



OREGON STATE MARINE BOARD AGENDA

March 29, 2016
The Portland Building - Work Room C
1120 SW Fifth Avenue
Portland, Oregon

(Agenda Updated - March 23, 2016)

Marine Board

Meetings will begin promptly and under normal circumstance will proceed through the agenda as outlined. Meetings are being held in a facility that is accessible for persons with disabilities. For a communication aid request or agenda questions, please contact June LeTarte, Executive Assistant, Director's Office, Oregon State Marine Board at (503) 378-2617 or via e-mail to: june.letarte@state.or.us.

Board Meeting:

March 29, 2016 9:30 am – 4:00 pm

Request for Public Comment:

Early

Staff Reports:

Item A Legislative Concept – Non Motorized

Brewen

Legislation creates a non-motorized boating program to support waterway access, boating safety, boating education and obstruction removal specifically for non-motorized boating. Program includes a fee charged alongside the AIS fee for non-motorized boaters.

Action: Approval

Item B Legislative Concept – Aquatic Invasive Species

Graham

Legislation adds enforcement provisions and expands permit requirements.

Action: Approval

Item C Duckworth Dock Grant 893

Belleque

Amendment to Grant Agreement

Action: Approval

Item D Duckworth Dock

Belleque

Dock relocation approximately 2.75 miles upstream to Swan Island

Action: Approval

Item E Consideration of Grant 1559

Belleque

City of Milwaukie funding request to assist with emergency repairs

Action: Approval

Marine Board Items:

Request for Other Business

Early

Adjourn

March 29, 2016

Item A: Non-motorized Legislation

History

01. The Final Report for the Non-Motorized Project provides the history of the project through June 2015.
02. During the June 24, 2015, Board meeting in Salem, MariAnn McKenzie, project manager for the Non-Motorized Project, briefed the Board on the status of the project and recommended moving forward with drafting legislation for the Non-Motorized Program. The Board unanimously approved moving forward with drafting legislation.
03. Beginning October 01, 2015, five meetings were held with an external advisory committee tasked with developing legislation based on the recommendations that were presented in the Final Report as approved by the Board.
04. The draft statutory language has been reviewed by General Counsel for the Marine Board and was approved by the committee.

Next Steps

01. Attached are the 2017 Legislative Concept Request Form and draft statutory language that if approved by the Board will be forwarded to the Department of Administrative Services and the Governor's Office for review and approval to move forward to legislative counsel to draft a Legislative Concept (LC).
02. If an LC is approved for drafting, then the agency will work with Legislative Counsel to ensure that the Concept meets the intent of the LC Request Form and the draft language as presented to the Board.

Recommendation

Staff recommends Board approval of the Legislative Concept Request Form and draft statutory language to move forward to the Governor's Office and Department of Administrative Services for review.

2017 Agency Legislative Concept Request

Agency #/Concept #:

Placeholder? Yes No

Date:

(TEXT BOXES EXPAND AS NEEDED)

Agency: Oregon State Marine Board

Division/Program: Policy and Environmental

Concept Subject or Title: Non-motorized Boating Program

Concept Contact Person: Scott Brewen

E-Mail: scott.c.brewen@state.or.us

Phone: 503-378-2619

Agency Legislative Coordinator: Ashley Massey

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Phone: 503-378-2623

1. Problem (Completely describe the problem you propose to solve.)

ORS 830.005 defines a boat as every description of watercraft capable of being used as a means of transportation on the water. This includes non-motorized boats such as canoes, kayaks, sailboats, etc. ORS 830.100, the boating safety policy states, "It is the policy of this state to promote safety for persons and property in and connected with the use, operation and equipment of boats and to promote uniformity of laws relating thereto.

The number of non-motorized boats using Oregon's waterways has grown exponentially over the last decade or more and is estimated to have surpassed motorized boating in the number of person days on the water. This growth impacts boating access facilities, boating safety enforcement and user conflict on the waterways. Fatalities from non-motorized boaters equal or exceed motorized fatalities each year, indicating a need for more stringent education and enforcement of safety laws.

The Marine Board is an Other Funds and Federal Funds agency and receives all revenue used for boating facilities, boating safety and education from titling and registration, marine fuel tax, and federal funds received from the Sport Fish Restoration and Boating Trust Fund. Each year a larger amount of funding is being used to serve the interests or provide for the safety of non-motorized boaters. Additionally, funding is not available to fully support non-motorized boaters in the form of specialized education, safer and more appropriate launching facilities, and enforcement dedicated to safety on the waterway in primarily non-motorized areas.

As an agency that obtains revenue from the customers it serves, the current fee structures does not provide revenue from non-motorized boaters to support current expenditures and future programs to provide for their safety and enjoyment on Oregon's waterways. Non-motorized boaters do pay into the Aquatic Invasive Species (AIS) Prevention Program, but those funds are dedicated exclusively to the prevention and management of AIS.

Additionally, numerous other craft utilize Oregon's waterways that are not defined as boats, are ill suited to be used on moving water, and tragically account for a number of deaths each year. These include air mattresses, pool toys and single inner tubes. Since these craft are not defined as boats, they do not require the carriage or wearing of safety gear and they have little to no means of maneuverability, making them extremely dangerous to use on moving water.

2. Proposed Solution (Completely describe what the concept does to fix the problem. Do not include proposed statute changes here.)

The proposed statute establishes a dedicated fund at the Marine Board for the purpose of providing services specifically focused on non-motorized boaters. The revenue deposited into the fund is obtained from a fee assessed alongside the AIS fee to obtain a permit that must be carried by each non-motorized boat, with some exceptions.

The revenues from the fund are used to support boating safety enforcement, boating education, and boating access grants specifically focused on non-motorized boating. Dedicated funding would provide revenue to assist the agency with identifying ways to reduce fatalities, provide enforcement in areas heavily used by non-motorized boaters, and provide grant funds to assist with purchasing property to provide access at remote locations, and assist with building access facilities that are tailored toward non-motorized boaters.

This statute also defines a "non-motorized" craft, separate from non-motorized boats and establishes a requirement that people using these craft wear a lifejacket. This does not apply to swim areas or the ocean surf zone. Since these floatation devices were not designed to be used outside of a pool or swim area and are much more susceptible

to puncturing or capsizing, that all those using the craft be wearing a lifejacket. This is a higher standard than for boats, which are required to carry a lifejacket in less than class III rapids. Since these craft are generally not maneuverable, are highly susceptible to the elements, and are often being floated upon by novice waterway users, the wearing of the lifejacket provides an element of safety in the event the craft is punctured. Failure to wear a lifejacket is a Class D violation, but assessed as a presumptive fine of \$30. The intent is to keep the fine at a point to encourage compliance, but not be overly burdensome.

Additionally, the draft language provides a suspension of fines for violations within the non-motorized program, provided the individual completes a boating safety course. This language is intended to reduce the punitive impact of fines and instead focus on compliance through education.

Changes are also made to the Aquatic Invasive Species program. These changes allow the AIS permit and non-motorized permit to be combined into one, and address inconsistencies that would be created between the two permits. The most significant change is the removal of the requirement that AIS permits only be required on boats 10 feet and greater.

3. Proposed Changes to Statute (Please attach your best attempt at proposing changes to statute to accomplish your goal; however, Legislative Counsel may draft alternate language.)

Attached

4. Has this been introduced in a prior session? No Yes Years(s) Bill#(s)

Does this amend current law or programs? No Yes (Specify) Aquatic Invasive Species

Is this related to a legal decision? No Yes (Case cite, AGO No. date, etc. – attach copies)

5. Equity Analysis (Describe any known racial or ethnic inequities associated with the problem and how the proposed statutory changes are culturally and linguistically appropriate and specifically address the inequities.)

Barriers to entry for non-motorized boating are low. Non-motorized boats are cheap to purchase and are widely available. It is a very affordable means of recreation. Consequently, many non-traditional boaters are getting involved in kayaking, canoeing and stand up paddle boarding. These non-traditional boaters include a more economically diverse, ethnically diverse, and age diverse population than are traditionally served by the Marine Board. An annual report by the Outdoor Industry Association and the Outdoor Foundation titled "Special Report on Paddleports" demonstrates the significant growth of this sector nationally. For example, between 2009 and 2015, the number of individuals engaging in paddlesports increased 22%, from 17.8 million to 21.7 million. As a share of this increasing market, Hispanic kayakers increased from 5% to 8% and African American kayakers increased from 2% to 3%. Similarly, canoeing increased from 3% to 6% for Hispanics, and 2% to 5% for African Americans.

This bill will provide necessary education, access, and safety services to these boaters and will provide funding for more outreach to these users, who are often very new to boating, and lack the skills and education of the historical base of non-motorized boaters. The trade-off, however, will be the costs associated with the permit, which may be a greater barrier to entry for those more economically disadvantaged.

6. Stakeholders and/or Other Affected Agencies who are Aware of Your Concept

Agency:	Contact Person:	Phone:
	Tom Murphy - Newport	541-602-5293
	Julie Chick - Tillamook	503-739-2240
Northwest Rafter Assoc.	Ray Hanson - Myrtle Creek	702-738-5806
Wasabi Paddling Club	Jean Quinsey - Portland	480-231-6913
Wallowa Lake Marina Inc.	Gina Barstad - Joseph	541-432-9115
Orange Torpedo Trips	Erik Weiseth - Merlin	541-479-5061
eNRG Kayaking	Sam Drevo - Oregon City	503-772-1122
	Laura Jackson - Portland	503-754-1480

7. Known Support or Opposition (Please elaborate.)

The 2011-2016 OSMB strategic plan established a non-motorized project to investigate the practicality of a non-motorized program. Through the work of a non-motorized committee, comprised of non-motorized boaters, livery operators, law enforcement officers, federal and local boating facility managers and OSMB staff, a program was created. The program was presented at 13 public meeting around the state to obtain feedback and suggestions. For those that could not attend a meeting, OSMB staff provided an online survey for boaters to provide comments regarding the program. The program was brought back to the Board for approval to move toward legislation. A new committee was established to write the legislation to establish the program, however for consistency; some members were present on both committees.

Most attendees at the public meeting were supportive of a non-motorized program provided the funds obtained were dedicated to supporting non-motorized boating. There were numerous suggestions for improvements for non-motorized access, needs for additional enforcement services, and desires for voluntary boater education. Many present recognized that the significant growth in non-motorized boating was from inexperienced boaters.

There were some attendees who were not supportive of any fees or had concerns with parts of the program. Some whitewater boaters who operate in remote areas on extreme whitewater were not in favor of any fee. They did not see a benefit since they usually operate in areas that do not have access facilities and limited or no law enforcement presence. Additionally, these boaters are very experienced and have self-rescue capabilities.

There are many differences among non-motorized boaters. Some value more enforcement, some more education, and others boating access. There were a variety of ideas about how best to allocate revenues. Many participants suggested that IF the OSMB is to develop a Non-Motorized Boating Program, it needs to develop a clear mechanism for developing, tracking, monitoring and reporting on the program so that the public can clearly see and understand the link from 'user-pay' to 'user-benefit'

8. Increases fees or assessments? No Yes

Concept has other fiscal, revenue or position (FTE) impacts? No Yes Provide Fiscal Form

9. For PLACEHOLDERS – ALL additional substantive information is due to DAS no later than June 24. This concept is a PLACEHOLDER. No Yes (approximate delivery date)

10. Additional Information or Attachments (Briefly describe attachments - draft language, opinions, etc.)

11. Approved for Drafting:

Governor's Office

Date

Department of Administrative Services

Date

2016 Legislative Session
Agency Fiscal Impact Statement (FIS) Form

AGENCY NAME Oregon State Marine Board

Measure Number-Version NM LC Draft

No fiscal impact
 Minimal Impact
 Fiscal Impact

Preparer Name/Title: Christian Grorud / Business Services Manager
 Preparer Phone #: 503-378-2630
 Date Submitted: 3.25.16

Effect on Expenditure (by Fund and Category):

	<u>General Fund</u>	<u>Other Funds</u>	<u>Federal Funds</u>	<u>NL Other Funds</u>	<u>TOTAL FUNDS</u>
2017-19 Biennium					
Personal Services	\$ -	\$ 269,094	\$ -	\$ -	\$ 269,094
Services and Supplies	\$ -	\$ 205,479	\$ -	\$ -	\$ 205,479
Special Payments	\$ -	\$ 1,162,022	\$ -	\$ -	\$ 1,162,022
Capital Outlay	\$ -	\$ 37,500	\$ -	\$ -	\$ 37,500
Capital Construction	\$ -	\$ -	\$ -	\$ -	\$ -
Debt Service	\$ -	\$ -	\$ -	\$ -	\$ -
Total	\$ -	\$ 1,674,095	\$ -	\$ -	\$ 1,674,095

	<u>General Fund</u>	<u>Other Funds</u>	<u>Federal Funds</u>	<u>NL Other Funds</u>	<u>TOTAL FUNDS</u>
2019-21 Biennium					
Personal Services	\$ -	\$ 400,979	\$ -	\$ -	\$ 400,979
Services and Supplies	\$ -	\$ 230,529	\$ -	\$ -	\$ 230,529
Special Payments	\$ -	\$ 1,619,084	\$ -	\$ -	\$ 1,619,084
Capital Outlay	\$ -	\$ 52,250	\$ -	\$ -	\$ 52,250
Capital Construction	\$ -	\$ -	\$ -	\$ -	\$ -
Debt Service	\$ -	\$ -	\$ -	\$ -	\$ -
Total	\$ -	\$ 2,302,842	\$ -	\$ -	\$ 2,302,842

Effect on Revenues (by Fund):

	<u>General Fund</u>	<u>Other Funds</u>	<u>Federal Funds</u>	<u>NL Other Funds</u>	<u>TOTAL FUNDS</u>
2017-19 Biennium	\$ -	\$ 2,008,977	\$ -	\$ -	\$ 2,008,977
2019-21 Biennium	\$ -	\$ 2,692,029	\$ -	\$ -	\$ 2,692,029

Effect on Position(s) / FTE(s):

Months of Impact		2017-19	2017-19	2019-21
2017-19	2019-21	Position Count	FTE	FTE
18	24	<u>3</u>	<u>2.50</u>	<u>2.50</u>

Please complete detail Personal Services information using "PS Calculation" tab.

The budgetary impact of this bill was reviewed and approved by the Interim Joint Committee on Ways and Means to be recommended to be included in the omnibus budget bill. na No

Is the bill anticipated by the Governor's Recommended Budget as a Policy Option Package? If yes, please identify the Policy Option Package name and number in your written analysis. Unknown No

Does the proposal have a fiscal or revenue mandate effect on cities, counties, or special districts that triggers evaluation under section 15, Article XI of the Oregon Constitution? x No

Bill Description and Written Analysis:

1.1 Definitions

“Non-motorized boat” means a boat that is not propelled by machinery.

“Non-motorized craft” means an object, not propelled by machinery or defined as a boat, capable of supporting a person on the water. This includes but shall not be limited to single inner tubes, air mattresses, pool toys, body boards and surfboards.

2.1 Non-motorized Education, Safety and Access Program Fund. The Non-motorized Education, Safety and Access Program Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Non-motorized Education, Safety and Access Program Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the State Marine Board for the purpose of administering the Non-motorized Education, Safety and Access Program under this section. Monies in the fund shall primarily be directed toward boating education programs, boating safety efforts, and boating access for non-motorized boating.

3.1 Non-motorized Boating Education Program. The State Marine Board shall establish and implement a Non-motorized Boating Education Program. In establishing the Non-motorized Boating Education Program, the State Marine Board:

- (1) Shall set a minimum standard of boating safety education competency for beginning level boaters. Standards, as adopted by the Board in rule, shall include classroom and on-water competencies.
- (2) Shall create a boating education course of instruction and examination designed to educate and test for the minimum standards of safety and competency established pursuant to subsection (1) of this section.
- (3) May grant funds to non-profit organizations to provide training provided they meet the standard established pursuant to subsection (1) of this section.
- (4) May allow use of commercially provided boating safety courses provided they meet the standard established pursuant to subsection (1) of this section.
- (5) May accept proof of prior completion of any approved boating safety course, provided it meets the standard established pursuant to subsection (1) of this section.
- (6) May provide funding to programs that encourage boater education through incentives or penalty diversion or mitigation.
- (7) Shall establish in rule requirements for liveries to provide educational information to customers.

4.1 Non-motorized Boating Safety Enforcement Program. The Marine Board shall establish and implement a Non-motorized Boating Safety Enforcement Program. In establishing the Non-motorized Boating Safety Enforcement Program, the State Marine Board:

(1) May contract with a city, with the Department of State Police or with the sheriff of the county for patrols in areas with significant non-motorized presence to enforce the laws of this ORS chapter and reduce user conflict through presence and education.

(2) May contract with a city, with the Department of State Police or with the sheriff of the county for the purchase of appropriate watercraft to assist in the duties identified in subsection (1) of this section.

(3) May contract with any person or public body, including but not limited to any city, the Department of State Police or the sheriff of the county to remove any obstruction as described in ORS 830.160 for non-motorized boating. The Board may pay the cost of such removal from amounts reserved in the account created by ORS 830.XXX.

5.1 Non-motorized Boating Access Program. The Marine Board shall establish and implement a Non-motorized Boating Access Program. In establishing the Non-motorized Boating Access Program, the State Marine Board:

(1) May provide grants to assist public agencies with the purchase of land, leases or easements in order to access waterways.

(2) May provide grants to assist public agencies with the construction, renovation, expansion or development of non-motorized boating facilities.

(3) May provide grants to assist with the construction, renovation, expansion or development of non-motorized boating play parks such as whitewater parks and competition courses.

(4) May provide grants to public agencies to modify or upgrade existing motorized boating facilities to accommodate or incorporate non-motorized boating.

(5) May provide technical services to support (1) – (4) above.

(6) May provide Maintenance Assistance Program (MAP) funding as defined by the Board in rule.

6.1 Non-motorized Boating Permit required to operate a boat. A person 14 years of age and older shall carry a non-motorized boating permit on the boat while operating a boat, as required, and shall present proof of a permit upon request by a peace officer. This requirement does not apply to boats that display a validation sticker as required under ORS 830.795.

6.1.1 Exemptions. A non-motorized permit is not required if:

(1) The boat is marked pursuant to 7.1(4)(d);

(2) Boating on a federally designated Wild and Scenic River where a fee system is in place;

(3) Engaged in law enforcement, public safety, or official business of a federal, state or municipal agency as defined in rule;

(4) The boat is launched from a border state onto border waters. The Marine Board may, by rule, authorize additional exemptions for border state residents.

(5) The operator holds a non-motorized boating permit, registration, or similar authorization issued by another state and accepted by the Board by rule.

6.1.2 Board to issue permit; fees. (1) The State Marine Board shall issue a non-motorized boating permit to a person who pays the fee for the permit described in 7.1.

(2) The Board may appoint agents to issue the non-motorized boating permits.

(3) Agents shall issue non-motorized boating permits in accordance with procedures prescribed by the board by rule and shall charge and collect non-motorized boating permit fees prescribed by law.

(4) The Board may authorize an agent other than a Board employee to charge a service fee of \$2, in addition to the non-motorized boating permit fee, for the issuance service performed by the agent.

(5) The Board shall supply the agents with non-motorized boating permits, if applicable.

(6) The Board may combine a non-motorized boating permit with other permits, certificates, licenses or registrations issued by the Board to the same person as defined by Rule.

7.1 Fees for permit. Notwithstanding ORS 830.790 (3), fees for issuance of a non-motorized boating permit are as follows:

(1) \$4 for a one week permit

(2) \$12 for an annual permit

(3) \$20 for a biennial permit

(4) The annual fee for an operator of a non-motorized boat livery is:

(a) \$60 for an operator who owns 6 to 10 non-motorized boats;

(b) \$110 for an operator who owns 11 to 20 non-motorized boats; or

(c) \$200 for an operator who owns 21 or more non-motorized boats.

(d) Non-motorized boats operated by liveries shall display proof as established by the State Marine Board in Rule.

8.1 Non-motorized Craft. Persons using non-motorized craft on rivers and streams as established by the Board in rule outside of designated bathing and swimming areas and not in the ocean surf zone shall:

(1) Wear a properly fitting lifejacket as established by the State Marine Board by rule.

9.1 Rules; contracting services. (1) The State Marine Board shall adopt rules for the implementation and administration of ORS 830.XXX to 830.XXX, including but not limited to the exemption of certain boats from the requirements of ORS 830.XXX.

(2) The State Marine Board may enter into contracts necessary to carry out the provisions of this chapter with any private person, entity or other unit of government.

10.1 Grant Funding. (1) The State Marine Board has the authority to give grants and receive federal, state and private grant funding to support non-motorized boating.

11.1 Advertising. The Board may sell advertising in State Marine Board publications, including promotional brochures, educational information, signs or other media. Proceeds shall be used to offset costs for production, printing and publication. Any excess proceeds shall be deposited in the Non-motorized Education, Safety and Access Fund.

12.1 Penalties

(1) Penalties. (1)(a) Violation of ORS 830.XXX by a person operating a non-motorized boat is a Class D violation. Notwithstanding ORS 153.019, the presumptive fine for a violation of ORS 830.XXX by a person using a non-motorized craft and not wearing a life jacket is \$30.

13.1 Conditional suspension of fine for violation of non-motorized boating permit requirements. In any proceeding for a violation of ORS 830.XXX, 830.XXX, 830.XXX or 830.XXX, the court may conditionally suspend all or part of the fine to be imposed on the defendant if the defendant appears personally and agrees to complete, at the defendant's own expense, a boating safety course approved by the State Marine Board under ORS 830.XXX within the time limits imposed by the court.

14.1 The OSMB may take any action before the operative date specified in Section (X) of this act that is necessary to enable the Board to exercise, on and after the operative date specified in Section (X) of this act, all the duties, powers and functions conferred on the Board by Sections (X)-(X) of this 2015 Act.

830.172 County boat use permit program review. (1) In addition to those powers and duties set forth in ORS 830.110, the State Marine Board shall review county boat use permit programs, adopted by county ordinance, for approval or denial.

(2) The board shall review county boat use permit programs under the following standards:

(a) Funds shall be dedicated to county boating programs for boating safety, marine law enforcement or boating facilities;

(b) The program applies only to counties bordering a state that allows imposition of a boat use permit fee;

(c) The program meets standards adopted by rule by the board pertaining to:

(A) Use of funds;

(B) Amount of fee;

(C) Administration; and

(D) Enforcement; and

(d) Boats with a current, valid certificate of number issued by the board under ORS 830.795 and ~~manually propelled vessels~~ **non-motorized boats** are exempt from county boat use permits.

830.565 Permit required. (1) A person may not operate a ~~[manually propelled that is 10 feet or more in length or a]~~ motorboat on the waters of this state without first obtaining an aquatic invasive species prevention permit from the State Marine Board under ORS 830.570.

(2) A person 14 years old and older may not operate a non-motorized boat on the waters of this state without first obtaining an aquatic invasive species prevention permit from the State Marine Board under ORS 830.570.

~~[(2)]~~ (3) A person who obtains an aquatic invasive species prevention permit for a ~~[manually propelled]~~ **non-motorized** boat may use the permit on any ~~[manually propelled]~~ **non-motorized** boat the person operates on the waters of this state. [2009 c.764 §7]

830.570 Board to issue permit; fees. (1) The State Marine Board shall issue and renew an aquatic invasive species prevention permit to a person who pays the fee for the permit described in ORS 830.575.

(2) The board may appoint agents to issue aquatic invasive species prevention permits.

(3) Agents shall issue permits in accordance with procedures prescribed by the board by rule and shall charge and collect the aquatic invasive species prevention permit fees prescribed by law.

(4) The board may authorize an agent other than a board employee to charge a service fee of \$2, in addition to the permit fee, for the issuance service performed by the agent.

(5) The board shall supply the agents with motorboat and ~~[manually propelled]~~ **non-motorized** boat aquatic invasive species prevention permits. [2009 c.764 §8]

(6) The board may combine an aquatic invasive species prevention permit with other permits, certificates, licenses or registrations issued by the board to the same person.

(7) Non-motorized boats operated by liveries shall display proof of permit compliance as established by the State Marine Board in rule.

830.575 Fees for permit. Notwithstanding ORS 830.790 (3), fees for issuance and renewal of an aquatic invasive species prevention permit are as follows:

(1) The biennial fee for a motorboat issued a certificate of number under ORS 830.795 is \$5.

(2) The ~~[annual]~~ fees for ~~[a manually-propelled]~~ **non-motorized** boats ~~[10 feet or more in length is \$5]~~ are:

(a) **\$1 for a one week permit**

(b) **\$5 annually; or**

(c) **\$10 biennially**

(3) The annual fee for a motorboat **registered in a state other than Oregon** ~~[operated by a nonresident]~~ is \$20.

(4) The annual fee for an operator of a boat livery is:

(a) \$30 for an operator who owns 6 to 10 ~~[manually-propelled]~~ **non-motorized** boats;

(b) \$55 for an operator who owns 11 to 20 ~~[manually-propelled]~~ **non-motorized** boats; or

(c) \$100 for an operator who owns 21 or more ~~[manually-propelled]~~ **non-motorized** boats.

[2009 c.764 §9]

830.580 Rules; contracting services. (1) The State Marine Board shall adopt rules for the implementation and administration of ORS 830.565 to 830.575, including but not limited to the exemption of certain boats from the requirements of ORS 830.565.

(2) Nothing in ORS 830.565 to 830.575 prevents the board from contracting any service provided under ORS 830.565 to 830.575 to any private person or entity or other unit of government. [2009 c.764 §10]

830.585 Aquatic Invasive Species Prevention Fund. The Aquatic Invasive Species Prevention Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Aquatic Invasive Species Prevention Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the State Marine Board for the purpose of administering the aquatic invasive species prevention permit program under ORS 830.565 to 830.575 and preventing and controlling aquatic invasive species. [2009 c.764 §11]

Note: 830.585 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 830 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

(Prevention Efforts)

830.587 Definitions for ORS 830.589, 830.594 and 830.999. As used in ORS 830.589, 830.594 and 830.999:

(1) "Aquatic invasive species" means any aquatic species of wildlife or any freshwater or marine invertebrate, as specified by the State Fish and Wildlife Commission by rule, or any aquatic noxious weeds as specified by the State Department of Agriculture by rule.

(2) "Recreational or commercial watercraft" means any boat, any equipment used to transport a boat and any auxiliary equipment for a boat, including but not limited to attached or detached outboard motors. [Formerly 570.850]

Note: 830.587, 830.589 and 830.594 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 830 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

830.589 Watercraft check stations; rules. (1) The State Department of Fish and Wildlife, the State Marine Board or the State Department of Agriculture may require a person transporting a recreational or commercial watercraft to stop at a check station to inspect the watercraft for the presence of aquatic invasive species. The purpose of the administrative search authorized under this section is to prevent and limit the spread of aquatic invasive species within Oregon.

(2) The State Department of Fish and Wildlife, the State Marine Board or the State Department of Agriculture may decontaminate, or recommend decontamination of, any recreational or commercial watercraft that the agency inspects at a check station operated under authority of this section.

(3) All check stations operated under authority of this section must be plainly marked by signs that comply with all state and federal laws and must be staffed by at least one uniformed employee of the State Department of Fish and Wildlife, the State Marine Board or the State Department of Agriculture trained in inspection and decontamination of recreational or commercial watercraft.

(4) An agency that operates a check station under this section shall require all persons transporting recreational or commercial watercraft to stop at the check station, and the agency shall inspect every recreational or commercial watercraft that goes through the check station.

(5) Notwithstanding ORS 496.992, a person transporting a recreational or commercial watercraft who stops at a check station for inspection and who cooperates in the decontamination process is not subject to criminal sanctions for possessing or transporting aquatic invasive species.

(6) The State Department of Fish and Wildlife, the State Marine Board and the State Department of Agriculture may adopt rules to carry out the provisions of this section. [Formerly 570.855]

830.594 Report of prevention efforts. (1) The State Department of Fish and Wildlife, after consultation with the State Marine Board, the State Department of Agriculture and the Department of State Police, shall report biennially to the Legislative Assembly on efforts to prevent aquatic invasive species from entering this state and may include in the report suggested legislation necessary to more effectively prevent aquatic invasive species from entering this state.

(2) Reports to the Legislative Assembly required under this section must be made in accordance with ORS 192.245. [Formerly 570.860]

Note: See note under 830.587.

PENALTIES

830.990 Penalties. (1)(a) Violation of ORS 830.565 by a person operating a [~~manually propelled~~] **non-motorized** boat is a Class D violation. Notwithstanding ORS 153.019, the presumptive fine for a violation of ORS 830.565 by a person operating a [~~manually propelled~~] **non-motorized** boat is \$30.

(b) Violation of ORS 830.565 by a person operating a motorboat is a Class D violation. Notwithstanding ORS 153.019, the presumptive fine for a violation of ORS 830.565 by a person operating a motorboat is \$50.

(2) A person who violates ORS 830.050, 830.088, 830.090, 830.092, 830.094, 830.230, 830.415, 830.710, 830.720, 830.770, 830.780, 830.810, 830.850 or 830.855, or rules adopted to carry out the purposes of those statutes, commits a Class D violation.

(3) A person who violates ORS 830.220, 830.240, 830.245, 830.250, 830.375, 830.475 (4), 830.480, 830.785, 830.805 or 830.825, or rules adopted to carry out the purposes of those statutes, commits a Class C violation.

(4) A person who violates ORS 830.110, 830.175, 830.180, 830.185, 830.187, 830.195, 830.210, 830.215, 830.225, 830.235, 830.260, 830.300, 830.315 (2) and (3), 830.335, 830.340, 830.345, 830.350, 830.355, 830.360, 830.362, 830.365, 830.370, 830.410, 830.420, 830.495, 830.560, 830.775, 830.795 or 830.830, or rules adopted to carry out the purposes of those statutes, commits a Class B violation.

(5) A person who violates ORS 830.305 or 830.390, or rules adopted to carry out the purposes of those statutes, commits a Class A violation.

(6) A person who violates ORS 830.383 commits a Class B misdemeanor.

(7) A person who violates ORS 830.035 (2), 830.053, 830.315 (1), 830.325, 830.475 (1), 830.730 or 830.955 (1) commits a Class A misdemeanor.

(8) A person who violates ORS 830.475 (2) commits a Class C felony.

(9) A person who violates ORS 830.944 commits a Class A violation.

830.998 Penalty for failing to stop at an aquatic invasive species check station. (1) A person who is transporting a recreational or commercial watercraft and fails to stop and submit to an inspection at an aquatic invasive species check station operated by the State Department of Fish and Wildlife, the State Marine Board or the State Department of Agriculture as provided under ORS 830.589 commits a Class D violation.

(2) Notwithstanding ORS 153.042, an ~~enforcement~~ peace officer may issue a citation under subsection (1) of this section when the conduct alleged to constitute a violation has not taken place in the presence of the ~~enforcement~~ peace officer, if the ~~enforcement~~ peace officer has reasonable grounds to believe that the conduct constitutes a violation on the basis of information received from an employee of an agency authorized to operate an aquatic invasive species check station who observed the violation. [Subsections (1) and (2) of 2011 Edition formerly 570.990(2) and (3)]

830.999 Penalty for transporting aquatic invasive species; exceptions; use of penalty moneys; rules.

(1) A person is subject to a civil penalty in an amount to be determined by the State Fish and Wildlife Director of not more than \$6,250 if the person knowingly transports aquatic invasive species on or in a recreational or commercial watercraft. A second or subsequent violation of this subsection within a five-year period shall result in a civil penalty in an amount not less than \$5,000 and not more than \$15,000.

(2) Subsection (1) of this section does not apply to:

(a) A person who transports aquatic invasive species in ballast water.

