



Regular Session

RS

Milwaukie City Council

COUNCIL REGULAR SESSION

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

AGENDA

JULY 19, 2022

Council will hold this meeting in-person and through video conference. The public may attend the meeting by coming to City Hall or joining the Zoom webinar, or watch the meeting on the [city's YouTube channel](#) or Comcast Cable channel 30 in city limits. **For Zoom login** visit <https://www.milwaukieoregon.gov/citycouncil/city-council-regular-session-328>.

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

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

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

Page #

1. **CALL TO ORDER** (6:00 p.m.)
 - A. **Pledge of Allegiance**
 - B. **Native Lands Acknowledgment**

2. **ANNOUNCEMENTS** (6:01 p.m.) **2**

3. **PROCLAMATIONS AND AWARDS**
 - A. **Recognition of Councilor Angel Falconer's Service** (6:05 p.m.)
Presenter: City Council

4. **SPECIAL REPORTS**
 - A. **None Scheduled.**

5. **COMMUNITY COMMENTS** (6:15 p.m.)

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

6. **CONSENT AGENDA** (6:20 p.m.)

Consent items are not discussed during the meeting; they are approved in one motion and any Council member may remove an item for separate consideration.

 - A. **Approval of Council Meeting Minutes of:** **4**
 1. **June 7, 2022, work session,**
 2. **June 7, 2022, regular session,**
 3. **June 14, 2022, study session,**
 4. **June 21, 2022, work session, and**
 5. **June 21, 2022, regular session.**

- 6. **CONSENT AGENDA (continued)**
 - B. **Appointments to City Boards and Committees – Resolution** **25**
 - C. **Authorization of a Lease Agreement with T-Mobile – Resolution** **28**
 - D. **Oregon Liquor Control Commission (OLCC) Application for Milwaukie Premium Beverage, 10804 SE Oak Street – Off-Premises Sales** **74**
- 7. **BUSINESS ITEMS**
 - A. **Behavioral Health and Outreach Positions - Discussion (6:25 p.m.)** **76**
Staff: Luke Strait, Police Chief, and
Kenny Simac, Police Officer
 - B. **Main Street Trees and Sidewalks – Update (7:25 p.m.)**
Staff: Steve Adams, City Engineer
 - C. **New City Hall Council Chambers – Update (7:55 p.m.)**
Staff: Kelly Brooks, Assistant City Manager, and
Scott Stauffer, City Recorder
- 8. **PUBLIC HEARINGS**
 - A. **None Scheduled.**
- 9. **COUNCIL REPORTS (8:10 p.m.)**
- 10. **ADJOURNMENT (8:15 p.m.)**

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

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

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

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

Executive Sessions

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



RS Agenda Item

2

Announcements



Mayor's Announcements – July 19, 2022

- **Balfour Park Open House – Wednesday, July 20 (6-8 PM)**
 - Tell us what you wish was in your neighborhood park.
 - Event is a drop-in, open house style event with face painting, balloon animals, yard games, a kids design table, and other activities.
 - Balfour Park is located at 3039 SE Balfour St.
- **Porchfest - Friday, July 22 and 29 (6 - 8 PM)**
 - For details about each Porchfest evening, including a map of performance locations, visit milwaukieporchfest.com.
- **Carefree Sunday (Seeking volunteers) – August 7 (11 AM – 4 PM)**
 - Event opens more than five miles of streets to people by closing them to cars. Result is people biking, walking, rolling, and connecting with the community.
 - Event is not possible without volunteers. Various duties and shifts available.
- **City Manager Open Door Session – Tuesday, July 26, (9 - 10 AM)**
 - No sign-up is necessary. First-come, first-served. Sessions limited to 15 minutes or less.
 - City Hall (Council Chambers), 10722 SE Main St.
- **Bowman-Brae Park Open House – Tuesday, July 26 (6-8 PM)**
 - Tell us what you wish was in your neighborhood park.
 - Event is a drop-in, open house style event with face painting, balloon animals, yard games, a kids design table, and other activities.
 - Bowman-Brae Park is located at 4200 SE Bowman St.



• **LEARN MORE AT WWW.MILWAUKIEOREGON.GOV OR CALL 503-786-7555**

Mayor's Announcements – July 19, 2022

NOV. 8, 2022 GENERAL & SPECIAL ELECTION CALENDAR FOR CITY CANDIDATES

May 8 2022	Last day to establish residency in city limits.
August 1	First day to file nomination papers and petitions.
August 4	Council Candidate Informational Forum, 6 p.m. on Zoom*
August 16	Council Candidate Informational Forum, 6 p.m. on Zoom*
August 23	Suggested deadline to submit signatures for verification to the city elections officer.
August 30	Last day to file nomination papers and petitions.
September 2	Last day for candidates to withdraw.
September 12	Last day for candidates to file voter pamphlet statement.
October 10-21	Ballots are mailed out.
October 18	Last day to register to vote.
November 8	Election Day.
December 20	Oath of Office administered to individual elected to position 1.
January 3 2023	Oath of Office administered to individuals elected to positions 2 and 4 and the mayor's position.

City Council Elections 2022

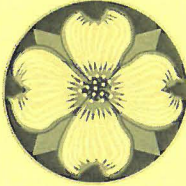
- **Four Council Positions on the Ballot:**
 - **Positions 2, 4, and Mayor**
 - **Position 1 (special election)**
- **Filing Window Opens August 1**
- **Candidates Must Meet with the Elections Officer (city recorder)**
- **Information Packets Available**
- **Informational Sessions 8/4 and 8/18 (contact the city recorder for details)**
- **LEARN MORE ONLINE AT WWW.MILWAUKIEOREGON.GOV/ELECTIONS**
- **OR CALL 503-786-7502**



RS Agenda Item

5

Community Comments



**CITY OF MILWAUKIE
CITY COUNCIL**

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

Speaker Registration

The City of Milwaukie encourages all citizens to express their views to their city leaders in a **respectful** and **appropriate** manner. If you wish to speak before the City Council, fill out this card and hand it to the City Recorder. Note that this Speakers Registration card, once submitted to the City Recorder, becomes part of the public record.

Name: Pat Stauss

Organization:

Address: 10723 SE 55th
Phone: 503 201 0352
Email: Stauss001@gmail.com

Meeting Date: 7/19/22

Topic: Ordinance commercial vehicle

Agenda Item You Wish to Speak to:

- #4 Audience Participation
- #5 Public Hearing, Topic:
- #6 Other Business, Topic:

You are Speaking...

- in Support
- in Opposition
- from a Neutral Position
- to ask a Question

baat / RV'S.

Comments:

Gave Pat the Mayor's email address. -~~fax~~



RS Agenda Item

6

Consent Agenda

COUNCIL WORK SESSION

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

MINUTES

JUNE 7, 2022

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

Council Absent: Council President Kathy Hyzy

Staff Present: Justin Gericke, City Attorney
Adam Moore, Parks Projects Coordinator
Nicole Madigan, Deputy City Recorder
Ann Ober, City Manager
Peter Passarelli, Public Works Director
Natalie Rogers, Climate & Natural Resources Manager
Scott Stauffer, City Recorder

Mayor Gamba called the meeting to order at 4:01 p.m.

1. Clackamas Cities Association (CCA) Dinner – Check-In

Stauffer provided an overview of who attends the CCA dinner, how often dinners were held pre-pandemic, who hosts, and the city's experience hosting, and when the last CCA dinner was held. **Stauffer** advised that the city signed up to be the first and only host of 2022 on October 27 and presented options for where the dinner could be held. **Stauffer** and **Batey** commented on October weather and how the city will host the only dinner in 2022.

Stauffer turned the topic over to Council to discuss what topics or themes they would like presented and if they wanted to proceed with hosting. **Mayor Gamba** explained the cost of hosting and **Stauffer** expanded on it. **Gamba**, **Councilor Batey**, and **Ober** discussed if the new Ledding Library building had been previously toured and if the event could be hosted there. **Batey** noted the benefits of attending a CCA dinner, especially for newer councilors and **Gamba** agreed. **Councilor Khosroabadi** expressed interest in attending and in the city hosting at the new library.

Stauffer summarized Council's interest in hosting the CCA dinner in 2022 and showcasing the library. **Councilor Batey** suggested the discussion topic could also focus on the new city hall. **Mayor Gamba** agreed and added thoughts on incorporating a discussion on energy efficiency between the old and new library buildings.

2. Neighborhood Park Projects – Update

Moore provided an overview of the progress and funding for Balfour, Bowman-Brae, and Scott Park projects. Master plans for Bowman-Brae and Balfour were being refined, and a new plan will be developed for Scott Park. **Moore** presented an updated development timeline that included completed, immediate, and future tasks and advised construction on the parks would begin in late 2023 and would be completed in Fall of 2024.

Moore revisited the community engagement goals that were previously presented to Council and shared results of the discussion between the Equity Steering Committee (ESC), the Park and Recreation Board (PARB), and the consultants. **Moore** highlighted the importance of building relationships with historically marginalized groups and how to build trust by being transparent and setting expectations. **Moore** shared how the ESC/PARB/consultant discussion had reshaped the event held at Scott Park on May 1.

Moore reported that the public feedback received from the Scott Park event had been compiled into a draft report by the consultants and would be available on the city's website – but key takeaways were that people enjoyed the pond and peace and quiet, but the water viewing area, general maintenance, and parking needed improvement. **Moore** stated uncertainty as to whether the parking concern could be addressed due to the limited amount of space. The most requested addition was for a natural play area, as well as improved nature and green space, better seating and gathering spaces and improved paths. **Moore** reported that 24 children had submitted park design drawings.

Moore reviewed next steps in the Scott Park project, including compiling all of the information received on May 1, hosting a meeting and sending a follow up survey in August, gathering feedback on designs, and submitting plans to Council in November and December.

Councilor Batey and **Moore** discussed whether all three parks needed to return to the Planning Commission. **Mayor Gamba** asked if the parks needed to go through the Planning Commission, why not rezone them as open space? **Moore** and **Ober** responded that due to time constraints rezoning the parks could not be done at this time, but the city plans to rezone all parks as open space in the next five years.

Moore reported that both Balfour and Bowman-Brae parks have old master plans that were approved by the Planning Commission but were never implemented and did not include a lot of public engagement. The same community outreach standards used for Scott Park will be applied to Balfour and Bowman-Brae, but the timeframe for both parks is shorter. Tentative dates for an open house were scheduled for July 18 for Balfour Park and July 25 for Bowman-Brae Park. These open houses would be smaller, fit within the neighborhood, and be mindful of the limited parking. Follow up surveys will be posted. **Moore** shared the importance and usefulness of hosting the open houses in the park.

Moore shared how three focus groups will be used to reach new people. As part of the equity discussion, it was suggested that non city staff lead discussions to remove barriers for those who feel uncomfortable engaging with government.

Councilor Nicodemus and **Moore** discussed the possibility of having an open house specifically held in Spanish, with translation available for English speakers.

Councilor Batey and **Moore** discussed inviting parents of children with disabilities to a focus group and going beyond Americans with Disabilities Act (ADA) requirements.

Councilor Batey would like to see a Russian speaking meeting or focus group for Balfour Park to communicate with the community at the Hillside site. **Moore** responded that there many different community groups the city would like to hold focus groups with, unfortunately the city is also financially constrained but other means of engagement are being worked on. **Batey** and **Moore** discussed other ways contact can be made with the Russian speaking community at Hillside.

Moore shared final engagement plans such as having staff hold office hours at the parks to reach community members while they utilized the current space and continue to provide monthly updates at the PARB meetings.

Councilor Nicodemus and **Moore** discussed writing grant reports and Moore shared there may be additional grant funds available.

The Group discussed the possibility of a path heading north out of Scott Park, the resistance staff has encountered in attempting to reach the correct property owners to make it happen, and a new possible lead that was acquired during the Scott Park open house.

Mayor Gamba posed a question about ADA play equipment and if the city should focus its efforts to produce one park that is fully immersive with ADA play equipment or incorporate a feature at every park. **Moore** responded that with feedback from the focus groups and open house events, the city will learn what the community feels is lacking in park amenities and that would be applied to the three parks in development.

The group discussed permaculture parks, some of the benefits and concerns, how combining a permaculture park with a community garden may address some of the concerns, how the city would work with third parties such as nonprofits, local master gardeners, and local conservation districts, and how survey participants can share if they are interested in seeing a permaculture park within the city.

3. Adjourn

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

Mayor Gamba adjourned the meeting at 4:51 p.m.

Respectfully submitted,

Nicole Madigan, Deputy City Recorder

COUNCIL REGULAR SESSION**MINUTES**

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

JUNE 7, 2022

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

Council Absent: Council President Kathy Hyzy

Staff Present: Kelly Brooks, Assistant City Manager

Ryan Burdick, Police Captain

Bonnie Dennis, Finance Director

Justin Gericke, City Attorney

Vera Kolas, Senior Planner

Keith McClung, Assistant Finance Director

Ann Ober, City Manager

Peter Passarelli, Public Works Director

Scott Stauffer, City Recorder

Kelli Tucker, Accounting & Contracts Specialist

Laura Weigel, Planning Manager

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

1. CALL TO ORDER

A. Pledge of Allegiance.

B. Native Lands Acknowledgment.

2. ANNOUNCEMENTS

Mayor Gamba announced upcoming activities including bulky waste collection days, school and park performances, a Juneteenth celebration, and the Arts Committee's Porchfest event. **Councilor Batey** noted a community performance at the Milwaukie Museum and Councilor Nicodemus noted a school playground dedication event.

3. PROCLAMATIONS AND AWARDS

A. LGBTQIA+ Pride Month – Proclamation (moved to the June 21, 2022, meeting)

4. SPECIAL REPORTS

A. None Scheduled.

5. COMMUNITY COMMENTS

Mayor Gamba reviewed the public comment procedures. **Ober** reported there was no follow-up report from the May 17 community comments and thanked staff for their work organizing the city's Pride event held at the South Downtown Plaza on June 4.

Support for Providence Milwaukie Nurses – Resolution

Mayor Gamba introduced a resolution in support of the nurses at Providence Milwaukie Hospital who were currently in contract negotiations.

Gabriel Erbs, Oregon Nurses Association (ONA) representative, and Providence Milwaukie nurses **Sarah Bea** and **Julie Darrison** discussed the state of the contract negotiations between the ONA nurses and hospital management. They noted concerns about patient and staff safety, scheduling, and practices of the hospital management, and urged Council adopt the resolution in support of the nurses.

Councilor Khosroabadi and **Bea** noted that Providence Milwaukie nurses were having to choose which patients to care for.

Councilor Batey and **Erbs** commented on why nurses at other facilities had reached tentative agreements with Providence when the Milwaukie hospital had not. They also noted that other cities had adopted similar resolutions in support of nurses.

Mayor Gamba and **Erbs** reviewed the required steps for a union to go on strike, noting what would happen with current patients at the hospital. **Mayor Gamba** observed that most of the issues ONA were arguing for were about patient care.

Councilor Nicodemus expressed support for the union. **Erbs** and **Nicodemus** noted similarities between nursing and teaching unions.

Councilor Khosroabadi read the resolution text into the record.

It was moved by Councilor Khosroabadi and seconded by Councilor Nicodemus to approve the resolution calling for a fair and just settlement of negotiations with Oregon Nurses Association nurses at Provide Milwaukie Hospital, a community hospital owned by Providence St. Joseph Health.

Councilor Batey expressed concern about Council considering the resolution without discussion and believed the city had not previously weighed into a labor dispute. **Batey** supported labor rights but planned to abstain. **Mayor Gamba** explained that negotiations often escalate quickly and there was an urgency in Council considering the resolution quickly and expressed support for the resolution.

Motion passed with the following vote: Councilors Khosroabadi, Nicodemus, and Mayor Gamba voting “aye,” and Councilor Batey abstaining. [3:0]

Resolution 34-2022:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, CALLING FOR A FAIR AND JUST SETTLEMENT OF NEGOTIATIONS WITH OREGON NURSES ASSOCIATION NURSES AT PROVIDENCE MILWAUKIE HOSPITAL, A COMMUNITY HOSPITAL OWNED BY PROVIDENCE ST. JOSEPH HEALTH.

Councilors Khosroabadi and **Batey** thanked **Erbs**, **Bea**, and **Darrison** for bringing the issue to Council and for working as nurses.

6. CONSENT AGENDA

Stauffer noted three term end date corrections in the resolution under item 6. B.

Councilor Batey and **Stauffer** noted that Council had previously supported changing the name of the Citizens Utility Advisory Board (CUAB) to Community Utility Advisory Board, but the change had not been made yet as that board had not revised its bylaws.

It was moved by Councilor Batey and seconded by Councilor Nicodemus to approve the Consent Agenda as amended by staff.

A. City Council Meeting Minutes:

- 1. May 3, 2022, Work Session, and**
- 2. May 3, 2022, Regular Session.**

B. Resolution 35-2022: A resolution of the City Council of the City of Milwaukie, Oregon, making appointments to city boards and committees.

C. Resolution 36-2022: A resolution of the City Council of the City of Milwaukie, Oregon, making youth board and committee member reappointments.

- D. Resolution 37-2022: A resolution of the City Council of the City of Milwaukie, Oregon, acting as the Local Contract Review Board, authorizing the execution of an agreement with Aldrich CPAS + Advisors LLP for professional audit services.
- E. Resolution 38-2022: A resolution of the City Council of the City of Milwaukie, Oregon, acting as the Local Contract Review Board, authorizing a purchase agreement with Metereaders LLC for water meter reading services.
- F. Resolution 39-2022: A resolution of the City Council of the City of Milwaukie, Oregon, acting as the Local Contract Review Board, authorizing an increase in the project funding authorization for the construction of the Lake Road improvements project (CIP-2019-S20).
- G. Resolution 40-2022: A resolution of the City Council of the City of Milwaukie, Oregon, adopting the 2021 Water System Master Plan (WSMP).
- H. Resolution 41-2022: A resolution of the City Council of the City of Milwaukie, Oregon, adopting the 2021 Wastewater System Master Plan (WWSMP).
- I. Resolution 42-2022: A resolution of the City Council of the City of Milwaukie, Oregon, acting as the Local Contract Review Board, authorizing execution of a Microsoft Enterprise Agreement and purchase of software support services from SHI International Corp.
- J. Resolution 43-2022: A resolution of the City Council of the City of Milwaukie, Oregon, adopting a 2023 work plan for Elk Rock Island.

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

7. BUSINESS ITEMS

A. None Scheduled.

8. PUBLIC HEARING

A. Middle Housing Land Division, Senate Bill (SB) 458, Code Changes – Ordinance (File #ZA-2022-001)

Call to Order: **Mayor Gamba** called the continued public hearing on the proposed amendments to the code, file #ZA-2021-002, to order at 6:38 p.m.

