



Work Session

WS

Milwaukie City Council

COUNCIL WORK SESSION

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

AGENDA

MARCH 19, 2019

Note: times are estimates and are provided to help those attending meetings know when an agenda item will be discussed. Times are subject to change based on Council discussion. **Page #**

Council Photo Shoot (3:00 p.m.)

Prior to the Work Session, Council will participate in a photo shoot.

- 1. Downtown Milwaukie Business Association (DMBA) Update (4:00 p.m.)**
Staff: Leila Aman, Development Manager, and
Kelli Keehner, DMBA President
- 2. Metro Regional Bonds – Discussion (4:15 p.m.)** **1**
Staff: Kelly Brooks, Assistant City Manager
- 3. Street Surface Maintenance Program (SSMP) – Annual Update (4:45 p.m.)** **4**
Staff: Kelly Brooks, Assistant City Manager, and
Tessie Prentice, Associate Engineer
- 4. Adjourn (5:30 p.m.)**

Americans with Disabilities Act (ADA) Notice

The City of Milwaukie is committed to providing equal access to all public meetings and information per the requirements of the ADA and Oregon Revised Statutes (ORS). Milwaukie City Hall is wheelchair accessible and equipped with Assisted Listening Devices; if you require any service that furthers inclusivity please contact the Office of the City Recorder at least 48 hours prior to the meeting by email at ocr@milwaukieoregon.gov or phone at 503-786-7502 or 503-786-7555. Most Council meetings are streamed live on the City's website and cable-cast on Comcast Channel 30 within Milwaukie City Limits.

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.



COUNCIL WORK SESSION

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

MINUTES

MARCH 19, 2019

Mayor Mark Gamba called the Council meeting to order at 4:00 p.m.

Present: Council President Angel Falconer; Councilors Lisa Batey Wilda Parks, Kathy Hyzy

Staff: Assistant City Manager Kelly Brooks City Recorder Scott Stauffer
Associate Engineer Tessie Prentice Climate Action and Sustainability Coordinator Natalie Rogers
City Attorney Justin Gericke Community Development Director Alma Flores
City Manager Ann Ober Development Manager Leila Aman

Opportunity to Sign-On to Supreme Court Case

Mayor Gamba and **Mr. Gericke** provided an overview of a case regarding climate change that was before the Oregon Supreme Court. They noted that the City could participate in the case by signing on to a friend of the court petition. **Mr. Gericke** reported that he had no objections to the City signing on to the petition. The group discussed the nature of the case and whether the City should sign on to the petition.

Mayor Gamba said he could sign on to the petition as mayor but noted he would like the entire Council to sign on. **Mr. Gericke** said he could send the details to Council and noted how the brief language could be written.

1. Downtown Milwaukie Business Association (DMBA) Update

Ms. Ober reported that DMBA President Kelli Keehner was unable to attend the meeting. **Ms. Aman** provided an update on upcoming DMBA activities and noted that the Milwaukie Sunday Farmers Market season would be in the same location as before.

2. Metro Regional Bonds – Discussion

Ms. Brooks discussed the parks bond measure the Metro Council was looking at referring to voters. The group discussed what the city had done with local share funding from past Metro bond funds. **Ms. Brooks** explained the urban transformations funds of the Metro parks bond and the group noted regional projects that could be funded. **Mayor Gamba** and the group discussed the Railroad Avenue pathway project.

Ms. Brooks asked for Council support for her continued involvement with the North Clackamas Parks & Recreation District's (NCPRD's) effort to seek urban transformation funding for the Milwaukie Bay Park project. **Councilor Hyzy** suggested the City look at seeking Nature in Neighborhoods grant funding for the park. The group brainstormed properties in Milwaukie that could benefit from the Nature in Neighborhoods program. **Ms. Brooks** noted Metro's primary outcome objectives for the parks bond measure.

Ms. Brooks discussed regional flexible funds, which she noted were part of the Metropolitan Transportation Improvement Program (MTIP). She explained that the regional flexible funds were funded with federal dollars. The group discussed how funding could be used for the Monroe Street Neighborhood Greenway project.

Ms. Brooks discussed the Metro 2020 Transportation Bond that could help fund the Southwest Corridor light rail project and other major improvements. She noted Mayor Gamba had been asked to serve on the bond's taskforce. She suggested McLoughlin

Boulevard (Hwy 99E) and Highway 224 could be projects funded by the bond. **Mayor Gamba** noted the ask for an Oak Grove to Lake Oswego bike/pedestrian transit bridge could also be included the transportation bond.

Ms. Brooks discussed Milwaukie projects that could be potentially receive funding from the Metro transportation and parks bonds. **Mayor Gamba** and the group discussed federal funding requirements related to various types of projects. He suggested asking that the Railroad Avenue Capacity Improvements project be included in the parks bond. **Councilor Batey** pointed out that the project cost for Kronberg Park improvements included the bridge, and that the remaining project elements would be less expensive. The group discussed park projects to seek regional funding for in addition to Milwaukie Bay Park and Kronberg Park. They discussed the Clackamas County Vehicle Registration Fee (VRF) Strategic Funds.

Ms. Brooks discussed the need to seek community input and provide public updates on various projects. **Councilor Batey** asked if the Linwood Avenue and Monroe Street diverter had been installed. **Ms. Brooks** reported it had been and noted that it was a temporary solution. She discussed the details of the permanent divert that was scheduled to be installed later.

3. Street Surface Maintenance Program (SSMP) – Annual Update

Ms. Prentice presented the annual SSMP report. She reported that 11 streets had been paved, crack sealing had been done on four streets, and no slurry seals had been completed. She provided revenue summaries for the Street Maintenance Fee, the Local Gas Tax, and the Electric Utility Privilege Tax. **Mayor Gamba** asked why the maintenance fee collection had been larger over the last year. **Ms. Prentice** suggested it was a combination of factors and noted a fee change had gone into effect in 2018.

Ms. Prentice reported that the city would be going out to bid for a new visual assessment of all city streets known as the Pavement Condition Index (PCI) which had last been done in 2011. She noted the city's current streets rated at a low PCI of 52 on a scale of 100. She reviewed upcoming projects. **Mayor Gamba** asked why Lake Road was split into two different projects in different years. **Ms. Prentice** noted the factors for splitting a street into different projects, such as Americans with Disabilities Act (ADA) requirements and the number of roads that needed to be paved. The group discussed the Lake Road and 34th Avenue intersection and other upcoming street projects.

The group discussed needed Lake Road improvements. **Ms. Brooks** noted the importance of creating a graphic to explain which parts of Lake Road were being paved and when. **Ms. Prentice** explained that the intersection of Lake Road, 34th Avenue, and Oatfield Road would be completed by 2023. **Ms. Brooks** reported that some projects were being designed even though they would not be funded for construction by the Safe Access for Everyone (SAFE) program for a couple years.

4. Adjourn

Mayor Gamba adjourned the Work Session at 5:13 p.m.

Respectfully submitted,



Amy Aschenbrenner, Administrative Specialist II



CITY OF MILWAUKIE

Memorandum

To: City Council
From: Alma Flores, Community Development Director
CC: Ann Ober, City Manager
Date: March 19, 2019
Re: Community Development Department Projects - City Council Update for March 19, 2019 Council meeting

<p>Community Development/Housing/Economic Development</p> <ul style="list-style-type: none"> ▪ Milwaukie Housing Affordability Strategy: 2018-2023 ▪ Housing Authority of Clackamas County: Hillside Manor rehabilitation and Hillside Master Plan ▪ Cottage Cluster Feasibility Study ▪ The Clackamas County Homeless Coalition Work ▪ Milwaukie Station Food Cart Pod ▪ Business Support During Construction <ul style="list-style-type: none"> • Signage • Tourism Grant ▪ South Downtown ▪ Coho Point at Kellogg Creek 	<p>Building</p> <ul style="list-style-type: none"> ▪ February 2019 review to come
<p>Planning</p> <ul style="list-style-type: none"> ▪ Comprehensive Plan ▪ Land Use/Development Review: <ul style="list-style-type: none"> • City Council • Planning Commission ▪ Design and Landmarks Committee 	<p>Engineering</p> <ul style="list-style-type: none"> ▪ Traffic Control ▪ Engineering Projects

COMMUNITY DEVELOPMENT/ECONOMIC DEVELOPMENT/HOUSING

Milwaukie Housing Affordability Strategy (MHAS): 2018-2023

- Our Housing Affordability Website (<https://www.milwaukieoregon.gov/housingaffordability/>) now includes a link on the frontpage that people can click on to be redirected for a Spanish version of the website. A "Housing Projects" page has been created and included in the sidebar for easier access to our Accessory Dwelling Units (ADUs) Code Audit and Cottage Cluster Feasibility Study work.
- Implementation of the plan itself (https://www.milwaukieoregon.gov/sites/default/files/fileattachments/community_dev

[elopment/page/78261/final_mhas_report.pdf](#)): There are currently 19 short-mid actions to implement, of which four have been fully completed: In addition to hiring the city's first housing and economic development coordinator, actions 1.11, engage with Metro's Equitable Housing Program's pursuit of a general obligation bond for affordable housing and advocate for a Milwaukie project, 1.12, develop and maintain a database of available properties (all zones) to market to developers, and 2.4, support and promote programs that provide financial assistance for seniors and low-income homeowners to remain in their homes have been completed, but will need periodic maintenance as new programs and tools become available. Staff met with the building and code officials to discuss action 2.6.3. to explore monitoring and developing habitability standards that will be enforced through a property-owner database to better understand the feasibility of potential implementation.

- Acquisition of property with the intent of land banking for affordable housing development—the purchase and sale process for the TriMet remnant lot is before council on March 19, 2019.

Housing Authority of Clackamas County (HACC): Hillside Manor Rehabilitation and Hillside Master Plan

- A public Hillside Master Plan Charette was hosted on Thursday February 21st at the Ardenwald Elementary School from 6:30 to 8:30pm.
- On March 12, City staff met with the Housing Authority and their consultants for a debrief on the site design options created at the public Hillside Master Plan Charette on Thursday February 21st and next steps in the project.
- City Council will be provided with a quarterly update on the Hillside Master Plan on April 16th.

Cottage Cluster Feasibility Study

- A "Middle Housing Options in Milwaukie: ADU's and Cottage Clusters" Open House has been scheduled for Wednesday, April 3rd from 5:30-7:30pm at the Public Safety Building. The public will have the opportunity to provide feedback on preliminary code modifications before a work session with Planning Commission and City Council on April 16th.

The Clackamas County Homeless Coalition Work

- Staff attended the monthly Clackamas County Homeless Coalition on March 13th. Steve Kimes from Transitional Village of Hope presented the housing model and wants to explore the idea of implementing it in Clackamas County. A working group was set up to work on looking into barriers and opportunities of this model across different local jurisdictions. A short debrief was also made on the community meeting hosted last month.

Milwaukie Station Food Cart Pod

- Staff is working with City Attorney on the lease renewal for the Milwaukie Station Food Cart Pod.

South Downtown

- Night work on Main Street and Washington Street continues as crews continue installing storm and water and utilities along Main Street from the post office to Washington Street, and on Washington Street from Main Street to 21st Avenue.
- It is expected that the next project phase will commence Mid April and will include a partial closure of Washington allowing only east bound traffic flow from

99E/McLoughlin to 21st Avenue. Updates to the SODO website, new pedestrian wayfinding will be implemented as part of this effort.

- Staff continue to attend the Historic Milwaukie NDA and DMBA meetings.
- Weekly updates to the South Downtown subscriber continue to be sent every Thursday to ensure that community members have the most up to date information.
- Staff have also developed a parking map for the downtown that illustrates where parking is currently closed and have provided additional permit parking to make up for permit parking lost due to construction.
- Visit the South Downtown website for up-to-date information:
<https://www.milwaukieoregon.gov/southdowntown>
- **Business Support During Construction**
 - A new business spotlight is now featured on the SODO website—
www.milwaukieoregon.gov/southdowntown.

Coho Point at Kellogg Creek

- A community open house was held on March 6, 2019. About 40 people attended and an online survey will remain open until March 18th. The design team also received advisory input from the Design Landmarks Committee on March 4th. A presentation to Milwaukie City Council reviewing community input, and a preview of the schematic design will be presented on April 2nd.

