



Regular Session

RS

Milwaukie City Council



MILWAUKIE CITY COUNCIL
REGULAR SESSION

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

REVISED AGENDA
DECEMBER 20, 2016
(Revised December 16, 2016)

2,236th Meeting

1. **CALL TO ORDER – 6:00 p.m.** Page #
Pledge of Allegiance

2. **PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS**
 - A. **None Scheduled.**

3. **CONSENT AGENDA**

These items are considered routine, and therefore, will not be allotted discussion time on the agenda; these items may be passed by the Council in one blanket motion; any Councilor may remove an item from the “Consent” agenda for discussion by requesting such action prior to consideration of that part of the agenda.

 - A. **City Council Meeting Minutes:** 2
 1. **November 15, 2016, Work Session;**
 2. **November 15, 2016, Regular Session;**
 3. **November 28, 2016, Special Session; and**
 4. **December 6, 2016, Work Session.**
 - B. **Marijuana Tax Collection Agreement – Resolution** 11
 - C. **Arbor Day 2016 – Proclamation** 49

4. **AUDIENCE PARTICIPATION**

The presiding officer will call for citizen statements regarding City business. Pursuant to Milwaukie Municipal Code (MMC) Section 2.04.140, 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 submit it to the City Recorder. Pursuant to MMC Section 2.04.360, “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.

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 presiding officer may limit testimony.

 - A. **None Scheduled.**

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. **Library Architect Decision – Resolution** **53-1**
Staff: Katie Newell, Library Director
(Staff Report and Resolution added December 16, 2016)

- 6. **OTHER BUSINESS (continued)**
 - B. **Janitorial Services Contract – Resolution** **54**
Staff: Clare Fuchs, Sustainability Director
 - C. **Housing Strategies Report** **76**
Staff: David Levitan, Senior Planner
 - D. **Council Reports**
- 7. **INFORMATION**
- 8. **ADJOURNMENT**

Americans with Disabilities Act (ADA) Notice

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Executive Sessions

The City Council may meet in Executive Session pursuant to ORS 192.660(2); all discussions are confidential and may not be disclosed; news media representatives may attend but may not disclose any information discussed. Executive Sessions may not be held for the purpose of taking final actions or making final decisions and are closed to the public.

Meeting Information

Times listed for each Agenda Item are approximate; actual times for each item may vary. Council may not take formal action in Study or Work Sessions. Please silence mobile devices during the meeting.



MINUTES
MILWAUKIE CITY COUNCIL
 www.milwaukieoregon.gov

REGULAR SESSION
 DECEMBER 20, 2016
 City Hall Council Chambers

Mayor Mark Gamba called the 2,236th meeting of the Council to order at 6:07 p.m.

Council Present: Council President Lisa Batey and Councilors Scott Churchill, Wilda Parks, and Karin Power (via phone)

Staff Present: City Manager Ann Ober, City Recorder Scott Stauffer, Assistant to the City Manager Mitch Nieman, City Attorney Peter Watts, Engineering Director Charles Eaton, Police Chief Steve Bartol, Library Director Katie Newell, Sustainability Director Clare Fuchs, Planning Director Denny Egner, Senior Planner David Levitan, and Finance Director Haley Fish

1. CALL TO ORDER

Pledge of Allegiance.

2. PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

A. None Scheduled.

3. CONSENT AGENDA

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

A. City Council Meeting Minutes:

1. November 15, 2016, Work Session;
2. November 15, 2016, Regular Session;
3. November 28, 2016, Special Session; and
4. December 6, 2016, Work Session.

B. Resolution 124-2016: A Resolution of the City Council of the City of Milwaukie, Oregon, approving an Intergovernmental Agreement (IGA) with the State of Oregon to collect the City's Local Tax on Sales of Marijuana Items and authorizing the City Manager to sign the Agreement.

C. A Proclamation of the City of Milwaukie proclaiming April 23, 2016, as Arbor Day in the City of Milwaukie.

Motion passed with the following vote: Councilors Power, Churchill, Batey, and Parks, and Mayor Gamba voting "aye." [5:0]

4. AUDIENCE PARTICIPATION

Mayor Gamba reviewed the Audience Participation procedures and **Ms. Ober** reported that there was no follow-up report from the December 6, 2016, Audience Participation.

Kiran Bala, Milwaukie resident, reported that her garbage had not been collected as scheduled and she expressed concern about her personal safety. **Council President Batey** noted that weather had caused the garbage haulers to cancel service.

5. PUBLIC HEARING

A. None Scheduled.

6. OTHER BUSINESS

A. Library Architect Decision

Ms. Newell introduced Dan Naughton, Library Project Manager with Shiels Oblatz Johnsen (SOJ), and reviewed the process used to select the architectural design team. She reported that negotiations had resulted in a proposed contract and that no challenges to the Intent to Award had been received. She confirmed that the decision to select Hacker had been unanimous by the selection committee.

It was moved by Councilor Churchill and seconded by Council President Batey to approve the Resolution authorizing the City Manager to sign a contract with Hacker to be the architectural design team of the Library Construction Project. Motion passed with the following vote: Councilors Power, Churchill, Batey, and Parks, and Mayor Gamba voting "aye." [5:0]

Resolution 125-2016:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT WITH HACKER TO BE THE ARCHITECTURAL DESIGN TEAM OF THE LIBRARY CONSTRUCTION PROJECT.

Council President Batey and Ms. Newell remarked on the proposed project timeline.

B. Janitorial Services Contract – Resolution

Ms. Fuchs introduced Damien Farwell, the City's new Fleet and Facilities Supervisor. **Mr. Farwell** reviewed the proposed contract for janitorial services and provided an overview of the vendor selection process. He reported that the selected vendor had received superb references.

The group discussed why the proposed contract would cost the City more than the previous contract. Staff reported that the last janitorial services contract had been awarded 20 years before, that the City had been paying extra for additional services provided by the last vendor, and confirmed that funds were available to cover the proposed cost increases.

It was moved by Councilor Parks and seconded by Council President Batey to approve the Resolution authorizing the City Manager to execute a contract with Tualatin Valley Workshop, Inc. (TVW, INC.) for Janitorial Services.

Mayor Gamba expressed support for a \$15 an-hour minimum wage. He reported that staff would be looking at what TVW, Inc. employees are paid and may bring a contract addendum related to the minimum wage for Council consideration at a future date.

Motion passed with the following vote: Councilors Power, Churchill, Batey, and Parks, and Mayor Gamba voting "aye." [5:0]

Resolution 126-2016:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH TUALATIN VALLEY WORKSH, INC. (TVW, INC.) FOR JANITORIAL SERVICES.

C. Housing Strategies Report

Mr. Levitan introduced Matt Hastie, Project Manager with Angelo Planning Group, reviewed past Council discussions regarding the Housing Needs Assessment (HNA), explained that the presentation would provide the consultant's recommendations, and proposed strategies related to the City's housing needs and priorities. He noted that the HNA was required by Statewide Planning Goal 10 (Goal 10) and asked for Council input on the recommendations presented.

Mr. Hastie reported that Angelo Planning Group and the City had worked with Johnson Economics, LLC, to prepare the Buildable Lands Index (BLI) and overall housing strategies, and he provided an overview of Goal 10.

Council President Batey and **Mr. Hastie** discussed the type of multi-family residential (MFR) and single-family residential (SFR) zones the Milwaukie Municipal Code (MMC) currently allowed, and they noted the impact of the Metropolitan Housing Rule.

Mr. Hastie presented data about the City's projected housing needs, including types of housing the City was projected to lack in the future. **Mayor Gamba**, **Mr. Hastie**, and **Councilor Parks** discussed housing price levels and income ranges affected by the City's projected housing shortages, and remarked on the impact of housing shortages on rentals.

Mr. Hastie provided an overview of the BLI and reported that the BLI suggested there was enough zoned land within City Limits to meet the projected housing need for MFR and SFR. He explained that much of the housing would be infill or redeveloped from previous uses. **Mayor Gamba** and **Mr. Hastie** commented on the possibility of housing being developed on identified opportunity sites.

Council President Batey and **Mr. Hastie** discussed the Metropolitan Housing Rule's required 50/50 split between MFR and SFR and the City's current SFR capacity.

Mr. Hastie reviewed data comparing the City's housing needs and supply, and noted that not all available land would be developed into housing. **Council President Batey**, **Mr. Hastie**, **Mayor Gamba**, and **Mr. Levitan** discussed the projected number of MFR and SFR housing units that could be developed within City Limits.

Mr. Hastie presented housing strategy recommendations identified in the HNA, including consideration of cottage cluster, workforce, low-income / special need housing, and preserving existing affordable housing. He summarized that overall the MMC and the City's Comprehensive Plan were in good shape per Federal, State, and regional policies and goals, but that tweaks could be made to several policies that would better establish clear and objective standards.

Council President Batey and **Mr. Watts** discussed conditional and transitional housing uses permitted in the City and cited related Supreme Court cases. **Mr. Hastie** remarked that the MMC was in good shape for group living and that the City may want to consider approval and density calculation standards for larger scale assisted living facilities.

The group discussed differences between transitional, group, communal, and rental housing, they noted if the MMC allowed these types of housing, and remarked on the recommendation to establish better standards for approving such housing.

Mr. Hastie reported that the MMC dealt pretty well with non-traditional housing and noted that the City may want to address the cost of system development charges (SDCs) and parking requirements for accessory dwelling units (ADUs). **Council President Batey** and **Mr. Levitan** remarked on parking associated with ADUs and the City's SDC rates compared to neighboring cities. **Mr. Hastie** suggested that the City may want to consider reducing SDC rates.

The group discussed ADUs, noting that they are uncommon in the region and can trigger the County Assessor to reassess the value of a property, thereby affecting an owner's taxes.

Mr. Hastie reported that the HNA recommended that the City consider allowing cottage cluster housing in more zones and that the impacts of side yard setbacks be considered. The group discussed earlier efforts to change the MMC related to cottage cluster housing and density.

Mr. Hastie explained that the HNA recommended the City consider allowing live-work housing in commercial zones. **Council President Batey** asked if the City had been receiving inquiries for cottage cluster or live-work and co-housing, and **Mr. Levitan** and **Mr. Egner** replied that the City had not received much interest for either housing type.

The group discussed neighborhood compatibility issues related to flag lots and noted that the City had addressed flag lot development previously. **Mr. Hastie** suggested that the City would want to require neighborhood outreach when a flag lot is proposed.

Mayor Gamba and **Council President Batey** asked about the “missing middle” 5- or 6-plex housing units and **Mr. Hastie** and **Mr. Levitan** commented on how “missing middle” housing was currently addressed by the City’s zoning and suggested the City could revisit the topic. **Mayor Gamba**, **Mr. Hastie**, and **Council President Batey** remarked on changing the City’s approach to from density zoning to form-based zoning.

Mr. Levitan reviewed the City’s history with different approaches to flag lot standards and suggested staff could look at how other jurisdictions handle lot consolidation. He asked for Council direction regarding public knowledge of flag lots to inform a discussion about the City’s current flag lot policy. **Council President Batey** understood that the community had previously expressed concerns about flag lots and expressed support for cottage cluster developments and continued Council discussion on flag lots.

Mr. Levitan reported that there were a number of flag lot developments in part of the City and remarked on the application processes for the flag lots. He suggested that a conversation regarding how to manage density and housing priorities would complement the City’s ongoing visioning process. **Mayor Gamba** and **Mr. Levitan** commented on the impact of market forces on flag lots and how cities have addressed developments that consolidate oversized lots and non-traditional forms of housing.

Mr. Hastie discussed recommendations in the HNA related to land supply issues and infill development sites that focus on community needs. **Mr. Levitan** and **Mr. Hastie** encouraged Council to consider using available financial tools to support development. **Council President Batey**, **Mr. Levitan**, and **Mayor Gamba** discussed the timeframe for the financial tools in place for the North Main Village development and the benefits of credit for developers and the current property owners.

Mr. Hastie reviewed other housing strategies laid out in the HNA including affirming the protections under the Federal Fair Housing Act, encouraging design practices that promote accessibility, and pursuing inclusionary zoning policies. He also suggested that the City work with regional partners to explore approaches to implement the recommendations proposed in the HNA.

Mayor Gamba and **Mr. Levitan** remarked on the importance of the HNA and the need to address housing issues in the upcoming Community Visioning Action Plan and Comprehensive Plan review.

D. Council Reports

Mayor Gamba, **Council President Batey**, and **Councilor Parks** thanked the volunteers and staff who worked to make the Umbrella Parade and Christmas Tree Lighting and Winter Solstice events great successes.

Council President Batey reported that she had gone with staff to a meeting at Metro to discuss future hazardous waste events and announced Metro would host another event in the City in July 2017.

E. Recognition of Councilor Churchill's Service

The group thanked Councilor Churchill for his service to the City and presented him with a service recognition plaque and several framed editions of City event posters.

Councilor Churchill thanked Council, staff, and the citizens of Milwaukie for their support and offered remarks on the City's history.

7. INFORMATION**8. ADJOURNMENT**

It was moved by Councilor Parks and seconded by Councilor Churchill to adjourn the Regular Session. Motion passed with the following vote: Councilors Power, Churchill, Batey, and Parks, and Mayor Gamba voting "aye." [5:0]

Mayor Gamba moved to adjourn the regular session at 8:09 p.m.

Respectfully submitted,



Scott S. Stauffer, City Recorder

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MILWAUKIE CITY COUNCIL
Office of the City Recorder

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Speaker Registration

The City of Milwaukie encourages all citizens to express their views to their 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. Note that this Speakers Registration card, once submitted to the City Recorder, becomes part of the public record.

Name: MS-KIRAN BALA

Address:

Organization:

Phone:

Email:

Meeting Date: 12-20-2016 Topic: ASK QUESTION

Agenda Item You Wish to Speak to:

You are Speaking...

#4 Audience Participation

in Support

#5 Public Hearing, Topic:

in Opposition

#6 Other Business, Topic:

from a Neutral Position

to ask a Question

Comments:

[Redacted area]



**Regular Session
Agenda Item No.**

3

Consent Agenda



MINUTES
MILWAUKIE CITY COUNCIL
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WORK SESSION
NOVEMBER 15, 2016
City Hall Conference Room

Mayor Mark Gamba called the Work Session to order at 4:20 p.m.

Council Present: Council President Lisa Batey and Councilors Scott Churchill and Wilda Parks

Council Absent: Councilor Karin Power

Staff Present: City Manager Ann Ober, City Recorder Scott Stauffer, City Attorney Dan Olsen, Assistant to the City Manager Mitch Nieman, and Planning Director Denny Egner

The group talked about the traffic signal timing at 21st Avenue and Washington Street.

Urban Growth Management Agreement (UGMA) Discussion

Mr. Nieman provided a brief update on the City's UGMA and distributed handouts to the group. He noted the UGMAs which existed in Clackamas County, discussed maps of the City's UGMA, and reviewed a draft agreement with Clackamas County's comments. He noted the County's discussions on annexations and the group discussed the annexations in the County and details related to the UGMA map.

Mayor Gamba, Mr. Egner, and Mr. Olsen discussed the process for annexing the Clackamas Community College (CCC) Harmony Campus. The group discussed the land around Harmony Road that could be annexed in that area.

Mr. Nieman referenced the draft UGMA agreement and discussed language regarding road jurisdiction and responsibilities. **Mr. Egner** and **Mr. Nieman** discussed different cherry-stem annexation possibilities.

Mr. Nieman explained the City of Portland's work to update their UGMA and Multnomah County's desire to clean up the UGMA boundaries in relation to Clackamas County.

Council President Batey discussed specific areas that could annex into the City.

TriMet Bus Line 152 Potential Rerouting

Mr. Egner noted bus line 33 would have an increase in service frequency, and reported that there were discussions about line 152 potentially being re-routed. He reviewed a map indicating the proposed 152 route change and discussed potential impacts. TriMet was planning to do additional outreach with the Milwaukie Center and was willing to attend the December 6, 2016, council meeting to further discuss the matter.

The group agreed to meet with TriMet and representatives from the Milwaukie Center during the December 6, 2016, Council Regular Session.

Council Position No. 4 Appointment Process

Mr. Nieman reviewed the appointment process for replacing Councilor Power and discussed the application process. He asked for Council feedback on the proposed questions for the interim application, and Council provided their comments and edits. The group also discussed the timeline for processing applications.

Holiday Cards Discussion

Ms. Ober inquired if Council would be interested in sending holiday greeting cards to the City's partners and volunteers and noted that City staff had recommended sending post cards. The group liked the idea of sending a card and Ms. Ober reported that staff would work on sending them.

Mayor Gamba adjourned the Work Session at 5:33 p.m.

Respectfully submitted,

Amy Aschenbrenner, Administrative Specialist II



MINUTES
MILWAUKIE CITY COUNCIL
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REGULAR SESSION
NOVEMBER 15, 2016
City Hall Council Chambers

Mayor Mark Gamba called the 2,234th meeting of the Council to order at 6:03 p.m.

Council Present: Council President Lisa Batey and Councilors Scott Churchill, Wilda Parks, and Karin Power (via phone)

Staff Present: City Manager Ann Ober, City Recorder Scott Stauffer, Assistant to the City Manager Mitch Nieman, Engineering Director Charles Eaton, Economic Development and Resource Coordinator Amy Koski, Community Development Director Alma Flores, and Police Chief Steven Bartol

CALL TO ORDER

Pledge of Allegiance.

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

A. Milwaukie High School (MHS) Outstanding Student Achievement Award for November 2016 presented to Douglas Craig

Mr. Pinder introduced Mr. Craig and Council congratulated him on his academic and extra-curricular achievements.

B. Statement Reaffirming Milwaukie as a Place of Inclusion and Acceptance – Resolution [Added to the Agenda on November 14, 2016]

It was noted that Councilor Power had joined the meeting via conference phone.

Council President Batey announced that she was recusing herself from Council's consideration of the proposed resolution due to professional conflicts of interest.

Ms. Ober explained that the proposed resolution had been requested by Council and the public in response to the results of the recent national election.

Mayor Gamba read the full text of the resolution:

“A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, REAFFIRMING OUR CITY AS A PLACE OF INCLUSION AND ACCEPTANCE.

Whereas, over the course of the past week, City Councilors, the Mayor, and City staff have heard concern about the results and aftermath of the national election and ensuing political divide on our communities from residents and fellow citizens; and

Whereas, public concern has been expressed over personal safety, the safety of loved ones, and fear that services to those most in need may be withdrawn; and

Whereas, the City Council shares these concerns and desires to state their commitment to the pursuit of a more equitable, inclusive, and fair community; and

Whereas, we believe that it is our national and local diversity that makes us stronger as a community and brings beauty to our daily existence; and

Whereas, we believe it is imperative to express these concerns and state our shared values as this Nation, State, and City looks forward to our future together.

Now, therefore, be it resolved by the City Council of the City of Milwaukie, Oregon, that the City of Milwaukie is a community committed to welcoming and serving residents and visitors without regard to race, origin, religion, income, gender, sexual orientation, or immigration status.

Further, be it resolved, that the City Council of the City of Milwaukie is committed to providing a safe environment for living, working, and playing, for all residents and visitors of this City.

Introduced and adopted by the City Council on **November 15, 2016**.

This resolution is effective immediately.”

It was moved by Councilor Power and seconded by Councilor Parks to approve the Resolution Reaffirming Our City as a Place of Inclusion and Acceptance. Motion passed with the following vote: Councilors Churchill, Parks, and Power and Mayor Gamba voting “aye.” [4:0]

It was noted that Council President Batey had recused herself from this motion due to a conflict of interest and had left the dais.

RESOLUTION No. 115-2016:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, REAFFIRMING OUR CITY AS A PLACE OF INCLUSION AND ACCEPTANCE.

Councilor Power thanked Council for adopting the resolution and noted that other local governments had made similar gestures. **Councilor Parks** and **Mayor Gamba** thanked Councilor Power for introducing the resolution and expressed support for the resolution.

It was noted that Council President Batey had returned to the dais and that Councilor Power left the meeting.

CONSENT AGENDA

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

A. City Council Meeting Minutes:

- 1. October 18, 2016, Work Session;**
- 2. October 18, 2016, Regular Session; and**
- 3. October 20, 2016, Study Session.**

B. An Oregon Liquor Control Commission (OLCC) Application for Zappo’s Pizza, 6114 SE King Road – Change of Ownership.

Motion passed with the following vote: Councilors Churchill, Batey, and Parks, and Mayor Gamba voting “aye.” [4:0]

AUDIENCE PARTICIPATION

Mayor Gamba reviewed the Audience Participation procedures and **Ms. Ober** reported that there was no follow-up report from the November 1, 2016, Audience Participation.

Ms. Ober thanked the public, staff, and Council, for getting the word out about the recent boil water order. She explained that the likely cause of the positive Escherichia coli (E. coli) water sample test was either residue in the City of Milwaukie / City of Portland water systems intertie connection or possible contamination of the test after the sample was pulled. She reported that processes were being put in place to avoid this outcome in the future, the water tower maintenance project was on schedule, and all tests since the boil water order had come back negative.

Mayor Gamba discussed why the City maintained water system interties with the City of Portland and Clackamas River Water (CRW) water systems for emergency situations and maintenance work. He thanked staff for their work to publicize the boil water order and to resolve the issue quickly. **Ms. Ober** and **Chief Bartol** remarked on the use of social media and the Code Red emergency notification system to publicize the boil water order and they encouraged the public to sign-up for the Code Red alerts.

Mayor Gamba noted that there were no other Audience Participation comments.

PUBLIC HEARING

A. ~~Adopt Findings in Support of Alternative Contracting – Resolution~~
(Removed from the Agenda on November 10, 2016)

OTHER BUSINESS

A. Amendment Submittal to Change the Boundary of the North Urban Clackamas County Enterprise Zone (E-Zone) – Resolution

Ms. Koski reviewed previous Council discussions regarding the request to expand the North Urban Clackamas County E-Zone to include Central and Downtown Milwaukie. She reported that staff had been working with Clackamas County and the City of Happy Valley to approve the proposed expansion, and she provided background information about the E-Zone and the expansion process. She introduced Martha McLennan, Executive Director of Northwest Housing Alternatives (NHA), a partner organization that was supportive of the E-Zone expansion.

Ms. McLennan explained that the proposed E-Zone expansion included an amendment that would allow NHA to use different Federal programs to redevelop their property located on Willard Street. She thanked Council for considering the E-Zone expansion.

It was moved by Councilor Parks and seconded by Council President Batey to approve the Resolution Changing the Boundary of the North Urban Clackamas County Enterprise Zone. Motion passed with the following vote: Councilors Churchill, Batey, and Parks, and Mayor Gamba voting “aye.” [4:0]

RESOLUTION No. 116-2016:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, CHANGING THE BOUNDARY OF THE NORTH URBAN CLACKAMAS COUNTY ENTERPRISE ZONE.

B. Intergovernmental Agreement (IGA) with Clackamas County for Behavioral Health Unit (BHU) Services – Resolution

Chief Bartol provided background information on the proposed IGA with Clackamas County that would provide Milwaukie Police Department (MPD) officers with tools to deal with mental health crisis. He discussed the de-escalation training received by MPD officers and reported that the expanded use of the Clackamas County BHU had been proposed regionally. He noted the costs and benefits of expanding BHU services.

Council President Batey remarked that the proposed cost to the City for the BHU services was very reasonable. **Chief Bartol** explained that the expanded services would cover unique mental health incidents on an as-needed basis.

Mayor Gamba and **Chief Bartol** commented on the importance of addressing mental health issues in a community-oriented approach to policing and governance.

It was moved by Council President Batey and seconded by Councilor Churchill to approve the Resolution Authorizing the City Manager to Sign an Intergovernmental Agreement (IGA) with Clackamas County for Mental Health Practitioner Services. Motion passed with the following vote: Councilors Churchill, Batey, and Parks, and Mayor Gamba voting “aye.” [4:0]

RESOLUTION No. 117-2016:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE CITY MANAGER TO SIGN AN INTERGOVERNMENTAL AGREEMENT (IGA) WITH CLACKAMAS COUNTY FOR MENTAL HEALTH PRACTITIONER SERVICES.

Chief Bartol thanked Council for approving the IGA. He reported that the MPD would be meeting with MHS students to encourage them to explore law enforcement careers. Council thanked Chief Bartol and the MPD for their work in the community.

C. Council Reports

Mayor Gamba noted the ongoing City-sponsored leaf drop events and announced upcoming events including a special pre-Thanksgiving Milwaukie Sunday Farmers' Market, the MHS Swim Team holiday bazaar, and the Annual Umbrella Parade and Christmas Tree Lighting event. He urged the public to sign-up for Code Red alerts.

Council President Batey reported that several holiday events in Milwaukie had been featured in the regional Cultural Guide recently published in the *Clackamas Review*. She noted upcoming events including an artist reception and several local holiday bazaars. She announced that Celebrate Milwaukie Inc. (CMI) would be sponsoring a decorating contest for Downtown Milwaukie businesses and she thanked the volunteers who had helped voters deposit their ballots at the ballot box on election day.

Mayor Gamba congratulated Councilor Parks on her re-election to Council, Angel Falconer on her election to Council, and Councilor Power on her election to the State Legislature, and he briefly remarked on the outcomes of other local elections.

Councilor Churchill noted the days and times of the City-sponsored leaf drop events at the City facility on Johnson Creek Boulevard, and **Council President Batey** added that participants needed to bring their utility bill to prove they resided in the City.

Councilor Parks expressed gratitude for her re-election to the Council.

ADJOURNMENT

It was moved by Councilor Churchill and seconded by Councilor Parks to adjourn the Regular Session. Motion passed with the following vote: Councilors Parks, Power, Churchill, and Batey, and Mayor Gamba voting "aye." [5:0]

Mayor Gamba moved to adjourn the regular session at 6:48 p.m.

Respectfully submitted,

Scott S. Stauffer, City Recorder



MINUTES
MILWAUKIE CITY COUNCIL
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SPECIAL SESSION
NOVEMBER 28, 2016
City Hall Council Chambers

Mayor Mark Gamba called the Special Session to order at 6:02 p.m.

Council Present: Council President Lisa Batey and Councilors Scott Churchill and Wilda Parks

Council Absent: Councilor Karin Power

Staff Present: City Manager Ann Ober, City Recorder Scott Stauffer, City Attorney Tim Ramis, and Library Director Katie Newell

Architectural Design Team Recommendation

Ms. Newell reviewed the process completed to-date for interviewing and selecting an architectural design team for the Ledding Library renovation and expansion project. She noted that three firms had been interviewed and reported that the selection committee had unanimously recommended that Hacker be selected as the architectural design team. She summarized the next steps in the process and asked Council to authorize the selection committee to begin negotiations with Hacker.

Council President Batey asked about process deadlines for selecting a design team. **Ms. Newell** and **Councilor Churchill** explained that the City's contracting rules imposed timeline requirements for posting the Notice of Intent to Award and to negotiate and accept a bid from the selected firm.

Ms. Newell confirmed that staff hoped to commence negotiations and submit a contract for Council consideration as soon as possible and **Mr. Ramis** noted the need to begin the required 7-day challenge period related to the contract negotiations. **Ms. Ober** commented on extra steps in the selection process required by the City's contracting rules and the City's interest in having the design team on board before the Contract Manager / General Contract (CM/GC) process began.

Ms. Newell, Mr. Ramis, and Councilor Churchill discussed the uniqueness of the selection process for the architectural design firm and reviewed the CM/GC process.

Mayor Gamba expressed concern about selecting a firm without information from the selection process. **Councilor Parks** remarked that Council would need to trust the recommendation of the design team.

Council President Batey agreed with Mayor Gamba's concern about a lack of information and noted that she had independent done research on Hacker. **Ms. Newell** and **Councilor Churchill** reviewed local library projects designed by Hacker and discussed the presentation format used to interview the three firms.

It was moved by Council President Batey and seconded by Councilor Parks to act as the Local Contract Review Board to select Hacker as the most qualified consultant based upon the recommendation of the Selection Committee. Motion passed with the following vote: Councilors Churchill, Batey, and Parks, and Mayor Gamba voting "aye." [4:0]

It was moved by Council President Batey and seconded by Councilor Parks to act as the Local Contract Review Board to designate the Selection Committee as the Board's representative in negotiations, authorizing the Committee to negotiate compensation requirements and requesting that the Committee return to the Board with an agreement for their approval. Motion passed with the following

**vote: Councilors Churchill, Batey, and Parks, and Mayor Gamba voting “aye.”
[4:0]**

**It was moved by Council President Batey and seconded by Councilor Parks to act as the Local Contract Review Board to issue a Notice of Intent to Award to the proposers following the close of the meeting. Motion passed with the following vote: Councilors Churchill, Batey, and Parks, and Mayor Gamba voting “aye.”
[4:0]**

Adjournment

It was moved by Councilor Churchill and seconded by Council President Batey to adjourn the Special Session.

Mayor Gamba adjourned the Study Session at 6:16 p.m.

Respectfully submitted,

Scott S. Stauffer, City Recorder



MINUTES
MILWAUKIE CITY COUNCIL
www.milwaukieoregon.gov

WORK SESSION
DECEMBER 16, 2016
City Hall Conference Room

Mayor Mark Gamba called the Work Session to order at 5:18 p.m.

Council Present: Council President Lisa Batey and Councilors Scott Churchill, Wilda Parks, and Karin Power

Staff Present: City Manager Ann Ober, City Recorder Scott Stauffer, and City Attorney Tim Ramis

Department of Environmental Quality (DEQ) Air Update
(Moved to the December 6, 2016, Regular Session Agenda)

Ms. Ober noted the move of the DEQ item to the Regular Session agenda.

Council Retreat Planning

Mayor Gamba invited councilor-elect Angel Falconer to join the conversation.

Ms. Ober introduced the Council retreat topic and discussed scheduling and timing issues. She noted that a legal training for Council would take place in February 2017, after the Council interim appointee was selected.

The group described topics for the Council training session and retreat, including goal setting. **Ms. Ober** would coordinate with the City Attorney's office to hold the legal training during the Council retreat.

Ms. Ober noted the application process was still open for the interim Council position and distributed Council Meeting forecaster snapshots to the group.

Mayor Gamba adjourned the Work Session at 5:30 p.m.

Respectfully submitted,

Amy Aschenbrenner, Administrative Specialist II



MILWAUKIE CITY COUNCIL
STAFF REPORT

Agenda Item: **RS 3. B.**
Meeting Date: **12/20/16**

To: Mayor and City Council
Through: Ann Ober, City Manager

Subject: **Marijuana Tax Collection Agreement**

From: Haley Fish, Finance Director

Date: December 8, 2016

ACTION REQUESTED

Approve the resolution attached to this report. This action will provide for an efficient means for the City through the State to collect the local marijuana tax.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

September 2, 2014: In advance of the vote on state Measure 91 to legalize recreational marijuana, the Council imposed a 10% local tax on the sale of recreational marijuana products.

February 25 and April 15, 2014: The Council approved and extended a temporary ban on the opening of medical marijuana dispensaries. The ban was lifted in 2015 with adoption of the zoning provisions for medical marijuana dispensaries.

June 19, 2016: The Council considered the existing proposal and expressed concerns on the taxing figure of 3%. Discussion ensued with the City Attorney, who was further instructed to provide information on if the Council could adopt a "maximum amount allowed under state law," vs. a flat 3% rate.