Purpose: **Mayor Gamba** announced that the purpose of the hearing was to hear the second reading of the ordinance by title only and take a final roll call vote.

Council Decision: **Ober** read the ordinance one time by title only.

Stauffer polled the Council with Councilors Khosroabadi and Nicodemus and Mayor Gamba voting “aye,” and Councilor Batey abstaining. [3:0]

Ordinance 2219:

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE MILWAUKIE MUNICIPAL CODE (MMC) TITLE 19 ZONING ORDINANCE AND TITLE 17 LAND DIVISION FOR THE PURPOSE OF ADDRESSING MIDDLE HOUSING LAND DIVISION PER OREGON SENATE BILL 458 (FILE #ZA-2022-001).

B. Solid Waste Rates Adoption – Resolution

Call to Order: **Mayor Gamba** called the public hearing on the proposed solid waste rates to order at 6:40 p.m. and announced that the purpose of the hearing was to hear the report, take public comment, and consider adopting solid waste rates.

Conflict of Interest: No Council member declared a conflict of interest.

Staff Presentation: **McClung** noted Council's previous discussion about the proposed increase on solid waste rates.

Correspondence: No correspondence had been received on the topic.

Audience Testimony: No audience member wished to comment on the topic.

Continue Hearing: **It was moved by Councilor Nicodemus and seconded by Councilor Batey to close the public comment part of the hearing on the proposed solid waste rates. Motion passed with the following vote: Councilors Khosroabadi, Batey, and Nicodemus, and Mayor Gamba voting "aye." [4:0]**

Mayor Gamba closed the public comment part of the hearing at 6:43 p.m.

Council Discussion: **Councilor Batey** remarked that it wasn't fun to raise the rates but doing so incrementally was the right way to proceed.

Council Decision: **It was moved by Councilor Batey and seconded by Councilor Khosroabadi to approve the resolution adopting solid waste service rates effective July 1, 2022. Motion passed with the following vote: Councilors Khosroabadi, Batey, and Nicodemus, and Mayor Gamba voting "aye." [4:0]**

Resolution 44-2022:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ADOPTING SOLID WASTE RATES EFFECTIVE JULY 1, 2022.

C. Fiscal Year (FY) 2023-2024 Master Fee Schedule Adoption – Resolution

Call to Order: **Mayor Gamba** called the public hearing on the proposed Master Fee Schedule to order at 6:44 p.m. and announced that the purpose of the hearing was to hear the report, take public comment, and consider adopting the Master Fee Schedule.

Conflict of Interest: No Council member declared a conflict of interest.

Staff Presentation: **McClung** noted Council's previous discussion of the schedule and reported changes to the schedule, including a proposal to limit the amount of building permit payments that could be paid by credit card to a maximum of \$30,000 to reduce credit card processing fees. **Councilor Batey** suggested the limit be set at \$10,000 and the group discussed limiting credit card payments for building permits. **Mayor Gamba** proposed setting the credit card payment limit at \$5,000. It was Council consensus to revise the schedule to limit building permit credit card payments to \$5,000.

McClung and **Ober** reported that language in the fee schedule related to tree permits did not reflect the recently adopted tree code, but staff was working to match the language. **Mayor Gamba** encouraged staff to include information about the city's low-income assistance programs in the schedule. **Ober** noted staff would work to add more assistance programs information in the schedule.

McClung reported that based on input from the Milwaukie Police Department (MPD) the rate for body worn camera request fees had been updated. **Ober** thanked Burdick for working on the fee. **Councilor Batey** and **Burdick** commented on how body worn camera footage would be released when requested. **Mayor Gamba** expressed support for the proposed body worn camera records request fee amount.

Correspondence: No correspondence had been received on the topic.

Audience Testimony: No audience member wished to comment on the topic.

Continue Hearing: It was moved by Councilor Nicodemus and seconded by Councilor Batey to close the public comment part of the hearing on the proposed Master Fee Schedule. Motion passed with the following vote: Councilors Khosroabadi, Batey, and Nicodemus, and Mayor Gamba voting “aye.” [4:0]

Mayor Gamba closed the public comment part of the hearing at 6:56 p.m.

Council Decision: It was moved by Councilor Batey and seconded by Councilor Khosroabadi to approve the resolution adopting the Master Fee Schedule service rate effective July 1, 2022, as amended. Motion passed with the following vote: Councilors Khosroabadi, Batey, and Nicodemus, and Mayor Gamba voting “aye.” [4:0]

Resolution 45-2022:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, REVISING FEES AND CHARGES AND UPDATING THE MASTER FEE SCHEDULE FOR FISCAL YEARS 2023 AND 2024.

The group noted that McClung would be departing the city to take a job in education and thanked McClung for their service to Milwaukie.

D. Biennium (BN) 2021-2022 Supplemental Budget Adoption – Resolution

Call to Order: Mayor Gamba called the public hearing on the proposed supplemental budget to order at 6:59 p.m. and announced that the purpose of the hearing was to hear the report, take public comment, and consider adopting the supplemental budget.

Conflict of Interest: No Council member declared a conflict of interest.

Staff Presentation: Dennis provided an overview of the proposed supplemental budget adjustments within the building fund, community development department, and the public education grant (PEG) fund.

Correspondence: No correspondence had been received on the topic.

Audience Testimony: No audience member wished to comment on the topic.

Continue Hearing: It was moved by Councilor Batey and seconded by Councilor Nicodemus to close the public comment part of the hearing on the proposed supplemental budget. Motion passed with the following vote: Councilors Khosroabadi, Batey, and Nicodemus, and Mayor Gamba voting “aye.” [4:0]

Mayor Gamba closed the public comment part of the hearing at 7:03 p.m.

Council Decision: It was moved by Councilor Batey and seconded by Councilor Khosroabadi to approve the resolution authorizing budget supplemental for the 2021-2022 biennium. Motion passed with the following vote: Councilors Khosroabadi, Batey, and Nicodemus, and Mayor Gamba voting “aye.” [4:0]

Resolution 46-2022:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING BUDGET SUPPLEMENTAL FOR THE 2021-2022 BIENNIUM.

E. State Revenue Sharing Election – Resolutions (2)

Call to Order: **Mayor Gamba** called the public hearing on the proposed state revenue sharing election to order at 7:04 p.m. and announced that the purpose of the hearing was to hear the report, take public comment, and consider accepting state revenues.

Conflict of Interest: No Council member declared a conflict of interest.

Staff Presentation: **Dennis** explained that the city had to elect to receive state shared revenues which were from the sale of certain state regulated products and certify that the city provided certain services.

Dennis presented a graph showing the city's income from state shared revenues since 2018. The group discussed the revenue trend and noted that per the state, marijuana revenue could not be separated from the "cigarette and other tax" revenue amount.

Dennis and **Councilor Batey** noted how the city's population is factored into determining how much state shared revenue the city receives.

Correspondence: No correspondence had been received on the topic.

Audience Testimony: No audience member wished to comment on the topic.

Continue Hearing: **It was moved by Councilor Batey and seconded by Councilor Khosroabadi to close the public comment part of the hearing on the proposed state revenue sharing election. Motion passed with the following vote: Councilors Khosroabadi, Batey, and Nicodemus, and Mayor Gamba voting "aye." [4:0]**

Mayor Gamba closed the public comment part of the hearing at 7:11 p.m.

Council Decision: **It was moved by Councilor Nicodemus and seconded by Councilor Batey to approve the resolution certifying that the city is eligible in the 2023-2024 biennium to receive state shared revenues because it provided four or more municipal services. Motion passed with the following vote: Councilors Khosroabadi, Batey, and Nicodemus, and Mayor Gamba voting "aye." [4:0]**

Resolution 47-2022:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, CERTIFYING THAT THE CITY IS ELIGIBLE IN THE 2023-2024 BIENNIUM TO RECEIVE STATE SHARED REVENUES BECAUSE IT PROVIDES FOUR OR MORE MUNICIPAL SERVICES.

It was moved by Councilor Nicodemus and seconded by Councilor Khosroabadi to approve the resolution declaring the city's election to receive state revenue sharing funds (general funds of the state) in the 2023-2024 biennium. Motion passed with the following vote: Councilors Khosroabadi, Batey, and Nicodemus, and Mayor Gamba voting "aye." [4:0]

Resolution 48-2022:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DECLARING THE CITY'S ELECTION TO RECEIVE STATE REVENUE SHARING FUNDS (GENERAL FUNDS OF THE STATE) IN THE 2023-2024 BIENNIUM.

F. BN 2023-24 City Budget and Capital Improvement Plan Adoption – Resolution

Call to Order: **Mayor Gamba** called the hearing on the budget and Capital Improvement Plan (CIP) to order at 7:13 p.m. and announced that the purpose of the hearing was to hear the report, take comment, and consider adopting the budget and CIP.

Conflict of Interest: No Council member declared a conflict of interest.

Staff Presentation: **Dennis** reviewed the budget creation and review process, noted one change to increase the public works budget to account for parks projects, and reported that the Budget Committee had approved the budget and CIP. **Dennis** reported that the budget was balanced and noted the Budget Committee would receive future updates.

Ober explained that the additional funds in the public works budget was to support the city's parks-related work as previously directed by Council. **Ober** also noted that that the next Budget Committee meeting would be earlier than previously scheduled.

Correspondence: No correspondence had been received on the topic.

Audience Testimony: No audience member wished to comment on the topic.

Questions from Council to Staff: **Councilor Batey** appreciated the work of staff and the Budget Committee to make the budget document more transparent and readable.

Continue Hearing: **It was moved by Councilor Khosroabadi and seconded by Councilor Batey to close the public comment part of the hearing on the proposed 2023-2024 biennial budget. Motion passed with the following vote: Councilors Khosroabadi, Batey, and Nicodemus, and Mayor Gamba voting “aye.” [4:0]**

Mayor Gamba closed the public comment part of the hearing at 7:19 p.m.

Council Discussion: **Mayor Gamba** agreed that the budget document had gotten better each time and thanked staff for their work.

Council Decision: **It was moved by Councilor Batey and seconded by Councilor Khosroabadi to approve the resolution adopting the City of Milwaukie budget and Capital Improvement Plan for the biennium commencing July 1, 2022, making appropriation, levying ad valorem taxes, and classifying levies pursuant to Section 11b, Article XI of the Oregon Constitution. Motion passed with the following vote: Councilors Khosroabadi, Batey, and Nicodemus, and Mayor Gamba voting “aye.” [4:0]**

Resolution 49-2022:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ADOPTING THE CITY OF MILWAUKIE BUDGET AND CAPITAL IMPROVEMENT PLAN FOR THE BIENNIUM COMMENCING JULY 1, 2022, MAKING APPROPRIATIONS, LEVYING AD VALOREM TAXES, AND CLASSIFYING LEVIES PURSUANT TO SECTION 11b, ARTICLE XI OF THE OREGON CONSTITUTION.

Councilor Khosroabadi asked that staff and Council work to make sure that future budgets do not increase rates, noting concerns about rising costs and inflation.

9. COUNCIL REPORTS

None.

10. ADJOURNMENT

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

It was moved by Councilor Nicodemus and seconded by Councilor Khosroabadi to adjourn the Regular Session. Motion passed with the following vote: Councilors Khosroabadi, Batey, and Nicodemus, and Mayor Gamba voting “aye.” [4:0]

Mayor Gamba adjourned the meeting at 7:21 p.m.

Respectfully submitted,

Scott Stauffer, City Recorder

COUNCIL STUDY SESSION

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

MINUTES

June 14, 2022

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

Staff Present: Kelly Brooks, Assistant City Manager
Jana Hoffman, Supervising Librarian
Brandi Leos, Human Resources Director
Nicole Madigan, Deputy City Recorder
Katie Newell, Library Director

Ann Ober, City Manager
Sara O'Donnell, Children's Librarian
Scott Stauffer, City Recorder
Peter Passarelli,

Mayor Gamba called the meeting to order at 5:18 p.m.

Introduction of New Human Resources (HR) Director

Ober introduced the city's new Human Resources Director, Brandi Leos. **Leos** expressed excitement in joining the city. **Mayor Gamba** welcomed Leos.

1. Library Diversity Audit – Discussion

Newell introduced Hoffman, O'Donnell, and the idea behind the Ledding Library (LL) diversity audit. **Hoffman** presented the premise of the audit, and why there was a need for an audit. This was the LL's first diversity audit. **O'Donnell** shared that the audit occurred from March to October 2021, that the LL audit committee was comprised of nine LL staff, and 2,799 (about 4% of the LL's collection) books were audited from three collections as well as an additional 258 books for a pilot study of new children's books.

O'Donnell specified which three parts of the LL's collection were included in the audit and that they were selected because they are highly visible and high circulating collections. Not all books within the three collections were able to be reviewed. **O'Donnell** covered the criteria used to evaluate the diversity of a book and stated the simplified list was compiled by referencing what other libraries have used such as the Lake Oswego library, who shared their young adult diversity audit with the LL. **Mayor Gamba** asked if race and ethnicity applied toward the characters within the books or the author of the book. **O'Donnell** and **Hoffman** explained that within the LL audit team there was consensus to use either the main or supporting character.

O'Donnell reviewed the tools used during the audit. **Mayor Gamba**, **O'Donnell**, and **Hoffman** discussed why reviews and the LL catalog were used to determine if a book was diverse instead of reading the book itself.

O'Donnell presented the results for the audited collection's overall diversity and noted a positive trend for children's new picture books – the children's books were 16% more diverse than the overall picture book collection. **O'Donnell** detailed what race and ethnicities were found using the census categories plus Middle Eastern and North African, **Councilor Khosroabadi** thanked LL staff for including those ethnicities. **O'Donnell** continued with the overall results and noted about 7% of the collection reflected characters who identified as LGBTQIA+, and about 6% were religious. The results also covered economic welfare and health. The Google forms used in the audit did not combine written responses that did not match exactly.

O'Donnell explained how a comparison between the audit and the 2020 census was used to determine where the collection failed to reflect the community it served. **Hoffman** presented how the data could be used to build out lacking areas of the collection and thoughts on conducting other diversity audits in the future. The results of the audit are also being used to evaluate other aspects of the library such as book lists, displays, and the LL's collection development policy. **Hoffman** shared which LL staff were on the diversity audit committee.

Councilor Batey, O'Donnell, and Hoffman discussed what range of readers children's graphic novels are for and how popular the collection is. **Batey** suggested the LL host book groups that coincide with Council's goals. **Ober** advised that equity and sustainability staff were in the process of planning a meeting with LL staff soon.

Councilor Nicodemus acknowledged LL staff for having recognized gaps in the collection's diversity and suggested LL staff replace the word diversity for culturally authentic. **Hoffman** agreed with Nicodemus' comment and noted a connection had been established with the Confederated Tribes of the Grande Ronde's librarian who donated a collection of books to the LL that were written by members of the Tribe. **Mayor Gamba, Hoffman, and O'Donnell** discussed the LL focusing on acquiring books written by an authentic voice.

Council President Hyzy, Hoffman, and Councilor Nicodemus discussed what tools and resources are available to produce a diversity audit, why the current tools fall short, and resources for obtaining new books. **Nicodemus** pointed out that not all authors write stories that are culturally authentic and so books should not be procured based solely on the diversity of the author. **O'Donnell** agreed and noted an important aspect of the audit was for LL patron's to be able to see themselves reflected within a book.

The group thanked the LL staff involved in the audit.

Council President Hyzy asked if the results from the audit would be made public. **Hoffman** replied that the audit was in the city budget document and was posted online.

Ober announced that the study session would be Newell's last public meeting due to retirement and thanked Newell for their years of service. **Mayor Gamba** expressed appreciation for all Newell has done. **Newell** shared the honor with the LL staff.

Council Committee Assignments – Discussion

Ober explained there was a need for a new Council representative on the Housing Capacity Technical Committee (HCTC). **Mayor Gamba** asked how long the committee would be meeting for, **Ober** responded 18 months. The group discussed what the HCTC is, and Council came to a consensus to nominate Councilor Khosroahbadi as the representative with Councilor Nicodemus as the alternate.

5. Adjourn

Mayor Gamba announced that after the meeting Council would hold an executive session pursuant to Oregon Revised Statute (ORS) 192.660 (2)(h) to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed. **Mayor Gamba** adjourned the meeting at 6:03 p.m.

Respectfully submitted,

Nicole Madigan, Deputy City Recorder

COUNCIL WORK SESSION

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

MINUTES

JUNE 21, 2022

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

Staff Present: Steve Adams, City Engineer
Joseph Briglio, Community Development Director
Kelly Brooks, Assistant City Manager
Ryan Burdick, Police Captain
Justin Gericke, City Attorney
Nicole Madigan, Deputy City Recorder

Ann Ober, City Manager
Scott Stauffer, City Recorder
Mandy Byrd, Development Projects Manager
Peter Passarelli, Public Works Director
Natalie Rogers, Climate & Natural Resources Manager
Courtney Wilson, Urban Forester

Mayor Gamba called the meeting to order at 4:01 p.m.

1. Main Street Trees and Sidewalks – Discussion

Adams explained an ongoing issue with the sidewalks on Main Street buckling and causing tripping hazards due to tree roots from city planted trees, and that the issue had received complaints from a downtown Milwaukie business owner. Engineering firm AKS had been hired to consult with staff regarding how to resolve the issue. **Adams** provided background on the life of an urban street tree.

Adams presented silva cells as a concept to be considered for replacing the current ineffective growing area for trees and noted that the system had been implemented successfully in other cities.

Councilor Batey asked for clarification about whether cells are planted two feet deep, **Adams** responded that cells are planted one on top of each other with each cell about 12 to 18 inches tall and that trees will generally need 18 to 36 inches of depth. **Adams** stated that if silva cells were used they could last decades, it would resolve the buckling sidewalk issue, and trees would thrive and live longer.

Adams shared that Passarelli and Wilson presented the silva cell idea to the Tree Board in late May and the board had supported the cell concept and a staged removal of the trees. Three board members of the Historic Milwaukie Neighborhood District Association (NDA) met with Adams to tour the Main Street trees and discuss the removal of the old trees and installation of a silva cell system. The NDA members were in favor of the system and thought the existing trees should be taken out immediately instead of a staged removal to provide extra time for the new trees to develop and mature. **Adams** mentioned that if the city implemented a silva cell system, it could be incorporated and adopted as a downtown street treated design and any new development in downtown would install silva cells when planting street trees.

