



Regular Session

RS

Milwaukie City Council



MINUTES
MILWAUKIE CITY COUNCIL
 www.milwaukieoregon.gov

REGULAR SESSION
 APRIL 15, 2014
 City Hall Council Chambers

Mayor Ferguson called the 2,172nd meeting of the City Council to order at 7:09 p.m.

Council Present: Council President Hedges and Councilors Scott Churchill, Mark Gamba, and Mike Miller

Staff Present: City Manager Bill Monahan, Assistant to the City Manager Teri Bankhead, City Recorder Pat DuVal, City Attorney Tim Ramis, Police Chief Steve Bartol, Police Captain Dave Rash, Finance Director Casey Camors, Community Development Director Steve Butler, Engineering Director Jason Rice, Building Official John Stelzenmueller, and Light Rail Construction Manager Stacy Bluhm.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

A. Introduction of Milwaukie Police Department Captain Mark Dye and Sergeant Luke Strait

Milwaukie Police Chief Steve Bartol introduced recently appointed Captain Mark Dye and Sergeant Luke Strait. The Mayor and Councilors congratulated the men on their promotions.

B. Outstanding Student Achievement Award to Stephanie Keller for the Month of April 2014

Principal Mark Pinder introduced Stephanie Keller and highlighted her achievements at Milwaukie High School. Mayor Ferguson and the Councilors congratulated Ms. Keller on her selection as the Outstanding Student Achievement Award recipient for April 2014.

C. Clackamas County Update with Commission Tootie Smith

Commissioner Smith briefly explained the Board of County Commissioners' (BCC) outreach efforts to various community organizations and discussed the County budget cycle. She commented on recent land use decisions and the Willamette Falls Heritage Project partnership. She hoped to help the City of Milwaukie with its Riverfront Park goals. She talked about the North Clackamas Parks and Recreation (NCPRD) Master Plan and plans for governance and funding of projects. When asked by Councilor Churchill about the County's Hospital Facility Authority (HFA) Commissioner Smith replied the BCC had not been briefed on that matter.

Council President Hedges was pleased the BCC was supportive of Milwaukie's Riverfront Park. He noted that when she and BCC Chair John Ludlow were campaigning, they had indicated they did not wish to charge the City for the Park easement. In the end, Milwaukie was charged \$63,000.

Commissioner Smith said that was not a BCC decision, but it was up to her, she would sign it over.

Mayor Ferguson commented on landscaping and odor control enhancements to the Kellogg Treatment Plant under the Good Neighbor Agreement. He noted Willamette River access for boaters was very limited.

Councilor Miller appreciated the BCC's support for the proposed NCPRD change of governance and funding.

Mayor Ferguson commented on the recently signed Urban Growth Management Agreement (UGMA) with Happy Valley, and he said Milwaukie would follow shortly. He discussed the County's Transportation System Plan (TSP) and the importance of communication to ensure things were going in the right direction for the time when Milwaukie took over.

Commissioner Smith said a recent survey was conducted to evaluate County road conditions with 71% of the respondents saying the roads were in good to excellent condition. She felt the public needed more education on how much money was required to make needed road improvements.

D. Portland Milwaukie Light Rail Project Update

Ms. Bluhm provided an update on bridges related to the project. The two sections of the Willamette River Bridge were within 16 feet of being connected, and the naming event was scheduled for April 16. The Tillamook Bridge was completed, and she showed slides of the Kellogg Lake Bridge that included the bike and pedestrian bridge. She discussed upcoming road closures including Washington Street west of 21st Avenue. She announced the Kellogg Lake and Kronberg Park Earth Day Cleanup events scheduled for April 26 that were organized by Stacy and Wittbeck and TriMet. She briefly commented on future maintenance responsibilities and infrastructure turnover.

Councilor Churchill asked for details on the business notification process for the Washington Street closure. He requested that Ms. Bluhm email the City Council with the notification plans.

Ms. Bluhm replied she was working with the contractor on the details and would provide information on available on street parking.

E. Earth Day Proclamation

Mayor Ferguson read a proclamation naming Tuesday, April 22, 2014, as *Earth Day* in the City of Milwaukie and urged all citizens to be mindful of local, state, and national laws that protect our environment and to continue to preserve the beauty and wonder of the land, air, and water of the Earth in all its diversity.

F. Building Safety and Public Works Month

Mr. Stelzenmueller provided a brief history of building regulations that started with the Code of Hammurabi.

Mayor Ferguson read a proclamation naming the month of May 2014 as *Building Safety and Public Works Month* in the City of Milwaukie and encouraged all citizens to participate in community activities.

CONSENT AGENDA

It was moved by Councilor Gamba and seconded by Councilor Miller to approve the consent agenda as presented.

A. City Council Meeting Minutes

1. **March 20, 2014, Study Session;**
2. **April 1, 2014, Work Session; and**
3. **April 1, 2014, Regular Session**

B. Board, Commission, and Committee Appointments

1. **Resolution No. 33-2014: A Resolution of the City Council of the City of Milwaukie, Oregon, Reappointing James Fossen to the Milwaukie Design and Landmarks Committee**
2. **Resolution 34-2014: A Resolution of the City Council of the City of Milwaukie, Oregon, Reappointing Sherry Grau to the Milwaukie Design and Landmarks Committee**

Motion passed with the following vote: Councilors Churchill, Hedges, Gamba, and Miller and Mayor Ferguson voting "aye." [5:0]

AUDIENCE PARTICIPATION

Mr. Monahan reported on his findings related to the business registration concerns posed by Ed Parecki at the April 1, 2014, meeting. Mr. Parecki had spoken on behalf of several downtown business people and expressed concern that they were being cited into court. He had been concerned about the process and if the City had the ability to impose a delinquency charge as well as issuing a citation. Mr. Monahan reported citation fees and administrative fees were not mutually exclusive.

Richard Cayo, Milwaukie resident, complimented the City Council and staff on implementing the quiet zones at three railroad crossings in Milwaukie. People can now enjoy the peace and quiet and watch their property values increase because of this action. He hoped sometime in the future that the Linwood Harmony crossing could undergo the same process. He expressed concern about the catchbasin at Johnson Creek Blvd and 37th Ave that needed repair although it was in the City of Portland.

Ed Parecki, Milwaukie business person, had received the response to his April 1 questions just prior to this meeting. He felt the City Council and staff should work on the bigger things and leave the little guy alone. He did not have a problem with the business tax but was concerned about the fine.

Councilor Churchill thought those were points well taken as the City works toward implementing the Moving Forward Milwaukie project.

Councilor Miller was concerned about small businesses surviving and thought it was time to take a hard look at this.

Michael Backus, Milwaukie business owner, stated he had not received the citation because correspondence was sent to his business address. He felt the citation should be delivered in person and not through the mail. Can the City Council do anything to help reduce costly fines? He had asked for an explanation of the fines but had not received one.

Jeremiah Johnson, running for Metro president, gave an overview of his campaign. He wanted to raise awareness of Metro and hold it accountable. He felt the vision should be expanded to include development on the east side of the river. Attention should be paid to closed shops and empty lots to get the most out of what was already developed and encourage small business.

Ed Zumwalt, Milwaukie resident, announced this seasons' First Friday opening on May 2. It promised to be better than ever with a Clackamas County Tourism grant. He read a press release outlining the First Friday activities.

PUBLIC HEARING

A. Creation of a Hospital Facility Authority by the City of Milwaukie.

Mayor Ferguson called the public hearing on the creation of The Hospital Facility Authority of the City of Milwaukie, Oregon, to order at 8:52 p.m.

The purpose of the hearing was to hear public comment on the advisability of the City's establishing a Hospital Facility Authority. Notice of the public hearing was published in *The Oregonian* on April 9, 2014.

Ms. Camors provided the staff report in which the City Council was requested to adopt a Resolution creating the Hospital Facility Authority (HFA) of the City of Milwaukie, Oregon. She described the series of events leading to this proposal including meetings with Doug Goe and Greg Blonde from Orrick, Herrington & Sutcliffe and Vassar Byrd, Chief Executive Officer, and Debbie Senestraro Suchan, Chief Financial Officer, for Rose Villa Senior Living Community. She outlined the responsibilities of the HFA Board and noted that staff believed this project would benefit both the local and extended community. The HFA could also help other facilities already in Milwaukie.

Doug Goe, Orrick, Herrington, and Sutcliffe, provided a brief overview of Oregon Revised Statute (ORS) 441 that empowered municipalities to create HFAs for the purpose of issuing tax exempt bonds on behalf of nonprofits to finance hospital facilities that included senior living facilities. Nonprofits cannot directly issue tax exempt bonds; however, the bonds issued by the Authority are secured by the revenues of the nonprofit organization. He outlined the minimal risks involve. Clackamas County has an HFA, but it has been inactive over the past several years and could not reconstitute within Rose Villa's timelines. Rose Villa had also considered the national and state authorities but were interested in being a good neighbor with the City. The HFA would have no liability; however, reputational risk was a key factor.

Councilor Churchill believed Orrick stood to gain if Milwaukie formed the HFA and did not feel it was appropriate for Mr. Goe to make the staff presentation.

Mr. Monahan said Mr. Goe was not engaged by the City Council on this project, and it was not uncommon for consultants to provide information in their areas of expertise.

Council President Hedges appreciated hearing from anyone who could help him make an informed decision.

Mr. Goe said the only potential risk was if the nonprofit came before the HFA Board and bonds were issued for a project that did not go as planned. The City could in some way be associated or named in a lawsuit. In these situations, the nonprofit borrower would indemnify the City and its agents and enter into a deed of trust. It would be important for the parties to have nationally recognized counsel. He understood this was not an obligation of the City, and its bond rating would not be affected.

Ms. Camors added the HFA was an entity separate from the City. Although she had not asked Standard & Poor's, she did not believe the City's bond rating was related.

Councilor Churchill continued to have concerns and felt more research needed to be done. He thought there were other resources and measures by which Rose Villa could meet its timeline.

Councilor Miller asked for clarification of the comment that the City's reputation could be on the line.

Mr. Goe replied the City officials would hear from their constituents about any concerns with the project or if there was a problem with the bond issue whether the City was liable or not.

Councilor Gamba understood this was simply the formation of the Authority without establishing a relationship with Rose Villa at this time. He did not see a risk in taking the first step of forming the Authority.

Ms. Camors said Rose Villa would make a presentation on the bond issuance if the HFA were formed, and the Board would decide whether or not to move forward.

Mayor Ferguson reviewed the conduct of the hearing.

No correspondence had been received on this matter.

Testimony in Support:

Vassar Byrd, Rose Villa Chief Executive Officer, Portland resident, discussed the limited opportunities to borrow money and noted the bank had told Rose Villa it could not follow through. She saw this as an opportunity to serve the local community by helping a nonprofit organization.

Craig Van Valkenburg, Willamette View Chief Executive Office, Lake Oswego resident, spoke in support of the formation of the HFA. The project was important to Rose Villa as well as other nonprofit organizations. He hoped to see Rose Villa succeed.

Councilor Churchill asked why Milwaukie would want to form an HFA when there were other venues available.

Mr. Van Valkenburg discussed working through a bank debt placement with Wells Fargo. He was not in a position to answer questions about simply forming the HFA.

Mr. Ramis had not heard anything that from his perspective was misleading.

Mr. Van Valkenburg said Willamette View was a charitable nonprofit. It used an entrance fee model, and people qualified based on their assets and taken care of for the rest of their lives.

Mayor Ferguson closed the public testimony portion of the hearing at 9:30 p.m. and asked if there was any Council discussion.

Council President Hedges said the only thing relevant to the discussion was whether or not to form the Authority and not about approving a project. He had heard nothing that would lead him to believe that forming the Authority was not something the City could do. The City may be in a position to offer service to its neighbors and other entities in the City which would be an HFA Board decision.

Councilor Miller expressed concern about Milwaukie's forming an HFA when others were available.

Councilor Gamba concurred with Council President Hedges and saw no risk in forming an HFA. He saw great benefit to Rose Villa and other nonprofits in the area and supported efforts to provide housing and care for the elderly.

Mayor Ferguson did not hear anything indicating there was a risk in forming the Authority. He would like to review the structure of the Board and suggested a 7 member group that included people from the community.

Councilor Churchill thought this was a rush job. He thought the HFA would be formed to serve a specific organization and noted the proposal to the City Council was only made earlier this month. There were other entities that could take on this matter, and he did not feel it was worth the risk when there were state and national HFAs.

Councilor Miller said he would be more supportive if Rose Villa was in the City of Milwaukie. He asked if annexation would be reasonable.

Mayor Ferguson suggested moving the boundary south in the next Urban Growth Management Agreement (UGMA).

Council President Hedges said the City Council would only be forming the HFA and putting the mechanism in place.

It was moved by Council President Hedges and seconded by Councilor Gamba to adopt the Resolution creating the Hospital Facility Authority of the City of Milwaukie, Oregon; appointing the initial Board of Directors of the Authority; naming the chair of the Authority, and related matters. Motion passed with the following vote: Councilors Hedges and Gamba, and Mayor Ferguson voting "aye." Councilors Churchill and Miller voting "no." [3:2]

RESOLUTION NO. 35-2014:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, CREATING A HOSPITAL FACILITY AUTHORITY OF THE CITY OF MILWAUKIE, OREGON; APPOINTING THE INITIAL BOARD OF DIRECTORS OF THE AUTHORITY; NAMING THE CHAIR OF THE AUTHORITY; AND RELATED MATTERS.

Mr. Goe discussed noticing of the HFA Board meeting.

OTHER BUSINESS

A. Amend Milwaukie Municipal Code Chapter 5.50 Related to Medical Marijuana Facilities and Declaring an Emergency – Ordinance

Mr. Butler provided the staff report in which the City Council was requested to adopt an Ordinance to extend the current moratorium on the siting of medical marijuana facilities in the City of Milwaukie from December 31, 2014, to April 30, 2015. When the City Council took action in February, no one knew what the legislature would determine, and the proposed amendment would provide additional cushion to address decisions coming out of Salem.

Council President Hedges was concerned about denying those who needed medical marijuana for severe or chronic health problems.

Mr. Ramis commented that the moratorium gave jurisdictions more time to enact their own regulations and offer some consistency.

Mr. Butler said he would work on draft ordinance language as the picture becomes clearer.

It was moved by Council President Hedges and seconded by Councilor Gamba for the first and second readings by title only and adoption of the Ordinance relating to medical marijuana facilities; amending Chapter 5.50; and declaring an emergency. Motion passed with the following vote: Councilors Churchill, Hedges, Gamba, and Miller and Mayor Ferguson. [5:0]

Mr. Monahan read the Ordinance two times by title only.

Ms. DuVal polled the City Council: Councilors Churchill, Hedges, Gamba, and Miller and Mayor Ferguson voting “aye.” [5:0]

ORDINANCE NO. 2077:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, RELATING TO MEDICAL MARIJUANA FACILITIES; AMENDING CHAPTER 5.50; AND DECLARING AN EMERGENCY

B. Approve a “Project Agreement” with the Oregon Parks and Recreation Department for Grant Funds for the Construction of Riverfront Park Phase II – Resolution

Mr. Rice provided the staff report in which the City Council was requested to adopt the Resolution authorizing the city manager to sign a Local Government Program Agreement between the Oregon Parks and Recreation Department and the City. He reviewed the conditions of the agreement.

It was moved by Councilor Miller and seconded by Councilor Churchill to adopt the Resolution authorizing the city manager to enter into a “Project Agreement” with the Oregon Parks and Recreation Department in order to receive grant funding for the construction of Riverfront Park Phase II. Motion passed with the following vote: Councilors Miller, Churchill, Hedges, and Gamba and Mayor Ferguson voting “aye.” [5:0]

RESOLUTION No. 36-2014:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE CITY MANAGER TO ENTER INTO A "PROJECT AGREEMENT" WITH THE OREGON PARKS AND RECREATION DEPARTMENT IN ORDER TO RECEIVE GRANT FUNDING FOR THE CONSTRUCTION OF RIVERFRONT PARK PHASE II.

C. Approve an Intergovernmental Agreement for the Use of Trolley Trail Access to Milwaukie Riverfront Park – Resolution

Mr. Rice provided the staff report in which the City Council was requested to adopt the Resolution authorizing the city manager to sign an Agreement for Permit of Use between the NCPRD and the City for the use of certain parts of the Trolley Trail to access Riverfront Park.

It was moved by Councilor Gamba and seconded by Council President Hedges to adopt the Resolution authorizing the city manager to enter into an "Agreement for Permit of Use" with the North Clackamas Parks and Recreation District in order to receive permission of access to Riverfront Park across the Trolley Trail. Motion passed with the following vote: Councilors Miller, Churchill, Hedges, and Gamba and Mayor Ferguson voting "aye." [5:0]

RESOLUTION No. 37-2014:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE CITY MANAGER TO ENTER INTO AN "AGREEMENT FOR PERMIT OF USE" WITH THE NORTH CLACKAMAS PARKS AND RECREATION DISTRICT IN ORDER TO RECEIVE PERMISSION OF ACCESS TO RIVERFRONT PARK ACROSS THE TROLLEY TRAIL.

D. Council Reports

Mayor Ferguson and Councilors reported on meetings they had attended and upcoming community events.

Mr. Monahan thanked Assistant to the City Manager Teri Bankhead for her work in the community and wished her the best of luck in her new position at the Town of Sahuarita, Arizona.

ADJOURNMENT

It was moved by Mayor Ferguson and seconded by Councilor Miller to adjourn the regular session. Motion passed with the following vote: Councilors Churchill, Hedges, Gamba, and Miller and Mayor Ferguson voting "aye." [5:0]

Mayor Ferguson adjourned the regular session at 10:14 p.m.

Respectfully submitted,

Pat DuVal

Pat DuVal, Recorder



MILWAUKIE CITY COUNCIL

Office of the City Recorder
10722 SE Main Street
P) 503-786-7502
F) 503-653-2444
ocr@milwaukieoregon.gov

Speaker Registration

The City of Milwaukie encourages all citizens to express their views to their elected city leaders in a **respectful** and **appropriate** manner. If you wish to speak before the City Council, fill out this card and hand it to the City Recorder.

Name:

RICHARD CAYO

Address:

Organization:

Phone:

Email:

Meeting Date:

Topic to Discuss:

Agenda Item You Wish to Speak to:

- #4 Audience Participation
- #5 Public Hearing
- #6 Other Business

You are Speaking...

- in Support
- in Opposition
- from a Neutral Position
- to ask a Question

Comments:



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Name:

ED PARGUKI

Address:

[Redacted]

Organization:

Phone:

[Redacted]

Email:

[Redacted]

☒ Meeting Date:

4/15/14

Topic to Discuss:

Agenda Item You Wish to Speak to:

- #4 Audience Participation
- #5 Public Hearing
- #6 Other Business

You are Speaking...

- in Support
- in Opposition
- from a Neutral Position
- to ask a Question

Comments:



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Name: *Michael Backus*
Address: [Redacted]

Organization:
Phone: [Redacted]
Email: [Redacted]

Meeting Date:

Topic to Discuss:

Agenda Item You Wish to Speak to:

- #4 Audience Participation
- #5 Public Hearing
- #6 Other Business

You are Speaking...

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- in Opposition
- from a Neutral Position
- to ask a Question

Comments:



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Name: *Jeremiah Johnson*

Address:

☒ Meeting Date: *4-15-14*

Organization: *Self*

Phone:

Email:

Topic to Discuss:

Agenda Item You Wish to Speak to:

- #4 Audience Participation
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You are Speaking...

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Comments:

To introduce myself as Metro President Candidate for 2014 election



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Name: EW ZOMWALT
Address: [Redacted]

Organization: FIRST FRIDAY
Phone: [Redacted]
Email: [Redacted]

Meeting Date: 4/25/18

Topic to Discuss:

Agenda Item You Wish to Speak to:

- #4 Audience Participation
- #5 Public Hearing
- #6 Other Business

You are Speaking...

- in Support
- in Opposition
- from a Neutral Position
- to ask a Question

Comments:




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Name: VASSAR BIRD

Address: 

Organization: ROSE VILLA SENIOR LIVING

Phone: 

Email: 

Meeting Date: 4/15/14

Topic to Discuss:

Agenda Item You Wish to Speak to:

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- to ask a Question

Comments:



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Name: *CRAIG Van Valkenburg*
Address: [Redacted]

Organization: *Willamette View, Inc.*
Phone: [Redacted]
Email: [Redacted]

Meeting Date: *4/15/14*

Topic to Discuss:

Agenda Item You Wish to Speak to:

- #4 Audience Participation
- #5 Public Hearing
- #6 Other Business

You are Speaking...

