

Council Roundup for July 6, 2021

The Newberg City Council met on July 6, 2021 and took the following actions.

Proclaimed July 24-25 Newberg Old Fashioned Festival Week.

Approved Resolutions:

2021-3746 – Intermountain Slurry Seal, Inc contract award for pavement maintenance.

2021-3721 & 2021-3751 – Oregon Dept. of Transportation agreements on N. College Street work from Aldercrest Drive to Quail Drive.

2021-3759 – Ratification of fireworks ban passed on July 2nd.

Appointed student commissioners to city committees including: Aiden Gray – Planning Commission, Alexander Aguilar – Citizens Rate Review Commission, Joyce del Rosario – Affordable Housing Commission, Liam Deckon – Historic Preservation Commission, Claire Faucher – Library Advisory Board, Alternates – Levi Stroup and Thomas Rahkola.

In other business,

Observed a moment of silence for the passing of farmworker Sebastian Francisco Perez in St. Paul from extreme heat.

Heard activity reports from City Manager and City Attorney. Heard from developer on request to lower SDCs for a boutique hotel project. Heard presentations on Non Potable Water, Waste Management annual report, and Sidewalk projects.

Held Executive Session on real property.



City Council Work Session

July 6, 2021 - 6:00 PM

<https://zoom.us/j/99822253305>

or join by phone:

us: +1 253 215 8782 or +1 346 248 7799

webinar id: 998 2225 3305

- 1. CALL MEETING TO ORDER**
- 2. ROLL CALL**
- 3. REVIEW OF THE COUNCIL AGENDA AND MEETING**
- 4. COUNCIL BUSINESS ITEMS**
- 5. PRESENTATIONS**
 - 5.A Waste Management presentation on rate increase
 - 5.B Non-Potable Water System Presentation
[RCA Non-Potable Water Presentation.pdf](#)
[Nonpotable Water Presentation.pptx](#)
- 6. ADJOURNMENT**

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: July 6, 2021

Order ____ Ordinance ____ Resolution ____ Motion ____ Information XX
No. No. No.

SUBJECT: Non-Potable Water System

Staff: Kaaren Hofmann, City Engineer
Department: Public Works - Engineering

Work Session x Business Session

Order on Agenda:

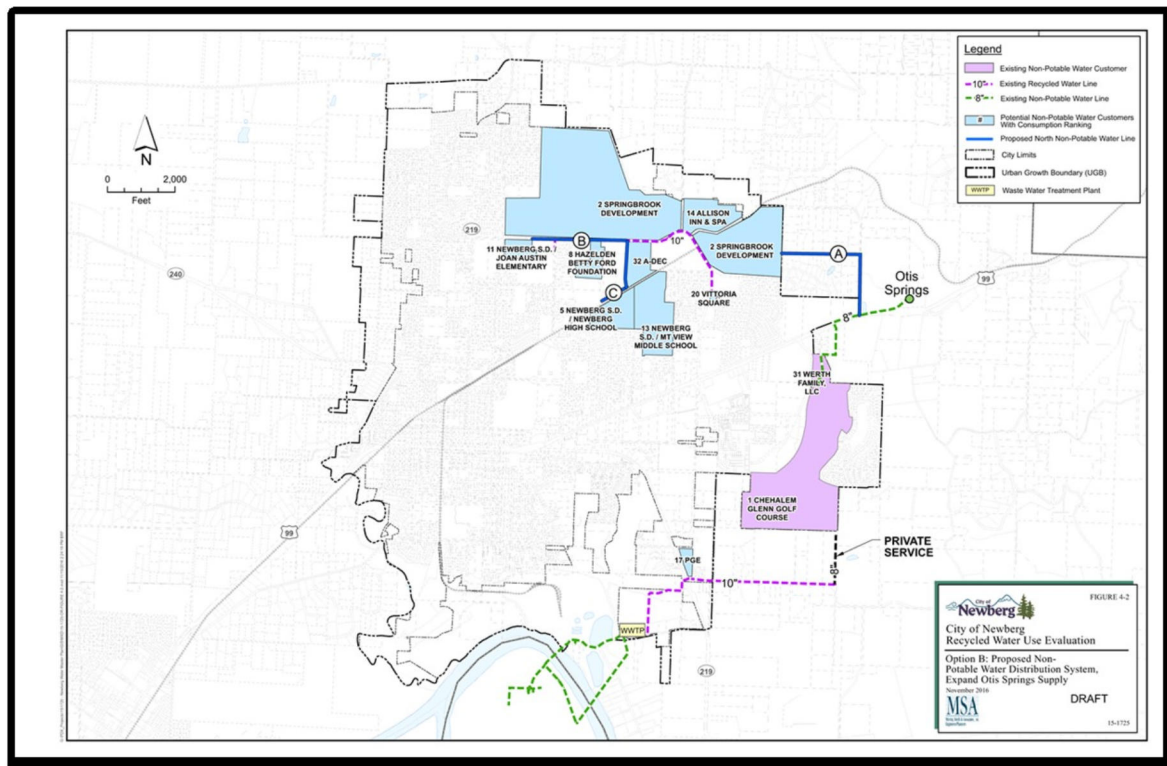
EXECUTIVE SUMMARY:

The City of Newberg owns and operates a Non-Potable Water System. This system consists of two sources:

- Otis Springs
- Recycled Water from the WWTP.

These sources combined can provide approximate 2.3 million gallons per day in the summer time. The system currently has one customer.

In 2016, the City Council voted to adopt into the Water Master Plan, the option to expand the northern portion of the non-potable system.



The presentation will provide more information on the Non-Potable Water System.

Attachments:

Powerpoint

Non-Potable Water System

City Council Work Session

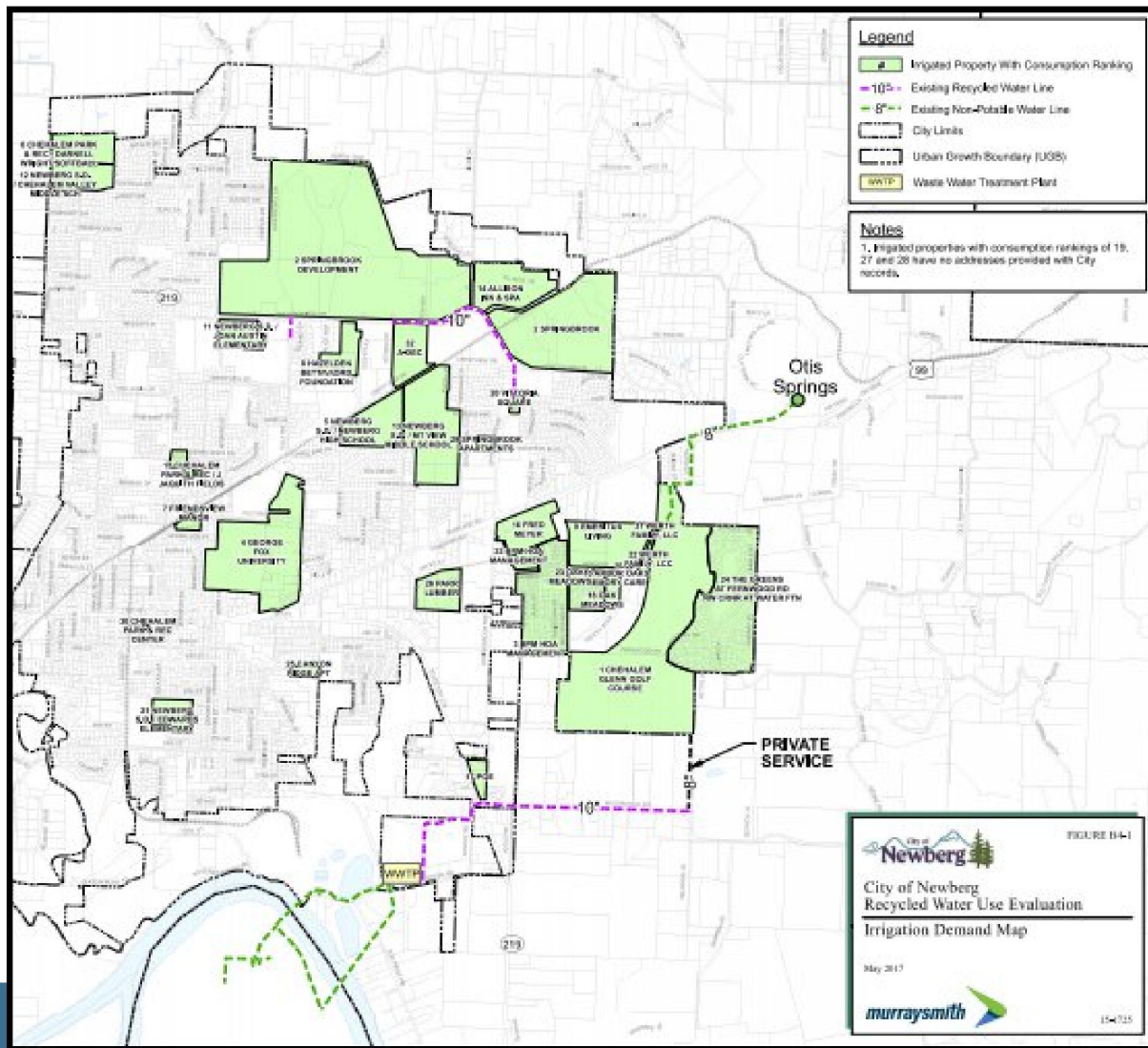
July 6, 2021



Non-Potable Water System

- Reduces the demand for potable water by large irrigation and/or manufacturing users.
- Allows for a reduction in the effluent discharged to the Willamette River
- The non-potable system consists of 2 water sources
 - Otis Springs
 - Recycled water from the Wastewater Treatment Plant





Irrigation
Demand Map
with existing
purple pipe

Recycled Water

- Constructed in 2008/2009.
- System produces Class A Recycled Water per Oregon Administrative Rules (OAR) 340-55.
- Currently can produce 1 mg – can be expanded to 2 mg.
- Permitted by DEQ for use at the Golf Course only.
- Regulations for use require notification at the location of use (signs).



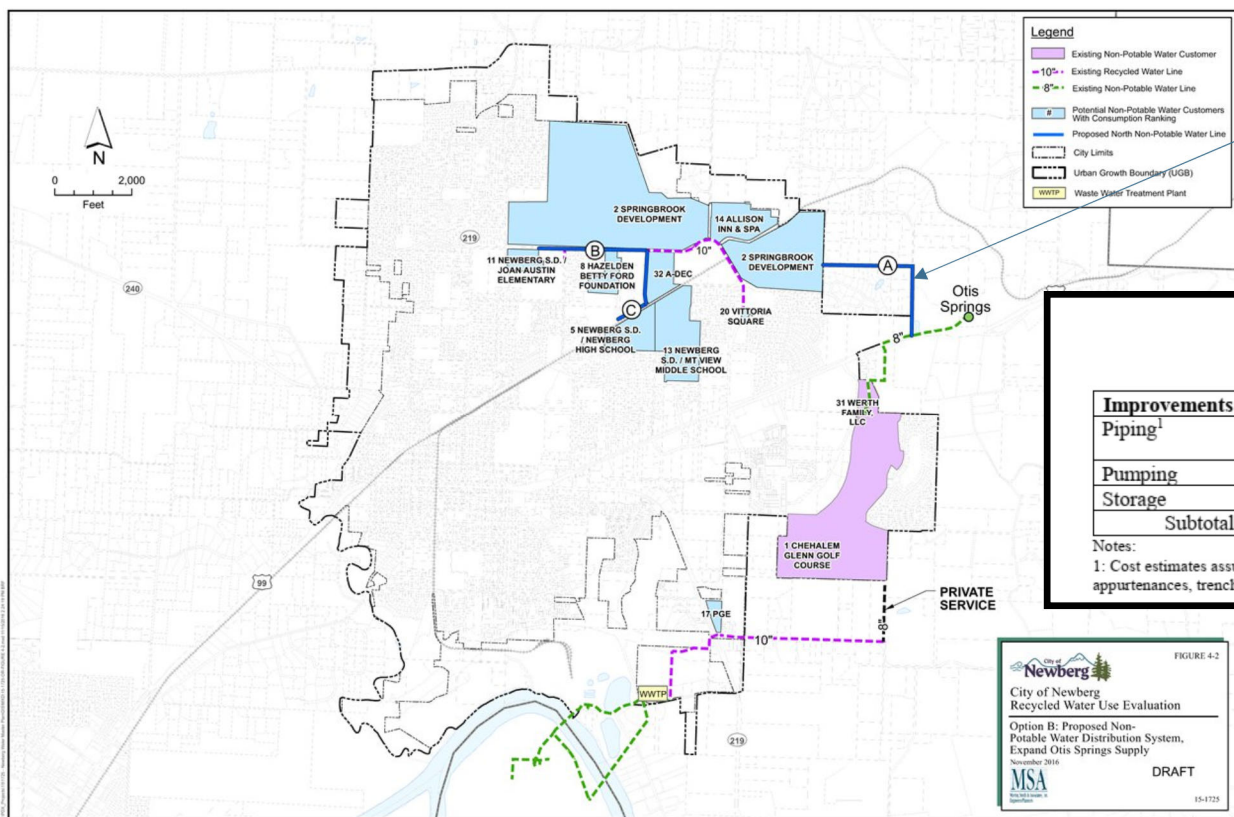
Otis Springs

- City used Otis Springs as a secondary water source until the 1980s.
- 1919 water right is for 2.58 million gallons per day.
- Produces 0.3-0.5 million gallons per day.
- No treatment is provided.
- Onsite storage of 300,000 gallons.
- Piping was extended to the Golf Course in 2007.



Non-Potable Water System Plan

2017 Water Master Plan Option B, Otis Spring expansion, was selected by Council 8-1-2016



Project A currently underway in a different alignment

Table B4-2
Costs for Expansion Option B

Improvements	Segment A	Segment B	Segment C	Totals
Piping ¹	\$1,350,000 (approx. 4,500 LF)	\$1,050,000 (approx. 3,500 LF)	\$750,000 (approx. 2,500 LF)	\$3,150,000
Pumping	\$400,000	--	--	\$400,000
Storage	--	--	--	--
Subtotal	\$1,750,000	\$1,050,000	\$750,000	\$3,550,000

Notes:

1: Cost estimates assume installation of 8-inch diameter AWWA C900 DR18 purple PVC piping, including appurtenances, trench backfill and surface restoration, at \$300/LF.

Other information

- The City is in discussion with several industrial users, and the Providence Medical Plaza, in connecting to the non-potable water systems.
- The adopted Springbrook Master Plan requires the use of non-potable water in the parks and open space areas.
- Agricultural uses outside the City limits has requested non-potable water.
- Purple pipe is being installed in the Crestview Crossing project and in E Crestview Drive.
- SDCs have been designated for the non-potable water system.

Outstanding Tasks

- Revise the NMC to require the use of the non-potable system if available for irrigation and industrial uses for new users.
 - This could be a loss of revenue of up to \$275,000/year.
- Revise the NMC to allow for agriculture uses outside of the City limits to use the non-potable system?
- Capital improvements to Otis Springs – in progress



Sesión de Asuntos del Consejo de la Ciudad

6 de julio de 2021 - 6:00 PM

<https://zoom.us/j/99822253305>

o por teléfono:

us: +1 253 215 8782 or +1 346 248 7799

webinar id: 998 2225 3305

1. LLAMAR AL ORDEN LA SESIÓN
2. PASAR LISTA DE ASISTENCIA
3. REPASO DE LA AGENDA Y SESIÓN DEL CONSEJO
4. ASUNTOS DEL CONSEJO
5. PRESENTACIONES
 - 5.A **Presentación de Waste Management sobre el aumento de tarifas**
 - 5.B **Presentación del Sistema de Agua No Potable**
[RCA Non-Potable Water Presentation.pdf](#)
[Nonpotable Water Presentation.pptx](#)
6. TERMINAR LA SESIÓN



City Council Business Session

July 6, 2021 - 7:00 PM

[Https://zoom.us/j/99822253305](https://zoom.us/j/99822253305)

or join by phone:

us: +1 253 215 8782 or +1 346 248 7799

webinar id: 998 2225 3305

1. CALL TO ORDER

- 1.A Agenda en Espanol
[2021-0706 Spanish Biz Sxn Agenda](#)

2. ROLL CALL

3. PLEDGE OF ALLEGIANCE

4. PRESENTATIONS

- 4.A Proclamation for Newberg Old Fashioned Festival Week
[PROCLAMATION RCA 2021 NOFF.doc](#)

5. CITY MANAGER'S REPORT & CITY ATTORNEY QUARTERLY REPORT

6. COUNCIL APPOINTMENTS

- 6.A Student Commissioner Appointments
[RCA Student Appointments 2021-0706.doc](#)

7. PUBLIC COMMENTS

- 7.A Patrick Nofield public comment
[Patrick Nofield public comment 2021-0706](#)

- 7.B Issue Tracker
[Newberg Issue Tracker Council.docx](#)

8. CONSENT CALENDAR

- 8.A Resolution 2021-3746, A resolution to authorize the City Manager to enter into a construction contract with Intermountain Slurry Seal, Inc. for the 2021 Pavement

Maintenance Project in the amount of \$159,159.00.

[Res 2021-3746_2021PvMnPj\(CrkSlurry\)_BidAward.pdf](#)

- 8.B Resolutions 2021-3721 and 2021-3751, Resolutions to authorize the City Manager to execute with the State of Oregon: (1) an Amendment No. 1 to an existing Intergovernmental Agreement No. 31704 to provide additional matching funds; and (2) a Right-of-Way Services Agreement No. 32487 to provide right-of-way services for the N. College Street Sidewalk, Bike Lane & Associated Improvements Project from Aldercrest to Quail.

[Res2021-3721 & 3751_NCol Ald-Quail ODOT IGAs.pdf](#)

[Slides_Res2021-3721 & 3751_NCol Ald-Quail ODOT-IGAs.pdf](#)

9. NEW BUSINESS

- 9.A 2021 Sidewalks

[RCA Sidewalks 2021.doc](#)

[2021 Sidewalk Presentation.pptx](#)

10. COUNCIL BUSINESS

- 10.A Council Committee Reports

11. EXECUTIVE SESSION ORS 192.660 (2) E REAL PROPERTY

12. ADJOURNMENT

ADA STATEMENT

Contact the City Recorder's Office for physical or language accommodations at least 2 business days before the meeting. Call (503) 537-1283 or email cityrecorder@newbergoregon.gov. For TTY services please dial 711.



Sesión de Determinación del Consejo de la Ciudad

6 de julio de 2021 - 7:00 PM

<https://zoom.us/j/99822253305>

o por teléfono:

us: +1 253 215 8782 or +1 346 248 7799

webinar id: 998 2225 3305

1. LLAMAR AL ORDEN
2. PASAR LISTA DE ASISTENCIA
3. PROMESA DE LEALTAD A LOS ESTADOS UNIDOS DE AMERICA
4. PRESENTACIONES
- 4.A Proclamación para la Semana de Newberg Old Fashioned Festival
[PROCLAMATION RCA 2021 NOFF.doc](#)
5. INFORME DEL ADMINISTRADOR DE LA CIUDAD & INFORME TRIMESTRAL DEL ABOGADO DE LA CIUDAD
6. NOMBRAMIENTOS DEL CONSEJO
- 6.A Nombramientos de los Comisionados Estudiantiles
[RCA Student Appointments 2021-0706.doc](#)
7. COMENTARIOS PÚBLICOS
- 7.A Monitoreando los Problemas
[Newberg Issue Tracker Council.docx](#)
8. CALENDARIO DE CONSENTIMIENTO
- 8.A Resolution 2021-3746, Una resolución para autorizar al Administrador de la Ciudad a iniciar un contrato de construcción con Intermountain Slurry Seal, Inc. para el Proyecto de Mantenimiento de Pavimento 2021 por la cantidad de \$159,159.00.
[Res 2021-3746_2021PvMnPj\(CrkSlurry\)_BidAward.pdf](#)
- 8.B Resolutions 2021-3721 and 2021-3751, Resoluciones para autorizar al Administrador de la Ciudad a ejecutar con el Estado de Oregon: (1) una Enmienda No. 1 a una

Acuerdo Intergubernamental No. 31704 para proporcionar fondos de contrapartida adicionales; y (2) un Acuerdo de Servicios de Derecho de Paso No. 32487 para proporcionar servicios de derecho de paso para el Proyecto de Aceras, Carriles para Bicicletas y Mejoras Asociadas de N. College Street desde Aldercrest hasta Quail.

