approved as required by applicable law.

2. **Amendment to Agreement.**

Revised Exhibit A from Amendment 01 shall be deleted in its entirety and replaced with the attached 2nd Revised Exhibit A. All references to “Exhibit A” and “Revised Exhibit A” shall hereinafter be referred to as “2nd Revised Exhibit A.”

Exhibit C shall be deleted in its entirety and not replaced.

3. **Counterparts.** This Amendment may be executed in two or more counterparts (by facsimile or otherwise) each of which is an original and all of which when taken together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.

4. **Original Agreement.** Except as expressly amended above, all other terms and conditions of the original Agreement are still in full force and effect. Agency certifies that the representations, warranties and certifications in the original Agreement are true and correct as of the effective date of this Amendment and with the same effect as though made at the time of this Amendment.

5. **Electronic Signatures.** The Parties agree that signatures showing on PDF documents, including but not limited to PDF copies of the Agreement and amendments, submitted or exchanged via email are “Electronic Signatures” under ORS Chapter 84 and bind the signing Party and are intended to be and can be relied upon by the Parties. State reserves the right at any time to require the submission of the hard copy originals of any documents.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

CITY OF WEST LINN, by and through
its elected officials

By _____
City Manager

Date _____

By _____
Counsel

Date _____

Agency Contact:

City Manager
22500 Salamo Road
West Linn, OR 97068
503-742-6001
citymanager@westlinnoregon.gov

STATE OF OREGON, by and through
its Department of Transportation

By _____
Region 1 Maintenance and Operations
Manager

Date _____

State Contact:

Cory Hamilton, District 2B Manager
9200 SE Lawnfield Road
Clackamas, OR 97015
971-673-6200
Cory.d.hamilton@odot.oregon.gov

2ND REVISED EXHIBIT A



Agenda Bill 2025-03-17-03

Date: February 10, 2025

To: Rory Bialostosky, Mayor
Members, West Linn City Council

From: Lauren Breithaupt, Finance Director *LB*

Through: John Williams, City Manager *JRW*

Subject: Transient Lodging Tax Collection Intergovernmental Agreement with the State of Oregon

Purpose

The purpose of this report is to consider approving an Intergovernmental Agreement (IGA) with the State of Oregon for Transient Lodging Tax (TLT) collection. The State of Oregon would supervise and administer the receipts of TLT for the City of West Linn.

Question(s) for Council:

Should the City Council approve the IGA?

Public Hearing Required:

None

Background & Discussion:

The City has made changes to the Municipal Code sections in regards to Transient Lodging Tax over the last few years. The City does not have any hotels or motels within City limits, however, there are a few Air B&Bs and other vacation rental properties. The changes made allow the City to collect Transient Lodging Tax revenues on vacation rental properties. The City also made changes to allow for the State of Oregon to be able to administer the program for the City.

The City currently has very few TLT payers. Since the State administers the program of many cities, they may be able to identify additional revenue through audits and reviews of taxpayers. The additional revenues will hopefully offset the minimal fees charged by the State.

Budget Impact:

The exact budget impact depends on total vacation rentals within West Linn and collections by the State. The fees to the State are expected to be less than \$500/year. Hopefully, some of the fees will be offset with additional revenue.

Sustainability Impact:

Not applicable.

Council Options:

1. Approve the IGA.
2. Reject the IGA.
3. Request additional information or revisions.

Staff Recommendation:

Staff recommends the approval of the IGA to allow the State of Oregon to perform collections.

Potential Motion:

Move to approve the Transient Lodging Tax Collection Intergovernmental Agreement between the City of West Linn and the State of Oregon and direct the City Manager to sign the required documents.

Attachments:

1. Transient Lodging Tax Collection Intergovernmental Agreement

TRANSIENT LODGING TAX COLLECTION INTERGOVERNMENTAL AGREEMENT

This Transient Lodging Tax Agreement (“Agreement”) is entered into between the State of Oregon, acting by and through its Department of Revenue (the “Department”) and the City of West Linn (the “City”), under the authority of ORS 305.620.

In consideration of the conditions and promises hereinafter contained, it is mutually agreed by the parties that the Department shall supervise and administer, according to the terms and conditions set forth in this Agreement, the Local Tax on transient lodging by transient lodging providers authorized under ORS 320.365 and approved by the voters of the City.

(1) Definitions. As used in this Agreement the following terms have the meanings ascribed to them:

(a) “Confidential Information” means the information on Local Tax returns administered pursuant to ORS 305.620, any information in the reports required under Sections 8 and 9 of this Agreement from which information about a particular Local Taxpayer is discernable from the report due to a small number of Local Taxpayers in City or similar factors, and any other information exchanged between the Department and City related to this Agreement that is confidential under ORS 314.835.

(b) “Fees” means collectively the Administrative Services Fee, Business Fee and any additional fees or costs described in Section 5 of this Agreement.

(c) “Local Government” means a city or county that has entered into a form of this agreement with the Department under the authority of ORS 305.620 for the Department to collect Local Taxes authorized under ORS 320.365.

(d) “Local Tax” or “Local Taxes” means the Local Transient Lodging Tax imposed by the City, together with any additional interest or penalties provided for by state statute or the Department’s rules; it does not include any additional penalties or fees that the City may assess against its Local Taxpayers.

(e) “Local Taxpayer” means a Transient Lodging Provider, or a Transient Lodging Intermediary, with a lodging facility located in the taxing jurisdiction of the City.

(f) “Local Transient Lodging Tax” has the meaning given in ORS 320.300(4).

(f) “Ordinance” means the ordinance imposing a Local Tax adopted by the governing body of the City that is attached hereto as **Exhibit B** and by this reference incorporated herein.

(g) “Taxpayer” means a Transient Lodging Provider or Transient Lodging Intermediary with a lodging facility located in a taxing jurisdiction which has opted to have the Department of Revenue administer their local transient lodging tax program throughout Oregon.

(h) “Transient Lodging” has the meaning given in ORS 320.300(11)

(i) “Transient Lodging Intermediary” has the meaning given in ORS 320.300(12)

(j) “Transient Lodging Provider” has the meaning given in ORS 320.300(13).

(2) General Administration. The Department shall be responsible for all aspects of Local Tax administration, including, but not limited to, adopting administrative rules; auditing returns; assessing deficiencies and collecting the Local Tax and penalties and interest under applicable statutes, including but not limited to ORS 305.265, ORS 305.220, and ORS 314.400; making refunds; holding conferences with Local Taxpayers; handling appeals to the Oregon Tax Court; issuing warrants for the collection of unpaid taxes; determining the minimum amount of Local Tax economically collectible; and taking any other action necessary to administer and collect the Local Taxes. The Department has adopted rules related to the taxation of Transient Lodging under ORS chapter 320. The City understands and agrees that such rules will be applied in administering the Local Tax.

(3) Level of Service. In performing its duties, the Department may in its sole discretion determine what action shall be taken to enforce provisions of the law and to collect the Local Tax. In exercising its discretion, the Department shall provide a level of services that are comparable to the level of services it provides in the administration of the State of Oregon transient lodging tax laws and the collection of such taxes owed to the State of Oregon. If the Department deems it necessary to vary substantially from this standard, the Department shall first notify the City of the need and obtain the City’s consent. The Department shall provide all forms necessary for implementation of the Local Tax, including forms for transient lodging tax returns, exemptions and refunds.

(4) Transfer of Taxes to the City. Beginning at the end of the first full quarter after execution of this Agreement, the Department shall remit to the City the amount of Local Taxes collected in the preceding quarter less amounts withheld to pay the Department’s Fees and other costs as described in this Agreement within 60 days of the return due date for the quarter. The Department shall notify the City if, due to an inability to move funds electronically or otherwise through the banking system, a force majeure event described in Section 26 of this Agreement or other exigent circumstance, the Department is unable to transfer the Local Tax collected to the City as provided in this section. In that event, the Department shall provide an estimate, if possible, of when it expects to be able to transfer the Local Taxes collected to the City. The Department may enter into an agreement with another state government agency to fulfill the requirements of this section, provided that said government agency can comply with the requirements of this section.

(5) Fees. In order to recover its costs to collect and transfer the Local Tax as provided in this Agreement the Department shall be paid the following Fees:

(a) “Administrative Services Fee”: Pays for the establishment and maintenance of financial systems needed to administer and distribute Local Taxes. The fee shall be calculated annually as a percentage of the equivalent of 60 hours of work conducted for the Department of Revenue by the Department of Administrative Services, divided among the Local Governments in proportion to the number of Taxpayers in each Local Government. This fee shall be charged

only if the Department of Administrative Services provides transfer services as described in Section 4 of this Agreement.

(b) “Business Fee”: Pays for the Local Tax administration activities set forth in this Agreement. The fee shall be calculated as a percentage of the Department’s Business Division annual expenses for the administration of all lodging taxes, with the total fee increasing in direct proportion to the number of Local Taxpayers. The total amount per Local Taxpayer billed to the City under the Business Fee shall not exceed 0.035 percent of the Department’s Business Division expenses for the administration of all lodging taxes;

FOR EXAMPLE, in a hypothetical with the following assumptions:

1,000 Taxpayers

50 Local Taxpayers in the City of Mainville

2 Local Taxpayers in the City of Middletown

Business Division’s lodging tax expenses: \$500,000 per year

Hourly DAS rate: \$99/hour

The fees would be calculated as follows:

Administrative Services Fee = $(\$99/\text{hour} * 60 \text{ hours}) / 1,000 \text{ Taxpayers} = \5.94 per Local Taxpayer per year

Business Fee = $\$500,000 \text{ in lodging tax expenses per year} * 0.035\% = \175 per Local Taxpayer per year

City of Mainville: $(\$5.94 \text{ Administrative Services Fee} + \$175 \text{ Business Fee}) * 50$ Local Taxpayers = \$9,047.00 in fees

City of Middletown: $(\$5.76 \text{ Administrative Services Fee} + \$175 \text{ Business Fee}) * 2$ Local Taxpayers = \$361.52 in fees

(c) In addition to the Administrative Services Fee and the Business Fee described above, the Department may withhold or otherwise recover from the City the Department’s costs for additional services not described in this Agreement related to the Local Tax. Such additional costs may include, without limitation, requests for audits from the City that exceed the scope of the Department’s normal audit procedures, requests for research or advice from the Department, Oregon Department of Justice attorneys, or specially appointed counsel, regarding the Local Tax.

(d) If the Department determines that its costs cannot be covered by the maximum fees outlined in this section, the Department will notify the City of the amount by which the Department has determined the Fees must increase. If the Department and the City do not agree upon a Fee increase and any required amendment to this Agreement related to the increase, then this Agreement may be terminated by either party in accordance with Section 16 of this Agreement.

(e) The Department may recover its costs to administer the Local Tax, per ORS 305.620(5). The above formula is intended to produce the Department's best estimate of its costs to administer the Local Tax.

(6) Withholding for Fees and Rebate. The Department may withhold from the Local Taxes collected prior to each transfer to the City an amount equal to four percent (4%) of the Local Taxes collected. In the first quarter of each calendar year, the Department will reconcile the amounts withheld in the previous year with the total Fees assessed and provide a reconciliation in the Department's annual report described in Section 9 of this Agreement. If the amount withheld in a calendar year exceeds the amount of the Department's Fees, the Department will rebate the balance of the Local Taxes withheld to the City by the end of the first quarter following the end of the calendar year in which the Local Taxes were withheld. If the amount withheld does not cover the Department's Fees for the preceding year, the amount of the shortfall will be withheld from subsequent transfers of Local Taxes collected until the Department's Fees are fully paid. Alternatively, at its discretion, the Department may invoice the City for the unpaid amount of the Department's Fees.

(7) Recovery of Overpayments. If the amount of Local Taxes paid to the City exceeds the amount to which the City is entitled under this Agreement, the Department may, after notifying the City in writing, withhold from later payments due the City under this Agreement such amounts as are necessary to recover the amount of the overpayment.

(8) Department Quarterly Reports. Beginning with the first full calendar quarter after the execution of this Agreement and continuing each calendar quarter thereafter, within sixty (60) days after the due date for quarterly Local Tax returns, the Department shall provide the City with a report indicating the amount of Local Taxes collected, the Department's Fees incurred, the amount withheld under Section 6 of this Agreement and the cumulative amount of delinquent Local Taxes for each lodging provider in the City's jurisdiction. The information in this report must be treated as potentially revealing Confidential Information and shall be protected as described in Section 15 of this Agreement. The City shall adopt procedures to prevent Confidential Information from being disclosed, except as consistent with this Agreement. The Department and the City may disclose any non-confidential information from a report when allowed or required to do so by law, including the Oregon Public Records Law, ORS 192.311 to 192.478.

(9) Department Annual Reports. During the first calendar quarter of each year, the Department shall provide a written annual report of the preceding calendar year to the City showing the total amount of Local Taxes collected, refunds paid, the expenses of administering and collecting the Local Tax, and other pertinent information. The report shall show the total amount withheld by the Department under Section 6 of this Agreement and shall show the Department's Fees, charged by category. In the report, the Department shall also make recommendations concerning changes in Local Tax Ordinances, procedures, policies, Local Tax administration and related matters, as the Department deems necessary and appropriate. The information in this report must be treated as potentially Confidential Information and shall be protected as described in Section 15 of this Agreement. The City shall adopt procedures to

prevent Confidential Information from being disclosed, except as consistent with this Agreement. The Department and the City may disclose any non-confidential information in the report when allowed or required to do so by law, including the Oregon Public Records Law, ORS 192.311 to 192.478.

(10) City Reports. Within sixty (60) days of the effective date of this Agreement, the City shall provide the Department with a list of zip code areas that are within its jurisdiction for purposes of imposing the Local Tax. The City shall review all reports and reconciliations provided to it by the Department and shall promptly notify the Department of any perceived errors or omissions in such reports.

(11) Records Maintenance and Access. Each party shall maintain its records relevant to this Agreement, including record of the Local Taxes and Local Taxpayers for the period of time specified and, in the manner, required under the document retention and archiving requirements applicable to it that are established under ORS 192.005 to 192.170. Upon written request, each party may examine the records of the other party at a time and location that is convenient and without extra cost to the holder to the records. Provided, however, any requests for records made in connection with litigation or other efforts to collect the Local Tax shall be immediately provided in the time and manner requested.

(12) Ordinance and Notification of Changes. At the time of the execution of this Agreement by the City, the City shall provide a copy of the Ordinance to the Department for incorporation into this Agreement as Exhibit B. In order to insure consistency in administration of the Local Tax, each party shall notify the other of any change in applicable law, including changes to the Ordinance or any state or local regulations or rulings interpreting the Local Tax or the Ordinance and any changes in rates or changes in the City's boundary, at least ninety (90) days prior to the effective date of the change, unless it is not possible to provide ninety (90) days' notice or both parties mutually agree to effect such changes in less than ninety (90) days. Each party shall notify the other of any change in administration of the Local Tax under this Agreement. The parties shall cooperate in amending the Ordinance or in seeking any amendments to ORS 320.365 or ORS 305.620 they agree are necessary.

(13) Information. The parties will cooperate in the exchange of information and making public announcements to facilitate effective administration of the Local Tax and maintain consistency in public announcements and information. Policy announcements, announcement of changes to the Ordinance, and all public relations related to the Local Tax will be handled by the City. The Department shall promptly notify the City of any issue arising in the administration of the Local Tax that would require any legislative change or affect City's policy, including any policy that relates to the amount of Local Tax collected. Nothing in this section shall prohibit the Department from conducting its own outreach activities to increase awareness and knowledge of Local Tax obligations.

(14) Limits and Conditions. To the extent limited by applicable provisions of Article XI, section 7, of the Oregon Constitution or other governing law, and within the limits of the Oregon Tort Claims Act applicable respectively to the Department and the City, each party shall

indemnify the other for damage to life or property arising from their respective duties and obligations under this Agreement, provided neither party shall be required to indemnify the other for any such liability arising out of a party's own negligent or wrongful acts.

(15) Confidentiality.

(a) Confidential Information may be disclosed to the City by the Department, at the discretion of the Department, only for purposes of carrying out the administration of the Local Tax. Requests for Confidential Information may be made by the City by giving not less than ten (10) days' notice to the Department, stating the information desired, the purpose of the request, and the use to be made of the Confidential Information. If the compilation of the requested information is not reasonably feasible, the Department shall so advise the City and may decline to provide the requested information.