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- in Opposition
- from a Neutral Position
- to ask a Question

Comments:



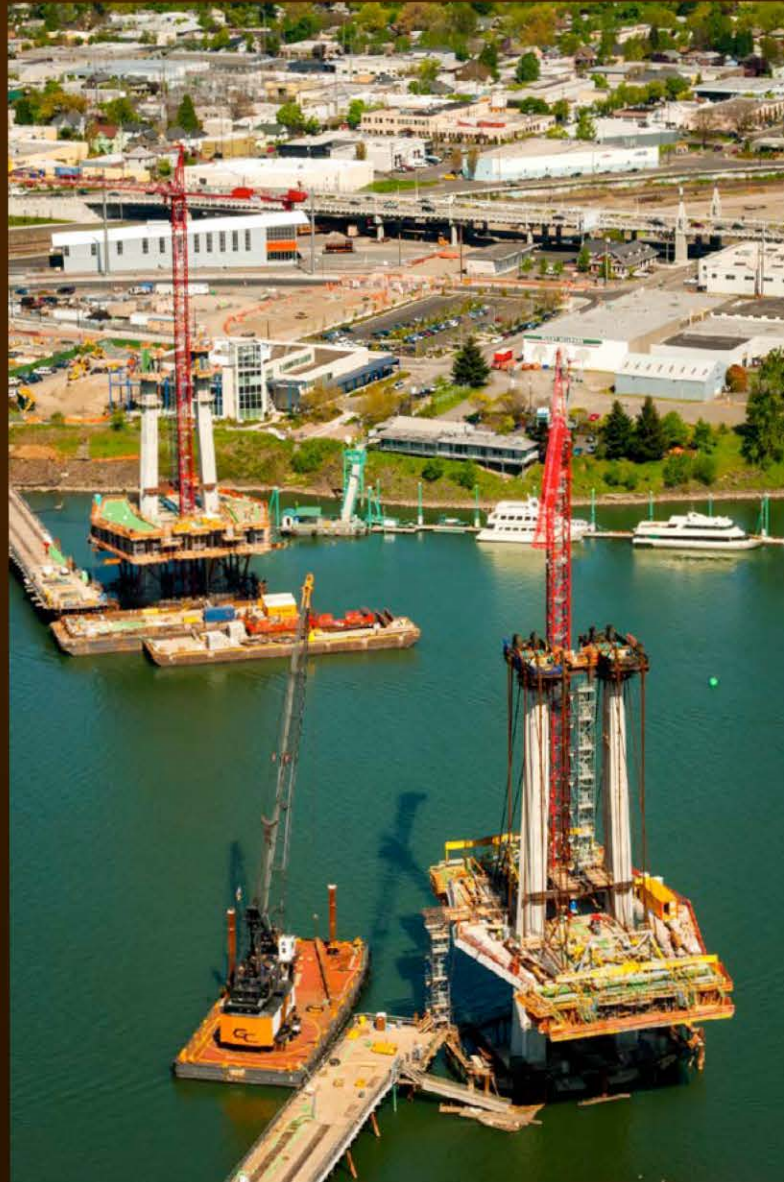
RS 4/15/14

Exhibits

LIGHT RAIL CONSTRUCTION UPDATE

April, 2014

Willamette Bridge – April 2013



Willamette Bridge – Now



Willamette Bridge – Gap



Willamette Bridge – On Deck



Willamette Bridge Naming Event

- April 16th at 10 am near OMSI
- Finalists:
 - Abigail Scott Duniway Bridge
 - Cascadia Crossing
 - Tillicum Crossing
 - Wy'east Bridge



Tillamook Bridge – April 2013



Tillamook Bridge – Now



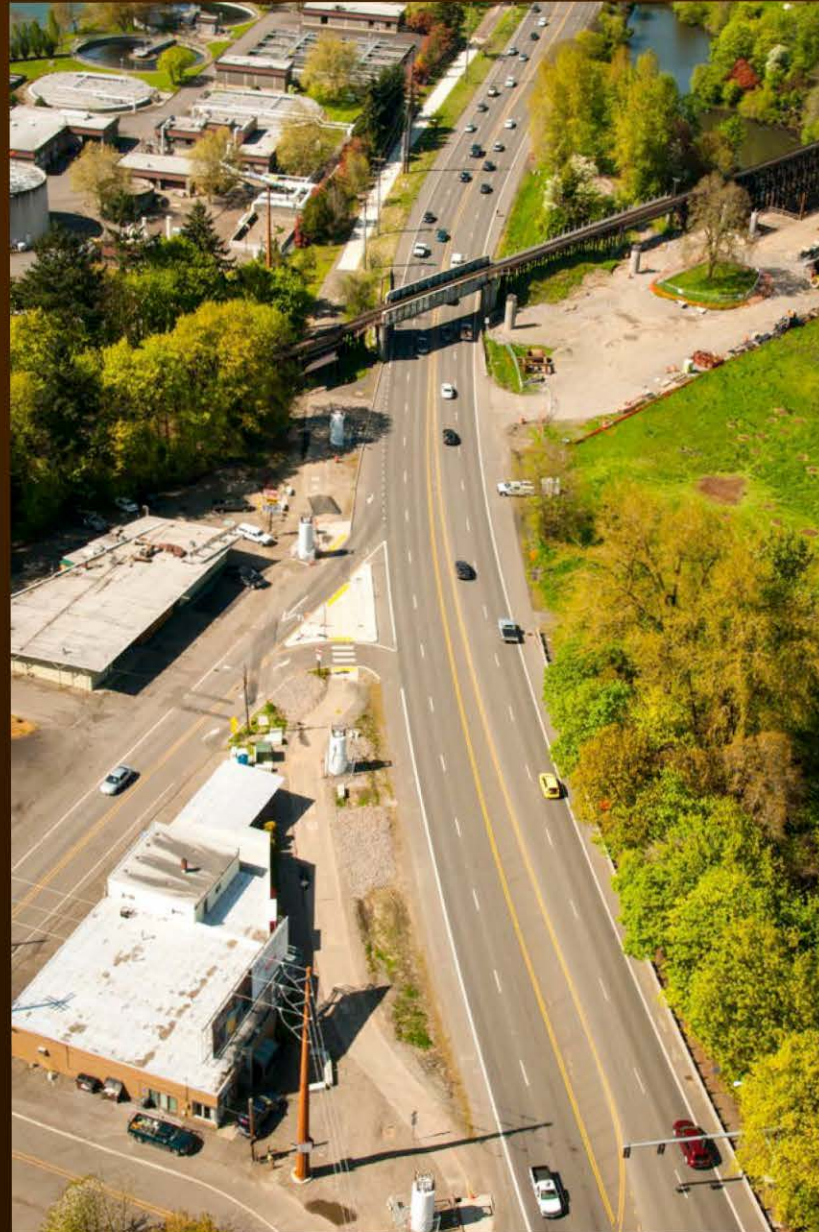
Tillamook Bridge Deck



Tillamook Bridge Approach



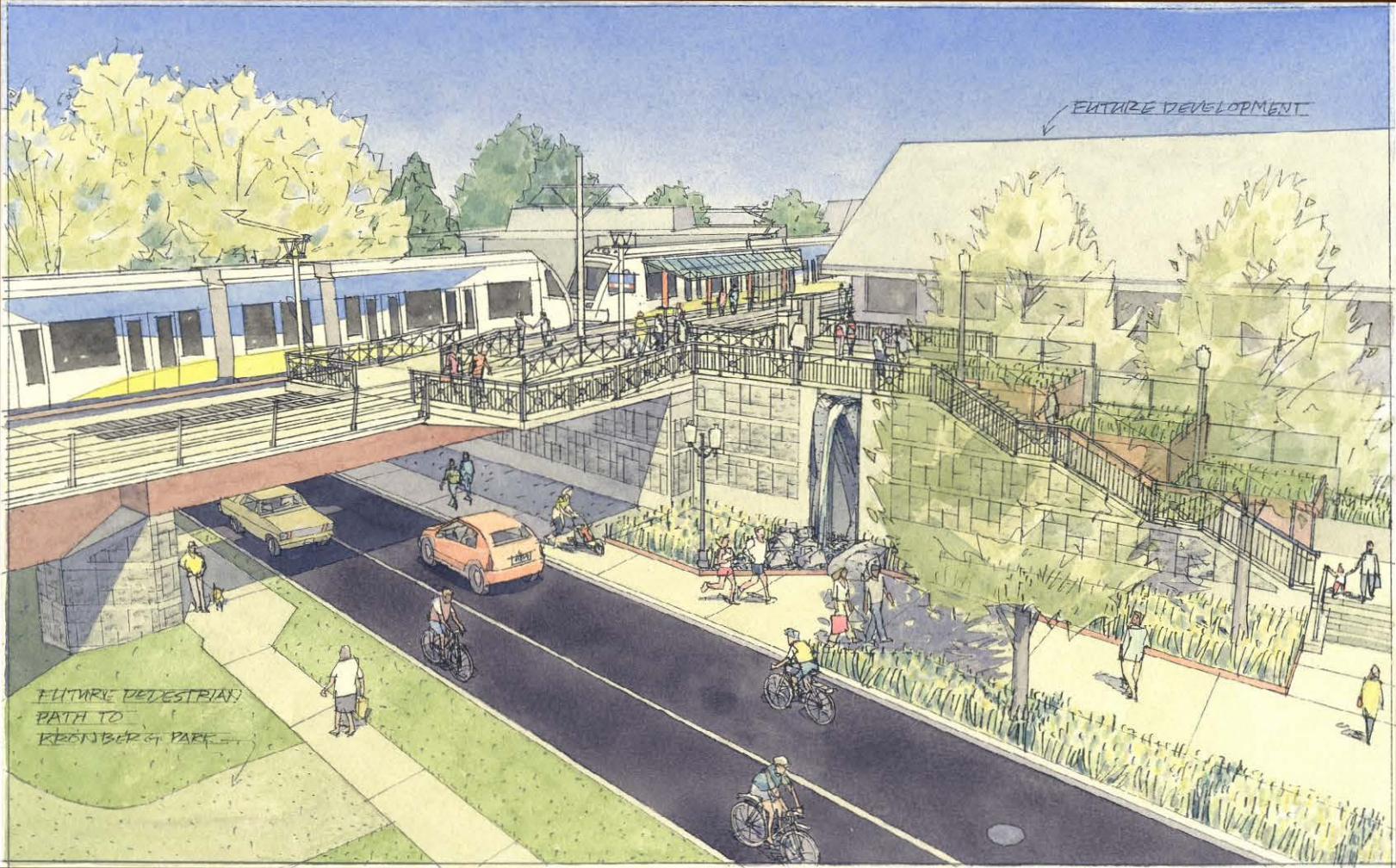
Kellogg Bridge @ 99E – April 2013



Kellogg Bridge @ 99E – Now



Lake Road at the Kellogg Bridge



Lake Road at the Kellogg Bridge



KELLOGG PED/BIKE BRIDGE

- Installation of bridge truss this summer.
- Milwaukie engineering staff has recommended a series of ramps (at 6% grade) with landings to establish a more direct Lake Road connection to the Kellogg Pedestrian Bridge.



ROAD CLOSURES

- Mailwell Dr @ Rail Crossing:
 - April 14th thru April 20th
- River Rd/Bluebird St at 99E:
 - Saturday, April 19th (weather dependent)
- Washington St west of 21st Ave:
 - May 5th thru May 18th
- 21st & Washington (Intersection):
 - Weekend in June



Mailwell Dr @ Rail Crossing



Kellogg Lake & Kronberg Park Earth Day Clean-Up

- Saturday, April 26th: 9 am to 1 pm
- Stacy & Witbeck & TriMet volunteers have organized this event to pick up trash and remove invasive plant species
- Free lunch to volunteers!
- Volunteers to register via:

<http://solveoregon.org/get-involved/events/trimet-and-stacy-and-witbeck-earth-day-kronberg-park>



TriMet Staff Change

- TriMet's Community Affairs Manager, Claudia Steinberg, is retiring. Last day is May 15th.
- Jennifer Koozer will take over community outreach responsibilities for the PMLRT work in Milwaukie.



Maintenance

- Milwaukie, TriMet, ODOT and Clackamas County are meeting on a monthly basis to discuss future maintenance responsibilities and turn-over.



CONSTRUCTION UPDATES

TriMet provides weekly construction updates on their website. These updates can be found at:

<http://trimet.org/pm/construction/index.htm#clackamas>



4/15/14 RS

NEXT MONTH WILL START MY 40TH YEAR LIVING IN MILWAUKIE.

IT HAS BEEN A GOOD EXPERIENCE - IN GENERAL.

THE ONLY BIG COMPLAINT HAS BEEN THE THE TRAIN AIR HORNS BLOWING NIGHT & DAY WHENEVER THEY COME TO AN AUTO-MOBILE CROSSING.

THE FOLKS IN EASTMORELAND SOLVED THE TACOMA STREET CROSSING BY BUILDING AN OVERPASS BRIDGE - SO - NO MORE WHOOD WHOOD TRAIN HORNS DAY & NIGHT.

THIS HELPED US A LOT ALSO SINCE WE MILWAUKIANS LIVE NEXT TO TACOMA ST. DURING MY TIME HERE I'VE PRAYED EVERY NIGHT THAT SOMEHOW WE COULD STOP THE TRAIN WHISTLES IN OUR AREA ALSO & ENJOY THE PEACE & QUIET.

RUMOR HAS HAD IT THAT MILWAUKIE WAS TRYING TO SOLVE THIS IMPOSSIBLE TASK.

IT HAS BEEN ACCOMPLISHED BY "MIKES RESTAURENT" (DRIVE IN) ON HARRISON ST. I SAW IT WITH MY OWN EYES LAST WEEK.

IT ACTUALLY SCARED ME AS THE PASSENGER TRAIN WENT FLASHING BY WITH NO WHISTLE BLOWING. WOW.

IT APPEARS THE NEXT 2 CROSSINGS TO THE EAST ARE GOING TO GET THE NO WHISTLE EFFECT SOON.

THIS SEEMS IMPOSSIBLE & INCREDIBLE - YOU FOLKS ARE ACTUALLY GETTING SOMETHING ACCOMPLISHED INSTEAD OF SETTING AROUND ALL DAY JUST TALKING ABOUT IT.

My compliments to all of you.

When each of you goes to bed tonight I sincerely hope you get a warm & fuzzy feeling as you nod off to sleep since you know that the "folks" of Milwaukee absolutely love what you've accomplished.

You have immeasurably increased the property value of everyone here. Thank You - Thank You - Thank You.

Just don't forget Harmony Street crossing.

For a long time I've thought our city manager was getting paid a little too much money - But - when he & you get things like this done he's worth ~~any~~ every penny. Keep it up.



**MILWAUKIE CITY COUNCIL
REGULAR SESSION**

City Hall Council Chambers
10722 SE Main Street
www.milwaukieoregon.gov

REVISED AGENDA

APRIL 15, 2014

2,172nd Meeting

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| 1. CALL TO ORDER | |
| Pledge of Allegiance | |
| 2. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS | |
| A. Introduction of Milwaukie Police Department Captain Mark Dye and Sergeant Luke Strait | |
| Staff: Police Chief Steve Bartol | |
| B. Outstanding Student Achievement Award for April 2014 | |
| Introduced by Milwaukie High School Principal Mark Pinder | |
| C. Clackamas County Update by Board Commissioner Tootie Smith | |
| D. Portland Milwaukie Light Rail Project Update | 1 |
| Staff: Light Rail Construction Manager Stacy Bluhm | |
| E. Earth Day Proclamation | 2 |
| F. Building Safety and Public Works Month Proclamation | 3 |
| 3. CONSENT AGENDA | |
| <i>These items are considered to be routine, and therefore, will not be allotted discussion time on the agenda; the items may be passed by the Council in one blanket motion; any Councilor may remove an item from the "Consent" agenda for discussion or questions by requesting such action prior to consideration of that part of the agenda.</i> | |
| A. City Council Meeting Minutes | 5 |
| 1. March 20, 2014, Study Session; | |
| 2. April 1, 2014, Work Session; and | |
| 3. April 1, 2014, Regular Session | |
| B. Board, Commission, and Committee Appointments – Resolutions | 14 |
| 1. Reappointing James Fossen to the Design and Landmarks Committee; and | |
| 2. Reappointing Sherry Grau to the Design and Landmarks Committee | |
| 4. AUDIENCE PARTICIPATION | |
| <i>The Presiding Officer will call for statements from citizens regarding issues relating to the City. Pursuant to Section 2.04.140 of the Milwaukie Municipal Code, only issues that are "not on the agenda" may be raised. In addition, issues that await a Council decision and for which the record is closed may not be discussed. Persons wishing to address the Council shall first complete a comment card and return it to the City Recorder. Pursuant to Section 2.04.360 of the Milwaukie Municipal Code, "all remarks shall be directed to the whole Council, and the Presiding Officer may limit comments or refuse recognition if the remarks become irrelevant, repetitious, personal, impertinent, or slanderous." The Presiding Officer may limit the time permitted for presentations and may request that a spokesperson be selected for a group of persons wishing to speak.</i> | |

5. PUBLIC HEARING

Public Comment will be allowed on items under this part of the agenda following a brief staff report presenting the item and action requested. The Mayor may limit testimony.

- A. Creation of a Hospital Facilities Authority by the City of Milwaukie – Resolution** **17**
Staff: Finance Director Casey Camors

6. OTHER BUSINESS

These items will be presented individually by staff or other appropriate individuals. A synopsis of each item together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.

- A. Amend Milwaukie Municipal Code Chapter 5.50 Related to Medical Marijuana Facilities and Declaring an Emergency – Ordinance** **24**
Staff: Planning Director Denny Egner
- B. Approve a “Project Agreement” with the Oregon Parks and Recreation Department for Grant Funds for the Construction of Riverfront Park Phase II – Resolution** **28**
Staff: Community Development Director Steve Butler and Engineering Director Jason Rice
- C. Approve an Intergovernmental Agreement for Permit of Use for Trolley Trail Access to Milwaukie Riverfront Park – Resolution** **63**
Staff: Engineering Director Jason Rice
- D. Council Reports**

7. INFORMATION

8. ADJOURNMENT

Meeting Information

- Executive Sessions: The Milwaukie City Council may meet in executive session immediately following adjournment pursuant to ORS 192.660(2).
 - All Executive Session discussions are confidential and those present may disclose nothing.
 - Representatives of the news media are allowed to attend Executive Sessions as provided by ORS 192.660(3) but must not disclose any information discussed.
 - Executive Sessions may not be held for the purpose of taking final actions or making final decisions.
 - Executive Sessions are closed to the public.
- For assistance/service per the Americans with Disabilities Act (ADA), please dial TDD 503-786-7555
- During meetings the Council asks that all pagers and cell phones be set on silent mode or turned off.



**Regular Session
Agenda Item No.**

2

**Proclamations,
Commendations,
Special Reports,
& Awards**



Agenda Item: RS 2. D.
Meeting Date: 4/15/14

COUNCIL AGENDA ITEM SUMMARY

Issue/Agenda Title: Portland-Milwaukie Light Rail Transit Project Update

Prepared By: Stacy Bluhm, Light Rail Construction Manager

City Manager Approval: Bill Monahan

Reviewed by City Manager:

ISSUES BEFORE THE COUNCIL

Staff will present an update to City Council on the latest Portland-Milwaukie Light Rail Transit project construction efforts.

STAFF RECOMMENDATION

This item is informational; for discussion purposes only.

KEY FACTS & INFORMATION SUMMARY

Milwaukie's Light Rail Construction Manager will provide an update on the most recent PMLRT construction efforts and anticipated traffic impacts. An update on the status of the Kellogg Lake Pedestrian & Bike Bridge will be presented as well.

OTHER ALTERNATIVES CONSIDERED

Not applicable.

CITY COUNCIL GOALS

Not applicable.

ATTACHMENT LIST

None.

FISCAL NOTES

No new fiscal issues.



CITY OF MILWAUKIE
"Dogwood City of the West"

PROCLAMATION

WHEREAS, the People of this City, *"The Dogwood City of the West"*, are blessed to reside amid the natural beauty of the Pacific Northwest and the State of Oregon, in the shadows of Mount Hood on the banks of the Willamette River, and along Kellogg, Johnson, Spring and Minthorn Creeks; and

WHEREAS, the first Earth Day was proclaimed on April 22, 1970 and its annual observance has encouraged the conservation, protection and appreciation of our planet's natural resources; and

WHEREAS, all forms of life depend upon our planet's resources to thrive and live and it is therefore critical that we recognize our mutual dependence on our shared natural assets; and

WHEREAS, steps to protect and preserve our natural environment through education, partnerships, and positive actions are encouraged through the Sustainable Milwaukie Plan; and

WHEREAS, the People of the City of Milwaukie are committed not only to the protection and preservation of the environment, but also to the restoration of ecosystems and habitat; and

WHEREAS, the City of Milwaukie proudly recognizes all who protect and preserve the environment through participation in Earth Day activities and by daily taking a proactive role in protecting our community's precious natural resources.

NOW, THEREFORE, BE IT RESOLVED, that I, Jeremy Ferguson, Mayor of the City of Milwaukie, in the County of Clackamas, in the State of Oregon, do hereby proclaim Tuesday April 22, 2014 as **Earth Day** in the City of Milwaukie and urge all citizens to be mindful of local, state and national laws that protect our environment, and to continue to preserve the beauty and wonder of the land, air and water of the Earth in all its diversity.

IN WITNESS WHEREOF, and with the consent of the City Council of the City of Milwaukie, I have hereunto set my hand on this Fifteenth day of April 2014.

