



Dallas City Council Agenda

Kenneth L. Woods, Jr., Presiding

Monday, November 4, 2024

7:00 PM

Dallas City Hall, 187 SE Court St. Dallas, OR 97338

All persons addressing the Council will please use the table at the front of the Council. All testimony is electronically streamed and recorded via the City of Dallas YouTube Channel:

<https://www.dallasor.gov/community/page/dallasyoutube>

AGENDA ITEM	RECOMMENDED ACTION
1. ROLL CALL, PLEDGE OF ALLEGIANCE	
2. INTRODUCTIONS, RECOGNITIONS, PROCLAMATIONS	
3. PUBLIC COMMENT (SEE PAGE 2 FOR MORE INFORMATION) <i>This time is provided for citizens to comment on municipal issues and any agenda items other than public hearings.</i> <u>To submit public comment by live telephone, please call:</u> +1 253 215 8782 MEETING ID: 213 855 0622 *We encourage you to be logged into the public comment queue by 7:00pm*	
4. CONSENT AGENDA <i>The following items are considered routine and will be enacted by one motion. There will be no separate discussion of these items unless a Council member so requests, in which case the item will be removed from the Consent Agenda and considered separately.</i>	
a) Approve the October 21, 2024 Work Session Minutes p.3 b) Approve the October 21, 2024 City Council Meeting Minutes p.4	MOTION
5. ITEMS REMOVED FROM CONSENT AGENDA	
6. REPORTS OR COMMENTS FROM MAYOR AND COUNCIL MEMBERS	
7. REPORTS FROM CITY MANAGER AND STAFF a) Highways 22 and 51 Interchange Project Update p.6 b) FEMA Biological Opinion: Pre-implementation Compliance Measures p.28	
8. SECOND READING OF ORDINANCES	
a) Ordinance No. 1900 relating to illegal stormwater discharges and illicit stormwater connections; and adding new provisions to Chapter 4 of the Dallas City Code p.41	ROLL CALL VOTE
9. OTHER BUSINESS	
10. ADJOURNMENT	

Our Mission: We are a welcoming, safe and livable community dedicated to people and business.

COUNCIL

Mayor

Kenneth L Woods, Jr.

Council President

Michael Schilling

Councilor

Nancy Adams

Councilor

Carlos Barrientos

Councilor

Larry Briggs

Councilor

Kirsten Collins

Councilor

Kim Fitzgerald

Councilor

Micah Jantz

Councilor

David Shein

Councilor

Debbie Virden

CITY STAFF

City Manager

Brian Latta

Asst. City Manager

Emily Gagner

City Attorney

Lane Shetterly

Police Chief

Tom Simpson

Fire & EMS Chief

April Wallace

Economic & Community

Development Director

Charlie Mitchell

Public Works Director

Gary Marks

Library Director

Mark Johnson

Finance Director

Cecilia Ward

City Recorder

Kim Herring



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Watch a Dallas City Council Meeting or Planning Commission Meeting Live on Youtube

Visit: www.dallasor.gov/community/page/dallasyoutube

Submit public testimony at a Dallas City Council Meeting or Planning Commission Meeting by Phone

We encourage you to be logged into the public comment queue by 7:00PM to ensure your comments will be received

Step 1: Dial: **+1 (253) 215-8782**

Step 2: Enter Meeting ID: **213 855 0622**

Step 3: Press **#**. This will set your participant ID as your telephone number.

Helpful Tips:

- Make sure to call in before the meeting start time
- You will be asked to speak during the public comment portion of the meeting (See page 1 of the meeting agenda). You will be called upon by phone number once the public comment period begins. All testimony will be electronically recorded.
- Do not use your speakerphone when calling to submit public comments as it may affect call quality.
- Turn off the volume on YouTube if you choose to watch the video live on YouTube while simultaneously commenting via telephone, otherwise you may experience audio feedback.
- Press ***6** to unmute yourself when asked by the recording secretary or presiding officer.



**MEETING MINUTES
DALLAS CITY COUNCIL WORK SESSION
187 SE COURT ST, DALLAS OR 97338**

Monday, October 21, 2024

1 Mayor Kenneth L. Woods, Jr. called the City Council Work Session to order on October 21,
2 2024 at 6:00 pm.

3 **ROLL CALL**

4 **Councilors Present:** Council President Michael Schilling, Councilor Nancy Adams, Councilor
5 Carlos Barrientos, Councilor Larry Briggs, Councilor Micah Jantz, and Councilor David Shein

6 **Mayor or Councilors Excused:** Councilor Kirsten Collins, Councilor Kim Fitzgerald, and
7 Councilor Debbie Virden

8 **Also Present:** Mayor Kenneth L. Woods, Jr., Assistant City Manager Emily Gagner, City Attor-
9 ney Justin Thorp, Economic & Community Development Director Charlie Mitchell, Public
10 Works Director Gary Marks, Library Director Mark Greenhalgh-Johnson and City Recorder Kim
11 Herring

12 **Parks & Recreation Annual Update**

13 Jennifer Ward, Administrative Support Services Manager, presented the annual report for the
14 Parks Department and the Aquatic Center. The Japanese Garden is nearing completion and there
15 will be a ribbon cutting on Saturday, November 2nd at 10:00 am. Staffing levels were highlighted
16 as well as participation levels at the Aquatic Center.

17 **Library Tour**

18 Mark Johnson, Library Director, took the council and staff on a tour of the Library. Ms. Gagner
19 reminded council that this was an informational tour of the facility and no decisions of any kind
20 would be made during the tour.

21 **OTHER BUSINESS**

22 **ADJOURNMENT:** 6:28 pm



**MEETING MINUTES
DALLAS CITY COUNCIL
187 SE COURT ST, DALLAS, OR 97338**

Monday, October 21, 2024

1 Mayor Kenneth L. Woods, Jr. called the City Council meeting to order on Monday, October 21,
2 2024 at 7:00 pm.

3 **ROLL CALL**

4 **Councilors Present:** Council President Michael Schilling, Councilor Nancy Adams, Councilor
5 Carlos Barrientos, Councilor Larry Briggs, Councilor Kim Fitzgerald, Councilor Micah Jantz,
6 and Councilor David Shein

7 **Mayor or Councilors Excused:** Councilor Kirsten Collins, and Councilor Debbie Virden

8 **Also Present:** Mayor Kenneth L. Woods, Jr., Assistant City Manager Emily Gagner, City Attor-
9 ney Justin Thorp, Police Chief Tom Simpson, Deputy Fire Chief Josh Rogers, Economic &
10 Community Development Director Charlie Mitchell, Public Works Director Gary Marks, and
11 City Recorder Kim Herring

12 **PUBLIC HEARINGS**

13 **a) Application for annexation and zone change of property on SW Cherry at 11th Ave-**
14 **nue**

15 Mayor Woods opened the public hearing at 7:01pm. No conflicts or ex parte contacts
16 were declared. Chase Ballew, City Planner, presented the staff report. Jed Bennet, SBC
17 Homes, presented information as the applicant. There was no public comment or rebuttal.
18 The hearing was closed at 7:08pm. Councilor Adams made a motion to adopt the recom-
19 mendation of the Planning Commission to approve the annexation and zone change, and
20 direct the City Attorney to prepare an Ordinance amending the Dallas Zoning Map to re-
21 flect this action. Councilor Briggs seconded the motion. The vote was taken and the mo-
22 tion passed with a vote of 7-0.

23 **b) Application for annexation and zone change of property at 1080 West Ellendale Av-**
24 **enue**

25 Mayor Woods opened the public hearing at 7:10pm. No conflicts or ex parte contacts
26 were declared. Mr. Ballew presented the staff report. Representing the applicant was
27 Charles Fisher, Locke Engineers, who presented information regarding the application.
28 There was no public comment or rebuttal. The hearing was closed at 7:22pm. Councilor
29 Adams made a motion to adopt the recommendation of the Planning Commission to ap-
30 prove the annexation and zone change, and direct the City Attorney to prepare an Ordi-
31 nance amending the Dallas Zoning Map to reflect this action, on the condition that the
32 developer shall enter into a development agreement to pay 3.1% of the total project costs
33 to improve the intersection of Ellendale & Levens in such a way as to mitigate the signif-
34 icant effect of the proposed zone change. Councilor Shein seconded the motion. The vote
35 was taken and the motion passed with a vote of 7-0.

36 **PUBLIC COMMENT**

37 Ann Hurd, Friends of the Dallas Aquatic Center, gave an update regarding the fundraising efforts
38 and the upcoming lifeguard class.

39 Robert Greenway provided comment on general city business.

40 **CONSENT AGENDA**

- 41 **a) Approve the October 7, 2024 Work Session Minutes**
- 42 **b) Approve the October 7, 2024 City Council Meeting Minutes**
- 43 **c) September 2024 Financial Report**

44 Councilor Shein made a motion to approve the Consent Agenda as presented. Councilor Fitzger-
45 ald seconded the motion. The vote was taken and the motion passed with a vote of 7-0.

46 **REPORTS OR COMMENTS FROM MAYOR AND COUNCIL MEMBERS**

1 Council President Schilling gave a brief overview to the Council of the upcoming City Manager
2 Evaluation. Ms. Gagner will be emailing the forms out to the Council and they can be returned
3 via email no later than November 15th.

4 Mayor Woods gave a brief update on his attendance at the League of Oregon Cities Conference
5 in Bend.

6 **REPORTS FROM CITY MANAGER AND STAFF**

7 **a) Fleet Services Intergovernmental Agreement with Confederated Tribes of Grand**
8 **Ronde**

9 Gary Marks, Public Works Director, presented a staff report outlining the proposed Fleet
10 Services agreement between the City and the Confederated Tribes of Grand Ronde for
11 their fire and medic response vehicles. This is the City's standard contract. Council Pres-
12 ident Schilling made a motion to authorize the City Manager to sign the Intergovernmen-
13 tal Agreement with the Confederated Tribes of Grand Ronde for fleet services. Councilor
14 Shein seconded the motion. The vote was taken and the motion passed with a vote of 7-0.

