Regular Session

RS

Milwaukie City Council

MILWAUKIE CITY COUNCIL
REGULAR SESSION

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

AGENDA REVISED
APRIL 5, 2016
(Revised March 31, 2016)

2,219th Meeting

1. CALL TO ORDER

Page #

Pledge of Allegiance.

2. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

A. Ed Zumwalt Volunteer of the Year Award for 2015 Presented to David Aschenbrenner
Introduced by Mayor Mark Gamba

B. Volunteer Month Proclamation **2**

C. National Library Week Proclamation **3**

D. Startup in a Day Initiative Proclamation **4**

E. Child Abuse Prevention Month Proclamation **8**

F. Citycounty Insurance Services (CIS) Training Video
Introduced by Casey Camors, Finance Director

G. Air Quality Update
Introduced by Mayor Mark Gamba
[Presentation by Nina DeConcini, Oregon Department of Environmental Quality (DEQ) Northwest Region Administrator, will be rescheduled]

3. CONSENT AGENDA

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

A. City Council Minutes **10**
1. **March 1, 2016, Regular Session**
2. **March 15, 2016, Work Session**
3. **March 15, 2016, Regular Session**

B. Authorize Temporary Event Permit for Milwaukie Farmers' Market **24**

C. Authorize Extension of the Milwaukie Museum Lease **37**

D. Authorize Grant Application for the Business Oregon Brownfields Redevelopment Fund **39**

E. Board, Commission, and Committee (BCC) Appointments – Resolutions **66**
1. **Appointing Lauren Loosveldt to the Design and Landmarks Committee (DLC)**
2. **Appointing Mike Park as the Historic Milwaukie Representative to the Kellogg Good Neighbor Committee (KGNC)**

4. AUDIENCE PARTICIPATION

The presiding officer will call for citizen statements regarding City business. Pursuant to Milwaukie Municipal Code (MMC) Section 2.04.140, only issues that are "not on the agenda" may be raised. In addition, issues that await a Council decision and for which the record is closed may not be discussed. Persons wishing to address the Council shall first complete a comment card and submit it to the City Recorder. Pursuant to MMC Section 2.04.360, "all remarks shall be directed to the whole Council, and the presiding officer may limit comments or refuse recognition if the remarks become irrelevant, repetitious, personal, impertinent, or slanderous." The

presiding officer may limit the time permitted for presentations and may request that a spokesperson be selected for a group of persons wishing to speak.

5. PUBLIC HEARING

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

None Scheduled.

6. OTHER BUSINESS

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

A. TriMet Intergovernmental Agreement (IGA) to Close Out the Portland-Milwaukie Light Rail (PMLR) Transit Project – Resolution **70**
Staff: Bill Monahan, City Manager

B. Triangle Site Purchase – Resolution **89**
Staff: Bill Monahan, City Manager

C. Amendment to Legal Services Agreement for City Attorney Services – Resolution **93**
Staff: Bill Monahan, City Manager

D. Council Reports

7. INFORMATION

8. ADJOURNMENT

Public Notice

Executive Sessions: The Milwaukie City Council may meet in Executive Session immediately following adjournment pursuant to ORS 192.660(2). All Executive Session discussions are confidential and those present may disclose nothing; representatives of the news media may attend as provided by ORS 192.660(3) but must not disclose any information discussed. Executive Sessions may not be held for the purpose of taking final actions or making final decisions and they are closed to the public.

The Council requests that mobile devices be set on silent or turned off during the meeting.

The City of Milwaukie is committed to providing equal access to information and public meetings per the Americans with Disabilities Act. For special accommodations, please call 503-786-7502 or email ocr@milwaukieoregon.gov at least 48 hours prior to the meeting.

Regular Session Agenda Item No.	2

Proclamations, Commendations, Special Reports, & Awards

CITY OF MILWAUKIE
"Dogwood City of the West"

PROCLMATION

WHEREAS, an engaged community can inspire action that changes the world; and

WHEREAS, an inspired community relies upon countless volunteers to provide service opportunities through government agencies and non-profit organizations; and

WHEREAS, National Volunteer Week is a dedicated time when many service projects will be conducted and many volunteers will be recognized for their commitment; and

WHEREAS, on Saturday, April 23, 2016, the Milwaukie community will have an opportunity to come together for the annual Earth Day and Arbor Day event featuring the dedication of the Kellogg Lake Bicycle and Pedestrian Bridge.

NOW, THEREFORE, I, Mark Gamba, Mayor of the City of Milwaukie, a municipal corporation in the County of Clackamas, in the State of Oregon, do hereby proclaim **April 10-16, 2016** as **National Volunteer Week** in the City of Milwaukie, and do encourage all members of our community to join in our efforts to make Milwaukie a cleaner and healthier place.

IN WITNESS WHEREOF, and with the consent of the City Council of the City of Milwaukie, I have hereunto set my hand on this 5th day of April, 2016.

Mark Gamba, Mayor

ATTEST:

Pat DuVal, City Recorder

Celebrate Service
National Volunteer Week
April 10-16, 2016
POINTS OF LIGHT

CITY OF MILWAUKIE
"Dogwood City of the West"

PROCLMATION

WHEREAS, libraries transform communities through the power of knowledge; and

WHEREAS, libraries empower the community with information available on constantly evolving platforms and technologies; and

WHEREAS, libraries come to life through the work of dedicated librarians who provide innovative programing that promotes the power of reading and social interaction; and

WHEREAS, libraries support democracy and effect social change by providing equitable access to information for all regardless of race, creed, ability, sexual orientation, gender identity or socio-economic status; and

WHEREAS, librarians and friends of libraries are celebrating National Library Week; and

WHEREAS, the Milwaukie City Council has adopted Resolution 19-2016 establishing a Library Fine Amnesty Week in honor of National Library Week.

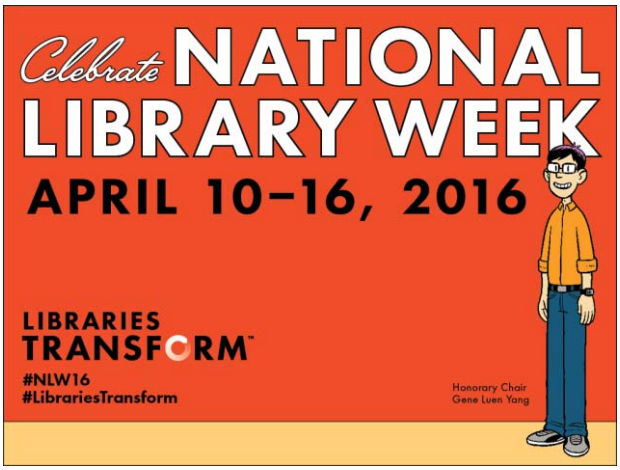
NOW, THEREFORE, I, Mark Gamba, Mayor of the City of Milwaukie, a municipal corporation in the County of Clackamas, in the State of Oregon, do hereby proclaim **April 10-16, 2016,** to be **National Library Week** in the City of Milwaukie, and I encourage all residents to visit the historic Ledding Library to take advantage of the many wonderful resources available.

IN WITNESS WHEREOF, and with the consent of the City Council of the City of Milwaukie, I have hereunto set my hand on this 5th day of APRIL, 2016.

Mark Gamba, Mayor

ATTEST:

Pat DuVal, City Recorder



MILWAUKIE CITY COUNCIL
STAFF REPORT

Agenda Item: RS 2. D.
Meeting Date: April 5, 2016

To: Mayor and City Council

Through: Bill Monahan, City Manager

Subject: **Proclamation—Startup in a Day Initiative**

From: Alma Flores, Community Development Director

Date: March 17, 2016

ACTION REQUESTED
Proclaim that effective April 5, 2016 the city will accept the challenge to be a Startup in a Day community.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS
There are no prior actions and discussions on this topic.

BACKGROUND
The City of Milwaukie's Community Development Department would like to invite the Mayor and Council to support a proclamation taking the Startup in a Day pledge. The aim of this initiative from the Small Business Administration (SBA) is to make it easier for entrepreneurs to start a business by reducing the amount of time it takes to register and apply for permits and licenses at the local level. The Startup in a Day initiative challenges cities to develop, implement, and streamline online tools that will let entrepreneurs learn about the business startup process in their area, including how to register and apply for all required local licenses and permits – all in one day or less.

Over 80 cities and towns across the U.S. have pledged to make the startup process easier for entrepreneurs, including Beaverton, Tualatin, and Oregon City. Taking the pledge means that the City will work towards creating an online tool and streamlined online permitting system, as well as share best practices with other program participants. The SBA will provide participating communities with a connection to resources as well as a platform to connect with other communities to learn best practices, access webinars, and an online discussion board.

CONCURRENCE
City Manager and Community Development Director agree that this is an important initiative for economic development in Milwaukie. It means that the city is interested in improving current practices and maximizing innovation by working with other cities. We are confident the goal is achievable.

FISCAL IMPACTS
None

WORK LOAD IMPACTS
Some staff time will be required to coordinate existing online platforms and identify gaps in order to meet the goals of the initiative.

ALTERNATIVES
Reject this initiative.

ATTACHMENTS
1. The Startup in a Day Proclamation

2. SBA Pledge

PROCLAMATION

WHEREAS, the Small Business Administration (SBA) and the White House launched the Startup in a Day Initiative in 2015 to encourage local jurisdictions to streamline and consolidate all of the processes required to start a business into one easy-to-use online tool, to enable America's entrepreneurs to discover and apply for all licenses and permits required to start a business in 24 hours or less; and

WHEREAS, nationally, more than half of Americans either own or work for a small business, and they create two out of every three new jobs in the U.S. each year and employ more than half of the private sector workforce. Small businesses are the backbone of our economy and we must work to ensure that our city recovers and rebuilds not only from the top down, but also from the bottom up and the middle out; and

WHEREAS, in the City of Milwaukie, 95 percent of businesses are small businesses with 500 or fewer employees, defined as a small business by the SBA; The City of Milwaukie offers assistance to small businesses through programs in the Economic Development Division of Community Development Department, and strives to continue improving our processes to facilitate increased small business growth and development; and

WHEREAS, removing barriers to and streamlining processes for small business creation is the most effective way to support business startup and development

STARTUP IN A DAY

The City of Milwaukie commits to join the Startup in a Day Initiative by providing resources that allow entrepreneurs to identify and apply within one day for all requirements to launch a business in our community.

NOW, THEREFORE, I, Mark Gamba, Mayor of the City of Milwaukie, do hereby proclaim Milwaukie a Startup in a Day City.

U.S. Small Business Administration

Startup in a Day Pledge

President Barack Obama continues to ask cities and Native American communities across America to take the Startup in a Day Pledge to support entrepreneurs. Several cities have already taken the pledge.

The Pledge...

"Our cities and communities are committed to making it easier for every entrepreneur to start a business. We believe an entrepreneur's time is best spent developing innovative products and services, creating jobs, and growing local economies—not navigating red tape. While fair zoning rules, licenses, and permits are important to ensuring public safety and fair competition, it should not take more than a day for an entrepreneur to identify and apply, ideally through a single online tool, for all the licenses and permits they need in order to responsibly launch a business. Accordingly, we resolve to:

1. Create a "Startup in a Day" online tool within 12 months: we will develop within a year a website or application that lets most entrepreneurs identify and apply within one day for all requirements to launch a business in our respective communities.
2. Develop a streamlined, business-friendly, online permitting system: Our pledge is a first step in a larger effort to streamline, simplify, and bring online those regulatory requirements that have traditionally been fragmented across multiple agencies and handled through a paper-based process. Our ultimate goal is for small business owners to be able to manage and complete most of their regulatory obligations within a single easy-to-use online system.
3. Share best practices: In an effort to encourage other municipalities to join us in this effort, we are joining a community of practice administered by the National League of Cities, and commit to sharing best practices, publicizing key learnings, highlighting tangible outcomes, supporting smart regulatory simplification, and providing visibility into our actions."

CITY OF MILWAUKIE
"Dogwood City of the West"

PROCLMATION

WHEREAS, child abuse is a community tragedy that impacts the well-being of all; and

WHEREAS, child abuse prevention programs require strong community partnerships; and

WHEREAS, child abuse prevention requires a public commitment to create safe and nurturing environments for parents and guardians to raise their children; and

WHEREAS, this community recognizes that children are our most valuable and vulnerable resources and are key to our prosperity and quality of life; and

WHEREAS, by providing a healthy environment for our children, free of violence, abuse and neglect, we can help ensure that Milwaukie's children will grow to their full potential.

NOW, THEREFORE, **BE IT RESOLVED**, 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 **April 2016** as **Child Abuse Prevention Month** in the City of Milwaukie and do call upon all citizens to participate in efforts to prevent child abuse.

IN WITNESS WHEREOF, and with the consent of the City Council of the City of Milwaukie, I have hereunto set my hand on this **5th** day of **April**, **2016**.

Mark Gamba, Mayor

ATTEST:

Pat DuVal, City Recorder

Regular Session Agenda Item No.	3

Consent Agenda

MINUTES
MILWAUKIE CITY COUNCIL
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REGULAR SESSION
MARCH 1, 2016
City Hall Council Chambers

Mayor Gamba called the 2,217th meeting of the City Council to order at 6:12 p.m.

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

Staff Present: City Manager Bill Monahan, City Attorney Tim Ramis, City Recorder Pat DuVal, Assistant to the City Manager Mitch Nieman, and Sustainability Director Clare Fuchs

CALL TO ORDER

Pledge of Allegiance.

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

A. Welcome Home Vietnam Veterans Day Proclamation

Jerry Craig, American Legion Post 180 1st Vice Commander, was present on behalf of the Legion and commented on Police Officers Week in May. **Mayor Gamba** read a proclamation naming March 30, 2016, as *Welcome Home Vietnam Veterans Day* in the City of Milwaukie.

CONSENT AGENDA

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

A. City Council Meeting Minutes:

1. **February 2, 2016, Work Session;**
2. **February 2, 2016, Regular Session;**
3. **February 16, 2016, Work Session;**
4. **February 16, 2016, Regular Session; and**
5. **February 18, 2016, Study Session.**

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

AUDIENCE PARTICIPATION

Nina DiConcini, Administrator, and **David Monro**, Air Quality Manager, Department of Environmental Quality (DEQ) Northwest Region, reported to the Milwaukie City Council on the rapidly developing issues related to air quality in the Portland area. Ms. DiConcini announced that DEQ Director Dick Pederson had resigned effective today. She said at this time DEQ would delay renewing Precision Castparts Corporation's (PCC) Air Contamination Discharge Permit. She gave a brief summary of the DEQ rulemaking process currently underway and discussed the moss sampling program. The data had not yet been validated with the Forest Service. PCC had approached DEQ to implement additional pollution control devices with the intent to reduce emissions beyond what was required by the program. PCC's current permit was still in place and enforceable.

Councilor Power asked Ms. DiConcini if, to the best of her knowledge, there was currently an issue in Milwaukie.

Ms. DiConcini replied additional monitoring was likely and added that the regulatory relationship would not change if the permit was not issued.

Mr. Monro commented that the permit renewal would incorporate any new rules.

Ms. DiConcini expected robust public involvement in the rulemaking process and added information would be posted on the Secretary of State's website.

Council President Batey expressed concern that there was no regular testing near PCC.

Ms. DiConcini explained that the ambient air monitors had regulatory triggers and commented on the gap between federal and local air quality standards. There were four air toxic monitors statewide.

Council President Batey discussed the Environmental Protection Agency (EPA) right to know (RTK) mapping.

Mr. Monro responded that the EPA program contained rough data. He commented on DEQ's Portland Air Toxics Solutions project that works with local communities to develop air toxics reduction strategies for the Portland region, including portions of Multnomah, Washington and Clackamas Counties. The primary documents for Air Toxic Solutions can be found on the Oregon DEQ website.

Ms. DiConcini said the moss data would be evaluated as soon as possible to determine what the issues were. She added that good science takes time and stressed the importance of accurate front end work.

Mr. Monro discussed periodic and continuous sampling approaches and development of emission factors. States may write more stringent rules than those of the federal government.

Mayor Gamba noted that DEQ was badly underfunded, and **Ms. DiConcini** responded that it will take a concerted effort by all parties to make the regulatory changes.

Council President Batey commented on groundwater sampling, and **Ms. DiConcini** discussed water sampling.

Mayor Gamba reviewed the Audience Participation process.

Mr. Monahan provided follow up to public comments made at the February 16, 2016, City Council regular session. Staff was looking Charles Bird's proposal to construct a path across Kronberg Park. Terry Finch raised an issue about no cause eviction, and several organizations had reached out to him. Kelli Keehner and Ed Zumwalt reported on plans for the First Friday and the involvement of the Downtown Milwaukie Business Association (DMBA) this season. Pam and Milo Denham requested further modification to the standards for the 19th Avenue improvement project, and a follow up meeting will be scheduled. Staff is working with Kirin das Bala and Waste Management to resolve the issues between the two parties.

Jacob Sherman, Portland, Brentwood-Darlington Neighborhood Association. He discussed the sizable nickel hotspot that straddled Multnomah and Clackamas County lines and suggested the creation of a local air authority. He encouraged the Milwaukie City Council and Milwaukie residents to get involved.

Charles Snyder, Milwaukie resident. He lived in the Lewelling Neighborhood and expressed concern about emissions from PCC and McClure Industries' release of styrene into the atmosphere. He discussed nuisance odor complaints to which DEQ had not responded.

Sally Tez, Portland resident. She lived in the Bullseye Glass ring. She wanted safety for her children as a basic human right for quality air.

Jennifer Jones, Portland resident. She wanted to hold DEQ responsible and encouraged the Milwaukie City Council to make sure DEQ did everything it said it would. Attorneys had been contacted to look at affected parties' legal rights that included consumer advocate Erin Brokovich.

Shawn Ingersoll, Milwaukie resident. He encouraged Milwaukie to move away from the status quo and consider what the City can do to hold polluters responsible. He recommended creation of an air quality commission.

Greg Segal, Milwaukie resident. He was primarily concerned that air quality should be closely monitored. He wanted to know that his children were safe and that his property values were protected. He urged DEQ to go public with its funding issues.

Glen Perice, Portland resident. He expressed concern that PCC could change its figures when self-reporting. His first question was what kinds of emissions were coming out of these places. He also questioned the concerns about DEQ funding.

Lou Taylor, Portland resident. He thought the air quality should be monitored at the source of the discharge.

Debora Taeves, Portland resident. She wanted to know the risks and if PCC was a nickel hotspot. There had been no recommendations of what individuals could do, and she thought an air shed agency was a good idea. She had contacted DEQ about her neighbor's wood smoke but did not get any help.

Heather Sparks, Milwaukie resident. She had contacted DEQ about the odor coming from McClure Industries but did not get a response. She was a nursing mother and was concerned about chromium in her blood. She was also very concerned about the quality of Milwaukie's water supply.

Mr. Monahan discussed Milwaukie water quality. Water quality analysis indicated that Milwaukie's tap water was as safe as any water supply in the nations. The City's water meets or exceeds water quality standards established by various regulating agencies.

Angie Hungerford, Milwaukie resident. She said she can smell McClure Industries in her neighborhood. She felt there should be independent verification and not simply rely on self-reporting. Pollution should not be a part of our business plan.

Jody Beyle, Milwaukie resident and Eastside Portland Air Coalition member. She said the more the public finds out about the public health emergency, the less we trust DEQ. It could have made health based rules much earlier. DEQ needs good leadership, and she respectfully asked that Ms. DiConcini and Mr. Monro step down from their positions.

Steve Meyer, Portland resident. He had worked at the PCC titanium plant and commented on safety issues.

Shana Canote, Portland resident. She felt DEQ should monitor air quality now and said she did not believe self-reporting was working. She wanted PCC to make its budget public. DEQ recommended today that since there were toxins in the air that people should eat healthy and not smoke. She felt there needed to be a board made up of scientists to deal with these issues.

Kyle Cohen, Milwaukie resident. He commented on the McFarland property contamination and suggested that people get more houseplants.

Ben Burtle, Portland resident. He said the 2011 release from PCC was caused by an electrical problem because the plant did not have backup generators, and he understood it still did not have any. Does PCC have an emergency plan?

Elise Erickson, Milwaukie resident. The science was not fully understood, and people sometimes needed to respect what they did not know.

Lisa Arkin, Executive Director, Beyond Toxics, Eugene. She reported Lane County and the City of Eugene have a local air agency and addressed the need for a cultural

change. DEQ needed to put some teeth in its toxic use reduction plan and ambient air monitoring.

Mayor Gamba suggested getting input from the Health Department about potential risks.

Joseph Salas, Milwaukie resident. He discussed the impacts of neonicotinoids and expressed concern for future generations.

Kelsey Kopec, Center for Biological Diversity, Portland. She supported the ban on the use of neonicotinoids on public properties and noted that studies indicated that the ban helped other species, groundwater, and streams.

Eleanore Hunter, Oak Grove resident. She discussed library funding and what would happen to tax dollars if Oak Grove incorporated.

PUBLIC HEARING

None scheduled.

OTHER BUSINESS

A. Riverfront Park Operations and Maintenance

Mr. Nieman introduced the issues and was joined by Riverfront Task Force (RTF) Chair **Dave Green** and Park and Recreation Board (PARB) Chair **Lisa Gunion-Rinker**. Mr. Nieman reported that the goose management strategy with Geese Guys was proving effective, and he discussed how continuation of the program could be funded. He discussed interim plantings at Riverfront Park and impacts of winter flooding.

Council President Batey thought an interim planting plan would be inconsistent with the Master Plan.

Mr. Green discussed the status of the eroded area. The planting plan would not move forward without coordination. He discussed identifying smaller projects in Phase 3 that could be quickly achievable and make the Park more usable for the public. He felt that was something the RTF could take on and suggested joint meetings of the RTF and PARB.