(b) ORS 314.840(3) requires that employees and representatives of the City who receive Confidential Information must be advised in writing of the provisions of ORS 314.835 and 314.991, relating to the penalties for unlawful disclosure. Prior to being given access to Confidential Information, all City employees involved in the performance of this Agreement must review the DOR Secrecy Clause and sign the DOR Secrecy Laws Certificate (substantially in the form of Exhibit A, attached hereto and by this reference incorporated herein) certifying the employee understands the confidentiality laws and the penalties for violating them. Annually thereafter, (on or before a date specified by the Department), or upon request by the Department, such City employees must review and sign the latest versions of the Secrecy Clause and the Secrecy Laws Certificate. All signed Secrecy Laws Certificates must be immediately emailed to the designated Department Authorized Representative (indicated below). When an employee with access to Confidential Information terminates employment with the City, the City shall forward the certificate to the Department's Authorized Representative indicating the employee is no longer employed by the City. A listing of every person employed by the City who is authorized to request and receive Confidential Information must be sent by the City to the following designated Department representative:

Aaron Bishop

Title: Transient Lodging Tax Program Manager

Contact Email: aaron.bishop@dor.oregon.gov

(c) Upon request and pursuant to the instructions of the Department, the City shall return or destroy all copies of Confidential Information provided by the Department to the City, and City shall certify in writing the return or destruction of all such Confidential Information.

(d) The administrative rules implementing ORS 314.835 and ORS 314.840, as amended from time to time during the term of this Agreement, shall apply to Confidential Information under this Agreement.

(e) The City shall comply with the requirements of ORS 646A.600 to 646A.628 (the Oregon Consumer Information Protection Act) in the event of a breach of security or disclosure of Confidential Information or other information subject to those requirements.

(16) Term. The term of this Agreement shall begin on the date it is executed by all parties and continue until it is terminated by operation of law or by either party, at its discretion and upon at least ninety (90) days prior written notice. Prior to the termination date specified in any written notice provided under this section or Section 17 below, the City and the Department shall continue to perform their respective duties and obligations of under this Agreement. After the termination date, the Department shall cease all collection and other activities under this Agreement, unless, prior to the termination date, the Department and the City agree in writing that the Department may continue actions regarding any matter pending before the Oregon Tax Court or the Oregon Supreme Court, or related to amounts of Local Tax that are being collected after judgment or stipulation. In addition, after the termination date of this Agreement the Department shall continue to remit to the City any Local Taxes received by the Department, after deduction of the Department's Fees, until all matters pending on the date of termination have been resolved or collected. The Department shall administer the Local Tax for the City beginning with the first calendar quarter commencing after this Agreement is executed. However, if this Agreement is fully executed on or before the 15th day of the calendar quarter, the Department shall begin administering the Local Tax during the quarter in which this Agreement is executed.

(17) Default and Remedies. A party shall be in default under this Agreement if it fails to perform any of its duties and obligations under this Agreement and fails to cure such nonperformance within ninety (90) days after the other party provides written notice specifying the nature of the nonperformance. If the nonperforming party does not cure its nonperformance or provide a satisfactory explanation to the other party of the reasonable cause for its nonperformance under this Agreement, the other party may terminate this Agreement immediately or at a later date specified in written notice provided to the nonperforming party. In addition to termination of this Agreement, in the event of default by a nonperforming party the other party may pursue any remedies available in law or equity, including an action for specific performance.

(18) Notices. All notices, documents, and information shall be sent as follows:

Oregon Department of Revenue
Transient Lodging Tax
Salem, OR 97309

(19) Amendments. The provisions of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties.

(20) Successors and Assigns. This Agreement shall be binding and inure to the benefit of the parties, their assigns, and successors.

(21) Severability. If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

(22) Representations. Each party represents to the other that the making and performance of this Agreement: (a) has been duly authorized by its governing body or official, (b) does not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board or other administrative agency or any provision of any applicable local charter or other organizational document, and (c) does not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which the party is bound.

(23) Governing Law, Consent to Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively "Claim") between the Department and the City regarding the enforcement or interpretation of this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon. The parties understand and agree that any action brought to determine the amount of Local Tax owed by a Local Taxpayer, whether brought solely by the Department or in conjunction with the City shall be initiated solely in the Oregon Tax Court.

(24) Nonappropriation. The obligation of each party to perform its duties under this Agreement is conditioned upon the party receiving funding, appropriations, limitation, allotment, or other expenditure authority sufficient to allow the party, in the exercise of its reasonable administrative discretion, to meet its obligations under this Agreement. Nothing in this Agreement may be construed as permitting any violation of Article XI, sections 7 or 10, of the Oregon Constitution or any other law limiting the activities, liabilities or monetary obligations of each party.

(25) Survival. All rights and obligations of the parties under this Agreement will cease upon termination of the Agreement, other than the rights and obligations arising under Sections 14, 16 and 17, and those rights and obligations that by their express terms survive termination of this Agreement; provided, however, that termination of this Agreement will not prejudice any rights or obligations accruing to a party prior to termination.

(26) Force Majeure. Neither party is responsible for any failure to perform or any delay in performance of an obligation under this Agreement caused by fire, civil unrest, labor unrest, natural causes, or war, which is beyond that party's reasonable control. Each party shall, however, make all reasonable efforts to remove or eliminate such cause of failure to perform or delay in performance and shall, upon the cessation of the cause, diligently pursue performance of its obligation under this Agreement.

(27) Counterparts. This Agreement may be executed in counterparts, all of which when taken together shall constitute one agreement, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Agreement so executed constitutes an original.

(28) Merger. This Agreement and any exhibits constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements or presentations, oral or written, not specified herein regarding this Agreement.

Each party represents that this Agreement, when fully executed and delivered will constitute a legal, valid and binding obligation of the party in accordance with its terms, and that the person signing below is the authorized representative of the party with full power and authority to bind his/her principal to this Agreement.

Oregon Department of Revenue	City of West Linn:
Name/Title:	Name/Title:
Signature:	Signature:
Date signed:	Date signed:

EXHIBIT A

DOR

SECURITY CLAUSE

and

SECURITY LAWS CERTIFICATE

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SECRECY CLAUSE

Taxpayer information is confidential and protected by Oregon law. Only authorized persons may have access to taxpayer information, or to secure buildings where taxpayer information is handled. Oregon law requires that you sign a Secrecy Certificate before being allowed access to this confidential information or secure areas. By signing the certificate, you certify that you understand the confidentiality laws and the penalties for violating them.

This applies to everyone with access to taxpayer information, including:

- Department of Revenue employees
- Employees of other government agencies
- Vendors and contractors
- Business partners

Penalties for unauthorized disclosure of state tax information

- **Income tax***—Class C felony; up to \$125,000 fine; up to five years imprisonment; dismissal from state employment; no public office for five years. [ORS 314.991(2)]
- **Inheritance tax**—Class C felony; up to \$125,000 fine; up to five years imprisonment; dismissal from state employment; no public office for five years. [ORS 118.990(3)]
- **Industrial property tax**—Up to \$10,000 fine; up to one year imprisonment. [ORS 308.990(5)]
- **Timber tax**—Up to \$5,000 fine; dismissal from state employment. (ORS 321.686)
- **Employment Department**—May result in dismissal from state employment, or other discipline. [ORS 657.665(6)]

* These provisions also apply to transient lodging tax (ORS 320.330), cigarette tax (ORS 323.403), tobacco products tax (ORS 323.595), emergency communications tax (ORS 403.230), oil and gas production tax (ORS 324.170), hazardous substances tax (ORS 453.410), and petroleum products tax (ORS 465.124).

Penalties for unauthorized disclosure of federal tax information

- **IRC Sect. 7213**—Felony; up to \$5,000 fine; imprisonment of up to five years; cost of prosecution, damages**.
- **IRC Sect. 7213A**—Up to \$1,000 fine; imprisonment of up to one year; cost of prosecution, damages**.

** Damages may include \$1,000 per act, actual damages, punitive damages, cost of legal action, attorney fees. See Section 7431.

Instructions

Please read the following laws. They explain the types of information that are confidential. If you have questions during your employment or performance of duties, ask your supervisor or a Disclosure officer before accessing or disclosing information.

After reading this information, fill out the last page and return it to the Department of Revenue. Keep the other pages for your records.

Oregon Income Tax Laws

ORS 314.835

(1) Except as otherwise specifically provided in rules adopted under ORS 305.193 or in other law, it shall be unlawful for the Department of Revenue or any officer or employee of the department to divulge or make known in any manner the amount of income, expense, deduction, exclusion or credit or any particulars set forth or disclosed in any report or return required in the administration of ORS 310.630 to 310.706, required in the administration of any local tax pursuant to ORS 305.620, or required under a law imposing a tax upon or measured by net income. It shall be unlawful for any person or entity to whom information is disclosed or given by the department pursuant to ORS 314.840 (2) or any other provision of state law to divulge or use such information for any purpose other than that specified in the provisions of law authorizing the use or disclosure. No subpoena or judicial order shall be issued compelling the department or any of its officers or employees, or any person who has acquired information pursuant to ORS 314.840 (2) or any other provision of state law to divulge or make known the amount of income, expense, deduction, exclusion or credit or any particulars set forth or disclosed in any report or return except where the taxpayer's liability for income tax is to be adjudicated by the court from which such process issues.

(2) As used in this section:

(a) "Officer," "employee" or "person" includes an authorized representative of the officer, employee or person, or any former officer, employee or person, or an authorized representative of such former officer, employee or person.

(b) "Particulars" includes, but is not limited to, a taxpayer's name, address, telephone number, Social Security number, employer identification number or other taxpayer identification number and the amount of refund claimed by or granted to a taxpayer.

ORS 314.991

(2) Violation of ORS 314.835 is a Class C felony. If the offender is an officer or employee of the state the offender shall be dismissed from office and shall be incapable of holding any public office in this state for a period of five years thereafter.

Applicability to other tax programs

The above provisions of ORS 314, concerning the confidentiality of returns and penalties, also apply to:

• Transient lodging tax	ORS 320.330
• Cigarette tax	ORS 323.403
• Tobacco products tax	ORS 323.595
• Emergency communications tax	ORS 403.230
• Oil and gas production tax	ORS 324.170
• Hazardous substances tax	ORS 453.410
• Petroleum products tax	ORS 465.124

Oregon Inheritance Tax Laws

ORS 118.525

(1) It shall be unlawful for the Department of Revenue or any of its officers or employees to divulge or make known in any manner any particulars disclosed in any return or supporting data required under this chapter. Except for executors or beneficiaries and their authorized representatives, it shall be unlawful for any person or entity who has acquired information pursuant to subsections (3) and (4) of this section to divulge or make known such information for any purpose other than that specified in the provisions of law authorizing the use or disclosure. No subpoena or judicial order shall be issued compelling the department, or its officers or employees, or persons described in subsections (3) and (4) of this section, to divulge or make known any particulars disclosed in any such return or supporting data except where the liability for inheritance taxes is to be adjudicated by the Oregon Tax Court. Nothing in this section shall prohibit the publication of statistics so classified as to prevent the identification of particulars in any return or supporting data covered by this section.

(2) As used in this section:

(a) "Officer," "employee" or "person" includes an authorized representative of the officer, employee or person, or former officer, employee or person, or an authorized representative of such former officer, employee or person.

(b) "Particulars" includes, but is not limited to, a taxpayer's name, address, telephone number, Social Security number and the amount of refund claimed by or granted to a taxpayer.

ORS 118.990

(3) Violation of ORS 118.525 is a Class C felony. If the offender is an officer or employee of the state the offender shall be dismissed from office and shall be incapable of holding any public office in this state for a period of five years thereafter.

Oregon Property Tax Laws

ORS 308.290

(1)(a) All returns filed under the provisions of this section and ORS 308.525 and 308.810 are confidential records of the Department of Revenue or the county assessor's office in which the returns are filed or of the office to which the returns are forwarded under paragraph (b) of this subsection.

ORS 308.413

(1) Any information furnished to the county assessor or to the Department of Revenue under ORS 308.411 which is obtained upon the condition that it be kept confidential shall be confidential records of the office in which the information is kept, except as follows:

(a) All information furnished to the county assessor shall be available to the department and all information furnished to the department shall be available to the county assessor.

(b) All information furnished to the county assessor or department shall be available to any reviewing authority in any subsequent appeal.

(c) The department may publish statistics based on the information furnished if the statistics are so classified as to prevent the identification of the particular industrial plant.

(2) The Department of Revenue shall make rules governing the confidentiality of information under this section.

(3) Each officer or employee of the Department of Revenue or the office of the county assessor to whom disclosure or access of the information made confidential under subsection (1) of this section is given, prior to beginning employment or the performance of duties involving such disclosure, shall be advised in writing of the provisions of this section and ORS 308.990 (5) relating to penalties for the violation of this section, and shall as a condition of employment or performance of duties execute a certificate for the department or the assessor in a form prescribed by the department, stating in substance that the person has read this section and ORS 308.990 (5), that these sections have been explained to the person and that the person is aware of the penalties for violation of this section.

ORS 308.990

(5) Subject to ORS 153.022, any willful violation of ORS 308.413 or of any rules adopted under ORS 308.413 is punishable, upon conviction, by a fine not exceeding \$10,000, or by imprisonment in the county jail for not more than one year, or by both.

Forestland Tax Laws

ORS 321.682

(1) Except as otherwise specifically provided by law, it shall be unlawful for the Department of Revenue or any officer or employee of the department to divulge or make known in any manner the amount of the tax or any particulars set forth or disclosed in any report or return required to be filed under ORS 321.045 or 321.741 or any appraisal data collected to make determinations of specially assessed value of forestland pursuant to ORS 321.201 to 321.222. It shall be unlawful for any person or entity to whom information is disclosed or given by the department pursuant to ORS 321.684 (2) or any other provision of state law to divulge or use such information for any purpose other than that specified in the provisions of law authorizing the use or disclosure. No subpoena

or judicial order shall be issued compelling the department or any of its officers or employees, or any person who has acquired information pursuant to ORS 321.684 (2) or any other provision of state law, to divulge or make known the amount of tax or any particulars set forth or disclosed in any report or return except where the taxpayer's liability for timber tax is to be adjudicated by the court from which such process issues.

(2) As used in this section, "officer," "employee" or "person" includes an authorized representative of the officer, employee or person, or any former officer, employee or person, or an authorized representative of such former officer, employee or person.

ORS 321.686

Violation of ORS 321.682 is subject to a fine not exceeding \$5,000 or, if committed by an officer or employee of the state, dismissal or removal from office or employment, or both fine and dismissal or removal from office or employment.

Oregon Employment Department Laws

ORS 657.665

(4) The Employment Department may: ... (i) Disclose information to the Department of Revenue for the purpose of performing its duties under ORS 293.250 or under the revenue and tax laws of this state. The information disclosed may include the names and addresses of employers and employees and payroll data of employers and employees. The information disclosed is confidential and may not be disclosed by the Department of Revenue in any manner that would identify an employing unit or employee except to the extent necessary to carry out the department's duties under ORS 293.250 or in auditing or reviewing any report or return required or permitted to be filed under the revenue and tax laws administered by the department. The Department of Revenue may not disclose any information received to any private collection agency or for any other purpose. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the Department of Revenue.

(6) Any person or any officer or employee of an entity to whom information is disclosed by the Employment Department under this section who divulges or uses the information for any purpose other than that specified in the provision of law or agreement authorizing the use or disclosure may be disqualified from performing any service under contract or disqualified from holding any appointment or employment with the state agency that engaged or employed that person, officer or employee. The Employment Department may immediately cancel or modify any information sharing agreement with an entity when a person or an officer or employee of that entity discloses confidential information, other than as specified in law or agreement.



SECRECY LAWS CERTIFICATE

Required by ORS 314.840(3), ORS 118.525(6),
ORS 308.413(3), ORS 321.684

I have read the laws prohibiting disclosure of confidential information for the tax programs below.

The laws have been explained to me.

I have been furnished with a copy of the laws.

I understand Oregon's disclosure laws and the penalties for violating them.