(b) A person who complies with all instructions for the proper decontamination of the recreational or commercial watercraft given by an employee authorized under ORS 830.589 (1) to inspect recreational or commercial watercraft.

(c) A person who transports aquatic invasive species to the State Department of Fish and Wildlife or the State Department of Agriculture, or to another destination designated by the State

Fish and Wildlife Commission by rule, in a manner designated by the commission for purposes of identifying or reporting an aquatic invasive species.

(3) The civil penalties authorized in this section shall be imposed as provided in ORS 183.745. Any civil penalty recovered under this section shall be deposited in the State Wildlife Fund. The commission by rule shall adopt the formula the State Fish and Wildlife Director shall use in determining the amount of civil penalties under this section. [Formerly 570.865]



Non-Motorized Boating Program 2011 – 2015 Strategic Plan

Final Report

MariAnn McKenzie
Oregon State Marine Board

June 2015



EXECUTIVE SUMMARY

The Non-Motorized Boating Project was one of seven strategic projects undertaken by the Marine Board as part of the 2011-2016 Strategic Plan. This project had five goals: Actively integrate non-motorized boater needs and participation into agency operations, increase outreach to, and communication with, all boater user groups, explore equitable and appropriate fees for non-motorized boaters, balance the needs of motorized and non-motorized boaters, and address facility issues to accommodate the needs of all boaters.

These goals were addressed with an external Non-Motorized Boating Advisory Committee, who in turn made recommendations for a Non-Motorized Boating Program that addressed each of these five goals as well as other imperatives identified by the Committee. The Marine Board received feedback on the program via public meetings and an online survey. Feedback from the survey and meetings were brought back to the external advisory committee for review.

The Non-Motorized Boating Advisory Committee voted unanimously to recommend to the Board to move forward with a Non-Motorized Boating Program that includes elements to address access, safety, education and funding.

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INTRODUCTION

The Oregon State Marine Board is Oregon's Recreational Boating Agency. Chapter 830 of Oregon Revised Statutes establishes the authorities and responsibilities of the Oregon State Marine Board and also provides the Boating Safety Policy of the State of Oregon that reads, "It is the policy of this state to promote the safety for persons and property in and connected with the use, operation and equipment of boats and to promote uniformity of the laws relating thereto."(ORS 830.110) To carry out the Boating Safety Policy and other specific responsibilities of this chapter, the Board identified a mission statement for the agency, and a vision statement for recreational boating in Oregon.

Mission: "Serving Oregon's recreational boating public through education, enforcement, access, and environmental stewardship for a safe & enjoyable experience."

Vision: "A collaborative community providing opportunities for all boaters to safely and respectfully experience Oregon's waterways."

To carry out its statutory obligations, the Marine Board must serve all facets of the boating public in the four key areas identified in the mission in order to achieve the identified vision of providing opportunities for all boaters to safely and respectfully experience Oregon's waterways.

As an agency that does not receive general fund, the Marine Board obtains operating revenues from titling and registration of all motorized boats and all sailboats 12 feet and longer, marine fuel tax, and federal funds from the Sport Fish Recreation and Boating Trust Fund. Historically, the agency's focus has been to serve those that fund the agency; "User-Pay/ User-Benefit".

Recognizing a broader constituent base, and the need for all constituents to help fund the Marine Board's programs, the Board has attempted to register non-motorized boating users through legislation on at least two previous occasions, but has been unsuccessful. Many factors may have contributed to the failure of these bills, but while the Marine Board has focused on services to benefit registered boaters, these services have also benefited non-registered (primarily non-motorized) boaters. Non-motorized boaters use boating access facilities, including parking, launch ramps and restroom, and they benefit from boating safety patrols on the waterways. The Marine Board is petitioned and has passed numerous rules that benefit non-motorized boaters. Overall, non-motorized boaters have benefited from services that have been provided by motorized boaters.

The change that has occurred over the years has been the explosive growth of non-motorized boating. Activities that once had negligible impact on waterways and boating services, have now surpassed motorized boating for person-days on the water, and the growth continues to be exponential. Consequently, services to these boaters can no longer be considered ancillary or insignificant. The Marine Board has a responsibility to better understand the needs of this

growing user group, to identify how the Marine Board can better serve these boaters, and to determine how to fund current Marine Board work and future work that supports these activities.

PROJECT BACKGROUND

In 2010, the Marine Board engaged a broad set of stakeholders and staff to develop a five-year strategic plan; the 2011 – 2016 Oregon State Marine Board (OSMB) Strategic Plan. The objectives of the plan were to build upon the past accomplishments and success of the agency while responding to current and future changes in recreational boating and emerging environmental issues. It includes recommended goals and strategies for the agency to pursue over the five year period from 2011-2016.

The Non-Motorized Boating Project is one of seven strategic projects that were formed to complete the work identified in the strategic plan. The strategic plan addressed five specific strategies that impact non-motorized boaters:

- Actively integrate non-motorized boater needs and participation into agency operations
- Increase outreach to and communication with all boater user groups
- Explore equitable and appropriate fees for non-motorized boaters
- Balance the needs of motorized and non-motorized boaters
- Address facility issues to accommodate the needs of all boaters

These strategies defined the scope and became the core deliverables of the Non-Motorized Boating Project.

Objectives

The primary objective for the Non-Motorized Boating Project was to engage non-motorized boaters for the purpose of integrating non-motorized boater needs and participation into agency operations. It is important to note that the objective was the *process of engaging the non-motorized boating community*, not the deliverable that resulted.

Methods

Convening the Non-Motorized Boating Advisory Committee

The external Non-Motorized Boating Advisory Committee (Committee) was chosen by an application (Appendix A) process to best represent the different types of watercraft users, types of waterways, and broad geographic diversity of the members. The Committee was chartered to discuss the five strategy areas identified in the strategic plan and to provide recommendations to the agency and the Board.

Work Completed by the Non-Motorized Boating Advisory Committee

SWOT Analysis

SWOT analysis (alternatively **SWOT matrix**) is a structured planning method used to evaluate the **Strengths, Weaknesses, Opportunities, and Threats** involved in a project or in a business venture.

- **Strengths:** characteristics of the business or project that give it an advantage over others
- **Weaknesses:** are characteristics that place the team at a disadvantage relative to others
- **Opportunities:** *external* elements that the project could exploit to its advantage
- **Threats:** *external* elements in the environment that could cause trouble for the business or project

A SWOT analysis can be carried out for a product, place or person. It involves specifying the objective of the business venture or project and identifying the internal and external factors that are favorable and unfavorable to achieving that objective. Identification of SWOTs was important because it allowed the Committee to make informed decisions later in the planning process to identify strategies to achieve the objective.

Committee members were separated into two groups to conduct a SWOT analysis on each of the five identified goals and ideas. Each group identified ideas and then assigned a color coding as a result of their SWOT analysis.

The two groups were brought together to evaluate each group's SWOT analysis (Appendix B) to decide if the Committee should go forward with the idea (highlighted in green), not go forward with the idea (highlighted in red) or the idea needed further information to make a better determination (highlighted in yellow).

OSMB staff organized the ideas and provided additional input on those areas highlighted in yellow. Committee members as a group went back over the updated analysis, focusing on the weakness and threats columns, evaluating if the ideas could be carried forward to an Action Plan (Appendix C). As the Committee discussions continued, some ideas identified as 'red' or 'yellow' were able to be moved to 'green'.

The result of the SWOT analysis was a roadmap of a potential program, based on the five strategies.

National Survey

The Committee requested that the Marine Board provide comparison of state's mandatory education and permitting or registration of non-motorized boats. In response to the request, the

Marine Board conducted a nationwide non-motorized boating survey, regarding titling, permits, taxes, facilities, law enforcement, etc. A synopsis of the results is attached as Appendix D.

Non-Motorized Boating Advisory Committee Proposal

The external Non-Motorized Boating Advisory Committee met nine (9) times (see Appendix E for all meeting minutes) and through those discussions developed a proposal that addressed access, safety, education and funding.

Initial proposal:

ACCESS

- Address public vs. private right-of-way and access
- Address road access to water access
- Establish:
 - safe parking & security
 - garbage cans & restrooms
 - staging areas & ramps
- Increase water access in urban area
- Assist in creating whitewater parks
- Promote partnerships with federal & state agencies, municipalities, cities, etc.
- Promote waterway management partnerships
- Provide early involvement in facility development on waterways with fish ladders and dams to advocate for portage or float through opportunities
- Establish relationships with and support to existing clubs/ organizations

SAFETY

- Train marine officers regarding non-motorized boating equipment and boats
- Determine high use areas, trends, issues and target outreach for proactive management and facilities
- Re-evaluate the definition of 'Boat'... means every description of watercraft, including a seaplane on the water and not in flight, used or capable of being used as a means of transportation on the water, but does not include boathouses, floating homes, air mattresses, and beach and water toys or single inner tubes.

EDUCATION & INFORMATION

- Establish voluntary, not mandatory education
- Create education incentive program
- Provide classroom & on-line options
- Education to include, but not limited to:

- Nav. Rules, OR Law, etiquette, environmental stewardship, safety, waterway access (landowner rights), and sharing the water
- Develop and implement outreach programs to reach and inform casual recreationists
- Promote hands-on courses
- Provide grant opportunities for non-profits to provide education
- Encourage education & outreach to Liveries
 - Non-motorized boater checklist for rentals
- Create regulatory, safety and interpretive signage at various locations
- Provide information (maps) on access
- Address safety issues (high use areas, permanent hazards, public vs. private land, facilities, etc.
- Provide information on boating safety and education

NON-MOTORIZED BOATING USER-PAY/USER-BENEFIT PROGRAM

- Permit boats – No boat registration
- Create program similar to, and tied in with, Aquatic Invasive Species (AIS) Permit Program
- Permit all lengths of boats(as the current definition of a boat describes; does not include pool toys or tubers)
- Permit options: 1 week, one year & two year
- Permits are transferable from boat to boat
- Permits for liveries (similar to AIS permit fee structure-bulk permits)
- Permits for Outfitters & Guides (follow new guidelines)
 - Exemptions:
 - Children under the age of 16 when accompanied by adult
 - Marine events
 - Scenic waterways

The above proposal was unanimously agreed upon by the Committee. Later in the process, it became clear that a broader base of constituents was needed to be brought into the discussion and simply moving forward with the Committee's recommendations would not be sufficient. Understanding the diversity of issues impacting non-motorized boaters and identifying opportunities to meet those needs was essential to designing a program that served a broad spectrum of non-motorized boaters.

Timeline and Milestones

When the process began in November 2012, the initial timeline (Appendix F) for completion of the project was as follows: provide a proposal to the Board by October 2013, and if approved to move forward, drafting a legislative concept by spring of 2014. Director Brewen addressed the

Committee after hearing concerns voiced by some of the members regarding the timeline. Discussion ensued between staff and the Committee. It was agreed that the process needed to slow down and involve more stakeholders in the process to inform, educate, and get opinions on the non-motorized boating project and process. It was agreed upon to have OSMB staff and a Committee member meet with clubs/organizations around the state to receive feedback and input regarding non-motorized boating in Oregon. In areas where there were no formal clubs or organizations, more of an ‘open house’ forum was advised. Committee members also expressed concern about losing momentum in the process, but all agreed that the process needed to slow down. It was agreed to complete all clubs/organizations meetings within six months, beginning July 2013.

Based on the determination and discussions by the Committee, the timeline (Appendix G) was changed to the following: provide a proposal to the Board at the June 2015 meeting, and if approved draft legislative concept by fall of 2015. The project proposal was put on hold until further input had been gathered through the club/organization meetings. Committee members advised OSMB staff on key topics to present at the clubs/organizations or during the ‘open house’.

OSMB staff began to reach out to non-motorized boater clubs and community members in Tillamook, Newport and Corvallis.

Only three meetings were conducted. OSMB and the Committee members realized the importance of needing more boating community involvement to understand non-motorized boating stakeholder needs before proposing any recommendations to the Board. Slowing the process allowed the agency sufficient time to engage the boating public in a meaningful and impactful way. A Timeline and Milestones graphic (see Appendix H) was presented at the meetings to show the participants the process and timeline the agency was using. This included when OSMB staff would provide a recommendation to the Board about whether to move forward with a Non-Motorized Boating Program, and the timeline to propose a bill to the legislature. This timeline helped to address concerns that OSMB was on a fast track to push forward a fee with very little public engagement.

Listening Sessions

Through a series of public listening sessions held in June and again from September through November 2014, and via a parallel on-line survey, (see Appendix I for participation statistics) members of the public were invited and encouraged to bring their voices to the discussion. The Listening Sessions served three purposes: 1) inform the public about OSMB’s Mission and strategic goals; 2) hear from non-motorized boaters about their needs and interests with respect to access/facilities, boating safety and education; and 3) receive feedback regarding the Committee’s proposal on access, safety, education and a user-pay/user-benefit program.

At each session a Participant Input Sheet was included in the materials packet (Appendix H). The input sheet replicated the questions asked during the session. This provided an additional method for participants to contribute to the conversation, either to add to the dialogue or for those who felt more comfortable writing down their thoughts rather than speaking within the group discussions. The input sheet also asked participants to rate their experience during the session. On a scale of 1-5, the participants were able to evaluate how useful the session was in meeting the objectives to inform and engage the participants.

At the request of the Committee, OSMB hired outside consultants to assist with the listening session format. The design of the sessions was meant to engage community members in an interactive discussion about their needs and values as non-motorized boaters, and their thoughts about a user-pay/user-benefit program specifically for non-motorized boaters. The consultants helped OSMB staff kick off the process by facilitating the first two meetings (in Portland and Medford), and assisted in writing and analyzing the first round of inputs.

Information was collected through facilitated small group discussions and a written survey handed out at the end of the meeting. During the second set of meetings, participants were handed a document outlining the common themes identified for each topic from the June public listening sessions and the on-line survey (Appendix J).

Meeting Format

The listening sessions were divided into three sections:

1. Agency background, policy and direction
2. Small group discussions around themes
 - a. Access
 - b. Safety
 - c. Education
3. Group discussion of user-pay/user-benefit fee structure

Meeting Content

1. Agency background, policy and direction

Director Brewen briefed participants of the agency mission, organizational structure and services; its Strategic Plan (2011); Non-Motorized Boating Advisory Committee efforts (2012-2013); and an overall timeline and process for community engagement (2014-2015). This was followed by a brief question and answer session to clarify the information presented.

OSMB emphasized the agency's desire to engage the community in a new way thus understanding what services and benefits its constituency values, and to hear input on how to pay for possible desired services. Some members of the Non-Motorized Boating Advisory Committee attended the meetings and shared their thoughts on why it is important for the non-

motorized boating community to be involved in communicating their needs and values related to a Non-Motorized Boating Program.

2. Small group discussions around themes

Dependent on the group size, either the meeting participants broke into small groups, rotating between stations, or stayed in one group to discuss their values and needs around the three components of OSMB's Mission: Access, Safety and Education. Posters of key topic areas and the Committees proposal (Appendix K) were placed for participants to review and make comments. The discussions were led by a facilitator and participant responses were recorded on charts by a supporting scribe.

Open-ended, guiding questions were created to prompt dialogue:

Access: How are you entering the water? What infrastructure/facilities are most needed and/or desired by your user group? Are additional access points needed or desired? What are the impediments to your use at current facilities?

Safety: What are the most important issues of safety concerning non-motorized boaters for access, in-water activity, facilities and infrastructure?

Education and Information: What are the best tools and delivery mechanisms for educating the general public and your user group about boater safety, rules and regulations? Is there any additional information that OSMB should provide to the public?

3. Discussion around User-Pay/User-Benefit Program

Having discussed specifics related to non-motorized boater needs, participants were asked to consider a user-pay/user-benefit program as a means to support non-motorized boater uses and needs (see Appendix L for all comments). This was the beginning of a dialogue to help OSMB understand if non-motorized boaters are interested in a program and what a reasonable fee structure might look like. A poster (Appendix K) listing program criteria developed by the Non-Motorized Boating Advisory Committee was used to prompt participants.

Web Survey (June 2014 - November 2014)

Running concurrent with the listening sessions, an on-line survey was posted on the Marine Board's website. This allowed the boating public to provide feedback in writing on the same questions asked during the listening sessions – about their values around access, safety and education, and about their opinions with regards to a Non-Motorized Boating User-Pay/User-Benefit Program. The website included background information in the form of presentation materials from the listening sessions and a non-motorized boater outreach video which played at the beginning of the Director's presentation at each meeting. The survey was made available on May 29, 2014 and remained open through the duration of all of the listening sessions. The survey was removed from the webpage on November 25, 2014. The link to the survey was

included on listening session materials, via the OSMB ‘Blog’ and Facebook page, and on pamphlets distributed to several user groups. The raw data can be reviewed in Appendix M.

Conclusion

Many of the participants, regardless of their opinion about whether the OSMB should develop a Non-Motorized Boating Program, acknowledged, via the written evaluations and in passing at the listening sessions, the positive step Oregon State Marine Board (OSMB) took by coming to their communities to understand their interests and to engage with them early on in a discussion about a potential user-pay/user-benefit program. A Summary of Responses can be reviewed in Appendix N.

There are a number of maxims that various authors have posed regarding communication, such as “seek first to understand, and then be understood¹”, and “people don’t care how much you know until they know how much you care²”. In OSMB’s experience, these maxims hold true. Going into the meetings with an open mind and desire to understand the boater’s needs and suggestions was critical, rather than approaching the meeting to “sell” a product.

Many participants suggested that IF the OSMB is to develop a Non-Motorized Boating Program, it needs to develop a clear mechanism for developing, tracking, monitoring and reporting on this program so that the public can clearly see and understand the link from ‘user-pay’ to ‘user-benefit’.

RESULTS

The Non-Motorized Boating Advisory Committee reviewed all of the public comments received. The Committee voted unanimously to recommend to the Board to move forward with a non-motorized boating program that includes elements to address access, safety, education and funding.

Below is the proposal, created by the Non-Motorized Boating Advisory Committee based on public comments during the 13 public meetings and online comments. The Program revolves around four main topics; access, education, safety and a fee program:

Complete a 6-year Plan addressing non-motorized boating and the following:

Access:

- Identify Public vs. private right-of-way and access
 - Examples: safe parking, security, access at bridge abutments, and private property access
- Develop access to minimize user conflict

¹ <https://www.stephencovey.com/7habits/7habits-habit5.php>

² Theodore Roosevelt

- Examples: staging areas and ramps
- Ensure funding for maintenance of facilities
 - Example: garbage cans and restrooms
- Increase water access in urban area
- Assist in creating whitewater parks
- Promote partnerships with federal & state agencies, municipalities, cities, etc.
 - Waterway management partnerships
 - Early involvement in facility development on waterways such as fish ladders and dams to advocate for portage or float through opportunities
 - Establish relationships with and support to existing clubs/organizations (including national non-governmental organizations)

Develop and implement an educational phase-in program and outreach programs to reach and inform casual recreationists, regarding the following:

Education:

- Build a voluntary education program
- Provide an education incentive program (\$ off of permit cost)
- Develop education program based on environment of activity
 - Include, but not limited to:
 - Navigation rules, OR Law, etiquette, environmental stewardship, safety, waterway access (landowner rights), what to know about specific conditions (i.e. river, downtown, experience levels, etc.)
- Offer and promote: classroom, on-line, and local club/stores hands-on courses
- Create a grant program for non-profits to provide education
- Outreach and partner with liveries
 - Create a paddler safety checklist similar to the watercraft safety checklist for liveries
- Create signage at various locations regarding regulatory, safety and interpretive information

Safety:

- Fund and train Marine Patrol for non-motorized boating
- Determine high use areas, trends, issues and target outreach for proactive management and facilities
- Change the 'Boat' definition for safety reasons:
 - Current definition: "means every description of watercraft, including a seaplane on the water and not in flight, used or capable of being used as a means of transportation on the water, but does not include boathouses, floating homes, air mattresses, beach and water toys or single inner tubes."
 - Committee changes: "means every description of watercraft, including a seaplane on the water and not in flight, used or capable of being used as a means of transportation

on the water and not in a designated swim area, but does not include boathouses and floating homes.” DELETE: air mattresses, beach and water toys or single inner tubes.

- Incorporate the following safety issues into the 6-year Plan: high use areas, water hazards, public vs. private land, facilities, etc.

User-Pay/User-Benefit Program:

- Offer a Permit for boats
- Tie in with Aquatic Invasive Species (AIS) Permit Program
- Permit all lengths of boats
- Transferable from boat to boat
- Create permit options
- Create permits for liveries (similar to AIS permit fee structure-bulk permits)
- Create permits for Outfitters & Guides (following new guidelines)
- Include Exemptions for certain groups and waterways
- By the end of the meeting, the Committee decided on three possible scenario’s and recommended that the Marine Board complete a cost/benefit (scenarios of what revenue would buy) to the following possible fee structures:
 - \$10 - \$12 - \$15 biannually, or
 - \$10 - \$15 - \$20 biannually (without incentives starting out on #1 & #2), or
 - Have the administration come up with another scenario that would allow the Marine Board to successfully implement its 25 year plan; whatever fee structure is decided upon, it would be a biannual fee.
 - The Committee wants to make sure the fee is not too low that it just supports administrative costs and doesn’t want the fee to be too much that people can’t afford. It’s important to the Committee to do it right.

RECOMMENDATION

The Non-Motorized Boating Advisory Committee voted unanimously to recommend to the Board to move forward with a Non-Motorized Boating Program that includes elements to address access, safety, education and funding.

Further details of the Program were discussed by the Non-Motorized Boating Advisory Committee and will be included into Phase II, if the Board approves to move forward with Legislative concept for the 2017-2019 biennium.

Phase II will begin in 2015-2016 and consist of building a new Non-Motorized Boating Advisory Committee to create a Program for Legislative Concept Development in 2017. The Program will then be submitted for Legislature approval.

This report is approved by the Non-Motorized Boating Advisory Committee (NMBAC) and submitted by MariAnn McKenzie, the Non-Motorized Boating Project Manager on behalf of the NMBAC.

March 29, 2016

Item B: Aquatic Invasive Species Program Legislative Concept

Background

01. The Aquatic Invasive Species statutes were first adopted in 2009. In 2011 the laws were amended to make it mandatory to stop at inspection stations rather than voluntary.
02. In 2014 the National Sea Grant Law Center published "Preventing the Spread of Aquatic Invasive Species by Recreational Boats: Model Legislative Provisions and Guidance to Promote Reciprocity among State Watercraft Inspection and Decontamination Programs," which outlined several recommendations for improvements to Oregon's Aquatic Invasive Species Prevention laws.
03. Marine Board staff met with Oregon Department of Fish and Wildlife in January to discuss program needs and propose changes to Oregon laws; Marine Board staff subsequently drafted a legislative concept.
04. Versions of the draft statutory language have been reviewed by General Counsel for the Marine Board, staff at the Oregon Department of Fish and Wildlife, and the Oregon Invasive Species Council.

Problems and Solutions addressed by the Legislative Concept

01. Problem 1: Oregon law does not require boaters to drain standing water after the boat is removed from waters of the state; instead, launching a boat with "aquatic invasive species within its bilge, livewell, motorwell or other interior location" is prohibited. This portion of the "Clean Launch Law" is much more difficult to enforce than the provision that prohibits the launching of boat with "visible aquatic species on its exterior," especially when the aquatic invasive species are microscopic in size. A more complete and simpler solution would be to require all standing water (and any potential invasive species in the standing water) to be drained before transporting the boat away from the boat ramp.¹
02. Solution: Staff propose creating a new statute (listed in the attached draft language as 830.AAA) that requires a person to drain standing water from his or her boat after the boat is removed from the water and before the boat is transported away from the boat launch/ retrieval area. Additionally, the person is required to remove or open any drain plugs, valves, etc. while the boat is being transported within the state. Staff proposes that the penalty for "failure to pull the plug" be a Class D violation with a presumptive fine of \$30 for a person transporting a non-motorized and \$50 for a person transporting a motorized boat.

¹ There are seven states that require standing water be drained from boats upon removal and nine other states that require boat plugs be pulled during transport. These requirements are recommended by "Preventing the Spread of Aquatic Invasive Species by Recreational Boats: Model Legislative Provisions and Guidance to Promote Reciprocity among State Watercraft Inspection and Decontamination Programs." Prepared by the National Sea Grant Law Center and Supported by the Western Regional Panel on Aquatic Nuisance Species.

03. Problem 2: The State of Oregon lacks the authority to hold, quarantine or impound a boat even if the boat has visible aquatic species attached or is otherwise deemed to be a high risk for transport of aquatic invasive species. There may be a need to impound a boat and trailer when:
- a. A person is stopped by law enforcement for bi-passing an inspection station, or
 - b. A person stops at an inspection station but refuses to cooperate and allow decontamination, or
 - c. A law enforcement officer stops a vehicle transporting a boat outside of an inspection station and has reasonable suspicion that the boat or trailer is contaminated with a prohibited species (mussels).²
04. Solution: Staff proposes adding sections (5) and (7) to ORS 830.589 (Watercraft check stations; rules) that requires a person to return a watercraft (boat, trailer, and motor) to the inspection station if he or she is stopped by a law enforcement officer for bi-passing the station, and the officer requests the watercraft return. "Failure to return to the inspection station" would be a class D violation and the watercraft would be subject to impoundment until inspection and decontamination were complete. Further, if a person stopped at an inspection station but then refused to stay to have their watercraft decontaminated, a law enforcement officer could then detain the watercraft until decontamination and final inspection were complete. In both cases the person transporting the watercraft would be liable for the direct impound costs.

Additionally, staff proposes creating a new statute (listed below as 830.BBB) that would permit a law enforcement officer to stop and visually inspect a watercraft apart from a watercraft inspection station if the officer has a reasonable suspicion that the watercraft is transporting a "prohibited species."³ Possessing or transporting a "prohibited species" is already prohibited under OAR 635-056-0050 and the penalty is a Class D violation or a Class A misdemeanor (if the person is knowingly transporting the prohibited species). If, during the course of the stop and visual inspection, the officer develops probable cause that there is indeed a prohibited species on the watercraft, the officer can impound the watercraft until it can be decontaminated or can escort the person and watercraft to a designated decontamination location. These authorities are in addition to the already existing authority to issue a citation (or arrest for a misdemeanor) if the person is transporting the prohibited species.

² The authority to impound is also recommended by "Preventing the Spread of Aquatic Invasive Species by Recreational Boats: Model Legislative Provisions and Guidance to Promote Reciprocity among State Watercraft Inspection and Decontamination Programs." There are nine states that have impound authority.

³ The list of prohibited species includes mammals, birds, reptiles, and invertebrates. In practicality, the prohibited species that would be attached to a watercraft (and thus visible to establish reasonable suspicion) would be the prohibited bi-valves such as Asian clams, quagga and zebra mussels. "Reasonable suspicion is a standard established by the Supreme Court in a 1968 case in which it ruled that police officers should be allowed to stop and briefly detain a person if, based upon the officer's training and experience, there is reason to believe that the individual is engaging in criminal activity. The officer is given the opportunity to freeze the action by stepping in to investigate. Unlike probable cause that uses a reasonable person standard, reasonable suspicion is based upon the standard of a reasonable police officer." Law Dictionary: Definitions Of Probable Cause Vs. Reasonable Suspicion

05. Problem 3: The AIS Prevention Permit carriage exemption for non-motorized boats that are less than 10 feet in length causes confusion for both the boating public and for law enforcement agencies.
06. Solution: Staff proposes that all non-motorized boats regardless of size be subject to the permit requirements and that the exemption for youth under 14 is written in statute instead of rule. Additionally, staff proposes adding language that allows the agency to combine the AIS permit with other permits (motor boat registration, outfitter guide tag, non-motorized boat permit, for example) to simplify the transaction process for the customer and to keep the permit administration costs down.
07. Problem 4: ORS 830.999 Penalty for transporting AIS, subsection (2), states that the civil penalties do not apply to: "A person who transports aquatic invasive species in ballast water." This exemption is believed to be in-place to cover the discharge of ballast water from vessels that are regulated by the DEQ under ORS 783.620 - 992. However, the exemption is very vague and could be interpreted to exclude the ballast water that could be carried by small vessels and recreational boats (e.g. wakeboard boats).
08. Solution: Clarify that the exemption only applies to vessels carrying "ballast water" as defined in ORS 783.625:
- "Ballast water means any water used to manipulate the trim and stability of a vessel."
- "Vessel means a tank vessel, cargo vessel or passenger vessel."
- "Tank vessel means a ship that is constructed or adapted to carry oil in bulk as cargo or cargo residue..."
- "Cargo vessel means a ship in commerce that is equipped with ballast tanks, other than a tank vessel or a vessel used solely for commercial fish harvesting, of 300 gross tons or more."
- "Passenger vessel means a ship of 300 gross tons or more carrying passengers for compensation."
09. Problem: Staff has identified several areas regarding contracting, awarding of grants, and law enforcement where the language used is inconsistent with the other statutes in Chapter 830.
10. Solution: The legislative concept re-words and adds to ORS 830.580 to clarify the Board's contracting authority and authority to award and receive grant funds. The concept also replaces the word "enforcement officer" with "peace officer" in ORS 830.998 for consistency with the other statutes in Chapter 830 and replace "manually propelled" with "non-motorized" throughout the AIS section of statutes.

Next Steps

01. Attached are the 2017 Legislative Concept Request Form and draft statutory language that if approved by the Board will be forwarded to the Department of Administrative Services and the Governor's Office for review and approval to move forward to legislative counsel to draft a Legislative Concept (LC).
02. If an LC is approved for drafting, then the agency will work with Legislative Counsel to ensure that the Concept meets the intent of the LC Request Form and the draft language as presented to the Board.

Recommendation

Staff recommends Board approval of the Legislative Concept Request Form and draft statutory language to move forward to the Governor's Office and Department of Administrative Services for review.

2017 Agency Legislative Concept Request

Agency #/Concept #:

Placeholder? Yes No

Date:

(TEXT BOXES EXPAND AS NEEDED)

Agency: Oregon State Marine Board

Division/Program: Policy and Environmental

Concept Subject or Title: Aquatic Invasive Species Prevention Program Updates

Concept Contact Person: Scott Brewen

E-Mail: scott.c.brewen@state.or.us

Phone: 503-378-2619

Agency Legislative Coordinator: Ashley Massey

E-Mail: ashley.massey@state.or.us

Phone: 503-378-2623

1. Problem (Completely describe the problem you propose to solve.)

- 1) Oregon law does not require boaters to drain standing water after the boat is removed from waters of the state; instead, launching a boat with "aquatic invasive species within its bilge, livewell, motorwell or other interior location" is prohibited. This portion of the "Clean Launch Law" is much more difficult to enforce than the provision that prohibits the launching of boat with "visible aquatic species on its exterior," especially when the aquatic invasive species are microscopic in size. A more complete and simpler solution would be to require all standing water (and any potential invasive species in the standing water) to be drained before transporting the boat away from the boat ramp.
- 2) The State of Oregon lacks the authority to hold, quarantine and/or impound a boat even if the boat has visible aquatic species attached or is otherwise deemed to be a high risk for transport of aquatic invasive species. There may be a need to impound a boat and trailer when:
 - a) A person is stopped by law enforcement for bi-passing an inspection station, or
 - b) A person stops at an inspection station but refuses to cooperate and allow decontamination, or
 - c) A law enforcement officer stops a vehicle transporting a boat outside of an inspection station and has reasonable suspicion that the boat or trailer is contaminated with a prohibited species (mussels).
- 3) The AIS Prevention Permit carriage exemption for non-motorized boats that are less than 10 feet in length causes confusion for both the boating public and for law enforcement agencies.
- 4) ORS 830.999 Penalty for transporting AIS, subsection (2), states that civil penalties do not apply to "a person who transports aquatic invasive species in ballast water." This exemption is believed to be in-place to cover the discharge of ballast water from vessels that are regulated by the DEQ under ORS 783.620 - 992. However, the exemption is very vague and could be interpreted to exclude the ballast water that could be carried by small vessels and recreational boats (e.g. wakeboard boats).
- 5) Several of the exiting statutes related to Aquatic Invasive Species use language regarding contracting, manually powered boats, and law enforcement that is inconsistent with the language used in other statutes in Chapter 830.