PLANNING

Comprehensive Plan Update

- The first CPAC meeting for Block 3 was held on Monday, March 4. Block 3 topics include Public Facilities, Natural Resources, Environmental Quality, and Urban Design. Meeting materials can be [found here](#).
- The next meeting of the Housing Committee is scheduled for Monday, March 18 at 6:30 pm at the Public Safety Building. The committee will be developing draft policies and questions for the April 18 Housing Town Hall. Meeting materials can be [found here](#).
- Staff will be holding work sessions with the Planning Commission (March 26) and City Council (April 2) to discuss the Housing Update.
- The [Housing Town Hall](#) is scheduled for Thursday, April 18 at 6 pm at the Portland Waldorf School.

Land Use/Development Review¹

- City Council
 - ZA-2018-004 (part 2) – On March 19, the City Council will hold a public hearing to review and discuss a final package of code amendments addressing green building height bonuses and height variances.
 - ZA-2018-002, CPA-2018-002 – On March 5, the Council voted 4-1 to approve the zone change and comprehensive plan amendment for 4 properties on Railroad Ave. The action results in a zone change from R-7 to R-5.
- Planning Commission
 - AP-2019-001 – On March 12, the Planning Commission continued the public hearing on an appeal of the Planning Director's Type II approval of a 2-lot partition at 10244 SE 43rd Ave. The Commission found that there was no error in staff's analysis of rough

¹ Only those land use applications requiring public notice are listed here.

proportionality but agreed to allow the applicant to revise the proposed partition and add variance requests from the requirement to dedicate public right-of-way for a future connection to White Lake Rd. The appeal has been preliminarily denied and the applicant has extended the 120-day land use clock to allow time for a revised proposal to return to the Planning Commission for a decision. The hearing has been continued to July 9, 2019.

- VR-2019-002 – On March 12, the Planning Commission approved the variance requested from the driveway width standards of MMC Section 12.16.040.F for the property at 5485 SE Harlene St. The Notice of Decision has been issued and the appeal period ends on March 28.
- WG-2019-001- On April 9, the Planning Commission is scheduled to hold a hearing on a proposal to build a new single-family house within the Willamette Greenway zone.
- NR-2018-005 (master file) - An application for a 12-unit natural resources cluster development at 12205/12225 SE 19th Ave has been deemed complete. The application is out for referral. A public hearing with the Planning Commission is scheduled for April 9.
- AP-2019-002 – An appeal of a condition of approval for the Planning Director's Type I approval of a development review for a change of use at 11380 SE 21st Ave is scheduled to be heard by the Planning Commission on March 26.

Design and Landmarks Committee (DLC)

- The DLC's next meeting is April 1, 2019. The group will continue its work to update the Downtown Design Review process as time allows.

BUILDING

February 2019 review to come

ENGINEERING

Traffic Control:

- A Linwood and Monroe safety improvements pre-installation meeting was held on 12/19 with Clackamas County. A general understanding was reached regarding maintenance of the interim striping, signing, plastic curbs, and delineators. Installation is slated for the first striping permissible weather day. Public outreach continues. The future Monroe Greenway Project will redevelop the intersection with new maintenance needs. The pedestrian crossing funded by PCC Structural across Johnson Creek is proceeding. PCC is contacting firms and the traffic regulation is being finalized with the report submitted by DKS engineering.

Engineering Projects:

South Downtown Improvements:

- Day crews are continuing work at the Main Street undercrossing to lower the road, install water quality filter vaults, water pipelines, and storm infrastructure. The closure area construction is still set to be completed by mid- to late April. Night crews working from 7:00 p.m. to 5:00 a.m. are working to install storm and water infrastructure in Main Street and Washington Street. South Downtown Plaza RFP has been advertised and Proposals for a CM/GC contract are due March 8th, 2019.

Ardenwald SAFE Project:

- All the driveway approaches have been completed. The water quality planter concrete has been poured and rock, soil and plants will be added. Two large evergreen trees that were originally planned to remain required emergency removal because sidewalk construction impacted the root system.

Sellwood / 30th / Madison SAFE Project:

- The final portions of sidewalk and curb ramps are being formed in preparation to be poured. Landscape restoration will begin after sidewalks are complete. Three trees that had originally been planned to be saved had roots that were too close to the proposed sidewalk and were removed during construction, so they wouldn't be a hazard to people and property in the future.

Kronberg Park Multi-Use Walkway:

- Tree removal was complete by March 1, 2019. The project has been posted for bid and closes March 26th, 2019. Land Use is approved with conditions. ODOT permits have been submitted.

Linwood Avenue Improvements:

- RFP for engineering design services went out 2.14.2019. Currently there are about 60 vendors on the Planholder List. Submittals are due by 3 PM on 3.20.19. Project consists of sidewalk, bike lanes, stormwater improvements and intersection safety devices, from Harmony Road to Monroe Street. We anticipate contract to be executed early May.

22nd Avenue and River Road Improvements:

- RFQ for engineering design services went out the six firms on the pre-qualified engineering services list. Submittals are due on March 14, 2019. Project consists of sidewalk on one side of the street, bike lanes, asphalt pavement, and water improvements along River Road.

IN THE SUPREME COURT OF THE STATE OF OREGON

OLIVIA CHERNAIK, a minor and resident of Lane County, Oregon; **LISA CHERNAIK**, guardian of Olivia Chernaik; **KELSEY CASCADIA ROSE JULIANA**, a minor and resident of Lane County, Oregon; and **CATIA JULIANA**, guardian of Kelsey Juliana,

Petitioners on Review,

v.

KATE BROWN, in her official capacity as Governor of the State of Oregon; and
STATE OF OREGON,

Respondents on Review.

Lane County Circuit Court Case No. 161109273 A159826

BRIEF OF *AMICI CURIAE* * IN SUPPORT OF PETITIONERS'
PETITION FOR REVIEW**

Petition for review of the decision of the Court of Appeals on appeal from a judgment of the Circuit Court for Lane County, Honorable Rasmussen, Judge.

Opinion Filed: January 9, 2019

Author of Opinion: Armstrong Concurring Judges: Shorr, Garrett

***AMICI CURIAE* INTEND TO FILE A BRIEF ON THE MERITS**

Continued...

March 2019

Courtney B. Johnson
Crag Law Center
3141 E. Burnside St.
Portland, Oregon, 97214
(503) 525-2728
courtney@crag.org

William H. Sherlock
Hutchinson Cox
940 Willamette Street, Suite 400
Eugene, Oregon 97401
(541) 686-9160
lsherlock@eugenelaw.com

Attorneys for Petitioners on Review

Ellen F. Rosenblum
Attorney General
Benjamin Gutman
Solicitor General
Carson L. Whitehead
Assistant Attorney General
1162 Court St. NE
Salem, Oregon 97301
(503) 378-4402
Carson.l.whitehead@doj.state.or.us

Attorneys for Respondents on Review

TABLE OF CONTENTS

TABLE OF AUTHORITIES..... ii

I. IDENTITY AND INTERESTS OF *AMICI CURIAE* 1

II. STATEMENT OF HISTORICAL AND PROCEDURAL FACTS 1

III. QUESTIONS PRESENTED AND PROPOSED RULES OF LAW 1

IV. THE QUESTIONS PRESENTED HERE HAVE EXTRAORDINARY IMPORTANCE BEYOND THIS CASE, IMPACTING ALL OREGONIANS AND FUTURE GENERATIONS 1

 A. Climate Change is Already Impacting Oregon and the Impacts Will Get Dramatically Worse in the Future Without Immediate Action to Reduce GHG Emissions..... 3

 i. Altered Precipitation Patterns, Reduced Snowpack, Reduced Stream flows, and Increasing Drought..... 6

 ii. Impacts to Forests: Wildfires, Pests, and Disease 8

 iii. Climate Change and Ocean Acidification: Impacts to Marine Life 10

 iv. Sea Level Rise and Coastal Erosion 12

 v. Human Health Impacts 13

 vi. Tribal and Cultural Impacts..... 16

 B. Defendants Have Not Taken Sufficient Actions to Prevent the Substantial Impairment of Oregon’s Public Trust Resources, Despite Having Ample Opportunity to do so..... 17

V. CONCLUSION..... 22

CERTIFICATE OF COMPLIANCE 24

CERTIFICATE OF FILING AND SERVICE 25

TABLE OF AUTHORITIES

I. IDENTITY AND INTERESTS OF *AMICI CURIAE*

*** *LIST AMICI* ***

Amici Curiae are individuals and organizations that live, work, and recreate in the State of Oregon and represent a wide variety of interests, including ***. The constituents and members that these individuals and organizations consist of Oregonians from across the State. *Amici* have a profound interest in this case because they depend upon Oregon’s public trust resources for their well-being and survival. Whether or not Governor Brown and the State of Oregon have a fiduciary obligation to protect Oregon’s public trust resources will impact *amici*’s personal, organizational, spiritual, economic, recreational, and health interests.

II. STATEMENT OF HISTORICAL AND PROCEDURAL FACTS

Amici rely on Plaintiffs’ statement of historical and procedural facts of the case.

III. QUESTIONS PRESENTED AND PROPOSED RULES OF LAW

Amici rely on Plaintiffs’ questions presented and proposed rules of law.

IV. THE QUESTIONS PRESENTED HERE HAVE EXTRAORDINARY IMPORTANCE BEYOND THIS CASE, IMPACTING ALL OREGONIANS AND FUTURE GENERATIONS

The Court of Appeals’ opinion, *Chernaik v. Brown*, 295 Or App 584, 600, ___ P3d ___ (2019), erroneously held that Governor Brown and the State of Oregon (“Defendants”) do not have a fiduciary duty to affirmatively protect

Oregon's public trust resources from the effects of climate change. The consequences of that decision cannot be underestimated, as the holding, if not corrected by this Court, will gravely affect Plaintiffs, as well as all Oregonians and the essential public trust resources that they depend on for their well-being and survival, making it legal for Defendants to continue allowing catastrophic climate change to substantially impair Oregon's public trust resources. Accordingly, this *amicus curiae* brief is submitted in support of Plaintiffs' Petition for Review urging this Court to review the Court of Appeals opinion, and to eventually reverse the Court of Appeals, and hold that Governor Brown and the State of Oregon, as trustees, have a fiduciary obligation to protect Oregon's public trust resources from catastrophic climate change.

Amici submit to the Court a current summary of what state and federal agencies and top experts report the climate change impacts in Oregon are today, and will be in the future, to illustrate how the Court of Appeals opinion is of great consequence to the public, that many people are affected, and that it will result in a serious and irreversible injustice.¹ *Amici* also explain that Defendants have not taken adequate steps to address climate change and its effects on Oregonians despite numerous opportunity to do so, and accordingly, it is critical that this Court clarify that Defendants have an affirmative obligation to protect Oregon's public

¹ ORAP 9.07, (3), (14)(a).

trust assets from greenhouse gas emissions (“GHG”) and climate change, now, before it is too late.²

A. Climate Change is Already Impacting Oregon and the Impacts Will Get Dramatically Worse in the Future Without Immediate Action to Reduce GHG Emissions

The best available climate science says that in order to prevent the worst impacts of climate change, impacts that would be irreversible on a timescale relevant to humans (for example sea level rise and species extinctions), the concentration of carbon dioxide (“CO₂”) in the atmosphere must be reduced to no more 350 parts per million (“ppm”) by 2100. A concentration of CO₂ in the atmosphere exceeding 350 ppm constitutes substantial impairment to the atmosphere and other public trust resources. The current atmospheric CO₂ concentration is over 410 ppm, well above the substantial impairment threshold.³ To date, Oregon does not have a plan to ensure the State does its part to return the CO₂ concentration in the atmosphere to 350 ppm by the end of the century. Plaintiffs’ lawsuit seeks to force Defendants to address its concerns.

Defendants have never disputed that atmospheric concentrations of CO₂ must be reduced to 350 ppm, that they do not have a plan to ensure that the State

² ORAP 9.07, (14)(b).

