



22500 Salamo Road  
West Linn, Oregon 97068  
<http://westlinnoregon.gov>

# **WEST LINN CITY COUNCIL MEETING NOTES April 14, 2025**

## **[Call to Order and Pledge of Allegiance \[6:00 pm/5 min\]](#)**

### **Council Present:**

Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Kevin Bonnington, Councilor Carol Bryck, and Councilor Leo Groner.

### **Staff Present:**

City Manager John Williams, City Attorney Kaylie Klein, City Recorder Kathy Mollusky, Associate Planner Aaron Gudelj, Public Works Director Erich Lais, and Planning Manager Darren Wyss.

## **[Approval of Agenda \[6:05 pm/5 min\]](#)**

Council President Mary Baumgardner moved to approve the agenda for the April 14, 2025, West Linn City Council Meeting. Councilor Leo Groner seconded the motion.

**Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Kevin Bonnington, Councilor Carol Bryck, and Councilor Leo Groner.**

**Nays: None.**

**The motion carried 5 - 0**

### **Public Comment [6:10 pm/10 min]**

Brian Greenwood re: gravel on the streets.

[Public Comment - Brian Greenwood](#)

[Public Comment - Marylhurst NA](#)

[Public Comment - Teri Cummings](#)

### **Mayor and Council Reports [6:20 pm/15 min]**

#### **Appoint Community Advisory Group Members**

Mayor Bialostosky placed before Council appointing:

- o Kent Wyatt to the CCI Committee
- o Shannen Knight to the EDC
- o Rob Kugler to the SAB

Council President Mary Baumgardner moved to approve the Mayor's appointments. Councilor Leo Groner seconded the motion.

**Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Kevin Bonnington, Councilor Carol Bryck, and Councilor Leo Groner.**

**Nays: None.**

**The motion carried 5 - 0**

#### **Reports from Community Advisory Groups**

Councilor Bryck attended the Utility Advisory Board (UAB) meeting and they discussed requirements of the system based on the Water System Master Plan, the funding needs, and how to accommodate to get all that work done. She attended the Vision43 meeting and there will be future open houses for community members to look at where we are. This has been created from a lot of community input over the last year. They are getting closer to having something to present to the Planning Commission and Council.

Council President Baumgardner and the Mayor had a positive call with representatives from Grand Rhonde who we are hoping to continue to have a good relationship with and improve our relationship.

Councilor Bonnington attended the Parks and Recreation Advisory Board (PRAB) meeting and he updated them on what Council is doing and they discussed the tree code. At the Economic Development Committee (EDC) meeting staff gave a Vision43 update.

Mayor Bialostosky met with staff to prepare for a joint meeting with the Transportation Advisory Board (TAB).

City Manager Williams is working to implement Council direction to work with the TAB on pedestrian traffic safety projects, prioritization, and cost estimates.

**[Earth Day Proclamation \[6:35 pm/5 min\]](#)**

**[Proclamation](#)**

Council President Baumgardner read the proclamation declaring April 22, 2025 Earth Day.

**[Consent Agenda \[6:55 pm/5 min\]](#)**

**[Agenda Bill 2025-04-14-01: Meeting Minutes for February 18, 25 and March 17, 2025 Council Meetings](#)**

**[Draft Minutes Information](#)**

**[Agenda Bill 2025-04-14-02: Agreement with Clackamas County regarding Plastic Pollution and Recycling Modernization Act](#)**

**[RMA Information](#)**

**[Agenda Bill 2025-04-14-03: Lake Oswego Communications \(LOCOM\) Intergovernmental Agreement](#)**

**[LOCOM Information](#)**

Council President Mary Baumgardner moved to approve the Consent Agenda for the April 14, 2025, West Linn City Council Meeting which includes the February 18, 25 and March 17, 2025, meeting minutes; an agreement with Clackamas County regarding plastic pollution and recycling modernization act; and the Lake Oswego Communications Intergovernmental Agreement. Councilor Leo Groner seconded the motion.

**Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Kevin Bonnington, Councilor Carol Bryck, and Councilor Leo Groner.**

**Nays: None.**

**The motion carried 5 - 0**

**[Business Meeting \[7:00 pm/150 min\]](#)**

**[Agenda Bill 2025-04-14-05: Intergovernmental Agreement with the State of Oregon for Delivery of a Federal Project – Willamette Falls Dr. 16th St. to Ostman Rd](#)**

**[State of OR IGA Information](#)**

This item was moved up on the agenda.

Public Works Director Lais explained this is the second round of regional flexible funds that have been awarded, in 2016, the City was awarded funds for Highway 43. In 2022, the City was awarded \$3,497,580 through Metro's RFFA program for 2025 to 2027. RFFA identifies and distributes the region's federal transportation allotment of money. The guiding principles of RFFA are equity, safety improvements, it implements the regional climate strategy and congestion relief. To meet the Federal requirements, the City proposed multimodal improvements along Willamette Falls Drive from 16th St. to Ostman; continuing the Main Street project from 2018. The improvements will focus on separated bike and pedestrian facilities and implement the City's long range transportation plan of having those multimodal improvements from Highway 43 to Tualatin River. The City is coordinating with the Oregon Department of Transportation (ODOT). The City is not an authorized federal agency to manage and deliver a project with federal funding. This is why the City works with ODOT on these projects. The Intergovernmental Agreement allocates \$940,000 of federal funding and engineering design to Right-of-Way (ROW) acquisition. The City will match 10.27 percent of current phase which is \$1,047,669. The total phase is one million dollars, federal funds are \$940,000 and the City has \$100,000. The City is just starting this phase. Working with the state transportation agency takes longer. Construction funding will be in FY28/29.

Council President Mary Baumgardner moved to approve the proposed Intergovernmental Agreement (IGA) with the State of Oregon Department of Transportation to deliver the federally funded project for pedestrian and bike improvements on Willamette Falls Drive between 16th St. and Ostman Rd. Councilor Leo Groner seconded the motion.

**Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Kevin Bonnington, Councilor Carol Bryck, and Councilor Leo Groner.**

**Nays: None.**

**The motion carried 5 - 0**

**[Agenda Bill 2025-04-14-06: Award of Contract for 2025 Waterline Replacement Project](#)**  
**[Waterline Replacement Information](#)**

This item was moved up on the agenda.

Public Works Director Lais stated this is the normal annual road program that has been on pause while the City waited to see what the ODOT waterline project on the bridge was going to be. This project includes replacing cast iron ductal and asbestos cement water lines - substandard water lines. The project is split up into three phases: 1) Arbor Dr., Highway 43 to Upper Midhill, Arbor to Marylhurst. In this area, there are a series of plastic services in backyards that we cannot always get into when there is a break. Those services are going to be relocated to come off Highway 43. 2) Parker Rd., Sunset, and Reed St. Reed St. has several



homes fed off a long 3/4" galvanized service, this is undersized for the amount of homes. The City will extend an 8' main up Sunset around Parker Rd., and down Reed St. 3) A small section on Dollar St. from Ostman to Fields Dr. and Santa Anita at Hidden Springs. There is an exposed main through a creek bottom that is vulnerable and difficult for crews to fix. That is going to be abandoned and rerouted to Santa Anita Dr. The project was advertised in accordance with the Local Contracting Review Board (LCRB) rules, the bid opening was March 20 and we received 10 bids. Icon Construction and Development (ICON) was the lowest responsive, responsible bidder with a bid of \$1,463,679. The water fund is budgeted for this project.

In response to Council questions, staff responded:

We have a communication plan. The communications coordinator will go door-to-door during the project to answer any questions.

After project kickoff, Staff will have a better idea what of ICONs plan is. They want to tackle this with two crews to get in and get it done. There will be 147 feet of new 6", 4,055 feet of new 8", and 450 feet of new 10" line.

After Council approval, staff will schedule a kickoff meeting. ICON wants to start by mid-May. Staff must approve submittals and get some bonds.

The increase in materials cost due to tariffs did not come up in the bid. There is always changing conditions, it is pipe per foot and they have the material on hand.

Council President Mary Baumgardner moved to Authorize the City Manager to sign a contract with Icon Construction & Development in the amount of \$1,463,679.04 for the 2025 Waterline Replacement Project. Councilor Leo Groner seconded the motion.

**Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Kevin Bonnington, Councilor Carol Bryck, and Councilor Leo Groner.**

**Nays: None.**

**The motion carried 5 - 0**

**[Agenda Bill 2025-04-14-04: Public Hearing: AP-24-02, Appeal of MIP-24-01/VAR-24-05 Planning Commission Decision at 2830 Coeur D Alene Drive](#)**  
**[AP-24-02 Information](#)**

This item was moved down on the agenda.

Mayor Bialostosky stated tonight we are holding a public hearing regarding application number AP-24-02, a de novo hearing for the appeal of the Planning Commission approval of MIP-24-02/VAR-24-05; a 3-Parcel Minor Partition and a Class II Variance at 2830 Coeur D Alene Drive.

The Class II Variance is to allow five single-family homes to take access from a 20-foot shared private driveway. The appeal was filed by Gary and Susie Alfson. This is a quasi-judicial decision. Unlike in legislative hearings, where personal opinion may come into play, quasi-judicial rulings must be grounded in the relevant code. He abstained from participating in this hearing based on a potential for personal bias as he worked with the attorney representing the appellants and has a friendship with David Baker. He handed the gavel to Council President Baumgardner for the hearing and stated he has not discussed this case with any member of Council and left the room.

Council President Baumgardner repeated the public hearing information the Mayor said and explained how the hearing would proceed. The appeal is a de novo hearing, which means new facts or evidence may be submitted. All evidence presented to the lower approval authority shall be made part of the record. She called to order the public hearing.

Special Counsel Ashleigh Dougill explained that the criteria that must be addressed in this hearing are Community Development Code:

- Chapter 12, Residential, R-7
- Chapter 48, Access, Egress, and Circulation
- Chapter 75, Variances and Special Waivers
- Chapter 85, Land Divisions – General Provisions
- Chapter 92, Required Improvements
- Chapter 99, Procedures for Decision-Making: Quasi-Judicial

As the City Council is sitting quasi-judicially, any testimony, argument, or evidence that speakers give the Council must be directed at these criteria, or at some other criteria in the code or comprehensive plan which the speaker believes should apply to this decision. Only those who have appeared before the City Council, in person or in writing, will have standing to appeal this item to the Land Use Board of Appeals. Failure to raise an issue accompanied by statements or evidence sufficient to allow the Council and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue. Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the city or its designee to respond to the issue precludes an action for damages in circuit court.

None of the members of the Council declared a potential or actual conflict of interest or bias.

None of the members of the Council reported any site visits or ex parte contacts except Councilor Bonnington spoke to Mr. Baker about Oppenlander, not this project.

No members of the audience challenged the jurisdiction of the Council to hear this matter.

No members of the audience challenged a conflict of interest or impartiality of a member of the Council or ask questions about the ex parte disclosures of any member of the Council.

Associate Planner Gudelj gave the staff report.

### Presentation

#### Appellant Argument

Gary Alfson and Susie Alfson want to partition their property they have lived on for 40 years, which has had development all around it. They are appealing the Planning Commission decision dated November 6, 2024, regarding the shared access agreement on Coeur D Alene. The PC unanimously approved the request for a variance to allow one additional access for a total of five accesses to the private drive. They are required to get signatures from all lots using this access. The owners of Lots 22 and 23 refused to sign. Access for their 20,000 sq. ft. lot will be required to utilize Tract C at the east side of the lot. This will create limited access possibilities and hardship for the proposed partitioned lots and reduced safety. They request the requirement for signatures be waived and the variance request for one additional access to the easement between Lots 22 and 23 be approved. Their property is zoned R7 and could be divided into five lots; they are only requesting approval for three lots as they are trying to meet the tune of the neighborhood. Their access has changed three times due to development and their proposal will not alter the current access to Coeur D Alene.

In a letter to the City, Planning Commission, and Teresa Vineyard developer, dated June 27, 2007, they requested that a condition be included in the approval to allow access to Coeur D Alene Drive and to Tract C for future and existing vehicular and utility access to their property. These conditions were submitted and approved by the City, Planning Commission, and Teresa Vineyard representatives. The "Maximum of two" comment on the plat was never mentioned in discussions, written documents, or approved by the Alfsons. The access for Lots 22 and 23 are adjacent to Coeur D Alene and the three access to their property will be at the other end of the road. These accesses have clear visibility, while Tract C has limited visibility.

If new access is required to Tract C, it will need to be located on the east side due to the location of the house, shop, garage, and landscaping. The property slopes 10 percent and would require a steep driveway, retaining walls, easements on the adjacent property, removal of a three-foot diameter tree, removal of the garage, shop and relocation of the well. If access is from the north, this is less safe for pedestrians due to sharp curves creating less visibility. Tract C is used by children, walkers, delivery trucks, and local traffic. He estimates this would cost \$50,000 to put in the driveway, plus the cost to demolish and replace the shop and garage.

None of the surrounding property owners oppose this partition except Lots 22 and 23. They are not a part of the Teresa Vineyard subdivision nor the Homeowners Association. Access to the house can be routed to Tract C when the half acre lot is divided into two lots, the house is demolished and the 10,000 sq. ft. lots are developed.

City files and County records have conflicting information regarding access to Tract C and the

existing access to Coeur D Alene Drive. These notes conflict with Planning Commission comments, conditions of development, their letter, the plat, and other recorded documents in the files. The joint easement was in place before any other owners resided there.

The Alfson letter states they would appreciate consideration in including conditions of the approval of the proposed development to ensure adequate vehicular and utility access to their site for the current configuration and for potential future development. In response, the Planning Commission said the neighboring property at 3401 S. Haskins Lane has one exiting house and may develop into four lots in the future. Assurance is needed that all appropriate vehicular access and utility provision and access be provided by the applicant to sufficiently accommodate the current residence and all potential future lots at this property.

The Planning Commission Final Decision dated June 28, 2007 states the motion was passed to approve the application with four additional findings, two additional conditions of approval regarding utility provisions and vehicular access to the neighboring property at 3401 S. Haskins Lane. This information conflicts with notes 9 and 24 which state that a maximum of two accesses be allowed. The Alfsons were not informed of this condition so should not be held to this requirement that was created by the development of Teresa's Vineyard subdivision. This new access consists of a 20-foot-wide joint access easement constructed by Teresa Vineyard.

The Access and Utility Easement and Joint Maintenance Agreement grants to the present and future owners of Lots 22, 23 and Alfson property a non-exclusive reciprocal easement over and under Lots 22 and 23 to be used for ingress, egress, and public and private utility purposes as described on the Teresa's Vineyard recorded plat. The owners of Lots 22 and 23 shall provide reasonable access to owners of the other affected lots for purposes granted here and for maintenance and repair of access and utility easements as needed. There was no mention of the access limitation at the Planning Commission.

The Alfsons are requesting a Class one variance to allow one additional access for a total of five driveways, three currently use the access. This configuration will be safer due to improved sight distance. He asked Council to honor the Planning Commission's decision to approve the variance. This variance does not alter the value of Lots 22 and 23.

#### Public Comment

Carmen Timberlake and Rufus Timberlake are the property owner of Lot 23 in Teresa's Vineyard. They Co-own the private easement. They purchased their property in 2012. They asked Council to deny the appeal to remove condition 2 and overturn the Planning Commission decision to allow class 2 variance. The Utility and Access Agreement dated December 12, 2011 and Teresa's Vineyard Plat notes indicates if Alfson's lot was to be subdivided that a paved drive, Tract C, to the north would provide access to the maximum of two future lots and the private drive between Lots 22 and 23 would provide access to a maximum of two lots. The Access and Utility Agreement may be amended, modified, or terminated by unanimous consent of the owners of Lots 22, 23, and the Alfson's property or by court order.

The Grant of Easement refers to Ingress and egress and private and public utility purposes that are described on the Teresa's Vineyard plat. They received the December 23, 2024 letter from the Alfson's attorney. They disagree that the wording in the access agreement implies intent to provide access of up to four lots of a subdivided Alfson property. Teresa's Vineyard plat establishes it would provide access to a maximum of two lots and establishes they are responsible for their proportionate share of maintenance and repair cost. The Alfsons met with them on their plans to develop property and requested written consent to allow three lots from their property to use the easement between Lots 22 and 23. They declined their request. The Alfsons subsequently requested the variance from the Planning Commission. The Timberlakes continue to oppose the variance; they do not oppose the development of the Alfson's property. They expect that development of their property would comply with the framework and obligations established in the plat notes and shared access agreement. They feel traffic generated by the three proposed lots would be excessive. They ask Council to honor the framework and obligations established in Teresa Vineyard's plat notes and the 2011 shared access agreement.

Kyle Grant, representing David and Sarah Baker, owners of Lot 22. Based on the objective criteria in the Code, Council should deny the appeal and they asked Council to follow legal counsel's recommendation to modify the Planning Commission decision and deny the appeal. The modification should go further and deny the Class 2 variance. The two main criteria in the Code giving permission for a Class 2 variance, subsections A and C, state the variance must be the minimum necessary to make reasonable use of the property. This variance is not necessary to make reasonable and full use of the property because of Tract C on Teresa's Vineyard plat that is to the north of the property they wish to subdivide. Submitted Exhibit D represents the proposed variance which would direct traffic from five lots onto the shared access easement, there is no proposed access to Tract C. The Appellant's lobbied for and were involved in testimonies surrounding the initial approval of the Teresa Vineyard's plat to allow for access rights both on the shared access agreement and to Tract C. Exhibit D, Page 2 shows two alternatives that show it is not necessary to direct the traffic of the five lots through the narrow, nonstandard road in-between the two lots. One alternative is access being taken for two lots, so a total of four lots, using the south easement and any partition of the north lots would take access through Tract C. The Codes states the variance must be the minimum necessary and because they have shown an alternative access that the appellants can use, the Class 2 variance is not met. The second criteria has to show the appellant did not create the need for the variance. Both the combination of the appellant's involvement in the development of Teresa's Vineyard plat and their proposal to create three lots is what creates the need for the variance. On those two bases the appeal and the Class 2 variance should be denied which would be an overturning of the Planning Commission decision. Plat note 24 limits access to two lots and the lot owners do not wish to grant consent for five lots to be directed onto this nonstandard street. If five lots are going to take access through the road, it should be up to code.

[Exhibit D](#)

### Applicant Rebuttal

Mr. Alfson didn't design nor did he have any input on the design of Teresa's Vineyard, he just said he needed to have access to his property, that was the extent of his involvement. Regarding the plat, he addressed with his letter in granting access to Tract C on Coeur D Alene Drive. The plat talks about limit access to Tract C and Cour D Alene Dr. Why should they be restricted to access, it doesn't make sense. Tract C is built to 20 feet wide which is the public standard as required by the City, they are not alternating those. If they have to access to Tract C, it will impact the garage and shop on their property. This can be avoided by granting one more access on the private drive. Two lots and all they are asking for is one more lot to put in. The easement, access, utility easement and joint maintenance agreement - there is no information about properties impacting limiting access to their parcels. We weren't aware of these two lot fixtures on access points and had no input on that. Track C is a poor design for an access road. He is a Civil Engineer so he is aware of design issues. It would not be a safe road. A better place for the additional traffic is one more lot to have access. Their house has too much value to demo.

Mrs. Alfson added that later, if someone developed the third lot, that's when the other access should be put in and utilized.

### Questions of staff

In response to Council questions, Staff responded:

This property is in an R7 zone. With current middle housing state and local standards, without an actual plan, an estimate of 25 town homes with a minimum lot size of 1,500 sq. ft. each is the maximum potential there.

Currently, the shared driveway easement is 20 ft. wide so if was to serve five lots, it would have to be widened to 24 ft. That would encroach into Lots 22 and 23. It would take an agreement of those property owners and a modification of the easement.

Special Counsel Dougill reminded that while hypothetical situations are interesting, when it comes to making a final decision, Council should stick to the criteria in the Code and any potential development will come before Council in the future.

A couple to a handful of Class 2 variance come up a year in West Linn.

The Final Decision and Order from the Planning Commission has variance findings which they found to be adequate.

The Code has four criteria for variances. The Planning Commission found this application met those criteria. There are other criteria such as public notice, zoning, and density requirements. The Planning Commission found the applicant met the criteria and approved this application.

In this case there is no physical development with this application. The Planning Commission felt that is the minimum necessary variance to qualify.

Regarding the physical limitations of this site, the development was built around the Alfson's property. This situation was not something they brought onto themselves.

The steep slope from Tract C to the Alfson's property would create substantial construction and would require demolition of the garage.

Special Counsel Dougill clarified the standard for granting variance Sub A is the minimum to make reasonable use of the property. When Council is looking at the criteria, consider what is the minimum use and variance required, if any, to make the reasonable use that is proposed here, i.e., the access for these five legal lots.

The Alfsons use the shared driveway to access to their current home between Lots 22 and 23. They are proposing to divide the property and want those two additional lots to use the shared driveway for a total of five lots. The Code allows four lots maximum. They are seeking an additional lot; this is where the Class 2 variance comes into play.

This application for divided lots is the variance. It is in tandem with use of the shared accessway. The two different land uses have two different processes.

If the applicant just proposed subdividing the two new lots, it is permitted in the Code. They wouldn't have to come to Planning Commission or Council. The existing easement plat notes describe that. Because they are requesting an additional lot, that is why all the discussion is happening.

There are five proposed lots total, the Bakers, Timberlakes, Alfsons, and two new proposed parcels requesting access to the shared driveway. Currently there are three lots using the shared driveway.

Council President Baumgardner closed the public hearing.

Councilor Bryck feels like the condition of approval from the Planning Commission was essentially saying no since the residents of Lots 22 and 23 have already said they are not going to approve it.

Councilor Carol Bryck moved to approve the appeal and remove Condition of Approval 2 from the Planning Commission approval of MIP-24-02/VAR-24-05. Councilor Leo Groner seconded the motion.

Special Counsel Dougill reminded Council this is to make a tentative decision.

Councilor Carol Bryck moved to make a tentative decision to approve the appeal of AP-24-02 and overturn the Planning Commission approval of MIP-24-02/VAR-24-05 for the reason that the applicant met the conditions for the variance and direct staff to bring back the findings for adoption on May 12, 2025. Councilor Leo Groner seconded the motion.

Councilor Bonnington inclination is that the criteria for the new lots is not met. There is no requirement to provide access to lots that don't exist yet. He is more inclined to deny; however, would like more time.

Councilor Bryck feels if this didn't require a variance, it would be a Planning Manager decision. The criteria for the variance has been met primarily because the access to Tract C is essentially not doable and would require the applicant to tear down a building. The creation of the lots and asking for the variance is all one thing.

In response to Council questions, Associate Planner Gudelj responded: The two new lots being created would be required to have access from a public street regardless of any land use decision. Because these land use decisions are tied together and being heard concurrently, the motion you would make would be approving the partition of the land and then granting access because of that partition if that is what Council chose. Council's current motion removes the condition of approval the Planning Commission put on there. It is not altering the partition, lot sizes, or the variance findings. Council is saying they believe the variance findings are met and condition two can be removed.

Condition two requires signatures of the neighboring lots that share that driveway because it does not meet Code. The shared driveway is shared ownership between the neighbors and the Alfsons so those property owners must agree with this. The variance would grant the Alfson's the use of the shared driveway in absence of the landowners.

Councilor Bonnington does not see why this meets criteria. The neighbors have rejected and that is a requirement. By creating two more lots, the vote more becomes three versus two; it changes the balance of the votes.

Associate Planner Gudelj stated the parcels can be owned by anybody in future and the application needs to be signed by all property owners.

Councilor Bryck stated it is not adding anything once the variance is approved, then the variance exists, no one else gets to weigh in. It is Council making a tentative final decision without condition two that the Planning Commission put into place. The Planning Commission was not saying they cannot have the variance, they just put a condition on it. Council's motion is to allow the variance without the condition.

Associate Planner Gudelj stated the Planning Commission is subject to approval criteria in our Code, state, and federal code. Their decision should be based in those code findings. It is staff's



job to present the current rules to decision makers. Staff regularly deal with neighbors who don't like something their neighbors do. The rules and laws allow private landowners to use their property in certain manners. The Planning Commission ruled that the application met the rules and Code so they approved it.

Special Counsel Dougill clarified it is a private easement that currently names the existing parties. Part of this condition says that before recording the plat, there must be evidence that everyone is on same page regarding the private access.

Associate Planner Gudelj said if Council were to approve the partition without granting the variance, they would have to show where they are providing access to all three of their lots; where their exiting home is and the two new homes. If they could show that, it would be granted by right.

Special Counsel Dougill added Council would have to point to evidence in the record of how the applicant demonstrated access for the three lots without involving the private access road.

**Ayes: Council President Mary Baumgardner, Councilor Carol Bryck, and Councilor Leo Groner.**

**Nays: Councilor Kevin Bonnington.**

**The motion carried 3 - 1**

Council President Baumgardner thanked everyone who testified and informed them if they would like to appeal this decision, that they must appeal to the Land Use Board of Appeals (LUBA) in accordance with LUBA's rules and any applicable provisions in the CDC.

### **[Oregon Legislative Session Update \[6:40 pm/15 min\]](#)**

#### **[Legislative Update Information](#)**

This item was moved down on the agenda.

Doug Riggs explained how the legislative session works. There were around 4,000 bills introduced. They are down to 1,400 bills so approximately half did not make the deadline.

The transportation package raises about \$1.9 billion. They are trying to diversify revenues for e-transportation funding. We rely on gas tax mileage and weight miles for trucks. Recent court decisions have put this system in some fluidity or chaos so this attempts to level out funding sources including state fees on sales of new vehicles of 1 percent, increases in gas taxes over a four-year period, title registration fees, as well as a road usage fees on electric vehicles, delivery vehicles, and high efficiency vehicles to make sure everyone paying.

A controversial issue is the bill that allows public employees to go on strike and collect unemployment.

The items being tracked for West Linn are:

Jurisdictional Transfer of Highway 43. There is going to be a process in place for ODOT to consider applications for cities who would like to engage in discussion about jurisdictional transfer. There might be some discussion of funding to be used to upgrade state highways so cities would feel comfortable taking them over.

Recreational immunity passed the senate and is on its way to the house. Feeling confident this bill will get through. If cities cannot get insurance to cover injuries in parks, they have no choice but to close them or raise taxes on residents.

Middle housing mandates on cities are in the process of being implemented. Cities are pushing back stating they are trying to implement what they have been told to do in the last three or four sessions. With limited staff, it is difficult to move forward.

Willamette Falls Locks funding. Council has lobbied for this. The locks authority has communicated the importance of completing the upgrades, making sure the construction dollars are allocated and getting effective use of tax dollars for reopening the locks for recreational and commercial benefit, and seismic benefits. It is a tough time to ask for money; however, since the State has already invested half of the money, it would be a mistake to delay the project as construction costs go up.

Willamette Falls Trust is asking for \$75 million for land acquisition.

Transient Lodging Tax flexibility – not just for advertising, but other uses. The City does not have high levels of tourism; for cities that do there is a high impact on public safety, police, fire, parks and recreation, public restrooms, and sidewalks. This bill did not pass.

Shelter funding didn't get passed.

Tolling. This council uncovered the egregious cost of tolling financial elements. It is an inefficient way to raise money and appears to be dead at this point. It does not make financial sense and he does not foresee it coming back this session.

It is always good to have Council advocating in Salem and he will work with staff to provide opportunities.

The gas tax penalizes people with larger vehicles because they buy more fuel versus an electric or lighter vehicle. They are trying to have the heavier electric vehicles pay more akin to the impact they have on the roads. He has not seen a proposal for a higher weight mileage tax on individuals, just delivery vehicles, 18 wheelers, and heavier trucks.

Council asked Mr. Riggs to continue to monitor the jurisdictional transfer bill. The City is not going to take Highway 43 over unless they get a substantial financial commitment from the

state. It's important for cities to get a substantial invest in city highways and reducing regulation and the cost of city projects on those highways.

[Agenda Bill 2025-04-14-07: 2025 Planning Docket Projects](#)  
[Planning Docket Information](#)

This item was moved down on the agenda.

Planning Manager Wyss gave the staff presentation.

[Presentation](#)

In response to Council questions, staff replied:

In the mid-1990s, Metro and all the cities in the Metro region agreed upon the 2040 plan which set a map that identified regional centers, town centers, main streets, and transit corridors that was intended to drive more dense and urban development to those areas. They adopted a plan that set rules around the 2040 plan. The City is not required to change any codes or zoning; it is to adopt those boundaries and make the City eligible for Metro funding. It will make the City comply with CPAC and set up Bolton town center in Highway 43 vision. Most of the Willamette town center is in the Taxing Increment Financing (TIF) adopted by Council a couple of years ago.

Parks oversees issuing tree permits; this is outside of the development process. The Parks Department is working with the attorney to improve Municipal Code language regarding permits - how they are issued and regulated to clarify for applicants who want to remove a tree outside of development process. What is in the docket is when a development application comes in to remove trees as part of subdivision during the land use process. They are two separate codes.

The Sustainability Advisory Board (SAB) wants to mandate protection of certain trees. This triggers the State Goal 5 process. The City would have to hire a consultant and it is a long process. They are interested in Milwaukie's tree code. The City of Tigard doesn't mandate protection, just a final canopy coverage. That is the routes some cities are going; it does not require Goal 5 process because you are not mandating protection. It does not stop someone from removing trees, you can remove up to a certain percentage and then must replant or pay a fee. It will still take time, money, outreach to the community, and a consultant. The current codes says you must save up to 20 percent of significant trees which can be interpreted in many different ways.

Council President Mary Baumgardner moved to Set the 2025 Planning Docket as recommended by the Planning Commission and add an update to the Economic Opportunities Analysis as a prioritized project. Councilor Leo Groner seconded the motion.

**Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Kevin Bonnington, Councilor Carol Bryck, and Councilor Leo Groner.**

**Nays: None.**

**The motion carried 5 - 0**

Mayor Bialostosky added it is interesting how much on staff time is spent on state mandated projects.

**[City Manager Report \[9:30 pm/5 min\]](#)**

City Manager Williams informed Council the Environmental Services crew and the areas Mr. Greenwood mentioned are on list for this week street sweeping. In the past, the City has hired contractors to sweep up the gravel after storms and they have added this to their action review list. He summarized the future Council Meeting agenda topics. Community grants are due April 30.

**[Adjourn \[9:35 pm\]](#)**

Minutes approved 5-12-25.



22500 Salamo Road  
West Linn, Oregon 97068  
<http://westlinnoregon.gov>

## CITY COUNCIL AGENDA

Monday, April 14, 2025

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5:30 p.m. – Pre-Meeting – Bolton Room & Virtual\*

6:00 p.m. – Business Meeting – Council Chambers & Virtual\*

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1. Call to Order and Pledge of Allegiance [6:00 pm/5 min]
2. Approval of Agenda [6:05 pm/5 min]
3. Public Comment [6:10 pm/10 min]

The purpose of Public Comment is to allow the community to present information or raise an issue regarding items that do not include a public hearing. All remarks should be addressed to the Council as a body. This is a time for Council to listen, they will not typically engage in discussion on topics not on the agenda. Time limit for each participant is three minutes, unless the Mayor decides to allocate more or less time. Designated representatives of Neighborhood Associations and Community Advisory Groups are granted five minutes.

4. Mayor and Council Reports [6:20 pm/15 min]
  - a. Appoint Community Advisory Group Members
  - b. Reports from Community Advisory Groups
5. Earth Day Proclamation [6:35 pm/5 min]
6. Oregon Legislative Session Update [6:40 pm/15 min]
7. Consent Agenda [6:55 pm/5 min]

The Consent Agenda allows Council to consider routine items that do not require a discussion. An item may only be discussed if it is removed from the Consent Agenda. Council makes one motion covering all items included on the Consent Agenda.

- a. Agenda Bill 2025-04-14-01: Meeting Minutes for February 18, 25 and March 17, 2025 Council Meetings
- b. Agenda Bill 2025-04-14-02: Agreement with Clackamas County regarding Plastic Pollution and Recycling Modernization Act
- c. Agenda Bill 2025-04-14-03: Lake Oswego Communications (LOCOM) Intergovernmental Agreement

8. Business Meeting

[7:00 pm/150 min]

Persons wishing to speak on agenda items shall complete the form provided in the foyer and hand them to staff prior to the item being called for discussion. A separate slip must be turned in for each item. The time limit for each participant is three minutes, unless the Mayor decides to allocate more or less time. Designated representatives of Neighborhood Associations and Community Advisory Groups are granted five minutes.

- a. Agenda Bill 2025-04-14-04: **Public Hearing:** AP-24-02, Appeal of MIP-24-01/VAR-24-05 Planning Commission Decision at 2830 Coeur D Alene Drive
- b. Agenda Bill 2025-04-14-05: Intergovernmental Agreement with the State of Oregon for Delivery of a Federal Project – Willamette Falls Dr. 16<sup>th</sup> St. to Ostman Rd
- c. Agenda Bill 2025-04-14-06: Award of Contract for 2025 Waterline Replacement Project
- d. Agenda Bill 2025-04-14-07: 2025 Planning Docket Projects

9. City Manager Report

[9:30 pm/5 min]

10. Adjourn

[9:35 pm]

# PROCLAMATION

West Linn, Oregon

**WHEREAS**, Earth Day was first celebrated on April 22, 1970, with the goal of inspiring an appreciation of our nation’s natural resources through conservation and protection; and

**WHEREAS**, the theme of Earth Day 2025 continues to be “Invest In Our Planet”; and

**WHEREAS**, the idea behind the theme is to continue encouraging governments, corporations, and residents to take steps towards more sustainable practices; and

**WHEREAS**, investing in our planet is vital to enhance environmental awareness. Creating and implementing effective plans will help minimize the environmental impact and protect the planet for generations to come; and

**WHEREAS**, West Linn benefits from green space and environmental amenities that enrich the lives of our residents and visitors, provide habitat for flora and fauna, but need stewardship to ensure viability for future generations.

NOW, THEREFORE, BE IT PROCLAIMED BY THE CITY COUNCIL OF THE CITY OF WEST LINN, that April 22, 2025 is

**EARTH DAY**

DATED THIS 14TH DAY OF APRIL 2025

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RORY BIALOSTOSKY, MAYOR

ATTEST:

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KATHY MOLLUSKY, CITY RECORDER

**City of West Linn / NWPA Legislative Update / Mid-Session**

**HB2161** / Jurisdictional Transfer

**SB179** Recreational Immunity

**HB2138 -6** State Mandates on Housing

**Willamette Falls Locks** - - Hearing / Upcoming Work Session

**Willamette Falls Trust** / Funding Ask - - \$75 million

**Other Issues of Note:**

**HB3556** / TLT Flexibility (Rep. Walters)

**HB3644** / Shelter





## **Agenda Bill 2025-04-14-01**

Date: March 13, 2025

To: Rory Bialostosky, Mayor  
Members, West Linn City Council

From: Kathy Mollusky, City Recorder *KM*

Through: John Williams, City Manager *JRW*

Subject: Draft Meeting Minutes

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**Purpose:** Approval of City Council Meeting Minutes.

**Question(s) for Council:**

Does Council wish to approve the attached City Council Meeting Minutes?

**Public Hearing Required:** None required.

**Background & Discussion:**

The attached City Council Meeting Minutes are ready for Council approval.

**Budget Impact:** N/A

**Sustainability Impact:**

Council continues to present its meeting minutes online, reducing paper waste.

**Council Options:**

1. Approve the Council Meeting Minutes.
2. Revise and approve the Council Meeting Minutes.

**Staff Recommendation:**

Approve Council Meeting Minutes.

**Potential Motions:**

Approving the Consent Agenda will approve these minutes.

**Attachments:**

1. February 18, 2025, Council Meeting Minutes
2. February 25, 2025, Council Meeting Minutes
3. March 17, 2025, Council Meeting Minutes



CITY OF  
**West Linn**

22500 Salamo Road  
West Linn, Oregon 97068  
<http://westlinnoregon.gov>

# **WEST LINN CITY COUNCIL MEETING NOTES February 18, 2025**

## **[Call to Order \[5:30 pm/5 min\]](#)**

### **Council Present:**

Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Carol Bryck, Councilor Leo Groner, and Councilor Kevin Bonnington.

### **Staff Present:**

City Manager John Williams, City Attorney Kaylie Klein, Parks & Recreation Director Megan Big John, Community Relations Specialist Luke Borland, and Administrative Assistant Teresa Howard.

## **[Approval of Agenda \[5:35 pm/5 min\]](#)**

Council President Mary Baumgardner moved to approve the Agenda for the February 18, 2025, West Linn City Council Meeting. Councilor Leo Groner seconded the motion.

**Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Carol Bryck, Councilor Leo Groner, and Councilor Kevin Bonnington.**

**Nays: None.**

**The motion carried 5 - 0**

### **Public Comment [5:40 pm/5 min]**

There were none.

### **Youth Advisory Committee Recommendation on Traffic Safety [5:45 pm/15 min]**

**Letter to Council**

**Presentation**

**Public Comment - Zeil Vanden Heuvel**

Youth Advisory Committee (YAC) members Brooklyn Carr Heuer, Misha Rana, Sarah Yuk, Ruby Fassett, and Zachary Santoso jointly presented, reviewing sidewalk connectivity and traffic safety issues in West Linn. YAC's recently submitted letter and presentation acknowledged that some areas of the city had excellent infrastructure but urged the Council to find ways to address connectivity in all parts of West Linn.

Mayor Bialostosky stated the YAC's presentation aligned with recently adopted Council goals. Council would hold a joint meeting with the Transportation Advisory Board (TAB) in April, and the YAC's recommendation could be used to support exploring additional funding for sidewalks and road improvements across West Linn. The City had received numerous requests from neighborhoods for sidewalk and infrastructure improvements.

Councilors acknowledged that funding was a constraint on better infrastructure, but perhaps in some areas, the City could install signage about shared streets.

City Manager Williams said the Council would host its joint meeting with the TAB on April 21<sup>st</sup>. The TAB had been working on these issues, and the Council had remained consistently interested. The YAC had provided valuable additional information.

### **Joint Meeting with the Planning Commission [6:00 pm/60 min]**

**Housing Production Strategy Project**

**HPS Information**

City Manager Williams welcomed the Planning Commission, noting the goal of the work session was to gather final feedback on the recommended strategies in the draft report and provide guidance as the City approached the final stages of the project.

Matt Hastie, MIG, reviewed the draft Housing Production Strategies (HPS) report, providing an overview of the project, summarizing the strategies listed in the HPS, and identifying changes made to the strategies since the previous work session. The Construction Excise Tax (CET) had been identified as a potential strategy to support affordable housing initiatives and incentivize certain development; however, some stakeholders and members of the working group expressed concerns about using CET as a strategy. The changes also included updates to the system development charge (SDCs) strategy that would allow the City to consider reducing

SDCs or deferring payments for projects with accessibility features.

Brendan Buckley, Johnson Economics, continued the presentation, reviewing the CET and providing examples from other cities that had adopted the CET, and estimates of potential revenue for West Linn. Based on permit activity over the past five years, and assuming a 1 percent rate for residential and commercial properties, the program could generate approximately \$300,000 per year in building funds. Other cities had used revenues from the CET to contribute to affordable housing and help low-income housing developers leverage funding from the State and other sources.

The consultants responded to CET questions from Commissioners and Councilors as follows:

- The CET did not require a citizen vote, though State requirements governed revenue allocation. If a CET was adopted via ordinance, the program would require some Staff time to establish a process for collection and spending. The City could modify the CET through subsequent ordinances.
- The CET had been used successfully in some cities to support low-income housing and multifamily or middle housing. Success varied by project, but affordable housing developers were always willing to build a financing stack to make projects feasible. Any incentives local governments could offer helped improve the odds of bringing such housing to the community.
- The CET would not redirect funds from SDCs. Market-rate commercial and residential development would be charged both SDCs and the CET, depending on the program's parameters. Affordable housing projects eligible for CET funding were generally exempt from paying SDCs.
- One potential use for the CET was backfilling other incentives, such as covering SDC reductions for affordable housing developers while still ensuring SDC revenue for the City. State rules required that a portion of CET revenue be used for development incentives, including backfilling SDCs if exemptions were provided for certain projects.

Mr. Hastie continued the presentation, summarizing feedback from the stakeholder survey which showed support for all strategies except the CET. Similarly, members of the Working Group had expressed support for all strategies except the CET, while members working in affordable housing development supported the CET, as it could be used to leverage other funding and help projects become financially feasible. Working Group members from the development community and the Homebuilders Association generally opposed the CET, citing concerns that it would add to the cost of development which was already high. The presentation concluded with a discussion of next steps.

Staff and the consultants responded to further questions from Commissioners and Councilors as follows:

- Both bodies were asked to consider any questions, suggestions, comments, or potential changes for inclusion in a revised draft to be reviewed at another work session.

- Based on actual realized permitting activity over the past five years, a 1.5 percent CET was estimated to generate \$400,000 in total revenue for West Linn.
- Lake Oswego recently adopted its HPS and did not include CET. Oregon City did not have a CET either.
- The recommendations in West Linn's HPS were like those emerging from most cities working with MIG. While some cities did not include a CET, many of the other strategies in the HPS were common. A significant number focused on tax abatement, public-private partnerships, and land acquisition or donation, all aimed at making affordable housing projects more feasible. Many strategies also involved updating development codes to reduce barriers, simplify processes, or provide incentives for a wider range of housing types. Overall, the recommendations for West Linn aligned closely with those adopted in other cities.
- Historically, SDCs for housing varied between single-family detached homes and multifamily homes, but in recent years, several cities had begun scaling SDCs based on housing size. The most common approach was to set size ranges, with homes in smaller ranges paying a lower percentage of an SDC and larger homes paying progressively higher percentages. The degree of variation depended on each city's approach. Additional information on how other cities had implemented this method could be provided as a follow-up. Lake Oswego was currently updating its SDC methodology as part of its Parks System Plan update and was considering this approach specifically for Parks SDCs.
  - If scaling SDCs by housing size was included in the HPS, additional work would be needed to determine the details moving forward. This would be a general recommendation to consider when updating SDCs, like what emerged from Lake Oswego's HPS process, which was now being partially implemented through its Parks System Plan.
- Affordability was a complex issue, particularly for housing aimed at those earning below 80 percent or 60 percent AMI. In communities with high construction costs, multiple subsidies and incentives were typically needed to produce housing affordable to those income levels. The HPS aimed to create opportunities for developers building housing in these ranges by providing different incentives and programs that contributed to making such housing feasible. MIG could provide more information as a follow-up.
- The document outlined strategies the City was committed to advancing. The State would monitor progress, including a midpoint check-in, and if a strategy was not pursued, alternative actions would be expected. As part of a State-mandated process, the HPS was not just a list of options but a framework for making progress, though some monitoring details were still in flux.
  - The City was required to take action; inaction was not an option. However, the City could evaluate strategies like a CET, determine they were not a fit, and focus on alternatives to meet State mandates. The strategies developed by the Working Group and set for review by the Planning Commission and City Council in April and May provided a solid starting point. If any strategies were clear

nonstarters, removing them now would allow for a more focused discussion. A final decision was not needed tonight unless there was already consensus.

Councilors and Planning Commissioners discussed and expressed unanimous support for all the strategies except the CET. Some Commissioners noted that the Homebuilders Association was an advocacy group for homebuilders and emphasized the need to balance fees with incentives to encourage affordable housing. Several participants expressed concern that the CET would ultimately be passed on to homebuyers, making housing less affordable in West Linn. Others noted that cities with more available land had seen greater success with the CET, while West Linn's limited development opportunities could make it less effective. Some suggested that if a CET were adopted, it should be paired with reductions in SDCs to avoid increasing costs for developers and buyers.

Councilors and Commissioners also discussed zoning changes along Highway 43 as a potential way to encourage mixed-use development and create opportunities for housing. Some believed affordable housing should not be concentrated in one area and that a mix of housing types throughout the city was important for maintaining community character. Incentives and partnerships would make affordable housing possible along the river, as well as zone changes within Vision 43.

There was general agreement that the recommendations should be tailored to West Linn's unique needs, with a focus on balancing growth, affordability, and feasibility for developers. The Planning Commission and City Council would continue reviewing the strategies in upcoming meetings.

Mayor Bialostosky noted the HPS process would continue as required, moving through the Planning Commission before reaching Council for adoption. Recognizing the Planning Commission's work on prior issues, he asked the Commission to consider studying the CET and providing a recommendation for Council to consider.

City Manager Williams added Staff would conduct community and public outreach to publicize the draft strategies before adoption.

#### [Open Session: Oppenlander Next Steps](#)

#### [Welcome from Mayor Bialostosky \[7:00 pm/5 min\]](#)

Mayor Bialostosky welcomed the community and said Council looked forward to hearing from them. He had been involved with the Oppenlander issue since 2021 when the School District first approached the City. The situation had been tumultuous, including a court battle, but he wanted to focus on how the City and community could move forward. Various options had been proposed, and he was interested in hearing ideas. The City received a letter of intent from the School District with a timeline requiring a purchase and sale agreement by May 23 if signed. The key change was the price increase based on a new appraisal.

### [Comments from City Councilors \[7:05 pm/15 min\]](#)

Council President Baumgardner reminded the audience of public comment rules and provided a history of the Oppenlander property. Purchased by West Linn taxpayers in the 1970s for a potential school site, it became a community sports field and open space. In 2021, the district offered the City first right of refusal but later rescinded the offer without naming a price. After public outcry, the district returned with a purchase offer restricted to open space, which the City accepted. Voters then approved a \$3.5 million bond in 2022 to fund the purchase, but the district later sued to break the agreement, rejecting City offers within the bond's limits. A \$3 million gap remained between the district's \$6.5 million price—based on developer offers—and the City's bond amount, with a new appraisal valuing the land at \$7.8 million.

She suggested framing the evening's discussion around two questions:

- What was the community's desired outcome for Oppenlander?
- And what was the cost-benefit of acquiring or not acquiring the property?

Councilor Bryck noted that the City and School District were separate entities under different Oregon statutes, with no control over each other. They did share constituents, however, and because West Linn had limited commercial and industrial property, most funding for both the City and the School District came from residents. The field was used by the School District and community sports teams, but the City did not currently program any of the fields.

Councilor Groner commented that the Council had been consistent in its desire to keep Oppenlander as a recreational area, but it was important to hear from the community on what kind of deal they were willing to support to make that possible.

Councilor Bonnington said that while he felt attached to Oppenlander, attachment did not justify the City spending \$10.5 million. The City had tried to negotiate but faced legal maneuvers and silence. Residents expected the two governments to have a working relationship. He did not want to see West Linn's remaining open space developed and lost forever, but feasibility mattered. The District and City should be partners, but the District was shutting out the City, leaving everyone worse off. He welcomed any effort to change that.

Mayor Bialostosky said the Council wished to act in the best interest of taxpayers and manage resources effectively.

### [Purpose of meeting \[7:20 pm/5 min\]](#)

City Manager Williams said the purpose of tonight's meeting was to listen to the community's input on the options listed on the agenda. He encouraged members of the public to share their thoughts on these or other potential options during public comment.

### [Staff report on costs of park improvements and maintenance \[7:25 pm/5 min\]](#)

#### [Oppenlander Listening Session Parks Updates](#)

City Manager Williams noted the Council had requested information on capital improvement and maintenance costs for Oppenlander. The City had not conducted detailed planning or a community discussion on potential improvements. The goal of the costs provided tonight was to give a rough estimate for typical park features and the public's cost to develop the site.

Director Big John presented the report on capital improvement and maintenance costs for Oppenlander, noting that all figures were ballpark estimates. Since no formal plan existed, the estimates were based on best practices and regional comparisons. The presentation reviewed current site amenities and provided updated cost estimates for the basic project list first compiled in 2021 as well as maintenance estimates. The intent was to be transparent about costs while noting uncertainties and assumptions in the estimates.

Mayor Bialostosky noted the presentation would be available through the online agenda for tonight's meeting.

**[Framework for discussion \[7:30 pm/5 min\]](#)**

**[The City seeks public comment on whether there is community support for the Council to:](#)**

**Attempt to use the existing \$3.5 Million in bond measure funds to purchase part of the Oppenlander property (for example, 5 acres or less).**

**Explore alternative financing options (private fundraising, developer partnership, etc.).**

**Ask taxpayers to vote on increased new bond measure to purchase the Oppenlander property for School District firm price of \$7.875 Million.**

**Do not pursue Oppenlander property acquisition and focus on other park and community priorities.**

Mayor Bialostosky read the four options from the agenda, noting that the City seeks public comment on whether there is community support for the Council to: (i) Attempt to use the existing \$3.5 Million in bond measure funds to purchase *part* of the Oppenlander property (for example, 5 acres or less); (ii) Explore alternative financing options (private fundraising, developer partnership, etc.); (iii) Ask taxpayers to vote on increased new bond measure to purchase the Oppenlander property for School District firm price of \$7.875 Million; (iv) Do not pursue Oppenlander property acquisition and focus on other park and community priorities. He noted the \$10 million figure quoted in Councilor Bonnington's comments included the cost of purchasing the property and the cost of improvements necessary to bring the property up to Code and add bathrooms and ADA improvements.

**[Public Comment \[7:35 pm/60 min\]](#)**

**[Youth Sports representative](#)**



Seamus Barron, Vice President, West Linn Baseball Association, testified that the Oppenlander fields were instrumental to the baseball program. Losing the park would mean losing three youth baseball fields and half of the city's senior baseball facilities, significantly impacting players ages 13-18. With only two senior-sized fields available, the loss would create scheduling challenges and limit opportunities for teenage players. The Association supported efforts to retain the park but acknowledged the need for a cost-benefit analysis.

### **[Friends of Oppenlander](#)**

Dean Suhr, Friends of Oppenlander, testified that Oppenlander was a 10-acre, 40-year legacy site that had been operating efficiently at its current level of services and improvements. While planning for future improvements should be done formally, immediate expenditures were not necessary. Friends of Oppenlander had previously committed to raising funds for the purchase but could not cover the additional \$5 million needed. The group supported a second bond measure to supplement the existing \$3.5 million bond and meet the School District's \$7.875 million sale price. The new bond would cost approximately \$0.28 per \$1,000 of assessed value, bringing the total cost per household to around \$48. Thousands of kids use the park each year and there was no other flat land available for future park space. If Oppenlander were sold for development, new homeowners would expect parks and green space that would no longer exist. He urged the City to act now to preserve the land for both current and future residents.

Mayor Bialostosky said February 28 was the deadline to submit a ballot title to the County for the May ballot. In a conversation with the School Board Chair, the timeline was discussed, and the Board was firm that if the City were to do a bond measure, it should be put on the May ballot. There was little flexibility to wait until November for various reasons, creating a time crunch for staffing and other considerations.

Mr. Suhr replied that the previous bond measure had been done on a tight deadline.

### **[Open for general public comment](#)**

[Public Comment - Carolyn Popma](#)

[Public Comment - Dale Blanchard](#)

[Public Comment - Dean Suhr](#)

[Public Comment - Emily Hogan](#)

[Public Comment - Janet Rotter](#)

[Public Comment - John McCabe](#)

[Public Comment - Karie Oakes](#)

[Public Comment - Mark Handris ICON](#)

[Public Comment - Roberta & Ed Schwarz](#)

[Public Comment - Roshan & Kristi Fernando](#)

[Public Comment - Teri Cummings](#)

John McCabe, West Linn, testified in support of placing a bond measure for Oppenlander on the May ballot and expressed disappointment with the School District, noting a lack of transparency in the District's actions. He urged voters to support Oppenlander and oppose the

District's general obligation bond.

Quinn Hogan, West Linn, testified in support of saving Oppenlander as fields and open park space. It was her favorite park, a great place for sporting events, activities, and spending time with friends. The fields were dog-friendly and provided habitat for wildlife. She urged the City to do everything possible to save Oppenlander.

Alexandra Bacon, West Linn, testified in support of the City purchasing Oppenlander. Sports were beneficial to mental and physical health, and she and her friends played there year-round. It was more than open space—it was a place for sports, community gatherings, and kids to play. Oppenlander was not just wanted but needed.

Derrick Peterson, West Linn, testified in support of saving Oppenlander. With few fields large enough for higher-level baseball, losing Oppenlander would make it harder for players to improve.

Teri Cummings, West Linn, reminded the Council about past negotiations between the City and School District, including a 2010 ballot measure that allowed the District to redevelop Sunset School on-site while keeping Oppenlander as a playfield annex for all West Linn schools. The agreement was based on trust, and nothing had changed. She viewed the District's actions as a betrayal of that agreement and urged voters to question candidates in the upcoming election about their commitment to keeping promises to the community. She was disgusted the School District had misrepresented the situation by shifting responsibility to the City when maintaining and enhancing Oppenlander had always been the District's obligation. Regardless of ownership, the fields benefited students, and if the City took over, it would not charge the District's excessive fees to use them. She said the District should accept the City's \$3.5 million offer, as it would relieve them of maintenance costs and result in better facilities through collaboration. It was unreasonable to charge the City commercial rates while still expecting access. She urged voters to hold School Board candidates accountable.

Harlan Borow, Land Acquisition and Development Manager, Icon Construction, summarized a proposed public-private partnership. The plan would develop the front seven acres of Oppenlander into 22 R-10 lots, which could be split for middle housing, while dedicating the back three acres as a park with ballfields, parking, a restroom, play area, and picnic tables. It also proposed a land swap involving an Icon-owned property on Willamette Falls Drive and surplus City property near the Skyline water tower to create a community park and center. If the City entered an assignable agreement with the School District, Icon could take over, cover all costs, complete the land use process, and sell the improved park back to the City for approximately the amount available in existing bond funds.

Mayor Bialostosky said it would be looked into further and Council's interest assessed, but he was grateful Mr. Borow had proposed an additional solution.

Mr. Borow noted that if the park was completed as part of the subdivision, the price would be

considerably less because it would not be a Public Works project.

Council President Baumgardner said she appreciated creative solutions. Some were not eager to consider partial development, but those options needed to be explored given the financial requirements outlined by the Parks Director. The proposal would be attached to the meeting's agenda.

Mr. Borow estimated the three-acre park would cost \$3 million, with \$500,000 for development. Without design, he believed costs could be under \$1 million since Icon could handle much of the construction. Any cost above \$500,000 could be reimbursed through SDC credits, which was typical when developers build parks in subdivisions.

Councilor Bonnington thanked Mr. Borow for the proposal. He was not aware of any other public/private partnership proposals, so this was a creative, helpful solution. The Council would not rush into anything without having a serious conversation about it.

Keith Steele, West Linn, proposed swapping Parker Road land for Oppenlander, using the proceeds and the existing bond to fund the purchase, capital improvements, and possibly a maintenance annuity, with preliminary estimates suggesting no additional public funds would be needed. This approach would avoid new taxes, provide enough funding for improvements, and reduce maintenance costs by keeping only one park property. Oppenlander saw significantly more use than Parker Road, which primarily served as summer concert parking, and could also be a future recreation center site if voters approved. He did not speak for the School Board, but believed they would not lower the price or agree to partition the property, making strategies based on those outcomes unworkable. He urged the City to let voters decide, either by selling Parker Road to preserve Oppenlander or by passing a \$4.8 million bond.

Clayton Filter, West Linn, supported saving Oppenlander and giving the people a vote. While not deeply attached to the park, he made childhood memories there and wanted the same for his children and others. The community should not have to swap for other open, public land, which it could later regret. There was a cost associated with floating a bond for Oppenlander, but the per household tax impact was comparable to the cost of a family dinner. The choice was between saving or losing the park forever.

Ted Nicholson agreed with Mr. McCabe's comments.

Karie Oakes, West Linn, emailed comments earlier in the day and said the agenda was highly irregular and did not conform to Council rules designed to ensure public understanding of what would be considered. If the Council planned to decide, it needed to give sufficient notice to retain public support. She was disappointed by the lack of clarity in the process and insufficient information before the meeting. As a result, she had no comments on Oppenlander but appreciated former Councilor Teri Cummings' editorial and testimony calling for cooperation between the School District and City. It was unfathomable that the situation had reached this

point.

Mayor Bialostosky clarified the Council may not decide tonight, and that Ms. Oakes still had time to provide comments after she reviewed the materials. The cost estimates had only become available today.

Ms. Oakes did not believe the Council could decide because the issue was not noticed with an agenda bill to indicate the Council would be acting. She noted the cost estimates had been done three years earlier and she would have expected them to be updated before now. The Council had known this issue was on the table for consideration since January.

John Zuanich, West Linn, thanked Parks Director Big John for updating the capital and operating costs. He asked if the City would have enough funds to operate the facility if the bond measure was adopted. In addition, he asked if Dean Suhr could expand on earlier comments about the estimated cost per home for the bond measure, and what home value was used in the calculation. In the past, voter pamphlets on bond measures had referenced a median home price that did not reflect the actual median price in West Linn.

Councilor Bryck clarified that property taxes in Oregon are based on an assessed value, not a real market value.

#### [Discussion and closing comments on next steps from Mayor and Council](#)

Mayor Bialostosky did not believe the Council would be deciding tonight but wanted to hear from the community and evaluate what was heard. The City was facing an arbitrarily imposed deadline and would be rushed if it issued a bond measure, but whatever solution the City pursued needed to be discussed carefully.

Councilors expressed concern over the tight February 28<sup>th</sup> deadline if the City wished to put a bond measure on the May ballot.

City Manager Williams agreed it was complex. It was possible the City could meet the deadline, but Staff would have to speak with the bond counsel and know more details about what the Council was proposing to put into the bond measure, such as price and other financial calculations, along with an average assessed value from the County Assessor. The deadline was in 8 days for the initial ballot title to be completed.

- In response to questions about the additional cost of adding new park property, he explained that adding new property was always flagged as an issue. Maintaining a property with as much use as Oppenlander would be a major commitment and was beyond the capacity of existing Parks crews. To accommodate it, either an existing responsibility would need to be removed or additional funding would be required for Parks.

Mayor Bialostosky said another meeting would be needed to decide. If the Council pursued a bond measure, action would be required quickly. The City had many capital needs, including an operations center, road and transportation safety improvements, and water infrastructure. Asking voters to raise taxes again was a serious decision, especially for a \$6 to \$7 million bond measure. He was unhappy with how rushed the last bond process was and found it unfortunate the City was in the same position again. While the City wanted Oppenlander, financial realities had to be considered.

Councilor Groner said proposals for splitting the land needed to be fully evaluated. A bond measure should not be put before the public without first considering other alternatives.

Councilor Bonnington expressed concerns about meeting the February 28<sup>th</sup> deadline. Even if pursued, no one on Council would be comfortable with how rushed the process was, and there were many risks. He did not want to put that burden on Staff. If Council wanted to move forward, it should decide soon or rule it out.

Councilor Bryck said it was frustrating to be forced into a rushed decision. The City had not initiated this process but was now responsible for finding a solution. The School District had allowed public use of the property for 40 years, and now, if the City did not pursue another large bond measure, it would be blamed for not saving Oppenlander.

Council President Baumgardner's said her instinct was to not pursue another bond. It was frustrating to ask taxpayers to keep paying for land they had already purchased. While the cost per household was relatively small, voters often saw any new tax as a burden. Repeated bond measures led to tax fatigue and eroded public trust. She was uncertain about the next steps and found the timeline frustrating. If there was a way to shift the urgency, she wanted to consider it.

The Council discussed the feasibility of meeting the May deadline and whether the issue could be placed on the November ballot, which would require the School Board's approval. Residents were advised that if they wanted the School Board to extend the deadline to allow the City to pursue a November ballot measure, they should contact the School Board in large numbers.

Councilor Bryck believed the School District planned to put a capital bond on the November ballot.

Mayor Bialostosky confirmed the unanimous consensus of the City Council was to not move forward with the May ballot measure. Council did care about the Oppenlander issue, but the City had many priorities, and Council did not want to rush a \$6 million to \$7 million bond measure.

**[Mayor and Council Reports \[8:35 pm/15 min\]](#)**  
**[Community Advisory Group Appointments](#)**

Mayor Bialostosky placed the following appointments before the Council:

Alyssa Cruz to the Economic Development Committee.

Alex Kraft to the Transportation Advisory Committee.

Torsten Kieper and Jeff Stallard to the Utility Advisory Board.

Council President Mary Baumgardner moved to approve the Mayor's appointments. Councilor Leo Groner seconded the motion.

**Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Carol Bryck, Councilor Leo Groner, and Councilor Kevin Bonnington.**

**Nays: None.**

**The motion carried 5 - 0**

#### **[Reports from Community Advisory Groups](#)**

Councilor Bryck reported she attended the Utility Advisory Board meeting, adding the Board would be happy to have a full slate for the next meeting.

Councilor Bonnington reported that the McLean House was officially listed on the National Historic Register.

Council President Baumgardner reported attending a Willamette Falls Trust meeting, noting Former Governor Kate Brown, now President of the Trust, was actively building relationships and collaborating with PGE which could positively impact West Linn's waterfront project.

#### **[Consent Agenda \[8:50 pm/5 min\]](#)**

#### **Agenda Bill 2025-02-18-01: Oregon Department of Transportation (ODOT) Temporary Permit of Entry for Abernethy Bridge Construction**

#### **[ODOT Information](#)**

Council President Mary Baumgardner moved to approve the Consent Agenda for the February 18, 2025, West Linn City Council Meeting which includes temporary easements for Abernethy Bridge construction. Councilor Leo Groner seconded the motion.

**Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Carol Bryck, Councilor Leo Groner, and Councilor Kevin Bonnington.**

**Nays: None.**

**The motion carried 5 - 0**

Mayor Bialostosky revisited Council President Baumgardner's comment and noted there were homeowners near the bridge project whose dock had been damaged. He had met with them but had not followed up.

Council President Baumgardner believed the City should take follow-up action, such as connecting the family with State legislators.

#### City Manager Report [8:55 pm/5 min]

City Manager Williams highlighted Council's upcoming meetings, noting at the March 17<sup>th</sup> meeting, which was scheduled due to a lack of quorum on March 10<sup>th</sup>, Council would decide on the right-of-way vacation, and discuss financial policies and next steps for the Operations Center contracting with Finance Director Breithaupt. Staff would continue discussion on Oppenlander with the Mayor offline.

- He confirmed the Transportation Advisory Board (TAB) would address transportation and safety improvements at its March meeting, followed by a joint session with Council on April 21<sup>st</sup> to review project lists and funding options used by other cities to accelerate construction.
- Department Heads debriefed following the recent weather event and the general feeling among Staff and the community was that there had been good communication regarding conditions and closures. Public Works crews had worked 12-hour shifts to maintain roads. A recurring issue was the closure of the steepest streets and why some residents ignored warnings. Public Works and Police would explore expanding closure signage to make restrictions clearer while maintaining emergency and resident access without chains or gates.

