



Regular Session

RS

Milwaukie City Council



**MILWAUKIE CITY COUNCIL
REGULAR SESSION**

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

**AGENDA
AUGUST 2, 2016**

2,227th Meeting

- 1. CALL TO ORDER** **Page #**
Pledge of Allegiance

- 2. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS**
 - A. North Clackamas School District (NCSD) Bond Measure**
Presenter: Matt Utterback, NCSD Superintendent

- 3. CONSENT AGENDA**

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

 - A. City Council Meeting Minutes:** **2**
 - 1. June 7, 2016, Regular Session;**
 - 2. June 23, 2016, Study Session; and**
 - 3. July 5, 2016, Work Session.**
 - B. Equitable Housing Grant Application Support – Resolution** **20**

- 4. AUDIENCE PARTICIPATION**

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

- 5. PUBLIC HEARING**

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

 - A. Urban Renewal Plan – Ordinance** **35**
Staff: Denny Egner, Planning Director

- 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. Amendment to Telecommunications Franchise with Electric Lightwave, LLC (ELI) – Ordinance** **151**
Staff: Reba Crocker, Right-of-Way (ROW) and Contract Coordinator

- B. Triangle Site Food Cart Pod – Project Update** **164**
Staff: Alma Flores, Community Development Director
- C. Recreational Marijuana Tax, Continued from July 19, 2016 – Ordinance and Resolution** **181**
Staff: Casey Camors, Finance Director
- D. Discuss Amendment to Milwaukie Municipal Code (MMC) Chapter 2.05 for the City Council to Appoint the Pro-Tem Judge – Ordinance** **227**
Staff: Casey Camors, Finance Director
- E. Business Registration Amendments – Ordinance** **232**
Staff: Casey Camors, Finance Director
- F. 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.

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**Regular Session
Agenda Item No.**

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Consent Agenda



MINUTES
MILWAUKIE CITY COUNCIL
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REGULAR SESSION
JUNE 7, 2016
City Hall Council Chambers

Mayor Gamba called the 2,223rd meeting of the City Council to order at 6:18 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 Dan Olsen, City Recorder Pat DuVal, Finance Director Casey Camors, Assistant Finance Director Bonnie Dennis, Utility Billing Accounting Technician Joe Gardner, Planning Director Denny Egner, Associate Planner Vera Kolias, Public Works Director Gary Parkin, and Engineering Director Chuck Eaton

CALL TO ORDER

Pledge of Allegiance.

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

None scheduled.

CONSENT AGENDA

Mayor Gamba requested that consent agenda item D, Energy Saving Performance Construction Agreement, be removed for discussion. **Council President Batey** requested that the April 19, 2016, City Council minutes be removed pending further review.

It was moved by Councilor Parks and seconded by Councilor Power to approve consent agenda items 3.A.2- 5, B, C, E, F, G, and H.

A. City Council Meeting Minutes:

1. ~~April 19, 2016, Regular Session;~~
2. ~~April 21, 2016, Study Session;~~
3. ~~May 3, 2016, Work Session;~~
4. ~~May 3, 2016, Regular Session; and~~
5. ~~May 17, 2016, Work Session.~~

B. Resolution 54-2016: A Resolution of the City Council of the City of Milwaukie, Oregon, authorizing the Mayor, City Manager, and Human Resources Director to enter into an agreement with the Milwaukie Police Employee's Association (MPEA) for a two year collective bargaining agreement.

C. Resolution 55-2016: A Resolution of the City Council of the City of Milwaukie, Oregon, authorizing the City Manager to sign an Intergovernmental Agreement with the City of Lake Oswego Emergency Communications Center (LOCOM) to provide the City of Milwaukie with emergency communication services.

~~**D. Resolution 56-2016: A Resolution of the City Council of the City of Milwaukie, Oregon, authorizing the City Manager to enter into an energy services agreement with AMERESCO.**~~

- E. **Resolution 56-2016: A Resolution of the City Council of the City of Milwaukie, Oregon, authorizing the City Manager to sign a purchase agreement with Metereaders LLC for utility billing meter reading services.**
- F. **Resolution 57-2016: A Resolution of the City Council of the City of Milwaukie, Oregon, transferring jurisdiction of the frontage road designated 081AH from the Oregon Transportation Commission to the City of Milwaukie and authorizing enactment of the jurisdictional transfer agreement and the memorandum of understanding to effectuate the jurisdictional transfer.**
- G. **Approve an Oregon Liquor Control Commission (OLCC) Application for the Sunny Corner Market, 5010 SE Monroe Street – Change of Ownership**
- H. **Resolution 58-2016: A Resolution of the City Council of the City of Milwaukie, Oregon, certifying the election results of the May 17, 2016, Primary Election.**

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

AUDIENCE PARTICIPATION

Mayor Gamba reviewed the audience participation procedure.

Mr. Monahan reported on the May 17, 2016, audience participation comments. Milo Denham had commented on Kronberg Park and the proposed path which Council discussed at the May 19 Study Session. A further discussion would be scheduled for the future. David Potts of the Milwaukie Rotary requested that Peace Poles be installed in several locations, and City Council gave direction to proceed. Mike Miller and Ed Zumwalt addressed the City Council regarding the future disposition of the City Hall parking lot and the need for a public hearing; there was no direction from the Council to proceed with that suggestion.

Zac Perry, Linwood Neighborhood District Association (NDA) Chair, reviewed the NDA activities and concerns. The NDA was working hard to build community at the City’s eastern boundary through its support of the Milwaukie Police Department Officer of the Year Dinner, the Sustainability Tour, the Milwaukie Historical Society and Museum, the Adopt a Road Program, and the Linwood Community Day Event. The Linwood NDA secured \$10,000 for a two year period to help develop Wichita Park, and a concept plan had been developed that reflected the community’s needs. Wichita Park was the only greenspace along the Monroe Street Greenway and would provide the community with a safe place to respite and convene. The NDA in partnership with the North Clackamas Parks and Recreation District (NCPRD) secured a grant for \$250,000 to develop the Park. The other major concern was pedestrian safety in the neighborhood.

Jessica Rinner, Linwood Elementary Parent Teachers Association (PTA) President, spoke in support of the Linwood NDA’s efforts. Linwood Elementary was the first school in the North Clackamas School District (NCS D) to prepare a Safe Routes to School Action Plan through the grant options. Results of the in-class tally indicated that 46% of the student population was driven to and from school in a family vehicle, and only 37% rode the bus. This increased the amount of traffic on Linwood Avenue and resulted in potentially dangerous situations at drop off and pick up times. Additionally, there was a parent survey about barriers to children walking or biking to and from school. The top reasons were traffic speed and volume on Linwood Avenue, lack of sidewalks and pathways, safety of intersections and crossing, and weather or climate. She said there were physical barriers that could be improved, and she showed a number of photos of children trying to cross Linwood Avenue to get to Linwood Elementary School and the barriers they encountered. The amenities offered by the school including the track, basketball hoops, baseball fields, and the playground were a resource for the entire community that needed to be accessible.

Mr. Perry recognized those members of the Linwood community present in the audience who attended the meeting to show their support. The safety of the neighborhood of 4,000 residents was failing, and it ranked last in walkability, bike, and public transportation systems. He provided a comparison of Milwaukie neighborhood walk scores. He encouraged the City Council to follow the guidelines outlined in the Transportation System Plan (TSP) to prioritize funding for sidewalks near schools. The Linwood Neighborhood was forced to be a commuter community, and he reiterated its low walkability score. He and Ms. Rinner were before City Council to ask for its political support and to advocate for neighborhood equality within the City.

Mayor Gamba discussed the Bike and Pedestrian Accessibility Project underway with the Public Safety Advisory Committee (PSAC) that included Safe Routes to School. He appreciated the Linwood Neighborhood's support and intended to find a way to fund it soon.

Councilor Power understood Metro had a grant program to help fund Safe Routes to School.

Ms. Rinner understood that \$2.5 million was allocated in the tri-county area for construction and \$1 million for education.

PUBLIC HEARING

A. State Revenue Sharing – Resolutions

Mayor Gamba called the public hearing on the City's election and qualification to receive State Revenue Sharing to order at 6:36 p.m.

The purpose of the hearing was to consider resolutions required to affect the City's receipt of its share of state revenues during the 2017 – 2018 biennium and to hear public comment.

Ms. Camors provided the staff report. The first Resolution expressed the City's election to receive State Shared Revenue Funds, and the second Resolution certified the City's eligibility because it provided four or more municipal services.

Council President Batey understood the state was taking in more revenue than anticipated because of the marijuana tax.

Ms. Camors said the State was collecting marijuana tax revenues, and at this time it was not determined how those revenues would come to the cities.

Mr. Monahan would schedule consideration of a ballot measure establishing a 3% marijuana tax in Milwaukie on an upcoming Council agenda.

Mayor Gamba reviewed the conduct of the hearing.

Correspondence: None.

Audience testimony: None

Mayor Gamba closed the public testimony portion of the hearing at 6:42 p.m.

Council discussion: None.

It was moved by Council President Batey and seconded by Councilor Parks to approve the resolution declaring the City of Milwaukie's election to receive State Revenue Sharing funds (general funds from the State) in the 2017-2018 Biennium. Motion passed with the following vote: Councilors Batey, Parks, Power, and Churchill, and Mayor Gamba voting "aye." [5:0]

RESOLUTION NO. 59-2016:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DECLARING THE CITY OF MILWAUKIE'S ELECTION TO RECEIVE STATE REVENUE SHARING FUNDS (GENERAL FUNDS FROM THE STATE) IN THE 2017-2018 BIENNIUM.

It was moved by Council President Batey and seconded by Councilor Churchill to adopt the Resolution certifying the City of Milwaukie is eligible in the 2017 – 2018 Biennium to receive State Shared Revenues (cigarette, liquor, 911, and highway gas taxes) because it provides four or more municipal services. Motion passed with the following vote: Councilors Batey, Parks, Power, and Churchill, and Mayor Gamba voting “aye.” [5:0]

RESOLUTION No. 60-2016:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, IS ELIGIBLE IN THE 2017-2018 BIENNIUM TO RECEIVE STATE SHARED REVENUES (CIGARETTE, LIQUOR, 911, AND HIGHWAY GAS TAXES) BECAUSE IT PROVIDES FOUR OR MORE MUNICIPAL SERVICES.

B. Bonded Debt Levy Changes

Mayor Gamba called the public hearing on the City's change to the bonded debt levy amounts approved by the Budget Committee at 6:44 p.m.

The purpose of the hearing was to allow for a change to the bonded debt levy amounts approved by the Budget Committee in the approved budget given the public vote to issue bonds in the amount of \$9.2 million for the City's Library Expansion and to hear public comment.

Ms. Camors provided the staff report. The Budget Committee approved the 2017 – 2018 biennium budget prior to passage of Ballot Measure 3-477 that went to the voters on the May 2016 primary election ballot authorizing \$9.2 million in general obligation bonds for Library repairs and improvements. The proposed action would change the bonded debt levy amount, and there would be a supplemental budget within the next six months.

Correspondence: None.

Audience testimony: None.

Mayor Gamba closed the public testimony portion of the hearing at 6:48 p.m.

It was moved by Council President Batey and seconded by Councilor Churchill to approve the change to the bonded debt levy amounts approved by the Budget Committee on May 12, 2016. Motion passed with the following vote: Councilors Batey, Parks, Power, and Churchill and Mayor Gamba voting “aye.” [5:0]

C. Adopting the BN 2017-2018 Budget – Resolution

Mayor Gamba called the public hearing on adoption of the 2017 – 2018 biennium budget to order at 6:49 p.m.

The purpose of the hearing was to hear public comment on a proposed Resolution adopting the budget, making appropriations, and declaring and categorizing taxes for the 2017 – 2018 biennium.

Ms. Camors provided the staff report. She discussed the budget development process and the subsequent Budget Committee approval. The tax rate was \$4.1367 per \$1,000 assessed value.

Mayor Gamba reviewed the conduct of the hearing.

Correspondence: None.

Audience Testimony: None.

Mayor Gamba closed the public testimony portion of the hearing on adoption of the Budget and Capital Improvement Plan for the 2017 – 2018 biennium at 6:54 p.m.

It was moved by Council President Batey and seconded by Councilor Power to approve the resolution adopting the City of Milwaukie Budget and Capital Improvement Plan (CIP) for the Biennium commencing July 1, 2016, making appropriations, levying ad valorem taxes, and classifying levies pursuant to Section 11b, Article XI of the Oregon Constitution. Motion passed with the following vote: Councilors Batey, Parks, Power, and Churchill and Mayor Gamba voting “aye.” [5:0]

RESOLUTION No. 61-2016

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ADOPTING THE CITY OF MILWAUKIE BUDGET AND CAPITAL IMPROVEMENT PLAN (CIP) FOR THE BIENNIUM COMMENCING JULY 1, 2016, MAKING APPROPRIATIONS, LEVYING AD VALOREM TAXES, AND CLASSIFYING LEVIES PURSUANT TO SECTION 11B, ARTICLE XI OF THE OREGON CONSTITUTION.

D. Master Fee Schedule Update – Resolution

Ms. Camors provided the staff report in which the City Council was requested to adopt by Resolution an Updated Master Fee Schedule as established in the City’s fiscal policies. The overarching goal was to accurately recover the City costs incurred. If adopted, the Fee Schedule would go into effect July 1, 2016. She reviewed the significant updates.

It was moved by Council President Batey and seconded by Councilor Parks to approve the resolution revising fees and charges as shown in Attachment 2 and updating the Master Fees Schedule of the City of Milwaukie for Fiscal Year 2017. Motion passed with the following vote: Councilors Batey, Parks, Power, and Churchill and Mayor Gamba voting “aye.” [5:0]

RESOLUTION NO. 62-2016

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, REVISING FEES AND CHARGES AS SHOWN IN ATTACHMENT 1 AND UPDATING THE MASTER FEE SCHEDULE OF THE CITY OF MILWAUKIE FOR FISCAL YEAR 2017.

E. Financial Policies Update – Resolution

Ms. Camors provided the staff report in which the City Council was requested to adopt a Resolution updating the adopted Financial Policies as discussed with the City Budget Committee. The Policies served as a basic framework for overall financial management of the City, and she briefly discussed Milwaukie Water Fund.

It was moved by Council President Batey and seconded by Councilor Power to approve the resolution adopting updated financial policies effective June 1, 2016, as shown in Attachment 2. Motion passed with the following vote: Councilors Batey, Parks, Power, and Churchill and Mayor Gamba voting “aye.” [5:0]

RESOLUTION No. 63-2016

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ADOPTING UPDATED FINANCIAL POLICIES.

F. Authorization to Issue Library Bonds – Resolution

Ms. Camors provided the staff report in which the City Council was requested to adopt a Resolution authorizing the issuance of General Obligation (GO) Bonds and designating the authorized representatives as the City Manager and the Finance Director. The Resolution would also authorize other related matters which Ms. Camors reviewed. The voters approved Measure 3-477 at the May 17, 2016, Election.

It was moved by Councilor Churchill and seconded by Councilor Power to approve the resolution authorizing the issuance, sale, execution and delivery of general obligation bonds in an aggregate principal amount not to exceed \$9,200,000, in one or more series, to finance capital construction and capital improvements related to a library project; classifying the ad valorem tax levy as taxes to pay principal and interest on general obligation indebtedness evidenced by the bonds and providing for notice of adoption of this resolution; designating an authorized representative; delegating responsibilities; and related matters. Motion passed with the following vote: Councilors Batey, Parks, Power, and Churchill and Mayor Gamba voting “aye.” [5:0]

RESOLUTION 64-2016

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE ISSUANCE, SALE, EXECUTION AND DELIVERY OF GENERAL OBLIGATION BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$9,200,000, IN ONE OR MORE SERIES, TO FINANCE CAPITAL CONSTRUCTION AND CAPITAL IMPROVEMENTS RELATED TO A LIBRARY PROJECT; CLASSIFYING THE AD VALOREM TAX LEVY AS TAXES TO PAY PRINCIPAL AND INTEREST ON GENERAL OBLIGATION INDEBTEDNESS EVIDENCED BY THE BONDS AND PROVIDING FOR NOTICE OF ADOPTION OF THIS RESOLUTION; DESIGNATING AN AUTHORIZED REPRESENTATIVE; DELEGATING RESPONSIBILITIES; AND RELATED MATTERS.

Energy Saving Performance Construction Agreement - Resolution [Moved from Consent Agenda for separate consideration]

Mayor Gamba had asked a question about the cost of the work and the energy savings if the Ledding Library heating, ventilation, and air conditioning (HVAC) project and tank painting were removed from the agreement. He thought the tank painting needed to be done; however, the Library HVAC system might not need to be replaced until the Library construction project occurred.

Joe O'Donnell, with Ameresco, replied the cost would go down by \$169,219, and the energy savings would go down by \$7,944. The incentives went down by \$44,596 most of which were in the Library that included the HVAC, lighting, and controls.

Mayor Gamba said the crux of his issue was that the Public Safety Building (PSB) was about 3.3 times larger than City Hall and used 5.5 times as much energy. It was also a substantially newer building and was a 365/24/7 operation. City Hall was particularly energy inefficient, and he felt there should be some room to find energy savings.

Mr. O'Donnell said one of staff's biggest challenges was access to the City Hall mechanical equipment controls. Since PSB was a 24/7 operation, the controls were less relevant to the energy used per square foot. He also noted that the controls platform was no longer supported.

Councilor Churchill said if an operation was running close to 24 hours a day 7 days a week as opposed to an operation that was running 5 days a week for 8 hours a day, then the hours of consumption per square foot would be dramatically different. He was thinking in terms of hours of operation rather than efficiency.

Council President Batey noted that not all areas of PSB were a 24/7 operation.

Mr. O'Donnell provided information on the baseline energy costs per square foot for PSB and City Hall. The group discussed the feasibility of heat recovery, and **Mr. Parkin** discussed data collection in the computer room at PSB.

Councilor Churchill thought City Hall had better low hanging fruit and that return on investment at PSB might be more difficult.

Mayor Gamba commented it did not feel as if much had been found in terms of energy savings.

The group discussed the payback period. **Mr. O'Donnell** said during the course of the project, the company would look for additional opportunities. The Library HVAC project was a placeholder in the contract at this time, and AMERESCO might be of assistance to the design team for the new building on how to incorporate HVAC equipment in the event the current system did fail.

Mr. Parkin said the City Attorney did a thorough review of the agreement and drafted an amendment that was yet to be reviewed by the AMERESCO attorney.

It was moved by Council President Batey and seconded by Councilor Churchill to approve a resolution authorizing the City Manager to enter into an energy services agreement with AMERESCO. Motion passed with the following vote: Councilors Batey, Parks, Power, and Churchill and Mayor Gamba voting "aye." [5:0]

RESOLUTION No. 65-2016:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE CITY MANAGER TO ENTER INTO AN ENERGY SERVICES AGREEMENT WITH AMERESCO.

OTHER BUSINESS

A. Urban Renewal Plan Update

Mr. Egner and consultant **Elaine Howard** provided the report. The City Council would meet as the Milwaukie Redevelopment Commission (MRC) on June 21 and would forward the Urban Renewal Plan to the Planning Commission to review for compliance with the Comprehensive Plan. The Planning Commission would make a recommendation to the City Council for a public hearing in August.

Ms. Howard reviewed the agenda. She discussed the public input process that included a series of meetings with the Milwaukie Urban Renewal Advisory Group (MURAG) that was chaired by Council President Batey. The group met four times, and the boundary was the first element that was discussed. The boundary was basically the Downtown and Central Milwaukie areas identified in the Moving Forward Milwaukie (MFM) Project. Since urban renewal areas had to be contiguous, they were connected by Harrison and Monroe Streets. Since the last meeting with Council, several rights of way were added as well as the Milwaukie Museum located at 3737 SE Adams Street. The Willard Street right of way, for example, was included because of potential development plans. The proposed Plan had 7.96% of the City's acreage and 7.3% of the assessed value, so it was substantially below the 25% threshold. It would be easy to bring in some rights of way in anticipation of future development.

The Plan goals and projects were interrelated and were mostly identified in the MFM documents along with the Downtown Riverfront Framework Plan and the TSP. These plans and documents were the result of a significant amount of public involvement, and it made sense to transition those into the Urban Renewal Plan. Affordable housing was added at the MURAG level to the list of Economic Development potential projects. She reviewed the project categories and the percentage of funding estimated for each. Ms. Howard summarized the phasing schedule that was set up by categories and explained the total maximum indebtedness. More money was spent on economic development in

the early years to get things jump started. Infrastructure would also have more money spent in the earlier years to encourage development. Overall the largest amount of money was spent on infrastructure followed by economic development and public amenities.

Mr. Egner added the total for all of the projects was \$77 million, but through the renewal process only about \$58 million could be generated. About \$20 million would be needed from other sources, so the project list was dependent on getting other funding sources to make the projects whole.

Council President Batey asked about the feasibility of bonding against future income to have more money to spend.

Ms. Howard replied the Plan anticipated bonding, and she discussed the estimated 5% interest rate. The assumptions were based on financial factors and showed the Plan was financially feasible as required by statute. The assumed duration was 29 years, and the task force did not wish to go beyond that time frame. It assumed new development within that urban renewal area and assessed value growth beginning at 3%. In 2028 the new projects would already be on the tax role, and the assessed value growth would be bumped up to 4%. The total achievable maximum indebtedness was \$92.5 million and was in constant 2016 dollars. The amount available for real projects was \$55.7 million. The City Council could make project adjustments during future budget processes. She explained the administration costs that included issuance of bonds. If development occurred more rapidly, then the \$92.5 million total maximum indebtedness would be reached more quickly and the assumed duration of the urban renewal district would be reduced. She discussed the project expenditures and priorities that would be in the urban renewal report. The City Council would not be obligated to follow this type of expenditure plan because it could make modifications in the budget process.

Mr. Egner added the purpose of the Plan was to explain that the program was feasible today under these scenarios. There were projects in the Plan which could be built with other funding sources. He said that the Clackamas Fire District (CFD) policy supported urban renewal for economic development but amenities were questionable as to whether or not they promoted economic development.

Council President Batey and **Councilor Churchill** commented on changes that future Councils could make if opportunities presented themselves.

Ms. Howard showed a graph of tax increment financing (TIF) projections. The MURAG made several specific recommendations for plan components: public involvement with a standing or ad hoc committee; language related to affordable housing; future amendments to the plan; and duration. She referred to staff report page RS782 that projected impacts on taxing districts for general government and education categories. Urban renewal was not a direct impact on school district and education service districts; taxes went to the State School Fund and were reallocated on a per student basis.

Ms. Howard said there had been four advisory committee meetings and community events including an open house, First Fridays, and the Sunday Farmers Market. The Plan would be before the City Council for adoption in August following additional public outreach and public meetings including a briefing before the Board of County Commissioners.

Mr. Egner noted that the CFD Chief had abstained from voting on the task force and was likely being cautious in his role. **Ms. Howard** thought the CFD Board would take a vote. She provided an overview of public responses and noted most people were interested in economic development. There was a high demand for a grocery store as well as more shops within the downtown area. The City Council would meet as the Milwaukie Redevelopment Commission on June 21, 2016, and she outlined the process for responding to taxing district requests.

Mayor Gamba asked Ms. Howard if she was familiar with the City of Eugene's process which made small business loans available. Although Ms. Howard had not worked with the City of Eugene, Milwaukie had the capacity to implement a loan program under the broad category of development assistance. **Ms. Howard** noted that if the City made loans that were paid back, then those funds could be recycled for use by other businesses in the redevelopment area.

Councilor Power asked if the program included both façade and tenant improvements. **Mr. Egner** said these were in the board category of development assistance. **Councilor Power** discussed infrastructure projects focused on McLoughlin Boulevard and hoped the City Council would keep in mind the need for a safe bike / pedestrian crossing at Oak Street and Hwy. 224.

Mr. Egner replied there had been little discussion of the details, but these were called out for in the infrastructure needs category. He added that the Oak Street intersection was inside the boundary, so something could potentially be done with the addition of State funding. Urban renewal funds were a good way to come up with matching funds. The group discussed the feasibility of a minor boundary amendment and agreed to add the Washington Street right of way to the stem on Oak Street

Mayor Gamba recessed the Regular Session at 8:19 p.m. and reconvened the Regular Session at 8:25 p.m.

B. Downtown Wayfinding System Plan

Ms. Kolias and the consultants Susan Jurasz and Peter Reedijk from Sea Reach, Ltd provided an update on the wayfinding project, the steps that had been completed, and the proposed next steps. The community was surveyed on the preliminary designs, and Series A was the clearly preferred design.

Mr. Reedijk said the next step was to work with the Oregon Department of Transportation (ODOT) on signage to announce the downtown Milwaukie to the public. There were key locations where the traffic would flow into the downtown area prompted by highway directionals. The plan was being developed around the idea of beginning with the downtown and may be expanded to include other areas in the future. He showed a slide of possible gateway designs which would be large enough to attract drivers' attention from the highways, but all of this was dependent upon talks with ODOT. The roadway directionals in the downtown area would be smaller. He summarized current design refinements underway that included seating and trash receptacles. Signage would also include public parking locations, and he described the three information kiosks that were being planned. The pedestrian directionals were evolving and could include local maps that promoted businesses and could be modified easily as businesses changed. This was the point at which the design was being refined and a master plan for the downtown area was evolving.

City Council supported the program and thought it looked very promising. The group discussed the Dogwood logo and use of the slogan "Dogwood City of the West."

C. Federal Emergency Management Agency (FEMA) – Hazard Mitigation Grant – Resolution

Mr. Eaton said FEMA approached the City about claims attributed to the December 2015 storms that had been submitted by Rusk Road property owners. He discussed the grant funding options that would buy out property owners at various levels depending on the degree of damage, if they had flood insurance, and how many times they had been damaged in the past. Five parcels had been identified, and he pointed them out on a map. The proposed Resolution would authorize the signing of the paperwork if the property owners volunteered to be part of the program to start the application process for acquisitions. All of the properties had flood way designations.

The property in Milwaukie was eligible for 100% funding and needed to be submitted by June 14, 2016. The deadline on the other properties was December 31, 2016. The City would own the open space into perpetuity after demolition and mitigation, and some parklike amenities would be allowed in the future as long as there would be no flood impacts including impervious surfaces. He discussed the funding levels and how those levels were determined.

It was moved by Councilor Power and seconded by Councilor Parks to approve the resolution requesting FEMA Hazard Mitigation Grant Funds to acquire real property along SE Rusk Road impacted by flooding attributed to December 2015 storms. Motion passed with the following vote: Councilors Batey, Parks, Power, and Churchill and Mayor Gamba voting “aye.” [5:0]

RESOLUTION 66-2016

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, REQUESTING FEMA HAZARD MITIGATION GRANT FUNDS TO ACQUIRE REAL PROPERTY ALONG SE RUSK RD IMPACTED BY FLOODING ATTRIBUTED TO DECEMBER 2015 STORMS.

Council President Batey referred to the Community Development report and asked about the Community Development Block Grant (CDBG) for ramps and the midblock crosswalk on Washington Street.

Mr. Eaton said once Milwaukie designed the projects, Clackamas County handled the rest of the process. It would be the reconfiguration and addition of the new midblock crosswalk on Washington Street between Milwaukie High School and St. John the Baptist School. There would also be new crosswalks, ramps, and restriping on Lake Road.

D. Council Reports

Councilor Churchill commented on the successful First Friday.

Council President Batey agreed with Councilor Churchill and commented on the success of the Sunday Farmers Market. She announced the Milwaukie – Sellwood Sunday Bikeways event on October 2.

Mayor Gamba announced the 17th Avenue multiuse path lane closures, the dedication of the Kuppenbender Research Library at the Milwaukie Museum, the free summer neighborhood concerts, the community photo contest, the Milwaukie community visioning project, the Milwaukie police cadet yard sale, and the Friends of the Ledding Library annual book sale.

ADJOURNMENT

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

Mayor Gamba moved to adjourn the regular session at 9:07 p.m.

Respectfully submitted,

Pat DuVal, Recorder



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STUDY SESSION
JUNE 23, 2016
City Hall Conference Room

Mayor Gamba called the Study Session to order at 5:30 p.m.

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

Staff Present: City Manager Bill Monahan, City Recorder Pat DuVal, Assistant to the City Manager Mitch Nieman, Public Works Director Gary Parkin, Planning Director Denny Egner, Senior Planner David Levitan, and Community Development Director Alma Flores

Planning Commissioners Present: Chair Sine Adams and Commissioners Adam Argo, Shane Abma, Scott Barbur, Shannah Anderson, and Greg Hemer

City Manager Recruitment Process

The group discussed the City Manager position profile and recruitment process and noted that Neighborhood District Association (NDA) and City board, commission, and committee chairs would be invited to participate in the City Manager interview process.

The group discussed replacing the Council's iPads with Microsoft Surface tablets.

Maintenance Agreement with TriMet for Light Rail Project Work

Mr. Parkin noted previous Council discussions regarding the Light Rail Project Maintenance Agreement. He discussed the timeline for finalizing the agreement, changes to the agreement proposed by TriMet, and asked for Council feedback.

Mayor Gamba and **Mr. Parkin** noted that the City would maintain the pedestrian gates.

Councilor Churchill and **Mr. Parkin** discussed the maintenance of certain areas along the tracks and noted that the City and TriMet were still discussing some intersections.

Mr. Parkin reviewed drawings on pages 68 and 75 of the agreement that noted items to be maintained by the City according to existing and proposed agreements.

Councilor Power and **Mr. Parkin** noted that the City was in the process of discussing with TriMet who would repair broken items.

Councilor Churchill and **Mr. Parkin** discussed maintenance responsibility for a railing on 21st Avenue as shown on page 75.

Mr. Parkin reviewed the drawing on page 76 and noted an unresolved question to TriMet regarding unmarked fencing. He discussed the maintenance of planter boxes and bio-swales and confirmed that he would verify with TriMet that property owners had been informed of their maintenance responsibilities. He reviewed drawings on pages 57 and 61 and reported that the City would be questioning TriMet about the maintenance of the property under the Kellogg Lake Light Rail Bridge.

The group discussed the location, maintenance, and ownership of the land underneath the Kellogg Lake Pedestrian Bridge. **Mr. Parkin** and **Council President Batey** noted that TriMet would maintain the property on the Downtown Milwaukie side of the bridge for 5 years and that the North Clackamas Parks and Recreation District (NCPRD) had some ideas for maintaining the property on the Kronberg Park side of the bridge.

Mayor Gamba and **Mr. Parkin** noted that the agreement showed the City was responsible for the property and that the City would contract with NCPRD to maintain it.

Mr. Parkin reviewed the drawing on page 70 and emphasized the importance of identifying who was responsible for each area to avoid future disputes. He reported that a finalized agreement should be ready for Council to consider in July 2016.

Mayor Gamba, Mr. Monahan, and Councilor Power discussed the status of issues related to the use of the Triangle Site.

Mr. Parkin summarized that staff would work with TriMet to finalize the agreement.

Mayor Gamba recessed the Study Session at 6:57 p.m. and reconvened the Study Session at 7:00 p.m.

Economic Opportunity Update: Employment Forecast with Planning Commission

Ms. Flores introduced herself and Jerry Johnson, Principal at Johnson Economics.

Mr. Johnson noted previous Council briefings and reviewed the economic opportunity analysis (EOA) approach to the Urban Growth Management Area (UGMA) context, economic indicators, and development pressures. He explained that the target industry analysis (TIA) looked at the regional context and discussed employment needs.

Council President Batey and **Mr. Johnson** noted that most of the City's employment was located outside City Limits in the UGMA.

Mr. Johnson explained how employment forecasts were calculated and reviewed the anticipated employment growth rates for the City and region.

Mayor Gamba and **Mr. Johnson** discussed the market demand for, and benefits and challenges of, office and industrial mixed-use flex space. **Ms. Flores** remarked that the North Milwaukie Industrial Area (NMIA) Plan would consider flex space.

Mr. Johnson explained how product demand was converted to land demand forecasts and discussed employment density needs and problems for businesses in Milwaukie.

Mayor Gamba and **Councilor Parks** commented on a shuttle bus service from International Way to transit centers proposed by businesses on International Way.

Council President Batey, Mr. Johnson, and Councilor Churchill discussed the need for commercial truck traffic to access Interstate-205.

Mr. Johnson noted that demand for local warehouse distribution centers had increased and reviewed the forecasted land supply for the Milwaukie UGMA. He talked about the buildable land inventory (BLI) and real versus perceived challenges of redevelopment.

Council President Batey, Mr. Johnson, and Councilor Parks noted that the forecasts were for a 20 year period and that a large part of the projected employment growth was attributed to the Kaiser Sunnyside Medical Center located outside the Milwaukie UGMA.

Mr. Johnson discussed the area's industrial land supply and noted that several sites targeted for redevelopment were currently employee parking lots. **Ms. Flores** noted the challenges of expanding businesses located near protected natural resource areas.

The group discussed the likelihood and challenges of redeveloping the NMIA.

Mayor Gamba and **Mr. Johnson** discussed the possibility of more efficient technology causing industrial buildings to be taller and have a higher employee density.

The group noted that the McFarland and Murphy sites were identified as residential and commercial mixed use and **Mr. Johnson** commented on the relationship between residential and commercial retail properties.

The group discussed the existing businesses located in the commercial area near Thiessen Road and Webster Road in the Milwaukie UGMA.

Mr. Johnson and **Ms. Flores** explained how land supply was forecasted, reviewed indicators showing constraints on growth, and reported a lack of developable land in the City and UGMA. They remarked on the predictability of businesses to make decisions in rational markets and noted the benefits of working with regional economic development partners to assist businesses in relocating within the area.

Mr. Johnson reported that other communities in the region faced similar built-out situations and suggested the City encourage the employment intensification process.

Council President Batey, **Mr. Johnson**, and **Councilor Churchill** discussed the impact of new buildings replacing older structures on market demand.

Mr. Johnson commented on existing business clusters and big-name employers in Milwaukie, and suggested that a viable downtown area would help attract development.

Councilor Churchill, **Mr. Johnson**, and **Ms. Flores** discussed the potential for labor and resource sharing in business cluster developments, and how to build an attractive environment to bring software and technology firms to Milwaukie.

Mr. Hemer, **Mr. Johnson**, and **Ms. Flores** discussed the impacts of employees working from home and market movements toward increased employment density and businesses co-locating in response to rising rental and operating costs.

The group discussed industrial, commercial, and residential growth trends and policies in the Happy Valley UGMA. **Mr. Johnson** noted that the City could pursue policies that discouraged and encouraged certain types of development. **Ms. Flores** remarked on the importance of encouraging job-creating developments.

Ms. Flores and **Mr. Johnson** summarized that they would continue to collect economic data to craft policy language to be used in a draft strategic plan.

Draft Milwaukie Housing Needs Analysis (HNA)

Mr. Levitan introduced Brendan Buckley, Senior Project Manager at Johnson Economics, and Matt Hastie, Project Manager at Angelo Planning Group. He reviewed the analysis work completed to-date related to Statewide Planning Goal 10.

Mr. Buckley introduced himself and explained how Johnson Economics and the Angelo Planning Group were working together on the EOA and HNA. He explained the requirements for cities laid out in Goal 10 and the Metropolitan Housing Rule, and confirmed that zoning density was measured by the number of housing units.

Mr. Hastie discussed local housing issues reported by the HNA technical advisory committee (TAC) including the City's population stability, projected growth pressures, and future housing needs. He noted that Milwaukie had a lack of land available for new housing and reviewed regional growth trends.

Council President Batey and **Mr. Buckley** discussed the reliability of the projected growth rate and the differences between population and household growth. **Mr. Hastie** reported that over the last 15 years the number of households had increased while the number of people living in the City had remained the same.

Mr. Buckley reported that the TAC had focused on issues related to affordable housing for low-income groups. He discussed the projected future demand for single family residential (SFR) housing, denser housing, and increased home ownership.

Mr. Hastie explained that the BLI was conducted using data from Metro with a focus on properties within City Limits. He presented a map of SFR properties, noted that most developable residential properties were outside City Limits, and discussed the limited supply of multi-family residential properties in the City.

The group discussed the possibility of the area around the Waverly Country Club developing into denser housing and noted that the BLI data was still being cleaned-up.

Mr. Hastie, Mr. Levitan, and Mayor Gamba commented on the projected residential capacity for mixed-use zones. **Mr. Hemer and Mr. Hastie** noted the zoning types represented in the SFR map.

Mr. Hastie reported that the overall finding of the BLI was that the City had enough land to meet future housing needs given the number of units identified in the HNA and the amount of land zoned to accommodate the projected housing needs. He suggested that the housing growth would be experienced in existing neighborhoods and explained that they had started to consider policies to address neighborhood concerns.

The group discussed how residential redevelopment had occurred around the region and noted that the Historic Milwaukie Neighborhood was zoned for higher residential density. **Mr. Levitan and Mr. Hastie** explained that the purpose of Goal 10 was to calculate and reconcile a city's housing capacity, not to consider existing policies or predict what parcels will actually be redeveloped.

Mr. Hastie summarized that he and **Mr. Buckley** would continue to work with the TAC and staff to refine the BLI and HNA and evaluate existing plans and policies. He discussed the documents to be delivered to Council at the end of the project that would include recommendations for policy changes to the Comprehensive Plan and Milwaukie Municipal Code (MMC).

Visioning Advisory Committee (VAC) Selection Process

Mr. Levitan summarized previous Council discussion regarding the VAC selection process and reported that staff recommended a committee of 12-15 members with the goal of developing a community vision and action plan. He discussed the recruitment process and noted that 52 applications had been received. He asked for input on who should serve as Council liaisons to the VAC and the Steering Committee, which applicants should be appointed to the VAC, and how to keep all 52 applicants engaged. He provided a brief overview of the ongoing negotiations with the visioning consultant firm and suggested that the Steering Committee would convene in the next week to make recommendations to Council regarding who to appoint to the VAC.

Mayor Gamba and Councilor Parks expressed interest in serving on the Steering Committee and VAC.

Council President Batey expressed interest in serving on the VAC or Steering committee and noted it would be difficult for her to attend day time meetings.

Mr. Levitan explained that the Steering Committee would make VAC appointment recommendations to Council. **Mayor Gamba and Councilor Parks** remarked on the importance of getting input from all members of Council.

The group discussed the possibility of engaging VAC applicants not appointed to the VAC through vacant or new board, committee, and commission appointments.

Council President Batey, Mayor Gamba, and Mr. Egner discussed a visioning process kick-off event with a keynote speaker focused on the future and change.

The group noted and agreed that VAC applicants should be encouraged to get involved with non-profit and community volunteer organizations in Milwaukie.

Mr. Levitan summarized that staff would continue to refine the scope of work with the visioning consultant, work with Council to launch the Steering Committee, and begin planning a kick-off event with a keynote speaker.

Councilor Parks, Mayor Gamba, and Mr. Levitan remarked on the importance of using web and social media outlets to engage the community in the visioning process.

Mr. Levitan reported that the Steering Committee included representatives of the North Clackamas School District (NCS D) and NCP RD. **Councilor Parks** noted the impact of the renovation work being planned for Milwaukie High School (MHS).

The group discussed which Council members would serve on the VAC and Steering Committee. **Mr. Egner** noted that Council would receive regular updates on the visioning process.

It was the Council consensus that Mayor Gamba would serve as Council liaison to the VAC and Councilor Parks would serve as Council liaison to the Steering Committee.

Ms. Adams thanked Council for inviting the Planning Commission to the Study Session.

Triangle Site Food Cart Pod – Project Update

Ms. Flores provided an update on the status of the food cart pod concept for the Triangle Site including the draft management agreement with the food cart contractor, the Johnson Group. She reported that there had been a 6-month work delay due to Portland General Electric's (PGE) utility work backlog, and that the City was working to secure an easement from TriMet to provide potable water and electricity to the Triangle Site. She explained that staff preferred the least expensive and least disruptive option of boring under the bio-swale.

Councilor Power and **Ms. Flores** remarked on the good reputation of the Johnson Group in managing the Piknik Park food cart pad in Sellwood.

Ms. Flores reported that the City had received a Metro District Transformation Grant (DTG) of \$10,000 to offset the Johnson Group's costs, benches, port-a-potty screening, and possibly lighting. She explained that the Metro DTG Coordinator, Lisa Miles, had been helpful in connecting the City with Portland State University (PSU) who was looking to dispose of a vertical wall garden which would be used on the Triangle Site.

Councilor Churchill and **Ms. Flores** noted that the fencing height referred to in the draft management agreement was 4-feet and that the wall garden was a stand-alone fixture and not a building structure that would trigger system development charges (SDCs).

Councilors Churchill and Power, and **Ms. Flores** discussed the agreement term dates and noted the starting date would begin when there were at least 8 food carts in place.

Ms. Flores reported that DTG funds could be used to buy Milwaukie-built picnic tables.

The group discussed the anticipated opening of the Triangle Site food cart in late summer 2016 after the management and property purchase agreements had been approved and PGE completed the utility work. **Ms. Flores** noted that coffee carts would not be allowed on the Triangle Site given the nearby presence of 2 coffee shops.

Councilor Churchill and **Ms. Flores** noted that there had been no negative reaction from the Johnson Group on the draft management agreement language.

It was Council consensus that the Triangle Site lease and purchase agreements be on the July 5, 2016, Regular Session Consent Agenda for Council to consider.

Mayor Gamba adjourned the Study Session at 9:07 p.m.

Respectfully submitted,

Scott S. Stauffer, Administrative Specialist III



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WORK SESSION
JULY 5, 2016
City Hall Conference Room

Mayor Gamba called the Work Session to order at 4:29 p.m.

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

Staff Present: City Manager Bill Monahan, City Recorder Pat DuVal, Assistant to the City Manager Mitch Nieman, Finance Director Casey Camors, Right-of-Way (ROW) and Contract Coordinator Reba Crocker, Public Affairs Specialist Jordan Imlah, Sustainability Director Clare Fuchs, and Library Director Katie Newell

Utility Provider Code Update

Ms. Crocker introduced Lance Powlison, ROW Program Manager for the City of Oregon City. Ms. Crocker gave a presentation about ROW management. She showed a video that provided background about ROW, and then discussed the City's ROW. She noted drawbacks to the City's current system, and noted how those problems could be improved. The proposed changes to the system would ensure the City received fair compensation for the use of ROW and protect the City and its residents. The proposed changes were similar to the changes other cities such as Oregon City, Happy Valley, and Canby, had made. She noted under the new system the City could change the Milwaukie Municipal Code (MMC) any time it wanted, unlike the current procedure.

Ms. Crocker provided a timeline of the project, which recapped her progress updating the MMC and noted a tentative ordinance adoption in November 2016. She clarified that under the current Code, providers had to identify the utilities in the ROW, but under the proposed changes defined companies would have to give more specific information to the City. She noted that the City would be able to tweak the MMC to make sure it went smoothly.

Mr. Powlison said the City of Oregon City's transition had gone well. He noted ROW revenue was the second largest revenue source for cities behind property tax, so the management of it was very important. He noted organization and efficiency benefits of having a ROW ordinance as an even playing field for all franchises. He explained the City of Oregon City's process, noting they charged beginning the day after the passage of the ordinance.

Ms. Camors clarified that all the entities that have franchise agreements had an audit ability and remarked on the difficulty of the lessee piece.

Ms. Crocker added that the City would not be canceling any franchises and that franchises would only be affected as the agreements expired. Then the City would not issue any new franchises. **Mayor Gamba** asked about the automatic renewal clause in some franchise agreements. **Ms. Camors** clarified they could be extended, but not automatically. **Ms. Camors, Ms. Crocker, and Mayor Gamba** discussed the Comcast Cable franchise agreement.

Mayor Gamba asked if Section 21.170 Item C meant that the City could cause Portland General Electric (PGE) to relocate its wires underground at no cost to the City. **Ms. Crocker** explained the importance of cause and another portion of the Code noting the City would work together with utilities to help share the cost. She also noted federal laws that utilities had to abide by.

Mr. Powlison reported that he had conversations with PGE about undergrounding utility wires and noted that just because it had been done at no cost to the City, did not mean that there was no cost. He explained that through existing laws, PGE could recoup the cost through the customers. Meters also had to be changed to underground versions, which would also add costs.

Ms. Crocker summarized that she would move forward with her timeline and involve the utility providers.

Agreements with Public, Education, and Government (PEG) Access Centers

Ms. Crocker explained that cable providers collect PEG funds and give them to the City for PEG access services. She outlined the allowed uses, relating to educational and government programming. She provided background on the current system and recommended a new system that would place all PEG funds into one pot to help make decisions easier and also track all funds in detail.

It was Council direction to put the agreements on the upcoming July 19, 2016, Regular Session Consent Agenda.

Web Refresh Status Update

Mr. Nieman and **Mr. Imlah** provided an overview of the project and status of the wire frames for the new City website. They reported that under the best case scenario it would be about 6 weeks before the website would be launched. **Mr. Nieman** discussed new features and interface tools. He said that moving forward, he would like to allocate additional funding for more usability testing, training for content managers, widgets, stock imagery, and more. He discussed the old-to-new website changeover process.

Kronberg Park Path Report by North Clackamas Parks and Recreation District (NCPRD)

Scott Archer, NCPRD Director, summarized the conversation with Council at the May 19, 2016, Work Session where NCPRD had agreed to work with park stakeholders. He explained that Tonia Burns, with NCPRD, had coordinated a meeting that included the Oregon Department of Transportation (ODOT), NCPRD, the City of Milwaukie, TriMet, and the Union Pacific Railroad (UPR). He discussed the grant application and the District Advisory Board's (DAB) support for the grant. He noted permitting issues had also been brought up at the meeting, with consensus from the entities to wait for the grant outcome. He noted it was a positive meeting. He summarized the grant was for \$1.2 million and was mainly for the Kronberg Park path. He reported that the decision on the grant was expected by mid-August 2016.

Mr. Archer noted that going forward, if the grant was awarded, matching funds would need to be identified. The City and NCPRD would work through questions and decide when the park project would move forward. He noted that timing would need to be worked out with the City as the property owner and NCPRD as the manager. His recommendation was to support the grant and wait and see for the outcome.

Mayor Gamba noted that building the path would be done separately from the completion of the park.

Council President Batey asked if Mr. Archer had a sense of how many people were climbing over or cutting through the fence. **Mr. Archer** said there was some level of activity but it was difficult to track. **Ms. Fuchs** noted that the street division had repaired the fence several times. **Mr. Monahan** noted signage had been posted and it would be continue to be monitored.

It was Council consensus to wait on the outcome of the grant application to take further action.

Ms. Fuchs noted the letter drive initiative to show support for the grant, as well as attending the grant hearing in Salem.

Mr. Archer advised keeping staff communication open and preparing for the decision and process moving forward. He noted successful partnerships between NCPRD and the City such as the recent Spring Park clean-up project.

The Council acknowledged Ms. Burns' work on the Spring Park project.

Composition of Library Construction Committee

Councilor Power discussed the citizen involvement in the construction phase of the Library expansion project.

Ms. Newell requested that at least one Library Board member serve on the construction committee. She asked for clarification and direction on how the committee would be formed. She reported that the Request for Proposal (RFP) for a project manager was currently at the City Attorney's office for review.

Councilor Power noted that the Library Services Expansion Task Force (LSETF) task force had been huge, and suggested that the construction committee be limited to about 7 members. She suggested that Councilor Churchill and she be involved in the construction committee.

It was Council consensus to conduct an open application process to select members of the Library construction committee. It was also agreed that the committee would be made up of 2 Councilors, a Library Board member, and a pool of applicants.

Mr. Monahan summarized the next steps moving forward, noting that the selection for committee members would happen by August 2016.

Councilor Power noted that the Kellogg Good Neighbor Committee (KGNC) wanted to look at costs to fix the Riverfront Park path and add lighting. She remarked that she would prepare a Resolution for Council to consider.

Mayor Gamba adjourned the Work Session at 5:50 p.m.

Respectfully submitted,

Amy Aschenbrenner, Administrative Specialist II



MILWAUKIE CITY COUNCIL
STAFF REPORT

Agenda Item: **RS 3. B.**
Meeting Date: **August 2, 2016**

To: Mayor and City Council
Through: Bill Monahan, City Manager
Alma Flores, Community Development Director

Subject: **Resolution of Support for Metro Equitable Housing Grant Application**

From: David Levitan, Senior Planner

Date: July 25, for August 2, 2016, Regular Session

ACTION REQUESTED

Adopt a resolution supporting the City's application for an Equitable Housing Planning and Development Grant from Metro to fund a feasibility analysis of a "cottage cluster" development and other equitable housing types.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

None

BACKGROUND

Equitable housing is defined by Metro as diverse, quality affordable housing choices with access to opportunities and amenities. Recent years have seen rents and home prices in the region rise more rapidly than incomes, which has had a disproportionate impact on lower-income residents. In response, Metro launched its Equitable Housing Initiative in 2015, which saw the development of a framework for how the region "can move forward together to ensure housing options that meet the needs and income levels of our current and future residents".

In 2016, the Metro Council budgeted \$500,000 of Construction Excise Tax (CET) funds for its Equitable Housing Planning and Development Grants program. The program aims to support local planning to eliminate barriers to equitable housing development. Member jurisdictions were invited to submit grant requests of between \$50,000 and \$100,000 for projects that fell into one of two categories: opportunity site identification and analysis, or policy evaluation and implementation.

The preliminary findings of the City's 2016 Housing Needs Analysis (HNA) include an identified need for housing for lower income residents over the next 20 years. The Buildable Lands Inventory (BLI) completed as part of the HNA also determined that the City has a large supply of infill development potential in its medium-density (primarily R-2 and R-3) zones. The current development potential and zoning in these areas make them excellent candidates for what are called "missing middle" housing types –townhouses, rowhouses, cottage clusters, garden apartments, etc. Missing middle housing types can be much more affordable than traditional detached single family residential development, and the areas' proximity to transit, amenities, and services also qualify them as equitable housing opportunities.

DISCUSSION

On June 8, staff submitted a Letter of Interest to Metro for the grant program requesting \$60,000 to conduct a feasibility analysis of four sites throughout the City to assess their potential for cottage cluster and other missing middle types. As defined by Metro, cottage cluster housing “is used as a creative infill development between higher density mixed-use areas and established neighborhoods of lower density single family housing”. This is an accurate description of the City’s medium-density residential zones, where cottage cluster development is currently outright permitted by the Development Code.

On July 1, the City received comments from Metro on its Letter of Interest, and was invited to submit a full application for the grant program. The comments from Metro were quite positive, with several helpful suggestions, one of which was to expand the scope of the proposal to include an audit of the City’s Development Code. As a result of this recommendation, the requested grant amount has been increased \$10,000 to \$70,000. Applications are due on August 12, and require a resolution from the governing body showing resource commitment and grant support.

Staff is requesting that the Council adopt the attached resolution, which indicates the Council’s support for staff to submit a full application for the Equitable Housing Planning and Development Grant program. Staff has attached the June 8 Letter of Interest for the proposal, including Metro’s comments.

CONCURRENCE

No other departments have reviewed this report.

FISCAL IMPACTS

Staff is requesting \$70,000 in grant funding from Metro to hire a local economist and architect to conduct a feasibility analysis of four sites and to perform an audit of the City’s development code, and is proposing an in-kind match of \$10,000 in staff time to manage the project and conduct public outreach. Staff from the Community Development and Planning Departments will have adequate time available for the project during FY 2016/2017 and FY 2017/2018.

WORK LOAD IMPACTS

N/A

ATTACHMENTS

1. Resolution Supporting the City’s Application for and Equitable Housing Planning and Development Grant from Metro
2. June 8 Letter of Interest for Equitable Housing Planning and Development Grant program, including Metro comments



CITY OF MILWAUKIE
"Dogwood City of the West"

Resolution No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, SUPPORTING AN APPLICATION FOR METRO'S EQUITABLE HOUSING PLANNING AND DEVELOPMENT GRANT PROGRAM TO HELP FUND A FEASIBILITY ANALYSIS OF COTTAGE CLUSTER DEVELOPMENT AND OTHER "MISSING MIDDLE" HOUSING TYPES

WHEREAS, the City of Milwaukie is in the process of completing a Housing Needs Analysis (HNA) as part of its Comprehensive Plan Update process; and

WHEREAS, the HNA has shown a need for additional "missing middle" housing types, which include cottage clusters, duplexes, triplexes, and townhouses; and

WHEREAS, cottage cluster development offers the opportunity to increase the city's supply of detached single family residences in a manner that increases land efficiency and affordability while considering neighborhood compatibility; and

WHEREAS, City staff has identified several vacant and infill sites throughout the city that meet the zoning requirements for cottage cluster development but will require a detailed analysis of the feasibility of a cottage cluster development; and

WHEREAS, Metro has established an Equitable Housing Planning and Development Grant Program that provides funding for projects that help to eliminate barriers to equitable housing development and could result in future development;

Now, Therefore, be it Resolved that the City Council supports submittal of an application for Metro's Equitable Housing Planning and Development Grant to fund a feasibility analysis, and the use of staff resources as an in-kind match for grant funding.

Introduced and adopted by the City Council on **August 2, 2016**.

This resolution is effective immediately.

Mark Gamba, Mayor

APPROVED AS TO FORM:
Jordan Ramis PC

ATTEST:

Pat DuVal, City Recorder

City Attorney

Metro Staff Feedback for Equitable Housing Grant Letters of Interest

July 1, 2016

Jurisdiction: Milwaukie

Project Name: Cottage Cluster Feasibility Analysis

Project Summary: Feasibility analysis and preliminary site design work for four sites to examine their potential for a cottage cluster development that can provide equitable housing opportunities to a variety of groups identified by community partners, including affordable housing, workforce housing, senior housing, and special needs housing.

Amount Requested: \$60,000

Contact: Alma Flores, floresa@milwaukieoregon.gov

General Comments:

Overall, the LOI is clearly written and does a good job of addressing the criteria. The proposal has demonstrated support from a governing body, and given the strength of demand for housing in Milwaukie, we think it has strong potential to result in on-the-ground development.

Additional Feedback:

- 1) The full application should provide more detail about the role of partners.
- 2) The application should provide more detail about the public involvement strategy, which should include engagement of property owners if the proposed sites to be studied are not publicly owned.
- 3) The proposal would be strengthened by engaging private developers with experience in cottage cluster development on the technical advisory committee. Potential private developers to engage include: Eli Spevak (Orange Splot), Kristy Lakin (Woodstock Gardens), and Ross Chapin Architects (Langley, WA).
- 4) Are there any code barriers to cottage cluster development in Milwaukie? Consider including a code audit in the scope of work.
- 5) The scope and deliverables in the full application should include an action by the governing body to accept the study and take additional actions necessary to support the expected development outcomes.
- 6) Staff recommend committing to select at least one site to carry forward. This would require a commitment from the property owner (if the site is not publicly owned) and a partnership with a developer.
- 7) The application would be strengthened by a description of how the project will leverage and build on past work on cottage clusters, including Metro's Community Investment Toolkit (see http://www.oregonmetro.gov/sites/default/files/design_dev_codes_toolkit.pdf and http://www.oregonmetro.gov/sites/default/files/wood_village_case_study.pdf).
- 8) The City of Milwaukie has previously received Community Planning and Development Grant (CPDG) funds for feasibility analysis on seven sites. If there are any overlaps between the sites being considered for this project and previous feasibility work, it would be good to clarify that in the application.

**Equitable Housing Planning & Development
Grant Cover Sheet**

Check one:

Letter of

Interest

Full Application

Project Name	Milwaukie Cottage Cluster Feasibility Analysis	Applicant Organization	City of Milwaukie
Contact Name	Alma Flores	Address	6101 SE Johnson Creek Blvd, Milwaukie, OR 97206
Phone	503-786-7652	Fax	503-774-8236
Email	floresa@milwaukieoregon.gov	Fed. Tax ID #	93-6002212

Fiscal Agent Organization (if different from applicant) _____

Contact Name	_____	Address	_____
Phone	_____	Fax	_____
Email	_____		

Project Location Description (25 words or less)

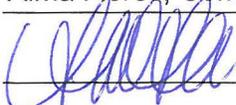
4 sites located within the City of Milwaukie's medium density residential zones (R-2, R-2.5, and R-3). Exact sites to be determined as part of proposal.

Project Summary (50 words or less)

Feasibility analysis and preliminary site design work for 4 sites to examine their potential for a cottage cluster development that can provide equitable housing opportunities to a variety of groups identified by community partners, including affordable housing, workforce housing, senior housing, and special needs housing.

Equitable Housing funding request	\$ <input type="text" value="60,000"/>	If submitting more than one proposal, please rank this proposal in order of priority <input type="text"/>	Metro Council District of Project <input type="text" value="2"/>
Total project cost	\$ <input type="text" value="70,000"/>		

We, the undersigned, attest that to the best of our knowledge the information in this application is true and that all signatories have authorization to submit this grant application to Metro's Construction Excise Tax Planning Grants Program.

