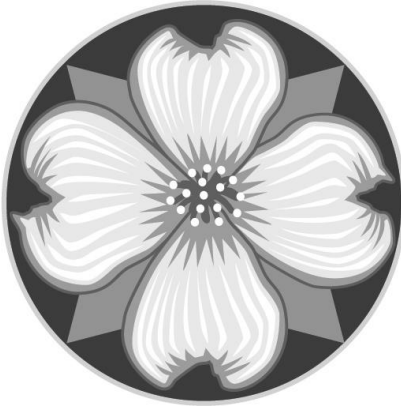




Regular Session

RS

Milwaukie City Council

COUNCIL REGULAR SESSION

City Hall Council Chambers, 10722 SE Main Street
& Zoom Video Conference (www.milwaukieoregon.gov)

2367th Meeting**REVISED AGENDA****OCTOBER 18, 2022**

(Revised October 14, 2022)

Council will hold this meeting in-person and through video conference. The public may attend the meeting by coming to City Hall or joining the Zoom webinar, or watch the meeting on the [city's YouTube channel](#) or Comcast Cable channel 30 in city limits. **For Zoom login** visit <https://www.milwaukieoregon.gov/citycouncil/city-council-regular-session-334>.

To participate in this meeting by phone dial 1-253-215-8782 and enter Webinar ID 841 6722 7661 and Passcode: 097479. To raise hand by phone dial *9.

Written comments may be delivered to City Hall or emailed to ocr@milwaukieoregon.gov. Council will take verbal comments.

Note: agenda item times are estimates and are subject to change.

Page #

1. **CALL TO ORDER** (6:00 p.m.)
 - A. **Pledge of Allegiance**
 - B. **Native Lands Acknowledgment**
2. **ANNOUNCEMENTS** (6:01 p.m.) **2**
3. **PROCLAMATIONS AND AWARDS**
 - A. **Outstanding Milwaukie High School (MHS) Student – Award** (6:05 p.m.)
Presenter: Kim Kellogg, MHS Principal
 - B. **MHS Update – Report** (6:25 p.m.)
Presenter: Kim Kellogg, MHS Principal
 - C. **Arbor Day – Proclamation** (6:35 p.m.) **4**
Staff: Natalie Rogers, Climate & Natural Resources Manager
 - D. **American Archives Month – Proclamation** (6:40 p.m.) **5**
Staff: Scott Stauffer, City Recorder
 - E. **Community Planning Month – Proclamation** (6:45 p.m.) **6**
Staff: Laura Weigel, Planning Manager
4. **SPECIAL REPORTS**
 - A. **None Scheduled.**
5. **COMMUNITY COMMENTS** (6:50 p.m.)

To speak to Council, please submit a comment card to staff. Comments must be limited to city business topics that are not on the agenda. A topic may not be discussed if the topic record has been closed. All remarks should be directed to the whole Council. The presiding officer may refuse to recognize speakers, limit the time permitted for comments, and ask groups to select a spokesperson. **Comments may also be submitted in writing before the meeting, by mail, e-mail (to ocr@milwaukieoregon.gov), or in person to city staff.**

6. **CONSENT AGENDA (6:55 p.m.)**
Consent items are not discussed during the meeting; they are approved in one motion and any Council member may remove an item for separate consideration.
 - A. **Approval of Council Meeting Minutes of:** **8**
 1. **September 20, 2022, work session, and**
 2. **September 20, 2022, regular session.**
 - B. **Authorization of an Agreement with the North Clackamas Watersheds Council (NCWC) for Kellogg Dam Removal Funding – Resolution** **17**
7. **BUSINESS ITEMS**
 - A. **Public Safety Advisory Committee (PSAC) – Annual Update (7:00 p.m.)** **39**
Staff: Steve Adams, City Engineer, and Ben Green, Engineering Technician
 - B. **Bowman Brae Park Resolution of Necessity – Resolution (7:15 p.m.)** **49**
Staff: Justin Gericke, City Attorney
 - C. **New City Hall Construction Manager / General Contractor (CMGC) Process – Resolution (7:45 p.m.)** **78**
Staff: Kelly Brooks, Assistant City Manager
8. **PUBLIC HEARINGS**
 - A. **None Scheduled.**
9. **COUNCIL REPORTS (7:55 p.m.)**
 - A. **Support for Ballot Measures – Resolutions (2) (added to the agenda)** **87**
Presenters: Lisa Batey, Councilor and Mark Gamba, Mayor
10. **ADJOURNMENT (8:10 p.m.)**

Executive Session

After the regular session Council will meet in executive session pursuant to Oregon Revised Statute (ORS) 192.660 (2)(i) to review and evaluate the employment-related performance of the chief executive officer of any public body, a public officer, employee or staff member who does not request an open hearing.

Meeting Accessibility Services and Americans with Disabilities Act (ADA) Notice

The city is committed to providing equal access to public meetings. To request listening and mobility assistance services contact the Office of the City Recorder at least 48 hours before the meeting by email at ocr@milwaukieoregon.gov or phone at 503-786-7502. To request Spanish language translation services email espanol@milwaukieoregon.gov at least 48 hours before the meeting. Staff will do their best to respond in a timely manner and to accommodate requests. Most Council meetings are broadcast live on the [city's YouTube channel](#) and Comcast Channel 30 in city limits.

Servicios de Accesibilidad para Reuniones y Aviso de la Ley de Estadounidenses con Discapacidades (ADA)

La ciudad se compromete a proporcionar igualdad de acceso para reuniones públicas. Para solicitar servicios de asistencia auditiva y de movilidad, favor de comunicarse a la Oficina del Registro de la Ciudad con un mínimo de 48 horas antes de la reunión por correo electrónico a ocr@milwaukieoregon.gov o llame al 503-786-7502. Para solicitar servicios de traducción al español, envíe un correo electrónico a espanol@milwaukieoregon.gov al menos 48 horas antes de la reunión. El personal hará todo lo posible para responder de manera oportuna y atender las solicitudes. La mayoría de las reuniones del Consejo de la Ciudad se transmiten en vivo en el [canal de YouTube de la ciudad](#) y el Canal 30 de Comcast dentro de los límites de la ciudad.

Executive Sessions

The City Council may meet in executive session pursuant to Oregon Revised Statute (ORS) 192.660(2); all discussions are confidential; news media representatives may attend but may not disclose any information discussed. Final decisions and actions may not be taken in executive sessions.



COUNCIL REGULAR SESSION

City Hall Council Chambers, 10722 SE Main Street
& Zoom Video Conference (www.milwaukieoregon.gov)

2367th Meeting

MINUTES

OCTOBER 18, 2022

Council Present: Councilors Adam Khosroabadi, Lisa Batey, Desi Nicodemus, Council President Kathy Hyzy, and Mayor Mark Gamba

Staff Present: Steve Adams, City Engineer
Kelly Brooks, Assistant City Manager
Justin Gericke, City Attorney
Ben Green, Engineering Technician
Adam Moore, Parks Development Coordinator

Ann Ober, City Manager
Peter Passarelli, Public Works Director
Natalie Rogers, Climate & Natural
Resources Manager
Scott Stauffer, City Recorder

Mayor Gamba called the meeting to order at 6:04 p.m.

1. CALL TO ORDER

A. Pledge of Allegiance.

B. Native Lands Acknowledgment.

2. ANNOUNCEMENTS

Mayor Gamba announced upcoming community activities, including a city manager open door session, the 42nd/43rd Avenue improvements celebration, Arbor Day events, a spooky storyteller event, and the Haunted Forest at Homewood Park event. **Councilor Batey** noted an ivy pull event and a fundraiser event at the Davis Graveyard. The group noted that the city did not know if there would be a downtown business trick-or-treating event this year.

3. PROCLAMATIONS AND AWARDS

A. Milwaukie High School (MHS) Outstanding Student Achievement – Award

Kim Kellogg, MHS Principal, introduced Lupita Aguilar-Soto and Council congratulated them on their academic and extra-curricular activities.

B. MHS Update – Report

Kellogg provided an update on activities at the school, including a career day, the Portland Opera's use of the school facilities, college visits, and parent survey.

C. Arbor Day – Proclamation

Rogers noted Arbor Day plans and remarked on the importance of planting and protecting trees. **Mayor Gamba** proclaimed October 22, 2022, to be Arbor Day.

D. American Archives Month – Proclamation

Stauffer and **Greg Hemer**, with the Milwaukie Historical Society, remarked on the importance of local archives. **Mayor Gamba** proclaimed October to be Archives Month.

E. Community Planning Month – Proclamation

Ober remarked on the importance of community planning and thanked the city's planning staff for their work. **Mayor Gamba** proclaimed October to be Planning Month.

4. SPECIAL REPORTS

A. None Scheduled.

5. COMMUNITY COMMENTS

Mayor Gamba reviewed the public comment procedures and **Ober** reported that there was no follow-up report from the October 4 community comments. No audience member wished to address Council.

6. CONSENT AGENDA

It was moved by Councilor Batey and seconded by Council President Hyzy to approve the Consent Agenda as presented.

A. City Council Meeting Minutes:

1. September 20, 2022, Work Session, and
2. September 20, 2022, Regular Session.

B. Resolution 67-2022: A resolution of the City Council of the City of Milwaukie, Oregon, authorizing a cooperative agreement with the North Clackamas Urban Watershed Council (NCWC) for the Kellogg Creek Restoration and Community Enhancement project.

Motion passed with the following vote: Councilors Khosroabadi, Batey, Nicodemus, and Hyzy and Mayor Gamba voting “aye.” [5:0]

7. BUSINESS ITEMS

A. Public Safety Advisory Committee (PSAC) – Annual Update

Adams provided an overview of the committee’s work, noting PSAC’s interest in focusing on emergency response work and helping update the city’s Transportation System Plan (TSP) in 2023. **Mayor Gamba** and **Adams** remarked on why the city’s TSP consultant contracts had to be reviewed by the state before being executed.

PSAC Vice Chair **Stephan Lashbrook** commented on the role the committee would like to play in TSP update project. **Adams** suggested the geographic representation of PSAC members would help the TSP update process.

Lashbrook commented on the contract review process when state and federal funds are involved in a project as they are for the TSP update. The group noted the role of the Oregon Department of Transportation (ODOT) in transportation infrastructure projects.

B. Bowman-Brae Park Resolution of Necessity – Resolution

Moore provided an overview of the Bowman-Brae Park master planning work and efforts to purchase a property west of the park that has been closed to public access, cutting off the western access point to the park. **Moore** noted that residents were frustrated by the lack of park access and reported that staff recommended Council adopt declare the necessity of acquiring the property to restore the access point.

Moore briefly reviewed the park’s master plan and current concept design.

Gericke concurred with staff’s assessment of the Bowman-Brae Park situation and explained the legal actions the city had taken to-date and what the proposed resolution would do to begin the condemnation process to acquire the property.

Councilor Batey and **Moore** clarified that Where Else Lane was public right-of-way (ROW) up to the 12-foot private property between the street and park.

Councilor Batey and **Gericke** noted next steps that would be taken to purchase the property if a resolution was adopted. **Moore** and **Gericke** noted that through a condemnation process the city would be purchasing the property for fair market value.

Mayor Gamba announced that public comment would be taken on the proposed action.

Lupin Hipp, Milwaukie resident, asked for clarification about the action Council would take to acquire the property and if the action could fail to restore park access. **Gericke** explained the purpose of the condemnation process.

Paul Anderson, Milwaukie resident, presented a series of photos showing the current route to the park due to the western access point closure.

Mona Thomason, Milwaukie resident, concurred with Anderson's assessment of the current route to the park and encouraged the city to acquire the private property. **Mayor Gamba** and **Thomason** agreed on the importance of active transportation planning.

It was moved by Councilor Nicodemus and seconded by Councilor Khosroabadi to approve the resolution declaring the public necessity to acquire a public right-of-way (ROW) and temporary construction easement to construct a multi-use trail and provide public access to Bowman-Brae Park from Where Else Lane. Motion passed with the following vote: Councilors Khosroabadi, Batey, Nicodemus, and Hyzy and Mayor Gamba voting "aye." [5:0]

Resolution 68-2022:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DECLARING THE PUBLIC NECESSITY TO ACQUIRE A PUBLIC RIGHT-OF-WAY (ROW) AND TEMPORARY CONSTRUCTION EASEMENT TO CONSTRUCT A MULTI-USE TRAIL AND PROVIDE PUBLIC ACCESS TO BOWMAN-BRAE PARK FROM WHERE ELSE LANE.

C. New City Hall Construction Manager / General Contractor (CMGC) Process – Resolution

Brooks explained that to best use the city's fiscal resources staff had requested that Council approve a resolution allowing the city to use a CMGC process for the redevelopment of the new city hall building. **Brooks** noted project management benefits of pursuing a CMGC alternative contracting method.

It was moved by Councilor Khosroabadi and seconded by Council President Hyzy to approve the resolution acting as the Local Contract Review Board, adopting findings to allow alternative contracting for the new city hall project. Motion passed with the following vote: Councilors Khosroabadi, Batey, Nicodemus, and Hyzy and Mayor Gamba voting "aye." [5:0]

Resolution 69-2022:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ACTING AS THE LOCAL CONTRACT REVIEW BOARD, ADOPTING FINDINGS TO ALLOW ALTERNATIVE CONTRACTING FOR THE NEW CITY HALL PROJECT.

Ober and **Brooks** thanked staff for their work to prepare for a CMGC process.

8. PUBLIC HEARING**A. None Scheduled.****9. COUNCIL REPORTS****A. Support for Ballot Measures – Resolutions (2)**

Mayor Gamba explained that resolutions supporting two proposed statewide ballot measures had been prepared for Council to consider adopting. **Gamba** commented on why Council should encourage voters to approve Measure 113, which would add attendance requirements for state legislators, and read the resolution into the record. **Councilor Khosroabadi** expressed support for Measure 113.

It was moved by Councilor Nicodemus and seconded by Councilor Khosroabadi to approve the resolution recommending support for Hold Politicians Accountable – Measure 113. Motion passed with the following vote: Councilors Khosroabadi, Batey, Nicodemus, and Hyzy and Mayor Gamba voting “aye.” [5:0]

Resolution 70-2022:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, RECOMMENDING SUPPORT FOR HOLD POLITICIANS ACCOUNTABLE – MEASURE 113.

Mayor Gamba asked that the city issue a press release after adoption of the ballot measure resolutions.

Councilor Batey noted a presentation Council had received earlier in the year regarding Measure 114 and remarked on what the measure would require. The group discussed adding language to the resolution underscoring the need for gun safety measures due to increasing violence in schools. It was Council consensus to add a whereas clause highlighting the recent surge in school shootings as a reason why voters should approve Measure 114.

Councilor Batey read the resolution in support of Measure 114 into the record. The group noted two additional minor grammatical errors in the resolution text.

Council President Hyzy and Councilor Batey remarked on the support Measure 114 had from gun owners.

It was moved by Council President Hyzy and seconded by Councilor Khosroabadi to approve the resolution urging Milwaukie voters to vote yes on Measure 114 to enhance the safety of our schools and our community. Motion passed with the following vote: Councilors Khosroabadi, Batey, Nicodemus, and Hyzy and Mayor Gamba voting “aye.” [5:0]

Resolution 71-2022:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, URGING MILWAUKIE VOTERS TO VOTE YES ON MEASURE 114 TO ENHANCE THE SAFETY OF OUR SCHOOLS AND OUR COMMUNITY.

Ober reported that the city’s press release regarding the ballot measure resolutions would direct inquiries to Mayor Gamba and Councilor Batey.

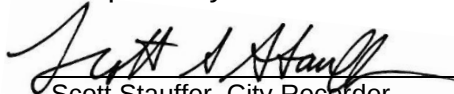
10. ADJOURNMENT

Mayor Gamba announced that after the regular session Council would meet in executive session pursuant to Oregon Revised Statute (ORS) 192.660 (2)(i) to review and evaluate the employment-related performance of the chief executive officer of any public body, a public officer, employee or staff member who does not request an open hearing.

It was moved by Councilor Nicodemus and seconded by Council President Hyzy to adjourn the Regular Session. Motion passed with the following vote: Councilors Khosroabadi, Batey, Nicodemus, and Hyzy and Mayor Gamba voting “aye.” [5:0]

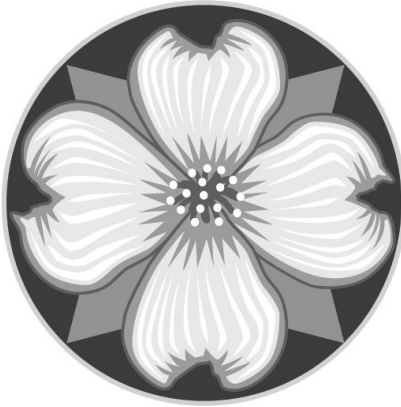
Mayor Gamba adjourned the meeting at 7:59 p.m.

Respectfully submitted,



Scott Stauffer, City Recorder

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RS Agenda Item

2

Announcements

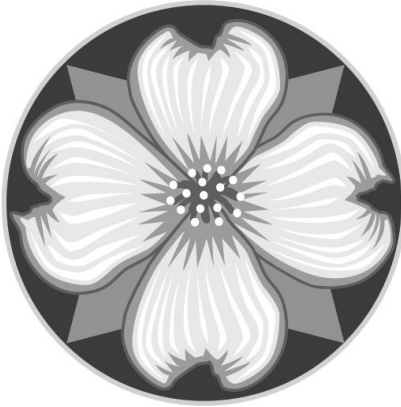


THE HECTOR-CAMPBELL NDA
INVITES YOU TO



Mayor's Announcements – October 18, 2022

- **City Manager Open Door Session – Wed., Oct. 19 (4-5 PM)**
 - Ask questions, raise concerns, or just find out more about what the city is doing.
 - No sign-up necessary. First-come, first-served.
 - City Hall Council Chambers, 10722 SE Main St.
- **42nd/43rd Avenue Improvements Celebration – Wed., Oct. 19 (5:30-7:30 PM)**
 - Event includes food, beverages, and music by Roadside Attraction
 - Downing Dental (9701 SE 43rd Ave.)
- **Arbor Day Celebration – Sat., Oct. 22 (9 AM – 3 PM)**
 - Friends of Trees Planting (Citywide) – 9 AM to 1 PM
 - PGE Electric Tool Exchange and All Electric Tiny Home – 11 AM to 1 PM
 - Arbor Day Celebration (Ceremonial tree planting, free trees, donuts, and crafts) – 1 PM to 3 PM
 - Parking lot across Main St. from City Hall (10722 SE Main St.)
- **Tales from the Other Side – Sun., Oct. 30 (3-4:30 PM)**
 - Storyteller Will Hornyak – Bone-chilling stories, poems, songs, and lore for a mature audience (14 and older).
 - Ledding Library (10660 SE 21st Ave.)
- **The Haunted Forest at Homewood Park – Mon., Oct. 31 (4:30-7:30 PM)**
 - The Hector Campbell NDA invites you to make the trail through Homewood Park part of your trick-or-treat route.
 - Route starts at the west end of the trail off of SE Garret Dr.
- **LEARN MORE AT WWW.MILWAUKIEOREGON.GOV OR CALL 503-786-7555**



RS Agenda Item

3

Proclamations & Awards

Criteria for Student of the Month

We are looking for students that:

- contribute to and/or have made an impact on their community.
- strive for excellence in their academics, activities and or passion area.
- have overcome an obstacle and are showing growth and are thriving.

October Student of the Month



Lupita Aguilar-Soto

Homecoming Court 2022-2023



Lupita Aguilar-Soto

12th Grade

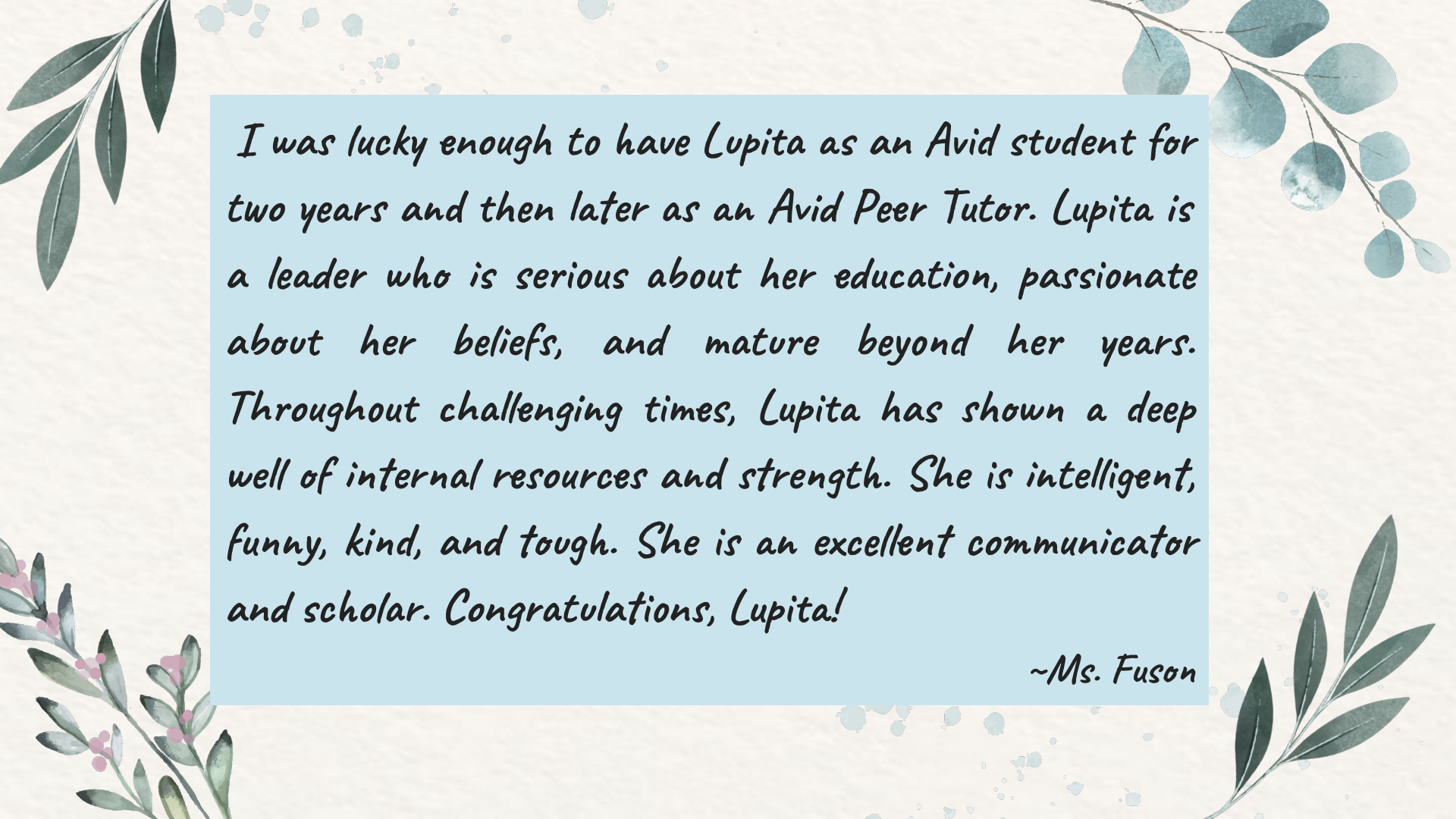
3.9 GPA

Activities:

- AVID Peer Tutor
- Outdoor School
- Mustang Market
- Member of Ascension
- Homecoming Court
- Staff Hiring Committee
- Work at JcPenney

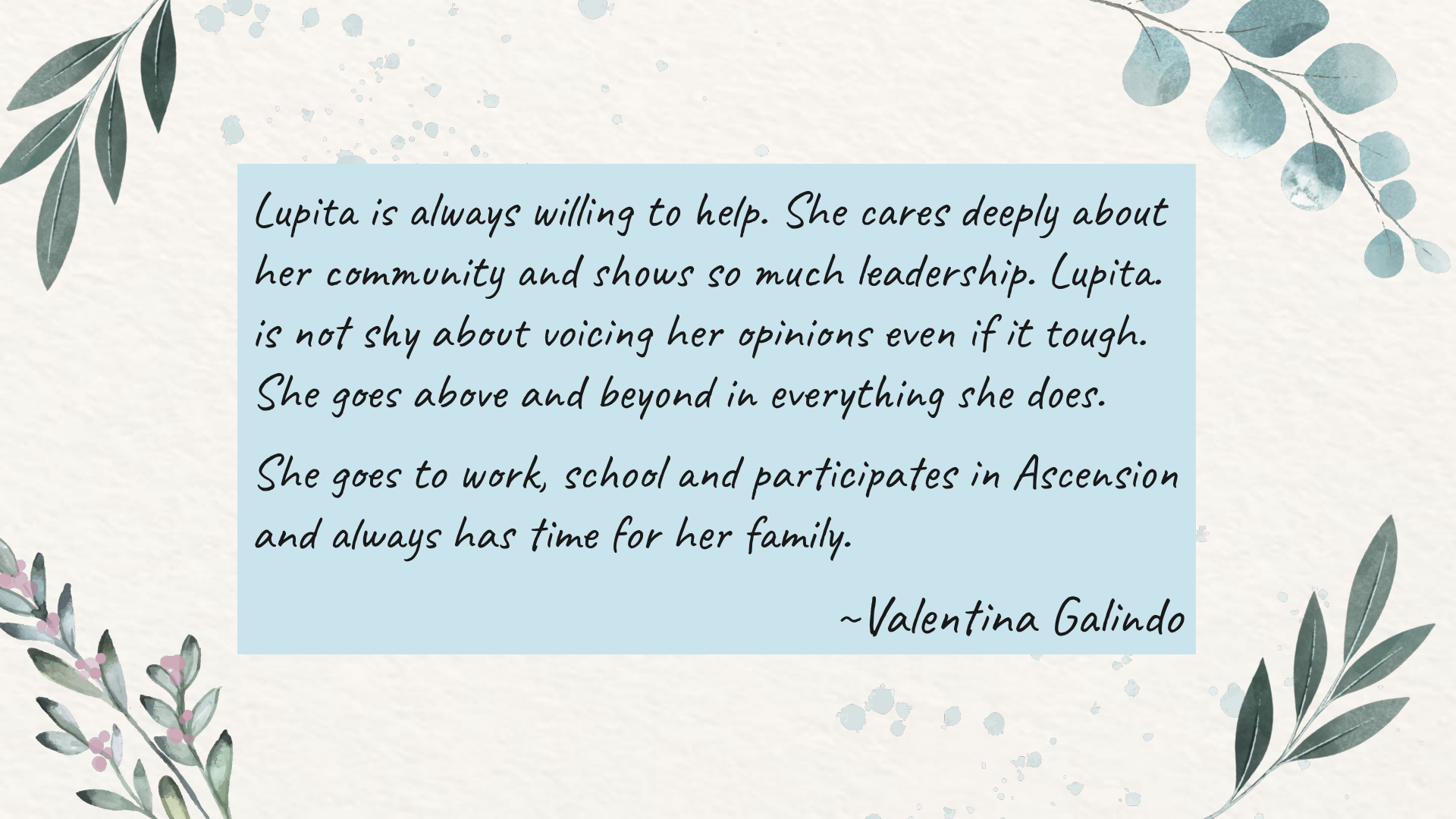
Goal:

- Attend University of Oregon
- Train to be a Ultrasound Technician

The image features a light blue rectangular box containing a handwritten-style text. The background is a light cream color with faint, scattered blue and green ink splatters. In the four corners, there are decorative illustrations of green leaves and branches. The top-left corner shows a branch with several elongated green leaves. The top-right corner shows a branch with several round, teal-colored leaves. The bottom-left corner shows a branch with small pink flowers and green leaves. The bottom-right corner shows a branch with several elongated green leaves.