Adams expressed concern for the ongoing issue the unresolved tree/sidewalk situation poses. **Adams** shared additional benefits to using silva cells such as additional water filtration for storm drains and trees receiving more water due to the impervious sidewalks. **Adams** noted how the existing trees were showing signs of distress. **Councilor Batey** and **Adams** discussed why silva cells cannot be implemented with the existing trees.

Council President Hyzy thought the existing trees were getting close to the end of their life, and it made sense to move forward with a new system. **Passarelli** added that the existing trees were also not an appropriate choice for the location.

Councilor Batey and **Adams** discussed how many trees can fit on a block using the silva cell system and connecting cells to each other and then to storm drains.

Mayor Gamba provided a history of the Main Street tree issue. **Gamba, Adams,** and **Passarelli** discussed whether adding an irrigation system would be part of the silva cell installation and how the trees benefited from having the cells interconnected.

The group discussed how silva cells could affect the frontage improvement costs and why only five trees were included as part of the discussion. The group discussed whether to remove all five trees at once or start with two and came to a consensus to have staff report back on the cost of removing all five trees with installation of silva cells.

2. OR224/Monroe Street Intersection – Discussion

Adams presented the 2016 greenway concept plan for the intersection of Monroe Street at Highway 224, shared the concerns raised by the Oregon Department of Transportation (ODOT), and the results of a traffic study from April 2022. **Mayor Gamba** asked for clarification on what types of vehicles were being tracked and **Adams** replied that the study did not differentiate between vehicle types.

Councilor Batey and **Adams** discussed Monroe Street westbound two-way traffic. **Adams** stated the latest plans from ODOT included a bike box in-between the two-way traffic from both east and west of Hwy 224 and adjustments to the landscaping/bioretenention areas. The group discussed examples of bike boxes and delayed green lights for pedestrians' safety against right turns. **Council President Hyzy** voiced concern for pedestrians over adding more right turns onto Monroe Street and noted the growth and change that area will see in the next couple years.

Councilor Batey wanted to see traffic studies completed for the Hwy 224 intersections at Harrison Street and Oak Street; **Adams** stated ODOT did complete studies for those streets. The group discussed the addition of the right turn from Hwy 224 south onto Monroe Street and how to increase safety for pedestrians crossing Hwy 224.

Adams confirmed Council wanted to request no right on red signs and include the missing right turn from Hwy 224 south onto Monroe Street. **Council President Hyzy** and **Adams** discussed how making Monroe Street more pedestrian and bike friendly would lighten the issues occurring on Harrison Street and Oak Street.

3. New City Hall Council Chambers – Discussion

Brooks introduced Development Project Manager, Mandy Byrd and provided an update on what stage the project is at. **Stauffer** presented the first design option for the Council chambers/court room on the third floor of the new city hall. **Mayor Gamba** mentioned that in the past, smaller Council meetings had been held outside of chambers and expressed interest in such rooms being included in the design. The group discussed the locations of the balconies, elevators, stairwells, and the capacity of the conference room on the eastside of the third floor.

Stauffer and **Brooks** presented and discussed the second design. **Councilor Batey** noted that the audio/visual (AV) room seemed smaller in option two and the bathrooms

seemed larger and asked if the bathrooms would be accessible to the public. **Stauffer** and **Brooks** identified which restrooms would be accessible to the public.

Stauffer presented the design options side by side. **Council President Hyzy** and **Brooks** discussed where childcare during public meetings could take place. The group discussed the pros and cons of a west facing chambers versus a south facing chambers. **Councilor Batey** and **Brooks** discussed the ground level community room space. **Mayor Gamba** and **Stauffer** discussed which areas required badge access to enter. The group continued to discuss the options between designs one and two, but pointed out safety concerns with option two. The group generally favored the option two layout for it's larger capacity seating in chambers.

4. Adjourn

The group noted that Council would not meet in executive session after the meeting as had previously been announced.

Mayor Gamba adjourned the meeting at 5:35 p.m.

Respectfully submitted,

Nicole Madigan, City Recorder

COUNCIL REGULAR SESSION

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

MINUTES

JUNE 21, 2022

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

Staff Present: Joseph Briglio, Community Development Director
Ryan Burdick, Police Captain
Mandy Byrd, Development Program Manager
Jennifer Garbely, Assistant City Engineer
Justin Gericke, City Attorney
Jon Hennington, Equity Program Manager

Ann Ober, City Manager
Tim Salyers, Code Enforcement Coordinator
Scott Stauffer, City Recorder
Kelli Tucker, Accounting & Contracting Specialist

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

1. CALL TO ORDER

A. Pledge of Allegiance.

B. Native Lands Acknowledgment.

2. ANNOUNCEMENTS

Mayor Gamba announced upcoming community activities including park performances, the city's Porchfest and Carefree Sunday events, and city manager open door sessions. **Councilor Batey** noted the Milwaukie Center's Clackamas on Tap and Uncorked event and a neighborhood plant sale.

3. PROCLAMATIONS AND AWARDS**Statewide Initiative Petition (IP) 17 – Information**

Mark Knutson, Lift Every Voice Oregon representative, commented on the need to address gun violence and encouraged Council and the public to sign the IP 17 petitions.

A. LGBTQIA+ Pride Month – Proclamation

Council President Hyzy introduced the proclamation and remarked on the importance of recognizing Pride Month. **Mayor Gamba** proclaimed June 2022 to be Pride Month.

B. Juneteenth – Proclamation

Councilor Nicodemus introduced the proclamation and remarked on the significance of Juneteenth. **Mayor Gamba** proclaimed June 19, 2022, to be Juneteenth.

4. SPECIAL REPORTS

A. None Scheduled.

5. COMMUNITY COMMENTS

Mayor Gamba reviewed the public comment procedures and **Ober** reported that there was no follow-up report from the June 7 community comments. It was noted that no audience member wished to speak to Council.

6. CONSENT AGENDA

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

A. City Council Meeting Minutes:

1. May 10, 2022, study session,
2. May 10, 2022, special session,
3. May 17, 2022, work session,
4. May 17, 2022, regular session, and
5. May 31, 2022, special session.

B. Resolution 50-2022: A resolution of the City Council of the City of Milwaukie, Oregon, making appointments city boards and committees.

C. Approval of an Oregon Liquor Control Commission (OLCC) Application for Eastside Distilling, 2150 SE Hanna Harvester Drive – new outlet.

D. Resolution 51-2022: A resolution of the City Council of the City of Milwaukie, Oregon, authorizing an intergovernmental agreement with the Oregon Department of Transportation for delivery of segments D and E of the Monroe Street Neighborhood Greenway.

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

7. BUSINESS ITEMS

A. Revised Public Contracting Rules (PCRs) – Resolution

Tucker reviewed changes made to the revised PCRs since Council's last discussion, including scoring requirements for state Certification Office for Business Inclusion and Diversity (COBID) certified companies that bid on city projects, a Milwaukie COBID waiver form, and added inclusive language. **Tucker** confirmed that the city must award public improvement contracts to the lowest bidding contractor and noted alternate contracting methods that could help achieve diversity and equity goals.

Hennington reported that the Equity Steering Committee (ESC) had discussed the revised PCRs, the COBID certification process, and the proposed city COBID waiver, and had come to a consensus to support the revised PCRs. **Hennington** explained that the rules used the term “minority owned business” to match language used by the state COBID program and suggested Council encourage the state to revise the language.

Tucker noted that the PCRs used the word “shall” and in response to a request from Councilor Batey staff would replace the word with appropriate alternate words.

Tucker reported that staff had reviewed contract amounts authorized in the last year and only one had exceeded the city manager's current signing authority. **Tucker** noted that changing the signing authority amount would require a separate change to the Milwaukie Municipal Code (MMC). **Councilor Batey** suggested it was not worth staff effort to revise the code to change the signing authority limits.

Councilor Nicodemus, Hennington, and Mayor Gamba remarked on resources and services available to businesses seeking help in becoming COBID certified. The group remarked on barriers to businesses seeking to be state COBID certified and how the city could best approach the state to improve the COBID program.

The group thanked staff for their work on the revised PCRs and it was Council consensus to not revise the signing authority in the MMC right now.

It was moved by Councilor Batey and seconded by Councilor Khosroabadi to approve the resolution acting as the Local Contract Review Board, repealing existing public contracting rules and adopting revised public contracting rules to reflect laws adopted by the state and incorporating equity requirements, with the amendments noted by staff to replace all “shall” references with “will” or “must” as appropriate. Motion passed with the following vote: Councilors Khosroabadi, Batey, Nicodemus, and Hyzy and Mayor Gamba voting “aye.” [5:0]

Resolution 52-2022:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ACTING AS THE LOCAL CONTRACT REVIEW BOARD, REPEALING EXISTING PUBLIC CONTRACTING RULES AND ADOPTING REVISED PUBLIC CONTRACTING RULES TO REFLECT LAWS ADOPTED BY THE STATE AND INCORPORATING EQUITY REQUIREMENTS.

B. Noise Ordinance Updates – Discussion

Ober explained that the noise ordinance discussion had been scheduled due to several noise related issues that had come-up over the last year.

Councilor Batey remarked on the city’s noise monitoring practices and wondered if the city should use a non-decibel-based code to enforce the noise ordinance. **Mayor Gamba** suggested it might be good to consider other ways to measure noise issues.

Salyers provided an overview of the city’s noise ordinance and how Milwaukie and City of Portland staff measured noise complaints. **Councilor Batey** and **Salyers** discussed when staff monitors the decibel level of a noise versus when the “disturb other persons” code standard is used for determining if a noise violates the code. The group noted the importance of staff being able to collect data to document a noise ordinance violation.

Mayor Gamba and **Salyers** discussed a recent noise case that involved a rooster and the municipal court judge had ruled that the rooster noise did not violate the code. The group remarked on whether noise or animal code changes were needed to strengthen the city’s ability to address noisy roosters. **Councilor Nicodemus** and **Salyers** commented on neighborly ways to approach noisy rooster situations.

Salyers commented on a proposed model noise ordinance and reported that staff were open to removing decibel-based requirements. **Gericke** and **Salyers** noted that using a decibel-based standard was a non-subjective way to document a noise complaint.

Mayor Gamba asked if there would be any benefit in staff spending time to update the city’s noise ordinance. **Salyers** noted the ordinance was 40 years old and could be updated but there was no urgency to do so soon.

The group remarked on a recent noise complaint case related to a bottle return site next to housing, noting what time of day the reported complaints were documented.

Councilor Batey asked if there had ever been a noise complaint that staff did not have a code section to use to issue a citation. **Salyers** was not aware of any noise issues not covered by the MMC. **Councilor Batey** observed that there was no need to revisit the noise ordinance if staff had no issues. **Salyers** observed that the code should be set-up to eliminate unwanted noises and **Gericke** thought staff had the tools to document and issue citations for noise ordinance cases. The group noted that staff do call complaint filers to testify in court.

The group noted that noise ordinance citations include times and dates like all citations, and that residents could document noise issues that occur over time to support staff issuing citations.

Ober summarized that Council did not see a need to pursue a noise ordinance update soon and suggested the newly elected Council could revisit the issue in 2023.

C. Sparrow Site Auxiliary Property Purchase – Resolution

Briglio introduced Byrd. **Byrd** explained that Council was asked to authorize the purchase of an auxiliary property adjacent to the city-owned Sparrow Site, and provided an overview of the auxiliary property, noting Sparrow Site constraints, and the results of an access study. **Byrd** noted next steps in developing the Sparrow Site and asked Council to approve the purchase of the auxiliary property.

Mayor Gamba was disappointed about how long it had taken to develop the Sparrow Site and asked if affordable housing could be built on the auxiliary property. **Byrd** believed housing could be built on the auxiliary property along with the necessary roadway. The group remarked on the challenges of waiting through a long development process to provide housing for houseless individuals.

Councilor Khosroabadi and **Briglio** noted the city had not yet gone through a request for proposals (RFP) process to select a developer for the site. The group believed there would be developers interested in the project, and commented on zoning issues that had been raised previously and what newspapers RFP notices are published in.

Council President Hyzy expressed support for purchasing the Auxiliary Site.

Briglio observed that the auxiliary and Sparrow properties had lengthy deed histories.

It was moved by Council President Hyzy and seconded by Councilor Nicodemus to approve the resolution approving the purchase of the Sparrow Auxiliary Site (Tax Lot No. 11E36CC05100) from TriMet and delegating signing authority to the city manager to complete the purchase. Motion passed with the following vote: Councilors Khosroabadi, Batey, Nicodemus, and Hyzy and Mayor Gamba voting “aye.” [5:0]

Resolution 53-2022:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPROVING THE PURCHASE OF THE SPARROW AUXILIARY SITE (TAX LOT NO. 11E36CC05100) FROM TRIMET AND DELEGATING SIGNING AUTHORITY TO THE CITY MANAGER TO COMPLETE THE PURCHASE.

Gericke and **Mayor Gamba** provided additional history about the Sparrow Site, explaining how site access issues had played out in recent years, that the site was identified as a brownfield due to Oregon Department of Transportation (ODOT) vehicles had been parked on it for years, and how the city had acquired the property from TriMet.

8. PUBLIC HEARING

A. None Scheduled.

9. COUNCIL REPORTS

Councilor Batey asked for permission to resend a Council letter to the Oregon State Marine Board (OSMB) addressing a topic the board had not acted upon. It was Council consensus that Councilor Batey could resend the Council letter to the OSMB.

Council congratulated Councilor Nicodemus on the successful 2022 Juneteenth event.

Council President Hyzy reported on attending the Metro Joint Policy Advisory Committee on Transportation (JPACT) trip to Washington, District of Columbia (DC), to thank the state's congressional delegation for their support of the federal infrastructure bill. The group commented on whether the Kellogg Creek Dam removal project would be included in future federal funding bills.

Mayor Gamba was glad to have participated in the 2022 Portland Pride parade.

10. ADJOURNMENT

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

Mayor Gamba adjourned the meeting at 8:13 p.m.

Respectfully submitted,

Scott Stauffer, City Recorder

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Date Written: June 24, 2022

Reviewed: Scott Stauffer, City Recorder

From: Nicole Madigan, Deputy City Recorder

Subject: **Appointments to City Boards and Committees**

ACTION REQUESTED

As outlined in the Milwaukee Municipal Code (MMC), Council is asked to consider approving a resolution making appointments and reappointments to city boards and committees (BCs).

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

On September 20, 2021, Brett Laurila resigned from the Design and Landmarks Committee (DLC), creating a vacancy. To fill this vacancy, staff worked to recruit DLC applicants.

In May 2022, the city held its first annual BC recruitment and interview process.

On June 22, Michael Osborne was hired as the city's assistant finance director and subsequently resigned from Budget Committee position 5, creating a vacancy on the committee.

On June 30, Joel Bergman completed a third consecutive term on the Citizens Utility Advisory Board (CUAB) and was not eligible for reappointment, which resulted in board position 5 becoming vacant as of July 1.

Also on June 30, Jacqueline Smiley's term on the DLC expired and Smiley did not wish to be reappointed, which resulted in committee position 1 becoming vacant as of July 1.

ANALYSIS

Authority to fill city BC vacancies is granted to the Mayor and Council by Section 26 of the City Charter. To fill vacant positions, panels consisting of members of Council, staff BC liaisons, and BC members, conduct interviews from applications received by the city. The panels make appointment recommendations to Council, which considers and typically approves recommendations through the regular session consent agenda. Appointed individuals serve for a term length determined by the MMC. Upon the completion of a term, if the individual is eligible, they may be reappointed by Council to serve another term.

BC appointments are made when a term has expired or when a position has been vacated. BC terms expire on June 30, but appointments are also made as needed to fill vacancies. All BC positions are term limited, meaning there is a limit to the number of times that members can be re-appointed. Of the four recommended appointments below, all are initial appointments and two are filling resignations.

All the nominated individual participated in the annual BC recruitment process.

David Chitsazan lives in the Hector Campbell neighborhood, has professional auditing and budgeting experience, and has been nominated to fill Budget Committee position 5.

Sofie Sherman-Burton lives in the Lewelling neighborhood, works for a national non-profit organization, and has been nominated to fill CUAB position 5.

Julie Garvey is a long-time resident of the Lake Road neighborhood, works in real estate, and has been nominated to fill DLC position 1.

Ryan Lowther lives in the Historic Milwaukie neighborhood, is an architect, and has been nominated to fill DLC position 3.

BUDGET, CLIMATE, & WORKLOAD IMPACTS

The staff and budget of office of the city recorder (OCR) can handle the costs and workload related to supporting the city's BC recruitment process.

COORDINATION, CONCURRENCE, OR DISSENT

The OCR worked with Council members and BC staff liaisons to interview new applicants or confirm that the nominated individuals would like to continue serving in their BC positions.

STAFF RECOMMENDATION

Staff recommends making the following appointments:

Budget Committee: four-year terms, limit of two consecutive terms.

Position	Name	Term Start Date	Term End Date
5	David Chitsazan	7/19/2022	6/30/2024

Citizens Utility Advisory Board (CUAB): two-year terms, limit of three consecutive terms.

Position	Name	Term Start Date	Term End Date
5	Sofie Sherman-Burton	7/19/2022	6/30/2024

Design and Landmarks Committee (DLC): two-year terms, limit of three consecutive terms.

Position	Name	Term Start Date	Term End Date
1	Juli Garvey	7/19/2022	6/30/2024
3	Ryan Lowther	7/19/2022	6/30/2023

ALTERNATIVES

Council could decline to make the recommended appointments, which would result in vacancies on the noted BCs.

ATTACHMENTS

1. Resolution



COUNCIL RESOLUTION No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, MAKING APPOINTMENTS TO CITY BOARDS AND COMMITTEES.

WHEREAS Milwaukie Charter Section 26 authorizes the mayor, with the consent of the Council, to make appointments to boards and committees (BCs), and

WHEREAS several BC positions are currently vacant, and several BC terms expired on June 30, 2022, which has created vacancies, and

WHEREAS the individuals named below participated in the annual BC recruitment and interview process and have been nominated to the noted position by a panel of Council members, city staff, and BC representatives, or are current BC members who are eligible and willing to be renominated to their current BC positions, and

WHEREAS the following individuals have been nominated for appointment.

Budget Committee:

Position	Name	Term Start Date	Term End Date
5	David Chitsazan	7/19/2022	6/30/2024

Citizens Utility Advisory Board (CUAB):

Position	Name	Term Start Date	Term End Date
5	Sofie Sherman-Burton	7/19/2022	6/30/2024

Design and Landmarks Committee (DLC):

Position	Name	Term Start Date	Term End Date
1	Juli Garvey	7/19/2022	6/30/2024
3	Ryan Lowther	7/19/2022	6/30/2023

Now, Therefore, be it Resolved by the City Council of the City of Milwaukie, Oregon, that the individuals named in this resolution are appointed to the identified boards and committees of the City of Milwaukie for the term dates noted.