Jeremy Ferguson, Mayor

ATTEST:

Pat DuVal, City Recorder





CITY OF MILWAUKIE
"Dogwood City of the West"
PROCLAMATION

WHEREAS, the City of Milwaukie’s continuing efforts to address the critical issues of safety, energy efficiency, and resilience in the built environment and in public works that affect our citizens, both in everyday life and in times of natural disaster, give us confidence that our structures are safe and sound; and,

WHEREAS, our confidence is achieved through the devotion of building safety and fire prevention officials, operations personnel, architects, engineers, builders, tradespeople, laborers and in the construction industry-who work year round to ensure the safe construction of buildings, streets, sewers and our water distribution system; and,

WHEREAS, dedicated staff of the City of Milwaukie, use a governmental consensus process that brings together local, state and federal officials with expertise in the built environment and public works to create and implement the highest quality codes to protect Americans in the buildings, streets and our infrastructure where we live, learn, work, worship, play; and,

WHEREAS, the International Codes, Municipal and Public Works Codes, are used by the City of Milwaukie; these modern and protective codes also include safeguards to protect the public from natural disasters such as hurricanes, snowstorms, tornadoes, wildland fires and earthquakes, water cross contamination; and,

WHEREAS, Building Safety Month is to remind the public about the critical role of our communities’ largely unknown guardians of public safety-our local code officials and operations personnel-who assure us of safe, efficient and livable buildings; and,

WHEREAS, Building Safety and Public Works Month 2014, encourages all Americans to raise awareness of the importance of building safety and resilient construction; fire prevention; disaster mitigation, backyard safety, safe roads, clean water and sanitation; energy efficiency and new technologies in the construction industry. Building Safety Month 2014 encourages appropriate steps everyone can take to ensure that the places we live, learn, work, travel, worship and play are safe and sustainable, and recognizes that countless lives have been saved due to the implementation of safety codes by City of Milwaukie building and operations personnel; and,

WHEREAS, each year, in observance of Building Safety Month, Americans are asked to consider projects to improve building safety and sustainability at home and in the community, and to acknowledge the essential service provided to all of us by local building department, fire prevention bureau and public works in protecting lives and property.

NOW, THEREFORE, I, Jeremy Ferguson, Mayor of the City of Milwaukie, in the County of Clackamas, in the State of Oregon do hereby proclaim the month of May 2014 as **Building Safety and Public Works Month**. Accordingly, I encourage all citizens to join with their communities in participation in Building Safety and Public Works Month Activities.

IN WITNESS WHEREOF, and with the consent of the City Council of the City of Milwaukie, I have hereunto set my hand on this **Fifteenth** day of **April 2014**.

Jeremy Ferguson, Mayor
ATTEST:

Pat DuVal, City Recorder





**Regular Session
Agenda Item No.**

3

Consent Agenda



Mayor Ferguson called the study session to order at 5:05 p.m.

Council Present: Council President Hedges and Councilors Scott Churchill, and Mark Gamba

Excused: Mike Miller

Staff Present: City Manager Bill Monahan, City Recorder Pat DuVal, Community Development Director Steve Butler, Finance Director Casey Camors, Police Chief Steve Bartol, Code Compliance Coordinator Tim Salyers

Garbage Rate Setting Process Review

Ms. Camors and **Mr. Butler** were joined by **Rick Winterhalter**, Sr. Sustainability Analyst at Clackamas County. Ms. Camors reviewed the process for evaluating garbage rates for residential, commercial, and drop box services. The City's five franchise haulers submit financial information annually that is consolidated by City and Clackamas County staffs and a financial analyst to determine the rate of return (ROR). The projected ROR is reviewed and rate adjustments are considered to ensure a range of 8% to 10%. The goal was to have new rates effective on July 1 to match Metro's tipping fee increase. City staff was working on scheduling a session with Metro to familiarize the City Council with its fees.

The group discussed the convenience of 20-gallon cans. The haulers confirmed that size had wheels just as the larger containers did, but few customers had taken that route.

Councilor Gamba discussed his concept of rate equity.

Mr. Winterhalter added about 1 in 4 customers use yard debris recycling on a weekly basis.

The group discussed the timeframe for the Council to adopt new rates and notify customers of rate changes. There was a brief discussion of proper disposal of electronic items.

Vehicles Parked on Public Right of way with Expired Registration

Chief Bartol and **Mr. Salyers** discussed the City Council Goal related to vehicles parked on the public right of way with expired tags. Staff reviewed Milwaukie's current code language as well as regulations in other jurisdictions. From an enforcement standpoint staff recommended the Portland and Oregon City models. The City Council provided direction and reached concurrence that there be a 30-day grace period for current registration and displaying tags.

Municipal Code Revision for Habitat Piles

Chief Bartol and **Mr. Salyers** were joined by **Nikkie West** with the Portland Audubon Backyard Habitat Certification Program. Marcus Reuter spoke during the December 3, 2013, City Council audience participation section and explained that the brush pile on his property was intended to be bird habitat. At the January 7, 2014, City Council directed staff to prepare additional information and in the meantime to suspend all enforcement cases related to yard debris.

Ms. West talked about the certification program largely funded by Metro and Multnomah County Soil and Water Conservation Districts.

Mr. Salyers discussed his findings and sought direction from the City Council about proceeding with an Ordinance.

Councilor Gamba felt the City should proceed with drafting an Ordinance that established reasonable setbacks.

Council President Hedges thought habitat should be clearly defined and allowed only on large lots with a solid, sight obscuring fence .

The group discussed the feasibility of an internal certification program, Fire District input on habitat piles, the allowable size of the piles, materials appropriate to a habitat, fence height, and setbacks. **Councilor Churchill** suggested a certification program operated by Frank Hemer to benefit the Milwaukie Museum.

The group agreed there should be some kind of certification program with solicitation and selection of an individual or entity such as a watershed council or soil conservation district to manage the program. The Mayor and Council had a variety of ideas about minimum setbacks.

Mr. Salyers would work on setback proposals, pile sizes, and the sight obscuring fence matter. He understood the piles would not be allowed in the front yard and not visible from the pedestrian level. Mr. Rueter would be asked to move his brush pile 5 feet from the fence. He further understood the ban on yard debris enforcement would be lifted.

North Clackamas Parks and Recreation District (NCPRD) Master Plan

Gary Barth and **Chris Storey**, Clackamas County, reviewed the Master Plan key findings that included a recommendation to re-form the District into a Special Parks and Recreation District under ORS 266 in order to get the benefits of representative governance with a special purpose board. Mr. Barth provided information on the Master Plan timeline and the District Advisory Board (DAB) recommendation to put the question of the Special District with the potential for a higher permanent rate on the November 2014 ballot. Mr. Storey discussed the role of the Clackamas County Board of Commissioners and outlined the next steps.

Mr. Monahan expressed concerns with possible compression.

There was general Council support for Option C that would put the ORS 266 Park and Recreation District on the November 2014 ballot and consider a higher permanent rate to be determined by the voters.

Mayor Ferguson adjourned the Study Session at 7:51 p.m.

Respectfully submitted,

Pat DuVal, Recorder



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WORK SESSION
APRIL 1, 2014
City Hall Conference Room

Mayor Ferguson called the work session to order at 5:30 p.m.

Council Present: Council President Hedges and Councilors Scott Churchill, Mark Gamba, and Mike Miller

Staff Present: City Manager Bill Monahan, Assistant to the City Manager Teri Bankhead, City Recorder Pat DuVal, City Attorney Tim Ramis, Community Development Director Steve Butler, Engineering Director Jason Rice, Planning Director Denny Egner, Finance Director Casey Camors, Building Official John Stelzenmueller, and Light Rail Construction Manager Stacy Bluhm

City Manager's Report

Community Development Update

Mr. Rice reported on the Riverfront Park Phase II final design and contract to monitor bird nesting activity. He discussed upcoming reports to the Council and added that he hoped they will go out for bid next week for work to be done this summer.

Mr. Egner reported on the pre-application process with MODA Health for a 72-space parking lot. He reported that the Planning Commission had approved a zone change for Northwest Housing, an indoor hitting facility at Milwaukie High School, and would be holding a hearing on proposed sign code amendments. He reviewed the Moving Forward Milwaukie (MFM) project and the group discussed the graphics that would be refined as the project moved forward. **Mr. Egner** reviewed the status of the Monroe Street Neighborhood Greenway and consultant proposals.

Mr. Butler and **Mr. Rice** provided an update on the Adams Street Connector project and **Councilor Gamba** stated it was his understanding that the intent of the project funding was to alleviate the public area requirements to encourage development.

Mr. Rice discussed the Oregon Department of Transportation (ODOT) Hwy 224 project and upcoming conversations with ODOT about the Monroe Street Greenway project.

Mr. Stelzenmueller provided a building department status report and the Council requested a quarterly report on building activity.

There were no questions regarding the agenda and **Mr. Monahan** said he had no audience participation follow up reports.

Bond Measure Update

Mr. Wheeler introduced **Clark Worth** and **Libby Barg** who provided a status report on the ballot measure and what has been learned from the community; they noted that Bond rates have continued to fall and could potentially save the City more money.

Ms. Barg reported on canvassing the Neighborhood District Associations (NDAs) and asked if there were any other public information needs. She said that clear communication programs have worked well and residents report being satisfied with the bond information provided by the City to-date.

Mr. Worth added that people surveyed had asked for information on the current financial situation and he suggested providing a rate calculator so people could assess their own tax impacts. He reported that a political action committee (PAC) had been formed, and that information would be published in upcoming *Pilot* newsletters, at a town hall meeting on 5/13. He noted that voter turnout is going to be very important.

Councilor Churchill and **Councilor Miller** reported hearing from residents who want to know what would happen if the measure did not pass.

Mr. Worth said that the NDA discussions had not focused on the result of a failed bond and that those decisions would be made during the budget process. He added that if major cuts are needed a consensus would be needed; if the bond does not pass the cuts would be most deep in 2017 with a different City Council making those decisions. He observed that that kind of information is often treated as a threat by voters.

Mayor Ferguson said the PAC could help share that information with the community.

Ms. Barg reported that about 80% of the voting happens in the final few days and the City should start that messaging on May 21 and **Mr. Worth** said there is plenty of time for positive messaging and that he is focused on getting the bond passed.

Creation of Hospital Facilities Authority Discussion

Mr. Monahan discussed the Rose Villa Retirement Community's construction plans and the feasibility of the City creating a Hospital Facilities Authority (HFA).

Doug Goh and **Greg Blonde** with Orrick, Harrington & Sutcliffe, LLP (Orrick) provided background information on HFAs in Oregon. **Mr. Goh** discussed why Rose Villa as a non-profit could not buy tax exempt bonds and the process and composition of the possible HFA Board. He said that under state law there is no liability for the City to create the HFA as it would have no taxing power and the bonds would be sold only on the credit of the non-profit borrower. He added that through this process Rose Villa would obtain a lower interest rate on their construction costs and would provide financial feasibility reports to the HFA. **Mr. Goh** said Rose Villa would indemnify the Council and the HFA from any liability through the bond process and noted that there were about 20 HFAs in Oregon in addition to the state-run HFA.

Councilor Gamba commented on the HFA's responsibility regarding bond payments made by the borrower. **Mr. Goh** replied that the HFA should have a low level of responsibility for ensuring that Rose Villa could repay the debt, based on the underwriting, borrower, and feasibility study.

Mr. Ramis noted that the HFA board member would not be charged individually with the responsibility of selling the bonds, but to ensure appropriate people were retained.

Mr. Ramis confirmed that he was in concurrence that there was no risk to the City or the voters and added that the HFA would be responsible for hiring the expertise.

Councilor Churchill asked why Rose Villa didn't work with the state's HFA.

Mr. Goh replied that as a state agency there are additional strict rules imposed by the state for the issuance of non-rated debt and Rose Villa can't meet those rules because senior living facilities usually do not have investment grade ratings. He noted that if the City chose not to proceed with a HFA that Rose Villa would go to a national HFA entity. He said that Rose Villa would prefer to issue bonds through a local HFA because it is tied to the community and would be exempt from federal and state taxes as well. He observed that other non-profit entities could issue bonds through the HFA too.

Mr. Groh and **Mr. Monahan** commented that they believed Rose Villa has no religious or fraternal affiliation and is a standalone facility.

Mr. Goh said that Rose Villa would pay the City a \$65,000 issuance fee through the HFA as well as pick-up any other out of pocket costs.

Mr. Monahan and **Mr. Groh** commented on the possibility of other local entities coming forward if the City set-up this HFA mechanism.

Councilor Churchill asked why the Clackamas County HFA is dormant and **Mr. Groh** discussed that it was not a priority for the county and only the HFA board chair has been kept in place to take action on outstanding bond issues.

Ms. Camors discussed possible intergovernmental agreements (IGA) with the county.

Mr. Blonde discussed setting-up a standing IGA versus an IGA for this project only.

Mr. Goh said that Rose Villa was originally established under the state non-profit corporation act and he did not believe they had accessed the bond market before.

Council President Hedges said he favored the idea and would like to begin the process and **Mr. Ramis** discussed the need for a motion to schedule a public hearing.

Councilor Churchill inquired about the financial benefit for Rose Villa for using the proposed HFA and the risk for the City to set up the HFA.

Mr. Goh said he had not seen the cost savings numbers for Rose Villa but estimated the savings to be in the low several millions. He said that if the City decide to proceed and set-up a HFA they would provide more precise answers at the 4/15 public hearing.

Mr. Monahan and **Ms. Camors** said the staff at Rose Villa would likely be at the 4/15 public hearing and would welcome in-person and online visits to see their plans.

Mr. Groh and **Mr. Blonde** clarified that they were not counsel to Rose Villa but at some point they would be under retainer with HFA, who Rose Villa would. They added that Rose Villa would be separately represented as these would be security transactions with separate counsels involved.

Mayor Ferguson announced he would like to place the motion to have a public hearing on the HFA on this evening's regular session agenda and **Councilor Churchill** said he was concerned that this appeared to be a rush job and would like more background information before placed on a regular session agenda.

Mr. Monahan commented that the process has been expedited because Rose Villa would like to seek bonds for summer construction.

Kellogg Lake Bike/Pedestrian Bridge Update

Mr. Monahan introduced the topic as a follow-up of previous conversations and **Ms. Bluhm** discussed the public right-of-way accessibility guideline (PROWAG) concept's 5% grade for multi-use paths and said that the initially reported cost of \$500,000 for both bridge connections is being reconsidered through less costly designs.

The group discussed the bridge designs, various measurements, placement of the 100-year flood plain retaining wall, and maximum path grade under the Americans with Disabilities Act guides (ADAG). Different ramp paths and costs were discussed.

Mayor Ferguson adjourned the work session at 7:05 p.m.

Respectfully submitted,

Scott S. Stauffer, Administrative Specialist II

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REGULAR SESSION
APRIL 1, 2014
City Hall Council Chambers

Mayor Ferguson called the 2,171st meeting of the City Council to order at 7:13 p.m.

Council Present: Council President Hedges and Councilors Scott Churchill, Mark Gamba, and Mike Miller

Staff Present: City Manager Bill Monahan, Assistant to the City Manager Teri Bankhead, City Recorder Pat DuVal, City Attorney Tim Ramis, Program Services Specialist Beth Ragel, and Police Captain Dave Rash

CALL TO ORDER

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

A. Recognition of Outgoing Board, Commission, and Committee Members

Mayor Ferguson and **Councilors** expressed their appreciation to Lisa Batey, Ed Zumwalt, Ron Rasch, Becky Ives, Christie Schaeffer, and Mart Hughes for their service to the community on various boards, commissions, and committees.

B. Metro Update by Councilor Carlotta Collette, District 2

Councilor Collette provided an update on Metro activities related to 2013 levy funds and progress on Willamette Falls Legacy Project. She reviewed land use activities that included Urban and Rural Reserves, the draft Urban Growth Report due in July, and the Climate Smart Communities Program. In the area of transportation, Metro was in the midst of a Regional Transportation Plan Update, Active Transportation Plan, the Southwest Corridor, and the Powell Division Transit and Development Project. Community investment projects included the Regional Infrastructure Supporting our Economy (RISE) Initiative, three transit oriented development projects, and the Downtown and District Revitalization Program. In solid waste and recycling, the Metro South Transfer Station was being assessed for future enhancements. She highlighted elements of the visitor venues including the Oregon Zoo improvements and Elephant Lands that will open in 2015.

C. Child Abuse Prevention Month Proclamation

Barbara Peschiera and **Greg Barker** of the Children's Center talked about the services available and the importance of reporting child abuse.

Mayor Ferguson read a proclamation naming the month of April 2014 as Child Abuse Prevention Month in the City of Milwaukie and called upon citizens to increase their participation in efforts to prevent child abuse.

CONSENT AGENDA

It was moved by Councilor Gamba and seconded by Council President Hedges to approve the consent agenda as presented.

A. City Council Meeting Minutes

1. **March 18, 2014, Work Session; and**

2. March 18, 2014, Regular Session

B. Board, Commission, and Committee Appointments

1. **Resolution No. 23-2014: A Resolution of the City Council of the City of Milwaukie, Oregon, Appointing Shannah Anderson to the Milwaukie Planning Commission;**
2. **Resolution No. 24-2014: A Resolution of the City Council of the City of Milwaukie, Oregon, Reappointing Vincent Alvarez to the Citizens Utility Advisory Board;**
3. **Resolution No. 25-2014: A Resolution of the City Council of the City of Milwaukie, Oregon, Reappointing Lars Campbell to the Milwaukie Arts Committee;**
4. **Resolution No. 26-2014: A Resolution of the City Council of the City of Milwaukie, Oregon, Reappointing Kevin Hasey to the Citizens Utility Advisory Board;**
5. **Resolution No. 27-2014: A Resolution of the City Council of the City of Milwaukie, Oregon, Reappointing Wilda Parks to the Milwaukie Planning Commission;**
6. **Resolution No. 28-2014: A Resolution of the City Council of the City of Milwaukie, Oregon, Appointing Shannon Smith to the Milwaukie Arts Committee; and**
7. **Resolution 29-2014: A Resolution of the City Council of the City of Milwaukie, Oregon, Reappointing Elyssa Thelin the Milwaukie Arts Committee.**

Motion passed with the following vote: Councilors Miller, Churchill, Hedges, and Gamba and Mayor Ferguson voting “aye.” [5:0]

AUDIENCE PARTICIPATION

David Aschenbrenner, Milwaukie resident, spoke in support of the upcoming bond measure and stated that the City Council had the final decision on the budget. He was concerned about the effects if the measure did not pass and the positions that would need to be cut over the years with the biggest ones beginning in 2017.

Ed Parecki, Milwaukie business owner, spoke on behalf of several downtown business people and expressed concern that they were being cited into court. Not only did they have to pay a late fee but also a \$200 per day fine for every day they were late. He urged the City Council or City Manager look into the code and enforcement issues.

Mr. Monahan would look into the circumstances of those business owners going to court and report at the next City Council meeting.

PUBLIC HEARING

None scheduled.

OTHER BUSINESS

A. Adoption of a Supplemental Budget – Resolution

Ms. Camors provided the staff report in which the City Council was requested to adopt a supplemental budget revising appropriations for the 2013 – 2014 biennium budget. As priorities, goals and circumstances change over the two year period, a supplemental budget that adjusts expenditures by 10% or less may be adopted without a public hearing. She outlined the adjustments made to the General, Library, Building Inspection and Stormwater Funds.

Councilor Churchill understood the Library Fund would be restored after the allocation came in from the Library District.

It was moved by Council President Hedges and seconded by Councilor Miller to adopt the Resolution adjusting the budget for the 2013 – 2014 Biennium by adopting this supplemental budget and revising appropriations. Motion passed with the following vote: Councilors Miller, Churchill, Hedges, and Gamba and Mayor Ferguson voting “aye.” [5:0]

RESOLUTION No. 30-2014:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ADJUSTING THE BUDGET FOR THE 2013 – 2014 BIENNIUM BY ADOPTING THIS SUPPLEMENTAL BUDGET AND REVISING APPROPRIATIONS.

B. Approve an Intergovernmental Agreement (IGA) with the Oregon Department of Transportation (ODOT) for Commercial Vehicle, Driver, and Cargo Inspection – Resolution

Captain Rash provided the staff report in which the City Council was requested to adopt the Resolution authorizing the Mayor to sign an updated intergovernmental agreement with ODOT. One significant change had to do with the allocation of funds that were no longer available through the State.

It was moved by Councilor Miller and seconded by Councilor Churchill to adopt the Resolution authorizing the Mayor to execute an updated intergovernmental agreement between the City of Milwaukie and the State of Oregon through the Oregon Department of Transportation maximizing the utilization of commercial vehicles, driver, and cargo inspection resources. Motion passed with the following vote: Councilors Miller, Churchill, Hedges, and Gamba and Mayor Ferguson voting “aye.” [5:0]

RESOLUTION No. 31-2014:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE MAYOR TO EXECUTE AN UPDATED INTERGOVERNMENTAL AGREEMENT (IGA) BETWEEN THE CITY OF MILWAUKIE AND THE STATE OF OREGON THROUGH THE OREGON DEPARTMENT OF TRANSPORTATION (ODOT) MAXIMIZING THE UTILIZATION OF COMMERCIAL VEHICLE, DRIVER, AND CARGO INSPECTION RESOURCES.