August 2, 2016: The Council adopted Ordinance No. 2127, an ordinance establishing a three percent tax on the sale of recreational marijuana items by a marijuana retailer in the City of Milwaukie; and Resolution No. 95- 2016; a resolution of the City Council of the City of Milwaukie, Oregon, approving referral to the electors of the City of Milwaukie at the November 8, 2016 general election, the question of whether to establish a three percent tax on the sale of recreational marijuana items by a marijuana retailer in the City of Milwaukie.

September 20, 2016: The Council adopted Ordinance No. 2134 An ordinance of the City Council of the City of Milwaukie, Oregon to amend Title 19 Zoning to regulate marijuana businesses.

November 8, 2016: Electors passed Measure 3-495 approving the three percent tax on the sale of recreational marijuana items by marijuana retailers in the City of Milwaukie.

BACKGROUND

Section 34a of House Bill 3400 (2015) (codified at ORS 475B.345) provides that a city council may adopt an ordinance to be referred to the voters that imposes up to a 3% tax or fee on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city. On August 2, 2016, the City then approved ordinance No. 2127 which updated our code to impose the 3% maximum tax allowed by state statute and referred the tax to the electors. This was then approved in the November 8, 2016 general election.

The attached Marijuana Tax Collection Agreement between the City of Milwaukie (the City) and the State of Oregon, acting by and through its Department of Revenue (the State) agrees that the State shall supervise and administer, according to the terms and conditions set forth in this Agreement, the Local Tax on sales of marijuana items by Marijuana Retailers authorized under ORS 475B.345 and approved by the voters of City.

CONCURRENCE

The City Attorney reviewed the attached agreement; it is standard across all jurisdictions that would like to have the State administer tax collection on their behalf. The Finance Director coordinated the effort to bring this issue before the Council.

FISCAL IMPACTS

Revenue will be dependent on retail sales in the City. Beginning at the end of the first full quarter after execution of this Agreement, the Department shall remit to City the amount of Local Taxes collected in the preceding quarter less amounts withheld to pay the Department's Fees and other costs as described in this Agreement within 60 days of the return due date for the quarter. The Department shall withhold from the Local Taxes collected and each transfer to City an amount equal to four percent (4%) of the Local Taxes collected.

In addition, in order to recover its costs to collect and transfer the Local Tax as provided in this Agreement the State shall be paid an Administration Fee, calculated annually as a percentage of the equivalent of 60 hours of work conducted for the Department of Revenue by the Department of Administrative Services, divided among the Local Governments in proportion to the number of Marijuana Taxpayers in each Local Government, a Business Fee calculated as a percentage of the Department's Business Division annual expenses for the administration of all marijuana taxes, with the total fee increasing in direct proportion to the number of Local Taxpayers, and a one-time Core Systems Replacement Fee Charged only one time after execution of this Agreement and calculated as a flat fee per Local Taxpayer not to exceed two hundred dollars (\$200.00) per Local Taxpayer in the first full quarter following execution of this Agreement; see example of fee calculations in section 5 (c) of the attached agreement.

WORK LOAD IMPACTS

Significant time and expense will be saved by approving the resolution and entering into the attached agreement with the State as they already have a tax system in place and the information to enforce compliance as marijuana retailers are required to be licensed through the OLCC.

ALTERNATIVES

The alternative is to have the city develop its own process to collect quarterly tax returns, coordinate collection with Local Taxpayers and enforce terms of the tax. This would require significant cross departmental coordination, staff time in process development and ongoing administration. Additionally new software may need to be purchased which is better suited to the collection of self-reported taxes.

ATTACHMENTS

1. Draft Resolution with attached Marijuana Tax Collection Agreement



CITY OF MILWAUKIE
"Dogwood City of the West"

Resolution No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF OREGON TO COLLECT THE CITY'S LOCAL TAX ON SALES OF MARIJUANA ITEMS AND AUTHORIZING THE CITY MANAGER TO SIGN THE AGREEMENT.

WHEREAS, the State passed House Bill 3400 (codified at ORS 475B.345) which provides that a city council may adopt an ordinance to be referred to the voters that imposes up to a 3% tax or fee on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city; and

WHEREAS, The Council adopted Ordinance No. 2127, an ordinance establishing a three percent tax on the sale of recreational marijuana items by a marijuana retailer in the City of Milwaukie; and Resolution No. 95- 2016; a resolution of the City Council of the City of Milwaukie, Oregon, approving referral to the electors of the City of Milwaukie at the November 8, 2016 general election, the question of whether to establish a three percent tax on the sale of recreational marijuana items by a marijuana retailer in the City of Milwaukie; and

WHEREAS, Electors passed Measure 3-495 approving the three percent tax on the sale of recreational marijuana items by marijuana retailers in the City of Milwaukie in the November 8, 2016 general election; and

WHEREAS, this agreement will save the City significant staff time and expense that would otherwise be required to administer the tax provisions within city operations.

NOW, THEREFORE, BE IT RESOLVED as follows:

Section 1: That the City Council of the City of Milwaukie agrees to the terms the attached Marijuana Tax Collection Agreement.

Section 2: The city manager is authorized to sign the agreement on behalf of the City of Milwaukie.

Introduced and adopted by the City Council on _____.

This resolution is effective on _____.

ATTEST:

Mark Gamba, Mayor

APPROVED AS TO FORM:
Jordan Ramis PC

Scott S. Stauffer, City Recorder

City Attorney

MARIJUANA TAX COLLECTION AGREEMENT

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

In consideration of the conditions and promises hereinafter contained, it is mutually agreed by the parties that the Department shall supervise and administer, according to the terms and conditions set forth in this Agreement, the Local Tax on sales of marijuana items by Marijuana Retailers authorized under ORS 475B.345 and approved by the voters of City.

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

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

(b) “Fees” means collectively the Administrative Services Fee, the Business Fee and the Core Systems Replacement Fee described in Section 5 of this Agreement.

(c) “Local Government” means a city or county that has entered into a form of this agreement with the Department under the authority of ORS 305.620 for the Department to collect Local Taxes authorized under ORS 475B.345.

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

(e) “Local Taxpayer” means a licensed Marijuana Retailer located in the taxing jurisdiction of City.

(f) “Marijuana Retailer” has the meaning given in ORS 475B.015.

(g) “Marijuana Tax” means the tax imposed on sales of marijuana items by Marijuana Retailers pursuant to ORS 475B.345.

(h) “Marijuana Taxpayer” means a licensed Marijuana Retailer that is subject to the Marijuana Tax imposed by a Local Government.

(i) “Ordinance” means the ordinance adopted by the governing body of City and approved by the voters of City on 11/8/2016, a copy of which is attached hereto as Exhibit B and by this reference incorporated herein.

(2) General Administration. The Department shall be responsible for all aspects of Local Tax administration, including, but not limited to, adopting administrative rules; auditing

returns; assessing deficiencies and collecting the Local Tax and penalties and interest under applicable statutes, including but not limited to ORS 305.265, ORS 305.220, and ORS 314.400; making refunds; holding conferences with Local Taxpayers; handling appeals to the Oregon Tax Court; issuing warrants for the collection of unpaid taxes; determining the minimum amount of Local Tax economically collectible; and taking any other action necessary to administer and collect the Local Taxes. The Department has adopted rules addressing the requirements for paying taxes with currency and other matters related to the taxation of marijuana under ORS chapter 475B. City understands and agrees that such rules will be applied to Local Taxpayers.

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

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

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

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

(b) "Business Fee": Pays for the Local Tax administration activities set forth in this Agreement. The fee shall be calculated as a percentage of the Department's Business Division annual expenses for the administration of all marijuana taxes, with the total fee increasing in direct proportion to the number of Local Taxpayers. The total amount per Local Taxpayer billed

to City under the Business Fee shall not exceed 0.05 percent of the Department's Business Division expenses for the administration of all marijuana taxes;

(c) "Core Systems Replacement fee": Charged only one time after execution of this Agreement and calculated as a flat fee per Local Taxpayer. The total Core Systems Replacement Fee shall not exceed two hundred dollars (\$200.00) per Local Taxpayer in the first full quarter following execution of this Agreement.

FOR EXAMPLE, in a hypothetical with the following assumptions:

250 Marijuana Taxpayers

50 Local Taxpayers in the City of Mainville

2 Local Taxpayers in the City of Middletown

Business Division's Marijuana Expenses: \$500,000 per year

Hourly DAS rate: \$99/hour

The fees would be calculated as follows:

Administrative Services Fee = $(\$99/\text{hour} * 60 \text{ hours}) / 250 \text{ Marijuana Taxpayer} = \$23.76 \text{ per Local Taxpayer per year}$

Business Fee = $\$500,000 \text{ in marijuana expenses per year} * 0.05\% = \$250 \text{ per Local Taxpayer per year}$

Core Systems Replacement Fee = \$200 per Local Taxpayer, one time

City of Mainville, year 1: $(\$23.76 \text{ Administrative Services Fee} + \$250 \text{ Business Fee} + \$200 \text{ Core Systems Replacement Fee}) * 50 \text{ Local Taxpayers} = \$23,688 \text{ in costs}$

City of Mainville, subsequent years: $(\$23.76 \text{ Administrative Services Fee} + \$250 \text{ Business Fee}) * 50 \text{ Local Taxpayers} = \$13,688 \text{ in costs}$

City of Middletown, year 1: $(\$23.76 \text{ Administrative Services Fee} + \$250 \text{ Business Fee} + \$200 \text{ Core Systems Replacement Fee}) * 2 \text{ Local Taxpayers} = \947.52 in costs

City of Middletown, subsequent years: $(\$23.76 \text{ Administrative Services Fee} + \$250 \text{ Business Fee}) * 2 \text{ Local Taxpayers} = \547.52 in costs

(d) In addition to the Fees described above, the Department may withhold or invoice City for the Department's costs to administer extraordinary services not described in this Agreement related to the Local Tax; such extraordinary costs may include, without limitation, requests for audits from City that exceed the scope of the Department's normal audit procedures, requests for research or advice from the Department or the Oregon Department of Justice attorneys, or specially appointed counsel, regarding the Local Tax.

(e) If the Department determines that its costs cannot be covered by the maximum fees outlined in this Section 5, the Department will notify City of the amount by which the Department has determined the Fees must increase. If the Department and City do not agree upon a Fee increase and related amendment to this Agreement, then this Agreement may be terminated by either party in accordance with Section 16 of this Agreement.

(f) The Department shall not collect more in fees than its costs to administer the Local Tax, per ORS 305.620(5). It is using the above formula in the interests of producing its best estimate of costs.

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

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

(8) Department Quarterly Reports. Beginning with the first full calendar quarter after the execution of this Agreement and continuing each calendar quarter thereafter, within sixty (60) days after the due date for quarterly Local Tax returns, the Department shall provide City with a report indicating the amount of Local Taxes collected, any extraordinary costs assessed, the amount withheld under Section 6 of this Agreement and the cumulative amount of delinquent Local Taxes for each Marijuana Retailer in City's jurisdiction. The information in this report must be treated as potentially revealing Confidential Information, and shall be protected as described in Section 15. City should make all efforts to prevent Confidential Information from being released. The Department and City shall disclose any non-confidential information in a report when required to do so by law, including the Oregon Public Records Law, ORS 192.410 to 192.505.

(9) Department Annual Reports. In the first calendar quarter of each year, the Department shall make a written annual report of the preceding calendar year to City showing the total amount of Local Taxes collected, refunds paid, the expenses of administering and collecting the Local Tax, and other pertinent information. The report shall show the total amount withheld by the Department under Section 6 of this Agreement, and shall show the Department's expenses by its Fee categories. In such report, the Department shall also make recommendations

concerning changes in Local Tax Ordinances, procedures, policies, Local Tax administration and related matters, as the Department deems necessary and appropriate. The information in this report must be treated as potentially Confidential Information, and shall be protected as described in Section 15. City should make all efforts to prevent Confidential Information from being released. The Department and City shall disclose any non-confidential information in the report when required to do so by law, including the Oregon Public Records Law, ORS 192.410 to 192.505.

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

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

(12) Ordinance and Notification of Changes. Contemporaneous with the execution of this Agreement, City shall provide a copy of the Ordinance to Department for incorporation into this Agreement as Exhibit B. In order to insure consistency in administration of the Local Tax, each party shall notify the other of any change in the Ordinance and any state or local regulations or rulings interpreting the Local Tax or the Ordinance, any changes in rates or changes in the City's boundary at least ninety (90) days prior to the effective change, unless it is not legally possible to provide ninety (90) days' notice or both parties mutually agree to effect such changes in less than ninety (90) days. Each party shall notify the other of any change in administration of the Local Tax under this Agreement. The parties shall cooperate in amending the Ordinance or in seeking amendments to ORS 475B.345 or ORS 305.620 which they deem necessary.

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

(14) Limits and Conditions. To the extent limited by applicable provisions of Article XI of the Oregon Constitution or other governing law, and within the limits of the Oregon Tort Claims Act applicable respectively to the Department and City, each party shall indemnify the other for damage to life or property arising from their respective duties and obligations under this Agreement, provided neither party shall be required to indemnify the other for any such liability arising out of a party's own negligent or wrongful acts.

(15) Confidentiality.

(a) Confidential Information may be disclosed only to City as principal, by the Department as its agency, for purposes of carrying out the administration of the Local Tax imposed by City. Requests for Confidential Information shall be made by City by giving not less than ten (10) days' notice to the Department, stating the information desired, the purposes of the request, and the use to be made of such information. If the compilation of information is not feasible, the Department shall so advise City.

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

John Galvin, Marijuana Tax Program Manager, marijuanatax.DOR@oregon.gov

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

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

(16) Term. The term of this Agreement shall be from the date it is executed by all parties and until it is terminated by operation of law or by either party at its discretion upon at least ninety (90) days prior written notice. Prior to the termination date specified in written notice provided under this section or Section 17 below, City and the Department will continue to

perform their respective duties and obligations of under this Agreement. After the termination date, the Department will cease all collection and other activities under this Agreement, unless prior to the termination date the Department and City agree in writing that the Department may continue actions that are pending before the Oregon Tax Court or the Oregon Supreme Court, or are being collected after judgment or stipulation. In addition, after the termination date the Department will continue to remit to City any Local Taxes received by the Department, after deduction of the Department's actual costs, until all matters pending on the date of termination have been resolved or collected. The Department will administer the Local Tax for City for each calendar quarter commencing after this Agreement is executed; provided, however, if this Agreement is fully executed on or before the 15th day of the calendar quarter, the Department will administer the Local Tax for the quarter in which this Agreement is executed.

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

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

City of Milwaukie
Finance Director
10722 SE Main Street
Milwaukie, Oregon 97222

Oregon Department of Revenue
Marijuana Tax Program
PO Box 14630
Salem, OR 97309

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

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

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

(22) Representations. Each party represents to the other that the making and performance of this Agreement: (a) have been duly authorized by its governing body or official, (b) does not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board or other administrative agency or any provision of any applicable local charter or other organizational document, and (c) do not and will not result in the

breach of, or constitute a default or require any consent under any other agreement or instrument to which the party is bound.

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

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

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

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

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

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

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

Oregon Department of Revenue

Name/Title:

Signature:

Date signed:

City: City of Milwaukie

Name/Title: Ann Ober, City Manager

Signature:

Date signed:

EXHIBIT A

DOR

SECURITY CLAUSE

and

SECURITY LAWS CERTIFICATE

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SECRECY CLAUSE

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

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

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

Penalties for unauthorized disclosure of state tax information

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

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

Penalties for unauthorized disclosure of federal tax information

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

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

Instructions

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

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

Oregon Income Tax Laws

ORS 314.835

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

(2) As used in this section:

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

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

ORS 314.991

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

Applicability to other tax programs

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

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

Oregon Inheritance Tax Laws

ORS 118.525

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

(2) As used in this section:

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

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

ORS 118.990

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

Oregon Property Tax Laws

ORS 308.290

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

ORS 308.413

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

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

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

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

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

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

ORS 308.990

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

Forestland Tax Laws

ORS 321.682

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

150-800-033 (Rev. 2-11)

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

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

ORS 321.686

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

Oregon Employment Department Laws

ORS 657.665

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

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

3



SECRECY LAWS CERTIFICATE

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

I have read the laws prohibiting disclosure of confidential information for the tax programs below.
The laws have been explained to me.
I have been furnished with a copy of the laws.
I understand Oregon's disclosure laws and the penalties for violating them.

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

VENDORS, CONTRACTORS, BUSINESS PARTNERS

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

REVENUE EMPLOYEES

PRINT your full name	Date
Signature X	

AGENCY USE

In Compliance Not in Compliance

EXHIBIT B

City of Milwaukie Ordinance No. 2127

**AN ORDINANCE ESTABLISHING A THREE PERCENT TAX ON THE SALE OF
RECREATIONAL MARIJUANA ITEMS BY A MARIJUANA RETAILER IN THE CITY OF
MILWAUKIE**

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CITY OF MILWAUKIE
"Dogwood City of the West"

Ordinance No. 2127

AN ORDINANCE ESTABLISHING A THREE PERCENT TAX ON THE SALE OF RECREATIONAL MARIJUANA ITEMS BY A MARIJUANA RETAILER IN THE CITY OF MILWAUKIE.

WHEREAS, Section 34a of House Bill 3400 (2015) (codified at ORS 475B.345) provides that a city council may adopt an ordinance to be referred to the voters that imposes up to a three percent tax or fee on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city;

WHEREAS, the Milwaukie City Council wishes to exercise that power to tax the sale of recreational marijuana items by a marijuana retailer in the City of Milwaukie; and

WHEREAS, this ordinance shall be referred to the electors of Milwaukie at the next statewide general election on Tuesday, November 8, 2016.

NOW, THEREFORE, THE CITY OF MILWAUKIE ORDAINS AS FOLLOWS:

SECTION 1. Milwaukie Municipal Code is amended by adding a new Chapter 5.65 Recreational Marijuana Tax, as provided in Exhibit A (Chapters 5.55 and 5.65 underline/strikeout version) and Exhibit B (Chapter 5.65 clean version).

SECTION 2. Severability. The sections, subsections, paragraphs and clauses of this ordinance or any intergovernmental agreement with the State of Oregon are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

SECTION 3. Savings. Notwithstanding any amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinance(s) or portions thereof were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

SECTION 4. Intergovernmental Cooperation. After the effective date of this Ordinance, the City may enter into an agreement whereby the State of Oregon, by and through any state department or agency, is responsible for the administration, collection, distribution or enforcement of the tax authorized under this chapter, either in full or in part, without needing to obtain voter approval.

SECTION 5. Repeal. Milwaukie Municipal Code Chapter 5.55 is hereby repealed, as shown in Exhibit A of the effective date of this ordinance.

SECTION 6. Effective Date. This ordinance shall be effective upon certification by the County Elections official that it has received voter approval at an election conducted on November 8, 2016, and further certification by the County Elections official that any measure on the ballot at the November 8, 2016 election prohibiting the establishment of marijuana entities or licenses, has not received voter approval.

Read the first time on 8/2/16, and moved to second reading by 5:0 vote of the City Council.

Read the second time and adopted by the City Council on 8/2/16.

Signed by the Mayor on 8/2/16.



Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC



Pat DuVal, City Recorder



City Attorney

Underline/Strikeout Amendments

~~CHAPTER 5.55 MARIJUANA TAX~~

~~5.55.010 PURPOSE~~

~~For the purposes of this chapter, every person who sells marijuana, medical marijuana or marijuana-infused products in the City of Milwaukie is exercising a taxable privilege. The purpose of this chapter is to impose a tax upon the retail sale of marijuana, medical marijuana, and marijuana-infused products.~~

~~5.55.015 DEFINITIONS~~

~~As used in this chapter, unless the context requires otherwise:~~

~~“Director” means the Director of Finance for the City of Milwaukie or designee.~~

~~“Gross sales” means the total amount received in money, credits, property or other consideration from sales of marijuana, medical marijuana and marijuana-infused products that is subject to the tax imposed by this chapter.~~

~~“Marijuana” means all parts of the plant of the Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin, as may be defined by Oregon Revised Statutes as they currently exist or may from time to time be amended. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted there from), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.~~

~~“Oregon Medical Marijuana Program” means the office within the Oregon Health authority that administers the provisions of ORS 475.300 through 475.346, the Oregon Medical Marijuana Act, and all policies and procedures pertaining thereto.~~

~~“Person” means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or any group or combination acting as a unit, including the United States of America, the State of Oregon and any political subdivision thereof, or the manager, lessee, agent, servant, officer or employee of any of them.~~

~~“Purchase or sale” means the acquisition or furnishing for consideration by any person of marijuana or marijuana-infused product within the city.~~

~~“Registry identification cardholder” means a person who has been diagnosed by an attending physician with a debilitating medical condition and for whom the use of medical marijuana may mitigate the symptoms or effects of the person’s debilitating medical condition, and who has been issued a registry identification card by the Oregon Health Authority.~~

~~“Retail sale” means the transfer of goods or services in exchange for any valuable consideration.~~

~~“Seller” means any person who is required to be licensed or has been licensed by the State of Oregon to provide marijuana or marijuana-infused products to purchasers for money, credit, property or other consideration.~~

~~“Tax” means either the tax payable by the seller or the aggregate amount of taxes due from a seller during the period for which the seller is required to report collections under this chapter.~~

“Taxpayer” means any person obligated to account to the Director of Finance for taxes collected or to be collected, or from whom a tax is due, under the terms of this chapter.

~~5.55.020 TAX IMPOSED~~

~~A tax is hereby levied and shall be paid by every seller exercising the taxable privilege of selling marijuana and marijuana-infused products as defined in this chapter. The Director is authorized to exercise all supervisory and administrative powers with regard to the enforcement, collection, and administration of the marijuana tax.~~

~~5.55.025 AMOUNT AND PAYMENT, EXEMPTION, DEDUCTIONS~~

- ~~A. In addition to any fees or taxes otherwise provided for by law, every seller engaged in the sale of marijuana and marijuana-infused products shall pay a tax of ten percent (10%) of the gross sale amount paid to the seller of marijuana and marijuana-infused products by individuals who are not registry identification cardholders purchasing marijuana or marijuana-infused products under the Oregon Medical Marijuana Program.~~
- ~~B. Sale of marijuana or marijuana-infused products to individuals who are registry identification cardholders purchasing marijuana or marijuana-infused products under the Oregon Medical Marijuana Program are exempt from taxation under subsection A of this section.~~
- ~~C. The following deductions shall be allowed against sales received by the seller providing marijuana or marijuana-infused products:
 - ~~1. Refunds of sales actually returned to any purchaser;~~
 - ~~2. Any adjustments in sales which amount to a refund to a purchaser, providing such adjustment pertains to the actual sale of marijuana or marijuana-infused products and does not include any adjustments for other services furnished by a seller.~~~~

~~5.55.030 SELLER RESPONSIBLE FOR PAYMENT OF TAX~~

- ~~A. Every seller shall, on or before the last day of the month following the end of each calendar quarter (in the months of April, July, October and January) make a return to the Director, on forms provided by the City, specifying the total sales subject to this chapter and the amount of tax collected under this chapter. The seller may request or the Director may establish shorter reporting periods for any seller if the seller or Director deems it necessary in order to ensure collection of the tax and the Director may require further information in the return relevant to payment of the tax. A return shall not be considered filed until it is actually received by the Director.~~
- ~~B. At the time the return is filed, the full amount of the tax collected shall be remitted to the Director. Payments received by the Director for application against existing liabilities will be credited toward the period designated by the taxpayer under conditions that are not prejudicial to the interest of the City. A condition considered prejudicial is the imminent expiration of the statute of limitations for a period or periods.~~
- ~~C. Non-designated payments shall be applied in the order of the oldest liability first, with the payment credited first toward any accrued penalty, then to interest, then to the underlying tax until the payment is exhausted. Crediting of a payment toward a specific reporting period will be first applied against any accrued penalty, then to interest, then to the underlying tax. If the Director, in his or her sole discretion, determines that an alternative order of payment application would be in the best interest of the City in a particular tax or factual situation, the Director may order such a change. The Director may establish shorter reporting periods for any seller if the Director deems it necessary in order to ensure collection of the tax. The Director also may require additional information in the return~~

relevant to payment of the liability. When a shorter return period is required, penalties and interest shall be computed according to the shorter return period. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by sellers pursuant to this chapter shall be held in trust for the account of the City until payment is made to the Director. A separate trust bank account is not required in order to comply with this provision.

- D. Every seller required to remit the tax imposed in this chapter shall be entitled to retain five percent (5%) of all taxes due to defray the costs of bookkeeping and remittance.
- E. Every seller must keep and preserve in an accounting format established by the Director records of all sales made by the dispensary and such other books or accounts as may be required by the Director. Every seller must keep and preserve for a period of three (3) years all such books, invoices and other records. The Director shall have the right to inspect all such records at all reasonable times.

5.55.035 PENALTIES AND INTEREST

- A. Any seller who fails to remit any portion of any tax imposed by this chapter within the time required shall pay a penalty of ten percent (10%) of the amount of the tax, in addition to the amount of the tax.
- B. Any seller who fails to remit any delinquent remittance on or before a period of sixty (60) days following the date on which the remittance first became delinquent, shall pay a second delinquency penalty of ten percent (10%) of the amount of the tax in addition to the amount of the tax and the penalty first imposed.
- C. If the Director determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of twenty five percent (25%) of the amount of the tax shall be added thereto in addition to the penalties stated in subsections A and B of this section.
- D. In addition to the penalties imposed, any seller who fails to remit any tax imposed by this chapter shall pay interest at the rate of one percent per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
- E. Every penalty imposed, and such interest as accrues under the provisions of this section, shall become a part of the tax required to be paid.
- F. All sums collected pursuant to the penalty provisions in subsections A and C of this section shall be distributed to the City of Milwaukie general fund to offset the costs of auditing and enforcement of this tax.

5.55.040 FAILURE TO REPORT AND REMIT TAX—DETERMINATION OF TAX BY DIRECTOR

If any seller should fail to make, within the time provided in this chapter, any report of the tax required by this chapter, the Director shall proceed in such manner as deemed best to obtain facts and information on which to base the estimate of tax due. As soon as the Director shall procure such facts and information as is able to be obtained, upon which to base the assessment of any tax imposed by this chapter and payable by any seller, the Director shall proceed to determine and assess against such seller the tax, interest and penalties provided for by this chapter. In case such determination is made, the Director shall give a notice of the amount so assessed by having it served personally or by depositing it in the United States mail, postage prepaid, addressed to the seller so assessed at the last known place of address. Such seller may make an appeal of such determination as provided in Section 5.55.045. If no appeal

is filed, the Director's determination is final and the amount thereby is immediately due and payable.

5.55.045 APPEAL

Any seller aggrieved by any decision of the Director with respect to the amount of such tax, interest and penalties, if any, may appeal pursuant to the City Council within thirty (30) days of the serving or mailing of the determination of tax due. The City Council shall hear and consider any records and evidence presented bearing upon the Director's determination of amount due, and make findings affirming, reversing or modifying the determination. The findings of the City Council shall be final and conclusive. Any amount found to be due shall be immediately due and payable upon the service of notice.

5.55.050 REFUNDS

- A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once, or has been erroneously collected or received by the City under this chapter, it may be refunded as provided in subsection B of this section, provided a claim in writing, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Director within one year of the date of payment. The claim shall be on forms furnished by the Director.
- B. The Director shall have twenty (20) calendar days from the date of receipt of a claim to review the claim and make a determination in writing as to the validity of the claim. The Director shall notify the claimant in writing of the Director's determination. Such notice shall be mailed to the address provided by claimant on the claim form. In the event a claim is determined by the Director to be a valid claim, in a manner prescribed by the Director a seller may claim a refund, or take as credit against taxes collected and remitted, the amount overpaid, paid more than once or erroneously collected or received. The seller shall notify Director of claimant's choice no later than fifteen (15) days following the date Director mailed the determination. In the event claimant has not notified the Director of claimant's choice within the fifteen (15) day period and the seller is still in business, a credit will be granted against the tax liability for the next reporting period. If the seller is no longer in business, a refund check will be mailed to claimant at the address provided in the claim form.
- C. Any credit for erroneous overpayment of tax made by a seller taken on a subsequent return or any claim for refund of tax erroneously overpaid filed by a seller must be so taken or filed within three (3) years after the date on which the overpayment was made to the City.
- D. No refund shall be paid under the provisions of this section unless the claimant established the right by written records showing entitlement to such refund and the Director acknowledged the validity of the claim.

5.55.055 ACTIONS TO COLLECT

Any tax required to be paid by any seller under the provisions of this chapter shall be deemed a debt owed by the seller to the City. Any such tax collected by a seller which has not been paid to the City shall be deemed a debt owed by the seller to the City. Any person owing money to the City under the provisions of this chapter shall be liable to an action brought in the name of the City of Milwaukie for the recovery of such amount. In lieu of filing an action for the recovery, the City of Milwaukie, when taxes due are more than thirty (30) days delinquent, can submit any outstanding tax to a collection agency. So long as the City of Milwaukie has complied with the provisions set forth in ORS 697.105, in the event the City turns over a delinquent tax account to a collection agency, it may add to the amount owing an amount equal to the collection agency

~~fees, not to exceed the greater of fifty dollars (\$50.00) or fifty percent (50%) of the outstanding tax, penalties and interest owing.~~

~~**5.55.060 VIOLATION**~~

~~A. A violation of this chapter shall be punishable by a mandatory fine not to exceed two hundred dollars (\$200.00). Each violation of a separate provision of this chapter shall constitute a separate offense and each day that a violation of this chapter is committed or permitted to continue shall constitute a separate offense. A violation of this chapter shall be processed pursuant to Chapter 1.08 of this code. It is a violation of this chapter for any seller or other person to:~~

- ~~1. Fail or refuse to comply as required herein;~~
- ~~2. Fail or refuse to furnish any return required to be made;~~
- ~~3. Fail or refuse to permit inspection of records;~~
- ~~4. Fail or refuse to furnish a supplemental return or other data required by the Director;~~
- ~~5. Render a false or fraudulent return or claim; or~~
- ~~6. Fail, refuse or neglect to remit the tax to the City by the due date.~~

~~B. The remedies provided by this section are not exclusive and shall not prevent the City from exercising any other remedy available under the law, nor shall the provisions of this ordinance prohibit or restrict the City or other appropriate prosecutor from pursuing criminal charges under state law or City ordinance.~~

~~**5.55.065 CONFIDENTIALITY**~~

~~Except as otherwise required by law, it shall be unlawful for the City, any officer, employee or agent to divulge, release or make known in any manner any financial information submitted or disclosed to the City under the terms of this chapter. Nothing in this section shall prohibit:~~

- ~~A. The disclosure of the names and addresses of any person who is operating a licensed establishment from which marijuana or marijuana-infused products are sold or provided; or~~
- ~~B. The disclosure of general statistics in a form which would not reveal an individual seller's financial information; or~~
- ~~C. Presentation of evidence to the court, or other tribunal having jurisdiction in the prosecution of any criminal or civil claim by the Director or an appeal from the Director for amount due the City under this chapter; or~~
- ~~D. The disclosure of information when such disclosure of conditionally exempt information is ordered under public records law procedures; or~~
- ~~E. The disclosure of records related to a business' failure to report and remit the tax when the report or tax is in arrears for over six (6) months or the tax exceeds five thousand dollars (\$5,000.00). The City Council expressly finds and determines that the public interest in disclosure of such records clearly outweighs the interest in confidentiality under ORS 192.501(5).~~

~~**5.55.070 AUDIT OF BOOKS, RECORDS, OR PERSONS**~~

~~A. The City, for the purpose of determining the correctness of any tax return, or for the purpose of an estimate of taxes due, may examine or may cause to be examined by an agent or representative designated by the City for that purpose, any books, papers, records, or memoranda, including copies of seller's state and federal income tax return,~~

Proposed Code Amendment

~~bearing upon the matter of the seller's tax return. All books, invoices, accounts and other records shall be made available within the city limits and be open at any time during regular business hours for examination by the Director or an authorized agent of the Director.~~

- ~~B. If the examinations or investigations disclose that any reports of sellers filed with the Director pursuant to the requirements herein have shown incorrectly the amount of tax accruing, the Director may make such changes in subsequent reports and payments, or make such refunds, as may be necessary to correct the errors disclosed by its examinations or investigations.~~
- ~~C. The seller shall reimburse the City for reasonable costs of the examination or investigation if the action disclosed that the seller paid ninety-seven percent (97%) or less of the tax owing for the period of the examination or investigation. In the event that such examination or investigation results in an assessment by and an additional payment due to the City, such additional payment shall be subject to interest at the rate of nine percent (9%) per year from the date the original tax payment was due.~~
- ~~D. If any taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the Director may immediately seek a subpoena from the Milwaukie Municipal Court to require that the taxpayer or a representative of the taxpayer attend a hearing or produce any such books, accounts and records for examination.~~
- ~~E. Every seller shall keep a record in such form as may be prescribed by the Director of all sales of marijuana and marijuana-infused products. The records shall at all times during the business hours of the day be subject to inspection by the Director or authorized officers or agents of the Director.~~
- ~~F. Every seller shall maintain and keep, for a period of three (3) years, all records of marijuana and marijuana-infused products sold.~~

5.55.075 FORMS AND REGULATIONS

The Director is hereby authorized to prescribe forms and promulgate rules and regulations to aid in the making of returns, the ascertainment, assessment and collection of said marijuana tax and in particular and without limiting the general language of this chapter, to provide for:

- ~~A. A form of report on sales and purchases to be supplied to all vendors;~~
 - ~~B. The records which sellers providing marijuana and marijuana-infused products are to keep concerning the tax imposed by this chapter.~~
-

Chapter 5.65

RECREATIONAL MARIJUANA TAX

5.65.010 Purpose
5.65.015 Definitions
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5.65.075 Intergovernmental Agreement

5.65.010 Purpose

The purpose of this chapter is to impose a three percent (3%) tax upon the retail sale of recreational marijuana items by marijuana retailers in the City of Milwaukie.