Income tax	ORS 314.835; ORS 314.991(2)
Inheritance tax	ORS 118.525(1); ORS 118.990(3)
Industrial property tax	ORS 308.290(11); ORS 308.413; ORS 308.990(5)
Forestland tax	ORS 321.682; ORS 321.686
Employment Department tax	ORS 657.665(4)(i) and (6)
Transient lodging tax	ORS 320.330
Cigarette tax	ORS 323.403
Tobacco products tax	ORS 323.595
Emergency communications tax	ORS 403.230
Oil and gas production tax	ORS 324.170
Hazardous substances tax	ORS 453.410
Petroleum products tax	ORS 465.124
Federal tax laws	IRC Sections 7213, 7213A, 7431

VENDORS, CONTRACTORS, BUSINESS PARTNERS

PRINT your full name	Business telephone number
Print full name of business or organization for which you are acting in an official capacity	
Address of business or organization	SSN (Collection agency employees only)
What is the nature of your business?	Duration of contract or visit
Revenue contact	Area where you'll be working
Signature	Date
X	

REVENUE EMPLOYEES

PRINT your full name	Date
Signature	
X	

AGENCY USE

☐ In Compliance

☐ Not in Compliance

Agenda Bill 2025-03-17-04

Date Prepared: March 5, 2025

For Meeting Date: March 17, 2025

To: Rory Bialostosky, Mayor
West Linn City Council

Through: John Williams, City Manager *JRW*

From: Erich Lais, PE - Public Works Director/City Engineer *EL*

Subject: Adoption of Ordinance 1758

Purpose:

To introduce Ordinance 1758 to adopt, amend, and enforce the City's Stormwater Management Manual.

Question(s) for Council:

Does the Council wish to adopt an ordinance recognizing the proposed West Linn-specific Stormwater Management Manual as the official manual used to establish and enforce stormwater design and management standards?

Public Hearing Required:

Yes

Background & Discussion:

The City of West Linn (City) has a permit with Oregon's Department of Environmental Quality (DEQ) that requires the City to implement and enforce stormwater management standards. These standards are required to reduce the amount of pollutants entering waters of the state.

Under the City's DEQ permit, the City is required to have post-construction stormwater management standards. At minimum, the City is required to have performance and treatment standards that prioritize onsite retention and pollutant reduction. The City's current practice to achieve this requirement is by utilizing standards adopted and established by the City of Portland. This stormwater manual is referenced within the City's Public Works Standards.

City staff, and its consultants at Brown and Caldwell, have evaluated the City's current stormwater manual (sourced from the City of Portland) to determine its compliance with DEQ permit requirements and/or see if there are areas that can be improved to better meet the specific needs of West Linn. Upon completion of a comprehensive review, it was determined that adoption of a West Linn-specific Stormwater Management Manual would best meet the specific needs of the community, local topography, and would address current deficiencies within DEQ requirements.

While the City's current use of referring to the City of Portland's Stormwater Management Manual has been a serviceable practice, it is not ideal for West Linn's infrastructure conditions, size, terrain, or soil conditions. The new manual will retain many of the same design and construction requirements that are currently utilized, but will modify other requirements such as establishing clearer design submittal requirements ensuring that all facilities are constructed consistently. Implementation of the City's own manual will also allow the City Engineer to make updates as needed. As the City currently utilizes another jurisdiction's manual, this is not currently possible.

Staff proposes that the City Council provide express authority to adopt, amend, and enforce the West Linn Stormwater Management Manual by enacting Ordinance 1758 (Attachment 1). This new code will be added to the City's Surface Water Management Code (WLMC Chapter 4) at 4.071. If the ordinance is enacted, staff will then present the final West Linn Stormwater Management Manual for adoption via resolution at the next regularly scheduled Business Meeting. Council supported this approach at the March 3, 2025 Work Session.

Budget Impact:

None

Sustainability Impact:

The proposed West Linn Stormwater Management Manual integrates numerous sustainability measures with an overarching goal of reducing pollutants within the state's waterways.

Council Options:

1. Enact attached Ordinance 1758, which establishes the authority of the West Linn Stormwater Management Manual and the procedures for updates and enforcement.
2. Decline to enact the attached Ordinance 1758 and direct staff to pursue a different strategy to achieve compliance with DEQ permit requirements and stormwater management goals.

Staff Recommendation:

Enact attached Ordinance 1758, which establishes the authority of the West Linn Stormwater Management Manual and the procedures updates and enforcement. Doing so will allow the final Manual to proceed to formal adoption via resolution.

Potential Motion:

I move to enact the attached Ordinance 1758 establishing the authority of the City of West Linn Stormwater Management Manual, as well as the procedures to amend and enforce the standards as necessary.

Attachments:

1. Ordinance 1758

ORDINANCE 1758

AN ORDINANCE AMENDING WEST LINN MUNICIPAL CODE CHAPTER 4 RELATING TO SURFACE WATER MANAGEMENT

Annotated to show deletions and <u>additions</u> to the code sections being modified. Deletions are bold lined through and additions are <u>bold underlined</u> .

WHEREAS, the regulation of stormwater runoff reduces threats to public health, safety, and the environment by decreasing discharge of pollutants into receiving waters; and

WHEREAS, the regulation of stormwater runoff is required by federal and state laws and regulations, including applicable Oregon Department of Environmental Quality (DEQ) permits; and

WHEREAS, the City of West Linn seeks to protect our local streams and the environment, comply with DEQ permit requirements, and clearly communicate stormwater management requirements to the development community.

NOW, THEREFORE, THE CITY OF WEST LINN ORDAINS AS FOLLOWS:

SECTION 1. Amendment. Chapter 4 of the West Linn Municipal Code, is amended to add Section 4.071, to read as follows:

4.071 Stormwater Management Manual

(1) The City Council, by resolution, may adopt and amend as needed, the Stormwater Management Manual, to comply with the requirements of the federal Clean Water Act, Safe Drinking Water Act, other federal laws, state laws and regulations, and to protect public health, safety, and the environment.

(2) The Stormwater Management Manual establishes standards and guidelines for managing stormwater runoff to reduce pollutants from development.

(3) The City Engineer is delegated the authority to revise and update the Stormwater Management Manual as necessary based on:

- (a) The most current federal and state stormwater or water quality requirements; or
- (b) Improvements in current industry practices; or
- (c) Changes in best management practices.

(4) Public notice of revisions or updates shall be posted in City Hall 30 days prior to the effective date of the amendments.

(5) The City Engineer and the City's code enforcement officer are authorized to enforce all of the provisions of the Stormwater Management Manual. The City Engineer shall have the power to render written and oral interpretations and to adopt and enforce administrative procedures

in order to clarify the application of the Stormwater Management Manual standards and guidelines. The City Engineer is authorized to issue stop work orders as needed in the enforcement of these standards.

(6) Any violation of the Stormwater Management Manual shall constitute a Class A violation and may be enforced in any manner authorized under the law, including through citation in accordance with WLMC 1.235. Each day that a violation exists is a separate violation.

(7) Any uncorrected violation of the Stormwater Management Manual shall constitute a nuisance and may be abated, in accordance with WLMC 5.495.

SECTION 3. Severability. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

SECTION 4. Savings. Notwithstanding this amendment, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinance(s) or portions of the ordinance were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

SECTION 5. Codification. Provisions of this Ordinance shall be incorporated in the City Code and the word “ordinance” may be changed to “code”, “article”, “section”, “chapter” or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions need not be codified and the City Recorder or the designee is authorized to correct any cross-references and any typographical errors.

SECTION 6. Effective Date. This ordinance shall take effect on the 30th day after its passage.

The foregoing ordinance was first read by title only in accordance with Chapter VIII, Section 33(c) of the City Charter on the 17th day of March, 2025, and duly PASSED and ADOPTED this ____ day of _____, 2025.

RORY BIALOSTOSKY, MAYOR

ATTEST:

KATHY MOLLUSKY, CITY RECORDER

APPROVED AS TO FORM:

CITY ATTORNEY

Agenda Bill 2025-03-17-05

Date Prepared: March 3, 2025

For Meeting Date: March 17, 2025

To: Rory Bialostosky, Mayor
West Linn City Council

Through: John Williams, City Manager *JRW*

From: Erich Lais, PE – City Engineer/Public Works Director *EL*

Subject: Affirmation of West Linn Local Contracting Rule Exemption 10.105: Public Improvement Contracts Invoice Design or Construction Management

Purpose:

To provide an update to City Council on staff intention to release a solicitation for construction services for the build of the City's new Operations Complex under adopted local contracting rule exemption 10.105.

Question(s) for Council:

Does City wish to affirm or deny use of the exemption policy within the City's local contracting rules adopted under Resolution 2023-09, and approve and adopt the findings in Attachment 1?

Public Hearing Required:

No, unless a request for a hearing for the purpose of taking comments is made in writing. ORS 279C.335(5). However, a hearing will be held at the March 17 public meeting in case a member of the public wants to comment at that time.

Background & Discussion:

The City of West Linn intends to procure a Construction Manager/General Contractor (CM/GC) for the West Linn Operations Complex project. The CM/GC delivery method is chosen to optimize collaboration, streamline project timelines, and achieve cost efficiency. While this procurement method exists within West Linn's Local Contracting Review Board Rules as an adopted exempted procurement method via Resolution 2023-09, and a public hearing is not mandated, it is prudent to have Council affirm the use of this exemption that allows the City to enter into public improvement contracts without competitive bidding. In the spirit of transparency of utilizing this procurement method, staff has opted to utilize the public hearing process in case there are members of the public that have questions or comments about the findings in Attachment 1.

Oregon law and duly adopted resolutions of the City of West Linn allow the West Linn City Council, acting as the Local Contract Review Board, to consider and approve specific written findings that support the exemption of a certain contract/project from traditional competitive bidding requirements.

ORS 279C.335 lays out the requirements. Specifically, a local contracting review board may exempt a public improvement contract from the competitive bidding requirements after it approves written findings that: “(a) The exemption is unlikely to encourage favoritism in awarding public improvement contracts or substantially diminish competition for public improvement contracts,” and “(b) Awarding a public improvement contract under the exemption will likely result in substantial cost savings and other substantial benefits to the contracting agency or the state agency that seeks the exemption.” ORS 279C.355(a)-(b). Further, the “the local contract review board shall consider the type, cost and amount of the contract and, to the extent applicable to the particular public improvement contract or class of public improvement contracts, the following:

- (A) How many persons are available to bid;
- (B) The construction budget and the projected operating costs for the completed public improvement;
- (C) Public benefits that may result from granting the exemption;
- (D) Whether value engineering techniques may decrease the cost of the public improvement;
- (E) The cost and availability of specialized expertise that is necessary for the public improvement;
- (F) Any likely increases in public safety;
- (G) Whether granting the exemption may reduce risks to the contracting agency, the state agency or the public that are related to the public improvement;
- (H) Whether granting the exemption will affect the sources of funding for the public improvement;
- (I) Whether granting the exemption will better enable the contracting agency to control the impact that market conditions may have on the cost of and time necessary to complete the public improvement;
- (J) Whether granting the exemption will better enable the contracting agency to address the size and technical complexity of the public improvement;
- (K) Whether the public improvement involves new construction or renovates or remodels an existing structure;
- (L) Whether the public improvement will be occupied or unoccupied during construction;
- (M) Whether the public improvement will require a single phase of construction work or multiple phases of construction work to address specific project conditions; and
- (N) Whether the contracting agency or state agency has, or has retained under contract, and will use contracting agency or state agency personnel, consultants and legal counsel that have necessary expertise and substantial experience in alternative contracting methods to assist in developing the alternative contracting method that the contracting agency or state agency will use to award the public improvement contract and to help negotiate, administer and enforce the terms of the public improvement contract.”

ORS 279C.335(2)(b)(A)-(N).

Finally, ORS 279C.335(5) requires the City of West Linn to hold a public hearing of the Local Contract Review Board to allow comments on the City of West Linn draft findings only if a request for a hearing for the purpose of taking public comment is made in writing. Notice of this public hearing must be advertised in at least one trade newspaper of general statewide circulation not less than 14 days prior to the hearing. This notice was published in the Daily Journal of Commerce on February 26, 2025, and the West Linn Tidings (online) on March 3, 2025 and March 5, 2025 (print). No

requests for a hearing or public comment were received, but a hearing will be held at the March 17 public meeting in case a member of the public wants to comment at that time.

A comprehensive list of findings to justify the exemption per ORS 279.335 is attached to this report and a summary is provided below.

- A CM/GC contractor brings expertise in coordinating with design teams, subcontractors, and public agencies to ensure successful project delivery. This project will leverage experienced CM/GC and an experienced civil excavation trade partner to further inform the design approach and constructability.
- The public improvement project involves highly technical and complex elements in relation to the site composition, requiring specialized expertise that may not be fully available through traditional procurement methods. Granting the exemption would allow the agency to engage contractors with proven experience in similar large-scale and technically complex projects, ensuring higher-quality outcomes.
- The CM/GC method is expected to provide substantial cost savings compared to traditional design-bid-build procurement methods due to early contractor involvement, risk management, and utilization of a GMP (Guaranteed Maximum Price).
- Current market conditions lead to the need of the ability to respond to labor and material availability changes and to mitigate inflationary pressures by procuring materials early in the project timeline which is allowable under a CM/GC procurement method.

Legal review of the proposed procurement method has been completed. Based on the written findings in Attachment 1, staff recommends that the City of West Linn Local Contracting Review Board determine that the CM/GC procurement method is in the public's best interest for the West Linn Operations Complex. This method will result in cost savings, improved project outcomes, and enhanced public benefits.

Budget Impact:

This alternative procurement method will provide cost savings for the future construction of the Operations Complex.

Sustainability Impact:

Not applicable to affirming this procurement method. However, the future Operations Complex will utilize sustainable building practices where available and practical.

Council Options:

1. Affirm use of the existing exemption in section 10.105 of the City's Local Contracting Rules adopted via Resolution 2023-09, approve and adopt the findings in Attachment 1, and allow for staff to proceed with this procurement method.
2. Deny use of the existing exemption, and direct staff to amend the Local Contracting Rules to remove this exemption policy for current or future use.

Staff Recommendation:

Affirm use of the existing exemption in section 10.105 of the City's Local Contracting Rules adopted via Resolution 2023-09, approve and adopt the findings in Attachment 1, and allow for staff to proceed with

a CM/GC procurement method. This will allow for final design and construction of the budgeted Operations Complex to proceed as scheduled and result in cost and time savings to the City.

Potential Motion:

I move to affirm use of the existing exemption found in section 10.105 of the City Local Contracting Rules adopted via Resolution 2023-09, and approve and adopt the findings in Attachment 1, and allow for staff to proceed with a CM/GC procurement method.

Attachments:

1. West Linn Local Contracting Review Board Findings for CM/GC Procurement Exemption

FINDINGS OF FACT FOR THE PROCUREMENT EXEMPTION FOR USE OF THE CONSTRUCTION
MANAGER/GENERAL CONTRACTOR (CM/GC) CONTRACTING METHOD

BEFORE THE CITY COUNCIL OF THE CITY OF WEST LINN

BACKGROUND:

The City of West Linn intends to procure a Construction Manager/General Contractor (CM/GC) for the West Linn Operations Complex project. The CM/GC delivery method is chosen to optimize collaboration, streamline project timelines, and achieve cost efficiency. This document provides the required written findings, as outlined in ORS 279C.335, that the Local Contracting Review Board must approve and adopt to justify the use of an alternative contracting method.

ORS 279C.335 allows the Local Contract Review Board, which for the City of West Linn is the City Council, to exempt specific projects from the requirements of ORS 279C: Public Contracting – Public Improvements & Related Contracts.

In doing so, the statute specifically says that the Local Contract Review Board shall: “where appropriate, direct the use of alternative contracting and purchasing practices that take account of market realities and modern or innovative contracting and purchasing methods, which are also consistent with the public policy of encouraging competition.” ORS 279C.335(4)(a).

Oregon law and duly adopted resolutions of the City of West Linn allow the City of West Linn City Council, acting as the Local Contract Review Board, to consider and approve specific findings that support the exemption of certain contracts/projects from traditional competitive bidding requirements.