C. Approve a Memorandum of Understanding with American Red Cross – Resolution

Captain Rash provided the staff report in which the City Council was requested to adopt the Resolution authorizing the Mayor to execute a memorandum of understanding (MOU) with the American Red Cross. Emergency preparedness has been a goal of this and previous Councils, and the proposed MOU defines the working relationship between the American Red Cross and the City of Milwaukie.

It was moved by Council President Hedges and seconded by Councilor Gamba to adopt the Resolution authorizing the Mayor to execute and sign a memorandum of understanding between the City of Milwaukie and the American Red Cross. Motion passed with the following vote: Councilors Miller, Churchill, Hedges, and Gamba and Mayor Ferguson voting “aye.” [5:0]

RESOLUTION No. 31-2014:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE MAYOR TO EXECUTE AND SIGN A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MILWAUKIE AND THE AMERICAN RED CROSS.

D. Motion to Direct Staff to Schedule a Hearing for Creation of a Hospital Facilities Authority

It was moved by Mayor Ferguson and seconded by Councilor Gamba to direct staff to schedule a hearing on the creation of a Hospital Facilities Authority for April 15, 2014.

Councilor Churchill thought the matter need to be explored in further detail and would abstain based on lack of information.

Motion passed with the following vote: Councilors Miller, Hedges, and Gamba and Mayor Ferguson voting “aye”; Councilor Churchill abstained. [4:0:1]

E. Council Reports

Councilor Churchill discussed individual consultations with citizens concerned about not having information about where cuts would be made if the bond measure did not pass.

Council President Hedges attended a number of Neighborhood meetings including the recent meeting of the NDA leadership. He noted the Public Safety Advisory Committee (PSAC) had talked about medical marijuana. He met with Chief Bartol and Capt. Dye regarding light rail and the urban growth management area (UGMA). He attended the recent Moving Forward Milwaukie meeting and announced several events related to the Bikes for Kids Program.

Mayor Ferguson encouraged people to visit the City’s website for information on the upcoming bond measure.

Mr. Monahan had several items carried over from the City Manager’s report including the Council iPads and Mark Dye’s promotion to the vacant captain position. There will be an internal recruitment for the vacant Sergeant position

Mayor Ferguson announced immediately following adjournment of the regular session that the City Council would meet in executive session pursuant to ORS 192.660(2)(f) to consider information or records exempt by law from public inspection. The Council would not return to regular session.

ADJOURNMENT

It was moved by Council President Hedges and seconded by Councilor Gamba to adjourn the regular session. Motion passed with the following vote: Councilors Miller, Churchill, Hedges, and Gamba and Mayor Ferguson voting “aye.” [5:0]

Mayor Ferguson adjourned the regular session at 8:39 p.m.

Respectfully submitted,

Pat DuVal, Recorder



CITY OF MILWAUKIE

"Dogwood City of the West"

Resolution No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, REAPPOINTING JAMES FOSSEN TO THE MILWAUKIE DESIGN AND LANDMARKS COMMITTEE.

WHEREAS, James Fossen has served part of a vacant term with the Design and Landmarks Committee,

WHEREAS, Milwaukie Charter Section 26 provides that, "the mayor, with the consent of the council, shall appoint the various committees provided for under the rules of the council or otherwise and fill all vacancies in committees of the council from that body," and

WHEREAS, James Fossen possesses the necessary qualifications to continue serving on the Milwaukie Design and Landmarks Committee.

Now, therefore, the City of Milwaukie, Oregon resolves as follows:

SECTION 1: That James Fossen is reappointed to the Milwaukie Design and Landmarks Committee.

SECTION 2: That his term of appointment shall commence immediately and shall expire on March 31, 2016.

SECTION 3: This resolution takes effect immediately upon passage.

Introduced and adopted by the City Council on **April 15, 2014.**

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney



CITY OF MILWAUKIE
"Dogwood City of the West"

Resolution No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, REAPPOINTING SHERRY GRAU TO THE MILWAUKIE DESIGN AND LANDMARKS COMMITTEE.

WHEREAS, Sherry Grau has served part of a vacant term with the Design and Landmarks Committee,

WHEREAS, Milwaukie Charter Section 26 provides that, "the mayor, with the consent of the council, shall appoint the various committees provided for under the rules of the council or otherwise and fill all vacancies in committees of the council from that body," and

WHEREAS, Shery Grau possesses the necessary qualifications to continue serving on the Milwaukie Design and Landmarks Committee.

Now, therefore, the City of Milwaukie, Oregon resolves as follows:

SECTION 1: That Sherry Grau is reappointed to the Milwaukie Design and Landmarks Committee.

SECTION 2: That her term of appointment shall commence immediately and shall expire on March 31, 2016.

SECTION 3: This resolution takes effect immediately upon passage.

Introduced and adopted by the City Council on **April 15, 2014**.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney



**Regular Session
Agenda Item No.**

5

Public Hearing



MILWAUKIE CITY COUNCIL
STAFF REPORT

To: Mayor and City Council
Through: Bill Monahan, City Manager
Subject: **Creation of Hospital Facilities Authority**
From: Bill Monahan, City Manager
Casey Camors, Finance Director
Date: April 8, 2014 for April 15, 2014 meeting

ACTIONS REQUESTED

Hold a public hearing regarding the creation a hospital facilities authority. Adoption of resolution creating The Hospital Facility Authority of the City of Milwaukie, Oregon.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

- City Staff approached by Doug Goe and Greg Blonde from Orrick, Herrington & Sutcliffe with interest from Rose Villa for the City to form HFA.
- City Staff met again with Doug Goe and Greg Blonde to discuss details on formation of an HFA.
- City Staff met with Vassar Byrd, Chief Executive Officer, and Debbie Senestraro Suchan, Chief Financial Officer, of Rose Villa and Doug Goe on site to tour the current facility, planned improvements to the facility and to discuss details of a potential HFA.
- At April 1, 2014 City Council meeting, City Council approved a motion to consider the advisability of creating HFA and scheduled public hearing on creating HFA for April 15, 2014.

BACKGROUND

The proposed resolution before the Council creates The Hospital Facility Authority of the City of Milwaukie, Oregon (the "Authority").

Under ORS 441.525 to ORS 441.595 (the "Act"), municipalities are empowered to create hospital facilities authorities for the purpose of issuing tax-exempt bonds to finance hospital facilities (which include senior living facilities.) The proposed resolution creates the Authority, appoints an initial board of directors of the Authority and establishes certain other powers of the Authority, such as the ability to collect fees related to bond issuance. The proposed resolution provides that the Mayor and Council members will serve as the board of directors of the Authority.

Upon its creation, the Authority will have the power to issue tax-exempt bonds and lend the proceeds to publicly-owned and private, nonprofit hospitals and adult continuing care facilities, for the purpose of financing hospital facilities, as defined in the Act. Bonds issued by the Authority are secured by the revenues of the organizations that receive the benefit of the bond financing. The directors of the Authority would not be personally responsible for repayment of the bonds, and the bonds would not be obligations of the City of Milwaukie or a charge on the City's tax revenues. The Authority would have no taxing power.

The principal duties of the board of directors of the Authority are:

1. Determining that the construction or refinancing of hospital facilities financed with the Authority's bonds is in the public interest.
2. Approving the legal documents related to the issuance of the bonds and determining that the financing arrangement is in the public interest and, in consultation with counsel, determining that the offering documents comply with the requirements of the federal securities laws.
3. Complying with reporting requirements for public officials in accordance with ORS Chapter 244.

The Authority continues in existence so long as it has bonds outstanding. When all of the obligations of the Authority have been paid, or provision has been made for their payment, the Authority may be dissolved by the governing body that created it.

Rose Villa approached the City, requesting that it create an HFA that would issue approximately \$55,000,000 in bonds to finance the "New Rose Villa," redevelopment of part of their facility into a new neighborhood of apartment homes, garden cottages, shops and restaurants. City Staff, having participated in a site tour and meeting, is very impressed by Rose Villa Staff and their current redevelopment plans.

Currently, Rose Villa is outside City limits in unincorporated Clackamas County, but the Authority would have the power to issue bonds to assist Rose Villa with its financing needs. Federal tax law requires that Clackamas County (as the governing body with jurisdiction over Rose Villa) adopt a resolution approving for the bonds under the Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA"). Clackamas County and the Authority would also need to approve an intergovernmental agreement with respect to the bonds. City Staff has contacted the County to discuss this approval and IGA.

Rose Villa's goal is to have the bonds issued in July to ensure cost stability. The following schedule, though very ambitious, would meet Rose Villa's timeline:

- April 15, 2014 – City Council regular session: (1) A public hearing is held and (2) the City Council adopts a Resolution establishing the Hospital Facilities Authority and appointing the initial slate of Directors and the Chair of the Board of Directors.
- April 29, 2014 – Initial Authority meeting: Elect a Vice Chair and Secretary and adopt bylaws for the Authority. Rose Villa and Ziegler Securities present the bond financing to the Authority. The Authority considers a resolution granting preliminary approval of the bonds.
- May 20, 2014 – Authority meeting: The Authority holds a TEFRA hearing and forwards a hearing report to the Mayor. The Authority considers a resolution granting final approval of the bonds and the various bond documents.
- Before June 3, 2014: Clackamas County adopts a resolution granting TEFRA approval for the bonds and approving an intergovernmental agreement with respect to the bonds.

City Staff believe that moving forward with the creation of the Authority is beneficial to all involved with minimal risk. Following the issuance of the Rose Villa bonds, the Authority would have the power to issue additional bonds, for Rose Villa or for other qualified borrowers, if the board of directors determined that it was in the public interest do so, but the Authority would not be obligated to issue additional bonds for any borrower. Continued operation of the Authority would entail certain administrative duties, such as holding an annual meeting and continued compliance with applicable laws and tax regulations.

CONCURRENCE

City Manager, Finance Director, and City Attorney.

FISCAL IMPACTS

Upon issuance of Rose Villa bonds, the City of Milwaukie would receive an administrative fee from Rose Villa (up to \$65,000). The Authority could also assess issuance fees for additional bonds issued in the future. The Authority's directors serve without pay, but may receive reimbursement for their expenses incurred in the performance of their duties. These expenses and expenses of the Authority are paid by the Borrower seeking financing (Rose Villa).

WORK LOAD IMPACTS

Administrative functions of the Authority will need to be performed by City Staff and Bond Counsel. Additionally, Authority directors will need to attend meetings of the Authority.

ALTERNATIVES

Do not proceed with formation of a hospital facilities authority.

ATTACHMENTS

1. Proposed resolution creating The Hospital Facility Authority of the City of Milwaukie, Oregon.

**CITY OF MILWAUKIE***"Dogwood City of the West"***Resolution No.**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, CREATING THE HOSPITAL FACILITY AUTHORITY OF THE CITY OF MILWAUKIE, OREGON; APPOINTING THE INITIAL BOARD OF DIRECTORS OF THE AUTHORITY; NAMING THE CHAIR OF THE AUTHORITY; AND RELATED MATTERS.

WHEREAS, on April 15, 2014, the City Council (the "City Council") of the City of Milwaukie, Oregon (the "City") held a duly-noticed public hearing during its regular formal session in Council Chambers of the Milwaukie City Hall on the question of the advisability of creating a public authority for the purpose of financing hospital facilities pursuant to Oregon Revised Statutes 441.525 to 441.595, inclusive (the "Act"). Notice of the session and public hearing was given in conformance with the procedural rules of the City Council and the requirements of the Act.

WHEREAS, all persons desiring to be heard in connection with the proposed creation of such public authority who appeared at the public hearing were heard. After the public hearing was closed, the City Council determined it appropriate and in the best interests of the citizens of the City to create a public authority for the purpose of financing hospital facilities pursuant to the Act.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Milwaukie, Oregon:

Section 1. Declaration of Public Need. After due consideration and deeming it necessary, in the public interest, and for the health and general welfare of the community, the City Council determines that it is wise and desirable to create a hospital facilities authority pursuant to the Act for the purpose of financing hospital facilities as defined by the Act.

Section 2. Creation of Hospital Facilities Authority. The City hereby creates a public authority to be known as "The Hospital Facility Authority of the City of Milwaukie, Oregon" (the "Authority"), which shall have all the powers and duties contained in the Act, as amended from time to time.

Section 3. Board of Directors; Composition.

(a) The Authority shall be managed and controlled by a board of directors composed of five directors. The board of directors shall at all times be composed of the then-current Mayor of the City and four members of the City Council. The Mayor of the City shall serve as the Chair of the board of directors of the Authority. The Vice Chair and the Secretary of the board of directors of the Authority shall be elected by a majority vote of the directors present at the meeting at which the election is held.

(b) The City Council hereby appoints the initial directors of the Authority as set forth below, with their initial titles and terms of service as set forth below.

Name	Title	Expiration of Initial Term of Service
Jeremy Ferguson	Chair	December 31, 2014
Scott Churchill	Director	December 31, 2016
Dave Hedges	Director	December 31, 2014
Mark Gamba	Director	December 31, 2016
Mike Miller	Director	December 31, 2014

(c) The board of directors of the Authority shall adopt and may amend its own bylaws or other rules for conducting the business of the Authority and for carrying out its business.

(d) Directors shall serve without compensation; however, the Authority may reimburse or cause to be reimbursed the directors for their expenses incurred in the performance of their duties.

(e) A member of the City Council serving as a director of the board of directors of the Authority shall serve as a director for only so long as such director is a member of the City Council, and shall not in any event serve for a term greater than the term permitted by ORS 441.535(2)(c).

Section 4. Powers and Duties of the Authority Board of Directors. The board of directors of the Authority shall have all those powers and duties set forth and provided for in the Act as amended from time to time.

Section 5. Fees in Connection with Bond Issuance. From time to time, the board of directors of the Authority may establish fees to be remitted by borrowers to the City in connection with the issuance of bonds. In addition, the board of directors may require a borrower to pay all professional fees and attorney fees relative to the issuance of bonds when those fees are incurred by the Authority or on the Authority's behalf. When the board of directors of the Authority deems it appropriate, it may require a cash deposit to be posted as surety for payment of fees prior to the issuance of bonds.

Section 6. City Not Obligated. Revenue bonds or other obligations which may be issued hereafter by the Authority shall not be a general obligation of the City nor a charge upon the tax revenues of the City. The creation of the Authority shall not cause the City to incur any expense, liability or obligation of the Authority. The Authority shall not have any taxing power.

[SIGNATURE PAGE FOLLOWS]

Section 7. Effective Date. This Resolution shall become effective immediately.

Introduced and adopted by the City Council on April 15, 2014.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney



**Regular Session
Agenda Item No.**

6

Other Business



MILWAUKIE CITY COUNCIL
STAFF REPORT

To: Mayor and City Council

Through: Bill Monahan, City Manager

Subject: **Amending Chapter 5.50 of the Milwaukie Municipal Code relating to medical marijuana facilities.**

From: Dennis Egner, Planning Director

Date: April 15, 2014

ACTION REQUESTED

Amend Chapter 5.50 of the Milwaukie Municipal Code to extend the current moratorium on the siting of medical marijuana facilities from December 31, 2014 to April 30, 2015.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

On February 25, 2014, the City Council enacted a temporary ban on medical marijuana facilities to allow additional time to consider proper zoning and other regulations for the facilities.

BACKGROUND

Adopted by the state legislature in 2013, HB 3460 allowed the establishment and licensing of medical marijuana facilities in Oregon. On March 3, 2014, the Oregon Health Authority (OHA) began accepting applications for operation of medical marijuana dispensaries. In response, many communities, including Milwaukie, enacted bans preventing the facilities within their jurisdictional boundaries. Given that there was some ambiguity in HB 3460 and the range of local government response, the 2014 Oregon Legislature found it necessary to provide clarification.

On March 19, 2014, Governor Kitzhaber signed SB 1531, which places limits on the ability of cities and counties to regulate medical marijuana facilities and outlines "reasonable regulations". These include the hours of operation, where the facilities may locate within the zones allowed by law, and the manner in which a facility may dispense medical marijuana. SB 1531 also allows cities and counties to enact a moratorium on the operation of registered medical marijuana facilities until May 1, 2015, provided the moratorium is enacted no later than May 1, 2014.

The proposed ordinance extends the current city moratorium to April 30, 2015. The extension will ensure that the City will have adequate time to consider zoning or other regulations, seek public input, and adopt proper regulations.

FISCAL IMPACTS

None.

WORK LOAD IMPACTS

This Ordinance is not expected to impact work load. Current staff resources will be used to research and develop regulatory options.

ALTERNATIVES

The Council could choose to take no action, amend Chapter 5.50, or suggest another time frame for completion of work to adopt local regulations for medical marijuana facilities.

STAFF RECOMMENDATION

Staff recommends that City Council approve the proposed Ordinance.

ATTACHMENTS

1. Exhibit A: Ordinance



CITY OF MILWAUKIE
"Dogwood City of the West"

Ordinance No.

An ordinance of the City Council of the City of Milwaukie, Oregon, relating to medical marijuana facilities; Amending chapter 5.50; and declaring an emergency.

WHEREAS, the City of Milwaukie adopted Ordinance 2076 on February 25, 2014, which enacted a temporary moratorium on medical marijuana facilities through December 31, 2014; and

WHEREAS, during the 2014 Regular Session, the Oregon Legislature passed SB 1531, which limits the ability of cities and counties to regulate medical marijuana facilities to the "reasonable regulations" provided in statute: the hours of operation for medical marijuana facilities, where the facilities may locate within the zones allowed by law, and the manner in which a facility may dispense medical marijuana; and

WHEREAS, SB 1531 also allows cities and counties to enact a moratorium on the operation of registered medical marijuana facilities until May 1, 2015, provided the moratorium is enacted no later than May 1, 2014; and

WHEREAS, the City Council of Milwaukie wishes to extend its moratorium to have the additional time allowed under SB 1531 to evaluate policy options related to siting medical marijuana facilities.

Now, Therefore, the City of Milwaukie does ordain as follows:

Section 1. Ordinance 2076, Section 7, is amended to read as follows (additional language italicized, deleted language stricken):

Ordinance Automatically Expires. This ordinance automatically expires and is to be deemed repealed at 11:59:59 p.m. on *April 30, 2015* ~~December 31, 2014~~, unless sooner repealed or extended by City Council ordinance.

Section 2. Emergency. With the statutory deadline of May 1, 2014 to enact a moratorium, this ordinance is necessary for the immediate protection of the public health, safety and general welfare; therefore, an emergency is declared to exist and this ordinance shall be effective upon the date of its adoption.

Read the first time on _____, and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____.

Signed by the Mayor on _____.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney



MILWAUKIE CITY COUNCIL
STAFF REPORT

To: Mayor and City Council
Through: Bill Monahan, City Manager
Subject: **Riverfront Park -- Oregon Parks and Recreation Grant Program Agreement**
From: Jason Rice, Engineering Director
Date: April 15, 2014

ACTION REQUESTED

Authorize by Resolution the City Manager to sign a Local Government Grant Program Agreement between Oregon Parks and Recreation Department (OPRD) and the City for construction of specific elements tied to the Riverfront Park Phase II Project.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

April 2, 2013 -- Council approved a resolution authorizing staff to submit a grant to the OPRD for Riverfront Park improvements.

BACKGROUND

The Oregon Parks and Recreation Department administers a Local Government Grant Program that distributes money to local government agencies for acquisition and development of parks and recreation areas.

In an attempt to progress the Riverfront project beyond its first phase (Klein Point); with direction from Council, Staff submitted an application to the OPRD for the construction of the following Riverfront Park elements:

- Site Grading
- Relocation of utility poles from center of park east towards McLoughlin Blvd.
- Construction of the walking/biking trail that connects the boat ramp area to Klein Point
- Riparian enhancements required by the Army Corps Permit
- Landscaping of non-riparian areas and seeding for lawn

Soon after submission of the application, Staff received notice that grant funds were to be allocated towards the advancement of Riverfront Park. As Phase II is set to be under construction in June of 2014, formalization of a Grant Program Agreement is vital to the success of the project.

In summary, terms of the Agreement require the City to perform the following:

- Begin work within 6 months of the effective date on this attached agreement
- Produce Quarterly Progress Reports to OPRD
- Place a sign at the project site acknowledging OPRD's grant program support
- Retain project records for a minimum of 6 years for OPRD audits

Staff is prepared to accommodate the following requirements within future work plans.

CONCURRENCE

The Riverfront Task Force supported the submittal of a grant to OPRD for Riverfront improvements.

Community Development and Finance Staff worked together to anticipate expenditures within the proposed FY15 budget.

FISCAL IMPACTS

Authorizing signature of this Agreement commits the City to \$147,500 (40%) match. This match may be paid in funds or the equivalent in labor, materials, property or services. However, Staff expects that this amount will be paid for in funds and is budgeted between the current FY14 budget and the proposed FY15 budget within the Community Development Capital Outlay.