15 **b) Americans with Disabilities Act (ADA) Curb Ramp Project Agreement with the**
16 **State of Oregon (via Oregon Department of Transportation)**

17 Mr. Marks presented a staff report outlining the ODOT Project to design and build ADA-
18 compliant curbs ramps at various locations along Kings Valley Highway and Dallas-
19 Rickreall Highway within the City. This project is financed by federal and state funds.
20 This agreement authorizes ODOT to enter city right-of-way and property necessary to
21 execute the project. Councilor Schilling made a motion to authorize the City Manager to
22 sign the Intergovernmental Agreement establishing terms for the Oregon Department of
23 Transportation (ODOT) to build ADA ramps on State Highways within the city limits of
24 Dallas. Councilor Briggs seconded the motion. The vote was taken and the motion passed
25 with a vote of 7-0.

26 **FIRST READING OF ORDINANCES**

27 **a) Ordinance No. 1900 – Relating to illegal stormwater discharges and illicit storm-**
28 **water connections; and adding new provisions to Chapter 4 of the Dallas City Code**

29 Ms. Gagner introduced Ordinance No. 1900 and corrected the title to indicate that it is
30 Chapter 4 of the Dallas City Code that is being amended. The corrected ordinance will
31 be presented at the second reading. The Public Works Committee has recommended to
32 the City Council that this ordinance be adopted. Mayor Woods declared that Ordinance
33 No 1900 passed the first reading.

34 **SECOND READING OF ORDINANCES**

35 **a) Ordinance No. 1898 – Amending Dallas City Code Sections 6.500, 6.505, 6.525 and**
36 **6.532 and adding new provisions relating to non-compliant vehicles**

37 Ms. Gagner presented the staff report. Mayor Woods called for a roll call vote. The vote
38 was taken and Ordinance No. 1898 passed with a vote of 7-0.

39 **b) Ordinance No. 1899 – Changing the zoning designation of a parcel of real property**
40 **owned by Polk Community Development Corporation from Residential Low Densi-**
41 **ty to Residential High Density**

42 Ms. Gagner presented the staff report. Mayor Woods called for a roll call vote. The vote
43 was taken and Ordinance No. 1899 passed with a vote of 7-0.

44 **ADJOURNMENT: 7:48 pm**


45 **Read and approved this 4th day of November 2024.**

46
47 _____
48 **Mayor**

49
50 _____
51 **City Manager**



**CITY COUNCIL
STAFF REPORT**

MEETING DATE: November 4, 2024
AGENDA ITEM NO. 7.a
TOPIC: Highways 22 and 51 Interchange Project Update
PREPARED BY:  Brian Latta, City Manager
ATTACHMENTS: None

RECOMMENDED ACTION:

None. The representatives from the Oregon Department of Transportation will present on the plan and status of the Highways 22 and 51 interchange project.

BACKGROUND:

Highways 22 and 51 intersect roughly eight miles east of Dallas. Thousands of travelers and commuters from Dallas drive through this intersection daily. This intersection has been the location of many accidents, including fatalities, for many years. The Mid-Willamette Valley Area Commission of Transportation has recognized this intersection as needing safety improvements, and has recommended such improvements to the Oregon Transportation Commission. Planning work and designs have been in the progress for several years, but no physical improvements to the intersection have been made.

Mayor Woods invited representatives from the Oregon Department of Transportation to come to the Dallas City Council and to give a status update on the work to make safety improvements to this intersection. City Councilors have provided written questions to the presenters ahead of the meeting and will have the opportunity to ask additional questions at the meeting.

SUMMARY TIMELINE:

11/4/2024 – ODOT representatives to give a presentation and status update on the Highways 22/51 interchange project.

FISCAL IMPACT:

Not applicable

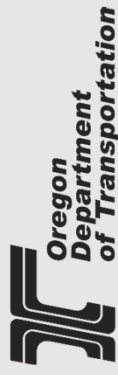
RECOMMENDED MOTION:

None. Information sharing only.

We are a welcoming, safe and livable community dedicated to people and business

OR 22: Rickreall Road to Doaks Ferry Road NW

November 4, 2024 – City of Dallas Meeting



Introductions

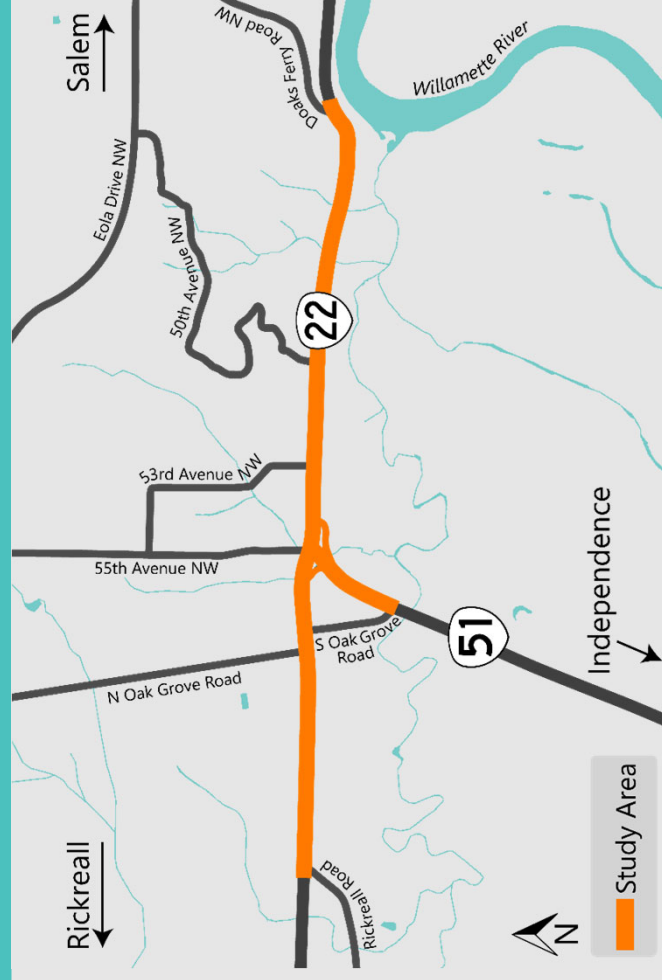
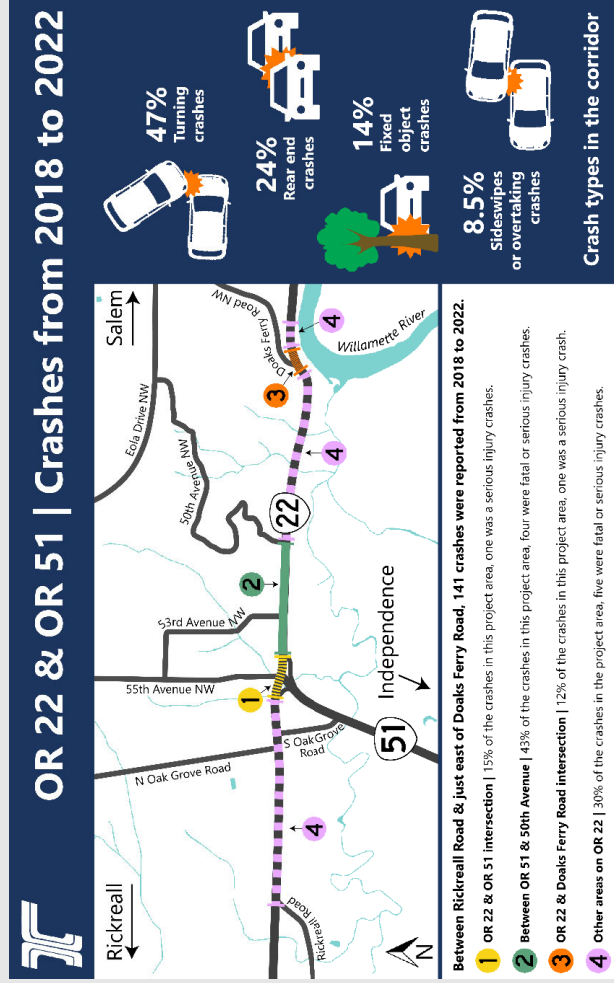
Presentation by:

- Kumar Rethnasamy, ODOT Project Manager
- Anna Henson, ODOT Area 3 Manager
- Ed Chamberland, David Evans Project Manager



Project Background

- What is the purpose of this project?



- What are the project limits?