5.65.015 Definitions

As used in this ordinance, unless the context requires otherwise:

“Consumer” means a person who purchases, acquires, owns, holds or uses marijuana items other than for purposes of resale.

“Director” means the Director of Finance for the City of Milwaukie or his or her designee.

“Retail sale price” means the price paid for a marijuana item, excluding tax, to a marijuana retailer by or on behalf of a consumer of the marijuana item.

“Marijuana item” has the meaning given that term in ORS 475B.015(16).

“Person” means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or any group or combination acting as a unit, including the United States of America, the State of Oregon and any political subdivision thereof, or the manager, lessee, agent, servant, officer or employee of any of them.

“Marijuana retailer” means any person who is required to be licensed or registered or has been licensed or registered by the State of Oregon to provide marijuana items to consumers for money, credit, property or other consideration.

“Retail sale” or “Sale” means the exchange, gift or barter of a marijuana item by any person to a consumer.

“Tax” means either the tax payable by the marijuana retailer or the aggregate amount of taxes due from a marijuana retailer during the period for which the marijuana retailer is required to report collections under this chapter.

Proposed Code Amendment

“Taxpayer” means any person obligated to account to the Director for taxes collected or to be collected, or from whom a tax is due, under the terms of this chapter.

5.65.020 Tax Imposed

A tax is hereby levied and shall be paid by every marijuana retailer exercising the taxable privilege of selling marijuana items as defined in this chapter. The Director is authorized to exercise all supervisory and administrative powers with regard to the enforcement, collection, and administration of the marijuana tax.

5.65.025 Amount, Payment, and Deductions

In addition to any fees or taxes otherwise provided for by law, every marijuana retailer engaged in the sale of marijuana items in the City of Milwaukie shall pay a tax of three percent (3%) of the retail sale price paid to the marijuana retailer of marijuana items. The tax shall be collected at the point of sale of a marijuana item by a marijuana retailer at the time at which the retail sale occurs and remitted by each marijuana retailer that engages in the retail sale of marijuana items.

5.65.030 Marijuana Retailer Responsible for Payment of Tax

- A. Every marijuana retailer selling recreational marijuana shall, on or before the last day of the month following the end of each calendar quarter (in the months of April, July, October, and January) make a return to the Director, on forms provided by the City, specifying the total sales of recreational marijuana subject to this chapter and the amount of tax collected under this chapter. The marijuana retailer may request or the Director may establish shorter reporting periods for any marijuana retailer if the marijuana retailer or Director deems it necessary in order to ensure collection of the tax and the Director may require further information in the return relevant to payment of the tax. A return shall not be considered filed until it is actually received by the Director.
- B. At the time the return is filed, the full amount of the tax collected shall be remitted to the Director.
- C. Payments shall be applied in the order of the oldest liability first, with the payment credited first toward any accrued penalty, then to interest, then to the underlying tax until the payment is exhausted. Crediting of a payment toward a specific reporting period will be first applied against any accrued penalty, then to interest, then to the underlying tax. If the Director, in his or her sole discretion, determines that an alternative order of payment application would be in the best interest of the City in a particular tax or factual situation, the Director may order such a change. The Director may establish shorter reporting periods for any marijuana retailer if the Director deems it necessary in order to ensure collection of the tax. The Director also may require additional information in the return relevant to payment of the liability. When a shorter return period is required, penalties and interest shall be computed according to the shorter return period. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by marijuana retailers pursuant to this chapter shall be held in trust for the account of the City until payment is made to the Director. A separate trust bank account is not required in order to comply with this provision.
- D. Every marijuana retailer must keep and preserve in an accounting format established by the Director records of all recreational sales made by the retailer and such other books or accounts as may be required by the Director for a period of three (3) years or until all taxes associated with the sales have been paid, whichever is longer. The City shall have the right to inspect all such records at all reasonable times.

5.65.035 Penalties and Interest

- A. Any marijuana retailer who fails to remit any portion of any tax imposed by this chapter within the time required shall pay a penalty of ten percent (10%) of the amount of the tax, in addition to the amount of the tax.
- B. If the Director determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to the penalties stated in subparagraphs 1 and 3 of this section.
- C. In addition to the penalties imposed, any marijuana retailer who fails to remit any tax imposed by this chapter shall pay interest at the rate of nine percent (9%) per annum or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
- D. Every penalty imposed, and such interest as accrues for violation of this chapter are separate from, and in addition to, the tax imposed on the sale of marijuana items.
- E. All sums collected pursuant to the penalty provisions in this section shall be distributed to the City of Milwaukie General Fund to offset the costs of auditing and enforcement of this tax.

5.65.040 Appeal

Any marijuana retailer aggrieved by any decision of the Director with respect to the amount of such tax, interest and penalties, if any, may appeal to the City Council within thirty (30) days of the serving or mailing of the determination of tax due. The City Council shall hear and consider any records and evidence presented bearing upon the Director's determination of amount due, and make findings affirming, reversing or modifying the determination. The findings of the City Council shall be final and conclusive. Any amount found to be due shall be immediately due and payable upon the service of notice.

5.65.045 Refunds

- A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once, or has been erroneously collected or received by the City under this chapter, it may be refunded as provided in subparagraph 2 of this section, provided a claim in writing, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Director within one year of the date of payment. The claim shall be on forms furnished by the Director.
- B. The Director shall have thirty (30) calendar days from the date of receipt of a claim to review the claim and make a determination in writing as to the validity of the claim. The Director shall notify the claimant in writing of the Director's determination. Such notice shall be mailed to the address provided by claimant on the claim form. In the event a claim is determined by the Director to be a valid claim, in a manner prescribed by the Director a marijuana retailer may claim a refund, or take as credit against taxes collected and remitted, the amount overpaid, paid more than once or erroneously collected or received. The marijuana retailer shall notify Director of claimant's choice no later than fifteen (15) days following the date Director mailed the determination. In the event claimant has not notified the Director of claimant's choice within the fifteen (15) day period and the marijuana retailer is still in business, a credit will be granted against the tax liability for the next reporting period. If the marijuana retailer is no longer in business, a refund check will be mailed to claimant at the address provided in the claim form.

Proposed Code Amendment

- C. No refund shall be paid under the provisions of this section unless the claimant established the right by written records showing entitlement to such refund and the Director acknowledged the validity of the claim.

5.65.050 Actions to Collect

Any tax required to be paid by any marijuana retailer under the provisions of this chapter shall be deemed a debt owed by the marijuana retailer to the City. Any such tax collected by a marijuana retailer which has not been paid to the City shall be deemed a debt owed by the marijuana retailer to the City. Any person owing money to the City under the provisions of this chapter shall be liable to an action brought in the name of the City of Milwaukie for the recovery of such amount. In lieu of filing an action for the recovery, the City of Milwaukie, when taxes due are more than thirty (30) days delinquent, can submit any outstanding tax to a collection agency. So long as the City of Milwaukie has complied with the provisions set forth in ORS 697.105, in the event the City turns over a delinquent tax account to a collection agency, it may add to the amount owing an amount equal to the collection agency fees, not to exceed fifty percent (50%) of the outstanding tax, penalties and interest owing.

5.65.055 Violation

- A. Violation of this chapter shall constitute a violation pursuant to Chapter 1.12 of this code, General Penalty. It is a violation of this chapter for any marijuana retailer or other person to:
1. Fail or refuse to comply as required herein;
 2. Fail or refuse to furnish any return required to be made;
 3. Fail or refuse to permit inspection of records;
 4. Fail or refuse to furnish a supplemental return or other data required by the Director;
 5. Render a false or fraudulent return or claim; or
 6. Fail, refuse or neglect to remit the tax to the City by the due date.
- B. The remedies provided by this section are not exclusive and shall not prevent the City from exercising any other remedy available under the law, nor shall the provisions of this ordinance prohibit or restrict the City or other appropriate prosecutor from pursuing criminal charges under state law or City ordinance.

5.65.060 Confidentiality

Except as otherwise required by law, it shall be unlawful for the City, any officer, employee or agent to divulge, release, or make known in any manner any financial information submitted or disclosed to the City under the terms of this chapter. Nothing in this section shall prohibit:

- A. The disclosure of general statistics in a form which would not reveal an individual marijuana retailer's financial information; or
- B. The disclosure of information to any state agency related to the licensing or registration of the marijuana retailer or when required to carry out any part of this chapter.
- C. Presentation of evidence to the court, or other tribunal having jurisdiction in the prosecution of any criminal or civil claim by the Director or an appeal from the Director for amount due the City under this chapter; or
- D. The disclosure of information when such disclosure of conditionally exempt information is ordered under public records law procedures; or

E. The disclosure of records related to a business' failure to report and remit the tax when the report or tax is in arrears for over six (6) months or the tax exceeds five thousand dollars (\$5,000). The City Council expressly finds and determines that the public interest in disclosure of such records clearly outweighs the interest in confidentiality under ORS 192.501(5).

5.65.065 Audit of Books, Records, or Persons

A. The City, for the purpose of determining the correctness of any tax return, or for the purpose of an estimate of taxes due, may examine or may cause to be examined by an agent or representative designated by the City for that purpose, any books, papers, records, or memoranda, including copies of marijuana retailer's state and federal income tax return, bearing upon the matter of the marijuana retailer's tax return. All books, invoices, accounts and other records shall be made available within the City limits and be open at any time during regular business hours for examination by the Director or an authorized agent of the Director.

B. If the examinations or investigations disclose that any reports of marijuana retailers filed with the Director pursuant to the requirements herein have shown incorrectly the amount of tax accruing, the Director may make such changes in subsequent reports and payments, or make such refunds, as may be necessary to correct the errors disclosed by its examinations or investigations.

C. The marijuana retailer shall reimburse the City for reasonable costs of the examination or investigation if the action disclosed that the marijuana retailer underpaid by 3% or more tax owing for the period of the examination or investigation. In the event that such examination or investigation results in an assessment by and an additional payment due to the City, such additional payment shall be subject to interest at the rate set by resolution of Council from the date the original tax payment was due.

D. If any taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the Director may immediately seek a subpoena to require that the taxpayer or a representative of the taxpayer attend a hearing or produce any such books, accounts, and records for examination.

E. Every marijuana retailer shall keep a record in such form as may be prescribed by the Director of all sales of marijuana items. The records shall at all times during the business hours of the day be subject to inspection by the Director or authorized officers or agents of the Director.

F. Every marijuana retailer shall maintain and keep, for a period of three (3) years, all records of marijuana items sold.

5.65.070 Forms and Regulations

The Director is hereby authorized to prescribe forms and promulgate rules and regulations to aid in the making of returns, the ascertainment, assessment, and collection of said recreational marijuana tax and in particular and without limiting the general language of this chapter, to provide for:

A. A form to report on sales and purchases to be supplied to all vendors;

B. The records which marijuana retailers are to keep concerning the tax imposed by this chapter.

C. A form to report refund claims.

5.65.075 Intergovernmental Agreement

The City Council may enter into an IGA with the State of Oregon whereby a state department or agency is responsible for the administration, collection, distribution, or enforcement of the tax authorized by this chapter, either in full or in part. The terms of that agreement shall apply in lieu of and shall supersede conflicting provisions of this chapter but shall not be construed as repealing any provision of this chapter.

Clean Amendments

Chapter 5.65

RECREATIONAL MARIJUANA TAX

- 5.65.010 Purpose
- 5.65.015 Definitions
- 5.65.020 Tax Imposed
- 5.65.025 Amount, Payment, and Deductions
- 5.65.030 Marijuana Retailer Responsible for Payment of Tax
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- 5.65.065 Audit of Books, Records, or Persons
- 5.65.070 Forms and Regulations
- 5.65.075 Intergovernmental Agreement

5.65.010 Purpose

The purpose of this chapter is to impose a three percent (3%) tax upon the retail sale of recreational marijuana items by marijuana retailers in the City of Milwaukie.

5.65.015 Definitions

As used in this ordinance, unless the context requires otherwise:

“Consumer” means a person who purchases, acquires, owns, holds or uses marijuana items other than for purposes of resale.

“Director” means the Director of Finance for the City of Milwaukie or his or her designee.

“Retail sale price” means the price paid for a marijuana item, excluding tax, to a marijuana retailer by or on behalf of a consumer of the marijuana item.

“Marijuana item” has the meaning given that term in ORS 475B.015(16).

“Person” means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or any group or combination acting as a unit, including the United States of America, the State of Oregon and any political subdivision thereof, or the manager, lessee, agent, servant, officer or employee of any of them.

“Marijuana retailer” means any person who is required to be licensed or registered or has been licensed or registered by the State of Oregon to provide marijuana items to consumers for money, credit, property or other consideration.

“Retail sale” or “Sale” means the exchange, gift or barter of a marijuana item by any person to a consumer.

“Tax” means either the tax payable by the marijuana retailer or the aggregate amount of taxes due from a marijuana retailer during the period for which the marijuana retailer is required to report collections under this chapter.

Proposed Code Amendment

“Taxpayer” means any person obligated to account to the Director for taxes collected or to be collected, or from whom a tax is due, under the terms of this chapter.

5.65.020 Tax Imposed

A tax is hereby levied and shall be paid by every marijuana retailer exercising the taxable privilege of selling marijuana items as defined in this chapter. The Director is authorized to exercise all supervisory and administrative powers with regard to the enforcement, collection, and administration of the marijuana tax.

5.65.025 Amount, Payment, and Deductions

In addition to any fees or taxes otherwise provided for by law, every marijuana retailer engaged in the sale of marijuana items in the City of Milwaukie shall pay a tax of three percent (3%) of the retail sale price paid to the marijuana retailer of marijuana items. The tax shall be collected at the point of sale of a marijuana item by a marijuana retailer at the time at which the retail sale occurs and remitted by each marijuana retailer that engages in the retail sale of marijuana items.

5.65.030 Marijuana Retailer Responsible for Payment of Tax

- A. Every marijuana retailer selling recreational marijuana shall, on or before the last day of the month following the end of each calendar quarter (in the months of April, July, October, and January) make a return to the Director, on forms provided by the City, specifying the total sales of recreational marijuana subject to this chapter and the amount of tax collected under this chapter. The marijuana retailer may request or the Director may establish shorter reporting periods for any marijuana retailer if the marijuana retailer or Director deems it necessary in order to ensure collection of the tax and the Director may require further information in the return relevant to payment of the tax. A return shall not be considered filed until it is actually received by the Director.
- B. At the time the return is filed, the full amount of the tax collected shall be remitted to the Director.
- C. Payments shall be applied in the order of the oldest liability first, with the payment credited first toward any accrued penalty, then to interest, then to the underlying tax until the payment is exhausted. Crediting of a payment toward a specific reporting period will be first applied against any accrued penalty, then to interest, then to the underlying tax. If the Director, in his or her sole discretion, determines that an alternative order of payment application would be in the best interest of the City in a particular tax or factual situation, the Director may order such a change. The Director may establish shorter reporting periods for any marijuana retailer if the Director deems it necessary in order to ensure collection of the tax. The Director also may require additional information in the return relevant to payment of the liability. When a shorter return period is required, penalties and interest shall be computed according to the shorter return period. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by marijuana retailers pursuant to this chapter shall be held in trust for the account of the City until payment is made to the Director. A separate trust bank account is not required in order to comply with this provision.
- D. Every marijuana retailer must keep and preserve in an accounting format established by the Director records of all recreational sales made by the retailer and such other books or accounts as may be required by the Director for a period of three (3) years or until all taxes associated with the sales have been paid, whichever is longer. The City shall have the right to inspect all such records at all reasonable times.

5.65.035 Penalties and Interest

- A. Any marijuana retailer who fails to remit any portion of any tax imposed by this chapter within the time required shall pay a penalty of ten percent (10%) of the amount of the tax, in addition to the amount of the tax.
- B. If the Director determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to the penalties stated in subparagraphs 1 and 3 of this section.
- C. In addition to the penalties imposed, any marijuana retailer who fails to remit any tax imposed by this chapter shall pay interest at the rate of nine percent (9%) per annum or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
- D. Every penalty imposed, and such interest as accrues for violation of this chapter are separate from, and in addition to, the tax imposed on the sale of marijuana items.
- E. All sums collected pursuant to the penalty provisions in this section shall be distributed to the City of Milwaukie General Fund to offset the costs of auditing and enforcement of this tax.

5.65.040 Appeal

Any marijuana retailer aggrieved by any decision of the Director with respect to the amount of such tax, interest and penalties, if any, may appeal to the City Council within thirty (30) days of the serving or mailing of the determination of tax due. The City Council shall hear and consider any records and evidence presented bearing upon the Director's determination of amount due, and make findings affirming, reversing or modifying the determination. The findings of the City Council shall be final and conclusive. Any amount found to be due shall be immediately due and payable upon the service of notice.

5.65.045 Refunds

- A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once, or has been erroneously collected or received by the City under this chapter, it may be refunded as provided in subparagraph 2 of this section, provided a claim in writing, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Director within one year of the date of payment. The claim shall be on forms furnished by the Director.
- B. The Director shall have thirty (30) calendar days from the date of receipt of a claim to review the claim and make a determination in writing as to the validity of the claim. The Director shall notify the claimant in writing of the Director's determination. Such notice shall be mailed to the address provided by claimant on the claim form. In the event a claim is determined by the Director to be a valid claim, in a manner prescribed by the Director a marijuana retailer may claim a refund, or take as credit against taxes collected and remitted, the amount overpaid, paid more than once or erroneously collected or received. The marijuana retailer shall notify Director of claimant's choice no later than fifteen (15) days following the date Director mailed the determination. In the event claimant has not notified the Director of claimant's choice within the fifteen (15) day period and the marijuana retailer is still in business, a credit will be granted against the tax liability for the next reporting period. If the marijuana retailer is no longer in business, a refund check will be mailed to claimant at the address provided in the claim form.

Proposed Code Amendment

- C. No refund shall be paid under the provisions of this section unless the claimant established the right by written records showing entitlement to such refund and the Director acknowledged the validity of the claim.

5.65.050 Actions to Collect

Any tax required to be paid by any marijuana retailer under the provisions of this chapter shall be deemed a debt owed by the marijuana retailer to the City. Any such tax collected by a marijuana retailer which has not been paid to the City shall be deemed a debt owed by the marijuana retailer to the City. Any person owing money to the City under the provisions of this chapter shall be liable to an action brought in the name of the City of Milwaukie for the recovery of such amount. In lieu of filing an action for the recovery, the City of Milwaukie, when taxes due are more than thirty (30) days delinquent, can submit any outstanding tax to a collection agency. So long as the City of Milwaukie has complied with the provisions set forth in ORS 697.105, in the event the City turns over a delinquent tax account to a collection agency, it may add to the amount owing an amount equal to the collection agency fees, not to exceed fifty percent (50%) of the outstanding tax, penalties and interest owing.

5.65.055 Violation

- A. Violation of this chapter shall constitute a violation pursuant to Chapter 1.12 of this code, General Penalty. It is a violation of this chapter for any marijuana retailer or other person to:
1. Fail or refuse to comply as required herein;
 2. Fail or refuse to furnish any return required to be made;
 3. Fail or refuse to permit inspection of records;
 4. Fail or refuse to furnish a supplemental return or other data required by the Director;
 5. Render a false or fraudulent return or claim; or
 6. Fail, refuse or neglect to remit the tax to the City by the due date.
- B. The remedies provided by this section are not exclusive and shall not prevent the City from exercising any other remedy available under the law, nor shall the provisions of this ordinance prohibit or restrict the City or other appropriate prosecutor from pursuing criminal charges under state law or City ordinance.

5.65.060 Confidentiality

Except as otherwise required by law, it shall be unlawful for the City, any officer, employee or agent to divulge, release, or make known in any manner any financial information submitted or disclosed to the City under the terms of this chapter. Nothing in this section shall prohibit:

- A. The disclosure of general statistics in a form which would not reveal an individual marijuana retailer's financial information; or
- B. The disclosure of information to any state agency related to the licensing or registration of the marijuana retailer or when required to carry out any part of this chapter.
- C. Presentation of evidence to the court, or other tribunal having jurisdiction in the prosecution of any criminal or civil claim by the Director or an appeal from the Director for amount due the City under this chapter; or
- D. The disclosure of information when such disclosure of conditionally exempt information is ordered under public records law procedures; or

- E. The disclosure of records related to a business' failure to report and remit the tax when the report or tax is in arrears for over six (6) months or the tax exceeds five thousand dollars (\$5,000). The City Council expressly finds and determines that the public interest in disclosure of such records clearly outweighs the interest in confidentiality under ORS 192.501(5).

5.65.065 Audit of Books, Records, or Persons

- A. The City, for the purpose of determining the correctness of any tax return, or for the purpose of an estimate of taxes due, may examine or may cause to be examined by an agent or representative designated by the City for that purpose, any books, papers, records, or memoranda, including copies of marijuana retailer's state and federal income tax return, bearing upon the matter of the marijuana retailer's tax return. All books, invoices, accounts and other records shall be made available within the City limits and be open at any time during regular business hours for examination by the Director or an authorized agent of the Director.
- B. If the examinations or investigations disclose that any reports of marijuana retailers filed with the Director pursuant to the requirements herein have shown incorrectly the amount of tax accruing, the Director may make such changes in subsequent reports and payments, or make such refunds, as may be necessary to correct the errors disclosed by its examinations or investigations.
- C. The marijuana retailer shall reimburse the City for reasonable costs of the examination or investigation if the action disclosed that the marijuana retailer underpaid by 3% or more tax owing for the period of the examination or investigation. In the event that such examination or investigation results in an assessment by and an additional payment due to the City, such additional payment shall be subject to interest at the rate set by resolution of Council from the date the original tax payment was due.
- D. If any taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the Director may immediately seek a subpoena to require that the taxpayer or a representative of the taxpayer attend a hearing or produce any such books, accounts, and records for examination.
- E. Every marijuana retailer shall keep a record in such form as may be prescribed by the Director of all sales of marijuana items. The records shall at all times during the business hours of the day be subject to inspection by the Director or authorized officers or agents of the Director.
- F. Every marijuana retailer shall maintain and keep, for a period of three (3) years, all records of marijuana items sold.

5.65.070 Forms and Regulations

The Director is hereby authorized to prescribe forms and promulgate rules and regulations to aid in the making of returns, the ascertainment, assessment, and collection of said recreational marijuana tax and in particular and without limiting the general language of this chapter, to provide for:

- A. A form to report on sales and purchases to be supplied to all vendors;
- B. The records which marijuana retailers are to keep concerning the tax imposed by this chapter.
- C. A form to report refund claims.

5.65.075 Intergovernmental Agreement

The City Council may enter into an IGA with the State of Oregon whereby a state department or agency is responsible for the administration, collection, distribution, or enforcement of the tax authorized by this chapter, either in full or in part. The terms of that agreement shall apply in lieu of and shall supersede conflicting provisions of this chapter but shall not be construed as repealing any provision of this chapter.



MILWAUKIE CITY COUNCIL
STAFF REPORT

Agenda Item: **RS 3. C.**
Meeting Date: **12/20/16**

To: Mayor and City Council
Through: Ann Ober, City Manager

Subject: **2016 Arbor Day Proclamation**

From: Mitch Nieman, Assistant to City Manager

Date: 12/20/2016

ACTION REQUESTED

Proclaim April 23, 2016, as “Arbor Day” to fulfill requirements of a “Tree City USA” application.

BACKGROUND

In the past, the city proclaimed Arbor Day on April 3, 1990, and on April 4, 2000. See attached proclamations.

This year, the city hosted an Arbor Day celebration on April 23. At the event, a ceremonial Oregon White Oak was planted in Dogwood Park, and staff and the Parks Board gave away over 350 species of native Oregon trees to community members to plant.

The main purpose of the April 23, 2016, Arbor Day celebration was to fulfill a Tree City USA application requirement set forth by the Arbor Day Foundation, the entity that approves and administers Tree City USA designations around the country.

Tree City USA application guidelines were vague in the sense that staff perceived hosting an Arbor Day celebration and proclaiming Arbor Day were the same thing. They’re not. The application requires the City to execute each as a separate action. That said, the subject proclamation is needed to move forward with an application this year.

ALTERNATIVES

1. Proclaim April 23 as Arbor Day
2. Do not proclaim April 23 as Arbor Day and direct staff to defer application to a future date

FISCAL IMPACTS

Costs associated with this action are minimal and will be absorbed in the City Manager and Public Works budgets. This includes staff time to administer the City’s urban forestry program (a requirement of Tree City USA) and the cost to procure and install Tree City USA signage if a designation is awarded.

ATTACHMENTS

1. Arbor Day Proclamation 2016
2. Arbor Day Proclamation 2000
3. Arbor Day Proclamation 1990



CITY OF MILWAUKIE
"Dogwood City of the West"

PROCLAMATION

WHEREAS, in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and

WHEREAS, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska; and

WHEREAS, Arbor Day is now observed throughout the nation and the world; and

WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce life-giving oxygen, and provide habitat for wildlife; and

WHEREAS, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products; and

WHEREAS, trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community; and

WHEREAS, trees, wherever they are planted, are a source of joy and spiritual renewal.

NOW, THEREFORE, I, Mark Gamba, Mayor of the City of Milwaukie, a municipal corporation in the County of Clackamas, in the State of Oregon, do hereby proclaim April 23, 2016, as Arbor Day in the City of Milwaukie, and I urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands; and

FURTHER, I urge all citizens to plant trees to gladden the heart and promote the well-being of this and future generations.

IN WITNESS WHEREOF, and with the consent of the City Council of the City of Milwaukie, I have hereunto set my hand on this 20 day of December, 2016.

Mark Gamba, Mayor

ATTEST:

Scott S. Stauffer, City Recorder



A PROCLAMATION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON

- Whereas, In 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and
 - Whereas, This holiday, called Arbor Day, was first observed with the planting of more than a million trees; and
 - Whereas, The year 2000 is the 128th anniversary of the holiday and Arbor Day is now observed throughout the nation and the world; and
 - Whereas, Trees can reduce the erosion of topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air and provide habitat for wildlife; and
 - Whereas, Trees are a renewable resource giving us paper, wood, fuel, and beauty in our community;
- Now, therefore, I, Carolyn Tomei, Mayor of the City of Milwaukie on behalf of the City Council, do hereby proclaim April 4, 2000 as the 128th anniversary celebration of **Arbor Day** in the City of Milwaukie, and I urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands; and
- Further, I urge all citizens to plant trees to promote the well-being of this and future generations.

Introduced and adopted by the City Council of the City of Milwaukie on April 4, 2000.

Carolyn Tomei, Mayor

ATTEST:

Approved as to form:
 Ramis, Crew, Corrigan & Bachrach, LLP

Pat DuVal, City Recorder

Justin V. Ramis, City Attorney

RS51

PROCLAMATION

WHEREAS, Oregon is the nation's leading timber producer; and

WHEREAS, more than one-third of Oregon's economy is directly linked to Oregon's forests; and

WHEREAS, 105 million trees are planted each year in our state; that's about fifty trees for every Oregonian; and

WHEREAS, landscaping with evergreens can result in a 20% savings in fuel bills; and

WHEREAS, in Milwaukie we enjoy thousands of trees which provide us with shade, clean air, sound barriers and year-round scenery,

NOW, THEREFORE, LET IT BE RESOLVED, that by virtue of the authority invested in me as Mayor of the City of Milwaukie, I, Roger Hall, do proclaim the week of April 1 through April 7, 1990 as "Arbor Week" in Milwaukie, and April 3, 1990 as "Milwaukie's Arbor Day", and encourage all citizens to participate.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the official Seal of the City of Milwaukie to be affixed this 3rd day of April, 1990.



Roger A. Hall, Mayor

ATTEST:



Jerri L. Widner, City Recorder



**Regular Session
Agenda Item No.**

6

Other Business



MILWAUKIE CITY COUNCIL
STAFF REPORT

Agenda Item: **RS 6. A.**
Meeting Date: **12/20/16**

Added 12/16/16

To: Mayor and City Council

Through: Ann Ober, City Manager

Subject: **Architectural Design Team Recommendation
Resolution**

From: Katie Newell, Library Director

Date: December 13, 2016

ACTION REQUESTED

Approve the resolution to authorize the City Manager to execute a contract with Hacker to provide architectural design services to the City for the renovation and expansion of the Ledding Library of Milwaukie.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

On May 17, 2016, the Citizens of Milwaukie voted to authorize the City to issue up to \$9.2 million of general obligation bonds for improvements of the Ledding Library. In September 2016, Shiels Oblatz Johnsen (SOJ) was selected as the project manager. This is the next step in creating a full team to complete this project.

BACKGROUND

A RFP for an Architectural Design Team was issued by the City of Milwaukie on October 10, 2016. Proposal due date was November 4, 2016. Three proposals were received in response to the RFP.