Ms. Gunion-Rinker looked at it from the perspective that PARB was working on the mitigation and planting elements.

Mayor Gamba commented on developing a conceptual planting plan that cut down on sight lines, and the Council's giving input on what was financially feasible.

Councilor Power said Riverfront Park was Milwaukie's most visible park, and it was important that it served the community well.

Council President Batey recommended a bigger discussion of the vision for the Park.

Councilor Power thought having a rough draft of a few elements was a great place to start along with some of the bigger projects like the bridge.

Ms. Gunion-Rinker had heard good feedback on the Park and stated that the current goose mitigation efforts seemed to be working well. **Mr. Green** agreed.

Gary Barth, North Clackamas Parks and Recreation District (NCPRD) Director expressed his support for maintaining the City's assets. NCPRD staff had a lot of expertise and could provide recommendations so that maintenance would not be impeded. He discussed Master Plan capital projects and criteria. He commented on the importance addressing the governance matter.

B. Council Input to Legislative, County, or Regional Issues

Mr. Monahan said there were no issues to discuss at this time.

C. Council Reports

Councilor Power provided a report on recent wastewater treatment meetings.

Mayor Gamba announced a number of upcoming community events including the Friends of the Ledding Library native plant sale, Cultural Forum guest local author Matt Love, the First Saturday Music Series at the Ledding Library, the annual Johnson Creek Watershed Wide volunteer event, the Harmony Community Campus Open House, and the American Legion Post 180 and Milwaukie Public Safety Foundation 2015 Officers of the Year recognition dinner.

Council President Batey announced the Milwaukie Academy of the Arts (MAA) open house and the March for Meals fundraising campaign.

ADJOURNMENT

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

Mayor Gamba adjourned the regular session at 8:38 p.m.

Respectfully submitted,

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Pat DuVal, Recorder

MINUTES
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WORK SESSION
MARCH 15, 2016
City Hall Conference Room

Council President Lisa Batey called the Work Session to order at 4:17 p.m.

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

Excused: Mayor Mark Gamba

Staff Present: City Manager Bill Monahan, City Recorder Pat DuVal, Assistant to the City Manager Mitch Nieman, Planning Director Denny Egner, Associate Planner Vera Kolias, Community Development Director Alma Flores, Engineering Director Chuck Eaton, Public Works Director Gary Parkin, and Stormwater/Streets Supervisor Kenny Hill

Council President Batey noted the Work Session agenda items would be reordered.

Riverfront Park Bridge Update

Mr. Eaton reported on the status on the bridge replacement and noted that he would return to Council on May 3 for the design build contract award. There was only one bid on the temporary fix and it was $339,000 over the engineer's estimate. This meant there was no short term solution to get the bridge open. The bridge would likely not be open by the start of fishing season. He noted that the award for the design build contract on May 3 would require an extension of the emergency declaration. Temporary park access would open in July 2016 while a permanent bridge was being built. The group discussed different approaches to the problems surrounding repair and access.

Revisions to Resolution Authorizing Purchase of TV Van

Mr. Hill and **Mr. Parkin** reported on the purchase of the TV van for the Stormwater Department and Resolution revisions. The changes included the cost and the process for the City Manager's signature. The group discussed the process of revising the resolution. **Mr. Hill** said this was a replacement of a 30-year old van, and it would improve productivity.

Land Bank Authority Presentation on Enabling Legislation

Ms. Flores introduced **David Rabinno** of Tonkon Torp LLP, and **Seth Otto** of Maul Foster Alongi. **Mr. Rabinno** discussed brownfields and environmental impacts. There are 74 known brownfield sites comprising 142.5 acres in the City of Milwaukie. He also discussed cleanup challenges and possibilities. He explained the abilities of a Land Bank Authority (LBA) to redevelop and restore brownfield properties. Mr. Rabinno described the powers and limitations of LBAs and how they interact with local and state governments.

Councilor Power asked about land ownership in relation to LBA. **Mr. Rabinno** believed LBAs had to take ownership of the property in order to initiate cleanup activates. **Mr. Otto** added that state and federal cleanup funding required money for cleanup to go to the property owner.

Mr. Rabinno noted LBAs were separate legal entities, and discussed liabilities as well as funding. He also noted no LBAs had been setup previously as the legislation was quite recent.

Council President Batey asked about obligations and the pace of operation if an LBA were created. **Mr. Rabinno** explained that the process was fairly open to the LBA.

Councilor Churchill asked about the required annual report to the Governor. **Mr. Rabinno** responded the statute required a report to the Governor, but it did not give the Governor recourse over telling the LBA what to do. It was a vehicle to give the public information about the LBA.

Councilor Churchill asked about the fee structure and the mechanism for a municipality like Milwaukie to set up an LBA. **Mr. Rabinno** noted he would be happy to further elaborate on the details.

Councilor Power was curious about the brownfields in Milwaukie, and if a good amount of the lands were in the North Industrial Area. **Ms. Flores** commented that the North Industrial Area did have a number of brownfields, and noted this LBA information was meant to serve as an informational session about another tool that could be used.

Ms. Flores clarified that, if interested, Council could adopt a resolution and did not need to establish a Land Bank Authority until the structure and other details were figured out.

Councilor Churchill wanted to see an analysis on a sample parcel that included the fees involved and other details of the potential scenario, such as a pro forma. **Councilor Power** wanted to see details on the 142.5 acres of brownfields in the City.

Short Term and Vacation Rentals

Mr. Egner noted a public hearing was scheduled before the City Council on April 19 to receive the recommendation from the Planning Commission on code changes related to short term and vacation rentals. He asked Council if there were other types of information staff should pull together prior to the hearing. He explained that on February 23, the Planning Commission voted unanimously (5-0) to recommend a set of code amendments for approval. Short term rentals, such as Airbnb, included both hosted and unhosted rentals, which were distinct from vacation rentals. During the Council goal setting process, there were complaints about enforcement, and Council had directed staff to move forward with a process to legitimize these. As a short term solution, staff allowed Airbnbs to continue to operate, but only rent once in every 30 days.

Mr. Egner brought attention to the table on page 3 of the report, which summarized the changes moving forward. The Planning Commission proposed allowing short term rentals as a home occupation in a dwelling unit, with two hosted guest parties. Unhosted rentals could only occur for 95 days of the year, with primary residents living there the other 270 days. He discussed vacation rentals and bed and breakfasts that would require a conditional use. The assumption was that a bed and breakfast was generally a hosted situation. There were no changes to how boarding houses were treated. As part of the process, Mr. Egner explained the desire to establish a lodging operator's license, similar to business registrations, to allow building and fire code inspections. He discussed a lodging tax that could be put in place. He noted that this was a land use ordinance that required a process, and a lodging tax could be a code amendment.

Mr. Egner pointed out that the table on page 4 addressed changes to zones. Short term rentals and vacation rentals were added to every zone where there was potential to have a residence. It was proposed that bed and breakfasts be added as a conditional use in low density zones and added as a permitted use in Mixed Use zones. It was also proposed to change bed and breakfasts from conditional use to permitted use in both limited commercial and general commercial zones. Hotels / motels had no changes proposed in the low and medium density zones, but a proposed removal from conditional use in high density residential zones, with a continuation to have it as a conditional use in the R-1-B zone. Hotels / motels would have no change in mixed use and commercial zones, except for making it a permitted use from a conditional use in the general commercial zone. He addressed the home occupation process to deal with

complaints. At the Planning Commission, the issue of parking came up, and Mr. Egner discussed the Commission's decision to not put in additional parking requirements. The Planning Commission decided that it would be appropriate to allow two rooms to be rented to different parties in hosted situations.

Council President Batey was interested in the tax and thought they should be taxed. She suggested a 1099 form to assess the tax. She thought maybe the tax should come together with the land use.

Councilor Parks suggested the County lodging tax. **Councilor Power** noted that the County did not regulate short term rentals.

Annual Renewal of Parklets

Mr. Egner discussed the parklet situation and handed out an email from Mayor Gamba.

Councilor Churchill understood a signature of approval was needed from the property owner of the business that has the parklet, but asked about an adjacent business that the parklet might be in front of, due to diagonal parking. **Mr. Egner** believed it only involved the business where the parking space came up to the curb.

Mr. Egner said the issue was the form, and Jesse Cannelos had some concerns about getting the property owner's signature annually.

Councilor Power suggested an affidavit with the property owner's original signature that delegated authority to tenants until ownership changed, with revocable consent.

Councilor Parks said the goal was to encourage parklets, and **Council President Batey** agreed, noting for scrutiny the first time and then to make renewal simple.

Councilor Churchill did not want the property owner to be excluded from the process. He saw the benefits of requiring an annual signature.

Council President Batey, **Councilor Parks**, and **Councilor Power** were not in favor of an annual signature. **Councilor Parks** suggested having letters sent every year to ensure the property owner was in the loop.

Mr. Egner heard Council direction from the majority to move forward with that suggestion.

Council President Batey noted that the Milwaukie Museum Lease and the Farmers Market Event Permit and Traffic Control Plan would be discussed during the March 15, 2016, Regular Session.

Council President Batey adjourned the Work Session at 5:48 p.m.

Respectfully submitted,

_____

Amy Aschenbrenner, Administrative Specialist II

MINUTES
MILWAUKIE CITY COUNCIL
www.milwaukieoregon.gov

REGULAR SESSION
MARCH 15, 2016
City Hall Council Chambers

Council President Lisa Batey called the 2,218th meeting of the City Council to order at 6:14 p.m.

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

Excused: Mayor Mark Gamba

Staff Present: City Manager Bill Monahan, City Attorney Dan Olsen, City Recorder Pat DuVal, Assistant to the City Manager Mitch Nieman, Code Compliance Coordinator Tim Salyers, and Sustainability Director Clare Fuchs.

CALL TO ORDER

Pledge of Allegiance.

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

A. Milwaukie High School (MHS) Outstanding Student Achievement Award for March 2016 presented to Lucille Polich

MHS Principal Mark Pinder introduced Lucille Polich and highlighted her achievements at the Milwaukie Academy of the Arts notably in the areas of graphic design, ceramics, and conservation. Council President Batey and the Councilors congratulated Ms. Polich on her selection as the Outstanding Student Achievement Award recipient for March 2016.

CONSENT AGENDA

It was moved by Councilor Parks and seconded by Councilor Power to approve the consent agenda as amended with the removal of Item C.

A. City Council Meeting Minutes of the March 1, 2016, Work Session

B. Resolution 19-2016: A Resolution of the City Council of the City of Milwaukie, Oregon, establishing a library fine amnesty week from April 10, 2016, through April 16, 2016, in recognition of National Library Week.

~~**C. A Resolution of the City Council of the City of Milwaukie, Oregon, to purchase a TV inspection van for the Stormwater Division through the Cooperative Purchasing Program of the Houston-Galveston Area Council at a cost of $207,000.**~~ (item pulled for individual consideration)

D. Resolutions Making Board, Commission, and Committee Appointments:

1. Resolution 20-2016: A Resolution of the City Council of the City of Milwaukie, Oregon, appointing Chris Davis to the Arts Committee;

2. Resolution 21-2016: A Resolution of the City Council of the City of Milwaukie, Oregon, reappointing Denise Emmerling-Baker to the Arts Committee;

3. Resolution 22-2016: A Resolution of the City Council of the City of Milwaukie, Oregon, reappointing Chris Haberman to the Arts Committee;

4. **Resolution 23-2016: A Resolution of the City Council of the City of Milwaukie, Oregon, reappointing Lars Campbell to the Arts Committee;**
5. **Resolution 24-2016: A Resolution of the City Council of the City of Milwaukie, Oregon, reappointing Troy Reichlein to the Audit Committee;**
6. **Resolution 25-2016: A Resolution of the City Council of the City of Milwaukie, Oregon, reappointing Vince Alvarez to the Citizens Utility Advisory Board (CUAB);**
7. **Resolution 26-2016: A Resolution of the City Council of the City of Milwaukie, Oregon, reappointing Kevin Hasey to the CUAB;**
8. **Resolution 27-2016: A Resolution of the City Council of the City of Milwaukie, Oregon, reappointing Joel Bergman to the CUAB;**
9. **Resolution 28-2016: A Resolution of the City Council of the City of Milwaukie, Oregon, reappointing Sherry Grau to the Milwaukie Design and Landmarks Committee (DLC);**
10. **Resolution 29-2016: A Resolution of the City Council of the City of Milwaukie, Oregon, reappointing James Fossen to the DLC;**
11. **Resolution 30-2016: A Resolution of the City Council of the City of Milwaukie, Oregon, reappointing Gary Klein to the Kellogg Good Neighbor Committee (KGNC);**
12. **Resolution 31-2016: A Resolution of the City Council of the City of Milwaukie, Oregon, reappointing Charles Bird to the KGNC;**
13. **Resolution 32-2016: A Resolution of the City Council of the City of Milwaukie, Oregon, reappointing Neil Hankerson to the KGNC;**
14. **Resolution 33-2016: A Resolution of the City Council of the City of Milwaukie, Oregon, reappointing Erin Lee to the Milwaukie Library Board;**
15. **Resolution 34-2016: A Resolution of the City Council of the City of Milwaukie, Oregon, reappointing Ryan Healy to the Milwaukie Library Board;**
16. **Resolution 35-2016: A Resolution of the City Council of the City of Milwaukie, Oregon, reappointing Krista Downs to the Milwaukie Library Board;**
17. **Resolution 36-2016: A Resolution of the City Council of the City of Milwaukie, Oregon, reappointing Linda Blue to the Park and Recreation Board (PARB);**
18. **Resolution 37-2016: A Resolution of the City Council of the City of Milwaukie, Oregon, reappointing Erin Willett Holcomb to the PARB;**
19. **Resolution 38-2016: A Resolution of the City Council of the City of Milwaukie, Oregon, reappointing Shaun Lowcock to the Milwaukie Planning Commission;**
20. **Resolution 39-2016: A Resolution of the City Council of the City of Milwaukie, Oregon, reappointing Sine Adams to the Milwaukie Planning Commission.**

Motion passed with the following vote: Councilors Churchill, Parks, and Power and Council President Batey voting "aye." [4:0]

<u>Resolution Authorizing Purchase of a TV Van</u>

Mr. Monahan said this item was pulled from the Consent Agenda for modifications that were reviewed by the City Council during the work session. Language was added that authorized the City Manager to purchase the van and adjusted the dollar amount from $207,000 to $207,174.

It was moved by Councilor Power and seconded by Councilor Churchill to approve a Resolution to purchase a TV inspection van for the Stormwater Division through the Cooperative Purchasing Program of the Houston-Galveston

Area Council at a cost of $207,174, as amended. Motion passed with the following vote: Councilors Churchill, Parks, and Power and Council President Batey voting "aye." [4:0]

RESOLUTION NO. 40-2016:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, TO PURCHASE A TV INSPECTION VAN FOR THE STORMWATER DIVISION THROUGH THE COOPERATIVE PURCHASING PROGRAM OF THE HOUSTON – GALVESTON AREA COUNCIL AT A COST OF $207,174.

AUDIENCE PARTICIPATION

Council President Batey reviewed the Audience Participation process and noted that no one had signed up to speak.

Mr. Monahan provided follow up to public comments made at the March 1, 2016, City Council regular session regarding air quality issues related to the Department of Environmental Quality (DEQ) and to Precision Castparts Corporation (PCC). DEQ was addressing the environmental issues. Several people expressed their support for the potential ban of neonicotinoids on public property which will be considered at the April 5, 2016, Council regular session. One participant discussed library funding and what would happen to tax dollars if Oak Grove incorporated.

PUBLIC HEARING

None scheduled.

OTHER BUSINESS

Museum Lease [Moved from March 15, 2016, Work Session Agenda]

Mr. Nieman sought Council direction on the lease renewal with the Milwaukie Historical Society for the Milwaukie Museum building located at 3737 SE Adams Street. He provided a brief overview of the agreement and the responsibilities of the City and the Historical Society. The current lease was executed April 16, 1996 and is scheduled to end on April 16, 2016.

The City Council discussed the term of the lease, renewal periods, and adding a reporting schedule. **Councilor Power** was interested in cleaning up the language in the lease along with a review of any stipulations.

Councilor Churchill favored a 5 or 10 year lease with 5 year renewal periods. **Councilor Power** thought it would be a good idea to clearly outline the maintenance responsibilities. She suggested an extension of the current lease and that staff work with Milwaukie Historical Society to draft the new lease. It was agreed to extend the current contract for 90 days.

A. Amend Milwaukie Municipal Code (MMC) Section 10.20.090 Violation – Citation – Ordinance

Mr. Salyers said this was a minor amendment to the code resulting from the implementation of an electronic parking citation device that calculated violations based on a rolling 365 day period rather than a calendar year as the previous model had. People receiving four citations for overtime violations were charged more when the fifth citation was issued, and the slate would not be wiped clean at the beginning of each calendar year with the new device.

It was moved by Councilor Power and seconded by Councilor Parks to approve the first and second readings by title only and adoption of the ordinance amending section 10.20.090 of the Milwaukie Municipal Code language to change

the time frame for escalation related to 5 or more parking violations from one calendar year to a rolling 365-day timeframe. Motion passed with the following vote: Councilors Churchill, Parks, and Power and Council President Batey voting "aye." [4:0]

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

Ms. DuVal polled the Council: Councilors Churchill, Parks, and Power and Council President Batey voting "aye." [4:0].

ORDINANCE No. 2114:

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING SECTION 10.20.090 OF THE MILWAUKIE MUNICIPAL CODE LANGUAGE TO CHANGE THE TIME FRAME FOR FINE ESCALATION RELATED TO 5 OR MORE PARKING VIOLATIONS FROM ONE CALENDAR YEAR TO A ROLLING 365-DAY TIMEFRAME.

B. Amend MMC Chapter 2.24 Public Safety Advisory Committee (PSAC) – Ordinance

Mr. Nieman noted the changes based on earlier City Council direction and the evolving role of the Committee.

Mr. Monahan added that the PSAC chair had reviewed the amendments and concurred with the changes that better reflected PSAC's vision.

It was moved by Councilor Parks and seconded by Councilor Power to approve the first and second readings by title only and adoption of the ordinance amending Milwaukie Municipal Code Chapter 2.24 Public Safety Advisory Committee, revising Sections 2.24.010 Purpose and 2.24.020 Membership-Qualifications. Motion passed with the following vote: Councilors Churchill, Parks, and Power and Council President Batey voting "aye." [4:0]

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

Ms. DuVal polled the Council: Councilors Churchill, Parks, and Power and Council President Batey voting "aye." [4:0].

ORDINANCE No. 2115:

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING MILWAUKIE MUNICIPAL CODE CHAPTER 2.24 PUBLIC SAFETY ADVISORY COMMITTEE, REVISING SECTIONS 2.24.010 PURPOSE AND 2.24.020 MEMBERSHIP-QUALIFICATIONS.

C. Amend Milwaukie Municipal Code Chapter 16.32 – Tree Cutting – Ordinance

Mr. Nieman reviewed the background of the proposed code amendment that would meet the Tree City USA application guidelines for future designation in Fall 2016. The Ordinance applied only to public rights of way and to City owned properties. Further, it would trigger formation of a City Tree Board with oversight responsibilities that included an annual Arbor Day Event, clarified the role of the permitting department, and established professional planting standards and tree designations. He discussed compliance with Title 19, the Zoning Ordinance.

Councilor Power thanked the Park and Recreation Board (PARB) for its hard work to draft this code amendment and to residents like Dion Shepard for their foresight and dedication to developing a tree program in Milwaukie.

Council President Batey hoped the next project would be to consider a Heritage Tree program.

It was moved by Councilor Churchill and seconded by Councilor Power to approve the first and second readings by title only and adoption of the ordinance amending Milwaukie Municipal Code Chapter 16.32 Tree Cutting. Motion passed with the following vote: Councilors Churchill, Parks, and Power and Council President Batey voting "aye." [4:0]

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

Ms. DuVal polled the Council: Councilors Churchill, Parks, and Power and Council President Batey voting "aye." [4:0].

ORDINANCE No. 2116:

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, MILWAUKIE MUNICIPAL CODE CHAPTER 16.32 TREE CUTTING.

D. Council Input to Legislative, County, or Regional Issues

Mr. Monahan briefly discussed the housing measures that had been considered during the short legislative session. This item will be removed from the City Council agenda until the next legislative session.

Farmers Market Event Permit and Traffic Control Plan [Moved from March 15, 2016, Work Session Agenda]

Council President Batey recused herself as a Celebrate Milwaukie, Inc. (CMI) Board Member, and **Councilor Parks** took over as the presiding officer.

Mr. Nieman said the City Council asked staff to bring back the 2016 event permit for additional review related to the closure of Main Street between Harrison and Jackson Streets on Market days. He discussed parking patterns and signage.

Councilor Churchill felt it would still be advisable to close Main Street and expressed his concerns about pedestrian safety.

Councilor Power asked Councilor Churchill if he thought the City should absorb the costs related to the street closure.

Councilor Churchill felt safety took precedence and suggested sharing the costs with CMI.

Councilor Parks thought having Main Street open during the Market had worked satisfactorily over the years.

Dave Aschenbrenner, CMI Board member, was concerned about controlling the space and maintaining vendor access for set up and tear down of their booths. Some vendors need access during the Market to bring in additional produce. Shutting down Main Street at that point would put vehicles in direct conflict with buses. The CMI Board would have to consider the question of sharing the costs. The Farmers Market did not wish to close Main Street and take on the additional burden. Any issues would have to be negotiated.

Councilor Churchill reiterated that his main concern was safety.

Councilor Power did not want to put the burden on the Market.

Mr. Monahan discussed the costs if City staff were deployed to the Market when it opened and closed.

Mr. Nieman added that there would be additional costs to police the area.