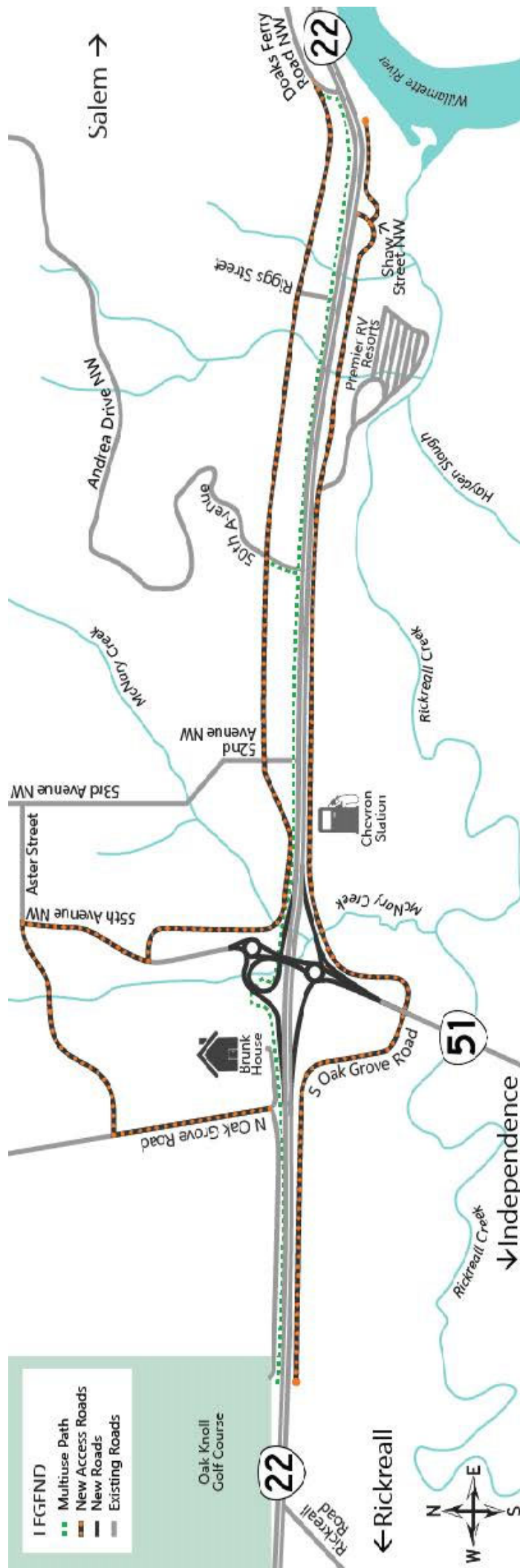
What are we doing now?

- We're reviewing the Value Engineering options.
- We will be doing an Environmental Review.
- We're working on Immediate Safety Improvements.
- We're funded only for design.

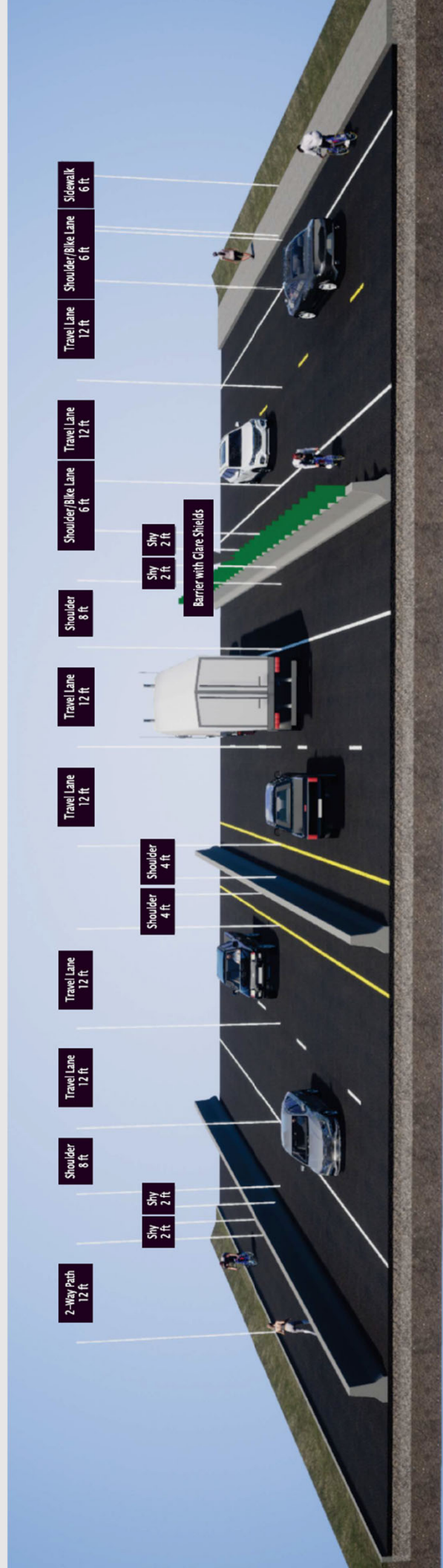
Schedule



Project Design Layout



Proposed OR22 Cross Section Includes South side Frontage Rd and Multiuse Path.



(Facing east)
MULTI-USE PATH

(Facing east)
OR22 MAINLINE

(Facing east)
OR22 SE FRONTAGE / SE-2 & SE-1A

Value Engineering

- In May 2024 we confirmed our layout of the interchange.
- In July 2024 we undertook a value engineering study
- A process of looking at ways to save money without compromising the purpose of the project.
- There were 22 suggestions that came from the report which we are working through at the moment.

Environmental Review

- A review that considers the proposal's purpose, alternatives, and the environment it impacts.
- It will also review the benefits and impacts of the proposed project.
- How the project impacts resources such as;
 - Brunk House,
 - Businesses and Residents,
 - McNary Creek and other waterways

Immediate Safety Improvements

- Restricting Left turns out of OR51 onto the OR22
- Converting 55th to Right in Right out (similar to Doaks Ferry Road)
- Improving signing and reducing sign clutter
- Renewed striping



Next Steps

- During our VE study we are looking into some alternatives that improve safety without full access control.
 - Lower cost solutions
- Determine if any of the VE study options will change the project design layout and the environmental process.
- Implement the immediate safety improvements as soon as possible.

Questions

- 1. What is holding up the construction for the new interchange?
 - Need to complete the VE Analysis work
 - Work through our NEPA process
 - Finish design on final solution
 - Need to find construction funding
- 2. What can we do to help speed the funding?
 - Advocate to your legislators
 - Ask cities and counties for support through MWACT

Questions

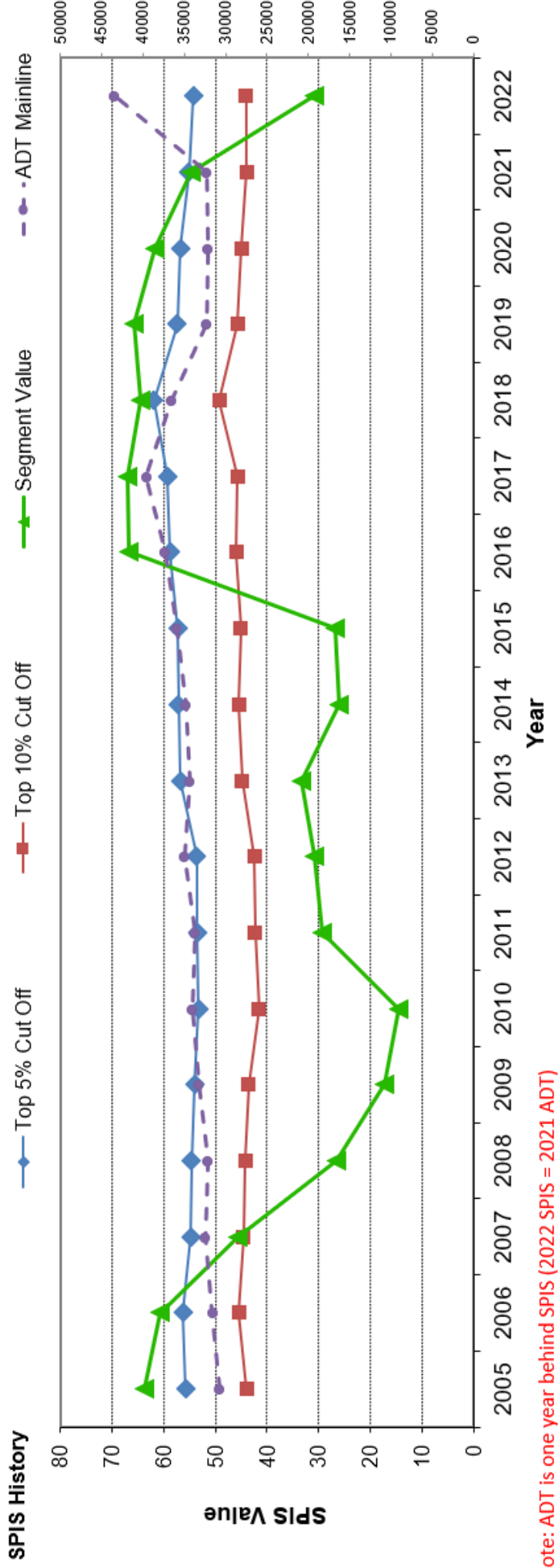
- 3. Can we reduce the speed limit to help until the new interchange is installed? Need to complete design
 - Speed zones in Oregon are established by statute (i.e 20 mph school zones) or through an investigation process.
 - Most rural highways (not freeways) in western Oregon are signed at 55 mph. ODOT may impose a lower speed limit for communities that justify a lower speed based on roadside culture.
 - Highway 22 roadside culture and context. It is wide and open
 - ODOT conducted a speed zone study in 2023 and the report showed that 90% of the traffic is exceeding the posted 55 mph speed limit. Enforcement of the posted speed is needed.

Questions

- 4. Can we obtain funding for state police and county sheriff to increase patrols?
 - Both Polk County Sheriff OSP have applied and been awarded for grants for overtime work for enforcement work.
 - ODOT is working with these two agencies along with the city of Salem police to coordinate a high visibility enforcement operation.
- 5. Is there a traffic control plan to mitigate accidents prior to the completion of the overpass?
 - The immediate safety improvements,

Questions

- 6. Where does this intersection (22/51) rate as far as dangerousness on Oregon state highway?
 - The Safety Priority Index System (SPIS) is used to flag high crash locations in the state. SPIS scores every 0.10 mile segment of our state highways and local roads based on number of crashes, severity of crashes, and roadway volume over a 3-year period.