Introduced and adopted by the City Council on **July 19, 2022.**

This resolution is effective immediately.

ATTEST:

Mark F. Gamba, Mayor

APPROVED AS TO FORM:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Reviewed: Jennifer Lee (as to form), Administrative Specialist

From: Peter Passarelli, Public Works Director

Subject: **T-Mobile Lease**

Date Written: July 6, 2022

ACTION REQUESTED

Council is asked to authorize the city manager to execute a new lease with T-Mobile West LLC for use of a portion of space on the elevated storage tank and to use an adjacent portion of ground space for the installation and operation of an antenna facility for communications purposes.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

[April 19, 2000](#): the city entered into a lease with Voicestream PCS I LLC to provide space on a portion of the elevated storage tank for communication purposes. Voicestream subsequently became T-Mobile in 2001.

ANALYSIS

The final and third renewal term of the Lease with T-Mobile expired in May 2020, and their tenancy since then has been month to month. In addition to the need for a new lease, T-Mobile proposed in early 2021 an upgrade to their communication facilities. As a result of this proposed upgrade the city required T-Mobile to demonstrate that the proposed facilities would not interfere with its current and future supervisory control and data acquisition (SCADA) communications for its water and wastewater utilities. T-Mobile provided the city an interference study that demonstrated that their proposed facility would not interfere with the city's SCADA communications.

The initial term of the new lease is five years with an automatic renewal for three successive five-year terms. The rent shall be \$3,000 per month and shall increase 4.0% annually on the commencement date.

BUDGET IMPACT

The new lease will provide an increase of lease income of approximately \$12,000 per year.

WORKLOAD IMPACT

None.

CLIMATE IMPACT

None.

COORDINATION, CONCURRENCE, OR DISSENT

The city attorney, accounting and contracts specialist, public works director, assistant city engineer, and administrative services director concur.

STAFF RECOMMENDATION

Staff recommends that Council authorize the city manager to execute a new lease with T-Mobile.

ALTERNATIVES

1. Do not authorize a new lease and have T-Mobile remove their facilities from the elevated storage tank.
2. Do not authorize the city manager to execute a new lease and continue to allow T-Mobile tenancy on a month-to-month basis under the current terms.

ATTACHMENTS

1. Current lease
2. Proposed lease
3. Resolution

COPY FOR YOUR INFORMATION

LEASE OF WATER TOWER SITE FOR COMMUNICATIONS FACILITIES

T-Mobile

THIS LEASE entered into as of this 19 day of April, 2000, by and between the CITY OF MILWAUKIE, an Oregon municipal corporation (hereinafter referred to as "Landlord") and VOICESTREAM PCS I. L.L.C.. a Delaware limited liability company (hereinafter referred to as "Tenant").

BACKGROUND

Landlord is the owner in fee simple of a parcel of land located in the City of Milwaukie, Clackamas County, State of Oregon, legally described on the attached Exhibit A (the "Owned Premises"), on which a water tower (the "Water Tower") is located. The street address of the Water Tower is 9870 SE 40th Avenue, Milwaukie, Oregon.

Tenant desires to lease space on the Water Tower for the installation and operation of certain antenna facilities ("Antennae Facilities") for use in connection with its communications business.

Accordingly, Landlord and Tenant are entering into this Lease on the terms and conditions set forth below.

AGREEMENT

In consideration of their mutual covenants, the parties agree as follows:

1. LEASED PREMISES.

- a. Landlord leases to Tenant and Tenant leases from Landlord only the portion of space on the Water Tower as shown on the Site Plan attached as Exhibit B and a non-exclusive right to use a portion of the groundspace for Tenant's ground equipment. Tenant intends to locate its Antennae Facilities as described on the attached Exhibit C on the Landlord's Water Tower. Tenant may not add additional equipment and/or antennae from that shown on Exhibit C without the prior written approval of the Landlord.
- b. This Lease is not a franchise. Any such franchise permit must be obtained separately from Landlord.

2. TERM AND RENEWALS.

- a. The term (the "Initial Term") of this Lease shall be five (5) years, commencing on

May 15, 2000 (the "Commencement Date") and ending May 14, 2005. Provided that the Tenant is not in default under the Lease, the Lease shall automatically renew for three (3) additional five (5) year terms ("Renewal Term") unless Tenant notifies Landlord, in writing, of Landlord's intention not to renew this Lease, at least sixty (60) days prior to the expiration of the Initial Term or any Renewal Term. Each Renewal Term shall be on the same terms and conditions as set forth herein, except for rent which shall increase to \$1,202.11 per month for the first year of the first renewal term, to \$1,445.05 for the first year of the second renewal term, and to \$1,737.10 for the first year of the third renewal term.

- b. At the end of the final renewal term, the Lease shall continue from month to month under the same terms and conditions set forth in the Lease. Either the Landlord or the tenant may terminate the month to month lease by providing thirty (30) days prior written notice to the other. If Tenant remains in possession of the Premises at the expiration of this lease or any Renewal Term without a written agreement, such tenancy shall be deemed a month to month tenancy under the same terms and conditions of this Lease.
- c. Upon termination of this Lease, the provisions at 15c. will apply.

3. RENT.

- a. Tenant shall pay Landlord as rent for the space on the Water Tower the sum of One Thousand Dollars and 00/100 (\$1,000.00) per month ("Base Rent"). Tenant shall pay Landlord Base Rent at the first day of each month. Base Rent shall be increased annually as described below.
- b. Tenant shall pay Landlord a late payment charge equal to five percent (5%) of the late payment for any payment not paid when due.
- c. The Base Rent shall be increased annually effective as of each anniversary of the Commencement Date by an amount equal to 3.75%.
- d. If this Lease is terminated at a time other than on the last day of the month, Rent shall be prorated as of the date of termination and, in the event of termination for any reason other than nonpayment of Rent, all prepaid Rents shall be refunded to the Tenant.
- e. Base Rent and any annual increases shall be paid by Tenant to Landlord without offset.

4. USE OF PREMISES.

- a. Tenant shall use the Water Tower for the installation, operation, repair, removal and maintenance of its Antennae Facilities for the transmission, reception and operation of a radio communications system and for no other uses. Installation, operation and maintenance includes installation of transmitter base stations, antennae or antenna systems and the space required to run cable between the transmitter base stations and the antennae systems as set forth at Exhibit C, and necessary utilities.
- b. Tenant shall, at its expense, comply with all present and future federal, state, and local laws, ordinances, rules and regulations (including laws and ordinances relating to health, radio frequency emissions, and any other radiation and safety requirements) in connection with Tenant's use, operation, maintenance, construction and/or installation of its Antennae Facilities. Tenant at its expense shall obtain all licenses, permits, and land use approvals required for Tenant's use of the Water Tower.
- c. Tenant may, prior to or after the Commencement Date, obtain a title report, perform surveys, soils tests, and other engineering procedures on, under and over the Property, necessary to determine that Tenant's use of the Water Tower will be compatible with Tenant's engineering specifications, system design, operations and any federal, state, and local government approvals.
- d. Landlord agrees to reasonably cooperate with Tenant in obtaining, at Tenant's expense (including reimbursement of Landlord's reasonable attorney and administrative fees), any federal licenses and permits required for or substantially required by Tenant's use of the Water Tower.

5. CONSTRUCTION STANDARDS.

The Antennae Facilities shall be installed on Water Tower in a good and workmanlike manner without the attachment of any construction liens. The Antennae Facilities shall be painted the same color as the Water Tower.

6. INSTALLATION OF EQUIPMENT.

- a. Tenant shall have the right, at its sole cost and expense, to install, operate and maintain on the Water Tower, in accordance with good engineering practices and with all applicable FCC rules and regulations, its Antennae Facilities as described on Exhibit C.
- b. Tenant's installation of all such Antennae Facilities shall be done according to plans approved by Landlord which will not be unreasonably withheld, conditioned or delayed. Any damage done to the Water Tower during installation and/or

during operations shall be repaired or replaced immediately by Tenant in a manner subject to Landlord's approval, which approval shall not be unreasonably withheld, conditioned or delayed, and shall be at Tenant's expense. In connection with the installation and operation of the Antennae Facilities, Tenant shall not make any penetrations of the Water Tower without the Landlord's prior written consent. All penetrations that may be permitted by Landlord shall be undertaken only under Landlord supervision. Tenant shall pay all costs and expenses in relation to maintaining the integrity of Landlord's Water Tower in connection with Tenant's installation and operation of the Antennae Facilities.

- c. Within thirty (30) days after the completion of construction, Tenant shall provide Landlord with as-built drawings of the Antennae Facilities and the improvements installed on the Water Tower.

7. EQUIPMENT UPGRADE.

Tenant may update or replace Antennae Facilities from time to time with the prior written approval of Landlord, which approval shall not be unreasonably withheld, conditioned or delayed. Tenant shall submit to Landlord a detailed proposal for any such replacement facilities, and any supplemental materials as may be requested, for Landlord's evaluation and approval. This paragraph is not intended to eliminate or in any way alter the obligation of Tenant to obtain any and all needed land use approvals and permits.

8. MAINTENANCE.

- a. Tenant shall, at its own expense, maintain the leased portion of the Water Tower, and any equipment on or attached to the leased portion in a safe condition, in good repair and in a manner suitable to Landlord so as not to conflict with the use of or other leasing of the Water Tower by Landlord. Tenant shall not interfere with the use of the remaining portion of the Water Tower, or any other facilities located on the property or other equipment of other tenants.
- b. Tenant shall have sole responsibility for the maintenance, repair, and security of all its equipment, personal property, Antennae Facilities, and leasehold improvements, and shall keep the same in good repair and condition during the Lease term.
- c. Tenant shall keep the Water Tower free of debris and anything of a dangerous, noxious or offensive nature or which would create a hazard or undue vibration, heat, noise or interference.
- d. In the event the Landlord or any other tenant undertakes painting, construction or other alterations on the Water Tower, Tenant shall take reasonable measures at

Tenant's cost to cover Tenant's equipment, personal property or Antennae Facilities and protect such from paint and debris fallout which may occur during the painting, construction or alteration process. Landlord shall provide a minimum of thirty (30) days' prior written notice in the event of any such work. If however, Tenant is required to remove Tenant's Antenna Facilities, then a minimum of sixty (60) days prior written notice shall be given. Should Tenant be required to remove any of its equipment during such work, rendering the Antennae Facilities unusable, Tenant shall be abated rent during that time.

9. PREMISES ACCESS.

- a. Tenant shall have the reasonable right of access to the Water Tower to reach its Antennae Facilities, twenty-four (24) hours per day, seven (7) days per week, and Landlord hereby grants to Tenant a non-exclusive easement therefor during the term of this Lease.
- b. Landlord shall have access to the Water Tower at reasonable times to examine and inspect the Antennae Facilities for safety reasons or to ensure that Tenant is meeting its covenants, provided such examinations and inspections shall not interfere with Tenant's operations.

10. UTILITIES.

- a. Telephone: At Tenant's sole expense, Tenant may obtain appropriate phone service from the local telephone utility as outlined on Exhibit C. Landlord shall cooperate with Tenant and the local telephone utility.
- b. Electrical: At Tenant's sole expense, Tenant shall obtain from the local electrical provider a separate meter for electrical power.
- c. Should Tenant determine that it requires HVAC to adequately cool its equipment, it shall have the right to install the appropriate ventilation and HVAC system at its sole expense and subject to Landlord's prior written approval, which will not be unreasonably withheld, conditioned or delayed. At least thirty (30) days prior to installation of such equipment, Tenant shall provide Landlord with plans of such equipment for review.
- d. Payments: Tenant shall pay for any and all costs resulting from the installation, maintenance or operation of utilities in connection with its Antennae Facilities.
- e. Tenant shall have the right to install utilities, at Tenant's expense, and to improve the present utilities on the premises (including, but not limited to, the installation of emergency power generation) with the prior written approval of Landlord,

which approval shall not be unreasonably withheld, conditioned or delayed, provided that the installation of and/or improvements to the utilities do not interfere with other tenants on the Water Tower roof. At least thirty (30) days prior to commencement of the installation and/or improvements, Tenant shall submit to Landlord a detailed proposal for any such installation and/or improvements and any supplemental information as may be requested, for Landlord's evaluation and approval. Landlord hereby grants Tenant a non-exclusive easement for installation and maintenance of utilities during the term of this Lease.

11. LICENSE FEES.

Tenant shall pay, as they become due and payable, all fees, charges, taxes and expenses required for licenses and/or permits required for or occasioned by Tenant's use of the Water Tower.

12. APPROVALS: COMPLIANCE WITH LAWS.

Tenant's use of the Water Tower is contingent upon its obtaining all certificates, permits, zoning, franchises and other approvals that may be required by any federal, state or local authority. Tenant shall erect, maintain and operate its Antennae Facilities in accordance with site standards, statutes, ordinances, rules and regulations in effect or that may be issued thereafter by the FCC or any other federal, state or local governing body.

13. INTERFERENCE.

- a. Tenant's installation, operation, and maintenance of its Antennae Facilities shall not damage or interfere in any way with Landlord's current operations, any of Landlord's current communications facilities at this site or at other locations, or related repair and maintenance activities. Tenant is aware that Landlord currently uses a tone-elementary monitoring system in evaluating Landlord's water supply stations. Tenant also understands that Landlord will be converting this current design to a radio broadcast system sometime during the course of this Lease. Tenant shall not cause interference with the current system and warrants that Tenant's Antennae Facilities will not cause interference with the Landlord's new monitoring system. Tenant agrees to cease all such actions that materially interfere with Landlord's use of the Water Tower as described above and/or with any and all current government communication facilities immediately upon written or actual notice of such interference, provided however, in such case, Tenant shall have the right to terminate the Lease. If Tenant elects to terminate the Lease, the provisions at 15c apply. Landlord, at all times during this Lease, reserves the right to take any action it deems necessary, in its sole discretion, to repair, maintain, alter or improve the Water Tower in connection with its

operations as may be necessary, including leasing parts of the Water Tower to others, provided however that, except in the case of emergency (which shall mean actual or threatened harm to persons or property as determined in Tenant's good faith judgment) Landlord shall take all reasonable precautions to avoid interference with Tenant's equipment or operations, and shall give Tenant not less than thirty (30) days notice of scheduled maintenance, repair, alterations or improvements to the Water Tower.

- b. Before approving the placement of the Antennae Facilities, Landlord may obtain, at Tenant's expense, an interference study indicating whether Tenant's intended use will interfere with any existing communications facilities on the Water Tower or any of Landlord's other communication facilities and an engineering study indicating whether the Water Tower is able structurally to support the Tenant's Antennae Facilities without prejudice to the Landlord's primary use of the Water Tower.
- c. Landlord does not guarantee to Tenant subsequent noninterference with Tenant's communications operations, provided, however, that in the event any other party requests a lease and/or permission to place any type of additional Antennae or transmission facility on the Water Tower, the procedures of paragraph 13(d) below shall govern to determine whether such Antennae or transmission facility will interfere with Tenant's transmission operations. Landlord reserves the right to lease other portions of the Water Tower to third parties. If Landlord leases any other portion of the Water Tower to a third party, Landlord agrees that such installation will not interfere with the Tenant's equipment or operations. Tenant agrees not to interfere with the operations or equipment of any tenant on the Water Tower existing at the date of commencement of this Lease.
- d. If Landlord receives any such request, Landlord shall submit a proposal complete with all technical specifications reasonably requested by Tenant and available to Landlord for review for noninterference; however, Landlord shall not be required to provide Tenant with any specifications or information claimed to be of a proprietary nature by the third party. The third party shall be responsible for the reasonable cost of preparing the technical specifications for its proposed transmission facility. Tenant shall have thirty (30) days following receipt of said proposal to make any objections thereto, and failure to make any objection within said thirty (30) day period shall be deemed consent by Tenant to the installation of Antennae or transmission facilities pursuant to said proposal. If Tenant gives notice of objection due to interference during such 30 day period and Tenant's objections are verified by Landlord to be valid, then Landlord shall not proceed with such proposal unless Landlord modifies the proposal in a manner determined, in Landlord's reasonable judgment, to adequately reduce the interference. In that case, Landlord may proceed with the proposal. A

governmental unit or intergovernmental agency, including the Landlord, may be allowed to place Antennae or other communications facilities on the Water Tower, provided that such installation shall not interfere with Tenant's communications operations. In the event any such interference does not cease promptly, the injured party shall have the right to bring a court action to enjoin such interference or to terminate this Lease immediately upon written notice.

14. DEFAULT AND LANDLORD'S REMEDIES.

- a. It shall be a default if Tenant defaults in the payment or provision of Rent or any other sums to Landlord when due, and does not cure such default within ten (10) business days after receipt of written notification; or if Tenant defaults in the performance of any other covenant or condition of this Lease and does not cure such other default within thirty (30) days after written notice from Landlord specifying the default complained of, except in the case of a non-monetary default that cannot reasonably be cured within thirty (30) days, the deadline shall be extended so long as cure is commenced within such thirty-day period and diligently pursued to completion; or if Tenant abandons or vacates the Water Tower; or if Tenant is adjudicated bankrupt or makes any assignment for the benefit of creditors; or if Tenant becomes insolvent.
- b. In the event of a default, Landlord shall have the right, at its option, in addition to and not exclusive of any other remedy Landlord may have by operation of law, without any further demand or notice, to re-enter the Water Tower and eject all persons therefrom, and either:
 1. declare this Lease at an end, in which event Tenant shall immediately pay Landlord a sum of money equal to the total of:
 - A. the amount of the unpaid rent accrued through the date of termination;
 - B. the amount by which the unpaid rent reserved for the balance of the term exceeds the amount of such rental loss that the Tenant proves could be reasonably avoided (net of the costs of such reletting); and
 - C. any other amount necessary to compensate Landlord for all detriment proximately caused by Tenant's failure to perform its obligations under the Lease, provided however, that Landlord shall not be entitled to punitive damages.
 2. without terminating this Lease, relet the Water Tower, or any part thereof, for the account of Tenant upon such terms and conditions as Landlord may

deem advisable, and any monies received from such reletting shall be applied first to the expenses of such reletting and collection, including reasonable attorney's fees, any real estate commissions paid, and thereafter toward payment of all sums due or to become due Landlord hereunder and if a sufficient sum shall not be thus realized to pay such sums and other charges, Tenant shall pay Landlord any deficiency monthly, notwithstanding that Landlord may have received rental in excess of the rental stipulated in this Lease in previous or subsequent months, and Landlord may bring an action therefore as such monthly deficiency shall arise.