[Res2021-3721 & 3751_NCol Ald-Quail ODOT IGAs.pdf](#)

[Slides_Res2021-3721 & 3751_NCol Ald-Quail ODOT-IGAs.pdf](#)

9. NUEVOS ASUNTOS

9.A Aceras 2021

[RCA Sidewalks 2021.doc](#)

[2021 Sidewalk Presentation.pptx](#)

10. ASUNTOS DEL CONSEJO

10.A Informe de Comités del Consejo

11. SESIÓN EJECUTIVA ORS 192.660 (2) E REAL PROPERTY

12. TERMINAR LA SESIÓN

DECLARACIÓN BAJO LA LEY ESTADOUNIDENSE DE DISCAPACIDADES

Contacta la oficina de la secretaría de la ciudad al menos 2 días hábiles antes de la sesión para obtener adaptaciones físicas o lingüísticas. Llame al (503) 537-1283 o envíe un correo electrónico a cityrecorder@newbergoregon.gov. Para servicios de TTY, marque 711.

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: Month, Date, Year

Order ____ Ordinance ____ Resolution ____ Motion XX Information ____
No. No. No.

SUBJECT: Proclamation for Newberg Old Fashioned Festival

Staff: Zaira Robles Muniz
Department: Admin
File Number:

Business Session

Order on Agenda: Presentation

RECOMMENDATION: To declare July 24-25, 2021 as Newberg Old Fashioned Festival Week.

EXECUTIVE SUMMARY: The Mayor will proclaim July 24-25, 2021 as Newberg Old Fashioned Festival Week. After a year's absence, the City Council is happy to declare the return of a local festival to the community.

FISCAL IMPACT: None.

STRATEGIC ASSESSMENT:

2020 Council Goals:

1. Change operational culture to one focused on Customer Service and act to Resolve Ongoing Legal Disputes

A proclamation to recognize the efforts of The Newberg Old Fashioned Festival in bringing the community together especially after the current pandemic. It aligns with the Council's goal to focus on customer service by building relationships with the patrons of the City of Newberg while enjoying local entertainment.



PROCLAMATION

A PROCLAMATION DECLARING JULY 24 –25, 2021, AS NEWBERG OLD FASHIONED FESTIVAL WEEK

WHEREAS, the City of Newberg is a family friendly and inclusive community that hosts many gatherings, numerous celebrations, and a variety of entertainment venues where old friends and new ones can get together; and

WHEREAS, each year the City of Newberg and many members of the community participate by celebrating community spirit, during the last full weekend in July; and

WHEREAS, due to the COVID-19 Pandemic many events just like the Newberg Old Fashioned Festival were cancelled to protect the community and help stop the spread of the virus. Fortunately, this year there will be an abbreviated form of the festival taking place July 24-25, 2021 to bring the community together; and

WHEREAS, with various fun and enjoyable entertainment like the Rotary Pancake Breakfast, Newberg Classic Fire Apparatus Show, Hymn Sing, Fireworks Show, and a 5K Run & Walk presented by Chehalem Park and Recreation; and

WHEREAS, marking the year 2021 as the Forty (40th) Anniversary Year of the festival, a special time to be involved in this event; and

NOW, THEREFORE, IT IS PROCLAIMED, by the Mayor and City Council, and on behalf of the people of the City of Newberg, Oregon, that we proclaim July 24-25, 2021 as Newberg Old Fashioned Festival Week.

IN WITNESS WHEREOF, I have hereunto set my hand and cause the Seal of the City of Newberg to be affixed on this 6th day of July, 2021.

Space below is for city seal

Rick Rogers, Mayor

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: June 21, 2021

Order ____ Ordinance ____ Resolution ____ Motion XX Information ____
No. No. No.

SUBJECT: Appoint Aiden Gray to Planning Commission, Alexander Aguilar to Citizens Rate Review Commission, Joyce del Rosario to Affordable Housing Commission, Liam Deckon to Historic Preservation Commission, and Claire Faucher to Library Advisory Board. Appoint Levi Stroup and Thomas Rohkola as alternates.

**Contact Person (Preparer) for this Motion: Zaira Robles Muniz for Mayor Rick Rogers
Dept.: Administration**

RECOMMENDATION:

APPOINTMENTS:

To consent to the Mayor's appointment of:

- 1) Aiden Gray to the Planning Commission student position for a term of September 1, 2021 to May 31, 2022. Aiden is passionate about infrastructure and planning on pursuing a degree in civil engineering. Aiden is currently a student at Newberg High School and resides within District 4.
- 2) Alexander Aguilar to the Citizens Rate Review Commission student position for a term of September 1, 2021 to May 31, 2022. Alexander is interested in law and how government operates. He is thrilled to join CRRC and to learn from his peers. Alexander is currently a student at Veritas High School and lives within the school district boundaries.
- 3) Joyce del Rosario to the Affordable Housing Commission student position for a term of September 1, 2021 to May 31, 2022. Joyce comes with a background of various experiences relating to affordable housing. She views housing security as integral to developing a livable community and wants to encourage paths to home ownership. Joyce is currently a student at George Fox University earning her undergraduate degree in accounting and resides within District 5.
- 4) Liam Deckon to the Historic Preservation Commission student position for a term of September 1, 2021 to May 31, 2022. Liam has a deep love and fascination with culture and history and is eager for this opportunity to help preserve Newberg's heritage and draw the city closer to its past. Liam is currently a student at Newberg High School and resides within District 3.
- 5) Claire Faucher to the Library Advisory Board student position for a term of September 1, 2021 to May 31, 2022. Claire understands the importance a public library has to a community and wants to ensure that all its services are more accessible and enriching to the patrons who rely on them. She is determined to make a positive impact to the board. Claire is currently a student at Newberg High School and resides within District 6.

Alternates

- 1) Levi Stroup is appointed an alternate in case of a vacancy in a board or commission for a term of September 1, 2021 to May 31, 2022. Levi grew up in Newberg and is interested in politics. He is happy to bring a fresh perspective to the city being a young resident of Newberg. Levi is currently a student at Portland Community College and lives within the school district boundaries.
- 2) Thomas Rahkola is appointed an alternate in case of a vacancy in a board or commission for a term of September 1, 2021 to May 31, 2022. Thomas is grateful for the chance to learn about how the city functions and be able to provide his point of view. Thomas is currently a student at Veritas High School and resides within District 4.

STRATEGIC ASSESSMENT:

Student Commissioners are part of Newberg's goal to cherish diversity, equity and inclusion as a core value for the City. Resulting with the Council passing Resolution No. 2021-3727, a resolution to add more students to the City's Boards and Commissions for diverse representation. The students will be a great addition to the boards and commissions for the City. These committees support the Council in carrying out its work of the City.

The Newberg Library Advisory Board serves a very important role in the betterment of our community and the cultural life of our residents.

The CRRC reviews, analyzes, and discusses rates necessary to operate the City's utility funds efficiently.

The Historic Preservation Commission role is to identify, recognize, and preserve significant properties related to the community's history, encourage the rehabilitation and ongoing viability of historic buildings and structures.

The Planning Commission hears requests for annexations, comprehensive plan changes, zone changes, conditional use permits, appeals, and other land use applications.

The Affordable Housing Commission develops recommendations for the Council on the Newberg Affordable Housing Trust Fund.

Patrick Nofield, President

www.escapelodging.com



Boutique Hotels

Ocean Lodge, Cannon Beach, OR



Lodges at Cannon Beach



Branded Hotels

Fairfield Marriott, The Dalles, OR



TownePlace Suites Marriott, Beaverton, OR



System Development Cost Comparison Newberg – 42,428 Sq' Feet building space

79 Room Marriott Hotel

• \$ 1,041,415

Self Storage Units

• \$ 275,522

The Concern: Difference in SDC Hotel vs Self Storage

To Develop a 79 room Hotel will
cost **\$765,892** more than to build
Self Storage Units

System Development Costs charged from previous projects in other communities.

Community	Project	Year	Total SDC
• The Dalles, OR	80 Room Marriott Fairfield	2014	\$225,000
• Richland, WA	82 Room Boutique Hotel	2017	\$100,000
• Beaverton, OR	112 Room Marriott TPS	2018	\$300,000
• Cannon Beach, OR	20 Room addition	2018	\$50,000

(As an 80 room hotel it would have cost approx \$200,000)

The Benefit: Marriott Hotel Transient Room Tax Impact City of Newberg (9% TRT)

	Revenue	TRT Generated
YR 1	\$ 3,002,944	\$ 270,265
YR 2	\$ 3,326,751	\$ 299,408
YR 3	\$ 3,535,435	\$ 318,189
YR 4	\$ 3,760,435	\$ 338,439
YR 5	\$ 3,985,435	\$ 358,689
YR 6	\$ 4,210,435	\$ 378,939
YR 7	\$ 4,435,435	\$ 399,189
YR 8	\$ 4,660,435	\$ 419,439
YR 9	\$ 4,885,435	\$ 439,689
YR 10	\$ 5,110,435	\$ 459,939
Total		\$ 3,682,186
10 Year Annual Average		\$ 368,219

Visitor Spending Yamhill County 2019

- “According to independent research done for Travel Oregon by Runyan Associates in 2019, the average travel party spends \$386 per trip in Yamhill County. These dollars are not only spent on lodging, but with restaurants, retail shops, gas stations, food stores, wineries and arts, cultural and recreation amenities.”
- Todd Davidson, CEO Travel Oregon *June 30, 2021*

Projected annual direct visitor spending Newberg Marriott Hotel

22,000 room nights x 2.2 nights average stay equals

10,000 trips

10,000 trips x \$386 = \$3,860,000 annual spending

Proposed Solution

We propose that Escape Lodging will pay a maximum of \$500,000 out of pocket towards the city of Newberg System Development fees. We will enter into an agreement with a note payable for the remaining balance that will be paid for by the newly realized transient lodging tax dollars (9%) that we collect from our guests until the debt is paid in full (approximately 18 months after the property is operational).

Questions?

NEWBERG COUNCIL ISSUE TRACKER

DATE	TYPE	SUMMARY	DEPT.	STATUS	TIMEFRAME	COMPLETE
6/7/21	Council	Request from Scott and Leonard Johnson about building/planning requirements for improving warehouse	CDD			
6/7/21	Council	Request from Mark Grier on status of south side of town streets	PWS	PWD Russ Thomas has spoken with Mr. Grier about the Pavement Preservation Program, Transportation Utility Fee, planned projects list, Waterfront Master Plan, and the Urban Renewal district. Based on that discussion it appeared that Mr. Grier's questions were resolved. We will work on adding information to our website in a more consistent and easier to locate manner.		Yes
4/5/21	Council	City obligations in response to the Second Amendment Sanctuary Ordinance passed by Yamhill County	Legal	City Attorney Walker reviewing		
10/19/20	Council	Request from Matt Ross to amend City Code 8.15.150J to add language that weekend construction is specifically not allowed without a permit and only then in cases of emergency	Legal	City Attorney Walker reviewing		

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: July 6, 2021				
Order ____ No.	Ordinance ____ No.	Resolution <u>XX</u> No. 2021-3746	Motion ____	Information ____
SUBJECT: A resolution to authorize the City Manager to enter into a construction contract with Intermountain Slurry Seal, Inc. for the 2021 Pavement Maintenance Project in the amount of \$159,159.00.			Staff: Paul Chiu, P.E., Senior Engineer Department: Public Works Engineering File Number:	
Business Session			Order on Agenda - Consent	

RECOMMENDATION:

Adopt Resolution No. 2021-3746 authorizing the City Manager to enter into a construction contract with Intermountain Slurry Seal, Inc. to complete the construction of the 2021 Pavement Maintenance Project in the amount of \$159,159.00.

EXECUTIVE SUMMARY:

On May 2, 2017, the City Council adopted Ordinance No. 2016-2811 (subsequently codified into City Municipal Code Section 3.45.060) authorizing the collection of a transportation utility fee (TUF) for the preservation and rehabilitation of the citywide pavement system. The City's Public Works Department subsequently developed a five-year pavement maintenance and rehabilitation plan for City streets.

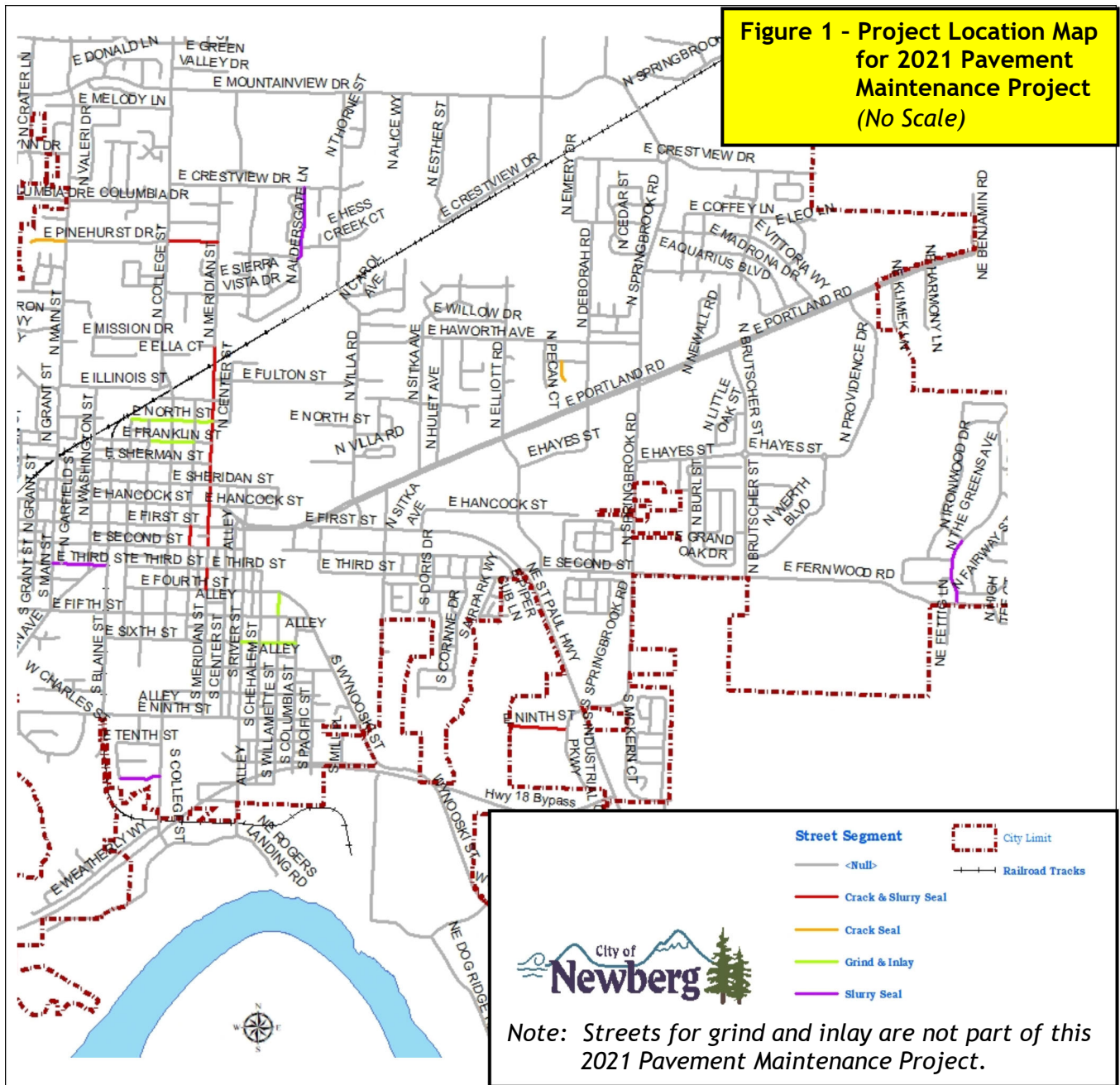
The pavement maintenance projects commonly include one or a combination of crack sealing, slurry sealing, chip sealing, and/or fog sealing to extend the life of existing pavement. ADA sidewalk ramp improvements are not required for sealing projects. Chip sealing is not a preferred option until it is proven to work on urban streets.

On May 12, 2021, the City's consultant, HBH Consulting Engineers, Inc., completed the design for 2021 Pavement Maintenance Project. This project consists of crack and/or slurry sealing for nine city streets as noted below (see Figure 1 next page for the map showing the proposed streets):

Crack and Slurry Seal (*except as noted*):

- (a) E Third St (S Main St to S Blaine St) (*slurry seal only*)
- (b) E Andrew St (James St to S College St) (*slurry seal only*)
- (c) N Filbert Ct (Walnut Ave to Dead End)
- (d) The Greens Ave (E Fernwood Rd to Ironwood Dr)
- (e) N Aldersgate Ln (Crestview Dr to N Pennington Dr)
- (f) N/S Meridian St (Sierra Vista DR to E Fourth St)
- (g) S Edwards St (E Second St to E First Street)
- (h) E Ninth St (Commerce Pkwy to Industrial Pkwy)
- (i) E Pinehurst Ct/W Pinehurst Dr (N College St to N Meridian St)

The Engineer's estimate for 2021 Pavement Maintenance Project is in the range of \$200,000.00 to \$230,000.00. Construction for the crack and slurry seal work is planned for completion this summer.



On May 14, 2021, staff advertised for bid the 2021 Pavement Maintenance Project.

On June 8, 2021, the City received and opened two (2) qualified bids from Pave Northwest, Inc. for \$203,478.97 and Intermountain Slurry Seal, Inc. for \$159,159.00. Bid analysis indicated that the Intermountain's bid included a smaller share in work by subcontractors. Staff concluded that the Intermountain's bid is the lowest and responsive to the City's bid request.

FISCAL IMPACT:

Funding for the 2021 Pavement Maintenance Project is from the Transportation Utility Fee as budgeted in the FY21-22 budgets under Account No. 18-5150-703000.

STRATEGIC ASSESSMENT:

The proposed crack and slurry sealing for existing pavement surfaces provides proper preservation of asphaltic pavement surfaces and maintains a sustainable roadway pavement system throughout the City. This project, thus supports the Council's Goal No. 5 for a sustainability program, and provides essential mobility, comfort, safety and livability for everyone that works, lives and visits the City.



RESOLUTION No. 2021-3746

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONSTRUCTION CONTRACT WITH INTERMOUNTAIN SLURRY SEAL, INC. FOR THE 2021 PAVEMENT MAINTENANCE PROJECT IN THE AMOUNT OF \$159,159.00.