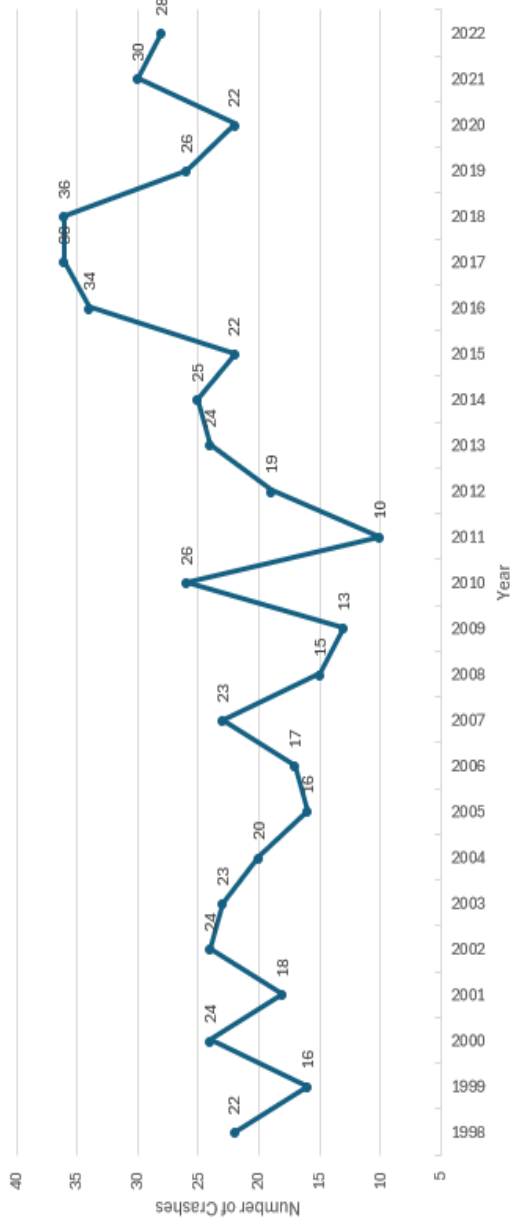
*Note: ADT is one year behind SPIS (2022 SPIS = 2021 ADT)

Questions

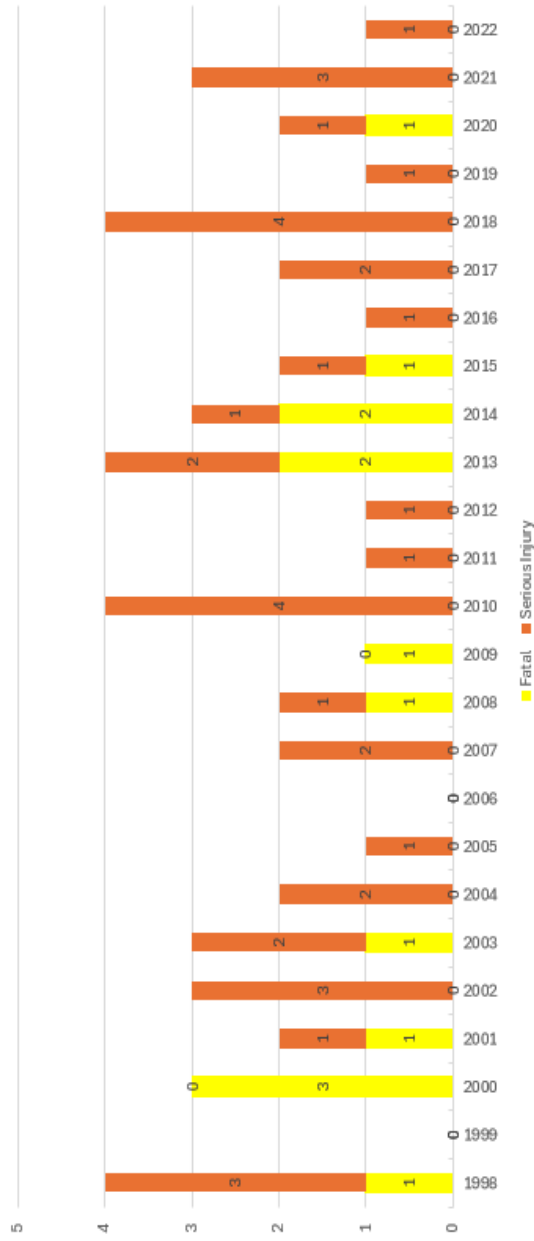
- 7. How many crashes have occurred on this road in the last 25 years. Of those how many were seriously injured and fatalities?
- Between Rickreall Rd to Doaks Ferry Rd, 569 crashes were reported from 1998 to 2022 including 14 fatal and 38 serious injury crashes.

5 Year Period	Total Crashes	Total Fatal & SI
1998-2002	104	12
2003-2007	99	8
2008-2012	83	9
2013-2017	141	12
2018-2022	142	11

Total crashes



Fatal & Serious Injury Crash Totals



Questions

- 8. Is more than one possible solution being considered? What are its/their projected costs and time frames?
 - Looking at lower cost solutions from our VE study which will improve safety and reduce severity of the crashes
 - Partial access control which means some access roads but maintaining some direct access on the highway
 - Currently determining the feasibility of these options

Questions

- 9. What is the expected longevity of the solutions being considered, i.e., considering projected population growth, how long before the implemented solution(s) will need to be revisited?
 - The longevity of our permanent solutions are projected out for 20 years.
 - This is a condition of federal funding on a project
 - Ensure that we are designing and building with the future in mind.

Get in touch

Kumar Rethnasamy, Project Manager



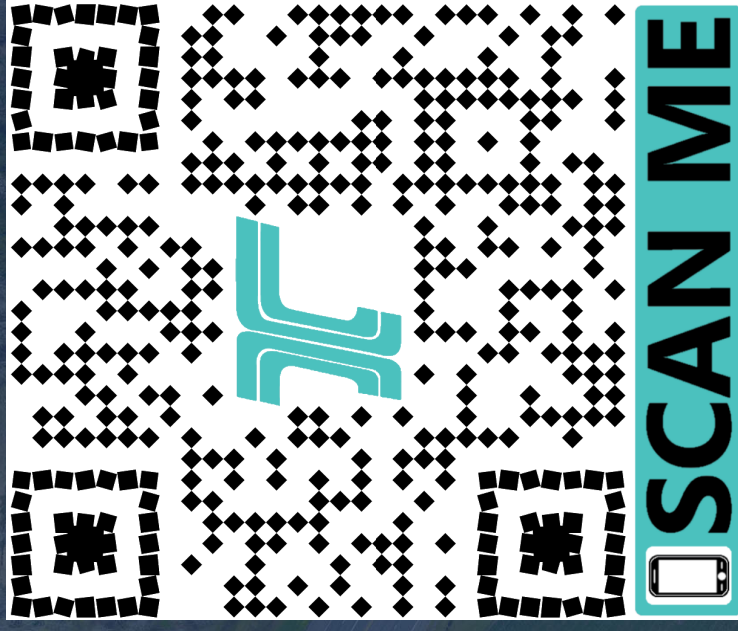
503-383-6223



kumar.rethnasamy@odot.oregon.gov



Visit the project webpage at:
<https://direc.to/i274>



Questions from Council with responses from Anna Henson, Mid-Willamette Valley Area Manager, ODOT Region 2

What is the holdup for funding on Fir Villa traffic signal?

I talked with our traffic section and our development review coordinator and in order for the city of Dallas to get a signal at the intersection of Fir Villa and Ellendale, and we are waiting on Intersection Control Evaluations (ICE) for both intersections, Barberry and Fir Villa, as well as a plan for completing the mitigation. To date we have not received these needed ICEs. We did receive the updated Traffic Impact Analysis (TIA) and it was overall acceptable and did not need any analysis revisions. This last spring we provided comments on that analysis. We believe the city should be responsible for the ICEs and the mitigation since that is what the city agreed to in their developer agreement. At the minimum, you will need to work with your developer on a plan for how it will be carried out.

I recently received an email from Tom Gilson, Special Projects Manager with the city and he has requested a meeting with ODOT to discuss the needed next steps. We are in the process of coordinating that meeting.

How often have you personally driven past this intersection and do you believe it is safe?


The safety of ODOT highways is data driven and based on crash history. We have identified several crash patterns at this location, which are related to the high volume of traffic and turning movements. We are working to address some of the immediate concerns. This site has made the top SPIS (Safety Priority Index System) several times in the last decade.

What projects in the state have a higher priority than this one? How long have they been under consideration?

We use safety data to prioritize limited funding for all needs throughout the state and we seek grant opportunities. This is a priority project for Region 2.



**CITY COUNCIL
STAFF REPORT**

MEETING DATE: November 4, 2024
AGENDA ITEM NO. 7.b
TOPIC: FEMA Biological Opinion: Pre-implementation Compliance Measures
PREPARED BY:  Brian Latta, City Manager
ATTACHMENTS: A – Powerpoint Presentation

RECOMMENDED ACTION:

None. This is an information sharing item only.

BACKGROUND:

In July 2024, the Federal Emergency Management Agency issued a mandate for local governments that participate in the National Flood Insurance Program. City staff have been getting up to speed on this topic and will share with the City Council an informational presentation on this topic.

While there is a looming December 1, 2024 deadline to select a pre-implementation compliance measure. In working with FEMA, it is our understanding that not meeting this deadline will likely result in consultation and technical assistance from FEMA to help us in the implementation process.

SUMMARY TIMELINE:

July 2024 – FEMA issued a mandate to local government participating in the NFIP regarding Endangered Species Act compliance in the special flood hazard areas.
November 4, 2024 – City Council briefed on the FEMA mandate.

FISCAL IMPACT:

TBD

RECOMMENDED MOTION:

None. This is an information sharing item only.

