

2ND AMENDED AGENDA

**WILSONVILLE CITY COUNCIL MEETING
MARCH 2, 2015
7:00 P.M.**

**CITY HALL
29799 SW TOWN CENTER LOOP
WILSONVILLE, OREGON**

Mayor Tim Knapp

Council President Scott Starr
Councilor Susie Stevens

Councilor Julie Fitzgerald
Councilor Charlotte Lehan

CITY COUNCIL MISSION STATEMENT

To protect and enhance Wilsonville's livability by providing quality service to ensure a safe, attractive, economically vital community while preserving our natural environment and heritage.

Executive Session is held in the Willamette River Room, City Hall, 2nd Floor

- 5:00 P.M. EXECUTIVE SESSION [25 min.]**
A. Pursuant to ORS 192.660(2)(f) Exempt Public Records
ORS 192.660(2)(h) Litigation, ORS 192.660(2)(e) Property Acquisition
- 5:25 P.M. REVIEW OF AGENDA [5 min.]**
- 5:30 P.M. COUNCILORS' CONCERNS [5 min.]**
- 5:35 P.M. PRE-COUNCIL WORK SESSION**
- A. Metro Update – Councilor Dirksen [10 min.]
B. Kinsman Road Extension Design Update (Weigel) [20 min.]
- 6:50 P.M. ADJOURN**

CITY COUNCIL MEETING

The following is a summary of the legislative and other matters to come before the Wilsonville City Council a regular session to be held, Monday, March 2, 2015 at City Hall. Legislative matters must have been filed in the office of the City Recorder by 10 a.m. on February 17, 2015. Remonstrances and other documents pertaining to any matters listed in said summary filed at or prior to the time of the meeting may be considered therewith except where a time limit for filing has been fixed.

- 7:00 P.M. CALL TO ORDER**
- A. Roll Call
B. Pledge of Allegiance
C. Motion to approve the following order of the agenda and to remove items from the consent agenda.

7:05 P.M. MAYOR'S BUSINESS

- A. Willamette Falls National Heritage Area: Alice Norris, President, Willamette Falls Heritage Area Coalition
Page 1
Resolution No. 2515, A Resolution Supporting Efforts to Create a Willamette Falls National Heritage Area and Urging Designation of Such by Congress (staff – Ottenad)

- B. Upcoming Meetings **Page 13**

7:20 P.M. COMMUNICATIONS

- A. Junior Scoop Club (staff – Gail)
B. City Branding Initiative (staff – Troha)

7:30 P.M. CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS

This is an opportunity for visitors to address the City Council on items *not* on the agenda. It is also the time to address items that are on the agenda but not scheduled for a public hearing. Staff and the City Council will make every effort to respond to questions raised during citizens input before tonight's meeting ends or as quickly as possible thereafter. Please limit your comments to three minutes.

7:40 P.M. COUNCILOR COMMENTS, LIAISON REPORTS & MEETING ANNOUNCEMENTS

- A. Council President Starr – (Park & Recreation Advisory Board Liaison)
B. Councilor Fitzgerald – (Development Review Panels A & B Liaison)
C. Councilor Stevens – (Library Board and Wilsonville Seniors Liaison)
D. Councilor Lehan– (Planning Commission and CCI Liaison)

7:45 P.M. CONSENT AGENDA

- A. Resolution No. 2513 **Page 14**
A Resolution Of The City Of Wilsonville Authorizing The City Manager To Execute A Goods And Services Contract With George R. Morgan II And Tana L. Morgan, Doing Business As G.R. Morgan Construction, For Playground Equipment For Murase Plaza In Memorial Park, Parks And Recreation Project #3001 (staff – Sherer)

7:50 P.M. PUBLIC HEARING

- A. Resolution No. 2516 **Page 32**
A Resolution Authorizing A Supplemental Budget Adjustment For Fiscal Year 2014-15. (staff – Rodocker)

8:00 P.M. NEW BUSINESS

- A. Resolution 2514 **Page 39**
A Resolution Of The City Of Wilsonville Authorizing Acquisition Of Real Property (staff – Jacobson)

- B. Resolution No. 2517 **Page 57**
A Resolution Of The City Of Wilsonville Revising The Metro “Local Share” Project List Substituting The Memorial Park Trails Project With Willamette Riverfront Property Acquisition. (staff – Neamtzu)

- C. Motion to adopt City Branding Initiative (staff – Troha)

2/24/2015 1:03 PM Last Updated

8:50 P.M. CITY MANAGER'S BUSINESS
8:55 P.M. LEGAL BUSINESS
9:00 P.M. ADJOURN

An Urban Renewal Agency Meeting will immediately follow.

Time frames for agenda items are not time certain (i.e. Agenda items may be considered earlier than indicated. The Mayor will call for a majority vote of the Council before allotting more time than indicated for an agenda item.) Assistive Listening Devices (ALD) are available for persons with impaired hearing and can be scheduled for this meeting if required at least 48 hours prior to the meeting. The city will also endeavor to provide the following services, without cost, if requested at least 48 hours prior to the meeting: -Qualified sign language interpreters for persons with speech or hearing impairments. Qualified bilingual interpreters. To obtain services, please contact the City Recorder, (503)570-1506 or king@ci.wilsonville.or.us



**CITY COUNCIL MEETING
STAFF REPORT**

Meeting Date: March 2, 2015		Subject: Resolution No. 2515 A Resolution in Support of Creating a Willamette Falls National Heritage Area Staff Member: Mark Ottenad, Public/Government Affairs Director Department: Administration	
Action Required		Advisory Board/Commission Recommendation	
<input checked="" type="checkbox"/> Motion <input type="checkbox"/> Public Hearing Date: <input type="checkbox"/> Ordinance 1 st Reading Date: <input type="checkbox"/> Ordinance 2 nd Reading Date: <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Information or Direction <input type="checkbox"/> Information Only <input type="checkbox"/> Council Direction <input type="checkbox"/> Consent Agenda		<input type="checkbox"/> Approval <input type="checkbox"/> Denial <input type="checkbox"/> None Forwarded <input checked="" type="checkbox"/> Not Applicable Comments: 	
Staff Recommendations: Staff recommends adoption of Resolution No. 2515.			
Recommended Language for Motion: I move to adopt Resolution No. 2515.			
PROJECT / ISSUE RELATES TO:			
<input checked="" type="checkbox"/> Council Goals/Priorities Open the Willamette River to commercial and recreational opportunities.	<input type="checkbox"/> Adopted Master Plan(s)	<input type="checkbox"/> Not Applicable	

ISSUE BEFORE COUNCIL

Does the City Council support the efforts of the Willamette Falls Heritage Area Coalition to create a Congressionally designated Willamette Falls National Heritage Area?

EXECUTIVE SUMMARY

The Willamette Falls Heritage Area Coalition—a partnership of local and tribal governments, nonprofit organizations, business associations and private companies—is working to obtain Congressional designation of the proposed Willamette Falls National Heritage Area. While the designation carries no new government regulatory provisions on land-use or other matters, a National Heritage Area designation does bring substantial marketing resources and national exposure that can benefit local economies. The coalition seeks the support of the City and others for the designation.

BACKGROUND INFORMATION

A “National Heritage Area” is a place designated by the United States Congress where natural, cultural, historic and recreational resources combine to form a cohesive, nationally distinctive

landscape arising from patterns of human activity shaped by geography. Heritage areas offer the potential to ensure key educational and inspirational opportunities in perpetuity, while retaining traditional local control over, and use of, the landscape.

Congress has established 49 National Heritage Areas, in which interpretation, conservation, heritage tourism and other activities are managed by partnerships among federal, state, and local governments and the private sector. The National Park Service provides technical assistance as well as financial assistance for a limited number of years following designation. The Heritage Area program is a grants and outreach program for the National Park Service, not a land management program. There are NO new regulations or management controls associated with designation.

About the Willamette Falls Heritage Area Coalition

Led by Former Oregon City Mayor Alice Norris as president, the coalition is composed of the Ice Age Floods Institute, Oregon State Parks, One Willamette River Coalition, City of West Linn, City of Oregon City, City of Lake Oswego, Metro Regional Government, Portland General Electric, Clackamas County, Confederated Tribes of the Grand Ronde, Lake Oswego Preservation Society, Oregon State Historic Preservation Office, Main Street Oregon City, Clackamas County Tourism and Cultural Affairs, Clackamas County Arts Alliance, Willamette Falls Heritage Foundation, National Trust for Historic Preservation, Main Street West Linn and West Linn Paper Company.

National Heritage Area Process

When the Willamette Falls Heritage Area Coalition initially approached the U.S. Dept. of the Interior, National Park Service, about a National Heritage Area designation for Willamette Falls, the Park Service indicated that a heritage area would have to encompass an even greater amount of history, culture and landscape than that just the Willamette Falls. Thus, the coalition broadened the area of the proposed National Heritage Area to include key historic settlements along the lower Willamette River of the French Prairie region in the North Willamette Valley.

CURRENT YEAR BUDGET IMPACTS

None.

FINANCIAL REVIEW / COMMENTS:

Reviewed by: SCole Date: 2/18/15
No material budget impacts are anticipated.

LEGAL REVIEW / COMMENTS

Reviewed by: MEK Date: 2/18/2015
Approve Resolution as to form.

CITY MANAGER COMMENT

Support for a nonregulatory Willamette Falls National Heritage Area designation appears to be in alignment with City Council goals and City policies.

ATTACHMENTS

- A.** Resolution No. 2515, A Resolution of the City Of Wilsonville Supporting Efforts to Create a Willamette Falls National Heritage Area And Urging Designation of Such By Congress
- B.** Willamette Falls National Heritage Area: End of the Oregon Trail – Beginning of America’s Pacific Destiny, by the Willamette Falls Heritage Area Coalition

RESOLUTION NO. 2515

A RESOLUTION OF THE CITY OF WILSONVILLE SUPPORTING EFFORTS TO CREATE A WILLAMETTE FALLS NATIONAL HERITAGE AREA AND URGING DESIGNATION OF SUCH BY CONGRESS

WHEREAS, National Heritage Areas are designated by Congress as places where natural, cultural and historic resources combine to form a cohesive, nationally important landscape; and

WHEREAS, the Willamette Falls Area is an important nexus of the geologic formations created by the Missoula Floods, including the Willamette Meteorite and the foundation of the unmatched fertility of the North Willamette Valley; and

WHEREAS, the Falls Area was a prominent gathering place for fishing and trade among numerous tribes for centuries prior to European settlement; and

WHEREAS, the Willamette River and Falls has been and continues to be an important transportation hub for tourism, commerce and recreation; and

WHEREAS, the 2,000-mile journey over the Oregon Trail ended in the Falls area—a destination point for one of the largest unforced migrations in world history—and helped to secure the nation’s boundaries from the Atlantic to the Pacific; and

WHEREAS, the power of Willamette Falls inspired human industry since its discovery, for early sawmills and flour mills, and eventually hydroelectric power for woolen and paper mills, but especially for the world’s first long distance transmission of electricity; and

WHEREAS, the discovery of mineral wealth in Lake Oswego helped to build the Pacific Northwest’s infrastructure, through its iron mines and iron smelters, and

WHEREAS, the industrialization in the Falls area was the birthplace of industry in the American Northwest.

WHEREAS the proposed Willamette Falls National Heritage Area encompasses an area rich in history and culture stretching from Willamette Mission State Park and Champoeg State Heritage Area of the French Prairie region on the south to Lake Oswego, West Linn and Oregon City on the north.

WHEREAS, a coordinated approach to managing and promoting this area as a national and statewide resource is a unique opportunity to collaborate on cultural and heritage tourism, natural resources, recreation and historic preservation.

WHEREAS, on May 5, 2014, the Wilsonville City Council adopted the *Wilsonville Tourism Development Strategy* that called for the City to both improve recreational access and use of the Willamette River and to encourage utilization of local cultural and historical assets to promote tourism; and

WHEREAS, on November 3, 2014, the Wilsonville City Council adopted Resolution No. 2496 supporting the re-opening of the Willamette Falls Locks and Canal to encourage recreation, tourism and commerce on the river.

NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

1. That the City of Wilsonville support the efforts of the Willamette Falls Heritage Area Coalition to attain National Heritage Area status for the greater Willamette Falls area; urges the National Park Service to find that such status is merited; and urges Congress to designate and create a Willamette Falls National Heritage Area.

2. This resolution is effective upon adoption.

ADOPTED by the Wilsonville City Council at a special meeting on March 2, 2015, and filed with the Wilsonville City Recorder this date.

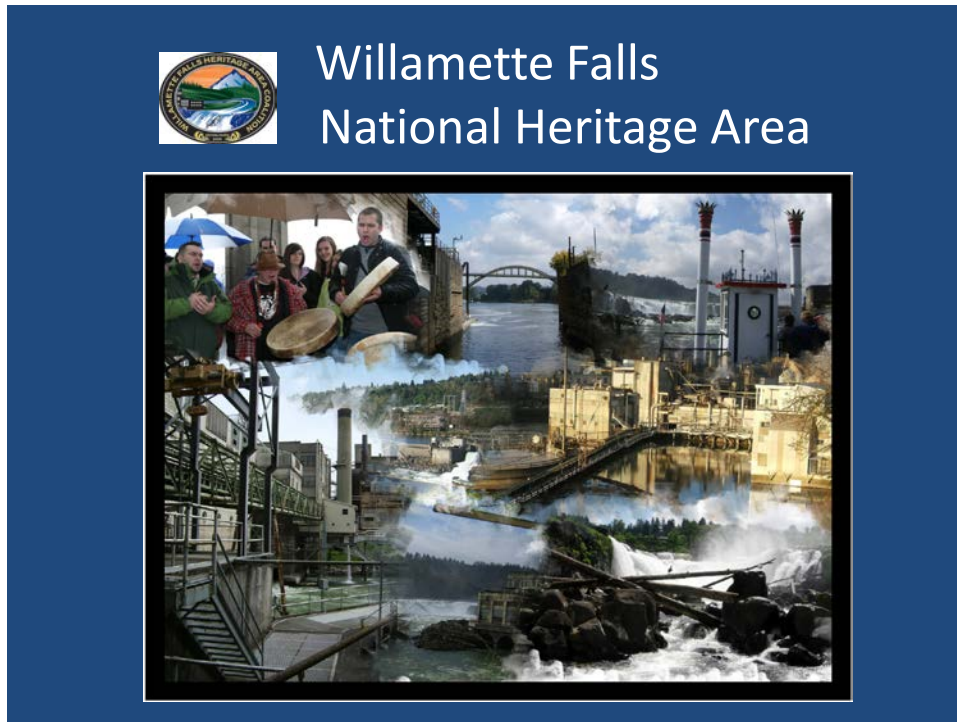
TIM KNAPP, MAYOR

ATTEST:

Sandra C. King, City Recorder, MMC

SUMMARY OF VOTES:

Mayor Knapp _____
Councilor Starr _____
Councilor Fitzgerald _____
Councilor Stevens _____
Councilor Lehan _____



End of the Oregon Trail – Beginning of America’s Pacific Destiny

From 1829-1900, the Willamette Falls area was the epicenter of government, industry, transportation, innovation, and commerce in northwestern United States.

Where Settlement and Industry secured a nation’s boundaries from Sea to Shining Sea

- Gathering Place for Native Peoples
- Destination Willamette Valley: the End of the Oregon Trail
- Center for Innovation & Commerce: Birthplace of Industry in America’s West
- National transportation corridor

What is a Heritage Area?

National Heritage Areas are places where natural, cultural, historic and scenic resources combine to form a cohesive, nationally important landscape arising from patterns of human activity shaped by geography.