- c. No re-entry and taking of possession of the Water Tower by Landlord shall be construed as an election on Landlord's part to terminate this Lease, regardless of the extent of renovations and alterations by Landlord, unless a written notice of such intention is given to Tenant by Landlord. Notwithstanding any reletting without termination, Landlord may at any time thereafter elect to terminate this Lease for such previous breach.
- d. If suit shall be brought by Landlord for recovery of possession of the Water Tower, for the recovery of any rent or any other amount due under the provisions of this Lease, or because of the breach of any other covenant, the Tenant shall pay to the Landlord all expenses incurred therefore, including reasonable attorney fees.

15. OPTIONAL TERMINATION.

- a. This lease may be terminated by Tenant if:
 - 1. Tenant is unable to obtain the approval of any agency, board, court, or other governmental authority necessary for the construction and/or operation of the communications equipment, or agency approval is revoked; or if Tenant determines the cost of obtaining such approval is commercially unfeasible; or
 - 2. Tenant determines at any time that the Water Tower is not appropriate under Tenant's design or engineering specifications for its Antennae Facilities or the communications system to which the Antennae Facilities belong.
- b. This lease may be terminated by Landlord if:
 - 1. Landlord decides, in its sole discretion and for any reason, to discontinue use of the Water Tower;

2. Landlord determines, based upon a certified opinion of a structural engineer or other qualified expert, that the Water Tower is structurally unsound or otherwise not suitable for Tenant's use, including but not limited to consideration of age of the structure, damage or destruction of all or part of the Water Tower from any source, or factors relating to the condition of the Water Tower and Tenant fails to agree to promptly conduct all necessary repairs within a specific period of time determined by Landlord in Landlord's sole discretion; or
 3. Landlord determines in its sole discretion that continued use of the Water Tower by Tenant is in fact a threat to health, safety or welfare or violates applicable laws or ordinances.
- c. Either party shall give sixty (60) days written notice of termination of this Lease. Upon termination of this lease for any reason, Tenant shall remove its equipment, personal property, Antennae Facilities, and leasehold improvements from the Water Tower on or before the date of termination, and shall repair any damage to the Water Tower caused by such equipment, normal wear and tear excepted; all at Tenant's sole cost and expense. Any such property or facilities that are not removed within thirty (30) days after the end of the Lease term may be removed and stored by Landlord at Tenant's sole expense. In the event Tenant fails to recover any property from Landlord within sixty (60) days after the end of the Lease, such property shall become the property of Landlord. It is the responsibility of the Tenant to restore the Water Tower to its original condition, as near as practicable, normal wear and tear excepted.

16. ALTERATION, DAMAGE OR DESTRUCTION.

If the Water Tower or any portion thereof is altered, destroyed or damaged so as to materially hinder effective use of the Antennae Facilities through no fault or negligence of Tenant, Tenant may elect to terminate this Lease effective as of the date of such alteration, destruction or damage so long as Tenant provides written notice to Landlord within ten (10) business days of the date of such alteration, destruction or damage. In such event, Tenant shall promptly remove the Antennae Facilities from the Water Tower and the parties shall proceed as set forth in 15c. above. This Lease (and Tenant's obligation to pay rent) shall terminate upon Tenant's fulfillment of the obligations set forth in the proceeding sentence, at which termination Tenant shall be entitled to the reimbursement of any prepaid rent. Landlord shall have no obligation to repair any damage to any portion of the Water Tower or Antennae Facilities.

17. ACCEPTANCE OF PREMISES.

By leasing a portion of the Water Tower, Tenant accepts the premises in the condition

existing as of the Commencement Date. Landlord makes no representation or warranty with respect to the condition of the premises and Landlord shall not be liable for any latent or patent defect in the premises.

18. NOTICES.

All notices, requests, demands, and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested; to the following addresses:

If to Landlord, to: City of Milwaukie
10722 SE Main Street
Milwaukie, OR 97222

With a copy to: Dominic G. Colletta
Ramis Crew Corrigan & Bachrach
1727 NW Hoyt Street
Portland, OR 97209

If to Tenant, to: VoiceStream PCS I, L.L.C.
3650 - 131st Avenue, SE, Suite 200
Bellevue, WA 98006
Telephone: (425) 653-4600
Facsimile: (425) 653-5050
Attn: PCS Leasing Administrator

With a copy to: VoiceStream PCS I, L.L.C.
Attn: PCS Leasing Adiministrator
1500 NE Irving, Suite 530
Portland, OR 97232
Phone: (503) 813-9000
Facsimile: (503) 232-0520

19. ASSIGNMENT AND SUBLETTING.

- a. Subject to written notice to Landlord, Tenant may assign this Lease to any person or entity controlling, controlled by, or under common control with Tenant, or any person or entity that, after first receiving Federal Communications Commission or state regulatory agency approvals, acquires Tenant's radio communications business within the market covered by this Lease and assumes all obligations under this Lease. Subject to Landlord's prior written consent, Tenant may assign this Lease to any other person or entity permitted by this Section 19(a). Tenant shall provide not less than thirty (3) days prior written notice to Landlord of any such proposed assignment requiring Landlord's consent, together with financial and other relevant information

regarding the proposed assignee, and if in exercising its reasonable judgment Landlord determines the proposed assignee has sufficient financial and operational capacity to assume this Lease, Landlord shall consent to such assignment. Upon such assignment, Tenant shall be relieved of all liabilities and obligations hereunder and Landlord shall look solely to the assignee for performance under this Lease and all obligations hereunder.

- b. Nothing in this Lease shall preclude Landlord from leasing other space for non-interfering communications equipment to any person or entity which may be in competition with Tenant or any other party, consistent with the terms of this Lease.

21. MISCELLANEOUS.

- a. Landlord and Tenant represent that each, respectively, has full right, power, and authority to execute this Lease.
- b. On or around June 19, 1990, Landlord encapsulated a layer of lead-based paint on the Water Tower. Landlord represents that it has no knowledge of any other substance, chemical or waste that is identified as hazardous, toxic or dangerous under any applicable federal, state or local law or regulation on the Owned Premises.
- c. This Lease constitutes the entire agreement and understanding of the parties and supersedes all offers, negotiations, and other agreements of any kind. There are no representations or understandings of any kind not set forth herein. Any modification of or amendment to this Lease must be in writing and executed by both parties.
- d. If any term of this Lease is found to be void or invalid, such invalidity shall not affect the remaining terms of this Lease, which shall continue in full force and effect.
- e. Landlord hereby agrees to subordinate any and all lien rights it may have, statutory or otherwise concerning the Antenna Facilities or any portion thereof which shall be deemed personal property for the purposes of this Lease, regardless of whether or not the same is deemed real or personal property under applicable laws, and Landlord gives the right to remove all or any portion of the same from time to time, whether before or after a default under this Lease, to any security interest of a lender or financier of Tenant not controlled by, controlling or otherwise affiliated with Tenant.
- f. Each party agrees to cooperate with the other in executing any documents (including a Memorandum of Lease and Quitclaim Deed upon termination of the Lease) necessary to protect its rights or use of the Water Tower. Any Memorandum of Lease shall be acceptable to both parties in form and content, and may be recorded in place of this Lease by either party. Upon termination of this Lease, Tenant shall deliver to Landlord a quitclaim deed or other recordable conveyance reasonably deemed

sufficient by Landlord to release and reconvey to Landlord Tenant's rights under this Lease. This provision shall survive the termination of this Lease.

- g. 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.
- h. This Lease shall be construed in accordance with the laws of the state of Oregon.
- i. This Lease 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.
- j. All Exhibits referred to herein are incorporated herein for all purposes. The parties understand and acknowledge that Exhibit A (the legal description of the Owned Premises, Exhibit B (the site plan), and Exhibit C (Antenna Facilities) may be attached to this Lease in preliminary form. Accordingly, the parties agree that up on the preparation of final, more complete exhibits, Exhibits A, B and/or C, as the case may be, which may have been attached hereto in preliminary form, may be replaced upon agreement by Landlord and Tenant with such final, more complete exhibits.
- k. Landlord covenants that at all times during the term of this Lease, Tenant's quiet enjoyment of the leased premises or any part thereof shall not be disturbed as long as Tenant is not in default beyond any applicable grace or cure period.
- l. Tenant may not restrict access to Tenant's Antenna Facilities without Landlord's prior written approval of Tenant's plans and specifications.

IN WITNESS WHEREOF, the parties have executed this agreement, effective as of the date set forth below.

DATED: 4/19/ , 2000.

LANDLORD:
CITY OF MILWAUKIE

TENANT:
VOICESTREAM PCS I, L.L.C.

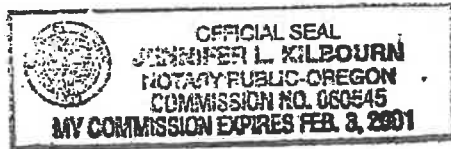

By: Dan Bartlett
Its: City Manager


By: Tung Bui
Its: Executive Director

STATE OF OREGON)
)
COUNTY OF Multnomah) SS:

On this 19th day of April, 2000, before me personally appeared **Dan Bartlett**, known to me to be the **City Manager** of the **CITY OF MILWAUKIE**, the Landlord that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said Partnership, for the uses and purposes therein mentioned, and on oath, stated that he was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



Jennifer L. Kilbourn
NOTARY PUBLIC in and for the
State of Oregon.
My commission expires 2-3-01

STATE OF Oregon)
)
COUNTY OF Multnomah) SS:

On this 10 day of April, 2000, before me personally appeared Tung Bui, known to me to be the Exec. Director of Voicestream PCS I, LLC, the corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath, stated that Bui was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



Brian D. Cook
NOTARY PUBLIC in and for the
State of Oregon
My commission expires 5-6-02

EXHIBIT A

Legal Description

To the Site Lease Agreement dated 4/19/2000, between **CITY OF MILWAUKIE** as Landlord, and VoiceStream PCS I, LLC, as Tenant.

The Property is legally described as follows:

In the City of Milwaukie, County of Clackamas and State of Oregon described as follows to wit:

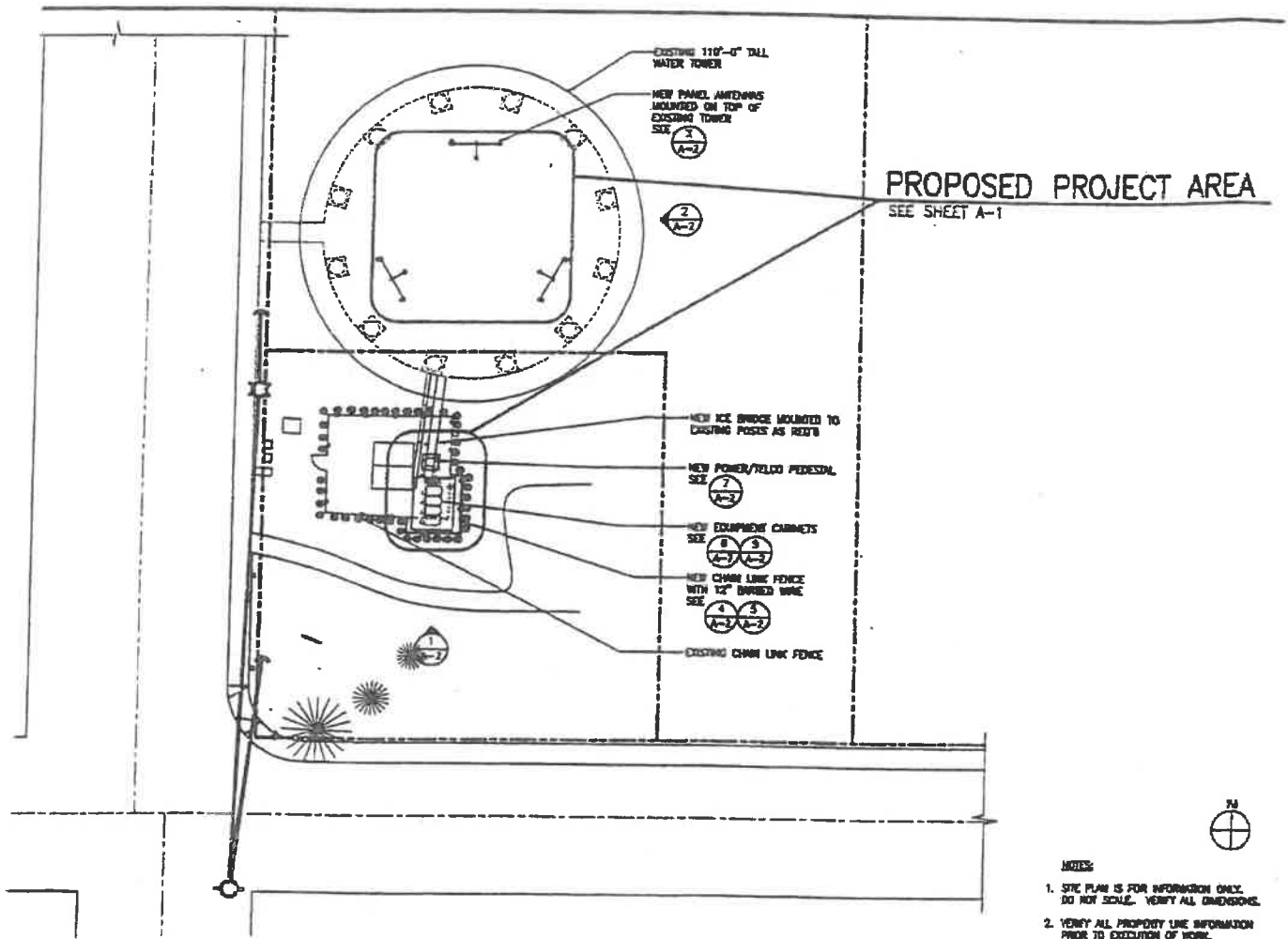
Lot 6, Block S, GLOVERLAND, EXCEPT a tract 100 feet by 100 feet, in the southwest corner of said Lot, conveyed to the town of Milwaukie by deed recorded in book 143, page 181, deed records, in the county of Clackamas and State of Oregon

EXHIBIT B

Premises Location Within the Property

To the Site Lease Agreement dated 4/19/2006, between CITY OF MILWAUKIE as Landlord, and VoiceStream PCS I, LLC, as Tenant.

The location of the Premises within the Property is more particularly described and depicted as follows:



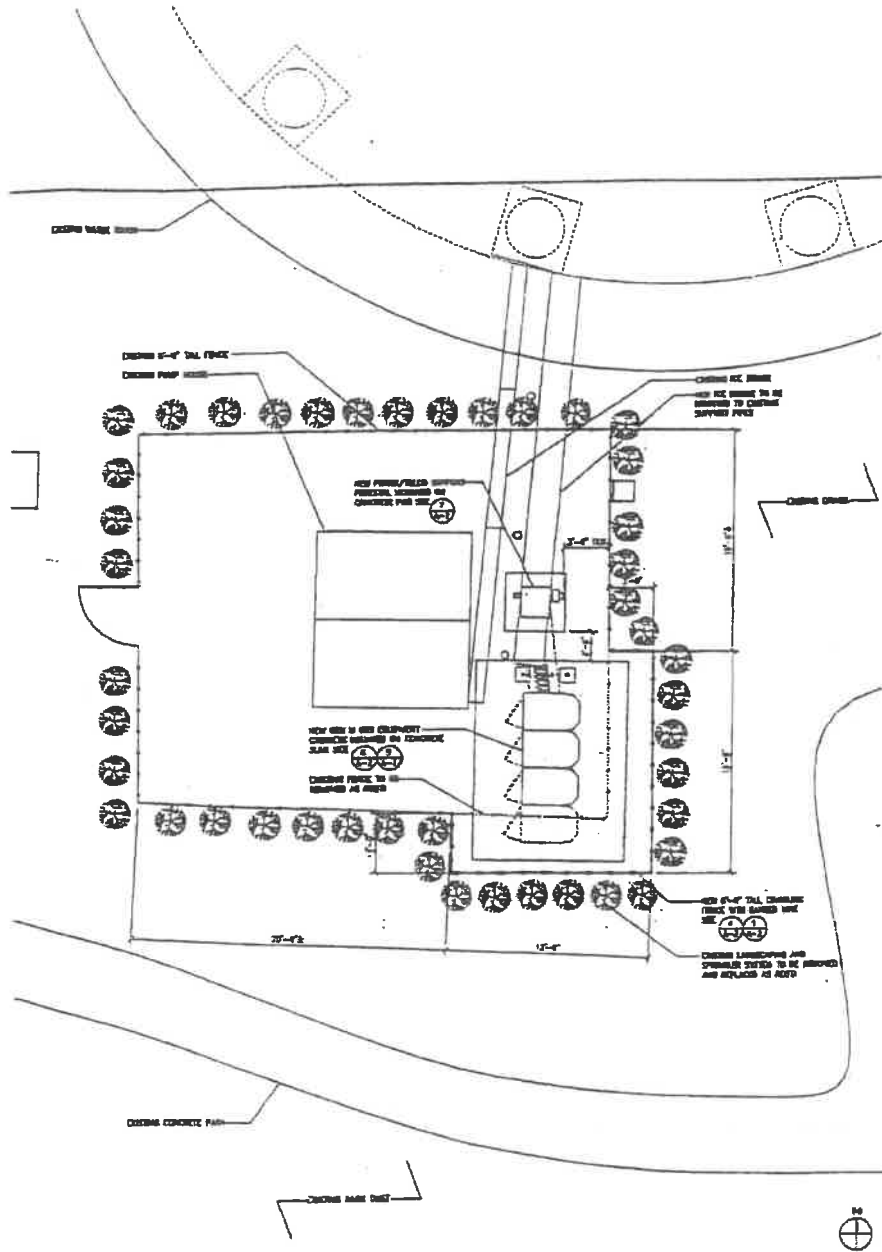
TOGETHER WITH all rights of ingress and egress and a utility easement over, through and across the existing driveways, sidewalks, asphalt parking areas, and other necessary areas of the grantor's land for the purpose of constructing, maintaining and upgrading such telecommunications site.

EXHIBIT C

Site Plan

To the Site Lease Agreement dated _____, between CITY OF MILWAUKIE as Landlord, and VoiceStream PCS I, LLC, as Tenant.

Conceptual Site Plan and Equipment



Memorandum of Lease

To the Site Lease Agreement dated 4/19/2000, between **CITY OF MILWAUKIE** as Landlord, and **VoiceStream PCS I, LLC**, as Tenant.

