



CITY OF OREGON CITY

CITY COMMISSION WORK SESSION

AGENDA

Commission Chambers, Libke Public Safety Facility, 1234 Linn Ave, Oregon City
Tuesday, July 11, 2023 at 6:00 PM

Typically there are no public comments at work sessions, but written comments are accepted by:

- *Email recorderteam@orc.org (deadline to submit written testimony via email is 3:00 PM on the day of the meeting)*
- *Mail to City of Oregon City, Attn: City Recorder, P.O. Box 3040, Oregon City, OR 97045*

CONVENE WORK SESSION AND ROLL CALL

FUTURE AGENDA ITEMS

The Commission's adopted goals and available staff resources shall be considered when recommending future agenda items. The Commission may add an item to a future agenda with consensus of the Commission.

[List](#) of Future Work Session Agenda Items

DISCUSSION ITEMS

- [1.](#) Natural Resources Committee Work Plan for 2023 - 2025
- [2.](#) Clackamas Water Environmental Services State of the District Report
- [3.](#) Parks and Recreation Master Plan Update - Comprehensive Findings and Recommendations
- [4.](#) Discussion of Elected Officials Participating as Nonprofit Board of Directors

CITY MANAGER'S REPORT

- [5.](#) Update on City Projects

COMMISSION COMMITTEE REPORTS

- A. Commissioner O'Donnell**
 - South Fork Water Board
- B. Commissioner Smith**

- Clackamas Heritage Partners
- Oregon City Tourism Stakeholder's Group
- South Fork Water Board

C. Commissioner Marl

- Citizen Involvement Committee Liaison
- Clackamas County Coordinating Committee (C4)
- Clackamas County I-205 Tolling Diversion Committee
- Youth Advisory Committee Liaison

D. Commissioner Mitchell

- Clackamas County Coordinating Committee (C4) – Metro Subcommittee
- Clackamas County I-205 Tolling Diversion Committee (alternate)
- Metro Policy Advisory Committee (MPAC) (alternate)

E. Mayor McGriff

- Clackamas Water Environment Services Policy Committee
- Clackamas Heritage Partners (alternate)
- Downtown Oregon City Association Board
- Metro Policy Advisory Committee (MPAC)
- Oregon City Tourism Stakeholder's Group
- South Fork Water Board
- Willamette Falls and Landings Heritage Area
- Willamette Falls Legacy Project Liaisons
- Youth Advisory Committee Liaison

ADJOURNMENT

PUBLIC COMMENT GUIDELINES

Complete a Comment Card prior to the meeting and submit it to the City Recorder. When the Mayor/Chair calls your name, proceed to the speaker table, and state your name and city of residence into the microphone. Each speaker is given three (3) minutes to speak. To assist in tracking your speaking time, refer to the timer on the table.

As a general practice, the City Commission does not engage in discussion with those making comments.

Electronic presentations are permitted but shall be delivered to the City Recorder 48 hours in advance of the meeting.

ADA NOTICE

The location is ADA accessible. Hearing devices may be requested from the City Recorder prior to the meeting. Individuals requiring other assistance must make their request known 48 hours preceding the meeting by contacting the City Recorder's Office at 503-657-0891.

Agenda Posted at City Hall, Pioneer Community Center, Library, City Website.

Video Streaming & Broadcasts: The meeting is streamed live on the Oregon City's website at www.orcity.org and available on demand following the meeting. The meeting can be viewed on Willamette Falls Television channel 28 for Oregon City area residents as a rebroadcast. Please contact WFMC at 503-650-0275 for a programming schedule.



CITY OF OREGON CITY

Staff Report

625 Center Street
Oregon City, OR 97045
503-657-0891

To: City Commission
From: City Manager Tony Konkol

Agenda Date: 07/11/2023

SUBJECT:

List of Future Work Session Agenda Items

BACKGROUND:

August 8, 2023

Promenade Charter Park Discussion

Business License Amendments

Development opportunities of City owned properties within the Urban Renewal District

September 12, 2023

October 10, 2023

Additional Items (These items are in no particular order)

Adding Native Land Acknowledgement to Agenda/Revised Rules of Procedure

Beavercreek Road Concept Plan (Thimble Creek) Funding Discussion

Boards and Committee's Orientation Manual Review and Discussion

Business License Update for events

Canemah Area – Encroachments in the Right-of-Way Policy Discussion

City Seal Revision

Clackamas County Water Environmental Services (WES) Rate Differential

Climate Action Plan Presentation (City of Milwaukie)

Commission Policies and Rules of Procedure Review

Compatible Change Update

Construction Excise Tax

Ethics Training

Election Residency Evaluation Policy

Facilities Master Plan

Metro Food Waste Program Requirements – Annual Review

South Fork Water Board – Mountain Line Easements Vacation

Water System Risk and Resiliency Review

Willamette Falls Legacy Project Operations and Maintenance Discussion



CITY OF OREGON CITY

Staff Report

625 Center Street
Oregon City, OR 97045
503-657-0891

To: City Commission
From: Pete Walter, Planning Manager

Agenda Date: 07/11/2023

SUBJECT:

Natural Resources Committee Work Plan for 2023 - 2025

STAFF RECOMMENDATION:

Samantha Wolf, NRC Vice-Chair, will present the NRC Work Plan for 2023-2025

EXECUTIVE SUMMARY:

The NRC made final revisions to the work plan on March 8, 2023 and adopted the plan April 12, 2023. The work plan is attached.

BACKGROUND:

The updated work plan for 2023-2025 consist of projects and tasks for the 2023-2025 biennium. Some of the work plan items are on-going (such as commenting on land use applications and participating in updates to the comprehensive plan and codes), while others require on-the-ground logistics and the commitment of members and staff resources and budget to complete. The NRC developed the work plan referencing City Commission goals and priorities.

OPTIONS:

1. Comment on the work plan following presentation.
2. Do not comment on the work plan.

BUDGET IMPACT:

Amount: \$
FY(s): TBD
Funding Source(s): TBD

Oregon City Natural Resources Committee 2023-2025 Work Plan

NRC Responsibility #1:

Promote Community Involvement in Natural Resources Conservation

1. Support a public tree inventory with volunteer participation for city properties, parks, street trees, school properties and other public lands.
2. Communicate regularly with Neighborhood Associations, Citizen Involvement Committee and the business community to promote programs such as the heritage tree program and arbor day.
3. Improve awareness through the city website, brochures, QR code signage, and social media for awareness and interpretation of local natural and geological features, trails, stormwater facilities, watersheds and sites. Coordinate with city efforts to enhance tourism. This would emphasize local knowledge and provide interpretative signs for people to learn about things like birding, swift migrations, heritage trees, etc. We can use laminated signs that lead to the Oregon City website. Give people an easy way to learn.
4. Continue to strengthen and encourage participation in the Heritage Tree Program through brochures, Informational signs for trees, \$\$\$ for incentives, site visits, further outreach and social media.
5. Work with property owners to voluntarily seek heritage tree designation within the Thimble Creek Concept Plan area.
6. Support city partnerships with Home Owner Associations (HOAs), Metro and Greater Oregon City Watershed Council, Oregon City Parks Foundation and other groups for habitat improvement projects within the Urban Growth Boundary.
7. Support partnerships with Oregon Heritage Tree Council and Oregon Community Trees.

NRC Responsibility #2:

Initiate recommendations and review updates to the City's comprehensive plan, codes and policy as they relate to statewide Planning Goals that are integral to our mission.

1. Provide input to the City Commission on amendments to the City's tree protection and removal codes.
2. Support a coordinated strategy for invasive species management, such as encouraging City participation in the Clackamas County Integrated Pest Management (IPM) program. Look at the City of Eugene Integrated Pest Management (IPM) program model as an example of a way to integrate IPM into city operations.
3. Improve public outreach and information about invasive plants.
4. Amend city resolution nuisance and native plant lists to reference regionally accepted and regularly updated plant lists from Clackamas Soil and Water District, Metro, Portland, and Willamette Native Plant List.
5. With the Public Works department, explore feasibility of offering reduced stormwater rates in return for planting trees in the right-of-way to intercept rainfall, reduce run-off and improve stormwater quality.
6. Support the City's application to and participation in the Bee City USA program through the Xerces Society for Invertebrate Conservation.

7. Promote public awareness of ways to promote and preserve invertebrate habitat through educational events such as booths at a Spring Resource Fair, the city website, Trail News, the city Facebook page and other social media.
8. Promote public awareness of the dangers of pesticide use, and cost savings associated with reduced pesticide application and reduced landscape maintenance.

NRC Responsibility #3:

Receive Notice and Comment on Land Use Applications and Projects within City Limits and the Urban Growth Boundary

1. Review and comment on Type III applications to vary from the adopted standards of the Natural Resources Overlay District, Flood Management Overlay District, and the Willamette River Greenway Overlay District.

NRC Responsibility #4: Conduct Orderly Meetings that result in Good Communications

1. Maintain and Update a list of Natural Resources Committee priorities and activities to share with Planning Commission and City Commission.

NRC Responsibility #5:

Coordinate with the Parks and Recreation Advisory Committee (PRAC) and Planning and City Commissions on at least an annual basis that results in good communication and mutually beneficial results.

1. Strengthen coordination with PRAC and parks staff through regular interaction and attendance at PRAC meetings.
2. Support funding initiatives and grant applications for parks and open space.
3. Invite Parks staff to attend NRC meetings.



CITY OF OREGON CITY

Staff Report

625 Center Street
Oregon City, OR 97045
503-657-0891

To: City Commission
From: Tony Konkol City Manager

Agenda Date: 07/11/2023

SUBJECT:

Clackamas Water Environmental Services State of the District Report

STAFF RECOMMENDATION:

Informational presentation

EXECUTIVE SUMMARY:

Greg Geist, Director of Clackamas Water Environmental Services, will be providing the State of the District Report and will be available to answer City Commission questions.

BACKGROUND:

Director Geist will be presenting the Clackamas WES State of the District Report, highlighting how Clackamas WES had dedicated resources over the past 12 months to produce clean water, protect water quality, and address the districts biggest challenges and priorities.

OPTIONS:

1. NA

BUDGET IMPACT:

Amount:

FY(s):

Funding Source(s):

City of Oregon City

July 11, 2023

Greg Geist, Director

State of the District Report

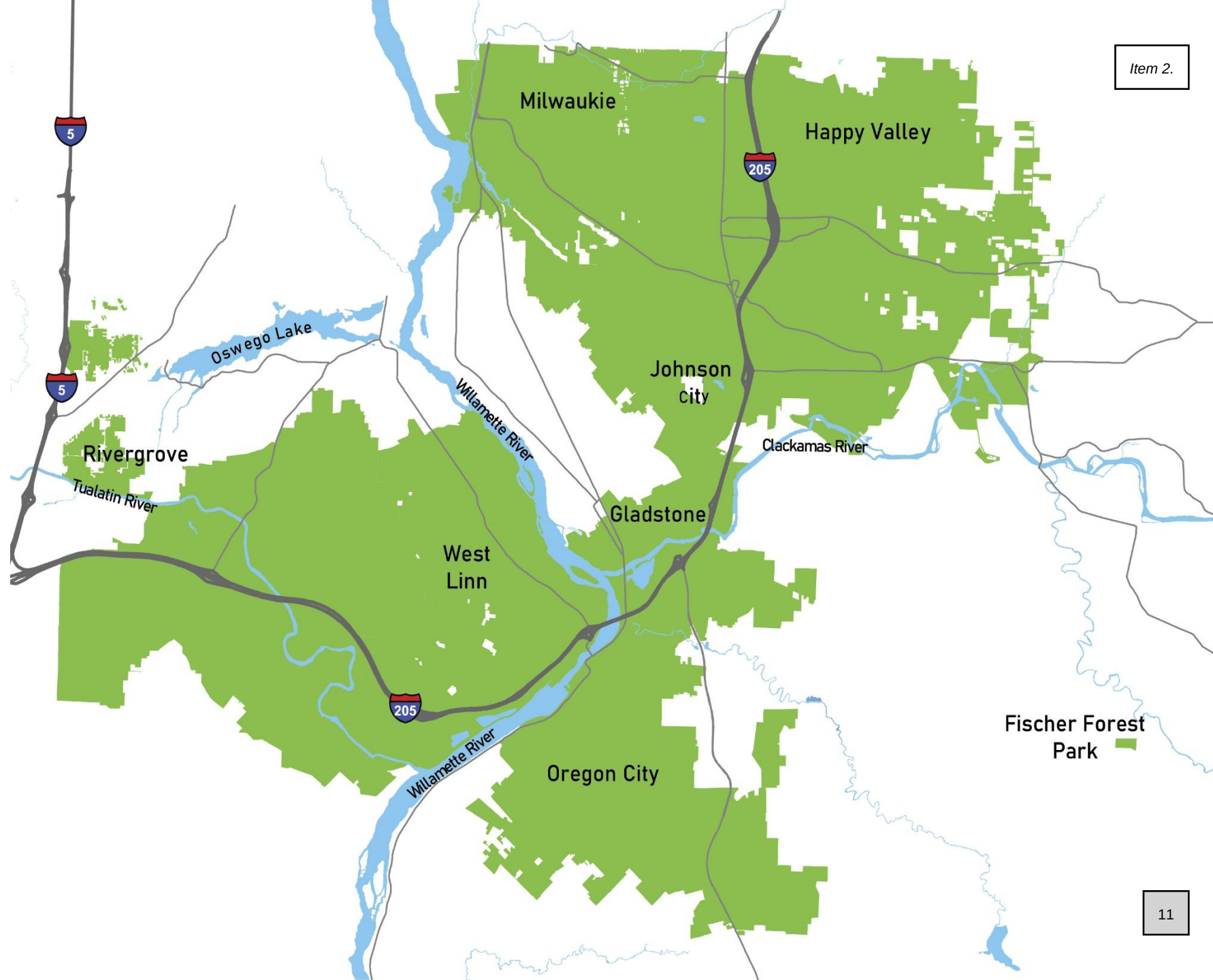


CLACKAMAS
WATER
ENVIRONMENT
SERVICES

About Us

The WES Service area includes:

- Boring
- Fischer's Forest Park
- Gladstone
- Happy Valley
- Hoodland
- Johnson City
- Milwaukie
- Oregon City
- Rivergrove
- West Linn
- Communities in unincorporated Clackamas County



Commissioners and Advisory Committee

The Clackamas County Board of Commissioners serves as the governing body of WES.

Commissioners receive recommendations from the WES Advisory Committee.

Oregon City WES AC Members:

Mayor Denyse McGriff

William Gifford, Resident

Renee Harber, CCC Environmental Learning Center



Financial Stewardship

Your Rate Dollars at Work

66% Operations and maintenance

- All wastewater treatment services, including waste removal, biosolids management, and disinfection of water
- Day-to-day plant maintenance
- Regulatory compliance, including laboratory
- Day-to-day collection system maintenance, including pump stations
- All surface water services, including conveyance and control of stormwater runoff
- Maintenance and cleaning of stormwater infrastructure
- Restoration and enhancement of riparian areas
- Public education related to water quality and stormwater issues
- Watershed planning and regulatory compliance



25% Infrastructure financing and reserves

- Equipment replacement
- Reserves for future project needs
- Building treatment capacity for future growth
- Construction projects

9% Debt payments

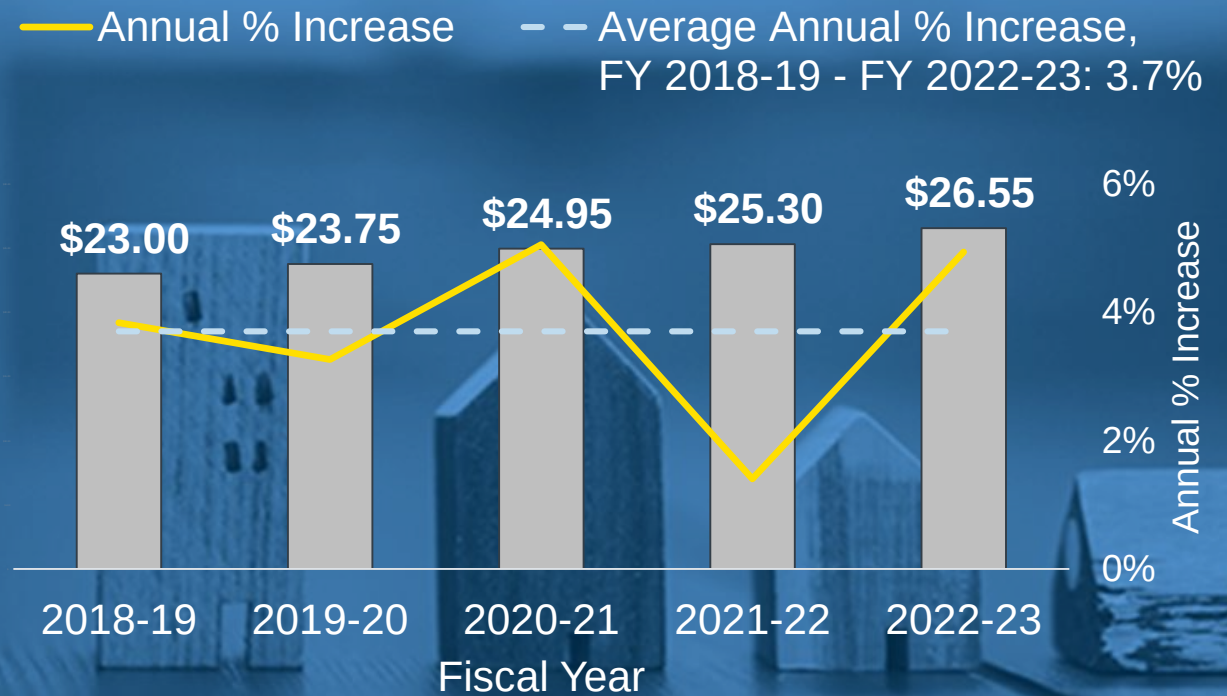
- Principal and interest on long-term debt used to finance capital projects

Commitment to reasonable and predictable rates

Board-approved annual rate increases for FY 2022/23 averaged 3.2% across all service areas.

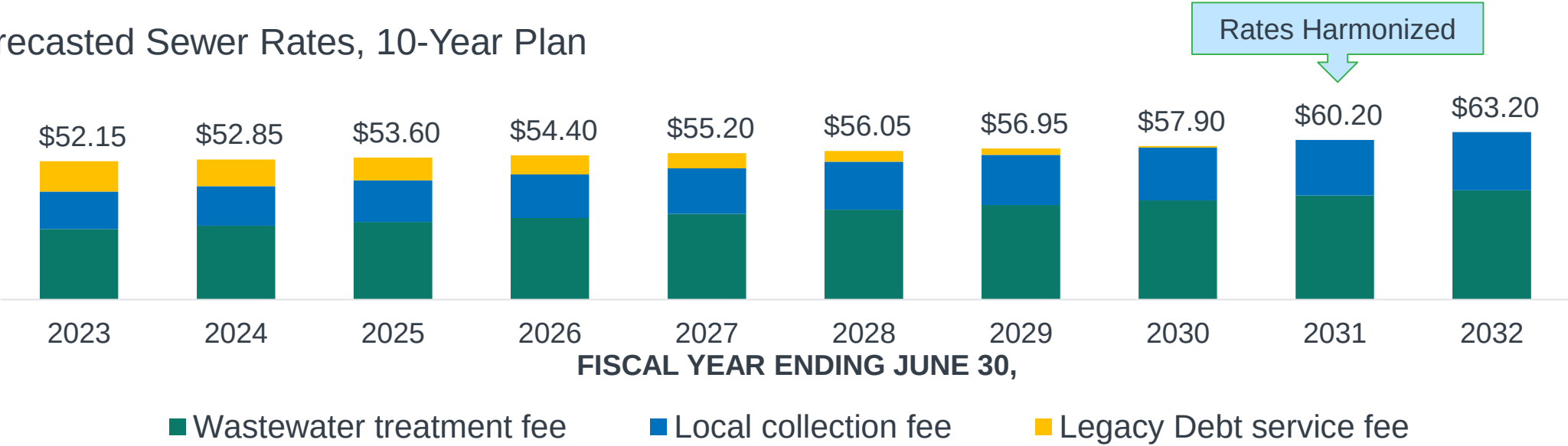
The rate increase for customers in the City of Oregon City was 4.9%.

Oregon City Monthly Rate History

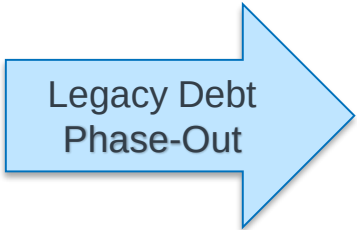
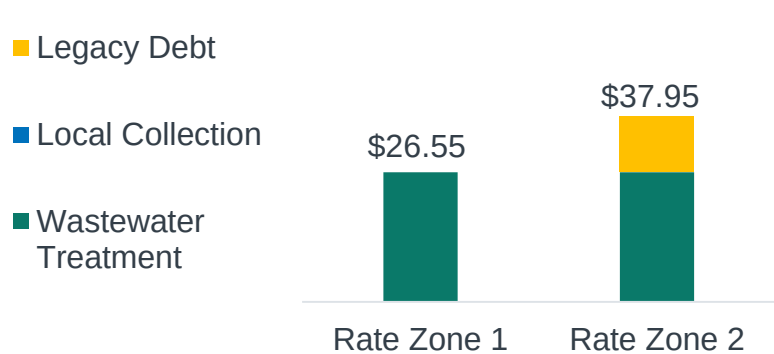


Sewer Rate Harmonization

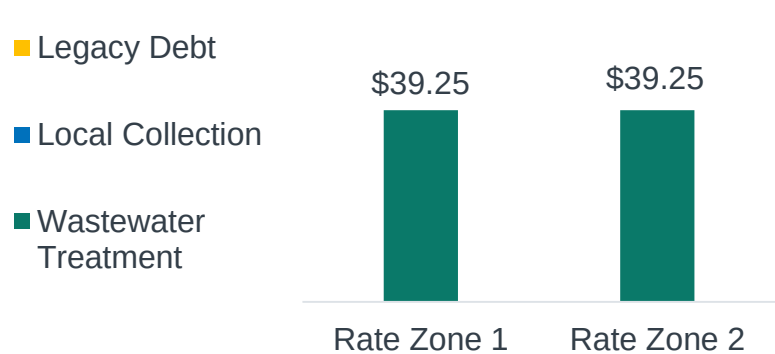
Forecasted Sewer Rates, 10-Year Plan



FY 2022-23 Wholesale Rates

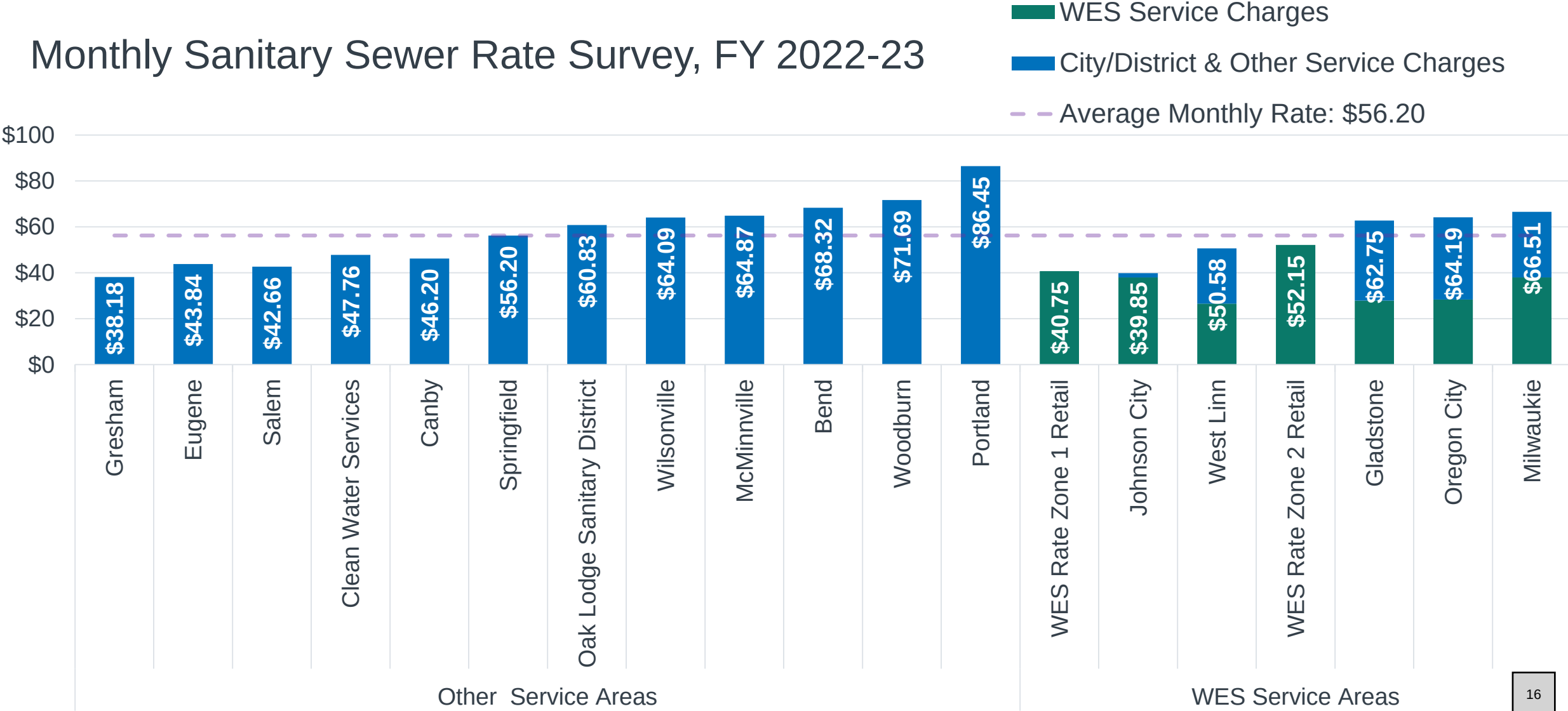


FY 2030-31 Wholesale Rates



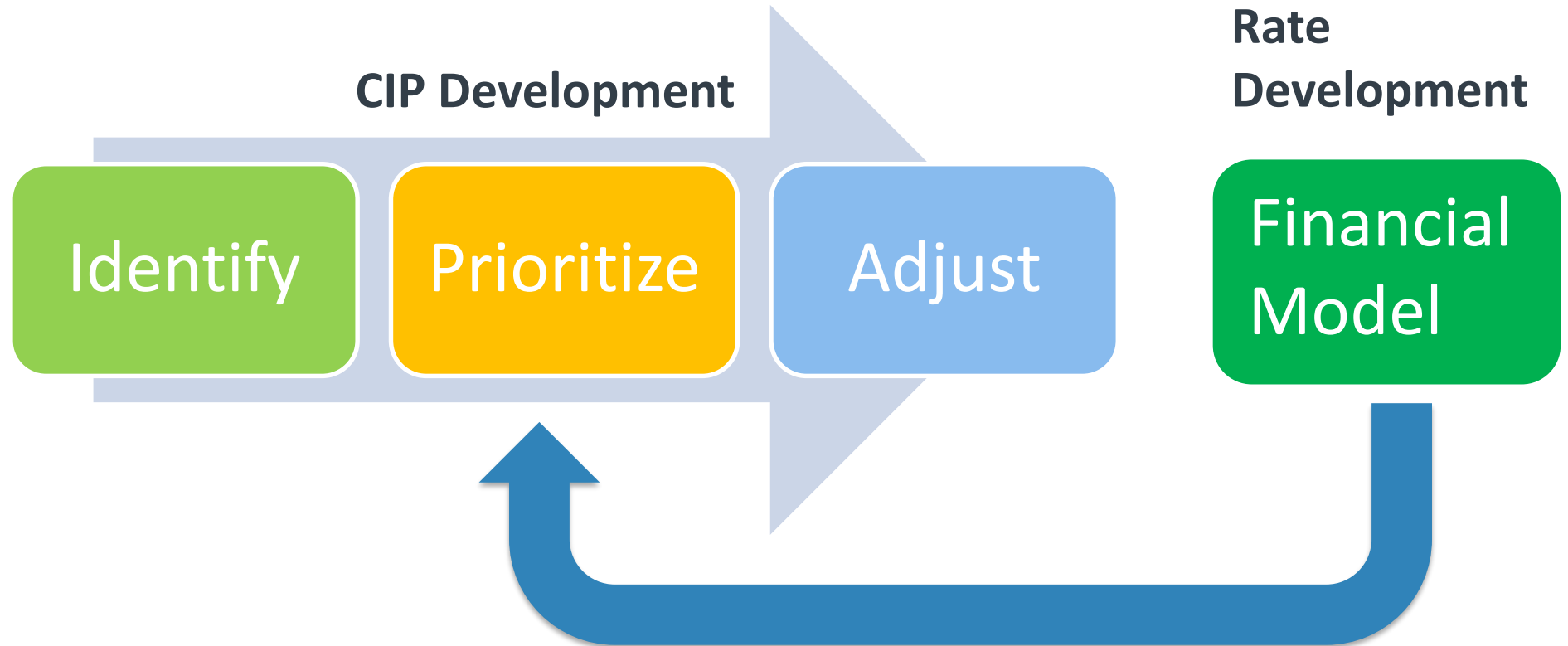
Fiscally Responsible

Monthly Sanitary Sewer Rate Survey, FY 2022-23



Capital Improvement Plan (CIP): Roadmap for a Clean Water Future

Item 2.