Pre-Implementation Compliance Measures for FEMA's Nation Flood Insurance Program



Why are We Talking About This?

This is a mandate from FEMA for all cities in Oregon that utilize the National Flood Insurance Program based on a lawsuit settlement related to the Endangered Species Act – requires better management of the floodplains to ensure that protected species in the riparian corridors are not negatively impacted by development.

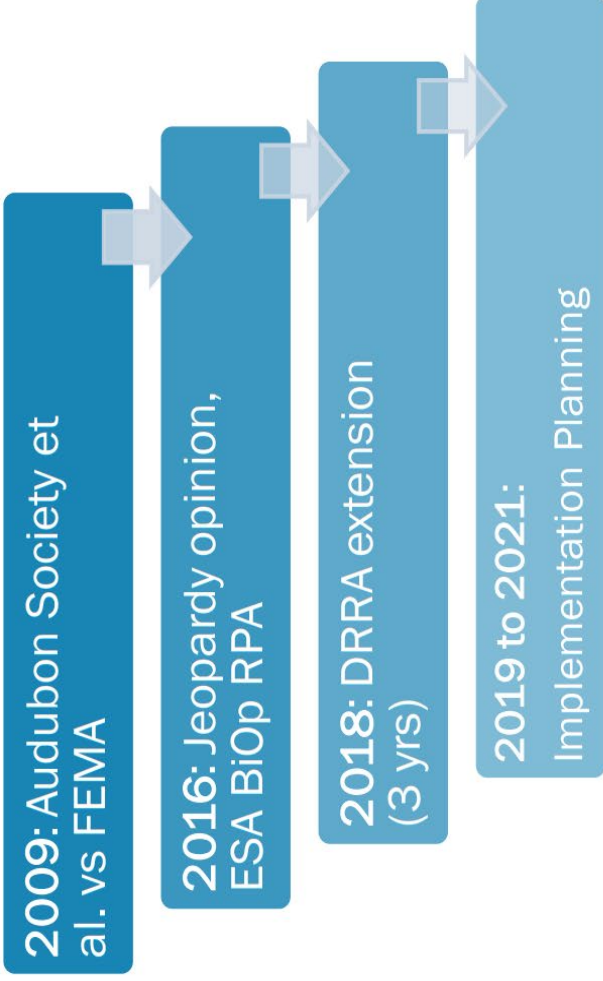
Sense of Urgency, Pre-Compliance:

- **Current mandate for pre-compliance measures by December 1.**
- **Pre-compliance measures may necessitate action by City Council**
- **This is strictly an informative session to set the stage for that future potential action.**

Annual Reporting, Starting January 2025

FEMA and Endangered Species Act Settlement

Litigation to Planning



Moving toward Implementation



September 2023,
Environmental advocacy organization filed a lawsuit stating that FEMA was taking too long to implement.

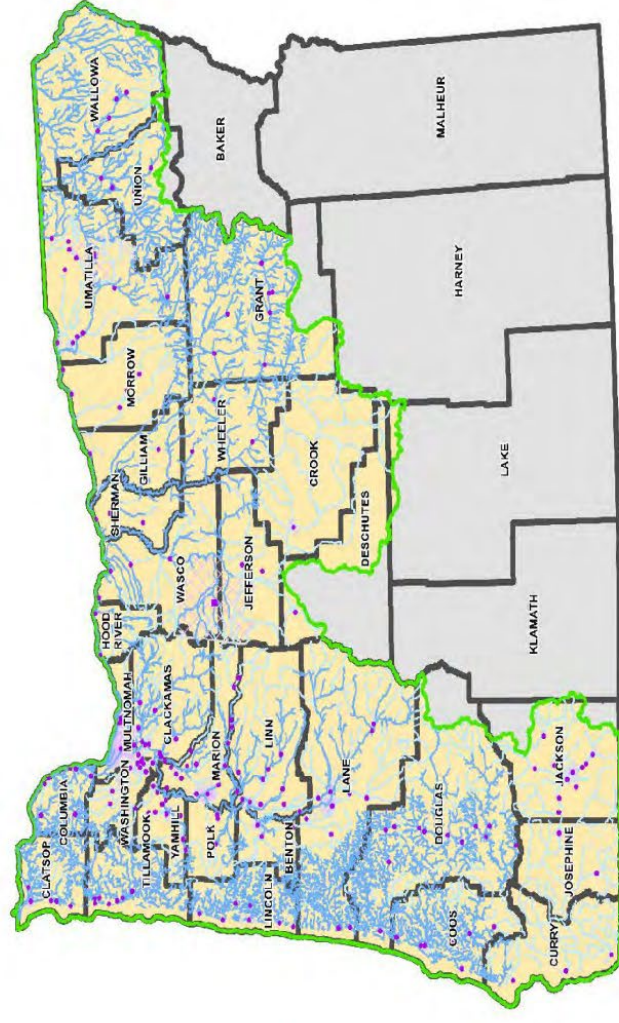
July 2024, Pre-Implementation Compliance Measures (PICM)

How Does it Affect Us?

Dallas is within a salmon and steelhead recovery domain and is a NFIP community, thus we are part of the pre-compliance mandate.

Implementation (Action) area

- Overlap: Six Salmon and Steelhead Recovery Domains
- NFIP current or future participating communities
- Mapped or future mapped Special Flood Hazard Area



OREGON NFIP BIOP ACTION AREA

LEGEND
OREGON NFIP ACTION AREA
CRITICAL HABITATS (SALMON/STEELHEAD)
MAJOR STREAMS
COUNTIES
NFIP PARTICIPATING TRIBES (DALLAS CITY COUNCIL)
MAPPED OR FUTURE MAPPED COMMUNITIES

ABOUT
This map displays the Oregon NFIP BIOP Action Area where critical habitats for salmon and steelhead (and areas upstream of those habitats) are displayed in relation to NFIP participating tribes and jurisdictions. Most NFIP participating communities within Oregon have all or a portion of land within the BIOP Action Area, with the exception of Baker, Harney, Klamath, Lake, and Malheur Counties.



FEMA

What Does Pre-Implementation Compliance Look Like?

1. Adopt a model ordinance that considers impacts to species and their habitat and requires mitigation to a no net loss standard.
2. Require a habitat assessment and mitigation plan for development on a permit-by-permit basis.
3. Prohibition on floodplain development in the Special Flood Hazard Area (SFHA).

PICM Pathway 1 – Model Ordinance

- Requires city to adopt the State-wide Model Code.
- Based on the 2022 Model Code with additions to comply with the BiOp requirements to protect ESA Critical Habitat & riparian areas.
- Standardized code to apply to all floodplain & riparian areas.
- May require Measure 56 notice to property owners



PICM Pathway 2 – Permit-by-Permit

- Projects that include development in the SFHA must perform a Floodplain Habitat Assessment and Mitigation study
- Habitat Assessment to be prepared by a
- “Qualified Professional” as defined by City code
- Scope and complexity of assessment can vary based on possible impacts for each project
- May require Measure 56 notice to property owners



PICM Pathway 3 – Prohibit Floodplain Development

- Prohibits all development (as defined by FEMA) in the floodplain
- Requires Measure 56 notification to affected property owners



How are these Measures Protecting ESA?

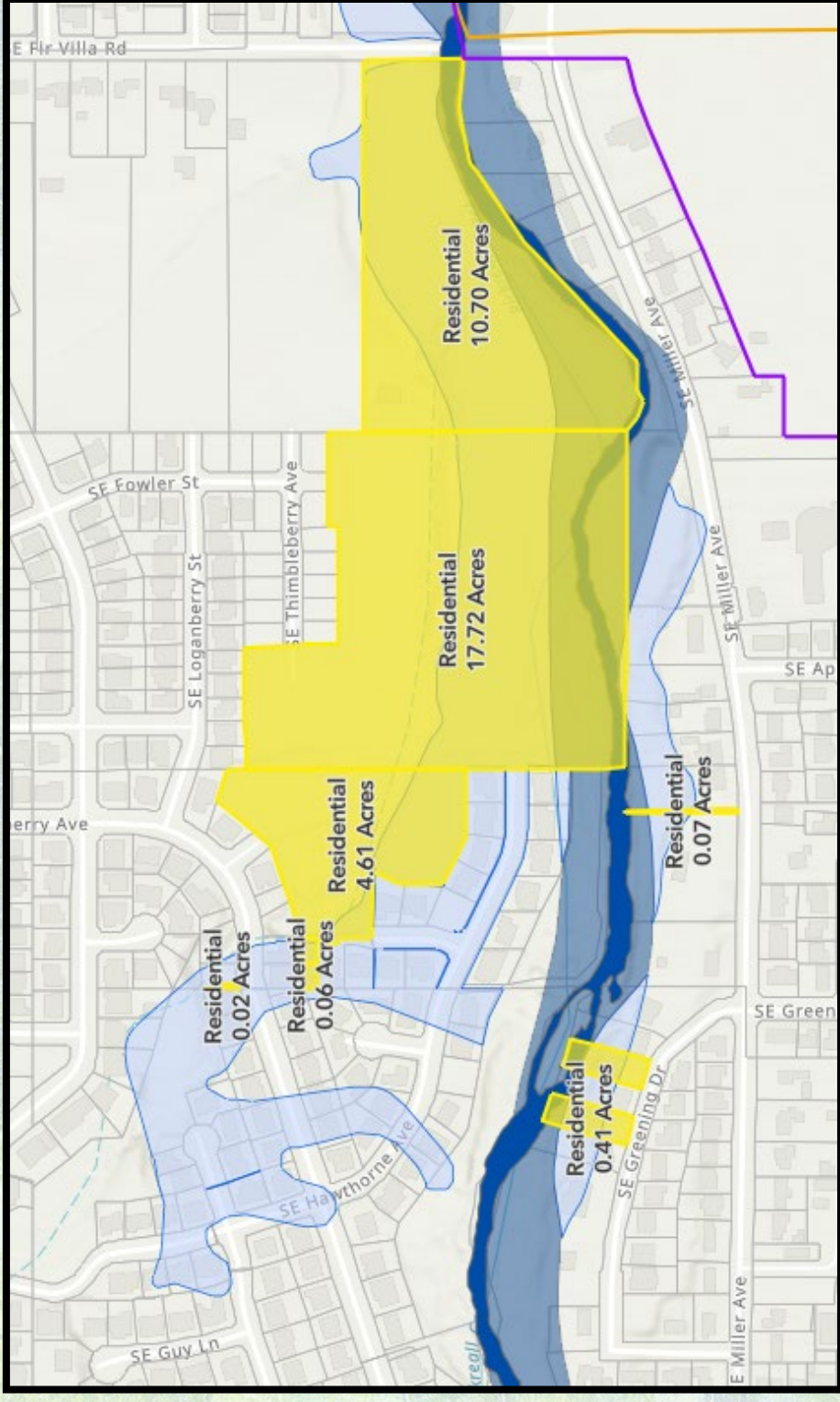
- The BiOp & Reasonable and Prudent Alternatives (RPA) apply to 16 ESA-listed fish species and the Southern Resident killer whale.
- Requires a “no net loss” of habitat for threatened or endangered species.
- Establishes a Riparian Buffer Zone (up to 170 from top of bank) with no net loss of undeveloped space, pervious surface, and trees.