National Park Service definition

National Heritage Areas present the interconnected stories of nature and human history. They are places with identifiable, nationally significant resources, with stories of broad interest, and public-private support for investment in the community. A strong base of local, grassroots support is essential, with the visible involvement and commitment of residents, government, community groups, non-profits and businesses.

Initiated and managed at the local level, heritage areas do not come with rules and regulations and do not have any impact on existing local, state, or federal regulations -- nor do they impact private property rights.

After completing a feasibility study, National Heritage Areas are designated by Congress. Newly designated NHAs have three years to develop a management plan, which must be approved by the Secretary of the Interior. The plan defines the mission, vision and goals of the NHA and outlines the strategies that the coordinating entity, partners and residents will use to achieve these objectives.

The Benefits? Economic development, historic preservation, and conservation of significant historic, natural and cultural resources. Working in partnership with units of government, planning agencies, park agencies, corporations, nonprofit organizations, and foundations, heritage areas promote stewardship, community revitalization and economic development projects, leverage significant resources, collaborate across political boundaries, and inspire greater pride in the region's heritage. One significant benefit: tourism (increased visitors, increased local revenues).

Willamette Falls Heritage Area Coalition

WFHAC is a unique partnership of local and tribal governments, nonprofit organizations, business groups, and private companies who care about the future of the Willamette Falls area, its heritage, its physical assets, its economic vitality and its preservation. WFHAC represents the Ice Age Floods Institute, Oregon State Parks, One Willamette River Coalition, City of West Linn, City of Oregon City, City of Lake Oswego, Metro Regional Government, Portland General Electric, Clackamas County, Confederated Tribes of the Grand Ronde, Lake Oswego Preservation Society, Oregon State Historic Preservation Office, Main Street Oregon City, Clackamas County Tourism and Cultural Affairs, Clackamas County Arts Alliance, Willamette Falls Heritage Foundation, National Trust for Historic Preservation, Main Street West Linn, West Linn Paper Company.

Our Mission

Advocate for and strengthen the identity and economy of the communities around Willamette Falls by preserving, enhancing and promoting the nationally significant and distinct stories of the area, while cultivating public-private partnerships to develop its natural, cultural, industrial, scenic, recreational and historic resources.

The Objectives:

- **Strengthen the identities of Oregon City, West Linn, Lake Oswego and Clackamas County** as places with nationally significant cultural and industrial heritage, with Willamette Falls at the heart of the identity.
- **Enhance public appreciation for historical sites** within the Heritage Area, while supporting existing industrial, commercial and recreational ventures. Use education and interpretation to

enhance the many-layered experiences of the area and, thereby, its attractiveness. Make it discoverable, memorable, inspiring, reachable, and aesthetically appealing.

- **Advocate strongly for preservation and enhancement of historic sites and structures.** Promote National Register designation for eligible properties.
- **Develop public-private partnerships** to create and support interpretive, educational and economic opportunities in and around the Heritage Area, providing authentic learning experiences, while not disrupting the day-to-day activities of the industrial and commercial uses that remain vital to the local economy.
- **Develop and interpret the heritage area themes** to re-establish identification of the area with The Falls and nearby heritage sites. Translate the importance of the area to a national audience as a significant fishing resource for tribes, as a stable power source for generations of American homes and industry, and as an anchor of western United States civilization that ultimately put a lock on the expansion of the United States from the Atlantic to the Pacific oceans.
- **Share this unique place with others**, local residents and visitors alike. Promote multi-day and linked explorations of the NHA themes, thereby increasing positive economic impact for the hospitality industry in Clackamas County. Incorporate “spin off” options and both interpretive and experiential links for visitors to explore themes in areas adjacent to the heritage area.
- **Affirm and advocate for continued traditional cultural use** of the Falls and surrounding area for all tribes who have a cultural, political and economic affiliation with this special place.
- **Improve public access to viewing of the Falls.** Work with the Willamette Falls Legacy Project to create an easy way to navigate approach to the area and the core sites. Create welcoming gateways at major transportation interfaces. Find ways to safely allow visitors to see the Falls and industrial areas, without compromising the operations of the power plant, paper mill or natural resources, while being protective of and consistent with traditional uses.
- **Create a cultural heritage tourism destination.** Using our nationally significant heritage as a backdrop, promote the growth of active recreation opportunities, such as bicycling, hiking and paddling. Incorporate and promote city, county, and Metro trails and bikeways. Support geo-tourism, farm to table markets, and locally grown and locally made products.

WILLAMETTE FALLS TIMELINE

15 million years ago	Willamette Falls formed by repeated volcanic basalt flows
12,000-15,000 years ago	Willamette Valley sculpted by Ice Age Floods
15,000-present	Native tribes and bands lived in the Willamette Fall area
<hr/>	
1806	Lewis & Clark Expedition hears about Willamette Falls
1818	U.S. and Great Britain agree to "Joint Occupancy" of Oregon Country
1824	Dr. John McLoughlin's career as Chief Factor for HBC begins
1829	McLoughlin establishes a claim at Willamette Falls (today's Oregon City)
1840	Missionary Jason Lee brings settlers to Falls area, especially Methodists
1841	Wilkes with U.S. Exploring Expedition notes Willamette Falls' potential McLoughlin built a water-powered sawmill at the Falls
1842	Methodists create first school for Americans in West McLoughlin surveyed and platted town site of Willamette Falls
1843	Provisional Government established; Organic Laws ratified Rev. Alvin Waller establishes Methodist Church, first Protestant congregation in the West First migration arrives via the Oregon Trail, 900 immigrants
1844	Oregon City becomes first city to be incorporated in the West
1845	Oregon City becomes official capital of the Provisional Government George Abernethy is elected first Governor Manifest Destiny becomes a rallying cry for Western Expansion
1846	Oregon Treaty finally settles boundary dispute with Great Britain Barlow Route completed as a toll road and easier way to Oregon City Oregon Spectator is first newspaper in Oregon Country
1847	First English book printed in Oregon City, a "Blue Back Speller"
1848	Discovery of gold in California disrupts legislature, empties communities The Oregon Country becomes a U.S. Territory
1849	Oregon City is named capital; Joseph Lane named Territorial Governor Plat of San Francisco filed in Territory's only federal land office U.S. Army's First Mounted Riflemen arrive in Oregon City "Beaver Coins" minted in Oregon City
1850	Cayuse Five hung in Oregon City, first capital punishment Donation Land Claim Act created by Linn City delegate Samuel Thurston
1859	Oregon is granted statehood as the 33 rd state
1861	First Oregon State Fair held at Oregon City Iron Ore discovered in Oswego
1864	Oregon City Woolen Mill begins
1866	First paper mill begins operations Iron smelting begins in Oswego's iron furnace
1873	Willamette Falls Navigation Canal & Locks open
1888	Suspension Bridge built over Willamette, first west of the Mississippi
1889	First long distance transmission of DC electrical current in the U.S.
1890	First long distance transmission of AC current in the U.S.
1893	Station B built, now T.W. Sullivan hydropower plant -- operating still

To: Willamette Falls Heritage Area Coalition 18 September 2014
From: Stephen Dow Beckham
Subject: National Park Service Critique of Proposed Heritage Area Boundaries and Folklore/Folklife

Among the criticisms raised by the NPS are the current boundary definition, the shortage of events that speak to folklore and folklife, and the critical massing of sites and structures that illustrate the primary themes of the proposed Heritage Area.

Proposal: southern boundary extension to follow both banks of the Willamette River upstream into the northern Willamette Valley to Mission Bottom in Marion County. This boundary extension significantly strengthens the Heritage Area story and opportunities. Among the things gained are the following:

- **Canby.** Founded in 1870 and named for General E. R. S. Canby killed in the Modoc Indian War, the town was the result, in part, of construction in 1871 of the Oregon & California Railroad.
 - ~ Oregon & California Railroad Depot (1871), Canby Historical Society Depot Museum (1871) (restored)
 - ~ Canby Ferry (1914-present), one of four ferryboats operating in Oregon

- **Barlow.** Founded in 1870 by William Barlow as a stop on the O & C Railroad, this small community was named for the son of the toll proprietor of the Barlow Road, final overland segment of the Oregon Trail crossing the Cascade Mountains to the Willamette Valley.
 - ~ William Barlow House (1885) (private, but open to public)

- **Aurora.** A utopian commune of 12,000 acres, German-speaking pietists and overland emigrants of 1855, founded the town in 1856. Fifty-four families and nearly 600 members lived communally from 1856 to 1883. They built a handsome church, performed music, prepared German foods, operated the Aurora Hotel on the O & C Railroad, and farmed some of the richest land in the valley.
 - ~ Old Aurora Colony
 - ~ Ox Barn Museum, Quilt Shows and quilting programs
 - ~ Kraus House, a colony home
 - ~ Steinbach Cabin, a hewn-log colony home
 - ~ Will Family washhouse
 - ~ Stauffer-Will Farmstead (1870): Farm Program, Hands-On Learning for school children, a hewn-log colony house of two stories
 - ~ Aurora Colony National Historic District, 35 structures (1856-1900)
 - ~ Aurora Colony Store (restored, commercial use)
 - ~ Oregon & California Railroad Depot (1871), Aurora (restored, commercial use)

- **Butteville.** Alexis Aubichon and George La Roque, former French-Canadian fur trappers, founded and platted St. Alexcie and Butteville. Aubichon's wife, Elmer-mach (Marie Anne), was a Chinook Indian from the mouth of the Columbia. La Roque operated the profitable Butteville Store.
 - ~ Butteville Store (1863) (restored, commercial use)

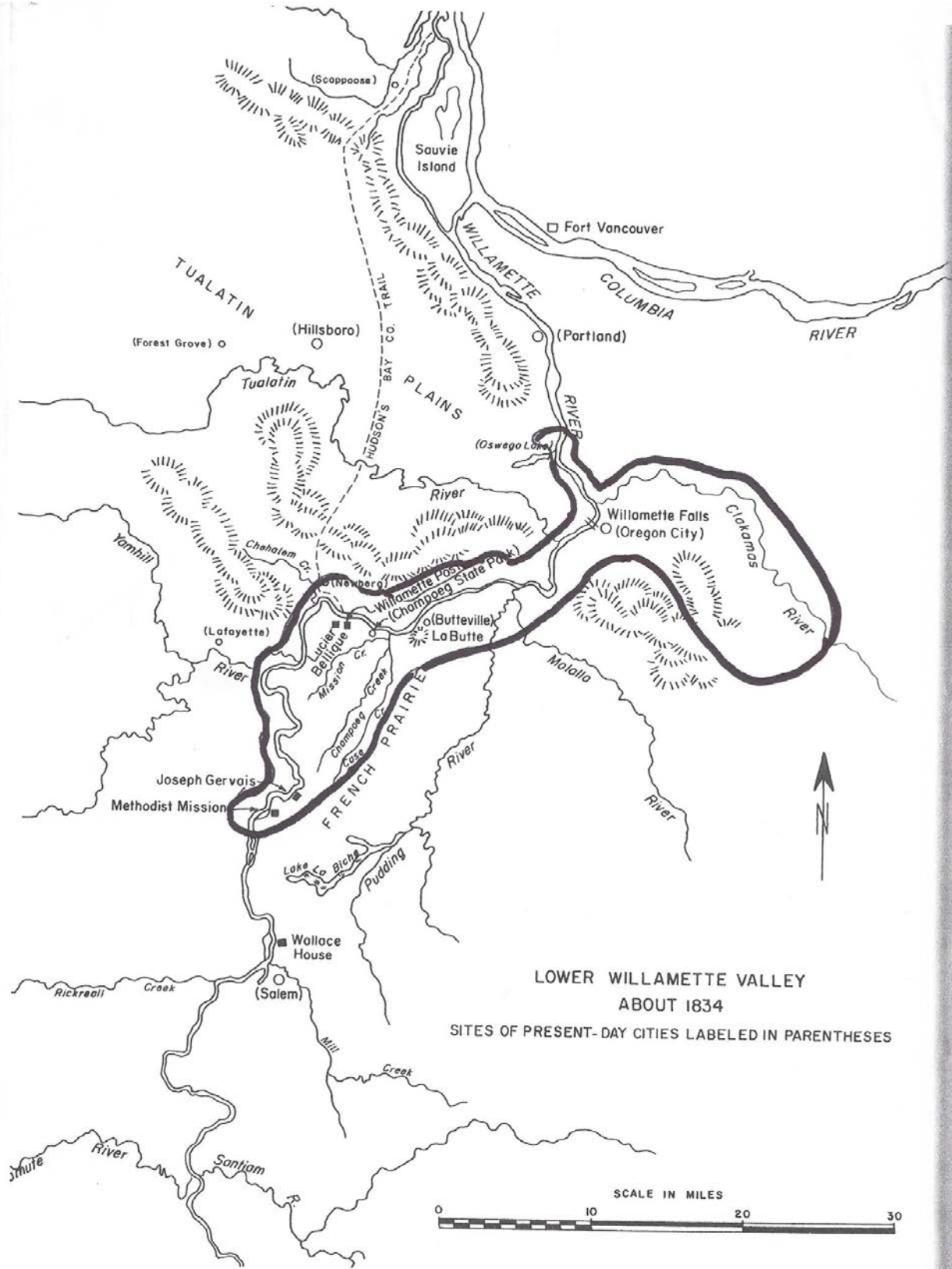
- **Champoeg.** A steamboat landing, Champoeg became a town and place for the creation of the Provisional Government at the Wolf Meeting of May 2, 1843, and first capital of Provisional Government. Legislative meetings in 1843 established the “Organic Articles” for governance and land claims.
 - ~ Champoeg State Heritage Area (State of Oregon)
 - ~ Champoeg Territorial Park and interpretive center
 - ~ Donald Manson Threshing Barn (1862), restored, Champoeg Promise School programs
 - ~ Kitchen Garden, 1862-1880, Manson house site
 - ~ Willamette Valley Treaty Commission councils at Champoeg in April-May, 1851, to open federal negotiations with Kalapuya and Molalla Indians
 - ~ Monument to 1843 decision and Pioneer Memorial Building
 - ~ Site of Hudson’s Bay Company warehouse/granary (1835-54)
 - ~ Dr. Robert Newell House, DAR Pioneer Mother’s Cabin (1931), Butteville Jail (1849), and Butteville School (1858)
 - ~ Willamette Post, site of North West Company trading station established in 1813 (later Pierre Bellique Donation Land Claim).

- **Newberg.** This town was platted in 1883 and incorporated in 1889.
 - ~ Ewing Young sawmill site, mouth of Chehalem Creek (1836) constructed by Young and Solomon Smith
 - ~ Dr. Henry Minthorn house (1881), childhood home of President Herbert Hoover from 1885-1891
 - ~ Pacific College (1885), a Quaker school, became George Fox University

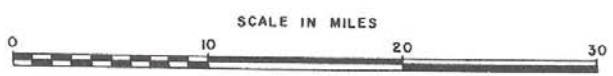
- **Dayton.** Joel Palmer, author of *Journal of Travels Beyond the Rocky Mountains* (1847), founded this community. He served as Oregon Superintendent of Indian Affairs, 1853-55, and was the architect of ratified treaty program with Oregon tribes.
 - ~ Joel Palmer House (open, commercial use)
 - ~ Fort Yamhill Blockhouse (1856-1862), Grand Ronde Reservation
 - ~ Fifty sites and structures on National Register

- **St. Paul.** Catholic missionaries from Quebec, Canada, who arrived in Oregon Territory in 1838, founded the community in 1839 to minister to the Francophone/metis community of French Prairie.
 - ~ St. Paul Catholic Church, founded October, 1839, erected 1846, oldest brick building in the Pacific Northwest; Father F. N. Blanchet of Quebec, Canada
 - ~ Site of St. Joseph’s College (1843), founded by Fathers Langlois and Bolduc from Canada enrolling 30 boys
 - ~ Site of St. Paul Academy (1844-52), founded by Sisters of Notre Dame de Namur, school for girls And women
 - ~ Site of St. Paul Academy (1861), founded by Sisters of Holy Names of Jesus and Mary of Montreal, Canada, a Catholic elementary school for girls
 - ~ St. Paul Cemetery
 - ~ St. Paul Rodeo, July 2-4, founded in 1936

- **Mission Bottom.** This site became the initial headquarters of Methodist missions in Oregon Territory and was established in 1834 to convert Native Americans.
 - ~ Willamette Mission State Park, site of Methodist Mission founded by Jason Lee and his overland party (Oregon State Parks), “ghost structure” of original mission buildings and nation’s largest black cottonwood tree (ca. 250 years old)
 - ~ Wheatland Ferry (1846-present), established by Daniel Matheny, one of four ferryboats operating in Oregon



LOWER WILLAMETTE VALLEY
ABOUT 1834
SITES OF PRESENT-DAY CITIES LABELED IN PARENTHESES



Why are we here today?