Applicant	Organization Name	City of Milwaukie
	Printed Name	Alma Flores, Community Development Director
	Signature	
		Date <input type="text" value="6/8/2016"/>
Fiscal Agent	Organization Name	_____
	Printed Name	_____
	Signature	_____
		Date _____

To ensure complete letter of interest or full application, please see pp. 13-14 of the Equitable Housing Grant Application Handbook for a complete list of necessary documents for submittal.



June 8, 2016

Metro
Martha Bennett, Chief Operating Officer
600 NE Grand Avenue
Portland, OR 97232

**RE: Equitable Housing Planning and Development Grant
Milwaukie Cottage Cluster Feasibility Analysis**

Dear Ms. Bennett:

Thank you for the opportunity to submit our Letter of Interest (LOI) for the Metro Equitable Housing and Development Grant for our Cottage Cluster Feasibility Analysis. As per the guidelines prescribed in the Application Instructions, we are pleased to submit the following information.

Project Narrative

Project Description

Cottage cluster housing is a “missing middle” housing form that can accommodate many residents’ identified preference for detached single family housing at higher densities and lower prices than traditional lower density detached single family housing product. In Milwaukie, cottage cluster housing is permitted within the city’s medium and high density residential zones (R-1, R-2, R-2.5 and R-3). These areas provide a buffer between the city’s Downtown/Central Milwaukie mixed use zones and the surrounding low density residential neighborhoods, and are located within close proximity of transit, employment opportunities, services and amenities.

On the surface, the cottage cluster concept appears to be an excellent model to provide equitable housing opportunities in Milwaukie, which according to March 2016 RMLS data saw housing prices increase by 21% in the past year, far outpacing the regional increase and spurring the City Council to declare a housing emergency in April 2016. However, while many cities across the region- including the City of Milwaukie- have amended their Development Code in recent years to permit cottage cluster housing, there are few recent examples of successful cottage cluster developments.

In response, the City Of Milwaukie is proposing to hire a consultant team to conduct financial feasibility analysis and preliminary site design work on 4 sites to assess their potential to provide a cottage cluster development for groups that have been identified by community partners as having a demonstrated need for equitable housing in Milwaukie. The City has met with Clackamas County, Northwest Housing Alternatives, and Providence Milwaukie Hospital, who have expressed an interest in the cottage cluster model’s potential to provide regulated affordable housing, senior housing, employee workforce housing, and housing for individuals with long-term physical and mental health needs.

Using Buildable Lands Inventory (BLI) data from its 2016 Housing Needs Analysis (HNA), the City has identified a number of vacant and infill sites with the potential to accommodate a 5 to 15 unit cottage cluster development. Funding from Metro would allow the City to select 4 sites to analyze in detail, assessing their development potential as well as barriers and impediments to development.

Evaluation Criteria

The Cottage Cluster Feasibility Analysis project meets the grant *Evaluation Criteria* and achieves the criteria of the Urban Growth Management Plan as follows:

Expected Development Outcome

As mentioned above, the City is proposing to conduct financial feasibility analysis and preliminary site design work on 4 sites to assess their potential to provide a cottage cluster development that is of high quality, physically accessible, and affordable with access to opportunities, services and amenities. In our conversations with community partners, the general consensus was that they were intrigued by the model's potential to provide a different equitable housing form that could help fulfill the identified preference for detached single family housing, but concerned about the ability to fund such a project and overall project feasibility given the lack of demonstrated success for the cottage cluster model.

For example, Northwest Housing Alternatives noted a 10 unit project is typically not large enough to receive the tax credits that are a major component of their funding, and that financing a detached product could be difficult without significant financial commitments from the county or city. Providence Milwaukie Hospital identified a demonstrated need for more senior housing as well as housing for its employees, but had questions about whether the model would be for rental units or for home ownership. Should the City receive funding for this proposal, it will actively engage these community partners to better assess their housing needs, and if/how the selected sites may meet these needs.

To address these and other questions, topics that would be addressed in the analysis include:

- Groups that could be served (affordable, workforce, senior, mental health, etc.)
- Housing tenure model (ownership vs. rental)
- Infrastructure needs (frontage and street improvements, utilities, etc.)
- System development charges (SDC's)
- Ability to get funding/financing (most notably for regulated affordable housing)
- Potential availability of tax credits, property tax exemptions, CDBG/HOME funding
- Comparative cost of other equitable housing types (rowhouses, garden apartments, etc.)
- Environmental constraints
- Zoning, land use, and traffic conflicts

Regional Significance

As mentioned above, the cottage cluster concept shows great potential for the region but has yet to be proven as economically feasible, and as such there have been few projects in the region. This proposal would serve as a model not just for the City of Milwaukie but for the entire region, while showing that the concept can achieve a number of regional development goals expressed in the 2040

Growth Concept as well as the Metro Council's six desired outcomes. The location of the 4 sites included in the analysis- within close proximity to transit, employment opportunities, amenities and services- would allow people to live and work in communities where their everyday needs are easily accessible. Residents would benefit from the existing transportation system (including the newly opened Orange Line light rail), while at the same time contributing to a healthier and more sustainable environment. The cottage cluster model also has the opportunity to increase equity by allowing populations that have been rapidly priced out of the detached single family housing market in recent years to have a housing product that is of high quality, with access to amenities and services, and not segregated from adjacent residential uses.

Centers, Corridors, Station Communities and Main Streets

Per Metro's 2011 *State of the Centers*, the Milwaukie Town Center "represents the historic main street of downtown Milwaukie, the Highway 224 corridor and the surrounding residential neighborhoods in the area". The Town Center includes the medium density residential zones just east of Downtown Milwaukie that will be the focus of this feasibility analysis, and which have excellent access to transit, amenities, and services.

September 2015 saw the opening of the Orange Line, with one station in Downtown Milwaukie (Milwaukie/Main Street) and two stations just north and south of city limits (Tacoma Street and SE Park Avenue, respectively). In anticipation of this, the City of Milwaukie spent several years on its Moving Milwaukie Forward (MFM) project, which began in June 2012 and was completed in December 2015. MFM sought to remove barriers and encourage appropriate development in Milwaukie's downtown and central mixed use areas. The city sees an analysis of cottage cluster and other "missing middle" housing types as the logical next step in planning for the areas adjacent to the mixed use zones. The city is interested in assessing housing opportunities that can accommodate the region's growing population in an area that provides access to transit, services, and amenities, while also providing an appropriate transition between these areas and the surrounding detached single family neighborhoods.

Best practices

As mentioned in the Project Description, while cottage cluster housing is seen as form that can help fill the "missing middle" housing supply, the City has found few cottage cluster projects in the region and no studies of the financial feasibility of developing such a project. If selected for funding, the City believes that the project could be applicable at the regional level, helping to identify funding tools as well as potential impediments and barriers to development.

Leverage investments

September 2015 saw the opening of the Orange Line, a huge regional investment that has provided additional transportation options for residents of Milwaukie and other areas south of Portland. While the housing market in Milwaukie had been improving over the past few years, the past year has seen housing prices increase by 21%, with very little new housing besides a few low density (primarily infill) subdivisions being added to the supply. This proposal offers an opportunity to analyze the potential of an alternative housing type in areas that can take advantage of their proximity to bus and light rail transit.

Match fund/potential

Based on preliminary discussions with a local economist and architect, the City is estimating that it will cost approximately \$60,000 to perform a full analysis of financial feasibility and conduct preliminary site design work for 4 sites in the city (\$15,000 per site). The City of Milwaukie is requesting \$60,000 in Equitable Housing grant funding from Metro, which it is proposing to match with in-kind services of \$10,000 (a 17% match) for consultant management, review of work products, and community outreach. The City has also spoken with Clackamas County about CDBG and other federal pass-through funding that could be used on the implementation of a cottage cluster development, should the analysis show a feasible project.

Growth absorption

After having nearly no population growth over the past several decades, Metro is projecting that Milwaukie will add approximately 2,600 residents by the year 2040, a 13% increase over the estimated 2015 population. The City's BLI shows that Milwaukie has more than an adequate capacity to accommodate this growth (by over 1,000 units, in fact), including a large supply of infill potential in historically lower density neighborhoods that now permit alternative housing types such as cottage cluster housing. Demonstrating the financial feasibility of such a project could serve to encourage more infill development with a housing form that increases density while also respecting adjacent low density residential uses.

Public involvement

In 2012, the City adopted amendments to its Development Code that allowed for cottage cluster and rowhouse development in its medium and high density residential zones. The public was involved throughout the development of the regulations and the adoption process.

This proposal provides an opportunity to engage the community and inform them about the housing needs in Milwaukie; demonstrate what an actual cottage cluster development might look like; and highlight ways that a cottage cluster project provides additional density while also protecting adjacent single family neighborhoods. The city sees this as the first step in an education campaign for the community about the residential growth that is projected to occur in Milwaukie. It envisions a number of open houses and community conversations to talk about how the city's transition to a denser and more urban form can be accommodated in a way that respects the history of the City and its neighborhoods.

Commitment of governing body

Equitable and affordable housing has been a major issue of concern for the Milwaukie City Council over the past several years, culminating in the adoption of a Housing State of Emergency in April 2016. While this proposal is for a feasibility analysis and not a traditional plan that would be adopted by the City Council, staff anticipates that the Council will take an active role in the project by helping to inform local stakeholders about the importance of providing equitable housing opportunities within the City. The Mayor has been especially interested in the concept of cottage cluster housing, and has made suggestions on potential sites where it could be successful.

Should the analysis show significant financial impediments to developing cottage cluster housing, staff also sees the potential for the Planning Commission and City Council to make policy

recommendations and prioritize funding that can help address these barriers and increase the supply of equitable housing in Milwaukie.

Primary Staff and Capacity of Applicant

The project would be managed by David Levitan, Senior Planner, with oversight from Alma Flores, Community Development Director. David is an AICP-certified planner with 12 years of planning and project management experience, and has successfully managed several regional, state, and federal grants.

City staff would work closely with staff from Clackamas County Health, Housing and Human Services, as well as community partners Northwest Housing Alternatives and Providence Milwaukie Hospital.

Contact information for the project team is as follows:

David Levitan, AICP, Senior Planner, City of Milwaukie (Project Manager)

Phone: 503-786-7627 Email: levitand@milwaukieoregon.gov

Alma Flores, Community Development Director, City of Milwaukie

Phone: 503-786-7652 Email: floresa@milwaukieoregon.gov

Vahid Brown, Housing Policy Coordinator, Clackamas County

Phone: 503-742-5345 Email: vbrown@co.clackamas.or.us

Partnerships

As noted in the Project Description, City staff has spoken about the proposal with several community partners, who have expressed their support and identified communities that they serve that could potentially benefit from the equitable housing opportunities offered by a cottage cluster development. Partners on the proposal include:

- Northwest Housing Alternatives, a Milwaukie-based organization that provides affordable housing options for families, seniors, and people with special needs;
- Providence Milwaukie Hospital, which has identified a need for employee workforce housing and senior housing in the area near its hospital campus; and
- Clackamas County Health, Housing, and Human Services, which is interested in different development types that can meet the needs for affordable and special needs housing.

Statement of Support from Governing Body

City staff has informed the Mayor and City Council of their intent to submit this Letter of Interest, and has received their strong support. Mayor Gamba will be attending the June 8 MPAC meeting and providing an overview of the proposal. A resolution of support from the City Council will be included with the full application for the proposal, should it be selected for consideration.

Budget Documents

The City has discussed the proposal with a local economist and architect, and received an estimate of \$15,000 per site. The consultants' scope of work would include a financial feasibility analysis and

site design work for four sites as it relates to their potential for a cottage cluster development, for a total project cost of \$60,000. As discussed in the Expected Outcomes section, the scope of work would examine the following topics:

- Site design work
- Infrastructure needs (frontage and street improvements, utilities, etc.)
- System development charges (SDC's)
- Ability to get funding/financing (most notably for regulated affordable housing)
- Potential availability of tax credits, property tax exemptions, CDBG/HOME funding
- Comparative cost of other equitable housing types (rowhouses, garden apartments, etc.)
- Environmental constraints
- Zoning, land use, and traffic conflicts

As shown in the attached Budget Form, the City of Milwaukie is requesting \$60,000 in funding from Metro to fund the consultants' scope of work, and is proposing \$10,000 in in-kind staff services. These in-kind services would include project management, product review, and community outreach. Should the City be selected to submit a full application, it will submit a much more detailed application

Location and Project Maps

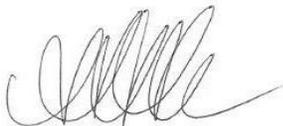
Attached to this LOI are the following maps:

- a vicinity map showing the location of the potential sites in relation to the City of Milwaukie and the greater Portland metropolitan area; and
- a project map that shows potential cottage cluster development sites, which were determined by querying the City's recently updated BLI to show properties in the City's medium density residential zones that have a potential for 5 or more net new residential units.

Closing Words

The City of Milwaukie is excited about the opportunity to assess the feasibility of a cottage cluster development, and its potential to provide equitable housing in the City. Thank you for your time and consideration in reviewing this Letter of Interest. Should you have any questions or require clarification, please do not hesitate to contact me at 503-786-7652 or floresa@milwaukieoregon.gov.

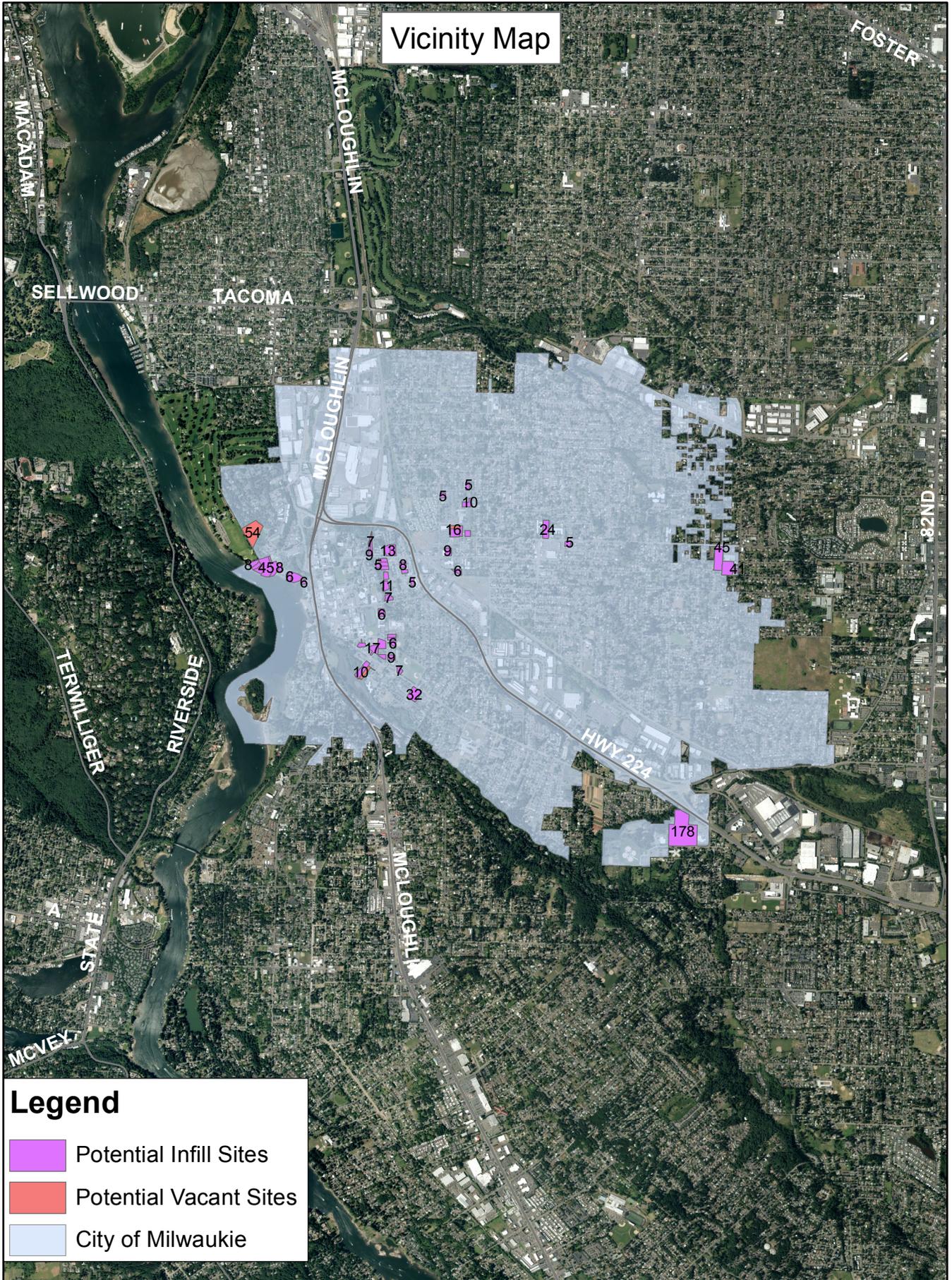
Sincerely,



Alma Flores, Director
City of Milwaukie Community Development

Attachments: Cover Sheet, Budget Form, Project Map, Vicinity Map

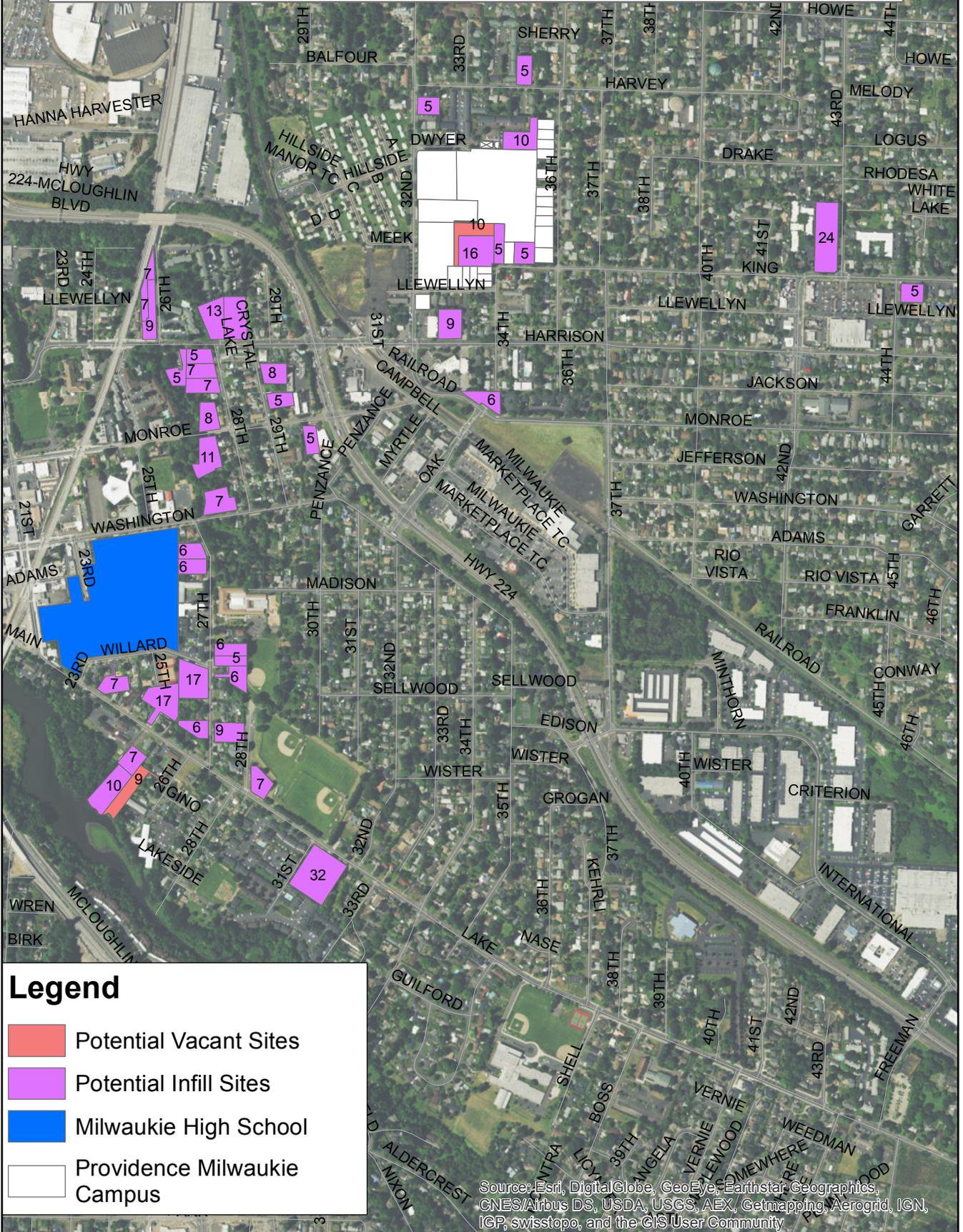
Vicinity Map



Legend

- Potential Infill Sites
- Potential Vacant Sites
- City of Milwaukie

Sites with Potential for a 5+ Unit Cottage Cluster Development



Appendix E – Budget Form

Equitable Housing Grants Program Project Budget Form

Project Costs

1) Estimate the hours of work directly related to your project for agency personnel, consultants, and non-profit personnel. You can delete rows that do not apply and/or add more specific descriptors.

2) Explain the tasks each is expected to complete in the budget narrative (i.e., design development, construction estimates, public involvement, technical research, code analysis, etc.).

Personnel Costs	Financial Match	In-kind Match	Grant Request	TOTAL
Agency staff				
Consultants				
Nonprofit staff				
Other, please list				
Total for Planning Services				

Other Costs				
Overhead/Indirect costs				
Total for Other Costs				

TOTAL PROJECT COSTS				
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Note: This form is available for download at oregonmetro.gov/housing-grants.



**Regular Session
Agenda Item No.**

5

Public Hearing



MILWAUKIE CITY COUNCIL
STAFF REPORT

Agenda Item: **RS 5. A.**
Meeting Date: **August 2, 2016**

To: Mayor and City Council
Through: Bill Monahan, City Manager

Subject: **Urban Renewal Plan**

From: Denny Egner, Planning Director

Date: July 26, 2016 for August 2, 2016

ACTION REQUESTED

The Milwaukie City Council is being asked to hold a public hearing, take testimony and review the proposed Milwaukie Urban Renewal Plan (Plan) and Report Accompanying Milwaukie Urban Renewal Plan (Report), and to decide whether to approve a nonemergency ordinance to adopt the Plan.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

July 12, 2016: The Planning Commission found the Milwaukie Urban Renewal Plan to be in conformance with the Milwaukie Comprehensive Plan and recommended approval of the Plan to Council. .

June 21, 2016: The Milwaukie Redevelopment Commission voted to send the Plan through the public review process.

June 7, 2016: Council received a briefing from Elaine Howard on the Plan and Report and the process of preparing these documents to date.

February 2, 2016: Council adopted a resolution creating the Milwaukie Urban Renewal Advisory Group (MURAG) and appointed members to group.

December 15, 2015: Council adopted a resolution directing staff and the consultant team to develop a draft urban renewal plan for the downtown and central Milwaukie urban renewal area.

December 1, 2015: Council held a work session and heard a presentation from Nick Popenuk of ECONorthwest regarding urban renewal feasibility in Milwaukie.

November 3, 2015: Council held a work session at which the City's consultant team consisting of ECONorthwest and Elaine Howard provided an overview of issues related to urban renewal.

June 30, 2015: Council held a study session regarding their 2015 Goal to develop an urban renewal strategy for the downtown and the north industrial area.

May 19, 2015: Council adopted goals for the 2015-16 fiscal year including a goal to develop an "Urban Renewal Strategy for the Downtown and the North Industrial Area."

BACKGROUND AND DISCUSSION

The City of Milwaukie has considered the use of urban renewal and tax increment financing to assist in redevelopment at various times during the past. The Moving Forward Milwaukie project is the most recent planning effort recommending urban renewal as an implementation tool.

The Moving Forward Milwaukie project began in June 2012 and was completed in December 2015. The goal of the Moving Forward Milwaukie project was to remove barriers and encourage appropriate development in Milwaukie's commercial areas, including Downtown Milwaukie, Central Milwaukie, and the Neighborhood Main Streets of 32nd and 42nd Avenues. As a result of the planning efforts, the planning actions for Downtown Milwaukie included Opportunity Site Planning, the Downtown and Central Milwaukie Action and Implementation Work Program, and proposed amendments to the Downtown and Riverfront Land Use Framework Plan (LUFP), Zoning Code, and Zoning Map. The planning actions for Central Milwaukie included Opportunity Site Planning, Downtown and Central Milwaukie Action and Implementation Work Program, the adoption of the Central Milwaukie Land Use and Transportation Plan (CMLUTP), and amendments to the Transportation System Plan, Code, and Map. Urban renewal was recommended as an implementation tool in both the Downtown and Central Milwaukie documents.

City Council adopted an amendment package to the LUFP on September 1, 2015 and to the CMLUTP on December 15, 2015.

In 2015, the City completed an urban renewal feasibility study and directed staff to begin preparation of an urban renewal plan for public input and review. The Plan has been developed for Council with the cooperative input of the MURAG.

Urban Renewal Plan

The goals, objectives, and projects in the Plan were developed with input from the MURAG and were based on the LUFP and the CMLUTP, both of which were adopted by the City in 2015 as part of the Moving Forward Milwaukie project. The Plan includes a proposed maximum indebtedness of \$92.5 million with an approximate \$57.8 million available to spend on projects, programs, and administration. The difference between the two numbers is the anticipated inflation costs of projects from today's dollars. The financing scenario has been reviewed with the City Finance Director.

The project list is included in the Report as Table 10. The table displays the percentage of funding for each of the major project categories.

Public Participation

There has been significant public participation as detailed below.

Milwaukie Urban Renewal Advisory Group (MURAG): The MURAG was comprised of neighborhood, community, and taxing district representatives. MURAG met four times to review components of the Plan and Report, specifically the boundary, goals and objectives, projects, amendment procedures, duration of the Plan, financing, and the draft Plan and Report. All agendas as well as other urban renewal information have been posted on the City of Milwaukie website.

The MURAG voted unanimously with one abstention, to forward the Plan and Report to the Milwaukie Redevelopment Commission (MRC) for their consideration.

Open House: An Open House was held on April 20, 2016, at which eight citizens participated. Staff and the consultant provided background information on urban renewal, the proposed Plan, and on the process for adoption of an urban renewal plan. Attendees were asked to participate in a group exercise to identify their most important projects. In the Economic Development category, pre-development assistance, small business development fund, developer assistance, and downtown Main Street enhancements received the most votes. In the Infrastructure category, the pedestrian bridge across McLoughlin Blvd, Hwy 224 intersection upgrades, and Monroe Street Greenway received the most votes. In the Public Amenities category, South Downtown plaza, Riverfront Park, Kronberg Park and Path, and the Kellogg Lake dam removal received the most votes.

May First Friday: A member of the consultant team attended the May First Friday event and spoke with approximately 25 people, all of whom gave positive feedback about the prospect of urban renewal. Comment cards were available, but only one was filled out. The comment was a desire to see the Monroe Street Greenway project funded.

May 22 Farmers Market: A member of the consultant team attended the May 22, 2016, Farmers Market and spoke with approximately 90 people. The overall response was positive. The feedback opportunity was revised from comment cards to a “dot” exercise to try to get more participation. An overwhelming majority of the people to whom the consultant spoke participated in the dot exercise. The booth had a poster of the projects and locations and another poster for voting which had three main categories: Economic Development, Transportation, and Public Amenities.

Each person was given one blue dot and one red dot. The blue dot was for their first priority of types of projects, the red for their second priority. The blue dots were weighted two points and the red were weighted one point for overall tallies as shown below:

	Blue	Red	Weighted Blue	Weighted Red	Total
Economic Development	30	17	60	17	77
Transportation	18	12	36	12	48
Public Amenities	19	26	38	26	64

June First Friday: A member of the consultant team attended the June First Friday and spoke with approximately 60 people, the vast majority of whom were positive about the prospect of projects that could improve Milwaukie. The dot exercise was repeated, the results are shown below:

	Blue	Red	Weighted Blue	Weighted Red	Total
Economic Development	34	17	68	17	85
Transportation	4	12	8	12	20
Public Amenities	13	20	26	20	46

June Farmers Market: A member of the consultant team attended the June 26, 2016, Farmers Market and spoke with approximately 90 people. The public participation exercise was the same as the prior Farmers Market. The results are shown below:

	Blue	Red	Weighted Blue	Weighted Red	Total
Economic Development	26	12	54	12	66
Transportation	20	14	40	14	54
Public Amenities	19	22	38	22	60

Milwaukie Pilot: There was an article on the proposed Plan and the public process in the March issue of the Milwaukie Pilot. Another article updating the plan preparation process was in the June issue. There were notices in the July and August issues.

PUBLIC NOTICE

A notice for the August 2, 2016, Council meeting was placed in the Milwaukie Pilot on July 1, 2016 and August 1, 2016. Notice was also placed on the City of Milwaukie website.

Process

The process for approval includes the following steps, in accordance with ORS 457.

1. Preparation of a plan including opportunity for citizen involvement. The MURAG was appointed by Council on February 2, 2016. The MURAG met four times to review components of the Plan and Report, specifically the boundary, goals and objectives, projects, amendment procedures, duration of the Plan, financing and draft Plan and Report. The MURAG voted unanimously, with one abstention, to forward the Plan and Report to the Milwaukie Redevelopment Commission (MRC) for their consideration.
2. The MRC met on June 21, 2016, to review the proposed Plan and Report.
3. The Planning Commission met on July 12, 2016, to review the Plan and make a recommendation on its conformance with the Comprehensive Plan.
4. Notice to all citizens of Milwaukie of a hearing before Council. Notice was provided by mailing to property owners through the Milwaukie Pilot in the July and August issues.
5. The proposed Plan and Report was sent to the governing body of each taxing district on June 22, 2016.
6. Presentation of the Plan to the Clackamas County Board of County Commissioners. The Plan was presented to Board on July 12, 2016.
7. Hearing by Council and adoption of the proposed Plan and Report by a nonemergency ordinance. The hearing by Council will be held on August 2, 2016, and, if necessary, a final vote on the ordinance will be on August 16, 2016. The ordinance must be a nonemergency ordinance, which means that the ordinance does not take effect until 30 days after its approval and during that period of time may be referred to Milwaukie voters if a sufficient number of signatures are obtained on a referral petition.

Ordinance Adopting the Plan

The ordinance adopting the Plan requires Council to make certain findings, which are listed in Section 1 of the ordinance and are also provided below:

1. **The process for the adoption of the proposed Plan has been conducted in accordance with the provisions of Chapter 457 of the Oregon Revised Statutes;**

As described above, the City has followed the procedures as outlined by ORS 457.

2. **The area designated in the Plan as the Area is blighted, as defined by ORS 457.010(1), and is eligible for inclusion within the Plan because of conditions described in Section II of the Report including inadequate transportation connections, inadequate sidewalk and open spaces, and a prevalence of depreciated values resulting from underdevelopment and underutilization of property within the Area;**

This is the basic justification for the Plan and Council's finding is meant to make that justification explicit.

3. **The rehabilitation and redevelopment described in the Plan to be undertaken by the agency is necessary to protect the public health, safety, and welfare of the City because absent the completion of the urban renewal projects, the Area will fail to contribute its fair share of property tax revenues to support City services and will fail to develop and/or redevelop according the goals of the comprehensive plan;**

This finding states the public purpose of the Plan, which is for the property in the Area to develop and redevelop according to the Comprehensive Plan, property which is not developed or not fully developed and occupied does not contribute as much property taxes as fully developed property. The improvement of property in the Area will add to the tax base in the Area and further support additional economic activity in the Area.

4. **The Plan conforms to the Comprehensive Plan as a whole, and provides an outline for accomplishing the projects described in the Plan, as more fully described in Chapter XII of the Plan;**

This finding is supported by Chapter XII of the Plan and the Planning Commission's recommendation that the Plan conforms to the Comprehensive Plan.

5. **In connection with any residential displacement occurring as a result of the acquisition and disposition of land, provision has been made for displaced persons in the Relocation Section of the Report as required under applicable state and federal law;**

The Plan does not contemplate acquisition of property that would displace residents or businesses. Should the Plan be amended to include such acquisition, the MRC would be obligated to provide relocation assistance.

6. **The acquisition of real property provided for in the Plan is necessary for the development of infrastructure improvements including parking and transportation improvements in the Area, for the development of public spaces and for assisting in private redevelopment of the Area;**

The Plan authorizes acquisition of real property for infrastructure improvements. No property is specifically identified for acquisition.

7. **Adoption and carrying out the Plan is economically sound and feasible in that funds are available to complete the Plan projects using urban renewal tax increment revenues derived from a division of taxes pursuant to section 1c, Article IX of the Oregon Constitution and ORS 457.440, and other available funding as shown in Sections V, VI, VII, and VIII of the Report;**

The Report contains information on the projected revenues and projected expenditures under the Plan and supports a finding that the Plan is economically sound and feasible.

8. **The City of Milwaukie shall assume and complete activities prescribed to it by the Plan;**

The Plan does not prescribe any specific activities to the City.

9. **The MRC consulted and conferred with affected overlapping taxing districts prior to the Plan being forwarded to the City Council.**

The agency sent a copy of the Plan and Report to the affected overlapping taxing districts on June 22, 2016. The letter included an invitation to provide comments in writing on the Plan and Report. To date the City has not received written recommendations from the affected taxing districts. If such recommendations are received, the Council will be required to “accept, reject, or modify” the recommendations and language to that effect will be added to the ordinance for its second reading and adoption.

The ordinance also calls for publication of a notice that the Council has adopted the ordinance, for the recording of the Plan by the Clackamas County Clerk and for transmitting the Plan to the Clackamas County Assessor.

CONCURRENCE

Staff recommends that the City Council:

1. Review and discuss the proposed Milwaukie Urban Renewal Plan.
2. Take testimony on the Plan.
3. Vote on the Plan at the August 2, 2016 City Council meeting and if necessary take second vote at the August 16, 2016 Council meeting.

ATTACHMENTS

1. Ordinance
 - Exhibit A Milwaukie Urban Renewal Plan
 - Exhibit B Report Accompanying the Urban Renewa Plan
 - Exhibit C Milwaukie Planning Commission Recommendation from July 12, 2016 Meeting



CITY OF MILWAUKIE

"Dogwood City of the West"

Ordinance No.

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, MAKING CERTAIN DETERMINATIONS AND FINDINGS RELATING TO AND APPROVING THE MILWAUKIE URBAN RENEWAL PLAN AND DIRECTING THAT NOTICE OF APPROVAL BE PUBLISHED

WHEREAS, the Milwaukie Redevelopment Commission (MRC), as the duly authorized and acting urban renewal agency of the City of Milwaukie, Oregon, is proposing to undertake certain urban renewal activities in a designated area within the City pursuant to ORS Chapter 457; and

WHEREAS, the MRC, pursuant to the requirements of ORS Chapter 457, has caused the preparation of the Milwaukie Urban Renewal Plan (Plan) attached hereto and incorporated herein as Exhibit A. The Plan authorizes certain urban renewal activities within the Milwaukie Urban Renewal Area (Area); and

WHEREAS, the MRC has caused the preparation of a certain Urban Renewal Report (Report) dated August 2, 2016, attached hereto as Exhibit B to accompany the Plan as required under ORS 457.085(3); and

WHEREAS, the MRC forwarded the Plan and Report to the City's Planning Commission (Commission) for review and recommendation. The Commission considered the Plan and Report on July 12, 2016, and made a recommendation that the Plan conforms with the Milwaukie Comprehensive Plan. The Commission made a further recommendation that City Council commit to the expenditure priorities that put an emphasis on economic development as outlined on Page 24 of the Report; and

WHEREAS, on July 12, 2016, representatives of the City met with the Clackamas County Board of Commissioners to review the Plan, including proposed maximum indebtedness for the Plan; and

WHEREAS, the Plan and the Report were forwarded on June 22, 2016, to the governing body of each taxing district affected by the Plan, and the MRC has therefore consulted and conferred with each taxing district; and

WHEREAS, the Milwaukie City Council (City Council) has not received written recommendations from the governing bodies of the affected taxing districts; and

WHEREAS, on July 1, 2016, and August 1, 2016, the City caused notice of the hearing to be held before City Council on the Plan, including the required statements of ORS 457.120(3), to be mailed to property owners within City's incorporated limits through the Milwaukie Pilot; and

WHEREAS, on August 2, 2016, City Council held a public hearing to review and consider the Plan, the Report, the recommendation of the Commission, and the public testimony received on or before that date and to receive additional public testimony; and

WHEREAS, after consideration of the record presented through this date, City Council does by this Ordinance desire to approve the Plan.

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

Section 1. The Plan complies with all requirements of ORS Chapter 457 and the specific criteria of 457.095(1) through (7), in that, based on the information provided in the Report, the Planning Commission Recommendation, and the public testimony before the City Council:

1. The process for the adoption of the Plan, has been conducted in accordance with the provisions of Chapter 457 of the Oregon Revised Statutes;
2. The area designated in the Plan as the Milwaukie Urban Renewal Area is blighted, as defined by ORS 457.010(1) and is eligible for inclusion within the Plan because of conditions described in the Report in the Section “Existing Physical, Social, and Economic Conditions and Impacts on Municipal Services”, including the existence of inadequate streets and other rights of way, open spaces and utilities and underdevelopment of property within the Area (ORS 457.010(1)(e) and (g));
3. The rehabilitation and redevelopment described in the Plan to be undertaken by the MRC is necessary to protect the public health, safety or welfare of the City because absent the completion of urban renewal projects, the Area will fail to contribute its fair share of property tax revenues to support City services and will fail to develop and/or redevelop according the goals of the City’s Comprehensive Plan;
4. The Plan conforms to the Milwaukie Comprehensive Plan and documented ancillary documents and provides an outline for accomplishing the projects described in the Plan, as more fully described in the Plan and in the Planning Commission recommendation;
5. No residential displacement will occur as a result of the acquisition and disposition of land and redevelopment activities proposed in the Plan and therefore the Plan does not include provisions to house displaced persons;
6. The acquisition of real property provided in the Plan is necessary for the development of transportation-related infrastructure improvements in the Area and for the development of public spaces because the MRC does not own all the real property interests (e.g., rights-of-way, easements, fee ownership, etc.) that will be required to undertake and complete these projects as described in Chapter IV of the Plan and Section V of the Report; and
7. Adoption and carrying out the Plan is economically sound and feasible in that eligible projects and activities will be funded by urban renewal tax revenues derived from a division of taxes pursuant to section 1c, Article IX of the Oregon Constitution and ORS 457.440 and other available funding as more fully described in the Section “Financial Analysis of the Plan” of the Report;
8. The City shall assume and complete any activities prescribed it by the Plan; and
9. The MRC consulted and conferred with affected overlapping taxing districts prior to the Plan being forwarded to the City Council.

Section 2: The Plan is hereby approved based upon review and consideration by the City Council of the Plan and Report, the Commission recommendations, each of which is hereby accepted, and the public testimony in the record.

Section 3: The City Manager shall forward forthwith to the MRC a copy of this Ordinance.

Section 4: The MRC shall thereafter cause a copy of the Plan to be recorded in the Records of Clackamas County, Oregon.

Section 5: The City Manager, in accordance with ORS 457.115, shall publish notice of the adoption of the Ordinance approving the Plan including the provisions of ORS 457.135, in The Oregonian no later than four days following adoption of this Ordinance.

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

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

Signed by the Mayor on _____.

Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney



Milwaukie Urban Renewal Plan

Adopted by the City of Milwaukie
Ordinance No.
August 2, 2016

ECONorthwest
Elaine Howard Consulting, LLC

List of Participants

Mayor:	Mark Gamba
City Council:	Scott Churchill, Position 1 Lisa Batey, Position 2 Wilda Parks, Position 3 Karin Power, Position 4
Planning Commission:	Sine Adams, Chair Shaun Lowcock, Vice Chair Shane Abma Shannah Anderson Adam Argo Scott Barbur Greg Hemer
City Manager:	Bill Monahan
Community Development Director:	Alma Flores
Finance Director:	Casey Camors
Planning Director:	Dennis Egner
Associate Planner	Vera Kalias
Administrative Specialist II	Alicia Martin
Urban Renewal Advisory Group:	City Councilor Lisa Batey, Chair City Manager Bill Monahan (Ex-Officio) Casey Camors, Finance Director (Ex-Officio) Sine Adams, Planning Commission Chair Ray Bryan, Historic Milwaukie Neighborhood Kim Travis, Ardenwald Neighborhood Zac Perry, Linwood Neighborhood Kathy Lyle, Downtown Business Association Neil Hankerson, business owner Troy Reichlein, business owner Dave Knight, business owner Kimberly Maguire, business owner Tory McVay, North Clackamas School District Bob Cochran, Clackamas Community College Gary Barth, North Clackamas Parks and Recreation District Fire Chief Fred Charlton, Clackamas Fire District No. 1 Christa Bosserman Wolfe, Clackamas County
Consultant Team:	ECONorthwest – Nick Popenuk, Ali Danko, Lizzie Gooding Elaine Howard Consulting LLC – Elaine Howard

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I. DEFINITIONS

“Advisory Group” means the committee composed of public officials and stakeholders to provide input on the Milwaukie Urban Renewal Plan. Those members are identified on the acknowledgement page of the urban renewal plan.

“Redevelopment Commission” means the Milwaukie Redevelopment Commission. This Redevelopment Commission is the urban renewal agency responsible for administration of the urban renewal plan. In Milwaukie, the Redevelopment Commission is the Milwaukie City Council.

“Annual report” means annual report on impacts to taxing jurisdictions and former year and following year budgets as required in ORS 457.460.

“Area” means the properties and rights of way located with the Milwaukie urban renewal boundary.

“Blight” is defined in ORS 457.010(1)(A-E) and identified in the ordinance adopting the urban renewal plan.

“City” means the city of Milwaukie, Oregon.

“City Council” or “Council” means the City Council of the city of Milwaukie.

“Comprehensive Plan” means the city of Milwaukie comprehensive land use plan and its implementing ordinances, policies and standards.

“County” means Clackamas County.

“Fiscal year” means the year commencing on July 1 and closing on June 30.

“Frozen base” means the total assessed value including all real, personal, manufactured and utility values within an urban renewal area at the time of adoption. The County Assessor certifies the assessed value after the adoption of an urban renewal plan.

“Increment” means that part of the assessed value of a taxing district attributable to any increase in the assessed value of the property located in an urban renewal area, or portion thereof, over the assessed value specified in the certified statement.

“Maximum indebtedness” means the amount of the principal of indebtedness included in a plan pursuant to ORS 457.190 and does not include indebtedness incurred to refund or refinance existing indebtedness.

“Milwaukie Transportation Systems Plan (TSP)” means the transportation system plan adopted by the Milwaukie City Council.

“ORS” means the Oregon revised statutes and specifically Chapter 457, which relates to urban renewal.

“Planning Commission” means the Milwaukie Planning Commission.

“Revenue Sharing” means sharing tax increment proceeds as defined in ORS 457.470.

“Tax increment financing (TIF)” means the funds that are associated with the division of taxes accomplished through the adoption of an urban renewal plan.

“Tax increment revenues” means the funds allocated by the assessor to an urban renewal area due to increases in assessed value over the frozen base within the area.

“Under-levy” means taking less than the available tax increment in any year as defined in ORS 457.455.

“Urban renewal agency” or “Agency” means an urban renewal agency created under ORS 457.035 and 457.045. This agency is responsible for administration of the urban renewal plan.

“Urban renewal area” means a blighted area included in an urban renewal plan or an area included in an urban renewal plan under ORS 457.160.

“Urban renewal plan” or “Plan” means a plan, as it exists or is changed or modified from time to time, for one or more urban renewal areas, as provided in ORS 457.085, 457.095, 457.105, 457.115, 457.120, 457.125, 457.135 and 457.220.

“Urban renewal project” or “project” means any work or undertaking carried out under ORS 457.170 in an urban renewal area.

“Urban renewal report” or “Report” means the official report that accompanies the urban renewal plan pursuant to ORS 457.085(3).

II. INTRODUCTION

The Milwaukie Urban Renewal Plan (Plan) implements the planning efforts from Moving Forward Milwaukie. The Moving Forward Milwaukie project began in June 2012 and was completed in December 2015. The goal of the Moving Forward Milwaukie project was to remove barriers and encourage appropriate development in Milwaukie's commercial areas through revisions to the policies and regulations guiding development in Milwaukie's commercial areas: downtown Milwaukie; central Milwaukie; and the "neighborhood main streets" of 32nd and 42nd Avenues. As a result of those planning efforts, the Central Milwaukie Land Use and Transportation Plan and the Milwaukie Downtown and Riverfront Land Use Framework Plan were adopted by the City Council. Those two documents contain goals and objectives and projects to be implemented within the two areas. An additional component of the planning process was specific economic site development opportunity analyses. These analyses found that developing specific sites in downtown and Central Milwaukie was not financially feasible without incentives. This urban renewal plan contains the tools to assist in making development in Milwaukie financially feasible.

The Plan has been developed for the Milwaukie City Council (City Council) with the cooperative input of an Urban Renewal Advisory Group (Advisory Group) and additional community input.

The Advisory Group met four times to review components of the Plan and Report Accompanying the Plan (Report), specifically the boundary, goals and objectives, projects, amendment procedures, duration of the Plan, financing and draft Plan and Report. The Advisory Group voted unanimously with one abstention, to forward the Plan and Report to the Milwaukie Redevelopment Commission for their consideration.

Several additional opportunities were available for public input including an Open House on April 20, 2016, two First Friday events, and two Farmer's Market events. Staff and the consultant provided background information on the proposed plan, projects and on the process for adoption of an urban renewal plan. Information was also placed on the city's website.

In addition, the consultant and city staff briefed the Clackamas County Board of County Commissioners in July, 2016.

There was also opportunity for public input at the Milwaukie Redevelopment Commission (Redevelopment Commission) meeting, the Milwaukie Planning Commission (Planning Commission) meeting, and the City Council meeting.

The Plan contains goals, objectives, and projects for the development of the Milwaukie Urban Renewal Area (Area). The overall purpose of the Plan is to use tax increment financing (TIF) to overcome obstacles to the proper development of the Area.

The purpose of urban renewal is to improve specific areas of a city that are poorly developed or underdeveloped, called blighted areas in ORS 457. These areas can have old or deteriorated buildings, public spaces that need improvements, streets and utilities that are inadequate or in poor condition, a complete lack of streets and utilities altogether, or other obstacles to development. The Area has infrastructure needs as identified in the Report and specifically cited in the ordinance for adoption of the urban renewal plan.

Urban renewal allows for the use of tax increment financing (TIF), a financing source that is unique to urban renewal, to fund its projects. Tax increment revenues – the amount of property taxes generated by the increase in total assessed value in the urban renewal area from the time the urban renewal area is first established – are used to repay borrowed funds. The funds borrowed are used to pay for urban renewal projects.

In general, urban renewal projects can include construction or improvement of streets, utilities, and other public facilities; assistance for rehabilitation or redevelopment of property; acquisition and re-sale of property (site assembly) from willing sellers; and improvements to public spaces. The specific projects to be approved in this Plan are outlined in Sections IV and V.

Urban renewal is put into effect when the local government (the City of Milwaukie, in this case) adopts an urban renewal plan. The urban renewal plan defines the urban renewal area, states goals and objectives for the area, lists projects and programs that can be undertaken, provides a dollar limit on the funds borrowed for urban renewal projects, and states how the plan may be changed in the future.

The Area, shown in Figure 1, consists of approximately 260.62 total acres: 168.13 acres of land in parcels and 92.49 acres of public right-of-way.

The Plan will be administered by the Redevelopment Commission, which was established by the Milwaukie City Council as the city's Urban Renewal Agency. Substantial changes to the plan must be approved by the City Council as outlined in Section X of this Plan.

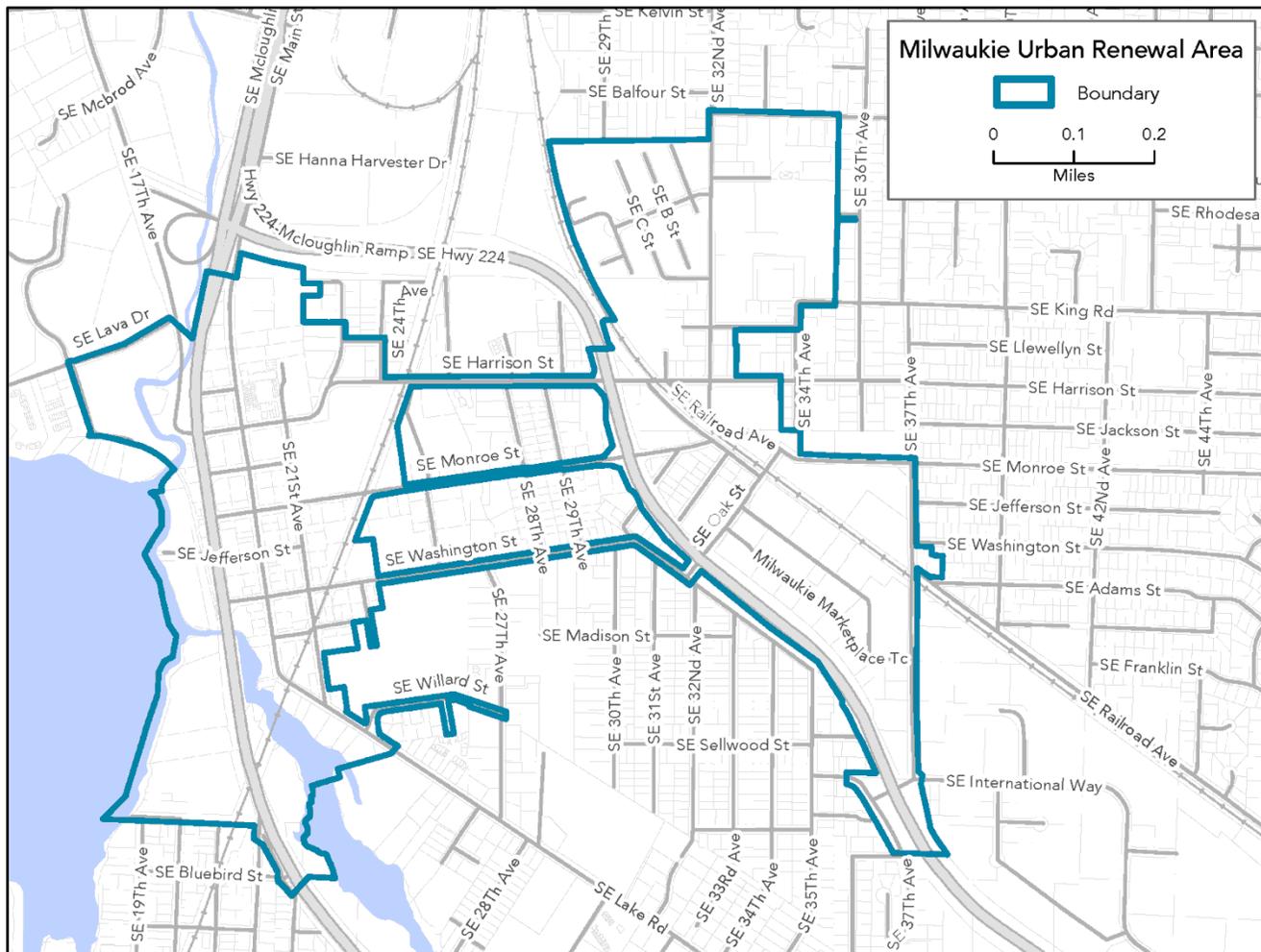
The Plan is accompanied by the Report that contains additional information, as required by ORS 457.085. The technical information in the Report includes:

- A description of the physical, social, and economic conditions in the area;
- Expected impact of the Plan, including fiscal impact in light of increased services;
- Reasons for selection of each Area in the Plan;
- The relationship between each project to be undertaken and the existing conditions;
- The estimated total cost of each project and the source of funds to pay such costs;
- The anticipated completion date of each project;
- The estimated amount of funds required in the Area, and the anticipated year in which the debt will be retired;
- A financial analysis of the Plan;
- A fiscal impact statement that estimates the impact of tax increment financing upon all entities levying taxes upon property in the urban renewal area; and
- A relocation report.

It is anticipated that the Plan will take 29 years to implement. The maximum amount of indebtedness (amount of tax increment financing for projects and programs) that may be issued for the Plan is \$92,500,000.

Future amendments will be listed numerically in this section of the Plan and then incorporated into the Plan document and noted by footnote as to amendment number and date adopted.

Figure 1 - Urban Renewal Area



III. GOALS AND OBJECTIVES

The goals of the Plan represent the basic intents and purposes. Accompanying each goal are objectives, which generally describe how the Redevelopment Commission intends to achieve the goals. The urban renewal projects identified in Sections IV and V of the Plan are the specific means of meeting the objectives. The goals relate to adopted plans, as detailed in Section XI, and were developed with input from the Milwaukie Urban Renewal Advisory Group. The goals and objectives will be pursued as economically as is feasible and at the discretion of the Redevelopment Commission. The goals and objectives are not ranked by priority.

Goal 1: PUBLIC INVOLVEMENT

- Provide opportunities for public input throughout the implementation process.
- Engage and inform stakeholders to maximize diverse participation in the revitalization of the downtown and Central Milwaukie.
- Ensure the opportunity for citizens to be involved in all phases of the urban renewal implementation process by providing accurate and timely information and genuinely encouraging public input and involvement.

Objectives:

1. Utilize ad hoc Advisory Groups to review major changes to projects, programs or goals and objectives in the Plan as identified in the Amendments section of the Plan in meetings that are open to the public.
2. Public participation might involve public meetings, surveys, open houses, workshops, polling, citizen's Advisory Groups and other forms of direct involvement with the public with the aim of offering opportunities to a diverse and typically unengaged groups of our citizenry.
3. Establish an ongoing Citizens' Advisory Group to assist the Redevelopment Commission in decisions regarding plan implementation as identified in the Amendments section of the Plan.

Goal 2: ECONOMIC DEVELOPMENT/DEVELOPMENT

- Reactivate Main Street to reestablish and strengthen lively storefront retail character with a pedestrian emphasis and 18-hour use.
- Enhance economic opportunities in downtown and Central Milwaukie.
- Support a downtown that is lively and active and includes a range of housing options.
- Complement, protect, and promote the continued growth and vitality of current businesses.
- Remove barriers and constraints to development.
- Capitalize on the light rail investment to serve as a catalyst for future investment and development.

Objectives:

1. Invest in catalyst projects that leverage public-private partnerships, incentives, and other tools that contribute to advancing multiple objectives of the Urban Renewal Plan.
2. Support the development of transit-oriented residential, commercial, employment and recreational uses that will benefit from and support light rail.

3. Implement pedestrian and bicycle system improvements that will enhance connectivity between downtown and central Milwaukie and surrounding residential and commercial areas.
4. Create a tool kit of Public-Private Partnership (PPP) tools that can be used to invest in appropriate catalyst projects.
5. Promote programs that help mitigate the impacts of gentrification by assisting existing businesses with their growth and viability.
6. Develop and implement wayfinding systems plans for the downtown and Central Milwaukie areas.
7. Encourage adaptive re-use of developed sites with vacant or underperforming buildings.
8. Encourage a mix of retail uses to support a downtown that is lively and active.
9. Encourage housing as part of new-mixed use development.
10. Proactively encourage development on vacant parcels.
11. Make publicly-owned sites available to developers.
12. Support affordable housing development.

Goal 3: INFRASTRUCTURE: PUBLIC SPACES and TRANSPORTATION

- Provide adequate infrastructure and public amenities to support new development.
- Enhance McLoughlin Boulevard as the primary entry point into downtown Milwaukie from the north and south.
- Improve pedestrian connections from the downtown commercial area to Riverfront Park and the Trolley Trail to enhance the sense of place for downtown visitors.
- Improve significant parks and open spaces.
- Improve access to and within Central Milwaukie for pedestrians, cyclists, and vehicles.

Objectives:

1. Improve connectivity in Downtown Milwaukie including streetscape improvements.
2. Enhance existing downtown parks.
3. Assist with funding of streetscape improvements (Public Area Requirements identified in the Public Works Standards) for catalyst projects.
4. Upgrade pedestrian and bicycle connections across McLoughlin Boulevard.
5. Provide gateway and entryway improvements along McLoughlin Boulevard.
6. Construct the South Downtown Plaza.
7. Provide additional public space amenities in Central Milwaukie.
8. Address transportation infrastructure deficiencies for Central Milwaukie.
9. Improve connectivity within the Central Milwaukie district with easily accessible multimodal pathways that are safe and attractive.

