

Cornelius

Oregon's Family Town



CITY COUNCIL MEETING AGENDA

Monday October 7, 2024

Cornelius City Council Chamber
1355 N Barlow St, Cornelius, Oregon 97113

[TVCTV Live Stream](#)

[Zoom Webinar](#) | Meeting ID: 834 7940 8874 | Passcode: 215546

1. Work Session 6:00 PM

- A. Solid Waste Collection Low Income Rate Relief Program
- B. Right of Way Franchise Proposal

2. Regular Session – 7:00 PM

Call to Order – Pledge of Allegiance and Roll Call

3. Consent Agenda

The items on the Consent Agenda are considered and adopted by one motion unless a Council Member or community member requests that an item be considered separately before a vote of the Consent items. The Mayor shall decide when an item is removed from Consent for discussion.

- A. City Council Meeting Minutes, September 3, 2024

4. Public Comment

Comments are limited to three minutes.

Speaking in Person: Register to speak by filling out a form in the City Council Chamber and provide it to the City Recorder.

Speaking Virtually: Register to speak by contacting the City Recorder via email at cityrecorder@corneliusor.gov no later than 3:00pm on the day of the City Council meeting. Provide your name, address, and when possible, the topic of testimony. Those attending virtually will not be able to turn on their camera during the meeting or share their screen; presentation materials may be submitted as written testimony via email or in person at City Hall.

5. Recognition

None

6. Presentations and Appointments

A. Proclamation: October: Domestic Violence Awareness Month

7. Public Hearings

A. Ordinance No. 2024-03: Omnibus Municipal Code Amendments for Community Development, **Peter Brandom, City Manager**

B. Resolution No. 2024-51: Supplemental Budget 1, Fiscal Year 2024-2025, **Ellie Jones, Assistant City Manager – Business Operations**

8. Unfinished Business

None

9. New Business

A. Ordinance No. 2024-03: Omnibus Municipal Code Amendments for Community Development, **Peter Brandom, City Manager**

B. Resolution No. 2024-49: Oregon Water/Wastewater Agency Response Network (ORWARN) Mutual Aid Agreement, **Peter Brandom, City Manager**

C. Resolution No. 2024-50: Consent Order with the Oregon Department of Environmental Quality for the Acquisition, Cleanup, and Repurposing of the Former Estby Gas Station Property, **Peter Brandom, City Manager**

D. Resolution No. 2024-51: Supplemental Budget 1, Fiscal Year 2024-2025, **Ellie Jones, Assistant City Manager – Business Operations**

E. Resolution No. 2024-52: Utility Bill Low Income Relief Program, **Ellie Jones, Assistant City Manager – Business Operations**

F. Resolution No. 2024-53: Davis Street Phase 3 Construction Contract Work Order 24, AKS, **Kevin Oppenlander, Assistant City Engineer**

G. Resolution No. 2024-54: Fiscal Year 2024-2025 Paving Program Contract Work Order 25, AKS, **Kevin Oppenlander, Assistant City Engineer**

10. Reports

- A. City Council
- B. Mayor Dalin
- C. City Manager

11. Announcements

- A. Wednesday, October 16: 9:00 am: Coffee with a Cop, Starbucks Cornelius, 1882 E Baseline Street
- B. Saturday, October 19: 10:00 am – 2:00 pm: Cornelius Fire Department Open House
- C. Tuesday, November 5, 2024: Election Day – Register to Vote by October 16
- D. Monday, November 11: City Offices Closed in Observance of Veteran’s Day
- E. Monday, November 11: 1:00 pm: Veteran’s Day Ceremony, Veteran’s Park
- F. Saturday, November 23: 4:00 pm – 7:00 pm: Annual Community Dinner, Cornelius Elementary School

12. Adjournment

City Council Meeting - Monday, September 3, 2024
1355 N Barlow Street - Cornelius, Oregon 97113
In-Person/Hybrid Meeting

Roll Call: Councilor Doris Gonzalez, Councilor Eden Lopez, Councilor Angeles Godinez, Council President John Colgan, Mayor Jef Dalin

Councilors Absent: None

Staff Present: Peter Brandom, City Manager; Ellie Jones, Assistant City Manager – Business Operations; Jim Geering, Fire Chief; Kevin Oppenlander, Project Manager

1. **WORK SESSION - 6:00 PM**
2. **REGULAR SESSION - 7:00 PM**
 - A. Call to Order - Pledge of Allegiance and Roll Call

Mayor Dalin called the regular City Council meeting to order at 7:00 PM.

3. **CONSENT AGENDA - None**
 - A. City Council Meeting Minutes, July 1, 2024
 - B. City Council Meeting Minutes, August 5, 2024

A motion was made by Council President Colgan to adopt the agenda. Seconded by Councilor Godinez. Motion carried 5-0. Ayes: Councilor Doris Gonzalez, Councilor Eden Lopez, Councilor Angeles Godinez, Council President John Colgan, and Mayor Dalin.

A motion was made by Councilor Godinez to adopt the consent agenda. Seconded by Councilor Gonzalez. There was no further discussion. Motion carried 5-0. Ayes: Councilor Doris Gonzalez, Councilor Eden Lopez, Councilor Angeles Godinez, Council President John Colgan, and Mayor Dalin.

4. **PUBLIC COMMENT – None**
5. **RECOGNITION - None**
6. **PRESENTATIONS AND APPOINTMENTS**

- A. Service Recognition and Retirement Farewell: Karen Hills, Library Director.

Numerous attendees spoke to recognize Karen Hill, Library Director, for their service to the City, including Peter Brandom on behalf of Rob Drake, Dave Waffle, Maria Aguilar, Angelica Nova de Cordeiro, Itzel Sayago, Peggy Harris, Angeles Godinez, Doris Gonzalez, and Jef Dalin. City Manager Brandom expressed gratitude to Karen for their indelible positive impact on the community, highlighting Karen's dedication and resilience as a community leader. Brandom

presented Karen with a gift for their 18 years of dedicated service to the City and the community of Cornelius.

Karen spoke about their time working for the City and expressed thanks to coworkers, the Council, stakeholders, Friend of the Library, the Library Foundation, and elected representatives for their support in serving the community.

B. Proclamation: September 15 to October 15, Hispanic Heritage Month

On behalf of the Cornelius City Council, Mayor Dalin proclaimed September 15 to October 15 Hispanic Heritage Month; Councilor Lopez presented the proclamation in Spanish. [The full proclamation is included in the City of Cornelius Agenda Report, Pages 19 and 20.]

7. PUBLIC HEARING - None

8. UNFINISHED BUSINESS - None

9. NEW BUSINESS

A. Resolution No. 2024-47: Intergovernmental Agreement (IGA) with Washington County for Placement and Maintenance of Ride Connection’s Cornelius Link Shuttle Stops (Fryer)

Fryer forwent a formal presentation and offered to answer any questions. There were no questions.

A motion was made by Council President Colgan to approve Resolution No. 2024-47, A RESOLUTION OF THE CORNELIUS CITY COUNCIL APPROVING AN IGA WITH WASHINGTON COUNTY FOR TRANSIT STOP INFRASTRUCTURE, and this action takes effect immediately; seconded by Councilor Godinez. Motion carried 5-0. Ayes: Councilor Doris Gonzalez, Councilor Eden Lopez, Councilor Angeles Godinez, Council President John Colgan, and Mayor Dalin.

B. Resolution No. 2024-48: Designation of City Streets where Parking is Prohibited (Oppenlander)

Kevin Oppenlander, Project Manager, presented the staff report on Resolution No. 2024-48. Oppenlander explained the City’s changes to public street standards, the reasons for those changes, and the effect the standards have had on prohibited parking areas. The current City Code requires the City Council to formally designate no parking zones. Resolution No. 2024-48 would universally designate areas outside of parking bays, or streets that are too narrow for street parking, as “no parking” zones. This will permit the Public Works Department to utilize “No Parking” signs in no parking zones, and consequently enable enforcement of no parking zones and preserve clear travel lanes. Oppenlander emphasized the Resolution would not be taking away any current parking.

The Council discussed concerns about the narrow street standards creating parking issues and safety hazards. The Council considered many factors, including the popularity of the City parks, street construction costs, and the challenge of balancing the need for parking and the goal to move away from car dependency.

Oppenlander reiterated the Resolution will not results in a reduction in available parking and discussed how current public parking is being used.

The Council discussed the need to reevaluate the way parking is being used, the popularity of the parks, and possible creative solutions. The Council acknowledged the discussion on available parking and the width of streets is not being considered by Resolution No. 2024-48; it relates to City staff's ability to identify and mark no parking zones without a formal designation on an individual bases by the Council.

The Council expressed wishes to see proposals from staff to identify and solve problems around the parking issues discussed.

A motion was made by Councilor Godinez to approve Resolution No. 2024-48, A RESOLUTION OF THE CORNELIUS CITY COUNCIL DESIGNATING STREETS WHERE PARKING IS PROHIBITED, and this action takes effect immediately; seconded by Councilor Gonzalez. Mayor Dalin stated for the record the Council's intent to receive a follow-up report from staff regarding the supply and demand of parking at public parks. City Manager Brandom thanked the Council and asked for an open timeframe to meet the Council's request, to allow for further research. The Council agreed. Motion carried 5-0. Ayes: Councilor Doris Gonzalez, Councilor Eden Lopez, Councilor Angeles Godinez, Council President John Colgan, and Mayor Dalin.

10. REPORTS

A. City Council

Councilor Godinez reported that El Grito is taking place at Shutte Park, on September 14th.

Councilor Gonzalez reported there is an upcoming heat advisory and noted garbage and recycling will likely be picked up earlier in the day.

Councilor Colgan reported school started and asked everyone to respect school speed zones and to drive safely with school pedestrians in mind.

B. Mayor Dalin

Mayor Dalin explained Metro's proposal to reallocate supportive housing services funds. Mayor Dalin stated their stance is for smaller Cities to receive direct allocations, similar to larger Cities, if Metro changes the rules.

C. City Manager

Brandom introduced the new City Recorder, Rachael Bateman.

11. ANNOUNCEMENTS

- A. Saturday, September 7, 2024 – 10:00 am: Grand Opening of the Drake Learning Center in the Cornelius Public Library**
- B. Wednesday, September 11: 9:00 am: 9/11 Memorial Ceremony, Forst Grove Big Flag**

- C. Saturday, September 21: 11:00 am – 4:00 pm: 60th Anniversary Forest Grove Corn Roast to Benefit the Forest Grove/Cornelius Chamber of Commerce, Pacific University Forest Grove Campus
- D. Fridays from 4:00 pm – 8:00 pm: Cornelius Farmers’ Market, Between City Hall and the Library (weekly through September 27); Note: Market relocation to 14th Avenue at Adair Street through August, returning to the Dinsdale Plaza in September
- E. Monday, October 7, 2024 – 6:00 pm Work Session; 7:00 pm City Council Meeting

12. ADJOURNMENT

A motion was made by Council President Colgan to adjourn. Seconded by Councilor Godinez. Motion carried 5-0. Ayes: Councilor Doris Gonzalez, Councilor Eden Lopez, Councilor Angeles Godinez, Council President John Colgan, and Mayor Dalin. Meeting adjourned at 8:23 PM.

City of Cornelius, Oregon Proclamation

Domestic Violence Awareness Month

WHEREAS, domestic violence is a serious crime that affects people of all races, ages, gender identities, socio-economic levels, religions, backgrounds, beliefs and abilities but often has a disproportionate effect on communities and groups impacted by inequity; and

WHEREAS, domestic violence includes physical, emotional, social, sexual, spiritual, financial, and digital abuse; and can occur within families as well as other intimate relationships; and

WHEREAS, Oregon sees higher rates of violence and abuse than the national average, with 42% of women and 39% of men experiencing domestic violence; and

WHEREAS, domestic violence impacts children, as approximately 50% of Washington County children who are child abuse victims also live in homes with domestic violence; and

WHEREAS, witnessing domestic violence and experiencing abuse in childhood increases the likelihood of addiction, mental health, learning, and other challenges later in life; and

WHEREAS, in 2023, the Family Justice Center served over 5,600 survivors and the Domestic Violence Resource Center fielded 3,988 crisis line calls and provided a total of 10,630 crisis services; and

WHEREAS, our Washington County community has united together to address the impact of all forms of family violence, including domestic violence, sexual assault, and child abuse, through our Family Justice Collaborative; and

WHEREAS, domestic violence incidents are some of the most complex and dangerous incidents that law enforcement respond to in our community, putting their lives at risk every day to hold offenders accountable and work toward ending the cycle of violence; and

WHEREAS, Domestic Violence Awareness Month shows support for and provides the citizens of Washington County the opportunity to learn more about preventing domestic violence and support for the numerous organizations and individuals who provide critical advocacy, resources, hope and assistance to victims.

NOW, THEREFORE, we, the City Council of Cornelius, Oregon, do hereby proclaim the month of October, 2024 as "Domestic Violence Awareness Month" in recognition of the many advocates, crisis hotline staff, victim service organizations, and prosecutors who hold offenders accountable, and the law enforcement officers in our community.

Dated this 7th day of October, 2024

Jeffrey C. Dalin, Mayor

City of Cornelius Agenda Report

To: City Council
From: Peter Brandom, City Manager
Date: October 7, 2024
Subject: Ordinance No. 2024-03: Omnibus Municipal Code Amendments Dealing with
Community Development



Requested City Council Action: Consider Planning Commission recommendation to approve Ordinance No. 2024-03.

Previous City Council Action: City Council have established and amended the Cornelius Municipal Code over many years. The sections subject to the proposed changes were approved at different times.

Relevant City Strategic Plan Goal(s): Goal 6: Identify community and economic development opportunities to support the community's needs.

Background: Over that past several months, staff have prepared a series of amendments to the Cornelius Municipal Code that deal with community development in order to remove conflicts within the Code, improve clarity, and create additional certainty in the development process. The proposed changes are intended to reduce barriers to development, while preserving and enhancing the quality of development. The Cornelius Planning Commission considered the proposed changes and held a public hearing on August 27, 2024, and approved the recommended changes.

Note: The planning Commission also recommended that the term "working days" be used in lieu of "calendar days" in relevant Code sections, in order to avoid the problem when a deadline falls on a non-working days (i.e., weekend, holiday). The Commission also discussed whether the term "working days" should be defined in the code. In consultation with the City Attorney, staff suggest the use of "business days" in lieu of "calendar days" since it is a commonly understood legal term to mean days other than Saturday, Sunday, and Federal legal holidays, and would also not require a definition to be added to the Code. Due to an unexpected staff absence, this change is not possible at this stage, so staff will bring this term change back to the City Council at a later date so that the remaining Code changes can be considered immediately.

Cost: Staff time.

Advisory Committee Recommendation: The Cornelius Planning Commission approved the proposed changes at their meeting on August 27, 2024.

Staff Recommendation: Enact Ordinance No. 2024-03 as presented.

Proposed Motion: I make a motion to enact Ordinance No. 2024-03, AN ORDINANCE OF THE CORNELIUS CITY COUNCIL AMENDING THE CORNELIUS MUNICIPAL CODE.

Exhibit: Ordinance No. 2024-03 and Exhibits A-B

ORDINANCE NO. 2024-03

AN ORDINANCE AMENDING CHAPTERS 2, 5, 15, 17, AND 18 OF THE CITY OF CORNELIUS MUNICIPAL CODE AND ENACTING A NEW CHAPTER 16

WHEREAS, City staff prepared proposed omnibus amendments to the Cornelius Municipal Code in Land Use File No. CMCA-01-24, consisting of portions of chapters 2, 5, 15, 17, and 18, as well as creation of a new Chapter 16, and more particularly involving the removal of conflicts, improving clarity, and creating additional certainty in the development process; and

WHEREAS, notice of this proposed ordinance was provided as required by law; and

WHEREAS, on August 27, 2024, the Cornelius Planning Commission held a public hearing to consider the proposed amendments and approved a recommendation to City Council to adopt the proposed amendments as presented; and

WHEREAS, the City Council held a hearing on the proposed amendments on October 7, 2024; and

WHEREAS, after considering all of the evidence and testimony presented at said hearing, as well as the Planning Commission recommendation and all of the other information in the record, the City Council finds the proposed amendments to be in compliance with the City's Comprehensive Plan, the City's Development Code, and state law.

NOW, THEREFORE, THE CITY OF CORNELIUS ORDAINS AS FOLLOWS:

Section 1. The City of Cornelius Municipal Code is hereby amended as set forth in Exhibit A, attached hereto and incorporated herein by reference.

Section 2. This ordinance is supported by the findings of fact and conclusions of law set forth in Exhibit B, attached hereto and incorporated herein by reference.

Section 3. The City Recorder is hereby directed and authorized to take such actions as may be necessary and proper to effectuate the adoption of this ordinance.

SUBMITTED to the Cornelius City Council and read into the record at a regular meeting thereof on the 7th day of October 2024, and read for a second time by title only this same day.

ENACTED this the 7th day of October 2024, and this action takes effect 30 days from enactment.

By: _____
Jeffrey C. Dalin, Mayor

ATTEST:

By: _____
Rachael Bateman, City Recorder

ORDINANCE NO. 2024-03
EXHIBIT A

a. Chapter 2.40 Amendment

Amendment to Chapter 2.40

Amend CMC 2.40.020(D) as follows:

(D) The public body shall make and reduce to writing specific findings of fact regarding *the applicable approval criteria following matters:*

- ~~(1) Whether the requested special benefit, if allowed, is in conformance with the comprehensive plan or development of the city and other applicable ordinances and code provisions.~~
- ~~(2) Whether there is a public need for the requested special benefit, and, if so, will the need be best served by the proposed special benefit involving the land use of the subject property as compared with other available property presently allowing such land usage.~~
- ~~(3) Whether conditions have changed in the immediate area of the subject property proposed for the special benefit or there was a mistake in the original comprehensive plan of development.~~

b. Chapter 5.20 Amendment



5.20 — Trailer Coach Parking Permits

5.20.010 Trailer Coach Parking Permits

~~It shall be unlawful to park or place any trailer coach occupied for living or sleeping purposes within the city for any time exceeding three hours, except in a trailer park. A trailer coach used for sleeping or living purposes may be parking in the city outside of a trailer park for a period not to exceed 15 days upon obtaining a permit from the city recorder. A permit shall not be issued unless the trailer complies with all sanitary, fire and zoning regulations of the city and the state. The fee for the permit shall be \$1.00~~



c. Chapter 15.15 Amendment

Amendment to Chapter 15.15

15.15.020 Permit Required.

No person shall construct, install, enlarge or remodel any swimming pool without first having obtained a permit from the ~~city recorder~~ **City of Cornelius.**

d. New Chapter 16 Amendment

New CMC annexation Chapter

Chapter 16. Annexation

16.10.010 Purpose

This chapter implements state and local laws, including ORS Chapter 222 and Metro Code Chapter 3.09, regarding the annexation of property into the City of Cornelius. It is intended to facilitate efficient urban and economic development opportunities by transferring jurisdiction over property within the Metro urban growth boundary from Washington County to the City of Cornelius. It also implements city-specific policies regarding annexation.

16.10.020 Annexation Proposal

- (1) Only owners of real property in the territory to be annexed, or the Cornelius City Council, may initiate an annexation. A property owner must file an application with the city to initiate an annexation and pay the associated fee. State law refers to the application as a "petition" for annexation. The city council may initiate an annexation by simply approving a motion during a public meeting.*
- (2) If the city agrees to provide utility services (e.g. water or sewer service) to a property outside the city limits, the property owner must annex into the city. If, at the time the city agrees to provide utility services, the property is not contiguous to the city, then the property owner must enter into an annexation contract with the city in accordance with ORS 222.115.*
- (3) Where the city current provides water or sewer service to a property outside the city limits, the property owner shall not object to or oppose annexation into the city.*

16.10.030 Petition

- (1) Prior to filing a petition for annexation, a property owner must schedule and attend a preapplication conference with the city. At that time, the city will review the annexation process with the property owner and identify the applicable requirements, including applicable forms and fees. The city manager may waive this requirement on a case-by-case basis. Annexations that the city council may initiate are exempt from the preapplication conference requirement.*
- (2) Except as state law may otherwise permit, petitions for annexation must relate to territory located within the Metro urban growth boundary.*
- (3) A petition must be filed on a form provided by the city, be accompanied by the applicable fee, and include the following:*
 - (a) The information required by Metro Code 3.09.040;*
 - (b) A narrative addressing the approval criteria of this chapter, the criteria in Metro Code 3.09.045(D), and if applicable, 3.09.045(E);*
 - (c) A copy of an assessor's map clearly showing the territory proposed for annexation and the existing boundary of the city near the territory;*

- (d) *A legal description of the territory, which must be in the form of a metes and bounds description unless the territory was the product of a subdivision or partition, in which case it may be described by lot and block;*
- (e) *The existing county zoning for the territory, and the proposed city zoning for the territory; and*
- (f) *A determination of whether the territory proposed for annexation qualifies as a “minor boundary change” pursuant to Metro Code Chapter 3.09.*

16.10.040 Approval Criteria

The city may approve a petition for annexation if it finds the petition satisfies the following criteria:

- (1) *The territory proposed for annexation is partially located within the Metro urban growth boundary;*
- (2) *The territory is contiguous to the existing boundary of the City of Cornelius;*
- (3) *The proposed annexation complies with applicable provisions of ORS Chapter 222;*
- (4) *The proposed annexation is consistent with applicable provisions of the city’s comprehensive plan;*
- (5) *The proposed annexation complies with Metro Code 3.09.045(D) and, if applicable, (E);*
- (6) *The proposed zoning for the territory is consistent with the city’s comprehensive plan, and other Metro or state requirements that may affect the zoning for the territory; and*
- (7) *Approving the proposed annexation is in the city’s best interest.*

16.10.050 Administration and Approval Process

- (1) *Upon receipt of a petition, the director will review the petition for completeness in a manner consistent with CMC 18.10.050, and subsequently allow the petitioner the opportunity to supplement the petition with any missing or requested information.*
- (2) *The city director will review whether the territory proposed for annexation qualifies as a “minor boundary change” pursuant to Metro Code Chapter 3.09.*
 - (a) *If the petition qualifies as a “minor boundary change,” the city may review and approve the petition in accordance with Metro Code 3.09.045 and, may adopt the annexation by Resolution. Section 3.09.045 of the Metro Code allows the city to expedite review of minor boundary changes and does not require the city to hold a public hearing, unless a party entitled to notice requests one.*
 - (b) *If the petition does not qualify as a “minor boundary change,” the city will process the petition in accordance with CMC 18.10.070(C) and Metro Code 3.09.050.*

- (3) *Notwithstanding any language to the contrary in this code, an annexation petition is not a "permit" as that term is defined in ORS 227.160. Therefore, annexations are not subject to the 120-day processing deadline established in ORS 227.178.*

16.10.060 Fees

A fee shall be charged for all review and approval procedures, land use permits and administrative actions governed by Title 16 of the code. Fees shall be set by resolution adopted by the City Council.

(1) Fee Schedule Update. The City Council shall update the fee schedule from time to time.

(2) Incorporation by Reference. The fee schedule most recently adopted by the City Council is incorporated by reference in this title.

(3) Fees Due and Payable. Fees are due and payable at the time an application is submitted. The requirement to pay a fee is jurisdictional, and the city will not process an application without payment of the associated fee. If an applicant pays a fee after submitting an application, the date they pay the fee will be considered the date they submitted the application.

16.20. Shelter Siting

16.20.010 Purpose

On May 12, 2021, Governor Brown signed into state legislation HB 2006, a bill intended to respond to the current statewide housing crisis authorizing cities to site emergency shelters if certain conditions are met. The new law took effect immediately and requires local governments to approve an application for an emergency shelter regardless of state or local land use laws, if the application meets specific approval criteria outlined in the bill, as codified below. An “emergency shelter” provides “shelter on a temporary basis for individuals and families who lack permanent housing.” Any emergency shelter use or activity specifically authorized below may not be put to any other use without securing the necessary land use approval as required by state law and the Cornelius Municipal Code.

Compliance with this state law is not a land use decision and it removes state requirements for a mailed notice, public hearing, or solicitation of public comment on an application. Local governments are obligated to approve applications for shelters that meet the criteria below. Decisions under this law may not be appealed to the Planning Commission, City Commission or the Land Use Board of Appeals but may be appealed using the writ of review process provided under ORS 34.010 – 34.100.

16.10.020 Shelter Siting Proposal

(1) A Shelter as used in this section means a building or cluster of buildings that provides shelter on a temporary basis for individuals and families that lack permanent housing. Shelter shall also include youth shelters, winter or warming shelters, day shelters and family violence shelter homes as defined in ORS 409.290.

(2) An applicant is limited to:

(A) a local government as defined in ORS 174.116;

(B) an organization with at least two years of experience operating an emergency shelter using best practices that is one of the following entities:

i. a local housing authority as defined in ORS 456.375;

ii. a religious corporation as defined in ORS 65.001; or

iii. a public benefit corporation, as defined in ORS 65.001, whose charitable purpose includes the support of homeless individuals, that has been recognized as exempt from income tax under 501(a) of the Internal Revenue Code on or before January 1, 2008; or

iv. a nonprofit corporation partnering with any other entity listed above.