1. To share the NHA concept and its benefits.
2. To discuss possible expansion of the current Willamette Falls NHA boundary to include the historic communities up the Willamette River to Mission Bottom.
3. To convince you and your communities to join our efforts to become designated a National Heritage Area – and answer questions
4. To enlist your support in arranging community meetings. We need help:
 - a. Finding a meeting place
 - b. Inviting a wide diversity of residents, including history organizations, community leaders, groups involved in tourism, economic development, river activities, and local interest
5. To learn about resources in your communities that support our themes of Settlement and Industry
6. To secure a letter of support or resolution of support from your organization or jurisdiction.

Unanswered questions:

1. How the new communities will be represented in the WFHAC structure; what projects we will do together
2. Timeline for completion of the Feasibility Study. The boundary expansion requires public outreach and broad based political support.

Willamette Falls Heritage Area Coalition

website: wfheritage.org

Alice Norris president,
Jody Carson vice president,
Jim Mattis secretary
Cheryl Snow treasurer
Peter Huhtal, executive director

former mayor of Oregon City
former city councilor, West Linn
president, Willamette Falls Heritage Foundation
executive director, Clackamas County Arts Alliance

CITY COUNCIL ROLLING SCHEDULE**Board and Commission Meetings 2015****Items known as of 02/18/15****March**

DATE	DAY	TIME	MEETING	LOCATION
3/2	Monday	7 p.m.	Council Meeting	Council Chambers
3/9	Monday	6:30 p.m.	DRB Panel A	Council Chambers
3/11	Wednesday	1 p.m.	Wilsonville Community Seniors Inc.	Community Center
3/11	Wednesday	6 p.m.	Planning Commission	Council Chambers
3/12	Thursday	6:30 p.m.	Parks and Recreation	Parks & Recreation Admin Building
3/16	Monday	7 p.m.	Council Meeting	Council Chambers
3/23	Monday	6:30 p.m.	DRB Panel B	Council Chambers
3/25	Wednesday	6:30 p.m.	Library Board	Library

COMMUNITY EVENTS**Community Garden Open Registration**

Thursday March 19 -- 8:00 A.M. Park & Recreation Administrative Offices

Frog Pond Task Force Meeting

March 18, 6:00 PM - 8:00 PM @ Wilsonville City Hall Willamette River Meeting Room (2nd Floor)

The Frog Pond Area Plan Task Force will review updated Concept Plan recommendations, a Metro Title 11 Functional Plan analysis, a draft zoning strategy, updated infrastructure plans, and an update of the funding plan. Meeting documents will be made available one week prior to the meeting.



**CITY COUNCIL MEETING
STAFF REPORT**

Meeting Date: March 2, 2015	Subject: Resolution No. 2513 Awarding the contract for the purchase and installation of new play structures for Murase Plaza in Memorial Park. Staff Member: Stan Sherer Department Parks and Recreation	
Action Required <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Public Hearing Date: <input type="checkbox"/> Ordinance 1 st Reading Date: <input type="checkbox"/> Ordinance 2 nd Reading Date: <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Information or Direction <input type="checkbox"/> Information Only <input type="checkbox"/> Council Direction <input type="checkbox"/> Consent Agenda	Advisory Board/Commission Recommendation <input type="checkbox"/> Approval <input type="checkbox"/> Denial <input type="checkbox"/> None Forwarded <input checked="" type="checkbox"/> Not Applicable Comments:	
Staff Recommendation: Staff recommends approval of Resolution No. 2513		
Recommended Language for Motion: I move to approve Resolution No. 2513		
PROJECT / ISSUE RELATES TO: <i>[Identify which goal(s), master plans(s) issue relates to.]</i>		
<input type="checkbox"/> Council Goals/Priorities	<input type="checkbox"/> Adopted Master Plan(s)	<input checked="" type="checkbox"/> Not Applicable

ISSUE BEFORE COUNCIL: Should Council authorize the City Manager to execute a Goods and Services Contract for the purchase and install of two new play structures for Murase Plaza in Memorial Park?

EXECUTIVE SUMMARY: At the December 1, 2014 City Council Meeting, the Council considered approving a staff recommendation to execute a sole source procurement with Columbia Cascade to provide and install two play structures in Murase Plaza. The staff recommendation was based on several conditions including cost, aesthetics, safety and accessibility. After the approval by City Council, Columbia Cascade Company determined that it

could not meet City insurance requirements but that its subcontractor installer could meet them and therefore suggested that the contract be entered into between the City and the installer, G.R. Morgan Construction. Columbia Cascade would become the subcontractor supplier, all for the same price originally proposed at the December 1st meeting by Columbia Cascade Company.

EXPECTED RESULTS: The City will have new state-of-the-art, safe and fully-inclusive play structures that will blend beautifully with the architectural style of Murase Plaza. The structures will be supplied by a local contractor and supplier that will deliver and install the structures at significant cost savings. The alterations to the original agreement will not impact the original cost, compromise the original design or encourage favoritism and will promote the public interest in a way that could not be realized by complying with normal procurement procedures.

TIMELINE: The project is scheduled to fully operational in early May.

CURRENT YEAR BUDGET IMPACTS: The adopted FY 2014-15 Budget includes sufficient funding of \$210,000 for this project, Parks Project #9130.

FINANCIAL REVIEW / COMMENTS:

Reviewed by: SCole Date: 2/18/19

LEGAL REVIEW / COMMENT:

Reviewed by: MEK Date: 2/18/15

Resolution is approved as to form.

COMMUNITY INVOLVEMENT PROCESS: *[What public outreach was done, work sessions, public hearings, neighborhood meetings, open houses? Summarize public feedback.]*

POTENTIAL IMPACTS or BENEFIT TO THE COMMUNITY (businesses, neighborhoods, protected and other groups): *[How will this impact these groups?]*

ALTERNATIVES: *[What alternatives/options were considered? Why not selected?]*

CITY MANAGER COMMENT:

ATTACHMENTS

A. Resolution No. 2513

RESOLUTION NO. 2513

A RESOLUTION OF THE CITY OF WILSONVILLE AUTHORIZING THE CITY MANAGER TO EXECUTE A GOODS AND SERVICES CONTRACT WITH GEORGE R. MORGAN II AND TANA L. MORGAN, DOING BUSINESS AS G.R. MORGAN CONSTRUCTION, FOR PLAYGROUND EQUIPMENT FOR MURASE PLAZA IN MEMORIAL PARK, PARKS AND RECREATION PROJECT #3001

WHEREAS, the City has budgeted funds to add some new playground equipment to Murase Plaza in Memorial Park; and

WHEREAS, after due diligence, the City's Parks and Recreation Director determined that only one manufacturer, Columbia Cascade Company, had the type of playground equipment desired, based on both aesthetics and safety; and

WHEREAS, Wilsonville Code allows for an exemption from a formal solicitation procedure on those rare occasions where the City Manager determines that a special procurement from a sole source is in the best public interest and does not hinder the City's overall competitive contracting procedures; and

WHEREAS, the City Manager and the City Parks and Recreation Director have recommended a special sole source procurement with Columbia Cascade Company in this circumstance for the reasons set forth in the staff report submitted to the City Council and made part of the record at the December 1, 2014 City Council hearing; and

WHEREAS, after approval of the contract by City Council Columbia Cascade Company determined that it could not meet City insurance requirements but that it's subcontractor installer could meet them and therefore suggested that the contract be entered into between the City and the installer, George R. Morgan II and Tana L. Morgan, doing business as G.R. Morgan Construction, with Columbia Cascade Company being the subcontractor supplier, all for the same price as originally proposed by Columbia Cascade Company.

NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

1. Based on the testimony, exhibits, staff report, and incorporating the above recitals before the City Council, the City Council finds and determines:

- 1.1 The procurement process for the Project duly followed Oregon Public Contracting and City of Wilsonville Contracting Rules in making a selection that is not likely to encourage favoritism.
- 1.2 There is a reasonable expectation of substantial cost savings for the City.
- 1.3 The procurement promotes the public interest in a way that could not be realized by complying with normal procurement procedures.
2. City Council authorizes the City Manager to execute the Goods and Services Contract, in the form attached hereto as **Exhibit A**.
3. This Resolution is effective upon adoption.

ADOPTED by the Wilsonville City Council at a regular meeting thereof this 2nd day of March, 2015, and filed with the Wilsonville City Recorder this date.

TIM KNAPP, MAYOR

ATTEST:

Sandra C. King, MMC, City Recorder

SUMMARY OF VOTES:

Mayor Knapp
Council President Starr
Councilor Fitzgerald
Councilor Stevens
Councilor Lehan

Attachments:

Exhibit A: Goods and Services Contract

**CITY OF WILSONVILLE
GOODS AND SERVICES CONTRACT**

This Goods and Services Contract (“Contract”) is made and entered into on this _____ day of March, 2015 (“Effective Date”) by and between the **City of Wilsonville**, a municipal corporation of the State of Oregon (hereinafter referred to as the “City”), and **George R. Morgan II and Tana L. Morgan**, a partnership, doing business as **G.R. Morgan Construction** (hereinafter referred to as “Contractor”).

RECITALS

WHEREAS, the City requires services which Contractor is capable of providing, under terms and conditions hereinafter described; and

WHEREAS, Contractor represents that Contractor is qualified to perform the services described herein on the basis of specialized experience and technical expertise; and

WHEREAS, Contractor is prepared to provide such services, as the City does hereinafter require.

NOW, THEREFORE, in consideration of these mutual promises and the terms and conditions set forth herein, the parties agree as follows:

AGREEMENT

Section 1. Scope of Work

Contractor will supply, deliver, and install new playground equipment (“Equipment”), as described on the Scope of Work attached hereto as **Exhibit A** and incorporated by reference herein, in the Murase Plaza area of Memorial Park in Wilsonville, Oregon, in the location directed by the City. Contractor will perform all services necessary therefor, as more particularly described on the Scope of Work for the Murase Plaza Playground Renovation Project (“Project”).

Section 2. Term

The term of this Contract shall be from the Effective Date until all work required to be performed hereunder (“Work”) is completed and accepted, unless earlier terminated in accordance herewith. Except in the event of an extension of time agreed to, in writing, by the City, all Work is expected to be completed by April 30, 2015.

Section 3. Contract Sum/Project Scope

3.1. The City agrees to pay Contractor the all-inclusive fixed amount of TWO HUNDRED FOUR THOUSAND SIX HUNDRED TWENTY-FIVE DOLLARS (\$204,625)

for all Equipment, ground cover, delivery cost, loading and unloading, and labor and materials for full installation and warranties of the Project (“Contract Sum”). Any compensation in excess of the Contract Sum will require express written agreement between the City and Contractor. Contractor’s Contract Sum is all inclusive and includes, but is not limited to, all work-related expenses, expenses, wages plus fringe benefits and contributions, including payroll taxes, workers compensation insurance, liability insurance, profit, pension benefits, and all other contributions and benefits. The City is responsible for site preparation.

3.2. Contractor will be paid the full Contract Sum upon completion of installation and acceptance of the Work by the City’s Project Manager, and thereafter, within thirty (30) days of receipt of an itemized invoice, unless the City disputes such invoice. In that instance, the undisputed portion of the invoice will be paid by the City within the above timeframe. The City will set forth its reasons for the disputed claim amount and make good faith efforts to resolve the invoice dispute with Contractor as promptly as is reasonably possible.

3.3. Before payment, Contractor will need to provide proof that all subcontractors and suppliers have been paid in full or may direct the City to issue joint payment to Contractor and the approved subcontractors set forth in **Section 5**.

Section 4. Project Managers

The City’s Project Manager is Stan Sherer. Contractor’s Project Manager is George R. Morgan II.

Section 5. Subcontractors and Assignments

Contractor intends to subcontract with Columbia Cascade Company for manufacture and supply of the Equipment and with Rexius for the supply and installation of Fiberex wood chips ground cover. Other than the two subcontractors specified in this Section, Contractor shall not subcontract with others for any of the Work prescribed herein nor assign any of Contractor’s rights acquired hereunder. Any attempted assignment of this Contract without the written consent of the City shall be void. Except as otherwise specifically agreed, all costs for the Work, including goods and services performed by others on behalf of Contractor, shall not be subject to additional reimbursement by the City. Contractor will not be paid until proof of payment of subcontractors is received or subcontractors sign a full waiver lien or lien release form.

Section 6. Contractor Is Independent Contractor

Except as otherwise mandated by state law, the performance of Work under this Contract is at Contractor’s sole risk. All damages or loss to Work, equipment, or materials incurred during the performance of the Work shall be at Contractor’s sole risk. Contractor is an independent contractor for all purposes and shall be entitled to no compensation other than the Contract Sum provided for under **Section 3** of this Contract. Contractor will be solely responsible for determining the manner and means of accomplishing the end result of Contractor’s Work. The City does not have the right to control or interfere with the manner or method of accomplishing

said Work. The City, however, will have the right to specify and control the results of Contractor's Work so such Work meets the requirements of the Project. Contractor hereby represents that no subcontractors will be used on the Project.

Section 7. Contractor Responsibilities

7.1. Except as otherwise mandated by state law, the performance of Work under this Contract is at Contractor's sole risk. All damages or loss to Work, equipment, or materials incurred during the performance of the Work shall be at Contractor's sole risk. Any injury to persons or property incurred during the performance of the Work shall be at Contractor's sole risk. Contractor is an independent contractor for all purposes and shall be entitled to no compensation other than the Contract Sum provided for under **Section 3** of this Contract. Contractor will be solely responsible for determining the manner and means of accomplishing the end result of Contractor's Work. The City does not have the right to control or interfere with the manner or method of accomplishing said Work. The City, however, will have the right to specify and control the results of Contractor's Work so such Work meets the requirements of the Project.

7.2. Contractor shall be responsible for, and defend, indemnify, and hold the City harmless against, any liability, cost, or damage arising out of Contractor's use of such subcontractor(s) and subcontractor's negligent acts, errors, or omissions.

7.3. Contractor shall make prompt payment for any claims for labor, materials, or services furnished to Contractor by any person in connection with this Contract, as such claims become due. Contractor shall not permit any liens or claims to be filed or prosecuted against the City on account of any labor or material furnished to or on behalf of Contractor. If Contractor fails, neglects, or refuses to make prompt payment of any such claim, the City may pay such claim to the subcontractor furnishing the labor, materials, or services, and offset the amount of the payment against funds due, or to become due, to Contractor under this Contract. The City may also recover any such amounts directly from Contractor.