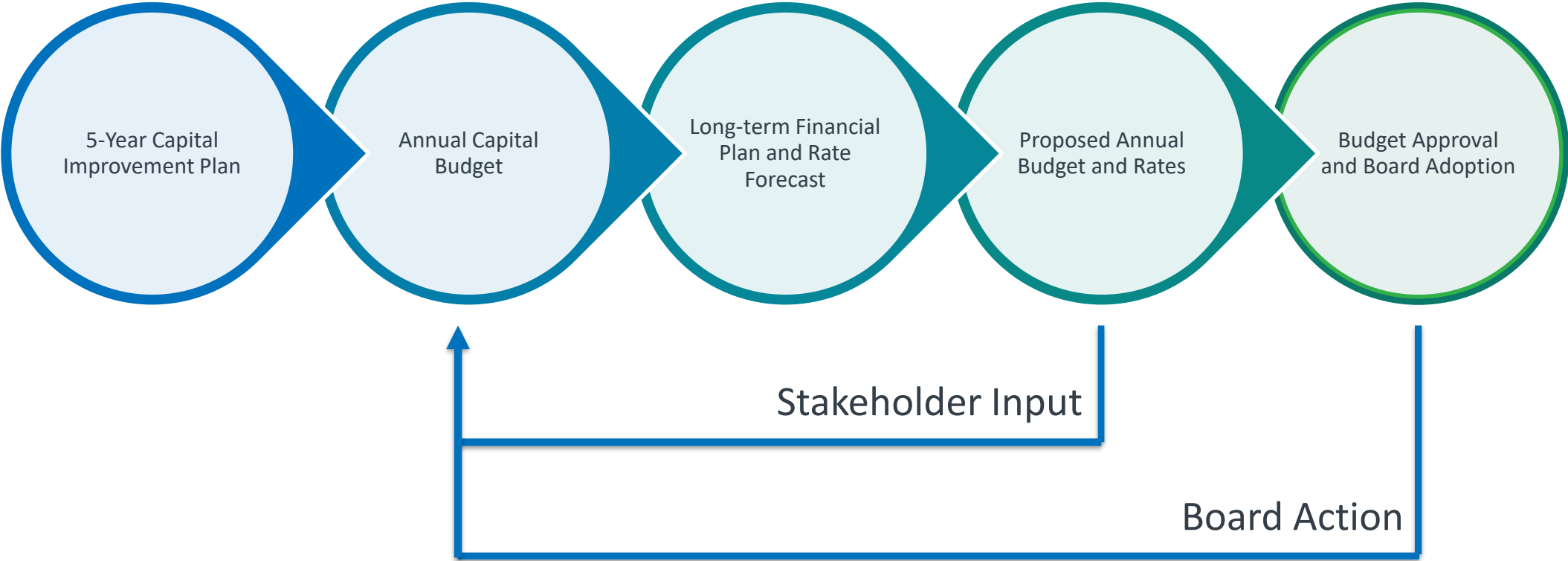
CIP is Based on Thoughtful Planning

Item 2.



Financial Planning and Rate Impact

Connection between CIP, Budget, and Rates



Kellogg Creek Water Resource Recovery Facility



LEGEND

1

Disinfection System Improvements

2

Solids Thickening and Dewatering Building

3

Cake Storage / Truck Loadout

4

Odor Control

5

Digester Feed Tank

6

Chemical Storage and Pumping

7

Dewatering Feed Tank

8

Centrate Equalization Tank

9

Digester Modifications

10

Digester Gas Storage

11

Digester Gas Conditioning

12

Cogeneration System Improvements

13

Magnetite Recovery Facility (Scenario 3 Only)

14

Disinfection System Improvements

15

Solids Handling Improvements

16

Intensification Improvements

17

Cogeneration / Gas Handling Improvements

18

Existing Fenceline

19

Existing Property Line

1"=100'



Item 2.

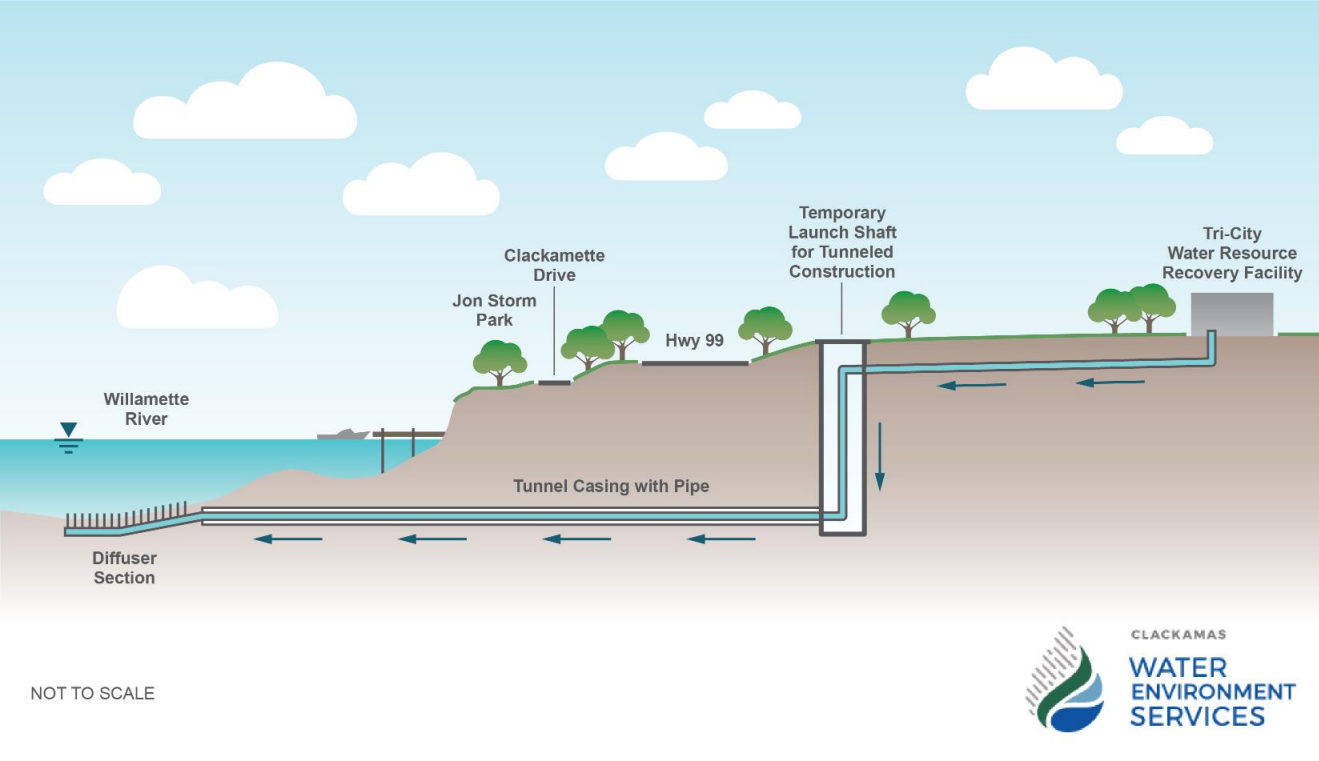
20

Upgrading The Tri-City Water Resource Recovery Facility



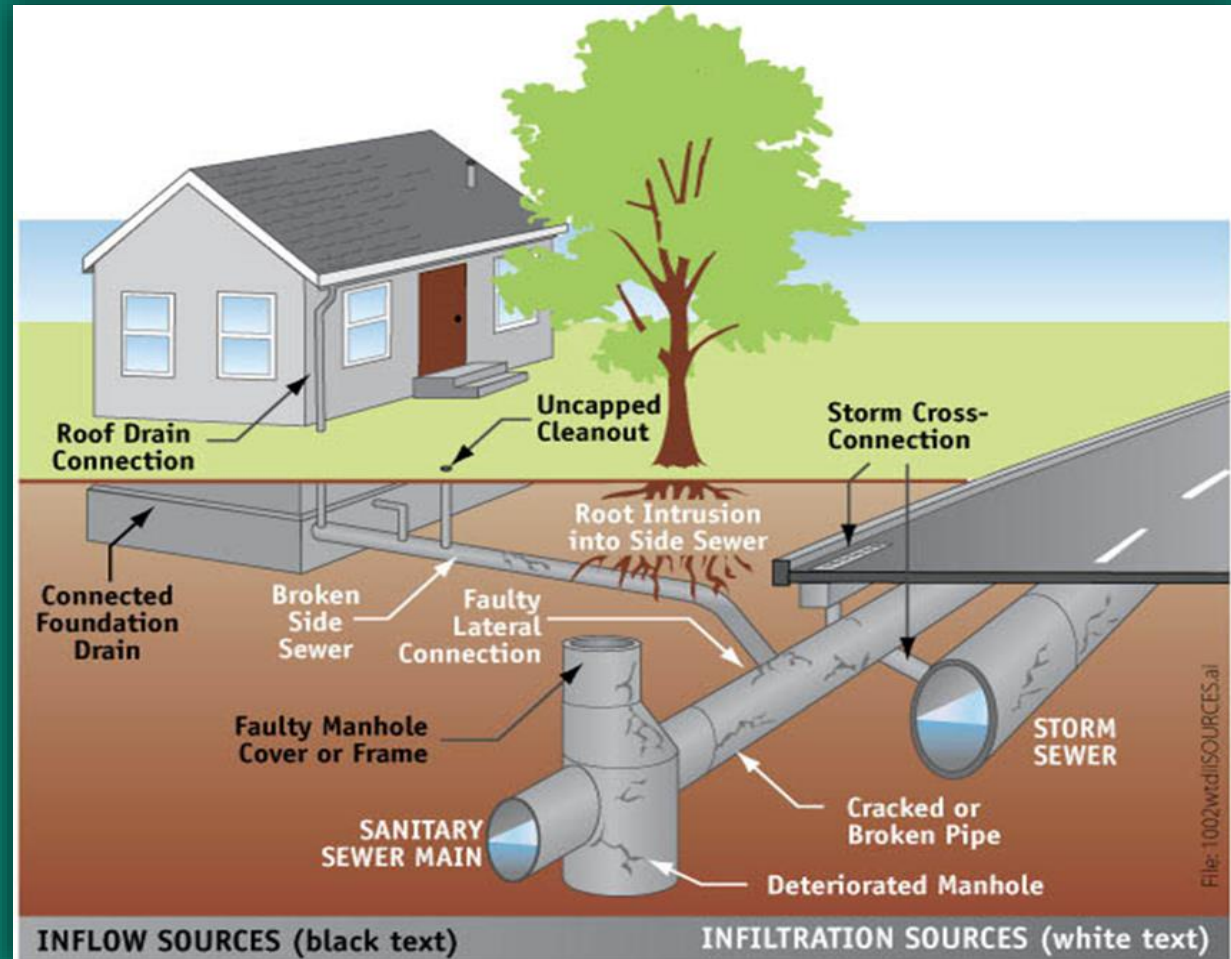
Building for Our Future

The New Tri-City Outfall



Partnering to Improve our Shared Sewer System

Item 2.



Willamette Pump Station & New Force Main Updates



3-Creeks Natural Area Floodplain Enhancement Project

Item 2.



Fostering Watershed Health Partnerships

Item 2.



Watershed Health Education at CCC Environmental Learning Center

Item 2.



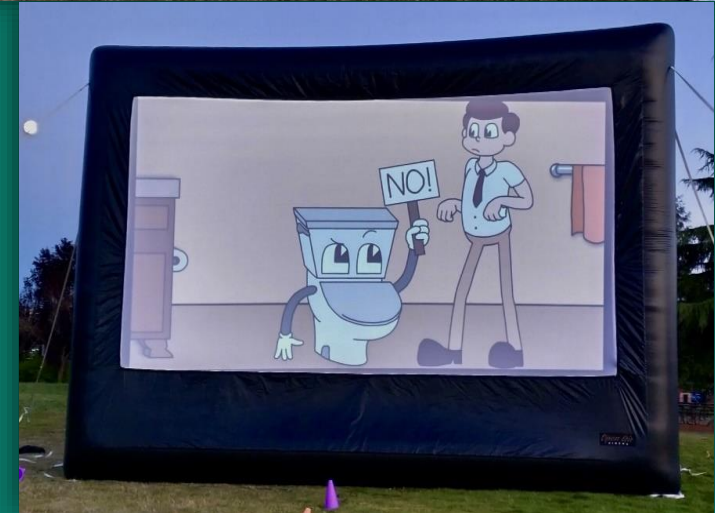
Investing in Watershed & Community Health

Item 2.



WES-Sponsored Community Events In Oregon City

Item 2.



Questions?





CLACKAMAS
WATER
ENVIRONMENT
SERVICES

2022 ANNUAL REPORT





Message from the Director

This past year was a year of milestone achievements, rewarding partnerships and progress on projects designed to strengthen our ability to serve you and all the diverse communities and businesses in northern Clackamas County.

In this annual report, I want to share with you how Clackamas Water Environment Services dedicated our resources over the past 12 months to producing clean water, protecting water quality and taking on our biggest challenges and priorities.

Through innovative, forward-looking partnerships with cities in the WES service area, we worked collaboratively to reduce Inflow and Infiltration (I/I) in sewer systems owned by our partner cities. Keeping extra water out of pipes will save approximately \$120 million over the next two decades – money we'll use to better serve you.

In addition to strengthening our infrastructure and technology, WES once again partnered with dozens of local community groups and thousands of volunteers of all ages to protect our many local natural areas and waterways. Helping create a new generation of environmental stewards benefits our communities now and well into the future. Environmental knowledge is powerful and impactful.

WES is proud to be deeply connected to the communities we serve, whether it's partnering on projects, supporting community events or educating residents from all walks of life.

2022 was a very productive year, but for WES, the best is yet to come.

On behalf of WES, I wish you all a happy and healthy 2023. It is our pleasure and privilege to serve you.

Greg Geist
Director, Clackamas Water Environment Services



- The WES service area includes:**
- | | | |
|-----------------------|--------------|-------------------------------|
| Boring | Hoodland | Rivergrove |
| Fischer's Forest Park | Johnson City | West Linn |
| Gladstone | Milwaukie | Communities in unincorporated |
| Happy Valley | Oregon City | Clackamas County |

Our Service Area

Why We're Here

Clackamas Water Environment Services produces clean water, protects water quality and recovers renewable resources. We do this by providing wastewater treatment services, stormwater management, and environmental education. It's our job to protect public health and support the vitality of our communities, natural environment, and economy.

Where We're Going

Be a collaborative partner in building a resilient clean water future where all people benefit and rivers thrive.

- What We Stand For**
- Protecting Public Health
 - Investment in Our People
 - Stewardship of Healthy Watersheds
 - Responsive Customer Service
 - Fiscal Responsibility
 - Water Resource Recovery

❖ Upgrading Our Water Resource Recovery Facilities



Joshua Clark,
WES Interim Operations
Manager

Like most people, you may not think about what happens after you flush the toilet. We do.

It's our job to ensure these vital services work for you every day of the year.

It takes a lot of science and engineering to make it happen, and we're always exploring innovative ways to make our systems even more efficient.

Over the past year, we continued to upgrade and modernize our largest water resource recovery facilities, which together clean more than seven billion gallons of wastewater every year.

2022 has been a year to operationalize the major upgrades we have made at

the Tri-City Water Resource Recovery Facility over the last few years. Our new, low-emissions biogas project transforms organic waste into renewable energy. This co-generation system, at full output, produces heat for five buildings at the site and an estimated 4,300 megawatts of electricity annually — enough to offset nearly half of the facility's energy use.

At the Kellogg Creek Water Resource Recovery Facility, we are participating in Energy Trust of Oregon's Strategic Energy Management Program, which helps organizations like ours train employees to identify and implement energy-saving opportunities. This year we offset enough of our energy usage to power the equivalent of 25 homes.

We'll continue updating our technology to keep pace with the growing population we serve to ensure that these reliable and affordable services are available to serve you now and for many years to come.

1 Taking samples from the aeration basin at Tri-City

3 The Kellogg Creek Water Resource Recovery Facility in Milwaukie

5 Inspecting the blowers at Kellogg Creek

7 Searching for energy savings at Kellogg Creek

2 WES Director Greg Geist leads a tour at Kellogg Creek

4 The Tri-City Water Resource Recovery Facility in Oregon City

6 Grouting work on the inside of a digester at Tri-City

8 The co-generation engine at Tri-City



Item 2.

❖ Preserving Our Watersheds



Leah Johanson,
WES Senior Civil Engineer

WES is in the process of designing a large stream restoration project at our 80-acre 3-Creeks Natural Area. The goal of this project is to improve water quality, reduce downstream flooding and improve stream habitat. Restoration of Mt. Scott Creek will include adding streambed material and logs to reconnect the creek to the floodplain.

In addition, WES will optimize the existing flood control facility to reduce the frequency of downstream flooding. Once complete, this project will improve the functionality and natural resources of this important space.

The site has also been a fantastic resource for educational groups like Trackers Earth Portland, providing a unique outdoor learning experience for young people, such as animal tracking and stewardship, within a natural environment close to home.



1 Aerial photo of the 3-Creeks Natural Area

2 The Oregon white oak supports many native animal species year-round by providing food, shelter, and good nesting habitat.

3 WES staff provide a tour at 3-Creeks

4 Trackers Portland leads a tour at 3-Creeks, which included plant identification and how to spot signs of wildlife



❖ Keeping Our Waterways Clean with SOLVE



Kris Carico, *SOLVE Chief Executive Officer*

The partnership between SOLVE and WES for the Summer

Waterways Cleanup Series has been highly successful. In 2022, 1,481 volunteers participated in nearly 70 cleanup projects to collect and dispose of 11,373 pounds of trash and pollutants from our treasured waterways and natural areas.

Litter cleanup projects for this series occurred along the Clackamas, Sandy, and Willamette Rivers. Mentionable cleanup projects also took place at Camp, Johnson, Oswego, Mt. Scott, Dean, and Willow Creeks.

This partnership is a testament to the work that can be accomplished when Oregonians join forces in environmental stewardship. We look forward to continuing our collaboration with WES and promoting cleaner and healthier waterways for many years to come.

Learn more about the WES-SOLVE Summer Waterway Cleanups at www.solveoregon.org/summer-waterway-cleanups.



1 Orientation at Oregon City in Clackamette Park

2 Big haul of trash at a cleanup

3 Cleaning up 3-Creeks Natural Area

4 Volunteers remove trash at Riverside Park

❖ Creating Watershed Health Partnerships



Gail Shaloum,
WES Natural Resources
Scientist

Our Watershed Protection team protects watershed health with programs that reduce pollution caused by urban stormwater runoff, and improve fish and wildlife habitat in our rivers, streams and wetlands.

One of the best ways we have found to stretch our resources and accomplish more is to engage community partners in our efforts. In 2022, WES awarded \$300,000 in grants through our RiverHealth Stewardship Program to 12 organizations dedicated to protecting and improving the health of our watersheds.

The grants support activities that restore habitat, manage invasive plants, organize community volunteer events, provide watershed science education, and remove trash from waterways, thereby improving watershed health and water quality. These projects also help us meet our regulatory requirements.



1 The World Salmon Council educates students about the lifecycle of northwest salmon

2 Youth learning about watershed health through our partnership with the Estuary Partnership



3 Friends of Trees team up with volunteers to plant trees as part of their grant

❖ Maintaining and Improving Our Shared Sewer System



Jessica Rinner,
WES Civil Engineering
Supervisor

Inflow and Infiltration (I/I) reduction is a top priority for our team.

I/I is rainwater or groundwater that gets into sewer lines through improper connections or damaged pipes and increases the amount of water that reaches our water resource recovery facilities, which we then have to treat.

I/I also increases the risk of sewer overflows within the collection system.

Reducing I/I in key basins by 2040 would save approximately \$120 million in required upgrades and expansion in the collection system and at our treatment facilities.

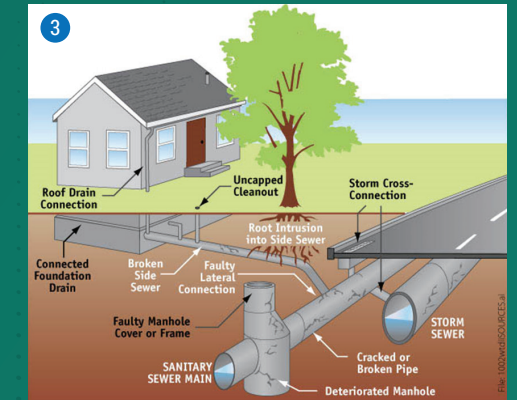
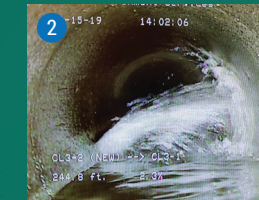
We're teaming up with our partner cities that own and maintain their own sewer systems, which deliver wastewater to WES' treatment facilities to reduce I/I and save our ratepayers money.



1 WES field operators inspect the pipes

2 Groundwater infiltrates a wastewater pipe

3 Illustration of I/I sources



❖ Investing in Our Community



Shelly Parini,
WES External Affairs

At WES, we understand that safeguarding a clean water future where all people benefit and rivers thrive requires collaboration and partnership.

One of the many ways we collaborate with our district cities and unincorporated areas is through community sponsorships. These partnerships provide us with an opportunity to educate our customers and diverse stakeholders on a variety of topics related to watershed health.

From the Gladstone Community Festival and National Night Out in Happy Valley, to Summer Movies in the Park in Milwaukie, Oregon City and West Linn, sponsorships allow WES to educate attendees about how WES protects public health and supports the vitality of our communities, natural environment and economy.

WES also partners with the local business community, educational institutions and watershed councils to address clean water issues that affect us all.



1 WES field operations staff teach kids about WES at Happy Valley's National Night Out

2 Crew leaders at the Bioblitz led the public in identifying and recording as many species as possible at the Environmental Learning Center

3 Young attendee at Gladstone Community Festival



Community investment is just one of several ways that WES engages neighbors of all ages to help keep our waterways clean.

❖ Turning Waste into Resources

Item 2.



Terrance Romaine,
WES Resource Recovery Supervisor

You're probably aware we treat wastewater, but did you know we recycle solids too?

As wastewater enters the water resource recovery facility, solids are put through biological and physical processes that separate them from water. The separated solids are broken down and used as food by microorganisms in a process called anaerobic digestion.

Anaerobic digestion destroys harmful bacteria and produces a product called biosolids, which contain nitrogen, phosphorus, and micronutrients that improve soils, reduce erosion, and retain water.

Each year, we transport about 11,000 tons of biosolids to farms with non-food crops in eastern Oregon to be applied on their fields, which eliminates their need for expensive fertilizers.

All of this recycling means less landfill waste, less pollution, and a healthier environment for us all.



1

1 Land application of biosolids in eastern Oregon

2 Getting ready to transport biosolids



2

❖ Building for Our Future



Jeff Stallard, WES
Capital Program Manager

Our capital team plans, designs and builds major facilities so we can serve our customers' wastewater and surface water needs.

As the population grows, wastewater flows to our facilities will increase. This wastewater is treated, and the effluent is discharged to the Willamette River through our outfall via a diffuser valve.

The current Tri-City Water Resource Recovery Facility outfall was constructed nearly 40 years ago and is nearing capacity. WES has determined a new outfall is needed and is designing one that will be completed in 2025.

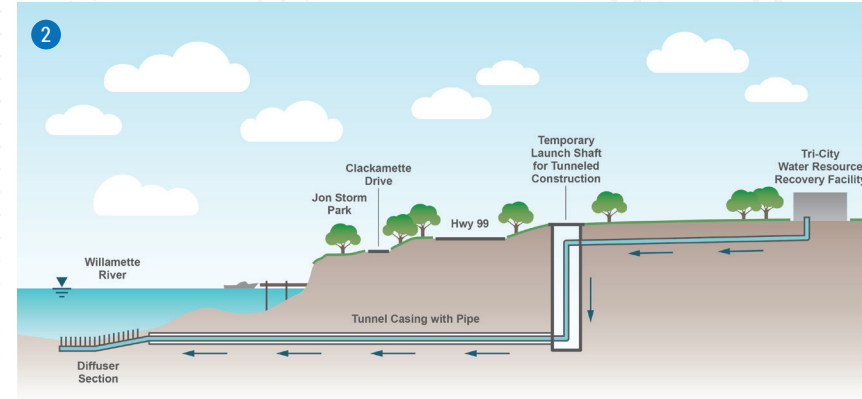
As part of permitting for this project, we completed an archaeological investigation in compliance with the National Historic Preservation Act.



1 Diffuser valve discharges effluent by diffusion to allow for gradual water mixing within the river

2 Diagram of the tunneling planned for the new outfall

3 Map of the outfall alignment



Learn more about the outfall project at www.tricityoutfall.info

❖ Financial Stewardship

We take our responsibility as stewards of ratepayer dollars very seriously.

For 28 consecutive years, WES has received Certificates of Achievement for Excellence in Financial Reporting. We currently have the highest credit rating assigned by S&P Global Ratings, reflecting our commitment to fiscal responsibility.

We are committed to keeping rates affordable and maintaining monthly service rates in line with the local area average while meeting the needs of growing communities and replacing aging infrastructure.

WES is also committed to assisting our customers. We offer low-income discounts to customers in need, and in 2022, WES implemented the new federal Low Income Household Water Assistance Program to provide additional bill payment assistance.

Your Rate Dollars at Work

66% Operations and maintenance

- All wastewater treatment services, including waste removal, biosolids management, and disinfection of water
- Day-to-day plant maintenance
- Regulatory compliance, including laboratory
- Day-to-day collection system maintenance, including pump stations
- All surface water services, including conveyance and control of stormwater runoff
- Maintenance and cleaning of stormwater infrastructure
- Restoration and enhancement of riparian areas
- Public education related to water quality and stormwater issues
- Watershed planning and regulatory compliance



25% Infrastructure financing and reserves

- Equipment replacement
- Reserves for future project needs
- Building treatment capacity for future growth
- Construction projects

9% Debt payments

- Principal and interest on long-term debt used to finance capital projects

Percentages are based on the fiscal year 2022-23 budget

❖ 2022 WES Awards

WES proudly supports top county priorities, which include ensuring safe, healthy and secure communities, growing a vibrant economy, and honoring, utilizing, promoting and investing in our natural resources.

In 2022, WES was honored with national and regional awards reaffirming our dedication to protecting public health, our shared environment and the county's future economic vitality.

The National Association of Counties (NACo) recognized WES with a 2022 Achievement Award in the category of County Resiliency: Infrastructure, Energy, and Sustainability for its Solids Handling Improvements Project.

The Pacific Northwest Clean Water Association (PNCWA) also honored WES' Solids Handling Improvements Project with its 2022 Sustainability Award, and also recognized WES with its 2022 Professional Excellence Award.

These awards reflect WES' commitment to ensuring that residents and visitors enjoy the benefits of safe, healthy and clean water in Clackamas County.



1



3



4



2

1 County commissioners and Jeff Stallard with the 2022 NACo Achievement Award

2 Leah Johanson and Ron Wierenga at PNCWA

3 Ron Wierenga accepts 2022 PNCWA Professional Excellence Award

4 Jeff Stallard receives 2022 PNCWA Project Sustainability Award

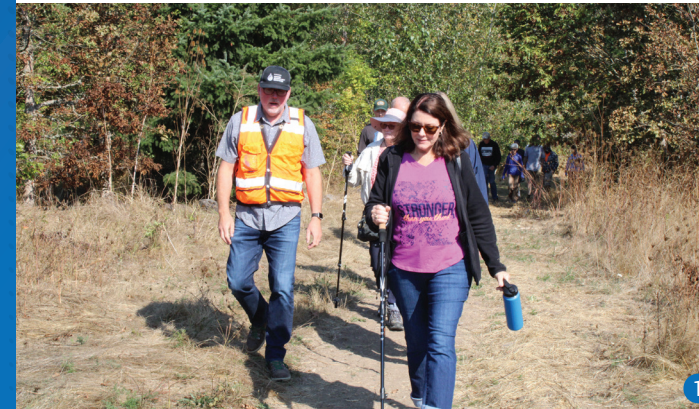
❖ Commissioners and Advisory Committee

The Clackamas County Board of Commissioners serves as the governing body of WES.

Commissioners receive recommendations from the WES Advisory Committee on a variety of key issues. The WES Advisory Committee includes ratepayers, environmental representatives, business

owners, members of the development community and elected officials.

Members bring experience in wastewater management, watershed health and restoration, economic development and surface water. The committee provides input and makes recommendations to WES and the Board of County Commissioners.



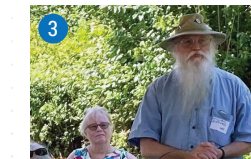
1



2



4



3

1 Advisory Committee Chair Diana Helm tours the 3-Creeks Natural Area with WES Assistant Director Ron Wierenga

2 Chair Tootie Smith tours the Tri-City Water Resource Recovery Facility with WES Director Greg Geist

3 Advisory committee members William Gifford and Rita Baker at the PNW Water Reuse Summit

4 Commissioner Martha Schrader at the Tri-City Water Resource Recovery Facility

All WES Advisory Committee members either live or work within the WES service area.

Rita Baker, Unincorporated Representative
Mary Baumgardner, West Linn City Councilor
Christopher Bowker, Gladstone Representative
David Golobay, Happy Valley City Councilor
Greg DiLoreto, West Linn Representative
Anthony Fields, Milwaukie Representative
William Gifford, Oregon City Representative
Renee Harber, Environmental Learning Center at Clackamas Community College
Diana Helm, Business Representative
Brian Johnson, Johnson City Representative
Roseann Johnson, Development Community Representative
Adam Khosroabadi, Milwaukie City Councilor
Denyse McGriff, Oregon City Mayor
Kathryn Miller, Unincorporated Representative
Michael Morrow, Happy Valley Representative
David Schleef, Business Representative
Tammy Stempel, Gladstone Mayor
Martha Schrader, commissioner; liaison,
Paul Savas, commissioner liaison alternate

Item 2.

**“At WES, we all serve
different functions, but
we fit together to solve
the clean water puzzle.”**

- WES Director Greg Geist

Clackamas Water Environment Services
150 Beavercreek Road #430
Oregon City, OR 97045

503-742-4567
wescustomerservice@clackamas.us

clackamas.us/wes





CITY OF OREGON CITY

Staff Report

625 Center Street
Oregon City, OR 97045
503-657-0891

To: City Commission
From: Parks & Recreation Director Kendall Reid

Agenda Date: 07/11/2023

SUBJECT:

Parks and Recreation Master Plan Update - Comprehensive Findings and Recommendations

STAFF RECOMMENDATION:

Staff recommend the City Commission provide input on the findings and recommendations to help develop a comprehensive plan for our park system.