10. Facilitate creation of a more connected and complete street network within Central Milwaukie, especially through the Murphy and McFarland opportunity sites.
11. Improve external connections to the Central Milwaukie district.
12. Assist in the development of parking solutions in Downtown Milwaukie.

Goal 4: SENSE OF PLACE

- Build on existing assets Downtown, including local businesses, existing buildings, and the City's unique character.
- Foster a sense of place in Central Milwaukie by enhancing the identity of the area.
- Maintain an overall character complementary to and protective of surrounding neighborhoods.
- Feature the natural environment, especially the Willamette River.
- Strengthen Main Street as a source of pride and to ensure economic success.

Objectives:

1. Promote development of gateway and entryway projects.
2. Install downtown and Central Milwaukie wayfinding signage and heritage plaques.
3. Promote high-quality, urban design that is complementary to surrounding areas.
4. Employ parking management measures as needed to limit potential negative impacts of new development on residential parking needs.
5. Explore public-private partnerships to provide additional public space in Central Milwaukie.
6. Assist in the completion of streetscape improvements (Public Area Requirements) in Downtown Milwaukie.
7. Assist in improvements to existing and planned parks, plazas, and open spaces.

Goal 5: FISCAL STEWARDSHIP

- Work with taxing jurisdictions to both inform them of the annual project and financial activities of the urban renewal area and to evaluate opportunities to share tax increment revenues.

Objectives:

1. Send a copy of the annual report required by ORS 457.460 and financial report to all taxing jurisdictions, informing them of the activities of the urban renewal area.
2. Notify taxing jurisdictions of revenue sharing responsibilities and the timing of those responsibilities.
3. Reimburse city for annual costs in administering the urban renewal area.

IV. OUTLINE OF MAJOR URBAN RENEWAL PROJECT ACTIVITIES

The projects and activities within the Area are divided into the following main categories:

Development/Economic Development

Infrastructure: Transportation Downtown and Central Milwaukie

Public Amenities: Parks and Open Space

Debt Service and Plan Administration

V. URBAN RENEWAL PROJECTS

Urban renewal projects authorized by the Plan are described below.

A. Development/Economic Development

1. Pre-Development Assistance for Development Opportunities

Assist with the up-front costs of development on a site such as technical assistance, feasibility studies, and site planning, to name a few. Providing this assistance can incentivize investment in a development project.

2. Tenant Improvements

The goal of this program is to partner with downtown property and/or new business owners to encourage and fund high-quality tenant improvements to the interiors of vacant commercial spaces. The program would assist property owners in attracting businesses to locations that are difficult and costly to renovate, and incentivize new retail and restaurant businesses to locate within the Project Area.

3. Small Business Development Fund

The goal of this program is to provide funds and/or financing for things such as equipment and machinery, to help small and micro-businesses expand or become established in Milwaukie.

4. Developer Assistance

Develop public/private partnership tools that may include but not be limited to programs such as façade/storefront improvement, retail and food-related tenant Improvement, a small business start-up fund, developer assistance (for catalytic projects: land assembly, SDC/permit write down, assistance with public area requirements, green building or energy assistance, parking, utility relocations, adaptive re-use and other assistance), community economic development activities such as a bike share, affordable housing assistance (rent stabilization, and other anti-displacement strategies), technical assistance, feasibility studies, and site planning.

5. Downtown Main Street Enhancements

Urban renewal could fund a portion of some activities included in a Main Street Program in downtown, focusing on four elements: Design, Economic Vitality, Organization, and Promotions. The intent of a Main Street program is to work collaboratively with both private organizations and established City committees to achieve the following broad goals: create a visually appealing downtown; assist existing businesses in identifying and taking advantage of business opportunities and encourage prospective new businesses to locate in Downtown Milwaukie; develop a highly-functioning Main Street

organization; and promote the program and Downtown Milwaukie. Urban renewal expenditures would focus on design, planning, and capital projects related to the downtown Main Street corridor.

B. Infrastructure: Transportation Downtown

1. McLoughlin Boulevard Improvements

Improve the section of McLoughlin Boulevard north of Harrison Street to enhance pedestrian safety and signal visitors that they are entering downtown. Upgrade sidewalks where needed.

2. McLoughlin Boulevard Intersection Upgrades

Improve all existing crossings of McLoughlin Boulevard, using better signage and extended crossing times and distinctive crosswalk paving. Construct improvements at Harrison Street, Monroe Street, Jackson Street, Jefferson Street, and Washington Street to enhance bike/pedestrian crossings.

3. Pedestrian Bridge across McLoughlin Boulevard

Establish a dedicated bicycle and pedestrian connection across McLoughlin Boulevard.

4. Parking Solutions

Develop a variety of parking solutions, such as creative parking management tools, including the potential assistance in the development of structured parking as part of a larger mixed-use development that would service downtown uses.

5. Streetscape Improvements

Improvements to public spaces along streets have been installed at some locations in Downtown Milwaukie, but there are many blocks where the improvements have not been constructed. This project would assist in the installation of sidewalk bulb-outs, lighting, wider sidewalks, and pedestrian amenities consistent with the required public area street standards in Downtown Milwaukie.

C. Infrastructure: Transportation Central Milwaukie

1. Bike/Pedestrian Path Connections

The goal is to provide connections to and through Central Milwaukie for pedestrians and bicyclists. The projects include improving bicycle routes and pedestrian ways along Harrison Street, Railroad Avenue, Oak Street, 37th Avenue, and 29th Avenue. Provide connections to and through Central Milwaukie for pedestrians and bicyclists as designated in the Central Milwaukie Land Use & Transportation Plan and the Transportation Systems Plan. These connections include improvements on Campbell Street and Railroad Avenue. These improvements would enhance pedestrian connections and improve bike trails and facilities to increase safe and convenient multimodal access throughout the district. Designate and improve Primary Bicycle Routes along Harrison Street, Railroad Avenue, Oak Street, 37th Avenue, and 29th Avenue. Implement features to enhance pedestrian and cyclist safety.

Create a bicycle and pedestrian connection through the McFarland site from Railroad Ave to Oak Street which would help to provide better connectivity through Central Milwaukie. It will also provide a more direct connection from Railroad Avenue to the Monroe Street Neighborhood Greenway.

Create a bicycle and pedestrian connection through the Murphy Site from 31st Avenue to Meek Street in order to provide a north-south connection to central Milwaukie from the 29th Avenue bikeway. This

project would also include a path through the Clackamas County Housing Authority property north of the Murphy site.

Safe pedestrian connections do not currently exist along Oak, Myrtle, Penzance Streets and through the Milwaukie Marketplace commercial area. This project would develop and improve pedestrian connections along Oak, Myrtle, and Penzance Streets and the Milwaukie Marketplace.

2. Improved Access to Opportunity Sites

This project would provide improved vehicle access to the Murphy and McFarland development opportunity sites in Central Milwaukie, which would encourage investment in development of the sites.

3. Highway 224 Intersection Upgrades

This project would improve pedestrian crossings at 37th Avenue, Oak Street, Monroe Street, and Harrison Street. Improve intersection crossing safety for bicyclists at Washington Street and Oak Street.

4. Improve Transit Stops

This project would provide transit shelters as sites are developed and to ensure excellent transit service to Central Milwaukie. It would also add Transit Tracker and LED lighting units at main stops along bus routes.

5. Monroe Street Greenway Includes Monroe Street/Highway224

This project would implement central Milwaukie and downtown improvements for the Monroe Street Neighborhood Greenway which would implement the design concepts developed under an Oregon Department of Transportation grant and are expected to include lane striping, signage, and the application of sharrows, and potential traffic diverters.

D. Public Amenities: Parks and Open Space

1. South Downtown Plaza

As identified in the South Downtown Concept Plan, this project would construct a public plaza at the intersection of Adams Street and Main Street that connects the new light rail station with Main Street and creates a focal point at the south end of downtown.

2. Riverfront Park

This project would fund implementation of Phases 3 and 4 of the Riverfront Park master plan, which include a plaza, an amphitheater, a fountain, large restroom facilities, and additional landscaping.

3. Dogwood Park

This project would fund improvements to Dogwood Park as outlined in the South Downtown Concept Plan. An expanded Dogwood Park would be integrated to the north and east with the South Downtown Plaza and Main Street streetscape improvements, and to the south and west with the Kellogg Natural Area. A refined design for the South Downtown Plaza will include integration with Dogwood Park and will identify key improvements for the area.

4. Scott Park

This project would fund completion of remaining phases of improvements to Scott Park per the 1990 Scott Park Master Plan. Specific projects to be determined.

5. New Parks and Open Spaces in Central Milwaukie

There are currently no parks in Central Milwaukie. This project would fund the development of new parks and open spaces to serve Central Milwaukie as underdeveloped sites are preparing to develop. The project could also include exploring a partnership with Union Pacific Railroad to turn the small area at Railroad Avenue and Oak Street into a public park or install park improvements at the Murphy and McFarland sites.

6. Gateway/Entryway Improvements on McLoughlin Boulevard

This project would install gateway and entryway signage at the north and south entrances to downtown along McLoughlin Boulevard. It would use elements such as gateway features, plantings, lighting, and related improvements to draw more traffic off of McLoughlin Boulevard and into downtown.

7. Wayfinding Signage and Heritage Plaques

This project would fund the implementation of the 2016 downtown Wayfinding Systems Plan, including the installation of wayfinding signage and kiosks to aid residents and visitors in exploring Milwaukie by providing easy access to cultural and recreational opportunities within an area that can be easily accessed by foot, bicycle, and transit. This project would also fund the installation of heritage plaques to celebrate the architectural history of the city and describe Milwaukie's heritage and culture.

8. Kronberg Park

This project would fund the implementation of the adopted 2015 Kronberg Park Master Plan, which includes the construction of a pathway in Kronberg Park to connect Kellogg Lake to south downtown.

9. Kellogg Dam Removal

The Kellogg Dam currently blocks fish passage through Kellogg Creek. This project would replace the McLoughlin Boulevard Bridge over Kellogg Creek, remove the dam, and restore habitat, as well as construct a bike/pedestrian undercrossing between downtown and Riverfront Park.

E. Debt Service and Plan Administration

This activity would allow for the repayment of costs associated with the implementation of the Milwaukie Urban Renewal Plan. It also includes ongoing administration and any financing costs associated with issuing long- and short-term debt, relocation costs and other administrative costs, including the potential repayment of costs for any amendments of the urban renewal plan.

VI. PROPOSED LAND USES, MAXIMUM DENSITIES AND BUILDING REQUIREMENTS

The proposed land uses, densities, and building requirements for the Area will comply with the Milwaukie Comprehensive Plan and Milwaukie Municipal Code as stated in those documents and incorporated herein by reference. If those documents change, those changes will be automatically incorporated into this Plan. The specific zones within the Area are:

Medium and High Density Residential:

The medium and high density residential zones are intended to create and maintain higher density residential neighborhoods that blend a range of housing types with a limited mix of neighborhood-scale commercial, office, and institutional uses.

Downtown Zones:

The downtown zones are Downtown Mixed Use Zone DMU and Open Space Zone OS. The zones are shown on Figure 19.304-1. These zones implement the Town Center and Public land use designations in the Milwaukie Comprehensive Plan. The downtown zones implement the Downtown and Riverfront Land Use Framework Plan and Milwaukie Comprehensive Plan.

The downtown and riverfront area is envisioned as the focus of the community. Two zones are designated to distinguish between areas intended for public open space and those intended for downtown development. Specific use, development, and design standards are adopted for the downtown zones to assure an active, attractive, and accessible environment for shoppers, employees, and residents.

Downtown Mixed Use (DMU)

The Downtown Mixed Use Zone provides for a wide range of uses, including retail, office, commercial, and residential—that will bring visitors to the downtown to live, work, shop, dine, and recreate. The desired character for this zone is a pedestrian-friendly and vibrant urban center, with a prominent main street and connections to the riverfront, and which includes buildings that are built to the right-of-way and oriented toward the pedestrian, with primary entries located along streets rather than parking lots.

Open Space (OS)

The Open Space Zone provides a specific zone to accommodate open space, park, and riverfront uses. The Open Space Zone is generally applied to lands that are in public ownership along the Willamette River, Kellogg Creek, Spring Creek, and Johnson Creek in the downtown area. The desired character for the Open Space Zone includes parkland, open space, and riverfront amenities.

Community Shopping (C-CS):

Development shall be a community-scale shopping center including uses such as department store uses; drug and/or variety store uses; food supermarkets; and retail specialty shops.

Business Industrial (BI):

This section is adopted to implement the policies of the Comprehensive Plan for industrial land uses providing a mix of clean, employee-intensive, industrial and office uses, with associated services, in locations supportive of mass transit and the regional transportation network.

General Mixed-Use (GMU):

The General Mixed Use Zone is intended to recognize the importance of central Milwaukie as a primary commercial center and promote a mix of uses that will support a lively and economically robust district. It is also intended to ensure high-quality urban development that is pedestrian-friendly and complementary to the surrounding area.

Limited Commercial (C-L):

The Limited Commercial Zone is intended to allow small-scale commercial services within residential neighborhoods. These services provide convenience and whose activities generate a minimal amount of traffic and maintain the general character of a residential neighborhood.

Low Density Residential:

The low density residential zones are intended to create, maintain, and promote neighborhoods with larger lot sizes where the land use is primarily single-family dwellings. They allow for some non-household living uses but maintain the overall character of a single-family neighborhood.

VII. PROPERTY ACQUISITION AND DISPOSITION

The Plan authorizes the acquisition and disposition of property as described in this section. Property includes any and all interests in property, including fee simple ownership, lease, easements, licenses, or other rights to use.

A. Property acquisition for public improvements

The Redevelopment Commission may acquire any property within the Area for the public improvement projects undertaken pursuant to the Plan by all legal means, including use of eminent domain. Good faith negotiations for such acquisitions must occur prior to institution of eminent domain procedures.

B. Property acquisition – from willing sellers

The Plan authorizes Redevelopment Commission acquisition of any interest in property within the Area that the Redevelopment Commission finds is necessary to support private redevelopment, but only in those cases where the property owner wishes to convey such interest to the Redevelopment Commission. The Plan does not authorize the Redevelopment Commission to use the power of eminent domain to acquire property from a private party to transfer property to another private party for private redevelopment. Property acquisition from willing sellers may be required to support development of projects within the Area.

C. Land disposition

The Redevelopment Commission will dispose of property acquired for a public improvement project by conveyance to the appropriate public agency responsible for the construction and/or maintenance of the public improvement. The Redevelopment Commission may retain such property during the construction of the public improvement.

The Redevelopment Commission may dispose of property acquired under Subsection B of this Section VI by conveying any interest in property acquired. Property shall be conveyed at its fair reuse value. Fair reuse value is the value, whether expressed in terms of rental or capital price, at which the Redevelopment Commission, in its discretion, determines such land should be made available in order that it may be developed, redeveloped, cleared, conserved, or rehabilitated for the purposes specified in such plan. Because fair reuse value reflects limitations on the use of the property to those purposes specified in the Plan, the value may be lower than the property's fair market value.

Where land is sold or leased, the purchaser or lessee must agree to use the land for the purposes designated in the Plan and to begin and complete the building of its improvements within a period of time that the Redevelopment Commission determines is reasonable.

VIII. RELOCATION METHODS

When the Redevelopment Commission acquires occupied property under the Plan, residential or commercial occupants of such property shall be offered relocation assistance, as required under applicable state law. Prior to such acquisition, the Redevelopment Commission shall adopt rules and regulations, as necessary, for the administration of relocation assistance.

IX. TAX INCREMENT FINANCING OF THE PLAN

Tax increment financing consists of using annual tax increment revenues to make payments on loans, usually in the form of tax increment bonds. The proceeds of the bonds are used to finance the urban renewal projects authorized in the Plan. Bonds may be either long-term or short-term.

Tax increment revenues equal most of the annual property taxes imposed on the cumulative *increase* in assessed value within an urban renewal area over the total assessed value at the time an urban renewal plan is adopted. (Under current law, the property taxes for general obligation (GO) bonds and local option levies approved after October 6, 2001 are not part of the tax increment revenues.)

A. General description of the proposed financing methods

The Plan will be financed using a combination of revenue sources. These include:

- Tax increment revenues;
- Advances, loans, grants, and any other form of financial assistance from the federal, state, or local governments, or other public bodies;
- Loans, grants, dedications, or other contributions from private developers and property owners, including, but not limited to, assessment districts; and
- Any other public or private source.

Revenues obtained by the Redevelopment Commission will be used to pay or repay the costs, expenses, advancements, and indebtedness incurred in (1) planning or undertaking project activities, or (2) otherwise exercising any of the powers granted by ORS Chapter 457 in connection with the implementation of this Plan.

B. Tax increment financing and maximum indebtedness

The Plan may be financed, in whole or in part, by tax increment revenues allocated to the Redevelopment Commission, as provided in ORS Chapter 457. The ad valorem taxes, if any, levied by a taxing district in which all or a portion of the Area is located, shall be divided as provided in Section 1c, Article IX of the Oregon Constitution, and ORS 457.440. Amounts collected pursuant to ORS 457.440 shall be deposited into the unsegregated tax collections account and distributed to the Agency based upon the distribution schedule established under ORS 311.390.

The maximum amount of indebtedness that may be issued or incurred under the Plan, based upon good faith estimates of the scope and costs of projects in the Plan and the schedule for their completion is \$92,500,000 (ninety-two million five hundred thousand dollars). This amount is the principal of such indebtedness and does not include interest or indebtedness incurred to refund or refinance existing indebtedness or interest earned on bond proceeds. It does include initial bond financing fees and interest earned on tax increment proceeds, separate from interest on bond proceeds.

X. FUTURE AMENDMENTS TO PLAN

The Plan may be amended as described in this section.

A. Substantial Amendments

Substantial Amendments, in accordance with ORS 457.085(2)(i), shall require the same notice, hearing, and approval procedure required of the original Plan, under ORS 457.095, including public involvement, consultation with taxing districts, presentation to the Redevelopment Commission, the Planning Commission, and adoption by the City Council by non-emergency ordinance after a hearing. Notice of such hearing shall be provided to individuals or households within the City of Milwaukie, as required by ORS 457.120. Notice of adoption of a Substantial Amendment shall be provided in accordance with ORS 457.095 and 457.115.

Substantial Amendments are amendments that:

1. Add land to the urban renewal area, except for an addition of land that totals not more than 1% of the existing area of the urban renewal area; or
2. Increase the maximum amount of indebtedness that can be issued or incurred under the Plan.
3. Increase the duration of the Plan beyond 31 years from first year of receipt of tax increment revenue.

B. Minor Amendments

Minor Amendments are amendments that are not Substantial Amendments as defined in this Plan and in ORS 457. Minor Amendments require approval by the Redevelopment Commission by resolution.

Increasing the duration of the Plan beyond 29 years to a limit of 31 years from first year of receipt of tax increment revenue is a minor amendment.

C. Amendments to the Milwaukie Comprehensive Plan and/or Milwaukie Zoning Ordinance

Amendments to the Milwaukie Comprehensive Plan and/or Milwaukie Zoning Ordinance that affect the Urban Renewal Plan and/or the Urban Renewal Area shall be incorporated automatically within the Urban Renewal Plan without any separate action required by the Redevelopment Commission or the City Council.

XI. DURATION OF THE PLAN

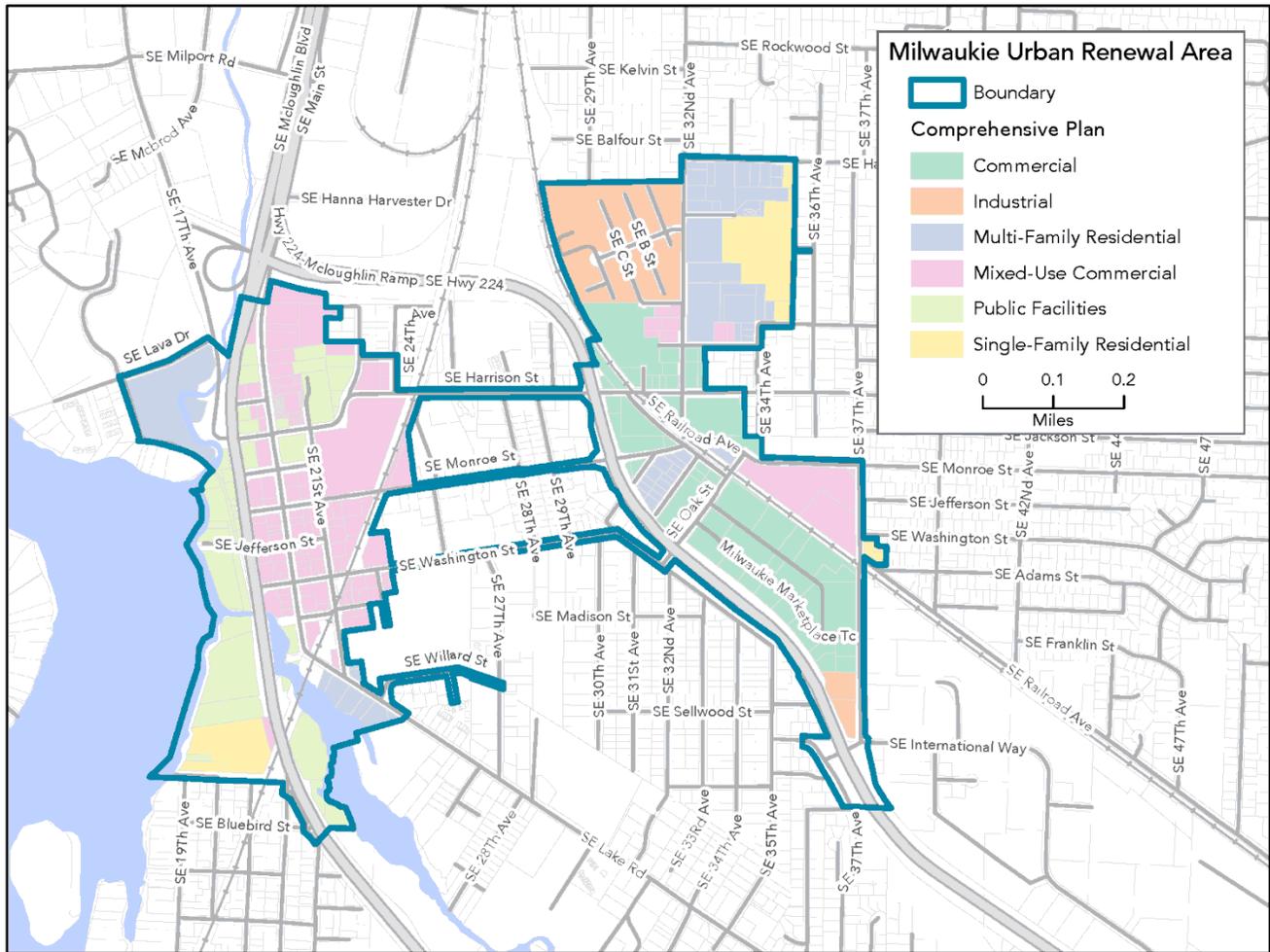
The Agency intends that it not collect tax increment revenues for the Area after FYE 2046. The Agency shall not initiate any urban renewal projects in the Area unless the Agency reasonably projects it will be able to pay for those projects from the proceeds of indebtedness issued on or before FYE 2046, and from other funds available to the Agency. Except as provided in the next sentence, all indebtedness that is secured by the tax increment revenues of the Area shall mature no later than FYE 2046, and the Agency shall structure all its indebtedness so that it can be paid in full from the tax increment revenues of the Area that the Agency reasonably projects it will receive on or before FYE 2046. The Agency may issue refunding indebtedness that matures after FYE 2046, only if issuing that refunding indebtedness is necessary to avoid a default on previously-issued indebtedness.

XII. RELATIONSHIP TO LOCAL OBJECTIVES

The Plan relates to local planning and development objectives contained within the Milwaukie Comprehensive Plan and Municipal Code (Title 19: Zoning Ordinance), and the Transportation System Plan. The following section describes the purpose and intent of these plans, the particular goals and policies within each planning document to which the proposed Plan relates, and an explanation of how the Plan relates to these goals and policies. The numbering of the goals, policies, and implementation strategies will reflect the numbering that occurs in the original document. Italicized text is text that *has* been taken directly from an original planning document. The Comprehensive Plan designations are shown in Figure 2. The maximum densities and building requirements are contained in the Milwaukie Zoning Ordinance. The proposed land uses conform to Figure 2.

This is not a comprehensive list of all parts of the Milwaukie Comprehensive Plan that are supported by this Plan. This list includes the major Goals and Policies from the Comprehensive Plan that are supported; however, there may be other Goals and Policies that are not listed, but are still supported by this Plan.

Figure 2 – Comprehensive Plan Designations



A. Milwaukie Comprehensive Plan

The Plan conforms to the Citizen Involvement, Land Use: Residential Land Use and Housing Element, Economic Base and Industrial/Commercial Land Use Element, Recreational Needs Element, Willamette Greenway Element, Neighborhood Element, Transportation, Public Facilities and Energy Conservation: Transportation Element, Public Facilities and Services Element, Energy Conservation Element sections of the Comprehensive Plan as it contains projects to upgrade the transportation infrastructure, to support existing business and allow for development of new businesses to create jobs, utilizing underutilized and/or blighted sites and improve public amenities throughout the Area.

Chapter 1 - Citizen Involvement

Policy: Citizen Involvement To encourage and provide opportunities for citizens to participate in all phases of the planning process, to keep citizens informed and to open lines of communication for the sharing of questions, problems and suggestions regarding the Comprehensive Plan and land use regulations.

The Plan conforms with the Citizen Involvement Section of the Comprehensive Plan as members of the neighborhood associations were on the Advisory Group and the process included many opportunities for public input including the Advisory Group meetings, Planning Commission meeting, City Council hearing, and six community events at which there was information about the urban renewal plan. Information was also posted to the City of Milwaukie website and articles published in the March, May, June, July and August editions of the Milwaukie Pilot.

Chapter 4 - Land Use - Residential Land Use and Housing Element

GOAL STATEMENT: To provide for the maintenance of existing housing, the rehabilitation of older housing and the development of sound, adequate new housing to meet the housing needs of local residents and the larger metropolitan housing market, while preserving and enhancing local neighborhood quality and identity.

OBJECTIVE #1 — BUILDABLE LANDS

To utilize lands in the City according to their relative measure of buildability, based on land type classifications.

The Plan conforms to the buildable lands objective as one of the goals in the Plan is to develop vacant and underutilized properties within the Area that may have residential uses as a component of the redevelopment. There are specific programs authorized in the Plan that would provide developer assistance.

OBJECTIVE #2 — RESIDENTIAL LAND USE: DENSITY AND LOCATION

To locate higher density residential uses so that the concentration of people will help to support public transportation services and major commercial centers and foster implementation of the Town Center Master Plan.

The Plan conforms to the residential land use: density and location objective as one of the goals in the Plan is to develop vacant and underutilized properties within the Area, , that is also part of the Town Center Master Plan, that may have residential uses as a component of the redevelopment. There are specific programs authorized in the Plan that would provide developer assistance.

OBJECTIVE #4 — NEIGHBORHOOD CONSERVATION

To maximize the opportunities to preserve, enhance and reinforce the identity and pride of existing well-defined neighborhoods in order to encourage the long-term maintenance of the City's housing stock.

The Plan conforms to the neighborhood conservation objective as a goal of the Plan is to preserve the downtown core and enhance opportunities in central Milwaukie, both of which will help support the existing residential neighborhoods.

OBJECTIVE #5 — HOUSING CHOICE

To continue to encourage an adequate and diverse range of housing types and the optimum utilization of housing resources to meet the housing needs of all segments of the population.

The Plan conforms to the housing choice objective as one of the goals in the Plan is to develop vacant and underutilized properties within the Area that may have residential as a component of the redevelopment. There are specific programs authorized in the Plan that would provide developer assistance, including affordable housing assistance.

OBJECTIVE #6 — HOUSING ASSISTANCE

To assist low and moderate income households in obtaining housing which is consistent with other housing objectives and policies.

The Plan conforms to the housing assistance objective as one of the goals in the Plan is to develop vacant and underutilized properties within the Area that may have residential as a component of the redevelopment. There are specific programs authorized in the Plan that would provide developer assistance, including affordable housing assistance.

Economic Base and Industrial/ Commercial Land Use Element

GOAL STATEMENT: To continue to support and encourage the development of a broad industrial base in the City, and to encourage the expansion of service facilities in the community.

OBJECTIVE #1 — ECONOMIC DEVELOPMENT

The City will encourage an increase in the overall economic development activity within the City, will strive to retain existing businesses as well as actively attract new businesses, particularly those identified as having growth potential.

The Plan conforms to the economic development objective as there are programs within the Plan designed to increase overall economic development activity for both existing businesses and attracting new businesses.

OBJECTIVE #2 — EMPLOYMENT OPPORTUNITY

To continue to support a wide range of employment opportunities for Milwaukie citizens.

The Plan conforms to the economic opportunity objective as there are programs within the Plan designed to increase overall economic development activity for both existing businesses and attracting new businesses, providing a range of employment opportunities for Milwaukie citizens.

OBJECTIVE #3 — COORDINATION

To continue to participate in economic development and employment programs and develop a working partnership with the private sector and various agencies to meet the economic development needs of Milwaukie.

The Plan conforms to the coordination objective as there are programs within the Plan designed to increase overall economic development activity for both existing businesses and attracting new businesses, coordinating with private sector and other agencies as opportunities occur.

OBJECTIVE #6 — COMMERCIAL LAND USE

To encourage new commercial uses to locate within designated commercial areas of the City, in order to take maximum advantage of existing access and public facilities serving these areas.

The Plan conforms to the commercial land use objective as there are underutilized and vacant commercial parcels included within the area where in the city intends to encourage economic development.

OBJECTIVE #8 — COMMERCIAL LAND USE: COMMUNITY CENTER

To provide for the weekly and comparison goods shopping needs of the City's and surrounding areas' residents.

The Plan conforms to the commercial land use: community center objective as there are underutilized and vacant commercial parcels included within the area where in the city intends to encourage economic development that could provide for the weekly and comparison goods shopping needs for the community.

OBJECTIVE #12 — TOWN CENTER

To emphasize downtown Milwaukie and the expanded city center as a Town Center with the major concentration of mixed use and high density housing, office, and service uses in the City

The Plan conforms to the Town Center objective as the downtown and the expanded city center, including central Milwaukie, are included in the urban renewal area with goals to increase mixed-use and high density housing, office and services in the Area.

OBJECTIVE #13 — MCLOUGHLIN BOULEVARD

To provide for limited highway service uses along McLoughlin Boulevard while improving the visual and pedestrian-oriented linkages between downtown and the Willamette River, and making McLoughlin Boulevard more attractive.

The Plan conforms to the McLoughlin Boulevard objective as projects are included within the plan to improve links between downtown and the Willamette River, making McLoughlin Boulevard more attractive.

OBJECTIVE #16 – CENTRAL MILWAUKIE

To adopt and implement the Central Milwaukie Land Use and Transportation Plan as an ancillary document to the Comprehensive Plan and acknowledge the Central Milwaukie boundary as shown on Map 7.

The Plan conforms to the Central Milwaukie objective as central Milwaukie is included in the urban renewal area and projects are included within the plan to enhance economic opportunities and improve access to the area for pedestrians, cyclists, and vehicles with the intent to improve central Milwaukie as a commercial center.

Recreational Needs Element

GOAL STATEMENT: To provide for the recreational needs of present and future City residents by maximizing the use of existing public facilities, encouraging the development of private recreational facilities, and preserving the opportunity for future public recreational use of vacant private lands.

OBJECTIVE #6 — MAXIMIZATION OF EXISTING PARKS

To maximize the use of existing City parks consistent with their natural features and carrying capacity.

The Plan conforms to the Maximization of Existing Parks objective as there are projects within the Plan to upgrade parks within the Area.

OBJECTIVE #7 — RIVERFRONT RECREATION

To maximize the recreational use of the Willamette River shoreland and waterways.

The Plan conforms to the Riverfront Recreation objective as one of the projects within the Plan is to assist in the completion of the Willamette Riverfront Park.

Willamette Greenway Element

GOAL STATEMENT: To protect, conserve, enhance, and maintain the natural, scenic, Downtown, agricultural, economic, and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

OBJECTIVE #5 — PUBLIC ACCESS AND VIEW PROTECTION

To provide, improve, and maintain public access and visual access within the Greenway and to the Willamette River and Kellogg Lake.

The Plan conforms to the Riverfront Recreation objective as one of the projects within the Plan is to assist in the completion of the Willamette Riverfront Park and assist with improvements to Kellogg Lake.

Neighborhood Element

GOAL STATEMENT: To preserve and reinforce the stability and diversity of the City's neighborhoods in order to attract and retain long-term residents and ensure the City's residential quality and livability.

OBJECTIVE #1 — NEIGHBORHOOD CHARACTER

To maintain the residential character of designated neighborhood areas.

The Plan conforms to the neighborhood character objective as improvement to the downtown commercial core in Central Milwaukie will help support the neighborhood residential areas.

OBJECTIVE #2 — NEIGHBORHOOD NEEDS

To meet the needs of neighborhood areas for public facilities and services.

The Plan conforms to the neighborhood needs objective as improvement to the downtown commercial core and Central Milwaukie will help support the neighborhood residential areas.

Chapter 5 - Transportation, Public Facilities and Energy Conservation

Policy: The City of Milwaukie has a responsibility to its present and future residents to provide a full range of urban services including streets, sewers and water, as well as police and fire protection. In order to create a healthy living environment and efficiently allocate public expenditures, the City believes that these public facilities must be planned prior to future growth, and continually upgraded and maintained once constructed. The Plan elements which address these concerns are:

Transportation Element

The Transportation System Plan (TSP) is an ancillary Comprehensive Plan document that contains the City's long-term transportation goals and policies for pedestrians, cyclists, drivers, transit users, and freight carriers. It provides for the coordination of transportation improvements at the local level and the integration of the local transportation system with the regional transportation system. It also identifies the transportation issues, policies, and projects that are important to the community.

Transportation goals form the basis for how the local transportation system will be developed and maintained over the long term. Given their importance, the City involved agency, business, and citizen stakeholders in developing goals that support a multimodal approach to transportation planning that reflects how citizens think about and experience the transportation system. Since they are equally important in different ways, they are not listed in order of importance or priority.

GOAL 1: Livability. Design and construct transportation facilities in a manner that enhances the livability of Milwaukie's community.

The Plan conforms to the livability goal as there are transportation projects, specifically projects to allow the development of underutilized parcels in the Area, within the Plan that will enhance the livability of Milwaukie's community.

GOAL 2: Safety. Develop and maintain a safe and secure transportation system.

The Plan conforms to the safety goal as there are transportation projects, specifically projects to allow the development of underutilized parcels in the Area and to improve intersections and other connections and corridors, within the Plan that will enhance the safety of Milwaukie's transportation system.

GOAL 3 Travel Choices. Plan, develop, and maintain a transportation system that provides travel choices and allows people to reduce the number of trips made by single-occupant vehicles.

The Plan conforms to the travel choices goal as there are transportation projects, specifically projects to allow the development of underutilized parcels in the Area, and to improve intersections and other connections and corridors, within the Plan that will enhance the livability of Milwaukie's community. These projects include enhanced transportation options for pedestrians and bicyclists.

GOAL 4: Quality Design. Establish and maintain a set of transportation design and development regulations that are sensitive to local conditions.

The Plan conforms to the quality design goal as there are transportation projects, specifically projects to allow the development of underutilized parcels in the Area, within the Plan that will enhance the livability of Milwaukie's community. These projects will be constructed in conformance with Milwaukie's transportation design and development regulations.

GOAL 5: Reliability and Mobility. Develop and maintain a well-connected transportation system that reduces travel distance, improves reliability, and manages congestion.

The Plan conforms to the reliability and mobility goal as there are transportation projects, specifically projects to allow the development of underutilized parcels in the Area, within the Plan that will reduce travel distance, improve reliability and manage congestion.

GOAL 6: Sustainability. Provide a sustainable transportation system that meets the needs of present and future generations.

The Plan conforms to the sustainability goal as there are transportation projects, specifically projects to allow the development of underutilized parcels in the Area, within the Plan that will reduce travel distance, improve reliability and manage congestion. These projects include enhanced transportation options for pedestrians and bicyclists.

GOAL 7: Efficient and Innovative Funding. Efficiently allocate available funding for recommended transportation improvements, and pursue additional transportation funding that includes innovative funding methods and sources.

The Plan conforms to the efficient and innovative funding goal as there are transportation projects, specifically projects to allow the development of underutilized parcels in the Area, within the Plan that will allow the city to use funds other than the city's general fund to provide for recommended transportation improvements.

GOAL 8: Compatibility. Develop a transportation system that is consistent with the City's Comprehensive Plan and coordinates with County, State, and regional plans.

The Plan conforms to the compatibility goal as there are transportation projects, specifically projects to allow the development of underutilized parcels in the Area, within the Plan that will be coordinated by the city to ensure compliance with the comprehensive plan and coordination with the county, state and regional plans.

GOAL 9: Economic Vitality. Promote the development of Milwaukie's, the region's and the state's economies through the efficient movement of people, goods and services, and the distribution of information.

The Plan conforms to the economic vitality goal as there are transportation projects in the area that will promote the development of Milwaukie, the region, and the state economies through the efficient movement of people, goods and services, and the distribution of information.

Public Facilities and Services Element

To plan, develop and maintain a timely, orderly and efficient arrangement of public facilities and services to serve urban development.

OBJECTIVE #1 — PRIORITY

To ensure that adequate levels of public facilities and services are provided to existing City residents and businesses as a first priority as urban development or growth occurs.

The Plan conforms to the Priority objective as public facilities including streets bike paths, and pedestrian facilities, will be upgraded within the Area.

OBJECTIVE #2 — COORDINATION

To encourage cooperation and coordination between all public service agencies to maximize the efficient provision of all services.

The Plan conforms to the Coordination objective as the city will coordinate with other public service agencies to maximize the efficient provision of both services. The urban renewal advisory group that helped with the development of the Plan had representatives of the Clackamas Fire District No. 1, Milwaukie School District, Clackamas Community College and Clackamas County.

Energy Conservation Element

GOAL STATEMENT: To conserve energy by encouraging energy efficient land use patterns and transportation systems, and by encouraging the construction industry and private homeowners to participate in energy conservation programs.

OBJECTIVE #1 — LAND USE

To encourage an energy efficient land use pattern.

The Plan conforms to the commercial land use objective as there are underutilized and vacant commercial parcels included within the Area where in the city intends to encourage economic development that would encourage an energy efficient land use pattern.

OBJECTIVE #2 — TRANSPORTATION SYSTEM

To encourage an energy efficient transportation system.

The Plan conforms to the Transportation System objective as there are transportation projects, specifically projects to allow the development of underutilized parcels in the Area, within the Plan that will encourage an energy efficient transportation system.

B. Central Milwaukie Land Use and Transportation Plan – Ancillary document to the Milwaukie Comprehensive Plan

The Central Milwaukie Land Use and Transportation Plan was adopted by Ordinance #2110 on December 15, 2015. The document presents a land use and transportation framework for development and circulation in Central Milwaukie. Its purpose is to provide a cohesive vision for the area and facilitate future private and public investment that will meet community needs and desires while also achieving economic success.

The Guiding Principles are:

- *Maintain and improve Central Milwaukie as the city's primary commercial center*
- *Foster a sense of place in Central Milwaukie by promoting an identity and*
- *a vision*
- *Enhance economic opportunities in the area*
- *Add a mix of uses to support a district*

- *that is lively and active*
- *Maintain an overall character complementary to and protective of surrounding neighborhoods*
- *Improve access to and within the area for pedestrians, cyclists, and vehicles*

The Fundamental Concepts are:

- *Facilitate development of the Murphy and McFarland opportunity sites*
- *Promote high-quality, urban design that is complementary to the surrounding area*
- *Encourage a range of housing types as a part of new mixed-use development*
- *Improve connectivity within the district with easily accessible multimodal pathways that are safe and attractive*
- *Improve external connections to the district*

The Plan conforms to the Central Milwaukie Land Use and Transportation Plan as there are specific projects including transportation upgrades and connectivity projects and programs that provide developer assistance identified within the Plan that will provide implementation tools for the Central Milwaukie Land Use and Transportation Plan.

C. *Milwaukie Downtown and Riverfront Land Use Framework Plan - Ancillary document to the Milwaukie Comprehensive Plan*

The Milwaukie Downtown and Riverfront Land Use Framework Plan was adopted by Ordinance #1880 on September 19, 2000, revised by Ordinance #2106, adopted September 1, 2015. The Milwaukie Downtown and Riverfront Land Use Framework Plan (Framework Plan) represents a major opportunity to reinvigorate downtown Milwaukie. With aggressive and focused efforts from both the public and private sectors over the coming years, downtown Milwaukie will be revitalized. This Framework Plan outlines the components necessary to make such a vision of Milwaukie a reality. It foremost builds upon existing assets, capitalizes upon significant existing uses, and features the natural environment. It also sets out a realistic agenda and implementation program that the City and private development can follow.

The Guiding Principles are:

*Creating a Livable Community
Ensuring Economic Success*

The Fundamental Concepts are:

*Anchors and Attractors
The Main Street Retail Spine
McLoughlin Boulevard Commercial Corridor
21st Avenue Mixed-Use Corridor
Connecting to the River
South Downtown Planning Area*

The Plan conforms to the Milwaukie Downtown and Riverfront Land Use Framework Plan as there are specific projects including parks projects, transportation upgrades and connectivity projects and programs that provide developer assistance identified within the Plan that will provide implementation tools for the Milwaukie Downtown and Riverfront Land Use Framework Plan.

D. *Regional Center Master Plan*

Adopted December 2, 1997 Ordinance #1826

The Milwaukie Regional Center Master Plan established the framework for the city center referenced in the Milwaukie Vision Statement. The Master Plan complies the objectives for housing, transportation, commercial, urban design and general land use changes in the Regional Center.

The Plan conforms to the Regional Center Master Plan, as updated by the Milwaukie Downtown and Riverfront Land Use Framework Plan and the Central Milwaukie Land Use and Transportation Plan, as there are specific projects including transportation upgrades and connectivity projects and programs that provide developer assistance identified within the Plan.

E. Transportation Systems Plan

The Milwaukie Transportation System Plan (TSP) is the City's long-term plan for transportation improvements and includes policies and projects that could be implemented through the City Capital Improvement Plan, development review, or grant funding. The 2007 TSP planning process was a great opportunity for the community to fully define its transportation goals and discuss how the whole transportation system could be improved to support livability in Milwaukie. The 2013 TSP update process provided an opportunity to ensure that the plan reflected current conditions and took into account the latest forecasts and projections.

Goals

Transportation goals and policies form the basis for how the local transportation system will be developed and maintained over the next 22 years. The City's transportation goals support a multimodal approach to transportation planning and reflect how citizens think about and experience Milwaukie's transportation system. The City's nine transportation goals are:

GOAL 1 Livability: Design and construct transportation facilities in a manner that enhances the livability of Milwaukie's community.

GOAL 2 Safety: Develop and maintain a safe and secure transportation system.

GOAL 3 TRAVEL CHOICES: Plan, develop, and maintain a transportation system that provides travel choices and allows people to reduce the number of trips made by single-occupant vehicles.

GOAL 4 QUALITY DESIGN: Establish and maintain a set of transportation design and development regulations that are sensitive to local conditions.

GOAL 5 RELIABILITY AND MOBILITY: Develop and maintain a well-connected transportation system that reduces travel distance, improves reliability, and manages congestion.

GOAL 6 SUSTAINABILITY: Provide a sustainable transportation system that meets the needs of present and future generations.

GOAL 7 EFFICIENT AND INNOVATIVE FUNDING: Efficiently allocate available funding for recommended transportation improvements, and pursue additional transportation funding that includes innovative funding methods and sources.

GOAL 8 COMPATIBILITY: Develop a transportation system that is consistent with the City's Comprehensive Plan and coordinates with County, State, and regional plans.

GOAL 9 ECONOMIC VITALITY: Promote the development of Milwaukie's, the region's, and the state's economies through the efficient movement of people, goods, and services, and the distribution of information.

The Plan conforms to the Transportation Systems Plan as there are specific projects including transportation upgrades and connectivity projects identified within the Plan.

Parks Master Plans

There are master plans for Kronberg and Scott parks.

The Plan conforms to these master plans as there are specific projects identified within the Plan for the upgrading of these parks.

XIII. APPENDIX A: LEGAL DESCRIPTION



AKS ENGINEERING & FORESTRY, LLC
12965 SW Herman Road, Suite 100, Tualatin, OR 97062
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AKS Job #5392

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

EXHIBIT A

Urban Renewal Area
Milwaukie, Oregon

A tract of land located in the Southeast One-Quarter and the Southwest One-Quarter of Section 25, the Southeast One-Quarter of Section 26, the Northeast One-Quarter and the Southeast One-Quarter of Section 35, the Northeast One-Quarter and the Southeast One-Quarter and the Southwest One-Quarter and the Northwest One-Quarter of Section 36, Township 1 South, Range 1 East, Willamette Meridian, City of Milwaukie, Clackamas County, Oregon, and being more particularly described as follows:

Beginning at the northwest corner of the Daniel Hathaway Donation Land Claim No. 60 located in the Southeast One-Quarter of Section 25, Township 1 South, Range 1 East, Willamette Meridian, City of Milwaukie, Clackamas County, Oregon (Assessor's Map 1 1E 25DC):

1. Thence along the west line of said Donation Land Claim, Southerly 30 feet, more or less, to the southerly right-of-way line of King Street (Assessor's Map 1 1E 25DC);
2. Thence along said southerly right-of-way line, Westerly 226 feet, more or less, to the easterly right-of-way of 35th Street (Assessor's Map 1 1E 25DC);
3. Thence along said easterly right-of-way line, Southerly 158 feet, more or less, to the easterly extension of the southerly right-of-way line of Llewellyn Street (Assessor's Map 1 1E 25DC);
4. Thence along said easterly extension and the southerly right-of-way line of Llewellyn Street, Westerly 429 feet, more or less, to the westerly line of Lot 8, Block 1 of the plat "Leo First Addition" (Assessor's Map 1 1E 36AB);
5. Thence along said westerly line, Southerly 100 feet, more or less, to the southerly line of said Lot 8 (Assessor's Map 1 1E 36AB);
6. Thence along said southerly line, Easterly 6 feet, more or less, to the northwest corner of Document Number 2005-040292 (Assessor's Map 1 1E 36AB);
7. Thence along the west line of said deed, Southerly 200 feet, more or less, to the northerly right-of-way line of Harrison Street (Assessor's Map 1 1E 36AB);
8. Thence along said northerly right-of-way line, Easterly 295 feet, more or less, to the northerly extension of the west line of Document Number 2014-043914 (Assessor's Map 1 1E 36AB);
9. Thence along said northerly extension and the westerly line of said deed, also along the west lines of Document Number 98-036167, Document Number 1985-040139, and Document Number 2014-001431, Southerly 358 feet, more or less, to the northerly line of Parcel 1 of Document Number 1972-022047 (Assessor's Map 1 1E 36AB);
10. Thence along the northerly line of said Parcel 1, Easterly 126 feet, more or less, to the northeast corner of said Parcel 1 (Assessor's Map 1 1E 36AB);
11. Thence along the easterly line of said Parcel 1, Southerly 156 feet, more or less, to the northerly right-of-way line of Monroe Street (Assessor's Map 1 1E 36AB);

12. Thence along said northerly right-of-way line, Easterly 756 feet, more or less, to the easterly right-of-way line of 37th Street (Assessor's Map 1 1E 36AA);
13. Thence along said easterly right-of-way line, Southerly 579 feet, more or less, to the southerly right-of-way line of Washington Street (Assessor's Map 1 1E 36AD);
14. Thence along said southerly right-of-way line, Easterly 98 feet, more or less, to the northeast corner of Lot 18, Block 74 of the plat "Minthorn-Detail Sheet No. 2" (Assessor's Map 1 1E 36AD);
15. Thence along the easterly line of said Lot 18, Southerly 50 feet, more or less, to the southwest corner of Document Number 1997-071749 (Assessor's Map 1 1E 36AD);
16. Thence along the southerly line of said deed, Easterly 75 feet, more or less, to the easterly line of Lot 15, Block 74 of the plat "Minthorn-Detail Sheet No. 2" (Assessor's Map 1 1E 36AD);
17. Thence along said easterly line and the easterly line of Lot 26, Block 74 of the plat "Minthorn-Detail Sheet No. 2", Southerly 140 feet, more or less, to the northerly right-of-way line of Adams Street (Assessor's Map 1 1E 36AD);
18. Thence along said northerly right-of-way line, Westerly 80 feet, more or less, to the northeasterly right-of-way line of Railroad Avenue (Assessor's Map 1 1E 36AD);
19. Thence along said northeasterly right-of-way line, Northwesterly 102 feet, more or less, to the easterly right-of-way line of 37th Street (Assessor's Map 1 1E 36AD);
20. Thence along said easterly right-of-way line, Southerly 1,434 feet, more or less, to the intersection of the southerly right-of-way line of International Way and the easterly right-of-way line of Pacific Highway East Cascade Section 224 (Assessor's Map 1 1E 36DA);
21. Thence along said easterly right-of-way line, Southerly 500 feet, more or less, to the easterly extension of the northerly right-of-way line of Grogan Avenue (Assessor's Map 1 1E 36DA);
22. Thence along said easterly extension, Westerly 358 feet, more or less, to the southwesterly right-of-way line of 37th Street (Assessor's Map 1 1E 36DA);
23. Thence along said southwesterly right-of-way line and the southwesterly right-of-way line of Edison Street, Northwesterly 556 feet, more or less, to the easterly line of Lot 17, Block 93 of the plat "Minthorn-Detail Sheet No. 1" (Assessor's Map 1 1E 36DA);
24. Thence along said easterly line and the northerly extension thereof, Northerly 79 feet, more or less, to the northerly right-of-way line of Edison Street (Assessor's Map 1 1E 36AD);
25. Thence along said northerly right-of-way line, Easterly 194 feet, more or less, to the westerly right-of-way line of Pacific Highway East Cascade Section 224 (Assessor's Map 1 1E 36AD);
26. Thence along said westerly right-of-way line, Northwesterly 1,796 feet, more or less, to the southwesterly extension of the southeasterly right-of-way line of Oak Street (Assessor's Map 1 1E 36AC S1);
27. Thence along said southwesterly extension, Southwesterly 60 feet, more or less, to the southwesterly right-of-way line of Washington Street (Assessor's Map 1 1E 36 AC);
28. Thence along said southwesterly right-of-way line, Northwesterly 451 feet, more or less, to the easterly line of Lot 7, Block 1 of the plat "Quincy Addition to

- Milwaukie”, being on the southerly right-of-way line of Washington Street (Assessor’s Map 1 1E 36BD);
29. Thence along said southerly right-of-way line, Southwesterly 1,695 feet, more or less, to the easterly line of Document Number 2005-002827, being a line parallel to and 84 feet, more or less, easterly of the easterly right-of-way line of 23rd Avenue (Assessor’s Map 1 1E 36BC);
 30. Thence along said easterly line and the easterly line of Document Number 2004-064898, Southerly 158 feet, more or less, to the southerly line of said deed (Assessor’s Map 1 1E 36BC);
 31. Thence along said southerly line, Westerly 84 feet, more or less, to the easterly right-of-way line of 23rd Avenue (Assessor’s Map 1 1E 36BC);
 32. Thence along said easterly right-of-way line, Southerly 240 feet, more or less, to the northerly line of the plat “Young’s Addition” (Assessor’s Map 1 1E 36BC);
 33. Thence along said northerly line, Westerly 42 feet, more or less, to the westerly right-of-way line of 23rd Avenue (Assessor’s Map 1 1E 36BC);
 34. Thence along said westerly right-of-way line, Northerly 175 feet, more or less, to the southerly line of Parcel 2 of Document Number 2003-167202 (Assessor’s Map 1 1E 36BC);
 35. Thence along said southerly line of said Parcel 2, Westerly 86 feet, more or less, to the easterly line of the plat “Duersts Addition to Milwaukie” (Assessor’s Map 1 1 E 36 BC);
 36. Thence along said easterly line, Southerly 174 feet, more or less, to the easterly extension of the south line of Lot 3, Block 2 of said plat (Assessor’s Map 1 1E 36BC);
 37. Thence along said easterly extension and the southerly line thereof and along the southerly line of Lot 8, Block 2 of said plat, Westerly 228 feet, more or less, to the easterly right-of-way line of 21st Avenue (Assessor’s Map 1 1E 36BC);
 38. Thence along said easterly right-of-way line, Southerly 240 feet, more or less, to the northerly line of Lot 7, Block 1 of the plat “Duersts Addition To Milwaukie” (Assessor’s Map 1 1E 36BC);
 39. Thence along said northerly line, Easterly 100 feet, more or less, to the easterly line of said Lot 7 (Assessor’s Map 1 1E 36BC);
 40. Thence along said easterly line and the easterly line of Lot 8, Block 1 of said plat and the southerly extension thereof, Southerly 162 feet, more or less, to the vacated centerline of Willard Street (Assessor’s Map 1 1E 36BC);
 41. Thence along said vacated centerline line, Westerly 9 feet, more or less, to the northeasterly right-of-way line of Lake Road (Assessor’s Map 1 1E 36BC);
 42. Thence along said northeasterly right-of-way line, Southeasterly 146 feet, more or less, to the westerly right-of-way line of 22nd Avenue (Assessor’s Map 1 1E 36BC);
 43. Thence along said westerly right-of-way line, Northerly 111 feet, more or less, to the northerly right-of-way line of Willard Street (Assessor’s Map 1 1E 36BC);
 44. Thence along said northerly right-of-way line and the easterly extension thereof, Easterly 953 feet, more or less, to the easterly right-of-way line of 27th Avenue (Assessor’s Map 1 1E 36BD);

45. Thence along said easterly right-of-way line, Southerly 48 feet, more or less, to the easterly extension of the southerly right-of-way line of Willard Street (Assessor's Map 1 1E 36BD);
46. Thence along said easterly extension and the southerly right-of-way line thereof, Northwesterly 411 feet, more or less, to the easterly right-of-way line of 25th Avenue (Assessor's Map 1 1E 36BC);
47. Thence along said easterly right-of-way line, Southerly 218 feet, more or less, to the southerly line of the plat "Young's Addition" (Assessor's Map 1 1E 36BC);
48. Thence along said southerly line, Westerly 50 feet, more or less, to the westerly right-of-way line of 25th Avenue (Assessor's Map 1 1E 36BC);
49. Thence along said westerly right-of-way line, Northerly 208 feet, more or less, to the southerly right-of-way line of Willard Street (Assessor's Map 1 1E 36 BC);
50. Thence along said southerly right-of-way line, Westerly 470 feet, more or less, to the easterly right-of-way line of 22nd Avenue (Assessor's Map 1 1E 36BC);
51. Thence along said easterly right-of-way line, Southerly 75 feet, more or less, to the northeasterly right-of-way line of Lake Road (Assessor's Map 1 1E 36BC);
52. Thence along said northeasterly right-of-way line, Southeasterly 135 feet, more or less, to a point which bears southeasterly 31 feet, more or less, from the southerly line of the plat "Young's Addition" and also being a point northeasterly 65 feet, more or less, when measured at right angles from the most northerly corner of Document Number 1992-014322 (Assessor's Map 1 1E 36BC);
53. Thence Southwesterly 65 feet, more or less, to the southwesterly right-of-way line of Lake Road, also being the most northerly corner of Document Number 1992-014322 (Assessor's Map 1 1E 36CB);
54. Thence along the northwesterly line of said deed, Southwesterly 365 feet, more or less, to an angle point (Assessor's Map 1 1E 36CB);
55. Thence continuing along said northwesterly line, Southerly 57 feet, more or less, to an angle point (Assessor's Map 1 1E 36CB);
56. Thence continuing along said northwesterly line and the northerly line of Document Number 2007-045540, Southwesterly 194 feet, more or less, to the northwesterly corner of said Document Number 2007-045540 (Assessor's Map 1 1E 36CB);
57. Thence along the westerly line of said deed, Southerly 744 feet, more or less, to the southerly line of Lot 2, Block 32 of the plat "Milwaukie Heights" (Assessor's Map 1 1E 36CB);
58. Thence along said southerly line, Westerly 175 feet, more or less, to the northeasterly right-of-way line of US 99E (Assessor's Map 1 1E 36CB);
59. Thence Southwesterly 168 feet, more or less, to the westerly right-of-way line of River Road, also being the northeasterly corner of Oregon Department of Transportation Right-of-Way File 17793 (Assessor's Map 1 1E 36CB);
60. Thence along the northeasterly line of said Right-of-Way file and the northeasterly line of Document Number 1991-022253, Northwesterly 130 feet, more or less, to the southerly right-of-way line of Bluebird Street (Assessor's Map 1 1E 36CB);
61. Thence Northerly 60 feet, more or less, to the northerly right-of-way line of Bluebird Street, also being the southwesterly corner of Document Number 2014-038909 (Assessor's Map 1 1E 36CB);

62. Thence along the southwesterly line of said deed, Northwesterly 205 feet, more or less, to the easterly right-of-way line of 22nd Avenue (Assessor's Map 1 1E 36CB);
63. Thence Northwesterly 70 feet, more or less, to a point which bears northerly 13 feet, more or less, from the southeasterly corner of Lot 3, Block 10 of the plat "Robertson", also being on the westerly right-of-way line of 22nd Avenue (Assessor's Map 1 1E 35DA);
64. Thence along said westerly right-of-way line, Northerly 87 feet, more or less, to the southerly right-of-way line of Eagle Street (Assessor's Map 1 1E 35DA);
65. Thence along said southerly right-of-way line, Westerly 1,000 feet, more or less, to the westerly line of the Open Space Zone (Assessor's Map 1 1E 35DA);
66. Thence along said westerly line, Northerly 2,387 feet, more or less, to the westerly extension of the southerly line of Document Number 2003-162584 (Assessor's Map 1 1E 35AA);
67. Thence along said westerly extension, Easterly 77 feet, more or less, to the southwesterly corner of said deed (Assessor's Map 1 1E 35AA);
68. Thence along the westerly line of said deed, Northeasterly 173 feet, more or less, to the southerly right-of-way line of the abandoned Portland Traction Company Rail Road (Assessor's Map 1 1E 35AA);
69. Thence along said abandoned southerly right-of-way line, Northwesterly 643 feet, more or less, to southwesterly corner of Document Number 98-011667 (Assessor's Map 1 1E 35AA);
70. Thence along the westerly line of said deed, Northeasterly 45 feet, more or less, to the westerly right-of-way line of SE River Lane (Assessor's Map 1 1E 35AB);
71. Thence along said westerly right-of-way line and the northerly extension thereof, Northwesterly 477 feet, more or less, to the westerly extension of the northerly right-of-way line of SE Lava Drive (Assessor's Map 1 1E 26DC);
72. Thence along said northerly right-of-way line, Northeasterly 732 feet, more or less, to the westerly right-of-way line of 17th Avenue (Assessor's Map 1 1E 26DD);
73. Thence leaving said westerly right-of-way line, Southeasterly 206 feet, more or less, to the intersection of the westerly right-of-way line of US 99E and the easterly line of Johnson Creek (Assessor's Map 1 1E 25CC);
74. Thence along said westerly right-of-way line, Northerly 449 feet, more or less, to the westerly extension of the northerly line of Parcel 1 of Partition Plat 1990-015 (Assessor's Map 1 1E 25CC);
75. Thence along said westerly extension and the northerly line of said Parcel 1 and the easterly extension thereof, Easterly 202 feet, more or less, to the easterly right-of-way line of Main Street (Assessor's Map 1 1E 25CC);
76. Thence along said easterly right-of-way line, Northerly 164 feet, more or less, to the southerly right-of-way line of Pacific Highway East Cascade Section 224 (Assessor's Map 1 1E 25CC);
77. Thence along said southerly right-of-way line, Easterly 422 feet, more or less, to the easterly line of Document Number 1990-039292 (Assessor's Map 1 1E 25CC);
78. Thence along said easterly line and the westerly right-of-way line of 23rd Street, Southerly 101 feet, more or less, to the southerly right-of-way line of 23rd Street (Assessor's Map 1 1E 25CC);

79. Thence along said southerly right-of-way line, Easterly 110 feet, more or less, to the westerly line of Document Number 2012-035206 (Assessor's Map 1 1E 25CC);
80. Thence along said westerly line, Southerly 80 feet, more or less, to the northerly line of Document Number 99-012354 (Assessor's Map 1 1E 25CC);
81. Thence along said northerly line, Westerly 110 feet, more or less, to westerly line of the plat "Streib's First Addition" (Assessor's Map 1 1E 25CC);
82. Thence along said westerly line, Southerly 175 feet, more or less, to the westerly extension of the northerly line of Lot 2, Block 6 of said plat (Assessor's Map 1 1E 25CC);
83. Thence along said westerly extension and the northerly line of said Lot 2, and also the northerly line of Lot 13, Block 6 of said plat and the easterly extension thereof, Easterly 277 feet, more or less, to the easterly right-of-way line of 23rd Street (Assessor's Map 1 1E 25CC);
84. Thence along said easterly right-of-way line, Southerly 100 feet, more or less, to the northerly right-of-way line of Llewellyn Street (Assessor's Map 1 1E 25CC);
85. Thence along said northerly right-of-way line, Easterly 260 feet, more or less, to the easterly right-of-way line of 24th Street (Assessor's Map 1 1E 25CC);
86. Thence along said easterly right-of-way line, Southerly 260 feet, more or less, to the northerly right-of-way line of Harrison Street (Assessor's Map 1 1E 25CC);
87. Thence along said northerly right-of-way line, Easterly 1,367 feet, more or less, to the westerly right-of-way line of Pacific Highway East Cascade Section 224 (Assessor's Map 1 1E 25CD);
88. Thence along said westerly right-of-way line, Northerly 186 feet, more or less, to a point which bears northwesterly 31 feet, more or less, from the northerly line of Lot 14, Block 2 of the plat "Brownell Acres" (Assessor's Map 1 1E 25CD);
89. Thence Easterly 158 feet, more or less, to the northerly corner of Document Number 1983-038560, also being on the easterly right-of-way line of Pacific Highway East Cascade Section 224 (Assessor's Map 1 1E 25CD);
90. Thence along said easterly right-of-way line, Northerly 189 feet, more or less, to the northwesterly corner of Document Number 2007-046203 (Assessor's Map 1 1E 25CD);
91. Thence along the northerly line of said deed and the easterly extension thereof, Northeasterly 77 feet, more or less, to the easterly right-of-way line of Southern Pacific Railroad (Assessor's Map 1 1E 25CD);
92. Thence along said easterly right-of-way line, Northwesterly 1,258 feet, more or less, to the southerly line of the plat "Bonnie View Acres Plat No. 4" (Assessor's Map 1 1E 25CD);
93. Thence along said southerly line, Easterly 1,050 feet, more or less, to the westerly right-of-way line of 32nd Street (Assessor's Map 1 1E 25CD);
94. Thence along said westerly right-of-way line, Northerly 191 feet, more or less, to the westerly extension of the northerly right-of-way line of Harvey Street (Assessor's Map 1 1E 25CA);
95. Thence along said westerly extension and the northerly right-of-way line of Harvey Street, Easterly 856 feet, more or less, to the northerly extension of the westerly line of the plat "Boly's Addition" (Assessor's Map 1 1E 25DB);

96. Thence along said northerly extension and the westerly line of the plat "Boly's Addition" and the westerly right-of-way of an un-named Public Road, Southerly 684 feet, more or less, to the southerly right-of-way line of said Public Road (Assessor's Map 1 1E 25DC);
97. Thence along said southerly right-of-way line, Easterly 116 feet, more or less, to the westerly right-of-way line of 36th Street (Assessor's Map 1 1E 25DC);
98. Thence along said westerly right-of-way line, Southerly 10 feet, more or less, to the northerly line of Document Number 82-31253 (Assessor's Map 1 1E 25DC);
99. Thence along said northerly line, Westerly 116 feet, more or less, to the northwesterly corner of said deed, also being a point on the easterly line of Document Number 2003-111384 (Assessor's Map 1 1E 25DC);
100. Thence along said easterly line and the easterly line of Document Number 2003-111383 and the southerly extension thereof, Southerly 539 feet, more or less, to the Point of Beginning (Assessor's Map 1 1E 25DC).