7.4. Contractor must comply with all applicable Oregon and federal wage and hour laws, including BOLI wage requirements. Contractor shall make all required workers compensation and medical care payments on time. Contractor shall be fully responsible for payment of all employee withholdings required by law, including but not limited to taxes, including payroll, income, Social Security (FICA), and Medicaid. Contractor shall also be fully responsible for payment of salaries, benefits, taxes, and all other charges due on account of any employees. Contractor shall pay all contributions or amounts due the Industrial Accident Fund from Contractor or subcontractor incurred in the performance of this Contract. Contractor shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. All costs incident to the hiring of subcontractors or employees shall be Contractor's responsibility. Contractor shall defend, indemnify, and hold the City harmless from claims for payment of all such expenses. Unless otherwise expressly set forth in the Contract Documents as a reimbursable expense item, specific costs associated with items set forth in this subsection shall be deemed as fully and conclusively included in the rate upon which Contractor's Contract Sum is based.

7.5. Contractor agrees that no person shall be discriminated against by Contractor or any subcontractor in the performance of this Contract on the grounds of sex, gender, race, color, creed, marital status, age, disability, or national origin. Any violation of this provision shall be grounds for cancellation, termination, or suspension of the Contract, in whole or in part, by the City. Contractor shall comply with all federal, state, and local laws, regulations, executive orders, and ordinances applicable to the Contract or to the implementation of the Project. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following laws, regulations, and executive orders to the extent they are applicable to the Contract or the implementation of the Project: (a) all applicable requirements of state civil rights and rehabilitation statutes, rules, and regulations; (b) Titles VI and VII of the Civil Rights Act of 1964, as amended; (c) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (d) the Americans with Disabilities Act of 1990, as amended, and ORS 659A.142; (e) Executive Order 11246, as amended; (f) the Health Insurance Portability and Accountability Act of 1996; (g) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (h) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (i) all regulations and administrative rules established pursuant to the foregoing laws; and (j) all other applicable requirements of federal civil rights and rehabilitation statutes, rules, and regulations.

7.6. Contractor certifies that Contractor has not discriminated against minority, women, or small business enterprises in obtaining any subcontract.

7.7. Pursuant with ORS 279C.505(2), by execution of this Contract, Contractor agrees to have an employee drug testing program in place at the time of executing the Contract, acknowledges that such a program will be maintained throughout the Contract period, including any extensions, and shall demonstrate to the City that such drug testing program is in place. The failure of Contractor to have, or to maintain, such a drug-testing program is grounds for immediate termination of the Contract. Contractor shall require each subcontractor providing labor for the Project to also comply with this drug testing program requirement.

7.8. Contractor agrees that the City shall not be liable, either directly or indirectly, in any dispute arising out of the substance or procedure of Contractor's drug testing program. Nothing in this drug testing provision shall be construed as requiring Contractor to violate any legal, including constitutional, rights of any employee, including but not limited to selection of which employees to test and the manner of such testing. The City shall not be liable for Contractor's negligence in establishing or implementing, or failure to establish or implement, a drug testing policy or for any damage or injury caused by Contractor's employees acting under the influence of drugs while performing Work covered by the Contract. These are Contractor's sole responsibilities, and nothing in this provision is intended to create any third party beneficiary rights against the City.

7.9. Contractor shall make payment promptly, as due, to all parties supplying to such Contractor labor or material for the prosecution of the Work provided for in the Contract, and shall be responsible for payment to such persons supplying labor or material to any subcontractor.

7.10. By execution of this Contract, as required by ORS 305.385(6), Contractor certifies under penalty of perjury that to the best of Contractor's knowledge, Contractor is not in violation of any tax laws described in ORS 305.380(4).

7.11. Contractor agrees that if Contractor or a subcontractor fails, neglects, or refuses to make payment to a person furnishing labor or materials in connection with this Contract within thirty (30) days after receiving payment from the contracting agency or a contractor, Contractor or the subcontractor shall owe the person the amount due plus interest charges commencing at the end of the ten (10) day period within which payment is due under ORS 279C.580(3)(a) and ending upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The rate of interest on the amount due shall be calculated in accordance with ORS 279C.515(2). The amount of interest may not be waived.

7.12. Contractor agrees that if Contractor or a subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with this Contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580.

7.13. Contractor shall make payment promptly, as due, to any party furnishing medical, surgical, hospital, or other needed care and attention, incident to sickness or injury, to the employees of Contractor, of all sums which Contractor agreed to pay for the services or collected or deducted from the wages of employees pursuant to any law, contract, or agreement for the purpose of providing or paying for such service.

7.14. Contractor and all subcontractors shall comply with the provisions of ORS 279C.540 pertaining to maximum hours, holidays, and overtime. With certain exceptions listed below, Contractor shall not require or permit any person to work more than ten (10) hours in any one (1) day, or forty (40) hours in any one (1) week, except in case of necessity, emergency, or where public policy requires it, and in such cases the person shall be paid at least time and a half for:

7.14.1. All overtime in excess of eight (8) hours in any one (1) day or forty (40) hours in any one (1) week when the work week is five (5) consecutive days, Monday through Friday; or

7.14.2. All overtime in excess of ten (10) hours in any one (1) day or forty (40) hours in any one (1) week when the work week is four (4) consecutive days, Monday through Friday; and

7.14.3. All Work performed on the days specified in ORS 279C.540(1)(b) for public improvement contracts.

7.15. Contractor and all subcontractors shall comply with the provisions of ORS 279C.545 pertaining to time limitation on claims for overtime and requirements for posting circulars containing said provisions.

7.16. Contractor must give notice to employees who work on a public contract, in writing, either at the time of hire or before commencement of Work on the Contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.

7.17. The hourly rate of wage to be paid by any Contractor or subcontractor to employed workers or other persons doing or contracting to do all or part of the work contemplated by a public contract shall be not less than the applicable wage required by law.

7.18. Contractor, its subcontractors, and all employers working under the Contract are subject employers under the Oregon Workers Compensation Law and shall comply with ORS 656.017 and provide the required workers compensation coverage, unless otherwise exempt under ORS 656.126. Contractor shall ensure that each of its subcontractors complies with these requirements.

7.19. In the performance of this Contract, Contractor shall comply with all applicable federal, state, and local laws, municipal codes, regulations, rules, and ordinances, including but not limited to those dealing with public contracts (ORS Chapter 279C) and with the prevention of environmental pollution and the preservation of natural resources (and avoidance of natural resource damages) in the performance of the Contract, including but not limited to ORS 279C.525. To the extent that known environmental and natural resource risks are specifically noted, shown, or specified in the Contract Documents or on the construction drawings, such risks are allocated to Contractor pursuant with ORS 279C.525(8)(a). If new or amended statutes, ordinances, rules, or regulations are adopted, or Contractor encounters a condition not referred to in this Contract, not caused by Contractor, and that was not discoverable by reasonable site inspection which requires compliance with federal, state, or local laws, codes, or regulations dealing with the preservation of the environment, both the City and Contractor shall have all the rights and obligations set forth in ORS 279C.525.

7.20. Contractor shall be liable for any fine imposed against Contractor, the City or the 'Project' as a result of a violation of any laws or permitting requirements by Contractor or any of its subcontractors or their sub-subcontractors or any suppliers.

7.21. Contractor must maintain and provide proof of a statutory public works bond throughout the term of this Contract.

Section 8. Subcontractor Requirements

8.1. Contractor's relations with subcontractors shall comply with ORS 279C.580. Pursuant with ORS 279C.580(3), each subcontract for material or services that Contractor enters into with a subcontractor, including a material supplier, for the purpose of performing a construction contract, shall include a payment clause that obligates Contractor to pay the subcontractor for satisfactory performance under the subcontract within ten (10) days out of

such amounts as are paid to Contractor by the contracting agency under the public improvement contract.

8.2. Contractor shall certify that all subcontractors, as described in ORS 701.005(2), will be registered with the Construction Contractors Board or licensed by the State Landscape Contractors Board in accordance with ORS 701.035 or 701.026, respectively, before the subcontractors commence Work under the Contract.

8.3. In no event shall any subcontract be awarded to any person or entity debarred, suspended, or disqualified from federal, state, or municipal contracting.

Section 9. Indemnity and Insurance

9.1. Contractor acknowledges responsibility for liability arising out of the performance of this Contract, and shall defend, indemnify, and hold the City harmless from any and all liability, settlements, loss, costs, and expenses in connection with any action, suit, or claim resulting or allegedly resulting from Contractor's negligent acts, omissions, errors, or willful or reckless misconduct pursuant to this Contract, or from Contractor's failure to perform its responsibilities as set forth in this Contract. The review, approval, or acceptance by the City, its Project Manager, or any City employee of documents or other Work performed, prepared, or submitted by Contractor shall not be considered a negligent act, error, omission, or willful misconduct on the part of the City, and none of the foregoing shall relieve Contractor of its responsibility to perform in full conformity with the City's requirements, as set forth in this Contract, and to indemnify the City as provided above and to reimburse the City for any and all costs and damages suffered by the City as a result of Contractor's negligent performance of this Contract, failure of performance hereunder, violation of state or federal laws, or failure to adhere to the standards of performance and care described in **Subsection 9.2**. Contractor shall defend the City (using legal counsel reasonably acceptable to the City) against any claim that alleges negligent acts, omissions, errors, or willful or reckless misconduct by Contractor.

9.2. In the performance of the Work, Contractor agrees to use that degree of care and skill exercised under similar circumstances by reputable members of Contractor's profession, practicing in the Portland metropolitan area. Contractor will re-perform any Work not meeting this standard, without additional compensation. Contractor's re-performance of any Work, even if done at the City's request, shall not be considered as a limitation or waiver by the City of any other remedies or claims it may have arising out of Contractor's failure to perform in accordance with the applicable standard of care of this Contract and within the prescribed timeframe.

9.3. Contractor must maintain insurance coverage acceptable to the City in full force and effect throughout the term of this Contract. Such insurance shall cover all risks arising directly or indirectly out of Contractor's activities or work hereunder. The amount of insurance carried is in no way a limitation on Contractor's liability hereunder. The policy or policies of insurance maintained by Contractor shall provide at least the following minimum limits and coverages at all times during performance of this Contract:

9.3.1. Commercial General Liability Insurance. Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this Contract, comprehensive Commercial General Liability Insurance covering Bodily Injury and Property Damage, written on an "occurrence" form policy. This coverage shall include broad form Contractual Liability insurance for the indemnities provided under this Contract and shall be for the following minimum insurance coverage amounts: The coverage shall be in the amount of **\$2,000,000** for each occurrence and **\$3,000,000** general aggregate and shall include Products-Completed Operations Aggregate in the minimum amount of **\$2,000,000** per occurrence; Fire Damage (any one fire) in the minimum amount of **\$50,000** and Medical Expense (any one person) in the minimum amount of **\$10,000**. All of the foregoing coverages must be carried and maintained at all times during this Contract.

9.3.2. Business Automobile Liability Insurance. If Contractor will be using a motor vehicle in the performance of the Work herein, Contractor shall provide the City a certificate indicating that Contractor has business automobile liability coverage for all owned, hired, and non-owned vehicles. The Combined Single Limit per occurrence shall not be less than **\$2,000,000**.

9.3.3. Workers Compensation Insurance. Contractor and all employers providing work, labor, or materials under this Contract that are subject employers under the Oregon Workers Compensation Law shall comply with ORS 656.017, which requires them to provide workers compensation coverage that satisfies Oregon law for all their subject workers under ORS 656.126. Out-of-state employers must provide Oregon workers compensation coverage for their workers who work at a single location within Oregon for more than thirty (30) days in a calendar year. Contractors who perform work without the assistance or labor of any employee need not obtain such coverage. This shall include Employer's Liability Insurance with coverage limits of not less than **\$500,000** each accident.

9.3.4. Insurance Carrier Rating. Coverages provided by Contractor must be underwritten by an insurance company deemed acceptable by the City with an AM Best Rating of A or better. The City reserves the right to reject all or any insurance carrier(s) with a financial rating that is unacceptable to the City.

9.3.5. Additional Insured & Termination Endorsements. Additional Insured coverage under Contractor's Commercial General Liability, Pollution Liability and Excess Liability Policy(ies), as applicable, will be provided by endorsement. Additional insured coverage shall be for both on-going operations via ISO Form CG 2010 or its equivalent, and products and completed operations via ISO Form CG 2037 or its equivalent. Coverage shall be Primary and Non-Contributory. Waiver of Subrogation endorsement via ISO form CG 2404 or its equivalent shall be provided. The following is included as additional insured: The City of Wilsonville, its elected and appointed officials, officers, agents, employees, and volunteers. An endorsement shall also be provided requiring the insurance carrier to give the City at least thirty (30) days'

written notification of any termination or major modification of the insurance policies required hereunder.

9.3.6. Certificates of Insurance. As evidence of the insurance coverage required by this Contract, Contractor shall furnish a Certificate of Insurance to the City. This Contract shall not be effective until the required certificates and the Additional Insured Endorsements have been received and approved by the City. Contractor agrees that it will not terminate or change its coverage during the term of this Contract without giving the City at least thirty (30) days' prior advance notice and Contractor will obtain an endorsement from its insurance carrier, in favor of the City, requiring the carrier to notify the City of any termination or change in insurance coverage, as provided above.

Section 10. Warranty

Contractor hereby agrees that Contractor will timely and thoroughly perform all Work. Any required warranty work will be performed at the installation location unless the work cannot reasonably be performed on site. Contractor will be responsible for transporting the equipment in need of warranty work from Wilsonville and back to Wilsonville. Contractor agrees to provide full warranty for all labor, materials, and Equipment for the warranty period set forth below.

In addition to, and not in lieu of, any other warranties provided by various manufacturers and suppliers, Contractor fully warrants all Work and Equipment for a period of five (5) years from the date of Final Acceptance of the Work and Equipment and shall make all necessary repairs and replacements to remedy, in a manner satisfactory to the City's Project Manager and at no cost to the City, any and all defects, breaks, or failures of the Work or Equipment occurring within five (5) years following the date of completion due to faulty or inadequate materials or workmanship. Repair of damage or disturbances to other improvements under, within, or adjacent to the Equipment/Work, whether or not caused by settling, washing, or slipping, when such damage or disturbance is caused, in whole or in part, from activities of Contractor in performing his/her duties and obligations under this Contract, is also covered by the warranty when such defects or damage occur within the warranty period. The five (5) year warranty period shall, with relation to such required repair, be extended five (5) years from the date of completion of such repair. This warranty for the Equipment is being given both by Contractor and by Columbia Cascade Company, and the City shall have the right to enforce this portion of the warranty against either or both of them. Reinstallation due to Equipment defect is also fully warranted by both parties.

Section 11. Early Termination; Default

11.1. This Contract may be terminated prior to the expiration of the agreed upon terms by the City if Contractor breaches this Contract and fails to immediately cure the breach within ten (10) days of receipt of written notice of the breach from the City.

11.2. If the City terminates this Contract in whole or in part, due to default or failure of Contractor to perform Work in accordance with the Contract, the City may procure, upon

reasonable terms and in a reasonable manner, services similar to those so terminated. In addition to any other remedies the City may have, both at law and in equity, for breach of contract, Contractor shall be liable for all costs and damages incurred by the City as a result of the default by Contractor, including, but not limited to all costs incurred by the City in procuring services from others as needed to complete this Contract. This Contract shall be in full force to the extent not terminated by written notice from the City to Contractor. In the event of a default, the City will provide Contractor with written notice of the default and a period of one (1) days to cure the default. If Contractor notifies the City that it cannot, in good faith, do so within the one (1) day cure period provided, then the City may elect, in its sole discretion, to extend the cure period to an agreed upon time period, or the City may elect to terminate this Contract and seek remedies for the default, as provided above.