I was lucky enough to have Lupita as an Avid student for two years and then later as an Avid Peer Tutor. Lupita is a leader who is serious about her education, passionate about her beliefs, and mature beyond her years. Throughout challenging times, Lupita has shown a deep well of internal resources and strength. She is intelligent, funny, kind, and tough. She is an excellent communicator and scholar. Congratulations, Lupita!

~Ms. Fuson

The image features a light blue rectangular box containing text, set against a cream-colored background with faint watercolor splatters. The corners are decorated with botanical illustrations: top-left and bottom-right show green leaves on thin branches, while the bottom-left shows green leaves with small pink flowers. The text inside the box is written in a black, cursive script.

Lupita is always willing to help. She cares deeply about her community and shows so much leadership. Lupita is not shy about voicing her opinions even if it tough. She goes above and beyond in everything she does.

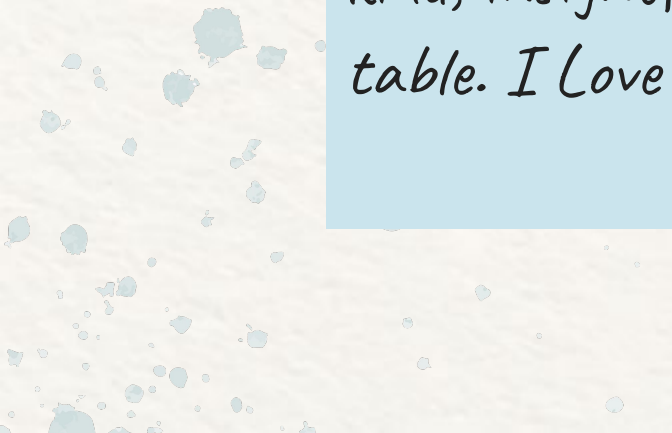
She goes to work, school and participates in Ascension and always has time for her family.

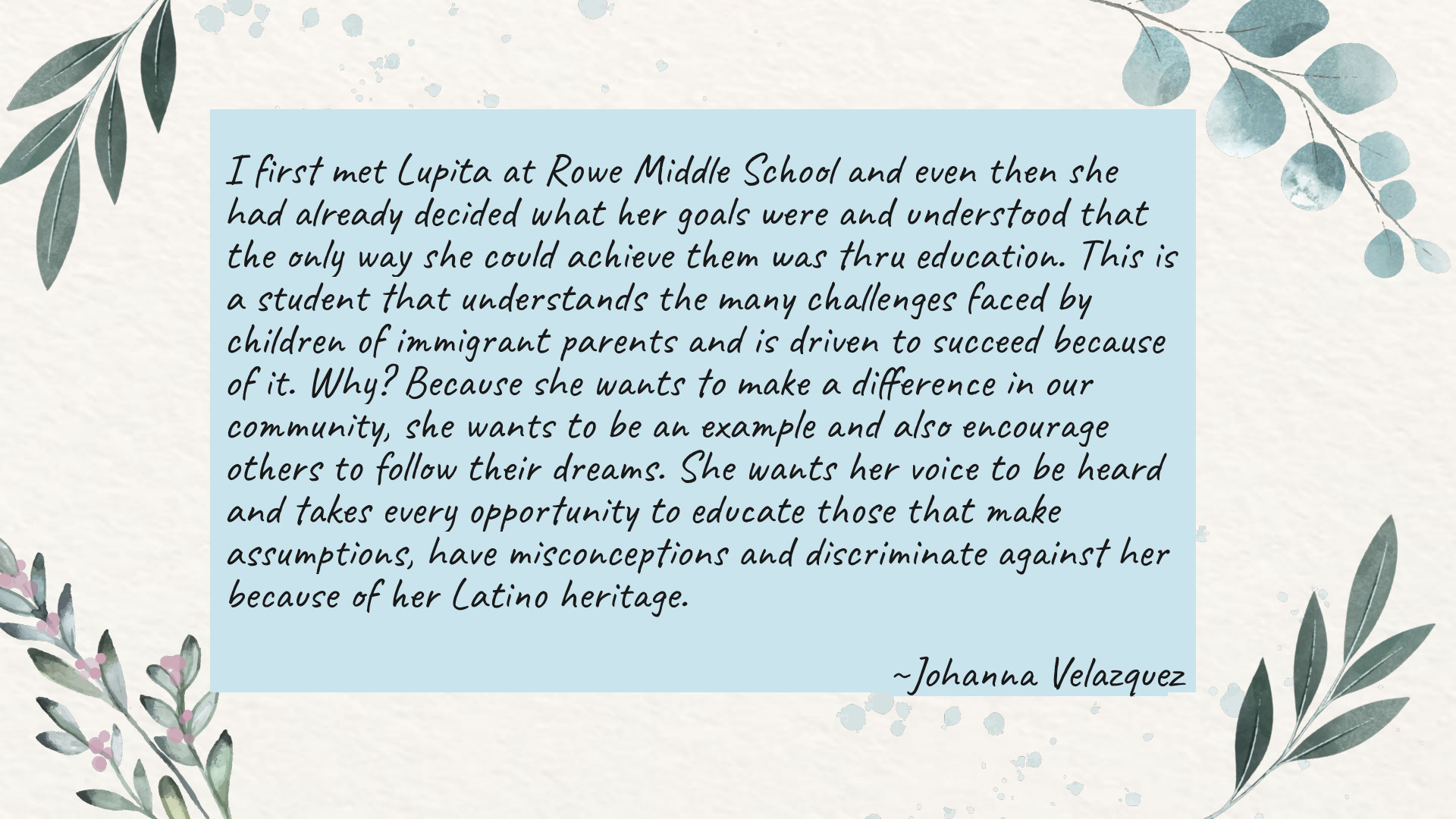
~Valentina Galindo



Lupita is a great artist and I've enjoyed getting to know her in my Art class. I can tell that Lupita cares a lot about her school community and loves to get involved. She is kind, insightful, and brings so much to the table. I Love having her in class.

~Savi Ryan





I first met Lupita at Rowe Middle School and even then she had already decided what her goals were and understood that the only way she could achieve them was thru education. This is a student that understands the many challenges faced by children of immigrant parents and is driven to succeed because of it. Why? Because she wants to make a difference in our community, she wants to be an example and also encourage others to follow their dreams. She wants her voice to be heard and takes every opportunity to educate those that make assumptions, have misconceptions and discriminate against her because of her Latino heritage.

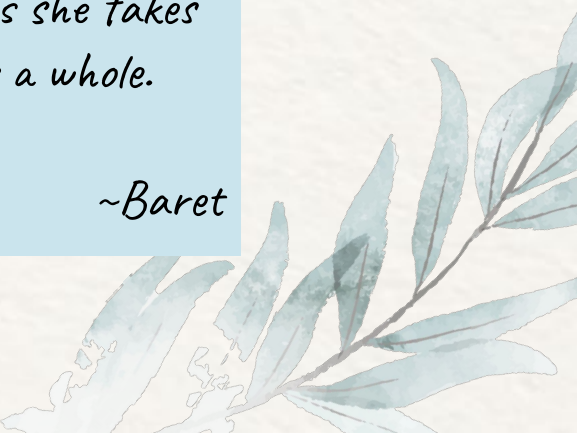
~Johanna Velazquez



I have known Lupita for 3+ years and she is an incredible human being. She is strong, determined, compassionate, kind, focused, a leader in each space she enters - she is inspiring to those around her and I feel lucky to know her. Lupita is self-aware and knows what she wants - she will make her goals happen!

I am honored to support her - to walk alongside her as she takes her next steps on her educational path and her life as a whole.

~Baret



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 is now observed throughout the nation and the world, and

WHEREAS trees play an integral part in capturing and storing carbon and are therefore critical in a solution to the climate crisis, and

WHEREAS trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs of residents, moderate the temperature of increasingly developed and warming cities, clean the air, and provide health benefits for the community, produce life-giving oxygen, and provide and improve habitat for fish and wildlife, 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 **October 22, 2022**, as **ARBOR DAY** in 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 mitigate climate change 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 18th day of **October 2022**.

Mark Gamba, Mayor

ATTEST:

Scott Stauffer, City Recorder

PROCLAMATION

WHEREAS preserving the story of a place and the people who dwell there in any given moment is essential to understanding a community and how it came to be, and

WHEREAS the story of a community can only be complete when all voices and perspectives are heard and included in the shared history of a place and its people, and

WHEREAS civic and community archives seek to collect and preserve the documents, tales, traditions, and voices of those who came before us, and

WHEREAS civic and community archives could not exist without the professionals and volunteers who work tirelessly to preserve the voices of a community, and

WHEREAS Milwaukie's shared history is carefully preserved by the Milwaukie Historical Society and the Office of the City Recorder, who recommend the proclaiming of Archives Month as a reminder that the events of yesterday and today must be documented to better inspire a more perfect future for all residents of our community, regardless of age, race, gender orientation, income, or beliefs.

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 the month of **October 2022** as **ARCHIVES MONTH** in the hope that all voices may be appreciated, recorded, and preserved for the betterment of all.

IN WITNESS WHEREOF, and with the consent of the City Council of the City of Milwaukie, I have hereunto set my hand on this 18th day of **October 2022**.

Mark F. Gamba, Mayor

ATTEST:

Scott S. Stauffer, City Recorder





PRESERVING MILWAUKIE'S HISTORY FOR FUTURE GENERATIONS

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Keeping History Alive
in Clackamas County



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Milwaukie: Then & Now

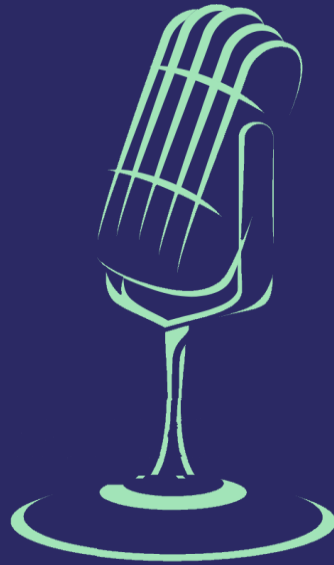


Open Saturdays 1pm - 5pm
3737 SE Adams St., Milwaukie



LEDDING LIBRARY LECTURE SERIES

Preservation:
Three Experiences



LEDDING LIBRARY LECTURE SERIES

Womens's History Project
A Personal Perspective



LEDDING LIBRARY LECTURE SERIES

Confederated Tribes of Grand Ronde:
History and Demonstartions



LEDDING LIBRARY LECTURE SERIES

80 YEARS FROM INCARCERATION
JAPANESE AMERICAN
STORY



2020

Many historic events happened in Milwaukie in 2020. On January 11, the remodeled Ledding Library held a grand opening celebration. In March, the Covid-19 pandemic began and forced the closure of many businesses, schools to hold classes online, people to wear masks and practice physical distancing, and other restrictions. On June 9, Milwaukie Bay Park hosted a large Black Lives Matter protest. On October 24, a new mural was officially unveiled honoring Ah Bing and the Hadleys at 40th and Harvey Street. In November, Milwaukie elected Desi Nicodemus, its first African-American City Councilor.



Mural artist Jeremy Okai Davis speaks during the unveiling of his work honoring Ah Bing, Seth Lewelling's Manchurian foreman, and Hurtis and Dorothy Hadley, who operated the first African-American owned bakery in Oregon at the Milwaukie Pastry Kitchen. In a sign of the ongoing pandemic, Davis and the Hadleys wear face masks.



The first MAX train pulling into Milwaukie.

2015

Opened on September 12, 2015, the Portland-Milwaukie light rail transit line travels 7.3 miles from Portland State University to Milwaukie and Oak Grove. The Orange Line partly follows the old Interurban line from Milwaukie to downtown Portland connecting to other transportation options. The MAX line brings new transit opportunities and new development to Milwaukie.

A Women's Conversation About Community

Wednesday March 3rd 6:30 PM

View on Zoom, Comcast Channel 30, City of Milwaukie YouTube, and FBG Milwaukie Chit Chat

Starring



Lisa Batey
Milwaukie City Councilor



Linda Carr
Milwaukie Historical Society



Lisa Gunion-Rinker
2017 Volunteer of the Year



Karin Power
Representative District 41



Carolyn Tomei
Former Mayor & Representative



Sheryl Wampler
Raging Grannies





PRESERVING MILWAUKIE'S HISTORY FOR FUTURE GENERATIONS

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in Clackamas County

NETWORKS
PDX

BARBUR
LAW LLC



CITY OF MILWAUKIE

Macleod Construction

3J CONSULTING

Hemer's
Helping Hands



David Parker Consulting LLC
Logistics, Transportation, Process Evaluation, Systems Review

ZANA
Construction Company



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PROCLAMATION

WHEREAS community planning provides a wide range of benefits including opportunities to:

- 1) Evaluate and manage the constant change that affects cities and the region in a way that provides better choices for how people work, play, and live;
- 2) Involve and empower residents, students, workers, and business owners in making choices that determine the future of their community; and
- 3) Educate public officials and community members so they understand, support, question, and demand excellence in planning and plan implementation; and

WHEREAS the month of October is designated as National Community Planning Month throughout the United States of America and its territories; and

WHEREAS the American Planning Association and its professional institute, the American Institute of Certified Planners, endorse National Community Planning Month as an opportunity to highlight the contributions sound planning makes to the quality of our built and natural environment; and

WHEREAS the celebration of National Community Planning Month gives us the opportunity to publicly recognize the participation and dedication of the members of the Planning Commission, the Design and Landmarks Committee, and other resident planners who have contributed their time and expertise to the improvement of Milwaukie, as well as to recognize the valuable contributions made by the city's professional planners and extend our thanks for the continued commitment to public service by all of these individuals.

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 that the month of **October 2022** as **Community Planning Month** in the City of Milwaukie in conjunction with the national celebration of Community Planning Month.

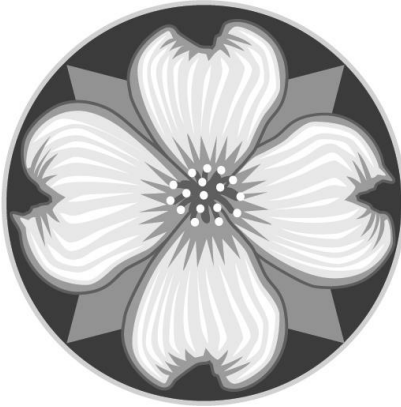
IN WITNESS, WHEREOF, and with the consent of the City Council of the City of Milwaukie, I have hereunto set my hand on this 18th day of **October 2022**.

Mark Gamba, Mayor

ATTEST:

Scott Stauffer, City Recorder





RS Agenda Item

5

Community Comments

19:12:00 From City Recorder to Everyone:

The Zoom chat will be opened when the mayor calls for comments on the Bowman-Brae Park item. If you would like to speak - please raise your hand when the mayor calls for speakers. The chat will be opened at that time so you can type your interest in speaking - please do not post comments for Council in the chat.

19:26:07 From City Recorder to Everyone:

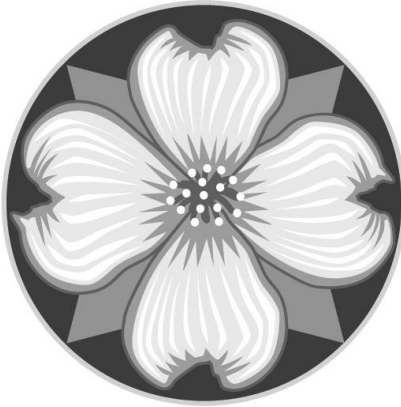
The chat is now open. Please raise your hand if you would like to speak.

19:28:30 From Lupin (she/her) to Hosts and panelists:

Thank you

19:35:04 From City Recorder to Everyone:

The Zoom chat is now closed.



RS Agenda Item

6

Consent Agenda

COUNCIL WORK SESSION

City Hall Council Chambers, 10722 SE Main Street
& Zoom Video Conference (www.milwaukieoregon.gov)

MINUTES

SEPTEMBER 20, 2022

Council Present: Councilors Adam Khosroabadi, Lisa Batey, Desi Nicodemus, Council President Kathy Hyzy, and Mayor Mark Gamba

Staff Present:

Kelly Brooks, Assistant City Manager	Ann Ober, City Manager
Justin Gericke, City Attorney	Peter Passarelli, Public Works Director
Dan Harris, Events & Emergency Management Coordinator	Natalie Rogers, Climate & Natural Resources Manager
Nicole Madigan, Deputy City Recorder	Scott Stauffer, City Recorder
Adam Moore, Parks Development Coordinator	

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

1. Carefree Sunday Event – Update

Harris explained when and where the 2022 Carefree Sunday event took place and noted that due to high temperatures the event ended early. **Harris** presented issues with the 2022 event that included fewer sponsors, grants, and vendors which limited the city to providing activities at only two parks along the five-and-a-half-mile route. Grace Pointe Church and the North Clackamas Parks and Recreation District (NCPRD) hosted two activity locations. High temperatures limited turn out by attendees and volunteers and caused the food vendor and beer garden to cancel as it could not meet its Oregon Liquor and Cannabis Commission (OLCC) requirements. **Harris** explained how miscommunication with the flaggers and less attendees (around 600 down from 5,000 in previous years) agitated drivers.

Harris presented solutions for future Carefree events that included a smaller event earlier in the year such as Sunday, May 21 for 2023 which would coincide with Dogwood Day. **Harris** explained that May would be the preferred time of year, staff would work to contact and recruit previous and new sponsors and vendors earlier, and develop traffic control plans for each individual flagged intersection. **Harris** presented two out and back route models for the 2023 event that coincided with areas where the city is already making investments in bicycle infrastructure.

Councilor Nicodemus suggested that September would be a good time of year for the event, focusing on bringing communities and schools together as an end of summer event. **Harris** acknowledged that while it would be a good time for connecting the community, staff is busy preparing for the two winter events and having the event in May could do the same thing but as a kickoff for summer. **Councilor Batey** expressed interest in hosting the event in September and asked how long the proposed routes were. The group discussed the proposed routes, other possible route options, how the cost of the event affected the route length, how previous means for funding the event were no longer available, sponsorships, collaborating with neighborhood district associations (NDAs), the partnership with Grace Pointe Church, what the biggest costs of the event were, when a consultant needs to be involved in an event, what the role is of consultant is during the event, creating a safe space volunteers and flaggers, and possible collaboration with safe routes to school.

The group agreed to move forward with the event occurring in May and the route proposed by staff knowing there were funding limitations and that, if possible, the route would be extended slightly as funding allowed.

Councilors Batey, Nicodemus, and Council President Hyzy commented on Nicodemus working with safe routes to school and bikes to books events.

2. Neighborhood Park Projects – Update

Moore advised there would be a more complete conversation about the park engagement work at the Park and Recreation Board (PARB) meeting on September 28. **Moore** shared when and where recent engagement opportunities for parks projects took place, noted that events had to be rescheduled due to high temperatures, and that the focus groups have not brought in as many participants as staff were hoping for.

Moore presented details for the Balfour Park and Bowman-Brae Park open houses and the Scott Park planning meeting. **Moore** mentioned a popular area in Scott Park by the water that is currently unsafe and would be too complicated and expensive to restore and could cost more than the entire parks project budget, reporting that instead the area would be placed behind a fence to keep park attendees safe. **Moore** noted there will be other access points to the water and other pond viewing areas.

Moore provided an update on how engagement goals had been met so far, barriers that staff had discovered and how they are working to overcome those barriers.

Councilor Batey and Moore discussed how disabled focus group participants were identified to participate by working with local advocacy groups, including contact information on open house materials, and working closely with Hillside Manor residents.

Moore stated there were only four participants at a follow-up Black, Indigenous, and People of Color (BIPOC) community focus group, but participants were passionate and provided good ideas. **Moore** mentioned staff would continue to work with the Equity Steering Committee (ESC) to produce more focus group discussions.

Moore shared a few statistics from the engagement surveys and noted that overall demographic numbers from the surveys may be duplicated as individual participants may have submitted surveys on more than one park. **Moore** mentioned that it may be possible to track the unique responses and would report findings back to Council.

Moore expressed how important it is to get involved in the park's development process during the current phase, noted an upcoming playground design presentation meeting, that October is the last chance for providing feedback on concept plans, what engagement opportunities are available, and noted the parks project timeline.

Councilor Nicodemus asked if staff had collaborated with the Milwaukie junior baseball and soccer clubs for more engagement opportunities, **Moore** replied that staff had not, but believed it was a good idea to reach out to groups utilizing the parks and noted the current groups staff had been working with. **Nicodemus, Moore, and Councilor Batey** discussed the availability of handout materials. **Moore** encouraged community members to contact staff to participate.

Council President Hyzy thanked Moore for the engagement work that would benefit the community beyond the parks project. **Moore** acknowledged Jon Hennington and the work of the ESC.

Clackamas Cities Association (CCA) Dinner – Check-In

Stauffer notified Council that a caterer and venue had been secured for the dinner and that invitations would be sent out soon. **Stauffer** asked Council for input on the topics that would be presented during the dinner. The group discussed the length of time available for the presentation, what topics should be part of the presentation and why it may be important to include an update on the Kellogg Creek Dam, and who would present the update for the dam.

3. Adjourn

Mayor Gamba announced that after the meeting Council would meet in executive session pursuant to Oregon Revised Statute (ORS) 192.660 (2)(h) to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.

Mayor Gamba adjourned the meeting at 5:11 p.m.

Respectfully submitted,

Nicole Madigan, Deputy City Recorder

COUNCIL REGULAR SESSION

City Hall Council Chambers, 10722 SE Main Street
& Zoom Video Conference (www.milwaukieoregon.gov)

MINUTES**SEPTEMBER 20, 2022**

Council Present: Councilors Adam Khosroabadi, Lisa Batey, Desi Nicodemus, Council President Kathy Hyzy, and Mayor Mark Gamba

Staff Present: Steve Adams, City Engineer
Joseph Briglio, Community Development Director
Kelly Brooks, Assistant City Manager
Jennifer Garbely, Assistant City Engineer
Justin Gericke, City Attorney
Ann Ober, City Manager

Peter Passarelli, Public Works Director
Natalie Rogers, Climate & Natural
Resources Manager
Scott Stauffer, City Recorder
Courtney Wilson, Urban Forester

Mayor Gamba called the meeting to order at 6:01 p.m.

1. CALL TO ORDER

A. Pledge of Allegiance.

B. Native Lands Acknowledgment.

2. ANNOUNCEMENTS

Mayor Gamba announced upcoming activities, including a playground design presentation, an author conversation event, the dedication of a new mural at the post office, and a Ledding Library heritage lecture. **Gamba** and **Councilor Batey** noted that City Hall scarecrows were due soon and that the Davis Graveyard would begin soon.

3. PROCLAMATIONS AND AWARDS**A. Milwaukie High School (MHS) Outstanding Student Achievement – Award**

Kim Kellogg, MHS Principal, introduced Annelise Cronk and Council congratulated them on their academic and extra-curricular activities.

B. MHS Update – Report

Kellogg reported on the MHS and Milwaukie Academy of the Arts (MAA) schedule and academic plan for the 2022-23 school year, noting that the school had seen an unexpected enrollment increase. **Councilor Nicodemus**, **Kellogg**, and **Mayor Gamba** remarked on the opportunities to increase the number of college credit and technical skill courses MHS could offer with colleges.

C. National Preparedness Month – Proclamation

Councilor Batey introduced the proclamation and **Brian Stewart**, Clackamas Fire District #1 (CFD1) Assistant Fire Chief, remarked on preparing for natural disasters and the importance of inter-governmental partnerships that allow for regional responses to emergencies. **Mayor Gamba** proclaimed September to be Preparedness Month.

4. SPECIAL REPORTS

A. None Scheduled.

5. COMMUNITY COMMENTS

Mayor Gamba reviewed the public comment procedures. **Ober** reported that in response to community comments made during the September 6 meeting, staff were following-up on a proclamation request and an ongoing code enforcement case. It was noted that no audience member wished to speak to Council.

6. CONSENT AGENDA

Mayor Gamba announced that item 6. C. would be removed for separate consideration. It was moved by **Councilor Batey** and seconded by **Council President Hyzy** to approve the Consent Agenda items A and B.

A. City Council Meeting Minutes:

1. August 9, 2022, study session,
2. August 16, 2022, work session, and
3. August 16, 2022, regular session.

B. Resolution 64-2022: A resolution of the City Council of the City of Milwaukie, Oregon, updating the legal description of the Harlow Road public street right-of-way vacated within Milwaukie Bay Park by Resolution 59-2020.

~~**C. Authorization of the purchase of three (3) police vehicles.**~~ (removed for separate consideration, see below).

Motion passed with the following vote: Councilors Khosroabadi, Batey, Nicodemus, and Hyzy and Mayor Gamba voting “aye.” [5:0]

C. Authorization of the Purchase of Three (3) Police Vehicles – Resolution

In response to questions submitted by Mayor Gamba, **Passarelli** and **Ober** explained that the city’s fleet services division outfitted all police vehicles, and they discussed how and why staff determine when to purchase new police vehicles.

The group discussed current and future use of electric vehicles (EVs) for police uses and noted that police vehicles were often maintained and replaced more often than other fleet vehicles due to high mileage and collisions. **Ober** and **Passarelli** remarked that acquiring EVs for the city’s fleet was a priority.

It was moved by Councilor Batey and seconded by Councilor Khosroabadi to approve the resolution authorizing the purchase of three (3) police vehicles.

Resolution 65-2022:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ACTING AS THE LOCAL CONTRACT REVIEW BOARD, AUTHORIZING THE PURCHASE OF THREE (3) POLICE VEHICLES.