2. Proposed Solution (Completely describe what the concept does to fix the problem. Do not include proposed statute changes here.)

- 1) The legislative concept requires a person to drain standing water from his or her boat after the boat is removed from the water and before the boat is transported away from the boat launch/ retrieval area. Additionally, the person is required to remove or open any drain plugs, valves, etc. while the boat is being transported within the state. The concept establishes the penalty for "failure to pull the plug" be a Class D violation with a presumptive fine of \$30 for a person transporting a non-motorized and \$50 for a person transporting a motorized boat.
- 2) The legislative concept requires a person to return a watercraft (boat, trailer, and motor) to the inspection station if he or she is stopped by a law enforcement officer for bi-passing the station and the officer requests the watercraft return. "Failure to return to the inspection station" would be a class D violation and the watercraft would be subject to impoundment until inspection and decontamination were complete. Further, if a person stopped at an inspection station but then refused to stay to have their watercraft decontaminated, a law enforcement officer could then detain

the watercraft until decontamination and final inspection were complete. In both cases the person transporting the watercraft would be liable for the direct impound costs.

Additionally, the legislative concept would permit a law enforcement officer to stop and visually inspect a watercraft apart from a watercraft inspection station if the officer has a reasonable suspicion that the watercraft is transporting a "prohibited species." Possessing or transporting a "prohibited species" is already prohibited under OAR 635-056-0050 and the penalty is a Class D violation or a Class A misdemeanor (if the person is knowingly transporting the prohibited species). If, during the course of the stop and visual inspection, the officer develops probable cause that there is indeed a prohibited species on the watercraft, the officer can impound the watercraft until it can be decontaminated or can escort the person and watercraft to a designated decontamination location. These authorities are in addition to the already existing authority to issue a citation (or arrest for a misdemeanor) if the person is transporting the prohibited species (ORS 496.992).

- 3) The legislative concept requires aquatic invasive species prevention permits on all non-motorized boats regardless of size but specifies the exemption for youth under 14 in statute instead of rule. Additionally, the legislative concept adds language that allows the agency to combine the AIS permit with other permits (motor boat registration, outfitter guide tag, non-motorized boat permit, for example) to simplify the transaction process for the customer and to keep the permit administration costs down.
- 4) The legislative concept clarifies that the exemption only applies to vessels carrying "ballast water" as defined in ORS 783.625.
- 5) The legislative concept re-words and adds to ORS 830.580 to clarify the Board's contracting authority and authority to award and receive grant funds. The concept also replaces the word "enforcement officer" with "peace officer" in ORS 830.998 for consistency with the other statutes in Chapter 830 and replace "manually propelled" with "non-motorized" throughout the AIS section of statutes.

3. Proposed Changes to Statute (Please attach your best attempt at proposing changes to statute to accomplish your goal; however, Legislative Counsel may draft alternate language.)

Attached

4. Has this been introduced in a prior session? No Yes Years(s) Bill#(s)

Does this amend current law or programs? No Yes (Specify) ORS 830.560 to 830.594, ORS 830.990 to 830.999

Is this related to a legal decision? No Yes (Case cite, AGO No. date, etc. – *attach copies*)

5. Equity Analysis (Describe any known racial or ethnic inequities associated with the problem and how the proposed statutory changes are culturally and linguistically appropriate and specifically address the inequities.)

There are no known racial or ethnic inequities associated with the problems to be addressed by the legislative concept. The new requirement to drain standing water and the boat impoundment authorities would apply to all recreational and commercial boats transported within the state; the agency has no knowledge that any particular racial or ethnic group transports boats more than any other racial or ethnic group.

The requirement to carry an Aquatic Invasive Species Prevention permit on all non-motorized boats would affect the population of boaters that owns non-motorized boats less than 10 feet in length, but again the agency has no knowledge that any particular racial or ethnic group would be disproportionately affected.

6. Stakeholders and/or Other Affected Agencies who are Aware of Your Concept

Agency:	Contact Person:	Phone:
OR Dept. of Fish and Wildlife	Kevin Blakely	503-947-6311
Oregon Invasive Species Council	Rian Hooff	503-229-6865

7. Known Support or Opposition (Please elaborate.)

The Oregon Department of Fish and Wildlife (Wildlife Division) and the Oregon Invasive Species Council support the concept.

8. Increases fees or assessments? No Yes

Concept has other fiscal, revenue or position (FTE) impacts? No Yes Provide Fiscal Form

9. For PLACEHOLDERS – ALL additional substantive information is due to DAS no later than June 24. This concept is a PLACEHOLDER. No Yes (approximate delivery date)

10. Additional Information or Attachments (Briefly describe attachments - draft language, opinions, etc.)

11. Approved for Drafting:

Governor's Office

Date

Department of Administrative Services

Date

2016 Legislative Session
Agency Fiscal Impact Statement (FIS) Form

AGENCY NAME Oregon State Marine Board

Measure Number-Version AISP LC Draft

No fiscal impact _____ Preparer Name/Title: Christian Grorud / Business Services Manager
 Minimal Impact _____ Preparer Phone #: 503-378-2630
 X Fiscal Impact _____ Date Submitted: 3.25.16

Effect on Expenditure (by Fund and Category):

	<u>General Fund</u>	<u>Other Funds</u>	<u>Federal Funds</u>	<u>NL Federal Funds</u>	<u>TOTAL FUNDS</u>
2017-19 Biennium					
Personal Services	\$ -	\$ 36,385	\$ -	\$ -	\$ 36,385
Services and Supplies	\$ -	\$ 56,805	\$ -	\$ -	\$ 56,805
Special Payments	\$ -	\$ -	\$ -	\$ -	\$ -
Capital Outlay	\$ -	\$ -	\$ -	\$ -	\$ -
Capital Construction	\$ -	\$ -	\$ -	\$ -	\$ -
Debt Service	\$ -	\$ -	\$ -	\$ -	\$ -
Total	\$ -	\$ 93,190	\$ -	\$ -	\$ 93,190

	<u>General Fund</u>	<u>Other Funds</u>	<u>Federal Funds</u>	<u>NL Federal Funds</u>	<u>TOTAL FUNDS</u>
2019-21 Biennium					
Personal Services	\$ -	\$ 52,354	\$ -	\$ -	\$ 52,354
Services and Supplies	\$ -	\$ 82,764	\$ -	\$ -	\$ 82,764
Special Payments	\$ -	\$ -	\$ -	\$ -	\$ -
Capital Outlay	\$ -	\$ -	\$ -	\$ -	\$ -
Capital Construction	\$ -	\$ -	\$ -	\$ -	\$ -
Debt Service	\$ -	\$ -	\$ -	\$ -	\$ -
Total	\$ -	\$ 135,118	\$ -	\$ -	\$ 135,118

Effect on Revenues (by Fund):

	<u>General Fund</u>	<u>Other Funds</u>	<u>Federal Funds</u>	<u>NL Federal Funds</u>	<u>TOTAL FUNDS</u>
2017-19 Biennium	\$ -	\$ 1,015,107	\$ -	\$ -	\$ 1,015,107
2019-21 Biennium	\$ -	\$ 1,360,243	\$ -	\$ -	\$ 1,360,243

Effect on Position(s) / FTE(s):

Months of Impact	2017-19		2019-21	
	2017-19	2019-21	2017-19	2019-21
	Position Count	FTE	Position Count	FTE
18	1	0.38	1	0.50

Please complete detail Personal Services information using "PS Calculation" tab.

The budgetary impact of this bill was reviewed and approved by the Interim Joint Committee on Ways and Means na Yes na No to be recommended to be included in the omnibus budget bill.

Is the bill anticipated by the Governor's Recommended Budget as a Unknown Yes _____ No Policy Option Package? If yes, please identify the Policy Option Package name and number in your written analysis.

Does the proposal have a fiscal or revenue mandate effect on cities, _____ Yes x No counties, or special districts that triggers evaluation under section 15, Article XI of the Oregon Constitution?

Bill Description and Written Analysis: This is a draft before full DAS variables are available and before DAS required LC deadlines.

AQUATIC INVASIVE SPECIES PREVENTION

(Generally)

830.560 Launching boat with aquatic invasive species prohibited; rules. (1) As used in this section:

(a) "Aquatic invasive species" means any aquatic life or marine life determined by the State Fish and Wildlife Commission by rule to be invasive or any aquatic noxious weed determined by the State Department of Agriculture to be invasive.

(b) "Launch" means any act that places a boat into a waterway for recreational boating, for flushing or testing an engine or for any other purpose.

(2) Except as provided in subsection (3) of this section, a person may not launch a boat into the waters of this state if:

(a) The boat has any visible aquatic species on its exterior hull or attached to any motor, propulsion system or component, anchor or other attached apparatus outside of the hull, or on the trailer or other device used to transport the boat; or

(b) The boat has any aquatic invasive species within its bilge, livewell, motorwell or other interior location.

(3) The State Fish and Wildlife Commission, in consultation with the State Department of Agriculture, by rule may allow the presence of certain aquatic species on or within a boat for activities including but not limited to hunting and photography.

(4) The State Marine Board shall provide information to the public about any rules adopted under subsection (3) of this section.

830.AAA Transportation of boats. (1) When leaving the waters of this state with a boat, a person must drain all standing or captured water in the boat, ballast tanks, live wells, and bilge before transporting the boat away from a water access site or riparian property.

(2) A person must remove or open all drain plugs, bailers, valves, or other devices used to control the draining of water from ballast tanks, bilges, and live wells while transporting a boat within the State of Oregon.

(3) A person may transport a law enforcement boat, emergency response boat, and any associated official equipment on a public road with the drain plug or other similar device replaced only after all water has been drained upon leaving the water body.

(4) Marine sanitary systems are exempt from this section.

(5) Violation of this section is a Class D violation. Notwithstanding ORS 153.019, the presumptive fine by a person transporting a non-motorized boat is \$30 and a motorized boat is \$50.

(Permits)

830.565 Permit required. (1) A person may not operate a [~~manually-propelled that is 10 feet or more in length or a~~] motorboat on the waters of this state without first obtaining an aquatic invasive species prevention permit from the State Marine Board under ORS 830.570.

(2) A person 14 years old and older may not operate a non-motorized boat on the waters of this state without first obtaining an aquatic invasive species prevention permit from the State Marine Board under ORS 830.570.

~~[(2)]~~ (3) A person who obtains an aquatic invasive species prevention permit for a ~~[manually propelled]~~ **non-motorized** boat may use the permit on any ~~[manually propelled]~~ **non-motorized** boat the person operates on the waters of this state.

830.570 Board to issue permit; fees. (1) The State Marine Board shall issue and renew an aquatic invasive species prevention permit to a person who pays the fee for the permit described in ORS 830.575.

(2) The board may appoint agents to issue aquatic invasive species prevention permits.

(3) Agents shall issue permits in accordance with procedures prescribed by the board by rule and shall charge and collect the aquatic invasive species prevention permit fees prescribed by law.

(4) The board may authorize an agent other than a board employee to charge a service fee of \$2, in addition to the permit fee, for the issuance service performed by the agent.

(5) The board shall supply the agents with motorboat and ~~[manually propelled]~~ **non-motorized** boat aquatic invasive species prevention permits.

(6) The board may combine an aquatic invasive species prevention permit with other permits, certificates, licenses or registrations issued by the board to the same person.

(7) Non-motorized boats operated by liveries shall display proof of permit compliance as established by the State Marine Board in rule.

830.575 Fees for permit. Notwithstanding ORS 830.790 (3), fees for issuance and renewal of an aquatic invasive species prevention permit are as follows:

(1) The biennial fee for a motorboat issued a certificate of number under ORS 830.795 is \$5.

(2) The ~~[annual]~~ fees for ~~[a manually propelled]~~ **non-motorized** boats ~~[10 feet or more in length is \$5]~~ are:

(a) \$5 annually; or

(b) \$10 biennially

(3) The annual fee for a motorboat **registered in a state other than Oregon** ~~[operated by a nonresident]~~ is \$20.

(4) The annual fee for an operator of a boat livery is:

(a) \$30 for an operator who owns 6 to 10 ~~[manually propelled]~~ **non-motorized** boats;

(b) \$55 for an operator who owns 11 to 20 ~~[manually propelled]~~ **non-motorized** boats; or

(c) \$100 for an operator who owns 21 or more ~~[manually propelled]~~ **non-motorized** boats.

830.580 Rules; contracting services. (1) The State Marine Board shall adopt rules for the implementation and administration of ORS 830.565 to 830.575, including but not limited to the exemption of certain boats from the requirements of ORS 830.565.

(2) **The State Marine Board may enter into contracts necessary to carry out the provisions of 830.560 to 830.594 with any private person, entity or unit of government.** ~~[Nothing in ORS 830.565 to 830.575 prevents the board from contracting any service provided under ORS 830.565 to 830.575 to any private person or entity or other unit of government.]~~ [2009 c.764 §10]

(3) **The State Marine Board has the authority to award grants, enter into grant agreements, and receive federal, state and private funding to support and implement the aquatic invasive species prevention program.**

830.585 Aquatic Invasive Species Prevention Fund. The Aquatic Invasive Species Prevention Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Aquatic Invasive Species Prevention Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the State Marine Board for the purpose of administering the aquatic invasive species prevention permit program under ORS 830.565 to 830.575 and preventing and controlling aquatic invasive species.

(Prevention Efforts)

830.587 Definitions for ORS 830.589, 830.BBB, 830.594 and 830.999. As used in ORS 830.589, 830.594 and 830.999:

(1) "Aquatic invasive species" means any aquatic species of wildlife or any freshwater or marine invertebrate, as specified by the State Fish and Wildlife Commission ~~[by rule]~~ **as a prohibited species in OAR 635-056-0050**, or any aquatic noxious weeds as specified by the State Department of Agriculture ~~[by rule]~~ **in OAR 603-052-1200**.

(2) "Prohibited Species" means species listed by the State Fish and Wildlife Commission in OAR 635-056-0050.

(2) "Recreational or commercial watercraft" means any boat, any equipment used to transport a boat and any auxiliary equipment for a boat, including but not limited to attached or detached outboard motors.

830.589 Watercraft check stations; rules. (1) The State Department of Fish and Wildlife, the State Marine Board or the State Department of Agriculture may require a person transporting a recreational or commercial watercraft to stop at a check station to inspect the watercraft for the presence of aquatic invasive species. The purpose of the administrative search authorized under this section is to prevent and limit the spread of aquatic invasive species within Oregon.

(2) The State Department of Fish and Wildlife, the State Marine Board or the State Department of Agriculture may decontaminate, or recommend decontamination of, any recreational or commercial watercraft that the agency inspects at a check station operated under authority of this section.

(3) All check stations operated under authority of this section must be plainly marked by signs that comply with all state and federal laws and must be staffed by at least one uniformed employee of the State Department of Fish and Wildlife, the State Marine Board or the State Department of Agriculture trained in inspection and decontamination of recreational or commercial watercraft.

(4) An agency that operates a check station under this section shall require all persons transporting recreational or commercial watercraft to stop at the check station, and the agency shall inspect every recreational or commercial watercraft that goes through the check station.

(5) A person transporting a recreational or commercial watercraft who fails to stop at a watercraft check station as required under this section must return the watercraft to the check station for inspection when so requested by a peace officer. Violation of this section is a Class D violation.

~~[(5)]~~ (6) Notwithstanding ORS 496.992, a person transporting a recreational or commercial watercraft who stops at a check station for inspection and who cooperates in the decontamination process is not subject to criminal sanctions for possessing or transporting aquatic invasive species.

(7) If a person refuses to submit a watercraft to decontamination as required in ORS 830.589(2) or the inspection as required in 830.589(5), a peace officer may detain the watercraft and trailer until the decontamination and a final inspection is complete. The person transporting the watercraft is liable for direct costs associated with the detainment in an amount to be determined by the governmental entities administering the detainment program.

~~[(6)]~~ (8) The State Department of Fish and Wildlife, the State Marine Board and the State Department of Agriculture may adopt rules to carry out the provisions of this section.

830.BBB Detainment of watercraft outside of an established check station. (1) A person transporting a recreational or commercial watercraft at a location other than a watercraft check station established under ORS 830.589 is subject to being stopped by a peace officer and having the watercraft visually inspected, if the peace officer has a reasonable suspicion that the watercraft is transporting prohibited species within the State of Oregon. If during the course of the stop and visual inspection the peace officer develops probable cause to believe that the watercraft is transporting prohibited species within Oregon, the peace officer may:

(a) Escort the person, watercraft and trailer to a designated location for decontamination and final inspection of the watercraft, or

(b) If the person fails to cooperate with (a), detain the watercraft until decontamination and a final inspection is complete, with the person transporting the watercraft being liable for direct costs associated with the detainment in an amount to be determined by the governmental entities administering the detainment program; and, in lieu of or in addition to the actions set forth in this subsection,

(2) The actions set forth in section (1) are in addition to any criminal penalties prescribed in ORS 496.992 for a violation of a wildlife law or any rules adopted pursuant to the wildlife laws, and any civil penalties allowed in ORS 830.999.

830.594 Report of prevention efforts. (1) The State Department of Fish and Wildlife, after consultation with the State Marine Board, the State Department of Agriculture and the Department of State Police, shall report biennially to the Legislative Assembly on efforts to prevent aquatic invasive species from entering this state and may include in the report suggested legislation necessary to more effectively prevent aquatic invasive species from entering this state.

(2) Reports to the Legislative Assembly required under this section must be made in accordance with ORS 192.245.

PENALTIES

830.990 Penalties. (1)(a) Violation of ORS 830.565 by a person operating a ~~manually propelled~~ non-motorized boat is a Class D violation. Notwithstanding ORS 153.019, the presumptive fine for a violation of ORS 830.565 by a person operating a ~~manually propelled~~ non-motorized boat is \$30.

(b) Violation of ORS 830.565 by a person operating a motorboat is a Class D violation. Notwithstanding ORS 153.019, the presumptive fine for a violation of ORS 830.565 by a person operating a motorboat is \$50.

(2) A person who violates ORS 830.050, 830.088, 830.090, 830.092, 830.094, 830.230, 830.415, 830.710, 830.720, 830.770, 830.780, 830.810, 830.850 or 830.855, or rules adopted to carry out the purposes of those statutes, commits a Class D violation.

(3) A person who violates ORS 830.220, 830.240, 830.245, 830.250, 830.375, 830.475 (4), 830.480, 830.785, 830.805 or 830.825, or rules adopted to carry out the purposes of those statutes, commits a Class C violation.

(4) A person who violates ORS 830.110, 830.175, 830.180, 830.185, 830.187, 830.195, 830.210, 830.215, 830.225, 830.235, 830.260, 830.300, 830.315 (2) and (3), 830.335, 830.340, 830.345, 830.350, 830.355, 830.360, 830.362, 830.365, 830.370, 830.410, 830.420, 830.495, 830.560, 830.775, 830.795 or 830.830, or rules adopted to carry out the purposes of those statutes, commits a Class B violation.

(5) A person who violates ORS 830.305 or 830.390, or rules adopted to carry out the purposes of those statutes, commits a Class A violation.

(6) A person who violates ORS 830.383 commits a Class B misdemeanor.

(7) A person who violates ORS 830.035 (2), 830.053, 830.315 (1), 830.325, 830.475 (1), 830.730 or 830.955 (1) commits a Class A misdemeanor.

(8) A person who violates ORS 830.475 (2) commits a Class C felony.

(9) A person who violates ORS 830.944 commits a Class A violation.

830.998 Penalty for failing to stop at an aquatic invasive species check station. (1) A person who is transporting a recreational or commercial watercraft and fails to stop and submit to an inspection at an aquatic invasive species check station operated by the State Department of Fish and Wildlife, the State Marine Board or the State Department of Agriculture as provided under ORS 830.589 commits a Class D violation.

(2) Notwithstanding ORS 153.042, ~~[an enforcement]~~ a peace officer may issue a citation under subsection (1) of this section when the conduct alleged to constitute a violation has not taken place in the presence of the ~~[enforcement]-~~peace officer, if the ~~[enforcement]-~~peace officer has reasonable grounds to believe that the conduct constitutes a violation on the basis of information received from an employee of an agency authorized to operate an aquatic invasive species check station who observed the violation.

830.999 Penalty for transporting aquatic invasive species; exceptions; use of penalty moneys; rules.

(1) A person is subject to a civil penalty in an amount to be determined by the State Fish and Wildlife Director of not more than \$6,250 if the person knowingly transports aquatic invasive species on or in a recreational or commercial watercraft. A second or subsequent violation of this subsection within a five-year period shall result in a civil penalty in an amount not less than \$5,000 and not more than \$15,000.

(2) Subsection (1) of this section does not apply to:

(a) A person who transports aquatic invasive species in ~~[ballast water]~~ **“ballast water” as defined in ORS 783.625.**

(b) A person who complies with all instructions for the proper decontamination of the recreational or commercial watercraft given by an employee authorized under ORS 830.589 (1) to inspect recreational or commercial watercraft.

(c) A person who transports aquatic invasive species to the State Department of Fish and Wildlife or the State Department of Agriculture, or to another destination designated by the State

Fish and Wildlife Commission by rule, in a manner designated by the commission for purposes of identifying or reporting an aquatic invasive species.

(3) The civil penalties authorized in this section shall be imposed as provided in ORS 183.745. Any civil penalty recovered under this section shall be deposited in the State Wildlife Fund. The commission by rule shall adopt the formula the State Fish and Wildlife Director shall use in determining the amount of civil penalties under this section.

March 29, 2016

**Item C: Consideration to Amend Facility Grant No. 893
City of Portland, Duckworth Dock Transient Tie-up**

01. The Board approved the facility grant to construct the Kevin J. Duckworth Memorial Dock on July 1, 1997. The agreement between the City and the Board was executed on August 27, 1997. On January 9, 2014, the Board directed staff to amend the grant for a one-year trial service period that restricted overnight stays from Friday at noon to Monday at noon from the full weekend prior to Memorial Day holiday weekend through the full weekend after the Labor Day holiday weekend. The rest of the year would only allow day-use of the dock. The amendment was executed on August 22, 2014.
02. The one-year trial service period began on September 1, 2014. The City has completed interim and final reports which were previously provided to the Board. The City has requested that the amendment language be made permanent for the remaining term of the agreement. City of Portland Bureau of Transportation (PBOT) believes the pilot project was successful since the dock is no longer filled with boats in poor condition, they have received no complaints about access or behavior and the dock is generally empty, but the City has no reason to believe that the recreational boaters will avoid it as they did prior to the restrictions of overnight use per the Final Report: Duckworth Dock Pilot Project, (October 9, 2015)
03. At the October 22, 2015, Board meeting, the Board had many questions for PBOT staff. Unfortunately, the audio connectivity was very poor making discussions about the management of the dock and operation and maintenance difficult. The Board directed staff to organize a field visit to the dock and invite PBOT, Portland Parks and Recreation (PPR), and Columbia River Yachting Association (CRYA) to provide information during the January 6, 2016 work session.
04. The January work session provided an opportunity for the Board to discuss Duckworth Dock with PBOT, the managing bureau, and CRYA which represents 19 yacht clubs on the Columbia and Willamette rivers.
05. During the work session, PBOT stated that they are not in the dock business and operating a dock is not part of their core business. PBOT, in their opinion believes that PPR is the appropriate bureau in the city to operate and maintain recreational boating facilities. PBOT remains interested in finding a new manager for the dock, either in its current location or one that requires relocation. PPR is not interested in taking on the operation and maintenance of the dock in the current location.
06. The management and operation of the dock has been problematic since 2007 when staff received complaints the dock was falling apart and through-rods were sticking out of the dock creating a serious hazard to boaters. PBOT reported they spent about \$57,000 making repairs; in contrast they spent an average of \$5,100 annually, over the next three years. Isolated reports were received concerning boaters staying too long and fishermen using the dock in 2008 and 2009. The majority of these reports included concerns of vandalism and feeling unsafe to use the dock. In 2010, the issue of boats staying long-term at the dock and sewage disposal increased.

- .07 Complaints escalated in 2011 and during a staff review of the Office of Healthy Rivers Willamette Plan, it indicated the Duckworth Dock was closed. Staff contacted PBOT to inquire about the closure to discover it had been closed since June 2011, as a result of long-term moorage use, safety and security issues. PBOT reopened the dock March 2012. PBOT's Final Report describes many of the same complaints, concerns and issues that staff have received for many years. The following are excerpts from the report:
- a. the dock was "taken over by pirates";
 - b. felt unsafe and intimidated from using the structure;
 - c. dumping sewage in the river;
 - d. unwelcomed atmosphere;
 - e. the environment has hindered dock access for other boaters;
 - f. boats in poor condition, may be inoperable; and
 - g. The City of Portland's Harbormaster visited the Dock several times during 2014 and observed several problems: unsafe fueling, boat parts and gear stored on the Dock, and feces (of unknown origin) on the Dock.

Below are photos of the same blue sailboat taken on three different dates and site condition photos from 2010-2014



Note: the same blue sailboat in all three photos.

Top Left: Oct. 29, 2012

Top Right: Jan 11, 2013

Bottom Left Jan. 30, 2013



Signage near gangway landing and at the end of the dock.

Top Left: Jan. 30, 2013

Top Right: July 1, 2013

Bottom Left July 1, 2013

- 08. These concerns voiced by boaters for nearly nine years have created an intense negative stigma associated with the dock. The lack of management and enforcement of terms and conditions of the grant have created a significant hurdle discouraging recreational boaters from using the dock. As a result of the misuse staff is recommending that the grant term be extended to provide recreational boaters the opportunity to use the dock as intended under the terms of the agreement.
- 09. If the dock remains in the current location PBOT should coordinate with other city bureaus and boating clubs, organizations and users to conduct outreach, education and promotion that recreational boaters are invited to use the dock.

Staff Recommendation

Staff recommends the Board direct staff to amend the agreement authorizing the continuation of restricted overnight stays while the dock is in the current location and extend the term of the agreement by six- years for non-compliance with the terms and conditions of the grant agreement.

March 29, 2016

Item D: Consideration to Relocate Duckworth Dock Transient Tie-up

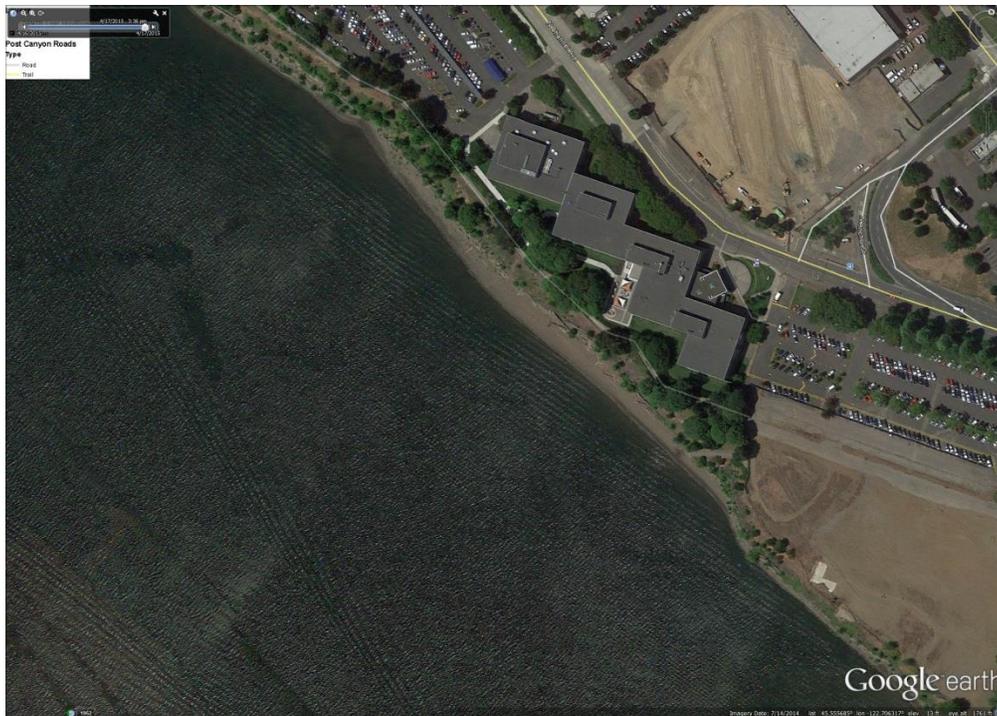
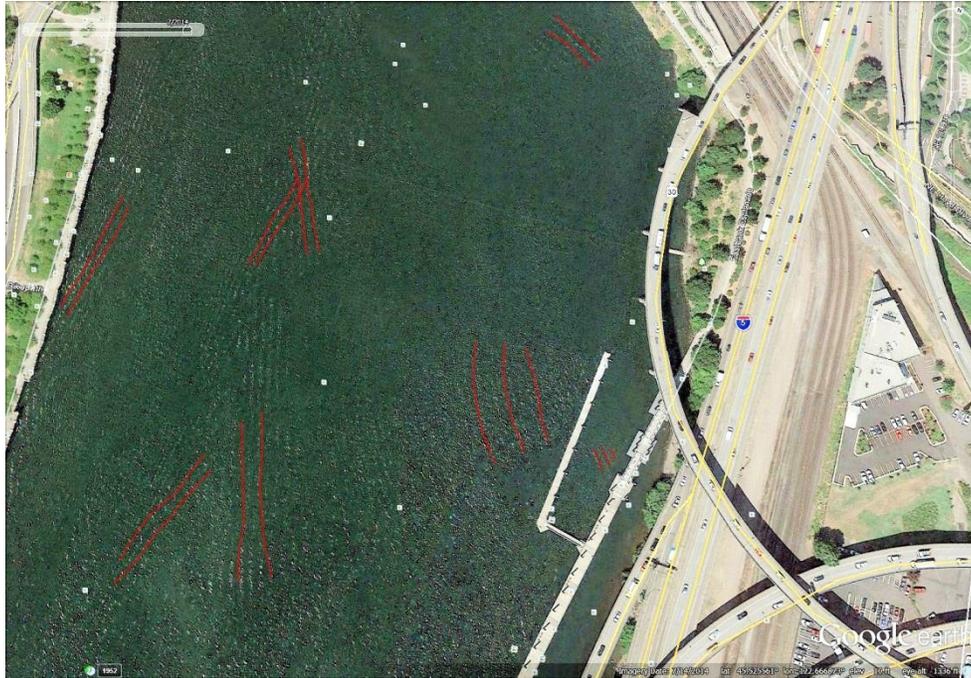
Background

01. The Board approved Facility Grant No. 893 at the July 1997 meeting. The agreement was signed by Mayor Katz on August 27, 1997. The project was completed and final Marine Board payment of \$340,983.46 was issued June 30, 1999. Funding for the project came from fees paid by recreational boaters (registration, titling and marine fuel taxes).
02. Discussions by the City to relocate the Duckworth Dock began in 2008, when the City held open houses and developed conceptual designs about replacing the Ankeny Dock. The relocation of the Duckworth Dock to Ankeny Plaza was discussed in great length. The conceptual designs significantly reduced the amount of motorized boat dock space. The City did not pursue this option due to budget and ADA accessibility issues. In early 2015, several high level inquiries were made by PBOT on what the impact would be to the grant if the docks were transferred to another governmental agency or private business, and also, what types of activities were allowed. No details were received.
03. At the January 6, 2016 work session, the Board invited Portland Bureau of Transportation (PBOT), Portland Parks and Recreation (PPR), and Columbia River Yachting Association (CRYA) to discuss the possible relocation of the Duckworth Dock to Swan Island. The Daimler Corporation and Flowing Solutions were available to answer questions from the Board, staff and invited guests
04. The high level conceptual discussion identified the need for staff to visit the proposed location to examine existing uses, services and proximity to other facilities, conduct a public meeting to provide an opportunity for public comment on the proposed dock relocation, and develop terms and conditions that would apply to the relocated dock for Board consideration.
05. The Board directed staff to consult with the Agency's attorney to confirm the Board has the authority to approve relocation of the dock and make modifications to the grant terms and conditions.
 - a. The Board's authority is broad under ORS 830.150 which identifies that funds placed in the Facility Account can be distributed, upon application, to a federal agency, the state, a city, county, water improvement district, park and recreation district or a port. Distribution shall be made on the basis of need for a facility as that need appears to the State Marine Board.
 - b. The Board's contractual rights is more limiting within the grant agreement however, under Section IV Termination Provisions, Part B Termination and Modification for Good Cause, the Board "may modify or terminate this Agreement for good cause or may modify or terminate this Agreement should state regulations or guidelines be modified, changed or interpreted in such a way that the project, or any portion of the project, is no longer eligible for Facility Grant Funds..."