Section 12. Contract Modification; Change Orders

Any modification of the provisions of this Contract shall not be enforceable or binding unless reduced to writing and signed by both the City and Contractor.

Section 13. Notices

Any notice required or permitted under this Contract shall be in writing and shall be given when actually delivered in person or forty-eight (48) hours after having been deposited in the United States mail as certified or registered mail, addressed to the addresses set forth below, or to such other address as one party may indicate by written notice to the other party.

To City: City of Wilsonville
 Attn: Stan Sherer
 29799 SW Town Center Loop East
 Wilsonville, OR 97070

To Contractor: G.R. Morgan Construction
 Attn: George R. Morgan II
 10536 SW 25th Ave
 Portland, OR 97219

Section 14. Miscellaneous Provisions

14.1. Integration. This Contract, including all exhibits attached hereto, contains the entire and integrated agreement between the parties and supersedes all prior written or oral discussions, representations, or agreements. In case of conflict among these documents, the provisions of this Contract shall control.

14.2. Legal Effect and Assignment. This Contract shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors, and assigns. This Contract may be enforced by an action at law or in equity.

14.3. No Assignment. Contractor may not assign this Contract, nor the performance of any obligations hereunder, unless agreed to in advance and in writing by the City.

14.4. Adherence to Law. Contractor shall adhere to all applicable federal, state, and local laws (including the Wilsonville Code and Public Works Standards), including but not limited to laws, rules, regulations, and policies concerning employer and employee relationships, workers compensation, and minimum and prevailing wage requirements. Any certificates, licenses, or permits that Contractor is required by law to obtain or maintain in order to perform the Work described in the Scope of Work shall be obtained and maintained throughout the term of this Contract.

14.5. Governing Law. This Contract shall be construed in accordance with and governed by the laws of the State of Oregon. All contractual provisions required by ORS Chapters 279A and 279C to be included in public agreements are hereby incorporated by reference and shall become a part of this Contract as if fully set forth herein.

14.6. Jurisdiction. Venue for any dispute will be in Clackamas County Circuit Court.

14.7. Legal Action/Attorney Fees. If a suit, action, or other proceeding of any nature whatsoever (including any proceeding under the U.S. Bankruptcy Code) is instituted in connection with any controversy arising out of this Contract or to interpret or enforce any rights or obligations hereunder, the prevailing party shall be entitled to recover attorney, paralegal, accountant, and other expert fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith, as determined by the court or body at trial or on any appeal or review, in addition to all other amounts provided by law. If the City is required to seek legal assistance to enforce any term of this Contract, such fees shall include all of the above fees, whether or not a proceeding is initiated. Payment of all such fees shall also apply to any administrative proceeding, trial, and/or any appeal or petition for review.

14.8. Nonwaiver. Failure by either party at any time to require performance by the other party of any of the provisions of this Contract shall in no way affect the party's rights hereunder to enforce the same, nor shall any waiver by the party of the breach hereof be held to be a waiver of any succeeding breach or a waiver of this nonwaiver clause.

14.9. Severability. If any provision of this Contract is found to be void or unenforceable to any extent, it is the intent of the parties that the rest of the Contract shall remain in full force and effect, to the greatest extent allowed by law.

14.10. Modification. This Contract may not be modified except by written instrument executed by Contractor and the City.

14.11. Time of the Essence. Time is expressly made of the essence in the performance of this Contract.

14.12. Calculation of Time. Except where the reference is to business days, all periods of time referred to herein shall include Saturdays, Sundays, and legal holidays in the State of

Oregon, except that if the last day of any period falls on any Saturday, Sunday, or legal holiday observed by the City of Wilsonville, the period shall be extended to include the next day which is not a Saturday, Sunday, or legal holiday. Where the reference is to business days, periods of time referred to herein shall exclude Saturdays, Sundays, and legal holidays observed by the City of Wilsonville. Whenever a time period is set forth in days in this Agreement, the first day from which the designated period of time begins to run shall not be included.

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

14.14. Number, Gender and Captions. In construing this Contract, it is understood that, if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that, generally, all grammatical changes shall be made, assumed, and implied to individuals and/or corporations and partnerships. All captions and paragraph headings used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of this Contract.

14.15. Good Faith and Reasonableness. The Parties intend that the obligations of good faith and fair dealing apply to this Contract generally and that no negative inferences be drawn by the absence of an explicit obligation to be reasonable in any portion of this Contract. The obligation to be reasonable shall only be negated if arbitrariness is clearly and explicitly permitted as to the specific item in question, such as in the case of where this Contract gives the City “sole discretion” or the City is allowed to make a decision in its “sole judgment.”

14.16. 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 this Contract in order to provide and secure to the other parties the full and complete enjoyment of rights and privileges hereunder.

14.17. Interpretation. As a further condition of this Contract, the City and Contractor acknowledge that this Contract shall be deemed and construed to have been prepared mutually by each party and it shall be expressly agreed that any uncertainty or ambiguity existing therein shall not be construed against any party. In the event that any party shall take an action, whether judicial or otherwise, to enforce or interpret any of the terms of the contract, the prevailing party shall be entitled to recover from the other party all expenses which it may reasonably incur in taking such action, including attorney fees and costs, whether incurred in a court of law or otherwise.

14.18. Entire Agreement. This Contract, all documents attached to this Contract, and all Contract Documents and laws and regulations incorporated by reference herein, represent the entire agreement between the parties.

14.19. Counterparts. This Contract may be executed in one or more counterparts, each of which shall constitute an original Contract but all of which together shall constitute one and the same instrument.

14.20. Authority. Each party signing on behalf of Contractor and the City hereby warrants actual authority to bind their respective party.

The Contractor and the City hereby agree to all provisions of this Contract.

CONTRACTOR:

CITY:

G.R. MORGAN CONSTRUCTION,
a partnership

CITY OF WILSONVILLE

By: _____
George R. Morgan II, Partner

By: _____
Bryan Cosgrove
As Its: City Manager

By: _____
Tana L. Morgan, Partner

Employer I.D. No. _____

APPROVED AS TO FORM:

ATTESTED TO:

Barbara A. Jacobson, Assistant City Attorney
City of Wilsonville, Oregon

Sandra C. King, MMC, City Recorder
City of Wilsonville, Oregon

APPROVED AS TO WARRANTY SECTION 10:

COLUMBIA CASCADE COMPANY

By: _____

(Print Name)

As Its: _____

Employer I.D. No. _____

k:\doc\murase playground\gsk murase playground equip-gr morgan

EXHIBIT A

SCOPE OF WORK

Contractor will supply, deliver, and install three pre-designed play structures selected by the City, at the identified site in Murase Plaza, Wilsonville, Oregon. The structures will match the model numbers and descriptions below:

- 1 each 3836-01-RP-M Columbia Cascade Cattle Ranch inclusive play structure, two standard color CASPAX-7 powder-coated finishes, Cedar colored 100% post-consumer recycled plastic posts, wood roofs, baluster walls, colored (TBD) plastic accessories;
- 1 each 3817-01-RP-M Columbia Cascade RePlay Barn with silo and corral, two standard color CASPAX-7 powder-coated finishes, Cedar colored 100% post-consumer HDPE recycled plastic posts, brown thermoplastic-coated perforated steel soft decks, baluster walls, laminated plastic panels, colored (TBD) plastic components;
- 1 each 1650-144-EMB Columbia Cascade Embankment Slide Chute for 12-foot high embankment, standard color CASPAX-7 powder-coated accessible entrance platform; colored (TBD) plastic accessories.

Contractor will install the three pre-designed play structures within manufacturer specifications and ASTM safety guidelines for recreational play structures. The installation will include the following:

- auger, level, and block for accessory footings that go into concrete;
- supply and pour required concrete;
- crane rental to place roofs;
- safety checks; and
- clean up.

Contractor will also provide and install engineered Fibrex wood chips to insure a safe fall zone that is consistent with ASTM safety guidelines for recreation play structures and accessibility standards identified within the Americans with Disabilities Act.



**CITY COUNCIL MEETING
STAFF REPORT**

Meeting Date: March 2, 2015		Subject: Resolution No. 2516 Supplemental Budget Staff Member: Cathy Rodocker Department: Finance	
Action Required		Advisory Board/Commission Recommendation	
<input checked="" type="checkbox"/> Motion <input checked="" type="checkbox"/> Public Hearing Date: <input type="checkbox"/> Ordinance 1 st Reading Date: <input type="checkbox"/> Ordinance 2 nd Reading Date: <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Information or Direction <input type="checkbox"/> Information Only <input type="checkbox"/> Council Direction <input type="checkbox"/> Consent Agenda		<input type="checkbox"/> Approval <input type="checkbox"/> Denial <input type="checkbox"/> None Forwarded <input checked="" type="checkbox"/> Not Applicable Comments:	
Staff Recommendation: Staff recommends Council adopt Resolution No. 2516.			
Recommended Language for Motion: I move to approve Resolution No. 2516.			
PROJECT / ISSUE RELATES TO: <i>[Identify which goal(s), master plans(s) issue relates to.]</i>			
<input type="checkbox"/> Council Goals/Priorities	<input type="checkbox"/> Adopted Master Plan(s)	<input checked="" type="checkbox"/> Not Applicable	

ISSUE BEFORE COUNCIL:

Supplemental budget resolution for the FY2014-15 budget year.

EXECUTIVE SUMMARY:

Oregon’s Local Budget Law allows the Council to amend the adopted budget for an occurrence or condition that was not known at the time the budget was adopted. A transfer resolution moves expenditures from one category to another within a specific fund and does not increase the overall budget that was approved during the annual budget process. A supplemental budget

adjustment will impact the budget by increasing revenues and/or expenditures. The supplemental adjustment can also recognize expenditures that exceed 10 percent of the adopted budget expenditures or 15 percent of the funds' adopted contingency.

At its June 2, 2014 City Council meeting, the Council adopted the Fiscal Year 2014-15 budget. The resolution being presented with this staff report is for a budget adjustment, will provide the needed budget authority for a capital land purchase.

Adjustment Resolution

Attachment #1, "Supplemental Budget Adjustments by Capital Projects" provides a detail of both the costs and the City's funding of the Duckworth property purchase. The total cost of the property was \$1,100,000 (plus a contingent \$25,000 contribution to site clean-up if done timely and thoroughly); with the General Fund providing \$300,000, the Parks SDC Fund providing \$270,000 and a transfer of Metro Grant funding in the amount of \$280,000. The Urban Renewal Project Income Fund will be responsible for the remaining \$275,000.

A net zero transfer will be made for the Memorial Park Improvement project to the Duckworth Property Purchase project to recognize the transfer of the Metro Grant funding.

EXPECTED RESULTS:

As stated in the Fiscal Management Policies, the City shall amend its annual budget in accordance with Oregon local budget law. The supplemental budget adjustment is adopted by the Council at a regularly scheduled meeting. The budget committee is not required.

TIMELINE:

As required by Local Budget Law, a notice for the public hearing has been published in the Wilsonville Spokesman. The notice was published on Wednesday, February 25, 2015. Adoption of the Supplemental Budget Adjustment is required prior to the end of the fiscal year, June 30, 2015.

CURRENT YEAR BUDGET IMPACTS:

Resources:		Expenditures:	
CIP Funding: Interfund transfers	\$ 570,000	Parks Capital Projects	\$ 570,000
		Transfer to other funds	570,000
		Contingencies	(570,000)
Total Resources	<u>\$ 570,000</u>		<u>\$ 570,000</u>

FINANCIAL REVIEW / COMMENTS:

Reviewed by: SCole Date: 2/18/15

LEGAL REVIEW / COMMENT:

Reviewed by: MEK Date: 2/18/15
 Approved Resolution as to form

COMMUNITY INVOLVEMENT PROCESS:

As required by Local Budget Law, a notice for the public hearing has been published in the Wilsonville Spokesman. The adoption process requires a public hearing prior to adoption.

POTENTIAL IMPACTS or BENEFIT TO THE COMMUNITY

The amended budget provides for the delivery of services and construction of capital projects throughout the community.

ALTERNATIVES:

Not approving the attached supplemental budget could result in overspending current budget appropriations. The City is required to disclose all excess of expenditures over appropriations in the Comprehensive Annual Financial report.

CITY MANAGER COMMENT:

ATTACHMENTS

- A. Attachment #1-Supplemental Budget Adjustments

**Attachment #1
Supplemental Budget Adjustments by Capital Project**

Capital Projects	CIP	CD OH	GF OH	Total	Explanation
Proj #9153-Duckworth Property Purchase	\$ 850,000	\$ -	\$ -	\$ 850,000	Property Purchase
Transfer from General Fund				\$ (300,000)	
Transfer from Parks SDC				\$ (270,000)	
Transfer of Metro Grant Funding from the Memorial Park Improvement Project				\$ (280,000)	
Proj #9112-Memorial Park Improvements	\$ (280,000)	\$ -	\$ -	\$ (280,000)	Transfer to Duckworth Property Purchase
Reduce project costs and transfer grant funding to Duckworth Property Purchase				\$ 280,000	

RESOLUTION NO. 2516

A RESOLUTION AUTHORIZING A SUPPLEMENTAL BUDGET ADJUSTMENT FOR FISCAL YEAR 2014-15.

WHEREAS, the City adopted a budget and appropriated funds for fiscal year 2014-15 by Resolution 2476; and,

WHEREAS, certain expenditures are expected to exceed the original adopted budget in some of the City's funds and budgetary transfers are necessary within these funds to provide adequate appropriation levels to expend the unforeseen costs; and,

WHEREAS, ORS 294.450 provides that a city may transfer appropriations within appropriation categories provided the enabling resolution states the need for the transfer, purpose of the expenditure and corresponding amount of appropriation; and,

WHEREAS, all transfers from contingencies within the fiscal year to date that exceed fifteen percent (15%) of the fund's total appropriations, are included in the supplemental budget adjustment request; and,

WHEREAS, all expenditure transfers within the fiscal year to date in aggregate exceed ten percent (10%) of the fund's total expenditures, are included in the supplemental budget adjustment request; and,

WHEREAS, consistent with local budget law and based upon the foregoing, the staff report in this matter and public hearing input, the public interest is served in the proposed supplemental budget adjustment.

WHEREAS, to facilitate clarification of the adjustments in this resolution, Attachment A to this resolution provides a summary by fund of the appropriation categories affected by the proposed transfer of budget appropriation and the purpose of the expenditure.

NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

The City amends the estimated revenues and appropriations within the funds and categories delineated and set forth in Attachment A, attached hereto and incorporated by reference herein as if fully set forth.

This resolution becomes effective upon adoption.

ADOPTED by the City Council of the City of Wilsonville at a special meeting thereof this 2nd of March 2015 and filed with Wilsonville City Recorder this same date.