After recording, please return to: **VoiceStream PCS I, LLC**
Attn: **Leasing Administrator**
1500 NE Irving, Suite 530
Portland, OR 97232

Site Identification: **PO1927A**

Market: **PORTLAND**

Memorandum of Lease Between CITY OF MILWAUKIE ("Landlord") and VoiceStream PCS I, LLC ("Tenant")

A Site Lease Agreement between **CITY OF MILWAUKIE** ("Landlord") and **VoiceStream PCS I, LLC** ("Tenant") was made regarding the following premises:

See attached Exhibit A

The date of execution of the Site Lease Agreement was 4/19/2000. Subject Lease is for a term of five (5) years and will commence on **May 15, 2000** (the "Commencement Date") and **end on May 14, 2005**. Tenant shall have the right to extend this Lease for **three (3)** additional five (5)-year terms.

IN WITNESS WHEREOF, the parties hereto have respectively executed this memorandum this _____ day of _____, 200__.

LANDLORD: **CITY OF MILWAUKIE**


By: **Dan Bartlett**
Its: **City Manager**

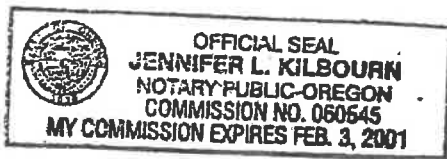
TENANT: **VoiceStream PCS I, LLC**


By: **Tung Bui**
Its: **Executive Director**

STATE OF OREGON)
)
COUNTY OF Multnomah) SS:

On this 19th day of April, 2000, before me personally appeared **Dan Bartlett**, known to me to be the **City Manager** of the **CITY OF MILWAUKIE**, the Landlord that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said Partnership, for the uses and purposes therein mentioned, and on oath, stated that he was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



Jennifer L. Kilbourn
NOTARY PUBLIC in and for the
State of Oregon.
My commission expires 2-3-01.

STATE OF Oregon)
)
COUNTY OF Multnomah) SS:

On this 10 day of April, 2000, before me personally appeared Tung Bui, known to me to be the Exec. Director of Voicestream PCS I, LLC, the corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath, stated that Tung Bui was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

NOTARY PUBLIC in and for the
State of Oregon.
My commission expires _____.

EXHIBIT A

Legal Description

To the Site Lease Agreement dated 4/19/2000, between **CITY OF MILWAUKIE** as Landlord, and VoiceStream PCS I, LLC, as Tenant.

The Property is legally described as follows:

In the City of Milwaukie, County of Clackamas and State of Oregon described as follows to wit:

Lot 6, Block S, GLOVERLAND, EXCEPT a tract 100 feet by 100 feet, in the southwest corner of said Lot, conveyed to the town of Milwaukie by deed recorded in book 143, page 181, deed records, in the county of Clackamas and State of Oregon

WATER TOWER SITE LEASE AGREEMENT

THIS WATER TOWER SITE LEASE AGREEMENT ("Lease") entered into as of this 4th day of May 2022, by and between the City of Milwaukie, an Oregon municipal corporation (hereinafter referred to as "Landlord") and T-Mobile West LLC, a Delaware corporation (hereinafter referred to as "Tenant").

BACKGROUND

Landlord is the owner of the real property located at 9790 & 9800 SE 40th Avenue, City of Milwaukie, Clackamas County, State of Oregon, legally described on the attached Exhibit A (the "Property"), on which a water tower (the "Water Tower") is located.

Landlord has installed and operates communication equipment on the Water Tower (the "System"), including, but not limited to, a monitoring system vital to monitoring Landlord's public water supply system.

Tenant desires to lease space on the Water Tower for the installation and operation of certain antenna facilities ("Antennae Facilities") for use in connection with its communications business.

Accordingly, Landlord and Tenant are entering into this Lease on the terms and conditions set forth below.

AGREEMENT

In consideration of their mutual covenants, the parties agree as follows:

1. LEASE PREMISES.

- a. Landlord leases to Tenant and Tenant leases from Landlord only the portion of space on the Water Tower as shown on the Site Plan attached as Exhibit C and a non-exclusive right to use a portion of the groundspace for Tenant's ground equipment. Tenant intends to locate its Antennae Facilities on the Water Tower as described on the attached Exhibit C. Tenant may not add additional equipment and/or antennae from that shown on Exhibit C without the prior written approval of the Landlord.
- b. This Lease is not franchise. Any required franchise permit must be obtained separately from Landlord.

2. TERM AND RENEWALS.

- a. The Initial Term of the Lease shall be five (5) years commencing on the date of the last party to sign the Lease (the "Commencement Date"), and ending on the day immediately preceding the fifth anniversary of the Commencement Date (the "Initial Term"). The Initial Term, together with any Renewal Terms as defined below, are referred to collectively as the "Term."
- b. The Initial Term shall automatically renew for three (3) successive renewal terms of five (5) years each (each a "Renewal Term"), provided, however, that Tenant may elect not to renew by providing written notice to the Landlord no less than 60 days prior to the expiration of the then current Term.

- c. Upon the expiration of the final Renewal Term, the Lease shall continue from month to month under the same terms and conditions set forth in the Lease. Either the Landlord or the Tenant may terminate the month-to-month lease by providing 60 days prior to written notice to the other party. If Tenant remains in possession of the Premises at the expiration of this Lease or any Renewal Term without a written agreement, such tenancy shall be deemed a month-to-month tenancy under the same terms and conditions of this Lease.
- d. Upon termination of this Lease, the provisions of Section 15(c) will apply.

3. RENT.

- a. Upon the Commencement Date, Tenant shall pay Landlord as rent for the space on the Water Tower the amount of three thousand dollars and 00/100 (\$3,000.00) per month ("Rent"). The first Rent payment shall be due within 30 days after the Commencement Date. Subsequent Rent shall be payable no later than the first day of each month.
- b. Tenant shall pay Landlord a late payment fee equal to five percent (5%) of the late payment for any payment not paid when due.
- c. The Rent shall be increase annually effective as of each anniversary of the Commencement Date by an amount equal to 4.0%.
- d. If this Lease is terminated at a time other than on the last day of the month, Rent shall be prorated as of the date of termination and based on the number of days in the month in question. In the event of termination for any reason other than nonpayment of Rent, all prepaid Rents shall be refunded to the Tenant.
- e. Rent and any annual increases shall be paid by Tenant to Landlord without offset.

4. USE OF PREMISES.

- a. Tenant shall use the Water Tower for the installation, operation, repair, removal, and maintenance of its Antennae Facilities for the transmission, reception, and operation of a radio communications system and for no other uses. Installation, operation, and maintenance includes installation of transmitter base stations, antennae or antenna systems, and the space required to run cable between the transmitter base stations and the antennae systems as set forth at Exhibit C, and to any necessary utilities for operation of the Antennae Facilities.
- b. Tenant shall, at its expense, comply with all present and future federal, state, and local laws, ordinances, rules, and regulations (including laws and ordinances relating to health, radio frequency emissions, and any other radiation and safety requirements) in connection with Tenant's use, operation, maintenance, construction and/or installation of its Antennae Facilities. Tenant shall, at its expense, obtain all licenses, permits, and land use approvals required for Tenant's use of the Water Tower.
- c. Tenant may, prior to or after the Commencement Date, obtain a title report, perform surveys, soils tests, and other engineering procedures on, under, and over the Property, necessary to determine that Tenant's use of the Water Tower will be compatible with Tenant's engineering specifications, system design, operations, and any federal, state, and local government approvals.

- d. Landlord agrees to reasonably cooperate with Tenant in obtaining, at Tenant's expense (including reimbursement of Landlord's reasonable attorney and administrative fees), any federal licenses and permits required for or substantially required by Tenant's use of the Water Tower.

5. CONSTRUCTION STANDARDS.

The Antennae Facilities shall be installed on Water Tower in a good and quality manner without the attachment of any construction liens. The Antennae Facilities shall be painted the same color as the Water Tower.

6. INSTALLATION EQUIPMENT.

- a. Tenant shall have the right, at its sole cost and expense, to install, operate, and maintain its Antennae Facilities as described in Exhibit C on the Water Tower in accordance with good engineering practices and with all applicable Federal Communications Commission rules and regulations.
- b. Tenant's installation of the Antennae Facilities shall be done according to plans approved by Landlord, which approval will not be unreasonably withheld, conditioned, or delayed. Any damage done to the Water Tower during installation and/or during operations shall be repaired or replaced immediately by Tenant in a manner subject to Landlord's approval, which approval shall not be unreasonably withheld, conditioned, or delayed, and shall be at Tenant's expense. In connection with the installation and operation of the Antennae Facilities, Tenant shall not make any penetrations of the Water Tower without the Landlord's prior written consent. All penetrations that may be permitted by Landlord shall be undertaken only under Landlord supervision. Tenant shall pay all costs and expenses in relation to maintaining the integrity of Landlord's Water Tower in connection with Tenant's installation and operation of the Antennae Facilities.
- c. Within 30 days after the completion of construction, Tenant shall provide Landlord with as-built drawings of the Antennae Facilities and the improvements installed on the Water Tower.

7. EQUIPMENT UPGRADE.

Tenant may update or replace Antennae Facilities from time to time with the prior written approval of Landlord, which approval shall not be unreasonably withheld, conditioned, or delayed. Tenant shall submit to Landlord a detailed proposal for any proposed update to or replacement of the Antennae Facilities, and any supplemental materials as may be requested, for Landlord's evaluation and approval. This paragraph is not intended to eliminate or in any way alter the obligation of Tenant to obtain any and all needed land use approvals and permits required as a result of the proposed update or replacement.

8. MAINTENANCE.

- a. Tenant shall, at its own expense, maintain the leased portion of the Water Tower, and any equipment on or attached to the leased portion in a safe condition, in good repair, and in a manner suitable to Landlord so as not to conflict with the use of or other leasing of the Water Tower by Landlord. Tenant shall not interfere with the use of the remaining portion of the Water Tower, any other facilities located on the Property, or any other equipment or tenants.
- b. Tenant shall have sole responsibility for the maintenance, repair, and security of all

its equipment, personal property, Antennae Facilities, and leasehold improvements, and shall keep the same in good repair and condition during the Lease Term.

- c. Tenant shall keep the Water Tower free of debris and anything of a dangerous, noxious, or offensive nature that would create a hazard or undue vibration, heat, noise, or otherwise create a nuisance as determined by Landlord.
- d. In the event the Landlord or any other tenant undertakes painting, construction, or other alterations to the Water Tower, Tenant shall take reasonable measures at Tenant's cost to cover Tenant's equipment, personal property, or Antennae Facilities, and protect such from paint and debris fallout that may occur during the painting, construction, or alteration process. Landlord shall provide a minimum of 30 days prior written notice in the event of any such work. If, however, Tenant is required to remove Tenant's Antenna Facilities, then a minimum of 60 days prior written notice shall be given. Should Tenant be required to remove any of its equipment during such work, rendering the Antennae Facilities unusable, Tenant's Rent shall be abated during that time.

9. PREMISES ACCESS.

- a. Tenant shall have the reasonable right of access to the Water Tower to reach its Antennae Facilities, twenty-four (24) hours per day, seven (7) days per week, and Landlord hereby grants to Tenant a non-exclusive license of such access during the Lease Term. Tenant shall not interfere with Landlord's System or any other facilities installed on the Water Tower without Landlord's express written permission.
- b. Landlord shall have reasonable access to the Antennae Facilities at o examine and inspect the Antennae Facilities for safety reasons or to ensure that Tenant is meeting its obligations under this Lease, provided that such examinations and inspections shall not interfere with Tenant's operations.

10. UTILITIES.

- a. Telephone: At Tenant's sole expense, Tenant may obtain appropriate phone service from the local telephone utility as outline on Exhibit C. Landlord shall cooperate with Tenant and the local telephone utility.
- b. Electrical: At Tenant's sole expense, Tenant shall obtain from the local electrical provider a separate meter for electrical power.
- c. Should Tenant determine that it requires heating, ventilation, or air conditioning ("HVAC") to adequately cool its equipment, it shall have the right to install the appropriate ventilation and HVAC system within the leased portion at its sole expense and subject to Landlord's prior written approval, which will not be unreasonably withheld, conditioned, or delayed. At least 30 days prior to installation of such equipment, Tenant shall provide Landlord with plans of such equipment for review. Equipment installed under this section shall not interfere with Landlord's System or any other facilities installed on the Water Tower.
- d. Payments: Tenant shall pay for any and all costs resulting from the installation, maintenance, or operation of utilities in connection with its Antennae Facilities.
- e. Tenant shall have the right to install utilities, at Tenant's expense, and to improve the present utilities on the premises (including, but not limited to, the installation of emergency power generation) with the prior written approval of Landlord, which

approval shall not be unreasonably withheld, conditioned, or delayed, provided that the installation of and/or improvements to the utilities do not interfere with other tenants on the Water Tower. At least 30 days prior to commencement of the installation of and/or improvements to utilities, Tenant shall submit to Landlord a detailed proposal for any such installation and/or improvements and any supplemental information as may be requested for Landlord's evaluation and approval. Landlord hereby grants Tenant a non-exclusive easement for installation and maintenance of utilities during the Lease Term.

11. LICENSE FEES.

Tenant shall pay, as they become due and payable, all fees, charges, taxes, and expenses required for any licenses and/or permits required for or occasioned by Tenant's use of the Water Tower.

12. APPROVALS: COMPLIANCE WITH LAWS.

Tenant's use of the Water Tower is contingent upon it obtaining all certificates, permits, zoning, franchises, and other approvals that may be required by any federal, state, or local authority. Tenant shall erect, maintain, and operate its Antennae Facilities in accordance with any and all applicable statutes, ordinances, rules, and regulations in effect or that may be issued thereafter by the Federal Communications Commission or any other federal, state, or local governing body.

13. INTERFERENCE.

- a. Tenant's installation, operation, and maintenance of its Antennae Facilities shall not damage or interfere in any way with Landlord's current or future operations, any of Landlord's System, as it now exists or as upgraded in the future both at this site or at other locations, or Landlord's related repair and maintenance activities. Tenant is aware that, as of the Commencement Date, Landlord currently uses a tone-elementary monitoring system for monitoring Landlord's water supply stations. Tenant agrees to immediately cease all such actions that interfere with Landlord's use of the Water Tower as described above and/or with any and all current government communication facilities upon written or actual notice of such interference, provided however, in such case, Tenant shall have the right to terminate the Lease. If Tenant elects to terminate the Lease, the provisions of Section 15(c) shall apply and Landlord's System must remain clear of any interference from Tenant until the date of termination. Landlord, at all times during this Lease, reserves the right to take any action it deems necessary, in its sole discretion, to repair, maintain, alter, or improve the Water Tower in connection with its operations as maybe necessary, including leasing parts of the Water Tower to other parties, provided however that, except in the case of emergency (which shall mean actual or threatened harm to persons or property as determined by Landlord) Landlord shall take all reasonable precautions to avoid interference with Tenant's equipment or operations, and shall give Tenant not less than 30 days' notice of scheduled maintenance, repair, alterations, or improvements to the Water Tower.
- b. Tenant understands that Landlord will be converting the System to a 900 MHz radio broadcast system during the Lease Term. Tenant conducted an intermodulation analysis study in the Summer of 2021, which determined to Tenant's satisfaction that the Antennae Facilities will not interfere with Landlord's planned conversion. Based on Tenant's study, Tenant hereby warrants that the Antennae Facilities will not interfere with Landlord's current System or the planned conversion to a 900 MHz radio system. If at any time it is determined that the Antennae Facilities interfere with Landlord's current System or the planned conversion to a 900 MHz

radio system , Tenant shall take immediate action to remedy the cause of the interference in accordance with Section 14(a).

- c. Landlord does not guarantee to Tenant subsequent noninterference with Tenant's communications operations, provided, however, that in the event a third party requests a lease and/or permission to place any type of antennae or transmission facility on the Water Tower, the procedures of paragraph (e) below shall govern to determine whether such antennae or transmission facility will interfere with Tenant's transmission operations. If Landlord leases any other portion of the Water Tower to a third party, Landlord agrees that the third party's installation will not interfere with the Tenant's equipment or operations. Tenant agrees not to interfere with the operations or equipment of any other tenant on the Water Tower existing at the date of commencement of this Lease.
- d. If Landlord receives a request from a third party to place additional facilities on the Water Tower, Landlord shall submit a proposal complete with all technical specifications reasonably requested by Tenant and available to Landlord for Tenant's review; however, Landlord shall not be required to provide Tenant with any specifications or information claimed to be proprietary by the third party. The third party shall be responsible for the reasonable cost of preparing the technical specifications for its proposed transmission facility. Tenant shall have 30 days following receipt of the proposal to file with Landlord any written objections to the proposal, and failure to file written objection within the 30-day period shall be deemed consent by Tenant to the installation of the proposed antennae or transmission facilities. If Tenant files written objections based on interference during the 30-day period and Tenant's objections are verified by Landlord to be valid, then Landlord shall not proceed with the proposal unless Landlord modifies the proposal in a manner determined, in Landlord's reasonable judgment, to eliminate the interference. If the interference is eliminated,, Landlord may proceed with the proposal. Except for the System or any modifications thereto as set forth above, a governmental unit or intergovernmental agency, including the Landlord, may place antennae or other communication facilities on the Water Tower, provided that such installation does not interfere with Tenant's communications operations.

14. DEFAULT AND LANDLORD'S REMEDIES.

- a. It shall be a default if Tenant defaults in the payment or provision of Rent or any other sums to Landlord when due, and does not cure such default within ten (10) business days after receipt of written notification; or if Tenant defaults in the performance of any other covenant or condition of this Lease and does not cure such other default within 30 days after written notice from Landlord specifying the default complained of, except in the case of a non-monetary default that cannot reasonably be cured within 30 days, the deadline shall be extended so long as cure is commenced within such 30-day period and diligently pursued to completion; or if Tenant abandons or vacates the Water Tower; or if Tenant is adjudicated bankrupt or makes any assignment for the benefit of creditors; or if Tenant becomes insolvent.

In the event of an uncured default, Landlord shall have the right, at its option, in addition to and not exclusive of any other remedy Landlord may have by operation of law, to terminate this Lease. Upon termination, Tenant shall immediately pay Landlord a sum of money equal to the total of the amount of the unpaid rent accrued through the date of termination and any other amount necessary to compensate Landlord for all detriment proximately caused by

Tenant's failure to perform its obligations under the Lease, provided however, that Landlord shall not be entitled to punitive damages.

Tenant shall remove its equipment, personal property, Antennae Facilities, and leasehold improvements from the Water Tower within thirty (30) days of termination under this section, and shall repair any damage to the Water Tower caused by such equipment, normal wear and tear excepted; all at Tenant's sole cost and expense. It is the responsibility of the Tenant to restore the Water Tower to its original condition, as near as practicable, normal wear and tear excepted. Any such property or facilities that are not removed within 30 days may be removed, stored, or disposed of by Landlord, and the Water Tower restored to its original condition, all at Tenant's sole expense.