BACKGROUND:

The Oregon City Parks & Recreation Department is currently underway with the development of a new Parks Master Plan with PROS Consulting INC. The City's last master plan was conducted in 2008. With this new Parks Master Plan, our goal is to address the City's parks and recreation facilities, programs, staffing, funding, landscape management, and priority needs for the next 20 years, with a focus on a 10-year implementation timeframe.

The Oregon City Parks & Recreation Department kicked off the new Parks Master Plan project with PROS Consulting INC in April of 2022. On June 1st and June 2nd Pros Consulting conducted numerous stakeholder interviews with City Commissioners, Committee members, staff, and key leaders in the community. On June 2nd we held our first public engagement meeting at City Hall to share information on the process, desired outcomes, and project schedule. This was followed by a Statistically Valid Survey to solicit input to help identify the City's current and future recreation needs to aid City staff and decision makers in providing and expanding an equitable distribution of recreational facilities and opportunities to community members and stakeholders on the existing conditions of the park. PROS worked with ETC to perform this random community wide household survey and had 401 people complete the survey (goal of 400). On August 24th, PROS launched a second online public survey to get additional feedback from the community and had 184 people respond. The feedback gathered from these surveys along with robust conversations with the community and stakeholders will be considered when updating the master plan to ensure future services meet residents' needs and benefit the community. A second public

engagement event was held January 23rd to provide a progress update, as well as the survey results, to the community. We were also able to provide data on staff training, share the new vision and mission statements, and the new core values established by the department. The draft comprehensive plan was received on June 5th and is currently being reviewed. PROS Consulting presented to PRAC on June 22nd to receive feedback and input from committee members. On Monday, July 10th we held our third public engagement meeting and completed our customer service assessment.

OPTIONS:

1. Review Parks Master Plan information and provide input on the findings and recommendations



Findings & Recommendations

City of Oregon City Parks and Recreation



A group of people are gathered around a campfire in a wooded area at dusk. The scene is dimly lit, with the warm glow of the fire illuminating the people and the surrounding trees. The people are dressed in casual outdoor clothing, and some are wearing hats. The background shows a dense forest of tall trees.

We Must Go Where
The People Are

- Our Fundamental Community Input Philosophy

Community Engagement

Public Input Summary

600+

Item 3.

PARTICIPANTS



ORCITYPARKSANDPLAY.ORG

401

STATISTICALLY-VALID SURVEY
RESPONDENTS

1

COMMUNITY
WIDE MEETING

8

FOCUS GROUP
MEETINGS

8

KEY LEADERS
INTERVIEWS

184

ONLINE SURVEY
RESPONDENTS



NEXT PRACTICE PARTNERS





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Item 3.

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[KEY EVENTS](#)

[FINDINGS](#)

[CONTACT](#)



Plan the future of PLAY in Oregon City



ORCityParksandPlay.org



Statistically-Valid Survey

- Only scientific & defensible method to understand community needs
- Administered by mail/phone/web
- Developed in partnership with the staff
- 401 responses (goal of 400)
- 95% level of confidence with a margin of error of +/- 4.8%



Program Assessment

Core Program Areas

Item 3.

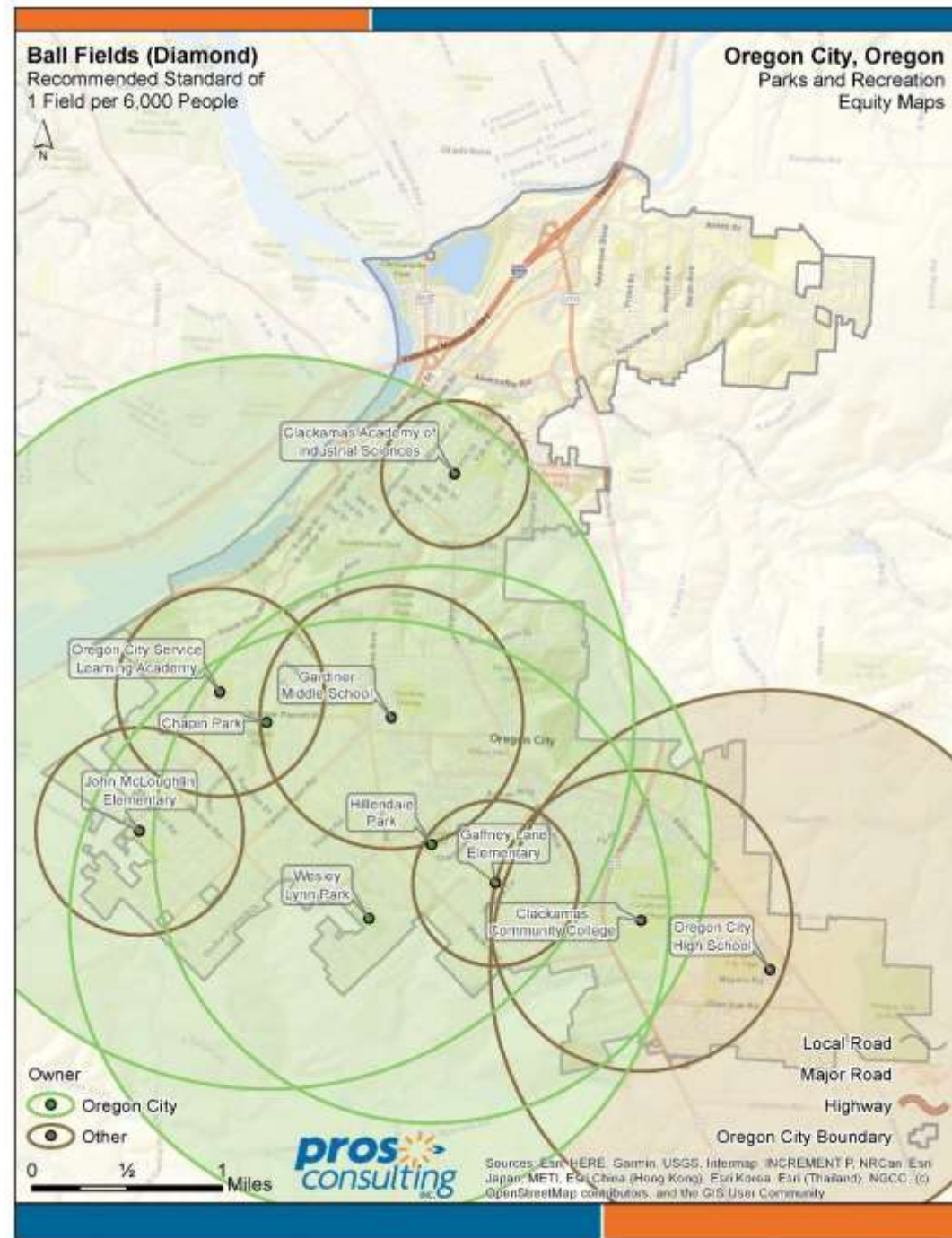
8 Existing Core Program Areas



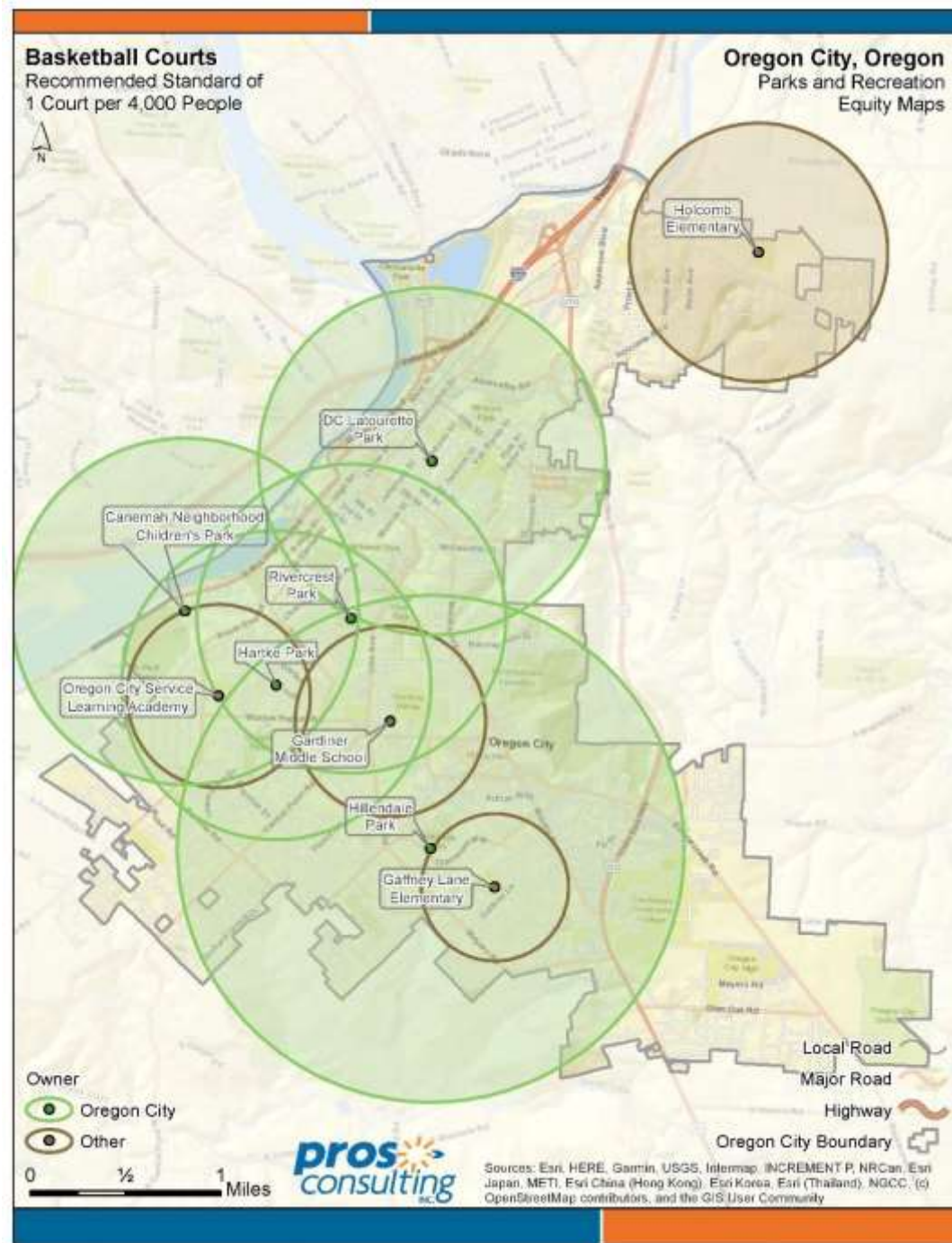
A photograph of an outdoor community event. In the foreground, a man in a grey t-shirt and a baseball cap stands on the left. A baby in a stroller is in the lower center. In the background, a large green pop-up tent with the text "Oregon City Parks & Recreation" is set up. Several people are gathered around the tent, and a colorful wheel of fortune is visible. The scene is outdoors with trees and grass.

Equity Maps

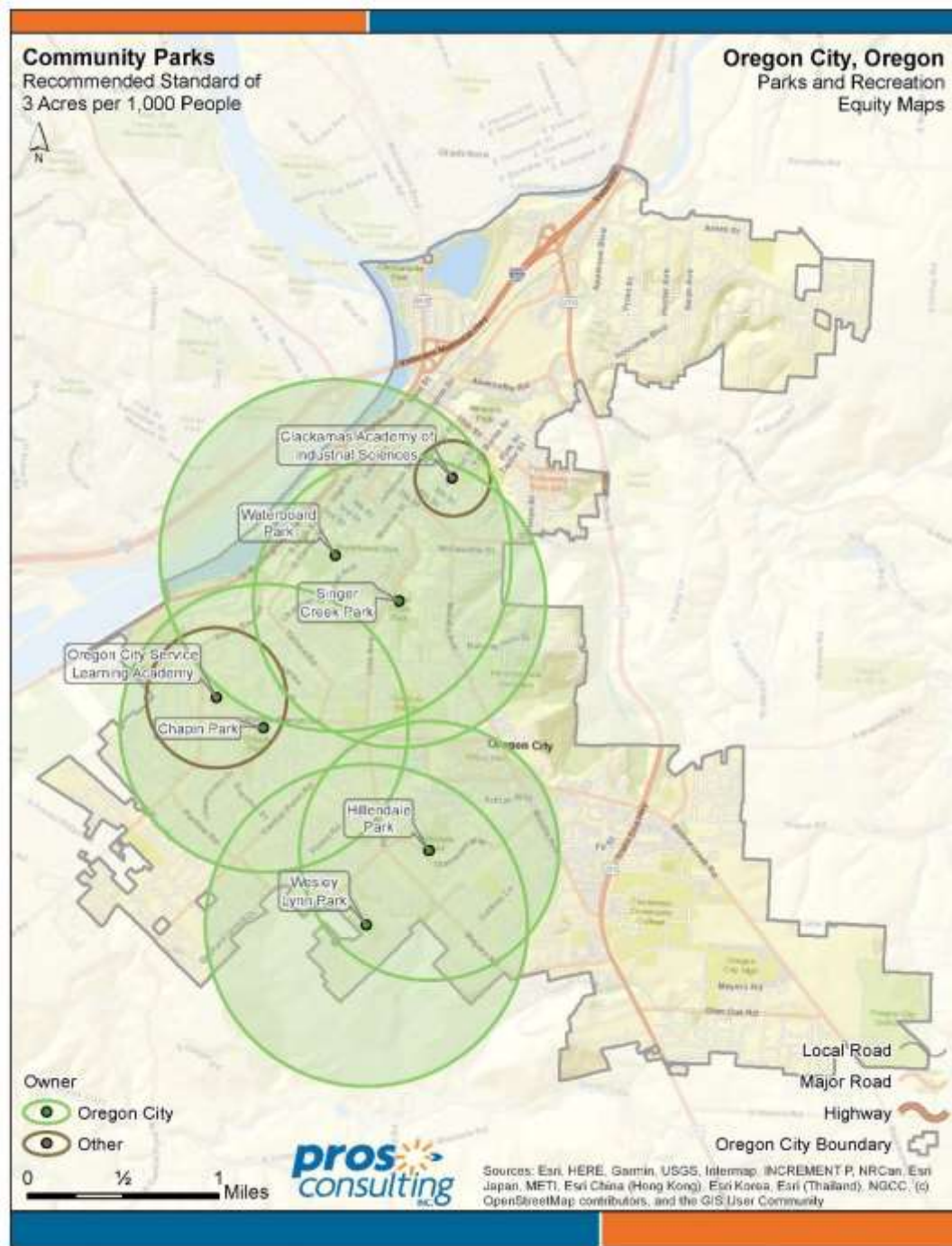
Ball Fields (Diamond)