Selection of a CM/GC firm for this project will utilize a Request for Proposal public procurement process. The Request for Proposal will identify specific criteria to be utilized for the selection.

ORS 279C.335(2) lays out what the Local Contracting Review Board must consider when making its written findings. ORS 279C.335(5) requires the City of West Linn to hold a public hearing of the Local Contract Review Board to allow comments on the City of West Linn draft findings if such a hearing is requested in writing. Notice of this public hearing must be advertised in at least one trade newspaper of general statewide circulation not less than 14 days prior to the hearing.

Notice of public hearing was advertised in the Daily Journal of Commerce on February 26, 2025, and the West Linn Tidings (online) on March 3, 2025 and March 5, 2025 (print). No request for a hearing was made, but staff explained that one would be held on March 17, 2025 for the purpose allowing for public comment.

PROJECT OVERVIEW

- Project Name: West Linn Operations Complex
- Location: Salamo Rd, West Linn OR
- Estimated Construction Cost: \$25-30M
- Scope: The City owns a 33-acre property on Salamo Road, overlooking I-205, and plans to build a new operations facility on this expansive, sloped site. The facility will serve as a centralized operations hub, housing Water Distribution Maintenance, Sewer and Storm Collections Maintenance, Parks Maintenance, Facilities Maintenance, and Fleet Maintenance. It will also include accommodations for City fueling and materials storage needs, support spaces for staff during extended emergency events, and areas for City-wide staff events and training sessions.
- Funding Source: Full Faith Credit Obligation Bonds administered through Water, Storm, Sewer, Streets, and Park funds.

FINDINGS OF FACT:

1. Competitive Process and Fairness (ORS 279C.335(2)(a))

The exemption is unlikely to encourage favoritism in awarding, or substantially diminish competition for, public improvement contracts.

The CM/GC contractor will be selected through a transparent and competitive Request for Proposals (RFP) process. The RFP will:

- Outline clear evaluation criteria, including qualifications, experience, project approach, and pricing methodology.
- Provide equal opportunity for all qualified firms to compete for the contract.

2. Specialized Expertise Required (ORS 279C.335(2)(b)(E))

The complexity and specialized nature of the project necessitate the use of the CM/GC method:

- The Site is located on 32.98 acres of sloped hillside overlooking I-205. Geotechnical site evaluations are currently underway; preliminary findings have noted there is a mix of basalt and fill that make up the site. Careful consideration will be needed to accommodate the soil makeup of the site to support structural foundations.
- A CM/GC contractor brings expertise in coordinating with design teams, subcontractors, and public agencies to ensure successful project delivery. Project to leverage experienced CM/GC and experienced civil excavation trade partner to further inform the design approach and constructability.

3. Size and technical complexity (ORS 279C.335(2)(b)(E)):

The public improvement project involves highly technical and complex elements in relation to the site composition, requiring specialized expertise that may not be fully available through traditional procurement methods. Granting the exemption would allow the agency to engage contractors with proven experience in similar large-scale

and technically complex projects, ensuring higher-quality outcomes.

4. Public Benefit ORS 279C.335(2)(b)(C)):

The CM/GC method offers significant public benefits, including:

- **Schedule Optimization:** The overlapping of design and construction phases accelerates project completion, minimizing disruptions to the public.
- **Community Engagement:** The CM/GC contractor can facilitate outreach and engagement with local stakeholders, ensuring community needs are met.
- **Local Workforce Utilization:** The CM/GC process allows for greater flexibility in subcontracting to local businesses and disadvantaged business enterprises (DBEs).

5. Substantial Cost Savings (ORS 279C.335(2)(b)(B)):

The CM/GC method is expected to provide substantial cost savings compared to traditional design-bid-build procurement methods due to the following factors:

- **Early Contractor Involvement:** The CM/GC contractor will participate in the design phase, offering constructability reviews, value engineering, and cost estimation to optimize project delivery.
- **Risk Management:** The CM/GC approach allows for collaborative identification and mitigation of risks, reducing the likelihood of costly change orders and delays.
- **Guaranteed Maximum Price (GMP):** The establishment of a GMP provides cost certainty and incentivizes the CM/GC contractor to manage costs effectively.
- **Fewer change orders:** When the CM/GC participates in the design process, fewer change orders will occur during the construction process. This is due to the CM/GC's better understanding of the owner's needs and the designer's intent. As a result, the projects are more likely to be completed on time and on budget. In addition, fewer change orders are needed.
- **GMP savings:** When the CM/GC participates in the design process, fewer change orders will occur during the construction process. This is due to the CM/GC's better understanding of the owner's needs and the designer's intent. As a result, the projects are more likely to be completed on time and on budget. In addition, fewer change orders are needed.

6. Market Conditions (ORS 279C.335(2)(b)(I))

Given current market conditions, the CM/GC method provides flexibility to:

- Respond to labor and material availability challenges.
- Mitigate inflationary pressures by procuring materials early in the project timeline.
- Select subcontractors based on qualifications, rather than lowest bid, ensuring higher-quality work.

7. Increase in public safety (ORS 279C.335(2)(b)(F))

The CM/GC contractor will be granted early access to the site to conduct a thorough evaluation of safety concerns, including soil stability, steep grading, and limited access conditions. This early assessment will facilitate the development of detailed site safety plans designed to protect both the workforce and the public during construction activities.

8. Compliance with Legal Requirements

This procurement method complies with Oregon's public contracting laws, including:

- ORS 279C.335: Authorization for alternative contracting methods.
- OAR 137-049-0600 through 137-049-0690: Rules governing CM/GC contracting.

Conclusion

Based on these findings, the City of West Linn determines that the CM/GC procurement method is in the public's best interest for the West Linn Operations Complex. This method is unlikely to encourage favoritism in awarding public improvement contracts or substantially diminish competition for public improvement contracts. It also will result in cost savings, improved project outcomes, and enhanced public benefits. Accordingly, the City's Local Contracting Review Board approves/adopts these written findings and authorizes the use of CM/GC for this project.



Agenda Bill 2024-03-17-06

Date: February 10, 2025

To: West Linn Urban Renewal Agency Board

From: Lauren Breithaupt, Finance Director *LB*

Through: John Williams, City Manager *JRW*

Subject: Investment Policy Update

Purpose

To update the City's outdated Investment Policy.

Question(s) for Council:

Should the Council approve the updated Investment Policy?

Public Hearing Required:

None

Background & Discussion:

Oregon Short Term Board (OSTB) - established by statute ORS 294, with the purpose of advising the Oregon Investment Council and the Oregon State Treasury Investment staff. The OSTB also assists local governments in the development of investment policies.

Local Government Investment Pool (LGIP) - a pool of public funds managed by the Oregon State Treasury that offers a rate of return to local governments. The policy of the LGIP is to provide a safe environment for the short-term investment of public funds.

In September 2024, the City hired Government Portfolio Advisors (GPA) to help us revise our investment policy (current policy adopted November 2008) and to help guide the city with investment decisions. The City has worked with GPA and drafted a new updated policy based on the Oregon Short Term Board sample policy and submitted it to the board for review. At their January 28, 2025 meeting, the OSTB discussed and gave a favorable review of West Linn's draft policy.

Historically, West Linn has held 100% of our investments in the LGIP. This is allowed by both the current policy and proposed policy. However, under ORS 294.810, there is a maximum of \$61,749,000 allowed to be invested by each local government. Recently, the city has been close to that cap due mostly to our required reserve funds and held bond funds. Therefore, we will be working with GPA to start making investments outside of the LGIP.

Budget Impact:

Relatively modest interest income.

Sustainability Impact:

Not applicable.

Council Options:

1. Approved the City of West Linn's updated Investment Policy.
2. Reject the City of West Linn's updated Investment Policy.
3. Request additional information or options.

Staff Recommendation:

Staff recommends approving the City of West Linn's updated Investment Policy.

Potential Motion:

Move to approve the City of West Linn's updated Investment Policy.

Attachments:

1. Updated Investment Policy
2. Current Investment Policy



CITY OF
**West
Linn**

Investment Policy

2025 – **DRAFT**

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1. Purpose

This Investment Policy defines the parameters within which funds are to be invested by the City of West Linn. This policy formalizes the framework, pursuant to ORS 294.135, for the City's investment activities to ensure effective and judicious management within the scope of this policy.

2. Governing Authority

The City of West Linn's investment program shall be operated in conformance with Oregon Revised Statutes and applicable federal law. ORS 294.035; 294.040; 294.052; 294.135; 294.145; and 294.810. All funds within the scope of this policy are subject to laws established by the state of Oregon. Any revisions or extensions of these sections of the ORS shall be assumed to be part of this Investment Policy immediately upon being enacted.

This Policy has been adopted by Resolution #_____ by the West Linn City Council on _____, 2025.

3. Scope

This policy applies to activities of the City of West Linn with regard to investing the financial assets of the general fund, special revenue funds, debt service funds, capital projects funds, and enterprise funds. Funds managed by the City that are governed by other investment policies are excluded from this policy, however all funds are subject to Oregon Law. The amount of funds falling within the scope of this policy over the next three years is expected to range between \$40 million and \$120 million.

4. General Objectives

The primary objectives, in priority order, of investment activities shall be:

A. Preservation of Invested Capital

Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. The goal is to mitigate credit risk and interest rate risk.

B. Liquidity

The investment portfolio shall remain sufficiently liquid to meet all reasonably anticipated operating requirements. Furthermore, the portfolio should consist largely of securities with active secondary or resale markets. A portion of the portfolio also may be placed in the Oregon Short Term Fund which offers next-day liquidity. Where possible and prudent, the portfolio should be structured so that investments mature concurrent with anticipated demands.

C. Return

The investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into consideration the safety and

liquidity needs of the portfolio. Although return consists of both principal return (gains and losses due to market value fluctuations) and income return (yield), this policy discourages active trading and turnover of investments. Investments should generally be held to maturity.

5. Standards of Care

A. Prudence

The standard of prudence to be used by investment officials shall be the “prudent person” standard and shall be applied in the context of managing an overall portfolio. Investment officers acting in accordance with written procedures and this investment policy and exercising due diligence shall be relieved of personal responsibility for an individual security’s credit risk or market price changes, provided deviations from expectations are reported and appropriate action is taken to control adverse developments within a timely fashion as defined in this policy. The “prudent person” standard states:

Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

B. Ethics and Conflicts of Interest

Officers and employees involved in the investment process shall refrain from personal activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions. Employees and investment officials shall disclose any material interests in financial institutions with which they conduct business. Disclosure shall be made to the governing body. They shall further disclose any personal financial/investment positions that could be related to the performance of the investment portfolio. Employees and officers shall refrain from undertaking personal investment transactions with the same individual with whom business is conducted on behalf of The City. Officers and employees shall, at all times, comply with the State of Oregon Government Standards and Practices code of ethics set forth in ORS Chapter 244.

C. Delegation of Authority and Responsibilities

i. Governing Body

The City Council will retain ultimate fiduciary responsibility for invested funds. The governing body will receive reports, pursuant to, and with sufficient detail to comply with ORS 294.155.

ii. Delegation of Authority

Under the authority of the City Manager, authority to manage investments within the scope of this policy and operate the investment program in accordance with established written procedures and internal controls is granted to the Finance Director,

or designee (hereinafter referred to as Investment Officer), and derived from the following: ORS 294.035 to 294.053, 294.125 to 294.145, and 294.810.

No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the Investment Officer. The Investment Officer shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials.

All participants in the investment process shall seek to act responsibly as custodians of the public trust. No officer or designee may engage in an investment transaction except as provided under the terms of this policy and supporting procedures.

iii. Investment Committee

The City may seek to establish an investment committee to provide guidance to the Investment Officer(s) and monitor investment policy compliance.

iv. Investment Advisor

The Investment Officer may engage the services of one or more external investment managers to assist in the management of the City investment portfolio in a manner consistent with this investment policy. Investment advisors may be hired on a non-discretionary basis. If the City hires an investment advisor to provide investment management services, the advisor is authorized to transact with its direct dealer relationships on behalf of the City.

6. Transaction Counterparties

A. Broker/Dealers

The Investment Officer shall determine which broker/dealer firms and registered representatives are authorized for the purposes of investing funds within the scope of this investment policy. A list will be maintained of approved broker/dealer firms and affiliated registered representatives.

The following minimum criteria must be met prior to authorizing investment transactions. The Investment Officer may impose more stringent criteria.

i. Broker/Dealer firms must meet the following minimum criteria:

- a. Be registered with the Securities and Exchange Commission (SEC)
- b. Be registered with the Financial Industry Regulatory Authority (FINRA)
- c. Provide most recent audited financials
- d. Provide FINRA Focus Report filings

ii. Approved broker/dealer employees who execute transactions with the City must meet the following minimum criteria:

- a. Be a registered representative with the Financial Industry Regulatory Authority (FINRA);

- b. Be licensed by the state of Oregon;
 - c. Provide certification (in writing) of having read, understood, and agreed to comply with the most current version of this investment policy.
- iii. Periodic (at least annual) review of all authorized broker/dealers and their respective authorized registered representatives will be conducted by the Investment Officer. Factors to consider would be:
 - a. Pending investigations by securities regulators
 - b. Significant changes in net capital
 - c. Pending customer arbitration cases
 - d. Regulatory enforcement actions
- iv. The Investment Officer shall maintain and review annually a list of all authorized financial institutions and broker/dealers that are approved to transact with the City for investment purposes.

The Investment Officer or designee may utilize the investment advisor's approved broker/dealer list in lieu of the City's own approved list. The advisor must submit the approved list to the City annually and provide updates throughout the year as they occur. The advisor must maintain documentation of appropriate license and professional credentials of broker/dealers on the list. The annual investment advisor broker/dealer review procedures should include:

- a. FINRA Certification check
 - Firm Profile
 - Firm History
 - Firm Operations
 - Disclosures of Arbitration Awards, Disciplinary and Regulatory Events
 - State Registration Verification
- b. Financial review of acceptable FINRA capital requirements or letter of credit for clearing settlements.

The advisors must provide The City with any changes to the list prior to transacting on behalf of The City.

The advisor may be authorized through the contracted agreement to open accounts on behalf of The City with the broker/dealers on the approved list. The City will receive documentation directly from the brokers for account verification and regulatory requirements.

B. Investment Advisors

A list will be maintained of approved advisors selected by conducting a process of due diligence.

- i. The following items are required for all approved Investment Advisors:

- a. The investment advisor firm must be registered with the Securities and Exchange Commission (SEC) or licensed by the state of Oregon (Note: Investment advisor firms with assets under management >\$100 million must be registered with the SEC, otherwise the firm must be licensed by the state of Oregon).
 - b. All investment advisor firm representatives conducting investment transactions on behalf of the City must be registered representatives with FINRA.
 - c. All investment advisor firm representatives conducting investment transactions on behalf of the City must be licensed by the state of Oregon.
 - d. Certification, by all of the advisor representatives conducting investment transactions on behalf of this entity, of having read, understood and agreed to comply with this investment policy.
- ii. A periodic (at least annual) review of all investment advisors under contract will be conducted by the Investment Officer to determine their continued eligibility within the portfolio guidelines. The investment Advisor must notify the City immediately if any of the following issues arise while serving under a City contract:
 - a. Pending customer arbitration cases.
 - b. Regulatory enforcement actions.
 - c. Significant changes in net capital.
 - d. Pending investigations by securities regulators.

C. Depositories

All financial institutions who desire to become depositories must be qualified Oregon Depositories pursuant to ORS Chapter 295.

D. Direct Issuers

Obligations that are permitted for purchase by this policy may be purchased directly from the issuer.

E. Competitive Transactions

- i. The Investment Officer shall obtain and document competitive bid information on all investments purchased or sold in the secondary market. Competitive bids or offers should be obtained, when possible, from at least three separate brokers/financial institutions or through the use of a nationally recognized trading platform.
- ii. In the instance of a security for which there is no readily available competitive bid or offering on the same specific issue, then the Investment Officer shall document quotations for comparable or alternative securities.
- iii. When purchasing original issue instrumentality securities, no competitive offerings will be required as all dealers in the selling group offer those securities at the same original issue price. However, the Investment Officer is encouraged to document quotations on comparable securities.
- iv. If an investment advisor provides investment management services, the advisor must retain documentation of competitive pricing execution on each transaction and provide upon request.