This is a reimbursable grant for 60% (or \$220,714 whichever is less) of the total cost of the elements described above. City funds would be expended to pay for project costs and then be reimbursed by the grant program each quarter. Finance staff will work closely with the project manager to ensure that reimbursement occurs as swiftly as possible.

In addition to the Grant, another grant for \$1.2 million will be received from the Oregon Marine Board and the Oregon Department of Fish and Wildlife (ODFW). An agreement to solidify this funding will likely come before Council in May.

WORK LOAD IMPACTS

In addition to project management and inspection of the Riverfront Park Phase II project. This grant requires Progress Reports to be filed with OPRD quarterly along with reimbursement requests for qualified expenditures.

A solution for Inspection and Project Management is currently being explored with Clackamas Parks and Recreation District.

ALTERNATIVES

Not approve the attached resolution. However, by doing so the Riverfront Park Phase II project would not receive \$220,714 for the lower walking and biking trail, northern site regarding, and the riparian enhancements required by the Army Corp Permit for impacts tied to the new boat ramp construction.

ATTACHMENTS

1. Proposed Local Government Grant Program Agreement
2. Local Government Grant Program Application
3. Resolution

55 relocation, pedestrian / bike trail construction, landscaping, and riparian enhancements. The Project is
56 further described in the Sponsor's Grant Application, which is Exhibit A attached hereto. Sponsor shall have
57 six-months from the Effective Date of this Agreement to commence substantial work (i.e., for the Sponsor to
58 award contracts for work or show at least 25% of work is complete). Projects not in compliance with this
59 schedule may be cancelled unless OPRD determines, in its sole discretion, that Sponsor has provided to OPRD
60 justification for an extension.

61
62 **7. Progress Reports.** Once work has begun, Sponsor shall report to OPRD on work completed on a quarterly
63 basis as follows:

- 64 Period beginning January 1, ending March 31, report is due **April 30**.
- 65 Period beginning April 1, ending June 30, report is due **July 31**.
- 66 Period beginning July 1, ending September 30, report is due **October 31**.
- 67 Period beginning October 1, ending December 31, . . . report is due **January 31**.

68
69
70
71 A progress report giving an accounting of the work accomplished is also required whenever Project
72 reimbursements are requested. Reports must be in the form provided in Exhibit B.

73
74 Sponsor must submit a Final Report and final reimbursement request to OPRD within 45 days of the Project
75 Completion Date using the form attached hereto as Exhibit B. The final report shall include a full and final
76 accounting of all expenditures and a description of the work accomplished.

77
78 **8. Disbursement and Recovery of Grant.**

79
80 **a. Disbursement Generally.** OPRD shall disburse up to 75 percent of the Grant Funds to Sponsor
81 on a cost reimbursement basis upon approval of invoices submitted to OPRD. Sponsor may send
82 invoices to OPRD at any time but no more than once per calendar quarter. Invoices must be in the form
83 provided in Exhibit C attached hereto and provide detail indicating the nature of costs to be reimbursed,
84 and all such costs must be directly related to the Project and Project budget as shown in Exhibit A.
85 Invoices must be signed by an authorized representative of Sponsor. Prior to approval of any invoice,
86 all reports due under Section 6 hereof must be complete and provided to and approved by OPRD.
87 OPRD will disburse the final 25 percent of the Grant Funds upon approval by OPRD of the Final Report
88 and the completed Project. OPRD will not be obligated to make final payment to Sponsor until all
89 documentation and reports due under Section 6 hereof are complete and provided to OPRD, including
90 the ID number or vehicle identification number of any equipment purchased by Sponsor, and subject to
91 a final inspection and approval of the Project by OPRD.

92
93 **b. Allowable Costs.** The Grant is for the Project and shall not be used for any other purpose. No
94 Grant funds will be disbursed for any changes to the Project unless such changes are approved by
95 OPRD by Amendment pursuant to section 13.b hereof. Sponsor shall not use any Grant Funds for
96 administration, overhead or indirect costs, whether or not related to this Agreement.

97
98 **c. Conditions Precedent to Disbursement.** OPRD's obligation to disburse Grant moneys to
99 Sponsor under this Agreement is subject to satisfaction, with respect to each disbursement, of each of
100 the following conditions precedent:

- 101
102 **i.** OPRD has received sufficient funding, appropriations, limitations, allotments, or other
103 expenditure authority sufficient to allow OPRD, in the exercise of its reasonable
104 administrative discretion, to make the disbursement.
- 105
106 **ii.** No default as described in section 11 has occurred.
- 107
108 **iii.** Sponsor's representations and warranties set forth in section 8 are true and correct on the
109 date of disbursement with the same effect as though made on the date of disbursement.

110
111 iv. Sponsor shall provide OPRD a copy of all necessary federal, state and local permits
112 required for the Project.
113

114 **d. Recovery of Grant Moneys.** Any Grant moneys disbursed to Sponsor under this Agreement
115 that are expended in violation or contravention of one or more of the provisions of this Agreement
116 (“Misexpended Funds”) or that remain unexpended on the earlier of termination or expiration of this
117 Agreement must be returned to OPRD. Sponsor shall return all Misexpended Funds to OPRD promptly
118 after OPRD’s written demand and no later than 15 days after OPRD’s written demand. Sponsor shall
119 return all Unexpended Funds to OPRD within 14 days after the earlier of expiration or termination of
120 this Agreement.
121

122 **9. Representations and Warranties of Sponsor.** Sponsor represents and warrants to OPRD as follows:
123

124 **a. Organization and Authority.** Sponsor is a:

125 Municipal agency

126 Other Governmental Entity (regional government, port district, special district, etc.)
127

128 duly organized and validly existing under the laws of the State of Oregon and is eligible to receive the
129 Grant. Sponsor has full power, authority and legal right to make this Agreement and to incur and
130 perform its obligations hereunder, and the making and performance by Sponsor of this Agreement (1)
131 have been duly authorized by all necessary action of Sponsor and (2) do not and will not violate any
132 provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or
133 other administrative agency or any provision of Sponsor’s Articles of Incorporation or Bylaws (3) do
134 not and will not result in the breach of, or constitute a default or require any consent under any other
135 agreement or instrument to which Sponsor is a party or by which Sponsor or any of its properties may
136 be bound or affected. No authorization, consent, license, approval of, filing or registration with or
137 notification to any governmental body or regulatory or supervisory authority is required for the
138 execution, delivery or performance by Sponsor of this Agreement.
139

140 **b. Binding Obligation.** This Agreement has been duly executed and delivered by Sponsor and
141 constitutes a legal, valid and binding obligation of Sponsor, enforceable in accordance with its terms
142 subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of
143 creditors’ rights generally.
144

145 **c. Use of Project property:** Sponsor further warrants that the land within the project boundary
146 described in Exhibit A shall be dedicated and used for a period of no less than 25 years from the
147 completion of the Project. Sponsor agrees to not change the use of, sell, or otherwise dispose of the land
148 within the Project boundary, except upon written approval by OPRD. Leases for projects placed on
149 federally owned property must be at least 25 years.
150

151 If the Sponsor converts lands within the Project boundary to a use other than as described in the grant
152 application or disposes of such land by sale or any other means, the Sponsor must provide replacement
153 property acceptable to OPRD within 24 months of either the conversion or the discovery of the
154 conversion.
155

156 If replacement property cannot be obtained within the 24 months, the Sponsor will provide payment of
157 the grant program’s prorated share of the current fair market value to the State. The prorated share is
158 that percentage of the original grant (plus any amendments) as compared to the original project cost(s).
159 The replacement property must be equal to the current fair market value of the converted property, as
160 determined by an appraisal. The recreation utility of the replacement property must also be equal to that
161 of the lands converted or disposed.
162

163 If conversion should occur through processes outside of the Sponsor’s control such as condemnation or
164 road replacement or realignment, the Sponsor will be required to pass through to the State that prorated

165 share of whatever consideration is provided to the Sponsor by the entity that caused the conversion. The
166 monetary value of whatever consideration provided by the taking will normally consist of the fair
167 market value of the property established by an appraisal.

168 The warranties set forth above are in addition to, and not in lieu of, any other warranties set forth in this
169 Agreement or implied by law.
170

171 **10. Certain Covenants of Sponsor.** Sponsor shall:

172
173 **a. Grant Funds.** Vigilantly safeguard the Grant moneys received hereunder and maintain
174 financial controls sufficient to protect such moneys and ensure that the Grant moneys are used solely for
175 purposes of the Project;

176
177 **b. Completion.** Complete the Project on or before the expiration date of this Agreement and
178 submit a final report for the Project to OPRD in accordance with Section 6 hereof.

179
180 **c. Publicity.** Sponsor shall make every effort to acknowledge and publicize OPRD's participation
181 and assistance with the project. Sponsor agrees to place signs at the Project location acknowledging
182 OPRD's grant program support. Sponsor also agrees to maintain the signs throughout the life of the
183 project. State may withhold final reimbursement payment until signage has been placed.

184
185 **d. Public Access to Project:** The Sponsor shall allow open and unencumbered public access to
186 the completed Project to all persons without regard to race, color, religious or political beliefs, sex,
187 national origin, or place of primary residence.
188

189 **11. Records Maintenance and Access.**

190
191 **a. Access to Records and Facilities.** OPRD, the Secretary of State of the State of Oregon
192 (Secretary) and their duly authorized representatives shall have access to the books, documents, papers
193 and records of Sponsor that are directly related to this Agreement, the Grant moneys provided
194 hereunder, or the Project for the purpose of making audits and examinations. In addition, OPRD, the
195 Secretary and their duly authorized representatives may make and retain excerpts, copies, and
196 transcriptions of the foregoing books, documents, papers, and records. Sponsor shall permit authorized
197 representatives of OPRD and the Secretary to perform site reviews of all services delivered as part of
198 the Project.
199

200 **b. Retention of Records.** Sponsor shall retain and keep accessible all books, documents, papers,
201 and records, that are directly related to this Agreement, the Grant moneys or the Project for a minimum
202 of six (6) years, or such longer period as may be required by other provisions of this Agreement or
203 applicable law, following the expiration date. If there are unresolved audit questions at the end of the
204 three-year period, Sponsor shall retain the records until the questions are resolved.
205

206 **c. Expenditure Records.** Sponsor shall document the expenditure of all Grant moneys disbursed
207 by OPRD under this Agreement. Sponsor shall create and maintain all expenditure records in
208 accordance with generally accepted accounting principles and in sufficient detail to permit OPRD to
209 verify how the Grant moneys were expended.
210

211 **12. Default.** Sponsor shall be in default under this Agreement upon the occurrence of any of the following
212 events:

213
214 **a.** Sponsor fails to perform, observe, or discharge any of its covenants, agreements, or obligations
215 set forth herein.
216

217 **b.** Any representation, warranty or statement made by Sponsor herein or in any documents or
218 reports relied upon by OPRD to monitor implementation of the Project, the expenditure of Grant
219 moneys or the performance by Sponsor is untrue in any material respect when made;

220
221 c. Sponsor (i) applies for or consents to the appointment of, or taking of possession by, a receiver,
222 custodian, trustee, or liquidator of itself or all of its property, (ii) admits in writing its inability, or is
223 generally unable, to pay its debts as they become due, (iii) makes a general assignment for the benefit of
224 its creditors, (iv) is adjudicated as bankrupt or insolvent, (v) commences a voluntary case under the
225 Federal Bankruptcy Code (as now or hereafter in effect), (vi) files a petition seeking to take advantage
226 of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or
227 adjustment of debts, (vii) fails to controvert in a timely and appropriate manner, or acquiesces in writing
228 to, any petition filed against it in an involuntary case under the Bankruptcy Code, or (viii) takes any
229 action for the purpose of effecting any of the foregoing; or

230
231 d. A proceeding or case is commenced, without the application or consent of Sponsor, in any court
232 of competent jurisdiction, seeking (i) the liquidation, dissolution or winding-up, or the composition or
233 readjustment of debts, of Sponsor, (ii) the appointment of a trustee, receiver, custodian, liquidator, or the
234 like of Sponsor or of all or any substantial part of its assets, or (iii) similar relief in respect to Sponsor
235 under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or
236 adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or
237 decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a
238 period of sixty consecutive days, or an order for relief against Sponsor is entered in an involuntary case
239 under the Federal Bankruptcy Code (as now or hereafter in effect).

240
241 e. **Remedies upon Default.** If Sponsor's default is not cured within 30 calendar days of written
242 notice thereof to Sponsor from OPRD or such longer period as OPRD may authorize in its sole
243 discretion, OPRD may pursue any remedies available under this Agreement, at law or in equity. Such
244 remedies include, but are not limited to, termination of this Agreement, return of all or a portion of the
245 Grant moneys, payment of interest earned on the Grant moneys, and declaration of ineligibility for the
246 receipt of future grant awards from OPRD. If, as a result of Sponsor's default, OPRD demands return
247 of all or a portion of the Grant moneys or payment of interest earned on the Grant moneys, Sponsor
248 shall pay the amount upon OPRD's demand.

249 250 13. TERMINATION

251
252 a. **Termination for Convenience.** Either party may terminate this Agreement at any time prior to
253 the expiration date of this Agreement upon 15 days notice to the other party. Neither party shall incur
254 any new obligations for the terminated portion of this Agreement and shall cancel as many obligations
255 as possible immediately upon receipt of notification from the other party. Payment in full shall be
256 allowed for the non-cancelable obligations properly incurred up to the effective date of the termination.
257 All Unexpended Funds shall be returned to OPRD within 14 days of termination.

258
259 b. **OPRD Termination.** OPRD may terminate this Agreement:

260
261 i. Immediately upon written notice to Sponsor, if OPRD does not obtain sufficient funding and
262 expenditure authorizations to allow OPRD to meet its payment obligations under this
263 Agreement.

264
265 ii. Immediately upon written notice to Sponsor if state or federal laws, regulations, or guidelines
266 are modified, changed or interpreted in such a way that OPRD does not have the authority to
267 provide Grant moneys for the Project or no longer has the authority to provide the Grant
268 moneys from the funding source it had planned to use.

269
270 iii. Upon 30 calendar days advance written notice to Sponsor, if Sponsor is in default under this
271 Agreement and such default remains uncured at the end of said 30 day period or such longer
272 period, if any, as OPRD may specify in the notice.

274 **14. GENERAL PROVISIONS**

275
276 **a. Indemnification.** To the extent permitted by the Oregon Constitution and the Oregon Tort
277 Claims Act, Sponsor shall indemnify, defend (subject to ORS chapter 180), and hold harmless the State of
278 Oregon and OPRD and their officers, employees, and agents from all claims, suits, actions, loses, damages,
279 liabilities, costs and expenses of any nature, resulting from, arising out of or relating to the activities of the
280 Sponsor or Sponsor's officers, employees, sub-contractors, or agents under this Agreement.

281
282 **b. Amendments.** This Agreement may be amended or extended only by a written instrument
283 signed by both parties. A request for an extension of the Project Completion Date for a six month period may be
284 granted if requested by Sponsor in writing at least 30 days prior to the Project Completion Date and the request
285 includes a compelling need, as determined in OPRD's sole discretion, for the extension.

286
287 **c. Participation in Similar Activities.** This Agreement in no way restricts Sponsor or OPRD
288 from participating in similar activities with other public or private agencies, organizations, or individuals.

289
290 **d. Duplicate Payment.** Sponsor is not entitled to compensation or any other form of duplicate,
291 overlapping or multiple payments for the same work performed under this Agreement from any agency of the
292 State of Oregon or the United States of America or any other party, organization or individual. All sponsor
293 matching contributions must be used and expended for this project only and within the Project period.

294
295 **e. No Third Party Beneficiaries.** OPRD and Sponsor are the only parties to this Agreement and
296 are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be
297 construed to give or provide any benefit or right, whether directly or indirectly, to a third person unless such a
298 third person is individually identified by name herein and expressly described as intended beneficiary of the
299 terms of this Agreement.

300
301 **f. Notices.** Except as otherwise expressly provided in this Agreement, any communications
302 between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery,
303 facsimile, or mailing the same, postage prepaid to Sponsor or OPRD to the applicable Principal Contact at the
304 address or number set forth below, or to such other addresses or numbers as either party may indicate pursuant
305 to this section. Any communication or notice so addressed and mailed shall be effective five (5) days after
306 mailing. Any communication or notice delivered by facsimile shall be effective on the day the transmitting
307 machine generates a receipt of the successful transmission, if transmission was during normal business hours of
308 the Sponsor, or on the next business day, if transmission was outside normal business hours of the Sponsor.
309 Any communication or notice given by personal delivery shall be effective when actually delivered.

310
311 **OPRD:**

312 Oregon Parks and Recreation Department
313 Local Government Grant Program Coordinator
314 725 Summer Street NE, Suite C
315 Salem, OR 97301
316 Phone: 503-986-0591
317 Fax: 503-986-0794
318 Email: mark.cowan@oregon.gov

319
320 **Sponsor:**

321 City of Milwaukie
322 Steve Butler, Comm. Dev. Dir.
323 6101 SE Johnson Creek Blvd
324 Milwaukie, OR 97206
325 Phone: 503-786-7652
326 Cell: 503-710-2187
327 Email: butlers@milwaukieoregon.gov
328

329 **g. Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and
330 construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law.
331 Any claim, action, suit or proceeding (collectively, "Claim") between OPRD (or any other agency or department
332 of the State of Oregon) and Sponsor that arises from or relates to this Agreement shall be brought and conducted
333 solely and exclusively within the Circuit Court of Marion County in the State of Oregon. In no event shall this
334 section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign
335 immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the
336 United States or otherwise, from any Claim or from the jurisdiction of any court. EACH PARTY HEREBY
337 CONSENTS TO THE EXCLUSIVE JURISDICTION OF SUCH COURT, WAIVES ANY
338 OBJECTION TO VENUE, AND WAIVES ANY CLAIM THAT SUCH FORUM IS AN
339 INCONVENIENT FORUM.

340
341 **h. Compliance with Law.** Sponsor shall comply with all federal, state and local laws, regulations,
342 executive orders and ordinances applicable to the Agreement or to the implementation of the Project. Without
343 limiting the generality of the foregoing, Sponsor expressly agrees to comply with the following laws, regulations
344 and executive orders to the extent they are applicable to the Agreement or the implementation of the Project: (a)
345 all applicable requirements of state civil rights and rehabilitation statutes, rules and regulations, (b) Titles VI and
346 VII of the Civil Rights Act of 1964, as amended, (c) Sections 503 and 504 of the Rehabilitation Act of 1973, as
347 amended, (d) the Americans with Disabilities Act of 1990, as amended, and ORS 659A.142, (e) Executive
348 Order 11246, as amended, (f) the Health Insurance Portability and Accountability Act of 1996, (g) the Age
349 Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended,
350 (h) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (i) all regulations and
351 administrative rules established pursuant to the foregoing laws, and (j) all other applicable requirements of
352 federal civil rights and rehabilitation statutes, rules and regulations. These laws, regulations and executive orders
353 are incorporated by reference herein to the extent that they are applicable to the Agreement or the Project and
354 required by law to be so incorporated. Sponsor shall not discriminate against any individual, who receives or
355 applies for services as part of the Project, on the basis of actual or perceived age, race, creed, religion, color,
356 national origin, gender, disability, marital status, sexual orientation, alienage or citizenship. All employers,
357 including Sponsor, that employ subject workers who provide services in the State of Oregon shall comply with
358 ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt
359 under ORS 656.126.

360
361 **i. Severability.** If any term or provision of this Agreement is declared by a court of competent
362 jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not
363 be affected, and the rights and obligations of the parties shall be construed and enforced as if this Agreement did
364 not contain the particular term or provision held to be invalid.

365
366 **j. Assignment of Agreement, Successors in Interest.** Sponsor shall not assign or transfer any
367 interest in this Agreement, enter into any subcontracts, or subgrant any Grant moneys, without the prior written
368 approval of OPRD. Any such assignment, transfer, subcontract, or subgrant, if approved, is subject to such
369 conditions and provisions, as OPRD may deem necessary, including without limitation that, for any portion of
370 the Project awarded by Sponsor to a contractor, Sponsor shall provide to OPRD a copy of the contractor's
371 performance bond in the amount of the contract issued by a surety company authorized to do business in
372 Oregon. No approval by OPRD of any assignment, transfer, subcontract or subgrant shall be deemed to create
373 any obligation of OPRD in addition to those set forth in this Agreement nor will OPRD's approval of an
374 assignment, transfer, subcontract or subgrant relieve Sponsor of any of its duties or obligations under this
375 Agreement.

376
377 **k. Survival.** All rights and obligations shall cease upon termination or expiration of this Contract,
378 except for the rights and obligations set forth in Sections 6, 8, 10, 13.a, 13.e, 13.g, 13.k and 13.l.