³ National Oceanic and Atmospheric Administration, Trends in Atmospheric Carbon Dioxide (last visited Mar. 18, 2019), *available at*: <https://www.esrl.noaa.gov/gmd/ccgg/trends/index.html>.

protects public trust resources, or that climate change has already substantially impaired Oregon’s public trust resources. For example, in their Answer to the Complaint, which Defendants filed in 2014, Defendants admitted that:

- “Plaintiffs are children and their families who live in Oregon, and that their personal and economic well-being is dependent upon the health of natural resources in this State including water resources, submerged and submersible lands, coastal lands, forests, and wildlife. . . . Defendants further admit that these natural resources are currently threatened by the impacts of global climate change.” ¶ 1.
- “Defendants admit that global climate change is likely to result in some changes in water availability, drought, pests, rising temperatures, and weather changes” ¶ 6.
- “[G]lobal climate change is likely to lead to some loss of beaches and shorelines from erosion, rising sea levels, and the heating of the ocean and consequent impacts on fisheries and other sea life” ¶ 9.
- “[G]lobal climate change is causing, and is likely to continue to cause, significant adverse effects such as disruption of natural ecosystems, displacement or disappearance of some animal species, increases in the frequency and intensity of storms and other extreme weather events, increases in the frequency and severity of droughts in some areas, warmer and more frequent periods of intense heat, rising sea levels, decreased agricultural productivity in some areas, sea level rise and coastal erosion.” ¶ 20.
- “Human-caused fossil fuel burning and the resulting climate change are already contributing to numerous adverse impacts to public health, including increased rates of asthma, cancer, cardiovascular disease and stroke, heat-related morbidity and mortality, food borne diseases, and neurological diseases and disorders.” ¶ 22.
- “A variety of studies conclude that a further increase of average annual temperatures of 2° C (3.6° F) above current levels would cause severe, widespread and irreversible impacts.” ¶ 23.
- “If the atmosphere passes certain thresholds or tipping points of energy imbalance and planetary heating, the existing climatic conditions that exist today cannot be restored.” ¶ 24.

More recent climate change reports prepared by Oregon and the federal

government confirm what Defendants already admitted, and strengthen Plaintiffs' claims. Oregon's mean temperature has already warmed 2.2°F since 1895, with the warming trend accelerating since the 1970s.⁴ The most recent science predicts that, even with concerted action, average temperature increases between 4.6°F and 8.2°F by 2080 (only sixty years from now) can be expected.⁵ Extreme heat events are expected to increase in frequency, duration, and intensity, with hotter temperatures both in the summer and winter.⁶ As described below, rising temperatures are already dramatically altering Oregon's landscape and natural resources and, without the State's swift and strong action, will continue to fundamentally change the character and economy in our state.⁷ According to one report, the costs of climate change will be \$15,000 per household per year in the

⁴ Oregon Climate Change Research Institute, *The Third Oregon Climate Assessment Report* 6 (2017) (hereinafter "*OCCRI, Third Oregon Climate Assessment Report*"); U.S. Global Change Research Program, *Northwest*, in *Impacts, Risks, and Adaptation in the United States: Fourth National Climate Assessment, Volume II* 1041 (2018) (hereinafter "*NCA4, Northwest*").

⁵ *OCCRI, Third Oregon Climate Assessment Report* at 8.

⁶ *Id.*

⁷ In 2019, the *Fourth Oregon Climate Assessment Report* was released. Oregon Climate Change Research Institute, *Fourth Oregon Climate Assessment Report: State of the Science: 2019* (2019). That report provides minimal updates to the *Third Oregon Climate Assessment Report* and incorporates in full the Northwest chapter of the *Fourth National Climate Assessment*. Unless otherwise indicated, *amici's* brief relies on the more detailed *Third Oregon Climate Assessment Report* and the original *Fourth National Climate Assessment*.

near future.⁸

i. Altered Precipitation Patterns, Reduced Snowpack, Reduced Stream flows, and Increasing Drought

Climate change is altering Oregon's precipitation patterns, with winter, spring, and fall becoming wetter, and summer becoming drier.⁹ Additionally, more of Oregon's winter precipitation is falling as rain, not snow, which is problematic because a robust winter snowpack in the Cascades is crucial for Oregon's rivers and summertime water supply. Between 1950 and 2000, the level of snowpack on April 1st of each year has been declining and by 2080 (sixty years from now), almost all of Oregon is expected to become rain-dominant (with the sole exception being parts of the Blue Mountains).¹⁰ In 2015, Oregon's snowpack in April was at record lows across the State, which led to significant adverse impacts across the State during the summer of 2015.¹¹ Peak snowpack in the Cascades has shifted to earlier in the year, increasing stream flows in March and reducing stream flows in June and the rest of the summer.¹² Declining snowpack and stream flows have a

⁸ Natural Resources Economics, *Paying for Oregon's Future: Costs Climate Change will Impose on Oregon's Households* 12 (2018), available at: <http://oregon-stream-protection-coalition.com/wp-content/uploads/2018/08/climate-costs-natural-reource-economics.pdf>.

⁹ OCCRI, *Third Oregon Climate Assessment Report* at 9, 11.

¹⁰ *Id.* at 12, 18.

¹¹ *Id.* at 12.

¹² *Id.*

direct impact on Oregon's outdoor recreation industry, which in 2017, supported 451,000 jobs and generated \$51 billion.¹³

Rising temperatures, combined with declining snowpack and stream flows are already increasing drought conditions in the summer months.¹⁴ The impact on hydropower operations is that production may increase slightly in the winter months when flows are higher, but will decrease in the summer months and be at its lowest between July and September, when seasonal air conditioning load usage is at its peak. Drought conditions and rising temperatures are also impacting Oregon's agriculture.¹⁵ Roughly 42% of Oregon's farms are irrigated, but with declining snowpack and increasing water demand, water scarcity is becoming a problem.¹⁶ Farms that do not rely on irrigation face problems associated with declining summer precipitation and increasing drought conditions.¹⁷ If Oregon experiences the predicted warming of 4.6°F to 8.2°F by 2080 our state's irrigation demands will skyrocket, and farms not reliant on irrigation will face dire circumstances, which would have devastating economic impacts on our farmers and our economy as a whole.

Oregon's agriculture, forestry, and fishing sectors are key components of

¹³ *NCAA, Northwest* at 1043.

¹⁴ *OCCRI, Third Oregon Climate Assessment Report* at 19.

¹⁵ *Id.* at 64.

¹⁶ *Id.* at 65.

¹⁷ *Id.*

Oregon's economy, collectively accounting for over 256,000 jobs and \$48.5 billion in sales revenues in 2015.¹⁸ In 2012, the agriculture industry alone generated nearly \$4.9 billion in gross agricultural products and was linked to 14% of Oregon's jobs.¹⁹ However, growing zones for certain agricultural products and trees are already shifting with a warming climate. For instance, climate change is already impacting the growing season for grape growers and if temperatures continue to rise, wine growers in Oregon may need to move north, or to higher elevations, to continue their robust contribution to our state's economy.²⁰ As warming continues, the lack of winter dormancy could also cause problems for Oregon's perennial crops like fruit orchards, as it has already done in California, where the number of "chilling hours" of winter have declined, causing the demise of certain orchard crops.²¹ Oregon's beef, dairy, fruit, vegetable, and grain industries are also vulnerable to the impacts of climate change.²²

ii. Impacts to Forests: Wildfires, Pests, and Disease

While wildfires are a natural part of forest ecosystem health, wildfires are exacerbated by climate change, as are the presence of forest pests, such as the

¹⁸ *NCA4, Northwest* at 1043.

¹⁹ *OCCRI, Third Oregon Climate Assessment Report* at 64.

²⁰ *Id.* at 69; *NCA4, Northwest* at 1046.

²¹ *OCCRI, Third Oregon Climate Assessment Report* at 68-9.

²² *Id.* at 67-70.

mountain pine beetle.²³ Climate change is causing warmer and drier summer conditions (which increases fuel aridity) and has led to larger fires, increased the total area burned, and led to a longer fire season.²⁴ The length of the fire season has increased fully *five times* its historical length from 23 days in the 1970s to 116 days in the 2000s.²⁵ Fuel aridity is expected to increase in the coming decades, increasing the annual burn area by a staggering 140% in the 21st century compared to the 20th century.²⁶ According to the Oregon Department of Forestry, Oregon's firefighting costs between 2013-2018 have averaged almost \$40 million a year, *five times* the average from the preceding five years.²⁷ Wildfires also cost Oregon roughly \$51 million in lost tourism revenue in 2017 alone.²⁸

Additionally, rising temperatures and more frequent drought conditions are making trees more vulnerable to insect and pathogens, including the mountain pine beetle and western spruce budworm.²⁹ Oregon's trees are also having direct physiological responses to climate change, including drought and rising

²³ *NCA4, Northwest* at 1045; *OCCRI, Third Oregon Climate Assessment Report* at 46-50; see also *OCCRI, Climate Change in the Northwest: Implications for our Landscapes, Waters, and Communities* 110-135 (2013).

²⁴ *OCCRI, Third Oregon Climate Assessment Report* at 46; see also Oregon Global Warming Commission, *2018 Biennial Report to the Legislature* 5 (2018) (hereinafter "*OGWC, 2018 Biennial Report*").

²⁵ *OCCRI, Third Oregon Climate Assessment Report* at 46-50.

²⁶ *Id.* at 47.

²⁷ *OGWC, 2018 Biennial Report* at 15.

²⁸ *Id.* at 30.

²⁹ *OCCRI, Third Oregon Climate Assessment Report* at 49-51.

temperatures, which impacts the growth of trees, causes trees stress, and can lead to tree mortality.³⁰

iii. Climate Change and Ocean Acidification: Impacts to Marine Life

Ocean warming and ocean acidification are already having a significant impact on Northwest fisheries and marine life.³¹ The tandem impacts of ocean warming and acidification not only affect shellfish, but the entire food web, including birds that prey on shellfish and other animals that use abandoned shells for homes.³² Warming off the Oregon coast is also contributing to harmful algal blooms, which has repeated adverse impacts on the Dungeness crab fishing season (worth \$70 million annually), salmon, and other marine life.³³

The *Fourth National Climate Assessment* warns that ocean warming, acidification, and algal blooms are expected to increase and could result in “extensive fisheries closures . . . with severe economic and cultural effects on commercial and subsistence shellfish industries.”³⁴ Importantly, ocean acidification is not a distant threat, in fact, “the West Coast has already reached a threshold and negative impacts are already evident, such as dissolved shells in pteropod

³⁰ *Id.* at 51-3.

³¹ *NCA4, Northwest* at 1048; *OCCRI, Third Oregon Climate Assessment Report* at 31, 35.

³² *NCA4, Northwest* at 1048.

³³ *OGWC, 2018 Biennial Report* at 28.

³⁴ *NCA4, Northwest* at 1045.

populations . . . and impaired oyster hatchery”³⁵ At current rates of CO₂ emissions, the average acidity of the ocean’s surface is expected to double by the end of the century compared with pre-industrial levels.³⁶ One 2016 study found that about half of the west coast shellfish industry has already experienced negative impacts of ocean acidification.³⁷

Climate change and ocean acidification also affect salmon populations in all their life stages, including their journeys through streams, estuaries, and oceans.³⁸ The climate change induced alterations in stream flow water levels, increasing temperatures of Oregon streams, and warmer ocean temperatures are reducing the extent and quality of salmon habitat, causing thermal stress, making salmon more susceptible to disease and predation, and disrupting their food supplies.³⁹ Even under low human CO₂ emissions scenarios, the prospects for many Pacific Northwest salmon stocks look dismal.⁴⁰ Indeed, in September, 2018, the U.S. Secretary of Commerce declared a fishery disaster for West Coast salmon, noting that between 2015 and 2017 there were commercial fishery failures for salmon in

³⁵ *OCCRI, Third Oregon Climate Assessment Report* at 36, 40.

³⁶ *Id.* at 35.

³⁷ Mabarby B., et al., *The U.S. West Coast Shellfish Industry’s Perception of and Response to Ocean Acidification* (2016), available at: <https://seagrant.oregonstate.edu/sgpubs/us-west-coast-shellfish-industrys-perception-and-response-ocean-acidification>.

³⁸ *OCCRI, Third Oregon Climate Assessment Report* at 23-6.

³⁹ *OCCRI, Third Oregon Climate Assessment Report* at 38-9.