Councilor Power thought the closure of Main Street sounded onerous for existing vendors and the Market. Given this information, she was not in favor of closing Main Street during the Market. She suggested budgeting for a pilot in the next biennium.

Mr. Monahan will schedule approval of the event permit for the April 5, 2016, City Council Regular Session consent agenda. CMI and staff will work on a plan for the 2017 season.

E. Council Reports

Councilor Churchill announced that the Downtown Milwaukie Business Association (DMBA) was hosting Clackamas County Commissioner Martha Schrader to talk about business challenges in Milwaukie. It would be held at the Pond House on March 16.

Councilor Parks commented on the importance of getting information on the upcoming primary and urged people to attend upcoming forums.

Council President Batey encouraged people to show their support for the Milwaukie Sunday Farmers Market by participating in the OregonLive poll. Other announcements included the Metro Storefront Improvement Grant Program, the 2016 Milwaukie Earth Day Volunteer Event, the Clackamas Community College open house at the Harmony Campus, the Airing of the Quilts at the Milwaukie Center, the Meals on Wheels fundraiser, the Gardening Class series at the Pond House, the Elders in Action Fraud Prevention Panel, and the Dogwood Dash on April 2.

ADJOURNMENT

It was moved by Councilor Parks and seconded by Councilor Power to adjourn the regular session. Motion passed with the following vote: Councilors Churchill, Parks, and Power and Council President Batey voting "aye." [4:0]

Council President Batey adjourned the regular session at 7:41 p.m.

Respectfully submitted,

_____

Pat DuVal, Recorder

MILWAUKIE CITY COUNCIL
STAFF REPORT

Agenda Item: RS 3. B.
Meeting Date: April 5, 2016

To: Mayor and City Council

From: Mitch Nieman, Asst. to City Manager
Through: Bill Monahan, City Manager

Subject: **Farmers' Market Event Permit**

Date: **April 5, 2016**

ACTION REQUESTED
Direct Staff to issue the 2016 Sunday Farmers' Market temporary event permit.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS
April 21, 2015 – City Council approved execution of an 18-month lease and six-month temporary event permit with Celebrate Milwaukie, Inc. for use of City and Metro-owned parking lots (Block 14) to operate the Sunday Farmers' Market from May 1, 2015 through October 31, 2016.

March 15, 2016 – City Council discussed specifics of the Market's temporary event permit and directed Staff to place it on the April 5, 2016, Consent Agenda for consideration of approval.

DISCUSSION
In addition to permit discussions on March 15, 2016, City Council asked Staff to research costs and right-of-way responsibilities and programming associated with closing Main Street between Jackson and Harrison during the 2017 Farmers' Market season, respectively. Staff agreed to provide Council with an analysis of such at a future City Council meeting.

FISCAL AND WORK LOAD IMPACTS
There is no cost to the City to issue the 2016 temporary event permit. Also, there is no cost to the applicant to receive a permit to operate the Market.

ALTERNATIVES
1. Direct staff to issue the permit subject to conditions required in the permit
2. Direct staff to not issue the permit and identify new conditions for the permit

ATTACHMENTS
1. Farmers' Market Temporary Event Permit

City of Milwaukie - City Hall
Attn: Jason Wachs
10722 SE Main Street
Milwaukie, OR 97222
(503) 786-7568 PH
wachsj@MilwaukieOregon.gov

Temporary Event Application for Permit

- The City of Milwaukie appreciates your interest in organizing an event in the City. Submitting and following the conditions of this application puts you in touch with resources and ensures the event is approvable, safe, and is considerate of your neighbors.
- The review period can be from 30 to 90 days, depending on the size and nature of the event. Events are scheduled on a first come, first served basis. You are encouraged to submit your application as early as possible to ensure that enough time is available to review your application. Your application may be denied if it is determined that not enough time is available to thoroughly review your request and work through issues and concerns.
- Permit, if issued, authorizes the applicant to conduct the temporary event that is described herein paying close attention to any conditions of approval that are attached.
- The City of Milwaukie will review your request and determine if there is a need to attach any fees for services rendered including staff time, police services, etc.

I. Applicant Information

Applicant Name: David Aschenbrenner

Contact Person (If differs from applicant): _____

Applicant Organization/Business (If any): Celebrate Milwaukie Inc.

Mailing Address: 2036 SE Washington St City: Milwaukie State: OR Zip: 97222

Phone: _____ Business Phone: 503-804-3837

Cell phone during event: 503-407-0956

Address of Event: City Parking Lot Main St and Jackson St.

Email: business@celebratemilwaukie.org or Info@celebratemilwaukie.org

II. Event Information

This event is a (check all that apply):

☐ Parade ☐ Festival ☐ Concert ☐ Sales Event ☑ Other Farmers Market
☐ Competition ☐ Vendors (food, beverage, merchandise, etc.)

Name of event: Milwaukie Sunday Farmers market

Purpose of event: To provide local fresh produce and other goods to the community

Date/s of Event: Sundays, May to OCT. Starting Time: 5 AM Ending Time: 4 PM

Event Web site: www,milwaukiefarmersmarket.com

Is this a recurring event? ☑ Yes ☐ No Day (s) of week Sundays

Setup date(s): Late April Take down date(s): Early Nov.

Estimated attendance per day: 1000

Does your event involve the use of a park? Yes ☐ No ☑

If so, what is the name of the park and where is it located? _____

Most of Milwaukie's parks are managed and maintained by the North Clackamas Parks & Recreation District (NCPRD). You can reserve spaces at North Clackamas Park, Stringfield Park, the Milwaukie Center and the Sara Hite Memorial Rose Garden. All other NCPRD parks are available on a first-come, first served basis. If your event is requesting the use of a park please visit NCPRD's Web site at www.NCPRD.com or call (503) 742-8013 to learn more about what is available.

III. Site Layout, Traffic Control, & Parking

Will event require closure of public streets? Yes ☐ No ☑

Will event require use of sidewalks or other public right of way? Yes ☑ No ☐

Note: Public right of way refers to a type of easement that is reserved over the land for public use such as the area between the sidewalk and road.

All applicants must attach a Site Layout Plan and Traffic Control Plan to this application, but the components required will vary by event.

Site Layout Plans include, at a minimum, the location of tents, stages, portable restrooms, fencing, food booths, alcoholic and non-alcoholic beverage booths, and any other components of the event.

Traffic Control Plans include, at a minimum, the location of barricades, directional signs, certified flaggers, course marshals, assembly and/or production facilities, emergency access routes, aid and first aid stations, trash and recycling receptacles, parking, and any other components of the event. Traffic control devices such as barricades may be rented or purchased from local companies. Please search the internet for "flagging companies and/or

barricades Portland Oregon" or look in the telephone yellow pages under the heading "Flagging or Barricades."

Has applicant attached a Site Layout Plan? Yes ☑ No ☐
Has applicant attached a Traffic Control Plan? Yes ☐ No ☐
Will event require police resources? Yes ☐ No ☑ Not sure ☐
Note: Approved temporary events that require police or other city resources may require fees, which will be assessed on a case by case basis.

Do you intend to use a city-owned parking lot? ☑ Yes ☐ No
If yes, please give the location Main St and Jackson St.

Are you requesting to close public parking stalls anywhere in the city? ☑ Yes ☐ No
(**Note:** Public parking stalls refer to on-street parking.)
If you answered yes, what type of parking stalls are you requesting? ☐ Angled or ☐ Parallel
Number of stalls requested 4 Spaces on Main St at the City's request
Are all spaces requested directly in front of your business? ☑ Yes ☐ No
If not, the other business owner/s with affected stalls must agree in advance to the closures by signing here:
Name of Business: _____
Business Owner/Representative (Print or Type): _____
Business Owner/Representative (Signature): _____

Name of Business: _____
Business Owner/Representative (Print or Type): _____
Business Owner/Representative (Signature): _____

Name of Business: _____
Business Owner/Representative (Print or Type): _____
Business Owner/Representative (Signature): _____

Name of Business: _____
Business Owner/Representative (Print or Type): _____
Business Owner/Representative (Signature): _____

How will you block off the spaces? (e.g. orange cones, stanchions, barricades, etc.)_____

Diagram of parking stalls requested for closure. Please include signage, lighting, and other safety precautions: (Attach further documentation to this form if necessary.)

Is a county or state owned street or road affected by your event?
Yes ___ No ✓ Not sure ___
If so, you must contact the Clackamas County Dept. of Transportation at 503-650-3452 and/or the Oregon State Dept. of Transportation at 503-653-3086.

IV. Further Considerations

1. Will food be served or prepared at your event? Yes ✓ No ___
   If so, you or the food provider must obtain a Food Handler's License from Clackamas County by calling (503) 650-3659. Provide a copy to the City of Milwaukie no less than 3 days prior to the start of the event.

2. Will alcoholic beverages be available at your event? Yes ✓ No ___
   If so, you or the alcoholic beverage provider must obtain an OLCC (Oregon Liquor Control Commission) permit by calling (503) 872-5000 or visit www.oregon.gov/OLCC/docs/liquor_license_and_license_process/tsl_app_form.pdf
   Provide a copy to the City of Milwaukie no less than 3 days prior to the start of the event.

3. Will there be any live or amplified entertainment or noise be generated at your event? Yes ✓ No ___
   If so, please complete a noise variance form, which is attached to this application in section VI.

4. Will additional electrical wiring be installed for your event? Yes ___ No ✓

5. Will your event require restroom facilities? Yes ✓ No ___ The City recommends following the minimum guidelines for temporary restrooms as shown in the table below. Temporary restrooms may be rented from local companies. Please search the internet for "portable restrooms Portland Oregon" or look in the telephone yellow pages.

	1 hr	2 hrs	3 hrs	4 hrs	5hrs	6hrs	7hrs	8hrs	9hrs	10 hrs
50	1	1	1	1	2	2	2	2	2	2
100	2	2	2	2	3	3	3	3	4	4
250	3	3	3	4	4	4	5	5	6	6
500	4	4	5	5	6	6	7	7	8	8
1000	6	7	8	8	9	9	10	10	11	12
2000	9	12	15	16	17	17	18	18	19	19
3000	12	18	22	24	25	26	27	28	29	30
4000	16	24	29	32	34	35	37	38	39	40

6. Have you arranged for security at your event? Yes ✓ No ___
   If so, who will be providing security: event Staff and Milwaukie Police if needed
   Phone: _____ Email: _____
   Details of security plan: _____
   _____

7. Describe your plans for Emergency Medical Services (Includes first aid stations, first aid kits, emergency medical equipment such as an IED, etc.: _____

First Aid kits are located in our trailer Some market staff have first aid training

The City recommends at least one trained emergency services provider (Minimum Certification – Emergency Medical Technician 1) be present on-site throughout the temporary event.

8. Describe your plans for trash minimization and removal. Include information as to the number, types and locations of all trash receptacles, a schedule for monitoring and emptying trash receptacles, and plans for cleaning up debris not placed in trash receptacles. Include information on any persons or entities who will be providing trash related services. (Attach additional sheets if needed)

We provide trash cans and recycling on the site. We have a rented dumpster and service on the site for the season

V. Applicant is responsible for obtaining all additional permits, licenses, and insurance certificates required upon the issuance of this Temporary Event Permit. Please fulfill all of the obligations listed below before submitting this application. Once all of these obligations are complete you must place your initials in all of the designated areas marked with a ( ) and then sign and date at the bottom.

✓ **CLEAN UP**: Applicant agrees to promptly clean up all paper or debris caused by applicant's use of the area and understands that if such clean up is not promptly undertaken the City reserves the right to do the cleaning itself and to charge the applicant for the actual time and expense incurred. The City reserves the right to deny future Temporary Event Permit requests should applicant not fulfill all conditions of this permit application.

✓ **INSURANCE**: Applicant agrees to provide a policy of liability insurance. This insurance shall provide coverage for not less than $1,000,000 for personal injury to each person, $1,000,000 for each occurrence involving property damage; or a single limit policy of not less than $2,000,000 covering all claims per occurrence. The limits of the insurance shall be subject to statutory changes as to maximum limits of liability imposed on municipalities of the State of Oregon. This insurance shall be without prejudice to coverage otherwise existing and shall name as additional insured the City of Milwaukie and its officers, agents, and employees. The sponsor agrees to maintain continuous coverage for the duration of the permit.

✓ **INDEMNITY**: Applicant agrees to defend, indemnify and hold the City of Milwaukie and NCPRD if the event is held in a park or facility owned or managed by the District, harmless from and against all claims, losses, and liability arising out of personal injuries, including death, and damage to property which are caused by applicant, or arising out of or in any way connected with the activities conducted pursuant to this application. The last page of this application contains an agreement form that you must sign and date before this application is reviewed.

☑ **CITY CODES/PERMITS**: Applicant agrees to obtain all City permits and licenses that may be required, and shall comply with all other City laws and other conditions that the City Manager determines necessary, including NCPRD park and facility rules or regulations. The Noise Control Variance form that is attached must be completed to fulfill this obligation. The Police Department will determine if such a variance is necessary after reviewing the variance application.

☑ **CONDUCT/NUISANCES**: Applicant understands that if the outdoor activity is conducted in such a way as to create a nuisance for any business or resident of the area, future permits may be denied for that reason alone. Applicant will be notified as soon as practical that the activity engaged in created a nuisance and may ask for a review of such determination.

☑ **SITE /TRANSPORTATION MAP: This application will not be processed unless a site map is included.** Indicate location of tents, stages, portable restrooms, fencing, food booths, alcoholic and non-alcoholic beverage booths, etc. Transportation/route maps should include: location of barricades, directional signs, certified flaggers and course marshals, assembly and/or production facilities, emergency access routes, aid and first aid stations, port-a-potties, trash and recycling receptacles, parking, etc.

☑ **SIGNAGE PLAN: This application will not be processed unless a sign plan is provided with details of sign size and location.**

I have read all information contained within the City of Milwaukie's Temporary Event Permit Application Packet and agree to abide by the terms and conditions contained herein.

Applicant's Signature: _____ **Date**: _____

VI. Indemnification Agreement for Temporary Event Permit

Note: All applicants must sign this Indemnification Agreement.

Grantee acknowledges and agrees as follows:

In consideration of the City's approval of this application for a temporary event permit, applicant accepts responsibility for the event and agrees to indemnify, defend and hold harmless the City of Milwaukie, and if necessary NCPRD, its officials, employees, agents, volunteers, and assigns from and against any and all claims, suits, liabilities and expenses (including but not limited to, damages, attorney fees, a nd costs) that may be asserted against the City of Milwaukie arising out of or in any way related to the temporary event for which permission is sought.

Applicant acknowledges that applicant has carefully read the foregoing and understands its contents. Applicant warrants that applicant is authorized to sign this document and does so freely and without reservation.

Applicant Name (print or type): David Aschenbrenner

Applicant Signature: _____ **Date**: _____

VI. Noise Control Variance

If your event includes live or amplified entertainment or is expected to generate noise you may be asked to obtain a noise variance. The Milwaukie Police Department will review the entire application and determine if a Noise Variance is required. If a variance is not necessary it will be noted on this application and reported to the event applicant. If a variance is necessary it will be noted on this application and reported to the event applicant along with an explanation of why it was or was not approved.

Variance Information

Reason for the variance: Live Amplified Music

The time and duration of the emitted sound: 8AM to 3 PM

For Police Use Only

The physical characteristics of the emitted sound:

The geography, zone and population density of the affected area:

Residential ☐ Commercial ☐ Industrial ☐ Noise-sensitive ☐

Population density: Light ☐ Medium ☐ Heavy ☐

Is the public health and safety endangered by the noise: Yes ☐ No ☐

Does the sound source predate the receiver: Yes ☐ No ☐

Does the compliance with the standard(s) from which the variance is sought produce hardship without equal or greater benefit to the public: Yes ☐ No ☐

Is a Noise Variance Required for this Event: Yes ☐ No ☐

(Note: If a Variance is required please complete the rest of the application, if not please sign on the next page where it reads "Authorized by" and return with other department recommendations.)

If a Noise Variance is required, is it granted: Yes ☐ No ☐

Yes, but with conditions to follow ☐

Please provide a brief description of why this application was approved or denied and if it is approved with conditions please list the conditions below:

Authorized by:

FOR OFFICE USE ONLY Department Recommendations

Name of event/purpose: _____

Note: Please review and respond to this proposal by sending an email to Jason Wachs in the City Manager's Office at wachsj@MilwaukieOregon.gov.

In your response please include your department/organization name, the name of the person who reviewed the application, whether or not it is approved or denied, and any conditions of approval. Call (503) 786-7568 with any questions.

___ This is a city-sponsored or supported activity. ___ This is an independent event.

City of Milwaukie:

Building ___

Engineering ___

Facilities ___

Planning ___

Police ___

Streets ___

Other (As applicable) _____ ___

Regional and State Partners (If applicable):

Oregon Department of Transportation (ODOT) ___

North Clackamas Fire District #1 ___

North Clackamas Parks & Recreation District (NCPRD) ___

TriMet ___

Other _____ ___

Milwaukie Sunday Farmers Market

McLoughlin Boulevard

Jackson Street

Harrison Street

Water

Drive up / Pick Up No Parking

Plant Divider

Plant Divider

Plant Divider

Plant Divider

Plant Divider

Plant Divider

Plant Divider

Planter

Path

Trailer

Market Info Booth

Demo Booth

Tent

Trash

Porta a potties

74 ATM

Tree

Music

11 Face Painter

12 City Booth

Main St | **No Parking [1]** | **Main St** | **No Parking [1]** | **Main St**

Notes

[1] No Parking on West side of Main Street[4 parallel spaces] Per Past Agreement between City Manager and Market Business Manager

RS34

			This is to improve visibility of pedestrians walking along Main Street from Harrison to Jackson Streets																			
			It also provides visibility for driver to see pedestrians along Main St that other wise would be hidden by parked cars.																			
	[2]	East side of Main Street diagonal parking [7 spaces, not handicapped space] will be used by venders and market staff to prevent the																				
			Possibility of people backing out into traffic along Main street during to the poor visibility and the amount of traffic on Main Street during the Farmers Market																			
	[3]	City will contact TriMet as to the closure of Main Street to busses from 8 AM to 3 PM each Sunday during the Farmers Market.																				
		City will also ask for a contact phone number to report busses that use Main St during the Closures.																				

Milwaukie Sunday Farmers Market

Sign Placement 2016

Downtown Streets

1. South side Jackson between 99E & Main between entrances to parking lot behind Chopsticks
2. West side SE 21st. between Jackson & Monroe between Key Bank lot entrances of their north lot
3. North side Jackson between 21st. & Main @ west side of entrance to City Hall parking lot
4. North side Harrison between 99E & Main @ east side of entrance to credit union parking lot
5. Northeast corner of 99E & Jefferson adjacent to Arco station
6. Northeast corner of 99E & Jackson
7. Southeast corner of 99E & Harrison
8. Southwest corner of 99E & Harrison/17th.
9. Northwest corner of 99E & Harrison/17th.
10. Southeast corner of Washington & Main
11. Southwest corner of Harrison & Main
12. Northeast corner of Monroe & 21st.
13. East end of Adams St. Connector.
14. West end of Adams St. Connector.

Signs on posts along 99E

1A. NW corner 99E & Harrison on "crosswalk closed" pole
2A. West side 99E @ Jefferson boat ramp entrance on "crosswalk closed" pole
3A. On Empress tree on W. side 99E across from funeral home
4A. NW corner of 99E & Millport St

Signs on posts along 224

1B. East side 224 between Oak & Monroe on pole at end of dead end street
2B. East side 224 between Oak & Monroe on "City Center" pole
3B. East side 224 between Monroe & Harrison on "Harrison Next Signal" pole
4B. West side 224 between Monroe & Harrison on "Monroe Next Signal" pole
5B. Oak St. and Washington on "No Thru Trucks" pole

17th Ave

1C. West side of 17th Ave just south of Ochoco St.

Signs for the Farmers Market will be up between 7:00 AM and 3:00 PM on Sundays starting in May. and ending the end of October. 2016.

MILWAUKIE CITY COUNCIL
STAFF REPORT

Agenda Item: RS 3. C.
Meeting Date: April 5, 2016

To: Mayor and City Council

From: Mitch Nieman, Asst. to City Manager
Through: Bill Monahan, City Manager

Subject: **Museum Lease Extension**

Date: **April 5, 2016**

ACTION REQUESTED

Authorize the city manager to extend the City's lease with The Milwaukie Historical Society for sixty (60) days. The Historical Society agrees with the need for an extension to complete negotiation of a long-term lease.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

April 16, 1996 – City executed a 20-year lease with Milwaukie Historical Society for use of real property located on 3737 Adams Street. Said lease expires on April 16, 2016.

March 15, 2016 – City Council directed staff to prepare an extension of said lease for sixty (60) days to accommodate preparation and negotiation of a new lease for execution by all parties before June 15, 2016.

FISCAL AND WORK LOAD IMPACTS

There are no financial or work load impacts other than Staff time to write and process a 60-day extension of said lease.

ALTERNATIVES

1. Authorize the city manager to execute a lease extension for 60 days
2. Do not authorize the city manager to execute a lease extension
3. Authorize the city manager to execute a lease extension for a different period of time

ATTACHMENTS

1. Lease Extension Letter

Attachment 1

April 5, 2016

Mr. David Aschenbrenner
President
Milwaukie Historical Society
3737 SE Adams Street
Milwaukie, OR 97222

RE: Lease Extension - 3737 SE Adams Street

Dear Mr. Aschenbrenner,

This letter serves as an extension to the lease for the rented property located at 3737 SE Adams Street in Milwaukie, Oregon, which is currently occupied by the Milwaukie Museum and Milwaukie Historical Society.

The lease for said property is due to expire on April 16, 2016.

On March 15, 2016, City Council agreed to extend the lease for 60 days to give the City and Historical Society time to prepare and negotiate a new lease for execution before June 15, 2016.