RECITALS:

1. The City's 2021 Pavement Maintenance Project is an approved capital improvement project in the 2021-2022 fiscal year budget that provides crack and slurry sealing for nine City streets.
2. HBH Consulting Engineers, Inc. completed the design and bid documents, and provided an Engineer's estimate for the project in the range of \$200,000.00 to \$230,000.00.
3. On May 14, 2021, the City advertised the project on the City's website and in the Daily Journal of Commerce, soliciting bids in accordance with ORS Chapter 279C Public Contracting and Public Procurement requirements.
4. On June 8, 2021, the City received two (2) qualified bids from Pave Northwest, Inc. for \$203,478.97 and Intermountain Slurry Seal, Inc. for \$159,159.00. Intermountain's bid is determined to be the lowest and responsive to the City's bid request.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City Council, acting as contract review board for the City, does hereby authorize the City Manager to execute a construction contract with Intermountain Slurry Seal, Inc. to complete the 2021 Pavement Maintenance Project in the amount of \$159,159.00.
2. The City Attorney will review and approve all contracts as to form and content.
3. The City Manager is authorized to negotiate and approve any needed construction change orders not to exceed 10 percent of the original contract amount.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: July 7, 2021.

ADOPTED by the City Council of the City of Newberg, Oregon, this 6th day of July, 2021.

Sue Ryan, City Recorder

ATTEST by the Mayor this _____ day of July, 2021.

Rick Rogers, Mayor

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: July 6, 2021				
Order ____ No.	Ordinance ____ No.	Resolution <u>XX</u> No. 2021-3721 and 2021-3751	Motion ____	Information ____
SUBJECT: Resolutions to authorize the City Manager to execute with the State of Oregon: (1) an Amendment No. 1 to an existing Intergovernmental Agreement No. 31704 to provide additional matching funds; and (2) a Right-of-Way Services Agreement No. 32487 to provide right-of-way services for the N. College Street Sidewalk, Bike Lane & Associated Improvements Project from Aldercrest to Quail.			Staff: Paul Chiu, PE Senior Engineer Department: Public Works - Engineering File Number:	
Business Session			Order on Agenda – Consent	

RECOMMENDATION:

Adopt Resolution Numbers 2021-3721 and 2021-3751.

EXECUTIVE SUMMARY:

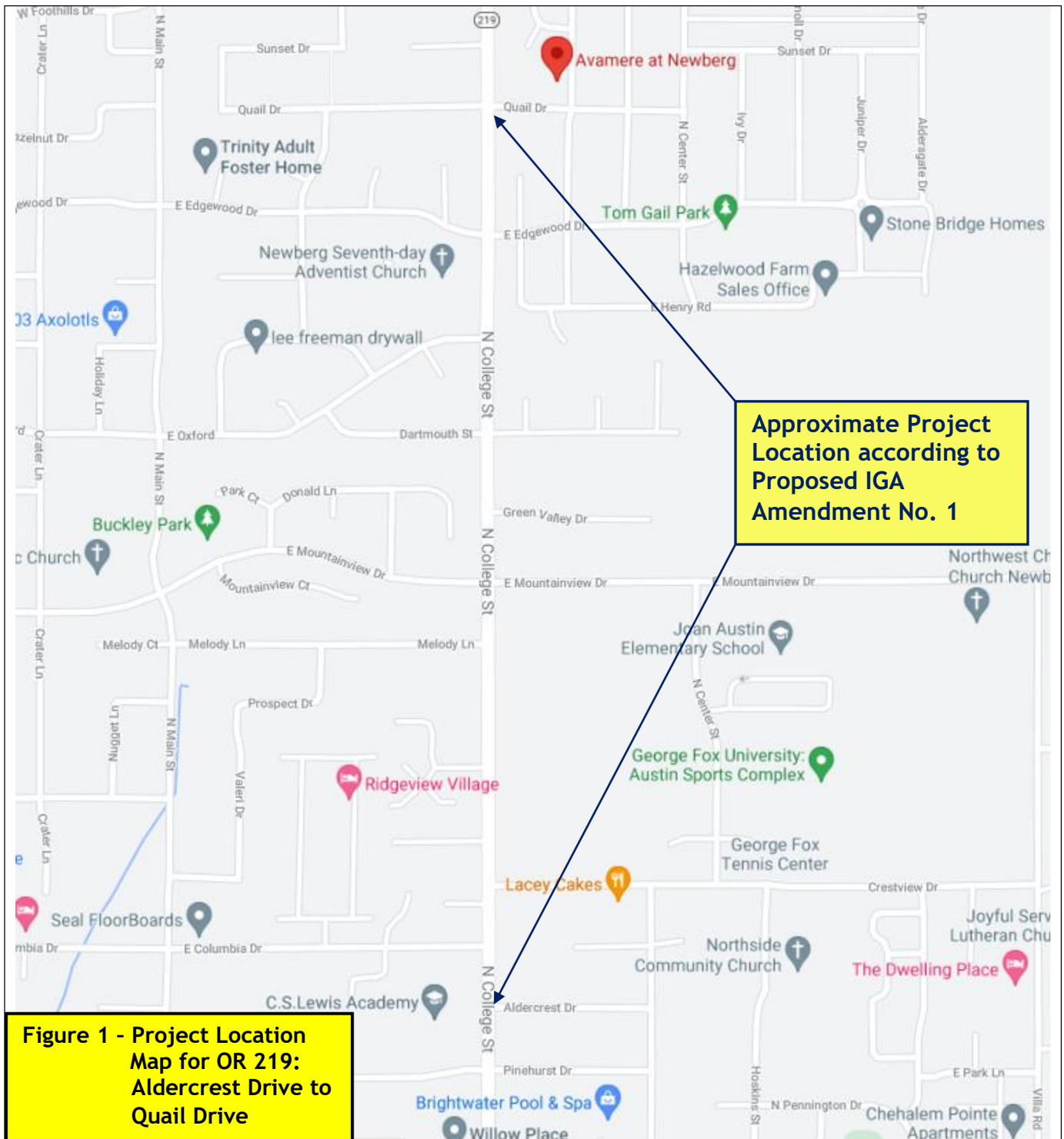
In 2012, the Oregon Department of Transportation (ODOT) and the City of Newberg embarked on the construction of sidewalks and bike lanes on N College Street from Illinois Street to Aldercrest Drive to extend vital non-motorized transportation links on this major State and City route. The ODOT project, under an Intergovernmental Agreement (IGA) with the City, was completed in 2014/2015 but unfortunately went significantly over-budget. The City paid the cost overruns because of the requirements stated in IGA No. 27316.

The City applied for and received ODOT funding for the next phase of the project to extend the sidewalks and bike lanes further north in 2017. The City executed IGA No. 31704 with the State of Oregon through ODOT for the N. College Street (OR219) Sidewalk, Bike Lanes and Associated Improvements Project (ODOT Key No. 18749) within the limits of Aldercrest Drive and Foothills Drive on August 14, 2017. The original IGA estimated a total project cost of \$2,670,600 that included the required City's 10.27% match at \$274,271. The project, its budget and the overall expenditures are managed by ODOT. The City is an active participant of the project but has limited control over the scope of work and its budget. The IGA does give the City the ability to adjust the scope to stay within the budget at key milestones.

ODOT retained OTAK, Inc. to perform Preliminary Engineering (PE) work for the project in 2017/2018. ODOT has unfortunately taken several years to revise the scope of work to fit within the available budget while seeing its project manager changed several times. The needed changes led to the need for an amendment to the existing IGA. Amendment No. 1 to IGA No. 31704 reflects the following changes to the ODOT project:

- (a) Shortening the northern project limit of the project from Foothills Drive to Quail Drive to reduce the budget overruns. Thus, the project name is changed from "OR 219: Aldercrest Drive – Foothills Drive" to "OR 219: Aldercrest Drive – Quail Drive". Please refer to Figure 1 on the next page for the revised project location.

- (b) Increasing project funding by raising the estimated total project cost from \$2,670,600 to \$2,967,936. Thus, the State's share increases from \$2,396,329 to \$2,663,129; and the City's match increases from \$274,271 to \$304,807 while still maintaining the City's overall 10.27% matching share.



The proposed IGA Amendment No. 1 also includes a revised attachment for the Federal Standard Provisions and other revisions. See attached “Exhibit A for Resolution No. 2021-3721” for the proposed IGA Amendment No. 1. The City Attorney has reviewed the proposed amendment and approved the proposed language. The adoption of Resolution No. 2021-3721 will authorize the City Manager to execute

this proposed IGA amendment.

The original IGA No. 31704 stated that City and State must also execute a separate Right-of-Way Services Agreement (RoWSA) for the same ODOT project. This RoWSA (also known as IGA No. 32487) requires Council's authorization and is attached as "Exhibit A for Resolution No. 2021-3751". This IGA will allow this portion of the right-of-way task to move forward.

The ODOT project, currently in design, will soon require right-of-way acquisition to accommodate the sidewalk improvements. Construction is planned for the summer of 2022.

FISCAL IMPACT:

Funding for the City's matching funds for the ODOT N. College Street (OR 219) Sidewalk and Bike Lane Improvement Project was approved in the current fiscal year budget under account number 18-5150-702111.

STRATEGIC ASSESSMENT:

This project extends a much needed pedestrian and bicyclist connection along a major State and City route in accordance with the City's Transportation System Plan (TSP). The TSP recommends development of sound transportation infrastructure and thus promotes the development of affordable and equitable housing with healthy walking and biking amenities.

The sidewalk and bike lane project enhances diversity, equity, and inclusion in transportation modes, and meets the sustainability goal, which are two of the citywide 2020 Council goals.



RESOLUTION No. 2021-3721

A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO EXECUTE WITH THE STATE OF OREGON AN AMENDMENT NO. 1 TO AN EXISTING INTERGOVERNMENTAL AGREEMENT NO. 31704 TO PROVIDE ADDITIONAL MATCHING FUNDS FOR THE N. COLLEGE STREET SIDEWALKS, BIKE LANES AND ASSOCIATED IMPROVEMENTS PROJECT FROM ALDERCREST TO QUAIL.

RECITALS:

1. The project is located on N. College Street within the amended project limits of Aldercrest Drive and Quail Drive.
2. On August 14, 2017, by authority of Resolution No. 2017-3389, the City of Newberg executed an Intergovernmental Agreement (IGA) No. 31704 with the Oregon Department of Transportation (ODOT) to receive State funding for the N. College Street (OR219) Sidewalks, Bike Lanes and Associated Improvements Project.
3. An effort to manage its budget has led ODOT to shorten the project limits and increase project funding simultaneously for the Project, and thus created Amendment No. 1 to IGA No. 31704. ODOT presented a copy of this Amendment No. 1 to the City on March 24, 2021, that is attached as Exhibit A and by this reference incorporated.
4. IGA Amendment No. 1 raises the estimated total project cost from \$2,670,600 to \$2,967,936 and thus increases the State's share from \$2,396,329 to \$2,663,129 and the City's match from \$274,271 to \$304,807 while maintaining the City's overall match at 10.27%. This additional City's match is exceeded by 11.13% and beyond the 10% maximum set by Resolution No. 2017-3389.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City Council, acting as contract review board for the city, does hereby authorize the City Manager to execute Amendment No. 1 to IGA No. 31704 with ODOT (a) to amend the new project limits to be from Aldercrest Drive to Quail Drive; (b) to increase the City's matching fund to \$304,807; and (c) to accept the revisions in Amendment No. 1.
2. The City Attorney will review and approve all agreements as to form and content.
3. The City Manager is authorized to negotiate and approve any needed amendments to IGA No. 31704 and any additional matching funds not to exceed 10 percent of the amended matching amount.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: July 7, 2021.

ADOPTED by the City Council of the City of Newberg, Oregon, this 6th day of July, 2021.

Sue Ryan, City Recorder

ATTEST by the Mayor this _____ day of July, 2021.

Rick Rogers, Mayor

**AMENDMENT NUMBER 01
INTERGOVERNMENTAL AGREEMENT
ODOT Delivered Federal Project
on Behalf of City of Newberg
OR 219: Aldercrest Drive – Quail Drive**

This is Amendment No. 01 to the Agreement between the **STATE OF OREGON**, acting by and through its Department of Transportation, hereinafter referred to as “State” or “ODOT,” and **CITY OF NEWBERG**, acting by and through its elected officials, hereinafter referred to as “Agency,” entered into on August 14, 2017.

It has now been determined by State and Agency that the Agreement referenced above shall be amended to update language and add funding. In this document, deleted language is struck through, and language added is underlined.

1. **Effective Date.** This Amendment shall become effective on the date it is fully executed and approved as required by applicable law.
2. **Amendment to Agreement.** Deleted items are shown in ~~strike through~~ and new items are shown in underline.
 - a. **Agreement type shall be changed from “Local Agency Agreement Multimodal Transportation Enhance Program” to “Intergovernmental Agreement ODOT Delivered Federal Project on Behalf of City of Newberg” and Project name shall be changed from “OR 219: Aldercrest Drive – Foothills Drive” to “OR 219: Aldercrest Drive – Quail Drive”.**
 - b. **Exhibit A** shall be deleted in its entirety and replaced with the attached Revised Exhibit A. All references to “Exhibit A” shall hereinafter be referred to as “Revised Exhibit A.”
 - c. **Attachment No. 2 Federal Standard Provisions** shall be deleted in its entirety and replaced with the attached Revised Attachment No. 2 Federal Standard Provisions. All references to “Attachment No. 2 Federal Standard Provisions” shall hereinafter be referred to as “Revised Attachment No. 2 Federal Standard Provisions.”
 - d. **RECITALS, Paragraphs 2 - 4, page 1, shall be revised to read:**
 2. Oregon Route 219 (Hillsboro-Silverton Highway), also known as North College Street, is a part of the state highway system under the jurisdiction and control of the Oregon Transportation Commission (OTC). Aldercrest Drive and Quail Foothills Drive are part of the city street system under the jurisdiction and control of Agency.

3. ~~Agency has been awarded MTEP funding in the amount of \$2,396,329 for all phases of the Aldercrest Drive to Foothills Drive project. The Project was selected as a part of the Multimodal Transportation Enhance Program and may include a combination of federal and state funds. "Project" is defined under Terms of Agreement, paragraphs 1 and 2 of this Agreement.~~
4. Agency has agreed that State will ~~oversee and manage~~ deliver this project on behalf of the Agency. ~~Agency agrees to be an active participant in project development and construction.~~

e. Insert new RECITALS, Paragraph 5 to read as follows:

5. The Project name, which in the original Agreement was "OR 219: Aldercrest Drive – Foothills Drive," has been updated in Amendment No. 1 to "OR 219: Aldercrest Drive – Quail Drive" to reflect changes in Project scope and location.

f. Insert new RECITALS, Paragraph 6 to read as follows:

6. 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.

g. TERMS OF AGREEMENT, Paragraphs 1 - 2, page 2, shall be revised to read:

1. Under such authority, Agency and State agree to State delivering ~~providing~~ preliminary engineering, right of way acquisition, and construction of bike lanes, sidewalks, curbs, curb ramps, drainage, water quality facilities, and landscape buffers on OR 219 between Aldercrest Drive and Quail Foothills Drive, on behalf of Agency, hereinafter referred to as "Project" and is further defined below. The location of the Project is approximately as shown on the map attached hereto, marked "Revised Exhibit A," and by this reference made a part hereof.
2. The Project Description and Deliverables are as follows:
 - a. Description: construct bike lanes, sidewalks, curbs, curb ramps, drainage, water quality facilities, and landscape buffers on OR 219 between Aldercrest Drive and Quail Foothills Drive.

- b. Deliverables: This Project will design and construct various improvements on OR 219 between Aldercrest Drive and Quail Foothills Drive. Project improvements include bike lanes ~~on both side of the highway the full length of the Project area~~; six (6) foot wide sidewalk infill on the west side of the highway for the full length of the Project area; a planter strip where feasible; curb and gutters; curb ramps; and installation of storm drainage improvements with water quality enhancements. ~~The Project will require approximately 6,000 square feet of right of way acquisition.~~

h. TERMS OF AGREEMENT, Paragraphs 4 - 5, page 3, shall be revised to read:

4. The Project shall be conducted as a part of the Multimodal Transportation Enhance Program (MTEP) with federal funds provided under Title 23, United States Code and may include a combination of federal and state funds. The Total Project Cost is estimated at ~~\$2,967,936.00~~\$2,670,600, which is subject to change. MTEP funding for this Project shall be limited to ~~\$2,663,128.98~~\$2,396,329. Agency shall be responsible for all remaining costs, including the 10.27 percent match for all eligible costs, any non-participating costs, and all costs in excess of the available federal or state funds.
5. Project Overruns which occur at the time of Contract Award, and or at the time of Project Closeout are the responsibility of the Agency. To help mitigate the possibility of overrunning the overall Project budget, the following terms, as outlined in paragraphs 5a through 5e shall apply:
- a. If the estimated cost for consultant design services combined with the estimated cost for State and Agency administration of the Preliminary Engineering phase exceeds the total budgeted amount of ~~\$773,635.00~~\$519,000, as identified in the Statewide Transportation Improvement Program (STIP), State and Agency shall examine alternatives for a reduced Project scope to stay within the programmed budget.
- b. If the estimated cost of right of way acquisition combined with State's estimated cost for administration of the Right of Way phase exceeds the total budgeted amount of ~~\$380,000.00~~\$251,000, as identified in the STIP, State and Agency shall examine alternatives for a reduced Project scope to stay within the programmed budget.
- c. If the State's Engineer's Estimate of construction cost, prepared at either the thirty percent (30%), sixty percent (60%), or ninety percent (90%) design levels exceeds the total budgeted amount of ~~\$1,814,301.00~~\$1,889,600 for Construction, as identified in the STIP, State and Agency shall examine alternatives for a reduced Project

scope to stay within the programmed budget. State and Agency shall agree upon the Project scope and budget at each of the design milestones.

- d. Should the Agency desire no reduction, or limited reduction in the Project's scope, Agency will provide written notification to State that Agency agrees to pay all additional costs incurred.
- e. If State and Agency agree on changes to the Project scope or funding obligations, then an amendment to this Agreement will be entered into to reflect such changes.

i. TERMS OF AGREEMENT, Paragraph 9, page 4, shall be revised to read:

9. 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:
 - 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 (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, ~~modification, upgrade or 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 ~~an~~ 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, ~~modified, upgraded, or altered~~ improved as part of the Project. The completed form is the documentation required to show that each curb ramp meets ~~is constructed to~~ ODOT standards and is ADA compliant. ODOT's fillable Curb Ramp Inspection Form and instructions are available at the following address:

<http://www.oregon.gov/ODOT/HWY/CONSTRUCTION/Pages/HwyConstForms1.aspx>; <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.
- j. **TERMS OF AGREEMENT, Paragraph 12, page 5, shall be deleted in its entirety and shall be identified as RESERVED.**
- k. **TERMS OF AGREEMENT, Paragraphs 19 - 20, page 6, shall be deleted in their entirety and shall be identified as RESERVED.**
- l. **TERMS OF AGREEMENT, Paragraph 28, page 7, shall be revised to read:**

28. ~~State's contact for this Agreement is Lee Cronemiller, Local Agency Liaison, ODOT Region 2, 885 Airport Road SE, Building P, Salem, Oregon 97301; phone: (503) 986-2779; email: lee.m.cronemiller@odot.state.or.us~~
Andrew J. Blair, Transportation Project Manager, ODOT Region 2, 455 Airport Road SE Building B, Salem, Oregon 97301; phone: (503) 509-3067; email: Andrew.Blair@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.
- m. **Insert new TERMS OF AGREEMENT, Paragraph 30 to read as follows:**

30. State shall ensure compliance with the Cargo Preference Act and implementing regulations (46 CFR Part 381) for use of United States flag

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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.

3. **Counterparts.** This Amendment may be executed in two or more counterparts (by facsimile or otherwise) each of which is an original and all of which when taken together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.
4. **Original Agreement.** Except as expressly amended above, all other terms and conditions of the original Agreement are still in full force and effect. Agency certifies that the representations, warranties and certifications in the original Agreement are true and correct as of the effective date of this Amendment and with the same effect as though made at the time of this Amendment.