(3) The following services may be provided to clients at no cost, or a monthly fee of no more than \$300 per month per client AND only to clients who are financially able to pay the fee AND who requested the services:

(A) Showering or bathing,

(B) Storage for personal property,

(C) Laundry facilities,

(D) Service of food prepared on-site or off-site,

(E) Recreation areas for children and pets,

(F) Case management services for housing, financial, vocational, educational or physical or behavioral health care services,

(G) Any other services incidental to shelter,

(H) May also provide additional services not described above to individuals who are transitioning from unsheltered homeless status.

16.10.020 Shelter Siting Criteria

- (1) Shelter includes sleeping and restroom facilities for clients;*
- (2) Shelter will comply with the applicable building codes;*
- (3) Shelter is not located within an area designated under a statewide planning goal related to natural disasters and hazards, including flood plains or mapped environmental health hazards, unless the development complies with regulations directly related to the hazard*
- (4) Has adequate transportation access to commercial and medical services;*
- (5) Will not pose any unreasonable risk to public health and safety.*

e. Chapter 17 Amendments

Amendment to Chapter 17.05

17.05.010 Purpose

(C) Fees Required.

A fee shall be charged for all review and approval procedures, land use permits and administrative actions governed by Title 18 of the code. Fees shall be set by resolution adopted by the City Council.

(1) Fee Schedule Update. The City Council shall update the fee schedule from time to time.

(2) Incorporation by Reference. The fee schedule most recently adopted by the City Council is incorporated by reference in this title.

(3) Fees Due and Payable. Fees are due and payable at the time an application is submitted. The requirement to pay a fee is jurisdictional, and the city will not process an application without payment of the associated fee. If an applicant pays a fee after submitting an application, the date they pay the fee will be considered the date they submitted the application.

17.05.040 Subdivisions.

(A) Procedure Type – Preliminary Plats. The community development director shall coordinate and assemble through the facilities and design review process the reports and data submitted by the applicant, affected city departments and any governmental agencies having an interest in subdivisions. The community development director shall determine whether the subdivision meets the criteria in subsection (C) of the section ~~within 45 days of its submittal.~~

17.05.050 (F) (1) Middle housing land divisions ~~and expedited land divisions:~~

- (a) If the application of an ELD or MHLD is incomplete, the city shall notify the applicant within 21 days of receiving the application. The application shall be deemed complete on the date the applicant submits the requested information or refuses in writing to submit it.
- (b) If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted, *or*
- (c) ***The applicant may request to be reviewed under those standards and criteria that are operative at the time of the request.***
 1. ***All timelines for completeness review and final decisions restart as if a new application were submitted on the date of the request.***

2. **The request may be denied if:**

- i. **The public notice has been mailed or published; or**
- ii. **A prior request to restart has been made; and**
- iii. **A fee may be charged only to cover the additional costs to accommodate the request, and,**
- iv. **A new application may not be requested, unless information submittal is required to address changes in information or locations or additional narrative is required to understand the request in context; and**
- v. **A new process or hearing cannot be required that is not applicable to the change in standards or criteria.**

17.05.060(F) Preliminary Plat Procedures for ~~Expedited and~~ Middle Housing Land Divisions

17.05.060(G) Final Plat Procedures for ~~Expedited and~~ Middle Housing Land Division

17.05.060(G)

~~(1) Expedited Land Division (ELD). The community development director shall review the final plat for compliance with the approved preliminary plat. If the community development director determines that the final plat conforms to the approved preliminary plat, the community development director shall so certify and sign the final plat. If the final plat does not conform, it shall be returned to the developer to correct the deficiencies and must be resubmitted for approval with the time established by the community development director.~~

(21) Middle Housing Land Division (MHLD) – Final Plat Review Criteria. Approval of a final plat for a MHLD will be granted if the review body finds the applicant has met the following criteria:

- (a) The final plat substantially conforms to the preliminary plat.
- (b) Conditions of approval attached to the preliminary plat have been satisfied.
- (c) All proposed improvements required to satisfy applicable standards of the CMC have been constructed.

(32) Final Plat Submittal. An application for an ELD or MHLD final plat shall include the same items required under subsection (C) of this section, as directed by the community development director.

17.05.060(H) Expedited Land Divisions ~~An Expedited land division (ELD) shall be defined and may be used as provided under ORS 197.360 through 197.380.~~

~~(1) **Selection.** An applicant who wishes to use an ELD procedure for a partition, subdivision or planned unit development instead of the regular procedure type assigned to it must request the use of the ELD in writing at the time the application is filed, or the right to use it is waived.~~

~~(2) **Review Procedure and Approval Criteria.** All applications for Expedited land divisions shall comply with ORS 197.360 through 197.380, the Cornelius Comprehensive Plan, applicable zoning designation, and submittal requirements requested under subsection (C) of this section.~~

~~(a) for an ELD to be considered, the proposed land division must demonstrate how it complies with the following:~~

~~(i) The primary lot is zoned for residential uses and is within the urban growth boundary.~~

~~(ii) The primary lot is solely for the purpose of residential use, including recreational or open space uses accessory to residential use.~~

~~(b) The land division will not provide for dwellings or accessory buildings to be located on land that is within the following overlay zones:~~

~~(i) Natural Resources overlay (Chapter 18.95 CMG);~~

~~(ii) Floodplain District (Chapter 18.90 CMG);~~

~~(c) The land division satisfies minimum street or other right-of-way connectivity standards established by the city's transportation system, engineering design manual, and the Municipal Code.~~

~~(d) The land division will result in development that either:~~

~~(i) Creates enough lots or parcels to allow building residential units at 80 percent or more of the maximum net density permitted by the zoning designation or the site; or~~

~~(ii) All dwellings will be sold or rented to households with incomes below 120 percent of the median family income for Washington County. A copy of a deed restriction or other legal mechanism approved by the director shall be submitted.~~

~~(3) **Appeal Procedure.** An appeal of an ELD shall follow the procedures in ROS 197.375. Where the city has not otherwise appointed a hearings officer (referee) for such appeals, and the city attorney is a contractor (not a city employee), the city attorney shall serve as the referee for ELD appeals.~~

17.05.070 Expedited Land Divisions

17.05.070(A) Purpose An Expedited land division (ELD) shall be defined and may be used as provided under ORS 197.360 through 197.380.

17.05.070(B) Applicability An applicant who wishes to use an ELD procedure for a partition, subdivision, or planned unit development instead of the regular procedure type assigned to it must request the use of the ELD in writing at the time the application is filed, or the right to use it is waived.

17.05.070 (C) Completeness

- (1) If the application of an ELD is incomplete, the city shall notify the applicant within 21 days of receiving the application. The application shall be deemed complete on the date the applicant submits the requested information or refuses in writing to submit it.**
- (2) If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted, or**
- (3) The applicant may request to be reviewed under those standards and criteria that are operative at the time of the request.**
 - (a) All timelines for completeness review and final decisions restart as if a new application were submitted on the date of the request.**
 - (b) The request may be denied if:**
 - i. The public notice has been mailed or published; or**
 - ii. A prior request to restart has been made; and**
 - iii. A fee may be charged only to cover the additional costs to accommodate the request, and,**
 - iv. A new application may not be requested, unless information submittal is required to address changes in information or locations or additional narrative is required to understand the request in context; and**
 - v. A new process or hearing cannot be required that is not applicable to the change in standards or criteria.**

17.05.070 (D) Review Procedure and Approval Criteria

- (1) Selection.** An applicant who wishes to use an ELD procedure for a partition, subdivision or planned unit development instead of the regular procedure type assigned to it must request the use of the ELD in writing at the time the application is filed, or the right to use it is waived.

(2) Review Procedure and Approval Criteria. All applications for Expedited land divisions shall comply with ORS 197.360 through 197.380, the Cornelius Comprehensive Plan, applicable zoning designation, and submittal requirements requested under subsection (C) of this section.

(a) for an ELD to be considered, the proposed land division must demonstrate how it complies with the following:

- (i) The primary lot is zoned for residential uses and is within the urban growth boundary.**
- (ii) The primary lot is solely for the purpose of residential use, including recreational or open space uses accessory to residential use.**

b) The land division will not provide for dwellings or accessory buildings to be located on land that is within the following overlay zones:

- i) Natural Resources overlay (Chapter 18.95 CMC).**
- (ii) Floodplain District (Chapter 18.90 CMC).**

(c) The land division satisfies minimum street or other right-of-way connectivity standards established by the city's transportation system, engineering design manual, and the Municipal Code.

(d) The land division will result in development that either:

- (i) Creates enough lots or parcels to allow building residential units at 80 percent or more of the maximum net density permitted by the zoning designation or the site; or**
- (ii) All dwellings will be sold or rented to households with incomes below 120 percent of the median family income for Washington County. A copy of a deed restriction or other legal mechanism approved by the director shall be submitted.**

17.05.070(E) Appeal Procedure

An appeal of an ELD shall follow the procedures in ROS 197.375. Where the city has not otherwise appointed a hearings officer (referee) for such appeals, and the city attorney is a contractor (not a city employee), the city attorney shall serve as the referee for ELD appeals.

17.05.070(F) Final Plat Requirements for Expedited Land Division

The community development director shall review the final plat for compliance with the approved preliminary plat. If the community development director determines that the final plat conforms to the approved preliminary plat, the community development director shall so certify and sign the final plat. If the final plat does not conform, it shall be returned to the

developer to correct the deficiencies and must be resubmitted for approval with the time established by the community development director.

f. Chapter 18 Amendments

Amendments to Chapter 18.

18.05.080 Fees for land use applications.

~~In order to defray expenses incurred in connection with the processing of applications, preparation of reports, publications of notices, issuance of permits and other matters, the city may charge and collect filing and other fees as established by resolution of the council. The required fees shall be paid to the city upon filing an application or at such other time as may be specified in this title.~~

A fee shall be charged for all review and approval procedures, land use permits and administrative actions governed by Title 18 of the code. Fees shall be set by resolution adopted by the City Council.

(1) Fee Schedule Update. The City Council shall update the fee schedule from time to time.

(2) Incorporation by Reference. The fee schedule most recently adopted by the City Council is incorporated by reference in this title.

(3) Fees Due and Payable. Fees are due and payable at the time an application is submitted or at such other time as may be specified in this title. The requirement to pay a fee is jurisdictional, and the city will not process an application without payment of the associated fee. If an applicant pays a fee after submitting an application, the date they pay the fee will be considered the date they submitted the application.

(4) The city may charge double the usual application fee ~~to~~ for those who fail to apply for any permit or other approval required by the City. The failure to submit a required fee with an application or a notice of appeal, including return of checks unpaid or other failure of consideration may preclude the proceeding of that application or appeal.

18.10.050 Complete submittal required.

Application materials shall be submitted to the community development director who shall have the date of submission indicated on each copy submitted. Within 30 ~~calendar~~ days from the date of submission, the community development director shall determine whether an application is complete.

(A) If the community development director determines that the application is incomplete or otherwise does not conform to the provisions of the code, the applicant shall immediately be notified of the negative determination in writing by mail, or email if

provided on the application materials, conveying an explanation and a submittal deadline for completion or correction of the application. ~~However, if the application remains incomplete for more than 30 days from the date of the notice of negative determination, the materials submitted shall be returned to the applicant and the file shall be closed. If an application is returned and the file closed, resubmittal shall require a new application.~~

(B) An application shall be determined to be complete upon receipt of:

- a. All of the information identified in 18.10.050(A) above;**
- b. Some of the missing information and written notice from the applicant that no other information will be provided; or**
- c. Written notice from the applicant that none of the missing information will be provided.**

(C) If an application is determined to be complete and in conformance with the provisions of the code, the community development director shall accept it and note the date of acceptance on the application form. The community development director shall then schedule the appropriate review and notify the applicant in writing of the date of the final decision or the hearing as set forth in Chapter 18.15 CMC.

(D) The applicant may request to be reviewed under those standards and criteria that are operative at the time of the request.

- a. All timelines for completeness review and final decisions restart as if a new application were submitted on the date of the request.**
- b. The request may be denied if:**
 - i. The public notice has been mailed or published; or**
 - ii. A prior request to restart has been made; and**
 - iii. A fee may be charged only to cover the additional costs to accommodate the request, and,**
 - iv. A new application may not be requested, unless information submittal is required to address changes in information or locations or additional narrative is required to understand the request in context; and**
 - v. A new process or hearing cannot be required that is not applicable to the change in standards or criteria.**

18.15.010 Application Review.

(B)(1) Upon receipt of an application for a Type II action, public notice of the impending application shall be given pursuant to the provisions of CMC 19.15.030. ~~In addition, notice shall be sent to each member of the planning commission.~~ Notice shall be given for general information purposes to provide affected parties the opportunity to review submitted plans and make their comments to the community development director orally or in writing. The community development director shall not hold a public hearing but may allow affected parties to attend meetings of the city for informational purposes.

18.15.010 Application Review

(B)(3) Within 10 ~~working~~ days of the final response date, set forth in the notice, the community development director shall review comments received and make a finding for each of any points in dispute and make a final decision. The final decision and supporting findings shall be forwarded to the applicant and affected parties who submitted comments. The notice of decision shall indicate the date of final action, conditions attached, if any, and the right of appeal pursuant to CMC 18.15.090.

18.15.090(B) Timeliness of appeal.

- (1) An appeal must be received by the city within 10 ~~working~~ days of the date the notice of decision is mailed.
- (2) Failure to receive the appeal within 10 ~~working~~ days is jurisdictional.
- (3) The day the notice of decisions was mailed shall not be included for purposes of determining the expiration of the appeal period.
- (4) If the 10-day appeal period ends on a weekend or a holiday, the appeal period closes on the next working day.**

18.15.090(F) Effective Date of Decisions. A decision of the community development director or planning commission shall become effective 11 ~~working~~ days after the date of

the decision unless an appeal is received by the city in accordance with subsection (A) of this section.

18.15.100 Time Extensions.

Prior to the expiration date of a land use approval, the applicant and property owner may request an extension of time.

1. Land Use Approval Extension Time Limit.

(A) The community development director may grant the two one-year extensions if the request complies with the Land Use Approval extension criteria and the original granting authority may grant one additional subsequent one-year extension. Temporary Use Permit extensions may be granted by the community development director as a Type I permit.

(B) No more than three extensions may be granted. No variances may be granted from this provision.

(C) Following the second one-year extension by the community development director, the original granting authority may grant one additional subsequent one-year extension. Temporary use permit extensions may be granted by the community development director as a Type I permit.

(D) This Ordinance shall apply to all extensions requested after the date of enactment regardless of the date of the original permit Final Decision. If a Land Use Approval has been granted extensions prior to adoption of this Ordinance, subsequent extension requests shall be reviewed by the granting authority. Three total extensions may be granted.

2. Land Use Approval Extension Criteria. *The granting authority may grant an extension of a Land Use Approval upon written findings that the request complies with the following:*

(A) The applicant has made a written request for an extension of the Land Use Approval prior to expiration of the approval period; and

(B) The applicant demonstrates one or more reasons that reasonably caused the applicant to delay substantial construction prior to expiration of the approval period; and

(C) The City determines that the applicant was unable to obtain substantial construction during the approval period for reasons for which the applicant was not responsible; and

(D) the property subject to the Land Use Approval complies with all City Code requirements.

3. Land Use Approval Extension Procedures.

(A) Applications for extensions shall be submitted in accordance with the Review Procedures of Chapter 18.15. Extension requests shall be submitted to the community development department prior to permit expiration.

(B) Public notice and procedures on applications for extension requests shall be in accordance with the Review Procedures of Chapter 18.15. However, in addition to mailed notice as required in Review Procedures of Chapter 18.15, notice shall be provided also to those on the record for the original Land Use Approval, associated appeals, and associated extensions.

(C) The Administrative decision, public hearing, and/or Commission decision concerning an extension may occur after the Land Use Approval would have expired but for a timely filed request for an extension.

4. Appeals. The decision concerning an extension may be appealed. Appeals shall be made in accordance with Review Procedures of Chapter 18.15. Appeals on Land Use Approval extensions shall be limited to the issues relevant to the extension criteria only and not to issues relevant to the original approval.

18.20. Low Density Residential (R-7)

18.20. 090 Accessory dwellings.

~~(A) A second or secondary, self-contained, one-bedroom living unit with separate entrance and kitchen, developed in conjunction with an existing single-family home and usually created in one of the following ways:~~

~~—— (1) From existing space in the primary dwelling;~~

~~—— (2) From a combination of existing and newly created space associated with the primary dwelling;~~

~~—— (3) From space within an existing accessory building, such as a detached garage; or~~

~~—— (4) From the addition of a new accessory building associated with an existing single-family home.~~

(B) Accessory dwellings shall comply with the following:

(1) The unit shall not exceed 800 square feet, or 60 percent of the total floor area of the primary dwelling, whichever is greater.

(2) The unit shall comply with the standard setbacks and height limitation of the base zone.

(3) all yard area requirements of the base zone shall be met, and the unit shall comply with the fire and life safety codes.

18.20.040 (F) the raising of animals other than normal household pets ***unless permitted through a livestock permit.***

18.20.050 Area, density and lot requirements.

(C) Maximum height.

Building height, as defined in CMC 18.195.080 shall not exceed 35 feet, except for

(1) A chimney, radio, television antenna, or solar feature.

(2) *Affordable Housing with a 30-year affordability covenant compliant with ORS 456.270 through 456.295 as affordable to 80 percent area median income or less for each unit, or the average of the units is affordable at 60 percent area median income or less, is entitled to 150 percent of the existing density and 24 additional feet.*

18.25 Very Low-Density Residential (R-10)

18.25.040 (F) the raising of animals other than normal household pets *unless permitted through a livestock permit.*

18.25.050 Area, density and lot requirements.

(B) Maximum height.

Building height, as defined in CMC 18.195.080 shall not exceed 35 feet, except for

(1) A chimney, radio, television antenna, or solar feature.

(2) *Affordable Housing with a 30-year affordability covenant compliant with ORS 456.270 through 456.295 as affordable to 80 percent area median income or less for each unit, or the average of the units is affordable at 60 percent area median income or less, is entitled to 200 percent of the existing density and 12 additional feet.*

18.25.090 Accessory dwellings.

~~(A) A second or secondary, self-contained, one-bedroom living unit with separate entrance and kitchen, developed in conjunction with an existing single-family home and usually created in one of the following ways:~~

~~—— (1) From existing space in the primary dwelling;~~

~~—— (2) From a combination of existing and newly created space associated with the primary dwelling;~~

~~—— (3) From space within an existing accessory building, such as a detached garage; or~~

~~—— (4) From the addition of a new accessory building associated with an existing single-family home.~~

(B) Accessory dwellings shall comply with the following:

~~(1) the owner(s) of the primary dwelling shall occupy at least one of the units.~~

~~(21) There shall be a minimum of 250 square feet of floor area for each occupant, and there shall be no more than two occupants, and the~~ *The* unit shall not exceed 800 square feet, or 30 percent of the total floor area of the primary dwelling.

~~(42) The exterior architectural design and building materials are consistent with those of the primary dwelling, and there shall be only one front door facing the street.~~

(53) All yard area requirements of the base zone shall be met, and the unit shall comply with the fire and life safety codes.

18.30 Manufactured Home Park

18.30.020 Permitted Uses

(L) A Recreational Vehicle that is occupied as a residential dwelling and is lawfully connected to water and electrical supply systems and a sewage disposal system through a building permit.

18.30.030 Prohibited uses.

(C) the raising of animals other than normal household pets **unless permitted through a livestock permit.**

18.30.070 Site Development Standards.

(G) Screening.

(1) Sight-obscuring screening shall be provided for all garbage and trash collection areas, and for any approved outdoor storage, or parking lots abutting residential development. Such screening shall be a minimum six-feet in height, and shall consist of a wall of brick, stone, or other substantial material; or a densely planted evergreen hedge and a decorative fence such as wrought-iron, or PVC or polymer covered chain link fencing. Galvanized chain link fencing shall not be permitted in new construction. Such screening shall be provided to a height sufficient to block the view of materials stored as viewed from the sidewalk on the opposite side of the street from the screen wall.

(2) Garbage and trash collection areas shall be designed to meet the needs of all types of trash and waste collection required, including recycling, food waste, and solid waste.

(3) The applicant shall demonstrate that the waste enclosure area is accessible by the waste service provider.

18.35 Multi-Unit Residential

18.35.040 Prohibited Uses

(D) the raising of animals other than normal household pets ***unless permitted through a livestock permit.***

18.35.050 Area, density and lot requirements.

(C) Maximum height.

Building height, as defined in CMC 18.195.080 shall not exceed ~~35~~**45** feet, except for

- (1) A chimney, radio, television antenna, or solar feature,
- (2) ***Affordable Housing with a 30-year affordability covenant compliant with ORS 456.270 through 456.295 as affordable to 80 percent area median income or less for each unit, or the average of the units is affordable at 60 percent area median income or less, is entitled to 150 percent of the existing density and 24 additional feet,***
- (3) Or as approved by the planning commission as part of a planned unit development.

18.35.060 Site Development Standards.

(K) Screening.

(1) Sight-obscuring screening shall be provided for all garbage and trash collection areas, and for any approved outdoor storage, or parking lots abutting residential development. Such screening shall be a minimum six-feet in height, and shall consist of a wall of brick, stone, or other substantial material; or a densely planted evergreen hedge and a decorative fence such as wrought-iron, or PVC or polymer covered chain link fencing. Galvanized chain link fencing shall not be permitted in new construction. Such screening shall be provided to a height sufficient to block the view of materials stored as viewed from the sidewalk on the opposite side of the street from the screen wall.

(2) Garbage and trash collection areas shall be designed to meet the needs of all types of trash and waste collection required, including recycling, food waste, and solid waste.

(3) The applicant shall demonstrate that the waste enclosure area is accessible by the waste service provider.

18.35.090 Accessory dwellings.

This section applies only to single-family detached or attached dwelling units.

~~(A) A second or secondary, self-contained, one-bedroom living unit with separate entrance and kitchen, developed in conjunction with an existing single-family home and usually created in one of the following ways:~~

~~—— (1) From existing space in the primary dwelling;~~

~~—— (2) From a combination of existing and newly created space associated with the primary dwelling;~~

~~—— (3) From space within an existing accessory building, such as a detached garage; or~~

~~—— (4) From the addition of a new accessory building associated with an existing single-family home.~~

(B) Accessory dwellings shall comply with the following:

(1) The unit shall not exceed 800 square feet, or 60 percent of the total floor area of the primary dwelling, whichever is greater.

(2) The unit shall comply with the standard setbacks and height limitation of the base zone.

(3) all yard area requirements of the base zone shall be met, and the unit shall comply with the fire and life safety codes.

18.45 Highway Commercial (C-2) zone

18.45.020 Permitted Uses

(K) Church and associated church activities.

(L) Conversion of a hotel or motel to an emergency shelter or affordable housing.

18.45.030 Conditional Uses

~~***(H) Church and associated church activities.***~~

18.45.040 Development requirements.

(C) Height of building. ~~**No building shall exceed a height of 35 feet, unless approved by the planning commission.**~~

Building height, as defined in CMC 18.195.080 shall not exceed ~~35~~**40** feet, except for

(1) Affordable Housing with a 30-year affordability covenant compliant with ORS 456.270 through 456.295 as affordable to 80 percent area median income or less for each unit, or the average of the units is affordable at 60 percent area median income or less, is entitled to 150 percent of the existing density and 24 additional feet,

(2) Or as approved by the planning commission.

18.45.060 Site Development Standards.

(F) Screening.

(3) Garbage and trash collection areas shall be designed to meet the needs of all types of trash and waste collection required, including recycling, food waste, and solid waste.

(4) The applicant shall demonstrate that the waste enclosure area is accessible by the waste service provider.

18.54. Light Industrial Zone (LI)

18.54.020 Permitted Uses

(B) Public and private utilities, including ~~but not limited to~~ telephone exchanges, electric substations, **and** data centers, ~~gas regulator stations, water wells and public work yards.~~

~~(F) Wholesale and/or card-lock fuel stations with approved loading and queuing space.~~

(L) **New** Self-Service storage facilities.

(K) Housing owned by a public body or non-profit corporation organized as a religious corporation; is not within the 100-year floodplain; can be adequately served by water, sewer, storm and streets; and the housing has an affordability covenant compliant with ORS 456.270 through 456.295 for no less than 30 years and that the site is contiguous to residential property.

18.54.030 Conditional Uses

~~(J) Power generation plants and associated facilities, including wind turbines.~~

~~(L) Child care facilities and preschools, if fully integrated with and secondary to the primary use of a site.~~

~~(M) Public recreational facilities including parks, playfields and sports and racquet courts on publicly owned property.~~

~~(N) Private indoor recreational facilities.~~

~~(O) Sewage treatment plants.~~

18.54.070 (F) Screening.

(3) Garbage and trash collection areas shall be designed to meet the needs of all types of trash and waste collection required, including recycling, food waste, and solid waste.

(4) The applicant shall demonstrate that the waste enclosure area is accessible by the waste service provider.