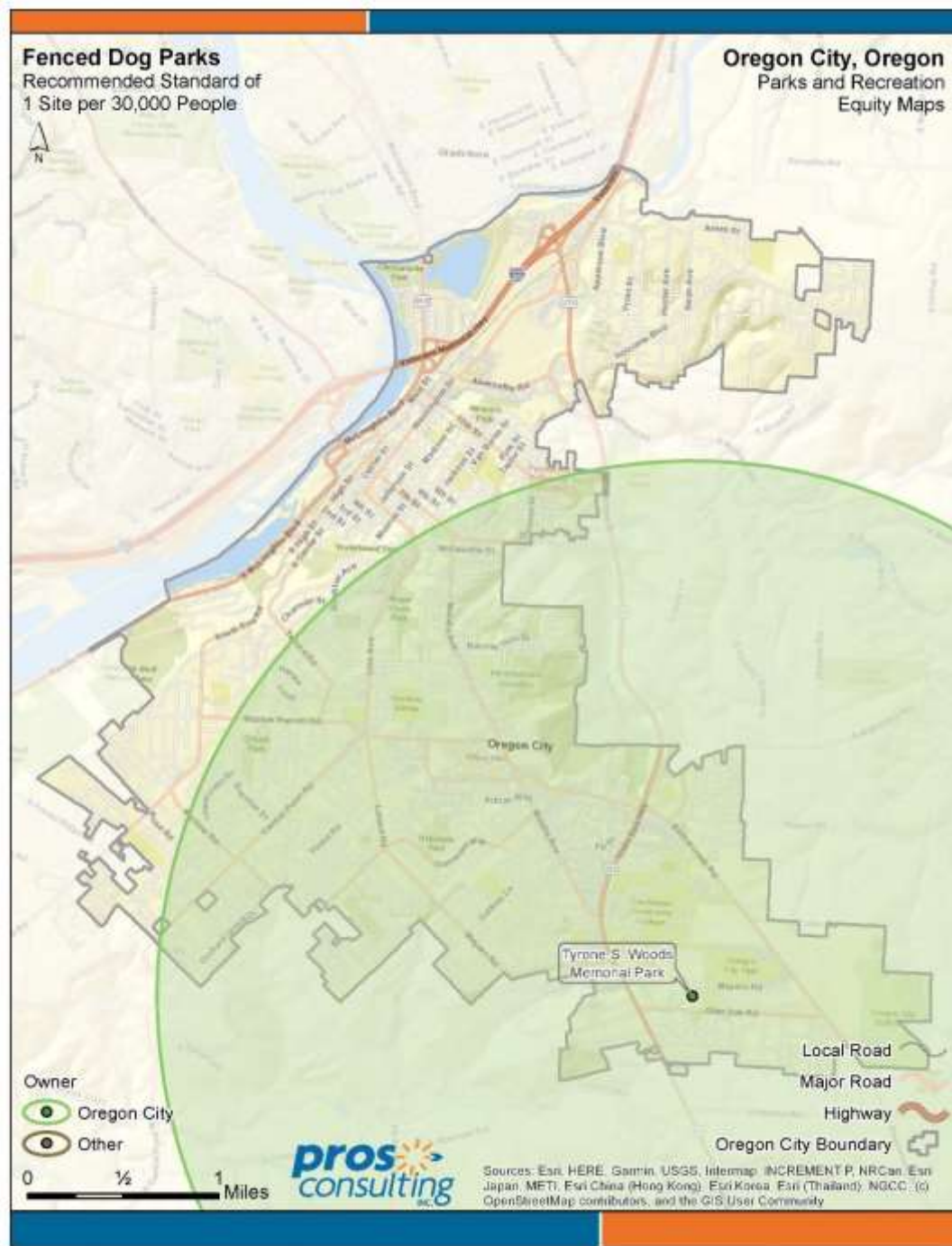
Basketball Courts



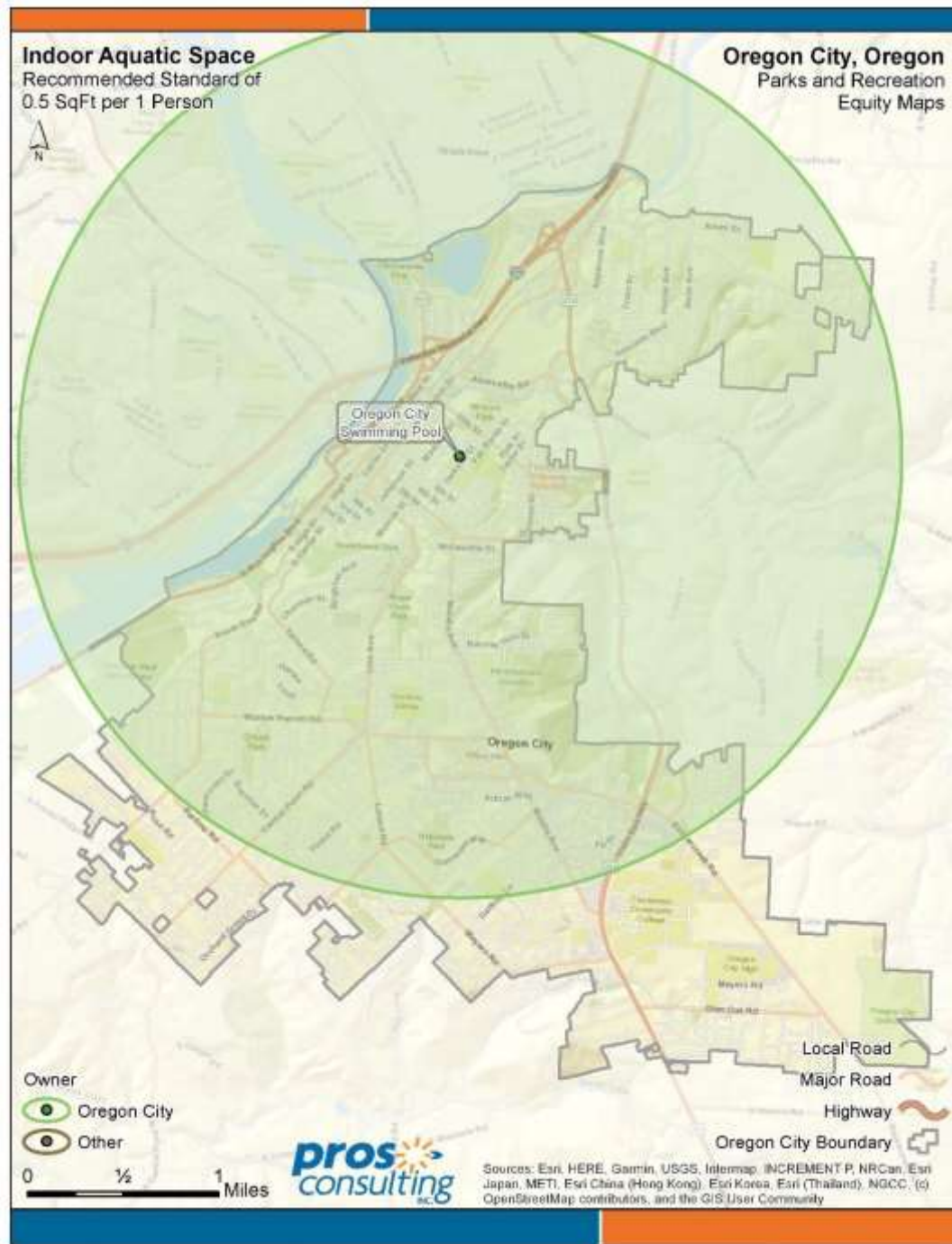
Community Parks



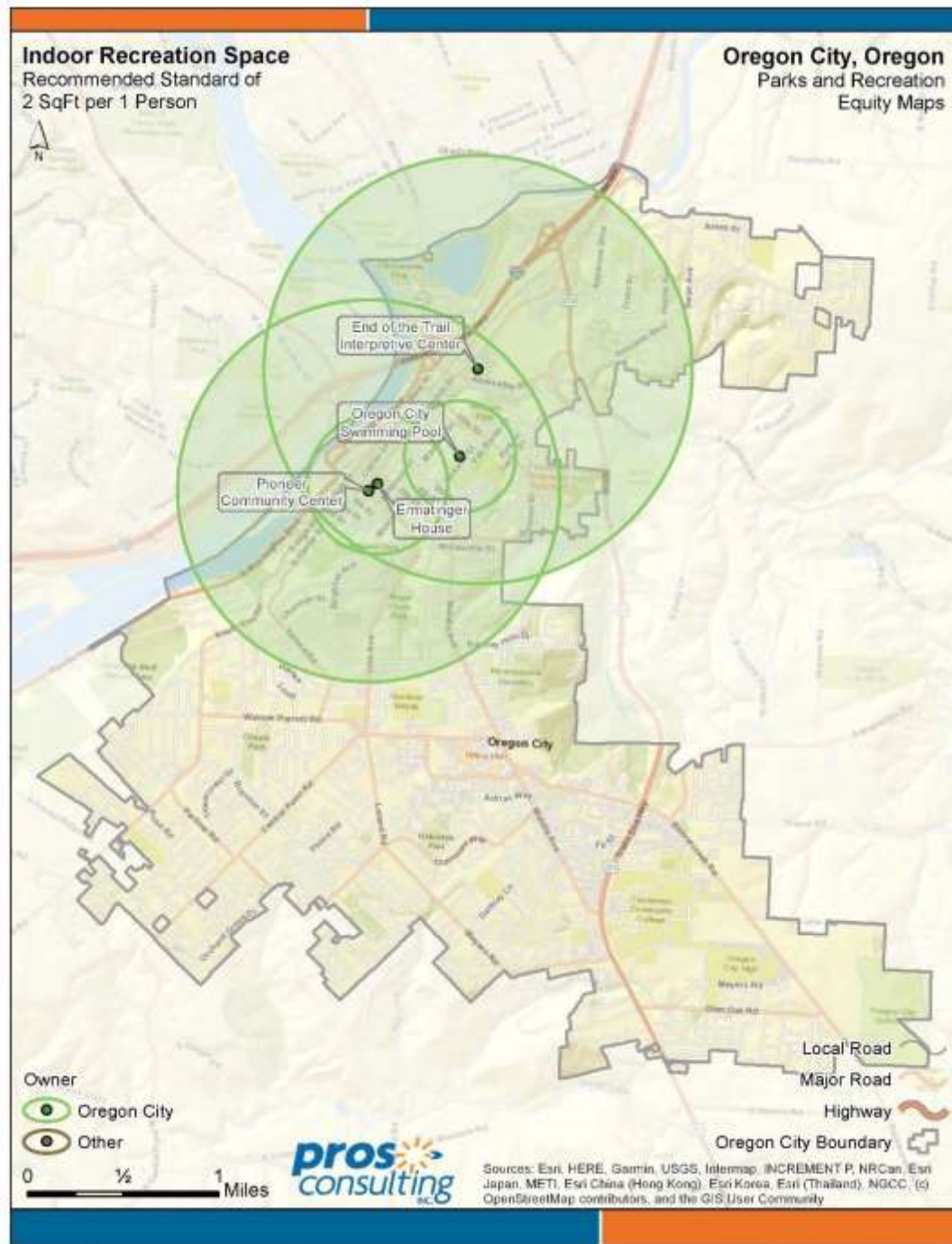
Fenced Dog Parks



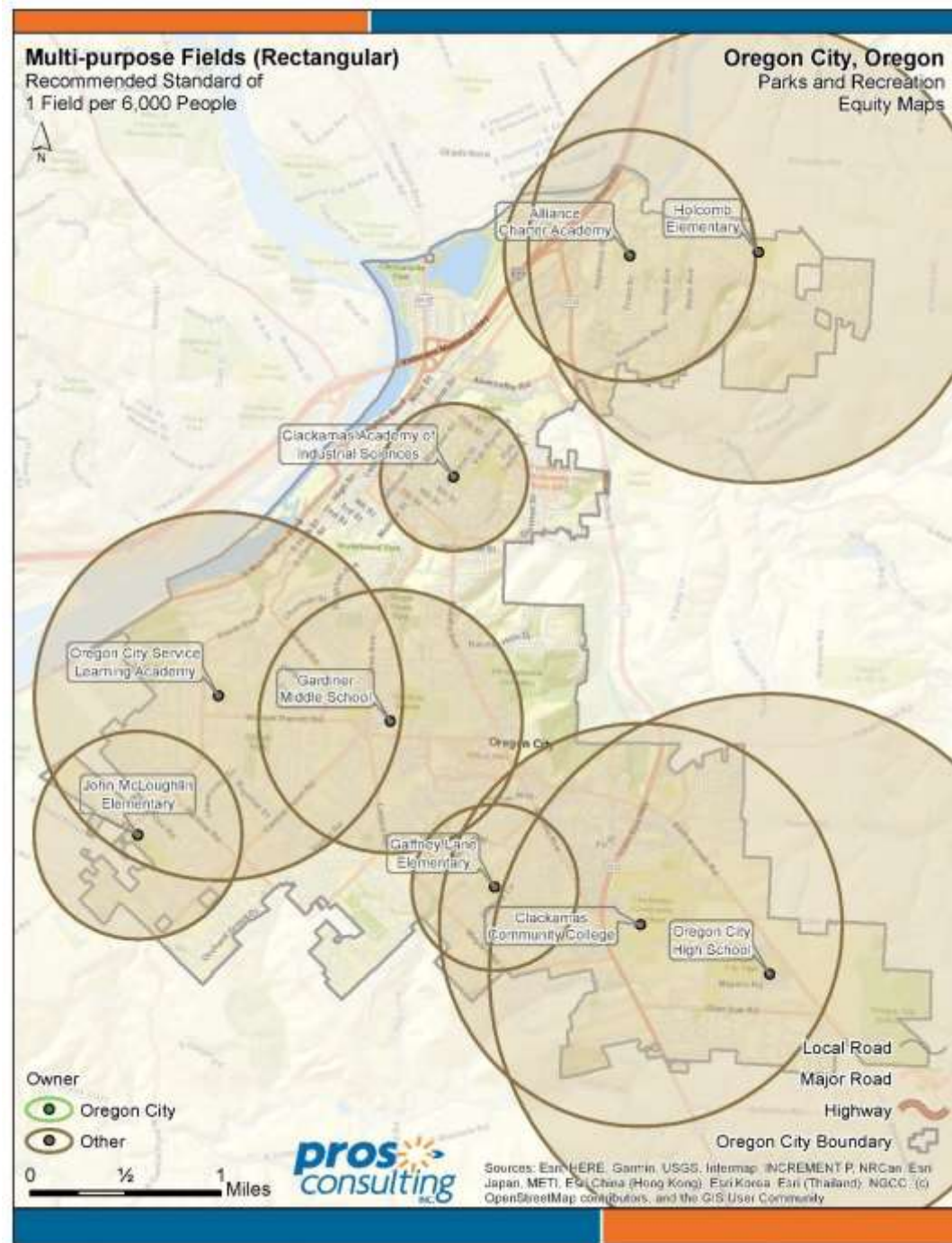
Indoor Aquatic Space



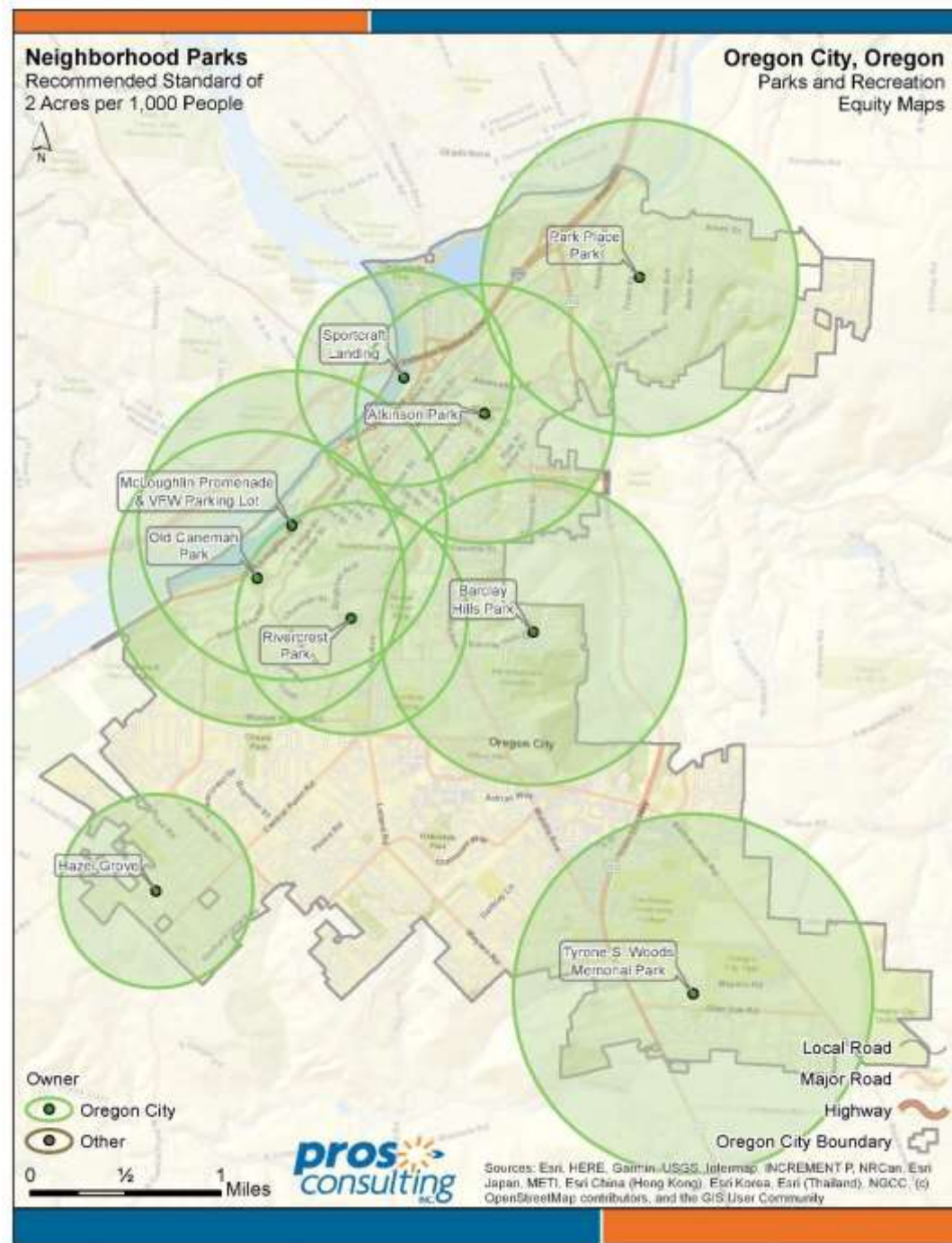
Indoor Recreation Space



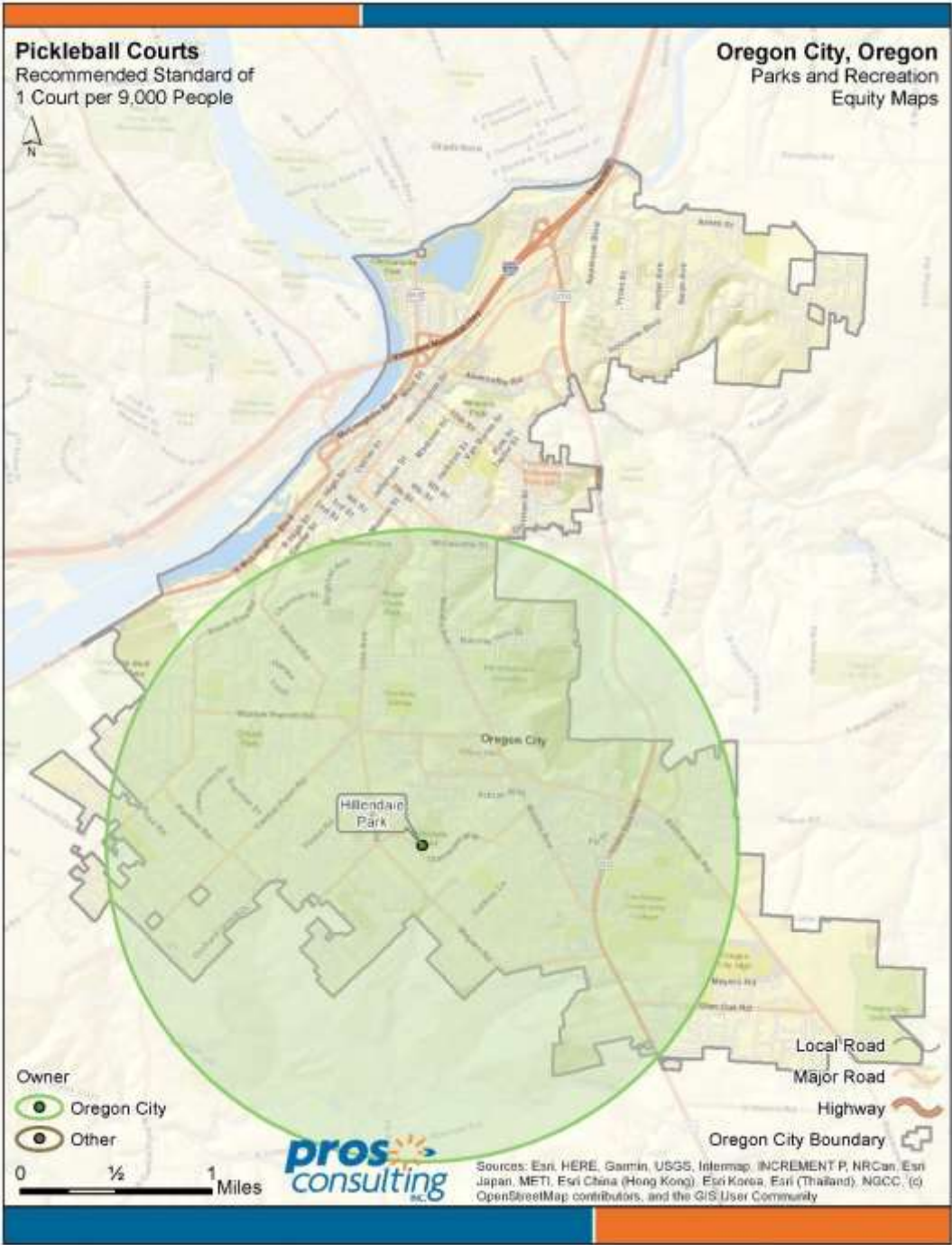
Multi-purpose Fields (Rectangular)