7. Administration and Operations

A. Delivery vs. Payment

All trades of marketable securities will be executed (cleared and settled) by delivery vs. payment (DVP) to ensure that securities are deposited in the City safekeeping institution prior to the release of funds.

B. Third-Party Safekeeping

Securities will be held by an independent third-party safekeeping institution selected by The City. All securities will be evidenced by safekeeping receipts in the City's name. Upon request, the safekeeping institution shall make available a copy of its Statement on Standards for Attestation Engagements (SSAE) No. 16. The City will have online access through the safekeeping bank for verification of the account holdings and transactions. The City may hold bank deposits or certificates of deposits at banks qualified under ORS 295.

C. Internal Controls

The City Manager/Investment Officer and City Council are responsible for establishing and maintaining an adequate internal control structure designed to reasonably assure that invested funds are invested within the parameters of this Investment policy and, protected from loss, theft or misuse. Specifics for the internal controls shall be documented in writing. The established control structure shall be reviewed and updated periodically by the City Council.

The concept of reasonable assurance recognizes that the cost of a control should not exceed the benefits likely to be derived and the valuation of costs and benefits requires estimates and judgments by management. The internal controls shall address the following points at a minimum:

- i. Compliance with investment policy
- ii. Control of collusion
- iii. Separation of transaction authority from accounting and record keeping
- iv. Custodial safekeeping
- v. Avoidance of physical delivery of securities whenever possible and address control requirements for physical delivery where necessary
- vi. Clear delegation of authority to subordinate staff members
- vii. Confirmation of transactions for investments and wire transfers in written or digitally verifiable electronic form
- viii. Dual authorizations of wire and automated clearing house (ACH) transfers
- ix. Staff training
- x. Review, maintenance and monitoring of security procedures both manual and automated

An external auditor shall provide an annual independent review to assure compliance with Oregon state law and the City policies and procedures.

D. Accounting Method

The City shall comply with any arbitrage reporting requirements as set forth in all applicable federal, state, and local laws. Additionally, the City will comply with all Government Accounting Standards Board (GASB) requirements and appropriate Generally Accepted Accounting Principles (GAAP).

E. Pooling of Funds

Except for cash in certain restricted and special funds, The City will consolidate balances from all funds to maximize investment earnings. Investment income will be allocated to the various funds based on their respective participation and in accordance with generally accepted accounting principles.

8. Authorized and Suitable Investments

A. Permitted Investments

All investments of the City shall be made in accordance with Oregon Revised Statutes: ORS 294.035 (Investment of surplus funds of political subdivisions; approved investments), ORS 294.040 (Restriction on investments under ORS 294.035), ORS 294.135 (Investment maturity dates), ORS 294.145 (Prohibited conduct for custodial officer), and ORS 294.805 to 294.895 (Local Government Investment Pool). Minimum credit ratings and percentage limitations apply to the time of purchase.

The following lists allowable investment types:

US Treasury Obligations: Direct obligations of the United States Treasury whose payment is guaranteed by the United States. [ORS Section 294.035(3)(a)]

US Agency Obligations: Federal agency and instrumentalities of the United States or enterprises sponsored by the United States Government (GSE) and whose payment is guaranteed by the United States, the agencies and instrumentalities of the United States or enterprises sponsored by the United States Government. [ORS Section 294.035(3)(a)]

Municipal Debt: Lawfully issued debt obligations of the States of Oregon, California, Idaho and Washington and political subdivisions of those states if the obligations have a long-term rating on the settlement date of AA- or better by S&P or Aa3 or better by Moody's or equivalent rating by any nationally recognized statistical rating organization, or are rated on the settlement date in the highest category for short-term municipal debt by a nationally recognized statistical rating organization. [ORS Section 294.035(3)(c)]

Corporate Indebtedness: Corporate indebtedness subject to a valid registration statement on file with the Securities and Exchange Commission or issued under the authority of section 3(a)(2) or 3(a)(3) of the Securities Act of 1933. Corporate indebtedness must be rated on the settlement date AA- or better by S&P or Aa3 or better by Moody's or equivalent rating by any nationally recognized statistical rating organization. [ORS Section 294.035(3)(i)]

Commercial Paper: Corporate indebtedness subject to a valid registration statement on file with the Securities and Exchange Commission or issued under the authority of section 3(a)(2) or 3(a)(3) of the Securities Act of 1933, as amended. Commercial Paper must be rated A1 by Standard and Poor's or P1 by Moody's or equivalent rating by any nationally recognized statistical rating organization. Issuer constraints for commercial paper combined with corporate notes will be limited by statute to 5% of market value per issuer. [ORS Section 294.035(3)(i)]

Certificates of Deposit: Certificates of deposit in insured institutions as defined in ORS 706.008, in credit unions as defined in ORS Section 723.006 or in federal credit unions, if the institution or credit union maintains a head office or a branch in this state [ORS Section 294.035(3)(d)].

Bank Time Deposit/Savings Accounts: Time deposit open accounts or savings accounts in insured institutions as defined in ORS Section 706.008, in credit unions as defined in ORS Section 723.006 or in federal credit unions, if the institution or credit union maintains a head office or a branch in this state [ORS Section 294.035(3)(d)(e)].

Bankers' Acceptances: A short-term credit investment created by a non-financial firm and guaranteed by a qualified financial institution whose short-term letter of credit rating is rated in the highest category without any refinement or gradation by one or more nationally recognized statistical rating organization. For the purposes of this paragraph, "qualified financial institution" means: (i) A financial institution that is located and licensed to do banking business in the State of Oregon; or (ii) A financial institution that is wholly owned by a financial holding company or a bank holding company that owns a financial institution that is located and licensed to do banking business in the State of Oregon. [ORS 294.035(3)(h)]

Local Government Investment Pool: State Treasurer's local short-term investment fund up to the statutory limit per ORS Section 294.810.

B. Collateralization

All demand deposits and time deposit accounts, certificates of deposit and savings accounts shall be collateralized through the state collateral pool for any excess over the amount insured by an agency of the United States government in accordance with ORS chapter 295. All depositories must be on the State of Oregon's qualified list. Additional collateral requirements may be required if the Finance Director deems increased collateral is beneficial to the protection of the monies under the City's management.

C. Approval of Permitted Investments

If additional types of securities are considered for investment, per Oregon state statute they will not be eligible for investment until this Policy has been amended and the amended version adopted by the City.

D. Prohibited Investments

- i. The City shall not invest in "144A" private placement securities, this includes commercial paper privately placed under section 4(a)(2) of the Securities Act of 1933.

- ii. The City shall not lend securities nor directly participate in a securities lending or reverse repurchase program.
- iii. The City shall not purchase mortgage-backed securities.
- iv. The City shall not purchase, per ORS 294.040, any bonds of issuers listed in ORS 294.035(3)(a) to (c) that have a prior default history.
- v. No commitment to buy or sell securities may be made more than 14 days prior to the anticipated settlement date.

9. Investment Parameters

A. Credit Risk

Credit risk is the risk that a security or a portfolio will lose some or all of its value due to a real or perceived change in the ability of the issuer to repay its debt. Credit risk will be mitigated by the following guidelines:

- i. Diversification: It is the policy of the City to diversify its investments. Where appropriate, exposures will be limited by security type; maturity; issuance, and issuer. Allowed security types and Investment exposure limitations are detailed in the table below.
- ii. Credit Ratings: Investments must have a rating from at least one of the following nationally recognized statistical ratings organizations (NRSRO): Moody's Investors Service; Standard & Poor's; and Fitch Ratings Service as detailed in the table below. Ratings used to apply the guidelines below should be investment level ratings and not issuer level ratings.
- iii. The minimum weighted average credit rating of the portfolio's rated investments shall be AA-/Aa3/AA- by Standard & Poor's; Moody's Investors Service; and Fitch Ratings Service respectively.
- iv. Diversification and Credit Exposure Constraints: The following table limits exposures among investments permitted by this policy.

Total Portfolio Diversification Constraints

Issue Type	Maximum % Holdings	Maximum % per Issuer	Ratings S&P, Moody's, or Equivalent NRSRO	Maximum Maturity
US Treasury Obligations	100%	None	N/A	5.25 years
US Agency Obligations	100%	35%	N/A	5.25 years
Municipal Bonds (OR, CA, ID, WA)	25%	5%	AA- / Aa3 Short Term*	5.25 years
Corporate Bonds	35%**	5%***	AA- / Aa3	5.25 years
Commercial Paper			A1 / P1	270 days
Bank Time Deposits/Savings Accounts	20%	20%	Oregon Public Depository	N/A
Certificates of Deposit	10%	5%	Oregon Public Depository	5.25 years
Banker's Acceptance	10%	5%	A1 / P1	180 days
Oregon Short Term Fund	Maximum allowed per ORS 294.810	None	N/A	N/A

*Short Term Ratings: Moody's - P1/MIG1/VMIG1, S&P - A-1/P-1, Fitch - F-1

**35% maximum combined corporate and commercial paper per ORS.

***Issuer constraints apply to the combined issues in corporate and commercial paper holdings.

Commented [WM1]: GPA recommends the following diversification constraints based on statute and best practice recommendations.

B. Determining a Security's Rating

A single rating will be determined for each investment by utilizing the highest security level rating available for the security from Standard and Poor's, Moody's Investor Services and Fitch Ratings respectively.

C. Investment Maturity

Liquidity risk is the risk that an investment may not be easily marketable or redeemable, as well as a shortfall of operating cash resulting in the need to sell securities and, thus, principal risk. The following strategies will be employed to mitigate liquidity risks:

- Where feasible and prudent, investment maturities should be matched with expected cash outflows to mitigate risk.
- The City will not directly invest in securities maturing more than 5.25 years* from the date of purchase.
- The maximum weighted average maturity of the total portfolio shall not exceed 2.50 years. This maximum is established to limit the portfolio to excessive price change exposure.

- iv. Liquidity funds will be held in the State Pool or in qualified depository bank deposits.
- v. Core funds will be defined as the funds in excess of liquidity requirements. The investments in this portion of the portfolio will have maturities between one day and 5.25 years and will be only invested in higher quality and liquid securities.

Total Portfolio Maturity Constraints:

Maturity Constraints	Minimum % of Total Portfolio
Under 30 days	10%
Under 1 year	25%
Under 5.25 years	100%
Maturity Constraints	Maximum of Total Portfolio in Years
Weighted Average Maturity	2.5
Security Structure Constraint	Maximum % of Total Portfolio
Callable Securities	25%

Commented [WM2]: GPA recommends a maximum maturity of 5.25 years to provide for new issue opportunities for corporate or municipal bonds which may have a 5 year and 2 week maturity for example

*Exception to 5.25-year maturity maximum: Reserve or Capital Improvement Project monies may be invested in securities exceeding 5.25 years if the maturities of such investments are made to coincide as nearly as practicable with the expected use of the funds.

10. Environmental, Social, and Governance

As a public entity and institutional investor, the City of West Linn has a duty to act in the long-term interest of the community. Applying certain principles in the City's investments will better align the City's investment strategy with the City's broader objectives of and for the community. Therefore, where consistent with the City's fiduciary responsibilities, the City will incorporate a broad array of factors when making investment decisions such as environmental considerations, impacts on society, and sustainability. Where possible, the City will seek to make investments that directly support these factors.

The City's primary investment objective is to maximize the long-term value of our investment portfolio while adhering to the factors that impact sustainability and our community. Maximizing the long-term value of the City's investment portfolio will allow the City to create added resources to serve our community best and help achieve the City's operational objectives.

11. Investment of Proceeds from Debt Issuance

Investments of bond proceeds are restricted under bond covenants that may be more restrictive than the investment parameters included in this policy. The investments will be made in a manner to match cash flow expectations based on managed disbursement schedules.

Liquidity for bond proceeds will be managed through the OSTF Pool or Bank deposit balances.

Funds from bond proceeds and amounts held in a bond payment reserve or proceeds fund may be invested pursuant to ORS 294.052. Investments of bond proceeds are typically not invested for resale and maturity matched with expected outflows.

Information will be maintained for arbitrage rebate calculations.

12. Investment of Reserve or Capital Improvements

Pursuant to ORS 294.135(1)(b), reserve or capital improvement project monies may be invested in securities with a maturity of 5.25 years at the maximum when the funds in question are being accumulated for an anticipated use that will occur more than 18 months after the funds are invested, then, upon the approval of the governing body of the City, municipality, school district or other political subdivision, the maturity of the investment or investments made with the funds may occur when the funds are expected to be used. Reserve or Capital Improvement Project monies may be invested in securities exceeding 5.25 years if the maturities of such investments are made to coincide as nearly as practicable with the expected use of the funds.

13. Guideline Measurement and Adherence

A. Guideline Measurement

Guideline measurements will use market value of investments.

B. Guideline Compliance

- i. If the portfolio falls outside of compliance with adopted investment policy guidelines or is being managed inconsistently with this policy, the Investment Officer shall bring the portfolio back into compliance in a prudent manner and as soon as prudently feasible.
- ii. Violations of portfolio guidelines as a result of transactions; actions to bring the portfolio back into compliance and; reasoning for actions taken to bring the portfolio back into compliance shall be documented and reported to the City Council.
- iii. Due to fluctuations in the aggregate surplus funds balance, maximum or minimum percentages for a particular issuer, investment type or minimum maturity constraint may be surpassed at a point in time. Securities need not be liquidated to realign the portfolio; however, consideration should be given to this matter when future purchases are made to ensure that appropriate diversification is maintained.

14. Reporting and Disclosure

A. Compliance

The Investment Officer shall prepare a report at least quarterly that allows the City Council to ascertain whether investment activities during the reporting period have conformed to the investment policy. The report should be provided to the investment oversight body. The report will include, at a minimum, the following:

- i. A listing of all investments held during the reporting period showing: par/face value; accounting book value; market value; type of investment; issuer; credit ratings; and yield to maturity (yield to worst if callable).
- ii. Average maturity of the portfolio at period-end
- iii. Maturity distribution of the portfolio at period-end
- iv. Average portfolio credit quality of the portfolio at period-end
- v. Average weighted yield to maturity (yield to worst if callable investments are allowed) of the portfolio
- vi. Distribution by type of investment
- vii. Transactions since last report
- viii. Violations of portfolio guidelines or non-compliance issues that occurred during the prior period or that are outstanding. This report should also note actions (taken or planned) to bring the portfolio back into compliance.

B. Performance Standards/Evaluation

- i. The City yields will be compared to the OST Pool rates.
- ii. The portfolio will be invested into a predetermined structure that will be measured against a selected benchmark portfolio. The structure will be based upon a chosen minimum and maximum effective duration and will have the objective to achieve market rates of returns over long investment horizons. The purpose of the benchmark is to appropriately manage the risk in the portfolio given interest rate cycles. The core portfolio is expected to provide similar returns to the benchmark over interest rate cycles but may underperform or outperform in certain periods. The portfolio will be positioned to first protect principal and then achieve market rates of return. The benchmark used will be a 0-3 year or 0-5 year standard market index and comparisons will be calculated monthly and reported quarterly.
- iii. When comparing the performance of the City's portfolio, all fees and expenses involved with managing the portfolio shall be included in the computation of the portfolio's rate of return.
- iv. The mark to market pricing will be calculated monthly and be provided in a monthly report.

C. Audits

Management shall establish an annual process of independent review by the external auditor to assure compliance with internal controls. Such audit will include tests deemed appropriate by the auditor.

15. Policy Maintenance and Considerations

A. Review

The investment policy shall be reviewed at least annually to ensure its consistency with the overall objectives of preservation of principal, liquidity and return, and its relevance to current law and financial and economic trends.

The annual report should also serve as a venue to suggest policies and improvements to the investment program, and shall include an investment plan for the coming year.

B. Exemptions

Any investment held prior to the adoption of this policy shall be exempted from the requirements of this policy. At maturity or liquidation, such monies shall be reinvested as provided by this policy.

C. Policy Adoption and Amendments

This Investment Policy and any modifications to this policy must be formally approved in writing by the City Council. Regardless of whether this policy is submitted to the OSTF Board for comment, this policy shall be re-submitted not less than annually to the City Council for approval.