- b. If suit shall be brought by Landlord for recovery of any rent or any other amount due under the provisions of this Lease, or because of the breach of any other covenant, the Tenant shall pay to the Landlord all expenses incurred therefore, including, but not limited to, reasonable attorneys' fees.

15. TERMINATION.

- a. This lease may be terminated by Tenant if:

1. Tenant is unable to obtain the approval of any agency, board, court, or other governmental authority necessary for the construction and/or operation of the communications equipment, or agency approval is revoked; or if Tenant determines the cost of obtaining such approval is commercially unfeasible; or
2. Tenant determines at any time that the Water Tower is not appropriate under Tenant's design or engineering specifications for its Antennae Facilities or the communications system to which the Antennae Facilities belong.

- b. This lease may be terminated by Landlord if:

1. Landlord decides, in its sole discretion and for any reason, to discontinue use of the Water Tower;
2. Landlord determines, based upon a certified opinion of a structural engineer or other qualified expert, that the Water Tower is structurally unsound or otherwise not suitable for Tenant's use, including but not limited to consideration of age of the structure, damage or destruction of all or part of the Water Tower from any source, or factors relating to the condition of the Water Tower and Tenant fails to agree to promptly conduct all necessary repairs within a specific period of time determined by Landlord in Landlord's sole discretion; or
3. Landlord determines in its sole discretion that continued use of the Water Tower by Tenant is in fact a threat to health, safety or welfare or violates applicable laws or ordinances.

- c. Either party shall give 60 days' written notice of termination of this Lease. Upon termination of this lease for any reason, Tenant shall remove its equipment, personal property, Antennae Facilities, and leasehold improvements from the Water Tower on or before the date of termination, and shall repair any damage to the Water Tower caused by such equipment, normal wear and tear excepted; all at Tenant's sole cost and expense. It is the responsibility of the Tenant to restore the Water Tower to its original condition, as near as practicable, normal wear and tear

excepted. Any such property or facilities that are not removed within 30 days after the end of the Lease term may be removed stored, or disposed of by Landlord, and the Water Tower restored to its original condition, all at Tenant's sole expense.

16. ALTERATION, DAMAGE OR DESTRUCTION.

If the Water Tower or any other portion thereof is altered, destroyed or damaged so as to materially hinder effective use of the Antennae Facilities through no fault or negligence of Tenant, Tenant may elect to terminate this Lease effective as of the date of such alteration, destruction, or damage so long as Tenant provides written notice to Landlord within ten (10) business days of the date of such alteration, destruction, or damage. In such event, Tenant shall promptly remove the Antennae Facilities from the Water Tower and the parties shall proceed as set forth in Section 15(c) above. This Lease (and Tenant's obligation to pay rent) shall terminate upon Tenant's fulfillment of the obligations set forth in the proceeding sentence, at which termination Tenant shall be entitled to the reimbursement of any prepaid rent. Landlord shall have no obligation to repair any damage to any portion of the Water Tower or Antennae Facilities.

17. ACCEPTANCE OF PREMISES.

By leasing a portion of the Water Tower, Tenant accepts the premises in the condition existing as of the Commencement Date. Landlord makes no representation or warranty with respect to the condition of the premises and Landlord shall not be liable for any latent or patent defect in the premises.

18. NOTICES.

All notices, requests, demands, and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, to the following addresses:

If to Landlord, to: City of Milwaukie
 Attn: Finance
 10722 SE Main Street
 Milwaukie, OR 97222

If to Tenant, to: T-Mobile West LLC
 Attn: Lease Compliance/Enter Site Number
 12920 SE 38th Street
 Bellevue, WA 98006

Rent is to be paid to: City of Milwaukie
 Attn: Finance
 10722 SE Main Street
 Milwaukie, OR 97222

19. ASSIGNMENT AND SUBLETTING.

- a. Subject to written notice by Landlord, Tenant may assign this Lease to any person or entity controlling, controlled by, or under common control with Tenant, or any person or entity that, after receiving Federal Communications Commission or state regulatory agency approvals, acquires Tenant's radio communications business within the market covered by this Lease and assumes all obligations under this Lease. Subject to Landlord's prior written consent, Tenant may assign this Lease to any other person or entity permitted by this Section 19(a). Tenant shall provide not less than 30 days prior written notice to Landlord of any such proposed assignment

requiring Landlord's consent, together with financial and other relevant information regarding the proposed assignee, and if in exercising its reasonable judgment Landlord determines the proposed assignee has sufficient financial and operational capacity to assume this Lease, Landlord shall consent to such assignment. Upon such assignment, Tenant shall be relieved of all liabilities and obligations hereunder and Landlord shall look solely to the assignee for performance under this Lease and all obligations hereunder.

- b. Nothing in this Lease shall preclude Landlord from leasing other space for non-interfering communications equipment to any person or entity that may be in competition with Tenant or any other party, consistent with the terms of this Lease.

20. MISCELLANEOUS.

- a. Landlord and Tenant represent that each, respectively, has full right, power, and authority to execute this Lease.
- b. On or around June 19, 1990, Landlord encapsulated a layer of lead-based paint on the Water Tower. Landlord represents that it has no knowledge of any other substance, chemical, or waste on the Property that is identified as hazardous, toxic, or dangerous under any applicable federal, state or local law or regulation.
- c. This Lease constitutes the entire agreement and understanding of the parties and supersedes all offer, negotiations, and other agreements of any kind. There are no representations or understandings of any kind not set forth herein. Any modification of or amendment to this Lease must be in writing and executed by both parties.
- d. If any term of this Lease is found to be void or invalid, such invalidity shall not affect the remaining terms of this Lease, which shall continue in full force and effect.
- e. Each party agrees to cooperate with the other in executing any documents (including a Memorandum of Lease and Quitclaim Deed upon termination of the Lease) necessary to protect its rights or use the Water Tower. Any Memorandum of Lease shall be acceptable to both parties in form and content, and may be recorded in place of this Lease by either party. Upon termination of this Lease, Tenant shall deliver to Landlord a quitclaim deed or other recordable conveyance reasonably deemed sufficient by Landlord to release and reconvey to Landlord Tenant's rights under this Lease. This provision shall survive the termination of this Lease.
- f. 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 a 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.
- g. This Lease shall be construed in accordance with the laws of the State of Oregon and any action brought to enforce the terms of the agreement shall be brought in the Circuit Court of Clackamas County, Oregon.

- h. This Lease 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.
- i. All Exhibits referred to herein are incorporated herein for all purposes. The parties understand and acknowledge that Exhibit A (Legal Description), Exhibit B (Premises Location within the Property), Exhibit C (Site Plan), and Exhibit D (Memorandum of Lease) may be attached to this Lease in preliminary form. Accordingly, the parties agree that up to the preparation of final, more complete exhibits, Exhibits A, B C and/or D as the case may be, which may have been attached hereto in preliminary form, may be replaced upon agreement by Landlord and Tenant with such final, more complete exhibits.
- j. Landlord covenants that at all times during the term of this Lease, Tenant's quiet enjoyment of the leased premises or any part thereof shall not be disturbed as long as Tenant is not in default beyond any applicable grace or cure period.
- k. Tenant may not restrict access to Tenant's Antenna Facilities without Landlord's prior written approval of Tenant's plans and specifications.

21. INSURANCE AND INDEMNIFICATION.

- a. During the Term, Tenant and Landlord each shall maintain Commercial General Liability Insurance in amounts of \$1,000,000 per occurrence and \$2,000,000 aggregate. Each party may satisfy this requirement by obtaining the appropriate endorsement to any master insurance policy such party may maintain. Tenant and Landlord shall each maintain "all risk" or "special causes of loss" property insurance on a replacement cost basis for their respectively owned real or personal property.
- b. Landlord and Tenant hereby mutually release each other (and their successors or assigns) from liability and waive all right of recovery against the other for any loss or damage covered by their respective first party property insurance policies for all perils insured thereunder. In the event of an insured loss, neither party's insurance company shall have a subrogated claim against the other party.
- c. Subject to the property insurance waivers set forth in the preceding subsection (b), Landlord and Tenant each agree to indemnify and hold harmless the other party from and against any and all administrative and judicial actions and rulings, claims, causes of action, demands and liabilities, including reasonable attorneys' fees, to the extent caused by or arising out of: (i) any negligent acts or omissions or willful misconduct in the operations or activities on the Property by the indemnifying party or the employees, agents, contractors, licensees, tenants or subtenants of the indemnifying party, (ii) any spill or other release of any Hazardous Substances (as defined below) on the Property by the indemnifying party or the employees, agents, contractors, licensees, tenants or subtenants of the indemnifying party, or (iii) any breach of any obligation of the indemnifying party under this Lease. The indemnifying party's obligations under this subsection are contingent upon its receiving prompt written notice of any event giving rise to an obligation to indemnify the other party and the indemnified party's granting it the right to control the defense and settlement of the same.
- d. Tenant shall not be responsible or liable to Landlord or any third party for any claims, damages, costs, expenses, including liens, fines, penalties or other enforcement actions, attributable to any pre-existing violations of applicable laws, codes, ordinances or other regulations relating to the Property (collectively, "Pre-Existing Violations"). To the extent Tenant is or may be required to cure such Pre-Existing

Violations in order to obtain any Governmental Approvals for its Permitted Uses of the Premises, however, Tenant shall have the right, but not the obligation, to cure such Pre-Existing Violations and deduct the curative costs from Rent payable under this Lease.

- e. The provisions of subsections (b) and (c) above shall survive the expiration or termination of this Lease.

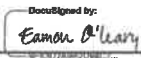
IN WITNESS WHEREOF, the parties have executed this agreement, effective as of the date set forth below.

LANDLORD: City of Milwaukee

By: _____
 Printed Name: _____
 Title: _____
 Date: _____

 Justin D. Gericke, City Attorney

TENANT: T-Mobile West LLC

By:  _____
 Printed Name: **Eamon O'Leary**
 Title: **Sr Dir Network, PNW**
 Date: **6/17/2022 | 12:38 PM PDT**



TMO Signatory Level : L06

Richard Philip Hanno

 Legal Counsel, T-Mobile West LLC

EXHIBIT A
Legal Description

Property address of 9800 & 9790 SE 40th Avenue, Milwaukie, Oregon 97222. Clackamas County Assessor's tax parcel number of 11E25DA12700 and 11E25DA12600.

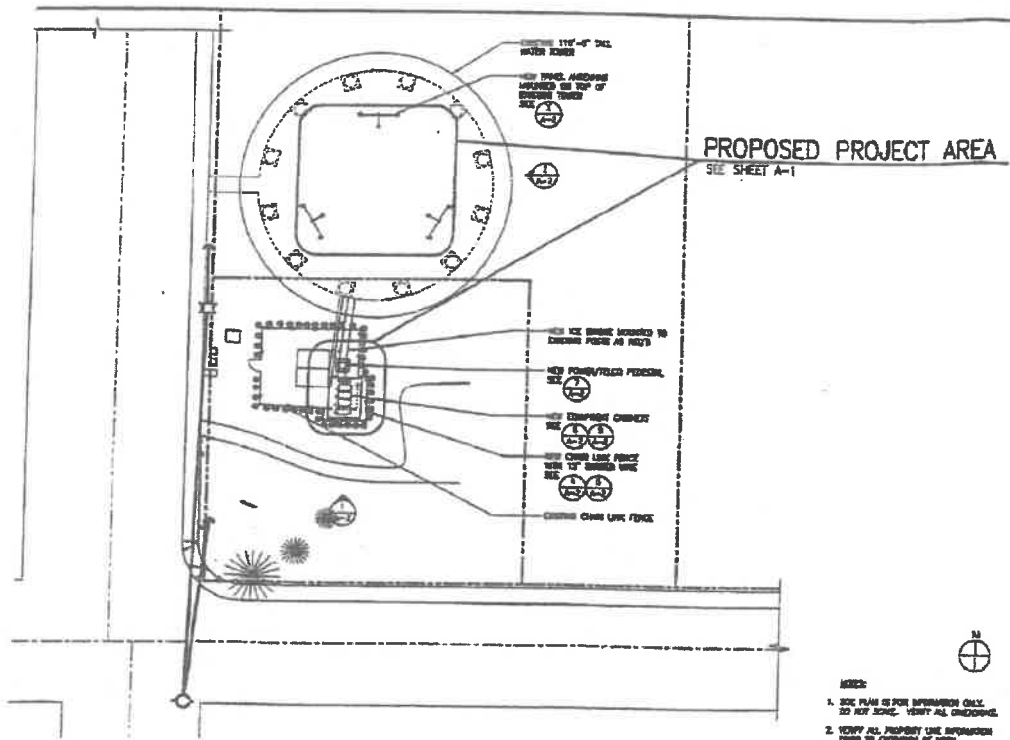
The Property is legally described as follows:

In the City of Milwaukie, County of Clackamas and State of Oregon described as follows to wit:

Lot 6, Block S, GLOVERLAND, EXCEPT a tract 100 feet by 100 feet, in the southwest corner of said Lot, conveyed to the town of Milwaukie by deed recorded in book 143, page 181, deed records, in the county of Clackamas and State of Oregon.

EXHIBIT B
Premises Location Within the Property

The location of the Premises within the Property is more particularly described and depicted as follows:



TOGETHER WITH all rights of ingress and egress and a utility easement over, through and across the existing driveways, sidewalks, asphalt parking areas, and other necessary areas of the grantor's land for the purpose of constructing, maintaining and upgrading such telecommunications site.

EXHIBIT C
Site Plan

Conceptual Site Plan and Equipment

It is expressly agreed and understood by and between the Landlord and Tenant that the exact and precise location of the Tenant's Antenna Facilities are subject to review and approval by the planning and/or zoning boards having jurisdiction over the Property.

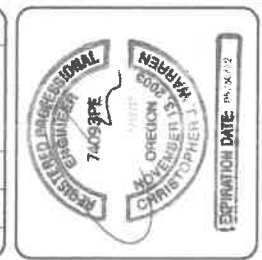


T-MOBILE SITE:
POO1927A
KING AND 40TH

9790 SE 40TH AVE
MILWAUKIE, OR 97222
CLACKAMAS COUNTY

125'-6" WATER TOWER

REV	DATE	BY	DESCRIPTION	DATE
A			PRELIMINARY REVIEW	
B			REVISED PRELIM REVIEW	
C			TOTAL CONSTRUCTION	



SHEET TITLE	ANTENNA PLANS & RF SCHEDULES
SHEET NUMBER	A-4
REVISION	0

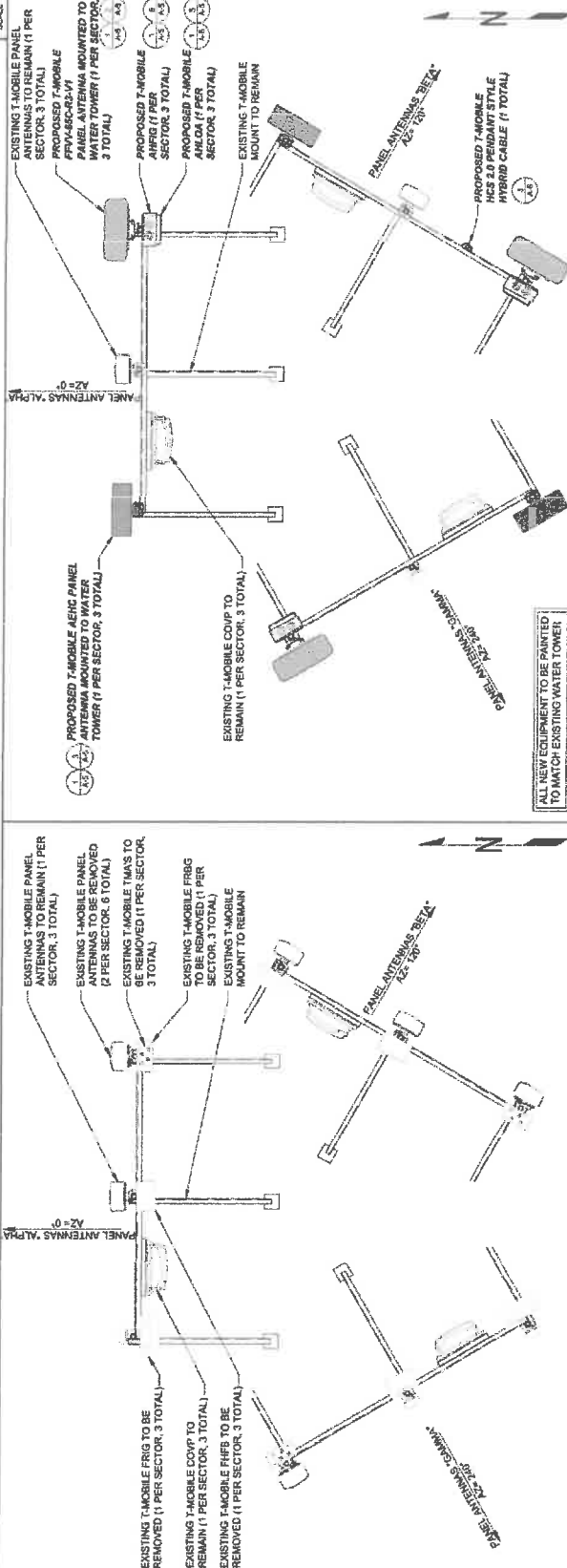
- NOTES
- CONTRACTOR IS TO REFER TO T-MOBILE'S MOST CURRENT PROJECT DATA SHEET (PDF) PRIOR TO CONSTRUCTION.
 - CABLE LENGTH IS APPROXIMATE. CONTRACTOR TO FIELD VERIFY CABLE LENGTHS PRIOR TO ORDERING, FABRICATION, OR INSTALLATION OF CABLES.
 - PROPOSED EQUIPMENT IS INDICATED BY BOLD TEXT.