06. The proposed concept brought forward by the City would include Daimler Corporation paying for design and engineering services to permit and relocate the dock to Swan Island, construction costs to remove and reinstall the dock, and PPR project management staff time. Additional services offered include onsite presence to monitor and document a boater's length of stay and activities on the dock, and designated parking.
07. The proposal to move the dock has lacked specificity from the City of Portland as to their proposal. PBOT and PPR have been working with Daimler Corporation, who originally brought the proposal to the city. In most cases, Daimler Corporation has driven the discussions, however, the Marine Board's agreement is with the City of Portland, and any changes to the agreement will be solely with the City of Portland. While Daimler Corporation will be working with the City of Portland, they are not a party to any future Marine Board agreement.
08. Daimler Corporation and Vigor Industrial have expressed a desire to pursue the establishment of a water taxi service from Vancouver to the proposed dock location and potentially to Oregon City. The service would use the 100-foot commercial section of the dock.

Proposed Site Location

01. On January 19, 2016, Scott Brewen, Director and Janine Belleque, Boating Facilities Manager met onsite with Board member Jen Tonneson, Brett Horner, PPR, Frank James, PPR, Matt Markstaller, Daimler Corporation and Andrew Jansky, Flowing Solutions to walk and discuss the proposed dock location and adjacent uses.
02. The location was assessed from the McCarthy Park parking area, to the Park's concrete access ramp, along the greenway trail, up the easement access sidewalk to the proposed parking area, which is about 0.7 miles. Within that section there are two existing concrete access ramps to the water and one set of stairs to the beach, three public greenway easements, one existing public parking area and a proposed public parking area. The conceptual gangway landing is about midpoint between two greenway easements, the concrete stairs and one of the concrete access ramps. On the attached aerial photo the trail from the Swan Island boat ramp to McCarthy Park and the greenway trail are visible, which is about 0.6 miles. Site visit photos are attached for reference.
03. Within walking distance of the proposed gangway is McDonald's, Subway, Anna's Island Café, TLT-Handcrafted Food and Drink, 7-11, and three additional restaurants will be built in the near future. The area is growing and redevelopment easily apparent. The greenway trail was wide, inviting and easy to travel.
04. Tie-up docks on rivers are historically used by large cruising boats as a destination location that provide access to desirable amenities such as restaurants, scenic, historic or cultural attractions and nature. CRYA has indicated that they do not use the current dock and do not envision staying overnight at the proposed location due to wave and wakes. Staff contacted Andy Jansky, Flowing Solutions, Daimler Corporation consultant, on the possible relocation to discuss wind and wave generation at the two locations. Mr. Jansky illustrated on the below aerial photo of the Duckworth Dock using red lines over the wave crests to show that waves are coming from every direction reflecting off of various hard surfaces, but in the Swan Island photo the wave energy is being absorbed when it hits the beach and does not reflect back.

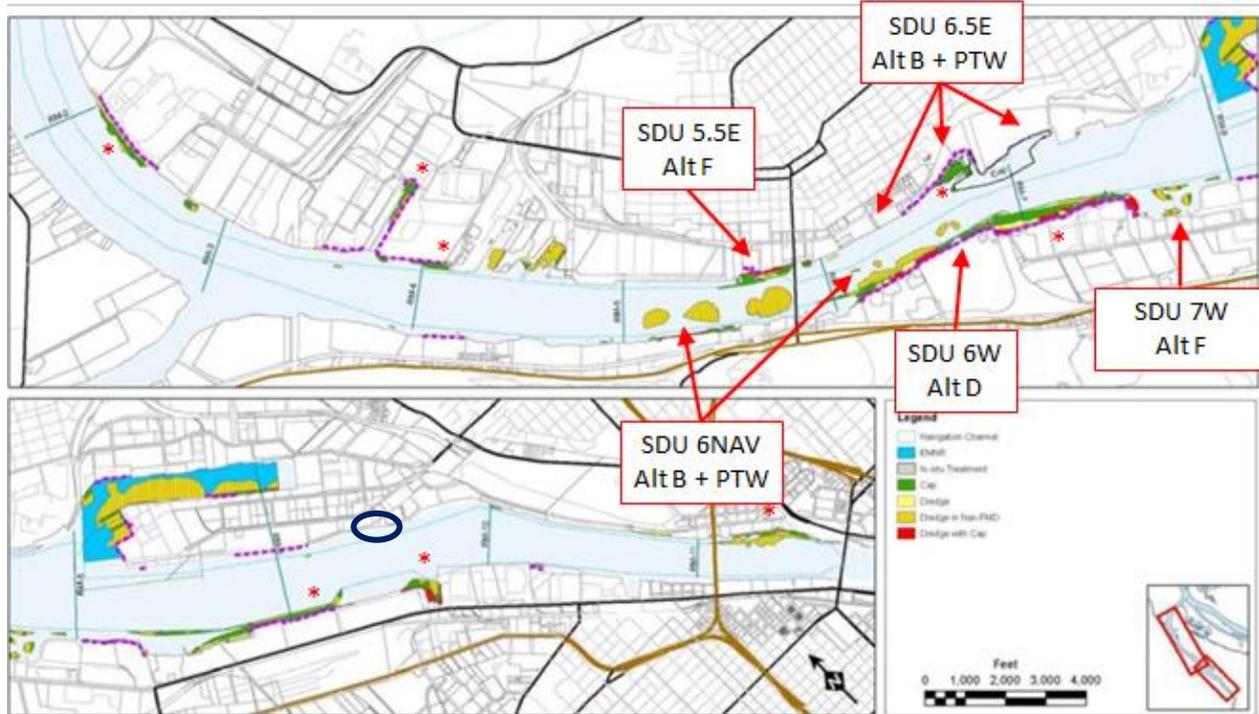


05. This implies that yes, there will be wave and wakes at the proposed location but the impact will be significantly less than the current location. Staff respects the comments provided by CRYA and understands their concerns about possible boat damage occurring as a result of wave and wakes beating the boat against the dock. The dock, by its design, will provide some wave attenuation on the inside portion of the dock. If the dock is relocated, Flowing Solutions will take into consideration the dock alignment to reduce impact from wave and wakes.

06. The proposed location is within the Portland Harbor Superfund site, however no remediation action is being proposed near the dock location. Staff shared the public notice and maps with DEQ requesting comments if they had concerns about relocating the dock to Swan Island. No concerns were expressed and they were thankful for sharing the information. The February 2016 map from the EPA is below. A dark blue circle represents the proposed dock location for reference.

Optimized Alternative E

Cost **\$1.4 billion**
 Construct = 7 years
 Dredge = 167 acres; 1.89M cy; 455K cy ex-situ treatment
 Cap = 83 acres
 EMNR = 54 acres
 Riverbank = 16.6K linear feet; 91K cy excavate; 20 acres cap



Additionally, staff contacted the Port of Portland requesting their review for any concerns regarding proximity to the harborline. The Port indicated that the dock would not impact the federal navigational channel or turning basins, so they had no issues. The River Pilots also had no concerns stating, “Ships are slowing down to pass shipyard already, so wakes should be fine. You’ll get a little suction from the passing ship because it is so close to the channel, but normally not an issue with small vessels.”

Public Comment

01. OSMB solicited written public comment on February 11, 2016 through February 23, 2016 at 8:00pm. A public meeting was conducted on February 23, 2016 from 6:00 pm to 8:00 pm in Portland. In addition to sending the Notice to the agency's interested parties list, the notice was posted on the agency's website and social media accounts. The Notice was also emailed or mailed to nearly 90 parties identified by PBOT, PPR and staff representing submerged land-lease holders, adjacent businesses, boating and paddling organizations, BOATS cruising and watersport teams, Facility Advisory Committee, and parties interested in river access. Newspaper coverage was provided by the Portland Observer, the Oregonian and Portland Mercury. Staff also requested PBOT and PPR share the notice on their websites. During the comment period 38 parties submitted written comments and 19 people attended the public meeting including Board members Cliff Jett and Jen Tonneson. Comments were received from 16 attendees.
02. Comments in favor of the proposed relocation generally cited:
 - a. Good kayak or standup paddle board location.
 - b. Downtown is too congested, this separates use;
 - c. Interest in establishing water taxi service for employees on the island;
 - d. Enhance quality of life for growing Swan Island community;
 - e. The dock is underutilized, used by homeless boaters, new location better management and oversight.
03. Comments opposed to the proposed relocation generally cited:
 - a. It is a memorial and shouldn't be moved;
 - b. Concern it would bring homeless boaters to area;
 - c. Continued loss of boating opportunities by City in Portland. Not enough public docks available;
 - d. Currently, use to launch paddle craft and pick up or drop off passengers
04. Alternatives proposed included:
 - a. Separate the dock so a portion can remain and a portion can go to Swan Island
 - b. Relocate to Ankeny St. (near Saturday Market) dock
 - c. Keep Duckworth Dock in current location and develop a new dock at Swan Island
05. The Columbia River Yachting Association, representing 19 yacht and boat clubs on the Columbia and Willamette rivers submitted the following verbal comments, "We don't have a real objection for it being moved to Swan Island but I see no reason for it, for recreational boating like ours, cruising, because that part of the river is very open for commercial and recreational boats and they go by there at an extremely fast speed, or cruising speed whatever that particular boat does. The wake action would be more than anybody would want to have happen to their boat over a weekend." "... I forgot to mention a couple things that would help for us with the movement of this dock and one would be to have a pumpout facility put there. There isn't one in Portland at all and we all know, well maybe we don't all know, us boaters know how important it is to have a pumpout facility nearby".

Options

The Marine Board has four options. The Board may direct staff to:

- a. Amend the existing agreement in support of the relocation;
- b. Deny the request to relocate the dock in writing;
- c. Amend the existing agreement to relocate only a portion of the dock;
- d. Issue notice of Termination for Default.

Analysis

01. The Duckworth Dock has been neglected and mismanaged for several years which have resulted in the dock being known as dangerous, unsafe, dirty, and a floating homeless camp. As a result the intended users, recreational boaters, do not feel welcome or safe to leave their boats at the dock.
 - a. PBOT's final pilot project report says the restrictions to overnight use were a success since the dock wasn't full of boats in poor condition. However, the report acknowledges it is likely that boats appearing in the same location for several days stayed the night, violating the ordinance. Neither of these situations encourages or promotes use by recreational boaters. Even with the continued implementation of the overnight stay restrictions, it is doubtful that recreational boaters will use the facility in the current location because of the negative stigma associated with the dock or that PBOT will actively manage the facility.
 - b. PBOT has repeatedly stated that they want out of the dock business. During the public meeting Richard Gray, PBOT stated, "Our priority is to maintain and operate the streets of Portland. The dock does not fit that core mission. So we want out of the business. We think the appropriate party to own/operate a recreational dock is the Portland Bureau of Parks and Recreation." In contrast to comments from PBOT, PPR has been receptive to finding a solution, recognizing that operating and maintaining an additional facility is not within their current budget and as of now, PBOT has not offered any form of compensation to assist with the additional workload and responsibility. PPR said, "We are interested in working with the parties that are involved to possibly make this happen. We believe that the new location could provide an opportunity for the dock to get a lot more use for which it was intended. We feel it is a generous offer from Daimler to do this and feel the transfer from PBOT to Parks would make some sense. So we are definitely open to that." Based on inter-bureau coordination, staff would support having all boating facilities under one bureau rather than the current three (Bureau of Environmental Services, PBOT and PPR).
02. The few comments received in opposition to the relocation of the dock are addressed below:
 - a. The Marine Board recognizes and respects that the City dedicated the dock to Kevin J. Duckworth an avid boater and fisherman. All parties (PBOT, PPR and OSMB) agree that the dock would retain the name of "Kevin J. Duckworth Memorial Dock". Additionally, the relocated dock would provide access for recreational boaters to pick up and drop off their fishing and boating friends and have nearby access to Multnomah Channel, Columbia River and a popular fishing zone on the Willamette River across from the proposed dock location as seen in the photo below.



- b. Concerns were raised that the “homeless boaters” would follow the dock. Staff consulted with Department of State Lands and Multnomah County Marine Patrol to discover if there was any history of “transient” boaters anchoring on the riverside of Swan Island in proximity to the proposed dock location and was informed that the area was not a known anchoring location. In discussions with PPR and the Daimler Corporation, the dock would be monitored by Daimler’s security staff to document and monitor the length of stay and activities on the dock. As a result of this onsite presence consideration should be given to restore year-around overnight use (72hour) since it was part of the original grant conditions. The goal is to create a safe and friendly environment that encourages recreational boating.
- c. Continued loss of boating opportunities in Portland and not enough public dock space. Staff understands and recognizes the frustration and concern raised by boaters that to lose a dock, even a poorly managed dock is not desirable since the likelihood of one being replaced is remote. The Ankeny St. Dock is gone and the Staff Jennings facility closed for the Sellwood bridge replacement, neither of those facilities have been replaced nor planned to be replaced. At the public meeting Brett Horner, PPR said, “ I know there were some comments about the extent of boating facilities along the river and I think we could all agree there could be more, there should be more, and it would be nice if there were more. We have a lot of constraints in Portland. We have a lot of river dependent uses that prohibit a lot of public access. I think at one point I did an assessment of how much actual waterfront people had access to and I think it was less than 5% of the waterfront in Portland”. As a result of these concerns staff considered and offered to PPR and PBOT the opportunity to take all or part of the 100-feet of designated commercial dock space to keep at the existing location. However, PBOT was adamant that they do not want to maintain any docks and PPR was concerned with how it would impact the proposed water taxi service at Swan Island.
- d. Two commenters identified that they currently use the dock. One party stated, “...while I think it would be great to have additional access on Swan Island to the boat launch that is currently there and it would tie in nicely with the greenway I would really encourage you to maintain the existing access that the Duckworth provides. After work we will often take our small craft, kayak, sail boat, from our shop and the Duckworth is the only point of access we have to the Willamette anywhere within the central city core. As the other speakers have mentioned public access to the river is very rare...”

The other party wrote, "I regularly pick up and drop off passengers at this dock (when it's not full of permanent homeless boat campers or closed with the dock cleats removed)." Staff viewed the second commenter's website and noted that the Duckworth Dock is identified as closed. These comments suggest there is a need for dock access or at a minimum river access. However, the style of dock, (high freeboard) is not ideal for many paddlers or light watercraft users. The relocation of the dock could be an opportunity for the City to identify a safer location and develop a lower freeboard style dock to better meet the needs of paddlers, recreational boaters and other river users.

03. The need for pumpout services was identified during the public meeting by CRYA and boaters have expressed the same needs through the Statewide Boating Access Improvement Plan (2011-17). Currently, the only pumpout station on the Willamette River in Portland is at Riverplace Marina (see photo below).



The private marina has indicated that once the grant term ends (August, 2017) they will close the pumpout to public use. The next closest pumpout station to Riverplace Marina is approximately 12 miles upstream in Oregon City, downstream on the Multnomah Channel at Rocky Pointe Marina (17 miles) or upstream on the Columbia River at Jantzen Beach Marina (18 miles). The loss of pumpout service will create a void of nearly 30 miles with no public pumpout station on one of the most heavily used waterbodies in the State. The City of Portland has spent tremendous resources to reduce sewage in the Willamette River. PPR does not believe the best fit for a pumpout station would be at the relocated dock. Instead they have suggested the possibility of installing one at Riverplace breakwater dock since it has a significant amount of use by large boats that have holding tanks. This would be a good location about mid-point between other pumpout facilities and placement on the breakwater dock would allow boats of all sizes to access the pumpout.

04. The dock has a designated 100-foot section of the outside edge (riverside) for commercial uses. As mentioned earlier PBOT and PPR want the entire 100-foot section to be relocated with the recreational portion of the boating dock. There is an active interest in establishing a water taxi service between Vancouver and the proposed dock location. It is envisioned that the service could be expanded to Oregon City as well. This use was approved under the original terms of the grant agreement.
05. The majority of recreational boating comments identified the appeal of this dock and location for paddling. Paddlers mentioned convenience of paddling between Cathedral Park and the proposed location, connection to the greenway, improved safety by not having to paddle through the Swan Island Lagoon to access the river and spreading out the use from downtown. At the Swan Island location there are currently two concrete ramps and one set of stairs that provide access to the water or beach depending upon water elevations. These structures can provide access for paddlers but some paddlers may prefer to access the river from the dock. Staff recognizes that paddlers have different preferences on how they want to access the water. As a result a provision should be included that if the need arises to modify the dock or connect a structure to the dock to assist paddlecraft with launching or retrieving from the dock, that prior to any modification, Marine Board staff will review the proposed modification (product, method of attachment, impact to other recreational boaters, non-exclusive use) and approve or deny the request in writing.

Conclusion

01. The City of Portland entered into an agreement with the Marine Board to accept state boating funds to assist with building and maintaining the Kevin J. Duckworth Memorial Dock. As part of a greater vision for the area, the Portland Bureau of Transportation was given responsibility to manage the dock, since part of the intent involved operation of a water taxi at the location. The City's vision has not materialized, and PBOT is not a willing boating facility operator. The Board can and should hold the City to the agreement; however, doing so at the current location will at best result in minor recreational boat usage and an unwilling facility operator.
02. PPR currently operates and maintains the majority of City boating facilities and possess the knowledge and skills associated with the specialized nature of recreational boating facilities. Staff supports PPR becoming the operating and managing bureau but is also sensitive to the budgetary constraints potentially placed on them to manage the facility. PPR will not operate the dock in the current location due to these budgetary constraints, but is willing to manage the dock at the proposed location. Staff believes that PPR has the ability to educate and inform the public through the transitional process associated with relocating the dock and encourages the two bureaus to coordinate during this process.
03. The dock should remain known as the Kevin J. Duckworth Memorial Dock and be clearly identified through signage, media and other messaging, especially during the transition to the new location. The City is responsible for the coordination and notification to interested parties.

04. The overnight stay restrictions imposed by the pilot project should be removed, if the dock is relocated. The original agreement term of 72-hour maximum stay limit should be allowed but with a modification to stipulate that the stay is limited to a maximum of 72-hours within a 30-day period. This provision will allow recreational boaters the opportunity to stay overnight but not monopolize the dock. Additionally, a provision should be included that the overnight stay language can be modified with Board approval if sufficient documentation has been supplied to necessitate the need. It will be the responsibility of PPR to ensure the 72-hour stay limit is enforced.
05. The grant agreement already identifies a designated commercial area on the dock. Based on the interest of establishing a water taxi service and PBOT and PPR not wanting to break apart the dock, this designated use should remain. Additional clarification language should be included to specify the commercial space will be signed or designated with striping and that any activity occurring within the designated space will not impact recreational boaters using the remaining portion of the dock.
06. As mentioned above PPR does not believe the proposed dock relocation area is the best fit for a pumpout station, but they did identify that Riverplace breakwater dock would have more use by boats with holding tanks. Staff has indicated that the pumpout station would qualify for a 100-percent construction grant and maintenance assistance funding through the Maintenance Assistance Program. Staff is sensitive to PPR's concerns of vandalism and maintenance, but pumpout station designs can be minimized allowing the public access to only a hose and stand with off and on button. The rest of the equipment can be secured in a building or behind fencing as a way to reduce vandalism and maintenance as illustrated in the photo below. Staff encourages PPR to consider this option for a future grant.



07. The loss of public recreational boating access and opportunities in Portland is real and a significant concern for staff. But, the dock is not leaving Portland; it is proposed to be relocated on the same waterbody approximately 2.75 miles downstream in an area that has no public recreational docks. The Duckworth Dock is approximately 0.8 miles to the Firehouse Dock, 0.9 miles to the light watercraft dock and a little over one mile to Riverplace Marina on the opposite bank. In contrast, from the proposed dock relocation the next public recreational dock is located approximately 3.7 miles downstream at Cathedral Park. Unfortunately, the Duckworth Dock in the current location is not utilized, taken care of or protected for the intended recreational boaters that paid for the facility. Instead, it has become an “unsafe dock” that recreational boaters do not use. Relocating the dock with no additional public funds provides an opportunity for the dock to be used by the recreational boaters who paid for it.

08. Will recreational boaters use the dock if it is relocated? Comments from the Swan Island Business Association, the neighborhood association and others believe that there is great potential for this part of Swan Island and potential for boaters to access services. Through the public comment process paddlers expressed an interest to use the dock. Staff also believes boaters will use this dock to pick up and drop off friends and family for fishing and cruising. The Swan Island area is an up and coming neighborhood that is adding restaurants, expanding the greenway trail and creating an environment that would invite boaters to dock for 15 minutes to pick up a friend, a couple hours for a meal or overnight. Compared to the current location where the status quo and likely future will be little to no recreational boating use, the new location offers these opportunities in a safer, actively managed environment.
09. The City of Portland has not provided a formal request in writing. The City did bring this option forward to the Marine Board for discussion and negotiation, but given the complexities, is seeking Marine Board approval to conceptually allow the move of the dock in order to begin the process. Since there are two bureaus involved and a private entity agreeing to pay the costs, a lot of issues will need to be worked out between those parties. At this juncture, if the Board is supportive moving forward, then it is based upon recent negotiations and staff understanding of the provisions as outlined in the staff recommendation.

Staff Recommendation

01. Staff recommends that the Board authorize the City of Portland to relocate the Kevin J. Duckworth Dock approximately 2.75 miles downstream to Swan Island provided the following provisions are met:
 - a. The relocation is contingent upon the City's Bureau of Transportation and Parks and Recreation agreeing on the transfer of operation and maintenance of the dock.
 - b. The City of Portland is responsible for services related to the relocation of the entire dock which includes but is not limited to the approval and issuance of all required permits, construction and onsite security presence and monitoring.
02. The following items will be included in an amendment to Facility Grant No. 893:
 - a. The dock will remain in public ownership and be known as the Kevin J. Duckworth Memorial Dock. The dock will be clearly identified through signage, media and other messaging, especially during the transition to the new location. The City is responsible for the coordination and notification to interested parties.
 - b. The overnight stay restrictions referred to as the "pilot project" in Amendment No. 1 to the Grant Agreement be removed upon the completion of the dock relocation. The 72-hour stay limit will be modified to read "a maximum of 72-hours within a 30-day period". A provision will be included that the overnight stay language can be modified with Board approval if sufficient documentation has been supplied to necessitate the need.
 - c. The 100-foot commercial space will remain on the outside portion of the dock and will be signed or designated with striping. Activities that occur in the designated commercial space will not impact recreational boaters using the remaining portion of the dock.

- d. During the term of the agreement if the need arises to modify the dock or connect a structure to the dock to assist paddlecraft with launching or retrieving from the dock, prior to any modification the City will submit a request to Marine Board staff to review the proposed modification for but not limited to the type of product, method of attachment, impact to other recreational boaters, non-exclusive use and approve or deny the request in writing.
- e. The City will obtain additional parking that will be dedicated for public use to access the dock.
- f. The dock will be located in an area with minimum water depth of 7-feet at ordinary low water to allow for larger recreational boats to safely use the dock.



2/20/2013

Swan Island

McCarthy Park-Parking

McCarthy Park

Easement to Greenway

Unnamed concrete access

Easement to Greenway

Gangway Conceptual Location

Unnamed Concrete Stairs

Proposed Parking Area

Easement to Greenway

McCarthy Park-Parking



Unnamed Concrete Access



McCarthy Park- End of Ramp



Easement to Greenway near Concrete Access



McCarthy Park- Looking up from End of Ramp



Looking Upstream Near Proposed Gangway



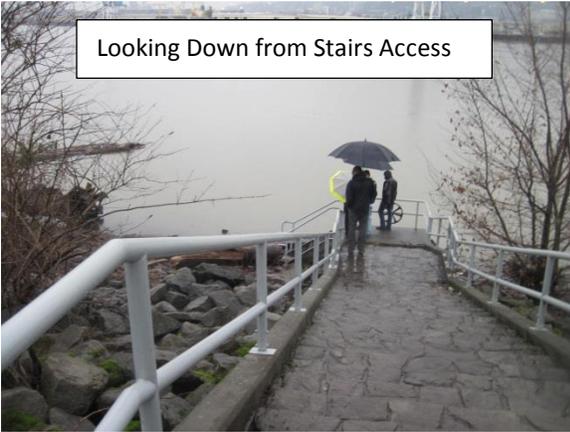
Looking Downstream Near Proposed Gangway



Easement to Greenway near Gangway Access



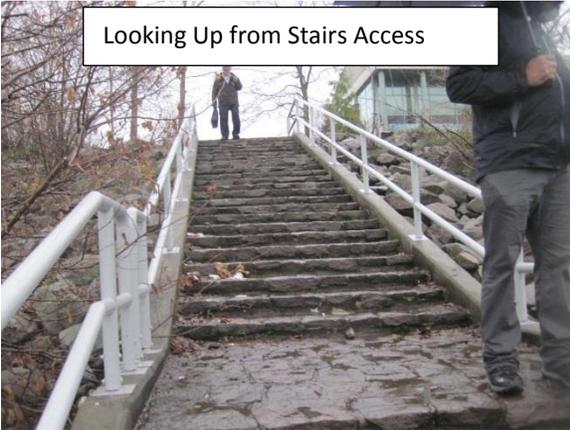
Looking Down from Stairs Access



Proposed Parking Area



Looking Up from Stairs Access



Standing on the Overlook on the Greenway



March 29, 2016

Item E: Grant No. 1559

PROJECT IDENTIFICATION

Applicant Name: City of Milwaukie
Applicant Contact: Chuck Eaton, Engineering Director
Project Name: Milwaukie Riverfront Park, emergency bridge repair

GEOGRAPHIC LOCATION

GPS Location: Latitude: 44.4425; Longitude: -122.6431
Waterbody and mile: Willamette River, Rivermile 18.4
Location: From I-5 take exit 288 for I-205 N. Take exit 13 for OR-213 heading north towards Milwaukie/82nd Ave. Take ramp right to OR-224 W toward Milwaukie. Turn right onto OR-224. Turn left on SE 17th Ave. Turn right onto OR-99E/SE McLoughlin Blvd. Park is on the right.



NEED

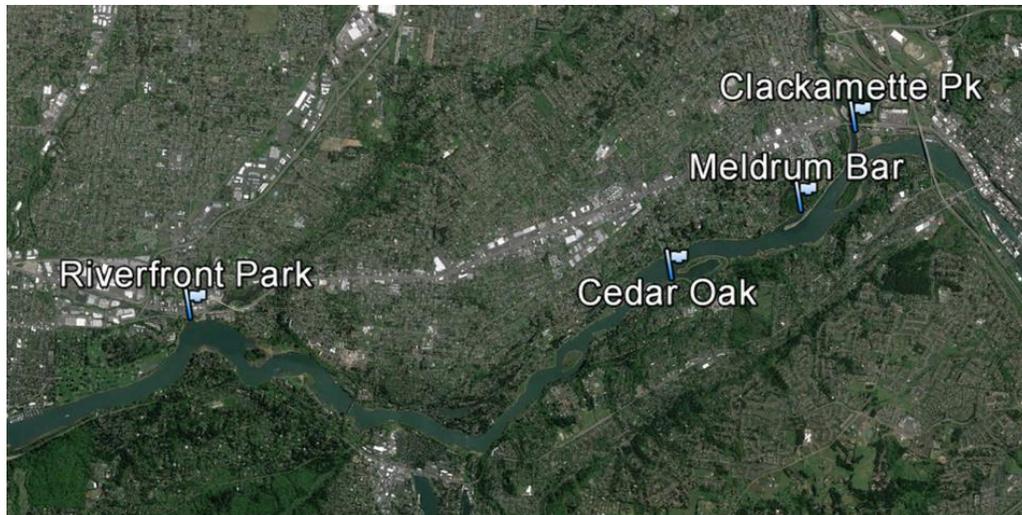
During the storm event of December 6-23, 2015, the bridge providing access to the boat ramp was damaged and the structure was closed. As a result the boat ramp was also closed and unavailable to the public. The City has declared an emergency and successfully petitioned FEMA to amend the federal declaration to include Clackamas County.

The City has completed the site evaluation and although it appears minor from the photo the upper portion of the bridge has been undermined approximately 5-feet. The City also conducted an underwater inspection and discovered additional undermining on the north abutment with additional movement within the downstream wing wall in rotation and separation from the abutment.

The City's original cost estimate was \$20,000-25,000 for a temporary repair to reopen the boat ramp while the City pursued permits for the long-term repair of replacing the bridge. After incorporating emergency permit conditions to work outside of the in-water work window and mitigation for the amount of rock fill the first bids received were over \$300,000. The City went back to the permitting agencies to request modification to the emergency permitting conditions and successfully reduced the bid to \$99,680. This bridge normally provides shared access for the wastewater treatment plant, however the temporary repairs will not allow the weight of the trucks to safely use the bridge therefore, the temporary repair is for the benefit of the boat ramp users.

It is important to the boaters that this site be opened since Clackamette Park is closed and Cedaroak will be closed this summer and fall for the boat ramp and dock replacement project.

<i>Nearby Facility</i>	<i>Rivermile-Location</i>	<i>Site Attributes</i>
Cedaroak, City of West Linn	4.8 miles South	Ramp, boarding docks, parking, flush toilet- CLOSED Summer/Fall Construction
Meldrum Bar, City of Gladstone	5.8 miles South	Ramp, boarding docks, parking, vault toilet
Clackamette Park, City of Oregon City Clackamas River	6.5 miles South	Ramp, parking, flush toilet-currently CLOSED



SUPPORT AND USE

This facility is new, as well as, all of the City staff with knowledge of the boating facility. As a result the City did not provide an estimate on the amount of use.

City of Milwaukie has identified the type and percentage of boats using the boat ramp.

Type of Boat	Percentage of Use
Fishing boats	65%
General pleasure boats	25%
Sailboats	0%
Ski boats	2%
Cruisers or Yachts	0%
Personal watercraft	0%
Kayak, canoe, other paddlecraft	3%
Type of Support	
Source of Support	
None	

APPROACH

The City has received emergency permit approvals, obtained bids and has a contractor ready to mobilize onsite and complete the work by April 6, 2016. These repairs are temporary and will be removed when the new bridge is constructed. The City anticipates construction of the new bridge within two-years.

EXPECTED RESULTS

Completing the temporary repair will allow boaters to use the boating facility.

OBJECTIVES

Complete the temporary repairs and reopen the boat ramp by April 6, 2016.

USEFUL LIFE

This is a temporary repair and is anticipated to be in place for two-years while the City constructs a new bridge. Staff is proposing to amend the previous construction grant No. 1489 and extend the term of the agreement by two-years for the time the facility has been closed and the useful life of the temporary bridge repair.