⁴⁰ *NCA4, Northwest* at 1049.

Oregon, Washington, and California.⁴¹ Commercial fishing in Oregon accounted for over \$614 million in sales in 2013 and disruptions to the fishing industry due to ocean warming and ocean acidification are likely to have significant impacts on Oregon's jobs and economy.⁴²

iv. Sea Level Rise and Coastal Erosion

Sea levels are rising as a result of ocean thermal expansion (as the ocean warms, the water expands) and due to the melting of glaciers and ice sheets.⁴³ On the Oregon coast, seas have already been rising and are expected to rise by at least another 2 to 4 feet this century.⁴⁴ These sea level rise estimates are conservative and without immediate action to reduce GHG emissions, current science suggests Oregon risks locking in upwards of 40 feet of sea level rise.⁴⁵ Rising seas, combined with greater storm intensity, is resulting in greater coastal erosion, flooding, loss of beach areas and elevation, loss of coastal wetlands, and inundation and damage of coastal infrastructure.⁴⁶ The financial cost of responding to the impacts of sea level rise in Oregon is, moderately, estimated to be \$1.5

⁴¹ NOAA, U.S. Secretary of Commerce Declares Commercial Fishery Disasters for West Coast Salmon and Sardines (Sept. 25, 2018), *available at*: <https://www.fisheries.noaa.gov/media-release/us-secretary-commerce-declares-commercial-fishery-disasters-west-coast-salmon-and>.

⁴² OCCRI, *Third Oregon Climate Assessment Report* at 37.

⁴³ *Id.* at 31.

⁴⁴ *Id.* at 32.

⁴⁵ *Id.*

⁴⁶ *Id.* at 31, 33-34, 39.

billion through 2100.⁴⁷ By taking action now to stop GHG emissions and curb the effects of decades of GHG emissions, Oregon may be able to minimize the devastating impacts of rising sea levels and protect Oregon’s magnificent beaches and dunes, one of our greatest public resources.

v. Human Health Impacts

Climate change is already impacting the health of Oregonians in various ways, but current science confirms the impacts will get much worse without immediate steps to address the climate crisis. Doctors have called climate change a “health emergency” and noted that the “effects of climate disruption are fundamentally health issues, and they pose existential risks to all of us.”⁴⁸ The Oregon Health Authority published the *Oregon Climate Health Profile Report* in 2014, and in 2018 published *Climate Change and Public Health in Oregon*, both of which sound the alarm on the impacts of climate change on the health of Oregonians.⁴⁹ The impacts include: heat related death, respiratory illness from

⁴⁷ *OGWC, 2018 Biennial Report* at 26.

⁴⁸ Solomon, C. G. & LaRocque R. C., *Climate Change – A Health Emergency*, N. Engl. J. Med. 380:3 (2019); *see also OCCRI, Third Oregon Climate Assessment Report* at 74-82.

⁴⁹ Oregon Health Authority, *Oregon Climate and Healthy Profile Report* (2014), available at: <https://public.health.oregon.gov/climatechange/Documents/oregon-climate-and-health-profile-report.pdf>; Oregon Health Authority, *Climate Change and Public Health in Oregon* (2018), available at: <https://www.oregon.gov/oha/PH/HEALTHYENVIRONMENTS/CLIMATECHANGE/Documents/2018/2018-OHA-Climate-and-Health-Policy-Paper.pdf>.

worsening air quality and wildfires, physical harm from landslides and flooding, and increases in food-borne diseases (see **Figure 1** below).⁵⁰ In addition to physical harm, climate impacts can cause mental health impacts, ranging from stress to suicide, due to displacement, loss of income, chronic stress, and other impacts of climate change.⁵¹

During Oregon’s abnormally hot 2015 summer, emergency room visits for heat-related medical conditions spiked, and during the summer of 2017, there was a 29% increase in emergency room visits for people with respiratory symptoms during the Eagle Creek fire.⁵² Importantly, even under a low emissions scenario, airborne particulate levels from wildfires are expected to increase by 160% by 2050.⁵³ Health risks from climate change affect those who are already most vulnerable, including children, the elderly, people with pre-existing health conditions, low-income Oregonians, people with disabilities, refugees, and communities already exposed to environmental health threats.⁵⁴ Children in particular are vulnerable because they will experience “cumulative physical and mental health effects of climate change over their lifetimes” from extreme weather

⁵⁰ *Id.*

⁵¹ *Id.*; see also OCCRI, *Third Oregon Climate Assessment Report* at 74-80.

⁵² OGWC, *2018 Biennial Report* at 21; see also NCA4, *Northwest* at 1058.

⁵³ NCA4, *Northwest* at 1059.

⁵⁴ OCCRI, *Third Oregon Climate Assessment Report* at 79-81.

events (e.g., heat waves) and increased toxic exposure (e.g., polluted air).⁵⁵

Research indicates that exposure to trauma and pollution at a young age influences health and socio-economic status in later years.⁵⁶ The chart below outlines and summarizes the connections between climate change and public health.

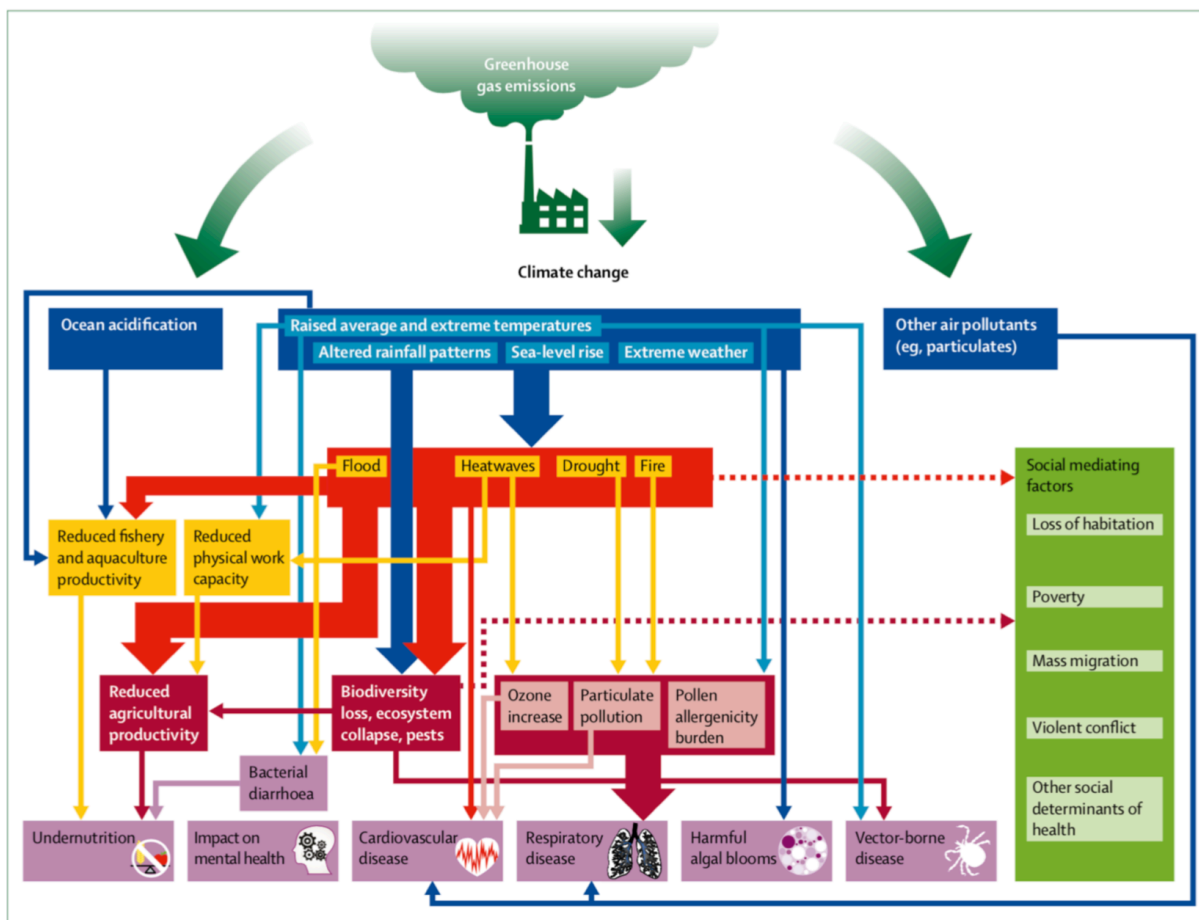


Figure 1: The pathways linking climate change and public health effects.⁵⁷

⁵⁵ *NCA4, Northwest* at 1059.

⁵⁶ *Id.*

⁵⁷ Watts, N., et al., *The 2018 report of the Lancet Countdown on health and climate change: shaping the health of nations for centuries to come* 2482, *Lancet*, Vol. 392 (2018).

vi. Tribal and Cultural Impacts

Native Tribes in particular are dependent on natural resources, and accordingly, when climate change degrades or harms such natural resources, it can threaten the culture and subsistence way of life for tribes.⁵⁸ In Oregon, 62% of tribal reservations are forested, making them vulnerable to the impacts of climate change on forests discussed above.⁵⁹ Disruption to forest ecosystems can impact tribal subsistence and ceremonial practices.⁶⁰ As the *Oregon Climate Assessment Report* observed, “[c]limate change may lead to loss of native species and fundamental shifts in ecosystems that have guided and formed the culture of many tribal communities, linking future generations and their ancestors.”⁶¹ The loss of culturally important species and ecosystems will likely translate into economic and functionality losses:

[S]easonal cues such as blooming plants and eel runs may no longer indicate when to collect important resources; forest species composition may shift and reduce tribal timber yields; fishing and oyster harvests may continue declining; and species important for subsistence and culture could be entirely lost such as salmon, lamprey, trout, suckers, wocus (aquatic plant), shellfish, acorns, deer, elk, bear grass, Oregon blackberry and salmonberry.⁶²

⁵⁸ *NCAA, Northwest* at 1041, 1048, 1051, 1062-63; see also OCCRI, *Climate Change in the Northwest: Implications for our Landscapes, Waters, and Communities* 207-225 (2013).

⁵⁹ OCCRI, *Third Oregon Climate Assessment Report* at 58.

⁶⁰ *Id.*

⁶¹ OCCRI, *Oregon Climate Assessment Report* 401 (2010) (hereinafter “2010 *Oregon Climate Assessment Report*”).

⁶² *Id.*

Additionally, indigenous fishing communities are vulnerable to the impacts of climate change and ocean acidification, which disrupt their traditional harvest of marine resources for their economic and cultural livelihood.⁶³ Coastal tribes also risk water inundation and the loss of Oregon's coastline to sea-level rise, which could damage burial sites and tribal infrastructure.⁶⁴

Many of the resource impacts described above have special significance to Native Tribes, like the increased risk of losing salmon populations or the decline of other wildlife adversely impacted by reduced stream flows and ocean acidification. One writer describing this situation observed that, “[t]he harvest of salmon in the Pacific Northwest, the cultural lifeblood of numerous regional tribes, has declined as much as 90 percent over the past few decades. The plunge has resulted from a variety of human impacts, all of them aggravated by climate change.”⁶⁵

B. Defendants Have Not Taken Sufficient Actions to Prevent the Substantial Impairment of Oregon's Public Trust Resources, Despite Having Ample Opportunity to do so

In 2007, Oregon adopted aspirational GHG reduction targets. The goals, as set by House Bill 3543, were to stabilize emissions in 2010, reduce emissions 10% below 1990 levels by 2020, and at least 75% below 1990 levels by 2050. These

⁶³ OCCRI, *Third Oregon Climate Assessment Report* at 39.

⁶⁴ 2010 Oregon Climate Assessment Report at 401.

⁶⁵ Dennis Wall, *Tribal Climate Change Profile: Fisheries Impacts* 1 (2008), available at:

http://www7.nau.edu/itep/main/tcc/docs/tribes/tribes_FisheriesImpacts.pdf.

goals are now outdated and not in line with the best available climate science for the reductions actually needed to avoid the worst impacts of climate change. Nor have the goals been updated since 2007 despite significant climate science and reports published since HB 3543's passage. Furthermore, Defendants' Answer admits that the State has not taken sufficient action to meet even these inadequate goals:

Oregon is likely to fall well short of the targets set by its greenhouse gas reduction and mitigation plan. Defendants admit that in the 2009 report to the legislature, the Oregon Global Warming Commission reported that 'even if all the actions now 'in progress' are completed by 2020, the State will likely fall well short of meeting its 2020 emission reduction goal, and, by extrapolation, clearly is not on track to meet its 2050 goal.' ¶ 36.