7. BUSINESS ITEMS

A. Council Parks Goal Adoption – Resolution

The group noted that a revised version of the parks goal resolution had been submitted and the item would be moved down the agenda to give the group time to review it.

B. Capital Projects Update – Report

Adams provided an update on the Monroe Street Neighborhood Greenway project and the group commented on segments of the project the Oregon Department of Transportation (ODOT) and Union Pacific Railroad (UPRR) would be working on.

Adams and **Garbely** provided updates on the Home and Wood Avenues Safe Access for Everyone (SAFE) program project and the Meek North Phase project. The group noted UPRR's intention to eventually add a second track along its line in the city.

Garbely provided an update on the 42nd/43rd Avenues SAFE improvements project and the group commented on the addition of sharrows on 42nd/43rd Avenues.

Garbely reported on the Ardenwald North SAFE project, the Washington Area improvements project, and upcoming projects including Harvey Street improvements, 2021 wastewater improvements, King Road improvements, and the city's final clay pipe replacement work. The group remarked on how clay pipe is replaced.

Garbely reported that the initial SAFE program bonds had been spent and noted concerns about rising construction costs. The group observed that material shortages, supply chain delays, and labor costs had contributed to increased project costs.

Garbely noted which projects would be impacted by the lack of bond funding. **Council President Hyzy** and **Brooks** commented on the possibility of securing federal and/or state funding to support larger projects such as the King Road improvements.

Brooks explained that Council and the Milwaukie Redevelopment Commission (MRC) would consider securing additional bond funding to support SAFE projects and urban renewal projects. **Brooks** remarked on the changing lending environment and the city's ability to be flexible in deciding which projects might wait for future funding.

Councilor Batey recalled Council discussions about going out for bond funding and what projects and timelines had been included in the first round of funding. The group remarked on updating the projects timeline.

Brooks and **Ober** noted staff would provide Council and the MRC with an updated project funding report and timeline at future meetings.

Mayor Gamba recessed the meeting at 7:34 p.m. and reconvened at 7:41 p.m.

A. Council Parks Goal Adoption – Resolution (continued)

Councilor Batey and **Council President Hyzy** reported that a revised version of the resolution had been submitted and that adding a Council parks goal had been discussed at the September 6, 2022, work session. **Batey** cited 2021 Council discussions about a parks goal and ongoing concerns about the city's parks maintenance and governance structure as reasons to make parks a Council goal.

Council President Hyzy read the resolution revisions into the record.

It was moved by Councilor Nicodemus and seconded by Councilor Batey to approve the resolution adopting Council goals for the remainder of 2022 and the start of 2023 as amended.

Mayor Gamba asked Council to explain why adding parks as a goal was necessary.

Council President Hyzy commented on the city's frustrated discussions with the North Clackamas Parks and Recreation District (NCPRD) about park maintenance and expansion and the anticipated population growth in Milwaukie that would require well run parks. **Councilor Batey** encouraged the public to attend their neighborhood district association (NDA) meetings in October and other upcoming events and to visit online sources for more information on the parks situation.

Mayor Gamba and **Councilor Batey** observed that the NCPRD Board had no intention of finishing parks projects in the city despite Milwaukie being a founding part of the district and the city having done more than NCPRD to build parks.

Motion passed with the following vote: Councilors Khosroabadi, Batey, Nicodemus, and Hyzy and Mayor Gamba voting “aye.” [5:0]

Resolution 66-2022:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ADOPTING COUNCIL GOALS FOR THE REMAINDER OF 2022 AND THE START OF 2023.

C. Climate Fee Policy – Discussion

Rogers introduced the topic and Todd Chase and Martin Chaw, consultants with FCS Group. **Chase** explained the government finance consulting work FCS Group provides.

Rogers reviewed the development of a fee structure to support the city’s climate action work, noting Council’s previous direction, strategic actions called for by the city’s Climate Action Plan (CAP), and the need for additional staffing to support climate work.

Rogers explained how climate work had been funded through the city’s stormwater division, how the proposed fee could be structured, and what projects and programs a fee could support. **Rogers** presented and discussed differences between three fee rates that would generate \$300,000, \$500,000, or \$750,000 per fiscal year. The group remarked on programming cost differences between the fee rates.

Mayor Gamba observed that staff already had a heavy workload and asked how any of the proposed fees would provide additional staffing to support current and new climate goals. **Ober** and **Passarelli** commented on the unknown service levels that would be needed to meet the climate goals and explained how budgets had been created around the proposed fee rates.

Councilor Batey remarked that there would be different ways to structure new staff to support the climate work and wondered if the urban forester position should remain in the stormwater division. **Ober** commented on how staff works to achieve goal outcomes set by Council and what could be done to remove the urban forest work from the climate fee budget. **Mayor Gamba** and **Ober** remarked on staff workload capacity and what additional work could be done based on the proposed climate fee rates. **Batey** observed that the urban forester served several departments and may be best funded by multiple departments. The group remarked on how departments fund programs and staff positions and noted a need for clarity on how public stormwater or climate funds should be used to support work on private property.

Mayor Gamba expressed concern that a new fund would backfill existing programs and asked what level of funding would get the city to a place to do necessary climate work. **Ober** remarked that even with federal funding staff could not guarantee all the climate goals would be met at any fee rate, but staff would accomplish as much as possible. **Rogers** added that getting work done depended on opportunities and good timing.

Passarelli commented on the need to secure additional funding for the stormwater division to support the urban forest program and how a climate fee could enhance the program. **Rogers** reported that the tree fund had not received any payments from permit activity yet. **Mayor Gamba** asked how much was needed to achieve Council’s goals and **Ober** suggested staff could adjust the staffing and programming based on

Council's input. **Councilor Batey** noted that staffing could be impacted by actions the state may take and **Passarelli** and **Rogers** added that hearing from the community and Council was critical for staff to appropriately adjust the programs.

Rogers discussed programming and staffing if the \$500,000 fee rate were adopted and reviewed the timeline for outreach to the community regarding the adoption of a climate fund fee. **Ober** and **Rogers** noted the impact of a new fee on the utility billing process.

Mayor Gamba suggested the city should review CAP goals and activities and back cast what resources are needed to work on those goals. **Ober** and **Gamba** remarked that some CAP actions were still works-in-progress due to a lack of technology. The group commented on when a back-casting process could occur in relation to the adoption of a climate fee and noted that staff had done some back-casting work already.

Council President Hyzy was concerned about differences between community wants and what it takes to meet them. **Rogers**, **Passarelli**, and **Hyzy** explained how programs could be structured and expectations communicated to address desired outcomes.

Chase discussed the need for dedicated funding to implement the city's CAP and how a climate fund fee could be structured, noting that such a fee should be periodically reviewed. The proposed funding structures included adding a fee to the city's utility bill or business license, or charging a fee based on transportation impacts of the estimated greenhouse gas (GHG) emissions. **Chase**, **Rogers**, and **Passarelli** explained how the fee structures aligned to the three proposed fee rates and confirmed that a low-income assistance program had been included in the structure.

The group discussed how the fee structure used the city's existing Street Surface Maintenance Program (SSMP) user categories. **Councilor Batey**, **Chase**, and **Rogers** commented on how the fee structure could be based on transportation trips and square footage of user property to determine GHG emissions. **Mayor Gamba** and **Chase** noted that distribution centers would be considered industrial users.

Rogers asked for Council input on the fee rates and whether the GHG emissions model should be used. **Mayor Gamba** supported the \$500,000 fee rate and using the GHG model. **Councilor Batey** supported using the GHG model and the \$300,000 fee rate.

Councilor Batey and **Mayor Gamba** commented on differences between the low and middle rates for commercial users. **Passarelli** reported that the average cost for businesses would be \$1,150 a month at the \$750,000 fee rate.

Rogers asked for Council feedback on what climate programs they'd like to see included in any rate structure. **Mayor Gamba** and **Rogers** noted that at the lowest fee rate it would be hard for the city to meet its 2040 tree canopy goal.

Council President Hyzy remarked on the impact of any fee increase on residents and for low-income residents who may not opt into the assistance program. **Hyzy** was concerned about rushing through the process to adopt a fee and expressed support for the \$300,000 fee rate and the GHG emission model.

Councilor Khosroabadi was concerned about raising rates and expressed support for using the GHG model and the \$750,000 rate fee in the hope that it would ultimately help lower energy costs. **Mayor Gamba** agreed with Khosroabadi and commented on how climate programs could reduce costs for residence. **Councilor Nicodemus** was concerned that low-income residents would not be able to benefit from some energy saving programs. The group commented on the cost of electric vehicles (EVs).

Councilor Nicodemus expressed support for the \$500,000 fee rate and using the GHG emission model and urged Council to be cautious when raising rates for residents who live paycheck-to-paycheck and may not qualify for the low-income assistance program.

Rogers remarked on direction Council could provide to tweak existing programs, such as the low-income assistance program and EV incentives.

Council President Hyzy supported the \$500,000 rate fee if the city were to implement programs that would help connect the public to cost saving programs. **Councilor Batey** noted there were existing state programs and funding to support utility outreach programs. **Rogers** reported that staff had worked and would continue work to broaden the number of energy efficiency programs available to as many people as possible.

Ober summarized that a Council majority favored the \$500,000 fee rate and that there was Council unanimous support for using the GHG structure. **Ober** observed that there was Council concern about the role and funding of the urban forest program that staff would look at and report back to Council.

8. PUBLIC HEARING

A. None Scheduled.

9. COUNCIL REPORTS

None.

10. ADJOURNMENT

Mayor Gamba announced that after the meeting Council would meet as the Milwaukie Redevelopment Commission (MRC).

It was moved by Councilor Nicodemus and seconded by Council President Hyzy to adjourn the Regular Session. Motion passed with the following vote: Councilors Khosroabadi, Batey, Nicodemus, and Hyzy and Mayor Gamba voting “aye.” [5:0]

Mayor Gamba adjourned the meeting at 9:15 p.m.

Respectfully submitted,

Scott Stauffer, City Recorder

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Date Written: Oct. 6, 2022

Reviewed: Kelli Tucker, Accounting and Contracts Specialist, and
Justin Gericke, City Attorney

From: Kelly Brooks, Assistant City Manager

Subject: **Cooperative Agreement for Kellogg Creek Restoration & Enhancement Project**

ACTION REQUESTED

Council is asked to approve a cooperative agreement with North Clackamas Watershed Council (NCWC) for the purposes of administering \$585,000 in Congressional Directed Spending (CDS) funds awarded to the Kellogg Creek Restoration and Community Enhancement Project.

ANALYSIS**Congressionally Directed Spending (CDS) - Awarded**

In March 2022, Congress passed an omnibus spending bill that included \$585,000 in congressionally directed spending for a Kellogg Dam Channel Study. NCWC worked directly with United States (US) Senator Jeff Merkley's office to request the funds. While NCWC will be the primary subrecipient of the funding, they are not eligible to receive the dollars directly from the National Oceanic and Atmospheric Administration (NOAA). Therefore, the city must receive and administer the funds in accordance with all applicable rules and regulations. The purpose of the attached cooperative agreement is to ensure that the primary subrecipient, NCWC, and any other subrecipients, agree to fulfill all federal responsibilities prior to the city releasing the first round of funds in the fall of 2022.

BUDGET IMPACT

The city will claim a total of \$45,091 from the CDS grant to provide administrative oversight and support to meet grant reporting requirements, technical review, and technical advisory committee participation. The city will also retain an additional \$6,759.40 to cover indirect costs associated with the funds.

WORKLOAD IMPACT

City staff will provide oversight and ensure grant compliance. City staff will disburse funds to the subrecipient (NCWC) and complete federal financial reports and required audits, and NOAA Performance Progress Reports. Workload will be interdependent on evolving project needs and any unforeseen changes in the scope of work.

CLIMATE IMPACT

Restoration of Kellogg Creek will help restore up to 14 acres of floodplain connectivity and riparian habitat to reduce flood risk, provide shading, create ecological uplift, and stabilize water temperature.

COORDINATION, CONCURRENCE, OR DISSENT

Assistant city manager Kelly Brooks coordinated with NOAA, NCWC, and the city finance department in development of this agreement.

STAFF RECOMMENDATION

Staff recommends that Council approve the resolution to authorize the cooperative agreement.

ALTERNATIVES

Council could decline to approve the resolution and/or request changes to the agreement before considering approving it.

ATTACHMENTS

1. Resolution
2. Draft Cooperative Agreement

COUNCIL RESOLUTION No.**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING A COOPERATIVE AGREEMENT WITH THE NORTH CLACKAMAS URBAN WATERSHED COUNCIL (NCWC) FOR THE KELLOGG CREEK RESTORATION AND COMMUNITY ENHANCEMENT PROJECT.**

WHEREAS the City of Milwaukie has long sought to remove the Kellogg Dam and restore fish passage into the Kellogg – Mt. Scott Watersheds, and

WHEREAS in March of 2022 the city was awarded \$585,000 from the National Oceanic and Atmospheric Administration via congressionally directed spending, and

WHEREAS the majority of such funds will be used by the North Clackamas Urban Watershed Council (NCWC), or its contractors and partners, to complete initial feasibility, design, and key permitting studies for removal of the Kellogg Creek Dam, and

WHEREAS use of the funding must comply with federal award conditions and city financial policies.

Now, Therefore, be it Resolved by the City Council of the City of Milwaukie, Oregon, that the city manager is authorized to sign a cooperative agreement with NCWC for the Kellogg Creek Restoration and Community Enhancement Project, to ensure that the respective roles of the city and NCWC are clear and that all federal, state, and local conditions are met.

Introduced and adopted by the City Council on **October 4, 2022**.

This resolution is effective immediately.

Mark F. Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney

**COOPERATIVE AGREEMENT BETWEEN THE CITY OF MILWAUKIE AND
NORTH CLACKAMAS WATERSHEDS COUNCIL FOR THE
KELLOGG CREEK RESTORATION & COMMUNITY ENHANCEMENT PROJECT**

THIS COOPERATIVE AGREEMENT (the "Agreement") between the City of Milwaukie ("the City"), a municipal corporation existing under the laws of the state of Oregon, with its offices at 10722 SE Main Street, Milwaukie, OR 97222, and North Clackamas Urban Watersheds Council, DBA North Clackamas Watersheds Council. ("NCWC"), a 501 (c)(3), a non-profit corporation with its headquarters at 2416 SE Lake Road, Milwaukie, OR 97222, collectively referred to as the Parties ("the Parties"), individually, ("Party") is entered into and effective as of the last date of signature below.

RECITALS

WHEREAS Kellogg Dam (the "Diversion Dam") was constructed in 1858, before either Oregon statehood or the Civil War, for a flour mill. The mill stopped in the 1890s, but the dam was left in place and has served no purpose since; and

WHEREAS in 1932, Highway 99E was built atop Kellogg Dam. The bridge, now 90 years old, is earthquake vulnerable; and

WHEREAS A fish ladder was constructed in 1934 and again in the 1970s, both with little to no fish passage efficiency; and

WHEREAS the Diversion Dam currently is a fish access barrier to spawning and juvenile rearing and migration habitat for Willamette and Lower Columbia ESA-listed salmonids as well as other priority species, including Pacific Lamprey and Cutthroat Trout using the fish passage; and

WHEREAS removal of the Diversion Dam structure will facilitate fish passage and access to Kellogg and Mt. Scott Watersheds, including 14.8 miles of mainstream and tributaries and including 7.8 miles of juvenile rearing habitat and spawning habitat; and

WHEREAS removal of the Diversion Dam structure will provide up to 14 acres of increased floodplain storage for reduced flood risk and restore a natural stream channel; and

WHEREAS the City recognizes that the Diversion Dam is a significant fish passage barrier and understands the need for its removal; and

WHEREAS the removal of the existing impoundment behind the Diversion Dam structure, that has flooded the lower portion of Kellogg Creek, will restore a natural channel and stream biophysical processes; and

WHEREAS removal of the Diversion Dam will require replacing infrastructure necessary to improve access to Milwaukie Bay Park, the Willamette River, and the Orange Line MAX with a trail under-crossing of Highway 99E; and

WHEREAS the project includes design and construction of new publicly accessible natural area which will not impede fish passage, and

WHEREAS the project will build upon stakeholder support and studies conducted since 2010 and leverage private and public funding to advance planning of a project that can be successfully delivered with Infrastructure & Jobs Act funding; and

WHEREAS the project entails the utilization of appropriated funds to advance the integrated planning of the Kellogg Restoration Project, including site studies and assessments needed for permitting and design, development of the project management framework with all project elements integrated, and coordination of

partners and stakeholders to ensure all necessary issues, risks and constraints are being considered and addressed so the project can efficiently move through planning; and

WHEREAS this Agreement encompasses funding for a portion of the entire Kellogg Creek Restoration and Community Enhancement Project, and while further funds from other sources outside this Agreement are anticipated to be applied toward completing the Kellogg Creek Restoration and Community Enhancement Project, the City's scope of work outlined in this Agreement ("City Project") is limited to that work supported by this Agreement's funding; and

WHEREAS the City has worked cooperatively with many partners in the past decade to undertake the Kellogg Creek Restoration and Community Enhancement Project including but not limited to, NCWC, the Natural Resources Office of Governor Kate Brown (Governor's Office), multiple state agencies, Metro, The Confederated Tribes of the Warm Springs Indian Reservation, the Confederated Tribes of Grande Ronde, the Native Fish Society, the United States Fish & Wildlife Service (USFWS), National Oceanic and Atmospheric Administration Fisheries (NMFS), American Rivers (AR), and private, state, and local funders to restore a free-flowing Kellogg Creek; and

WHEREAS the project partners listed above have committed to providing technical and scientific support for the Kellogg Creek Restoration and Community Enhancement Project; and

WHEREAS the City has conducted outreach to environmental organizations and cultural technical experts and has received support and has not identified any opposition to the Kellogg Creek Restoration and Community Enhancement Project; and

WHEREAS NCWC is a watershed council, which among other priorities, works to restore the health of the Kellogg-Mt. Scott watershed; and

WHEREAS City has been approved for federal grant funding from the National Oceanic and Atmospheric Administration to support removal of the Diversion Dam and impoundment behind the dam and restore fish passage; and

WHEREAS City desires to work cooperatively with the NCWC to help achieve their mutual goal of facilitating fish passage.

NOW, THEREFORE, the City and NCWC agree as follows:

TERM OF THE AGREEMENT

1. **Term.** The term of this Agreement is the period within which the City Project responsibilities described herein shall be performed. The term of the Agreement commences on the date when the Parties sign this Agreement, and shall terminate on December 31, 2025, unless otherwise terminated or extended. Each party will be responsible for its own legal and administrative expenses necessary to execute this Agreement.

RESPONSIBILITIES AND RIGHTS: NORTH CLACKAMAS WATERSHEDS COUNCIL, INC.

2. **Subrecipient.** NCWC is the subrecipient of these federal funds and shall be responsible for ensuring the activities and project scope are carried out in a manner satisfactory to this Agreement and consistent with any standards or requirements as a condition of receiving these funds.
3. **Scope of Work.** NCWC agrees to carry out the work described in Exhibit A, which is attached and incorporated herein. Any additional projects or implementation efforts that are deemed to be outside the scope of this Agreement will require the Parties to enter into either an additional agreement or an amendment to this Agreement to implement the project or group of projects. Nothing shall prohibit NCWC from entering into agreements with other private or public entities to implement the Kellogg Creek Restoration and Community Enhancement Project. The obligation to deliver the work pursuant to this

Agreement is conditioned on NCWC's receipt of all necessary permits and approvals and funding. NCWC shall be responsible for, with funding from the City, procuring consultant assistance with permit applications and obtaining all necessary permits and approvals. No construction work shall commence until all required local, state, and federal permits and approvals have been obtained. NCWC shall maintain fully completed copies of all applications, forms, permits, and approvals for NCWC's records and provide to the City upon request. When possible, NCWC will notify the City at least 120 days in advance of any changes outside the scope of this Agreement.

4. **Financial Commitment.** City shall reimburse NCWC for allowable costs for the services and project needs identified in this Agreement not to exceed five hundred thirty-five thousand six hundred forty seven dollars (\$535,647) upon presentation of proper supporting documentation as approved by the City. Funds will be made available upon the City's review and acceptance of NCWC's submitted reimbursement request and supporting documentation. Fund reimbursement requests shall not be made more frequently than monthly. Payment will be made to NCWC within 30 calendar days of the received request.

NCWC agrees to utilize payment received from the City for expenses directly related to the City Project as detailed in Exhibit A. NCWC acknowledges and agrees that a portion of the aforementioned maximum amount is currently reserved for the completion of the wetland delineation and functional assessment, sediment management plan, cultural resources study, and/or other elements required to complete the initial feasibility, design and key permitting studies. The City will not be held liable for NCWC's failure to pay its contractor(s) or consultant(s). The City does not promise to provide future funds to NCWC or to fund any aspect of the City Project beyond the term date of this Agreement. A short narrative progress report shall accompany each invoice, which report shall discuss any problems or potential causes for delay, with the status of the City Project, amount of work completed and other relevant information. Specific activities, products, sub-award recipient, and contract services funded through this Agreement are detailed in the Budget Justification Narrative and Budget Worksheet (Exhibit B), which is attached and incorporated herein. Additional funding will be sought in the future for final design, permitting, construction, and post-project monitoring.

5. **Data.** NCWC collects and holds data in compliance with the Kellogg Creek Restoration and Community Enhancement Project Data Management Plan (Exhibit C). Data that may be useful to the City Project, including but not limited to, design elements, land records, permits, titles, etc., as is possessed by NCWC or its consultants and is useful or necessary as determined by the City in order to carry out its scope of work for the City Project, shall be shared with the City.
6. **Contractor(s) Requirements.** Contractor(s) hired by the NCWC must be licensed, bonded, and verified to meet Occupational Safety and Health Administration (OSHA) standards and other safety requirements. Any engagement of contractor(s) for the City Project will be by written agreement and will contain industry standard terms requiring such contractor(s) to (i) obtain and hold adequate insurance; (ii) warrant compliance with all federal, state and municipal laws, codes, ordinances and regulations with respect to the work being performed on the City Project, including but not limits to safety code compliance; (iii) complete any work for the City Project in accordance with the highest standards and the schedule for the City Project; (iv) if not already obtained, obtain all licenses and permits necessary for the City Project; (vi) provide appropriate insurance for the City Project; and (vii) have all subcontractor(s) agree to similarly protective provisions. NCWC and contractors hired by NCWC are required to comply with national policy requirements consistent with 2 CFR Sec 200.300 and the [Department of Commerce Financial Assistance Standard Terms and Conditions, Section G](#).
7. **Materials Prepared.** All documents, maps, and other materials of whatever kind prepared by the NCWC pursuant to this Agreement shall be deemed property of the City upon completion of the City Project or termination of this Agreement. NCWC may keep file copies of its work product but shall retain no other rights of ownership therein. All materials from the City Project may be used by NCWC to further its nonprofit mission.

8. **Control of Design.** NCWC shall seek reasonable input from the City concerning the NCWC's deliverables under the scope of work. NCWC shall retain decision-making capacity and shall solely direct its consultant(s) and contractor(s); however, after 21 days notice, should the City find that NCWC or its consultant(s) or contractor(s) are in direct contradiction to the City's mission, the City shall reserve the right to terminate this Agreement subject to the mediation and dispute resolution terms herein. The final design of the City Project shall be consistent with the City's needs and plans and all other City, state, and federal codes, regulations, and policies.
9. **Insurance.** NCWC shall obtain and maintain in force adequate insurance and/or self-insurance with coverage limits sufficient to cover potential liability arising within the scope of work.
10. **Debarment.** NCWC shall comply with the federal regulations in 2 CFR Part 180 for debarment and suspension, which restricts awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs and activities.

RESPONSIBILITIES AND RIGHTS: CITY OF MILWAUKIE

11. **Recipient.** The City is the recipient of the federal grant award and shall provide administrative oversight and support to meet grant reporting requirements, technical review, and Technical Advisory Committee participation. The City shall claim no more than \$45,091 from this grant for the administrative and support services.
12. **Scope of Work.** The City agrees to provide technical and financial support for the work described in Exhibit A, which is attached and incorporated herein. Any additional projects or implementation efforts that are deemed to be outside the scope of this Agreement will require the Parties to enter into either an additional agreement or an amendment to this Agreement to implement the project or group of projects. The City agrees to contact the Federal Program Officer at least 90 days in advance of any changes so that National Oceanic and Atmospheric Administration (NOAA) can confirm that all environmental compliance review is complete, and all documentation is in place. Other requirements related to changes in the scope of work are contained in the [NOAA Standard Terms and Conditions](#). NCWC may, with the City's prior written consent, which shall not be unreasonably withheld, enter into agreements with other private or public entities to further the City Project. The City agrees to assist and cooperate with NMFS in the preparation of any outstanding National Environmental Policy Act (NEPA) compliance documentation.
13. **Obligations to Complete Scope of Work.** The obligation to deliver the work pursuant to this Agreement is conditioned on the City's receipt of all necessary permits and approvals and funding. NCWC shall be responsible for, with funding from NOAA for consultant assistance with permit applications, obtaining all necessary permits and approvals. No construction work shall commence until all required local, state, and federal permits and approvals have been obtained. The City shall provide NCWC with fully completed copies of all applications, forms, permits, and approvals for NCWC's records.
14. **Right to Participate with the NCWC on Selection of Consultant Services.** City shall have the right for a representative to participate in the selection of any NCWC's consultant(s) for services related to the City Project, provided that the NCWC shall follow applicable federal, state, and local law, as well as the City's policies and procedures for such selection.
15. **Conflict of Interest.** The City agrees to notify NCWC of any potential conflict of interest and/or related party transaction that could occur as a result of performance of the Agreement. NCWC agrees to notify the City of any potential conflict of interest, and/or related party transaction that could occur as a result of performance of the Agreement. Notifications should be sent to the addresses and attention of those persons listed in Section 19.