18.55 General Industrial Zone (M-1)

18.55.020 Permitted Uses

~~(F) New general commercial office improvements shall be permitted without the need for direct arterial access; provided, that such use, including required parking, does not exceed 25 percent of the total site area, and providing that all other code requirements are met. Total site area shall be defined by existing tax lots and/or lots under contiguous ownership.~~

~~(G) Existing nonconforming residential structures may be converted to general office commercial use without the need for direct arterial access, provided all other code requirements are met, and provided the conversion complies with all applicable building code requirements.~~

18.55.030 Conditional uses permitted.

~~(B) Any conditional use allowed in a commercial zone, except residential or certified child care.~~

~~(D) Parks, open space, recreation areas.~~

~~(F) Administrative, educational or other activities subordinate to a permitted use on the same premises as the principal use.~~

~~(J) Outdoor storage and display subject to a Type III review, except when the property abuts and/or is adjacent to M-1 zoned property on all sides in the city then a Type II is required.~~

~~(M) Indoor mini-storage facility~~

18.55.070 (F) Screening.

(3) Garbage and trash collection areas shall be designed to meet the needs of all types of trash and waste collection required, including recycling, food waste, and solid waste.

(4) The applicant shall demonstrate that the waste enclosure area is accessible by the waste service provider.

18.60 Central Mixed-Use Zone (CMU)

18.60.020 Permitted Uses

(P) Church, and associated church activities.

(Q) Conversion of a hotel or motel to an emergency shelter or affordable housing.

18.60.030 Conditional Uses

~~(C) Church, and associate church activities.~~

(F) Building Height in excess of 60 feet with frontage on Adair or Baseline, or 40 45 feet anywhere else.

18.60.050 Development requirements.

(C)Height of Buildings

(1) Buildings may be a maximum of three stories, or 40 feet in height, whichever is less; except buildings with frontage on Adair or Baseline, which can be a maximum of four stories or 60 feet in height without a conditional use permit.

(2) Affordable Housing with a 30-year affordability covenant compliant with ORS 456.270 through 456.295 as affordable to 80 percent area median income or less for each unit, or the average of the units is affordable at 60 percent area median income or less, is entitled to 150 percent of the existing density and 24 additional feet,

(23) Buildings shall be a minimum of 16 feet in height. The minimum height is intended to maintain a sense of enclosure of the street. Single-story building shall incorporate false fronts, parapets, or other design elements that reach the minimum height along the entire length of the building,

18.60.060 Site Development Standards.

(J) Screening.

(1) Sight-obscuring screening shall be provided for all garbage and trash collection areas, and for any approved outdoor storage, or parking lots abutting residential development. Such screening shall be a minimum six-feet in height, and shall consist of a wall of brick, stone, or other substantial material; or a densely planted evergreen hedge and a decorative fence such as wrought-iron, or PVC or polymer covered chain link fencing. Galvanized chain link fencing shall not be permitted in new construction. Such screening shall be provided to a height sufficient to block the view of materials stored as viewed from the sidewalk on the opposite side of the street from the screen wall.

(2) Garbage and trash collection areas shall be designed to meet the needs of all types of trash and waste collection required, including recycling, food waste, and solid waste.

(3) The applicant shall demonstrate that the waste enclosure area is accessible by the waste service provider.

18.65 Corridor Commercial (CC) zone

18.65.020 Permitted Uses

(S) Church, and associated church activities.

(T) Conversion of a hotel or motel to an emergency shelter or affordable housing.

18.65.050 Development Requirements

(C) Height of buildings.

(1) Buildings may be a maximum of three stories, or 40 feet in height, whichever is less; **except buildings with frontage on Adair or Baseline, which can be a maximum of four stories or 60 feet in height without a conditional use permit.**

(2) Affordable Housing with a 30-year affordability covenant compliant with ORS 456.270 through 456.295 as affordable to 80 percent area median income or less for each unit, or the average of the units is affordable at 60 percent area median income or less, is entitled to 150 percent of the existing density and 24 additional feet.

18.65.060 Design requirements.

(K) Screening.

(1) Sight-obscuring screening shall be provided for all garbage and trash collection areas, and for any approved outdoor storage, or parking lots abutting residential development. Such screening shall be a minimum six-feet in height, and shall consist of a wall of brick, stone, or other substantial material; or a densely planted evergreen hedge and a decorative fence such as wrought-iron, or PVC or polymer covered chain link fencing. Galvanized chain link fencing shall not be permitted on new construction. Such screening shall be provided to a height sufficient to block the view of materials stored as viewed from the sidewalk on the opposite side of the street from the screen wall.

(2) Garbage and trash collection areas shall be designed to meet the needs of all types of trash and waste collection required, including recycling, food waste, and solid waste.

(3) The applicant shall demonstrate that the waste enclosure area is accessible by the waste service provider.

18.70 Core Residential Zone (CR)

18.70.040 (D) the raising of animals other than normal household pets ***unless permitted through a livestock permit.***

18.70.050 Area, density and lot requirements.

(C) Maximum height.

Building height, as defined in CMC 18.195.080 shall not exceed 35 feet, except for

- (1) A chimney, radio, television antenna, or solar feature,
- (2) ***Affordable Housing with a 30-year affordability covenant compliant with ORS 456.270 through 456.295 as affordable to 80 percent area median income or less for each unit, or the average of the units is affordable at 60 percent area median income or less, is entitled to 200 percent of the existing density and 12 additional feet,***
- (3) Or as approved by the planning commission as part of a planned unit development.

18.70.060 Site Development Standards.

(F) Screening.

(3) Garbage and trash collection areas shall be designed to meet the needs of all types of trash and waste collection required, including recycling and solid waste.

(4) The applicant shall demonstrate that the waste enclosure area is accessible by the waste service provider.

18.70.090 Accessory Dwellings.

~~(A) A second or secondary, self-contained, one-bedroom living unit with separate entrance and kitchen, developed in conjunction with an existing single-family home and usually created in one of the following ways:~~

~~—— (1) From existing space in the primary dwelling;~~

~~—— (2) From a combination of existing and newly created space associated with the primary dwelling;~~

~~—— (3) From space within an existing accessory building, such as a detached garage; or~~

~~—— (4) From the addition of a new accessory building associated with an existing single-family home.~~

~~(B) Accessory dwellings shall comply with the following:~~

18.75 Gateway Mixed Use

18.75.020 Permitted Uses

(O) Churches, and associated church activities.

(P) Conversion of a hotel or motel to an emergency shelter or affordable housing.

18.75.050 Development requirements.

(C) Height of Buildings.

- (1) Buildings shall be a maximum of three stories or 45 feet in height, whichever is less
- (2) ***Affordable Housing with a 30-year affordability covenant compliant with ORS 456.270 through 456.295 as affordable to 80 percent area median income or less for each unit, or the average of the units is affordable at 60 percent area median income or less, is entitled to 150 percent of the existing density and 24 additional feet,***
- (3) Building height may be increased to a maximum of four stories or 60 feet in height, whichever is less, for buildings or portions of buildings set back at least 30 feet from the eastern, western, or southern perimeters of the district, and set back at least 120 feet from the northern perimeter of the district, if approved as a conditional use consistent with CMC Chapter 18.05.

18.75.060 Design requirements.

(I) Screening.

(1) Screening shall be required to buffer commercial, employment and residential uses, including associated parking areas, from exposed outdoor storage areas, aboveground utility yards, and abutting properties zoned for industrial use. Screen shall consist of a 10-foot landscaped buffer at least six-feet in height at the time of maturity, with one row of evergreen trees planted 25 feet on center and shrubs every five feet on center, or as otherwise determined appropriate by the ~~design review~~ ***planning*** commission consistent with the intent of this screening.

(2) Sight-obscuring screening shall be provided for all garbage and trash collection areas, and for any approved outdoor storage, or parking lots abutting residential development. Such screening shall be a minimum six-feet in height, and shall consist of a wall of brick, stone, or other substantial material; or a densely planted evergreen hedge and a decorative fence such as wrought-iron, or PVC or polymer covered chain link fencing. Galvanized chain link fencing shall not be permitted on new construction. Such screening shall be provided to a height sufficient to block the view of materials stored as viewed from the sidewalk on the opposite side of the street from the screen wall.

(3) Garbage and trash collection areas shall be designed to meet the needs of all types of trash and waste collection required, including recycling, food waste, and solid waste.

(4) The applicant shall demonstrate that the waste enclosure area is accessible by the waste service provider.

18.75.065(A)(2) In subdistrict B, ~~up to 50 percent of a lot or multiple lots if developed concurrently may be developed as ground-floor residential uses, including parking to serve residential uses.~~ A range of residential and commercial uses may be allowed in a mix from 100 percent residential to 100 percent commercial, or any intervening ratio, at the request of the applicant, based on market conditions.

18.175.030(D)

The community development director may authorize the placement of seasonal displays and signs on public property, including streets and public ways, subject to review by the ~~public works director~~ **city engineer** and building official for compliance with public works and building code standards.

18.180.030(A)

Plans shall be prepared with reference to the survey grid system adopted by the city, and no other system of locations for elevations shall be used. The city will furnish, upon request at the price established by resolution, required programmatic maps. No other maps shall be used, except as may be approved by the ~~public works director~~ **city engineer** as being more up-to-date or accurate.

Changes to Chapter 18.195 Definitions:

18.195.010 A Definitions:

“Accessory dwelling unit” means a second or secondary, self-contained, dwelling unit with separate entrance and kitchen, developed in conjunction with a **primary dwelling unit, an existing single family residence. The accessory dwelling unit may be created from space in the primary dwelling, from space within an accessory building, a new accessory building, or a combination of new and existing space in either an accessory building or the primary dwelling.**

18.195.030 C definitions:

~~“Camping vehicle” means either a vacation trailer or a self-propelled vehicle or structure equipped with wheels for highway use and which is intended for human occupancy and is being used for vacation and recreational purposes, but not for residential purposes, and is equipped with plumbing, sink or toilet.~~

~~Contiguous. See “abut”. Means having a property line, zoning boundary or wall in common, does not apply to buildings, uses, or property separated by a street or alley or other rights-of-way.~~

18.195.040 D definitions:

Days means calendar days without reference to business days or holidays unless specifically stated to the contrary.

~~Dwelling unit means a residence consisting of self-contained living quarters with individual sleeping, cooking and bathroom facilities constructed on a lot. A single unit, providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, cooking and sanitation.~~

Dwelling, Mobile Home includes the following housing types:

- (a) Residential Trailer. A structure constructed for movement on the public highways, that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being use for residential purposes, and that was constructed before January 1, 1962.**
- (b) Mobile House. A structure constructed for movement on the public highways, that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being use for residential purposes, and that was constructed between January 1, 1962 and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.**
- (c) Manufacture Home. A structure constructed for movement on the public highways, that has sleeping, cooking, and plumbing facilities, that is**

intended for human occupancy, that is being use for residential purposes, and that was constructed in accordance with federal manufactured housing construction safety standards regulations in effect at the time of construction.

18.19.130 M definitions:

Mobile Home means

- ~~(a) Residential Trailer. A structure constructed for movement on the public highways, that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being use for residential purposes, and that was constructed before January 1, 1962.~~
- ~~(b) Mobile House. A structure constructed for movement on the public highways, that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being use for residential purposes, and that was constructed between January 1, 1962 and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.~~
- ~~(c) Manufacture Home. A structure constructed for movement on the public highways, that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being use for residential purposes, and that was constructed in accordance with federal manufactured housing construction safety standards regulations in effect at the time of construction.~~

18.19.195 R definitions:

~~“Recreational vehicle” means a boat, camper, motor vehicle, or portable vehicular structure capable of being towed on the highways by a motor vehicle, designed and intended for casual or short-term human occupancy for travel, recreational and vacation uses. If identified in some manner as a recreational vehicle by the manufacturer or registered as such with the state, it is prima facie a recreation vehicle.~~

~~“Recreation vehicle” means a vacation trailer or other unit with or without motive power which is designed for human occupancy and to be used temporarily for recreational or emergency purposes and has a floor space of less than 220 square feet, excluding built-in equipment such as wardrobes, closets, cabinets, kitchen units or fixtures, and bath or toilet rooms. The unit shall be identified as a recreational vehicle by the manufacturer.”~~

Recreational Vehicle means a vehicle with or without motive power that is designed for use as temporary living quarters as further defined by rule by the Director of Transportation (ORS 74.101(3)).

**ORDINANCE NO. 2024-03
EXHIBIT B**

ZONING ORDINANCE AMENDMENT REVIEW CRITERIA

Section 18.125(C), Approval Criteria:

1. *The proposal conforms with the City's Comprehensive Plan.*

Finding Related to RLUIPA:

The proposal implements changes in interpretation of the RLUIPA (Religious Land Use and Institutionalized Persons Act) as refined by case law. The most recent case affected interpretation of “*Prohibits the imposition of burdens on the ability of parishioners to worship as they please*”. The case gave religious institutions equal footing as a theater, community center, or other similar use. As such, staff identified where theaters, community centers and other similar uses occur in the CMC and proposed amendments to allow religious institutions in a similar manner. So, if a theater was a permitted use, the religious institution was allowed as a permitted use. Similarly, if a theater was a conditional use, then the religious institution was allowed as a conditional use. This affected the zones in the following way:

- Central Mixed-Use (CMU) zone: move the “church, and associated church activities” use from conditional use to permitted use;
- Corridor Commercial (CC) zone: add the “church, and associated church activities” use as a permitted use;
- Gateway Mixed-Use (GMU) zone: add the “church, and associated church activities” as a permitted use;

Findings related to Implementing the Economic Opportunities Analysis:

The recently adopted Economic Opportunities Analysis (CPA-01-24) identified ten implementation recommendations including the following:

- 1. *Establish and maintain a competitive short-term and long-term supply of employment land, in readily developable sites.***
- 4. *Encourage infill, redevelopment and/or adaptive reuse of obsolete or underused properties in current employment zones.***
- 5. *Continue to improve and streamline development regulations and review processes where possible, to reduce cost and time, and provide predictability.***
- 9. *Ensure that applicable Comp Plan designations and zoning allow the mix of uses sought in employment areas, and if necessary, limit those uses that don't contribute to goals.***
- 10. *Review and update Development Code language to support the desired development types and streetscape initiatives.***

In response to these five implementation recommendations, staff propose tightening the allowable uses in the General Industrial (M-1) and Light Industrial (LI) zones.

The proposal does this by proposing, in the General Industrial Zone (M-1) to

- remove non-industrial type uses such as general office as a stand-alone use,
- remove conditional uses that are allowed in a commercial zone,
- remove parks, open space, recreation areas, and administrative, education or other activities as a principal use,
- remove outdoor storage and display subject to a Type II review, while keeping outdoor storage and display as a Type III review, and
- remove indoor mini-storage facility as a use

The proposal does this by proposing, in the Light Industrial Zone (LI) to

- remove light-industrial uses that are not currently located within the light-industrial zone such as gas regulator stations, water wells and public work yards; wholesale and/or card-lock fuel stations with approved loading and queuing space; power generation plants and associated facilities, including wind turbines; child care facilities and preschools, if fully integrated with and secondary to the primary use of a site; public recreational facilities including parks, playfields and sports and racquet courts on publicly owned property; private indoor recreational facilities; and sewage treatment plants, and
- limit self-service storage facilities to existing facilities within the zone.

These changes are to limit the types of activities to those that would generate employment opportunities in the zones and maximize the potential for the city to generate higher tax revenue from the zones.

All other amendments are to comply with new housing requirements or to clean up areas of the code where clarity is necessary.

Conclusions: Based upon the finding above, the City Council concludes this criterion is met.

1. *The permitted uses of the proposed new zone will not materially and/or adversely affect the character of the neighborhood.*

Findings: The proposed text amendments are primarily intended to clarify policy and processes through choice of language, and align practices with current law. While the proposal does not change any mapped zoning or propose any new zones, some of the required housing amendments may affect the character of neighborhoods, however; the City has no choice in whether to adopt the new amendments or not. Additionally, legislative changes to stimulate housing in Oregon, and presumably improve the housing crisis, have reduced the ability of affected parties to participate in the land use decisions.

Conclusions: Based upon the findings above, the City Council concludes this criterion is met.

2. *The proposal will place all property similarly situated in the area in the same zoning category or in appropriate complementary categories, without creating a “spot zone”.*

Findings: The proposed text amendments are primarily intended to clarify policy and processes through choice of language, and align practices with current law. Incorporation of appropriate development regulations will protect the character of these districts while expanding the commercial opportunities therein. There are no substantial amendments to the standards or regulations within any zoning district, or any changes to zoning district boundaries, that would constitute spot zoning.

Conclusions: Based upon the findings above, the City Council finds that this criterion is met.

City of Cornelius Agenda Report

To: Peter Brandom, City Manager
From: Ellie Jones, Assistant City Manager
Date: October 7, 2024
Subject: Resolution No. 2024-51: Supplemental Budget 1 for Fiscal Year 2024-2025



Requested City Council Action: Approve Resolution No. 2024-51.

Previous City Council Action: One or two supplemental budgets are standard occurrence for municipal corporations. There were three supplemental budgets approved for the previous Fiscal Year 2023-2024.

Relevant City Strategic Plan Goal(s): Goal 5: Develop the necessary infrastructure to meet the growth, service demands, and emergency preparedness needs of the community.

Background: This is to support a resolution for the first supplemental budget for the current Fiscal Year 2024-2025. It recognizes unplanned revenues/expenses and changes appropriations so that the budget is in line with anticipated expenses. A notice of the public hearing was posted on the City website beginning on September 20, 2024 and was advertised in the News Times on September 26, 2024. Below are descriptions of the budget changes:

- 1 Multiple Funds - Transfer \$300,000 from General Fund to ISF Fund for Civic Center upgrades (project carryover).
- 2 General - Adjust Fire Department salaries and overtime to account for unforeseen circumstances.
- 3 General - Increase WCCLS revenue and Library expenses by \$17,922 to reflect increase in City allocation.
- 4 Internal Services - Increase Net Working Capital based on projected actuals.
- 5 Internal Services - Increase Facility Expense by \$24,750 for increased janitorial expenses.
- 6 Internal Services - Increase Facility Expense by \$25,000 for replacement of Library HVAC.

Cost: Most of these changes are to reflect actual circumstances not known at the time the budget was adopted last June. Staff is permitted only to spend within the appropriations approved by the City Council. Without these adjustments some line items may be over-expended and revenue would not be correctly stated. Budget excesses are liabilities for City officials. Making changes at this time allows the Budget Committee to use more accurate numbers when looking at the proposed budget for next year.

Advisory Committee Recommendation: Not applicable.

Staff Recommendation: Approve Resolution No. 2024-51 as presented.

Proposed Motion: I make a motion to approve Resolution No. 2024-51, A RESOLUTION OF THE CORNELIUS CITY COUNCIL AUTHORIZING APPROPRIATIONS AMENDING THE FY 2024-2025 BUDGET (SUPPLEMENTAL BUDGET NO. 1) and this action takes effect immediately.

Exhibit: Resolution No. 2024-51 and Exhibit A

RESOLUTION NO. 2024-51

**A RESOLUTION AUTHORIZING APPROPRIATIONS AMENDING
THE FY 2024-2025 BUDGET (SUPPLEMENTAL BUDGET NO. 1)**

WHEREAS, a Supplemental Budget is the appropriate mechanism to recognize sources of revenue that were not known at the beginning of the year; and

WHEREAS, this Supplemental Budget adjusts the current year’s budget by increasing the budget to allow for receipt of revenues not anticipated in the original budget. The Supplemental Budget also makes adjustments to several accounts where operating expenses might otherwise overrun the original estimates; and

WHEREAS, the public hearing notice for the Supplemental Budget was posted on the City website beginning September 20, 2024 and advertised in the local newspaper on September 26, 2024.

NOW, THEREFORE, BE IT RESOLVED BY THE CORNELIUS CITY COUNCIL AS FOLLOWS:

Section 1. The Cornelius City Council adopts Supplemental Budget 1 dated October 7, 2024 on file at City Hall, 1355 N Barlow St, Cornelius, Oregon.

Section 2. Appropriations are amended as outlined in Exhibit A and funds transferred as indicated.

Section 3. This resolution is effective immediately upon its enactment by the City Council.

INTRODUCED AND APPROVED by the Cornelius City Council at their regular meeting this 7th day of October, 2024.

City of Cornelius, Oregon

By: _____
Jeffrey C Dalin, Mayor

Attest: _____
Rachael Bateman, City Recorder

NOTICE OF SUPPLEMENTAL BUDGET HEARING

Resolution 2024-XXX
Exhibit A

A public hearing on a proposed supplemental budget for the City of Cornelius, Washington County, State of Oregon for the Fiscal Year July 1, 2024 to June 30, 2025 will take place on Monday, October 7, 2024 at 7:00 pm at 1355 N Barlow St, Cornelius, Oregon. The purpose of the hearing is to discuss the supplemental budget with interested persons.

The ability to join the meeting virtually will also be available. Please visit www.corneliusor.gov for directions to join the meeting online. Public comment will be taken orally and in writing. Written comments will be read during the public comment section of the meeting.

Comments, both oral and written, will be subject to a three minute limit per community member.

Written comments can be dropped off at the above address, or sent by email to cityrecorder@corneliusor.gov no later than 3:00pm on Friday, October 4, 2024.

A copy of the supplemental budget may be inspected online at www.corneliusor.gov after September 25, 2024.

Major changes, if any, and their effect on the budget, are explained below.

Supplemental for 2024-2025 Budget #1

Fund	Category	2024-2025 Budget	Change	Revised 2024-2025 Budget
1 General				
	Revenue	18,777,029	17,922	18,794,951
	Expenditure			
	Fire	1,386,751	65,000	1,451,751
	Fire Levy	1,142,056	(40,000)	1,102,056
	Library	1,302,601	17,922	1,320,523
	Transfers & Allocations	954,419	300,000	1,254,419
	Other Contingency	5,603,144	(325,000)	5,278,144
2 Internal Service Fund				
	Revenue	2,904,864	557,741	3,462,605
	Expenditure			
	Facilities	725,010	374,892	1,099,902
	Other Contingency	25,353	182,849	208,202

Comments: The supplemental includes adjustments to account for carryover projects, grants and unforeseen expenses not known at time of budget preparation.

City of Cornelius Agenda Report

To: City Council
From: Peter Brandom, City Manager
Date: October 7, 2024
Subject: Resolution No. 2024-49: Oregon Water/Wastewater Agency Response Network (ORWARN) Mutual Aid Agreement



Requested City Council Action: Approve Resolution No. 2024-49.

Previous City Council Action: None.

Relevant City Strategic Plan Goal(s): Goal 4: Ensure Safety for all community members; Goal 5: Develop the necessary infrastructure to meet the growth, service demands, and emergency preparedness needs of the community.

Background: Many Water and Wastewater services agencies in Oregon have formed and joined a mutual aid agreement whereby members may seek to coordinate response activities and share resources during or after an emergency. The agreement establishes procedures and standards for the program. There is no cost to join the membership, and it avails the City of substantial aid should it be needed. It also provides a mechanism for the City to provide aid to other members should it be sought and should the City be able to provide it. There are currently 179 member agencies across the state, including nearby partner agencies of Banks, Forest Grove, Tualatin Valley Water District, Clean Water Services, and our water supplier, Hillsboro.

Cost: None.

Advisory Committee Recommendation: Not applicable.

Staff Recommendation: Approve Resolution No. 2024-49 as presented.

Proposed Motion: I make a motion to approve Resolution No. 2024-49, A RESOLUTION OF THE CORNELIUS CITY COUNCIL AUTHORIZING THE CITY MANAGER TO SIGN A MUTUAL AID AGREEMENT WITH THE MEMBERSHIP OF THE OREGON WATER AND WASTEWATER AGENCY RESPONSE NETWORK and this action takes effect immediately.

Exhibit: Resolution No. 2024-49 and Exhibit A

RESOLUTION NO. 2024-49

A RESOLUTION OF THE CORNELIUS CITY COUNCIL AUTHORIZING THE CITY MANAGER TO SIGN A MUTUAL AID AGREEMENT WITH THE OREGON WATER AND WASTEWATER AGENCY RESPONSE NETWORK

WHEREAS, the City of Cornelius owns and operates it’s in-town distribution systems for water and wastewater conveyance; and

WHEREAS, the Oregon Water and Wastewater Agency Response Network (ORWARN) is established to provide procedures and standards for mutual aid between members in the event of an emergency; and

WHEREAS, membership in ORWARN will provide potential resources to the City in the event of an emergency, and the ability for the City to support other agencies where possible; and

WHEREAS, several City partner agencies, including the Cities of Banks, Forest Grove, and Hillsboro, Clean Water Services, and Tualatin Valley Water District are members of ORWARN; and

WHEREAS, there is no cost to join the ORWARN membership.

NOW, THEREFORE, BE IT RESOLVED BY THE CORNELIUS CITY COUNCIL AS FOLLOWS:

Section 1. The Cornelius City Council approves and authorizes the City Manager to execute the ORWARN agreement attached herein as Exhibit A.

Section 2. This resolution is effective immediately upon its enactment by the City Council.

INTRODUCED AND APPROVED by the Cornelius City Council at their regular meeting this 7th day of September, 2024.