On November 17, 2016, Scott Churchill, City Councilor; Ann Ober, City Manager; Chuck Eaton, Engineering Director; Dan Naughton, Project Manager, Shiels Oblatz Johnsen (SOJ); Charlie Bahlman, SOJ; Katie Newell, Library Director, interviewed the three firms.

The criteria listed in the RFP:

- Proposal submitted on time
- Introductory Letter
- Team Capacity and Relative Experience
- Building Renovation Experience
- CM/GC Experience and Qualifications
- Project Approach
- Proposed Design Schedule
- Agreement
- Overall quality of response and conformance with RFP requirements
- Interview and Presentation

The Notice of Intent To Award and enter into negotiations on compensation and scope of services with Hacker as the selected Architectural Design Team was approved at a Special Meeting of Council on November 28, 2016. These negotiations are complete and staff is recommending award of the Architectural Design Team Services Agreement to Hacker for a not to exceed amount of **\$1,336,406.00**.

FISCAL IMPACTS

Project is funded through the bond passed to renovate and expand the Ledding Library.

WORK LOAD IMPACTS

Once selected, the architectural design team will be working closely with the Library Director throughout the Library improvements project.

ALTERNATIVES

1. Reject the selected firm and proceed to negotiations with the next most qualified consultant.
2. Reject all firms.

ATTACHMENTS

1. Resolution
2. Architect's Service Agreement



CITY OF MILWAUKIE
"Dogwood City of the West"

Resolution No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT WITH HACKER TO BE THE ARCHITECTURAL DESIGN TEAM OF THE LIBRARY CONSTRUCTION PROJECT.

WHEREAS, at the May 17, 2016, Primary Election the voters of Milwaukie authorized the City to undertake a construction project to expand and update the Ledding Library; and

WHEREAS, the City has undertaken a request for proposals (RFP) process to solicit and review applications for architectural design teams; and

WHEREAS, a subcommittee comprised of City Council and staff reviewed all proposals received, interviewed 3 qualified applicants for the architectural design team contract; and

WHEREAS, Hacker has met the criteria of the RFP process and is qualified to act as the City's Library Architectural Design Team.

Now, Therefore, be it Resolved that the City Manager is authorized to sign a contract with Hacker to be the Architectural Design Team for the Ledding Library of Milwaukie Construction Project, for a contract not-to-exceed \$1,336,406.00.

Introduced and adopted by the City Council on _____.

This resolution is effective on _____.

Ann Ober, City Manager

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Scott Stauffer, City Recorder

City Attorney

HACKER

733 Southwest Oak Street v 503-227-1254
Portland, Oregon 97205 hackerarchitects.com

December 14, 2016;

Dan Naughton
Sheils Oblatz Johnsen

**Re: Ledding Library and Pond House
Proposal for Design Services**

Dan:

We are excited for the opportunity to collaborate with the you on the new Ledding Library and Pond House. With this letter we describe our understanding of the project scope and assumptions based on the request for proposal as well as our conversations with you.

Project Understanding

The project consists of 2 parts:

1. **Main Library:** The renovation and addition to the existing Ledding Library. The renovation scope is approximately 12,250 sf and the addition is 10,000 – 13,000 sf for an estimated total useable area of 22,000-25,000 sf. Sustainable design elements are important to the city and pursuing LEED certification will be analyzed by the team prior to Schematic Design.
2. **Pond House:** The renovation of the existing Pond House. The Pond House is an approx. 1000 sf private residence and is owned by the Ledding Library. It has been previously renovated to accommodate a meeting room and used book store, but requires further renovation to accommodate library program as determined by the revised Library Program and Schematic design.

The estimated budget for construction is approximately \$6M-7M.

Schedule

This proposal is based on the following durations and milestones. The anticipated contract start date is January 3rd, 2017

Phase	Duration - weeks	Assumptions
PreDesign / Programming	8	Revise Existing Program Library Building Assessment
Schematic Design	12	Milestone, estimate
Design Development	12	Milestone, estimate
Type III Land Use Review	12 (concurrent w/ DD)	Milestone
Construction Documents	14	
50% CD		Milestone, estimate
90% CD		Milestone, permit set, estimate
100% CD		final permit
Building Permit	10 (4 weeks concurrent w/CDs, 6 weeks concurrent w/ Bid)	Single permit at completion of 90 % CD's
Bid	6	
Construction	14 months	

Contract

We anticipate negotiating the contract once this proposal is accepted. This proposal assumes using the owner's modified version of the American Institute of Architects B101 Standard form of Agreement between Owner and Architect as a baseline for negotiation. We request that this proposal letter (and attached exhibits) be included as an exhibit to the contract.

Insurance

Hacker and our consultants will carry insurance as set forth in the contract.

Delivery Method

We understand you intend to pursue a CMGC approach with competitive bidding for fee, general conditions, and all subcontractors. We assume the contractor will be on board by Jan 1. and that they will be responsible for construction schedule, cost estimating, logistics and constructability services. The design team is entitled to rely on the input of the contractor. If possible, we would request that Hacker be allowed to participate in the selection process.

Design Team & Fees : Main Library

The lump sum fee and reimbursable allowance is as outlined below :

Discipline	Firm	PD	SD	DD	CD	BID	CA	Close Out	Basic Services	Total Fee
BASIC SERVICES										
Architectural	Subtotal	\$ 47,080	\$ 127,974	\$ 139,359	\$ 133,297	\$ 16,286	\$ 179,533	\$ 10,120	\$ 606,569	\$ 653,649
MEP	PAE	\$ 5,000	\$ 14,000	\$ 25,000	\$ 35,500	\$ 1,000	\$ 29,000	\$ 14,500	\$ 119,000	\$ 124,000
Structural	ABHT	\$ 11,000	\$ 16,200	\$ 21,600	\$ 48,600	\$ 5,400	\$ 16,200		\$ 108,000	\$ 119,000
BASIC SERVICES		\$ 63,080	\$ 158,174	\$ 185,959	\$ 217,397	\$ 22,686	\$ 224,733	\$ 24,620	\$ 833,569	\$ 896,649
ADDITIONAL SERVICES										
FF&E (to be determined)	Hacker	\$ -	\$ -	\$ -	\$ 34,000	\$ -	\$ 3,000	\$ -	\$ 37,000	\$ 37,000
Civil	HHPR		\$ 9,500	\$ 23,000	\$ 30,000	\$ 2,500	\$ 7,500	\$ 2,000	\$ 74,500	\$ 74,500
Landscape	Place		\$ 19,000	\$ 26,000	\$ 38,000	\$ 3,000	\$ 8,500	\$ 1,500	\$ 96,000	\$ 96,000
Lighting	O-Lighting		\$ 1,080	\$ 6,900	\$ 1,080	\$ 1,080	\$ 1,080	\$ 810	\$ 12,030	\$ 12,030
Telecom/AV/Security	PAE	\$ 1,500	\$ 3,500	\$ 6,000	\$ 9,000	\$ 500	\$ 4,000	\$ 500	\$ 23,500	\$ 25,000
Energy Modelling	PAE			\$ 5,000	\$ 14,000	\$ 10,000			\$ 29,000	\$ 29,000
Acoustic	Listen		\$ 3,920	\$ 6,860	\$ 9,800		\$ 3,200		\$ 23,780	\$ 23,780
Enviro. Graphics + Signage	The Felt Hat		\$ 10,000	\$ 16,000	\$ 7,000	\$ 400	\$ 1,400	\$ 500	\$ 35,300	\$ 35,300
Commissioning (non Leed)	GBS			\$ 1,530	\$ 3,100		\$ 19,480	\$ 2,500	\$ 26,610	\$ 26,610
Sustainability	Lensa	\$ 750	\$ 1,750	\$ 900	\$ 1,250				\$ 3,900	\$ 4,650
Solar Feasibility	PAE		\$ 2,500						\$ 2,500	\$ 2,500
PV Design	PAE			\$ 3,500	\$ 5,000				\$ 8,500	\$ 8,500
Incentive Assistance	PAE				\$ 2,500				\$ 2,500	\$ 2,500
10%	mark-up	225	4,875	9,219	14,723	1,748	4,816	781	36,162	36,387
Additional Services		\$ 2,475	\$ 56,125	\$ 104,909	\$ 169,453	\$ 19,228	\$ 52,976	\$ 8,591	\$ 411,282	\$ 413,757
Project Total (Basic and Additional)		\$ 65,555	\$ 214,299	\$ 290,868	\$ 386,850	\$ 41,914	\$ 277,709	\$ 33,211	\$ 1,244,851	\$ 1,310,406

Reimbursable allowance = \$26,000

Total: \$1,336,406.00

In addition, the following optional services could be added at your request.

OPTIONAL SERVICES										
Library Technology	Carson Block	\$ 15,000							\$ -	\$ 15,000
Commissioning (LEED adds)	GBS		\$ 400	\$ 690	\$ 1,350		\$ 13,340	\$ 2,000	\$ 17,780	\$ 17,780
LEED Management	Lensa		\$ 1,550	\$ 2,000	\$ 6,250		\$ 8,700	\$ 2,850	\$ 21,350	\$ 21,350
Monument Sign	The Felt Hat		\$ 5,000	\$ 7,500	\$ 3,600	\$ 800	\$ 1,200	\$ 400	\$ 18,500	\$ 18,500
Passive Cooling Analysis	PAE		\$ 5,000						\$ 5,000	\$ 5,000
LEED MEP Documentation	PAE				\$ 3,000				\$ 3,000	\$ 3,000
LEED Energy Modelling	PAE				\$ 5,000				\$ 5,000	\$ 5,000
10%	mark-up		1,195	1,019	1,920	80	2,324	525	7,063	7,063
Optional Services		\$ 15,000	\$ 13,145	\$ 11,209	\$ 21,120	\$ 880	\$ 25,564	\$ 5,775	\$ 69,693	\$ 92,693

Design Team & Fees : Pond House

Given the scope of the Pond House project is unclear at this time, Hacker will provide a feasibility study and concept design during the Schematic Design Phase of the Main Library Projects. Once this study is complete, Hacker can provide full team fees for the outlined scope of work.

Feasibility Study and Concept design fee : \$15,000. This is included in the Hacker Schematic Design Fee Above.

Assumptions

- This proposal assumes that the Owner will provide the following services:
 - Hazardous Materials Report
 - Geotechnical Engineering
 - Site Survey
 - Traffic Study (if required)
 - Arborist (if required)
 - Special Inspections & Materials Testing

Dan Naughton
Sheils Oblatz Johnsen
Page 4 of 4

- Phase 1 ESA and Wetland Delineation
- Environmental (abatement) (if required)
- Predesign includes revising the existing program directly with the library staff and providing an existing building assessment.
- Renderings produced for design review may also be used for marketing purposes. Additional renderings can be provided as an additional service.
- For additional assumptions refer to the attached Contract Data and assumptions checklist.

Again, thank you for this opportunity. We are excited about the potential this project offers and to collaborate with you on the transformation of the Ledding Library. Please call if you have any questions or would like to discuss this proposal further.

Sincerely,



Laura Klinger
Senior Associate
Hacker

Enclosures: Contract Data and Assumptions Checklist, dated Dec. 14, 2016
2017 Hacker Reimbursable Expenses
2017 Hacker Hourly Rates

cc: Hacker File

Proposal Data and Assumptions Checklist – Consultants: Exhibit A

Project: Ledding Library, Milwaukie OR

Date: Dec 9 , 2016

1. GENERAL

- 1.1 General requirements and conditions are defined in “Agreement between Hacker and Consultant.” The Consultant shall provide services to Architect that are required in order for the Architect to fulfill the Scope of Services defined in the Prime Agreement. A copy of this document is available upon request.
 - 1.2 Upon execution of an Architect-Consultant Agreement, Hacker and its Consultants will be mutually bound to the Prime Agreement that Hacker executes with the Owner. Consultant should become familiar with the scope requirements and conditions of the Owner-Architect agreement prior to final execution of an Architect-Consultant Agreement.
 - 1.3 If a question arises regarding scope of work, consultant must provide, at a minimum, the services and products typically produced in each phase by their discipline in their region. Additionally, specific deliverables may be listed or elaborated by attachments to this Agreement.
 - 1.4 Documentation including, but not limited to, drawings and specifications shall be produced in formats and layouts directed by the Architect.
 - 1.5 Building Information Modelling (BIM) is not included.
 - 1.6 Development of record drawings per Contractor markups is included.
 - 1.7 11 month walk through is included.
 - 1.8 Building area and budget is as described in the Request for Consultant Proposal dated Oct 10, 2016.
-

The following statements, therefore, are intended simply to clarify responsibilities for elements of the work that, due to the nature of the project or local practices, may not be clearly assumed to fall into the normal services of the affected discipline:

2. CIVIL – LANDSCAPE

- 2.1 Landscape is responsible for Finish Grading, except in the Right-of-Way.
 - 2.2 Civil is responsible for all work in the Right-of-Way including compliance with governmental standards and submittal requirements. Assumes no public utility extension required to serve the site. Assumes no major public street improvements, minor sidewalk only, overhead utilities to remain, public lighting by electrical. Architectural and Landscape to provide input on design and materials.
 - 2.3 Civil is responsible for overall storm drainage design and documentation with the support of Landscape. Landscape may select surface drainage structure grates and covers in coordination with Civil.
 - 2.4 Civil responsible for site soils at and below rough grade, including under structure soils, excavation and fill. This includes writing the Earthwork specification consistent with the Geotechnical Report and coordination with Structural and Architectural. Architectural will review and comment on Earthwork specifications. Referring to geotechnical report in specifications or drawing text or notes is not permitted.
 - 2.5 Civil is responsible for any vehicle roadways, both on-site and in the Right-of-Way, except parking lots. Architectural and Landscape to provide input on design and materials. Civil to provide any cut-fill calculations for the project.
-

- 2.6 Sub-Drainage if required under building “footprint” to be sized by and shown in plan by Civil. Plumbing is to continue when discharge is above Slab on Grade.
- 2.7 Landscape is responsible for the design, layout and construction documents for surface improvements in parking lots. A Geo technical report will be provided by the Owner and will recommend pavement profiles for new pavement and or modifications to existing areas.
- 2.8 Landscape is responsible for on-site pavement marking layout and specifications.
- 2.9 Landscape is responsible for aesthetic selection of Site Lighting Fixtures and basic design layout with input from the Lighting Consultant, Electrical and the Architect. The lighting consultant will provide a photometric study to approve the layout and all circuitry design and documentation. The Structural Engineer will design the light pole footing.
- 2.10 Landscape is responsible for structural design of site walls at or under 4 feet in total height.
- 2.11 Plumbing will size Foundation Drainage System if required. Architectural will indicate plan extent and detail. Civil will connect to storm system.
- 2.12 Civil is responsible for connecting building foundation drainage to storm system. Architect will indicate plan extent and detail. Plumbing will size system.
- 2.13 Landscape will size site wall Foundation Drainage System and indicate plan extent and detail. Civil will connect to storm system.
- 2.14 Landscape will show sub-slab and foundation base per geotechnical recommendations, within their documents. Referring to geotechnical report in notes is not permitted.
- 2.15 Landscape is responsible for site pedestrian circulation including walks, stairs and ramps.
- 2.16 Landscape will provide a design build irrigation system focused on establishing the landscape.
- 2.17 Landscape will provide a planting plan for the site area and related stormwater improvements
- 2.18 Landscape will provide specifications for all site furnishings including bike racks, benches, trash and recycling containers, and bollards.
- 2.19 No new water features are planned for the project. No improvements are planned to the existing water feature.
- 2.20 Natural resource design and permitting by others.
- 2.21 Extent of landscape design includes main library property and small corner property between the Pond house and main library site. Pond house property is not included.

3. STRUCTURAL

- 3.1 Structural will evaluate at least 3 structural systems for Schematic Design.
- 3.2 Structural is responsible for design and specification consistency with the recommendations of the Geotechnical Report and getting approval of or amendments to the report when the foundation design is in variance with the Report’s recommendations. Structural will show sub-slab base, per geotechnical recommendation, within their documents. Geotechnical Engineer will markup Earthwork section of Specifications to include recommendations as noted within their geotechnical report.
- 3.3 Structural is responsible for the design and documentation of any elevated pavement areas, whether for foot or vehicular traffic.
- 3.4 Structural is responsible for all Concrete and Masonry Assemblies including drawing and dimensioning in plan.
- 3.5 Structural is responsible for the structural design of all site walls higher than 4 feet. Structural to support Landscape in their documentation of these site walls. Scope of structural design will only include

-
- conventional concrete or CMU retaining walls. Any other type of retaining wall systems such as gravity or MSE type walls (ultrablock, gabion, keystone, etc.) will be assumed to be contractor designed.
- 3.6 Structural is responsible for the structural design and documentation of architecturally exposed structural steel framing, including secondary framing such as canopies and other elements that are connected to the primary frame.
- 3.7 Architectural will design and document custom stairs of architecturally exposed steel. Structural to provide structural design and detailing support to Architect.
- 3.8 Structural to provide support to Architect for miscellaneous Fabricated Metal components.
- 3.9 Structural will review all Contractor Design items, including design, details and performance specifications for work that is not primarily structural or for all assumed contractor designed items as listed below.
- 3.10 Structural is responsible for the engineering and detailing of structural exterior metal (cold-formed) framing, Non-load bearing metal framing, and ceiling framing for cladding support. Structural to comment on Architect's typical non-load bearing metal framing and typical ceiling framing details. Structural to incorporate any intensive non-load bearing framing details into structural drawings. Any non-typical ceiling framing or ceiling framing requiring design calculations (including the typical ceiling framing details) is assumed to be contractor designed.
- 3.11 If required, structural is responsible for the engineering/detailing of the structure to support the loads induced from a rooftop anchor system for the building's "Fall Arrest/Safety Restraint System". Structural is responsible for the engineering and detailing of the buildings "Fall Arrest / Safety Restraint System". Architectural will provide location information. The "Fall Arrest/Safety Restraint System" itself will be a contractor designed item.
- 3.12 Structural is responsible for the design of the backup structure required to support the cladding system. Structural will provide required cladding support/anchor/connection (unless it is provided by the manufacturer). Attachment of the cladding to the supports provided by structural is by the manufacturer (i.e. fiber cement panel screws or nails to support). Architectural will detail per Structural direction.
- 3.13 Structural is responsible for Existing building structural analysis in Pre Design Phase
- 3.14 Additional assumed contractor designed items include, but are not limited to, the following:
- a. Ground Improvements (i.e stone columns, geopiers, etc.)
 - b. Building egress stairs. One ceremonial stair will not be contractor designed.
 - c. Curtainwall, windows, storefront and any other glazing systems.
 - d. MEP equipment and distribution support and seismic bracing
 - e. Storage tanks or underground vaults
 - f. Mechanisms/guide systems/backup guiderail and machine support for elevators
 - g. Solar or PV panel systems are to be contractor designed. The primary structure, or secondary structure as needed, to support the solar or PV panel system will be part of Structural Design Scope.
 - h. Precast Elements
 - i. Crane or Hoist Systems
 - j. Site Accessory Structures
 - k. Landscape Furnishings
 - n. Temporary or Permanent Excavation, Excavation Shoring, or Underpinning engineering and documents (this also includes support of adjacent structures due to issues from excavation in its proximity).
- 3.16 Additional scope of work that is not within our scope includes, but is not limited to, the following:
- a. Filing documents for permitting and approval by building official.
 - b. Cost estimating services. ABHT will only provide review and comments to the structural related portions of the cost estimate produced by others.
 - c. Responding to third party reviews (other than the City of Milwaukee Structural Review Comments).
-

4. MECHANICAL / PLUMBING

- 4.1 Scope is assumed to be fully designed, not design build or design assist.
- 4.2 Mechanical will establish a target EUI based on compliance with the 2030 Challenge prior to commencement of Schematic Design. Provide status reports on compliance with target a mid-point and end of each project phase to project team.
- 4.3 Mechanical will evaluate Rough Order of Magnitude (ROM) life-cycle costs for at least 3 Mechanical Systems during Schematic Design.
- 4.4 Mechanical will provide computer modeling of design assumptions including 'Shoe Box' type during Conceptual / Schematic Design and more advanced simulation models during Design Development. Either eQuest or IES will be used for this effort.
- 4.5 Mechanical will provide Bulk Airflow Modeling when the building utilizes natural ventilation strategies. IES will be used if required.
- 4.6 Mechanical will apply for all available Utility and other Service Provider incentive programs. Mechanical Design Engineer will attend coordination meetings to review financial incentive applications pertaining to energy efficiency. They will also prepare application paperwork and final paperwork to meet specific program requirements, and respond to review comments from primary applicant, owner and program agency.
- 4.7 Mechanical will support Building commissioning provided by others.
- 4.8 Plumbing will provide performance specifications for the design/build of the fire sprinkler system.
- 4.9 Mechanical will provide all information required to comply with the State Energy Code.
- 4.10 Mechanical to provide at a minimum, Simplified Trade-off Approach or equal per jurisdiction or better by agreement. Prescriptive Path Approach is not acceptable.
- 4.11 Sub-Drainage under building "footprint" to be sized by and shown in plan by Civil. Plumbing is to continue when discharge is above Slab on Grade.
- 4.12 Plumbing will size Foundation Drainage System. Architectural will indicate plan extent and detail. Civil will connect to storm system.
- 4.13 Mechanical /Plumbing will provide Existing Mechanical and Plumbing systems analysis for building assessment in Predesign Phase.
- 4.14 Mechanical shall engineer and document all metering devices including BTU, flow, and KW to fully monitor building operation post occupancy.

5. ELECTRICAL – LIGHTING

- 5.1 Lighting Consultant (LC) will assist Architect, Landscape Architect, and Electrical Engineer in developing lighting concepts for major spaces through the end of Design Development Phase.
- 5.2 LC will design the lighting system to meet Code.
- 5.3 LC will review light trespass (photometric plan) requirements for site lighting.
- 5.4 Electrical will implement lighting control system based on sequence of operations designed by the LC.
- 5.5 Electrical will implement the path of egress lighting system based as outlined by the LC.
- 5.6 LC scope of work during schematic design and design development includes all interior areas, including back of house and utility spaces, through the end of Design Development.
- 5.7 LC Scope of work after Design Development will be limited to design assist to Hacker Architects as needed. Luminaire schedule, Luminaire cut sheet package, calculations, lighting controls, plan markups will be handed off to the electrical engineer and architecture team.

-
- 5.8 In Schematic Design Phase, LC will prepare a Preliminary Lighting Description. For each major space type, LC will describe proposed lighting systems, light levels, power densities, controls, and per-square-foot budgets. LC will design system to meet Code requirements.
 - 5.9 Design Development Phase: LC will participate in one or more collaborative design work sessions. LC will prepare redline mark-up plans in PDF format, luminaire schedule and cut sheet package for architectural team as well as lighting zone and lighting control narrative for electrical engineer. Architect team will draw luminaires on RCP for electrical engineer. Electrical engineer will attend collaborative team meetings.
 - 5.10 In Design Development phase, LC will prepare proof of concept lighting calculations for typical space types.
 - 5.11 LC scope of work during Construction Documents includes design assist to the architectural and electrical design team
 - 5.12 LC will participate in SD and DD meetings with the landscape and architect design team.
 - 5.13 Electrical will incorporate Architect's and Landscape Architect's lighting background drawings.
 - 5.14 LC will assemble data sheets for light fixtures in LC scope and prepare Section 265001: Architectural Lighting Schedule in the Architect's spec format. LC will review Electrical's Section 265000: Lighting.
 - 5.15 LC will prepare sketches to show mounting details or major components of custom fixtures.
 - 5.16 Electrical will design all lighting power distribution.
 - 5.17 Electrical will provide energy code documentation
 - 5.18 Electrical will implement lighting control system based on LC's sequence of operations.
 - 5.19 Electrical will design exit markings. Exit sign selections and locations to be reviewed by Architect.
 - 5.20 Electrical will evaluate life-cycle cost for key equipment and systems.
 - 5.21 Electrical will provide support for Commissioning of lighting controls.
 - 5.22 LC shall provide final aiming and lens selection and installation assistance on site (fee noted as "close-out" phase).
 - 5.23 Electrical is responsible for audiovisual (AV) electrical design. AV will coordinate locations and equipment.
 - 5.24 Electrical will provide solar Assessment / Design.
 - 5.25 Electrical will provide Fire Alarm system design as a performance specification.
 - 5.26 Electrical will provide Building power, service distribution, branch panels, and connections to mechanical equipment.
 - 5.27 Electrical will provide Emergency power and distribution system.
 - 5.28 Electrical will provide Existing Electrical systems analysis for building assessment.

6. COMMUNICATIONS (DATA, WIRELESS, DAS, ETC)

- 6.1 Telecommunications consultant (TC) will design telecom devices to include racks, patch panels, outlets. Active telecom equipment will be selected by the Owner's preferred provider.
- 6.2 TC will provide pathways and structured cabling, including inter-building where required.
- 6.3 TC will interface with elevator system.
- 6.4 TC will provide County Library RFID System coordination / implementation with the Library Technology consultant input.
- 6.5 TC will provide CATV system design
- 6.6 TC will provide paging system design

6.7 TC will provide Distributed Antennae System design if needed (Current scope does not include DAS and it is not expected to be required)

6.8 TC will provide Existing Communications systems analysis for building assessment

7. ELECTRONIC SAFETY AND SECURITY

7.1 Access control consultant will provide building security system design and coordinate devices with hardware consultant.

8. AUDIOVISUAL

8.1 AV is responsible for component associated low voltage wiring, devices, point to point diagrams, infrastructure criteria, conduit size and wire types.

9. ACOUSTICAL

9.1 ROOM ACOUSTICS: During DD, Acoustical Engineer will work with the design team to develop the room criteria to be used in designing the acoustic spaces. In work sessions with the architect, Acoustical Engineer will provide conceptual sketches and descriptions of room shaping and room finishes providing useful sound reflections where practical, avoid echo-producing sound reflections, and control reverberation as necessary. Acoustical Engineer will engineer detailed room shaping, room finishes, and sound control and coordinate with the design team. During CDs, Acoustical Engineer will provide detailed recommendations and review of building shell construction, walls, windows, doors, and floor/ceiling assemblies. All necessary final sketches, product descriptions, and specifications will be provided.

9.2 NOISE AND VIBRATION CONTROL: In DD, Acoustical Engineer will provide recommendations for all major HVAC, plumbing, and electrical equipment items to limit noise and vibration to building spaces. All necessary sketches, details, product descriptions, and guideline specifications will be provided. In CDs, Acoustical Engineer will provide final recommendations for major air handling systems to mitigate fan or airflow noise in critical acoustical spaces. All necessary sketches, details, product descriptions, and guideline specifications will be provided. Note: Acoustical Engineer will provide vibration isolation specification information and input to the HVAC engineer for all major HVAC, plumbing, and electrical equipment items.

9.3 SOUND ISOLATING CONSTRUCTION: In DD, Acoustical Engineer will provide detailed concepts for new building shell construction and interior partitioning to minimize exterior noise from mechanical equipment and vehicles, and to control sound transfer between interior spaces. IN CDs, Acoustical Engineer will provide detailed recommendations and review of building shell construction, walls, windows, doors, and floor/ceiling assemblies.

9.4 REVIEW: Acoustical Engineer will conduct a review of at the 100% DD drawing phase and 100% CD phase, including drawings and specifications to check acoustical issues have been coordinated. A written summary of our review will be provided.

10. COMMISSIONING

10.1 Commissioning agent is responsible for basic commissioning including HVAC, Lighting and lighting controls

10.2 If the project seeks LEED certification the commissioning scope includes the LEED Prerequisite for Fundamental Commissioning. We include Services for Enhanced Commissioning that includes LEED Option 1, Path 1 only.

10.3 If the project does not seek LEED certification, scope included assures building performance but does not include all the requirements for LEED certification.

10.4 The commissioning scope does not include envelope commissioning services.

11 ENVIRONMENTAL GRAPHICS + SIGNAGE

- 11.1 Signage Consultant will provide design and documentation for all code required signage, building and site wayfinding graphics and signage including main building sign and all library specific signage.
- 11.2 At beginning of SD, client is responsible to provide message schedule, which in turn will be reviewed by the design team, included in the Sign Location Plan and submitted for approval.
- 11.3 SD: Work with architect and client (as required) to identify unique user needs and requirements. Design and present concepts for basic sign types, present in elevations, procure sample materials as needed, coordinate with Hacker to ensure design intent, present to client.
- 11.4 DD: Finalize typographic and information hierarchy for all sign types, coordinate with Hacker to ensure design intent, present to client. Assumes one round of design revision.
- 11.5 Bid/CD: Finalize design of all sign types, and proceed with bid package. Bid package to include: design intent, specifications, locations plans, message schedule. Submit draft bid package for review, revise as needed, and deliver to Hacker. Work with Hacker to avoid clashes with other devices on walls such as fire alarms and lights. Answer bid questions as needed.
- 11.6 CA: Review all submittals, monitor fabrication and installation, walk-through, create and review punch-list, assure work is completed to client satisfaction.
- 11.7 Monument sign not included. Marquee includes name and street address on building.
- 11.8 Exterior wayfinding assumes simple directional parking. If final traffic patterns, landscape design and site plan requires more complex wayfinding, an add-service may be necessary.
- 11.9 Donor recognition not included.

12 SUSTAINABILITY (non LEED)

- 12.1 During Programming, assist project team in preparing for City Council meeting to determine approach in meeting sustainability goals – as needed, attend City Council meeting
- 12.2 Facilitate sustainability charrette (in conjunction with ETO's Early Design Assistance meeting), including coordination with ETO, developing agenda, and producing a final report for ETO submission
- 12.3 Attend one project team meeting at each phase with the project team, and attend one community meeting (to cover sustainability topics) at each phase or as requested
- 12.4 On-call consulting relating to sustainability goals and measures identified at the charrette
- 12.5 Support the project team with documenting sustainability measures in narrative format, for inclusion in educational outreach efforts of the owner

13 LEED MANAGEMENT (This will add to item 12, if Project pursues LEED certification)

- 13.1 Facilitate LEED meetings at each phase with the project team, or as requested
- 13.2 LEED scorecard tracking and project documents peer reviews (at 100% SD, 100% DD, 50% CD), and back-check reviews (90% and/or 100% CD)
- 13.3 Specification Review – coordinate with design team to incorporate all required LEED submittal requirements
- 13.4 Support the design and construction team with completing LEED Design and Construction phase credits
- 13.5 Coordinate LEED documentation and submission with USGBC/GBCI, with a split Design and Construction Phase submission, including project team responses to USGBC/GBCI review comments
- 13.6 Assist project team and owner with LEED close-out activities, including LEED recognition efforts

14. Furniture Fixtures and Equipment

- 14.1 Includes Furniture selection (finish and fabric) and layout for all public and administrative spaces.
 - 14.2 Includes shelving layout and end panels and canopy top material selection.
 - 14.3 A rough order of magnitude furniture budgeting is included. Detailed cost estimates are by others.
 - 14.4 Bidding and procurement: the owner will be responsible for administering the bidding and procurement process, based on the specifications and location plans provided. Three (3) vendors will be specified.
 - 14.5 Order placement: Samples finishes and fabrics will be provided for Client's use in submittal review and approval. Client will be responsible for order placement and coordination.
 - 14.6 Installation Coordination: the Client will be responsible for installation coordination including any pre-move and/or coordination meetings, preparation of installation schedule, site visits to observe progress, preparation of punch lists and final inspection
-

Meetings:

The following consultants have noted max. number of meetings per phase as follows:

- Commissioning: SD-1, CD-1. CA -5, CO-1
- Sustainability: PD – 2, SD-2, DD-2, CD-2. BID -0 CA -0, CO-0
- Graphics+ Signage: SD-2, DD-2, CD-2. BID-2 CA -1, CO-1
- LEED: SD - 1, DD -1, CD -2, BID - 0 CA -12-14, CO-1

*All others will attend meetings on an as needed basis.