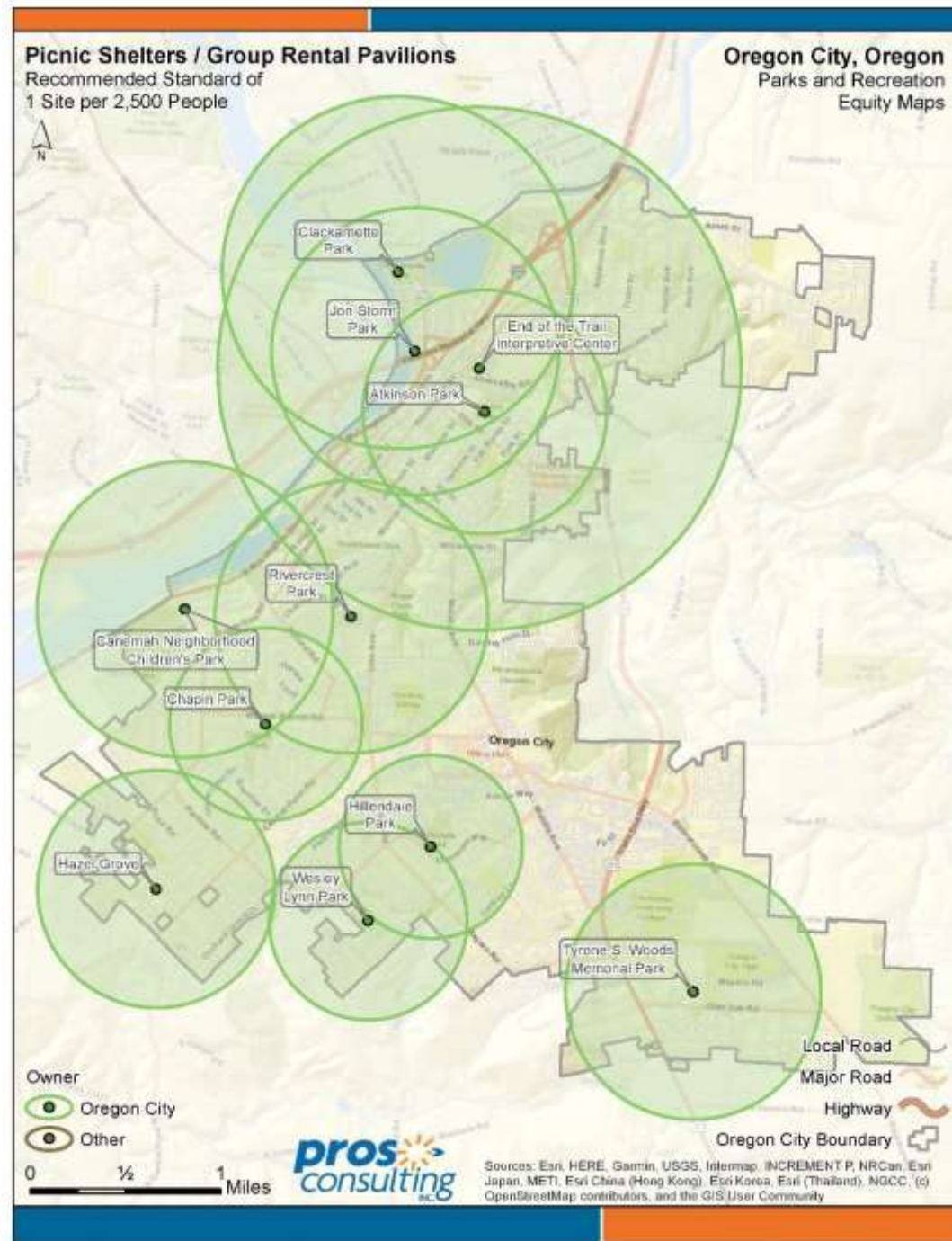
Neighborhood Parks



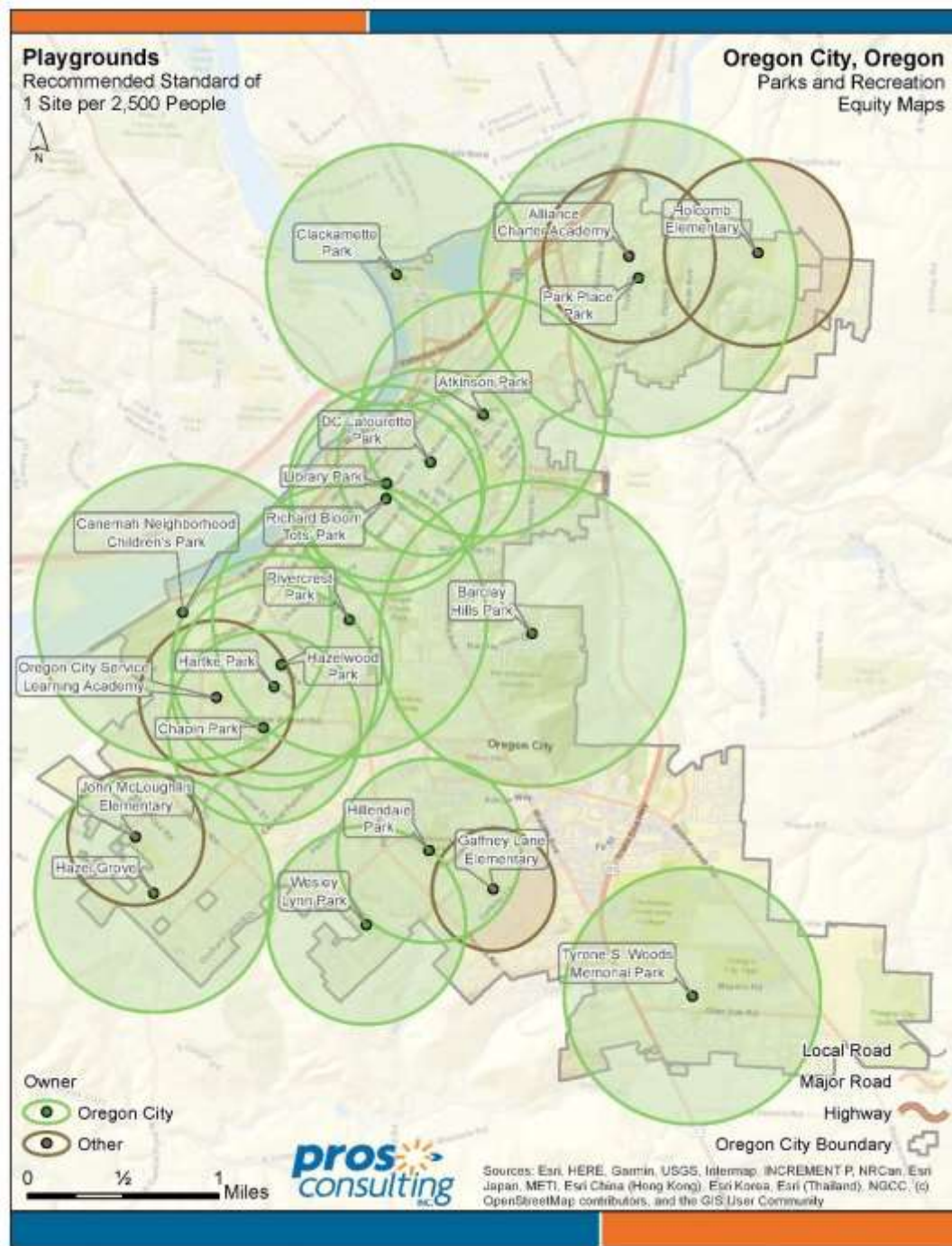
Pickleball Courts



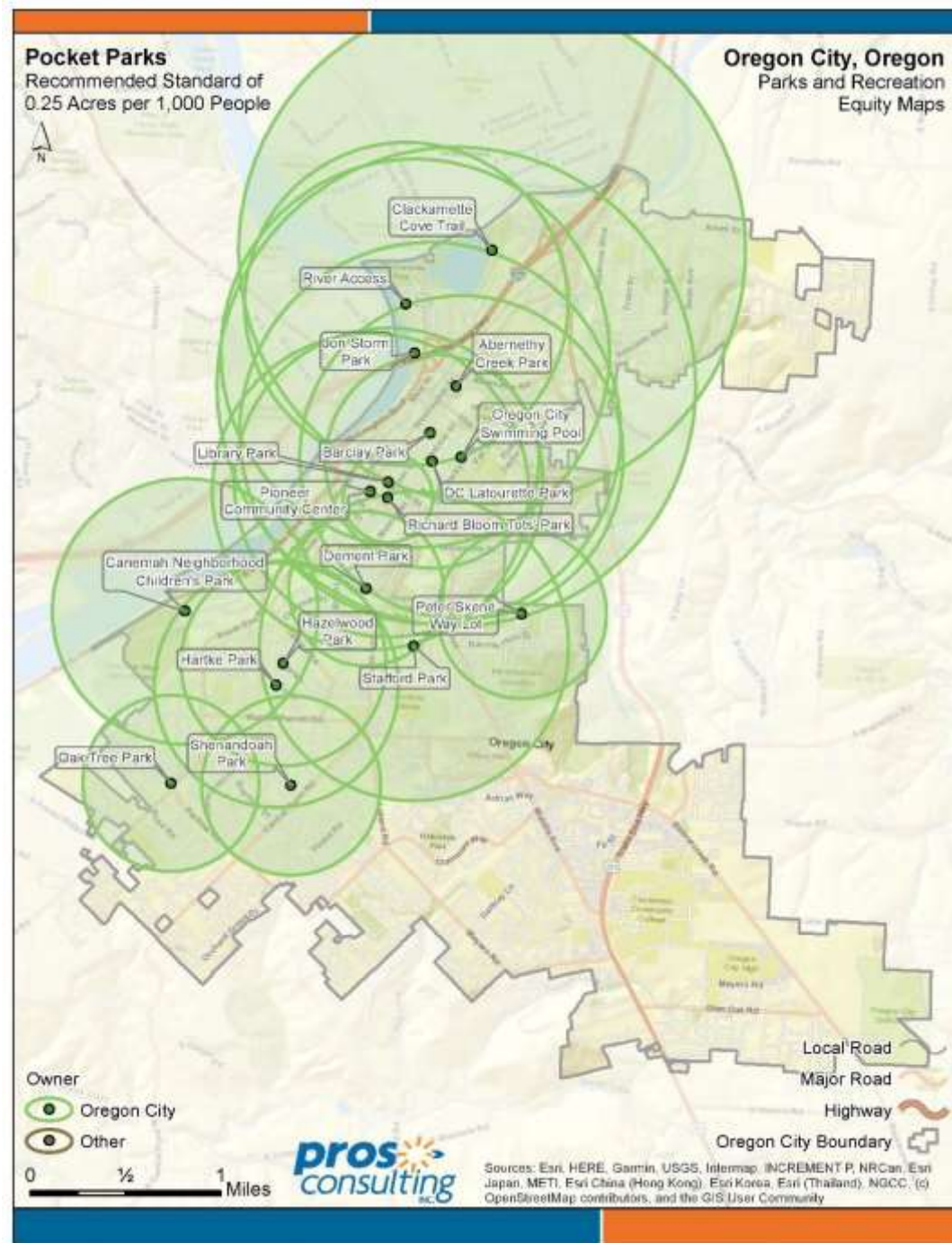
Picnic Shelters /Group Rental Pavilions



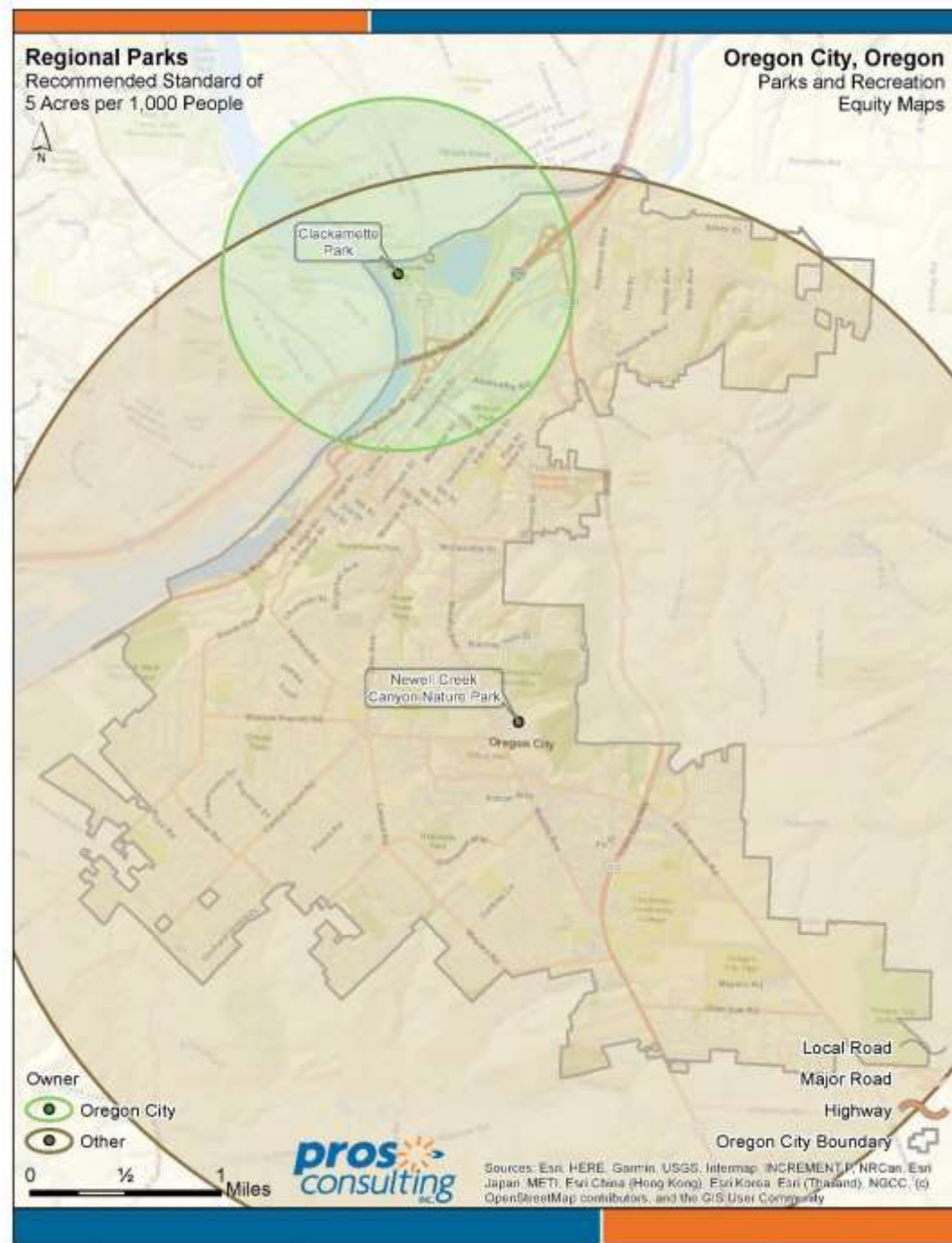
Playgrounds



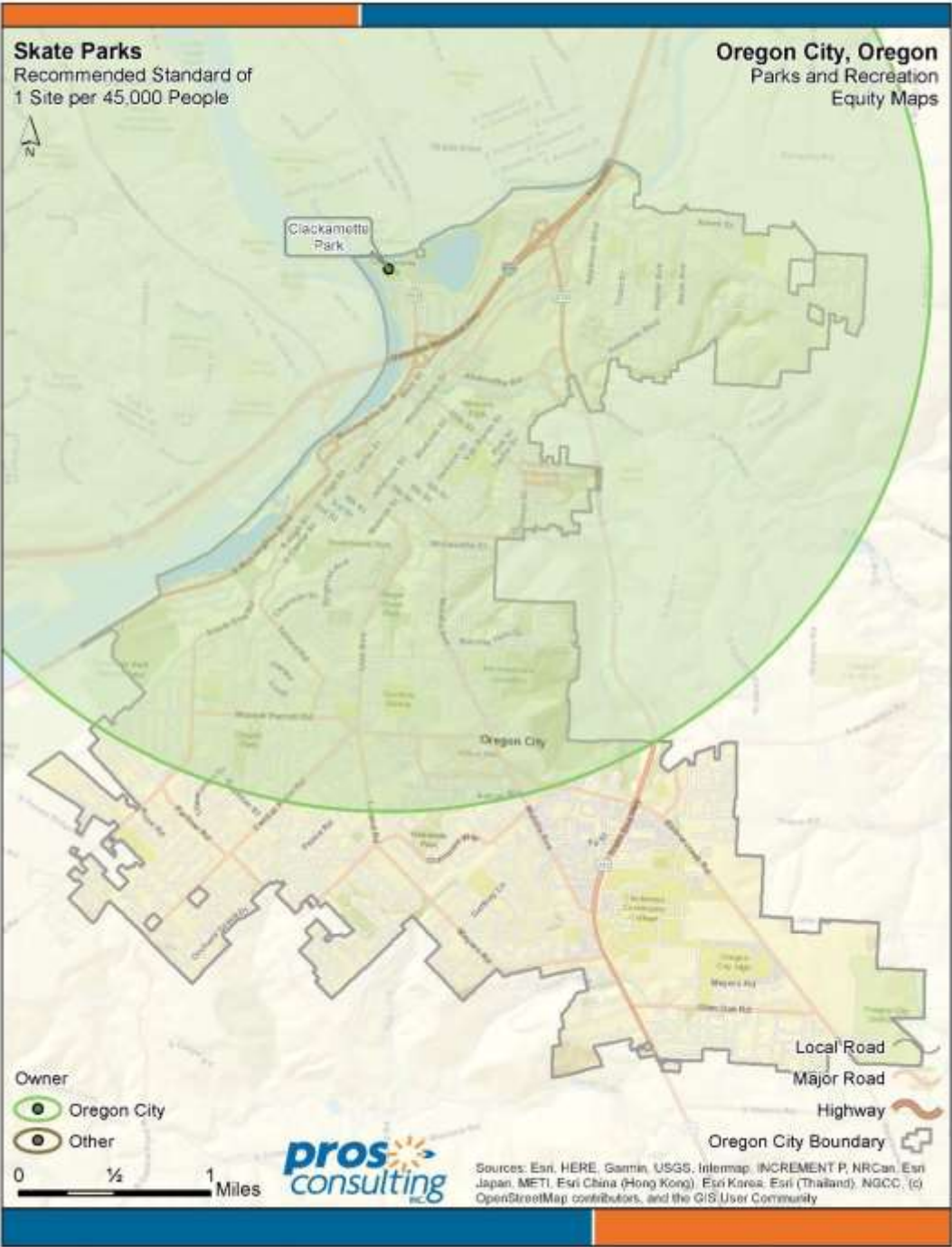
Pocket Parks



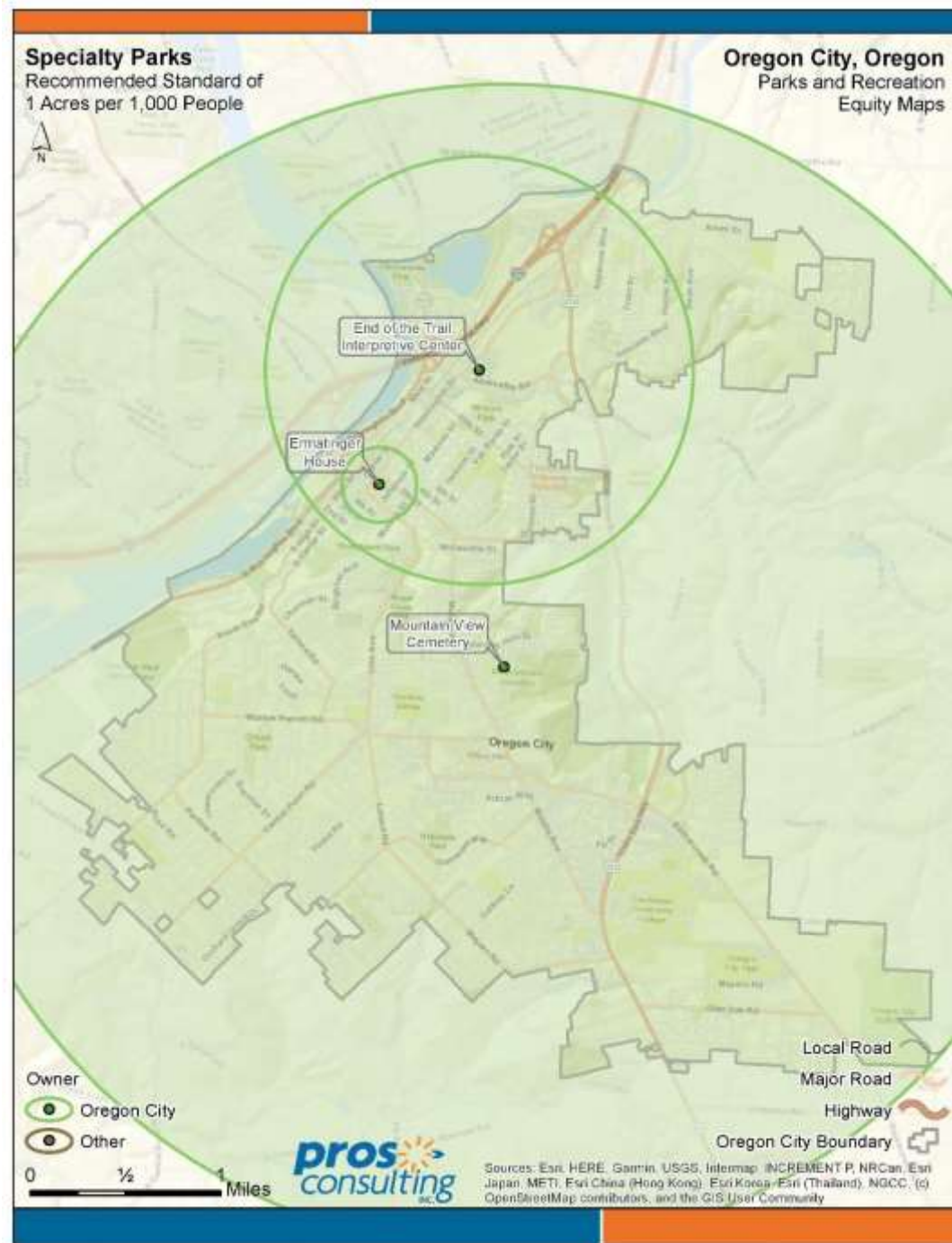
Regional Parks



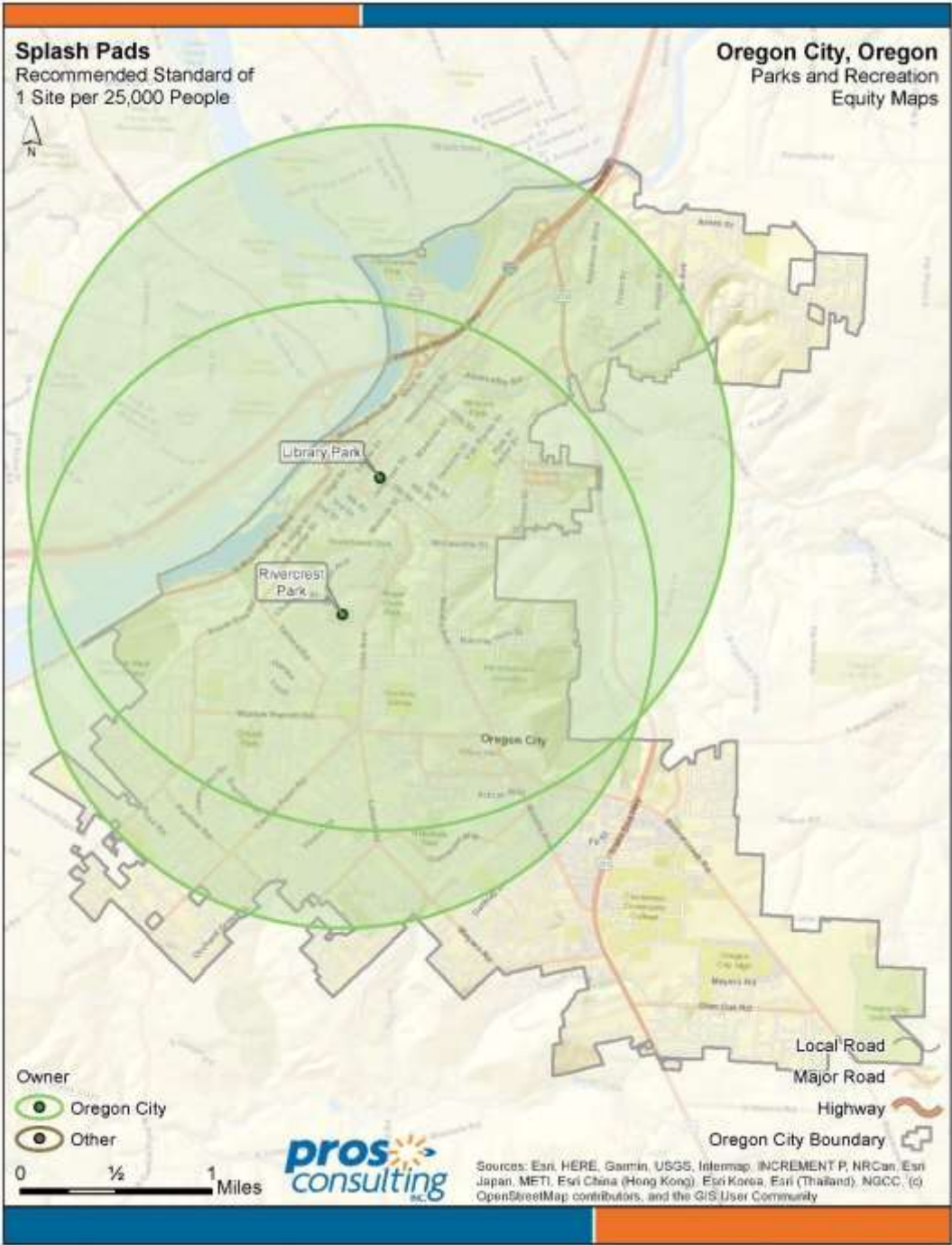
Skate Parks



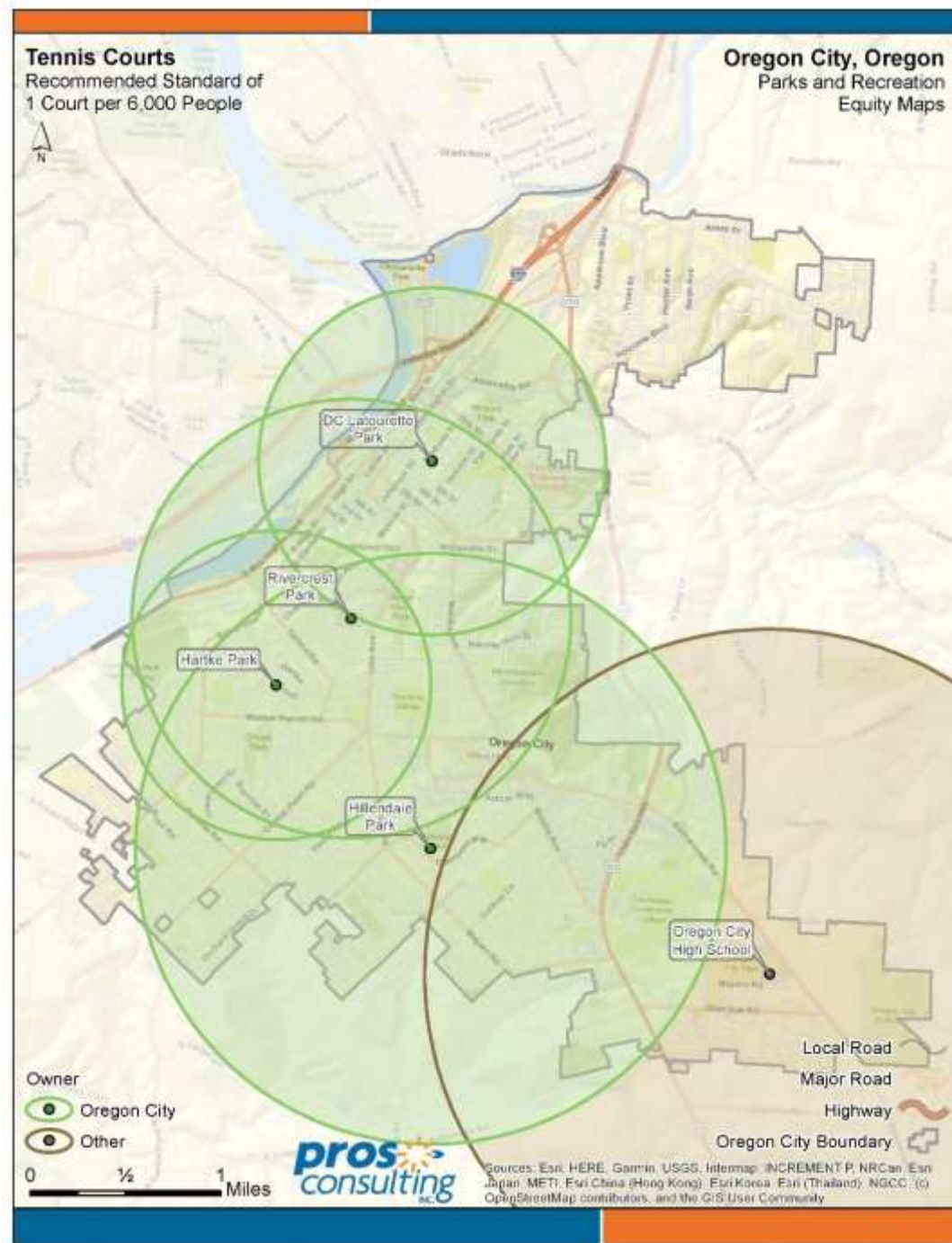
Specialty Parks



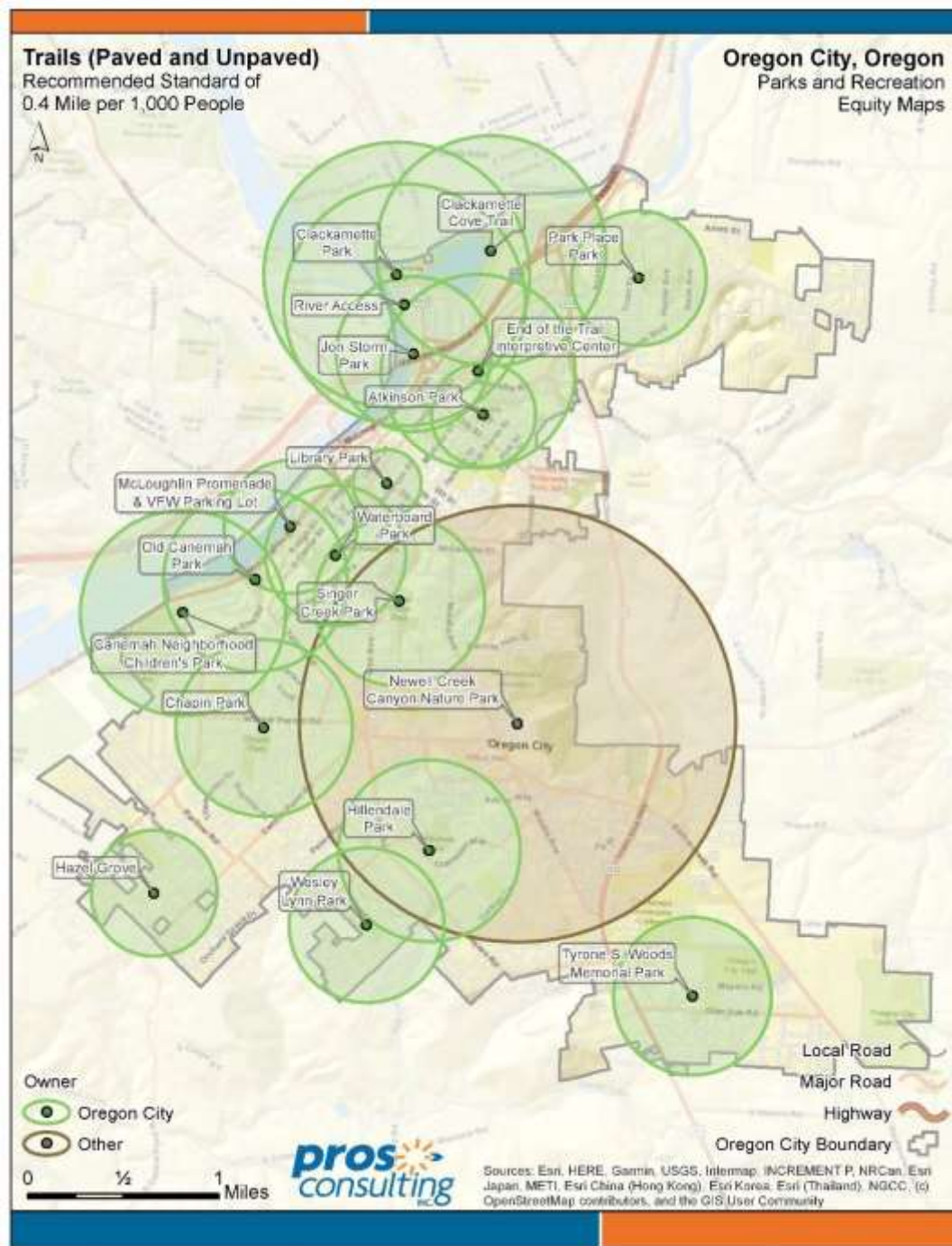
Splash Pads



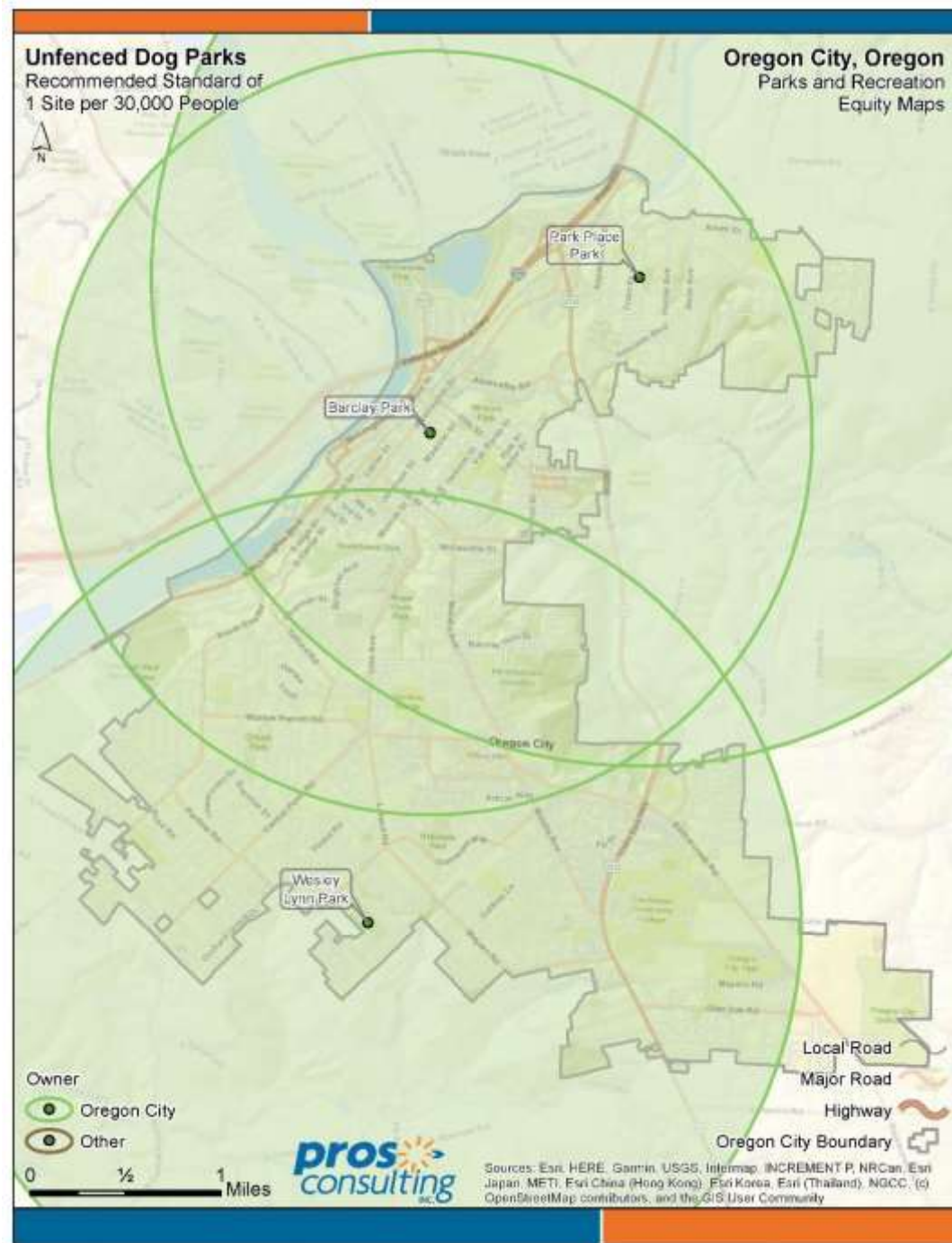
Tennis Courts



Trails



Unfenced Dog Parks



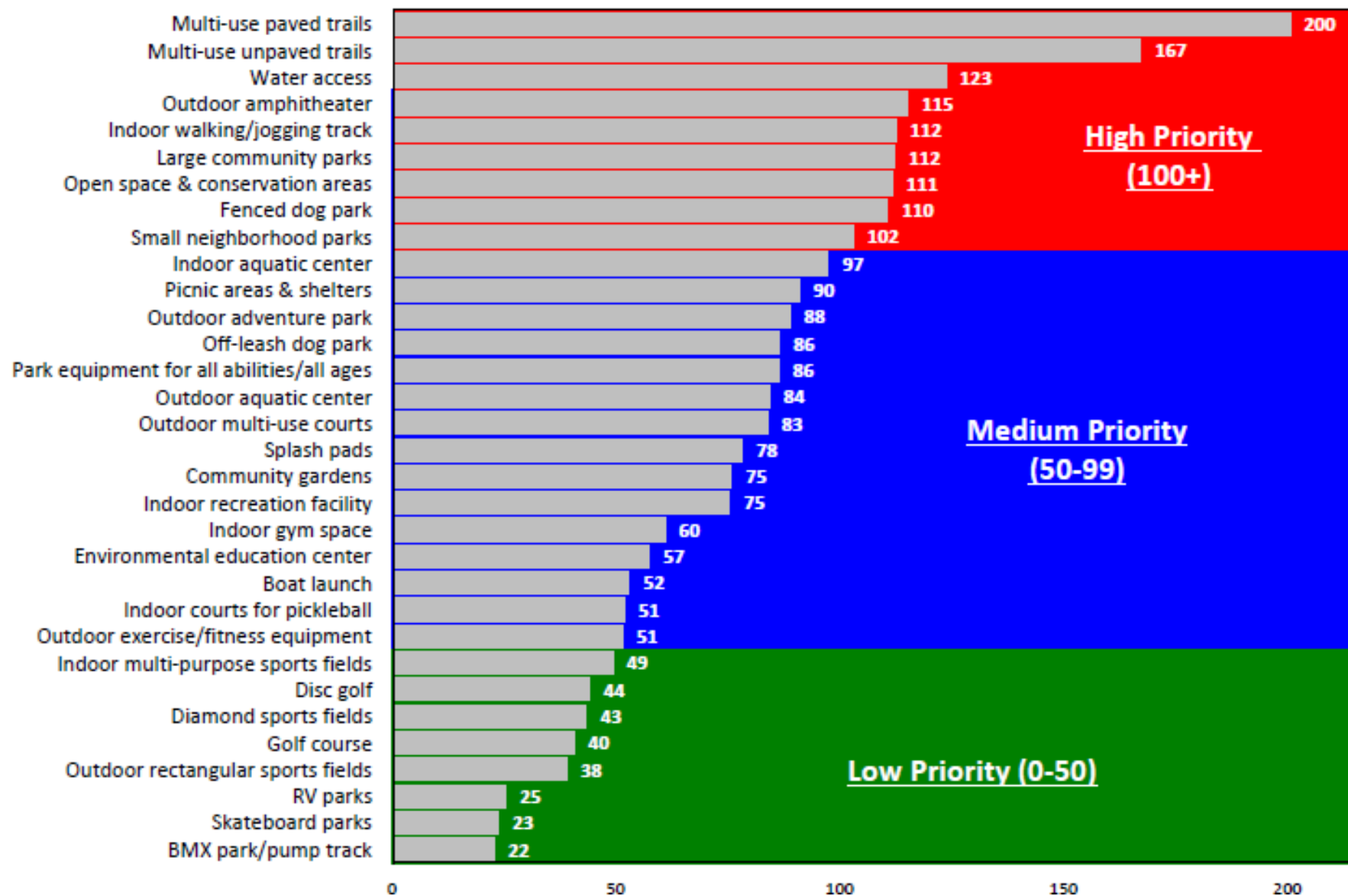
Benchmarking

Benchmark Agencies

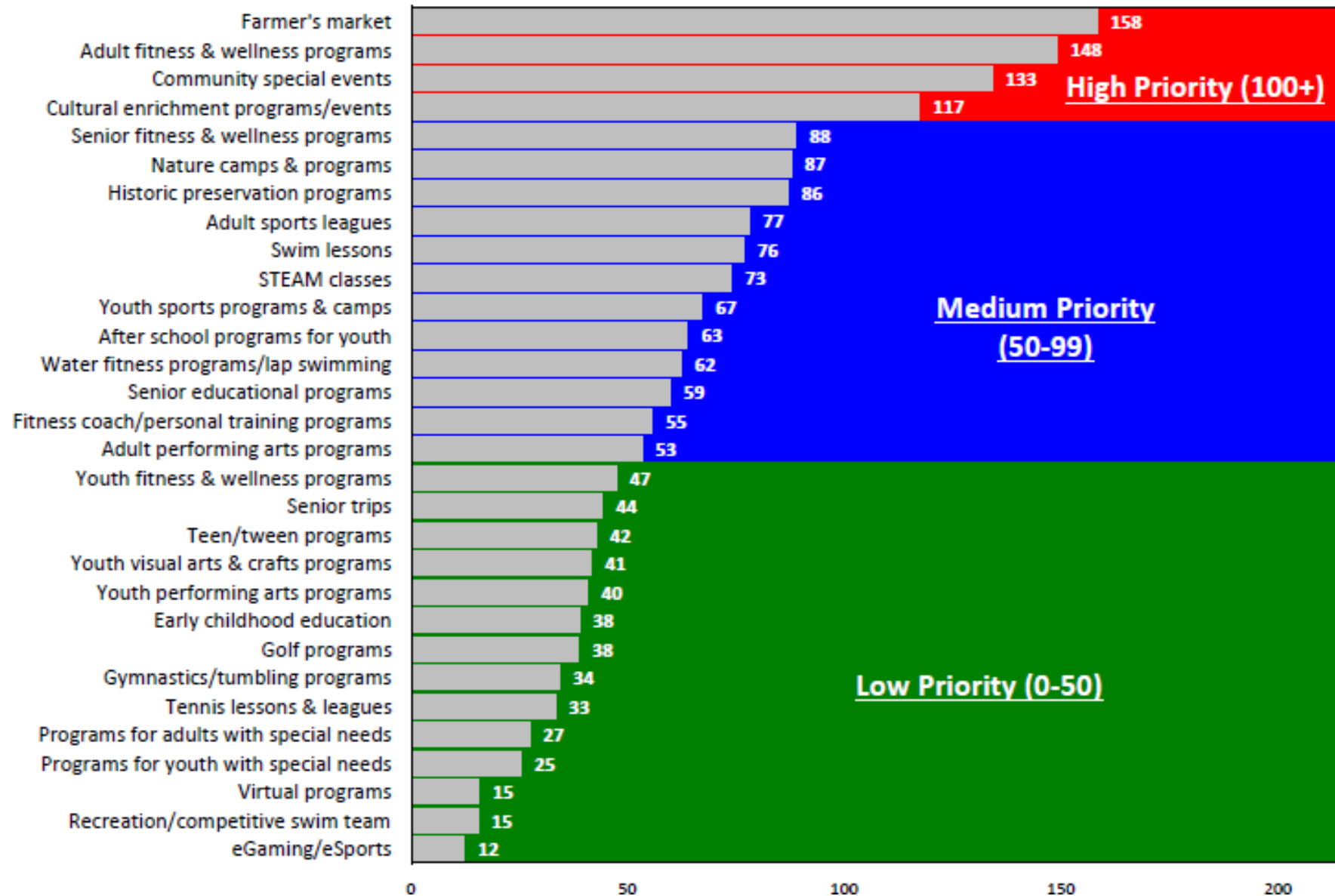
Agency	Jurisdiction Type	Population	Jurisdiction Size (Sq. Mi.)	Population per Sq. Mi.	CAPRA Accredited	Gold Medal Winner
Oregon City Parks and Recreation Department	City	37,967	9.29	4,087	No	No
City of Albany Parks and Recreation	City	57,199	17.54	3,261	No	No
City of Lake Oswego Parks and Recreation	City	40,731	11.48	3,548	Yes, 2023	Finalist (2008)
City of Medford Parks, Recreation and Facilities	City	87,553	28.00	3,127	Yes, since 2012	Aspiring, 2025
City of Pendleton Parks and Recreation Department	City	16,685	11.50	1,451	No	No

Priority Investment Rating

Top Priorities for Investment for Facility/Amenity Based on Priority Investment Rating



Top Priorities for Investment for Recreation Programs Based on the Priority Investment Rating



Visioning

Core Values

Collaborative
Engaged
Respectful
Transparent
Servant Leaders

Vision (What Do We Want to be Known For?)

Item 3.

**An inclusive, sustainable and impactful
agency**

Previous Mission

“Oregon City Parks and Recreation strives to create recreation, leisure and cultural opportunities by providing high quality parks, facilities, programming and support services to people of all ages”.

Mission (What Do We Exist to Do?)

To serve the community

Big Moves

1. **Initiate a bond or levy campaign** to enhance funding for the Department.
2. **Construct an all-inclusive staffing plan** encompassing staffing forecast, recruitment strategies, induction processes, training programs, retention initiatives, and succession planning.
3. **Formulate an exhaustive maintenance strategy** which includes preventative measures, regular upkeep, and a timetable for equipment replacement.
4. **Design a strategic plan for marketing and branding** to improve visibility and reach.
5. **Master Plan the End of Oregon Trail Interpretive Center and Mountain View Cemetery** to preserve their history, improve visitor experience, and ensure long-term sustainability.

Next Steps

1. Finalize Draft Report
2. PRAC / Commission Feedback
3. Final Report



QUESTIONS?



Findings & Recommendations

City of Oregon City Parks and Recreation





CITY OF OREGON CITY

Staff Report

625 Center Street
Oregon City, OR 97045
503-657-0891

To: City Commission
From: Tony Konkol City Manager

Agenda Date: 07/11/2023

SUBJECT:

Discussion of Elected Officials Participating as Nonprofit Board of Directors

STAFF RECOMMENDATION:

Commission discussion and direction to staff

EXECUTIVE SUMMARY:

The City Commission requested a work session to discuss City Commission participation as a Board member for a nonprofit, including those nonprofits that receive funding through memorandums of understanding, contracts, and/or grants with the City of Oregon City that are approved or awarded by the City Commission.

BACKGROUND:

Oregon Revised Statute 244.020(13) defines "Potential conflict of interest" as follows:

"Potential conflict of interest" means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which could be to the private pecuniary benefit or detriment of the person or the person's relative, or a business with which the person or the person's relative is associated, unless the pecuniary benefit or detriment arises out of the following:

(a) An interest or membership in a particular business, industry, occupation or other class required by law as a prerequisite to the holding by the person of the office or position.

(b) Any action in the person's official capacity which would affect to the same degree a class consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or other group including one of which or in which the person, or the person's relative or business with which the person or the person's relative is associated, is a member or is engaged.

(c) Membership in or membership on the board of directors of a nonprofit corporation that is tax-exempt under section 501(c) of the Internal Revenue Code.

As background information to inform the City Commission discussion, staff has provided the Oregon Government Ethics Law: A Guide for Public Officials as background information. Page 11 of the document outlines “Conflicts of Interest”, including the definitions and example scenarios.

Page 15 of the document includes the example below which may exempt a public official from the requirement to make a public announcement or give a written notice describing the nature of a conflict of interest:

*If the conflict of interest arises from a directorship on the board of, or membership in, a nonprofit corporation that is tax-exempt under 501(c) of the Internal Revenue Code.
[ORS 244.020(13)(c)]*

*Example: A city councilor is also a board member of the local YMCA, a tax-exempt 501(c) organization. The decision, as a city councilor, to award a grant to that YMCA would be exempt from the conflict-of-interest disclosure and participation restrictions.
[ORS 244.020(13)(c)]*

As additional background information, staff has included an Oregon Government Ethics Commission advisory opinion dated February 16, 2016 addressing if there would be a conflict of interest for members of Workforce Boards who also hold other positions as elected officials or on the boards of other public or private entities. The advisory is consistent with the definitions and examples provided above and includes the following when addressing methods of handling conflicts:

Public officials may choose, in the interest of transparency, to announce their various interests even when not required to declare a conflict of interest under Oregon Government Ethics law.

Staff will be available to assist with the City Commission discussion.

OPTIONS:

1. NA

BUDGET IMPACT:

Amount:

FY(s):

Funding Source(s):

OREGON GOVERNMENT ETHICS LAW

A GUIDE FOR PUBLIC OFFICIALS



Oregon Government Ethics Commission
3218 Pringle Rd. SE, Suite 220
Salem, OR 97302-1544
Telephone: 503-378-5105
Fax: 503-373-1456
Web address: www.oregon.gov/ogec



DISCLAIMER

This guide has been approved by the Oregon Government Ethics Commission pursuant to ORS 244.320. ORS 244.320 requires this publication to explain in understandable terms the requirements of Oregon Government Ethics law and the Oregon Government Ethics Commission's interpretation of those requirements. Toward that end, statutes and rules have been summarized and paraphrased in this guide. The discussion in this guide should not be used as a substitute for a review of the specific statutes and rules.

There may be other laws or regulations not within the jurisdiction of the Commission that apply to actions or transactions described in this guide.

A penalty may not be imposed under ORS Chapter 244 for any good faith action taken in reliance on the advice in this guide. "In reliance on" the advice in this guide means that the fact circumstances of the action taken are the same fact circumstances that serve as the basis for advice in this guide.

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INTRODUCTION

In 1974, voters approved a statewide ballot measure to create the Oregon Government Ethics Commission (Commission). The measure established laws that are contained in Chapter 244 of the Oregon Revised Statutes (ORS).

When the Commission was established, it was given jurisdiction to implement and enforce the provisions in ORS Chapter 244 related to the conduct of public officials. In addition, the Commission has jurisdiction for ORS 171.725 to 171.785 and 171.992, related to lobbying regulations, and ORS 192.660 and 192.685, the executive session provisions of Oregon Public Meetings law.

This Guide for Public Officials includes a discussion of some provisions that may also apply to lobbying activities. This is especially true when a lobbying activity involves paying the expenses for meals, lodging, travel, entertainment or other financial benefits of a legislative or executive official. Under specific circumstances, ORS Chapter 244 allows the payment of such expenses, but the public official may have a reporting requirement under ORS Chapter 244 and the source of the payment may be required to register as a lobbyist or report the expenditure. The Commission publishes a guide for lobbyists and clients or employers of lobbyists regulated under provisions in ORS Chapter 171. If you have questions regarding registering as a lobbyist, lobbying activity or reports for lobbying expenditures, please refer to our Guide to Lobbying in Oregon, which is available on our website.

ORS 192.660 lists the specific criteria a governing body must use when convening an executive session. Under this statutory authority, executive sessions are limited to discussion of specific matters. This guide does not discuss that portion of the Oregon Public Meetings law, but there is a detailed discussion of executive sessions, as set out in ORS 192.660, in the Attorney General's Public Records and Meetings Manual, available on-line at <https://www.doj.state.or.us/oregon-department-of-justice/public-records/attorney-generals-public-records-and-meetings-manual/>

This guide will discuss how the provisions in ORS Chapter 244 apply to public officials and will summarize Commission procedures. It should be used in conjunction with applicable statutes and rules, but should not be used as a substitute for a review of the statutes and rules. It is intended to be a useful discussion, in understandable terms, of topics and issues that are often the focus of inquiries the Commission receives from public officials and citizens.

You will find links to ORS Chapter 244, ORS Chapter 171.725 to 171.785 and 171.992, ORS 192.660 and ORS 192.685, relevant Oregon Administrative Rules (OAR), and other publications referenced in this guide on the Commission's website at <https://www.oregon.gov/ogec/Pages/default.aspx>. Questions or comments may be submitted to the Commission by email at ogec.mail@oregon.gov, by telephone to 503-378-5105, or by fax to 503-373-1456.