Mayor Bialostosky remarked that many people from Hidden Springs emailed about the situation and perhaps the City could let those people know it was evaluating some alternatives.

Councilor Bryck stated she could not attend the work session on March 3<sup>rd</sup> as she would be out of town.

Mayor Bialostosky noted he and other Councilors would be in Washington DC for a conference on March 10<sup>th</sup>, and Councilor Groner would possibly be calling in or absent from March 17<sup>th</sup> meeting.

#### Adjourn [9:00]

Draft Minutes

22500 Salamo Road  
West Linn, Oregon 97068  
<http://westlinnoregon.gov>

# **WEST LINN CITY COUNCIL MEETING NOTES February 25, 2025**

## **[Call to Order \[6:00 pm/5 min\]](#)**

### **Council Present:**

Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Kevin Bonnington, Councilor Carol Bryck, and Councilor Leo Groner.

### **Staff Present:**

City Manager John Williams, City Attorney Kaylie Klein, City Recorder Kathy Mollusky, and Community Relations Coordinator Danielle Choi.

## **[Approval of Agenda \[6:05 pm/5 min\]](#)**

Council President Mary Baumgardner moved to approve the February 25, 2025 Special Meeting of the City Council. Councilor Leo Groner seconded the motion.

**Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Kevin Bonnington, Councilor Carol Bryck, and Councilor Leo Groner.**

**Nays: None.**

**The motion carried 5 - 0**

## **[Public Comments \[6:10 pm/10 min\]](#)**

There were none.



## [Oppenlander direction on next steps \[6:20 pm/60 min\]](#)

### [Oppenlander Information](#)

#### [Public Comment - Dean Suhr](#)

#### [Public Comment - Ed & Roberta Schwarz](#)

#### [Public Comment - Theresa Cummings](#)

#### [Public Comment - Vince Miles](#)

Multiple speakers expressed their support for preserving the park and urged the council to consider a bond measure. The Friends of Oppenlander are committed to continuing their efforts, whether or not the bond measure is approved.

### [Public Comment](#)

Linda Parker  
Stephanie Kendall  
Harlan Borow  
Michael Hedges  
Roberta Staff  
Susan Nicholson  
Dean Suhr

### [Council Discussion](#)

Council discussed the issue of Oppenlander Park, including the need for a vote and concrete direction, support for preservation, potential bond measure, school district's stance, city's financial needs, ownership status of Oppenlander, exploring alternative options for ballfields, budget constraints, storm cost and reimbursement, and potential public-private partnership for purchasing Oppenlander.

- The school district is not willing to negotiate on the price or timeline for the property.
- The city has other critical financial needs for infrastructure and public safety projects.
- Placing a \$10 million bond measure on the May ballot may jeopardize support for other projects.
- The city owns 600 acres of parkland, not including Oppenlander, which is maintained by the parks department.
- The city is facing budget constraints and has other pressing capital needs.
- The council is open to exploring other options for ballfields and wants to continue the conversation.

- The city does not have a big contingency in the budget and struggles to meet minimums.
- The possibility of forming a public-private partnership for purchasing Oppenlander needs further exploration.

Council President Mary Baumgardner moved to not place a new bond measure to purchase Oppenlander on the May ballot for the reasons stated during this meeting, and direct staff to evaluate and pursue a public-private partnership for the City to purchase some of Oppenlander Field for use as a City park, utilizing existing voter-approved resources or other funding sources. Councilor Leo Groner seconded the motion.

**Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Kevin Bonnington, Councilor Carol Bryck, and Councilor Leo Groner.**

**Nays: None.**

**The motion carried 5 - 0**

**[Adjourn \[7:20 pm\]](#)**

Draft Minutes.



CITY OF  
**West Linn**

22500 Salamo Road  
West Linn, Oregon 97068  
<http://westlinnoregon.gov>

# **WEST LINN CITY COUNCIL MEETING MINUTES March 17, 2025**

## **Pre-Meeting**

### **Call to Order and Pledge of Allegiance [6:00 pm/5 min]**

#### **Council Present:**

Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Kevin Bonnington, and Councilor Carol Bryck.

#### **Council Excused:**

Councilor Leo Groner.

#### **Staff Present:**

City Manager John Williams, City Attorney Kaylie Klein, City Recorder Kathy Mollusky, Assistant City Engineer Clark Ide, Finance Director Lauren Breithaupt, Library Director Doug Erickson, and Support Services Supervisor Morgan Lovell.

### **Approval of Agenda [6:05 pm/5 min]**

Council President Mary Baumgardner moved to approve the agenda for the March 17, 2025, West Linn City Council Meeting. Councilor Carol Bryck seconded the motion.

**Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Kevin Bonnington, and Councilor Carol Bryck.**

**Nays: None.**

**The motion carried 4 - 0**

**[Public Comment \[6:10 pm/10 min\]](#)**

Elizabeth Miller requesting an ordinance limiting the amount of time dumpsters and mini storage can be on the street.

Vicki Handy regarding the Parks & Recreation Advisory Board's concerns about the Lady B Tugboat.

**[Mayor and Council Reports \[6:20 pm/15 min\]](#)**

**[Reports from Community Advisory Groups](#)**

Mayor Bialostosky had a great time in Washington DC. He met with the Federal delegation, spent time with city councilors from across Oregon, and learned a lot. He would like to give a presentation about what they learned soon.

Councilor Bryck attended the Planning Commission (PC) Meeting, they are looking over the planning docket and had a presentation on the housing production strategy. The Vision43 working group is getting closer to defining the boundaries of where we anticipate zoning changes. The Water Environmental Services group is asking for recommendations for updating their System Development Charges (SDCs) which will now go to the Clackamas County Board of Commissioners.

Council President Baumgardner also attended the National League of Cities (NLC) conference with Councilors Bonnington and Groner, and the Mayor. We learned about interesting advocacy opportunities for transportation related funding and water infrastructure. She attended the American Waterways Association conference events to give testimony to our federal delegation and as her role on the Willamette Falls Locks Authority. She spent time with the Willamette Falls Heritage Association (WFHA) coalition at the board retreat. They are pursuing the national heritage area status for 56 river miles above Willamette Falls. The retreat was held in the newly restored Historic City Hall. She is excited about the upcoming opportunity to hold events there and having the public see it. The Willamette Falls Board trust is being led by former Governor Kate Brown. They are working toward public access and indigenous led cultural interpretation to occur near the falls. This is undetermined exact space with the mill closing and the ongoing conversations with Portland General Electric (PGE).

Councilor Bonnington was also in DC. It was a fantastic experience and he enjoyed spending time with council. It was eye opening interacting with 3,000 people who do what we do. The Parks and Recreation Advisory Board (PRAB) are a very serious group of people and he enjoys

working with them. They discussed and unanimously voted on the recommendation for Council. The PRAB expresses concern about Oppenlander. They want Council to consider costs to operate, upgrade, manage, and maintain the property. Time for community engagement is needed. The PRAB supports all City priorities to determine the need for expanded parkland.

Mayor Bialostosky informed everyone the State of the City will be May 6 at the library at 6:00 pm. He suggested having interactions with the whole Council so they can talk about projects or policies they are interested in. Food will be provided after the event and we are looking at getting the high school jazz band. This information will go out in the OWL.

#### **Appoint Community Advisory Group Member**

Mayor Bialostosky placed before Council appointing Jared Dean to the Economic Development Committee.

Council President Mary Baumgardner moved to approve the Mayor's appointments. Councilor Carol Bryck seconded the motion.

Mayor Bialostosky stated it is always a difficult decision to appoint Community Advisory Group (CAG) Members, and he appreciates everybody applying and serving, and he is glad to have everybody in a role.

Council President Baumgardner appreciates Shannon Knight's service on the Committee for Community Involvement (CCI) and Council would like to offer the opportunity to someone who is not currently serving.

Councilor Bryck appreciates the community stepping up when there are openings on the boards. Having more applicants than openings is a good problem to have.

**Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Kevin Bonnington, and Councilor Carol Bryck.**

**Nays: None.**

**The motion carried 4 - 0**

#### **Equal Pay Day Proclamation [6:35 pm/5 min]** **Proclamation**

Councilor Bryck read the Equal Pay Day proclamation declaring March 25, 2025 Equal Pay Day.

#### **Consent Agenda [6:40 pm/5 min]**

#### **Agenda Bill 2025-03-17-01: Meeting Minutes for February 10, 2025 Council Meeting** **Draft Minutes Information**

**Agenda Bill 2025-03-17-02: Amendment to Cooperative Maintenance Agreement between the City and the State of Oregon for OR-43 Multimodal Improvements**

[Cooperative Maintenance Agreement Information](#)

**Agenda Bill 2025-03-17-03: Transient Lodging Tax Collection Intergovernmental Agreement with the State of Oregon**

[Transient Lodging Tax Information](#)

Council President Mary Baumgardner moved to approve the Consent Agenda for the March 17, 2025, West Linn City Council Meeting which includes the February 10, 2025, meeting minutes; the Amendment to Cooperative Maintenance Agreement between the City and the State of Oregon for OR-43 Multimodal Improvements; and Transient Lodging Tax Collection Intergovernmental Agreement with the State of Oregon. Councilor Carol Bryck seconded the motion.

**Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Kevin Bonnington, and Councilor Carol Bryck.**

**Nays: None.**

**The motion carried 4 - 0**

Mayor Bialostosky is disappointed that the cost of HWY 43 went up. When the bond passed in 2018, it was for the stretch between Marylhurst to Hidden Springs all the way down to I205 area. With the delays and costs going up, we can now can only do one intersection. This is one argument for the City to gain control of HWY 43, we could have moved faster and gotten the more of the stretch done rather than going through State of Oregon highway permitting requirements.

**[Business Meeting \[6:45 pm/60 min\]](#)**

**[Agenda Bill 2025-03-17-04: ORD 1758, AMENDING WEST LINN MUNICIPAL CODE CHAPTER 4 RELATING TO SURFACE WATER MANAGEMENT](#)**

[ORD 1758 Information](#)

City Manager Williams reminded Council they discussed this in a work session on March 3. This ordinance gives the City the authority to adopt the stormwater manual that suits the City's needs which will be brought to Council in April.

Associate City Engineer Ide stated this ordinance is to adopt, amend, and enforce West Linn's stormwater management manual. The City has been utilizing Portland's stormwater management manual. To get more in line with the City's DEQ requirements, it makes more sense to have our own manual. The manual is in draft form and has been put out for public

comment for 30 days. Tonight, we are asking for approval of the ordinance so in the future we can amend and enforce this manual once adopted.

Mayor Bialostosky opened the public hearing.

Public Comments

There were none.

Mayor Bialostosky stated we have not received any written comments either and closed the public hearing.

Council President Mary Baumgardner moved to approve First Reading for Ordinance 1758 amending West Linn Municipal Code Chapter 4 relating to surface water management and set the matter for Second Reading. Councilor Carol Bryck seconded the motion.

**Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Kevin Bonnington, and Councilor Carol Bryck.**

**Nays: None.**

**The motion carried 4 - 0**

Council President Mary Baumgardner moved to approve Second Reading for Ordinance 1758 amending West Linn Municipal Code Chapter 4 relating to surface water management and adopt the ordinance. Councilor Carol Bryck seconded the motion.

**Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Kevin Bonnington, and Councilor Carol Bryck.**

**Nays: None.**

**The motion carried 4 - 0**

**[Agenda Bill 2025-03-17-05: Affirmation of West Linn Local Contracting Rule Exemption 10.015: Public Improvement Contracts Invoice Design or Construction Management Contracting Rules Exemption Information](#)**

City Manager Williams thanked Support Services Supervisor Morgan Lovell for her work on the operations facilities project, it has been in the works for many years and she has been moving the project along. The item tonight is the sort of detail we must get into to do project correctly. Staff have been working to follow procurement code closely in a transparent matter that is best for the community.

Support Services Supervisor Lovell discussed utilizing an alternative construction procurement method known as construction management general contracting (CMGC). This is a recommended method for this type of facility construction project as outlined in the Agenda Bill and finding of

facts document. Staff recommends adopting the findings of facts that justify this use. Some of the advantages of using the CMGC rather than a design build that we might use for a transportation project is the complexity of project. It is a large site that requires specialized knowledge for site development, civil engineering, mobilization and utilizing a variety of subcontractors. Bringing on the CMGC before the design is done allows contractor to work with final designers and allows us to control costs. Rather than designing an entire project and putting out to bid and finding out it is more expensive than anticipated, the contractor helps us control that cost, helps share the risk in ensuring the project is built on time, and within the negotiated guaranteed maximum price. It allows for early lead items, for instance, if an HVAC system takes nine months to secure, we don't have to wait until the whole project is designed and built. We know it is needed and can source it. We want to get this built and done in an appropriate time amount of time. These are some of the savings this brings to City for procuring and moving forward with this construction method. We have not received any public comments on this, it was published in the Daily Journal of Commerce (DJC) and West Linn Tidings.

In response to Council questions, staff replied:

- An Owners Rep is the professional consultant that really are specialized in these kinds of construction projects. The City does not build facilities of this nature often. Staff focus on civil engineering, not site development and construction of a 50,000 sq.ft. operations facility.
- The Owners Rep helps make sure all the boxes are checked, negotiate contracts, and are on the job site with us acting on the City's behalf to make sure the contract is enforced, that construction is going forward in the manner outlined.
- They help through the design process along with our architect to help set schedules and timelines and make recommendations on how to move forward.

Mayor Bialostosky opened the public hearing.

#### Public Comment

There were none.

Mayor Bialostosky stated notice was provided in both the DJC and the West Linn Tidings. He closed the public hearing.

Councilor Bryck has delt with this contracting and with complex contracts; this works well and allows staff to stay on top of it.

Council President Mary Baumgardner moved to Affirm use of the existing exemption found in section 10.105 of the City Local Contracting Rules adopted via Resolution 2023-09, and approve and adopt the findings in Attachment 1, and allow for staff to proceed with a CM/GC procurement method. Councilor Carol Bryck seconded the motion.



**Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Kevin Bonnington, and Councilor Carol Bryck.**

**Nays: None.**

**The motion carried 4 - 0**

Support Services Supervisor Lovell stated the next steps are releasing the competitive bid for the Request for Proposal (RFP) to procure CMGC services which will be open for one month. Staff hopes to have lots of proposals and will interview the top candidates. We will be bringing a contract to Council in early June to award and finalize the design. Construction should begin in late summer, early fall. It is a development project so we will be going through the Planning Commission and all the other requirements. The pre-application is scheduled for the beginning of April and our architect consultants will be the applicant on behalf of the City. There has been contact with the neighborhood association and they have been provided updates. Part of the scope of the owner's rep and GMGC will be on engagement and community outreach on the progress.

#### **[Agenda Bill 2025-03-17-06: Investment Policy Update](#)**

##### **[Investment Policy Information](#)**

Finance Director Breithaupt introduced Dian Woodry and Whitney Mayor who are Government Portfolio Advisers (GPA). They were hired to revise the City's investment policy that hasn't been updated since 2008 and begin some investments. There is a cap on the local government investment pool (LGIP) and for first time ever, West Linn is close to meeting the cap which is 15 percent. Therefore, we would not be able to put more money in the LGIP and would have to invest elsewhere. We have more in our reserves because our expenditures are higher. When expenditures go up the reserves go up. The City has issued debt for the waterline of \$12 million that is still sitting in the account, the Oregon Department of Transportation (ODOT) has not begun to draw on that yet. In addition, the City is still finalizing the 2018 General Obligation (GO) Bond which is still in there. The balance will be going down over next few years. Right now it makes sense to start investing outside of the pool. We retained GPA, this is what they do for other local governments in Oregon. They based the policy out of the Oregon short-term fund board policy. The City took the policy to the board in January who gave it a favorable review. This policy will be brought back to Council with minor changes.

Dian Woodry is proud to have West Linn join their family of cities in Oregon and gave the background of GPA. In 2022, West Linn had a balance of \$27 million. The policy was vetted and have done a thorough analysis to find the right balance for West Linn.

Councilor Bryck believes people think investment is risky. There are the rules the City must go by and the new investment policy is based on that, so there are no concerns. In the last budget, money was put aside for the operations building that has not been built yet so that is one of the reasons there is a large balance.

Finance Director Breithaupt added the City will be issuing debt for the building and will need somewhere to invest it.

Ms. Woodry stated the City will have policy steps in place to manage the project. The first step we will be looking at is investing the \$10 million in the US treasury and agency securities. Interest rates have been fluctuating, and this is a good opportunity to invest about 4 percent to anchor your portfolio down. Right now having 100 percent in the LGIP as the federal rates move down, you are exposed.

Council President Mary Baumgardner moved to approve the City of West Linn's updated Investment Policy. Councilor Carol Bryck seconded the motion.

**Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Kevin Bonnington, and Councilor Carol Bryck.**

**Nays: None.**

**The motion carried 4 - 0**

**[Agenda Bill 2025-03-17-07: Arts & Culture Commission Recommendations for the Commissioning of an Artist for Art for the Willamette Main Street Bicycle Kiosk](#)**  
**[Bike Kiosk Information](#)**

Library Director Erickson stated there are a few adjustments that had to be made. There has been an increase in cost due to tariffs and other things. He introduced Charity Hudnut and Shatrine Krake from the Arts & Culture Commission (ACC).

Ms. Hudnut reminded Council they approved this project and then an increase of cost happened. She explained the increased costs including insurance and materials.

Ms. Krake added the size of bike kiosk is different and went over the agenda bill discussing the individual costs.

Library Director Erickson stated the percent for the arts fund has \$130,000 in it, the ACC has not spent any money. The fund has been accruing a percentage through the GO bond and Public Works projects. The ACC is working to get this first contact done and will learn and will continue at a faster pace in the future. This is the first public art piece commissioned by Council with recommendation by ACC. The art is woven into the actual fabric of the kiosk rather than a standalone art piece. In the Code, there is 1.5 percent for art - 1 percent or acquisition and .5 for maintenance. This is way under 1 percent of the overall cost of the Willamette Falls project.

Council President Mary Baumgardner moved to Authorize the City to enter into a contract with artist Travis Pond, at the increased quoted amount, for the purposes of a contract for the commission of art for the Historic Willamette Main Street Bicycle Kiosk with the understanding

there may be materials cost changes even with regard to this updated quote. Councilor Carol Bryck seconded the motion.

**Ayes: Mayor Rory Bialostosky, Council President Mary Baumgardner, Councilor Kevin Bonnington, and Councilor Carol Bryck.**

**Nays: None.**

**The motion carried 4 - 0**

#### **City Manager Report [7:45 pm/5 min]**

City Manager Williams stated Council just got an insight into Staff's Day, 30 minutes on this, 30 minutes on that. He is excited to see art coming out of the Main Street project and appreciates the ACC's work. He went over the agenda items for the next few meetings.

- Staff along with Doug Riggs are trying to stay on top of all the legislative bills, transportation and housing are the big pieces and there are a lot of smaller bills in every aspect of government business.
- The Robert Moore award deadline is April 3. Community grant applications are due April 30.
- Staff have been working on the budget and the draft budget is heading to the designers. Costs are rising, including labor; revenues are flat. West Linn has a very low municipal tax rate compared to other cities which prevents us from providing the level of service this community wants and that neighboring cities can provide. The budget will be a status quo budget. School districts and other cities are making cuts, we are not looking at that this year; however, will discuss what the future looks like. Four years out is not great. The City has to carefully guard expenditures and maximize revenues.
- Some of the other events going on are the Lucky Leprechaun contest that gets people out into our parks and the library is having a jigsaw puzzle swap.
- Some of the other items being worked on are Oppenlander, Lady B tugboat, ordinance options, and next week is Spring Break.

Council discussed what they would like from staff prior to the budget meetings.

Council President Baumgardner is having another open conversation Thursday at 4:00 pm at the Vintage on Main Street in Willamette area.

Councilor Bonnington is having a cars and coffee event this Saturday from 8:00 am to 10:00 am.

#### **Adjourn [7:50 pm]**

Draft Minutes.

**Agenda Bill 2025-04-14-02**

Date Prepared: March 31, 2025

For Meeting Date: April 14, 2025

To: Rory Bialostosky, Mayor  
West Linn City Council

Through: John Williams, City Manager *JRW*

From: Dylan Digby (*DD*)

Subject: Agreement with Clackamas County regarding Plastic Pollution and Recycling Modernization Act

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**Purpose:**

To determine if Clackamas County Sustainability staff should expand their role in assisting the City in compliance with recycling and solid waste management regulation and policy.

**Question(s) for Council:**

Should Clackamas County be designated to ensure West Linn's compliance with and receive compensation related to the new Plastic Pollution and Recycling Modernization Act?

**Public Hearing Required:**

None required.

**Background & Discussion:****Plastic Pollution and Recycling Modernization Act**

In 2021 the Oregon Legislature enacted (via Senate Bill 582) the [Plastic Pollution and Recycling Modernization Act](#) (Senate Bill 582) to update and standardize Oregon's Recycling system by expanding access to recycling services and upgrading recycling facilities. The law requires producers of packaging, food service ware, and paper products to share responsibility for building and maintaining a more resilient and responsible recycling system. Producers that sell products in Oregon that are covered by the law must join and pay fees to a nonprofit "Producer Responsibility Organization" (PRO) that will administer the statewide program. The PRO will use the fees to reduce cross contamination in waste streams and expand local recycling services.

Local governments in Oregon are responsible for overseeing recycling collection. The Recycling Modernization Act (RMA) enacts additional requirements for local governments to expand recycling services as needed to meet a new [uniform statewide recycling list](#), implement new programs to reduce contamination in recycling, use recycled plastic in collection containers, and report on regulatory activities to the Department of Environmental Quality (DEQ). Local governments and solid waste service providers can request reimbursement from the PRO for eligible costs to meet the requirements of the law (ORS 459A.890).

Recycling system implementation under the RMA begins in July 2025. To prepare for implementation DEQ is requesting local governments complete a Funding Authorization Form by April 15, 2025 to indicate whether the local government would receive PRO funding directly to meet the requirements of the new law, or whether they would like to designate service provider(s) or other entities to receive the PRO funding.

**Clackamas County Recycling Partnership**

Clackamas County currently manages recycling requirements for all 13 Clackamas County cities for which it is required, including the City of West Linn, to provide uniformity, share resources, and efficiently meet DEQ outreach, education, and other requirements of the current regional waste plans and Opportunity to Recycle Act (OTR) laws (most recently amended by the legislature in 2015). Cities include - Canby, Estacada, Gladstone, Happy Valley, Johnson City, Lake Oswego, Milwaukie, Molalla, Oregon City, Rivergrove, Sandy, West Linn, and Wilsonville. Clackamas County has had an agreement with West Linn since at least 2008 to perform this service. Clackamas County provides county-wide recycling and waste reduction programs, activities, outreach, and reports to DEQ on these programs on behalf of cities in the partnership to meet the OTR rules.

Clackamas County has offered to expand their role to local cities to provide additional services to meet the new RMA requirements. To do this West Linn would need to designate Clackamas County as the authorized entity to receive compensation directly from the PRO (under OAR 340-090-0810) via DEQ's Funding Authorization Process. This would allow Clackamas County to develop agreements with the PRO and other entities (such as our local solid waste and recycling providers) to receive funds to expand recycling and reduce recycling contamination and meet the RMA regulations. All Clackamas County cities (13 in total) that have recycling requirements utilize Clackamas County Sustainability and Solid Waste to manage their current requirements and all 13 cities have indicated they will continue to have Clackamas County manage the new RMA requirements.

Alternately, the city could choose to receive the funds directly and become a pass through for the PRO funds distributing it to Clackamas County and our solid waste providers as reimbursement for programs to meet the RMA. With this structure, the City would also have to ensure we are meeting all the requirements of the RMA – thus creating an administrative burden to the City for financial tracking as well as reporting, outreach, and other programming required under the RMA. The City does not currently have dedicated solid waste staff to handle this task.

**Budget Impact:**

There is no budget impact if the City chooses to authorize Clackamas County to receive funding to perform services to meet the new RMA rules. Clackamas County would receive reimbursement for programming and staffing to meet the requirements through the Producer Responsibility Organization.

The City is eligible to receive up to \$3 per capita for contamination reduction programming and to request reimbursement funding for other eligible expenses such as expanding recycling to meet the RMA. West Linn does not have designated solid waste staff and meeting the new contamination reduction programming and RMA requirements and reporting would require additional staff capacity. Although staff costs are eligible for reimbursement from the PRO, funding a new FTE within the \$3 per capita cap would not leave much for program expenses. Having a unified approach with Clackamas County's dedicated solid waste and recycling staff would be the most cost-effective way to meet West Linn's requirements under the RMA.

**Sustainability Impact:**

Expanded and unified recycling programs and contamination reduction through the new Recycling Modernization Act regulations directly provides environmental benefits and ensures a more sustainable and ethically managed waste stream.

**Council Options:**

1. Authorize the City Manager to execute an intergovernmental agreement with Clackamas County to provide services for the Recycling Modernization Act and to receive the Producer Responsibility Organization (PRO) funding reimbursement. Clackamas County will work with service providers and regional agencies (e.g. Metro) to create agreements and disburse funds. The County will ensure compliance with the RMA in addition to the OTR laws they currently manage for the City.
2. Authorize the City Manager to designate one or more specific service providers to be authorized to receive eligible compensation from the PRO on behalf of the City. This will require the City to ensure compliance with the RMA.
3. Authorize the City Manager to retain all eligible compensation from the PRO and be responsible for distributing funding to any other entities incurring eligible costs under the RMA. This will require the City to ensure compliance with the RMA.

**Staff Recommendation:**

Authorize the City Manager to execute an intergovernmental agreement with Clackamas County to provide services for the Recycling Modernization Act and to receive the Producer Responsibility Organization (PRO) funding reimbursement.

**Potential Motion:**

I move to authorize the City Manager to execute an intergovernmental agreement with Clackamas County to provide services for the Recycling Modernization Act and to receive the Producer Responsibility Organization (PRO) funding reimbursement.

**Attachments:**

1. Local Government Funding Authorization Form
2. Recycling Modernization Act Brochure



## Local Government Funding Authorization Form

**Instructions:** Local governments are required to identify to DEQ any and all service providers or other entities that are authorized to receive compensation directly from a producer responsibility organization on behalf of the local government, pursuant to ORS 459A.890.

For each of the five categories of PRO compensation, local governments may choose to authorize all, some, or none of the compensation. This form should be filled out by a representative of the local government with the authority to make funding decisions.

Please refer to the Funding Authorization Process Factsheet and Instructions for more information and instructions, including additional details about funding authorization types, eligible expenses, regional DEQ staff contact information, planning process assistance, and next steps for local governments.

### Local Government Funding Authorization

1. Local Government:

City of West Linn

*City or County*

2. Authorized Contact Person\*:

Dylan Digby

*Print first and last name*

Asst. to the City Manager

*Title*

2.a

Contact Information:

[ddigby@westlinnoregon.gov](mailto:ddigby@westlinnoregon.gov)

*Email*

503-742-6011

*Phone*

3. Do you authorize one or more service providers or other entities to receive advanced funding or reimbursement for eligible expenses from a producer responsibility organization pursuant to ORS 459A.890? Indicate your response for EACH Funding Category on the second page of this form using the drop downs.

### Authorization Instructions

#### Full Authorization means:

- (1) You are authorizing one or more service providers and/or other entities to receive **ALL** eligible compensation in that funding category directly from a PRO on behalf of your local government; and
- (2) Your local government will **not retain any** eligible compensation in that funding category.

After selecting **Full Authorization** for a funding category, complete Authorized Service Providers or Other Entities below, complete the Authorizations Form on Tab 2, and generate all Service Provider Forms on Tab 3.

#### Partial Authorization means:

- (1) You are authorizing one or more service providers and/or other entities to receive **some** of the eligible compensation in that funding category directly from a PRO on behalf of your local government; and
- (2) Your local government will retain **some** of the eligible compensation in that funding category and will be responsible for distributing funding to any other entities incurring eligible costs. *Please note that all PRO funding must be distributed to the entity that incurs eligible costs.*

After selecting **Partial Authorization** for a funding category, complete Authorized Service Providers or Other Entities below, complete the Authorizations Form on Tab 2, and generate all Service Provider Forms on Tab 3.

#### No Authorization means:

Your local government is **retaining all** eligible compensation in that funding category and will be responsible for distributing funding to any other entities incurring eligible costs. *Please note that all PRO funding must be distributed to the entity that incurs eligible costs.*

If selecting **No Authorization** for all categories, sign at the bottom of this form where indicated and submit only this completed form to the DEQ.

\* 2 - A PRO is required to notify a local government in writing any time a payment is made to an authorized service provider or other entity. Please specify the authorized contact person that should receive these notifications from a PRO. (ORS 459A.890 (10)).

# Local Government Funding Authorization Form

<b>Local Government:</b>	City of West Linn
--------------------------	-------------------

No.	Authorization	Funding Categories
1.	No Authorization	<b>Transportation:</b> Includes the cost to receive, consolidate, load and transport covered products to the appropriate destination as detailed in OAR 340-090-0770.
2.	Full Authorization	<b>Contamination Evaluation:</b> The costs of periodically evaluating the quality and contamination of collected materials at a location other than a commingled recycling processing facility, pursuant to ORS 459A.929 and OAR 340-090-0810.
3.	Full Authorization	<b>Contamination Reduction Programming:</b> The costs of contamination reduction programming required by ORS 459A.929.
4.	Full Authorization	<b>Recycling Service Expansion Identified in the Needs Assessment:</b> Funding for on-route expansion including equipment, staffing, and location development, and for recycling depot start-up and operational costs according to OAR 340-090-0800.
5.	Full Authorization	<b>Post-Consumer Recycled Content in Collection Containers:</b> The costs of complying with ORS 459A.908, to the extent that the use of at least 10% post-consumer recycled material is more expensive than the lowest priced alternative.

**Local Government Instructions:** Use this form to list the service providers or other entities that you are authorizing to receive funding from a PRO directly. This information will populate fields in the remaining forms on tabs 2 and 3. Use additional forms if needed (Tab 1.A - Add'l Forms).

Authorized Service Providers or Other Entities				
No.	Registered Business Name	Applicable Service Area[s]	Contact Email	Contact Phone
1	Clackamas County	City of West Linn	<a href="mailto:rickw@clackamas.us">rickw@clackamas.us</a>	503-742-4466
2				
3				
4				
5				
6				
7				
8				

By signing this document you certify that the authorizations contained within are made in good faith cooperation with all parties, that all parties understand and acknowledge the rules and statutes for receiving funding from a PRO, and that your local government is responsible for distributing retained PRO funding to the entity that incurs eligible costs.

Authorized Local Government Official	John Williams	City Manager
	<i>Print first and last name</i>	<i>Title</i>





State of Oregon  
Department of  
Environmental  
Quality

## Local Government Funding Authorization Form

**Local Government:**

City of West Linn

**Local Government Instructions:** For each funding category, consult with the service providers and/or other entities that will incur costs that are eligible for PRO compensation. Use the drop downs to identify the service providers and/or other entities authorized to receive PRO compensation directly. Notes are optional and can be used to clarify expectations, funding allocations, or responsibilities.

Please refer to the Local Government Funding Authorization Process Factsheet and Instructions for more information and to find contact information for your regional RMA Technical Assistant.

### 1. Transportation

Authorized Service Providers or Other Entities (Select from dropdown menu)		Notes (Optional)
1		Not Applicable for this City

### 2. Contamination Evaluation

Authorized Service Providers or Other Entities (Select from dropdown menu)		Notes (Optional)
1	Clackamas County, City of West Linn	County will lead planning effort, in collaboration with regional partners including cities, Metro and service providers when appropriate, County will identify, through the plan, who is to receive funding and will include process for fund distribution where necessary in funding agreement with CAA; Service providers are not authorized to independently request funding; they will only receive funds if they are identified, through the County/City plan submitted to CAA
2		
3		
4		

### 3. Contamination Reduction Programming

Authorized Service Providers or Other Entities (Select from dropdown menu)		Notes (Optional)
1	Clackamas County, City of West Linn	County will lead planning effort, in collaboration with regional partners including cities, Metro and service providers when appropriate, County will identify, through the plan, who is to receive funding and will include process for fund distribution where necessary in funding agreement with CAA; Service providers are not authorized to independently request funding; they will only receive funds if they are identified, through the County/City plan submitted to CAA
3		

#### 4. Recycling Service Expansion

Authorized Service Providers or Other Entities (Select from dropdown menu)		Notes (Optional)
1	Clackamas County, City of West Linn	County will lead planning effort, in collaboration with regional partners including cities, Metro and service providers when appropriate, County will identify, through the plan, who is to receive funding and will include process for fund distribution where necessary in funding agreement with CAA; Service providers are not authorized to independently request funding; they will only receive funds if they are identified, through the County/City plan submitted to CAA
3		
4		
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6		
7		

#### 5. 10% Post-Consumer Recycled Materials in Collection Containers

Authorized Service Providers or Other Entities (Select from dropdown menu)		Notes (Optional)
	Clackamas County, City of West Linn	County will lead planning effort, in collaboration with regional partners including cities, Metro and service providers when appropriate, County will identify, through the plan, who is to receive funding and will include process for fund distribution where necessary in funding agreement with CAA; Service providers are not authorized to independently request funding; they will only receive funds if they are identified, through the County/City plan submitted to CAA
2		
3		
4		
5		
6		
7		
8		



State of Oregon  
Department of  
Environmental  
Quality

## Service Provider or Other Entity Form

**Local Government:**

City of West Linn

**Local Government Instructions:** This form can be used to automatically generate authorization forms for your service provider to sign and return to you. This form verifies the service providers' acknowledgement of funding authorizations and the rules and statutes for receiving funding from a PRO. Select one service provider at a time in the first Green Box and the remainder of the form will be populated and ready to convert to a PDF and send to your service provider by mail or email. Adding comments in section 3 is optional.

**Service Provider Instructions:** If you are receiving this form, your organization or business has been authorized by the local government at the top of this page to receive advanced funding or reimbursement from a producer responsibility organization for eligible costs associated with the requirements of: ORS 459A.908, ORS 459A.929, and OAR 340-090-0770 through OAR 340-090-0810. Verify your business name is correct, and include your information in the GREEN boxes below. Sign and return this form to the local government that sent it.

### 1. Authorized Service Provider or Other Entity

<b>Registered Business Name, Applicable Area: (Drop down menu)</b>	Clackamas County, City of West Linn		
<b>Contact Email:</b>	rickw@clackamas.us	<b>Phone:</b>	503-742-4466

### 2. Funding Categories for Authorized Service Providers or other Entities

Funding Authorizations		Reference:	Authorization Notes
2	<b>Contamination Evaluation</b>	<a href="#">OAR 340-090-0810</a>  <a href="#">ORS 459A.929</a>	County will lead planning effort, in collaboration with regional partners including cities, Metro and service providers when appropriate, County will identify, through the plan, who is to receive funding and will include process for fund distribution where necessary in funding agreement with CAA; Service providers are not authorized to independently request funding; they will only receive funds if they are identified, through the County/City plan submitted to CAA

3	Contamination Reduction	<a href="#">ORS 459A.929</a>	See Note Above
4	Recycling Service Expansion	<a href="#">OAR 340-090-0800</a>	See Note Above
5	Collection Containers	<a href="#">ORS 459A.908</a>	See Note Above

## RMA Local Government Funding Authorization Form for Service Providers or Other Entities

**DISCLAIMER:** By signing this document you certify the following:

1. You are an authorized representative of the service provider or other entity listed in Section 1 (Service Provider or Other Entity).
2. You have read and understand the authorizations granted to your organization as described in section 2 (Authorized Funding Categories).
3. You have read and understood the rules and requirements for the funding that you are authorized to receive;
4. You acknowledge and understand that as a condition of receiving PRO funding, you will be required to enter into contractual agreements with the local government and a PRO; and
5. You acknowledge and understand this document fulfills a local government's requirements under ORS 459A.890 (12) and does not supersede any current contractual agreements between your organization and the local government.

**Authorized  
Service Provider  
Representative**

Rick Winterhalter

*Print first and last name*

[rickw@clackamas.us](mailto:rickw@clackamas.us)

*Email*



*Signature*

Manager, Sustainability & Solid Waste

*Title*

503-742-4466

*Phone*

3/11/2025

*Date*



State of Oregon  
Department of Environmental Quality

# Plastic Pollution and Recycling Modernization Act

## There are BIG changes coming to recycling in Oregon!

### What local governments and service providers need to know:

There are changes coming to Oregon's recycling system relevant to the communities you serve. This mailer contains information and resources about how these changes will impact your community.

The Plastic Pollution and Recycling Modernization Act updates Oregon's recycling system by building on local community programs and leveraging resources from producers, creating a system where everyone in Oregon has the same opportunities to recycle. The law requires producers of packaging, printing and writing paper and food serviceware to share responsibility for the effective, responsible handling of their products after use.

The new law became effective Jan. 1, 2022, and program implementation begins in July 2025. RMA builds on existing standards and requirements from Oregon's Opportunity to Recycle Act, or OTR. The new law creates:

- **Many benefits for local governments**, including funding to expand recycling opportunities and to help reduce contamination in the recycling system.
- **Some new requirements for cities with populations over 4,000**, the areas within their urban growth boundaries and all cities in the Metro Regional Service District.
- **Many benefits and opportunities to expand recycling with very few requirements for cities with populations under 4,000.**

## HOW IT WILL WORK



### Producers

Will join a Producer Responsibility Organization and pay fees based on the products they sell in Oregon

### Producer Responsibility Organizations

Will use the fees to fund and reimburse various local recycling service expenses



### Recycling Processing Facilities

Will establish new permit and certification requirements

### Uniform Statewide Collection List

Will establish a uniform list of materials that are recyclable across Oregon



### Local Governments

Will receive financial support to expand recycling services and address contamination

[RecyclingAct.Oregon.gov](https://RecyclingAct.Oregon.gov)

# Producers and Producer Responsibility Organizations

## Producers:

Companies identified as 'Producers' are required to join and pay fees to a Producer Responsibility Organization, or PRO.

## Producer Responsibility Organization:

A PRO is a non-profit organization and will be established to administer the statewide program for the management of the covered products. The PRO will use the fees to fund recycling system improvements in communities across Oregon.

## Local governments

The RMA creates new funding mechanisms for local governments, who will continue overseeing collection and will receive financial support to expand recycling services and address contamination. The law includes funding to support the creation of:

- New resources to reduce contamination found in the commingled recycling stream.
- New educational resources about the uniform statewide collection list that are culturally responsive and available in multiple languages
- Opportunities to improve and expand existing recycling services and to implement recycling services for communities that do not currently have on-route collection or depot collection.

## Collection and processing

Under the new law:

- **DEQ** will publish a uniform statewide collection list for commingled recyclable material, allowing residents and businesses to recycle the same material, regardless of location.
- **PRO** funding will cover the costs of transporting collected recyclables from communities currently 50+ miles from the nearest commingled recycling processing facility or responsible end market.
- **Commingled recycling processing facilities** will meet new performance standards for material quality, reporting, and providing a living wage and supportive benefits to workers, among other things.

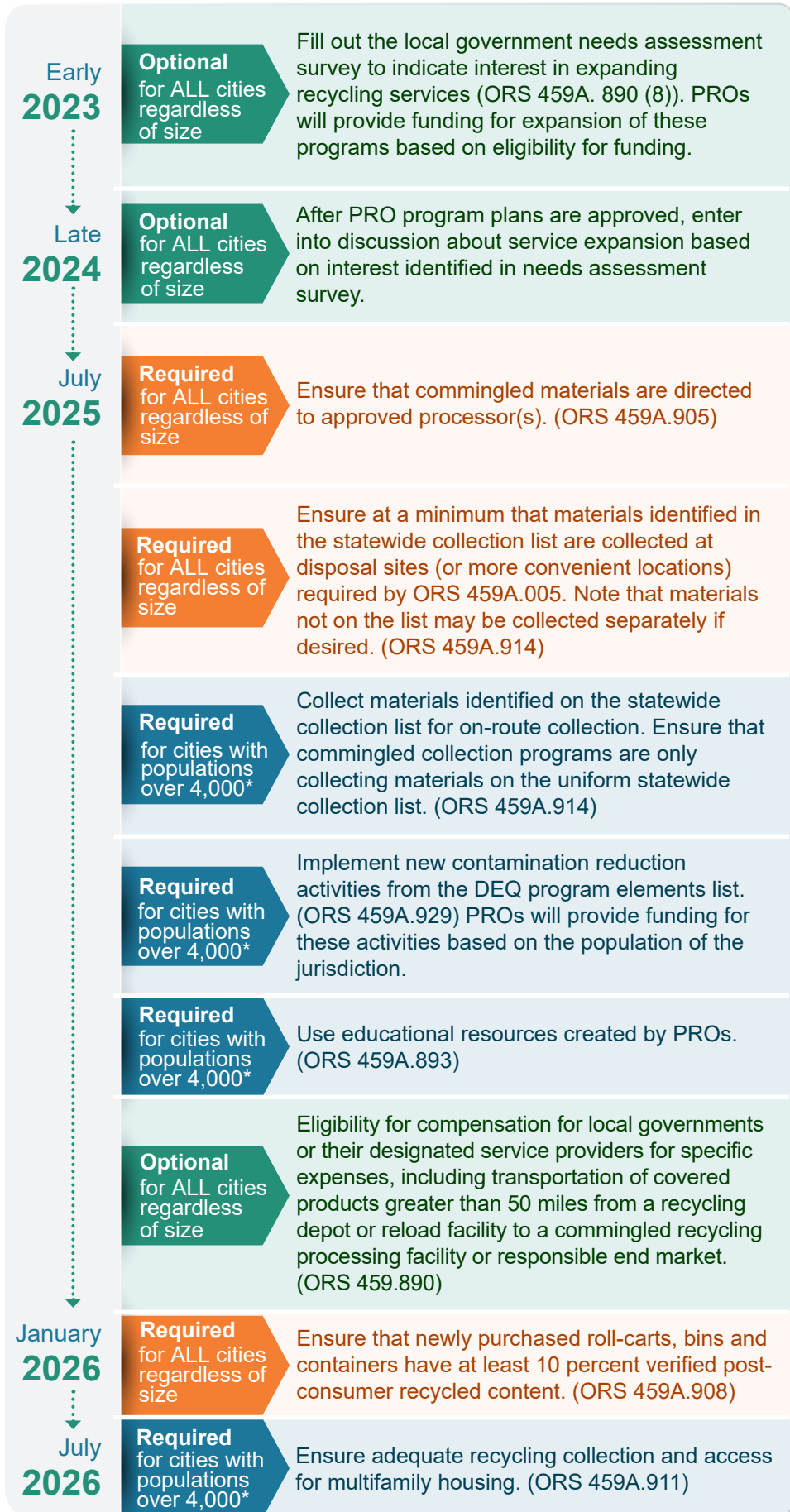
## Stay tuned!

In fall 2022, DEQ hosted informational sessions with local governments, service providers and other interested parties across Oregon. The presentation recording and slides can be viewed at [RecyclingAct.Oregon.gov](https://RecyclingAct.Oregon.gov). Below is the roadmap for the service expansion needs assessment:





# Local government requirements



\*Including areas within the urban growth boundary of those cities, cities in the Metro Regional Service District.

## How you can learn more

**RecyclingAct.Oregon.gov**



Scan the QR code to sign up for email updates and view DEQ's presentation on local government requirements and opportunities for recycling service expansion.

For general questions, email [RethinkRecycling@deq.oregon.gov](mailto:RethinkRecycling@deq.oregon.gov) or reach out to one of the DEQ specialists in your area:

### Eastern Region

**Laurie Gordon**

Office: 541-633-2029

Cell: 541-408-7842

[Laurie.Gordon@deq.oregon.gov](mailto:Laurie.Gordon@deq.oregon.gov)

### Northwest Region

**Lexi Meek**

Office: 503-229-5790

Cell: 503-319-5681

[Lexi.Meek@deq.oregon.gov](mailto:Lexi.Meek@deq.oregon.gov)

**Gretchen Sandau**

Cell: 503-915-6786

[Gretchen.Sandau@deq.oregon.gov](mailto:Gretchen.Sandau@deq.oregon.gov)

### Western Region

**Cathy Brown**

Office: 541-687-7325

Cell: 503-753-6153

[Cathy.Brown@deq.oregon.gov](mailto:Cathy.Brown@deq.oregon.gov)

**Cat Rhoades**

Office: 503-378-5089

Cell: 503-446-7410

[Cathie.Rhoades@deq.oregon.gov](mailto:Cathie.Rhoades@deq.oregon.gov)



State of Oregon  
Department of  
Environmental  
Quality

State of Oregon  
**Department of  
Environmental Quality**  
700 NE Multnomah St., Suite 600  
Portland, OR 97232

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## Opportunities for local governments

Under the new law, DEQ will assess local interest in expanding collection options and recycling depots. Look for a needs assessment survey from DEQ contractor, Eunomia Research & Consulting, in early 2023 asking how your community would like to expand recycling services.

Those who complete the needs assessment survey and express interest in expanding recycling services will be eligible to receive funding under this new system beginning in 2025.

Expansion of services will begin in 2025 after the PROs work with participating local governments and service providers to determine what service expansions will be funded.

Examples of services expansion include but are not limited to:

- **new or expanded curbside collection** of covered recyclable materials including roll carts, educational materials and collection trucks;
- **new or expanded depots** for covered recyclable products including containers, equipment, and new staff;
- **new recycling reload facilities** if needed. For example, compactors, containers, or other equipment; and
- **other system improvements** to be determined





**Agenda Bill 2025-04-14-03**

Date Prepared: April 8, 2025

For Meeting Date: April 15, 2025

To: Rory Bialostosky, Mayor  
West Linn City Council

Through: John Williams, City Manager

From: Chief Peter Mahuna ([PEM](#))

Subject: LOCOM Contract for WLPD

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**Purpose:**

City Council to approve the renewal service contract with LOCOM for 2025-2029.

**Question(s) for Council:**

Does Council wish to renew the contract with LOCOM?

**Public Hearing Required:**

None Required.

**Background & Discussion:**

The Lake Oswego Communications Center (LOCOM) is the 911 Dispatch Center that is staffed 24 hours, 7 days a week for both emergencies and non-emergencies. It handles all emergency and non-emergency telephone calls for the Cities of West Linn, Lake Oswego, and Milwaukie. In addition to answering phones, these dedicated first responders also monitor and dispatch police and fire personnel as needed. They also run computer records searches for officers and input data on stolen or recovered items. LOCOM dispatched West Linn Police Officers to nearly 12,000 calls for service in 2024.

Calls received by LOCOM for the West Linn Police Department can include everything from people suffering medical emergencies, traffic accidents, domestic violence calls to a person with a gun threatening to shoot people. The dispatchers are experts at multi-tasking because they constantly must juggle phone calls, 911 calls and radio traffic.

The only other entity that provides 911 dispatching services in the area is Clackamas County Communications (CCOM). CCOM does not have the personnel or the desire to add another city to their dispatching center.

**Budget Impact:**

This contract renewal was anticipated and budgeted for in the budgeting process.

**Council Options:**

1. The Council can decide to approve the renewal contract.
2. The Council can decide not to approve the renewal of the contract.
3. The Council can direct staff to seek other dispatching options.

**Staff Recommendation:**

Staff recommends the Council approve the renewal of the contract. The contract has been reviewed by legal and has been budgeted for.

**Potential Motion:**

I move to approve the contract with LOCOM and authorize the City Manager to sign it.

**Attachments:**

1. 2025-2029 LOCOM Contract

## **INTERGOVERNMENTAL COOPERATIVE AGREEMENT PUBLIC SAFETY COMMUNICATIONS SERVICES**

THIS AGREEMENT is made and entered into by the CITY OF LAKE OSWEGO, an Oregon municipal corporation (hereinafter "Lake Oswego") and the CITY OF WEST LINN, an Oregon municipal corporation (hereinafter "West Linn").

### **RECITALS**

**A.** Lake Oswego operates through its Police Department, Communications Division, a public safety dispatching facility (hereinafter "LOCOM Center") to provide public safety dispatching services to fire and police departments of Lake Oswego and, by this Agreement, West Linn.

**B.** The parties acknowledge that they have authority to execute this Cooperative Intergovernmental Agreement pursuant to the terms of their respective municipal charters and pursuant to ORS 190.010.

**NOW THEREFORE**, it is agreed by and between the parties hereto as follows:

**1. Description of Services to be Provided.** Lake Oswego, through LOCOM Center, shall provide public safety dispatching services for West Linn's Police Department for the period of July 1, 2025, through June 30, 2029. The dispatching services include, but are not limited to:

- 24-hour-per-day answering of emergency telephone lines (including 9-1-1 calls) for fire, police, and emergency medical service requests;
- Radio communications with police personnel regarding emergency and routine police matters; and
- Dispatching and other services for law enforcement purposes as set forth in Exhibit "A." and
- Coordination of Clackamas County Emergency Notification System, administration of users, activation for life-safety situations.

**2. Control.** The manner of LOCOM Center's performance of dispatch services, including but not limited to the establishment of standards of personnel performance, the hiring, supervision and discipline of LOCOM Center employees, and all other matters incident to LOCOM Center's performance of such services shall be under the exclusive authority of Lake Oswego.

**3. Obligation of Lake Oswego to Provide Labor and Equipment.** Lake Oswego shall supply all necessary labor, supervision, equipment and supplies necessary to maintain the services to be rendered under this agreement hereunder as long as West Linn's obligations under Section 7, and elsewhere under this Agreement, are met.

**4. Obligation of West Linn for MSAG and GIS.** West Linn shall continue to provide MSAG (Master Street Address Guide) and GIS information for West Linn's street system to Clackamas County.

**5. Consideration.**

**A. Annual Contract Amount.** On or before January 1 of each fiscal year, West Linn shall pay to Lake Oswego the Base Annual Contract Amount set forth below for that fiscal year, less a sum equal to West Linn's total 9-1-1 tax distribution from the State for the previous fiscal year ("Previous Year Tax Receipts").

Year No.	Fiscal Year	Base Annual Contract Amount for Fiscal Year	Percentage Increase
1	2025-26	\$690,000.00 (rounded up \$135.00)	5% (3% wage + 2% CAD maintenance) + one time 12% of \$150,000.00 (1 added FTE) – total increase \$49,500.00
2	2026-27	\$724,500.00	5% (3% wage + 2% CAD maintenance) – total increase \$34,500.00
3	2027-28	\$746,000.00 (rounded down \$200.00)	3%--wage – total increase \$21,700.00
4	2028-29	\$768,000.00 (rounded down \$380)	3%--wage – total increase \$22,300.00

The amount paid to Lake Oswego directly by West Linn each fiscal year pursuant to this Section 5(A) shall be further adjusted as described in Section 5(C) below to ensure that it is ultimately reduced by a sum equaling West Linn's actual 9-1-1 tax distribution from the State for that fiscal year ("Actual Current Year Tax Receipts"), which have been assigned to Lake Oswego pursuant to Section 5(B) below.

**B. Assignment of 9-1-1 Tax Receipts.** West Linn hereby assigns its 9-1-1 tax disbursements directly to Lake Oswego for the duration of this Agreement, and shall direct the State 9-1-1 Office to pay all of West Linn's 9-1-1 tax disbursements directly to Lake Oswego for the duration of this Agreement.

**C. Payment of Difference of Previous v. Current 9-1-1 Tax Receipts.** Not later than thirty (30) days following payment by the State to Lake Oswego of the final installment of West Linn's 9-1-1 tax receipts for each fiscal year:

i. West Linn shall pay Lake Oswego a sum equaling the amount, if any, by which the Previous Year Tax Receipts exceed the Actual Current Year Tax Receipts for that fiscal year;

ii. Lake Oswego shall pay West Linn a sum equaling the amount, if any, by which the Actual Current Year Tax Receipts for that fiscal year exceed the Previous Year Tax Receipts.

## **6. Adjustment of Base Annual Contract Amount.**

In the event West Linn's calls for service in any fiscal year exceed 15% over the previous fiscal year, Lake Oswego shall notify West Linn in writing within thirty (30) days following the expiration of that fiscal year, or, at Lake Oswego's option, such earlier time as it appears to Lake Oswego likely that the calls for service for that fiscal year will exceed 15% from the prior fiscal year.

Within fifteen (15) days following notification under this section, the parties shall meet in good faith to discuss the financial impact to Lake Oswego to respond to the anticipated additional calls for service for the next fiscal year (the fiscal year after the fiscal year in which the calls for service exceeded 15%). The parties shall endeavor to reach agreement upon an adjustment amount to the Base Annual Contract Amount in Section 5(A) above for that next fiscal year (the fiscal year after the fiscal year in which the calls

for service exceeded 15%), and the listed subsequent fiscal years, to provide fair compensation to Lake Oswego for the additional costs incurred in responding to the calls for service and dispatch.

If the parties are unable to agree upon an adjustment to the Base Annual Contract Amount within thirty (30) days following the notification described above, either:

**A.** The parties may mutually agree to arbitration, in such manner as they agree, to establish the amounts of adjustment; or

**B.** Either party may unilaterally terminate this Agreement effective 180 days following written notice of the decision to terminate. If either party elects this option, the amounts due for the applicable year pursuant to Section 5 above shall be paid, pro rata, to the termination date.

**7. Use of Compatible Equipment.** For the duration of this Agreement:

West Linn shall operate on the C800 MHz radio system and remain a partner with the C800 radio group. Lake Oswego will accept responsibility for connectivity to C800 and general repair issues. In the event West Linn chooses to utilize a disparate system, West Linn will be responsible for all costs associated with procuring a dispatch console, connectivity, warranty, and software licensing and support.

Lake Oswego shall provide the information technology support services identified in Exhibit B.

West Linn shall be responsible for its own purchases of mobile data computer (MDC) approved hardware, installation, and ongoing data connection costs.

West Linn shall work with Lake Oswego IT prior to adding any additional software to their MDC to ensure compatibility with the MDC interface and software.

**8. LOCOM Center User Board.** For the duration of this Agreement, West Linn shall participate as a member of the LOCOM Center User Board.

**9. Limitation of Liability.** Subject to the limitations of the Oregon Tort Claims Act ORS 30.260 et. seq., and the Oregon Constitution, Lake Oswego hereby covenants and agrees to hold and save West Linn and all of its officers, agents, and employees harmless from all claims whatsoever that might arise against West Linn, its officers, agents, or employees as a result of the duties to be performed by Lake Oswego by the terms of this Agreement. By so doing, Lake Oswego, its officers and employees, shall not be deemed to have assumed any liability for acts of West Linn or of any of its officers, agents, or employees thereof, and West Linn hereby covenants and agrees to hold and save Lake Oswego and all its officers and employees harmless from all claims whatsoever that might arise against Lake Oswego, its officers or employees, by reason of any act of West Linn, its agents, officers, and employees. For this purpose, employees of the LOCOM Center shall be deemed to be employees of Lake Oswego not as agents or employees of West Linn.

**10. Provision of Information.** West Linn shall provide the LOCOM Center with, and will update as necessary, maps of West Linn with addresses, a 24-hour emergency telephone number list for on-call city personnel, known residential and business emergency contact numbers, current building and development site information, a copy of the City of West Linn's City ordinances, emergency information for emergency operations center (EOC) personnel, bi-annual radio assignments including radio identification number for mobile and portable radios, bi-annual cell phone assignment with current carrier and any other pertinent information deemed necessary by Lake Oswego to effectively perform dispatching duties.

**11. Termination of Agreement.** Lake Oswego may terminate this Agreement at any time for non-payment of any sum when due as required by Section 5 of this Agreement. Otherwise, either party may terminate this Agreement effective July 1 of any fiscal year, provided written notice is given to the other party by January 1 of the preceding fiscal year.

**12. Non-appropriation.** Either party may terminate this Agreement, in whole or in part, upon thirty (30) days' written notice to the other party, in the event that the party providing notice fails to receive funding,

Lake Oswego City Attorney's Office

## **EXHIBIT A**

### **LAW ENFORCEMENT DISPATCH ACTIVITIES**

LOCOM Center provides for each member department a full public safety call answering and dispatching service by dual certified dispatchers who:

1. Answer, screen, transfer, and call take 9-1-1 calls.
2. Answer police department non-emergency telephone calls 24 hours a day.
3. Screen telephone calls to determine: the nature of the call, location of the incident, pertinent information.
4. Provide dispatching of appropriate resources.
5. Provide dispatching of additional cover units and other needed resources for field units.
6. Keep the officers' status and document all officers' activities. Monitor officers' safety by checking their status, using department directed pre-set time guidelines.
7. Provide on-site department access to all activities and documentation maintained on the computer-aided dispatch system.
8. Work with West Linn PD to provide an activity bulletin within the confines of the MAJCS CAD system.
9. Provide all authorized field units direct availability into the West Linn, Clackamas County, state, and national computer systems (Mark 43, LEDS-Oregon Law Enforcement Data System, DMV-Department of Motor Vehicles, NCIC-National Crime Information Center, AND CCH-Computerized Criminal History.) West Linn agrees to provide adequate licensing to LOCOM Center for any additional records management systems the West Linn department is utilizing and requesting database searches by LOCOM staff.
10. Verify and confirm all warrants, stolen and other "hits" by telephone and teletype.
11. Compose and send all time critical teletype messages using the state and national computerized files.
12. Make telephone calls for field units as required.
13. Act as an interface between field units and other public safety agencies.
14. Maintain after hours numbers for emergencies and other call outs for agency employees.
15. Provide dispatching for community service officers and other support functions.
16. Maintain the warrant file for municipal court service.
17. Provide dispatching for animal control officers if requested by a member department.
18. Provide dispatching for Public Works employees after hours as needed.

**EXHIBIT B**  
**INFORMATION TECHNOLOGY SUPPORT SERVICES**

1. Lake Oswego shall provide CAD/MDC interface and MDC software design.
2. Lake Oswego will provide configuration for all mobile data devices connected to the Lake Oswego CAD system.
3. Lake Oswego will provide technical troubleshooting for system-wide connectivity issues.
4. Lake Oswego IT staff will generally troubleshoot individual devices during business hours only.
5. Lake Oswego will provide CJIS compliant and LEDS certified staff.
6. Lake Oswego will provide a list of approved mobile devices. An equipment refresh rate of five (5) years is suggested.
7. Lake Oswego will assist with hardware repairs on a limited bases if requested by West Linn. Out of warranty hardware costs are a responsibility of West Linn.



**Agenda Bill 2025-04-14-04**

Date Prepared: April 3, 2025

For Meeting Date: April 14, 2025

To: Rory Bialostosky, Mayor  
West Linn City Council

Through: John Williams, City Manager *JRW*

From: Darren Wyss, Planning Manager *DSW*

Subject: AP-24-02 (Appeal of MIP-24-01/VAR-24-05 – Planning Commission Decision)

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**Purpose**

To hold a continued public hearing from January 6, 2025, and consider the appeal ([AP-24-02](#)) by Gary and Susie Alfson of the Planning Commission conditional approval ([MIP-24-02/VAR-24-05](#)) to allow 3-Parcel Minor Partition and a Class II Variance at 2830 Coeur D Alene Drive. The variance is for an exception to the public street requirements of West Linn Community Development Code Chapter 48.030(D) for use of a private driveway by five residential units.

**Question(s) for Council:**

Should the Council approve the appeal AP-24-02 or deny the appeal and uphold the Planning Commission approval of MIP-24-02/VAR-24-05?

**Public Hearing Required:**

Yes

**Background & Discussion:**

The Applicant (Gary Alfson & Susie Alfson) submitted an application on August 1, 2024 for a 3-Parcel Minor Partition and Class II Variance ([MIP-24-02/VAR-24-05](#)) to allow the division of one property into three new parcels, with the existing detached single-family home remaining on newly created Parcel 1. The variance request is for an exception to the public street requirements of West Linn Community Development Code Chapter 48.030(D) for use of a private driveway by five residential units. Planning staff deemed the application complete on September 9, 2024.

The 3-Parcel Minor Partition and Class II Variance were conditionally approved by the Planning Commission at a quasi-judicial public hearing on [November 6, 2024](#). A [Final Decision and Order](#) was mailed to parties of record on November 21, 2024.

The appellants submitted a timely appeal of the decision on December 5, 2024 to remove the requirement of Condition of Approval #2 of the [Final Decision and Order](#). The grounds for the appeal specifically address the Planning Commission Conditional of Approval #2 including a letter from Kevin V.



Harker of Harker/Lepore Attorneys at Law outlining findings in support of the request to remove Condition of Approval #2.

The appeal application was originally scheduled to be heard by the City Council at its January 6, 2025 meeting. The hearing on January 6, 2025 was briefly opened by the Council, at which time the applicant requested a continuance to the April 14<sup>th</sup>, 2025 meeting and the City Council granted the applicants request. At the January 6, 2025 hearing the applicant also agreed to extend the Final Decision date to June 14, 2025.

#### Appeal Hearing Responsibility

The City Council is assigned the responsibility of hearing an appeal of a Planning Commission decision by CDC 99.060.C(3).

#### Appeal Applicable Criteria

The applicable criteria for this appeal are CDC Chapters 12, 48, 75, 85, 92, and 99.

#### Appeal Hearing Process

Appeal hearings in the City of West Linn are de novo, meaning new information can be submitted for consideration (CDC 99.280). An application for appeal also does not require the Appellant to identify the grounds for appeal or the applicable criteria that were misapplied. (CDC 99.250) These are the rules this appeal hearing must follow.

#### **Budget Impact:**

None

#### **Sustainability Impact:**

None

#### **Council Options:**

1. Approve the appeal and remove Condition of Approval #2 from the Planning Commission approval of MIP-24-02/VAR-24-05.
2. Deny the appeal and retain Condition of Approval #2 from the Planning Commission approval of MIP-24-02/VAR-24-05.
3. Deny the appeal but modify Condition of Approval #2 from the Planning Commission approval of MIP-24-02/VAR-24-05.

**Recommendation:**

City legal counsel recommends denial of the appeal (AP-24-02) based on the findings in the record for MIP-24-02/VAR-24-05 and modification of Condition #2 of the Planning Commission Final decision and Order to read as follows:

*“2. Prior to recordation of the plat with Clackamas County, the applicant shall provide the City with one or more recorded documents or court orders demonstrating that all three resulting legal parcels have (a) rights of access to a public right of way for ingress, egress, and utility purposes and (b) a joint agreement regarding maintenance of such access and utility location(s).”*

**Potential Motion:**

1. Move to tentatively deny the appeal AP-24-02 and **uphold** the Planning Commission approval of MIP-24-02/VAR-24-05 with the following modifications (**list modifications**), and direct staff to bring back findings for adoption.
2. Move to tentatively deny the appeal AP-24-02 and **uphold** the Planning Commission approval of MIP-24-02/VAR-24-05 and direct staff to bring back findings for adoption.
3. Move to make a tentative decision to approve the appeal AP-24-02, thereby **overturning** the Planning Commission approval of MIP-24-02/VAR-24-05 for the following reasons (**list reasons**), and direct staff to bring back findings for adoption.