20-YEAR GRANT HISTORY

Biennium	Scope	OSMB State & Federal Funds	All Match	Total Project Cost
13-15	Ramp, boarding docks, vault toilet, parking, piles	\$200,000	\$2,470,377	\$2,670,377

BUDGET NARRATIVE

The City is requesting 25% of the temporary construction cost to have the boat ramp reopened. The temporary repair is for the benefit of the boaters. The trucks from the wastewater treatment plant will be restricted from using the bridge since the temporary repairs will not support the weight of the trucks. The City will not be requesting any funding for the new bridge construction.

MATCH AND PARTNERS

Source	Amount	Percentage
City of Milwaukie Pre-Agreement Cash*	\$53,434	34.89%
City of Milwaukie & FEMA	\$74,760	48.83%
OSMB State Funds	\$24,920	16.28%
<i>Match Total</i>	<i>\$128,194</i>	<i>83.72%</i>
<i>OSMB Total</i>	<i>\$24,920</i>	<i>16.28%</i>
<i>Grand Total</i>	<i>\$153,114</i>	<i>100%</i>

*The City completed a structural evaluation for \$27,920 and consultant design/engineering services of \$25,514.

FEES

City of Milwaukie currently does not charge a fee for use of Riverfront Park. The owner does not anticipate modifications to the user fees.

N. Clackamas Park District maintains Riverfront Park and currently receives \$4,750 in Maintenance Assistance Program (MAP) funding which they match with a minimum of \$3,166.67 in resources.

TIMELINE

The City has a contractor hired and he plans to mobilize onsite mid-next week. The work is anticipated to begin March 30 and be completed by April 6.

STAFF RECOMMENDATION

Staff recommends that the Board authorize Facility Grant 1559 in the amount of \$24,920 in state boater funds to match \$53,434 of City pre-agreement cash match and \$74,760 of City and FEMA cash to make temporary repairs to the bridge and reopen the boat ramp for a total project cost of \$153,114.



March 23, 2016

Janine Belleque
Boating Facilities manager
Oregon State marine Board
435 Commercial St NE
PO Box 14145
Salem, OR 97301

Subject: Grant Application
Milwaukie Riverfront Park Boating Facility, Access Road Repair

Dear Janine:

Thank you for the opportunity to submit a grant application for the "Emergency Scour Repair" project on the access road to the Milwaukie Riverfront Park boat launch.

We are requesting that the Oregon Marine Board participate in the construction contract for the temporary repairs to the access road required to reopen the boat launch facility. The access road approach to the bridge that crosses Kellogg Creek was partially washed away during the storm event of December 6-23, 2015. The City has expended resources to have the existing structure analyzed and a temporary repair designed with the intent to reopen the facility. The original estimate was for a construction cost of \$25,000, the city has solicited quotes on the temporary repair work and the actual cost is now at \$99,680, assuming a FEMA match of 75% that leaves \$24,920. The City has already expended \$27,920 in structural evaluation expenses and an additional \$25,514 in design expenses. The City has also committed to the replacement of the structure within the next biennium at an estimated cost of \$1.2 million.

The project could be completed without the temporary repair work but that would mean that the boating facility would remain closed during the bridge replacement work over the next two years. The City Council felt this facility was critical to the City and has authorized staff to pursue a course of action that would allow the facility to be open in the interim while the permanent solution is designed and constructed. It is important to note that the temporary repairs have been limited in scope and duration by the emergency provisions to work in the water issued by DSL and will only accommodate the boating and park traffic once completed.

We are requesting that the Oregon Marine Board consider assisting the City to this end by contributing a 25% match to the construction contract, in the amount of \$24,920. Please feel free to contact me at 503-786-7605 or EatonC@milwaukieoregon.gov if you have any questions.

Sincerely,


Charles Eaton, Engineering Director

COMMUNITY DEVELOPMENT
BUILDING • ECONOMIC DEVELOPMENT • ENGINEERING • PLANNING
6101 SE Johnson Creek Blvd., Milwaukie, Oregon 97206
P) 503-786-7600 / F) 503-774-8236
www.milwaukieoregon.gov

RECEIVED

MAR 23 2016



Boating Facility Grant Application Form
To Acquire, Improve, and Renovate Public Recreational Boating Access
Facilities Program
Oregon State Marine Board

FOR OSMB USE ONLY		Boating Facility Grant number: 1559
Biennium: 2015-17	Date received:	

Fill in all sections that apply – Leave all other sections blank

1. APPLICANT INFORMATION			
Applicant type: <input checked="" type="checkbox"/> City <input type="checkbox"/> County <input type="checkbox"/> Port/park district <input type="checkbox"/> State agency <input type="checkbox"/> Federal agency			
Applicant or entity name: City of Milwaukie		Telephone number: 503-786-7523	Cell phone:
Applicant mailing address: 10722 SE Main St.		City: Milwaukie	State Zip code: Oregon 97222
Name and title of the project manager: Charles Eaton, Engineering Director		E-Mail: EatonC@milwaukieoregon.gov Office phone number: 503-786-7605 Cell phone: 503-793-3906	

2. PROJECT INFORMATION		
Project type: <input type="checkbox"/> Acquisition <input checked="" type="checkbox"/> Construction <input type="checkbox"/> Consultant design/engineering <input type="checkbox"/> Master planning <input type="checkbox"/> Consultant permitting/environmental/cultural		
Project name: (What do you want this project to be called?) Kellogg Crk Bridge #22142 Emergency Scour Repair		
Is the need for this project identified in the Marine Board's 2011-2017 Six-Year Facilities Plan? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, indicate the priority ranking: <input type="checkbox"/> Low <input type="checkbox"/> Medium <input type="checkbox"/> High		
Grant funds requested: \$ <u>24920.00</u>	Applicant cash: \$ _____	Other cash: \$ <u>74760.00</u>

3. SITE LOCATION AND OWNERSHIP INFORMATION		
Park or facility site name: Riverfront Park	Waterbody: Willamette River	County: Clackamas
Site location:	Tax map # <u>11E35AD</u>	Tax lot # <u>1000 & 1001</u>
GPS coordinates: Lat 44.4425 Long -122.6431	River mile: 18.4	
<p>Driving directions – If new location, provide as much detail as possible: 11211 SE McLoughlin Blvd, Portland, OR 97222 I-5 North toward Portland: At exit 288, take ramp right for I-205 N/Veterans Memorial Hwy toward Oregon City. At exit 13, take ramp right for OR-213 North toward Milwaukie/82nd Ave. Take ramp right for OR-224 West toward Milwaukie. Turn right onto OR-224 Pass McDonald's on the right in 3.1 mile. Turn left onto SE 17th Ave. turn right onto OR-99E/SE McLoughlin Blvd. Arrive at 11211 SE McLoughlin Blvd, Portland, OR 97222 on the right. The last intersection is SE Jefferson St. If you reach SE 22nd Ave, you've gone too far.</p>		
U.S. Congressional District Number: 5 Oregon Legislative District Numbers: House: 41 Senate: 21		
<p><u>Identify the current ownership of the site:</u> <input checked="" type="checkbox"/> Site is owned in fee simple by the applicant. How long has the applicant owned the site? _____ yrs. Describe any restrictive easements or deed restrictions:</p> <p><input type="checkbox"/> Site is leased by applicant Number of years remaining in lease: Name of property owner: Describe other interest in site and tenure:</p> <p><u>Identify the applicant's current management of the site:</u> <input type="checkbox"/> Site is managed solely by the applicant. <input checked="" type="checkbox"/> Site is managed cooperatively with another entity Identify the entity (volunteer host, concession, etc.): North Clackamas Parks and Recreation District</p>		

4. GENERAL SITE INFORMATION

Existing site features/amenities (check all that apply and provide other requested information):

Feature/Amenity	<input type="checkbox"/>	Material Brand or Type	Quantity or Location
Boat Ramp	<input checked="" type="checkbox"/>	Material Concrete	Lanes 1
Transient Tie-Up Docks	<input type="checkbox"/>	Material	Linear Feet
Boarding Docks	<input checked="" type="checkbox"/>	Material Wood	Linear Feet 220
Boat Trailer Parking	<input checked="" type="checkbox"/>	Surface Pavers	Number of Stalls 20 ADA Stalls 1
Single Car Parking	<input checked="" type="checkbox"/>	Surface Pavers	Number of Stalls 13 ADA Stalls 2
Restroom	<input checked="" type="checkbox"/>	Type Unisex	Number of Stalls 1
Pumpout Station	<input type="checkbox"/>	Brand	Type
Dump Station	<input type="checkbox"/>	Brand	Stand alone <input type="checkbox"/> or combined with Pumpout <input type="checkbox"/>
Floating Restroom	<input type="checkbox"/>	Toilet Type	Anchor Method
Marine On-Water Fuel	<input type="checkbox"/>	Diesel Tank Gallons	Gas Tank Gallons
Boat Wash Station	<input type="checkbox"/>	Type	Number of Stalls
Day Use Area	<input type="checkbox"/>	Activities	Distance from boating area
Campground	<input type="checkbox"/>	Number of Spaces	Distance from boating area
Other site amenities or features			

Site maintenance:

Identify who will maintain the site and facilities when the project is completed? Applicant Other (specify): Coty of Milwaukie and North Clackamas Parks and Recreation

Estimate the annual number of staff hours it will take to maintain area and/or facility: 820 hours

Estimate annual boating facility operations and maintenance costs: \$ 32000.00

Identify all of the entrance, parking, day-use, and any boating-related use fees charged at this site:

Day-use \$ 0.00 Launch \$ 0.00 Parking \$ 0.00 Tie-up/overnight Moorage: \$ 0.00 per 0 (unit)

Other fees (describe and list the amounts):

Estimate the current mix of boats that use this facility (based on 100%):

<16 ft. motorized 7.0% 17-26 ft. motorized 90.0% 27 ft. and over 0.0% All non-motorized 3.0%

Identify the types of boats currently using this site (by percent):

Fishing boats 65.0% General pleasure boat 25.0%

Sail boats 0.0% Ski boats 2.0%

Cruiser/yachts 0.0% Personal watercraft 5.0%

Kayak, canoe, other paddle craft 3.0%

Describe how is this mix is likely to change as a result of the proposed project:

Estimate the amount of use at this facility:

Number of launch/retrievals per year: _____

Number of boats mooring overnight per year:

Describe how this amount of use is likely to change as a result of the proposed project:

What are the boating activities by season? (e.g., fishing, pleasure, water sports, etc.)

From (month) to Activities

From (month) to Activities

From (month) to Activities

From (month) to Activities

Identify any other public or private boating facilities(ramps, tie-up facilities or marinas) within a 5-mile radius:

	Name of facility:	Direction (N,S, E,W):	Distance (Unit)
1.	Sellwood Riverfront Park	North	2.4 miles
2.	Oak Grove Boat Ramp	South	2.0 miles
3.	Meldrum Bar Park	South	5.5 miles
4.	Waverly Marina (private)	North	1.0 mile
5.			
6.			
7.			
8.			
9.			
10.			

5. PROJECT DESCRIPTION

Project narrative description:

Answer all parts completely. This is your opportunity to "sell" your project. Do not assume Marine Board staff will know this information.

- A. Describe the need for the project (i.e.; what is the problem or issue; how long have problems existed; what measures have been taken to address problems; how will the project resolve problems or issues; etc.).

During the storm event of December 6-23, 2015, the vehicular bridge that is the only access to the boat ramp within Riverfront Park, was damaged and the structure was closed to vehicular and pedestrian traffic. The closure was due to a stream bank failure at the southwest corner of the access structure to Riverfront Park (Bridge #22142), which has significantly undermined the roadway and approach. This bridge also serves as the primary truck access for the Kellogg Wastewater Treatment Plant.

We have completed the evaluation of the repairs required to the structure as well as a design of a temporary repair to allow the structure to be reopened while permanent repairs are designed and constructed. In addition, we have completed an underwater inspection of the entire structure to determine what, if any, additional impacts exist as a result of the event. The underwater inspection has determined that an additional 10" of undermining has occurred on the north abutment with additional movement within the downstream wing wall both in rotation and separation from the abutment. This additional information was utilized to update the total estimated cost associated with the storm damage.

The City of Milwaukie has declared an emergency relating to this facility and the need to reopen the facility at the earliest possible time. The City has completed the design required to perform the temporary repairs identified. We are currently in the process of executing a contract for the construction of the temporary repair work. These repairs will allow the boat facility to reopen which is of significant benefit to the citizens of Milwaukie. The boat facility is one of only two located on this side of the Willamette between Swan Island and the Willamette Falls due to other facility closures. The temporary repairs, however, will not allow WWTP truck traffic to resume operations over the structure.

The City will pursue the permanent repair/replacement of the structure separately from this project. The City has committed the fund to replace the bridge within the next two years but is requesting matching funds for the temporary repairs to allow the facility to be open during construction.

- B. Describe the specific actions to be taken as a part of the proposed project (i.e.; what will be acquired; what new facilities will be constructed or installed; which existing facilities will be renovated, removed or demolished; etc.).

The proposed project is for the construction of the temporary scour repairs only. This work consists of excavation and replacement of existing material and installation of rip rap, aggregate base, asphalt and streambed restoration. The City has utilized \$53,434 of City funds for the evaluation and design of the proposed project.

- C. Describe how the proposed work will be accomplished (i.e.; will a contractor or consultant be hired; will applicant-owned materials or equipment be used; will applicant staff perform any of the work; etc.) and who will provide project management over the proposed project. List the anticipated project start and end dates.

The project will be completed by an independent contractor. Work is anticipated to begin on March 30, 2016 and be complete April 6, 2016. Project management will be performed by City staff and the cities consultant at the expense of the City.

- D. Describe the general character of the site, the existing development, and the current use. Provide any use or attendance statistics you have for the site.

Milwaukie Riverfront Park is an 8.5 acre site located on the Willamette River's eastern banks between the mouths of Johnson and Kellogg Creeks. Over the past decade, citizens of Milwaukie, Clackamas County and the wider Metro region have participated in creating a design for this site which is expected to become a favored destination for people throughout the region and a center for civic and recreational activities. When fully completed, Milwaukie Riverfront Park amenities will include a boat ramp and associated facilities, an outdoor amphitheater, a children's play area, trails for walking and biking, two Creek/River overlook areas and a central plaza and restroom with an interactive fountain.

Portland metro region has participated in creating a design for this park that is expected to become a favored destination for people throughout the region and a center for civic and recreational activities. Milwaukie's Riverfront Park hosts a new boat launch, long known as the "Jefferson Street boat ramp" which has been impacted due to the closure of the access road. Existing facilities at this location consist of a one lane boat launch with a boarding float, an asphalt parking lot with 20 parking spaces for vehicles with trailers and 13 spaces for cars, and a unisex restroom. According to the OMB's most recent triennial survey, the old facility had 13,300 use days and 12,797 trips during the survey period. The new facility was open for less than 6 months before the storm event that caused the access to be closed.

- E. Briefly describe the history of the site (i.e.; how was it acquired; what was the historical or traditional use of the site; how long has the site been owned and operated by the applicant; what other uses occur on this site; what involvement does the community have with this site; etc.).

The newly reconstructed facility was opened in May 2015 and was only open for approximately seven months before the storm event. The project received final acceptance in November 2015, just one month before the storm event. The access bridge dates back to the early 50's and was not part of the recent construction.

Development of Milwaukie Riverfront Park is currently the Milwaukie City Council's highest priority. The Park's location within three blocks of the downtown business area and within a quarter mile of a light rail station make it an attractive amenity to those working and visiting downtown Milwaukie. Riverfront Park is already the site of two of the City's most popular annual events: a summer Riverfest and Fireworks display and a Winter Solstice event with a bonfire and Christmas Ship viewing. The enhanced boat launch and the addition of a boarding float with daytime tie-up capacity is expected to attract boaters from all over the region to the park and to the downtown business area.

- F. Describe how the project relates to other local or regional plans to meet current and future public recreation needs and the needs of the boating public. Identify what Master Plan, Resource Management Plan or comprehensive plan identifies this project need.

The proposed site design is the result of over a decade of planning, public input and regulatory review. In 2000, Milwaukie's Downtown and Riverfront Plan was adopted into the City's Comprehensive Plan. As adopted back then, however, the Riverfront Plan did not include a boat ramp. A Boat Ramp Relocation Committee was convened to identify an alternative location for the ramp but found no feasible alternatives to Milwaukie Riverfront Park. A 2005 mail survey of all City residents (with an 11 % return rate) showed that 75% of respondents preferred a park concept that included a boat ramp and parking at Riverfront Park. In 2006, a Council-appointed Riverfront Board proposed a park design concept that integrated a boat launch and parking facilities among other park amenities. Two open houses were held for review of the proposed concept. In addition, monthly Riverfront Board meetings have been held for the past ten years that are advertised and open to the public. Minutes of these Board meetings are made available to the public on the City's web site.

- G. Describe any factors that make this project timely and necessary (e.g.; are facilities in jeopardy of being lost or closed to the public due to dilapidated or unsafe conditions; would matching funds be lost or unavailable if not used; has political or community support reached a peak; are there other critical conditions or known actions with which this project needs to be coordinated; etc.)

Failure to repair the facility may result in additional damages to the approach embankments resulting in the inability to cost effectively repair the bridge and reopen the facility to the boating community. The City has obtained the necessary permits to work within the water to complete the proposed project. The permit has a limited time frame and if the work is not performed within the time window, the ability to reopen the facility will be lost until the normal in-water work window in late July.

This project will restore the site to the operational condition prior to the storm event and allow the site to be open during the construction of permanent repairs to the site and boat ramp access.

- H. Describe how this project may result in a change of current use at the site. (Increase use, change in types of boat use, etc.)

The access is currently closed which has resulted in the new boat ramp facilities closure. Without the temporary repairs the facility would not be able to reopen. The proposed project would restore the use of the new facilities and allow the boat ramp to be reopened to the public.

6. PROPOSED PROJECT COMPONENTS *Note: See Procedure Guide for definitions, Check all that apply*

		Replacement	Expansion	New Construction	Consultant
BOAT ACCESS	Boat ramp	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Boarding docks	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Transient tie-up dock	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Gangway	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Piles	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
RESTROOMS	Flush restroom	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Vault toilet	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Composting toilet	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Utilities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PARKING AREA	Access road	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Paved parking	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Gravel parking	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Curbs, signs, etc.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
VESSEL WASTE DISPOSAL (CVA)	Pumpout station	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Dump station	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Floating restroom	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Utilities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MISCELLANEOUS	Dredging	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Breakwater	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Ski dock	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Debris deflection boom	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Other (specify)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PROPERTY ACQUISITION	(attach completed Property Acquisition form)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

OSMB TECHNICAL ASSISTANCE:

Are you requesting assistance from OSMB staff for: Waterway Permitting (USACE, DSL, DEQ) Yes No
 Engineering (Survey & Design) Yes No

7. PROPOSED PROJECT FUNDING – NON-CASH MATCH <i>Not eligible for Grant Reimbursement</i>				
	Applicant	Other*	Marine Board	TOTAL
Administration	\$	\$	N/A	\$
Pre-agreement costs	\$	\$	N/A	\$
Miscellaneous fees (postage, coping, phone etc.)	\$	\$	N/A	\$
Permit fees	\$	\$	N/A	\$
Legal fees	\$	\$	N/A	\$
System Development Charge (SDC)	\$	\$	N/A	\$
Other (specify) _____	\$	\$	N/A	\$
Total Non-Cash Contributions	\$	\$	N/A	\$

8. PROPOSED PROJECT FUNDING – FORCE ACCOUNT CONTRIBUTIONS <i>See Procedure Guide</i>				
<i>Attach detail sheet for all items</i>	Applicant	Other*	Marine Board	TOTAL
Force account labor	\$	\$	N/A	\$
Force account materials	\$	\$	N/A	\$
Force account equipment	\$	\$	N/A	\$
Total Force Account Contributions	\$	\$	N/A	\$

9. PROPOSED PROJECT FUNDING – CASH CONTRIBUTIONS				
	Applicant	Other*	Marine Board	TOTAL
Property acquisition cost (<i>attach acquisition form</i>)	\$	\$	\$	\$
Construction contract	\$	\$74,760.00	\$24,920.00	\$99,680.00
Materials/equipment	\$	\$	\$	\$
Eligible permit fees	\$	\$	\$	\$
Consultant contract (<i>Attach copy of contract</i>)	\$	\$	\$	\$
Total Cash Contributions	\$	\$74,760.00	\$24,920.00	\$99,680.00

10. TOTAL PROPOSED PROJECT FUNDING				
	Applicant	Other*	Marine Board	TOTAL
Total Non-Cash Contributions (from 7 above)	\$	\$	N/A	\$
Total Force Account Contributions (from 8 above)	\$	\$	N/A	\$
Total Cash Contributions (from 9 above)	\$	\$	\$	\$
GRAND TOTAL	\$	\$	\$	\$

* Provide detail relating to Other funds in Section 11 below.

14. CITY/COUNTY PLANNING DEPARTMENT AFFIDAVIT *Note: construction projects only*

THIS SECTION TO BE COMPLETED BY LOCAL AUTHORITY HAVING JURISDICTION

This information is needed to determine if the proposed project complies with statewide planning goals and is compatible with local comprehensive plans (ORS 192.180). Not applicable to federal agency applicants.

	YES	NO	N/A (FEDERAL)
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Is the project subject to a local comprehensive plan and zoning ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Have land uses been approved? (Please include documentation of final approval)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Is the project compatible with the local comprehensive plan & zoning ordinances? (Please cite appropriate plan policies, ordinance section, and case numbers).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
---	-------------------------------------	--------------------------	--------------------------

Policy/Ordinance/Case Number Ordinance 1880

Compatibility of this project with the local planning ordinance cannot be determined until the following local approvals are obtained:

Conditional use permit Development permit Plan amendment Zone change Other

An application has has not been made for the local approvals checked above.

Planning comments: NO LOCAL APPROVAL

*Signature of local planning official: _____



Title: PLANNING DIRECTOR

Date: 3/23/16

**Must be authorized signature from your local City/County Planning Department.*

This space intentionally left blank.

15. APPLICATION SIGNATURE AND CERTIFICATION

Applicant Signature and Certification

Application is hereby made for the activities described above, together with attachments. I certify that I am familiar with the information contained in the application and, to the best of my knowledge and belief, this information is true, complete, and accurate. I further certify that I possess the authority, including the necessary requisite property interests, to undertake the proposed activities.

I also certify that the Applicant's governing body is aware of this request and has authorized the person identified as the official representative of the Applicant to act in connection with this application and subsequent project as well as to provide additional information as may be required.

By signing below, I affirm the Applicant's intention to enter into a Cooperative Facility Grant Agreement and agree to comply with Oregon State Marine Board's program rules, policies, and guidelines as well as all applicable federal, state, and local laws relating to this proposal, additional conditions applicable to an approved Boating Facilities Grant, and the resulting project.

CHARLES EATON
Print/Type Name

ENGINEERING DIRECTOR
Title

[Signature]
Applicant Signature

5/23/16
Date

16. ATTACHMENTS (Are the following items attached to this application?)

	Required For:	Acquisition	Consulting	Construction
Cover letter		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Existing condition and photographs of boaters using facilities		<input type="checkbox"/>		<input checked="" type="checkbox"/>
Location/vicinity map (Assessor's map)		<input type="checkbox"/>		<input checked="" type="checkbox"/>
Design/engineering or conceptual plans & engineers estimate				<input checked="" type="checkbox"/>
Letter(s) of support or opposition, including e-mails (printed)		<input type="checkbox"/>		<input type="checkbox"/>
Documentation of opportunities for public input/comment		<input type="checkbox"/>		<input type="checkbox"/>
Copies of permit applications or approved permits, if available				<input checked="" type="checkbox"/>
SHPO clearance and/or cultural resources report, if available		<input type="checkbox"/>		<input type="checkbox"/>
Force account materials & supply record, if proposed		<input type="checkbox"/>		<input type="checkbox"/>
Force account equipment record, if proposed		<input type="checkbox"/>		<input type="checkbox"/>
Force account labor timesheet estimate, if proposed		<input type="checkbox"/>		<input type="checkbox"/>
Property Acquisition form & supporting documents, if applicable		<input type="checkbox"/>		
Consultant contract, if applicable		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cultural Resources Form, if applicable		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Endangered Species Form, if applicable		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Wetland Mitigation Form, if applicable				<input type="checkbox"/>
Regulatory Compliance Form, if applicable				<input type="checkbox"/>

Note: Instruction regarding this application and the facility grant program can be found in the Facilities Program Procedure Guide, or you may contact the Boating Facilities Manager, Oregon State Marine Board, 435 Commercial St. N.E. #400, PO Box 14145, Salem, Oregon 97309, Phone: (503) 378-2628.



New Boat Ramp Facility (Closed)



South Abutment Condition on 12/23/15



South Approach Condition on 2/10/16

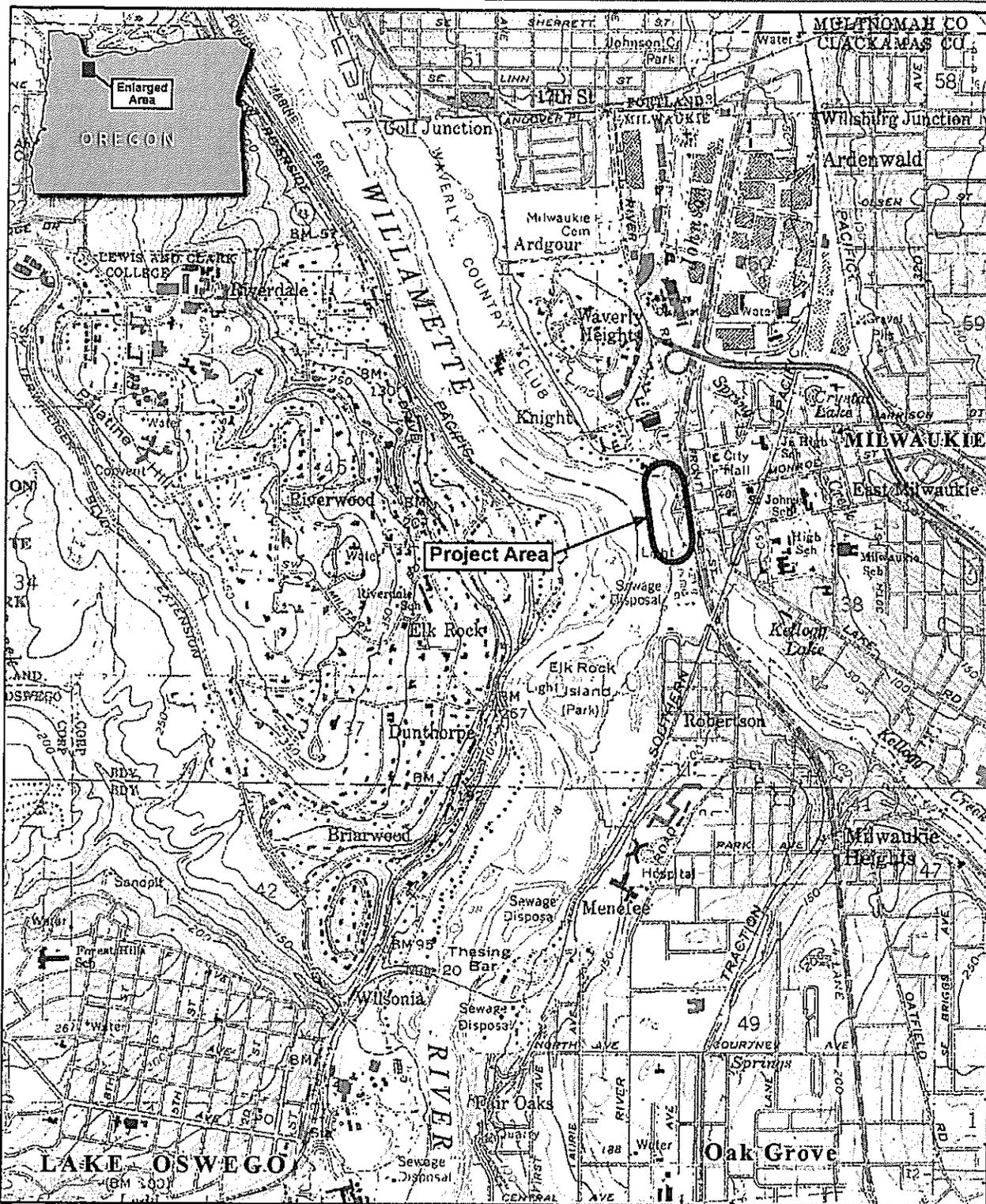


South Approach – Length of Undermining 18 feet on 2/10/16

ATTACHMENT B Location and Vicinity Map

Milwaukie Riverfront Park

Joint Permit Application



USGS Quadrangle: Lake Oswego, OR 1961 (Photorevised 1984)

Figure 1
Vicinity



Scale - 1 : 24,000



No. _____

BID BOOKLET

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

**MILWAUKIE RIVERFRONT PARK BRIDGE
SCOUR REPAIR**

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DESCRIPTION OF WORK

Scour Repair
Milwaukie Riverfront Park Bridge
City of Milwaukie
Clackamas County

TIME AND PLACE OF RECEIVING BIDS

Bids for the work described above are due to Allison Pynch, Hart Crowser, allison.pynch@hartcrowser.com prior to 2:00 p.m. on March 21th 2016.

COMPLETION TIME LIMIT

Complete all Work to be done under the Contract not later than April 8th 2016.

APPLICABLE SPECIAL PROVISIONS

The Special Provisions booklet applicable to the above-described work, for which Bids will be opened at the time and place stated above, is that which contains the exact information as shown above on this page.

Bidders are cautioned against basing their Bids on a booklet bearing any different description, date(s), class of project, or class or work.

BID FOR PUBLIC IMPROVEMENT

BID STATEMENT

To the City of Milwaukie City Council:

The undersigned, as Bidder, declares that:

- This Bid is for the Work described on the "Work to Be Done" sheet bound in this Bid;
- The only persons or parties interested in this Bid as principals are those named in this Bid;
- The Bidder submits this Bid in accordance with and subject to the terms and conditions stated in Sections 00120 and 00130 of the specifications;
- The Bidder has obtained and become acquainted with the applicable standard specifications, special provisions, plans, and other required provisions applicable to the particular Work for which the Bid is submitted;
- The Bidder has obtained and become acquainted with the forms of Contract which are to be signed by the successful Bidder;
- The Bidder is satisfied as to the quantities and conditions and understands that in signing this bid the bidder waives all right to claim any misunderstanding regarding these quantities and conditions; and

The Bidder also proposes and agrees that:

- If the City Council accepts this Bid, the Bidder will execute the Contract form furnished by the Council, will provide all necessary machinery, tools, apparatus, and other means of construction, and will do all Work and furnish all the Materials specified in or called for by the Contract in the manner and time prescribed in the Contract and according to the requirements of the Engineer as given in the Contract;
- The Bidder will accept, as full payment for the Work performed and the Materials and Equipment furnished, the amount earned under the Contract as computed in the manner described in the Specifications from the quantities of the various classes of Work performed and the respective unit prices bid as these prices are given in the "Bid Schedule" bound in this Bid; and
- Any Contract awarded to the Bidder shall include the provisions required by ORS 279C.840 or 40 U.S.C. 276a; and the Contractor will be bound by and shall comply with said provisions.