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 2021-2024 Statewide Transportation Improvement Program (STIP), (Key No.18749) that was adopted by the Oregon Transportation Commission on July 15, 2020 (or subsequently by amendment to the STIP).

SIGNATURE PAGE FOLLOWS

City of Newberg/Oregon Dept. of Transportation
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CITY OF NEWBERG, by and through its
elected officials

By authority of Resolution No.

By _____
Mayor

Date _____

By _____
City Manager

Date _____

**LEGAL REVIEW APPROVAL (If required
in Agency's process)**

By _____
City Legal Counsel

Date _____

Agency Contact:

Kaaren Hofmann, City Engineer
City of Newberg
414 East First Street
Newberg, OR 97132
(503) 537-1273
Kaaren.hofmann@newbergoregon.gov

State Contact:

Andrew J. Blair
Transportation Project Manager
ODOT Region 2, Area 3
455 Airport Road SE Building B
Salem, OR 97301
(503) 509-3067
Andrew.Blair@odot.state.or.us

STATE OF OREGON, by and through
its Department of Transportation

By _____
Delivery and Operations Division
Administrator

Date _____

APPROVAL RECOMMENDED

By _____
State Traffic Roadway Engineer

Date _____

By _____
Region 2 Manager

Date _____

By _____
Region 2 Project Delivery Manager

Date _____

By _____
Area 3 Manager

Date _____

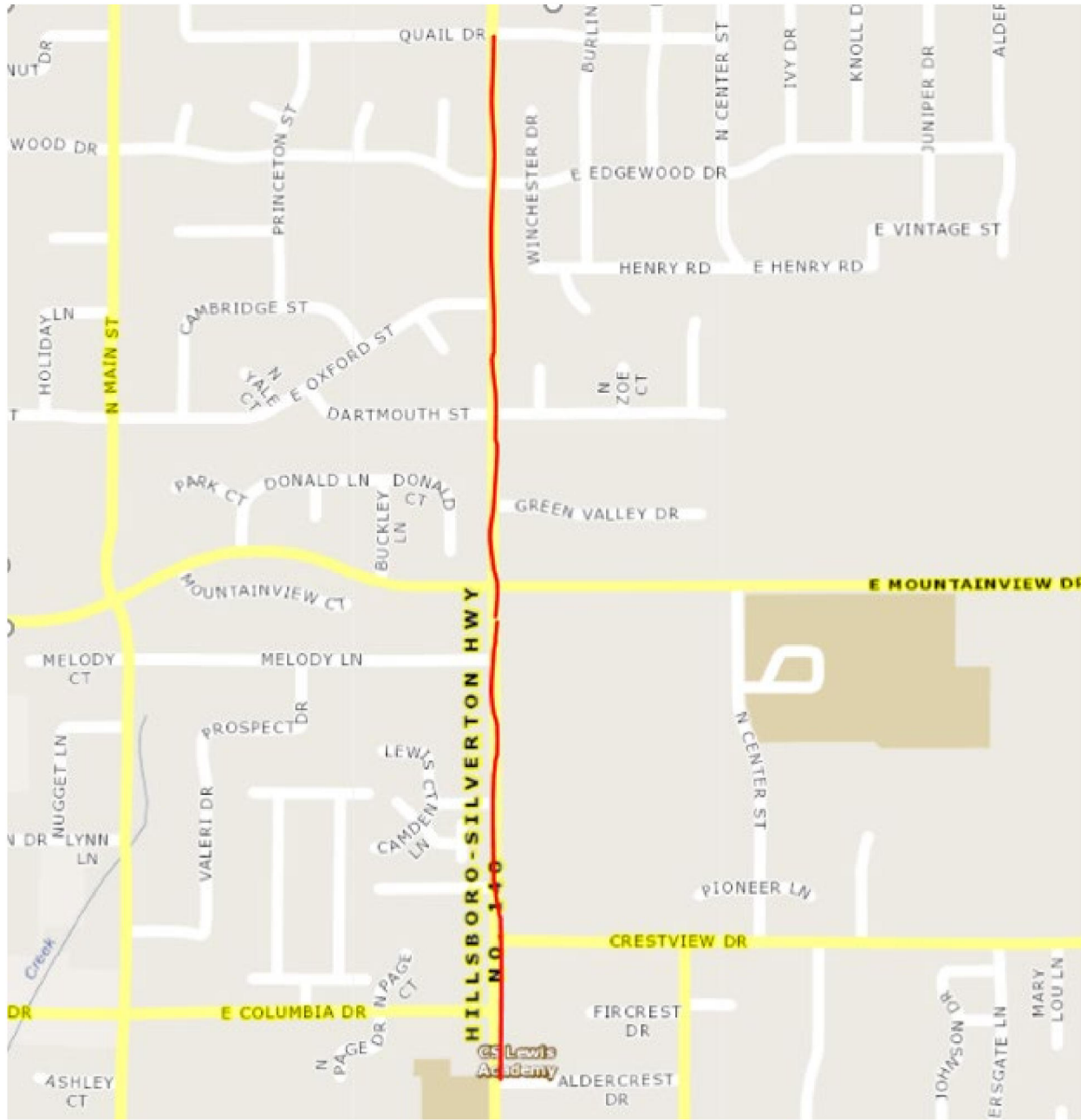
APPROVED AS TO LEGAL SUFFICIENCY

By _____
Assistant Attorney General

Date _____

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REVISED EXHIBIT A – Project Location Map
OR 219: Aldercrest Drive to Quail Drive



REVISED 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 200.330.
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

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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 and 2, as directed by FHWA, reimburse State for federal-aid funds distributed to Agency if any of the following events occur:
 - 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.
 - b) Right of way acquisition or actual construction of the facility for which preliminary engineering is undertaken is not started by the close of the tenth federal fiscal year following the federal fiscal year in which the federal-aid funds were authorized. Agency may submit a written request to State's Liaison for a time extension beyond the ten (10) 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.

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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

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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.

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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.

RAILROADS

32. 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

33. 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

34. 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.
35. 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.

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36. 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

37. 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

38. 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.
39. 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.

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40. 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

41. 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

42. 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

43. 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

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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 49 CFR 29.510 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 A to 49 CFR part 29.

RESOLUTION No. 2021-3751

A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO EXECUTE WITH THE STATE OF OREGON A RIGHT-OF-WAY SERVICES AGREEMENT NO. 32487 TO PROVIDE RIGHT-OF-WAY SERVICES FOR THE N. COLLEGE STREET SIDEWALKS, BIKE LANES AND ASSOCIATED IMPROVEMENTS PROJECT FROM ALDERCREST TO QUAIL.

RECITALS:

1. The project is located on N. College Street within the project limits of Aldercrest Drive and Quail Drive.
2. On August 14, 2017, by authority of Resolution No. 2017-3389, the City of Newberg executed an Intergovernmental Agreement (IGA) No. 31704 with the Oregon Department of Transportation (ODOT) to receive State funding for the N. College Street (OR219) Sidewalks, Bike Lanes and Associated Improvements Project.
3. On July 6, 2021, by authority of Resolution No. 2021-3721, the City of Newberg authorized the City Manager to execute Amendment No. 1 to IGA No. 31704 with ODOT for the N. College Street (OR219) Sidewalks, Bike Lanes and Associated Improvements Project.
4. IGA No. 31704 stated that City and State must also execute the Right-of-Way Services Agreement (RoWSA) for the same ODOT project. ODOT presented the RoWSA (also known as IGA No. 32487) to the City on May 13, 2021 and a copy is attached as Exhibit B and by this reference incorporated.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City Council, acting as contract review board for the city, does hereby authorize the City Manager to execute RoWSA, also known as IGA No. 32487, with ODOT to provide right-of-way services for the N. College Street (OR219) Sidewalk, Bike Lanes and Associated Improvements Project.
2. The City Attorney will review and approve all agreements as to form and content.
3. The City Manager is authorized to negotiate and approve any needed amendments to IGA No. 32487 and any additional matching funds not to exceed 10 percent of the current maximum matching amount.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: July 7, 2021.

ADOPTED by the City Council of the City of Newberg, Oregon, this 6th day of July, 2021.

Sue Ryan, City Recorder

ATTEST by the Mayor this _____ day of July, 2021.

Rick Rogers, Mayor

Misc. Contracts and Agreements
No. 32487

AD092-052620

**INTERGOVERNMENTAL AGREEMENT
FOR RIGHT OF WAY SERVICES**

OR 219: Aldercrest Drive - Quail Drive

THIS 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 CITY OF NEWBERG, 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, 283.110, 366.572 and 366.576, state agencies may enter into agreements with units of local government or other state agencies 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. By the authority granted in ORS 366.425, State may accept deposits of money or an irrevocable letter of credit from any county, city, road district, person, firm, or corporation for the performance of work on any public highway within the State. Money so deposited shall be disbursed for the purpose for which it was deposited.
3. Oregon Route (OR) 219 is a part of the state highway system under the jurisdiction and control of the Oregon Transportation Commission (OTC). Aldercrest Drive and Quail Drive are a part of the city street system under the jurisdiction and control of Agency.
4. State is responsible for delivering the OR 219: Aldercrest Drive - Quail Drive project ("Project") under Intergovernmental Agreement Number 31704 executed on August 14, 2017 as amended by Amendment Number 01 ("Project Agreement") attached hereto as Exhibit C and by this reference made a part hereof.
5. This Agreement covers a subset of the work set forth in the Project Agreement; therefore, the Project Agreement describes the general scope and funding for the right of way activities carried out under this Agreement. This Agreement further defines the roles and responsibilities of the Parties regarding real property to be used as part of the right of way for the Project, and further refines the details of the scope and funding for these right of way activities.
6. As of the Effective Date of this Agreement, there are no local public agencies ("LPAs") certified to independently administer federal-aid projects for right of way services. State is

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ultimately responsible for the certification and oversight of all right of way activities under this Agreement.

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, to accomplish the objectives in the Project Agreement, State agrees to perform the right of way Services shown in Exhibit A - Special Provisions ("Services"), attached hereto and by this reference made a part hereof.
2. The Parties agree to comply with the terms of this Agreement and the applicable terms of Project Agreement in performing the Services. In the event of a direct conflict, the terms of the Project Agreement will control over any conflicting provision in this Agreement.
3. The funding and payment for the Services are set forth in the Project Agreement. This Agreement commits no additional funding for the Services.
 - a. Under no condition shall State's obligations under this Agreement exceed \$380,000.00, including all expenses, unless agreed upon by both Parties in writing in a fully executed amendment to this Agreement. This maximum is the amount programmed in the STIP for the right of way phase of the Project.
 - i. Agency agrees to reimburse State for all expenses, including salaries and other personnel expenses (OPE) of State employees performing Services, direct costs, costs of rental equipment used, travel expenses, and per-diem expenditures. Travel expenses shall be reimbursed in accordance with the current Oregon Department of Administrative Services rates as contained in the Oregon Accounting Manual (OAM), which can be found at:

<https://www.oregon.gov/das/Financial/Acctng/Documents/40.10.00.pdf>.
4. Exhibits Attached and Incorporated.
 - a. This Agreement includes the following exhibits, each of which is attached and incorporated into this Agreement by reference as though fully set forth herein:
 - Exhibit A – Special Provisions
 - Exhibit B – Resolution Exercising The Power of Eminent Domain
 - Exhibit C - Project Agreement No. 31704 with Amendment No. 01
5. This Agreement becomes effective on the date all required signatures are obtained ("Effective Date"). Services shall begin on or after the Effective Date and shall be completed no later than September 30, 2024, on which date this Agreement automatically expires unless extended by a fully executed amendment.

6. Both Parties will strictly follow the rules, policies and procedures of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended and implemented through Title 49, Part 24, ORS Chapter 35 and the ODOT Right of Way Manual, located at <https://www.oregon.gov/ODOT/ROW/Documents/ROW-Manual.pdf> and incorporated herein by this reference. Each Party will require its contractors and subcontractors, if any, to comply with this provision.

STATE OBLIGATIONS

1. State shall perform the Services assigned to State in Exhibit A.
2. State's right of way contact person for this Agreement is Regina Thompson, Senior Right of Way Agency, 455 Airport Road SE Bldg A, Salem, OR 97301; (503) 986-2609; regina.thompson@odot.state.or.us, or assigned designee upon individual's absence. State shall notify the other Party in writing of any contact changes during the term of this Agreement.

AGENCY OBLIGATIONS

1. Agency shall perform the Services assigned to Agency in Exhibit A. All Services provided by Agency shall comply with ODOT's Right of Way Manual in effect at the time the Services are performed.
2. Agency certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within Agency's current appropriation or limitation of current budget. Agency is willing and able to finance its share of all costs and expenses incurred under this Agreement up to the maximum amount set forth in Terms of Agreement Paragraph 3(a).
3. Agency's performance of Services.
 - a. In performing Services under this Agreement, Agency may utilize qualified individuals from Agency's staff or the Staff of another local public agency, as described in the ODOT Right of Way Manual and approved by the State's Region Right of Way Office.
 - b. Agency may also request State act as the lead contracting agency and deliver a consultant contract on behalf of Agency, using consultants from State's Full Service Architectural and Engineering (A&E) Price Agreement 2 Tier Selection Process, as applicable. Tier 2 procurements must be requisitioned through State's Local Agency Liaison (LAL) with solicitation process administered by State's Procurement Office. Forms and procedures for Tier 2 process are located at: <https://www.oregon.gov/ODOT/Business/Procurement/FS/tier2guide.doc>
 - c. Agency's needed right of way services may be performed by utilizing appraiser Services procured by Agency from State's Qualified Appraiser List (online at: https://www.oregon.gov/ODOT/ROW/Documents/Appraisal_Qualified-Consultant-

List.pdf) or other right of way related Services procured by Agency from any source of qualified contractors or consultants.

- d. Contractor selections under Agency Obligations, Paragraphs 3.c above may be based on price alone, price and qualifications, or qualifications alone followed by negotiation. **Federally funded procurements** carried out by Agency for right of way Services must be conducted under State's certification program for consultant selection and must comply with requirements in the [LPA A&E Requirements Guide](#), and must use the State's standard [A&E Contract Template for LPAs](#) which may be modified to include State-approved provisions required by Agency. **State and locally funded procurements** carried out by Agency must comply with applicable State rules and statutes for A&E "Related Services" (Agency may use its own contract document). The LPA A&E Requirements Guide and A&E Contract Template are available at: <https://www.oregon.gov/ODOT/Business/Procurement/Pages/LPA.aspx>.
4. If Agency intends to use Agency staff, staff of another local public agency, consultants (except for consultants on State's Qualified Appraiser List), or contractors to perform Services under this Agreement, Agency must receive prior written approval from State's Region Right of Way Office.
5. Agency shall require its contractor(s) and subcontractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon, Oregon Transportation Commission and its members, Oregon Department of Transportation and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260 ("Claims"), to the extent such Claims are caused, or alleged to be caused, by the negligent or willful acts or omissions of Agency's contractor or any of the officers, agents, employees or subcontractors of the contractor. It is the specific intention of the Parties that State shall, in all instances, except to the extent Claims arise solely from the negligent or willful acts or omissions of State, be indemnified from and against all Claims caused or alleged to be caused by the contractor or subcontractor.
6. Any such indemnification shall also provide that neither the Agency's contractor or subcontractor nor any attorney engaged by Agency's contractor or subcontractor shall defend any claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State of Oregon may, at any time at its election assume its own defense and settlement in the event that it determines that Agency's contractor is prohibited from defending the State of Oregon, or that Agency's contractor is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue or that it is in the best interests of the State of Oregon to do so. The State of Oregon reserves all rights to pursue claims it may have against Agency's contractor if the State of Oregon elects to assume its own defense.

7. Agency shall perform all Services under this Agreement as an independent contractor and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the Services under this Agreement including, but not limited to, retirement contributions, workers compensation, unemployment taxes, and state and federal income tax withholdings.
8. When Agency is performing Services under this Agreement, Agency shall ensure that temporary pedestrian routes are provided through or around any Project work zone. Any such temporary pedestrian route shall include directional and informational signs, comply with ODOT standards, and include accessibility features equal to or better than the features present in the existing pedestrian facility. Agency shall also ensure that advance notice of any temporary pedestrian route is provided in accessible format to the public, people with disabilities, and disability organizations at least 10 days prior to the start of construction.
9. Agency certifies and represents that all individuals signing this Agreement have 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.
10. Agency acknowledges and agrees 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 Agency which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by State.
11. Agency shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the Services under this Agreement, including, without limitation, the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, Agency expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
12. Agency shall upon State's request provide copies of any required documentation related to the Services as described in Exhibit A.
13. Agency's right of way contact person for this Agreement is Kaaren Hofmann, City Engineer, City of Newberg, OR 97132; (503) 537-1273; kaaren.hofmann@newbergoregon.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.

GENERAL PROVISIONS:

1. Termination.

- a. This Agreement may be terminated by mutual written consent of both Parties.
- b. This Agreement may be terminated by either Party upon thirty (30) days' notice, in writing, and delivered by certified mail or in person, under any of the following conditions:
 - i. If either Party fails to provide Services called for by this Agreement within the time specified herein or any extension thereof.
 - ii. If either Party fails to perform any of the other provisions of this Agreement or so fails to pursue the Services as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice fails to correct such failures within ten (10) days or such longer period as may be authorized.
- 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 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.
 - ii. If Agency fails to provide payment of its share of the cost of the Project.
 - iii. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the Services under this Agreement is prohibited or State is prohibited from paying for such Services 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.

2. All employers that employ subject workers who perform Services under this 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 \$500,000 must be included. Both Parties shall ensure that each of its subcontractors complies with these requirements.

3. 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

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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.

4. 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.
5. 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.
6. The Parties shall attempt in good faith to resolve any dispute arising out of this 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.
7. Agency, as a recipient of federal funds, pursuant to this Agreement with the State, shall assume sole liability for Agency's breach of any federal statutes, rules, program requirements and grant provisions applicable to the federal funds, and shall, upon Agency's breach of any such conditions that requires the State to return funds to the Federal Highway Administration, hold harmless and indemnify the State for an amount equal to the funds received under this Agreement; or if legal limitations apply to the

indemnification ability of Agency, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement.

8. 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 will 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.
9. The Parties 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.
10. This Agreement may be executed in several counterparts (facsimile or otherwise) 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.
11. This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. 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.
12. Survival. All rights and obligations of the Parties under this Agreement will cease upon termination or expiration of this Agreement, other than the rights and obligations of the parties that by their nature or express terms survive termination or expiration 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.

Signature Page to Follow

CITY OF NEWBERG, by and through its
elected or designated officials

By _____
Mayor

Date _____

By _____
City Manager

Date _____

**LEGAL REVIEW APPROVAL (If required
in Agency's process)**

By _____
City Legal Counsel

Date _____

Agency Contact:

Kaaren Hofmann, City Engineer
City of Newberg
414 East First Street
Newberg, OR 97132
(503) 537-1273
kaaren.hofmann@newbergoregon.gov

State Contact:

Regina Thompson, Sr. Right of Way Agent
ODOT Region 2
455 Airport Rd SE, Bldg A
Salem, OR 97301
(503) 986-2609
regina.thompson@odot.state.or.us

STATE OF OREGON, by and through
its Department of Transportation

By _____
State Right of Way Manager

Date _____

APPROVAL RECOMMENDED

By _____
Region 2 Manager

Date _____

By _____
Region 2 Right of Way Manager

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

By N/A _____
Assistant Attorney General

Date _____

APPROVED

(If Litigation Services related to Condemnation
are to be done by State)

By _____
Chief Trial Counsel

Date _____

**Exhibit A
SPECIAL PROVISIONS
Right of Way Services**

A. Preliminary Phase: State or Agency shall perform the Services outlined in this Section A during the preliminary right of way phase of the Project as identified below. When Services listed under this Section A are performed by Agency, Agency shall charge the Services as preliminary engineering expenditures.