**Attachments:**

1. AP-24-02 Staff Report to City Council
2. [Appellant application AP-24-02](#)
3. [AP-24-02 Public Comment Memo](#)
4. [MIP-24-02/VAR-24-05 Planning Commission Final Decision and Order](#)
5. [Planning Commission Meeting Notes for November 6, 2024, Public Hearing](#)
6. AP-24-02 City Council Hearing Affidavit and Notice Packet
7. [Staff Report to the Planning Commission for November 6, 2024 Public Hearing](#) (hyperlink only)
8. [MIP-24-02/VAR-24-05 Project Page](#) (hyperlink only)
9. [Planning Commission Hearing Video](#) (hyperlink only)



## **Attachment 1: AP-24-02 Staff Report to City Council**



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# CITY OF West Linn

## STAFF REPORT FOR THE CITY COUNCIL

**FILE NUMBER:** AP-24-02

**HEARING DATE:** April 14, 2025

**REQUEST:** Appeal of the Planning Commission’s approval with conditions of MIP-24-02/VAR-24-05 for approval of a 3-Parcel Minor Partition and a Class II Variance for five single-family homes to take access from a shared private driveway at 2830 Coeur D Alene Drive.

**APPROVAL  
CRITERIA:** Community Development Code (CDC) Chapters 12, 48, 75, 85, 92, and 99.

**PREPARED BY:** Aaron Gudelj, Associate Planner

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Planning Manager \_\_\_\_\_

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## GENERAL INFORMATION

**APPELLANT/  
PROPERTY OWNER:**

Gary Alfson & Susie Alfson  
2830 Coeur D Alene Drive  
West Linn, OR 97068

**APPEAL DEADLINE:**

The appeal deadline was 5:00pm on December 5, 2024. The applicant filed a complete appeal application on December 5, 2024, thus meeting the deadline.

**PUBLIC NOTICE:**

Notice was mailed to property owners within 500 feet of the subject property and all neighborhood associations December 11, 2024. Notice was published in the West Linn Tidings on December 26, 2024. The property was posted with a notice sign on December 20, 2024. The notice and application were posted on the City's website December 11, 2024. Therefore, public notice requirements of CDC Chapter 99 have been met.

**SITE LOCATION:**

2830 Coeur D Alene Drive

**TAX LOT ID:**

21E35DA04400

**SITE SIZE:**

39,636 square feet

**ZONING:**

R-7, Single-Family Residential

**COMP PLAN  
DESIGNATION:**

Low-Density Residential

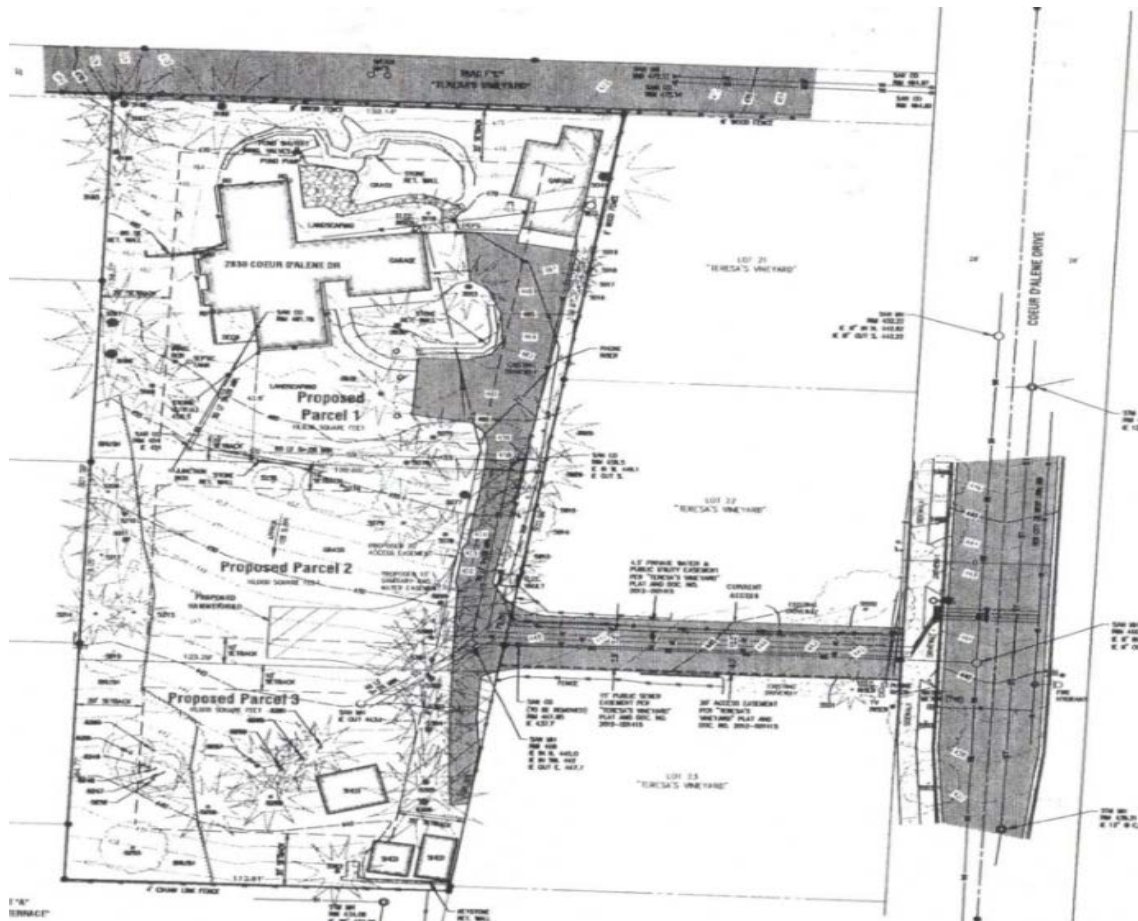
**120-DAY PERIOD:**

This application became complete on September 9, 2024. The applicant granted a 30-day extension on the 120-day period and an additional 128 day extension therefore, the 120-day maximum application-processing period ends on June 14, 2025.

## BACKGROUND

### Project Description

The applicant currently owns the subject property with an existing single-family home with detached garage on a 39,636 square foot lot at 2830 Coeur D Alene Drive. Existing access to the lot is provided via by a 20-foot-wide shared private driveway connecting to Coeur D Alene Drive via a shared access easement located on Lots 22 and 23 of the Teresa's Vineyard Tract, both developed with single-family homes.



The applicant proposes to divide the existing 39,636 sq. ft. lot into three parcels – Parcel 1 = 19,336 sq. ft., Parcel 2 = 10,000 sq. ft., Parcel 3 = 10,000 sq. ft. Access to the new parcels is proposed from the existing 20 ft. private access driveway currently shared with Lots 22 and 23 of Teresa's Vineyard. The proposed Minor Partition will increase the number of lots from one to three on the subject parcel and the applicant proposes to utilize the shared driveway - currently used for shared-access to the single-family homes at Lot 22 and 23 of Teresa's Vineyard Tract - as the access for the newly created lots thereby requesting 5 lots to use the private vehicle access.

Pursuant to West Linn Community Development Code Chapter (CDC) 48.030(D), "Access to five or more single-family homes shall be by a street built to City of West Linn Standards, consistent



*with the TSP (Tables 26 through 30 and Exhibits 6 through 9) and the Public Works Design Standards. All streets shall be public. This full street provision may only be waived by variance.”; as such the applicant applied for a Class II Variance for an exemption to the public street standards of CDC 48.030(D) to allow the shared private driveway to be used as access for five single-family homes.*

#### **PUBLIC COMMENT**

As of the publication date of this report, staff has received no public comment communications.

#### **PROCEDURAL HISTORY**

The applicant (Gary & Susie Alfson) applied for a Minor Partition and Class II Variance on August 1, 2024. The application was deemed incomplete on August 29, 2024 and the applicant re-submitted the requested materials on September 9, 2024, at which time the application was deemed complete. The application was heard and conditionally approved by the Planning Commission at its November 6, 2024 meeting.

The initial evidentiary hearing commenced with a staff report presented by Aaron Gudelj, Associate Planner, and with a recommendation of approval of the 3-parcel partition and Class II Variance subject to four conditions. Written and oral testimony was received by David Baker, Richard Faith & Cynthia Lacro, Rufus & Julia Timberlake, Carlos Ugalde-Meza, Amy Graham, & Tom Loun. Primary concerns raised during the testimony included:

- Traffic Safety and public street standards
- Sharing of access easement
- Plat notes
- Property views
- Property values
- Middle housing development on new lots.

After closing of the public hearing, the Planning Commission deliberated and discussed concerns regarding the plat notes, the existing septic system, easement requirements, potential access to the subject lot via the city-owned Tract C, historic development patterns and original property access, and homeowner association affiliation.

A motion was made by Commissioner Evans to approve MIP-24-01/VAR-24-05 as presented with the four conditions of approval. The motion was seconded by Chair Carr. The motion passed unanimously 5-0 (Carr, Evans, Jones, Metlen, Schulte-Hillen, and Walvatne).

The Planning Commission Conditional Approval of MIP-24-02/VAR-24-05 was appealed on December 5, 2024 by the applicant/appellant, pursuant to CDC 99.250. The appellant met the appeal application requirements by completing a form, providing the prerequisite fee, and referencing the findings and Conditions of approval of the Final Decision and Order. Since the appellant is both the applicant for MIP-24-02/VAR-24-05 and the owner of the subject site, the appellant has standing.

The grounds for the appeal address Condition #2 of the Planning Commission Final Decision and Order, the applicability of the existing private access and utility and joint maintenance agreement, and historical platting.

The appeal application was originally scheduled to be heard by the City Council at its January 6, 2025 meeting. The hearing on January 6, 2025 was briefly opened by the Council, at which time the applicant requested a continuance to the April 14<sup>th</sup>, 2025 meeting and the City Council granted the applicants request. At the January 6, 2025 hearing the applicant also agreed to extend the Final Decision date to June 14, 2025.

### **APPELLANT RESPONSE AND STAFF ANALYSIS**

In this analysis, staff has provided the applicable provisions of the West Linn Community Development Code as identified in the Final Decision and Order for MIP-24-02/VAR-24-05. The analysis includes information gleaned from the appeal, and the record for MIP-24-02/VAR-24-05.

**Appellant Issue: Condition #2 requires an executed shared access, utility and joint maintenance agreement to be signed by all owners of property using the private driveway prior to plat recordation with the Clackamas County.**

The Final Decision and Order adopted the findings in the Staff Report for MIP-24-02/VAR-24-05. Finding #54 of the report read as follows:

#### *85.070 ADMINISTRATION AND APPROVAL PROCESS*

*A. The application shall be filed by the record owner(s) of the property or by an authorized agent who has a letter of authorization from the property owners of record. The burden of proof will be upon the applicant to demonstrate the validity of the ownership, if challenged.*

*Staff Finding 54: The application for a Minor Partition and Class II Variance was filed by owner of 2830 Coeur D Alene Drive; absent the owners of Lot 22 and Lot 23 of Teresa's Vineyard Tract signatures. Staff has recommended a condition of approval requiring a revised shared access and utility easement and joint maintenance agreement between all five owners of land. As conditioned, the criteria are met.*

In making a finding of noncompliance, the Planning Commission included a condition of approval in their Final Decision and Order that reads as follows:

*2. Shared Access Agreement. Prior to recordation of the Plat with Clackamas County the applicant shall provide a signed access and utility easement and joint maintenance agreement between all owners of property using the private driveway as access. The access and utility easement and joint maintenance agreement shall have the signatures*

*form all owners of land using the private access and shall acknowledge the total number of lots using the private access.*

The appellant responds to this finding with the following response:

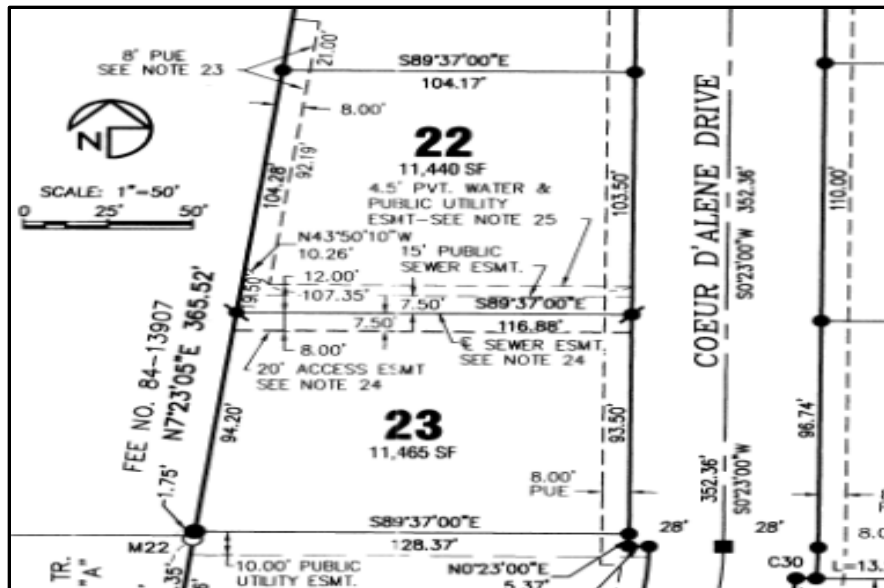
*The current configuration is a result of development around the Alfson Property over the past 40 years. A topographic site map produced by Compass Land Surveyors is attached hereto as Exhibit B. If the Alfson Property is required to obtain signatures from Lot 22 and Lot 23, two lot would be required to access what is labeled as "tract C" on site map creation of this access would cause the Alfson's undue hardship, from demolition of the existing detached shop/garage, re-grading of the area, and impacts to adjacent properties and landscaping. It would also create safety concerns due to the limited site distance for neighborhood pedestrians and children playing in the street.*

*Despite the requirements of Condition #2, I believe an existing 2012 easement and maintenance agreement, development of staff recommendations, the Alfson letter dated September 5, 2024, final Planning Commission Conditions of approval, as well as the historical platting of the relevant properties, call for the waiving of this condition.*

*In 2012, the Alfsons and the then-owner of Lot 22 and Lot 23 executed an access and utility easement and joint maintenance agreement, recorded in the official records of Clackamas County as document no 2012-001415. This agreement granted the Alfson Property, Lot 22, and Lot 23 a non-exclusive, reciprocal easement over and under Lot 22 and Lot 23 to be used "for ingress, egress and private and public utility purposes..." This agreement is attached hereto as Exhibit C.*

*Section 4.4 of that agreement explicitly contemplates the future partition of the Alfson Property without any need for amending the agreement. Specifically, the agreement states: "For example, if the Alfson Property is subdivided into four (4) total lots, as is anticipated, then lot 22, Lot 23, and any of the four total lots created from the Alfson Property take access from the Access and Utility Easements shall be responsible for their proportionate share of the normal maintenance and repair costs for the Access and Utility Easements."*

*This agreement was recorded with the County and explicitly binds all future owners of Lot 22 and Lot 23. The access easement created under this agreement also appears on the plat recorded as document no. 2012-1405. I have inserted the relevant portion of the plat below:*



Note #24 of the plat states:

*"Lots 22 and 23 are subject to a 20-foot access easement and joint maintenance agreement per instrument no 2012-001415, Clackamas County deed records. The access easement will provide access for the adjoining parcel to the west described in fee no 84-13907, or a maximum of two lots if said adjoining parcel to the west is developed. Lots 22 and 23 are also subject to a 15-foot public sanitary sewer easement as shown hereon."*

As such, the current owners of Lot 22 and Lot 23 were on notice of the existing access easement when they purchased their respective parcels. Thus, I see no reason why these owners must consent to the use of an access easement that already binds these lots.

In light of the above analysis, please consider this a formal request for the planning commission to waive Condition #2 contained in the Commission's final decision. If this request needs to come in the form of an appeal, I ask that you please notify me of such requirement as soon as possible, in light of the final decision's effective date of 5 P.M. on December 4, 2024.

Please contact my office at your earliest convenience,

Sincerely, Kevin H. Harker (on behalf of Gary & Susie Alfson)

The City notes that Teresa's Vineyard Tract Note(s) 9 & 24 discuss the subject lot (2830 Coeur D Alene Drive) and its potential division and access and read as follows:

9. Tract "C" will provide access to a maximum of two future lots in the adjoining parcel to the south described in Fee No. 84-13907.

*24. Lots 22 and 23 are subject to a 20-foot access easement and joint maintenance agreement per instrument No. 2012-001415, Clackamas County Deed Records. The access easement will provide access for the adjoining parcel to the west described in Fee No. 84-13907, or a maximum of two lots if said adjoining parcel to the west is developed. Lots 22 and 23 are also subject to a 15-foot public sanitary sewer easement as shown hereon.*

Upon review of the applicant's appeal request and review of the record, City legal counsel notes that the existing access easement and maintenance agreement, (1) provides an access and utility easement right and joint maintenance agreement to the benefit of the Alfson property, and (2) contemplates future division of the Alfson property and how maintenance costs would be apportioned in that context, but (3) the plat notes (9 & 24) further restrict access for future division of the Alfson property to a "maximum of two lots if said parcel...is developed." Ultimate interpretation and analysis of the access and utility easement and joint maintenance agreement would be a civil matter and not be within the purview of the City's review of the applicants/appellants Minor Partition and Class II Variance application. The City's legal guidance disagrees with the applicant's attorney's approach of declaring the condition to be met with the existing easement.

The City's legal guidance disagrees with the applicant's attorneys assessment of the Condition #2 being met by the existing agreement, however, amending of Condition #2 is recommended for more clear and objective language.

### **RECOMMENDATION**

City legal guidance ultimately supports a recommendation to modify Planning Commission Final Decision and Order and amend Condition #2 to read as follows:

*"2. Prior to recordation of the plat with Clackamas County, the applicant shall provide the City with one or more recorded documents or court orders demonstrating that all three resulting legal parcels have (a) rights of access to a public right of way for ingress, egress, and utility purposes and (b) a joint agreement regarding maintenance of such access and utility location(s)."*

Should the Council decide to modify Condition #2, legal counsel recommends denial of application AP-24-02 and modify the Planning Commission Final Decision and Order, subject to the following conditions - including the amended Condition #2:

1. **Site Plans.** With the exception of modifications required by these conditions, the final plat shall substantially conform to the Tentative Plan.
2. **Shared Access Agreement.** Prior to recordation of the plat with Clackamas County, the applicant shall provide the City with one or more recorded documents or court orders demonstrating that all three resulting legal parcels have (a) rights of access to a public right of way for ingress, egress, and utility purposes and (b) a joint agreement regarding maintenance of such access and utility location(s).

**3. Engineering Standards.** All public improvements and facilities associated with the approved site design, including but not limited to street improvements, driveway approaches, curb cuts, utilities, grading, onsite and offsite stormwater, street lighting, easements, easement locations, and connections for future extension of utilities are subject to conformance with the City Municipal Code and Community Development Code. The City may partner with the applicant to fund additional improvements as part of the project.

**4. Reciprocal Access and Utility Easement.** Prior to final plat approval, the applicant shall record and show on the face of the plat a 20-foot wide reciprocal access and utility easement and mutual maintenance agreement on Proposed Parcel 2 for the benefit of proposed Parcels 1 and 3. The easement will create legal access for ingress/egress and utility placement. The easement recording number shall be provided on the face of the final plat.

**Attachment 2: Appellant Application AP-24-02**

## DEVELOPMENT REVIEW APPLICATION

For Office Use Only		
STAFF CONTACT	Aaron Gudelj	PROJECT NO(S) AP-24-02
NON-REFUNDABLE FEE(S)	\$400	PRE-APPLICATION NO.
	REFUNDABLE DEPOSIT(S)	TOTAL \$400

### Type of Review (Please check all that apply):

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> Annexation (ANX)               | <input type="checkbox"/> Final Plat (FP) Related File#          | <input type="checkbox"/> Subdivision (SUB)                               |
| <input checked="" type="checkbox"/> Appeal (AP)         | <input type="checkbox"/> Flood Management Area (FMA)            | <input type="checkbox"/> Temporary Uses (MISC)                           |
| <input type="checkbox"/> CDC Amendment (CDC)            | <input type="checkbox"/> Historic Review (HDR)                  | <input type="checkbox"/> Time Extension (EXT)                            |
| <input type="checkbox"/> Code Interpretation (MISC)     | <input type="checkbox"/> Lot Line Adjustment (LLA)              | <input type="checkbox"/> Right of Way Vacation (VAC)                     |
| <input type="checkbox"/> Conditional Use (CUP)          | <input type="checkbox"/> Minor Partition (MIP)                  | <input type="checkbox"/> Variance (VAR)                                  |
| <input type="checkbox"/> Design Review (DR)             | <input type="checkbox"/> Modification of Approval (MOD)         | <input type="checkbox"/> Water Resource Area Protection/Single Lot (WAP) |
| <input type="checkbox"/> Tree Easement Vacation (MISC)  | <input type="checkbox"/> Non-Conforming Lots, Uses & Structures | <input type="checkbox"/> Water Resource Area Protection/Wetland (WAP)    |
| <input type="checkbox"/> Expediated Land Division (ELD) | <input type="checkbox"/> Planned Unit Development (PUD)         | <input type="checkbox"/> Willamette & Tualatin River Greenway (WRG)      |
| <input type="checkbox"/> Extension of Approval (EXT)    | <input type="checkbox"/> Street Vacation                        | <input type="checkbox"/> Zone Change (ZC)                                |

Pre-Application, Home Occupation, Sidewalk Use, Addressing, and Sign applications require different forms, available on the website.

Site Location/Address: 2830 Coeur d'Alene Dr West Linn, OR 97068	Assessor's Map No.: 04400
	Tax Lot(s): 21E-35DA-4400
	Total Land Area: 39636

Brief Description of Proposal: Appeal of Planning Commission Decision MIP 24-02/  
VAR-24-05 - Satisfaction of Condition #2 - Remove requirement of  
signatures of Lots 22 + 23 of Teresa's Vineyard subdivision.

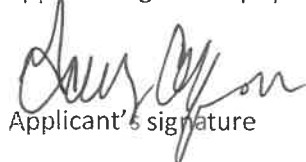
Applicant Name*: Gary + Susie Alfson	Phone: 503-656-3039
Address: 2830 Coeur d'Alene Dr.	Email: galfson2@comcast.net
City State Zip: West Linn, OR. 97068	Suzalfson@aol.com

Owner Name (required): Gary + Susie Alfson	Phone: 503-656-3039
Address: 2830 Coeur d'Alene Dr.	Email: galfson2@comcast.net
City State Zip: West Linn, OR. 97068	Suzalfson@aol.com

Consultant Name: Kevin V. Harker	Phone: 503-922-1939
Address: 915 NW 19th Ave., Ste H	Email: kevin@harkerlepore.com
City State Zip: Portland, OR 97209	

1. Application fees are non-refundable (excluding deposit). Applications with deposits will be billed monthly for time and materials above the initial deposit. **\*The applicant is financially responsible for all permit costs.**
2. The owner/applicant or their representative should attend all public hearings related to the propose land use.
3. A decision may be reversed on appeal. The decision will become effective once the appeal period has expired.
4. Submit this form, application narrative, and all supporting documents as a single PDF through the  
Submit a Land Use Application web page: <https://westlinnoregon.gov/planning/submit-land-use-application>

The undersigned property owner authorizes the application and grants city staff the **right of entry** onto the property to review the application. Applications with deposits will be billed monthly for time and materials incurred above the initial deposit. The applicant agrees to pay additional billable charges.

  
Applicant's signature

12/5/24  
Date

Owner's signature (required)

Date





# HARKER | LEPORE

Attorneys at Law

December 4, 2024

West Linn City Council  
22500 Salamo Road  
West Linn, OR 97068

RE: Appeal of Planning Commission Decision MIP 24-02/  
VAR-24-05 - Satisfaction of Condition #2

Dear Council Members:

I represent Susie and Gary Alfson, owners of the property commonly known as 2830 Coeur D'Alene Dr., West Linn, OR 97068 ("Alfson Property"). I am writing to appeal the above referenced planning commission decision dated November 20, 2024. The decision is attached hereto as Exhibit A.

The commission's final decision approved a 3-parcel minor partition of the Alfson Property and a Class II Variance to allow access from a shared driveway to five total lots: three lots from the Alfson Property and two neighboring lots, 2934 ("Lot 22") and 2826 ("Lot 23").

In Section IV of the decision, the commission identified several conditions of approval. Condition #2 requires the Alfsons to provide an access and utility easement and joint maintenance agreement, signed by all owners of land using the private access. The owners of Lot 22 and Lot 23 have communicated to the Alfsons that they will not consent to any such agreement.

The current configuration is a result of development around the Alfson Property over the past 40 years. A topographic site map produced by

---

Kevin V. Harker, Partner  
kevin@harkerlepore.com  
503-922-1939

Portland Office:  
915 NW 19th Ave., Ste H  
Portland, OR 97209

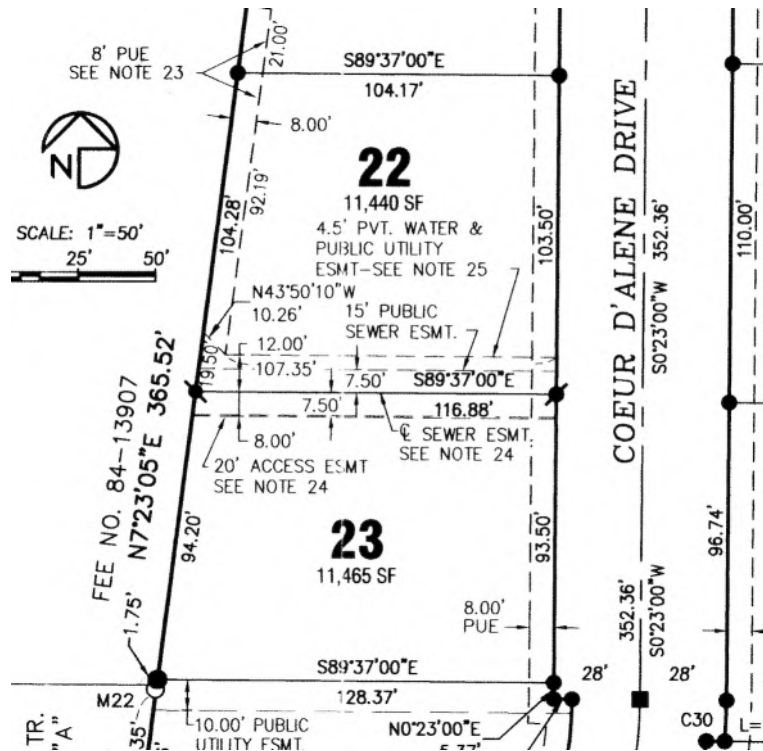
Compass Land Surveyors is attached hereto as Exhibit B. If the Alfson Property is required to obtain signatures from Lot 22 and Lot 23, and those lots refuse to cooperate, additional access would be required to reach what is labeled as Tract "C" on the site map. Creation of this access would cause the Alfsons undue hardship, from demolition of the existing detached shop/garage, re-grading of the area, and impacts to adjacent properties and landscaping. It would also create safety concerns due to the limited site distance for neighborhood pedestrians and children playing in the street.

Despite the requirements of Condition #2, I believe an existing 2012 easement and maintenance agreement, development of staff recommendations, the Alfson letter dated September 5, 2024, final Planning Commission conditions of approval, as well as the historical platting of the relevant properties, call for this Condition to be considered already satisfied.

In 2012, the Alfsons and the then-owner of Lot 22 and Lot 23 executed an access and utility easement and joint maintenance agreement, recorded in the official records of Clackamas County as document no. 2012-001415. This agreement granted the Alfson Property, Lot 22, and Lot 23 a non-exclusive, reciprocal easement over and under Lot 22 and Lot 23 to be used "for ingress, egress and private and public utility purposes . . . ." This agreement is attached hereto as Exhibit C.

Section 4.4 of that agreement explicitly contemplates the future partition of the Alfson Property without any need for amending the agreement. Specifically, the agreement states: "For example, if the Alfson Property is subdivided into four (4) total lots, as is anticipated, then Lot 22, Lot 23, and any of the four lots created from the Alfson Property that take access from the Access and Utility Easements shall be responsible for their proportionate share of the normal maintenance and repair costs for the Access and Utility Easements."

This agreement was recorded with the County and explicitly binds all future owners of Lot 22 and Lot 23. The access easement created under this agreement also appears on the plat recorded as document no. 2012-1405. I have inserted the relevant portion of the plat below:



Note #24 of the plat states:

*Lots 22 and 23 are subject to a 20-foot access easement and joint maintenance agreement per instrument no. 2012-001415, Clackamas County deed records. The access easement will provide access for the adjoining parcel to the west described in fee no. 84-13907, or a maximum of two lots if said adjoining parcel to the West is developed. Lots 22 and 23 are also subject to a 15-foot public sanitary sewer easement as shown hereon.*

As such, the current owners of Lot 22 and Lot 23 were on notice of the existing access easement when they purchased their respective parcels. Thus, I see no reason why these owners must consent to the use of an access easement that already binds these lots.

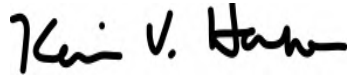
In light of the above analysis, this appeal formally requests that the City Council deem Condition #2 to be already satisfied. Please contact my office with any questions.

#### STATEMENT OF STANDING:

Pursuant to West Linn Community Development Code 99.140(B), Gary and Susie Alfson have standing to appeal the above referenced planning

commission decision, as they have appeared orally before the Commission and provided their name and address.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin V. Harker". The signature is written in a cursive, slightly stylized font.

Kevin V. Harker

# EXHIBIT A

## WEST LINN PLANNING COMMISSION NOTICE OF FINAL DECISION AND ORDER MIP-24-02 & VAR-24-05

### IN THE MATTER OF A 3-PARCEL MINOR PARTITION AT 2830 COEUR D ALENE DRIVE AND A CLASS II VARIANCE PROPOSAL FOR ALLOWING MORE THAN FOUR LOTS TO BE SERVED FROM A PRIVATE DRIVEWAY.

**Planning Commission Decision:** The Planning Commission has **approved** the above referenced land use application, based on the Findings and Conclusions and Conditions of Approval, stated in the staff report, except as modified herein.

**Materials: The applicant submittal and Staff Report, is available at**

- <https://westlinnoregon.gov/planning/2830-coeur-d-alene-drive-minor-partition-and-class-2-variance>

#### I. Overview

At its meeting on November 6, 2024, the West Linn Planning Commission ("Commission") held the initial evidentiary public hearing to consider the request by Gary Alfson & Susie Alfson, applicant, to approve a 3-Parcel Minor Partition at 2830 Coeur D Alene Drive and a Class II Variance to allow access from a shared driveway to more than four lots (five total lots) at 2934, 2826, 2830, Coeur D Alene Drive and the two additional lots created by the Minor Partition. The approval criteria for this proposal are Community Development Code (CDC) Chapter 12, Chapter 48, Chapter 75, Chapter 85, Chapter 92, and Chapter 99. The hearing was conducted pursuant to the provisions of CDC Chapter 99.170.

The initial evidentiary hearing commenced with a staff report presented by Aaron Gudelj, Associate Planner. The applicant(s) provided verbal testimony. Written testimony was submitted by Rich Faith and Cynthia Lacro, Rufus Timberlake & Julia Timberlake, Carlos Ugalde and Amy Ugalde, and David Baker. Oral testimony was provided at the hearing by Carlos Ugalde, Rufus Timberlake, Julia Timberlake, David Baker, and Thomas Laun. Applicant rebuttal was provided by the applicant(s). The primary concerns raised during testimony included:

- Traffic Safety
- Sharing of Access easement
- Plat notes
- Views
- Property Values
- Middle housing development on new lots

The hearing was closed, and the Commission deliberated whether the request meets the minimum necessary standards of CDC Chapter 75. A motion was made by Commissioner Evans to approve the application in accordance with the Staff Report and the recommended

conditions of approval. The motion was seconded by Chair Carr. The motion passed unanimously, 6-0 (Jones, Metlen, Walvatne, Evans, Schulte-Hillen, Carr).

## **II. The Record**

The record was finalized at the November 6, 2024 public hearing.

### **Findings of Fact**

- 1) The Overview set forth above is true and correct.
- 2) The applicant is Gary Alfson and Susie Alfson.
- 3) The Commission finds that it has received all information necessary to make a decision based on the Staff Report and attached findings; public comment; and the evidence in the whole record.

## **III. Findings**

The Commission makes this decision based on the findings described in the Staff Report and in addition to or as modified below, the submitted written comments, and evidence in the whole record. The Commission concludes that the record satisfies the Applicant's burden to prove compliance with all applicable criteria including the following:

1. CDC 48.030(D) – Commission finds the application meets Class II Variance requirements thus granting relief from this provision.
2. CDC 75.020.B.1(c) – Commission finds the physical limitations of providing access to Tract C for Parcel 1 and that the property has been surrounded by subdivision development over time, thus limiting options for access, were not created by the applicant/owner requesting the variance.
3. CDC 85.200.B.8(b) – Commission finds the City, as a public agency, cannot legally prohibit development of middle housing on the newly created parcels and that this criterion is met without the proposed condition of approval in Finding No. 109.

## **IV. Conditions of Approval**

**The Planning Commission Approves MIP 24-02/VAR-24-05 subject to the identified conditions of approval.**

**1. Site Plans.** With the exception of modifications required by these conditions, the final plat shall substantially conform to the Tentative Plan.

**2. Shared Access Agreement.** Prior to recordation of the Plat with Clackamas County the applicant shall provide a signed access and utility easement and joint maintenance agreement between all owners of property using the private driveway as access. The access and utility easement and joint maintenance agreement shall have signatures from all owners of land using the private access and shall acknowledge the total number of lots using the private access.

**3. Engineering Standards.** All public improvements and facilities associated with the approved site design, including but not limited to street improvements, driveway approaches, curb cuts, utilities, grading, onsite and offsite stormwater, street lighting, easements, easement locations, and connections for future extension of utilities are subject to conformance with the City Municipal Code and Community Development Code. The City may partner with the applicant to fund additional improvements as part of the project.

**4. Reciprocal Access and Utility Easement.** Prior to final plat approval, the applicant shall record and show on the face of the plat a 20-foot wide reciprocal access and utility easement and mutual maintenance agreement on Proposed Parcel 2 for the benefit of proposed Parcels 1 and 3. The easement will create legal access for ingress/egress and utility placement. The easement recording number shall be provided on the face of the final plat.

**V. Order**

The Commission concludes that MIP 24-02/VAR-24-05 is approved based on the Findings and Conclusions and Conditions of Approval, stated in the staff report, except as added to or modified herein.

  
\_\_\_\_\_  
JOHN CARR, CHAIR  
WEST LINN PLANNING COMMISSION

  
\_\_\_\_\_  
DATE

**APPEAL**

This decision may be appealed to the City Council pursuant to the provisions of Chapter 99 of the Community Development Code and any other applicable rules and statutes. This decision will become effective 14 days from the date of mailing of this final decision as identified below. A person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830. The decision will not become final until the period for filing a local appeal has expired.

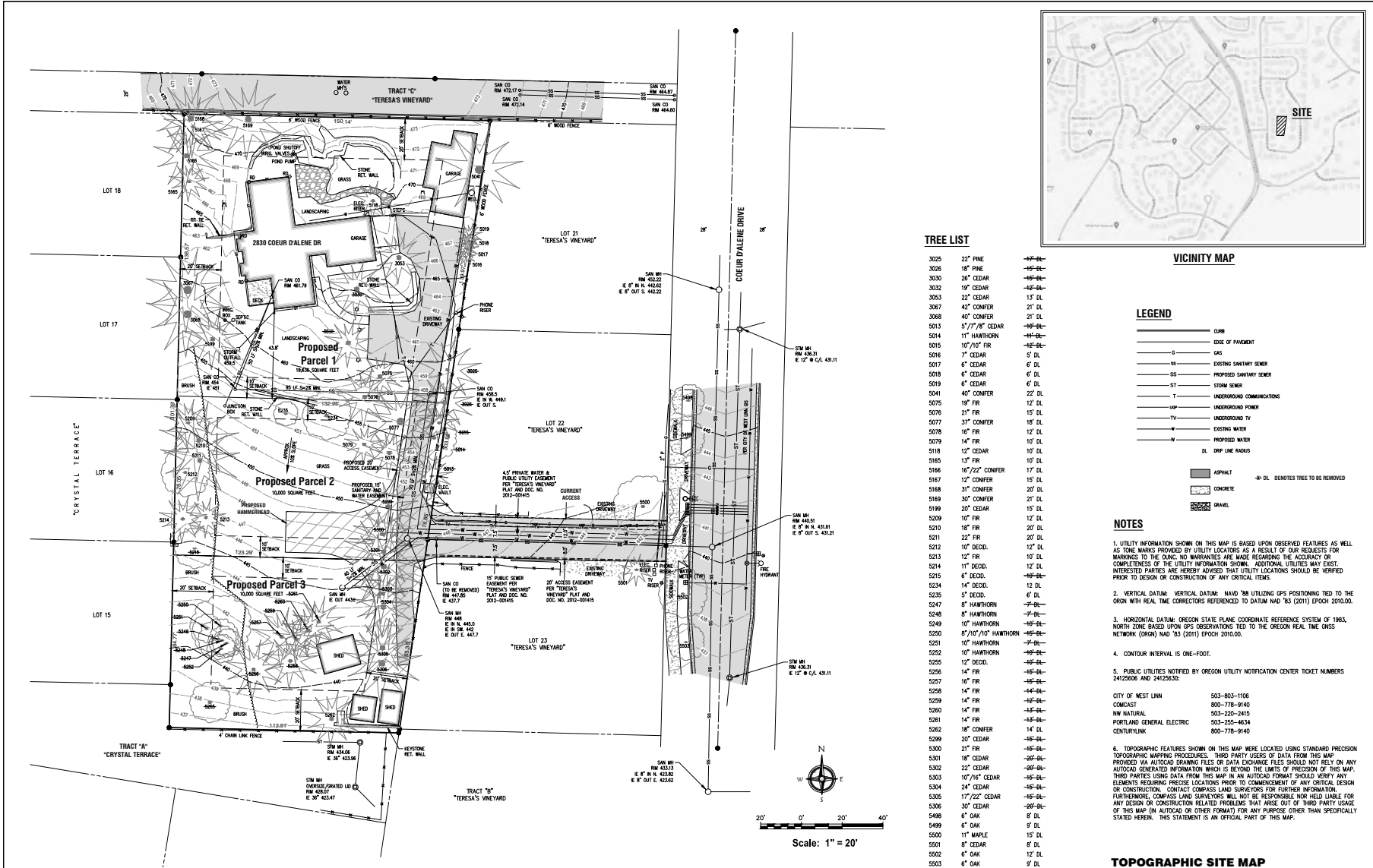
More information about filing an appeal can be found at:

- <https://westlinnoregon.gov/planning/appeals>

Mailed this 21 day of November, 2024.

Therefore, this decision becomes effective at 5 p.m., December 4, 2024.

Contact: If you have any questions about this project, please contact Aaron Gudelj, Associate Planner, at [agudelj@westlinnoregon.gov](mailto:agudelj@westlinnoregon.gov) or (503)742-6057.



		DRAWN MUMM		CHECK JCM	
		SCALE 1" = 20'		DATE 05/02/2024	
DATE		REVISION		PLAN 8784 Existing Cond.wg	

		<b>COMPASS</b> Land Surveyors 4107 SE International Way, Suite 705 Milwaukie, Oregon 97222 503-653-9093
		<b>GARY ALFSON</b> 2830 COEUR D'ALENE DRIVE WEST LINN, OREGON 97068

<b>FOR A PROPOSED PARTITION PLAT</b>	
<b>TAX LOT 1400, IN THE NE 1/4 SE 1/4 SECTION 35, T.2S., R.1E., W.M.</b>	
<b>CITY OF WEST LINN, CLACKAMAS COUNTY, OREGON</b>	



**Grantor/ Grantee:**

TV 29, LLC  
5285 Meadows Road, Suite 171  
Lake Oswego, OR 97035

Gary A. Alfson and Carolyn Sue Alfson *Grantee*  
3401 S. Haskins Lane  
West Linn, OR 97068

Clackamas County Official Records  
Sherry Hall, County Clerk

2012-001415



\$82.00

01550058201200014150070070

01/12/2012 03:26:35 PM

**AFTER RECORDING RETURN TO:**

Charles Harrell  
Buckley Law P.C.  
Three Centerpointe Drive, Suite 250  
Lake Oswego, OR 97035

D-E Cnt=2 Stn=11 TINAJAR  
\$35.00 \$5.00 \$16.00 \$16.00 \$10.00

**ACCESS AND UTILITY EASEMENT****AND JOINT MAINTENANCE AGREEMENT**

This ACCESS AND UTILITY EASEMENT AND JOINT MAINTENANCE AGREEMENT (this "AGREEMENT") is made this 12 day of December 2011, by and among TV 29, LLC, an Oregon limited liability company, ("TV 29") and Gary A. Alfson and Carolyn Sue Alfson, Husband and Wife ("Alfson").

**RECITALS**

A. WHEREAS, TV 29 owns certain real property located in the County of Clackamas, State of Oregon and more particularly described as Lot 22, TERESA'S VINEYARD, in the City of West Linn, County of Clackamas, State of Oregon ("Lot 22").

B. WHEREAS, TV 29 owns certain real property located in the County of Clackamas, State of Oregon and more particularly described as Lot 23, TERESA'S VINEYARD, in the City of West Linn, County of Clackamas, State of Oregon ("Lot 23").

C. WHEREAS, Alfson owns certain real property located at 3401 S. Haskins Lane, West Linn, in the County of Clackamas, State of Oregon and more particularly and legally described as follows:

Beginning at a point 401.30 feet East of the Northwest corner of Tract No. 16, BLAND ACRES, according to the map and plat thereof on file in the office of the County Clerk for Clackamas County, State of Oregon, on the North boundary thereof; thence South 0°23' West 302.76 feet to a point; thence South 89°37' East 122.80 feet; thence North 7°23'15" East 305.05 feet to a point on the North line of said Tract 16, BLAND ACRES; thence West 150 feet along said line to the place of beginning, as identified in Fee No. 84-13907 / tax lot number 21E35A-02600 (the "Alfson Property").

D. WHEREAS, TV 29 and Alfson have determined that there is, or will be, a need for non-exclusive and reciprocal easements on Lot 22 and Lot 23, for ingress, egress and placement of private and public utilities for the benefit of each of Lot 22, Lot 23 and the Alfson Property.

E. WHEREAS, TV 29 and Alfson desires to create the non-exclusive and reciprocal easements described herein for the purpose of ingress, egress and placement of private and public utilities over and under Lot 22 and Lot 23 for the benefit of each of Lot 22, Lot 23 and the Alfson Property.

### **ACCESS AND UTILITY EASEMENT**

NOW, THEREFORE, in consideration of the covenants contained herein and the consideration described herein, the parties agree as follows:

1. **INCORPORATION OF RECITALS.** The Recitals set forth above are true and accurate and are incorporated herein as though set forth in full.

2. **GRANT OF EASEMENT.** TV 29 hereby creates and grants to the present and future owners of Lot 22, Lot 23 and the Alfson Property a non-exclusive, reciprocal easement over and under Lot 22 and Lot 23 to be used for ingress, egress and private and public utility purposes as more specifically described on the Plat of Teresa's Vineyard recorded in Book 142, Page 021, as Document No. 2012- and by this reference incorporated herein (the "ACCESS AND UTILITY EASEMENTS"). 001405

3. **USE OF EASEMENT.** TV 29 grants the ACCESS AND UTILITY EASEMENTS for use by the present and future owners of Lot 22, Lot 23 and the Alfson Property and any future development thereof for the non-exclusive purpose of normal residential vehicular ingress and egress to and from Lot 22, Lot 23 and the Alfson Property and for the placement of private and public utilities, including, but not limited to, water, sewer, electricity, gas, cable television, internet access and telephone service for the benefit of Lot 22, Lot 23 and/or the Alfson Property.

4. **MAINTENANCE.** The costs of any and all normal maintenance and repair of the ACCESS AND UTILITY EASEMENTS shall be apportioned among the affected owner(s) of Lot 22, Lot 23 and the Alfson Property on the following basis and criteria regardless of frontage, location, or improvements:

4.1 A one-thirds share (1/3 share) of the normal maintenance and repairs costs for the ACCESS AND UTILITY EASEMENTS shall be apportioned to the owner(s) of Lot 22;

4.2 A one-thirds share (1/3 share) of the normal maintenance and repair costs for the ACCESS AND UTILITY EASEMENTS shall be apportioned to the owner(s) of Lot 23; and

4.3 A one-thirds share (1/3 share) of the normal maintenance and repair costs for the ACCESS AND UTILITY EASEMENTS shall be apportioned to the owner(s) of the Alfson Property.

4.4 In the event that the Alfson Property is partitioned or subdivided, the maintenance costs

2

for the ACCESS AND UTILITY EASEMENTS shall be apportioned equally between all lots or parcels benefitted and/or burdened by the ACCESS AND UTILITY EASEMENTS. For example, if the Alfson Property is subdivided into four (4) total lots, as is anticipated, then Lot 22, Lot 23 and any of the four lots created from the Alfson Property that take access from the ACCESS AND UTILITY EASEMENTS shall be responsible for their proportionate share of the normal maintenance and repair costs for the ACCESS AND UTILITY EASEMENTS.

**5. CONSIDERATION.** The true and actual consideration for this grant of ACCESS AND UTILITY EASEMENTS is no money, but consists of other valuable consideration. As this AGREEMENT does not convey or contract to convey fee title, compliance with ORS 93.030 is not required.

**6. INDEMNITY OF OWNER OF LOT 22.** The owners of Lot 23 and the Alfson Property hereby agree to indemnify, and save the owner of Lot 22 and hold the owner of Lot 22 harmless from and against any and all claims of third persons for damages suffered, and any other loss, cost, or other expense incurred by the owner of Lot 22, or any claim, demand or action asserted against the owner of Lot 22, arising out of the use of the ACCESS AND UTILITY EASEMENTS, this AGREEMENT and/or the owners of Lot 23's and the Alfson Property's exercise of the rights granted herein.

**7. INDEMNITY OF OWNER OF LOT 23.** The owners of Lot 22 and the Alfson Property hereby agree to indemnify, and save the owner of Lot 23 and hold the owner of Lot 23 harmless from and against any and all claims of third persons for damages suffered, and any other loss, cost, or other expense incurred by the owner of Lot 23, or any claim, demand or action asserted against the owner of Lot 23, arising out of the use of the ACCESS AND UTILITY EASEMENTS, this AGREEMENT and/or the owner of Lot 22's and the Alfson Property's exercise of the rights granted herein.

**8. INDEMNITY OF OWNER OF THE ALFSON PROPERTY.** The owners of Lot 22 and Lot 23 hereby agree to indemnify, and save the owner of the Alfson Property and hold the owner of the Alfson Property harmless from and against any and all claims of third persons for damages suffered, and any other loss, cost, or other expense incurred by the owner of the Alfson Property, or any claim, demand or action asserted against the owner of the Alfson Property, arising out of the use of the ACCESS AND UTILITY EASEMENTS, this AGREEMENT and/or the owner of Lot 22's and Lot 23's exercise of the rights granted herein.

**9. EXCEPTIONS OF RECORD.** The ACCESS AND UTILITY EASEMENTS are granted subject to all prior easements or encumbrances of record.

**10. TERMS AND CONDITIONS.**

**10.1 General.** The owners of each of Lot 22, Lot 23 and the Alfson Property, their heirs, successors and assigns, shall exercise their rights under this AGREEMENT with regard to the ACCESS AND UTILITY EASEMENTS in a manner that: (i) minimizes, to the extent reasonably practicable, any material interference with the use and occupancy of each lot by each respective lot owner; and (ii) is in compliance with all applicable federal, state and local laws rules and regulations. Neither the Teresa's Vineyard Homeowners Association, lot owner nor any other

permitted user of the EASEMENT shall park any vehicle or otherwise place an obstruction on or in the EASEMENT area except as necessary in connection with such user's maintenance and repair obligations as agent hereunder.

**10.2 Access.** The owners of Lot 22 and Lot 23 shall provide reasonable access to the portion of the ACCESS AND UTILITY EASEMENT located on such owner's lot to the owners of the other affected lots, for purposes granted herein and for the maintenance and repair of said ACCESS AND UTILITY EASEMENTS as needed.

**10.3 Maintenance.** The owners of Lot 22, Lot 23 and the Alfson Property shall have the obligation to maintain the ACCESS AND UTILITY EASEMENTS in good condition and repair in compliance with ORS 105.170 through 105.185, except as otherwise provided in this agreement.

**10.4 Costs.** The cost of any installation, removal or replacement of any improvements on an individual lot necessary for access to and use of the ACCESS AND UTILITY EASEMENTS, including, but not limited to, the installation of private or public utilities, will be borne by the owner of the affected lot.

**10.5 No encroachment.** No party may install landscaping or improvements that will impair the use of the ACCESS AND UTILITY EASEMENTS for the other lot owners.

**10.6 Emergency Action.** The owners of Lot 22, Lot 23 and the Alfson Property shall have the right to act to correct an emergency situation and shall have access to the ACCESS AND UTILITY EASEMENT in the absence of the consent of the other lot owners in such emergency situation.

**10.7 Perpetual Term.** The term of this AGREEMENT shall be perpetual, except as otherwise herein limited.

**10.8 Binding Effect.** The benefits and burdens of this AGREEMENT shall constitute a covenant running with Lot 22, Lot 23 and the Alfson Property herein described and shall be binding upon the heirs, successors in title and assigns of the parties hereto.

**10.9 Injunctive Relief Available** Except as otherwise provided herein, in the event that any owner herein bound shall fail to perform its obligations under this AGREEMENT, the other owner(s) shall be entitled to require such performance or, where appropriate, through injunctive relief. Such remedies shall be in addition to any other remedies afforded under Oregon law. The prevailing party in any litigation under this AGREEMENT shall be entitled to recover attorney fees and all costs and expenses associated therewith.

**10.10 No Merger.** If any one or more of the lot(s) benefited by the EASEMENT granted herein is at anytime owned by the same person or entity then owning another lot burdened by the EASEMENT, the EASEMENT granted herein shall not be deemed to terminate by merger of the dominant and servient estates.

**10.11 Modification and Termination.** This AGREEMENT may only be amended, modified or terminated only by unanimous consent of the current owners of Lot 22, Lot 23 and

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the Alfson Property and any future development thereof in writing, or by an Order of a court of competent jurisdiction. If any provision herein shall be invalid, illegal or unenforceable in any respect, the validity of the remaining provisions shall not be affected.

**10.12 Governing Law.** This AGREEMENT and the terms of the ACCESS AND UTILITY EASEMENTS shall be construed in accordance with the laws of the State of Oregon.

**10.13 Notices.** All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered (including by means of professional messenger service) or sent by registered or certified mail, postage prepaid, return receipt requested, and shall be deemed received five (5) days after deposit in the United States mail.

If to TV 29: TV 29, LLC  
5285 Meadows Road, Suite 171  
Lake Oswego, OR 97035  
Attn: Jeff Smith

with a copy to: Charles E. Harrell  
BUCKLEY LAW P.C.  
Three Centerpointe Drive, Suite 250  
Lake Oswego, OR 97035

If to Alfson: Gary A. and Carolyn Sue Alfson  
3401 Haskins Lane  
West Linn, OR 97068

**10.14 Further Assurances.** The parties each agree, at the request of the other party, at any time and from time to time after the date hereof, to execute and deliver all such further documents as may be reasonably necessary or appropriate in order to confirm, record or carry out the provisions of this AGREEMENT.

**10.15 Resolution by Arbitration.** Any disagreements associated with this said AGREEMENT or the ACCESS AND UTILITY EASEMENTS are to be resolved via binding arbitration pursuant to the Clackamas County Circuit Court arbitration rules, with the presiding judge of the Clackamas County Circuit Court appointing one arbitrator whose decision will be binding and final. The non-prevailing party is to pay the cost of the arbitration.

**10.16 Other Remedies Available.** The owners of Lot 22, Lot 23 and the Alfson Property are also entitled to all remedies at law and equity associated with any breach of any term or condition of this AGREEMENT or the ACCESS AND UTILITY EASEMENTS by any other property owner or person.

**10.17 Attorney's Fees.** If any suit or action arising out of or related to this AGREEMENT or the ACCESS AND UTILITY EASEMENTS is brought by any party, the prevailing

party or parties shall be entitled to recover the costs and fees (including reasonable attorneys' fees, the fees and costs of experts and consultants, copying, courier and telecommunication costs, and deposition costs and all other costs of discovery) incurred by such party or parties in such suit or action, including any post-trial or appellate proceeding, or in the collection or enforcement of any judgment or award entered or made in such suit or action.

IN WITNESS WHEREOF, TV 29, LLC and Alfson have caused this instrument to be executed the day and year first written above.

**TV-29, LLC**

By:  Oakridge Estates Development Corporation

Its: Member

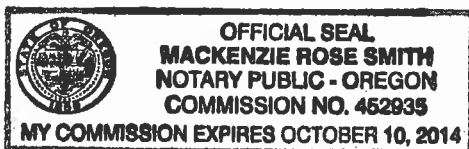
By: Jeffrey Smith

Its: President

State of Oregon )

County of Clackamas )

The foregoing instrument was acknowledged before me on this 12<sup>th</sup> day of December, 2011, by Jeffrey Smith, President of Oakridge Estates Development Corporation, as Member of TV 29, LLC, and who acknowledged the foregoing to be his voluntary act and deed.



  
Notary Public for Oregon

My Commission expires: October 10, 2014

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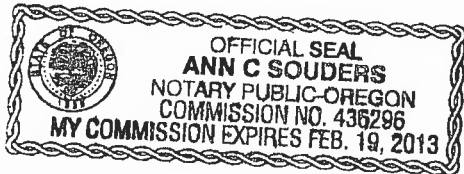
Gary A. Alfson  
Gary A. Alfson

Carolyn Sue Alfson  
Carolyn Sue Alfson

State of Oregon )

County of Multnomah )

The foregoing instrument was acknowledged before me on this \_\_\_\_ day of December, 2011, by Gary A. Alfson and Carolyn Sue Alfson, and who acknowledged the foregoing to be their voluntary act and deed.



Ann C. Souders  
Notary Public for Oregon

My Commission expires: February 19, 2013

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### Attachment 3: AP-24-02 Public Comment Memo





# CITY OF West Linn

## Memorandum

Date: January 6, 2025

To: Mayor Bialostosky  
West Linn City Council

From: Aaron Gudelj; Associate Planner

Subject: AP-24-02; Appeal of PC Decision MIP-24-02/VAR-24-05

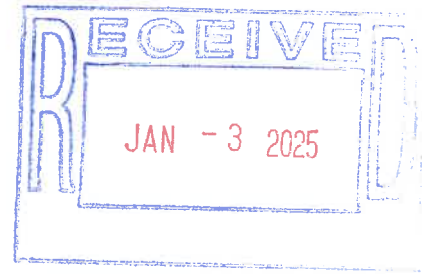
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Two public comments were submitted after the publication of the staff report. The comment letters and documents are as follows:

1. Kyle Grant – Legal Representative for David and Sarah Baker
2. William and Patricia Nelson

As always, please contact me with any questions at [agudelj@westlinnoregon.gov](mailto:agudelj@westlinnoregon.gov) or 503.742.6057

January 3, 2025



To: City of West Linn City Council

From: William and Patricia Nelson

Re: Appeal by Gary and Susie Alfson of MIP 24-02/VAR-24-o5

My wife and I spoke, at length, to Gary and Susie Alfson prior to the Planning Commission meeting of November 6, 2024. We believe they made a concerted effort to reach out to all neighbors who might be impacted by the future development of their property. I then attended the Planning Commission meeting, listened to their proposal and the comments of two other neighbors and one future owner.

I write, now, in support of their petition that was conditionally approved by the Planning Commission, and further support their request to have the condition removed from their approval.

My wife and I have owned property (lot 21) and lived in the Teresa's Vineyard subdivision for the last three years. Our property backs up to the east side of the Alfsons' property. We do not share their driveway, but the north side of our home abuts the through road on our and their north. The few children who play outdoors in our neighborhood seem to use that roadway.

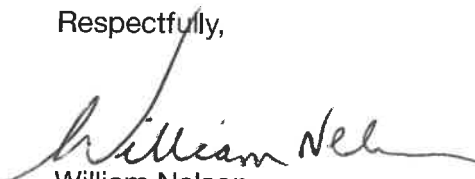
The neighborhood sees little traffic on Coeur d Alene Drive. Residents, tradespeople and delivery trucks represent the bulk of vehicles observed. There is no 'through' traffic.

None of the current owners were here when the Alfsons purchased their property. However the Alfsons, in their forty plus years of ownership, have witnessed the development that has occurred all around them.

We appreciate the fact that life circumstances require them, now, to move. We respect their right to subdivide the property and appreciate the fact that they are asking for only one variance. We support their measured and thoughtful proposal and encourage the Council to approve their petition without conditions.

I plan to attend the Council meeting and will be happy to answer any questions arising from this note.

Respectfully,

  
William Nelson  
2948 Coeur d Alene Drive  
West Linn

**CITY OF WEST LINN CITY COUNCIL  
PUBLIC HEARING NOTICE  
FILE NO. AP-24-02**

The West Linn City Council will hold a hybrid public hearing on **Monday, January 6, 2025 at 6:00 pm** in the Council Chambers of City Hall, 22500 Salamo Road, West Linn, to consider an appeal by Gary and Susie Alfson of MIP 24-02/VAR-24-05, a Planning Commission decision for a Minor Partition requesting approval for a 3-lot Minor Partition and a Class II Variance for an exception to the minimum width required for a private access road for 5 residential units at 2830 Coeur D Alene Drive.

The appellant stated grounds for appeal pertain to Condition of Approval #2 of the Planning Commission Final Decision and Order requiring signatures of Lots 22 and 23 of the Teresa's Vineyard Subdivision for use of the shared-driveway by the newly created lots of the Minor Partition

The City Council will make decide the appeal based on applicable criteria in Community Development Code (CDC) Chapters 12, 48, 75, 85, 92, and 99. The CDC approval criteria are available for review on the City website <http://www.westlinnoregon.gov/cdc> or at City Hall and the City Library.

The appeal is a de novo hearing and not limited to the stated grounds for the appeal. City Council may consider all relevant issues. All evidence presented to the lower authority shall be considered and given equal weight as evidence presented on appeal. City Council may affirm, reverse, or modify the decision which is the subject of the appeal.

You have been notified of this appeal as required by CDC Chapter 99.140 and 99.260.

The appeal is posted on the City's website, <https://westlinnoregon.gov/projects>. The appeal application and record are available for inspection at City Hall at no cost. Copies may be obtained at a reasonable cost. The staff report will be posted on the website and available for inspection at no cost, or copies may be obtained at a reasonable cost, at least ten days before the hearing.

The hearing will be conducted according to CDC Section 99.170 in a hybrid format with some Councilors, staff, presenters, and members of the public attending remotely via Webex and others attending in-person at City Hall. The public can watch the meeting online at <https://westlinnoregon.gov/meetings> or on Cable Channel 30.

**Anyone wishing to present written testimony for consideration shall submit all material before 12:00 pm on January 6, 2025.** Written comments may be submitted to [agudelj@westlinnoregon.gov](mailto:agudelj@westlinnoregon.gov) or mailed to City Hall.

Those who wish to participate remotely should complete the speaker form at <https://westlinnoregon.gov/citycouncil/meeting-request-speak-signup> before 4:00 pm on the meeting day to receive an invitation to join the meeting. Virtual participants can log in through a computer, mobile device, or call in.

**It is important to submit all testimony in response to this notice.** All comments submitted for consideration of this appeal should relate specifically to the applicable criteria. Failure to raise an issue in a hearing, in person, or by letter, or failure to provide sufficient specificity to afford the decision-maker an opportunity to respond to the issue, precludes appeal to the Oregon Land Use Board of Appeals based on that issue.

For additional information, please contact Aaron Gudelj,  
Associate Planner, City Hall, 22500 Salamo Rd.,  
West Linn, OR 97068, 503-742-6057 or  
[agudelj@westlinnoregon.gov](mailto:agudelj@westlinnoregon.gov).



Scan this QR Code to go to Project Web Page:



Kyle L. Grant  
Kyle.Grant@tonkon.com

503.802.2092 direct  
503.221.1440 main

January 2, 2025

City of West Linn  
Attn: Aaron Gudelj, Association Planner  
VIA EMAIL: [agudelj@westlinnoregon.gov](mailto:agudelj@westlinnoregon.gov)

Re: **Written Testimony of Respondents David and Sarah Baker**  
**File No. AP-24-02**

Dear City Councilors:

This office represents David and Sarah Baker regarding the above referenced notice of public hearing to review an appeal by Gary and Susie Alfson of MIP 24-02/VAR-24-05. This letter is submitted on behalf of David and Sarah Baker to be entered as written testimony.

## **I. Summary**

The Alfsons ("Applicant") applied for a 3-parcel partition on August 1, 2024, as more fully detailed in the Staff Report prepared by Darren Wyss on December 24, 2024. The Planning Commission conditionally approved the application and granted a Class II Variance on November 6, 2024. The Applicant appealed this decision in order to remove the Condition No. 2 which required the Applicant to obtain an agreement from David and Sarah Baker and a neighboring property owner to use a shared driveway.

For the reasons stated, the City Council should deny appeal AP-24-02 and, in addition, overturn the Planning Commission's decision to grant a Class II variance to the Applicant.

## **II. Class II Variance**

The Applicant requested a Class II Variance from the full street requirements for five lots under CDC 48.030(D), thereby requesting that a private drive provide access to five residential lots. The purpose of CDC 48.030(D) is to ensure that development complies with established land use and transportation policies, which are designed to maintain safe, efficient, and sustainable infrastructure. This Code section ensures that developments, such as the Applicant's proposed partition, are properly integrated into the existing network of streets and access points.

In order to grant a variance from the five-lot limitation for private roads, CDC 75.020.B.1 requires, among other things, that:

- a. The variance is the minimum variance necessary to make reasonable use of the property. To make this determination, the following factors may be considered, together with any other relevant facts or circumstances:
  - 1) Whether the development is similar in size, intensity and type to developments on other properties in the City that have the same zoning designation.
  - 2) Physical characteristics of the property such as lot size or shape, topography, or the existence of natural resources.
  - 3) The potential for economic development of the subject property.
  - ...
- c. The need for the variance was not created by the applicant and/or owner requesting the variance.