Excepting the following parcels:

Parcel 1:

Beginning at the intersection of the southerly right-of-way line of Monroe Street and the westerly right-of-way line of 28th Street, being the northeasterly corner of Lot 2 of the plat "Spring Side Park", located in the Northwest One-Quarter of Section 36, Township 1 South, Range 1 East, Willamette Meridian, City of Milwaukie, Clackamas County, Oregon (Assessor's Map 1 1E 36BA):

101. Thence along said southerly right-of-way line of Monroe Street, Northeasterly 653 feet, more or less, to the westerly right-of-way line of Pacific Highway East Cascade Section 224 (Assessor's Map 1 1E 36BA);
102. Thence along said westerly right-of-way line, Southeasterly 770 feet, more or less, to the northwesterly right-of-way line of Oak Street (Assessor's Map 1 1E 36AB);
103. Thence along said northwesterly right-of-way line, Southwesterly 60 feet, more or less, to the northeasterly right-of-way line of Washington Street (Assessor's Map 1 1E 36AB);
104. Thence along said northeasterly right-of-way line, Northwesterly 365 feet, more or less, to a point which bears northwesterly 20 feet, more or less, from the southerly corner of Lot 16, Block 3 of the plat "Robert's Re-plat of J.R.W. Sellwood Addn.", also being on the northerly right-of-way line of Washington Street (Assessor's Map 1 1E 36AB);
105. Thence along said northerly right-of-way line, Southwesterly 1,731 feet, more or less, to the easterly line of Document Number 1996-095540 (Assessor's Map 1 1E 36BB);
106. Thence along said easterly line, Northwesterly 245 feet, more or less, to the northerly line of said deed (Assessor's Map 1 1E 36BB);
107. Thence along said northerly line, Southwesterly 120 feet, more or less, to the easterly right-of-way line of Southern Pacific Rail Road (Assessor's Map 1 1E 36BB);
108. Thence along said easterly right-of-way line, Northeasterly 305 feet, more or less, to the southerly right-of-way line of Monroe Street (Assessor's Map 1 1E 36BB);
109. Thence along said southerly right-of-way line, Northeasterly 1,002 feet, more or less, to the Point of Beginning (Assessor's Map 1 1E 36BA).

Parcel 2:

Beginning at the northeasterly corner of the plat "Harrison Street Condominiums", being on the southerly right-of-way line of Harrison Street, located in the Northwest One-Quarter of Section 36, Township 1 South, Range 1 East, Willamette Meridian, City of Milwaukie, Clackamas County, Oregon (Assessor's Map 1 1E 36BBS1):

110. Thence along said southerly right-of-way line, Easterly 828 feet, more or less, to the westerly right-of-way line of Pacific Highway East Cascade Section 224 (Assessor's Map 1 1E 36BA);
111. Thence along said westerly right-of-way line, Southerly 514 feet, more or less, to the northerly right-of-way line of Monroe Street (Assessor's Map 1 1E 36BA);
112. Thence along said northerly right-of-way line, Southwesterly 1,331 feet, more or less, to the easterly line of Document Number 1995-042318 (Assessor's Map 1 1E 36BB);
113. Thence along said easterly line, Northwesterly 387 feet, more or less, to the easterly right-of-way line of Southern Pacific Rail Road (Assessor's Map 1 1E 36BB);
114. Thence along said easterly right-of-way line, Northeasterly 228 feet, more or less, to the southerly right-of-way line of Harrison Street (Assessor's Map 1 1E 36BB);
115. Thence along said southerly right-of-way line, Easterly 382 feet, more or less, to the Point of Beginning (Assessor's Map 1 1E 36BB).

The above described tract of land contains 262 acres, more or less.

7/8/2016



Michael Kalina

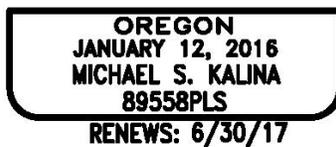


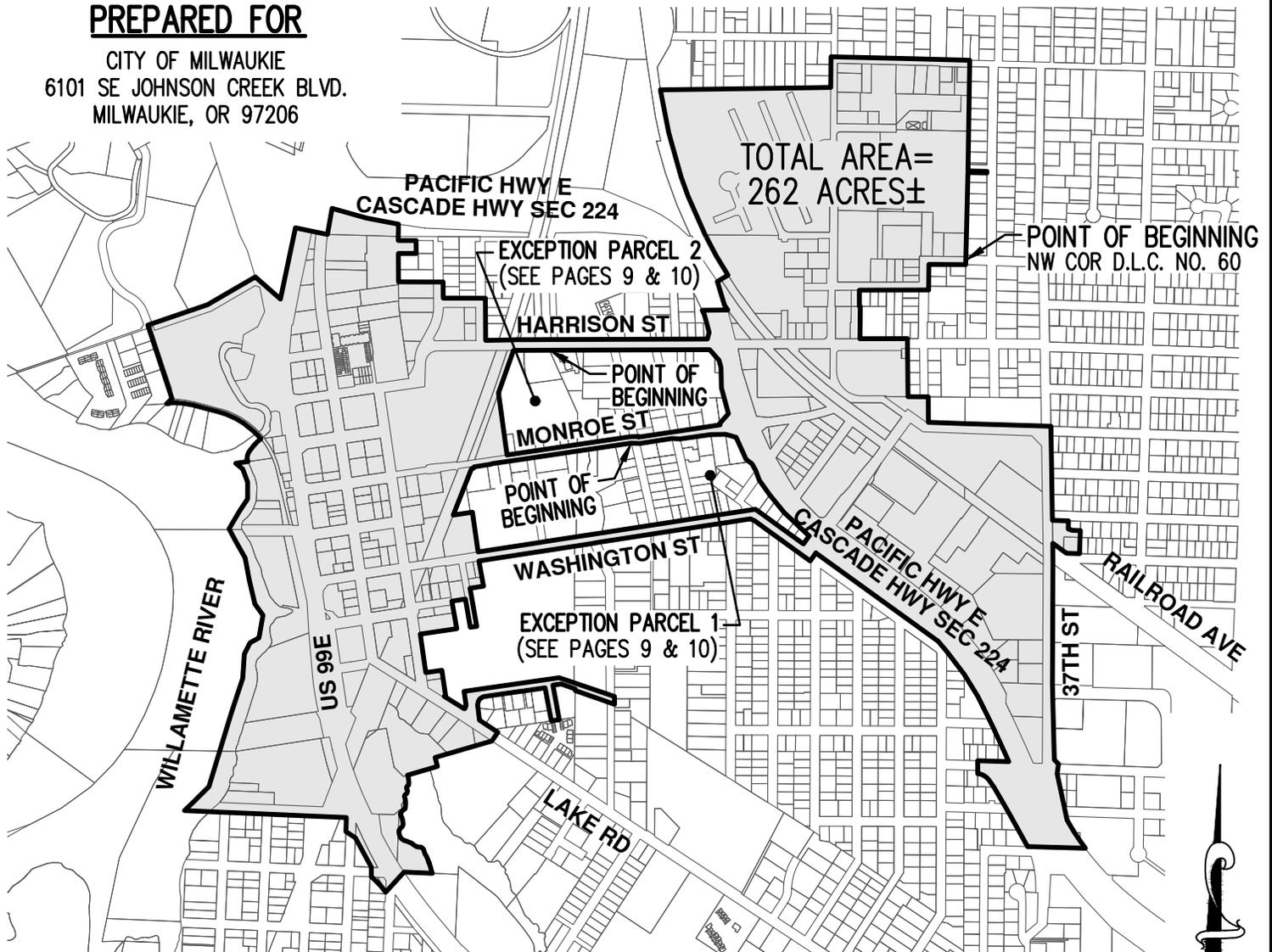
EXHIBIT B

MAP OF URBAN RENEWAL AREA

A TRACT OF LAND LOCATED IN THE SE 1/4 AND SW 1/4 OF SECTION 25, THE SE 1/4 OF SECTION 26, THE NE 1/4 AND SE 1/4 OF SECTION 35, THE NE 1/4 AND SE 1/4 AND SW 1/4 AND NW 1/4 OF SECTION 36, T1S, R1E, W.M., CITY OF MILWAUKIE, CLACKAMAS COUNTY, OREGON

PREPARED FOR

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



7/8/2016

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Michael Kal

OREGON
JANUARY 12, 2016
MICHAEL S. KALINA
89558PLS

RENEWS: 6/30/17

LEGEND

PP NO.	PARTITION PLAT NUMBER
DN.	DOCUMENT NUMBER
	URBAN RENEWAL AREA

SCALE 1" = 1000 FEET



CITY OF MILWAUKIE
URBAN RENEWAL AREA

AKS ENGINEERING & FORESTRY, LLC
12965 SW HERMAN RD, STE 100
TUALATIN, OR 97062
P: 503.563.1584 503.563.6152 aks-eng.com



EXHIBIT
B

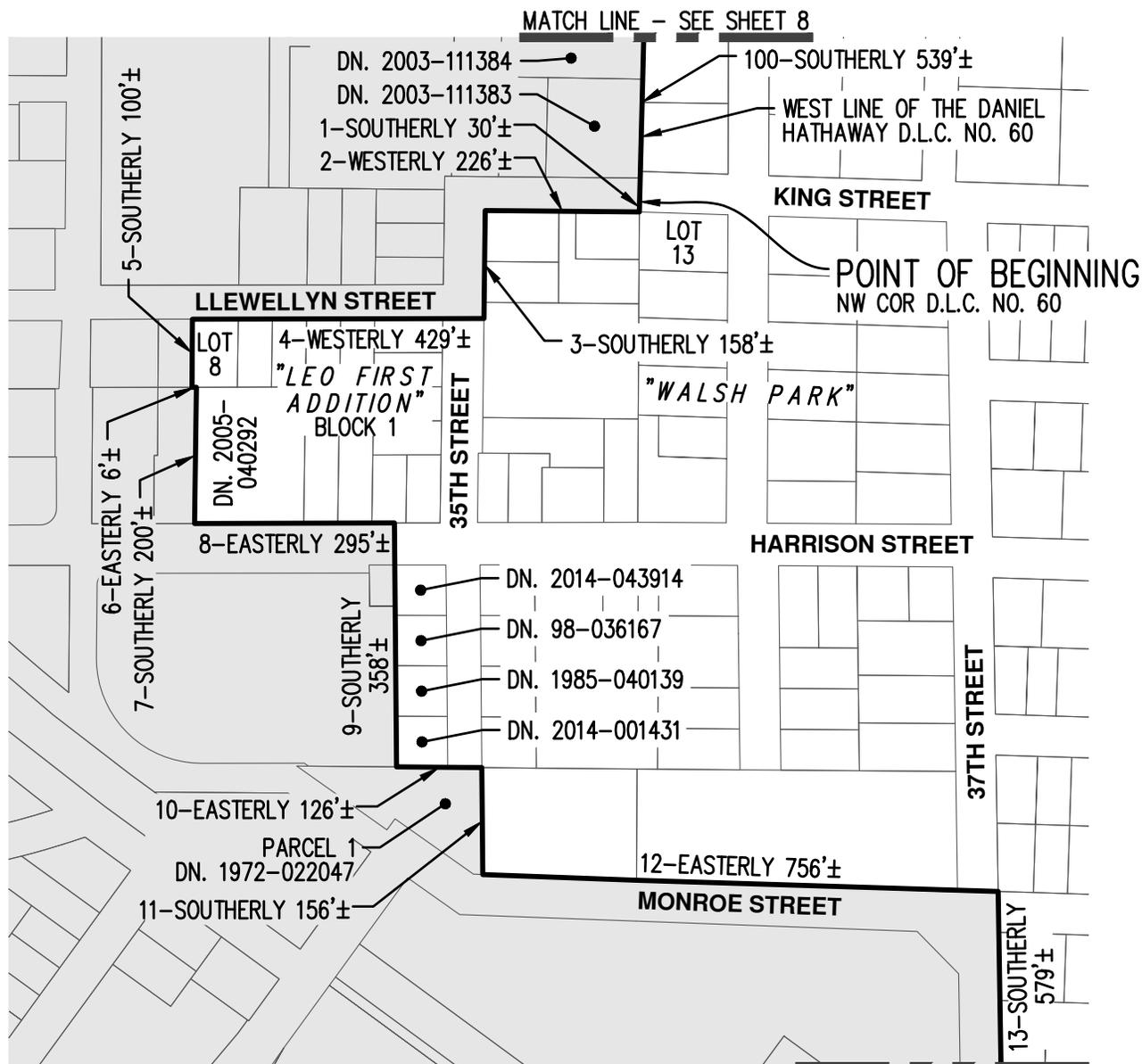
DRWN: MSK
CHKD: NSW

AKS JOB:
5392

EXHIBIT B

MAP OF URBAN RENEWAL AREA

A TRACT OF LAND LOCATED IN THE SE 1/4 AND SW 1/4 OF SECTION 25, THE SE 1/4 OF SECTION 26, THE NE 1/4 AND SE 1/4 OF SECTION 35, THE NE 1/4 AND SE 1/4 AND SW 1/4 AND NW 1/4 OF SECTION 36, T1S, R1E, W.M., CITY OF MILWAUKIE, CLACKAMAS COUNTY, OREGON



7/8/2016

PREPARED FOR

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

MATCH LINE - SEE SHEET 3

SCALE 1" = 250 FEET



REGISTERED
PROFESSIONAL
LAND SURVEYOR

Michael Kal

OREGON
JANUARY 12, 2016
MICHAEL S. KALINA
89558PLS

RENEWS: 6/30/17

CITY OF MILWAUKIE
URBAN RENEWAL AREA

AKS ENGINEERING & FORESTRY, LLC
12965 SW HERMAN RD, STE 100
TUALATIN, OR 97062
P: 503.563.1585 503.563.6152 aks-eng.com



EXHIBIT
B

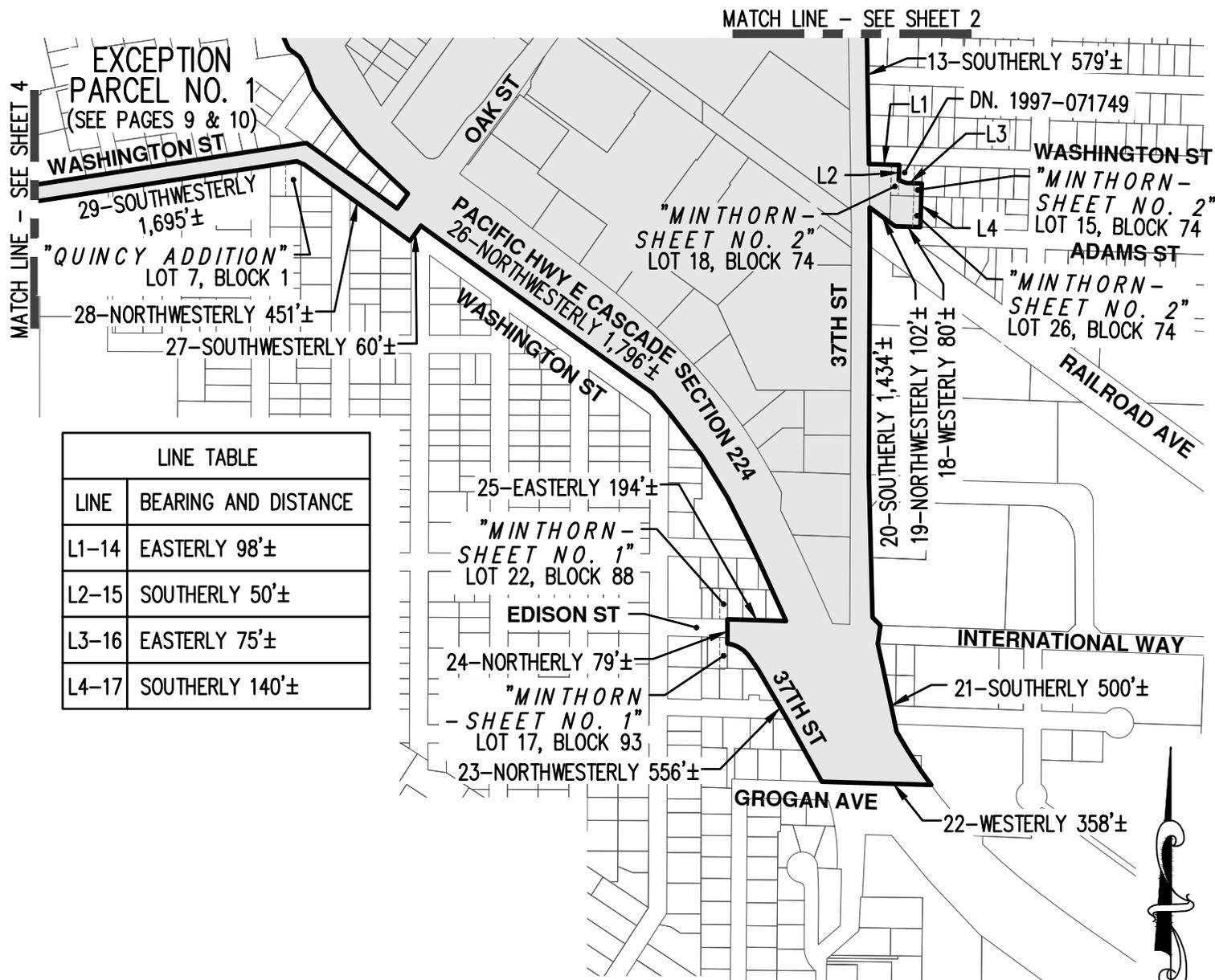
DRWN: MSK
CHKD: NSW

AKS JOB:
5392

EXHIBIT B

MAP OF URBAN RENEWAL AREA

A TRACT OF LAND LOCATED IN THE SE 1/4 AND SW 1/4 OF SECTION 25, THE SE 1/4 OF SECTION 26, THE NE 1/4 AND SE 1/4 OF SECTION 35, THE NE 1/4 AND SE 1/4 AND SW 1/4 AND NW 1/4 OF SECTION 36, T1S, R1E, W.M., CITY OF MILWAUKIE, CLACKAMAS COUNTY, OREGON



LINE TABLE	
LINE	BEARING AND DISTANCE
L1-14	EASTERLY 98'±
L2-15	SOUTHERLY 50'±
L3-16	EASTERLY 75'±
L4-17	SOUTHERLY 140'±

7/8/2016

PREPARED FOR

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

SCALE 1" = 500 FEET



REGISTERED
PROFESSIONAL
LAND SURVEYOR

Michael Kalina

OREGON
JANUARY 12, 2016
MICHAEL S. KALINA
89558PLS
RENEWS: 6/30/17

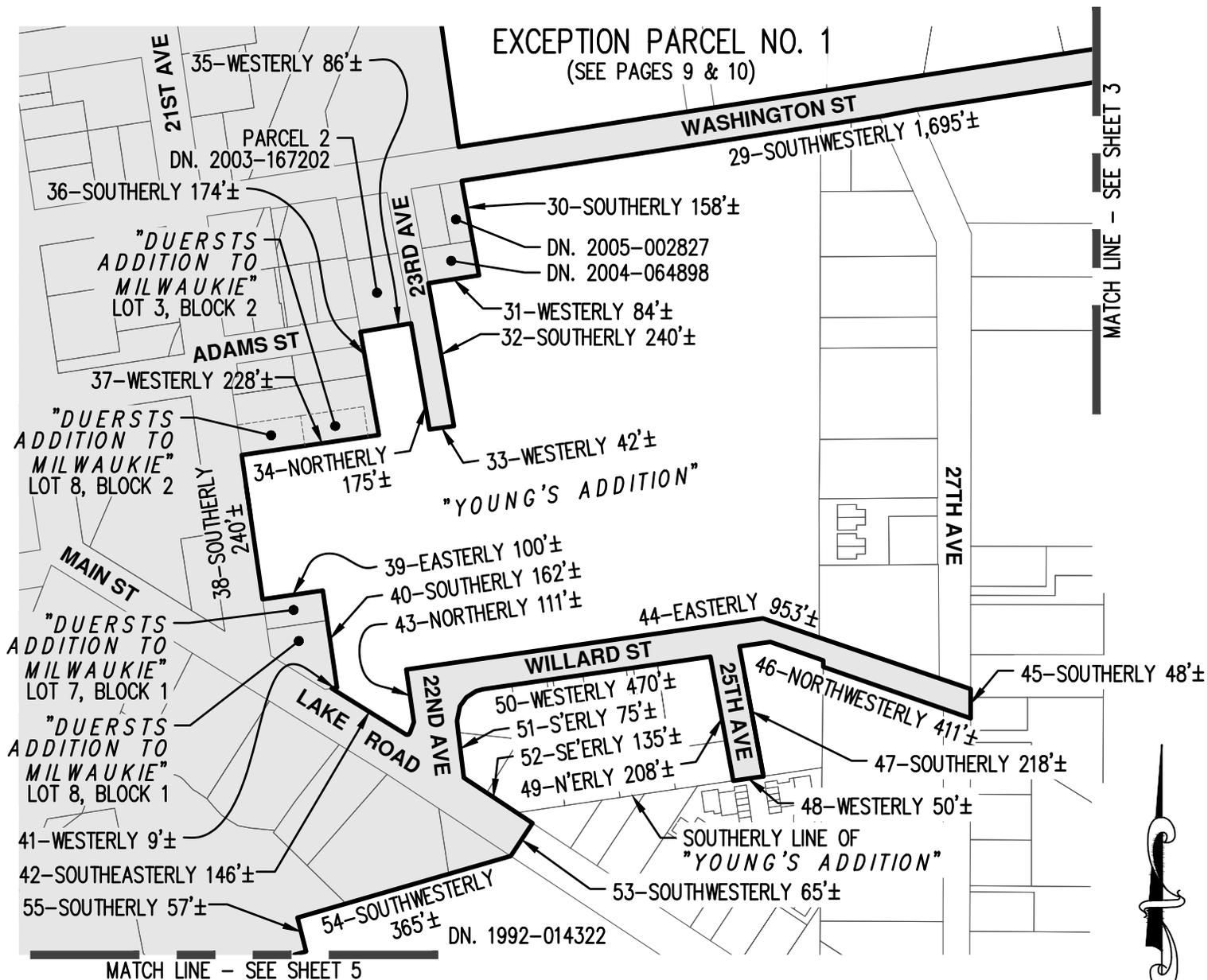
CITY OF MILWAUKIE URBAN RENEWAL AREA		EXHIBIT B
AKS ENGINEERING & FORESTRY, LLC 12965 SW HERMAN RD, STE 100 TUALATIN, OR 97062 P: 503.563.1586 503.563.6152 aks-eng.com		DRWN: MSK CHKD: NSW AKS JOB: 5392



EXHIBIT B

MAP OF URBAN RENEWAL AREA

A TRACT OF LAND LOCATED IN THE SE 1/4 AND SW 1/4 OF SECTION 25, THE SE 1/4 OF SECTION 26, THE NE 1/4 AND SE 1/4 OF SECTION 35, THE NE 1/4 AND SE 1/4 AND SW 1/4 AND NW 1/4 OF SECTION 36, T1S, R1E, W.M., CITY OF MILWAUKIE, CLACKAMAS COUNTY, OREGON



7/8/2016

PREPARED FOR

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

SCALE 1" = 250 FEET



REGISTERED
PROFESSIONAL
LAND SURVEYOR

Michael Kal

OREGON
JANUARY 12, 2016
MICHAEL S. KALINA
89558PLS
RENEWS: 6/30/17

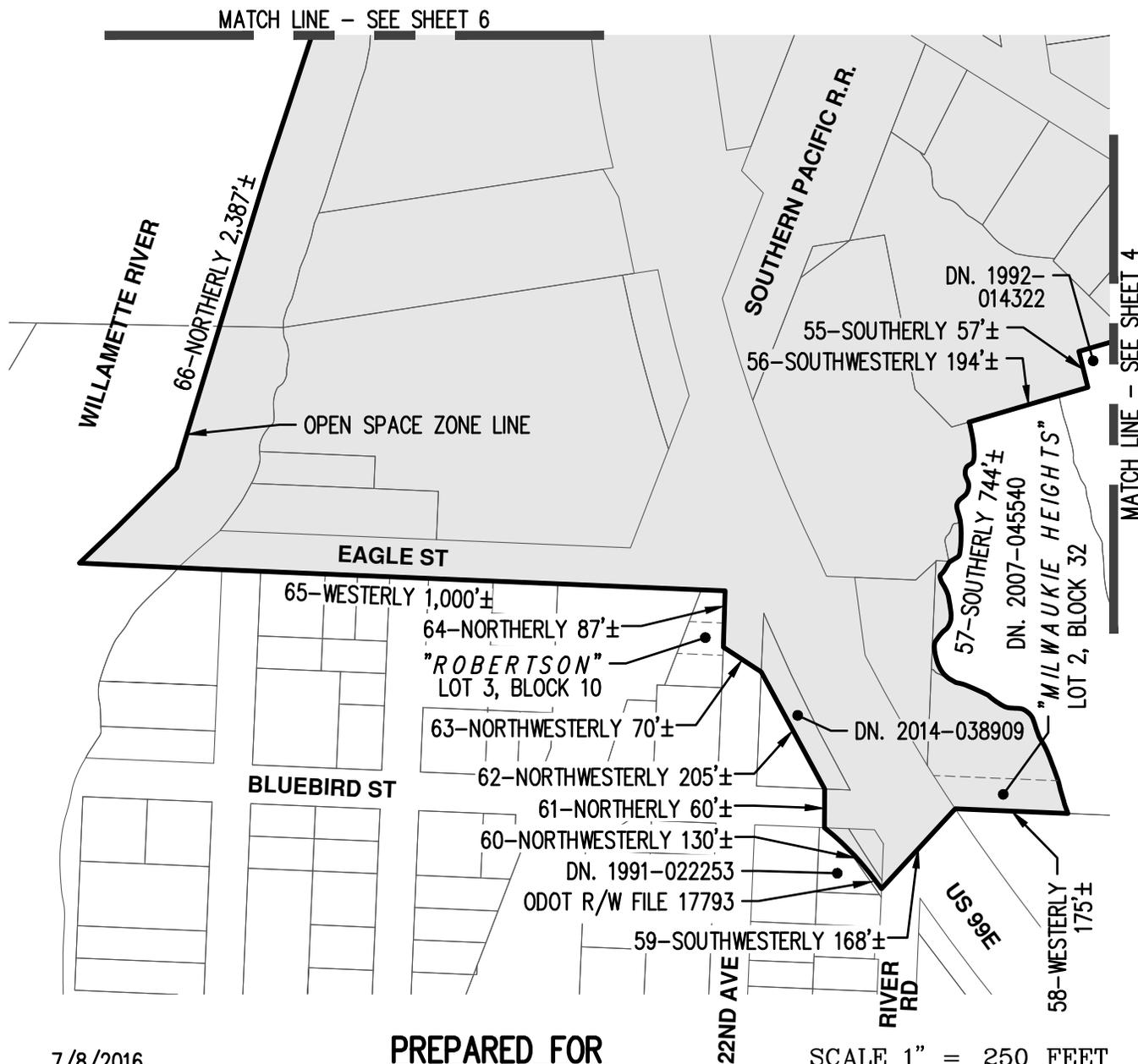
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 6101 SE JOHNSON CREEK BLVD.
 MILWAUKIE, OR 97206

SCALE 1" = 250 FEET



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Michael Kal

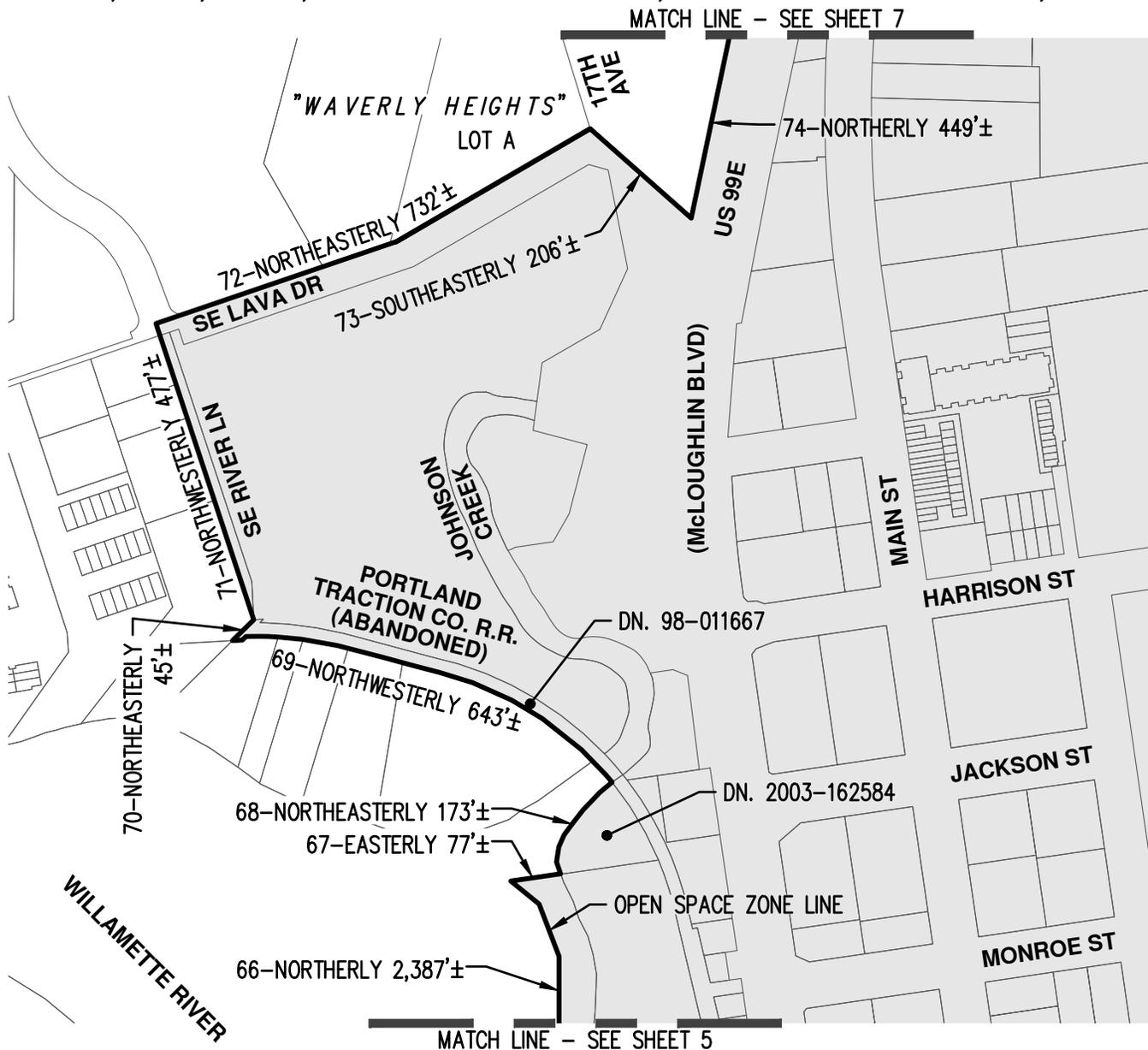
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 MICHAEL S. KALINA
 89558PLS
 RENEWS: 6/30/17

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

SCALE 1" = 250 FEET



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PROFESSIONAL
LAND SURVEYOR

Michael Kal

OREGON
JANUARY 12, 2016
MICHAEL S. KALINA
89558PLS
RENEWS: 6/30/17

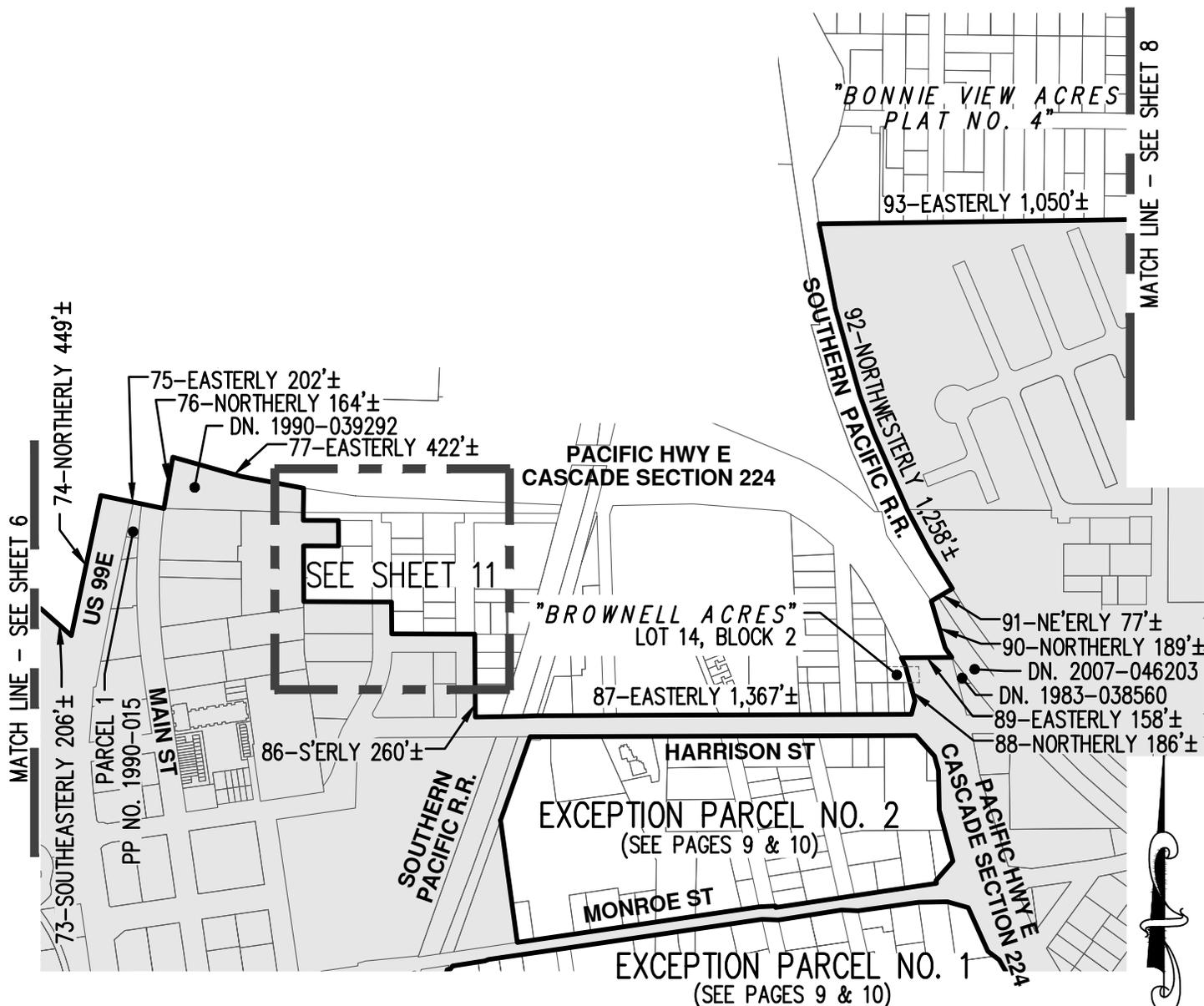
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CITY OF MILWAUKIE
 6101 SE JOHNSON CREEK BLVD.
 MILWAUKIE, OR 97206

SCALE 1" = 500 FEET



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 CHKD: NSW
 AKS JOB:
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CITY OF MILWAUKIE
 6101 SE JOHNSON CREEK BLVD.
 MILWAUKIE, OR 97206

SCALE 1" = 250 FEET



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 LAND SURVEYOR

Michael Kal

OREGON
 JANUARY 12, 2016
 MICHAEL S. KALINA
 89558PLS
 RENEWS: 6/30/17

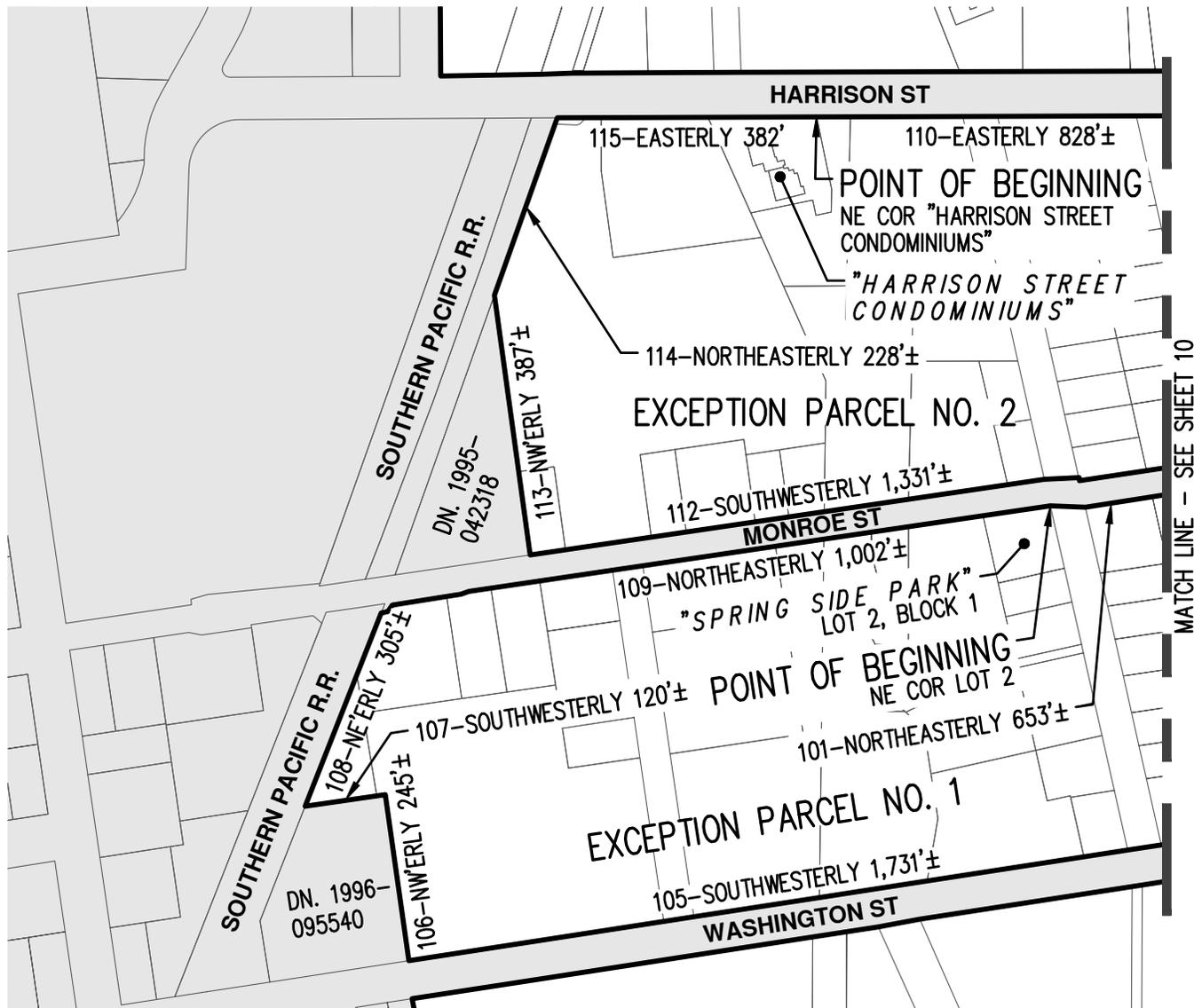
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7/8/2016

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

SCALE 1" = 250 FEET



REGISTERED
PROFESSIONAL
LAND SURVEYOR

Michael Kalina

OREGON
JANUARY 12, 2016
MICHAEL S. KALINA
89558PLS
RENEWS: 6/30/17

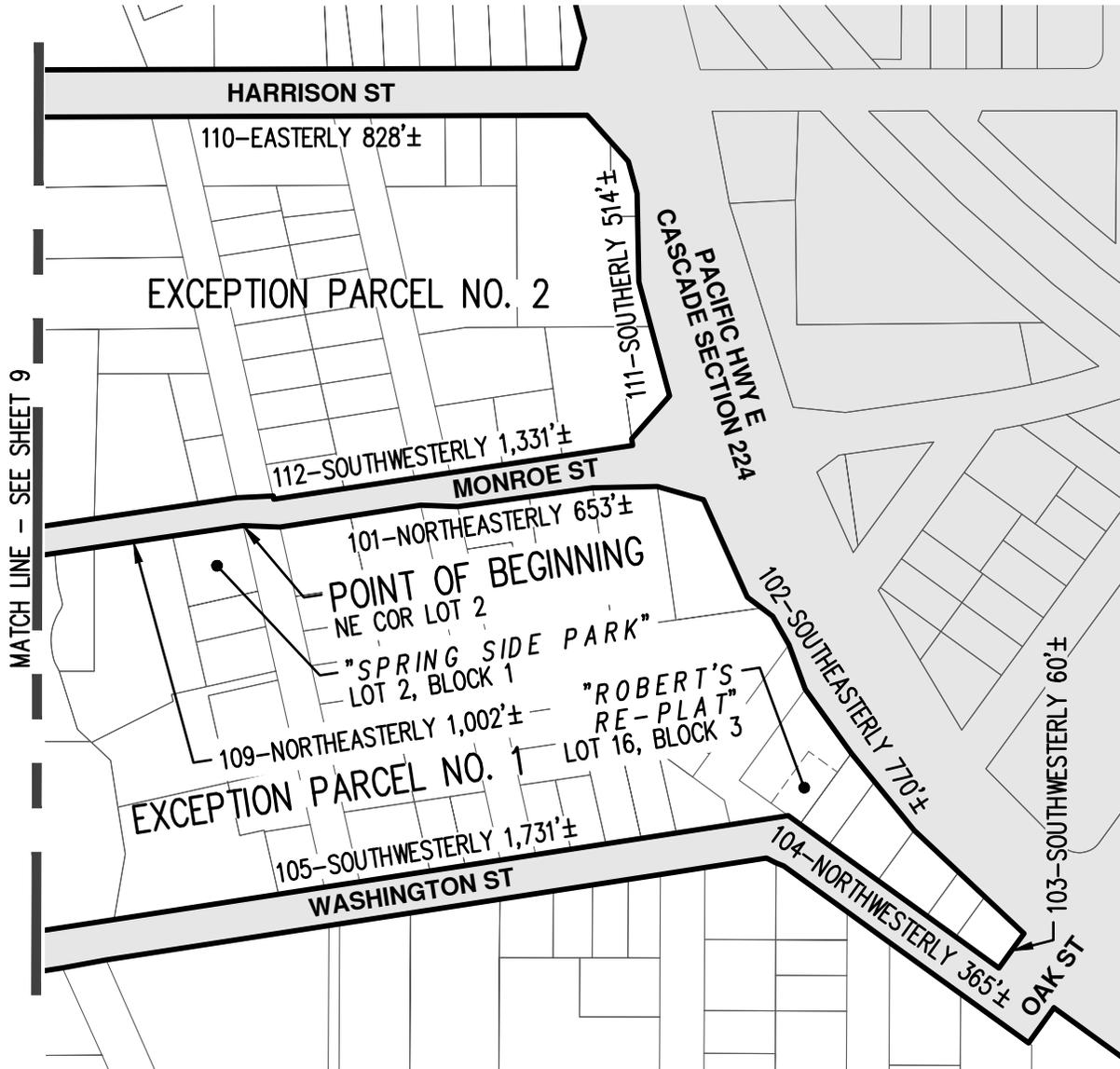
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7/8/2016

PREPARED FOR

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

SCALE 1" = 250 FEET



REGISTERED
PROFESSIONAL
LAND SURVEYOR

Michael Kalina

OREGON
JANUARY 12, 2016
MICHAEL S. KALINA
89558PLS

RENEWS: 6/30/17

CITY OF MILWAUKIE
URBAN RENEWAL AREA

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EXHIBIT
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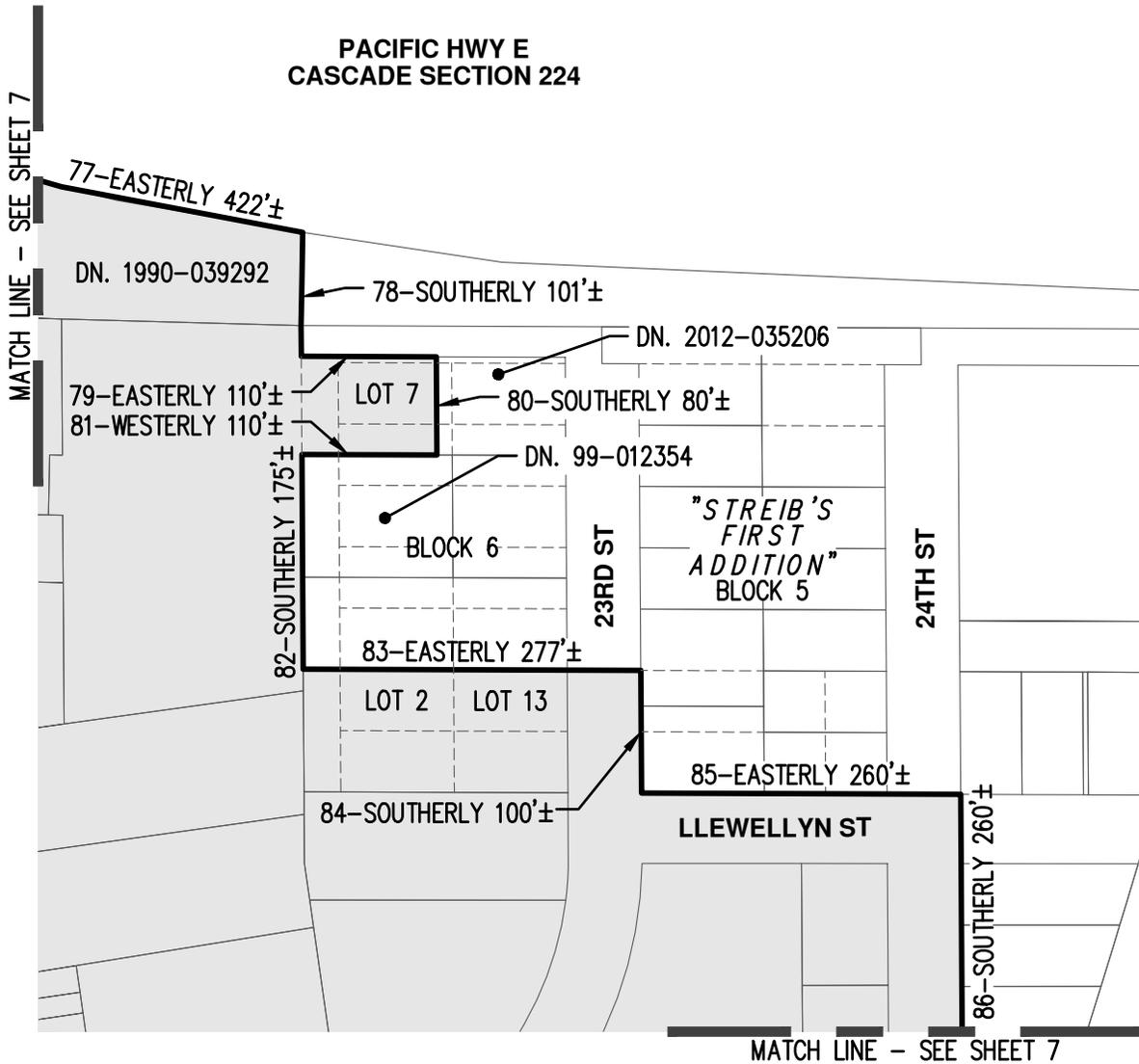
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CHKD: NSW

AKS JOB:
5392

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 T1S, R1E, W.M., CITY OF MILWAUKIE, CLACKAMAS COUNTY, OREGON



7/8/2016

**REGISTERED
 PROFESSIONAL
 LAND SURVEYOR**

Michael Kalina

OREGON
 JANUARY 12, 2016
 MICHAEL S. KALINA
 89558PLS
 RENEWS: 6/30/17

PREPARED FOR

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

SCALE 1" = 150 FEET



CITY OF MILWAUKIE URBAN RENEWAL AREA		EXHIBIT B
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Report Accompanying Milwaukie Urban Renewal Plan

Adopted by the City of Milwaukie

Ordinance No.

August 2, 2016

ECONorthwest

Nick Popenuk

Ali Danko

Rob Wyman

Elaine Howard Consulting, LLC

Elaine Howard

RS96

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I. INTRODUCTION

The Report on the Milwaukie Urban Renewal Plan (Report) contains background information and project details that pertain to the Milwaukie Urban Renewal Plan (Plan). The Report is not a legal part of the Plan, but is intended to provide public information and a basis for the findings made by the City Council as part of the approval of the Plan.

The Report provides the analysis required to meet the standards of ORS 457.085(3), including financial feasibility. The format of the Report is based on this statute. The Report documents not only the proposed projects in the Plan, but also documents the existing conditions in the Milwaukie Urban Renewal Area (Area).