379
380 **l. Integration and Waiver.** This Agreement, including all Exhibits, constitutes the entire
381 agreement between the parties on the subject matter hereof. There are no understandings, agreements, or
382 representations, oral or written, not specified herein regarding this Agreement. The delay or failure of either
383 party to enforce any provision of this Agreement shall not constitute a waiver by that party of that or any other

384 provision. Sponsor, by the signature below of its authorized representative, hereby acknowledges that it has
385 read this Agreement, understands it, and agrees to be bound by its terms and conditions.
386

387
388 **IN WITNESS THEREOF:** the parties hereto have caused this agreement to be properly executed by their
389 authorized representatives as of the day and year hereinafter written.
390

391
392 **Sponsor:**
393
394
395 By: _____
396 Sponsor Signature
397
398 _____
399 Printed Name
400
401 _____
402 Title
403
404 _____
405 Date
406

ORPD Grant Program:
By: _____
Local Government Grants Program Coordinator

Date

Grants Division Manager

Date

407
408 **STATE of OREGON, acting by and through**
409 **its State Parks and Recreation Department**
410

411
412 By: _____
413 Roger Roper, Assistant Director, OPRD
414
415 _____
416 Date
417

418
419 **Oregon Department of Justice**
420 **Approved for legal sufficiency**
421 (when Grant amount exceeds \$150,000)
422

423 By: _____ AAG Keith L. Kutler _____
424
425 _____ by email on August 28, 2013 _____
426 Date
427

Grant Application for

Milwaukie Riverfront Park - Phase 1

Contact

Sponsor Name:
City of Milwaukie

First Name:
JoAnn

Last Name:
Herrigel

Address 1:
6101 SE Johnson Creek Blvd

Address 2:

City:
Milwaukie

State:
OR

Zip Code:
97206

Contact Phone:
503-786-7508

Contact Fax:
503-774-8236

Contact Email:
herrigelj@ci.milwaukie.or.us

Federal Tax ID:
#93-6002212

Project

Project Name:

Milwaukie Riverfront Park - Phase 1

Funds Requested:

\$220,714.00

Matching Funds:

\$147,500.00

Total Cost:

\$368,214.00

Brief Project Description should be a concise overview of the project elements limited to 40 words or less. :

Brief Project Description:

This project includes site grading, power pole relocation, pedestrian/bike trail construction, landscaping, and riparian enhancements in Milwaukie Riverfront Park. Improvements will provide a critical link between recently completed Klein Point Overlook and proposed boat facilities to be constructed in 2014.

Enter estimated start and end dates below. :

Start Date:

June 2, 2014

End Date:

October 31, 2014

Percent of Grant:

0.599417729907065

Percent of Match:

0.400582270092935

Site Name:

Milwaukie Riverfront Park

Site Acreage:

8.50

Site Town - City:

City of Milwaukie

Site County:
Clackamas

Site Description:

Milwaukie Riverfront Park is an 8.5 acre site located on the Willamette River's eastern bank between the mouths of Johnson and Kellogg Creeks. The existing site lies west of Mcloughlin Blvd and is largely undeveloped with the exception of an existing boat launch, long known as the "Jefferson Street boat ramp". The current site consists of a dilapidated two lane boat launch with no boarding float, a 30 year old asphalt parking lot with 25 parking spaces for vehicles with trailers and 15 spaces for cars, and a 30 year old restroom with a men's and a women's room (two stalls each). Until recently, the remainder of the park site hosted no structures other than a series of retaining walls which maintain the site's two-tiered topography. In 2012, the northern-most parcel of the Park, previously donated to the City by a community member, was improved using a grant from Metro. The improvements, at what is called Klein Point, included installation of asphalt and paver pathways, a stone masonry wall, and a plaza overlooking the confluence of Johnson Creek with the Willamette River and associated landscaping.

Land Control:
Fee Simple

Latitude:
44.442500000000003

Longitude:
-122.643100000000000

--

Finance

Are the combined costs for administration, land use permits, design and engineering, pre-agreement planning 15% or less of your total project costs? :

Yes

PARTNERSHIPS & FISCAL CONSIDERATION (10 Points):

Are funds budgeted for the project? What is the source of local matching funds? How firm is your local match, have matching funds been committed to this project by your council, board or commission? Your Resolution to Apply must include a commitment of available local matching funds to support your answer.:

The City's \$100,000 cash match and the \$40,000 City budget allocation to complete construction documents were approved by the Milwaukie Budget Committee and Council in June 2012 with the 2013-15 biennial budget. In addition, Resolution # 31-2013, approved on April 2, 2013, states City Council's commitment to these matching funds if the grant is awarded.

What is the local commitment to the project from the local community through donations? Provide documentation such as letters of support from volunteer organizations, cooperative agreements, or private sponsorship support letters to demonstrate commitment of donations.:

The Riverfront Park Capital Campaign (initiated in 2011) has generated commitments of over \$40,000 from private and non profit organizations toward park improvements. To date, cash donations to the Capital Campaign Fund of approximately \$10,000 have been received. The City will request a \$5,500 cash disbursement from the Capital Campaign Fund to be used as a match contribution for this OPRD grant project. It is the City's intent to use the success of both the OPRD and Oregon Marine Board grant awards to leverage additional private sector contributions for the remaining Riverfront Park amenities such as the amphitheater, play area and main plaza. Conversations with private donors have indicated an interest in seeing the park "take shape" before larger contributions are made. Existing commitment letters from Capital Campaign contributors have been attached under "Other".

To what extent does the project involve funding from other agencies or groups? Is funding from other agencies or groups guaranteed? If you have any grants listed as match in your budget, what is the status of each grant? If pending, where are you in the process with each grant? Provide documentation of funding from other agencies, groups, or grant resources.:

The only non-City source of funding proposed for this grant is a \$5,500 fund disbursement from the Riverfront Park Capital Campaign Fund. A request of the Campaign Steering Committee will be submitted in April and the disbursement will be confirmed by the end of May 2013.

To what extent has enough money been budgeted to successfully complete the project? Please describe how budget estimates were compiled.:

The City believes that adequate funding has been budgeted to successfully fund this project. David Evans and Associates is under contract with the City to complete the design and assist with permitting for Milwaukie Riverfront Park. The estimates for the proposed improvements were completed by a professional engineer from David Evans with the guidance and input of the lead landscape architect for the project. The estimate was based on the 70% design plans. The estimate incorporates contingency funds to ensure that there is adequate funding to cover any small, but unanticipated, costs.

Is all described match available at the time of application?:

Yes

Supplemental

Did you attend the 2013 Local Government Grant Workshop or participate in the 2013 Local Government Grant Webinar?:

Yes

PROGRAM NARRATIVE:

Describe all elements of the project, the need for assistance and project objectives. Describe problems or desires that led to project being selected, who will do the work and who will provide supervision. Describe any facilities to be constructed, existing facilities which are to be renovated, removed or demolished. Describe the present development on the site and how proposal fits in with future development.:

Milwaukie Riverfront Park is an 8.5 acre site located on the Willamette River's eastern banks between the mouths of Johnson and Kellogg Creeks. The existing site lies west of Mcloughlin Blvd and is largely undeveloped with the exception of an existing boat launch, long known as the "Jefferson Street boat ramp". The current site consists of a dilapidated two lane boat launch with no boarding float, a 30 year old asphalt parking lot with 25 parking spaces for vehicles with trailers and 15 spaces for cars, and a 30 year old restroom with a men's and a women's facilities (two stalls each). The remainder of the park site hosts no structures other than a series of retaining walls which maintain the site's two-tiered topography. Over the past decade, citizens of Milwaukie, Clackamas County and the wider Portland metro region have participated in creating a design for this park that is expected to become a favored destination for people throughout the region and a center for civic and recreational activities. When fully constructed, Milwaukie Riverfront Park amenities will include a new boat ramp and associated facilities, an outdoor amphitheater, a children's play area, trails for walking and biking, two creek/river overlook areas and a central plaza and restroom with an interactive fountain. Milwaukie Riverfront Park is unusual in that it provides amazing views of the Willamette River and its confluence with both Johnson and Kellogg Creeks. It hosts 4-5 acres of open space that could be used for picnicking, fishing, Frisbee playing or kite flying. Yet, in its current undeveloped state, the public feels unwelcome at Milwaukie Riverfront Park. The improvements proposed for OPRD funding will create an open lawn area, an ADA compliant trail for biking and walking, and open up the view-shed to the Willamette River, creating a destination park for those seeking a day's outing. Coupled with the proposed OMB funded boating improvements (application submitted April 5, 2013), this park will attract anglers of all ages to fish off the proposed boarding float which will parallel the boat launch. The boat launch area will also open to use by non-motorized boaters such as kayakers and canoers. Due to the high cost of the total park project (\$7.5 million), the City plans to develop the Park in phases. The first phase of the project, the Klein Point Overlook, at the northern tip of the Park (at the confluence of Johnson Creek with the Willamette River) was completed in 2012 using a grant from Metro for \$225,000. The completion of this first phase has drawn the public's attention to Milwaukie Riverfront Park and whetted their appetites for the next phases of the project. To continue the momentum begun with the Klein Point construction, the City plans to pursue two grants in April 2013. One grant application, submitted this month to the Oregon Marine Board, requests \$1.2 million to replace the existing boat ramp, parking lot

and restroom. The City's match for the Oregon Marine Board grant includes \$1 million in cash. If awarded the OMB grant, the City would begin construction of the boating facilities in the spring of 2014. This OPRD grant request is the second application the City will submit in April 2013. Requested OPRD funding would allow the City to construct park amenities linking the recently completed Klein Point Overlook, to the north of the site, with the proposed boating facilities to the south. Further, the proposed site grading, power pole relocation and pedestrian/bicycle trail would create a "base park" for citizens in the area to use while additional private and public funding for the larger park elements such as the main plaza, amphitheater and play area is being sought. A construction contractor will be chosen using an open competitive bidding process for the park development proposed under this grant. City staff will manage the contract administration and oversee the general construction of the project. An on-site manager will be contracted to monitor and provide guidance on construction details. The City will attempt to phase the OMB and OPRD projects such that construction efficiencies can be maximized. It is expected that power pole relocation by Portland General Electric will take place in summer or fall of 2013, while grading, path installation and plantings will be completed in the spring and summer of 2014 concurrent with the boat facility construction project. Woody debris installations and some riparian plantings would need to be completed within the In-water work window in 2014 (DSL permit states: July 15- August 31.)

TIMELINESS:

Is there an immediate need or threat of facility closure because of non-compliance with state and federal laws? Describe any actions under consideration that could result in a lost opportunity or facility becoming unavailable for public use. Is there a threat to losing the available local match or the ability of local project sponsor not being able to complete the project within 2 years?:

The City has applied for a grant from the Oregon Marine Board for construction of boating facilities at Milwaukie Riverfront Park. If awarded the OMB grant, construction of the proposed boating facilities would begin in spring/summer 2014. The City would like to combine the construction of the boating facilities with the improvements proposed under this OPRD grant to maximize construction cost and time efficiencies. Further, site grading and trail construction proposed in this OPRD application would connect the new boating facilities with the improvements recently completed on the north end of the site, at Klein Point.

FIRST TIME AWARD:

Have you ever received funding from any of the grant programs administered by Oregon Parks and Recreation Department?:

Yes

ACTIVE GRANT PERFORMANCE AND COMPLIANCE:

Are you on schedule and in compliance with all active grant projects awarded by

OPRD?:

Yes

PAST GRANT PERFORMANCE AND COMPLIANCE:

Are you in compliance with applicable guidelines at previously assisted project sites? (No unresolved conversions, overhead utility lines, maintenance issues and open to the public) Please describe your performance on grants previously awarded by OPRD. Were quarterly progress reports submitted? Were funds expended and project complete by the project deadline? Do you have an OPRD grant acknowledgement sign posted at all grant assisted sites? Please describe deficiencies, if any.:

The City of Milwaukie received an OPRD grant award for \$195,000 in 2005 for the construction of Lewelling Community Park. This construction project was completed within the proposed time line and within the estimated budget. OPRD signage was installed at the site and an opening event, at which OPRD staff was invited to speak, was held in October 2006. All required reporting for the project was completed by the City to OPRD satisfaction. The resulting park has been heralded by the City as an overwhelming success by neighbors and the community in general. No other OPRD grants have been awarded to the City within the past decade.

ACCESSIBILITY COMPLIANCE:

Does your agency have a board or city council adopted/approved ADA Transition Plan and/or Self Certification? If no, please contact the Grant Program Coordinator.:

Yes

What is the topography of the project site (flat, hilly, rough or uneven terrain, etc.)?:

Currently hilly - proposed grade to be 5% or less

What is the surface of existing or proposed parking areas?:

Asphalt

How many parking spaces are (or will be) allocated for people with disabilities?:

2 spaces

What is the slope and surface of any roads or trails that will be used as accessibility routes to various parts of the park?:

Concrete path of less than 5% slope

How will your proposed development or rehabilitation projects be made accessible?:

The landscape architect and engineer on the David Evans design team have taken special care to ensure that all park elements are ADA accessible. In general, the larger park design integrates both stairs and ramps wherever hardscape grade changes occur. The proposed walkways, including the trail proposed in this grant, will be hard surfaced and easily

distinguishable from surrounding turf and landscape areas. In addition, the trail proposed for construction in this project phase will have a slope of 5% or less and be constructed of concrete. The City's parks are governed by the North Clackamas Parks and Recreation District's ADA Transition Plan, adopted in January, 2006. The City and NCPRD develop and maintain all our parks according to current ADA guidelines and NCPRD maintenance staff conducts regular monthly inspections of parks to ensure compliance.

How does your agency address special accessibility concerns/needs for people with sight or hearing impaired disabilities?:

Service animals will be allowed in Milwaukie Riverfront Park. Braille will be used on signage through the site where appropriate.

Does your agency have the latest Americans with Disabilities Act Accessibility Guidelines: Recreation Facilities?:

Yes

READINESS TO PROCEED - LAND USE/PLANNING STATUS:

Have you submitted with this application a signed Land Use Compatibility Statement?:

Yes

Are construction or concept plans completed and will you attach a copy with this application?:

Yes

List potential permits and status of permit applications that may be required for proposed project that you do not have in hand (i.e. Corps of Engineers, Division of State Land, Building Permits, etc.) Describe any possible delays or challenges that could occur in receiving permits.:

The City submitted a Joint Permit Application to the US Army Corps of Engineers (USACE) and Department of State Lands (DSL) in 2008. DSL issued a permit to the City in 2009 (#41713- RF) and the City has renewed this permit each year to keep it current. City staff and the David Evans design team have worked closely with the USACE and staff from the Oregon Department of Fish and Wildlife and National Marine Fisheries to amend the Milwaukie Riverfront Park design to minimize the environmental impact of the park design and construction. USACE project reviewer, James Holm, recently reported that National Marine Fisheries staff is revising the biological opinion for Milwaukie Riverfront Park and that USACE expects to complete ESA consultation in the next five months (Fall 2013). DEQ staff are also currently reviewing the storm management plan for the site and a permit is expected by the time the Corps permit is issued.

SCORP CRITERIA (5 Points):

How does the project meet the goals and objectives identified in SCORP? How does the project promote activity and health of older adults? How does the project

encourage youth to be physically active? How does the project support outdoor youth program activities? How does your project connect youth with nature? Does this project address Oregon's physical activity crisis?:

The proposed park improvements for Milwaukie Riverfront Park meet the goals and objectives identified in SCORP by: 1) Providing a free public park that is close by and accessible by public transportation, bike or on foot (Non-motorized trail development and funding accessible trails in remote settings in close proximity to urban areas were both listed as primary issues for the aging population under OPRD-Administered Grant priorities in the 2008-2012 SCORP. In addition, non-motorized trails was listed among Clackamas County's "Close to Home" area priorities.) Milwaukie Riverfront Park, which is and will remain free and open to the public, is located within three blocks of the downtown commercial area and a major bus transit center for bus lines throughout the county and region. In 2015, TriMet, the Portland area transit agency, will open a light rail line with a station located in downtown Milwaukie, four blocks from the Riverfront Park. Further, the park site is the confluence of the Trolley Trail, a 6 mile off-road ped/bike trail between Milwaukie and Gladstone to its south, and a proposed off street bike/ped trail on 17th Avenue to be constructed in 2014. The 17th Avenue Trail will link bikers and walkers directly to the Springwater Trail (Portland's 40 Mile Loop) to the north. 2) Providing an accessible trail for walking, and biking and jogging to help improve fitness for all ages (SCORP notes that walking is the top outdoor recreation activity engaged in by the boomer and pre-boomer populations. Further, the top five activities in terms of future participation ten years from now include walking, bicycling, jogging, bird watching, and day hiking.) In its current condition, most of Milwaukie Riverfront Park is neither inviting nor safe for older adults or children. The existing walkway in this area is a sidewalk parallel to McLoughlin Blvd and is separated from highway traffic by a 6.5 foot planter strip. The trail proposed for this project diverts from McLoughlin Blvd, carrying bikers and pedestrians toward the Willamette River, over 100 feet away from McLoughlin Blvd, to the top of the Willamette River bank. The initial segment of this interior trail was begun as part of the Klein Point Overlook project. With the exception of that short segment, however, the site currently has no improved surfaces for use in traversing the site or viewing the Willamette. These improvements will allow older adults (14% of Milwaukie population is over 65) to access Riverfront Park by foot or in wheelchairs and provide a safe path for walking or sitting to view the River. In addition, with the completion of the proposed landscape and riparian enhancements, the view of the river will be more open and the riparian plantings more attractive and made up of native species rather than invasive plants. 3) Provides a Riverside Trail for bird watching (SCORP reports bird watching was the top activity for adults between 55 and 79.) Due to its location between the mouths of two creeks and on the Willamette River, Milwaukie Riverfront Park is a perfect place to watch birds. Herons, hawks, egrets and osprey are frequent visitors to trees, logs and deltas in this area. In addition, a locally nesting eagle can often be viewed from this park site. The proposed trail and groomed landscape will provide an even more attractive location for bird watching. 4) Provides a place to reconnect youth to nature through access to Willamette River (SCORP results show youth are decreasing their time spent on outdoor recreation activities and calls for funding of projects conducive to youngsters learning about and interacting with nature.) With the support of both the Oregon Marine Board and the Oregon Parks and Recreation Department, Milwaukie Riverfront Park will ultimately offer children a safe and environmentally appropriate space to learn to fish, kayak, canoe, motorboat, water ski, bird-watch, bike, fly kites and collect rocks. 5) Creates a safe wild space that is conducive

to learning (SCORP recommends increasing teaching outdoor recreation skills in outdoor settings) Currently, teachers from local schools bring classes to this park site to gather and study water samples, learn about the history of the site and the geography of the creeks and an island viewable to the south, called Elk Rock Island. The proposed project will enhance existing opportunities for environmental learning by providing a safe and environmentally appropriate path to the top of bank for viewing Willamette River and avian species in the area. Further, the proposed riparian enhancements will include native plantings and woody debris installation for bank stabilization. These bank installations will provide a good focus for teachers and parents in educating children about fish habitat and life cycles. 6) Provide an outdoor open space for an increasingly diverse population (SCORP lists Clackamas County as a "Diversity County" for Hispanic and Asian American populations. Hispanic and Asian survey respondents listed picnic areas and recreational trails as highly desirable. SCORP also lists Milwaukie as a "Diversity City" for the African American population. This population suggested that larger park areas were desired.) Milwaukie Riverfront Park is located within a few blocks of several bus lines and a future light rail station. In addition, it lies at the confluence of major walking/biking trails to the north and south. The park site is the largest in the area, at 8.5 acres and will consist of open areas for picnicking and a trail for walking and biking. In the 2008-2013 SCORP survey for Region 2 (including Milwaukie and Clackamas County), results showed that "Public Access to Waterways" received the second highest mean priority rating (3.5 on a scale from 1 to 5) for Priorities for Future Park Agency Investment. Also scoring above a mean of 3 in this survey were: paved/hard surface walking trails and paths (3.1), off street bicycle trails/pathways (3.4) and nature and wildlife viewing areas (3.4). The proposed improvements at Milwaukie Riverfront Park will meet all these priority needs for Region 2.