JURISDICTION

The jurisdiction of the Oregon Government Ethics Commission is limited to provisions in ORS Chapter 244, ORS 171.725 to 171.785 and 171.992, and ORS 192.660 and 192.685. Other Oregon statutes may also regulate the activities of elected officials and public employees. Some examples are:



- The Elections Division of the Secretary of State's Office regulates campaign finance and campaign activities.
- Federal, state, or local law enforcement has jurisdiction over alleged criminal activity.
- The Oregon Bureau of Labor and Industries investigates cases involving employment-related sexual harassment or discrimination on the basis of race, religion, disability or gender.
- The initial enforcement of the Public Records law lies with County District Attorneys and the Department of Justice.
- Enforcement of the Oregon Public Meetings law lies with the Oregon Circuit Courts, except that the Commission also has jurisdiction over the execution session provisions in ORS 192.660 and 192.685.

There are occasions when a public official engages in conduct that may be viewed as "unethical," but that conduct may not be governed by Oregon Government Ethics law. The following are some examples of conduct by public officials that may not be within the authority of the Commission to address:

An elected official making promises or claims that are not acted upon.

Public officials mismanaging or exercising poor judgment when administering public money.

Public officials being rude or unmannerly.

A person's private behavior unrelated to their actions as a public official.

While the conduct described above may not be addressed in Oregon Government Ethics law, other statutes and public agency policies may prohibit or redress the behavior. Please contact the Commission staff if you need further clarification regarding how the Oregon Government Ethics law may apply to circumstances you may encounter.

PUBLIC OFFICIAL: AN OVERVIEW

The provisions in Oregon Government Ethics law restrict some choices, decisions or actions of a public official. The restrictions placed on public officials are different than those placed on private citizens because service in a public office is a public trust and the provisions in ORS Chapter 244 were enacted to provide one safeguard for that trust.

Public officials must know that they are held personally responsible for complying with the provisions in Oregon Government Ethics law. This means that each public official must make a personal judgment in deciding such matters as the use of official position for financial gain, what gifts are appropriate to accept, when to disclose the nature of conflicts of interest, and the employment of relatives or household members. If a public official fails to comply with the operative statutes, a violation cannot be dismissed by placing the blame on the public official's government employer or the governing body represented by the public official.

One provision, which is the cornerstone of Oregon Government Ethics law, prohibits public officials from using or attempting to use their official positions or offices to obtain a financial benefit for themselves, relatives or businesses with which they are associated if that financial benefit or opportunity for financial gain would not otherwise be available but for the position or office held.

Oregon Government Ethics law limits and restricts public officials and their relatives as to gifts they may solicit or accept. Under specific circumstances, public officials may accept certain gifts. This guide will discuss those provisions. Public officials are allowed to receive salary and reimbursed expenses from their own government agencies.

Another provision that frequently applies to public officials when engaged in official actions is the requirement to disclose the nature of conflicts of interest. This guide will discuss the definition of a conflict of interest, the distinction between actual and potential conflicts of interest, and describe how a public official must disclose and dispose of a conflict of interest.

For some public officials who are elected to offices or hold other select positions, there is a requirement to file an Annual Verified Statement of Economic Interest. This guide will discuss that filing requirement.

It is important for both public officials and members of the general public served by public officials to know that the provisions in Oregon Government Ethics law apply to the actions and conduct of individual public officials and not to the actions of state and local governing bodies or government agencies. Each individual public official is personally responsible for complying with provisions in ORS Chapter 244. Before taking official action, making a decision, participating in an event, or accepting a gift that may raise potential ethics law violations, each public official must make a personal judgment. The Commission staff is available to discuss the issues and offer guidance in making such judgments.

The statutes and rules discussed or illustrated in this guide do not and cannot address every set of circumstances a public official may encounter. Since compliance is the personal responsibility of each public official, public officials need to familiarize themselves with the wide variety of resources that offer information or training on the provisions in Oregon Government Ethics law.

In addition to the statutes in ORS Chapter 244 and the Oregon Administrative Rules (OAR) in Chapter 199, see <https://www.oregon.gov/ogec/Pages/default.aspx>, the Commission's website, which offers information, training and links to this guide, ORS Chapter 244 and OAR Chapter 199. The Commission offers a variety of free training resources and many government agencies also offer internal training to their employees or the agencies may request training from the Commission's trainers. There are a number of membership organizations, such as The League of Oregon Cities, Association of Oregon Counties, Oregon School Boards Association and the Special Districts Association of Oregon, that provide training to public officials. It is imperative for government agencies or organizations that employ or represent public officials to ensure their public officials receive training in Oregon Government Ethics law. Those that fail to provide this training do a disservice to the public officials who they employ or who represent them.



A PUBLIC OFFICIAL

Are you a public official?

“Public official” is defined in ORS 244.020 as the First Partner and any person who, when an alleged violation of ORS Chapter 244 occurs, is serving the State of Oregon or any of its political subdivisions or any other public body as defined in ORS 174.109 as an elected official, appointed official, employee or agent, irrespective of whether the person is compensated for the services.

There are approximately 200,000 public officials in Oregon. You are a public official if you are:

- The First Partner, defined as the spouse, domestic partner or an individual who primarily has a personal relationship with the Governor.
- Elected or appointed to an office or position with a state, county, regional, or city government.
- Elected or appointed to an office or position with a special district.
- An employee of a state, county, city, intergovernmental agency or special district.
- An unpaid volunteer for a state, county, regional, city, intergovernmental agency, or special district.
- An agent of the State of Oregon or any of its political subdivisions.

The Commission has adopted, by rule, additional language used to clarify the use of “agent” in the definition of “public official.” The following clarification is in OAR 199-005-0035(7):

As defined in ORS 244.020(15), a public official includes the First Person and anyone serving the State of Oregon or any of its political subdivisions or any other public body in any of the listed capacities, including as an “agent.” An “agent” means any individual performing governmental functions. Governmental functions are services provided on behalf of the government as distinguished from services provided to the government. This may include private contractors and volunteers, depending on the circumstances. This term shall be interpreted to be consistent with Attorney General Opinion No. 8214 (1990).

If I am a volunteer, does that make me a public official?

The Commission recognizes that there are those who volunteer to work without compensation for many state and local government agencies, boards, commissions and special districts. Volunteers may be elected, appointed or selected by the government agency or public body to hold a position or office or to provide services. Among the public officials who volunteer, there are elected or appointed members of state boards or commissions, city councils, planning commissions, fire district boards, school district boards, and many others. There are also many who apply and are selected to perform duties for a government agency, board or commission without compensation, such as firefighters, reserve law enforcement officers, and parks or recreation staff members.

If the position for which you have volunteered serves the State of Oregon or any of its political subdivisions or any other public body, irrespective of whether you are compensated, you are a public official.

How are relatives and household members of public officials affected by Oregon Government Ethics law?

Public officials must always comply with state law when participating in official actions that could result in personal financial benefits and also when participating in official actions that could result in financial benefits for a relative or household member. Public officials should also know there may be limits and restrictions on gifts their relatives or household members may accept when offered.

There are provisions in ORS Chapter 244 that restrict or prohibit a public official from using or attempting to use official actions of the position held to benefit a relative or household member, limit the value of financial benefits accepted by a relative or household member of the public official, or require the public official to disclose the nature of a conflict of interest when a relative may receive a financial benefit. There are provisions that place restrictions on a public official regarding the employment or supervision of a relative or household member. These provisions are discussed more comprehensively in the use of position or office section starting on page 17, the gifts section starting on page 26, the conflicts of interest section starting on page 11, and the nepotism section starting on page 35.

Who is a relative?

Public officials need to know how Oregon Government Ethics law defines a “relative.” In everyday conversation the term “relative” is applied to a spectrum of individuals with “family ties” broader than those defined as relatives in ORS 244.020(16). When a provision in ORS Chapter 244 refers to “relative,” it means one of the following:

- The spouse, parent, stepparent, child, sibling, stepsibling, son-in-law or daughter-in-law of the public official or candidate;
- The parent, stepparent, child, sibling, stepsibling, son-in-law or daughter-in-law of

- the spouse of the public official or candidate;
- Any Individual for whom the public official or candidate has a legal support obligation
- Any Individual for whom the public official provides benefits arising from the public official's public employment
- Any Individual from whom the public official or candidate receives benefits arising from the individual's employment.

For purposes of the last two bulleted items, examples of benefits may include, but is not limited to, elements of an official compensation package such as insurance, tuition or retirement benefits.

Who is a “member of the household”?

Public officials need to know how Oregon Government Ethics law defines “member of the household” because there are provisions in ORS Chapter 244 that prohibit a public official from using or attempting to use their official position to financially benefit a member of their household.

A “member of the household” is any person who resides with the public official or candidate. [ORS 244.020] This definition includes any individual who resides in the same dwelling as the public official, regardless of whether that individual pays rent or not, and regardless of whether that individual is a relative or not.

What is a business with which a person is associated?

There are provisions in ORS Chapter 244 that restrict or prohibit a public official from using their position to benefit a business with which the public official or the public official's relative or household member is associated. Other provisions also require the public official to disclose the nature of a conflict of interest when their official actions would or could financially impact a business with which the official or their relative is associated.

As with the definition of relative, public officials need to know how Oregon Government Ethics law defines what a “business” is and how it defines a “business with which the person is associated.” The same sound judgment a public official exercises when participating in actions that could result in a financial benefit to the public official or a relative of the public official should be used when participating in actions that could result in a financial impact to a business with which the public official or the official's relative is associated.

ORS 244.020(2) provides the definition of a “**business**” for the purposes of the application of Oregon Government Ethics law. A “business” is a self-employed individual and any legal entity that has been formed for the purpose of producing economic gain.

- Excluded from this definition are income-producing corporations that are not-for-profit and tax exempt under section 501(c) of the Internal Revenue Code, if a public

official or a relative is associated only as a member, as a member of the board of directors, or in another unpaid position.

Example: An elected County Commissioner is a member of a credit union that operates without profit and is tax exempt under section 501(c) of the Internal Revenue Code. Because the public official is associated with the credit union only as a member, the credit union is not considered a “business” under the definition in Oregon Government Ethics law.

Example: The son of an elected city councilor is a teller employed by a credit union that operates without profit and is tax exempt under section 501(c) of the Internal Revenue Code. Because the public official’s relative is a paid employee of the credit union, the city councilor’s association with the credit union does not meet the exclusion above, and the credit union would be considered a “business” under the definition in Oregon Government Ethics law.

- Also excluded from the definition of business are entities, such as state and local governments or special districts, which are not formed for the purpose of producing income.

Example: An advisory board for the Department of Education awards grants to county, city or other local government entities. The advisory board’s members include public officials who are employed by a city police department and by a local fire district. These public officials would not have conflicts of interest when awarding grants to the city or to the fire district, because these government entities do not meet the statutory definition of a “business.”

Once a public official determines that an entity qualifies as a “business,” the public official must also determine if it is a “business with which the person is associated.” In accordance with ORS 244.020(3), a business is a **“business with which the person is associated”** for a public official or the relative or household member of the public official in any of the following circumstances:

- When a person, or their relative is a director, officer, owner, employee or agent of a private business or a closely held corporation.

Example: The Eugene City Recorder is a public official and her daughter is the president and owner of a private landscaping business. That business would be “a business with which the City Recorder’s relative is associated.”

- When a person or their relative currently holds, or held during the preceding calendar year, stock, stock options, an equity interest or debt instrument worth \$1,000 or more in a **private business or closely held corporation**.

Example: The Mayor of Seaside's brother currently holds an equity interest of more than \$1,000 in a private business owned by a college friend. This would be a "business with which the Mayor's relative is associated."

- When a person or their relative currently owns, or has owned during the preceding calendar year, stock, stock options, an equity interest, or debt instruments of \$100,000 or more in a **publicly held corporation**.

Example: The procurement officer for the City of Portland recently inherited stock worth \$110,000 in Nike, which is a publicly held corporation. Nike is a "business with which the procurement officer is associated."

- When a person or their relative is a director or officer of a **publicly held corporation**.

Example: A Planning Commissioner for Washington County is the son of a member of the Board of Directors for Intel, a publicly held corporation. Intel is a "business with which the Planning Commissioner's relative is associated."

- When a public official is required by ORS 244.050 to file an Annual Verified Statement of Economic Interest and the business is required to be listed as a source of household income, per ORS 244.060.

Example: A Bend city councilor is required to file an Annual Verified Statement of Economic Interest (SEI). A member of the city councilor's household, not a relative, is a paid employee of a private business. The private business which employs the household member would be a "business with which the city councilor is associated" if it provides 10% or more of the councilor's annual household income.



CONFLICTS OF INTEREST

How does a public official know when they are met with a conflict of interest and, if met with one, what must they do?

Oregon Government Ethics law identifies and defines two types of conflicts of interest. An **actual conflict of interest** is defined in ORS 244.020(1) and a **potential conflict of interest** is defined in ORS 244.020(13). In brief, a public official is met with a conflict of interest when participating in official action which would or could result in a financial benefit or detriment to the public official, a relative of the public official or a business with which either is associated.



The difference between an actual conflict of interest and a potential conflict of interest is determined by the words “**would**” and “**could**.” A public official is met with an **actual** conflict of interest when the public official participates in an official action, decision, or recommendation that **would** affect the financial interest of the official, their relative, or a business with which they or their relative is associated. A public official is met with a **potential** conflict of interest when the public official participates in an official action, decision, or recommendation that **could** affect the financial interest of the official, their relative, or a business with which they or their relative is associated. The following hypothetical circumstances are offered to illustrate the difference between actual and potential conflicts of interest and what is not a conflict of interest:

- **POTENTIAL CONFLICT OF INTEREST:** A school district has decided to construct a new elementary school and the school board is at the stage of developing criteria for the construction bid process. A recently elected school board member’s son owns a construction company in town. The school board member would be met with a potential conflict of interest when participating in official actions to develop the bid criteria, because the official actions she takes **could** financially impact her son’s construction company, a business with which her relative is associated.
- **ACTUAL CONFLICT OF INTEREST:** A school district is soliciting bids for the construction of a new elementary school. The bid deadline was last week and the district Superintendent has notified the school board that there are four qualified bids and the school board will be awarding the bid to one of the four bidders at their upcoming meeting. One of the qualified bids was submitted by the construction company owned by a school board member’s son. The school board member would be met with an actual conflict of interest when awarding this bid because the effect of her decision **would** have a financial impact (either positive or negative) on her son’s construction company, a business with which her relative is associated.

- **NO CONFLICT OF INTEREST:** A school district is soliciting bids for the construction of a new elementary school. One of the qualified bids was submitted by a construction company owned by a board member's best friend but neither the board member nor any relative are associated with the construction company. The school board member would **not** be met with a conflict of interest when awarding this bid because the effect of her official decision **would not or could not** have a financial impact on herself, a relative, or a business with which she or her relative is associated.

What if I am met with a conflict of interest?

A public official must announce or disclose the nature of a conflict of interest. The way the disclosure is made depends on the position held. The following public officials must use the methods described below:

Legislative Assembly:

Members must announce the nature of the conflict of interest in a manner pursuant to the rules of the house in which they serve. The Oregon Attorney General has determined that only the Legislative Assembly may investigate and sanction its members for violations of conflict of interest disclosure rules in ORS 244.120. [49 Op. Atty. Gen. 167 (1999) issued on February 24, 1999]

Judges:

Judges must remove themselves from cases giving rise to the conflict of interest or advise the parties of the nature of the conflict of interest. [ORS 244.120(1)(b)]

Public Employees:

Public officials who are hired as public employees, agents, or who volunteer with their public bodies must provide **written notice** to the person who appointed or employed them (their "appointing authority"). The notice must describe the nature of the conflict of interest with which they are met and request that their appointing authority dispose of the conflict. This written disclosure to the appointing authority satisfies the requirements of ORS 244.120 for the employee. The appointing authority must then designate an alternate person to handle the matter or direct the public official in how to dispose of the matter. [ORS 244.120(1)(c)]

Example of Disclosure and Disposal: A County employee's job includes issuing building permits. An application concerns property owned by the employee's stepfather. The employee would be met with a conflict of interest and would need to make a written disclosure of his conflict to his appointing authority, in this case his department supervisor, and ask that the supervisor dispose of the conflict. Once the employee makes the written disclosure, he has complied with the conflict of interest statute. Upon receipt of a written disclosure from an employee, the supervisor must respond by either delegating an alternative person to handle the matter or directing the public official in how to dispose of the matter. **Note:** If the supervisor directs the public official to dispose of the conflict by handling his

relative's permit the same as any other permit, the supervisor could be asking an employee to take official actions that may violate the prohibited use of position statute, ORS 244.040(1). See page 17.

Elected Officials or Appointed Members of Boards and Commissions:

Elected officials (other than legislators) and those appointed to Boards and Commissions must publicly announce the nature of the conflict of interest before participating in any allowable official action on the issue giving rise to the conflict of interest. [ORS 244.120(2)(a) and ORS 244.120(2)(b)] The announcement must be made in a public meeting, or if no public meeting is available, by other means reasonably determined to notify members of the public of the public official's disclosure. For elected officials who do not hold regular public meetings, such as a Sheriff, District Attorney, or the Secretary of State, other means of compliance could be through a press release or by posting the disclosure on the public body's website.

- **Potential Conflict of Interest:** Following the public announcement of the nature of a potential conflict of interest, elected officials (other than legislators) and those appointed to Boards and Commissions, may participate in official action on the issue that gave rise to the conflict of interest.

Example: A city has decided to solicit bids to develop a new computer system and the city councilors are developing criteria for the bid process. A city councilor's brother works for an IT firm in town. The councilor would be met with a **potential** conflict of interest when participating in official actions to develop the bid criteria, because the official actions she takes **could** financially impact her brother's employer, a business with which her relative is associated. The councilor should publicly disclose the nature of her conflict of interest at the council meeting when the development of bid criteria comes up for consideration. Following the public disclosure, she may continue to participate in discussions and votes on the issue.

- **Actual Conflict of Interest:** Following the public announcement of the nature of an actual conflict of interest, the public official must ordinarily refrain from further participation in official action on the issue that gives rise to the conflict of interest. [ORS 244.120(2)(b)(A)]

Example: The city council is meeting to award a bid for a new IT project. Qualified bidders include a company that employs a city councilor's brother. The city councilor has an **actual** conflict of interest because the effect of her decision **would** have a financial affect, whether positive or negative, on a business with which her brother is associated. The city councilor must publicly announce the nature of her conflict of interest at the meeting and then refrain from any discussion or vote on the matter.

Exception: If a public official is met with an actual conflict of interest and the public official's vote is necessary to meet the minimum number of votes required for official action, the public official may vote. The public official must make the required announcement of their conflict of interest and refrain from any discussion or debate, but may participate in the vote required for official action by the governing body. [ORS 244.120(2)(b)(B)]

Example: In the scenario above, the city councilor would be met with an actual conflict of interest. The city council has 5 members and it takes 3 votes for board action. At the time of this meeting, one seat is vacant, another member is absent, and the member with the actual conflict is present, but conflicted, leaving the city council without the requisite 3 votes to take action. In this instance, following her public disclosure, the conflicted city councilor must refrain from any discussion or debate on the issue, but she may vote in order for the council to take action. Alternatively, the council may choose to delay the vote until a later meeting when more city councilors are present.

The following circumstances may exempt a public official from the requirement to make a public announcement or give a written notice describing the nature of a conflict of interest:

- If the conflict of interest arises from a membership or interest held in a particular business, industry, occupation or other class **and** that membership is a prerequisite for holding the public official position. [ORS 244.020(13)(a)]

Example: The Oregon Medical Board requires that one Board member must be a practicing physician, any official action taken by the physician board member that affects all physicians to the same degree would be exempt from the conflict of interest requirements. The physician Board member need not disclose a conflict of interest and may participate in taking official action on the issue.

- If the financial impact of the official action would impact the public official, their relative, or a business with which they or their relative is associated, to the same degree as other members of an identifiable group or "class." The Commission has the authority to identify a group or class and determine the minimum size of that "class." [ORS 244.020(13)(b) and ORS 244.290(3)(a)] The number of persons affected **to the same degree** as the public official will help to determine whether this exception applies.

Only the Commission may determine whether a "class" exemption exists. A written request must be made to the Commission to make that determination in advance. If a public official determines that a "class" exception applies in their situation, without benefit of Commission advice, the Commission may later determine that a "class" exception does not apply to the situation, and could find a violation.

Example: A city council is considering a change to the local transient lodging tax collected and remitted to the city by hotels and motels. One of the city councilors owns a motel. The effect of official actions taken by the city councilor concerning this tax would impact all motel owners within the city. The Commission may determine that the city councilor is part of an identifiable group or “class” of 200 city motel/hotel owners, who would be affected to the same degree and thus exempt from the conflict of interest disclosure and participation restrictions.

Example: A city council is considering a change to the local transient lodging tax collected and remitted to the city by motels. One of the city councilors is a motel owner. The effect of official actions taken by the city councilor concerning this tax would impact all motel owners within the city. The Commission declined to find that the class exemption applies due to the size of the “class” because there are only 3 motels in the city, 2 of which are owned by the councilor. The class exemption would not apply in these circumstances and the councilor must comply with the conflict of interest disclosure and participation restrictions.

Example: A city council is considering a proposal to construct a by-pass route around the city’s business district. The city’s business district includes many businesses and restaurants, including a coffee shop owned by one of the city councilors and a drive-thru espresso stand owned by another resident. The effect of the by-pass would not affect all business owners in the city to the same degree. The class exemption would not apply in these circumstances and the councilor who owns the coffee shop must comply with the conflict of interest disclosure and participation restrictions.

- If the conflict of interest arises from a directorship on the board of, or membership in, a nonprofit corporation that is tax-exempt under 501(c) of the Internal Revenue Code. [ORS 244.020(13)(c)]

Example: A city councilor is also a board member of the local YMCA, a tax-exempt 501(c) organization. The decision, as a city councilor, to award a grant to that YMCA would be exempt from the conflict of interest disclosure and participation restrictions. [ORS 244.020(13)(c)]

How is the public announcement or written disclosure of the nature of a conflict of interest recorded?

- The public body served by the public official is required to record the disclosure of the nature of the conflict of interest in the public body’s official records (e.g. personnel file, meeting minutes, audio/video recording). It is to the public official’s benefit to ensure their conflict disclosure is recorded in their public body’s records. [ORS 244.130(1)]

Is a public official required to make an announcement of the nature of a conflict of interest each time the issue giving rise to the conflict of interest is discussed or acted upon?

Each time a public official is met with a conflict of interest, the nature of the conflict must be disclosed.

- For example, an elected member of the city council when met with a conflict of interest would have to make the public announcement one time, but only one time, **in each meeting** of the city council when the matter was raised. If the matter giving rise to the conflict of interest is raised at another meeting, the disclosure must be made again at that meeting.
- Public officials who are employees would need to submit separate written notices on each occasion when a conflict of interest arises. As an example, an employee in a city planning department would have to give a separate written notice before each occasion when they needed to take an official action involving property owned by a relative. [ORS 244.120(3)]

If a public official failed to announce the nature of a conflict of interest and participated in official action, is the official action voided?

- **No.** Any official action that is taken may not be voided by any court solely by reason of the failure of the public official to disclose an actual or potential conflict of interest. [ORS 244.130(2)] Even though the action may not be voided, the public official could face potential personal liability for the violation.



USE OF POSITION OR OFFICE

What are the provisions of law that prohibit a public official from using the position or office held for financial gain or avoidance of financial detriment?

ORS 244.040(1) prohibits every public official from using or attempting to use the position held as a public official to obtain a financial benefit, if the opportunity for the financial benefit would not otherwise be available but for the position held by the public official. The prohibited financial benefit can be either an opportunity for personal financial gain or an opportunity to avoid incurring a personal expense.



Not only is a public official prohibited from using the position as a public official to receive personal financial benefits, but the public official is prohibited from using or attempting to use their position as a public official to obtain financial benefits for a relative or a member of the public official's household. Also prohibited is using or attempting to use the public official's position to obtain financial benefits for a business with which the public official, a relative, or a member of the public official's household is associated.

There are a variety of actions that a public official may take or participate in that could constitute the prohibited use or attempted use of the public official's position. The use of a position could be voting in a public meeting, placing a signature on a government agency's document, making a recommendation, making a purchase with government agency funds, or using a government agency's time or resources (computers, vehicles, machinery) to obtain a personal financial benefit or avoid a personal cost.

The following examples are offered to illustrate what may constitute prohibited use or attempted use of office or position. Please note that this is not an exhaustive list:

- The mayor of a city signs a contract obligating the city to pay for janitorial services provided by a business owned by the mayor's relative.
- An executive director of an agency is ordering 10 new laptops for the agency, which qualifies for a bulk purchase discount of \$150 per laptop. He adds 2 laptops for his family to the agency's order to personally take advantage of the discount, and then reimburses the agency for the discounted cost of his personal laptops.
- A city billing clerk alters water use records so that the amount billed to the clerk's parents will be less than the actual amount due.
- A volunteer firefighter borrows the fire district's power washer to prepare the exterior of the volunteer's personal residence for painting.
- A county public works employee stores a motor home that is owned by the employee's parents in a county building used for storing heavy equipment.
- An employee of a state agency has a private business and uses the agency's computer to conduct the activities of the private business.

- A county commissioner uses the county's pickup truck to haul his own personal boat to and from his vacation home.
- A school district superintendent hires her sister's consulting business to provide an in-service training to teachers in her district.
- A teacher solicits her students' parents to hire her for paid tutoring services.

NOTE: While these examples are offered to illustrate the use of a public official's position prohibited by ORS 244.040(1), the examples illustrate occasions where a public official may also be met with a conflict of interest as defined in ORS 244.020(1) and (13). The provisions in ORS 244.040 apply regardless of whether a public official has properly disclosed a conflict of interest. [ORS 244.040(7)]. For further information, refer to the detailed discussion of conflicts of interest starting on page 11.

There are some additional prohibitions on how current and even former public officials use their offices or positions.

- ORS 244.040(3) prohibits a public official from, directly or indirectly, soliciting or accepting the promise of future employment based on the understanding that the offer is influenced by the public official's vote, official action or judgment.
- Public officials often have access to or manage information that is confidential and not available to members of the general public. ORS 244.040(4) specifically prohibits public officials from using or attempting to use confidential information gained because of the position held to further their own personal gain.
- ORS 244.040(5) prohibits a **former** public official from attempting to use confidential information for **any** person's financial gain if that confidential information was obtained while holding the position as a public official, from which access to the confidential information was obtained.
- ORS 244.040(6) also has a single provision to address circumstances created when public officials, who are members of the governing body of a public body, own or are associated with a specific type of business. The type of business is one that may occasionally send a representative of the business to appear before the governing body on behalf of a client for a fee. Public officials who are members of governing bodies and who own or are employed by businesses, such as a law, engineering, or architectural firm, may encounter circumstances in which this provision may apply.

Example: A member of a city council is an architect. A client developer of the architect's firm has a proposed subdivision to be approved by the city council. The architect/councilor may not appear before the city council on behalf of the client developer. Another person from the architect's firm may represent the client developer before the city council, but not the architect/councilor.

Aside from ORS 244.040, are there other prohibitions on public officials using their positions to avoid a personal financial detriment?

Yes. ORS 244.049 prohibits a holder of public office or candidates for public office from using public moneys or moneys received from a third party to make payments in connection with a non-disclosure agreement relating to workplace harassment if the alleged harassment occurred when the holder of public office or candidate was acting in that capacity. This prohibition applies to a person holding, or a candidate for, any elected state, county, district, city office or position.

Are there any circumstances in which a public official may use their position to accept financial benefits that would not otherwise be available but for holding the position as a public official?

Yes. ORS 244.040(2) provides a list of financial benefits that would not otherwise be available to public officials but for holding the position as a public official. The following financial benefits are not prohibited and may be accepted by a public official, and some may also be accepted by a public official's relative or member of the public official's household:

Not Prohibited:

- **Official Compensation:** Public officials may accept any financial benefit that is identified by the public body they serve as part of the “official compensation package” of the public official. If the public body identifies such benefits as salary, health insurance or various paid allowances in the employment agreement or contract of a public official, those financial benefits are part of the “official compensation package.” [ORS 244.040(2)(a)]



OAR 199-005-0035(3) provides a definition of “official compensation package”:

An “official compensation package” means the wages and other benefits provided to the public official. To be part of the public official's “official compensation package”, the wages and benefits must have been specifically approved by the public body in a formal manner, such as through a union contract, an employment contract, or other adopted personnel policies that apply generally to employees or other public officials. “Official compensation package” also includes the direct payment of a public official's expenses by the public body, in accordance with the public body's policies.

- **Reimbursement of Expenses:** A public official may accept payments from the public official's public body as reimbursement for expenses the public official has personally paid while conducting the public body's business. [ORS 244.040(2)(c)]



The “reimbursement of expenses” means the payment by a public body to a public official serving that public body, of expenses incurred in the conduct of official duties on behalf of the public body. Any such repayment must comply with any applicable laws and policies governing the eligibility of such repayment. [OAR 199-005-0035(4)]

If the payment of a public official’s personal expenses does not meet this definition, it may be a financial benefit prohibited or restricted by other provisions in ORS Chapter 244. There are occasions when someone will refer to the payment of a public official’s expenses by a person or entity other than the public official’s public body as a reimbursement of expenses. That is not the reimbursement of expenses as used in ORS 244.040(2)(c) and defined in OAR 199-005-0035(4).

- **Honoraria:** Most public officials are allowed to accept honoraria by ORS 244.040(2)(b) as defined in ORS 244.020(8). A public official must know how an honorarium is defined because there are many occasions when someone will offer them a financial benefit and call it an honorarium, but it does not meet the definition of honorarium in ORS 244.020(8).



For a payment to be defined as an honorarium, it must be made for a service, like a speech or other service rendered in connection with an event, for which no price is set and for which the public official required no fixed amount to be paid in return for providing the service. A payment or something of economic value given to a public official in exchange for services provided by the public official is an honorarium when the setting of the price has been prevented by custom or propriety.

A public official may not receive an honorarium when performing a service in the course of their duties as a public official. A public official may not accept honoraria if the value exceeds \$50, unless the honoraria is received for services performed in relation to the private profession, occupation, avocation, or expertise of the public official or candidate. [ORS 244.042(3)(a) and (b)].

Public officials must be sure, when they are offered a payment or something of economic value and it is referred to as an honorarium, that it does meet the definition in ORS 244.020(8). If it does not meet this definition, it may be a financial benefit prohibited or restricted by other provisions in ORS Chapter 244.