However, the Report provides only guidance on how the urban renewal plan might be implemented. As the Milwaukie Redevelopment Commission (Redevelopment Commission) reviews revenues and potential projects each year, they have the authority to make adjustments to the assumptions in this Report. They may allocate budgets differently, adjust the timing of the projects, decide to incur debt at different timeframes than projected in this Report, and make other changes, as allowed in the amendments section of the Plan.

II. EXISTING PHYSICAL, SOCIAL, AND ECONOMIC CONDITIONS AND IMPACTS ON MUNICIPAL SERVICES

This section of the Report describes existing conditions within the Area and documents the occurrence of “blighted areas,” as defined by ORS 457.010(1).

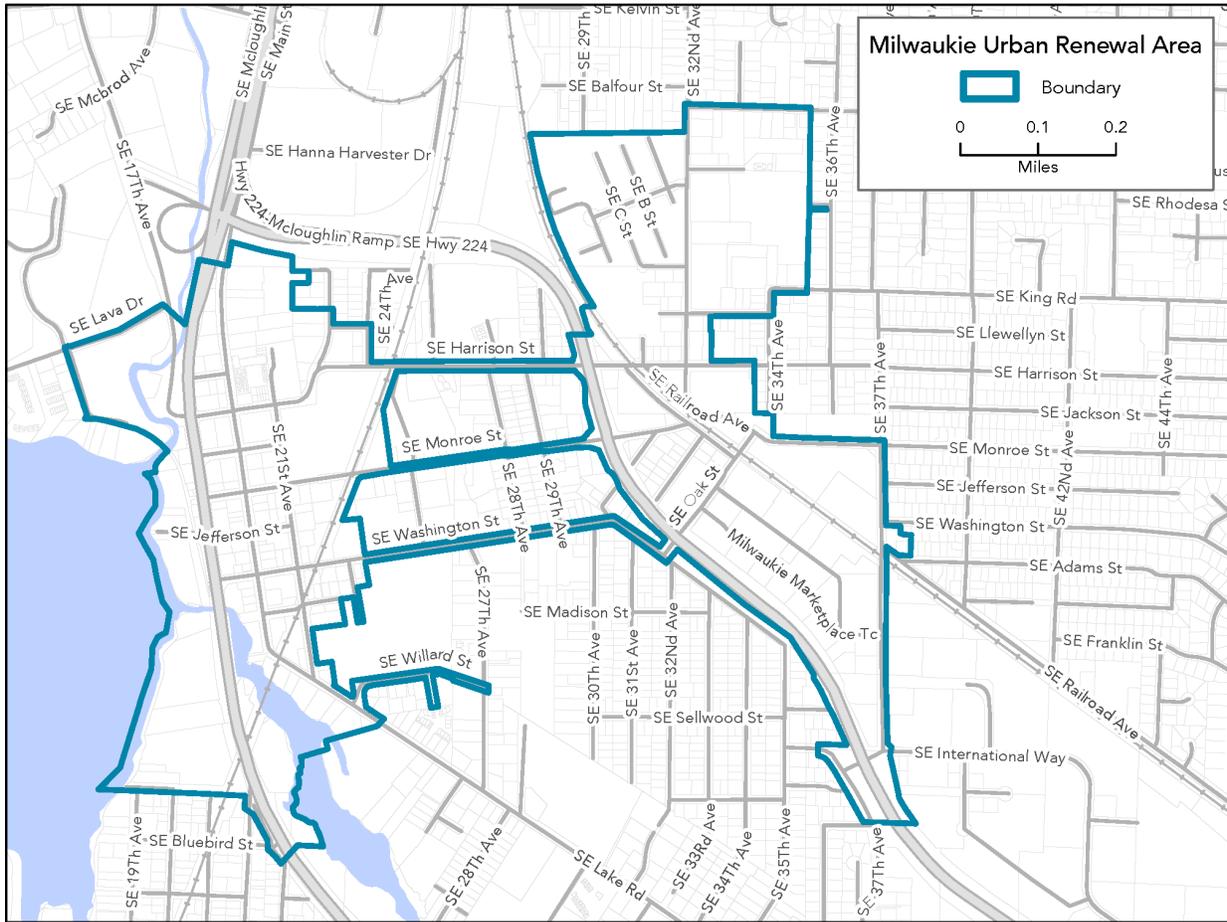
A. Physical Conditions

1. Land Use

The Milwaukie Urban Renewal Area (Area) shown in Figure 1, contains 318 parcels consisting of 168.13 acres and 92.49 acres of right of way, for a total of 260.62 acres.

The Area is located in Downtown and Central Milwaukie in Clackamas County.

Figure 1 – Milwaukie Urban Renewal Plan Area Boundary



The land use designation of parcels in the Area were evaluated, as reported by Metro (RLIS 2016 Quarter 1 GIS data). By acreage, commercial use accounts for the largest land use within the area (56%). This is followed by multi-family residential uses (13%). The total land uses of the Area, by acreage and parcel, are shown in Table 1.

Table 1 – Existing Land Use of Area

Existing Land Use	Parcels	Acres	Percent of Acres
Commercial	169	93.35	55.5%
Vacant	45	21.50	12.8%
Multi-Family Residential	45	21.30	12.7%
Single Family Residential	51	13.08	7.8%
Industrial	7	11.45	6.8%
Rural	1	7.45	4.4%
Total	318	168.13	100.0%

Source: Metro RLIS 2016 Quarter 1 GIS data

2. Zoning and Comprehensive Plan Designations

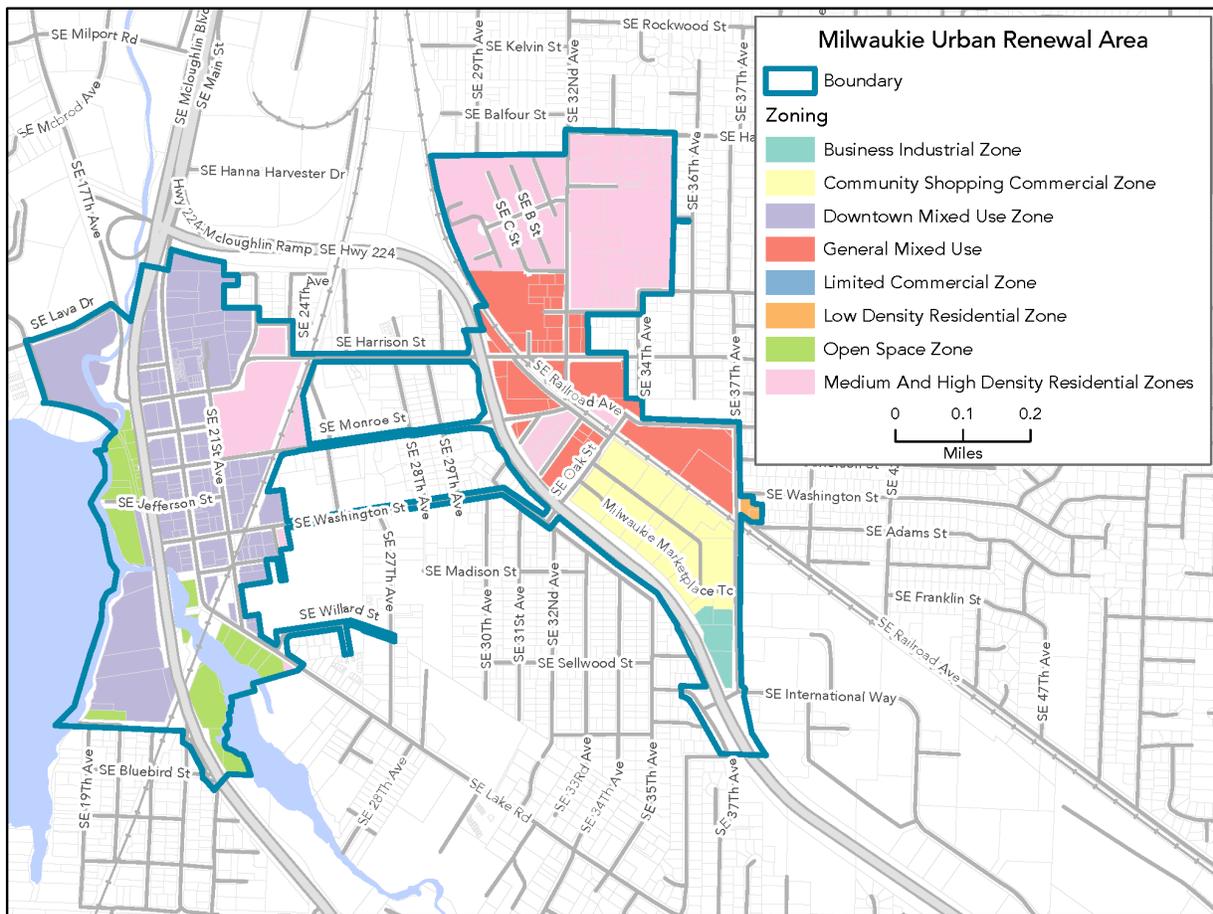
As shown in Table 2 and Figure 2, 31% of these properties are zoned Medium and High Density Residential and 30% are Downtown Mixed Use. Open Space zoning accounts for 9% of the acreage.

Table 2 – Existing Zoning Plan Designations of Area

Zoning	Parcels	Acres	Percent of Acres
Medium and High Density Residential	65	52.31	31.2%
Downtown Mixed Use	163	50.98	30.4%
General Mixed Use	39	26.17	15.6%
Community Shopping Commercial	17	19.77	11.8%
Open Space	27	15.34	9.1%
Business Industrial	4	2.67	1.6%
Low Density Residential	2	0.62	0.4%
Limited Commercial	1	0.27	0.2%
Total	317	167.86	100.00%

Source: City of Milwaukie GIS data, provided on 4/13/2016.

Figure 2 – Area Zoning Designations



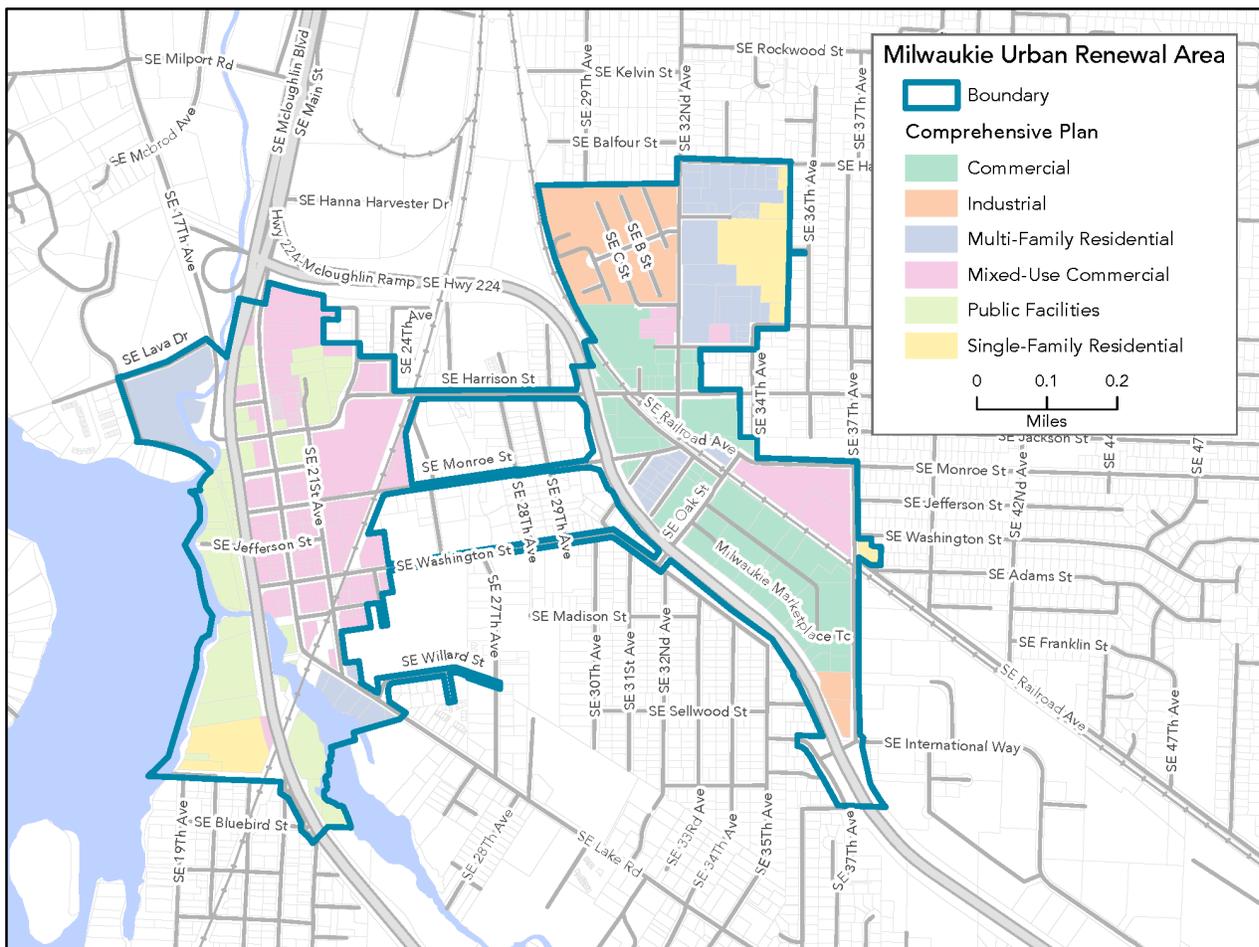
As illustrated in Table 3 and Figure 3, 26% of the acreage is designated as Mixed-Use Commercial and 23% as Commercial in the City of Milwaukie Comprehensive Plan.

Table 3 – Existing Comprehensive Plan Designations of Area

Comprehensive Plan	Parcels	Acres	Percent of Acres
Mixed-Use Commercial	161	43.89	26.1%
Commercial	49	38.32	22.8%
Multi-Family Residential	57	29.69	17.7%
Public Facilities	39	25.06	14.9%
Industrial	3	17.79	10.6%
Single Family Residential	9	13.37	8.0%
Total	309	168.13	100.0%

Source: City of Milwaukie GIS data, provided on 4/13/2016.

Figure 3 – Area Comprehensive Plan Designations



B. Infrastructure

This section identifies the existing conditions in the Area, helping to establish deficient conditions in the Area as part of the blight analysis. There are projects listed in City of Milwaukie Capital Improvement Plan (CIP) and the Central Milwaukie Land Use and Transportation Plan (CMLUTP) that identify these existing conditions. **This does not mean all of these projects are included in the urban renewal plan.** The specific projects to be included in the urban renewal plan are listed in Sections IV, V, and VI of this document.

1. Transportation

The transportation needs within the Area as identified in the CIP.

Streets and Intersections

1. Monroe Street Greenway Phase 1 Improvements

- Phase 1 Improvements for the Monroe Street Greenway will implement the design concepts developed under an Oregon Department of Transportation grant and are expected to include lane striping, signage, and the application of sharrows.
- Monroe Bicycle Boulevard – Designate as a Bicycle Boulevard and install bicycle boulevard improvements.
- Monroe Street Sidewalks – Fill in sidewalk gaps on both sides of street.

2. Kellogg Creek Dam Removal and Highway 99 East Underpass – Replace Highway 99 East bridge over Kellogg Creek, remove dam, restore habitat; construct pedestrian undercrossing between downtown Milwaukie and Riverfront Park.

3. Public Transit

Downtown transit center improvements – Construct new bus layover facility outside the downtown core. Improve downtown bus stops and shelters and include ample bike parking.

4. Downtown Parking Management

- Downtown Parking Signage – Install wayfinding and identification signage at McLoughlin Boulevard intersections and around public parking lots.
- Downtown Parking Enforcement – Implement parking management system, including dedicated parking manager.
- Downtown Public Parking Lot Improvements – Upgrade and maintain off-street public parking facilities with improved landscaping and lighting.

5. Kronberg Park Trail

6. Intersection Improvements at Highway 224 Crossings

As part of the Highway 224/99 East corridor plan, improve bike and pedestrian crossings at Oak, Monroe, and Harrison Streets.

7. Bike Lanes

- Harrison Street Bike Lanes – Bike lanes on a major road, part of a grid of bike lanes; connects east-west to downtown.
- 37th Avenue Bike Lanes – Bike lanes on a major road, part of a grid of bike lanes; connects north-south.

- Railroad Avenue Bike Lanes – Bike lanes on a major road, part of a grid of bike lanes; continues to south-east.
8. Downtown Streetscape Improvements – Install sidewalk bulb outs, lighting, and pedestrian amenities. Note: According to city staff as of April 2016, 31 block faces have been completed and 38 block faces have not been completed.
 9. McLoughlin Boulevard Sidewalks – Fill in sidewalk gaps on both sides of street.
 10. Union Pacific Mainline Railroad Crossing Improvements at Monroe Street – Upgrade paving materials to concrete or rubberized material to improve longevity and enhance for alternative modes.
 11. Pedestrian Walkway Amenities – Install amenities, such as benches, along key walking routes.
 12. McLoughlin Boulevard Intersection Improvements at 17th Avenue – Prohibit left turn movement from 17th Ave to northbound McLoughlin Boulevard and include in Highway 224 and Highway 99 East Refinement Plan.
 13. Pedestrian Way Signage – Provide maps and wayfinding signage on streets that identify ways to get around the city.
 14. Harrison St Capacity Improvements – Widen to standard 3-lane cross section from 32nd Avenue to 42nd Avenue.
 15. Harrison Street Intersection Improvements at Main Street – Add westbound shared through/right turn lane or eastbound right turn lane.

Sidewalk Deficiencies

A 2016 City of Milwaukie survey showed deficiencies on sidewalks within the Area as shown below. The sections identified are those areas that do not comply with city and Americans with Disability Act (ADA) standards. In addition, there is a ramp inventory where numerous ramps within Priority 1 Corridors are rated as failing. Priority 1 corridors are the streets within downtown including McLoughlin Boulevard, Main Street, 21st Avenue, and other streets within the Area including Willard Street, Kronberg Pathway, Harrison Street, Monroe Street, Washington Street, and 32nd Avenue.

Streets that do not comply with sidewalk standards:

1. Main Street west side between Harrison Street and Jefferson Street
2. Main Street east side between Jefferson Street and Washington Street
3. Monroe Street south side from McLoughlin Boulevard to Main Street
4. Jefferson Street north side from Main Street to 21st Avenue
5. Washington Street north side from McLoughlin Boulevard to Main Street
6. Washington Street south side from McLoughlin Boulevard to Main Street and Main Street to 21st Avenue
7. Access to Scott Park

8. Harrison Street south side from 29th Avenue to Highway 224
9. Harrison Street north side to 34th Avenue
10. Lake Road and both sides north of Willard Street
11. Willard Street south side between Lake Road and 27th Avenue
12. Numerous ramps throughout the Area are not ADA compliant

Improvements identified in the Central Milwaukie LUTP

1. Murphy Site Internal Circulation – Provide auto, bike, and pedestrian circulation.
2. McFarland Site Internal Circulation – Provide auto, bike, and pedestrian circulation.
3. Harrison Street/32nd Avenue Intersection – Open the currently closed pedestrian crosswalk on the west leg of the intersection.
4. Oak Street/34th Avenue connection – Provide pedestrian/bike connection between central Milwaukie and nearby residential neighborhood.
5. Northern Bike Route – Bicycle connection through the Murphy site north to 29th Avenue. Exact location to be determined.
6. Campbell Street Upgrades – Pedestrian and bicycle treatments between Monroe Street and Harrison Street.
7. Connection Through Railroad Property – Provide connection between Monroe Street and Campbell Street.
8. Access Point across Harrison at 21st Avenue – Provide connection across Harrison Street between Campbell Street and the Murphy site.
9. Parking Management – Employ parking management measures as needed to limit potential negative impacts of new development on residential streets.
10. Transit – Enhance transit connections to the Area.

2. Water

The water system need within the Area as identified in the CIP is full water main replacement between Harrison Street and Harvey Street on 32nd Avenue.

3. Storm Water

The stormwater system needs within the Area as identified in the CIP are:

- Kellogg Creek Dam Removal – This project will remove the Kellogg Dam, address contaminated sediments, re-establish fish passage and restore riparian habitat for endangered salmon and native wildlife.
- Washington Street Pipe Replacement – This project will replace existing 18 inch pipe in Washington Street with 24 inch pipe.
- Harrison Street Outfall - This project replaces the existing 24 inch storm pipe in Harrison Street between 21st Avenue and the outfall into Johnson Creek with 36 inch pipe.

4. Sewer

The sewer system need within the Area identified in the CIP is clay pipe replacement.

5. Parks and Open Space

The parks and open space needs within the Area as identified in the CIP and CMLUTP are:

- Riverfront Park – The completed park design will include new parking areas north and south of Kellogg Creek, a play area for children, one large and one small restroom facility, an amphitheater for performances, a festival lawn, two overlooks for river viewing and pathways for pedestrians and bikers.
- Install a new lighting system in Scott Park.
- Open Space – Explore public-private partnerships to provide additional public space in Central Milwaukie.

6. Other Utilities

Clackamas County has constructed nearly 200 miles of broadband infrastructure, the Clackamas Broadband exchange, serving Milwaukie. There are broadband lines within the Area on 21st Avenue, 22nd Avenue, Monroe Street, Jefferson Street, Harrison Street and 32nd Avenue.

C. Social Conditions

There are 96 parcels representing 34.38 acres shown as residential use in the county assessor's records. The United States Census Bureau American Community Survey for 2009 to 2013, provides the most current demographic data available for this area. This information is available at the "block group" level. Our analysis was conducted on the block groups that most closely approximate the specific Area boundary, however, this is not an exact match, and the Census block groups comprise an area that is larger than the specific Area boundary. The total population at the block group level is estimated to be 2,528, however, much of this population likely resides in residential neighborhoods adjacent to the Area boundary, but inside the same block groups.

Two-thirds of the population is under 54 years old.

Table 4 – Age in the Area

Age	Number	Percent
Under 5 Years	65	3%
5 to 9 Years	85	3%
10 to 14 Years	123	5%
15 to 17 Years	139	5%
18 to 24 Years	275	11%
25 to 34 Years	367	15%
35 to 44 Years	234	9%
45 to 54 Years	352	14%
55 to 64 Years	468	19%
65 to 74 Years	256	10%
75 to 84 Years	96	4%
85 Years and over	68	3%
Total	2,528	100%

Source: U.S. Census Bureau, ACS 2009-2013; Social Explorer

The majority of the residents are white. The second largest category of race is American Indian and Alaska Native.

Table 5 – Race in the Area

Race	Number	Percent
White Alone	2,174	86%
American Indian and Alaska Native Alone	184	7%
Two or More races	130	5%
Black or African American Alone	20	1%
Some Other Race Alone	18	1%
Asian Alone	2	0%
Native Hawaiian and Other Pacific Islander Alone	0	0%
Total	2,528	100%

Source: U.S. Census Bureau, ACS 2009-2013; Social Explorer

Sixty-three percent of the residents in the Area have at least some college education, with 21% earning a bachelor's degree or higher. Twelve percent of residents in the area have less than a high school education.

Table 6 – Educational Attainment in the Area

Educational Attainment	Number	Percent
Some college	766	42%
High School Graduate (includes equivalency)	456	25%
Bachelor's degree	240	13%
Less Than High School	230	12%
Master's degree	116	6%
Professional school degree	23	1%
Doctorate degree	10	1%
Total	1,841	100%

Source: U.S. Census Bureau, ACS 2009-2013; Social Explorer

The majority of the residents (67 percent) travel less than 30 minutes to work, including those who work at home.

Table 7 – Travel time to Work in the Area

Travel Time to Work	Number	Percent
Less than 10 minutes	119	10%
10 to 19 minutes	289	25%
20 to 29 minutes	276	24%
30 to 39 minutes	248	21%
40 to 59 minutes	99	9%
60 to 89 minutes	27	2%
90 or More minutes	10	1%
Worked at home	88	8%
Total	1,156	100%

Source: U.S. Census Bureau, ACS 2009-2013; Social Explorer

The majority of residents (79 percent) drove alone to work.

Table 8 – Mode of Transportation to Work in the Area

Means of Transportation to Work	Number	Percent
Drove Alone	917	79%
Carpooled	45	4%
Public transportation (Includes Taxicab)	43	4%
Motorcycle	0	0%
Bicycle	32	3%
Walked	21	2%
Other means	10	1%
Worked at home	88	8%
Total	1,156	100%

Source: U.S. Census Bureau, ACS 2009-2013; Social Explorer

D. Economic Conditions

1. Taxable Value of Property within the Area

The estimated total assessed value of the Milwaukie Area, including all real, personal, personal manufactured and utility properties, is \$138,482,705. The utility values were calculated by applying the tax code area's utility to real property value to the urban renewal area's real property value. This number will be adjusted when the assessor certifies the frozen base. The total assessed value of the City of Milwaukie is \$1,897,526,766. The frozen base value of the Area is 7.3% of Milwaukie's total assessed value.

2. Building to Land Value Ratio

An analysis of property values can be used to evaluate the economic condition of real estate investments in a given area. The relationship of a property's improvement value (the value of buildings and other improvements to the property) to its land value is generally an accurate indicator of the condition of real estate investments. This relationship is referred to as the "Improvement to Land Ratio," or "I:L." The values used are real market values as estimated by the Clackamas County Assessor. In urban renewal areas, the I:L may be used to measure the intensity of development or the extent to which an area has achieved its short- and long-term development objectives.

Table 9 below shows the improvement to land ratios for taxable properties within Area. These I:L figures represent an area with a mix of uses and development intensities. A healthy I:L in what would be a mixed-use neighborhood, as identified by ECONorthwest, would be 3:1. As the table shows, 16% of the property in the area has no improvement value, meaning it is not developed. Over 72% of the Area has less than a 3.0 improvement value, including the properties with no improvement values. The I:L ratios for improved properties in the urban renewal study area are very low compared to a fully developed urban commercial and residential mixed-use area. The Area, as a whole, is underdeveloped and not contributing fully to the tax base in Milwaukie.

Table 9 – I:L Ratio of Parcels in the Area

Improvement/Land Ratio	Parcels	Acres	Percent of Acres
No Improvement Value	57	27.57	16.4%
0.01-0.50	36	31.20	18.6%
0.51-1.00	19	9.01	5.4%
1.01-1.50	38	21.69	12.9%
1.51-2.00	46	13.36	7.9%
2.01-2.50	21	12.38	7.4%
2.51-3.00	16	6.42	3.8%
3.01-4.00	13	11.53	6.9%
> 4.00	72	34.97	20.8%
Total	318	168.13	100.0%

Source: Clackamas County Assessor Real Market Value data

E. Impact on Municipal Services

The fiscal impact of tax increment financing on taxing districts that levy taxes within the Area (affected taxing districts) is described in Section IX Impact of Tax Increment Financing of this Report. This subsection discusses the fiscal impacts resulting from potential increases in demand for municipal services.

The projects being considered for future use of urban renewal are economic development, infrastructure, and public amenity projects. The use of urban renewal funding for these projects allows the city to implement plans developed for these Areas. Many of the projects could not be constructed without tax increment funds. These funds also allow the city to match other funding sources to actually construct the improvements. It also allows the city to tap a different funding source besides the city's general funds or system development charge (SDC) funds to make these improvements.

It is anticipated that these projects will catalyze development on the undeveloped and underdeveloped parcels. This development will require city services. However, since the property is within the urban growth boundary, the city has anticipated the need to provide infrastructure to the Area. As the development will be new construction or redevelopment, it will be up to current building code and will aid in any fire protection needs.

These impacts will be countered by, in the future, providing jobs to the Milwaukie residents, placing property back on the property tax rolls, and future increased tax base for all taxing jurisdictions.

III. REASONS FOR SELECTION OF EACH URBAN RENEWAL AREA IN THE PLAN

The primary reason for selecting the Area is to provide the ability to fund improvements necessary to cure blight within the Area. Secondary reasons are to improve the economic vitality of the Area to enable it to pay its full share of property taxes. This improved vitality includes the upgrading of existing buildings and the development of under-utilized sites and improvements to the infrastructure and public amenities in the Area, setting the stage for economic activity in the Area.

IV. THE RELATIONSHIP BETWEEN URBAN RENEWAL PROJECTS AND THE EXISTING CONDITIONS IN THE URBAN RENEWAL AREA

The projects identified for the Area are described below, including how they relate to the existing conditions in the Area.

The projects are listed in no particular order. The finance plan specifies an order to project at this point in time. However, the Redevelopment Commission will determine through their annual budgeting process the order of projects to be completed in the Area.

A. Development/Economic Development

1. Pre-Development Assistance for Development Opportunities

Assist with the up-front costs of development on a site such as technical assistance, feasibility studies, and site planning, to name a few. Providing this assistance can incentivize investment in a development project.

Existing Conditions: There is no program in existence in the Area to provide this type of assistance.

2. Tenant Improvements

The goal of this program is to partner with downtown property and/or new business owners to encourage and fund high-quality tenant improvements to the interiors of vacant commercial spaces. The program would assist property owners in attracting businesses to locations that are difficult and costly to renovate, and incentivize new retail and restaurant businesses to locate within the Project Area.

Existing Conditions: There is a small program in existence in the Area to provide this type of assistance, however there are more needs than the existing program can finance.

3. Small Business Development Fund

The goal of this program is to provide funds and/or financing for things such as equipment and machinery to help small and micro-businesses expand or become established in Milwaukie.

Existing Conditions: There is no program in existence in the Area to provide this type of assistance.

4. Developer Assistance

Develop Public/Private Partnership Tools that may include but not be limited to programs such as Façade/Storefront Improvement, Retail and Food-related Tenant Improvement, Small Business Start-up Fund, Developer Assistance (for catalytic projects: land assembly, SDC/Permit write down, assistance with Public Area Requirements, green building assistance, parking, utility relocations, adaptive re-use and other assistance), community economic development activities such as a bike share, affordable housing assistance (rent stabilization, and other anti-displacement strategies), technical assistance, feasibility studies, and site planning.

Existing Conditions: The current economic development tools in the city of Milwaukie are sparse. The only available tools in the downtown is a commercial bancrofting program to help offset the costs of eligible SCDs for a mixed-use project, eligible New Market Tax Credit and EB5 Investment Program in census tracts around the downtown and central Milwaukie, and a Metro Storefront program for the downtown. These programs are for eligible projects and are managed by outside entities like the federal government or our Metro Planning agency which serves the region.

There is no city program in existence in the Area to provide this type of assistance.

5. Downtown Main Street Enhancements

Urban renewal could fund a portion of some activities included in a Main Street Program in downtown, focusing on four elements: Design, Economic Vitality, Organization, and Promotions. The intent of a Main Street program is to work collaboratively with both private organizations and established city committees to achieve the following broad goals: create a visually appealing downtown; assist existing businesses in identifying and taking advantage of business

opportunities and encourage prospective new businesses to locate in Downtown Milwaukie; develop a highly-functioning Main Street organization; and promote the program and downtown Milwaukie. Urban renewal expenditures would focus on design, planning, and capital projects related to the downtown Main Street corridor.

Existing Conditions: A small amount of seed money for assistance with these activities has been included in the 2017-2018 budget. However, there are more needs than this budget can finance.

B. Infrastructure: Transportation Downtown

1. McLoughlin Boulevard Improvements

Improve the section of McLoughlin Boulevard north of Harrison Street to enhance pedestrian safety and signal visitors that they are entering downtown. Upgrade sidewalks where needed.

Existing Conditions: There are inadequate sidewalks and there is no median on McLoughlin Boulevard at this location.

2. McLoughlin Boulevard Intersection Upgrades

Improve all existing crossings of McLoughlin Boulevard, using better signage and extended crossing times. Construct improvements at Harrison Street, Monroe Street, Jackson Street, Jefferson Street, and Washington Street to enhance bike/pedestrian crossings.

Existing Conditions: There are specific intersection improvements required at Harrison Street, Monroe Street, Jackson Street, Jefferson Street, and Washington Street. These intersections do not presently have adequate signage, crossing times, nor adequate bike/pedestrian crossings.

3. Pedestrian Bridge across McLoughlin Boulevard

Establish a dedicated bicycle and pedestrian connection across McLoughlin Boulevard.

Existing Conditions: There is no pedestrian bridge to provide safe access from the downtown to Milwaukie Riverfront Park.

4. Parking Solutions

Study the need for a variety of parking solutions, such as creative parking management tools, including the assistance in the development of structured parking as part of a larger mixed-use development that would service downtown uses.

Existing Conditions: There is surface parking on lots in downtown Milwaukie, and it is hoped that these surface lots are developed in the future. There is presently no structured parking in downtown Milwaukie. Parking management tools need to be established for the Area.

5. Streetscape Improvements

Improvements to public spaces along streets have been installed at some locations in Downtown Milwaukie, but there are many blocks where the improvements have not been constructed. This project would assist in the installation of sidewalk bulb-outs, lighting, wider sidewalks, and pedestrian amenities consistent with the required public area street standards in Downtown Milwaukie.

Existing Conditions: These Public Area Requirements improvements have been installed at some locations in downtown Milwaukie, with small portions on Harrison Street, Jackson Street, Monroe Street, Jefferson Street, Washington Street and Adams Street Main Street and 21st

Avenue. These amount to 31 block faces that have been completed. There are an additional 38 block faces that need to be completed in the downtown.

C. Infrastructure: Transportation Central Milwaukie

1. *Bike/Pedestrian Path Connections*

The goal is to provide connections to and through Central Milwaukie for pedestrians and bicyclists. The projects include improving bicycle routes and pedestrian ways along Harrison Street, Railroad Avenue, Oak Street, 37th Avenue, and 29th Avenue. Provide connections to and through Central Milwaukie for pedestrians and bicyclists as designated in the Central Milwaukie Land Use & Transportation Plan and the Transportation Systems Plan. These connections include improvements on Campbell Street and Railroad Avenue as well as connections between the residential area made up of Myrtle Street and Penzance Street and the Milwaukie Marketplace. Also included are potential improvements to pedestrian and bicycle circulation through the Milwaukie Marketplace development. These improvements would enhance pedestrian connections and improve bike trails and facilities to increase safe and convenient multimodal access throughout the district. Designate and improve Primary Bicycle Routes along Harrison Street, Railroad Avenue, Oak Street, 37th Avenue, and 29th Avenue. Implement features to enhance pedestrian and cyclist safety.

This project also includes creating a bicycle and pedestrian connection through the McFarland site from Railroad Avenue to Oak Street which would provide a more continuous north-south connection through Central Milwaukie. It will also provide a more direct connection from Railroad Avenue to the Monroe Street Neighborhood Greenway.

This project also includes creating a bicycle and pedestrian connection through the Murphy Site from 31st Avenue to Meek Street in order to provide a north-south connection to central Milwaukie from the 29th Avenue bikeway. This connection would also include the Clackamas County Housing Authority property adjacent to the north of the Murphy site, which would provide a key connection to the other commercial areas in central Milwaukie.

Safe pedestrian connections do not currently exist between Oak, Myrtle, and Penzance Streets and the Milwaukie Marketplace commercial area. This project would develop and improve pedestrian connections between Oak, Myrtle, and Penzance Streets and the Milwaukie Marketplace.

Existing Conditions: Central Milwaukie does not have adequate pedestrian and bicycle connections as identified in the TSP and the Central Milwaukie Land Use and Transportation Plan. Virtually no convenient or safe north-south connections exist, limiting multi-modal access to key retail and service commercial nodes in the area, which serves as a central commercial area for several different neighborhoods, multi-family housing, as well as a regional hospital and medical facility.

Safe pedestrian connections currently do not exist between Myrtle Street and Penzance Street and the Milwaukie Marketplace, nor do they exist through the Marketplace development.

The McFarland site is an approximately 7 acre vacant site that was identified as a key opportunity site in central Milwaukie. There are presently no pedestrian or bicycle connections; the vision is to create these connections as well as encourage mixed-use development on the site.

The Murphy site is an approximately 7 acre vacant site that was identified as a key opportunity site in central Milwaukie. There are presently no pedestrian or bicycle connections; the vision is to create these connections as well as encourage mixed-use development on the site.

Safe pedestrian connections currently do not exist between Myrtle Street and Penzance Street and the Milwaukie Marketplace, nor do they exist through the Marketplace development.

2. Improved Access to Opportunity Sites

This project would provide improved vehicle access to the Murphy and McFarland development opportunity sites in Central Milwaukie, which would encourage investment in development of the sites.

Existing Conditions: Both of these identified opportunity sites are over 7 acres in size and present tremendous development opportunity in the area. However, neither has improved. Efficient vehicle access is needed in order to fulfill their development potential.

3. Highway 224 Intersection Upgrades

This project would improve pedestrian crossing at Freeman Way, 37th Avenue, Oak Street, Monroe Street, and Harrison Street. Improve intersection crossing safety for bicyclists at Washington Street and Oak Street.

Existing Conditions: There are specific intersection improvements required at Freeman Way, 37th Avenue, Oak Street, Monroe Street, and Harrison Street. These intersections do not presently have adequate signage, crossing times, nor bike/pedestrian crossings.

4. Improve Transit Stops

This project would provide transit shelters as sites are developed and ensure excellent transit service to Central Milwaukie. It would also add Transit Tracker and LED lighting units at main stops along bus routes.

Existing Conditions: The Harrison Street/32nd Avenue intersection provides frequent service bus transit connections to Downtown Milwaukie and MAX light rail. This provides the Murphy site with excellent transit connectivity. Additionally, the Milwaukie Shuttle provides shopping service to the Milwaukie Marketplace from both Downtown Milwaukie and the Clackamas Town Center. This service may be re-routed to serve the opportunity sites as well. Regional transit integration is provided through bus connections at the Milwaukie Bus Shelter Area on Jackson Street and via the downtown.

5. Monroe Street Greenway Includes Monroe Street/Highway 224

This project would implement Phase 1 improvements for the Monroe Street Neighborhood Greenway which would implement the design concepts developed under an Oregon Department of Transportation grant and are expected to include lane striping, signage, and the application of sharrows.

Existing Conditions: There are specific intersection improvements required on Monroe Street throughout the section designated for the greenway improvements. Monroe Street does not have adequate signage, crossing times, nor bike/pedestrian crossings.

D. Public Amenities: Parks and Open Space

1. South Downtown Plaza

As identified in the South Downtown Concept Plan, this project would construct a public plaza at the intersection of Adams Street and Main Street that connects the new light rail station with Main Street and creates a focal point at the south end of downtown.

Existing Conditions: This does not exist, but is identified in the South Downtown Concept Plan. A small amount of seed money for assistance with this project has been included in the 2017-2018 budget. However, there are more needs than this budget can finance.

2. Riverfront Park

This project would fund implementation of Phases 3 and 4 of the Riverfront Park master plan, which include a plaza, an amphitheater, a fountain, large restroom facilities, and additional landscaping.

Existing Conditions: Phases 1 and 2 have been completed to date. Phases 3 and 4 require additional funding for completion of the plaza, amphitheater, fountain, large restroom facilities, and additional landscaping. These facilities and improvements do not presently exist in the Riverfront Park.

3. Dogwood Park

This project would fund improvements to Dogwood Park as outlined in the South Downtown Concept Plan. An expanded Dogwood Park would be integrated to the north and east with the South Downtown Plaza and Main Street streetscape improvements, and to the south and west with the Kellogg Natural Area. A refined design for the South Downtown Plaza will include integration with Dogwood Park and will identify key improvements for the area.

Existing Conditions: Dogwood is underdeveloped and requires improvements specified in the South Downtown Concept Plan. It is not presently integrated with the South Downtown Plaza and Main Street, nor with the Kellogg Natural Area.

4. Scott Park

This project would fund completion of remaining phases of improvements to Scott Park per the 1990 Scott Park Master Plan. Specific projects to be determined.

Existing Conditions: A Scott Park Master Plan was adopted in 1990, portions of which have been completed, but additional funding is required for full implementation of the plan. The master plan had three phases. In Phase I the Parking Area Improvements have not been fully implemented, the Walk Steps and Viewing Platform have not been constructed. In Phase II, the South Viewing Area on Harrison Street was not constructed. In Phase III, the Picnic Area Improvements, new sidewalk adjacent to east curb of library parking lot, and the viewing terrace along the pond edge north of the amphitheater were not constructed.

5. New Parks and Open Spaces in Central Milwaukie

There are currently no designated parks in Central Milwaukie. There is one City-owned, triangular-shaped parcel at 37th Ave and Monroe St that has benches and functions as a small park. The property is being held for potential improvement of the 37th Ave and Monroe St intersection.

This urban renewal project would fund the development of new parks and open spaces to serve Central Milwaukie as underdeveloped sites are preparing to develop. The project could also include exploring a partnership with Union Pacific Railroad to turn the small area at Railroad Avenue and Oak Street into a public park and encourage the development of public/open space in Milwaukie Marketplace.

Existing Conditions: There are currently no designated public parks or open space areas in Central Milwaukie. A small City-owned parcel at 37th Ave and Monroe St currently functions as a small park but the land is being held for potential intersection improvements.

6. Gateway/Entryway Improvements on McLoughlin Boulevard

This project would install gateway and entryway signage at the north and south entrances to downtown along McLoughlin Boulevard. It would use elements such as gateway features, plantings, lighting, and related improvements to draw more traffic off of McLoughlin Boulevard and into downtown.

Existing Conditions: There are no gateway or entryway improvements along McLoughlin Boulevard.

7. Wayfinding Signage and Heritage Plaques

This project would fund the implementation of the 2016 downtown Wayfinding Systems Plan, including the installation of wayfinding signage and kiosks to aid residents and visitors in exploring Milwaukie by providing easy access to cultural and recreational opportunities within an area that can be easily accessed by foot, bicycle, and transit. This project would also fund the installation of heritage plaques to celebrate the architectural history of the city and describe Milwaukie's heritage and culture.

Existing Conditions: There is inadequate wayfinding signage and there are no heritage plaques in Milwaukie.

8. Kronberg Park

This project would fund the implementation of the adopted 2015 Kronberg Park Master Plan, which includes the construction of a pathway in Kronberg Park to connect Kellogg Lake to south downtown.

Existing Conditions: There is an adopted Kronberg Park Master Plan and funding does not exist for implementation of the plan. There is no pathway in the park that makes the connection from Kellogg Lake to south downtown. There are no experiential nodes, viewing areas, other multi-use pathways and needed fencing.

9. Kellogg Dam Removal

The Kellogg Dam currently blocks fish passage through Kellogg Creek. This project would replace the McLoughlin Boulevard Bridge over Kellogg Creek, remove the dam, and restore habitat, as well as construct a bike/pedestrian undercrossing between downtown and Riverfront Park

Existing Conditions: There is a dam in Kellogg Lake that inhibits passage of salmon. The habitat is degraded and needs to be reestablished as natural habitat. There is no bike/pedestrian undercrossing between downtown and Riverfront Park through Kellogg Park.

E. Debt Service and Administration

This project will allow for the repayment of costs associated with the implementation of the Milwaukie Urban Renewal Plan. It also includes ongoing administration and any financing costs associated with issuing long and short term debt, relocation costs and other administrative costs.

Existing Conditions: As there is currently no urban renewal program, these activities do not exist.

V. THE ESTIMATED TOTAL COST OF EACH PROJECT AND THE SOURCES OF MONEYS TO PAY SUCH COSTS

The costs of the projects are shown in Table 10. The sources of funds in the urban renewal column are tax increment revenues. There will be other funding sources sought to leverage urban renewal funds. These sources include City of Milwaukie general funds, system development funds, state funding, or other sources of funding the City may identify, including private developer contributions.

The allocations are the best estimates of expenditures at the time of preparation of the urban renewal plan. The Redevelopment Commission will be able to review the allocations on an annual basis when they prepare the budget. The numbers are in constant dollars, or dollars that do not include future inflation. The inflation adjustment was 3% annually. The table shows \$77 million of project costs and \$57.8 million of those costs funded through tax increment revenues. The \$57.8 million equates to \$92.5 million in nominal (inflated) dollars, the maximum indebtedness amount.

Table 10 – Projects to be Completed Using Urban Renewal Area Funds

Projects	Costs (Millions)			
	Total	URA	Other	% of URA Funding
Economic Development:				
New Places to Live, Work, Eat and Shop				
Pre-development assistance for development opportunities	\$2.5	\$2.5	\$0.0	4.33%
Tenant improvements	\$2.2	\$2.2	\$0.0	3.81%
Small business development fund	\$2.0	\$2.0	\$0.0	3.46%
Developer Assistance	\$9.9	\$9.9	\$0.0	17.13%
Downtown Main Street Enhancements	\$0.5	\$0.5	\$0.0	0.87%
Subtotal	\$17.1	\$17.1	\$0.0	29.58%
Infrastructure:				
Getting to, and through Downtown and Central Milwaukie				
<i>Downtown</i>				
McLoughlin Blvd improvements	\$0.5	\$0.5	\$0.0	0.87%
McLoughlin intersection upgrades	\$2.0	\$1.5	\$0.5	2.60%
Pedestrian bridge across McLoughlin	\$2.2	\$1.2	\$1.0	2.08%
Parking Solutions	\$11.5	\$10.5	\$1.0	18.17%
Streetscape Improvements	\$13.3	\$10.3	\$3.0	17.82%
Subtotal	\$29.5	\$24.0	\$5.5	41.52%
<i>Central Milwaukie</i>				
Bike/ped path connections	\$3.4	\$3.0	\$0.4	5.19%
Improved access to opportunity sites	\$0.5	\$0.5	\$0.0	0.87%
Hwy 224 intersection upgrades	\$2.3	\$1.8	\$0.5	3.11%
Improve transit stops	\$0.5	\$0.5	\$0.0	0.87%
Monroe Street Greenway includes Monroe/224	\$2.3	\$1.8	\$0.5	3.11%
Subtotal	\$9.0	\$7.6	\$1.4	13.15%
Public Amenities:				
Parks and Open Space				
South Downtown Plaza	\$1.0	\$1.0	\$0.0	1.73%
Riverfront Park	\$3.0	\$1.5	\$1.5	2.60%
Dogwood Park	\$0.5	\$0.5	\$0.0	0.87%
Scott Park	\$0.5	\$0.5	\$0.0	0.87%
New parks and open spaces in Central Milwaukie	\$1.0	\$1.0	\$0.0	1.73%
Gateway/Entryway improvements on McLoughlin	\$0.3	\$0.3	\$0.0	0.52%
Wayfinding signage, heritage plaques	\$0.2	\$0.2	\$0.0	0.35%
Kronberg Park and path	\$2.9	\$1.0	\$1.9	1.73%
Kellogg dam removal	\$9.9	\$1.0	\$8.9	1.73%
Subtotal	\$19.3	\$7.0	\$12.3	12.11%
Administration	\$2.1	\$2.1	\$0.0	3.63%
Total	\$77.0	\$57.8	\$19.2	100.00%

Source: City of Milwaukie /Milwaukie

VI. THE ANTICIPATED COMPLETION DATE FOR EACH PROJECT

The timing of individual projects will vary based on the specific opportunities and priorities that change over time. The projects will be ongoing and will be completed as directed by the Redevelopment Commission. The projections in the financial model are all based on assumptions reviewed with the City of Milwaukie Finance Director and Planning Director.

The estimated schedule of expenditures for four broad categories of projects are shown in Table 11. The Redevelopment Commission may change the completion dates in their annual budgeting process or as project decisions are made in administering the urban renewal plan.

Table 11 – Project Dates

Project Categories	Years 1-5	Years 6-10	Years 11-15	Years 16-20	Years 21-25	Total
Economic Development	\$5,000,000	\$5,000,000	\$3,000,000	\$2,500,000	\$1,600,000	\$17,100,000
Infrastructure	\$5,000,000	\$2,500,000	\$11,000,000	\$4,000,000	\$9,100,000	\$31,600,000
Public Amenities	\$0	\$1,000,000	\$1,000,000	\$4,500,000	\$500,000	\$7,000,000
Administration and Finance Fees	\$400,000	\$400,000	\$400,000	\$400,000	\$500,000	\$2,100,000
Total	\$10,400,000	\$8,900,000	\$15,400,000	\$11,400,000	\$11,700,000	\$57,800,000
Project Categories	Years 1-5	Years 6-10	Years 11-15	Years 16-20	Years 21-25	Total
Economic Development	48%	56%	19%	22%	14%	30%
Infrastructure	48%	28%	71%	35%	78%	55%
Public Amenities	0%	11%	6%	39%	4%	12%
Administration and Finance Fees	4%	4%	3%	4%	4%	4%
Total	100%	100%	100%	100%	100%	100%

Source: ECONorthwest

VII. THE ESTIMATED AMOUNT OF TAX INCREMENT REVENUES REQUIRED AND THE ANTICIPATED YEAR IN WHICH INDEBTEDNESS WILL BE RETIRED

Table 12 shows the tax increment revenues and their allocation to loan repayments, reimbursements, debt service, and debt service reserve funds.

It is anticipated that all debt will be retired by FY 2045-46 (any outstanding bonds will be defeased). The maximum indebtedness is \$92,500,000 (ninety two million five hundred thousand dollars).

The estimated total amount of tax increment revenues required to service the maximum indebtedness of \$92,500,000 is \$120,080,243.

The interest rate for the bonds are estimated at 5% with varying terms. The time frame of urban renewal is not absolute; it may vary depending on the actual ability to meet the maximum indebtedness. If the economy is slower, it may take longer; if the economy is more robust than the projections, it may take a shorter time period. The Redevelopment Commission may decide to issue bonds on a different schedule, and that will alter the financing assumptions. These assumptions show one scenario for financing and this scenario is financially feasible.

The remaining amount for debt service in FY 2045-46 will come from the debt service reserve fund.

Table 12 – Tax Increment Revenues and Allocations to Debt Service

	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26
DEBT SERVICE FUND									
Resources									
Beginning Fund Balance	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Interest Earnings	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
TIF for URA	\$135,342	\$258,598	\$477,890	\$1,035,595	\$1,277,060	\$1,663,100	\$1,937,671	\$2,418,748	\$2,725,833
Total Resources	\$135,342	\$258,598	\$477,890	\$1,035,595	\$1,277,060	\$1,663,100	\$1,937,671	\$2,418,748	\$2,725,833
Expenditures									
<i>Debt Service</i>									
New Loan 2020			-\$320,970	-\$320,970	-\$320,970	-\$320,970	-\$320,970	-\$320,970	-\$320,970
New Loan 2022					-\$521,577	-\$521,577	-\$521,577	-\$521,577	-\$521,577
New Loan 2025								-\$722,183	-\$722,183
New Loan 2028									
New Loan 2032									
New Loan 2037									
New Loan 2040									
New Loan 2042									
Early Payment of Outstanding Principal									
Total Debt Service	\$0	\$0	-\$320,970	-\$320,970	-\$842,547	-\$842,547	-\$842,547	-\$1,564,730	-\$1,564,730
<i>Coverage Ratio</i>	<i>0.00</i>	<i>0.00</i>	<i>1.49</i>	<i>3.23</i>	<i>1.52</i>	<i>1.97</i>	<i>2.30</i>	<i>1.55</i>	<i>1.74</i>
Transfer to Project Fund	-\$135,342	-\$258,598	-\$156,920	-\$714,625	-\$434,513	-\$820,553	-\$1,095,124	-\$854,018	-\$1,161,103
Total Expenditures	-\$135,342	-\$258,598	-\$477,890	-\$1,035,595	-\$1,277,060	-\$1,663,100	-\$1,937,671	-\$2,418,748	-\$2,725,833
Ending Fund Balance	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
PROJECT FUND									
Resources									
Beginning Fund Balance	\$0	\$82,342	\$286,752	\$369,506	\$1,027,979	\$16,232	\$775,366	\$1,811,067	\$272,940
Pay-as-you-go (Transfer from D/S Fund)	\$135,342	\$258,598	\$156,920	\$714,625	\$434,513	\$820,553	\$1,095,124	\$854,018	\$1,161,103
Bond/Loan Proceeds	\$0	\$0	\$4,000,000	\$0	\$6,500,000	\$0	\$0	\$9,000,000	\$0
Interest Earnings	\$0	\$412	\$1,434	\$1,848	\$5,140	\$81	\$3,877	\$9,055	\$1,365
Total Resources	\$135,342	\$341,352	\$4,445,106	\$1,085,979	\$7,967,632	\$836,866	\$1,874,367	\$11,674,140	\$1,435,408
Expenditures									
Projects			-\$3,939,300		-\$7,761,700			-\$11,156,000	
Admin	-\$53,000	-\$54,600	-\$56,300	-\$58,000	-\$59,700	-\$61,500	-\$63,300	-\$65,200	-\$67,200
Finance Fees	\$0	\$0	-\$80,000	\$0	-\$130,000	\$0	\$0	-\$180,000	\$0
Total Expenditures	-\$53,000	-\$54,600	-\$4,075,600	-\$58,000	-\$7,951,400	-\$61,500	-\$63,300	-\$11,401,200	-\$67,200
Ending Fund Balance	\$82,342	\$286,752	\$369,506	\$1,027,979	\$16,232	\$775,366	\$1,811,067	\$272,940	\$1,368,208

Source: ECONorthwest

Table 12 – Tax Increment Revenues and Allocations to Debt Service, continued

	2026-27	2027-28	2028-29	2029-30	2030-31	2031-32	2032-33	2033-34	2034-35
DEBT SERVICE FUND									
Resources									
Beginning Fund Balance	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Interest Earnings	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
TIF for URA	\$2,942,868	\$3,144,507	\$3,354,210	\$3,572,302	\$3,799,117	\$4,035,005	\$4,280,329	\$4,535,465	\$4,800,807
Total Resources	\$2,942,868	\$3,144,507	\$3,354,210	\$3,572,302	\$3,799,117	\$4,035,005	\$4,280,329	\$4,535,465	\$4,800,807
Expenditures									
<i>Debt Service</i>									
New Loan 2020	-\$320,970	-\$320,970	-\$320,970	-\$320,970	-\$320,970	-\$320,970	-\$320,970	-\$320,970	-\$320,970
New Loan 2022	-\$521,577	-\$521,577	-\$521,577	-\$521,577	-\$521,577	-\$521,577	-\$521,577	-\$521,577	-\$521,577
New Loan 2025	-\$722,183	-\$722,183	-\$722,183	-\$722,183	-\$722,183	-\$722,183	-\$722,183	-\$722,183	-\$722,183
New Loan 2028		-\$481,456	-\$481,456	-\$481,456	-\$481,456	-\$481,456	-\$481,456	-\$481,456	-\$481,456
New Loan 2032						-\$621,880	-\$621,880	-\$621,880	-\$621,880
New Loan 2037									
New Loan 2040									
New Loan 2042									
Early Payment of Outstanding Principal									
Total Debt Service	-\$1,564,730	-\$2,046,186	-\$2,046,186	-\$2,046,186	-\$2,046,186	-\$2,668,066	-\$2,668,066	-\$2,668,066	-\$2,668,066
<i>Coverage Ratio</i>	1.88	1.54	1.64	1.75	1.86	1.51	1.60	1.70	1.80
Transfer to Project Fund	-\$1,378,138	-\$1,098,321	-\$1,308,024	-\$1,526,116	-\$1,752,931	-\$1,366,939	-\$1,612,263	-\$1,867,399	-\$2,132,741
Total Expenditures	-\$2,942,868	-\$3,144,507	-\$3,354,210	-\$3,572,302	-\$3,799,117	-\$4,035,005	-\$4,280,329	-\$4,535,465	-\$4,800,807
Ending Fund Balance	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
PROJECT FUND									
Resources									
Beginning Fund Balance	\$1,368,208	\$2,683,987	\$337,328	\$1,573,639	\$3,032,023	\$4,722,214	\$27,764	\$1,557,566	\$3,347,653
Pay-as-you-go (Transfer from D/S Fund)	\$1,378,138	\$1,098,321	\$1,308,024	\$1,526,116	\$1,752,931	\$1,366,939	\$1,612,263	\$1,867,399	\$2,132,741
Bond/Loan Proceeds	\$0	\$6,000,000	\$0	\$0	\$0	\$7,750,000	\$0	\$0	\$0
Interest Earnings	\$6,841	\$13,420	\$1,687	\$7,868	\$15,160	\$23,611	\$139	\$7,788	\$16,738
Total Resources	\$2,753,187	\$9,795,728	\$1,647,039	\$3,107,623	\$4,800,114	\$13,862,764	\$1,640,166	\$3,432,753	\$5,497,132
Expenditures									
Projects		-\$9,267,100				-\$13,599,800			-\$5,260,500
Admin	-\$69,200	-\$71,300	-\$73,400	-\$75,600	-\$77,900	-\$80,200	-\$82,600	-\$85,100	-\$87,700
Finance Fees	\$0	-\$120,000	\$0	\$0	\$0	-\$155,000	\$0	\$0	\$0
Total Expenditures	-\$69,200	-\$9,458,400	-\$73,400	-\$75,600	-\$77,900	-\$13,835,000	-\$82,600	-\$85,100	-\$5,348,200
Ending Fund Balance	\$2,683,987	\$337,328	\$1,573,639	\$3,032,023	\$4,722,214	\$27,764	\$1,557,566	\$3,347,653	\$148,932

Source: ECONorthwest

Table 12 – Tax Increment Revenues and Allocations to Debt Service, continued

	2035-36	2036-37	2037-38	2038-39	2039-40	2040-41	2041-42	2042-43	2043-44	2044-45	2045-46
DEBT SERVICE FUND											
Resources											
Beginning Fund Balance	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$2,115,757	\$5,242,124	\$8,742,696	\$13,374,023
Interest Earnings	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$10,579	\$26,211	\$43,713	\$66,870
TIF for URA	\$5,076,763	\$5,363,756	\$5,662,230	\$5,972,642	\$6,295,471	\$6,631,214	\$6,980,385	\$7,343,525	\$7,721,189	\$8,113,959	\$8,522,441
Total Resources	\$5,076,763	\$5,363,756	\$5,662,230	\$5,972,642	\$6,295,471	\$6,631,214	\$6,980,385	\$9,469,861	\$12,989,524	\$16,900,368	\$21,963,334
Expenditures											
<i>Debt Service</i>											
New Loan 2020	-\$320,970	-\$320,970	-\$320,970	-\$320,970							
New Loan 2022	-\$521,577	-\$521,577	-\$521,577	-\$521,577	-\$521,577	-\$521,577					
New Loan 2025	-\$722,183	-\$722,183	-\$722,183	-\$722,183	-\$722,183	-\$722,183	-\$722,183	-\$722,183	-\$722,183		
New Loan 2028	-\$481,456	-\$481,456	-\$481,456	-\$481,456	-\$481,456	-\$481,456	-\$481,456	-\$481,456	-\$481,456	-\$481,456	-\$481,456
New Loan 2032	-\$621,880	-\$621,880	-\$621,880	-\$621,880	-\$621,880	-\$621,880	-\$621,880	-\$621,880	-\$621,880	-\$621,880	-\$621,880
New Loan 2037		-\$882,668	-\$882,668	-\$882,668	-\$882,668	-\$882,668	-\$882,668	-\$882,668	-\$882,668	-\$882,668	-\$882,668
New Loan 2040					-\$963,423	-\$963,423	-\$963,423	-\$963,423	-\$963,423	-\$963,423	-\$963,423
New Loan 2042							-\$518,018	-\$518,018	-\$518,018	-\$518,018	-\$518,018
Early Payment of Outstanding Principal											-\$18,436,224
Total Debt Service	-\$2,668,066	-\$3,550,734	-\$3,550,734	-\$3,550,734	-\$4,193,187	-\$4,193,187	-\$4,189,628	-\$4,189,628	-\$4,189,628	-\$3,467,445	-\$21,903,669
<i>Coverage Ratio</i>	1.90	1.51	1.59	1.68	1.50	1.58	1.67	1.75	1.84	2.34	2.46
Transfer to Project Fund	-\$2,408,697	-\$1,813,022	-\$2,111,496	-\$2,421,908	-\$2,102,284	-\$2,438,027	-\$675,000	-\$38,109	-\$57,200	-\$58,900	-\$59,600
Total Expenditures	-\$5,076,763	-\$5,363,756	-\$5,662,230	-\$5,972,642	-\$6,295,471	-\$6,631,214	-\$4,864,628	-\$4,227,737	-\$4,246,828	-\$3,526,345	-\$21,963,269
Ending Fund Balance	\$0	\$0	\$0	\$0	\$0	\$0	\$2,115,757	\$5,242,124	\$8,742,696	\$13,374,023	\$65
PROJECT FUND											
Resources											
Beginning Fund Balance	\$148,932	\$2,468,074	\$98,036	\$2,114,222	\$4,448,001	\$8,525	\$2,341,895	\$17,304	\$0	\$0	\$0
Pay-as-you-go (Transfer from D/S Fund)	\$2,408,697	\$1,813,022	\$2,111,496	\$2,421,908	\$2,102,284	\$2,438,027	\$675,000	\$38,109	\$57,200	\$58,900	\$59,600
Bond/Loan Proceeds	\$0	\$11,000,000	\$0	\$0	\$10,000,000	\$0	\$4,000,000	\$0	\$0	\$0	\$0
Interest Earnings	\$745	\$12,340	\$490	\$10,571	\$22,240	\$43	\$11,709	\$87	\$0	\$0	\$0
Total Resources	\$2,558,374	\$15,293,436	\$2,210,022	\$4,546,701	\$16,572,525	\$2,446,595	\$7,028,604	\$55,500	\$57,200	\$58,900	\$59,600
Expenditures											
Projects		-\$14,882,400			-\$16,262,400		-\$6,823,500				
Admin	-\$90,300	-\$93,000	-\$95,800	-\$98,700	-\$101,600	-\$104,700	-\$107,800	-\$55,500	-\$57,200	-\$58,900	-\$59,600
Finance Fees	\$0	-\$220,000	\$0	\$0	-\$200,000	\$0	-\$80,000	\$0	\$0	\$0	\$0
Total Expenditures	-\$90,300	-\$15,195,400	-\$95,800	-\$98,700	-\$16,564,000	-\$104,700	-\$7,011,300	-\$55,500	-\$57,200	-\$58,900	-\$59,600
Ending Fund Balance	\$2,468,074	\$98,036	\$2,114,222	\$4,448,001	\$8,525	\$2,341,895	\$17,304	\$0	\$0	\$0	\$0

Source: ECONorthwest.