END

2017 REIMBURSABLE CHARGES*

Airfare	:	At cost
Lodging	:	At cost
Meals and Incidental Expenses (during travel out-of-town)	:	At cost
Auto Rental and Fuel	:	At cost
Mileage	:	At current Federal standard rate
Parking	:	At cost
Cab Fare, Shuttle, etc.	:	At cost
Photocopies	:	\$0.10/copy (or at cost if commercial)
In-house Black and White Bond Plots	:	\$1.70/square foot
In-house Black and White Vellum Plots	:	\$2.30/square foot
In-house Color Bond Plots	:	\$5.00/square foot
In-house Color Prints (8-1/2 x 11)	:	\$0.70/print
In-house Color Prints (11 x 17)	:	\$1.20/print
Plotting / Printing (commercial)	:	At cost
Postage	:	At cost
Shipping (e.g., UPS, Federal Express, etc.)	:	At cost
Courier Service	:	At cost
Long-distance Phone Calls	:	At cost
Fax	:	\$0.75/page (includes any long-distance charges)

*A 1.1 Administrative Multiplier will be applied to all "at cost" reimbursable expenses. This schedule is updated annually.

2017 HOURLY RATES*

Principal	\$190
Director of Interior Design	\$155
Director of Visualization	\$155
Senior Project Architect / Project Manager	\$155
Director - Administration	\$145
Project Architect / Project Designer	\$140
Architect / Designer 3	\$125
Architect / Designer 2	\$115
Architect / Designer 1	\$110
Intern 3	\$95
Intern 2	\$90
Intern 1	\$85
Interiors Coordinator	\$90
Administrative	\$85
Practicum	\$60

*Updated annually



MILWAUKIE CITY COUNCIL
STAFF REPORT

Agenda Item: **RS 6. B.**
Meeting Date: **12/20/16**

To: Mayor and City Council

Through: Ann Ober, City Manager
Clare Fuchs, Sustainability Director

Subject: **New Janitorial Contract**

From: Damien Farwell, Fleet and Facilities Supervisor

Date: December 20, 2016

ACTION REQUESTED

Authorize the City Manager to sign a contract with Tualatin Valley Workshop (TVW) for janitorial services for City owned buildings for \$332,542 for calendar years 2017-2018. The contract will include an option to extend twice for additional two-year periods.

QUALIFIED REHABILITATION FACILITY (QRF) BACKGROUND

In 1977, the State of Oregon legislature passed the "Products of Disabled Individuals Act." The Act requires public agencies procure certain products or services (including janitorial services) from qualified nonprofit agencies for disabled individuals in accordance with Oregon Department of Administrative Services (DAS) rules and procedures. According to DAS, a QRF is a non-profit rehabilitation corporation that employs individuals with qualifying disabilities to provide products and services to public agencies. DAS is responsible for qualifying each community rehabilitation program as a QRF. A QRF must employ individuals with qualifying disabilities for at least 75% of the hours of direct labor across the entire company. Each QRF's mission must include providing vocational services which enable employment opportunities for individuals with disabilities.

TVW is a non-profit agency that empowers disabled individuals to gain independence through vocational placement. The agency provides long-term employment opportunities for disabled employees. TVW is based in Hillsboro, certified by the State of Oregon as a QRF, and provides an important contribution to the local community.

CITY JANITORIAL BACKGROUND

The contract for janitorial services in the City is managed by the Facilities Division. There are five facilities throughout the City that receive janitorial services under this contract. These include City Hall, Library, Public Safety Building, and Johnson Creek Boulevard (JCB) campus (which houses two buildings). The City requires janitorial services for approximately 56,420 square feet of office and library space.

After nearly 20 years with the same company, staff determined that the janitorial contract should go out for bid. The original contract and scope of work were reviewed. The janitor checklists and schedules were overhauled after going largely unchanged for almost two decades. The Request for Qualifications (RFQ) was sent out to the five QRFs serving Clackamas County. The existing contractor declined to bid, as did two others. Staff received two bids, one from Portland Habilitation Center (PHC), and one from TVW. TVW was chosen by the selection committee.

The committee decision was based upon four criteria applied to each vendor bid (Attachment 1).

1. Firm and Service Team Qualifications
2. Service Understanding and Approach
3. Service Timeframe
4. Fee Evaluation

Additionally, four customer references were contacted, two for each bidding vendor. Based solely upon the proposals, bids, and the reference obtained, the selection committee finds TVW provides considerably more effort, care, and detail. These attributes suggest better attention, service, and a better overall fit for Milwaukie. Both customer references for TVW were glowing and complimentary.

FISCAL IMPACTS

Consistent with the old contract, the new contract will provide City facilities cleaning five to seven days a week depending on days of operation. A cleaning schedule adhering to the Cleaning Performance Standards (Section 1.27) in the Scope of Work (Attachment 2) will be monitored for compliance. However, the new janitorial contract proposal is more expensive than past janitorial contracts. Our last contract with Diversified was approximately \$250,000 biennially. The difference between the two biennial contracts is \$82,000. There are several reasons why staff finds this price increase is necessary. Below is a list of justifications with their approximate cost in a rolling total. It should be noted only billed activities are included in the calculations. These estimates do not include staff time savings.

1. It will correct a mistake. The included square footage of our buildings was incorrectly calculated at a total of 52,200 square feet (sf). The actual area the City needs cleaned is 56,420 sf. For this update, staff looked at more recent professional space studies and found more accurate measurements. This extra square footage likely increased our quote. For example: $(\$332,000 / 56,420 \text{ sf} = \$5.88 \text{ per sf}) (56,420 \text{ sf} - 52,200 \text{ sf} = 4,220 \text{ sf}) \$5.88 \text{ per sf} \times 4,220 \text{ sf} = \$24,814$. *Cost increase subtraction = approximately \$25,000.*
2. The old scope of work did not include window cleaning. This was performed either by our janitor through a separate bid or by another vendor. This includes second-story window washing inside and out. These cleanings had to be individually ordered and coordinated throughout the year which increases staff workload. Window cleaning is now included in this proposal for regular intervals for \$36,834 biennially. *Cost increase subtraction subtotal = approximately \$61,834.*
3. Our current vendor had not increased their price for a few years, even for inflation. However, staff discovered items in the contract were not being performed on a regular basis and had to respond to numerous staff complaints about the cleanliness of City buildings. If Diversified had increased prices 3% each biennially for the last 10 years, the difference would now be approximately \$5,000. *Cost increase subtraction subtotal – approximately \$66,834.*
4. TVW received exemplary recommendations. Recommenders said they had little to no problems, the vendor was responsive. PHC asked for our current janitor contract price and then proposed a \$5,000 increase. However, their proposal lacked time, effort, and attention to detail. Going with PHC would still increase our cost by \$10,000 biennially. *Estimated cost increase subtraction subtotal = approximately \$76,834.*
5. TVW uses more of their own green cleaning fluids so that is included in this proposal. The City currently buys many of these green fluids from a separate contract. Staff can stop

purchasing these products from Coastwide any time. Staff estimates this cost transfer is worth about \$2,000 biennially. *Cost increase subtraction subtotal = approximately \$78,934.*

6. Our former City Manager directed the addition of daily mid-day bathroom cleanings at City Hall and the Library. Diversified (our current vendor) billed this biennial increase at approximately \$7,100. This change has greatly reduced facilities workload and increased employee and patron satisfaction. *Cost increase subtraction = approximately \$86,034.*
7. Several other one-off cleanings were added into the new contract regular cleaning schedule. These items include: carpet extractions, upholstery spot cleaning and steaming, deep cleaning/waxing hard floors, exterior cleaning. Last fiscal year these non-window one-off cleanings cost us approximately \$6,000, or \$12,000 biennially plus the considerable staff time to coordinate and bill the 10 different services. *Cost increase subtraction total = approximately \$98,034.*

The Facilities Maintenance budget currently includes \$272,000 biennially for janitorial services. Since this contract will be approximately \$332,000 biennially, staff recommends taking \$60,000 from painting services also within the “Materials and Services” category. For each subsequent year of this contract, the necessary funds will be absorbed into the Facilities and Fleet budgets so as not to increase to overall budget request. At the beginning of subsequent bienniums, a contract extension will be evaluated to renew the TVW contract for the biennium to follow. Compensation will be adjusted each biennial anniversary beginning, by a percentage point, equal to each percent in excess of 2% of the Portland, Oregon Consumer Price Index (CPI) provided by the with a maximum adjustment of 3% in any one year. The CPI used will be the United States Department of Labor, Bureau of Labor Statistics Index.

CONCURRENCE

The review committee consisted of the following: Sustainability Director, Fleet and Facilities Supervisor, Fleet and Facilities Administrative Specialist III, and Facilities Maintenance Technician. The committee agrees in recommending contract signing authorization for TVW.

WORK LOAD IMPACTS

The Facilities Division oversees the janitorial service within its work program. The callbacks Facilities has historically experienced did not have a significant impact on the department work load. However, many of the one-offs and staff responsibilities for cleaning have now been folded into the proposed contract for regular intervals. Therefore, staff finds that after an adjustment period, this scope of work and contract will reduce staff workload.

ALTERNATIVES

1. Approved as requested.
2. Approve with amendments.
3. Reject recommendation – request staff to come back with directed alternatives.

ATTACHMENTS

1. Selection Committee Scoring Summary
2. Scope of Work
3. Resolution



**City of Milwaukie
Evaluation Results for Janitorial Services
November 17, 2016**

Points are combined from the four evaluators. Each proposer had a possibility of 80 points as reviewed by each evaluator. 80 points x 4 evaluators = 320 points.

Criteria	TVW, Inc.		Portland Habilitation Center, Inc.	
Proposal submitted on time (Pass/Fail)	Pass		Pass	
Mandatory Walk-thru of City Buildings (Yes/No)	Yes		Yes	
	Points Awarded	Max.Points	Points Awarded	Max.Points
Firm and Service Team Qualifications	74	80	66	80
Service Understanding and Approach	76	80	53	80
Service Timeframe	74	80	52	80
Fee Evaluation	62	80	58	80
Total	286	320	229	320

EXHIBIT B

SPECIFICATIONS
(SCOPE OF WORK)

Area 1 (Total = 24,085 Square Feet)

- Facilities:**
- City Hall
10722 SE Main Street
Milwaukie, OR 97222
9,885 sq. ft.

 - Ledding Library
10660 SE 21st Ave
Milwaukie, OR 97222
12,400 sq. ft.

 - Pond House
2215 SE Harrison St
Milwaukie, OR 97222
1,800 sq. ft.

Area 2 (Total = 22,000 Square Feet)

- Facility:**
- Public Safety Building
3200 SE Harrison Street
Milwaukie, OR 97222
22,000 sq. ft.

Area 3 (Total =10,335 Square Feet)

- Facilities:**
- JCB-Community Development Building
6101 SE Johnson Creek Blvd
Milwaukie, OR 97206
4,200 sq. ft. office space

 - JCB-Fleet Office areas
6101 SE Johnson Creek Blvd
Milwaukie, OR 97206
535 sq. ft. office space

 - JCB – Public Works & Facilities Building
6101 SE Johnson Creek Blvd
Milwaukie, OR 97206
5,600 sq. ft. office space

Section 1 – Standard Specifications and Conditions

1.1 GENERAL

Contractor shall provide janitorial services for the City of Milwaukie (City) facilities. Contractor shall furnish all equipment, materials and services necessary to perform the janitorial duties specified in a satisfactory manner and at not less than the frequencies set forth in the following specifications. The premises shall be maintained in a neat, clean, and orderly condition according to Cleaning Performance Standards (Section 1.27) contained in this package.

1.2 SCOPE OF WORK

There are five (5) City facilities included in this specification, which are located at various locations throughout City limits. City spaces in this specification total approximately **56,420** square feet of offices, and libraries, as listed under "Facility Descriptions". These facilities are divided into three (3) areas. These facilities operate five (5) to seven (7) days a week, eight (8) to twenty-four (24) hours a day. Janitorial service for all facilities shall be scheduled as called for in this specification.

These facilities will receive cleaning five (5) to seven (7) days a week. These facilities shall be cleaned according to the Cleaning Performance Standards (Section 1.27). The service for these facilities is monitored on a daily basis by building staff and routinely inspected by Facilities Management for adherence to specifications. Janitorial staff working in these facilities shall have office related experience, as well as specialized training in the handling of infectious waste, contaminated sharps, communicable diseases and tuberculosis training and testing.

1.3 QUESTIONS ON TECHNICAL INFORMATION

Questions relating to materials in these Standard Specifications and Conditions shall be addressed to:

Damien Farwell, Fleet & Facilities Supervisor
City of Milwaukie Public Service Facility
6101 SE Johnson Creek Blvd.
Milwaukie, OR 97206
Phone: 503-786-7680
Email: farwelld@milwaukieoregon.gov

1.4 NATURE AND EXTENT OF SERVICES

The City serves the public in varying degrees depending on the function of each facility. Janitorial services in these facilities are required on a regularly scheduled basis coinciding with the days of operation and shall be completed during the times specified by the Contract Administrator. Days of operation shall be noted for each facility, while hours of operation vary at each building according to its use. All cleaning is to be accomplished during closed hours at each location, with the exception of facilities that operate 24-hours per day. Specific schedules shall be approved by Facilities Management prior to starting Contract.

The highest standards of cleanliness shall be maintained. It is the intent of these specifications that all facilities present a consistently clean condition. The services outlined in these specifications are to be considered as minimum requirements but in no instance are they to limit the level of cleanliness in buildings.

City's Cleaning Performance Standards are included in this specification in Section 1.27. Contractor shall include at a minimum the cleaning standards set forth in this specification and all additional requirements as detailed.

1.5 EMERGENCY RESPONSE

Contractor shall provide seven-day a week emergency coverage to the City facilities included in this specification. Emergency corrections called in before or after the regularly scheduled janitorial hours shall be considered emergency after-hours calls. Afterhours calls shall be submitted on a separate invoice designating the number of hours and the facility requiring such service. After-hours calls will be charged at an agreed rate. During normal janitorial hours, emergency janitorial corrections shall be taken care of at no additional charge.

NOTE: Exception cleaning such as major floods or contamination by bodily fluids shall be billed separately. Justifiable emergency calls are defined as follows:

A. Floods related to plumbing, roof leaks or other sources, when flooded area cannot be isolated (closed) or continuing damage is occurring due to flood remaining overnight.

B. Blood spills, vomit, urine or other human bodily fluids that cannot be isolated or blocked off.

Emergency after-hours calls shall be made directly to the Contractor. Emergency requests shall require Contractor to call within thirty (30) minutes after placing the first call and work started within two (2) hours.

Emergency correction needed during normal janitorial working hours shall be available by calling emergency numbers.

Non-emergency corrections shall be registered in the daily logbook for janitorial complaints. Non-emergency corrections shall be completed within twenty-four (24) hours. Examples of non-emergency corrections include such items as:

- i. Trash can full
- ii. Liquid spill presenting no safety hazard
- iii. Toilet paper or other dispensers empty (when other rest rooms are stocked and available)

1.6 FACILITY DESCRIPTIONS

ALL SQUARE FOOTAGES ARE APPROXIMATE AND CONTRACTOR SHALL VERIFY DIMENSIONS TO THEIR SATISFACTION.

AREA 1

A. **City Hall** contains approximately 9,885 sq. ft. of carpeted and hard surface floors. Janitorial services shall be performed 5 Days per week. Days of operation are Monday through Friday, 7:00am to 6:00pm. Some evening meetings are scheduled during the week. This schedule will be available to the janitorial service provider. No janitorial work will be performed during meeting hours. Mid-day cleaning at City Hall is referenced in Section 1.6(B).

Exhibit B

Contract No. _____

B. **Ledding Library** contains approximately 12,400 sq. ft. of carpeted and hard surface floors. Janitorial services shall be performed 7 Days per week. Days of operation are 7 days per week. Hours of operation are Monday through Thursday 10:00am through 9:00pm, Friday and Saturday 10:00am through 6:00pm, Sunday 12:00pm through 6:00pm. Staff arrives generally by 8:30am on all days except Sunday, they arrive at 9:00am in the morning.

In addition to evening cleanings there shall be mid-day cleanings (excluding holidays) at City Hall and the Ledding Library. The following checklist shall be completed for each mid-day cleaning of two (2) public restrooms at City Hall and three (3) public restrooms (Men/Women/ADA) at the Ledding Library:

1. Wipe down counter, fixtures/door handles, and walls around sink area
2. Clean and disinfect toilets
3. Wipe down stall areas, unplug any toilets, report any plumbing issues to City staff
4. Restock paper products and soap, if needed
5. Sweep and dry mop restroom floors
6. Remove trash, wipe down trash cans
7. Close restroom for no more than 10 minutes at a time

Contractor shall complete the following checklist for each mid-day cleaning of each location of City Hall and the Ledding Library:

8. Disinfect building entry door handles
9. Wipe down glass of building entry doors inside and out, including fingerprints
10. Check outside trash, grounds for trash, and overflowing trashcans. Gather trash and replace liner, if needed

Contractor shall keep checklist supplied outside janitorial closet door at each location. Contractor shall complete checklist daily after completion of every mid-day cleaning at each location.

C. **Pond House** contains approximately 1,800 sq. ft. of carpeted and hard surface floors. Janitorial services shall be performed 1 day a week. Days of operation are 7 days per week. Cleaning shall be performed on Sunday.

AREA 2

D. **Public Safety Building (PSB)** contains approximately 22,000 sq. ft. of carpeted and hard surface floors. Janitorial services shall be performed 6 Days per week. Days of operation are 7 days per week, 24 hours per day. The office and reception area is open from 8:00am to 5:00pm, Monday through Friday. The community room is used during the day from 8:00am to as late as 10:00pm. Cleaning of these areas will have to be done after hours.

AREA 3

E. **JCB/Community Development Office** contains approximately 4,200 sq. ft. of office space consisting of carpeted and hard surface floors. Janitorial services shall be performed 5 days per week. The CD building office is open from 8:00am to 5:00pm, Monday through Friday. Cleaning of these areas shall be done after hours and on weekends.

F. **JCB/Fleet Shop Offices** contains approximately 535 sq. ft. of carpeted and hard surface floors. Janitorial services shall be performed 5 days per week. The Fleet shop office is open from 7:00am to 3:30pm, Monday through Friday. Cleaning of these areas shall be done after hours and on weekends.

G. **JCB/Public Works Building** contains approximately 5,600 sq. ft. of office space consisting of carpeted and hard surface floors. Janitorial services shall be performed 5 days per week. The Public Works office is open from 7:00am to 5:00pm, Monday through Friday. Cleaning of these areas shall be done after hours and on weekends.

1.7 DAILY/PERIODIC SERVICES SCHEDULE

Contractor shall provide City of Milwaukie Facilities Management with specific dates and times for items designated in the Building Cleaning/Task Schedule, Section 1.28.

Such dates and times are subject to the approval of Facilities Management. The unique operations conducted in some City facilities require that all areas be serviced according to the needs of the facility. All services scheduled to be performed quarterly, semiannually and annually shall be performed and scheduled at appropriate intervals during the term of the Contract.

1.8 SUPERVISION

The Contractor shall be responsible for the direct on-site inspection of the custodians through its supervisor(s), and the supervisor(s) shall be available at reasonable times to report to and confer with the Facilities Management Contract Administrator with respect to services. The telephone number of the responsible supervisor shall be provided to the City for daily, emergency, and/or non-routine service.

The Contractor shall provide an on-site supervisor whose primary task is to see to it that all of the Contractor's employees, in all buildings, understand and carry out what is required to satisfy the specifications of the Contract.

The on-site supervisor shall also schedule and coordinate the maintaining/restoring of all resilient/hard surface floor finishes and carpet cleaning. All floor restoration projects shall be scheduled seven days in advance with the Contract Administrator.

1.9 QUARTERLY CITY STAFF & CONTRACTOR MEETING

Contractor shall regularly schedule a quarterly meeting with a City representative. The location of the meeting shall be determined by the City representative. The purpose of the meeting shall be to discuss janitorial services during the previous quarter.

1.10 EXCEPTION CLEANING SERVICE

Contractor may occasionally be required to perform cleaning services on an exception basis for items or areas not covered by the cleaning schedule. Such services shall be requested by the Contract Administrator on an individual basis and shall be billed separately on a monthly basis as applicable.

1.11 CONTRACTOR SUPPLIED ITEMS

All labor, janitorial tools, equipment, machines and supplies (excluding City supplied items defined below) necessary for the performance of daily janitorial services shall be furnished by the Contractor at no

expense or further cost to the City. The City requires current safety data sheets (SDS) for all chemicals being used on-site in all City facilities. The Contractor shall provide SDS and product labels to the Contract Administrator prior to the use of any chemicals.

1.12 CITY SUPPLIED ITEMS

The City shall furnish soap, seat covers, toilet tissue, garbage bags/can liners, and paper towels for use in restrooms and other areas within the City's facilities. City provided supplies will be available for pickup at the Johnson Creek site. Contractor to provide transportation of City furnished supplies throughout other City facilities as needed.

1.13 JANITORIAL LOG

The Contractor shall furnish a janitorial log for each facility and/or work site as designated by the City Facilities Management Department. The log shall be reviewed daily by the contractor's personnel. Contractor's personnel shall acknowledge in writing any entry made by City personnel. This log shall remain in City designated areas of each facility.

1.14 GENERAL NOTATION

Contractor shall not operate or adjust the setting of any of the heating, ventilating or air conditioning systems in facilities without written approval of Facilities Management.

Contractor shall leave only designated lights on and shall check windows and doors for security upon completion of janitorial work.

Contractor shall learn and carefully operate building security systems according to instructions.

Contractor shall report any damaged or broken plumbing, glass, light fixtures, furniture, paint, floor, lavatory fixtures, etc., to Facilities Management.

Contractor shall order needed supplies through Facilities Management, allowing seven (7) days lead-time.

Contractor shall report any unusual security problems to Facilities Management.

Contractor shall use designated janitorial closets and areas for storage of equipment and supplies. Janitorial closet areas shall be kept clean and orderly.

Contractor shall not permit visitors and children inside buildings at any time.

Contractor shall check the Logbook daily/nightly for instructions and cleaning problems.

Contractor shall repair/replace, at Contractor's cost, any furnishings or fixtures damaged by Contractor's employees.

The Contractor shall turn in lost and found articles to Facilities Management within twenty-four (24) hours.

1.15 IDENTIFICATION OF EMPLOYEES

Contractor shall provide uniforms and identification of its employees. All employees shall wear uniforms at all times while in City facilities so that each employee is readily identifiable. All Contractors' personnel shall be clean and neat at all times. Minimum requirement of a uniform shall be a shirt with company name, logo and employee name permanently attached. City supplied picture ID badges shall also be worn and displayed at all times Contractor's employees are in City facilities.

1.16 CERTIFIED PAYROLL

Contractor shall provide monthly-certified payroll verification for all Contractors' employees used in the performance of this Contract, if requested by City.

1.17 MINIMUM QUALIFICATIONS

Contractor shall completely meet the following minimum qualifications:

A. Contractor Experience - Contractor and Contractor's key personnel who will have supervisory roles in this Contract shall have a minimum of three (3) years of recent and continuous, comparable experience.

B. 24-Hour Response - Contractor shall have 24-hour, 7-day emergency response capability. Contractor will provide a complete description of response system, e.g., pagers, mobile phone, answering service, etc.

1.18 INSURANCE

Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this Contract, insurance for not less than the dollar limits contained in the "Agreement Form Section" of this package.

1.19 SECURITY CLEARANCES

Contractor shall provide names and other requested information to Facilities Management on all principals and employees being used in the execution of this Contract for the purpose of obtaining a Security Clearance. No principal or employee shall be allowed to enter any City facility for work purposes until a Security Clearance is completed. Contractor shall allow a minimum of two (2) weeks for security clearance.

1.20 SDS

Contractor shall supply Safety Data Sheets for all products supplied by the Contractor for use in performance of this Contract. No products shall be approved for use, which contain lasting fragrance. These Data Sheets, along with the products, shall be kept up-to-date and properly labeled. No product shall be used in City Facilities until SDS have been reviewed and approved by Facilities Management.

1.21 REQUIRED TRAINING

Contractor shall provide copies of all required programs as listed below. The programs shall be complete and include the names of all employees to be used in the performance of this Contract.

Note: All employees shall be trained prior to beginning work in City facilities.

A. Certified HIV/Hepatitis training and vaccination program per OR-OSHA regulations OAR 437, Division B. General Occupational Safety and Health Rules (29 CFR 1910.1 030) blood-borne pathogens.

C. Hazardous Communications Program. (SDS)

D. Tuberculosis (TB) training and optional testing program. (OSHA)

E. Janitorial/Housekeeping training program on proper techniques and cleaning methods including training on the use of non-fragranced supplies complete with all related safety warnings.

1.22 NON-PERFORMANCE

In the event of nonperformance under the resulting Contract, the City, after twenty-four (24) hours' written notice to the Contractor, shall have the right to accomplish the work not performed, and it is agreed that the cost for said work or goods shall be borne by the Contractor.

For purposes of this section, nonperformance shall be defined as failure to appear and perform work and/or deliver goods as specified and scheduled.

1.23 DISPUTES

In case of any doubt or differences of opinions as to the items or service to be furnished hereunder, or the interpretation of the provisions of the specifications, the decision of the City shall be final and binding upon all parties.

1.24 EMPLOYMENT STANDARDS

The Contractor is expected to use prudent judgment in the selection of a work force. Proven judgment, integrity, work habits and skill proficiency of employees are essential employee requirements.

All janitorial personnel must have a security clearance. There will be no exceptions and no substitutions of personnel without prior security clearance checks.

The Contractor shall not assign to the facilities any employees who have been convicted of any felonies, or misdemeanors, which reflect negatively upon the honesty, reliability, general trustworthiness, or prudent judgment of the employees.

All Contractors' employees shall be bonded.

The Contractor is expected to adhere to "Equal Opportunity" principles and practices in relationships with his/her employees.

Employees of Contractor shall not be accompanied or assisted by non-employees during work shifts (including their own children).

Contractor shall provide the City Facilities Management Department an accurate, typed roster of all management and janitorial work force personnel who have any relationship with the work to be performed at the City's facilities. Roster data must include full names, home addresses and home telephone numbers. The roster shall be continuously updated to reflect any personnel changes.

In the interest of safety, Contractor's employees must be able to communicate in English both orally and in writing, or be accompanied at all times by an employee of Contractor who is able to do so.

1.25 SECURITY

Any disclosure or removal of any matter and/or property from City facilities on the part of the Contractor shall be cause for immediate cancellation of the Contract. Any liability, including, but not limited to, attorney's fees, resulting from any such action or suit brought against the City as a result of the Contractor's willful or negligent release of information, documents or property contained in the building shall be borne by the Contractor. All information, documents and property contained within these facilities shall be considered privileged and confidential and should be treated as such.

1.26 ASSIGNMENT

Neither the resultant Contract nor any of the requirements, rights or privileges demanded by it may be sold, assigned, Contracted or transferred by the Contractor without express written consent of the City.

1.27 CLEANING PERFORMANCE STANDARDS

The following standards shall apply to all facilities.

A. INSPECTIONS

i. CONTRACTOR'S ON-SITE SUPERVISION

Contractor's performance shall be maintained by continuing onsite supervision of work performed to ensure that standards of cleanliness and preservation are being attained by janitorial crews.

The following standards represent a high level of cleanliness, which defines the minimum level of service. If portions of this attachment appear to reduce the service level required by another portion, Contractors shall use the higher standard.

ii. INSPECTION BY CITY REPRESENTATIVE

All services required to be performed under this Contract shall be subject to inspection at any time by a representative of the City. If any such services are found to be unsatisfactory and not in accordance with the Task Schedule, the City shall notify the Contractor and the Contractor shall take immediate steps for corrective action at no additional cost to the City.

Written notices of unsatisfactory conditions or need for corrections shall be transmitted to the Contractor as described in "JANITORIAL SERVICE AND COMPLAINT CORRECTIVE ACTION PROCEDURE", listed below. Notices for corrections sent by Facilities Management shall be considered official notices.

iii. JANITORIAL SERVICE COMPLAINT AND CORRECTIVE ACTION PROCEDURE FOR USE IN ALL CITY FACILITIES

This procedure has been developed to assist Facilities Management Contract variations. Action shall be taken against the Contractor should problems persist and not be corrected as required by the Contract. Your help in monitoring the service provided is essential to the success of the Contractor's adherence to janitorial specifications. Thank you for your time and assistance.

a. Should a problem with the cleaning occur:

All facilities shall have a logbook located in a designated area. This logbook shall be read by the Contractor each night. Log the complaint with the date and area of the problem. The Contractor shall check the log each night, take corrective action and sign the logbook.

b. If the problem is not corrected by the next working day:

Call 503-786-7621, 503-786-7663 or 503-786-7693 and speak to one of the facility representatives or leave specific information about the complaint, and give your name and number where you can be reached.

c. If the problem is corrected but consistently reoccurs:

Always log the complaint in the logbook. Call Facilities Management at 503-786-7621, 503-786-7663, or 503-786-7693 and a work order will be processed with the information you give. Please be specific with the complaint, and give your name and phone number where you can be reached. You will be contacted regarding your complaint.

d. If you are requested for emergency response for clean up:

Call 503-786-7621, 503-786-7663, or 503-786-7693 during regular office hours. An emergency contact number will be provided for after-hours calls.