16. **Company Information.** Pursuant to this Agreement, the City may use and obtain information concerning NCWC. Such "Company Information" including, but not limited to mailing lists, reports, files, memoranda, records and software as permitted by license, computer, and other physical personal property, which NCWC has or will receive or prepare or help to prepare in connection with this project. The City will not retain any copies, duplicates, reproductions, or excerpts thereof other than as required by, retention requirements, public records law or other state law, federal law or City policy.
17. **Confidentiality.** In the course of this project, the City will acquire information NCWC considers to be Confidential Information. The term "Confidential Information " as used in this Agreement includes, without limitation, (a) Company Information as defined in the "Company Information" section of this Agreement; (b) information received from third parties under confidential conditions; and (c) other technical, business, or financial information or trade secrets, the use or disclosure of which might reasonably be construed to be contrary to the best interests of NCWC. The Parties acknowledge that the City is a public agency committed to public access to public records as provided by law. The City acknowledges that NCWC is not generally subject to such laws and in the absence of exchanging certain information with the City, would be entitled to protect its documents from public disclosure. Should the City receive a public disclosure request for documents or information intended to be kept confidential under this Agreement, it shall endeavor not, except as required by law, to disclose such documents or information without first providing NCWC written notice of the request, together with a statement of the response the City intends to make in response to such request. Thereafter, NCWC may seek appropriate judicial protection.

JOINT RESPONSIBILITIES

18. **City and NCWC.** It is recognized that the successful implementation of this Agreement and the successful completion of the City Project will require an ongoing and significant commitment by NCWC and the City. NCWC and the City will each devote the resources necessary to implement the actions set forth in this Agreement. The following subsections set forth the current understanding of what will likely be required; however, NCWC and the City will work cooperatively to refine the commitments to management as the City Project progresses.
19. **Staffing.** The City and NCWC shall each appoint staff as appropriate to ensure successful implementation of this Agreement. Project management teams for the City Project will provide support in a variety of subject areas, including, but not limited to, project planning and analysis of concept feasibility, financial and budget accounting, design, permitting and construction management and agency oversight, and public and media communications. In this regard, the City and NCWC agree to designate the following Project Coordinators:

For NCWC:

Neil Schulman, Executive Director
2416 SE Lake Rd, Milwaukie, OR 97222
neil@ncwatersheds.org
(503) 550-9282

For the City:

Kelly Brooks, Assistant City Manager
10722 SE Main St., Milwaukie, OR 97222
brooksk@milwaukieoregon.gov
(503) 752-2130

20. **City Project Monitoring.** NCWC and the City shall cooperate in collecting appropriate data to aid in the evaluation of the City Project. Among other uses, the data derived from monitoring and experience will be used by the Project Coordinators to propose amendments to this Agreement.

21. **Coordination of Funding Efforts.** NCWC and the City will support each other's efforts to pursue outside funding assistance from federal, state, and other sources to further the goals of this Agreement.
22. **Cooperation with Regulatory Agencies.** NCWC and the City will cooperate and support one another's efforts with regulatory and funding agencies to achieve the goals of this Agreement.
23. **Good Faith Cooperation.** Each Party hereto shall cooperate with the other in good faith to achieve the objectives of this Agreement. The Parties shall not unreasonably withhold, condition, or delay requests for information, approvals, or consents provided for or implicit in this Agreement.
24. **Logos and Identification.** Both NCWC and the City must have permission from the other Party for the use of the other's name, logos, or identifying information. A protocol for such use will be set up once this Agreement is in force.
25. **Publicity.** When necessary, NCWC and the City agree to acknowledge support for the Kellogg Creek Restoration and Community Enhancement Project from NMFS.
26. **Access to Records.** City shall have access to such books, documents, papers and records of NCWC as are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts and transcripts. NCWC shall retain all books, documents, papers, records, and other related material relevant to this Agreement for no less than six (6) years after the date of project completion.

GENERAL

27. **Amendment(s) to this Agreement.** Except as otherwise provided herein, this Agreement and portions hereof shall not be amended except in writing signed by the City and NCWC. Formal written amendment(s) of this Agreement, signed by both Parties, is required for extensions of the term and changes to terms and conditions specifically stated in the original Agreement and any prior amendment(s).
28. **Notices.** The Parties anticipate that most communication will be done between the Project Coordinators by telephone or email. If the need arises for formal written communication, it shall be in writing and be either: (1) delivered personally to the Project Coordinator, or (2) sent by certified mail with postage prepaid with a copy for NCWC and addressed as follows:

For NCWC:

Neil Schulman, Executive Director
2416 SE Lake Rd, Milwaukie, OR 97222
neil@ncwatersheds.org
(503) 550-9282

For the City:

Kelly Brooks, Assistant City Manager
10722 SE Main St., Milwaukie, OR 97222
brooksk@milwaukieoregon.gov
(503) 752-2130

Notice by hand delivery shall be effective upon receipt. If deposited in the mail, notice shall be deemed received 48 hours after deposit. The Parties may at any time notify the other if it wishes to designate a different address or person to whom such notice shall be given.

29. **Severability.** If any provision of this Agreement is determined to be unenforceable or invalid by a court of law, then this Agreement shall thereafter be modified to implement the intent of the Parties to the maximum extent allowable under law.

30. **Termination without Cause.** Either Party may cancel this Agreement, at any time and without cause, by giving the other Party no less than 90 calendar days' written notice of termination. In the event of termination of this Agreement for a reason other than default, City shall reimburse NCWC for (i) all completed services rendered by the contractor(s) and all reimbursable costs incurred by the NCWC up to the date of receipt of notice of termination, and (ii) all direct and documented expenses reasonably incurred by the NCWC in connection with the orderly termination of this Agreement, as determined by City in consultation with the NCWC. In no event shall City be liable for any indirect, special or consequential expenses incurred by NCWC or its contractor(s), including, but not limited to, lost profits, overhead, margin, or intangible costs.
31. **Termination for Lack of Funding.** Should the primary source of funding for this City Project be reduced, deleted, or delayed, and the work under this Agreement is canceled or suspended, the City shall provide written notice to NCWC and be liable for any work completed up to the date of receipt of the written notice terminating this Agreement and shall have no liability for payment for work undertaken after such date.
32. **Termination with Cause.** In the event of a Party's default, the non-breaching Party may, in its sole reasonable discretion, immediately terminate the Agreement without penalty by giving the breaching Party written notice of such cancellation which shall not excuse breaches of this Agreement that already may have occurred.
- A. **THE CITY DEFAULT:** Default on the part of the City shall include, without being limited to, the occurrence of the following events:
- i. Failure by the City to comply with any of the provisions of this Agreement in a satisfactory manner as reasonably determined by NCWC and failure to cure such violation within 21 calendar days after receipt of written notice of said violation; or
 - ii. Filing by the City of a voluntary petition under any bankruptcy, reorganization, insolvency, or any other law for the relief of, or relating to debtors; the filing against the City of an involuntary petition in bankruptcy or a receiver or trustee is appointed to take possession of the City's property, any of the City's property is subjected to levy, seizure, assignment, application or sale for or by any creditor or governmental agency, and such action is not dismissed within 30 calendar days thereafter; or the City becomes insolvent; or
 - iii. Assignment of this Agreement by the City to any other entity without the prior written consent of NCWC.
- B. **NCWC DEFAULT:** Default on the part of NCWC shall include, without being limited to, the occurrence of the following events:
- i. Failure by NCWC to comply with any of the provisions of this Agreement in a satisfactory manner as reasonably determined by the City and failure to cure such violation within 21 calendar days after receipt of written notice of said violation; or
 - ii. Dissolution of NCWC voluntarily, involuntarily, or by operation of law.
- C. **CITY PROJECT IMPOSSIBILITY:** Both Parties understand that in the event that an alternative diversion structure cannot be designed and constructed, or that an alternative diversion solution cannot be reached, the Diversion Dam will not be removed. If the Parties mutually agree that the Diversion Dam cannot be removed, and that the City Project cannot proceed toward completion of the Kellogg Creek Restoration & Community Enhancement Project, this Agreement will be terminated. Should the Parties dispute the impossibility of constructing an alternative diversion structure or an alternative diversion solution, such dispute will be subject to the mediation and dispute resolution terms herein.

33. **Breach and Remedies.** If NCWC fails to perform any of the terms, covenants or conditions of this Agreement, including but not limited to repeated failure by NCWC to submit reimbursement requests, after 21 calendar days written notice by the City, NCWC shall be in breach under this Agreement and the City may, to the extent permitted by applicable law, exercise any one or more of the following remedies:
- A. The City may withhold any monies due to NCWC from and after the date of breach but shall reimburse NCWC for completed services rendered by the contractor(s) and reimbursable costs incurred by NCWC up to the date of receipt of notice of breach and require NCWC to pay for all expenses incurred in connection with the enforcement of any of the City's remedies, including all costs of collection, reasonable attorney's fees, and court costs;
 - B. All of the City's remedies are cumulative, are in addition to any other remedies provided for by law, and may, to the extent permitted by law, be exercised either concurrently or separately. Exercise of any one remedy shall not be deemed an election of such remedy, or to preclude the exercise of any other remedy. No failure on the City's part to exercise any right or remedy and no delay in exercising any right or remedy shall operate as a waiver of any right or remedy or to modify the terms of this Agreement. A waiver shall not be construed as a waiver of any other or subsequent waiver.
34. **Waiver.** No failure by any of the foregoing Parties to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or any other covenant, agreement, term, or condition. Any Party hereto, by notice, and only by notice as provided herein may, but shall be under no obligation to, waive any of its rights or any conditions to its obligations hereunder, or any duty, obligation or covenant of any other Party hereto. No waiver shall affect or alter this Agreement, and every covenant, agreement, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.
35. **Excusable Delay.** Either Party shall be excused for any delay in performance hereunder arising from any event or circumstance, regardless of whether it was foreseeable, that is not caused by and is beyond the reasonable control of the nonperforming Party and that prevents the nonperforming Party, in whole or in part, from complying with any of its obligations under this Agreement or materially and adversely affects the ability of the nonperforming Party, in whole or in part, from complying with its obligations under this Agreement ("Excusable Delay"). The nonperforming Party shall give notice and a full description of the event causing the delay in writing as soon as possible after the Party has knowledge that a delay has, will, or may occur.

Each Party shall, at all times, take all reasonable steps within their respective powers and consistent with best practices (but without incurring unreasonable additional costs) to:

- A. prevent Excusable Delay affecting the performance of its obligations under this Agreement,
- B. mitigate the effect of any Excusable Delay; and
- C. comply with its obligations under this Agreement.

The Parties shall consult together in relation to the above matters following the occurrence of an Excusable Delay to determine the best course of action for resuming the scope of work and to set new performance timelines.

36. **Indemnification.**

- A. The City agrees, to the fullest extent permitted by law to defend, indemnify, and hold harmless NCWC, its officers, directors, employees, representatives and agents from and against all damages, liabilities, or costs, including reasonable attorneys' fees and defense costs, arising out of the City's breach of its obligations under this Agreement and that of anyone for whom the City is legally liable.

- B. NCWC agrees, to the fullest extent permitted by law, to indemnify and hold harmless the City, its officers, directors, employees, representatives, and agents from and against damages, liabilities, or costs, including reasonable attorneys' fees and defense costs, arising out of NCWC's breach of its obligations under this Agreement and that of its contractor(s) or anyone for whom NCWC is legally liable.
- C. Neither NCWC nor the City shall be obligated to indemnify, defend, or hold harmless the other Party in any manner whatsoever for the other Party's own negligence or intentional misconduct, acts, or omissions.
- D. Both Parties shall promptly notify the other of any actual or prospective claim for which indemnification is sought.

- 37. **Legal Relationship of the Parties.** This Agreement does not create a partnership relationship. NCWC does not have the authority to enter into contracts on the City's behalf. The City does not have the authority to enter into contracts on NCWC's behalf.
- 38. **No Third-Party Beneficiaries.** There are no third-party beneficiaries of this Agreement.
- 39. **No Presumption Against Drafter.** This Agreement has been reviewed and revised by legal counsel for both Parties and no presumption or rule that an ambiguity shall be construed against the Party drafting the clause shall apply to the interpretation or enforcement of this Agreement.
- 40. **Dispute Resolution.** In the event of any dispute as to the interpretation or application of the terms or conditions of this Agreement, NCWC and the City, through their Project Coordinators, shall meet within ten (10) days after the receipt of a written request from any Party for the purpose of attempting in good faith to resolve the dispute. Such a meeting may be continued by mutual agreement to a date certain to include other persons or parties, or to obtain additional information. Either Project Coordinator may declare an impasse. Thereafter, the following procedure (as described in Section 41 of this Agreement) shall be utilized.
- 41. **Mediation.** In the event of a Project Coordinator impasse, and prior to commencing any litigation, except for a request for a temporary restraining order and preliminary injunction, the Parties shall first attempt to mediate the dispute. The Parties shall mutually agree upon a mediator to assist them in resolving their differences. If the Parties are unable to agree upon a mediator, the Parties shall request from the State of Oregon a list of mediators experienced in matters pertaining to this Agreement. Each Party may strike one name from the list until one name remains. A flip of a coin shall determine which Party strikes the first name. Any expenses of the mediator shall be borne equally by the Parties. However, each side shall bear its own costs and attorney fees arising from participation in the mediation.
- 42. **Applicable Law.** This Agreement shall be governed by and be interpreted in accordance with the laws of the State of Oregon.
- 43. **Waiver of Jury Trial and Jurisdiction.** Each Party waives any right to a trial by jury in any action or proceeding to enforce or defend any rights under or relating to this Agreement or any amendment, instrument, or other document delivered in connection with this Agreement.
- 44. **Execution and Signature Authority.** This Agreement may be executed on separate signature pages, which will then be treated as a single signed Agreement. The individuals signing their names below represent that they are authorized to enter into this Agreement on behalf and their respective organizations, and that they have secured all approvals necessary to discharge their obligations pursuant to this Agreement.
- 45. **Entire Agreement.** This Agreement, including the recitals, definitions, and exhibits, represents the entire agreement of the Parties with respect to the subject matter hereof. There are no other agreements, oral or written, except as expressly set forth herein. This Agreement supersedes all previous understandings or

agreements between the Parties concerning the subject matter of this Agreement.

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

CITY OF MILWAUKIE

NORTH CLACKAMAS WATERSHEDS COUNCIL

Signature

Signature

Ann Ober, City Manager
Printed Name & Title

Printed Name & Title

Date

Date

DRAFT

EXHIBIT A

Scope of Work

PROJECT GOALS AND OBJECTIVES

The project goal statement is to remove a barrier at the mouth of Kellogg Creek to restore volitional fish passage, critical habitat, and floodplain habitat; improve water quality, flood conveyance, recreational access, and pedestrian safety; reduce interdependency of constraining infrastructure on Kellogg Dam for long-term resilience; and create educational opportunities and quality of life benefits for the surrounding diverse community.

Project objectives will encompass the following desired outcomes and key aspects:

- Provide volitional fish passage past Kellogg Dam to access to 14.8 miles of the greater Kellogg-Mt Scott watershed for species resiliency to climate change impacts.
- Restore a naturally functioning stream channel through the previous impoundment created by the dam to improve water quality and ecological function, address contaminated sediment stored in the impoundment, and provide thermal refugia riverine habitat for off-channel utilization by fish species.
- Restore up to 14 acres of floodplain connectivity and riparian habitat to reduce flood risk, provide shading, and create ecological uplift.
- Reduce or eliminate dependence of the Oregon State Highway 99E Bridge on the Kellogg Dam, improve or modernize the bridge to ensure seismic criteria compliance for long-term bridge infrastructure resiliency, and address any other adjacent infrastructure constraints on the project goal.
- Create and/or improve access connectivity between City, park, and restored resources for public access with a focus on improved pedestrian safety, access, recreational opportunities, and project awareness through informational kiosks.
- Equitably engage diverse, minority, and disadvantaged stakeholders to address needs, incorporate input and considerations, and collaborate to develop educational opportunities and benefits to the surrounding community.

PROJECT PHASE AND APPROPRIATION

Appropriations fill a critical gap in the Feasibility & Design phases and the transition between them. The appropriated funding for the project will answer remaining feasibility questions and allow integration of:

- project management, stakeholder coordination, communication, and outreach;
- completion of critical site studies to inform identification of a streamlined permitting pathway and design of all project elements; and
- transition to integrated planning of all project elements with a more targeted focus on infrastructure constraints.

Specific activities, products, sub-award recipient, and contract services funded through this Agreement are detailed in the Budget Justification Narrative and Budget worksheet (Exhibit B). Additional funding will be sought in the future for final design, permitting, construction, and post-project monitoring.

DRAFT

EXHIBIT B

BUDGET NARRATIVE & SF424A FORM

Kellogg Creek Restoration & Community Enhancement Project
Restoring Habitat and Fish Passage, Strengthening Community, and Updating Infrastructure

Budget Summary:

The majority of requested funds will be sub-awarded to the North Clackamas Watersheds Council for contracted professional services.

The City of Milwaukie will claim a total of **\$45,091** from this grant award to provide administrative oversight to support to meet grant reporting requirements, technical review, and TAC participation. The staffing breakdown from the city is as follows:

Personnel (\$33,689):

- Kelly Brooks, Assistant City Manager, will provide 145 hours of administrative to compile and support annual reports for three years.
- Peter Passarelli, Public Works Director, will provide 145 hours of administrative support and technical review.
- Tessie Prentice, Civil Engineer and Landscape Architect, will provide 265 hours of salaried labor during the life of the project for technical review and TAC participation.

Fringe (\$8905):

- Fringe is provided to the three positions listed above, at varying rates in the table below. Fringe includes [vacation, FICA, sick leave, etc).

City of Milwaukie						
Line	Item	Hours	Hourly Rate	Fringe	Total Salary	Total Fringe
	STATUS					
1.00	Salaries, Wages and Benefits					
1.01	Assistant City Manager	145	76.64	19.9	11112.8	2885.5
1.02	Public Works Director	145	67.7	18.05	9816.5	2617.25
1.03	Civil Engineer	265	48.15	12.84	12759.75	3402.6
	Total Salaries, Wages, & Benefits				33689.05	8905.35

Subaward/Other: North Clackamas Watersheds Council: \$535,647

Please see the attached detailed subaward budget.

Personnel: (Federal Request, \$50,821)

- Neil Schulman, Executive Director, will provide 1,272 hours of salaried labor during the life of this project for overall subaward administration, stakeholder relations, subcontractor oversight, and project communications.

- Amy van Riessen, Watershed Restoration Manager, will provide 596 hours of salaried labor during the life of this project for technical review, aquatic ecology and fish biology, landowner outreach, TAC participation, and other elements.

Contracted Services: (Federal request \$484,826)

- Contracts will be issued and/or amended for professional services to complete the wetland delineation and functional assessment, sediment management plan, cultural resources study, and/or other elements required to complete initial feasibility, design, and key permitting studies.
- American Rivers will receive \$31,000 to develop and manage the overall project planning framework to reach the implementation phase efficiently, integrate the schedule, scope, and budget of all project elements, and be a liaison with ODOT for integration of the transportation planning process and infrastructure constraints.
- The Oregon Department of Transportation (ODOT) will assign a Project Lead to internally coordinate the project's transportation aspects. ODOT engineering staff will be informed by the site studies proposed above and selection of a preferred restoration alternative. They will then complete project scoping for the State Highway 99E bridge replacement or modification project, to include recommendations from Interfluve's subconsultant and bridge specialist. That information will be incorporated in developing a scope of work to include engineering design for bridge replacement and in framing out the NEPA strategy.

Indirect Charges:

	Direct Costs Included in Base	Total Direct Costs
Personnel	\$33,689	\$33,689
Fringe	\$8,905	\$8,905
Subawards over \$25,000 Per award	\$25,000	\$25,000
1 subaward		
Equipment		
		\$67,594
Federal Indirect Cost Base Total	\$67,594	
	10%	\$6,759.00

BUDGET INFORMATION - Non-Construction Programs

OMB Number: 4040-0006
Expiration Date: 02/28/2022

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1. Federal Request		\$ 585,000.00		\$		\$ 585,000.00
2.						
3.						
4.						
5. Totals		\$ 585,000.00		\$		\$ 585,000.00

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SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1) Federal Request	(2)	(3)	(4)	
a. Personnel	\$ 33,689.00				\$ 33,689.00
b. Fringe Benefits	8,905.00				8,905.00
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other	535,647.00				535,647.00
i. Total Direct Charges (sum of 6a-6h)	578,241.00				\$ 578,241.00
j. Indirect Charges	6,759.00				\$ 6,759.00
k. TOTALS (sum of 6i and 6j)	\$ 585,000.00				\$ 585,000.00
7. Program Income	\$	\$	\$	\$	\$

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SECTION C - NON-FEDERAL RESOURCES					
(a) Grant Program		(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	Federal Request	\$	\$	\$	\$
9.					
10.					
11.					
12. TOTAL (sum of lines 8-11)		\$	\$	\$	\$

SECTION D - FORECASTED CASH NEEDS					
	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	\$ 177,271.68	\$ 44,318.17	\$ 44,318.17	\$ 44,318.17	\$ 44,317.17
14. Non-Federal	\$				
15. TOTAL (sum of lines 13 and 14)	\$ 177,271.68	\$ 44,318.17	\$ 44,318.17	\$ 44,318.17	\$ 44,317.17

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT					
(a) Grant Program		FUTURE FUNDING PERIODS (YEARS)			
		(b) First	(c) Second	(d) Third	(e) Fourth
16.	Federal Request	\$ 177,227.67	\$ 177,227.67	\$ 177,227.67	\$
17.					
18.					
19.					
20. TOTAL (sum of lines 16 - 19)		\$ 177,227.67	\$ 177,227.67	\$ 177,227.67	\$

SECTION F - OTHER BUDGET INFORMATION	
21. Direct Charges: 582,500	22. Indirect Charges: 6759.40
23. Remarks:	

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EXHIBIT C

Kellogg Creek Restoration and Community Enhancement Project Data Management Plan

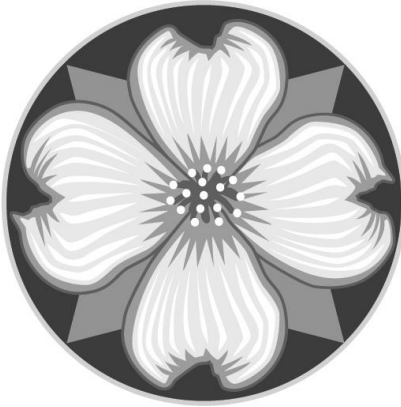
The Kellogg Creek Restoration and Community Enhancement Project, implemented by North Clackamas Watershed Council, will generate environmental data and information, including pre- and post-restoration assessments of the restored impoundment and fish passage conditions. Data collection will include pre- and post-restoration topography measurements, channel gradient and cross-sections, wetland habitat types, flow regime, water temperatures, fish presence, fish passage status, and other measurements. Data will be collected (by NCWC or its contractor, InterFluve) according to the procedures described in the table below. The data will be available on the project's SharePoint site, or NCWC's Google Drive. Pre-restoration/pre-dam removal data will be available starting in 2022/2023 and post-restoration after 2027. In the past we, or our consultant, have shared similar data by Google Drive, SharePoint, or similar file-sharing platforms. All future sub-awardees not identified in this plan will have as a condition of their contract acceptance of this data sharing plan. Neil Schulman can be contacted at 503-550-9282 or neil@ncwatersheds.org for more information and to request access to the data sharing sites.

Types of Data Collected (pre- and post-construction, unless specified)	Organization Collecting Data	Procedures	Data Availability⁺/Data Storage
Water temperatures	NCWC	Electronic monitoring units above and below Dam, and watershed-wide monitoring in Kellogg Creek and tributaries, pre- and post-restoration. DEQ approved SAP, 2022	2023 - 2027 [#] Google Drive
Wetland habitat types & functions/ areas	InterFluve	DSL/Corps of Engineers' guidance; acres pre- and post-improved	2023 - 2027 [#] SharePt
Topographic survey	InterFluve	Standard survey techniques, including post-restoration as-built, recorded electronically	2023 - 2027 [#] SharePt
Stream longitudinal profile and cross-sections	InterFluve	Standard survey techniques, including post-restoration as-built, recorded electronically	2023 - 2027 [#] SharePt
Current fish passage conditions at the dam	InterFluve	NOAA and ODFW criteria, e.g., channel width, channel gradient, jump height, hydraulic conditions, pre- and post-restoration. Presence of target fish species above HWY 99E	2023 - 2027 [#] SharePt
Water levels	InterFluve/ NCWC	Three electronic water surface elevation hydrograph stations along the channel within the project area to collect pre-restoration water surface elevation data	2023 Google Drive/SharePt
eDNA	NCWC	Use approved protocols to detect eDNA and evidence above HWY 99E for target	2023 - 2027 [#] Google Drive

Types of Data Collected (pre- and post-construction, unless specified)	Organization Collecting Data	Procedures	Data Availability⁺/Data Storage
		salmon, steelhead, Pacific lamprey, and native turtles	
Community Enhancement: Access trail under HWY 99E bridge	NCWC	Confirm and document improved trail access under HWY 99E	2027
Safety hazard improved	ODOT	HWY 99 Bridge seismic vulnerability, assessed pre-construction, improved post-construction	2027

⁺ Unless otherwise specified, data are available at the project's SharePoint site

[#] Pre-restoration data may be available before the full and final data sets (i.e., both pre- and post-restoration)



RS Agenda Item

7

Business Items

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Reviewed: Steve Adams, City Engineer and
Kelly Brooks, Assistant City Manager

From: Ben Green, Engineering Technician I, and
Jay Panagos, Public Safety Advisory Committee Chair

Subject: **Public Safety Advisory Committee Annual Update**

Date Written: Sep. 22, 2022

ACTION REQUESTED

This is an opportunity for the Public Safety Advisory Committee (PSAC) to present the upcoming year's work plan and committee by-laws to Council.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

[April 17, 2018](#): Council adopted a resolution accepting the PSAC bylaws.

[May 7, 2019](#): the PSAC held a joint meeting with Council to discuss changes to the upcoming year's work plan, which included disaster preparedness coordination as an ongoing task.

[September 7, 2021](#): the PSAC held a joint meeting with Council to discuss updates to the upcoming year's work plan, which included a continued focus on disaster preparedness coordination as an ongoing task.

ANALYSIS

In recent years, Council has expanded the role of the PSAC to include a broad vision of public safety centered on police and fire, safe routes to schools, and bicycle and pedestrian safety. This expanded role included designating the PSAC as the Community Planning Advisory Council (CPAC) in compliance with the federal Americans with Disabilities Act (ADA). Council further expanded this role in 2019 by approving changes to the PSAC's work plan that included disaster preparedness.

Transportation System Plan Updates

The PSAC's work plan outlines the committee's commitment to collaborating with city staff and having direct involvement with the city's upcoming Transportation System Plan (TSP) edits. The PSAC is in a unique position to facilitate crucial input from each of the neighborhood district associations (NDAs) and to focus projects on public safety especially for bicycles and pedestrians.

Bylaws Update

Over the last year the committee started the work to update its bylaws. To-date, changes proposed involve PSAC's meeting time and holdings meeting online. There were also slight updates to the committee's operating manual which are reflected in the bylaws. The proposed changes are included in the attached draft bylaws document.