Extended lease period: April 16, 2016 through June 15, 2016. All terms and conditions remain per the lease dated April 16, 1996.

Thank you for continuing to comply with terms and conditions set forth in said lease during this 60-day extension period.

Respectfully,

Bill Monahan
City Manager

cc: Scott Barbur, Milwaukie Historical Society

CITY OF MILWAUKIE
10722 SE Main Street, Milwaukie, Oregon 97222
P) 503-786-7555 / F) 503-786-7528
www.milwaukieoregon.gov

MILWAUKIE CITY COUNCIL
STAFF REPORT

Agenda Item: RS 3. D.
Meeting Date: April 5, 2016

To: Mayor and City Council

Through: Bill Monahan, City Manager

Subject: **Business Oregon Brownfields Redevelopment Fund Grant Award**

From: Alma Flores, Community Development Director

Date: March 18, 2016

ACTION REQUESTED

Approval for the City Manager, Bill Monahan to sign on behalf of the city for receipt of the Business Oregon Brownfields Redevelopment Fund Grant in the amount of $60,000.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

There are no prior actions and discussions on this topic.

BACKGROUND

The City of Milwaukie's Community Development Department applied for a Business Oregon Brownfields Redevelopment Fund Grant on December 24, 2015 to perform environmental assessments (Phase I and possibly Phase II assessments) on the co-owned Metro/City site known as the Texaco Site (renamed City Block 14) and the city-owned Cash Spot site. These two publicly-owned sites in downtown Milwaukie have been identified as development "opportunity sites" through planning efforts conducted from 2012-2014 and are located at key "gateways" to downtown Milwaukie.

City Block 14 is a publicly-owned full-block site located in a key location at the northern end of downtown Milwaukie along McLoughlin Blvd. The City and Metro acquired the western half of the site (the "Texaco" site) in 2005; the City has owned the eastern half of the site since 1969. The western half of the site was previously occupied by a gas station; the eastern half of the site formerly housed a lumber yard. The status of contamination of the site is unknown.

The "Cash Spot" site: This publicly-owned site is located at a key location on the southern end of downtown Milwaukie along McLoughlin Blvd. The City acquired the site and demolished the building on the site in 2006 as part of the McLoughlin Blvd/Hwy 99E widening project. The status of contamination of the site is unknown.

The City is planning to issue RFPs for mixed-use development on both sites. However, the current status of site contamination is unknown, and contamination has the potential to significantly increase the cost of site development. The City would like additional information about existing contamination in order to work with potential developers to establish a development process and possible remediation agenda.

The grant allows the City to perform necessary site analysis to prepare the site for sale. The scope of work to be performed under the grant can be completed by no later than June 2016. The City may be able to issue a Request for Qualifications on one or both of the sites as early as September 2016.

Attached is the contract that Business Oregon has provided and the scope of work is below.

Scope of Work:
The grant provides funding for the following tasks to be performed for both sites:
1. Completion of a Phase One Environmental Site Assessment to ASTM Standard 1527-13;
2. Completion (if determined necessary) of a Phase Two Environmental Site Assessment to current standard.
3. Recipient shall submit documentation to DEQ for review and approval.

CONCURRENCE
City Manager, Community Development Director and Planning Director

FISCAL IMPACTS
The grant is on a reimbursement basis. The city will front the costs and be reimbursed by the State for the monies expended.

WORK LOAD IMPACTS
Management of the consultants conducting the scope of work.

ALTERNATIVES
Reject this grant and not conduct this due diligence items for properties owned by the city.

ATTACHMENTS
1. Business Oregon Grant Application

2. Business Oregon Grant Contract

business oregon where business grows™

APPLICATION - General

Oregon Business Development Department
Attn: Karen Homolac
775 Summer St. NE, Suite 200
Salem, Oregon 97301-1280
(503) 986-0191
karen.homolac@oregon.gov

Applicant: City of Milwaukie/Metro

Project Name: Two Properties: City Block 14 and City-owned "Cash Spot" site--Brownfields Analysis

Applicant Information

Applicant's Organization Type:

☒ City
☐ County
☐ Tribe
☐ Special District, organized under ORS _____
☐ Port District, organized under ORS _____
☐ Non-profit, organized as a _____
☐ For-Profit, organized as a _____
☐ Other: _____

Contact Name: Alma Flores **Title:** Community Development Director	**Phone:** 503-786-7652 **Fax:** 503-774-8236 **Email:** floresa@milwaukieoregon.gov
Street Address: City of Milwaukie 6101 SE Johnson Creek Blvd Milwaukie, OR 97206	**Mailing Address:** Same

Applicant's Federal Tax ID No: 93-6002212

Project Budget

Budget Line Item	OBDD Funding	Other Funds	Total
Phase I ESA – Block 14	$15,000	NA	$15,000
Phase I ESA –Cash Spot Site	$15,000	NA	$15,000

Project Budget			
Phase II ESA – Block 14	$15,000	NA	$15,000
Phase II ESA – Cash Spot Site	$15,000	NA	$15,000
Totals	**$60,000**	NA	$60,000

Source of Other Funds	Amount	Status Committed, Application Submitted, Application Invited, or Potential Source
NA		
Total		

Problem/ Opportunity

This application is for two publicly-owned sites in downtown Milwaukie; both have been identified as development "opportunity sites" through planning efforts conducted from 2012-2014 and are located at key "gateways" to downtown Milwaukie.

Block 14: This publicly-owned full-block site is located in a key location at the northern end of downtown Milwaukie along McLoughlin Blvd. The City and Metro acquired the western half of the site (the "Texaco" site) in 2005; the City has owned the eastern half of the site since 1969. The western half of the site was previously occupied by a gas station; the eastern half of the site formerly housed a lumber yard. The status of contamination of the site is unknown.

"Cash Spot" site: This publicly-owned site is located at a key location on the southern end of downtown Milwaukie along McLoughlin Blvd. The City acquired the site and demolished the building on the site in 2006 as part of the McLoughlin Blvd/Hwy 99E widening project. The status of contamination of the site is unknown.

The City is planning to issue RFPs for mixed-use development on both sites. However, the current status of site contamination is unknown, and contamination has the potential to significantly increase the cost of site development. The City desires information about existing contamination in order to work with potential developers to establish a development process and program.

Response to Problem/ Opportunity

The City intends to conduct Phase I and II environmental site assessments to determine the current status of contamination for both sites in order to more fully understand potential mitigation and/or remediation requirements related to development of the sites.

Detailed project description
Once Phase I and II environmental site assessments are conducted, the City will move forward, either independently or in partnership with a developer selected through the RFP process, to mitigate/remediate any contamination located on the site.

If interim financing is needed – indicate the source(s)
N/a

Project Work Plan		
Activity	**Estimated Start Date**	**Estimated Completion Date**
Phase I ESA – Block 14 and Cash Spot Site	January 25, 2016	February 29, 2016
Phase II ESA – Block 14 and Cash Spot Site	March 4, 2016	April 15, 2016
Estimated First Draw Date (dd/mm/yy): March 1, 2016		

General Certification:

I certify that to the best of my knowledge all information contained in this document and any attached supplements, is valid and accurate. I further certify that, to the best of my knowledge:

1) The application has been approved by the governing body or is otherwise being submitted using the governing body's lawful process, and
2) If signed by an official, other than the highest elected official, documentation is attached that verifies the official's authority to sign on behalf of the applicant. Such documentation can include a resolution, ordinance, order, governing body meeting minutes, or charter.

Signature
(must be highest elected or authorized official)

William A. Monahan, City Manager
Printed Name & Title

12/24/15
Date

This information may be found at: http://www.leg.state.or.us/index.html	
State Senator Name: Diane Rosenbaum	District Number: 21
State Representative Name: Kathleen Taylor	District Number: 41

FOR OBDD USE ONLY
Intake approval date: _____

Project Type

- ☐ Environment Site Assessment (i.e. Phase One, Phase Two)
- ☐ Brownfields Related Planning Activities (i.e. PPA)
- ☐ Integrated Planning Project
- ☐ RI/FS
- ☐ Cleanup

Instructions for Application Form:

- **Applicant:** Entity that will be the applicant for Division assistance and will manage the project.
- **Project Name:** Name of the applicant and project (e.g., Somewhere Brownfields Cleanup Project).
- **Applicant's Organization Type:** Check the applicable applicant organizational type, and if a special district or port, identify the applicable ORS organizing authority, or identify other type.
- **Information for Contact Person:** Information for the person we should contact if we have questions about the project.
- **Detailed Project Budget:** List individual project budget line items with requested budgeted amounts by OBDD funding sources and other sources. Change the respective budget column labels to identify the specific requested OBDD funding sources.
- **Source of Other Funds:** List all sources, amounts and status of funds other than those requested from OBDD.
- **Problem/Opportunity:** Briefly describe the problem or opportunity facing the applicant.
- **Response to Problem/Opportunity:** Briefly describe the major alternatives considered by the applicant to address the problem or opportunity facing the applicant.
- **Detailed Project Description:** Clearly describe the proposed project work to be accomplished.
- **Interim Financing (if any):** Identify any interim financing needed by the applicant and list any committed or potential sources of interim financing.
- **Project Work Plan:** List project activity milestones with estimated start and completion dates. Identify estimated date of first cash draw.
- **Signature:** Must be highest elected official or authorized official. (Such documentation may include a resolution, ordinance, order, governing body meeting minutes, or charter).

Application Supplement for
Brownfield Redevelopment Funds

Property Acquisition/Ownership/Operation
Who currently owns the property?
Block 14 is jointly owned by the City and Metro. The Cash Spot Site is owned by the City.

Who will own the property once the project is completed?
Ownership will remain the same.

Did the applicant purchase the site through the Oregon Department of Environmental Quality's Prospective Purchaser Program? If negotiations are currently underway, describe the status.
Metro purchased the western half of Block 14 through a PPA in 2005.

When was property purchased? (Estimate is OK if exact date is unknown.)
Block 14: 2005 (western half), 1969 (eastern half). Cash Spot Site: 2006.

Liability
Is the applicant and/or current owner of the project site currently or ever been under an order from the Department of Environmental Quality for the project site? If yes, provide a detailed explanation, including dates and actions taken.
No.

Is the applicant and/or current owner of the property potentially liable for the release of contamination at the site (according to ORS Chapter 465)? If no, cite the appropriate liability exception.
We would assume so.

Additional Program Requirements/Project Information
What is the physical location of project? (If street address is not available, use township, range, section, tax lot, etc. or geographic coordinates.)
Block 14: Tax Lot IDs 1S1E35AA01000 and 00900 Cash Spot Site: Tax Lot IDs 1S1E35AD01100, 01300, 01301, and 01302

Explain how real or perceived contamination of the site prevents the property from being fully utilized.
Perceived contamination of the site prevents development due to uncertainty about the additional costs of remediation or mitigation of potential site contamination.

Is the proposed site receiving oversight or other consultation by the Oregon Department of Environmental Quality? If yes, please indicate which program(s) apply: Voluntary Cleanup Program, Independent Cleanup Pathway, Site Response, Prospective Purchaser Agreement, Underground Storage Tanks, Orphan Site, Targeted Brownfield Assessment, Other;
A PPA is in place for the western half of Block 14. There is no oversight or consultation by DEQ of the eastern half of Block 14 or the Cash Spot Site.

Describe any likely additional environmental actions anticipated for this property in the future (such as vapor or groundwater monitoring).
TBD by Phase I and II environmental site assessments

Describe any proposed institutional or engineering controls (such as deed restrictions or vapor barriers).
TBD by Phase I and II environmental site assessments

If the project includes site characterization, explain how the project will contribute or lead to a remediation plan or a No Further Action Determination by the Oregon Department of Environmental Quality. ("Site characterization" means determining and delineating the boundaries of the plume(s) of contamination and/or determining the status of the contamination such as whether it is migrating or crossing from one media to another, such as from soil to water, at the site.)
The Phase I and II ESAs are expected to lead to either a remediation plan or NFA determination.

If the project includes a remedial or removal action or plan, either identify the proposed redevelopment use or whether the project is to build capacity.
The proposed redevelopment use for both sites is mixed use commercial and residential.

If the project includes a remedial or removal action or plan, explain how the project will contribute to the proposed redevelopment.
Remediation or removal of identified contaminants will increase the range of redevelopment options for the sites.
If the project includes a remedial or removal action or plan, explain how the redevelopment is attainable (such as: the proposed use is consistent with the local and use plan; adequate infrastructure exists or will exist at the site for the proposed use) and describe the progress made to date towards achieving the proposed redevelopment (such as: status of financing negotiations, permit applications, contracts or negotiations for the transfer in ownership of the site, and preparation of a business plan or articles of incorporation.)
The proposed mixed use development is consistent with the local land use plan and zoning. The sites are infill sites and adequate infrastructure exists to support the proposed development (or will be required as a condition of development). City staff is in the process of preparing a request for qualifications for development of both sites; a formal request for proposals is pending an evaluation of the status of site contamination.

If the project includes a remedial or removal action or plan, describe the progress made to date towards achieving the proposed redevelopment (such as: status of financing negotiations, permit applications, contracts or negotiations for the transfer in ownership of the site, and preparation of a business plan or articles of incorporation.)
Both sites are publicly-owned and the City intends to make them available for development pending an evaluation of the status of site contamination.

If the project includes a remedial or removal action, describe how the action will comply with state cleanup law
Any actions taken on site will comply with applicable State laws.

Financial Information
What is the anticipated source of repayment for the loan?
NA

Is other debt serviced or secured by those revenues? If yes, is it described in the applicant's audit reports? If no, please describe:
NA

Has the applicant ever defaulted on a debt? If yes, provide a complete summary of the circumstances related to the default.
No.

Is there pending litigation that could impair the applicant's ability to repay debt?
No.

If funding for the project includes a private loan, will the lender subordinate its security interest in the collateral?
NA

Additional Budget Information
Who prepared the cost estimates for the project? Name, title, company, phone, and date.
Alma Flores, Community Development Director, City of Milwaukie, 503-786-7652, 12/24/15

Identify the private funding sources explored for the project and explain why they are not considered viable/appropriate for the project.
The City is seeking grant assistance for these activities because there are no dedicated funds for the environmental site assessment or any identified remediation/mitigation included in the City budget.

Attachments

Municipal	Non – Profit Organization	Private	Attachment Label (please do not change)	*Description of Attachment*
			A	**If applicant is a city or county, attach list of the ten largest property tax payers in the applicant's jurisdiction, their type of business, total taxes, and current assessed value.**
			B	**An endorsement (statement of zoning compliance) of the project from the local government that has jurisdiction over the site.**
			C	**If the owner is currently under an enforcement order from the Oregon Department of Environmental Qualify, attach documentation that the proposed project will facilitate a transfer in ownership of the site to an entity not under enforcement.**
			D	**If the applicant or owner caused or contributed to the contamination of the property, attach documentation of a past, present or planned financial contribution from the applicant or owner.**
			E	**If the applicant is a Prospective Purchaser, attach documentation of a valid option to buy the site.**
			F	**If applicant is not the current owner, attach proof of site access authorization.**
			G	**Map(s) showing the location of the project, including tax lots/parcels and road widths, etc.**
			H	**Any environmental assessment/study/ report/testing which has been completed for the property.**
			I	**Applicant's current adopted budget.**
			J	**Applicant's last three audit reports. *For businesses these may be the most recent three years' historical financial statements (including balance sheets and***

				income statements); tax returns for existing business and/or individuals (these may be treated as business confidential – please indicate on documents if this is to be the case). For individual applicants please include a personal financial balance sheet.
			K	**Copies of any ordinances that establish debt that is supported by the source of repayment for this loan.**
			L	**Business Plan if applicable (must include business description, products or services, business production plan, market analysis or marketing plan, organizational/management plan, and financial plan.**
			M	**Projected financial statements for two (2) years (including balance sheets and income statements) representing the new property usage**
			N	**Copy of most recent property appraisal.**
			O	**Applicant's Articles of Incorporation.**

December 28, 2015

Oregon Business Development Department
Attn: Karen Homolac
775 Sumner St NE, Suite 200
Salem, OR 97301-1280

RE: Zoning Confirmation for City of Milwaukie/Metro Brownfields Analysis Application

Dear Ms. Homolac:

This letter serves as confirmation that the City Block 14 and "Cash Spot" sites are zoned Downtown Mixed Use DMU, which permits a broad range of development and uses, including the mix of uses proposed for these sites.

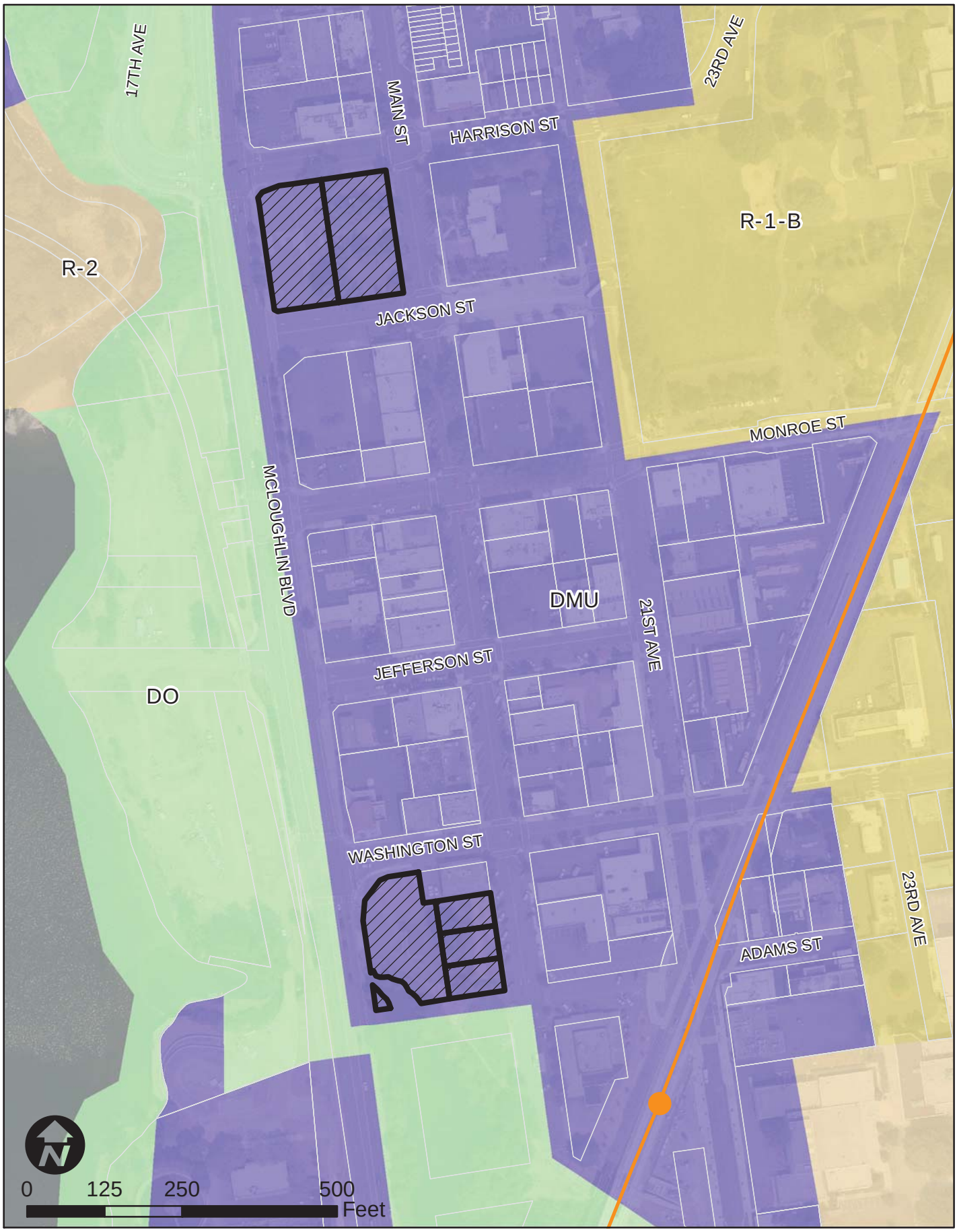
Sincerely,

Li Alligood, AICP
Senior Planner
City of Milwaukie Planning Department
503-786-7627
alligoodl@milwaukieoregon.gov

Enclosure(s)