NOTE: The Governor, First Partner, Secretary of State, State Treasurer, Attorney General, and Commissioner of the Bureau of Labor and Industries are explicitly prohibited by ORS 244.042(4) from soliciting or receiving an honorarium, money or any other consideration for **any** speaking engagement or presentation.

- Awards for Professional Achievement: Public officials may accept an award, if the public official has not solicited the award, and the award is offered to recognize a professional achievement of the public official. [ORS 244.040(2)(d)]



Awards for professional achievement should not be confused with awards of appreciation, allowed by ORS 244.020(7)(b)(C), an honorarium allowed by ORS 244.040(2)(b), or gifts that are allowed or restricted by other provisions in ORS Chapter 244.

Awards for professional achievement are best illustrated by awards that denote national or international recognition of a public official's achievement, such as receipt of the Nobel Prize. These awards may also be offered by public or private organizations in the state that are meant to recognize a public official for a distinguished career, such as Oregon's Teacher of the Year award made by the Oregon Department of Education which includes a monetary prize and travel funds. Professional achievements recognized may be identified as a single accomplishment or an accomplishment achieved during a period of time, such as a calendar year or a public official's career upon retirement.

- Contributions to Legal Expense Trust Fund: There are provisions in ORS 244.209 that allow public officials to establish legal expense trust funds that are approved by the Commission. ORS 244.040(2)(h) allows a public official who has established this trust fund to solicit, accept and be the trustee for contributions to the established fund. This is discussed in a separate section of the Guide p.41.



- Certain Gifts: Public officials may accept some gifts without limitation on the quantity or aggregate value of gifts. Acceptance of these gifts does not constitute a prohibited use of office. See allowable gifts, page 33. [ORS 244.040(2)(e) to (g)]



PRIVATE EMPLOYMENT OF PUBLIC OFFICIAL

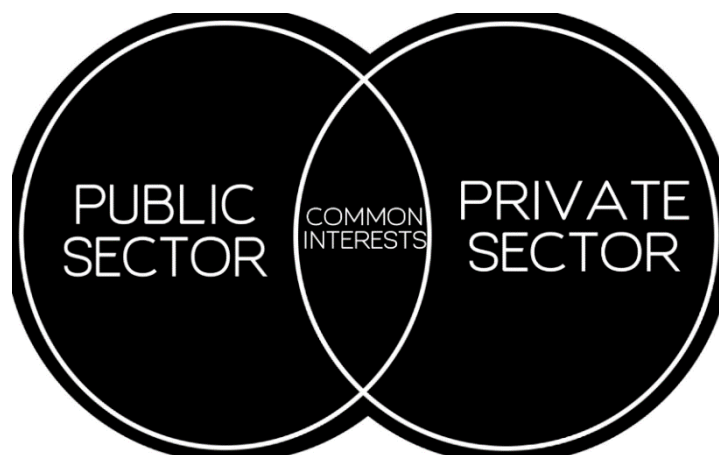
Does Oregon Government Ethics law prohibit a public official from owning a private business or working for a private employer while continuing employment with or holding a position with a public body?

No. As mentioned earlier, many public officials are volunteers, meaning there is little or no compensation for the public position. Other public officials may receive compensation from their public bodies, but still choose to seek additional sources of income. Some work for a private business and others establish a private business of their own. **NOTE: This guide does not address other statutes or agency policies that may limit private employment for public officials.**

In general, public officials may obtain employment with a private employer or engage in private income producing activity of their own, but they must keep a separation between their public positions and their outside employment or private business interests. The Commission has created the following guidelines for public officials to follow in order to avoid violating Oregon Government Ethics law when engaged in private employment or a personally owned business.

GUIDELINES FOR OUTSIDE EMPLOYMENT OF PUBLIC OFFICIALS

1. Public officials must not use their public position to create the opportunity for additional personal income.
2. Public officials may not use a government agency's supplies, facilities, equipment, employees, records or any other public resources to engage in their private employment or business interests.
3. Public officials are not to engage in private business interests or other employment activities on their government agency's time.
4. Confidential information gained as a public official is not to be used to obtain a financial benefit for the public official, a relative or member of the public official's household or a business with which any are associated.



EMPLOYMENT OF FORMER PUBLIC OFFICIALS

What are the restrictions on employment after I resign, retire or leave my public official position?

- ORS 244.040(1) prohibits public officials from using their official positions or offices to create a new employment opportunity; otherwise, most former public officials may enter the private work force with few restrictions.
- ORS 244.040(5) prohibits a former public official from using or attempting to use confidential information for the personal gain of any person if the confidential information was obtained while holding the position as a public official.
- Oregon Government Ethics law restricts the subsequent employment of certain public officials. The restrictions apply to positions listed below:

ORS 244.045(1) State Agencies:

Director of the Department of Consumer and Business Services
 Administrator of the Division of Financial Regulation
 Administrator of the Oregon Liquor Control Commission
 Director of the Oregon State Lottery
 Public Utility Commissioner

1. One year restriction on accepting employment from or gaining financial benefits from a private employer in the activity, occupation or industry that was regulated by the agency for which the public official was the Director, Administrator or Commissioner.
2. Two year restriction on lobbying, appearing as a representative before the agency, or otherwise attempting to influence the agency for which the public official was the Director, Administrator or Commissioner.
3. Two year restriction on disclosing confidential information gained as the Director, Administrator or Commissioner for the agency.

ORS 244.045(2) Department of Justice:

Deputy Attorney Generals
 Assistant Attorney Generals

Two year restriction from lobbying or appearing before an agency that they represented while employed by the Department of Justice.

ORS 244.045(3) Office of the Treasurer:

State Treasurer
 Deputy State Treasurer

1. One year restriction from accepting employment from or being retained by a private entity with which there was negotiation or contract awarding \$25,000 in a single year by the office of the State Treasurer or Oregon Investment Council.
2. One year restriction from accepting employment from or being retained by a private entity with which there was investment of \$50,000 in one year by the office of the State Treasurer or Oregon Investment Council.
3. One year restriction from being a lobbyist for an investment institution, manager or consultant, or from representing an investment institution, manager, or consultant, before the office of State Treasurer or Oregon Investment Council.

ORS 244.045(4) Public Officials who invested public funds:

1. Two year restriction from being a lobbyist or appearing before the agency, board or commission for which public funds were invested.
2. Two year restriction from influencing or trying to influence the agency, board or commission.
3. Two year restriction from disclosing confidential information gained through employment.

ORS 244.045(5) Department of State Police:

Member of State Police who has been designated by law and was responsible for supervising, directing or administering programs related to Native American tribal gaming or the Oregon State Lottery

1. One year restriction from accepting employment from or gaining financial benefit related to gaming from the Lottery or a Native American Tribe.
2. One year restriction from gaining financial benefit from a private employer who sells gaming equipment or services.
3. One year restriction from trying to influence the Department of State Police or from disclosing confidential information.

Exceptions include subsequent employment with the state police, appointment as an Oregon State Lottery Commissioner, Tribal Gaming Commissioner or lottery game retailer, or personal gaming activities.

ORS 244.045(6) Legislative Assembly
 Representative
 Senator

A person who has been a member of the Legislative Assembly, may not, within one year after ceasing to be a member of the Legislative Assembly, receive money or other consideration for lobbying as defined in ORS 171.725.

How would Oregon Government Ethics law apply when a former public official is employed by a business that has a contract with the public body previously represented by the former public official?



In addition to the restrictions on specific positions identified above, the restriction in ORS 244.047 applies to all former public officials. After a public official ceases serving a public body or being employed in a position as a public official, that public official may not have a direct beneficial financial interest in a public contract for two years after the date the contract was authorized by the person acting in their capacity as a public official.

Whether a public official authorizes a contract individually as an employee of a public body, or participated in the authorization of a contract in their official capacity as a member of a board, commission, council, bureau, committee or other governing body, the person is restricted from financially benefiting from that public contract for two years after the date of authorization. [ORS 244.047]

“Authorized by” is defined in OAR 199-005-0035(6) as follows:

As used in ORS 244.047, a public contract is “authorized by” a public official if the public official performed a significant role in the selection of a contractor or the execution of the contract. A significant role can include recommending approval or signing of the contract, including serving on a selection committee or team, or having the final authorizing authority for the contract.

GIFTS

Oregon Government Ethics law establishes restrictions on the value of gifts that can be accepted by a public official. If the source of a gift to a public official has a legislative or administrative interest in the decisions or votes of the public official, the public official can only accept gifts from that source when the aggregate value of gifts from that source does not exceed \$50 in a calendar year. [ORS 244.025].



The following framework of conditions applies when public officials, their relatives, or members of their households are offered gifts. To decide if a gift, or “something of value,” can be accepted with or without restrictions, the public official must analyze the offer and the source of the offer. As will be apparent in the following discussion, the burden of any decision on accepting a gift rests solely with the individual public official.

What counts as a “gift”?

When Oregon Government Ethics law uses the word “gift” it has the meaning in ORS 244.020(7)(a):

“Gift” means something of economic value given to a public official, a candidate or a relative or member of the household of the public official or candidate:

(A) Without valuable consideration of equivalent value, including the full or partial forgiveness of indebtedness, which is not extended to others who are not public officials or candidates or the relatives or members of the household of public officials or candidates on the same terms and conditions; or

(B) For valuable consideration less than that required from others who are not public officials or candidates.

In other words, a “gift” is something of economic value that is offered to:

- A public official or candidate or to relatives or members of the household of a public official or candidate,
- Without cost or at a discount or as a forgiven debt, and,
- The offer is not made or available to members of the general public who are not public officials, candidates, or their relatives or household members on the same terms and conditions.

Example: At a conference exclusively for city and county officials, a public official buys a raffle ticket and wins a big screen television. The television is a gift because the value of the television exceeds the cost of the raffle ticket and the opportunity to enter the raffle and win the television was not available to members of the general public on the same terms and conditions.

Example: Outside of a grocery store, a public official buys a raffle ticket from a local scout troop and wins a big screen television. The television is not a gift because, although the value of the television exceeds the cost of the raffle ticket, the opportunity to enter the raffle and win the television was available to members of the general public on the same terms and conditions.

Once a public official or candidate has determined that an offer is a gift, because it is something of economic value that is not offered to members of the general public who are not public officials or candidates on the same terms and conditions, the public official or candidate must then determine if the value of the gift, combined with any other gifts from the same source during the calendar year, exceeds \$50. If so, the public official must then determine if the source of the gift has a legislative or administrative interest.

Any discussion of gifts must begin with the reminder that if the source of a gift to a public official or candidate **does not** have a legislative or administrative interest in the decisions or votes of the public official or candidate if elected, the public official or candidate can accept unlimited gifts from that source. [ORS 244.040(2)(f)]

What is a “Legislative or Administrative Interest”?



Whether there is a legislative or administrative interest is pivotal to any decision a public official or a candidate, if elected, makes on accepting gifts. It will mean the difference between being allowed to accept gifts without limits, accepting gifts with an annual limit of \$50 on the aggregate value, or accepting gifts which are specified exceptions under ORS 244.020(7).

The definition of a legislative or administrative interest is set forth in ORS 244.020(10):

“‘Legislative or administrative interest’ means an economic interest, distinct from that of the general public, in:

- (a) Any matter subject to the decision or vote of the public official acting in the public official’s capacity as a public official; or
- (b) Any matter that would be subject to the decision or vote of the candidate who, if elected, would be acting in the capacity of a public official.”

When analyzing a set of circumstances and applying “legislative or administrative interest,” there are several factors to consider:

Source: The Commission adopted a rule that identifies the source of a gift as the person or entity that makes the ultimate and final payment of the gift's expense. OAR 199-005-0030 places two burdens on a public official who accepts gifts. The public official must know the identity of the source and, if applicable, avoid exceeding the limit on the aggregate value of gifts accepted from that source. [OAR 199-005-0030(2)]

Distinct from that of the general public:

With regard to gifts, this phrase refers to a distinct economic interest held by the source of a gift. That economic interest is in the financial gain or loss that could result from any votes cast or decisions made by a public official. If the source of a gift would realize a financial gain or detriment from matters subject to the vote or decision of a public official, that source has an economic interest in that public official. That economic interest is “distinct from that of the general public” if the potential financial gain or detriment is distinct from the financial impact that would be realized by members of the general public from the matters subject to votes or decisions of that same public official.



There are decisions or votes that have an economic impact on single individuals or individuals from specific businesses or groups that are distinct from the economic impact on members of the general public. On the other hand, there are many votes or decisions made by public officials that have the same general economic impact on individuals, businesses, organizations and members of the general public. Some examples of decisions or votes that would likely have an economic impact on members of the general public would be those that change water usage rates for residential users, fees for pet licenses, or fines for parking violations.

To illustrate, private contractors have an economic interest in any public official who has the authority to decide or vote to award them contracts. The economic interest of these contractors is distinct from the economic interest held by members of the general public in those decisions or votes.

To further illustrate, real estate developers have an economic interest in any public official who has the authority to decide or vote to approve their land use applications or building permits. The economic interest of these developers is distinct from the economic interest held by members of the general public in those decisions or votes.

Vote: This has the common meaning of to vote as an elected member of a

governing body of a public body or as an appointed member of a committee, commission or board appointed by a governing body, Oregon Legislative Assembly, or the Office of the Governor.

Decision: A public official makes a decision when the public official exercises the authority given to the public official to commit the public body to a particular course of action. [OAR 199-005-0003(2)].



Whether to accept or reject the offer of a gift must be made individually by each public official. There will be some public officials who may accept unlimited gifts from a source and other public officials within the same public body that would have restrictions on gifts have the same authority, responsibilities or duties. Some may vote and make decisions, others may do one but not the other, and many will not vote or make decisions. This means that when gifts are offered to two or more public officials, one public official may be allowed to accept the gift without limits, and another public official may not be able to accept the gift at all, or may only be able to accept it with limits as to value or with other restrictions.

Example: A cellular service provider offers a discounted cell-phone plan for first responders. The discounted plan is available only to first responders who work for state or local governments. Because the discounted cell-phone plan is not available to members of the general public on the same terms and conditions, it is a gift subject to the restrictions and limitations in ORS 244.025. First responders who are in positions to make official decisions for their agencies that could financially affect the cellular service provider, such as Fire Chiefs or board members, could not accept the discounted cell-phone plan since the discount totals more than \$50 in a calendar year; however, first responders who are not in positions to make official decisions for their agencies that could financially affect the cellular service provider could accept the discounted cell-phone plan.

What obligations are placed on the giver of a gift?

Sources who offer gifts or other financial benefits to public officials must also be aware of the provisions in ORS Chapter 244. While the specific gift of paid expenses may be allowed by ORS 244.020(7)(b)(F), ORS 244.100(1) requires the source of this gift, if over \$50, to notify the public official in writing of the aggregate value of the paid expenses. There is also a notice requirement in ORS 244.100(2) for the source of an honorarium when the value exceeds \$15. Lobbyists, clients or employers of lobbyists, and others who provide gifts or financial benefits to public officials should also familiarize themselves with the provisions in ORS 171.725 through ORS 171.992 and Divisions 5 and 10 of Chapter 199 in the Oregon Administrative Rules. The Commission has published a “Guide to Lobbying in Oregon” that provides a summary of these regulations and rules.

What gifts may a public official accept regardless of value?

While gifts from a source with a legislative or administrative interest in the decisions or

votes of a public official may only be accepted up to the \$50 limit, there are some gifts that are excluded from the definition of a “gift,” when offered under specific conditions or when prerequisites are met. If the offer of a gift is excluded from the definition of a “gift,” the offer may be accepted by a public official, regardless of value.

The value of gifts that are allowed as exclusions does not have to be included when calculating the aggregate value of gifts received from that source in one calendar year. [ORS 244.020(7)(b)] Although some gifts are allowed by these exclusions, it should be remembered that a source may have a notice requirement or there may be reporting requirements for the public official or the source. If you are a public official accepting gifts or a source offering gifts, it is important that you become familiar with the requirements that may apply to you.

ORS 244.020(7)(b) provides a description of the **GIFTS THAT ARE ALLOWED** as exclusions to the definition of a “gift.” **NOTE:** Not all of these exclusions apply to gifts offered to candidates. These exclusions include:

- Campaign contributions as defined in ORS 260.005. [ORS 244.020(7)(b)(A)]
- Contributions to a legal expense trust fund established under ORS 244.209. [ORS 244.020(7)(b)(G)]
- Gifts from relatives or members of the household of public officials or candidates. [ORS 244.020(7)(b)(B)]
- Anything of economic value received by a public official or candidate, their relatives or members of their household when:

The receiving is part of the usual and customary practice of the person’s business, employment, or volunteer position with any non-profit or for-profit entity; [ORS 244.020(7)(b)(O)(i)] **and**

The receiving bears no relationship to the person’s holding the official position or public office. [ORS 244.020(7)(b)(O)(ii)]

- Unsolicited gifts with a resale value of less than \$25 and in the form of items similar to a token, plaque, trophy and desk or wall mementos. [ORS 244.020(7)(b)(C); OAR199-005-0010]
- Publications, subscriptions or other informational material related to the public official’s duties. [ORS 244.020(7)(b)(D)]
- Waivers or discounts for registration fees or materials related to continuing education or to satisfy a professional licensing requirement for a public official or candidate. [ORS 244.020(7)(b)(J)]

- Entertainment for a public official or candidate and their relatives or members of their households when the entertainment is incidental to the main purpose of the event. [ORS 244.020(7)(b)(M); OAR 199-005-0001; OAR 199-005-0025]
- Entertainment for a public official, a relative of the public official or a member of the public official's household when the public official is acting in an official capacity and representing a government agency for a ceremonial purpose. [ORS 244.020(7)(b)(N); OAR 199-005-0025(2)]
- Cost of admission or food and beverage consumed by the public official, a relative of the public official, a member of the public official's household or staff when they are accompanying the public official, who is representing a government agency, at a reception, meal or meeting held by an organization. [ORS 244.020(7)(b)(E); OAR 199-005-0015; OAR 199-005-0001]
- Food or beverage consumed by a public official or candidate at a reception where the food and beverage is an incidental part of the reception and there was no admission charged. [ORS 244.020(7)(b)(L); OAR 199-005-0001(3)]
- When public officials travel together inside the state to an event bearing a relationship to the office held and the public official appears in an official capacity, a public official may accept the travel related expenses paid by the accompanying public official. [ORS 244.020(7)(b)(K)]
- Payment of reasonable expenses if a public official is scheduled to speak, make a presentation, participate on a panel or represent a government agency at a convention, conference, fact-finding trip or other meeting. The paid expenses for this exception can only be accepted from another government agency, Native American Tribe, an organization to which a public body pays membership dues, or not-for-profit organizations that are tax exempt under 501(c)(3). [ORS 244.020(7)(b)(F); OAR 199-005-0020; OAR 199-005-0001]
- Payment of reasonable food, lodging or travel expenses for a public official, an accompanying relative, member of household, or staff, may be accepted when the public official is representing their government agency at one of the following: [ORS 244.020(7)(b)(H); OAR 199-005-0020; OAR 199-005-0001]
 - Officially sanctioned trade promotion or fact-finding mission; [ORS 244.020(7)(b)(H)(i)] **or**
 - Officially designated negotiation or economic development activity when receipt has been approved in advance. [ORS 244.020(7)(b)(H)(ii)]

[NOTE: Who may officially sanction and officially designate these events, and how to do so, is addressed in OAR 199-005-0020(3)(b).]

- Payment to a public school employee of reasonable expenses for accompanying students on an educational trip. [ORS 244.020(7)(b)(P)]
- Food and beverage when acting in an official capacity in the following circumstances: [ORS 244.020(7)(b)(I)]
 - In association with a financial transaction or business agreement between a government agency and another public body or a private entity, including such actions as a review, approval or execution of documents or closing a borrowing or investment transaction; [ORS 244.020(7)(b)(I)(i)]
 - When the office of the Treasurer is engaged in business related to proposed investment or borrowing; [ORS 244.020(7)(b)(I)(ii)]
 - When the office of the Treasurer is meeting with a governance, advisory or policy making body of an entity in which the Treasurer's office has invested money. [ORS 244.020(7)(b)(I)(iii)]

GIFTS AS AN EXCEPTION TO THE USE OF OFFICE PROHIBITION IN ORS 244.040

As covered in more detail in the discussion beginning on page 17, public officials are prohibited from using or attempting to use the position they hold to obtain a prohibited financial benefit. [ORS 244.040(1)] As covered in more detail in the discussion beginning on page 26, Oregon Government Ethics law does not prohibit public officials from accepting gifts, but it does place on each individual public official the personal responsibility to understand there are circumstances when the aggregate value of gifts may be restricted. [ORS 244.025] These provisions of Oregon Government Ethics law often converge and require analysis by public officials to determine whether the opportunity to obtain financial benefits represents the use of an official position prohibited by ORS 244.040(1) or a gift addressed with other provisions in ORS Chapter 244 [ORS 244.020(7), ORS 244.025 or ORS 244.040(2)(e),(f) and (g)].



ORS 244.040 was amended in 2007 to make the acceptance of gifts that comply with ORS 244.020(7) and ORS 244.025 exceptions to the prohibition on public officials' use or attempted use of an official position to gain financial benefits. [ORS 244.040(2)(e), (f) and (g)] If a public official, relative, or household member accepts a permissible gift or a financial benefit that qualifies as an exception to the definition of a gift, ORS 244.040(1) does **not** prohibit its acceptance. If a public official, relative, or household member accepts a gift that exceeds the restrictions or limitations set forth in ORS 244.025, then that gift would not qualify under the exceptions set forth in ORS 244.040(e), (f) and (g). Acceptance of that gift could constitute a violation of both ORS 244.025 and ORS 244.040(1).

When the Commission applies Oregon Government Ethics law to "something of economic value" offered to a public official that meets the definition of "gift," it will first be analyzed to determine whether it is a violation of ORS 244.025. If the Commission determines that acceptance of the gift constitutes a violation of ORS 244.025 (unlawful acceptance of a gift), it will then determine if it also constitutes a violation of ORS 244.040(1) (prohibited use of office).

The following are examples to illustrate the Commission's approach:

- The mayor of a town on the Oregon coast was a college roommate with Bob Smith, who now manages a company that owns many golf courses in Oregon and other states. One of the company's golf courses is in the mayor's town. The mayor and

Bob have remained friends ever since college. Recently, Bob invited the mayor to join him at the Masters' Tournament in Augusta, offering to fly him there on Bob's private jet, stay in Bob's condo, and host him at a private booth at the Tournament. The value of this trip exceeds \$50, and Bob has a legislative or administrative interest in the mayor's decisions as a public official, as one of Bob's golf courses is in the mayor's town. Since the value of the trip exceeds \$50, is not extended to others who are not public officials on the same terms and conditions, and is from a source with a legislative or administrative interest, it is a gift that the mayor cannot accept without violating ORS 244.025(1). It also does not qualify as an exception to ORS 244.040(1). [ORS 244.040(2)(e)]. Bob has been inviting his old college friend on this trip for at least 10 years, long before the friend was elected mayor recently. This and other evidence indicates that the mayor received this offer because he and Bob are friends, not because he is the town's mayor; therefore, the offer of this trip does not represent a financial gain that would not be available to the mayor but for his holding his public office. Thus, if the mayor accepted the gift of this trip, the mayor would violate ORS 244.025(1) (acceptance of an unlawful gift), but would not violate ORS 244.040(1) (prohibited use of office).

- A public works director for B City holds weekly breakfast meetings at a local diner. The public works director invites five main contractors in B City, all of whom do business with the city, to attend these meetings. The contractors take turns picking up the tab for the public works director's breakfast. Because the public works director has the authority to recommend the contractors for projects with the city, the contractors have economic interests distinct from that of the general public in the public works directors' decisions or recommendations. Over the course of a calendar year, each contractor pays for at least ten meals for the public works director, at a total aggregate cost exceeding \$50. These meals constitute unlawful gifts to the public works director, as their value exceeds \$50, they are not extended to others who are not public officials on the same terms and conditions, and they are from sources with distinct economic interests in the public works director's decisions or recommendations. The contractors would not pay for these meals if he were not the public works director. Thus, in addition to violating ORS 244.025(1), by accepting these meals the public works director also violates ORS 244.040(1).

The responsibility for judgments and decisions made in order to comply with the various provisions in Oregon Government Ethics law rests with the individual public official who faces the circumstances that require a judgment or decision. That is true of questions regarding gifts, use of an official position, announcing the nature of conflicts of interest and the many situations addressed in ORS Chapter 244.

NEPOTISM



Does Oregon Government Ethics law prevent two or more relatives from being employees of the same public body?

No. Public officials who are relatives can be employed by the same public body employer at the same time, or serve at the same time on the same governing body of a public body.

ORS Chapter 244 does, however, does address the issue of “nepotism.” The definitions of “member of household” and “relative” found in ORS Chapters 244.020(11) and 244.020(16) apply here: See page 7.

What are the provisions that address nepotism?

Public officials are restricted from participating in personnel actions taken by the public agency that would impact the *paid employment* of a relative or member of the public official’s household. If a public official has a relative or household member who has applied to be or serves as an *unpaid volunteer*, the public official may participate in any personnel action that involves the relative or member of the household.

Personnel actions addressed by this statute include:

- Appointing, employing or promoting a relative or member of the public official’s household; or
- Discharging, firing or demoting a relative or member of the public official’s household.

ORS 244.177(1)(a) provides that a public official may not appoint, employ or promote (or discharge, fire or demote) a relative or member of their household from a position with the public body that the public official serves or over which the public official exercises jurisdiction or control, unless the public official complies with the conflict of interest requirements of ORS Chapter 244. Even if the public official discloses a conflict of interest, a public official who takes such a personnel action for a relative or member of their household could still be found in violation of the use of office provisions of ORS 244.040(1).

Separately, ORS 244.177(1)(b) directs that a public official may not participate in any interview, discussion or debate regarding such personnel actions involving a relative or member of the public official’s household.

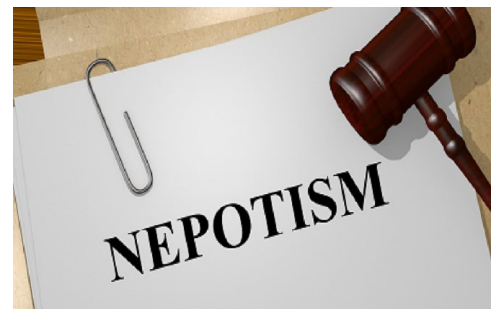
A public official who is assigned duties that include performing “ministerial acts” related

to any stage of a relative's employment is not prohibited from performing such acts. "Ministerial acts" would include mailing or filing forms or correspondence, taking and relaying messages, scheduling appointments or preparing documents and minutes for public meetings. A public official may serve as a reference or provide a recommendation for a relative who has applied for a position of employment, promotion, or is subject to any personnel action.

Exception: Public officials may not, however, participate in appointing a relative or member of the household to an unpaid position on the governing body of the public body that the public official serves or over which the public official exercises jurisdiction or control. [ORS 244.177(3)(a) and (b)]

Can public officials supervise their relatives or members of their households?

Nepotism also applies to supervision of relatives or members of the public official's household. ORS 244.179(1) prohibits public officials from directly supervising relatives or members of their household in paid positions. The public official may supervise an unpaid volunteer serving the public body, unless the volunteer position is as a member of a governing body of the public body. [ORS 244.179(3)]



Policy Exception: ORS 244.179(4) permits a public body to adopt policies that specify when a public official, acting in an official capacity for the public body, may directly supervise a relative or member of the public official's household in a paid position. OAR 199-005-0080 provides guidance to public bodies in developing such policies. Absent such a policy, a public official may not directly supervise a remunerated person who is a relative or member of the public official's household. [ORS 244.179(1)]

Direct supervision of a paid relative or household member includes official actions that would financially impact their relative or household member, such as:

- Conducting performance reviews
- Approving leave or vacation time
- Recommending or approving pay changes
- Assigning shifts
- Approving overtime
- Authorizing or approving reimbursements or travel expenses
- Authorizing worksite assignments or teleworking

Exception: Public officials who are elected members of the Oregon Legislative Assembly are not prohibited from participating in employment actions, including supervision of their relatives or household members on their personal staff [ORS 244.177(2)].

ANNUAL VERIFIED STATEMENT OF ECONOMIC INTEREST



There are approximately 5,500 Oregon public officials who must file an **Annual Verified Statement of Economic Interest (SEI)** with the Oregon Government Ethics Commission **by April 15** of each calendar year. The SEIs are now filed electronically through the Commission's Electronic Filing System (EFS).

ORS 244.050 identifies the public officials who are required to file SEIs. Please refer to that statute to see if your specific office or position requires you to file an SEI. In general, public officials who hold the following positions are required to file:

- State public officials who hold elected or appointed executive, legislative or judicial positions. This includes those who have been appointed to positions on certain boards or commissions.
- In counties, all elected officials, such as commissioners, assessors, surveyors, treasurers and sheriffs must file. Planning commission members and the county's principal administrator must also file.
- In cities, all elected officials, the city manager or principal administrator, municipal judges and planning commission members must file.
- Administrative and financial officers in school districts, education service districts and community college districts must file.
- Some members of the board of directors for certain special districts must file.
- Candidates for some elected public offices are also required to file.

The Commission staff has identified by jurisdiction the public officials whose position requires them to file the SEI. Each jurisdiction (city, county, executive department, board or commission, etc.) has a person (jurisdictional contact) who acts as the Commission's point of contact for that jurisdiction. [OAR 199-020-0005(1)]

The **jurisdictional contact (JC)** for each jurisdiction has an important role as a liaison between the Commission and the SEI filers in their jurisdiction. It is through the JC that the Commission obtains the current name, address and email address of each public official who is required to file. When there is a change in who holds a position through resignation, appointment or election, the JC periodically updates their jurisdictional records and beginning in January of each year the JC is asked to update and verify the required filers in the EFS system. Any necessary changes or updates in EFS are due by February 15. [OAR 199-020-0005(2)]

As with other provisions in Oregon Government Ethics law, it is each public official's personal responsibility to ensure they comply with the requirement to complete and submit the SEI by April 15. Those public officials who must file an SEI are well served if the JC for their jurisdiction ensures that the Commission has the correct name and email address of the public official. The JC should ensure that each SEI filer has been advised of the reporting requirements. Each filer should also receive information as to the procedures the jurisdiction follows to assist the filer in meeting the SEI filing requirement.

