



Department of Finance

Public Services Building
2051 Kaen Road, Suite 490 | Oregon City, OR 97045

February 17, 2022

Clackamas County Administration

County Administrator:

Approval of Clackamas County Sheriff’s Office Charbonneau
Boathouse with Charbonneau Country Club Lease Agreement

Purpose/Outcomes	Approval of a five (5) year, six (6) month lease for the Charbonneau Boathouse (Slip 37) at the Charbonneau Country Club dock facilities on the Willamette River in Wilsonville.
Dollar Amount and Fiscal Impact	FY 2021-2022 \$1,500.00 with an annual cost increase of three percent (3%) per year for a five (5) year, six (6) month term for a total contract cost of \$17,905.21.
Funding Source	This lease is supported by General Fund dollars
Duration	A five (5) year, six (6) month lease term is from January 1, 2022 through June 30, 2027
Previous Board Action	None
Strategic Plan Alignment	Completion of this project will help ensure safe and healthy communities and assists in growing a vibrant economy.
Previous Board Action	Presented and approved for Consent Agenda at 2-15-22 Issues meeting.
County Counsel Review	Approved by AN signature on this lease February 7, 2022
Procurement Review	This property lease was created and negotiated by the Sheriff’s Office, Facilities Management and reviewed and approved as to form by the Office of County Counsel.
Contact Person	Jeff Jorgensen, Division Director, Facilities Management, 971.221.8033

BACKGROUND:

The Clackamas County Sheriff’s Office is requesting to lease the Charbonneau Boathouse (Slip 37) located at 32000 County Club Drive, Wilsonville, OR. This is a critical 1,624 square foot, one story boathouse with one large docking slip for use by the Sheriff’s Office Marine Unit on the upper Willamette River which has the ability to house multiple boats and watercraft. Enclosure (1) are photos of the Boathouse and enclosure (2) is a map and aerial views of the Charbonneau area and dock facilities.

The Sheriff’s Office Marine Unit deputies support the following critical functions:

- Patrol of all waterways in Clackamas County including the monitoring of waterway hazards and placing warning signs and buoys as aids to navigation and boater safety
- Conducting boater-safety examinations, hull inspections, and criminal and accident investigations
- Supports the Dive Rescue and SWIFT teams during water-related search-and-rescue operations
- Provides training on marine-safety topics and how to conduct boat-accident investigations

RECOMMENDATION:

Staff recommends that the Board approves the Chair of the Board to execute this lease.

Sincerely,

Elizabeth Comfort

Elizabeth Comfort,
Director Finance

LEASE

This Lease is made by and between CLACKAMAS COUNTY, a political subdivision of the State of Oregon, hereinafter called "Lessee" and Charbonneau County Club, an Oregon nonprofit corporation (CCC) hereinafter called "Lessor." This Lease is effective upon execution by both parties.

LEASE TERM:

Lessor does hereby let and lease the premises hereinafter described (the "Premises") to the Lessee to have and to hold the same for a lease term of five years (5), six months (6) beginning January 1, 2022 and ending June 30, 2027.

Ninety (90) days before the end of this Lease, Lessee shall notify Lessor, in writing, of its desire to either renew the Lease or vacate the Premises. The Lease may be renewed for additional periods upon such terms as are agreed to by the parties in writing.

PREMISES:

The Premises is described as a portion of 32000 SW Charbonneau Drive, Wilsonville, OR 97070. The Premises consist of Slip 37, also known as the "Boathouse." The Boathouse is where the Clackamas County Sheriff's Office Marine Unit moors boats and watercraft. The Boathouse is a 1,624 square foot, one story facility located on Slip 37 for use by multiple boats and watercraft at the water level which is attached to the dock piers/pilings. There are no assigned Sheriff's Office parking spaces at this time. The Premises is located on Assessor's Map 31W, Section 24CD, Tax Lot 80004 and attached hereto as Exhibit A.

BASE RENT:

Lessee agrees to pay as rent for Slip 37 ("The Boathouse") the sum of three thousand dollars (\$3,000.00) annually by July 15th. The base rent amount shall increase annually by three percent (3%) for the entire lease term. The following schedule of rent includes the annual rent 3% increase for the next five years:

<u>Annual Lease Period</u>	<u>Annual Rent Payment</u>
January 1, 2022 to June 30, 2022	\$1,500.00
July 1, 2022 to June 30, 2023	\$3,090.00
July 1, 2023 to June 30, 2024	\$3,182.70
July 1, 2024 to June 30, 2025	\$3,278.18
July 1, 2025 to June 30, 2026	\$3,376.52
July 1 2026 to June 30, 2027	\$3,477.81

Rent not paid when due shall, after fifteen (15) days written notice, bear simple interest at the rate of one-and-one-half percent (1.5%) per month until paid.