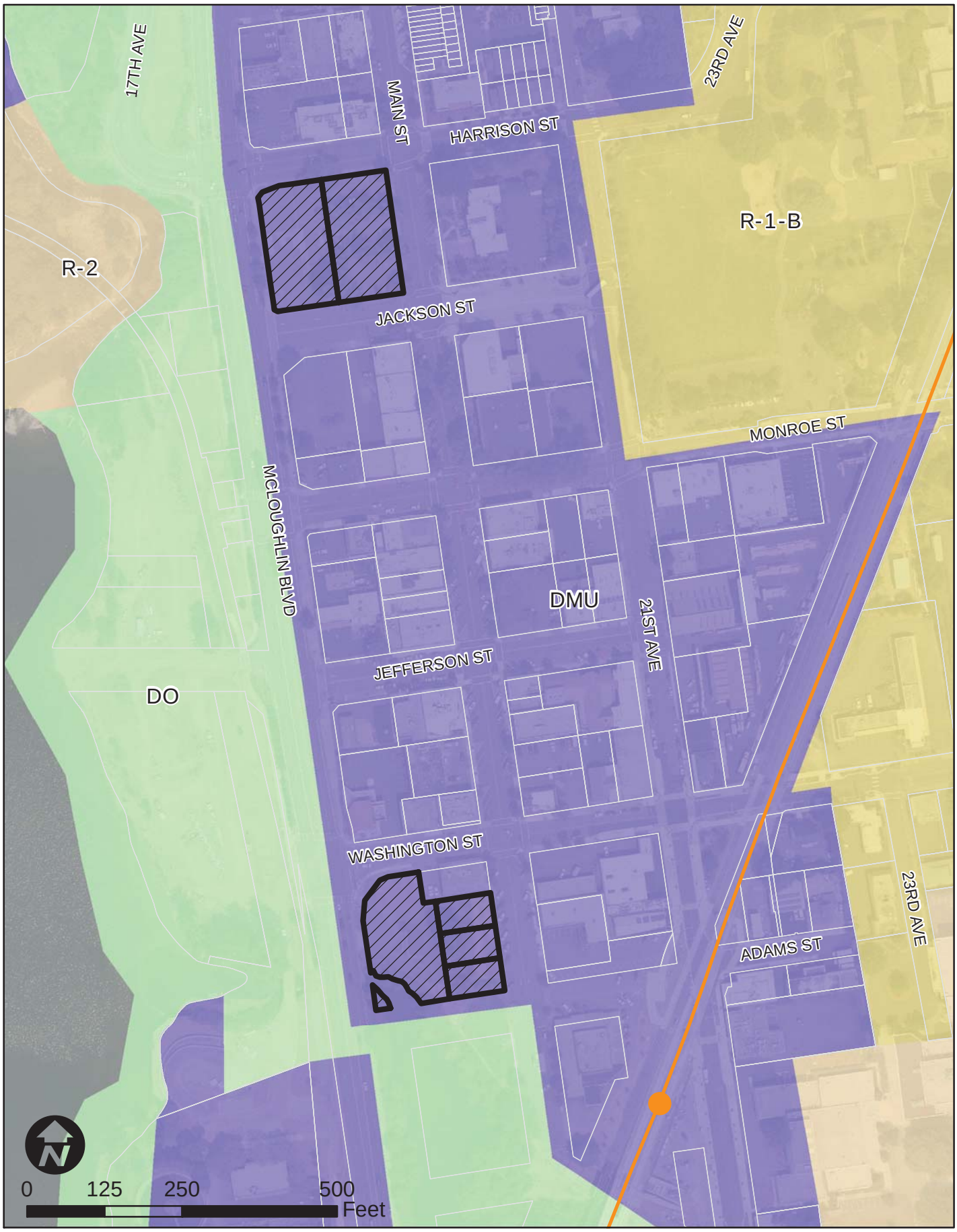
1. Zoning map

Zoning Map
Block 14 and "Cash Spot" Site Brownfields Analysis



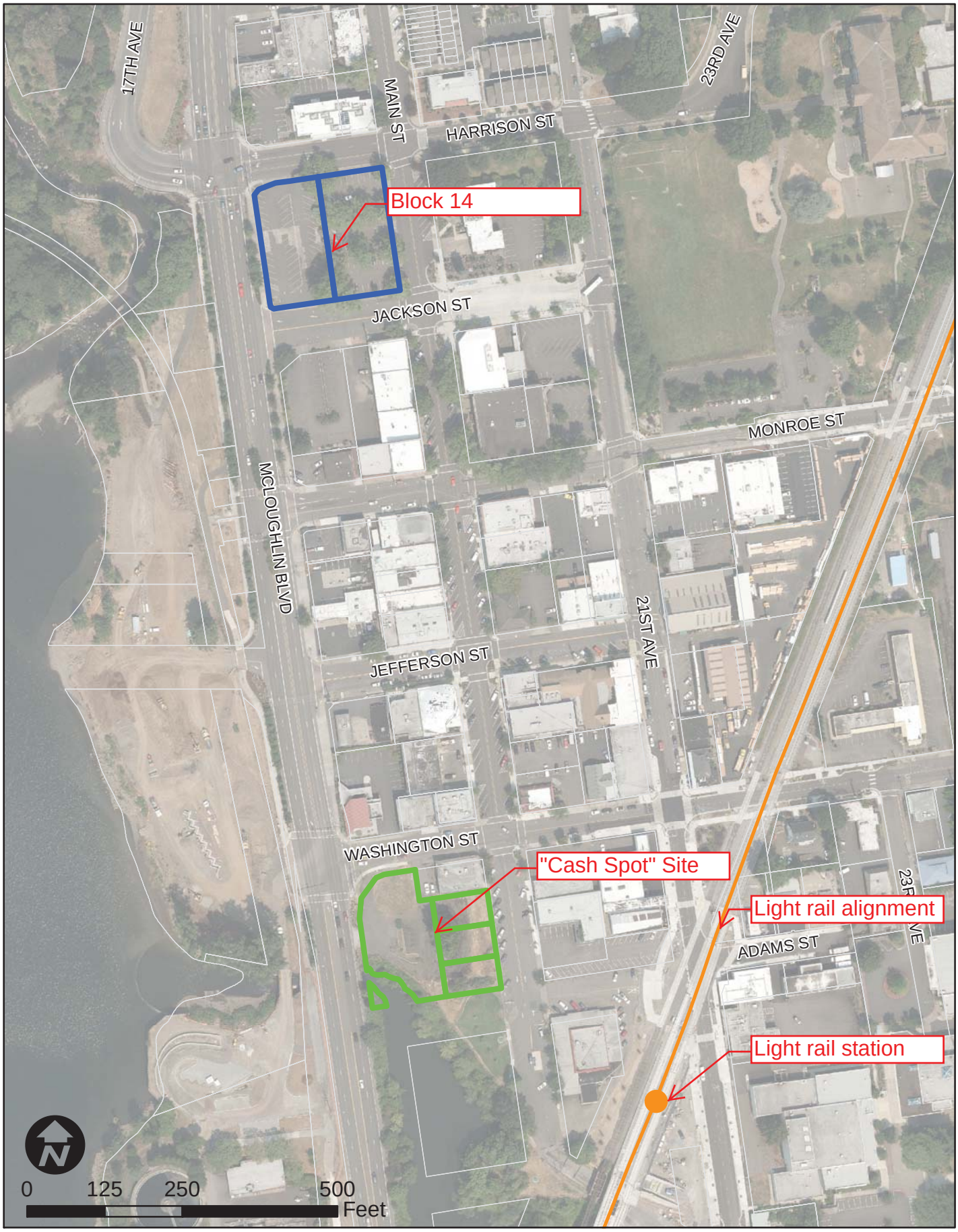
RS51

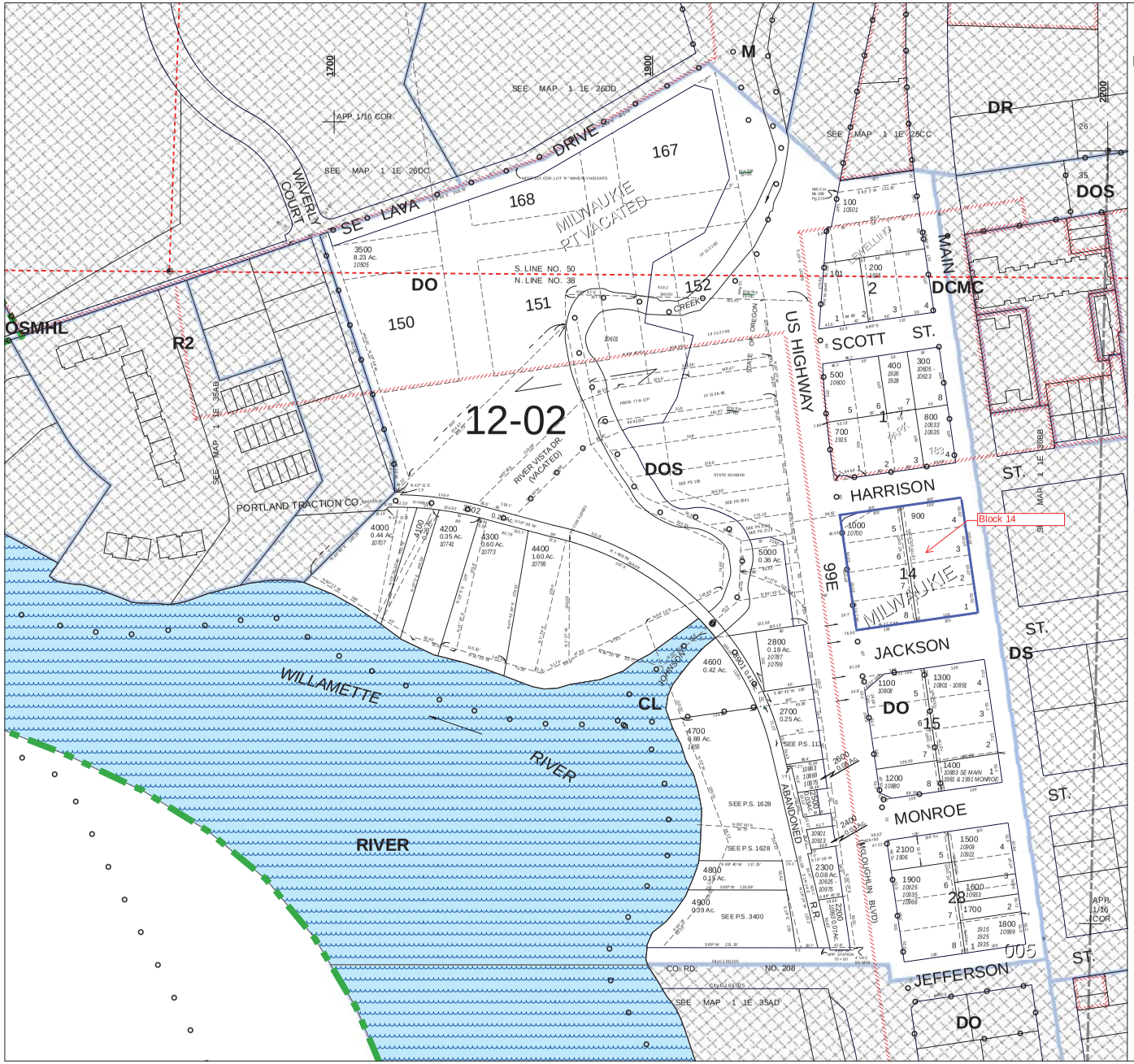
Zoning Map
Block 14 and "Cash Spot" Site Brownfields Analysis



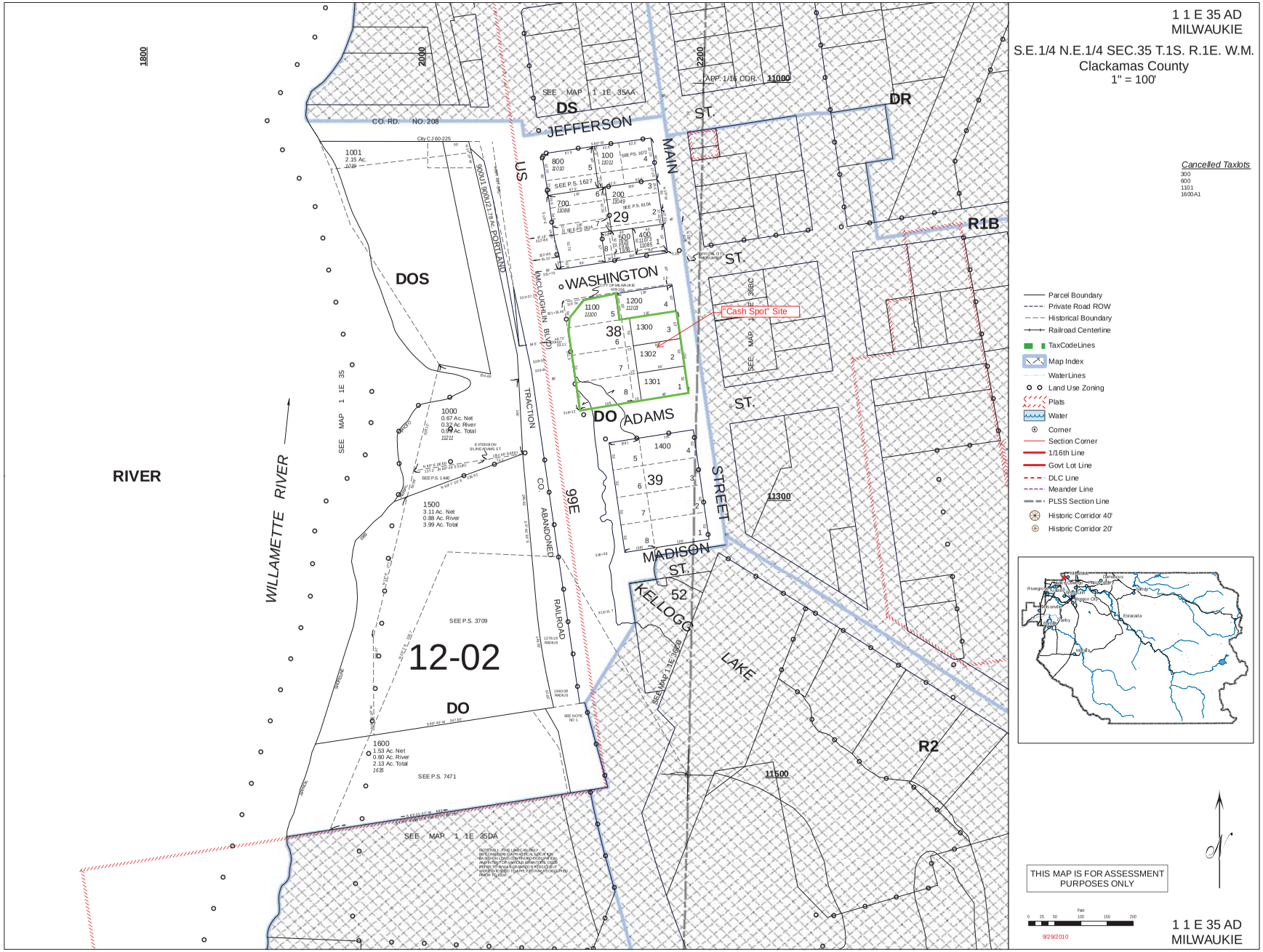
RS52

Location Map
Block 14 and "Cash Spot" Site Brownfields Analysis




1 1 E 35AA
MILWAUKIE
N.E.1/4 N.E.1/4 SEC.35 T.1S. R.1E. W.M.
CLACKAMAS COUNTY
1" = 100'
D. L. C.
LOT WHITCOMB NO. 38
WILLIAM MEEK NO. 50
Cancelled Taxlots
600
1000A1
1100A1
2000
2200A1
2900
2901
3000
3100A1
3100
3100A2
3300
3301
3400
3401
3501
3600
3700
3800
3900
3901U1
3901U2
4500
Parcel Boundary
Private Road ROW
Historical Boundary
Railroad Centerline
TaxCodeLines
Map Index
WaterLines
Land Use Zoning
Plats
Water
Corner
Section Corner
1/16th Line
Govt Lot Line
DLC Line
Meander Line
PLSS Section Line
Historic Corridor 40'
Historic Corridor 20'
THIS MAP IS FOR ASSESSMENT PURPOSES ONLY
6/29/2015
1 1 E 35AA
MILWAUKIE
12-02
SE LAVA DRIVE
WAVERLY COURT
MILWAUKIE (VACATED)
RIVER VISTA DR. (VACATED)
S. LINE NO. 50
N. LINE NO. 38
SCOTT ST.
HARRISON
JACKSON
MONROE
JEFFERSON
MAIN
Block 14
US HIGHWAY 99E
WILLAMETTE RIVER
PORTLAND TRACTION CO.
CO. RD. NO. 208
M
DR
DOS
DO
DCMC
R2
OSMHL
CL
DS
ST.
APP. 1/16 COR
SEE MAP 1 1E 26DD
SEE MAP 1 1E 26DC
SEE MAP 1 1E 26CC
SEE MAP 1 1E 35AB
SEE MAP 1 1E 35AD
SEE P.S. 1628
SEE P.S. 3400
SEE P.S. 111
ABANDONED R.R.
MCLOUGHLIN BLVD.
STATE OF OREGON
CREEK
005

RS54


1 1 E 35 AD
MILWAUKIE
S.E.1/4 N.E.1/4 SEC.35 T.1S. R.1E. W.M.
Clackamas County
1" = 100'
Cancelled Taxlots
300
600
1101
1600A1
Parcel Boundary
Private Road ROW
Historical Boundary
Railroad Centerline
TaxCodeLines
Map Index
WaterLines
Land Use Zoning
Plats
Water
Corner
Section Corner
1/16th Line
Govt Lot Line
DLC Line
Meander Line
PLSS Section Line
Historic Corridor 40'
Historic Corridor 20'
"Cash Spot" Site
THIS MAP IS FOR ASSESSMENT PURPOSES ONLY
9/29/2010
1 1 E 35 AD
MILWAUKIE
RIVER
WILLAMETTE RIVER
DOS
DO
DS
DR
R1B
R2
JEFFERSON
WASHINGTON
ADAMS
MADISON ST.
KELLOGG LAKE
MAIN ST.
STREET
MCLOUGHLIN BLVD
US 99E
TRACTION
CO. ABANDONED RAILROAD
CO. RD. NO. 208
SEE MAP 1 1E 35AA
SEE MAP 1 1E 35
SEE MAP 1 1E 35DA
SEE P.S. 3709
SEE P.S. 7471
12-02
1001
2.15 Ac.
1000
0.67 Ac. Net
0.32 Ac. River
0.99 Ac. Total
1500
3.11 Ac. Net
0.88 Ac. River
3.99 Ac. Total
1600
1.53 Ac. Net
0.60 Ac. River
2.13 Ac. Total
11000
11300
11500

RS55

OREGON BUSINESS DEVELOPMENT DEPARTMENT
BROWNFIELDS REDEVELOPMENT FUND
GRANT CONTRACT

Project Name: Milwaukie Cash Spot & City Block 14 Assessment Project

Project Number: N16006

This financing contract ("Contract"), dated as of the date the Contract is fully executed, is made by the State of Oregon, acting by and through its Oregon Business Development Department ("OBDD"), and the City of Milwaukie ("Recipient") for financing of the project referred to above and described in Exhibit B ("Project"). This Contract becomes effective only when fully signed and approved as required by applicable law. Capitalized terms not defined in section 1 and elsewhere in the body of the Contract have the meanings assigned to them by Exhibit A.

This Contract includes the following exhibits, listed in descending order of precedence for purposes of resolving any conflict between two or more of the parts:

Exhibit A	General Definitions
Exhibit B	Project Description
Exhibit C	Project Budget

SECTION 1 - KEY TERMS

The following capitalized terms have the meanings assigned below.

"Estimated Project Cost" means $60,000.

"Grant Amount" means $60,000.

"Project Closeout Deadline" means 90 days after the earlier of the actual Project Completion Date or the Project Completion Deadline.

"Project Completion Deadline" means 24 months after the date of this Contract.

SECTION 2 - GRANT AWARD

The OBDD shall provide Recipient, and Recipient shall accept from OBDD, financing for the Project specified as a grant (the "Grant") in an aggregate amount not to exceed the Grant Amount.

Notwithstanding the above, the aggregate total of the Grant disbursed under this Contract cannot exceed the Costs of the Project.

SECTION 3 - DISBURSEMENTS

A. Reimbursement Basis. The Grant will be disbursed to Recipient on an expense reimbursement or costs-incurred basis. The Recipient must submit each disbursement request for the Grant on an OBDD-provided or OBDD-approved disbursement request form ("Disbursement Request").

B. Financing Availability. The OBDD's obligation to make, and Recipient's right to request, disbursements under this Contract terminates on the Project Closeout Deadline.

SECTION 4 - CONDITIONS PRECEDENT

A. Conditions Precedent to OBDD's Obligations. The OBDD's obligations are subject to the receipt of the following items, in form and substance satisfactory to OBDD and its Counsel:

(1) This Contract duly signed by an authorized officer of Recipient.

(2) Such other certificates, documents, opinions and information as OBDD may reasonably require.

B. Conditions to Disbursements. As to any disbursement, OBDD has no obligation to disburse funds unless all following conditions are met:

(1) There is no Default or Event of Default.

(2) The representations and warranties made in this Contract are true and correct on the date of disbursement as if made on such date.

(3) The OBDD, in the reasonable exercise of its administrative discretion, has sufficient moneys in the Fund for use in the Project and has sufficient funding, appropriations, limitations, allotments and other expenditure authority to make the disbursement.

(4) The OBDD (a) has received a completed Disbursement Request, (b) has received any written evidence of materials and labor furnished to or work performed upon the Project, itemized receipts or invoices for payment, releases, satisfactions or other signed statements or forms as OBDD may require, (c) is satisfied that all items listed in the Disbursement Request are reasonable and that the costs for labor and materials were incurred and are properly included in the Costs of the Project, and (d) has determined that the disbursement is only for costs defined as eligible costs under the Act and any implementing administrative rules and policies.

(5) The Recipient shall demonstrate, to the satisfaction of OBDD, that it has obtained all other funds that are necessary to complete the Project.

(6) The Recipient has delivered documentation satisfactory to OBDD that any requested pre-award expenditures meet all programmatic eligibility requirements, including, but not limited to, the nature of the activity, when the activity took place, and cost.

(7) Any conditions to disbursement elsewhere in this Contract or in the other Financing Documents are met.

SECTION 5 - USE OF FINANCIAL ASSISTANCE

A. Use of Proceeds. The Recipient shall use the Grant only for the activities described in Exhibit B and according to the budget in Exhibit C. The Recipient may not modify line items or amounts in the budget without the prior written consent of OBDD. Recipient will not use the Grant moneys to retire any debt.

B. Costs of the Project. The Recipient shall apply the Grant to the Costs of the Project in accordance with the Act and Oregon law, as applicable. The Grant cannot be used for costs in excess of one hundred percent (100%) of the total Costs of the Project.

C. Costs Paid for by Others. The Recipient may not use any of the Grant to cover costs to be paid for by other financing for the Project from another State of Oregon agency or any third party.