VIII. FINANCIAL ANALYSIS OF THE PLAN

The estimated tax increment revenues through FY 2045/46, as shown above, are based on projections of the growth in assessed value within the Area and the total tax rate that will apply to the Area. Assessed value growth comes from appreciation as well as new development. Due to Oregon’s property tax system, most properties experience appreciation in *assessed value* of 3.0% per year, regardless of market trends that affect *real market values*. Thus, new development is typically needed to experience growth in assessed value above 3.0% per year.

Long-term, beginning in FY 2027-28, we forecast the Area to experience annual growth in assessed value of 4.0% per year, which implies some ongoing new construction activity. This growth rate is similar to citywide and countywide trends in assessed value growth. In the short-term, we provide a more specific forecast of assessed value growth, based on 3.0% appreciation, and hypothetical new development on seven key “opportunity sites” located in the Area. These development assumptions are based on previous analysis conducted by the City for the Moving Forward Milwaukie project in 2014. These assumptions are speculative, and the exact timing, amount, and value of development on these sites is uncertain.

Table 13 shows the assumptions for annual exception value from new development in the Area from FYE 2016 to FYE 2027. Exception Value is new value that is above the frozen base and is usually created by new development or substantial redevelopment within the Area.

Table 13 – Projected Exception Value from New Development

FYE	Exception AV
2016	\$0
2017	\$0
2018	\$0
2019	\$4,061,606
2020	\$9,173,491
2021	\$32,539,498
2022	\$9,732,622
2023	\$18,797,147
2024	\$10,675,258
2025	\$23,761,880
2026	\$11,324,975
2027	\$4,773,325

Source: ECONorthwest with input from the City of Milwaukie

Table 14 shows a more detailed forecast of future development within the Area, as provided by ECONorthwest and based on projections done for the Moving Forward Milwaukie project in 2014. The projections are based on the economy being strong and supporting these levels of development.

Table 14 – Development Projections

	Site 1	Site 2	Site 3	Site 4	Site 5
Square Feet	95,963	50,297	18,763	33,087	23,794
Land Use Type	Apartment	Apartment	Office	Office	Apartment
Total RMV	\$27,856,836	\$10,526,781	\$5,170,169	\$12,322,645	\$4,822,988
CPR	0.715	0.715	0.794	0.794	0.715
Total AV	\$19,917,637	\$7,526,648	\$4,105,114	\$9,784,180	\$3,448,436
Less Existing AV	\$0	\$393,764	\$388,077	\$0	\$0
Exception AV	\$19,917,637	\$7,132,884	\$3,717,037	\$9,784,180	\$3,448,436
Year on Tax Roll	2021	2023	2019	2025	2027

	Murphy Site			
Name	Year 1	Year 2	Year 3	Year 4
Address				
Square Feet	44,141	44,141	44,141	44,141
Land Use Type	Mixed-Use	Mixed-Use	Mixed-Use	Mixed-Use
Total RMV	\$11,432,029	\$11,432,029	\$11,432,029	\$11,432,029
CPR	0.781	0.781	0.781	0.781
Total AV	\$8,928,415	\$8,928,415	\$8,928,415	\$8,928,415
Less Existing AV	\$777,823	\$777,823	\$777,823	\$777,823
Exception AV	\$8,150,592	\$8,150,592	\$8,150,592	\$8,150,592
Year on Tax Roll	2020	2021	2022	2023

	McFarland Site		
Name	Year 1	Year 2	Year 3
Address			
Square Feet	52,115	52,115	52,115
Land Use Type	Senior Housing	Senior Housing	Senior Housing
Total RMV	\$12,230,206	\$12,230,206	\$12,230,206
CPR	0.715	0.715	0.715
Total AV	\$8,744,597	\$8,744,597	\$8,744,597
Less Existing AV	\$317,649	\$317,649	\$317,649
Exception AV	\$8,426,948	\$8,426,948	\$8,426,948
Year on Tax Roll	2024	2025	2026

Source: ECONorthwest with input from the City of Milwaukie AV is assessed value

Table 15 shows the projected incremental assessed value, projected tax rates, and the annual tax increment revenues (not adjusted for under-collection, penalties, and interest). These projections of increment are the basis for the projections in Table 12.

Revenue Sharing is not projected to commence before the termination of the Plan, as the Area is not projected to meet revenue sharing targets at 10% of initial maximum indebtedness in the life of the Plan.

Table 15 – Projected Incremental Assessed Value, Tax Rates, and Tax Increment Revenues

FYE	Assessed Value	Frozen Base	Excess Value	Tax Rate	Tax Increment Finance Revenue			
					Gross TIF	Adjust-ments	Net TIF	Cumulative TIF
2016	\$138,482,705	\$138,482,705	\$0	16.9409	0	0	0	0
2017	\$142,637,186	\$138,482,705	\$0	16.9105	0	0	0	0
2018	\$146,916,301	\$138,482,705	\$8,433,596	16.8926	142,465	(7,123)	135,342	135,342
2019	\$155,385,396	\$138,482,705	\$16,902,691	16.1044	272,208	(13,610)	258,598	393,940
2020	\$169,220,449	\$138,482,705	\$30,737,744	16.3656	503,042	(25,152)	477,890	871,830
2021	\$206,836,561	\$138,482,705	\$68,353,856	15.9479	1,090,100	(54,505)	1,035,595	1,907,425
2022	\$222,774,280	\$138,482,705	\$84,291,575	15.9479	1,344,274	(67,214)	1,277,060	3,184,485
2023	\$248,254,655	\$138,482,705	\$109,771,950	15.9479	1,750,632	(87,532)	1,663,100	4,847,585
2024	\$266,377,553	\$138,482,705	\$127,894,848	15.9479	2,039,654	(101,983)	1,937,671	6,785,256
2025	\$298,130,760	\$138,482,705	\$159,648,055	15.9479	2,546,051	(127,303)	2,418,748	9,204,004
2026	\$318,399,658	\$138,482,705	\$179,916,953	15.9479	2,869,298	(143,465)	2,725,833	11,929,837
2027	\$332,724,972	\$138,482,705	\$194,242,267	15.9479	3,097,756	(154,888)	2,942,868	14,872,705
2028	\$346,033,970	\$138,482,705	\$207,551,265	15.9479	3,310,007	(165,500)	3,144,507	18,017,212
2029	\$359,875,329	\$138,482,705	\$221,392,624	15.9479	3,530,747	(176,537)	3,354,210	21,371,422
2030	\$374,270,342	\$138,482,705	\$235,787,637	15.9479	3,760,318	(188,016)	3,572,302	24,943,724
2031	\$389,241,155	\$138,482,705	\$250,758,450	15.9479	3,999,071	(199,954)	3,799,117	28,742,841
2032	\$404,810,802	\$138,482,705	\$266,328,097	15.9479	4,247,374	(212,369)	4,035,005	32,777,846
2033	\$421,003,234	\$138,482,705	\$282,520,529	15.9479	4,505,609	(225,280)	4,280,329	37,058,175
2034	\$437,843,363	\$138,482,705	\$299,360,658	15.9479	4,774,174	(238,709)	4,535,465	41,593,640
2035	\$455,357,098	\$138,482,705	\$316,874,393	15.9479	5,053,481	(252,674)	4,800,807	46,394,447
2036	\$473,571,382	\$138,482,705	\$335,088,677	15.9479	5,343,961	(267,198)	5,076,763	51,471,210
2037	\$492,514,238	\$138,482,705	\$354,031,533	15.9479	5,646,059	(282,303)	5,363,756	56,834,966
2038	\$512,214,807	\$138,482,705	\$373,732,102	15.9479	5,960,242	(298,012)	5,662,230	62,497,196
2039	\$532,703,399	\$138,482,705	\$394,220,694	15.9479	6,286,992	(314,350)	5,972,642	68,469,838
2040	\$554,011,536	\$138,482,705	\$415,528,831	15.9479	6,626,812	(331,341)	6,295,471	74,765,309
2041	\$576,171,998	\$138,482,705	\$437,689,293	15.9479	6,980,225	(349,011)	6,631,214	81,396,523
2042	\$599,218,879	\$138,482,705	\$460,736,174	15.9479	7,347,774	(367,389)	6,980,385	88,376,908
2043	\$623,187,634	\$138,482,705	\$484,704,929	15.9479	7,730,026	(386,501)	7,343,525	95,720,433
2044	\$648,115,139	\$138,482,705	\$509,632,434	15.9479	8,127,567	(406,378)	7,721,189	103,441,622
2045	\$674,039,745	\$138,482,705	\$535,557,040	15.9479	8,541,010	(427,051)	8,113,959	111,555,581
2046	\$701,001,335	\$138,482,705	\$562,518,630	15.9479	8,970,991	(448,550)	8,522,441	120,078,022

Source: ECONorthwest

IX. IMPACT OF THE TAX INCREMENT FINANCING

This section describes the impact of tax increment financing of the new maximum indebtedness, both until and after the indebtedness is repaid, upon all entities levying taxes upon property in the urban renewal area and on property owners.

Two jurisdictions, Clackamas Community College and the North Clackamas School District, have outstanding general obligation (GO) bonds approved by voters prior to 2001. In accordance with ORS 457, these bonds will be included in the tax rate used to calculate tax increment revenues for a new urban renewal area. Both of these bonds are scheduled to be repaid in full by FYE 2020. As shown in Table 16, the Milwaukie Urban Renewal Area will cause a very small increase in the amount of these tax rates through FYE 2020, when the bonds expire. The combined increase in tax rates will be no more than \$0.0007 per \$1,000 of assessed value in any year. For a property with \$100,000 in assessed value, the annual impact on property tax bills would be no more than \$0.07, with a cumulative impact of only \$0.14 over the life of the Urban Renewal Plan. Any bonds issued after October, 2001 would not be impacted by the creation of a new urban renewal area.

Table 16 – Projected Impact on Property Owners due to General Obligation Bonds

FYE	Impact of Milwaukie UR on Tax Rates (per \$1,000 AV)			GO Bond Tax Rates (per \$1,000 AV)		Annual GO Bond Property Tax Paid per \$100,000 AV		
	Clackamas CC	N. Clack. SD	Total	Without UR	With UR	Without UR	With UR	Impact of UR
2016	0.0000	0.0000	0.0000	0.9779	0.9779	\$97.79	\$97.79	\$0.00
2017	0.0000	0.0000	0.0000	0.9477	0.9477	\$94.77	\$94.77	\$0.00
2018	0.0000	0.0006	0.0006	0.9441	0.9447	\$94.41	\$94.47	\$0.06
2019	0.0001	0.0000	0.0001	0.1564	0.1565	\$15.64	\$15.65	\$0.01
2020	0.0001	0.0006	0.0007	0.4170	0.4177	\$41.70	\$41.77	\$0.07
Total						\$344.31	\$344.45	\$0.14

Source: ECONorthwest

The impact of tax increment financing on overlapping taxing districts consists primarily of the property tax revenues foregone on permanent rate levies as applied to the growth in assessed value in the Area. These projections are for impacts estimated through FYE 2046, and are shown in Tables 17a and 17b.

Revenue sharing is part of the 2009 legislative changes to urban renewal and means that, at thresholds defined in ORS 457.470, the impacted taxing jurisdictions will receive a share of the incremental growth in the area. The share is a percentage basis dependent upon the tax rates of the taxing jurisdictions. The first threshold is 10% of the original maximum indebtedness. At the 10% threshold, the Redevelopment Commission will receive the full 10% of the initial maximum indebtedness plus 25% of the increment above the 10% threshold and the taxing jurisdictions will receive 75% of the increment above the 10% threshold. The second threshold is set at 12.5% of the maximum indebtedness. Revenue sharing is not projected to occur for this urban renewal area, as the Area is expected to cease collecting TIF prior to achieving the revenue sharing thresholds.

The North Clackamas School District and the Clackamas Education Service District are not *directly* affected by the tax increment financing, but the amounts of their taxes divided for the urban renewal plan are shown in the following tables. Under current school funding law, property tax revenues are combined with State School Fund revenues to achieve per-student funding targets. Under this system, property taxes foregone, due to the use of tax increment financing, are substantially replaced with State School Fund revenues, as determined by a funding formula at the State level.

Tables 17a and 17b show the projected impacts to permanent rate levies of taxing districts as a result of this Plan. Table 17a shows the general government levies and Table 17b shows the education levies. These tables assume the growth as projected in the other tables in this Report.

Table 17a – Projected Impact on Taxing District Permanent Rate Levies General Government

FYE	Clackamas County Perm	County Extension & 4H Perm	County Library Perm	County Soil and Water Perm	Fire District #1 Perm	North Clackamas Park Perm	City of Milwaukie Perm	Port of Portland Perm	Metro Perm	Vector Control Perm	Subtotal
2018	-\$19,262	-\$401	-\$3,184	-\$401	-\$19,238	-\$4,312	-\$33,143	-\$562	-\$774	-\$52	-\$81,329
2019	-\$38,606	-\$803	-\$6,381	-\$803	-\$38,557	-\$8,642	-\$66,425	-\$1,126	-\$1,551	-\$104	-\$162,998
2020	-\$70,205	-\$1,460	-\$11,604	-\$1,460	-\$70,117	-\$15,716	-\$120,795	-\$2,047	-\$2,821	-\$190	-\$296,415
2021	-\$156,119	-\$3,247	-\$25,806	-\$3,247	-\$155,925	-\$34,949	-\$268,621	-\$4,552	-\$6,273	-\$422	-\$659,161
2022	-\$192,521	-\$4,004	-\$31,823	-\$4,004	-\$192,281	-\$43,097	-\$331,255	-\$5,613	-\$7,735	-\$521	-\$812,854
2023	-\$250,718	-\$5,214	-\$41,442	-\$5,214	-\$250,405	-\$56,125	-\$431,389	-\$7,310	-\$10,074	-\$678	-\$1,058,569
2024	-\$292,110	-\$6,075	-\$48,284	-\$6,075	-\$291,746	-\$65,391	-\$502,609	-\$8,517	-\$11,737	-\$790	-\$1,233,334
2025	-\$364,634	-\$7,583	-\$60,272	-\$7,583	-\$364,179	-\$81,626	-\$627,395	-\$10,632	-\$14,651	-\$986	-\$1,539,541
2026	-\$410,929	-\$8,546	-\$67,924	-\$8,546	-\$410,416	-\$91,990	-\$707,049	-\$11,982	-\$16,511	-\$1,111	-\$1,735,004
2027	-\$443,647	-\$9,227	-\$73,332	-\$9,227	-\$443,094	-\$99,314	-\$763,346	-\$12,936	-\$17,826	-\$1,199	-\$1,873,148
2028	-\$474,045	-\$9,859	-\$78,357	-\$9,859	-\$473,454	-\$106,119	-\$815,649	-\$13,822	-\$19,047	-\$1,282	-\$2,001,493
2029	-\$505,659	-\$10,516	-\$83,582	-\$10,516	-\$505,028	-\$113,196	-\$870,043	-\$14,744	-\$20,317	-\$1,367	-\$2,134,968
2030	-\$538,537	-\$11,200	-\$89,017	-\$11,200	-\$537,865	-\$120,556	-\$926,614	-\$15,702	-\$21,638	-\$1,456	-\$2,273,785
2031	-\$572,730	-\$11,911	-\$94,669	-\$11,911	-\$572,015	-\$128,210	-\$985,447	-\$16,699	-\$23,012	-\$1,548	-\$2,418,152
2032	-\$608,291	-\$12,651	-\$100,547	-\$12,651	-\$607,532	-\$136,171	-\$1,046,633	-\$17,736	-\$24,441	-\$1,645	-\$2,568,298
2033	-\$645,274	-\$13,420	-\$106,660	-\$13,420	-\$644,469	-\$144,450	-\$1,110,268	-\$18,814	-\$25,927	-\$1,745	-\$2,724,447
2034	-\$683,737	-\$14,220	-\$113,018	-\$14,220	-\$682,884	-\$153,060	-\$1,176,447	-\$19,936	-\$27,472	-\$1,849	-\$2,886,843
2035	-\$723,738	-\$15,052	-\$119,630	-\$15,052	-\$722,835	-\$162,015	-\$1,245,274	-\$21,102	-\$29,080	-\$1,957	-\$3,055,735
2036	-\$765,339	-\$15,917	-\$126,506	-\$15,917	-\$764,384	-\$171,328	-\$1,316,853	-\$22,315	-\$30,751	-\$2,069	-\$3,231,379
2037	-\$808,604	-\$16,816	-\$133,658	-\$16,816	-\$807,595	-\$181,013	-\$1,391,296	-\$23,577	-\$32,489	-\$2,186	-\$3,414,050
2038	-\$853,600	-\$17,752	-\$141,095	-\$17,752	-\$852,535	-\$191,085	-\$1,468,717	-\$24,889	-\$34,297	-\$2,308	-\$3,604,030
2039	-\$900,396	-\$18,725	-\$148,830	-\$18,725	-\$899,273	-\$201,561	-\$1,549,234	-\$26,253	-\$36,178	-\$2,434	-\$3,801,609
2040	-\$949,064	-\$19,738	-\$156,875	-\$19,738	-\$947,879	-\$212,456	-\$1,632,972	-\$27,672	-\$38,133	-\$2,566	-\$4,007,093
2041	-\$999,678	-\$20,790	-\$165,241	-\$20,790	-\$998,431	-\$223,786	-\$1,720,060	-\$29,148	-\$40,167	-\$2,703	-\$4,220,794
2042	-\$1,052,317	-\$21,885	-\$173,942	-\$21,885	-\$1,051,004	-\$235,570	-\$1,810,631	-\$30,683	-\$42,282	-\$2,845	-\$4,443,044
2043	-\$1,107,061	-\$23,023	-\$182,991	-\$23,023	-\$1,105,680	-\$247,825	-\$1,904,825	-\$32,279	-\$44,481	-\$2,993	-\$4,674,181
2044	-\$1,163,995	-\$24,208	-\$192,402	-\$24,208	-\$1,162,543	-\$260,570	-\$2,002,787	-\$33,939	-\$46,769	-\$3,147	-\$4,914,568
2045	-\$1,223,207	-\$25,439	-\$202,189	-\$25,439	-\$1,221,680	-\$273,825	-\$2,104,667	-\$35,665	-\$49,148	-\$3,307	-\$5,164,566
2046	-\$1,284,787	-\$26,720	-\$212,368	-\$26,720	-\$1,283,184	-\$287,610	-\$2,210,622	-\$37,461	-\$51,622	-\$3,474	-\$5,424,568
Total	-\$18,098,810	-\$376,402	-\$2,991,629	-\$376,402	-\$18,076,228	-\$4,051,568	-\$31,141,066	-\$527,713	-\$727,204	-\$48,934	-\$76,415,956

Source: ECONorthwest

Table 17b – Projected Impact on Taxing District Permanent Rate Levies Education

FYE	Clackamas CC	Clackamas ESD	North Clackamas SD	Subtotal	Total
	Perm	Perm	Perm		
2018	-\$4,472	-\$2,954	-\$39,019	-\$46,445	-\$127,774
2019	-\$8,963	-\$5,920	-\$78,202	-\$93,085	-\$256,083
2020	-\$16,300	-\$10,766	-\$142,211	-\$169,277	-\$465,692
2021	-\$36,247	-\$23,942	-\$316,245	-\$376,434	-\$1,035,595
2022	-\$44,699	-\$29,524	-\$389,983	-\$464,206	-\$1,277,060
2023	-\$58,211	-\$38,449	-\$507,870	-\$604,530	-\$1,663,099
2024	-\$67,821	-\$44,797	-\$591,718	-\$704,336	-\$1,937,670
2025	-\$84,660	-\$55,919	-\$738,627	-\$879,206	-\$2,418,747
2026	-\$95,408	-\$63,019	-\$832,403	-\$990,830	-\$2,725,834
2027	-\$103,005	-\$68,036	-\$898,680	-\$1,069,721	-\$2,942,869
2028	-\$110,062	-\$72,698	-\$960,256	-\$1,143,016	-\$3,144,509
2029	-\$117,402	-\$77,546	-\$1,024,294	-\$1,219,242	-\$3,354,210
2030	-\$125,036	-\$82,588	-\$1,090,894	-\$1,298,518	-\$3,572,303
2031	-\$132,975	-\$87,832	-\$1,160,158	-\$1,380,965	-\$3,799,117
2032	-\$141,231	-\$93,285	-\$1,232,192	-\$1,466,708	-\$4,035,006
2033	-\$149,818	-\$98,957	-\$1,307,108	-\$1,555,883	-\$4,280,330
2034	-\$158,748	-\$104,856	-\$1,385,020	-\$1,648,624	-\$4,535,467
2035	-\$168,035	-\$110,990	-\$1,466,049	-\$1,745,074	-\$4,800,809
2036	-\$177,694	-\$117,370	-\$1,550,320	-\$1,845,384	-\$5,076,763
2037	-\$187,739	-\$124,005	-\$1,637,960	-\$1,949,704	-\$5,363,754
2038	-\$198,186	-\$130,905	-\$1,729,107	-\$2,058,198	-\$5,662,228
2039	-\$209,051	-\$138,082	-\$1,823,899	-\$2,171,032	-\$5,972,641
2040	-\$220,351	-\$145,545	-\$1,922,483	-\$2,288,379	-\$6,295,472
2041	-\$232,102	-\$153,307	-\$2,025,011	-\$2,410,420	-\$6,631,214
2042	-\$244,324	-\$161,380	-\$2,131,639	-\$2,537,343	-\$6,980,387
2043	-\$257,034	-\$169,775	-\$2,242,534	-\$2,669,343	-\$7,343,524
2044	-\$270,253	-\$178,506	-\$2,357,863	-\$2,806,622	-\$7,721,190
2045	-\$284,001	-\$187,587	-\$2,477,805	-\$2,949,393	-\$8,113,959
2046	-\$298,298	-\$197,031	-\$2,602,546	-\$3,097,875	-\$8,522,443
Total	-\$4,202,126	-\$2,775,571	-\$36,662,096	-\$43,639,793	-\$120,055,749

Source: ECONorthwest. Please refer to the explanation of the schools funding in the preceding section

Table 18 shows the projected increased revenue to the taxing jurisdictions after tax increment proceeds are projected to be terminated. These projections are for FYE 2047.

Table 18 – Additional Revenues Obtained after Termination of Tax Increment Financing

Taxing District	Tax Rate	Tax Revenue in FYE 2047 (year after expiration)		
		From Frozen Base	From Excess Value	Total
General Government				
Clackamas County	2.4042	\$332,940	\$1,419,821	\$1,752,761
County Extension & 4H	0.0500	\$6,924	\$29,528	\$36,452
County Library	0.3974	\$55,033	\$234,688	\$289,721
County Soil and Water	0.0500	\$6,924	\$29,528	\$36,452
Fire District #1	2.4012	\$332,525	\$1,418,050	\$1,750,575
North Clackamas Park	0.5382	\$74,531	\$317,839	\$392,370
City of Milwaukie	4.1367	\$572,861	\$2,442,964	\$3,015,825
Port of Portland	0.0701	\$9,708	\$41,398	\$51,106
Metro	0.0966	\$13,377	\$57,048	\$70,425
Vector Control	0.0065	\$900	\$3,839	\$4,739
<i>Subtotal</i>	10.1509	\$1,405,724	\$5,994,702	\$7,395,687
Education				
Clackamas CC	0.5582	\$77,301	\$329,650	\$406,951
Clackamas ESD	0.3687	\$51,059	\$217,739	\$268,798
North Clackamas SD	4.8701	\$674,425	\$2,876,080	\$3,550,505
<i>Subtotal</i>	5.7970	\$802,784	\$3,423,469	\$4,226,254
Total	15.9414	\$2,207,608	\$9,414,333	\$11,621,941

Source: ECONorthwest

X. COMPLIANCE WITH STATUTORY LIMITS ON ASSESSED VALUE AND SIZE OF URBAN RENEWAL AREA

State law limits the percentage of both a municipality's total assessed value and the total land area that can be contained in an urban renewal area at the time of its establishment to 25% for municipalities under 50,000 in population. As noted below, the frozen base, including all real, personal, manufactured, and utility properties in the Area, is projected to be \$138,482,705, 7.3% of the city's assessed value. The total assessed value of the City of Milwaukie is \$1,897,526,766. The Urban Renewal Area has 260.62 acres, including right-of-way, and the City of Milwaukie has 3,239.5 acres according to the City of Milwaukie GIS; therefore 8.05% of the City's acreage is in an urban renewal area, below the 25% state limit.

Table 19 – Urban Renewal Area Conformance with Assessed Value and Acreage Limits

Urban Renewal Area	Frozen Base/Assessed Value	Acres
Milwaukie URA	\$138,482,705	260.62
City of Milwaukie	\$1,897,526,766	3,239.50
Percent of Total	7.30%	8.05%

Source: City of Milwaukie, Clackamas County Assessor

XI. RELOCATION REPORT

There is no relocation report required for the Plan. No relocation activities are anticipated.

Exhibit C
Milwaukie Planning Commission Recommendation from July 12, 2016 Meeting

The Milwaukie Planning Commission held a regularly scheduled meeting on July 12, 2016 and reviewed the proposed Milwaukie Urban Renewal Plan. The following Commissioners were present, participated in the discussion, and voted on the recommendation: Chair Sine Bone, Greg Hemer, Scott Barber, Shannah Anderson, and Shane Abma.

Following a presentation by Planning Director Denny Egner and Urban Renewal Consultant Elaine Howard, Chair Bone opened the meeting to allow comments and testimony from the audience. Two individuals testified (Dave Prideaux and Eugene Monaco) and both were opposed to establishing an urban renewal district in Milwaukie. Mr. Egner and Ms. Howard then answered questions and clarified key points regarding the plan and the use of tax increment financing.

The Planning Commission then discussed the proposed plan in detail. A key issue raised by the Commission related to how projects would be prioritized in the future. Commissioners emphasized the importance of funding projects that supported economic development in both the downtown and central Milwaukie.

The Planning Commission then voted unanimously in support of the following two motions:

Motion 1: The Planning Commission recommends to the Milwaukie City Council, based on the information provided in the staff report, that the Milwaukie Urban Renewal Plan conforms with the Milwaukie Comprehensive Plan.

Motion 2: The Planning Commission recommends to the Milwaukie City Council that it follow the expenditure priorities outlined on page 24 in the Urban Renewal Report.

**RS 5. A.
August 2, 2016
Presentation**

Milwaukie City Council Meeting August



What is Urban Renewal (UR)?



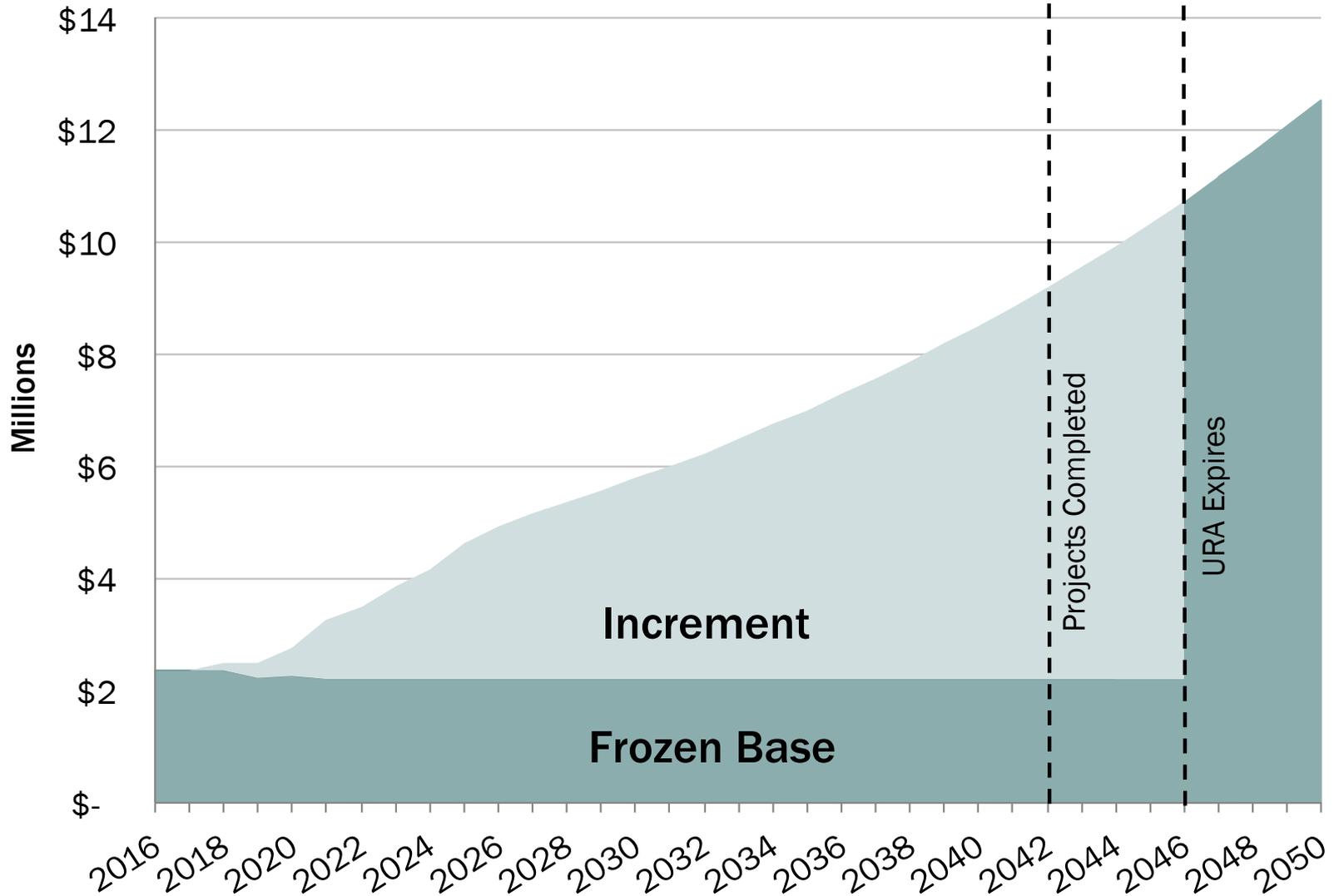
- Program to address blight in specific areas
- Tool used throughout Oregon
- Provides Financing Mechanism to Implement City Plans:
 - Uses increases in property taxes to fund projects in area, also known as Tax Increment Financing (TIF)
- Amount of spending in an urban renewal area is Controlled by Maximum Indebtedness in each Plan

How Does Financing in Urban Renewal Work?



- An area is designated as an urban renewal area
- The tax assessed value of properties within the area is frozen
- Taxes from that “frozen base” continue to go to all taxing jurisdictions
- Increases in taxes over the “frozen base” go to the urban renewal agency for use in the Area

TIF Projections



RS136

How Impacts are Calculated by Assessor



		2016	2017	2017
		Property Value	Property Value	Property Value
		\$100,000	\$103,000	\$103,000
District Name	Perm. Rates			
Clackamas County	2.4042	\$240.42	\$247.63	\$240.42
City of Milwaukie	4.0801	\$408.01	\$420.25	\$408.01
Clack County Fire Dist No. 1	2.4012	\$240.12	\$247.32	\$240.12
North Clackamas SD	4.8701	\$487.01	\$501.62	\$487.01
Clack ESD	0.3687	\$36.87	\$37.98	\$36.87
Clack Comm Coll	0.5582	\$55.82	\$57.49	\$55.82
Vector Control	0.0065	\$0.65	\$0.67	\$0.65
Co Library	0.3974	\$39.74	\$40.93	\$39.74
County 4-H	0.05	\$5.00	\$5.15	\$5.00
County Soil	0.05	\$5.00	\$5.15	\$5.00
Port of Portland	0.0701	\$7.01	\$7.22	\$7.01
Urban Renewal				\$45.77
Total	15.2565	\$1,525.65	\$1,571.42	\$1,571.42

Property Tax Bills



- Add all increases in Assessed Value in Area
- Distribute Amount to all Property Tax Bills in City
- Does Not Increase Tax Bills, Just Shows the Division of Taxes
- Bonds, Local Options after 2001 not impacted

	Property Value	Property Value
	\$103,000	\$103,000
District Name		
Clackamas County	\$247.63	\$240.42
City of Milwaukie	\$420.25	\$408.01
Clack County Fire Dist No. 1	\$247.32	\$240.12
North Clackamas SD	\$501.62	\$487.01
Clack ESD	\$37.98	\$36.87
Clack Comm Coll	\$57.49	\$55.82
Vector Control	\$0.67	\$0.65
Co Library	\$40.93	\$39.74
County 4-H	\$5.15	\$5.00
County Soil	\$5.15	\$5.00
Port of Portland	\$7.22	\$7.01
Urban Renewal		\$45.77
Total	\$1,571.42	\$1,571.42

Public Input :Advisory Committee Meetings

Meeting	Date	Agenda
Advisory Committee 1	Feb. 17 2016	Urban Renewal 101/ CC direction/boundary
Advisory Committee 2	March 30, 2016	Goals and Objectives and Projects
Advisory Committee 3	April 20, 2016	Finance, timing, project prioritization
Advisory Committee 4	May 18, 2016	Review draft UR Plan and Report

Public Input: Community Events



Completed:

Public Open House

April 20

First Friday

May 6, June 3

Farmers Market

May 22, June 26

Website

Updated consistently; links to events and meetings

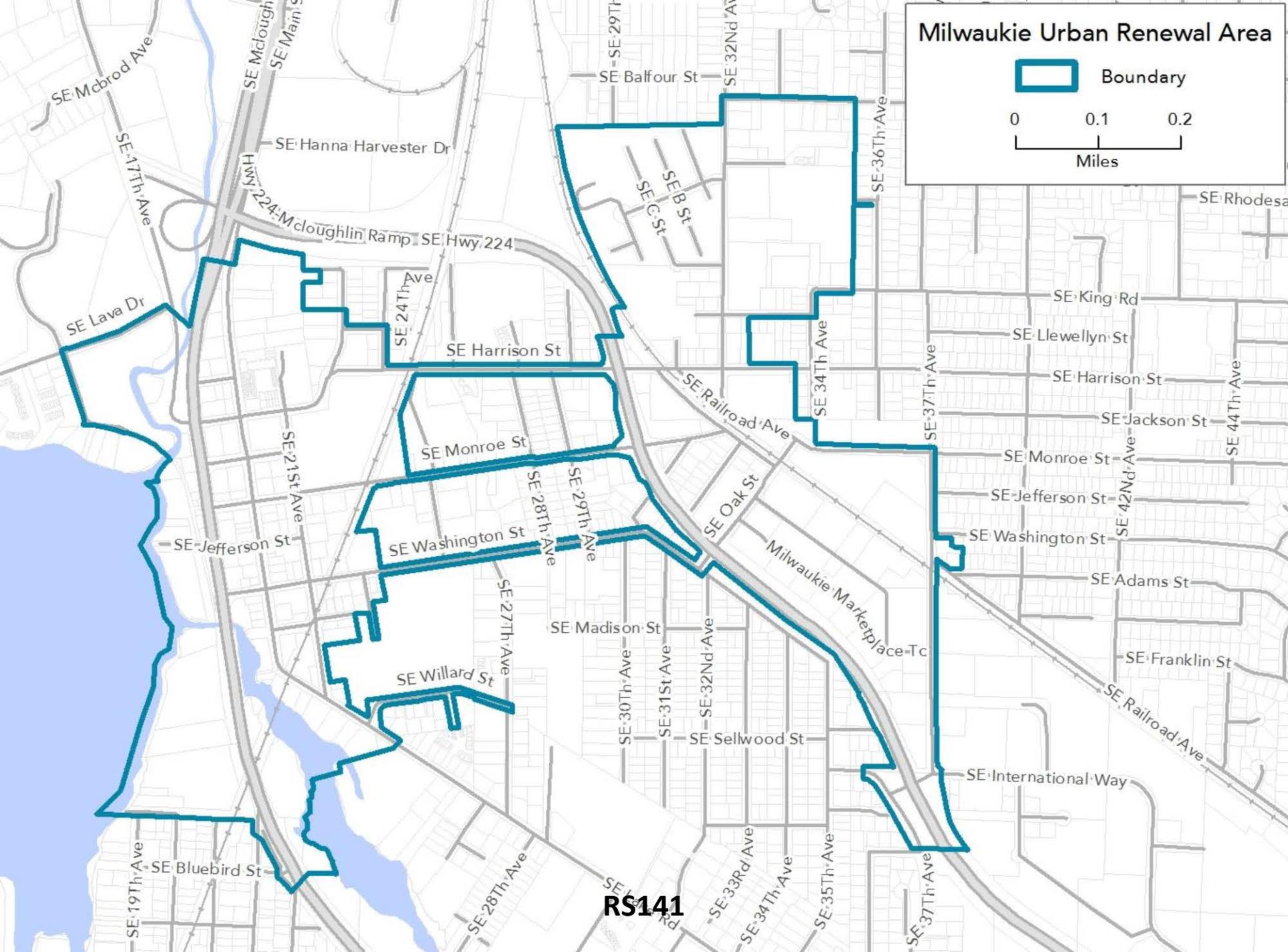
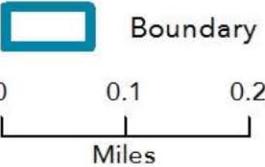
Milwaukie Pilot

4 articles + meeting & hearing notices

Planning Commission Meeting

July 12, 2016

Milwaukie Urban Renewal Area



RS141

Goals and Objectives/Projects



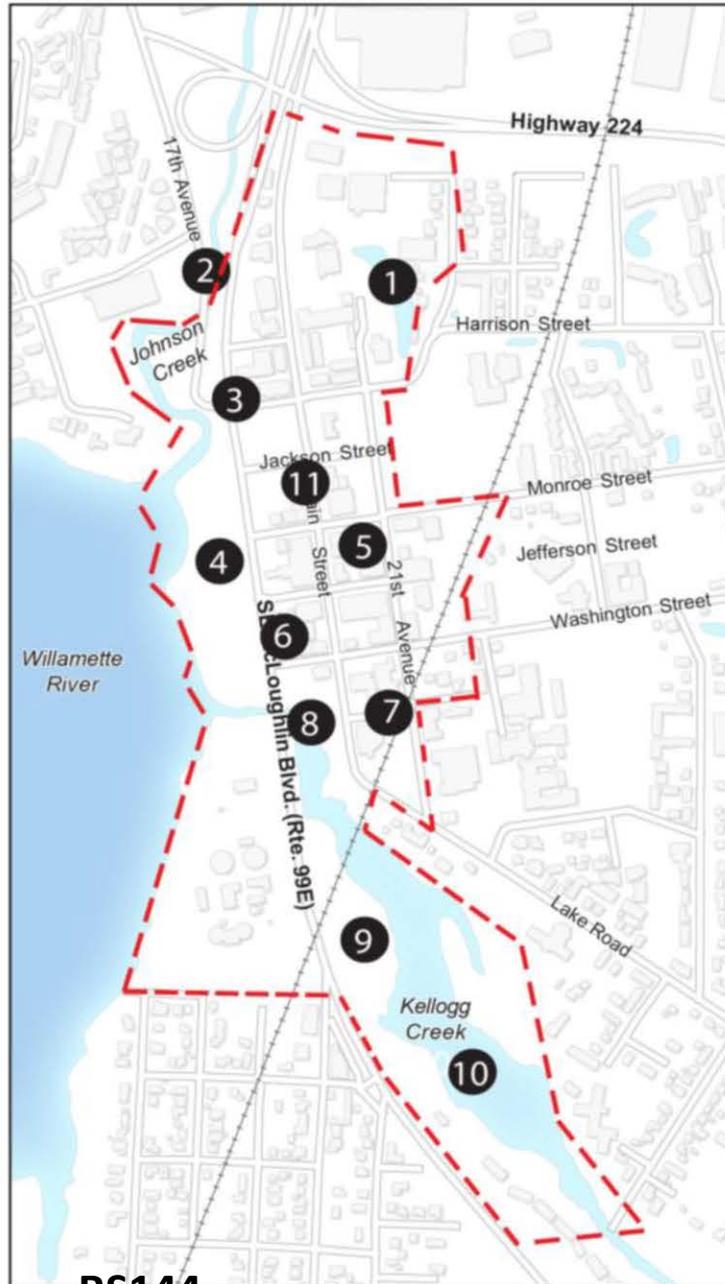
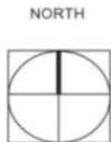
- Majority of Projects from Moving Forward Milwaukie
 - Economic Development: Enhancing places to live, work and shop
 - Transportation
 - Public Amenities
- Affordable Housing: Under Economic Development

Projects and Phasing: see Handout



Project Categories	Years 1-5	Years 6-10	Total
Economic Development	48%	56%	30%
Infrastructure	48%	28%	55%
Public Amenities	0%	11%	12%
Administration and Finance Fees	4%	4%	4%
Total	100%	100%	100%

- 1 Scott Park Improvements
- 2 17th Avenue Bicycle and Pedestrian Connection
- 3 Gateway and Entryway Improvements
- 4 Riverfront Park Phases 3 and 4
- 5 Streetscape Improvements (multiple locations)
- 6 McLoughlin Blvd Improvements and McLoughlin Bridge
- 7 South Downtown Plaza and Adams Street Connector
- 8 Dogwood Park Improvements
- 9 Kronberg Park Improvements
- 10 Dam Removal and Restoration of Kellogg Creek
- 11 Wayfinding Signage and Heritage Plaques (multiple locations)

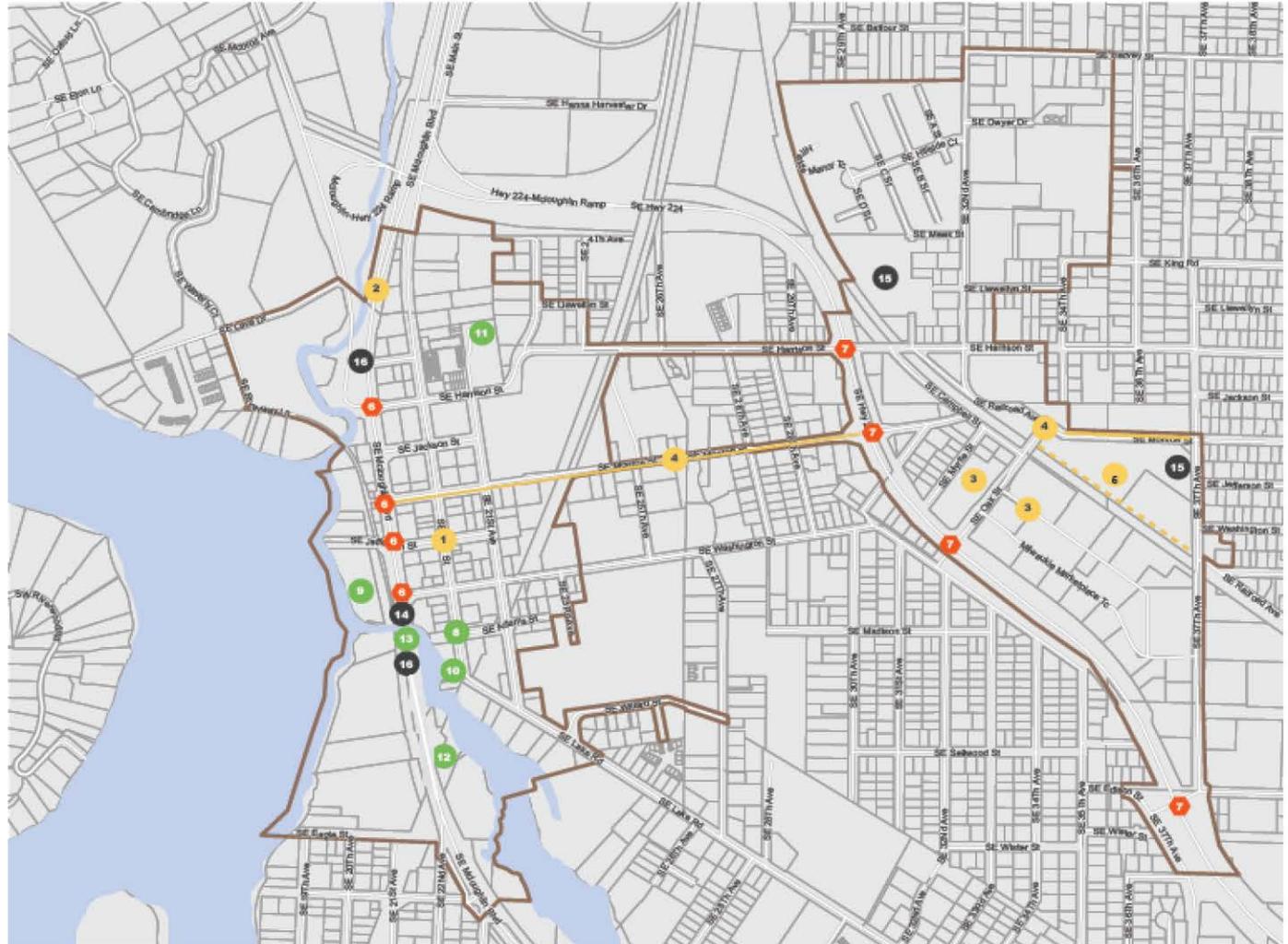


Urban Renewal Projects Map

1	Main Street Enhancements	
2	McLoughlin Blvd Improvements	
3	Oak, Myrtle, Penzance and Marketplace	
4	Monroe Street Greenway	
5	McFarland Site Bike/ped Path	
6	McLoughlin Intersection Upgrades	
7	Hwy 224 Intersection Upgrades	
8	South Downtown Plaza	
9	Riverfront Park	
10	Dogwood Park	
11	Scott Park	
12	Kronberg Park & Path	
13	Kellogg Dam Removal	
14	McLoughlin Pedestrian Bridge	
15	Improved Access to Opportunity Sites	
16	McLoughlin Gateway Improvements	

Non-Site-Specific

Bicycle and Pedestrian Connections (area-wide)
Streetscape Improvements (downtown)
Parking Solutions (downtown)
Improve Transit Stops (Central Milwaukie)



RS145



Infrastructure Improvements



Financial Assumptions



- Assumed duration: 29 years
- Assumed new development in the Area
- AV Growth beginning at 3%
starting in 2028 4%
- Total Achievable MI: \$92.5 million
- Total in Constant 2016 dollars: \$57.8 million
- **Total for “real” projects: \$55.7 million**
- Administration

Duration and Impact on Taxing Districts



- Intent: Limit tax increment collections to 29 years
- Amendment of this duration provision:
 - Minor amendment for 2 year extension
 - Substantial amendment for over 2 year extension
- Impact on Taxing Districts: Starting on P. 34 of Report

Schedule



Schedule:

City Council hearing

August 2

City Council vote

August 2



**Regular Session
Agenda Item No.**

6

Other Business



MILWAUKIE CITY COUNCIL
STAFF REPORT

Agenda Item: **RS 6. A.**
Meeting Date: **August 2, 2016**

To: Mayor and City Council

Through: Bill Monahan, City Manager

Subject: **Amendment to the Telecommunications Franchise agreement with Electric Lightwave, LLC**

From: Reba Crocker, Right-of-Way Contract Coordinator

Date: August 2, 2016

ACTION REQUESTED

Approve an Amendment to Ordinance 2103, the franchise agreement with Electric Lightwave, LLC (ELI).

HISTORY OR PRIOR ACTIONS AND DISCUSSIONS

July 2015

Council approved a renewal franchise with ELI (Ordinance 2103).

July 2017

Council discussed and approved an amendment to the existing franchise agreement.

BACKGROUND

The FCC and Federal Telecommunications Act defines "telecommunications service" as the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

ELI has been providing telecommunication services to the residents of Milwaukie since 1993. The City and ELI have honored the agreements and enjoyed a good working relationship. The City has received prompt franchise fees from ELI.

In 2015, the City and ELI negotiated a renewal to the telecommunications franchise agreement allowing ELI to continue providing telecommunication services within the City. The renewal franchise agreement included a provision to pay the City of Milwaukie the greater of 7% of gross revenues, or \$3.00 per linear foot of communication facilities.

Both ELI and the City recognize that part of ELI's system is not being used to provide Telecommunication services within the City limits, does not generate revenue from the residents of Milwaukie, and should not be included in the current franchise agreement (Ordinance 2103).

In compliance with the City's other telecommunication franchises both parties wish to remove Section 9.A.1 and 9.A.2 requiring ELI to pay a linear foot fee, thus making all franchises terms reasonably similar.

CONCURRENCE

The City Attorney and the Finance Director have reviewed and approved the proposed amendment. ELI is in agreement with the amendment.

FISCAL IMPACTS

None. The City of Milwaukie will continue to be compensated by ELI for the use of the City's ROW to provide telecommunications services with the City limits, at a rate of 7% of gross revenues.

WORK LOAD IMPACTS

None.

ALTERNATIVES

Deny approval of the ordinance and direct staff to take a different course of action.

ATTACHMENTS

1. Ordinance 2103 showing proposed changes to Exhibit A (Franchise Agreement)
2. Ordinance amending the franchise agreement with ELI
3. Amendment #1 to ELI franchise agreement



CITY OF MILWAUKIE
"Dogwood City of the West"

Ordinance No. 2103

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, GRANTING ELECTRIC LIGHTWAVE, LLC. A NONEXCLUSIVE FRANCHISE FOR TEN YEARS TO OPERATE AS A TELECOMMUNICATIONS PROVIDER WITHIN THE CITY OF MILWAUKIE AND AUTHORIZING THE CITY MANAGER TO SIGN A FRANCHISE AGREEMENT WITH ELECTRIC LIGHTWAVE LLC. IN SUBSTANTIALLY THE FORM OF EXHIBIT A.

WHEREAS, Electric Lightwave LLC. d/b/a Integra Wholesale, a Delaware limited liability company, with headquarters at 18110 SE 34th Street, Vancouver, WA 98683 ("ELI") has been providing telecommunication services within the City of Milwaukie pursuant to the franchise that expired on October 31, 2013;

WHEREAS, the City has the authority to regulate the use of rights of way within the City and to charge for the use of those rights of way; and

WHEREAS, the City and ELI both desire ELI to continue to provide telecommunications service within the City of Milwaukie and to establish the terms by which ELI shall use rights of way within the City;

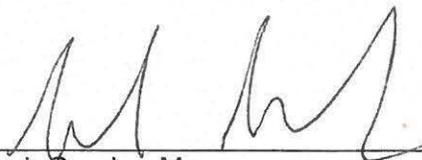
NOW THEREFORE, THE CITY OF MILWAUKIE DOES HEREBY ORDAIN:

The City hereby grants to ELI a non-exclusive franchise on the terms and conditions in the attached Exhibit A, for a period of ten (10) years from the effective date of this ordinance, to provide telecommunications service within the City of Milwaukie and authorizes the City Manager to sign a franchise agreement with ELI in substantially the form of Exhibit A ("Agreement").

Read the first time on 7/21/15, and moved to second reading by 5:0 vote of the City Council.

Read the second time and adopted by the City Council on 7/21/15.

Signed by the Mayor on 7/21/15.