BUDGET, WORKLOAD, & CLIMATE IMPACTS

None.

COORDINATION, CONCURRENCE, OR DISSENT & STAFF RECOMMENDATION

Not applicable.

ALTERNATIVES

Council could request that the PSAC make additions and/or changes to the work plan and/or by-laws prior to submitting to Council for adoption.

ATTACHMENTS

1. Draft Work Plan
2. Draft Bylaws

Milwaukie Public Safety Advisory Committee

Work Plan
2022 - 2023

2022 - 2023

Transportation System Plan Updates

During FY 23 and FY 24, planning and engineering have budgeted for and are preparing for a revision/rewrite of our Transportation System Plan (TSP). The TSP has not been through a major revision since 2013. During the 2022-2024 revision/rewrite of the TSP, PSAC will provide an active role in its capacity as an advisory committee on public safety (representing all neighborhoods within the city). The committee will collaborate with city staff, community members, our neighborhood district associations (NDAs), businesses, and other stakeholders.

Continued/Ongoing

Disaster Preparedness

PSAC will work with CERT, Milwaukie Police, Clackamas Fire, and the City Emergency Management Coordinator to determine what the public should expect from these entities and how they can provide support to their community during an emergency. PSAC has a unique position that allows great communication between the City of Milwaukie, the NDAs, and the public. PSAC members will use this position to:

- Increase awareness of emergency protocols and evacuation orders
- Increase awareness of what can be expected of all city services during an emergency
- Provide education about CERT
- Work with the City's Emergency Operations Manager (EOM)
 - Aid in the development and community awareness of key Emergency and Disaster Planning Resources and Procedures
 - Provide feedback and act as a bridge between the City's EOM and the NDAs
- Encourage each NDA to have their own Disaster Preparedness committee and cache of supplies
- Assist with CERT membership advocacy
- Provide public education on general disaster preparedness that the public can do at home through communication with NDAs and by participating in public outreach opportunities such as booths and applicable public events and public-speaking opportunities with designated city personnel
 - ClackCo Public Alerts Registration (<https://www.clackamas.us/dm/publicalerts>)
 - "2 Weeks Ready"
 - Learning from the COVID-19 crisis
 - Promote National Preparedness Month (September)

MILWAUKIE PUBLIC SAFETY ADVISORY COMMITTEE (PSAC)
BY-LAWS

Adopted by the Milwaukie City Council under Resolution _____ on
April 17, 2018

ARTICLE I: MEMBERS AND VOTING PROCEDURES

Membership of the Committee shall be as established by the Milwaukie Municipal Code and appointed by City Council. There are seven residential neighborhood association representatives and four members-at-large. Members-at-large contribute a broad perspective based on experience, property ownership, business or nonprofit partnerships, or an area of expertise relating to crime prevention, traffic safety, and public safety.

1. The term of office for members shall be from July 1st to June 30th (to allow NDA's to elect officers and representatives at the same meeting). Each term equals two years. Members may be reappointed to the same position by City Council based on the original application (updated if necessary).
2. Members are expected to attend all meetings. Failure to attend at least seventy-five percent (75%) of the regularly scheduled meetings in a 12-month period shall be grounds for a recommendation for removal. An NDA representative shall not be recommended for removal without first notifying and consulting with the NDA which is represented. Any recommendation for removal is presented to City Council which must make the final decision.
3. A quorum consists of six of the eleven members of the committee. If all the officers are unable to attend a meeting, the members present may appoint a temporary presiding chairperson and secretary. If a quorum is not attained fifteen minutes of the scheduled time of call to order, the meeting will be considered advisory. Approval of business and minutes of an advisory meeting shall be discussed and approved by a full quorum at the next regularly scheduled meeting.
4. All eleven members who are present at committee meetings are each allotted one vote on all motions.
5. One member must make a motion and another member must second that motion in order for the Committee to vote. A motion is passed by a majority of the Committee members present. All members who are present at committee meetings may submit or second a motion.

ARTICLE II: DUTIES OF OFFICERS

The committee shall elect a Chair, Vice Chair, and Secretary.

1. The election of PSAC officers shall take place at the July meeting. The term of office for officers shall be from their election at the July meeting until the corresponding meeting 12 months later. In the event that an officer cannot complete a term, an emergency election shall be held for the completion of the term.
2. The Chairperson shall set the agenda, preside over meetings, appoint sub-committees as needed, and call special meetings or executive sessions as described in Article III.
3. In the event the Chairperson cannot attend a scheduled meeting, another elected officer shall act as the presiding officer, either as appointed by the Chair or by agreement of the members attending.
4. The Presiding Officer shall preserve the order and decorum of the meeting; direct discussion and comment to relevant issues; establish and enforce time limits for discussion and comment as appropriate; encourage citizen input, and ensure that each person is treated with respect.

ARTICLE III: MEETINGS

Regular meetings shall be held at ~~6:15 PM~~6:00 PM on the fourth Thursday of each month in the Public Safety Building. Meetings shall also be held online and open to virtual attendance by members, guests, and staff. The time, date, and/or location of a particular meeting may be changed by a majority vote of a quorum of the membership at least three weeks prior to the meeting.

1. The public shall be notified of all Committee meetings by the City's general notification procedures.
2. The secretary shall be responsible for taking the minutes for each meeting and forwarding to designated staff responsible for keeping records and attendance.
3. The Chairperson and/or a designated city staff member shall be responsible for sending the agenda and all meeting materials to members and interested members of the public at least six days before the next scheduled meeting.
4. Special Meetings may be called at the request of the Chairperson or a majority of the Committee unless good cause exists for delaying until the next regularly scheduled

meeting. Good cause may include such factors as staff availability, meeting room availability, and budgetary considerations.

5. Executive Sessions may be held consistent with City Council Meeting Provisions, Section 2.04.090 of the City of Milwaukie Code and applicable state law as stated in ORS 192.660.

ARTICLE IV: OPERATING PROCEDURES

1. An Operating Manual shall be ~~adopted and~~ provided to each member, ~~along with a copy of the most current by-laws and the current year's work plan~~. The purpose of the Operating Manual is to provide consistency, clarity, and an open record of information needed to conduct the business of PSAC.
2. The Operating Manual shall contain:
 - a. The most current by-laws
 - b. The current year's work plan
 - c. the purpose and duties of PSAC as determined by the City Council;
 - ~~a.d. a list of past projects and accomplishments~~
 - ~~b.e. details useful for conducting business, including communications with members, sub-committee duties, and any other regularly used procedures;~~
 - ~~c. names, addresses, email addresses, phone numbers, and terms of office of the committee members, however, personal information shall be kept confidential by committee members unless written permission to share is provided to the chairperson.~~
3. Changes and additions to the manual may be suggested by any member and adopted by majority vote at any regular meeting.
4. The Operating Manual must be consistent with PSAC by-laws, the policies of City Council, and state law where applicable.

ARTICLE V: COMMUNICATION

PSAC, as a committee appointed by Milwaukie City Council, is subject to Oregon's Public Meetings Law.

1. Meetings: The officers of PSAC, with the assistance of the designated staff liaison, will be responsible for adhering to the Public Meetings Law regarding:

- a. providing notices of regular and special meetings in a timely manner;
 - b. determining if and when public input will be given at a meeting and the process for doing so;
 - c. providing public access to the agenda and minutes of all meetings (except executive sessions);
 - d. proper use of executive sessions;
 - e. access to meetings by the media (media representatives are legally not excluded from executive sessions but may be asked not to reveal what is said).
2. Withholding Certain Information: All verbal and written communication distributed at meetings should be considered public unless confidentiality is requested and an executive session is called. Unless otherwise prohibited by law, identifying information may be withheld from examples given when the purpose of a discussion is to brainstorm solutions or locate resources to deal with a community safety issue and the committee and/or designated staff liaison believe it is necessary in order to:
- a. protect someone's privacy;
 - b. avoid jeopardizing an ongoing investigation;
 - c. comply with a personal safety request by a party involved.

If such information cannot legally remain confidential, all parties should be notified in advance and given the option to withdraw from discussion or record.

3. Communication without Email Access: The primary form of communication outside of meetings will be by email. Any member who does not have internet access or email available is responsible for notifying the Chairperson and Secretary so that an alternate way of distributing notices, agendas, minutes, and other documents to that member can be determined.
4. Email Decorum: Emails should be clearly written and expressed in a manner in keeping with expected conduct at PSAC meetings.
5. Email Retention: Email exchanges between members (communicating as members) are considered public records. Emails will be used primarily for notification, clarification, proposing agenda items, meeting suggestions, and reminders. Copies are to be sent to the whole group in order to avoid confusion and simplify compliance with the law. The Chairperson and Secretary will determine how and where to retain copies of emails which qualify for retention under state law.

6. Unsolicited Emails: Emails from outside PSAC to any member and which refer to PSAC related business, actions, or discussion (past, present, or future), shall be acknowledged as received by the recipient in a reply to the sender and a copy forwarded immediately to the Chairperson and designated staff liaison who will decide:
 - a. whether the email is best handled by an email reply or an invitation to be on the agenda at a meeting;
 - b. who should handle the follow-up communication.

This is to ensure compliance with the Public Meetings Law and to continue the practice of including all members. If all members receive a copy of an unsolicited email concerning PSAC, the Chair and designated staff liaison will be responsible for the reply.

7. Forwarding Internal Emails: To avoid misinterpretation and confusion, discussion sorts of emails should not be forwarded outside the PSAC membership without the permission of each writer, and should always include an explanation which puts the email in a proper context. The preferred response is to encourage others to contact the Chair or Secretary for specific information rather than having an individual forwarding emails. Emails containing only meeting reminders, the agenda, and minutes may be forwarded to anyone, anytime.
8. Public Information Requests: Requests from a non-member to view emails which qualify as public records should be directed to the Chair and Secretary.
9. Public Notice: Members are encouraged to add a notice when appropriate to the PSAC emails they send informing the recipients that the email is subject to disclosure. Here is a sample:

PUBLIC RECORDS LAW DISCLOSURE: This e-mail is a public record of the City of Milwaukie and is subject to public disclosure unless exempt from disclosure under Oregon Public Records law. This email is subject to the State Retention Schedule.

10. Emergency Communication: An emergency which makes the internet temporarily inaccessible (such as in a power outage) may require the use of the telephone or regular mail. Members should be sure the Secretary has their current phone number and address at all times. Members are also encouraged to be sure their current phone number is on the City of Milwaukie Code Red calling list.
11. Members' Personal Information: The Oregon legislature has determined that the phone number, mailing address and/or residence and other personal privacy information of a public employee is not "public information." It is assumed that volunteers are subject to the same privacy protection. Each member may choose whether their personal

information may be provided to the public on the city website or by any other means. PSAC members who are provided with personal information about other members (such as for a telephone tree) are expected to keep that information confidential. This information may be updated to comply with revised Oregon laws or other policies, as needed in the future.

ARTICLE VI: BY-LAW CHANGES

1. By-laws need to be reviewed annually at the January or February meeting.
2. By-laws may be amended, repealed or altered by a majority of a quorum of the committee, subject to approval by the City Council. A copy of the proposed changes must be sent to all members before a vote may be taken.

These by-laws approved by PSAC on ~~March 22, 2018~~June 23, 2022.

Milwaukie Police, Clackamas Fire, CERT, MPSF

PSAC recognizes and appreciates the ongoing work of our police force, fire and rescue, as well as the important contributions of the volunteers of Community Emergency Response Team and Milwaukie Public Safety Foundation. PSAC will continue to respond to neighborhood concerns and act as the liaison between Police/Fire and the NDAs. PSAC will work to maintain the strong relationships it has built with these organizations by inviting a member from one of these groups to each meeting and by promoting important events throughout the year and/or designating volunteers to assist as our schedules allow:

- Officer of the Year Dinner - Each year in/around February
- Shred Day/Prescription Drug Drop Off Day - Each year in/around April
- Bike Giveaway - Each year in/around April
- 9K for K9 - Each year in/around July

Safe Routes to School

Continue to support efforts of SRTS in community outreach and awareness. Assist with communication to city neighborhoods.

Additional Tasks

- SAFE Outreach
- Work with Engineering on community member requests; consider adding time to each meeting to prioritize incoming community traffic control requests.
- Review Requests for Service applications for potential prioritization within the SAFE program
- Review requests for ADA improvements, acting as the Community Planning Advisory Council, for prioritization within the ADA transition plan.
- Maintain open communication and a positive relationship with the Milwaukie Police Department and Clackamas County Fire Department. Schedule some time during an upcoming meeting for an update about the police department (trends, policies, procedures, etc.).
- Support and aid Milwaukie's CAReFree Sundays event to establish communication between the two groups and see what opportunities exist for PSAC to participate.
- Work with Planning to ensure Neighborhood Hubs Project connects with proposed SAFE projects.

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Date Written: Oct. 14, 2022

Reviewed: Sasha Freeman (as to form), Administrative Specialist II

From: Justin D. Gericke, City Attorney,
Peter Passarelli, Public Works Director, and
Adam Moore, Parks Development Coordinator

Subject: **Bowman-Brae Park – Access Path Resolution of Necessity.**

ACTION REQUESTED

Council is asked to adopt a resolution declaring the public necessity to acquire a public right-of-way (ROW) and temporary construction easement to construct a multi-use connection and provide public access to Bowman-Brae Park from Where Else Lane.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS**Bowman-Brae Park**

2011: The City purchased the land upon which Bowman-Brae Park is located with assistance from Metro's voter-approved 2006 natural areas bond measure.

[August 11, 2015:](#) The Planning Commission recommended adoption by Council of the park master plans for Balfour, Bowman-Brae, and Robert Kronberg Nature Park.

[October 20, 2015:](#) Following a public hearing, the park master plans were adopted by Council but were not implemented due to lack of funding.

Park Development Project

[September 14, 2021:](#) The park development project, which includes updating the Bowman-Brae Master Plan adopted in 2015, was presented by staff and discussed by Council during a study session.

[January 4, 2022:](#) An update on the status of the park development project was presented by staff and discussed by Council during a study session.

[January 18:](#) Council adopted a resolution authorizing a grant agreement with the Oregon Department of Administrative Services (DAS).

[February 1:](#) Council adopted a resolution authorizing a contract for park design and development services with GreenWorks, P.C.

[June 7:](#) An update on the status of the park development project was presented by staff and discussed by Council during a study session.

[September 20:](#) An update on the status of the park development project was presented by staff and discussed Council during a study session.

ANALYSIS

Project History

After purchasing the Bowman-Brae Park property in 2011, North Clackamas Parks and Recreation District (NCPRD), in partnership with the city, developed a master plan for Bowman-Bae Park. The master plan was recommended by the Planning Commission for adoption by Council in 2015. After a public hearing, Council adopted the master plan on October 20, 2015. The master plan as adopted included a 12-foot-wide multiple use trail going through the park and connecting Bowman Street with Where Else Lane. To complete the access path designated in the 2015 master plan, it is necessary to acquire a small segment of private property to extend the existing Where Else Lane ROW to the park boundary. Offers to obtain this segment through a direct sale were unsuccessful and, without this acquisition, access to the park from Where Else Lane is not possible. This acquisition provides the necessary connection as envisioned in 2015 and results in the greatest public good with the least private harm.

As indicated above, the city has initiated the process of fully developing Bowman-Brae Park. On August 6, 2022, a public open house was held in the park to obtain feedback on and to receive suggestions on potential revisions to the 2015 master plan. Park planning is scheduled to continue through the end of 2022, however, a revised master plan for Bowman-Brae Park was posted online on October 6 along with a survey soliciting feedback from the public. A public planning meeting for Bowman-Brae Park is currently scheduled for October 17. As with the 2015 master plan, the revised master plan includes the connection described above and notes the necessary acquisition of private property to complete the multi-use connection.

Once complete, the multi-use connection will provide a safe, non-motorized transportation connection between the western portion of the Lake Road neighborhood and the eastern portion of the Lake Road neighborhood. Without this necessary connection, residents living west of Where Else Lane must travel along Lake Road and then south on Freeman Road to Bowman Street to access the park. Much of this route lacks accessible sidewalks or on-street bike lanes, making it hazardous for many residents to access and enjoy the park.

BUDGET IMPACTS

Funding for acquisition of the necessary connection is contained within the existing budget.

WORKLOAD IMPACTS

The city attorney and public works staff have been leading the effort to identify public need, take the necessary steps to acquire the property, and to develop the appropriate plans to construct the access path as part of the development of Bowman-Brae Park.

COORDINATION, CONCURRENCE, OR DISSENT

Public works staff sought and received input from the community to identify current public need for the access path to connect Bowman Street with Where Else Lane through Bowman-Brae Park. Public need was also identified in the adopted master plan for Bowman-Brae Park.

STAFF RECOMMENDATION

Staff recommends adoption of the resolution declaring the public necessity to acquire a public ROW and temporary construction easement to construct a multi-use trail and provide public access to Bowman-Brae Park from Where Else Lane.

ALTERNATIVE

Council could decide to not adopt the resolution and continue development of the park without the necessary connection or reconsider development of the park.

ATTACHMENTS

1. Resolution
2. 2015 Master Plan for Bowman-Brae Park

COUNCIL RESOLUTION No.**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DECLARING THE PUBLIC NECESSITY TO ACQUIRE A PUBLIC RIGHT-OF-WAY (ROW) AND TEMPORARY CONSTRUCTION EASEMENT TO CONSTRUCT A MULTI-USE TRAIL AND PROVIDE PUBLIC ACCESS TO BOWMAN-BRAE PARK FROM WHERE ELSE LANE.**

WHEREAS Bowman-Brae Park is a 0.69-acre undeveloped neighborhood park located at the intersection of Bowman Street and Brae Street in Milwaukie, Oregon, and

WHEREAS in 2011, the City of Milwaukie ("City") purchased the land upon which Bowman-Brae Park is located with assistance from Metro's voter-approved 2006 natural areas bond measure, and

WHEREAS the City and North Clackamas Parks and Recreation District ("NCPRD") maintain the Bowman-Brae Park pursuant to an intergovernmental agreement (IGA), and

WHEREAS the City and NCPRD issued a final report entitled Bowman-Brae Park Master Plan on April 20, 2015, and the Master Plan was adopted by the City Council through Ordinance 2107 on October 20, 2015, and

WHEREAS the Master Plan provides for the construction of a 12-foot-wide multi-use trail providing public access to the Bowman-Brae Park from Where Else Lane, a public right-of-way (ROW) owned and maintained by the City, and

WHEREAS there is a strip of land between Bowman-Brae Park and Where Else Lane that is privately owned, and

WHEREAS the City has attempted in good faith to negotiate with the property owners to purchase the strip of land between Bowman-Brae Park and Where Else Lane, and

WHEREAS the City's offers to purchase the strip of land between Bowman-Brae Park and Where Else Lane were rejected by the property owners, and

WHEREAS in order to construct the multi-use trail and provide public access to Bowman-Brae Park from Where Else Lane (the "Project"), it is necessary for the City to acquire real property and property interests, and

WHEREAS the City has identified an approximately 16-foot-wide and 12-foot-long strip of land described in Exhibit A attached hereto and depicted in Exhibit B (hereinafter "Parcel 1") that is necessary to construct and maintain the multi-use trail and provide public access to Bowman-Brae Park from Where Else Lane, and

WHEREAS the City has identified an approximately 10-foot-wide and 12-foot-long strip of land described in Exhibit C attached hereto and depicted in Exhibit D (hereinafter "Parcel 2") that is necessary to be used as a temporary construction easement for the construction of the multi-use trail on Parcel 1, and

WHEREAS the City of Milwaukie has authority to acquire property by condemnation under Oregon Revised Statute (ORS) 223.105, 226.320 and 226.380.

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

Section 1. The acquisition of a public ROW over, across, and under Parcel 1 and a temporary construction easement over, across, and under Parcel 2 is necessary to construct the multi-use trail and to provide public access to Bowman-Brae Park from Where Else Lane.

Section 2. The acquisition of a public ROW over, across, and under Parcel 1 and temporary construction easement over, across, and under Parcel 2 is planned and located in a manner that is most compatible with the greatest public good and the least private injury.

Section 3. The City Council hereby approves the purchase and/or condemnation of a public ROW over, across, and under Parcel 1 and a temporary construction easement over, across, and under Parcel 2 and authorizes the city manager or their designee to take all actions necessary, including execution of all necessary documents, to complete said purchases or condemnation.

Section 4. Upon the trial of any suit or action instituted under the provisions of Section 3 above, the City's legal counsel, after consultation with the city attorney, is authorized to make any stipulation, agreement, or admission that in the counsel's judgment may be for the best interests of the Project and the City.

Introduced and adopted by the City Council on **October 18, 2022**.

This resolution is effective immediately.

Mark F. Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney



AKS ENGINEERING & FORESTRY, LLC
12965 SW Herman Road, Suite 100, Tualatin, OR 97062
P: (503) 563-6151 | www.aks-eng.com

AKS Job #6685-07

OFFICES IN: BEND, OR - KEIZER, OR - TUALATIN, OR - VANCOUVER, WA

Exhibit A (Parcel 1)

Description

A tract of land located in the Northwest One-Quarter of Section 6, Township 2 South, Range 2 East, Willamette Meridian, City of Milwaukie, Clackamas County, Oregon, and being more particularly described as follows:

Commencing at the southeast corner of Lot 19 of the plat of "Pennywood Subdivision"; thence along the southerly line of said Lot 19, North 72°51'39" West 113.31 feet, to the easterly line of Document Number 2019-056660; thence along said easterly line, South 17°21'27" West 67.76 feet, to the Point of beginning; thence continuing along said easterly line, South 17°21'27" West 16.04 feet, to the easterly extension of the southerly right-of-way line of SE Where Else Lane; thence along said extension, North 68°21'17" West 11.81 feet, to the easterly right-of-way line of SE Where Else lane; thence along said easterly line, North 17°12'07" East 16.05 feet, to the easterly extension of the northerly right-of-way line of SE Where Else Lane; thence along said easterly extension, South 68°21'17" East 11.85 feet, to the Point of Beginning.

The above described tract of land contains 189 square feet, more or less.

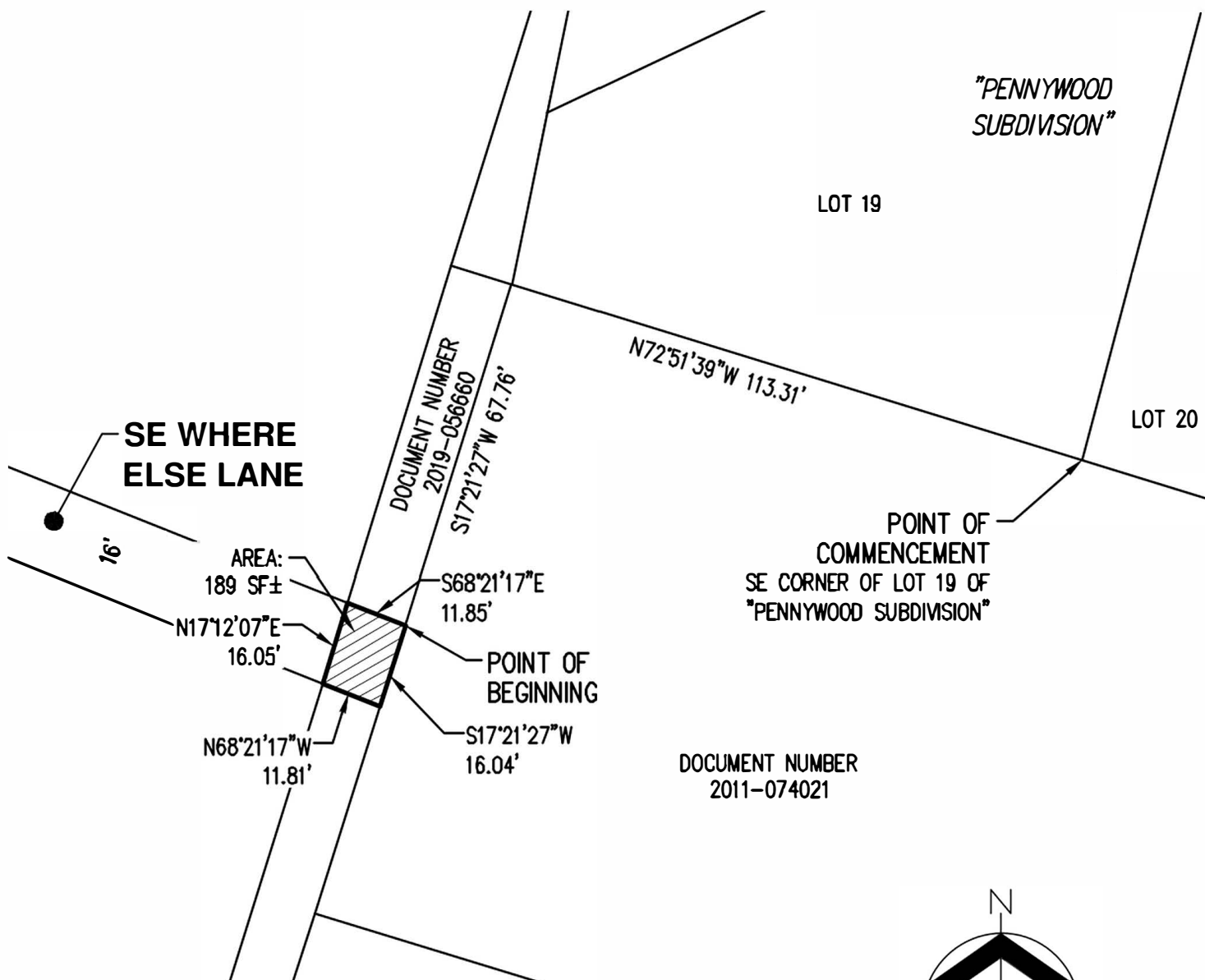
9/16/2022

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Benjamin R Huff
OREGON
MARCH 14, 2017
BENJAMIN R HUFF
84738PLS
RENEWS: 6/30/23

Exhibit B (Parcel 1)

A TRACT OF LAND LOCATED IN THE NORTHWEST 1/4 OF
SECTION 6, TOWNSHIP 2 SOUTH, RANGE 2 EAST, WILLAMETTE
MERIDIAN, CITY OF MILWAUKIE, CLACKAMAS COUNTY, OREGON



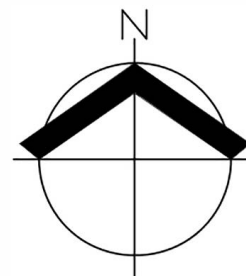
REGISTERED
PROFESSIONAL
LAND SURVEYOR

Benjamin R Huff

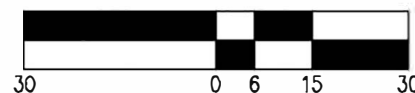
OREGON
MARCH 14, 2017
BENJAMIN R HUFF
84738PLS

RENEWS: 6/30/23

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



SCALE: 1" = 30 FEET



AKS ENGINEERING & FORESTRY, LLC
12965 SW HERMAN RD, STE 100
TUALATIN, OR 97062
503.563.6151 WWW.AKS-ENG.COM



MAP OF DESCRIPTION
RS55

DATE: 9/16/2022

DRWN: CC CHKD: BH

AKS JOB: EXHIBIT

6685-07 B



AKS ENGINEERING & FORESTRY, LLC
12965 SW Herman Road, Suite 100, Tualatin, OR 97062
P: (503) 563-6151 | www.aks-eng.com

AKS Job #6685-07

OFFICES IN: BEND, OR - KEIZER, OR - TUALATIN, OR - VANCOUVER, WA

Exhibit C (Parcel 2)

Description

A tract of land located in the Northwest One-Quarter of Section 6, Township 2 South, Range 2 East, Willamette Meridian, City of Milwaukie, Clackamas County, Oregon, and being more particularly described as follows:

Commencing at the southeast corner of Lot 19 of the plat of "Pennywood Subdivision"; thence along the southerly line of said Lot 19, North 72°51'39" West 113.31 feet to the easterly line of Document Number 2019-056660; thence along said easterly line, South 17°21'27" West 57.76 feet to the Point of Beginning; thence continuing along said easterly line, South 17°21'27" West 10.00 feet; thence leaving said easterly line, North 68°21'17" West 11.85 feet to the westerly line of Document Number 2019-056660; thence along said westerly line, North 17°12'07" East 10.00 feet, thence leaving said westerly line, South 68°21'53" East 11.88 feet to said easterly line and the Point of Beginning.