The Oregon Global Warming Commission's *2018 Biennial Report to the Legislature* affirmed as much, noting that Oregon's GHG emissions actually *increased* from 2016 to 2017.⁶⁶ The 2018 Report also projects that Oregon's emissions in 2050 will be roughly 60 million metric tons of carbon dioxide equivalent ("MMT_{CO2e}"), more than *four times greater* the HB 3543 goal of 14 MMT_{CO2e} (see **Figure 2**).⁶⁷

⁶⁶ *OGWC, 2018 Biennial Report* at 5.

⁶⁷ *Id.*

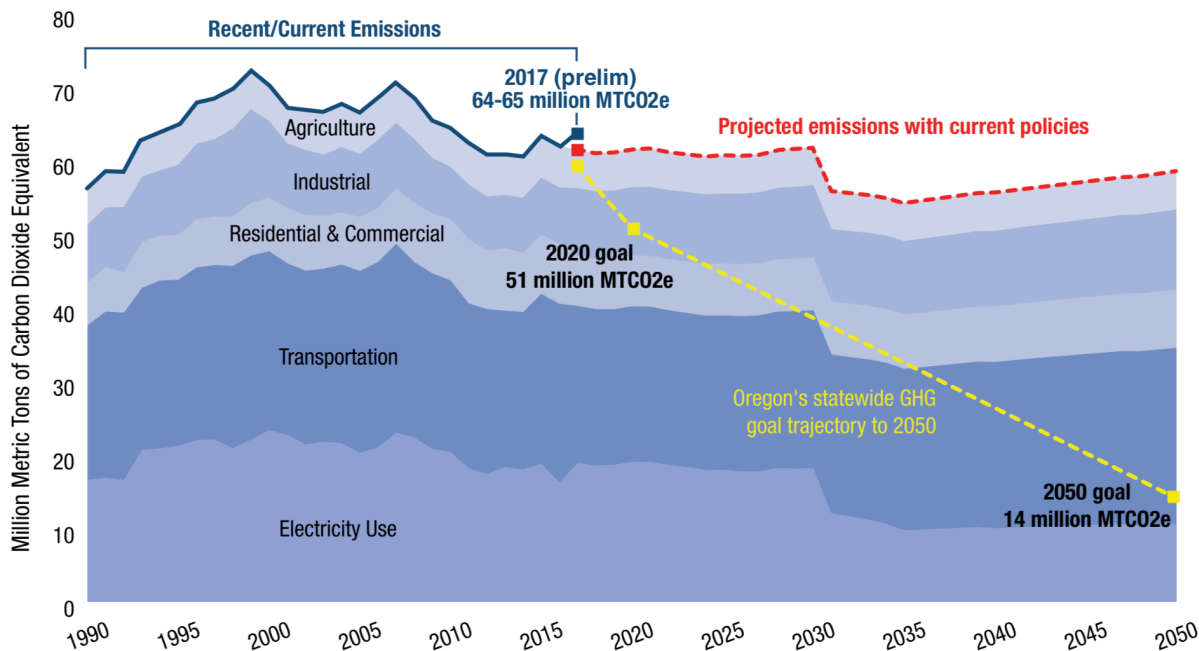


Figure 2: Oregon’s past and projected GHG emissions compared to goals.⁶⁸

According to Governor Kate Brown, “[c]limate change threatens Oregon’s economy, contributes to raging wildfires, and threatens our Oregon way of life.”⁶⁹ At her 2019 inaugural address, Governor Brown said, “[i]t is extremely painful to watch the effects of climate change on our communities,” and discussed the impacts of wildfires, drought, and rising temperatures.⁷⁰

However, despite acknowledging the threats posed by climate change, and the need to do something, Defendants have consistently failed to adequately

⁶⁸ *Id.* at 38.

⁶⁹ Kate Our Governor, Environment, *available at*: <https://katebrownfororegon.com/environment> (last visited Mar. 11 2019).

⁷⁰ Governor Kate Brown Inaugural Address 2019 (Jan. 14, 2019), *available at*: <https://www.oregon.gov/gov/media/Pages/speeches/Governor-Kate-Brown-Inaugural-Address-2019.aspx>.

respond to Oregon's dangerous level of GHG emissions and climate change. For example, in 2009, Senate Bill 80 would have required state agencies to develop and implement plans to meet the 2020 greenhouse gas emissions reduction goal but was never presented for vote in either chamber.⁷¹ In 2015, House Bill 3470 (the Climate Stability and Justice Act) would have required the Environmental Quality Commission to adopt by rule statewide greenhouse gas emissions limits based on the best available science for years 2020 and 2050 and to adopt interim statewide GHG emission limits for every five years. The bill was never presented for a floor vote.⁷² In 2016 the legislature considered Senate Bill 1574 (the Healthy Climate Act) to require the Environmental Quality Commission to adopt by rule statewide a GHG emissions goal for 2025, and limits for years 2035 and 2050. The bill was never presented for a floor vote.⁷³ In 2017, Senate Bill 557 (the Clean Energy Jobs Bill), and House Bill 2135 (the House's counterpart) were introduced but neither received a floor vote.⁷⁴ In 2018, the Clean Energy Jobs Bill was re-introduced as

⁷¹ Oregon Legislative Information System ("OLIS"), 2009 Regular Session, SB 80, Measure History, *available at*: <https://olis.leg.state.or.us/liz/2009R1/Measures/Overview/SB80> (last visited Feb. 20, 2016).

⁷² OLIS, 2015 Regular Session, HB 3470, Measure History, *available at*: <https://olis.leg.state.or.us/liz/2015R1/Measures/Overview/HB3470> (last visited Mar. 11, 2019).

⁷³ OLIS, 2016 Regular Session, SB 1574, Measure History, *available at*: <https://olis.leg.state.or.us/liz/2016R1/Measures/Overview/SB1574> (last visited Mar. 11, 2019).

⁷⁴ OLIS, 2017 Regular Session, SB 557, Measure History, *available at*: <https://olis.leg.state.or.us/liz/2017R1/Measures/Overview/SB557> (last visited Mar.

Senate Bill 1507 and House Bill 4001, but despite having several hearings, the bill was never presented for a floor vote.⁷⁵

None of these bills alone would have been adequate to fulfill Oregon's fiduciary obligations to protect public trust resources, but they are an indication of the failure of the political branches of government in attempting to fulfill their fiduciary obligations to Oregonians. Moreover, Oregon's governors and executive agencies have been equally remiss in taking the requisite steps to address climate change, as evidenced by the fact that Oregon's emissions increased from 2016-2017 and are projected to remain dangerously high until 2050 and beyond (see **Figure 2** above). Given that there is uncontroverted evidence in this case that Oregon's public trust resources are *already substantially impaired* and that Defendants, despite ample opportunity, have failed to take sufficient actions to protect public trust resources, it is imperative that the judicial branch step in to fulfill its constitutional obligations to act as a check on the political branches of government and to protect the legal rights of Plaintiffs, and public trust

11, 2019); OLIS, 2017 Regular Session, HB 2135, Measure History, *available at*: <https://olis.leg.state.or.us/liz/2017R1/Measures/Overview/HB2135> (last visited Mar. 11, 2019).

⁷⁵ OLIS, 2018 Regular Session, SB 1507, Measure History, *available at*: <https://olis.leg.state.or.us/liz/2018R1/Measures/Overview/SB1507> (last visited Mar. 11, 2019); OLIS, 2018 Regular Session, HB 4001, Measure History, *available at*: <https://olis.leg.state.or.us/liz/2018R1/Measures/Overview/HB4001> (last visited Mar. 11, 2019).

beneficiaries.

Even if the legislature were to, belatedly, attempt to address the climate crisis, this Court's review is still critical to ensure that the State complies with its ongoing and future trustee obligations. If this Court does not correct the Court of Appeals' opinion, we can expect that the State will continue to fail to adequately protect Oregon's public trust resources as it has done for decades. Moreover, under the Court of Appeals' interpretation of the public trust doctrine, the State could pass legislation that allowed for continued impairment of public trust resources but that would not be reviewable by the courts. "It is emphatically the province and duty of the judicial department to say what the law is," and here, it is the duty of the courts to determine when the State is meeting, or violating, its fiduciary obligation to protect Oregon's public trust assets. *Marbury v. Madison*, 5 U.S. 137, 177 (1803).

V. CONCLUSION

As the Oregon Global Warming Commission stated in its *2018 Biennial Report to the Legislature*:

[C]limate change is occurring in real time. Its effects are being felt, in Oregon and around the world, today and not in some distant and uncertain future. . . . Our children, and theirs, will be living for decades with the worsening consequences of our failure to take timely action when we knew we should. Bad as that is, further delay only makes it worse. . . . [W]e have only begun to sense the change that our

children will be called upon to cope with.⁷⁶

In not corrected, the Court of Appeals' opinion means that Defendants have no obligation to act to protect Oregon's public trust resources from the grave impacts of climate change. Because the practical consequences of that decision, as described above, impact all Oregonians and will result in serious and irreversible injustices, *amici* respectfully request that this Court grant Plaintiffs' Petition for Review and correct the erroneous opinion of the Court of Appeals.

DATED this ** day of March, 2019.

Respectfully submitted,

Elisabeth A. Holmes, OSB No. 120254
Blue River Law, P.C.

Counsel for Applicants Amici Curiae,

⁷⁶ *OGWC, 2018 Biennial Report at 32.*

**CERTIFICATE OF COMPLIANCE WITH BRIEF LENGTH AND TYPE
SIZE REQUIREMENTS**

Brief Length

Type Size

I certify that the size of the type in this brief is not smaller than 14 point font for both the text of the brief and footnotes as required by ORAP 5.05(4)(f).

Dated this ** day of March 2019.

Elisabeth A. Holmes, OSB No. 120254
Blue River Law, P.C.

*Counsel for Applicants Amici ****

CERTIFICATE OF FILING AND SERVICE

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Reviewed: Alma Flores, Community Development Director and
Bonnie Dennis, Finance Director

From: Kelly Brooks, Assistant City Manager

Subject: **2019/2020 Regional Funding Opportunities Discussion**

Date Written: Mar. 15, 2019

ACTION REQUESTED

Discuss capital project priorities for 2019 and 2020 regional funding opportunities.

ANALYSIS

There are several regional funding opportunities under development that could help construct some of the city's priority capital projects.

Flexible Funds (RFFA) – Estimated \$36,800,000 for active transportation projects

- Federal funds for transportation projects that will be available 2022-2024
- Apply via a competitive process that runs through the county coordinating committees
- Applications due this spring with final decisions made by Metro this winter

Metro Parks Bond – 2006 measure raised \$227 million, 1995 measure raised \$136 million.
Dollar amount of 2019 measure unknown.

- The 2006 measure provided \$657,751 in local share funds to Milwaukie and \$2,406,149 to North Clackamas Parks and Recreation District (NCPRD). The City of Portland, NCPRD and other parks districts are actively working to increase the local share as part of the 2019 measure.
- Serving diverse communities is a top priority for the 2019 parks measure.
- Metro is doing outreach on the bond measure right now in anticipation of a final Metro council recommendation in May for a vote in November of 2019.
- The Metro council has released the following draft categories and allocations:
 - Urban transformations - \$40-50M
 - Regional trail acquisition and development - \$40-55M
 - Local parks and nature projects - \$65-70M
 - Nature in Neighborhood capital grants - \$25-30M
 - Metro capital parks and nature projects - \$100-105M
 - Land acquisition; fish and wildlife habitat restoration - \$130-140M

Metro 2020 Transportation Bond – The total funding amount and mechanism are unknown.

- A regional funding source is needed to complete the finance plan for TriMet’s SW Corridor light rail project.
- A task force has been assembled to develop a regional investment measure. Mayor Gamba is serving on the task force.
- The task force will finalize its recommendation to Metro at the end of 2019. Polling will be conducted in early 2020 with a final decision on referral happening in Spring of next year.
- This is not expected to include property tax as a funding mechanism.