If this Lease is terminated for any reason other than Lessee's default or failure to perform, Lessor shall reimburse to Lessee the pro rata amounts paid on the unexpired term of this Lease.

POSSESSION:

Lessee shall be entitled to full use and possession of the Premises for the entire Lease term.

USE AND ENJOYMENT:

Lessor covenants that Lessee shall be entitled to possession of the Premises for docking and mooring of Clackamas Sheriff's Office Marine Unit boats and watercraft. Lessee covenants not to use the Premises for any unlawful purpose or for any other purpose without Lessor's prior written consent. Lessee shall not allow the creation of any nuisance upon the Premises nor create any nuisance upon the same.

OPERATING COSTS:

Lessor shall be responsible for all utility costs.

INSPECTION:

Lessor shall have the right personally and through Lessor's agents and workmen to enter into and upon the Premises at reasonable times to inspect the Premises and examine the condition thereof upon forty-eight (48) hours written notice, except in the event of an emergency, in which event no notice shall be necessary. Lessor's rights hereunder extend only to the Premises, and not any property owned by Lessee that are docked or moored to the Premises including, but not limited to, the Boathouse.

SIGNAGE:

Lessee shall receive prior written approval from the CCC before placing or installing any signs, awnings, antennae or other apparatus by attachment to the Boathouse or that is visible from outside the Boathouse, which other than an identifying sign for Lessee and customary communication equipment (which will not be unreasonably denied), is subject to CCC's sole discretion.

MAINTENANCE:

Lessor shall be responsible for necessary maintenance and repair of the Premises including, but not limited to, electrical lines to the interior of the Boathouse, docks, and Boathouse structure (exterior walls, windows (except for window glass) roof, mandors (except for locks) and floats), so long as such maintenance and repair is not the result of Lessee's negligence, misuse or failure to comply with any provisions of this Lease.

Lessee shall receive prior written approval from Lessor before installing or making any alterations or improvements to the Boathouse or dock.

Any repairs or maintenance performed on or around the leased Premises by the Lessor shall be done in such a way as to interfere as little as reasonably possible with the use of the Premises by the Lessee. Lessee shall have no right to an abatement of rent nor any claim against Lessor for any inconvenience or disturbance resulting from Lessor's activities performed in conformance with the requirements of this provision.

Lessee may use and store and standard cleaning products in its boat and watercraft, and flammables and lubricants typically used in general day-to-day maintenance of boats and watercraft, all of which must be in compliance with all applicable laws and regulations, in permissible quantities, containers, and given adequate ventilation. No diesel, gasoline, propane, natural gas, or watercraft fuel may be stored in Slip 37 in containers larger than two gallons or other amount designated by Lessor or any governmental agency with jurisdiction, except in the tank of a vessel that is stored in the slip. In the event of a leak, spill, or release of a hazardous substance in, on, or above Slip 37, the dock, or any nearby property, Lessee will immediately notify the Lessor and the proper authorities and will undertake all emergency response necessary to contain, clean up, and remove the hazardous substance and within a reasonable time investigate, remediate, or otherwise take action necessary or appropriate to ensure that any contamination by hazardous substance is eliminated. Lessee will provide certification acceptable to Lessor that all such contamination has been eliminated.

Lessee shall maintain the Slip 37 area, including the Boathouse, in a neat condition, free of trash and debris, in good order.

Lessee shall promptly notify Lessor of any necessary dock, water or sewage repairs.

LIEN CLAIMS AND LIABILITY:

Lessee shall not allow any liens to attach to the building or Lessee's interest in the Premises as a result of any alterations or modifications done at Lessee's request, repairs or maintenance performed for which Lessor is not responsible, or obligations or judgments of Lessee unrelated to the Premises. Any labor or materials provided or construction done by Lessee at Lessor's request shall be deemed to have been provided by Lessor who shall be solely responsible for any liens or judgments arising from such provision or construction.