TIM KNAPP, MAYOR

ATTEST:

Sandra C. King, MMC, City Recorder

SUMMARY OF VOTES:

Mayor Knapp
Councilor Starr
Councilor Stevens
Councilor Fitzgerald
Councilor Lehan

ATTACHMENT A
NEED, PURPOSE AND AMOUNT: DETAIL BY FUND & CATEGORY

	Current Appropriations	Change in Appropriations	Amended Appropriations
General Fund			
Transfers to other funds	\$ 2,695,651	\$ 300,000	\$ 2,995,651
Contingency	8,781,526	(300,000)	8,481,526
All other requirements	17,006,493	-	17,006,493
Net change in requirements	\$ 28,483,670	\$ -	\$ 28,483,670
The interfund transfers out and the corresponding reduction to contingency is for the funding of the following project: Duckworth Property Purchase.			
Parks Capital Projects Fund			
Interfund transfers	\$ (1,999,817)	\$ (570,000)	\$ (2,569,817)
All other resources	(370,781)		(370,781)
Total increase in resources	\$ (2,370,598)	\$ (570,000)	\$ (2,940,598)
Parks capital projects	2,019,949	570,000	2,589,949
All other requirements	406,649	-	406,649
Net change in requirements	\$ 2,426,598	\$ 570,000	\$ 2,996,598
The interfund transfers in and the corresponding requirements for parks capital projects is for the purchase of the Duckworth Property. A zero dollar transfer will also be made to move the grant funding from the Memorial Park Improvement project to the Duckworth Property purchase.			
Parks SDC Fund			
Transfers to other funds	2,097,947	270,000	2,367,947
Contingency	328,651	(270,000)	58,651
Net change in requirements	\$ 2,426,598	\$ -	\$ 2,426,598
The interfund transfers out and the corresponding reduction to contingency is for the funding of the following project: Duckworth Property Purchase.			



CITY COUNCIL MEETING STAFF REPORT

Meeting Date: March 2, 2015	Subject: Resolution No. 2514 Acquisition of Willamette River Front Property Staff Member: Barbara Jacobson Department: Legal	
Action Required <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Public Hearing Date: <input type="checkbox"/> Ordinance 1 st Reading Date: <input type="checkbox"/> Ordinance 2 nd Reading Date: <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Information or Direction <input type="checkbox"/> Information Only <input type="checkbox"/> Council Direction <input type="checkbox"/> Consent Agenda	Advisory Board/Commission Recommendation <input type="checkbox"/> Approval <input type="checkbox"/> Denial <input type="checkbox"/> None Forwarded <input checked="" type="checkbox"/> Not Applicable Comments: Related Items: 1. A resolution amending the Metro Local Share project, from the Memorial Park Improvements to the Duckworth Property Acquisition; 2. A resolution and public hearing for a supplemental budget adjustment; 3. A resolution and public hearing for a supplemental adjustment for the Urban Renewal Agency.	
Staff Recommendation: Staff recommends City Council adopt Resolution No. 2514		
Recommended Language for Motion: I move to approve Resolution No. 2514.		
PROJECT / ISSUE RELATES TO: <i>[Identify which goal(s), master plans(s) issue relates to.]</i>		
<input type="checkbox"/> Council Goals/Priorities	<input checked="" type="checkbox"/> Adopted Master Plan(s)	<input type="checkbox"/> Not Applicable

ISSUE BEFORE COUNCIL:

Whether or not to authorize the acquisition of approximately 3.49 acres of unimproved property located at 9400 SW Tauchman Street, Wilsonville, Oregon (“Property”).

EXECUTIVE SUMMARY:

The above Property is strategically located along the Willamette River bank, above the flood plain, and adjoins the City’s Boones Ferry Park and the City Wastewater Treatment Plant. The Property had been offered for sale by its owner, Mr. Michael Duckworth, for \$1.8 million, with the price recently reduced to \$1.2 million. Mr. Duckworth was offering the Property for sale in “As Is” condition.

Staff obtained an independent appraisal of the Property, which established a value of \$1.1 million, and Mr. Duckworth has agreed to sell the property to the City for this appraised price, subject to the City's right to perform certain environmental due diligence as a condition of purchase. The City is also requiring that the Property not be sold "As Is" but rather that Mr. Duckworth remove and dispose of all property and debris prior to Closing, and Mr. Duckworth has agreed to this condition of sale. Upon execution of a Purchase and Sale Agreement, the City will deposit Earnest Money in the amount of Fifty-Five Thousand Dollars (\$55,000) with the title company.

There is significant personal property and debris to be removed from the Property prior to Closing, which, as stated above, will be the responsibility of Mr. Duckworth. The City has agreed, however, if the removal is thorough and timely that Mr. Duckworth will receive an additional payment of \$25,000 when he finally vacates the Property to assist in the significant costs he will incur in cleaning the Property, recognizing that the Property was originally offered in "As Is" condition and Mr. Duckworth is now taking on the responsibility of delivering a clean site to the City. Due to the significant upfront cost Mr. Duckworth will be required to spend to clean the Property, the City has agreed to release the Earnest Money payment to Mr. Duckworth, upon successful completion of the environmental due diligence contingency, so that Mr. Duckworth may have use of those funds to help cover the cost of clean-up. The full Earnest Money amount will then be credited toward the purchase price. If the sale does not close due to a default by Mr. Duckworth, he will be obligated to repay the Earnest Money and the City will have a lien against the Property to secure that repayment.

As additional consideration, the City has agreed that Mr. and Mrs. Duckworth may remain living on the Property, in their own manufactured home, for up to six (6) months from the date of Closing. This will give Mr. and Mrs. Duckworth time to find another place to live and will also benefit the City in having a physical presence on the Property as City staff begins work to improve the Property over the summer. When Mr. and Mrs. Duckworth leave the Property, they will be required to remove their manufactured home, a storage shed, their vehicles, and any other personal property. The City is withholding Ten Thousand Dollars (\$10,000) of the purchase price to ensure timely and complete removal. All of these conditions are set forth in the Occupancy Agreement, which is attached to the Purchase and Sale Agreement and made a part thereof.

Finally, this Property acquisition is generally identified in the City's Parks Master Plan but a supplemental budget adjustment is needed for the fiscal year 2014-15 budget. A funding sources memo by Susan Cole is attached hereto as **Exhibit A**.

EXPECTED RESULTS:

To negotiate and enter into a Purchase and Sale Agreement for the Property identified above in essentially the form attached hereto.

TIMELINE:

It is anticipated that Closing will take place on or about May 1, 2015, barring any unforeseen

environmental issues or delay in the property removal by Mr. Duckworth.

CURRENT YEAR BUDGET IMPACTS:

Please see **Exhibit A**.

FINANCIAL REVIEW / COMMENTS:

Reviewed by: _SCole_____ Date: _2/18/15_____

LEGAL REVIEW / COMMENT:

Reviewed by: MEK Date: 2/17/15

COMMUNITY INVOLVEMENT PROCESS:

N/A

POTENTIAL IMPACTS or BENEFIT TO THE COMMUNITY (businesses, Acquisition of the Property will create a significant benefit to the public in the form of additional park land, riverfront access, and buffer to the City's Wastewater Treatment Plant. Because it is being offered for sale on a voluntary basis by Mr. Duckworth at this time, there is no need for the City to consider any condemnation action and this Property is not being acquired under threat of condemnation.

ALTERNATIVES:

Alternative is to not acquire this Property.

CITY MANAGER COMMENT:

ATTACHMENTS:

- A. Funding Sources Memo
- B. Resolution No. 2514 with exhibit (Purchase and Sale Agreement)

RESOLUTION NO. 2514

**A RESOLUTION OF THE CITY OF WILSONVILLE AUTHORIZING
ACQUISITION OF REAL PROPERTY**

WHEREAS, under and by virtue of the laws of the State of Oregon, the City of Wilsonville is duly authorized and empowered to acquire such real property as may be deemed necessary or beneficial for the public good; and

WHEREAS, a parcel of property located at 9400 SW Tauchman Street, adjoining the City's Boones Ferry Park, the City's Wastewater Treatment Plant, and the Willamette River, has been placed on the market for sale by its owner ("Property"); and

WHEREAS, it is timely and in the best interest of the City to acquire this Property due to its strategic location and beneficial public uses, as more particularly described in the Staff Report attached hereto as **Exhibit A** and incorporated by reference herein; and

WHEREAS, staff obtained a professional appraisal of the Property in order to determine fair market value; and

WHEREAS, although listed for a higher amount, the seller is willing to sell the Property to the City for its appraised value of ONE MILLION ONE HUNDRED THOUSAND DOLLARS (\$1,100,000.00), subject to completion of environmental due diligence by the City and removal of abandoned manufactured homes and other debris clean-up by seller, as more particularly described in the Staff Report; and

WHEREAS, this acquisition is not included in the City's 2014-15 adopted budget and a budget adjustment will therefore be needed; and

WHEREAS, the City's Finance Director has identified sources of funds available for the purchase of the Property, as described in her memo, attached to the Staff Report;

NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

1. The acquisition of the Property located at 9400 SW Tauchman Street, Wilsonville, Oregon, is a desirable and strategic acquisition for the City that will support many public purposes, including expansion of Boones Ferry Park, more public access to the Willamette River, and a buffer for the Wastewater Treatment Plant.

2. The Property is currently for sale by the owner, who has offered to reduce the price to match the appraised price to the City.

3. The City Manager or designee is authorized to negotiate the Purchase and Sale Agreement with the property owner, in the form attached hereto as **Exhibit B**, for a purchase price of ONE MILLION ONE HUNDRED THOUSAND DOLLARS (\$1,100,000.00), plus an additional post closing payment of Twenty-Five Thousand Dollars (\$25,000), payable only if all personal property and debris is removed therefrom, as more particularly described in the Purchase and Sale Agreement.

4. This Resolution is effective upon adoption.

ADOPTED by the City of Wilsonville at a regular meeting thereof this 2nd day of March, 2015 and filed with the Wilsonville City Recorder this date.

TIM KNAPP, MAYOR

ATTEST:

Sandra C. King, MMC, City Recorder

SUMMARY OF VOTES:

Mayor Knapp	_____
Council President Starr	_____
Councilor Fitzgerald	_____
Councilor Stevens	_____
Councilor Lehan	_____

Attachments:

- Exhibit A ~ Staff Report
- Exhibit B ~ Draft Purchase and Sale Agreement

MEMORANDUM

TO: City Council Members
FROM: Susan Cole, Finance Director
SUBJECT: Duckworth Property: Attorney-Client Privilege
DATE: February 17, 2015
CC: Bryan Cosgrove, City Manager
Barbara Jacobson, Assistant City Attorney

Staff has identified property that if acquired, would serve many City purposes. This property fronts the river and is commonly referred to as the Duckworth property, and is adjacent to the City's Wastewater Treatment Plant.

Staff recommends purchasing this property, assuming a favorable environmental site assessment and agreement on a price and clean-up requirements. A City commissioned appraisal has valued the property at \$1.1 million, assuming an environmentally clean site, with all mobile homes removed. Mr. Duckworth has represented he has an appraisal from 2013 that sets the value at \$1.4 million. Mr. Duckworth has recently lowered his asking price from \$1.8 million to what he states is his rock bottom price of \$1.2 million for an "As Is" sale. Thus, there is a gap between the appraised value and the asking price and terms but, assuming there are no serious environmental issues, this is not a large gap and staff believes there is a good chance we can arrive at an acceptable price and terms, which will be brought to Council for review and consideration once negotiations and due diligence get underway.

In the meantime, the purchase price, should the Council elect to purchase the property, could be funded from the following sources, assuming a purchase price of \$1.1 million:

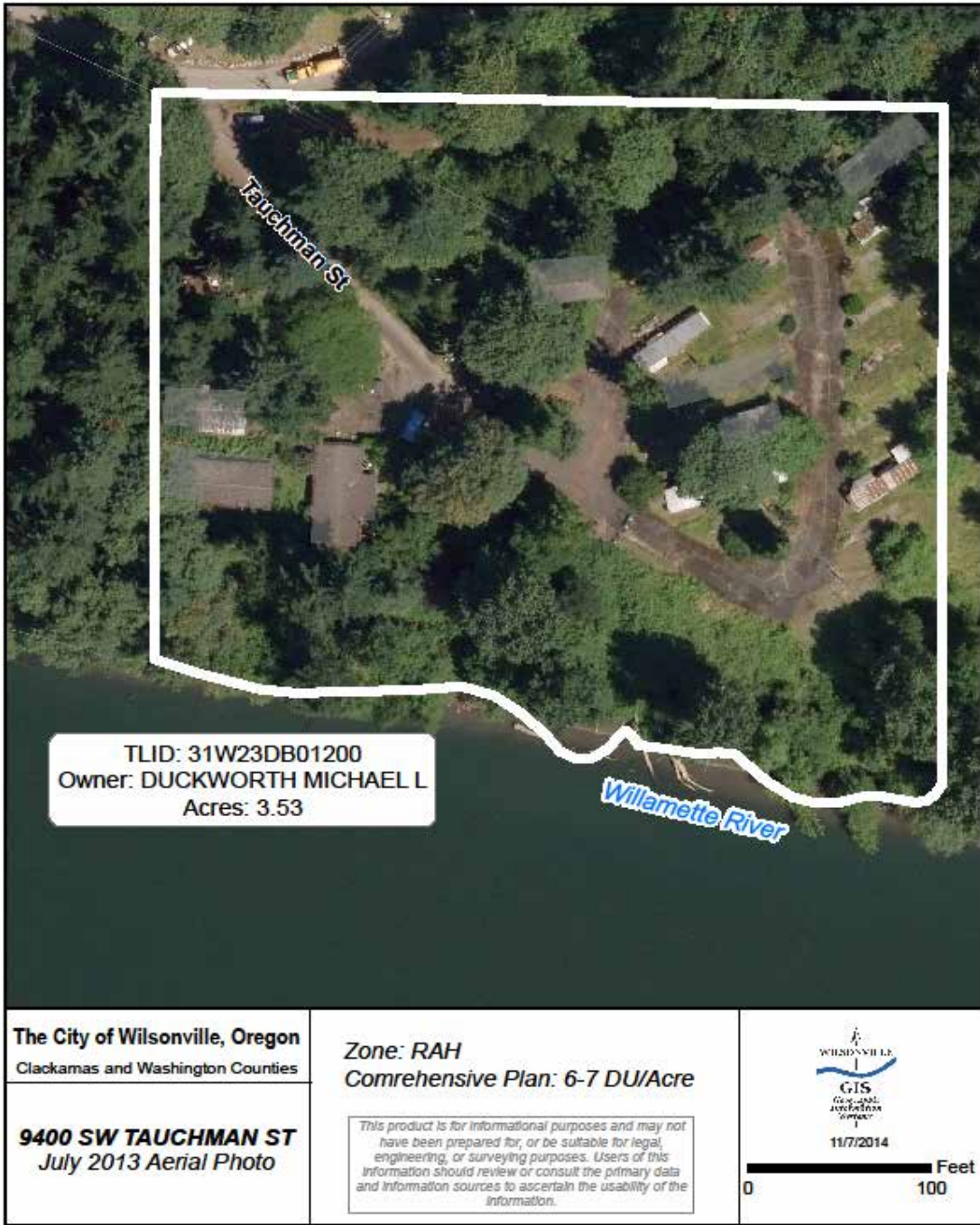
- \$280,000 from Metro's Local Share program. This funding was allocated to the City from Metro for the purpose of investing in a network of parks, trails and natural areas. These funds are currently appropriated in the Parks Capital Fund.
- \$275,000 from the Urban Renewal Area Year 2000 Plan Program Revenue. The site is located in the Year 2000 Plan area, and therefore program income generated in the Urban Renewal Area would be an eligible funding source. Program income includes items such as rent and proceeds from property sales. These funds are not appropriated and would require a budget adjustment.
- \$275,000 from the General Fund contingency. A budget adjustment would be required to transfer the funds from contingency to capital outlay

- \$270,000 from the Parks System Development Charges. Because the site will provide new capacity for the City's park system along the river, it fits into the Parks Master Plan identified project of Riverfront Easements and Acquisitions, and is therefore eligible for Parks SDC funding. The Parks SDC fund contains \$3.4 million in contingency funds. A budget adjustment would be required to transfer the funds from contingency to capital outlay.