ODOT Statewide Transportation Improvement Program (STIP)

- There is not a competitive grant program available through the 2021-2024 STIP update. However, the region did offer local governments the opportunity to help identify leverage opportunities for Oregon Department of Transportation (ODOT) projects. Milwaukie proposed constructing the Oregon Highway 224 / SE Monroe Street bike signal and diverter included in the Monroe Greenway project as part of the agency’s paving and/or signal work on Oregon Highway 224. We will know if the project makes the final region list in the coming months. Final approval by the Oregon Transportation Commission (OTC) will happen in 2020.

Clackamas County Vehicle Registration Fee (VRF) Strategic Funds

- With adoption of Clackamas County’s vehicle registration fee, Milwaukie will receive an estimated \$413,798 per year in funding. The VRF also establishes a strategic investment fund, which is estimated to generate \$1,117,704 per year, which Milwaukie could request for grant match or gap funding. At this time, the measure is not expected to be referred to the voters which means the county will begin collection in late 2019 early 2020 with a full year of funds collected a year later.

Projects

The city has a number of unfunded capital project priorities that could benefit from these funding sources. This table is for discussion purposes only and does not represent a full accounting of all unfunded projects.

Regional Flexible Funds	Regional Transportation Bond	Regional Parks Bond	ODOT STIP
Monroe Greenway \$7,835,400 (CIP)	99E Underpass at Kellogg Creek \$10,000,000 – \$20,000,000	Milwaukie Bay Park \$8 to 10,000,000 (NCPRD Design Estimate)	SE Monroe Street / Oregon Highway 224 Diverter and Bike Signal (ODOT STIP 150% Draft)

SE Railroad Avenue Capacity Improvements \$5,579,800 (CIP)	SE Railroad Avenue Capacity Improvements \$5,579,000 (CIP)	Scott Park \$500,000 (CIP)	
Bike and Pedestrian Overpass over Railroad Avenue \$2,736,000 (CIP)	Bike and Pedestrian Overpass over Railroad Avenue \$2,736,000 (CIP)	Kronberg Park Improvements \$2,900,000 (CIP)	

RECOMMENDATION

Staff recommends that you select one or two strategic priorities (depending on the size of the fund and cost of the project) per fund. Some projects will need to access funds from multiple sources to complete a full funding plan. Staff will use this direction to help guide the city’s participation in the various programs.

Regional Funding Opportunities

Metro Parks
Bond

Metro
Regional
Flexible Funds

Transportation
2020 Bond
Measure

Metro Parks Measure \$400M to \$450M

Land Acquisition
130-140

Metro Parks
Capital Projects
100-105

Local Share
65-70

Urban
Transformations
40-50

Regional Trail
Acquisition and
Development
40-55

Regional Flexible Funds

Active
Transportation
Fund = \$36.8M

2022-2024
Projects

Applications
due this
spring.

Project Award
Size (2-3
million)

T 2020

Large

Corridor
Based

Funding
Mechanism
Unknown

Phase 1 &
Phase 2
Projects

99E & 224

Projects

Regional Flexible Funds	Regional Transportation Bond	Regional Parks Bond	ODOT STIP
Monroe Greenway \$7,835,400 (CIP)	99E Underpass at Kellogg Creek \$10,000,000 – \$20,000,000	Milwaukie Bay Park \$8 to 10,000,000 (NCPRD Design Estimate)	Monroe / 224 Diverter and Bike Signal (ODOT STIP 150% Draft)
Railroad Avenue Capacity Improvements \$5,579,800 (CIP)	Railroad Avenue Capacity Improvements \$5,579,000 (CIP)	Scott Park \$500,000 (CIP)	
Bike and Pedestrian Overpass over Railroad Ave. \$2,736,000 (CIP)	Bike and Pedestrian Overpass over Railroad Ave. \$2,736,000 (CIP)	Kronberg Park Improvements \$2,900,000 (CIP)	

COUNCIL STAFF REPORT

To: Mayor and City Council

Date Written: January 4,
2019

Ann Ober, City Manager

Reviewed: Scott Pierce, Lead Utility Technician and
Bonnie Dennis, Finance Director

From: Tessie Prentice, Associate Engineer

Subject: **Annual Report on the Street Surface Maintenance Program (SSMP)**

ACTION REQUESTED

None. This is an update on the Street Surface Maintenance Program (SSMP) and is for information only.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

April 10, 2018: City council accepted the Citizens Utility Advisory Board (CUAB) recommended utility rates for FY19, which included funding SSMP at eight-cents per trip and an unspecified future increase to the Construction Cost Index (CCI) rate to occur FY20 and FY21.

March 20, 2018: City council authorized the Transportation Bond Authorization Resolution, which included SSMP projects that were identified as part of a Safe Access for Everyone (SAFE) project.

February 27, 2018: At the city council special session, council gave direction to reintroduce a resolution to approve the issuance of bonds to fund the first phase of the Integrated SAFE, SSMP, and Capital Improvement Plan (CIP) program accelerated under the hybrid delivery method.

April 4, 2017: City council adopted Ordinance No. 2147 to allow for indexing (annual adjustment for inflation according to the Consumer Price Index published by the Bureau of Labor Statistics) of the SSMP fee.

February 7, 2017: The Citizen Utility Advisory Board (CUAB) recommended retroactively adjusting the SSMP rate for inflation and starting July 1, 2017, indexing annually for inflation.

April 5, 2016: Staff presented the ninth annual SSMP report to council.

March 3, 2015: Staff presented the eighth annual SSMP report to council.

January 21, 2014: Staff presented the seventh annual SSMP report to council.

October 1, 2013: Staff presented an update of the SSMP report with a focus on ways to accelerate the program.

February 19, 2013: Staff presented the sixth annual SSMP report to council.

February 7, 2012: Staff presented the fifth annual SSMP report to council.

February 1, 2011: Staff presented the fourth annual SSMP report to council.

February 2, 2010: Staff presented the third annual SSMP report to council.

December 16, 2008: Staff presented the second annual SSMP report to council.

December 18, 2007: Staff presented the first annual SSMP report to council.

January 2, 2007: SSMP was adopted by Ordinance No. 1966, effective on July 1, 2007. The ordinance, in concert with other related ordinances, established funding sources, including a street maintenance fee, an electric utility privilege tax, and a local gas tax. All funds were dedicated to street maintenance and rehabilitation, with the goal of bringing all arterials and collectors in the city to a “good” or better condition within ten years.

ANALYSIS

SSMP Project Summary for Fiscal year 2017-2018

Paving and Overlay: \$1,000,000 budgeted - The city oversaw paving eleven streets, including:

- SE 29th Avenue from SE Sherrett Street to the end south of SE Balfour Street;
- SE Rockwood Street from SE 32nd Avenue to SE 38th Avenue;
- SE 38th Avenue from SE Harvey Street to SE Hazel Street, SE Hazel Street from SE 38th Avenue to SE 40th Avenue;
- SE Fieldcrest from SE 42nd Avenue to SE Fieldcrest Drive;
- SE Fieldcrest Drive;
- SE Harvey Street from SE 49th Avenue to SE 50th Avenue;
- SE 50th Avenue from SE Harvey Street to SE Willow Street;
- SE Leone Lane;
- SE Willow Street from SE 49th Avenue to SE 50th Avenue; and
- SE 55th Avenue from SE Firwood Street to the south end of the street.

All paving was completed during the fall of 2018. Paving was completed within budget (\$590,000 authorized of \$1,000,000 budgeted), using in-house staff to prepare the bid documents and oversee the construction.

Crack Seal: \$15,000 budgeted – roads crack sealed include SE Grogan Avenue, SE 36th Avenue between SE Grogan Avenue and SE Lake Road, SE Nase Court, SE King Road from SE 42nd Avenue to SE 55th Avenue.

Slurry Seal: \$100,000 budgeted; no slurry seal was completed in 2018.

Workload impacts and Overall Program Progress

The engineering department manages the design, contract management, and construction oversight of all SSMP projects in-house. Project design typically begins in the winter months for projects slated to begin in late spring, with additional project design in the spring for summer projects. It can take up to three months to complete a bid-ready set of contract documents for each project.

Members of the engineering and public works departments form an SSMP Project team, which coordinates the ten-year paving schedule with the CIP, public improvement projects, and other city and private projects. Furthermore, coordination within engineering and between the utilities (storm, water, and sewer) is necessary to make decisions regarding timelines of capital improvement projects prior to paving a particular street. Respective CIP projects can then repair or reconstruct identified utility work prior to a paving project.

Revenue Summary

The SSMP resides in the city's transportation fund (fund 320-420), wherein revenues are collected specifically and exclusively for expenditures described in the program. The three revenue sources for the transportation fund are described below.

Street Maintenance Fee: Revenue from the street maintenance fee for fiscal year 2017-2018 was projected at \$625,000. The actual revenue collected was \$755,039.

Local Gas Tax: The two-cent per gallon local gas tax was implemented July 1, 2007. For fiscal year 2017-2018, gas tax revenue was projected at \$185,000, but \$172,900 was collected.

Electric Utility Privilege Tax: The electric utility privilege tax is a consumption-based tax that fluctuates with electrical usage and is collected in the spring. Staff predicted that the city would collect \$321,000 in the 2017-2018 fiscal year, but \$313,479 was collected.

Achievement of Program Goals

Pavement Condition Index (PCI) Goal: The SSMP PCI goal is to bring all arterial and collector streets to a rating of 75 or better, with adequate maintenance to sustain this level of pavement quality. Staff finds that in year 12 the average network-wide (arterial (A), collector (C), and residential/local (R/L)) PCI value in Streetsaver for streets is 52, which is up from 51 in year 10. The last comprehensive evaluation was completed in 2011 and the current PCI values are adjusted using the deterioration curve from these PCI values. A comprehensive evaluation of the PCI of the street network is planned for 2019.

The average PCI value for arterial streets is 67. Arterials make up 9.2% of the street network by length and 12.3% by area.

The average PCI for collector streets is 64 and minor collector streets is 46, for a combined average PCI of 57. Collector and minor collector streets make up 29.4% of the city's network by length and 30.9% by area.

Neighborhood/local streets, the largest group of streets in the city at 61.4% by length and 56.8% by area, have a PCI rating of 46.

Deferred Maintenance Goal: The SSMP deferred maintenance goal is to eliminate the backlog of deferred maintenance of streets. Several of the street projects in 2018 were from the backlog of deferred maintenance. Staff finds that year 12 progress toward this goal is satisfactory.

Maintenance Goals: The SSMP maintenance goal is to prevent any street from deteriorating to the point of requiring reconstruction. All the street projects in 2018 were pavement overlays. Overlays minimize further deterioration that would require more costly reconstruction. Certain streets underwent treatments of crack sealing, which will reduce the streets deterioration to the point of requiring reconstruction. Staff finds that year 12 progress toward this goal is satisfactory.

Stopgap Goals: The SSMP stopgap goal is to continue to adequately fund and repair trouble spots throughout the city using street patching and pothole filling, with the expectation that these needs will diminish as the program continues. Stopgap repairs are funded through current street fund revenues. Staff finds satisfactory progress toward this goal in year 12.

Program Cost Goals: The overall revenue goal for the program was \$1.2 million per year for the first ten years.

Additional Benefits: The SSMP program has additional benefits such as improving bike routes by the removal of obstacles, altering street grades to allow for improved drainage, and improving street striping, and needed adjustments in roadway alignment.

Overall Condition of the Network

The engineering department maintains a database of overall PCI for all city streets. The database is updated each year with all the projects completed. A newly paved street has a PCI of 100. The last comprehensive evaluation of the street network was completed in 2011. At that time, the average PCI for the city was 57 on a scale of 100. When the SSMP began paving in 2007, the network PCI was approximately 61. In the subsequent 12 years, it is estimated that the network PCI has decreased to 52.

The original SSMP goal was to obtain an average PCI value of 75 for arterial and collector streets. In 2014, staff suggested modifying the method by which streets are selected for treatment, based on their overall benefit to the network PCI in the most cost-effective way available. In 2016, CUAB approved incorporating residential streets into the SSMP.