B. CLEANING QUALITY DEFINITIONS - All items shall be done at intervals noted in task schedule

i. FLOOR MAINTENANCE:

- Vacuum thoroughly all carpeted areas, using professionally appropriate vacuuming equipment. This shall include all areas of each facility, under chairs and tables.
- Edge vacuum all carpeted areas. Spot clean all carpeted areas.
- Vinyl tile in all buildings shall be dusted with treated dust mops.
- Spills and spots shall be removed.
- Damp mop all hard flooring with appropriate cleaning agents.
- Sweep, wet mop and disinfect all kitchen/dining room, restroom/locker room and shower room floors. Edge all hard surface floors.
- Vacuum entrance mats and all other separate mats as may be required throughout the building. Clean under entrance mats.
- Sweep or vacuum stairways.
- Steam extract high traffic area carpet and rugs and all carpets.

ii. WASTE & RECYCLING MATERIALS:

- Empty all trash containers into central collection containers located outside each building. Empty the centrally located recycling bins at each facility, as needed, into the recycle container located outside of each building. Clean indoor trash, recycling, and compost containers, as applicable, (inside and outside container) as necessary to maintain clean, odor-free containers. Replace can liners as necessary. All liners in restrooms and kitchen/dining areas shall be replaced daily.
- In the future the City may add dumping compost and non-mixed recycling at a central location outside each building.
- In the future the City may also add turning compost at each building at regular intervals as noted in task schedule.
- In the future the City may also add deliver non-mixed recyclables to commercial recycler off-site.
- Empty and clean all outside ashtrays and trash receptacles.

iii. DUSTING:

- Dust tops of partitions, tops of doorways, tops of vending machines, legs on bottom of chairs, filing cabinets, bookcases, other furniture, counter tops, window sills, and window ledges, from floor to a height of seventy-two (72) inches.
- Dust high (over 72 inches) moldings, shelves, bookcases, door casings, window casings, hanging light fixtures, partition tops, ledges, etc. There shall be no cobwebs visible in any areas.
- Low dust all baseboards and ledges.

iv. RESTROOMS and KITCHENS:

- Clean and disinfect inside and outside of all urinals and toilets using appropriate cleanser for the removal of stains. Remove hard water stains inside and outside of toilet.
- Wash and disinfect bathroom stall partitions and doors, sheetrock walls, tile walls and showers. Remove hard water stains from showers and showerheads.
- Remove all graffiti.
- Detail all bathroom stalls.
- Clean and disinfect all sinks, faucets, and counter tops. Remove all hard water stains.
- Service and clean all soap, towel, toilet tissue and seat cover dispensers.
- Clean mirrors and empty refuse. Service as required to maintain high standards of cleanliness.
- Clean inside and outside of microwaves and refrigerators.
- Wipe down/disinfect tables and chairs.

v. DOORS, DOOR KNOBS, DOOR JAMBS, WALLS, FINISH MOLDINGS AND ELEVATORS:

- Remove all fingerprints and other smudges from all doors, doorknobs and doorjambes, walls, (especially around switch and electrical outlet cover plates) and finish moldings.
- Clean and polish bright metal, entrance doors and kick/push plates.
- Vacuum or wet mop elevator floors and wipe down walls.
- Remove graffiti.
- Elevator floor tracks shall be clean and free of all foreign materials and dirt.
- Clean and polish elevator doors, floors, control panels and floor indicator plates where applicable.
- Remove vacuum cord marks from doorjambes and outside corners of walls and partitions.

vi. FURNITURE:

- Vacuum all upholstery and fabric partitions. Spot clean upholstery stains.
- Clean leather, plastic and vinyl furniture and furniture covers.

vii. GLASS:

- Clean mirrors, reception counter glass, and door windows.
- The interior and exterior sides of all facility windows shall be cleaned. Please reconfirm window schedule cleaning date with Facilities well in advance of cleaning.

viii. INCIDENTALS:

- Check and acknowledge entries in janitorial logs.
- Notify Facilities Management of any irregularities noted during servicing (e.g. defective plumbing, burned-out lights, graffiti which cannot be removed, unlocked doors, supply shortages, etc.).
- Spot check work stations and perform any incidental cleaning supplementary to regular waste removal, dusting and vacuuming necessary to ensure clean, neat appearing work areas.
- In kitchen areas, clean exteriors of cooking appliances, kitchen fixtures and counter tops.
- Wipe and thoroughly clean lunch and conference room tables with appropriate cleaning agents.
- Check entry areas and clean as necessary both sides of all entry related glass doors and associated interior glass panels and frames.
- Spot-check and clean high traffic and heavily soiled areas. Spot shampoo carpeted areas.
- Clean and disinfect all drinking fountains and remove hard water stains.
- Turn off all lights except those required to be left on.
- Close and lock all entrance doors and windows.
- Reset alarm system in each building as necessary.

1.28 Building Cleaning/Task Schedules (All City buildings plus Pond House—which has its own schedule)

City Buildings: City Hall (CH), Library (LIB), Public Safety Building (PSB), JCB/CD and JCB/PW & FF

CLOSING INSTRUCTIONS PRIOR TO DEPARTURE
All exterior doors are secure (unless there is a meeting in progress)
Turn off all lights except those to be left on, close and lock all entrance doors and windows
Alarm system to be set, if applicable
Make sure all furniture has been arranged neatly
Janitorial closets are to be kept neat and clean
Check and acknowledge entries in janitorial log book
Notify Facilities Management of irregularities, supply shortages, defective plumbing, unarmed building, lights out, unlocked doors, etc.
DAILY - GENERAL CLEANING
Empty and wipe down trash receptacles. Replace liners as necessary to maintain clean, odor-free containers.
Clean glass doors of all entries, adjoining glass panels and reception/counter security glass
Spot clean walls and cabinets
Wipe/Sanitize light switches, stair railings, door and cabinet handles
Sanitize/clean work surfaces including conference tables, counters and cabinets
Dust mop hard surface flooring, including stairwells. Spot clean as needed.
Vacuum carpeting and floor mats in all areas
Spot clean all carpeted areas and upholstered furniture

Exhibit B

Contract No. _____

Wipe down non-upholstered lobby furniture with disinfectant cleaner
Clean/sanitize drinking fountains (N/A @ JCB/CD)
Remove cobwebs from walls and ceiling areas
Empty and clean outside entry trash cans and ash containers
Empty inside compost to outside bin at each building and rotate main outside compost bin, if applicable
Empty central recycling containers to trash company recycle container outside
Sweep all outside doorway entrances daily between September and December
Clean/disinfect exercise equipment (PSB Only)
DAILY - RESTROOMS
Clean urinals, toilets and washbasins using disinfectant cleaner. Wash/disinfect toilet seats on both sides. Clean outside of toilet, top to floor
Clean and fill all dispensers (soap, toilet paper, feminine products (including pads, tampons, and paper feminine product waste liner) paper towels, etc. as applicable)
Clean mirrors, shelves, bright metal and other restroom fixtures
Wipe down and disinfect walls, doors and partitions
Empty waste containers, wash as necessary and insert liners as required
Sweep and wet mop all floors using a disinfectant cleaner
Dust tops of wall partitions and furnishings
DAILY & WEEKLY - LOCKER ROOMS
Daily = See Daily Restroom Cleaning (see Locker Room Cleaning Section 1.29 of Janitorial Contract, pg. 22)
Weekly = Clean and sanitize locker room showers, benches and floors (see Locker Room Cleaning Section 1.29 of Janitorial Contract, pg. 22)
DAILY - KITCHEN AREA / LUNCHROOMS
Wipe down/disinfect tables and chairs, sinks and appliance exteriors
Wipe down inside of microwaves
Empty and disinfect trash receptacles and replace liners
Clean and fill all dispensers (soap, paper towels, etc.)
Sweep and wet mop all floors using disinfectant cleaner
Vacuum carpeted areas (JCB/PW Only)
WEEKLY - ALL AREAS
Dust chairs and table legs, office furniture, non-electronic equipment, accessories, telephones and tops of space dividers
Clean inside and outside of trash receptacles
Vacuum upholstered furniture
Edge and vacuum behind all counters, receptacles and hard to reach areas
Clean elevator door tracks on each floor

Exhibit B

Contract No. _____

Mop all floor surfaces and entire stairwells
Sweep all outside doorway entrances weekly between January and August
Clean main entrance and employee rear entrance of cobwebs
Remove leaf debris from 3 outside stairwells and drains at bottom of stairwells (except daily from September - December at City Hall Only)
MONTHLY - ALL AREAS
Low dust all baseboards and ledges
High dust horizontal surfaces (shelves, ledges, lights, blinds, etc.)
Clean washable furniture, chair arms, equipment and telephones with disinfectant cleaner
Edge vacuum all floors and vacuum behind receptacles and hard to reach areas
Clean and remove all hard water stains from fixtures (faucets, sinks, toilets, showers, shower heads, etc.) if applicable to building
Clean towel and feminine products dispensers/receptacles
Detail bathroom stalls from top to bottom including underside of ADA handrails
Sweep all outside door entrances monthly between January and August
Clean kick plates
Detail outside light fixtures
Take all non-mixed recycling to off-site recycler, if applicable
EVERY THREE (3) MONTHS - ALL AREAS
Wipe down inside of microwaves and refrigerators
Dust and clean ceiling air vents
EVERY SIX (6) MONTHS - ALL AREAS
Steam extract all carpets in high traffic areas
Steam extract all carpets
Deep clean/scrub all hard surface flooring and tile & grout
Wash all windows, interior and exterior, of entire building (reconfirm scheduling with Facilities staff)

Pond House (PH) Only:

CLOSING INSTRUCTIONS PRIOR TO DEPARTURE
All exterior doors are secure (unless there is a meeting in progress)
Turn off all lights except those to be left on, close and lock all entrance doors and windows
Make sure all furniture is arranged neatly back to the way you found it
Alarm system to be set, if applicable
Janitorial closets are to be kept neat and clean
Check and acknowledge entries in janitorial log book

Exhibit B

Contract No. _____

Notify Facilities Management of irregularities, supply shortages, defective plumbing, lights out, unarmed building, unlocked doors, etc.
WEEKLY - GENERAL CLEANING - ALL AREAS
Empty and wipe down trash receptacles. Replace liners as necessary to maintain clean, odor-free containers.
Empty inside compost to outside bin at each building and rotate main outside compost bin, if applicable
Clean glass doors of all entries
Spot clean walls and cabinets
Sanitize/clean all surfaces including conference tables, counters and cabinets
Sanitize/wipe light switches, kick plates, stair railings, door and cabinet handles
Sweep and wet mop all floor surfaces
Sweep all outside doorway entrances
WEEKLY - RESTROOM
Clean toilet and washbasin using disinfectant cleaner. Toilet seat to be washed and disinfected on both sides. Clean outside of toilet top to floor.
Clean mirrors, shelves, bright metal and other restroom fixtures
Spot clean/disinfect walls and doors; clean/disinfect door handles
Empty and clean trash receptacle (inside and outside) and replace liner
Sweep and wet mop floor using a disinfectant cleaner
Replenish restroom supplies (soap, toilet paper, paper towels, feminine products and paper waste liners, etc. as applicable)
WEEKLY - KITCHEN AREA
Wipe down and disinfect table and chairs, counters, sink and appliance exteriors
Clean and fill all dispensers (soap, paper towels, etc.)
Empty and clean trash receptacle (inside and outside) and replace liner
Sweep and wet mop floor using disinfectant cleaner
SEMI-MONTHLY (2 Times a Month) - ALL AREAS
Dust chair and table legs, accessories, sills and telephones
Vacuum book store carpet
Spot clean carpeting and upholstered furniture
Spot clean all non-upholstered furniture with disinfectant cleaner
Remove cobwebs from walls and ceiling areas inside the building
Remove outside main entrance and employee rear entrance cobwebs
MONTHLY - ALL AREAS
Low dust all baseboards and ledges

Detail underside of bathroom ADA rails if applicable
High dust horizontal surfaces (shelves, ledges, lights, blinds, etc.)
Edge vacuum and vacuum behind receptacles and hard to reach areas
Clean washable furniture, chair arms and telephones with disinfectant cleaner
Empty central recycling containers as needed to trash company recycle container outside
Take all non-mixed recycling to off-site recycler, if applicable
Detail outside light fixtures
Sweep all outside doorway entrances (monthly between January and August)
EVERY THREE (3) MONTHS - ALL AREAS
Remove any hard water stains from fixtures (faucets, showers, sinks, etc.)
Detail edges of floors where they meet the wall
Wipe down inside of microwave and refrigerator
Dust and clean air vents
EVERY SIX (6) MONTHS - ALL AREAS
Steam extract all carpets in high traffic areas
Steam extract all carpets
Deep clean/scrub all hard surface flooring
Wash all windows, interior and exterior, of entire building (reconfirm scheduling with Facilities staff prior)

JCB = Johnson Creek Blvd Facility (Public Service Facility)
 CD = JCB Front Office/Community Development Building
 PW/FF = Public Works and Fleet/Facilities Building

1.29 JCB/CD & PW, City Hall (2nd floor restroom shower) and Public Safety Building (PSB)

Locker Room Cleaning (Daily)

See Daily Restroom Cleaning:

Clean urinals, toilets and washbasins using disinfectant cleaner. Wash/disinfect toilet seats on both sides. Clean outside of toilet, top to floor.
Clean and fill all dispensers (soap, toilet paper, feminine products (including pads, tampons, and paper feminine product waste liner) paper towels, etc. as applicable)
Clean mirrors, shelves, bright metal and other restroom fixtures
Wipe down and disinfect walls, doors and partitions

Empty waste containers, wash as necessary and insert liners as required

Sweep and wet mop all floors using a disinfectant cleaner

Locker Room Cleaning (Weekly)

Showers

1. Clean/sanitize all showers
2. Spray with appropriate cleaner (can use hose end sprayer available in the PSB men’s locker room only)
3. Scrub shower walls with scrub brush (cover every tile top to bottom)
4. Scrub shower floors with scrub brush (cover every tile)
5. Rinse thoroughly to remove all debris from floor (spray every tile) (can use hose end sprayer available in the PSB men’s locker room only)
6. Clean floor drains out (hair, etc.)

Benches

1. Clean/sanitize all benches
2. Spray/scrub all bench surfaces with appropriate cleaner
3. Rinse thoroughly

Floors

1. Clean/sanitize all floors
2. Spray with appropriate cleaner
3. Scrub floor with scrub brush (cover all concrete)
4. Rinse thoroughly to remove all debris from floor (can use hose end sprayer available in the PSB men’s locker room only)
5. Clean floor drains out (hair, etc.)

Once scrubbing has been done, clean mirrors and counter tops. Make sure everything is clean and stocked.

1.30 Escalation Clause

Unit pricing may, through express written approval of City, increase annually at a rate not exceeding the percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers, US city average, during the previous year.



CITY OF MILWAUKIE
"Dogwood City of the West"

Resolution No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH TUALATIN VALLEY WORKSHOP, INC. (TVW, INC.) FOR JANITORIAL SERVICES.

WHEREAS, the City is not equipped or sufficiently staffed to provide in-house janitorial services to its five (5) major building sites; and

WHEREAS, the City is required to contract with qualified nonprofit agencies employing individuals with disabilities under ORS 279.835 to 279.855; and

WHEREAS, the City requested proposals from five (5) qualified nonprofit agencies, listed as providing janitorial services by the Department of Administrative Services, and received two responses; and

WHEREAS, the selection committee formed by the City evaluated proposals from Tualatin Valley Workshop, Inc. (TVW, Inc.) and Portland Rehabilitation Center; and

WHEREAS, the selection committee determined that TVW, Inc. met the criteria established by the City; and

WHEREAS, funds are budgeted in the Facilities Division for Fiscal Years 2017-2018, with funds for the two optional renewal terms to be requested in future biannual budgets; and

Now, Therefore, be it Resolved that the City Manager is hereby authorized to sign a Purchase Agreement with TVW, Inc. in the amount of \$332,542 for the initial two-year period with the option to extend the contract term for up to two, two-year periods for approximately \$332,542 each biennium thereafter.

Introduced and adopted by the City Council on December 20, 2016.

This resolution is effective on _____.

Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Scott S. Stauffer, City Recorder

City Attorney



MILWAUKIE CITY COUNCIL
STAFF REPORT

Agenda Item: **RS 6. C.**
Meeting Date: **12/20/16**

To: Mayor and City Council
Through: Ann Ober, City Manager

Subject: **Milwaukie Housing Strategies Report**

From: David Levitan, Senior Planner
Denny Egner, Planning Director

Date: December 12, 2016

ACTION REQUESTED

This is an informational presentation to discuss the Housing Strategies Report, and solicit Council input on strategy recommendations and City housing policy priorities.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

June 23, 2016 City Council Study Session – The Council heard from staff and their consultants (Angelo Planning Group) on the preliminary findings of the Housing Needs Analysis (HNA), which is a comprehensive study of the local housing market and analyzes future trends and housing needs in Milwaukie.

March 29, 2016 City Council Study Session – The Council heard a panel of speakers discuss city and region-wide housing issues.

BACKGROUND

Angelo Planning Group (APG) was hired in March 2016 to prepare a Housing Needs Analysis (HNA) for the City of Milwaukie. Statewide Planning Goal 10 details the required components of an HNA that is prepared as part of a Comprehensive Plan Update. The HNA must assess both current and future (20 year) demand for housing units across a range of prices, rent levels, locations, housing types, and densities. It must then compare these needs with the community's 20 year supply of buildable residential land, as calculated by its Buildable Lands Inventory (BLI). If the HNA shows that cities do not have adequate land supply to meet the full spectrum of anticipated housing needs, they are required to develop policies and actions to help meet this demand. The HNA provides the foundation for the policy and strategy recommendations that are included in the Housing Strategies Report and that will be further addressed in the Comprehensive Plan's Housing Chapter.

A Housing Technical Advisory Group (TAG) was created in April 2016 to help guide the HNA process and review project deliverables. The TAG included staff from a number of county and state housing and planning agencies, as well as local developers, housing non-profits, Mayor Gamba, Councilor Power, and Planning Commissioner Shane Abma. The TAG met three times in Spring/Summer 2016 and reviewed the HNA as well as the Housing Strategies Report.

The HNA determined that there is currently a mismatch between the City's existing housing supply and the housing needs of its residents. Like most cities throughout the region, there is a large deficit of housing units that would be considered affordable to the City's lower income residents (affordability is generally calculated as spending no more than 30% of one's income on housing). For example, of the City's 1,250 households that make less than \$20,000 per year, 82% are estimated to spend more than 30% of their income on housing costs, while the same is true for 50% of the City's 1,300 households that make between \$35,000 and \$50,000 per year. These figures point to a need for more affordable housing options.

While the HNA shows that the City's existing housing supply does not meet the affordability needs of its current residents, it does show that the City has an adequate supply of land to meet its future housing needs. The HNA estimates that the City will have a need for 1,150 new housing units over the next 20 years, which represents an approximately 11% increase over the current supply of 10,496 units. The BLI estimates that the City has a 20-year land capacity for 2,675 housing units, or more than twice its estimated housing needs. This capacity includes the potential for 1,090 detached single family units, 1,081 medium density attached units, and 504 multifamily units. Approximately 20% of this capacity is on vacant parcels, while the remaining 80% is on developed lots with infill/redevelopment potential (partitions, subdivisions, site redevelopment, etc.). The HNA also looked at the City's UGMA area, and determined that the UGMA has the capacity for an additional 2,445 units over the next 20 years.

DISCUSSION

While the HNA found that the City has more than double the buildable land capacity to meet its future housing needs, it also determined that there is an existing mismatch between the City's housing supply and the housing needs of its residents, most notably for lower income households. Escalating housing costs and a lack of housing options that are affordable to Milwaukie residents – whether they are in need of a government-subsidized rental unit or a starter home to purchase- has been a major concern expressed by the Milwaukie community during the first phase of public outreach conducted for the Community Vision.

The BLI and HNA also show that given the lack of vacant land supply in Milwaukie, the City's future housing supply is heavily dependent on infill development throughout its low and medium density residential zones, which may be difficult to achieve under current development standards. Without consolidation of smaller parcels, the size and shape of many of these lots with infill capacity will require flag lot developments that may not be able to meet the GIS-modeled capacity of these sites. The issue of increased density and compatibility with existing single family neighborhoods has also been a major theme in recent years, and is a topic that has been mentioned prominently during the visioning effort.

The Housing Strategies Report is the first step in addressing the City's 20-year housing needs, and includes a list of recommended housing programs, Comprehensive Plan Amendments and Development Code Amendments to help meet these needs. Some of the report's major recommendations include:

- Provide more flexibility for the development of cottage cluster developments (the City was recently awarded a \$65,000 from Metro to analyze the feasibility of cottage clusters), live-work units, and accessory dwelling units, which have the opportunity to increase the supply of affordable units;

- Review and augment (as needed) the City’s neighborhood compatibility standards to address potential conflicts that may result from increased infill development in established residential neighborhoods;
- Examine a potential reduction or modification of minimum parking standards for a number of uses, including accessory dwelling units, transitional housing, senior housing, and live/work units;
- Review the Development Code to ensure it meets state requirements for clear and objective standards for all “needed” housing types;
- Explore the relative costs and benefits of establishing an inclusionary zoning program for multi-family residential projects with more than 20 housing units;
- Continue to participate in and support County and regional efforts to provide more affordable and special needs housing;
- Provide better information on design practices that meet the needs of people with physical or mobility disabilities, including aging residents; and
- Clarify and simplify the City’s land use permitting process, to the extent possible.

At your December 20 meeting, Matt Hastie from Angelo Planning Group will present the major findings and recommended strategies that are included in the Housing Strategies Report. Staff is requesting Council input on the strategies and recommendations included in the report, which will be incorporated into the Comprehensive Plan’s new Housing Chapter as well as into future Development Code Amendments. As staff begins work on the Comprehensive Plan Update in early 2017, it will be using input from the Housing Strategies Report and the Community Vision process to analyze a number of land use scenarios, which will include different options for accommodating residential growth over the next 20 years.

CONCURRENCE

This report was reviewed by the Community Development Director and the City Manager.

FISCAL IMPACTS

Not applicable

WORK LOAD IMPACTS

Not applicable

ALTERNATIVES

Not applicable

ATTACHMENTS

1. Draft Housing Strategies Report

Milwaukie Housing Strategies Report



Prepared for the City of Milwaukie by Angelo Planning Group

December 2016



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1. Introduction and Overview

Having affordable, quality housing in safe neighborhoods with access to community services is essential for all Oregonians. Like other cities in Oregon, the City of Milwaukie is responsible for helping to ensure that its residents have access to a variety of housing types that meet the housing needs of households and residents of all incomes, ages and specific needs. As part of the process of periodically updating its Comprehensive Plan, the City is evaluating the housing needs of its citizens and identifying strategies that the City and others can implement to achieve them. Some of the major housing issues and priorities identified by the City include:

- Develop housing strategies that respond to the opportunities presented by a variety of community assets and opportunities, including a strong employment base, recent opening of the light rail transit Orange Line, planning for the City’s downtown and neighborhood commercial areas, and increasing attractiveness of Milwaukie as a home for residents from across the region
- Integrate the housing planning process with the community’s current community visioning effort
- Respond to current and evolving housing market and demographic conditions and trends
- Maintain a high level of residential livability
- Balance the need to rely on infill and redevelopment to meet future housing needs with impacts on neighborhood character and livability
- Support housing affordability, special-needs housing, ownership opportunities, and housing rehabilitation, particularly for residents with limited means and/or special housing needs
- Promote innovative, well-designed, and sustainable housing developments

This report summarizes a variety of local housing issues and the strategies that are recommended to address them. It builds on a comprehensive study of the local housing market and future trends (the Housing Needs Assessment, or HNA) and an in-depth review of current local, regional, state and federal housing requirements, goals and initiatives. It was prepared in coordination with a technical advisory group of City of Milwaukie staff, Planning Commissioners and City Councilors, development experts and citizens, as well as representatives of Clackamas County, and the Oregon Department of Land Conservation and Development. A representative of Home Forward (the Multnomah County Housing Authority) also attended two meetings as a guest participant.

Section 2 of this Report summarizes key housing conditions and future trends to provide context for the strategies that follow. Section 3 briefly reviews recommendations for updates to the City’s Comprehensive Plan, which are described in more detail in a companion “Compliance Analysis Report.” Sections 4 through 7 outline additional strategies related to the following types of initiatives:

- Recommended amendments to the City’s Development Code
- Future planning for new residential development and redevelopment
- Information sharing with housing developers and other community partners
- Intergovernmental coordination and advocacy
- Administrative and funding tools

Key strategies include:

- As part of a larger overhaul of the City’s Comprehensive Plan, create a new Housing chapter that will briefly describe existing housing conditions and past and historic trends, and will include new or revised housing goals, policies and action items that reflect the results of this planning effort.
- Update the City’s Development Code to allow for development of co-housing; enhance provisions for “cottage clusters,” transitional housing, residential homes, and “live/work” housing units; refine parking requirements for accessory dwelling units, senior and congregate housing developments in existing or future high-capacity transit areas; ensure the City provides clear and objective standards for all needed housing types; and provide for density or height bonuses to promote affordable housing in selected areas; and to ensure that new housing is compatible with the planned character of the surrounding neighborhood or area.
- As part of various planning, development and permitting processes, provide information from other sources to housing developers, home builders, and landlords regarding fair housing goals and requirements, as well as design practices that help ensure accessibility for people with physical or mobility limitations, including older residents.
- Continue to coordinate with and support Clackamas County, as well as local non-profit groups and other housing developers or providers, particularly those that provide affordable or special needs housing. Work with the County to plan for future disposition and/or redevelopment of its existing public housing facilities. Assist with siting and permitting efforts and generally support residential development projects that further the City’s housing goals and objectives and meet the City’s planning and zoning requirements.
- At an administrative and decision-making level, address housing goals and implement housing strategies in a consistent and coordinated manner, with a common understanding of the goals, priorities and approaches identified in this report.
- Consider providing a certain level of funding to support affordable and special needs housing projects, as resources allow in the future. More specific recommended actions are described in the following section.

Section 8 of the Report summarizes specific recommended strategies in an Action Plan that includes proposed activities, timelines and roles for implementing each one.

2. Housing Conditions and Trends

Demographics

Milwaukie has a current population of approximately 20,500 people.¹ As of the 2010 Census, it was the 11th largest city by population in the Portland metro area (excluding Vancouver, Washington).

Between 2000 and 2010, Milwaukie's growth was essentially flat, adding only an estimated 60 people in that time. This is less than one percent growth. In contrast, Clackamas County and the state experienced population growth of 17.5% and 17.3% respectively. The percentage of families fell somewhat between 2000 and 2010 from 61.7% to 58.6% of all households. The city has a relatively smaller share of family households than Clackamas County (69%) and the state (63%), but a greater share than Multnomah County (54%).

Milwaukie features a healthy jobs-to-households ratio. There are an estimated 12,400 jobs in the city of Milwaukie, and an estimated 9,100 Milwaukie residents in the labor force. This represents 1.4 jobs per household and more than one job per working adult. Considering the proximity of other major employers in the south Metro area, there seems to be ample employment for Milwaukie's population.

Milwaukie's estimated median household income was nearly \$57,000 in 2016, which is 3% lower than the Metro area median. However, the local median income is roughly 12% lower than the Clackamas County median of \$64,700. Median income has grown an estimated 28% between 2000 and 2016 in real dollars, while inflation was an estimated 36% over this period; as is the case nationwide, the local median income has not kept pace with inflation. 22% of households earn \$25k or less, very similar to 2000. The lowest-earning cohorts, those earning \$15,000 or less per year, grew slightly in share.

According to the US Census, the poverty rate in Milwaukie has been increasing over time, from 8% of individuals in 2000 to an estimated 13% over the most recent period reported (2014 5-year estimates).² The poverty rate in Milwaukie was 4% to 5% lower than that of the entire Metro region between 2000 and 2014. The poverty rate is highest among adults aged 18 to 64 at 13.5%, while 12% of those under 18 years of age are living in poverty. The rate is lowest for those 65 and older at 10%. The definition of the poverty rate used in these analyses is considered to under-represent the actual degree of poverty in Milwaukie and other communities because it does not adequately account for the rising cost of housing and other expenses on individual and family economic self-sufficiency. Unfortunately, there is no readily available alternative data at the local level to substitute at this time. However, the City's Housing Needs Analysis includes other metrics that can be used to generally identify the relative extent of this issue. One example is the University of Washington's Self-Sufficiency Standard, which found that in 2014, a family of four (two parents, one school age child, and one child in pre-school) needed to earn \$65,000/year to be economically self-sufficient, a figure nearly three times the federal poverty level for a four person household.

¹ 2016 population is based on the certified 2015 estimate from the Portland State University Population Research Center, projected forward to 2016 using the 2010-2015 annual growth rate.

² Census Tables: QT-P34 (2000); S1701 (2014 ACS 5-yr Estimates)

As discussed in the HNA, changing demographic trends that are likely to affect future housing needs in Milwaukie include the following:

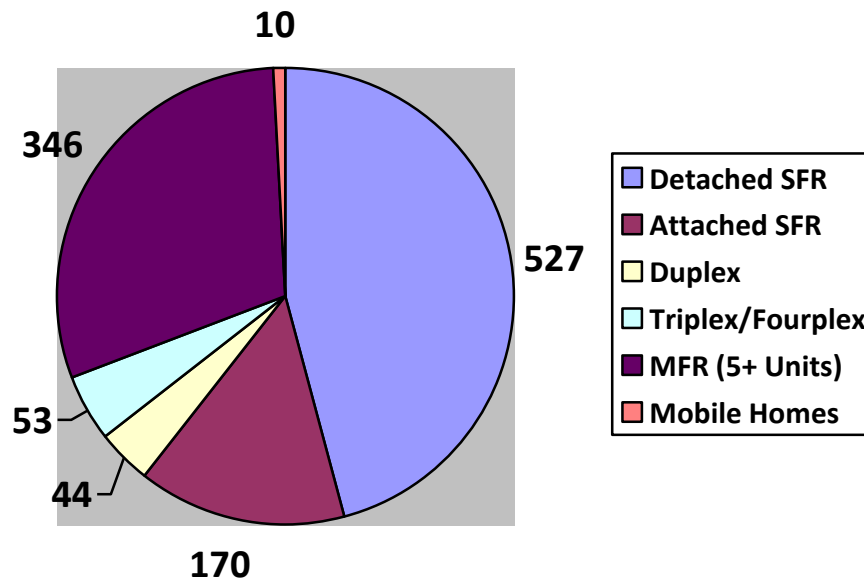
- As a close-in suburb in the Portland metro area, the City of Milwaukie will draw residents as part of the general trend of migration to urban areas. The Portland metropolitan area as a whole can expect continued growth, with different local communities filling different niches in terms of housing affordability, lifestyle amenities, and employment opportunities. Milwaukie is expected to attract residents through continued redevelopment of the Downtown area, recent addition of light rail service, and proximity to a strong employment base.
- Baby boomer households in Milwaukie and other communities will have a preference towards aging in place as long as possible, particularly for homeowners, and will on average be healthier longer than previous generations. When they do transition to other housing, their stock of older existing single family homes will be attractive starter and move-up homes to younger family households.
- Milwaukie is likely to be attractive to millennial generation residents (those born between approximately 1982 and 2000) seeking relatively affordable living near transportation options and employment centers. The city can continue to attract this cohort by encouraging mixed use areas and urban-style amenities such as multi-modal environments, shopping and entertainment, and open space. Some in this generation are already starting young families and will be well into middle age during the 20-year planning period. More of these households may move from areas like central Portland to communities like Milwaukie for affordable housing, more space, and schools.
- Milwaukie has a modest foreign-born population at 7%, less than the statewide percentage. As with the rest of the state and nation, immigrants will continue to make up an increasing share of households in coming decades. While not homogeneous, these household on average tend to be larger, have lower incomes and are more likely to rent their homes than the average household.

Projected Housing Needs

The HNA's analysis of current housing supply and current and future housing needs indicates the following:

- There is a projected need for 1,150 new housing units by 2036 based on the most current projections prepared by Metro.
- In general, there is a need for some less expensive ownership units and rental units. This is not uncommon as the lowest income households struggle to find housing of any type that keeps costs at 30% of gross income, which is a generally accepted threshold for housing to be considered affordable. Many of the units currently meeting the needs of lower-income residents are publicly subsidized units.
- Among prospective ownership households, there is a need for fewer units valued at \$190,000 to \$300,000 in comparison to other price ranges. This reflects the estimated value of the total housing stock, and not necessarily the average pricing for housing currently for sale. This analysis estimates the need for more for-sale housing at the lower and upper ends of the market.
- There is a surplus, or lack of projected new need, in the middle rental spectrum (\$900 to \$1,400 and \$1,800 to \$2,700). This reflects where the majority of market-rate rent levels are at the current time.