City of Cornelius, Oregon

By: _____
Jeffrey C. Dalin, Mayor

Attest: _____
Rachael Bateman, City Recorder

MUTUAL AID AND ASSISTANCE AGREEMENT FOR THE PROVISION OF EMERGENCY SERVICES RELATED TO WATER AND WASTEWATER UTILITIES

This Mutual Aid and Assistance Agreement (“Agreement”) establishes a Mutual Aid Assistance Program among signatories to this Agreement, and contains procedures and standards for a water and wastewater utility Mutual Aid and Assistance Program.

AGREEMENT

This Agreement is entered into by the Members that have, by executing this Agreement, manifested their intent to enter into a Mutual Aid and Assistance Program through the Oregon Water/Wastewater Agency Response Network (ORWARN). Associate Members may also become affiliated with ORWARN by executing this Agreement. A list of all Members and Associate members shall be maintained by the Governing board and is available upon request from a Governing Board.

ARTICLE I. PURPOSE

Recognizing that emergencies may require assistance in the form of personnel, equipment, and supplies from outside the area of impact, the Members hereby establish a Mutual Aid and Assistance Program. Through the Mutual Aid and Assistance Program, Members may, in their discretion, coordinate response activities and share resources during emergencies. This Agreement sets forth the procedures and standards for the administration of the Mutual Aid and Assistance Program.

ARTICLE II. DEFINITIONS

A. Associate Members Any public or private entity that desires to be affiliated with ORWARN may become an Associate Member. Associate Members may attend board meetings, attend general membership meetings, attend training exercises, receive general information regarding the organization and participate in other activities deemed appropriate by the Governing Board. Associate Members may not request assistance or respond to a request for assistance under the Agreement. Further, Associate Members may not vote and

are ineligible to serve on the Governing board.

B. Authorized Official Employees or officers of a Member that are authorized to: (1) request assistance; (2) offer assistance; (3) refuse to offer assistance or (4) withdraw assistance under this Agreement.

C. Confidential Information Any document shared with any signatory of this Agreement that is marked confidential, including but not limited to any map, report, notes, papers, opinion, or e-mail which relates to the system vulnerabilities of a Member.

D. Emergency Any human caused or natural event or circumstance causing, or imminently threatening to cause, loss of life, injury to person or property, human suffering or financial loss, and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material as defined in ORS 466.605, contamination, utility or transportation emergencies, disease, blight, infestation, civil disturbance, riot, intentional acts, sabotage and war that is, or could reasonably be believed to be beyond the control of the services, personnel, equipment, and facilities of a Member.

E. Member Any municipal corporation, quasi-municipal corporation, department or agency of a municipal corporation, department or agency of a quasi-municipal corporation, service district, political subdivision or private utility company that participates in the Mutual Aid and Assistance Program by executing this Agreement. If any municipal corporation, quasi-municipal corporation, department or agency of a municipal corporation, department or agency of a quasi-municipal corporation, service district, political subdivision or private utility company has separate water and wastewater operations, each one, if contracting separately, shall be deemed to be a Member for purposes of this Agreement.

F. National Incident Management System (NIMS) A national, standardized approach to incident management and response that sets uniform processes and procedures for emergency response operations.

G. Non-Responding Member A Member that does not provide assistance during a Period of Assistance under the Mutual Aid and Assistance Program.

H. Period of Assistance A period of time during which a Responding Member assists a Requesting Member. The period commences when personnel, equipment, or supplies depart from a Responding Member's facility and ends when the Responding Member no longer supplies personnel, equipment, supplies or services to the Requesting Member.

I. Requesting Member A Member that requests assistance under the Mutual Aid and Assistance Program.

J. Responding Member A Member that responds to a request for assistance under the Mutual Aid and Assistance Program.

ARTICLE III. ADMINISTRATION

A. A Governing Board shall be established to organize and maintain the Mutual Aid and Assistance Program. The Governing Board shall be elected by ballot by a majority vote of the Members of this Agreement. Each Member shall have one vote. Associate Members are ineligible to vote and may not serve on the Governing Board.

B. The Governing Board shall consist of 5 Members. The Governing Board will elect the following officers: a Chair; a Vice Chair; and a Secretary. The term of all board members shall be 2 years, except that in the first year the Agreement is in effect, the term of the Vice Chair and other board members shall be 1 year. A quorum shall be a majority of the Members of the Governing Board.

C. The Governing Board shall meet at least twice each year, at a meeting place designated by the Governing Board. The Governing Board may make, establish and alter rules and regulations for its procedure consistent with generally recognized principles of parliamentary procedure. The Governing Board shall have the power to carry out the purposes of this Agreement, including but not limited to the power to: adopt bylaws; develop specific procedures and protocol for requesting assistance; develop specific procedures and protocol for responding to a request for assistance; organize meetings; operate a website; disseminate information; create informational brochures; create subcommittees; maintain membership lists; maintain equipment and supply inventory lists; and deal with membership issues.

ARTICLE IV. REQUESTS FOR ASSISTANCE

A. Member Responsibility: Members shall designate Authorized Official(s); provide contact information including emergency 24-hour contact information; and maintain resource information made available by the utility for mutual aid and assistance response. Such information shall be updated annually or when changes occur and provided to the Governing Board.

In the event of an Emergency, a Member's Authorized Official may request mutual aid and assistance from a participating Member. Requests for assistance can be made orally or in writing. When made orally, the request for

personnel, equipment, and supplies shall be provided in writing as soon as practicable. Requests for assistance shall be directed to the Authorized Official of the participating Member. The Governing Board shall develop specific protocols for requesting aid in bylaws, as amended from time to time.

B. Response to a Request for Assistance: After a Member receives a request for assistance, the Authorized Official evaluates whether resources are available to respond to the request for assistance. Following the evaluation, the Authorized Official shall inform, as soon as possible, the Requesting Member whether it has the resources to respond. If the Member is willing and able to provide assistance, in its sole discretion, the Member shall inform the Requesting Member about the type of available resources and the approximate arrival time of such assistance.

C. Discretion of Responding Member's Authorized Official: Execution of this Agreement does not create any duty to respond to a request for assistance. When a Member receives a request for assistance, the Authorized Official shall have sole and absolute discretion as to whether or not to respond to the request, and the availability of resources to be used in any such response. All Authorized Official's decisions on the availability of resources shall be final unless overridden by the Member's governing body.

ARTICLE V. RESPONDING MEMBER PERSONNEL

A. National Incident Management System: When providing assistance under this Agreement, the Requesting Member and Responding Member will use the organizational principles set forth in the National Incident Management System.

B. Control: Responding Member personnel shall remain under the direction and control of the Responding Member. The Requesting Member's Authorized Official shall coordinate response activities with the designated supervisor(s) of the Responding Member(s). Whenever practical, Responding Member personnel must be self sufficient for up to 72 hours.

C. Food and Shelter: When possible, the Requesting Member shall supply reasonable food and shelter for Responding Member personnel. If the Requesting Member does not provide food and shelter for responding personnel, the Responding Member's designated supervisor is authorized to secure the resources reasonably necessary to meet the needs of its personnel. Except as provided for below, the cost for such resources must not exceed the State per diem rates for that area. To the extent Food and Shelter costs exceed the State per diem rates for the area, Responding Member must demonstrate that the additional costs were reasonable and necessary under the circumstances. Unless otherwise agreed to in writing, the Requesting Member remains

responsible for reimbursing the Responding Member for all reasonable and necessary costs associated with providing food and shelter, if such resources are not provided.

D. Communication: The Requesting Member shall provide Responding Member personnel with radio equipment as available, or radio frequency information to program existing radio equipment, in order to facilitate communications with local responders and utility personnel.

E. Licenses and Permits: To the extent permitted by law, Responding Member personnel who hold valid licenses, certificates, or permits evidencing professional, mechanical, or other skills shall be allowed to carry out activities and tasks relevant and related to their respective credentials during the specified Period of Assistance.

F. Right to Withdraw: The Responding Member's Authorized Official retains the right to withdraw some or all of its resources at any time for any reason in the Responding Member's sole and absolute discretion. Responding Member(s) shall have no liability from a decision to withdraw. Notice of intention to withdraw must be communicated to the Requesting Member's Authorized Official as soon as is practicable under the circumstances.

ARTICLE VI

COST REIMBURSEMENT

A. Cost Reimbursement: Unless otherwise mutually agreed by the Requesting Member and the Responding Member, the Requesting Member shall reimburse the Responding Member for each of the following categories of costs incurred while providing aid and assistance during the Period of Assistance.

B. Personnel Costs: Responding Member personnel costs shall be the amount to be paid for work performed by the Responding Member's personnel during a Period of Assistance under the terms and conditions of the Responding Member's individual employment contracts with such personnel. The Responding Member's designated supervisor(s) shall keep accurate records of work performed by personnel during the Period of Assistance. Requesting Member reimbursement to the Responding Member shall include all personnel costs incurred by the Responding Member, including, but not limited to, salaries or hourly wages, costs for fringe benefits, and indirect costs.

C. Costs of Equipment: The Requesting Member shall reimburse the Responding Member for the use of equipment during a Period of Assistance, including, but not limited to, reasonable rental rates, all fuel, lubrication, maintenance, transportation, and loading/unloading of loaned equipment. All

equipment shall be returned to the Responding Member as soon as is practicable and reasonable under the circumstances. Generally, rates for equipment use will be based on the Federal Emergency Management Agency's (FEMA) Schedule of Equipment Rates. If a Responding Member uses rates different from those in the FEMA Schedule of Equipment Rates, the Responding Member must provide such rates orally or in writing to the Requesting Member prior to supplying equipment. Mutual agreement on which rates are used must be reached in writing prior to dispatch of the equipment. Reimbursement for equipment not referenced on the FEMA Schedule of Equipment Rates must be developed based on actual recovery of costs. In the event loaned equipment is damaged while being dispatched to Requesting Member, or while used during a Period of Assistance, and such damage is not due to negligence or intentional acts of the Responding Member, Requesting Member shall reimburse Responding Member for the reasonable cost of repairing such damaged equipment. If the damaged equipment cannot be repaired, then Requesting Member shall reimburse Responding Member for the reasonable cost of replacing such damaged equipment with equipment that is of equivalent age, condition and of at least equal capability. If Responding Member must lease a piece of equipment while its equipment is being repaired, Requesting Member shall reimburse Responding Member for such rental costs.

D. Costs of Materials and Supplies: The Requesting Member must reimburse the Responding Member in kind or at actual replacement cost, plus handling charges, for Responding Member's use of expendable or non-returnable supplies during the Period of Assistance. The Responding Member must not charge direct fees or rental charges to the Requesting Member for supplies and reusable items that are returned to the Responding Member in a clean, damage-free condition. Reusable supplies that are returned to the Responding Member with damage shall be treated as expendable supplies or non-returnable for purposes of cost reimbursement.

E. Payment Period: The Responding Member must provide an itemized bill to the Requesting Member for all expenses incurred by the Responding Member in providing assistance under this Agreement, not later than ninety (90) days following the end of the Period of Assistance. The Responding Member may request additional periods of time within which to submit the itemized bill, and Requesting Member shall not unreasonably withhold consent to such request. The Requesting Member shall pay the bill in full on or before the forty-fifth (45th) day following the billing date. The Requesting Member may request additional periods of time within which to pay the itemized bill, and Responding Member shall not unreasonably withhold consent to such request, provided, however, that all payment shall occur not later than one-year after the date a final itemized bill is submitted to the Requesting Member.

F. Records: Each Responding Member and their duly authorized representatives shall have access to a Requesting Member's books, documents, notes, reports, papers and records which are directly pertinent to this Agreement for the purposes of reviewing the accuracy of a cost bill or making a financial, maintenance or regulatory audit. Each Requesting Member and their duly authorized representatives shall have access to a Responding Member's books, documents, notes, reports, papers and records which are directly pertinent to this Agreement for the purposes of reviewing the accuracy of a cost bill or making a financial, maintenance or regulatory audit. Such records shall be maintained for at least three (3) years or longer where required by law.

ARTICLE VII. DISPUTES

If a dispute arises between Members under this Agreement, the disputing Members shall first attempt to resolve the dispute by negotiation, followed by mediation and finally by filing an action in a court of competent jurisdiction.

Step One: The disputing Members shall authorize a person ("Authorized Official") to negotiate on their behalf. If the dispute is resolved at this step, there shall be a written determination of such resolution, signed the disputing Members' Authorized Official and ratified by each governing body, if required. Step One will be completed when notice is delivered in writing to all disputing Members.

Step Two: If the dispute cannot be resolved within fifteen (15) business days at Step One, the disputing Members shall submit the matter to mediation. The disputing Members shall attempt to agree on a mediator. If they cannot agree, the disputing Members shall request a list of five (5) mediators from an entity or firm providing mediation services. The disputing Members will mutually agree on a mediator from the list provided. If the disputing Members cannot mutually agree upon a mediator, the disputing Members shall alternatively strike one name from the list until one mediator remains. The remaining mediator shall be the mediator for the dispute. Any common costs of mediation shall be borne equally by the disputing Members who shall each bear their own costs and fees. If the issue is resolved at this step, a written determination of such resolution shall be signed by each Authorized Official and ratified by their respective governing bodies, if necessary.

Step Three: If the disputing Members are unsuccessful at Steps One and Two, the dispute shall be resolved by a State of Oregon

court of competent jurisdiction. Venue shall be in the jurisdiction of the Responding Member, subject to statutory limitations.

ARTICLE VIII.
DUTY OF REQUESTING MEMBERS TO INDEMNIFY

Subject to the Oregon Constitution, the limits imposed under the Oregon Tort Claims Act, and laws of the state of Oregon applicable to local governments, the Requesting Member shall assume the defense of, fully indemnify, save and hold harmless, all Members, and their board, directors, commissioners, officers, agents and employees, from all claims, suits, actions, loss, damage, injury, and liability of every kind, nature, and description, directly or indirectly arising from any Responding Member's act or omission during a specified Period of Assistance, except for claims arising out of the willful misconduct or gross negligence of a Responding Member, its board, directors, commissioners, officers, agents and employees.

ARTICLE IX.
SIGNATORY INDEMNIFICATION

To the extent not addressed in Article VIII, and subject to the Oregon Constitution and limits imposed under the Oregon Tort Claims Act, a Requesting Member shall have a duty to defend, indemnify, save and hold harmless all Non-Responding Members and Associate Members, their officers, agents and employees from any liability, claim, demand, action, or proceeding of whatever kind or nature arising out of a Period of Assistance.

ARTICLE X.
WORKER'S COMPENSATION CLAIMS

Each Responding Member shall provide worker's compensation benefits and administering worker's compensation for its own personnel.

ARTICLE XI.
NOTICE

A Member or Associate Member that becomes aware of a claim or suit that in any way, directly or indirectly, contingently or otherwise, affects or might affect other Members or Associate Members of this Agreement shall provide prompt and timely notice to the Members or Associate Members that may be affected by the suit or claim. Each Member and Associate Member reserves the right to participate in the defense of such claims or suits as necessary to protect its own interests.

**ARTICLE XII.
INSURANCE**

Members and Associate Members of this Agreement shall maintain an appropriate insurance policy or maintain a self-insurance program that covers activities that it may undertake by virtue of membership in the Mutual Aid and Assistance Program.

**ARTICLE XIII
CONFIDENTIAL INFORMATION**

To the extent provided by law, Members and Associate Members shall maintain in the strictest confidence and shall take all reasonable steps necessary to prevent the disclosure of any Confidential Information disclosed under this Agreement. If any Member, Associate Member, third party or other entity requests or demands, by subpoena or otherwise, that a Member or Associate Member disclose any Confidential Information disclosed under this Agreement, the Member or Associate Member shall immediately notify the owner of the Confidential Information and shall take all reasonable steps necessary to prevent the disclosure of any Confidential Information by asserting all applicable rights and privileges with respect to such information and shall cooperate fully in any judicial or administrative proceeding relating thereto.

**ARTICLE XIV.
EFFECTIVE DATE AND PROCESS TO ADD NEW MEMBERS**

This Agreement shall be effective after two (2) or more entities' authorized representatives execute the Agreement. Membership shall become effective upon executing this Agreement. A list of all Members and Associate Members shall be maintained by the Governing board and is available upon request from a Governing Board.

**ARTICLE XV.
TERM**

Unless restricted by Oregon statutes, municipal Charters and corporate Charters, the term of this Agreement shall be for 5 years and shall be automatically renewed for additional terms of five years each, unless terminated by Majority vote of the Governing Board. Termination of this Agreement shall in no way affect a Requesting Member's duty to reimburse a Responding Member for cost incurred during a Period of Assistance, or for any other costs voluntarily incurred during the withdrawing Member's membership, which duty shall survive such

termination.

**ARTICLE XVI.
WITHDRAWAL**

A Member or Associate Member may withdraw from this Agreement by providing written notice of its intent to withdraw to the Governing Board. Withdrawal takes effect 60 days after the Governing Board receives notice. Withdrawal from this Agreement shall in no way affect a Requesting Member's duty to reimburse a Responding Member for cost incurred during a Period of Assistance, which duty shall survive such withdrawal.

**ARTICLE XVII.
MODIFICATION**

No provision of this Agreement may be modified, altered, or rescinded by individual Members or Associate Members of the Agreement. Modifications (except Modifications to Article III and Article XVII) require a majority vote of the Members of the Governing Board (3) or a majority vote of the Members of this Agreement. Modifications to Article III and Article XVII require a majority vote of the Members to this Agreement. Approved modifications take effect 60 days after the date upon which notice is sent to the Members, except that the addition of a new Member or Associate Member becomes effective upon execution of this Agreement.

**ARTICLE XVIII.
NO THIRD PARTY BENEFICIARIES**

The signatories to this Agreement are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide, any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

**ARTICLE XIX.
WAIVER**

No provision of this Agreement may be waived except in writing by the Member waiving compliance. No waiver of any provision of this Agreement shall constitute waiver of any other provision, whether similar or not, nor shall any one waiver constitute a continuing waiver. Failure to enforce any provision of this Agreement shall not operate as a waiver of such provision or of any other

provision.

ARTICLE XX.
SEVERABILITY

The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

ARTICLE XXI.
EXECUTION IN COUNTERPARTS

This Agreement may be executed in counterparts, each of which shall be an original, and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, an authorized representative of a Member or Associate Member has duly executed this Mutual Aid and Assistance Agreement as of the date referenced below. An ORWARN representative will acknowledge receipt of the Mutual Aid and Assistance Agreement and return a copy to the Member or Associate Member.

MEMBER

APPROVED AS TO FORM:

By: _____

Date: _____

Title: _____

Print Name _____

ASSOCIATE MEMBER

APPROVED AS TO FORM:

By: _____

Date: _____

Title: _____

Print Name _____

Affiliation or Interest in water / wastewater industry _____

ORWARN ACKNOWLEDGMENT

By: _____

Date: _____

Title: _____

Print Name _____

City of Cornelius Agenda Report

To: City Council
From: Peter Brandom, City Manager
Date: October 7, 2024
Subject: Resolution No. 2024-50: Oregon Department of Environmental Quality (DEQ)
Consent Order



Requested City Council Action: Approve Resolution No. 2024-50.

Previous City Council Action: On May 6, 2024, the City Council approved 1) a resolution authorizing the purchase of the former Estby property gas station at 10th Ave and Baseline, 2) an Intergovernmental Agreement (IGA) with the Cornelius Urban Renewal Agency to use Urban Renewal funds for the purchase, and 3) an application to the US Environmental Protection Agency for grant funding to assess the environmental condition of the property.

Relevant City Strategic Plan Goal(s): Goal 6: Identify community and economic development opportunities to support the community's needs.

Background: City staff and their contracted real estate broker have been working for many months to acquire the derelict former gas station property at 10th Ave and Baseline in order to secure grants for the property cleanup and to return the property to productive use. In order to protect the City from liabilities resulting from prior underground petrochemical contamination, the City is entering into a Prospective Purchasers Agreement (PPA) with the DEQ. The negotiated Consent Order is the legal mechanism to enact the PPA.

Cost: The Consent Order is part of the broader work and transaction, the cost is significant staff and City Attorney time.

Advisory Committee Recommendation: Not applicable.

Staff Recommendation: Approve Resolution No. 2024-50 as presented.

Proposed Motion: I make a motion to approve Resolution No. 2024-50, A RESOLUTION OF THE CORNELIUS CITY COUNCIL AUTHORIZING THE CITY MANAGER TO SIGN A CONSENT ORDER WITH THE OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY AS PART OF THE ACQUISITION OF THE FORMER ESTBY GAS STATION PROPERTY AT 10TH AVE AND BASELINE IN CORNELIUS and this action takes effect immediately.

Exhibit: Resolution No. 2024-50 and Exhibit A

RESOLUTION NO. 2024-50

A RESOLUTION OF THE CORNELIUS CITY COUNCIL APPROVING THE OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ) CONSENT ORDER FOR THE ACQUISITION, CLEANUP AND REPURPOSING OF THE FORMER ESTBY GAS STATION PROPERTY IN CORNELIUS

WHEREAS, Oregon DEQ and the City of Cornelius mutually wish to see that the property at 1021 Baseline Street in Cornelius is cleaned up and productively reused; and

WHEREAS, known underground contamination from petroleum formerly stored in five underground storage tanks presents a liability for the current and future property owners; and

WHEREAS, the City has applied for a Prospective Purchaser Agreement from DEQ, which is intended to limit the City’s liability as it seeks to acquire, clean up, and repurpose the property to beneficial use; and

WHEREAS, a Consent Order is intended to protect the City from potential liability for pre-acquisition releases of hazardous substances at or from the property.

NOW, THEREFORE, BE IT RESOLVED BY THE CORNELIUS CITY COUNCIL AS FOLLOWS:

Section 1. The Cornelius City Council approves and authorizes the City Manager to execute the Consent Order in substantially the same form as the draft attached herein as Exhibit A.

Section 2. This resolution is effective immediately upon its enactment by the City Council.

INTRODUCED AND APPROVED by the Cornelius City Council at their regular meeting this 7th day of October, 2024.

City of Cornelius, Oregon

By: _____
Jeffrey C. Dalin, Mayor

Attest: _____
Rachael Bateman, City Recorder

Space above this line for Recorder's use.

After recording, return to:

Grantee

Oregon DEQ 700 NE Multnomah St.,
Suite 600 Portland, OR 97232
Attention: Jeff Schatz

Grantor

City of Cornelius
1355 N Barlow St.
Cornelius, Oregon 97113

**STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY**

In the Matter of:

DEQ No. [insert]

City of Cornelius, and Oregon
municipal corporation

ORDER ON CONSENT

Respondent.

Pursuant to ORS 465.260(4) and 465.327, the Director, Oregon Department of Environmental Quality (“DEQ”), issues this Order on Consent (“Consent Order”) to the City of Cornelius (“Respondent”). This Consent Order contains the following provisions:

<u>Contents</u>	<u>Page</u>
1. Purpose.....	2
2. Stipulations.....	3
3. Findings of Fact.....	4
4. Conclusions of Law and Determinations	5
5. Work to be Performed.....	6
A. Remedial Design/Remedial Action.....	6
B. Modification of SOW or Related Work Plans.....	6

C. Additional Measures	6
D. Site Restrictions and Periodic Reviews	6
6. Public Participation	7
7. General Provisions	7
A. Project Managers.....	7
B. Supervising Contractor.....	8
C. DEQ Approvals.....	8
D. Access to Property.....	9
E. Records.....	10
F. Notice and Samples.....	11
G. Quality Assurance	11
H. Progress Reports.....	12
I. Other Applicable Laws	12
J. Reimbursement of DEQ Costs.....	13
K. Financial Assurance [intentionally left blank].....	14
L. Force Majeure	15
M. Dispute Resolution	15
N. Stipulated Penalties	16
O. Effect of Consent Order	18
P. Indemnification and Insurance	19
Q. Parties Bound	19
R. Modification	20
S. Effective Date.....	20
T. Recording	20
8. Release from Liability.....	20
9. Third-Party Actions.....	21
10. Respondent Waivers.....	21
11. Benefits and Burdens Run with the Land	21
12. Certification of Completion	22
13. Signatures.....	23

Exhibit A: Vicinity Map

Exhibit B: Property Legal Description

Exhibit C: Scope of Work

Exhibit D: Easement and Equitable Servitude

1. Purpose

The mutual objectives of DEQ and Respondent (collectively “Parties”) are: (a) to protect public health, safety, and welfare and the in accordance with applicable provisions of ORS 465.200 through 465.420, regulations promulgated thereto, and (b) to facilitate productive reuse of property; and (c) to provide Respondent with protection from potential liabilities in

accordance with applicable law.

2. Stipulations

A. Respondent consents and agrees:

- (1) To issuance of this Consent Order;
- (2) To perform and comply with all provisions of this Consent Order;
- (3) In any proceeding brought by DEQ to enforce this Consent Order, to not challenge DEQ's jurisdiction to issue and enforce this Consent Order;
- (4) To waive any right Respondent might have, before commencement of action by DEQ to enforce this Consent Order, to seek judicial review or review by the Environmental Quality Commission of this Consent Order;
- (5) To not litigate, in any proceeding brought by DEQ to enforce this Consent Order or to assess penalties for noncompliance with this Consent Order, any issue other than Respondent's compliance with this Consent Order; and
- (6) To not assert, in any proceeding brought by DEQ to enforce this Consent Order or to assess penalties for noncompliance with this Consent Order, that performance of any interim or removal measures or phase of work by Respondent discharges Respondent's duty to fully perform all remaining provisions of this Consent Order.