Glossary of Terms

Accrued Interest: The interest accumulated on a security since the issue date or since the last coupon payment. The buyer of the security pays the market price plus accrued interest.

Agency Securities: See "Federal Agency Securities."

Bankers' Acceptance (BA's): A draft or bill of exchange drawn upon and accepted by a bank. Frequently used to finance shipping of international goods. Used as a short-term credit instrument, bankers' acceptances are traded at a discount from face value as a month market instrument in the secondary market on the basis of the credit quality of the guaranteeing bank.

Basis Point: A basis point is a unit of measure used in finance to describe the percentage change in the value or rate of a financial instrument. One basis point is equivalent to 0.01% (1/100th of a percent) or 0.0001 in decimal form. In most cases, it refers to changes in interest rates and bond yields.

Benchmark: A market index used as a comparative basis for measuring the performance of an investment portfolio. A performance benchmark should represent a close correlation to investment guidelines, risk tolerance and duration of the actual portfolio's investments.

Bond: An interest-bearing security issued by a corporation, government, governmental agency, or other body. It is a form of debt with an interest rate, maturity, and face value, and it is usually secured by specific assets. Most bonds have a maturity of greater than one year and in general, pay interest semiannually.

Broker/Dealer: A person or firm transacting securities business with customers. A "broker" acts as an agent between buyers and sellers, and receives a commission for these services. A "dealer" buys and sells financial assets from its own portfolio. A dealer takes risk by owning an inventory of securities, whereas a broker merely matches up buyers and sellers.

Call: An option to buy a specific asset at a certain price within a certain period of time.

Callable: A bond or preferred stock that may be redeemed by the issuer before maturity for a call price specified at the time of issuance.

Call Date: The date before maturity on which a bond may be redeemed at the option of the issuer.

Certificate of Deposit (CD): Bank obligation issued by a financial institution generally offering a fixed rate of return (coupon) for a specified period of time (maturity).

Collateral: Securities or other property that a borrower pledges as security for the repayment of a loan. Also refers to securities pledged by a bank to secure deposits of public monies.

Commercial Paper: Short-term, unsecured, negotiable promissory notes issued by a company or financial institution. Issued at a discount and matures at par or face value. Usually a maximum maturity of 270 days, and given a short-term debt rating by one or more NRSROs.

Core Fund: Core funds are defined as operating fund balance which exceeds THE SCHOOL CITY's daily liquidity needs. Core funds are invested out the yield curve to diversify maturity

structure in the overall portfolio. Having longer term investments in a portfolio will stabilize the overall portfolio interest earnings over interest rate cycles.

Corporate Note: A debt instrument issued by a corporation with a maturity of greater than one year and less than ten years.

Coupon Rate: The annual rate of interest that the issuer of a bond promises to pay to the holder of the bond.

Credit Risk: Credit risk is the risk that a security or a portfolio will lose some or all of its value due to a real or perceived change in the ability of the issuer to repay its debt.

Commented [WM3]: Added from OSTFB Sample Policy

Current Maturity: The amount of time left until an obligation matures. For example, a one-year bill issued nine months ago has a current maturity of three months.

Current Yield: The coupon payments on a security as a percentage of the security's market price. In many instances the price should be gross of accrued interest, particularly on instruments where no coupon is left to be paid until maturity.

CUSIP: A CUSIP number identifies securities. CUSIP stands for Committee on Uniform Security Identification Procedures, which was established under the auspices of the American Bankers Association to develop a uniform method of identifying municipal, U.S. government, and corporate securities.

Delivery Versus Payment (DVP): Settlement procedure in which securities are delivered versus payment of cash, but only after cash has been received. Most security transactions, including those through the Fed Securities Wire system and DTC, are done DVP as a protection for both the buyer and seller of securities.

Depository Trust Company (DTC): A firm through which members can use a computer to arrange for securities to be delivered to other members without physical delivery of certificates. A member of the Federal Reserve System and owned mostly by the New York Stock Exchange, the Depository Trust Company uses computerized debit and credit entries. Most corporate securities, commercial paper, CDs and BAs clear through DTC.

Discount Notes: Short term debt obligations issued by Federal Agencies at a discount. Discount notes mature at par and can range in maturity from overnight to one year. Discount Notes typically have very large primary (new issue) and secondary markets.

Federal Agency Security: A debt instrument issued by one of the federal agencies. Federal agencies are considered second in credit quality and liquidity only to U.S. Treasuries.

Federal Agency: Government sponsored/owned entity created by the U.S. Congress, generally for the purpose of acting as a financial intermediary by borrowing in the marketplace and directing proceeds to specific areas of the economy considered to otherwise have restricted access to credit markets.

Federal Farm Credit Banks Funding Corporation (FFCB): A Government Sponsored Enterprise (GSE) system that is a network of cooperatively owned lending institutions that provide credit services to farmers, agricultural cooperatives and rural utilities. The FFCBs act as financial intermediaries that borrow money in the capital markets and use the proceeds to make loans and

provide other assistance to farmers and farm-affiliated businesses. FFCB debt is not an obligation of, nor is it guaranteed by the U.S. government, although it is considered to have minimal credit risk due to its importance to the U.S. Financial system and agricultural industry. Also issues notes under its "designated note" program.

Federal Home Loan Bank System (FHLB): A Government Sponsored Enterprise (GSE) system, consisting of wholesale banks (currently twelve City banks) owned by their member banks, which provides correspondent banking services and credit to various financial institutions, financed by the issuance of securities. The principal purpose of the FHLB is to add liquidity to the mortgage markets. Although FHLB does not directly fund mortgages, it provides a stable supply of credit to thrift institutions that make new mortgage loans. FHLB debt is not an obligation of, nor is it guaranteed by the U.S. government, although it is considered to have minimal credit risk due to its importance to the U.S. financial system and housing market. Frequent issuer of discount notes, agency notes and callable agency securities. Also issues notes under its "global note" and "TAP" programs.

Federal Home Loan Mortgage Corporation (FHLMC or "Freddie Mac"): One of the large Federal Agencies. A government sponsored public corporation (GSE) that provides stability and assistance to the secondary market for home mortgages by purchasing first mortgages and participation interests financed by the sale of debt and guaranteed mortgage backed securities. FHLMC debt is not an obligation of, nor is it guaranteed by the U.S. government, although it is considered to have minimal credit risk due to its importance to the U.S. financial system and housing market. Frequent issuer of discount notes, agency notes, callable agency securities and MBS. Also issues notes under its "reference note" program.

Federal National Mortgage Association (FNMA or "Fannie Mae"): One of the large Federal Agencies. A government sponsored public corporation (GSE) that provides liquidity to the residential mortgage market by purchasing mortgage loans from lenders, financed by the issuance of debt securities and MBS (pools of mortgages packaged together as a security). FNMA debt is not an obligation of, nor is it guaranteed by the U.S. government, although it is considered to have minimal credit risk due to its importance to the U.S. financial system and housing market. Frequent issuer of discount notes, agency notes, callable agency securities and MBS. Also issues notes under its "benchmark note" program.

Federal Reserve Bank: One of the 12 distinct banks of the Federal Reserve System.

Federal Reserve System (the Fed): The independent central bank system of the United States that establishes and conducts the nation's monetary policy. This is accomplished in three major ways: (1) raising or lowering bank reserve requirements, (2) raising or lowering the target Fed Funds Rate and Discount Rate, and (3) in open market operations by buying and selling government securities. The Federal Reserve System is made up of twelve Federal Reserve City Banks, their branches, and many national and state banks throughout the nation. It is headed by the seven member Board of Governors known as the "Federal Reserve Board" and headed by its Chairman.

General Obligation Bonds (GOs): Bonds secured by the pledge of the municipal issuer's full faith and credit, which usually includes unlimited taxing power.

Government Bonds: Securities issued by the federal government; they are obligations of the U.S. Treasury. Also known as "government securities."

Government Sponsored Enterprise (GSE): Privately owned entity subject to federal regulation and supervision, created by the U.S. Congress to reduce the cost of capital for certain borrowing sectors of the economy such as students, farmers, and homeowners. GSEs carry the implicit backing of the U.S. Government, but they are not direct obligations of the U.S. Government. For this reason, these securities will offer a yield premium over Treasuries. Some consider GSEs to be stealth recipients of corporate welfare. Examples of GSEs include: FHLB, FHLMC, FNMA and FFCB.

Interest: Compensation paid or to be paid for the use of money. The rate of interest is generally expressed as an annual percentage.

Interest Rate: The interest payable each year on borrowed funds, expressed as a percentage of the principal.

Interest Rate Risk: Longer-term investments have the potential to achieve higher returns but are also likely to exhibit higher market value volatility due to the changes in the general level of interest rates over the life of the investment(s). Interest rate risk will be mitigated by providing adequate liquidity for short-term cash needs, and by making longer-term investments only with funds that are not needed for current cash flow purposes.

Commented [WM4]: Added definition per OSTFB recommendation

Investment Advisor: A company that provides professional advice managing portfolios, investment recommendations and/or research in exchange for a management fee.

Investment Portfolio: A collection of securities held by a bank, individual, institution, or government agency for investment purposes.

Investment Securities: Securities purchased for an investment portfolio, as opposed to those purchased for resale to customers.

Liquidity: The ease at which a security can be bought or sold (converted to cash) in the market. A large number of buyers and sellers and a high volume of trading activity are important components of liquidity.

Liquidity Component: A percentage of the total portfolio that is dedicated to providing liquidity needs for The City.

Liquidity Risk: Liquidity risk is the risk that an investment may not be easily marketable or redeemable, as well as a shortfall of operating cash resulting in the need to sell securities and, thus, principal risk.

Commented [WM5]: Included definition from OSTFB Sample Policy

Mark to Market: Adjustment of an account or portfolio to reflect actual market price rather than book price, purchase price or some other valuation.

Municipals: Securities, usually bonds, issued by a state or its agencies. The interest on "munis" is usually exempt from federal income taxes and state and local income taxes in the state of issuance. Municipal securities may or may not be backed by the issuing agency's taxation powers.

NRSRO: A "Nationally Recognized Statistical Rating Organization." A designated rating organization that the SEC has deemed a strong national presence in the U.S. NRSROs provide credit ratings on corporate and bank debt issues. Only ratings of a NRSRO may be used for the regulatory purposes of rating such as Moody's, S&P, Fitch and Duff & Phelps.

Par Value: The value of a security expressed as a specific dollar amount marked on the face of the security, or the amount of money due at maturity. Par value should not be confused with market value.

Prudent Person Standard: Standard that requires that when investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, a trustee will act with care, skill, prudence, and diligence under the circumstances the prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the agency, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the entity.

Rate of Return: Amount of income received from an investment, expressed as a percentage of the amount invested.

State of Oregon Local Government Investment Pool (OSTF – Oregon Short Term Fund): The OSTF is organized pursuant to ORS 294.805 through 294.895. Participation in the Pool will not exceed the maximum limit annually set by ORS 294.810.

Total Return: Investment performance measured over a period of time that includes coupon interest, interest on interest, and both realized and unrealized gains or losses. Total return includes, therefore, any market value appreciation/depreciation on investments held at period end.

Treasury Bill (T-Bill): An obligation of the U.S. government with a maturity of one year or less. T-bills bear no interest but are sold at a discount.

Treasury Bonds and Notes: Obligations of the U.S. government that bear interest. Notes have maturities of one to ten years; bonds have longer maturities.

Yield: The annual rate of return on an investment, expressed as a percentage of the investment. Income yield is obtained by dividing the current dollar income by the current market price for the security. Net yield, or yield to maturity, is the current income yield minus any premium above par or plus any discount from par in the purchase price, with the adjustment spread over the period from the date of purchase to the date of maturity of the bond.

Yield to Maturity: The average annual yield on a security, assuming it is held to maturity; equals to the rate at which all principal and interest payments would be discounted to produce a present value equal to the purchase price of the bond.

Ratings Table – Long-Term

Three Highest Rating Categories	S&P	Moody's	Fitch	Definition
	AAA	Aaa	AAA	Highest credit quality
	AA+, AA, AA-	Aa1, Aa2, Aa3	AA+, AA, AA-	Very high credit quality
	A+, A, A-	A1, A2, A3	A+, A, A-	High credit quality
	BBB+, BBB, BBB-	Baa1, Baa2, Baa3	BBB+, BBB, BBB-	Good credit quality
	BB+, BB, BB-	Ba1, Ba2, Ba3	BB+, BB, BB-	Non-investment grade

Ratings Table – Short-Term

Highest Rating Category	S&P	Moody's	Fitch	Definition
	A1+, A1	P1+, P1	F1+, F1	Highest credit quality
	Municipal Commercial Paper			
	A-1, A-1+, SP-1+, SP-1	P1, MIG1, VMIG1	F1+, F1	Highest credit quality



CITY OF
West Linn

INVESTMENT POLICY

Original date of preparation: November 2008

*Received favorable review from the Oregon Short Term
Fund Board (OSTFB): _____*

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CITY OF WEST LINN

INVESTMENT POLICY GUIDELINES FOR ALL FUNDS (excluding PERS / DEFERRED COMPENSATION FUNDS)

I. SCOPE

This policy applies to activities of City of West Linn with regard to investing the financial assets of all funds except for funds held in trust for the PERS and deferred compensation funds for the Employees of City of West Linn which have separate rules. In addition, funds held by trustees or fiscal agents are excluded from these rules; however, all funds are subject to regulations established by the State of Oregon. This policy provides investment direction for all of the following City funds:

- A. General Fund
- B. Special Revenue Funds
- C. Debt Service Funds
- D. Capital Projects Funds
- E. Enterprise Funds
- F. Internal Service Funds

These funds will be invested in compliance with the provisions of, but not necessarily limited to, the Oregon Revised Statutes. Investments of any tax-exempt borrowing proceeds and any related debt service funds will comply with the arbitrage restrictions in all applicable Internal Revenue Codes.

II. OBJECTIVES

The investment objectives are:

- A. *LEGALITY*: Compliance with all applicable statutes and legal provisions.
- B. *SAFETY*: Preservation of capital and the protection of principal.
- C. *LIQUIDITY*: Maintenance of sufficient liquidity to meet operating requirements.
- D. *RISK*: Avoidance of imprudent credit, market, or speculative risk.
- E. *RETURN*: Attainment of a market rate of return throughout all economic and fiscal cycles.

Legality, followed second by preservation of principal, is always the first objective. Rate-of-return is last.

III. DELEGATION OF AUTHORITY

The City Manager is the designated investment officer of City of West Linn and is responsible for investment decisions, under the review of City Council. In the absence of the investment officer, the Finance Director shall perform the duties. The investment officer is responsible for setting investment policy and guidelines subject to review and adoption by the City Council and, if required, review and comment by the Oregon Short-Term Fund Board. Further, the City Manager will be responsible for the day-to-day operations of the investment process which include but are not limited to choosing what to buy or sell, from whom investments will be purchased, executing the buy/sell orders, producing necessary reports, and supervising staff. In addition to the active management of the investment portfolio, the City Manager is responsible for the maintenance of other written administrative procedures consistent with this policy and the requisite compliance. To further optimize the total return of the investment portfolio, the City Manager will administer an active cash management program the goal of which will maintain historical cash flow information, i.e., debt service, payroll, revenue receipts, and, any extraordinary expenditures.

IV. PRUDENCE

The standard of prudence to be used by the investment officer in the context of managing the financial resources shall be the prudent investor rule, which states: "Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived."

The investment officer and staff, acting in accordance with written procedures and exercising due diligence, shall not be held personally responsible for a specific security's credit risk, market price changes, or loss of principal if securities are liquidated prior to maturity provided that these deviations and losses are reported as soon as practical and action is taken to control adverse developments.

V. SAFEKEEPING AND COLLATERALIZATION

Purchased investment securities may be delivered by either Fed book entry, DTC, or physical delivery. Safekeeping shall be consistent with modern investment, banking, and commercial practices and may include physical possession, book entry, and automated recordation. The City may elect to instruct one or more custodian banks to accept or release securities, as the City considers advisable. The purchase and sale of securities will be on a delivery versus payment basis. The custodian shall issue a safekeeping receipt to the City listing the specific instrument, selling broker/dealer, issuer, coupon, maturity, CUSIP number, purchase or sale price, transaction date, and other pertinent information. Delivery versus payment will be required for all repurchase transactions and with the collateral priced and limited in maturity in compliance with ORS 294.035 (11). Demand and time deposits shall be collateralized through the State collateral pool as required by statute for any excess over the amount insured by an agency of the US government.