The bidder also certifies to the following:

A. Noncollusion:

- The price(s) and amount of this Bid have been arrived at independently and without consultation, communication, or agreement with any other contractor, Bidder, or potential Bidder except as disclosed on a separately attached statement.
- Neither the price(s) nor the amount of this Bid, and neither the approximate price(s) nor approximate amount of this Bid has been disclosed to any other firm or person who is a Bidder or potential Bidder, and they will not be disclosed before the opening of Bids.
- No attempt has been made or will be made to induce any firm or person to refrain from bidding on this Contract, to submit a Bid higher than this Bid, or to submit any intentionally high or noncompetitive Bid or other form of complementary Bid.
- This Bid is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive Bid.
- The Bidder, its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any governmental agency and have not in the last four years been convicted of or found liable for any act, prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract except as described on a separately attached statement.
- The Bidder understands and acknowledges that the above representations are material and important and will be relied on by the City Council, in awarding the Contract for which this Bid is submitted. The Bidder understands that any misstatement in this certification is and shall be treated as fraudulent concealment from the City Council, of the true facts relating to the submission of Bids for this Contract.

B. Compliance With Oregon Tax Laws:

- To the best of my knowledge, the Bidder is not in violation of any Oregon tax laws. For purposes of this certification, "Oregon tax laws" are ORS Chapters 118, 119, 314, 316, 317, 318, 320, 321, and 323; Sections 10 to 20, Chapter 533, Oregon Laws 1981 as amended by Chapter 16, Oregon Laws 1982 (First Special Session); the Home-owners and Renters Property Tax Relief Program under ORS 310.630 to 310.690; and any local tax laws administered by the Oregon Department of Revenue under ORS 305.620.

C. Employee Drug Testing Program:

- Pursuant to ORS 279C.505, that the Bidder has an employee drug testing program in place, and will maintain such program for the entire period of this Contract. Failure to maintain such program shall constitute a material breach of Contract.

D. Nondiscrimination:

- Pursuant to ORS 279A.110, that the Bidder has not discriminated against minority, women or emerging small business enterprises in obtaining any required subcontracts. The Bidder understands that it may be disqualified from bidding on this public improvement Project if the City finds that the Bidder has violated subsection (1) of ORS 279C.110

E. Use of Registered Subcontractors:

- That all subcontractors performing work on this public improvement Contract will be registered with the Construction Contractors Board or licensed by the State Landscape Contractors Board in accordance with ORS 701.035 to 701.055 before the subcontractors commence work under this Contract.

The party who is submitting this Bid and who, if awarded the Contract, will enter into the Contract is

_____ (Enter "an individual", "a partnership", or "a corporation".)

doing business under the name of _____

at _____
(Street) (City) (State) (Zip Code)

which is the address to which all communications concerning this Bid and the Contract should be sent.

The telephone numbers to which communications may be directed are (_____) _____
(Telephone No.)

and (_____) _____
(Facsimile No.)

in the amount of at least ten (10) percent of the total amount of the bid.

If the City Council accepts this Bid and awards a Contract to the undersigned and if the undersigned then fails to promptly and properly execute the Contract or bonds according to the terms and conditions stated in Section 00130 of the specifications, the undersigned shall forfeit the Bid guaranty as liquidated damages to City of Milwaukie, by and through its City Council. The undersigned agrees to be held jointly and severally liable with the surety of the undersigned for payment of liquidated damages if the Bid guaranty is a Bid Bond.

Bid Schedule

Spec No.	Item No.	Bid Item	Unit	Qty	Unit Price	Total
TEMPORARY FEATURES AND APPURTENANCES						
00210	1	Mobilization	LS	ALL		
00225	2	Temporary Barricades, Type 3	EA	5.0		
00245	3	Floating Turbidity Barrier	LS	ALL		
00280	4	Inlet Protection, Type 4	EA	3		
00280	5	Sediment Barrier, Type B	FT	100		
00290	6	Turbidity Monitoring	LS	ALL		
Subsection Total						
BASES						
00641	7	Aggregate Base, 3/4 inch	TON	20		
Subsection Total						
WEARING SURFACES						
00744	8	Level 2, 1/2 Inch Dense ACP Mixture	TON	8		
Subsection Total						
ROADWORK						
00330	9	General Excavation	Cu Yd	60.0		
00330	9	Toe Trench Excavation	Cu Yd	40.0		
00350	10	Pavement Overlay Geotextile	Sq Yd	25.0		
00350	11	Riprap Geotextile, Type 2	Sq Yd	200.0		
00390	12	Loose Riprap, Class 700	Cu Yd	300.0		
Subsection Total						
RIGHT OF WAY DEVELOPMENT AND CONTROL						
01030	13	Permanent Seeding	AC	0.01		
01040	14	Topsoil	Cu Yd	20		
Subsection Total						
Bid Total						_____

The Bidder is advised that by signing this Bid the Bidder is deemed to have signed and agreed to the provisions of all the documents, certifications, and statements contained in this Bid.

(Bidder's Name and Federal Tax ID Number)

(Oregon Contractor's Board Registration Number)

(Expiration Date)

By _____
(Signature of Bidder's Authorized Representative)



(Typed or Printed Name and Title of Signer)

Dated _____, 20__

Sworn to before me on this _____ day

of _____, 20__

(Notary Public's Signature)



My commission expires _____

COMPLETE THE FOLLOWING IF A JOINT VENTURE:

(Oregon Contractor's Board Registration Number)

(Expiration Date)

By _____
(Signature of Bidder's Authorized Representative)



(Typed or Printed Name and Title of Signer)

Dated _____, 20__

Sworn to before me on this _____ day

of _____, 20__

(Notary Public's Signature)



My commission expires _____

SPECIAL PROVISIONS

**MILWAUKIE RIVERFTON PARK BRIDGE
KELLOGG CREEK BRDIGE SCOUR RPAIR**

**CITY OF MILWAUKIE
CLACKAMAS COUNTY, OREGON**

MARCH 16, 2016

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City of Milwaukie, Oregon

SPECIAL PROVISIONS

FOR

Milwaukie Riverfront Park Bridge
Scour Repair
City of Milwaukie

PREPARED BY



EXPIRES: 06/30/16 .

OBEC Consulting Engineers
920 Country Club Road, Suite 100B
Eugene, OR 97401-6089
(541) 683-6090

**Milwaukie Riverfront Park Bridge
Scour Repair**

SPECIAL PROVISIONS

WORK TO BE DONE

The Work to be done under this Contract consists of the following on the Kellogg Creek Bridge in Milwaukie Riverfront Park in Milwaukie, Oregon

1. Perform earthwork.
2. Install Riprap
2. Construct aggregate base.
3. Construct asphalt concrete pavement.
4. Perform additional and incidental Work as called for by the Specifications and Plans.

APPLICABLE SPECIFICATIONS

The Specification that is applicable to the Work on this Project is the 2015 edition of the "Oregon Standard Specifications for Construction".

All number references in these Special Provisions shall be understood to refer to the Sections and subsections of the Standard Specifications bearing like numbers and to Sections and subsections contained in these Special Provisions in their entirety.

**Milwaukie Riverfront Park Bridge
Scour Repair**

**SECTION 00110 - ORGANIZATION, CONVENTIONS, ABBREVIATIONS AND
DEFINITIONS**

Comply with Section 00110 of the Standard Specifications.

SECTION 00120 - BIDDING REQUIREMENTS AND PROCEDURES

Comply with Section 00120 of the Standard Specifications modified as follows:

00120.00 Prequalification of Bidders – Delete this section in its entirety.

00120.01 General Bidding Requirements - In the paragraph that begins "Bidders may obtain and submit..." replace the first sentence with the following sentence:

Bidders may submit Bids by paper or through the internet (electronic).

Add the following paragraph to the end of this subsection:

As and when applicable, the Contactor shall maintain the certifications required by Section 2, Chapter 325, Oregon Laws 2015 (Enrolled House Bill 2716), as amended by Section 26, Chapter 565, Oregon Laws 2015 (Enrolled House Bill 3303).

00120.05 Request for Plans, Special Provisions, and Bid Booklets – Delete this section in its entirety.

The Plans, which are applicable to the Work to be performed under the Contract, are included in these Special Provisions.

00120.30 Changes to Plans, Specifications, or Quantities before Opening of Bids - Replace the paragraph that begins "Addenda may be downloaded..." with the following paragraph:

Addenda will be distributed to all plan holders by e-mail.

00120.40(a-1) Paper Bids - Replace this subsection, except for the subsection number and title, with the following:

For Bids submitted by paper, the Bidders shall not alter, in any manner, the (paper) documents within the Bid Section that are accessed and printed from the ODOT eBIDS website. Bid Sections obtained from BidExpress® shall not be substituted for paper Bid Sections. Bidders shall complete the certifications and statements included in the Bid Section of the Bid Booklet according to the instructions. Signature of the Bidder's

Milwaukie Riverfront Park Bridge Scour Repair

authorized representative thereon constitutes the Bidder's confirmation of and agreement to all certifications and statements contained in the Bid Booklet. Entries on paper documents in the Bid Section shall be in ink or typed. Signatures and initials shall be in ink, except for changes submitted by facsimile (FAX) transmission as provided by 00120.60 (in which case FAX signatures shall be considered originals).

The Bidder shall properly complete and bind all the paper documents in the Bid Section, as specified in 00120.10, together with all other required documents that are part of the Bid Booklet, between the front and back covers of the Bid Booklet, except that the Bid Bond is not required if another permissible type of Bid guaranty is provided. (see 00120.40(e))

00120.40(f) Disclosure of First-Tier Subcontractors – Delete this subsection in it's entirety.

00120.45(a) Paper Bids - Replace the paragraph that begins "Paper bids may be submitted by mail..." with the following paragraph:

Paper Bids may be submitted by mail, parcel delivery service, or hand delivery to the offices and addresses, and at the times given in the Bid Booklet. Submit paper Bids in a sealed envelope provided by the Agency, or a reasonably similar envelope marked with the word "Bid", the name of the Project, and the words "To Be Opened Only by Authorized Personnel" on the outside. If submitted by mail or by parcel delivery service, the Bidder shall place the sealed envelope containing the paper Bid inside a separate sealed envelope or package.

00120.60 Revision or Withdrawal of Bids - Replace this subsection, except for the subsection number and title, with the following:

Information entered into the Bid document by the Bidder may be changed after the Bid has been delivered to the address given in the Bid document, provided:

- Changes are prepared in accordance with the instructions found in the Bid document and
- Changes are received at the same offices, addresses, and times identified in the Bid document and
- Bid number is included and
- Changes are submitted in writing, signed by an individual authorized to sign the Bid.

A Bidder may withdraw its Bid after it has been delivered to the address given in the Bid document, provided:

- The written withdrawal request is submitted on the Bidder's letterhead.
- The request is signed by an individual who is authorized to sign the Bid, and proof of authorization to sign the Bid accompanies the withdrawal request.

**Milwaukie Riverfront Park Bridge
Scour Repair**

- The request is received at the same offices, addresses, and before the time set for the bid opening.

SECTION 00130 - AWARD AND EXECUTION OF CONTRACT

Comply with Section 00130 of the Standard Specifications modified as follows:

00130.10 Award of Contract - In the paragraph that begins "After the Bids are opened and a determination..." add the following bullet to the end of the bullet list:

- An unexpired certificate issued by the Oregon Department of Administrative Services (under Section 2, Chapter 454, Oregon Laws 2015 (Enrolled Senate Bill 491)) upon completion of the curriculum and assessment that the Bidder understands the prohibitions set forth in ORS 652.220 and in other laws or rules that prohibit discrimination in compensation or wage payment. The certificate is only required if the Bidder employs 50 or more full-time workers and submitted a Bid for a procurement with an estimated contract price that exceeds \$500,000.

SECTION 00140 - SCOPE OF WORK

Comply with Section 00140 of the Standard Specifications.

SECTION 00150 - CONTROL OF WORK

Comply with Section 00150 of the Standard Specifications modified as follows:

00150.05 Cooperative Arrangements – Delete this subsection

00150.15(b) Agency Responsibilities - Replace this subsection, except for the subsection number and title, with the following:

The Engineer will perform the Agency responsibilities described in the Construction Surveying Manual for Contractors, Chapter 1.5 (see Section 00305).

00150.15(c) Contractor Responsibilities - Replace this subsection, except for the subsection number and title, with the following:

The Contractor shall perform the Contractor responsibilities described in the Construction Surveying Manual for Contractors, Chapter 1.6 (see Section 00305) and the following:

Perform earthwork slope staking including intersections and matchlines and set stakes defining limits for clearing which approximate right-of-way and easements.

**Milwaukie Riverfront Park Bridge
Scour Repair**

00150.50(c) Contractor Responsibilities - Replace this subsection, except for the subsection number and title, with the following:

The Contractor shall:

- Follow applicable rules adopted by the Oregon Utility Notification Center;
- Contact Utility owners during Bid preparation and after the Contract is awarded to verify all Utilities' involvement on the Project Site;
- Hold a Utility scheduling meeting and monthly Utility coordination meetings (see also 00180.42)
- Coordinate Project construction with the Utilities' planned adjustments, take all precautions necessary to prevent disruption of Utility service, and perform its Work in the manner that results in the least inconvenience to the Utility owners;
- Include all Utility adjustment work, whether to be performed by the Contractor or the Utilities, on the Contractor's Project Work schedule submitted under 00180.41;
- Protect from damage or disturbance any Utility that remains within the area in which Work is being performed. Maintain and re-establish location marks according to OAR 952-001-0090(2)(a). Coordinate re-establishment of the location marks with the associated Utility;
- Not disturb an existing Utility if it requires an unanticipated adjustment, but shall protect the Utility from damage or disturbance and promptly notify the Engineer;
- Determine the exact location before excavating within the reasonable accuracy zone according to OAR 952-001-0090(2)(c);
- Backfill any exposed Utilities as recommended and approved by the Utility representative. Obtain Utility locate warning tape from the Utility and replace damaged or removed warning tape. Utility locate warning tape may not be present at all existing Utilities;
- Stake, place warning tape, and maintain no work limits around critical Utility facilities as shown or directed by the Engineer and the Utility;
- In addition to the notification required in OAR 952-001-0090(5), notify the Engineer and the Utility as soon as the Contractor discovers any previously unknown Utility conflicts or issues. Contrary to the OAR, stop excavating until directed by the Engineer and allow the Utility a minimum of two weeks to relocate or resolve the previously unknown Utility issues; and
- Report to the Engineer any Utility owner who fails to cooperate or fails to follow the planned Utility adjustment.

Subject to the Engineer's approval, the Contractor may adjust the Utilities by asking the Utility owners to move, remove, or alter their facilities in ways other than as shown on the Plans or in the Special Provisions. The Contractor shall conduct all negotiations, make all arrangements, and assume all costs that arise from such changes.

00150.50(e) Notification - Add the following paragraph to the end of this subsection:

This Project is located within the Oregon Utility Notification Center area which is a Utilities notification system for notifying owners of Utilities about Work being performed in the

**Milwaukie Riverfront Park Bridge
Scour Repair**

vicinity of their facilities. The Utilities notification system telephone number is 811 (or use the old number which is 1-800-332-2344).

00150.70 Detrimental Operations - Replace the paragraph that begins "The Contractor shall avoid..." with the following paragraph:

The Contractor shall avoid operations whose methods, conditions, or timing may injure people or damage property or the Work. Damage may include without limitation, staining surfaces with mud or asphalt or damaging Utilities and foundations. (also see 00150.60, 00150.75, and Section 00170)

00150.80 Removal of Unacceptable and Unauthorized Work - Replace the paragraphs that begin "The Agency will not pay..." and "If, when ordered by..." with the following two paragraphs:

The Agency will not pay the Contractor for unacceptable Work, except as provided in 00150.25, or for unauthorized work. The Engineer may issue a written order for the correction or removal of such work at the Contractor's sole expense.

If, when ordered by the Engineer, the Contractor fails to correct or remove unacceptable Work or remove unauthorized work, the Engineer may have the correction, removal, or removal and replacement, done by others and deduct the entire cost from monies due or to become due the Contractor under the Contract.

SECTION 00160 - SOURCE OF MATERIALS

Comply with Section 00160 of the Standard Specifications modified as follows:

SECTION 00165 - QUALITY OF MATERIALS

Comply with Section 00160 of the Standard Specifications.

SECTION 00170 - LEGAL RELATIONS AND RESPONSIBILITIES

Comply with Section 00170 of the Standard Specifications modified as follows:

00170.00 General - Add the following two paragraphs after the paragraph that begins "In any litigation, the entire...":

The characterization of provisions of the Contract as material provisions or the failure to comply with certain provisions as a material breach of the Contract shall in no way be

**Milwaukie Riverfront Park Bridge
Scour Repair**

construed to mean that any other provisions of the Contract are not material or that failure to comply with any other provisions is not a material breach of the Contract.

All rights and remedies available to the Agency under applicable Laws are incorporated herein by reference and are cumulative with all rights and remedies under the Contract.

00170.01(a) Federal Agencies - Add the following to the list of Federal Agencies:

National Oceanic and Atmospheric Administration

00170.65(a) General - Add the following paragraph to the end of this subsection:

As required by ORS 279C.520, compliance by the Contractor with the prohibitions in ORS 652.220 is a material element of the Contract and failure to comply is a material breach that entitles the Agency to exercise any remedies available under the Contract, including but not limited to termination for default. The Contractor shall not prohibit any of the Contractor's employees from, or retaliate against an employee for, discussing the employee's rate of wage, salary, benefits or other compensation with another employee or another person.

00170.70(a) Insurance Coverages - Add the following to the end of this subsection:

The following insurance coverages and dollar amounts are required pursuant to this subsection are outlined in the sample contract attached to these special provisions:

00170.70(c) Additional Insured - Add the following paragraph and bullets to the end of this subsection:

Add the additional insured as described in the sample contract attached to these special provisions.

SECTION 00180 - PROSECUTION AND PROGRESS

Comply with Section 00180 of the Standard Specifications modified as follows:

00180.21(d) Terms of Subcontracts - Add the following paragraph to the end of this subsection:

As and when applicable, the Contractor shall require in its subcontracts that subcontractors maintain the certifications required by Section 2, Chapter 325, Oregon Laws 2015 (Enrolled House Bill 2716), as amended by Section 26, Chapter 565, Oregon Laws 2015 (Enrolled House Bill 3303).

00180.40(c) Specific Limitations - Limitations of operations specified in these Special Provisions include, but are not limited to, the following:

**Milwaukie Riverfront Park Bridge
Scour Repair**

Limitations	Subsection
Contract Completion Time	00180.50(h)
In-water Work Restrictions	00290.34(a)

00180.41 Project Work Schedules - After the paragraph that begins "One of the following Type..." add the following paragraph:

In addition to the "look ahead" Project Work schedule, a Type B schedule as detailed in the Standard Specifications is required on this Contract.

00180.50(h) Contract Time - The Contractor shall complete all Work to be done under the Contract, not later than April 8, 2016.

00180.85(b) Liquidated Damages - Add the following to the end of this subsection:

The liquidated damages for failure to complete the Work on time required by 00180.50(h) are described in the sample contract attached to these special provisions.

SECTION 00190 - MEASUREMENT OF PAY QUANTITIES

Comply with Section 00190 of the Standard Specifications.

SECTION 00195 - PAYMENT

Comply with Section 00195 of the Standard Specifications modified as follows:

00195.12(d) Steel Materials Pay Item Selection - Add the following paragraph to the end of this subsection:

No Pay Items under this Contract qualify for the steel escalation/de-escalation program for this Project.

00195.60(a-2) Stored or Stockpiled Conditions - In the paragraph that begins "To be eligible...", replace the bullet that begins "Be in a form ready..." with the following bullet:

- Be in a form ready for incorporation into the permanent Work; and

**Milwaukie Riverfront Park Bridge
Scour Repair**

SECTION 00196 - PAYMENT FOR EXTRA WORK

Comply with Section 00196 of the Standard Specifications.

SECTION 00197 - PAYMENT FOR FORCE ACCOUNT WORK

Comply with Section 00197 of the Standard Specifications modified as follows:

00197.20(c-3) Rate Adjustment Factor - Replace this subsection, except for the subsection number and title, with the following:

The rate adjustment factor used above will be determined by applying only the Model Year Adjustment to the Blue Book Rates. The Regional and User Defined Ownership/Operating Adjustments shall not apply.

00197.20(c-5) Limitations - Delete the paragraph that begins "The Blue Book..."

SECTION 00199 - DISAGREEMENTS, PROTESTS, AND CLAIMS

Comply with Section 00199 of the Standard Specifications.

SECTION 00210 - MOBILIZATION

Comply with Section 00210 of the Standard Specifications.

SECTION 00225 - WORK ZONE TRAFFIC CONTROL

Comply with Section 00225 of the Standard Specifications modified as follows:

00225.01(c) Standards - Add the following bullet to the end of the bullet list:

- ODOT "Traffic Control Plans Design Manual", available on the ODOT Traffic Control Plans Unit website.

00225.02 General Requirements - In the paragraph that begins "Work may be suspended...", replace the sentence that begins "Costs for work performed..." with the following sentence:

Costs for work performed by the Agency may be deducted from monies due the Contractor.

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Add the following to the end of this subsection:

Install a 54 inch "TRUCKS LEAVING HIGHWAY XXXX FT" sign in advance of each entrance point to the work area at sign spacing "A" from the "TCD Spacing Table" shown on the standard drawings. Install a 54 inch "TRUCKS ENTERING HIGHWAY XXXX FT" sign in advance of each exit point from the work area at sign spacing "A" from the "TCD Spacing Table" shown on the standard drawings.

SECTION 00245 - TEMPORARY WATER MANAGEMENT

Section 00245, which is not a Standard Specification, is included in this Project by Special Provision.

Description

00245.00 Scope - This work consists of furnishing, installing, operating, maintaining, and removing temporary water management facilities in regulated work areas.

00245.03 Temporary Water Management Plan - Before beginning work in the regulated work area, submit stamped working drawings of a Contractor-developed TWMP, according to 00150.35, that meets water quality and environmental guideline requirements and does not affect neighboring properties or water rights.

Include at least the following information:

- How the work area will be isolated from the active stream flow upstream, through, and downstream.
- Discuss all construction stages.
- A list of on-site backup materials and equipment

Obtain the Engineer's written approval before beginning work in in-water work areas.

Materials

00245.10 Floating Turbidity Barrier - Furnish a commercially-manufactured product with integral floatation and bottom weighing device(s), capable of containing turbidity in water throughout the normal water surface elevation range for the Project Site. Submit manufacturer's literature for approval before installing barrier. Do not install prior to receipt of the Engineer's written approval.

Construction

00245.40 Fish Removal - The Agency, ODFW biologists, or consultant personnel will remove fish and aquatic life from the isolation work areas. Allow them access into the

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isolation work areas before and after installation of the temporary water management facilities as follows:

- **Before Installation of Facilities** - Before installing temporary water management facilities they will remove fish and aquatic life within the proposed isolated work area.
- **After Installation of Facilities** - After installing temporary water management facilities they will remove all fish and aquatic life.

00245.41 Installation - During installation of the temporary water management facility, maintain a downstream water flow rate of at least 50 percent of the upstream water flow rate.

00245.42 Operation - Operate temporary water management as follows:

- Protect fish and fish habitat according to 00290.34.
- Provide safe passage around the isolated work area for adult and juvenile migratory fish.
- Maintain and control water flow downstream of the isolated work area for the duration of the diversion to prevent downstream de-watering.

00245.43 Maintenance - Monitor water turbidity according to 00290.30(a-8).

00245.44 Removal - Remove the turbidity barrier when approved by the Engineer. Maintain downstream water flow during removal of the facility.

Measurement

00245.80 Measurement - No measurement of quantities will be made for temporary water management facilities.

Payment

00245.90 Payment - The accepted quantities of temporary water management facilities will be paid for at the Contract lump sum amount for the item "Floating Turbidity Barrier".

Payment will be payment in full for furnishing and placing all materials, and for furnishing all equipment, labor, and incidentals necessary to complete the work as specified.

Turbidity monitoring will be paid according to 00290.90.

No separate or additional payment will be made for designing, maintaining, operating, moving, and removing the facility.

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SECTION 00280 - EROSION AND SEDIMENT CONTROL

Comply with Section 00280 of the Standard Specifications modified as follows:

00280.90 Payment - Replace pay items (r), and (s) with the following pay items:

- (r) Inlet Protection, _____Each
- (s) Sediment Barrier, _____Each or Foot

Add the following paragraphs after the paragraph that begins "Item (b) includes protecting...":

In items (r), and (s), the type will be inserted in the blank.

SECTION 00290 - ENVIRONMENTAL PROTECTION

Comply with Section 00290 of the Standard Specifications modified as follows:

00290.10 Staging and Disposal Sites - Add the following to the end of this subsection:

Use the following staging (disposal) site(s):

- **Site Type** - Staging
- **Location** – Riverfront Park within existing paved areas only
- **Access** – Ingress and egress
- **Available Area** – Approximately 0.2 acre as shown on plans

No other sites may be used on this Project, including non-Agency sites. Delineate the limits of the site with orange plastic mesh fencing from the QPL for the duration of the Project. Remove the fencing when the Project is complete and the site has been restored to preconstruction conditions.

Restore the site by:

- Removing all imported fabric, rock, and other construction debris.

00290.30(a) Pollution Control Measures - Add the following subsections and bullets:

(7) Water Quality:

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- Do not discharge contaminated or sediment-laden water, including drilling fluids and waste, or water contained within a work area isolation, directly into any waters of the State or U.S. until it has been satisfactorily treated (for example: bioswale, filter, settlement pond, pumping to vegetated upland location, bio-bags, dirt-bags). Treatment shall meet the turbidity requirements below.
- Do not cause turbidity in waters of the State or U.S. greater than 10% above background reading (up to 100 feet upstream of the Project), as measured 100 feet downstream of the Project.
- During construction, monitor in-stream turbidity and inspect all erosion controls daily during the rainy season and weekly during the dry season, or more often as necessary, to ensure the erosion controls are working adequately meeting treatment requirements.
- If construction discharge water is released using an outfall or diffuser port, do not exceed velocities more than 4 feet per second, and do not exceed an aperture size of 1 inch.
- If monitoring or inspection shows that the erosion and sediment controls are ineffective, mobilize work crews immediately to make repairs, install replacements, or install additional controls as necessary.
- Underwater blasting is not allowed.
- Implement containment measures adequate to prevent pollutants or construction and demolition materials, such as waste spoils, fuel or petroleum products, concrete cured less than 24 hours, concrete cure water, silt, welding slag and grindings, concrete saw cutting by-products and sandblasting abrasives, from entering waters of the state or U.S.
- End-dumping of riprap within the waters of the state or U.S. is not allowed. Place riprap from above the bank line.
- Cease project operations under high flow conditions that may result in inundation of the project area, except for efforts to avoid or minimize resource damage.
- The Project Manager retains the authority to temporarily halt or modify the Project in case of excessive turbidity or damage to natural resources.

(8) Visual Turbidity Monitoring - Perform visual turbidity monitoring each day when working in regulated work areas according to the following:

- Before beginning work, make in stream turbidity observation approximately 100 feet upstream and, based on the wetted stream width, at the compliance distance listed in Table 00290-1 downstream of the in-water work area.
- Make in stream turbidity observations upstream and downstream every four hours.
- If a turbidity plume is observed within the compliance distance downstream of the in-water work area, implement in-water best management practices (BMP). If a turbidity plume is still observed at the second four hour observation, stop all in-water work and implement additional BMP. Resume in-water work activity the next morning.
- If a turbidity plume is observed beyond the compliance distance downstream of the in-water work area at any observation interval, stop all in-water work and implement additional BMP. Resume in-water work activity the next morning.

Table 00290-1

Wetted Stream Width Compliance Distance

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≤ 30 feet	50 feet
> 30 feet to 100 feet	100 feet
> 100 feet to 200 feet	200 feet

00290.30(b) Pollution Control Plan - Replace the bullet that begins "Include the waste determination..." with the following bullet:

- Include the waste determination results from 00290.20(c-1). Provide reuse, recycle, and disposal options and the reasons for selecting those alternatives.

00290.34 Protection of Fish and Fish Habitat - Add the following paragraph:

Meet with the Agency Biologist, Resource Representative, Project Manager, and inspector on site, before moving equipment on-site or beginning any work, to ensure that all parties understand the locations of sensitive biological sites and the measures that are required to be taken to protect them.

00290.34(a) Regulated Work Areas - Add the following to the end of this subsection:

The regulated work area is the area within the ordinary high water (OHW) elevation that is shown on the plans.

- For this Project, the regulated work area is the area at or below 18.5 feet elevation.
- The total volume of material filled or discharged into waters of the state and waters of the U.S. shall not exceed 150 cubic yards.
- The total volume of material excavated from the waters of the state and waters of the U.S. shall not exceed 100 cubic yards.

Submit a schedule to complete all work within the regulated work area within the in-water work period.

00290.34(b) Prohibited Operations - Replace this subsection, except for the subsection number and title, with the following:

Except where allowed by the Contract or by permit, do not:

- Blast underwater.
- Use water jetting.
- Release petroleum products or chemicals in the water.
- Disturb spawning beds.
- Obstruct stream channels.
- Cause silting or sedimentation of waters of the State or waters of the U.S.
- Use treated timbers within the regulated work area.

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- Impede adult and juvenile fish passage, including intermittent streams.
- Allow equipment to enter or work in or on the water.

Add the following subsection:

00290.34(c) Aquatic Species Protection Measures Required by Environmental Permits:

(1) General Requirements:

- Do not apply surface fertilizer within 50 feet of any stream channel.

Use heavy equipment as follows:

- Choice of equipment must have the least adverse effects on the environment (for example: minimally sized, low ground pressure).
- Secure absorbent material around all stationary power equipment (for example: generators, cranes, drilling equipment) operated within 150 feet of wetlands, waters of the State, waters of the U. S., drainage ditches, or water quality facilities to prevent leaks, unless suitable containment is provided to prevent spills from entering waters of the state or waters of the U.S.
- Do not cross directly through a stream for construction access, unless shown or approved. If shown or approved, cross perpendicular to the stream and do not block stream flow. When a crossing is no longer needed, completely remove the crossing and restore the soils and vegetation to the original condition.
- Store fuel and maintain all equipment in staging areas that are at least 150 feet away from any waters of the State, waters of the U.S., or storm inlet or on an impervious surface that is isolated from any waters of the State, waters of the U.S., or storm inlet.
- If temporary access roads are needed within 150 feet of any body of water, use existing routes unless new routes are shown or approved.
- Before beginning work on temporary access routes that are not shown, submit a proposal to the Engineer for approval.

(2) Work Area Isolation - Provide work isolation according to Section 00245. Provide safe passage around or through the isolated work area for adult and juvenile migratory fish unless passage did not previously exist.

(3) Water Intake Screening - Install, operate, and maintain fish screens on each water intake used for project construction, including pumps used to isolate an in-water work area. When drawing or pumping water from any stream, protect fish by equipping intakes with screens having a minimum 27% open area and meeting the following requirements:

- Perforated plate openings shall be 3/32 inch or smaller.
- Mesh or woven wire screen openings shall be 3/32 inch or smaller in the narrowest direction.

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- Profile bar screen or wedge wire openings shall be 1/16 inch or smaller in the narrow direction.

Choose size and position of screens to meet the following criteria:

Type	Approach Velocity ¹ (Ft./Sec.)	Sweeping Velocity ² (Ft./Sec.)	Wetted Area of Screen (Sq. Ft.)	Comments
Ditch Screen	≤ 0.4	Shall exceed approach velocity	Divide max. water flow rate (cfs) by 0.4 fps	If screen is longer than 4 feet, angle 45° or less to stream flow
Screen with proven self-cleaning system	≤ 0.4	–	Divide max. water flow rate (cfs) by 0.4 fps	–
Screen with no cleaning system other than manual	≤ 0.2	–	Divide max. water flow rate (cfs) by 0.2 fps	Pump rate 1 cfs or less
¹ Velocity perpendicular to screen face at a distance of approximately 3 inches ² Velocity parallel to screen				

Provide ditch screens with a bypass system to transport fish safely and rapidly back to the stream.