B. DEQ and Respondent stipulate:

- (1) For the purposes of this Consent Order, the "Facility," as defined in ORS 465.200(13), means: (a) the Property (as hereinafter defined); and (b) the full extent of existing known or unknown contamination by hazardous substances of any media on, above, or below the Property, or that has migrated, might have migrated, or hereafter migrates to anywhere from the Property.
- (2) For the purposes of this Consent Order, "Existing Hazardous Substance Releases" means: (a) any release of hazardous substances, as defined in ORS 465.200, at the Facility existing as of the date of Respondent's acquisition of ownership or operation of the Property; (b) any spill or release of oil or hazardous material, as defined in ORS 466.605, at the Facility existing as of the date of Respondent's acquisition of ownership or operation of the Property; and (c) the entry of oil into the waters of the state, as defined in ORS 468B.300, from the Facility before the date of Respondent's acquisition of ownership or operation of the Property.

3. Findings of Fact

DEQ makes the following findings without admission of any such facts by Respondent:

- A. Respondent, City of Cornelius is an Oregon municipal corporation.
- B. The property proposed for acquisition by Respondent, currently owned by Islam El Masry, is an approximately .5271 acre site located at 1021 Baseline Street, Cornelius, Washington County, Oregon, in Northeast one-quarter of Section 4, Township 1 South Range 3 West, of the Willamette Meridian (the “Property”). The location of the Property is illustrated generally in the Vicinity Map, Exhibit A to this Consent Order. The legal description of the Property is set forth in Exhibit B to this Consent Order. All exhibits attached to this Consent Order are incorporated by reference.
- C. The Property is currently owned by Islam Al Masry who purchased the Property on or around October 2015, prior to that the Property was acquired by M&G Collections LLC in 2009. Currently the Respondent is under contract to purchase the Property from EL Masry.
- D. On or around 2006 DEQ received a report that petroleum products had been released from an Underground Storage Tank (UST) located on the Property and as a result the UST was placed on DEQ’s Leaking UST Facility List.
 - (1) The LUST remained on site and was not decommissioned
 - (2) In August 2009 DEQ detected gasoline contaminants in a sample taken from groundwater wells on the Property which showed that the gasoline had migrated beyond the base of the tank resulting in DEQ notices to the then Property owner, M & G Collections LLC, to investigate the potential contamination.
 - (3) No investigation or decommissioning was performed by M & G Collections LLC ultimately resulting in DEQ Notice of Civil Penalty Assessment and Order to Comply LQ/LUST-NWR-11-104 with penalties in the amount of \$28,961.00.
 - (4) In response to the DEQ Notice of Civil Penalty Assessment and Order to Comply referenced in (D)(3) above, additional groundwater sampling was performed at the Property in December 2012, February 2016, August 2016, December 2016, and December 2018.
 - (5) In February 2016 DEQ issues a General Permit Registration Temporary Closure Certificate (2016 Certificate) because the five USTs on the Property were not being operated.
 - (6) In February 2017, the 2016 Certificate expired and as of that date none of the required actions: extension of the 2016 Certificate, return to operation or decommissioning had occurred with respect to the USTs.
 - (7) Further, the 5 USTs on the Property were internally lined in 1995 and had not been inspected as required 10 years after installation and every five years thereafter.
 - (8) As a result of the issues listed in (D)(6) and (7) above DEQ issued a Civil Penalty Assessment and Order in the amount of \$15,677.
 - (9) In 2019 DEQ filed a Notice of Claim of Lien against the Property in an amount of \$1429.
 - (10) Between February and July 2019, additional assessment related to the 2006 UST release was performed, consisting of borings advanced offsite to delineate groundwater contamination and collection of wet- and dry-season soil gas samples. Gasoline-range hydrocarbons were detected in one soil gas sample at a concentration exceeding residential and occupational worker risk-based concentrations for the vapor intrusion

into building pathway.

- E. Pursuant to ORS 465.255(1)(b), Respondent could become liable to DEQ and other persons for releases of hazardous substances at or from the Property by becoming the owner or operator of the Property with actual or constructive knowledge of the releases. On August 20, 2024, Respondent applied to DEQ for a “prospective purchaser agreement” under ORS 465.327 and agreed to reimburse DEQ’s costs of technical review and agreement preparation. This Consent Order is intended to protect Respondent from potential liability for pre-acquisition releases of hazardous substances at or from the Property, in return for Respondent undertaking certain obligations, as described in this Consent Order. In determining to propose this Consent Order, DEQ reviewed current zoning information available on-line from Washington County considered reasonably anticipated future land uses at the Property and surrounding properties.
- F. On [Date], DEQ published notice of this proposed Consent Order and provided opportunity for public comment in accordance with ORS 465.320(1) and 465.327(3). [Insert public meeting date and oral comments received, if applicable] The comment period ended [Date]. Comments were received and considered by DEQ, as documented in the administrative record.

4. Conclusions of Law and Determinations

Based on the above findings of fact and the administrative record, DEQ determines, without admission of any such determinations by Respondent, that:

- A. Respondent is a “person” within the meaning of ORS 465.200(21).
- B. The contaminants described in Subsection 3.E. are “hazardous substances” within the meaning of ORS 465.200(16).
- C. The presence of hazardous substances in in the USTs constitutes a “release” or “threat of release” into the environment within the meaning of ORS 465.200(22).
- D. The Property described in Subsection 3.B. is a “facility” within the meaning of ORS 465.200(13).
- E. Respondent is not currently liable under ORS 465.255, 466.640, or 468B.310 for the Existing Hazardous Substance Releases.
- F. Removal or remedial action is necessary at the Property to protect human health or the environment;
- G. Respondent’s ownership and operation of the Property will not cause, contribute to, or

exacerbate existing contamination, increase health risks, or interfere with remedial measures at the Property;

H. A substantial public benefit will result from this Consent Order; and

I. The release from liability set forth in Subsection 8.A satisfies the criteria set forth in ORS 465.327(1).

Based upon the above Stipulations, Findings of Fact, Conclusions of Law and Determinations, DEQ ORDERS:

5. Work to be Performed

A. Remedial Design/Remedial Action

Respondent will perform the remedial design and remedial action for the Property in accordance with the terms and schedule set forth in the Scope of Work (“SOW”), attached to this Consent Order as Exhibit C, and the terms and schedules set forth in a DEQ-approved work plan.

B. Modification of SOW or Related Work Plans

(1) If DEQ determines that modification to the work specified in the SOW and/or in work plans developed pursuant to the SOW is necessary in order to implement or maintain the effectiveness of the remedy set forth in the ROD, DEQ may require that such modification be incorporated in the SOW and/or such work plans; provided, any such modification may be required pursuant to this paragraph only to the extent that the modification is consistent with the scope of the remedy selected in the ROD.

(2) Subject to dispute resolution under Subsection 7.M., Respondent will modify the SOW and/or work plans as required by DEQ and implement any work required by the modifications. Before invoking dispute resolution under Subsection 7.M., Respondent and DEQ will make a good-faith effort to resolve any dispute regarding DEQ-requested modifications by informal discussions for no more than 30 days following notice from DEQ of a requested modification.

C. Additional Measures

Respondent may elect at any time during the term of this Consent Order to undertake measures, beyond those required under this Consent Order and the SOW, necessary to address the release or threatened release of hazardous substances at the Property. Such additional measures are subject to prior approval by DEQ. DEQ’s approval will be

granted if DEQ determines that the additional measures are consistent with the remedial action objectives in the ROD and will not threaten human health or the environment.

D. Site Restrictions and Periodic Reviews **[if applicable]**

- (1) If required by DEQ, Respondent will, within 30 days of notification of such requirement, record with the County Clerk, Washington County, the Easement and Equitable Servitude attached to this Consent Order as Exhibit D, or in a form substantially similar to that provided in Exhibit D. Respondent will provide DEQ a file-stamped copy of the Easement and Equitable Servitude within five working days of recording. **[Note: Where EES cannot be completed on same timeline as CO, Respondent may commit to record within specified time period an EES substantially in the same form as exhibit, provided final EES is subject to DEQ approval and is consistent with ROD. Consult with DOJ regarding appropriate wording in a given case.]**
- (2) Property subject to the Easement and Equitable Servitude may be freely alienated at any time after recording, provided the deed or other instrument of conveyance refers to or incorporates the Easement and Equitable Servitude.
- (3) Any deed, title, or other instrument of conveyance regarding the Property must contain a notice that the Property is the subject of this Consent Order. Respondent, in any such deed or conveyance, must also reserve such access (by easement, right-of-way, or otherwise) as might be necessary to carry out Respondent's obligations under this Consent Order.
- (4) At least once every five years, DEQ will review the remedy to ensure that the Property remains protective of public health, safety, and welfare and the environment. Periodic reviews will include evaluation of monitoring data, progress reports, inspection and maintenance reports, land and water uses, compliance with institutional controls, and any other relevant information.

6. Public Participation

Upon issuance of this Consent Order, DEQ will provide public notice of the Consent Order through issuance of a press release, at a minimum to a local newspaper of general circulation, describing the measures required under this Consent Order. Copies of the Consent Order will be made available to the public. DEQ will provide Respondent a draft of such press release and consider any comments by Respondent on the draft press release, before

publication.

7. General Provisions

A. Project Managers

- (1) To the extent possible, all reports, notices, and other communications required under or relating to this Consent Order must be directed to:

DEQ Project Manager:

Jeff K. Schatz
Department of Environmental Quality
Northwest Region
700 NE Multnomah Street, Suite #600
Portland, OR 97232
Phone: 503-863-0810
Email: jeff.schatz@deq.oregon.gov

Respondent Project Manager

Peter Brandom
City Manager's
Office
City of Cornelius
1355 N Barlow St
Cornelius, Oregon 97113
503-357-9112
Peter.brandom@corneliusor.gov

- (2) The Project Managers or their respective designees must be available and have the authority to make day-to-day decisions necessary to complete the work required under this Consent Order.

B. Supervising Contractor

- (1) All aspects of remedial work to be performed by Respondent pursuant to this Consent Order must be performed under the direction and supervision of a qualified employee or contractor experienced in hazardous substance remediation and knowledgeable in applicable state and federal laws, regulations, and guidance.
- (2) Within 30 days of the effective date of this Consent Order, Respondent will notify DEQ in writing of the name, title, and qualifications of any proposed supervising contractor. DEQ may for good cause disapprove the proposed contractor. In the event of such disapproval, DEQ will notify Respondent in writing of the reasons for its disapproval within 14 days of receipt of the initial notice from Respondent. Respondent, within 14 days of receiving DEQ's notice of disapproval, will notify DEQ of the name, title, and qualifications of an alternative supervising contractor, subject to DEQ's right to disapprove under the terms and schedule specified above.
- (3) If, during the course of work required under this Consent Order, Respondent proposes to change its supervising contractor, Respondent will notify DEQ in accordance with the provisions of the preceding paragraph. DEQ may disapprove such contractor,

under the terms and schedule specified in the preceding paragraph.

C. DEQ Approvals

(1) Where DEQ review and approval is required for any plan or activity under this

Consent Order, Respondent may not proceed to implement the plan or activity prior to DEQ approval. Any DEQ delay in granting or denying approval correspondingly extends the time for completion by Respondent. Prior approval is not required in emergencies, provided Respondent notifies DEQ immediately after the emergency and evaluates the impact of its actions.

- (2) After review of any plan, report, or other item required to be submitted for DEQ approval under this Consent Order, DEQ will: (a) approve the submission in whole or in part; or (b) disapprove the submission in whole or in part, and notify Respondent of its deficiencies and/or request modifications to cure the deficiencies.
- (3) DEQ approvals, rejections, or identification of deficiencies will be given in writing within the time specified in the SOW or as soon as practicable, and will state DEQ's reasons with reasonable specificity.
- (4) In the event of DEQ disapproval or request for modification of a submission, Respondent will, within 30 days of receipt of the DEQ notice or such longer time as may be specified in the notice, either correct the deficiencies and resubmit the revised report or other item for approval, or invoke dispute resolution under Subsection 7.M.
- (5) In the event of two deficient submittals of the same deliverable that are deficient for the same reasons due to Respondent's failure to cure the original deficiency, DEQ may modify the submission to cure the deficiency.
- (6) In the event of approval or modification of a submission by DEQ, Respondent will implement the actions required by the plan, report, or other item, as so approved or modified.

D. Access to Property

- (1) Respondent will allow DEQ to enter all portions of the Property owned by or under the control of Respondent at all reasonable times for the purpose of overseeing Respondent's performance under this Consent Order, including but not limited to inspecting records relating to work under this Consent Order, conducting such tests and taking such samples as DEQ deems necessary, verifying data submitted to DEQ by Respondent, conducting periodic review, and using camera, sound recording, or other recording equipment. DEQ will make available to Respondent, upon Respondent's request, any photographs or recorded or videotaped material taken.

- (2) Respondent will seek to obtain access to property not owned or controlled by Respondent as necessary to perform work required in this Consent Order, including access by DEQ for purposes described in Paragraph 7.D.(1). DEQ may use its statutory authority to obtain access to property on behalf of Respondent if DEQ determines that access is necessary and that Respondent has exhausted all good faith efforts to obtain access.

E. Records

- (1) In addition to those reports and documents specifically required under this Consent Order, Respondent will provide to DEQ, within 10 days of DEQ's written request, copies of Quality Assurance/Quality Control (QA/QC) memoranda and audits, raw data, final plans, task memoranda, field notes (not made by or at the direction of Respondent's attorney), and laboratory analytical reports relating to activities under this Consent Order.
- (2) Respondent will preserve all records and documents in possession or control of Respondent or its employees, agents, or contractors that relate in any way to activities under this Consent Order, for at least five years after certification of completion under Section 12. Upon DEQ's request, Respondent will provide to DEQ, or make available for copying by DEQ, copies of non-privileged records. For a period of 10 years after certification of completion, Respondent will provide DEQ 60 days notice before destruction or other disposal of such records or documents. Ten years after certification of completion, Respondent has no further obligation to preserve documents or records.
- (3) Subject to Paragraph 7.E.(4), Respondent may assert a claim of confidentiality under the Oregon Public Records Law regarding any document or record submitted to or copied by DEQ pursuant to this Consent Order. DEQ will treat documents and records for which a claim of confidentiality has been made in accordance with ORS 192.311 through 192.431. If Respondent does not make a claim of confidentiality at the time the documents or records are submitted to or copied by DEQ, the documents or records may be made available to the public without notice to Respondent.
- (4) Respondent will identify to DEQ (by addressor-addressee, date, general subject matter, and distribution) any document, record, or item withheld from DEQ on the

basis of attorney-client or attorney work product privilege, except to the extent that such identifying information is itself subject to a privilege. Respondent may not assert attorney-client or work product privilege with respect to any records required to be submitted under Paragraph 7.E.(1). DEQ reserves its rights under law to obtain documents DEQ asserts are improperly withheld by Respondent.

F. Notice and Samples

- (1) Respondent will make every reasonable effort to notify DEQ of any excavation, drilling, sampling, or other fieldwork to be conducted under this Consent Order at least five working days before such activity, but in no event less than 24 hours before such activity. Upon DEQ's verbal request, Respondent will make every reasonable effort to provide a split or duplicate sample to DEQ or allow DEQ to take a split or duplicate of any sample taken by Respondent while performing work under this Consent Order. DEQ will provide Respondent with copies of all analytical data from such samples as soon as practicable.
- (2) If DEQ conducts any sampling or analysis in connection with this Consent Order, DEQ will, except in an emergency, make every reasonable effort to notify Respondent of any excavation, drilling, sampling, or other fieldwork at least 72 hours before such activity. Upon Respondent's verbal request, DEQ will make every reasonable effort to provide a split or duplicate sample to Respondent or allow Respondent to take a split or duplicate of any sample taken by DEQ, and will provide Respondent with copies of all analytical data for such samples. Respondent will provide DEQ with copies of all analytical data from such samples as soon as practicable.

G. Quality Assurance

- (1) Respondent will conduct all sampling, sample transport, and sample analysis in accordance with QA/QC provisions approved by DEQ as part of the work plan. All plans prepared and work conducted as part of this Consent Order must be consistent with DEQ's *Environmental Cleanup Quality Assurance Policy* (DEQ10-LQ-0063-QAG). Respondent will make every reasonable effort to ensure that each laboratory used by Respondent for analysis performs such analyses in accordance with such provisions.

(2) If DEQ conducts sampling or analysis in connection with this Consent Order, DEQ will conduct sampling, sample transport, and sample analysis in accordance with the QA/QC provisions of the approved work plan. Upon written request, DEQ will provide Respondent with copies of DEQ's records regarding such sampling, transport, and analysis.

H. Progress Reports

During each calendar quarter following the effective date of this Consent Order, Respondent will deliver to DEQ, on or before the tenth working day of each quarter, a progress report containing:

- (1) Actions taken by Respondent under this Consent Order during the previous three months;
- (2) Actions scheduled to be taken by Respondent in the next three months;
- (3) A summary of sampling, test results, and any other data generated or received by Respondent during the previous three months; and
- (4) A description of any problems experienced by Respondent during the previous three months and actions taken to resolve them.

DEQ may approve less frequent reporting by Respondent, if warranted. Progress reports may be submitted in electronic form. If submitted in hard-copy written form, two copies must be provided to DEQ.

I. Other Applicable Laws

- (1) Subject to ORS 465.315(3), all activities under this Consent Order must be performed in accordance with all applicable federal, state, and local laws.
- (2) All activities under this Consent Order must be performed in accordance with any applicable federal, state, and local laws related to archeological objects and sites and their protection. If archeological objects or human remains are discovered during any investigation, removal, or remedial activity at the Property, Respondent will, at a minimum: (a) stop work immediately in the vicinity of the find; (b) provide any notifications required by ORS 97.745 and ORS 358.920; (c) notify the DEQ Project Manager within 24 hours of the discovery; and (d) use best efforts to ensure that

Respondent and its employees, contractors, counsel, and consultants keep the discovery confidential, including but not limited to refraining from contacting the media or any third party or otherwise sharing information regarding the discovery with any member of the public. Any project delay caused by the discovery of archeological object or human remains is a Force Majeure under Subsection 7.L.

J. Reimbursement of DEQ Costs

- (1) DEQ will submit to Respondent a monthly invoice of costs incurred by DEQ on or after August 20, 2024 in connection with any activity related to oversight and periodic review of Respondent's implementation of this Consent Order. Each invoice must include a summary of costs billed to date.
- (2) DEQ oversight costs payable by Respondent include direct and indirect costs. Direct costs include site-specific expenses, DEQ contractor costs, and DEQ legal costs actually and reasonably incurred by DEQ under ORS 465.200 et seq. DEQ's direct cost summary must include a Land Quality Division ("LQD") direct labor summary showing the persons charging time, the number of hours, and the nature of work performed. Indirect costs include those general management and support costs of DEQ and of the LQD allocable to DEQ oversight under this Consent Order and not charged as direct, site-specific costs. Indirect charges are based on actual costs and applied as a percentage of direct personal services costs. DEQ will maintain work logs, payroll records, receipts, and other documents to document work performed and expenses incurred under this Consent Order and, upon request, will provide copies of such records to Respondent.
- (3) Within 30 days of receipt of DEQ's invoice, Respondent will pay the amount of costs billed by check payable to the "State of Oregon, Hazardous Substance Remedial Action Fund," or invoke dispute resolution under Subsection 7.M. After 30 days, any unpaid amounts that are not the subject of pending dispute resolution, or that have been determined owing after dispute resolution, becomes a liquidated debt collectible under ORS 293.250 or other applicable law.
- (4) Respondent will pay simple interest of 9% per annum on the unpaid balance of any DEQ oversight costs, which interest begins to accrue at the end of the 30-day payment period, unless dispute resolution has been invoked. Interest on any amount

disputed under Subsection 7.M begins to accrue 30 days from final resolution of any such dispute.

K. Financial Assurance [INTENTIONALLY LEFT BLANK]

L. Force Majeure

- (1) If any event occurs that is beyond Respondent's reasonable control and that causes or might cause a delay or deviation in performance of the requirements of this Consent Order despite Respondent's reasonable efforts ("Force Majeure"), Respondent will promptly, upon learning of the event, notify DEQ's Project Manager verbally of the cause of the delay or deviation, its anticipated duration, the measures that have been or will be taken to prevent or minimize the delay or deviation, and the timetable by which Respondent proposes to carry out such measures. Respondent will confirm in writing this information within five working days of the verbal notification. Failure to comply with these notice requirements precludes Respondent from asserting Force Majeure for the event and for any additional delay caused by the event.
- (2) If Respondent demonstrates to DEQ's satisfaction that the delay or deviation has been or will be caused by Force Majeure, DEQ will extend times for performance of related activities under this Consent Order as appropriate. Circumstances or events constituting Force Majeure might include but are not limited to acts of God, unforeseen strikes or work stoppages, unanticipated site conditions, delays in receiving governmental approval or permit, unanticipated site conditions, fire, explosion, riot, sabotage, or acts of war. Normal inclement weather, increased cost of performance, or changed business or economic circumstances may not be considered Force Majeure.

M. Dispute Resolution

- (1) Except as provided in Paragraph 7.M.(4), if Respondent disagrees with DEQ regarding any matter during implementation of this Consent Order, Respondent will invoke dispute resolution by promptly notifying DEQ in writing of its objection. DEQ and Respondent then will make a good-faith effort to resolve the disagreement within 14 days of Respondent's written objection. At the end of the 14-day period, DEQ will provide Respondent with a written statement of its position from DEQ's Northwest Region Cleanup Manager. If Respondent still disagrees with DEQ's position, then Respondent, within 14 days of receipt of DEQ's position from the

- Region Cleanup Manager, will provide Respondent's position and rationale in writing to DEQ's Northwest Region Administrator. The Region Administrator may discuss the disputed matter with Respondent and, in any event, will provide Respondent with DEQ's final position in writing as soon as practicable after receipt of Respondent's written position.
- (2) If Respondent refuses or fails to follow DEQ's final position pursuant to Paragraph 7.M.(1), and DEQ seeks to enforce its final position, the Parties, subject to Sections 2 and 10, are entitled to such rights, remedies, and defenses as are provided by applicable law.
 - (3) During the pendency of any dispute resolution under this subsection, the time for completion of work or obligations affected by such dispute is extended for a period of time not to exceed the actual time taken to resolve the dispute. Elements of work or obligations not affected by the dispute must be completed in accordance with the applicable schedule.
 - (4) Dispute resolution under this subsection does not apply to: (a) DEQ approval or modification of the remedial design/remedial action work plan required under the SOW (which approval or modification is nonetheless subject to Subsection 7.C.); or (b) DEQ assessment of stipulated penalties under Subsection 7.N. (after dispute resolution has been exhausted, before assessment of a penalty, regarding the alleged violation).

N. Stipulated Penalties

- (1) Subject to Subsections 7.C., 7.L., and 7.M., upon any violation by Respondent of any provision of this Consent Order, and upon Respondent's receipt from DEQ of written notice of violation, Respondent will pay the stipulated penalties set forth in the following schedule:
 - (a) \$5,000 for the first week of violation or delay and \$2,500 per day of violation or delay thereafter, for failure to allow DEQ access to the Property as required under Subsection 7.D. or to provide records as required under Subsection 7.E.
 - (b) \$2,500 for the first week of violation or delay and \$1,000 per day of violation or delay thereafter, for:
 - (i) Failure to submit a final work plan in accordance with the SOW's schedule and terms;

- (ii) Failure to complete work in accordance with an approved work plan's schedule and terms;
 - (iii) Failure to submit a final report, in accordance with an approved work plan's schedule and terms; or
 - (iv) Failure to record or comply with site restrictions.
- (c) \$500 for the first week of violation or delay and \$500 per day of violation or delay thereafter, for:
 - (i) Failure to submit a draft work plan in accordance with the SOW's schedule and terms;
 - (ii) Failure to submit draft reports or progress reports in accordance with the SOW's schedule and terms; or
 - (iii) Any other violation of the Consent Order, SOW, or an approved work plan.
- (2) Violations arising out of the same facts or circumstances or based on the same deadline are treated as one violation per day.
- (3) Stipulated penalties do not begin to accrue under this subsection until Respondent receives a notice of violation from DEQ describing the violation and what is necessary to correct it and. If the violation was not intentional, is capable of cure, and Respondent corrects the violation within 30 days of receipt of such notice of violation or such other period as may be specified in the notice, DEQ shall waive the stipulated penalties. This opportunity to cure does not apply to violations subject to Subparagraph 7.N.(1)(a).
- (4) Respondent will, if violation is not cured within 30 days of receipt of DEQ's written notice or such longer cure period specified in the notice, pay the amount of such stipulated penalty not waived by DEQ in writing as provided in Paragraph 7.N.(3) by check made payable to the "State of Oregon, Hazardous Substance Remedial Action Fund," or request a contested case hearing in accordance with Paragraph 7.N.(5). Respondent will pay simple interest of 9% per annum on the unpaid balance of any stipulated penalties, which interest begins to accrue when payment is due. Any unpaid amounts that are not the subject of a pending contested case, or that have been determined owing after a contested case, are a liquidated debt collectible under ORS 293.250 and other applicable law.
- (5) Respondent may request a contested case hearing regarding the penalty assessment in

accordance with OAR Chapter 340, Division 11. The scope of any such hearing must be consistent with the stipulations set forth in Section 2, be limited to the occurrence or non-occurrence of the alleged violation, and not review the amount of penalty assessed. Further penalties regarding the alleged violation subject to the penalty assessment do not accrue from the date DEQ receives a request for a contested case, through disposition of that case.