1. State shall prepare preliminary cost estimates.
2. State shall make preliminary contacts with property owners.
3. State shall gather and prepare data for environmental documents.
4. State shall develop access and approach road list.
5. State shall help prepare field location and project data as defined in the Project Agreement.
6. Title. State shall provide preliminary title reports, if State determines they are needed, before negotiations for acquisition commence.
7. Legal Descriptions:
 - a. State shall prepare sufficient horizontal control, recovery and retracement surveys, vesting deeds, maps and other data so that legal descriptions can be written.
 - b. State shall prepare construction plans and cross-section information for the Project.
 - c. State shall write legal descriptions and prepare right of way maps. If the Agency acquires any right of way on a State highway, the property descriptions and right of way maps shall be based upon centerline stationing and shall be prepared in accordance with the current ODOT [Right of Way Engineering Manual](https://www.oregon.gov/ODOT/ETA/Documents_Geometronics/ROW-Eng-Manual.pdf), located at https://www.oregon.gov/ODOT/ETA/Documents_Geometronics/ROW-Eng-Manual.pdf and incorporated herein by reference. The preliminary and final versions of the property descriptions and right of way maps must be reviewed and approved by the State.
 - d. State shall specify the degree of title to be acquired (e.g., fee, easement), which must be determined in accordance with the current ODOT Right of Way Manual.
8. Hazmat:
 - a. State shall conduct a Level 1 Initial Site Assessment, according to State Guidance, within Project limits to detect presence of hazardous materials on any property purchase, excavation or disturbance of structures, as early in the Project design as possible, but at a minimum prior to property acquisition or approved design.

- b. State shall conduct a Level 2 Preliminary Site Investigation, according to ODOT's Hazmat Program Procedures Guidebook and other applicable requirements of the Oregon Department of Environmental Quality, of sufficient scope to confirm the presence of contamination, determine impacts to properties and develop special provisions and cost estimates, if the Level 1 Initial Site Assessment indicates the potential presence of contamination that could impact the properties. If contamination is found, State will promptly disclose the severity and extent of contamination to Agency and present a recommendation for remediation to Agency as set forth in ODOT's Right of Way Manual Section 6.330 paragraph 2.
- c. State shall attempt to have the property owner undertake any necessary remediation at the property owner's expense. Other options are set forth in ODOT's Right of Way Manual section 6.330 paragraph 2.b. If Agency undertakes any remediation on the site, Agency will be solely responsible for any liability that may arise from such remediation.

B. Right of Way Phase: State or Agency shall perform the Services outlined in this Section B during the acquisition right of way phase of the Project as identified below. When Services listed under this Section B are performed by Agency, Agency shall charge the Services as right of way expenditures.

1. Right of Way Acquisition:

- a. Right of Way Acquisition is the process of obtaining property necessary for the Project, from negotiation to possession of the property, using various sub-processes including, but not limited to, appraisal, negotiation, condemnation, relocation, title closing, and project related property management related to the potential exercise of eminent domain. The basic requirements for carrying out right of way acquisition for the Project are set forth in this Section B.
- b. When performing the right of way acquisition Services, State shall provide Agency with a monthly status report of the Services.
- c. Title to properties acquired shall be in the name of State of Oregon on behalf of its Department of Transportation.
- d. The Agency delegates, and the State accepts, the Agency's authority pursuant to all relevant common law, statutes, ordinances, and other authorities, to acquire and condemn property on Agency's behalf for the Project, where such acquisition or condemnation is made necessary by the Project.
- e. The Agency shall adopt a resolution of intention and determination of necessity in accordance with ORS 35.235 and ORS 35.610, authorizing acquisition and condemnation ("Resolution"). Agency's Resolution shall be substantially in the form of Exhibit B, attached hereto and by this reference made a part hereof. If the Agency would like the Oregon Department of Justice (DOJ) to provide legal or litigation Services related to the condemnation work identified in this Agreement

on Agency's behalf, DOJ must provide approval prior to performance of the Right of Way Services under this Agreement. To secure DOJ assistance, ODOT's Region Right of Way Manager must submit a written request to DOJ's Chief Trial Counsel, the Agency must expressly and officially request and authorize DOJ representation for the condemnation on the Project, and the signature of DOJ's Chief Trial Counsel must be obtained on this Agreement.

2. Real Property and Title Insurance:

- a. State shall determine sufficiency of title (taking subject to). If the Agency acquires any right of way on a State highway, sufficiency of title (taking subject to) shall be determined in accordance with the current ODOT Right of Way Manual, and after obtaining State's concurrence. Agency shall clear any encumbrances necessary to conform to these requirements, obtain Title Insurance policies as required and provide the State copies of any title policies for the properties acquired.
- b. State shall accept conveyed property "as-is" in accordance with ORS 93.808. State is not required to provide any additional Services to Agency, including but not limited to payment, documentation, platting, surveying, or remediation, beyond those specifically set forth in this Agreement.

3. Appraisal:

- a. State shall conduct the valuation process of properties to be acquired. If hazardous materials are located on the property, State shall use section 6.330, paragraph 2 in ODOT's Right of Way Manual.
- b. State shall perform the appraisal reviews to set just compensation.
- c. State shall recommend just compensation, based upon a review of the valuation by qualified personnel.

4. Negotiations:

- a. State shall tender all monetary offers to landowners in writing at the compensation level shown in the appraisal review. State shall have sole authority to negotiate and make all settlement offers. When settlements for property acquisitions are made for more or less than the approved just compensation amount, a justification is required. Said statement will include the consideration of any property trades, construction obligations and zoning or permit concessions. If State performs this function, it will provide the Agency with all pertinent letters, negotiation records and obligations incurred during the acquisition process.
- b. State and Agency shall determine a date for certification of right of way and agree to cosign the State's Right of Way Certification form. State and Agency agree possession of all right of way is complete prior to advertising for any construction contract, unless otherwise agreed to by Agency and State.

- c. State agrees to file all Recommendations for Condemnation (Form 734-3311 and accompanying documents) with ODOT right of way headquarters, at least seventeen (17) days prior to the right of way certification date if negotiations have not been successful on those properties.
5. Relocation:
- a. State shall perform any relocation assistance, make replacement housing computations, and do all things as required by applicable state and federal law necessary to relocate any persons displaced by the Project.
 - b. State shall determine all relocation benefits each property owner is eligible for and shall make all relocation and moving payments.
 - c. State shall facilitate the relocation appeal process.

C. Closing Phase

- 1. State shall close all transactions. This includes drawing of deeds, releases and satisfactions necessary to clear title, obtaining signatures on release documents, and making all payments
- 2. Upon acceptance by State the conveyance documents shall be recorded.

D. Property Management

- 1. State shall take possession of all the acquired properties. There shall be no encroachments of buildings or other private improvements allowed upon the State highway right of way.
- 2. State shall dispose of all improvements and excess land consistent with applicable state, federal, and local laws and policies.
- 3. State shall conduct asbestos, lead paint and other hazardous materials surveys for all structures that will be demolished, renovated or otherwise disturbed. Asbestos surveys must be conducted by an AHERA (asbestos hazard emergency response act) certified inspector.

E. Condemnation

- 1. State may offer mediation if the State and property owners have reached an impasse.
- 2. State shall perform all administrative functions in preparation of the condemnation process, such as preparing final offer and complaint letters.
- 3. State shall perform all legal and litigation Services related to the condemnation process, including all settlement offers. Prior approval of this Agreement by DOJ and passage of an Agency Resolution are required as provided in Section B.1.e above.

4. When State performs legal or litigation Services related to the condemnation process, Agency acknowledges, agrees and undertakes to assure that no member of Agency's board or council, nor Agency's mayor, when such member or mayor is a practicing attorney, nor Agency's attorney(s), nor any member of the law firm of Agency's attorney(s); board or council member(s), or mayor, nor any other employee or representative of Agency licensed to practice law, will represent any party, except Agency, against the State of Oregon, its employees or contractors, in any matter arising from or related to the Project or the Services.

F. Transfer of Right of Way to State

When right of way is being acquired in Agency's name, Agency agrees to transfer and State agrees to accept all right of way acquired on the State highway. Agency shall identify the existence of any hazardous materials on or in the property prior to the transfer. The specific method of conveyance will be determined by the Agency and the State at the time of transfer and shall be coordinated by the State's Region Right of Way Manager. Agency agrees to provide the State all information and file documentation the State deems necessary to integrate the right of way into the State's highway system. At a minimum, this includes: copies of all recorded conveyance documents used to vest title in the name of the Agency during the right of way acquisition process, and the Agency's Final Report or Summary Report for each acquisition file that reflects the terms of the acquisition and all agreements with the property owner(s).

G. Transfer of Right of Way to Agency

When right of way is being acquired in State's name, State agrees to transfer and Agency agrees to accept, at no additional cost to the State, all right of way acquired on the Agency's facility, subject to concurrence from the Oregon Transportation Commission and FHWA at the time of the transfer. State shall identify the existence of any hazardous materials on or in the property prior to the transfer. The specific method of conveyance will be determined by the State and the Agency at the time of transfer and shall be coordinated by the State's Region Right of Way Manager. If requested, State agrees to provide Agency information and file documentation associated with the transfer.

EXHIBIT B
RESOLUTION EXERCISING THE POWER OF EMINENT DOMAIN
Right of Way Services

*(Instructions, please delete before completing form)*Regions: This portion of the document is unlocked. The LPA should block and copy to incorporate this language into their own standard resolution form **OR** fill in an "attested to" line or signature line at the bottom and use this form.

WHEREAS (insert title of agency) may exercise the power of eminent domain pursuant to (Agency's charter) (statutes conferring authority) and the Law of the State of Oregon generally, when the exercise of such power is deemed necessary by the (insert title of agency)'s governing body to accomplish public purposes for which (insert title of agency) has responsibility;

WHEREAS (insert title of agency) has the responsibility of providing safe transportation routes for commerce, convenience and to adequately serve the traveling public;

WHEREAS the project or projects known as (insert Project name) have been planned in accordance with appropriate engineering standards for the construction, maintenance or improvement of said transportation infrastructure such that property damage is minimized, transportation promoted, travel safeguarded; and

WHEREAS to accomplish the project or projects set forth above it is necessary to acquire the interests in the property described in "Exhibit A" attached to this Resolution and, by this reference incorporated herein; now, therefore,

BE IT HEREBY RESOLVED by (Agency's Council, Commission, or Board)

1. The foregoing statements of authority and need are, in fact, the case. The project or projects for which the property is required and is being acquired are necessary in the public interest, and the same have been planned, designed, located, and will be constructed in a manner which will be most compatible with the greatest public good and the least private injury;
2. The power of eminent domain is hereby exercised with respect to each of the interests in property described in Exhibit A to this Resolution. Each is acquired subject to payment of just compensation and subject to procedural requirements of Oregon law;
3. ([Insert title of Agency]'s staff and [attorney/counsel] --OR-- (The Oregon Department of Transportation and the Attorney General) are authorized and requested to attempt to agree with the owner and other persons in interest as to the compensation to be paid for each acquisition, and, in the event that no satisfactory agreement can be reached, to commence and prosecute such condemnation proceedings as may be necessary to finally determine just compensation or any other issue appropriate to be determined by a court in connection with the acquisition. This authorization is not intended to expand the

jurisdiction of any court to decide matters determined above or determinable by the (Agency's Council, Commission, or Board).

4. (insert title of agency) expressly reserves its jurisdiction to determine the necessity or propriety of any acquisition, its quantity, quality, or locality, and to change or abandon any acquisition.

DATED this _____ day of _____, 20__

[insert signature blocks here]

Attachments: Exhibit A to Agency Resolution Exercising the Power of Eminent Domain
– Property Description

**Exhibit A to Agency Resolution Exercising the Power of Eminent Domain –
Property Description**

[Local Agency to insert property description]

Misc. Contracts and Agreements
No. 31704

**LOCAL AGENCY AGREEMENT
MULTIMODAL TRANSPORTATION ENHANCE PROGRAM (MTEP)**

Oregon Route 219: Aldercrest Drive – Foothills Drive
City of Newberg

THIS 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 NEWBERG, acting by and through its elected officials, hereinafter referred to as "Agency," both herein referred to individually or collectively as "Party" or "Parties."

RECITALS

1. By the authority granted in Oregon Revised Statute (ORS) 190.110, 366.572 and 366.576, State may enter into cooperative agreements with counties, cities and units of local governments for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties.
2. Oregon Route 219 (Hillsboro-Silverton Highway), also known as North College Street, is a part of the state highway system under the jurisdiction and control of the Oregon Transportation Commission (OTC). Aldercrest Drive and Foothills Drive are part of the city street system under the jurisdiction and control of Agency.
3. Agency has been awarded MTEP funding in the amount of \$2,396,329 for all phases of the Aldercrest Drive to Foothills Drive project.
4. Agency has agreed that State will oversee and manage this project on behalf of the Agency. Agency agrees to be an active participant in project development and construction.

NOW THEREFORE the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

DEFINITIONS

1. "Contract Award" means the issuance of a Notice to Proceed (NTP) to the construction contractor.
2. "Funding Ratio" means the relationship between MTEP funds and Total Project Cost and Other Funds and the Total Project Cost. This ratio is established at the time the Agreement is executed and does not change during the course of the project. The ratio governs the obligation of MTEP funds at the time of construction/consultant award or Project Closeout.
3. "Match" means the minimum amount State or Agency must contribute to match the federal aid funding portion of the project.

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4. "MTEP" means Multimodal Transportation Enhance Program and may be funded by a combination of federal and state funds.
5. "Other Funds" means other funding required to complete the project including but not limited to state, federal, and agency funds.
6. "Project Closeout" means project is ready to close as there are no more expenditures associated with project.
7. "Project Overruns" means the final cost estimate at Contract Award exceeds the estimated Total Project Cost estimate in this Agreement, or the final actual project costs exceed the final cost estimate at Contract Award.
8. "Project Underrun" means the final cost estimate at Contract Award is below the estimated Total Project Cost in this Agreement, or the final actual project costs are below the final cost estimate at Contract Award.
9. Total Project Cost means the estimated amount as shown in this Agreement. This amount will include MTEP funds, local matching funds, and other funds as required to complete project as stated in this Agreement.

TERMS OF AGREEMENT

1. Under such authority, Agency and State agree to State providing preliminary engineering, right of way acquisition, and construction of bike lanes, sidewalks, curbs, curb ramps, drainage, water quality facilities, and landscape buffers on OR 219 between Aldercrest Drive and Foothills Drive, on behalf of Agency, hereinafter referred to as "Project" and is further defined below. 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.
2. The Project Description and Deliverables are as follows:
 - a. Description: construct bike lanes, sidewalks, curbs, curb ramps, drainage, water quality facilities, and landscape buffers on OR 219 between Aldercrest Drive and Foothills Drive.
 - b. Deliverables: This Project will design and construct various improvements on OR 219 between Aldercrest Drive and Foothills Drive. Project improvements include bike lanes on both side of the highway the full length of the Project area; six (6) foot wide sidewalk on the west side of the highway for the full length of the Project area; a planter strip where feasible; curb and gutters; curb ramps; and installation of storm drainage improvements with water quality enhancements. The Project will require approximately 6,000 square feet of right of way acquisition.
3. Both Parties agree that an amendment to this Agreement is required if any changes are made to the Project as described in Project Description and Deliverables above.

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4. The Project shall be conducted as a part of the Multimodal Transportation Enhance Program (MTEP) with funds provided under Title 23, United States Code and may include a combination of federal and state funds. The Total Project Cost is estimated at \$2,670,600, which is subject to change. MTEP funding for this Project shall be limited to \$2,396,329. Agency shall be responsible for all remaining costs, including the 10.27 percent match for all eligible costs, any non-participating costs, and all costs in excess of the available federal or state funds.
5. Project Overruns which occur at the time of Contract Award, and or at the time of Project Closeout are the responsibility of the Agency. To help mitigate the possibility of overrunning the overall Project budget, the following terms, as outlined in paragraphs 5a through 5e shall apply:
 - a. If the estimated cost for consultant design services combined with the estimated cost for State and Agency administration of the Preliminary Engineering phase exceeds the total budgeted amount of \$519,000, as identified in the Statewide Transportation Improvement Program (STIP), State and Agency shall examine alternatives for a reduced Project scope to stay within the programmed budget.
 - b. If the estimated cost of right of way acquisition combined with State's estimated cost for administration of the Right of Way phase exceeds the total budgeted amount of \$251,000, as identified in the STIP, State and Agency shall examine alternatives for a reduced Project scope to stay within the programmed budget.
 - c. If the State's Engineer's Estimate of construction cost, prepared at either the thirty percent (30%), sixty percent (60%), or ninety percent (90%) design levels exceeds the total budgeted amount of \$1,889,600 for Construction, as identified in the STIP, State and Agency shall examine alternatives for a reduced Project scope to stay within the programmed budget. State and Agency shall agree upon the Project scope and budget at each of the design milestones.
 - d. Should the Agency desire no reduction, or limited reduction in the Project's scope, Agency will provide written notification to State that Agency agrees to pay all additional costs incurred.
 - e. If State and Agency agree on changes to the Project scope or funding obligations, then an amendment to this Agreement will be entered into to reflect such changes.
6. The Funding Ratio for this Project is 89.73% of MTEP funds to 10.27% Agency funds and applies to Project Underruns. The Funding Ratio for this Project does not apply in the case of Project Overruns.
7. If, at the time of Contract Award or Project Closeout, the Project Underruns the estimated Total Project Cost in this Agreement, MTEP funding and Other Funds will be obligated proportionally based on the Funding Ratio. Any unused MTEP funds, will

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be retained by State, and will not be available for use by Agency for this Agreement or any other projects.

8. With the exception of Americans with Disabilities Act of 1990 (ADA)-related design standards and exceptions, Project decisions regarding design standards, design exceptions, utility relocation expenses, right of way needs, preliminary engineering charges, construction engineering charges, and Contract Change Orders, as applicable shall be mutually agreed upon between the Agency and the State, as these decisions may impact the Total Project Cost. However, State may award a construction contract at ten (10) percent (%) over engineer's estimate without prior approval of Agency.
9. 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:
 - a. Utilize ODOT standards to assess and ensure Project compliance with the Americans with Disabilities Act of 1990 (ADA), including ensuring that all sidewalks, curb ramps, and pedestrian-activated signals meet current ODOT Highway Design Manual standards;
 - b. Follow ODOT's processes for design, modification, upgrade or construction 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;
 - c. At Project completion, complete an 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, modified, upgraded, or improved as part of the Project. The completed form is the documentation required to show that each curb ramp is constructed to ODOT standards and is ADA compliant. ODOT's fillable Curb Ramp Inspection Form and instructions are available at the following address: <http://www.oregon.gov/ODOT/HWY/CONSTRUCTION/Pages/HwyConstForms1.aspx>.
10. Agency shall, at its own expense, maintain and periodically inspect any sidewalks, curb ramps, water quality facilities, and pedestrian-activated signals on portions of the Project under Agency's maintenance jurisdiction upon Project completion and throughout the useful life of the Project to ensure continuing compliance with the ADA. This provision shall survive termination of this Agreement.
11. In compliance with ORS 373.020, State shall, at its own expense, maintain and periodically inspect pavement and curbs on portions of North College Street under its jurisdiction, which extends from curb to curb, upon Project completion and throughout the useful life of the Project. This provision shall survive termination of this Agreement.