What is the City Required To Do?

- Select which PICM pathway to apply to future development located in the Special Flood Hazard Areas along Rickreall Creek and North Fork Ash Creek. FEMA Deadline is December 1, 2024
- Collect data from all development within the SFHA starting January 2025
- Report to FEMA annually on data collected of floodplain development starting January 2026

How Many Properties Will be Affected?

Support Services has developed a map to show vacant or under-developed properties that are located partially or fully within the floodplain.




Next Steps

- City is working with legal counsel to understand the different nuances of the three PICMs available to the city for compliance.
- We will start having internal staff meetings with key team members and discuss recommendation for City Council.
- Bring a future action item to City Council prior to December 1.
- Potentially it will involve a public hearing process and action by the City Council (DLCD Notice / Measure 56 Notice)
 - Adopt a moratorium on development in the Floodplain Zone.
 - Amend the zoning ordinance and require a Habitat Assessment for all development in the Floodplain Zone that is not considered exempt.
 - Amend the zoning ordinance and do not allow any development except for exempt activities in the Floodplain Zone.
 - Amend the zoning ordinance to adopt the model code provisions drafted by FEMA



CITY COUNCIL STAFF REPORT

MEETING DATE: November 4, 2024
AGENDA ITEM NO. 8.a
TOPIC: Illicit Discharge Ordinance
PREPARED BY:  Brian Latta, City Manager
ATTACHMENTS: A – Illicit Discharge Ordinance No. 1900

RECOMMENDED ACTION:

Ordinance No. 1900 is scheduled for its second reading and vote to adopt.

BACKGROUND:

The City of Dallas is a designated management agency (DMA) according to the 2006 Willamette Basin Total Maximum Daily Load (TMDL) and Water Quality Management Plan (WQMP). According to the Final Revised Willamette Basin TMDL, the City must:

“prohibit non-stormwater discharges into the stormwater conveyance system through enforcement of an ordinance or other legal mechanism, including appropriate enforcement procedures and actions to ensure compliance. The ordinance or other regulatory mechanism must also define the range of illicit discharges it covers, including those discharges that are conditionally allowed, such as groundwater and lawn watering discharges.”

The Department of Environmental Quality (DEQ) approved the City of Dallas TMDL (Total Maximum Daily Load) Implementation Plan in 2022. The plan requires the city to develop the ordinance, described above, which prohibits non-stormwater discharges to the city’s stormwater conveyance system and includes enforcement measures to ensure compliance. The ordinance defines the range of illicit discharges it covers, as well as non-stormwater discharges that are conditionally allowed, such as lawn watering and individual residential car washing. The Plan states that adoption of the illicit discharge ordinance will occur between October 1, 2024 and September 30, 2025.

Staff, working with legal counsel and consultant Elizabeth Sagmiller, has developed an ordinance that meets the conditions of DEQ’s 2019 Final Willamette Basin Mercury TMDL and WQMP (Water Quality Management Plan). The ordinance is not more restrictive than what is required by DEQ. The development of the ordinance and the associated regulations has been reviewed by the City’s Public Works Committee through staff presentations over the past year.

We are a welcoming, safe and livable community dedicated to people and business

On July 22, 2024 the committee recommended the Dallas City Council adopt the ordinance. The ordinance, including sections related to the enforcement of the ordinance (Sections 4.392-4.399), was presented to the Council at a Work Session on October 7, 2024.

On October 21, 2024, the City Council allowed Ordinance 1900 to pass its first reading. Tonight, the ordinance is scheduled for its second reading, followed by a vote of the council to adopt the ordinance.

SUMMARY TIMELINE:

March 25, 2024	Public Works Committee
May 28, 2024	Public Works Committee
July 22, 2024	Public Works Committee
October 7, 2024	City Council Work Session
October 21, 2024	First Reading of Ordinance No. 1900 by City Council
November 4, 2024	Second Reading of Ordinance No. 1900 by City Council
December 4, 2024	Ordinance No. 1900 becomes effective

FISCAL IMPACT:

None.

RECOMMENDED MOTION:

Not applicable. Ordinances are voted on by a roll call vote.

ATTACHMENTS:

A – Illicit Discharge Ordinance No. 1900

**CITY OF DALLAS
ORDINANCE NO 1900**

**AN ORDINANCE RELATING TO ILLEGAL STORMWATER DISCHARGES AND
ILLICIT STORMWATER CONNECTIONS; AND ADDING NEW PROVISIONS
TO CHAPTER 4 OF THE DALLAS CITY CODE.**

Be it ordained by the City Council of the City of Dallas, in the State of Oregon, as follows:

SECTION 1: **ADOPTION** “4.358 Purpose And Intent” of the Dallas Municipal Code is hereby *added* as follows:

ADOPTION

4.358 Purpose And Intent(*Added*)

The purpose of this ordinance is to provide for the health, safety, and general welfare of the residents of the City of Dallas, through the regulation of non-Stormwater discharges to the Storm Drain System to the maximum extent practicable, as required by federal and state law. This ordinance establishes methods for controlling the introduction of Pollutants into the Storm Drain System in order to comply with requirements of the Oregon Department of Environmental Quality Total Maximum Daily Load (TMDL) Program, the National Pollutant Discharge Elimination System (NPDES) permit, and any other state or federal regulatory programs that can be applied to Stormwater. The objectives of this ordinance are:

1. To regulate the contribution of Pollutants to the Storm Drain System by Stormwater discharges by any user; and
2. To prohibit Illicit Connections and Illegal Discharges to the Storm Drain System; and
3. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore, this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, Pollution, nor unauthorized discharge of Pollutants.

SECTION 2: **ADOPTION** “4.360 Definitions” of the Dallas Municipal Code is hereby *added* as follows:

ADOPTION

4.360 Definitions(*Added*)

The following definitions shall apply to this ordinance:

Best Management Practices. Schedules of activities, prohibitions of practices, general good housekeeping practices, Pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of Pollutants directly or indirectly to Stormwater, receiving waters, Stormwater conveyance systems or other devices intended to manage Stormwater. Best Management Practices also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

City Manager. The City Manager of the City of Dallas or the City Manager’s designee.

Clean Water Act. The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Construction Activity. Any construction-related ground disturbing activities, whether or not a permit is required. Such activities include but are not limited to, clearing and grubbing, grading, excavating, and demolition.

Hazardous Materials. Any material, including any substance, waste, or combination thereof, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illegal Discharge. Any direct or indirect non-Stormwater discharge to the Storm Drain System, except as provided in section 4.372.

Illicit Connections. Either of the following:

1. Any drain or conveyance, whether on the surface or subsurface, which allows an Illegal Discharge to enter the Storm Drain System, including but not limited to any conveyances that allow sewage, process wastewater, and wash water to enter the Storm Drain System and any connections to the Storm Drain System from indoor drains and sinks, regardless of whether the drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
2. Any drain or conveyance connected from a commercial or industrial land use to the Storm Drain System that has not been documented in plans, maps, or equivalent records and approved by the City of Dallas or another authorized enforcement agency.

Industrial Activity. Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14) and 40 CFR 122.26(a)(9)(i)(D). Industrial activities are referenced under Oregon’s 1200-Z permit.

Municipal Separate Storm Sewer System. Public facilities by which Stormwater is collected or

conveyed, including but not limited to roads, highways, or municipal streets with drainage systems, curbs, gutters, inlets, catch basins, piped storm drains, structural Stormwater controls, detention or retention basins, ditches, swales, infiltration facilities, outfalls, reservoirs, natural and man-made or altered drainage channels, and all appurtenances thereof.

National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit. A permit issued by the Environmental Protection Agency, or by the State of Oregon under authority delegated pursuant to 33 USC § 1342(b), that authorizes the discharge of Pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-Stormwater Discharge. Any discharge to the Storm Drain System that is not composed entirely of Stormwater.

Ordinary High Water Line. The line on the bank or shore to which the high water ordinarily rises annually in season.