20 Year Housing Need by Type (1,150 Total Units)



Source: 2016 Housing Needs Analysis, City of Milwaukie

In considering future housing needs and the projected supply of land available to meet them in Milwaukie, this study found the following:

- The projected preferences for future unit types are based upon current conditions, housing trends discussed above, and historic development patterns. It is projected that in coming decades a greater share of housing will be attached types, including attached single-family.
- 54% of the new units are projected to be single-family detached homes, while the remainder of units (46%) is projected to be some form of attached housing, and under 1% are projected to be mobile homes.
- Single-family attached units (townhomes on individual lots) are projected to meet over 14% of future need.
- Duplex through four-plex units are projected to represent an additional 7% of the total need.
- 24% of all needed units are projected to be multi-family in structures of 5+ attached units.
- 0.8% of new needed units are projected to be mobile home units, which meet the needs of some low-income households for both ownership and rental.
- There is an adequate supply of land under current zoning designations to meet future housing needs and comply with state and regional housing requirements and goals. However, a significant percentage of this supply, particularly for single-family detached housing, is in the form of properties with the



potential for infill and redevelopment, rather than purely vacant land. This will represent potential challenges for the City in meeting these needs during the next 20 years.

3. Recommended Comprehensive Plan Amendments

Milwaukie is required to update its Comprehensive Plan to reflect an analysis of existing and future housing needs. In doing so, it must comply with a variety of state and regional requirements, some of which will necessitate amendments to the City’s Comprehensive Plan. The City is embarking on a visioning project in 2016 that will lay the foundation for a major overhaul of the City’s Comprehensive Plan. The results of this housing needs analysis will provide the technical basis for much of the content of the update of the Comp Plan and creation of a new housing chapter in the Plan.

Recommendation CP1: Update the Comprehensive Plan to briefly describe existing housing conditions and past and historic trends, as well as to include new or revised housing goals, policies and action items that reflect the results of the current planning process.

Details and Actions

This Report has been prepared in part to support the process of updating Milwaukie’s Comprehensive Plan. Statewide Housing Goal 10 states that:

“Buildable lands for residential use shall be inventoried and plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density.”

To achieve this goal, cities and counties in Oregon are required to plan for future housing needs by undertaking the following efforts.

- Assess current and future housing conditions and needs, including the need for housing of different types and in different price ranges
- Ensure that the city has an adequate supply of land zoned for residential use to meet future land needs
- Adopt Comprehensive Plan policies and Development Code provisions that support future housing needs, meet state and regional requirements and guidelines and address specific local housing goals and objectives

Currently, information and policies about housing are found in the Land Use chapter of Milwaukie’s Comprehensive Plan which has not seen a major overhaul since the late 1980’s. To ensure compliance with state requirements, consistency with the City’s forthcoming vision, and the ability to guide the City’s future actions to meeting housing needs, this element of the Comp Plan will need to be updated to reflect the results of the housing needs analysis recently conducted as part of this planning effort. Amendments are expected to entail creation of a new Housing chapter with the following elements.

- a. Revised narrative and findings. The new Comprehensive Plan should include a concise summary of existing housing and population conditions and previous and projected future trends. It is recommended that this section of the Comprehensive Plan remain relatively brief and focus on the

types of information included in the Housing Needs Analysis. A preliminary draft of potential Comprehensive Plan narrative will be prepared as a subsequent product of this project.

b. New or revised goals, policies and action measures. A variety of new or revised objectives and policies are recommended to strengthen the City’s Comprehensive Planning policies related to housing. These recommendations are described in more detail in a Housing Compliance Report and a draft set of updated Comprehensive Plan Housing policies (to be prepared under separate cover). In general, these policies include the following:

- Incorporate additional housing types (e.g., accessory dwelling units, cottage cluster housing, etc.) into policies promoting opportunities for different housing types
- Add policies supporting development of housing for people with low incomes or special needs (seniors, people with disabilities, etc.)
- Add policies related to supporting housing programs and initiatives carried out by partnering agencies and community groups
- Add or supplement policies that support preservation of mobile home parks as an affordable type of housing. There is one mobile home park (60 units) within City boundaries and several hundred additional units in mobile home parks within the city’s Urban Growth Management Area (UGMA)
- Add policies directed at supporting workforce housing, typically defined as housing available to local workers, with an emphasis on moderate income working households.
- Revise policies related to housing density and location to ensure consistency with the housing needs analysis results
- Revise policies related to neighborhood compatibility to reference specific approaches to addressing compatibility (e.g., building heights, setbacks, stepbacks, screening and buffering)
- Add policies explicitly stating the City’s goal for affirmatively furthering fair housing objectives, providing housing in areas with access to opportunities and services, and committing to considering accessibility issues in building code processes

4. Recommended Code Amendments

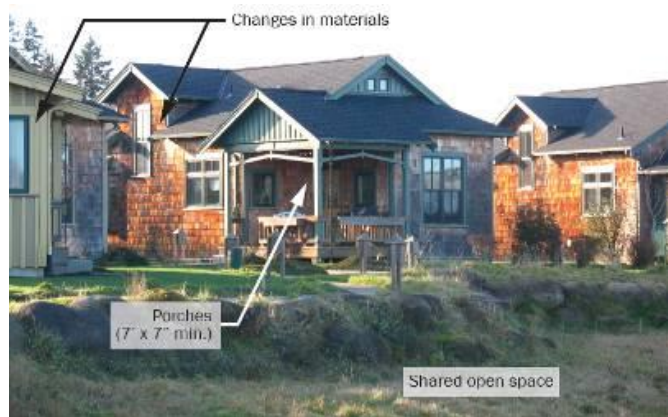
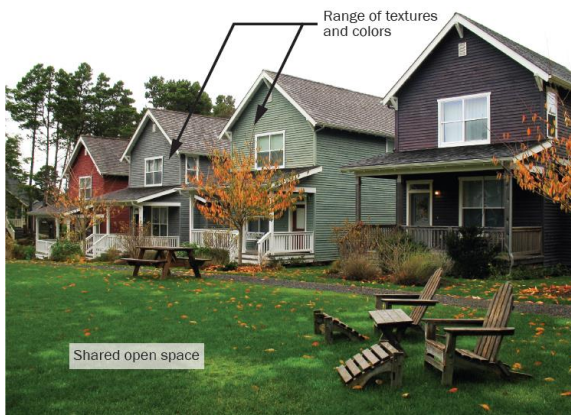
One of the primary ways in which a city can help ensure that residents have access to a variety of housing types at different price ranges is through the preparation and administration of their development code. Development codes or zoning ordinances set the stage for what types of housing can be built in which parts of the community and under what conditions. They also typically govern the design of new housing and how housing relates to other land uses and services. While the City has a limited ability to affect the ultimate cost of housing, standards related to lot sizes, architectural design features, parking and other aspects of housing can affect housing prices.

This report addresses a number of different issues associated with the Zoning Ordinance of the Milwaukie Municipal Code (MMC) and recommends a variety of strategies for addressing future housing needs. Strategies are intended to ensure access to a variety of housing types, including emerging or non-traditional housing types; to maintain and improve residential livability; to promote innovative, well-designed, and sustainable housing; and to encourage construction of needed or desired housing types in specific locations.

Cottage Cluster Housing

The cottage cluster housing type can be an economical way to provide additional housing choices, including renter or owner occupied housing that meets the needs of people with moderate incomes and/or first-time homebuyers. It also can be constructed on infill sites and designed and built to ensure compatibility with surrounding housing and residential neighborhoods. This type of housing can be built under existing MMC requirements as an allowed use in the city’s higher density zones. However, it can only be built if individual units are on their own lots created through a land division process. Allowing for cottage cluster housing on a single lot and possibly allowing for it to be constructed in the R5 zone will expand opportunities for this type of housing and expand the range of housing opportunities in Milwaukie.

Recommendation CA1: Update the MMC to provide more flexibility for the development of cottage clusters, while accounting for potential impacts on existing neighboring development.



Examples of Cottage Clusters

Details and Actions: Cottage housing developments or “cottage clusters” consist of small houses, each usually with less than 1,000 square feet of floor area, oriented around a common open space area and with shared parking, and often with other common amenities. Depending on the cottage cluster development, cottages might be owned fee simple (each on its own lot) or as part of a condominium plat where the land is owned in common but the buildings are individually owned. Typically the open space and parking areas are owned and maintained in common. This housing type may be more likely to be developed in Milwaukie if the MMC were amended to do the following:

- Allow for multiple ownership and platting options. The code should allow ownership to be fee simple lots with a homeowner’s association holding common areas, or condominium ownership of the whole development.
- Allow for cottage clusters in the R5 zone, with the same average minimum lot sizes as for duplexes and with limitations on the number of units allowed within a cottage cluster development.
- Increase the side yard setback for cottage cluster development to more than five feet from the side lot lines, as is currently required by MMC Subsection 19.505.4.D.2.
- Develop additional cottage design standards for units that are not fronting a street, with the aim of matching the existing character of the neighborhood

Live/Work Units

Live/work units (especially live/work apartments or townhouses) are an emerging housing type. They can provide flexibility by combining residential and commercial uses, and can allow residential uses on the ground floor until the market is ready to support retail in these spaces. Live/work development are currently allowed in the City’s GMU, NMU and DMU mixed use zones, with specific standards in the code for their development. There has been limited development of these units other than a few that were built as part of the North Main Village project in 2004. The City has not received comments that the code requirements deter their development. Instead, their limited development is more likely due to lack of demand or challenges in financing this still somewhat new housing type.

Live/work units also could be considered in Milwaukie’s commercial districts (C-C, C-G, and C-L), which currently only allow commercial uses, with the exception of the C-L zone. Allowing for live/work units in these zones could expand the flexibility of residential and commercial uses in these zones, effectively increasing the residential capacity and meeting other housing and land use goals in the City’s mixed-use zones.

Recommendation CA2: Update the Development Code to add code provisions specific to live/work apartments or townhouses in the C-C, C-G, and C-L zones.

Details and Actions: Live/work units are dwellings in which a business may be operated on the ground floor. They are similar to a home occupation except that because they are in commercial or mixed use zones, they typically have greater allowances for commercial area, visibility, signage, and access from the primary street. Live/work units could be allowed in several of the City’s commercial zones where they are not currently permitted.



Examples of Live-Work Townhome and Apartment Units

Transitional Housing and Residential Homes

The City’s Housing Needs Analysis documents that transitional/ temporary facilities are needed for specific populations with special housing needs, based on findings from the 2012-2016 Clackamas County Consolidated Plan. The Consolidated Plan’s Housing Gaps Analysis found that as of 2012, the county had a shortage of 185 beds within transitional facilities. As defined in the Zoning Code, a transitional/temporary facility is: “a facility which may provide temporary or transitional services to families or individuals, including lodging where the average stay is 60 days or less. Such facilities shall be classified as community service uses and may include shelters, community counseling centers, rehabilitation centers, and detention and detoxification facilities.”

Development of a transitional/temporary facility in Milwaukie is subject to Community Service Use (CSU) requirements established in Section 19.904. Approval criteria are found in Subsection 19.904.4 and standards for institutions are included in Subsection 19.904.9, including standards regarding setbacks, building height, hours and levels of operation. The approval criteria and institution standards appear appropriate. However, more clarity on whether transitional/temporary facility rooms and beds are considered lodging or dwellings will make it easier to administer associated density, parking and other requirements for this type of housing.

Residential (group) homes are defined in the MMC as: “a dwelling unit operated as a single housekeeping unit for the purpose of providing a permanent residence—which includes food, shelter, personal services, and care—for the elderly, disabled, handicapped, or others requiring such a residence, as defined by the Federal Fair Housing Amendments Acts of 1988.” Pursuant to ORS 197.665, residential homes must be permitted in any residential or commercial zone where single-family dwellings are permitted, in part to ensure compliance with the Fair Housing Act. This essentially holds true for Milwaukie. However, single-family detached housing is permitted conditionally in the NMU Zone whereas residential homes are not permitted.

Recommendation CA3: Clarify the definition of and standards for transitional housing.

Details and Actions: The following amendments to the MMC are recommended to address issues with these uses:

- More clearly define whether transitional/temporary facility rooms and beds are considered lodging or dwellings, particularly for purposes such as calculating density and determining parking requirements.
- Consider establishing vehicle parking requirements (Section 19.605) specifically for transitional housing facilities. For example, if no specific standards are specified and multifamily standards are used (1 parking space per unit, for units 800 square feet or less), it may be difficult in terms of site planning and cost to provide the required amount of parking. Standards like those for extended-care facilities (1 parking per 4 beds) are recommended as more appropriate for transitional/temporary facilities.
- Permit residential (group) homes conditionally in the NMU Zone .

Accessory Dwelling Units

By providing small scale housing in single-family neighborhoods, accessory dwelling units provide a unique housing opportunity, particularly for aging residents and smaller households, whose housing needs are highlighted in the analysis for this study. While accessory dwelling units (ADUs) are an appropriate housing type for residential areas throughout the city, they can be particularly important in areas with good access to transit and services for aging residents or those who choose not to own a car. The City current permits ADUs in most residential zones through a Type I or Type II approval process (depending on the size of the ADU), with a Type III variance required for ADU’s over 800 sf in size. While most of the City’s development standards and approval criteria for ADUs appear reasonable, at least two factors may limit the development of ADUs: requiring additional off-street parking spaces and assessing system development charges (SDCs) for their development. Some jurisdictions reduce SDCs or do not apply them to ADUs, using General Fund money to encourage their development for the purposes of increasing the housing supply. While it may be beneficial to encourage ADUs, additional standards that help ensure neighborhood compatibility also may be helpful to avoid opposition from residents in established neighborhoods.

Recommendation CA4: Amend the MMC to encourage development of ADUs while continuing to address neighborhood compatibility issues. In addition, consider waiving or reducing system development charges (SDCs) for ADUs in coordination with other municipal service providers in Milwaukie.



Example of Accessory Dwelling Unit Site Layout

Source: Southwest Independence Concept Plan Designing for Density Presentation (September 21, 2011)

Details and Actions: Requirements associated with Accessory Residential (Dwelling) Units (ADUs) could be updated as follows:

- Eliminate off-street parking standards for ADUs or allow for parking spaces to be located in the front setback area.
- Consider whether to increase side and rear yard setbacks beyond those required by the base zone and by standards in Table 19.910.1.E.4.b.
- Consider significantly reducing or waiving SDCs for ADUs in coordination with other local service providers that also charge SDCs for ADUs (e.g., North Clackamas Parks District and Clackamas County Water Environment Services). SDC methodologies could be revised to calculate impact and fees by building square footage or number of bedrooms, with smaller ADU units having a significantly lower cost than large new single-family homes. Including the County’s SDC’s, an ADU currently pays approximately 65% of the SDC’s paid by a new single family home.

If the City considers reducing parking requirements for ADUs as suggested here, it may want to focus those changes in areas with frequent transit services and access to commercial or other services that reduce the need for residents to own a car. This topic in particular will require careful consideration and conversation with

decision-makers and other community members given concerns frequently raised about parking issues in residential and mixed use neighborhoods, as noted by technical advisory group members.

Finally, the City may want to consider further reducing SDCs associated with ADUs given that they must be developed in combination with an existing primary dwelling that may already have paid an SDC, they typically use fewer resources in comparison to primary dwellings, and they do not represent the development of any new land or neighborhoods. Currently, the City of Milwaukie charges a full detached SFR SDC for ADU's with the exception of the Transportation SDC, for which it charges 0.65 of the detached SFR SDC. The North Clackamas Park and Recreation District charges ADU's half their SDC for detached SFR. Clackamas County charges 0.8 of the SDC for sewer. The City of Milwaukie and these other agencies could consider further reducing SDCs for ADUs. The City of Portland has recently seen a increase in the development of ADUs and developers and affordable housing advocates attribute this in part to the City's recent decision not to apply SDCs to ADUs there. For example, before the City changed its SDC policy for ADUs, approximately 30 ADUs were built in Portland annually, but in 2013 alone, the City received almost 200 ADU permit applications.

Co-Housing

This form of housing typically includes a mix of privately owned homes along with shared facilities for meals, socializing and other activities. Co-housing developments can include a mix of housing types, including single-family homes, townhomes, duplexes or other residences. They also typically include dining rooms and other facilities for shared meals and other activities. The City of Milwaukie does not explicitly allow this form of housing in its Municipal Code and if it wants to allow it in the future, amendments to the MMC would be needed.

Recommendation CA5: Amend the MMC to allow for co-housing developments.

Details and Actions: Allowing for co-housing would entail the following updates to the code either in Section 19.505 or 19.910:

- Add a definition of co-housing.
- Determine in which residential zones co-housing would be allowed and then add it to the list of allowed uses in each residential and/or mixed use zone, possibly as an allowed use wherever cottage cluster housing is allowed.
- Create specific standards for co-housing developments related to allowed housing types, density, setbacks, building heights, building design, accessory structures, common/open space, parking and other development characteristics.

Neighborhood Compatibility Standards

A significant portion of the City's inventory of future buildable residential land is on properties with the potential to accommodate more development or redevelopment (e.g., a 30,000 square foot property that could be divided into more lots and accommodate additional homes). This means that new development will occur in existing neighborhoods, potentially sparking concerns about the compatibility of or transitions between new and existing housing. The City has a wide range of standards that address the compatibility of and transition

between different types of housing, as documented in the Housing Compliance Report prepared for this project. These provisions establish buffers and setbacks between different types of development, building height and stepback requirements, and compatibility with surrounding development. However, additional standards could be considered to further address potential community concerns about compatibility of future development.

Recommendation CA6: Consider adopting additional MMC provisions related to housing and neighborhood compatibility.

Details and Actions: Updates to the code could include the following:

- Evaluate whether adding height stepback regulations for multifamily development adjacent to Low Density Residential Zones would improve compatibility between new and existing development while not adversely affecting the cost and capacity of the new development.
- Similarly, evaluate whether adding height stepback regulations for mixed-use development abutting or adjacent to Low Density Residential Zones would improve compatibility between new and existing development while not adversely affecting the cost and capacity of the new development.
- Consider increasing the side yard setback for cottage cluster development to more than five feet from the side lot lines, as is currently required by Subsection 19.505.4.D.2, in the Moderate Density (R-5) Zone when cottage clusters are permitted in that zone.

While it is important to address neighborhood compatibility issues, it is equally important to ensure that requirements intended to address this issue do not violate the federal Fair Housing Act. Restrictions on housing that meet the needs of specific groups of people, referred to as “protected classes” under the Fair Housing Act, may violate the act if they eliminate housing opportunities or result in further segregation of housing for these groups. Additional strategies associated with the Fair Housing Act are discussed in more detail in subsequent sections of this report and in the accompanying Housing Compliance Report.

Parking Requirements

Off-street parking requirements and the way in which they are calculated can have an impact on the cost of housing and ability to develop it in certain areas, reducing the cost of housing and allowing for construction of housing that meets the needs of households with lower or moderate incomes. In addition, parking needs can vary in different parts of the community with the potential for less parking needed for certain types of uses and lower parking demand in pedestrian-oriented areas with better access to frequent transit services. Reducing parking requirements for developments that may require less parking can also serve as a potential incentive to encourage desired types of development.

Recommendation CA7: Consider reducing or eliminating required off-street parking for the following uses, either on a citywide basis or in areas with existing or planned future high-capacity or other frequent transit service:

- Accessory dwelling units
- Transitional housing and residential homes
- Senior housing and congregate care facilities

• **Live/work units**

Details and Actions: Consider the following revisions to parking requirements in the MMC as described in this and other strategies:

- Remove or otherwise provide a simple process for waiving the requirement for an additional off-street parking space for an ADU or allow parking in the front setback area.
- Reduce senior housing and congregate care facility parking requirements. The Development Code currently allows for applicants to establish site-specific parking standards by completing a Parking Study. However, given lower rates of driving and/or car ownership amongst these residents, consider examples from other uses and other jurisdictions, such as one space per four beds or residents.
- Clarify parking requirements for live/work units, and whether they would be treated as single-family attached uses or multifamily uses or some combination of residential and commercial for parking requirement purposes.
- Clarify parking requirements for transitional/temporary facilities. Similar to the discussion above regarding senior housing and congregate care facilities, consider treating transitional/ temporary facilities like Community Service Use extended-care facilities where parking requirements are one space per four beds as opposed to and preferable to multifamily dwelling or lodging parking requirements of one space per unit.

Clear and Objective Standards for Needed Housing

ORS 197.307 states that:

(4) Except as provided in subsection (6) of this section, a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of needed housing on buildable land described in subsection (3) of this section. The standards, conditions and procedures may not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.

For the most part, development standards in the MMC that apply within the residential and mixed use zoning districts appear to be clear and objective. However, in some cases, standards or review processes may need to be modified to ensure that the City provides clear and objective standards for all needed housing types per state law. Code provisions that may require changes include those for manufactured dwellings, multi-family housing, senior housing, and congregate housing facilities in selected zones.

Recommendation CA8: Review the MMC to ensure that the City is meeting state requirements for clear and objective standards for all types of housing considered to be “needed” housing.

Details and Actions: Evaluate the potential need for the following revisions to the MMC:

- In order to increase opportunities to provide affordable housing and provide more consistency between where single-family detached dwellings and manufactured home parks are permitted, consider allowing manufactured home parks in the R-10 Zone.

- Consider making the approval for senior and retirement housing a Type II procedure (rather than a Type III) procedure, using clear and objective approval criteria . The approval criteria currently include language such as “quality of project as a living environment for residents,” which is difficult to clearly evaluate.

Infill Development/Flag Lots

As detailed in the HNA and in the Neighborhood Compatibility section above, the majority of the City’s future housing capacity is located on developed lots with additional infill/redevelopment capacity, as opposed to on vacant land. This is especially true for the future supply of detached single family residences, with the City having a relatively large supply of oversized (20,000-50,000 sf) lots that have the capacity for additional units. However, the layout and orientation of the majority of these lots – they are generally much deeper than they are wide – means that flag lot partitions are often they only feasible way to add units to these sites. The City’s current flag lot development standards require a minimum 25 feet of street frontage, 30-foot front and rear yard setbacks (significantly higher than the setbacks for traditional partitions), and do not count the lot’s “pole” in the lot size calculation. These standards further reduce the infill capacity of these sites and can make it difficult for property owners to meet minimum density standards.

Recommendation CA9: Evaluate ways to increase the supply of detached infill single family housing units while recognizing neighborhood character and compatibility issues

Details and Actions: The following actions are recommended:

- Assess the City’s current flag lot standards (lot width, street frontage, setbacks, etc.), which are relatively strict when compared to those of other jurisdictions in the region.
- Encourage the consolidation of oversized lots to allow for larger scale development.
- Explore the feasibility of cottage clusters and other alternative housing types on oversized lots with dimensions/orientations that make traditional single family development difficult.
- Consider reducing yard setbacks for infill development in exchange for protecting existing trees and vegetation and providing additional landscape buffers.

Inclusionary Zoning

After being prohibited in Oregon since 1999, legislation allowing jurisdictions to adopt inclusionary zoning was passed in the Oregon Legislature in 2016. However, this legislation came with a number of limitations that are being regarded by affordable housing providers and advocates as challenging to implement this strategy in most small- and medium-sized jurisdictions in the state. The requirements only may be applied to multifamily housing development of 20 units or more. In addition, jurisdictions must provide “finance-based incentives” (e.g., property tax exemptions, fee waivers, development bonuses) to offset the cost of providing affordable units, but in an undetermined amount. They also must provide developers with the option to pay a “fee in lieu” instead of providing affordable units. Cities may also establish a local excise task to help fund inclusionary housing program.

These provisions are expected to limit the applicability and extent of the application of inclusionary housing programs and result in administrative and financial hurdles to implementation, particularly for smaller communities. Relatively few communities are expected to have the financial and administrative resources to establish inclusionary zoning programs. That said, the City of Milwaukie should explore the relative costs and benefits of establishing inclusionary zoning requirements.

Recommendation CA10: Explore the relative costs and benefits of establishing inclusionary zoning requirements and implement if warranted.

Details and Actions: The following actions are recommended:

- Identify the approximate benefits of establishing a set of inclusionary zoning provisions based on the expected number of developments that would be subject to the standards and the approximate number of resulting new units.
- Estimate potential excise fee revenues that could be applied to covering the cost of implementing inclusionary zoning standards.
- Estimate the cost of establishing and administering the non-code based elements of an inclusionary zoning program, including a fee-in-lieu program and other finance-based incentives.
- Determine if the expected benefits outweigh the costs of establishing an inclusionary zoning program.
- If the costs outweigh the benefits and the City decides to move forward with the program, establish needed code requirements and other administrative and financial procedures and protocols needed for implementation.

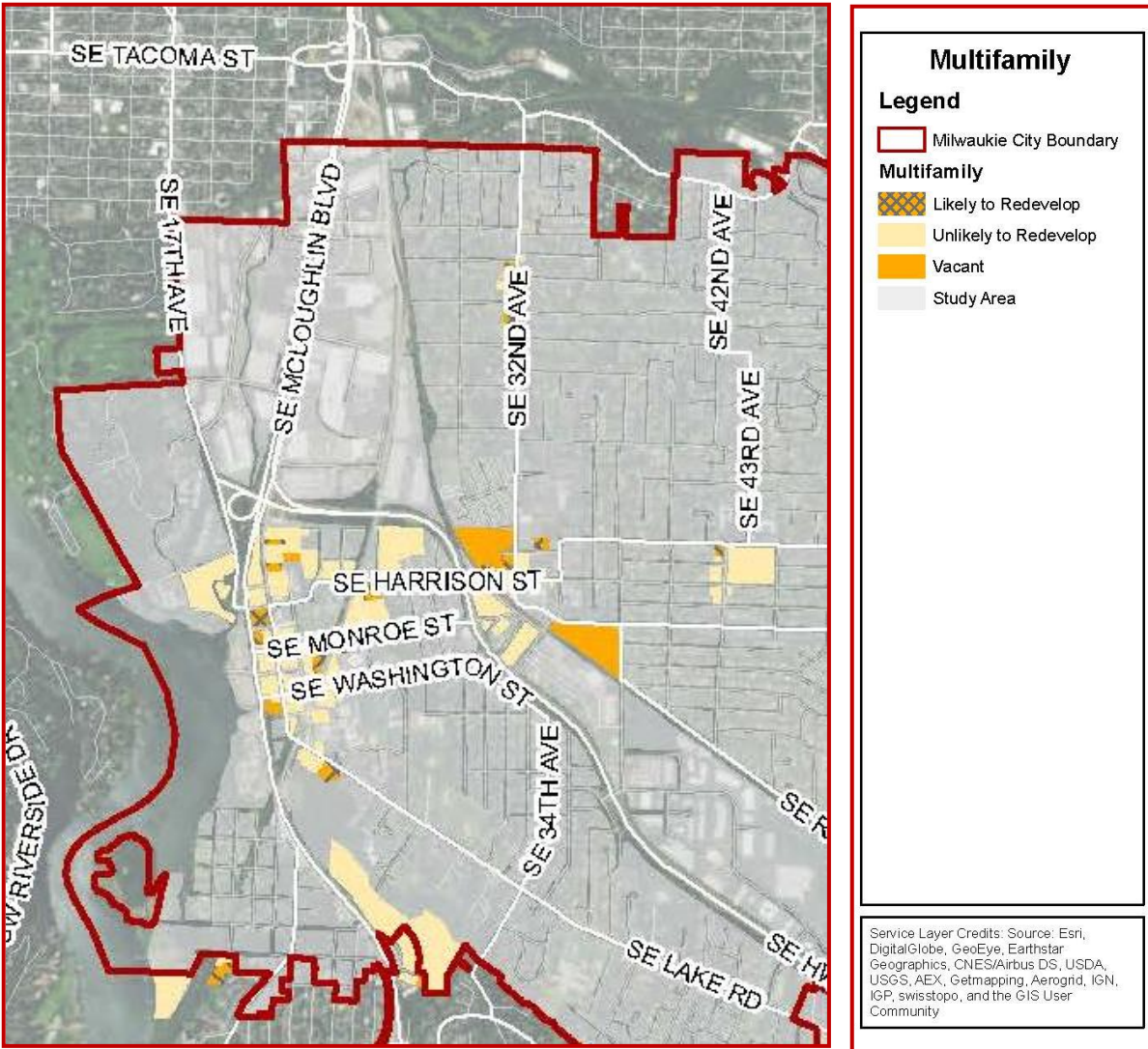
5. Future Planning for New Residential Development and Redevelopment

Given the nature of the supply of buildable land in Milwaukie that is potentially available to meet future housing needs, strategies are recommended in addition to regulatory and other programs to help meet future housing needs. Primary strategies are related to encouraging development of higher density housing on the large mixed use sites that make up a large portion of the capacity for multi-family housing, and for realizing the potential of infill and redevelopment sites in lower medium density residential zones which are scattered throughout the city.

General Recommendation FP1: Pursue a variety of strategies to support, encourage or require residential development in these areas that is consistent with city housing goals, other recent or future planning processes and additional strategies described in this Report.

Multi-Family and Mixed Use Development

The bulk of the capacity for future development of higher density housing in Milwaukie is found on a limited number of vacant or redevelopable properties in Milwaukie. Two sites zoned for mixed use development – the Murphy and McFarland properties – make up a substantial percent of this inventory (about 30-40% of the capacity). Several other properties or portions of properties in the downtown make up much of the remaining capacity for this type of housing, with several other potentially redevelopable properties found in the neighborhood mixed use zone along 32nd Avenue. Future development or redevelopment of these properties will hinge on a variety of factors, including property owner decisions, land values, and the market feasibility of mixed use or high density residential development in these locations, among others. Given the importance of this limited number of sites in meeting the city’s need for future housing, it is recommended that the City take a proactive approach to encourage future residential development on these properties.



Recommendation FP2: Encourage development of higher density housing on a significant portion of the McFarland and Murphy sites, as well as on potential downtown redevelopment sites within mixed use zones.

Details and Actions

Significant efforts have been made in recent years to plan for these two opportunity sites and test the feasibility of different development mixes. The current zoning (GMU) requires a minimum residential density of 25 units for stand-alone residential structures, which would ensure that residential uses in this zone will be some form of attached multi-family housing. Rowhouse development on a part of these sites would likely require that there also be additional denser forms of multi-family housing to meet this minimum standard. The zone also allows for the development of commercial uses without the inclusion of residential uses, or some mixture of the two. Steps to help ensure that these properties can meet future housing needs in Milwaukie include:

- Maintain communication with private property owners to maintain their awareness of the community’s interest in these key parcels and the types of development envisioned across multiple planning efforts.
- Offer pre-development design and planning assistance to property owners who show interest in moving forward with development of key parcels. While some preliminary opportunities studies have been done, additional planning assistance should be predicated on intention to move forward.
- Allow for phased development of larger opportunity sites, so that a lesser amount of feasible development is not discouraged by the site size. Planned development agreements can ensure that the development is finished in keeping with the original intent.
- Encourage the use of incentive programs for a beneficial mixture of land uses and building forms. Use funding from Tax Increment Financing (within the recently approved Urban Renewal Area), regulatory and fee relief, tax abatement, and/or other programs to provide impetus for private developers to consider greater density, mix of uses, or other public goods. Educate key property owners to resources available and eligibility criteria.