PLACE OF PAYMENT AND NOTICE:

Any notice to which Lessee shall be entitled under this Lease shall be delivered or sent to Clackamas County Facilities Management, 1710 S Red Soils Court #200, Oregon City, OR 97045. Place of payment and notice for Lessor shall be mailed to Charbonneau County Club, care of: The General Manager, 32000 SW Charbonneau Drive, Wilsonville, OR 97070. Place for notices may be changed by written notice from the party changing address.

PERSONAL PROPERTY INSURANCE:

Lessee shall be responsible for insuring or self-insuring its boats, watercraft, personal property and trade fixtures located on the Premises and any alterations or tenant improvements it has made to the Premises.

TOTAL OR PARTIAL DESTRUCTION:

Lessor agrees to maintain, in full force and effect during the Term of this Lease, "all risk" property insurance, or its equivalent, to insure the Premises. If the leased portion of the Premises which is the subject of this lease so insured shall be damaged by some cause covered by such insurance to the extent of less than thirty percent (30%) thereof, Lessor shall promptly remove all debris therefrom and repair and rebuild the same, restoring the Premises in substantially the same condition in which it was previous to the destruction. If the Premises shall be damaged more than thirty percent (30%), Lessor

shall not be required to rebuild but may do so at Lessor's option. Percentage of damage shall be determined by the insurer. If Lessor shall elect to rebuild and repair the Premises in the last mentioned instance, Lessor shall give written notice of Lessor's intention to do so to Lessee within thirty (30) days of the date of the damage. If Lessor fails to give such notice within thirty (30) days, this Lease shall terminate. If the Premises shall be damaged by some cause not covered by insurance and Lessor does not elect to rebuild or repair the Premises within sixty (60) days from date of damage, Lessee may terminate this lease at Lessee's option. During any period of time during which the Premises shall be unusable, rental shall abate entirely and if the operation of the business on the Premises shall be impaired in part, rental shall abate during the terms of repairs or rebuilding proportionate to loss of use of the Premises and said impairment of business.

QUIET ENJOYMENT; MORTGAGE PRIORITY:

Lessor warrant that it is the owner of the Premises and has the right to lease them. Lessor will defend Lessee's right to quiet enjoyment of the Premises from the lawful claims of all persons during the lease term.

Either party will, within twenty (20) days after notice from the other, execute and deliver to the other party a certificate stating whether or not this Lease has been modified and is in full force and effect and specifying any modifications or alleged breaches by the other party. The certificate shall also state the amount of monthly rent, the dates to which rent has been paid in advance and the amount of any security deposit or prepaid rent.

ASSIGNMENT AND SUBLETTING:

Lessee shall not have the right to assign this Lease without prior written consent of Lessor.

HOLDING OVER:

If Lessee shall hold over and remain in possession of said Premises after expiration of this Lease without any written lease actually being made, such holding over shall not be deemed to operate as a renewal or extension of this Lease but shall only create a tenancy which may be terminated at any time by Lessor upon sixty (60) days written notice to Lessee.

EMINENT DOMAIN:

If the entire Premises or entire access shall be taken under power of eminent domain, this lease shall terminate, and Lessee shall immediately vacate said Premises within ninety (90) days after receipt of notice of said termination, or earlier if directed by a court having jurisdiction. Lessee shall not participate in any award of damages or purchase price paid by the acquiring authority to Lessor for the building and Premises and Lessee shall not be liable for any subsequent rent. If only a part of the Premises or access shall be taken under eminent domain so that Lessee may continue to operate Lessee's business on substantially the scale on which such business was conducted prior to condemnation, rental shall be abated for the remaining portion of the term of this lease or extension thereof, proportionate to the loss of use of the Premises by Lessee. In no event shall Lessee participate in any condemnation award or settlement.

WAIVER:

Any waiver of any breach of covenants herein contained to be kept and performed by Lessee or Lessor shall not be deemed or considered to be a continuing waiver, and shall not operate to bar or prevent the other party from declaring a forfeiture or exercising any other rights as to any succeeding breach, either of the same condition or covenant or otherwise.

TERMINATION AND BREACH:

1. Mutual Termination and Termination for Convenience.

This Lease may be terminated at any time by mutual written consent of both parties. This Lease may be terminated by either party for convenience upon three hundred sixty five (365) days' written notice to the non-terminating party.

2. Termination for Lessee's Breach.

If Lessee fails to pay the annual rent payment by the fifteenth (15th) day of the month in which it is due, Lessor may terminate this Lease by providing sixty (60) days written notice, with an opportunity to cure, to Lessee. Within sixty (60) days of receipt of said notice, Lessee shall either cure the default or vacate the Premises.