(4) Special Aquatic Habitats - The following exploration or construction activities are not allowed in special aquatic habitats:

- Use of pesticides and herbicides, unless allowed according to Section 01030.
- Use of short pieces of plastic ribbon to determine flow patterns.
- Temporary roads or drilling pads built on steep slopes, where grade, soil type, or other features suggest a likelihood of excessive erosion or slope failure.
- Exploratory drilling in estuaries that cannot be conducted from a work barge, or an existing bridge, dock, or wharf.
- Installation of a fish screen on any permanent water diversion or intake that is not already screened.
- Drilling or sampling in an EPA-designated Superfund Site, a state-designated clean-up area, or the likely impact zone of a significant contaminant source, as identified by historical information, U. S. Army Corps of Engineers representative, or the Agency.

(5) Site Restoration - Restore damaged streambanks to a natural slope, pattern, and profile suitable for establishment of permanent woody vegetation unless precluded by pre-project conditions (for example: natural rock substrate):

- Replant all damaged streambanks before the first April 15 following construction.
- If use of large wood, native topsoil, or native channel material is required for the site restoration according to the roadside development plans, stockpile all large wood, native vegetation, weed-free topsoil, and native channel material displaced by construction. Cut

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trees or large wood and trees into pieces of no less than 20 feet in length, or as shown on the roadside development plans or as directed. Stockpiled native wood and vegetation remain the property of the Agency.

- Stabilize all disturbed soils, including obliteration of temporary access roads, following any break in work unless construction will resume in 4 Calendar Days.

(6) Surface Water Diversions - Surface water may be diverted to meet construction needs other than work area isolation, consistent with Oregon law, only if water from sources that are already developed, such as municipal supplies, small ponds, reservoirs, or tank trucks, is unavailable or inadequate, and meeting the following conditions:

- When alternative surface sources are available, divert from the stream with the greatest flow.
- Install, operate, and maintain a temporary fish screen.
- Do not exceed a pumping rate and volume of 10% of the available flow. For streams with less than 5 cubic feet per second, do not exceed drafting of 18,000 gallons per day. Do not use more than one pump for each site.

(9) Treated Wood - Treated wood includes any wood treated with any pesticide or wood preservatives. Do not use lumber, pilings, or other wood products that are treated or preserved with pesticidal compounds below the ordinary high water (OHW) or as part of an in-water or over-water structure, except as described below:

- Store treated wood shipped to the Project out of contact with standing water and wet soil, and protected from precipitation.
- Visually inspect each load and piece of treated wood. Reject for use in or above aquatic environments if visible residues, bleeding of preservative, preservative-saturated sawdust, contaminated soil, or other matter is present.
- Use pre-fabrication to the extent feasible. When field fabrication is necessary, all cutting and drilling of treated wood, and field preservative treatment of wood exposed by cutting and drilling, shall occur above the OHW. Use tarps, plastic tubs, or similar devices to contain the bulk of any fabrication debris, and wipe off any excess field preservative.
- All treated wood structures, including pilings, shall have design features to avoid or minimize impacts and abrasion by livestock, pedestrians, vehicles, vessels, and floats.
- Treated wood may be used to construct a bridge, over-water structure or an in-water structure, with the exception of the work containment system, provided that all surfaces exposed to leaching by precipitation, overtopping waves, or submersion are coated with a water-proof seal or barrier are maintained. Apply and contain coatings and paint-on field treatment to prevent contamination. Surfaces that are not exposed to precipitation or wave attack, such as parts of a timber bridge completely covered by the bridge deck, are exempt from this requirement.
- During demolition of treated wood, ensure that no treated wood debris falls into the water. If treated wood debris does fall into the water, remove it immediately.
- Store removed treated wood debris in appropriate dry storage areas, at least 150 feet away from the regulated work area.

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(14) Injured Fish Notification - If a dead or injured fish is found in the project area, immediately notify the Agency. If the injured fish is in a location where further injury or stress may take place, attempt to move the fish to a safer location, if one is available, near the capture site while keeping the fish in the water and reducing its stress as much as possible. Do not disturb the fish after it has been moved. If the fish is dead or dies while being captured or moved, save the fish and any tags. The Agency will notify appropriate regulatory agencies about the injured or dead fish and provide additional direction to the Contractor.

00290.90 Payment - Add the following paragraph(s) to the end of this subsection:

The accepted quantities of turbidity monitoring will be paid for at the Contract lump sum amount for the item "Turbidity Monitoring".

Payment for turbidity monitoring will be payment in full for furnishing and placing all materials and for furnishing all equipment, labor, and incidentals necessary to complete the work as specified.

No separate or additional payment will be made for orange plastic mesh fencing.

SECTION 00330 - EARTHWORK

Comply with Section 00330 of the Standard Specifications modified as follows:

00330.03 Basis of Performance - Add the following paragraph to the end of this subsection:

Perform all earthwork under this Section on the excavation basis.

SECTION 00350 - GEOSYNTHETIC INSTALLATION

Comply with Section 00350 of the Standard Specifications modified as follows:

00350.10 Materials - Add the following to the end of this subsection:

Provide manufacturer's certifications complying with 02320.10(c) for the following geosynthetic(s):

Geotextile	Certification	
	Level A	Level B
Riprap, Type 2		X

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Pavement Overlay..... X

SECTION 00390 - RIPRAP PROTECTION

Comply with Section 00390 of the Standard Specifications.

SECTION 00641 - AGGREGATE SUBBASE, BASE, AND SHOULDERS

Comply with Section 00641 of the Standard Specifications.

SECTION 00744 - ASPHALT CONCRETE PAVEMENT

Comply with Section 00744 of the Standard Specifications modified as follows:

00744.11(a) Asphalt Cement - Add the following to the end of this subsection:

Provide PG76-22 grade asphalt cement for this Project.

00744.16 Sampling and Testing - Replace this subsection, except for the subsection number and title, with the following:

For each 1,000 tons of placement, have a CAT I perform a minimum of one of each of the following test methods as modified in the MFTP:

- Asphalt Content - AASHTO T 308 with ODOT TM 323 determined Calibration Factor
- Gradation - AASHTO T 30
- Mix Moisture - AASHTO T 329
- Maximum Specific Gravity - AASHTO T 209
- Field Compacted Gyratory Specimens - ODOT TM 326

When less than 1,000 tons of mix is placed in a day, perform a minimum of one series of tests per day. Provide test results to the Engineer by the middle of the following work shift. The Engineer may waive the requirement for any of AASHTO T 308, AASHTO T 30, AASHTO T 329, and ODOT TM 326 on a daily basis. The Engineer may waive the requirement for AASHTO T 209 when less than 500 Tons of ACP is placed in a single work shift.

Provide samples or split samples to the Engineer when requested.

00744.17 Acceptance - Replace this subsection, except for the subsection number and title, with the following:

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If the test result for each mix gradation constituent, asphalt content, and density measurement is within the specification limits, the material will be accepted. If the asphalt content, one or more gradation constituents, or the density measurement are not within the specification limits, the material that is not within the specification limits will be accepted according to 00150.25.

00744.41 Mixing Temperature - Replace the table with the following:

Type	Temperature, °F	
	Maximum at Mixer	Minimum Behind Paver
HMAC	350	240
WMAC	350	215

00744.49 Compaction - In the paragraph that begins "Determine compliance with...", replace the sentence that begins "The Engineer may waive compaction..." with the following sentence:

The Engineer may waive compaction testing requirements when less than 500 tons of ACP is placed in a single work shift.

SECTION 01030 - SEEDING

Comply with Section 01030 of the Standard Specifications modified as follows:

01030.13(f) Types of Seed Mixes - Add the following to the end of this subsection:

Provide the following seed mix formulas:

Permanent Seeding, Mix No. 1 (Riparian):

Botanical Name (Common Name)	PLS (lb/acre)	÷ (% Purity (minimum)	x % Germination) (minimum)	= Amount (lb/acre)
<i>Elymus glaucus</i> (Blue wildrye)	20.7	_____	_____	_____
<i>Festuca rubra rubra</i> (Native red fescue)	17.1	_____	_____	_____
<i>Deschampsia cespitosa</i> (Tufted hairgrass)	5.4	_____	_____	_____
<i>Glyceria occidentalis</i> (Western mannagrass)	0.9	_____	_____	_____

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Beckmannia syzigachne
(American sloughgrass) 0.9 _____

01030.15 Mulch - Add the following paragraphs and bullets to the end of this subsection:

Furnish straw mulch for all roadside erosion control seeding except hydromulch may be used under the following conditions:

- Spring planting west of the Cascades between March 1 and May 15.
- Slopes are steeper than 1V to 1.5H and longer than 16 feet.
- Residential or commercial sites with low erosion potential such as sidewalk, median, or parking lot planter strips.

Projects that have variable slopes may include straw mulch and hydromulch when approved.

SECTION 01040 - PLANTING

Comply with Section 01040 of the Standard Specifications.

SECTION 02320 - GEOSYNTHETICS

Comply with Section 02320 of the Standard Specifications modified as follows:

02320.10(c-1-a) Geotextiles - Replace the bullet that begins "Minimum average roll values..." with the following bullet:

- Minimum average roll values for each of the specified properties from the same production run as the delivered material.

02320.20 Geotextile Property Values - Replace Table 02320-1 through Table 02320-6 with the following tables:

Table 02320-2 Geotextile Property Values for Riprap Geotextile^{1,2}

Geotextile Property	ASTM Test Method	Units	Geotextile Property Requirements			
			Type 1		Type 2	
			Woven	Nonwoven	Woven	Nonwoven

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Grab Tensile Strength (minimum) Machine and Cross Machine Directions	D 4632	lb	250	160	315	200
Grab Failure Strain (minimum) Machine and Cross Machine Directions	D 4632	%	< 50	≥ 50	< 50	≥ 50
Tear Strength (minimum)	D 4533	lb	90	56	110	80
Puncture Strength (minimum)	D 6241	lb	495	310	620	430
Apparent Opening Size (AOS) (maximum) U.S. Standard Sieve	D 4751	—	40	40	40	40
Permittivity (minimum)	D 4491	sec ⁻¹	0.5	0.5	0.5	0.5
Ultraviolet Stability Retained Strength (minimum)	D 4355 (at 500 hours)	%	70	70	70	70
¹ All geotextile properties are Minimum Average Roll Values (MARV). The test results for any sampled roll in a lot shall meet or exceed the values shown in the table. ² Woven slit film geotextiles (geotextiles that are made from yarns of a flat, tape-like character) are not acceptable.						

Table 02320-3 Geotextile Property Values for Sediment Fence ¹

Geotextile Property	ASTM Test Method	Units	Geotextile Property Requirements		
			Supported	Unsupported	
				—	Elongation ² ≥ 50%
Grab Tensile Strength (minimum) Machine and Cross Machine Directions	D 4632	lb	90 90	120 100	120 100
Apparent Opening Size (AOS) (maximum) U.S. Standard Sieve	D 4751	—	30	30	30
Permittivity (minimum)	D 4491	sec ⁻¹	0.05	0.05	0.05
Ultraviolet Stability Retained Strength (minimum)	D 4355 (at 500 hours)	%	70	70	70
¹ All geotextile properties are Minimum Average Roll Values (MARV). The test results for any sampled roll in a lot shall meet or exceed the values shown in the table. ² Measured according to ASTM D 4632.					

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Table 02320-6 Geotextile Property Values for Pavement Overlay Geotextile ¹

Geotextile Property	ASTM Test Method	Units	Geotextile Property Requirements
			Nonwoven
Grab Tensile Strength (minimum) Machine and Cross Machine Directions	D 4632	lb	100
Grab Failure Strain (minimum) Machine and Cross Machine Directions	D 4632	%	≥ 50
Asphalt Retention (minimum)	D 6140	oz./sq.ft.	2.8
Melting Point (minimum)	D 276	°F	300
¹ All geotextile properties are Minimum Average Roll Values (MARV). The test results for any sampled roll in a lot shall meet or exceed the values shown in the table.			

SECTION 02910 - SIGN MATERIALS

Comply with Section 02910 of the Standard Specifications modified as follows:

02910.33(d) Nonreflective Black Screened Legend - Replace this subsection, except for the subsection number and title, with the following:

Furnish material for nonreflective black screened legends that is compatible with the sign sheeting, as recommended by the sign sheeting manufacturer.

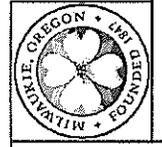
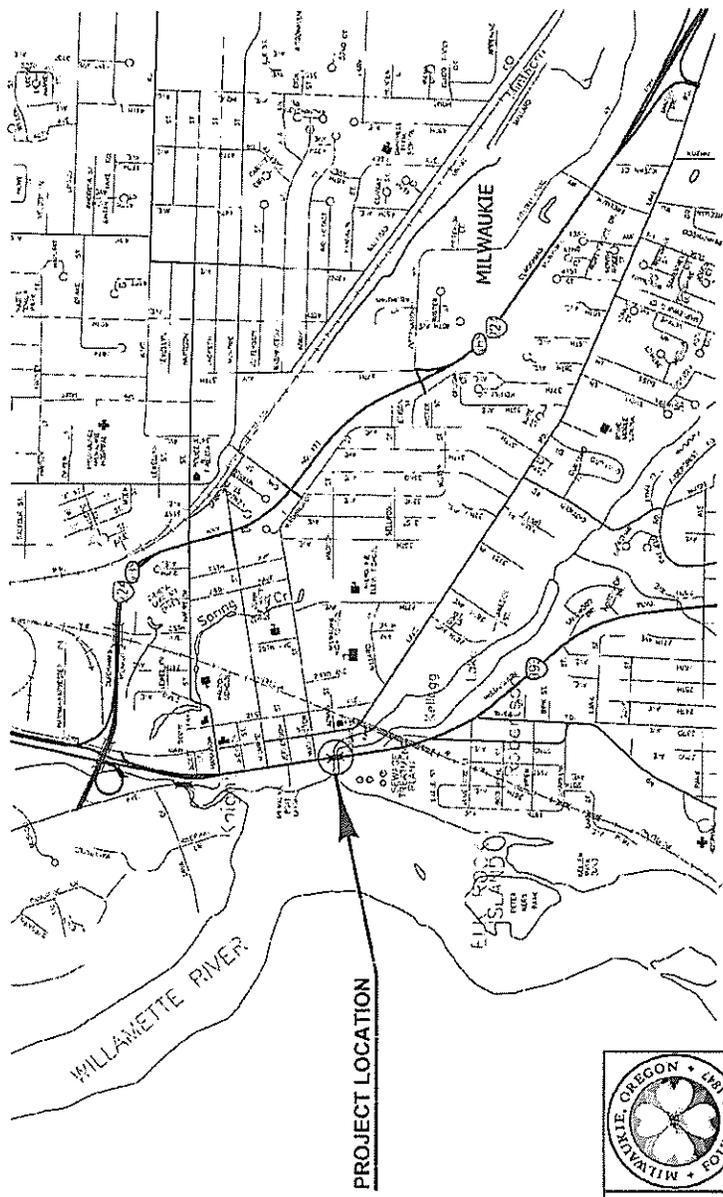
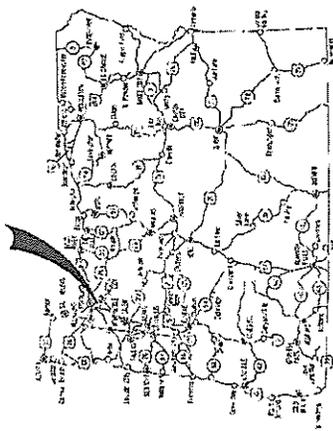
PLANS FOR REPAIR OF ROADWAY

MILWAUKIE RIVERFRONT PARK BRIDGE KELLOGG CREEK BRIDGE SCOUR REPAIR

City of Milwaukie
Clackamas County, Oregon
March 2016

SEC. 35, T. 1 S., R. 1 E., W. 4.

INDEX OF SHEETS	
SHEET NO.	DESCRIPTION
1	Title Sheet
2	Plan
3	Sections



SCALE WARNING
If scale bar does not
measure one inch, then
drawing is not to scale

EXPIRES: 06/14/16

ACCOMPANIED BY DRAWINGS:

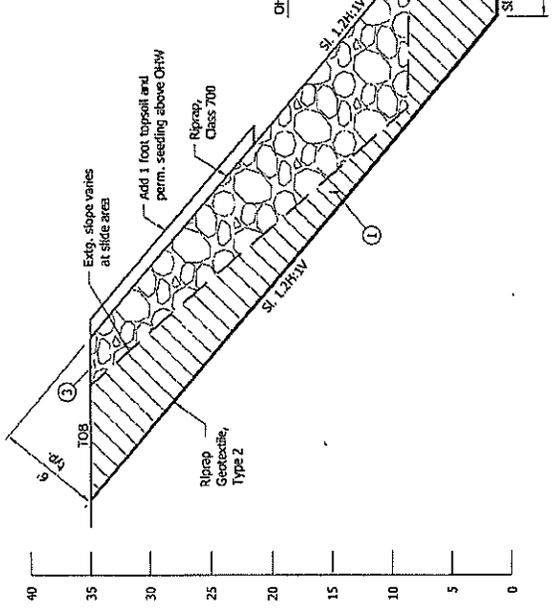
REVISION	BY	DATE

MILWAUKIE RIVERFRONT PARK BRIDGE
KELLOGG CREEK BRIDGE SCOUR REPAIR
55 Washington St.
City of Milwaukie
Clackamas County

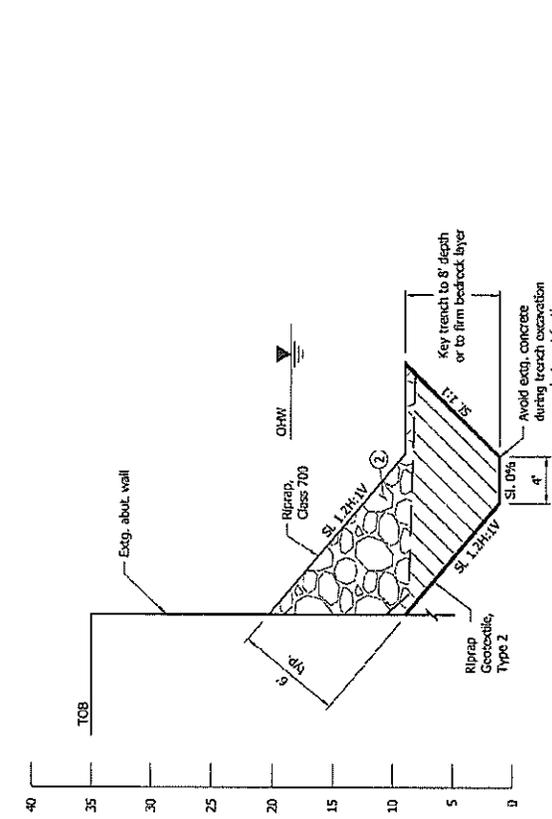
1111 F. SHEET

DESIGNER: Andrew C. Burke	REVIEWER: Benjamin P. Wierka, PE	PROJECT NO. 1503-1001	DATE: March 2016
CHECKER: Nicholas P. Robertson, PE	DATE: March 2016	STRUCTURE I.C. CALC. BOOK	DRAWING NO.
			SHEET: 3
			OF 3

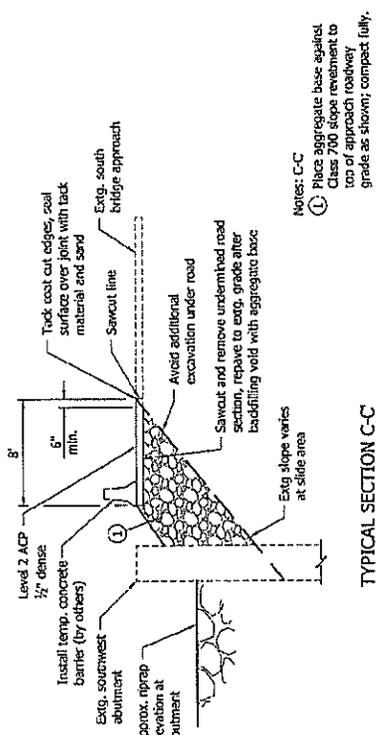
- Notes: A-A' and B-B'
- Excavate loose material from bank as needed; depth varies.
 - Ensure that Class 700 riprap extends to face of southwest bridge abutment.
 - Extend riprap to TOB elevation to support roadway approach.
 - Isolate trench excavation area from the channel to comply with permit conditions.
 - De-water trench excavation to verify depth and quality of rock. If de-watering is not feasible, alternative methods may be used if approved by the Engineer.



TYPICAL SECTION A-A'

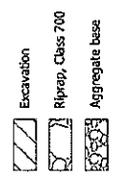


TYPICAL SECTION B-B'



TYPICAL SECTION C-C'

- Notes: C-C
- Place aggregate base against Class 700 riprap to maintain to top of approach roadway grade as shown; compact fully.



SCALE WARNING
If scale bar does not measure one inch, then drawing is not to scale

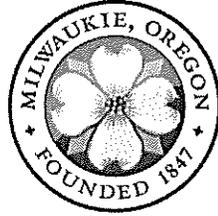
EXPRES: 06/30/16

DESIGNER: Andrew C. Bault	REVIEWER: Benjamin P. Veenstra, PE
CHECKER: Nicholas P. Robinson, PE	DATE: March 2016
STRUCTURE NO.	CALC. BOOK
SHEET 3 OF 3	
DRAWING NO.	

MILWAUKEE RIVERFRONT PARK BRIDGE
KELLOGG CREEK BRIDGE SCOUR REPAIR
311 Washington St.
City of Milwaukee
Milwaukee County

BY	REVISION	DATE	ACCOMPANIED BY DRAWINGS:
-	-	-	-
-	-	-	-
-	-	-	-
-	-	-	-
-	-	-	-

APPENDICES



**PUBLIC IMPROVEMENT CONTRACT
WITH THE CITY OF MILWAUKIE, OREGON
FOR (PROJECT TITLE)**

THIS CONTRACT, made and entered into this (Day) day of (Month), (Year), by and between the City of Milwaukie, a municipal corporation of the State of Oregon, hereinafter called "City" and (Full Name & Address of Firm or Individual) hereinafter called "Contractor", duly authorized to perform such services in Oregon.

RECITALS

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

WHEREAS, time is of the essence in this contract and all work under this contract shall be completed within the time period stated in the Bid;

THEREFORE, in consideration of the promises and covenants contained herein, the parties hereby agree as follows:

1. **Services**

Contractor's services under this Agreement shall consist of the following:

(Enter General Description of the Work and Include Sentences that Incorporate all Attached Documents (i.e. Detailed Scope of Work, Contractor's Bid, etc.)

2. **Prevailing Wage**

If the contract price exceeds \$50,000 and this Contract is not otherwise exempt, workers shall be paid not less than the specified minimum hourly rate of wage in accordance with ORS 279C.838 and ORS 279C.840. The applicable prevailing wage rates may be accessed via the internet at: http://www.oregon.gov/BOLI/WHD/PWR/pwr_book.shtml. Hard copies of the prevailing wage rates publication may be obtained by contacting the Oregon Bureau of Labor and Industries via telephone at: (971) 673-0839. If this Project is subject to the Davis-Bacon Act and the state prevailing rate of wage is higher than the federal prevailing rate of wage, the contractor and every subcontractor on the Project shall pay at least the state prevailing rate of wage as determined under ORS 279C.815.

The Contractor must have a public works bond filed with the Oregon Construction Contractors Board before starting work on the Project, unless exempt under ORS 279C.836 (4), (7), (8) or (9). The Contractor shall pay the applicable prevailing wage

rates that are in effect at the time Owner enters into this Construction Contract with Contractor.

SAMPLE

For contracts \$50,000 or greater, City shall pay a fee to the Bureau of Labor and Industries and shall be mailed or otherwise delivered to the Bureau at the following address:

Bureau of Labor and Industries
Wage and Hours Division
Prevailing Wage Unit
800 NE Oregon Street, # 32
Portland, Oregon 97232

3. **Contract Documents**

The Contractor is hereby bound to comply with all requirements of this agreement, the Contractor's proposal, the detailed specifications and requirements, the drawings, and the special conditions and modifications in conditions as set forth in the documents prepared by the City Engineer and the performance pertaining to this contract, in the City of Milwaukie, Oregon, and by this reference made a part hereof to the same legal force and effect as if set forth herein in full.

4. **City's Representative**

For purposes hereof, the City's authorized representative will be the Engineering Director, 6101 SE Johnson Creek Blvd, Milwaukie, Oregon 97206, telephone 503-786-7600.

5. **Contractor's Representative**

For purpose hereof, the Contractor's authorized representative will be (Enter Representative's Name).

6. **Contractor Identification**

Contractor shall furnish to the City the Contractor's employer identification number, as designated by the Internal Revenue Service, or Contractor's social security number, as City deems applicable.

7. **Compensation**

A. **Payments:** City agrees to pay Contractor (Enter amount in written form) Dollars (\$Enter amount in numerical form) for performance of those services provided hereunder, which payment shall be based upon the following applicable terms:

Payment shall be based upon the unit prices bid by the Contractor, as listed in attached bid. Contractor shall prepare and submit each month to the City Engineer, 6101 SE Johnson Creek Blvd., Milwaukie, Oregon 97206, a statement of services rendered, (indicating the description of each service used in the bid and the dollar amount of each service completed through the

stated date), together with a request for payment duly verified by the Contractor's Representative.

Payment by the City shall release the City from any further obligation for payment to Contractor for services performed or expenses incurred as of the date of the statement of services. Payment of installments shall not be considered acceptance or approval of any work or waiver of any defects therein. City certifies that sufficient funds are available and authorized for expenditure to finance costs of this contract.

Contractor shall include proof of payment to any and all subcontractors and suppliers with each statement submitted to the City. The City shall retain the right to withhold payments if required proof of payment to subcontractor and suppliers is not included with a statement.

- B. Timing of Payments and Liquidated Damages:** Progress payments, less a five percent retainage as authorized by ORS 279C.555, shall be made to the Contractor within twenty (20) days of the City's receipt of the statement of services. The Contractor agrees that the "Time of Completion" is defined in the Bid, and agrees to complete the work by said date. The Contractor and City agree that the City will suffer damages each day the work remains uncompleted after the Time of Completion and that the amounts of those damages are difficult to calculate. Contractor and City agree that a reasonable amount of damages for late completion is \$ **Enter dollar amount** per calendar day and Contractor agrees to pay such amounts as liquidated damages if the work is not completed by the Time of Completion. Contractor agrees that the liquidated damages specified herein are a fair way of ascertaining damages to the City and are not a penalty for late completion.
- C. Final Payment:** The Contractor shall notify the City in writing when the Contractor considers the project complete, and the City shall, within 15 days after receiving the written notice, either accept the work or notify the Contractor of work yet to be performed on the contract.

If accepted by the City, the remaining balance due to the Contractor, including the retained percentage, shall be paid to the Contractor by the City within 30 days after the date of said acceptance.

The City shall pay to the Contractor interest at the rate of one and one-half percent per month on the final payment due the Contractor, to commence 30 days after the work under the Contract has been completed and accepted and to run until the date when final payment is tendered to the Contractor. If the City does not, within 15 days after receiving written notice of completion, notify the Contractor of work yet to be performed to fulfill contractual

obligations, the interest provided by this subsection shall commence to run 30 days after the end of the 15-day period.

As a further condition of final acceptance, the City may require the Contractor to submit evidence, satisfactory to the City's Representative, that all payrolls, material bills, and other indebtedness connected with the project have been paid. If any indebtedness or liens are in dispute, the Contractor may submit a surety bond satisfactory to the City guaranteeing payment of all such disputed amounts if such payment has not already been guaranteed by surety bond.

8. Status of Contractor as Independent Contractor

Contractor certifies that:

- A. Contractor acknowledges that for all purposes related to this Agreement, Contractor is and shall be deemed to be an independent Contractor as defined by ORS 670.600 and not an employee of City, shall not be entitled to benefits of any kind to which an employee of City is entitled and shall be solely responsible for all payments and taxes required by law. Furthermore, in the event that Contractor is found by a court of law or any administrative agency to be an employee of City for any purpose, City shall be entitled to offset compensation due, or to demand repayment of any amounts paid to Contractor under the terms of this Agreement, to the full extent of any benefits or other remuneration Contractor receives (from City or third party) as a result of said finding and to the full extent of any payments that City is required to make (to Contractor or to a third party) as a result of said finding.
- B. The undersigned Contractor hereby represents that no employee of the City, or any partnership or corporation in which a City employee has an interest, has or will receive any remuneration of any description from Contractor, either directly or indirectly, in connection with the letting or performance of this Agreement, except as specifically declared in writing.
- C. If this payment is to be charged against Federal funds, Contractor certifies that he or she is not currently employed by the Federal Government and the amount charged does not exceed his or her normal charge for the type of service provided.
- D. Contractor and its employees, if any, are not active members of the Oregon Public Employees Retirement System and are not employed for a total of 600 hours or more in the calendar year by any public employer participating in the Retirement System.
- E. Contractor certifies that it currently has a City business license or will obtain one prior to delivering services under this Agreement.

- F. Contractor is not an officer, employee, or agent of the City as those terms are used in ORS 30.265.

9. **Subcontracts - Assignment & Delegation**

Contractor shall submit a list of Subcontractors for approval by the City, and Contractor shall be fully responsible for the acts or omissions of any Subcontractors and of all persons employed by them, and neither the approval by City of any Subcontractor nor anything contained herein shall be deemed to create any contractual relation between the Subcontractor and City.

This agreement, and all of the covenants and conditions hereof, shall inure to the benefit of and be binding upon the City and the Contractor respectively and their legal representatives. Contractor shall not assign any rights nor delegate any duties incurred by this contract, or any part hereof without the written consent of City, and any assignment or delegation in violation hereof shall be void.

10. **Contractor - Payment of Benefits - Hours of Work**

A. The Contractor shall:

- 1) Make payment promptly, as due, to all persons supplying to such Contractor labor or material for the performance of the work provided for in this contract;
- 2) Pay all contributions or amounts due the Industrial Accident Fund under the Worker's Compensation Law from such Contractor or Subcontractor incurred in the performance of this contract;
- 3) Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167; and
- 4) Not permit any lien or claim to be filed or prosecuted against the City of Milwaukie on account of any labor or material furnished;

B. The Contractor or the Contractor's Surety and every Subcontractor or the Subcontractor's Surety shall file certified statements with the City in writing on a form prescribed by the Commissioner of the Bureau of Labor and Industries, certifying the hourly rate of wage paid each worker which the Contractor or the Subcontractor has employed upon such public work, and further certifying that no worker employed upon such public work has been paid less than the prevailing rate of wage or less than the minimum hourly rate of wage specified in the contract, which certificate and statement shall be verified by the oath of the Contractor or the Contractor's Surety or Subcontractor or the Subcontractor's Surety that the Contractor or Subcontractor has read such statement and certificate and knows the contents thereof and that the same is true to the Contractor's or Subcontractor's knowledge.