- (6) If DEQ assesses stipulated penalties pursuant to this subsection for any failure of Respondent to comply with this Consent Order, DEQ may not seek civil penalties for the same violation under ORS 465.900 or any other applicable law.

O. Effect of Consent Order

- (1) In lieu of stipulated penalties under Subsection 7.N., DEQ may assess civil penalties under ORS 465.900 for Respondent's failure to comply with this Consent Order. Penalties do not accrue pending any contested case regarding the alleged violation. In addition to penalties, DEQ may seek any other available remedy for failure by Respondent to comply with any requirement of this Consent Order, including but not limited to termination of this Consent Order or court enforcement of this Consent Order.
- (2) Subject to Section 2, Respondent does not admit any liability, violation of law, or factual or legal findings, conclusions, or determinations asserted in this Consent Order.
- (3) Subject to Subsection 2.G. and Section 10, nothing in this Consent Order prevents DEQ, the State of Oregon, or Respondent from exercising any rights each might have against any person not a party to this Consent Order.
- (4) This Consent Order is void and of no effect if Respondent does not complete acquisition of the Property by December 19, 2024.
- (5) DEQ and Respondent intend for this Consent Order to be construed as an administrative settlement by which Respondent has resolved its liability to the State of Oregon, within the meaning of Section 113(f)(2) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9613(f)(2), regarding Existing Hazardous Substance Releases, and for Respondent not to be liable for claims for contribution regarding Existing Hazardous Substance

Releases to the extent provided by Section 113(f)(2) of CERCLA, 42 U.S.C. §§ 9613(f)(2).

- (6) Upon recordation of this Consent Order as set forth in 7.T below, DEQ agrees to remove the following liens on the Property recorded in Washington County, Oregon and agrees to dismiss all associated orders, fines, penalties or assessments for:
 - (a) LQ/LUST-NWR-11-104 recorded at 2012-003261
 - (b) LQ/UST-WR-2017-059 recorded at 2018-051854
 - (c) LQ/ST-WR-2018-113 recorded at 2019-002276
 - (d) UST Field Citation 2024-FC-8956
- (7) DEQ further agrees that it will dismiss and not attempt to enforce the Orders listed in O.6 or collect on the amounts assessed under the Orders listed in O.6 as against the Respondent or the Property.

P. Indemnification and Insurance

- (1) Respondent will indemnify and hold harmless the State of Oregon and its commissions, agencies, officers, employees, contractors, and agents from and against any and all claims arising from acts or omissions related to this Consent Order of Respondent or its officers, employees, contractors, agents, receivers, trustees, or assigns. DEQ may not be considered a party to any contract made by Respondent or its agents in carrying out activities under this Consent Order.
- (2) To the extent permitted by Article XI, Section 7, of the Oregon Constitution and by the Oregon Tort Claims Act, the State of Oregon will indemnify and hold harmless Respondent and its officers, employees, contractors, and agents from and against any and all claims arising from acts or omissions related to this Consent Order of the State of Oregon or its commissions, agencies, officers, employees, contractors, or agents (except for acts or omissions constituting approval or disapproval of any activity of Respondent under this Consent Order). Respondent may not be considered a party to any contract made by DEQ or its agents in carrying out activities under this Consent Order.
- (3) Before commencing any on-site work under this Consent Order, Respondent will obtain and maintain for the duration of this Consent Order comprehensive general liability and automobile insurance with limits of \$1 million, combined single limit per

occurrence, naming as an additional insured the State of Oregon. Upon DEQ request, Respondent will provide DEQ a copy or other evidence of the insurance. If Respondent demonstrates by evidence satisfactory to DEQ that its contractor(s) or subcontractor(s) maintain equivalent coverage, or coverage for the same risks but in a lesser amount or for a lesser term, Respondent may provide only that portion of the insurance that is not maintained by its contractor(s) or subcontractor(s).

Q. Parties Bound

This Consent Order is binding on the Parties and their respective successors, agents, and assigns. The undersigned representative of each Party certifies that he or she is fully authorized to execute and bind such party to this Consent Order. Respondent will notify and provide a copy of this Consent Order to any prospective successor, purchaser, lessee, assignee, or mortgagee of the Property during the term of this Consent Order.

R. Modification

DEQ and Respondent may modify this Consent Order by written agreement.

S. Effective Date

The effective date of this Consent Order is the date of signature by the DEQ's Land Quality Division Administrator.

T. Recording

Within 14 days of the effective date of this Consent Order, Respondent will submit a copy or original of this Consent Order (whichever is required by the county) to be recorded in the real property records of Washington County, Oregon. Respondent will provide DEQ with written evidence of such recording within seven days of recording.

8. Release from Liability

A. Pursuant to ORS 465.327, and subject to Subsection 8.B. and the satisfactory performance by Respondent of its obligations under this Consent Order, Respondent is not liable to the State of Oregon under ORS 465.200 to 465.545 and 465.900, 466.640, or 468B.310 regarding Existing Hazardous Substance Releases. Respondent bears the burden of proving by a preponderance of the evidence that a hazardous substance release (for all hazardous substances, hazardous materials, and oil described in Paragraph 2.B.(2)) existed as of the date of Respondent's acquisition of ownership or operation of the Property.

B. The release from liability under Subsection 8.A. does not affect liability of Respondent

for claims arising from:

- (1) A release of hazardous substances, spill or release of oil or hazardous material, or entry of oil into the waters of the state at or from the Property on or after the date of Respondent's acquisition of ownership or operation of the Property;
- (2) Contribution to or exacerbation, on or after the date of Respondent's acquisition of ownership or operation of the Property, of a release of hazardous substance, spill or release of oil or hazardous material, or entry of oil into the waters of the state at or from the Property;
- (3) Interference or failure to cooperate, on or after the date of Respondent's acquisition of ownership or operation of the Property, with DEQ or other persons conducting remedial measures under DEQ's oversight at the Property;
- (4) Failure to exercise due care or take reasonable precautions, on or after the date of Respondent's acquisition of ownership or operation of the Property, with respect to any hazardous substance at the Property;
- (5) Disposal or management of hazardous substances or solid waste removed from the Property by or on behalf of Respondent;
- (6) Criminal liability;
- (7) Violation of federal, state, or local law on or after the date of Respondent's acquisition of ownership or operation of the Property;
- (8) Any matters as to which the State of Oregon is owed indemnification under Paragraph 7.P.(1); and
- (9) Claims based on any failure by Respondent to meet any requirements of this Consent Order.

9. Third-Party Actions

Subject to the satisfactory performance by Respondent of its obligations under this Consent Order, Respondent is not liable to any person under ORS 465.200 to 465.545, 466.640, or 468B.310 regarding Existing Hazardous Substance Releases.

10. Respondent Waivers

A. Respondent waives any claim or cause of action it might have against the State of Oregon regarding Existing Hazardous Substance Releases on the Property; provided, Respondent reserves all rights concerning the obligations of DEQ under this Consent Order.

- B. Respondent waives any rights it might have under ORS 465.260(7) and 465.325(2) to seek reimbursement from the Hazardous Substance Remedial Action Fund or the Orphan Site Account for costs incurred under this Consent Order or related to the Property.

11. Benefits and Burdens Run with the Land

- A. Pursuant to ORS 465.327(5), the benefits and burdens of this Consent Order run with the land, provided the release from liability set forth in Section 8 limits or otherwise affects the liability only of persons who: (1) are not potentially liable under ORS 465.255, 466.640, or 468B.310 for Existing Hazardous Substance Releases; and (2) expressly assume in writing, and are bound by, the terms of this Consent Order applicable to the Property as of the date of their acquisition of ownership or operation.
- B. Upon transfer of ownership of the Property, or any portion of the Property, from Respondent to another person or entity, Respondent and the new owner will provide written notice to the DEQ Project Manager within 10 days after the transfer. No change in ownership of the Property or the corporate or partnership status of Respondent in any way alters Respondent's obligations under this Consent Order, unless otherwise approved in writing by DEQ.

12. Certification of Completion

- A. Upon Respondent's completion of remedial work in accordance with the SOW, Respondent will submit a final closeout report to DEQ signed by both an Oregon-registered professional engineer and Respondent's Project Manager certifying that the remedial action for the Property has been completed in accordance with this Consent Order. The report must summarize the work performed and include all necessary supporting documentation.
- B. DEQ will preliminarily determine whether the remedial action has been performed for the Property and all oversight costs and penalties have been paid in accordance with this Consent Order. Upon a preliminary determination that the remedial action for the Property has been satisfactorily performed and all costs and penalties paid, DEQ will provide public notice and opportunity to comment on a proposed certification decision in accordance with ORS 465.320 and 465.325(10)(b). After consideration of public comment, and within 90 days after receiving Respondent's closeout report, DEQ's Northwest Region Administrator will issue a final certification decision.

C. This Consent Order is satisfied upon issuance of DEQ's certification of completion for the remedial action and payment by Respondent of any and all outstanding costs and penalties, except that issuance of a certification of completion of the remedial action does not affect Respondent's remaining obligations under this Consent Order or for implementation of measures necessary to long-term effectiveness of the remedial action or other productive reuse of the Property.

13. Signatures

STIPULATED, AGREED, and APPROVED FOR ISSUANCE:

Respondent, City of Cornelius, an Oregon municipal corporation

By: _____ Date: _____

Peter Brandom
City Manager

STATE OF OREGON)
) ss.
County of _____)

The foregoing instrument is acknowledged before me this _____ day of _____, 20____, by Peter Brandom City Manager of the City of Cornelius, on its behalf.

NOTARY PUBLIC FOR OREGON
My commission expires: _____

STIPULATED, AGREED, and SO ORDERED:

State of Oregon, Department of Environmental Quality

By: _____ Date: _____

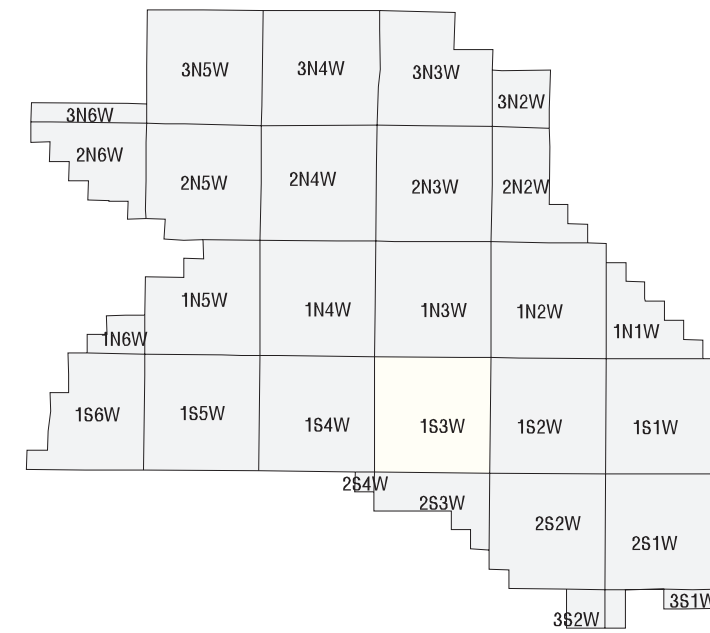
Michael Kucinski
Administrator, Land Quality Division

STATE OF OREGON)
) ss.
County of _____)

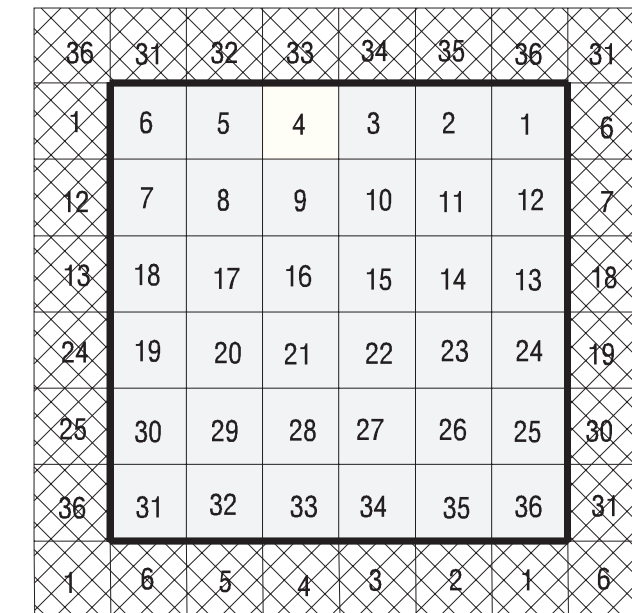
The foregoing instrument is acknowledged before me this _____ day of _____, 20____, by Michael Kucinski of the Oregon Department of Environmental Quality, on its behalf.

NOTARY PUBLIC FOR OREGON
My commission expires: _____

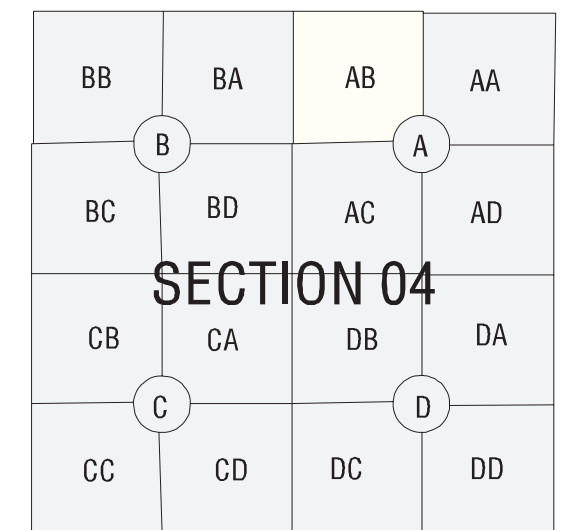
Exhibit A – Property Tax Map



WASHINGTON COUNTY OREGON
NW1/4 NE1/4 SECTION 04 T1S R3W W.M.
SCALE 1" = 100'



FOR ADDITIONAL MAPS VISIT OUR WEBSITE AT
www.co.washington.or.us



Cancelled Taxlots For: 1S304AB
600,6001,4800,190-A1,2300,1501



PLOT DATE: August 27, 2002
FOR ASSESSMENT PURPOSES
ONLY - DO NOT RELY ON
FOR OTHER USE

Map areas delineated by either gray shading or a cross-hatched pattern are for reference only and may not indicate the most current property boundaries. Please consult the appropriate map for the most current information.



Exhibit B – Property Legal Description

Real Property in the County of Washington, State of Oregon, described as follows:

PARCEL 1:

BEGINNING AT THE INTERSECTION OF THE SOUTH LINE OF THE TUALATIN VALLEY HIGHWAY ALSO KNOWN AS BASELINE STREET, WITH THE EASTLINE OF SW FIRST AVENUE, IN THE CITY OF CORNELIUS, WASHINGTON COUNTY, OREGON; THENCE EAST ALONG THE SOUTH LINE OF SAID TUALATIN VALLEY HIGHWAY, 100 FEET, THENCE SOUTH, PARALLEL WITH THE EAST LINE OF SAID SOUTHWEST FIRST AVENUE, 95 FEET TO A POINT WHICH IS DISTANT, 30 FEET, NORTHEASTERLY MEASURED AT RIGHT ANGLES, FROM THE CENTER LINE OF THE SOUTHERN PACIFIC COMPANY'S MAIN TRACK; THENCE WEST ON A LINE PARALLEL WITH AND 95 FEET SOUTHERLY MEASURED AT RIGHT ANGLES FROM THE SOUTH LINE OF SAID TUALATIN VALLEY HIGHWAY, SAID LINE ALSO BEING PARALLEL WITH AND 30 FEET NORTHERLY, MEASURED AT RIGHT ANGLES FROM THE CENTER LINE OF SAID MAIN TRACK, 100 FEET TO THE EAST LINE OF SAID SW FIRST AVENUE, THENCE NORTH ALONG THE EAST LINE OF SAID SW FIRST AVENUE, 95 FEET TO THE PLACE OF THE BEGINNING.

PARCEL 2:

BEGINNING AT THE INTERSECTION OF THE SOUTH LINE OF BASELINE STREET WITH THE WEST LINE OF SOUTH MAIN AVENUE IN THE CITY OF CORNELIUS, COUNTY OF WASHINGTON AND STATE OF OREGON; AND RUNNING THENCE SOUTH ALONG SAID WEST LINE 95.0 FEET TO A POINT WHICH IS 30.0 FEET DISTANCE NORTHERLY, MEASURED AT RIGHT ANGLES FROM THE CENTER LINE OF THE SOUTHERN PACIFIC COMPANY'S MAIN TRACT; THENCE WEST ON A LINE PARALLEL WITH AND 95.0 FEET SOUTHERLY, MEASURED AT RIGHT ANGLES FROM SAID SOUTH LINE OF BASELINE; SAID LINE BEING ALSO PARALLEL WITH AND 30.0 FEET NORTHERLY MEASURED AT RIGHT ANGLES, FROM SAID CENTER LINE OF SAID MAIN TRACT, A DISTANCE OF 150.00 FEET TO A POINT 100.00 FEET EAST OF THE EAST LINE OF SW FIRST AVENUE; THENCE NORTH PARALLEL WITH SAID EAST LINE 95.0 FEET TO THE SOUTH LINE OF BASELINE STREET; AND THENCE EAST 150.0 FEET TO THE POINT OF BEGINNING.

NOTE: This legal description was created prior to January 1, 2008.

Exhibit C
Prospective Purchaser Agreement Scope of Work
Former Cornelius Estby II
Cleanup Program ID No. 34-06-1375

1) Applicant shall permanently decommission the following regulated underground storage tanks (USTs) at the site, currently in long-term temporary closure status, in accordance with Chapter 340 Division 150 requirements:

- 10,000-gallon gasoline UST
- 8,000-gallon gasoline UST
- 5,000-gallon gasoline UST
- 4,000-gallon gasoline UST
- 3,000-gallon diesel UST

Applicant shall contract the services of a DEQ-licensed UST Service Provider to perform the UST decommissioning work. The UST Service Provider on behalf of the Applicant shall provide UST Compliance with the required 30-day written and 72-hour verbal notification prior to the start of work and prepare all required decommissioning checklists and reports.

Unless UST Compliance and the Leaking Underground Storage Tank (LUST) Program jointly approve decommissioning in place, the USTs shall be permanently decommissioned by removal. Prior to decommissioning the USTs, Applicant shall submit a Sampling and Analysis Plan (SAP) or equivalent plan or approval detailing the proposed actions to access the UST, remove residual product and sludge from the UST, clean and triple rinse the UST, collect compliance samples, and remove the USTs from the site or fill with an inert substance.

Applicant shall collect required soil and (if required based on observation of site conditions) pit water samples to evaluate for the presence of a release in the vicinity of the USTs. Features to be sampled include native soils beneath the USTs in the tank pits, beneath the piping runs, and beneath the former dispensers in accordance with OAR 340-122-0205 through 0360 and OAR 340-150-0180(5). Product lines from the dispenser to the tanks must be removed or abandoned in place. Samples shall be placed in labeled laboratory-provided containers, stored in a cooler on ice to maintain temperature in the range of 4° to 6° C, and submitted to an ORLAP-accredited laboratory under chain-of-custody protocol.

Soil samples shall be analyzed for gasoline- diesel- and heavy oil-range petroleum hydrocarbons using Methods NWTPH-Gx and NWTPH-Dx. Based on consultation with DEQ, the highest detected concentrations in soil shall be further analyzed for appropriate risk-based decision making (RBDM) constituents including RBDM volatile organic compounds (VOCs), benzene, toluene, ethylbenzene, and total xylenes (BTEX), and polynuclear aromatic hydrocarbons (PAHs).

In the event that water is observed in the UST excavations, the procedures outlined in OAR 340-122-0340(4)(a) and (b) shall be used to determine if pit water in the UST excavations should be tested. If water is evacuated from the UST pit(s) and returns within 24 hours, samples of pit water shall be collected and analyzed using methods NWTPH-Gx, NWTPH-Dx, and BTEX using Method EPA SW-846 8260B.

On July 31, 2006, a release from the UST system at the site was reported and LUST ID No. 34-06-1375 was established. Because the LUST release is currently unresolved, it is necessary to determine if releases have occurred subsequent to 2006 while the USTs have been in temporary closure status. Within 24 hours of receiving laboratory analytical data reports for the compliance samples, Applicant or the UST Service Provider on behalf of the Applicant shall consult with DEQ to determine if a reportable release from the USTs has occurred. Criteria indicating a reportable release from the UST system shall include the observation of fresh petroleum product in native soils and/or groundwater in the excavations for the former USTs or detected concentrations of gasoline- or diesel-range petroleum hydrocarbons exceeding baseline conditions in site media. Analytical data for soil as documented in K&S Environmental, Inc. (K&S) reports dated August 10, 2006, October 11, 2007, April 2, 2008, and August 8, 2008, shall be considered baseline conditions. For groundwater, analytical data collected from monitoring wells MW-1, MW-2, MW-3 and MW-4 between February 2016 and December 2018 shall be considered baseline conditions.

If required by DEQ, Applicant shall report a release using the “LUST-Report Release from Regulated, Unregulated, or HOT UST Systems” tool in DEQ’s Your DEQ Online system (<https://www.oregon.gov/deq/permits/Pages/Account-Registration.aspx>).

Applicant shall complete all checklists and reports required under Chapter 340 Division 150 for regulated USTs. In addition, Applicant shall complete a narrative report documenting UST decommissioning and initial site characterization work (“45-Day Report”) within 45 days of the completion of field work, or within a longer timeframe approved by DEQ, as described in OAR 340-122-0230.

- 2) Applicant shall prepare a contaminated media management plan (CMMP) to inform decisions regarding the identification, management, characterization and disposal of contaminated media encountered as the result of excavation, construction or installation/repair of subsurface utilities. Applicant shall maintain the DEQ-approved CMMP at the Property and convey it to future owners.
- 3) Prior to demolition of existing structures, Applicant shall complete a Hazardous Building Material Survey.
- 4) If soil samples collected from beneath the USTs contain gasoline- or diesel-range hydrocarbons, VOCs and/or PAHs above RBCs for the soil ingestion, dermal contact and inhalation pathway under residential (within 3 feet of the surface) and/or construction worker (within 15 feet of the surface) exposure scenarios, Applicant may take one or more of the following actions:
 - a. Applicant may voluntarily remove such soils and collect confirmation samples to confirm removal. If soil removal in conjunction with UST decommissioning is planned, Applicant shall confer with DEQ prior to proceeding regarding field procedures, the frequency and number of confirmation samples to demonstrate successful removal, and appropriate analytical testing methods.
 - b. If such soils are not removed or only partially removed, Applicant shall cap with an engineered surface, building and/or minimum of 3 feet of clean soil or gravel above a demarcation barrier.

- c. If contaminated soils are placed under a cap, Applicant shall prepare a Soil Cap Management Plan providing a detailed description of the cap including materials and construction. In addition, the Soil Cap Management Plan must describe procedures for inspection, maintenance and repair to maintain the protective functionality of the cap if inadvertently or intentionally breached. Applicant shall maintain the Soil Cap Management Plan at the property and convey to future owners.
 - d. If the Applicant performs a partial or complete soil removal, information regarding the removal action, confirmation sampling, and backfilling work may be included in the 45-Day Report or submitted as a Technical Memorandum under separate cover.
- 5) Applicant shall submit a work plan for an investigation to determine the potential for vapor intrusion in the footprint of the future building at the property (“VI Assessment Work Plan”). The scope of work described in the VI Assessment Work Plan shall be performed in general accordance with DEQ’s revised vapor intrusion guidance document, which is expected to be issued final in 2024 (<https://www.oregon.gov/deq/Hazards-and-Cleanup/Documents/VI-Guidance.pdf>) and may include the collection of soil gas samples, sub-slab samples, fixed gas measurements, indoor air samples and/or ambient outdoor air samples. The investigation shall evaluate conditions during late winter and late summer to capture seasonal variability and shall inform necessary follow-up work.
- 6) Applicant shall prepare a Technical Memorandum documenting the results of the VI Assessment (“VI Assessment Report”). The VI Assessment Report shall include figures, summary tables of analytical data, field observations and conditions documented in field data forms, laboratory analytical reports and chain-of-custody documentation, representative photographs, screening of analytical data against DEQ’s VISL-based RBCs and recommendations for additional assessment or mitigation work as appropriate.
- 7) If investigation work performed in accordance with the approved VI Assessment Work Plan indicate the potential for unacceptable risk to building occupants under the most conservative (i.e., residential) exposure scenario and DEQ requires implementation of a vapor mitigation engineering control, Applicant will perform the following:
 - a. Prior to building occupation, Applicant shall prepare a Remedial Action Plan (RAP) proposing a vapor mitigation engineering control and associated performance monitoring. If Applicant proposes an active vapor mitigation engineering control and/or an active measure is required by DEQ, the RAP must include a proposal for pilot testing to determine the appropriate radius of influence and inform the system design including blower sizing. If appropriate to facilitate planning and efficient sequencing of work, the pilot test proposal can be submitted as a separate work plan prior to the RAP. The RAP and associated plans must be stamped by an Oregon-licensed Professional Engineer (P.E.)
 - b. Applicant may initially design a passive vapor mitigation engineering control system and/or opt to incorporate elements of a passive vapor mitigation engineering control into the design of future buildings at the Property. However, incorporation of such elements should not preclude construction of an active engineering control (if

determined to be necessary by DEQ) to ensure the protection of human health. If operation in the passive mode is not sufficient to protect human health, Applicant shall convert to an active mode of operation upon the request of DEQ.