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12. In compliance with ORS 373.020, State shall, at its own expense, maintain and periodically inspect pavement and curb on portions of North College Street under its jurisdiction, which extends from curb to curb, upon Project completion and throughout the useful life of the Project. This provision shall survive termination of this Agreement.
13. State will submit the requests for federal funding to Federal Highway Administration (FHWA). The federal funding for this Project is contingent upon approval of each funding request by FHWA. Any work performed prior to acceptance by FHWA or outside the scope of work will be considered nonparticipating and paid for at Agency expense. The State will not act upon any Agency request for work that is outside the approved Project scope without Agency's written approval and acceptance of additional cost responsibility.
14. State considers Agency a subrecipient of the federal funds it receives as reimbursement under this Agreement. The Catalog of Federal Domestic Assistance (CFDA) number and title for this Project is 20.205, Highway Planning and Construction.
15. 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.
16. This Agreement may be terminated by mutual written consent of both Parties.
17. 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:
 - a. If Agency fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - b. 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.
 - c. If Agency fails to provide payment of its share of the cost of the Project.
 - d. 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.
 - e. 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.

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18. Information required by 2 CFR 200.331(a)(1) shall be contained in the USDOT FHWA Federal Aid Project Agreement for this Project, a copy of which shall be provided by State to Agency with the Notice to Proceed.
19. As required by 2 CFR 200.331(a)(4), the indirect cost rate for this Project at the time the Agreement is written is zero percent.
20. Agency shall invoice State using the current indirect cost rate on file with State at the time the work is performed, except that if Agency has selected zero percent (0%), Agency shall invoice State using the zero percent rate.
21. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
22. The Special and Standard Provisions attached hereto, marked "Attachments 1 and 2," respectively, are by this reference 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.
23. Agency, as a recipient of federal funds, pursuant to this Agreement with the State, shall assume sole liability for Agency's breach of any federal statutes, rules, program requirements and grant provisions applicable to the federal funds, and shall, upon Agency's breach of any such conditions that requires the State to return funds to FHWA, hold harmless and indemnify the State for an amount equal to the funds received under this Agreement; or if legal limitations apply to the indemnification ability of Agency, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement.
24. 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.
25. 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.
26. This Agreement may be executed in several counterparts (facsimile or otherwise) 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.

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27. 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.
28. State's contact for this Agreement is Lee Cronemiller, Local Agency Liaison, ODOT Region 2, 885 Airport Road SE, Building P, Salem, Oregon 97301; phone: (503) 986-2779; email: lee.m.cronemiller@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.
29. Agency's contact for this Project is Kaaren Hofmann, City Engineer, City of Newberg, 414 East First Street, Newberg, Oregon 97132; phone: (503) 537-1273; email: kaaren.hofmann@newbergoregon.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 2015-2018 Statewide Transportation Improvement Program (STIP), (Key No. 18749) that was adopted by the Oregon Transportation Commission on December 18, 2014 (or subsequently by amendment to the STIP).

SIGNATURE PAGE FOLLOWS

City of Newberg / State of Oregon – Dept. of Transportation
Agreement No. 31704

CITY OF NEWBERG, by and through its
elected officials

By authority of Resolution No. 2017-3389

By [Signature]
Mayor

Date 7/31/17

By [Signature]
City Manager

Date 7/31/17

APPROVED AS TO FORM

By [Signature]
City Legal Counsel

Date 7/28/2017

Agency Contact:

Kaaren Hofmann, City Engineer
City of Newberg
414 East First Street
Newberg, OR 97132
Phone: (503) 537-1273
Email: kaaren.hofmann@newbergoregon.gov

State Contact:

Lee Cronemiller, Local Agency Liaison
ODOT Region 2
885 Airport Road SE, Bldg. P
Salem, OR 97301
Phone: (503) 986-2779
Email: lee.m.cronemiller@odot.state.or.us

STATE OF OREGON, by and through
its Department of Transportation

By [Signature]
Highway Division Administrator

Date 8/14/17

APPROVAL RECOMMENDED

By [Signature]
State Traffic/Roadway Engineer

Date 8/14/17

By [Signature]
Region 2 Manager

Date 8-14-17

By [Signature]
Area 3 Manager

Date 8/11/17

**APPROVED AS TO LEGAL
SUFFICIENCY**

By [Signature]
Assistant Attorney General

Date 8/10/2017

City of Newberg / State of Oregon – Dept. of Transportation
Agreement No. 31704

ATTACHMENT NO. 1 to Agreement No. 31704

SPECIAL PROVISIONS

1. State, or its consultant, shall conduct the necessary field surveys, environmental studies, traffic investigations, foundation explorations, hydraulic studies, assist with acquisition of necessary right of way and easements; obtain all required permits and arrange for all utility relocations/adjustments. State or its consultant shall conduct all work components necessary to complete the Project.
2. A separate Right of Way Services Agreement shall be entered into by State and Agency setting forth the responsibilities and activities to be accomplished by each Party.
3. Upon State's award of the construction contract, State, or its consultant, shall be responsible for all required materials testing and quality documentation; and prepare necessary documentation with ODOT-qualified personnel, and State will make all contractor payments. Contract administration, construction engineering and inspection will follow the most current version of the ODOT Construction Manual and the ODOT Inspector's Manual.
4. Agency guarantees the availability of Agency funding in an amount required to fully fund Agency's share of the Project.
5. State will perform work throughout the duration of the Project and shall provide a preliminary estimate of State costs for this work. Prior to the start of each Project phase State shall provide an updated estimate of State costs for that phase. Such phases generally consist of Preliminary Engineering, Right of Way, Utility, and Construction. Agency understands that State's costs are estimates only and agrees to reimburse State for actual cost incurred per this Agreement.
6. State and Agency agree that the useful life of this Project is defined as twenty (20 years).
7. Agency grants State the right to enter onto Agency right of way for the performance of duties as set forth in this Agreement.
8. 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. Agency will be ineligible to receive or apply for any Title 23, United States Code funds until State receives full reimbursement of the costs incurred.

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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 or its consultant, with Agency involvement shall, if necessary, appoint and direct the activities of a Citizen's Advisory Committee and/or Technical Advisory Committee, conduct a hearing and recommend the preferred alternative. 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.

PROJECT FUNDING REQUEST

4. 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, the 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

5. 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

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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 vendor, using criteria 2 CFR 200.330.

6. 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 outside the Local Agency Guidelines Manual that result in items being declared non-participating by FHWA, such items deemed non-participating will be negotiated between Agency and State.
7. 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.
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.

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10. Agency shall follow the requirements stated in the Single Audit Act. Agencies expending \$500,000 or more in Federal funds (from all sources) in its fiscal year beginning prior to December 26, 2014, shall have a single organization-wide audit conducted in accordance with the Single Audit Act of 1984, PL 98-502 as amended by PL 104-156 and subject to the requirements of 49 CFR Parts 18 and 19. Agencies expending \$750,000 or more in federal funds (from all sources) in a fiscal year beginning on or after December 26, 2014 shall have a single organization-wide audit conducted in accordance with the provisions of 2 CFR part 200, subpart F. Agencies expending less than \$500,000 in Federal funds in a fiscal year beginning prior to December 26, 2014, or less than \$750,000 in a fiscal year beginning on or after that date, is exempt from Federal audit requirements for that year. Records must be available for review or audit by appropriate officials based on the records retention period identified in the Project Agreement. The cost of this audit can be partially prorated to the federal program.
11. 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.
12. Agency shall present invoices for one hundred (100) percent of actual costs incurred by Agency on behalf of the Project directly to State's Liaison for review, approval and reimbursement to Agency. Costs will be reimbursed consistent with federal funding provisions and the Project Agreement. Such invoices shall identify the Project by the name of the Project Agreement, reference the Project Agreement number, and shall itemize and explain all expenses for which reimbursement is claimed. Invoices shall be presented for periods of not less than one-month duration, based on actual expenses to date. All invoices received from Agency must be approved by State's Liaison prior to payment. Agency's actual costs eligible for federal-aid or State participation shall be those allowable under the provisions of the Federal-Aid Policy Guide (FAPG), Title 23 CFR parts 1.11, 140 and 710. Final invoices shall be submitted to State for processing within forty-five (45) days from the end of each funding phase as follows: a) preliminary engineering, which ends at the award date of construction b) last payment for right of way acquisition and c) contract completion for construction. Partial billing (progress payment) shall be submitted to State within forty-five (45) days from date that costs are incurred. Invoices submitted after 45 days may not be eligible for reimbursement by FHWA. Agency acknowledges and agrees 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 Agency which are directly pertinent to the Project Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period ending on the later of six (6) years following the date of final voucher to FHWA or after resolution of any disputes under the Project Agreement. Copies of such records and accounts shall be made available upon request. For real property and equipment, the retention period starts from the date of disposition (2 CFR 200.333(c)).
13. Agency shall, upon State's written request for reimbursement in accordance with Title 23, CFR part 630.112(c) 1 and 2, as directed by FHWA, reimburse State for federal-aid funds distributed to Agency if any of the following events occur:
 - 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

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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.

- b) Right of way acquisition or actual construction of the facility for which preliminary engineering is undertaken is not started by the close of the tenth federal fiscal year following the federal fiscal year in which the federal-aid funds were authorized. Agency may submit a written request to State's Liaison for a time extension beyond the ten (10) 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.
14. 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.
15. 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 actual total cost of the Project has been computed, State shall furnish Agency with an itemized statement of final costs. 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 actual cost. Any portion of deposits made in excess of the final total costs 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 total cost of the Project.

STANDARDS

16. 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 the 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 the consultant may use AASHTO for vertical clearance requirements on Agency's jurisdictional roadways or streets.
17. Agency agrees that if the Project is on the Oregon State Highway System or 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.
18. State and Agency agree that for all projects on the Oregon State Highway System or 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

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Agency further agrees 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 retains authority for their approval. FHWA shall review any design exceptions for projects subject to Focused Federal Oversight and retains authority for their approval.

19. Agency 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 the 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.
20. The standard unit of measurement for all aspects of the Project shall be English Units. All Project documents and products shall be in English. This includes, but is not limited to, right of way, environmental documents, plans and specifications, and utilities.

PRELIMINARY & CONSTRUCTION ENGINEERING

21. Preliminary engineering and construction engineering may be performed by either a) State, b) State-approved consultant, or c) certified agency. Engineering work will be monitored by State or certified agency to ensure conformance with FHWA rules and regulations. Project plans, specifications and cost estimates shall be performed by either a) State, b) State-approved consultant or c) certified agency. 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 and approve the documents prior to advertising for bids.
22. Agency may request State's two-tiered consultant selection process as allowed by OAR 137-048-0260 to perform architectural, engineering, photogrammetry, transportation planning, land surveying and related services (A&E Services) as needed for federal-aid transportation projects. Use of the State's processes is required to ensure federal reimbursement. State will award and execute 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 137-048-0130, OAR 137-048-0220(4) and State Personal Services Contracting Procedures 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 consultant prior to receiving authorization from State to proceed.
23. The party 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.

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24. State or certified agency shall prepare construction contract and bidding documents, advertise for bid proposals, and award all construction contracts.
25. Upon State's or certified agency's award of a construction contract, State or certified agency 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.
26. 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.

**REQUIRED STATEMENT FOR UNITED STATES DEPARTMENT OF
TRANSPORTATION (USDOT) FINANCIAL ASSISTANCE AGREEMENT**

27. By signing the Federal-Aid Agreement to which these Federal Standard Provisions are attached, Agency agrees to adopt State's DBE Program Plan, available at https://www.oregon.gov/ODOT/CS/CIVILRIGHTS/Pages/dbe_prog_plan.aspx. Agency shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR part 26. Agency agrees to take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. State's DBE program, as required by 49 CFR part 26 and as approved by USDOT, is incorporated by reference in this Project Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Project Agreement. Upon notification to the recipient of its failure to carry out its approved program, the USDOT may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 United States Code (USC) 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 USC 3801 et seq.).

DISADVANTAGED BUSINESS ENTERPRISES (DBE) OBLIGATIONS

28. 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))."

29. 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.

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30. 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

31. State and the consultant, if any, agree that right of way activities shall be 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. State, at Project expense, shall review all right of way activities engaged in by Agency to ensure compliance with all laws and regulations.
32. State is responsible for proper acquisition of the necessary right of way and easements for construction and maintenance of projects. State or the 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.
33. Regardless of who acquires or performs any of the right of way activities, a right of way services agreement shall be created by State's Region Right of Way office setting forth the responsibilities and activities to be accomplished by each Party. 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 responsible for coordinating certification of the right of way, and providing oversight and monitoring. Funding authorization requests for federal right of way funds must be sent through State's Liaison, who will forward the request to State's Region Right of Way office on all projects. State or the consultant must receive written authorization to proceed from State's Right of Way Section prior to beginning right of way activities. All projects must have right of way certification coordinated through State's Region Right of Way office to declare compliance and project readiness for construction (even for projects where no federal funds were used for right of way, but federal funds were used elsewhere on a project). State's Liaison shall contact State's Region Right of Way office for additional information or clarification on behalf of Agency.
34. Agency agrees that if any real property purchased with federal-aid participation is no longer needed for the originally authorized purpose, the disposition of such property shall be subject to applicable rules and regulations, which are in effect at the time of disposition. Reimbursement to State and FHWA of the required proportionate shares of the fair market value may be required.

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35. State or the consultant shall ensure that all project right of way monumentation will be conducted in conformance with ORS 209.155.
36. State and Agency grants 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.

RAILROADS

37. State or Agency 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. Agency may request State, in writing and, at Project expense, to provide railroad coordination and negotiations through the State's Utility & Railroad Liaison on behalf of Agency. However, State is under no obligation to agree to perform said duties.

UTILITIES

38. State, the consultant, or Agency 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, the consultant or Agency 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

39. 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.
40. 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.
41. 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, if any there be in connection with or arising out of the Project covered by the Project Agreement.

MAINTENANCE RESPONSIBILITIES

42. 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

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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

43. 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.
44. 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.
45. 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.

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ALTERNATIVE DISPUTE RESOLUTION

46. 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

47. 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 – pursuant to Form FHWA-1273, Required Contract Provisions

48. Agency certifies by signing the Project 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.

N COLLEGE STREET

SIDEWALK & BIKE LANE IMPROVEMENTS by ODOT

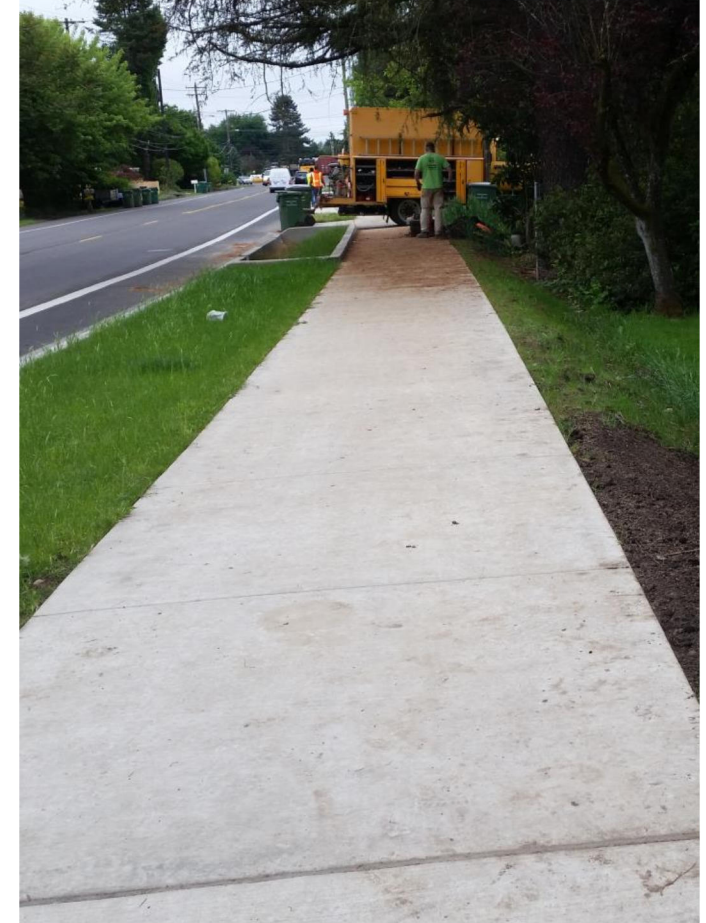
July 6, 2021



What is the N College St Sidewalk & Bike Lanes Project?

City received ODOT funding to improve N College St (Aldercrest-Quail) that includes:

- Continuous sidewalk and curb on the west side of the highway (no missing gaps)
- ADA sidewalk ramps
- Bike lanes on both sides of the highway
- Stormwater system improvement
- Water quality treatment for storm runoff
- Right-of-way acquisition as needed



Proposed Work



The Council's Most Recent Decision

- At the August 14, 2017 City Council Meeting:
 - Approved IGA No. 31704
 - Obligated City for 10.27% match fund at \$274,271 out of \$2.67M
- **Purpose at this City Council Meeting:**
 - To hear an update on the project
 - To accept Amendment No. 1 to IGA No. 31704
 - shorten project limit
 - increase funding – obligates \$304,807 out of \$2.97M
 - To adopt IGA No. 32487 for right-of-way services

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: July 6, 2021

Order ____ Ordinance ____ Resolution ____ Motion ____ Information XX
No. No. No.

SUBJECT: Sidewalks

Staff: Kaaren Hofmann, City Engineer
Department: Public Works

Work Session ____ Business Session XX

Order on Agenda: New Business

EXECUTIVE SUMMARY:

Sidewalks in the City of Newberg are a priority of the Community Vision and meet the DEI and Sustainability Goals of the Council. The Newberg Municipal Code states that sidewalks are the responsibility of the adjacent property owner. The current 'sidewalk program' is a mostly reactionary process dealing with issues when a complaint is received, development occurs or a capital project is implemented.

Staff has been asked if there are other options or alternatives to having the property owner being completely responsible. To provide alternatives would require a change in the City's policy and direction from the City Council.

More information will be provided in the presentation attached.

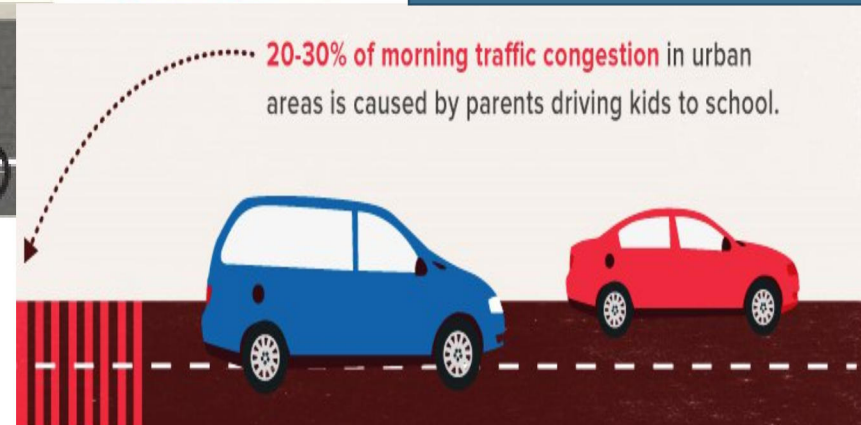
Sidewalks

City Council Business Session
July 6, 2021



A NewBERG Priority
&
A City Council Goal:

Livability &
Sustainability



Data from www.activelivingresearch.org

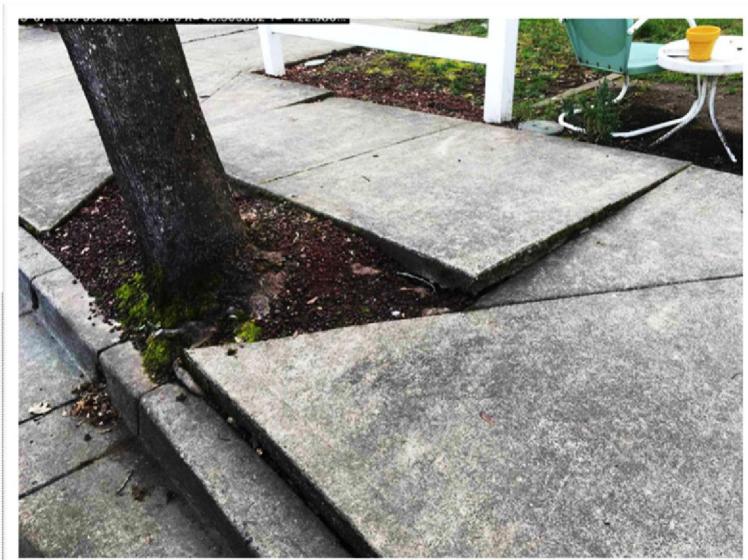


- 14.7% of area residents have NO car
- 10% of area residents identified as having some level of disability
- Roadways without sidewalks 2X more accidents -U.S. Department of Transportation.



Newberg has 116 miles of sidewalks. Many are no longer safe or functional.

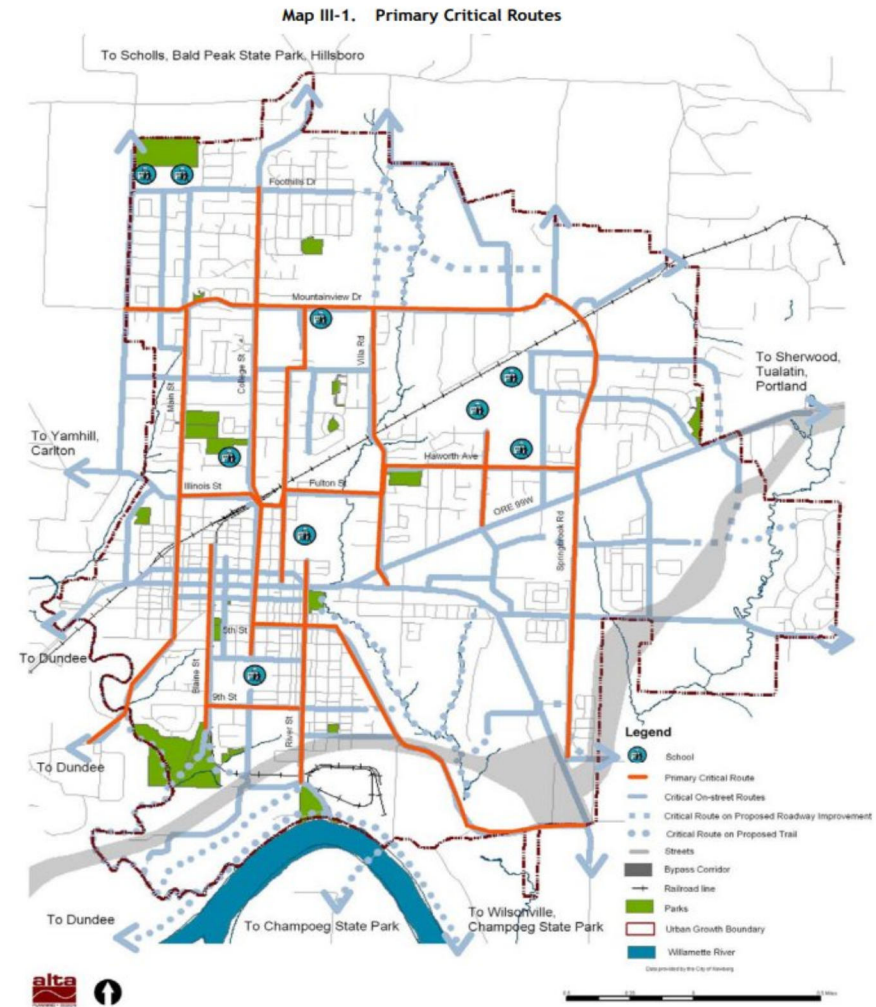
The City has identified “critical routes” that lead to high access roads and services.



Critical Routes

Critical routes are identified balancing industry criteria, State and Federal regulations with local knowledge. This informs us where to prioritize our efforts.

- Apply for Grant Funding
- City Projects to create safe pathways to school, medical services, businesses and recreation.
- Identify property owners that need to repair sidewalks.



What do we do now?

Reactive

- Inspect when a complaint is received
- Require repairs - Cost is property owner responsibility
- All development requires installation/repair
 - Cost is borne by the developer
- Remodel/addition over \$30,000₍₁₉₈₁₎ requires installation/repair
 - Cost is borne by the property owner
- When part of a larger Public Capital Improvement project the City installs or repairs at its cost.

Who is responsible for sidewalks in Newberg?

Property Owners are responsible for their sidewalks.

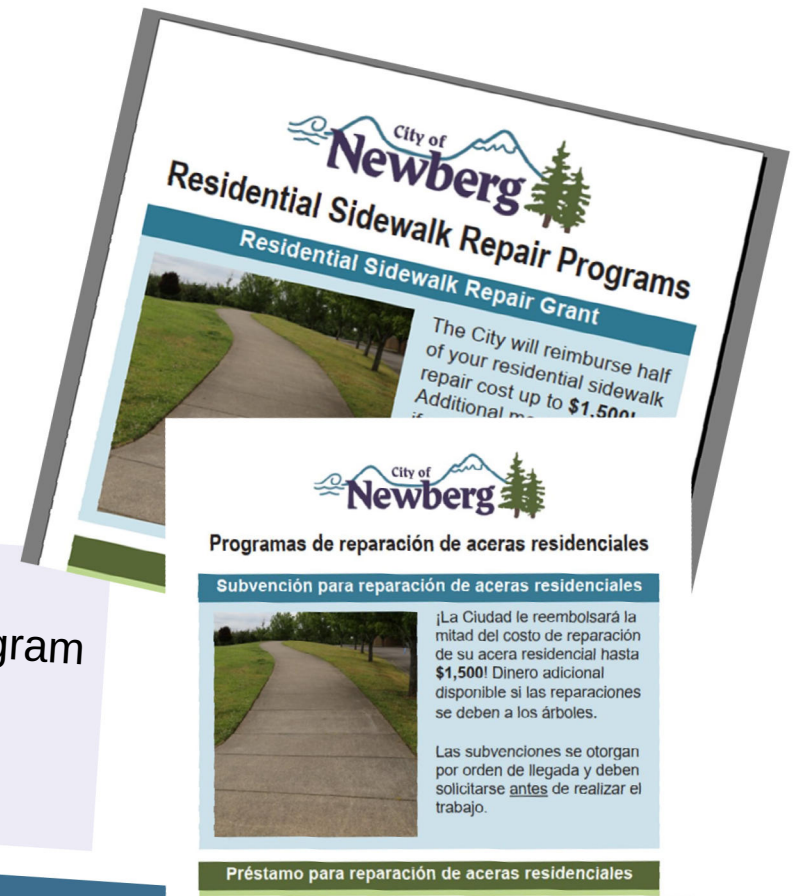
Property Owners who fail to maintain sidewalks adjacent to their land will be liable for any damages caused to any person, due to negligence in failing to keep and maintain sidewalks in good repair. This includes damage and debris caused by snow and leaves.

Residential Sidewalk Grant Program & Sidewalk Loan Programs

Recognizing the financial burden these codes place on homeowners, the City created the [Residential Sidewalk Grant Program and Residential Sidewalk Repair Loan Program](#).

This program is available to residents & property owners who face financial barriers to making their sidewalks safe.

- Launched September of 2020
- \$50,000 budgeted for both the grant and loan program
- Processed 7 applications for grants
 - 4 completed so far (6/21/21)

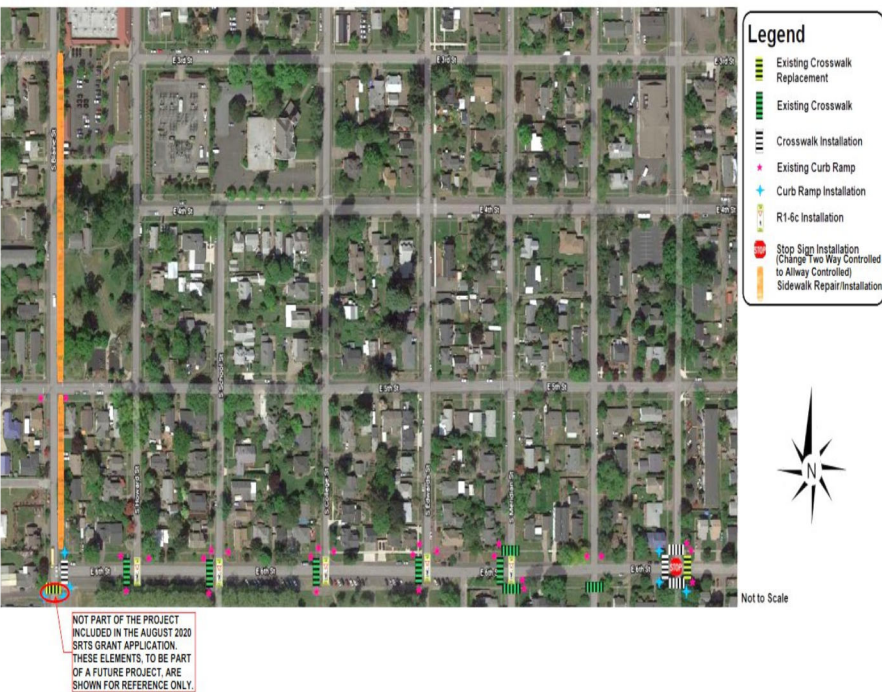


Other Strides Forward



Safe Routes to School Concept Plan
City of Newberg - Edwards Elementary
August 2020

- The City is completing sidewalks along City owned Parks.
- ADA ramps on critical routes in FY22/23
- Working on inventory for compliance with ADA
- Received a grant for “Safe Routes to School” improvements to pathways for Edwards Elementary



Next Steps?

- Grant/Loan Program
 - More Community Promotion
 - Review and improve rules?
- Enforcement
 - Strengthen and impose consequences?
- City Projects
 - Existing funds
 - New monthly fee?
 - New gas tax?
 - Local Improvement District



City Attorney Q2 2021 Update

James Walker

Miller Nash LLP

Matter Summary

- a. 33 new matters received during Q2 2021
- b. 23 Active matters (as of 07.05.21)
- c. 25 Matters completed during Q2

*Litigation matters excluded from count

Public Works/Engineering

- a. Agreement reached with AFSCME
- b. Contract Reviews for Capital Improvement Projects
 - i. ODOT Amendment #1 for N. College Sidewalk/Bike Path
 - ii. Right-of-way Services Agreement with ODOT for N. College Street Sidewalk
 - iii. Oxidation Ditch Rehabilitation Testing and Inspection Agreement
- c. Assisting with responses to purchase offers to Elliot Road property owners

Community Development

- a. Vertical Housing Development Code updates (Ord. 2021-2879 approved on 05.17.21)
- b. Visitor Center Contract with the Chamber
- c. Amendment to contract for urban renewal consulting services with Elaine Howard Consulting
- d. Building code exception agreement for property on Wedgewood Loop

Finance

- a. Development of procurement policy
- b. ODOT Grant-Fund Exchange for the Newberg-Dundee Bypass
- c. Assisted with correspondence on collection of marijuana tax
- d. Advised on contract with Merina & Co.

Public Safety

- a. Response to OSHA regarding mask wearing policies at library
- b. Intergovernmental agreement with Marion County for law enforcement services at the St. Paul Rodeo
- c. Advised on illicit discharge of wastewater on N. Springbrook

Coming Items

- a. Procurement policy and documentation development
- b. Urban Renewal setup and process
- c. Discussion and training on public meetings
- d. Advice regarding transient lodging tax uses

Thank You

James Walker
Miller Nash LLP

james.walker@newbergoregon.gov
503.537.1206



Partnering with Newberg for Our Sustainable Future

Reducing waste. Protecting the environment.
Demonstrating community partnership.

THINK GREEN.®

Dave Huber
District Manager

Gary Nelson
District Ops Manager

Evan Burmester
Area Pricing Manager

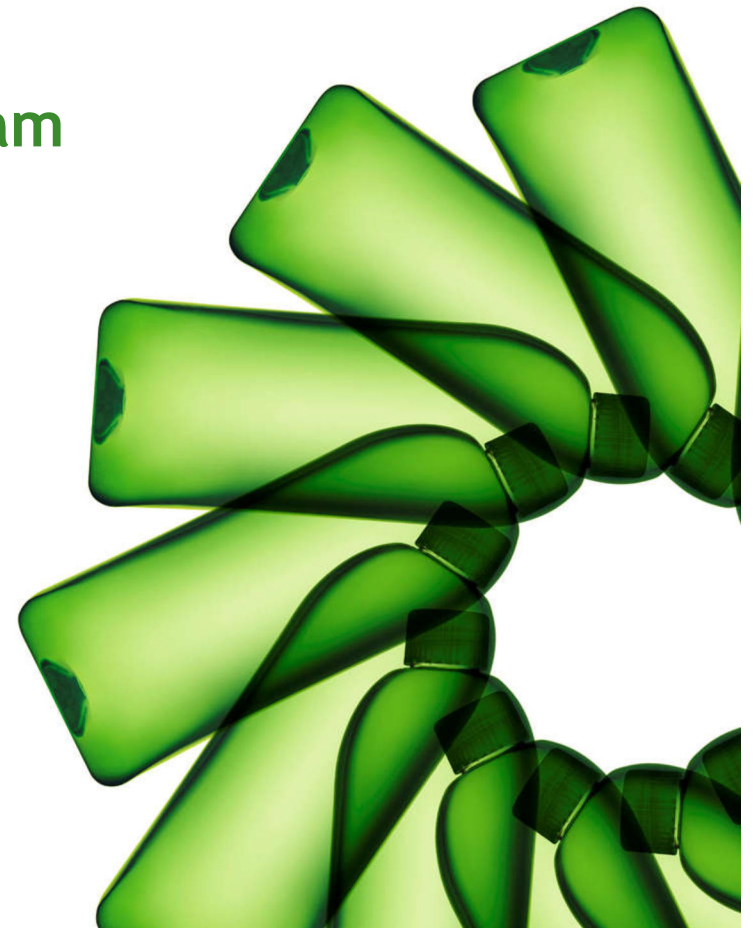
Dean Kampfer
Municipal Marketing Manager

Mike Jefferies
Director of Pricing



Tonight's discussion

- Newberg Services & Operations Report
- 2020 Annual Report
- Food Scraps w/ Yard Debris Program
- Rate Comparison
- WM Request
- Questions



WM Operations



The Newberg District services:

- City of Newberg (70%)
- City of Dundee (10%)
- Yamhill County (20%)



The operation consists of 21 family wage jobs;

- 11 Drivers
- 6 Transfer Station employees
- 4 General support



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Services for the City of Newberg

Residential Services-6,379 Customers (6,230 in 2019)

- Garbage - weekly various sizes (volume-based rates)
- Recycling - every-other-week collection, roll cart provided by WM
- Yard Debris - every-other-week collection, roll cart provided by WM
- Glass Recycling - 3,231 customers currently in the program (50.7% participation), roll cart provided by WM

Commercial Services-533 Customers (544 in 2019)

- Collection Frequency to meet the customers need for Garbage and Recycling with containers provided by Waste Management

Industrial Services-2,036 Hauls (2,177 in 2019)

- Drop Box services for industrial customers and temporary boxes for construction and residential projects



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District Operations Report

- **Efficiency Impacts in 2020**

- Commercial improved 3% (yards per hour)
 - Tonnage decreased 5.6%
- Residential decreased 4.2% (homes per hour)
 - Tonnage increased 12.6%
- Roll off/Industrial decreased 3.1% (hauls per hour)
 - Hauls decreased 6.5% in Newberg

- **Volume Trend**

- Municipal Solid Waste
2019-2020 year over year tonnage increase 11.4%
- Commingle Material
2019-2020 year over year tonnage increase 7.72%

- **Equipment**

- Purchased two new automated side loaders for the residential routes

- **Last Rate Adjustment**

- July 2016 for the Front Load Conversion

New on the Streets of Newberg

- One of two of our new Residential Side loaders



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2020 Detailed Cost Report

	2019	2020	Forecasted 2021	Required Revenue	2021 w/ Rate Increase
Commercial	\$1,239,309	\$1,301,450	\$1,301,450	\$48,154	\$1,349,604
Residential	\$1,999,459	\$2,057,123	\$2,057,123	\$76,114	\$2,133,237
Roll Off	\$886,966	\$740,539	\$740,539	\$27,400	\$767,939
Other	\$11,094	\$2,057	\$2,057	\$76	\$2,133
Total Revenue	\$4,136,828	\$4,101,169	\$4,101,169	\$151,743	\$4,252,912
Disposal Cost	\$1,434,248	\$1,572,394	\$1,572,394	\$0	\$1,572,394
Labor Cost	\$779,502	\$780,187	\$793,771	\$0	\$793,771
Operational	\$885,596	\$893,406	\$902,635	\$0	\$902,635
G&A	\$463,267	\$550,505	\$559,282	\$0	\$559,282
Total Expenses	\$3,562,613	\$3,796,492	\$3,827,812		\$3,827,812
Operating Income	\$574,215	\$304,677	\$273,087		\$425,101
Operating Margin	13.9%	7.4%	6.7%		10.0%

• Inflation

- We used CPI of 1.74% which at the time of submission, was the most recent CPI figure we had
- Current inflation is closer to 5%

• Rate Adjustment Request

- We are requesting a 3.7% increase to rates

Rate Comparison - City of Newberg

#1

Service Description:	City of Newberg	City of Newberg Proposed	McMinnville	Yamhill County Urban	Carlton	City of Dundee
35 gallon cart weekly	\$21.50	\$22.30	\$27.20	\$22.82	\$22.25	\$21.30
96 gallon cart weekly	\$29.05	\$30.12	\$45.35	\$32.94	\$37.05	\$30.16
2 Yard Cont. 1x/week	\$153.19	\$158.86	\$288.18	\$165.73	\$246.27	\$175.86
Services Included:						
Mixed Recy.	Y	Y	Y	Y	Y	Y
Yard Debris	Y	Y	Y	N	Y	Y
Glass	Sub	Sub	Y	Sub	Y	N
Glass Rates:						
Greater than 50%	\$3.64	\$3.77	N/A	\$4.30	N/A	\$3.77
Less than 50%	\$5.22	\$5.41	N/A	\$6.15	N/A	\$5.41

Yard Debris and Food Scraps Program

- Survey Results - 61% very interested or somewhat interested in the program
- Option 2a- Program would add \$0.85 per customer per month
- Option 2b - Adding program with WM provided pail would add \$1.37 per customer per month (only at rollout of program)



For \$0.52 more, pails would be provided

Rate Comparison - City of Newberg

		2a	2b				
Service Description:	City of Newberg Proposed	City of Newberg Proposed w/Food Scraps	City of Newberg Proposed w/Food Scraps & Pail	McMinnville	Yamhill County Urban	Carlton	City of Dundee
35 gallon cart weekly	\$22.30	\$23.15	\$23.67	\$27.20	\$22.82	\$22.25	\$21.30
96 gallon cart weekly	\$30.12	\$30.97	\$32.34	\$45.35	\$32.94	\$37.05	\$30.16
2 Yard Cont. 1x/week	\$158.86	\$158.86	\$158.86	\$288.18	\$165.73	\$246.27	\$175.86
Services Included:							
Mixed Recy.	Y	Y	Y	Y	Y	Y	Y
Yard Debris	Y	Y	Y	Y	N	Y	Y
Glass	Sub	Sub	Sub	Y	Sub	Y	N
Glass Rates:							
Greater than 50%	\$3.77	\$3.77	\$3.77	N/A	\$4.30	N/A	\$3.77
Less than 50%	\$5.41	\$5.41	\$5.41	N/A	\$6.15	N/A	\$5.41