- 1) The certified statements shall set out accurately and completely the payroll records, including the name and address of each worker, the worker's correct classification, rate of pay, daily and weekly number of hours worked, and the gross wages the worker earned during each week identified in the certified statement.
 - 2) Each certified statement required herein shall be delivered or mailed by the Contractor or Subcontractor to the City. A true copy of the certified statements shall also be filed at the same time with the Commissioner of the Bureau of Labor and Industries. Certified statements shall be submitted as set forth in OS 279C.845.
- C. The Contractor agrees that if the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a Subcontractor by any person in connection with this contract as such claim becomes due, the proper office of the City of Milwaukie may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due to the Contractor by reason of such contract. Payment of a claim in this manner shall not relieve the Contractor or the Contractor's Surety from obligation with respect to any unpaid claims.
- D. Contractor agrees that no person shall be employed for more than ten (10) hours in any one day, or forty (40) hours in any one week, except in cases of necessity, emergency or when public policy absolutely requires it, and in such cases the laborer shall be paid at least time and a half pay for all overtime in excess of eight (8) hours in any one day or forty (40) hours in any one week when the workweek is five consecutive days, Monday through Friday, or ten (10) hours in any one day and or forty (40) hours in any one week when the workweek is four consecutive days, Monday through Friday and for all work performed on Saturday and on any legal holiday as specified in ORS 279C.540.
- E. No City employee shall be required to work overtime or on a Saturday, Sunday or holiday in the fulfillment of this contract except where the Contractor agrees to reimburse the City in the amount of money paid the employee for such work as determined by state law, the City's personnel rules or union agreement. The Contractor shall require every Subcontractor to comply with this requirement.

11. **Drug Testing Program**

ORS 279C.505 requires that all public improvement contracts contain a provision requiring contractors to demonstrate that an employee drug-testing program is in place. The Contractor demonstrates that a drug-testing program is in place by signing of the contract. The drug testing program will apply to all employees and will be maintained for the

duration of the Contract awarded. Failure to maintain a program shall constitute a material breach of contract.

12. Contractor's Employee Medical Payments

Contractor agrees to pay promptly as due, to any person, co-partnership, association or corporation furnishing medical, surgical, and hospital care or other needed care and attention incident to sickness or injury to the Contractor's employees, of all sums which the Contractor agreed to pay for such services and all money and sums which the Contractor collected or deducted from employee wages pursuant to any law, contract or agreement for the purpose of providing or paying for such service.

13. Salvage, Composting or Mulching

If this is a contract for demolition work, the Contractor shall salvage or recycle construction and demolition debris, if feasible and cost-effective. If this is a contract for lawn and landscape maintenance, Contractor shall compost or mulch yard waste material at an approved site, if feasible and cost-effective.

14. Early Termination

A. This agreement may be terminated without cause prior to the expiration of the agreed upon term by mutual written consent of the parties and for the following reasons:

- 1) If work under the Contract is suspended by an order of a public agency for any reason considered to be in the public interest other than by a labor dispute or by reason of any third party judicial proceeding relating to the work other than a suit or action filed in regard to a labor dispute; or
- 2) If the circumstances or conditions are such that it is impracticable within a reasonable time to proceed with a substantial portion of the Contract.

B. Payment of Contractor shall be as provided by ORS 279C.660 and shall be prorated to and include the day of termination and shall be in full satisfaction of all claims by Contractor against City under this Agreement.

C. Termination under any provision of this paragraph shall not affect any right, obligation, or liability of Contractor or City which accrued prior to such termination.

15. Cancellation with Cause

A. City may terminate this Agreement effective upon delivery of written notice to Contractor, or at such later date as may be established by City, under any of the following conditions:

- 1) If City funding from federal, state, local, or other sources is not obtained and continued at levels sufficient to allow for the purchase of the indicated quantity of services. This Agreement may be modified to accommodate a reduction in funds,

- 2) If Federal or State regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Agreement,
- 3) If any license or certificate required by law or regulation to be held by Contractor, its subcontractors, agents, and employees to provide the services required by this Agreement is for any reason denied, revoked, or not renewed, or
- 4) If Contractor becomes insolvent, if voluntary or involuntary petition in bankruptcy is filed by or against Contractor, if a receiver or trustee is appointed for Contractor, or if there is an assignment for the benefit of creditors of Contractor.
- 5) If Contractor fails to maintain reasonable relations with the public. Verbal abuse, threats, or other inappropriate behavior towards members of the public constitutes grounds for termination.

Any such termination of this agreement under paragraph (a) shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

B. City, by written notice of default (including breach of contract) to Contractor, may terminate the whole or any part of this Agreement:

- 1) If Contractor fails to provide services called for by this agreement within the time specified herein or any extension thereof, or
- 2) If Contractor fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this agreement in accordance with its terms, and after receipt of written notice from City, fails to correct such failures within ten (10) days or such other period as City may authorize.

The rights and remedies of City provided in the above clause related to defaults (including breach of contract) by Contractor shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

If City terminates this Agreement under paragraph (b), Contractor shall be entitled to receive as full payment for all services satisfactorily rendered and expenses incurred, an amount which bears the same ratio to the total fees specified in this

Agreement as the services satisfactorily rendered by Contractor bear to the total services otherwise required to be performed for such total fee; provided, that there shall be deducted from such amount the amount of damages, if any, sustained by City due to breach of contract by Contractor. Damages for breach of contract shall be those allowed by Oregon law, reasonable and necessary attorney fees, and other costs of litigation at trial and upon appeal.

16. **Access to Records**

City shall have access to such books, documents, papers and records of Contractor as are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts.

17. **Work is Property of City**

All work performed by Contractor under this Agreement shall be the property of the City.

18. **Adherence to Law**

A. Contractor shall adhere to all applicable laws governing its relationship with its employees, including but not limited to laws, rules, regulations, and policies concerning workers' compensation, and minimum and prevailing wage requirements. Specifically but not by way of limitation, this contract is subject to all applicable provisions of ORS 279C.505, 279C.510, 279C. 515, 279C.520, 279C.525, 279C.530, 279C.540, 279C.570, 279C. 580, and 279C.800- 279C.870.

B. To the extent applicable, the Contractor represents that it will comply with Executive Order 11246 as amended, Executive Order 11141, Section 503 of the Vocational Rehabilitation Act of 1973 as amended and the Age Discrimination Act of 1975, and all rules and regulations issued pursuant to the Acts.

C. As provided by ORS 279C.525, all applicable provisions of federal, state or local statutes, ordinances and regulations dealing with the prevention of environmental pollution and the preservation of natural resources that affect the work under this contract are by reference incorporated herein to the same force and affect as if set forth herein in full. If the Contractor must undertake additional work due to the enactment of new or the amendment of existing statutes, ordinances or regulations occurring after the submission

of the successful bid, the City shall issue a Change Order setting forth the additional work that must be undertaken. The Change Order shall not invalidate the Contract and there shall be, in addition to a reasonable extension, if necessary, of the contract time, a reasonable adjustment in the contract price, if necessary, to compensate the Contractor for all costs and expenses incurred, including overhead and profits, as a result of the delay or additional work.

19. Changes

City may at any time, and without notice, issue a written Change Order requiring additional work within the general scope of this Contract, or any amendment thereto, or directing the omission of or variation in work. If such Change Order results in a material change in the amount or character of the work, an equitable adjustment in the Contract price and other provisions of this Contract as may be affected may be made. Any claim by Contractor for and adjustment under this section shall be asserted in writing within thirty (30) days from the date of receipt by Contractor of the notification of change or the claim will not be allowed. Whether made pursuant to this section or by mutual agreement, no change shall be binding upon City until a Change Order is executed by the Authorized Representative of City, which expressly states that it constitutes a Change Order to this Contract. The issuance of information, advice, approvals, or instructions by City's Representative or other City personnel shall not constitute an authorized change pursuant to this section. Nothing contained in this section shall excuse the Contractor from proceeding with the prosecution of the work in accordance with the Contract, as changed.

20. Force Majeure

Neither City nor Contractor shall be considered in default because of any delays in completion of responsibilities hereunder due to causes beyond the control and without fault or negligence on the part of the party so disabled, including, but not restricted to, an act of God or of a public enemy, volcano, earthquake, fire, flood, epidemic, quarantine, restriction, area-wide strike, freight embargo, unusually severe weather or delay of Subcontractor or suppliers due to such cause; provided that the party so disabled shall within ten (10) days from the beginning of such delay, notify the other party in writing of the causes of delay and its probable extent. Such notification shall not be the basis for a claim for additional compensation. Each party shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligation under Contract.

21. Nonwaiver

The failure of the City to insist upon or enforce strict performance by Contractor of any of the terms of this contract or to exercise any rights hereunder shall not be construed as a waiver or relinquishment to any extent of its right to assert or rely upon such terms or rights on any future occasion.

22. **Warranties**

All work shall be guaranteed by the Contractor for a period of one year after the date of final acceptance of the work by the Owner. Contractor warrants that all practices and procedures, workmanship, and materials shall be the best available unless otherwise specified in the profession. Neither acceptance of the work nor payment therefore shall relieve Contractor from liability under warranties contained in or implied by this contract.

23. **Attorney's Fees**

In case suit or action is instituted to enforce the provisions of this contract, the parties agree that the losing party shall pay such sum as the Court may adjudge reasonable attorney's fees and court costs including attorney's fees and court costs on appeal.

24. **Governing Law**

The provisions of this Agreement shall be construed in accordance with the provisions of the laws of the State of Oregon. Any action or suits involving any questions arising under this Agreement must be brought in the Circuit Court of Clackamas County or the U. S. District Court in Portland.

25. **Conflict Between Terms**

It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument and the bid of the Contractor, this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said bid conflicting herewith.

26. **Indemnification**

Contractor warrants that all its work will be performed in accordance with generally accepted professional practices and standards as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of a contractor's work by City shall not operate as a waiver or release.

Contractor agrees to indemnify and defend the City, its officers, agents and employees and hold them harmless from any and all liability, causes of action, claims, losses, damages, judgments or other costs or expenses including attorney's fees and witness costs and (at both trial and appeal level, whether or not a trial or appeal ever takes place) that may be asserted by any person or entity which in any way arise from, during or in connection with the performance of the work described in this contract, except liability arising out of the sole negligence of the City and its

employees. If any aspect of this indemnity shall be found to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this indemnification.

27. Insurance

Contractor and its subcontractors shall maintain insurance acceptable to 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, including the operations of its subcontractors of any tier. Such insurance shall include provisions that such insurance is primary insurance with respect to the interests of City and that any other insurance maintained by City is excess and not contributory insurance with the insurance required hereunder.

The policy or policies of insurance maintained by the Contractor and its subcontractors shall provide at least the following limits and coverages:

A. Commercial General Liability Insurance: Contractor and its subcontractors shall obtain, at contractor's or subcontractor's expense, and keep in effect during the term of this contract, Commercial General Liability Insurance including all Liability including all major divisions of coverage, including, but not limited to, Premises/Operations, Completed Operations, Independent Contractors' Protective, Products-Completed Operations, Contractual Liability (including coverage for the Contractor's indemnity obligations and other contractual indemnity obligations assumed by the Contractor), Personal Injury, and Broad Form Property Damage (including coverage for Explosion, Collapse, and Underground Hazards). The following insurance will be carried:

Employer's Liability Insurance

- \$ 2,000,000.00 Each Occurrence
- \$ 2,000,000.00 Disease Each Employee
- \$ 2,000,000.00 Disease – Policy

Commercial General Liability insurance

- \$ 2,000,000.00 Each Occurrence Limit
- \$ 3,000,000.00 General Aggregate
- \$ 3,000,000.00 Products/Completed Operations Aggregate
- \$ 3,000,000.00 Personal and Advertising Injury
- \$ 2,000,000.00 Limited Job Site Pollution Occurrence Sub-Limit

Comprehensive Automobile Liability Insurance including coverage for all owned, hired and non-owned vehicles

\$ 2,000,000.00 Each Occurrence Combined Single Limit

\$ 3,000,000.00 Aggregate Bodily Injury & Property Damage

or

\$ 2,000,000.00 Each Person Bodily Injury

\$ 2,000,000.00 Each Occurrence Bodily Injury

\$ 2,000,000.00 Each Occurrence Property Damage

\$ 2,000,000.00 Each Occurrence Pollution Occurrence Sub-Limit

"All risk" Builder's Risk Insurance (including earthquake and flood) covering the real and personal property of others in the care, custody, and control of the contractor. Coverage shall include theft and damage to building interiors, exterior, in transit and offsite storage. The minimum amount of coverage to be carried shall be equal to the full amount of the contract. Contractor shall be financially responsible for any deductible applied to loss. This insurance shall include Owner, the contractor and its sub-contractors as their interests may appear and may not be cancelled or terminated until such time as City's final acceptance of the project.

The policy shall be endorsed to have the General Aggregate apply to this Project Only.

- B. Additional Insured Provision: The City of Milwaukie, Oregon, its officers, directors, and employees shall be added as additional insureds with respect to this contract. All Liability Insurance policies will be endorsed to show this additional coverage.

The procuring of such required insurance shall not be construed to limit contractor's liability hereunder. Notwithstanding said insurance, Contractor shall be obligated for the total amount of any damage, injury, or loss caused by negligence or neglect connected with this contract.



28. Method and Place of Giving Notice, Submitting Bills and Making Payments

All notices, bills and payments shall be made in writing and may be given by personal delivery, mail or by email. Notices, bills and payments sent by mail should be addressed as follows:

City of Milwaukie	(Contractor's Firm Name):
Attn: Accounts Payable	Attn: (insert contract manager's name)
10722 SE Main Street Milwaukie, Oregon 97222	Address: (insert contract manager's address)
Phone: 503-786-7523	Phone: (insert #)
Fax 503-786-7528	Fax: (insert #)
Email Address: finance@milwaukieoregon.gov	Email Address: (insert address)

and when so addressed, shall be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices, bills and payments shall be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the person to whom notices, bills and payments are to be given by giving written notice pursuant to this paragraph.

29. Hazardous Materials

Contractor shall supply City with a list of any and all hazardous substances used in performance of this Agreement. That list shall identify the location of storage and use of all such hazardous substances and identify the amounts stored and used at each location. Contractor shall provide City with material safety data sheets for all hazardous substances brought onto City property, created on City property or delivered to City pursuant to this Agreement. For the purpose of this section, "hazardous substance" means hazardous substance as defined by ORS 453.307(5). Contractor shall complete the State Fire Marshall's hazardous substance survey as required by ORS 453.317 and shall assist City to complete any such survey that it may be required to complete because of substances used in the performance of this Agreement.

30. Hazardous Waste

If, as a result of performance of this Agreement, Contractor generates any hazardous wastes, Contractor shall be responsible for disposal of any such hazardous wastes in compliance with all applicable federal and state requirements. Contractors shall

provide City with documentation, including all required manifests, demonstrating proper transportation and disposal of any such hazardous wastes. Contractor shall defend, indemnify, and hold harmless City for any disposal or storage of hazardous wastes generated pursuant to this Contract and any releases or discharges of hazardous materials.

31. **Severability**

In the event any provision or portion of this Agreement is held to be unenforceable or invalid by any court of competent jurisdiction, the remainder of this Agreement shall remain in full force and effect and shall in no way be affected or invalidated thereby.

32. Complete Agreement

This Agreement and attached exhibits constitutes the entire Agreement between the parties. No waiver, consent, modification, or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change if made, shall be effective only in specific instances and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. Contractor, by the signature of its authorized representative, hereby acknowledges that he has read this Agreement, understands it and agrees to be bound by its terms and conditions.

IN WITNESS WHEREOF, the City has caused this agreement to be executed by its duly authorized undersigned officer, acting pursuant to authorization of the City Council, duly passed at the regular meeting held on the (Day) day of (Month), (Year), and the Contractor has executed this agreement on the date herein above first written.

CITY OF MILWAUKIE

CONTRACTOR

Signature

Signature

Printed Name & Title

Printed Name & Title

Date

Date

CITY OF MILWAUKIE, OREGON
PUBLIC WORKS CONTRACT PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that we,

(Official Name & Form of Organization)

Whose address is: _____
(Street Address)

(City) (State) (Zip)

as Principal, and,

(Name of Surety)

(Street Address of Surety) (City) (State) (Zip)

(Print - Agent / Contact Name) (Phone Number)

a corporation duly authorized to conduct a general surety business in the State of Oregon, as Surety, are jointly and severally held and bound unto the City of Milwaukie, Oregon, a municipality of the State of Oregon, hereinafter called Obligee, in the sum of

_____ and ___/100 DOLLARS (\$ _____),
(The Contract Price, Both in Words & Figures)

lawful money of the United State of America, for the payment of which we, as Principal, and as Surety, jointly and severally bind ourselves, our successors and assigns firmly by these presents,

TERMS AND CONDITIONS

On the (Day) day of (Month), (Year),

(Name of Contractor)

Principal, entered into a contract with the City of Milwaukie, Oregon, Obligee, to construct certain public improvements and to provide material, labor and equipment for the construction

of those improvements. The public improvements and work to be performed by Principal are more fully described in the contract documents between Principal and Obligee. Those contract documents are incorporated herein by reference.



In the event that Principal fails to complete the work as required under the contract, Surety shall either complete the work or pay Oblige the costs of completion of the work. Work is only complete when it meets the standards required by the Contract and applicable City standards. Surety's obligation shall remain in effect until the work is accepted by Oblige, but shall terminate on acceptance by Oblige.

The total amount of the Surety's liability to Oblige under this bond shall in no event exceed the amount stated above.

Surety agrees that no change, extension of time, alternation, or addition to the terms of the contract, or to the work to be performed thereunder or the specifications accompanying the same shall in anywise affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of the contract or to the work or the specifications.

IN WITNESS WHEREOF, the parties hereto have caused this Bond to be executed in _____, Oregon, this (Day) day of (Month), (Year).

Contractor

Principal Signature

Principal Printed Name

Witnesses:

Surety

(A true copy of the Power of Attorney must be attached to the original of this bond)

Surety Attorney of Fact

Countersigned:

Resident Agent

CITY OF MILWAUKIE, OREGON
PUBLIC WORKS CONTRACT PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS, that we,

(Official Name & Form of Organization)

Whose address is: _____
(Street Address)

(City) (State) (Zip)

as Principal, and,

(Name of Surety)

(Street Address of Surety) (City) (State) (Zip)

(Print - Agent / Contact Name) (Phone Number)

a corporation duly authorized to conduct a general surety business in the State of Oregon, as Surety, are jointly and severally held and bound unto the City of Milwaukie, Oregon, a municipality of the State of Oregon, hereinafter called Obligee, in the sum of

_____ and ___/100 DOLLARS (\$ _____),
(The Contract Price, Both in Words & Figures)

lawful money of the United State of America, for the payment of which we, as Principal, and as Surety, jointly and severally bind ourselves, our successors and assigns firmly by these presents,

TERMS AND CONDITIONS

On the (Day) day of (Month), (Year),

(Name of Contractor)

Principal, entered into a contract with the City of Milwaukie, Oregon, Obligee, for the construction of certain public improvements. As part of the contract, Principal is required to

furnish materials, labor, and equipment to construct the improvements. The contract documents between Principal and Obligee are incorporated herein by this reference.

In the event that Principal fails to make payments when due to suppliers of labor, equipment or materials, Surety shall pay the suppliers the amounts they are due. In the event that Obligee pays any amounts to suppliers that Principal was required to pay, Surety shall reimburse Obligee for those payments. In the event that Principal permits any lien or claim to be filed or prosecution against the City on account of any labor or material furnished, Surety shall take such steps as are necessary to clear the lien, claim or prosecution. In the event that Principal fails to (1) promptly pay all contributions or amounts due the State Unemployment Compensation Trust Fund incurred to the performance of the contract, (2) promptly, as due, make payments to the person, co-partnership, association, or corporation entitled thereto of the money and sums mentioned in Section 279C.600 of the Oregon Revised Statutes, or (3) promptly pay to the Oregon State Tax Commission all sums required to be deducted and retained from wages of employees of the Principal and his sub-Contractors, pursuant to the Section 316.711, Oregon Revised Statutes, Surety shall make the required payments. Surety's obligations under this bond shall terminate when all payments required of Principal described in this paragraph are made in full.

The total amount of the Surety's liability under this bond both to the Obligee and to the persons furnishing labor or materials, provisions and goods to any person or persons, shall in no event exceed the amount stated above.

Surety agrees that no change, extension of time, alternation, or addition to the terms of the contract, or to the work to be performed there under or the specifications accompanying the same shall in anywise affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of the contract or to the work or the specifications.

IN WITNESS WHEREOF, the parties hereto have caused this Bond to be executed in _____, Oregon, this (Day) day of (Month), (Year).

Contractor

Principal Signature

Principal Printed Name

Witnesses:

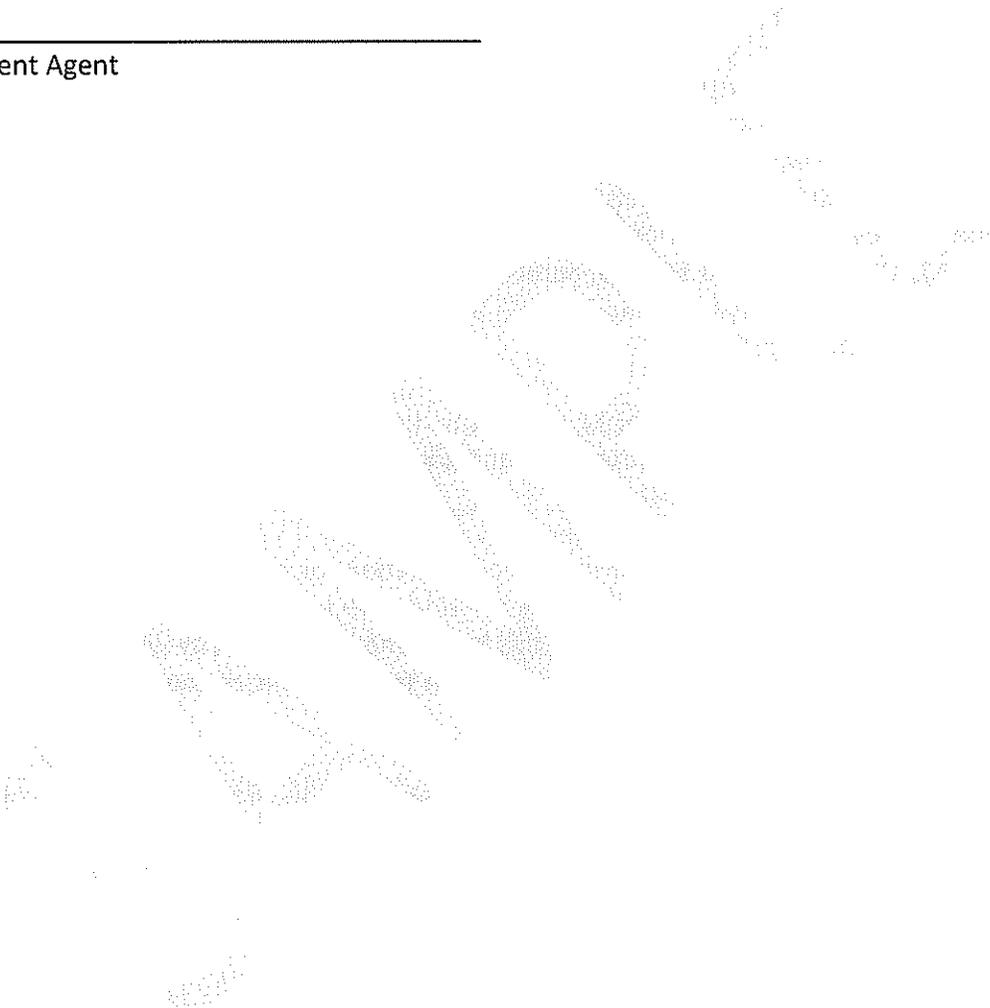
Surety

(A true copy of the Power of Attorney must be attached to the original of this bond)

Surety Attorney of Fact

Countersigned:

Resident Agent



No. _____

BID BOOKLET

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

**MILWAUKIE RIVERFRONT PARK BRIDGE
SCOUR REPAIR**

Bid Schedule

Spec No.	Item No.	Bid Item	Unit	Qty	Unit Price	Total
TEMPORARY FEATURES AND APPURTENANCES						
00210	1	Mobilization	LS	ALL	70,255	20,255
00225	2	Temporary Barricades, Type 3	EA	5.0	300	1,500
00245	3	Floating Turbidity Barrier	LS	ALL	4,500	4,500
00280	4	Inlet Protection, Type 4	EA	3	100	100
00280	5	Sediment Barrier, Type B	FT	100	8.50	850
00290	6	Turbidity Monitoring	LS	ALL	500	500
Subsection Total						27,905
BASES						
00641	7	Aggregate Base, 3/4 inch	TON	20	60	1,200
Subsection Total						1,200
WEARING SURFACES						
00744	8	Level 2, 1/2 Inch Dense ACP Mixture	TON	8	325	2,600
Subsection Total						2,600
ROADWORK						
00330	9	General Excavation	Cu Yd	60.0	85	5,100
00330	9	Toe Trench Excavation	Cu Yd	40.0	85	3,400
00350	10	Pavement Overlay Geotextile	Sq Yd	25.0	5	125
00350	11	Riprap Geotextile, Type 2	Sq Yd	200.0	10	2,000
00390	12	Loose Riprap, Class 700	Cu Yd	300.0	186	55,800
Subsection Total						66,425
RIGHT OF WAY DEVELOPMENT AND CONTROL						
01030	13	Permanent Seeding	AC	0.01	25,000	250
01040	14	Topsoil	Cu Yd	20	65	1,300
Subsection Total						1,550

Bid Total 99,680⁰⁶

The Bidder is advised that by signing this Bid the Bidder is deemed to have signed and agreed to the provisions of all the documents, certifications, and statements contained in this Bid.

Emery & Sons Construction Group 61-1740808
(Bidder's Name and Federal Tax ID Number)

203633
(Oregon Contractor's Board Registration Number)

7/22/2016
(Expiration Date)

By Vince Makinson
(Signature of Bidder's Authorized Representative)



Vince Makinson Dated March 21, 2016
(Typed or Printed Name and Title of Signer)

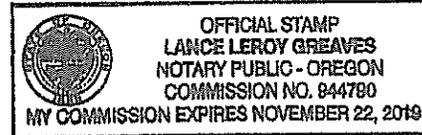
Sworn to before me on this 21st day

of March, 2016

[Signature]
(Notary Public's Signature)



My commission expires 11/22/2019



COMPLETE THE FOLLOWING IF A JOINT VENTURE:

(Oregon Contractor's Board Registration Number)

(Expiration Date)

By
(Signature of Bidder's Authorized Representative)



 Dated , 20
(Typed or Printed Name and Title of Signer)

Sworn to before me on this day

of , 20

(Notary Public's Signature)



My commission expires



Oregon

Kate Brown, Governor

March 15, 2016

AMH600/58834
CITY OF MILWAUKIE
ATTN CHARLES EATON PE
6101 SE JOHNSON CREEK BLVD
MILWAUKIE OR 97026

RECEIVED

MAR 21 2015

CITY OF MILWAUKIE
PLANNING DEPARTMENT

Department of State Lands
775 Summer Street NE, Suite 100
Salem, OR 97301-1279
(503) 986-5200
FAX (503) 378-4844
www.oregon.gov/dsl

State Land Board

Kate Brown
Governor

RE: **EMERGENCY AUTHORIZATION FOR PLACEMENT OF FILL AND
REMOVAL OF MATERIAL IN WATERS OF THE STATE**

Jeanne P. Atkins
Secretary of State

THIS AUTHORIZATION EXPIRES ON JUNE 13, 2016

Ted Wheeler
State Treasurer

- DSL Application No. 58834-RF
- Site Address: Riverfront Park, Milwaukie
- Kellogg Creek, River Mile 0; Clackamas County; T. 01S, R. 01E, Section 35, Tax Lot 1000, Milwaukie

Dear Mr. Eaton:

This letter is an authorization for emergency purposes only. An emergency is defined in Oregon Administrative Rule 141-085-0510(29) as "circumstances that pose an immediate threat to public health, safety or substantial property including crop or farmland."

Your request to place riprap on the slope of SW corner of the bridge for a temporary stabilization measure has been approved as an emergency authorization under ORS 196.810(4). This authorization expires 60 days from the date of issuance. In the performance of the emergency work **by you and/or contractors**, the following conditions shall be followed:

1. Tom Murtaugh or Ben Walczak of ODFW shall be contacted prior to the start of work.
2. The amount of material to be removed/filled shall not exceed the minimum necessary to alleviate the emergency circumstances. However, up to 315 cubic yards of material are authorized for placement/removal as needed.
3. Work, including grading, trenching and rock placement must occur during low flow periods in the Willamette, preferably during the 6 hour window during a low tide sequence (i.e. 3 hours prior to low tide through a period of 3 hours after low tide to minimize heavy equipment interaction with the water).
4. Establish a silt fence at the toe of the project (i.e. not affected by intertidal inundation) to control turbidity and sediment from washing into the stream.
5. The turbidity barrier shall be installed to fully enclose the in-water work area and shall be sufficiently sized for expected flows.

March 15, 2016

Site Address: Riverfront Park, Milwaukie

Page 2 of 3

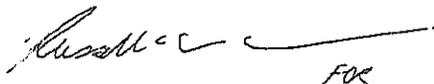
6. The barrier shall be supplemented with netting, as needed, to exclude fish from the work area; fish shall be safely removed from within the isolation area prior to excavation activities and relocated to the adjacent stream using netting.
7. The barrier shall fully contain turbidity resulting from construction activities; turbidity monitoring shall be performed by the contractor to ensure the isolation structure is performing adequately; adjustments shall be made if needed.
8. The barrier shall remain in place until after construction to allow turbidity to settle to background levels.
9. Turbidity increases shall be kept to a minimum. Only clean, erosion-resistant rock shall be used as fill.
10. Use only clean riprap of appropriate size, placed individually from the bottom up. There shall be no end dumping of riprap or other materials from the bank.
11. Any pile, post or sheet shall not be driven by conventional pile driving methods unless ODFW is consulted prior to these actions.
12. Implement appropriate erosion control measures as needed and be mindful of weather patterns, particularly prior to a weekend or extended breaks in work.
13. The riprap shall be top dressed and seeded and covered with straw to minimize run off.
14. The City of Milwaukie shall apply for a removal/fill permit to remove the existing bridge and riprap structures within two years of issuance of this authorization.
15. The route and methods used to access the work site shall minimize damage and disturbance to the streambank, stream channel and riparian area.
16. All work shall be done from the top of the bank unless otherwise approved by the Department of State Lands.
17. Any excavated material shall be disposed of on upland and not be placed in wetlands, streams or other waters.
18. Inspection of the work may occur by the Department of State Lands and/or Department of Fish and Wildlife or other appropriate agency following the emergency, and project refinements may be required by the Department such as:
 - a. addition of rock barbs or rearranging of riprap;
 - b. sloping the bank;
 - c. revegetation of the slope and/or bank top; and
 - d. other measures as appropriate to protect waters of the state.
19. The Department of State Lands retains the authority to temporarily halt or modify the project in case of excessive turbidity or damage to natural resources.

20. This permit does not authorize trespass on the lands of others. The permit holder shall obtain all necessary access permits or rights-of-way before entering lands owned by another.
21. Permittee shall defend and hold harmless the State of Oregon, and its officers, agents, and employees from any claim, suit, or action for property damage or personal injury or death arising out of the design, material construction, or maintenance of the permitted improvements.
22. This authorization permits only the work described in the application. Any additional work may require a permit from the Department of State Lands.

For Disaster Recovery Assistance, victims need to apply through the National Teleregistration Center at 1-800-462-9029/TTY 1-800-462-7585.

Please be aware that you must also receive authorization, when required, from the U.S. Army Corps of Engineers (USACE) before beginning construction. The USACE contact for Clackamas County is Dominic Yballe at 503-808-4392. In addition, you should contact your city and county planning office for local permits as necessary. If you have any questions regarding this authorization or its conditions, please contact me at 503-986-5250.

Sincerely,



FOR

Lori Warner-Dickason
Aquatic Resource Manager
Aquatic Resource Management
Oregon Department of State Lands

AMH:tid

cc: Tom Murtaugh, Oregon Department of Fish and Wildlife
Dominic Yballe, US Army Corps of Engineers, Portland Office
City of Milwaukie Planning Dept.