To complete the transaction utilizing the funding recommended above, a number of Council actions would be needed, as follows:

1. A resolution authorizing the property acquisition;
2. A resolution amending the Metro Local Share project, from the Memorial Park Improvements to the Duckworth Property Acquisition;
3. A resolution and public hearing for a supplemental budget adjustment.

Please see attached pictures displaying this site.





The City of Wilsonville, Oregon
Clackamas and Washington Counties

 City Owned Property
 Trails

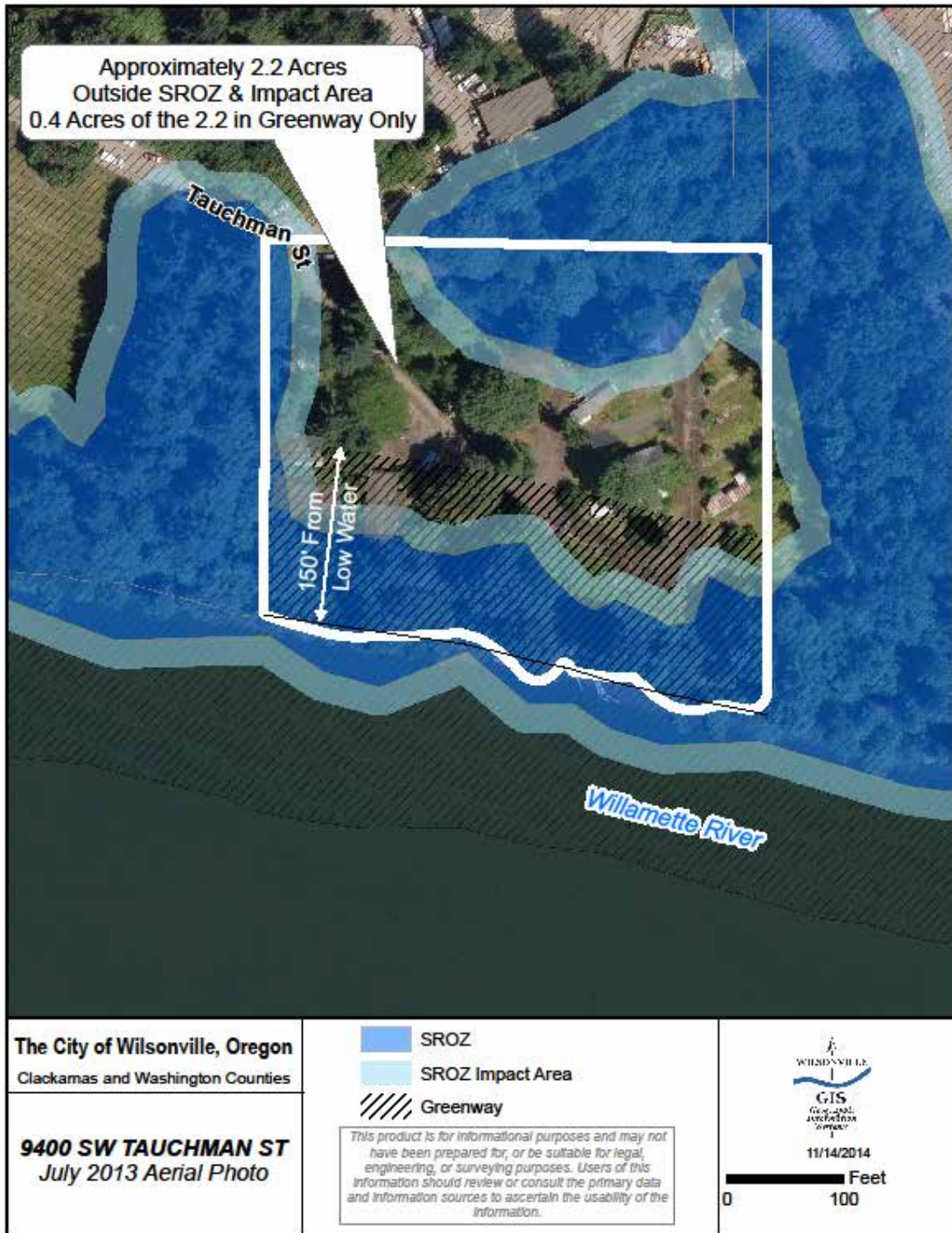
9400 SW TAUCHMAN ST
July 2013 Aerial Photo

This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.



11/7/2014

0 250 Feet



PURCHASE AND SALE AGREEMENT

Seller: Michael L. Duckworth
9400 SW Tauchman Street
Wilsonville OR 97070

Buyer: City of Wilsonville, Oregon
29799 SW Town Center Loop East
Wilsonville OR 97070

Dated: March 1, 2015

1. **Purchase and Sale.** Seller desires to sell to Buyer, and Buyer desires to purchase from Seller, the real property located at 9400 SW Tauchman Street, Wilsonville, Oregon, consisting of approximately 3.49 acres of land, legally described on **Exhibit A**, attached hereto and incorporated by reference herein (the “Property”).

2. **Purchase Price.** The Purchase Price for the Property will be **One Million One Hundred Thousand Dollars (\$1,100,000)** (the “Purchase Price”). The Purchase Price is for clean bare land with all structures and mobile homes removed, except as otherwise set forth in **Section 3**.

3. **Structures/Personal Property Removal Closing Contingency.** Seller must remove, at Seller’s expense, all personal property and structures located on the Property, except Seller shall not be required to remove concrete or asphalt roads, pads, or paths or the existing light pole as long as the Due Diligence results determine that the light poles contain no Hazardous Substance and no Hazardous Substances are located below the concrete or asphalt to be left in place. Hazardous Substances are defined in **Section 9(f)** below. Seller will be entitled to temporarily leave one mobile home and a shed structure on the Property for up to six (6) months after Closing, so long as Seller resides on the Property after the Closing of the sale. Assuming successful and timely removal of all property and debris from the Property, Buyer will pay Seller a post-Closing bonus payment of Twenty-Five Thousand Dollars (\$25,000) to help offset Seller’s clean-up and moving expenses, as more particularly set forth in **Section 8**.

4. **Due Diligence Contingencies.** Buyer shall have the right to enter the Property, upon reasonable notice to Seller, to conduct the following “Due Diligence”:

(a) Buyer shall be entitled to conduct a Phase 1 environmental assessment of the Property and, if recommended by the Phase 1, a Phase 2 follow-up study. The Phase 1 must be completed within 45 days of the date of this Agreement. If a Phase 2 is recommended, the Due Diligence Period for assessment will be extended to ninety (90) days from the date of the Phase 1 report. Seller will be entitled to a copy of the Phase 1 report and the Phase 2 report, if a Phase 2 report is generated. The Environmental Due Diligence will also include inspection of the mobile

homes and structures during the Phase 1 study, and during the Phase 2 study, if recommended, to determine if they contain any Hazardous Substances such as asbestos, lead paint, or PCBs that will require additional care in the removal process. After completion of the Environmental Due Diligence, Seller will remove the home and other personal property, except as described in **Section 3**. Buyer shall then have thirty (30) days from the date Seller certifies all removal has been completed to re-inspect the Property and remove this Due Diligence contingency.

(b) Buyer shall be entitled to but not obligated to survey the Property within the Due Diligence period. If a survey is conducted, a copy of the survey will be provided to Seller.

(c) Seller shall complete the statutory Seller's Property Disclosure Statement, attached hereto as **Exhibit B** and incorporated by reference herein, and provide it to Buyer within three (3) business days of the date hereof so that it may be utilized by the various inspectors performing their inspections.

5. **Earnest Money.** If Buyer is satisfied with the results of all of the Due Diligence items listed above, excepting the re-inspection after Seller's removal of the property described in **Section 6**, Buyer will pay Earnest Money in the amount of **Fifty-Five Thousand Dollars (\$55,000)** to the Escrow Agent within three (3) business days of Buyer's acceptance of Due Diligence results. Based on Seller's representation that he needs the money to pay for the safe removal and disposal of the mobile homes and other structures and debris located on the Property, Buyer agrees that the Earnest Money may be released to Seller by the Escrow Agent upon deposit, subject to the terms and conditions of this Agreement.

6. **Other Conditions Precedent to Purchase.** Once Seller completes the safe removal and disposal of the structures, mobile homes, and debris on the Property, using a duly licensed contractor to complete the removal and disposal if Hazardous Substances, including asbestos, lead paint or PCBs are contained therein or thereon, Seller will notify Buyer that all removal has been successfully completed. Buyer will then have up to thirty (30) days to re-inspect the Property to ensure no Hazardous Substances have been left on the Property through the removal process. This provision does not apply to the single mobile home and shed structure which may remain onsite for up to six months after Closing, as referenced in **Section 3**. If evidence of lingering Hazardous Substances is found, Seller shall be responsible for remediating the site to clean condition or either party may terminate this Agreement. If this Agreement is terminated because of a default of any obligation set forth in this section, Seller will immediately repay the Earnest Money to Buyer. To ensure repayment, a fully executed Memorandum of this Agreement will be filed against the Property memorializing Buyer's lien for the disbursed Earnest Money until repayment occurs, if the Agreement is terminated before Closing. However, if not so terminated, this lien shall be released and become null and void upon Closing.

7. **Permitted Title Exceptions.** The Property must be transferred to Buyer free and clear of all encumbrances except for only the following exceptions shown on the Preliminary Report, prepared by Chicago Title Company of Oregon, dated as of December 23, 2014 (Order No. 472515521389TO-CTOR): Exceptions 6 and 7 ("Permitted Encumbrances"). No other exceptions will be permitted.

8. **Temporary Right to Dwell on the Property Post Closing.** Buyer has agreed that Seller and his spouse may remain living on the Property in Seller's own mobile home for up to six (6) months following Closing. This is to allow Seller to find a new home and to relocate. Seller will be allowed to remain on the Property for up to six (6) months, rent free, but will be required to vacate and remove his remaining property from the Property on or before expiration of the six (6) month period, measured from the date of Closing. During that time, Seller will keep the Property in good and clean condition and will allow no waste to occur. Buyer shall remove all of his personal property, including the mobile home and shed and vehicles. If Seller adheres to this condition and moves out in a timely fashion, leaving the Property in good clean condition, free of all structures and debris, Buyer will pay Seller an additional incentive payment of **Twenty-Five Thousand Dollars (\$25,000)**, as more particularly set forth in the Temporary Occupancy Agreement, attached hereto as **Exhibit C** and incorporated by reference herein. During the six (6) month period, Buyer's staff may enter the Property to inspect, mow, and otherwise maintain the Property, as needed, with reasonable prior actual, verbal, or e-mail notice to Seller. Seller shall have no maintenance obligation with respect to the land other than keeping it free of debris and not causing any Hazardous Substance contamination.

9. **Representations and Warranties.** Seller represents and warrants to Buyer that:

(a) The Property is not in violation of any agreements, covenants, conditions, or restrictions affecting the Property.

(b) Seller has received no notice from any governmental agency having jurisdiction in the matter of any violation of any statute, law, ordinance, deed restriction, or rules or regulations with respect to the existence, construction, maintenance, or operation of the Property.

(c) Seller is not a foreign person within the meaning of Section 1445 of the Internal Revenue Code of 1986 and, at Closing, Seller shall deliver a certification to this effect to Buyer.

(d) There are no known material hidden or latent defects that exist in or on the Property.

(e) There are currently no known underground storage tanks located on the Property. Seller has no knowledge of any underground storage tank located on the Property but which has been removed, unless otherwise set forth in Seller's Property Disclosure Statement.

(f) During Seller's ownership of the Property there have been no releases, disposals, or burials of any Hazardous Substance on the Property and Seller knows of no prior release, disposal, or burial of any Hazardous Substance on the Property. As used herein "Hazardous Substance" shall mean any and all substances defined or designated as hazardous, toxic, radioactive, dangerous, or regulated wastes or materials, or any other similar term in or under any applicable Environmental Laws. Hazardous Substance shall also include fuels, petroleum, and petroleum-derived products. "Environmental Laws" shall mean any and all federal, State of Oregon, and local laws, regulations, rules, permit terms, codes, and ordinances now or hereafter

in effect, as the same may be amended from time to time, and applicable decision law, which govern materials, substances, regulated wastes, emissions, pollutants, animals or plants, noise, or products and/or relate to the protection of health, natural resources, safety, or the environment.

(g) There are no actions, claims, or proceedings pending or, to Seller's knowledge, threatened by any party against Seller in connection with the Property or against the Property, nor to Seller's knowledge is there any basis for any such action or proceeding.

(h) At the Closing Date, there will be no unpaid or deferred property taxes (including but not limited to deferred farm or forest).

(i) Seller is the sole owner of the Property and has the sole legal power, right, and authority to enter into this Agreement and to consummate the transactions contemplated herein.

(j) Seller represents that there have been no tenants living in any mobile home on the Property for at least the last two (2) years.

(k) The foregoing representations and warranties are true and correct as of the date of this Agreement and shall be true and correct at Closing. These representations and warranties shall survive the Closing and be fully enforceable thereafter.

10. **Closing, Escrow, Prorates.** If the Purchase Contingencies described in **Sections 3 and 4** have been timely satisfied or waived by Buyer, the purchase and sale of the Property is expected to Close by May 1, 2015 or as soon as practical after all property required to be removed is removed and Buyer's re-inspection is completed and accepted (referenced herein as "Closing Date" or "Closing"). The transaction shall close in escrow at Chicago Title Company of Oregon ("Escrow Agent"). Prior to the Closing Date, each party will deposit with the Escrow Agent the funds, documents, and instructions necessary for Closing, including the \$25,000 incentive funds. The cost of the escrow shall be shared equally between Buyer and Seller, per standard escrow protocol. Current real property taxes on the Property will be prorated between the parties as of the Closing Date. Seller shall pay all deferred taxes, if any. Buyer shall be entitled to possession of the Property on the Closing Date, subject to Seller's right to remain on the Property, as described in **Sections 3 and 8**. Seller will provide Buyer at Closing with a Statutory Warranty Deed and will purchase an Owner's Policy of Title Insurance for Buyer, with Buyer named as the insured. If Buyer surveys the Property and wishes to purchase extended title insurance coverage, Seller shall only be required to pay the cost of a standard title insurance policy, and Buyer shall pay the additional premium for extended coverage. The Escrow Agent shall collect and pay all taxes owed on the Property at Closing. The Escrow Agent shall also pay from sale proceeds to Seller all legal fees owed by Seller to Seller's attorney and also shall pay the brokerage fee due to Seller's Broker, Will Wright, from Seller's sale proceeds. The Escrow Agent shall also hold the hold back funds described in **Section 14** until the hold back contingencies are satisfied. The Escrow Agent will obtain both Buyer's and Seller's signatures on the Occupancy Agreement as a condition to Closing. This Agreement will be delivered to the Escrow Agent upon execution and a Memorandum thereof will be recorded at the time of delivery. Further escrow instructions may be provided by either party to the Escrow Agent.

11. **Broker.** Will Wright has represented Seller in this transaction and Seller shall be responsible for payment of all commissions due to Will Wright. Buyer represents and warrants that no real estate broker has represented Buyer in this transaction.

12. **Voluntary Sale and Purchase Price.** Seller acknowledges that this is a voluntary sale and the Purchase Price is just and full compensation for this transaction and that the Purchase Price is based upon an appraisal performed by an appraiser retained by Buyer and approved by Seller and is equal to the full amount of the appraised value.

13. **Default.**

(a) Should Buyer default in the performance of this Agreement and fail to close due to such default, Seller shall be entitled to retain the Earnest Money.

(b) Should Seller default in the performance of this Agreement, Buyer shall be entitled to sue for specific performance of this Agreement or to recover the Earnest Money and all of Buyer's Due Diligence costs, plus interest thereon at the judgment rate of nine percent (9%) per annum until paid in full.