Contrary to the City's staff report, these two criteria a) and c) were not met for the following reasons.

1. **Criteria a) was not met because the Applicant has ready access to the North over Tract C, meaning that funneling all traffic between Lots 22 and 23 is not necessary.**

The Applicant has conceded that Note 9 of the Teresa's Vineyard Plat (attached hereto as Exhibit A) states that the Applicant's property will be provided access for two future lots over Tract C, which is a similar private driveway to the north of the Applicant's property. This provides an alternative means of accessing the property that does not require access through the Shared Access Easement between Lots 22 and 23 of Teresa's Vineyard. Accordingly, the variance is not necessary to make reasonable use of the Applicant's property.

In fact, the Applicant specifically argued for two points of access during the original land use proceedings to approve the Teresa's Vineyard subdivision. In 2007 during a West Linn Planning Commission meeting, Gary Alfson submitted testimony pointing out that he intended to subdivide his property and that this future subdivision would be land locked by the surrounding development. The minutes to this meeting are attached as Exhibit B. The developer agreed to put in *two* paved



vehicular access points to serve the Applicant's future subdivision. Mr. Alfson asked for a specific written related condition of approval. The applicant agreed, and the Chair directed the staff to craft such a condition. The minutes clearly reflect an intent to provide two points of access to the Applicant's future subdivision, not just the access point between Lots 22 and 23 of Teresa's Vineyard.

The Applicant also submitted a letter as written testimony as part of the original subdivision approval, which is attached hereto as Exhibit C. In that letter, the Applicant again pointed out that their future subdivision of four lots would be landlocked by Teresa's Vineyard. They also included a map showing the configuration of the 4-lot subdivision and showing how two lots would take access between Lots 22 and 23 to the east, and how the two northern lots would take access over what is now Tract C of Teresa's Vineyard to the north.

In short, the Applicant has anticipated for more than 15 years that they would use two points of access to service a future 4-lot subdivision. This is supported by Teresa's Vineyard Plat Note 24, which states that the shared access easement between Lots 22 and 23 would provide access for up to a maximum of *two* additional lots, not three as the Applicant is currently requesting.

In addition, photographic evidence shows that it would not be difficult for the northernmost parcels to take access through Tract C. The Applicant has asserted that gaining access through Tract C would be "prohibitive." However, they have not shown how they would be prohibited from taking such access. Admittedly, installing such access may be inconvenient, but that is not the standard for granting variances under CDC 75.020. The standard is whether the variance is *necessary* to make reasonable use of the Applicant's property. The Applicant has failed to show how gaining access through Tract C would be impossible or render their property unusable. Moreover, they have also failed to show why avoiding the inconvenience of taking access through Tract C should take priority over the inconvenience that would result from funneling traffic between Lots 22 and 23.

Attached as Exhibit D is a map showing how the splitting of access points to both the north and east demonstrates that restricting ingress and egress to between Lots 22 and 23 is not necessary for the partition. Exhibit D also includes photographs of the current state of Tract C and of the Shared Access Easement between Lots 22 and 23.

Lastly, the City has already taken the position that the Applicant has a vested right in access through Tract C. An email attached as Exhibit E from Darren Wyss states that "the City finds the Alfson property has the right to take access from Tract C that is adjacent to their north property line." This further shows that



routing all vehicular ingress and egress in between Lots 22 and 23 is not necessary, and the variance should not have been granted.

**2. Criteria c) was not met because the Applicant is creating the need for the variance by declining to take access over Tract C which the Applicant originally requested.**

The November 2024 staff report failed to show how the Applicant did not create the need for the variance. On the contrary, the development of Teresa's Vineyard specifically created two points of access as shown in Notes 9 and 24 on the Plat. *See* Exhibit A. This configuration allowed the properties to be developed in accordance with CDC 48.030(D) which limits private access to four or fewer lots. Instead, the Applicant is seeking a variance to divert all traffic from the Applicant's current residence, proposed Parcels 2 and 3, and Lots 22 and 23—traffic from a total of five lots that would enter and exit from one point.

Furthermore, the Applicant is creating the need for the variance by Applicant's very proposal to develop not one but three lots on the Applicant's property. But even putting that aside, the Applicant was involved in and influenced the decisions surrounding the approval of the Teresa's Vineyard subdivision. The Teresa's Vineyard plat was configured precisely to accommodate the Applicant's future plans. With that configuration now established, the Applicant is now creating its own problem by asking for an exception to the code to funnel all of its traffic between Lots 22 and 23.

Again, the alternative plan shown on Exhibit D demonstrates how access could be taken partially through the north on Tract C and would be fully code compliant without any need for a variance.

**III. Condition No. 2**

We agree with the City Attorney's recommendation to deny Applicant's appeal for the reasons stated in the staff report dated December 24, 2024. The proper interpretation of the shared access easement, doc. No. 2012-001415 and the Teresa's Vineyard Plat, doc. No. 2012-001405, is a civil matter between the property owners. These documents constitute private covenants that run with the land independently of City Code. The Planning Commission was correct to place Condition No. 2 on the Applicant (even though the variance should have been denied as a threshold matter). The City should not approve development in a way that potentially undermines the legal rights and obligations that the parties have under the plat and shared access easement. For these reasons, this part of the Planning Commission's decision should be upheld.



January 2, 2025  
Page 5

#### **IV. Conclusion**

The City Council should adopt the staff report's potential motion no. 1, moving to deny the appeal AP-24-02 with the following modifications: that the application be denied based on Applicant's failure to meet all the criteria for a Class II Variance.

Thank you for your consideration in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Grant', written over a horizontal line.

Kyle L. Grant

KLK/

cc: Kaylie Klein - City Attorney  
[kklein@westlinnoregon.gov](mailto:kklein@westlinnoregon.gov)





# TERESA'S VINEYARD

BEING A REPLAT OF A PORTION OF LOTS 15 AND 16, BLAND ACRES,  
PLAT NO. 304, LOCATED IN THE NE 1/4 AND THE SE 1/4 SEC. 35, T2S, R1E, W.M.  
CITY OF WEST LINN, CLACKAMAS COUNTY, OREGON  
CITY OF WEST LINN FILE NO. SUB-07-02/NDW-07-02/VAR-07-01  
SURVEYED: DECEMBER, 2011

BOOK 142 PAGE 021  
RECORDED AS DOCUMENT NO. 2012-1405  
PLAT NO. 4339

## SHEET INDEX

SHEET 1 - OVERALL PLAN, SHEET INDEX, LEGEND, NOTES  
& PLAT RESTRICTIONS AND MONUMENT TABLE  
SHEET 2 - NORTH HALF OF SITE  
SHEET 3 - SOUTH HALF OF SITE  
SHEET 4 - APPROVALS, SURVEYOR'S CERTIFICATE,  
DECLARATION & ACKNOWLEDGMENTS

## NARRATIVE

THE PURPOSE OF THIS SURVEY IS TO SUBDIVIDE THAT TRACT OF LAND DESCRIBED IN DEED DOCUMENTS 95-14166 AND 2011-047083 AS SHOWN IN S.N. 2011-170, CLACKAMAS COUNTY SURVEY RECORDS. BEARINGS ARE BASED ON HOLDING SOUTH 89°39'09" EAST BETWEEN FOUND MONUMENTS M1 AND M5 AS DESCRIBED IN S.N. 2011-170.

## NOTES AND PLAT RESTRICTIONS

1. BASIS OF BEARINGS AND BOUNDARY DETERMINATION ARE PER SN#2011-170, CLACKAMAS COUNTY SURVEY RECORDS.
2. THIS PLAT IS SUBJECT TO THE CONDITIONS OF APPROVAL AS LISTED IN THE WEST LINN FINAL LAND USE DECISION NOTICE. SUB-07-02/NDW-07-02/VAR-07-01
3. LOTS 1-29 ARE SUBJECT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF "TERESA'S VINEYARD" RECORDED UNDER DOCUMENT NO. 2012-001411, CLACKAMAS COUNTY DEED RECORDS.
4. THERE IS AN 8-FOOT PUBLIC UTILITY EASEMENT ON THE FRONT OF ALL LOTS AND TRACTS "A", "B" AND "C" ON AND THE STREET SIDES OF CORNER LOTS AS SHOWN HEREON.
5. TRACTS "A" AND "B" ARE TRACTS FOR THE PURPOSE OF OPEN SPACE AND STORM WATER FACILITIES SUBJECT TO A PUBLIC STORM WATER EASEMENT OVER THEIR ENTIRETY AND ARE CONVEYED TO THE CITY OF WEST LINN PER INSTRUMENT NO. 2012-001411, CLACKAMAS COUNTY DEED RECORDS, SUBJECT TO THE WETLAND DEED RESTRICTION PER INSTRUMENT NO. 2012-001411.
6. TRACT "A" IS SUBJECT TO A 16.5-FOOT PUBLIC SANITARY SEWER EASEMENT ALONG ITS NORTH LINE AND A 16.5-FOOT ACCESS EASEMENT FOR SURVEY PURPOSES ONLY TO ALLOW ACCESS TO THE QUARTER CORNER MONUMENT ON THE EAST LINE OF LOT 24.
7. TRACT "B" IS SUBJECT TO A 10-FOOT PUBLIC UTILITY EASEMENT ALONG ITS NORTH LINE.
8. TRACT "C" IS A TRACT FOR THE PURPOSE OF PUBLIC PEDESTRIAN ACCESS, LOCAL ACCESS TO LOTS 10 AND 20, EMERGENCY VEHICULAR ACCESS, AND PUBLIC WATER LINE EASEMENT AND IS GRANTED TO THE CITY OF WEST LINN PER INSTRUMENT NO. 2012-001411, CLACKAMAS COUNTY DEED RECORDS. TRACT "C" IS SUBJECT TO THE 8-FOOT PRIVATE UTILITY EASEMENT FOR THE BENEFIT OF LOTS 10 AND 20 FOR THE PURPOSE OF SANITARY SEWER, WATER LINE AND STORM DRAINAGE AS SHOWN HEREON.
9. TRACT "C" WILL PROVIDE ACCESS TO A MAXIMUM OF TWO FUTURE LOTS IN THE ADJOINING PARCEL TO THE SOUTH DESCRIBED IN FEE NO. 84-13907.
10. TRACT "D" IS A PRIVATE TRACT AND IS CONVEYED TO THE OWNER OF LOT 2 "CRYSTAL TERRACE" PER INSTRUMENT NO. 2012-001413, CLACKAMAS COUNTY DEED RECORDS. TRACT "D" IS NOT SUBJECT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS REFERENCED PER NOTE #3. TRACT "D" IS SUBJECT TO A PUBLIC STORM EASEMENT OVER ITS ENTIRETY AS SHOWN HEREON. EASEMENT DOCUMENT NO.2011-54002 IS EXTINGUISHED BY MERGER UPON THE CONVEYANCE OF THE TRACT ABOVE.
11. TRACT "E" IS A PRIVATE TRACT AND IS CONVEYED TO THE OWNER OF LOT 1 "CRYSTAL TERRACE" PER INSTRUMENT NO. 2012-001414, CLACKAMAS COUNTY DEED RECORDS. TRACT "E" IS NOT SUBJECT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS REFERENCED PER NOTE #3. TRACT "E" IS SUBJECT TO A PUBLIC STORM EASEMENT OVER ITS ENTIRETY AS SHOWN HEREON. EASEMENT DOCUMENT NO.2011-54001 IS EXTINGUISHED BY MERGER UPON THE CONVEYANCE OF THE TRACT ABOVE.
12. LOT 2 IS SUBJECT TO A PRIVATE SANITARY SEWER EASEMENT FOR THE BENEFIT OF LOT 3 AS SHOWN HEREON. MAINTENANCE OF THE SANITARY LINE IS THE RESPONSIBILITY OF THE OWNER OF LOT 3. THAT PORTION OF THE GROUND SURFACE OF LOT 2 SUBJECT TO THE EASEMENT SHALL BE MAINTAINED BY THE OWNER OF LOT 2.
13. LOTS 2 AND 3 ARE SUBJECT TO A RECIPROCAL DRIVEWAY ACCESS EASEMENT AS SHOWN HEREON AND DESCRIBED IN THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS REFERENCED PER NOTE #3.
14. LOTS 2, 3, 6 AND 7 ARE SUBJECT TO A 1-FOOT PUBLIC SIDEWALK EASEMENT AS SHOWN HEREON TO SERVE SALAMO ROAD.
15. LOTS 2, 3, 6, 7 AND 8 ARE SUBJECT TO A PUBLIC STORM DRAINAGE EASEMENT AS SHOWN HEREON. THAT PORTION OF THE GROUND SURFACE SUBJECT TO THE EASEMENT SHALL BE MAINTAINED BY THE OWNERS OF SAID LOTS. NO PERMANENT STRUCTURES SHALL BE ERECTED WITHIN THE EASEMENT SO AS NOT TO INTERFERE WITH THE PUBLIC OPERATIONS AND MAINTENANCE OF THE STORM SEWER SYSTEM.
16. LOT 3 IS SUBJECT TO A PRIVATE STORM DRAINAGE EASEMENT FOR THE BENEFIT OF LOT 2 AS SHOWN HEREON. MAINTENANCE OF THE STORM DRAIN LINE IS THE RESPONSIBILITY OF THE OWNER OF LOT 2. THAT PORTION OF THE GROUND SURFACE OF LOT 3 SUBJECT TO THE EASEMENT SHALL BE MAINTAINED BY THE OWNER OF LOT 3.
17. LOTS 3, 6, 7 AND 8 ARE ALSO SUBJECT TO A PUBLIC STORM DRAINAGE EASEMENT AS SHOWN HEREON. THAT PORTION OF THE GROUND SURFACE SUBJECT TO THE EASEMENT SHALL BE MAINTAINED BY THE OWNERS OF SAID LOTS. NO PERMANENT STRUCTURES SHALL BE ERECTED WITHIN THE EASEMENT SO AS NOT TO INTERFERE WITH THE PUBLIC OPERATIONS AND MAINTENANCE OF THE STORM SEWER SYSTEM.
18. LOTS 5, 6, 7 AND 8 ARE SUBJECT TO A PRIVATE STORM DRAINAGE EASEMENT AS SHOWN HEREON FOR THE BENEFIT OF TERESA'S VINEYARD HOMEOWNERS ASSOCIATION FOR THE PURPOSE OF CONVEYING RETAINING WALL DRAINAGE TO A PUBLIC STORM DRAINAGE SYSTEM.
19. LOTS 6 AND 7 ARE SUBJECT TO A RECIPROCAL DRIVEWAY ACCESS EASEMENT AS SHOWN HEREON AND DESCRIBED IN THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS REFERENCED PER NOTE #3.
20. LOTS 10 AND 20 ARE SUBJECT TO AN 8-FOOT PUBLIC UTILITY EASEMENT AS SHOWN HEREON.
21. LOT 12 IS SUBJECT TO A 10-FOOT PRIVATE SANITARY SEWER AND STORM DRAINAGE EASEMENT AS SHOWN HEREON FOR THE BENEFIT OF LOT 11. MAINTENANCE OF THE SANITARY AND STORM LINES IS THE RESPONSIBILITY OF THE OWNER OF LOT 11. THAT PORTION OF THE GROUND SURFACE OF LOT 12 SUBJECT TO THE EASEMENT SHALL BE MAINTAINED BY THE OWNER OF LOT 12.
22. LOTS 15, 16, 29 AND 30 ARE SUBJECT TO A PUBLIC SIDEWALK EASEMENT AS SHOWN HEREON.
23. LOTS 21 AND 22 ARE SUBJECT TO AN 8-FOOT PUBLIC UTILITY EASEMENT AS SHOWN HEREON.
24. LOTS 22 AND 23 ARE SUBJECT TO A 20-FOOT ACCESS EASEMENT AND JOINT MAINTENANCE AGREEMENT PER INSTRUMENT NO. 2012-001415, CLACKAMAS COUNTY DEED RECORDS. THE ACCESS EASEMENT WILL PROVIDE ACCESS FOR THE ADJOINING PARCEL TO THE WEST DESCRIBED IN FEE NO. 84-13907, OR A MAXIMUM OF TWO LOTS IF SAID ADJOINING PARCEL TO THE WEST IS DEVELOPED. LOTS 22 AND 23 ARE ALSO SUBJECT TO A 15-FOOT PUBLIC SANITARY SEWER EASEMENT AS SHOWN HEREON.
25. LOT 22 IS SUBJECT TO A 4.5-FOOT PRIVATE WATER LINE EASEMENT FOR THE BENEFIT OF THE PARCEL DESCRIBED IN FEE NO. 84-13907 AND A PUBLIC UTILITY EASEMENT AS SHOWN HEREON.
26. LOT 24 IS SUBJECT TO AN 8-FOOT ACCESS EASEMENT, AS SHOWN HEREON. ACCESS ON TO LOT 24 FOR SURVEY PURPOSES SHALL BE ALLOWED AT 412.72' TO O.R.S. 672.047. THE QUARTER CORNER MONUMENT AND ITS ACCESSORIES ARE PUBLIC LAND SURVEY MONUMENTS THAT SHALL BE PROTECTED AND PRESERVED AT ALL TIMES.
27. THERE SHALL BE NO VEHICULAR ACCESS TO SALAMO ROAD FROM LOTS 2, 3, 6 AND 7.
28. SEE SHEET 4 FOR LISTING OF RELEASES OF EXISTING EASEMENTS AND EASEMENTS DEFINED IN THE COVENANTS, CONDITIONS & RESTRICTIONS REFERENCE IN NOTE #3.

## LEGEND

- - SET 5/8"X 30" IRON ROD WITH YELLOW PLASTIC CAP MARKED "TSCS" - SET NOVEMBER & DECEMBER, 2011
- - SET 5/8"X 30" IRON ROD WITH 1-1/2" ALUMINUM CAP MARKED "TSCS" FLUSH IN PAVEMENT
- - SET 5/8"X 30" IRON ROD WITH 1-1/2" ALUMINUM CAP MARKED "TSCS" IN MONUMENT BOX
- - FOUND MONUMENT AS NOTED
- △ - FOUND QUARTER CORNER - 3-1/4" BRONZE CAP
- FND - FOUND
- IR - IRON ROD
- IP - IRON PIPE
- IB - IRON BAR
- YPC - YELLOW PLASTIC CAP
- OPC - ORANGE PLASTIC CAP
- SN# - CLACKAMAS COUNTY SURVEY RECORD
- ESMT - EASEMENT
- PUE - PUBLIC UTILITY EASEMENT
- TSCS - THE SAUNDERS COMPANY SURVEY

01/11/12  
REGISTERED  
PROFESSIONAL  
LAND SURVEYOR  
*Theodore G. Lambert*  
OREGON  
JULY 16, 1987  
THEODORE G. LAMBERT  
2294

RENEWS: 12-31-2012

The Saunders Company Inc.

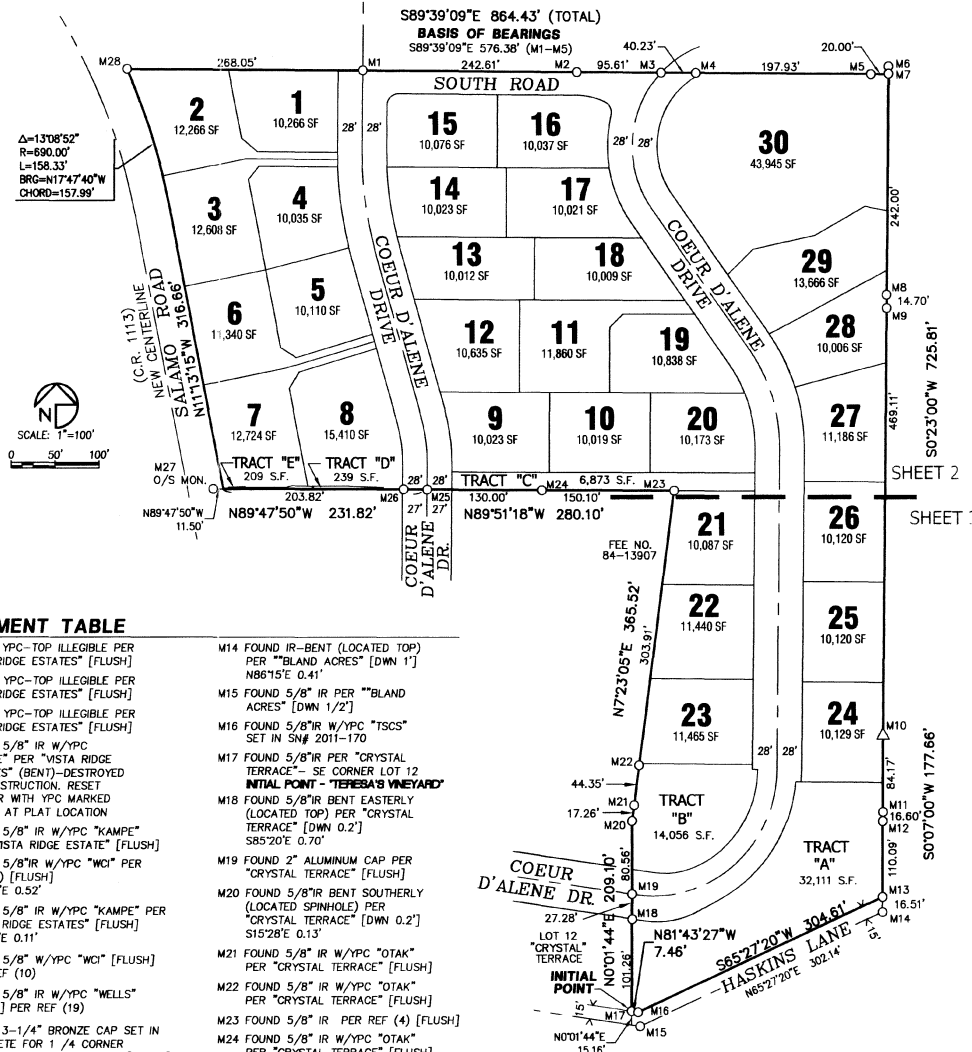
SURVEY DIVISION  
901 N. BRUNTSCHER ST., SUITE#201  
NEWBERG, OREGON 97132  
TEL: 503-537-4347 FAX: 503-554-9107  
WWW.THESAUNDERSCOMPANY.NET

SHEET 1 OF 4

JOB NO. 9130

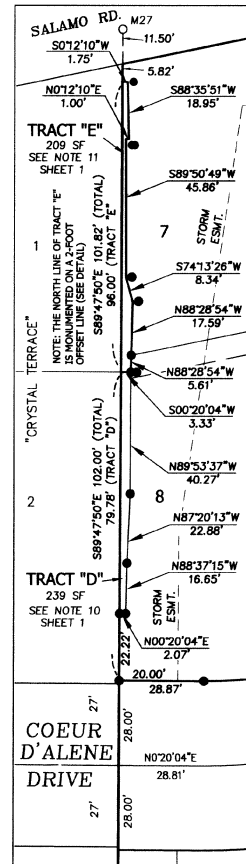
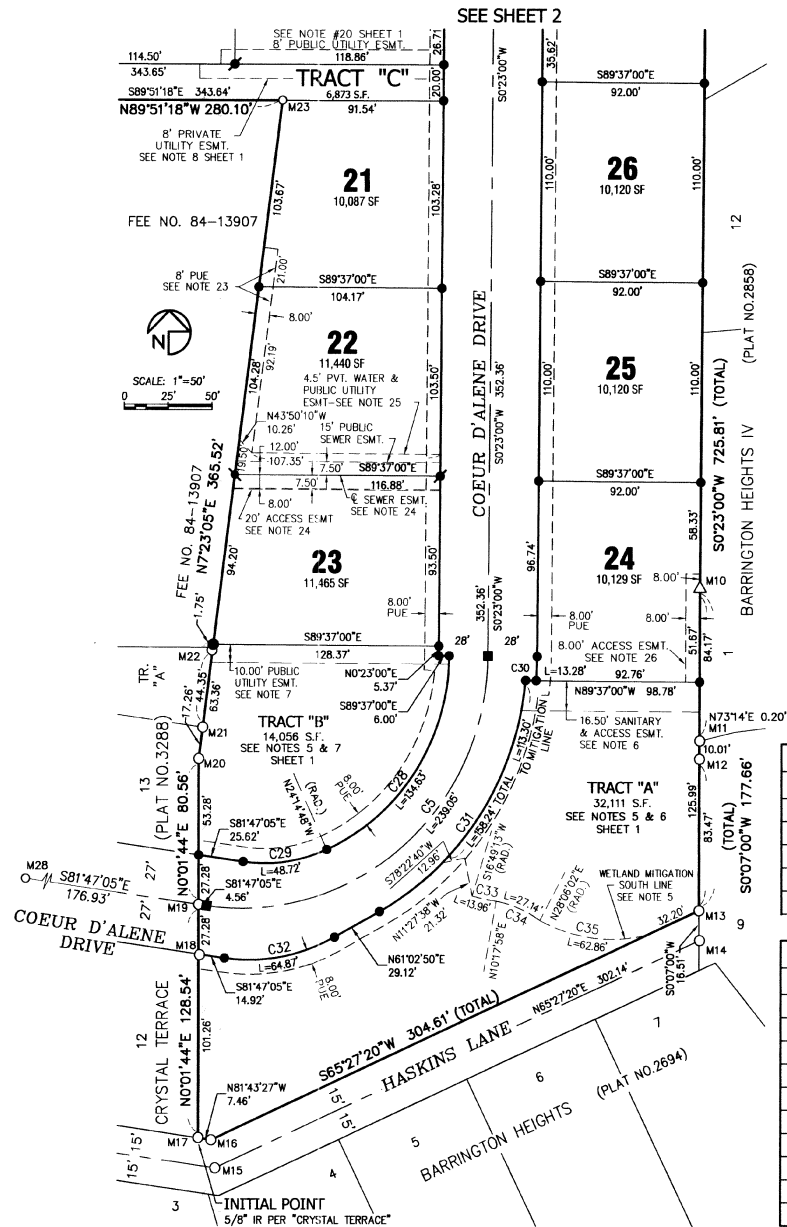
## MONUMENT TABLE

- |   |  |
|---|--|
| M1 FOUND YPC-TOP ILLIGIBLE PER "VISTA RIDGE ESTATES" [FLUSH]  | M14 FOUND IR-BENT (LOCATED TOP) PER "BLAND ACRES" [DWN 1"] N86°15' 0.41'                             |
| M2 FOUND YPC-TOP ILLIGIBLE PER "VISTA RIDGE ESTATES" [FLUSH]  | M15 FOUND 5/8" IR PER "BLAND ACRES" [DWN 1/2"]   |
| M3 FOUND YPC-TOP ILLIGIBLE PER "VISTA RIDGE ESTATES" [FLUSH]  | M16 FOUND 5/8" IR W/PC "TSCS" SET IN SN# 2011-170  |
| M4 FOUND 5/8" IR W/PC "KAMPE" PER "VISTA RIDGE ESTATES" (BENT)-DESTROYED IN CONSTRUCTION. RESET 5/8" IR WITH YPC MARKED "TSCS" AT PLAT LOCATION | M17 FOUND 5/8" IR PER "CRYSTAL TERRACE"- SE CORNER LOT 12 INITIAL POINT - "TERESA'S VINEYARD"        |
| M5 FOUND 5/8" IR W/PC "KAMPE" PER "VISTA RIDGE ESTATE" [FLUSH]  | M18 FOUND 5/8" IR BENT EASTERLY (LOCATED TOP) PER "CRYSTAL TERRACE" [DWN 0.2"] S85°20'E 0.70'        |
| M6 FOUND 5/8" IR W/PC "WCI" PER REF. (6) [FLUSH] N00°23'E 0.52'   | M19 FOUND 2" ALUMINUM CAP PER "CRYSTAL TERRACE" [FLUSH]  |
| M7 FOUND 5/8" IR W/PC "KAMPE" PER "VISTA RIDGE ESTATES" [FLUSH] S89°39'E 0.11'  | M20 FOUND 5/8" IR BENT SOUTHERLY (LOCATED SPINHOLES) PER "CRYSTAL TERRACE" [DWN 0.2"] S15°28'E 0.13' |
| M8 FOUND 5/8" IR W/PC "WCI" [FLUSH] PER REF (10)  | M21 FOUND 5/8" IR W/PC "OTAK" PER "CRYSTAL TERRACE" [FLUSH]  |
| M9 FOUND 5/8" IR W/PC "WELLS" [FLUSH] PER REF (19)  | M22 FOUND 5/8" IR W/PC "OTAK" PER "CRYSTAL TERRACE" [FLUSH]  |
| M10 FOUND 3-1/4" BRONZE CAP SET IN CONCRETE FOR 1/4 CORNER BETWEEN SECTIONS 35 & 36 [FLUSH] PER USBT 2007-091 AND REF (14)                      | M23 FOUND 5/8" IR PER REF (4) [FLUSH]  |
| M11 FOUND 5/8" IR W/PC "WELLS" PER "BARRINGTON HEIGHTS IV" [UP 1/2"] N73°14'E 0.20'   | M24 FOUND 5/8" IR W/PC "OTAK" PER "CRYSTAL TERRACE" [FLUSH]  |
| M12 FOUND 5/8" IR PER REF 3, 4) [UP 1/2"]   | M25 FOUND 2" ALUMINUM CAP PER "CRYSTAL TERRACE" [FLUSH]  |
| M13 FOUND 5/8" IR W/PC "TSCS" SET IN SN# 2011-170   | M26 FOUND 5/8" IR PER "CRYSTAL TERRACE"  |
|   | M27 FOUND 1" BERNTSTEN BRONZE PLUG "TSCS" SET IN SN#2011-170.  |
|   | M28 FOUND 1" BERNTSTEN BRONZE PLUG "TSCS" SET IN SN# 2011-170.                                       |



# TERESA'S VINEYARD

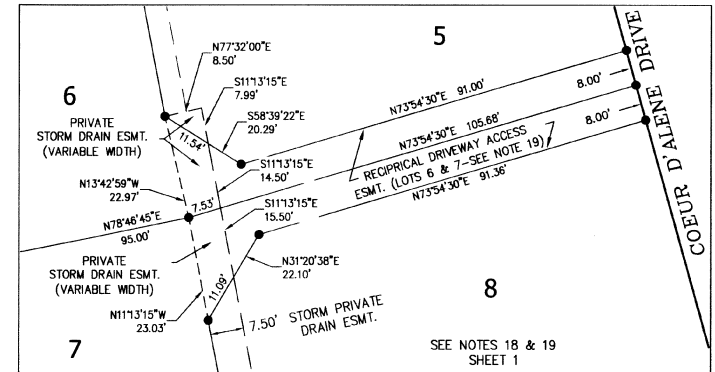
BEING A REPLAT OF A PORTION OF LOTS 15 AND 16, BLAND ACRES,  
PLAT NO. 304, LOCATED IN THE NE 1/4 AND THE SE 1/4 SEC. 35, T2S, R1E, W.M.  
CITY OF WEST LINN, CLACKAMAS COUNTY, OREGON  
CITY OF WEST LINN FILE NO. SUB-07-02/NDW-07-02/VAR-07-01  
SURVEYED: DECEMBER, 2011



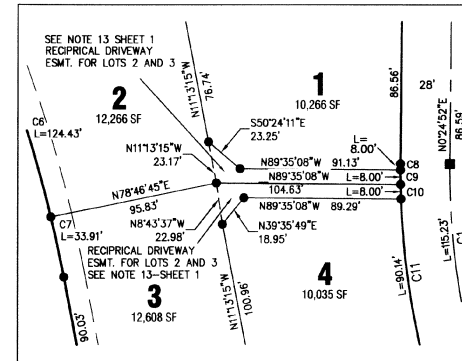
TRACTS "D" & "E" DETAIL  
SCALE: 1"=30'

CENTERLINE CURVE TABLE					
CURVE #	DELTA	RADIUS	LENGTH	CHORD BEARING	CHORD
C1	16°30'22"	400.00'	115.234'	S75°00'19"E	114.84'
C2	16°25'33"	185.00'	53.037'	N75°43'37"W	52.86'
C3	79°25'08"	116.86'	161.982'	S3°59'44"W	149.32'
C4	36°05'50"	185.00'	116.553'	N17°39'55"W	114.63'
C5	97°49'55"	140.00'	239.048'	N49°17'57"E	211.05'

RIGHT-OF-WAY CURVE TABLE					
CURVE #	DELTA	RADIUS	LENGTH	CHORD BEARING	CHORD
C23	1°32'00"	157.00'	36.541'	N29°02'47"W	36.46'
C24	22°45'43"	157.00'	62.372'	N10°59'52"W	61.96'
C25	18°36'20"	213.00'	69.167'	N85°51'00"W	68.86'
C26	17°29'30"	213.00'	65.026'	N26°58'05"W	64.77'
C27	100°36'03"	88.86'	156.022'	S14°35'12"W	136.74'
C28	65°22'12"	118.00'	134.629'	N33°04'06"E	127.44'
C29	32°27'42"	86.00'	48.725'	N81°59'04"E	48.08'
C30	4°31'42"	168.00'	13.278'	N2°38'51"E	13.27'
C31	55°58'03"	162.00'	158.244'	N33°03'49"E	152.03'
C32	37°10'04"	100.00'	64.870'	N79°37'52"E	63.74'



RECIPROCAL DRIVEWAY ACCESS & PRIVATE STORM DRAIN EASEMENT DETAIL  
SCALE: 1"=20'

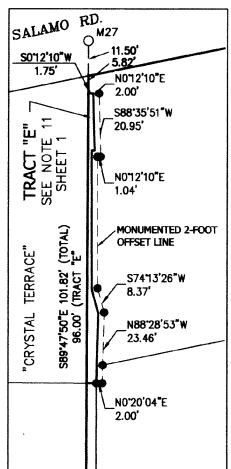


RECIPROCAL DRIVEWAY ACCESS EASEMENT DETAIL  
SCALE: 1"=50'

WETLAND MITIGATION CURVE TABLE					
CURVE #	DELTA	RADIUS	LENGTH	CHORD BEARING	CHORD
C33	9°26'33"	84.68'	13.956'	S77°54'03"E	13.94'
C34	25°05'07"	61.98'	27.136'	N6°70'28"W	26.92'
C35	41°30'23"	86.77'	62.855'	S82°39'09"E	61.49'

## LEGEND

- SET 5/8"x30" IRON ROD WITH YELLOW PLASTIC CAP MARKED "TSCS" - SET NOVEMBER & DECEMBER, 2011
- SET 5/8"x30" IRON ROD WITH 1-1/2" ALUMINUM CAP MARKED "TSCS" FLUSH IN PAVEMENT
- SET 5/8"x30" IRON ROD WITH 1-1/2" ALUMINUM CAP MARKED "TSCS" IN MONUMENT BOX
- FOUND MONUMENT AS NOTED
- FOUND QUARTER CORNER - 3-1/4" BRONZE CAP
- FOUND
- IRON ROD
- IRON PIPE
- IRON BAR
- YELLOW PLASTIC CAP
- ORANGE PLASTIC CAP
- CLACKAMAS COUNTY SURVEY RECORD
- EASEMENT
- PUBLIC UTILITY EASEMENT
- THE SAUNDERS COMPANY SURVEY



TRACT "E" - 2' OFFSET MONUMENT DETAIL  
SCALE: 1"=30'

01/11/12  
REGISTERED  
PROFESSIONAL  
LAND SURVEYOR  
*Shaun A. Saunders*  
OREGON  
JULY 16, 1987  
THEODORE G. LAMBERT  
2294  
RENEWES: 12-31-2012

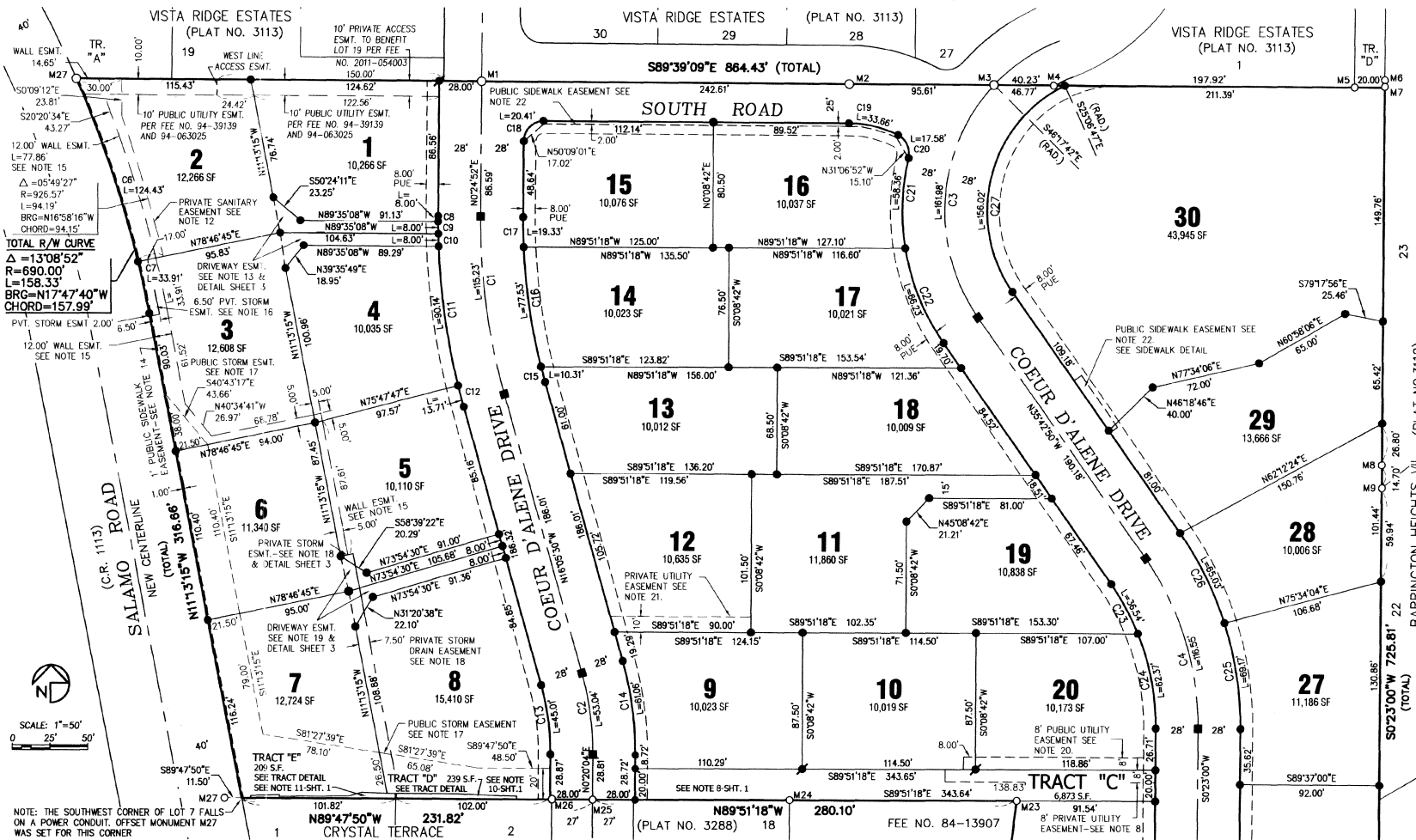
## The Saunders Company Inc.

SURVEY DIVISION  
901 N. BRITISH ST., SUITE#201  
NEWBERG, OREGON 97132  
TEL: 503-537-9347 FAX: 503-554-9107  
WWW.THESAUNDERSCOMPANY.NET

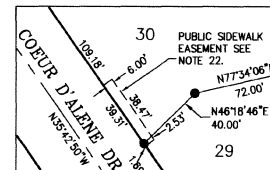
# TERESA'S VINEYARD

BEING A REPLAT OF A PORTION OF LOTS 15 AND 16, BLAND ACRES,  
PLAT NO. 304, LOCATED IN THE NE 1/4 AND THE SE 1/4 SEC. 35, T2S, R1E, W.M.  
CITY OF WEST LINN, CLACKAMAS COUNTY, OREGON  
CITY OF WEST LINN FILE NO. SUB-07-02/NDW-07-02/VAR-07-01  
SURVEYED: DECEMBER, 2011

BOOK 142 PAGE 021  
RECORDED AS DOCUMENT No. 2012-1405  
PLAT NO. 4339



M6 FOUND 5/8" IR W/ YPC "WCI" PER REF (6) [FLUSH]  
N00°23'E 0.52'  
M7 FOUND 5/8" IR W/ YPC "KAMPE" PER "VISTA RIDGE ESTATES" [FLUSH]  
S89°39'E 0.11'



LOTS 29 & 30  
SIDEWALK DETAIL  
SCALE: 1"=50'

## LEGEND

- - SET 5/8"x30" IRON ROD WITH YELLOW PLASTIC CAP MARKED "TSCS" - SET NOVEMBER & DECEMBER, 2011
- - SET 5/8"x30" IRON ROD WITH 1-1/2" ALUMINUM CAP MARKED "TSCS" FLUSH IN PAVEMENT
- - SET 5/8"x30" IRON ROD WITH 1-1/2" ALUMINUM CAP MARKED "TSCS" IN MONUMENT BOX
- - FOUND MONUMENT AS NOTED
- △ - FOUND QUARTER CORNER - 3-1/4" BRONZE CAP
- FND - FOUND
- IR - IRON ROD
- IP - IRON PIPE
- IB - IRON BAR
- YPC - YELLOW PLASTIC CAP
- OPC - ORANGE PLASTIC CAP
- SN# - CLACKAMAS COUNTY SURVEY RECORD
- ESMT - EASEMENT
- PUE - PUBLIC UTILITY EASEMENT
- TSC - THE SAUNDERS COMPANY SURVEY

SEE SHEET 3

CURVE #	DELTA	RADIUS	LENGTH	CHORD BEARING	CHORD
C1	16°30'22"	400.00'	115.234'	S75°09'E	114.84'
C2	16°25'33"	185.00'	53.037'	N7°52'43"W	52.86'
C3	79°25'08"	116.86'	161.982'	S3°59'44"W	149.32'
C4	36°05'50"	185.00'	116.553'	N17°39'55"W	114.63'
C5	97°49'55"	140.00'	239.048'	N45°17'57"E	211.05'
C6	10°19'56"	690.00'	124.428'	N19°12'08"W	124.26'
C7	2°48'56"	690.00'	33.907'	N12°37'43"W	33.90'
C8	0°27'40"	428.00'	3.444'	S01°10'2"W	3.44'
C9	1°04'16"	428.00'	8.001'	S0°34'56"E	8.00'
C10	1°04'18"	428.00'	8.005'	S1°39'13"E	8.01'
C11	12°03'59"	428.00'	90.136'	S81°13'21"E	89.97'

CURVE #	DELTA	RADIUS	LENGTH	CHORD BEARING	CHORD
C12	1°50'09"	428.00'	13.714'	S15°02'25"E	13.71'
C13	16°25'33"	157.00'	45.010'	N7°52'43"W	44.86'
C14	16°25'33"	213.00'	61.064'	N7°52'43"W	60.86'
C15	1°35'16"	372.00'	10.309'	S15°17'52"E	10.31'
C16	11°56'28"	372.00'	77.526'	S8°32'00"E	77.39'
C17	2°58'39"	372.00'	19.332'	S1°04'28"E	19.33'
C18	8°55'59"	130.00'	20.405'	S45°22'51"W	18.37'
C19	25°42'58"	75.00'	33.662'	N76°47'40"W	33.38'
C20	77°29'58"	13.00'	17.584'	N25°11'12"W	16.27'
C21	23°04'59"	144.86'	58.360'	S20°11'18"W	57.97'
C22	26°11'38"	144.86'	66.226'	S22°37'01"E	65.65'

CURVE #	DELTA	RADIUS	LENGTH	CHORD BEARING	CHORD
C23	13°20'07"	157.00'	36.541'	N29°02'47"W	36.46'
C24	22°45'45"	157.00'	62.372'	N10°59'52"W	61.96'
C25	18°36'20"	213.00'	69.167'	N8°55'10"W	68.86'
C26	17°29'30"	213.00'	65.026'	N26°58'05"W	64.77'
C27	100°36'03"	88.86'	156.022'	S14°35'12"W	136.74'
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C32	37°10'04"	100.00'	64.870'	N79°37'52"E	63.74'

01/11/12  
REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Theodore G. Lambert*  
OREGON  
JULY 16, 1987  
THEODORE G. LAMBERT  
2294

**The Saunders Company Inc.**

SURVEY DIVISION  
901 N. BRUTSCHER ST., SUITE#201  
NEWBERG, OREGON 97132  
TEL: 503-537-9347 FAX: 503-554-9107  
WWW.THESAUNDERSCOMPANY.NET

RENEWS: 12-31-2012

SHEET 2 OF 4

JOB NO. 9130

# TERESA'S VINEYARD

BEING A REPLAT OF A PORTION OF LOTS 15 AND 16, BLAND ACRES, PLAT NO. 304, LOCATED IN THE NE 1/4 AND THE SE 1/4 SEC. 35, T2S, R1E, W.M.  
CITY OF WEST LINN, CLACKAMAS COUNTY, OREGON  
CITY OF WEST LINN FILE NO. SUB-07-02/NDW-07-02/VAR-07-01  
SURVEYED: DECEMBER, 2011

**DECLARATION:**

KNOW ALL MEN BY THESE PRESENTS: THAT TV 29 L.L.C., AN OREGON LIMITED LIABILITY COMPANY, AND JEFFERY D. SMITH AND TERESA D. SMITH, AS TENANTS BY THE ENTIRETY, AS OWNERS OF THE LANDS HEREIN DESCRIBED IN THE SURVEYOR'S CERTIFICATE AND DO HEREBY DECLARE THE ANNEXED MAP OF "TERESA'S VINEYARD" TO BE A TRUE AND ACCURATE PLAT THEREOF AND HAVE CAUSED THE SAME TO BE SURVEYED AND PLATTED INTO LOTS AND TRACTS IN ACCORDANCE WITH THE PROVISIONS OF O.R.S. CHAPTER 92 AND HEREBY DEDICATE ALL RIGHTS-OF-WAY AS SHOWN HEREON TO THE PUBLIC, AND HEREBY GRANT ALL EASEMENTS AS SHOWN OR NOTED ON SAID MAP. THERE ARE ADDITIONAL RESTRICTIONS NOTED ELSEWHERE ON THIS PLAT.

THE DECLARANT MAKES NO CLAIM TO LANDS BEYOND THE PLAT AS MONUMENTED AND DESCRIBED IN THE SURVEYOR'S CERTIFICATE.

TV 29, LLC

BY: OAKRIDGE ESTATES DEVELOPMENT CORP., MEMBER OF TV 29, L.L.C.

Jeffery D. Smith  
JEFFERY D. SMITH, PRESIDENT OF OAKRIDGE ESTATES DEVELOPMENT CORP.

Jeffery D. Smith  
J. T. SMITH COMPANIES, MANAGING MEMBER OF TV 29, L.L.C.

Jeffery D. Smith  
JEFFERY D. SMITH, PRESIDENT OF J. T. SMITH COMPANIES

Jeffery D. Smith & Teresa D. Smith  
JEFFERY D. SMITH & TERESA D. SMITH, FEE OWNERS INSTRUMENT NO. 95-14166

**ACKNOWLEDGMENTS**

STATE OF OREGON

COUNTY OF CLACKAMAS

S.S.

THIS DECLARATION WAS ACKNOWLEDGED BEFORE ME ON JANUARY 11

2012 BY JEFFERY D. SMITH, PRESIDENT, OAKRIDGE ESTATES DEVELOPMENT CORP., AN OREGON CORPORATION, AS MANAGING MEMBER OF TV 29, LLC, AN OREGON LIMITED LIABILITY COMPANY ON BEHALF OF THE COMPANY.

NOTARY PUBLIC - OREGON

PRINT NAME

COMMISSION NO. 463282MY COMMISSION EXPIRES: November 02, 2015

STATE OF OREGON

COUNTY OF CLACKAMAS

S.S.

THIS DECLARATION WAS ACKNOWLEDGED BEFORE ME ON January 11<sup>th</sup>

2012 BY JEFFERY D. SMITH, PRESIDENT OF J. T. SMITH COMPANIES (MANAGER OF TV 29 LLC)

NOTARY PUBLIC - OREGON

PRINT NAME

COMMISSION NO. 463282MY COMMISSION EXPIRES: November 02, 2015

STATE OF OREGON

COUNTY OF CLACKAMAS

S.S.

THIS DECLARATION WAS ACKNOWLEDGED BEFORE ME ON January 11<sup>th</sup>

2012 BY JEFFERY D. SMITH AND TERESA D. SMITH, PERSONALLY AS OWNERS OF THE PROPERTY DESCRIBED IN INSTRUMENT NO. 95-14166.

NOTARY PUBLIC - OREGON

PRINT NAME

COMMISSION NO. 463282MY COMMISSION EXPIRES: November 02, 2015**SURVEYOR'S CERTIFICATE:**

I, THEODORE G. LAMBERT, HEREBY CERTIFY THAT I HAVE CORRECTLY SURVEYED AND MARKED WITH PROPER MONUMENTS AS NOTED HEREON, ALL BOUNDARY CORNERS REPRESENTED ON THE ACCOMPANYING PLAT OF "TERESA'S VINEYARD", BEING A REPLAT OF A PORTION OF LOTS 15 AND 16, "BLAND ACRES" (PLAT NO. 304) LOCATED IN THE NORTHEAST QUARTER AND SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 2 SOUTH, RANGE 1 EAST, W.M. AND BEING DESCRIBED AS FOLLOWS:

BEGINNING AT THE INITIAL POINT, A 5/8" IRON ROD MARKING THE SOUTHEAST CORNER OF LOT 12, "CRYSTAL TERRACE", PLAT NO. 3288, CLACKAMAS COUNTY PLAT RECORDS; THENCE NORTH 00°01'44" EAST ALONG THE MOST EASTERLY LINE OF SAID CRYSTAL TERRACE 209.10 FEET TO AN ANGLE POINT; THENCE NORTH 07°23'05" EAST ALONG SAID EASTERLY LINE AND THE EAST LINE OF THE TRACT OF LAND DESCRIBED IN FEE NO. 84-13907, CLACKAMAS COUNTY DEED RECORDS, A DISTANCE OF 365.52 FEET TO THE NORTHEAST CORNER OF SAID TRACT DESCRIBED IN FEE NO. 84-13907; THENCE NORTH 89°51'18" WEST ALONG THE NORTH LINE OF SAID TRACT AND THE NORTHERLY LINE OF SAID "CRYSTAL TERRACE" 280.10 FEET TO THE CENTERLINE TERMINUS OF COEUR D'ALENE DRIVE AS SHOWN ON SAID PLAT; THENCE CONTINUING ALONG THE NORTH LINE OF SAID "CRYSTAL TERRACE" NORTH 89°47'50" WEST 231.82 FEET TO THE EASTERLY RIGHT OF WAY LINE OF SALAMO ROAD AS DESCRIBED IN THE DEDICATION DEED TO CLACKAMAS COUNTY RECORDED AS FEE NO. 2008-067685, SAID COUNTY DEED RECORDS; THENCE NORTH 11°31'51" WEST ALONG SAID EASTERLY RIGHT OF WAY LINE 316.66 FEET TO A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 690.00 FEET; THENCE ALONG SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 13°08'52" AN ARC DISTANCE OF 158.33 FEET (THE CHORD OF WHICH BEARS NORTH 17°47'40" WEST 157.99 FEET) TO THE SOUTHWEST CORNER OF "VISTA RIDGE ESTATES", PLAT NO. 3113, SAID COUNTY PLAT RECORDS; THENCE SOUTH 89°39'09" EAST ALONG THE SOUTH LINE OF SAID "VISTA RIDGE ESTATES" 864.43 FEET TO THE SOUTHEAST CORNER OF SAID "VISTA RIDGE ESTATES", SAID POINT ALSO BEING ON THE WEST LINE OF "BARRINGTON HEIGHTS VII", PLAT NO. 3112, SAID COUNTY PLAT RECORDS; THENCE SOUTH 00°23'00" WEST ALONG SAID WEST LINE OF "BARRINGTON HEIGHTS VII" AND "BARRINGTON HEIGHTS IV", PLAT NO. 2858, SAID COUNTY PLAT RECORDS, 725.81 FEET TO A 3-1/4" BRONZE CAP MARKING THE QUARTER CORNER BETWEEN SECTIONS 35 AND 36; THENCE SOUTH 00°07'00" WEST ALONG THE WEST LINE OF SAID "BARRINGTON HEIGHTS IV" A DISTANCE OF 177.66 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY OF HASKINS LANE; THENCE SOUTH 65°27'20" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY 304.61 FEET TO AN ANGLE POINT; THENCE NORTH 81°43'27" WEST 7.46 FEET TO THE SOUTHEAST CORNER OF SAID "CRYSTAL TERRACE" AND SAID INITIAL POINT.

CONTAINING 11.59 ACRES, MORE OR LESS.

**CONSENT AFFIDAVITS:**

A SUBDIVISION CONSENT AFFIDAVIT FROM M & T BANK, A TRUST DEED BENEFICIARY PER INSTRUMENT NO. 2012-001402, AND HAS BEEN RECORDED AS DOCUMENT NO. 2011-047084, CLACKAMAS COUNTY DEED RECORDS.

A SUBDIVISION CONSENT AFFIDAVIT FROM KEY BANK NATIONAL ASSOC., A TRUST DEED BENEFICIARY PER INSTRUMENT NO. 2007-105141, AND HAS BEEN RECORDED AS DOCUMENT NO. 2012-001403, CLACKAMAS COUNTY DEED RECORDS.

A SUBDIVISION CONSENT AFFIDAVIT FROM JTMN INVESTMENTS, L.L.C., A TRUST DEED BENEFICIARY PER INSTRUMENT NO. 2011-047985, AND HAS BEEN RECORDED AS DOCUMENT NO. 2012-001404, CLACKAMAS COUNTY DEED RECORDS.

**RELEASE OF EXISTING EASEMENTS:**

ALL DOCUMENTS LISTED BELOW REFER TO CLACKAMAS COUNTY DEED RECORDS.

THE EASEMENTS LISTED IN DOCUMENT NOS. 1991-005176, 1991-008345 AND 1992-055742 AND RE-RECORDED AS DOCUMENT NOS. 1994-046028, 1994-039138 AND 1994-063024 HAVE BEEN RELEASED PER DOCUMENT NO. 2012-001406

THE EASEMENT LISTED IN DOCUMENT NO. 83-37829 HAS BEEN RELEASED PER DOCUMENT NO. 2012-001407

THE EASEMENTS LISTED IN DOCUMENT NOS. 94-29826, 94-29827, 2004-096720 AND 2004-096721 HAVE BEEN RELEASED PER DOCUMENT NO. 2012-001408

THE 50-FOOT ROAD EASEMENT PORTION LISTED IN DOCUMENT NO. 95-14166 HAS BEEN RELEASED PER DOCUMENT NO. 2012-001409

**EASEMENTS PER COVENANTS, CONDITIONS & RESTRICTIONS:**

SECTION 3.4.1.1 - LOT 2 AND 3 SHARED DRIVEWAY  
SECTION 3.4.1.2 - LOT 6 AND 7 SHARED DRIVEWAY  
SECTION 3.4.2 - EASEMENT FOR TRACTS  
SECTION 3.4.3 - EASEMENTS RESERVED BY DECLARANTS  
SECTION 3.4.4 - ADDITIONAL EASEMENT  
SECTION 3.4.5 - ASSOCIATION EASEMENTS  
SECTION 3.4.5.1 - RETAINING WALL EASEMENT  
SECTION 3.4.6 - EASEMENT TO GOVERNMENT ENTITIES  
SECTION 3.4.7 - ENTRY AND IDENTIFICATION MONUMENTS  
SECTION 3.4.8 - FENCING AND DECORATIVE MASONRY  
SECTION 3.4.9 - DRAINAGE LINES  
SECTION 3.4.10 - MAINTENANCE EASEMENT

**CITY OF WEST LINN APPROVALS:**APPROVED THIS 12<sup>th</sup> OF January, 2012

CITY OF WEST LINN PLANNING DIRECTOR

APPROVED THIS 12<sup>th</sup> OF January, 2012

CITY OF WEST LINN CITY ENGINEER

**CLACKAMAS COUNTY APPROVALS:**APPROVED THIS 12<sup>th</sup> OF JANUARY, 2012

Carl R. Plante  
CLACKAMAS COUNTY SURVEYOR, AND CLACKAMAS COUNTY BOARD OF COMMISSIONERS DELEGATE PER COUNTY CODE CHAPTER 11.02

ALL TAXES, FEES, ASSESSMENTS OR OTHER CHARGES AS PROVIDED BY O.R.S. 92.095 HAVE BEEN PAID THROUGH

JULY 2012

APPROVED: 12<sup>th</sup> January, 2012

CLACKAMAS COUNTY ASSESSOR &amp; TAX COLLECTOR

BY: Bh Bleing  
DEPUTY

STATE OF OREGON

COUNTY OF CLACKAMAS

S.S.

I DO HEREBY CERTIFY THAT THE ATTACHED PLAT WAS RECEIVED FOR RECORD ON THE 12<sup>th</sup> DAY OF January, 2012  
AT 3:26 O'CLOCK P.M.

AS PLAT NO. 4339DOCUMENT NO. 2012-1405

SHERRY HALL, CLACKAMAS COUNTY CLERK

BY: Lina J Garboe  
DEPUTY

01/11/12  
REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

OREGON  
JULY 16, 1987  
THEODORE G. LAMBERT  
2294

RENEWES: 12-31-2012

**The Saunders Company Inc.**

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SHEET 4 OF 4

JOB NO. 9130



**CITY OF WEST LINN  
PLANNING COMMISSION MINUTES**

**Thursday, June 28, 2007**

Members present: Chair Michael Jones, Vice Chair Michael Babbitt and Commissioners Bob Martin, Michael Bonoff and Michelle Wittenbrink

Staff present: Bryan Brown, Planning Director; Tom Soppe, Associate Planner; Dennis Wright, Acting City Engineer; Shaun Rohret, Engineering Department; and William Monahan, Ramis Crew Corrigan, LLP, City Attorney

Members absent: Commissioners Paul Fisher and John Kovash

**CALL TO ORDER**

Chair Michael Jones called the Planning Commission meeting to order at 7:30 p.m.

**APPROVAL OF MINUTES**

**Commissioner Martin moved to approve the Minutes of May 17, 2007 and May 31, 2007. Commissioner Bonoff seconded the motion and it passed 4:0.**

**PUBLIC COMMENTS (None)**

**PUBLIC HEARINGS**

(Note: Full copies of the staff reports and all related documents for the hearings on the agenda are available for review through the Planning Department.)

**PUD-07-01/SUB-07-03/NDW-07-03/VAR-07-02/ZC-07-01, 84-Lot PUD, Subdivision 945 Dollar Street** (Continued from May 31, 2007).

The applicant had submitted a request to continue the hearing to July 26, 2007. **Commissioner Bonoff moved to continue PUD-07-01/SUB-07-03/NDW-07-03/VAR-07-02/ZC-07-01 to July 26, 2007. Commissioner Martin seconded the motion and it passed 4:0.**

=====

**SUB-07-02/NDW-07-02/VAR-07-01, 30-Lot Subdivision 23535 Salamo Road** (Continued from May 10, 2007)

Chair Jones opened the public hearing, explained the applicable criteria and procedure, and announced the time limits for testimony. He asked the Commissioners to declare any conflict of interest, bias, or ex parte contacts (including site visits). Commissioner Wittenbrink recused herself because the applicant was her employer. The other Commissioners present each reported they had driven or walked around the site. When invited by the Chair, no one in the audience challenged the authority of the Planning Commission or the ability of any individual Commissioner to hear the matter.

*Staff Report*

**Tom Soppe, Associate Planner**, presented the staff report (See Planning & Building Department Staff Report dated April 25, 2007; and staff memorandums dated June 18 and June 25, 2007). He pointed out the existing house that was to remain on the site, the stubbed streets (Coeur d'Alene and Vista Ridge Drives) that were to be extended, and the location of natural resources. He explained a Drainageway going under Coeur d'Alene Drive had been legally piped when the site was under county jurisdiction, so it was exempt from Chapter 32 provisions but should be re-piped due to capacity issues. He reported that the staff recommended that the applicant be required to construct a trail connecting the Open Space to an existing trail on the Haskins Lane right-of-way, but they did not recommend another trail between Coeur d'Alene Drive and a Crescent Drive trail right-of-way that had never been built because it would have to be routed over other properties and through the pool or patio of the existing house. He explained the Public Works Department wanted some lots reconfigured so they would not be in the Drainageway transition area, and they wanted the developer to bore, rather than dig to bury utilities where they crossed that area. He pointed out that the recommended conditions called for a storm drainage report that incorporated the suggestions of the City's consulting engineer. He explained the staff did not support the adjacent subdivision's homeowners' association position that the stubbed streets should not be extended and that the development should take access from Salamo Road, because the applicant's plan best met connectivity provisions. He recommended the Commissioners approve the application subject to the conditions recommended by the staff.

During the questioning period, Mr. Soppe said it appeared that the applicant proposed a public access and utility easement that could be used by adjacent property owners, Gary and Susie Alfson, who had written to ask for that (see their June 27, 2007 letter). He clarified that the recommended conditions of approval required a mitigation plan to address any loss of a wetland that had been constructed in 2004. When the Commissioners observed there were more technical, engineering-related conditions than they were used to seeing in such an application, the staff explained they were following new procedures that called for Planning and Engineering Department staff to work together to ensure an application was complete, and to craft conditions that would ensure the developer understood what they would be required to do in the later stages of the development process. **Dennis Wright, Acting City Engineer**, explained the recommended conditions allowed the applicant to opt to either make half street improvements or to pay into a fund intended to fix spots on Salamo Road that needed improvement. Mr. Soppe confirmed the lot re-platting called for in Condition 14 had been done, so that condition was no longer necessary. He acknowledged that recommended Condition 17 might not be necessary because it called for water facility drawings that were normally required at the construction stage of development. The Commissioners noted that recommended Condition 18 would change the configuration of some lots to preserve specific trees, but there was nothing in the record to show what that result should look like. Mr. Soppe explained that the trail recommended by the staff was not shown in the application because the applicant had not proposed it. The Commissioners wondered how much recommended Condition 16 would change the proposal after the applicant complied with it and incorporated storm drainage plan suggestions offered in a March 22, 2007 memorandum from the City's consulting engineer, Gordon Monroe. The staff pointed out the applicant's response had been submitted by Darrin Stairs, OTAK, in an April 10, 2007 memorandum, and they saw the suggested changes as changes that were normally submitted in final engineering documents later in the process, but they had been included in the conditions of

approval to ensure that no one forgot them before that time, and they assumed they were technical details that would not significantly affect the plan the Commissioners were reviewing.