Pollutant. Anything that causes or contributes to Pollution. Pollutants may include, but are not limited to paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations of the foregoing, such that the same may cause or contribute to Pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Pollution. Such contamination or other alteration of the physical, chemical, or biological properties of any Waters of the State, including change in temperature, taste, color, turbidity, silt, or odor of the waters, or such discharge of any liquid gaseous, solid, radioactive, or other substance into any Waters of the State that either by itself or in connection with any other substance present can reasonably be expected to create a public nuisance or render such waters harmful, detrimental, or injurious to public health, safety, or welfare; to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses; or to livestock, wildlife, fish, other aquatic life or the habitat thereof.

Premises. Any building, lot, parcel of land, or portion of land, whether improved or unimproved, including but not limited to adjacent sidewalks, landscaped features, Stormwater facilities, and parking strips.

Regulated Program. Any Stormwater program that the Oregon Department of Environmental Quality (DEQ) administers through the Federal National Pollutant Discharge Elimination System (NPDES), or the Total Maximum Daily Load (TMDL) Program. The definition also applies to the DEQ administered UIC Program, which is regulated through the Federal Safe Drinking Water Act.

Responsible Person. Any individual, association, organization, partnership, firm, corporation

or other entity recognized by law and acting as either the owner or on behalf of the owner.

Storm Drain System. Private or publicly-owned facilities by which Stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures. “Storm Drain System” includes the Municipal Separate Storm Sewer System.

Stormwater. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Stormwater Pollution Prevention Plan. A document that describes the Best Management Practices and activities to be implemented by a person or business to identify sources of Pollution or contamination at a site and the actions to eliminate or reduce Pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the maximum extent practicable.

UIC. Underground injection control device. A UIC is a subsurface distribution system for Stormwater, usually an assemblage of perforated pipes, drain tiles, or other mechanisms intended to distribute fluids below the surface of the ground.

Waters of the State. Lakes, bays, ponds impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon, and all other bodies of surface or underground waters natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters) that are located wholly or partially within or bordering the state or within its jurisdiction, or as currently defined by the U.S. Environmental Protection Agency.

Waterway. A body of water (whether natural or man-made) that periodically or continuously contains Waters of the State and has a definite bed and banks that serve to confine the water.

SECTION 3: **ADOPTION** “4.362 Applicability” of the Dallas Municipal Code is hereby *added* as follows:

ADOPTION

4.362 Applicability(*Added*)

This ordinance shall apply to all water and all other fluids, substances and materials entering the Storm Drain System generated on any developed and undeveloped lots and parcels of real property within the City of Dallas unless explicitly exempted by this ordinance or an authorized enforcement agency.

SECTION 4: **ADOPTION** “4.364 Responsibility For Administration” of the Dallas Municipal Code is hereby *added* as follows:

ADOPTION

4.364 Responsibility For Administration(*Added*)

The City Manager, or the City Manager’s designee, shall administer, implement, and enforce the provisions of this ordinance.

SECTION 5: **ADOPTION** “4.366 Severability” of the Dallas Municipal Code is hereby *added* as follows:

ADOPTION

4.366 Severability(*Added*)

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this ordinance.

SECTION 6: **ADOPTION** “4.368 Regulatory Consistency” of the Dallas Municipal Code is hereby *added* as follows:

ADOPTION

4.368 Regulatory Consistency(*Added*)

This Ordinance shall be construed to the fullest extent possible to assure consistency with the requirements of the Clean Water Act, Federal Safe Drinking Water Act, Oregon Revised Statutes, Oregon Administrative Rules and the Oregon Department of Environmental Quality and acts amendatory thereof or supplementary thereto, or any applicable implementing regulations.

SECTION 7: **ADOPTION** “4.370 Prohibition Of Illegal Discharges” of the Dallas Municipal Code is hereby *added* as follows:

ADOPTION

4.370 Prohibition Of Illegal Discharges(*Added*)

Except as provided in section 4.372, no person shall discharge or cause to be discharged into the Storm Drain System, or any Waterways in the city, any water, fluid, substances or materials, including but not limited to Pollutants and waters containing any Pollutants that cause or contribute to a violation of applicable water quality standards. Discharges prohibited by this section include, but are not limited to, the following:

1. Septic, sewage, and dumping or disposal of liquids or materials other than Stormwater into the Storm Drain System;
2. Discharges of washwater resulting from the hosing or cleaning of gas stations, auto repair garages, or other types of automotive services facilities;
3. Discharges resulting from the cleaning, repair, or maintenance of any type of equipment, machinery, or facility, including, but not limited to, motor vehicles, cement-related equipment, and port-a-potty servicing;
4. Discharges of washwater from mobile operations, such as mobile automobile or truck washing, steam cleaning, power washing, and carpet cleaning, and similar operations;
5. Discharges of washwater from the cleaning or hosing of impervious surfaces in municipal, industrial, commercial, or residential areas, including parking lots, streets, sidewalks, driveways, patios, plazas, work yards and outdoor eating or drinking areas, and similar facilities where detergents are used and spills or leaks of toxic or Hazardous Materials have occurred, unless all spilled material has been removed;
6. Discharges of runoff from material storage areas, which contain chemicals, fuels, grease, oil, or other Hazardous Materials from material storage areas;
7. Discharges of pool or fountain water containing chlorine, biocides, or other chemicals; discharges of pool or fountain filter backwash water;
8. Discharges of sediment, unhardened concrete, pet waste, vegetation clippings, or other landscape or construction-related wastes;
9. Discharges of trash, paints, stains, resins, or other household hazardous wastes; and
10. Discharges of food-related wastes including, but not limited to, grease, restaurant kitchen mat and trash bin washwater.

SECTION 8: **ADOPTION** “4.372 Allowable Non-Stormwater Discharges” of the Dallas Municipal Code is hereby *added* as follows:

ADOPTION

4.372 Allowable Non-Stormwater Discharges(*Added*)

Section 4.370 does not apply to the following non-Stormwater discharges: provided, if any of the following allowable non-Stormwater discharges are or become a significant source of

Pollutants, the City shall prohibit that discharge or require implementation of appropriate Best Management Practices to reduce the discharge of Pollutants associated with the source before discharge to the Storm Drain System:

1. Emergency firefighting activities.
2. Uncontaminated water line flushing.
3. Landscape irrigation; provided, that for areas owned or operated by the City, landscape irrigation will be considered allowable only if pesticides and fertilizers are applied in accordance with the manufacturer's instructions.
4. Diverted stream flows.
5. Uncontaminated groundwater infiltration, as defined at 40 CFR § 35.2005(20), to separate storm sewers.
6. Rising groundwaters.
7. Uncontaminated pumped ground water.
8. Potable water sources, including potable groundwater monitoring wells and draining and flushing of municipal potable water storage reservoirs.
9. Start-up flushing of groundwater wells.
10. Foundation, footing and crawlspace drains, where flows are not contaminated.
11. Uncontaminated air conditioning or compressor condensate.
12. Irrigation water.
13. Springs.
14. Lawn watering.
15. Individual residential car washing.
16. Charity car washing, provided that chemicals, soaps, detergents, steam or heated water are not used, and washing is restricted to the outside of the vehicle, no engines, transmissions or undercarriages.
17. Flows from riparian habitats and wetlands.
18. Dechlorinated swimming pool discharges including hot tubs; provided that heated water must be cooled for at least 12 hours prior to discharge.
19. Fire hydrant flushing.
20. Street and pavement washwaters, provided that chemicals, soaps, detergents, steam or heated water are not used.
21. Routine external building wash-down, provided, that chemicals, soaps, detergents, steam or heated water are not used.
22. Water associated with dye testing activity.
23. Discharges of treated water from investigation, removal and remedial actions selected or approved by DEQ pursuant to Oregon Revised Statutes (ORS) Chapter 465.
24. Any Non-Stormwater Discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the Storm Drain System.
25. Any other water source not containing Pollutants.

SECTION 9: **ADOPTION** “4.374 Prohibition Of Illicit Connection” of the Dallas Municipal Code is hereby *added* as follows:

ADOPTION

4.374 Prohibition Of Illicit Connection(*Added*)

1. The construction, use, maintenance or continued existence of Illicit Connections to the Storm Drain System is prohibited.
2. The prohibition in subsection 1 expressly includes, without limitation, Illicit Connections made prior to the effective date of this ordinance, regardless whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
3. A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the Storm Drain System, or allows such a connection to continue.

SECTION 10: **ADOPTION** “4.376 Suspension Of Access To The Municipal Separate Storm Sewer System” of the Dallas Municipal Code is hereby *added* as follows:

ADOPTION

4.376 Suspension Of Access To The Municipal Separate Storm Sewer System(*Added*)

The City Manager may, without prior notice, suspend discharge access into the Municipal Separate Storm Sewer System to a person when such suspension is necessary to stop an actual or threatened discharge that presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the Municipal Separate Storm Sewer System or Waters of the State. If a person fails to comply with a suspension order issued under this section, the City Manager may take such steps as deemed necessary to prevent or minimize damage to the Municipal Separate Storm Sewer System or Waters of the State, or to minimize danger to persons. Any person discharging to the Municipal Separate Storm Sewer System in violation of this ordinance may have their Municipal Separate Storm Sewer System access terminated if such termination would abate or reduce an illicit discharge. The City Manager must notify a violator of the proposed termination of its Municipal Separate Storm Sewer System access. The violator may petition the City Manager, for reconsideration of a suspension order issued under this section. A person commits a violation if the person reinstates access to the Municipal Separate Storm Sewer System from Premises terminated pursuant to this Section, without the prior approval of the City Manager.

SECTION 11: **ADOPTION** “4.378 Waste Disposal Prohibitions” of the Dallas Municipal Code is hereby *added* as follows:

ADOPTION

4.378 Waste Disposal Prohibitions(*Added*)

No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left or maintained, in or upon any public or private property, driveway, parking area, street alley sidewalk, component of the storm drainage system, UICs or Waters of the State, any refuse, rubbish, garbage, litter, yard debris or other discarded or abandoned objects, articles, and accumulations. This section does not apply to wastes and recyclable materials deposited in proper waste and recycling receptacles and placed in authorized areas for the purpose of waste and recycling collection.