14. **Post Closing Incentive and Escrow Hold Back.** Seller wishes to remain on the Property after Closing and to therefore defer moving one mobile home and a storage building containing some of Seller's personal property for up to six (6) months from the date of Closing. To ensure timely vacation and removal of the foregoing, Escrow Agent will withhold **Ten Thousand Dollars (\$10,000)** of the Purchase Price until Seller has vacated the Property and removed the last remaining mobile home and storage shed (the "hold back" or "hold back funds"). Additionally, Buyer will deposit the sum of **Twenty-Five Thousand Dollars (\$25,000)** with the Escrow Agent to be paid to Seller, as additional incentive compensation, provided that Seller timely complies with the terms of this Agreement and the Occupancy Agreement. Thus, upon timely compliance, Buyer will authorize the Escrow Agent to release to Seller the Ten Thousand Dollar (\$10,000) hold back, plus the additional Twenty-Five Thousand Dollars (\$25,000) incentive payment being paid to assist Seller in the cost of clean-up.

15. **General and Miscellaneous Provisions.**

(a) **Prior Agreements.** This instrument is the entire, final, and complete agreement of the parties pertaining to the sale and purchase of the Property, and supersedes and replaces all written and oral agreements heretofore made or existing by and between the parties or their representatives insofar as the Property is concerned. Neither party shall be bound by any promises, representations, or agreements, except as are herein expressly set forth.

(b) **Time is of the Essence.** Time is expressly made of the essence of each provision of this Agreement.

(c) **Notices.** Any notice required or permitted under this Agreement shall be in writing and shall be given when actually delivered in person or forty-eight (48) hours after having been deposited in the United States mail as certified or registered mail, postage prepaid, addressed to the addresses set forth below with the names of the parties on the first page hereof, or to such other address as one party may indicate by written notice to the other party.

(d) **Nonwaiver.** Failure by either party at any time to require performance by the other party of any of the provisions hereof shall in no way affect the party's rights hereunder to enforce the same, nor shall any waiver by the party of the breach hereof be held to be a waiver of any succeeding breach or a waiver of this nonwaiver clause.

(e) **No Merger.** The obligations set forth in this Agreement shall not merge with the transfer or conveyance of title to the Property but shall remain in effect until fulfilled.

(f) **Amendments.** This Agreement may be amended, modified, or extended without new consideration, but only by written instrument executed by both parties.

(g) **Governing Law.** This Agreement shall be construed in accordance with and governed by the laws of the State of Oregon. Venue for any proceeding shall be in Clackamas County, Oregon.

(h) **Attorneys Fees.** In the event of a suit, action, arbitration, or other proceeding of any nature whatsoever, including, without limitation, any proceeding under the U.S. Bankruptcy Code, instituted to interpret or enforce any provision of this Agreement, or with respect to any dispute relating to this Agreement, including, without limitation, any action in which a declaration of rights is sought or an action for rescission, the prevailing party shall be entitled to recover from the losing party its reasonable attorneys, paralegals, accountants, and other experts fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith, as determined by the judge or arbitrator at trial or arbitration, as the case may be, or on any appeal or review, in addition to all other amounts provided by law. This provision shall cover costs and attorneys fees related to or with respect to proceedings in Federal Bankruptcy Courts, including those related to issues unique to bankruptcy law.

(i) **Severability.** If any portion of this Agreement shall be invalid or unenforceable to any extent, the validity of the remaining provisions shall not be affected thereby.

(j) **Counting of Days.** Whenever a time period is set forth in days in this Agreement, the first day from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or legal holiday.

(k) **Number, Gender and Captions.** In construing this Agreement, it is understood that, if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that, generally, all grammatical changes shall be

made, assumed, and implied to individuals and/or corporations and partnerships. All captions and paragraph headings used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of this Agreement.

(l) **Recording.** Upon request of either party, the parties shall execute, in a form sufficient for recording, a memorandum of this Agreement, which may be recorded at the expense of the party requesting the same.

(m) **Binding Effect.** The covenants, conditions, and terms of this Agreement shall extend to and be binding upon and inure to the benefit of the heirs, personal representatives, successors, and assigns of the parties hereto.

(n) **Execution in Counterparts.** This Agreement may be executed in any number of counterparts and by different parties hereto on separate counterparts, each of which counterparts, when so executed and delivered, shall be deemed to be an original and all of which counterparts, taken together, shall constitute but one and the same Agreement.

16. **Zoning and Land Use.** THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, IN ALL ZONES. 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, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. 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 LOT OR PARCEL, TO VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

17. **Authority.** This Purchase and Sale Agreement is subject to final authorization and approval by the City Council of the City of Wilsonville. **THE UNDERSIGNED FURTHER REPRESENT AND WARRANT THAT THEY ACKNOWLEDGE AND AGREE TO EACH OF THE FOREGOING TERMS; HAVE CAREFULLY READ THE FOREGOING AGREEMENT AFTER**

OPPORTUNITY FOR REVIEW OF THE SAME WITH COUNSEL; KNOW OF ITS CONTENTS; AND SIGN THE SAME AS THEIR OWN FREE ACT.

SELLER:

Michael L. Duckworth

BUYER:

CITY OF WILSONVILLE, a municipal corporation of the State of Oregon

By: _____
Bryan Cosgrove
As Its: City Manager

APPROVED AS TO FORM

Barbara A. Jacobson, Assistant City Attorney
City of Wilsonville, Oregon

Charles M. Greeff, Attorney at Law
Law Office of Charles M. Greeff, P.C.
Counsel for Michael L. Duckworth

ATTESTED TO:

Sandra C. King, MMC, City Recorder
City of Wilsonville, Oregon



**CITY COUNCIL MEETING
STAFF REPORT**

Meeting Date: March 2, 2015		Subject: Resolution No. 2517 Metro Local Share Project List Amendment Staff Member: Chris Neamtzu, Planning Director Department: Community Development	
Action Required		Advisory Board/Commission Recommendation	
<input checked="" type="checkbox"/> Motion <input type="checkbox"/> Public Hearing Date: <input type="checkbox"/> Ordinance 1 st Reading Date: <input type="checkbox"/> Ordinance 2 nd Reading Date: <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Information or Direction <input type="checkbox"/> Information Only <input type="checkbox"/> Council Direction <input type="checkbox"/> Consent Agenda		<input type="checkbox"/> Approval <input type="checkbox"/> Denial <input type="checkbox"/> None Forwarded <input checked="" type="checkbox"/> Not Applicable Comments:	
Staff Recommendation: Staff recommends Council adopt Resolution No. 2517.			
Recommended Language for Motion: I move to approve Resolution No.2517.			
PROJECT / ISSUE RELATES TO:			
<input checked="" type="checkbox"/> Council Goals/Priorities <ul style="list-style-type: none"> · Environmental stewardship · Community amenities and Recreation 		<input checked="" type="checkbox"/> Adopted Master Plan(s) Parks and Recreation Master Plan (2007)	<input type="checkbox"/> Not Applicable

ISSUE BEFORE COUNCIL:

Should the City Council modify the city’s Metro Local Share project list to allow for the purchase of Willamette Riverfront property in the Old Town neighborhood?

EXECUTIVE SUMMARY:

Metro received voter approval for a regional Natural Areas Bond Measure in November, 2006 to continue to purchase significant natural areas and fund related capital improvement projects though a “Local Share” component of the Bond. The total General Obligation bond amount was \$227 million dollars with \$44 million passed down to regional local park providers as part of the “Local Share” to implement park projects at the local level.

The City of Wilsonville is a local park provider, and as such, received \$806,521 in Local Share funds from the Bond Measure passed by the regional voters. Metro required each park provider to establish a Local Share project list, which the City Council adopted through Resolution No. 1981 (Attachment A) in 2006. The City has completed numerous park projects from the Project List, including funding improvements at Graham Oaks Nature Park, Engelman Park, and the West Linn/Wilsonville School District CREST gateway to Graham Oaks Nature Park leaving only one project to be completed, Memorial Park trails and river overlook. Memorial Park is currently undergoing comprehensive master planning which will result in the identification of many important park improvement projects. The City Council can choose to modify the Local Share project list and identify a new project. In order to do so, a public process needs to be conducted. Adoption of this resolution would satisfy the requirements for project list modification.

Currently, the City has \$280,000 available in the Metro Local Share account that is appropriate for this type of natural area purchase. In order to utilize the available funds for this land acquisition, the adopted Local Share project list needs to be modified. Adoption of the accompanying Resolution would modify the project list allowing the funds to be used to purchase property.

EXPECTED RESULTS:

Modification of the Local Share project list allows for the remainder of the City's funds to be expended closing out the Local Share account under the 2006 Bond Measure.

TIMELINE:

Modification of the Local Share project list would be effective upon adoption of the Resolution, allowing the funds to be utilized immediately.

CURRENT YEAR BUDGET IMPACTS:

Expenditure of the remaining funds would close out the Local Share account with Metro. Ten percent of Local Share funds can be used to pay for staff time administering the project.

FINANCIAL REVIEW / COMMENTS:

Reviewed by: SCole Date: 2/18/15

LEGAL REVIEW / COMMENT:

Reviewed by: MEK Date: 2/18/15
Approved Resolution as to form.

COMMUNITY INVOLVEMENT PROCESS:

Memorial Park is currently undergoing a community wide master planning effort. The previously identified project will continue to be included in the context of the larger set of projects that will be included in the Memorial Park Master Plan. Willamette riverfront property acquisition is currently included in the citywide Parks and Recreation Master Plan (2007) which underwent significant community wide citizen participation. The change in the project list shifts timing and priority of two community identified park improvements.

POTENTIAL IMPACTS or BENEFIT TO THE COMMUNITY (businesses, neighborhoods, protected and other groups):

Both the existing and proposed Local Share projects would provide benefits to the community. A Local Share project list modification would simply shift the short term priorities, while leveraging other city funds for the acquisition.

ALTERNATIVES:

Do nothing and leave the Local Share project list as originally created in 2006.

CITY MANAGER COMMENT:

ATTACHMENTS

- A. Resolution No. 1981
- B. Resolution No. 2517

RESOLUTION NO. 1981

A RESOLUTION OF THE CITY OF WILSONVILLE CREATING A "LOCAL SHARE" PROJECT LIST TO BE FUNDED WITH A PORTION OF METRO'S NOVEMBER 2006 NATURAL AREAS BOND MEASURE

WHEREAS, Metro is pursuing a regional Natural Areas Bond Measure in November of 2006 to continue to purchase significant natural areas, and fund related capital improvement projects, similar to the Greenspaces Bond passed in 1995; and

WHEREAS, the total general obligation bond amount is anticipated to be \$220 million dollars, with \$44 million being passed down to local park providers as part of the Local Legacy Program (aka "Local Share") to implement projects at the local level; and

WHEREAS, the City of Wilsonville, as a local park provider will receive approximately \$806,000 if the Bond Measure is passed by the regional voters; and

WHEREAS, Metro has requested each of the local park providers to support the Local Share per capita allocation methodology, which the City Council adopted in Resolution No. 1968; and

WHEREAS, Metro has requested that each of the local park providers establish a Local Share project list that is officially recognized by elected officials prior to March 1, 2006; and

WHEREAS, the City of Wilsonville has recently adopted two significant Master Plans, the Graham Oaks Natural Area Master Plan and the Memorial Park Trails Plan that contain priorities and cost estimates of projects that would be eligible for Local Share funding; and

WHEREAS, these Plans have been through substantial public process and represent community and City Council priorities; and

WHEREAS, the City's Advisory Committee on Master Planning and the Parks and Recreation Advisory Board have reviewed and endorsed the proposed Local Share project list; and

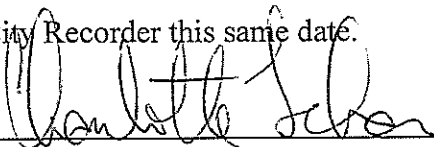
WHEREAS, the City of Wilsonville is supportive of Metro's effort and is desirous to assist Metro in establishing a successful regional Greenspaces program.

NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

1. The City of Wilsonville establishes the following Local Share project list:
 - **Implement projects in the Graham Oaks Natural Area (GONA) Master Plan:**

- * Develop the CREST Environmental Center “gateway” to GONA with restrooms and associated amenities
 - * Trail head improvements and pathway construction
 - * Interpretive graphics, picnic and wildlife viewing areas
 - * Oregon white oak savanna and woodland restoration
 - **Implement projects in the Memorial Park Trails Plan:**
 - * Construct multi-use paths in Memorial Park
 - * Construct Willamette River overlook platforms (3) and associated amenities such as seating and signage
 - **Implement the Boeckman Creek Trail**
 - * Determine alignment
 - * Acquire public access easements for the trail
2. This resolution becomes effective upon the date of adoption.

ADOPTED by the Wilsonville City Council at a special meeting thereof this 28th day of February, 2006, and filed with the Wilsonville City Recorder this same date.



CHARLOTTE LEHAN, MAYOR

ATTEST:



Sandra C. King, MMC, City Recorder

SUMMARY of Votes:

Mayor Lehan	Yes
Councilor Kirk	Yes
Councilor Holt	Yes
Councilor Knapp	Yes
Councilor Ripple	Yes

RESOLUTION NO. 2517

A RESOLUTION OF THE CITY OF WILSONVILLE REVISING THE METRO “LOCAL SHARE” PROJECT LIST SUBSTITUTING THE MEMORIAL PARK TRAILS PROJECT WITH WILLAMETTE RIVERFRONT PROPERTY ACQUISITION

WHEREAS, Metro received voter approval for a regional Natural Areas Bond Measure in November, 2006 to continue to purchase significant natural areas and fund related capital improvement projects through a “Local Share” component; and

WHEREAS, the total General Obligation bond amount was \$227 million with \$44 million passed down to local park providers as part of the “Local Share” to implement park projects at the local level; and

WHEREAS, the City of Wilsonville is a local park provider, and as such, received \$806,521 in Local Share funds from the Bond Measure passed by the regional voters; and

WHEREAS, Metro required each park provider to establish a Local Share project list, which the City Council adopted in Resolution No. 1981; and

WHEREAS, the City has completed numerous park projects from the Project List, including funding improvements at Graham Oaks Nature Park, Engelman Park, and the West Linn/Wilsonville School District CREST gateway to Graham Oaks Nature Park leaving only one project to be completed, Memorial Park trails and river overlook; and

WHEREAS, Memorial Park is currently undergoing comprehensive master planning which will result in the identification of many important park improvement projects; and

WHEREAS, the City’s adopted Parks and Recreation Master Plan identifies riverfront property acquisition as an important priority and encourages seizing of such opportunities as they arise; and

WHEREAS, there is \$280,000 remaining in the Local Share account for local park projects; and

WHEREAS, the City Council finds that there is an immediate opportunity to leverage other city funds (Parks SDCs, General Fund and urban renewal program income) to purchase Willamette riverfront property providing excellent opportunities for

river viewing and access, natural area restoration, trail development and passive recreation; and

WHEREAS, Metro staff have reviewed the city's request for a change in Local Share projects and has approved the request.

NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

1. The City of Wilsonville hereby revises the official Local Share project list replacing the Memorial Park trail improvements and river overlook project with Willamette riverfront property acquisition.
2. This Resolution becomes effective upon the date of adoption.

ADOPTED by the Wilsonville City Council at a special meeting thereof this 19th day of February, 2015, and filed with the City Recorder this same date.

Tim Knapp, Mayor

ATTEST:

Sandra C. King, MMC, City Recorder

SUMMARY OF VOTES:

Mayor Knapp

Council President Starr

Councilor Stevens

Councilor Fitzgerald

Councilor Lehan