Upcoming Projects

Paving and Overlay:

*Paving timing to be coordinated with SAFE project construction schedule.

**Paving timing to be coordinated with Regional Transportation Plan (RTP) project construction schedule.

+Project listed in 2006 model SSMP project schedule

2019

- SE 39th Avenue*, from SE Roswell Street to SE Wake Street (R/L);

- SE Lake Road, from SE 21st Avenue to SE 34th Avenue (A);
- SE Main Street, from SE Washington Street to SE Lake Road (C);
- SE Omark Drive, from SE Mailwell Drive to end(R/L);
- SE Wake Street*, from SE 32nd Avenue to end(R/L).

2020

- SE 42nd Avenue, from SE Harrison Street to SE King Road (A);
- SE 42nd Avenue, from SE Monroe Street to SE Harrison Street (C);
- SE Edison Street*, from Oregon Highway 224 to SE 35th Avenue (R/L);
- SE King Road*, from SE 42nd SE Linwood Avenue (A);
- SE King Road*, from SE 40th Avenue to SE 42nd Avenue (C);
- SE Lake Road, from SE 34th Avenue to SE 37th Avenue (A);
- + SE McBrod Avenue**, from SE 17th Avenue to SE Ochoco Street (R/L);
- SE Stanley Avenue**, from SE Railroad Avenue to SE Lloyd Street (C);
- +SE Wood Avenue**, from SE Monroe Street to SE Railroad Avenue (C).

2021

- SE 22nd Avenue*, from SE McLoughlin Boulevard to SE Sparrow Road (A);
- SE 29th Avenue*, from SE Sherrett Street to SE Balfour Street (R/L);
- SE 40th Avenue*, from SE Harvey Street to SE King Road (C);
- +SE 43rd Avenue *, from SE King Road to SE Howe Street (C);
- SE 43rd Avenue*, from SE Howe Street to SE Covell Street (R/L);
- SE Balfour Street*, from west of SE 29th Avenue to SE 32nd Avenue (R/L);
- SE Covell Street*, from SE 42nd Avenue to SE 43rd Avenue (R/L);
- +SE Harvey Street *, from SE 32nd Avenue to SE 42nd Avenue (C);
- +SE Home Avenue*, from SE King Road to SE Railroad Avenue (C);
- +SE Howe Street*, from SE 42nd Avenue to SE 43rd Avenue (C);
- SE Linwood Avenue*, SE Monroe Street to SE Harmony Road (A);
- SE Monroe Street*, SE 25th Avenue to SE 28th Avenue (C);
- SE River Road*, from SE McLoughlin Boulevard to city limits (A).

2022

- SE 32nd Avenue*, from SE Railroad Avenue to city limits (C);
- +SE Mailwell Drive**, from SE Main Street to Union Pacific Railroad (UPRR) (R/L);
- SE Main Street *, from SE Harrison Street to SE Ochoco Street (C);
- SE Oak Street*, from SE Washington Street to SE Monroe Street (C);
- SE Ochoco Street*, from SE Main Street to SE McLoughlin Boulevard (C);
- +SE Railroad Avenue*, from SE Oak Street to SE 32nd Avenue (C);
- SE Sparrow Street*, from SE 22nd Avenue to SE River Road (A);
- SE Sparrow Street*, from SE River Road to the Trolley Trail (R/L).

2023

- SE 26th Avenue*, from SE Lake Road to Lake Village Apartments (R/L);
- SE 27th Avenue*, from SE Lake Road to SE Washington Street (C);
- SE 28th Avenue*, from SE Springwater Corridor to SE Van Water Street (R/L);
- SE 35th Avenue*, from SE Washington Street to SE Edison Street (C);
- SE 56th Avenue*, from end to end (R/L);
- SE Lloyd Street*, from SE 56th Avenue to SE Stanley Avenue (R/L);
- SE Logus Road*, from SE 43rd Avenue to SE 49th Avenue (C);

- SE Mason Lane*, from SE 42nd Avenue to SE Regents Drive (C);
- SE Oatfield Road*, from SE Lake Road to city limits (A);
- SE Park Street*, from SE Home Avenue to SE Wood Avenue (C);
- SE Park Street*, from SE Wood Avenue to SE Beckman Avenue (R/L);
- SE Van Water Street*, from SE 28th Avenue to 32nd Avenue (R/L);
- SE Washington Street*, from SE McLoughlin Boulevard to SE 35th Avenue (C).

Crack Seal:

2019

- SE 22nd Avenue, from SE McLoughlin Boulevard to SE Sparrow Street (A);
- SE Harrison Street from Oregon Highway 224 to SE 42nd Avenue (A);
- SE Harrison Street from SE 42nd Avenue to SE Home Avenue (R/L);
- SE Johnson Creek Boulevard, from SE Brookside Drive to SE 40th Avenue (A);
- SE King Road, from SE Hollywood Avenue to SE 42nd Avenue (A);
- SE Lake Road, from SE Freeman Way to SE Kuehn Road (A);
- SE Main Street, from SE Milport Road to SE Ochoco Street (C);
- SE River Road, from SE McLoughlin Boulevard to SE Lark Street (A);
- SE Roswell, from SE 32nd Avenue to SE 40th Avenue (C).

Slurry Seal:

2019

- SE 32nd Avenue, from SE Harrison Street to SE Sherrett Street (C);
- SE 36th Avenue, from SE Lake Road to SE Grogan Avenue (R/L);
- SE 39th Court, from SE Angela Way to end (R/L);
- SE 45th Avenue, from SE Mason Hill Drive to SE Meadowcrest Court (R/L);
- SE 45th Avenue, from SE Rio Vista Street to SE Adams Street (R/L);
- SE 46th Avenue, from SE Adams Street to SE Franklin Street (R/L);
- SE 47th Avenue, from SE Mason Lane to SE Fieldcrest Street(R/L);
- SE 47th Avenue, from SE Railroad Avenue to SE Franklin Street (R/L);
- SE 47th Avenue, from SE Washington Street to SE Adams Street (R/L);
- SE 55th Avenue, from SE Firwood Street to SE Rainbow Lane (C);
- SE 56th Avenue, from SE Firwood Street to SE Willow Street (R/L);
- SE Adams Street, from SE 47th Avenue to SE 42nd Avenue (R/L);
- SE Angela Way, from SE Boss Lane to SE Vernie Avenue (R/L);
- SE Cheshire Lane, from SE Maplewood Court to SE Somewhere Drive (R/L);
- SE Firwood Street, from SE Stanley Avenue to SE 55th Avenue (C);
- SE Grogan Avenue, from SE 36th Avenue to SE 37th Avenue (R/L);
- SE Lake Road, from SE Freeman Way to SE Kuehn Road (A);
- SE Licynta Lane, from SE Boss Lane to SE Vernie Avenue (R/L);
- SE Maplewood Court, from SE Vernie Avenue to end (R/L);
- SE Mason Hill Drive, from SE 45th Avenue to end (R/L);
- SE Mason Lane, from SE Winsor Drive to SE Regents Drive and from SE Regents Drive to SE 42nd Avenue (C);
- SE Meadowcrest Court, from SE 42nd Avenue to end (R/L);
- SE Nase Court (R/L);
- SE Olsen Street, from SE 42nd Avenue to SE 32nd Avenue (C);
- SE Pennywood Court, from SE Pennywood Drive to end (R/L);

- SE Pennywood Drive, from SE Freeman Road to end (R/L);
- SE Rainbow Circle, from SE Rainbow Lane to end (R/L);
- SE Rainbow Lane, from SE Regents to SE 55th Avenue (R/L);
- SE Rio Vista Street, from SE 42nd Avenue to SE 45th Avenue (R/L);
- SE Somewhere Drive, from SE Where Else Lane to end (R/L);
- SE Stanley Avenue, from SE King Road to JCB (C);
- SE Vernie Avenue, from SE Lake Road to SE Angela Way (R/L);
- SE Vernie Court, from SE Vernie Avenue to end (R/L);
- SE Washington Street, from SE 42nd Avenue to SE 47th Avenue (C);
- SE Weedman Court, from SE Somewhere Drive to end (R/L);
- SE Weedman Court to SE Where Else Lane (R/L);
- SE Willow Street, from SE Stanley Avenue to SE Winsor Court (C);
- SE Winsor Court, from SE Winsor Drive to end (R/L);
- SE Winsor Drive, from SE Winsor Court to SE Rainbow Lane (C).

From Model SSMP Project Schedule, Years 1 - 12

Year	Project	Street Class	Treatment	Maintenance Date	PCI Maintenance Date Vs Current (1/2019)	
Year 1 - 2007	SE Oak Street (Oregon Hwy 224 to SE Monroe Street)	C	Mill & 2" Overlay	10/2008	63	52
	SE 37 th Avenue (SE Lake Road-SE Wister Street)	R / L	Mill & 3" Overlay	8/2007	43	69
	SE Washington Street (SE McLoughlin Boulevard to SE Oak Street)	C	Mill & 3" Overlay	6/2008	65	67
	SE 42 nd Avenue (SE Harvey Street to the Johnson Creek Building)	C	Mill & 2" Overlay	8/2007	67	79
	SE Logus Street (SE Stanley Ave to SE 51 st Avenue)	C	Mill & 2" Overlay	5/2009	52	79
Year 2 - 2008	SE King Road (SE 43 rd Avenue to SE Hollywood Avenue)	A	Reconstruct Structure	8/2008	41	78
Year 3 - 2009	SE Linwood Ave (SE Railroad Avenue- SE Monroe Street)	A	Mill & 2" Overlay	5/2010	59	89
	SE Lake Road (SE Shell Lane to SE Kuehn Road)	A	Reconstruct Structure	6/2012	30	79
	SE Roswell Street (SE 32 nd Avenue to SE 42 nd Avenue)	C	Reconstruct Structure	6/2010	29	81

Year 4 – 2010	SE Washington Street (SE 37 th Avenue to SE 40 th Avenue)	R / L	Overlay / Rehab	Not currently scheduled		2
	SE 27 th Avenue (SE Lake Road to SE Washington Street)	C	Mill & 2" Overlay	6/2009	81	69
	SE Harrison Street (Oregon Hwy 224 to SE 42 nd Avenue)	A	Reconstruct Structure	10/2012	32	80
Year 5 – 2011	Pavement Assessment	-	Program Expense	2011	-	-
	SE Harrison Street (SE McLoughlin Boulevard to Oregon Hwy 224)	A	Reconstruct Structure	9/2013	36	82
	SE Railroad Avenue (SE 37 th Avenue to SE Harmony Road)	C	Reconstruct	12/2015	9	87
Year 6 – 2012	SE 43 rd Avenue (SE King Road to Howe Street)	C	Overlay / Rehab	Upcoming Projects 2021		41
	SE Howe Street (SE 43 rd Avenue to SE 42 nd Avenue)	C	Overlay / Rehab	Upcoming Projects 2021		36
	SE River Road (SE McLoughlin Boulevard to SE Lark Street)	A	Mill & 2" Overlay	9/2009	55	71
	SE Railroad Avenue (SE 32 nd Avenue to SE Oak Street)	C	Reconstruct	Upcoming Projects 2022		38
	SE Railroad Avenue (SE Harrison Street to SE 32 nd Avenue)	C	Reconstruct	Not currently scheduled		0
	SE Monroe Street (SE Oak Street to city limits)	C	Reconstruct Structure	9/2012	24	85
Year 7 – 2013	SE International Way (SE Lake Road to pavement change)	C	3" Overlay	7/2012	13	81
	SE International Way (pavement change to SE Freeman Way)	C	2" Overlay with Localized Repairs	7/2012	40	81
	SE International Way (SE Freeman Way to SE 37 th Avenue)	C	Mill and Thick Overlay	7/2012	36	81
	SE Monroe Street (SE Campbell Street to SE 21 st Avenue)	C	Reconstruct Structure	9/2014	20	88