SECTION 6 - REPRESENTATIONS AND WARRANTIES OF RECIPIENT

The Recipient represents and warrants to OBDD:

A. Estimated Project Cost, Funds for Repayment. A reasonable estimate of the Costs of the Project is shown in section 1, and the Project is fully funded.

B. Organization and Authority.

(1) The Recipient is a municipality, validly organized and existing under the laws of the State of Oregon.

(2) The Recipient has all necessary right, power and authority under Oregon law to (a) execute and deliver this Contract, (b) incur and perform its obligations under this Contract, and (c) receive financing for the Project.

(3) This Contract has been duly executed by Recipient, and when executed by OBDD, is legal, valid and binding, and enforceable in accordance with its terms.

C. Full Disclosure. The Recipient has disclosed in writing to OBDD all facts that materially adversely affect the Project, or the ability of Recipient to make all payments and perform all obligations required by this Contract. The Recipient has made no false statements of fact, nor has it omitted information necessary to prevent any statements from being misleading. The information contained in this Contract is true and accurate in all respects.

D. Pending Litigation. The Recipient has disclosed in writing to OBDD all proceedings pending (or to the knowledge of Recipient, threatened) against or affecting Recipient, in any court or before any governmental authority or arbitration board or tribunal, that, if adversely determined, would materially adversely affect the Project or the ability of Recipient to perform all obligations required by this Contract.

E. No Defaults.

(1) No Defaults or Events of Default exist or occur upon authorization, execution or delivery of this Contract.

(2) The Recipient has not violated, and has not received notice of any claimed violation of, any agreement or instrument to which it is a party or by which the Project or its property may be bound, that would materially adversely affect the Project or the ability of Recipient to perform all obligations required by this Contract.

F. Compliance with Existing Agreements and Applicable Law. The authorization and execution of, and the performance of all obligations required by, this Contract will not: (i) cause a breach of any agreement or other instrument to which Recipient is a party or by which the Project or any of its property or assets may be bound; (ii) violate any provision of the charter or other document pursuant to which Recipient was organized or established; or (iii) violate any laws, regulations, ordinances, resolutions, or court orders related to Recipient, the Project or its properties or operations.

G. Governmental Consent. The Recipient has obtained or will obtain all permits and approvals, and has made or will make all notifications, declarations, filings or registrations, required for the making and performance of its obligations under this Contract for the financing and undertaking and completion of the Project.

SECTION 7 - COVENANTS OF RECIPIENT

The Recipient covenants as follows:

A. Notice of Adverse Change. The Recipient shall promptly notify OBDD of any adverse change in the activities, prospects or condition (financial or otherwise) of Recipient or the Project related to the ability of Recipient to perform all obligations required by this Contract.

B. Compliance with Laws. The Recipient shall comply with all applicable laws, rules, regulations and orders of any court or governmental authority that relate to this Contract, and the Project. In particular, but without limitation, Recipient shall comply with the following, as applicable:

(1) State procurement regulations found in the Oregon Public Contracting Code, ORS chapters 279A, 279B and 279C.

(2) State labor standards and wage rates found in ORS chapter 279C.

These laws, rules, regulations and orders are incorporated by reference in this Contract to the extent required by law.

C. All service providers retained for their professional expertise must be certified, licensed, or registered, as appropriate, in the State of Oregon for their specialty.

D. The Recipient shall comply with regulatory oversight through the appropriate Oregon Department of Environmental Quality Program.

E. Notifications. The Recipient shall reasonably acknowledge in some public fashion, such as in promotional materials, on its web site and in public statements, that the Project was funded in part with Oregon State Lottery Funds administered by the Oregon Business Development Department.

These laws, rules, regulations and orders are incorporated by reference in this Contract to the extent required by law.

F. Project Completion Obligations. The Recipient shall:

(1) Complete the Project no later than the Project Completion Deadline, unless otherwise permitted by OBDD in writing.

(2) Within thirty (30) days after completion of the Project, but no later than the Project Closeout Deadline, provide OBDD with a final project completion report on a form provided by OBDD.

G. Financial Records. The Recipient shall keep accurate books and records and maintain them according to generally accepted accounting principles established by the Government Accounting Standards Board in effect at the time. The Recipient shall have these records audited annually by an independent certified public accountant, which may be part of the annual audit of all records of Recipient.

H. Inspections; Information. The Recipient shall permit OBDD and any party designated by OBDD: (i) to inspect, at any reasonable time, the property, if any, constituting the Project; and (ii) at any reasonable time, to inspect and make copies of any accounts, books and records, including, without limitation, its records regarding receipts, disbursements, contracts, investments and any other related matters, and financial statements or other documents related to its financial standing. The Recipient shall supply any related reports and information as OBDD may reasonably require.

I. Records Maintenance. The Recipient shall retain and keep accessible all books, documents, papers, and records that are directly related to this Contract, the Project or the Grant for a minimum of three years, or such longer period as may be required by other provisions of this Contract or applicable law, following the Project Closeout Deadline. If there are unresolved issues at the end of such period, Recipient shall retain the books, documents, papers and records until the issues are resolved.

J. Economic Benefit Data. The OBDD may require Recipient to submit specific data on the economic development benefits of the Project and other information to evaluate the success and economic impact of the Project, from the date of this Contract until six years after the Project Completion Date. The Recipient shall, at its own expense, prepare and submit the data within the time specified by OBDD.

K. Minority, Women & Emerging Small Business. ORS 200.090 requires all public agencies to "aggressively pursue a policy of providing opportunities for available contracts to emerging small businesses..." The OBDD encourages Recipient in any contracting activity to follow good faith efforts as described in ORS 200.045. Additional resources are provided by the Governor's Policy Advisor for Economic and Business Equity. Also, the Certification Office for Business Inclusion and Diversity at the Oregon Business Development Department maintains a list of certified firms and can answer questions. Search for certified MWESB firms on the web at: https://oregon4biz.diversitysoftware.com/FrontEnd/VendorSearchPublic.asp.

L. Notice of Default. The Recipient shall give OBDD prompt written notice of any Default as soon as any senior administrative or financial officer of Recipient becomes aware of its existence or reasonably believes a Default is likely.

M. Indemnity. To the extent authorized by law, Recipient shall defend (subject to ORS chapter 180), indemnify, save and hold harmless OBDD and its officers, employees and agents from and against any and all claims, suits, actions, proceedings, losses, damages, liability and court awards including costs, expenses, and attorneys' fees incurred related to any actual or alleged act or omission by Recipient, or its employees, agents or contractors; however, the provisions of this section are not to be construed as a waiver of any defense or limitation on damages provided for under Chapter 30 of the Oregon Revised Statutes or under the laws of the United States or other laws of the State of Oregon.

SECTION 8 - DEFAULTS

Any of the following constitutes an "Event of Default":

A. Any false or misleading representation is made by or on behalf of Recipient, in this Contract or in any document provided by Recipient related to this Grant or the Project.

B. Recipient fails to perform any obligation required under this Contract, other than those referred to in subsection A of this section 8, and that failure continues for a period of 30 calendar days after written notice specifying such failure is given to Recipient by OBDD. The OBDD may agree in writing to an extension of time if it determines Recipient instituted and has diligently pursued corrective action.

SECTION 9 - REMEDIES

A. Remedies. Upon any Event of Default, OBDD may pursue any or all remedies in this Contract and any other remedies available at law or in equity to enforce the performance of any obligation of Recipient. Remedies may include, but are not limited to any one or more of the following:

(1) Terminating OBDD's commitment and obligation to make the Grant or disbursements under the Contract.

(2) Barring Recipient from applying for future awards.

(3) Withholding amounts otherwise due to Recipient for application to the payment of amounts due under this Contract, including as provided in ORS 285B.449; however, this provision is not to be construed in a way that Recipient's obligations would constitute debt that violates Section 10, Article XI of the Oregon Constitution.

(4) Requiring repayment of the Grant and all interest earned by Recipient on those Grant funds.

B. Application of Moneys. Any moneys collected by OBDD pursuant to section 9.A will be applied first, to pay any attorneys' fees and other fees and expenses incurred by OBDD; then, as applicable, to repay any Grant proceeds owed; then, to pay other amounts due and payable under this Contract, if any.

C. No Remedy Exclusive; Waiver; Notice. No remedy available to OBDD is intended to be exclusive, and every remedy will be in addition to every other remedy. No delay or omission to exercise any right or remedy will impair or is to be construed as a waiver of such right or remedy. No single or partial exercise of any right power or privilege under this Contract will preclude any other or further exercise thereof or the exercise of any other such right, power or privilege. The OBDD is not required to provide any notice in order to exercise any right or remedy, other than notice required in section 8 of this Contract.

D. Default by OBDD. In the event OBDD defaults on any obligation in this Contract, Recipient's remedy will be limited to injunction, special action, action for specific performance, or other available equitable remedy for performance of OBDD's obligations.

SECTION 10 - MISCELLANEOUS

A. Time is of the Essence. Recipient agrees that time is of the essence under this Contract.

B. Relationship of Parties; Successors and Assigns; No Third Party Beneficiaries.

(1) The parties agree that their relationship is that of independent contracting parties and that Recipient is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265.

(2) Nothing in this Contract gives, or is to be construed to give, directly or indirectly, to any third persons any rights and benefits greater than those enjoyed by the general public.

(3) This Contract will be binding upon and inure to the benefit of OBDD, Recipient, and their respective successors and permitted assigns.

(4) Recipient may not assign or transfer any of its rights or obligations or any interest in this Contract without the prior written consent of OBDD. The OBDD may grant, withhold or impose conditions on such consent in its sole discretion. In the event of an assignment, Recipient shall pay, or cause to be paid to OBDD, any fees or costs incurred because of such assignment, including but not limited to attorneys' fees of OBDD's Counsel. Any approved assignment is not to be construed as creating any obligation of OBDD beyond those in this Contract, nor does assignment relieve Recipient of any of its duties or obligations under this Contract.

(5) Recipient hereby approves and consents to any assignment, sale or transfer of this Contract that OBDD deems to be necessary.

C. Disclaimer of Warranties; Limitation of Liability. The Recipient agrees that:

(1) The OBDD makes no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for particular purpose or fitness for any use of the Project or any portion of the Project, or any other warranty or representation.

(2) In no event are OBDD or its agents liable or responsible for any direct, indirect, incidental, special, consequential or punitive damages in connection with or arising out of this Contract or the existence, furnishing, functioning or use of the Project.

D. Notices. All notices to be given under this Contract must be in writing and addressed as shown below, or to other addresses that either party may hereafter indicate pursuant to this section. Notices may only be delivered by personal delivery or mailed, postage prepaid. Any such notice is effective five calendar days after mailing, or upon actual delivery if personally delivered.

If to OBDD: Assistant Director for Infrastructure Finance Authority
Oregon Business Development Department
775 Summer Street NE Suite 200
Salem OR 97301-1280

If to Recipient: Community Development Director
City of Milwaukie
6101 SE JOHNSON CREEK BLVD
Portland OR 97206-0641

E. No Construction against Drafter. This Contract is to be construed as if the parties drafted it jointly.

F. Severability. If any term or condition of this Contract is declared by a court of competent jurisdiction as illegal, invalid or unenforceable, that holding will not invalidate or otherwise affect any other provision.

G. Amendments, Waivers. This Contract may not be amended without the prior written consent of OBDD (and when required, the Department of Justice) and Recipient. This Contract may not be amended in a manner that is not in compliance with the Act. No waiver or consent is effective unless in writing and signed by the party against whom such waiver or consent is sought to be enforced. Such waiver or consent will be effective only in the specific instance and for the specific purpose given.

H. Attorneys' Fees and Other Expenses. To the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, the prevailing party in any dispute arising from this Contract is entitled to recover its reasonable attorneys' fees and costs at trial and on appeal. Reasonable attorneys' fees cannot exceed the rate charged to OBDD by its attorneys.

I. Choice of Law; Designation of Forum; Federal Forum. The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Contract, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

Any party bringing a legal action or proceeding against any other party arising out of or relating to this Contract shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County (unless Oregon law requires that it be brought and conducted in another county). Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

Notwithstanding the prior paragraph, if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This paragraph applies to a claim brought against the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This paragraph is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

J. Integration. This Contract (including all exhibits, schedules or attachments) constitutes the entire agreement between the parties on the subject matter. There are no unspecified understandings, agreements or representations, oral or written, regarding this Contract.

K. Execution in Counterparts. This Contract may be signed in several counterparts, each of which is an original and all of which constitute one and the same instrument.

The Recipient, by its signature below, acknowledges that it has read this Contract, understands it, and agrees to be bound by its terms and conditions.

STATE OF OREGON
acting by and through the
Oregon Business Development Department

CITY OF MILWAUKIE

By: _____
Chris Cummings, Assistant Director

By: _____
William A. Monahan, City Manager

Date: _____

Date: _____

APPROVED AS TO LEGAL SUFFICIENCY IN ACCORDANCE WITH ORS 291.047:

Not Required per OAR 137-045-0030

Exhibit A: General Definitions
Exhibit B: Project Description
Exhibit C: Project Budget

EXHIBIT A - GENERAL DEFINITIONS

As used in this Contract, the following terms have the meanings below.

"Act" means ORS 285A.185 through 285A.188, as amended.

"Award" means the award of financial assistance to Recipient by OBDD dated 1 March 2016.

"Costs of the Project" means Recipient's actual costs (including any financing costs properly allocable to the Project) that are (a) reasonable, necessary and directly related to the Project, (b) permitted by generally accepted accounting principles to be Costs of the Project, and (c) are eligible or permitted uses of the Grant under applicable state or federal statute and rule.

"Counsel" means an attorney at law or firm of attorneys at law duly admitted to practice law before the highest court of any state, who may be of counsel to, or an employee of, OBDD or Recipient.

"Default" means an event which, with notice or lapse of time or both, would become an Event of Default.

"ORS" means the Oregon Revised Statutes.

"Project Completion Date" means the date on which Recipient completes the Project.

EXHIBIT B - PROJECT DESCRIPTION

Recipient will complete the following activities for both the "City Block 14" property located at 10700 SE McLoughlin Boulevard, Milwaukie, Oregon (Tax Lots #1S1E35AA01000 and 00900) and for the "Cash Spot" property located at 11100 SE McLoughlin Boulevard, Milwaukie, Oregon (Tax Lots #1S1E35AD01100, 01300, 01301, and 01302). Both properties are located in Clackamas County.

1. Completion of a Phase One Environmental Site Assessment to ASTM Standard 1527-13;
2. Completion (if determined necessary) of a Phase Two Environmental Site Assessment to current standard.

Recipient shall submit documentation to DEQ for review and approval.

Exhibit C: Project Budget

	OBDD Funds	Other / Matching Funds
Activity	Approved Budget	Approved Budget
Phase One ESA Block 14 Property	$7,250	
Phase One ESA Cash Spot Property	7,250	
Phase Two ESA Block 14 Property	22,000	
Phase Two ESA Cash Spot Property	22,000	
DEQ Regulatory Oversight	1,500	
Total	$60,000	

MILWAUKIE CITY COUNCIL
AGENDA ITEM SUMMARY

Agenda Item: RS 3. E.
Meeting Date: April 5, 2016

Title: **Appointments to Boards, Commissions, and Committees**

Prepared By: Jason Wachs, Community Programs Coordinator

Department Approval: Mitch Nieman, Assistant to City Manager

City Manager Approval: Bill Monahan, City Manager

ISSUES BEFORE COUNCIL
Recommendation to appoint one new member to the Design and Landmarks Committee and one new member to the Kellogg Good Neighbor Committee.

STAFF RECOMMENDATION
Appoint the following new member to the Design and Landmarks Committee as a result of interviews conducted on Monday, February 1, 2016 with Mayor Gamba, Councilor Parks, and Li Alligood:

- Design and Landmarks Committee – Appoint Lauren Loosveldt (Position #1).

Appoint the following new member to the Kellogg Good Neighborhood Committee as a result of the Historic Milwaukie Neighborhood District Association (NDA) vote on Monday, March 14, 2016.

- Kellogg Good Neighbor Committee – Appoint Mike Park (Position #4 – Historic Milwaukie Member).

KEY FACTS & INFORMATION SUMMARY
Refer to staff recommendations.

OTHER ALTERNATIVES CONSIDERED
NA

CITY COUNCIL GOALS
NA

FISCAL NOTES
NA

ATTACHMENTS
Resolutions for appointments.

CITY OF MILWAUKIE
"Dogwood City of the West"

Resolution No.

A resolution of the City Council of the City of Milwaukie, Oregon appointing Lauren Loosveldt to the Design and Landmarks Committee.

WHEREAS, A vacancy currently exists on the Design and Landmarks Committee; and

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

WHEREAS, Lauren Loosveldt possesses the necessary qualifications to serve on the Design and Landmarks Committee.

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

SECTION 1: That Lauren Loosveldt is appointed to the Design and Landmarks Committee position #1.

SECTION 2: That her term of appointment shall commence April 6, 2016 and shall expire March 31, 2018.

Introduced and adopted by the City Council on **April 5, 2016**.

This resolution is effective immediately**.**

Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

CITY OF MILWAUKIE
"Dogwood City of the West"

Resolution No.

A resolution of the City Council of the City of Milwaukie, Oregon appointing Mike Park to the Kellogg Good Neighbor Committee.

WHEREAS, A vacancy currently exists on the Kellogg Good Neighbor Committee; and

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

WHEREAS, Mike Park possesses the necessary qualifications to serve on the Kellogg Good Neighbor Committee.

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

SECTION 1: That Mike Park is appointed to the Kellogg Good Neighbor Committee position #4 (Historic Milwaukie member).

SECTION 2: That his term of appointment shall commence April 6, 2016 and shall expire March 31, 2017.

Introduced and adopted by the City Council on **April 5, 2016**.

This resolution is effective immediately**.**

Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

Regular Session Agenda Item No.	6

Other Business

MILWAUKIE CITY COUNCIL
STAFF REPORT

Agenda Item: RS 6. A.
Meeting Date: April 5, 2016

To: Mayor and City Council

Through: Bill Monahan, City Manager

Subject: **TriMet IGA to Close Out the Portland-Milwaukie Light Rail Transit Project**

From: Bill Monahan, City Manager

Date: March 29, 2016

ACTION REQUESTED

Accept the Intergovernmental Agreement with TriMet to close-out the Portland-Milwaukie Light Rail Transit Project

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

Milwaukie and TriMet have worked together since 2008 to complete the Milwaukie portion of the Portland-Milwaukie Light Rail Transit Project. The City contributed five million dollars as its funding share.

June 5, 2012 – The City Council passed Resolution 35-2012 approving a settlement agreement with TriMet that legally obligated the City to pay its funding share. The settlement agreement covered all known obligations

BACKGROUND

Since the settlement agreement between the City and TriMet was negotiated and approved in 2012; Milwaukie and TriMet completed the project to the extent that service began on September 12, 2015. There were some issues that remained, including storm water mitigation in the project area, traffic signal support and equipment installed at Washington, 21st, and Adams Street as part of the project, disposition of the "Milwaukie Triangle" site next to the downtown station, and railroad crossing adjustments.

Through negotiations, TriMet has agreed to the following:

1. Apply for a fee in lieu of construction (FILOC) for storm water mitigation and pay a negotiated amount into the FILOC account,
2. Pay the City $131,000 as full and final consideration for all costs and expenses related to traffic signals installed for the project,
3. Sell the Milwaukie Triangle site to the City for the federal share of the property cost plus $1,
4. Pay the City $50,000 for costs related to railroad crossing adjustments, including all future maintenance costs.
5. Perform punch list final acceptance tasks and compensate the City by paying $50,000 to satisfy all remaining issues related to the project.

All of the terms of the agreement noted above have been incorporated into an Intergovernmental agreement. Should the agreement be approved, the City will be responsible for carrying out the responsibilities noted in the agreement for which it is being compensated. In addition, the City and TriMet continue to work toward an agreement for the transfer of responsibilities related to eighteen (18) enhancements and benefits that were included in the scope of the project and identified in Exhibit C of the settlement agreement. Staff will continue to work with TriMet to facilitate transfer of responsibility of specific local enhancements and benefits at those times that it is appropriate that transfer of maintenance responsibilities be assumed by the City.

CONCURRENCE

The City Engineer has negotiated the actual payment terms for specific project elements and concurs with the terms of the IGA. The City Attorney has reviewed the IGA and concurs.

FISCAL IMPACTS

The City will receive payments from TriMet for the remaining project elements. The City will assume responsibility for completion of these project components.

WORK LOAD IMPACTS

The city will continue to have responsibility for project work until each of the five project tasks, and transfer of maintenance of the eighteen local enhancements, is complete. Ongoing responsibility will rest with the City for each local enhancement that it retains ownership of.

ALTERNATIVES

1. Reject the intergovernmental agreement and negotiate different terms with TriMet.

ATTACHMENTS

1. Intergovernmental Agreement Between TriMet and the City of Milwaukie Related to the Close-Out of the Portland-Milwaukie Light Rail Transit Project.
2. Resolution authorizing the Mayor to sign the Intergovernmental Agreement on behalf of the City.
3. Resolution No. 35-2012 that approved the settlement with TriMet and listed the eighteen enhancement s and benefits that were included in the scope of work.

INTERGOVERNMENTAL AGREEMENT BETWEEN TRIMET AND THE CITY OF MILWAUKIE RELATED TO THE CLOSE-OUT OF THE PORTLAND-MILWAUKIE LIGHT RAIL TRANSIT PROJECT

This intergovernmental agreement ("Agreement"), dated _____, 2016 ("Effective Date"), is made and entered into by and between the City of Milwaukie ("City") and the Tri-County Metropolitan Transportation District of Oregon ("TriMet") (collectively the "Parties").