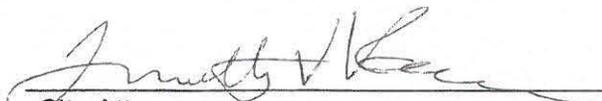
Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC



Pat DuVal, City Recorder



City Attorney

Exhibit A
Franchise Agreement between
Milwaukie, Oregon and Electric Lightwave LLC.
September
2015

Section 1. Rights Granted

A. The City of Milwaukie ("City") grants to Electric Lightwave, LLC. d/b/a Integra Wholesale, a Delaware limited liability company, with headquarters at 18110 SE 34th Street, Vancouver, WA 98683 ("ELI"), its successors and assigns, a nonexclusive franchise to operate as a competitive telecommunications provider as defined by ORS 759.005 within the City as it now exists or may be extended in the future. The franchise includes the privilege to install, maintain and operate poles, wires, fixtures, equipment, and underground circuits necessary to supply telecommunications services, upon, over, along, under, and across the streets, alleys, roads and other public ways, parks and places. Nothing in this Agreement limits the City from granting others the right to carry on activities similar to, or different from, the ones described in this Agreement.

B. All facilities in possession of ELI currently located within rights of way are covered by this Agreement and are deemed lawfully placed in their current locations. The City may require relocation as further specified in Section 7 of this Agreement.

Section 2. Term

This Agreement shall be effective as of September 1, 2015 and shall remain effective through September 1, 2025 unless sooner terminated as provided in this Agreement.

Section 3. Construction Work

A. Before ELI conducts work involving excavation, new construction, including placement of new wires or major relocation work in public rights of way, property or places, ELI shall first notify the City Engineer and shall comply with any special conditions relating to scheduling, coordination and public safety as determined by the City Engineer. Special conditions would include work being done in the right of way by the City or other third parties and may include a requirement that the facility be placed underground. Grantee shall obtain all necessary City of Milwaukie permits for such excavation and construction and pay all applicable fees. Such work shall be done only in accordance with plans or designs submitted to, and approved by the City, such plans: (1) are to be evaluated by the most current public works standards at the time of receiving the permit applied to the construction within the Public Ways in the City, and (2) shall be maintained by the City as confidential and exempt from public disclosure to the maximum extent allowed by law, with such provision constituting an official request for such confidentiality under Oregon's public records laws. Work could include open cuts, boring, excavations, digging new pole holes in streets or sidewalks in the right of way. In emergencies, ELI may conduct emergency work at any time and must provide the City Engineer with written or oral notice of

emergency work as soon as reasonably possible, but no later than one (1) business day after the emergency work has commenced.

B. ELI shall file preliminary maps or drawings of its proposed construction work within the City with the City Engineer showing the location of the construction, extension or relocation of its facilities and services in public rights of way, property or place of the City. No facility may be placed other than in a location approved by the City, except in the event of an emergency.

C. Reasonable care. All work by ELI within the rights of way shall be conducted with reasonable care and with the goal of eliminating or minimizing the risk to those using City rights of way and to eliminate or minimize the risk of damage to public or private property. All work shall be performed in accordance with all applicable laws and regulations. Any work within the right of way may be inspected by the City and its officers to determine whether it has been placed in its approved location. If emergency work has been done and is determined to be in a place not approved by the City, the City will notify ELI and give sixty (60) days for the work to be corrected once the emergency has passed.

Section 4. **Supplying Maps**

ELI shall maintain maps and data pertaining to its facilities located as described in Section 1 (A) in the City on file at their Vancouver, Washington office. With 24 hours prior notice, the City may inspect the maps at any time during business hours. Upon request of the City and without charge, ELI shall furnish current maps to the City, either in a printed form, or, if the City maintains compatible data base capability, then by electronic data in read-only format, showing the location of any electrical system facilities, but not other proprietary information, used in operating ELI's transmission and distribution facilities within the City's Urban Growth Boundary area served by ELI. The City will not sell or transmit ELI maps or data to third parties unless permitted by ELI. The City will make available to ELI any City-prepared maps or data.

Section 5 **Excavation**

Subject to Sections 3 and 6 of this Agreement, ELI may make all necessary excavations within any right of way for the purpose of installing, pairing or maintaining any facility. Assuming sufficient right of way, all poles shall be placed between the sidewalk and the edge of the right of way unless another location is approved by the City Engineer. ELI shall take all reasonable precautions to minimize interruption to traffic flow, damage to property or creation of a hazardous condition.

Section 6. **Restoration after Excavation**

Except as otherwise provided in this section, ELI shall restore the surface of any right of way disturbed by any excavation by ELI to the same condition it was in prior to its excavation. In the event that ELI's work is coordinated with other construction work in the right of way, the City Engineer may excuse ELI from restoring the surface of the right of way, provided that as part of the coordinated work, the right of way surface is restored at least to the condition it was in prior to

any excavation. All restoration of right of way surface shall be subject to the approval of the City Engineer, who may issue an order requiring correction of the restoration work. If the correction order is not complied with within thirty (30) days, or such other time as may be specified in the order, the City may restore the surface of the right of way, in which case ELI shall pay the City for the cost of resurfacing, including all administrative costs of resurfacing and of issuing the correction order.

Section 7. Relocation

A. **Permanent Relocation – General.** In accordance with ORS 221.420, City may, by written order, require ELI to move any facility in the right of way. If the relocation is the result of a public project, ELI shall be responsible for the costs of relocation. If the relocation is required to accommodate a private party development or project, ELI shall have the right to seek reimbursement from the private party. In such event, the City shall not be responsible for the costs of relocation of any of ELI's facilities.

B. **Permanent Relocation - Under grounding.** As permitted by law, administrative rule, or regulation, the City may require ELI to remove any overhead facilities and replace those facilities within underground facilities at the same or different locations subject to ELI's engineering and safety standards. The expense of such a conversion shall be paid by ELI, and ELI shall recover its costs from its customers in accordance with state law, administrative rule, or regulation. Nothing in this paragraph prevents the City and ELI from agreeing to a different form of cost recovery consistent with applicable statutes, administrative rules, or regulations on a case-by-case basis.

C. **Temporary Relocation at Request of Third Parties.** Whenever it is necessary to temporarily relocate or rearrange any facility of ELI to permit the passage of any building, machinery or other object, ELI shall perform the work on thirty (30) business days' written notice from the persons desiring to move the building, machinery or other object. The notice shall: (1) bear the approval of the City Engineer; (2) detail the route of movement of the building, machinery, or other object; (3) provide that the person requesting the temporary relocation shall be responsible for ELI's costs; (4) provide that the requestor shall indemnify and hold harmless the City and ELI from any and all damages or claims resulting from the moving of the building, machinery or other object or from the temporary relocation of ELI facilities; and (5) be accompanied by a cash deposit or other security acceptable to ELI for the costs of relocation. ELI, in its sole discretion, may waive the security. The cash deposit or other security shall be in an amount reasonably calculated by ELI to cover ELI's costs of temporary relocation and restoration.

D. **Temporary Relocation at Request of City.** In accordance with ORS 221.420, the City may require ELI to remove and relocate transmission and distribution facilities maintained by ELI in any public rights of way, property, or place of the City by giving notice to ELI. Prior to such relocation the City agrees to provide a suitable location which includes a minimum or maximum square footage set by ELI and the required easements from private property owners for such relocated facilities sufficient to maintain service. The cost of removal or relocation of its facilities for public projects shall be paid by ELI; however when the City requires

more than one temporary relocation and both the initial and subsequent relocations are for public projects and not at the request of or to accommodate a private party, the initial relocation shall be at the expense of ELI and subsequent relocations occurring less than two (2) years after the initial relocation shall be at the expense of the City. In the event that any relocation is requested by or is to accommodate a private party, ELI shall seek reimbursement from the private party and not from the City. The City and ELI agree to cooperate to minimize the economic impact of such temporary relocation on each party.

E. **Notice.** The notice required by Section 7 (A), (B), (C) and (D) shall be in writing and shall be provided at least thirty (30) business days before the date that ELI is required to move its facilities. The City will endeavor to provide as much notice as possible. The notice shall specify the date by which the existing facilities must be removed. Nothing in this provision shall prevent the City and ELI from agreeing, either before or after notice is provided, to a schedule for relocation. In the event that ELI fails to comply with a notice to relocate and the City and ELI have not reached agreement on a schedule for relocation, the City may remove or relocate ELI's facilities that were the subject of the relocation notice at ELI's expense.

F. **Location for Relocated Facilities.** The City shall attempt to provide ELI with a suitable location in existing right of way sufficient to maintain service for all facilities required to be relocated pursuant to Section 7 (A), (B), and (D).

Section 8. City Public Works and Improvements

Nothing in this Agreement shall be construed in any way to prevent the City from excavating, grading, paving, planking, repairing, widening, altering, or doing any work that may be needed or convenient in any rights of way. The City shall coordinate any such work with ELI to avoid, to the extent reasonably foreseeable, any obstruction, injury or restriction on the use of any of ELI's facilities.

Section 9. Payment by ELI for Use of Rights of Way

A. In consideration for its use of rights of way and for the City's administration of the rights of way, ELI agrees to pay the City **the greater of:**

1. **a minimum annual fee of \$3.00 per lineal foot of communication facilities. This amount shall remain fixed from the Effective Date of this Franchise through the fifth (5th) year. Beginning the sixth (6th) year of this Franchise, the fee shall be adjusted annually based on the CPI-U index for the previous year. City shall calculate the escalated per foot fee by November 1st of each year and notify ELI of the per foot fee prior to implementation of such fee.**

2. an amount equal to seven percent (7%) of Gross City Revenues. Gross City Revenue is defined as any and all revenues derived by ELI for the provision of any and all products, services, or charges originating or terminating in Milwaukie, Oregon, billed to a circuit, switch, or address in Milwaukie, Oregon, including revenues from dedicated private networks. Gross Revenues shall include any and all revenues from leases for the Milwaukie portion of ELI's

I. In the event ELI allows another telecommunications carrier to use ELI's facilities within the City, ELI shall require such carrier to represent that it has all necessary permits and licenses as required by the City.

Section 10. Performance Bond

ELI shall provide the City with a performance bond of \$25,000 as security for the full and complete performance of this franchise, including costs, expenses, damages or loss the City pays or incurs because of any failure attributable to ELI to comply with any codes, ordinances, rules, regulations, administrative rules or permits of the city.

Section 11. Vacation of Right of Way

Whenever the City initiates any proceeding to vacate any rights of way within which ELI has a facility, the City will notify ELI. The City will, where practicable, maintain a public utility easement for ELI's facility, if requested by ELI.

Section 12. Use of ELI Facilities by Wireless Communications Facilities

ELI shall allow third parties to place wireless communications facilities on ELI poles provided that (1) the placement will not interfere with ELI's operations, (2) the placement and operations of the wireless communications facilities will be consistent with all safety and other applicable regulations, and (3) ELI agrees to the amount of compensation from the third party. The third party shall be contractually responsible for compliance with all safety and other applicable regulations. ELI may extend any existing pole to allow such co-location, consistent with the City's regulations of wireless communications facilities. The City shall have no liability arising from the co-location of third party facilities on ELI poles.

Section 13. Termination

A. **By City for Nonpayment.** City may terminate this Agreement and ELI's franchise if ELI fails to pay the franchise fee. The City shall provide thirty (30) days' notice of termination prior to any termination for non-payment. This Agreement shall not be terminated if ELI pays the full amount, including interest, within thirty (30) days of the notice.

B. **By City for Cause.** If ELI ceases to maintain its facilities and the lack of maintenance increases the risk of personal injury or property damage, the City may terminate this Agreement by providing ELI thirty (30) days' notice of termination.

This Agreement shall not be terminated if ELI substantially eliminates such risk within thirty (30) days of the notice.

Section 14. Sale of Franchise

ELI shall not sell or assign this franchise without the prior written consent of the City. ELI shall notify the City not later than sixty (60) days' prior to any intended transfer and the City will not unreasonably withhold any consent required. Notwithstanding the foregoing, ELI may

system. Gross Revenues may be adjusted for the net write-off of uncollectible amounts of such revenues. In the event any law or valid rule or regulation applicable to this Franchise Agreement limits franchise fees below the seven percent (7%) of Gross Revenues required herein, ELI agrees to and shall pay the maximum permissible amount and, if such law or valid rule or regulation is later repealed or amended to allow a higher permissible franchise fee, then ELI shall pay the higher franchise fee up to the maximum allowable by law.

B. ELI shall pay the franchise fee quarterly on or before forty five (45) days after the preceding quarter. Payments shall be accompanied by a statement of how the total due amount was calculated. ELI shall have the right, without prior City approval, to lease capacity or bandwidth to its customers; provided that ELI shall, upon request from City, provide City with a list of the customers leasing space on the Milwaukie portion of ELI's system. Interest on late payments shall accrue from the due date at a rate equal to nine percent (9%) per annum and shall be computed based on the actual number of days elapsed from the due date until payment. Interest shall accrue without regard to whether the City has provided notice of delinquency. However, should payment be insufficient due to an error in computation, interest payments shall not begin to accrue until after the discovery of the error by ELI or receipt by ELI of notice of the error.

C. The City may audit ELI at any time while this Agreement is in effect to determine the accuracy of the reporting of gross revenues. ELI shall make all records available to the City and any auditor retained by the City on demand. Any difference of payment due the City following audit shall be payable within thirty (30) days after written notice to ELI, and shall bear interest at the rate of nine percent (9%) per annum. In the event the audit discloses that ELI has underpaid by more than three percent (3%) of its annual payment obligation, ELI shall pay the City's expenses of performing the audit.

D. The City shall retain the right, as permitted by Oregon Law, to charge a privilege tax in addition to the franchise fee set forth herein. The City agrees to notify ELI of the privilege tax in writing, sixty (60) days' prior to the date the tax goes into effect.

E. In consideration of ELI's agreement to pay the franchise fee and the City's Public Utilities Privilege Tax, if implemented, the City shall not impose other business license fees or taxes on ELI during the term of this ordinance. This provision does not exempt the property of the company from lawful ad valorem taxes, local improvement district assessments, or conditions, exactions, fees and charges that are generally applicable to businesses within the City as required by City ordinance.

F. The obligation to pay the franchise fee imposed by Section 9 (A) shall survive expiration of this Agreement as long as ELI continues to exercise the rights granted in Section (1). In the event this Agreement is terminated before expiration, ELI shall pay the City the appropriate fee for use of the City's right of way as determined by Section 9 (A) of this Agreement through the date of termination within ninety (90) days of the termination date.

G. ELI shall be responsible for all costs associated with its work and facilities in the right of way, except as otherwise specifically provided in this Agreement.

H. The City specifically reserves the right to impose a fee or tax, as allowed by law, on any new business undertaking of ELI that is operated within the City.

assign this Agreement to (a) any affiliate of ELI, or (b) any person that purchases all or substantially all of the assets of ELI, or any other person formed by or surviving the merger or consolidation of ELI.

Section 15. Removal of Facilities

If this Agreement is terminated or expires on its own terms and is not replaced by a new franchise agreement or similar authorization, ELI and the City shall, by mutual agreement, decide whether ELI's facilities are to be removed or remain in place. In the event that ELI and the City are unable to reach agreement on the disposition of ELI facilities after termination, the City Engineer may issue an order requiring removal at ELI's expense and the property upon which the facilities were used restored by ELI to the condition it was in before installation.

Section 16. Hold Harmless

ELI shall indemnify and hold harmless the City, its officers, employees, agents, and representatives against any and all claims, damages, costs and expenses to which they may be subjected as a result of any negligent or wrongful act or omission of ELI, or any act or omission of ELI that is alleged to be negligent or wrongful, under this Agreement or otherwise arising from the rights and privileges granted by this Agreement. The obligations imposed by this section are intended to survive termination of this Agreement.

ELI agrees to forever indemnify City, its officers, employees, agents, and representatives, from and against any claims, costs, and expenses of any kind, whether direct or indirect, pursuant to any state or federal law, statute, regulation, or order, for the removal or remediation of any leaks, spills, contamination, or residues of hazardous substances, directly attributable to ELI's facilities. Hazardous substances has the meaning given by ORS 465.200.

Section 17. Insurance

ELI shall, as a condition of the franchise grant, secure and maintain the following liability insurance policies insuring ELI and its employees and shall provide City an endorsement naming City, its officers, employees, and agents as an additional insured:

1. Comprehensive general liability insurance with limits not less than:
 - a. Three million dollars for bodily injury or death to each person;
 - b. Three million dollars for property damage resulting from any one accident; and,
 - c. Three million dollars for all other types of liability.
2. Automobile liability for owned, non-owned and hired vehicles with a limit of three million dollars for each accident.
3. Workers' compensation within statutory limits and employers' liability insurance with limits of not less than one million dollars.
4. Comprehensive form premises-operations, explosions and collapse hazard, underground hazard and products completed hazard with limits of not less than three million dollars.
5. The liability insurance policies required by this section shall be maintained by the grantee throughout the term of the telecommunications franchise, and such other

period of time during which the grantee is operating without a franchise hereunder, or is engaged in the removal of its telecommunications facilities.

Section 18. Limitation on Privileges

All rights and authority granted to ELI by the City are conditioned on the understanding and agreement that the privileges in the rights of way are not to operate in any way so as to be an enhancement of ELI's properties or values or to be an asset or item of ownership in any appraisal thereof.

Section 19. Effect of Invalidity of a Portion of this Agreement

If any section, subsection, sentence, clause, phrase, or other portion of this franchise is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, all portions of this Agreement that are not held to be invalid or unconstitutional shall remain in effect until this Agreement is terminated or expired. After any declaration of invalidity or unconstitutionality of a portion of this Agreement, either party may demand that the other party meet to discuss amending this Agreement to adjust the relationship of the parties to conform to their original intent in entering into this Agreement. If the parties are unable to agree on a revised franchise agreement within ninety (90) days after a portion of this Agreement is found to be invalid or unconstitutional, either party may terminate this Agreement on 180 days' notice to the other party.

Section 20. Definitions

A. "Facility" includes any poles, guy wires, anchors, wires, fixtures, equipment, conduit, circuits, vaults, ground mounted switch cabinets, ground mounted mineral oil filled transformers, ground mounted secondary junction cabinets, and other property necessary or convenient to the supply of electric energy owned or operated by ELI within the City.

B. "Right of way" means any right of way or public utility easement within the City and under City ownership, control or administration.

C. "Install" means to erect, construct, build, replace or place.

Authorized Signature: The City of Milwaukee

Authorized Signature: Electric Lightwave, LLC

BY: [Signature]
TITLE: CITY MANAGER
DATE: 7/21/15

BY: [Signature]
TITLE: SVP-CIO
DATE: 8-10-15



CITY OF MILWAUKIE

"Dogwood City of the West"

Ordinance No.

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING ORDINANCE NO 2103, GRANTING ELECTRIC LIGHTWAVE, LLC, A NONEXCLUSIVE FRANCHISE AS A TELECOMMUNICATIONS PROVIDER.

WHEREAS, the franchise agreement was effective on July 21, 2015; and

WHEREAS, Electric Lightwave LLC, (ELI) operates facilities located within the City limits that are not part of the telecommunications services provided within the City limits; and

WHEREAS, ELI and the City mutually agree to amend the franchise.

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

Ordinance 2103, granting ELI a telecommunications franchise, shall be amended as outlined in the attachment A (amendment #1) and authorizes the Mayor to sign the amendment.

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

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

Signed by the Mayor on _____.

Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

Amendment #1 to Ordinance 2103 Exhibit A, "Franchise Agreement between Milwaukie, Oregon and Electric Lightwave LLC"

- 1. The City of Milwaukie and Electric Lightwave, LLC agree to amend the Franchise as follows:
 - a. Section 9.A shall be modified to read: "In consideration for its use of the rights-of-way and for the City's administration of the rights-of-way, ELI agrees to pay the City an amount equal to seven percent (7%) of Gross Revenues. Gross City Revenue is defined as any and all revenues derived by ELI for the provision of any and all products, services, or charges originating or terminating in Milwaukie, Oregon, billed to a circuit, switch, or address in Milwaukie, Oregon, including revenues from dedicated private networks. Gross Revenues shall include any and all revenues from leases for the Milwaukie portion of ELI's system. Gross Revenues may be adjusted for the net write-off of uncollectible amounts of such revenues. In the event any law or valid rule or regulation applicable to the Franchise Agreement limits franchise fees below the seven percent (7%) of Gross Revenues required herein, ELI agrees to and shall pay the maximum permissible amount and, if such law or valid rule or regulation is later repealed or amended to allow a higher permissible franchise fee, then ELI shall pay the higher franchise fee up to the maximum allowable by law."
 - b. Section 9.A.1 and 9.A.2 will be deleted.
- 2. All other terms and conditions shall remain unchanged.

This amendment is effective upon the date signed by both parties.

Authorized Signature: City of Milwaukie

Authorized Signature: Electric Lightwave, LLC

BY: _____

BY: _____

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____



MILWAUKIE CITY COUNCIL
STAFF REPORT

Agenda Item: **RS 6. B.**
Meeting Date: **August 2, 2016**

To: Mayor and City Council
Through: Bill Monahan, City Manager
Subject: **Triangle Site Food Cart Pod – project update**
From: Alma Flores, Community Development Director
Date: July 15, 2016

ACTION REQUESTED

Accept a contract with Richard Johnson of Johnson Group to manage a City Food Cart pod on 11301 SE 21st Street, also known as the Triangle site.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

June 23, 2016: Council received an update on the status of the food cart pod during the June 23, 2016 study session.

September 22, 2015: In addition to an online survey, a public forum was held to discuss food carts on publicly-owned land and whether or not the city should introduce a food cart pod to the publicly owned "Triangle site" as an interim use (prior to any development that may occur on the site).

BACKGROUND

During the past seven years, City staff has received a number of inquiries about locating food carts in Milwaukie, specifically downtown.

Based on the positive results from the September public outreach effort, staff issued a Request for Qualifications seeking letters of interest from qualified parties to develop and manage a food cart pod on the Triangle site. Two responses were received. The Johnson Group, from Portland, who recently developed and manages the *Piknik Park* food cart pod in Sellwood was selected to develop and manage the Triangle site food cart pod.

Since that time, staff has been working through logistics and infrastructure issues regarding development of food cart pod on the site and through the transaction of the site acquisition with Trimet. Concurrently, staff submitted a 2016 Metro District Transformation Grant seeking funds to purchase aesthetic elements for the food cart pod, such as seating, decorative planters, and trash and recycling receptacles. Staff was notified on May 23 that the city would receive \$10,000 for implementation of the project.

CONCURRENCE

Community Development Director, Public Works Director, City Attorney, and the City Manager concur.

FISCAL IMPACTS

No fiscal impacts to the city have been identified.

WORK LOAD IMPACTS

Contract will be managed by the Community Development Director and the City Manager.

ALTERNATIVES

None.

ATTACHMENTS

1. Contract with Johnson Group
2. Draft site configuration



City of Milwaukie

Management Agreement

This Management Agreement (“Agreement”) is entered into as of this day of _____, 2016, by and between the CITY OF MILWAUKIE, an Oregon municipal corporation (“City”), and Richard Johnson, an individual, doing business as JOHNSON GROUP (“JOHNSON GROUP”), for use of certain property identified below.

RECITALS

1. City acquired from TriMet an approximately 8,600 square foot tract of land (the “Property”). The Property is identified as Tract 2 and depicted and described on the attached Exhibit A. The address of the Property is 11301 SE 21st Ave.
2. The City wishes to allow JOHNSON GROUP to operate and manage a food cart pod on the Property.

Accordingly, the City and JOHNSON GROUP are entering into this Agreement under the terms and conditions set forth below.

AGREEMENT

The parties agree as follows:

1. DEFINITIONS. As used herein:

- a. “Commencement date” means the date that City authorizes operations to commence based on notice from Johnson Group that a minimum of eight (8) food carts are on site and ready to commence operations, including all necessary hook-ups and permits.
- b. “Food” means components generally accepted as a source of human nourishment, and intended to be consumed by humans. “Food” does not include any substance listed in any schedule of the federal Controlled Substances Act.
- c. “Food cart” means a vehicle as defined in Section 19.201 of the City’s municipal code that meets all the following criteria:
 - (1) The food cart sits on an existing paved or graveled site that is zoned to allow eating and drinking establishment uses;
 - (2) The food cart has wheels, and the wheels will not be removed;

- (3) Any canopies, awnings, or any other attachments to the food cart are attached, and supported entirely by, the food cart and do not touch the ground; and
 - (4) The food cart is self-contained and does not require any permanent plumbing connections.
- d. "Food cart pod" means the location on the Property between Main and 21st food carts at 11301 SE 21st Ave, which sell food to the public, and where all of the following apply:
- (1) One or more tables are available for food cart patrons to be seated and eat food obtained from food carts operated by the operators;
 - (2) Solid waste services are provided to the Property by the City's franchised waste hauler, or food cart operators self-haul solid waste off of the site; Recycling and composting should be considered on site.
 - (3) Potable water and a source of electricity are brought to the Property either by JOHNSON GROUP, the operators, or public or private utility providers; and
 - (4) Sanitary waste disposal (including grey water) is obtained either by connection to the City's sanitary waste disposal system with grease removing devices as required by City code, or by JOHNSON GROUP arranging for such wastes to be hauled off the Property to a DEQ approved disposal site.
 - (5) Portable bathroom facilities shall be provided onsite by the JOHNSON GROUP and be screened with natural material.
- e. "Operator" is the person or entity operating a food cart that is established at the food cart pod located on the Property.

2. GRANT AND ACCEPTANCE OF LICENSE.

- a. The City hereby grants to JOHNSON GROUP a license to use the Property solely for the purpose of operating a food cart pod on the Property, in accordance with the terms and conditions of this Agreement.
- b. JOHNSON GROUP hereby accepts the license granted herein and agrees to operate and maintain the food cart pod in accordance with the terms of this Agreement.

3. TERM AND RENEWAL.

- a. This Agreement shall be effective on the date last executed or the date City notifies JOHNSON GROUP that City has acquired title to the Property, whichever last occurs. The term of occupancy shall start on the Commencement date of this agreement. The term of occupancy shall continue for two years from the Commencement date (the "initial term") unless terminated or continued as provided for herein.
- b. Notwithstanding the prior paragraph, this Agreement, including occupancy, shall continue beyond expiration on a month to month basis unless and until:

- i) Either party provides 45 days written notice that this Agreement will not be extended beyond expiration of the initial term or
 - ii) After expiration of the initial term, either party provides written notice that it will not further extend the term of this Agreement, in which case this Agreement shall terminate 45 days after the date of such notice.
- c. Upon termination of this Agreement, Johnson Group shall vacate and cease to use, and cause all operators to vacate and cease to use the Property. On termination, the provisions of Section 13 (d) below shall apply.

4. LICENSE FEE.

- b. JOHNSON GROUP shall pay the City a monthly License Fee not to exceed ten percent (10%) of the rent collected by JOHNSON GROUP from the operators each month] (“License Fee”) whichever is greater. This fee may be negotiable depending on the costs of permanent infrastructure.
- c. Beginning on the 14th day after the Commencement date and on that same date of each month thereafter, JOHNSON GROUP shall pay the License Fee to the City. With each payment of the License Fee, JOHNSON GROUP will provide the City with a detailed monthly statement of rent due and rent received from each operator (“Monthly Statement”) for the previous calendar month. For a period of sixty (60) days after receipt of any Monthly Statement, the City shall have the right to examine the books and records of JOHNSON GROUP as they relate to rent due from operators for the period of the Monthly Statement, for the purpose of verifying rent due from operators for that period. If such examination reflects a deficiency in JOHNSON GROUP’s payment of the License Fee, then such deficiency shall be paid by JOHNSON GROUP within ten (10) days after receiving notice from the City of the amount of such deficiency.

5. RIGHTS AND OBLIGATIONS OF THE PARTIES.

In addition to the rights and obligations of the parties set forth in other sections of this Agreement, the parties shall have the following rights and obligations on the Property:

a. JOHNSON GROUP’s rights and obligations.

- (1) JOHNSON GROUP shall use the Property to operate a food cart pod, and activities commonly associated with food cart pods such as music or exhibits of community interest, and may have a non-food cart related cart, only if approved by the Community Development director in advance.
- (2) JOHNSON GROUP will promote the food cart pod to, and enter into agreements with, operators to locate at least 8, but not to exceed 15 food carts. Within the range provided above, JOHNSON GROUP shall source a sufficient number and variety of food carts that in JOHNSON GROUP’s judgment supply rents which, in the aggregate, allow JOHNSON GROUP to operate its business and satisfy its obligations under this Agreement. JOHNSON GROUP may decline to accept a coffee cart as a food cart business since there exist two (2) coffee establishments within a quarter mile.

(3) At its sole cost and expense, JOHNSON GROUP shall be responsible for answering customer service inquiries or complaints made by operators or food cart patrons. JOHNSON GROUP shall designate the name, telephone number, and email address of a contact person to whom City staff or food cart patrons may address inquiries or complaints. JOHNSON GROUP must provide this information so that it is easily available to members of the public, for example by posting the information on signage which is reasonably visible on the Property. Any such signage must comply with all applicable laws, rules, and regulations, including, without limitation, the City's sign code.

(4) JOHNSON GROUP must either require the operators to provide their own electricity, sanitary waste disposal, including grey water handling, and solid waste disposal and recycling services, or at its sole cost and expense, supply such services to the Property. In either case, all applicable City codes must be followed. The City shall provide necessary design schematics to JOHNSON GROUP for use in the connection to electric and water services. JOHNSON GROUP will work directly with PGE to supply the electric power it needs for the food cart pods. Potable water shall be supplied to the site by JOHNSON GROUP at its expense via permanent connection to the City's water main on 21st Ave providing potable water for up to 4-5 spigots on site. All applicable City codes must be followed. JOHNSON GROUP will, at its expense, comply with all present and future federal, state, county, City, and other local laws, ordinances, rules and regulations (including laws and ordinances relating to food and beverage service and sign regulations) in connection with JOHNSON GROUP's use, operation, and maintenance of the food cart pod on the Property. Prior to commencing, and at all times during, JOHNSON GROUP's operation of the food cart pod, JOHNSON GROUP, at its expense, shall obtain all licenses, permits, and land use approvals required for operating a food cart pod. JOHNSON GROUP shall also require that all operators comply with the terms of this Section 5(a) (6).

(5) As to the TriMet stormwater quality facility ("Facility"):

i. JOHNSON GROUP must include a clause in its agreements with operators that prohibits operators from placing any non-stormwater substance of any kind within the Facility, and that authorizes TriMet, or the City, to direct that JOHNSON GROUP immediately terminate such operator agreement if TriMet, City or JOHNSON GROUP determines that an operator has violated such clause;

ii. JOHNSON GROUP must post signs on the Property instructing food cart patrons not to place any non-stormwater substance into the Facility; and

iii. Each day that the Cart Pod is open for business, as needed, JOHNSON GROUP, at its own expense, will clean all non-stormwater substances out of the Facility and dispose of such substances off the Property in compliance with all applicable laws.

(6) JOHNSON GROUP, at its sole cost and expense must keep any property adjacent to the Property, including sidewalks, free from gravel.

b. City's rights and obligations

(1) The City will maintain a level bed of gravel on the Property.

(2) The City will maintain any landscaping on the Property that is installed by the City or TriMet. Notwithstanding the foregoing, JOHNSON GROUP will pay the City the replacement cost of any landscaping on the Property or within the Facility that dies or is damaged beyond restoration on account of trespass by operators or patrons, or because of non-stormwater substances introduced into the Facility by an operator or cart patron.

6. ALTERATION TO PROPERTY AND INSTALATION OF EQUIPMENT/RESTROOMS.

a. JOHNSON GROUP may not make physical improvements or alterations to the Property or install fixtures thereon without the prior written authorization of the City Manager, which may be granted or withheld in the City Manager's sole discretion. Any improvements or alterations made to the Property by JOHNSON GROUP will be removed by JOHNSON GROUP on termination of this Agreement in accordance with Section 13(d), below.

b. The City shall apply for a METRO District Transformation Grant to partially offset the costs of seating, umbrellas, trash and recycling receptacles and aesthetic fixtures such as planters for screening. JOHNSON GROUP is otherwise responsible for the costs of fixtures installed or provided on the site should the City not obtain the grant, the grant not be sufficient or for such additional seating, umbrellas, planters, etc. as needed. Whatever funding is awarded to the City through the District Transformation Grant shall be applied for this purpose.

c. JOHNSON GROUP shall be responsible for providing and maintaining adequate temporary restroom facilities at the Property. If the food cart pod use is discontinued for more than seven (7) days at a time, JOHNSON GROUP will remove all temporary restroom facilities until such time that JOHNSON GROUP resumes operation of the food cart pod. The restroom facilities shall be buffered with plantings. JOHNSON GROUP shall be responsible for securing the facilities during hours the food cart pod is not in operation.

d. JOHNSON GROUP may allow adequate storage units for the food cart owners, if needed; they shall comply with City code.

7. MAINTENANCE OBLIGATIONS

a. Except for the City's maintenance of the gravel and landscaping on the Property installed by the City, JOHNSON GROUP will maintain the Property and any improvements or equipment on the Property, in a safe condition, in good order and repair, and in compliance with all applicable laws and generally accepted standards. JOHNSON GROUP will not allow the Property or any such improvements or equipment to be maintained or operated in any way that conflicts with the use of adjacent property, including, without limitation, for public light rail transportation, or applicable law.

b. JOHNSON GROUP will keep the Property free of debris, weeds, and anything of a dangerous, noxious or offensive nature or which would create a hazard or undue

vibration, heat, noise or interference. No pesticides or herbicides shall be used on the Property.

c. JOHNSON GROUP will ensure that the trash and recycling are properly disposed of and picked up in a timely fashion to keep the area free of overflowing garbage. The Trash and Recycling area shall be properly buffered with natural material.

8. ACCESS AND PARKING

a. The City retains an irrevocable right of access to the Property for its representatives and those of other governmental authorities for any purpose, including, without limitation, performing its obligations under this Agreement, regulatory compliance inspection, and to determine compliance with this Agreement.

b. Other than food carts, public utility vehicles and emergency vehicles, the only vehicle parking allowed on the Property is short term convenience or courtesy-type parking of vehicles used for towing a food cart to or from the Property, and contractor vehicles performing improvements or repairs, during the period such vehicle is actually being used for that task. A temporary ramp to protect the curb shall be used to protect the infrastructure. JOHNSON GROUP shall be responsible for any damage to the curb and sidewalk adjacent to the site at the access point.

c. JOHNSON GROUP may erect one or more fences or other physical barriers on the Property that are needed to provide security for food carts during hours that the food cart pod is not open to the public. Such fencing must not be higher than 4 feet (no chain link fencing; ornamental and/or decorative styles are desired). The City Manager's written approval is required before JOHNSON GROUP erects or constructs fencing. This may require a Type I land use review.

9. OTHER FEES.

Except as expressly undertaken by the City, JOHNSON GROUP will pay, as they become due and payable, all fees, charges, taxes, and expenses required for services, utilities, licenses and/or permits required for or occasioned by JOHNSON GROUP's use of the Property.

10. APPROVALS AND COMPLIANCE WITH LAWS.

JOHNSON GROUP's use of the Property is contingent upon JOHNSON GROUP obtaining all certificates, permits, zoning, franchises, and other approvals that may at any time be required by any federal, state, or local authority. JOHNSON GROUP will operate and maintain the food cart pod in accordance with site standards, statutes, ordinances, rules and regulations in effect or that may be issued thereafter by any federal, state or local governing body.

11. INTERFERENCE.

a. JOHNSON GROUP's operation and maintenance of the food cart pod shall not damage or interfere in any way with the City's or TriMet's current operations, any of the City's or TriMet's current facilities at or near the Property, or related repair and maintenance activities.

b. JOHNSON GROUP is aware that public agencies use adjacent premises for operating light rail passenger transit. JOHNSON GROUP's operation of the food cart pod shall not cause interference with the operation or use of light rail transit. JOHNSON GROUP shall cease, and cause the operators to cease, all actions that interfere with light rail use, upon written or actual notice of such interference.

c. The City reserves the right, but shall not have the obligation, to take any action it deems necessary, in its sole discretion, to repair and maintain the Property as may be necessary; provided however that, except in the case of emergency (which shall mean actual or threatened harm to persons or property as determined in City's good faith judgment), the City shall take all reasonable precautions to avoid interference with operators' and JOHNSON GROUP's equipment or operations. Except in an emergency, the City will give JOHNSON GROUP reasonable notice and attempt to schedule any such activities so as to be the least disruptive to the operations of the food cart pod.

12. FEES, TAXES, AND LIENS

a. Any insurance cost, utility charge, or any other sum JOHNSON GROUP must pay to the City or third parties pursuant to this Agreement is deemed an "Additional License Fee." JOHNSON GROUP shall pay all Additional License Fees when due under the terms of any agreement between JOHNSON GROUP and any third party vendor, or as applicable, in the manner specified in this Agreement. All sums constituting an Additional License Fee will be paid irrespective of and independent from the License Fee described in Section 4, above.

b. JOHNSON GROUP will pay as due all taxes on its personal property located on the Property. City shall pay any property taxes due on land and improvements. Upon a party's reasonable request, each party shall provide the other with proof of payment of taxes. As used herein, "real property taxes" includes any fee or charge relating to the ownership, use, or rental of the Property, other than taxes on the net income of the City or JOHNSON GROUP.

c. Except respecting activities for which the City or TriMet are responsible, JOHNSON GROUP will pay as due all claims for work done, services rendered, or material furnished to the Property contracted for, or ordered by, JOHNSON GROUP. JOHNSON GROUP will keep the Property free from any liens. If JOHNSON GROUP fails to pay any such claims or to discharge any such lien, the City may do so and collect the cost as an Additional License Fee.

d. JOHNSON GROUP acknowledges that late payment of any License Fee or Additional License Fee to the City will result in unnecessary costs to the City, the value and extent of which are extremely difficult and economically impractical to ascertain. Accordingly, if JOHNSON GROUP fails to make any payment due to the City under this Agreement within ten (10) days of the date it is due, the City may elect to impose a late charge of five percent (5%) of the overdue payment, to reimburse the City for such administrative costs. The City may charge and collect such late charge in addition to all other remedies available to it. The City's collection of such late charge will not substitute for or waive the breach, or any remedy for such breach, resulting from the late payment.

13. TERMINATION.

a. In addition to the provisions of Paragraph 3, this Agreement may be terminated by JOHNSON GROUP if:

- (1) JOHNSON GROUP is unable to obtain any approval necessary for the operation of the food cart pod, or if any such approval is revoked, or if JOHNSON GROUP determines the cost of obtaining such approval is commercially unfeasible;
- (2) The terms of Section 14 apply; or
- (3) The City defaults under this Agreement and fails to cure such default within ten (10) business days of receipt of JOHNSON GROUP's written notice of default.

b. In addition to the provisions of Paragraph 3, this Agreement may be terminated by the City if:

- (1) The City determines, based on cited code or safety violations, as determined by the regulating authority, that the facilities installed or in use by JOHNSON GROUP or an operator are unsound, unsafe, or otherwise not suitable for use by food cart patrons, and JOHNSON GROUP fails to agree to promptly conduct all necessary repairs within a reasonable and specific period of time determined by the City, in the City's sole discretion;
- (2) The City determines based on cited code or safety violations, as determined by the regulating authority, that continued use of the Property by JOHNSON GROUP or one or more operators is in fact a threat to health, safety, or welfare or violates applicable laws or ordinances and JOHNSON GROUP fails to agree to promptly conduct all necessary repairs or implement changes within a reasonable and specific period of time determined by the City, in the City's sole discretion; or
- (3) JOHNSON GROUP defaults under this Agreement and fails and to cure such default within ten (10) business days of receipt of the City's written notice of default.

c. Upon termination of this Agreement for any reason, including expiration, JOHNSON GROUP will, at its sole cost and expense, restore the Property to its original condition, normal wear and tear excepted. JOHNSON GROUP also will remove its equipment, personal property, improvements, except underground PVC conduit or water lines, and any operator property on or before the date of termination, and will repair any damage to the Property caused by such use or equipment, normal wear and tear excepted, all at JOHNSON GROUP's sole cost and expense. Any such repair and restoration that is not performed or property or facilities that are not removed within thirty (30) days after the termination of the Agreement may be performed or removed by the City, at JOHNSON GROUP's sole expense, and, in the City's sole discretion, such equipment and facilities may either be disposed of or stored by the City at JOHNSON GROUP's sole expense. In the event JOHNSON GROUP fails to recover any such property from the City within sixty (60) days after the termination of the Agreement, such property will become the property of the City.

14. ALTERATIONS, DAMAGE, OR DESTRUCTION.

If the Property or any portion thereof is altered, destroyed, or damaged so as to materially prevent the use of the Property as a food cart pod through no fault or negligence of JOHNSON GROUP or any operator, then JOHNSON GROUP may elect to terminate this Agreement by providing written notice of termination to the City within ten (10) business days of the date of such alteration, destruction or damage. In such event, JOHNSON GROUP shall promptly remove any equipment or facilities from the Property, and the parties shall proceed as set forth in Section 13(d) above. This Agreement will terminate upon JOHNSON GROUP's fulfillment of the obligations set forth in the preceding sentence. The City shall have no obligation to repair any damage to any portion of the Property.

15. ACCEPTANCE OF PROPERTY.

Except for City's obligation to gravel the site, by entering into this Agreement, JOHNSON GROUP accepts the Property "as is," in the condition existing as of the effective date of this Agreement. Neither the City nor any of its employees or representatives has made any representation or warranty with respect to the Property, including, without limitation, the fitness of the Property for use as a food court pod or the condition of the Property and the City will not be liable for any latent or patent condition or defect in the Property.

16. NOTICES.

All notices, requests, demands, and other communications hereunder shall be in writing and shall be deemed given when personally delivered, electronically mailed (e-mailed) or if mailed, certified mail, return receipt requested, three (3) days following deposit of the notice in the United States mail, to the following addresses:

If to the City: Alma Flores
Community Development Director
City of Milwaukie
6101 SE Johnson Creek Blvd.
Milwaukie, OR 97206
floresa@milwaukieoregon.gov

With a copy to: Kathleen Bertero
Jordan Ramis, PC
PO Box 230669
Portland, OR 97281
Kathleen.Bertero@jordanramis.com

If to JOHNSON GROUP: Richard Johnson
JOHNSON GROUP
2856 NW Wardway Street, No.4
Portland, OR 97210
richard@montefina.com

17. INDEMNITY AND INSURANCE

a. JOHNSON GROUP will maintain at all times during the Initial Term and any Renewal Term the following insurance placed with companies with an AM best rating of "A" or better and with the following coverage limits:

(1) Commercial general liability insurance against any and all claims for bodily injury and property damage occurring on or about the Property arising out of JOHNSON GROUP's and the operators' use and occupancy of the Property. Such insurance shall have a combined single limit of not less than \$1,000,000 per occurrence with a \$2,000,000 aggregate limit. Such liability insurance shall be primary and not contributing to any insurance available to the City and the City's insurance shall be in excess thereto.

(2) Personal property insurance insuring all equipment, trade fixtures, inventory, fixtures, and personal property located on the Property for perils covered by the causes of loss – special form (all risk) on a replacement cost basis in an amount equal to one hundred percent (100%) of the full replacement value of the aggregate of the foregoing.

(3) Workers' compensation insurance in accordance with applicable law.

b. JOHNSON GROUP will list the City, and their officers, employees, and agents, as additional insureds under the policies required hereunder, and will provide the City additional insured endorsements as proof thereof before taking possession of the Property under this Agreement.

c. JOHNSON GROUP shall indemnify, hold harmless, and defend (with counsel reasonably satisfactory to the City) the City from any and all liabilities, claims, damages, and losses that arise from or are connected to the use or occupancy of or conduct upon the Property by JOHNSON GROUP, any operator, or any food cart patron. JOHNSON GROUP's obligation to indemnify the City will survive the termination of this Agreement.

18. MISCELLANEOUS.

a. Communications with City Staff. JOHNSON GROUP will designate one person with authority to act for JOHNSON GROUP, as available to communicate with City staff regarding this Agreement and operation of the food cart pod. This individual will contact Alma Flores at (503) 786-7652 first with any questions or concerns, and the City will do the same as JOHNSON GROUP's contact person. If Alma Flores is not available and the matter is urgent, JOHNSON GROUP's contact person may call the City Manager at (503) 786-7501.

b. Attorney Fees. If a suit, action, arbitration or other proceeding of any nature whatsoever, including without limitation any proceeding under the U.S. Bankruptcy code, is instituted, or the services of an attorney are retained, to interpret or enforce any provision of this Agreement or with respect to any dispute relating to this Agreement, the prevailing party shall be entitled to recover from the losing party its attorney fees, paralegal fees, accountant fees, and other expert fees, and all other fees, costs and expenses actually incurred and reasonably necessary in connection therewith. In the event of suit, action, arbitration or other proceeding, the amount of fees shall be determined by the judge or arbitrator, shall include fees and expenses incurred on any appeal or review, and shall be in addition to all other amounts provided by law.

c. Governing Law. This Agreement shall be construed in accordance with the laws of the state of Oregon.

d. Counterparts. This Agreement may be executed in any number of counterpart copies, each of which shall be deemed an original, but all of which together shall constitute a single instrument.

e. Audit and Examination of Records. The City may examine and audit JOHNSON GROUP's records that relate to this Agreement and the food cart pod operation. Examples of such records are JOHNSON GROUP's leases or agreements with food cart operators.

f. Operator Agreements. JOHNSON GROUP will create a form of agreement between JOHNSON GROUP and food cart operators under which an operator may locate and operate a food cart on the Property. The City's prior approval of such form, or amendment thereto, is required before JOHNSON GROUP and an operator may sign such agreement. Such agreement must provide that it terminates at the same time this Agreement terminates. It further must prohibit discrimination by food cart operators as provided in paragraph n, below. No operator may locate or operate a food cart upon the Property without first signing such operator agreement with JOHNSON GROUP.

g. Business Licenses Required. JOHNSON GROUP and the operators must obtain and maintain valid City of Milwaukee business licenses at all times any of them do business on the Property. A clause to this effect will be a clause within every operator agreement. Johnson Group will not suffer or permit any cart to operate without a business license and all other required licenses.

h. Assignment and Subletting. Other than entering into cart operator agreements with operators, in the form approved by the City, JOHNSON GROUP may not assign this Agreement or assign, mortgage, sublease, or confer any other property right to third persons regarding the Property without the City's prior written consent. The City may withhold its consent in its sole and arbitrary discretion. No consent in one instance shall prevent this provision from governing a subsequent instance.

i. Reversion to the City. If this Agreement is terminated, the City is entitled to recover damages for any License Fee unpaid up to the date of such termination. Upon termination of this Agreement, the City may reenter the Property, take possession, and remove any persons or property by legal action or by self-help with the reasonable use of force and without liability for damages and without having accepted a surrender.

j. Entire Agreement. This Agreement supersedes any prior agreement and embodies the entire agreement between the parties relative to its subject matter, and may not be modified, changed, or altered in any way except in a writing signed by the parties.

k. Relationship of Parties. Nothing contained in this Agreement shall create or be construed to create any relationship between the parties except that of licensor and licensee.

l. No Liability. No City employee shall have any personal liability with respect to any provisions of this Agreement.

m. Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect or impair the validity of any other provision. No waiver of any default of JOHNSON GROUP shall be implied from any failure by the City to take action with respect to such default.

n. JOHNSON GROUP shall not discriminate, or permit or suffer discrimination by any food cart operator, in providing service and products to any person on account of race, religion, national origin, sex, sexual orientation, marital status, disability, veteran's status, citizenship status, age (18 and older) or other characteristic protected by federal or state law.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the date of the last party to sign.

CITY OF MILWAUKIE

By: _____

Bill Monahan
City Manager

Date: _____

Richard Johnson, Owner

JOHNSON GROUP
Individually and for JOHNSON GROUP
Date: _____

Exhibit A
Property

Tract 2

A tract of land in Blocks 40 and 51, "Town of Milwaukie" and a portion of vacated Madison Street, in the Lot Whitcomb D.L.C. No. 38, in the Northwest quarter of Section 36, Township 1 South, Range 1 East of the Willamette Meridian, City of Milwaukie, Clackamas County, Oregon, the said tract being more particularly described as follows:

Commencing at a 4-1/4 inch diameter aluminum disk marking the West quarter corner of said Section 36; thence N06°18'04"E 400.47 feet to a 1-inch diameter brass disk stamped "TRIMET CONTROL 1950"; thence N48°28'41"E 103.91 feet to a point on the Northeasterly right-of-way line of Lake Road; thence S57°13'52"E along said right-of-way line 264.30 feet to the Southwesterly right-of-way line of 21st Avenue; thence N08°06'52"W along said right-of-way line 64.45 feet to the **TRUE POINT OF BEGINNING**;

thence, leaving said right-of-way line at right angles, S81°53'08"W 17.14 feet to the beginning of a 60.00 foot radius curve to the right, said curve being tangent to the previous course only; thence 17.96 feet along the arc of said curve, through a central angle of 17°09'14" (chord bears N89°32'15"W 17.90 feet) to a point; thence N21°19'37"E 15.31 feet to the Southeasterly extension of the Northeasterly face of the wall cap that tops the retaining wall for the TriMet Milwaukie Station; thence N68°31'33"W along said extension, and continuing along said Northeasterly face to an angle point; thence, proceeding along the Southeasterly face of wall cap, N21°16'30"E 120.97 feet to a point; thence, leaving said face of wall cap, S68°41'05"E 33.98 feet to an angle point; thence N81°53'08"E 4.50 feet to a point on the Westerly right-of-way line of 21st Avenue; thence S08°06'52"E along said right-of-way line 142.27 feet to the **TRUE POINT OF BEGINNING**.

Tract 2 contains 9,160 square feet, or 0.21 acre, more or less.

Basis of bearings is the Oregon Coordinate System of 1983, NAD83 [CORS 96, EPOCH: 2002.0000], per Survey No. 2013-011, Clackamas County Survey Records.



RENEWS: 7-1-16

Signed 5-19-14

RECORD OF SURVEY

PROPERTY LINE ADJUSTMENT

LOCATED IN BLOCKS 40 & 51, "MILWAUKIE" AND A PORTION OF VACATED MADISON STREET
 IN THE LOT WHITCOMB D.L.C. NO. 38, IN THE NW 3/4 OF SECTION 36,
 T.1S., R.1E., WILLAMETTE MERIDIAN, CITY OF MILWAUKIE,
 CLACKAMAS COUNTY, OREGON
 CITY OF MILWAUKIE COMMUNITY DEVELOPMENT LAND USE FILE PLA-13-01

CLACKAMAS COUNTY SURVEYOR
 DATE RECEIVED 12-11-14
 DATE ACCEPTED FILED 1-8-15
 SURVEY NUMBER SN2015-004

NARRATIVE:

THE PURPOSE OF THIS SURVEY IS TO MONUMENT A PROPOSED PROPERTY LINE ADJUSTMENT AS APPROVED BY CITY OF MILWAUKIE COMMUNITY DEVELOPMENT LAND USE FILE PLA-13-01. WHEN CONSTRUCTION OF THE MILWAUKIE LIGHT RAIL STATION IS COMPLETE, TRACT 2 WILL BE EXCESS PROPERTY TO BE SOLD FOR DEVELOPMENT.

THE PROPERTIES SUBJECT TO THIS SURVEY WERE CONVEYED TO TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON BY QUILTMAN DEED RECORDED AS DOCUMENT NO. 2012-040227 PARCELS 28 AND 29 AND WARRANTY DEED RECORDED AS DOCUMENT NO. 2012-038873, DEED RECORDS OF CLACKAMAS COUNTY.

BASES OF BEARINGS IS THE LINE BETWEEN TRIMET PRIMARY CONTROL POINTS 1990 AND 1992 WHICH LINE BEARS S22°45'00"W 437.40 FEET. HORIZONTAL DATUM IS NAD83 (ICRS 98, EPOCH: 2002.0000). THIS DATUM IS BEING USED FOR TRACT'S PORTLAND TO MILWAUKIE LIGHT RAIL TRANSIT PROJECT. PROJECT PRIMARY CONTROL WAS ESTABLISHED IN 2006 AND THAT CONTROL IS USED FOR TRIMET-RELATED PROJECTS BETWEEN PORTLAND AND MILWAUKIE.

BOUNDARY RESOLUTION: THE LEGAL DESCRIPTIONS FOR THE VESTING DEEDS WERE WRITTEN BY OTHERS AFTER BOUNDARIES WERE RESOLVED BASED UPON MONUMENTS SHOWN HEREON, FOUND PREVIOUSLY AND SUBSEQUENTLY DESTROYED BY LIGHT RAIL CONSTRUCTION. THE DESIGN AND CONSTRUCTION OF THE MILWAUKIE LIGHT RAIL STATION ARE DEPENDENT UPON SAID RESOLVED BOUNDARIES. I HAVE REVIEWED THE BOUNDARY RESOLUTION BY OTHERS, NOTED THAT IT IS COMPUTED FROM MONUMENTS OF RECORD, AND ACCEPTED IT AS DESCRIBED BELOW.

LAKE ROAD CENTERLINE HELD POINT 11303 AND A POINT S32°40'00"W 23.20 FEET FROM POINT 11197, PER PS-18648.

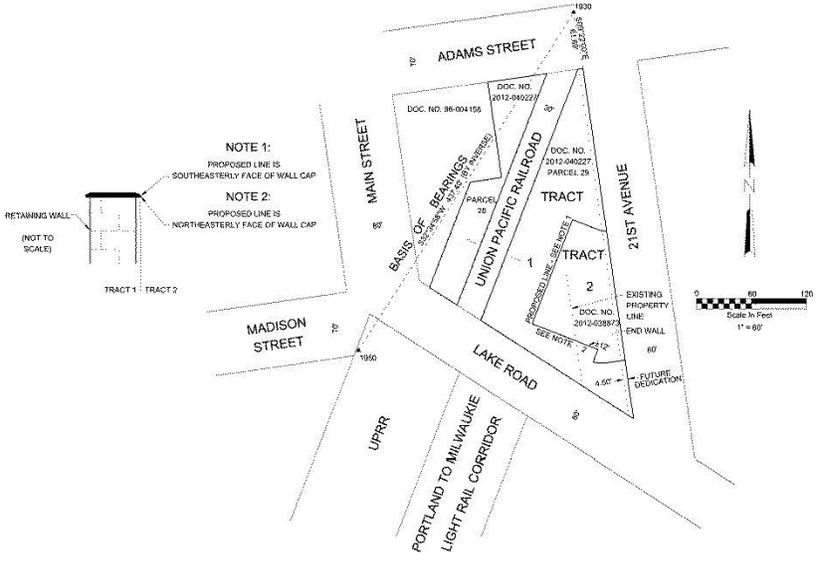
21ST AVENUE: HELD POINT 11162 AS A 4.00 FOOT PERPENDICULAR OFFSET TO THE WESTERLY RIGHT-OF-WAY LINE (28.00 FOOT PERPENDICULAR OFFSET TO CENTERLINE) PER PS-18648 AND HELD POINT 11163 AS A 4.17 FOOT OFFSET TO THE WESTERLY RIGHT-OF-WAY LINE (28.83 FOOT PERPENDICULAR OFFSET TO CENTERLINE) PER PS-18648.

ADAMS STREET: HELD POINT 11163 AS BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE AND HELD THAT LINE PERPENDICULAR TO 21ST AVENUE.

UPRR PACIFIC RAILROAD: THE RAILROAD CORRIDOR WAS COMPUTED BY OTHERS BY SPLITTING THE RAILS 7 METERS TO THE WEST QUARTER CORNER OF SECTION 36 MATCHED THE DEED CALLS TO THE RAILROAD RIGHT-OF-WAY LINES WHERE THEY INTERSECT THE SOUTHWAY LINE OF ADAMS STREET. I HELD THOSE POSITIONS AND THE DEED BEARINGS OF S21°16'00"W.

WESTERLY LINE OF PARCEL 28 AS DESCRIBED IN DOC. NO. 2012-040227 HELD THE DEED CALLS AND POINTS 11123 AND 11163.

NOTE: DESIGNATING A MONUMENT "HELD" INDICATES THAT THE MEASURED POSITION OF THE MONUMENT FALLS WITHIN 0.1 FOOT OF THE COMPUTED POSITION.