	SE Monroe Street Phase 2 (21 st Avenue to SE McLoughlin Boulevard)	C	Mill & 2" Overlay	9/2014	57	84
Year 8 – 2014	SE Harvey Street (SE 32 nd Avenue to SE 42 nd Avenue)	C	Reconstruct	Upcoming Projects 2021		10
	SE Home Ave (SE Railroad Avenue to SE King Road)	C	Reconstruct	Upcoming Projects 2021		0
	SE Wood Avenue (SE Railroad Avenue to SE Monroe Street)	C	Reconstruct	Upcoming Projects 2020		15
Year 9 – 2015	Pavement Assessment		Program Expense	Not completed	-	-
	SE McBrod Avenue (SE 17 th Avenue to Ochoco Street)	R / L	Reconstruct	Upcoming Projects 2020		0
	Major Route Overlays TBD – SE Monroe Street (SE McLoughlin Boulevard to SE 21 st Avenue)	C	Mill & 2" Overlay	9/2014	57	84
	Major Route Overlays TBD – SE Monroe Avenue (SE 21 st Avenue to SE Campbell Street)	C	Reconstruct Structure	9/2014	20	88
Year 10 - 2016	SE Mailwell Drive (Main Street to Commerce Park)	R / L	Reconstruct	Upcoming Projects 2022		0
	Major Route Overlays TBD – SE 42 nd Avenue (SE Railroad Avenue to SE Monroe Street)	C	Reconstruct Structure	4/2018	0	96
Year 11 – 2017	Major Route Overlays TBD – SE Lake Road (SE 21 st Avenue to Shell)	A	Overlay / Rehab	Upcoming Projects 2019		2
Year 12 - 2018	SE 29th Avenue (SE Sherrett Street to the end south of SE Balfour Street)	R / L	2" Overlay	10/2018	7	96
	SE Rockwood Street (SE 32nd Avenue to 38th Avenue)	R / L	2" Overlay	10/2018	0	96
	SE 38th Avenue (SE Harvey Street to SE Hazel Street)	R / L	Thin AC Overlay (1.5 inches)	10/2018	17	96

SE Hazel Street (SE 38th Avenue to SE 40th Avenue)	R / L	Thin AC Overlay (1.5 inches)	10/2018	43	96
SE Fieldcrest Street (42nd Avenue to Fieldcrest Drive)	R / L	2" Overlay	10/2018	0	96
SE Fieldcrest Drive	R / L	2" Overlay	10/2018	0	96
SE Harvey Street (SE 49th Avenue to SE 50th Avenue)	R / L	2" Overlay	10/2018	3	96
SE 50th Avenue (SE Harvey Street to SE Willow Street)	R / L	2" Overlay	10/2018	0	96
SE Leone Lane	R / L	2" Overlay	10/2018	0	96
SE Willow Street (SE 49th Avenue to SE 50th Avenue)	R / L	2" Overlay	10/2018	0	96
SE 55th Avenue (SE Firwood Street to the south end of the street)	R / L	Reconstruct Structure	10/2018	0	96

Treatment Description:

- Mill & Overlay = Grind asphalt and overlay with asphalt
- Reconstruct Structure = Reconstruct as asphalt
- Overlay / Rehab = Overlay with asphalt, depth to determined

BUDGET IMPACTS

None

COORDINATION, CONCURRENCE, OR DISSENT

Engineering, finance and public works are involved with the issue and each concur.

STAFF RECOMMENDATION

This informational update does not contain a staff recommendation.

ALTERNATIVES

Not applicable

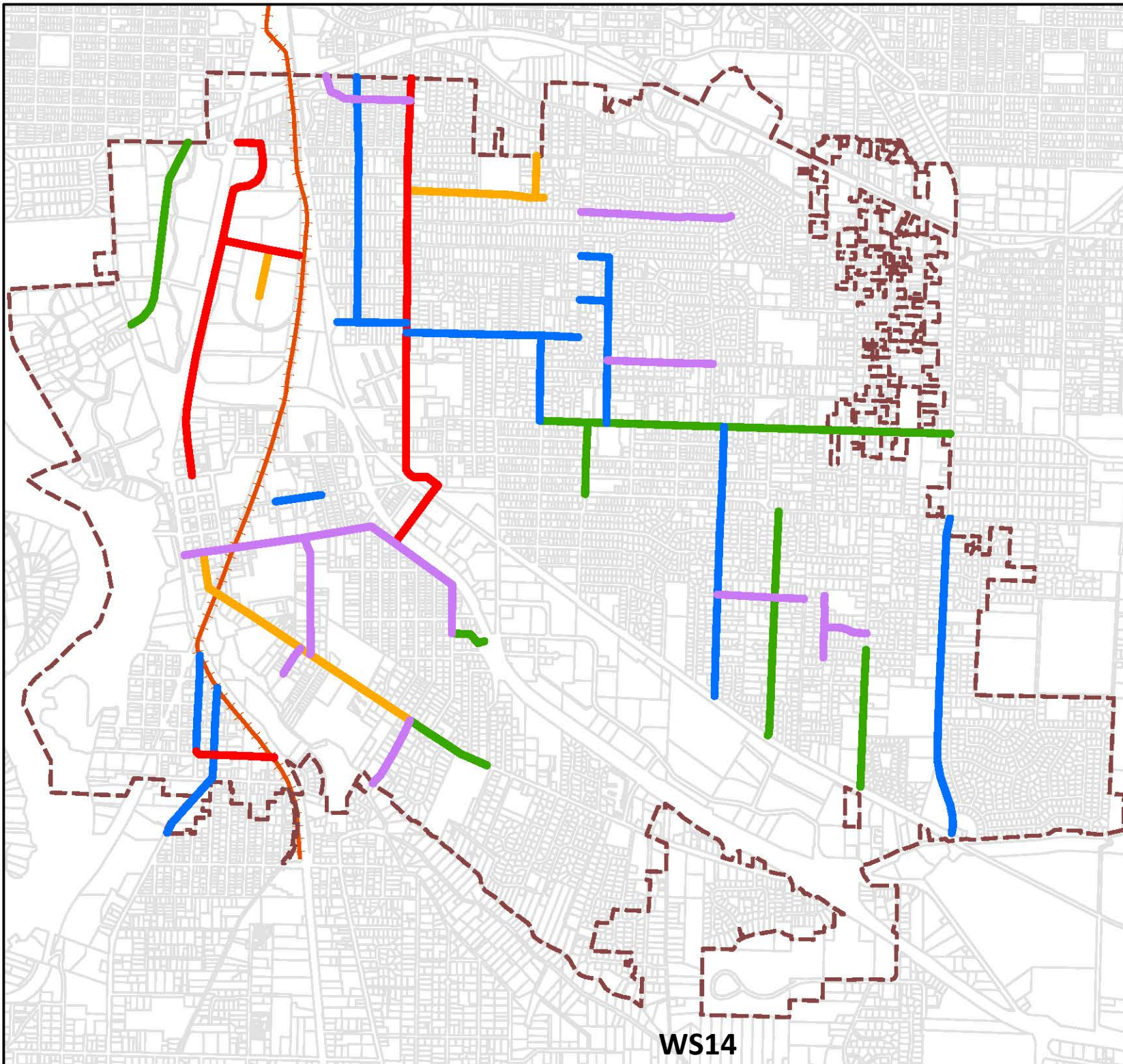
ATTACHMENTS

1. Map of upcoming SSMP paving projects
2. Map of 2019 crack seal and slurry seal projects

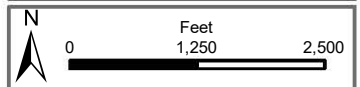
Attachment 1

City of Milwaukee Street Surface Maintenance Program Upcoming Projects

- City of Milwaukee**
- City Border
 - Milwaukee Light Rail
- SSMP Projects by Fiscal Year**
- 2019
 - 2020
 - 2021
 - 2022
 - 2023



WS14





Data Sources: City of Milwaukee GIS, Metro Data Resource Center
3/8/2019
The information depicted on this map is for general reference only. The City of Milwaukee cannot accept any responsibility for errors, omissions or positional inaccuracies. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of errors would be appreciated.



Attachment 2

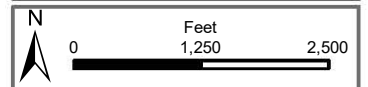
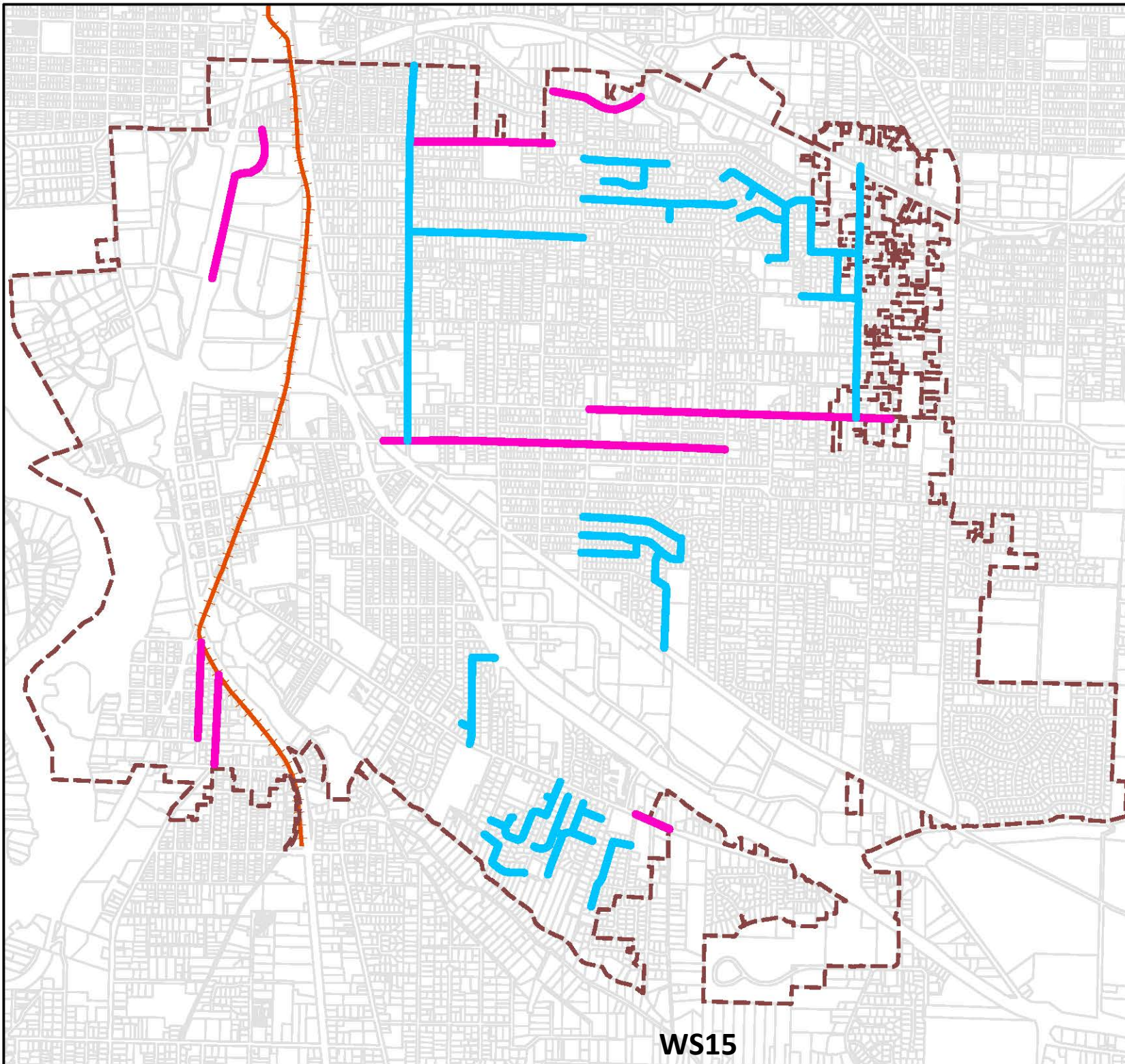
City of Milwaukee Street Surface Maintenance Program 2019 Crack & Slurry Seal

City of Milwaukee

-  City Border
-  Milwaukee Light Rail

2019 Crack & Slurry Seal

-  Crack Seal
-  Slurry Seal



Data Sources: City of Milwaukee GIS, Metro Data Resource Center
3/13/2019
The information depicted on this map is for general reference only. The City of Milwaukee cannot accept any responsibility for errors, omissions or positional inaccuracies. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of errors would be appreciated.