- c. To reduce the timeframe over which mitigation is required (i.e., likely decades), Applicant may voluntarily design the mitigation system to achieve contaminant mass removal over a shorter timeframe.
 - d. Applicant shall prepare an Operation and Maintenance (O&M) Plan describing the vapor mitigation engineering control components, periodic inspection requirements, and procedures for maintenance/repair. Applicant shall maintain the O&M Plan at the property and convey to future owners.
 - e. Applicant shall execute an Easement and Equitable Servitudes (E&ES) requiring operation and maintenance of the vapor mitigation engineering control until such time DEQ determines it is no longer necessary to mitigate unacceptable human health risks.
- 8) Applicant shall prepare a Construction Completion Report describing the work performed under the PPA in satisfaction of the SOW requirements.

Space above this line for Recorder's use.

After recording, return to:

Grantee

Oregon DEQ
700 NE Multnomah St., Suite 600
Portland, OR 97232
Attention: Jeff Schatz

Grantor

City of Cornelius
1355 N. Barlow Street
Cornelius, OR 97113-8912
Attention: Peter Brandom

EASEMENT AND EQUITABLE SERVITUDES

This grant of Easement and acceptance of Equitable Servitudes (“EES”) is made on _____, 2024 between the City of Cornelius (“**Grantor**”) and the State of Oregon, acting by and through the Oregon Department of Environmental Quality (“DEQ” or “Grantee”).

RECITALS

A. Grantor is the owner of certain real property located at 1021 and 1037 E. Baseline Street (the **Property**) in Cornelius, Oregon, which consists of Washington County Tax Map 1S304AB, Tax Lots 100 and 200. The legal description of the Property is set out in Exhibit A to this EES. The Property is referenced under the file name Cornelius Estby II in Your DEQ Online (Former Leaking Underground Storage Tank) Cleanup ID No. 34-06-1375 in the files of DEQ’s Cleanup Program at DEQ’s Northwest Region office located at 700 Northeast Multnomah Street, Suite 600, Portland, Oregon, and telephone (503) 229-5696. Interested parties may contact the Northwest Region Portland office to review a detailed description of the risks from contamination remaining at the Property and as summarized in reports in the regulatory file.

B. The Property operated as a retail fueling station under various owners/operators from approximately 1953 to 2006. In July 2006, site assessment work revealed evidence for a release from the underground storage tank (UST) system that impacted site soil and groundwater and DEQ established Cleanup ID No. 34-06-1375. Further investigation of the release occurred between July 2006 and August 2009; subsequently, all work was ceased by the then-current owner, M&G Collections, Inc. The Leaking Underground Storage Tank Program referred the violations to the Office of Compliance and Enforcement, who issued a Notice of Civil Penalty Assessment and Order to Comply (Order) to M&G Collections, Inc. in January 2012. In response to the Order, additional groundwater monitoring was performed at the site in December 2012, February 2016, August 2016, December 2016, and December 2018.

C. In 2019, additional assessment related to the UST release was performed at the Property. Borings were advanced south, southwest and west of the Property to evaluate offsite groundwater contamination. In addition, wet-and dry-season soil gas samples were collected from the Property to evaluate potential vapor intrusion risks. Gasoline-range hydrocarbons were detected in one soil gas sample at a concentration exceeding both residential and occupational worker risk-based concentrations for the vapor intrusion into building pathway.

D. The former owner of the Property was cited for UST violations including failure to inspect internal linings at 10 years following installation or every 5 years thereafter (2016 and 2017), failure to submit application to extend temporary closure (2017), and failure to establish or maintain a financial responsibility mechanism (2024). Due to age and construction, DEQ has determined the USTs cannot remain in temporary closure and must be permanently decommissioned.

E. On September 16, 2024, Grantor agreed to implement the Scope of Work attached as Exhibit C to the _____ 2024 Prospective Purchaser Agreement Consent Order between Grantor and DEQ ("Scope of Work"). The Scope of Work obligates Grantor to conduct selected remedial actions, including, in part, permanent decommissioning of five underground storage tanks that are out of compliance with Oregon Administrative Rules Chapter 340 Division 150 requirements and completion of all associated notifications and reporting, completion of an investigation to evaluate potential risks from vapor intrusion to occupants of a future building in accordance with a DEQ-approved work plan, preparation of a Technical Memorandum documenting the investigation, and (if directed by DEQ) implementation of vapor mitigation engineering controls or other measures at the Property. In addition, Grantor agreed to execute an EES memorializing Property use restrictions supporting these remedial measures, including DEQ review of potential vapor intrusion risks associated with future development plans at the Property, maintenance of a soil or engineered cap at the Property in accordance with a DEQ-approved Soil Cap Management Plan (if necessary), maintenance of vapor mitigation engineering controls (if necessary) at the Property, and a restriction on groundwater use for the Property. Grantor and Grantee recognize that the required remedial actions, if determined to be necessary by DEQ, will be completed through implementation of the actions and restrictions on use as required by this EES.

F. This EES is intended to further the implementation of the selected remedial action and protect human health and the environment.

G. Nothing in this EES constitutes an admission by Grantor of any liability for the contamination described in the Easement and Equitable Servitude.

1. DEFINITIONS

- 1.1 "DEQ" means the Oregon Department of Environmental Quality, and its employees, agents, and authorized representatives. "DEQ" also means any successor or assign of DEQ under the laws of Oregon, including but not limited to any entity or instrumentality of the State of Oregon authorized to perform any of the functions or to exercise any of the powers currently performed or exercised by DEQ.
- 1.2 "Engineering control" has the meaning set forth in OAR 340-122-0115

- 1.3 "Hazardous substance" has the meaning set forth in ORS 465.200
- 1.4 "Owner" means any person or entity, including Grantor, who at any time owns, occupies, or acquires any right, title, or interest in or to any portion of the Property or a vendee's interest of record to any portion of the Property, including any successor, heir, assign or holder of title or a vendee's interest of record to any portion of the Property, but excluding any entity or person who holds such interest solely for the security for the payment of an obligation and does not possess or control use of the Property.
- 1.5 "Remedial Action" has the meaning set forth in ORS 465.200 and OAR 340-122-0115.

2. GENERAL DECLARATION

2.1 Grantor, grants to DEQ an Easement for access and accepts the Equitable Servitudes described in this instrument and, in so doing, declares that the Property is now subject to and, until released pursuant to Section 5, must in future be conveyed, transferred, leased, encumbered, occupied, built upon, or otherwise used or improved, in whole or in part, subject to this EES.

2.2 Each condition and restriction set forth in this EES touches and concerns the Property and the equitable servitudes granted in Section 3 and easement granted in Section 4 below, run with the land for all purposes, is binding upon all current and future owners of the Property, as set forth in this EES, and inures to the benefit of the State of Oregon. Grantor further conveys to DEQ the perpetual right to enforce the conditions and restrictions set forth in this EES, until such time the conditions and restrictions are released pursuant to Section 5.

3. EQUITABLE SERVITUDES (REQUIRED ACTIONS AND RESTRICTIONS ON USE)

3.1. **Contaminated Media Management Plan (CMMP) for the Property.** The Owner of the Property shall prepare a CMMP for the Property to inform decisions relating to managing, characterizing and disposing of contaminated media encountered during future redevelopment, construction and/or excavation at the Property. The Owner of the Property shall maintain the DEQ-approved CMMP at the Property and convey the plan to future owners of the Property.

3.2. **Conditions on Future Construction at Property.** The construction of future buildings for human occupation, or additions to existing buildings for human occupation, at the Property require DEQ's review and written approval of vapor mitigation engineering controls or alternatives for additional assessment and/or remediation (as set four in Section 3.3). This condition does not apply to the maintenance or upkeep of existing buildings. Owner may construct or place future structures not intended for human occupation at the Property with no prior written approval of DEQ. Future buildings constructed at the Property for human occupation must incorporate DEQ-approved, professionally installed vapor mitigation engineering control(s) into the building design. Alternatively, Owner will perform additional cleanup and/or site assessment in accordance with a DEQ-approved work plan adequate to demonstrate that residual contamination does not pose unacceptable vapor intrusion risks to future building occupants. Owner shall not construct future buildings or allow other parties to occupy and/or construct future buildings for human occupation in accordance with this

requirement unless it has been demonstrated to the satisfaction of DEQ that this prohibition on construction is no longer necessary to protect human health.

3.3. DEQ Review of Development Plans or Other Information. Prior to any future construction of buildings for human occupation at the Property, or additions to existing buildings for human occupation at the Property, the Owner must submit professionally prepared plans for the proposed development to DEQ for review by the Cleanup Program (or its successor). Any such plans submitted to DEQ must include plans for a) professionally-installed vapor mitigation engineering controls and associated performance monitoring that are signed and stamped by an Oregon-registered Professional Engineer and/or b) remediation of contaminated soil and groundwater to below applicable Risk-Based Concentrations and confirmation sampling appropriate to demonstrate the success of cleanup and/or c) site assessment adequate to rule out unacceptable vapor intrusion risks to future building occupants. Owner shall pay DEQ's costs associated with any reviews, requests or approvals required by this EES. Such review shall be carried out in a timely manner and minimize delays for such development.

3.4. Soil Cap Engineering Control. If DEQ determines that a cap is necessary to mitigate unacceptable human health risks from soil ingestion, dermal contact or inhalation, Owner may not conduct or allow operations or conditions on the Property or use of the Property in any way that might penetrate any soil or engineered cap at the Property or jeopardize the cap's protective function as an engineering control that prevents exposure to contaminated soil, including without limitation any excavation, drilling, scraping, or uncontrolled erosion, except to perform emergency maintenance or for routine maintenance that will not leave the cap open for more than seven days. If routine maintenance is to be performed, Owner shall provide DEQ three business days' notice detailing the work to be performed prior to commencing work. If emergency maintenance is performed, Owner shall notify DEQ within 5 days of the nature of the breach and any corrective action taken or anticipated to be taken. In the event it is necessary to breach the cap, pursuant to this Section 3.4, Owner will restore the cap to full functionality as soon as practicable. Owner will maintain the cap, if applicable, in accordance with a DEQ-approved Soil Cap Management Plan as specified in the Scope of Work attached as Exhibit C to the Prospective Purchaser Agreement Consent Order.

3.5. Vapor Mitigation Engineering Control Use Restrictions. If DEQ determines that vapor mitigation engineering controls are necessary to mitigate unacceptable human health risks from vapor intrusion, and except upon prior written approval from DEQ, Owner must not conduct operations on the Property or use the Property in any way that will or likely will compromise the effectiveness of the engineering control to prevent sub-slab vapor intruding the building at concentrations exceeding risk-based concentrations, including without limitation any excavation, drilling, scraping, or erosion. Owner will continue to operate and maintain the DEQ-approved vapor mitigation engineering controls until it is demonstrated to DEQ's satisfaction they are no longer needed to protect human health.

3.6. Groundwater Use Restrictions. Owner may not extract through wells or by other means or use the shallow groundwater at the Property for consumption or other beneficial use. This prohibition does not apply to extraction of groundwater associated with groundwater treatment or monitoring activities approved by DEQ or to temporary dewatering activities related to construction, development, or the installation of sewer or utilities at the Property. Owner must

conduct a waste determination on any groundwater that is extracted during such monitoring, treatment, or dewatering activities and handle, store and manage wastewater according to applicable laws. Extraction of groundwater from a deeper aquifer is also prohibited.

3.7. **Use of the Property.** Owner may not occupy or allow other parties to occupy the Property unless the controls listed in this Section 3 are maintained.

3. EASEMENT (RIGHT OF ENTRY)

During reasonable hours and subject to reasonable security requirements, DEQ may enter and inspect any portion of the Property to determine whether the requirements of this EES have been or are currently being complied with. Except when necessary to address an imminent threat to human health or the environment, DEQ will use its best efforts to notify the Owner 72 hours before DEQ's entry to the Property. DEQ may enter upon the Property at any time to abate, mitigate, or cure at the expense of the Owner the violation of any condition or restriction contained in this EES, provided DEQ first gives written notice of the violation to Owner describing what is necessary to correct the violation and Owner fails to cure the violation within the time specified in such notice. Any such entry by DEQ to evaluate compliance or to abate, mitigate, or cure a violation may not be deemed a trespass.

4. RELEASE OF RESTRICTIONS

5.1. Owner may request a release of any or all of the conditions or restrictions contained in this EES by submitting such request to the DEQ in writing with evidence that the conditions or restrictions are no longer necessary to protect human health and the environment. The decision to release any or all of the conditions or restrictions in this EES will be within the sole discretion of DEQ.

5.2. Upon a determination pursuant to Subsection 5.1, DEQ will, as appropriate, execute and deliver to Owner a release of specific conditions or restrictions, or a release of this EES in its entirety.

6. GENERAL PROVISIONS

6.1. **Notice of Transfer/Change of Use.** Owner must notify DEQ within 10 days after the effective date of any conveyance, grant, gift, or other transfer, in whole or in part, of Owner's interest in or occupancy of the Property. Such notice must include the full name and address of the Party to whom Owner has transferred an interest or right of occupancy. In addition, Owner must notify DEQ a minimum of 10 days before the effective date of any change in use of the Property that might expose human or ecological receptors to hazardous substances. Such notice must include complete details of any planned development activities or change in use. Notwithstanding the foregoing, Owner may not commence any development inconsistent with the conditions or restrictions in Section 3 without prior written approval from DEQ as provided in Subsection 3 of this EES or removal of the condition or restriction as provided in Subsection 5.1. This subsection does not apply to the grant or conveyance of a security interest in the Property.

6.2. **Zoning Changes.** Owner must notify DEQ no less than 30 days before Owner's petitioning for or filing of any document initiating a rezoning of the Property that would change the base zone of the Property under the City of Cornelius zoning code or any successor code. As of the date of this EES, the base zone of the Property is Central Mixed Use (CMU).

6.3. **Cost Recovery.** Owner will pay DEQ's costs for review and oversight of implementation of and compliance with the provisions in this EES, including but not limited to periodic review and tracking of actions required by this EES. This EES constitutes the binding agreement by the Owner to reimburse DEQ for all such eligible review and oversight costs. DEQ will establish a cost recovery account for tracking and invoicing DEQ project costs. DEQ will provide the Owner with a monthly statement and direct labor summary. DEQ costs will include direct and indirect costs. Direct costs include site-specific expenses and legal costs. Indirect costs are those general management and support costs of the State of Oregon and DEQ allocable to DEQ oversight of this EES and not charged as direct site-specific costs. Indirect charges are based on actual costs and are applied as a percentage of direct personal services costs.

6.4. **Reporting.** Owner will notify DEQ of any condition or occurrence at the Property that does not conform with provisions of this EES within three business days of becoming aware of such condition or occurrence.

6.5. **Reference in Deed.** A reference to this EES, including its location in the public records, must be recited in any deed conveying the Property or any portion of the Property. Each condition and restriction contained in this EES runs with the land so burdened until such time as the condition or restriction is removed by written certification from DEQ, recorded in the deed records of the County in which the Property is located, certifying that the condition or restriction is no longer required to protect human health or the environment.

6.6. **Effect of Recording.** Upon the recording of this EES and until such time as all of its conditions and restrictions are released pursuant to Section 5, all future Owners are conclusively deemed to have consented and agreed to every condition and restriction contained in this EES, whether or not any reference to this EES is contained in an instrument by which such person or entity occupies or acquires an interest in the Property.

6.7. **Enforcement and Remedies.** Upon any violation of any condition or restriction contained in this EES, the State of Oregon, in addition to the remedies described in Section 4, may enforce this EES or seek available legal or equitable remedies to enforce this EES, including civil penalties as set forth in ORS 465.900.

6.8. IN WITNESS WHEREOF Grantor and Grantee have executed this Easement and Equitable Servitude as of the date and year first set forth above.

BY SIGNATURE BELOW, THE STATE OF OREGON APPROVES AND ACCEPTS THIS CONVEYANCE PURSUANT TO ORS 93.808.

GRANTOR: City of Cornelius

By: _____ Date: _____
Peter Brandom, City Manager

STATE OF OREGON)
) ss.
County of _____)

The foregoing instrument is acknowledged before me this _____ day of _____, 2024, by Peter Brandom of the City of Cornelius, on its behalf.

NOTARY PUBLIC FOR OREGON
My commission expires: _____

GRANTEE: State of Oregon, Department of Environmental Quality

By: _____ Date: _____
Kevin Parrett, Cleanup Program Manager, Northwest Region

STATE OF OREGON)
) ss.
County of _____)

The foregoing instrument is acknowledged before me this _____ day of _____, 2024, by Kevin Parrett of the Oregon Department of Environmental Quality, on its behalf.

NOTARY PUBLIC FOR OREGON
My commission expires: _____

EXHIBIT A

Legal Description of the Property

Real Property in the County of Washington, State of Oregon, described as follows:

PARCEL 1:

BEGINNING AT THE INTERSECTION OF THE SOUTH LINE OF THE TUALATIN VALLEY HIGHWAY ALSO KNOWN AS BASELINE STREET, WITH THE EASTLINE OF SW FIRST AVENUE, IN THE CITY OF CORNELIUS, WASHINGTON COUNTY, OREGON; THENCE EAST ALONG THE SOUTH LINE OF SAID TUALATIN VALLEY HIGHWAY, 100 FEET, THENCE SOUTH, PARALLEL WITH THE EAST LINE OF SAID SOUTHWEST FIRST AVENUE, 95 FEET TO A POINT WHICH IS DISTANT, 30 FEET, NORTHEASTERLY MEASURED AT RIGHT ANGLES, FROM THE CENTER LINE OF THE SOUTHERN PACIFIC COMPANY'S MAIN TRACK; THENCE WEST ON A LINE PARALLEL WITH AND 95 FEET SOUTHERLY MEASURED AT RIGHT ANGLES FROM THE SOUTH LINE OF SAID TUALATIN VALLEY HIGHWAY, SAID LINE ALSO BEING PARALLEL WITH AND 30 FEET NORTHERLY, MEASURED AT RIGHT ANGLES FROM THE CENTER LINE OF SAID MAIN TRACK, 100 FEET TO THE EAST LINE OF SAID SW FIRST AVENUE, THENCE NORTH ALONG THE EAST LINE OF SAID SW FIRST AVENUE, 95 FEET TO THE PLACE OF THE BEGINNING.

PARCEL 2:

BEGINNING AT THE INTERSECTION OF THE SOUTH LINE OF BASELINE STREET WITH THE WEST LINE OF SOUTH MAIN AVENUE IN THE CITY OF CORNELIUS, COUNTY OF WASHINGTON AND STATE OF OREGON; AND RUNNING THENCE SOUTH ALONG SAID WEST LINE 95.0 FEET TO A POINT WHICH IS 30.0 FEET DISTANCE NORTHERLY, MEASURED AT RIGHT ANGLES FROM THE CENTER LINE OF THE SOUTHERN PACIFIC COMPANY'S MAIN TRACT; THENCE WEST ON A LINE PARALLEL WITH AND 95.0 FEET SOUTHERLY, MEASURED AT RIGHT ANGLES FROM SAID SOUTH LINE OF BASELINE; SAID LINE BEING ALSO PARALLEL WITH AND 30.0 FEET NORTHERLY MEASURED AT RIGHT ANGLES, FROM SAID CENTER LINE OF SAID MAIN TRACT, A DISTANCE OF 150.00 FEET TO A POINT 100.00 FEET EAST OF THE EAST LINE OF SW FIRST AVENUE; THENCE NORTH PARALLEL WITH SAID EAST LINE 95.0 FEET TO THE SOUTH LINE OF BASELINE STREET; AND THENCE EAST 150.0 FEET TO THE POINT OF BEGINNING.

NOTE: This legal description was created prior to January 1, 2008.

City of Cornelius Agenda Report

To: Peter Brandom, City Manager
From: Ellie Jones, Assistant City Manager
Date: October 7, 2024
Subject: Resolution No. 2024-52: Utility Bill Low Income Relief Program



Requested City Council Action: Approve resolution No. 2024-52.

Previous City Council Action: The Cornelius City Council has participated in multiple work session regarding utility assistance and directed staff to move forward with a relief program.

Relevant City Strategic Plan Goal(s): Goal 5: Develop the necessary infrastructure to meet the growth, service demands, and emergency preparedness needs of the community.

Background: City Staff have created a Utility Bill Relief Program that will assist households with their City of Cornelius utility bill (water and wastewater). Customers who either participate in government assistance programs or are at or below 185% of the Federal Poverty Limit may qualify. Eligibility verification will be handled through a community partner agency. Funding limits will be put in place on an annual basis.

Cost: To be determined based on community response. American Rescue Plan Act (ARPA) funds will be used for the first year of the program. Future assistance will be supported by the associated utility funds (water, sanitary sewer, stormwater, and general service fee), which may cause changes to overall utility rates.

Advisory Committee Recommendation: Not applicable.

Staff Recommendation: Approve Resolution No. 2024-52 as presented.

Proposed Motion: I make a motion to approve Resolution No. 2024-52, A RESOLUTION OF THE CORNELIUS CITY COUNCIL AUTHORIZING THE IMPLEMENTATION OF A UTILITY BILLING RELIEF PROGRAM, and this action takes effect immediately.

Exhibit: Resolution No. 2024-52 and Exhibit A

RESOLUTION NO. 2024-52

A RESOLUTION OF THE CORNELIUS CITY COUNCIL AUTHORIZING THE IMPLEMENTATION OF A UTILITY BILL LOW INCOME RELIEF PROGRAM

WHEREAS, the City of Cornelius realizes the need to implement a utility bill low income relief program; and

WHEREAS, customers who receive services from government assistance programs or meet household income guidelines may be eligible for bill relief on two utility bills within a 12-month period, not to exceed \$300 in total within that period; and

WHEREAS, the City will contract with community partners to assist with the eligibility verification; and

WHEREAS, the program will be initially funded with American Rescue Plan Act (ARPA) funds; and

WHEREAS, the program and funding limits will be assessed ongoing by City staff; and

WHEREAS, any proposed changes to the program or funding levels will be presented to City Council.

NOW, THEREFORE, BE IT RESOLVED BY THE CORNELIUS CITY COUNCIL AS FOLLOWS:

Section 1. The Cornelius City Council authorizes the implementation of a Utility Bill Low Income Relief Program.

Section 2. The Cornelius City Council authorizes staff to enter into an agreement with community partners who can assist with the eligibility verification process.

Section 3. This resolution is effective immediately upon its enactment by the City Council.

INTRODUCED AND APPROVED by the Cornelius City Council at their regular meeting this 7th day of October, 2024.

City of Cornelius, Oregon

By: _____
Jeffrey C. Dalin, Mayor

Attest: _____
Rachael Bateman, City Recorder

City of Cornelius **Utility Billing Relief Program**

Customers who receive services from government assistance programs or meet household income guidelines may be eligible for bill relief on two utility bills not to exceed \$300 in total within a 12-month period. Assistance is based on available funding.

To request bill relief:

1. Review the eligibility requirements below to determine if your household qualifies.
2. Verify your eligibility with one of our community partners.
3. Our Utility Billing Team will contact you to confirm bill relief.

Bill Relief Eligibility

Our community partners will use one of two qualifications to determine customer eligibility. Customers must meet one of the two qualifications and are not required to meet both.

- You are listed on the utility bill and participate in a government assistance program
OR
- Your household earns at or below 185% of the Federal Poverty Limit for the past 60 days

Government Assistance Programs

- Supplemental Nutrition Assistance Program (SNAP)
- Woman, Infants, Children (WIC)
- Temporary Assistance for Needy Families (TANF)
- Oregon Health Plan (OHP)
- Free and Reduced Lunch
- Energy Assistance Program
- Public Housing, Section 8 Choice Voucher Program, or Project Based Voucher Program

Asistencia de servicios públicos de la ciudad de Cornelius

Los clientes que reciben servicios de programas de asistencia del gobierno o cumplen con las pautas de ingresos del hogar pueden ser elegibles para recibir alivio en dos facturas de servicios públicos que no excedan los \$300 en total dentro de un período de 12 meses. La asistencia se basa en los fondos disponibles.