Infill and Redevelopment in Low and Medium Density Residential Zones

Much of the City’s capacity for future development of single-family detached homes, as well as duplexes and rowhouses, is found on lots that are already developed but have the potential for additional development or redevelopment. For example, many larger lots with existing homes are big enough to accommodate more houses if the property owner decides to partition (three or fewer lots) or subdivide (four or more lots) the lot and build more housing on the new lots. While many property owners may never decide to do this, many others are likely to do so, based on the potential to make money from selling a portion of their property or another home.

Recommendation FP3: Work with neighborhood groups and others in the community to address potential concerns about infill and redevelopment to overcome possible barriers to this form of needed housing development.

Details and Actions

Proposed standards to help address neighborhood compatibility concerns and ensure that the City provides clear and objective standards for needed housing are detailed in other sections of this report (see Recommendation CA9) and in an accompanying Housing Compliance Report. Outreach efforts to inform, listen to and address concerns about neighborhood impacts of infill and redevelopment may include the following:

- Provide information that describes the need for housing to support existing and future Milwaukie residents and workers, including a full range of people who are part of the community (teachers, nurses, office workers, coffee shop owners, wait staff and others). Materials recently prepared by Metro as part of its Housing Equity program represent a good model for such materials.
- Provide examples of well-designed infill development already constructed in Milwaukie or in neighboring jurisdictions and encourage local builders to emulate those projects.
- Provide information to residents and developers about the City’s standards for neighborhood compatibility and housing transitions.
- Encourage developers and builders to offer to meet with neighborhood associations to share their plans, listen to concerns, and take reasonable steps to address them as part of the planning, design and construction process.

6. Additional Non-Regulatory Strategies

The City of Milwaukie can best meet some housing goals by providing information to other parties as part of planning and development processes. In the areas of complying with the Fair Housing Act and the design of accessible housing features, the City either does not have regulatory authority to directly address these issues or doing so would create potential consistency issues with state or federal requirements. However, by providing information, particularly readily available handbooks and guidelines prepared by other entities, the City can further these housing goals.

Similar to Fair Housing practices and accessibility design, decisions about where and how to build and finance housing are made primarily by other entities. Either private or non-profit developers or public agencies such as Clackamas County directly fund and/or manage housing for people with low incomes or special needs. In addition to its general role in planning for and permitting residential uses, the City also can help advocate for or support specific projects that further the City’s housing goals. In doing so, the City can provide information to prospective developers about strategies described elsewhere in this report that help serve as incentives to building needed housing in regional centers, high-capacity transit corridors and other areas that provide residents with access to transportation and access to services. In some cases, this also will include areas where the cost of infrastructure is relatively lower, potentially reducing the overall cost of development.

More specific recommended approaches and actions are described below for several sub-topics.

Fair Housing Requirements

Recommendation NR1: The City should support the objectives of the Fair Housing Act by providing information to other parties about actions or strategies that will be consistent with the Act and help achieve its goals.

Details and Actions

Several strategies related to affirmatively furthering Fair Housing goals are found in Sections 3 and 4 of this report. These strategies relate to ensuring that Comprehensive Plan policies support the Fair Housing Act and that zoning and land use permitting decisions do not limit opportunities for housing needed by protected classes or residents and do not further segregate housing for these groups. Additional strategies recommended to meet Fair Housing goals include:

- Provide affordable housing developers with information about areas or potential sites that will help link residents with access to transportation, employment, needed goods and services, quality education and personal enrichment opportunities. These would include sites with high quality schools, access to public transit, walkable neighborhoods, grocery stores, other shopping opportunities and amenities. The City of Milwaukie and/or Clackamas County could prepare a set of “Opportunity Maps” for this purpose. Washington County has prepared a similar set of maps showing proximity to transit, health care facilities, public services, parks and trails, grocery stores

and farmers markets, and high test scores in schools by Census block groups throughout the County. City of Milwaukie staff could use similar maps to meet these objectives.

- Help affordable housing advocates and developers identify vacant or redevelopable properties that would be suitable for affordable or special needs in terms of their size, zoning, proximity to services or other factors. These may include properties identified in the City’s buildable lands inventory. The majority of properties zoned for higher density or mixed use will meet a number of these criteria based on their location.
- Continue to assist residents and tenants’ rights groups with addressing Fair Housing issues. For example, continue to provide referrals to the County and to Legal Aid of Oregon, as well as directing renters to the advocacy group Community Alliance of Tenants.
- As the City adopts code amendments recommended in this report to facilitate development of a variety of housing types, provide information about these new provisions to affordable housing advocates and developers.

Design Practices to Ensure Accessibility

Recommendation NR2: The City should provide information to developers about design practices that will help ensure that new housing units are accessible to people with physical or mobility disabilities, including aging residents.

Details and Actions

An increasing percentage of the population is aging. As the baby boom generation ages, communities will continue to see a need for housing that meets the needs of people with physical and mobility limitations. Designing accessible features into housing of all types will be increasingly important, and has been recognized by organizations such as the World Health Organization (WHO) and American Association of Retired Persons (AARP), which in recent years have focused on ways to develop “age-friendly” communities.

The Oregon Building Code and the Americans with Disabilities Act both require that accessible features be incorporated in certain types of housing. For example, the Oregon Structural Specialty Code (OSSC) for multi-unit residential buildings includes a comprehensive set of accessibility requirements. However, compliance with the OSSC does not assure compliance with all accessibility laws because the OSSC includes only those standards that are required by Oregon law and does not incorporate all federal and Oregon accessibility standards.

To help organizations comply with the accessibility provisions of the Fair Housing Act and to generally promote the construction of accessible housing, the Department of Housing and Urban Development (HUD) established a set of Fair Housing Accessibility Guidelines (FHAG) that “provide builders and developers with technical guidance on how to comply with the accessibility requirements of the Fair Housing Amendments Act of 1988.”³ Use of these guidelines can support accessibility and also act as a “safe harbor” in meeting Fair Housing Act

³ Fair Housing Accessibility Guidelines
http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/disabilities/fhfhag

requirements.⁴ The City Building Official currently refers both to Fair Housing Act Accessibility Guidelines or American National Standards Institute (ANSI) A117.1 for accessible building practices.

It is recommended that the City do the following to promote the design of accessible homes and compliance with Fair Housing Act requirements:

- Make builders aware of Fair Housing Act requirements related to accessibility for applicable developments (i.e., residential building with four or more units). Tables presenting federal and state accessibility standards in the 2010 Fair Housing Council of Oregon Accessible Design and Construction Handbook also could be provided.
- Provide information about the Fair Housing Accessibility Guidelines to all builders and developers and encourage them to follow the guidelines in building new housing and particularly for residential development targeted to people with physical or mobility limitations. Specific features that promote accessibility and address the needs of people with other disabilities can include but are not limited to the following:
 - ✓ A bedroom, kitchen, living room, and full bathroom on one level of the home
 - ✓ Smooth walls and surfaces to reduce the accumulation of potential sources of infection for people with lower immunity, and rounded edges of walls, doors, windows, and furniture to reduce potential injuries
 - ✓ Use of sound absorbing materials in the rooms to make it easier to hear
 - ✓ Walk-in showers with height adjustable handheld showerheads
 - ✓ Walk-in bedroom closets with storage at differing heights
 - ✓ Rocker light switches instead of more common flip switches
 - ✓ Lever-style door handles and faucets.⁵

Additional Information for Private Developers

Recommendation NR3: In addition to providing information about accessible design features, the City should provide information to developers that will generally help them understand the City’s land use permitting process and give them a sense of clarity and certainty about City requirements.

⁴ Fair Housing Council of Oregon Accessible Design and Construction Handbook, Fair Housing Council of Oregon and Community Development Law Center (June 2010), <http://fhco.org/pdfs/DCHandbook062010.pdf>

⁵ These design ideas are drawn from the websites of non-profit organizations dedicated to issues faced by seniors and people with disabilities.

<http://www.oldagesolutions.org/Environment/DnE.aspx>,

http://www.ageinplace.org/practical_advice/making_your_home_senior_friendly.aspx

<http://www.aarp.org/home-garden/livable-communities/info-07-2011/what-is-universal-design.html>

Details and Actions

Private market developers appreciate clarity and certainty in the design and permitting process. Certainty helps the developer save time, make decisions to proceed, and avoid costly surprises further along in the process. In some cases, a developer will prefer the certainty of a clear process even if it has greater requirements and fees, over a complex and unclear process with nominally lower requirements and fees. This means that City development code, design review process, permitting process, fees etc. should be as easy to understand and navigate for the developer as possible. The City can do this in multiple ways:

- Ensure that primary documents such as the Development Code and design standards and guidelines are easy to use for a person moderately informed in the design or development process;
- Provide knowledgeable staff to answer questions regarding the entire process from planning to permitting;
- Create additional materials such as one page handouts that summarize relevant code and process information, even if it is already available in longer documents; for example, the City already has prepared a useful handout related to ADUs that could be used a model for other informational materials (http://www.milwaukieoregon.gov/sites/default/files/fileattachments/adu_detached_af-re_1.pdf);
- Provide information about code provisions and other strategies described elsewhere in this report that can serve as incentives to develop housing in regional centers and high-capacity transit corridors;
- Assign a single contact person to facilitate the development process in the case of projects the City deems particularly important, such as a large-scale development, prominent site location, or catalyst project; and
- Provide as much of this information in advance as possible. Try to provide estimates of time, requirements and fees to the extent practicable, while emphasizing that these are all preliminary estimates that may change. Avoid processes which require developers to commit extensive time and money before key requirements or public processes become apparent.

Continued Support for Local and Regional Affordable Housing Efforts

Recommendation NR4: The City should continue to participate in and support County and regional efforts to meet current and future housing needs, particularly those targeted to affordable and special needs housing.

Details and Actions

A number of regional processes and programs are aimed at addressing housing needs in the Portland Metropolitan area and Clackamas County. The City of Milwaukie is a community partner in these efforts and should continue to participate in and support them. Clackamas County is the primary recipient of federal funding associated with housing. Through its *Consolidated Plan for Community Development and Housing* and annual Action Plans, it manages and allocates federal funds to meet a variety of housing and community development needs. It also manages construction and operation of publicly assisted housing developments and

administers Section 8 vouchers through the County’s Department of Community Development and the Housing Authority of Clackamas County (HACC). For example, according to the 2012-2016 Clackamas County Consolidated Plan and HNA:

- There are two 100-unit HACC facilities in Milwaukie (Hillside Park and Hillside Manor) and “scattered” public housing units in Milwaukie that the HACC plans to sell and replace with vouchers or other public housing units.
- Approximately 630 families in Milwaukie were receiving rental assistance in 2011 through the Housing Choice Voucher program run by HACC.
- HACC also owns 11 units of special needs housing in Milwaukie, and leases the units to other housing and service providers.
- The Oregon Housing Preservation Project, a partnership of Oregon Housing and Community Services, City of Portland, and the Network for Affordable Housing, works to preserve affordable housing and provided loans to improve and preserve the affordable housing development Seneca Terrace in Milwaukie.

Clackamas County is currently preparing to consider re-use or redevelopment of one or more of its public housing sites managed by the HACC.

At the regional level, Metro helps guide local housing efforts through requirements and guidelines in its *Urban Growth Management Functional Plan* related to zoning for a mix and density of housing to support a variety of housing needs. Other regional housing efforts have included preparation of a *Regional Affordable Housing Strategy* in 2000 and updated recommendations from the Housing Choice Task Force adopted by the Metro Council in 2006.⁶ Those recommendations included establishing regional and local targets for production of affordable housing and continuing to coordinate with Metro on other regional and local affordable housing strategies. The agency’s Housing Equity program provides planning grants to local jurisdictions to help address local housing affordability and equity issues.

The City does not have dedicated housing specialist staff or any specific housing assistance programs itself. However, it supports the county on a project-by-project and as-needed basis. The City also is striving to increase affordable housing options in the city through several public and private partnerships.

- The City was awarded a \$65,000 Metro Equitable Housing Planning and Development Grant in December 2016 to conduct a financial feasibility analysis of cottage cluster and other housing types that could be used for regulated affordable housing and workforce housing.
- In early 2017, the City expects to issue a Request for Qualifications (RFQ) for development of the city-owned property at the corner of 99E (McLoughlin Blvd) and SE Jefferson Street. Previously known as the Cash Spot site and now known as Coho Point at Kellogg Creek, the RFQ anticipates a mixed-use development (including housing) and will include the provision of affordable housing as one of the evaluation criteria.

⁶ Metro Housing Choice Task Force
<http://www.oregonmetro.gov/index.cfm/go/by.web/id=269>

- The City is currently developing an intergovernmental agreement with Metro to prepare a joint offering for property at Main and Harrison (formerly the “Texaco Site” or “Block 14”), which is jointly owned by the City and Metro. Discussions with the City Council have indicated that the provision of affordable housing should be a considered when evaluating proposals for the site.
- The City is currently evaluating the possibility of expanding its Vertical Housing Development Zone (VHDZ), which currently covers one site in Downtown Milwaukie. The VHDZ program allows for a partial property tax abatement of the improved (building) value of a property in exchange for the development of housing units on the second floor or above of a development. Developers that provide regulated affordable housing can also apply for a tax abatement of the land value.

Additional recommended actions include:

- Coordinate and collaborate with the County on efforts to reconfigure HACC public housing units to ensure that housing provided by the HACC meets the needs of City of Milwaukie residents as identified in the City’s Housing Needs Analysis.
- Continue to participate in and support the activities recommended by these organizations and planning processes.
- Prepare informational materials that summarize how the City’s policies and codes support the development of affordable housing and use these materials in future communications with developers, decision-makers and citizens.

A number of strategies identified in other sections of this report will further those actions, including development code strategies related to parking, location of housing in areas with good transit services and other amenities, as well as planning and zoning for a full range of housing types, including in existing residential and mixed use neighborhoods

Employer Assisted Housing

Recommendation NR5: The City could encourage large local employers to implement employer-assisted housing programs.

Large employers in a number of communities in Oregon, Washington and other states administer programs which provide employees with mortgage assistance or other support in securing affordable housing near their workplace. The City of Milwaukie can encourage local employers to offer similar programs. The University of Portland⁷ and Tacoma’s Downtown on the Go⁸ can serve as models for integrating housing assistance into TDM programs.

⁷ The Oregon Housing and Community Services Department (OHCS) is currently working on a program for employer assisted housing and is reviewing the University of Portland’s program (<http://www.up.edu/hr/default.aspx?cid=12551&pid=6980>) as a potential model.

⁸ Downtown On the Go is a Transportation Management Association (TMA) in partnership with Pierce Transit, the Tacoma-Pierce County Chamber of Commerce, and the City of Tacoma. Participating in Downtown On the Go allows employers to offer incentives of \$1,000 to \$7,000 or more from partnering lenders and developers for employees to live downtown. The only requirements for employers to participate are an initial meeting with Downtown On the Go, completing a

Potential strategies to promote employer assisted housing programs could include:

- Provide information to large employers about how to implement employer assisted housing programs.
- Consider requiring large employers to establish Transportation Demand Management (TDM) programs in which housing assistance is an element of the program.

memorandum of understanding, and allowing the distribution of educational and promotional program materials. The program website is <http://www.downtownontheho.com/live/live-close-to-work>.

7. Administrative and Funding Strategies

Implementing a number of the strategies described in this report will require a commitment of staff resources. In addition, the City has historically supported affordable and special needs housing projects through fee waivers and tax abatements. Those efforts are very helpful in providing needed financial support for such projects and leveraging resources provided by other entities.

Recommendation AF1: City staff should continue to address housing goals and implement housing strategies in a consistent and coordinated manner, with a common understanding of the goals, priorities and approaches identified in this report. The City also should consider providing a certain level of funding to support affordable and special needs housing projects, as resources allow in the future. More specific recommended actions are described in the following section.

Details and Actions

Following is a summary of specific recommended strategies related to staffing and financing.

Staffing

Milwaukie has a relatively small but dedicated planning staff tasked with addressing a wide variety of long range and current land use and other planning issues. The City does not currently have a single staff person dedicated to addressing long range or current housing issues. Instead, multiple staff people address residential planning and development issues through a range of activities, including reviewing residential development applications, incorporating planning for housing in specific or sub-area planning processes, administering and updating the City's Development Code, and coordinating with regional and county efforts related to housing policy and development.

We recommend that all staff continue to address housing needs in a consistent and coordinated manner, with some activities assigned to a specific staff person. This will provide for a good balance of flexibility and accountability needed to meet the City's housing needs and goals. Specific recommended approaches and activities include the following:

- Require all planning staff to review this document and regularly refer to the strategies it includes, particularly the summary table included in Section 8.
- Identify one staff person who will be responsible for coordinating with other staff to review and refine the list of strategies in this report on an annual basis. That process would not require updating the report in its entirety but should entail updating the table in Section 8 to address any emerging housing issues, needs or tools not previously identified. That process also should include an assessment of the City's progress in implementing recommended housing strategies. The staff person assigned to this task also could be a designated liaison for coordinating with Clackamas County, Metro and other local, regional or state partnerships to address housing goals and needs. It will be important for this staff person and possibly others to have a good working knowledge of affordable housing development issues and practices, including information about available financing tools, property acquisition and

development practices and necessary partnerships between affordable housing developers, lenders and builders, among other topics.

- Create a set of checklists of activities related to different types of planning efforts. The checklists should reference associated strategies identified in this report or annual updates. Project managers should review the checklists at the outset of any given planning project and continue to use them as they move forward to address project-specific housing issues.
- Establish a plan for adopting the various Development Code recommendations identified in this report, along with a strategy to fund that work. The City should explore state grant or other funding sources that could be used to supplement available local resources. Section 8 of this report includes information that could be incorporated in such a plan.
- Account for staffing needs associated with implementing housing strategies in annual budgeting and work planning activities. This would entail regularly estimating the amount of time needed to implement these strategies, prioritizing this work in relation to other duties, and ensuring that adequate time and resources are available to meet these goals within the City's overall resource limits.
- Brief Planning Commission and Council members about these housing goals and strategies on a regular basis, either as part of an annual or semi-annual event or as part of orientation and training for new members.

Financing Tools

One of the primary obstacles to achieving housing goals, particularly those for development of affordable housing, is a lack of funding at all levels of government, as the private sector is often unable to develop certain types of housing needs without public subsidy. The City of Milwaukie already implements or supports use of various financing programs to assist with the development of affordable housing, including:

- Use of urban renewal funding to construct public improvements that act as incentives for private sector residential development and to augment the costs of selected residential development projects.
- Metro grants for transit oriented development and use of Vertical Housing Tax Credits (both used on the North Main Village project, which includes 64 affordable units).

In addition to continuing to support these strategies, the City could consider a variety of other funding tools, including the following:

- Low interest loans, grants
- Down payment assistance
- Leveraging private and non-profit resources
- Establishment of a fee assistance program or implementation of a separate program to waive or defer payment of SDCs for affordable housing projects or for ADUs
- Municipal bonds or loans to finance acquisition of manufactured home parks by tenants

As noted above, the City has implemented some of these strategies for affordable housing projects, including urban renewal funding and use of Metro grants and vertical housing tax credits by developers. There are some obstacles to their implementation of some of these tools. For example, some of the SDCs assessed to new development in Milwaukie are not paid directly to the City but rather to special service districts that provide services in Milwaukie, including the North Clackamas Parks and Recreation District and Water Environment Services of Clackamas County. Currently, the only SDCs that the City collects pertain to water service, stormwater, sanitary sewer lines and transportation. Milwaukie can choose to waive or pay a portion or all of its own SDCs for affordable housing projects or ADUs. However, to cover other SDCs, the City must either convince other service providers to waive their own charges or pay the SDCs of those other providers. The current economic climate makes either of these tasks more challenging, particularly if the City chooses to cover other agencies' SDCs. Further work on this issue should be conducted as part of a coordinated process with Clackamas County and other local jurisdictions and service providers.

As noted in Section 6 of this report, the City also should continue to work closely with local non-profits, developers and others to leverage private resources to help meet a variety of housing needs, including through the following efforts, some of which are described in more detail in other sections of this report:

- Partner with area non-profit development organizations to capitalize on their capacity to raise public and private subsidies and structure financing near the break-even point that will ultimately benefit low income households.
- Support the efforts of community housing development organizations and other non-profit housing providers to identify opportunity sites, assist with the development permitting process and provide information about local and state financing programs.
- Encourage other developers to incorporate housing affordable to low and moderate income residents in their proposed developments, similar to development code provisions in other local jurisdictions.
- Encourage large employers to consider implementing employer assisted housing programs.

8. Implementation Plan

The following is a summary of housing strategies which includes information about the relative level of effort to move forward with each recommended strategy, the approximate amount of time needed to complete each activity, and other factors relevant to implementation. Completion of these tasks will ultimately depend on available staff time and resources, direction and priorities from decision-makers, feedback from community members, and a variety of other factors.

Strategy	Level of Effort	Time to Complete	Relative Impact	Notes
CP1. Update Comprehensive Plan narrative, goals, policies and action items.	Medium	3-6 months	Medium	This will be accomplished as part of the City's overall Comprehensive Plan Update process (or as a short-term follow-up action to adoption of this report).
CA1. Revise code provisions for cottage clusters.	Low - Medium	6-12 months	Medium	This will require minor updates to existing code provisions, with review by staff, the Planning Commission, Council and possibly other stakeholders or community members.
CA2/CA7. Revise code provisions for live/work units.	Low - Medium	6-12 months	Low	Same comments as for CA1.
CA3/CA7. Revise code provisions to clarify definition of transitional housing and modify parking provisions.	Medium	6-12 months	Medium	Same comments as for CA1. Revisions to parking provisions may generate additional public interests or comments and may necessitate a more robust public review process.



Strategy	Level of Effort	Time to Complete	Relative Impact	Notes
CA4/CA7. Update code provisions for accessory dwelling units, including parking and compatibility standards and reductions in SDC fees.	Low (-High)	3-6 months	Medium	This entails relatively minor amendments to existing code provisions; however, selected potential revisions (e.g., reduced parking requirements and waiving or reducing SDC fees) could be controversial; depending on the scope of the proposed revisions, may necessitate a more robust public review process. Coordination with other public agencies also will be needed if SDC fee reductions are proposed.
CA5. Draft new code provisions to allow for co-housing developments.	Medium		Low - Medium	Preparation of new code provisions will require more time than other changes which only require changes to existing provisions.
CA6/CA9. Update neighborhood compatibility standards to include stepback or other provisions.	Low - Medium	6-12 months	Low	Same comments as for CA1.
CA7/CA2/CA3/CA4. Update parking provisions for live/work units, transitional housing, ADUs, senior housing.	Medium	6-12 months	Medium	Same comments as for CA4 and CA5.
CA8. Revise code to ensure application of clear and objective standards for manufactured home parks and senior housing.	Low	3-6 months	Low	Same comments as for CA1.



Strategy	Level of Effort	Time to Complete	Relative Impact	Notes
CA10. Investigate feasibility of implementing inclusionary zoning provisions for affordable housing.	Medium	3-6 months	Low - Medium	Will require moderate level of analysis and discussions with Planning Commission and City Council; city staff is already conducting and presenting preliminary analysis of this issue. If City proceeds with program, level of effort is likely to be high.
FP 2. Encourage development of single-family attached and multi-family housing in mixed use and other zones.	Medium	12-18 months and ongoing	High	This is a key strategy in ensuring that an adequate future supply of land is available to meet the need for multi-family housing. Requiring a residential component in mixed use zones would require public and decision-maker discussions.
FP3. Support infill and redevelopment in low and medium density residential zones.	Medium	Ongoing	High	This also is a key strategy in ensuring that an adequate future supply of land is available to meet future housing needs. This will require a multi-pronged education and outreach effort with neighborhoods, developers and decision-makers in concert with code amendments noted elsewhere in this Plan.
NR1. Provide information to other parties about actions or strategies that will achieve the goals of the Fair Housing Act.	Low - Medium	3-6 months and ongoing	Medium	This would involve preparation of informational materials and outreach to stakeholders regarding fair housing compliance issues, in concert with adoption of code amendments identified elsewhere in this Plan.
NR2. Provide information to developers about design practices that will help ensure that new housing units are accessible to people with physical or mobility disabilities.	Low	1-3 months and ongoing	Medium	This would involve ongoing outreach to developers using existing readily available materials that staff could obtain with relatively minimal effort.



Strategy	Level of Effort	Time to Complete	Relative Impact	Notes
NR3. Provide information to developers to help them understand the City’s land use permitting process and provide clarity and certainty about City requirements.	Medium	6-9 months and ongoing	Medium	This would involve outreach to developers regarding current and future planning processes and strategies identified during this process. It also would require preparation of new informational materials.
NR4. Continue to participate in and support County and regional efforts to meet current and future affordable, special needs and other housing goals.	Low-Medium	Ongoing	Medium - High	This entails a continuation of participation in and coordination with County and regional housing planning processes. To the extent new regional requirements are adopted or new County programs are enacted, it could require an increased level of effort.
NR5. Encourage local employers to implement employer-assisted housing.	Low-Medium	Ongoing	Medium - High	This entails outreach to employers using informational materials about employer-assisted housing programs implement elsewhere.
AF 1. Continue to use staff resources to address housing goals and implement housing strategies in a consistent and coordinated manner and continue to provide funding to support affordable and special needs housing projects.	Medium-High	See below	See below	See below
a. Implement the recommendations in this plan in a proactive and coordinated manner.	Medium	Variable and ongoing	Medium	See above for more information about specific strategies; additional work will be needed to institutionalize implementation of strategies as part of the City’s annual and ongoing work planning efforts.



<i>Strategy</i>	<i>Level of Effort</i>	<i>Time to Complete</i>	<i>Relative Impact</i>	<i>Notes</i>
b. Continue to implement current affordable housing funding strategies; consider establishing and undertaking an expanded set of strategies.	Medium-High	6-9 months and ongoing	High	Consideration of additional strategies identified in this report represents a relatively modest level of effort. Implementation of some strategies could result in added financial costs or contributions to help offset the costs of affordable housing development.

CITY OF MILWAUKIE:

GOAL 10: HOUSING STRATEGIES REPORT

**City Council
December 20, 2016**



Who we are:

- Angelo Planning Group – Buildable Lands Inventory, Housing Strategies
- Johnson Economics LLC – Housing Needs Analysis

Statewide Planning Goal 10: Housing

- Housing Needs Analysis (HNA) shall provide inventory of buildable residential land and estimated capacity to accommodate future housing units;
- Provide suitable lands for a variety of housing types in the future by cost, tenure, and housing type; and
- Ensure that policies and zoning reflect the above.
- Metropolitan Housing Rule requires at least 50% of City's buildable land to allow for attached SFR or MFR.



Goal 10: Housing

Projected Future Housing Needs

- In next 20 years, City needs 1,241 new housing units
- Majority of units (over 50%) are SF detached homes.
- Townhomes make up 14% of future needed units.
- Remaining needed units are multi-family, duplexes, tri-plexes and mobile homes in parks
- Shortage of units in lowest price and income ranges.
- Some need for higher priced units.
- Ownership units make up 75% of needed units.

Buildable Lands Inventory (BLI)

- Guided by state and regional requirements to assess supply of vacant and redevelopable land
- City started with Metro BLI data and refined assumptions related to land availability, strike prices, mix of development, and environmental constraints.
- BLI Results
 - Adequate land overall to meet future needs
 - Land can accommodate required mix of housing
 - Majority of supply is infill/redevelopable, especially for detached SFR
 - MFR capacity is on limited number of properties

Comparison of Need and Supply

CITY OF MILWAUKIE CAPACITY	Unit Type			TOTAL
	Single Family Detached	Medium-Density Attached*	Multi-Family	
<i>Totals:</i>	1,090	1,081	504	2,675

<u>PROJECTED NEW FUTURE NEED</u>	Single Family Detached	Medium-Density Attached*	Multi-Family	<u>TOTAL</u>
New Need by 2036:	678	265	297	1,241

<u>PROJECTED SURPLUS CAPACITY (CITY CAPACITY - NEEDED UNITS)</u>	Single Family Detached	Medium-Density Attached*	Multi-Family	<u>TOTAL</u>
Estimated Unit Capacity:	412	816	207	1,434

Comprehensive Plan & Development Code Review: Plans and Policies that Were Reviewed & Evaluated

- Comprehensive Plan housing and neighborhood policies
- Residential zoning policies and code requirements
- Statewide Housing Goal 10
- Other statutory requirements
- Federal Fair Housing Act

Comprehensive Plan & Development Code Review: Preliminary Policy Assessment & Recommendations

- Address additional housing types and “workforce” housing
- Support development of housing for people with low incomes or special needs
- Support partnering programs and initiatives
- Support preservation of mobile home parks as affordable housing (currently one in city and several in UGMA)
- Update neighborhood compatibility policies
- Affirm fair housing goals and requirements

Comprehensive Plan and Development Code Review: Low Income and Special Needs Housing

- Provide clear and objective standards for senior, transitional, and other housing
- Clearly define transitional housing (group homes)
- Consider parking reductions for housing types where residents own fewer cars



Comprehensive Plan and Development Code Review: Non-Traditional Housing

- Accessory dwelling units
 - Consider reducing SDCs
 - Reduce parking or allow in front setback area
- Cottage cluster housing
 - Provide more platting options
 - Allow in more zones
 - Increase side yard setback
- Expand opportunities for live-work housing and allow for co-housing



Comprehensive Plan and Development Code Review: Neighborhood Compatibility and Flag Lots

- Consider height stepback regulations for multifamily and mixed use development adjacent to Low Density Residential Zones
- Flag lots
 - Balance neighborhood concerns with feasibility of development
 - Evaluate frontage and setback requirements
 - Examine tree and vegetation preservation
 - Encourage consolidation of oversized lots
 - Non-traditional forms of housing

Comprehensive Plan and Development Code Review: Land Supply Issues and Strategies – Infill sites

- Strengthen requirements related to transitions between different housing types and neighborhood compatibility
- Ensure that the code provides clear and objective standards for needed housing
- Conduct outreach with existing residents
 - Strategies to address conflicts
 - Importance of infill in meeting community needs



Comprehensive Plan and Development Code Review: Land Supply Issues and Strategies – Mixed Use/MFR

- Encourage residential development on Murphy and McFarland sites and downtown sites
- Provide for housing on city-owned downtown sites
- Offer pre-development design and planning assistance
- Use vertical housing tax credits or tax increment financing tools
- Allow for phased development

Comprehensive Plan and Development Code Review: Other Issues and Potential Strategies

- Affirm and support Fair Housing Act
- Encourage design practices that promote accessibility
- Work with private developers and landowners
- Inclusionary zoning
 - Identify potential benefits and revenues
 - Estimate costs of establishing and administering
 - Determine if benefits outweigh costs

Comprehensive Plan and Development Code Review: Other Housing Strategies

- Provide information to private and non-profit developers regarding housing development and land supply opportunities
- Seek Metro and other housing grants (such as recently awarded Cottage Cluster grant)
- Use or investigate additional financing tools
- Continue to support local and regional partners
- Identify staffing approach and schedule for implementing HNA recommendations

CITY OF MILWAUKIE:

GOAL 10: HOUSING STRATEGIES REPORT

**City Council
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