Does the project include a nature play area?:

No

SCORP - Needs Assessment:

Close to Home

SCORP Statewide Need:

Nature study/wildlife watching sites|Non-Motorized Trails

SCORP County Level Need:

Non-Motorized Trails

SCORP Diverse Population:

LOCAL NEEDS & BENEFITS (30 Points):

Is the project identified in a park and recreation master plan, city or county comprehensive plan, trails master plan, transportation system plan or a bicycle and pedestrian plan?:

Park and Recreation Master Plan|Comprehensive Plan

If 'None of the Above' or 'Other' was checked in the previous question, describe how and why was this project identified as a high priority. Describe to what extent the project will satisfy local or regional recreational needs. Please upload documents in the Attachments tab to support your answer. For example, meeting notes, park assets table, or any documentation supporting that this project has been identified as a high priority need in your community.:

Not applicable

If you have a current local planning document, to what extent will the project satisfy local or regional recreation needs as identified in in that planning document?:

The project is consistent with the design and uses contained in the Downtown and Riverfront Land Use Framework Plan and the Downtown and Riverfront Public Area Requirements, both of which are Comprehensive Plan ancillary documents. The project is also consistent with the following Comprehensive Plan Policies and Objectives: a) Environmental and Natural Resources, Open Spaces, Scenic Areas, and Natural Resources Element (Chapter 3) Objective #1 — Open Space; Policy 3: “The natural resource areas along Johnson Creek, Kellogg Creek, and Kellogg Lake, as shown on Map 5 and defined under Objective #2, will be considered open space of special importance to all City residents. Passive recreational public use of these areas for walking trails, nature parks, and the like will be encouraged.” Objective 3 – Scenic Areas, Policy 1: “Future plans for the Milwaukie riverfront area will include consideration of viewing opportunities between downtown and the Willamette River, as well as special places on the riverfront for enjoying views of the river and its activities.” b) Land Use (Chapter 4) Commercial Land Use Element; Objective 12 – Town Center, Policy 3: “The City will focus redevelopment efforts in the Town Center Area and on the waterfront.” Commercial Land Use Element; Objective 13 – McLoughlin Blvd, Policy 2: “The opportunity will be taken during any improvement or modification of the McLoughlin corridor to create new and more efficient vehicular access to the riverfront, as well as pedestrian access not in conflict with motorized transportation” Recreational Need Element, Objective 7 – Riverfront Recreation, Policy 2: “Existing waterfront park lands will be developed to maximize use and enjoyment of the river, while maintaining the environmental integrity of sensitive areas.” Willamette Greenway Element, Objective 7 — Central Riverfront, which states “To acquire property necessary for public open space, public trails, riverfront access and riverfront-related development, consistent with the Downtown and Riverfront Land Use Framework Plan.” All policies within this section support the proposed project.

To what extent will the project improve or increase the outdoor recreation opportunities in the local community?:

The City of Milwaukie’s current park system largely consists of small neighborhood, “walk-to” parks. Milwaukie Riverfront Park is unusual in that it provides amazing views of the Willamette River and its confluence with both Johnson and Kellogg Creeks. It hosts 4-5 acres of open space that could be used for picnicking, fishing, Frisbee playing or kite flying. Yet, in its current undeveloped state, the public feels unwelcome at Milwaukie Riverfront Park. The proposed improvements will create an open lawn area that is graded and seeded to provide an open area that welcomes public use. The re-contouring of the site will open up the view-shed to the Willamette River, attracting local and regional passersby and creating a destination park for those seeking a day’s outing. Coupled with the proposed OMB funded boating improvements, this park will attract anglers of all ages to fish off the

proposed boarding float which will parallel the boat launch. The boat launch area will also open to use by non-motorized boaters such as kayakers and canoers. The proposed trail will provide a place for citizens in the City and the wider region to walk and bike along the Willamette River while viewing the river and associated wildlife. Currently, the public's view of the Willamette at this site is either obstructed by invasive species, far away from the top of the riverbank, or is unsafe and inconvenient to access due to poor riparian conditions.

Does the project provide a new or different recreation opportunity that is not currently offered in your jurisdiction or service area?:

Yes

PUBLIC INVOLVEMENT (20 Points):

Describe any public involvement efforts that led to the selection of the project including citizen involvement through public workshops, public meetings surveys and local citizen advisory committees during the project's planning process. Please upload supporting documentation in the Attachments tab. For example, letters of support, workshop information, meeting notices, citizen advisory committee information, surveys used, etc.:

The Milwaukie Riverfront Park design is the result of over a decade of planning, public input and regulatory review. In 2000, Milwaukie's Downtown and Riverfront Plan was adopted into the City's Comprehensive Plan. Following its adoption, a 7-person appointed Riverfront Board guided the development of a Riverfront Park design that met the needs of the citizens of not only Milwaukie but the larger region. This was accomplished using surveys, open houses, workshops on specific design elements and the convening of a group of project stakeholders under the Oregon Solutions Program. The proposed park design has been approved by the Milwaukie Planning Commission (two public Planning Commission hearings and three Design Landmarks Committee Review meetings included), has received a permit from the Department of State Lands, and a US Army Corps of Engineers Permit is expected within the next three months. The Biological Opinion for the project is being revised by National Marine Fisheries to reflect changes agreed to by the City during permit review. (Copies of permits and status reports on those outstanding are attached under "Other". Following is a full chronology of the public involvement process associated with Milwaukie Riverfront Park: 1999-2000 Downtown and Riverfront Plan Development • 5 Town Hall Meetings for citizen input • Targeted meetings with 7 neighborhood groups and business organizations to solicit input on the proposed plan • Mailed notice of plan amendments to 775 property owners and interested parties • Final plan considered as an amendment to the Comprehensive Plan as an ancillary document at Planning Commission and then City Council (both public, advertised meetings with public testimony encouraged and accepted) 2000 – Current Riverfront Board (now “Riverfront Task Force”) • Council appointed a 7 person Riverfront Board in 2000 to guide the design and construction of Milwaukie Riverfront Park • Board has met monthly since appointment (12 times/yr for 13 years) • Meetings are advertised on the City web site and through City Newsletter mailed to all homes and businesses each month (12 times a year for 13 years) • All meetings were open to the public and all attendees invited to contribute/testify Sept –Nov 2000 Boat Ramp Relocation Committee • Council appointed a 7 person Boat Ramp Relocation Committee to advise on the feasibility and timing of replacement (relocation) of

the Jefferson Street Boat Launch • Committee held three open public meetings, advertised in City newsletter • Committee determined that there was no feasible alternative site available to relocate the launch or merge with an existing launch Oct 2005 Mail Survey of all Milwaukie Households • 16,645 surveys mailed to all Milwaukie households and placed on City web site • 11% mail survey return rate (over 1800 surveys returned) • Walking, running and picnicking ranked among the top 3 priorities for public use of the Riverfront Park site Jan –June 2005 Oregon Solutions Process • Governor Kulongoski designates Milwaukie Riverfront Park as an Oregon Solutions Project • Project Team made up of representatives of state agencies, local public and private entities and non-profit organizations convened 3 meetings to consider potential funding sources for Milwaukie Riverfront Park • Process culminates in a public address by the Governor at a public gathering at the Riverfront and a Declaration of Cooperation signed by all stakeholders December 2008 Joint Permit Application Process • Submitted application to US Army Corps of Engineers and Department of State Lands • USACE advertised application for public comment March 2009 Land Use Applications submitted to Milwaukie Planning Dept • Notice of application referred to public agencies and neighborhood district associations within 300 feet of site • Notice of public hearing date (May 2010) mailed to property owners and neighborhood district associations within 300 feet of site 20 days before hearing • Sign posted on site notifying public of hearing date 14 days before hearing • Staff report published on web site 10 days before hearing • Hearing held on two evenings – both of which had public testimony opportunities Nov 2009-March 2012 Design and Landmarks Committee Review • At least three meetings were held with the Milwaukie Design and Landmarks Committee (DLC) to review the proposed site design elements for structures proposed for Riverfront Park • All DLC meetings are open to the public and meetings are advertised on the City web site and in the City newsletter that is delivered to all city households monthly • DLC forwarded recommendations on design elements for the park to the Planning Commission for final approval

OVERALL SITE SUITABILITY (15 Points):

To what extent is the site suitable for the proposed development? Describe the extent to which the site or project design minimizes negative impacts on the environment and surrounding neighborhood.:

Over the past 100 years, Milwaukie's Riverfront has hosted a variety of manufacturing, commercial and industrial businesses. In the City's early days the site hosted a grist mill and a lumber mill. Later uses included boat building facilities, marinas and retail uses. As properties changed hands the site accumulated a series of retaining walls, stairs and vestigial equipment left behind by previous owners. The River's edge became cluttered with concrete slabs, pieces of iron and other materials that washed up on shore. Over the years the shoreline has been eroded and invaded with invasive species. The proposed project intends to reclaim the Riverfront property for the public use by removing the last vestiges of prior commercial uses, re-contouring the site to allow easy access to the park and views of the Willamette and restoring the riparian area by removing invasive species and planting natives. The improvements will improve the upland and riparian environments. Both the environment and the surrounding neighborhoods will benefit from these improvements.

Sustainability means using, developing, and protecting resources in a manner that enables people to meet current needs and provides that future generations can also meet future needs, from the joint perspective of environmental, economic and community objectives. To what extent does the project design result in a well-designed, managed and sustainable facility?:

If awarded, the OPRD funds will allow the City to combine the work proposed under the OMB OPRD grants into one construction project and season, leading to project efficiencies in mobilization, grading and erosion control and reducing disturbance in the water and along the bank area. In addition, the Milwaukie Riverfront Park improvements will be sustainable in the following ways:

- Water Quality Conservation Increase stream quality for habitat and complexity Enhancements on the riverbanks will include removal of invasives, planting native plants that will provide shade to the river's edge, and installation of woody debris structure for fish habitat and bird basking and perching Erosion and sediment controls In the upland areas, erosion control measures will be implemented and monitored. In water work areas will be properly controlled during plant and woody debris installation.
- Plant Conservation Decreased invasive plants Blackberry, clematis and Japanese knotweed that currently covers the banks of the Willamette will be removed as a part of this project Restoration and maintenance of natives Native plants will be used in all riparian plantings Increase stream-side native vegetation Existing native plants will be left in place and augmented with additional natives
- Wildlife Conservation Protection, restoration and maintenance of native wildlife The riparian improvements proposed in this project and already installed as part of the Klein Point will protect, restore and maintain habitat for fish, birds, beavers and other wildlife in the area.
- General Environmental Protection/Restoration Placement of project within degraded or damaged areas Proposed riparian improvements and installation of planted swales will enhance the currently degraded upland and riparian areas at Milwaukie Riverfront Park In-place sustainability management plans The park improvements include planted storm swales for natural storm treatment Integration of facilities into landscape Materials selected for on-site hardscape reflect the natural surroundings (i.e.-basalt, a common rock form in the area used for wall surfaces)
- Sustainable Trail construction Proposed trail is designed so water exits the surface often Trail grade does not exceed half of the natural cross slope Grade of trail is 5% or less Plantings and trail location are designed intentionally to keep users on the trail
- Other LED lighting will be used throughout the park Recycling containers will accompany all garbage receptacles on site On-site bike racks, benches, picnic tables and art will integrate recycled materials whenever feasible (reused wood and metal)

NEED FOR MAJOR REHABILITATION OF EXISTING OUTDOOR RECREATION FACILITIES (20 Points):

Please please check all that apply.:

This project does not include any rehabilitation of existing recreation facilities.

Please list the specific facilities that are in need of rehabilitation. Upload photos in the Attachments tab showing the facilities in need of rehabilitation. (Photos are required in order to receive rehabilitation points):

Not applicable

If only part of the project is rehabilitation, approximately what percentage of the project is rehabilitation?:

Not applicable

Please explain extenuating circumstances, if any, which have led to the need for major rehabilitation of the facility.:

Not applicable

LONG TERM COMMITMENT TO MAINTENANCE (15 Points):

Explain how your plan to continue area/facility operation and maintenance after the project is complete by providing the following information: :

a) How will the project's future maintenance be funded? Your Resolution to Apply should address funding for on-going operation and maintenance for this project.:
The North Clackamas Parks and Recreation District (NCPRD) operates and maintains all parks owned by the City of Milwaukie under an intergovernmental agreement signed in 1995 and updated in 2008. Milwaukie Riverfront Park (including existing amenities and proposed improvements) is listed as one of the parks to be maintained by the District under this agreement. A letter from the Parks District affirming this commitment is attached. NCPRD is a full service park district experienced in managing and maintaining public parks and facilities. NCPRD has established maintenance policies and practices that apply to all District parks. Maintenance of District facilities is funded by the District's general fund which is supported by a dedicated property tax of .53/1000 assessed value. Additional funds are derived from user fees on certain facilities. As such, long-term maintenance of the Park is not dependent upon future grant monies. NCPRD's committed maintenance team has the capacity to carry out weekly park inspections to identify and resolve any maintenance issues as they arise.

b) How much do you expect to spend annually or number of hours needed to maintain? :

Maintenance staff from the North Clackamas Parks and Recreation District estimate that 453 staff hours a year will be spent on maintenance of the proposed improvements. The estimated budget for this work is \$20,000.

c) What degree of commitment do you have? Provide documentation such as letters of support from volunteer organizations, cooperative agreements, donations, private sponsorship support letters, or signed memoranda of understanding to demonstrate commitment to maintenance. :

NCPRD is 100% committed to long term maintenance of Milwaukie Riverfront Park. A letter from the District affirming their commitment has been attached.

ENVIRONMENTAL ASSESSMENT:

Have you completed a copy of the Local Government Grant Environmental

Assessment and Checklist form to be submitted with this application?:

Yes

Have you solicited comments from the Natural Resource Agencies listed in the manual?:

Yes

Project Budget Worksheet

Utility Pole Relocation	\$112,673.00
Site Grading	\$77,000.00
Trail Construction	\$63,120.00
Riparian Planting and Woody Debris Structures	\$28,336.00
Landscape and irrigation	\$34,085.00
Complete Construction Documents	\$40,000.00
Permits	\$3,000.00
Administration	\$10,000.00

Total Project Cost:

\$368,214.00

Source of Funding Worksheet

Cash:	\$100,000.00
Capital Campaign Fund:	\$7,500.00
Construction Cost- City Gen Fund:	\$40,000.00

Total Match for Sponsor: \$147,500.00

Grant Funds Requested: \$220,714.00

Total: \$368,214.00

As an authorized representative of City of Milwaukie, I certify that the applicant agrees that as a condition of receiving Local Government Grant Program assistance, it will comply with all applicable local, state and federal laws. This application has been prepared with full knowledge of and in compliance with the Oregon Administrative Rules Chapter 736, Division 6, for the Distribution of State Funding Assistance to Units of Local Government for Public Parks and Recreation and OPRD's Procedures Manual for the program. I also certify that to my best knowledge, information contained in this Application is true and correct. I will cooperate with OPRD by furnishing any additional information that may be requested in order to execute a State/Local Agreement, should the project receive funding assistance.



Oregon

John A. Kitzhaber, MD, Governor

Parks and Recreation Department

State Historic Preservation Office

725 Summer St NE, Ste C

Salem, OR 97301-1266

(503) 986-0690

Fax (503) 986-0793

www.oregonheritage.org

December 17, 2013

Mr. Chris Page
USACOE Policy & Compliance Section
PO Box 2946
Portland, OR 97208-2946

RECEIVED
DEC 19 2013

BY: _____



RE: SHPO Case No. 13-1338
City of Milwaukie Riverfront Park Proj
CRS/waterfrton enhancement
USF&W/Sport Fish Restoration Prog/City of Milwauki
1S 1E 35, Milwaukie, Clackamas County

Dear Mr. Page:

Our office recently received your report about the project referenced above. I have reviewed your report and agree that 35CL355 is not eligible for the National Register and the project will have no effect on any known cultural resources. No further archaeological research is needed with this project.

Please be aware, however, that if during development activities you or your staff encounters any cultural material (i.e., historic or prehistoric), all activities should cease immediately and an archaeologist should be contacted to evaluate the discovery. Under state law (ORS 358.905-955) it is a Class B misdemeanor to impact an archaeological site on public or private land in Oregon. Impacts to Native American graves and cultural items are considered a Class C felony (ORS 97.740-760). If you have any questions regarding any future discovery or my letter, feel free to contact our office at your convenience.

Sincerely,

Matt Diederich, MAIS

SHPO Archaeologist

(503) 986-0577

Matthew.Diederich@state.or.us



PROGRESS REPORT FORM
LOCAL GOVERNMENT GRANT PROGRAM
QUARTERLY FINAL

Date: _____

Project Name: _____

Project Number: _____

Project Sponsor: _____

Date of Project Approval: _____ Date Work Started: _____

Describe Work Completed This Quarter:

Describe Any Problems or Delays:

Percentage of Project Completed to Date: _____ %

Report Completed By: _____

Title: _____



CITY OF MILWAUKIE
"Dogwood City of the West"

Resolution No.

A resolution of the City Council of the City of Milwaukie, Oregon, HEREBY AUTHORIZING THE CITY MANAGER TO ENTER INTO A "PROJECT AGREEMENT" WITH THE OREGON PARKS AND RECREATION DEPARTMENT IN ORDER TO RECEIVE GRANT FUNDING FOR THE CONSTRUCTION OF RIVERFRONT PARK PHASE II.

WHEREAS, via Resolution 31-2013 City Council approved Staff's submittal of an application for grant funds from the Oregon Parks and Recreation Department (OPRD); and

WHEREAS, OPRD has awarded the City a grant in the amount of \$220,714 for the construction of specific elements tied to the Riverfront Park Phase II Project; and

WHEREAS, to receive the grant funds, the Oregon Park and Recreation Department requires the City enter into a Program Agreement; and

WHEREAS, signature of the Program Agreement commits the City to a local match of \$147,500; and

WHEREAS, the City's matching funds have been budgeted within the Community Development Capital Outlay.

Now, Therefore, be it Resolved the City Manager has the Authority to sign a Program Agreement with the Oregon Parks and Recreation Department for the construction of specific elements tied to the Riverfront Park Phase II Project .

Introduced and adopted by the City Council on _____.

This resolution is effective on _____.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney



MILWAUKIE CITY COUNCIL
STAFF REPORT

RS 6. C.
4/15/14

To: Mayor and City Council

Through: Bill Monahan, City Manager

Subject: **Riverfront Park – Agreement for Permit of Trolley Trail Use with North Clackamas Parks and Recreation Department (NCPRD)**

From: Jason Rice, Engineering Director

Date: April 15, 2014

ACTION REQUESTED

Authorize by Resolution the City Manager to sign an Agreement for Permit of use between North Clackamas Parks and Recreation District (NCPRD) and the City for the use of certain parts of the Trolley Trail to access Riverfront Park.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

None.

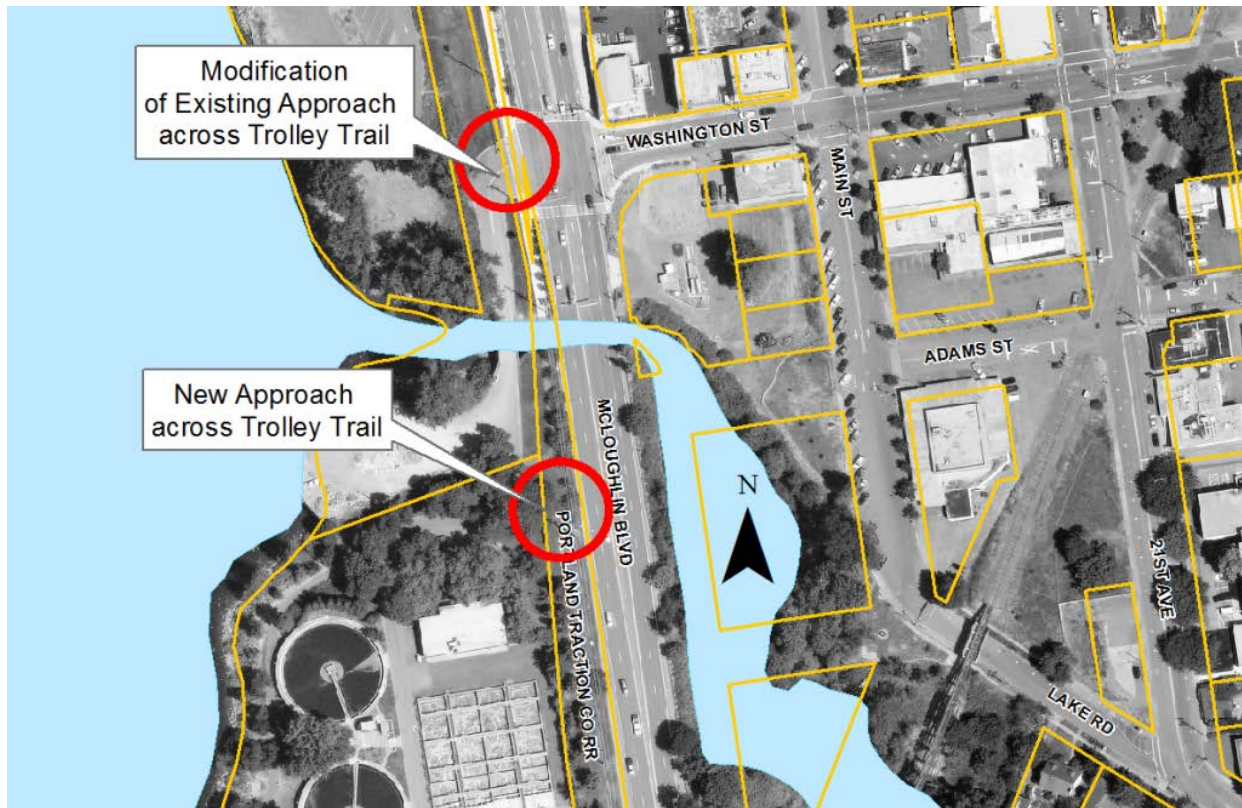
BACKGROUND

Over the past decade, completion of Milwaukie Riverfront Park has remained one of the highest priorities for the City. Along with the completion of “Phase I” or “Klein Point”, the newly received grants from the Oregon Marine Board, the Oregon Department of Fish and Wildlife and the Oregon Parks and Recreation Department, have sparked major movement in what the City is calling “Phase II”.