The above described tract of land contains 118 square feet, more or less.

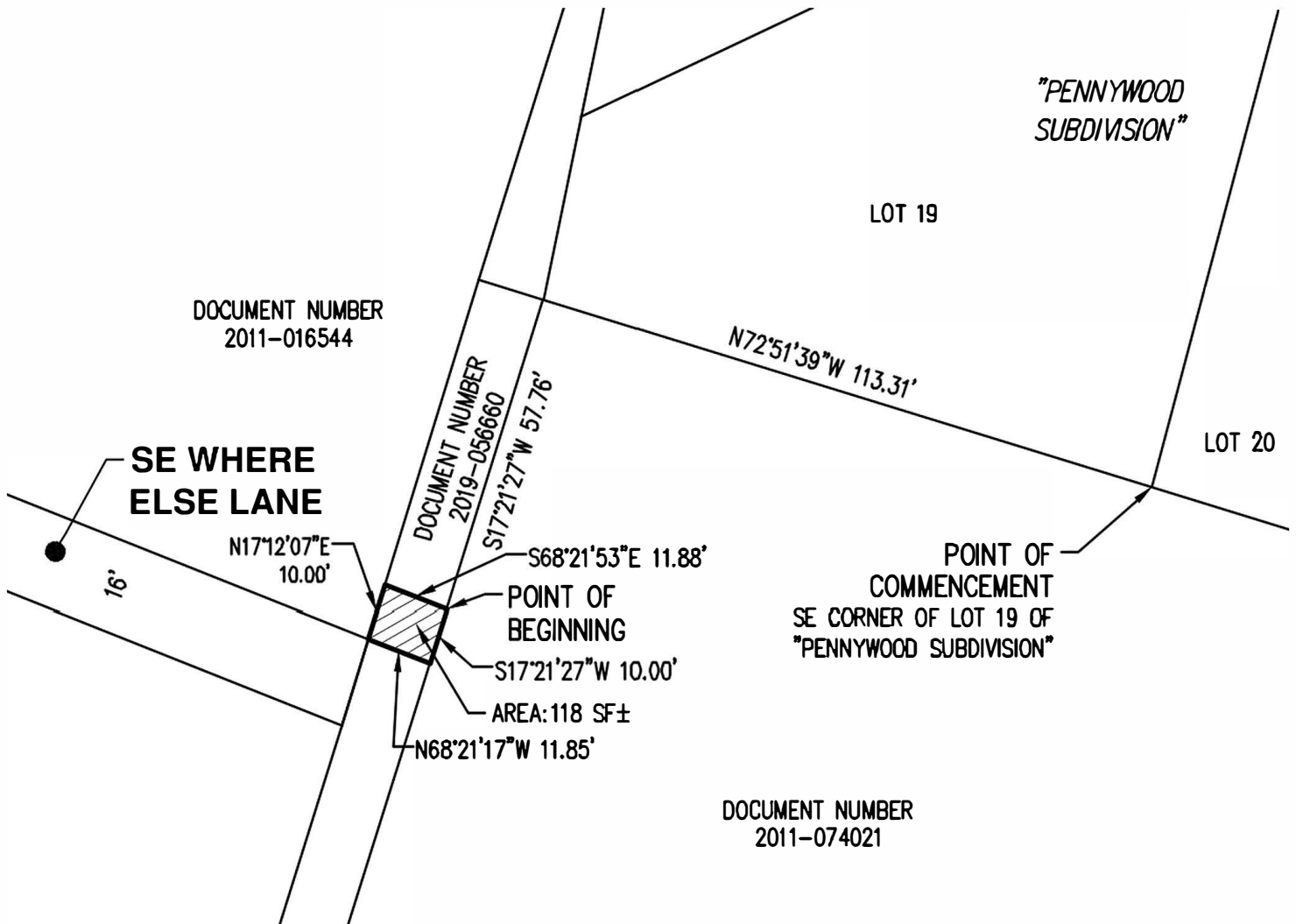
9/16/2022

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Benjamin R Huff
OREGON
MARCH 14, 2017
BENJAMIN R HUFF
84738PLS
RENEWS: 6/30/23

Exhibit D (Parcel 2)

A TRACT OF LAND LOCATED IN THE NORTHWEST 1/4 OF SECTION 6,
TOWNSHIP 2 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN,
CITY OF MILWAUKIE, CLACKAMAS COUNTY, OREGON



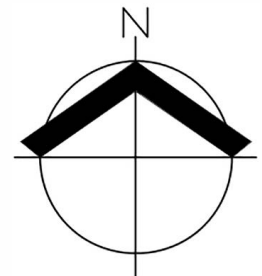
REGISTERED
PROFESSIONAL
LAND SURVEYOR

Benjamin R Huff

OREGON
MARCH 14, 2017
BENJAMIN R HUFF
84738PLS

RENEWS: 6/30/23

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



SCALE: 1" = 30 FEET



AKS ENGINEERING & FORESTRY, LLC
12965 SW HERMAN RD, STE 100
TUALATIN, OR 97062
503.563.6151 WWW.AKS-ENG.COM



MAP OF DESCRIPTION
RS57

DATE: 9/18/2022
DRWN: JAY CHKD: BH
AKS JOB: 6685-07
EXHIBIT B

CITY OF MILWAUKIE & NORTH CLACKAMAS PARKS AND RECREATION DISTRICT

BOWMAN-BRAE PARK MASTER PLAN

FINAL REPORT 4.20.2015

lango.hansen



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ACKNOWLEDGEMENTS

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CITY OF MILWAUKIE

Steve Butler, Community Development Director
Jason Rice, Engineering Director

SPECIAL THANKS TO:

Residents of NCPRD and the City of Milwaukie who
contributed to this master planning process.

For more Information, contact:
NCPRD
150 Beavercreek Road, 4th Floor
Oregon City, OR 97045
503-742-4348
www.ncprd.com

INTRODUCTION

INTRODUCTION

This master plan document for Bowman-Brae Park was developed in partnership between the City of Milwaukie and North Clackamas Parks and Recreation District (NCPRD). Bowman-Brae Park is a 0.69-acre undeveloped neighborhood park located at the intersection of SE Bowman Street and SE Brae Street in Milwaukie, OR. The City purchased the land in 2011 with assistance from Metro's voter-approved 2006 natural areas bond measure. Currently the undeveloped park site is maintained by NCPRD through an intergovernmental agreement with the City as an undeveloped open space. The open nature of the site and its location provide an exciting opportunity to meet the neighborhoods needs for flexible recreation.

MISSION STATEMENT

Create an attractive neighborhood park that offers a variety of outdoor recreation opportunities for everyone living in the neighborhood.

SCOPE OF PROJECT

Bowman-Brae Park is a well-used property within the Lake Road Neighborhood that offers a much needed place for neighbors to come together and enjoy both active and passive recreation. The master plan for the park addresses the functional needs of the park site such as circulation and Right-of-Way improvements, and provides a framework for organizing the site so that it can meet the neighborhood's recreation needs. An open and interactive approach to the master planning process engaged neighbors, community members, City and NCPRD staff as well as the opportunity to create a lasting plan to guide future implementation by the City and District.

The Master Plan for the park includes open lawn, a small picnic shelter, storm water treatment, signage, landscaping, accessible pathways and site features including benches and picnic tables, an accessible play area, fencing and maintenance vehicle access.



Context Aerial

SITE DESCRIPTION

PARK CLASSIFICATION

NCPRD defines a neighborhood park with the following:

- Serves as the recreational and social space of the neighborhood
- May provide opportunities for natural areas, informal activities, and passive recreation
- Typically includes playgrounds, picnic areas, natural areas, trails, open grass areas for passive use, outdoor basketball courts, and/or multi-use sports fields
- On-site parking and restrooms are not typically provided
- Typically serve an area of an approximately 1/2 to 1-mile radius
- Typically vary in size from 1/2 to 5 acres
- Examples of neighborhood parks are Homewood Park and Ardenwald Park

NCPRD and the City of Milwaukie strive to use native plants whenever possible and provide long-lasting and easy to maintain site furnishings within neighborhood parks.

SITE ASSESSMENT

The first step in the Master Planning process was to gather information related to the existing conditions of the site and City Code requirements. Using GIS information, a site analysis aerial was compiled for use throughout the master planning process. Site visits were conducted to gather information about existing site features including fencing and tree species. LHHA performed interviews with City and NCPRD staff to understand specific site issues. KPFF Civil Engineers provided resources related to storm water treatment requirements.

Information gathered during the initial phase was compiled into a site analysis drawing along with existing site photos to illustrate the existing conditions and opportunities and constraints. The site analysis drawing and site photos were shared with City and District Staff for comments prior to the initial public meeting.

SITE ANALYSIS

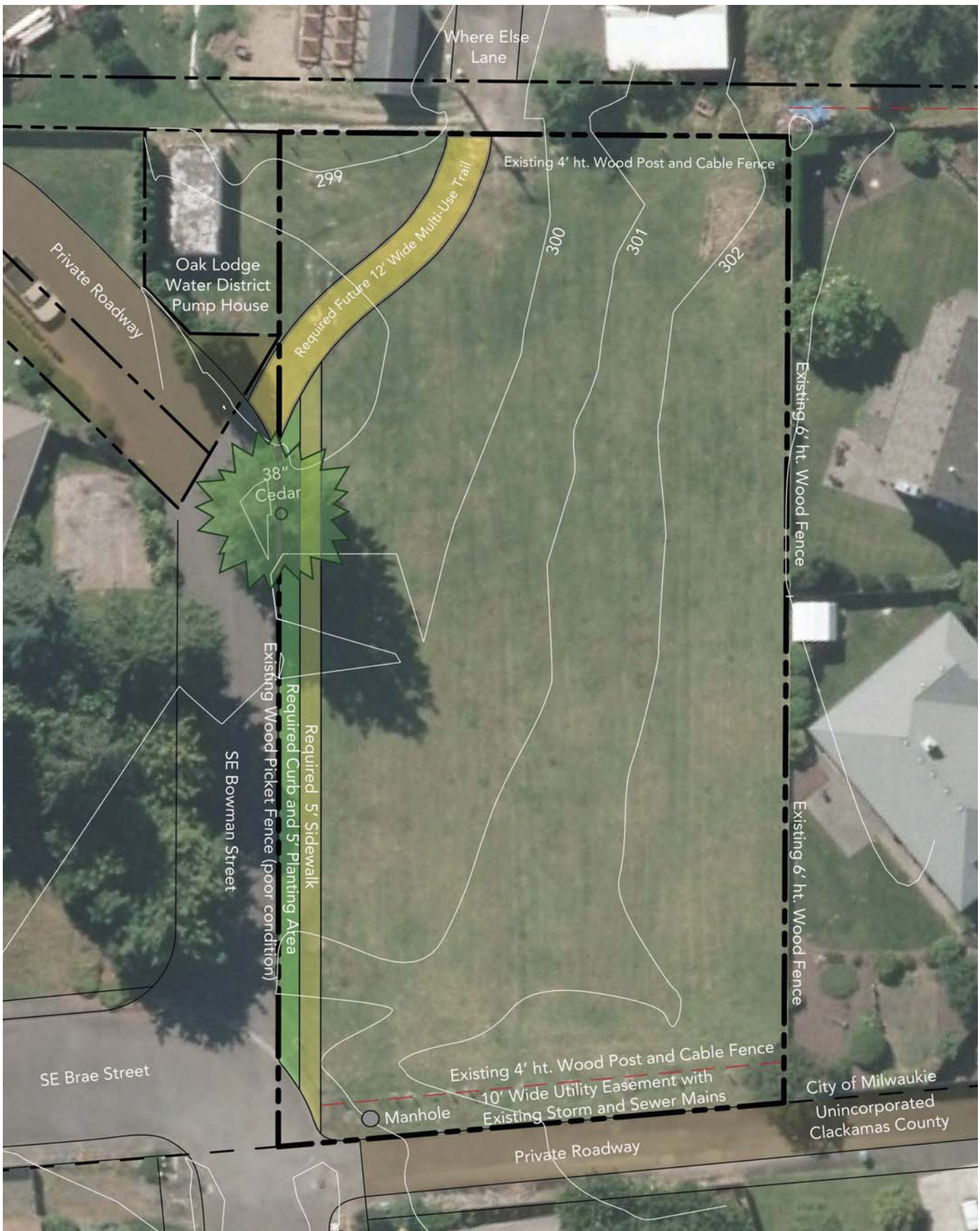
The site is currently vacant and being used actively by the neighbors for picnics, informal sports and dog walking. The site slopes minimally from the northeast corner to the southwest corner of the site. The southeast edge of the site is bordered by approximately 170 feet of the SE Bowman St public right-of-way. The remaining 50' of the southwest edge of the site is bordered by an Oak Lodge Water District property, which contains a pump house that is no longer being used by the Water District.

The east edge of the park is bordered by 124' of private roadway, the north edge of the park is 237 feet long and bordered by two private single family residences with existing privacy fencing. The west edge of the park is bordered by a 13' wide swath of privately owned land. The Where Else Lane right-of-way ends at the west edge of the privately owned land. There is currently no publicly-owned connection to the park's west side, but it is being used by neighbors as a park entrance at this time.

The park has a variety of perimeter fencing ranging from weathered wood picket fencing on the south side along SE Bowman Street to wood post and cable fencing along the east and west boundaries. One mature cedar is located on the south edge of the site. It will be protected. A previous development application for three single-family homes had been strongly opposed by neighbors because it would have required removal of this tree.

MAINTENANCE CONSIDERATIONS

Throughout the design process, District maintenance staff were consulted so that the park would be designed with maintenance in mind. In addition to a pathway for maintenance vehicle access to the play area, the location of future site furnishings, features and types of plant material were coordinated with maintenance staff.



PUBLIC PROCESS

Two public meetings were held to discuss design options and gather neighbor feedback. At the first public meeting, the site analysis and existing conditions materials were presented along with three initial master plan concepts. Meeting attendees were asked to actively participate in the group discussion, a breakout session with consultants and staff, review materials, and place their comments on notes directly on the plans. Public comments from the first meeting were incorporated into a final master plan concept that was presented at the second public meeting.

NEIGHBORHOOD FEEDBACK

Comments from the first public meeting significantly influenced the design of the final master plan. From the public meetings we heard that in general, the neighbors want to keep the feel of the park simple, without a lot of programmed elements. Protecting the existing cedar is important to them, and they like the size and feel of the existing open lawn area, but would like to see perimeter planting as a buffer between the park and adjacent residences. The neighbors want to keep the multi-use trail connection as minimal as possible so as to preserve as much of the site for park use.

At the final master plan community meeting, neighbors expressed interest in keeping the open lawn area as large as possible, locating a small play area on the south edge of the site near SE Bowman St., including a small shelter for gatherings, creating opportunities for relaxation, and including a meandering walking pathway that was not too close to the residences on the north edge of the park. The neighbors also want to deter parking along SE Bowman Street and along the private road for park use by including signage, and include perimeter fencing to delineate the park boundary on all sides. The final master plan incorporates neighbor feedback from the first public meeting. The final draft master plan was presented to the neighbors at a second public meeting, and an overall consensus in favor of the plan was reached.

MASTER PLANNING : CONCEPT DEVELOPMENT

The City will require right-of-way improvements which include a new concrete sidewalk, a planter strip, and new curb along the publicly owned portion of SE Bowman Street right-of-way as part of the future site development. The City will also require the ability to construct a future multi-use trail connection from SE Bowman Street to SE Where Else Lane. The multi-use trail is not currently shown connecting to Where Else Lane because the adjacent property is privately owned, but ultimately a future connection is planned to provide improved cross-circulation through the neighborhood.

NCPRD will require a curb cut at the main park entrance which is located at the corner of SE Bowman and SE Brae Streets to allow park maintenance vehicles to access the site. A removable bollard will be installed to prevent unauthorized vehicles from entering the site. In addition to these requirements, design options included three bike racks, a paved area to accommodate a temporary/seasonal portable restroom, a waste receptacle, and an entry sign at the main park entrance adjacent to the SE Bowman and SE Brae intersection. All design options include low screening shrub planting at the north park boundary to delineate and soften the park boundary.

Design of the park master plan incorporates principles from Crime Prevention Through Environmental Design (CPTED) which includes keeping planting low to allow views into and throughout the park, keeping evergreen trees limbed up to prevent hiding spots, and maintaining clear entrances. Planting shown on all options takes this need for site visibility into account. Trees shown will be limbed up as they become established. Evergreen trees shown are spaced 20' apart at a minimum. Any shrub and groundcover planting would be low, not higher than 3', to allow views into the park and avoid creation of hiding places.

The District's dedication to planting native species will be integral to the planting design. Native plants provide important habitat for wildlife and are easier to maintain.

DEVELOPMENT PROPOSAL / ELEMENTS

The final master plan site improvements include:

- A designated park entrance at the corner of SE Brae and SE Bowman Streets

- A park entry sign
- Bike parking with 3 bike racks
- A small shelter with 2-3 picnic tables
- Accessible play area with adjacent curb cut for maintenance vehicle access
- 2 picnic tables adjacent to the play area
- A meandering concrete pathway around the perimeter of the site
- A multi-use trail connection from the west end of SE Bowman St to the end of SE Where Else Lane. Construction of this element will depend on ownership and timing of the neighborhood cross-circulation plan
- Perimeter Fencing
- Evergreen and Deciduous trees, scattered around the perimeter of the site near the pathway to keep the central lawn area open for informal active use
- A small storm water detention area with native planting to treat and collect storm water runoff from the site
- Native ornamental shrub planting
- Low native evergreen screening shrubs on the north edge of the park
- An area for a possible seasonal toilet
- 2 Benches

SUMMARY

NCPRD will make improvements to the park when funding for the whole park is available. Initial cost estimates were developed and provided to NCPRD to provide an initial estimate for future budgeting and planning purposes. The cost estimates and project elements are subject to change due to further refinements that may occur as the final park design is completed. Funding for construction of this park is not available at this time. This plan will make it possible for NCPRD to apply for grants and solicit partnerships to help complete improvements.

This plan is conceptual in nature. Final decisions regarding dimensions, materials and precise locations of improvements will be determined per all applicable regulatory requirements and as funding is available.

NCPRD will coordinate improvements with the City of Milwaukie and will follow necessary land use processes to ensure elements are consistent with all City policies and codes. NCPRD is also committed to making sure all regulatory permits have been acquired prior to project commencement (eg. Army Corps of Engineers, Division of State Lands, etc.)

BOWMAN-BRAE PARK MASTER PLAN

REFINED CONCEPT

APRIL 20, 2015







CITY OF MILWAUKIE & NORTH CLACKAMAS PARKS AND RECREATION DISTRICT

BOWMAN-BRAE PARK MASTER PLAN APPENDIX

FINAL REPORT 4.20.2015

lango.hansen



RS68



Large Flexible Open Lawn for Active Play



Winding Walking Pathways



Picnic Shelter



Small Play Area with Structured Play Elements



Perimeter Fence

Note: Precedent images are only shown as examples, and are not proposed specific elements.



Low Native Shrubs and Groundcover



Open Lawn



Evergreen Trees Limbed Up



Low Evergreen Hedge at Perimeter Fence



Stormwater Planting

Note: Precedent images are only shown as examples, and are not proposed specific elements.

APPENDIX : EARLY DESIGN OPTIONS

PUBLIC PROCESS

Two public meetings were held to discuss design options and gather neighbor feedback. At the first public meeting, the site analysis and existing conditions materials were presented along with three initial master plan concepts. Meeting attendees were asked to actively participate in the group discussion, a breakout session with consultants and staff, review materials, and place their comments on notes directly on the plans. Public comments from the first meeting were incorporated into a final master plan concept that was presented at the second public meeting.

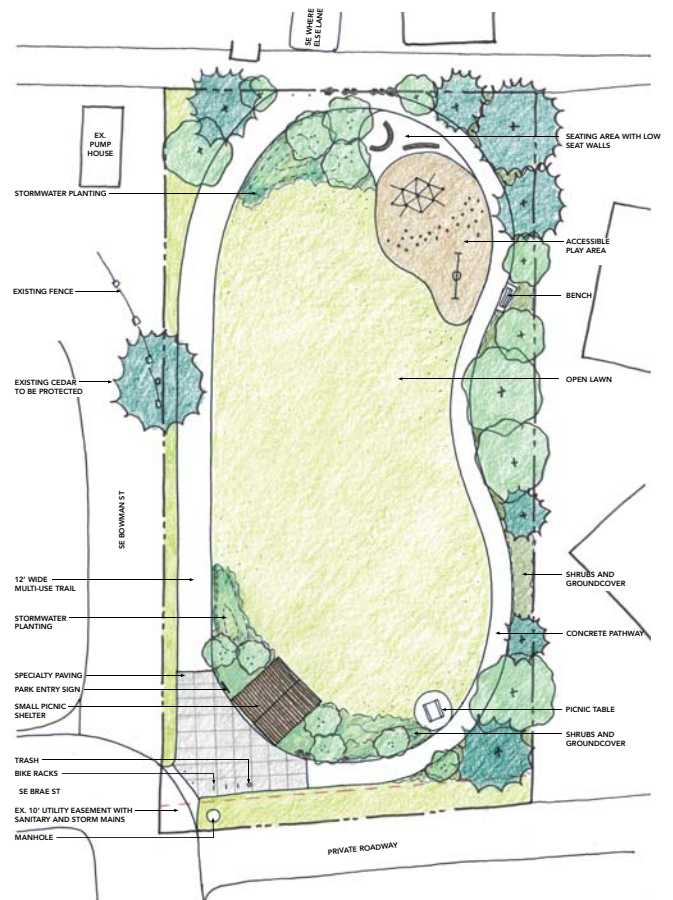
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Comments from the first public meeting significantly influenced the design of the final master plan. From the public meetings we heard that in general, the neighbors want to keep the feel of the park simple, without a lot of programmed elements. Protecting the existing cedar is important to them, and they like the size and feel of the existing open lawn area, but would like to see perimeter planting as a buffer between the park and adjacent residences. The neighbors want to keep the multi-use trail connection as minimal as possible so as to preserve as much of the site for park use.

OPTION 1 : FLEXIBLE PLAY

Option 1 provides opportunities for flexible play. A large open lawn area is kept open for diverse informal active play such as throwing a ball or flying a kite. A permeable paver entry plaza is located at the park's main entrance at the corner of SE Bowman Street and SE Brae Street to offer a point of arrival and group gathering area. A small shelter with 2-3 picnic tables sits at the main entrance for informal picnics and shelter from the elements. Native planting with a small stormwater treatment area surround the shelter. A picnic table located in the northeast corner of the site offers a sunny picnic spot. There is a small play area in the northwest corner of the site large enough to provide nature play and structured play opportunities. A nearby bench offers seating and viewing opportunities. Two curved seat walls on the west side of the play area provide flexible seating areas that may also be used for small gatherings. A second stormwater treatment garden is located on

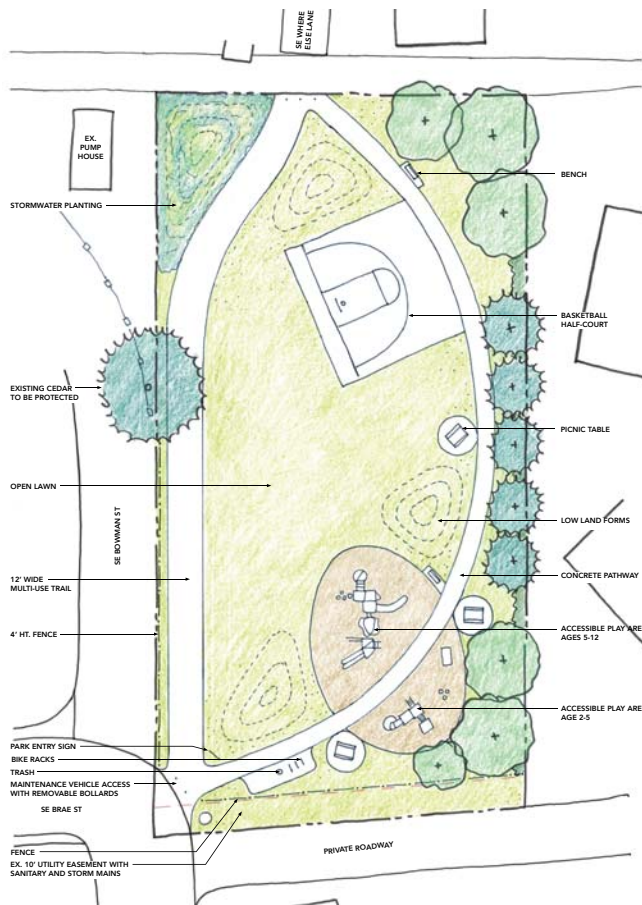
the west edge of the park to treat the majority of site runoff. Low native shrubs and groundcover offer visual interest and separation from the adjacent residences. A meandering concrete pathway creates an accessible walking loop and connects all site features. All site features are designed to be accessible. Split-rail fencing is located around the south, east, and west perimeters to delineate the park boundary.