*Applicant*

**Jeff Smith, 23600 Salamo Rd.**, explained he had discussed the application with his neighbors and he wanted the approval so he would know what he could do with the site as he developed it in stages over multiple years. **Michael Robinson, 1120 NW Couch St. 10<sup>th</sup> Fl., Portland, Oregon 97209-4128**, the applicant's attorney, confirmed the applicant would agree to the recommended conditions, even the ones that were related to technical issues typically resolved by engineers later in the process. He explained the applicant could not agree not to extend the stubbed streets, as Mike Riley requested in a June 20, 2007 Memorandum he submitted behalf of the Vista Ridge Estates Homeowners Association, because the City Code and regional standards called for connectivity, the Code discouraged cul-de-sacs, and the adjacent developments had been approved with the stubs in anticipation of their extension when the applicant's site developed. He noted some recommended conditions called for upgrading existing piping and installing lighting to current City standards, and they were more like technical engineering practice specifications than conditions of land use approval. He and Mr. Soppe confirmed that the applicant had already reconfigured lots as recommended Condition 14 called for, so that condition and recommended Condition 18 were no longer necessary. He noted recommended Condition 17 related to detailed construction drawings for the water detention facilities was also of a technical nature and likely not necessary at this stage of the process. He noted the applicant's engineering consultant, Darrin Stairs, OTAK, had responded to the City's consulting engineer's suggestions in his April 10, 2007 Memorandum. He noted that Mr. Stairs had addressed the issue of whether there were one or two sub-basins on the site and he had described why the applicant's drainage calculations were correct.

**Brad Kilby, OTAK, 17355 SW Boones Ferry Rd., Lake Oswego, Oregon, 97035**, the applicant's planning consultant, advised that some of the recommended conditions were related to things that were usually accomplished during the final construction stage to meet typical City engineering requirements. He explained the stubbed streets had been installed in the topography in a manner that meant the applicant had to ask for a variance to grade to extend and connect them in the safest way, and that meant they had to be above the City standard of that limited the grade to 15%. He recalled the site was not allowed to connect directly to Salamo Road. He said the applicant would provide an access and utility tract to the Alfson property line. He clarified the Army Corps of Engineers would not allow the project to impact the mitigated wetlands and utilities would be installed by boring. During the questioning period, he clarified that the proposed street slope was 18.9% which was almost as steep as several other City streets, and less than the 20% slope that some other jurisdictions allowed without a variance. Mr. Wright had left the meeting and the Planning Department staff and **Shaun Rohret, Engineering Department**, said they assumed he had reviewed and accepted Mr. Stairs' April 10, 2007 response to the City Engineering consultant's suggestions and the applicant's drainage plan. The Commissioners noted Mr. Wright had asked for more information related to drainage plans in a March 22, 2007 Memorandum. Mr. Soppe advised the Commissioners that even if the related conditions were no longer necessary, they should be left to apply in case they were necessary later in the process. **Darrin Stairs, OTAK, 17355 SW Boones Ferry Rd., Lake Oswego,**



**Oregon, 97035**, the applicant's project engineer, assured the Commissioners the technical engineering changes were items typically addressed in the final design stage and they would not significantly change the proposal. Mr. Robinson clarified that the applicant had never received a February 2, 2007 letter conveying the City's consultant's suggestions, but they had received a March 22, 2007 memorandum that also contained the suggestions and Mr. Stairs had responded to it on April 10, 2007. He noted the response was that the applicant's consultant had seen evidence that the site should be treated as one sub basin, not two, and it also addressed an issue regarding how fast the water flowed. He stressed that the applicant had incorporated the City consultant's suggestions and met Code criteria related to how water was collected and treated, thus, he had met the related recommended conditions.

#### *Proponents*

Chair Jones read aloud written comments submitted by **Alice Richmond, 3939 Parker Rd.** She wrote that she would be sad to see the vineyard lost, but she supported the application because the City would gain 30 lots in return and the related revenue to pay for schools and City services.

#### *Opponents*

**Michael Riley, 3445 Vista Ridge Dr., had submitted a June 20, 2007 Memorandum on behalf of the Vista Ridge Estates Homeowners Association.** He said he believed that almost all of the Association members supported it. He said the slope of the proposed road extension was not desirable, safe, or efficient. He said he did not believe people would use it because of the slope, unsafe intersection sight distance, and a large divot. He wanted the new subdivision to take access from Salamo Road. He described other street layouts that he thought would work better. During the questioning period, the applicant explained that the owner of the site and the City Engineer had agreed that when the site was developed the owner would close its access to Salamo Road. The staff clarified that the agreement was that closure was to happen if that driveway were not utilized. Mr. Riley said he thought the applicant could have proposed a more efficient street system. Chair Jones announced a recess at 9:00 pm and reconvened the hearing at 9:10 p. m.

**Lisa Tsukamoto, 3344 Coeur d'Alene Dr.; and Kevin and Nicole Vedder, 3549 South Rd.,** had indicated on the Testimony Form that they were opposed to the proposed layout but did not wish to testify at the hearing.

#### *Neither for nor Against*

**Gary Alfson, 3401 S Haskins Ln,** an adjacent property owner, anticipated that he could develop as many as four or five lots on his property in the future, but it would be "land locked" by the applicant's development, so he asked for vehicle and utility access to his property. He also asked that the future access be paved, as his current access was. **Mr. Robinson reported that the applicant agreed and would put in two paved vehicular access points to serve the Alfson's future subdivision and utilities, and a third easement for sanitary sewer.** He added that the applicant might even install the sanitary sewer line, if the Alfsons would pay for it. **Mr. Alfson asked for**



a specific written related condition of approval. The applicant agreed to that and Chair Jones directed the staff to craft such a condition.

#### *Rebuttal*

Mr. Robinson explained the Code required the applicant to connect the streets and the staff had specifically requested that. He said the stubbed streets were already there to extend, and the Code called for limiting driveways along arterial streets. He said the project would generate much less traffic the volume a local street was capable of handling. He said most fire districts allowed streets to slope as much as 20%. He noted the City preferred not to have cul-de-sacs. He asked for approval subject to the conditions recommended by staff and the additional condition to provide for Alfson property access. During the questioning period, the applicant's representatives clarified that the tree mitigation plan referred to removed trees with a combined total of 50 inches DBH. They agreed with Commissioner Bonoff's suggestion to add a condition that the applicant was to observe Oregon Department of Fish & Wildlife "water work periods" to protect fish. Chair Jones announced five-minute recess to allow the staff and the applicant to discuss the new access condition, and thereafter Mr. Soppe suggested the following language:

**"The applicant shall provide an additional utility easement along the northern boundary of the open space tract south of proposed lot 23. The access easements between proposed Lots 22 and 23, as well as the access utility easement along the north property line of proposed Lot 21 shall be paved with 20 feet of pavement. The applicant shall stub the utilities to the property line for Lots GA2 through GA4. For Lot GA1 the applicant shall stub utilities to the west end of the right-of-way."**

Mr. Robinson clarified for Commissioner Bonoff that if right-of-way modifications described in Mr. Kilby's June 14, 2007 letter were not approved, and additional trees were lost to right-of-way, the applicant would increase the proposed mitigation (called for by Condition 20) accordingly on a 1:1 basis.

#### *Deliberations/Motions*

Chair Jones closed the hearing to public testimony. Commissioner Martin indicated that although he would be sad to see the vineyard property developed, he could support the application. He said he had been concerned about the safety of the steep road, but heard testimony that it was within safety standards, so he could agree to that. He said he appreciated the applicant's willingness to accommodate the adjacent property owner. Vice Chair Babbitt said he still did not believe the application was complete, but the applicant had explained it well enough in his testimony that he could approve it. Commissioner Bonoff agreed with Vice Chair Babbitt's comments. He opined that the Commissioners had spent unnecessary time on drainage issues and that could have been avoided if they had been presented with related exhibits. But he said the applicant had tied up the "loose ends," and he could support the application. Chair Jones commented that the application was confusing and he agreed it should not have been necessary for the Planning Commission to spend so much time trying to understand the drainage plan.

**Commissioner Martin moved to approve SUB-07-02/NDW-07-02/VAR-07-01 subject to the conditions recommended in the staff report, but without recommended Conditions 14 and 18; with the additional condition crafted by the staff during the hearing that related to providing access to the Alfson property; and with added language in Condition 15 that limited work in the wetland to "water work periods" set by the Oregon Fish & Wildlife Department. Commissioner Bonoff seconded the motion and it passed 3:0. Chair Jones announced five-minute break and thereafter reconvened the meeting.**

=====

**MIP-07-01/NDW-07-04, 3-Lot Minor Partition, 18822 Old River Drive**

Commissioner Wittenbrink rejoined the other Commissioners and Commissioner Martin left the meeting. Chair Jones opened the public hearing, explained the applicable criteria and procedure, and announced the time limits for testimony. He asked the Commissioners to declare any conflict of interest, bias, or ex parte contacts (including site visits). The only declarations were that Commissioner Wittenbrink and Chair Jones each reported they had made a site visit. When invited by the Chair, no one in the audience challenged the authority of the Planning Commission or the ability of any individual Commissioner to hear the matter.

*Staff Report*

**Tom Soppe, Associate Planner**, presented the staff report. (See Planning & Building Department report dated June 18, 2007). He pointed out the location of the creek that ran through the site. He noted that the originally proposed configuration of the lots allowed the stems of the flags of the two rear lots to run back from Robin View Drive on each side of the front lot. However, he reported the applicant had just submitted a drawing showing that he wanted to change the stems to easements over the front lot so the rear lots would be larger and have more room for houses (see Exhibit \_\_\_\_). He said the applicant might chose to have Lots 1 and 2 share a driveway, so a house could be placed where it would not impact significant tree area. He noted that the recommended conditions of approval called for the house to be repositioned to save trees, for a slope map, and for the storm system to be redesigned to drain away from the frontage. He reported that Engineering Department staff had very recently recognized that the application proposed laterals into Robin View Drive, but they preferred that the applicant install a sewer main to serve his property. However, the Public Works Director had acknowledged that because the installation might have to be as long as 100 feet and there were other places in the City that featured that configuration of laterals, his department could accept a Planning Commission decision to allow the laterals. The Commissioners contemplated whether they should continue the hearing to allow time for submission of revised exhibits showing the changes, but they generally agreed to hear testimony that evening.

During the questioning period, Mr. Soppe clarified that the applicant had submitted a slope map, which made the application "complete," but the staff wanted one that more clearly showed grade percentages. He also clarified that with proper house placement the application could meet the provision that 20% of non-Type 1 and 2 lands with significant trees was to be preserved. He clarified that the Engineering Department would accept a condition for calling for a redesign of the storm system, and the applicant would have to submit the redesign later in the process. The



June 27, 2007

To: City of West Linn Planning Commission

From: Gary and Susie Alfson  
3401 S Haskins Lane



RE: 30 Lot Subdivision – File # SUB-07-02, VAR-07-02, NDW-07-02

We have a one acre parcel located at the inside corner of the proposed development. Two sides of our acre is immediately adjacent to the subject property. We do not have frontage on a public road way, therefore our acre is land locked by the subject property. The attached plan shows the location of our property, (Sheet C3). We are not opposed to the 30 lot subdivision. However we do have some concerns regarding the impacts of the development on our land locked parcel.

We would appreciate your consideration in including conditions to the approval of the proposed development to ensure adequate vehicular and utility access to our site, for the current configuration and for the potential future development.

The one acre is currently zoned R-7. We have shown the potential platting of this property into 4 lots designated as GA1 through GA4. Five lots are possible based on the zoning of the parcel but, due to the topography of the site and the land locked nature of the parcel, four are being shown at this time, (Sheet C6).

The proposed development has shown an access and utility tract along the entire north edge of our parcel. We request that a condition be included in the approval to allow access to this tract for future vehicular and utility access from lots GA3 and GA4 (Sheet C6). The proposed access shown to the east of our property needs to remain to provide access for our current residence and for future lots GA1 and GA2.

We request that the development of the 30 lot subdivision be conditioned to provide utility access to public sanitary sewer, storm drainage, and water services (wet utilities) to our property line. Sanitary sewer and storm drainage access need to be provided to allow gravity flow from the lowest lot GA1. These utility connections are currently being provided from the proposed access to the east between lots 22 and 23. Gravity flow for sanitary sewer and storm drainage from lot GA1 cannot be achieved at the location shown. These services need to be provided from the lower, south edge of lot GA1, (Sheet C9).

We are also requesting that power, telephone, cable TV, & Gas utility access (dry utilities) be provided to our property line. These are not shown in the drawings provided at this time.

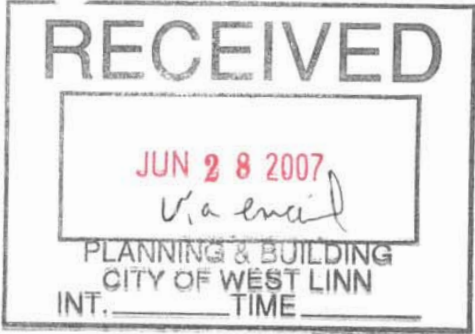
Sincerely,



Gary & Susie Alfson

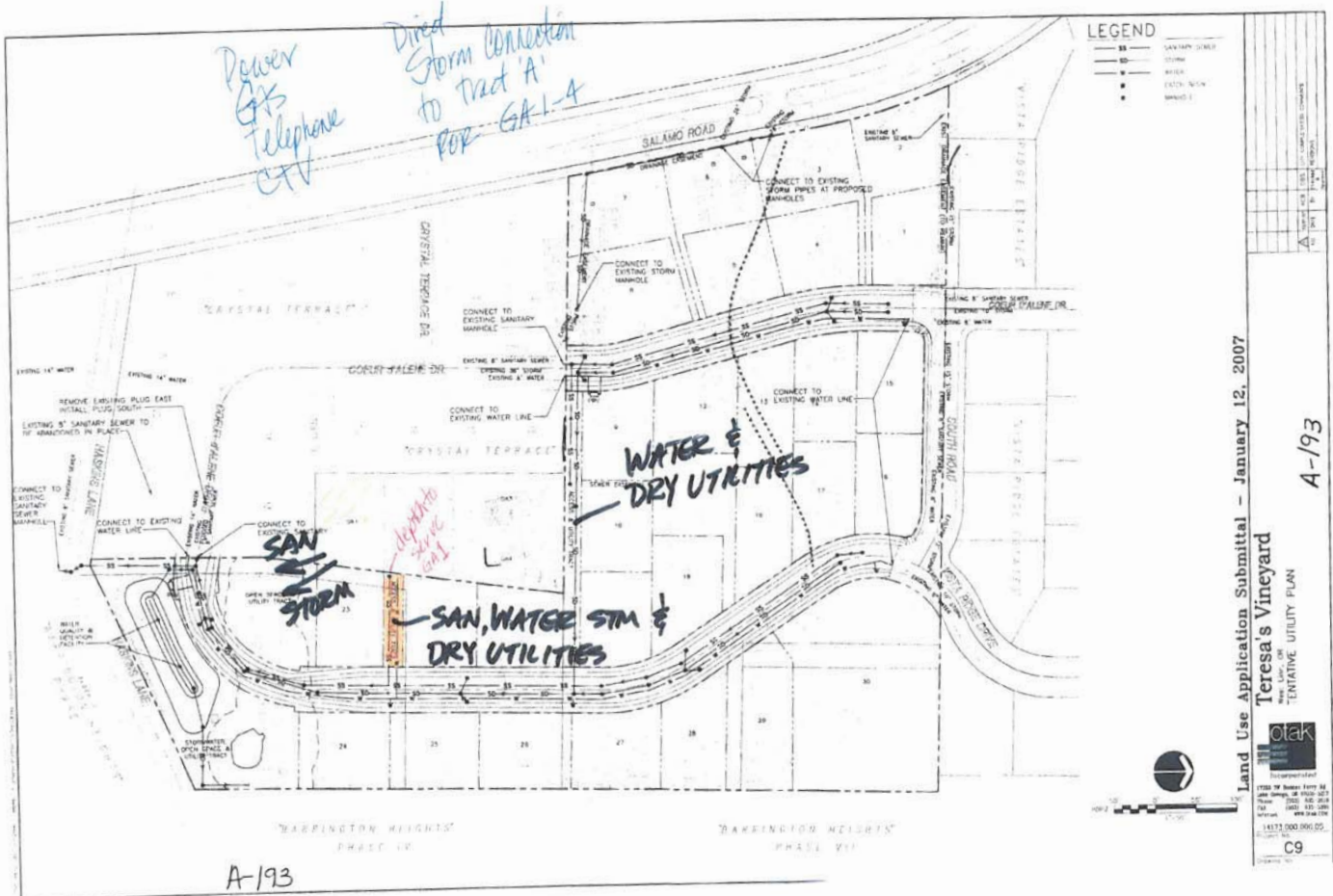
PLANNING & BUILDING  
CITY OF WEST LINN  
INT. \_\_\_\_\_ TIME \_\_\_\_\_





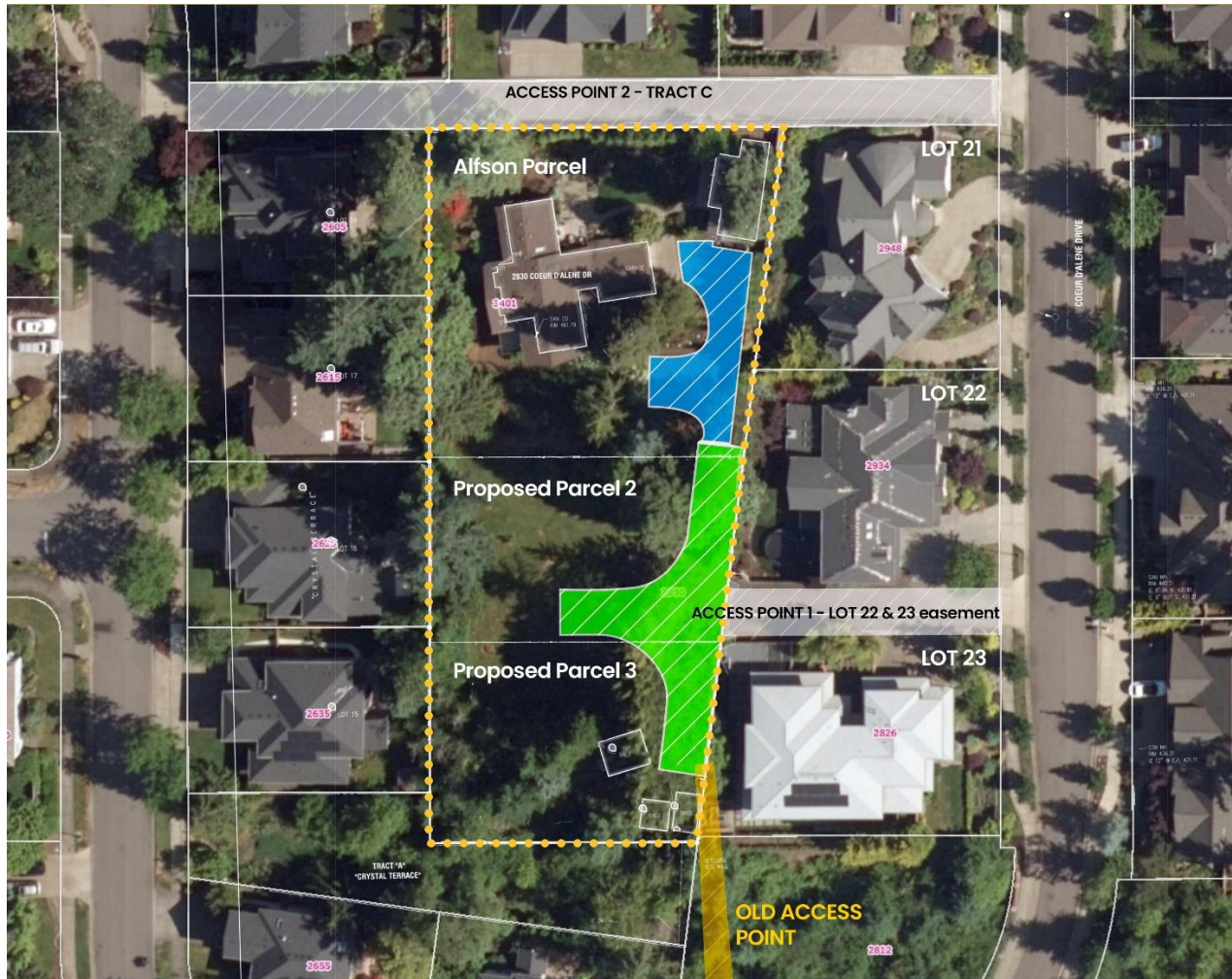


PLANNING & BUILDING  
CITY OF WEST LINN  
INT. \_\_\_\_\_ TIME \_\_\_\_\_



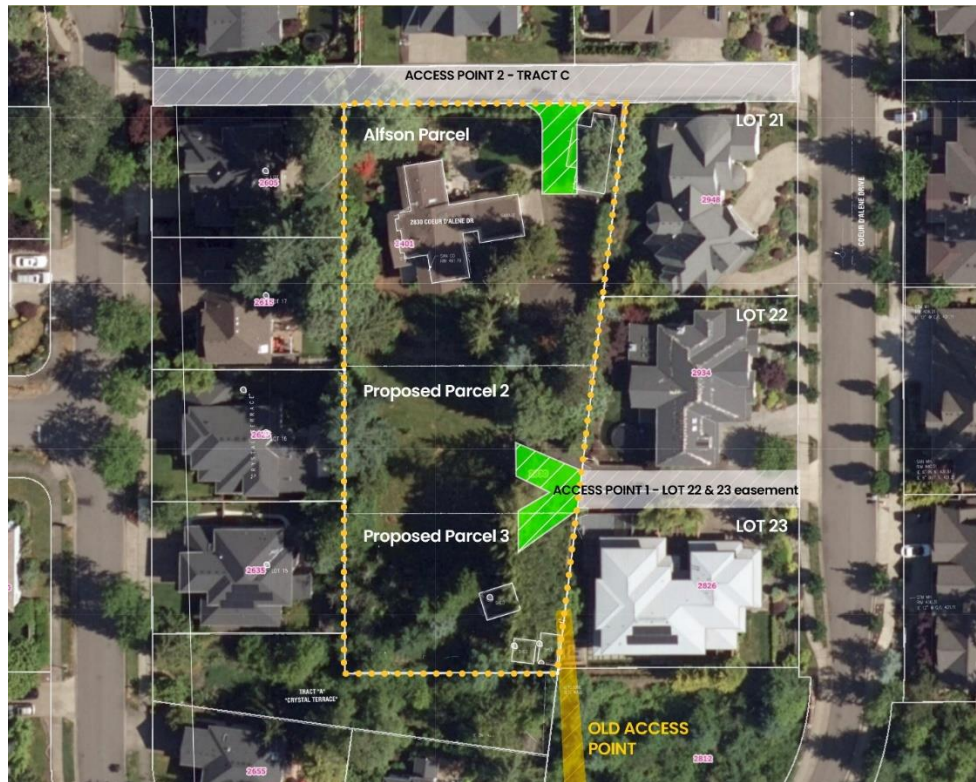
## Exhibit D

Applicant's proposed variance:





Alternative plans without need for variance:





Tract C:



Shared Access Easement between Lots 22 and 23:



038450\00001\17922727v1

**From:** Wyss, Darren <[dwyss@westlinnoregon.gov](mailto:dwyss@westlinnoregon.gov)>  
**Sent:** Friday, January 3, 2025 12:26 PM  
**To:** 'David Baker' <[dbaker97068@gmail.com](mailto:dbaker97068@gmail.com)>; Lais, Erich <[elais@westlinnoregon.gov](mailto:elais@westlinnoregon.gov)>  
**Cc:** Williams, John <[JWilliams@westlinnoregon.gov](mailto:JWilliams@westlinnoregon.gov)>; Kyle Grant <[Kyle.Grant@tonkon.com](mailto:Kyle.Grant@tonkon.com)>; David Petersen <[david.petersen@tonkon.com](mailto:david.petersen@tonkon.com)>; Klein, Kaylie <[kklein@westlinnoregon.gov](mailto:kklein@westlinnoregon.gov)>; Josh Soper <[josh.soper@behlaw.com](mailto:josh.soper@behlaw.com)>; Ashleigh Dougill <[ashleigh.dougill@behlaw.com](mailto:ashleigh.dougill@behlaw.com)>; Gudelj, Aaron <[agudelj@westlinnoregon.gov](mailto:agudelj@westlinnoregon.gov)>; 'kevin@harkerlepore.com' <[kevin@harkerlepore.com](mailto:kevin@harkerlepore.com)>  
**Subject:** RE: Request for Clarification on Access Provisions for Tract C and the Alfson Property

David,

The Final Decision and Order for SUB-07-02 includes Condition of Approval 19 providing the “access utility easement along the north property line of proposed Lot 21 shall be paved with 20 feet of pavement width”, as well as Additional Finding 3 that “all appropriate vehicular access and utility provision and access be provided by the applicant...”. CofA 19 is referring to the Access & Utility Tract depicted on the Tentative Plat approved by the Planning Commission and ultimately named “Tract C” on the final recorded plat. The meeting minutes from the public hearing also include testimony by Mr. Alfson requesting paved access to the property and the applicant’s attorney confirming that two paved access points would be provided.

With this information, yes, the City finds the Alfson property has the right to take access from Tract C that is adjacent to their north property line. Thanks.

**From:** David Baker <[dbaker97068@gmail.com](mailto:dbaker97068@gmail.com)>  
**Sent:** Thursday, January 2, 2025 4:58 PM  
**To:** Lais, Erich <[elais@westlinnoregon.gov](mailto:elais@westlinnoregon.gov)>  
**Cc:** Wyss, Darren <[dwyss@westlinnoregon.gov](mailto:dwyss@westlinnoregon.gov)>; Williams, John <[JWilliams@westlinnoregon.gov](mailto:JWilliams@westlinnoregon.gov)>; Kyle Grant <[kyle.grant@tonkon.com](mailto:kyle.grant@tonkon.com)>; David Petersen <[david.petersen@tonkon.com](mailto:david.petersen@tonkon.com)>  
**Subject:** Re: Request for Clarification on Access Provisions for Tract C and the Alfson Property

Some people who received this message don't often get email from [dbaker97068@gmail.com](mailto:dbaker97068@gmail.com). [Learn why this is important](#)

**CAUTION:** This email originated from an External source. Do not click links, open attachments, or follow instructions from this sender unless you recognize the sender and know the content is safe. If you are unsure, please contact the Help Desk immediately for further assistance.

Good evening Mr. Lais,

I hope this email finds you well. I am writing to follow up on my previous correspondence. Your clarification on this matter would be greatly appreciated.

Sincerely,

David Baker

On Fri, Dec 27, 2024 at 9:52 AM David Baker <[dbaker97068@gmail.com](mailto:dbaker97068@gmail.com)> wrote:

Dear Mr. Lais,

I hope this message finds you well. I am reaching out to seek clarification regarding the access provisions outlined in Teresa's Vineyard Plat (Clackamas County Plat No. 4339), specifically relating to Tract C and its potential use for future development. Below is a summary of the relevant details, followed by a request for confirmation regarding the City of West Linn's plans for providing access to the Alfson property.

Tract C is part of Teresa's Vineyard Plat. On January 12, 2012, the City executed a statutory bargain and sale deed for Tract C, which was recorded along with the Plat. Tract C serves various functions, including providing public pedestrian access, local access, and emergency vehicle access. Functioning as a right of way, the City maintains the 20 foot wide roadway on Tract C.

Notes and Plat Restrictions 9 on Plat No. 4339 states that "Tract C will provide access to a maximum of two future lots in the adjoining parcel to the south described in fee no 84-13907" (also known as the Alfson property).

Can you confirm if the City is willing to provide access from Tract C to one or two homes on the Alfson property as outlined in Notes and Plat Restrictions 9?

Thank you,

David Baker  
2934 Coeur D'Alene Drive  
West Linn, OR 97068

**Darren Wyss**  
*Planning Manager*  
Planning

22500 Salamo Rd.  
West Linn, Oregon 97068  
[dwyss@westlinnoregon.gov](mailto:dwyss@westlinnoregon.gov)  
[westlinnoregon.gov](http://westlinnoregon.gov)  
503-742-6064



[Click to Connect!](#)

**Attachment 4: MIP-24-02/VAR-24-05 PC Final Decision and Order**



**WEST LINN PLANNING COMMISSION  
NOTICE OF FINAL DECISION AND ORDER  
MIP-24-02 & VAR-24-05**

**IN THE MATTER OF A 3-PARCEL MINOR PARTITION AT 2830 COEUR D ALENE  
DRIVE AND A CLASS II VARIANCE PROPOSAL FOR ALLOWING MORE THAN FOUR  
LOTS TO BE SERVED FROM A PRIVATE DRIVEWAY.**

**Planning Commission Decision:** The Planning Commission has **approved** the above referenced land use application, based on the Findings and Conclusions and Conditions of Approval, stated in the staff report, except as modified herein.

**Materials: The applicant submittal and Staff Report, is available at**

- <https://westlinnoregon.gov/planning/2830-coeur-d-alene-drive-minor-partition-and-class-2-variance>

**I. Overview**

At its meeting on November 6, 2024, the West Linn Planning Commission ("Commission") held the initial evidentiary public hearing to consider the request by Gary Alfson & Susie Alfson, applicant, to approve a 3-Parcel Minor Partition at 2830 Coeur D Alene Drive and a Class II Variance to allow access from a shared driveway to more than four lots (five total lots) at 2934, 2826, 2830, Coeur D Alene Drive and the two additional lots created by the Minor Partition. The approval criteria for this proposal are Community Development Code (CDC) Chapter 12, Chapter 48, Chapter 75, Chapter 85, Chapter 92, and Chapter 99. The hearing was conducted pursuant to the provisions of CDC Chapter 99.170.

The initial evidentiary hearing commenced with a staff report presented by Aaron Gudelj, Associate Planner. The applicant(s) provided verbal testimony. Written testimony was submitted by Rich Faith and Cynthia Lacro, Rufus Timberlake & Julia Timberlake, Carlos Ugalde and Amy Ugalde, and David Baker. Oral testimony was provided at the hearing by Carlos Ugalde, Rufus Timberlake, Julia Timberlake, David Baker, and Thomas Laun. Applicant rebuttal was provided by the applicant(s). The primary concerns raised during testimony included:

- Traffic Safety
- Sharing of Access easement
- Plat notes
- Views
- Property Values
- Middle housing development on new lots

The hearing was closed, and the Commission deliberated whether the request meets the minimum necessary standards of CDC Chapter 75. A motion was made by Commissioner Evans to approve the application in accordance with the Staff Report and the recommended

conditions of approval. The motion was seconded by Chair Carr. The motion passed unanimously, 6-0 (Jones, Metlen, Walvatne, Evans, Schulte-Hillen, Carr).

## **II. The Record**

The record was finalized at the November 6, 2024 public hearing.

### **Findings of Fact**

- 1) The Overview set forth above is true and correct.
- 2) The applicant is Gary Alfson and Susie Alfson.
- 3) The Commission finds that it has received all information necessary to make a decision based on the Staff Report and attached findings; public comment; and the evidence in the whole record.

## **III. Findings**

The Commission makes this decision based on the findings described in the Staff Report and in addition to or as modified below, the submitted written comments, and evidence in the whole record. The Commission concludes that the record satisfies the Applicant's burden to prove compliance with all applicable criteria including the following:

1. CDC 48.030(D) – Commission finds the application meets Class II Variance requirements thus granting relief from this provision.
2. CDC 75.020.B.1(c) – Commission finds the physical limitations of providing access to Tract C for Parcel 1 and that the property has been surrounded by subdivision development over time, thus limiting options for access, were not created by the applicant/owner requesting the variance.
3. CDC 85.200.B.8(b) – Commission finds the City, as a public agency, cannot legally prohibit development of middle housing on the newly created parcels and that this criterion is met without the proposed condition of approval in Finding No. 109.

## **IV. Conditions of Approval**

**The Planning Commission Approves MIP 24-02/VAR-24-05 subject to the identified conditions of approval.**

**1. Site Plans.** With the exception of modifications required by these conditions, the final plat shall substantially conform to the Tentative Plan.

**2. Shared Access Agreement.** Prior to recordation of the Plat with Clackamas County the applicant shall provide a signed access and utility easement and joint maintenance agreement between all owners of property using the private driveway as access. The access and utility easement and joint maintenance agreement shall have signatures from all owners of land using the private access and shall acknowledge the total number of lots using the private access.

**3. Engineering Standards.** All public improvements and facilities associated with the approved site design, including but not limited to street improvements, driveway approaches, curb cuts, utilities, grading, onsite and offsite stormwater, street lighting, easements, easement locations, and connections for future extension of utilities are subject to conformance with the City Municipal Code and Community Development Code. The City may partner with the applicant to fund additional improvements as part of the project.

**4. Reciprocal Access and Utility Easement.** Prior to final plat approval, the applicant shall record and show on the face of the plat a 20-foot wide reciprocal access and utility easement and mutual maintenance agreement on Proposed Parcel 2 for the benefit of proposed Parcels 1 and 3. The easement will create legal access for ingress/egress and utility placement. The easement recording number shall be provided on the face of the final plat.

**V. Order**

The Commission concludes that MIP 24-02/VAR-24-05 is approved based on the Findings and Conclusions and Conditions of Approval, stated in the staff report, except as added to or modified herein.

  
\_\_\_\_\_  
JOHN CARR, CHAIR  
WEST LINN PLANNING COMMISSION

  
\_\_\_\_\_  
DATE

**APPEAL**

This decision may be appealed to the City Council pursuant to the provisions of Chapter 99 of the Community Development Code and any other applicable rules and statutes. This decision will become effective 14 days from the date of mailing of this final decision as identified below. A person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830. The decision will not become final until the period for filing a local appeal has expired.

More information about filing an appeal can be found at:

- <https://westlinnoregon.gov/planning/appeals>

Mailed this 21 day of November, 2024.

Therefore, this decision becomes effective at 5 p.m., December 4, 2024.

Contact: If you have any questions about this project, please contact Aaron Gudelj, Associate Planner, at [agudelj@westlinnoregon.gov](mailto:agudelj@westlinnoregon.gov) or (503)742-6057.



## **Attachment 5: PC Meeting Notes 11.06.2024**



**PLANNING COMMISSION**  
**Meeting Notes of November 6, 2024**

**Commissioners present:** John Carr, Joel Metlen, Gary Walvatne, David D. Jones, Kathryn Schulte-Hillen, and Jason Evans

**Commissioners Absent** Tom Watton

**Staff present:** Planning Manager Darren Wyss, Associate Planner Aaron Gudelj, Management Analyst Lynn Schroder, and City Attorney Ashley Wigod

---

The meeting video is available on the [City website](#).

**Pre-Meeting Work session**

Chair Carr reviewed the order of business for the hearing for MIP-24-02/VAR-24-05. Commissioners asked procedural questions.

**1. Call To Order and Roll Call**

Chair Carr called the meeting to order. Planning Manager Wyss called the roll.

**2. Public Comment related to Items not on the Agenda**

None.

**3. Public Hearing: MIP-24-02/VAR-24-05 (Quasi-Judicial): [Three-Parcel Minor Partition and Class II Variance to allow five single-family homes to take access from a shared private drive at 2830 Coeur D Alene Drive](#)**

Chair Carr introduced application MIP-24-02/VAR-24-05, a three-Parcel Minor Partition and Class II Variance to allow five single-family homes to take access from a shared private drive at 2830 Coeur D Alene Drive. Carr provided an overview of the hearing process and opened the public hearing.

City Attorney Wigod addressed legal standards and appeal rights. The substantive criteria for the application are Community Development Code (CDC) Chapters 12, 48, 75, 85, 92, and 99.

City Attorney Wigod addressed the Planning Commissioners' conflicts of interest, bias, ex-parte contacts, and site visits. None of the Planning Commissioners disclosed conflicts of interest, bias, or ex-parte contact. Commissioner Schulte acknowledged her familiarity with the property because of its proximity to family members. She affirmed that she could remain impartial in evaluating and deciding on the application. Chair Carr acknowledged his familiarity with the property, noting that he walks his dog in the area. He affirmed that he could remain impartial in evaluating and deciding on the application. Wigod then invited audience members to raise any objections regarding the Planning Commission's jurisdiction or any potential biases or ex-parte disclosures by the Commissioners. There was none.

Associate Planner Aaron Gudelj delivered the staff report. The applicants currently own the subject property, which includes an existing single-family home with a detached garage on a 39,636-square-foot lot located at 2830 Coeur D'Alene Drive. Access to the lot is provided via a 20-foot-wide shared private driveway that connects to Coeur D'Alene Drive through a shared access easement on Lots 22 and 23 of the Teresa's Vineyard Tract.

No physical development is being proposed for the properties. The applicant proposes to divide the existing 39,636-square-foot lot into three parcels:

- Parcel 1: 19,336 sq. ft.
- Parcel 2: 10,000 sq. ft.
- Parcel 3: 10,000 sq. ft.

Access to the new parcels would utilize the existing 20-foot shared private driveway, currently serving Lots 22 and 23 of Teresa's Vineyard Tract, along with the subject property. The proposed minor partition would increase the number of lots from one to three, with the shared driveway providing access to all newly created parcels as well as the existing single-family home.

Pursuant to the West Linn Community Development Code (CDC) Chapter 48.030(D), a residential access serving five or more lots is required to be a public street unless waived through a variance. To address this requirement, the applicant has applied for a Class II Variance requesting an exemption from the public street standards of CDC 48.030(D), allowing the shared private driveway to serve all five lots. There are no environmental overlays on the property. Tualatin Valley Fire and Rescue and has reviewed the proposed design and had no conditions to add. Gudelj recommended approval of application with four conditions of approval including a condition that the property owner obtain an access easement agreement from the affected properties owners.

Commissioners asked questions about the plat notes, the existing septic system, easement requirements, potential access via Tract C, historic development patterns and original property access, and homeowner association affiliation.

Gary Alfson, a homeowner, presented the application request. He and his wife have owned the property for 40 years. He explained that the variance to add additional lots with private driveway access is necessary due to the property's physical constraints, which make dividing it into smaller lots impossible without a variance. He emphasized that the burden was not created by them but resulted from surrounding development over time. Susie Alfson, the co-applicant, testified that they have lived in their home since 1997 and have witnessed significant development around their property. Their driveway and address were relocated to Coeur D Alene Drive with the private easement access when the Teresa's Vineyard tract was developed.

Written testimony was submitted by Rich Faith, Cynthia Lacro, Rufus Timberlake, Julia Timberlake, Carlos Ugalde, Amy Ugalde, and David Baker. Oral testimony opposing the application was presented at the hearing by Carlos Ugalde, Julia Timberlake, and David Baker. The primary concerns raised during testimony included:

- Traffic Safety & public street standards
- Sharing of Access easement
- Plat notes
- Views
- Property Values
- Middle housing development on new lots

Thomas Laun, a resident of the neighborhood, expressed his support for the application. He testified that approximately 46 homes have been constructed near the applicant's property since 1997. He highlighted that access to the applicant's property had been constrained by the surrounding developments and that this issue had already been a concern during the development of the adjacent properties.

Gary Alfson rebutted stating that the driveway easement was designed for vehicle access, not as a play area for children. He also emphasized that he is not required to maintain trees on his property for the purpose of preserving someone else's view. Additionally, he mentioned that he had discussed his variance request with all neighboring property owners and noted that most did not express any concerns.

There was a discussion about a continuance to receive written comments from the neighborhood association. It was determined that the neighborhood association had opportunity to submit comments and did not, itself, request a continuance to submit testimony.

Commissioners asked questions of staff about the criteria for a variance approval and recommended conditions. Associate Planner Gudelj provided responses.

Chair Carr closed the public hearing and open deliberations. Commissioners deliberated whether the request meets the minimum necessary standards of CDC Chapter 75.

Commissioner Evans moved to approve MIP-24-01/VAR-24-05 as presented with four conditions of approval and directed staff to prepare a Final Decision and Order based on the findings in the staff report and the record. Chair Carr seconded. **Ayes: Jones, Metlen, Evans, Schulte-Hillen, Walvatne, and Carr. Nays: Watton and Walvatne. Abstentions: None. The motion passed 6-0-0.**

#### **4. Planning Commission Announcements**

Commissioner Walvatne acknowledged the community's concerns regarding the possible closure of Bolton Primary School and suggested that it would be beneficial for the school district to offer a courtesy presentation to the Planning Commission and City Council.

Commissioner Jones provided a brief update on the VISION43 project and working group.

#### **5. Staff Announcements**

Planning Manager Wyss noted that the November 20, 2024 Planning Commission meeting is canceled. Instead, the PC will meet with the City Council in a joint meeting on November 18, 2024.

#### **6. Adjourn**

Chair Carr adjourned the meeting at 8:55pm.

**Attachment 6: AP-24-02 CC PH Affidavit and Notice Packet**



**AFFIDAVIT OF NOTICE  
CITY COUNCIL DECISION**

We, the undersigned, certify that, in the interest of the party (parties) initiating a proposed land use, the following took place on the dates indicated below:

**PROJECT**

File No.: **AP-24-02**                      Applicant's Name: **Gary Alfson & Susie Alfson**  
Development Address: 2830 Coeur D Alene Drive  
City Council Hearing Date: January 6, 2024

**MAILED NOTICE**

Notice of Upcoming CC Hearing was mailed at least 20 days before the hearing, per Section 99.080 of the CDC to:

Gary Alfson, applicant/owner	12/11/24	<i>Lynn Schroder</i>
Property owners within 500ft of the site perimeter	12/11/24	<i>Lynn Schroder</i>
Kevin Harker, applicant rep	12/11/24	<i>Lynn Schroder</i>
Neighborhood Association, Savanna Oaks	12/11/24	<i>Lynn Schroder</i>
Parties of record for MIP-24-02/VAR-24-05	12/11/24	<i>Lynn Schroder</i>

**EMAILED NOTICE**

Notice of Upcoming CC Hearing was emailed at least 20 days before the hearing date to:

Savanna Oaks Neighborhood Association	12/11/24	<i>Lynn Schroder</i>
Gary Alfson, applicant/owner	12/11/24	<i>Lynn Schroder</i>
Kevin V. Harker, applicant consultant	12/11/24	<i>Lynn Schroder</i>
David Baker	12/11/24	<i>Lynn Schroder</i>
Rich Faith	12/11/24	<i>Lynn Schroder</i>
Rufus Timberlake	12/11/24	<i>Lynn Schroder</i>

**WEBSITE**

Notice of Upcoming CC Hearing was posted on the City's website at least 20 days before the hearing.

12/11/24	<i>Lynn Schroder</i>
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**TIDINGS**

Notice of Upcoming CC Hearing was posted in the West Linn Tidings at least 10 days before the hearing, per Section 99.080 of the CDC.

12/25/24	<i>Lynn Schroder</i>
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**SIGN**

A sign for the Upcoming CC Hearing was posted on the property at least 10 days before the hearing, per Section 99.080 of the CDC.

12/20/2024	<i>Aaron Gudely</i>
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**STAFF REPORT**

The staff report was posted on the website and provided to the applicant and City Councilors at least 10 days

before the hearing, per Section 99.040 of the CDC.

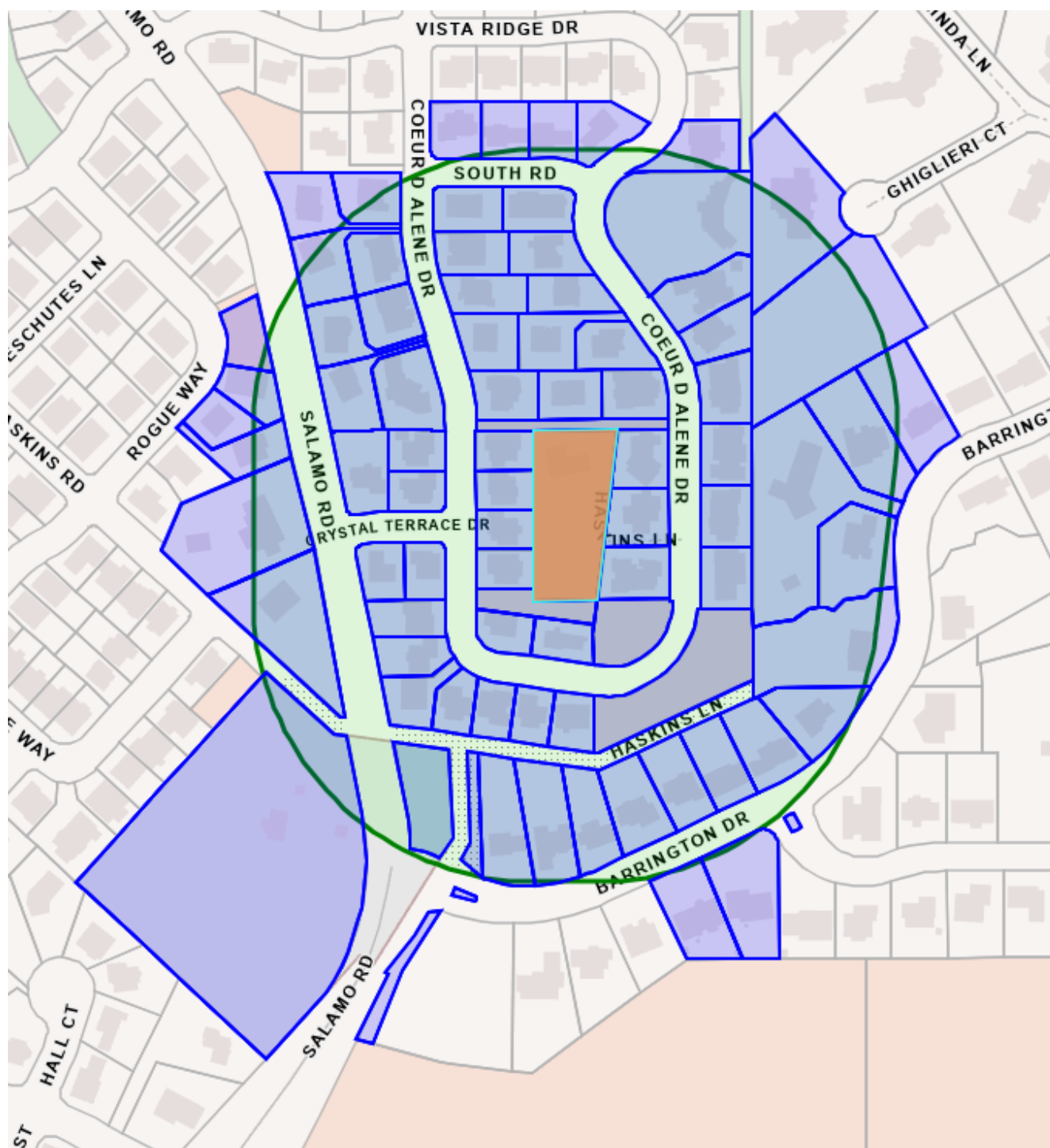
12/26/2024	<i>Lynn Schroder</i>
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**FINAL DECISION**

Notice of Final Decision was mailed to the applicant, all parties with standing, and posted on the City’s website, per Section 99.040 of the CDC.

	<i>Lynn Schroder</i>
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AP-24-02 – Notified Properties within 500 feet of 2830 Coeur d Alene Drive







**NOTICE OF UPCOMING  
CITY COUNCIL PUBLIC HEARING**

**PROJECT # AP-24-02  
MAIL: 12/17/2024 TIDINGS: 12/17/2024**

**CITIZEN CONTACT INFORMATION**

To lessen the bulk of agenda packets and land use application notice, and to address the concerns of some City residents about testimony contact information and online application packets containing their names and addresses as a reflection of the mailing notice area, this sheet substitutes for the photocopy of the testimony forms and/or mailing labels. A copy is available upon request.

**CITY OF WEST LINN CITY COUNCIL  
PUBLIC HEARING NOTICE  
FILE NO. AP-24-02**

The West Linn City Council will hold a hybrid public hearing on **Monday, January 6, 2025 at 6:00 pm** in the Council Chambers of City Hall, 22500 Salamo Road, West Linn, to consider an appeal by Gary and Susie Alfson of MIP 24-02/VAR-24-05, a Planning Commission decision for a Minor Partition requesting approval for a 3-lot Minor Partition and a Class II Variance for an exception to the minimum width required for a private access road for 5 residential units at 2830 Coeur D Alene Drive.

The appellant stated grounds for appeal pertain to Condition of Approval #2 of the Planning Commission Final Decision and Order requiring signatures of Lots 22 and 23 of the Teresa's Vineyard Subdivision for use of the shared-driveway by the newly created lots of the Minor Partition

The City Council will make decide the appeal based on applicable criteria in Community Development Code (CDC) Chapters 12, 48, 75, 85, 92, and 99. The CDC approval criteria are available for review on the City website <http://www.westlinnoregon.gov/cdc> or at City Hall and the City Library.

The appeal is a de novo hearing and not limited to the stated grounds for the appeal. City Council may consider all relevant issues. All evidence presented to the lower authority shall be considered and given equal weight as evidence presented on appeal. City Council may affirm, reverse, or modify the decision which is the subject of the appeal.

You have been notified of this appeal as required by CDC Chapter 99.140 and 99.260.

The appeal is posted on the City's website, <https://westlinnoregon.gov/projects>. The appeal application and record are available for inspection at City Hall at no cost. Copies may be obtained at a reasonable cost. The staff report will be posted on the website and available for inspection at no cost, or copies may be obtained at a reasonable cost, at least ten days before the hearing.

The hearing will be conducted according to CDC Section 99.170 in a hybrid format with some Councilors, staff, presenters, and members of the public attending remotely via Webex and others attending in-person at City Hall. The public can watch the meeting online at <https://westlinnoregon.gov/meetings> or on Cable Channel 30.

**Anyone wishing to present written testimony for consideration shall submit all material before 12:00 pm on January 6, 2025.** Written comments may be submitted to [agudelj@westlinnoregon.gov](mailto:agudelj@westlinnoregon.gov) or mailed to City Hall.

Those who wish to participate remotely should complete the speaker form at <https://westlinnoregon.gov/citycouncil/meeting-request-speak-signup> before 4:00 pm on the meeting day to receive an invitation to join the meeting. Virtual participants can log in through a computer, mobile device, or call in.

**It is important to submit all testimony in response to this notice.** All comments submitted for consideration of this appeal should relate specifically to the applicable criteria. Failure to raise an issue in a hearing, in person, or by letter, or failure to provide sufficient specificity to afford the decision-maker an opportunity to respond to the issue, precludes appeal to the Oregon Land Use Board of Appeals based on that issue.

For additional information, please contact Aaron Gudelj, Associate Planner, City Hall, 22500 Salamo Rd., West Linn, OR 97068, 503-742-6057 or [agudelj@westlinnoregon.gov](mailto:agudelj@westlinnoregon.gov).

Scan this QR Code to go to Project Web Page:



CITY OF  
**West  
Linn**

## City Council

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AP-24-02 – Appeal of Planning Commission  
Decision MIP-24-02/VAR-24-05

April 14, 2025



## AP-24-02; Appeal of MIP-24-02/VAR-24-05

- Applicant requests a 3-lot partition and a Class II Variance for use of a private shared-driveway by 5 single-family homes. (MIP-24-02/VAR-24-05)
  - Planning Commission Hearing November 6, 2024
  - Original City Council Appeal Hearing 1/6/2025.....continued to 4/14/2025





# Dates of Importance

AP-24-02; Appeal of MIP-24-02/VAR-24-05

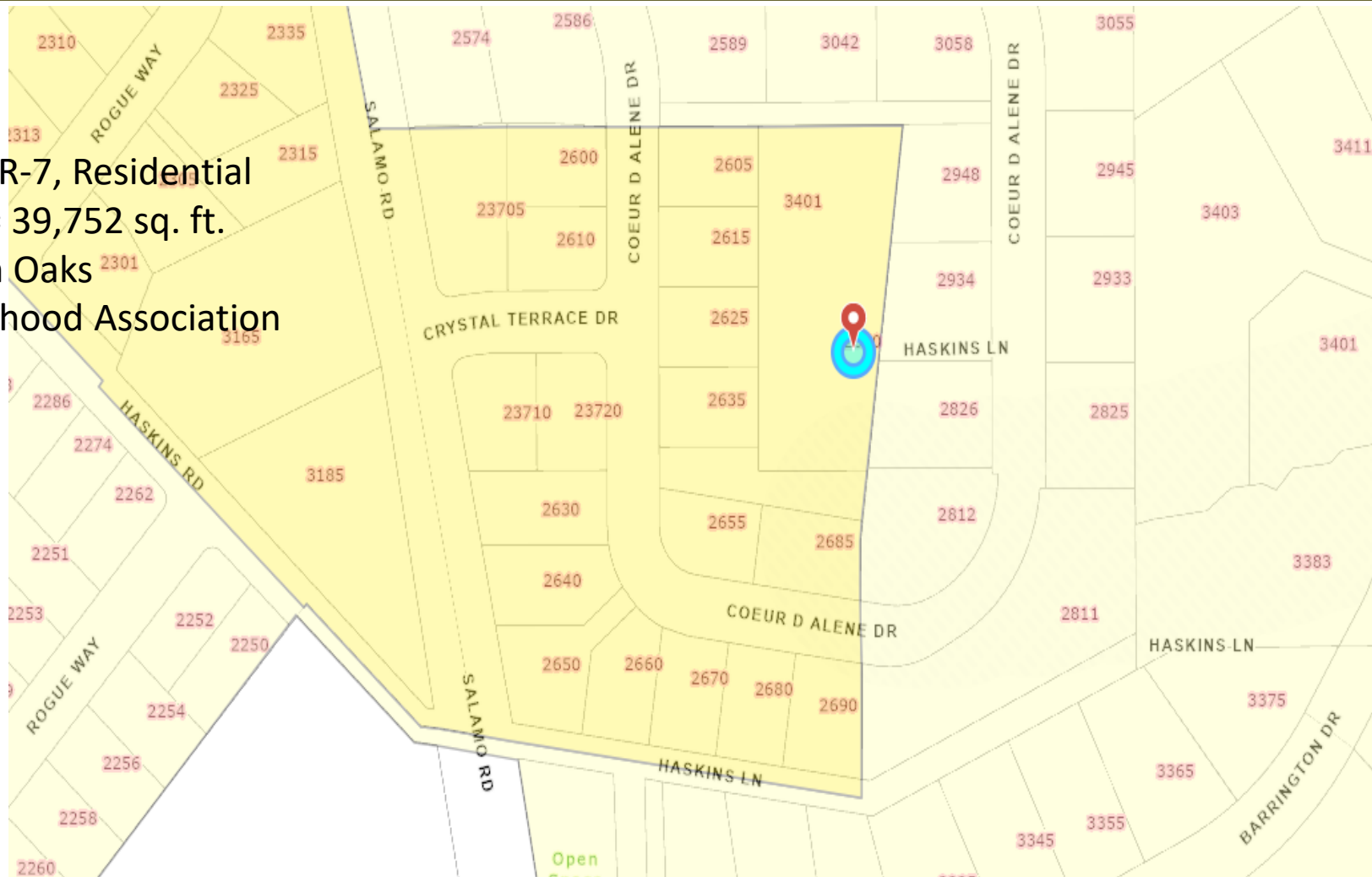
- 🍃 **September 9, 2024** – Application Deemed Complete
- 🍃 **November 6, 2024** – Planning Commission Hearing
  - Application Approved with Conditions
- 🍃 **December 5, 2024** – Appeal Filed by Appellant/Applicant
- 🍃 **December 5, 2024** - Applicant granted City 30-day extension on 120-day deadline (original 120-day deadline was January 7, 2025)
- 🍃 **January 6, 2025** – Original City Council Appeal Hearing; continued to April 14, 2025
- 🍃 **January 7, 2025** – Applicant granted Final Decision extension to June 14, 2025
- 🍃 **June 14, 2025** – Final Decision deadline

# AP-24-02; Appeal of MIP-24-02/VAR-24-05

## Project Location; 2830 Coeur D Alene Drive



- **Zoning** = R-7, Residential
- **Lot Size** = 39,752 sq. ft.
- Savannah Oaks  
Neighborhood Association





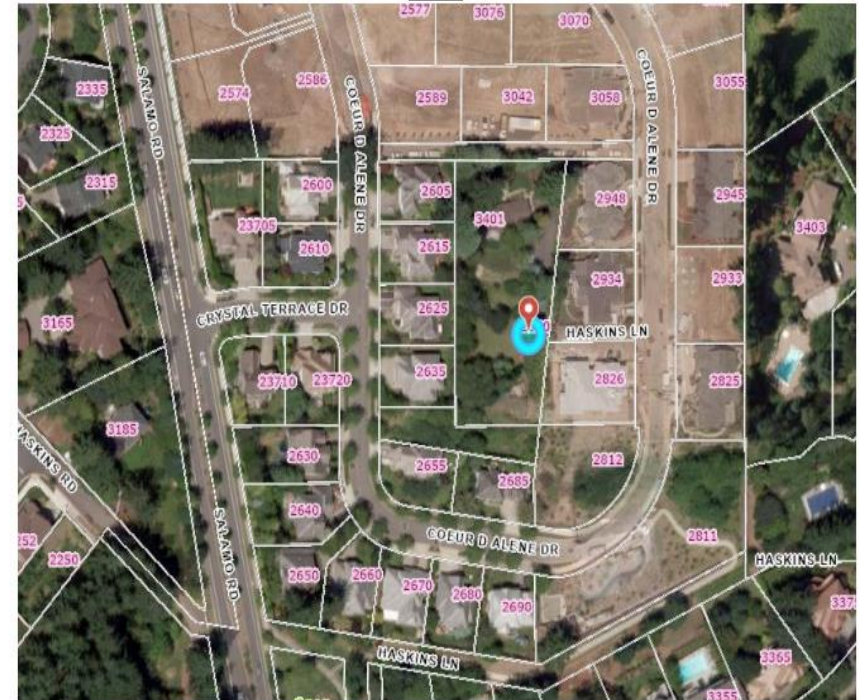
# AP-24-02; Appeal of MIP-24-02/VAR-24-05; Development History Part I



**2010**



**2012**





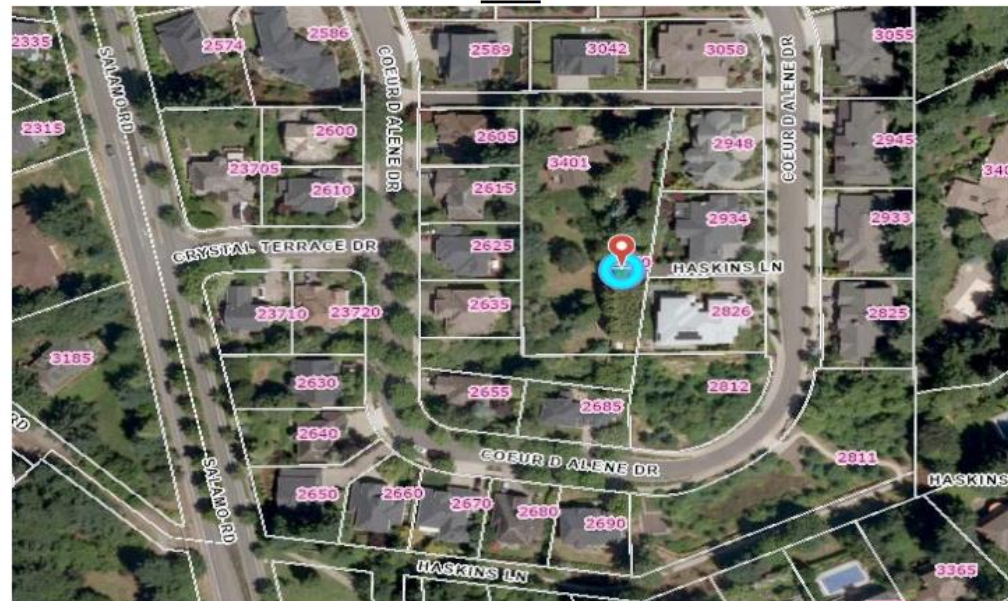
# AP-24-02; Appeal of MIP-24-02/VAR-24-05; Development History Part II



**2014**

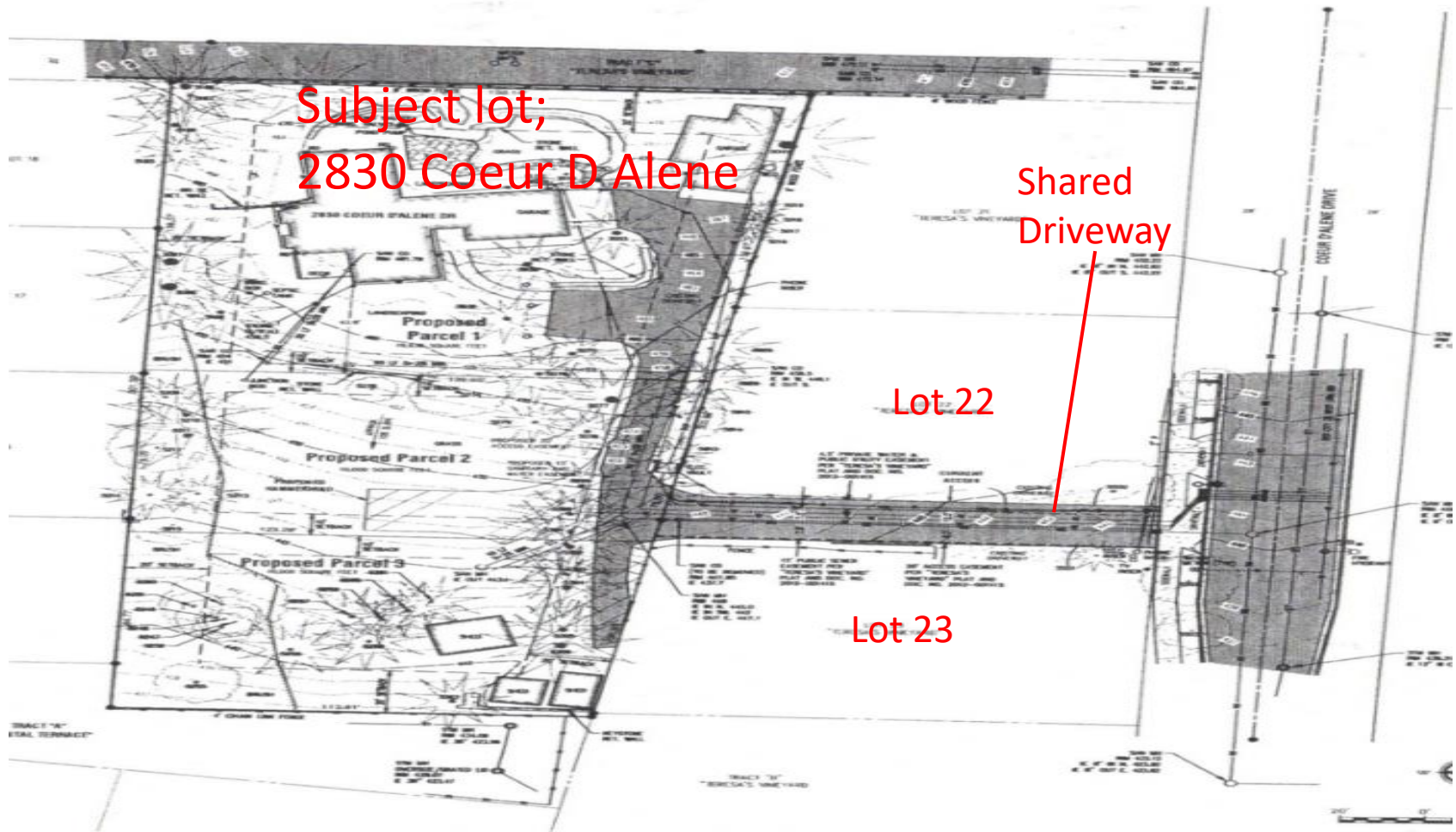


**2019**





# AP-24-02; Appeal of MIP-24-02/VAR-24-05 Proposed Project





## AP-24-02; Appeal of MIP-24-02/VAR-24-05

- ♦ Applicant has appealed the Planning Commission Decision for MIP-24-02/VAR-24-05 and has requested that the signature requirement of Condition #2 requiring signatures of lots 22 and 23 of Teresa's Vineyard subdivision be removed from the condition.
  - The appellant's counsel has stated that the existing access and maintenance agreement 'explicitly binds all future owners of Lot 22 and 23'.
- ♦ Condition #2 of the Planning Commission Final Decision and Order reads as:
  - 2. Shared Access Agreement.** Prior to recordation of the Plat with Clackamas County the applicant shall provide a signed access and utility easement and joint maintenance agreement between all owners of property using the private driveway as access. The access and utility easement and joint maintenance agreement shall have the signatures from all owners of land using the private access and shall acknowledge the total number of lots using the private access.