SECTION 12: **ADOPTION** “4.380 Industrial Or Construction Activity” of the Dallas Municipal Code is hereby *added* as follows:

ADOPTION

4.380 Industrial Or Construction Activity(*Added*)

Any person subject to an industrial or Construction Activity NPDES Stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with a NPDES Stormwater discharge permit may be required in a form acceptable to the City prior to the allowing of discharges to the Storm Drain System.

SECTION 13: **ADOPTION** “4.382 Monitoring Of Discharges” of the Dallas Municipal Code is hereby *added* as follows:

ADOPTION

4.382 Monitoring Of Discharges(*Added*)

1. Applicability. This section applies to all facilities that have Stormwater discharges associated with Industrial Activity, including Construction Activity.
2. Access to Facilities.
 - a. An employee or agent of the City designated by the City Manager shall be permitted to enter and inspect facilities subject to regulation under this

- ordinance as often as may be necessary to determine compliant with this ordinance.
- b. The City shall have the right to install on any permitted facility such devices as the city deems necessary to conduct monitoring or sampling of the facility's Stormwater discharge.
- c. The City shall have the right to require the discharger to install monitoring equipment as the city deems necessary, at the cost and expense of the discharger or other Responsible Person. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger or other Responsible Person at its own expense. All devices used to measure Stormwater flow and quality shall be calibrated to ensure their accuracy.
- d. Unreasonable delays in allowing the authorized City personnel access to a permitted facility is a violation of any Stormwater discharge permit and of this ordinance.

SECTION 14: **ADOPTION** “4.384 Requirement To Prevent, Control And Reduce Stormwater Pollutants By The Use Of Best Management Practices” of the Dallas Municipal Code is hereby *added* as follows:

ADOPTION

4.384 Requirement To Prevent, Control And Reduce Stormwater Pollutants By The Use Of Best Management Practices(*Added*)

The owner or operator of a commercial or industrial establishment shall, at their own expense, through the implementation of appropriate structural and nonstructural Best Management Practices, provide reasonable protection from accidental discharge of prohibited materials or other wastes into the Storm Drain System or Waterways. Any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, additional structural and non-structural Best Management Practices to prevent the further discharge of Pollutants to the Storm Drain System. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of Stormwater associated with Industrial Activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

SECTION 15: **ADOPTION** “4.386 Waterway Protection” of the Dallas Municipal Code is hereby *added* as follows:

ADOPTION

4.386 Waterway Protection(*Added*)

Every person who owns or occupies property through which a Waterway passes, , shall keep and maintain that part of the Waterway within or on the person’s property free of trash, debris, excessive invasive vegetation, and other obstacles that would pollute, or contaminate water through the Waterway. In addition, the owner or lessee of such property shall maintain existing privately owned structures within or adjacent to a Waterway, so that such structures will not become a hazard to the use, function, or physical integrity of the Waterway. The owner, lessee or Responsible Person shall not remove bank vegetation that will result in bare slopes subject to erosion. Removal of invasive vegetation may be allowed by the City upon submittal of a plan for removal and replanting that is reviewed and approved by the City. The City may impose reasonable conditions upon such approval.

SECTION 16: **ADOPTION** “4.388 Notification Of Spills” of the Dallas Municipal Code is hereby *added* as follows:

ADOPTION

4.388 Notification Of Spills(*Added*)

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials that are resulting or may result in Illegal Discharges into the Storm Drain System, or Waters of the State, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release the owner, operator or other Responsible Person shall immediately notify emergency response agencies of the occurrence. Notifications in person or by phone shall be confirmed by written notice addressed and mailed or hand-delivered to the city within three business days of the phone or in-person notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment, or other Responsible Person, shall also retain onsite a written record of the discharge and the actions taken to abate the discharge and prevent its recurrence. Such records shall be retained for at least three years from the date of the discharge.

SECTION 17: **ADOPTION** “4.390 Authority To Inspect” of the Dallas Municipal Code is hereby *added* as follows:

ADOPTION

4.390 Authority To Inspect(*Added*)

Whenever necessary to make an inspection to enforce any provision of this Ordinance, or whenever the City Manager has cause to believe that there exists, or potentially exists, in or upon any Premises any condition that constitutes a violation of this Ordinance, the City Manager may enter such Premises at all times to inspect the same and to inspect and copy records related to Stormwater compliance. In the event the owner, occupant or other Responsible Person refuses entry after a request to enter and inspect has been made, the City may seek an administrative warrant for such entry from the Dallas Municipal Court pursuant to Dallas City Code Section 2.880 through 2.888 or other assistance from any court of competent jurisdiction in obtaining such entry.

SECTION 18: **ADOPTION** “4.392 Enforcement” of the Dallas Municipal Code is hereby *added* as follows:

ADOPTION

4.392 Enforcement(*Added*)

1. Notice of Violation and Order. Whenever the City of Dallas finds that a person has violated a provision or failed to meet a requirement of this Ordinance, the City Manager may order compliance by written Notice of Violation and Order to the owner, occupant or other Responsible Person. Such notice may require, without limitation:
 - a. The performance of monitoring, analyses, and reporting;
 - b. The elimination of Illicit Connections or discharges;
 - c. That violating discharges, practices, or operations shall cease and desist;
 - d. The abatement or remediation of Stormwater Pollution or contamination hazards and the restoration of any affected property;
 - e. Payment of an administrative fee to cover administrative and remediation costs; and
 - f. The implementation of source control or treatment Best Management Practices. If abatement of a violation or restoration of affected property is required, the notice shall set forth a deadline within which such abatement or restoration must be completed.
2. The notice shall further provide that, should the owner, occupant or other Responsible Person fail to abate the discharge and remediate or restore all affected property, as required, within the established deadline, the City may abate the violation in the manner of the abatement of a nuisance provided under Sections 5.618 and 5.620, in which event the owner, occupant or other Responsible Person shall be jointly responsible for the cost of such abatement in the manner of Section 5.616.
3. Duty to Follow Enforcement Plan. The City shall follow a written process for enforcement through the escalating steps listed in the City of Dallas Enforcement Response Plan.
4. Enforcement under this section is in addition to, and not in lieu of, any other remedies

available to the City or penalties for violation of this ordinance.

SECTION 19: **ADOPTION** “4.394 Appeal Of Notice Of Violation And Order” of the Dallas Municipal Code is hereby *added* as follows:

ADOPTION

4.394 Appeal Of Notice Of Violation And Order(*Added*)

1. Any person receiving a Notice of Violation and Order under Section 4.392, above, may appeal the determination of the City Manager. The notice of appeal must be received at the office of the City Manager within 10 days from the date of the Notice of Violation and Order. Upon receipt of a Notice of Appeal, the City Manager will offer to meet with the person that filed the Notice of Appeal and the person’s representative, and receive written evidence and argument in support of the appeal. The City Manager shall conduct an informal review and investigation of the violation and render a decision in writing.
2. The person who appealed the Notice of Violation and Order may, within 10 days after the mailing of the City Manager’s decision, appeal the City Manager’s decision in writing to the council. The appeal shall state:
 - a. The name and address of the appellant;
 - b. The nature of the determination being appealed;
 - c. The reason the determination is incorrect; and
 - d. What the correct determination of the appeal should be.
3. The council shall hear and determine the appeal on the basis of the written statement and such additional evidence as it considers appropriate. The appellant shall be provided at least 14 days' written notice of a hearing on the appeal.
4. At the hearing, the appellant may present testimony and oral argument, personally or by counsel, and any additional evidence. The rules of evidence used by courts of law do not apply, and the decision of the council after the hearing is final.
5. An appellant who fails to appeal the City Manager’s decision within the time permitted waives objections, and the right to appeal and the matter shall be deemed conclusively determined.
6. The city council may, by resolution, establish a fee for an appeal under this section, which must be paid when the appeal is filed.

SECTION 20: **ADOPTION** “4.396 Violations” of the Dallas Municipal Code is hereby *added* as follows:

ADOPTION

4.396 Violations(*Added*)

1. A violation of or failure to comply with any of the requirements of this Ordinance shall constitute a civil infraction punishable as follows:
\$350 per day for the first offense.
\$500 per day for the second offense (within a 2-year period).
\$750 per day for the third offense (within a 2-year period).
2. There shall be an additional penalty of \$200 per day if there is any discharge of Hazardous Materials in any amount.
3. There shall be an additional penalty of \$500 per day if the discharge is fully or partially intentional.
4. The imposition of a penalty under this section does not relieve a person of the duty to abate the nuisance or comply with a Notice of Violation and Order issued under Section 4.392.

SECTION 21: **ADOPTION** “4.398 Compensatory Action” of the Dallas Municipal Code is hereby *added* as follows:

ADOPTION

4.398 Compensatory Action(*Added*)

In addition to enforcement proceedings, penalties, and remedies authorized by this Ordinance, the City may impose upon a violator alternative compensatory or compliance actions, including, but not limited to, storm drain stenciling, attendance at compliance workshops, and Waterway cleanup.

SECTION 22: **ADOPTION** “4.399 Remedies Not Exclusive” of the Dallas Municipal Code is hereby *added* as follows:

ADOPTION

4.399 Remedies Not Exclusive(*Added*)

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the City to seek cumulative remedies.

PASSED AND ADOPTED BY THE CITY OF DALLAS CITY COUNCIL

_____.

Presiding Officer

Attest

Kenneth L. Woods, Jr., Mayor, City of
Dallas

Brian Latta, City Manager, City of
Dallas

Lane P. Shetterly, City Attorney, City
of Dallas