RECITALS

1. TriMet and the City are authorized to enter into this Agreement with each other pursuant to the provisions of ORS 190.

2. TriMet recently completed the Portland-Milwaukie Light Rail Transit Project ("Project"), which runs from Portland State University in downtown Portland to Park Avenue in unincorporated Clackamas County. The Project runs through Milwaukie, and TriMet and the City were partners in the Project and worked cooperatively to construct the portion of the Project in the City in accordance with several other agreements between the parties, and in compliance with City code requirements.

3. With the Project now complete, the Parties wish to document and resolve several issues that remain regarding the Project.

4. TriMet will pay the City a total of $351,000as full and final consideration for and satisfaction of all remaining issues related to the Project.

NOW, therefore, in consideration of the mutual promises set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

AGREEMENT

A. STORM WATER MITIGATION

1. The Parties are not in agreement regarding the requirements related to storm water treatment and mitigation, with the City alleging that a treatment area deficit exists. The Parties desire to resolve this disagreement in the manner set out in this section.

2. Within 30 days of the Effective Date, TriMet will submit an application for a "fee in lieu of construction" ("FILOC") for all storm water management and mitigation requirements. The amount of the FILOC will be $120,000. City agrees to promptly process and approve the FILOC.

3. Within 30 days of City approval of the FILOC, TriMet shall pay City a total of $120,000 as full and final satisfaction of all TriMet obligations under any City code requirements, Storm Water Master Plan, or other law, code or regulation related to storm water management or mitigation requirements in the City.

B. TRAFFIC SIGNAL SUPPORT AND EQUIPMENT

1. City was required to perform certain work on new traffic signals installed at Washington, 21st and Adams Streets as part of the Project ("Traffic Signals"). Under an agreement between the City and Clackamas County, the County performs all work on the Traffic Signals. The County will perform work totalling approximately $131,000 for Project-related Traffic Signals work performed for the City. Because this work was required for the Project, TriMet agrees to pay the City $131,000 as full and final consideration for all costs and expenses related to the Traffic Signals, including any and all future maintenance costs.

2. TriMet shall pay City $131,000 within 30 days of the Effective Date. TriMet shall have no further responsibility or obligations related to the Traffic Signals.

C. "MILWAUKIE TRIANGLE" PROPERTY DISPOSITION

1. As part of the Project, TriMet purchased property in downtown Milwaukie from the Union Pacific Railroad and the Horton Family Trust. After the property was used for Project purposes, an excess parcel remains. The excess parcel is referred to as the "Milwaukie Triangle" and is shown as "Tract 2" on Exhibit A, which is attached hereto and incorporated by this reference herein.

2. The Parties entered into an Intergovernmental Agreement dated July 14, 2015 "Regarding the Milwaukie Triangle Site," which sets forth the terms and conditions of the sale of the property to the City. Among other things, that agreement states that the City will pay TriMet the federal share of the property plus $1.00 for the site. The terms of that agreement shall continue to govern the disposition of the property, including payment from the City to TriMet.

D. **RAILROAD CROSSING ADJUSTMENTS**

As part of the Project, City will be required to perform certain Railroad Crossing Adjustments work, as set forth below.

1. Existing Crossing Order – 21st/Adams/Washington

   a. TriMet and the City resolved additional striping required to revise the Crossing Order at SE 21st/Washington/Adams after significant review by all Parties to the existing Crossing Order.

   b. TriMet agreed to complete drawings and application for the revised Crossing Order.

2. New Crossing Order – Lake Road

a. ODOT Rail requires a new Crossing Order for Lake Road due to the change of operation of the roadway from one-way to two-way traffic. TriMet and the City agree that additional signage identified by ODOT Rail at this crossing is a Project related expense.

b. TriMet agreed to complete drawings and application for the new Crossing Order.

3. TriMet agrees to pay the City $50,000 as full and final consideration for all costs and expenses related to the Railroad Crossing Adjustments, including any and all future maintenance costs. TriMet shall have no further responsibility or obligations related to the Railroad Crossing Adjustments.

E. **RESOLUTION OF REMAINING ISSUES**

1. Punchlist Final Acceptance

a. TriMet has completed all construction activity and issued the Certificate of Final Acceptance to its contractor on February 2, 2016. TriMet created a punchlist to remedy minor construction issues before contract closeout ("Punchlist"), which is expected to occur in April 2016. The Punchlist is attached hereto as Exhibit B and incorporated by this reference herein. All Punchlist items were completed as of March 15, 2016

b. City agrees that when TriMet's contractor completes all Punchlist activities, such work is considered accepted for purposes of Permit Closeout.

2. Permit Closeout

a. Building Permits

i. City agrees to complete all building and engineering inspections related to the Building Permits and finalize all Building Permits by April 30, 2016.

b. Land Use Conditions

i. All conditions of approval related to the Project that were required prior to Permit Closeout have been met.

3. Completion of Remaining Agreements.

i. Both Parties agree to negotiate in good faith and enter into additional agreements and transactions as required by the Project no later than July 1, 2016, including:

a. Right of Way Agreement and required real property transactions;

b. Continuing Control Agreement;
c. Maintenance Agreement.

4. Consideration

i. TriMet agrees to pay the City $50,000 full and final consideration for and satisfaction of all remaining issues related to the Project, whether or not enumerated in this Agreement.

GENERAL PROVISIONS

1. Each of the Parties hereto shall be deemed an independent contractor for purposes of this Agreement. No representative, agent, employee or contractor of one Party shall be deemed to be a representative, agent, employee or contractor of the other Party for any purpose, except to the extent specifically provided herein. Nothing herein is intended, nor shall it be construed, to create between the Parties any relationship of principal and agent, partnership, joint venture or any similar relationship, and each Party hereby specifically disclaims any such relationship.

2. The Parties acknowledge and agree that each Party, the federal government, and their duly authorized representatives shall have access to each Party's books, documents, papers, and records which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of three years after final payment. Copies of applicable records shall be made available upon request. The cost of such inspection shall be borne by the inspecting Party.

3. Milwaukie and TriMet are the only Parties to this Agreement and are the only Parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are expressly described as intended beneficiaries of the terms of this Agreement.

4. Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by such Party of that or any other provision.

5. The benefits conferred by this Agreement, and the obligations assumed hereunder, shall inure to the benefit of and bind the successors of the Parties. The rights and obligations of each Party under this Agreement may not be assigned in whole or in part without the prior written consent of the other Party.

6. This Agreement shall be construed according to the laws of the State of Oregon. TriMet and Milwaukie shall negotiate in good faith to resolve any dispute arising under this Agreement. Should any dispute arise between the parties concerning this agreement that is not resolved by mutual agreement, it is agreed that it will be submitted to mediated negotiation prior to any party commencing litigation. In such an event, the parties to this agreement agree to participate in good faith in a non-binding mediation process. The mediation shall take place in Portland, Oregon. The mediator shall be selected by mutual agreement of the parties, but in the absence of such agreement each party shall select a temporary mediator and those mediators shall jointly select the permanent mediator. The mediator's fees and costs shall be borne equally by the parties. In the event mediation is unsuccessful, the Parties are free to pursue any legal remedies that may be available. Any litigation between Milwaukie and TriMet arising under this Agreement or out of work performed pursuant to this Agreement shall occur, if in the state courts, in the Multnomah County Circuit Court, and if in the federal courts, in the United States District Court for the District of Oregon located in Portland, Oregon.

7. If any clause, sentence, or portion of the terms and conditions of this Agreement becomes illegal, null, or void for any reason, the remaining portions will remain in full force and effect to the fullest extent permitted by law. All provisions concerning indemnity survive the termination of this Agreement for any cause.

8. Any titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

9. Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.

10. Within the limits of the Oregon Constitution and the Oregon Tort Claims Act, codified at ORS 30.260 through 30.300, each of the Parties shall hold harmless, indemnify and defend the other and its directors, officers, employees and agents from and against all claims, demands, penalties, and causes of action of any kind or character relating to or arising from this Agreement (including the cost of defense thereof, including attorney fees) in favor of any person on account of personal injury, death, damage to property, or violation of law, which arises out of, or results from, the negligent acts or omissions of the indemnitor, its officers, employees, or agents.

11. All routine correspondence and communication regarding this Agreement shall be between the following representatives of the Parties:

TriMet:	Leah Robbins 1800 SW First Ave, Ste. 300 Portland, OR 97201
With copy to:	TriMet Legal Department 1800 SW First Ave, Ste. 300 Portland, OR 97201
City of Milwaukie:	Bill Monahan 10722 SE Main Street Milwaukie, OR 97222

14. Either Party may change the foregoing notice address by giving prior written notice thereof to the other Party at its notice address.

15. Each party represents that it has the authority to enter into this Agreement on its behalf and the individual signatory for a party represents that it has been authorized by that party to execute and deliver this Agreement.

TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON

By _____
Daniel W. Blocher, P.E.

Date _____

CITY OF MILWAUKIE

By _____
Name:_____

Date _____

APPROVED AS TO FORM

By _____
Lance Erz, TriMet Legal Department

APPROVED AS TO FORM

By _____
Milwaukie City Attorney

CITY OF MILWAUKIE
"Dogwood City of the West"

Resolution No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AGREEING TO AN INTERGOVERNMENTAL AGREEMENT BETWEEN TRIMET AND THE CITY OF MILWAUKIE RELATED TO THE CLOSE-OUT OF THE PORTLAND-MILWAUKIE LIGHT RAIL TRANSIT PROJECT.

WHEREAS, The City and TriMet worked with their partners the City of Portland and Clackamas County to apply for and receive funding from the United States Government to construct a light rail line linking Portland to Milwaukie and beyond to Park Avenue in Clackamas County; and

WHEREAS, whereas funds were contributed by each party to cause construction to occur; and

WHEREAS, the light rail line was completed and opened for service as of September 12, 2015, and*;*

WHEREAS, with the project now completed, the parties have worked cooperatively to document and resolve several issues that remain to be completed after opening of the light rail line, and

WHEREAS, an intergovernmental agreement has been negotiated that details the settlement of remaining issues.

Now, Therefore, be it Resolved that

Section 1: The Milwaukie City Council agrees to the terms of the Intergovernmental Agreement with TriMet to close-out the Portland-Milwaukie Light Rail Transit Project.

Section 2: The Mayor is authorized to sign the Intergovernmental Agreement on behalf of the city of Milwaukie.

Introduced and adopted by the City Council on _____.

This resolution is effective on April 5, 2016..

Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

RESOLUTION NO. 35 -2012

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPROVING A SETTLEMENT AGREEMENT WITH TRIMET AND AUTHORIZING THE COUNCIL PRESIDENT TO SIGN THE AGREEMENT

WHEREAS on December 16, 2008, TriMet and the City (the "Parties") entered into an Intergovernmental Funding Agreement ("Funding IGA") obligating the City to pay Five Million and No/100 ($5,000,000.00) dollars ("Funding Share") for its share of TriMet's installation of the Portland-Milwaukie Light Rail Transit Project (the "Project");

WHEREAS, under paragraph 2 of the section entitled "Milwaukie Obligations" in the Funding IGA, the City is required to pay its Funding Share to TriMet in full within 90 days of Federal Transit Authority ("FTA") approval of the Full Funding Grant Agreement ("FFGA") for the Project ("Due Date");

WHEREAS, The City agrees it is legally obligated to fulfill its obligations in the Funding IGA, but is unable to maintain its current service levels to its citizens if it were to provide the full amount of its Funding Share to TriMet by the Due Date;

WHEREAS, the City code requires payment of certain land use, construction, filing, review, inspections, other associated fees, and system development charges by TriMet to allow it to install the Project within the City ("Permit Fees and Charges");

WHEREAS, ORS 30.395 provides authority for the settlement of claims and the appropriation of money in payment of claims against and between municipal corporations; and

WHEREAS, the Parties desire to reach a settlement that permits the City to pay TriMet its Funding Share in a manner that maintains city service levels and provides TriMet certainty with regard to Permit Fees and Charges, and further streamlines the process for payment of obligations between the Parties, and

WHEREAS, the City and TriMet have developed a Settlement Agreement and the City shall pay its obligation to TriMet consistent with the terms and conditions of the Settlement Agreement, and

WHEREAS, the City Council desires to place a bond measure before the voters to consider whether an alternative method of financing the City's funding share will be made available.

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

Section 1: That the City Council of the City of Milwaukie agrees to the terms of the Settlement Agreement with TriMet.

Section 2: The Council President is authorized to sign the Settlement Agreement on behalf of the City of Milwaukie.

Section 3: The City Council will take steps to file a measure to be put before the voters of the City in May 2013 to authorize general obligation bonds to include payment of the City's debt related to the Portland-Milwaukie Light Rail Transit Project.

Section 4: This resolution takes effect immediately upon passage.

Introduced and adopted by the City Council on ~~May~~ June 5, 2012.

By: Greg Chaimov
Council President Greg Chaimov

ATTEST:

Pat DuVal
Pat DuVal, City Recorder

APPROVED AS TO FORM
Jordan Ramis PC

City Attorney

Exhibit A

Total Debt Service:

	Principal	Interest	Debt Service	Balance
7/1/2012				$ 3,650,000
7/1/2013	9,500	182,500	192,000	3,640,500
7/1/2014	19,500	182,025	201,525	3,621,000
7/1/2015	29,500	181,050	210,550	3,591,500
7/1/2016	39,500	179,575	219,075	3,552,000
7/1/2017	130,000	177,600	307,600	3,422,000
7/1/2018	146,500	171,100	317,600	3,275,500
7/1/2019	161,500	163,775	325,275	3,114,000
7/1/2020	176,500	155,700	332,200	2,937,500
7/1/2021	191,500	146,875	338,375	2,746,000
7/1/2022	206,500	137,300	343,800	2,539,500
7/1/2023	221,500	126,975	348,475	2,318,000
7/1/2024	236,500	115,900	352,400	2,081,500
7/1/2025	251,500	104,075	355,575	1,830,000
7/1/2026	266,500	91,500	358,000	1,563,500
7/1/2027	281,500	78,175	359,675	1,282,000
7/1/2028	296,500	64,100	360,600	985,500
7/1/2029	311,500	49,275	360,775	674,000
7/1/2030	326,500	33,700	360,200	347,500
7/1/2031	347,500	17,375	364,875	-
	$ 3,650,000	$ 2,358,575	$ 6,008,575	

SETTLEMENT AGREEMENT

BETWEEN: The City of Milwaukie, Oregon, a municipal corporation ("City")

AND: TriMet, a municipal corporation ("TriMet")

CONCERNING: Agreement on payment of City funding share, permit fees and development charges, and other obligations associated with the Portland-Milwaukie Light Rail Transit Project, ("Settlement Agreement")

DATED: May _____, 2012 ("Effective Date")

RECITALS

WHEREAS on December 16, 2008, TriMet and the City (the "Parties") entered into an Intergovernmental Funding Agreement ("Funding IGA") obligating the City to pay Five Million and No/100 ($5,000,000.00) dollars ("Funding Share") for its share of TriMet's installation of the Portland-Milwaukie Light Rail Transit Project (the "Project");

WHEREAS, TriMet has included in the scope of the Portland-Milwaukie LRT Project all of the local enhancements and benefits described in attached Exhibit C;

WHEREAS, under paragraph 2 of the section entitled "Milwaukie Obligations" in the Funding IGA, City is required to pay its Funding Share to TriMet in full within 90 days of FTA approval of the Full Funding Grant Agreement ("FFGA") for the Project ("Due Date");

WHEREAS, The City agrees it is legally obligated to fulfill its obligations in the Funding IGA, but is unable to maintain its current service levels to its citizens if it were to provide the full amount of its Funding Share to TriMet by the Due Date;

WHEREAS the City code requires payment of certain land use, construction, filing, review, inspections, other associated fees, and system development charges to install the Project within the City ("Permit Fees and Charges");

WHEREAS, ORS 30.395 provides authority for the settlement of claims and the appropriation of money in payment of claims against and between municipal corporations; and

WHEREAS, the Parties desire to reach a settlement that permits the City to pay TriMet is Funding Share in a manner that maintains city service levels and provides TriMet certainty with regard to Permit Fees and Charges, and further streamlines the process for payment of obligations between the Parties.

SETTLEMENT AGREEMENT

NOW, THEREFORE, based on the foregoing and in consideration of the mutual promises and covenants contained herein, the adequacy of which is hereby acknowledged, the parties agree as follows:

1. Scope. The provisions of this Settlement Agreement, made pursuant to ORS 30.395(1), amend the Funding IGA by replacing in its entirety paragraph 2 of the section entitled Milwaukie Obligations in the Funding IGA.

2. Consideration for Settlement.

2.1 Payment of Permit Fees and Charges. The City agrees that under its code the total amount of Permit Fees and Charges for the Project will be exactly Nine Hundred Eighty-Nine Thousand Nine Hundred One and No/100 ($989,901.00) dollars, as detailed in Exhibit A. The City agrees to pay this amount of Permit Fees and Charges through inter-fund transfers on behalf of TriMet and TriMet agrees that such payments by the City shall be part of the City's payment of its Funding Share. TriMet agrees that it will obtain permits for and include in the scope of the Portland-Milwaukie LRT Project the local enhancements and benefits described in attached Exhibit C.

2.1.1 No Added Permit Fees and Charges. In the event the City determines that additional Permit Fees or Charges beyond those shown in Exhibit A are required, the City may reallocate the amounts shown in Exhibit A to cover such additional fees or charges, but in no event shall the shall the sum of Permit Fees and Charges exceed Nine Hundred Eighty-Nine Thousand Nine Hundred One and No/100 ($989,901.00) dollars as provided for in Section 2.1.

2.1.2 Payment Transaction. The City shall document its payment of the Nine Hundred Eighty-Nine Thousand Nine Hundred One and No/100 ($989,901.00) dollars described in Section 2.1 above in a manner that will qualify as a local match under Federal Transit Administration (the "FTA") regulations as set forth in Section 3, below.

2.1.3 Reimbursement of Permit Fees and Charges Previously Paid by TriMet. The City further agrees that as of the date on which this Settlement Agreement is executed TriMet has paid a total of $131,115.62 in Permit Fees and Charges. The City agrees to reimburse TriMet for these payments as part of payment due to TriMet under Section 2.2, below.

2.2 Initial Payment to TriMet. On or before ninety (90) days from the date on which the FTA executes the Full Funding Grant Agreement for the Project, the City will convey to TriMet Three Hundred Sixty Thousand Ninety-Nine and No/100 ($360,099.00) dollars.

2.2.1 In addition, by the date described in Section 2.1 the City will also convey to TriMet $131,115.62 as reimbursement for Permit Fees and Charges paid by TriMet, as set forth in subsection 2.1.3.

2.3 Balance of Payments by City to TriMet. The primary principal obligation of Five Million and No/100 ($5,000,000.00) dollars of the City after application of the payments in Sections 2.1 and 2.2 above will result in the City owing TriMet a principal amount of Three Million Six Hundred Fifty Thousand and No/100 ($3,650,000.00) dollars, said principal amount to be paid to TriMet by the City in annual installments as follows: Beginning on July 1, 2013, and annually thereafter until paid in full on July 1, 2031, the City shall make payments to TriMet of the remaining total principal amount plus interest at the rate of Five Percent (5%) in accordance with the payment schedule attached hereto as Exhibit B.

3. Permit and System Development Fee Documentation. The City shall prepare and provide to TriMet standard documentation for any and all Permit Fees and Charges as they are issued or incurred. Such documentation shall indicate the cost of each charge or permit issued and shall state "*Paid by City pursuant to Section 2.1 of the Settlement Agreement.*" The City shall also provide such additional documentation of payment of such Permit Fees and Charges as TriMet may reasonably request to comply with FTA and audit requirements.

4. Appropriation of Funds. As a Settlement Agreement under ORS 30.395(1), the City shall appropriate funds as required to fulfill its obligations to make annual payments to TriMet under subsection 2.3. The Parties may utilize the provisions of ORS 30.395(2) and ORS 30.295 to satisfy the liabilities herein.

5. Remedies for Breach. The parties may remedy any material breach under this Settlement Agreement in accordance with Oregon law. In the event of a breach for nonpayment when due of any amounts required by Section 2.2 or 2.3, interest will continue to accrue on the overdue principal and interest amounts at an interest rate of five (5) percent per annum until paid. In the event of a second or subsequent nonpayment when due of any principal or interest amounts required by Section 2.2 or 2.3, time being of the essence, TriMet may declare the entire principal sum required by Section 2.2 and 2.3 plus any interest payments then unpaid immediately due and payable.

6. Agreement Made With Advice of Counsel. The Parties have been represented and advised by independent counsel of their own choice, or have been given the opportunity to be represented and advised by independent counsel, throughout all negotiations that preceded the execution of this Settlement Agreement, and with respect to the execution of this Settlement Agreement.

7. No Other Representations. The Parties acknowledge that no other party, nor agent, nor attorney of any other party, has made any promise, representation or warranty, express or implied, not contained in this Settlement Agreement concerning the subject matter of this Settlement Agreement to induce this Settlement Agreement, and the Parties acknowledge that they have not executed this Settlement Agreement in reliance upon any such promise, representation or warranty not contained in this Settlement Agreement.

8. No Prepayment Penalty. The City may prepay the total principal plus accrued interest then owing under subsection 2.3 at any time without penalty and TriMet shall accept

such prepayment in full satisfaction of the total principal plus accrued interest then owing.

9. Severability. If any provision of this Settlement Agreement shall be invalid or unenforceable in any respect for any reason, the validity and enforceability of the remaining provisions of this Settlement Agreement shall not be in any way impaired.

10. Resolution of All Controversies. This Agreement resolves and releases all disputes between the Parties arising from and related to payment of the City's $5 million obligation to TriMet and TriMet's payment of Permit Fees and Charges to the City.