During Phase II, much of the permitting will be taken care of in preparation of the remaining phases; one such permit will need to be obtained from the Oregon Department of Transportation (ODOT). The purpose of this ODOT permit is to obtain approved access onto McLoughlin Boulevard.

Currently there are two access points into Riverfront Park: the first at Jefferson Street within the City’s right-of-way and the second at Washington Street which primarily serves the Kellogg Wastewater Treatment Plant. As a part of Phase II, access at Jefferson Street will be closed, access at Washington Street will be modified to allow only exits and an additional access point south of Washington will be added to allow for entry and exit to the park. Once this was established, it was recognized that in order to ensure proper access to the Riverfront Park across the Trolley Trail from Washington Street South, the City would need to gain permission from NCPRD.

The following map depicts the two locations described within the permit.



CONCURRENCE

Through discussions with NCPRD, both sides felt the attached agreement (Attachment 1) was the most efficient way to accomplish what the City desired.

Legal Counsel has reviewed and approved the language within the agreement (Attachment 1).

FISCAL IMPACTS

Signing of this agreement does not create any fiscal impacts to the City.

WORK LOAD IMPACTS

Signing of this agreement does not create any work load impacts for the City.

ALTERNATIVES

By not signing the Agreement, the City would not have documented permission to access Riverfront across the Trolley Trail from McLoughlin Blvd.

ATTACHMENTS

1. Agreement for Permit of Use
2. Resolution

**AGREEMENT FOR PERMIT OF USE
BETWEEN
NORTH CLACKAMAS PARKS AND RECREATION DISTRICT
AND
THE CITY OF MILWAUKIE**

THIS AGREEMENT (this “Agreement”) to permit the use of property for parks purposes, made and entered into on this _____ day of _____ in the year 2014 by and between North Clackamas Parks and Recreation District, a county service district formed under ORS 451 (“NCPRD”), and the City of Milwaukie, a municipal corporation (the “City”).

RECITALS

WITNESSETH: That whereas City is seeking to construct park and recreation improvements at its Riverfront Park property along the Willamette River (“Riverfront Park”), which is within the boundaries of NCPRD;

WHEREAS, NCPRD owns and operates the Trolley Trail, a portion of which runs through Riverfront Park;

WHEREAS, the City desires to redesign the traffic access to Riverfront Park and such traffic access would cross that certain portion of the Trolley Trail as more fully described on Exhibit A hereto (the “Affected Area”) and NCPRD is supportive of the City’s vision for the site;

WHEREAS, the Parties desire to enter into this Agreement to outline the rights and responsibilities of the parties with respect to such a change;

NOW, THEREFORE, the NCPRD and the City for the considerations hereinafter set forth agree as follows:

ARTICLE 1 – NCPRD RESPONSIBILITIES

1.1 Access. In accordance with applicable NCPRD ordinances, local, state or federal laws or statutes, ordinances, rules or regulations, NCPRD grants permission to the City to utilize the Affected Area in support of the provision of park services.

1.2 Term. The permission granted is perpetual in duration and irrevocable for so long as the Affected Area is used in providing park services as described herein. If the City ceases to use Riverfront Park as a park amenity, the permission shall terminate upon 30 days written notice by one party to the other.

ARTICLE 2 – PERMITEE’S RESPONSIBILITIES

2.1 Trolley Trail Functionality. City shall develop a construction plan, traffic flow plan, pedestrian access, crossing plan, or other such plan as reasonably determined is required by NCPRD staff to ensure that users of Trolley Trail users may safely and appropriately cross

the Affected Area. Such plans shall be submitted to NCPRD staff and approved by both parties before construction begins in the Affected Area. Approval by NCPRD shall not be unreasonably withheld or delayed.

2.2 Restrictions of Use. City agrees follow all legal requirements and to comply with any restrictions of use related to the Affected Area as required by this Agreement and the plans approved under paragraph 2.2.

2.3 Restoration of the Property Upon Termination. If the permission to utilize the Affected Area is terminated as set forth in Section 1.2 above, City shall either (i) restore the Affected Area to the same condition it was in when City first entered, at City's sole cost, or (ii) purchase the Affected Area and grant an easement to NCPRD for the continued used of the area in support of the Trolley Trail and related purposes.

2.4 Trail Use & Access. Once a plan has been developed pursuant to Section 2.1 and approved by the District, the City shall implement the plan. The City shall ensure that full functionality of the Trolley Trail is maintained, including but not limited to user crossings in a safe and responsible manner during and after construction activities, during and after normal park operating hours, during any maintenance activities, or otherwise unless mutually agreed to by the parties prior to such activity.

ARTICLE 3 – ADDITIONAL PROVISIONS

3.1. Consideration. NCPRD acknowledges and agrees that no consideration is required from City is the granting of this permission in light of City's support for the mission of the district in providing enhanced park and recreational opportunities to district residents.

3.2 Indemnification. Within the limits of the Oregon Tort Claims Act, the City agrees to indemnify, save harmless and defend NCPRD, its officers, commissioners, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof (including legal and other professional fees) arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts, of the City or City's officers, owners, employees, agents, or its subcontractors or anyone over which City has a right to control, arising from the use of the Affected Area.

3.3 Assignment. City shall not assign this Agreement, in whole or in part, or any right or obligation hereunder, without the prior written approval of the NCPRD, which may be granted or withheld in its sole and absolute discretion. NCPRD may assign this Agreement at any time.

3.4 Severability. If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the parties.

3.5 Integration. This Agreement contains the entire agreement between NCPRD and the City with respect to the Affected Area and supersedes all prior written or oral discussions or agreements.

3.6 Amendments. The NCPRD and the City may amend this Agreement at any time only by written amendment executed by the NCPRD and the City.


[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate by their duly authorized officers or representatives as of the day and year first above written.

CITY OF MILWAUKIE

NORTH CLACKAMAS PARKS AND
RECREATION DISTRICT

William Monahan, City Manager



Gary Barth, Director

Date

4/1/14

Date

EXHIBIT A

Description of the Affected Area of the Trolley Trail

ENGINEERING PLANNING
FORESTRY
13910 S.W. Galbreath Dr., Suite 100
Sherwood, Oregon 97140
Phone: (503) 925-8799
Fax: (503) 925-8969
AKS Job #3836



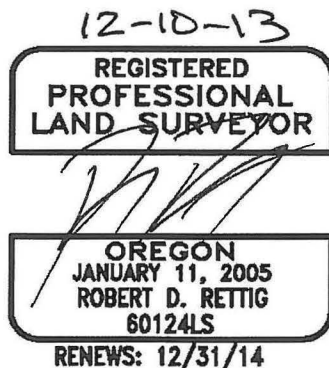
LANDSCAPE ARCHITECTURE
SURVEYING
AKS Group of Companies:
SHERWOOD, OREGON
SALEM, OREGON
VANCOUVER, WASHINGTON
www.aks-eng.com

EXHIBIT A Part 1

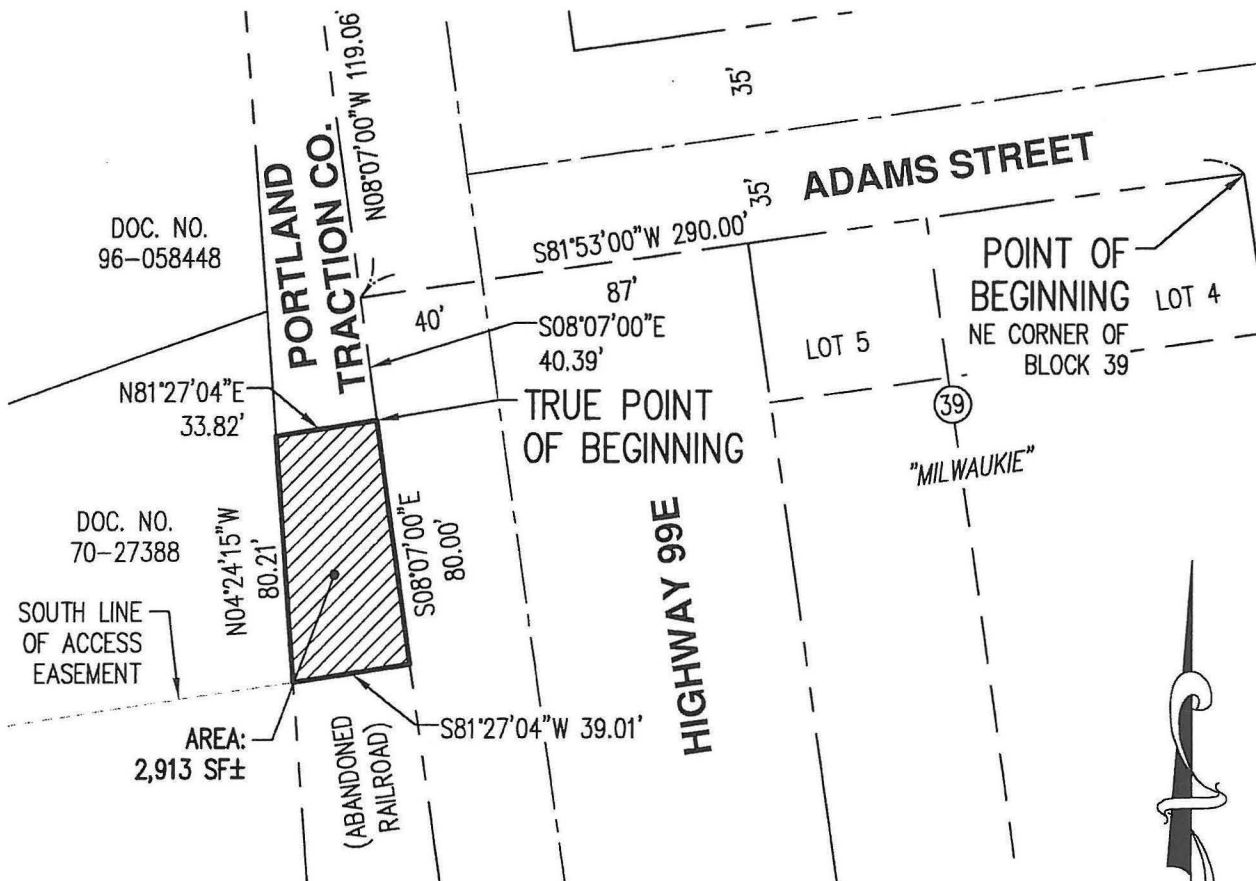
A tract of land located in the Northeast One-Quarter of Section 35, Township 1 South, Range 1 East, Willamette Meridian, City of Milwaukie, Clackamas County, Oregon and being more particularly described as follows:

Beginning at the northeast corner of Block 39 of the Plat of "Milwaukie", being a point on the southerly right-of-way line of Adams Street (35.00 feet from centerline); thence along said southerly right-of-way line and the westerly extension thereof South 81°53'00" West 290.00 feet to a point on the westerly right-of-way line of Highway 99E (40.00 feet from centerline); thence along said westerly right-of-way line South 08°07'00" East 40.39 feet to the **True Point of Beginning**; thence continuing along said westerly right-of-way line South 08°07'00" East 80.00 feet to a point; thence South 81°27'04" West 39.01 feet to a point on the easterly line of Document Number 70-27388; thence along said easterly line North 04°24'15" West 80.21 feet to a point; thence North 81°27'04" East 33.82 feet to the **True Point of Beginning**.

The above described tract of land contains 2,913 square feet, more or less.



A TRACT OF LAND LOCATED IN THE NORTHEAST 1/4,
 SEC. 35, T1S, R1E, W.M., CITY OF MILWAUKIE,
 CLACKAMAS COUNTY, OREGON



DOC. NO.
96-058448

DOC. NO.
70-27388

SOUTH LINE
OF ACCESS
EASEMENT

AREA:
2,913 SF±

(ABANDONED
RAILROAD)

TRUE POINT
OF BEGINNING

HIGHWAY 99E

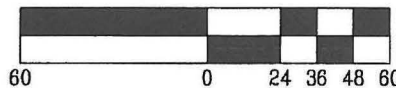
ADAMS STREET

POINT OF
BEGINNING LOT 4
NE CORNER OF
BLOCK 39

"MILWAUKIE"



SCALE 1" = 60 FEET



PREPARED FOR
CITY OF MILWAUKIE
6101 SE JOHNSON CREEK BLVD.
MILWAUKIE, OR 97206

12-10-13

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JANUARY 11, 2005
ROBERT D. RETTIG
60124LS

RENEWS: 12/31/14

RIVERFRONT PARK
JOB NAME: ACCESS EASEMENT

JOB NUMBER: 3836

DRAWN BY: MSK

CHECKED BY: RDR

DWG NO.: 3836CXMPL

AKS ENGINEERING AND FORESTRY, LLC
13910 SW GALBREATH DR
SUITE 100
SHERWOOD, OR 97140
PHONE: 503.925.8799
FAX: 503.925.8969



ENGINEERING · PLANNING · SURVEYING
FORESTRY · LANDSCAPE ARCHITECTURE

ENGINEERING PLANNING
FORESTRY

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LANDSCAPE ARCHITECTURE
SURVEYING

AKS Group of Companies:
SHERWOOD, OREGON
SALEM, OREGON
VANCOUVER, WASHINGTON
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EXHIBIT A
Part 2

A tract of land located in the Northeast One-Quarter of Section 35, Township 1 South, Range 1 East, Willamette Meridian, City of Milwaukie, Clackamas County, Oregon and being more particularly described as follows:

Beginning at the northeast corner of Block 39 of the Plat of "Milwaukie", being a point on the southerly right-of-way line of Adams Street (35.00 feet from centerline); thence along said southerly right-of-way line and the westerly extension thereof South 81°53'00" West 290.00 feet to a point on the westerly right-of-way line of Highway 99E (40.00 feet from centerline); thence along said westerly right-of-way line North 08°07'00" West 119.06 feet to an angle point; thence following said westerly right-of-way line, North 11°07'30" West 27.10 feet to the **True Point of Beginning**; thence South 80°40'40" West 20.31 feet to an angle point on the easterly line of Document Number 96-058448; thence following the easterly line of said Document Number 96-058448 along a curve to the left, being non-tangent to the last described course, with a Radius of 2855.00 feet, Delta of 03°48'25", Length of 189.70 feet, and a Chord of North 11°13'32" West 189.67 feet to a point; thence following said east line of Document Number 96-058448 North 13°07'45" West 14.98 feet to a point on the westerly extension of the south line of Block 29 of said Plat; thence along said westerly extension North 81°53'00" East 12.54 feet to a point on said westerly right-of-way line of Highway 99E (variable width right-of-way); thence along said westerly right-of-way line, South 10°20'51" East 118.70 feet to a point; thence along said westerly right-of-way line, North 04°24'15" West 87.57 feet to a point; thence along said westerly right-of-way line, South 11°07'30" East 172.89 feet to the **True Point of Beginning**.

The above described tract of land contains 3,317 square feet, more or less.

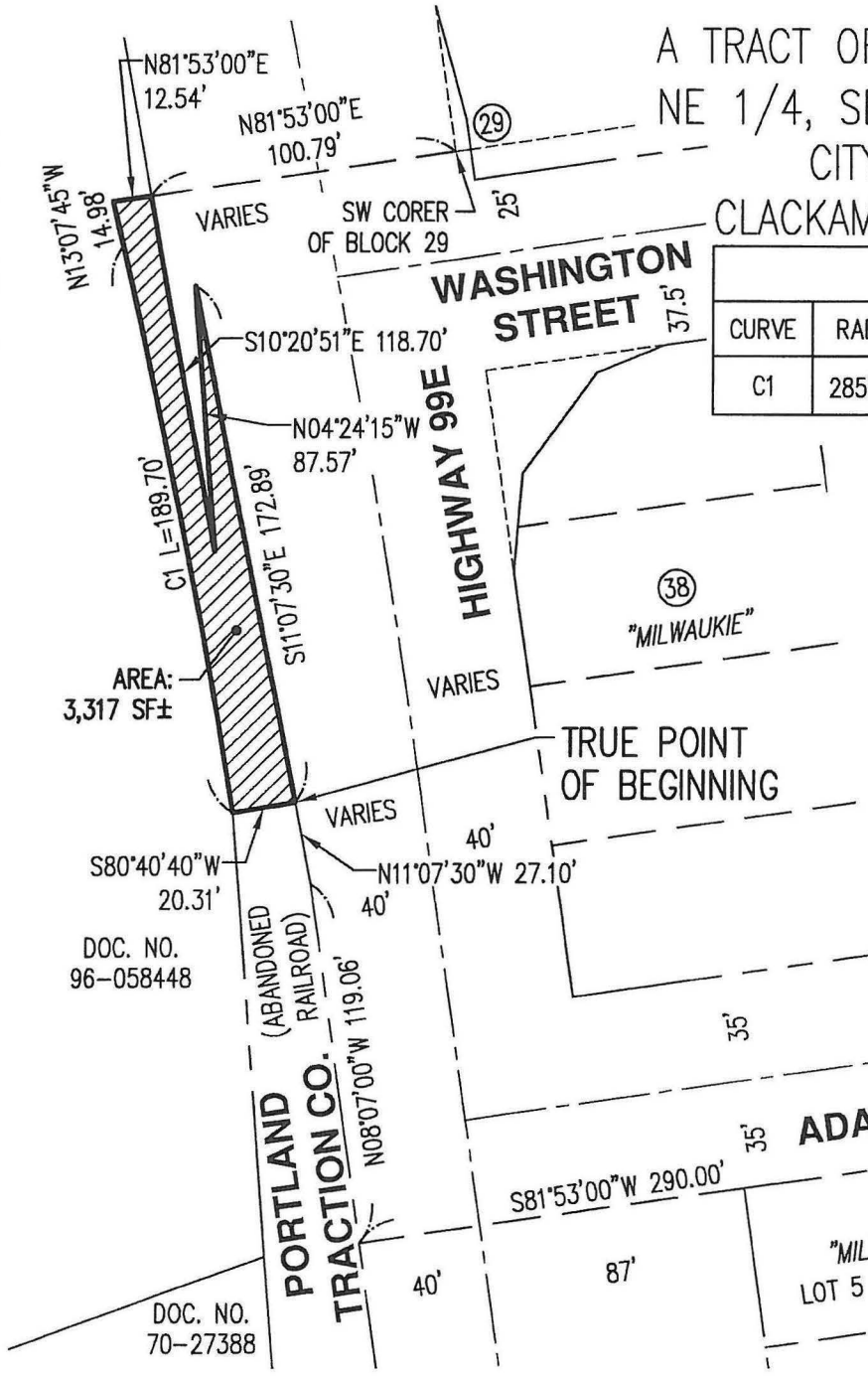
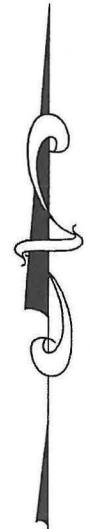
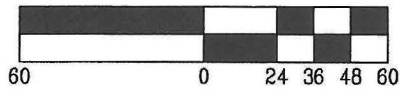


A TRACT OF LAND LOCATED IN THE
 NE 1/4, SEC. 35, T1S, R1E, W.M.,
 CITY OF MILWAUKIE,
 CLACKAMAS COUNTY, OREGON

CURVE TABLE				
CURVE	RADIUS	DELTA	LENGTH	CHORD
C1	2855.00'	3'48"25"	189.70'	N11°13'32"W 189.67'

PREPARED FOR
 CITY OF MILWAUKIE
 6101 SE JOHNSON CREEK BLVD.
 MILWAUKIE, OR 97206

SCALE 1" = 60 FEET



12-10-13

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

OREGON
 JANUARY 11, 2005
 ROBERT D. RETTIG
 60124LS

RENEWS: 12/31/14

RIVERFRONT PARK
 JOB NAME: ACCESS EASEMENT

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ENGINEERING · PLANNING · SURVEYING
 FORESTRY · LANDSCAPE ARCHITECTURE



CITY OF MILWAUKIE
"Dogwood City of the West"

Resolution No.

A resolution of the City Council of the City of Milwaukie, Oregon, HEREBY AUTHORIZING THE CITY MANAGER TO ENTER INTO AN "AGREEMENT FOR PERMIT OF USE" WITH THE NORTH CLACKAMAS PARKS AND RECREATION DISTRICT IN ORDER TO RECEIVE PERMISSION OF ACCESS TO RIVERFRONT PARK ACROSS THE TROLLY TRAIL.

WHEREAS, the City is seeking to construct park and recreation improvements at its Riverfront Park along the Willamette River; and

WHEREAS, North Clackamas Parks and Recreation District owns and operates the Trolley Trail; and

WHEREAS, portions of the Trolley Trail run through the Riverfront Park; and

WHEREAS, the City desires to redesign the traffic access to Riverfront Park and such traffic access would cross that certain portion of the Trolley Trail; and

WHEREAS, the Parties desire to enter into an agreement to outline the rights and responsibilities of the parties with respect to such a change.

Now, Therefore, be it Resolved the City Manager has the Authority to enter into an "Agreement for Permit of Use" with the North Clackamas Parks and Recreation District in order to receive permission of access to Riverfront Park across the Trolley Trail.

Introduced and adopted by the City Council on _____.

This resolution is effective on _____.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney