

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

Sitting as the Governing Body of Clackamas County Service District No. 1

Policy Session Worksheet

Presentation Date: 5/3/2016 **Approximate Start Time:** 2:30p **Approximate Length:** 30 min

Presentation Title: Kellogg Park Bridge Replacement

Department: Water Environment Services

Presenters: Greg Geist & Lynne Chicoine

Other Invitees: Joel Howie (DTD), Amanda Keller & Christopher Storey (County Counsel)

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

Approval of Clackamas County Service District No. 1 (CCSD1) cost sharing proposal for permanent replacement of the Kellogg Park Bridge.

EXECUTIVE SUMMARY:

CCSD1 and the City of Milwaukie entered into an Intergovernmental Agreement (IGA) on November 28, 2014 for the purpose of access and development near the Kellogg Creek Water Resource Recovery Facility (WRRF). In addition to other items, the IGA defined a methodology for developing a cost sharing agreement for capital repairs to the bridge (Page 3, paragraph 4 of the IGA). CCSD1 liquid biosolids trucks currently use the bridge for access to the Washington Street/McLoughlin Blvd traffic signal, which allows a left turn onto McLoughlin Blvd. Without this access, the trucks are required to take a circuitous route along McLoughlin Blvd to their destination, which increases traffic and pedestrian exposure. Current truck traffic is 5-6 trucks/day across the bridge. After construction of dewatering facilities at Kellogg Creek WRRF within the next 5 years, traffic will decrease to less than one truck per day.

The bridge was damaged during extreme wet weather in December 2015. The County was recently notified of eligibility for Federal Assistance for Public Infrastructure under the Federal Emergency Management Agency (FEMA) Public Assistance Program (FEMA-4258_DR_Oregon). Under this program, FEMA will pay for a portion of temporary facilities and up to 75% of cost of the total bridge replacement. The City of Milwaukie has been advised that FEMA will fully fund temporary facilities and some portion of a permanent replacement. A final cost estimate of a permanent replacement is due to FEMA from the city on May 13, 2016. Temporary improvements are complete. The city of Milwaukie is currently determining if trucks can safely use the bridge. It is anticipated that traffic across the bridge can resume in late summer 2016 at the latest. Construction of the permanent bridge is anticipated to be complete in 2018.

In addition to FEMA funding, the City is seeking additional grants from the Oregon Infrastructure Finance Authority (IFA) to mitigate the total cost of the bridge replacement. At this time, District staff are unaware of the potential cost savings associated with this effort.

The City's planning estimates for bridge work range from \$946,000 (for an existing bridge repair) to \$1.8M for a full replacement with other functions and cosmetic enhancements (e.g. sidewalks, etc.). The City intends to replace the bridge. Based on this cost range and assuming that FEMA will pay 75% of the repair or replacement cost (75% is a standard planning assumption for FEMA funds), expected FEMA funding would fall between \$709,500 and \$1.35M. Under the worst case scenario that FEMA only funds \$709,500 and the bridge cost is \$1.8M, the City would be responsible for \$1,090,500. Under the best case scenario where FEMA funds 75% of the replacement cost, the City would be responsible for \$450,000.

The City requests that CCSD1 pay 30% of the cost, up to \$328,000 under the lowest funding scenario. District staff, with assistance from the County Department of Transportation and Development, conducted an assessment of total bridge usage and determined that 11% of the total bridge traffic is related to District business. Therefore, under currently known circumstances, District staff believe that an equitable amount for CCSD1 to pay toward the bridge replacement is an amount up to a total of \$150,000, which represents slightly more than 11% of funding under the worst case funding scenario, and 30% under the best case scenario.

The IGA and a WES memorandum summarizing details of the situation are included as attachments to this staff report.

FINANCIAL IMPLICATIONS:

Is this item in your current budget? YES NO

What is the cost? Up to \$150,000

What is the funding source? CCSD1 Capital Budget

STRATEGIC PLAN ALIGNMENT:

This item aligns with the WES strategic business plan in that it works to maintain a safe working environment for WES employees.

This item aligns with the County's Performance Clackamas strategic priority of building a strong infrastructure.

LEGAL/POLICY REQUIREMENTS:

N/A

PUBLIC/GOVERNMENTAL PARTICIPATION:

The City of Milwaukie City Council will approve the final design and allocate funding for the bridge construction at a future meeting after FEMA and IFA funding amounts are known.

OPTIONS:

Option 1: Approve funding for 30% of the remaining bridge replacement cost up to \$150,000 based on equitable apportionment of cost according to the IGA.

Option 2: Approve funding for 30% of the remaining bridge replacement cost, as requested by the City.

Option 3: Approve funding for 30% of the remaining bridge replacement cost up to \$150,000, based on equitable apportionment of cost according to the IGA. Once FEMA and IFA funding is known, and 30% of the net remaining cost is over \$150,000, District staff will continue negotiations with the City and return to the BCC for final authorization.

RECOMMENDATION:

District staff respectfully recommends that the Board select Option 3, approve funding for 30% of the remaining bridge replacement cost up to \$150,000, based on equitable apportionment of cost according to the IGA. Once FEMA and IFA funding is known, and 30% of the net remaining cost is over \$150,000, District staff will continue negotiations with the City and return to the BCC for final authorization.

ATTACHMENTS:

- IGA between CCSD1 and The City of Milwaukie Regarding Access and Development Near Kellogg Creek Plant (28 November 2014)
- WES internal memorandum regarding cost sharing between CCSD1 and the City of Milwaukie for the Kellogg Bridge replacement (11 April 2016)

SUBMITTED BY:

Division Director/Head Approval _____

Department Director/Head Approval _____ GG _____

County Administrator Approval _____

For information on this issue or copies of attachments, please contact Matt Glazewski at 503-742-4566



Gregory L. Geist
Director

MEMORANDUM

TO: Greg Geist, WES Director
CC: Joel Howie, DTD
FROM: Lynne Chicoine, WES Capital Program Manager
DATE: April 11, 2016
SUBJECT: Cost Sharing between CCSD #1 and the City of Milwaukie for Kellogg Creek Bridge Replacement

Introduction

Chuck Eaton and Gary Parkin (City of Milwaukie) met with me regarding the Kellogg Creek Bridge Replacement project in a meeting at the DSB on March 24, 2016. The purpose of the meeting was to negotiate an equitable cost sharing arrangement between WES and city of Milwaukie for replacement of the bridge. An initial meeting and bridge site tour with Chuck and Gary was held on February 12, 2016. This memorandum provides background, summarizes discussion of the March 24 meeting and provides recommendations for cost sharing of the replacement bridge.

Background

The bridge was damaged during extreme wet weather in December 2015. The County was recently notified of eligibility for Federal Assistance for Public Infrastructure FEMA Public Assistance Program (FEMA-4258_DR_Oregon). Under this program, FEMA will pay for some portion of temporary facilities and up to 75% of cost of the bridge replacement. The City of Milwaukie has been advised that FEMA will fully fund temporary facilities. Construction of the permanent bridge is anticipated to be complete in 2018.

Meeting Summary

At the March 24 meeting, Chuck presented the documents attached herein. The following is a summary of the discussion:

- The City is assured of FEMA payment of at least \$500,000 up to 75% of cost for the permanent bridge replacement.

- The new bridge is required to be higher than the existing bridge so the deck is above a key flood elevation. The higher elevation requires significant grading and a retaining wall at the north end of the bridge to provide both access to the boat ramp and the Washington Street signal.
- To facilitate left turns onto McLoughlin Boulevard for sludge hauling trucks, WES requires continued access to the bridge and the signal at Washington Avenue.
- The City is seeking 30% of the unfunded cost of the bridge replacement from CCSD1.

Evaluation

Following the meeting, I asked Joel Howie, DTD, to review the drawings and cost estimates and met with Joel. Joel noted that FEMA will fund construction of a bridge to AASHTO LRFD Bridge Specifications and ODOT standards. See FEMA's Public Assistance Program and Policy Guide (FP 104-009-2/January 2016) Chapter 2:VII.C, Codes and Standards which states "FEMA provides PA funding to restore facilities on the basis of pre-disaster design and function in conformity with current applicable codes, specifications and standards (hereinafter referred to collectively as "standards")."

Recommendations

Determination of CCSD1's fair share of the non-funded cost of the bridge should include three considerations:

- **Cost of bridge replacement to accommodate WES trucks.** FEMA will require design and construction of the bridge to accommodate WES trucks both because this was a former use and current design standards dictate this level of service.
- **WES's proportional use of the bridge.** Historical ODOT data shows WES traffic, in terms of number of vehicles at approximately 11% of total vehicular traffic. After the addition of dewatering at Kellogg WRRF, scheduled within the next 5 years, truck trips will be reduced to less than one per day. Therefore, our proportional use of the bridge is significantly less than 10% over the life of the bridge. As of 4/7/16 the City completed a temporary fix of the bridge to allow some vehicle traffic. It is expected that WES trucks will have access to the bridge no later than late summer 2016.
- **Cost to provide access to the Washington/McLoughlin intersection:** Since FEMA's requirement that pre-disaster level of use be restored, this access will be included in the project.

Based on these considerations, CCSD1 is obligated to pay a portion of less than 10% of the cost of the bridge replacement. However, CCSD1 may choose to fund a larger portion of the project at the Director's discretion. Given the uncertainty of the level of FEMA funding at this time, it is recommended that CCSD1 agree to a percentage of funding with a not-to-exceed limit. A CCSD1 share of 30% with a not-to-exceed limit of \$150,000 would provide an equitable share of funding after the FEMA contribution. CCSD1 should not participate in funding any aesthetic features of the bridge, over and above a functional transportation design.

Any funding should be contingent on the following:

- WES participation as a party to the City's agreement with FEMA should be as determined by County Counsel. At a minimum, WES should be provided access to all correspondence between the city and FEMA.
- WES should require our participation throughout design and construction as a reviewer/approver. WES should enlist DTD engineer, Joel Howie, for his assistance and develop the appropriate inter-departmental agreement to this end.
- Temporary facilities must be accessible by WES trucks.
- Any publicity regarding funding of the bridge must acknowledge WES.
- A schedule must be provided and adhered to by the city of Milwaukie for completion of both temporary and permanent facilities.
- WES payments should be scheduled over the life of the project to assure milestones are met.
- Agreement regarding staging areas and use of WES parking areas.

INTERGOVERNMENTAL AGREEMENT
BETWEEN
CLACKAMAS COUNTY SERVICE DISTRICT NO. 1
AND
THE CITY OF MILWAUKIE
REGARDING ACCESS AND DEVELOPMENT
NEAR KELLOGG CREEK PLANT

THIS INTERGOVERNMENTAL AGREEMENT REGARDING ACCESS AND DEVELOPMENT NEAR KELLOGG CREEK PLANT (this "Agreement") is effective as of the 28th day of February, 2014 (the "Effective Date") by and between Clackamas County Service District No. 1, a county service district ("CCSD#1") and the City of Milwaukie, an Oregon municipality ("City"), each also individually referred to as "Party" and collectively as the "Parties."

RECITALS

WHEREAS, the Parties are authorized to enter into agreements regarding the provision of services to their residents, customers and service areas pursuant to their respective charter or principal acts and ORS 190.010; and

WHEREAS, the City owns and operates a public park located west of Highway 99E between Adams Street (on the south) and Harrison Street (to the north) ("Park"), and is finalizing plans for significant improvements to the Park ("Park Improvements"); and

WHEREAS, CCSD#1 owns and operates a sewage treatment facility ("Kellogg Plant") and land located south of and adjacent to the Park ("CCSD#1 Property"), together with an easement over the Park property which allows CCSD#1 to access Highway 99E pursuant to the easement accepted pursuant to Board Order 72-469 as recorded in real property records of Clackamas County (the "CCSD#1 Easement"); and

WHEREAS, the City desires to enter into an agreement with CCSD#1 which allows the City to utilize a portion of the CCSD#1 Property to, among other things, support reconfiguration and redevelopment of Park; and

WHEREAS, CCSD#1 is willing to accommodate City's requests on the terms and conditions set forth herein;

NOW THEREFORE, the Parties hereby agree as follows:

1. Access. CCSD#1 agrees that City may use a portion of CCSD#1 Property as provided in this Agreement and in the Easement granted to the City pursuant to Section 7 below (the "City Easement") as part of its Park redevelopment effort. Such agreement is conditioned on the City compliance with the other terms set forth herein, including access and traffic flow. The parties agree that the design of the Park upon which this Agreement

is based is as set forth on Exhibit A, which CCSD#1 hereby approves. The Parties agree that the traffic flow pattern within the CCSD#1 Easement area and City Easement area shall be as set forth on Exhibit B, including but not limited to ingress/egress plans for the industrial truck traffic coming to and from the Kellogg Plant. The City agrees it will not make any changes to the access, traffic flow, parking, or related site design issues within the CCSD#1 Easement area or the City Easement area without prior consultation with, and consent from, CCSD#1, which consent will not be unreasonably withheld, conditioned or delayed. City shall be responsible to secure any and all third-party easements, permits or related permissions that may be required to implement the Park Improvements within the CCSD#1 Easement and City Easement areas and adjacent rights-of-way (collectively, the "Third-Party Approvals"). To the extent they apply to the CCSD#1 Property, such Third-Party Approvals shall be in the name and for the benefit of CCSD#1.

2. Easement Area Management. CCSD#1 shall have the designated reserved parking spaces as depicted on Exhibit B ("CCSD#1 Exclusive Parking Spaces"). The City covenants and agrees to (i) place signs which designate the CCSD#1 Exclusive Parking Spaces as reserved for CCSD#1 use at all times; (ii) enforce City driving, parking, and other ordinances strictly in the CCSD#1 Easement area and City Easement area portions of the Park to ensure safe vehicular traffic by CCSD#1 vehicles; and (iii) respond promptly when notified by CCSD#1 staff of a problem regarding the foregoing. City's obligation to respond to parking issues shall not exceed its normal ticket enforcement efforts equal to those undertaken for the downtown area of the City; provided, however, that police or other appropriate personnel shall respond if there is blockage of access to or from the Kellogg Plant. CCSD#1 shall have the right to post the CCSD#1 Exclusive Parking Spaces with tow away signs and, without limiting the foregoing, may enforce such postings to the full extent permitted by law. CCSD#1 acknowledges that the City may contract with a third party to perform maintenance services in the Park. If the City does so, its agreement with such contractor shall expressly require the contractor to perform its work consistent with the terms and conditions of this Agreement.

3. CCSD#1 Actions. CCSD#1 agrees that it shall withdraw its objection letter to the City's pending US Army Corp of Engineers ("ACOE") permit application. A copy of the withdrawal letter is attached hereto as Exhibit C; the original thereof shall be signed by CCSD#1 simultaneously upon execution of this Agreement and delivered to the City. The City is authorized to deliver the letter to the ACOE. As part of the Park Improvements the City must obtain (i) an access permit from the Oregon Department of Transportation ("ODOT") allowing construction of a new access point onto Highway 99E at Adams Street; and (ii) the Third-Party Approvals. CCSD#1 agrees to work with City staff to execute the ODOT access change letter request. CCSD#1 shall also work with the City and any third parties in good faith to negotiate and resolve any and all remaining outstanding issues relating to this project to the mutual satisfaction of all parties.

4. Park Bridge. The parties agree that the current bridge located within the CCSD#1 Easement ("Park Bridge") is essential for appropriate traffic flow and safe travel both for the Park and Kellogg Plant traffic. To the extent the Park Bridge is damaged by acts of CCSD#1 such damage shall be repaired and paid by CCSD#1; to the extent the Park Bridge is damaged by the City or users of the Park, such damage shall be repaired and paid for by the City. Results of an ODOT-funded bridge inspection and load rating currently underway (the "Bridge Report") will be reviewed by the City and CCSD#1 when completed. Within six (6) months of receipt of the Bridge Report, the parties will use the Bridge Report as a basis to negotiate in good faith to reach agreement on the percentage that each party will pay toward the capital expenses that may be needed to maintain, repair, upgrade, and if necessary replace, the Park Bridge. At such time as the Park Bridge requires capital investment to maintain functionality, the parties will use the referenced percentages to determine the share of expenses for such repairs and/or upgrades.



5. 99E Bridge. CCSD#1 acknowledges that the existing bridge structure owned and operated by the City which allows passage of Kellogg Creek beneath Highway 99 ("99E Bridge") may require repair and replacement at some time during the term of this Agreement. CCSD#1 consents to any and all activities associated with such repair of the 99E Bridge at the City's expense so long as a reasonable means of vehicular access (including access for CCSD#1 trucks and personnel), is retained or provided between the Kellogg Plant and Highway 99E. In the event that access to the traffic signal at Washington St. is unavailable, the access south of Kellogg Creek will remain open and accessible to CCSD#1 trucks and personnel in such a manner that the normal operations of the Kellogg Plant are not impaired.

6. Construction. CCSD#1 acknowledge that there may be disruptions due to construction of the Park Improvements. City agrees to minimize such disruptions, to coordinate with Kellogg Plant staff to prevent any material impact on treatment operations and biosolid or other vehicular traffic. For the purposes of the preceding sentence, "material" shall mean obstructing or substantially delaying the daily ingress and egress of CCSD#1 staff, equipment or agents to and from the Kellogg Plant. All construction work shall generally be at City's expense and timed to minimize impacts on CCSD#1 traffic, and the parties acknowledge that the only District funding that may be associated with the Park Improvements and access change shall come from the Good Neighbor Fund as defined in the service agreement between the Parties dated December 20, 2012. District funding for Park Bridge repair or replacement projects will come from sources other than the Good Neighbor Fund.

7. Easements. City and CCSD#1 each acknowledge that the City needs an easement over a portion of the CCSD#1 Property to effectuate the Park plan set forth on Exhibit A (the "City Easement"), and that CCSD#1 as a special purpose municipal entity must receive appropriate consideration for such Easement. A copy of the City Easement is attached to this Agreement as Exhibit D; the original thereof shall be signed by CCSD#1 simultaneously upon execution of this Agreement and delivered to the City. The City will cause the City Easement to be recorded in the deed records of Clackamas County at

the City's expense. As compensation for the City Easement the City agrees to pay CCSD#1 the cash sum of Sixty-Three Thousand Two Hundred and no/100 Dollars (\$63,200.00) (the "Consideration"). The City shall pay the Consideration in two payments of Twenty-One Thousand Sixty-Six and no/100 Dollars (\$21,066.00) each, payable on March 3, 2014 and March 2, 2015, respectively, and one payment of Twenty-One Thousand Sixty-Seven and no/100 Dollars (\$21,067.00) on March 1, 2016, without any interest accruals. The full amount of the Consideration may be paid earlier without penalty at the discretion of the City.

8. Maintenance. The City agrees that, as part of the planned Park improvements, it intends to construct improvements on City Easement area located on the CCSD#1 Property, including drive aisles, parking spaces, landscaping, curbs and sidewalks. The City shall be responsible for all maintenance and repair relating to all such improvements for the life of the City Easement.

9. Breach. In the case of a breach of the City Easement, the remedies shall be as set forth therein. In the case of breach of this Agreement by either party, the non-breaching party shall notify the breaching party, who shall have ten (10) business days to remedy such breach, unless such breach cannot reasonably be remedied within such time period, in which case the breaching party shall commence a remedy within such ten (10)-day period and continuously and diligently pursue the remedy to completion. If such breach is not remedied, or there is a pattern of failure to perform promised obligations under this Agreement or the City Easement, the non-breaching party may (i) exercise any remedy available to it in law or equity, and (ii) at its discretion, undertake self-help measures and the breaching party shall be responsible to pay all costs relating to such self-help, including staff time and reasonable attorney's fees arising therefrom.

10. Term; Creates Covenant Running with Land. This Agreement shall be effective as of execution and shall remain in effect for such time as the Park Improvements (as they may be modified from time-to-time as permitted hereunder), are located on the CCSD#1 Property. This Agreement shall be a covenant running with the land as to both the City Property on which the Park is located and as to the CCSD#1 Property. The parties agree that this Agreement shall be recorded in the deed records of Clackamas County, Oregon. It shall terminate only upon termination of the City Easement, which may only be done by (i) mutual consent of the parties or (ii) upon the City ceasing to use CCSD#1 Property for park purposes as described in Exhibit A hereto.

11. Other Necessary Acts. Each Party shall execute and deliver to the other all such further instruments and documents as may be reasonably necessary to carry out the purposes of this Agreement in order to provide and secure to the other Party the full and complete enjoyment of rights and privileges hereunder.

12. Responsible Parties. To the extent any third party makes any claim or brings any action, suit or proceeding, including, but not limited to, a claim alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") with respect to the Park, the Park Improvements, or other issue or obligation arising under this Agreement against CCSD#1 or City or their elected officials, employees or agents, the City shall defend such Third

Party Claim at its sole expense and hold CCSD#1 harmless from any loss, damages, expenses (including attorney's fees), judgments, fines or settlement amounts arising therefrom, except when such Third Party Claim directly relates solely to the actions of CCSD#1 staff, agents, or vehicles (a "CCSD#1 Claim"), in which case CCSD#1 shall have the sole obligation to defend and pay such CCSD#1 Claim, and shall hold the City harmless from any loss, damages, expenses (including attorney fees), judgments, fines, or settlement amounts arising therefrom. If the Third Party Claim may have an element of a CCSD#1 Claim but is not solely attributable to CCSD#1 actions, then the parties shall confer and devise a claim-appropriate defense and each party shall pay their respective share as found as part of a judgment or settlement. The City's or CCSD#1's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if such party had sole liability in the proceeding; provided, however, that such cap shall not transfer liability to the indemnified party and to the extent a court or other authority imposes liability beyond the Oregon law cap, the indemnifying party shall be responsible to make the indemnified party whole.

13. Severability and Waiver. In case any one or more of the provisions contained in this Agreement shall be invalid, illegal, or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not be affected or impaired in any way. One or more waivers by either Party of any provision, term, condition or covenant shall not be construed by the other Party as a waiver of subsequent breach of the same by the other Party.

14. Amendment. The Agreement may be amended at any time, but only by mutual written agreement of both parties.

15. No Third-Party Beneficiaries. The Parties to this Agreement and their successors and permitted assigns are the only Parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide, any benefit or right, whether directly or indirectly or otherwise, to third persons.

16. Governing Laws. This Agreement shall be governed and construed in accordance with the laws of the State of Oregon without giving effect to the conflict of law provisions thereof. Venue in connection with any legal proceeding affecting this Agreement shall be in the Circuit Court of the State of Oregon for Clackamas County.

17. Successors and Assigns; Counterparts. This Agreement is to be binding on the successors and assigns of the Parties hereto. No assignment of this Agreement shall be effective until the assignee assumes, in writing, the obligations of the assigning Party, and delivers such written assumption to the original Party to this Agreement. This Agreement may be executed in one or more counterparts.

18. No Waiver. No failure by City or CCSD#1 to insist on the strict performance of any agreement, term, covenant, or condition of this Agreement or to exercise any right or remedy consequent to a breach, constitutes a waiver of any such breach or of such agreement, term, covenant, or condition. No agreement, term, covenant, or condition to

be performed or complied with by either Party, and no breach by either Party, shall be waived, altered, or modified except by a written instrument executed by the non-breaching Party. No waiver of any breach shall affect or alter this Agreement, but each and every agreement, term, covenant, and condition of this Agreement shall continue in full force and effect with respect to any other then-existing or subsequent breach.

19. Cumulative Remedies. Each right and remedy provided for in this Agreement shall be cumulative and shall be in addition to every other right or remedy provided for in this Agreement now or hereafter existing at law or in equity or by statute or otherwise. The exercise or beginning of the exercise by City or CCSD#1 of any one or more of the rights or remedies provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by the Party in question of any or all other rights or remedies provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have, pursuant to official action that the respective governing bodies duly authorized the same, caused their respective officers to execute this Agreement on their behalf on the date stated above.

CITY OF MILWAUKIE,
a municipal corporation

CLACKAMAS COUNTY SERVICE
DISTRICT NO. 1, a county service district

By: _____

Title: Mayor

By: _____

Title: Chair

ATTEST: _____

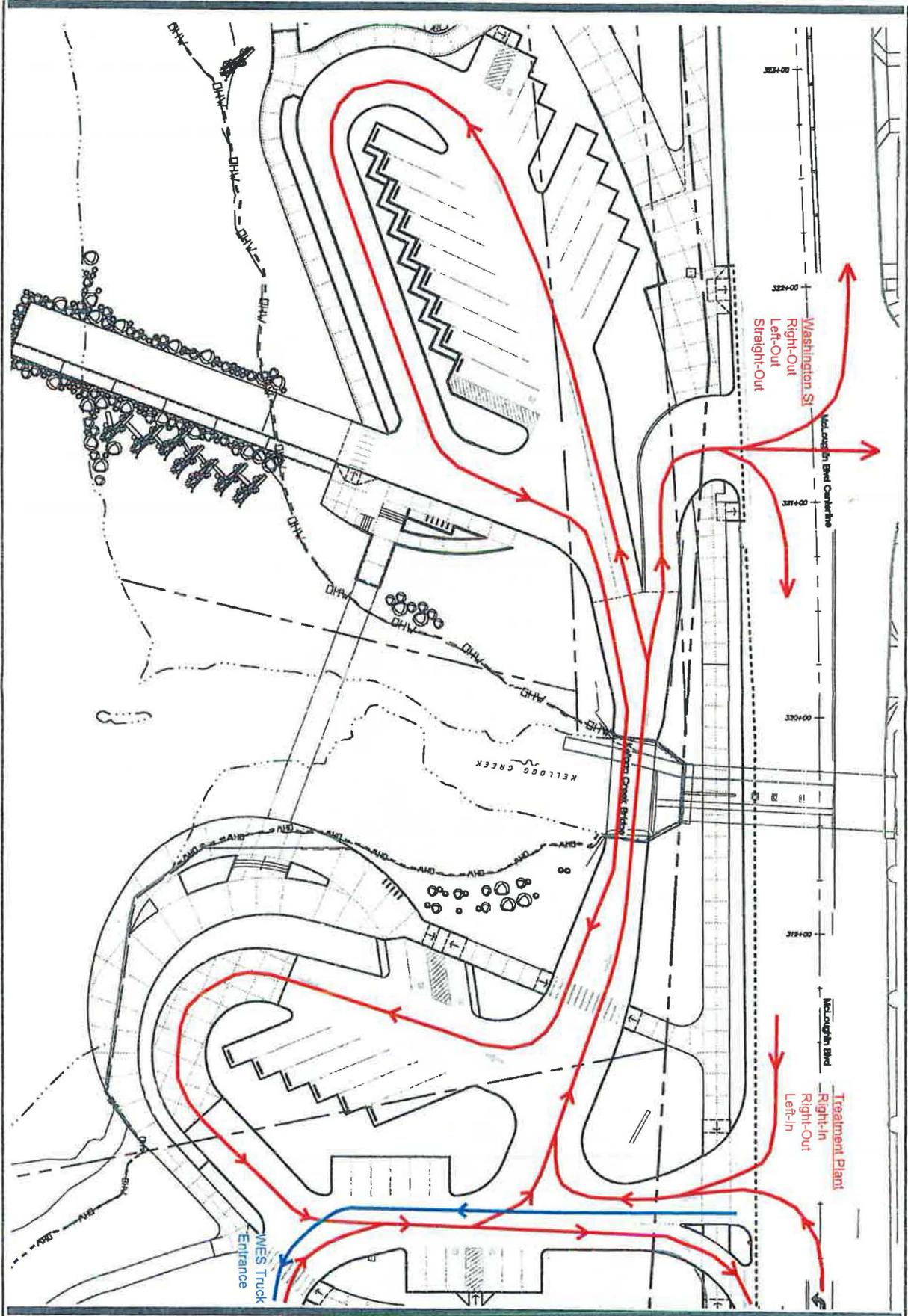
Title: City Recorder

ATTEST: _____

Title: Secretary

Exhibit A

Park Plan



DATE:	07/11/2008
DRAWN:	
CHECKED:	
PROJECT:	
SCALE:	
PROJECT NUMBER:	MAEX0000-0018
DRAWING TITLE:	CDSS-5-MAEX18-C3D.dwg
SHEET NO.:	5
TOTAL SHEETS:	7

DAVID EVANS AND ASSOCIATES INC.
 2100 Southeast River Parkway
 Portland Oregon 97201
 Phone: 503.223.6663

**USER SOUTHBOUND EXIT
 MILWAUKIE RIVERFRONT PARK
 PARK IMPROVEMENT PROJECT**
 CITY OF MILWAUKIE
 MILWAUKIE, OREGON

Exhibit C
ACOE Objection Withdrawal Letter

February 28, 2014

U.S. Army Corps of Engineers
Attn: CENWP-OP-GP (James Holm)
PO Box 2946
Portland, OR 97208-2946

Re: Withdrawal of objections to permit application
Corps of Engineers Action ID No. NWP-2009-19
Oregon DSL No. 41713-RF

Dear Mr. Holm,

This letter follows up our January 14, 2010 letter. In that letter, Clackamas County Service District #1 (CCSD#1)—which owns the Kellogg Creek Water Pollution Control Plant on McLoughlin Boulevard (Kellogg Plant)—communicated its concerns regarding the City of Milwaukie's permit application to authorize Riverfront Park construction activity.

The purpose of this letter is to inform the Corps that CCSD#1's concerns have been addressed by the City of Milwaukie, and thus CCSD#1 withdraws its earlier objections.

Two specific developments have addressed our prior concerns. First, as to vehicular access onto, and within, CCSD#1's site, the city has developed an access flow plan. This plan adds a curb cut to McLoughlin to facilitate trucks' and personnel's entry into and exit from the Kellogg Plant. The access flow plan also contains an onsite circulation plan that should reduce potential vehicular conflicts between park users and CCSD#1 personnel to acceptable levels.

Second, as to use of CCSD#1 property for park purposes, the City and CCSD#1 have concluded negotiations allowing the City's acquisition of a park easement over CCSD#1's property. The negotiated transfer of an appropriate easement has satisfied CCSD#1's prior concerns about nonconsensual use of its property.

Thank you for the opportunity to present this communication. Please call me at (503) 742-4623 if there are any questions.

Sincerely,

Chris Storey
Assistant County Counsel

Exhibit D
City Easement

AFTER RECORDING RETURN TO:

CITY OF MILWAUKIE
10722 SE MAIN STREET
MILWAUKIE OR 97222

This space is reserved for recorder's use.

PERMANENT PARK USE EASEMENT

Clackamas County Service District No. 1, a Chapter 451 county service district (Grantor), hereby conveys to the City of Milwaukie, a municipal corporation (Grantee), and its successors and assigns, a nonexclusive perpetual and permanent easement for the purposes of constructing, maintaining, and operating a public park, including parking and related improvements and activities over and across the following described real property:

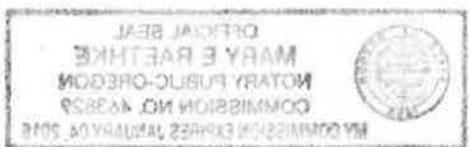
That tract of land described in Exhibit "A" and depicted graphically in Exhibit "B," both exhibits being incorporated herein.

The consideration paid for this Easement is the sum of \$63,200, together with other valuable consideration.

TO HAVE AND TO HOLD said easement to said Grantee, for the use and purpose herein above described and in accordance with and subject to the terms and conditions set forth in the Intergovernmental Agreement Regarding Access and Development near Kellogg Creek Plant, dated February 28, 2014, the terms of which are incorporated herein and which constitute covenants that run with the land and inure to the benefit of and are binding on the parties and their respective grantees, successors, and assigns.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE

[Faint, illegible handwriting]



**ENGINEERING PLANNING
FORESTRY**
13910 S.W. Galbreath Dr., Suite 100
Sherwood, Oregon 97140
Phone: (503) 925-8799
Fax: (503) 925-8969
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EXHIBIT A

Access Easement

A tract of land lying in the Northeast One-Quarter of Section 35, Township 1 South, Range 1 East, Willamette Meridian, City of Milwaukie, Clackamas County, Oregon being more particularly described as follows:

Beginning at the northeast corner of Document Number 70-27388, Clackamas County Deed Records, said point bearing South 81°53'00" West 321.18 feet from the northeast corner of Block 39 of the plat of "Plan of the Town of Milwaukie", Clackamas County Plat Records; thence South 04°24'15" East 120.94 feet to a point; thence South 81°27'04" West 352.30 feet to the ordinary low water line of the Willamette River as defined by Elevation 5.0 feet (NGVD29); thence following said ordinary low water line North 31°39'41" East 16.56 feet; thence North 39°05'52" East 54.09 feet; thence North 52°36'37" East 34.96 feet to the westerly extension of the north line of Document Number 70-27388, Clackamas County Deed Records; thence along said westerly extension of said north line North 70°20'20" East 50.38 feet to the northwest corner thereof; thence along said north line North 70°20'20" East 235.1 feet to the point of beginning.

The above described tract of land contains 28,638 square feet, more or less.

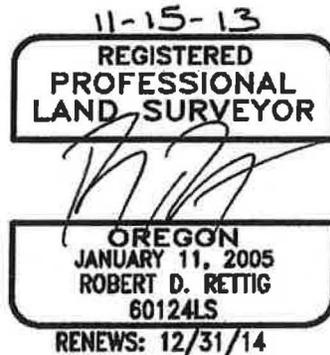
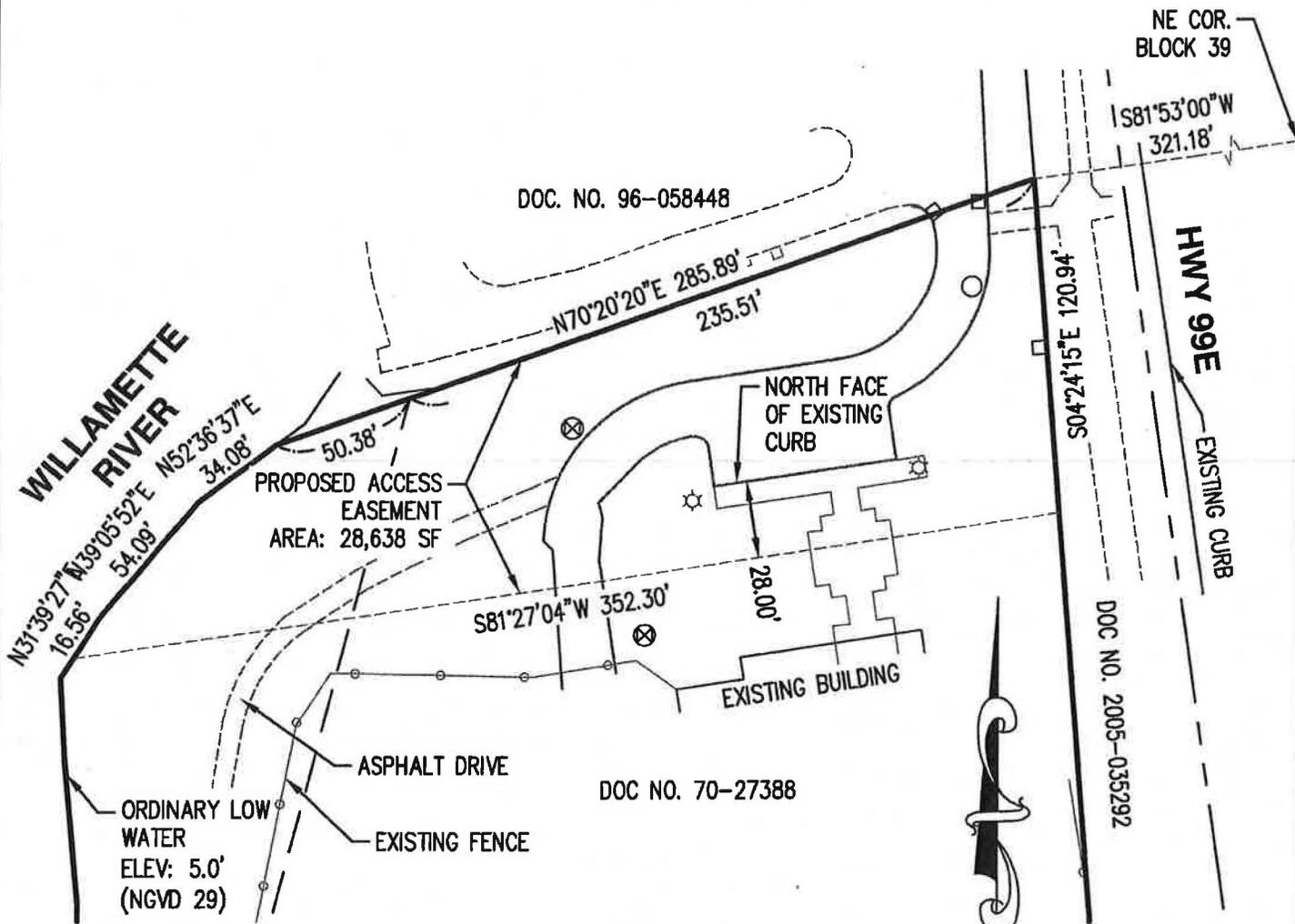


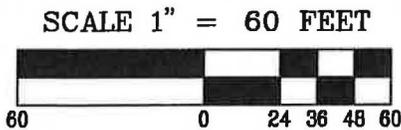
EXHIBIT B

ACCESS EASEMENT

A TRACT OF LAND LOCATED IN THE NORTHEAST 1/4,
SEC. 35, T1S, R1E, W.M., CITY OF MILWAUKIE,
CLACKAMAS COUNTY, OREGON



PREPARED FOR
CITY OF MILWAUKIE
6101 SE JOHNSON CREEK BLVD.
MILWAUKIE, OR 97206
11-15-13



**REGISTERED
PROFESSIONAL
LAND SURVEYOR**

[Signature]
OREGON
JANUARY 11, 2005
ROBERT D. RETTIG
60124LS
RENEWS: 12/31/14

RIVERFRONT PARK	
JOB NAME:	ACCESS EASEMENT
JOB NUMBER:	3836
DRAWN BY:	MEB
CHECKED BY:	RDR
DWG NO.:	3836CXMPL

AKS ENGINEERING AND FORESTRY, LLC
13910 SW GALBREATH DR
SUITE 100
SHERWOOD, OR 97140
PHONE: 503.925.8799
FAX: 503.925.8969



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