## AP-24-02; Appeal of MIP-24-02/VAR-24-05

- ◆ City legal guidance does not see the City's interpretation of the existing access agreement as within the City's purview; as such Condition of Approval #2 is recommended to be retained. However, revisions to Conditioned #2 are recommended to provide for more concise language.
- ◆ The recommended Condition of Approval #2 reads as follows:
  - **Recommended:** *"Prior to recordation of the plat with Clackamas County, the applicant shall provide the City with one or more recorded documents or court orders demonstrating that all three resulting legal parcels have (a) rights of access to a public right-of-way for ingress, egress, and utility purposes and (b) a joint agreement regarding maintenance of such access and utility locations(s)."*
  - **Existing:** "Prior to recordation of the Plat with Clackamas County the applicant shall provide a signed access and utility easement and joint maintenance agreement between all owners of property using the private driveway as access. The access and utility easement and joint maintenance agreement shall have signatures from all owners of land using the private access and shall acknowledge the total number of lots using the private access."

# Public Comment



- ◆ Kyle Grant (representative for neighbor David Baker) submitted a comment letter and other items on 1/5/2025 and re-submitted on 4/10 requesting denial of the appeal due to the Applicant's failure to meet all the criteria for a Class II Variance.



# City Council Options



1. Overturn the Planning Commission approval of MIP-24-02/VAR-24-05 by approving the appeal (AP-24-02).
2. Uphold the Planning Commission approval of MIP-24-02/VAR-24-05 by denying the appeal (AP-24-02).
3. Modify the Planning Commission approval of MIP-24-02/VAR-24-05 and deny the appeal (AP-24-02).



# Questions?

**Agenda Bill 2025-04-14-05**

Date Prepared: March 27, 2025

For Meeting Date: April 14, 2025

To: Rory Bialostosky, Mayor  
West Linn City Council

Through: John Williams, City Manager *JRW*

From: Erich Lais, PE – City Engineer/Public Works Director

Subject: Intergovernmental Agreement between the City of West Linn and the State of Oregon for Delivery of a Federal Project – Willamette Falls Dr. 16<sup>th</sup> St. to Ostman Rd. Ped/Bike Upgrades

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**Purpose:**

To present information regarding proposed Intergovernmental Agreement (IGA) between the State and the City of West Linn for multimodal transportation improvements on Willamette Falls Drive between 16<sup>th</sup> St. and Ostman Rd.

**Question(s) for Council:**

Does the Council wish to enter into agreement with the State of Oregon as required to proceed with multimodal improvements along the Willamette Falls Drive corridor?

**Public Hearing Required:**

None Required.

**Background & Discussion:**

The City of West Linn applied for and was awarded \$3,497,580 through the Regional Flexible Funds Allocation process which identifies and distributes the region's allotment of federal transportation money. This regional process is spearheaded by Oregon Metro. The guiding principles of the transportation investment categories for these funds are advancing equity, improving safety, implementing the region's climate strategy, and/or congestion relief. To meet the federal investment criteria for funds, the City of West Linn proposed multimodal improvements focusing on separated bike and pedestrian facilities along the Willamette Falls Drive corridor between 16<sup>th</sup> St. and Ostman Rd., continuing and connecting to the improvements that were previously constructed within the historic main street area. This is part of the City's long-range plan to build multimodal facilities from Highway 43 all the way to the Tualatin River/Fields Bridge. Upon funding, the project is added to the Statewide Transportation Improvement Program (STIP) and allows for the project to proceed to final design, right-of-way acquisitions (as needed), and project construction.

The City of West Linn is coordinating with the State of Oregon Department of Transportation (ODOT). In order to design and construct the planned improvements, the City must enter into an IGA with ODOT formalizing project delivery requirements as the City's isn't authorized under federal grant requirements

to manage and deliver the project. Current allocation of federal funds described in the attached IGA totaling \$940,073.39 cover engineering, design, and estimated right-of-way acquisitions as well as project oversight provided by ODOT. The City has a required 10.27% match of all project expenditures including the current design and future construction phases.

Additional funds for construction, as awarded through the grant, will be allocated after design completion and an amendment of the project delivery document, clarifying construction expenditures and delivery timelines is anticipated.

**Budget Impact:**

Current project phase total: \$1,047,669

\$ 107,595.61 (required 10.27% local match) from the streets fund. These funds are budgeted and available.

\$ 940,073.39 – Federal grant funds applied to the project.

**Sustainability Impact:**

Design features emphasize improvement and expansion of alternative transportation options.

**Council Options:**

1. Approve the proposed IGA to allow for the project to proceed as planned and funded.
2. Deny the proposed IGA thus rejecting the federal funds and direct staff to proceed in a different direction to accomplish the proposed transportation improvements.

**Staff Recommendation:**

Approve the proposed IGA to allow for the project to proceed as planned and funded.

**Potential Motion:**

1. I move to approve the proposed Intergovernmental Agreement (IGA) with the State of Oregon Department of Transportation to deliver the federally funded project for pedestrian and bike improvements on Willamette Falls Drive between 16<sup>th</sup> St. and Ostman Rd.

**Attachments:**

1. Proposed Project Delivery IGA with ODOT



**ODOT Delivered Federal Project  
On Behalf of City of West Linn  
Project Name: Willamette Falls Dr: 16th St - Ostman Rd Ped/Bike Upgrades  
Key Number: 23242**

THIS AGREEMENT ("Agreement") is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State" or "ODOT," and the City of West Linn, acting by and through its elected officials, hereinafter referred to as "Agency," both herein referred to individually as "Party" and collectively as "Parties."

**RECITALS**

1. By the authority granted in Oregon Revised Statute (ORS) 190.110, 366.572 and 366.576, state agencies may enter into cooperative agreements with counties, cities and units of local governments for the performance of any or all functions and activities that a party to the Agreement, its officers, or agents have the authority to perform
2. Willamette Falls Dr: 16th St - Ostman Rd is Willamette Falls Dr is a part of the city street system under the jurisdiction and control of Agency.
3. Agency has agreed that State will deliver this project on behalf of the Agency.
4. The Project was selected as a part of the Surface Transportation Block Grant Program – Urban (STBG-U) and may include a combination of federal and state funds. "Project" is defined under Terms of Agreement, paragraph 1 of this Agreement.
5. The Stewardship and Oversight Agreement on Project Assumption and Program Oversight By and Between Federal Highway Administration, Oregon Division and the State of Oregon Department of Transportation ("Stewardship Agreement") documents the roles and responsibilities of the State with respect to project approvals and responsibilities regarding delivery of the Federal Aid Highway Program. This includes the State's oversight and reporting requirements related to locally administered projects. The provisions of that agreement are hereby incorporated and included by reference.

**NOW THEREFORE** the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

**TERMS OF AGREEMENT**

1. Under such authority, Agency and State agree to State delivering Preliminary Engineering and Right of Way phases of the Willamette Falls Dr: 16th St - Ostman Rd Ped/Bike upgrades on behalf of Agency, hereinafter referred to as "Project." Project includes installing grade separated bike facilities, pedestrian crossing, bus stops and access to transit facility, and intersection treatments prioritizing pedestrian visibility and

protection. The location of the Project is approximately as shown on the map attached hereto, marked "Exhibit A," and by this reference made a part hereof. Phase I is the engineering and design phase, and Phase II is the construction phase.

2. The Parties anticipate State delivering the construction phase (Phase II) of the Project. Upon full funding and the addition of this phase to the Project in the Statewide Transportation Improvement Program (STIP), this Agreement may be amended to include construction phase work, and to add the respective cost. If the Parties do not amend this Agreement to add construction phase work, those provisions in this Agreement will not apply.
3. Agency agrees that, if State hires a consultant to design the Project, State will serve as the lead contracting agency and contract administrator for the consultant contract related to the work under this Agreement.
4. Project Costs and Funding.
  - a. The total Project cost for Phase I is estimated at \$1,047,669.00, which is subject to change. Federal funds for this Project shall be limited to \$940,073.39. Agency shall be responsible for all remaining costs, including any non-participating costs, all costs in excess of the federal funds, and the 10.27 percent match for all eligible costs. Any unused funds obligated to this Project will not be paid out by State and will not be available for use by Agency for this Agreement or any other projects. "Total Project Cost" means the estimated cost to complete the entire Project, and includes any federal funds, state funds, local matching funds, and any other funds.
  - b. With the exception of Americans with Disabilities Act of 1990-related design standards and exceptions, State shall consult with Agency on Project decisions that impact Total Project Cost involving the application of design standards, design exceptions, risks, schedule, and preliminary engineering charges, for work performed on roadways under local jurisdiction. State will allow Agency to participate in regular meetings and will use all reasonable efforts to obtain Agency's concurrence on plans. State shall consult with Agency prior to making changes to Project scope, schedule, or budget. However, State may award a construction contract up to ten (10) percent (%) over engineer's estimate without prior approval of Agency.
  - c. Federal funds under this Agreement are provided under Title 23, United States Code.
  - d. ODOT does not consider Agency to be a subrecipient or contractor under this Agreement for purposes of federal funds. The Assistance Listing (AL) number for this Project is 20.205, title Highway Planning and Construction. Agency is not eligible to be reimbursed for work performed under this Agreement.
  - e. State will submit the requests for federal funding to the Federal Highway Administration (FHWA). The federal funding for this Project is contingent upon approval of each funding request by FHWA. Any work performed outside the period

of performance or scope of work approved by FHWA will be considered nonparticipating and paid for at Agency expense.

- f. Agency guarantees the availability of Agency funding in an amount required to fully fund Agency's share of the Project.
5. The term of this Agreement shall begin on the date all required signatures are obtained and shall terminate upon completion of the Project and final payment or ten (10) calendar years following the date all required signatures are obtained, whichever is sooner.
6. Termination.
  - a. This Agreement may be terminated by mutual written consent of both Parties.
  - b. State may terminate this Agreement upon 30 days' written notice to Agency.
  - c. State may terminate this Agreement effective upon delivery of written notice to Agency, or at such later date as may be established by State, under any of the following conditions:
    - i. If Agency fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
    - ii. If Agency fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from State fails to correct such failures within ten (10) days or such longer period as State may authorize.
    - iii. If Agency fails to provide payment of its share of the cost of the Project.
    - iv. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.
    - v. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or if State is prohibited from paying for such work from the planned funding source.
  - d. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
7. Americans with Disabilities Act Compliance:
  - a. When the Project scope includes work on sidewalks, curb ramps, or pedestrian-activated signals or triggers an obligation to address curb ramps or pedestrian

signals, the Parties shall acting through the responsible party under this Agreement:

- i. Utilize ODOT standards to assess and ensure Project compliance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 as amended (together, "ADA"), including ensuring that all sidewalks, curb ramps, and pedestrian-activated signals meet current ODOT Highway Design Manual standards;
  - ii. Follow ODOT's processes for design, construction, or alteration of sidewalks, curb ramps, and pedestrian-activated signals, including using the ODOT Highway Design Manual, ODOT Design Exception process, ODOT Standard Drawings, ODOT Construction Specifications, providing a temporary pedestrian accessible route plan and current ODOT Curb Ramp Inspection form;
  - iii. At Project completion, send a completed ODOT Curb Ramp Inspection Form 734-5020 to the address on the form as well as to State's Project Manager for each curb ramp constructed or altered as part of the Project. The completed form is the documentation required to show that each curb ramp meets ODOT standards and is ADA compliant. ODOT's fillable Curb Ramp Inspection Form and instructions are available at the following address:  
  
<https://www.oregon.gov/ODOT/Engineering/Pages/Accessibility.aspx>; and
- b. Agency shall ensure that any portions of the Project under Agency's maintenance jurisdiction are maintained in compliance with the ADA throughout the useful life of the Project. This includes, but is not limited to, Agency ensuring that:
- i. Pedestrian access is maintained as required by the ADA,
  - ii. Any complaints received by Agency identifying sidewalk, curb ramp, or pedestrian-activated signal safety or access issues are promptly evaluated and addressed,
  - iii. Agency, or abutting property owner, pursuant to local code provisions, performs any repair or removal of obstructions needed to maintain the facility in compliance with the ADA requirements that were in effect at the time the facility was constructed or altered,
  - iv. Any future alteration work on Project or Project features during the useful life of the Project complies with the ADA requirements in effect at the time the future alteration work is performed, and
  - v. Applicable permitting and regulatory actions are consistent with ADA requirements.
- c. Maintenance obligations in this section shall survive termination of this Agreement.

8. State shall ensure compliance with the Cargo Preference Act and implementing regulations (46 CFR Part 381) for use of United States-flag ocean vessels transporting materials or equipment acquired specifically for the Project. Strict compliance is required, including but not limited to the clauses in 46 CFR 381.7(a) and (b) which are incorporated by reference. State shall also include this requirement in all contracts and ensure that contractors include the requirement in their subcontracts.
9. Agency grants State the right to enter onto Agency right of way as necessary for the performance of duties as set forth in this Agreement.
10. The Parties acknowledge and agree that State, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of the Parties which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after completion of the Project and final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by the requesting party.
11. The Special and Standard Provisions attached hereto, marked Attachments 1 and 2, respectively, are incorporated by this reference and made a part hereof. The Standard Provisions apply to all federal-aid projects and may be modified only by the Special Provisions. The Parties hereto mutually agree to the terms and conditions set forth in Attachments 1 and 2. In the event of a conflict, this Agreement shall control over the attachments, and Attachment 1 shall control over Attachment 2.
12. Each Party shall assume sole liability for its breach of any federal statutes, rules, program requirements and grant provisions applicable to the federal funds, and shall, upon the Party's breach of any such conditions that requires the State to return funds to FHWA, hold harmless and indemnify the other Party for an amount equal to the funds received under this Agreement.
13. Agency and State 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.
14. State and Agency hereto agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be invalid, unenforceable, 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.
15. Notwithstanding anything in this Agreement or implied to the contrary, the rights and obligations set out in the following paragraphs of this Agreement shall survive Agreement expiration or termination, as well as any provisions of this Agreement that by their context are intended to survive: Terms of Agreement Paragraphs 4.e

(Funding), 6.d (Termination), 7.b (ADA maintenance), 10-15, 18 (Integration, Merger; Waiver); and Attachment 2, paragraphs 1 (Project Administration), 7, 9, 11, 13 (Finance), and 38-42 (Maintenance and Contribution).

16. Agency certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Agency, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Agency.
17. This Agreement may be executed in several counterparts all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
18. This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. In the event of conflict, the body of this Agreement and the attached exhibits will control over Project application and documents provided by Agency to State. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision. Notwithstanding this provision, the Parties may enter into a Right Of Way Services Agreement in furtherance of the Project.
19. State's Contract Administrator for this Agreement is Mahasti Hastings, 123 NW Flanders Street, Portland, Oregon 97209, 971.264.8253, Mahasti.v.hastings@odot.state.or.us or assigned designee upon individual's absence. State shall notify the other Party in writing of any contact information changes during the term of this Agreement.
20. Agency's Contract Administrator for this Agreement is Erich Lais, Public Works Director/City Engineer, City of West Linn 22500 Salamo Road, West Linn, Oregon 97068, phone: 503-722-3434, elais@westlinnoregon.gov, or assigned designee upon individual's absence. Agency shall notify the other Party in writing of any contact information changes during the term of this Agreement.

**THE PARTIES**, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

This Project is in the 2024-2027 Statewide Transportation Improvement Program (STIP), (Key 23242) that was adopted by the Oregon Transportation Commission on July 13, 2023 (or subsequently by amendment to the STIP).

Agency/State  
Agreement No. 73000-00038480

**City of West Linn**, by and through its  
elected officials

By \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

**LEGAL REVIEW APPROVAL (If required  
in Agency's process)**

By \_\_\_\_\_  
Agency Counsel

Date \_\_\_\_\_

**Agency Contact:**

Erich Lais, Public Works Director/City  
Engineer  
22500 Salamo Road  
West Linn, Oregon 97068  
503-722-3434  
elais@westlinnoregon.gov

**State Contact:**

Mahasti Hastings, Region 1  
123 NW Flanders Street,  
Portland, Oregon 97209  
971-264-8253  
Mahasti.v.hastings@odot.state.or.us

**STATE OF OREGON**, by and through  
its Department of Transportation

By \_\_\_\_\_  
Region 1 Manager

Date \_\_\_\_\_

**APPROVAL RECOMMENDED**

*(Include the following signature if a  
traffic signal, marked crosswalk, or  
other traffic control device is being  
installed or improved on a state  
highway, as defined in ODOT's Traffic  
Manual, Chapter 5. Send to Scott  
Cramer as a Technical Reviewer. )*

By \_\_\_\_\_  
State Traffic Roadway Engineer

Date \_\_\_\_\_

**APPROVED AS TO LEGAL  
SUFFICIENCY**

By \_\_\_\_\_  
Assistant Attorney General (If Over  
\$250,000)

Date \_\_\_\_\_

### EXHIBIT A – Project Location Map





**ATTACHMENT NO. 1 to AGREEMENT NO. 73000-00038480**  
**SPECIAL PROVISIONS**

1. State or its consultant shall conduct all work components necessary to complete the Project, except for those responsibilities specifically assigned to Agency in this Agreement.
  - a. State or its consultant shall conduct preliminary engineering and design work required to produce final plans, specifications, and cost estimates in accordance with current state and federal laws and regulations; obtain all required permits; acquire necessary right of way and easements; and arrange for all utility relocations and adjustments.
  - b. If this Agreement is amended to include construction phase work, State will advertise, bid, and award the construction contract. Upon State's award of the construction contract, a consultant hired and overseen by the State shall be responsible for contract administration and construction engineering & inspection, including all required materials testing and quality documentation. State shall make all contractor payments.
  - c. State will perform project management and oversight activities throughout the duration of the Project. The cost of such activities will be billed to the Project.
2. State and Agency agree that the useful life of this Project is defined as 10 years.
3. If Agency fails to meet the requirements of this Agreement or the underlying federal regulations, State may withhold the Agency's proportional share of Highway Fund distribution necessary to reimburse State for costs incurred by such Agency breach.

## **ATTACHMENT NO. 2 FEDERAL STANDARD PROVISIONS**

### **PROJECT ADMINISTRATION**

1. State (ODOT) is acting to fulfill its responsibility to the Federal Highway Administration (FHWA) by the administration of this Project, and Agency (i.e. county, city, unit of local government, or other state agency) hereby agrees that State shall have full authority to carry out this administration. If requested by Agency or if deemed necessary by State in order to meet its obligations to FHWA, State will act for Agency in other matters pertaining to the Project. Prior to taking such action, State will confer with Agency concerning actions necessary to meet federal obligations. State and Agency shall each assign a person in responsible charge "liaison" to coordinate activities and assure that the interests of both Parties are considered during all phases of the Project.
2. Any project that uses federal funds in project development is subject to plans, specifications and estimates (PS&E) review and approval by FHWA or State acting on behalf of FHWA prior to advertisement for bid proposals, regardless of the source of funding for construction.
3. State will provide or secure services to perform plans, specifications and estimates (PS&E), construction contract advertisement, bid, award, contractor payments and contract administration. A State-approved consultant may be used to perform preliminary engineering, right of way and construction engineering services.
4. Agency may perform only those elements of the Project identified in the special provisions.

### **PROJECT FUNDING REQUEST**

5. State shall submit a separate written Project funding request to FHWA requesting approval of federal-aid participation for each project phase including a) Program Development (Planning), b) Preliminary Engineering (National Environmental Policy Act - NEPA, Permitting and Project Design), c) Right of Way Acquisition, d) Utilities, and e) Construction (Construction Advertising, Bid and Award). Any work performed prior to FHWA's approval of each funding request will be considered nonparticipating and paid for at Agency expense. State, its consultant or Agency shall not proceed on any activity in which federal-aid participation is desired until such written approval for each corresponding phase is obtained by State. State shall notify Agency in writing when authorization to proceed has been received from FHWA. All work and records of such work shall be in conformance with FHWA rules and regulations.

### **FINANCE**

6. Federal funds shall be applied toward Project costs at the current federal-aid matching ratio, unless otherwise agreed and allowable by law. Agency shall be responsible for the entire match amount for the federal funds and any portion of the Project, which is not covered by federal funding, unless otherwise agreed to and specified in the intergovernmental Agreement (Project Agreement). Agency must obtain written approval from State to use in-kind contributions rather than cash to satisfy all or part of the matching funds requirement. If federal funds are used, State will specify the Catalog of Federal Domestic Assistance (CFDA) number in the Project Agreement. State will also determine and clearly state in the Project Agreement if recipient is a subrecipient or contractor, using the criteria in 2 CFR 200.331.

7. If the estimated cost exceeds the total matched federal funds available, Agency shall deposit its share of the required matching funds, plus 100 percent of all costs in excess of the total matched federal funds. Agency shall pay one hundred (100) percent of the cost of any item in which FHWA will not participate. If Agency has not repaid any non-participating cost, future allocations of federal funds or allocations of State Highway Trust Funds to Agency may be withheld to pay the non-participating costs. If State approves processes, procedures, or contract administration that result in items being declared non-participating by FHWA, such items deemed non-participating will be negotiated between Agency and State. Agency agrees that costs incurred by State and Agency for services performed in connection with any phase of the Project shall be charged to the Project, unless otherwise mutually agreed upon by the Parties.
8. Agency's estimated share and advance deposit.
  - a) Agency shall, prior to commencement of the preliminary engineering and/or right of way acquisition phases, deposit with State its estimated share of each phase. Exception may be made in the case of projects where Agency has written approval from State to use in-kind contributions rather than cash to satisfy all or part of the matching funds requirement.
  - b) Agency's construction phase deposit shall be one hundred ten (110) percent of Agency's share of the engineer's estimate and shall be received prior to award of the construction contract. Any additional balance of the deposit, based on the actual bid, must be received within forty-five (45) days of receipt of written notification by State of the final amount due, unless the contract is cancelled. Any balance of a cash deposit in excess of amount needed, based on the actual bid, will be refunded within forty-five (45) days of receipt by State of the Project sponsor's written request.
  - c) Pursuant to Oregon Revised Statutes (ORS) 366.425, the advance deposit may be in the form of 1) money deposited in the State Treasury (an option where a deposit is made in the Local Government Investment Pool), and an Irrevocable Limited Power of Attorney is sent to State's Active Transportation Section, Funding and Program Services Unit, or 2) an Irrevocable Letter of Credit issued by a local bank in the name of State, or 3) cash or check submitted to the Oregon Department of Transportation.
9. If Agency makes a written request for the cancellation of a federal-aid project; Agency shall bear one hundred (100) percent of all costs incurred as of the date of cancellation. If State was the sole cause of the cancellation, State shall bear one hundred (100) percent of all costs incurred. If it is determined that the cancellation was caused by third parties or circumstances beyond the control of State or Agency, Agency shall bear all costs, whether incurred by State or Agency, either directly or through contract services, and State shall bear any State administrative costs incurred. After settlement of payments, State shall deliver surveys, maps, field notes, and all other data to Agency.
10. Agency shall make additional deposits, as needed, upon request from State. Requests for additional deposits shall be accompanied by an itemized statement of expenditures and an estimated cost to complete the Project.
11. Agency shall, upon State's written request for reimbursement in accordance with Title 23, CFR part 630.112(c) 1, as directed by FHWA, reimburse State for federal-aid funds distributed to Agency if the following event occurs:

- a) Right of way acquisition is not undertaken or actual construction is not started by the close of the twentieth federal fiscal year following the federal fiscal year in which the federal-aid funds were authorized for right of way acquisition. Agency may submit a written request to State's Liaison for a time extension beyond the twenty (20) year limit with no repayment of federal funds and State will forward the request to FHWA. FHWA may approve this request if it is considered reasonable.
12. State shall, on behalf of Agency, maintain all Project documentation in keeping with State and FHWA standards and specifications. This shall include, but is not limited to, daily work records, quantity documentation, material invoices and quality documentation, certificates of origin, process control records, test results, and inspection records to ensure that the Project is completed in conformance with approved plans and specifications.
13. State shall submit all claims for federal-aid participation to FHWA in the normal manner and compile accurate cost accounting records. State shall pay all reimbursable costs of the Project. Agency may request a statement of costs-to-date at any time by submitting a written request. When the final total cost of the Project has been computed, State shall furnish Agency with an itemized statement. Agency shall pay an amount which, when added to said advance deposit and federal reimbursement payment, will equal one hundred (100) percent of the final total cost of the Project. Any portion of deposits made in excess of the final total cost of the Project, minus federal reimbursement, shall be released to Agency. The actual cost of services provided by State will be charged to the Project expenditure account(s) and will be included in the final total cost of the Project.

## **DESIGN STANDARDS**

14. Agency and State agree that minimum design standards on all local agency jurisdictional roadway or street projects on the National Highway System (NHS) and projects on the non-NHS shall be the American Association of State Highway and Transportation Officials (AASHTO) standards and be in accordance with State's Oregon Bicycle & Pedestrian Design Guide (current version). State or its consultant shall use either AASHTO's A Policy on Geometric Design of Highways and Streets (current version) or State's Resurfacing, Restoration and Rehabilitation (3R) design standards for 3R projects. State or its consultant may use AASHTO for vertical clearance requirements on Agency's jurisdictional roadways or streets.
15. Agency agrees that if the Project is on the Oregon State Highway System or a State-owned facility, that design standards shall be in compliance with standards specified in the current ODOT Highway Design Manual and related references. Construction plans for such projects shall be in conformance with standard practices of State and all specifications shall be in substantial compliance with the most current Oregon Standard Specifications for Highway Construction and current Contract Plans Development Guide.
16. State and Agency agree that for all projects on the Oregon State Highway System or a State-owned facility, any design element that does not meet ODOT Highway Design Manual design standards must be justified and documented by means of a design exception. State and Agency further agree that for all projects on the NHS, regardless of funding source; any design element that does not meet AASHTO standards must be justified and documented by means of a design exception. State shall review any design exceptions on the Oregon State Highway System and retain authority for said approval. FHWA shall review any design exceptions for projects subject to Project of Division Interest and retains authority for their approval.
17. ODOT agrees all traffic control devices and traffic management plans shall meet the requirements of the current edition of the Manual on Uniform Traffic Control Devices and Oregon Supplement as

adopted in Oregon Administrative Rule (OAR) 734-020-0005. State or its consultant shall, on behalf of Agency, obtain the approval of the State Traffic Engineer prior to the design and construction of any traffic signal, or illumination to be installed on a state highway pursuant to OAR 734-020-0430.

## **PRELIMINARY & CONSTRUCTION ENGINEERING**

18. Preliminary engineering and construction engineering may be performed by either a) State, or b) a State-approved consultant. Engineering work will be monitored by State to ensure conformance with FHWA rules and regulations. Project plans, specifications and cost estimates shall be performed by either a) State, or b) a State-approved consultant. State shall review and approve Project plans, specifications and cost estimates. State shall, at project expense, review, process and approve, or submit for approval to the federal regulators, all environmental statements. State shall offer Agency the opportunity to review the documents prior to advertising for bids.
19. Architectural, engineering, photogrammetry, transportation planning, land surveying and related services (A&E Services) as needed for federal-aid transportation projects must follow the State's processes to ensure federal reimbursement. State will award, execute, and administer the contracts. State's personal services contracting process and resulting contract document will follow Title 23 CFR part 172, 2 CFR part 1201, ORS 279A.055, 279C.110, 279C.125, OAR 731-148-0130, OAR 731-148-0220(3), OAR 731-148-0260 and State Personal Services Contracting Procedures, as applicable and as approved by the FHWA. Such personal services contract(s) shall contain a description of the work to be performed, a project schedule, and the method of payment. No reimbursement shall be made using federal-aid funds for any costs incurred by Agency or the state approved consultant prior to receiving authorization from State to proceed.
20. The State or its consultant responsible for performing preliminary engineering for the Project shall, as part of its preliminary engineering costs, obtain all Project related permits necessary for the construction of said Project. Said permits shall include, but are not limited to, access, utility, environmental, construction, and approach permits. All pre-construction permits will be obtained prior to advertisement for construction.
21. State shall prepare construction contract and bidding documents, advertise for bid proposals, award all construction contracts, and administer the construction contracts.
22. Upon State's award of a construction contract, State shall perform quality assurance and independent assurance testing in accordance with the FHWA-approved Quality Assurance Program found in State's Manual of Field Test Procedures, process and pay all contractor progress estimates, check final quantities and costs, and oversee and provide intermittent inspection services during the construction phase of the Project.
23. State shall, as a Project expense, assign a liaison to provide Project monitoring as needed throughout all phases of Project activities (preliminary engineering, right-of-way acquisition, and construction). State's liaison shall process reimbursement for federal participation costs.

## **Disadvantaged Business Enterprises (DBE) Obligations**

24. State and Agency agree to incorporate by reference the requirements of 49 CFR part 26 and State's DBE Program Plan, as required by 49 CFR part 26 and as approved by USDOT, into all contracts entered into under this Project Agreement. The following required DBE assurance shall be included in all contracts:

*“The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of Title 49 CFR part 26 in the award and administration of federal-aid contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as Agency deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).”*

25. State and Agency agree to comply with all applicable civil rights laws, rules and regulations, including Title V and Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 (ADA), and Titles VI and VII of the Civil Rights Act of 1964.
26. The Parties hereto agree and understand that they will comply with all applicable federal, state, and local laws, regulations, executive orders and ordinances applicable to the work including, but not limited to, the provisions of ORS 279C.505, 279C.515, 279C.520, 279C.530 and 279B.270, incorporated herein by reference and made a part hereof; Title 23 CFR parts 1.11, 140, 635, 710, and 771; Title 49 CFR parts 24 and 26; , 2 CFR 1201; Title 23, USC, Federal-Aid Highway Act; Title 41, Chapter 1, USC 51-58, Anti-Kickback Act; Title 42 USC; Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, as amended, the provisions of the FAPG and *FHWA Contract Administration Core Curriculum Participants Manual & Reference Guide*. State and Agency agree that FHWA-1273 Required Contract Provisions shall be included in all contracts and subcontracts verbatim and not by reference.

## **RIGHT OF WAY**

27. Right of Way activities shall be conducted in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, ORS Chapter 35, FAPG, CFR, and the *ODOT Right of Way Manual*, Title 23 CFR part 710 and Title 49 CFR part 24.
28. State is responsible for proper acquisition of the necessary right of way and easements for construction and maintenance of projects. State or its consultant may perform acquisition of the necessary right of way and easements for construction and maintenance of the Project in accordance with the *ODOT Right of Way Manual*, and with the prior approval from State's Region Right of Way office.
29. If the Project has the potential of needing right of way, to ensure compliance in the event that right of way is unexpectedly needed, a right of way services agreement will be required. State, at Project expense, shall be responsible for requesting the obligation of project funding from FHWA. State, at Project expense, shall be entirely responsible for project acquisition and coordination of the right of way certification.
30. State or its consultant shall ensure that all project right of way monumentation will be conducted in conformance with ORS 209.155.
31. State and Agency grant each other authority to enter onto the other's right of way for the performance of non-construction activities such as surveying and inspection of the Project.
32. State will purchase right of way in State's name. Upon completion of the Project, State and Agency agree that any right of way purchased outside of State jurisdiction will be transferred to Agency. Agency agrees to take title to the property and shall maintain the property pursuant to this Agreement. Agency shall use the property for public road purposes. If the property is no longer used for public road purposes, it shall revert to State.

## **RAILROADS**

33. State shall follow State established policy and procedures when impacts occur on railroad property. The policy and procedures are available through the State's Liaison, who will contact State's Railroad Liaison on behalf of Agency. Only those costs allowable under Title 23 CFR part 140 subpart I, and Title 23 part 646 subpart B shall be included in the total Project costs; all other costs associated with railroad work will be at the sole expense of Agency, or others.

## **UTILITIES**

34. State or its consultant shall follow State established statutes, policies and procedures when impacts occur to privately or publicly-owned utilities. Policy, procedures and forms are available through the State Utility Liaison or State's Liaison. State or its consultant shall provide copies of all signed utility notifications, agreements and Utility Certification to the State Utility & Railroad Liaison. Only those utility relocations, which are eligible for reimbursement under the FAPG, Title 23 CFR part 645 subparts A and B, shall be included in the total Project costs; all other utility relocations shall be at the sole expense of Agency, or others. Agency may send a written request to State, at Project expense, to arrange for utility relocations/adjustments lying within Agency jurisdiction. This request must be submitted no later than twenty-one (21) weeks prior to bid let date. Agency shall not perform any utility work on state highway right of way without first receiving written authorization from State.

## **GRADE CHANGE LIABILITY**

35. Agency, if a County, acknowledges the effect and scope of ORS 105.755 and agrees that all acts necessary to complete construction of the Project which may alter or change the grade of existing county roads are being accomplished at the direct request of the County.
36. Agency, if a City, hereby accepts responsibility for all claims for damages from grade changes. Approval of plans by State shall not subject State to liability under ORS 105.760 for change of grade.
37. Agency, if a City, by execution of the Project Agreement, gives its consent as required by ORS 373.030(2) to any and all changes of grade within the City limits, and gives its consent as required by ORS 373.050(1) to any and all closure of streets intersecting the highway, in connection with or arising out of the Project covered by the Project Agreement.

## **MAINTENANCE RESPONSIBILITIES**

38. Agency shall, at its own expense, maintain operate, and provide power as needed upon Project completion at a minimum level that is consistent with normal depreciation and/or service demand and throughout the useful life of the Project. The useful life of the Project is defined in the Special Provisions. State may conduct periodic inspections during the life of the Project to verify that the Project is properly maintained and continues to serve the purpose for which federal funds were provided. Maintenance and power responsibilities shall survive any termination of the Project Agreement. In the event the Project will include or affect a state highway, this provision does not address maintenance of that state highway.

## **CONTRIBUTION**

39. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against State or Agency with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of

the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.

40. With respect to a Third Party Claim for which State is jointly liable with Agency (or would be if joined in the Third Party Claim), State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Agency in such proportion as is appropriate to reflect the relative fault of State on the one hand and of Agency on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State on the one hand and of Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.
41. With respect to a Third Party Claim for which Agency is jointly liable with State (or would be if joined in the Third Party Claim), Agency shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by State in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency on the one hand and of State on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

## **ALTERNATIVE DISPUTE RESOLUTION**

42. The Parties shall attempt in good faith to resolve any dispute arising out of this Project Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

## **WORKERS' COMPENSATION COVERAGE**

43. All employers, including Agency, that employ subject workers who work under this Project Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. Employers Liability Insurance with coverage limits of not less than five hundred thousand (\$500,000) must be included. State and Agency shall ensure that each of its contractors complies with these requirements.

## **LOBBYING RESTRICTIONS**

44. Agency certifies by signing the Agreement that:



- a) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- b) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, and contracts and subcontracts under grants, subgrants, loans, and cooperative agreements) which exceed one hundred thousand dollars (\$100,000), and that all such subrecipients shall certify and disclose accordingly.
- d) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Title 31, USC Section 1352.
- e) Any person who fails to file the required certification shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than one hundred thousand dollars (\$100,000) for each such failure.

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY,  
AND VOLUNTARY EXCLUSION – LOWER TIER COVERED TRANSACTIONS**

By signing this Agreement, Agency agrees to fulfill the responsibility imposed by 2 CFR Subpart C, including 2 CFR 180.300, 180.355, 180.360, and 180.365, regarding debarment, suspension, and other responsibility matters. For the purpose of this provision only, Agency is considered a participant in a covered transaction. Furthermore, by signing this Agreement, Agency is providing the certification for its principals required in Appendix to 2 CFR part 180 – Covered Transactions.

**Agenda Bill 2025-04-14-06**

Date Prepared: March 27, 2025

For Meeting Date: April 14, 2025

To: Rory Bialostosky, Mayor  
West Linn City Council

Through: John Williams, City Manager *JRW*

From: Erich Lais, PE – City Engineer/Public Works Director

Subject: Award of contract for 2025 Waterline Replacement Project

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**Purpose:**

Request Council approval to award the construction contract for the 2025 Waterline Replacement Project.

**Question(s) for Council:**

Does Council wish for the City to expend funds on water main maintenance and replacements?

**Public Hearing Required:**

None Required.

**Background & Discussion:**

This project generally consists of replacing approximately 4,700 linear feet of existing cast iron, ductile iron, and cement water mains along Upper Midhill Drive, Arbor Drive, Reed Street, Sunset Avenue, Parker Road, Dollar Street, Santa Anita Drive, and new services across HWY 43.

The project was advertised and bid in accordance with the West Linn Local Contracting Rules. A bid opening was held on March 20, 2025 at 2:00 P.M. with a total of 10 bids received as indicated on the attached bid results form. Icon Construction and Development was determined to be the lowest, responsive and responsible bidder with a bid of \$1,463,679.04. The City has previous experience with the bidder which has successfully completed previous projects within the City.

**Budget Impact:**

\$1,463,679.04 from the Water Fund. The funds are available, budgeted, and within the anticipated project expenditure.

**Sustainability Impact:**

All bid solicitations encourage bidders to use recycled and environmentally sustainable materials as appropriate and available.

**Council Options:**

1. Award the contract to the lowest, responsive, and responsible bidder, Icon Construction & Development.
2. Deny the contract and cancel the project.

**Staff Recommendation:**

Approve the contract with Icon Construction and Development to ensure continuous maintenance and improvement to the City's water system. The City's water system capital needs are a 2025-2027 Council Priority.

**Potential Motion:**

I move to authorize the City Manager to sign a contract with Icon Construction & Development in the amount of \$1,463,679.04 for the 2025 Waterline Replacement Project.

**Attachments:**

1. 2025 Waterline Replacement Project Bid Results
2. 2025 Waterline Replacement Project Invitation to Bid and Contract

## BID RESULTS

**Owner:** City of West Linn

**Project Name:** 2025 Waterline Replacement Project

**Project No.:** PW-25-01

**Bid Opening Date:** 3/20/2025

**Bid Opening Time:** 2:00pm

**Engineer's Estimate:** \$1,841,600

	Name of Bidder	Pre-Bid Meeting Attendance	Notice of Invitation for Bid (with CCB#)	Bid Form	Bid Guaranty/Bond	Non-Collusion Affidavit	3-Year Experience Record	Affidavit of Compliance with Tax Laws	First Tier Subcontractor Disclosure (by 4pm)	Project Total	Notes
1	ML Houck Construction		x	x	x	x	x	x		\$1,543,628.20	
2	JW Fowler		x	x	x	x	x	x		\$2,340,398.00	
3	Turney Excavating		x	x	x	x	x	x		\$1,686,190.75	
4	Trench Line Excavation		x	x	x	x	x	x		\$1,566,147.41	
5	N8 Excavation		x	x	x	x	x	x		\$1,544,957.00	
6	Tapani Inc		x	x	x	x	x	x		\$1,787,926.00	
7	Pacific Exvation		x	x	x	x	x	x		\$1,510,000.00	
8	Emery & Sons		x	x	x	x	x	x		\$1,740,286.00	
9	Icon Construction		x	x	x	x	x	x		\$1,463,679.04	
10	Canby Excavating		x	x	x	x	x	x		\$1,496,785.00	



CITY OF  
**West  
Linn**

## INVITATION FOR BID

### CONSTRUCTION PROJECT

**Public Works Department**  
22500 Salamo Road  
West Linn, Oregon 97068  
Telephone: (503) 722-5500  
Fax: (503) 656-4106

# City of West Linn

## Plans and Bid Documents

Project Number: **PW-25-01**

Project Description: **2025 Water Line Replacement**

Prospective Bidders' Conference: March 11, 2025 10:00 a.m., local time

Bid Due Date: March 20, 2025 2:00 p.m., local time

Plans and Specifications are available for download at no charge from the City's website at

<https://westlinnoregon.gov/publicworks/west-linn-bids-and-rfp-solicitations>

**PROSPECTIVE BID CONFERENCE  
OPTIONAL**



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## APPENDIX A

### FORMS REQUIRED FOR SUBMITTAL WITH BID (in addition to Notice of Invitation to Bid and Contract)

1. BID FORM
2. BID BOND
3. NONCOLLUSION AFFIDAVIT
4. THREE YEAR EXPERIENCE RECORD
5. FIRST-TIER SUBCONTRACTOR DISCLOSURE (WH-179)  
Submit within 2 hours of bid closing.
6. AFFIDAVIT OF COMPLIANCE WITH TAX LAWS
7. SIGNED ADDENDA (IF ANY)

### FORMS NOT REQUIRED AT TIME OF BID

1. PERFORMANCE BOND
2. PAYMENT BOND
3. CONTRACTOR'S AFFIDAVIT, SETTLEMENT OF CLAIMS
4. PUBLIC WORKS FEE INFORMATION FORM (WH-39)  
To be completed and paid by City upon award
5. NOTICE OF PUBLIC WORKS (WH-81)  
To be completed by City upon award.
6. PUBLIC WORKS FEE ADJUSTMENT FORM (WH-40)  
To be completed by City after final completion of project.
7. PAYROLL INSTRUCTIONS (WH-38A)
8. PAYROLL/CERTIFIED STATEMENT FORM (WH-38)
9. CURRENT PREVAILING WAGE RATE COVER AND AMENDMENTS  
The complete prevailing wage rate documents can be downloaded from the Oregon Bureau of Labor and Industries website at [http://www.oregon.gov/boli/WHD/PWR/pages/pwr\\_state.aspx](http://www.oregon.gov/boli/WHD/PWR/pages/pwr_state.aspx)

## APPENDIX B

### TECHNICAL & SPECIAL PROVISIONS

## APPENDIX C

### PLANS

## APPENDIX D

### SUPPLEMENTARY INFORMATION



CITY OF  
**West  
Linn**

## City of West Linn, Oregon

### Notice of Invitation for Bid and Contract

Project Number: **PW-25-01** Bid Due Date: **March 20, 2025**

Project Name: 2025 Water Line Replacement Bid Due Time: 2:00 p.m.

Bid Opening Location: City of West Linn – City Hall Bid Opening: 2:05 p.m.  
Council Chambers  
22500 Salamo Rd., West Linn, OR 97068 Contact: Clark Ide, P.E.  
Title: Assistant City Engineer

Time of Completion: 90 calendar days Phone: (503) 722-3437

Project Description: Project generally consists of replacing approximately 4,700 linear feet of existing CI, DI, and AC water mains along Upper Midhill Dr, Arbor Dr, Reed St, Sunset Ave, Parker Rd, Dollar St, Santa Anita Dr, and new services across HWY 43.

Sealed bids for the project identified and described above will be received by the City of West Linn at the specified location above until the date and time cited above. Bids received by the correct date and time shall be publicly opened and the bid price read. Bids shall be in the actual possession of the identified bidding department on or prior to the exact date and time indicated above. Late bids will not be considered, except as provided in the City of West Linn Procurement Policy. **Bids shall be submitted in a sealed envelope with the Invitation for Bid Project Number, Project Description, and the bidder's name and address clearly indicated on the front of the envelope.** All bids shall be completed in ink or typewritten. This Bid is for a public works project subject to ORS 279C.800 to 279C.870. Bidders are strongly encouraged to carefully read the **entire** Invitation for Bid Package.

#### BIDDER

##### To the City of West Linn:

The undersigned hereby Bids and agrees to furnish materials and/or services in compliance with all terms, conditions, specifications and addenda in the Notice of Invitation for Bid except for any written exceptions in the Bid. The signature below also certifies his or her understanding and compliance with The City of West Linn Standard Terms and Conditions.

Is the Bidder a "Resident" Bidder per ORS 279A.120? YES  
Construction Contractors Board Yes/No

Registration Number: 150499

Federal Employer  
Identification Number: 43-1307870

For clarification of this Bid contact:

Name: ERIC VOGL

Telephone: 503 - 679 - 5106

KON CONSTRUCTION & DEVELOPMENT, LLC.

Company Name

1969 WILLAMETTE FALLS DR #260

Address

WEST LINN OR 97068

City State Zip Code

[Signature]  
Authorized Signature for Bidder

ERIC VOGL

Printed Name

PROJECT MANAGER

Title

#### ACCEPTANCE OF BID AND CONTRACT AWARD (For City of West Linn Use Only)

Your bid is hereby accepted. The Contractor is now bound to sell the materials and/or services listed by the attached award notice based upon the solicitation, including all terms, conditions, specifications, plans, addendum, amendments, etc., and the Contractor's Bid as accepted by the City.

	City of West Linn, Oregon.
Approved as to form:	Awarded on
Legal	West Linn City Manager



CITY OF  
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## STANDARD TERMS AND CONDITIONS

**Public Works Department**  
22500 Salamo Road  
West Linn, Oregon 97068  
Telephone: (503) 722-5500  
Fax: (503) 656-4106

### 1. PREPARATION OF BID:

- a. All bids shall be submitted on the forms provided in this *Invitation to Bid* package. It is permissible to copy these forms if required. Telegraphic (facsimile), electronic or mailgram bids will not be considered.
- b. The Bid and Contract Award document shall be submitted with an original ink signature by a person authorized to sign the Bid.
- c. Erasures, interlineations, or other modifications in the bid shall be initialed in original ink by the authorized person signing the Bid.
- d. If price is a consideration and in case of error in the extension of prices in the bid, the unit price shall govern. No bid shall be altered, amended, or withdrawn after the specified bid due date and time.
- e. Periods of time, stated as a number of days, shall be calendar days.
- f. Bid due date and time is stated as local Oregon time.
- g. The following items must be completed as part of the Bid submittal: Notice of Invitation to bid and Contract (indicating Oregon Construction Contractors Board License Number), Bid Form, Bid Guaranty (Bond), Non-Collusion Affidavit, Three-Year Experience, and Addenda. Within two (2) hours of the Bid submittal, or with the Bid submittal, the First Tier Subcontractor Disclosure Form must be submitted if the bid is greater than \$100,000.
- h. It is the responsibility of all Bidders to examine the entire *Invitation to bid* package and seek clarification of any item or requirement that may not be clear and to check all responses for accuracy before submitting a bid. Negligence in preparing a Bid confers no right of withdrawal after bid due date and time.

2. **INQUIRIES:** Any question related to the *Invitation to bid (ITB)* shall be directed to the Buyer whose name appears as the Contact on the *ITB*. The Bidder shall not contact or ask questions of the department for which the requirement is being procured. Questions should be submitted in writing when time permits. The Buyer may require any and all questions be submitted in writing at the Buyer's sole discretion. Any correspondence related to an *Invitation to bid* should refer to the appropriate *ITB* number, page, and paragraph number. All requests for additional information or interpretation of the *ITB* shall be submitted to the Buyer no later than five (5) calendar days before the deadline for submission of bids. If, in the opinion of the City, additional information or clarification is required, an addendum will be issued to all plan holders on record and posted online from the City's website. Any addenda issued by the City seventy-two (72) hours or more before the scheduled closing time for filing bids shall be binding upon the Bidder. Addenda may be downloaded from the City's website. Bidders shall frequently check the City's website until closing including at least daily the week of the closing. Failure of the Bidder to receive or obtain such addenda shall not excuse them from compliance therewith if they are awarded the contract. Oral instructions or information given by City Officers, employees or agents to Bidders concerning this *ITB* or the work in general shall not bind the City unless confirmed by written addendum.

3. **PROSPECTIVE BIDDERS CONFERENCE (OPTIONAL):** A prospective Bidders conference may be held. If scheduled, the date and time of this conference will be indicated on the cover page of this document. The purpose of this conference will be to clarify the contents of this *Invitation to bid* in order to prevent any misunderstanding of the *ITB*'s requirements. Any doubt as to the requirements of this *Invitation to bid* or any apparent omission or discrepancy should be presented to the City at this conference. The City will then determine if any action is necessary and may issue a written addendum to the *ITB*.

4. **LATE BIDS:** Late Bids received after the scheduled bid due date and time will be returned to the Bidder unopened.

5. **WITHDRAWAL OF BID:** At any time prior to the specified bid due date and time, a Bidder (or designated representative) may withdraw the bid prior to its opening by giving advanced written notice to the Buyer listed on the *ITB*, receipt of which shall be confirmed prior to bid opening by Buyer.

6. **ADDENDUM OF BID:** Receipt of Addendum shall be acknowledged by signing and returning the document with the Bid at the specified bid due date and time.

7. **CONSTRUCTION CONTRACTORS REGISTRATION:** A person shall not submit a bid or proposal to work as a construction contractor unless that person is first registered with the Construction Contractors Board as required by ORS 701.021 or licensed by the State Landscape Contractor's Board as required by ORS 671.530. Bids from persons who fail to comply with this requirement shall be deemed non-responsive and be rejected.

### 8. AWARD OF CONTRACT:

- a. Notwithstanding any other provision of this *Invitation to bid*, The City expressly reserves the right to: waive any immaterial defect or informality, reject any bids that do not comply with the prescribed public contracting procedures (including the requirement to demonstrate the bidder's responsibility under ORS 279C.375 (3)(b)), reject all bids for good cause if in the public interest, or reissue an *Invitation to bid*.
- b. A response to an *Invitation to bid* is a Bid to contract with the City based upon the terms, conditions and specifications contained in the City's *Invitation to bid* and the written addenda thereto, if any. Bids do not become contracts unless and until they are accepted and executed by the **City Local Contract Review Board, City Manager or Department Director** in accordance with the City of West Linn Procurement Policy. A contract is formed when written notice of award(s) is provided to the successful Bidder(s). The contract has its inception in the award document, eliminating a formal signing of a separate contract. For that reason, all of the terms and conditions of the procurement contract are contained in the *Invitation to bid*; unless modified by an Addendum.





CITY OF  
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## STANDARD TERMS AND CONDITIONS

**Public Works Department**  
22500 Salamo Road  
West Linn, Oregon 97068  
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Fax: (503) 656-4106

**THE FOLLOWING TERMS AND CONDITIONS ARE AN EXPLICIT PART OF THE SOLICITATION AND ANY RESULTANT CONTRACT.**

1. **APPLICABLE LAW:** In the performance of this agreement, contractors shall abide by and conform to any and all laws of the United States, State of Oregon and City of West Linn including but not limited to federal and state executive orders providing for equal employment and procurement opportunities, the Federal Occupational Safety and Health Act and any other federal or state laws applicable to this agreement.

Attention is called to the requirements of Oregon Revised Statutes (O.R.S.) Chapter 279A, 279B, and 279C. This contract shall be governed by the laws of the State of Oregon. Any action or suits pertaining to this contract may be brought only in courts in the Circuit Court of Clackamas County or the U.S. District Court in Portland. Each and every provision of law and any clause required by law to be in the contract will be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, the contract will forthwith be physically amended to make such insertion or correction.

The City may cancel this contract without penalty or further obligations by the City or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the City or any of its departments or agencies, is at any time while the contract or any extension of the contract is in effect, an employee of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.

2. **AMERICANS WITH DISABILITIES ACT, DISCRIMINATION & AFFIRMATIVE ACTION:** Bidders agree that if awarded a contract, the successful Bidder will comply with all applicable provisions of the Americans with Disabilities Act of 1990, 42 USC Section 12101 et seq. If any Bidder requires special assistance or auxiliary aids during the bidding process, please notify the City of West Linn, 503-657-0331 or TDD 503-657-7845 at least two (2) business days prior to the required assistance. To the extent applicable, the Contractor represents that it will comply with Executive Order 11246 as amended, Executive Order 11141, Section 503 of the Vocational Rehabilitation Act of 1973 as amended and the Age Discrimination Act of 1975, and all rules and regulations issued pursuant to the Acts. It is the policy of the City of West Linn that suppliers of goods or services to the City adhere to a policy of equal employment opportunity and demonstrate an affirmative effort to recruit, hire, and promote regardless of race, color, religion, gender, national origin, age or disability. By submitting the first tier subcontractor disclosure form, Bidder certifies that it has complied with ORS 279A.110(1), which states that a bidder may not discriminate against a subcontractor in awarding a subcontract because the subcontractor is a disadvantaged, minority, woman, veteran or emerging small business enterprise certified under ORS 200.055 or a business enterprise that is owned or controlled by, or that employs a disabled veteran.
3. **BUSINESS LICENSE:** A current business license is required before doing business with the City. Information related to complying with the business license requirements is available by contacting the City Finance Department at 503-657-0331 or online at <https://westlinnoregon.gov/finance/online-business-license-registration>.
4. **CONSTRUCTION AND LANDSCAPE CONTRACTORS BOARDS:** Construction contractors must be licensed with the State of Oregon Construction Contractors Board in accordance with O.R.S. 701.005 and any other specialty licensing as required in the bid specification prior to submitting a bid to the City. For information contact:

CONSTRUCTION CONTRACTORS BOARD  
700 Summer St. NE, Suite #300, Salem, OR 97310  
(503) 378-4621 (website) <http://www.ccb.state.or.us>

A Landscape Contractors Board license is required in accordance with O.R.S. 671.510 if the bid specification includes landscape work as defined by O.R.S. 671.510. For information contact:

LANDSCAPE CONTRACTORS BOARD  
2111 Front St. NE, Suite #2-101, Salem, OR 97310  
(503) 378-5909 (website) <http://www.oregon.gov/LCB/>



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5. **LEGAL REMEDIES:** All claims and controversies shall be subject to resolution according to the terms of the City of West Linn Procurement Policy.
6. **BID GUARANTY:** All construction contracts shall be accompanied by a bid guaranty. No bid for construction will be considered unless accompanied by a certified check, cashier's check, or a bid bond for an amount not less than ten percent (10%) of the aggregate amount of the bid by a surety company authorized to issue such bonds in the State of Oregon. It shall be payable to the City of West Linn as a guaranty that the bid shall be irrevocable for a period of sixty (60) calendar days, unless otherwise specified, after the bid opening date and time and as liquidated damages should the Bidder fail or neglect to furnish the required performance bond and insurance and execute a contract within ten (10) calendar days after receiving said contract from the City for execution. The City will hold all bid security during the evaluation process. As soon as is practical after the completion of the evaluation, the City will issue a contract award notice for those Bids accepted by the City and return all bid securities to those who have not been issued a contract award notice.

All bid security from contractors who have been issued an award notice shall be held until the successful execution of all required contractual documents and bonds (performance bond, insurance, etc.). If the contractor fails to execute the required contractual documents and bonds within the time specified, or ten (10) days after notice of award if no period is specified, the contractor may be found to be in default and the contract terminated by the City. In case of default, the City reserves all rights inclusive of, but not limited to, the right to purchase material and/or to complete the required work in accordance with the City of West Linn Procurement Policy and to recover any actual excess costs from the contractor. Collection against the bid security shall be one of the measures available toward the recovery of any excess costs.
7. **CONFLICT OF INTEREST:** A Bidder submitting a bid hereby certifies that no officer, agent or employee of the City who has a pecuniary interest in this bid has participated in the contract negotiations on the part of the City, that the bid is made in good faith without fraud, collusion, or connection of any kind with any other Bidder of the same Invitation to Bid, and that the Bidder is competing solely in its own behalf without connection with, or obligation to, any undisclosed person or firm. No bid will be considered unless accompanied by the notarized Non-Collusion Affidavit form included in the Invitation to bid.
8. **PRE-BID REQUIREMENTS:** Before submitting a bid, each Bidder shall carefully examine the Drawings, read the Specifications and all Addenda and visit the work site, if applicable. Each Bidder shall fully inform themselves prior to submitting a bid as to all existing conditions and limitations under which the Work is to be performed and shall include in the bid a sum to cover all costs of all items necessary to perform the Work as set forth in the Bid Documents. No allowance will be made to any Bidder because of lack of such examination or knowledge. Submission of a bid will be construed as conclusive evidence that the Bidder has made such examination.
9. **LOCAL BUSINESS PREFERENCE:** ORS 279A.120 requires that, in all public contracts, the public contracting agency shall prefer good or services that have been manufactured or produced in this State if price, fitness, availability and quality are otherwise equal. As such the City desires to employ local businesses in the purchase, lease, or sale of any personal property, public improvements or services that have been manufactured or produced by a local business if price, fitness, availability and quality are otherwise equal. When a public contract is awarded to a nonresident bidder and the contract price exceeds \$10,000, the bidder shall promptly report to the Department of Revenue on forms provided by the department all information as required by ORS 279A.120(3).
10. **COST OF BID/PROPOSAL PREPARATION:** The City shall not reimburse the cost of developing, presenting, or providing any response to this solicitation. Bids submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner. The Invitation to Bid does not commit the City to pay any costs incurred by a Bidder in the submission of their bid, or in making any necessary studies or designs for the preparation thereof.
11. **CONTRACT:** The contract between the City and the Contractor shall consist of (1) the Invitation to Bid, including instructions, all terms and conditions, specifications, scopes of work, attachments, price sheet(s) and any amendments thereto, and (2) the Bid submitted by the Contractor in response to the Invitation to Bid (ITB). In the event of a conflict in language between the ITB and the Bid, the provisions and requirements in the ITB shall govern. However, the City reserves the right



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to clarify, in writing, any contractual terms with the concurrence of the Contractor, and such written contract shall govern in case of conflict with the applicable requirements stated in the ITB or the Contractor's Bid. The ITB shall govern in all other matters not affected by the written contract. The contract, if awarded, will be made to the lowest, responsive and responsible Bidder offering the lowest unit price base bid. Determination of the lowest responsive, responsible bid is subject to review by the City. Adversely affected or aggrieved bidders shall have seven calendar days after notice of award to submit to the City a written protest of the notice of award. Any written protest must be submitted in accordance with the adopted City Local Contract Review Board Rules.

12. **CONTRACT AMENDMENTS:** The contract may be modified only by a written Contract Amendment signed by persons duly authorized to enter into contracts on behalf of the City and the Contractor.
13. **CONTRACT APPLICABILITY:** The Bidder shall substantially conform to the terms, conditions, specifications and other requirements found within the text of this ITB. All previous agreements, contracts, or other documents, which have been executed between the Bidder and the City are not applicable to this ITB or any resultant contract.
14. **DRUG TESTING PROGRAM:** Pursuant to O.R.S. 279.505 (2) (1), the Contractor awarded the contract shall demonstrate that an employee drug-testing program is in place. The Contractor demonstrates that a drug-testing program is in place by signing of the contract. The drug testing program will apply to all employees and will be maintained for the duration of the Contract awarded. Failure to maintain a program shall constitute a material breach of contract.
15. **RELATIONSHIP TO PARTIES:** It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venture, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. The Contractor is advised that taxes or Social Security payments will not be withheld from any City payments issued hereunder and that the Contractor should make arrangements to directly pay such expenses, if any.
16. **INTERPRETATION-PAROL EVIDENCE:** This contract represents the entire agreement of the Parties with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this contract are hereby revoked and superseded by this contract. No representations, warranties, inducements or oral agreements have been made by any of the Parties except as expressly set forth herein, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this contract. This contract may not be changed, modified or rescinded except as provided for herein, absent a written agreement signed by both Parties. Any attempt at oral modification of this contract shall be void and of no effect.
17. **SUBCONTRACTS – ASSIGNMENT & DELEGATION:** Contractor shall submit a list of Subcontractors for approval by the City, and Contractor shall be fully responsible for the acts or omissions of any Subcontractors and of all persons employed by them, and neither the approval by City of any Subcontractor nor anything contained herein shall be deemed to create any contractual relation between the Subcontractor and City.

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

18. **APPROVAL OF SUBSTITUTIONS:** The materials, products, and equipment described in the Documents and Addenda establish a standard or required function, dimension, appearance, and quality to be met by any proposed substitution. No substitute will be considered unless written request for approval has been received by the City or its representative at least five (5) days prior to the scheduled closing time for receipt of bids. Each such request shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitute including any drawings, cuts, performance, and test data and any other information necessary for evaluation of the substitute. If a substitute is approved, the approval shall be acknowledged in writing. Bidder shall not consider approvals made in any other manner.



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19. **RIGHTS AND REMEDIES:** No provision in this document or in the vendor's Bid shall be construed, expressly or by implication, as waiver by the City of any existing or future right and/or remedy available by law in the event of any claim of default or breach of contract. The failure of the City to insist upon the strict performance of any term or condition of the contract or to exercise or delay the exercise of any right or remedy provided in the contract, or by law, or the City's acceptance of and payment for materials or services, shall not release the Contractor from any responsibilities or obligations imposed by this contract or by law, and shall not be deemed a waiver of any right of the City to insist upon the strict performance of the Contract.