Option 1

OPTION 2 : ACTIVE PLAY

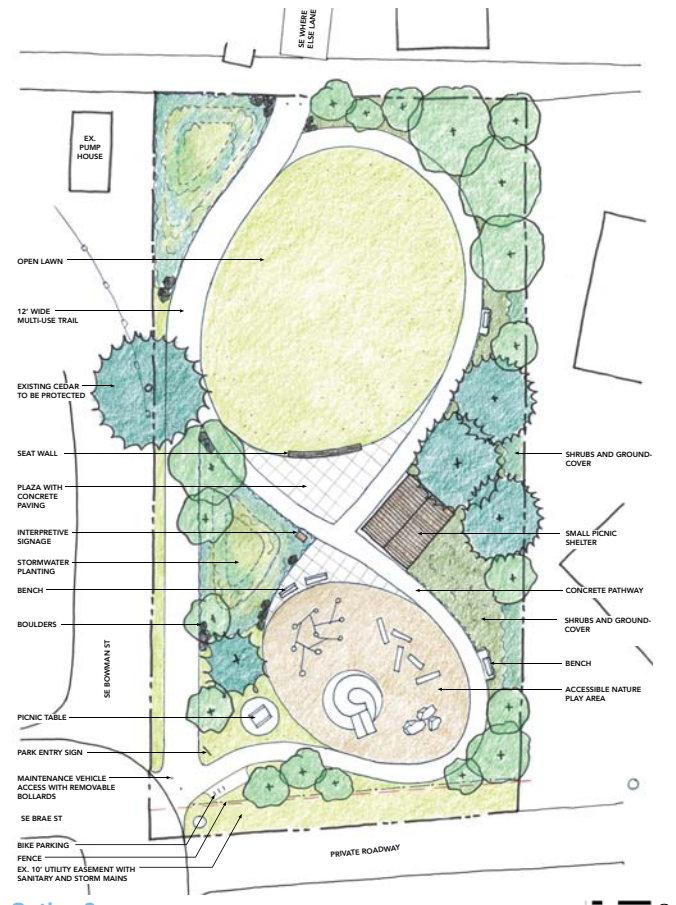
Option 2 provides the most opportunities for active play. The main looped walking pathway winds past low earth mounds that enclose the pathway, offer visual interest, and provide play potential. A larger play area with room for separate age groups on either side of the pathway is located on the east edge of the park. Picnic tables and benches for families are located near the play area. A small half basketball court is located on the northwest corner of the site to provide active recreation opportunities for a variety of ages. Deciduous and evergreen trees are planted along the park's north boundary to provide visual interest and separation from the neighboring residences. A stormwater treatment area is located on the southwest corner of the site to treat site runoff. Split-rail fencing is located around the south, east, and west perimeters to delineate the park boundary.



Option 2

OPTION 3 : PASSIVE / NATURE PLAY

Option 3 provides opportunities for passive recreation and structured nature play. An accessible nature play area with manufactured play elements is located at the east edge of the park near the entrance. A winding pathway loops through the site and creates a sense of rooms within the park for diversity in experiences. A small shelter is located in the center of the site with a central plaza and stone seat wall to provide opportunities for outdoor education or group gatherings. Low native shrub and groundcover planting areas surround the site to provide opportunities for educational signage related to pollinator species, native habitat and/or stormwater planting. A smaller open lawn area provides room for unstructured play such as throwing a ball or flying a kite. Stormwater treatment areas are located along the south and west edges of the site to treat site runoff. Scattered site boulders offer informal places to sit along the pathways. The east edge of the site, nearest the play area is fenced to delineate the park boundary and keep children in the park.



Option 3

APPENDIX : COST ESTIMATE

BOWMAN-BRAE PARK							
Master Plan Cost Estimate							
Lango Hansen Landscape Architects							
04.20.2015							
Item		Quantity	Unit	Cost/Unit	Cost	Subtotal	Total
SITEWORK							
Mobilization							
		1	ls	\$15,000.00	\$15,000		
Earthwork							
	Clear and Grub	1	ls	\$14,000.00	\$14,000		
	Rough Grading	30,200	sf	\$1.15	\$34,730		
	Fine Grading	30,200	sf	\$0.30	\$9,060		
	Erosion Control	1	ls	\$5,800.00	\$5,800		
TOTAL - Earthwork							
							\$78,590
HARD SURFACES							
	Concrete Curb in Play Area	1	ls	\$8,400.00	\$8,400		
	Concrete Area for Benches	84	sf	\$4.75	\$399		
	Concrete Trails - 6' wide	3,085	sf	\$4.75	\$14,654		
	Concrete Trails - 8' wide	770	sf	\$4.75	\$3,658		
	Concrete Area for Picnic Tables	584	sf	\$4.75	\$2,774		
	Concrete Pad for Bike Racks	137	sf	\$4.75	\$651		
	ROW - Multi-Use Trail Concrete	780	sf	\$8.15	\$6,357		
	ROW - New Curbs and Asphalt Repair	266	lf	\$16.25	\$4,323		
TOTAL - Hard Surfaces							
							\$41,215
SITE FURNISHINGS							
Furnishings							
	Shelter	1	ea	\$40,000.00	\$40,000		
	Picnic Tables	4	ea	\$1,800.00	\$7,200		
	Stone Seat Wall	6	lf	\$400.00	\$2,400		
	Benches	2	ea	\$1,400.00	\$2,800		
	Bike Racks	3	ea	\$1,150.00	\$3,450		
	Waste Receptacles	1	ea	\$1,150.00	\$1,150		
	Informational Signage	1	ea	\$5,800.00	\$5,800		
	Entry Sign	1	ea	\$3,000.00	\$3,000		
	Split-Rail Fencing at S, E, + W Perimeter	450	lf	\$35.00	\$15,750		
	Privacy Fencing at North Perimeter	239	lf	\$75.00	\$17,925		
	Bollards	3	ea	\$1,375.00	\$4,125		
TOTAL - Site Furnishings							
							\$63,600

LANDSCAPING & IRRIGATION							
Trees, Shrubs, Groundcover							
	Trees (min. 7 required)	15	ea	\$300.00	\$4,500		
	Low Shrubs and Groundcover	4,200	sf	\$3.50	\$14,700		
	Ornamental Shrubs and Groundcover	430	sf	\$5.00	\$2,150		
	Perimeter Screening Shrubs	942	sf	\$4.50	\$4,239		
	Stormwater Shrubs and Groundcover	675	sf	\$3.00	\$2,025		
	Lawn	16,945	sf	\$0.30	\$5,084		
	4" Depth Bark Mulch	1	ls	\$2,500.00	\$2,500		
Irrigation							
	Low Shrubs and Groundcover	4,200	sf	\$2.00	\$8,400		
	Ornamental Shrubs and Groundcover	430	sf	\$2.00	\$860		
	Perimeter Screening Shrubs	942	sf	\$2.00	\$1,884		
	Stormwater Shrubs and Groundcover	675	sf	\$2.00	\$1,350		
	Lawn	16,945	sf	\$0.75	\$12,709		
TOTAL - Landscaping & Irrigation							\$60,400
UTILITIES							
Utilities							
	Electric Connection to Controller	1	ls	\$5,750.00	\$5,750		
	Water Connection for Irrigation	1	ls	\$8,625.00	\$8,625		
	Stormwater	1	ls	\$18,975.00	\$18,975		
TOTAL - Utilities							\$33,350
PLAY AREA							
	Playground Equipment	1	ls	\$46,000.00	\$46,000		
	Wood Chip Safety Surfacing	225	cy	\$40.00	\$9,000		
	Drainage System	1	ls	\$5,750.00	\$5,750		
TOTAL - Play Area							\$60,750
CONSTRUCTION							
CONSTRUCTION TOTAL							\$337,905
	Permits and SDCs (1.5%)						\$5,069
	Construction Design Documents, Plans and Specifications (10%)						\$33,790
Total							\$376,764
This cost estimate is an estimate of the cost of developing the park as shown on the conceptual plan. It was developed by professionals with information available at the time. Additional work to refine the cost estimate will occur when construction plans and specifications are developed. Final project cost is unknown until the project is bid.							

Meeting Minutes

Date: September 29, 2014
 To: Katie Dunham, North Clackamas Parks & Recreation District
 From: Heidi Baker
 Project: Bowman-Brae Neighborhood Park
 RE: 1st Public Meeting – September 29, 2014

The following represents Lango Hansen Landscape Architect's understanding of comments made, and decisions reached during the meeting. The minutes are organized by subject.

Overall Character/Planting

- The neighbors would like the feel of the park to be simple, without a lot of programmed elements
- The neighbors want to make sure the existing cedar is protected
- The neighbors like the open feel of the existing grass, but would like to see perimeter planting as a buffer between the park and residences.
- There was expressed concern about leaf litter from park trees blowing into neighbors' yards.
- The City's Natural Resource Overlay Zone was mentioned, but it has been confirmed that the park is not within the Zone.
- Interest in challenging the 12 wide multi-use trail requirement, so that the trail is either more narrow or connects closer to the west edge of the park.

Desired Programmatic Elements

- Community Gardens were mentioned, but there was consensus that Bowman-Brae was not the right place for community gardens because of the small park size.
- Contemplative Areas
- Open flexible lawn area for pickup soccer or football games, informal play
- No off-leash dog area
- No Basketball court
- Small area for micro skate park, about 16'x20', but there was consensus that the neighbors had concern about potential noise and the potential for a skate spot to bring people from outside the neighborhood to the park, so it was decided that a small skate area was not desired.
- There was an interest in soft surface trails, but there was consensus and a general understanding that park elements need to be accessible, which would require access by hard surface trail.
- There was interest in a perimeter fence to control access to the site for safety.

Note: 15 attendees signed into the meeting.

Meeting Minutes

Date: November 11, 2014
To: Katie Dunham, North Clackamas Parks & Recreation District
From: Heidi Baker
Project: Bowman-Brae Neighborhood Park
RE: 2nd Public Meeting – November 6, 2014

The following represents Lango Hansen Landscape Architect's understanding of comments made, and decisions reached during the meeting. The minutes are organized by subject.

General Comments

- There was consensus in favor of the refined park concept plan
- A few additional items were discussed as desired for the future park

Desired Programmatic Elements

- Trees and/or shrubs with edible fruit
- Native plants
- Signage to restrict parking on the section of Bowman adjacent to the park, due to lack of public property for a car to turn around
- Signage to indicate private drive/property beyond the right-of-way on Bowman
- Possibility of replacing privacy fences for neighbors to the north of the site
- Dog Waste Bags

Additional Comments

- The neighbor to the west of the park property has requested confirmation about ownership of the Where Else Lane Right-of-Way.

Note: 9 attendees signed into the meeting.





CITY OF MILWAUKIE

Bowman-Brae /
Where Else Lane Access
October 18, 2022



Park Master Plan Timeline

2011: Bowman-Brae park property purchased

2014 – 2015: NCPRD park planning

2015: Planning Commission recommendation

2015: Council adoption of master plan

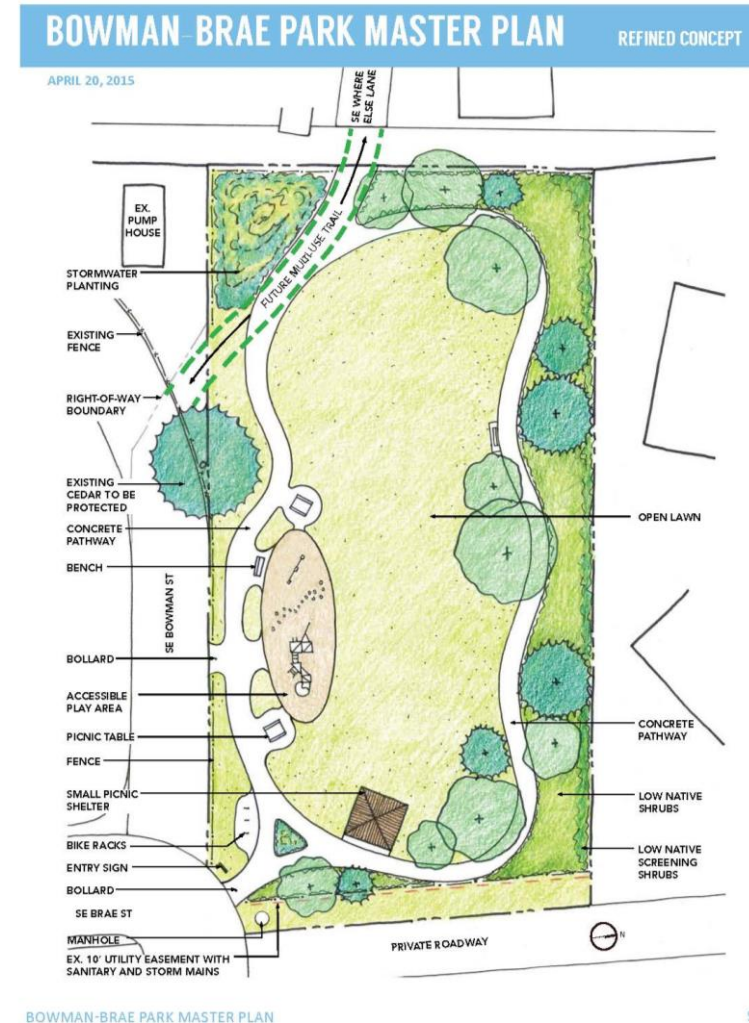
2021: City offers to purchase land for access

2022: Master plan revisions considered

2022 Master Plan Feedback

16 of the 88 (18%) surveys received during the summer engagement wrote requesting access on Where Else Lane in August 2022

Topic of discussion at October 2022 planning meeting



Where Else Lane Access Property

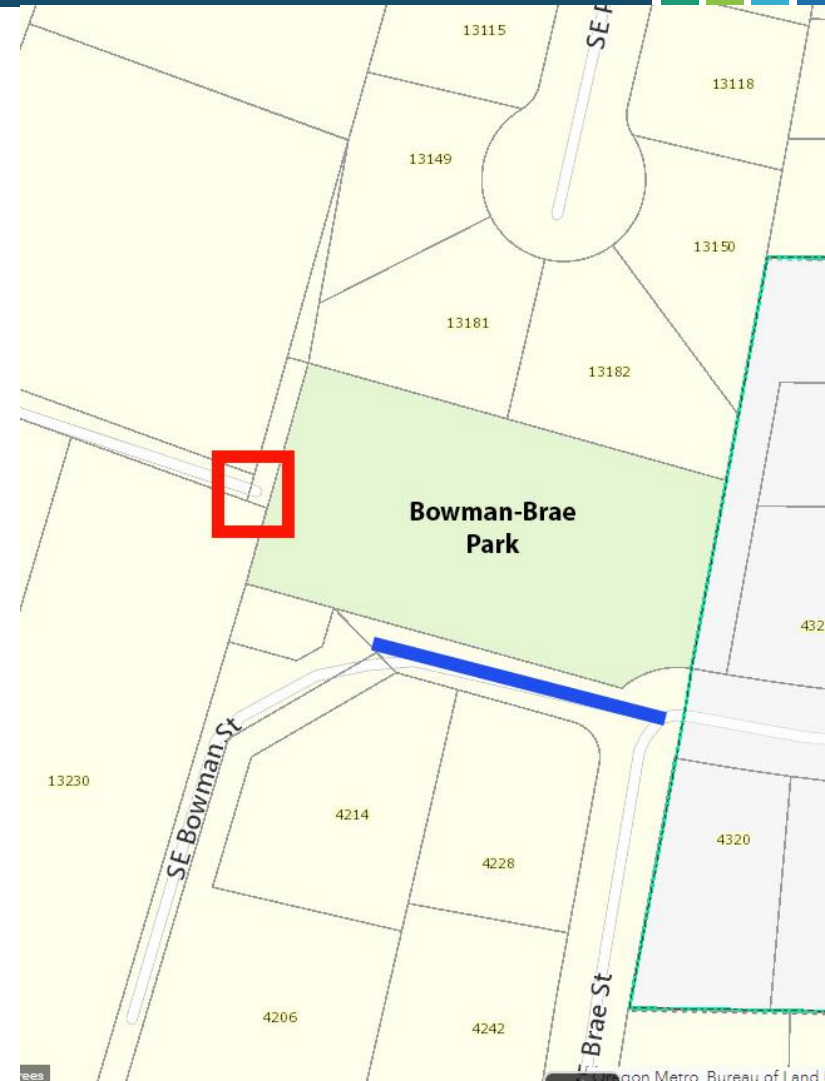
2015 Master plan established public need

2022 Plan feedback confirms public need

Consistent with all three city wide goals

Park only has public access along Bowman Street

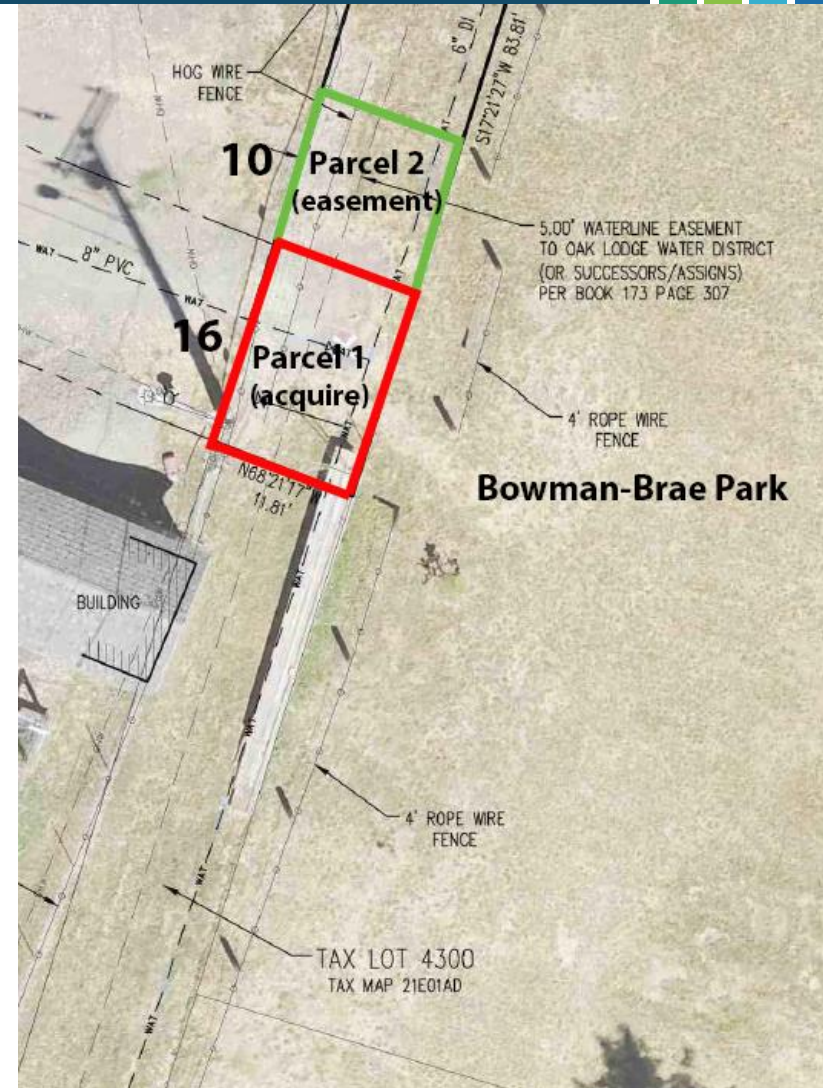
Three sides of the park currently private property



Proposal for Where Else Lane Access

City is seeking to acquire property to match ROW

City also seeks temporary construction easement



Without Access

No trespassing signs added in 2021

Fence added in 2022

Without access City residents on the west side of the park must travel an additional 0.8 miles

Much of the route around private property lacks accessible sidewalks or bike lanes



With Access

6 – 12 Ft Access path with
landscaping or fencing
screening adjacent property

Connects Where Else Lane to Bowman Street via Park

Creates a permanent public access point to park



Parks Discussion

Thank you!

Questions?

Adam M. Moore

Parks Development Coordinator

503-786-7624

moorea@milwaukieoregon.gov



Scott Stauffer

From: Kate Houston <katemhouston@gmail.com>
Sent: Monday, October 17, 2022 7:34 PM
To: OCR
Subject: Comment re Bowman Brae park access - Oct 18th, 2022 City Council meeting

This Message originated outside your organization.

While I understand and empathize with the unique property issue between Where Else Ln and the Bowman-Brae Park, I do believe it is incredibly important for the community and neighborhood to have a publicly accessible pathway between our city's public road of Where Else Lane and the public park.

This would allow park access for our neighbors on the entire west side of the park and south along Lake Rd and even those north of Lake Rd - as alternative access to the park rather than having to walk along busy Lake Rd and onto an unimproved part of Lake Rd (no sidewalk) onto Freeman Rd to reach the current single access point on Bowman and Brae streets.

I especially see a lot of families with young children on their own bikes coming to the park as I walk my dog by regularly. I would love for families and kids to have a safer path to the park than having only one access point that includes traveling along that busy unimproved section of Lake Rd. (east and west of Freeman Rd) as much as possible.

Thank you for your consideration,
Kate Houston
4200 SE Bowman St
Milwaukie OR 97222

Scott Stauffer

From: Terra Vandewiele <TerraVandewiele@gmail.com>
Sent: Monday, October 17, 2022 7:52 PM
To: OCR
Cc: Adam Moore
Subject: Bowman-Brae Park - Citizen Comment for 10.18.2022 Council Meeting

This Message originated outside your organization.

To Whom It May Concern,

I just attended a very well done presentation on the future of Bowman Brae Park at our local Milwaukie Ledding Library.

At the aforementioned meeting, it was brought to my attention that there would be a City Council meeting on Oct. 18th, 2022 where the issue of access to Bowman Brae Park from Where Else Lane would be discussed. I am unable to attend as the meeting coincides with my work schedule, however, I did want to make my voice known on the matter.

We have loved this little park for years. We used to enjoy accessing it from both sides without needing to take the more dangerous route via Lake Road. In the last few years/months we became aware of the sale of the tiny strip of property between Bowman Brae Park and Where Else Ln. The owners there have since put up a fence and disallowed their neighbors access to the park via Where Else Lane.

Apart from this creating an access issue for many neighbors, it has become a hazard to the well being of the community. On days that I have been enjoying the park, I have personally witnessed people walking down Where Else Lane (presumably looking for access to the park, or just out on a walk in their neighborhood) being met with hostile actions from the homeowners at the Where Else Lane property. I have seen the Where Else Lane homeowners physically intimidate, aggressively approach, yell, scream even (literally scream profanities), and physically chase people back up the street. It has created a real sense of danger and fear in and around the area of the park. I'm sad to say that I rarely frequent the park anymore and when I do I stick to the far Brae side of the park. I'm simply afraid of the neighbors given the hostility I've witnessed, even though we only access the park from the Bowman-Brae side since the land was sold. The hostility and unneighborly behavior by the homeowners have made Bowman-Brae Park feel like an unsafe area.

Our hope for the City Council, Bowman-Brae Park and the Neighborhood is that access can be restored to the park from Where Else Lane, that the Where Else Lane homeowners can find it in their hearts to allow neighbors to walk on our city/county streets, and that the park can be loved and enjoyed by all without fear.

Thank you for your consideration,

~Terra

Scott Stauffer

From: Willi Horner-Johnson <whornerjo@gmail.com>
Sent: Monday, October 17, 2022 9:25 PM
To: OCR
Subject: comment on Bowman-Brae Park -- access path resolution of necessity

This Message originated outside your organization.

Dear City Council Members,

I encourage Council to adopt a resolution declaring the public necessity to acquire a public right-of-way (ROW) and temporary construction easement to construct a multi-use connection and provide public access to Bowman-Brae Park from Where Else Lane.

Access to the park from Where Else Lane is crucial for allowing neighbors to the west to be able to safely get to and utilize the park. A pathway through the park is also important to allow residents on either side of the park to safely traverse to other parts of the neighborhood without a lengthy and unsafe detour via a section of busy Lake Road that has no sidewalk or bike lane. Acquiring a small parcel of land between Where Else Lane and the west end of the park will therefore provide substantial benefit to the public. I strongly support adoption of the resolution as proposed, and I look forward to a time when my children and I can once again safely walk to the park!

Thank you for considering my comments.