NOTE 1:
 PROPOSED LINE IS
 SOUTHEASTERLY FACE OF WALL CAP

NOTE 2:
 PROPOSED LINE IS
 NORTHEASTERLY FACE OF WALL CAP

APPROVAL:

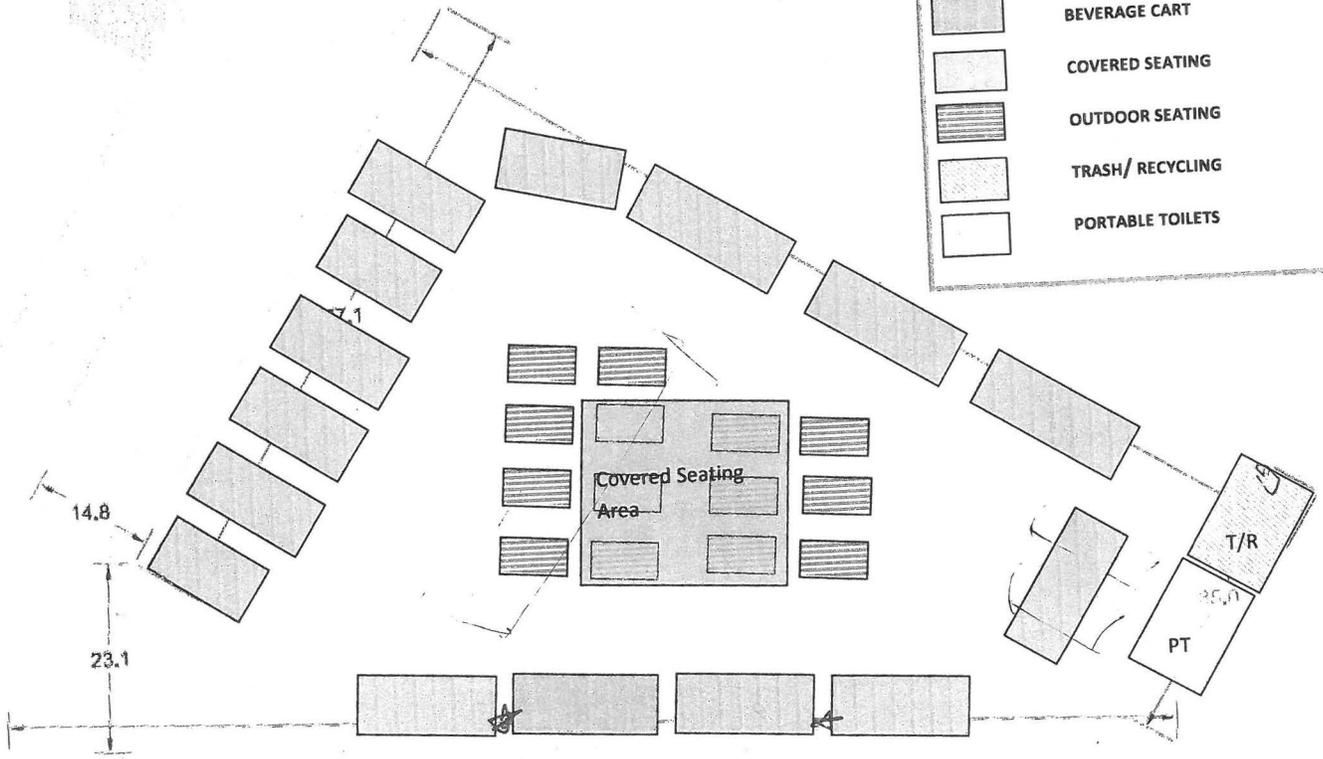
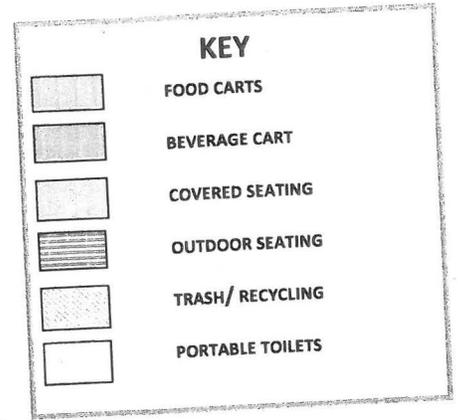
CITY OF MILWAUKIE COMMUNITY DEVELOPMENT
 LAND USE FILE: PLA-13-01
 APPROVED THIS 7TH DAY OF JANUARY, 2015
 BY: *Dennis Egnor*
 DENNIS EGNER, AICP
 PLANNING DIRECTOR

LEGEND:

▲ FOUND 1" BRASS CAP STAMPED "TRIMET CONTROL: 1990" (TYPICAL)

REGISTERED PROFESSIONAL LAND SURVEYOR
John V. Fratcher
 OREGON
 JULY 10, 1968
 JOHN V. FRATCHER
 #20181
 RENEWAL 7/31/2016
 SIGNED 1/7/2015

CAD FILE: Milwaukie PLA.dgn
PROPERTY LINE ADJUSTMENT
 FOR TRI-COUNTY METROPOLITAN
 TRANSPORTATION DISTRICT OF OREGON
CH2MHILL
 2020 SW FOURTH AVE, STE. 300, PORTLAND, OR 97201
 503-235-5000
 JANUARY 7, 2015 SHEET 1 OF 2





MILWAUKIE CITY COUNCIL
STAFF REPORT

Agenda Item: **RS 6. C.**
Meeting Date: **August 2, 2016**

To: Mayor and City Council
Through: Bill Monahan, City Manager

Subject: **Recreational Marijuana Tax**

From: Casey Camors, Finance Director
Dennis Egner, Planning Director

Date: July 26, 2016

ACTION REQUESTED

Approve the ordinance and resolution attached to this report. These actions will lead to the enactment of text amendments to the Milwaukie Municipal Code to impose a 3% tax on the sale of recreational marijuana products. Consistent with state law, the resolution includes a referral of the ordinance to City electors at the next statewide general election (November 8, 2016). The ordinance language establishing the tax will only become effective if it receives voter approval.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

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

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

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

BACKGROUND

Section 34a of House Bill 3400 (2015) (codified at ORS 475B.345) provides that a city council may adopt an ordinance to be referred to the voters that imposes up to a 3% tax or fee on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city.

In September 2014, the City Council passed Ordinance 2083 (MMC Chapter 5.55) establishing a 10% tax on recreational marijuana products. This ordinance was adopted as a preemptive measure in the event that Measure 91 passed and prevented new local taxes from being imposed. Subsequently, the legislature passed House Bill 3400 which sets a 3% limit on local taxes and requires a local vote by the electorate to enact the tax. Consistent with state law, the attached ordinance establishes a 3% tax on the sale of recreational marijuana products in the City (MMC Chapter 5.65). Concurrently, the ordinance will repeal the existing code section adopted in 2014 that established the unenforceable 10% marijuana tax (MMC Chapter 5.55).

The City Attorney is currently working on the appropriate verbiage to use for the tax rate (3% vs. “maximum amount allowed under state law”) resolution and ordinance and will be prepared to have a discussion with the City Council on this matter and further information is anticipated.

CONCURRENCE

The City Attorney prepared the draft ordinance and resolution. The Finance Director and Planning Director have coordinated the effort to bring this issue before the Council.

FISCAL IMPACTS

If the ordinance is approved by the voters, Milwaukie will receive additional tax revenue from recreational marijuana sales within City boundaries. The amount received will be entirely dependent on the number of retail outlets in the community and the number of sales.

WORK LOAD IMPACTS

A small administrative expense will be incurred to administer the program. The League of Oregon Cities is working with the State Department of Revenue on an agreement that would enable the state to collect the tax and distribute it to each local government.

ALTERNATIVES

The alternative is to not enact a tax, in which case neither the ordinance nor the resolution should be adopted.

ATTACHMENTS

1. Draft Ordinance – Recreational Marijuana Tax
Exhibit A – Proposed Code Amendments (Underline/Strikeout Version)
Exhibit B – Proposed Code Amendments (Clean Version)
2. Resolution – Refers Recreational Marijuana Tax to the Electors
Exhibit A – Recreational Marijuana Tax Ordinance with Exhibits
Exhibit B – Notice of Measure Election



CITY OF MILWAUKIE

"Dogwood City of the West"

Ordinance No.

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

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

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

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

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

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

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

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

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

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

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

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

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

Signed by the Mayor on _____.

Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

Underline/Strikeout Amendments

~~CHAPTER 5.55 MARIJUANA TAX~~

~~5.55.010 PURPOSE~~

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

~~5.55.015 DEFINITIONS~~

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

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

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

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

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

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

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

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

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

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

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

Proposed Code Amendment

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

5.55.020 TAX IMPOSED

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

5.55.025 AMOUNT AND PAYMENT, EXEMPTION, DEDUCTIONS

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

5.55.030 SELLER RESPONSIBLE FOR PAYMENT OF TAX

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

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

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

5.55.035 PENALTIES AND INTEREST

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

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

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

Proposed Code Amendment

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

5.55.045 APPEAL

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

5.55.050 REFUNDS

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

5.55.055 ACTIONS TO COLLECT

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

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

~~5.55.060 VIOLATION~~

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

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

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

~~5.55.065 CONFIDENTIALITY~~

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

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

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

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

Proposed Code Amendment

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

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

5.55.075 FORMS AND REGULATIONS

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

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

Chapter 5.65

RECREATIONAL MARIJUANA TAX

5.65.010 Purpose
5.65.015 Definitions
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5.65.060 Confidentiality
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5.65.075 Intergovernmental Agreement

5.65.010 Purpose

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

5.65.015 Definitions

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

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

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

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

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

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

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

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

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

Proposed Code Amendment

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

5.65.020 Tax Imposed

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

5.65.025 Amount, Payment, and Deductions

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

5.65.030 Marijuana Retailer Responsible for Payment of Tax

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

5.65.035 Penalties and Interest

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

5.65.040 Appeal

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

5.65.045 Refunds

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

Proposed Code Amendment

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

5.65.050 Actions to Collect

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

5.65.055 Violation

A. Violation of this chapter shall constitute a violation pursuant to Chapter 1.12 of this code, General Penalty. It is a violation of this chapter for any marijuana retailer or other person to:

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

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

5.65.060 Confidentiality

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

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

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

5.65.065 Audit of Books, Records, or Persons

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

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

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

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

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

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

5.65.070 Forms and Regulations

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

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

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

C. A form to report refund claims.

5.65.075 Intergovernmental Agreement

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

Clean Amendments

Chapter 5.65

RECREATIONAL MARIJUANA TAX

- 5.65.010 Purpose**
- 5.65.015 Definitions**
- 5.65.020 Tax Imposed**
- 5.65.025 Amount, Payment, and Deductions**
- 5.65.030 Marijuana Retailer Responsible for Payment of Tax**
- 5.65.035 Penalties and Interest**
- 5.65.040 Appeal**
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- 5.65.050 Actions to Collect**
- 5.65.055 Violation**
- 5.65.060 Confidentiality**
- 5.65.065 Audit of Books, Records, or Persons**
- 5.65.070 Forms and Regulations**
- 5.65.075 Intergovernmental Agreement**

5.65.010 Purpose

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

5.65.015 Definitions

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

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

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

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

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

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

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

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

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

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

5.65.020 Tax Imposed

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

5.65.025 Amount, Payment, and Deductions

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

5.65.030 Marijuana Retailer Responsible for Payment of Tax

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

5.65.035 Penalties and Interest

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

5.65.040 Appeal

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

5.65.045 Refunds

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

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

5.65.050 Actions to Collect

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

5.65.055 Violation

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

5.65.060 Confidentiality

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

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

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

5.65.065 Audit of Books, Records, or Persons

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

5.65.070 Forms and Regulations

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

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

5.65.075 Intergovernmental Agreement

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



CITY OF MILWAUKIE

"Dogwood City of the West"

Resolution No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPROVING REFERRAL TO THE ELECTORS OF THE CITY OF MILWAUKIE AT THE NOVEMBER 8, 2016 GENERAL ELECTION, THE QUESTION OF WHETHER TO ESTABLISH A THREE PERCENT TAX ON THE SALE OF RECREATIONAL MARIJUANA ITEMS BY A MARIJUANA RETAILER IN THE CITY OF MILWAUKIE.

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

WHEREAS, the City of Milwaukie City Council adopted Ordinance No.____, which establishes a three percent tax or fee on the sale of recreational marijuana items by a marijuana retailer in the City of Milwaukie; and

WHEREAS, the Milwaukie City Council, pursuant to Section 34a of HB 3400 (ORS 475B.345), desires to refer Ordinance No. _____ to the electors of the City of Milwaukie.

Now, Therefore, be it Resolved that:

SECTION 1. Measure. A measure election is called in and for the City of Milwaukie, Clackamas County, Oregon, for the purpose of submitting a measure that would establish a three percent tax on the sale of recreational marijuana items by marijuana retailers in the City of Milwaukie. A copy of the ordinance that is subject to the measure is attached and incorporated as "Exhibit A."

SECTION 2. Election Conducted by Mail. The measure election shall be held on Tuesday, November 8, 2016, which is the next general election. The precinct for the election shall be all of the territory within the corporate limits of the City of Milwaukie. As required by ORS 254.465, the measure election will be conducted by mail by the Clackamas County Elections Department, according to the procedures adopted by the Oregon Secretary of State.

SECTION 3. Notice of Ballot Title. The City Elections Officer is directed to publish notice of receipt of the ballot title in the Milwaukie Chronicle or The Oregonian in compliance with ORS 250.275(5).

SECTION 4. Ballot Title. Pursuant to ORS 250.285 and ORS 254.095, the Milwaukie City Council directs the City Elections Officer to file a notice of City Measure Election in substantially the form of Exhibit B, with the Clackamas County Elections Office, unless, pursuant to a valid ballot title challenge, a judge at the Clackamas County Circuit Court certifies a different Notice of City Measure Election be filed, such filing shall occur no earlier than the eighth business day after the date on which Exhibit B is filed with the City Elections Officer and not later than September 8, 2016.

SECTION 5. Explanatory Statement. The explanatory statement for the measure, for publication in the county voters' pamphlet, which is attached and incorporated as "Exhibit C," is approved; said statement shall be filed with the Clackamas County Elections Office at the same time the Notice of City Measure Election is filed by the City Elections Officer.

SECTION 6. Delegation. The Milwaukie City Council authorizes the City Manager or a designee of the City Manager to act on behalf of the City of Milwaukie and to take such further action as is necessary to carry out the intent and purposes herein in compliance with the applicable provisions of law.

SECTION 7. Effect of "Yes" Vote. If a majority of eligible voters vote "yes" on the measure, Ordinance No. _____ will become operative, and a three percent tax will be imposed on the sale of recreational marijuana items by marijuana retailers in the corporate limits of the City of Milwaukie.

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



CITY OF MILWAUKIE

"Dogwood City of the West"

Ordinance No.

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

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

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

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

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

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

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

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

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

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

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

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

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

Signed by the Mayor on _____.

Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

Underline/Strikeout Amendments

~~CHAPTER 5.55 MARIJUANA TAX~~

~~5.55.010 PURPOSE~~

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

~~5.55.015 DEFINITIONS~~

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

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

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

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

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

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

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

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

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

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

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

Proposed Code Amendment

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

~~5.55.020 TAX IMPOSED~~

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

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

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

~~5.55.030 SELLER RESPONSIBLE FOR PAYMENT OF TAX~~

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

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

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

~~5.55.035 PENALTIES AND INTEREST~~

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

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

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

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

5.55.045 APPEAL

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

5.55.050 REFUNDS

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

5.55.055 ACTIONS TO COLLECT

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

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

~~5.55.060 VIOLATION~~

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

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

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

~~5.55.065 CONFIDENTIALITY~~

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

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

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

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

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

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

5.55.075 FORMS AND REGULATIONS

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

- ~~A. A form of report on sales and purchases to be supplied to all vendors;~~
 - ~~B. The records which sellers providing marijuana and marijuana-infused products are to keep concerning the tax imposed by this chapter.~~
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Chapter 5.65

RECREATIONAL MARIJUANA TAX

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

5.65.010 Purpose

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

5.65.015 Definitions

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

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

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

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

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

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

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

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

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

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

5.65.020 Tax Imposed

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

5.65.025 Amount, Payment, and Deductions

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

5.65.030 Marijuana Retailer Responsible for Payment of Tax

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

5.65.035 Penalties and Interest

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

5.65.040 Appeal

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

5.65.045 Refunds

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

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

5.65.050 Actions to Collect

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

5.65.055 Violation

A. Violation of this chapter shall constitute a violation pursuant to Chapter 1.12 of this code, General Penalty. It is a violation of this chapter for any marijuana retailer or other person to:

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

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

5.65.060 Confidentiality

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

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

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

5.65.065 Audit of Books, Records, or Persons

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

5.65.070 Forms and Regulations

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

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

5.65.075 Intergovernmental Agreement

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

Clean Amendments

Chapter 5.65

RECREATIONAL MARIJUANA TAX

- 5.65.010 Purpose**
- 5.65.015 Definitions**
- 5.65.020 Tax Imposed**
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- 5.65.065 Audit of Books, Records, or Persons**
- 5.65.070 Forms and Regulations**
- 5.65.075 Intergovernmental Agreement**

5.65.010 Purpose

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

5.65.015 Definitions

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

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

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

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

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

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

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

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

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

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

5.65.020 Tax Imposed

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

5.65.025 Amount, Payment, and Deductions

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

5.65.030 Marijuana Retailer Responsible for Payment of Tax

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

5.65.035 Penalties and Interest

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

5.65.040 Appeal

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

5.65.045 Refunds

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

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

5.65.050 Actions to Collect

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

5.65.055 Violation

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

5.65.060 Confidentiality

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

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

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

5.65.065 Audit of Books, Records, or Persons

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

5.65.070 Forms and Regulations

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

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

5.65.075 Intergovernmental Agreement

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

Notice of Measure Election City

Notice		
Date of Notice	Name of City or Cities City of Milwaukie	Date of Election November 8, 2016

The following is the final ballot title of the measure to be submitted to the city's voters.

Final Ballot Title	Notice of receipt of ballot title has been published and the ballot title challenge process has been completed.
Caption	10 words which reasonably identifies the subject of the measure
Imposes city tax on marijuana retailer's sale of marijuana items.	

Question	20 words which plainly phrases the chief purpose of the measure
Shall the City impose a three percent tax on the sale of recreational marijuana items by a marijuana retailer?	

Summary	175 words which concisely and impartially summarizes the measure and its major effect
Under state law, a city council may adopt an ordinance to be referred to the voters of the city imposing up to a three percent tax or fee on the sale of recreational marijuana items in the city by a licensed marijuana retailer.	
If this measure is adopted, it would approve a Milwaukie Ordinance imposing a three percent tax on the sale of recreational marijuana items in the city by a licensed marijuana retailer. The tax would be collected at the point of sale and remitted by the marijuana retailer. The measure also includes provisions regarding collection, administration and enforcement of the tax.	

Explanatory Statement	500 words that impartially explains the measure and its effect, if required attach to this form					
If the county is producing a voters' pamphlet an explanatory statement must be submitted for any measure referred by the city governing body and if required by local ordinance, for any initiative or referendum.						
Measure Type	County producing voters' pamphlet	Local ordinance requiring submission		Explanatory statement required		
<input checked="" type="checkbox"/> Referral	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Not applicable		<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	
<input type="checkbox"/> Initiative	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
<input type="checkbox"/> Referendum	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No	

Authorized City Official	Not required to be notarized
→ By signing this document, I hereby state that I am authorized by the city to submit this Notice of Measure Election and I certify that notice of receipt of ballot title has been published and the ballot title challenge process for this measure completed.	

Name	Title	Work Phone

Signature	Date Signed

EXPLANATORY STATEMENT

500 words

Under measure 91, adopted by the Oregon voters in November 2014, and amended by the Legislature in 2015, the Oregon Liquor Control Commission must license the retail sale of recreational marijuana. The 2015 Legislation provides that a city council may adopt an ordinance imposing up to a three percent tax on the sale of recreational marijuana items (which include marijuana concentrates, extracts, edibles, and other products intended for human consumption and use) by retail licensees in the city, but the council must refer that ordinance to the voters at a statewide general election. The City of Milwaukie City Council has adopted an ordinance imposing a three percent tax on the sale of recreational marijuana items by a marijuana retailer in the city, and, as a result, has referred this measure to the voters.

If this measure is adopted, it would approve Milwaukie Ordinance No. ____ imposing a three percent tax on the sale of recreational marijuana items in the city by a licensed marijuana retailer. The tax would be collected at the point of sale and remitted by the marijuana retailer. The measure also includes provisions regarding collection, administration and enforcement of the tax. There are no restrictions on how the city may use the revenues generated by this tax.



MILWAUKIE CITY COUNCIL
STAFF REPORT

Agenda Item: **RS 6. D.**
Meeting Date: **August 2, 2016**

To: Mayor and City Council

Through: Bill Monahan, City Manager

Subject: **Adopt an ordinance adding Section 2.05.020 to the Milwaukie Municipal Code authorizing the appointment of a municipal court judge pro tem and declaring an emergency**

From: Casey Camors, Finance Director

Date: July 25, 2016

ACTION REQUESTED

Adopt an emergency ordinance authorizing the City Council to appoint a municipal court judge pro tem.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

Section 28 of the Milwaukie Charter provides:

City Charter - Section 28. Municipal Judge.

(a) *The municipal judge shall be the judicial officer of the city. The municipal judge shall be appointed by and hold office during the pleasure of the council. The municipal judge shall be a member in good standing of the Oregon State Bar during the entire term of office. Disbarment shall be a basis for removal from office. The municipal court judge shall hold a court within the city which shall be known as the municipal court for the city of Milwaukie, Clackamas County, Oregon. The court shall be open for transaction of judicial business for such days and hours as the council may establish.*

(b) *Except as this charter or city ordinance prescribes to the contrary, procedures of the court shall conform to the general laws of this state governing justice of the peace and justice courts.*

(c) *All area within the city and, to the extent provided by state law, area outside the city is within the territorial jurisdiction of the court.*

(d) *The municipal court has original jurisdiction of all offenses defined and made punishable by ordinances of the city and of all actions brought to recover or enforce forfeitures or penalties defined or authorized by any ordinance of the city. The municipal judge may:*

(1) *render judgments and, for enforcing them, impose sanctions on persons and property within the court's territorial jurisdiction;*

(2) *order the arrest of anyone accused of an offense against the city;*

(3) *commit to jail or admit to bail anyone accused of such an offense;*

(4) *issue and compel obedience to subpoenas;*

(5) *compel witnesses to appear and testify and jurors to serve in the trial of matters before the court;*

(6) *penalize contempt of court;*

(7) *issue process necessary to effectuate judgments and orders of the court;*

(8) *issue search warrants; and*

(9) *perform other judicial and quasi-judicial functions prescribed by ordinance.*

(e) *A municipal judge may appoint municipal judges pro tem which judges shall serve at the pleasure of the council.*

(f) *Notwithstanding this section, the council may transfer some or all of the functions of the municipal court to an appropriate state court.*

Chapter 2.05 of the Milwaukie Municipal Code relates to municipal court administration.

BACKGROUND

The City currently has a contract with Kimberly Graves to provide municipal court judge services. Judge Graves occasionally appoints a municipal court judge pro tem if she is unavailable to serve as municipal court judge. However, there is no consistent Council appointed support in place should Judge Graves need to recuse herself to provide due process to a defendant or to deal with occasional overflow.

The City Attorney has advised that pursuant to Charter authority, the City Council may provide for appointment of a municipal court judge pro tem. Appointment of a judge pro tem by the City Council provides additional municipal court judge services to address overflow and due process issues when and if necessary, and allows for direct payment to the judge pro tem.

Judge Graves has agreed to a modification of her agreement with the City to acknowledge the City Council's appointment of a judge pro tem.

The Court Clerk requests that an additional court day be added in October. In order to allow for that, the interview and hiring process, as well as the appointment by the City Council, would need to be completed by early October. Therefore, it is in the City's best interest to adopt the Ordinance with an emergency clause.

The timeline would be:

- RFP Release Date: August 5, 2016
- RFP Responses must be submitted by: 5 p.m. August 26, 2016
- Interviews will be conducted during the week of: September 5, 2016
- Council Consideration: September 20, 2016
- Anticipated Start Date: October 12, 2016

CONCURRENCE

The Finance Director and City Manager have worked with the City Attorney's office to develop the language in the proposed Ordinance and to ensure that it is consistent with the City's Charter and Code. The City Attorney has reviewed the Ordinance and concurs. The Municipal Court Judge acknowledges the City Council's authority to appoint a judge pro tem and agrees to a modification to her contract to recognize the appointment.

FISCAL IMPACTS

The City will add four Court sessions to the existing docket \$900 per full court date or a total of \$3,700.

WORK LOAD IMPACTS

This Ordinance and resulting hire of a municipal court judge pro tem will marginally impact the workload of the current Municipal Court Judge and Court Clerk.

ALTERNATIVES

The Council could choose to take no action or research other options for action by the City.

STAFF RECOMMENDATION

Staff recommends that City Council approve the proposed Ordinance and declare it an emergency.

ATTACHMENTS

1.EXHIBIT A: ORDINANCE

**CITY OF MILWAUKIE
Ordinance No. ____**

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE APPOINTMENT OF A MUNICIPAL COURT JUDGE PRO TEM AND ADOPTING SECTION 2.05.020 OF THE MILWAUKIE MUNICIPAL CODE

WHEREAS, Section 28(e) of the Milwaukie Charter provides that “A municipal judge may appoint municipal judges pro tem which judges shall serve at the pleasure of the council”; and

WHEREAS, the presiding Municipal Court Judge occasionally appoints a judge pro tem when she is unavailable to hold court; and

WHEREAS, there is the need to appoint a judge pro tem; and

WHEREAS, the Court Clerk, in coordination with the presiding Municipal Court Judge, may schedule the Municipal Judge Pro Tem in a manner that best ensures the presiding Municipal Court Judge’s schedule and duties are not disrupted; and

WHEREAS, the City Council finds that it will cause the least disruption to the docketing and holding of court if a judge pro tem is appointed immediately; and

WHEREAS, the presiding Municipal Court Judge acknowledges that a separate appointment of a judge pro tem by the City Council is authorized by the Charter and will enhance the services provided by the court without undue impairment of the Agreement with the presiding Municipal Court Judge; and

WHEREAS, because the judge pro tem serves at the pleasure of the City Council, it is appropriate to add the appointment of a judge pro tem to Chapter 2.05, Municipal Court Administration, of the Milwaukie Municipal Code,

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

Section 1. Section 2.05.020 is added to the Milwaukie Municipal Code to read as follows:

2.05.020. APPOINTMENT OF MUNICIPAL COURT JUDGE PRO TEM

The City Council may provide for the appointment of a Municipal Court Judge Pro Tem, referred to as the “Judge Pro Tem.” The Judge Pro Tem shall hold court in the Milwaukie Municipal Court at the request of the City Council or City Manager. The Judge Pro Tem will have the same authority and duties as the Municipal Court Judge while holding court.

Section 2. Emergency. In order to accommodate the Municipal Court docket, this Ordinance is necessary for the immediate protection of public health, safety and general welfare; therefore an emergency is declared to exist and this Ordinance shall become effective upon the date of its adoption.

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

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

Signed by the Mayor on _____, 2016.

APPROVED: Approved by Milwaukie City Council this _____ day of _____, 2016.

Mark Gamba, Mayor

ATTEST:

Pat DuVal, City Recorder

Approved as to form:

City Attorney



MILWAUKIE CITY COUNCIL
STAFF REPORT

Agenda Item: **RS 6. E.**
Meeting Date: **August 2, 2016**

To: Mayor and City Council
Through: Bill Monahan, City Manager

Subject: **Business Taxes Ordinance**

From: Casey Camors, Finance Director

Date: August 2, 2016

ACTION REQUESTED

Adopt Ordinance providing revisions to Business Taxes Municipal Code chapter (5.08)

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

Business Taxes (5.08):

November 2008 - Council adopted Ordinance 1989, Business Taxes Generally, which amended certain sections of the Code.

May 15, 2012 - Council directed staff to further rewrite sections relating to the application of business tax related to rental property.

June 10, 2012 – Council adopted amended code language included clarification that a property owner's first unit of rental property ought not to be subject to a business tax (est. at 50 applicable owners).

July 19, 2016 – Council deliberated and provided guidance to move forward with modifying the Business Taxes Municipal Code chapter (5.08).

BACKGROUND

Business Taxes:

Council has adopted Ordinance 2120 which requires that each an operator of a short term rental acquire a business tax registration with the City. The business registration code requires update as the existing code exempts the first rental property owned from a business tax registration. The existing requirement (Ord. 2120) that each operator hold a valid business registration is inconsistent with the business tax registration as currently, not all owners of residential rental units are required to hold a valid business registration.

To address this issue, the proposed Ordinance modifies the business tax code to align it with Ordinance 2120. Additionally, opening the business registration code offers the opportunity to clean up other elements of the existing business registration code as follows:

- Defines 'fulltime equivalent employee (FTE)' for clarity of registering businesses.
- Removes applicable fee information, referring the reader to the City's fee and charges resolution adopted annually.

- Modifies business registration penalty from 10 percent of tax owed compounded per month to a one-time penalty of 10 percent of tax owed.
- Requires all businesses to register with the Oregon Corporation Division.
- Removes exemption for first residential rental property owned.
- Clarifies that property management firms must also hold a valid business registration in addition to the business registration held by the rental property owner.
- Assesses 9 percent per annum interest to delinquent business registrations.
- Allows for formal audit of rental property owners' records and audit cost recoveries for variances of 3% or more (in alignment with existing franchise agreements).
- Modifies predominate responsibility for system management from the City Manager to the Finance Director.
- Exempts licensed insurers, insurance producers, or their representatives from business registration requirements in compliance with ORS 731.841.

The Ordinance effective date is October 1, 2016 to allow City staff to provide sufficient notice and service to property owners.

CONCURRENCE

The City Attorney and Planning Director have reviewed the code section and agree with the language.

FISCAL IMPACTS

Staff expects business registration revenue to increase due to the removal of the first rental property exemption; however, some of that additional revenue will be offset by the reduction to the penalty.

WORK LOAD IMPACTS

The Finance Department will begin giving notice to potential single rental properties in an attempt to get them appropriately registered. Planning will continue to review business registrations.

ALTERNATIVES

Adjust code sections for any element presented or give direction not to proceed.

ATTACHMENTS

1. Ordinance
2. Attachment A - Chapter 5.08 Business Taxes Generally as amended
3. Attachment B - Chapter 5.08 Business Taxes Generally redline version



CITY OF MILWAUKIE

"Dogwood City of the West"

Ordinance No.

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING MILWAUKIE MUNICIPAL CODE CHAPTER 5.08 BUSINESS TAXES GENERALLY.

WHEREAS, City Council passed Ordinance No. 1989 amending Milwaukie Municipal Code chapter 5.08, business taxes generally; and

WHEREAS, in 2012 City Council passed Ordinance No. 2048 amending Milwaukie Municipal Code Chapter 5.08 business taxes generally, allowing residential property owners to exclude their first rental unit from the business tax registration requirement; and

WHEREAS, the City Council finds that all residential rental properties shall be subject to business tax registration requirement; and

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

Section 1. Chapter 5.08 of the Milwaukie Municipal Code is hereby amended to read as shown in attachment A.

Section 2. Ordinance shall be effective October 1, 2016.

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

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

Signed by the Mayor on _____.

Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

ATTACHMENT A

CHAPTER 5.08 BUSINESS TAXES GENERALLY

5.08.010 PURPOSE

The business taxes imposed by this chapter are for revenue purposes only. The fees shall be in addition to and not in lieu of any other license, permit fee, charge, or tax required under any other ordinance of the City. (Ord. 1989 § 1, 2008; Ord. 1349 § 1, 1976)

5.08.020 DEFINITIONS

The following words or phrases, except where the context clearly indicates a different meaning, shall be defined as provided in this section:

“Business” means an enterprise, establishment, store, shop, activity, profession, management companies, or undertaking of any nature conducted directly or indirectly for private profit or benefit. Peddlers and solicitors are specifically included in this definition.

“City” means the City of Milwaukie, Oregon.

“City Manager” means the City Manager or designee.

“Doing, engaging in or transacting business” means any act or series of acts performed in the course of the pursuit of a business activity.

“Duplex” means a building containing two (2) adjoining units of individual housing.

“Fulltime equivalent employee (FTE)” means an amount equivalent to the number of full-time workers with 1.0 equal to one full-time worker, and 0.5 FTE equal to one half of a full-time worker. Two 0.5 FTE’s are equal to 1.0 FTE.

“Multifamily dwelling” means a building with three (3) or more individual housing units such as a triplex, fourplex, or apartment complex.

“Nonprofit organization” means a religious, philanthropic, patriotic, and/or charitable organization. An organization shall be considered to be nonprofit if it meets the tests of a tax-exempt organization as specified by the Internal Revenue Service.

“Person” means and includes individual natural persons, partnerships, joint ventures, societies, associations, clubs, trustees, trusts, or corporations, or any officers, agents, employees, or any kind of personal representatives thereof, in any capacity, either on that person’s own behalf or for any other person, under either personal appointment or pursuant to law.

“Rental property” means a building, portion of building, or group of buildings within the City which are rented, leased or let for any purpose, including, but not limited to, dwelling or business

purposes. Rental property includes, but is not limited to, a hotel or motel, automobile or tourist court, rooming or lodging house, mobile home or trailer park, private residence, duplex, multifamily dwelling, apartment complex, office or warehouse. (Ord. 2048 § 1, 2012; Ord. 1989 § 2, 2008; Ord. 1863 § 2, 1999; Ord. 1349 § 2, 1976)

5.08.030 IMPOSED

A. No person shall maintain, operate, engage in, conduct, or carry on any business within the City without first having paid the business tax as established by this chapter.

B. As of the effective date of the ordinance codified in this section fees shall be set as part of the City's fee and charges resolution.

D. As used in subsection B of this section, "FTE" means "fulltime equivalent employee." Each business taxpayer must pay the FTE amount in addition to the applicable base rate. The number of FTEs for which payment is required is based on the number of full-time equivalent employees as of January 1st for full-year taxpayers, and on the first day of business for other taxpayers. No additional payments or refunds are applied for changes in the number of employees during the tax year.

E. Any business that fails to remit any portion of any tax imposed by this chapter within the time required shall pay a penalty of ten percent (10%) of the amount of the tax, in addition to the original amount of the tax. (Ord. 1989 § 3, 2008; Ord. 1951 § 1, 2005; Ord. 1349 § 3, 1976)

F. All businesses are required to register with the Oregon Corporation Division.

5.08.040 MULTIPLE BUSINESSES OR PREMISES

If a person is engaged or doing business at more than one establishment, branch or location, specifically including, but not limited to, apartment complexes, multifamily dwellings, commercial business complexes and retail shopping centers, each such establishment, branch or location shall be deemed a separate business and each business shall be subject to the business tax. If two (2) or more businesses are carried on at the same location each shall be required to pay separate business tax, except in situations where it can be shown where the individual businesses are in fact one business. In determining whether different activities at the same location are in fact one business, normal and ordinary customs and usages of business shall be considered.

For rental properties other than apartment complexes and multifamily dwellings, the owner shall be considered to have one business and be subject to one business tax. Thus the business tax is applied to the owner of the rental property as engaging in a business.

Business tax is applied to each location for apartment complexes and multifamily dwellings. (Ord. 2048 § 2, 2012; Ord. 1989 § 4, 2008; Ord. 1349 § 4, 1976)

Business tax is applied to each location for apartment complexes and multifamily dwellings. (Ord. 2048 § 2, 2012; Ord. 1989 § 4, 2008; Ord. 1349 § 4, 1976)

Property management firms engaging in the management of rental properties owned by other persons are subject to the business tax in addition to the business tax assessed on the rental property owner.

5.08.050 TAX YEAR AND PAYMENTS

- A. The tax year is from January 1st to December 31st.
- B. The business tax shall be paid annually in advance of the business tax year. For businesses starting after January 1st of any year, the business tax must be paid within thirty (30) days of commencing business.
- C. Businesses shall be liable for the tax from the date they commence doing business within the City and not from the date of the tax is paid or the tax form submitted. (Ord. 1951 § 2, 2005; Ord. 1349 § 5, 1976)

5.08.060 DELINQUENCY CHARGE

- A. The business license tax shall be deemed delinquent if not paid by February 1st of the applicable business tax year. If a person begins engaging in business after the start of the business tax year, the business tax shall be deemed delinquent if the tax is not paid within thirty (30) days after commencement of the business activity.
- B. Whenever the business tax is not paid on or before the delinquent date a penalty charge equal to ten percent (10%) of the original business tax is due and payable.
- C. The date that the business tax is received by the City or the date of the postmark if remittance is made by mail shall be used in determining when the business tax is paid.
- D. Interest at the rate of nine percent (9%) per annum will be imposed on any unpaid tax from the due date until the date payment in full is received by the Finance Department.
- E. Notwithstanding the date of receipt of the business tax, the tax shall be held to be delinquent if a complete information form has not been filed with the City. Completeness of the form will be judged by the completeness of the information requested on the form.
- F. The City Manager or designee shall have the authority to waive a delinquency charge when, in the Manager's judgment, circumstances are such that a delinquency charge should not be assessed. (Ord. 1863 § 3, 1999; Ord. 1379 § 1, 1977; Ord. 1349 § 6, 1976)

5.08.070 INSPECTION OF BUSINESS RECORDS

The Finance Director is empowered to investigate and examine pertinent records of businesses as required to determine violations of this chapter. A formal audit of all of business tax records may be conducted at the discretion of the Finance Director. If, under this formal audit, it is determined that any business has underpaid the taxes due by 3% or more, the business shall pay a prorated portion of the total audit fee. Should the Finance Director, in his/her sole discretion, conduct or cause to be conducted individual audits in addition to the audit anticipated above, and should that individual audit determine that the audited business has underpaid the taxes due by 3% or more, the business shall pay the total individual audit fee. (Ord. 1349 § 7, 1976)

If the Finance Director determines that the nonpayment of any remittance due under this chapter is due to fraud or intent to evade the provisions of this chapter, a penalty of twenty-five (25%) percent of the amount of the Tax shall be added, in addition to the penalties and interest above.

5.08.080 TRANSFER OR RELOCATION OF BUSINESS

Upon sale or other transfer of a business, the new owner shall inform the City of the change in ownership and pay a change in business ownership fee but shall not have to pay an additional business tax. If a business is relocated within the City without a change in ownership, the owner shall inform the City of the new location and pay a business relocation fee but no additional business tax shall be required. The City Council shall establish the amount of the change of business ownership fee and the business relocation fee by resolution. (Ord. 1909 § 1, 2002; Ord. 1379 § 2, 1977; Ord. 1349 § 8, 1976)

5.08.090 ISSUANCE AND DISPLAY OF RECEIPT

A. Upon payment of the business tax a person or business shall be issued a receipt by the City for such payment. The receipt shall be kept posted in a conspicuous place on the business premises at all times. If there is no regular place of business in the City, the receipt shall be in the possession of a representative of the business present within the City at all times during which the business is being transacted by an employee, agency or representative within the City.

B. Payment of the business tax by a person does not authorize any conduct that violates any applicable provision of local, State, or federal law. Possession of a receipt for payment of the business tax shall not be asserted as a defense in any enforcement action other than an action related to payment of the business tax. (Ord. 1863 § 4, 1999; Ord. 1349 § 9, 1976)

5.08.100 ADMINISTRATION

A. The Finance Director shall be responsible for the administration of this chapter. The Finance Director may adopt reasonable rules and regulations relating to any matter pertaining to the administration of this chapter, as well as preparing, adopting, and making available to the taxpayer all forms necessary for compliance with this chapter. The application form shall, at a minimum, require the following information:

1. Name and address of business;
2. Whether the business is a home occupation, as defined by the City Zoning Ordinance;
3. Type of business (i.e., retail, office, warehouse, manufacturing);
4. Owner and/or manager of business;
5. Start date of business;
6. A description of any change in business use from previous year;
7. Business location square footage;
8. Number of employees at business;
9. Whether business uses or stores hazardous or combustible materials;
10. Emergency contact person's name, home phone number, cell phone number, and any other after hours number available.

B. No person shall violate or fail to comply with any rule or regulation adopted by the Finance Director; refuse to allow the examination of books, papers and records; or willfully make any false or misleading statements to the Finance Director regarding the computation of the amount of business tax due and payable under this chapter.

C. To the extent allowed by law, the Finance Director shall keep all information furnished or secured under the authority of this chapter in strict confidence. Such information shall not be subject to public inspection and shall be kept so that the contents thereof shall not become known except to the persons charged with the administration and enforcement of this chapter, unless given express permission by the business owner to divulge such information or as required by law or lawful order. (Ord. 1863 §§ 5, 6, 1999; Ord. 1349 § 10, 1976)

5.08.110 EXCLUSIONS

The following situations are specifically excluded from the requirement of paying a business tax:

- A. Wholesalers selling or delivering goods to merchants of the City for the purpose of resale. This exclusion pertains only if the wholesaler does not maintain a place of business within the City and also does not engage in retail trade within the City;
- B. Nonprofit organizations;

C. Persons engaged in delivery of goods or services from points outside the City, providing sales contacts and actual sales take place outside the City;

D. Newspaper carriers;

E. Representatives of public utilities;

F. Garage sales, yard sales, and other similar activities. Such exclusion shall not apply, however, if either of the following conditions is met:

1. More than two (2) such sales take place within any one calendar year at the same location;
2. The sale has a duration of more than seventy-two (72) consecutive hours.

G. The sale of personal assets such as a personal automobile, residence, appliance, or other articles. Such exclusion shall not apply when such sales are conducted on a regular and continuing basis. That will be assumed to be the case if an individual or family sells its personal residence more than twice or personal automobile more than four (4) times in any given calendar year. Other items shall be determined by the Finance Director on the basis of reasonableness on a case-by-case basis.

H. Licensed real estate salespeople or associate real estate brokers who engage in professional real estate activity only as an agent of a real estate broker or real estate organization.

I. Licensed insurers, insurance producers, or their representatives in accordance with ORS 731.841.

J. Construction contractors or landscape contractors when their principal place of business is outside of the City and they have proof that they have obtained a business license from the Metropolitan Service District. (Ord. 2048 § 3, 2012; Ord. 1989 § 5, 2008; Ord. 1924 § 1, 2003; Ord. 1863 § 7, 1999; Ord. 1349 § 11, 1976)

5.08.120 VIOLATION—PENALTIES

A. A violation of this chapter shall be punishable by a mandatory fine not to exceed two hundred dollars (\$200.00). A violation of this chapter shall be processed pursuant to Chapter 1.08 of this code.

B. Each violation of a separate provision of this chapter shall constitute a separate offense and each day that a violation of this chapter is committed or permitted to continue shall constitute a separate offense.

C. The conviction of any person for violation of this chapter shall not act or relieve such person from payment of any unpaid business tax including delinquent charges for which

such person is liable. The penalties imposed by this section are in addition to and not in lieu of any remedies available to the City under other sections of this chapter.

D. In the event any provision of this chapter is violated by a firm or corporation, the officer or officers or person or persons responsible for the violation shall be personally subject to the penalties imposed by this section. (Ord. 1863 § 8, 1999; Ord. 1349 § 12, 1976)

ATTACHMENT B

CHAPTER 5.08 BUSINESS TAXES GENERALLY

5.08.010 PURPOSE

The business taxes imposed by this chapter are for revenue purposes only. The fees shall be in addition to and not in lieu of any other license, permit fee, charge, or tax required under any other ordinance of the City. (Ord. 1989 § 1, 2008; Ord. 1349 § 1, 1976)

5.08.020 DEFINITIONS

The following words or phrases, except where the context clearly indicates a different meaning, shall be defined as provided in this section:

“Business” means an enterprise, establishment, store, shop, activity, profession, management companies, or undertaking of any nature conducted directly or indirectly for private profit or benefit. Peddlers and solicitors are specifically included in this definition.

“City” means the City of Milwaukie, Oregon.

“City Manager” means the City Manager or designee.

“Doing, engaging in or transacting business” means any act or series of acts performed in the course of the pursuit of a business activity.

“Duplex” means a building containing two (2) adjoining units of individual housing.

“Fulltime equivalent employee (FTE)” means an amount equivalent to the number of full-time workers with 1.0 equal to one full-time worker, and 0.5 FTE equal to one half of a full-time worker. Two 0.5 FTE’s are equal to 1.0 FTE.

“Multifamily dwelling” means a building with three (3) or more individual housing units such as a triplex, fourplex, or apartment complex.

“Nonprofit organization” means a religious, philanthropic, patriotic, and/or charitable organization. An organization shall be considered to be nonprofit if it meets the tests of a tax-exempt organization as specified by the Internal Revenue Service.

“Person” means and includes individual natural persons, partnerships, joint ventures, societies, associations, clubs, trustees, trusts, or corporations, or any officers, agents, employees, or any kind of personal representatives thereof, in any capacity, either on that person’s own behalf or for any other person, under either personal appointment or pursuant to law.

“Rental property” means a building, portion of building, or group of buildings within the City which are rented, leased or let for any purpose, including, but not limited to, dwelling or business

purposes. Rental property includes, but is not limited to, a hotel or motel, automobile or tourist court, rooming or lodging house, mobile home or trailer park, private residence, duplex, multifamily dwelling, apartment complex, office or warehouse. (Ord. 2048 § 1, 2012; Ord. 1989 § 2, 2008; Ord. 1863 § 2, 1999; Ord. 1349 § 2, 1976)

5.08.030 IMPOSED

A. ~~—~~ No person shall maintain, operate, engage in, conduct, or carry on any business within the eCity without first having paid the business tax as established by this chapter.

B. ~~—~~ As of the effective date of the ordinance codified in this section fees ~~shall be:~~

1. ~~— All businesses shall pay an annual fee of one hundred ten dollars (\$110.00).~~

2. ~~— The first year rate for businesses starting after July 1st will be fifty five dollars (\$55.00).~~

3. ~~— An additional rate of five dollars (\$5.00) will be assessed on each FTE employee.~~

4. ~~— The fee for temporary businesses (with a duration of two (2) weeks or less) shall be twenty five dollars (\$25.00).~~

C. ~~— Revisions to the fees~~ shall be set as part of the City's fee and charges resolution.

D. ~~—~~ As used in subsection B of this section, "FTE" means "fulltime equivalent employee." Each business taxpayer must pay the FTE amount in addition to the applicable base rate. The number of FTEs for which payment is required is based on the number of full-time equivalent employees as of January 1st for full-year taxpayers, and on the first day of business for other taxpayers. No additional payments or refunds are applied for changes in the number of employees during the tax year.

E. ~~— Any business that fails to remit any portion of any tax imposed by this chapter within the time required shall pay a penalty of ten percent (10%) of the amount of the tax, in addition to the original amount of the tax.~~ ~~base fee shall be paid for each calendar month, or fraction thereof, in which the tax is due and unpaid.~~ (Ord. 1989 § 3, 2008; Ord. 1951 § 1, 2005; Ord. 1349 § 3, 1976)

F. ~~All businesses are required to register with the Oregon Corporation Division.~~

5.08.040 MULTIPLE BUSINESSES OR PREMISES

If a person is engaged or doing business at more than one establishment, branch or location, specifically including, but not limited to, apartment complexes, multifamily dwellings, commercial business complexes and retail shopping centers, each such establishment, branch or location shall be deemed a separate business and each business shall be subject to the business tax. If two (2) or more businesses are carried on at the same location each shall be required to

pay separate business tax, except in situations where it can be shown where the individual businesses are in fact one business. In determining whether different activities at the same location are in fact one business, normal and ordinary customs and usages of business shall be considered.

For rental properties other than apartment complexes and multifamily dwellings, ~~the business tax is assessed if more than one unit is offered for rent; however the~~ the owner shall be considered to have one business and be subject to one business tax. Thus the business tax is applied to the owner of the rental property ~~other than apartment complexes and multifamily dwellings as follows:~~ as engaging in a business.

~~Offer for rent:~~

~~Exempt from business tax~~

Business tax is applied to each location for apartment complexes and multifamily dwellings. (Ord. 2048 § 2, 2012; Ord. 1989 § 4, 2008; Ord. 1349 § 4, 1976)

~~1 unit~~

~~2 or more units~~ ~~One business tax~~

-

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~~B~~ Business tax is applied to each location for apartment complexes and multifamily dwellings. (Ord. 2048 § 2, 2012; Ord. 1989 § 4, 2008; Ord. 1349 § 4, 1976)

Property management firms engaging in the management of rental properties owned by other persons are subject to the business tax in addition to the business tax assessed on the rental property owner.

5.08.050 TAX YEAR AND PAYMENTS

A. — The tax year is from January 1st to December 31st.

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B. — The business tax shall be paid annually in advance of the business tax year. For businesses starting after January 1st of any year, the business tax must be paid within ~~one month~~ thirty (30) days of commencing business.

C. — Businesses shall be liable for the tax from the date they commence doing business within the City and not from the date of the tax is paid or the tax form submitted. (Ord. 1951 § 2, 2005: Ord. 1349 § 5, 1976)

5.08.060 DELINQUENCY CHARGE

A. — The business license tax shall be deemed delinquent if not paid by February 1st of the applicable business tax year. If a person begins engaging in business after the start of the business tax year, the business tax shall be deemed delinquent if the tax is not paid within thirty (30) days after commencement of the business activity.

B. — Whenever the business tax is not paid on or before the delinquent date a ~~delinquency penalty~~ charge equal to ten percent (10%) of the original business tax is due and payable ~~and payable shall be added for each thirty (30) day period or fraction thereof during which the business tax and any accumulated delinquency charges remain unpaid. The total amount of the delinquency charge for any tax year shall not exceed one hundred percent (100%) of the business tax due and payable for such year.~~

C. — The date that the business tax is received by the City or the date of the postmark if remittance is made by mail shall be used in determining when the business tax is paid.

D. Interest at the rate of nine percent (9%) per annum will be imposed on any unpaid tax from the due date until the date payment in full is received by the Finance Department.

ED. — Notwithstanding the date of receipt of the business tax, the tax shall be held to be delinquent if a complete information form has not been filed with the City. Completeness of the form will be judged by the completeness of the information requested on the form.

FE. — The City Manager or designee shall have the authority to waive a delinquency charge when, in the Manager's judgment, circumstances are such that a delinquency charge should not be assessed. (Ord. 1863 § 3, 1999; Ord. 1379 § 1, 1977; Ord. 1349 § 6, 1976)

5.08.070 INSPECTION OF BUSINESS RECORDS

The ~~City Manager~~ Finance Director is empowered to investigate and examine pertinent records of businesses as required to determine violations of this chapter. A formal audit of all of business tax records may be conducted at the discretion of the Finance Director. If, under this formal audit, it is determined that any business has underpaid the taxes due by 3% or more, the Provider business shall pay his/her prorated portion of the total audit fee. Should the Finance Director, in his/her sole discretion, conduct or cause to be conducted individual audits in

addition to the audit anticipated above, and should that individual audit determine that the audited business has underpaid the taxes due by 3% or more, the business shall pay the total individual audit fee. (Ord. 1349 § 7, 1976)

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If the Finance Director determines that the nonpayment of any remittance due under this chapter is due to fraud or intent to evade the provisions of this chapter, a penalty of twenty-five (25%) percent of the amount of the Tax shall be added, in addition to the penalties and interest above.

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5.08.080 TRANSFER OR RELOCATION OF BUSINESS

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Upon sale or other transfer of a business, the new owner shall inform the City of the change in ownership and pay a change in business ownership fee but shall not have to pay an additional business tax. If a business is relocated within the eCity without a change in ownership, the owner shall inform the City of the new location and pay a business relocation fee but no additional business tax shall be required. The City Council shall establish the amount of the change of business ownership fee and the business relocation fee by resolution. (Ord. 1909 § 1, 2002; Ord. 1379 § 2, 1977; Ord. 1349 § 8, 1976)

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5.08.090 ISSUANCE AND DISPLAY OF RECEIPT

A.— Upon payment of the business tax a person or business shall be issued a receipt by the City for such payment. The receipt shall be kept posted in a conspicuous place on the business premises at all times. If there is no regular place of business in the City, the receipt shall be in the possession of a representative of the business present within the City at all times during which the business is being transacted by an employee, agency or representative within the City.

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B.— Payment of the business tax by a person does not authorize any conduct that violates any applicable provision of local, State, or federal law. Possession of a receipt for payment of the business tax shall not be asserted as a defense in any enforcement action other than an action related to payment of the business tax. (Ord. 1863 § 4, 1999; Ord. 1349 § 9, 1976)

5.08.100 ADMINISTRATION

A.— The ~~City Manager~~ Finance Director shall be responsible for the administration of this chapter. The ~~Manager~~ Finance Director may adopt reasonable rules and regulations relating to any matter pertaining to the administration of this chapter, as well as preparing, adopting, and making available to the taxpayer all forms necessary for compliance with this chapter. The application form shall, at a minimum, require the following information:

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1.— Name and address of business;

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2.— Whether the business is a home occupation, as defined by the City Zoning Ordinance;

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3. — Type of business (i.e., retail, office, warehouse, manufacturing);

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4. — Owner and/or manager of business;

5. — Start date of business;

6. — A description of any change in business use from previous year;

7. — Business location square footage;

8. — Number of employees at business;

9. — Whether business uses or stores hazardous or combustible materials;

10. — Emergency contact person's name, home phone number, cell phone number, ~~pager number~~, and any other after hours number available.

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B. — No person shall violate or fail to comply with any rule or regulation adopted by the ~~City Manager~~ ~~Finance Director~~; refuse to allow the examination of books, papers and records; or ~~wilfully~~ ~~willfully~~ make any false or misleading statements to the ~~City Manager~~ ~~Finance Director~~ regarding the computation of the amount of business tax due and payable under this chapter.

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C. — To the extent allowed by law, the ~~City Manager~~ ~~Finance Director~~ shall keep all information furnished or secured under the authority of this chapter in strict confidence. Such information shall not be subject to public inspection and shall be kept so that the contents thereof shall not become known except to the persons charged with the administration and enforcement of this chapter, unless given express permission by the business owner to divulge such information or as required by law or lawful order. (Ord. 1863 §§ 5, 6, 1999; Ord. 1349 § 10, 1976)

5.08.110 EXCLUSIONS

The following situations are specifically excluded from the requirement of paying a business tax:

A. — Wholesalers selling or delivering goods to merchants of the ~~C~~city for the purpose of resale. This exclusion pertains only if the wholesaler does not maintain a place of business within the ~~C~~city and also does not engage in retail trade within the ~~C~~city;

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B. — Nonprofit organizations;

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C. — Persons engaged in delivery of goods or services from points outside the ~~C~~city, providing sales contacts and actual sales take place outside the ~~C~~city;

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D. — Newspaper carriers;

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E. ~~_____~~ Representatives of public utilities;

F. ~~_____~~ Garage sales, yard sales, and other similar activities. Such exclusion shall not apply, however, if either of the following conditions is met:

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1. ~~_____~~ More than two (2) such sales take place within any one calendar year at the same location;

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2. ~~_____~~ The sale has a duration of more than seventy-two (72) consecutive hours.

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G. ~~_____~~ The sale of personal assets such as a personal automobile, residence, appliance, or other articles. Such exclusion shall not apply when such sales are conducted on a regular and continuing basis. That will be assumed to be the case if an individual or family sells its personal residence more than twice or personal automobile more than four (4) times in any given calendar year. Other items shall be determined by the ~~City Manager~~ Finance Director on the basis of reasonableness on a case-by-case basis.

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H. ~~_____~~ Licensed real estate salespeople or associate real estate brokers who engage in professional real estate activity only as an agent of a real estate broker or real estate organization.

I. Licensed insurers, insurance producers, or their representatives in accordance with ORS 731.841.

J. _____ Construction contractors or landscape contractors when their principal place of business is outside of the City and they have proof that they have obtained a business license from the Metropolitan Service District.

J. _____ Ownership of one unit of rental property. (Ord. 2048 § 3, 2012; Ord. 1989 § 5, 2008; Ord. 1924 § 1, 2003; Ord. 1863 § 7, 1999; Ord. 1349 § 11, 1976)

5.08.120 VIOLATION—PENALTIES

A. ~~_____~~ A violation of this chapter shall be punishable by a mandatory fine not to exceed two hundred dollars (\$200.00). A violation of this chapter shall be processed pursuant to Chapter 1.08 of this ~~code~~.

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B. ~~_____~~ Each violation of a separate provision of this chapter shall constitute a separate offense and each day that a violation of this chapter is committed or permitted to continue shall constitute a separate offense.

C. ~~_____~~ The conviction of any person for violation of this chapter shall not act or relieve such person from payment of any unpaid business tax including delinquent charges for which such person is liable. The penalties imposed by this section are in addition to and not in lieu of any remedies available to the City under other sections of this chapter.

| D. ~~—~~ In the event any provision of this chapter is violated by a firm or corporation, the officer or officers or person or persons responsible for the violation shall be personally subject to the penalties imposed by this section. (Ord. 1863 § 8, 1999; Ord. 1349 § 12, 1976)