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

To the maximum extent allowed by law, Contractor agrees to indemnify and defend the City, its officers, agents and employees and hold them harmless from any and all liability, causes of action, claims, losses, damages, judgments or other costs or expenses including attorney's fees and witness costs and (at both trial and appeal level, whether or not a trial or appeal ever takes place) that may be asserted by any person or entity which in any way arise from, during or in connection with the performance of the work described in this contract. This indemnity provision does not require Contractor or its surety or insurer to indemnify the City against liability for damage arising out of death or bodily injury to persons or damage to property caused in whole or in part by the negligence of the City, except to the extent that the death or bodily injury to persons or damage to property arises out of the fault of the Contractor, or the fault of the Contractor's agents, representatives or subcontractors. If any aspect of this indemnity shall be found to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this indemnification. The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

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

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

Payment of Contractor shall be as provided by ORS 279C.660 and shall be prorated to and include the day of termination and shall be in full satisfaction of all claims by Contractor against City under this Contract. Termination under any provision of this paragraph shall not affect any right, obligation, or liability of Contractor or City which accrued prior to such termination.

22. **CANCELLATION WITH CAUSE:** City may terminate this Contract effective upon delivery of written notice to Contractor, or at such later date as may be established by City, under any of the following conditions:

- a. If City funding from federal, state, local, or other sources is not obtained and continued at levels sufficient to allow for the purchase of the indicated quantity of services. This Contract may be modified to accommodate a reduction in funds,
- b. If Federal or State regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Contract,
- c. If any license or certificate required by law or regulation to be held by Contractor, its subcontractors, agents, and employees to provide the services required by this Contract is for any reason denied, revoked, or not renewed,
- d. If Contractor becomes insolvent, if voluntary or involuntary petition in bankruptcy is filed by or against Contractor, if a receiver or trustee is appointed for Contractor, or if there is an assignment for the benefit of creditors of Contractor, or



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- e. If Contractor fails to maintain reasonable relations with the public. Verbal abuse, threats, or other inappropriate behavior towards members of the public constitutes grounds for termination.

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

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

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

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

If City terminates the Contract per clause f or g above, Contractor shall be entitled to receive as full payment for all services satisfactorily rendered and expenses incurred, an amount which bears the same ratio to the total fees specified in this Contract as the services satisfactorily rendered by Contractor bear to the total services otherwise required to be performed for such total fee; provided, that there shall be deducted from such amount the amount of damages, if any, sustained by City due to breach of contract by Contractor. Damages for breach of contract shall be those allowed by Oregon law, reasonable and necessary attorney fees, and other costs of litigation at trial and upon appeal.

23. **SEVERABILITY:** In the event any provision or portion of this Contract is held to be unenforceable or invalid by any court of competent jurisdiction, the remainder of this Contract shall remain in full force and effect and shall in no way be affected or invalidated thereby.
24. **FORCE MAJEURE:** Neither City nor Contractor shall be considered in default because of any delays in completion of responsibilities hereunder due to causes beyond the control and without fault or negligence on the part of the party so disabled, including, but not restricted to, an act of God or of a public enemy, volcano, earthquake, fire, flood, epidemic, quarantine, restriction, area-wide strike, freight embargo, unusually severe weather or delay of Subcontractor or suppliers due to such cause; provided that the party so disabled shall within ten (10) days from the beginning of such delay, notify the other party in writing of the causes of delay and its probable extent. Such notification shall not be the basis for a claim for additional compensation. Each party shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligation under Contract.
25. **RIGHT TO ASSURANCE:** Whenever one party to this contract in good faith has reason to question the other party's intent to perform he may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the Contract.
26. **RIGHT TO ACCESS RECORDS:** City shall have access to such books, documents, papers and records of Contractor and Subcontractors as are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts.
27. **WARRANTIES:** All work shall be guaranteed by the Contractor for a period of 18 months after the date of final acceptance of the work by the Owner. Contractor warrants that all practices and procedures, workmanship, and materials shall be new and the best available unless otherwise specified in the profession. Neither acceptance of the work nor payment therefore





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## **STANDARD TERMS AND CONDITIONS**

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Fax: (503) 656-4106

shall relieve Contractor from liability under warranties contained in or implied by this contract. Additional warranty requirements may be set forth in the solicitation.

28. **TITLE AND RISK OF LOSS:** The title and risk of loss of material and/or service shall not pass to the City until the City actually receives the material or service at the point of delivery, unless otherwise provided within this Contract.
29. **CONFLICT BETWEEN TERMS:** It is expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument and the bid of the Contractor, this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said bid conflicting herewith.
30. **NONWAIVER:** The failure of the City to insist upon or enforce strict performance by Contractor of any of the terms of this contract or to exercise any rights hereunder shall not be construed as a waiver or relinquishment to any extent of its right to assert or rely upon such terms or rights on any future occasion.
31. **LIENS:** All materials, service or construction shall be free of all liens, and if the City requests, a formal release of all liens shall be delivered to the City.
32. **LICENSES:** Contractor shall have at the time of bid submittal, and shall maintain in current status, all Federal, State and Local licenses and permits required for the operation of the business conducted by the Contractor as applicable to this Contract. The conclusion of the issuing authority in each case is to be deemed conclusive for the purposes of complying with this provision. By submitting a bid for this public contract, you agree that, with respect to the contract, substantial compliance does not meet the minimum requirements of this or any provision hereof, or of any applicable law or other authority, and that strict compliance alone is adequate to meet those requirements, unless the City consents to such substantial compliance in writing at the time of bid submittal. The determination shall be made by the City.
33. **ATTORNEY'S FEES:** In case suit or action is instituted to enforce the provisions of this contract, the parties agree that, except to the extent otherwise required under the indemnity provisions of this contract, each party shall bear their own costs and attorneys' fees incurred in connection with any dispute arising under this agreement.
34. **PUBLIC RECORD:** All Bids submitted in response to this solicitation shall become the property of the City and shall become a matter of public record available for review, subsequent to the award notification, in accordance with the City's Procurement Policy.
35. **WORK IS PROPERTY OF THE CITY:** All work performed by Contractor under this Contract shall be the property of the City.
36. **ADVERTISING:** Contractor shall not advertise or publish information concerning this Contract, without prior written consent of the City.



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## GENERAL TERMS AND CONDITIONS

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1. **DEFINITIONS:** The terms, as used in or pertaining to the contract, are defined as follows:

**CITY:** The word “City” shall refer to the City of West Linn, Oregon.

**CONTRACTOR:** The word “Contractor” is defined as the person, firm or corporation with whom the contract is made by the City.

**CONTRACT:** The word “Contract” will include; the Invitation to Bid Notice and Contract, Instructions to Bidders, Bid Form, Bid Guaranty, Performance Bond, Payment Bond, Notice of Award, Notice to Proceed, Change Order, Certificate of Insurance, Certificate of Completion, Contractor’s Affidavit Regarding Settlement of Claims, Contractor’s Affidavit Certifying Non-Collusion in Bidding, Standard Terms & Conditions, General Terms & Conditions, Special Terms & Conditions, Technical Provisions, Plans and Addenda thereto.

**ENGINEER:** The word “Engineer” is defined as the person, firm or corporation duly authorized by the City to act as agent in providing professional services including studies, planning, engineering design and construction administration services, inspecting materials and construction, and interpreting plans and specifications.

**MATERIALS:** The word “Materials” will include, in addition to materials incorporated in the project, equipment and other material used and/or consumed in the performance of the work.

**SUBCONTRACTOR:** The word “Subcontractor” is defined as those persons or groups of persons having a direct contract with the contractor and those who furnish material worked to a special design according to the plans and/or specifications for this work, and includes those who merely furnish materials not so worked.

**WORK:** The word “Work” shall include all labor necessary to accomplish the construction required by the Contract and all materials and equipment incorporated or to be incorporated in said construction.

2. **REFERENCE STANDARDS:**

- a. The “City of West Linn Public Works Standards” which are sponsored and distributed by the City of West Linn Engineering Division, and which are hereinafter referred to as the “COWL Specifications,” are hereby adopted as part of these contract documents.
- b. The “2018 Oregon Standard Specifications for Construction” and the latest edition of the “Oregon Standard Drawings and Standard Details” which are sponsored and distributed by the Oregon Department of Transportation (ODOT), and which are hereinafter referred to as the “ODOT Specifications” are hereby adopted as part of these contract documents.
- c. If any contradiction exists between “COWL Specifications” or “ODOT Specifications” and this solicitation document, the solicitation language shall prevail.

3. **LAWS AND REGULATIONS:** The Contractor shall keep itself fully informed of all existing and future City and County ordinances and regulations and state and federal laws and Occupational Safety and Health Standards (OSHA) in any manner affecting the work herein specified. Contractor shall at all times observe and protect and indemnify the City of West Linn, Oregon, and its officers and agents against any claim or liability arising from or based on the violation of any such ordinances, regulations or laws. It is the responsibility of the Contractor to obtain any and all information regarding the laws and regulations which may be referenced in the Specifications. Certain laws applicable to all public contracts in Oregon are set forth in the Statutorily Required Public Contracting Provisions section.

4. **RIGHTS OF WAY:** The Contractor shall not enter or occupy with workers, tools, equipment or materials any private ground outside the property or easement right of the City of West Linn, without the consent of the owner.



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The Contractor, at his own expense, is responsible for the acquisition of any additional easements or rights-of-way that he may desire to complete the work of this contract.

5. **PROPOSAL QUANTITIES:** It is expressly understood and agreed by the parties hereto that the quantities of the various classes of work to be done and the material to be furnished under this Contract, which have been estimated as stated in the Bids, are only approximate and are to be used solely for the purpose of comparing, on a consistent basis, the bids for the work under this Contract. The Contractor further agrees that the City of West Linn will not be held responsible if any of the quantities shall be found incorrect; and the Contractor will not make any claim for damages or for loss of profits because of a difference between the quantities of the various classes of work as estimated and the work actually done. If any error, omission, or misstatement is found to occur in the estimated quantities, the same shall not invalidate this Contract or the whole or any part of the work in accordance with the Specifications and Plans herein mentioned, and for the prices herein agreed upon and fixed therefore, or excuse him from any of the obligations or liabilities hereunder, or entitle him to any damage or compensation except as may be provided in this contract.

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

The Contractor and all subcontractors must have a public works bond filed with the Oregon Construction Contractors Board before starting work on the Project, unless exempt under ORS 279C.836(4), (7), (8) or (9). If the contractor fails to pay for labor or services, the City can pay and withhold these amounts from payments due the contractor in accordance with ORS 279C.515. Daily, weekly, weekend, and holiday overtime will be paid as required in ORS 279C.540. The Contractor shall provide workers with a written schedule showing the number of hours per day and days per week the employee may be required to work in accordance with ORS 279C.520. Contractor must promptly pay for any medical services they have agreed to pay per ORS 279C.530.

The City will not receive or consider a bid unless the bid contains a statement by the bidder that the bidder will comply with ORS 279C.838, ORS 279C.840, or 40 U.S.C. 3141. By signing and submitting the Bid, the Contractor agrees to comply with ORS 279C.838 or 279C.840 and/or 40 U.S.C. 3141 et seq. for a public works project subject to the state prevailing wage rates under ORS 279C.800 to 279C.870, the federal prevailing wage rates under the Davis-Bacon Act (40 U.S.C. 3141 et seq.) or both.

For contracts \$50,000 or greater, the City shall pay a fee to the Bureau of Labor and Industries and shall be mailed or otherwise delivered to the Bureau in accordance with Form WH-81 & WH-39.

7. **PAYMENTS TO CONTRACTOR:** City agrees to pay Contractor for performance of those services provided hereunder, which payment shall be based upon the following applicable terms:
- a. **Payment:** Payment shall be based upon the unit prices bid by the Contractor, as listed in attached bid. Contractor shall prepare and submit each month to the Buyer identified in the Invitation to bid at the address listed, a statement of services rendered, (indicating the description of each service used in the bid and the dollar amount of each service completed through the stated date), together with a request for payment duly verified by the Contractor's Representative.

Payment by the City shall release the City from any further obligation for payment to Contractor for services performed or expenses incurred as of the date of the statement of services. Payment of installments shall not be considered





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acceptance or approval of any work or waiver of any defects therein. City certifies that sufficient funds are available and authorized for expenditure to finance costs of this contract. Contractor shall include proof of payment to any and all subcontractors and suppliers with each statement submitted to the City. The City shall retain the right to withhold payments if required proof of payment to subcontractor and suppliers is not included with a statement.

- b. **Timing of Payments:** Progress payments shall be made to the Contractor within thirty (30) days of the City's receipt of the statement of services.
- c. **Final Payment:** The Contractor shall notify the City in writing when the Contractor considers the project complete, and the City shall, within 15 days after receiving the written notice, either accept the work or notify the Contractor of work yet to be performed on the contract. If accepted by the City, the remaining balance due to the Contractor, including any retained percentage, shall be paid to the Contractor by the City within 30 days after the date of said acceptance.
- d. **Deposit in Interest Bearing:** Upon written request of the contractor, the City shall deposit any amounts withheld as retainage in an interest-bearing account in a bank, savings bank, trust company, or savings association for the benefit of the City. Interest earned on such account shall accrue to the contractor. If the contractor deposits bonds, securities, or other instruments in lieu of cash retainage, the City shall accept the contractor's alternative retainage method in lieu of depositing the retainage in an interest-bearing escrow account, subject to the limitations and requirement of ORS 279C.560.

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

All notices, bills and payments shall be made in writing and may be given by personal delivery or by mail. Notices, bills and payments sent by mail should be addressed to the attention of the Buyer and/or Authorized Bidder at the addresses identified in the Invitation to bid and shall be deemed given upon deposit in the United States mail, postage paid. In all other instances, notices, bills and payments shall be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the person to whom notices, bills, and payments are to be given by giving written notice pursuant to this paragraph.

- 8. **LIQUIDATED DAMAGES:** The Contractor agrees that the "Time of Completion" is defined in the Bid and agrees to complete the work by said date. The Contractor and City agree that the City will suffer damages each day the work remains uncompleted after the Time of Completion and that the amounts of those damages are difficult to calculate. Contractor and City agree that a reasonable amount of damages for late completion is **\$500 per calendar day** and Contractor agrees to pay such amounts as liquidated damages if the work is not completed by the Time of Completion. Contractor agrees that the liquidated damages specified herein are a fair way of ascertaining damages to the City and are not a penalty for late completion.
- 9. **STATUS OF CONTRACTOR AS INDEPENDENT CONTRACTOR:** Contractor certifies that:
  - a. Contractor acknowledges that for all purposes related to this Agreement, Contractor is and shall be deemed to be an Independent Contractor as defined by ORS 670.600 and not an employee of City, shall not be entitled to benefits of any kind to which an employee of City is entitled and shall be solely responsible for all payments and taxes required by law. Furthermore, in the event that Contractor is found by a court of law or any administrative agency to be an employee of City for any purpose, City shall be entitled to offset compensation due, or to demand repayment of any amounts paid to Contractor under the terms of this Agreement, to the full extent of any benefits or other remuneration Contractor receives (from City or third party) as a result of said finding and to the full extent of any payments that City is required to make (to Contractor or to a third party) as a result of said finding.



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- b. The Contractor hereby represents that no employee of the City, or any partnership or corporation in which a City employee has an interest, has or will receive any remuneration of any description from Contractor, either directly or indirectly, in connection with the letting or performance of this Agreement, except as specifically declared in writing.
  - c. If payment is to be charged against Federal funds, Contractor certifies that he or she is not currently employed by the Federal Government and the amount charged does not exceed his or her normal charge for the type of service provided.
  - d. Contractor and its employees, if any, are not active members of the Oregon Public Employees Retirement System and are not employed for a total of 600 hours or more in the calendar year by any public employer participating in the Retirement System.
  - e. Contractor certifies that it currently has a City business license or will obtain one prior to delivering services under this Agreement.
  - f. Contractor is not an officer, employee, or agent of the City as those terms are used in ORS 30.265.
10. **CERTIFIED PAYROLL:** The Contractor shall make payment promptly, as due, to all persons supplying to such Contractor labor or material for the performance of the work provided for in this contract. The Contractor will pay all contributions or amounts due the Industrial Accident Fund under the Worker's Compensation Law from such Contractor or Subcontractor incurred in the performance of this contract. The Contractor will pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. The Contractor shall not permit any lien or claim to be filed or prosecuted against the City of West Linn on account of any labor or material furnished.

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

- a. The certified statements shall set out accurately and completely the payroll records, including the name and address of each worker, the worker's correct classification, rate of pay, daily and weekly number of hours worked, and the gross wages the worker earned during each week identified in the certified statement.
- b. Each certified statement required herein shall be delivered or mailed by the Contractor or Subcontractor to the City. A true copy of the certified statements shall also be filed at the same time with the Commissioner of the Bureau of Labor and Industries. Certified statements shall be submitted as set forth in ORS 279C.845.
- c. The City shall retain 25 percent of any amount earned by Contractor until the certified statements as required by this section have been filed. City shall pay Contractor the amount retained under this subsection within 14 days after Contractor files the certified statements as required by this section, regardless of whether a subcontractor has failed to file certified statements as required by this section. City is not required to verify the truth of the contents of certified statements filed by Contractor.

The Contractor agrees that if the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a Subcontractor by any person in connection with this contract as such claim becomes due, the proper office of the City of West Linn may pay such claim to the person furnishing the labor or services and charge the amount



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of the payment against funds due or to become due to the Contractor by reason of such contract. Payment of a claim in this manner shall not relieve the Contractor or the Contractor's Surety from obligation with respect to any unpaid claims.

Contractor agrees that no person shall be employed for more than ten (10) hours in any one day, or forty (40) hours in any one week, except in cases of necessity, emergency or when public policy absolutely requires it, and in such cases the laborer shall be paid at least time and a half pay for all overtime in excess of eight (8) hours in any one day or forty (40) hours in any one week when the workweek is five consecutive days, Monday through Friday, or ten (10) hours in any one day and or forty (40) hours in any one week when the workweek is four consecutive days, Monday through Friday and for all work performed on Saturday and on any legal holiday as specified in ORS 279C.540.

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

11. **PRE-CONSTRUCTION CONFERENCE:** Within 30 days of the issuance of the Notice of Award, the Contractor is required to attend a Pre-construction Conference. The City will contact the Contractor to schedule a specific date, time and location for the Pre-construction conference. The purpose of the meeting is to outline specific construction items and procedures and to address items which require special attention on the part of the Contractor. The Contractor may also present proposed variations in procedures which the Contractor believes may improve constructability of the project, reduce cost, or will reduce inconvenience to the public. Any necessary coordination and procedures for Construction inspection and staking will be addressed during the Pre-construction Conference. The Contractor will be required to provide the following information at the Pre-construction Conference:

- a. Names and emergency telephone numbers of key personnel involved in the project.
- b. Names and telephone numbers of all subcontractors proposed for use on the project.
- c. A construction progress schedule showing the estimated time for start and completion of the major items of work.
- d. A written proposal outlining the intended plans for maintaining continuous access to residences and businesses along the construction site, and traffic control.
- e. An itemized list of all required shop drawings, material and equipment submittals and a schedule indicating the dates each of these items will be transmitted to the City for review.

Each of the above items is subject to the review and approval by the City.

12. **INSURANCE REQUIREMENTS:** The Contractor, at Contractor's own expense, shall purchase and maintain the herein stipulated minimum insurance with companies licensed to do business in the State of Oregon with policies and forms satisfactory to the City. The City reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating. All insurance required herein shall be maintained in full force and effect until all work required to be performed under the terms of the Contract is satisfactorily completed and formally accepted; failure to do so may, at the sole direction of the City, constitute a material breach of this Contract. The Contractor's insurance shall be primary insurance, and any insurance or self insurance maintained by the City shall not contribute to it.

Any failure to comply with the claim reporting provisions of the policies or any breach of an insurance policy warranty shall not affect coverage afforded under the policy to protect the City. The insurance policies shall contain a waiver of transfer



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rights of recovery (subrogation) against the City, its agents, representatives, directors, officers, and employees for any claims arising out of the Contractor's work or service.

The City reserves the right to request and to receive, within 10 working days, certified copies of any or all of the herein required insurance policies and/or endorsements. The City shall not be obligated, however, to review same or to advise Contractor of any deficiencies in such policies and endorsements, and such receipt shall not relieve Contractor from, or be deemed a waiver of the City's right to insist on, strict fulfillment of Contractor's obligations under this Contract.

The insurance policies required by this Contract shall name the City, its agents, representatives, officers, directors, officials and employees as Additional Insured with respect to this contract. All Liability Insurance policies will be endorsed to show this additional coverage. A cross-liability clause or separation of insured clause will be included in general liability policy.

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

- a. **Commercial General Liability Insurance:** Includes all liability including all major divisions of coverage, but not limited to, Premises/Operations, Completed Operations, Independent Contractors' Protective, Products-Completed Operations, Contractual Liability (including coverage for the Contractor's indemnity obligations and other contractual indemnity obligations assumed by the Contractor), Personal Injury, and Broad Form Property Damage (including coverage for Explosion, Collapse, and Underground Hazards). The following insurance will be carried:

Employer's Liability Insurance  
\$ 2,000,000.00 Each Occurrence  
\$ 2,000,000.00 Disease Each Employee  
\$ 2,000,000.00 Disease – Policy

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

Comprehensive Automobile Liability Insurance including coverage for all owned, hired and non-owned vehicles  
\$ 2,000,000.00 Each Occurrence Combined Single Limit  
\$ 3,000,000.00 Aggregate Bodily Injury & Property Damage

or

\$ 2,000,000.00 Each Person Bodily Injury  
\$ 2,000,000.00 Each Occurrence Bodily Injury  
\$ 2,000,000.00 Each Occurrence Property Damage  
\$ 2,000,000.00 Each Occurrence Pollution Occurrence Sub-Limit

- b. "All risk" Builder's Risk Insurance (including earthquake and flood) covering the real and personal property of others in the care, custody, and control of the contractor, if applicable. Coverage shall include theft and damage to building interiors, exterior, in transit and offsite storage. The minimum amount of coverage to be carried shall be equal to the full amount of the contract.

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

The insurance policies may provide coverage which contains deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall not be applicable with respect to the coverage provided to the City under such policies. The



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Contractor shall be solely responsible for deductible and/or self-insured retention and the City, at its option, may require the Contractor to secure the payment of such deductible or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.

**Certificates of Insurance:** Prior to commencing Services under this Contract, Contractor shall furnish the City with Certificates of Insurance, or formal endorsements as required by the Contract, issued by Contractor's insurer(s), as evidence that policies providing the required coverage, conditions and limits required by this Contract are in full force and effect. Certificates of Insurance should read "Insurance certificate pertaining to (this contract). The City of West Linn, its officers, directors and employees shall be added as additional insured with respects to this contract. Insured coverage is primary" in the description portion of the certificate.

If a policy does expire during the life of the contract, a renewal certificate must be sent to the City ten (10) days prior to the expiration date. Insurance required herein shall not expire, be canceled, or materially changed without thirty (30) days prior written notice to the City. The procuring of such required insurance shall not be construed to limit contractor's liability hereunder. Notwithstanding said insurance, Contractor shall be obligated for the total amount of any damage, injury, or loss caused by negligence or neglect connected with this Contract.

13. **PERFORMANCE BOND:** The contractor shall be required to furnish non-revocable security binding the contractor to provide faithful performance of the contract in the amount of 100% of the total contract price payable to the City of West Linn.

Performance security shall be in the form of a performance bond, certified check or cashier's check. This security must be in the possession of the City within the time specified or ten (10) days after notice of award if no period is specified. If the contractor fails to execute the security document as required, the contractor may be found in default and the contract terminated by the City. In case of default the City reserves all rights.

All performance bonds shall be executed on the Performance Bond form included in the Bid Document, duly executed by the Bidder as Principal and having as Surety thereon a Surety company approved by the owner and holding a Certificate of Authority to transact surety business in the State of Oregon, by the Oregon Department of Insurance. Individual sureties are unacceptable. All Insurers and Sureties shall have at the time of submission of the proposal an A.M. Best's Key Rating Guide of "A-" or better as currently listed in the most recent Best Key Guide, published by the A.M. Best Company, payable without condition to the Owner.

14. **PAYMENT BOND:** The contractor shall be required to furnish non-revocable security for the protection of all persons supplying labor and material to the contractor or any subcontractor for the performance of any work related to the contract. Payment security shall be in the amount of 100% of the total contract price and be payable to the City of West Linn. Payment security shall be in the form of a payment bond, certified check or cashier's check.

All payment bonds shall be executed on the Payment Bond form included in the Bid Document, duly executed by the Bidder as Principal and having as Surety thereon a Surety company approved by the owner and holding a Certificate of Authority to transact surety business in the State of Oregon, by the Oregon Department of Insurance. Individual sureties are unacceptable. All Insurers and Sureties shall have at the time of submission of the proposal and A.M. Best's Key Rating Guide of "A-" or better as currently listed in the most recent Best Key Guide, published by the A.M. Best Company, payable without condition to the Owner.

15. **NOTICE TO PROCEED:** Within 45 days of the issuance of the Notice of Award the City may issue a written Notice to Proceed. The Notice to Proceed shall stipulate the actual contract start date, the contract duration and the contract completion date. The time required for the Contractor to obtain permits, licenses and easements shall be included in the contract duration and shall not be justification for a delay claim by the Contractor. The time required for the Contractor to prepare, transmit and obtain approval of applicable submittals shall be included in the contract duration and shall not be justification for a delay claim by the Contractor.





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No work shall be started until after all required permits, licenses, and easements have been obtained.

No work shall be started until all applicable submittals have been submitted and returned approved by the City's Representative.

16. **PROTECTION OF FINISHED OR PARTIALLY FINISHED WORK:** The Contractor shall properly guard and protect all finished or partially finished work, and shall be responsible for the same until the entire contract is completed and accepted by the City Engineer. The Contractor shall turn over the entire work in full accordance with these Specifications before final settlement shall be made.
17. **CHANGE ORDERS:** The City may at any time, and without notice, issue a written Change Order requiring additional work within the general scope of this Contract, or any amendment thereto, or directing the omission of or variation in work. If such Change Order results in a material change in the amount or character of the work, an equitable adjustment in the Contract price and other provisions of this Contract as may be affected may be made. Any claim by Contractor for an adjustment under this section shall be asserted in writing within thirty (30) days from the date of receipt by Contractor of the notification of change or the claim will not be allowed. Whether made pursuant to this section or by mutual agreement, no change shall be binding upon City until a Change Order is executed by the Authorized Representative of City, which expressly states that it constitutes a Change Order to this Contract. The issuance of information, advice, approvals, or instructions by City's Representative or other City personnel shall not constitute an authorized change pursuant to this section. Nothing contained in this section shall excuse the Contractor from proceeding with the prosecution of the work in accordance with the Contract, as changed.
18. **STOCKPILE OF MATERIALS:** The Contractor may, if approved by the City Engineer, place or stockpile materials in the public right-of-way provided they **do not** prevent access to adjacent properties or prevent compliance with traffic regulations. Traffic shall not be required to travel over stockpiled materials, and proper dust control shall be maintained.
19. **EXCESS MATERIALS:** When excavations are made, resultant loose earth shall be utilized for filling by compacting in place or disposed of off the site. Excess or unsuitable material, broken asphaltic concrete and broken portland cement concrete excavated from the right-of-way shall be removed from the project and disposed of by the Contractor.

Waste material shall not be placed on private property without express permission of the property owner.

The Contractor shall at all times keep the premises free from accumulation of waste materials or rubbish caused by his operations. At the completion of the work, he shall remove all equipment, tools and surplus materials, and shall completely clean the premises, removing and disposing of all debris and rubbish, and cleaning all stains, spots, marks, dirt, smears, etc. When work premises are turned over to the City, they shall be thoroughly clean and ready for immediate use.

Clean-up shall include removal of all excess pointing mortar materials within pipes and removal of oversized rocks and boulders left after finish grading. The Contractor shall provide for the legal disposal of all waste products debris, etc., and shall make necessary arrangements for such disposal.

20. **ENVIRONMENTAL POLLUTION:** As provided by ORS 279C.525, all applicable provisions of federal, state or local statutes, ordinances and regulations dealing with the prevention of environmental pollution and the preservation of natural resources that affect the work under this contract are by reference incorporated herein to the same force and effect as if set forth herein in full. If the Contractor must undertake additional work due to the enactment of new or the amendment of existing statutes, ordinances or regulations occurring after the submission of the successful bid, the City shall issue a Change Order setting forth the additional work that must be undertaken. The Change Order shall not invalidate the Contract and there shall be, in addition to a reasonable extension, if necessary, of the contract time, a reasonable adjustment in the contract price, if necessary, to compensate the Contractor for all costs and expenses incurred, including overhead and profits, as a result of the delay or additional work.



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21. **SALVAGE, COMPOSTING OR MULCHING:** If this is a contract for demolition work, the Contractor shall salvage or recycle construction and demolition debris, if feasible and cost-effective. If this is a contract for lawn and landscape maintenance, Contractor shall compost or mulch yard waste material at an approved site, if feasible and cost-effective.
22. **LOSSES AND DAMAGES:** All loss or damage arising out of the nature of the work to be done or from the action of the elements or from any unforeseen circumstances in the prosecution of the same, or from any unusual obstructions or difficulties which may be encountered in and/or during the prosecution of the work, or from any casualty whatsoever of every description, shall be sustained and borne by the Contractor at his own cost and expense.
23. **CHARACTER AND STATUS OF WORKMEN:** Only skilled foremen and workmen shall be employed on work requiring special qualifications. When required by the City, the Contractor shall discharge any person who is, in the opinion of the City Engineer, disorderly, dangerous, insubordinate, incompetent, or otherwise objectionable. The Contractor shall keep the City harmless from damages or claims for compensation that may occur in the enforcement of this section.
24. **WORK METHODS:** The methods, equipment and appliances used on the work shall be such as will produce a satisfactory quality of work, and shall be adequate to complete the contract within the time limit specified.

Except as is otherwise specified, the Contractor's procedure and methods of construction may, in general, be of his own choosing, provided they follow best general practice and are calculated to secure results which will satisfy the requirements of the specifications and the supervision of the work.

The work covered by this Contract shall be carefully laid out in advance and performed in a manner to minimize interference with normal operation and utilization of the roads. The Contractor shall exercise caution during the course of this construction work to avoid damage to all known existing or possible unknown existing underground utilities. He shall conduct his construction operations in such a manner as to avoid injury to his personnel and to avoid damage to all utilities. Any damage done will be repaired without delay and at the expense of the Contractor.

25. **INSPECTION:** All material and/or services are subject to inspection and acceptance by the City. Materials and/or services failing to conform to the specifications of this Contract will be held at Contractor's risk and may be returned to the Contractor. If so returned, all costs are the responsibility of the Contractor. The City may elect to do any or all of the following per written determination:
- a. Allow the Contractor to proceed with the non-conformance at-risk.
  - b. Stop the work immediately until the Contractor replaces or corrects the Work.
  - c. Bring material into compliance by replacing or correcting the Work itself and charge the Contractor with all reasonable costs incurred with performing the Work, including deducting such costs from any sums otherwise due the Contractor.
26. **TRAFFIC REGULATIONS:** All traffic affected by this construction shall be regulated in accordance with the *Oregon Temporary Traffic Control Handbook*, latest edition, as prepared by the Oregon Department of Transportation and any questions shall be referred to the City of West Linn City Engineer for interpretation.

At the time of the pre-construction conference, the Contractor shall designate an employee who is well qualified and experienced in construction traffic control and safety to be responsible for implementing, monitoring and altering traffic control measure, as necessary. At the same time the City will designate a representative who will be responsible to see that all traffic control and any alterations are implemented and monitored to the extent that traffic is carried through the work area in an effective manner and that motorists, pedestrians, bicyclists and workers are protected from hazard and accidents.



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- a. All traffic control devices required for this project shall be the responsibility of the Contractor. The Contractor shall place advance warnings signs in accordance with the Traffic Control Handbook.
- b. The Contractor shall provide, erect and maintain all necessary flashing arrow boards, barricades, suitable and sufficient warning lights, signals and signs, and shall take all necessary precautions for the protection of the work and safety of the public. The Contractor shall provide, erect and maintain acceptable and adequate detour signs at all closures and along detour routes.
- c. All barricades and obstructions shall be illuminated at night, and all safety lights shall be kept burning from sunset until sunrise. All barricades and signs used by the Contractor shall conform to the standard design, generally accepted for such purposes, and payment for all such services and materials shall be considered as included in the other pay items of the Contract unless specifically listed and identified.
- d. The Contractor shall insure that all existing traffic signs are erect, clean and in full view of the intended traffic at all times. Street name signs at major street intersections shall be maintained erect at all times. If these signs should interfere with construction, the Contractor shall notify the Inspector at least forty eight (48) hours in advance for City personnel to temporarily relocate said signs. The City will re-set all traffic and street name signs to permanent locations when notified by the Contractor that construction is complete unless otherwise stated in the specifications.
- e. When construction activities or traffic hazards at the construction site require the use of flagmen, it shall be the Contractor's responsibility to provide adequate personnel including flagmen to direct traffic safely.
- f. Equipment used and/or directed by the Contractor shall travel with traffic at all times. Supply trucks shall travel with traffic except when being spotted. Provide a flagman to assist with this operation.
- g. During construction, it may be necessary to alter traffic control. Alterations shall be in accordance with the Traffic Control Handbook.
- h. **NO STREET WITHIN THIS PROJECT MAY BE CLOSED TO THROUGH TRAFFIC OR TO LOCAL EMERGENCY TRAFFIC WITHOUT THE PRIOR WRITTEN APPROVAL OF THE CITY ENGINEER PER DIRECTION OF THE CITY MANAGER OF THE CITY OF WEST LINN.** Written approval may be given if sufficient time exists to allow for notification of the public at least two (2) days in advance of such closing. Partial closure of streets within the project shall be done in strict conformity with written directions to be obtained from the City Engineer.
- i. The Contractor shall address how local access to adjacent properties will be handled in accordance with the specification herein.
- j. Where crossings of existing pavements occur, no open trenches shall be permitted overnight, but plating may be permitted if conditions allow as determined by the City Engineer or his authorized representative. If plates cannot be used, crossings shall be appropriately back-filled to provide a safe smooth travelling surface.

27. **OUTDOOR CONSTRUCTION RESTRICTIONS:** Outdoor construction is restricted to the times listed below in the following table:

	<b>Weekdays (Mon.-Fri.)</b>	<b>Weekends (Sat.-Sun.), Holidays</b>
All Outdoor Construction Work	7:00 a.m. to 7:00 p.m.	9:00 a.m. to 5:00 p.m.

Holidays include: New Year's Day, Martin Luther King Jr. Birthday, Washington's Birthday/President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day.





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28. **FIRST TIER SUBCONTRACTOR DISCLOSURE:** If a Bid for the Project is greater than \$100,000, within two working hours of the date and time the Bids are due, the Bidder must submit a written disclosure for all First Tier Subcontractors furnishing labor or labor and materials whose subcontracts are equal to or greater in value than 5% of the total Project Bid or \$15,000, whichever is greater, or \$350,000 regardless of the percentage of the total project bid in accordance with ORS 279C.370. The Bidder must disclose the following information about their first-tier subcontracts either in its Bid submission or within two (2) working hours after the date and time of the deadline when bids are due:
- The subcontractor's name, address, Construction Contractor's Board Number (as applicable), and
  - The dollar value of the subcontract, and
  - The category of work that the subcontractor will be performing.
- If the bidder will not be using any subcontractors that are subject to the above disclosure requirements, the bidder is required to indicate "NONE" on the accompanying form. Failure to submit this form by the disclosure deadline will result in a non-responsive bid. A non-responsive bid will not be considered for award. It is the Bidder's responsibility to determine all the documents that must be submitted to the City.
29. **USE OF EQUALS:** When the specifications for materials, articles, products, and equipment state "or equal", Contractor may bid upon, and use materials, articles, products, and equipment which will perform equally the duties imposed by the general design. The Engineer will have the final approval of all materials, articles, products, and equipment proposed to be used as an "equal." It shall not be purchased or installed without prior written approval from the City or its representative.
30. **HAZARDOUS MATERIALS:** The Contractor shall supply the City with a list of any and all hazardous substances used in performance of this Contract. That list shall identify the location of storage and use of all such hazardous substances and identify the amounts stored and used at each location. Contractor shall provide City with material safety data sheets for all hazardous substances brought onto City property, created on City property or delivered to City pursuant to this Contract. For the purpose of this section, "hazardous substance" means hazardous substance as defined by ORS 453.307(5). Contractor shall complete the State Fire Marshall's hazardous substance survey as required by ORS 453.317 and shall assist City to complete any such survey that it may be required to complete because of substances used in the performance of this Contract.
31. **HAZARDOUS WASTE:** If, as a result of performance of this Contract, Contractor generates any hazardous wastes, Contractor shall be responsible for disposal of any such hazardous wastes in compliance with all applicable federal and state requirements. Contractors shall provide City with documentation, including all required manifests, demonstrating proper transportation and disposal of any such hazardous wastes. Contractor shall defend, indemnify, and hold harmless City for any disposal or storage of hazardous wastes generated pursuant to this Contract and any releases or discharges of hazardous materials.
32. **TEMPORARY SANITARY FACILITIES:** The Contractor shall provide facilities for the use of workmen employed on the work site in accordance with the requirements of ORS 654.150, (Sanitary facilities at construction projects; standards, exemptions) and the rules adopted pursuant thereto. Whether or not ORS 654.150 is applicable to the project is the sole responsibility of the Contractor. Contractor shall be responsible for all costs that may be incurred in complying with or in securing exemption or partial exemption from the requirements as incidental to this contract.
33. **ELECTRIC POWER, WATER AND TELEPHONE:** Unless otherwise specified, the Contractor shall make his own arrangements for electric power, water and telephone. Subject to the convenience of the utility, Contractor may be permitted to connect to existing facilities where available, they he shall meter and bear the cost of such power or water, and installation and disconnect of such power, water and telephone services.



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34. **UTILITIES AND ELECTRICAL POWER LINES:** The electric utility company may maintain energized aerial electrical power lines in the immediate vicinity of this project. Do not consider these lines to be insulated. Construction personnel working in proximity to these lines are exposed to an extreme hazard from electrical shock. Contractors, their employees and all other construction personnel working on this project must be warned of the danger and instructed to take adequate protective measure, including maintaining a minimum ten (10) feet clearance between the lines and all construction equipment and personnel. (see: OSHA Std. 1926.550 (a) 15).

Electrical utility companies may maintain energized underground electrical power lines in the immediate vicinity of this project. These power lines represent an extreme hazard of electrical shock to any construction personnel or equipment coming in contact with them. Contractors, their employees, and all other personnel working near any underground power lines must be warned to take adequate protective measure. (see: OSHA Std. 1926-651 (A)).

Oregon law requires all parties planning excavations in public rights-of-way to contact utilities for locations of their underground facilities in accordance with the rules adopted by the Oregon Utility Notification Center. Those rules are set forth in OAR 952-001-0010 through OAR 952-001-0090. You may obtain copies of the rules by calling the center at (503) 232-1987.

35. **COOPERATIVE PURCHASING:** Any publicly funded city, county, district, agency or similar entity shall have the authority to purchase specified goods/services directly from the contractor under the terms and conditions of this contract as indicated below:

- a. The bidder agrees to extend identical pricing to local public agencies for the same terms. Quantities listed in this document reflect the City of West Linn's estimated usage only.
- b. Each contracting agency will execute a separate contract with the successful bidder for its requirements.
- c. Any bidder, by written notification at the time of the bid due date and time, may decline to extend the prices and terms of this bid to any, and/or all other public agencies.
- d. Additional costs may be incurred by the successful bidder in contracting with another public agency. All demonstrable costs (shipping, etc.) may be passed on to that public agency.

Contractor shall provide information regarding total usage of contract upon request of the City of West Linn.



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## **SPECIAL TERMS AND CONDITIONS**

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**Purpose:** The City of West Linn intends to establish a contract for the **2025 Waterline Replacement project**. For the Technical Provisions of this contract see Appendix B.

1. **Prospective Bidders Conference:** Optional

**ADDRESS:** 22500 Salamo Rd.  
West Linn, OR 97068

**DATE/TIME:** AS INDICATED ON COVER PAGE

The purpose of this conference will be to clarify the contents of this Invitation to bid in order to prevent any misunderstanding of the City's position. Any doubt as to the requirements of this Invitation to bid or any apparent omission or discrepancy should be presented to the City at this conference. The City will then determine the appropriate action necessary, if any, and issue a written addendum to the Invitation to bid. Oral statements or instructions shall not constitute an amendment to the Invitation to bid.

2. **Bid Acceptance Period:** In order to allow for an adequate evaluation, the City requires a Bid in response to this Solicitation to be valid and irrevocable for sixty (60) days after the opening time and date.
3. **Time of Completion:** The Contractor shall commence work for this project on or before the fifth (5) day following the project start date indicated on the "Notice to Proceed" issued by the City of West Linn and shall fully complete all work under the project within the "Time of Completion" stated on the "Notice of Invitation to Bid and Contract." The Contractor shall, at all times, during the continuance of the Contract, prosecute the work with such force and equipment as is sufficient to complete all work within the time specified.
4. **City of West Linn Permit:** As a City project, the Contractor is not required to obtain a City Public Works Construction, Improvement, Blasting, or Erosion Control permit. The Contractor will be responsible for any other required agency permits.
5. **Key Personnel:** It is essential that the Contractor provide adequate experienced personnel, capable of and devoted to the successful accomplishment of work to be performed under this contract. The Contractor must agree to assign specific individuals to the key positions.
- a. The Contractor agrees that, once assigned to work under this contract, key personnel shall not be removed or replaced without written notice to the City.
  - b. If key personnel are not available for work under this contract for a continuous period exceeding 30 calendar days, or are expected to devote substantially less effort to the work than initially anticipated, the Contractor shall immediately notify the City, and shall, subject to the concurrence of the City, replace such personnel with personnel of substantially equal ability and qualifications.



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## **Statutorily Required Public Contracting Provisions**

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Contractor shall observe all applicable state and local laws pertaining to public contracts. Pursuant to ORS Chapters 279A, 279B and 279C, which require every public contract to contain certain provisions, and other state law, the following provisions shall be a part of this contract, as applicable. All defined terms in this Attachment shall be interpreted in accordance with Solicitation or Contract Documents and the relevant statutory provision.

1. ORS 279A.110 (Non-discrimination Certification): Contractor shall certify that Contractor has not discriminated and will not discriminate against a Subcontractor in the awarding of a subcontract because the Subcontractor is a disadvantaged, minority owned, woman owned, veteran owned, or emerging small business enterprise (certified under ORS 200.055.), or a business that is owned or controlled by, or employs a disabled veteran (as defined in ORS 408.225).
2. Pursuant to ORS 279B.220 or 279C.505, as applicable, Contractor shall make payment promptly, as due, to all persons supplying to the contractor labor or material for the performance of the work provided for in the contract; shall pay all contributions or amounts due the Industrial Accident Fund from the contractor or subcontractor incurred in the performance of the contract; not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished, and; pay to the Department of Revenue all sums withheld from employees under ORS 316.167.
3. Pursuant to ORS 279B.225, every public contract for lawn and landscape maintenance shall contain a condition requiring the contractor to salvage, recycle, compost or mulch yard waste material at an approved site, if feasible and cost-effective.
4. Pursuant to ORS 279B.230(1) or 279C.530(1), as applicable, Contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to the employees of such contractor, of all sums which the contractor agrees to pay for such services and all monies and sums which the contractor collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service.
5. Pursuant to ORS 279B.230(2) or 279C.530.(2), as applicable, in every public contract, all subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.
6. Pursuant to ORS 279B.235(1) and 279B.020 and ORS 279C.520 and 279C.540 (Hours of Labor, Holidays, and Overtime): Except as otherwise provided in an applicable collective bargaining agreement with a labor organization, Contractor shall not employ and shall require that its Subcontractors not employ any person to perform construction work for more than ten hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency, or where the public policy absolutely requires it, and in such cases, except in cases of Contracts for personal services as defined in ORS 279A.055, the laborer shall be paid at least time and a half pay:
  - 1.1.1. For all overtime in excess of eight hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; and
  - 1.1.2. For all overtime in excess of ten hours a day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and
  - 1.1.3. For work performed on Saturday and on any legal holiday specified in any applicable collective bargaining agreement or ORS 279C.540(1)(b).



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- i. The requirement to pay at least time and a half for all overtime worked in excess of 40 hours in any one week shall not apply to individuals who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. Section 201 to 209 from receiving overtime.
  - ii. Contractor shall and shall require its Subcontractors to give notice in writing to their employees who work under this Contract, either at the time of hire or before commencement of Work on the Contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.
7. Environmental Laws. Contractor shall comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).
8. Oregon Tax Law Compliance: Contractor must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Contractor (to the best of Contractor's knowledge, after due inquiry), for a period of no fewer than six calendar years preceding the date of this Contract, represents and warrants that it has faithfully has complied with, and will continue to comply with during the term of this Contract: (A) all tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318; (B) any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor; (C) any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and (D) any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions. Failure to comply with this section is a default for which the City may terminate the Contract and seek damages and other relief available under the terms of the Contract or under applicable law.
9. Foreign Contractor. If Contractor is not domiciled in or registered to do business in the state of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State Corporation Division all information required by those agencies relative to this Contract. Contractor shall demonstrate its legal capacity to perform these services in the state of Oregon prior to entering into this Contract.
10. Assignment or Transfer Restricted. Unless otherwise provided in the Contract, the Contractor shall not assign, sell, dispose of, or transfer rights, or delegate duties under the Contract, either in whole or in part, without the Contracting Agency's prior Written consent. Unless otherwise agreed by the Contracting Agency in Writing, such consent shall not relieve the Contractor of any obligations under the Contract. Any assignee or transferee shall be considered the agent of the Contractor and be bound to abide by all provisions of the Contract. If the Contracting Agency consents in Writing to an assignment, sale, disposal or transfer of the Contractor's rights or delegation of Contractor's duties, the Contractor and its surety, if any, shall remain liable to the Contracting Agency for complete performance of the Contract as if no such assignment, sale, disposal, transfer or delegation had occurred unless the Contracting Agency otherwise agrees in Writing.

For all public improvement contracts:

1. Pursuant to ORS 279C.505(2), Contractor shall demonstrate that an employee drug-testing program is in place.
2. Pursuant to ORS 279C.510, if this Contract includes demolition work, Contractor shall salvage or recycle construction and demolition debris, if feasible and cost-effective. All excavated PCC and AC debris from this Project shall be sorted, separated, and taken to a facility or site so that the material may be recycled or re-used in the future as appropriate. All costs associated with Project material recycling shall be incidental to the Project, and no additional payment will be made. If this Contract



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includes lawn or landscape maintenance, the Contractor shall compost or mulch yard waste material at an approved site, if feasible and cost-effective

3. Pursuant to ORS 279C.515(1), if Contractor fails, neglects, or refuses to make prompt payment of any Claim for labor or services furnished to the Contractor or a Subcontractor by any person in connection with this Contract as such Claim becomes due, the City may pay such Claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due the Contractor by reason of this Contract. The payment of a Claim in the manner authorized in this Section shall not relieve the Contractor or the Contractor's surety from any obligation with respect to any unpaid Claims.
4. Pursuant to ORS 279C.515(2), if Contractor or a first-tier subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the public improvement contract within 30 days after receipt of payment from the contract agency or a contractor, the contractor or first-tier subcontractor shall owe the person the amount due plus interest charges commencing at the end of the 10-day period that payment is due under ORS 279C.580(4) and ending upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The rate of interest charged to the contractor or first-tier subcontractor on the amount due shall equal three times the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve district that includes Oregon on the date that is 30 days after the date when payment was received from the contracting agency or from the contractor, but the rate of interest may not exceed 30 percent. The amount of interest may not be waived.
5. Pursuant to ORS 279C.515(3), in every public improvement contract and every contract related to the public improvement contract, if Contractor or a subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the public improvement contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580.
6. Pursuant to ORS 279C.525 (Notice of Environmental Regulations): State law requires that solicitation documents for a public improvement contract make specific reference to federal, state, and local agencies that have enacted ordinances, rules, or regulations dealing with the prevention of environmental pollution or the preservation of natural resources that may affect the performance of this Contract. These agencies include, but are not limited to:
  - i. Federal Agencies: Department of Agriculture, Forest Service, Soil and Water Conservation Service, Coast Guard, Department of Defense, Army Corps of Engineers, Department of Emergency, Federal Energy Regulatory Commission, Environmental Protection Agency, Department of Health and Human Services, Department of Housing and Urban Development, Solar Energy and Energy Conservation Bank, Department of Interior, Bureau of Land Management, Bureau of Indian Affairs, Bureau of Mines, Bureau of Reclamation, Geological Survey, Minerals Management Service, U.S. Fish and Wildlife Service, Department of Labor, Mine Safety and Health Administration, Occupational Safety and Health Administration, Department of Transportation, Federal Highway Administration, and Water Resources Council.
  - 1.1.4. State Agencies: Department of Administrative Services, Department of Agriculture, Soil and Water Conservation Commission, Columbia River Gorge Commission, Department of Energy, Department of Environmental Quality, Department of Fish and Wildlife, Department of Forestry, Department of Geology and Mineral Industries, Department of Human Resources, Department of Consumer and Business Services, Land Conservation and Development Commission, Department of Parks and Recreation, Division of State Lands, and Department of Water Resources.





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1.1.5. Local Agencies: City councils, county courts, county boards of commissioners, metropolitan service district councils, design commissions, historic preservation commissions, planning commissions, development review commissions, special district boards of directors, and other and special governmental agencies such as Tri-Met, urban renewal agencies, and Port districts.

1.1.6. Tribal Governments.

7. Pursuant to ORS 279C.545 (Time Limitations on Claims for Overtime): Construction workers employed by the Contractor or its Subcontractor shall be foreclosed from the right to collect for any overtime under this Contract unless a claim for payment is filed with the Contractor or Subcontractor within 90 days from the completion of the Contract, providing the Contractor or Subcontractor has:

1.1.7. Caused a circular clearly printed in blackface pica type and containing a copy of this Section to be posted in a prominent place alongside the door of the timekeeper's office or in a similar place which is readily available and freely visible to any or all workers employed on the Work; and

1.1.8. Maintained such circular continuously posted from the inception to the completion of the Contract on which workers are or have been employed.

8. Contractor is advised of the statutory Retainage requirements in ORS 279C.550 to 570.

9. Contractor is advised of the prompt-payment requirements in ORS 279C. 570.

10. Pursuant to ORS 279C.580(3) (Prompt Payment of First-Tier Subcontractors): Contractor shall include in each subcontract for property or services with a first-tier Subcontractor a clause that obligates the Contractor to pay the first-tier Subcontractor for satisfactory performance under its subcontract within ten days out of such amounts as are paid to the Contractor by the City. Contractor shall also include in each subcontract a clause that states that if the Contractor fails to pay any claim for materials or labor furnished under this Contract within 30 days after being paid by City, interest shall be due on such claim as specified in ORS 279C.515(2) at the end of the ten-day period that payment is due under ORS 279C.580(3). Contractor shall require each first-tier Subcontractor to include a payment clause and interest clause conforming to the requirements of ORS 279C.580 in each of its subcontracts, and to require each of its Subcontractors to include a similar clause in each contract with a lower-tiered subcontractor or supplier.

11. Pursuant to ORS 279C.580(4), Contractor shall include in each of its subcontracts for a public improvement, for the purpose of performance of such contract condition, a provision requiring the subcontractor to include a payment clause and an interest penalty clause conforming to the standards of ORS 279C.580 (B) (4) in each of its subcontracts and to require each of its subcontractors to include such clauses in their subcontracts with each lower-tier subcontractor or supplier.

12. Contractor is advised of the rights of action and procedures on payment bonds and public works bonds under ORS 279C.600-.625.

13. Pursuant to ORS 279C.800 to 279C.870 (Payment of Prevailing Wage Required):

1.1.9. The hourly rate of wage to be paid by Contractor or any Subcontractor to workers in each trade or occupation required for the public works employed in the performance of this Contract shall not be less than the specified minimum rate of wage in accordance with ORS 279C.838 and ORS 279C.840 for each trade or occupation as defined by the Commissioner of the Oregon Bureau of Labor and Industries in the applicable publication entitled Definitions of Covered Occupations for Public Works Contracts in Oregon available at <https://www.oregon.gov/boli/employers/pages/prevailing-wage-rates.aspx>.



CITY OF  
**West  
Linn**

## **Statutorily Required Public Contracting Provisions**

**Public Works Department**  
22500 Salamo Road  
West Linn, Oregon 97068  
Telephone: (503) 722-5500  
Fax: (503) 656-4106

1.1.10. This  
Contract is subject to the prevailing wage rates published as specified in the January 5, 2025 Prevailing Wage Rate Book.

1.1.11. Contractor  
and all Subcontractors shall keep the prevailing wage rates for this Project posted in a conspicuous and accessible place in or about the Project.

1.1.12. The City  
shall pay a fee to the Commissioner of the Oregon Bureau of Labor and Industries as provided in ORS 279C.825. The fee shall be paid to the Commissioner under the administrative rule of the Commissioner.

1.1.13. If Contractor  
or any Subcontractor also provides for or contributes to a health and welfare plan or a pension plan, or both, for its employees on the Project, it shall post notice describing such plans in a conspicuous and accessible place in or about the Project. The notice shall contain information on how and where to make claims and where to obtain future information.

14. Pursuant to ORS 279C.830(2), on public works contracts, Contractor shall have, and ensure that its subcontractors have, a public works bond filed with the Construction Contractors Board before starting work on the project, unless the contractors or subcontractor is exempt under ORS 279C.836.

15. ORS 279C.845 (Prevailing Wage Certification; Additional Retainage):

- i. Contractor and every Subcontractor shall file certified statements with City in writing in the form prescribed by the Commissioner of the Bureau of Labor and Industries, certifying the hourly rate of wage paid each worker whom Contractor or Subcontractor has employed upon such public work, and further certifying that no worker employed upon such public work has been paid less than the prevailing rate of wage or less than the minimum hourly rate of wage specified in the Contract, which certificate and statement shall be verified by the oath of Contractor or Contractor's surety or Subcontractor or Subcontractor's surety that Contractor and any Subcontractor has read such statement and certificate and knows the contents thereof, and that the same is true to Contractor or Subcontractor's knowledge. The certified statements shall set out accurately and completely the payroll records for the prior week including the name and address of each worker, the worker's correct classification, rate of pay, daily and weekly number of hours worked, deductions made, and actual wages paid.
- ii. The certified statement shall be delivered or mailed by Contractor or Subcontractor to City. Certified statements for each week during which the Contractor or Subcontractor employs a worker upon the public work shall be submitted once a month, by the fifth business day of the following month. Information submitted on certified statements may be used only to ensure compliance with the provisions of ORS 279C.800 to 279C.870. Notwithstanding any other provision of this Contract and in addition to any other retainage required under this Contract, the City shall retain 25% of any amount earned by the Contractor until the Contractor has filed the certified statements with the City as required by this Section. The City will pay the retainage required under this Section within 14 days after Contractor files the certified statements required by this Section.
- iii. Contractor and each Subcontractor shall preserve the certified statements for a period of three years from the date of completion of the Contract.

16. ORS 671.560, 701.026 (Landscape/Construction Contractors License Required): If Contractor is performing work as a landscape contractor as defined in ORS 671.520(2), Contractor must have a current, valid landscape contractor's license issued under ORS 671.560. If Contractor is performing work as a Contractor as defined in ORS 701.005(2), Contractor must have a





CITY OF  
**West  
Linn**

## **Statutorily Required Public Contracting Provisions**

**Public Works Department**  
22500 Salamo Road  
West Linn, Oregon 97068  
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Fax: (503) 656-4106

current, valid construction contractor's license issued under ORS 701.026. Contractor shall further certify that all Subcontractors performing Work described in ORS 701.005(2) are registered with the Construction Contractors Board or licensed by the State Landscaping Contractor's Board as required by the above-noted statutes before they commence Work under this Contract. Contractor shall maintain in effect all licenses, permits, and certifications required for the performance of the Work. Contractor shall notify City immediately if any license, permit, or certification required for performance of this Contract shall cease to be in effect for any reason.



CITY OF  
**West  
Linn**

PW-25-01

**Public Works Department**  
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Fax: (503) 656-4106

# Appendix A

## FORMS



CITY OF  
**West  
Linn**

## BID FORM

Solicitation Number: PW-25-01

**Public Works Department**  
22500 Salamo Road  
West Linn, Oregon 97068  
Telephone: (503) 722-5500  
Fax: (503) 656-4106

### BID PROPOSAL SUMMARY

1) SCHEDULE A – SUBTOTAL \$ 765,087.92

2) SCHEDULE B – SUBTOTAL \$ 80,371.07

3) SCHEDULE C – SUBTOTAL \$ 260,169.89

4) SCHEDULE D – SUBTOTAL \$ 358,050.16

**GRAND TOTAL BID AMOUNT** \$ 1,463,679.04  
(SUM OF SCHEDULES A,B,C, &D) (Use numbers)

**GRAND TOTAL BID AMOUNT:** (SUM OF SCHEDULES A, B, C, & D)

ONE MILLION FOUR HUNDRED SIXTY-THREE THOUSAND SIX HUNDRED SEVENTY-NINE DOLLARS AND FOUR CENTS  
(Use words)



CITY OF  
**West  
Linn**

## BID BOND

Solicitation Number: PW-25-01

**Public Works Department**  
22500 Salamo Road  
West Linn, Oregon 97068  
Telephone: (503) 722-5500  
Fax: (503) 656-4106

KNOW ALL PERSONS BY THESE PRESENTS:

That we, Icon Construction & Development LLC, as "Principal,"  
(Name of Principal)

and United Fire & Casualty Company, an Iowa Corporation,  
(Name of Surety)

authorized to transact Surety business in Oregon, as "Surety," hereby jointly and severally bind ourselves, our respective heirs, executors, administrators, successors and assigns to pay unto the City of West Linn ("Obligee") the sum of (\$ 10 %) Ten Percent of Bid Amount dollars.

WHEREAS, the condition of the obligation of this bond is that Principal has submitted its proposal or bid to an agency of the Obligee in response to Obligees procurement document for the project identified in the Solicitation Number indicated above which proposal or bid is made a part of this bond by reference, and Principal is required to furnish bid security in an amount equal to ten (10%) percent of the total amount of the bid pursuant to the procurement document and ORS 279C.365(4) for competitive bidding or 279C.400(5) for competitive proposals.

NOW, THEREFORE, if the proposal or bid submitted by Principal is accepted, and if a contract pursuant to the proposal or bid is awarded to Principal, and if Principal enters into and executes such contract within the time specified in the procurement document and executes and delivers to Obligee its good and sufficient performance and payment bonds required by Obligee, as well as any required proof of insurance, within the time fixed by Obligee, then this obligation shall be void; otherwise, it shall remain in full force and effect.

IN WITNESS WHEREOF, we have caused this instrument to be executed and sealed by our duly authorized legal representatives this 12th day of March, 2025

**PRINCIPAL:** Icon Construction & Development LLC

**SURETY:** United Fire & Casualty Company

By

ERIC VOGL  
Signature

BY ATTORNEY-IN-FACT:

PROJECT MANAGER

Official Capacity

Guadalupe Martinez

Name

Attest:

elli-ross  
Corporation Secretary

[Signature]  
Signature

8705 SW Nimbus, Suite 100

Address

Beaverton Oregon 97008  
City State Zip

(503) 639-4220 (503) 639-4449  
Phone Fax





UNITED FIRE & CASUALTY COMPANY, CEDAR RAPIDS, IA  
UNITED FIRE & INDEMNITY COMPANY, WEBSTER, TX  
FINANCIAL PACIFIC INSURANCE COMPANY, LOS ANGELES, CA  
CERTIFIED COPY OF POWER OF ATTORNEY  
(original on file at Home Office of Company – See Certification)

Inquiries: Surety Department  
118 Second Ave SE  
Cedar Rapids, IA 52401

KNOW ALL PERSONS BY THESE PRESENTS, That United Fire & Casualty Company, a corporation duly organized and existing under the laws of the State of Iowa; United Fire & Indemnity Company, a corporation duly organized and existing under the laws of the State of Texas; and Financial Pacific Insurance Company, a corporation duly organized and existing under the laws of the State of California (herein collectively called the Companies), and having their corporate headquarters in Cedar Rapids, State of Iowa, does make, constitute and appoint

RICHARD ZAROSINSKI, NATHAN HURST, JOE RITER, GUADALUPE MARTINEZ, STACI THISTLEWHITE, EACH INDIVIDUALLY

their true and lawful Attorney(s)-in-Fact with power and authority hereby conferred to sign, seal and execute in its behalf all lawful bonds, undertakings and other obligatory instruments of similar nature provided that no single obligation shall exceed \$50,000,000.00 and to bind the Companies thereby as fully and to the same extent as if such instruments were signed by the duly authorized officers of the Companies and all of the acts of said Attorney, pursuant to the authority hereby given and hereby ratified and confirmed.

The Authority hereby granted is continuous and shall remain in full force and effect until revoked by United Fire & Casualty Company, United Fire & Indemnity Company, and Financial Pacific Insurance Company.

This Power of Attorney is made and executed pursuant to and by authority of the following bylaw duly adopted by the Boards of Directors of United Fire & Casualty Company, United Fire & Indemnity Company, and Financial Pacific Insurance Company.

**"Article VI – Surety Bonds and Undertakings"**

Section 2, Appointment of Attorney-in-Fact. "The President or any Vice President, or any other officer of the Companies may, from time to time, appoint by written certificates attorneys-in-fact to act in behalf of the Companies in the execution of policies of insurance, bonds, undertakings and other obligatory instruments of like nature. The signature of any officer authorized hereby, and the Corporate seal, may be affixed by facsimile to any power of attorney or special power of attorney or certification of either authorized hereby; such signature and seal, when so used, being adopted by the Companies as the original signature of such officer and the original seal of the Companies, to be valid and binding upon the Companies with the same force and effect as though manually affixed. Such attorneys-in-fact, subject to the limitations set forth in their respective certificates of authority shall have full power to bind the Companies by their signature and execution of any such instruments and to attach the seal the Companies thereto. The President or any Vice President, the Board of Directors or any other officer of the Companies may at any time revoke all power and authority previously given to any attorney-in-fact.