Para solicitar alivio de factura:

1. Revise los requisitos de elegibilidad a continuación para determinar si su hogar califica.
2. Verifique su elegibilidad con uno de nuestros socios comunitarios.
3. Nuestro equipo de facturación de servicios públicos se comunicará con usted para confirmar el alivio de la factura.

Elegibilidad para el alivio de facturas

Nuestros socios comunitarios utilizarán una de dos calificaciones para determinar la elegibilidad del cliente. Los clientes deben cumplir con una de las dos calificaciones y no están obligados a cumplir ambas.

- Usted figura en la factura de servicios públicos y participa en un programa de asistencia del gobierno
- OR
- Su hogar gana 185% o menos del límite federal de pobreza durante los últimos 60 días

Programas de asistencia gubernamental

- Programa de Asistencia Nutricional Suplementaria (SNAP)
- Mujeres, bebés y niños (WIC)
- Asistencia Temporal para Familias Necesitadas (TANF)
- Plan de Salud de Oregón (OHP)
- Almuerzo gratuito y de precio reducido
- Programa de asistencia energética
- Vivienda pública, Programa de vales de elección de la Sección 8 o Programa de vales basados en proyectos

City of Cornelius Agenda Report

To: Peter Brandom, City Manager

From: Terry Keyes, City Engineer

Date: October 7, 2024

Subject: Resolution No. 2024-53: Davis Street Phase 3 Work Order 24, AKS



Requested City Council Action: Approve resolution No. 2024-53.

Previous City Council Action: On October 2, 2023 City Council approved Resolution 2023-38 directing City staff to apply for Community Development Block Grant (CDBG) funds for the North Davis Street Pedestrian Improvements Project – Phase 3 (10th to 11th).

Relevant City Strategic Plan Goal(s): Goal 5: Develop the necessary infrastructure to meet the growth, service demands, and emergency preparedness needs of the community

Background: Earlier this year the City received CDBG funding for the next phase of the Davis Street Pedestrian Improvements. The project completes Davis Street between 10th and 11th by narrowing the street for safety and adding a sidewalk to the south side. This Work Order completes the needed survey, easement acquisitions, and design to bring the project to the construction bidding phase.

Cost: \$113,000 of Transportation Development Tax (TDT) funds. Construction will be paid using CDBG funds. The use of TDT funds for engineering services allows the City to accelerate the design part of the project and benefit from AKS's work in design of previous CDBG projects.

Advisory Committee Recommendation: Not applicable.

Staff Recommendation: Approve Resolution No. 2024-53 as presented.

Proposed Motion: I make a motion to approve Resolution No. 2024-53, A RESOLUTION OF THE CORNELIUS CITY COUNCIL APPROVING WORK ORDER #24 – BETWEEN AKS ENGINEERING AND FORESTRY, LLC AND THE CITY OF CORNELIUS, and this action takes effect immediately.

Exhibit: Resolution No. 2024-53 and AKS Work Order 24

RESOLUTION NO. 2024-53

A RESOLUTION OF THE CORNELIUS CITY COUNCIL APPROVING WORK ORDER #24 BETWEEN AKS ENGINEERING AND FORESTRY, LLC AND THE CITY OF CORNELIUS

WHEREAS, AKS Engineering and Forestry, LLC provides engineering related services to the City under a contract effective January 1, 2023; and

WHEREAS, AKS Engineering and Forestry, LLC has the experience and expertise in the survey, easement development and acquisition, and engineering design required for this CDBG project; and

WHEREAS, the parties agree that the compensation for the services is fair and appropriate.

NOW, THEREFORE, BE IT RESOLVED BY THE CORNELIUS CITY COUNCIL AS FOLLOWS:

Section 1. The Cornelius City Council approves and authorizes the City Manager to execute the final AKS Work Order #24 on behalf of the City.

Section 2. This resolution is effective immediately upon its enactment by the City Council.

INTRODUCED AND APPROVED by the Cornelius City Council at their regular meeting this 7th day of October, 2024.

City of Cornelius, Oregon

By: _____
Jeffrey C. Dalin, Mayor

Attest: _____
Rachael Bateman, City Recorder

Work Order: 24
Project: **Davis Street CDBG Project – Phase 3**

Introduction

Upon signature, this Work Order is part of the Personal Services Contract between the City of Cornelius and AKS Engineering and Forestry, LLC for Engineering-Related Services effective January 1, 2023.

If any provision of this work order conflicts with the Personal Services Contract, the provisions of the Personal Services Contract shall prevail.

Scope of Work

Attached as Exhibit A – Davis St. CDBG Sidewalk Project (10th to 11th).

Schedule

The project is intended to be completed no later than June 30, 2025.

Compensation

Not to exceed \$113,000.

Exceptions

Listed in Exhibit A.

Signatures

AKS Engineering & Forestry, LLC

CITY OF CORNELIUS, OREGON

Signature

Signature

Printed Name

Peter Brandom

Printed Name

Title

City Manager

Title

Date

Date



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Ste 2520
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WHITE SALMON, WA
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White Salmon, WA
98672
(509) 281-3227

September 16, 2024

DAVIS ST CDBG SIDEWALK PROJECT CITY OF CORNELIUS, OREGON

Exhibit A – Scope of Work

AKS Engineering & Forestry, LLC (AKS) will provide and coordinate the following engineering, surveying, and construction services for the design of sidewalk, curb, pedestrian curb ramps, driveways, and associated stormwater infrastructure conveyance improvements for the City of Cornelius (City) along the south side of N Davis St between N 10th Avenue and N 11th Avenue, and the east side of N 11th St between N Davis St and N Clark St. The improvements will include new ADA ramps on the SE corner of N 10th Ave and N Davis St, the SW and NW corner of N 11th Ave and Davis as well as all four corners of N 11th Ave and N Clark St. The planned improvements are shown in Exhibit “B.”

AKS will complete the following services:

I. PROJECT ADMINISTRATION

Consultant will perform project administration including the following tasks:

- Attend kickoff meeting with City staff
- Attend 30-minute biweekly (every two weeks) phone conferences throughout the design process
- Perform quality assurance and quality control (QA/QC) review
- Prepare monthly schedule updates throughout design process
- Prepare monthly invoices throughout the design process
- Coordinate and manage the project team

Deliverables:

- Agenda for kickoff meeting
- Meeting minutes
- Project schedule
- Monthly invoices

II. TOPOGRAPHIC & BOUNDARY SURVEYING

AKS performed an aerial photogrammetric survey of the N Davis St project area in 2022. This aerial survey will be supplemented with a comprehensive field topographic survey of existing conditions between the curb and approximately 15-ft south of the curb along N Davis St, between N 11th and N 10th St. A full topographic survey of the east half of N 11th Ave between N Davis St and N Clark St will also be completed along with the entire intersection of N 11th Ave and N Clark St. A project topographic base map will be prepared. The base map shall depict all man-made and natural features necessary for project design and provide accurate and representative 1-foot ground contours within the project survey area. Mapping shall be oriented to the Washington County (County) coordinate system and stamped by a Professional Land Surveyor (PLS) registered in the State of Oregon. The following items will be completed by AKS within the project limits:

- Survey, title, and as-built research
- Locating existing property monuments of record
- Establishing property lines, right-of-way lines, and easements
- Establish surface elevations based on National Geodetic Vertical Datum of 1929 (NGVD 29) vertical datum
- Establishing NAD 83 2011 State Plane Coordinates
- Coordinating public utility locates
- Field tying:
 - Underground utilities located at ground surface (sanitary sewer, storm, water, gas, power, communications)
 - Invert elevations for underground utilities where accessible from ground surface (sanitary sewer manholes and storm manholes and catch basins)
 - Hard surfaces (curb, sidewalk, concrete, asphalt, driveway drops, ramps)
 - Utility poles, light poles, and signs
 - Trees 6-inch diameter at breast height (DBH) and larger
 - Fences and significant landscaping
 - Topography (1-foot contours)
- Preparing an Existing Conditions Base Map showing the above items that can be referenced for design purposes

Deliverables:

- Existing Conditions Base Map

III. PRELIMINARY & FINAL DESIGN

Consultant will complete the preliminary and final design for the improvements as shown in Exhibit B. Design Drawings will be prepared at 30%, 60%, 90%, and 100% milestones. Construction Cost Estimates will be prepared at 60%, 90%, and 100% milestones. Project Special Specifications will be prepared at 90%, and 100% milestones. Following each design milestone submittal, Consultant will meet with City staff to review City comments. Public outreach exhibits will be prepared at the 30% and 60% milestones and will include a roll plot exhibit showing the planned improvements. A Clean Water Services (CWS) Pre-Screen Application will be prepared and submitted online following the 60% design for issuance of a CWS Service Provider Letter (SPL).

Deliverables:

- Design Drawings (30%, 60%, 90%, 100%)
- Project Special Specifications (90%, 100%)
- Construction Cost Estimate (60%, 90%, 100%)
- Public outreach exhibits (30%, 60%)
- Design review meeting minutes

IV. RIGHT-OF-WAY SERVICES

Consultant will determine private property Temporary Construction Access Agreement (TCAA) needs for the project, and coordinate with City staff during the acquisition process. Formal temporary or permanent easement acquisition is not anticipated. Up to four (4) TCAA's are anticipated.



- Temporary Construction Access Agreement needs analysis
 - Review the right-of-way and private property impacts for the project
- Legal Descriptions
 - Prepare parcel descriptions for required easements and right-of-way dedication for up to four TCAA's.
 - Descriptions to be dated and stamped by a PLS licensed in the State of Oregon
 - Descriptions for the properties will reference the last recorded deed by type of deed, owner's name, book and page, and date recorded; this information is to be taken from the last vesting deed.
- TCAA Negotiations
 - Coordinate with property owners to execute TCAA's.

Deliverables:

- Draft TCAA needs map
- Up to four legal descriptions
- Coordinate the execution of up to four TCAA's

V. BID AND CONSTRUCTION PHASE SERVICES

The City will manage the bid and construction phase of the project including the bid advertisement, contractor selection, contracting, construction management, and construction inspection. Consultant will provide the following bid and construction phase support:

- **Bid & Construction Support**

Bid Phase Support: Consultant will assist City with responses to questions and requests for information (RFIs) regarding the bid documents and provide general support for the City as requested during the bid phase.

Construction Phase Support: The City will be responsible for construction management and inspection. AKS will support the City during construction by providing the following services as requested:

- a. Attend a pre-construction meeting
- b. Review of contractor submittals
- c. Review and respond to contractor RFIs
- d. Support the City with requested design changes

As-built drawings: Prepare record drawings showing the as-constructed facilities based on construction observation, contractor provided notes, and survey verification. Survey verification to include the following:

- a. Provide horizontal locations of manholes, catch basins, and inlets
- b. Provide vertical data including rims and invert elevations of pipes at manholes and cleanouts
- c. Provide drawings in PDF format and AutoCAD format

- **Construction Surveying**

Provide construction surveying and staking services as necessary, to include surveying or layout work for establishing grades, inverts, elevations, road layouts, etc.

Deliverables:

- Inspection Reports
- Submittal/RFI Reviews
- Record Drawings

Estimated Fees

I. PROJECT ADMINISTRATION	\$10,000
II. TOPOGRAPHIC & BOUNDARY SURVEYING	\$20,000
III. PRELIMINARY & FINAL DESIGN	\$55,000
IV. RIGHT-OF-WAY SERVICES	\$8,000
A. AKS	\$4,000
B. UNIVERSAL FIELD SERVICES	\$4,000
V. BID AND CONSTRUCTION PHASE SERVICES	\$20,000
A. BID AND CONSTRUCTION SUPPORT	\$10,000
B. CONSTRUCTION SURVEYING.....	\$10,000

TOTAL FEE: **\$113,000**

Assumptions

- A DEQ 1200C erosion control permit will not be required.
- Up to four temporary construction access agreements are included in the scope and fee. No design has been completed to determine this number of files. More or less property acquisition files may be required to complete the project.
- Stormwater design is limited to conveyance improvements only as required by the curb and sidewalk improvements. Stormwater quality/quantity design is not included. Pervious concrete sidewalk will be used to manage stormwater and meet CWS requirements. Americans with Disabilities Act (ADA) ramps will be designed with standard concrete.
- Documentation for crosswalk closures is not included.
- The project will be advertised as one construction contract.
- AKS will prepare project Special Specifications. City will prepare general and standard technical specifications.

Basis of Fees and Billing

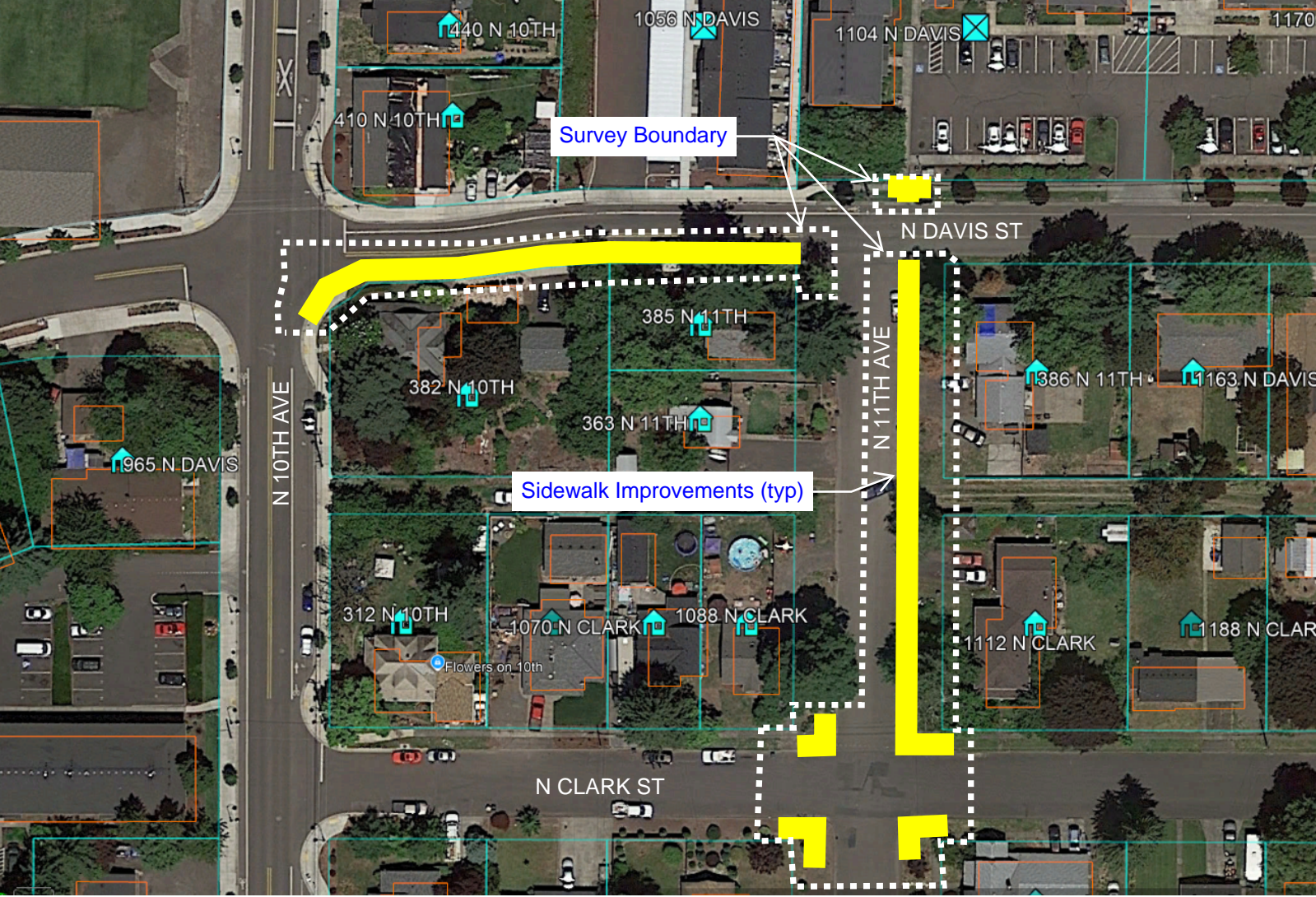
In consideration for performing said services, the Client agrees to compensate AKS on an hourly basis at our standard Public Works rates. Invoices will be issued monthly for services provided during the previous month.

Exclusions

Services that do not fall within the scope of work are excluded from this estimate.



EXHIBIT B



City of Cornelius Agenda Report

To: Peter Brandom, City Manager
From: Kevin Oppenlander, Assistant City Engineer
Date: October 7, 2024
Subject: Resolution No. 2024-54: 2024-2025 Paving Project, AKS Work Order 25



Requested City Council Action: Approve Resolution No. 2024-54.

Previous City Council Action: City Council approved the long-term contract with our engineering consultants, AKS Engineering and Forestry, LLC, on December 5, 2022. Work under this contract is carried out via individual work orders.

Relevant City Strategic Plan Goal(s): Goal 5: Develop the necessary infrastructure to meet the growth, service demands, and emergency preparedness needs of the community.

Background: The project consists of the survey and engineering of the pavement rehabilitation, storm water pipe repair, waterline mainline replacement, and Americans with Disabilities (ADA) ramp reconstruction, on several sections of roadways in Cornelius. The roadway sections included in the project are S. 8th Avenue, S. Elder Court, S. Fawn Street, S. Cherry Street, and S. Kodiak Avenue at S. 29th Blvd. AKS will deliver a base map from a drone survey and final construction plans with a construction cost estimate and bid schedule for bidding.

Cost: \$51,000.

Advisory Committee Recommendation: Not applicable.

Staff Recommendation: Approve Resolution No. 2024-54 as presented.

Proposed Motion: I make a motion to approve Resolution No. 2024-54, A RESOLUTION OF THE CORNELIUS CITY COUNCIL APPROVING AKS WORK ORDER 25 FOR THE PREPARATION OF THE ENGINEERED CONSTRUCTION PLANS FOR THE 2024-2025 FISCAL YEAR PAVING PROJECT and this action takes effect immediately.

Exhibit: Resolution No. 2024-54 and AKS Work Order 25

RESOLUTION NO. 2024-54

A RESOLUTION APPROVING THE CONTRACT BETWEEN AKS ENGINEERING AND FORESTRY AND THE CITY OF CORNELIUS FOR THE 2024-2025 FISCAL YEAR PAVING PROJECT DESIGN

WHEREAS, every fiscal year the City rehabilitates roadways in the City of Cornelius prioritized by the City’s pavement management program; and

WHEREAS, S. 8th Avenue, S. Elder Court, S. Fawn Street, S. Cherry Street, and S. Kodiak Avenue at S. 29th are high priority streets for maintenance in the pavement management program; and

WHEREAS, our on-call consultant, AKS Forestry and Engineering, LLC has the capability and expertise to provide the City with survey and the engineered construction plans for the necessary pavement rehabilitation.

NOW, THEREFORE, BE IT RESOLVED BY THE CORNELIUS CITY COUNCIL AS FOLLOWS:

Section 1. The Cornelius City Council approves AKS Work Order 25 for a preparation of the engineered construction plans for the 2024-2025 Fiscal Year Paving Project with the work described in Exhibit A.

Section 2. This resolution is effective immediately upon its enactment by the City Council.

INTRODUCED AND APPROVED by the Cornelius City Council at their regular meeting this 7th day of October, 2024.

City of Cornelius, Oregon

By: _____
Jeffrey C. Dalin, Mayor

Attest:

By: _____
Rachael Bateman, City Recorder



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September 13, 2024

2024-2025 FISCAL YEAR PAVING CITY OF CORNELIUS, OREGON

Exhibit A – Scope of Work

AKS Engineering and Forestry, LLC (AKS) will complete the following services to support the engineering design plans and construction of the fiscal year repaving within the following streets of the City of Cornelius (City).

- S 8th Avenue (135' north & 50' south of Fawn St)
- S Cherry Street (between 12th Ave & 16th Ave)
- S Fawn Street (between S 8th Ave & 10th Ave)
- Elder Court (west of 15th Ave)
- S 29th Blvd & S Kodiak Ave mini roundabout splitter islands

The project will consist of utility pothole coordination, existing water line replacement (S Fawn St), pavement rehabilitation, replacement of substandard existing storm catch basins, replacement of damaged curb, and improving/installing ADA access ramps and landings.

I. AERIAL SURVEYING SERVICES

Consultant shall conduct aerial survey services for the extents identified on the attached Exhibit B.

The following items will be completed by AKS as part of the aerial mapping services:

- Establishing a flight control plan for aerial drone
- Setting ground control utilizing GPS surveying
- Collecting data and imagery with drone
- Processing data
- Prepare a CAD plan with ortho mosaic photos (stitched ortho photo)
- Prepare a point cloud of the site
- Prepare a 3D topography rendering of the site.

Deliverables:

- Preliminary Base Map utilizing combination aerial photograph and topographic surface from Drone survey and GIS information to be utilized for concept design only.

II. TOPOGRAPHIC SURVEYING SERVICES

AKS will perform additional field topographic survey of existing features such as the water main alignment along S. Fawn Street, utility pothole information from City utility crews, and as needed spot elevations required to verify new ADA compliant curb ramps and landings.

Any detailed topographic surveying data will be incorporated into the preliminary base map deliverable from the aerial surveying services.

III. ARBORIST SERVICES

AKS arborist services are required to evaluate existing trees along a portion of the project along S Fawn Street and S 8th Avenue. The following scope will be accomplished by an AKS certified arborist:

- Evaluate all trees within the project area greater than or equal to 6" DBH that will be shown on the existing conditions plan/topographic survey. The evaluation will identify species, DBH, average crown radius, tree health, condition, and specific tree comments. A spreadsheet of tree information will be created that will include all information collected during the evaluation.
- Coordinate with engineering team to develop tree protection areas and provide specific tree protection measures, detailed notes, and specifications to be employed before, during, and after construction. Fee estimate assumes one inspection (three hours on site).
- Perform a field inspection during construction to observe construction near trees and provide any additional recommendations for tree protection.

IV. CIVIL ENGINEERING DESIGN SERVICES

Based on the preliminary base map, AKS will prepare water main replacement and pavement restoration/reconstruction plans for the project boundaries:

- Construction plans for the fiscal year paving project will include the following:
 - Cover Sheet (with Vicinity and Site Maps)
 - Legend and General Notes
 - Street Cross-Section Sheet
 - Keynote construction plan sheets for each street segment identifying ADA curb ramps, curb replacement, and storm structure and main replacement and improvements
 - Pavement restoration/reconstruction extents, typical cross-section, centerline profile, and keynote recommendations from the geotechnical engineer
 - ADA ramp concept layout sheets
 - Mini-roundabout concrete splitter island plan sheet & details (Kodiak & 29th Blvd roundabout)
 - Water main replacement plan w/ keynotes (S. Fawn Street only)
 - Detail sheets (City and/or ODOT details)
- Consultant will submit 60% and 100% (final) civil engineering plans to the City for review and input.
- For the City's use to bid the project to prospective contractors, the following additional engineering items will be prepared by AKS:
 - Bid tabulation (60% & 100%)
 - Project-specific ODOT/APWA Special Specifications (60% & 100%)
 - Engineer's construction cost estimate (60% & 100%)

Deliverables:

- One set of the final construction plans (11x17 size), stamped by a Professional Engineer (PE) licensed in the State of Oregon.
- Electronic files of the final construction plans will be provided in PDF format.
- Final bid tabulation, special specifications, and engineer’s construction cost estimate, including pay item descriptions, measurement and payment provisions, and estimated quantities, in Microsoft Excel format and one hard copy.

V. REIMBURSABLE EXPENSES & FEES

Reimbursable expenses include mileage, administrative services, and commercial copies.

Estimated Fees

I. AERIAL SURVEY SERVICES.....	\$5,500
II. TOPOGRAPHIC SURVEY SERVICES.....	\$5,000
III. ARBORIST SERVICES	\$2,500
IV. CIVIL ENGINEERING DESIGN SERVICES.....	\$37,500
V. REIMBURSABLE EXPENSES	\$500

TOTAL BUDGET:	\$51,000
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Assumptions

- AKS prepares and completes 100% plans, bid tab, special specifications, and engineer’s cost estimate with City preparing contract specifications, bidding the project, conducting inspections, and managing the contractor.
- Detailed ADA design/spot elevations will not be provided. ADA curb ramp style and concept layout will be provided on keynote plan sheets. Design/construction requirements will be provided with standard details.
- Assumes overall disturbance will be less than 1-acre (pavement restoration/reconstruction is not included in disturbance area) and Oregon Department of Environmental Quality (DEQ) or Clean Water Services (CWS) requirements for 1200-CN or 1200-C permit is not triggered.
- Pavement rehabilitation evaluation and recommendations will be provided by the City consultant (GRI) and coordination with the City will be required to select the pavement rehabilitation alternative for each street section.
- AKS will prepare project Special Specifications, and the City will prepare general and standard technical specifications.
- No right-of-way acquisition or temporary construction easements are needed for construction. Any acquisition and temporary access coordination for Contractor needs will be coordinated by the City.



Basis of Fees and Billing

In consideration for performing said services, the Client agrees to compensate AKS on an hourly basis at our standard Public Works rates. Invoices will be issued monthly for services provided during the previous month.

Exclusions

Services that do not fall within the scope of work are excluded from this scope of work and estimate.