11. Counterparts. This Settlement Agreement may be executed in counterparts, each of which, when taken together, shall constitute fully executed originals. Facsimile and e-mail (scanned) signatures shall operate as original signatures with respect to this Settlement Agreement.

CITY	**TRIMET**
By: Greg Chaimov	By: _____
Name: Greg Chaimov	Name: _____
Title: President	Title: _____
APPROVED AS TO FORM	APPROVED AS TO FORM
Timothy V Kenna	_____
City Attorney for Milwaukie	Attorney for TriMet

Exhibit A

PORTLAND / MILWAUKIE LIGHT RAIL PERMIT FEE & CHARGES ESTIMATE				
Description	Engineering Fee	Planning Fee	Building Fee	Sub-Total
Planning Fees [CSUs, PLAs, Variances etc.]		$ 27,000.00		$ 27,000.00
Planning Review [Signs, Building & Demolition Permits]		$ 10,750.00		$ 10,750.00
Elevated Structures [$15M]			$ 120,000.00	$ 120,000.00
Retaining Walls [$1.3M]			$ 13,000.00	$ 13,000.00
Grading [200,000 Cu. Yds]			$ 6,000.00	$ 6,000.00
Miscellaneous Structures [$1M]			$ 9,243.00	$ 9,243.00
Demolitions [80,000 sf]			$ 5,000.00	$ 5,000.00
Miscellaneous utility reconnections / relocations 24 +/-properties to change connection			$ 2,975.00	$ 2,975.00
Erosion Control [15 acres]	$ 2,500.00			$ 2,500.00
Right of Way plan review and inspections [$12M]	$ 660,000.00			$ 660,000.00
Impervious Surface SDC [**52 ESU**]	$ 59,200.00			$ 59,200.00
Wastewater SDC [1 EDU for Park Ave Station]	$ 893.00			$ 893.00
Water SDC & Connections [20 services for irrigation and maintenance]	$ 73,340.00			$ 73,340.00
TOTAL	**$ 795,933.00**	**$ 37,750.00**	**$ 156,218.00**	**$ 989,901.00**

Exhibit B

Annual Installment Schedule

	Principal	Interest	Total	Balance
7/1/2012				$3,650,000
7/1/2013	9,500	182,500	192,000	3,640,500
7/1/2014	19,500	182,025	201,525	3,621,000
7/1/2015	29,500	181,050	210,550	3,591,500
7/1/2016	39,500	179,575	219,075	3,552,000
7/1/2017	130,000	177,600	307,600	3,422,000
7/1/2018	146,500	171,100	317,600	3,275,500
7/1/2019	161,500	163,775	325,275	3,114,000
7/1/2020	176,500	155,700	332,200	2,937,500
7/1/2021	191,500	146,875	338,375	2,746,000
7/1/2022	206,500	137,300	343,800	2,539,500
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7/1/2027	281,500	78,175	359,675	1,282,000
7/1/2028	296,500	64,100	360,600	985,500
7/1/2029	311,500	49,275	360,775	674,000
7/1/2030	326,500	33,700	360,200	347,500
7/1/2031	347,500	17,375	364,875	-
	$3,650,000	**$2,358,575**	**$6,008,575**	

Exhibit C

The following local enhancements and benefits are included in the scope of the Portland-Milwaukie LRT Project:

- Enhance the Milwaukie LRT station by including a unique railing treatment and a shelter at the station
- Provide an aesthetic treatment of retaining walls in Downtown Milwaukie
- Tubular steel enhancements to the Kellogg Bridge structure
- Reconstruct and widen sidewalks at SE Mailwell, SE Harrison, SE Monroe, SE Washington and SE 21st Avenue
- Rebuild intersections along alignment; include new light standards, crosswalks, and curbs
- Provide quiet zone improvements along the alignment at SE Mailwell, SE Harrison, SE Monroe, and SE Washington/21st Avenue
- Underground utilities along alignment in portion of downtown
- Provide supplemental tree mitigation at Kronberg Park
- Replace existing water and sewer pipes at intersections along the alignment that are relocated as part of the project with new pipes
- Construct the Trolley Trail between SE River Road and SE Park Avenue.
- Provide vibration mitigation along alignment adjacent to impacted resources
- Provide public art at stations
- Realign SE Lake Road to allow for better bicycle access.
- Develop multi use path on west side of SE 21st Avenue between SE Lake and SE Washington
- Remove derelict piles in Kellogg Lake
- Remove invasive species on Kellogg Lake and Milwaukie Presbyterian church property
- Provide habitat mitigation at Crystal Creek
- Provide up to $1 million for City Staff assigned to the Project

MILWAUKIE CITY COUNCIL
STAFF REPORT

Agenda Item: RS 6. B.
Meeting Date: April 5, 2016

To: Mayor and City Council

Through: Bill Monahan, City Manager

Subject: **Approval of a resolution authorizing purchase of the Milwaukie Triangle Site from TriMet and delegation of signing authority to the City Manager to complete the purchase.**

From: Bill Monahan, City Manager

Date: March 29, 2016

ACTION REQUESTED

Approval of a resolution authorizing purchase of the Milwaukie Triangle Site from TriMet and delegation of signing authority to the City Manager to complete the purchase.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

On the April 5, 2016 City Council Agenda, the Milwaukie City Council will consider the approval of an Intergovernmental Agreement (IGA) with TriMet to close-out the Portland-Milwaukie Light Rail Transit Project.

BACKGROUND

Section C. of the IGA with TriMet to close-out the Portland-Milwaukie Light Rail Transit Project IGA provides for the purchase of the Milwaukie Triangle site under terms agreed to in an earlier IGA dated July 14, 2015. The City Attorney and TriMet's attorney have been working out details to execute the purchase of the triangle site. The City Attorney reports that a few remaining details (including easements to benefit TriMet related to vibration and stormwater) remain to be finalized. In addition, the City Attorney needs to finalize review of the appraisal and transaction instruments. and

An acquisition price of $92,203 has been established consistent with Federal Transportation Authority guidelines. The Community Development Director has solicited qualified proposals from food cart operators in an effort to lease the property to bring a business presence to the site during the summer of 2016. Completing the transaction will facilitate the lease of the property.

The final details of the transaction will be worked out by the City Attorney. The City Council through adoption of the attached resolution (upon completion of all necessary easements and closing documents acceptable in form by the City Attorney) will authorize the City Manager to take all appropriate steps to complete the land purchase.

CONCURRENCE

The City Attorney has reviewed the IGA and has been working with TriMet's attorney to finalize transaction documents. Continuing efforts are underway to expedite the transaction after April 5.

FISCAL IMPACTS
The City will pay the FTA share of the land value plus $1 to purchase the triangle site. That amount is $92,203.

WORK LOAD IMPACTS
The City Attorney will have some work to do to complete the transaction.

ALTERNATIVES
The City and TriMet signed an IGA on July 14, 2015 that provides for the purchase of the Milwaukie Triangle site under terms consistent with the present proposal. Therefore, there is no alternative to finalizing the sale other than to negotiate different final terms.

ATTACHMENTS
1.Draft resolution of the Milwaukie City Council approving purchase of the Milwaukie Triangle Site from TriMet and delegating signing authority to the city Manager to complete the purchase.

CITY OF MILWAUKIE
"Dogwood City of the West"

Resolution No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPROVING THE PURCHASE OF THE MILWAUKIE TRIANGLE SITE FROM TRIMET AND DELEGATING SIGNING AUTHORITY TO THE CITY MANAGER TO COMPLETE THE PURCHASE.

WHEREAS, the Milwaukie City Council has approved an Intergovernmental Agreement (IGA) with TriMet to close-out the Portland-Milwaukie Light Rail Transit Project; and

WHEREAS; section C. of the IGA provides for the purchase of the Milwaukie Triangle site under terms agreed to in an earlier IGA dated July 14, 2015, and

WHEREAS, the City Attorney and TriMet's attorney are working out remaining details including easements to benefit TriMet related to vibration and stormwater, and

WHEREAS, an acquisition price of $92,203 has been established consistent with Federal Transportation Authority guidelines, and

WHEREAS, the Community Development Department is working toward a lease of the property in order to bring business onto the site during the summer of 2016, and

WHEREAS, completing the transaction will facilitate the lease of the property.

Now, Therefore, be it Resolved

Section 1: The Milwaukie City Council approves the purchase price of the Milwaukie Triangle site,

Section 2: The Milwaukie City Council delegates to the City Attorney authority to negotiate easements with TriMet necessary for the light rail transit project acceptable to the Attorney,

Section 3: Upon completion of all necessary easements and closing documents acceptable in form by the City Attorney, the City Manager is authorized to take all appropriate steps to complete the land purchase including making mpayment to TriMet from the City's general fund,

Section 4: The City Manager is directed to initiate a supplemental budget amendment reflecting the receipt of funds paid to the City by TriMet in this fiscal year and the source of funds for the City payment to TriMet authorized by this Resolution.

Introduced and adopted by the City Council on _____.

This resolution is effective on _____.

Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

MILWAUKIE CITY COUNCIL
STAFF REPORT

Agenda Item: RS 6. C.
Meeting Date: April 5, 2016

To: Mayor and City Council

Through: Bill Monahan, City Manager

Subject: **Amendment to Legal Services Agreement for City Attorney Services**

From: Bill Monahan, City Manager

Date: March 28, 2016

ACTION REQUESTED

Approve a resolution that amends the Legal Services Agreement for City Attorney legal services with Jordan Ramis PC.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

February 16, 2016 – City Council met with the City Attorney and conducted a review. Council directed that a new agreement should be brought forth for approval.

January 15, 2016 – Tim Ramis, City Attorney, submitted a letter to the City requesting consideration of revised charges for city attorney services and a performance review.

January, 2009 – Tim Ramis, City Attorney, then with the Jordan, Schrader Ramis PC law firm requested and was granted attorney and paralegal rate increases. The rate increases marked the first increases granted in several years. The origin of the contract for city attorney services goes back to 1988 when the then O'Donnell, Ramis and Crew firm was initially contracted to perform legal services on a temporary basis. The firm was formally appointed as city attorney in 1989.

July, 23, 1998 – A Legal Services Agreement was executed between the City and Tim Ramis' law firm. That agreement, as amended four times, has remained in full effect.

1988 – Tim Ramis was appointed as interim City Attorney for the City of Milwaukie.

BACKGROUND

Tim Ramis, of Jordan Ramis, PC, has served as City Attorney for the City of Milwaukie since July, 1988. Atty. Ramis has been retained as the primary city attorney for the City since 1988 while his law firm, named as the Contractor in each legal services agreement and amendment since then, has undergone numerous staffing and name changes. Periodically, the law firm has requested adjustments to the rates of attorneys as well as paralegals.

The last rate increase was granted in January, 2006, seven years ago. Pursuant to the legal services agreement, Atty. Ramis submitted a letter on January 15, 2016, requesting a rate increase and a performance review. The City Council conducted a review of the City Attorney's performance on February 16 and expressed satisfaction with the work performed, with direction that it would entertain a rate increase consistent with the January 15, 2016 request.

A resolution has been prepared authorizing the City Manager to sign the agreement, accepting a new Legal Services Agreement that includes rate adjustments effective July 1, 2016. Either party may terminate the agreement upon thirty days' written notice of termination. Future rate increases may be submitted as proposed modifications to the agreement.

CONCURRENCE

The City Manager's Office requested that Atty. Ramis prepare a complete Legal Services Agreement to replace the earlier agreement that had been in effect as amended since 1998. The new agreement brings the agreement up to date and outlines the hourly rates proposed by the firm and found to be acceptable by the City Council. The agreement includes description of when higher specialty rates will apply.

FISCAL IMPACTS

An increase in rates is expected to result in an increase in rates of 11.1% for routine work and higher for specialty work. Overall, the cost of city attorney services is based upon volume of work performed. If the same number of hours of routine work is performed in future years, the cost will increase by 11.1 %. Specialty work, if needed, will be billed at a higher rate.

WORK LOAD IMPACTS

None

ALTERNATIVES

1. Deny a rate increase, the first requested since January, 2009.
2. Consider alternative delivery of legal services.

ATTACHMENTS

1. Letter of January 15, 2016 from Tim Ramis
2. Letter of March, 25, 2016 and Legal Services Agreement
3. Resolution authorizing the City Manager to sign a legal services agreement on behalf of the City.

Attachment 1

JORDAN RAMIS PC
ATTORNEYS AT LAW

Lake Oswego
Two Centerpointe Dr., 6th Floor
Lake Oswego, OR 97035
503-598-7070
www.jordanramis.com

Vancouver
1499 SE Tech Center Pl., #380
Vancouver, WA 98683
360-567-3900

Bend
360 SW Bond St., Suite 510
Bend, OR 97702
541-550-7900

January 15, 2016

William A. Monahan
City of Milwaukie
10722 SE Main St
Milwaukie OR 97222

Re: **City Attorney Rates**
City of Milwaukie / General
Our File No. 49979-36738

Dear Bill:

As you are aware we have kept the rates which our firm charges for legal services unchanged since 2009. Over the past six years, our costs to provide high quality lawyers and staff have increased. I am therefore writing to propose a rate increase. I would also appreciate the opportunity to meet with the Council to review our performance and to discuss the City's legal needs going forward.

Pursuant to our Legal Services Agreement with the City, we have provided services at the rates of $180/hr. for attorneys and $145/hr. for paralegals since 2009 without an annual rate increase. We propose that our rates be increased effective July 1, 2016, to $200/hr. for attorneys on municipal law issues and $170/hr. for paralegals. Attorney rates for specialized work such as litigation, construction, employment, water law and environmental law be billed at $250/hour. We also propose to amend the agreement to reflect that the relationship is ongoing and recognize how we currently manage the provisions of legal service.

If these proposed rates are acceptable, please sign the enclosed amendment and return it to us in the envelope provided.

I would like the opportunity to discuss with the Council their view of the future legal needs of the City. We have impressions of those needs from the legal practitioner's point of view, but want to test those against the City's assessment so that we can best align our personnel assignments with the City's actual needs.

If you wish to discuss this matter further, please feel free to give me a call.

Sincerely,

JORDAN RAMIS PC

Timothy V. Ramis
Admitted in Oregon
tim.ramis@jordanramis.com
OR Direct Dial (503) 598-5573

Enclosure

Attachment 2

JORDAN RAMIS PC
ATTORNEYS AT LAW

Lake Oswego
Two Centerpointe Dr., 6th Floor
Lake Oswego, OR 97035
503-598-7070
www.jordanramis.com

Vancouver
1499 SE Tech Center Pl., #380
Vancouver, WA 98683
360-567-3900

Bend
360 SW Bond St., Suite 510
Bend, OR 97702
541-550-7900

March 25, 2016

William A. Monahan
City Manager
City of Milwaukie
10722 SE Main St
Milwaukie OR 97222

Re: **Legal Services Agreement**
General/Council
Our File No. 49979-36738

Dear Bill:

Enclosed is our revised proposed legal services agreement. The rates are as discussed with the City Council. Regarding the issue of triggering specialty services, we have included a requirement that litigation rates do not begin until an actual case gets filed, and perhaps most importantly, we have put in a provision that requires us to obtain approval from the City prior to opening a file with the specialty services rates.

Sincerely,

JORDAN RAMIS PC

Jim Ramis

Timothy V. Ramis
Admitted in Oregon
tim.ramis@jordanramis.com
OR Direct Dial (503) 598-5573

Enclosures

LEGAL SERVICES AGREEMENT

THIS LEGAL SERVICES AGREEMENT ("Agreement") is made and entered into by and between the City of Milwaukie, an Oregon municipal corporation ("City") and Jordan Ramis PC, a professional corporation ("Firm") as of July 1, 2016 ("Effective Date").

RECITALS

A. The City is in need of legal services and the Firm is qualified and prepared to provide such services.

B. It is the purpose of this Agreement to establish the services to be provided by the Firm and the compensation for such services.

AGREEMENT

1. Engagement. The City hereby engages the Firm as its counsel and the Firm accepts such engagement. The Firm shall be an independent contractor for all purposes. Tim Ramis shall be the lead attorney primarily responsible for provision of services, but will refer certain matters to other lawyers or paralegals in the Firm depending on the need for specific skills and availability.

2. Scope of Services. The duties of the Firm shall be as follows:

a. Attendance at City meetings upon request.

b. Provision of legal advice and assistance to City Staff and City Council at the request of the City Council or the City Manager.

c. Preparation of legal documents, or review and approval of such documents prepared by others, as needed for City operation.

d. Representation of the City in negotiations, meetings, or hearings pertaining to City operation, as needed.

e. Representation of the City in administrative proceedings, civil litigation and appeals, or supervision of same, pertaining to City operation, as needed.

f. Other duties as may be prescribed by the City.

3. Compensation. The Firm shall provide the services outlined above, and shall be compensated on the following basis:

a. As of the Effective Date, for other than specialty services, defined in subsection (b) below, the Firm shall be compensated on an hourly basis at the rate of $200 per hour for attorney time, $170 per hour for paralegal time, and $75 per hour for project assistant time.

b. Notwithstanding this section, the Firm will charge higher rates for provision of services provided by attorneys with specialties other than municipal law, including but not limited to matters relating to environmental law, water and natural resources law, and litigation (all fees incurred after commencement of action), including administrative hearings. The Firm shall confirm with the City that a file is approved to be opened and that the specialty services rates apply, before charging fees at the specialty services rates. The Firm shall be compensated at $250 per hour for attorney time for specialty services. When work on a matter

partially involves general municipal law tasks, that portion of the work will be billed at non specialty rates.

4. Costs and Fees. In addition to the compensation provision set out in Section 3, Firm shall collect actual out-of-pocket expenses including but not limited to filing and service fees, government agency fees, postage, facsimile, copying, long distance phone, messenger service, courier, travel, search fees, delivery charges, recordation fees, public notices, trial and reporter fees, deposition transcripts, blueprints and photography, computer legal research, database access, and expert witness fees. Such expenses shall be recovered from the City at Firm's actual cost.

5. Term.

a. This Agreement shall commence as of the Effective Date, and shall continue until terminated pursuant to this Agreement.

b. Either party may terminate this Agreement upon thirty (30) days' written notice of termination provided to the other party. Upon such termination, the City shall pay the Firm for expenses actually incurred in performance of this Agreement prior to termination.

6. Payment. The Firm shall make and keep reasonable records of work performed and expenses incurred pursuant to this Agreement and shall provide detailed monthly billings to the City. Billings for fees and expenses shall be paid in full within thirty (30) days of receipt thereof.

7. Insurance.

a. Firm shall maintain professional liability insurance insuring Firm against errors or omissions in the amount and on the conditions required by the Professional Liability Fund of the Oregon State Bar.

b. Firm shall maintain commercial and automobile liability insurance in the amount of not less than $1,000,000 combined single limit per occurrence.

8. Records. Firm, upon City's request, shall allow the City to examine and copy any record or document pertinent to this Agreement or generated pursuant to this Agreement.

9. Notices. All notices, bills and payments shall be made in writing and may be given by personal delivery or by mail. Notices, bills and payments sent by mail should be addressed as follows:

CITY : City of Milwaukie
Attn.: City Manager
10722 SE Main St.
Milwaukie, OR 97222

FIRM: Jordan Ramis PC
Attn: Tim Ramis
Two Centerpointe Drive, 6th Floor
Lake Oswego, OR 97035-8608

When so addressed, such notices, bills and payments shall be deemed given upon deposit in the United States mail, postage prepaid.

10. Modification. Any modification of the provisions of this Agreement shall be reduced to writing and signed by the parties.

11. Waiver. A waiver by a party of any breach by the other shall not be deemed to be a **waiver** of any subsequent breach.

12. Entire Agreement. This Agreement contains the entire agreement between the parties and supersedes all prior written or oral discussions or agreements regarding the services described herein.

13. Governing Laws. This Agreement shall be governed by the laws of the State of Oregon. Venue shall be in the Circuit Court for Clackamas County, Oregon. The Firm shall adhere to all applicable federal, state and local laws and rules in performance of this Agreement.

14. Counterparts. This Agreement may be executed in counterparts. For the purpose of obtaining signatures on this document, original signatures, once affixed, may be transmitted among the parties by facsimile or electronic transmission, and signatures thus transmitted shall be deemed to be original signatures for the purpose of this Agreement.

15. Severability. If any term or condition stated herein is found void, invalid, or otherwise unenforceable under the laws of the State of Oregon, such provision shall be stricken and all other terms will remain in full force and effect.

IN WITNESS WHEREOF, City has caused this Agreement to be executed by its duly authorized undersigned agents and Firm has executed this Agreement on the Effective Date.

CITY OF MILWAUKIE	JORDAN RAMIS PC
By: _____	By: _____
Name: _____	Name: _____
Its: _____	Its: _____

CITY OF MILWAUKIE
"Dogwood City of the West"

Resolution No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE CITY MANAGER TO SIGN A LEGAL SERVICES AGREEMENT WITH JORDAN RAMIS PC.

WHEREAS, Tim Ramis has served as the City of Milwaukie's City Attorney since 1988; and

WHEREAS, the City Council recently conducted a review of the performance of the City Attorney and expressed satisfaction with the services received and gave staff direction that it would entertain a rate increase for legal services consistent with the request submitted by Jordan Ramis PC on January 15, 2016 and

WHEREAS, a new Legal Services Agreement is before the City Council that updates the arrangement for services and establishes new rates that will be effective July 1, 2016.

Now, Therefore, be it Resolved

1. The City Council expresses satisfaction with the performance of Jordan Ramis, PC as City Attorney for the City, and
2. The City Council authorizes the City Manager to execute a revised Legal Services Agreement prepared by Jordan Ramis PC replacing the 1998 agreement that had been modified four times.

Introduced and adopted by the City Council on _____.

This resolution is effective on _____.

_____
Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

_____
Pat DuVal, City Recorder

_____
City Attorney