MOUNT POSITION	ANTENNA MODEL	SIZE	AZIMUTH	RAD CENTER	QTY.	RRH		TMA/COMBINER/COUP MODEL	QTY.	HYBRID CABLE (HCS)		COAX CABLE	
						MODEL	QTY.			TYPE	LENGTH	TYPE	LENGTH
ALPHA	TM82X-6516-A3M	56.2"	0°	125'-0"	1	FRIG	1	COMP	1				
	TM82X-6516S-A3M	56.2"	0°	125'-0"	1	FRFB	1	COMP	1				
	SRNH-1D56C	96.3"	0°	125'-0"	1	FRBG	1	COMP	1				
BETA	HRXX-6516DS-A3M	56.2"	120°	125'-0"	1	FRIG	1	GENERIC TWIN STYLE 1A-PCS	1				
	HRXX-6516DS-A3M	56.2"	120°	125'-0"	1	FRFB	1	COMP	1				
	SRNH-1D56C	96.3"	120°	125'-0"	1	FRBG	1	COMP	1				
GAMMA	TM82X-6516-A3M	56.2"	240°	125'-0"	1	FRIG	1	COMP	1				
	TM82X-6516S-A3M	56.2"	240°	125'-0"	1	FRFB	1	COMP	1				
	SRNH-1D56C	96.3"	240°	125'-0"	1	FRBG	1	COMP	1				

MOUNT POSITION	RFDS POSITION	ANTENNA MODEL	SIZE	AZIMUTH	RAD CENTER	QTY.	RRH		TMA/COMBINER/COUP MODEL	QTY.	HYBRID CABLE (HCS)		COAX CABLE	
							MODEL	QTY.			TYPE	LENGTH	TYPE	LENGTH
ALPHA	A1	A1HC	96.3"	0°	125'-0"	1	FRIG	1	COMP	1				
	A2	A2HC	96.3"	0°	125'-0"	1	FRFB	1	COMP	1				
	A3	A3HC	96.3"	0°	125'-0"	1	FRBG	1	COMP	1				
BETA	B1	B1HC	96.3"	120°	125'-0"	1	FRIG	1	COMP	1				
	B2	B2HC	96.3"	120°	125'-0"	1	FRFB	1	COMP	1				
	B3	B3HC	96.3"	120°	125'-0"	1	FRBG	1	COMP	1				
GAMMA	C1	C1HC	96.3"	240°	125'-0"	1	FRIG	1	COMP	1				
	C2	C2HC	96.3"	240°	125'-0"	1	FRFB	1	COMP	1				
	C3	C3HC	96.3"	240°	125'-0"	1	FRBG	1	COMP	1				

NOTE: MOUNT POSITIONS ARE CLOCKWISE (LEFT TO RIGHT AS VIEWED FROM THE BACK OF THE ANTENNAS)

RF SCHEDULES



1 PROPOSED ANTENNA PLAN

2 EXISTING ANTENNA PLAN

Water Tower Site License Agreement

**EXHIBIT D
Memorandum of Lease**

After recording, please return to: City of Milwaukie
Attn: Public Works Director
6101 SE Johnson Creek Blvd.
Milwaukie, Oregon 97206

Site Identification : PO1927A Market: PORTLAND

Memorandum of Lease

A Site Lease Agreement (the "Lease") by and between the City of Milwaukie ("Landlord") and T-Mobile West LLC ("Tenant") was made regarding a portion of the following property (as more particularly described in the Lease, the "Premises"):

See attached Exhibit A incorporated herein for all purposes.

Without limiting the terms and conditions of the Lease, Landlord and Tenant hereby acknowledge the following:

1. Capitalized terms used, but not otherwise defined herein, shall have the meanings ascribed to such terms in the Lease.
2. Pursuant to the Lease, Landlord has granted Tenant an option to lease the Premises (the "Option") on the terms and conditions described in the Lease.
3. The Option is for an initial term of five (5) years commencing on the effective date of the Lease, and will be extended for up to three (3) additional and successive five (5) year renewal periods unless Tenant provides written notice to exercise or not renew its Option.
4. This memorandum is not a complete summary of the Lease. It is being executed and recorded solely to give public record notice of the existence of the Option and the Lease with respect to the Property. Provisions in this memorandum shall not be used in interpreting the Lease provisions and in the event of conflict between this memorandum and the said unrecorded Lease, the unrecorded Lease shall control.
5. This memorandum may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto were upon the same instrument.

IN WITNESS WHEREOF, the parties hereto have respectively executed this memorandum effective as of the date of the last party to sign.

LANDLORD: City of Milwaukie

TENANT: T-Mobile West LLC

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

State of Oregon)
) ss.
County of Clackamas)

This instrument was acknowledged before me on _____, 2022 by _____, [title] _____ of the City of Milwaukie, an Oregon municipal corporation.

Dated: _____

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

NOTARY PUBLIC in and for the
State of Oregon.
My commission expires _____

State of _____)
) ss:
County of _____)

This instrument was acknowledged before me on _____, 2022 by _____, [title] _____ of T-Mobile West LLC, a Delaware corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

NOTARY PUBLIC in and for the
State of _____.
My commission expires _____

**Memorandum of Lease – Exhibit A
Legal Description**

The Property is legally described as follows:

In the City of Milwaukie, County of Clackamas and State of Oregon described as follows to wit:

Lot 6, Block S, GLOVERLAND, EXCEPT a tract 100 feet by 100 feet, in the southwest corner of said Lot, conveyed to the town of Milwaukie by deed recorded in book 143, page 181, deed records, in the county of Clackamas and State of Oregon.



COUNCIL RESOLUTION No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING A LEASE WITH T-MOBILE WEST LLC FOR THE PURPOSE OF INSTALLING, OPERATING, AND MAINTAINING A COMMUNICATIONS FACILITY.

WHEREAS the City of Milwaukie and Voicestream PCS I LLC, executed and entered into a certain Water Tower Site Lease Agreement dated April 19, 2000, for the purpose of installing, operating, and maintaining a communications facility on a portion of city property located at 9790 and 9800 SE 40th Avenue, and

WHEREAS T-Mobile West LLC, a Delaware limited liability company, is the successor to Voicestream PCS I LLC, and

WHEREAS the City of Milwaukie and T-Mobile West LLC, desire to enter into a new agreement and add additional renewal terms to the lease potentially extending it through the year 2042 with a base rent of \$3,000 per month and annual 4% increases in the base rent effective at each anniversary of the commencement date.

Now, Therefore, be it Resolved by the City Council of the City of Milwaukie, Oregon, that the city manager is authorized to execute a lease with T-Mobile West LLC, for the purpose of installing, operating and maintaining a communications facility.

Introduced and adopted by the City Council on **July 19, 2022.**

This resolution is effective immediately.

Mark F. Gamba, Mayor

APPROVED AS TO FORM:

ATTEST:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney



MILWAUKIE POLICE DEPARTMENT

Memorandum

To: Mayor Gamba and Milwaukie City Council

From: Ryan Burdick, Police Captain *RB*

Through: Ann Ober, City Manager

Date: June 22, 2022

Re: OLCC Application – Milwaukie Premium Beverage – 10804 SE Oak Street

Action requested:

It is respectfully requested the council approve the OLCC application for Milwaukie Premium Beverage located at 10804 SE Oak Street, Milwaukie 97222.

We have conducted a background check and find no reason to deny the request for the liquor license.



RS Agenda Item

7

Business Items

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Date Written: July 5, 2022

Reviewed: Jana Hoffman, Supervising Librarian,
Kim Olson, Library Circulation Supervisor, and
Natalie Rogers, Climate & Natural Resources Manager

From: Kenny Simac, Officer, and
Luke Strait, Chief of Police

Subject: Behavioral Health Position and Houseless Peer Support Specialist Position

ACTION REQUESTED

Council is asked to receive an overview on the development of a behavioral health specialist position and a houseless peer support specialist position and provide feedback.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

Historically, the Milwaukie Police Department (MPD) has had one police officer who volunteered to serve as a houseless liaison officer. That officer would perform all the duties of a police officer, while also taking a leadership role in outreach to homeless residents.

For behavioral health and mental health crisis calls, the MPD has traditionally relied on Clackamas County for clinical help with de-escalation and management of police calls involving mental health crisis. As the need for mental health crisis management has continued to increase within the community, the availability of resources has often been insufficient to meet the rising demand. Although MPD officers are provided training consistent with state and national standards, they're not clinical experts and cannot dedicate an optimal amount of time to facilitating the appropriate resources for those in need.

[On August 18, 2020:](#) Council approved a resolution changing its goals to include one focused on equity, inclusion, and justice. This resolution prompted the consistent application of an equity lens perspective to assess our delivery of services, particularly to our marginalized communities.

[September 15, 2020:](#) Council received an equity update from the city manager and police chief. Included in that update was data on mental health related calls for service, data related to police use of force and notes from the three listening sessions with Milwaukie's Black, Indigenous, and People of Color (BIPOC) community. Council heard from MPD officers Kathryn Meier and Mark Inman, about the challenges and demands related to responding to mental health crisis. Council also heard from Brian Dwiggin, representing Clackamas County Behavioral Health. He clarified the county programs and services available, as well as the challenges they face.

At that time, the city committed to continue evaluating the needs of the community, and the ways MPD addresses those needs, while looking for opportunities to improve resources and responses.

ANALYSIS

in August 2020, Council amended its goals to include equity, inclusion, and justice. The resolution revising the goals asserted several actions for city staff and Council, which included:

- Conduct listening sessions and create subsequent changes to city practices, policies, and codes,
- Work on relationship-building with Milwaukie's BIPOC residents and defining the next steps forward for this work,
- Regularly apply an equity lens to the work we do, and
- Intentionally consider the impact of our services on our marginalized communities.

The MPD has been working collaboratively with other city staff, with Clackamas County and the community on an objective analysis of the demands we are seeing related to mental health crisis and houselessness. We have continued to discuss how the police department and the community currently provides services related to crisis management and houselessness. That process has included listening to other city staff and community members experiences. Our goals have included:

- Objective analysis of systems and information, seeking ways to improve service and meet the evolving needs of the community.
- Provide transparency and community engagement as we work through these processes. This staff report and subsequent presentation are designed to support both of those goals.

Police calls for service which have a nexus to mental health needs can come in the form of a wide variety of call types or categories. Those can include suicide threats, suspicious person calls, trespass or unwanted person calls, disturbance calls, domestic violence calls, assaults, and welfare checks. In many cases the nature and extent of mental health factors contributing to the initial calls are often not clear. The details of the call often require an immediate police response, due to community safety issues. MPD officers' knowledge and understanding of the extent to which mental health crisis is a contributing factor will often develop during the course of many calls. In all of these cases, there is some inherent risk involved in responding and assessing the situation. In many of these cases there is some degree of immediacy required in the response. Balancing the immediate need with the inherent risk will continue to be a significant factor in determining who is willing, qualified, and available to respond to these types of calls. Law enforcement does continue to take a more proactive role in assessing situations before responding, if time and urgency allows, to prevent unnecessary escalation.

As one of the few services available 24/7 for immediate response, MPD has often been the only resource consistently available to respond and triage the wide variety of situations outlined above, where mental health and crisis are contributing factors.

For licensed mental health clinician services, MPD has previously relied primarily on Clackamas County. Over the last five years the county's evolving resources have included between three and six licensed clinicians who were dedicated to behavioral health crisis, throughout the entire county. Those clinicians were generally divided between several different divisions in the county, including the Behavioral Health Unit (BHU), the Mobile Crisis Response Team (MCRT), and the Clackamas Mental Health Center (MHC). Those clinicians could consult with officers over the telephone related to calls or respond to assist if they were available and the situations warranted it. Most would agree, the demands related to crisis

response and management have continued to increase and there have never been enough clinicians doing this work. Due to the limited number of licensed clinicians allocated for possible field response, when we have needed crisis response clinicians in the past, they have often been unavailable. If available, their delayed response times have often prevented them from being a part of an immediate response.

The Ledding Library has long been considered a safer space for community members to walk into a local public building, seeking shelter or resources. Library staff has also reported a significant increase in community members in desperate need of mental health and housing services. Too often, these interactions between library staff and community members in need require police intervention when staff are unable to help.

MPD staff have involved Clackamas County extensively in discussions and analysis of the best way to enhance and expand the necessary services. MPD staff has concluded that to provide optimal services to our community and existing city staff, we need a crisis clinician dedicated specifically to our community who is available to respond quickly from within the city when the need arises. The cities of Oregon City and Lake Oswego implemented similar programs and hired their own clinicians for their cities over a year ago. Both cities have reported a substantial increase in the level of service they were able to provide their communities and both programs have been very successful. Clackamas County is also supportive of Milwaukie hiring a behavioral health response specialist, to better meet those needs.

Clackamas County has also tentatively committed that if the city hired a specialized clinician to share the burden of mental health crisis, they will in turn create an additional county position dedicated to the needs of the Milwaukie houseless community. That position would be filled by a county employee who would be imbedded in the city, on an intergovernmental agreement (IGA) contract.

The position description for the new crisis response clinician is in the final stages of development. Our collaboration regarding this position description has included key city staff, police staff, Oregon City crisis clinician, Lake Oswego crisis clinician, and Clackamas County behavioral health staff.

Through implementing a new behavioral health position, which will be augmented by the county houseless advocate, MPD can continue to focus on several key objectives:

- Provide information and resources to law-enforcement personnel who find themselves handling calls involving individuals in some form of mental health crisis.
- Increase the ability to successfully manage the needs of people in mental health crisis.
- Reduce the number of unnecessary incarcerations involving people suffering from mental illness.
- Minimize incidents in which force is necessary to manage or control a person in crisis.
- Provide relief to an overburdened system.
- Implement enhanced response protocols for people experiencing crisis.
- Provide additional training and expertise to police officers required to respond to calls involving mental health crisis.
- Provide support and resources for library staff dealing with patrons in crisis.
- Continue to develop collaborative relationships between law enforcement, library staff, social services, mental health service providers, and those struggling with mental health and housing.

- Provide better follow through and after care, eliminating barriers for those struggling with mental health crisis and houselessness.
- Have a Milwaukie clinical specialist who can work more closely with all other social services providers throughout the county, to ensure optimal service to marginalized community members, increasing positive outcomes.

Staff believes these two positions would provide critical support to city and police staff, currently struggling with the evolving demands of their jobs. Staff also believes these positions will allow the city to continue building relationships and ensure a higher level of service for community members who are struggling with mental health crisis and housing instability. Staff has verified we would have the full support of Lake Oswego, West Linn, and Oregon City, who have similar programs. Staff has also collaborated with Clackamas County throughout this process and have their full support as well. All these factors should bolster the success and positive impact of the program.

Through discussions with City of Gladstone Police Chief John Schmerber, MPD knows that Gladstone is feeling the same demands for crisis and housing services, and they do not currently have a similar program. We have tentatively discussed some degree of shared support for Gladstone.

BUDGET IMPACT

The city has dedicated the necessary funding to fill this full-time employee (FTE) position at the current market rate.

WORKLOAD IMPACT

This position will not result in additional workload, and it will better manage the existing workload and needs of the community.

CLIMATE IMPACT

This position will require one additional vehicle in the city fleet, which will be hybrid or electric, depending on availability.

The unhoused or housing-insecure community is disproportionately vulnerable to and impacted by climate-related natural hazards, including heatwaves and storm events. Community members without or with unstable shelter may require additional assistance to connect to life-saving resources and services in these extreme weather events. As more people move to the area to escape extreme climate events in other states and seek refuge in the Pacific Northwest, we may see an increase in the number of houseless or housing insecure residents who require assistance during Oregon’s own increasingly frequent natural hazard events.

COORDINATION, CONCURRENCE, OR DISSENT

City staff and staff from Clackamas County and the cities of Oregon City and Lake Oswego concur with this decision and will actively support and collaborate as it’s implemented. Library staff will benefit significantly from having this expertise immediately available within the city.

STAFF RECOMMENDATION

Staff recommends opening the recruitment to fill the behavior health crisis clinician as soon as possible and proceeding with a contract for a dedicated houseless advocate.

ALTERNATIVES

None considered.

ATTACHMENTS

None.

RS 7. A. 7/19/22
Presentation

BEHAVIORAL HEALTH & HOUSELESS PEER SUPPORT

Detective Kenny Simac
Chief Luke Strait



CREDIT TO OUR PARTNERS

We will provide an overview of how we are responding to these needs collaboratively and working to expand our services.

First, we want to acknowledge a few of our partners

- Vahid Brown, CC Supportive Housing Manager
- Brandi and Tom Johnson, LoveOne
- Glen Suchanek, LoveOne / Central City Concern
- Bill Stewart, CCDA Community Prosecutor
- Amy Joe Cook / Apryl Herron, Project Hope Community Paramedicine



BRIEF HISTORY & OVERVIEW

- MPD has traditionally had one homeless liaison officer who volunteers to take on additional responsibilities.
- MPD officers receive basic training in crisis intervention and de-escalation.
- The demands around mental health crisis and homelessness have increased significantly.
- County services have also expanded to try to meet these same needs.
- August 2020, Council Equity Inclusion and Justice goal



MPD RESPONSE TO MENTAL HEALTH CALLS

- Police calls for service which have a nexus to mental health needs can come in the form of a variety of call types. Those can include:
 - Welfare checks
 - Suicide threats
 - Suspicious person calls
 - Trespass or unwanted person calls
 - Disturbance calls
 - Assault or Menacing calls
- Calls are often referred to police by medical professionals or the crisis line requesting a police welfare check based on safety concerns.



WHERE ELSE DO WE SEE THESE NEEDS

Leeding Library

- Traditionally considered a safer space for anyone
- Staff has reported a significant increase in patrons struggling with mental health and houselessness.
- They have also indicated they have to call police or social services regularly, because it's beyond their ability to manage.



ASSESSMENT - CRIMINAL VERSUS NON-CRIMINAL

1. Is this solely criminal

- Police investigate and if there is probable cause exists, they either make an arrest, or submit charges to the District Attorney Office.

2. Is this solely mental health

- Police begin working on a plan which can include referring to appropriate resources, requesting assistance as needed (BHU, CNT), assisting with a voluntary transport to a hospital or mental health clinic, and Police Officer Hold (POH.)

3. Is this both criminal and crisis

- Police use discretion to determine best course of action from 1 & 2.
- Examples could include:
 - * Arrest
 - * POH/hospital in lieu of arrest
 - * Cite and Release
 - * Third Party Intervention (TPI)
 - * De-escalate/resolve and leave
 - * Combination of above to include Referrals and follow up.



GOALS

- Minimize unnecessary harm
- Prioritize these needs and accept more responsibility for them
- Avoid using the criminal justice system as the solution
- Maximize positive outcomes through collaboration, appropriate intervention and follow up



CONCLUSIONS & RECOMMENDATIONS

- We've determined we need more clinical specialists
- Dedicated specifically to the Milwaukie community
- Responding to these needs from within the city
- Better service for vulnerable community members
- Able to coordinate the necessary follow up
- Able to bridge the gap to other resources
- Able to respond instead of police at times
- Able to respond with police at times
- Results driven and data led



NEXT STEPS

- Final edits of position description
- Begin recruitment process for Milwaukie Behavioral Health Specialist position
- Continue the process with Clackamas County, for contracted / imbedded, Milwaukie Houseless Peer Support position
- Hopefully fill both positions late fall



THANK YOU

- Questions?
- Concerns?