VI. ACCOUNTING METHOD

The City of West Linn shall comply with all required legal provisions and Generally Accepted Accounting Principles (GAAP). The accounting principles are those contained in the pronouncements of authoritative bodies including, but not necessarily limited to, the American Institute of Certified Public Accountants (AICPA); the Financial Accounting Standards Board (FASB); and the Government Accounting Standards Board (GASB).

VII. INTERNAL CONTROLS

The City Manager shall maintain a system of written internal controls which shall be reviewed and tested by the independent auditor at least annually or upon any extraordinary event, i.e., turnover of key personnel, the discovery of any inappropriate activity.

VIII. REPORTING REQUIREMENTS

The investment officer shall generate monthly reports for management purposes. In addition, the City Council will be provided annual reports which will include but not necessarily be limited to: portfolio activity, instruments held, market valuation, as well as any narrative necessary for adequate clarification.

IX. INVESTMENT POLICY ADOPTION

This investment policy will be formally adopted by the City Council. If investments exceeding a maturity of eighteen months are contemplated, further review and comment by the Oregon Short-Term Fund Board may be sought; and thereafter, this policy will automatically renew annually unless there are significant policy modifications.

X. QUALIFIED INSTITUTIONS

The investment officer shall maintain a list of all authorized broker/dealers and financial institutions which are approved for investment purposes or investment dealings. Any firm is eligible to make an application to City of West Linn, and upon due consideration and approval, will be added to the list. Additions or deletions to the list will be made at the City Manager's discretion. At the request of City of West Linn, the firms performing investment services shall provide their most recent financial statements or Consolidated Report of Condition (call report) for review. Further, there should be in place, proof as to all the necessary credentials and licenses held by employees of the broker/dealers who will have contact with City of West Linn as specified by but not necessarily limited to the National Association of Securities Dealers (NASD), Securities and Exchange Commission (SEC), etc. The City of West Linn shall conduct an annual evaluation of each firm's creditworthiness to determine if it should remain on the list. Securities broker/dealers not affiliated with a bank shall be required to have an office located in Oregon.

XI. INVESTMENT MATURITY

This section addresses the actual investment process. It should be the section coming under the most constant scrutiny from investment staff and reviewing authorities and, therefore, subject to change more frequently. This portion of the investment policy will vary the widest from one local government policy to another. Finally, the process will be most heavily influenced by the unique nature of the portfolios; the risk tolerance of the local government; resources such as time, information, electronic market access; and subtlety shaded by the talent, knowledge, experience, risk tolerance, and temperament of the investment staff.

Unless matched to a specific cash flow, the City of West Linn will not directly invest in securities maturing in more than 18 months. With the approval of City Council, if the investment is related to a specific cash flow or particular capital project, securities will be held to a maximum of 36 months. Except for funds requiring special handling (bond proceeds subject to arbitrage, etc.) investments beyond 18 months require the express approval of the City Council (ORS 294.135).

Funds considered short-term will be invested to coincide with projected cash needs or with the following serial maturity:

- 50% minimum to mature under three months.
- 25% maximum to mature three months to one year.
- 25% maximum to mature over one year out to eighteen months.

The serial investment maturity specifies limits to the distribution of investment securities. This establishes the sensitivity of the portfolio to interest rate changes and the resultant principal risk. While most local government portfolios are not required to recognize gains and losses when their investments are marked to market nor to maintain a constant net asset value, the degree of exposure to principal risk from interest rate changes should be within the tolerances of the local government's cash forecast; there should be adequate liquidity to mitigate the need to sell securities prior to their maturity at a loss. Weighted average maturity parameters can be set but may not necessarily be appropriate if they give a false sense of adequate liquidity or be overly restrictive.

XII. PORTFOLIO DIVERSIFICATION

	(measured at settlement date) Maximum % of Portfolio*
1. <u>Diversification by Instrument*</u>	
US Treasury Obligation:	100%
US Government Agency Securities (GSE's)	
Total of all GSE's	100%
Each discrete GSE (i.e. FNMA, FHLC, etc...)	50%
Bankers' Acceptances from qualified institutions	25%
Certificates of Deposit from qualified institutions	100%
Repurchase Transactions:	100%
Corporate Indebtedness:	
Total of corporate bonds, notes, and paper	35%
Any single corporate entity	5%

XII. PORTFOLIO DIVERSIFICATION (continued)

2. Diversification by Institution*

Local Government Investment Pool:	100%
Non-US Treasury/GSE issuer:	100%

**As determined by limitations under ORS 294.035 to include certain credit rating minimums.*

The goals for the selection of specific investments are to establish levels of credit quality, diversification by issuers, and by security type. An optimal mix, though subjective, enhances portfolio liquidity and safety. Diversification by institutions is to minimize exposure to one entity. US Treasury securities (Bills, Notes, and Bonds), present the double advantage of highest credit quality plus access to the most actively traded fixed-income market. There is an industry premise that this latter characteristic of US Treasuries make them less likely to experience wide pricing differentials during volatile markets thereby mitigating principal loss. From this premise, it is market belief that US Treasuries allow portfolios to invest in longer maturities with less market (principal) risk. Finally, there is more accurate pricing of US Treasuries when marked to market enhancing valuation of portfolio interest rate exposure. As the selection of instruments lowers to US GSE's, bankers' acceptances, commercial paper and corporate notes, the level of credit quality and liquidity is perceived to decline. In some instances, liquidity is helped if there are put privileges directly back to the issuer. TCD's are not considered liquid at all. Finally, there are instances when variable-rate notes (floaters) may be attractive. Technically, such instruments are derivatives since such instruments have returns (coupons) linked to or derived from the performance of some underlying asset, i.e., 3-month US T-bills. When considering floating rate notes, the most desirable characteristic is when the return reflects comparable money market instruments of similar quality and maturity. For example, a US GSE (i.e. SLMA) weekly reset 3-month US T-bill floating rate note may have characteristics that allow minimal principal risk as interest rates change; to the extent that the price movement of the underlying instrument (3-month US T-bills) reflects short-term interest rates. The State Treasurer under ORS 294.046, produces a list of securities issued by the US government and US government agencies and instrumentalities. Finally 294.035 provides legal investments available to local governments with the exception of 294.035 (10) which in the opinion of the State Attorney General is NOT a legal investment.

XIII. COMPETITIVE SELECTION OF BIDS OR OFFERS

Before the investment officer invests funds or sells securities prior to their maturity, competitive offers or bids may be sought, at the discretion of the designated investment officer, from up to three institutions. The most favorable offer or bid will be awarded the transaction.

For cases when the bids or offers are equal, the process for distributing the transaction could be as follows: for a tie, all participating firms will split the transaction equally, i.e., for if three firms tie, each gets one-third of the transaction; for two out of three firms who tie, the two get one-half each. However, transaction and administrative costs may make a single bid or offer more prudent.

XIV. MONITORING AND ADJUSTING THE PORTFOLIO

The investment officer will routinely monitor the contents of the portfolio comparing the holdings to the markets, relative values of competing instruments, changes in credit quality, and benchmarks. If there are advantageous transactions, the portfolio may be adjusted accordingly.

Markets and portfolios are dynamic. Both require monitoring and portfolios can benefit from some active management. This latter process of active management, however, may be limited by the size of the portfolio; the nature of the funds; the time, technical expertise and resources of the investment staff; the time, technical expertise, and frequency of review by the oversight authority (board or commission); and the availability of reliable cash flow forecasts.

XV. PERFORMANCE EVALUATION

The performance of the City of West Linn's portfolio will be measured against the performance of the Local Government Investment Pool, using monthly net yield of both portfolios as the yardstick; and/or the 3 month US T-bill; and/or the IBC's Money Fund Report of First Tier Institutions Only index of money market funds.

XVI. ANALYSIS OF INVESTMENT RISKS

In analyzing the City's investment portfolio, there are three major risks that the City incurs through its investment activities. The first risk that the City faces is the *interest rate risk*. This risk is the uncertainty of the size of future incomes from securities caused by fluctuations in the general level of interest rates in the capital markets. Interest rates have fluctuated dramatically in the past and, therefore, the City's investment policy is designed to minimize the interest rate risk. This is accomplished by limiting investments to a maximum maturity of 36 months, and by investing to meet the City's cash flow requirements.

The second risk that the City faces can be termed the *purchasing power risk*. This risk can be defined as the uncertainty of the purchasing power of interest and principal to be received in the future. It can be easily recognized that if the amount of income from a security in current dollars remains unchanged over a period of time while the price index is rising, then the amount of income in constant dollars declines and the constant value of the principal to be received also declines.

The final risk is the *financial risk* of not receiving principal and interest when due from an issuer. The design of the types of investments permitted by the investment policy seeks to minimize this risk by the conservative nature of the permissible investments and by establishing safe limits on the level of investments with Oregon financial institutions and issuers of commercial paper. A portfolio policy stressing a relatively short maturity serves to additionally minimize this risk.

Thus, it is the conclusion that the shorter the portfolio is in maturity, the less risk the City is incurring with regard to the three major risks that it faces. The shorter-term philosophy leaves open the flexibility to earn gains on the City's investments by shifting funds out to longer maturity when interest rates are falling, yet avoids the extreme amount of exposure to the interest rate risk and purchasing power risk that we would incur in an even longer-term portfolio.

APPENDIXES:

- A. - ~~Previous Investment Policy, Procedure No. 8~~
- B. - Descriptions of Available Investments
- C. - Current Listing of the City's Investments
- D. - Information Statement, LGIP
- E. - Issue Paper, LGIP
- F. - Certification to Establish an Account, LGIP

Agenda Bill 2025-03-17-07

Date Prepared: March 10, 2025

For Meeting Date: March 17, 2025

To: Rory Bialostosky, Mayor
West Linn City Council

Through: John Williams, City Manager *JRW*

From: Doug Erickson, Library and Community Services Director

Subject: Increased Materials Cost for Willamette Main Street Bicycle Kiosk Art Project

Purpose:

The Arts and Culture Commission has received authorization from the City Council to commission and install art at the Willamette Main Street Bicycle Kiosk. Since the original submission from the artist, and approval from the City Council, the price of materials to produce the artwork has increased, thus requiring a new approval from City Council.

Question(s) for Council:

Does the City Council authorize the City to enter into a contract with the artist that reflects the increased quote?

Public Hearing Required:

No

Background & Discussion:

Historic Willamette Main Street came to the Arts and Culture Commission asking to partner with them for the possibility for a public art installation for a bicycle kiosk along Willamette Main Street. The Arts and Culture Commission then put out a call for artists in August/September 2024 and selected Travis Pond as the artist. The original request for City Council to approve this contract was for \$7,500.00 in January 2025, but the cost of materials has risen significantly since his proposal last summer. Mr. Pond's updated proposal is for \$13,605.47.

Budget Impact:

\$ 13,605.47 from the Percentage for the Arts Funds.

Sustainability Impact:

A Bicycle kiosk will add a place where bicyclist can repair their bicycles, a respite for bikers and for the community walking through the Willamette Main Street area to enjoy.

Council Options:

1. Approve increase in funding to match the current quote provided by the artist.

2. Deny the request for increased funding, which will likely mean the selected art project/installation cannot be completed.

Staff Recommendation:

Staff, and the Arts and Culture Commission, recommend the authorization for entering a contract with Travis Pond, at the increased attached quoted price of approximately \$13,700 for the commission of art to be installed in the Historic Willamette Main Street Bicycle Kiosk, with the understanding there may be materials costs changes even with regard to this updated quote.

Potential Motion:

I move to authorize the City to enter into a contract with artist Travis Pond, at the increased quoted amount, for the purposes of a contract for the commission of art for the Historic Willamette Main Street Bicycle Kiosk with the understanding there may be materials cost changes even with regard to this updated quote.

Attachments:

1. Original Agenda Bill materials awarding artist contract to Travis Pond
2. New quote from artist Travis Pond

Agenda Bill 2025-01-06-04

Date Prepared: December 13, 2024

For Meeting Date: January 6, 2025

To: Rory Bialostosky, Mayor
West Linn City Council

Through: John Williams, City Manager *JRW*

From: Doug Erickson, Director Library & Community Service (*DE*)

Subject: Arts And Culture Commission Recommendations For The Commissioning Of An Artist For Art For The Willamette Main Street Bicycle Kiosk

Purpose:

The Arts and Culture Commission would like to make a recommendation to authorize the commission of work by an artist for the art installation in the Willamette Main Street Bicycle Kiosk, owned by the City of West Linn.

Question(s) for Council:

Should the West Linn City Council authorize the commission for art to be entered into with an artist, Travis Pond, which has been selected as a finalist for creating an art installation for the Willamette Main Street Bicycle Kiosk?

Public Hearing Required:

No

Background & Discussion:

The Arts and Culture Commission is a Citizen Advisory Group, appointed by the City Council, to promote arts and culture as a vital element in the quality of life for all residents of and visitors to the City.

Historic Willamette Main Street came to the Arts and Culture Commission asking to partner with them for the possibility for a public art installation for a new bicycle kiosk along Willamette Main Street.

According to the West Linn Municipal Code the Percentage for the Arts program provides money for public art at City facilities, structures, and capital improvements. One-percent of capital projects is set aside for the acquisition of public art, and .5% for administration of the public art program, including maintenance and care, in West Linn.

The Arts and Culture Commission put out a call for artists, utilizing Clackamas County Arts Alliance, City website and City social media channels for helping to promote this opportunity. Proposals were entertained during the August and September 2024. A total of seven applications were submitted. The Arts and Culture Commission reviewed and ranked each application and chose two artists who the Arts

and Culture Commission wished to interview as finalists. Upon those interviews the A&CC selected Travis Pond to recommend for this art project.

According to the West Linn “Percent for Art” Program Governing Guidelines:

The Commission will present the chosen finalist to the City Council at a public meeting for approval. The presentation may include a discussion of:

- A. How the “Required Conditions” of the Art Selection Criteria, 2.1(1) of the Governing Guidelines, are satisfied;
- B. How the selected art comports with the Public Art Project Proposal, 2.2(1)(A)-(E) of the Governing Guidelines;
- C. A preliminary rendering, where possible, of the selected art; and
- D. A clear description, and photo where possible, of the proposed site for the selected art.

Budget Impact:

\$ 7500 from the Percentage for the Arts Funds.

Sustainability Impact:

A Bicycle Kiosk will add a place where bicyclist can repair their bicycles, a respite for bikers and for the community walking through the Willamette Main Street area to enjoy.

Council Options:

- 1. Approve the Arts and Culture Commission proposal to award artist Travis Pond the contract for the art project of the bike kiosk on Willamette Main Street.
- 2. Direct staff to go back to the Commission to amend their recommendation.

Staff Recommendation:

Staff, and the Arts and Culture Commission recommend the authorization for entering a contract with Travis Pond for the commission of art to be installed in the Historic Willamette Main Street Bicycle Kiosk. The Council may consider the following when evaluate the opportunities and obstacles; the art and impact it will have on the community, the maintenance of the art, the visibility of the art.

Potential Motion:

I move to authorize Staff to negotiate with Travis Pond, for the purposes of a contract, for the commission of art for the Historic Willamette Main Street Bicycle Kiosk.