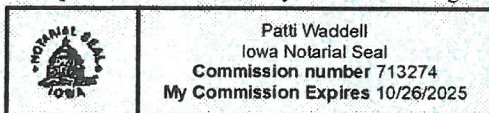
IN WITNESS WHEREOF, the COMPANIES have each caused these presents to be signed by its vice president and its corporate seal to be hereto affixed this 1st day of March, 2024

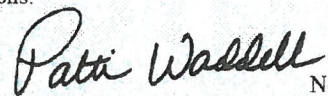
UNITED FIRE & CASUALTY COMPANY  
UNITED FIRE & INDEMNITY COMPANY  
FINANCIAL PACIFIC INSURANCE COMPANY

By:   
Vice President

State of Iowa, County of Linn, ss:

On 1st day of March, 2024, before me personally came Kyanna M. Saylor to me known, who being by me duly sworn, did depose and say; that she resides in Cedar Rapids, State of Iowa; that she is a Vice President of United Fire & Casualty Company, a Vice President of United Fire & Indemnity Company, and a Vice President of Financial Pacific Insurance Company the corporations described in and which executed the above instrument; that she knows the seal of said corporations; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporations and that she signed her name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporations.

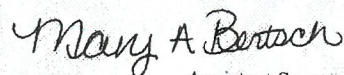


  
Notary Public  
My commission expires: 10/26/2025

I, Mary A. Bertsch, Assistant Secretary of United Fire & Casualty Company and Assistant Secretary of United Fire & Indemnity Company, and Assistant Secretary of Financial Pacific Insurance Company, do hereby certify that I have compared the foregoing copy of the Power of Attorney and affidavit, and the copy of the Section of the bylaws and resolutions of said Corporations as set forth in said Power of Attorney, with the ORIGINALS ON FILE IN THE HOME OFFICE OF SAID CORPORATIONS, and that the same are correct transcripts thereof, and of the whole of the said originals, and that the said Power of Attorney has not been revoked and is now in full force and effect.

In testimony whereof I have hereunto subscribed my name and affixed the corporate seal of the said Corporations this 12th day of MARCH, 2025.



By:   
Assistant Secretary,  
UF&C & UF&I & FPIC

BPOA0049 1217

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## BID FORM

Solicitation Number: PW-25-01

**Public Works Department**  
22500 Salamo Road  
West Linn, Oregon 97068  
Telephone: (503) 722-5500  
Fax: (503) 656-4106

### SCHEDULE A: SW UPPER MIDHILL DRIVE/SW ARBOR DRIVE

Item	Spec Reference	Description of material and/or services	Quantity	Unit	Unit Price	Total Amount
A-1		Mobilization, Bonds, Insurance and Demobilization.	1	LS	\$ 30,000	\$ 30,000
A-2		Erosion and Sediment Control Plan and Maintenance	1	LS	\$ 7100	\$ 7100
A-3		Traffic Control, including Temporary Protection, Direction of Traffic, and Signage	1	LS	\$ 25,000	\$ 25,000
A-4		Construction Survey and Staking	1	LS	\$ 2500	\$ 2500
A-5		Temporary Trench Resurfacing	927	SY	\$ 25	\$ 23,175
A-6		Replacement of Road Striping, Reflectors and Pavement Markings	1	LS	\$ 1500	\$ 1500
A-7		Furnish & Install buried valves and hydrants				
		a. 6" Gate Valve	4	EA	\$ 1900	\$ 7600
		b. 8" Gate Valve	8	EA	\$ 2500	\$ 20,000
		c. Combination Air Release Valve	1	EA	\$ 4400	\$ 4400
		d. Fire Hydrants, Complete (short)	3	EA	\$ 8800	\$ 26,400
A-8		Abandon Existing Fire Hydrant	3	EA	\$ 1000	\$ 3000
A-9		Furnish and Install Piping				
		a. 6" Ductile Iron Piping (Restrained with Class B Backfill)	45	LF	\$ 122	\$ 5490
		b. 8" Ductile Iron Piping (Restrained with Class B Backfill)	2735	LF	\$ 121	\$ 330,935
A-10		Furnish and Install Ductile Iron Fittings				
		a. 6" Ductile Iron Tee	1	EA	\$ 670	\$ 670
		b. 8" Ductile Iron Tee	3	EA	\$ 1600	\$ 4800
		c. 8"x6" Ductile Iron Tee	3	EA	\$ 980	\$ 2940
		d. 6" Long Sleeve Coupling	5	EA	\$ 340	\$ 1700
		e. 8"x6" DI Reducers	5	EA	\$ 370	\$ 1850
		f. 6" Ductile Iron 45° Bends	7	EA	\$ 600	\$ 4200
		g. 8" Ductile Iron 11.25° Bends	1	EA	\$ 575	\$ 575
		h. 8" Ductile Iron 45° Bends	8	EA	\$ 600	\$ 4800
		i. 8" Ductile Iron 90° Bends	1	EA	\$ 700	\$ 700
A-11		Furnish and Install Water Services				
		1" Water Service	48	EA	\$ 1980	\$ 95,040
		2" Water Service	1	EA	\$ 3680	\$ 3680
A-12		Furnish and Install Water Meter Boxes	49	EA	\$ 500	\$ 24,500
A-13		Connections to Existing Water System Piping	6	EA	\$ 3150	\$ 18,900



CITY OF  
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Fax: (503) 656-4106

Item	Spec Reference	Description of material and/or services	Quantity	Unit	Unit Price	Total Amount
A-14		Abandon Exist 4"/6" Pipe	6	EA	\$ 1000	\$ 6000
A-15		Additional Cost for Trench Rock Excavation	20	CY	\$ 175	\$ 3500
A-16		Cold Plane Pavement Removal	1236	SY	\$ 17.47	\$ 21,592.92
A-17		Level 3, 1/2-inch Dense HMA Pavement	272	TON	\$ 270	\$ 73,440
A-18		Testing, Flushing, and Disinfection of Water Mains	1	LS	\$ 4300	\$ 4300
A-19		General Surface Restoration	1	LS	\$ 4800	\$ 4800
SUBTOTAL FOR SCHEDULE A:						\$ 765,087.92





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### SCHEDULE B: WILLAMETTE DRIVE (HWY 43) SERVICES

Item	Spec Reference	Description of material and/or services	Quantity	Unit	Unit Price	Total Amount
B-1		Mobilization, Bonds, Insurance and Demobilization.	1	LS	\$ 15,000	\$ 15,000
B-2		Erosion and Sediment Control Plan and Maintenance	1	LS	\$ 1200	\$ 1200
B-3		Traffic Control, including Temporary Protection, Direction of Traffic, and Signage	1	LS	\$ 7500	\$ 7500
B-4		Construction Survey and Staking	1	LS	\$ 500	\$ 500
B-5		Temporary Trench Resurfacing	330	SF	\$ 22.60	\$ 7458.00
B-6		Replacement of Road Striping, Reflectors and Pavement Markings	1	LS	\$ 3500	\$ 3500
B-7		Cold Plane Pavement Removal	75	SY	\$ 17.47	\$ 1310.25
B-8		Level 3, 1/2-inch Dense HMAC Pavement	33	TON	\$ 270	\$ 8910
B-9		Furnish and Install Water Services (Trenchless)				
		1" Water Service (HWY 43)	6	EA	\$ 2594.35	\$ 15,566.10
B-10		Furnish and Install Water Meter Boxes	6	EA	\$ 418.54	\$ 2511.24
B-11		Horizontal Directional Drilling (3" PVC Casing Pipe)	6	EA	\$ 1902.58	\$ 11,415.48
B-12		Abandon Exist 2" PVC Pipe	1	EA	\$ 500	\$ 500
B-13		General Surface Restoration	1	LS	\$ 5000	\$ 5000
<b>SUBTOTAL FOR SCHEDULE B:</b>						<b>\$ 80,371.07</b>



# BID FORM

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## SCHEDULE C: REED STREET/SUNSET AVENUE

Item	Spec Reference	Description of material and/or services	Quantity	Unit	Unit Price	Total Amount
C-1		Mobilization, Bonds, Insurance and Demobilization.	1	LS	\$ 20,000	\$ 20,000
C-2		Erosion and Sediment Control Plan and Maintenance	1	LS	\$ 5,000	\$ 5,000
C-3		Traffic Control, including Temporary Protection, Direction of Traffic, and Signage	1	LS	\$ 18,000	\$ 18,000
C-4		Construction Survey and Staking	1	LS	\$ 2,500	\$ 2,500
C-5		Temporary Trench Resurfacing	277	SY	\$ 22.60	\$ 6,260.20
C-6		Furnish & Install buried valves and hydrants				
		a. 6" Gate Valve	2	EA	\$ 2,000	\$ 4,000
		b. 8" Gate Valve	3	EA	\$ 28.60	\$ 85.80
		c. Fire Hydrants, Complete	2	EA	\$ 8,500	\$ 17,000
C-7		Furnish and Install Piping				
		a. 6" Ductile Iron Piping (Restrained with Class B Backfill)	20	LF	\$ 11.9	\$ 2,380
		b. 8" Ductile Iron Piping (Restrained with Class B Backfill)	810	LF	\$ 12.1	\$ 9,801.00
C-8		Furnish and Install Ductile Iron Fittings				
		a. 8" Ductile Iron Tee	1	EA	\$ 1,000	\$ 1,000
		b. 8"x6" Ductile Iron Tee	2	EA	\$ 800	\$ 1,600
		c. 8" Long Sleeve Coupling	1	EA	\$ 600	\$ 600
		d. 8" Ductile Iron 11.25° Bends	2	EA	\$ 575	\$ 1,150
		e. 8" Ductile Iron 22.5° Bends	3	EA	\$ 600	\$ 1,800
C-9		Furnish and Install Water Services				
		Reconnect 1" Water Service (short)	10	EA	\$ 19.80	\$ 19,800
C-10		Furnish and Install Water Meter Boxes	10	EA	\$ 500	\$ 5,000
C-11		Connections to Existing Water System Piping	2	EA	\$ 3161.63	\$ 6,323.26
C-12		Abandon Exist 1 1/2" Pipe	4	EA	\$ 500	\$ 2,000
C-13		Additional Cost for Trench Rock Excavation	10	CY	\$ 175	\$ 1,750
C-14		Cold Plane Pavement Removal	369	SY	\$ 11.47	\$ 4,223.43
C-15		Level 3, 1/2-inch Dense HMA Pavement	81	TON	\$ 270	\$ 21,870
C-16		Testing, Flushing, and Disinfection of Water Mains	1	LS	\$ 4,300	\$ 4,300
C-17		General Surface Restoration	1	LS	\$ 4,800	\$ 4,800
		<b>SUBTOTAL FOR SCHEDULE C:</b>				\$260,169.89



CITY OF  
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## BID FORM

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22500 Salamo Road  
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Fax: (503) 656-4106

### SCHEDULE D: DOLLAR ST & SANTA ANITA DR

Item	Spec Reference	Description of material and/or services	Quantity	Unit	Unit Price	Total Amount
D-1		Mobilization, Bonds, Insurance and Demobilization.	1	LS	\$ 20 000	\$ 20 000
D-2		Erosion and Sediment Control Plan and Maintenance	1	LS	\$ 3800	\$ 3800
D-3		Traffic Control, including Temporary Protection, Direction of Traffic, and Signage	1	LS	\$ 13279	\$ 13279
D-4		Construction Survey and Staking	1	LS	\$ 2500	\$ 2500
D-5		Temporary Trench Resurfacing	347	SY	\$ 22.65	\$ 7859.55
D-6		Replacement of Road Striping, Reflectors and Pavement Markings	1	LS	\$ 4000	\$ 4000
D-7		Furnish and Install Curb and Gutter	40	LF	\$ 60	\$ 2400
D-8		Remove and Replace Sidewalk	100	SF	\$ 32	\$ 3200
D-9		Furnish and Install buried valves & hydrants				
		a. 6" Gate Valve	3	EA	\$ 1900	\$ 5700
		b. 8" Gate Valve	2	EA	\$ 2800	\$ 5600
		c. 10" Gate Valve	4	EA	\$ 4200	\$ 16800
		d. Fire Hydrants, Complete	1	EA	\$ 8475	\$ 8475
D-10		Furnish and Install Piping				
		a. 6" Ductile Iron Piping (Restrained with Class B Backfill)	82	LF	\$ 119	\$ 9758
		b. 8" Ductile Iron Piping (Restrained with Class B Backfill)	510	LF	\$ 121	\$ 61,710
		c. 10" Ductile Iron Piping (Restrained with Class B Backfill)	450	LF	\$ 190	\$ 85,500
D-11		Furnish and Install Ductile Iron Fittings				
		a. 8" Ductile Iron Tee	2	EA	\$ 1300	\$ 2600
		b. 10"x6" Ductile Iron Tee	2	EA	\$ 1200	\$ 2400
		c. 10" Ductile Iron Tee	1	EA	\$ 2600	\$ 2600
		d. 6" Long Sleeve Coupling	2	EA	\$ 350	\$ 700
		e. 8" Long Sleeve Coupling	1	EA	\$ 600	\$ 600
		f. 10" Long Sleeve Coupling	2	EA	\$ 800	\$ 1600
		g. 8"x6" Ductile Iron Reducers	2	EA	\$ 1100	\$ 2200
		h. 10"x8" Ductile Iron Reducers	1	EA	\$ 850	\$ 850
		i. 6" Ductile Iron 22.5° Bends	2	EA	\$ 320	\$ 640
		j. 6" Ductile Iron 45° Bends	2	EA	\$ 340	\$ 680
		k. 8" Ductile Iron 90° Bends	1	EA	\$ 700	\$ 700
		l. 10" Ductile Iron 11.25° Bends	1	EA	\$ 800	\$ 800
		m. 10" Ductile Iron 22.5° Bends	1	EA	\$ 800	\$ 800
D-12		Furnish and Install Water Services				
		Reconnect 1" Water Service	7	EA	\$ 1980	\$ 13,860



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Item	Spec Reference	Description of material and/or services	Quantity	Unit	Unit Price	Total Amount
D-13		Furnish and Install Water Meter Boxes	7	EA	\$ 500	\$ 3500
D-14		Connections to Existing Water System Piping	6	EA	\$ 3160	\$ 18960
D-15		Abandon Exist 6"/10" Pipe	4	EA	\$ 1650	\$ 6600
D-16		Additional Cost for Trench Rock Excavation	15	CY	\$ 150	\$ 2250
D-17		Cold Plane Pavement Removal	463	SY	\$ 17.47	\$ 8088.61
D-17		Level 3, 1/2-inch Dense HMA Pavement	102	TON	\$ 270	\$ 27,540
D-18		Testing, Flushing, and Disinfection of Water Mains	1	LS	\$ 4500	\$ 4500
D-19		General Surface Restoration	1	LS	\$ 5000	\$ 5000
		<b>SUBTOTAL FOR SCHEDULE D:</b>				\$ 358,050.16



CITY OF  
**West  
Linn**

## FORMS

PW-25-01

**Public Works Department**  
22500 Salamo Road  
West Linn, Oregon 97068  
Telephone: (503) 722-5500  
Fax: (503) 656-4106

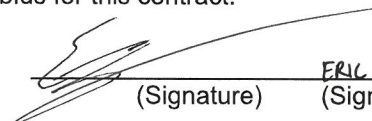
### NONCOLLUSION AFFIDAVIT

I, (Type/Print Name) ERIC VOGL, state that I am (Position Title) PROJECT MANAGER of (Name of Firm) ICON CONSTRUCTION & DEVELOPMENT, LLC. and that I am authorized to make this affidavit on behalf of my firm, and its owners, directors, and, officers. I am the person responsible in my firm for the price(s) and the amount of this bid.

I state that:

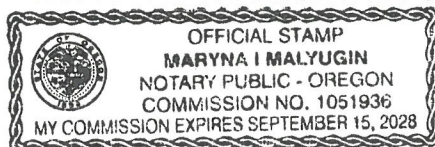
1. The price(s) and the amount of this bid have been arrived at independently and without consultation, communication or agreement with any other contractor, bidder or potential bidder.
2. Neither the price(s) nor the amount of this bid, and neither the approximate price(s) nor approximate amount of this bid, have been disclosed to any other firm or person who is a bidder or potential bidder, and they will not be disclosed before bid opening.
3. No attempt has been made or will be made to induce any firm or person to refrain from bidding on this contract, or to submit a bid higher than this bid, or to submit any intentionally high or noncompetitive bid or other form of complementary bid.
4. The bid of my firm is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive bid.
5. (Name of Firm) ICON CONSTRUCTION & DEVELOPMENT, LLC., its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any governmental agency and have not in the last four (4) years been convicted or found liable for any act prohibited by state or federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract, except as follows:

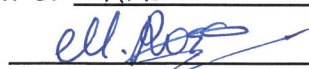
I state that (Name of Firm) ICON CONSTRUCTION & DEVELOPMENT, LLC. understands and acknowledges that the above representations are material and important, and will be relied on by **THE CITY OF WEST LINN, OREGON** in awarding the contract(s) for which this bid is submitted. I understand and my firm understands that any misstatement in this affidavit is and shall be treated as fraudulent concealment from **THE CITY OF WEST LINN, OREGON** of the true facts relating to the submission of bids for this contract.

  
(Signature) ERIC VOGL  
(Signatory's Name)  
PROJECT MANAGER  
(Signatory's Title)

STATE OF OREGON )  
COUNTY OF CLATSOP )§

SWORN TO AND SUBSCRIBED BEFORE ME THIS 20<sup>TH</sup> DAY OF MARCH, 2025



  
Notary Public  
My Commission Expires September 15, 2028



CITY OF  
**West  
Linn**

## FORMS

PW-25-01

**Public Works Department**  
22500 Salamo Road  
West Linn, Oregon 97068  
Telephone: (503) 722-5500  
Fax: (503) 656-4106

### THREE YEAR EXPERIENCE RECORD

Recent projects first

#### #1 (Project Name, Location, Contract Cost)

WILSONVILLE BOBERG MANHOLE - WILSONVILLE, OR - \$ 91,500

Project description: REMOVAL OF EXISTING MANHOLE, BYPASS PUMPING, AND INSTALL OF OWNER PROVIDED CHANNEL AND DROP ASSEMBLY, WITH PAVEMENT RESURFACING.

Project completion date: (contract) APRIL 2024 (actual) APRIL 2024

Contact name: JASON RICE

Telephone: 563 - 387 - 7300

#### #2 (Project Name, Location, Contract Cost)

OR CITY ADA - OREGON CITY, OR - \$ 533,652

Project description: REPLACE 600 LF OF CURB AND GUTTER AND 3400 FF OF SIDEWALK AND INSTALL 160 LF OF STORM SEWER LINES AND 7 NEW INLETS AND 220 SF OF ASPHALT RESTORATION.

Project completion date: (contract) DECEMBER 2023 (actual) DECEMBER 2023

Contact name: SANG PAU

Telephone: 971-204-4629

#### #3 (Project Name, Location, Contract Cost)

10TH ST CORRIDOR IMPROVEMENTS - WEST LINN OR - \$ 5,234,469

Project description: 7800 LF OF VARIOUS CURB TYPES, 11000 SF OF CONCRETE WALKS, DRIVEWAYS AND SURFACING, ASSOCIATED PAVING STRIPING, AND LANDSCAPE RESTORATION.





CITY OF  
**West  
Linn**

## FORMS

PW-25-01

**Public Works Department**  
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West Linn, Oregon 97068  
Telephone: (503) 722-5500  
Fax: (503) 656-4106

Project completion date: (contract) AUGUST 2024 (actual) OCTOBER 2024

Contact name: ERICH LAIS

Telephone: 503.722.3434

### #4 (Project Name, Location, Contract Cost)

OR CITY MAIN ST WATERLINE - OREGON CITY, OR - \$ 2,000,000

Project description: 2000 LF OF DUCTILE WATERMAIN INSTALL ON BUSY OR CITY MAIN STREET, MOST  
OPERATIONS HAPPENED AT NIGHT.

Project completion date: (contract) NOVEMBER 2023 (actual) NOVEMBER 2023

Contact name: SANG PAU

Telephone: 971.204.4629

### #5 (Project Name, Location, Contract Cost)

SERRES FARMS PHASE 1 - OREGON CITY, OR - \$ 5,900,000

Project description: FIRST PHASE OF 123 LOT SUBDIVISION, DEVELOPED UNDERGROUND UTILITIES, AND GRADING FOR  
63 HOME LOTS ALONG WITH ROAD AND CURB CONSTRUCTION

Project completion date: (contract) SEPTEMBER 2024 (actual) AUGUST 2024

Contact name: DARREN GUSDORF

Telephone: 503 657 0406

Attach additional sheets if needed.





## FORMS

PW-25-01

**Public Works Department**  
22500 Salamo Road  
West Linn, Oregon 97068  
Telephone: (503) 722-5500  
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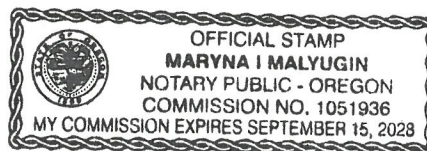
### AFFIDAVIT OF COMPLIANCE WITH TAX LAWS

ERIC VOGEL ("Affiant"), being first duly sworn under oath and representing

ICON CONSTRUCTION & DEVELOPMENT, LLC. [insert Bidder/Proposer Name] ("Bidder"), deposes and swears or affirms under penalty of perjury that:

1. I am an employee of Bidder, I have knowledge of the Invitation to Bid, and I have full authority from the Bidder to submit this affidavit and accept the responsibilities stated below.
2. I am aware that the Bidder has submitted a Bid, dated on or about 03/20/2025 [insert date] (the "Bid"), to the City of West Linn (City) in response to Invitation to Bid PW-25-01, for 2024 Water Line Replacement, and I am familiar with the contents of the Invitation to Bid and Bid.
3. The number shown on this form is Bidder's correct taxpayer identification.
  - 3.1. Federal Tax Number: 93-1307870
  - 3.2. Oregon Tax Number: 1163765-0
4. Bidder is not subject to backup withholding because:
  - 4.1. Bidder is exempt from backup withholding,
  - 4.2. Bidder has not been notified by the IRS that Bidder is subject to backup withholding as a result of a failure to report all interest or dividends, or
  - 4.3. The IRS has notified Bidder that Bidder is no longer subject to backup withholding.
5. I am authorized to act on behalf of Bidder, and have authority and knowledge regarding Bidder's payment of taxes, and to the best of my knowledge, Bidder is not in violation of any Oregon tax laws, including, without limitation, those tax laws listed in ORS 305.380(4), namely ORS Chapters 118, 314, 316, 317, 318, 320, 321 and 323 and Sections 10 to 20, Chapter 533, Oregon Laws 1981, as amended by Chapter 16, Oregon Laws 1982 (first special session); the elderly rental assistance program under ORS 310.630 to 310.706; and any local taxes administered by the Oregon Department of Revenue under ORS 305.620.

[Signature]  
Affiant's Signature



STATE OF OREGON )  
COUNTY OF CLATSOP )§

Signed and sworn to before me on 03/20/2025 (date) by ERIC VOGEL (Affiant's name).

[Signature]  
Notary Public for the State of Oregon

My Commission Expires: September 15, 2028

KNOW ALL MEN BY THESE PRESENTS, that we, ICON CONSTRUCTION & DEVELOPMENT, LLC.

**Agenda Bill 2025-04-14-07**

Date Prepared: April 3, 2025

For Meeting Date: April 14, 2025

To: Rory Bialostosky, Mayor  
West Linn City Council

Through: John Williams, City Manager *JRW*

From: Darren Wyss, Planning Manager *DSW*

Subject: 2025 Planning Docket Projects

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**Purpose:**

Review and discuss 2025 Planning Docket projects/priorities as recommended by the Planning Commission.

**Question(s) for Council:**

Does the Council wish to add or remove projects from the Planning Docket?  
Does the Council wish to re-prioritize projects on the Planning Docket?

**Public Hearing Required:**

None Required.

**Background & Discussion:**

The West Linn Community Development Code (CDC) requires that Comprehensive Plan, CDC, and Zoning Map amendments undertaken in a given year be listed on a docket. The docket is reviewed by the Planning Commission and prioritized and approved by the City Council. Other planning or historic preservation-related plans and studies must also be considered through the docketing process. The 2024 docket listed six prioritized projects, with five of them actively being worked on. Staff completed two of the projects in 2024 (CFEC Parking Reform, Code Process Amendment Package). The 2024 docket can be found here: <https://westlinnoregon.gov/planning/plan-and-development-code-docket>.

The goal of the April 14<sup>th</sup> meeting is to discuss the draft 2025 Planning Docket as recommended by the Planning Commission at its March 5, 2025 meeting and finalize the prioritized projects for staff to implement.

Attached you will find the draft 2025 Planning Docket. The three active projects and one other prioritized project continue to be included. Staff has recommended the addition of four additional prioritized projects (*in blue*), three mandated by federal or state laws and the fourth to clean-up the Community Development Code:

1. CFEC Rules Implementation – adopt Metro 2040 Growth Concept Map Town Center Boundaries as required by Oregon Administrative Rules.

2. FEMA Model Code Adoption – adopt an updated flood hazard area code to ensure compliance with the Endangered Species Act regarding fish habitat.
3. West Linn Housing Production Strategy (HPS) Implementation – the City is about to adopt its required HPS and will have six-years to implement the adopted strategies. State funding is available for consultant services and staff would begin applying for the grants.
4. Community Development Code Clean-Up Amendments – regular maintenance of the development code to ensure consistency with City policy, the needs of the community, and new federal, state, or regional rules.

The Planning Commission recommended adding two other projects (Medium Projects in [blue text](#)) on the docket for future prioritization include:

1. Economic Opportunities Analysis (Statewide Planning Goal 10) – the City last adopted an EOA in 2016. The economic climate and how business is conducted has changed since then, especially in response to the Covid-19 pandemic. An updated EOA would identify policies to implement to drive changes to the City's economic climate.
2. Community Development Code Chapters 25 and 58 – the Historic Review Board has recommended City Council direct staff to work with them to make continued improvements to the City's historic preservation codes and the Willamette Falls Drive Commercial Design District. Updates would ensure the codes are meeting the community's needs and implementing City policy.

Staff recommends moving the EOA from a Medium Project to a prioritized project. The two-year state grant funding cycle will be available this summer for the project and staff would apply for a grant. Updating the EOA is timely as it has been nine-years since the document was adopted and the project would align well with the needed housing related strategies found in the Housing Production Strategy. Having a better understanding of the economic development climate in the community would inform any proposed zoning or development code changes related to mixed-use areas around the City.

Staff also recommends removing one project from the "Small Projects" list and one project from the "Medium Projects" list. Parking standards for high schools (Small Project) was addressed through the removal of all minimum parking standards and setting of maximum parking standards as part of the CFEC parking reform amendments adopted in Fall 2024. Flood plain ordinance (Medium Project) has simply been renamed FEMA Model Code Adoption and is recommended to be moved to the active projects list. Both are found as ~~red-strikethrough-text~~.

**Budget Impact:**

Primarily staff time and funds budgeted for specific projects.

**Sustainability Impact:**

Several projects address housing needs in the community.

**Council Options:**

1. Direct staff to continue working on the projects underway as recommended by the Planning Commission.
2. Add or remove projects from the Planning Docket and prioritize accordingly with available staffing and budget resources.

**Staff Recommendation:**

Direct staff to work on the projects underway as recommended by the Planning Commission and move the Economic Opportunities Analysis from Medium Projects to a Prioritized Project. Staff could pursue state grant funding this summer for consultant assistance.

**Potential Motion:**

I move to set the 2025 Planning Docket as recommended by the Planning Commission and add an update to the Economic Opportunities Analysis as a prioritized project.

**Attachments:**

1. Planning Commission recommended 2025 Planning Docket.



# CITY OF West Linn

## PLANNING DOCKET

### POTENTIAL AMENDMENTS TO COMMUNITY DEVELOPMENT CODE, COMPREHENSIVE PLAN AND ZONING MAP

UPDATED 03/12/2025

West Linn Community Development Code (CDC) 98.030 requires that Comprehensive Plan, CDC and zoning map amendments to be undertaken in a given year be listed on a docket that is reviewed by the Planning Commission and approved by the City Council. Other planning and historic preservation-related plans and studies are also to be considered through the docketing process.

This list is intended to provide clarity to the West Linn community, advisory committees, and staff on the Mayor and Council's project priorities and projected timelines to initiate and accomplish the work. It also documents recently completed projects.

This list was initially developed by the City Council and Planning Commission at the beginning of 2017 through a joint work session and further Council/Commission discussion and has been amended multiple times since then. The City Council has the discretion to amend this list as appropriate to best achieve community goals.

#### **Projects completed in 2017**

- *Geotechnical and surface water code revisions.* Code amendments to ensure the CDC/Municipal Code allow appropriate review of geotechnical and surface water elements of development.
- *Robinwood Station.* Code amendments to allow Robinwood Station to operate as permitted use in residential zone.
- *White Oak Savanna.* Code amendments to allow park improvements in OBC zone.
- *De Novo appeal review.* Code amendment to remove provisions for on-the-record appeal review and restore previous provisions for "de novo" appeals, providing additional process flexibility to the City Council.

#### **Projects completed in 2018**

- *Willamette Neighborhood Mixed-Use Transitional Zone - list of permitted/conditional uses.* Amended the list of permitted and conditional uses in the mixed use zoning district.
- *Minor code cleanup including Property Line Adjustment policy update and Day Care code alignment with State of Oregon regulations.*

#### **Projects completed in 2019**

- *Willamette Neighborhood Mixed-Use Transitional Zone – zoning map changes.* Updated zoning of properties on 8<sup>th</sup> Avenue to reflect current uses and vision. Adopted by Council March 11.

- *Sanitary Sewer Master Plan.* Repeal and replacement of the 1999 Plan to address a variety of issues including facilities constructed since 1999, capital planning for aging facilities, regulatory changes, population trends, and implementation of modern best practices. Adopted by Council September 9.
- *Parks and Recreation Master Plan.* Per Council goal, develop an overall planning vision for the project area through a robust citizen involvement program and then further refine the vision into comprehensive plan/zoning map/development code amendments for implementation. Adopted by Council November 12.
- *Storm Water Master Plan.* The updated Storm Water Master Plan includes new goals, policies, and action measures. Accompanying code and Comprehensive Plan amendments will ensure consistency and compliance with regional and state plans and policies, efficient use of public dollars, and maximize protection of important natural resources. Adopted by Council November 12.

#### **Projects completed in 2020**

- *Review of zoning on developable residential lands – Phase 1 inventory.* Evaluated developable residential properties over one-acre for consistency with neighborhood plans and visions. Council discussed on March 2, 2020 and directed staff to not move onto Phase 2: Zone Changes, and concentrate on the Waterfront Project and Hwy 43 for potential rezoning.
- *Street Width Standards.* Staff worked with the Planning Commission to develop proposed CDC changes and Council adopted a 28-foot pavement width standard for public streets in new subdivisions on September 14, 2020.

#### **Projects completed in 2021**

- *Willamette Falls Drive TSP update.* Amendments to Transportation System Plan to incorporate Willamette Falls Drive Concept Plan, including the re-alignment and design, from Highway 43 to Tualatin River. Adopted by Council August 2, 2021.

#### **Projects completed in 2022**

- *FEMA Code Amendments.* Amendments to Community Development Code Chapters 2 and 27 to ensure compliance with FEMA minimum requirements for flood hazard zones. The Oregon Model Code was adopted by Council February 14, 2022.
- *HB2001 Code Amendments.* Amendments to Community Development Code Chapters 2, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 21, 24, 43, 46, 55, 59, and 60 to comply with HB2001 and OAR 660 Division 46. The adopted amendments go above minimum requirements by allowing detached plexes, increasing maximum floor-area ratio (FAR) for R-10/R-7 zoning to 60% and eliminating maximum FAR and lot coverage for R-5/R-4.5/R-3/R-2.1 zoning. Adopted by City Council June 21, 2022.
- *Historic review code update.* Amendments to Chapters 25 and 58 discussed by the Historic Review Board (HRB). Includes a variety of changes to both the commercial and residential district codes. Adopted by City Council May 16, 2022.
- *Policy work on Chapter 96, Street Improvement Construction.* Amendments to Community Development Code Chapters 2 and 96 to clean-up language and clarify when single-lot development requires street improvements and when the City will accept a fee-in-lieu of construction of the improvements. Adopted by City Council December 12, 2022.

### **Projects completed in 2023**

- *Accessory Dwelling Unit (ADU) regulations.* Amendments to Community Development Code Chapter 34 to remove barriers to constructing an ADU. The amendments also ensure the code language is clear and objective and in compliance with state statutes and administrative rules. Adopted by City Council on July 10, 2023.
- *West Linn Response to HB2003.* Adoption of the 2021 Housing Capacity Analysis as a supporting document to West Linn Comprehensive Plan Goal 10, as well as amendments to the West Linn Zoning Map and Comprehensive Plan Map to comply with HB2003 requirements. Adopted by City Council on October 9, 2023.
- *Clear and Objective Standards Audit.* Amendments to multiple chapters of the Community Development Code to ensure compliance with ORS 197.307, which requires the City to provide clear and objective standards, conditions, and procedures for housing. Adopted by City Council on September 18, 2023.

### **Projects completed in 2024**

- *Climate Friendly and Equitable Communities (CFEC) Rules Implementation.* Amendments to Community Development Code to remove minimum parking requirements, comply with new parking design standards, and add electric vehicle (EV) charging infrastructure requirements. The amendments ensure compliance with CFEC state statutes and administrative rules. Adopted by City Council on November 12, 2024.
- *Code Process Amendment Package.* Amendments to Community Development Code Chapters 2, 37, 85, and 99 to improve processes related to Extensions of Approval, Appeals of Development Permits, Home Occupations, Expedited Land Divisions, and Middle Housing Land Divisions. The amendments ensure the language is clear and objective, and in compliance with state statutes and administrative rules. Adopted by City Council on December 9, 2024.

### **Projects underway**

- *West Linn Waterfront.* Per Council goal, develop an overall planning vision for the project area through a robust citizen involvement program and then further refine the vision into comprehensive plan/zoning map/development code amendments for implementation.
  - *Status: Project underway. Public outreach was conducted from 2016 to 2019 to glean feedback on project guiding principles, transportation improvements, and preferred future land uses. Council budgeted funds for the next phase of work, including finalizing the vision plan, public engagement activities, and zoning/market analysis. Staff chose and finalized a contract with the consultant team. The Community Engagement Plan has been reviewed by the CCI and Council has appointed the project working group. The working group has met four times and reviewed the draft vision plan. Community engagement events took place in Winter/Spring/Summer 2024 to glean feedback on the draft vision plan. A survey on the final Draft Vision Plan was conducted in early 2025 and the adoption ready Vision Plan will be reviewed by the working group before the Planning Commission and City Council review for adoption. Staff will schedule regular updates/presentations to both Planning Commission and Council.*
  - *Staff: Darren Wyss, Aaron Gudelj, Lynn Schroder, Chris Myers, John Williams*
- *Highway 43 Land Use and Neighborhood Connectivity Plan (Vision43).* Development of a community vision along Hwy 43 and implementing regulations to facilitate the type of development West Linn would like to see along this important commercial corridor and



complement the planned road improvements. The project will also identify preferred bicycle/pedestrian connections from neighborhoods to safely access services along the corridor.

- *Status: Council has provided funding for the project. Staff chose and finalized a contract with the consultant team. The community engagement plan was reviewed by the CCI and Council appointed the project working group. Community outreach took place in 2024 and lead to a preferred vision statement. Zoning and code amendments, and potential ped/bike connections/crossings are now being drafted for review. The working group has met four times to review project materials. Staff will schedule regular updates/presentations to both the Planning Commission and Council.*
- *Staff: Chris Myers, Darren Wyss, Aaron Gudelj, Lynn Schroder, John Williams*
- **West Linn Response to HB 2003.** The bill, passed by the 2019 Oregon Legislature, creates requirements the City is mandated to implement. HB2003 requires West Linn to complete a Housing Capacity Analysis (HCA), and take steps (Housing Production Strategy) to address issues identified in the analysis related to the provision of a broad cross-section of housing types. The project is listed in this section because it is not optional for West Linn.
  - *Status: City Council adopted the Housing Capacity Analysis in October 2023. The City received additional grant funding from DLCD to complete the Housing Production Strategy (HPS), which must be adopted by June 30, 2025. The CCI recommended and Council appointed a project working group, which has met four times and recommended the Council adopt 12 strategies to address housing needs within the community. Council and Planning Commission have met three times to review project materials, including the final draft HPS document. The project team will hold a work session and public hearing with both the Planning Commission and City Council in Spring 2025 with anticipated adoption by Council in May 2025.*
  - *Staff: Darren Wyss, John Williams, Lynn Schroder*
- **Climate Friendly and Equitable Communities Rules Implementation.** Governor Kate Brown issued Executive Order No. 20-04 in March 2020 directing state agencies to meaningfully and urgently address climate change. The Land Conservation and Development Commission adopted rules in July 2022 that require City compliance. Not only are the rules focused on reducing greenhouse gas emissions, but they also aim to improve equity in the community's transportation, housing, and planning efforts. The City has implemented rules involving parking mandates and electric vehicle charging infrastructure but must now adopt the two Town Center (TC) Boundaries included on the Metro 2040 Growth Concept Map by December 31, 2025.
  - *Status: Staff is finalizing a scope and schedule for the project to adopt Metro TC Boundaries with Planning Commission and Council work sessions beginning in Summer 2025 and adoption in Fall 2025.*
  - *Staff: Darren Wyss, Chris Myers, John Williams*
- **FEMA Model Code Adoption.** Changes to the National Flood Insurance Program (NFIP) are required to protect habitat for endangered fish species. This is to address the 2016 National Marine Fisheries Service Biological Opinion. The City must implement interim measures until FEMA implements the full plan in 2027. The City must adopt the model code by July 31, 2025 to comply with the interim measures.
  - *Status: Staff is finalizing a scope and schedule to adopt the model code by the deadline. Staff will confirm with Council that the Planning Commission will act as the project working group. The process will include work sessions and a public hearing with both*

*Planning Commission and City Council. Anticipated adoption by Council in June/July 2025.*

- *Staff: Chris Myers, Darren Wyss, John Williams*
- *Community Development Code Clean-Up Amendments.* Cities need to regularly clean-up their development codes to ensure it continues to meet the needs of the community and implement policies of the city. Planning staff have been compiling a list of needed clean-up amendments and are ready to bring them forward for review and adoption.
  - *Status: Staff is finalizing a scope and schedule for the project. Staff will confirm with Council that the Planning Commission will act as the project working group. The process will include a series of work sessions with the working group in 2025 to finalize a recommended code amendment package. The legislative adoption process is anticipated to occur in Fall 2025 with adoption by Council by end of calendar year 2025.*
  - *Staff: Aaron Gudelj, Darren Wyss, Chris Myers*
- *West Linn Housing Production Strategy Implementation.* The City anticipates adoption of the Housing Production Strategy (HPS) in May 2025. The City will then have six years (2031) to implement the adopted policies to address needed housing in the community. The policies are scheduled across the six years and state funding will be available to contract with consultants to assist the City in its efforts.
  - *Status: After adoption of the HPS, Staff will identify near-term strategies that will need consultant assistance to implement and apply for state funding. Each strategy will be scoped/scheduled as part of the state funding applications.*
  - *Staff: Aaron Gudelj, Darren Wyss, Chris Myers, John Williams, Lynn Schroder*

### **Prioritized projects**

The following projects have been prioritized by Council.

- *Committee for Citizen Involvement (CCI) review of community engagement in land use process.*
  - *Status: CCI report and recommendations were provided to City Council. The report addresses education, administrative proposals, and potential code changes. Council had an initial discussion and staff is awaiting direction on implementation process, particularly appointment of a working group to review potential code changes.*
  - *Staff: Darren Wyss*

### **Projects identified by Council/Planning Commission/public/staff but not yet prioritized by Council**

#### **Small projects**

These projects are expected to require a modest amount of staff resources, public engagement and attention from the City Council, Planning Commission and advisory committees. They are generally improvements to or refinements of existing processes or code. These items would result in modest improvements to efficiency, customer service and outcomes in the community.

- *Wireless Ordinance update.* Changes to modernize code language and facilitate minor installations, such as small cell technology, to improve wireless service in the city.
- ~~*Parking standards change for High Schools. On 8/6/18 Council discussed changing the parking requirements for a High School but this project has not been moved into higher prioritization by Council yet.*~~

### Medium projects

These projects are expected to require a moderate amount of staff resources, public engagement and attention from the City Council, Planning Commission and advisory committees.

- ~~*Flood plain ordinance.* The State of Oregon is working with the State of Washington to address needed updates to the Flood Plain program to address Endangered Species Act requirements. For Oregon, the Department of Land Conservation and Development will be provided a model ordinance that addresses agreed upon provisions. Implementing this ordinance in West Linn would ensure compliance with federal, state and regional standards and provide clear guidance on regulations and procedure to property owners.~~
- *Economic Opportunities Analysis Update (Statewide Planning Goal 10).* The City last adopted an EOA in 2016. The economic climate and how business is conducted has changed since then, especially in response to the COVID-19 pandemic. An updated EOA would identify potential policies/actions to implement to drive changes to the City's economic climate. State grant funds could be used to fund the project.
- *Community Development Code Chapters 25 and 58.* The Historic Review Board has recommended City Council direct staff to work with them to make continued improvements to the City's historic preservation codes and the Willamette Falls Drive Commercial Design District. Updates would ensure the codes are meeting the community's needs and implementing City policy.
- *Code consolidation.* Consolidate divergent code sections including moving procedures dispersed throughout the CDC back into Division 9 and addressing a variety of other inconsistencies; more substantive changes than a simple annual cleanup.
- *Code work to address inconsistencies and mapping questions in CDC Chapters 28 and 32.* This work would respond to inconsistencies and mapping issues noted in working with property owners and developers dealing with West Linn's requirements in Water Resource Areas, Willamette River Greenway and Habitat Conservation Areas. This project could easily veer into the "large" category considering the state and regional policy and regulatory framework.
- *Surface water code changes.* The Planning Commission has discussed creating additional code requirements for surface water treatment facilities, beyond those currently contained in the Municipal Code/Public Works Standards. This project would require involvement from property owners, neighborhoods, and developers.
- *Public property zoning and process requirements.* Consideration of a new Comprehensive Plan designation and zone along with the appropriate zoning and process requirements for city-owned property. This project would address a significant gap in West Linn's code, but would likely require extensive neighborhood and Advisory Committee involvement.
- *Additional follow-up projects related to Willamette Mixed-Use Zoning work.* The Mixed Use Zoning Working Group recommended several possible additional projects that arose during their meetings but did not fit within their Council-directed project scope. These include:
  - *Changes to the dimensional/design standards for Chap. 59: MU Zone to make them more flexible for potential redevelopment of properties in the future.* Some ideas for potential changes: allowing zero lot lines at front and side yards abutting a street, moving from maximum building size to lot coverage/maximum floor area ratio standard, eliminating maximum lot size, and removing the residential style design standards.
  - *Parking evaluation of the Willamette Main Street area, especially the on-site parking exemptions found in CDC Chapter 58: Willamette Falls Drive Commercial Design District.* This could be a challenging project, requiring significant work with business and property owners, the main street group, historic advocates, and surrounding neighborhoods.

- *Addressing zoning on island MU properties.* Several small islands of MU zoning exist at some distance from the downtown core; the Working Group discussed potential changes to these areas but has not assessed what those changes should be.
- *Historic Preservation Master Plan.* On 8/6/18 Council discussed the possibility of a Master Plan for all Historic Resources in West Linn. More policy discussion is necessary to identify the objectives and scope of this item.
- *Underutilized Right Of Way (ROW) Review.* Council has discussed reviewing all of the unused/underutilized ROW in West Linn with an aim to returning unneeded property to residents and minimizing the City's maintenance responsibilities. This project would require a fair amount of community outreach and involvement.
- *Short-term rental regulations.* As more short-term rentals become available in West Linn via companies such as AirBnB or VRBO, there has been some community discussion about concerns and potential regulatory changes. Current regulations are summarized at <https://westlinnoregon.gov/planning/faq-short-term-rentals-west-linn>. This project would likely require significant input from property owners and neighborhoods; in other jurisdictions this has been a complex issue to resolve. The project would also include a review of West Linn's Transient Lodging Tax code to ensure revenues assist in the planning and compliance work.

### Large projects

These projects are expected to require a significant amount of staff and financial resources, public engagement and attention from the City Council, Planning Commission and advisory committees. Projects of this size would need to be sequenced to allow appropriate focus from all of these groups.

- *Sign code update.* Review, organize, streamline and modernize the sign code. If focused simply on cleanup and organization, this would require less work. A larger review would address community concerns and Council Goal on Economic Development. As demonstrated consistently in other jurisdictions, sign code work is always time-consuming.
- *Planned Unit Development (PUD)/Infill code work.* Review and take action on recommendations by the Planning Commission tabled by City Council in 2015. This large project could be divided into smaller parts: Planned Unit Developments; flag lots; and other infill development. A comprehensive review would ensure consistency but even small tweaks could help, such as increasing allowable lot coverage for single story homes.
- *Tree Code Evaluation and Amendments.* The City's Community Development Code only encourages, but does not mandate, tree retention. The community has consistently requested the City establish a minimum tree retention requirement during development projects. This project would require extensive public involvement from property owners, neighborhoods, and developers. Statewide Planning Goal 5 processes would need to be followed if mandates were preferred. Evaluating the tree code/programs in the Municipal Code is also recommended to ensure consistency. Significant staff time and budget for consultant services would be required.



CITY OF  
**West  
Linn**

# City Council

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2025 Planning Docket Projects

April 14, 2025

# 2025 Planning Docket



- 🍃 Council Packet
  - Agenda Bill
  - 2025 Docket recommended by PC on March 5, 2025
- 🍃 Goal of Meeting
  - Discuss 2024 completed projects
  - Discuss projects underway & recommended additions
  - Discuss other recommended projects
  - Discuss priority projects & potential additions
  - Finalize 2025 Planning Docket

  
**City of  
West Linn**  
**PLANNING DOCKET**  
**POTENTIAL AMENDMENTS TO COMMUNITY DEVELOPMENT CODE, COMPREHENSIVE PLAN AND ZONING MAP**  
**UPDATED 02/27/2025**

West Linn Community Development Code (CDC) 98.030 requires that Comprehensive Plan, CDC and zoning map amendments to be undertaken in a given year be listed on a docket that is reviewed by the Planning Commission and approved by the City Council. Other planning and historic preservation-related plans and studies are also to be considered through the docketing process.

This list is intended to provide clarity to the West Linn community, advisory committees, and staff on the Mayor and Council's project priorities and projected timelines to initiate and accomplish the work. It also documents recently completed projects.

This list was initially developed by the City Council and Planning Commission at the beginning of 2017 through a joint work session and further Council/Commission discussion and has been amended multiple times since then. The City Council has the discretion to amend this list as appropriate to best achieve community goals.

**Projects completed in 2017**

- *Geotechnical and surface water code revisions.* Code amendments to ensure the CDC/Municipal Code allow appropriate review of geotechnical and surface water elements of development.
- *Robinwood Station.* Code amendments to allow Robinwood Station to operate as permitted use in residential zone.
- *White Oak Savanna.* Code amendments to allow park improvements in OBC zone.
- *De Novo appeal review.* Code amendment to remove provisions for on-the-record appeal review and restore previous provisions for "de novo" appeals, providing additional process flexibility to the City Council.

**Projects completed in 2018**

- *Willamette Neighborhood Mixed-Use Transitional Zone - list of permitted/conditional uses.* Amended the list of permitted and conditional uses in the mixed use zoning district.
- *Minor code cleanup including Property Line Adjustment policy update and Day Care code alignment with State of Oregon regulations.*

**Projects completed in 2019**

- *Willamette Neighborhood Mixed-Use Transitional Zone – zoning map changes.* Updated zoning of properties on 8<sup>th</sup> Avenue to reflect current uses and vision. Adopted by Council March 11.




# 2025 Planning Docket



- 🍃 Required by CDC
  - List of needed projects
  - Review by PC
  - Prioritization by CC

- 🍃 2024 Docket Projects
  - Five projects underway
    - Waterfront Project
    - Vision43
    - HPS
    - CFEC Parking Reform
    - Code Process Amendments
  - Two completed projects
    - CFEC Parking Reform
    - Code Process Amendments

  
**City of West Linn**  
**PLANNING DOCKET**  
**POTENTIAL AMENDMENTS TO COMMUNITY DEVELOPMENT CODE, COMPREHENSIVE PLAN AND ZONING MAP**  
**UPDATED 02/27/2025**

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# 2025 Planning Docket

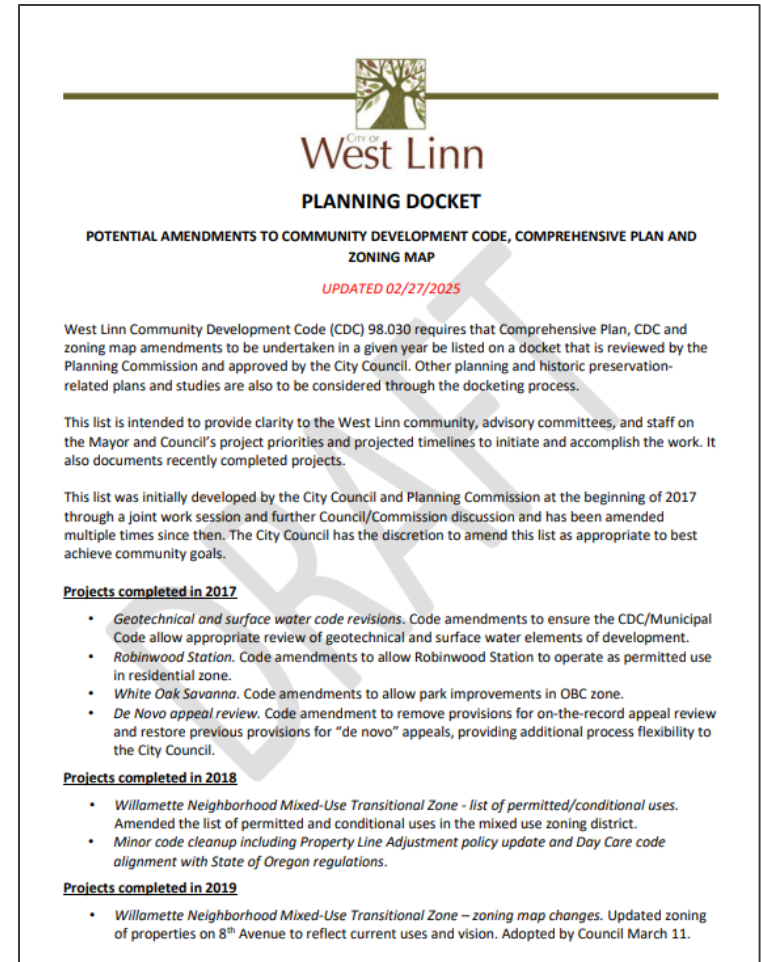


## Proposed 2025 Docket Projects by PC

- Projects underway
  - Waterfront Project (2024)
  - Vision43 (2024)
  - HPS (2024)
  - CFEC – Metro 2040 TC (new)
  - FEMA Model Code (new)
  - CDC Clean-up (new)
  - HPS Implementation (new)
- Two recommended additions
  - EOA Update (Medium)
  - Update CDC Chapters 25 & 58 (Medium)

## Projects to Remove

- Parking standards for high schools (Small)
- Flood Plain Ordinance (Medium)



# 2025 Planning Docket

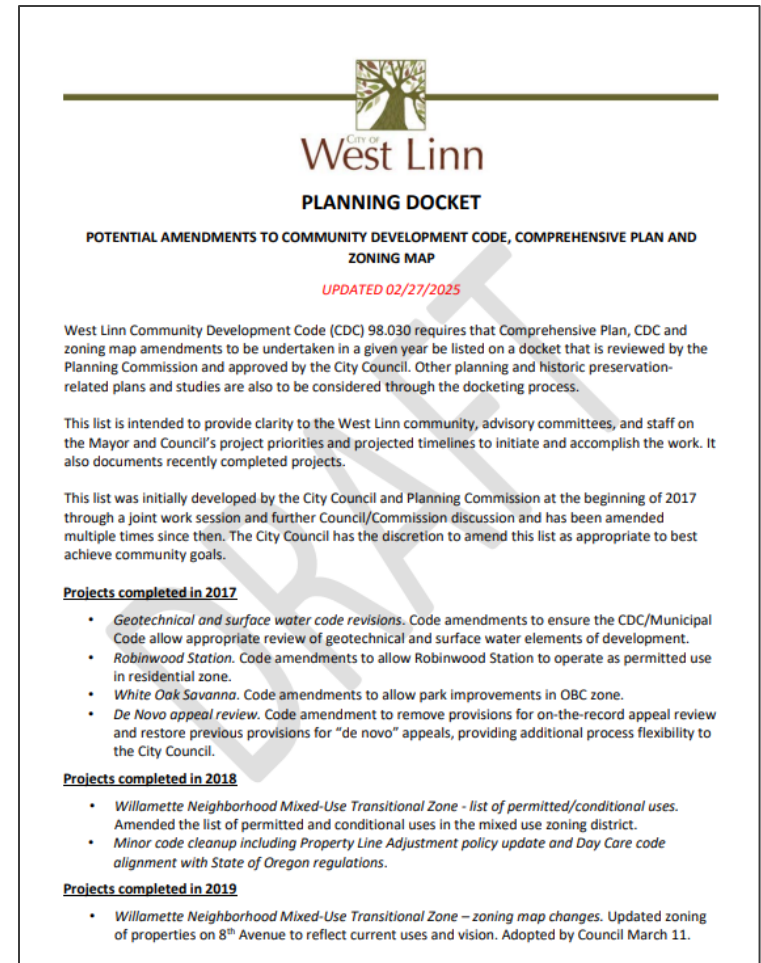


## Staff Recommendations

- Set the Planning Docket as recommended by PC
- Move EOA to prioritized project
  - Grant funds available
  - Existing EOA adopted in 2016
  - Help inform new mixed-use zoning
  - Align with HPS work

## Council Direction

- Projects underway
- Additions/removal to prioritized projects
- Additions/removal of listed projects





## QUESTIONS OF STAFF?



















## Mollusky, Kathy

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**From:** Marylhurst Neighborhood Association President  
**Sent:** Monday, April 14, 2025 11:07 AM  
**To:** City Council  
**Cc:** Planning Commission (Public); #Board - Sustainability Advisory  
**Subject:** Re: Letter from MNA re: Tree code

Dear City Council,

Marylhurst Neighborhood Association respectfully requests City Council to prioritize *Tree Code Evaluation and Amendments* as a planning project for 2025. Reasons to update the tree code are highlighted in the email below sent to City Council on March 25, 2025.

Please consider these comments and submit them to the record of your meeting tonight for agenda item 8d. Agenda Bill 2025-04-14-07 Planning Docket Projects.

On behalf of MNA, I respectfully request a response.

Sincerely,

Karie Oakes  
President  
Marylhurst Neighborhood Association

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**From:** Marylhurst Neighborhood Association President <marylhurstna@westlinnoregon.gov>  
**Sent:** Sunday, March 30, 2025 10:40 AM  
**To:** City Council <citycouncil@westlinnoregon.gov>  
**Cc:** Planning Commission (Public) <asktheperc@westlinnoregon.gov>; #Board - Sustainability Advisory <sustainabilityadvisoryboard@westlinnoregon.gov>  
**Subject:** Letter from MNA re: Tree code

Cc: SAB.

Karie Oakes  
President  
Marylhurst Neighborhood Association

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**From:** Marylhurst Neighborhood Association President  
**Sent:** Tuesday, March 25, 2025 6:32 PM  
**To:** City Council <citycouncil@westlinnoregon.gov>  
**Cc:** Planning Commission (Public) <asktheperc@westlinnoregon.gov>  
**Subject:** Letter from MNA re: Tree code

Dear Mayor Bialostosky, Council President Baumgardner, and Councilors Bryck, Groner, and Bonnington,

I'm writing on behalf of Marylhurst Neighborhood Association (MNA) to request the City immediately embark on a process to make tree protection and mitigation codes clear, effective and enforceable, and to revise ineffective Community Development Code (CDC) language that only requires "up to 20%" of trees to be saved. The community tree code has not been updated in nearly twenty years.

MNA became acutely aware of inadequacies of tree protections after a significant tree was illegally cut down in our neighborhood and we followed the enforcement process. We are grateful to Officer Higbee for her diligence enforcing the code and communicating to MNA throughout the process. She identified a systemic error whereby the court automatically generated (and accepted) a small fine instead of the required court hearing for the knowing, willful and intentional Class A violation. With this corrected, we should see intentional tree cutting prosecuted. It was dismaying to learn this has not been the case in over twenty years.

The intentional violation carried a fine, penalty and the planting of two replacement trees on the violator's property, however, the code will not protect the replacement trees. The largest replacement trees found by the city arborist were 4 inches circumference which doesn't meet the definition of a tree being a minimum 12 inches circumference for protection. We can only hope that the trees will be planted and allowed to grow to be large, beautiful trees like the one our neighborhood lost. The judge could have added a tree replacement agreement to the judgement but did not. It was very disappointing that mitigation was ineffective.

MNA also learned that the City's Community Development Code only encourages (up to 20%) but does not mandate tree retention. The community, including the Planning Commission and Sustainability Advisory Board, has consistently requested the City establish a minimum tree retention requirement during development projects.

As evaluation and amendment of the tree code has been a project on the Planning Docket for many years and is long overdue, MNA respectfully requests City Council prioritize it in the upcoming budget. Protecting our trees and water resources is ever more important in the presence of climate change and densification.

Thank you for your consideration of our request. I look forward to your reply.

Sincerely,

Karie Oakes  
President  
Marylhurst Neighborhood Association

**Marylhurst Neighborhood Association President**  
*President*  
Neighborhood Association Presidents

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## Mollusky, Kathy

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**From:** Teri Cummings <[REDACTED]>  
**Sent:** Monday, April 14, 2025 6:00 AM  
**To:** City Council  
**Subject:** Questions related to WL Oppenlander proposal- Please add to the record of April 14, 2025- Community Comments

**CAUTION:** This email originated from an External source. Do not click links, open attachments, or follow instructions from this sender unless you recognize the sender and know the content is safe. If you are unsure, please contact the Help Desk immediately for further assistance.

Dear Mayor Bialostosky, Council President Baumgardner and fellow City Council members Leo Groner, Carol Bryck and Kevin Bonnington,  
I regret to express concerns about your [April 4, 2025 Response to WLWV's Purchase and Sale Agreement \(PSA\)](#) which proposes to purchase three acres of Oppenlander property for \$3.5 million. It appears the funds, as reported in the [Tidings](#), will come from the capital bond measure that passed in 2022.

I urge you to consult bond counsel or request a second legal opinion as to whether your proposal would properly fulfill and comply with all commitments West Linn made to voters according to the language of Ballot Measure 3-582.

**Measure 3-582 Ballot Title reads as follows: "*Purchase the Oppenlander Property and Make Park Capital Improvements.*"**

Question; Does the Ballot Title include an option to use the entire proceeds of the bond to purchase merely a portion of the property? if not, would that be deemed lawful?

**Measure 3-582 Explanatory Statement reads as follows:**

**If passed, what would the bond funds be used for?**

If approved, bond funds along with other available funds would be used to finance capital costs of purchasing and improving property for public parks purposes, including without limitation providing funds to:

- Purchase the 10.03 acre Oppenlander Fields Property ("Property"), located at 1275 Rosemont Road in West Linn.
- Design and construct capital improvements on the Property, subject to funding availability and a City Council-approved master plan to be completed following purchase with community input. Improvements may include restrooms, ADA pathways, irrigation improvements, parking lot upgrades, safety lighting, or other amenities agreed upon in the master plan. Any funds remaining after completing the Oppenlander project may be used at other City park properties, but Oppenlander work is expected to represent the majority of expenses.
- Pay capitalized interest on the bond and bond issuance costs.

Questions:

1. Does the Explanatory Statement include an option to use most or all bond fund proceeds to purchase a portion of the Oppenlander Fields Property, instead of the entire 10.3 acre parcel? If not, would doing so be deemed lawful?
2. Does the City plan to fulfill its commitment to use bond funds to make capital improvements? Will any funds be left over to make capital improvements after the City spends \$3.5 million to purchase said property? Would failing to fulfill bond commitment to make at least some improvements be deemed lawful or just considered untrustworthy in the case of future bonds?
3. Does the City plan to use bond proceeds to pay capitalized interest and issuance costs for the bond? If so, what funds will be left over to cover these costs after the City spends \$3.5 million to purchase said property?

I would greatly appreciate hearing back from you regarding these questions and concerns.

Thank you for your service,

Teri Cummings

West Linn resident





CITY OF

West Linn

## Public Comment Form

**I wish to speak during Public Comments (comments are limited to three minutes). Topic listed will be reflected in the meeting minutes.**

Please specify topic (required):

grave/ on streets

**I wish to wait and speak on the agenda item listed below (comments are limited to three minutes).**

Please specify agenda item (required):

**Please print:**

Name:

Brian Greenwood

Phonetic spelling, if difficult to pronounce:

Address (Optional):

2334 Athena Rd

City:

West Linn

State:

OR

Zip:

97068

Email (Optional):

Phone (Optional):

**Please submit this form to the City Recorder along with copies of any material to be handed out to the Council.**

This form is subject to public records laws. If requested, it may be disclosed to another party unless exempt from disclosure under Oregon Public Records Law.



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## Public Comment Form

I wish to speak during Public Comments (comments are limited to three minutes). Topic listed will be reflected in the meeting minutes.

Please specify topic (required): Business Meeting # a (public hearing)

I wish to wait and speak on the agenda item listed below (comments are limited to three minutes).

Please specify agenda item (required):

Agenda Bill 2025-04-14-04.

Please print:

Name: Carmen Timberlake

Phonetic spelling, if difficult to pronounce: \_\_\_\_\_

Address (Optional): 2826 Coeur D Alene Drive

City: West Linn State: OR Zip: 97068

Email (Optional): Carmen-timberlake@gmail.com Phone (Optional): \_\_\_\_\_

Please submit this form to the City Recorder along with copies of any material to be handed out to the Council.

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CITY OF

West Linn

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Please specify topic (required): \_\_\_\_\_

I wish to wait and speak on the agenda item listed below (comments are limited to three minutes).

Please specify agenda item (required):

8. BUSINESS MEETING A, AGENDA BILL 2025-04-14-04 APPEAL OF MIP

Please print:

Name: DAVID BAKER & KYLE GRANT

Phonetic spelling, if difficult to pronounce: \_\_\_\_\_

Address (Optional): \_\_\_\_\_

City: WEST LINN State: OR Zip: 97068

Email (Optional): \_\_\_\_\_ Phone (Optional): \_\_\_\_\_

Please submit this form to the City Recorder along with copies of any material to be handed out to the Council.

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