Sincerely,
Willi Horner-Johnson
Lake Road Neighborhood resident

E Lake Rd

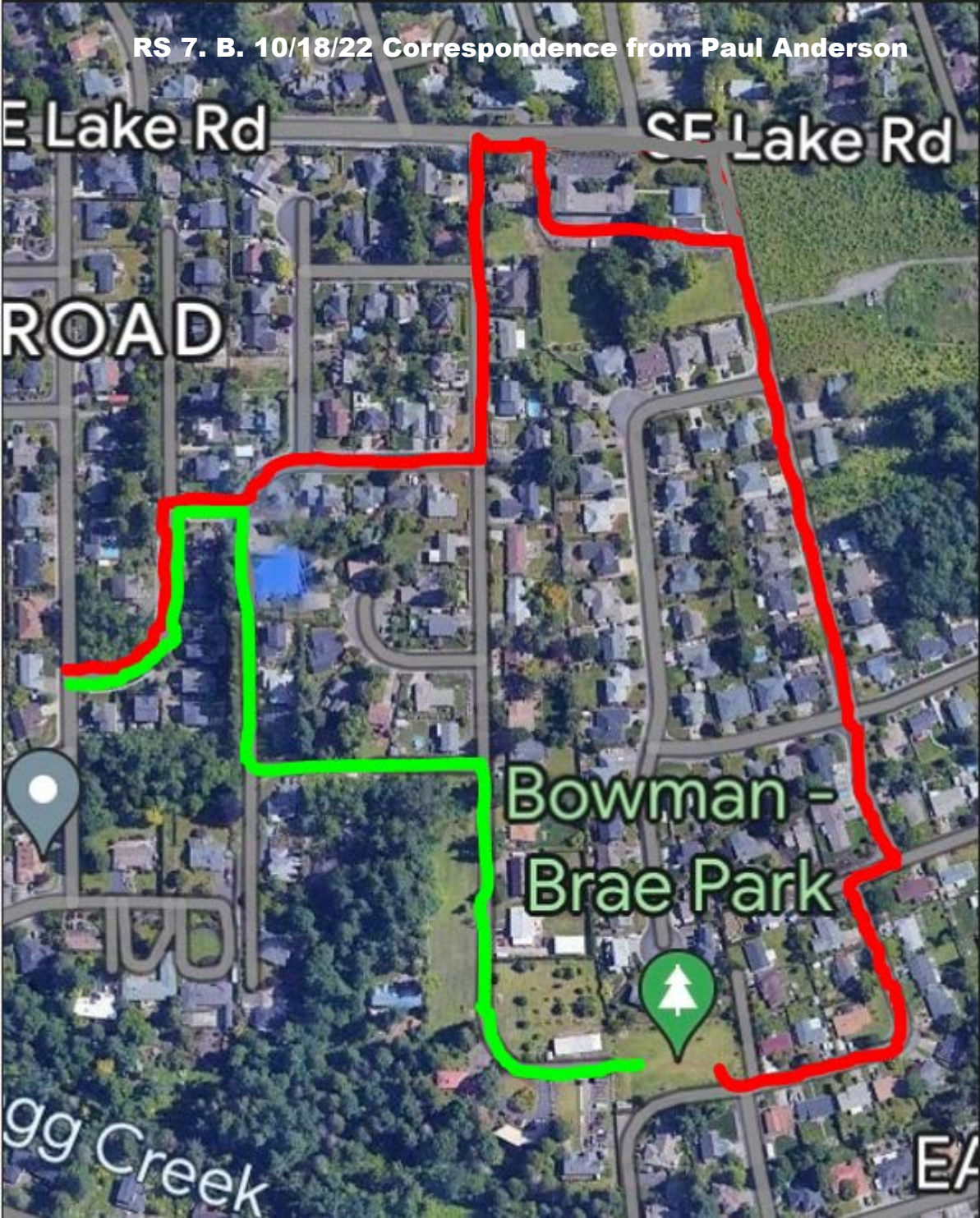
SE Lake Rd

ROAD

Bowman -
Brae Park

gg Creek

EA



SE Somewhere Dr



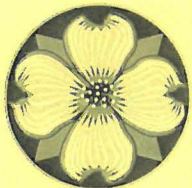
A suburban street scene with a green street sign reading "SE Somewhere Dr" on the left. The road is paved and has some cracks. On the right, there are several green and blue recycling bins, a blue car, and a house with a red roof. The background is filled with tall evergreen trees under a clear blue sky.











**CITY OF MILWAUKIE
CITY COUNCIL**

10722 SE Main Street
P) 503-786-7502
F) 503-653-2444
ocr@milwaukieoregon.gov

Speaker Registration

The City of Milwaukie encourages all citizens to express their views to their 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: Paul Anderson

Organization:

Address:

Phone:

Email:

Meeting Date: _____

Topic: Bowman Brae Park Access

Agenda Item You Wish to Speak to:

☐ #4 Audience Participation

☐ #5 Public Hearing, Topic:

☐ #6 Other Business, Topic:

You are Speaking...

☒ in Support

☐ in Opposition

☐ from a Neutral Position

☐ to ask a Question

Comments:

Scott Stauffer

From: OCR
Sent: Tuesday, October 18, 2022 5:19 PM
To: Paul Anderson
Cc: OCR
Subject: RE: Bowman Brae Park Resolution of Necessity Resolution

Hi Paul - public comments on the Bowman-Brae Park item will be taken at the discretion of the chair (Mayor Mark Gamba) and in general, Council usually does take comment when community members show-up to speak on a matter. You are welcome to come to city hall and fill out a yellow comment card and turn it in to staff so the mayor knows you're there to speak on the topic. And, I can have the photos available to show while you are speaking.

SCOTT STAUFFER, CMC
City Recorder
he • him • his

City of Milwaukie
p: 503.786.7502

-----Original Message-----

From: Paul Anderson <paul@versengr.com>
Sent: Tuesday, October 18, 2022 5:07 PM
To: OCR <OCR@milwaukieoregon.gov>
Subject: Bowman Brae Park Resolution of Necessity Resolution

This Message originated outside your organization.

Scott,

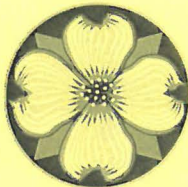
Is there going to be any public input regarding access to Bowman Brae Park? If so, I would like to make some comments at the meeting.

I have attached some photos that I would like you to show while I am speaking (if possible). I have numbered them in the order that I would like them to be shown.

Please let me know if this will work.

Thanks,

Paul



**CITY OF MILWAUKIE
CITY COUNCIL**

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Speaker Registration

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Name: Mona Thomasen

Organization:

Address: 3446 SE Licyntra Lane
Phone: 425 941-8373
Email: Mona.j.thomasen

Meeting Date: Oct 18 2022 **Topic:** _____

Agenda Item You Wish to Speak to:

☐ #4 Audience Participation

☒ #5 Public Hearing, Topic: Bowman-Brace

☐ #6 Other Business, Topic:

You are Speaking...

☒ in Support

☐ in Opposition

☐ from a Neutral Position

☐ to ask a Question

Comments:

Scott Stauffer

From: OCR
Sent: Tuesday, October 18, 2022 6:22 PM
To: Lupin Hipp; OCR
Subject: RE: Bowman Park

Hello Lupin – taking public comment during the Bowman-Brae Park agenda item is at the discretion of the chair (Mayor Gamba), but usually they will take comments if they know there is interest in speaking. At that part of the meeting, please raise your hand if you are on Zoom or if you are in-person at city hall please submit a yellow comment card to staff.

SCOTT STAUFFER, CMC

City Recorder
he • him • his
City of Milwaukie
p: 503.786.7502

From: Lupin Hipp <lupinhipp@gmail.com>
Sent: Tuesday, October 18, 2022 6:09 PM
To: OCR <OCR@milwaukieoregon.gov>
Subject: Bowman Park

This Message originated outside your organization.

If there is an opportunity to speak as a neighbor on SE Licynrta Lane about the importance to have a connection to the new park from SE Where Else Lane, I would like to speak.

If there is not an opportunity to speak-this is my main message:

Without this connection, joggers, walkers, and bikers of ALL ages are re-routed up to Lake Road to access the park. This is a busy street with no sidewalk which is dangerous. It is crucial that there be a safer, less trafficked connection to Bowman Park.

I will be attending through zoom.

Thank you,

--
Lupin

COUNCIL STAFF REPORT

To: Mayor and City Council

Date Written: Oct. 6, 2022

Reviewed: Jen Garbely, Assistant City Engineer, and
Mandy Byrd, Development Project Manager

From: Kelly Brooks, Assistant City Manager

Subject: **City Hall Alternative Contracting**

ACTION REQUESTED

Council is asked to approve the attached resolution to adopt Construction Manager/General Contractor (CM/CG) as the alternative contracting method for renovation of the new city hall located at 10501 SE Main Street.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

[June 4, 2019:](#) Council directed staff to explore funding options for the acquisition of 10501 SE Main Street, hire a real estate broker to negotiate the purchase, and initiate appraisals on city owned properties (the Pond House and Bertman House) to help fund the potential acquisition.

[June 18, 2019:](#) Council authorized staff to investigate the building acquisition and develop a financing strategy for a potential purchase.

[July 16, 2019:](#) Council approved [Resolution 49-2019](#) authorizing the city manager to negotiate terms for the possible acquisition of 10501 SE Main Street for use as a new city hall.

[August 27, 2019:](#) Council approved [Resolution 57-2019](#) authorizing a purchase and sale agreement (PSA) for the acquisition of 10501 SE Main Street to use as a new city hall.

[December 17, 2019:](#) Council authorized [Resolution 75-2019](#) authorizing the city manager to waive general conditions and Council waiver approval and delegation of authority to the city manager to finalize lease negotiations, waive the leaseback condition and execute a lease with the seller to remove all contingences from the PSA for the acquisition of 10501 SE Main Street for use as a new city hall.

[February 18, 2020:](#) Council supported placing council chambers and public facing operations on the third floor. Council also asked staff to include an improved entrance and stairs in the new design of the building.

[January 4, 2022:](#) Council met with staff to confirm basic elements of the project including placement of council chambers and a public facing front counter on the third floor.

[March 15, 2022:](#) Council met with staff to receive updated schedule and project management information.

[June 21, 2022:](#) Council provided direction the preferred layout of the future council chambers.

[July 19, 2022:](#) Staff updated council on the revised chambers layout.

[October 4, 2022](#): Staff provided an update on design in advance of going to bid for a general contractor for the project.

ACTIONS TAKEN SINCE LAST UPDATE

- Staff, in consultation with our design consultants, determined that the number of design alternatives was not conducive to a successful low bid procurement process.
- Staff drafted findings to justify the use of an alternative procurement method.
- Staff modified the project bid schedule to reflect this change while still maintaining the overall project schedule and targeted move in date.
- The project elements presented as base versus alternate remain the same as what was shared with council on October 4. The change in procurement allows us to identify which alternates can be included in the final project prior to completing all the design work necessary for construction.

BACKGROUND

The CM/GC process is a unique method used to accelerate project delivery. In the CM/GC process, the project owner hires a contractor to provide feedback during the design phase before the start of construction. To utilize the process, the city must conform to Oregon Revised Statute (ORS) 279C.335 (1) and (2) and the city's Public Contracting Rule (PCR) 10.105A, which permit a local contract review board to exempt certain contracts from traditional competitive bidding. To exempt a project, a local contract review board must show through findings that an alternative contracting process is unlikely to encourage favoritism or diminish competition and results in cost savings.

The CM/GC process is broken down into two contract phases. The first contract phase, the design phase, allows the contractor to work with the designer and the project owner to identify risks, provide costs projections, and refine the project schedule. Once the design phase is complete, the contractor and project owner negotiate on the price for the construction contract. If all parties agree with costs, then the second contract phase, the construction phase, is kicked off and construction begins.

In the case of the new City Hall project, the design phase will be very short given the extensive amount of design work already completed on the project. It will, however, allow us to efficiently and accurately cost out design alternatives. Once those decisions are made, we can move quickly to permitted construction documents for only those elements that will be constructed.

There are advantages to using the CM/GC process. The contractor acts as the consultant in the design process and can offer new innovations, best practices, and reduced costs and schedule risks as a result of the contractor's years of proven experience doing the actual work. This process also allows the project owner to employ new innovations, assist in the design process, and make informed decisions regarding cost and schedule.

SCHEDULE OF UPCOMING ACTIONS

- October 19, 2022: Invitation to Bid on General Construction Contract.
- November 15, 2022: Notice of Intent to Award.
- December 6 or 20, 2022: Guaranteed Maximum Price Award at Council.
- Target Move in Date: October 1, 2023.

BUDGET IMPACTS

The city hall fund includes \$1,975,000 for design and construction of this project.

WORKLOAD IMPACTS

The city manager, city attorney, administrative services director, community development director, and public works director will be working together to facilitate tenant improvements.

COORDINATION, CONCURRENCE, OR DISSENT

All departments that will either move to the building, or be responsible for elements of the project, were involved in design.

ATTACHMENTS

1. Resolution
 - A. Exhibit A: Findings

COUNCIL RESOLUTION No.**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ACTING AS THE LOCAL CONTRACT REVIEW BOARD, ADOPTING FINDINGS TO ALLOW ALTERNATIVE CONTRACTING FOR THE NEW CITY HALL PROJECT.**

WHEREAS the city adopted Public Contracting Rules (PCRs) by Resolution 52-2022 to be in effect as of June 30, 2022, and

WHEREAS the construction manager/general contractor (CM/GC) form of alternative contracting is allowed per PCR 10.105.A, and

WHEREAS the use of a CM/GC procurement for the new city hall project complies with PCR 10.105.A by allowing the city to select a contractor based on qualifications and expertise beyond normal construction work, and

WHEREAS the use of a CM/GC procurement for the new city hall project requires the inclusion of equity criteria in its solicitation and promotes contracting opportunities to minority-owned, women-owned, service-disabled, veteran-owned, and emerging small businesses.

Now, Therefore, be it Resolved by the City Council of the City of Milwaukie, Oregon, acting as the local contract review board for the City of Milwaukie, that the Findings in the attached Exhibit A are hereby adopted pursuant to the authority granted to the board by Milwaukie Municipal Code (MMC) Chapter 3.05.030, to allow the use of the construction manager/general contractor alternative contracting method for the new city hall project.

Introduced and adopted by the City Council on **October 18, 2022**.

This resolution is effective immediately

Mark F. Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney

EXHIBIT A

FINDINGS IN SUPPORT OF ALTERNATIVE CONTRACTING METHOD FOR THE MILWAUKIE CITY HALL PROJECT

Introduction

Use of Alternative Contracting methods, such as Construction Manager/General Contractor (CM/GC), is made possible under ORS Chapter 279C and the city's adopted Public Contracting Rules (PCR), which permits certain contracts or classes of contracts to be exempt from competitive public bidding under strict procedural safeguards. Like other alternative contracting methods, CM/GC has significantly different legal requirements than a typical design-bid-build project delivery method.

Pursuant to ORS 279C.335 and PCR 10.110, a local contract review board may exempt specific contracts from traditional, competitive bidding by showing that an alternative contracting process is unlikely to encourage favoritism or diminish competition and will result in cost savings and other substantial benefits to the public agency. PCR 10.110.D provides for public notice and opportunity for public comment on draft findings in favor of an exemption before final adoption.

Under ORS 279C.330, "findings" means the justification for a contracting agency conclusion that includes, but is not limited to, information regarding:

- Operational, budget, and financial data;
- Public benefits;
- Value engineering;
- Specialized expertise required;
- Public safety;
- Market conditions;
- Technical complexity; and
- Funding sources.

Findings

Operational, Budget, and Financial Data

In April 2019, the city was presented with the opportunity to purchase the building located at 10501 SE Main Street. Staff explored the opportunity in response to the city's documented need for additional workspace and need to consolidate public facing operations to best serve the public.

The project includes the following major elements and goals:

- Consolidated Front Counter Design and Operations
- Council / Municipal Court Chambers
- Creation of Public Spaces / Accessibility: community room, wayfinding, and inclusive design

CM/GC provides opportunities for cost saving in a variety of ways. The inherent flexibility and openness of the process allows the City to more easily make appropriate changes as necessary to meet the project budget.

The firm Guaranteed Maximum Price (GMP) contract amount to be negotiated includes the expected cost to construct the project, the CM/GC firm's fee, and a contingency amount that the CM/GC believes should be available to cover changes to the proposed scope.

Public Benefit

The project will be built with a qualified contractor that has experience with public tenant improvement projects. City staff have worked with design consultants, and conducted extensive stakeholder outreach, to design improvements that will make the new city hall accessible and functional for Milwaukie staff and customers.

Value Engineering

The CM/GC process provides many benefits and opportunities for cost savings and schedule, a process that will be necessary to achieve the desired improvements within the limits imposed by available funding and timeline. Accurate costs for build alternatives provided by the CM/GC throughout the constructability reviews will aid the project and allow the City to make an informed cost-benefit tradeoff. The CM/GC will evaluate the design drawings developed by Bainbridge to make recommendations to the Project Team regarding which elements can be constructed and enhanced to provide the greatest value to the city. The city must vacate the current city hall (address) by October 1, 2023 to facilitate new ownership and redevelopment of the site. Use of CM/GC will help the city ensure that we do not jeopardize our relocation timeline thereby creating challenges for a critical redevelopment project elsewhere on Main St.

The CM/GC process also requires the city to award at least 20% of the total score towards equity criteria, increasing the contracting opportunities and promoting economic growth to disadvantaged businesses. A portion of the 20% will be awarded to proposers that are certified with the State of Oregon Certification Office for Business Inclusion and Diversity (COBID), while the remaining equity score may be based on (but is not limited to) whether proposers award or attempt to award subcontracts to COBID-certified businesses or commit to a certain percentage of materials/labor be given to COBID-certified businesses through subcontracts.

All of these beneficial actions by the CM/GC process will improve design, expedite construction, eliminate potential for costly change orders, and encourage utilization of disadvantaged businesses. The benefits of value engineering are not available with the low bid process.

Specialized Expertise Required

Integrating new systems into older building systems, constructing special purpose public meeting rooms, and constructing a new city council chambers that functions well for hybrid meetings (i.e., both in-person and virtual happening in the same meeting) is essential to a successful project. The general contractor must be able to work in concert with specialized audio visual and acoustic engineers to ensure that council chambers will function well for many years into the future despite the ever-changing landscape of technology.

The CM/GC selection process is based on qualifications, with price as a factor. The fee is, however, less important than the overall qualifications and specialized expertise of the selected CM/GC. The City will benefit by acquiring a CM/GC, that has established experience and specialized expertise to manage this project. A low bid process does not provide an opportunity to obtain the most qualified contractor with the specialized expertise needed for the project. In addition, the contractor will be able to provide expertise on building materials, availability and cost to allow city staff to make value engineering decisions.

Public Safety

The Project will provide for safe public access and compliance with ADA requirements. All work during the project will be done in accordance with Oregon Occupational Safety and Health Administration (OR-OSHA) safety regulations. The CM/GC selected will be highly qualified and capable to show evidence of construction safety practices that are at the highest level of integrity.

The CM/GC method of delivery is a team approach and provides for a high level of responsibility and visible adherence to public safety. The contractor's performance on prior projects in satisfying these safety needs, and inclusive design / ADA compliance, can be determined as part of the City's contractor selection process. This determination is not available under the low bid process.

Market Conditions

The CM/GC contracting process is a modern construction delivery method used by both public and private organizations. The CM/GC is tasked with keeping the Project Team up-to-date on the latest construction techniques and products. The CM/GC will inform the Project Team of current market conditions, labor and materials availability, and construction methodologies that can reduce design and construction time and costs.

Using the CM/GC process will allow trades and vendors to become involved earlier in the process. The current market for construction services is becoming increasingly tight with substantial increases in material and labor costs for public and private construction projects. By allowing the involvement of trades earlier in the process, the CM/GC will be able to acquire and involve higher quality subcontractors, which will lead to higher quality product for the City and its residents. Regardless, the CM/GC will be required to bid the major subcontracts for the project. These benefits are not available under the low bid process.

Technical Complexity

The project has significant technical complexities that will be best addressed through a team approach, with the CM/GC working with the City and design consultant to solve specific challenges identified during the pre-construction phase. The project is technically complex due to the extensive alternate list which will define the final scope and use of existing materials, furniture and technology on site. This creates opportunities for cost savings but complicates finalizing design, budget, schedule, and permitting due to the number of alternates.

The CM/GC process enables the City to competitively select a prime contractor who has the necessary competence to address the technical complexities of this project and provide quality workmanship, dependable performance, fair and reasonable pricing, and efficient management as Project Team member. Under a low bid process, the technical competence of the contractor is difficult to evaluate.

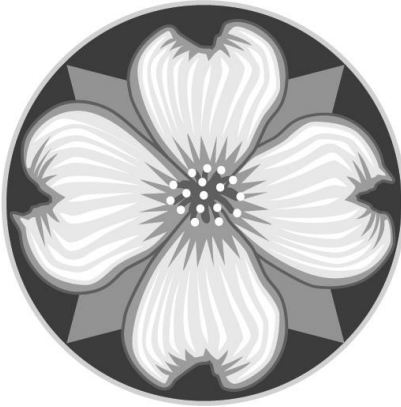
Funding Sources

Funding for this project will come from the 2023 to 2025 Biennium Budget adopted by City Council on add date 2022. The CM/GC process, with its negotiated contract price, will provide the necessary predictability.

The CM/GC method of contracting provides the greatest cost controls for limited budgets and therefore benefits the City. The team approach, the schedule, the value analysis, and constructability reviews provide the best and most effective cost analysis. It is critical, and also consistent with the spirit of collaboration encouraged throughout the process, that everyone on the Project Team works towards a budget of which they can take ownership.

Summary

After careful consideration, the City has found the Alternative Contracting Method CM/GC more appropriate than a traditional low bid process to meet the overall project objectives for the New City Hall project. Upon approval of the alternative contracting method, the city plans to release the formal solicitation on or near October 19, 2022.



RS Agenda Item

9

Council Reports

COUNCIL RESOLUTION No.**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON,
RECOMMENDING SUPPORT FOR HOLD POLITICIANS ACCOUNTABLE – MEASURE 113.**

WHEREAS the State of Oregon, and by extension, the residents of Milwaukie face a growing list of issues like climate chaos, lack of behavioral health care, underfunded schools, gun violence, record homelessness and more, all of which are best solved at the state level, and

WHEREAS Oregonians everywhere expect their legislators to show up to work and do their jobs, and

WHEREAS groups of members of the Oregon State Legislature have repeatedly walked-out during the legislative session as a strategy to cause important bills addressing these issues to die, and

WHEREAS Oregon has an abnormally strict quorum rule requiring two-thirds of the body be present, and

WHEREAS Oregonians everywhere expect their legislators to show up to work and do their jobs, and

WHEREAS excused absences are liberally and fairly given for any legitimate reason, and

WHEREAS we must be able to hold our elected officials accountable for their failure to show up and do their jobs, and

WHEREAS Ballot Measure 113 disqualifies any lawmaker from holding office the following term if they fail to attend ten or more floor sessions without an excused absence.

Now, therefore, be it resolved, that the City Council of the City of Milwaukie, Oregon, does encourage and recommend that voters support this measure by voting for it so that the important work of the state can continue without unprofessional interruptions.

Introduced and adopted by the City Council on **October 18, 2022.**

This resolution is effective immediately.

ATTEST:

Mark F. Gamba, Mayor

APPROVED AS TO FORM:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney

COUNCIL RESOLUTION No.**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON,
RECOMMENDING SUPPORT FOR HOLDING POLITICIANS ACCOUNTABLE – MEASURE 113.**

WHEREAS the State of Oregon, and by extension, the residents of Milwaukie face a growing list of issues like climate chaos, lack of behavioral health care, underfunded schools, gun violence, record homelessness and more, all of which are best solved at the state level, and

WHEREAS Oregonians everywhere expect their legislators to show up to work and do their jobs, and

WHEREAS groups of members of the Oregon State Legislature have repeatedly walked-out during the legislative session as a strategy to cause important bills addressing these issues to die, and

WHEREAS Oregon has an abnormally strict quorum rule requiring two-thirds of the body be present, and

WHEREAS excused absences are liberally and fairly given for any legitimate reason, and

WHEREAS we must be able to hold our elected officials accountable for their failure to show up and do their jobs, and

WHEREAS Ballot Measure 113 disqualifies any lawmaker from holding office the following term if they fail to attend ten or more floor sessions without an excused absence.

Now, therefore, be it resolved, that the City Council of the City of Milwaukie, Oregon, does encourage and recommend that voters support this measure by voting for it so that the important work of the state can continue without unprofessional interruptions.

Introduced and adopted by the City Council on **October 18, 2022.**

This resolution is effective immediately.

ATTEST:

Mark F. Gamba, Mayor

APPROVED AS TO FORM:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney

COUNCIL RESOLUTION No.**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, URGING MILWAUKIE VOTERS TO VOTE YES ON MEASURE 114 TO ENHANCE THE SAFETY OF OUR SCHOOLS AND OUR COMMUNITY.**

WHEREAS children and adults simply going about their daily lives are increasingly falling victim to gun violence, and

WHEREAS Oregon has a higher suicide rate than the national average,¹ and firearms are the leading means of committing suicide in the United States,² and

WHEREAS assault weapons and high-capacity ammunition magazines, which are not necessary for either hunting or for self-defense, are widely available, and the national system of background checks has many loopholes and does not require that a background check be completed prior to gun purchase, and

WHEREAS while driving a car, serving food, serving alcohol, and many other activities require a demonstration of proficiency to obtain a license, no training or license is currently required to purchase a firearm, and

WHEREAS studies have shown that requiring a license to purchase a firearm result in significant reduction in both homicide and suicide rates; a study from Connecticut showed a reduction of the homicide rate by 40% and in the suicide rate by 15%,³ and

WHEREAS teachers, medical professionals, religious leaders, and law enforcement officials across Oregon support Measure 114 as a commonsense measure for reducing gun violence while protecting Second Amendment rights.⁴

Now, therefore, be it resolved that the City Council of the City of Milwaukie, Oregon, urges all voters to vote Yes on Measure 114 to enhance the safety to our schools and our community.

¹ Source: Centers for Disease Control at [Suicide Rates by State | Suicide | CDC](#)

² Source: Centers for Disease Control at [Suicide Data and Statistics | Suicide | CDC](#)

³ Source: Johns Hopkins University Center for Gun Violence Prevention and Policy at [Licensing - Research - Johns Hopkins Center for Gun Violence Prevention and Policy - Centers and Institutes - Research - Johns Hopkins Bloomberg School of Public Health \(jhsph.edu\)](#)

⁴ Source: Yes on 114 campaign at [NEWS | voteyeson114](#) and [ENDORSEMENTS | voteyeson114](#)

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This resolution is effective immediately.

ATTEST:

Mark F. Gamba, Mayor

APPROVED AS TO FORM:

Scott S. Stauffer, City Recorder

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COUNCIL RESOLUTION No.**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, URGING MILWAUKIE VOTERS TO VOTE YES ON MEASURE 114 TO ENHANCE THE SAFETY OF OUR SCHOOLS AND OUR COMMUNITY.**

WHEREAS children and adults simply going about their daily lives are increasingly falling victim to gun violence, and

WHEREAS the federal government reports that during the 2020-2021 school year the nation experienced the highest number of school shootings in two decades, and

WHEREAS Oregon has a higher suicide rate than the national average,¹ and firearms are the leading means of committing suicide in the United States,² and

WHEREAS assault weapons and high-capacity ammunition magazines, which are not necessary for either hunting or for self-defense, are widely available, and the national system of background checks has many loopholes and does not require that a background check be completed prior to gun purchase, and

WHEREAS while driving a car, serving food, serving alcohol, and many other activities require a demonstration of proficiency to obtain a license, no training or license is currently required to purchase a firearm, and

WHEREAS studies have shown that requiring a license to purchase a firearm result in significant reduction in both homicide and suicide rates; a study from Connecticut showed a reduction of the homicide rate by 40% and of the suicide rate by 15%³, and

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Now, therefore, be it resolved that the City Council of the City of Milwaukie, Oregon, urges all voters to vote Yes on Measure 114 to enhance the safety of our schools and our community.

¹ Source: Centers for Disease Control at [Suicide Rates by State | Suicide | CDC](#)

² Source: Centers for Disease Control at [Suicide Data and Statistics | Suicide | CDC](#)

³ Source: Johns Hopkins University Center for Gun Violence Prevention and Policy at [Licensing - Research - Johns Hopkins Center for Gun Violence Prevention and Policy - Centers and Institutes - Research - Johns Hopkins Bloomberg School of Public Health \(jhsph.edu\)](#)

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