Attachments:

- 1. Bike Kiosk Structure Rendering
- 2. Call for Artists Publishing
- 3. HWMS Bike Kiosk Artist Renderings – Travis Pond



ISOMETRIC VIEW:
SCALE: 1/16"=1"

SEE SALES ORDER FOR OPTIONS AND FINISHES

**CONCEPTUAL DRAWING FOR CUSTOMER
SIGN OFF ONLY, NOT INTENDED FOR PRODUCTION**

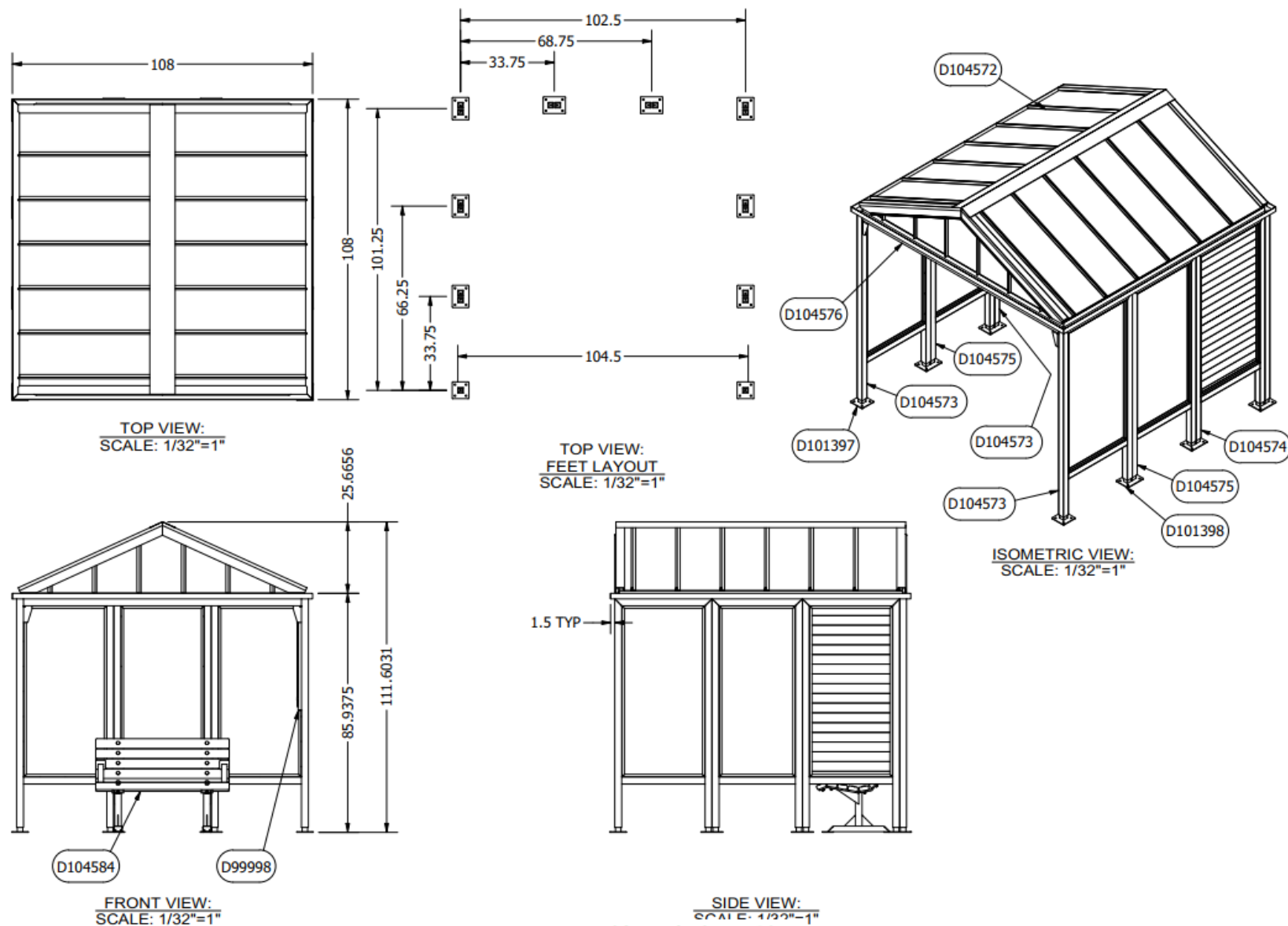
Please provide comment on conceptual drawing, mark appropriate box below,
provide authorized signature and fax to 503-373-1086

☐ No Exceptions Noted

☐ Revise & Re-Submit


X
Signature

Date





Community

 Submissions for this form are closed.

Contact Information

West Linn City Hall
22500 Salamo Road
West Linn, OR 97068
503-657-0331

[View Full Contact Details](#)

Upcoming Events

Christmas Day Observance - City Offices Closed
12/25/2024 (All day)

New Year's Day - City Offices Closed
01/01/2025 (All day)

Martin Luther King Jr Day - City Offices Closed
01/20/2025 (All day)

President's Day - City Offices Closed
02/17/2025 (All day)

Memorial Day - City Offices Closed
05/26/2025 (All day)

Juneteenth - City Offices Closed
06/19/2025 (All day)

[View the Monthly Calendar](#)

Call for Art and/or Proposals: Bike Repair Kiosk

****This Call for Artists is Now Closed****

Call for Art and/or Proposals: Art Installation for Bike Repair Kiosk: "Where rivers and people meet"

Proposal Deadline: 5pm on September 20, 2024

Send questions to westlinnartsandculture@gmail.com.

The City of West Linn Arts and Culture Commission (WLACC), in partnership with Historic Willamette Main Street (HWMS), is seeking proposals for art to enhance a new bike repair kiosk to be installed on Willamette Falls Drive, planned for Fall of 2024. This project aims to transform functional infrastructure into a vibrant community asset by integrating artistic expression into an urban space.

Artists are invited to explore the theme of "Where rivers and people meet" (the motto of Historic Willamette Main St). As this bike kiosk will provide basic bicycle servicing equipment and will serve as a small respite for cyclists, we seek artworks that celebrate the spirit of movement, connectivity, and community. Whether through vibrant colors, dynamic patterns, or thought-provoking imagery, the artwork should evoke a sense of energy and inclusivity.

Award: The all-inclusive budget is \$7,500 which would include all conceptual sketches, materials, and final art ready for installation.

Specifications

- See drawings in [attached pdf](#).
- If 2-D, the artwork would be applied to, compressed between, or etched into thick plexiglass walls. If 3-D, the artist will need to provide information about attachment mechanisms. Submissions should include how the art will be installed in/on/around the transparent walls of the bike shelter, providing both visibility and protection from the elements. Artists are expected to provide all materials for installation. The kiosk provider will work with the artist for final specs and installation.
- Artists are encouraged to consider the transparent nature of the walls and how their designs will interact with natural light and the surrounding environment. The art will be viewable from all sides. The steel framed structure is suitable for powder coating.
- Submissions should consider the dimensions of the walls and ensure that the artwork is scalable and adaptable to the space provided. (Specification and draft rendering provided below). All surfaces of the structure can be considered as potential for art.
- Signage for the kiosk, "Willamette Bike Kiosk," may be included as part of the proposal, but is not required. The plan calls for a sign at the top of the structure, but could be incorporated into the design, particularly if the art is sculptural.
- All work must be original, although can have been displayed previously in total or in part. Credits will be given both on site and on the City web site.
- All images must have been created by the maker(s), no stock or AI images.
- Artist(s) will be responsible for delivery and must be on site for installation according to a schedule to be determined.
- This is a work for purchase. The City will take over maintenance and insurance after installation.

Selection Criteria

- Detail and completeness of application/proposal
- Overall aesthetic of artwork or proposed artwork
- Compatibility with the theme of "Where Rivers and People Meet"
- Appropriateness for public display:
 - Of suitable scale
 - Able to withstand the elements and normal wear and tear experienced by public art in an outdoor setting.
 - Able to withstand pedestrian contact & interaction.
- If submitting a proposal, artist(s) must demonstrate/provide evidence of ability to follow through for fabrication and meet deadlines.
- Compatibility with safety standards. Artworks must not obstruct visibility or compromise the structural integrity of the shelter.

Submission Guidelines

- Artist(s) may apply individually or in partnership with other artists. Include contact information for all participants, indicating who is the lead.
- If art has not already been created, artist(s) should submit a proposal outlining their concept, including sketches or digital mock-ups of the proposed artwork.
- Submissions should include details such as materials, dimensions, and any additional requirements for installation.
- Personal statement, including experience and examples of work that is similar in size and scope. We are awarding a contract for the completed work of art, not just a concept.
- Submissions should include an overall cost for artist's time, materials, and delivery all-inclusive of creating and installing the artwork.
- Submissions will be evaluated by the Arts and Culture Commission (WLACC), in partnership with Historic Willamette Main Street. Additional information may be required as part of a second round, if needed.

Timeline

All proposals must be received by 5pm on September 20, 2024. Late submissions will not be considered. *The Commission reserves the right to extend the deadline if an insufficient number of proposals are submitted by September 20, 2024.*

Selected artists will be notified by October 15, 2024, and provided with further details regarding installation and compensation.

It is anticipated that installation will occur in fall 2024.

WLACC reserves the right to reject work that, upon delivery, differs from the original submission, or does not meet standards of durability, safety, equity, and quality.

About Historic Willamette Main Street

Historic Willamette Main Street is a not-for-profit organization whose mission is to celebrate and preserve the rich history and natural beauty of the area, invest in the heart of our downtown by promoting our local businesses. Our purpose is to foster an inclusive, diverse community where local residents and visitors feel welcome to dine, shop, connect and socialize with others.

About the West Linn Arts and Culture Commission

The Arts and Culture Commission of the City of West Linn promotes arts and culture as a vital element in the quality of life for all residents of and visitors to the City. The Commission is committed to advancing equity and diversity and strives to foster an atmosphere of inclusivity, creativity, and respect so all feel inspired to participate and express themselves and their identities. The Commission believes the variety of cultures in the region enriches all citizens' lives. The Commission seeks to create space for dialogue that includes and connects all members of the West Linn community. The Commission's goals are to: 1. Increase access to the arts for all members of our community, regardless of age, income, ability, background, or prior experience with the arts, through affordable, inclusive, and diverse displays, events, and performances 2. Advocate for and partner with artists, arts organizations, and cultural heritage groups by providing opportunities to showcase and educate others about their work 3. Preserve and promote our heritage by hosting events that celebrate the intersection of the arts and culture, including opportunities for people with diverse backgrounds to share their heritage 4. Empower our community to experience art, value art spaces, appreciate diversity, and participate in the creative process

THE WEST LINN ARTS AND CULTURE COMMISSION STRONGLY BELIEVES THAT WE ALL BENEFIT FROM DIVERSITY. THE WLACC DOES NOT DISCRIMINATE ON THE BASIS OF RACE, SEX, AGE, RELIGION, SEXUAL ORIENTATION, OR GENDER IDENTITY.

Supporting Documents

 Bike Kiosk Drawings (259 KB)



Travis Pond:

Response/Answers to Questions:

We appreciate your examples of prior commissioned work; they are very unique! The committee would like you to provide additional detail about what you visualize for the bike kiosk artwork specifically that would fit the feel of West Linn.

My vision for this project ... although I need to see the kiosk and its placement...is to make panels to fit the existing architecture of the kiosk, that are made partially of repurposed metals, mainly bikes if possible, that have imagery and subject matter relating to the community and the “where rivers meet.” In addition to the repurposed materials there will be laser cut scapes of birds in migration rivers flowing and the western vibe of the old town area. The panels will be then galvanized, or powder coated with colors that complement the design and surrounding ascetics.

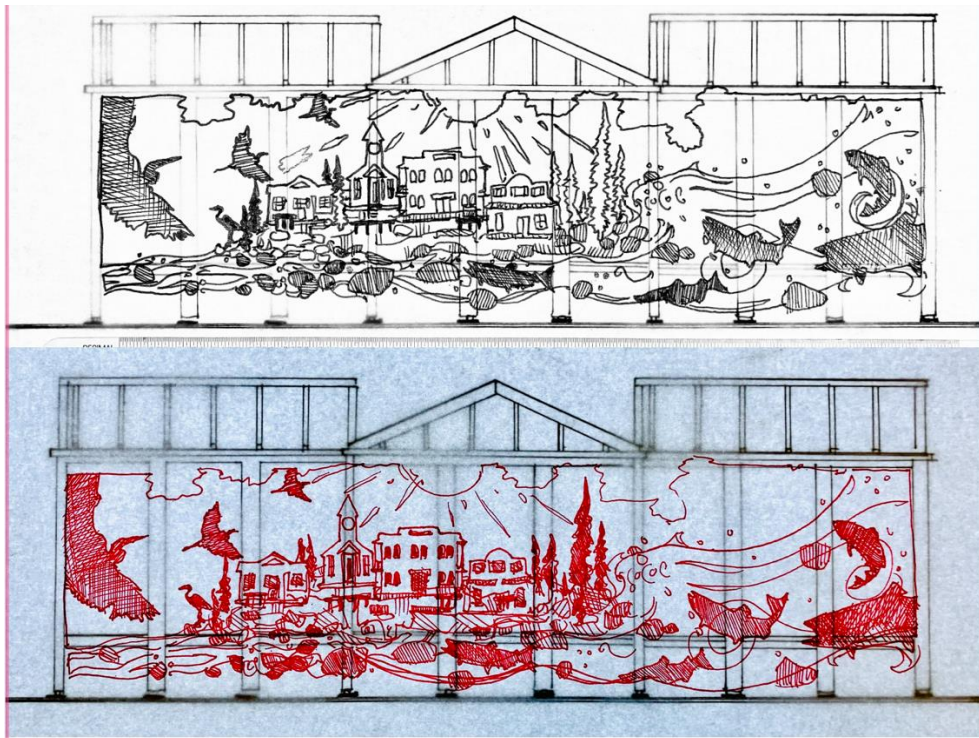
In addition, can you provide additional context around how you intend to address the City’s requirement for visibility and transparency? (for safety and natural light) on 70% of the kiosk walls. Please note the roof of the structure is copper and the solid walls in the mockup will be black.

Some of the elements in your metal sculpture examples include sharp or pointed features. Please provide insight into how you would ensure that the design and position of the artwork is such that there is no risk to the safety of people in proximity to the kiosk.

Let me assure you that there are no sharp edges. Every piece that makes up my work is polished and worked down to make it safe for the audience to engage with the work.

In addition... I am having an open studio event the weekend prior ..October 5 & 6... of which I would like to invite all the committee members to see my work & see the quality and craftsmanship up close. Also, OPB is filming a documentary on me and my work currently and over the next several months. ... inso this project may be considered for them to follow as part of this documentary if we proceed. With that... they will be filming the open studio event on the 5th so that would be a great day to visit.

SAMPLES from Travis Pond:



Preston, Elissa

From: Erickson, Doug
Sent: Tuesday, March 11, 2025 3:40 PM
To: Preston, Elissa
Subject: Fw: art work kisok budget

Sent from a mobile device. Please excuse brevity and typos. thanks!

From: Hill, Cheryl <chill@westlinnoregon.gov>
Sent: Tuesday, March 11, 2025 11:43 AM
To: Erickson, Doug <derickson@westlinnoregon.gov>
Subject: FW: art work kisok budget

From: TRAVIS POND <steelpondstudios@gmail.com>
Sent: Monday, March 10, 2025 5:01 PM
To: Christnacht, Kristen <KChristnacht@westlinnoregon.gov>
Subject: art work kisok budget

CAUTION: This email originated from an External source. Do not click links, open attachments, or follow instructions from this sender unless you recognize the sender and know the content is safe. If you are unsure, please contact the Help Desk immediately for further assistance.

Budget for Bike Kiosk ArtWork

1. Materials & Fabrication

- **New Raw Steel:** \$2,332.22
- **Repurposed Bikes:** \$750.00
- **Miscellaneous Materials** (welding supplies, grinding discs, fasteners, etc.): \$436.34
- **Powder Coating:** \$1,521.50
- **Subtotal:** \$5,040.06

2. Studio & Overhead Costs

- **Studio Costs (Rent, Utilities, Equipment Use):** \$1,575.00
- **Insurance:** \$1,709.00
- **Subtotal:** \$3,284.00

3. Labor & Artist Fee

- **Artist Fee:** \$2,100.00

- **Fabrication & Assembly** (cutting, welding, finishing): Included in Artist Fee
- **Subtotal: \$2,100.00**

4. Delivery & Installation

- **Salem Work & Delivery:** \$853.50
- **Equipment Rental & Site Prep (if needed):** TBD
- **Subtotal: \$853.50**

5. Contingency (10% of total estimated costs)

- **\$1,327.91**

Total Budget: \$13,605.47

Travis Pond
SteelPondStudios
www.steelpond.com

Cheryl Hill
Adult Services Librarian
Library
Pronouns: she, her, hers
[#6172](#)



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Doug Erickson
Director of Library and Community Services
Library
Pronouns: he, him
[#6165](#)



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