Again, the requirement to file the SEI is the personal responsibility of each public official. Each public official should comply and file timely, as the civil penalties for late filing are \$10 for each of the first 14 days after the filing deadline and \$50 for each day thereafter until the aggregate penalty reaches the maximum of \$5,000. [ORS 244.350(4)(c)]

SEI Filing

NOTE: Only public officials who hold a position that is required to file, and who hold that position on April 15 of the year the SEI is due, must file an SEI.

SEIs are filed online through the Commission's Electronic Filing System (EFS). Notifications and instructions for e-filing will be sent to SEI filers electronically via email addresses initially supplied in EFS by the JC and updated when necessary.

The following is a brief description of the information requested in the SEI electronic filing. The information needed to complete the filing pertains to the previous calendar year.

- Name, address and a brief description of each business in which a position as officer or director was held by the filer or household member. [ORS 244.060(1)]

Name, address and a brief description of each business through which the filer or household member did business. [ORS 244.060(2)]

Name, address, and brief **description** of the **sources** (*not amounts*) of income for the filer and household members that represent 10 percent or more of the annual household income. [ORS 244.060(3)]

Example: An SEI filer resides only with a spouse and their annual household income from the prior year is derived from the spouse's job at Walmart, the spouse's retirement, and the public official's salary as an employee at a public university. The respective "sources" would be: "Walmart", "Social Security" and "XX University"; respective "descriptions" would be "spouse's wages", "spouse's retirement" and "filer's salary".

- Ownership interests held by the filer or household members in real property, **except for their principal residence**, located within the geographic boundaries of the jurisdiction in which the filer holds the position or seeks to hold. [ORS 244.060(4)(a) and (b)] **NOTE: SEI filers who serve statewide and members of the Legislative**

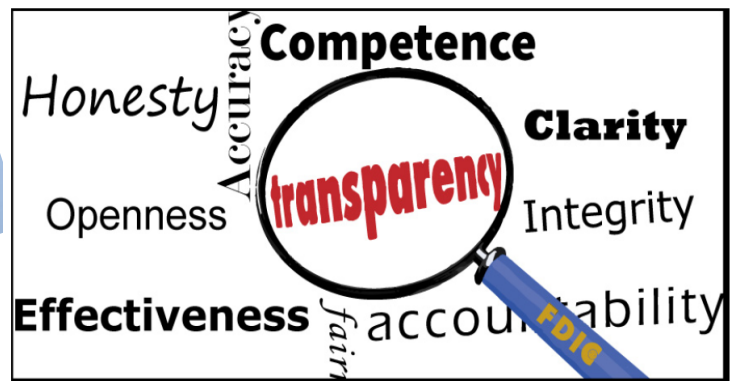
Assembly must report real property held within the entire state of Oregon. This applies to candidates for statewide office and the Legislative Assembly.

- Honoraria or other items allowed by ORS 244.042 that exceed \$15 in value given to the filer or household members. Include a description of the honoraria or item and the date and time of the event when the item was received. [ORS 244.060(7)] Remember that honorarium cannot exceed \$50. [ORS 244.042(3)(a)]
- Name of each lobbyist associated with any business with which the filer or household member is associated, unless the association is through stock held in publicly traded corporations. [ORS 244.090]
- If the public official received over \$50 from an entity when participating in a convention, fact-finding mission, trip, or other meeting as allowed by ORS 244.020(7)(b)(F), list the name and address of the entity that paid the expenses. Include the event date, aggregate expenses paid and the purpose for participation. [ORS 244.060(5) and ORS 244.100(1)] [Not required for candidates]
- If the public official received over \$50 from an entity when participating in a trade promotion, fact-finding mission, negotiations or economic development activities as allowed by ORS 244.020(7)(b)(H), list the name and address of the person that paid the expenses. Include the event date, aggregate expenses paid and nature of the event. [ORS 244.060(6)] [Not required for candidates]
 - **EXCEPTION:** Expenses paid by the public body to their own public officials need not be reported by the public official under ORS 244.060 [OAR 199-005-0035(4)].

The following is required if the information requested relates to an individual or business that has been doing, is doing or could reasonably be expected to do business with the filer's governmental jurisdiction, has a legislative or administrative interest in the filer's governmental jurisdiction, or over which the filer exercises any authority:

- Name, address and description of each source of income (taxable or not) that exceeds \$1,000 for the filer or a household member. [ORS 244.060(8)]
- Name of each person the filer or a household member owes or has owed \$1,000 or more in the previous calendar year. Include the date of the loan and the interest rate. Debts on retail contracts or with regulated financial institutions are excluded. [ORS 244.070(1)]
- Name, address and description of nature of each business in which filer or household member has beneficial interest over \$1,000 or investment held in stocks or securities over \$1,000. Exemptions include mutual funds, blind trusts, deposits in financial institutions, credit union shares and the cash value of life insurance policies. [ORS 244.070(2)]

- Name of each person from whom the filer received a fee of over \$1,000 for services, unless disclosure is prohibited by law or a professional code of ethics. [ORS 244.070(3)]



LEGAL EXPENSE TRUST FUND

The Oregon Government Ethics Commission can authorize a public official to establish a legal expense trust fund to be used to defray expenses incurred for a legal defense in any civil, criminal or other legal proceeding or investigation that relates to or arises from the course and scope of duties of the person as a public official. [ORS 244.205]

The provisions regarding the establishment of this fund are detailed in ORS 244.205 through ORS 244.221. If a public official is considering the need to establish a legal expense trust fund, these provisions should be reviewed. The Commission staff is available to provide guidance on the procedures. The following are some of the significant elements of a legal expense trust fund:

- A public official may only have one trust fund at any one time. [ORS 244.205(4)]
- The application to establish the fund must be submitted to the Commission for review and authorization. ORS 244.209 details what information and documents must accompany the application.
- The public official may act as the public official's fund trustee. [ORS 244.211(2)]
- Once authorized and established, any person may contribute to the fund. [ORS 244.213(1)]
- Contributions from a principal campaign committee are not allowed. [ORS 244.213(3)]
- Funds must be maintained in a single exclusive account [ORS 244.215].
- Quarterly reports of contributions and expenditures from the fund are required. [ORS 244.217]
- The fund may be terminated within six months after the legal proceeding for which the fund was established has been concluded. [ORS 244.219]
- When terminated, remaining funds must be returned to contributors on a pro rata basis. [ORS 244.221(1)]
- If the legal proceeding for which the fund was initiated resulted in any financial award or money judgment in favor of the public official, such moneys shall be distributed in the following order: outstanding legal expenses, to trust fund contributors on a pro rata basis, and to the public official or, if required by the trust agreement, to an organization exempt from taxation under section 501(c)(3) of the IRS Code. [ORS 244.221(2)]

Once established, can the public official solicit funds in order to pay for the cost of a legal defense?

Yes. An exception to the prohibited use of office provision explicitly allows a public official to solicit and accept funds for the official's legal expense trust fund. [ORS 244.040(2)(h)] Also, contributions to a legal expense trust fund are excluded from the definition of a "gift." [ORS 244.020(7)(b)(G)]

OREGON GOVERNMENT ETHICS COMMISSION

The Governor appoints all nine members of the Commission and each appointee is confirmed by the Senate. The commissioners are recommended as follows: [ORS 244.250]

- 2 Recommended by the Senate Democratic leadership
- 2 Recommended by the Senate Republican leadership
- 2 Recommended by the House Democratic leadership
- 2 Recommended by the House Republican leadership
- 1 Recommended by the Governor

The Commission members select a chairperson and vice chairperson annually. No more than three commissioners with the same political party affiliation may be appointed to the Commission to serve at the same time. The commissioners are limited to one four-year term, but if an appointee fills an unfinished term they can be reappointed to a subsequent four year term.

The Commission is administered by an executive director, who is selected by the Commission. Legal counsel is provided by the Oregon Department of Justice. Commission staff provide administration, training, guidance, issue written opinions and advice, and conduct investigations when complaints are filed with the Commission.

Training:

The Commission has designated training as one of its highest priorities. It has two staff positions to provide free training to public officials and lobbyists on the laws and regulations under its jurisdiction. Training is provided through presentations at training events, web-based training, informational links on the website, topical handouts and guidance offered when inquiries are received. Contact the Commission to obtain free training through our website at <https://www.oregon.gov/ogec/training/Pages/default.aspx>



Advice:



Questions regarding the Commission's laws, regulations and procedures are a welcome daily occurrence. Timely and accurate answers are a primary objective of the staff. All members of the Commission staff are cross-trained in the laws and regulations under the Commission's jurisdictions. Guidance and information is provided either informally, over the telephone at 503-378-5105, by e-mail at ogec.mail@oregon.gov, or in the following written formal advice and opinions:

- **Staff Advice:** ORS 244.284 provides for informal staff advice, which may be offered in several forms, such as in person, by telephone, e-mail or letter. In a letter of advice, the proposed, hypothetical or actual facts are restated as presented in

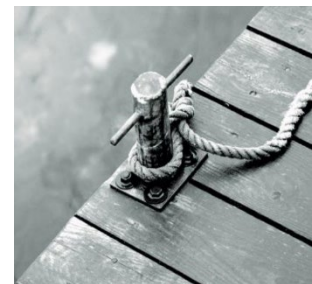
the request, along with the relevant statutes and administrative rules. The advice will discuss how the law applies to the questions asked or raised by the fact circumstances presented in the request.

- **Staff Advisory Opinion:** ORS 244.282 authorizes the executive director to issue a staff advisory opinion upon receipt of a written request. The Commission must respond to any request for a staff advisory opinion within 30 days, unless the executive director extends the deadline by an additional 30 days. The staff advisory opinion is issued in a letter that restates the proposed, hypothetical or actual facts presented in the written request and identifies the relevant statutes and administrative rules. The opinion will discuss how the law applies to the questions asked or raised by the fact circumstances presented in the request.
- **Commission Advisory Opinion:** ORS 244.280 authorizes the Commission to prepare and adopt by vote a Commission Advisory Opinion. Commission advisory opinions are reviewed by legal counsel before being adopted by the Commissioners. The opinion will identify the relevant statutes and administrative rules and will discuss how the law applies to the questions asked or raised by the fact circumstances provided in the request. The Commission must respond to any request for a Commission Advisory Opinion within 60 days, unless the Commission extends the deadline by an additional 60 days.

Public officials who request advice or formal opinions must describe the specific facts and circumstances that provide the basis for questions about how the Oregon Government Ethics law may apply. The facts and circumstances may be hypothetical or actual, but must be prospective, describing a proposed transaction or action, not one that has already occurred. If actual circumstances indicate that a violation may have already occurred, the staff cannot provide advice or an opinion because to do so could compromise the Commission's objectivity if a complaint were to be filed. As described below, whether a public official relied on Commission advice or opinions is relevant to sanctions, in the event a complaint is filed against the public official.

If a person requests, receives or relies on any of the advice or opinions authorized by ORS 244.280 through ORS 244.284, does that person have what is referred to as “safe harbor”?

There is no “safe harbor,” if the term is understood to mean that any person who relies on any advice or opinions offered by the Commission or the staff is protected from being a respondent to a complaint or from being found in violation of laws within the jurisdiction of the Commission.



There is, however, specific and conditional protection for any person who has requested and relied in good faith upon advice or an opinion from the Commission or its staff. The conditions and protection is as follows:

- The fact circumstances described in the request must not misrepresent, misstate or omit material facts.
- Reliance on the advice or opinion means that the action or transactions of the person were those described or suggested in the advice or opinion.
- The protection applies only during the penalty phase, after the Commission has determined that a violation has occurred. If there was reliance on staff advice or a Staff Advisory Opinion, the Commission may consider the reliance during the penalty phase. If reliance was on a Commission Advisory Opinion, the Commission may not impose a penalty.

The specific protections for the different forms of advice are as follows:

Staff Advice: If the Commission makes a finding that a public official violated provisions of law within its jurisdiction, and that public official acted in accordance with staff advice offered under the authority of ORS 244.284, the Commission may consider that information when sanctioning the violation. [ORS 244.284(2)] The Commission is not prevented from finding a violation, but the sanction imposed could be affected.

Staff Advisory Opinion: If the Commission determines that a public official violated provisions of law within its jurisdiction, and the public official acted in accordance with a staff advisory opinion under the authority of ORS 244.282, in sanctioning the violation, the Commission may consider whether the public official committed the violation when acting in reliance on the staff advisory opinion. [ORS 244.282(3)] The Commission is not prevented from finding a violation in these circumstances, but any sanction is limited to issuing a written letter of reprimand, explanation, or education, unless it finds that the person omitted or misstated material facts in the request for a staff advisory opinion.

Commission Advisory Opinion: The Commission may not impose a penalty on a person for any good faith action taken by the person while relying on a Commission Advisory Opinion, unless it is determined that the person who requested the opinion omitted or misstated material facts in the opinion request. [ORS 244.280(3)] For the Commission Advisory Opinion to be a factor in preventing the imposition of a penalty, it is important to understand that the circumstances described in the request must have been an accurate description of what occurred when the respondent committed the violation, and the actions of the respondent must have been those recommended or described in the Commission Advisory Opinion. The Commission is not prevented from finding a violation in these circumstances, but could be prevented from imposing a sanction.

Any person who has not requested advice or an opinion must be cautious when trying to apply advice or opinions offered to others. The advice and opinions given are based on and tailored to the specific fact circumstances presented in a request. Fact circumstances

vary from one situation to another and they vary from one public official to another. If a person reviews an opinion or advice issued to another for circumstances the person believes similar to those now met and relies on that advice, the person must ensure the similarity is sufficient for the application of law to be the same.

It is important to remember that the provisions of law apply to the individual actions of the person or public official. There are events or occasions when more than one public official may be present and participating in their official capacities. Depending on the circumstances and conditions for an event or transaction, the law may have a different application for one public official than for other public officials.

Published advice that the Commission has issued may be found at <https://www.oregon.gov/oec/public-records/Pages/Advice-and-Opinions.aspx>



Compliance:

The Commission has a program manager who oversees the management and administration of the various reports that are filed with the Commission. There are approximately 1,000 lobbyists who must file or renew their lobbying registrations every two years. These lobbyists, and their clients or employers, must also file lobbying activity expense reports every quarter. Additionally, there are approximately 5,500 public officials who must file the Annual Verified Statement of Economic Interest each April 15. The program manager and Commission staff are available by telephone or e-mail to provide assistance and answer questions about registration and filing requirements and procedures.

Complaint Review Procedures:

Investigations are initiated through a complaint procedure. [ORS 244.260 and ORS 171.778] Any person may file a signed, written complaint alleging that there may have been a violation of Oregon Government Ethics law, Lobbying Regulation or the executive session provisions of Oregon Public Meetings law. The complaint must identify the public official believed to have violated the law, and must state the person's reason for believing that a violation may have occurred and include any evidence that supports that belief. The complaint must identify and be signed by the person filing it. Anonymous complaints are not accepted. The executive director reviews the complaint for jurisdiction and sufficiency. If additional information is needed, the complainant is asked to provide that information.

Complaints are filed online via the “Complaint Form” found on the Commission’s website homepage at <https://www.oregon.gov/ogec/public-records/Pages/Complaints.aspx>. All complaints must be signed, either through an e-signature if submitted through the online complaint system, or an inked signature if filed by paper. NOTE: The name of the complainant is furnished to the subject of a complaint.

If there is reason to believe that a violation of laws within the jurisdiction of the Commission may have been committed, a case will be initiated upon receipt of a complaint. The Commission may also initiate a case on its own complaint by motion and vote. Before approving such a motion, the public official against whom the action may be taken is notified and given an opportunity to appear before the Commission at the meeting when the matter is discussed or acted upon.

When a case is initiated, the public official against whom the allegations are made is referred to as the respondent. The respondent is notified of the complaint and provided with the information received in the complaint and the identity of the complainant. Whether based on a complaint or a motion by the Commission, the initial stage of the case is called the preliminary review phase. The time allowed for this phase is limited to 30 days (135 days for lobby cases) and ends when the executive director finalizes the preliminary review report.

A court may enjoin the Commission from continuing its inquiry during the preliminary review phase. Also, if a complaint is made against a candidate within 61 days of an election, the candidate may make a written request for a delay. [ORS 244.260(4)(a)]

During the preliminary review phase, the Commissioners and staff can make no public comment on the matter other than to acknowledge receipt of the complaint. It is maintained as a confidential matter until the Commission meets in executive session to consider whether to dismiss the complaint or find cause to conduct an investigation. Following the Commission’s consideration of the preliminary review report in executive session, the case file is subject to public disclosure.

If the Commission votes to dismiss the complaint, the matter is concluded and both the respondent and complainant are notified. If cause is found to investigate, then an investigatory phase begins. The investigatory phase is limited to 180 days. The investigatory phase may be suspended during a pending criminal investigation if the Commission determines that its own investigation cannot be adequately completed until the criminal investigation is complete, or if a court enjoins the Commission from investigation.

During the investigatory phase, Commission investigators will solicit information and documents from the complainant, respondent, and other witnesses and sources that are identified. Before the end of the 180 day investigatory period, an investigation report will be prepared. The investigation report is reviewed by the Commission’s legal counsel before being finalized by the executive director. The investigation report is presented to the Commission in the public session portion of its meeting. The Commission will then

consider the results of the investigation and generally will vote to either dismiss the complaint or make a preliminary finding that a violation of law was committed by the respondent. The preliminary finding of a violation is based on what the Commission considers to be a preponderance of evidence sufficient to support such a finding.

If a preliminary finding of violation is made, the respondent will be offered the opportunity to request a contested case hearing. At any time, either during the investigative phase or after a preliminary finding of violation is made, the respondent is encouraged to negotiate a settlement with the executive director, who represents the Commission in such negotiations. Most cases before the Commission are resolved through a negotiated settlement, with the terms of the agreement set forth in a Stipulated Final Order.

The Commission has a variety of sanctions available after making a finding that a violation occurred. Sanctions range from letters of education, reprimand, or explanation, to civil penalties and forfeitures. The maximum civil penalty that can be imposed for each violation of Oregon Government Ethics law is \$5,000, except for violations of ORS 244.045 (regulation of subsequent employment) where the maximum penalty is \$25,000 and for “willful” violations of ORS 244.040 (the “prohibited use of position or office” provision) where the maximum penalty is \$10,000. An additional civil penalty may be assessed equal to twice the financial gain that a respondent realized from a violation. Each violation of the executive session provisions in ORS 192.660 is subject to a maximum fine of \$1,000. Any monetary sanctions paid are deposited into the State of Oregon General Fund.

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Oregon

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Item 4.

February 16, 2016

via email and USPS

Kurt Tackman
Workforce Investment Division
WorkSource Oregon – CCWD/HEC
255 Capitol St NE, Third Floor
Salem, OR 97310

Dear Mr. Tackman,

Thank you for contacting the Oregon Government Ethics Commission (OGE). Your letter asked whether there would be a conflict of interest for members of Workforce Boards who also hold other positions as elected officials or on the boards of other public or private entities. This analysis and advice is being offered under the authority provided in ORS 244.284 as guidance on how the current provisions of Oregon Government Ethics law may apply to the specific circumstances you have presented.

Facts as presented to the Oregon Government Ethics Commission:

Under the federal Workforce Innovation and Opportunity Act and ORS 660.300-364, local Workforce Boards receive and oversee state and federal funds for workforce development. City and county governments form consortia to appoint Workforce Boards, account for funds, and approve plans, budgets, and financial decisions.

There are nine Workforce boards in Oregon. These boards are composed of unpaid members who are appointed by local elected officials. Some of the board members are themselves elected officials. The Workforce Boards hold competitive procurements to choose local service providers.

The questions you asked the OGE are:

1. If an Oregon local elected official (LEO) sits on the Workforce Board or one of its committees and also sits on the board of a public or nonprofit entity that is competing for workforce funding, must that LEO declare a conflict of interest and refrain from participating in the procurement process?

2. If an Oregon local elected official sits on the Workforce Board or any of its committees, panels, boards, etc., and also sits on the board of a public or private entity that has been conditionally awarded a contract by the Workforce Board, must that LEO declare a conflict of interest and refrain from participating in review and approval of that contract award by the committee, panel, board, etc.?

Analysis:

Who is a Public Official?

Under Oregon Government Ethics law, any person who serves the State of Oregon, any of its subdivisions, or any other public body as an elected official, appointed official, employee or agent is a public official, regardless of whether the person is compensated for the services. ORS 244.020(15) (2015).

Among other entities, public bodies include such special government bodies as intergovernmental organizations and entities created by statute, ordinance, or resolution that is not a part of state government or local government. See ORS 174.108 and ORS 174.117. It appears that the Workforce Boards are public bodies for the purposes of Oregon Government Ethics law.

Because the Workforce Boards are public bodies created under the Workforce Innovation and Opportunity Act and ORS 660.300-364, any person sitting on a Workforce Board as an appointed member or working for a Board is a public official under Oregon ethics law. Each public official must comply with the conflict of interest provisions of ORS Chapter 244. This is true whether or not the person is an elected official in another capacity.

When Does a Public Official have a Conflict of Interest?

The mere fact that a public official holds more than one role does not in itself create a conflict of interest. A public official has a potential or an actual conflict of interest that must be declared when the public official is called upon to take an action or make a decision or recommendation in their capacity as a public official, if the effect of that action, decision or recommendation could or would be to the private pecuniary interest of the public official, the public official's relative, or a business with which the public official or the public official's relative is associated. ORS 244.020(1),(15).

In the context of the Workforce Boards, conflicts of interest are likely to arise when a member of a Workforce Board participates in the procurement process if the outcome of the procurement process could affect his or her personal financial interest, that of a relative, or that of a business with which the board member or a relative are associated. Conflicts of interest are also likely to arise when a member of a Workforce Board participates in reviewing or approving a contract, if the contract being considered is one

that could or would create a financial benefit for the public official, a relative, or a business with which the board member or a relative is associated. For example, the funding being awarded may directly benefit a public official or a relative (e.g. by funding a salary) or the entity that is seeking the funding or contract may be a business with which the member of the Workforce Board or a relative is associated.

A. What is a Business with which a Public Official is Associated?

ORS 244.020(3) defines a business with which a person is associated. It includes:

- (a) Any private business or closely held corporation of which the person or the person's relative is a director, officer, owner or employee, or agent or any private business or closely held corporation in which the person or the person's relative owns or has owned stock, another form of equity interest, stock options or debt instruments worth \$1,000 or more at any point in the preceding calendar year;
- (b) Any publicly held corporation in which the person or the person's relative owns or has owned \$100,000 or more in stock or another form of equity interest, stock options or debt instruments at any point in the preceding calendar year;
- (c) Any publicly held corporation of which the person or the person's relative is a director or officer; or
- (d) For public officials required to file a statement of economic interest under ORS 244.050, any business listed as a source of income as required under ORS 244.060(3).

ORS 244.020(2) specifically excludes from the definition of business any income-producing not-for-profit corporation that is tax exempt under section 501(c) of the Internal Revenue Code, if the public official or relative of the public official is associated with that entity only as a member or board director or in another unpaid capacity. A non-profit for which a public official or a relative works in a compensated position is a business with which the public official or the relative is associated; actions, decisions, or recommendations by the public official in his or her official capacity that might affect the financial interest of that non-profit would constitute a conflict of interest under Oregon Government Ethics law.

A public body which a public official serves as an elected or appointed official or as an employee is not a business with which a public official is associated. (Note that a Workforce Board member may still have a conflict of interest based on a personal pecuniary benefit or that of a relative if, for example, they are called upon to make a decision about a project that would fund their relative's salary or bonus.)

B. Types of Conflicts of Interest

Absent a specific set of circumstances in which a member of a Workforce Board is called upon to participate in an official action, it is difficult to determine whether conflicts of interest faced by Workforce Board members would be actual or potential.

Whether the conflict of interest is actual or potential is determined by the certainty of the financial impact. An actual conflict of interest occurs when a public official participates in an official action that would have a direct and specific financial impact on that official, the official's relative or any business with which the official or a relative is associated. ORS 244.020(1). A potential conflict of interest occurs when a public official's action, decision or recommendation could have a financial impact on the official, the official's relative or any business with which the official or a relative is associated. ORS 244.020(13).

A public official such as a Workforce Board member, might, for example, have a potential conflict of interest when making a decision to open a procurement process when it is possible that a business with which he or a relative is associated may apply. Similarly, he might have a potential or actual conflict, depending on the process, when participating in the scoring and evaluation of a response to an RFP when one of the submissions comes from an entity that is a business with which he is associated. He would have an actual conflict when called upon to participate in a final vote on whether to award a contract to that entity or even a final vote on whether to award the contract to another entity.

C. Methods of Handling Conflicts

When a public official – in this case, any member of a Workforce Board – is met with a conflict of interest, the public official must follow the methods for handling conflicts set out in ORS 244.120(2). This provision of Oregon Government Ethics law applies to elected public officials as well as appointed public officials serving on a board or commission.

When met with a potential conflict of interest, a public official shall “announce publicly the nature of the potential conflict prior to taking any action thereon in the capacity of a public official.” ORS 244.120(2)(a).

When met with an actual conflict of interest, a public official shall “announce publicly the nature of the actual conflict and... refrain from participating as a public official in any discussion or debate on the issue out of which the actual conflict arises or from voting on the issue.” ORS 244.120(2)(b). There is an exception to this in ORS 244.020(2)(b)(B) if the public official's vote is necessary to meet a requirement of a minimum number of votes to take official action, in which case the public official, after declaring the nature of the actual conflict of interest, is eligible to vote on the matter, but may not participate as a public official in any discussion or debate on the issue.

Note that the declaration of the nature of the conflict should be made prior to any discussion on that matter, on each occasion that the matter arises.

Public officials may choose, in the interest of transparency, to announce their various interests even when not required to declare a conflict of interest under Oregon Government Ethics law. For example, a Workforce Board member participating in awarding a contract to a non-profit on whose board he sits might choose to announce that involvement and, additionally, recuse himself from the decision-making process. Policies of the Workforce Investment Division, local government or consortia, or individual Workforce Boards might also require that type of announcement or recusal.

Conclusion:

Every public official is individually responsible to comply with Oregon Government Ethics law. Each member of a Workforce Board will have to determine whether they have a conflict of interest when a decision comes before the board and how to handle that conflict of interest. Any member of a Workforce Board who is concerned about whether he or she is met with a conflict of interest and what actions to take when met with a conflict of interest is welcome to contact the Oregon Government Ethics Commission to ask for advice on the specific situation.

This analysis does not address any policies that the Workforce Investment Division, local government or consortia, or individual Workforce Boards may have in place, which may be more restrictive than Oregon Government Ethics law.

If you have any additional questions regarding the application of Oregon Government Ethics law please feel free to contact me directly.

Sincerely,



Ronald A. Bersin
Executive Director

RAB/ms

*****DISCLAIMER*****

This staff advice is provided under the authority given in ORS 244.284(1). This opinion offers guidance on how Oregon Government Ethics law may apply to the specific facts described in your request. This opinion is based on my understanding and analysis of the specific circumstances you described and should not be applied to circumstances that differ from those discussed in this request.



CITY OF OREGON CITY

Staff Report

625 Center Street
Oregon City, OR 97045
503-657-0891

To: City Commission
From: City Manager Tony Konkol

Agenda Date: 07/11/2023

SUBJECT:

Update on City Projects

BACKGROUND:

The City Commission has requested that an update on the status of the following projects be provided at a work session on a monthly basis.

1. Charter Parks
Ermatinger House was approved as a Charter Park by the City Commission. The City Commission voted to not designate Dement Park as a Charter Park. Staff is preparing to bring the McLoughlin Promenade to the City Commission for discussion at the August 8, 2023 work session. The McLoughlin Promenade survey has been completed. The survey identified several potential existing encroachments into the Promenade property which will be discussed during the work session.
2. Cayuse 5 Memorial
City staff continues to work with The Confederated Tribes of the Umatilla Indian Reservation (CTUIR) in the design, location, and interpretation of the Cayuse 5 memorial, which is an existing City Commission goal for 2021-2023. Staff have met regularly with representatives from both the CTUIR and the Confederated Tribes of Grand Ronde (CTGR) to discuss and review the proposed project.

CTUIR staff are finalizing the interpretive signage language and design, which will be reviewed by the CRC once consultation with the cultural resource staff at the CTGR is completed. Staff is working with the City Commission and CTUIR staff on dates for a potential joint meeting the CTUIR Tribal Council.
3. Courthouse
There has been no change in the project since the May 2023 update. City staff worked to support efforts by the Downtown Oregon City Association to apply for a Main Street grant to focus on the Courthouse located in downtown Oregon City. The grant required the property owner, which is Clackamas County, to sign

the grant application, which unfortunately they did not agree to do. At this time there is no specific work being performed related to the future of the existing courthouse.

4. Tumwata Village

Willamette Falls Trust and Portland General Electric have signed a Feasibility and Cooperation Agreement enabling the Trust to assess a portion of PGE property on the island on the west side of the Willamette Falls for a project intended to return public access to the area.

In May staff completed a 4-hour site visit with the CTGR staff and consultant team to discuss the demolition that is occurring on the site and begin to discuss the proposed amendments proposed to implement the Tumwata Village Plan for the property. The site visit and discussion focused on infrastructure, design details, development phasing, and an introduction to the goals and objectives of CTGR for the redevelopment of the property. CTGR staff and their consultants have been meeting with City staff to understand specific technical infrastructure issues.

Staff have been meeting monthly with representatives from the Confederated Tribes of Grand Ronde (CTGR) to discuss on-going site work as well as future land use and development plans for the Tumwata Village Plan. CTGR staff has been working with the CTGR Tribal Council and Tribal members to finalize the Tumwata Village Plan. Once approved, the Tumwata Village Plan will be presented to the city and the public.

5. Canemah ROW issues

There has been no change in the project since the May 2023 update. The Canemah ROW issues will be brought before the City Commission at a future work session to discuss how to move forward with this project.