If Lessee defaults in performing its obligations under this Lease, other than payment of rent, Lessor may make any payment or perform any obligation which Lessee has failed to perform after not less than ten (10) days written notice to Lessee of Lessor's intention to pursue this remedy (except in cases of emergency, where no such prior notice shall be required), in which case Lessor shall be entitled to recover from Lessee upon demand all amounts so expended. If Lessee breaches any covenants or conditions of this Lease, other than payment of rent, and such breach is not corrected within thirty (30) days after receipt of written notice from Lessor claiming a default by Lessee and Lessor's intention to terminate the Lease if such breach is not corrected (except that if the breach is of a type that cannot be fully corrected within such thirty day period, Lessee must commence correction within such period and thereafter diligently pursue the correction to completion), Lessor may terminate this Lease by providing sixty (60) days written notice thereof to Lessee. Within sixty (60) days of sending such notice, Lessee shall vacate the Premises.

3. Termination for Lessor's Breach.

If Lessor breaches any covenants or conditions of this Lease, and such breach is not corrected within thirty (30) days after receipt of written notice from Lessee claiming a default by Lessor and Lessee's intention to terminate the Lease if such breach is not corrected (except that if the breach is of a type that cannot be fully corrected within such thirty day period, Lessor must commence correction within such period and thereafter diligently pursue the correction to completion), Lessee may terminate this Lease by providing sixty (60) days written notice thereof to Lessor. Within sixty (60) days of sending such notice, Lessee shall vacate the Premises.

4. Remedies.

The rights and remedies specified in this section shall be non-exclusive. Either party's right to terminate this Lease for default as provided herein shall not be that party's sole remedy, and

such party may exercise any other right or remedy provided in this Lease or otherwise available under applicable law.

SURRENDER:

On expiration or early termination of this Lease, Lessee shall remove all owned items and materials and surrender the Premises clean and in the same condition as at the commencement of the term, subject only to reasonable wear and tear from ordinary use. Lessee shall remove all of its items and materials that remain its property and restore all damage resulting from such removal. Failure to remove shall be an abandonment of the property, and Lessor may dispose of it in any manner without liability.

CONSTITUTIONAL DEBT LIMITATION:

This Lease is expressly subject to the debt limitation of Oregon Counties set forth in Article XI, Section 10 of the Oregon Constitution, and is contingent upon funds being appropriated therefor. Any provisions herein which would conflict with law are deemed inoperative to that extent.

WARRANT OF AUTHORITY:

Lessor warrants and represents that Lessor is the sole owner of the Premises subject to this Lease, and that Lessor has full authority to execute this Lease.

MISCELLANEOUS:

Lessee shall not record this Lease without Landlord's prior written consent. If Lessee remains in possession of the Premises or any part thereof after the expiration of the term hereof without the express written consent of Lessor, such occupancy will be a tenancy at will at a base rental equal to 200 percent of the amount of the last monthly rental, to be payable and due on a prorated basis monthly on the first day of each calendar month following such holdover. The Lease is governed by the laws of the state of Oregon. Lessor and Lessor's agents shall have the right to enter the Premises at reasonable times and upon reasonable advance notice for the purpose of inspecting the same and for performing maintenance as required by the Lessor in this Lease. No waiver of any provision of this Lease shall be deemed a waiver of any other provision or of any subsequent breach of the same or any other provision. Consent to or approval of any act shall not be deemed to render unnecessary the obtaining of a party's consent to or approval of any subsequent act. The acceptance of rent hereunder by Lessor shall not be a waiver of any preceding breach by Lessee of any provision hereof, other than the failure of Lessee to pay the particular rent so accepted, regardless of Lessor's knowledge of such preceding breach at the time of acceptance of such rent.

<p>LESSEE CLACKAMAS COUNTY:</p> <p>_____</p> <p>Tootie Smith, Chair</p>	<p>LESSOR Charbonneau Country Club Gary Newbore, President 32000 SW Charbonneau Drive Wilsonville, OR 97070</p> <p>93-0731970 Federal ID#</p> <p><u>Gary Newbore</u> Authorized Signature</p> <p>Gary Newbore Printed Name</p> <p><u>Feb 3, 2022</u> Date</p>
<p>Approved as to form:</p> <p><u>[Signature]</u> Office of County Counsel</p> <p>02/08/2022 Date</p>	

State of Oregon)

County of Clackamas) ss.

This record was acknowledged before me on (date) _____ by Tootie Smith as the Chair of the Clackamas County Board of Commissioners.

Signature of notarial officer: _____

Stamp:

Title of office: _____

My commission expires: _____

State of Oregon)

County of Clackamas) ss.

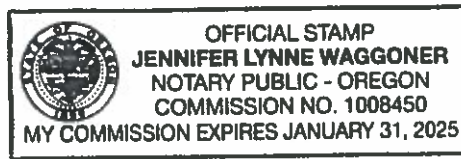
This record was acknowledged before me on (date) Feb 3, 2022 by Gary Newbore as the President of the Charbonneau Country Club.

Signature of notarial officer: Jennifer L Waggoner

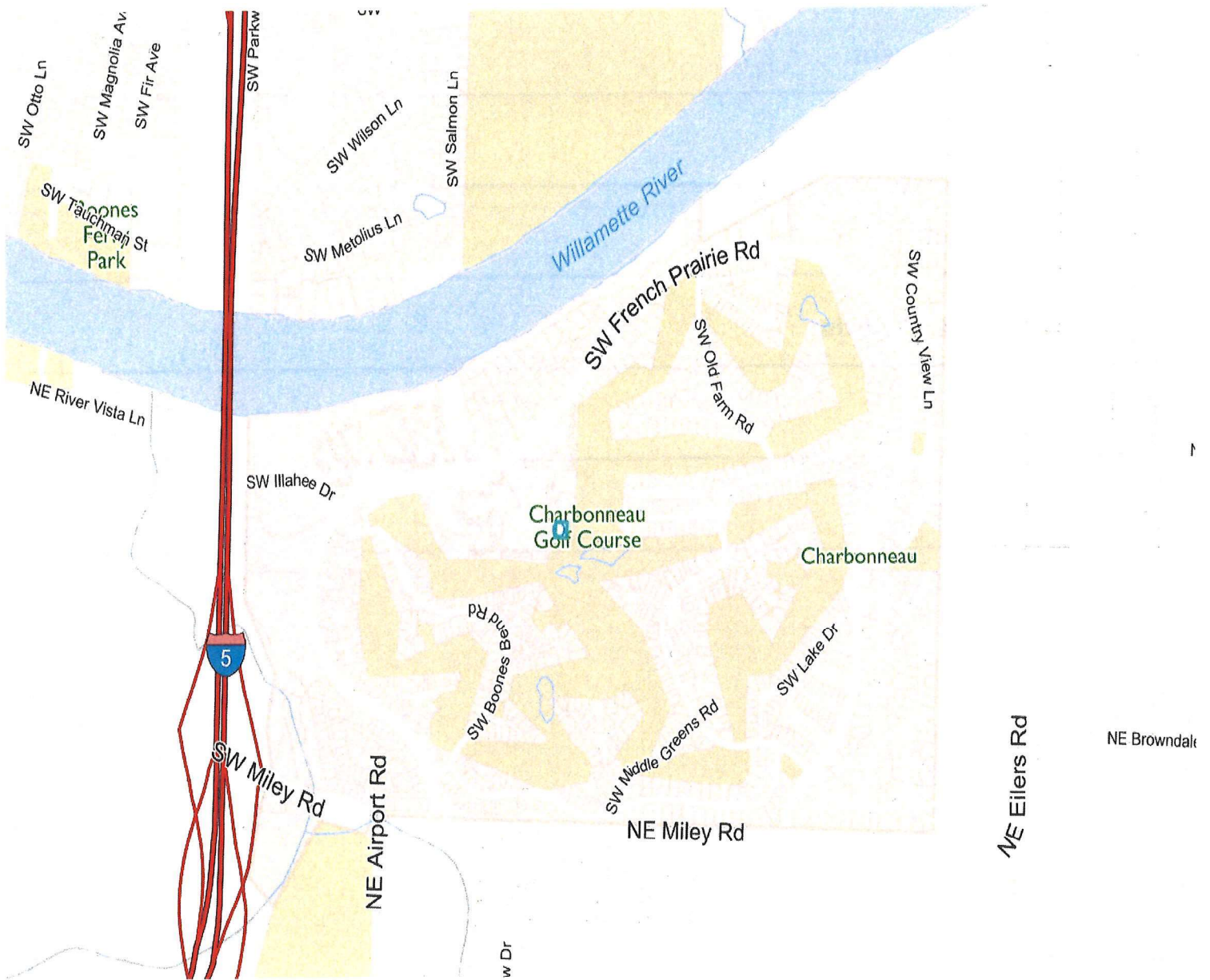
Stamp:

Title of office: Activity Coordinator

My commission expires: 1/31/2025







Objectid: 88904

Primary Address: 32000 SW Charbonneau Dr Unit 5, Wilsonville, 97070

Jurisdiction: Wilsonville (<https://www.ci.wilsonville.or.us>)

Map Number: 31W24CDS2

Taxlot Number: 31W24CD80005

Parcel Number: 01461475

Document Number: 1990-060184

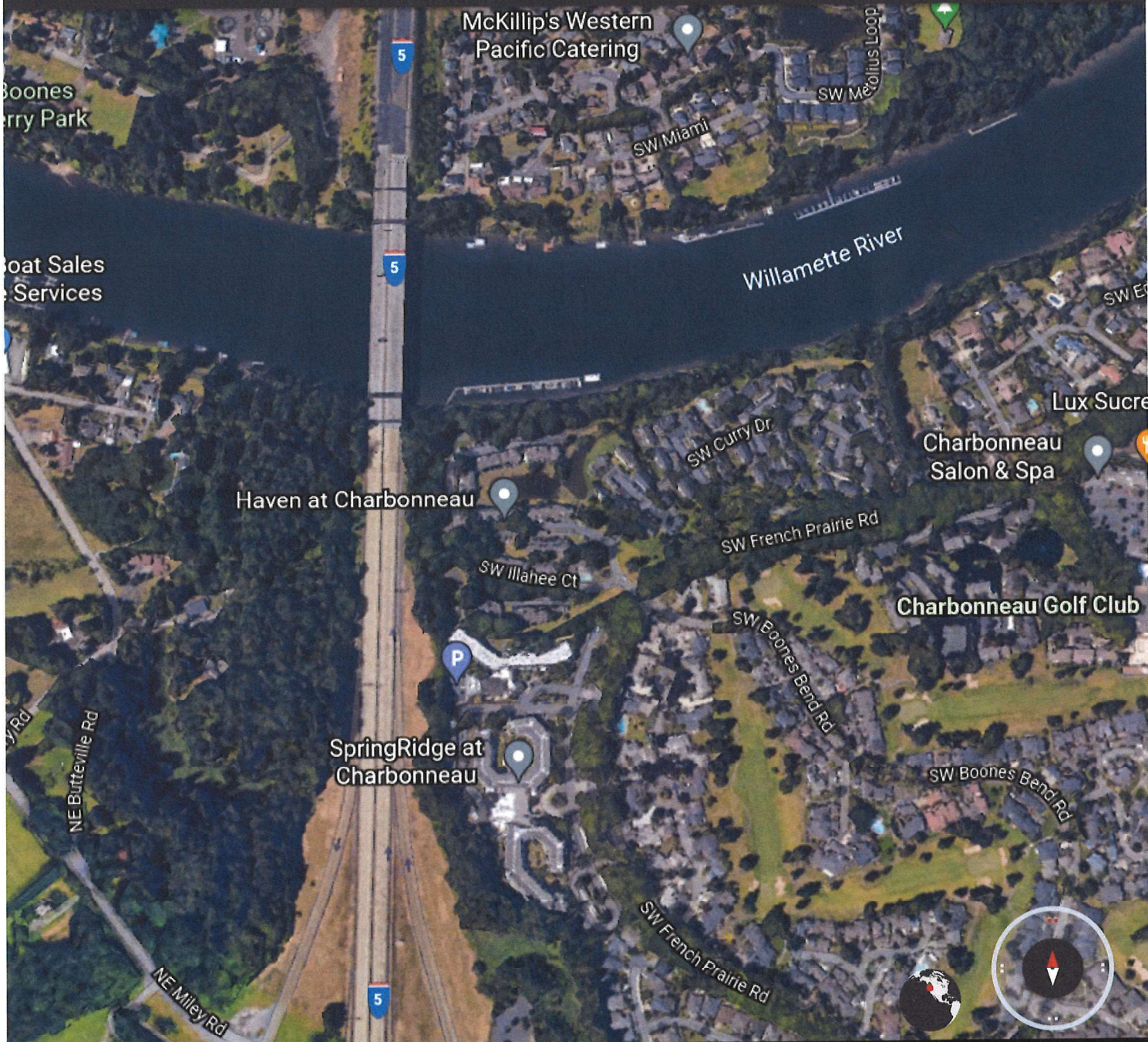
Census Tract: 022800

Landclass: 201

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Imagery date: 8/10/...

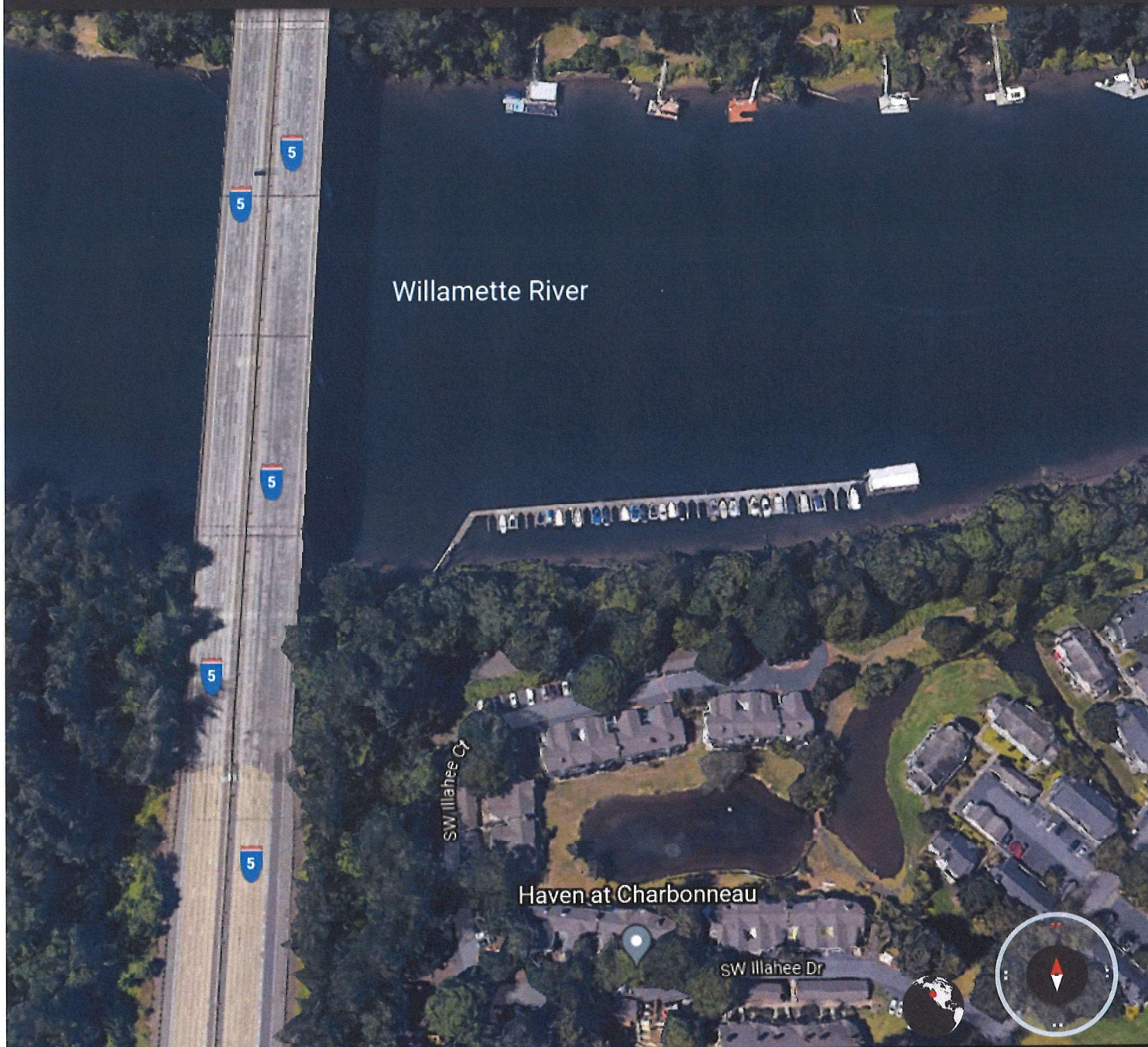
300 m

Camera: 1,935 m 45°17'20"N 122°...

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Google Earth

Imagery date: 5/...

100 m

Camera: 631 m 45°17'26"N 122°46'04"...