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November 7, 2024

Via email to: gerickej@milwaukieoregon.gov

Mr. Justin Gericke
City Attorney
City of Milwaukie
10722 SE Main St.
Milwaukie, OR 97222

Re: Response to Letter of October 24, 2024

Dear Mr. Gericke:

This office has been asked to provide the City of Milwaukie a response to the October 24, 2024, letter sent by Mayor Batey and Council President Massey to the NCPRD Board of Directors. The District appreciates the outreach from the City on the important issue of Phase III improvements to Milwaukie Bay Park.

The City's letter states that "the validation petition currently under consideration by the Court of Appeals is not related to the Milwaukie Bay Park project." While City's letter attempts to separate Phase III work from the City's litigation against the District, however, unfortunately the two issues are inseparable.

The District cannot agree to any financial investment in Phase III construction when it is unsettled as to how Milwaukie can withdraw from the District. This question is not theoretical; Milwaukie has long indicated that it may leave the District, and filed the pending litigation solely for a legal determination that any withdrawal would be pursuant to a statutory framework that negatively impacts District resources and finances. The financial impact of how Milwaukie withdraws necessarily informs any investment the District can make for Phase III of Milwaukie Bay Park. This impact will not be determined until either the Court of Appeals issues its decision, or Milwaukie withdraws its pending appeal.

In addition to the conclusion of the pending litigation, revisions to the Cooperative IGA between the parties are also necessary. We note that in 2022 the District offered to enter in an amended IGA with the City that left the statutory basis for withdrawal silent, but the

City refused to agree to this provision. There are a number of issues that will need to be addressed for the parties to have an updated and equitable working agreement. We assume your position remains the same with respect to our proposed amended IGA, and that you are proceeding with your appeal which is set for oral argument on December 5, 2024. If the City's position has changed on these issues, please let us know. In the meantime, the District looks forward to, meeting with the Mayor and other city representatives and listening to any proposals they may have after the Court of Appeals hearing in December.

Sincerely,



Jane E. Vetto
County Counsel



Jeffrey D. Munns
Assistant County Counsel