Waste Management's Request

- Option 1: Approve the rate adjustment of 3.7%
- Option 2: To approve rate adjustment and Food Scraps option:
 - Option 2a: Additional \$0.85 per customer per month without WM provided pail
 - Option 2b: Additional \$1.37 per customer per month with a WM provided pail



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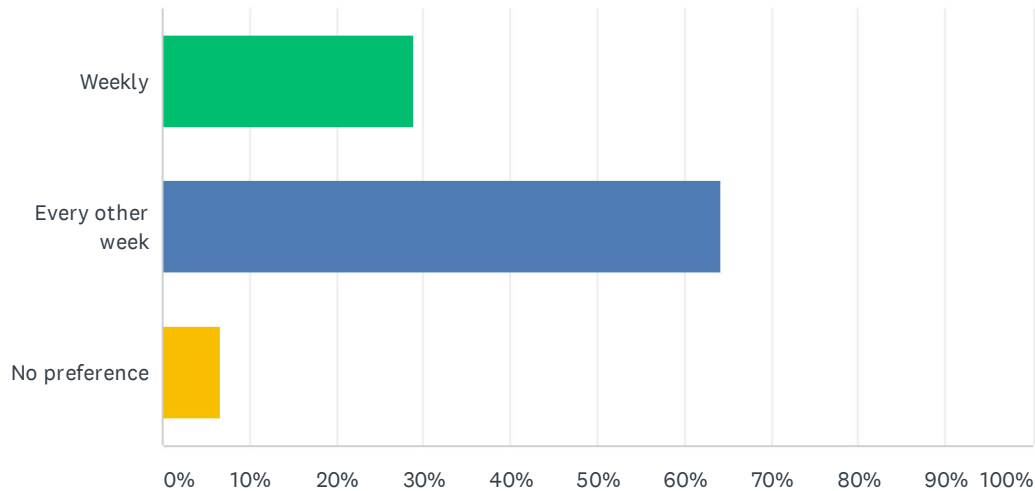
Rate Comparison - City of Newberg

		#1	#2a	#2b				
Service Description:	City of Newberg	City of Newberg Proposed	City of Newberg Proposed w/Food Scraps	City of Newberg Proposed w/Food Scraps & Pail	McMinnville	Yamhill County Urban	Carlton	City of Dundee
35 gallon cart weekly	\$21.50	\$22.30	\$23.15	\$23.67	\$27.20	\$22.82	\$22.25	\$21.30
96 gallon cart weekly	\$29.05	\$30.12	\$30.97	\$32.34	\$45.35	\$32.94	\$37.05	\$30.16
2 Yard Cont. 1x/week	\$153.19	\$158.86	\$158.86	\$158.86	\$288.18	\$165.73	\$246.27	\$175.86
Services Included:								
Mixed Recy.	Y	Y	Y	Y	Y	Y	Y	Y
Yard Debris	Y	Y	Y	Y	Y	N	Y	Y
Glass	Sub	Sub	Sub	Sub	Y	Sub	Y	N
Glass Rates:								
Greater than 50%	\$3.64	\$3.77	\$3.77	\$3.77	N/A	\$4.30	N/A	\$3.77
Less than 50%	\$5.22	\$5.41	\$5.41	\$5.41	N/A	\$6.15	N/A	\$5.41

Questions

Q1 Would you prefer weekly recycling collection or every other week recycling collection?

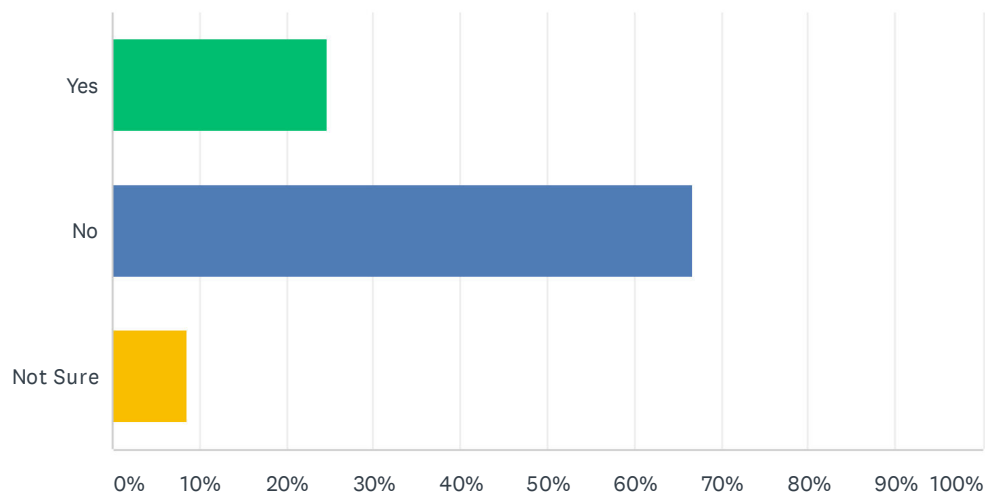
Answered: 280 Skipped: 1



ANSWER CHOICES		RESPONSES	
Weekly		28.93%	81
Every other week		64.29%	180
No preference		6.79%	19
TOTAL			280

Q2 Would you be willing to pay an additional \$3.59 per month for weekly recycling?

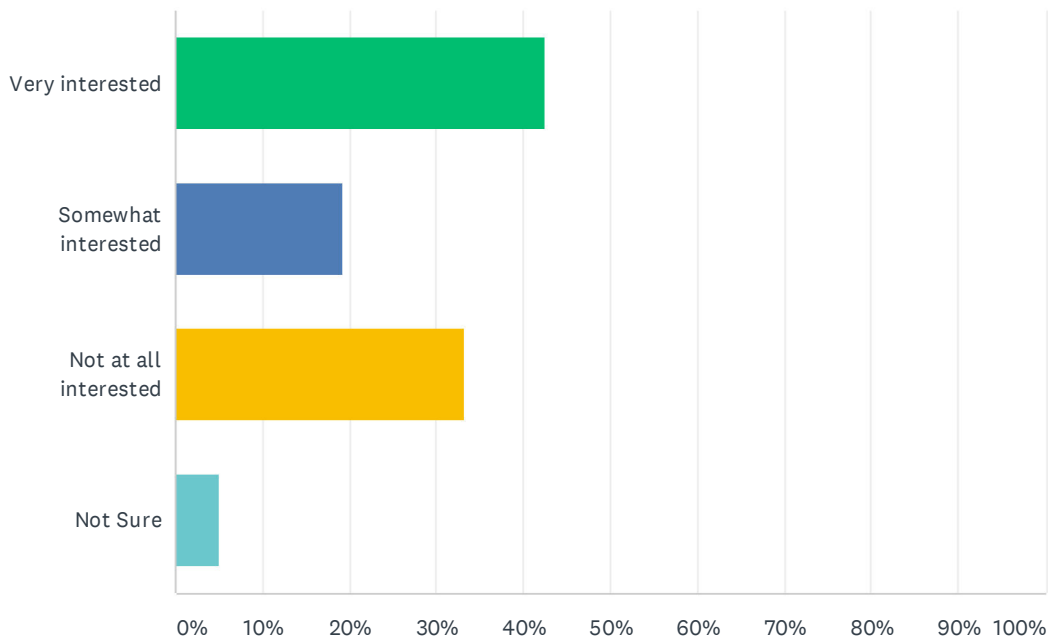
Answered: 279 Skipped: 2



ANSWER CHOICES	RESPONSES	
Yes	24.73%	69
No	66.67%	186
Not Sure	8.60%	24
TOTAL		279

Q3 How interested are you in adding food scraps with your yard debris for composting?

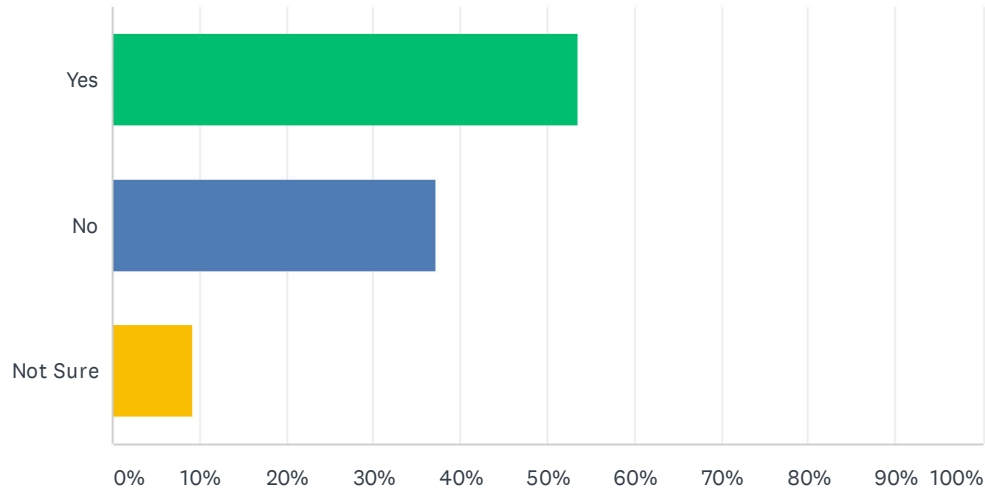
Answered: 280 Skipped: 1



ANSWER CHOICES	RESPONSES	
Very interested	42.50%	119
Somewhat interested	19.29%	54
Not at all interested	33.21%	93
Not Sure	5.00%	14
TOTAL		280

Q4 Would you be willing to pay an additional \$0.71 per month to add food scraps to your yard debris?

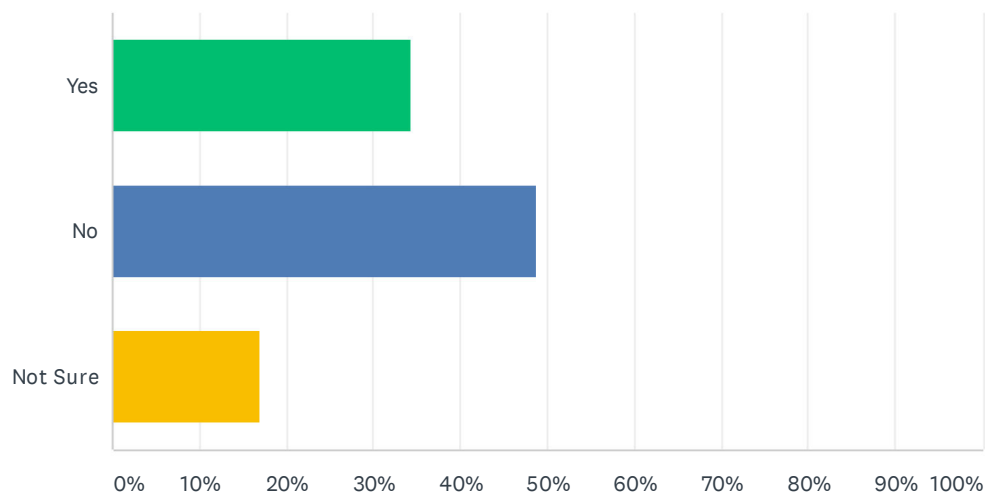
Answered: 280 Skipped: 1



ANSWER CHOICES	RESPONSES	
Yes	53.57%	150
No	37.14%	104
Not Sure	9.29%	26
TOTAL		280

Q5 If food/yard debris was collected weekly (rather than every other week), would this increase the likelihood that you would add your food scraps to the yard debris cart?

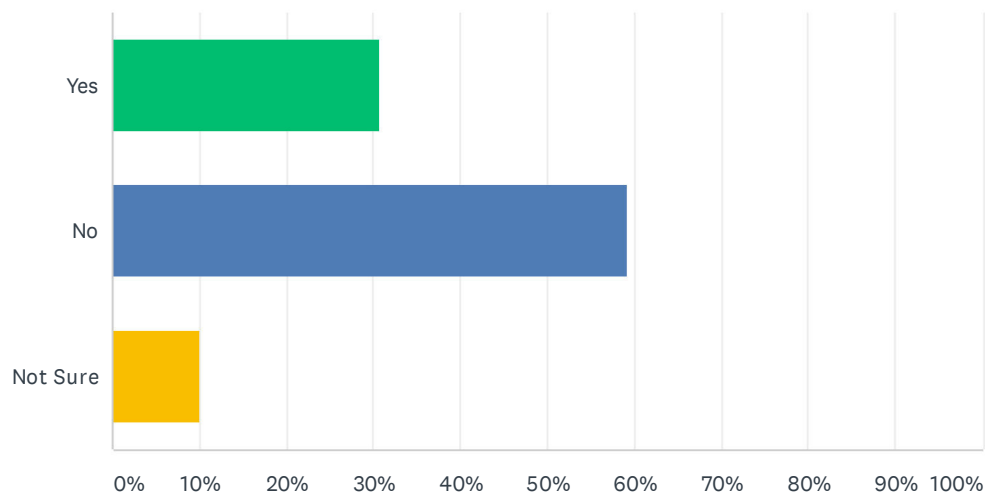
Answered: 279 Skipped: 2



ANSWER CHOICES	RESPONSES	
Yes	34.41%	96
No	48.75%	136
Not Sure	16.85%	47
TOTAL		279

Q6 Would you be willing to pay an additional \$3.31 per month to add food scraps to your yard debris cart AND have weekly collection of food/yard debris?

Answered: 280 Skipped: 1



ANSWER CHOICES	RESPONSES	
Yes	30.71%	86
No	59.29%	166
Not Sure	10.00%	28
TOTAL		280

Q7 Additional comments

Answered: 92 Skipped: 189

#	RESPONSES	DATE
1	It's time for YamCo to catch up with the times. Also, yard composting can bring rats.	2/27/2020 10:00 AM
2	I would like to see the glass collection be less money added and less frequent pickup - perhaps once a month.	2/26/2020 7:41 PM
3	The cost of all of this is far too high as it is. Stop trying to get more money out of my home!	2/25/2020 1:13 AM
4	I like the schedule and cost of having recycling and yard debris every other week.	2/24/2020 10:57 PM
5	adding food scraps should NOT be an excuse for increased prices. How much recycling is done now? I've been told that a lot of it is simply dumped into the garbage. I believe this is just an excuse to raise the rates.	2/24/2020 7:02 PM
6	I would LOVE to see food scraps added. I actually consider this to be fairly cost-neutral since we would be able to reduce our can size (woohoo!)	2/24/2020 4:46 PM
7	If food scraps are added to yard debris, we would be for it being collected weekly during the hotter months May-October, but not thru the winter months of November - April	2/24/2020 3:20 PM
8	We moved out of Portland and the tri-county area for a reason. I am an Oregon native. We get charged enough for everything as it is and Newberg also uses the water bill as an excuse to charge for whatever they want. This is so corrupt. If this goes through, please do what you did with the glass bins and only charge folks who actually want to and do put their recycling it every week and did scraps in the yard debris. Please don't penalize the rest of us for something we don't want.	2/24/2020 2:23 PM
9	I'm STILL being charged for a glass recycling container. We have lived here for 7 months, and it has NEVER EVER not even once been picked up. It's been on the street every single Tuesday too. ☐ maybe fix that before adding more drama??	2/24/2020 1:27 PM
10	We believe that the every other week is better for our environment.Plus we would be glad to add food debris to the yard waste but we do not want to add any additional charges to our bill. It's high enough .we like the idea but dont like the cost and additional trucks on the road. Thanks for our opinion	2/24/2020 12:45 PM
11	I'm perfectly happy with the service that I'm currently getting.	2/24/2020 12:37 PM
12	Stop making up fake services and raising our rate. You already charge to recycle glass and you refuse recyclable styrofoam. How about you actually give us the services we are already being charged for.	2/24/2020 12:19 PM
13	Currently only need yard debris picked up a few times a YEAR. Why would I want to add the VERY LITTLE amount of food debris I have a week to a large yard debris can and have to set it out every week??	2/24/2020 12:18 PM
14	add food scraps recycling please!	2/24/2020 11:16 AM
15	It is fine the way it currently is	2/24/2020 4:00 AM
16	I'd love to add food scraps but not interested in adding vehicles to the road to pick up every week if possible to avoid that. Thanks for the survey and all your work!	2/22/2020 11:00 PM
17	Would this mean each house will put out four cans every week or would garbage & yard waste/ food scraps go out one day and recycling & glass go out on a different day? There isn't enough room at the curb in many places as it is and driver's won't pick anything up if someone parks in front of your cans. People are fighting over parking spaces and leaving cans in the street 24/7 as it is. I would live weekly pickup and food waste collection, though.	2/22/2020 10:59 PM
18	Yard debris and food are ok. But we do not have a yard debris option in Dundee	2/22/2020 9:31 PM
19	I honestly don't care when food scraps would be picked up or the additional cost. I care that we start a composting program for Newberg residents ASAP. Compostable food scraps shouldn't go into the garbage.	2/22/2020 9:11 PM
20	We don't use the yard debris bins.	2/22/2020 8:16 PM
21	Long over due, very excited for this!	2/22/2020 6:01 PM
22	we compost all of our food debris	2/22/2020 5:18 PM

Waste Management's Recycling and Food Waste Survey for the City of Newberg		SurveyMonkey
23	We don't have yard waste collection so my responses to it should not be considered.	2/22/2020 1:36 PM
24	no additional fees	2/22/2020 8:47 AM
25	We are big recyclers and as a family of 3 our recycling bin is often overflowing when it goes out every other week. Absolutely love the idea to add food scraps to yard debris. We typically only have 1 bag of garbage a week and half of it are food scraps. These proposed changes are a step in the right direction!	2/22/2020 7:14 AM
26	Regular trash pickup could be reduced to every other week and stay at the same price. Our recycle container is always overflowing and our trash is empty. Portland does it that way.	2/21/2020 11:17 PM
27	Senior on fixed income. Cannot afford ANY additional charges!	2/21/2020 11:15 PM
28	I had food scap in yard debris service in another city - it's awful. In the summertime Food goes rancid, attracts rats, mice, flies, ants and wasps... and cart is full of maggots. Don't do it, please!	2/21/2020 10:02 PM
29	I can't imagine how nasty our yard debris bin would get with food scraps in it as well. Ew.	2/21/2020 9:58 PM
30	Please do it raise our rates, newberg has become unaffordable to people who live and work here in town. We make a lower wage compaired to those working closer to Portland. We are still a rural town and many of us compost and share any leftovers with our neighbors and work family. The recycle bin is great, we have a small trash can for family of 5 we recycle as much as we can and our bin is the perfect size with an every other week pick	2/21/2020 7:17 PM
31	We would love to be able to recycle more types of items as well such as glass	2/21/2020 6:42 PM
32	If I'm reading this right, the survey is asking if I'm willing to pay an increase of \$6.90/month? That's a huge rate increase! Maybe help offset this by offering a larger recycle bin or 2 bins for every other week pick-up without raising the rate. This is a large increase and the survey is kind of misleading about the total increase cost.	2/21/2020 6:39 PM
33	I've put the glass out once and am charge \$7+ per month. Would rather go back to taking it to WM when I need to.	2/21/2020 6:20 PM
34	Alternate weeks is more than adequate for recycling. Many people, like us, compost food waste, so don't need a food recycling service. Maybe educate about composting and sell low cost compost bins instead.	2/21/2020 5:49 PM
35	Strongly support adding feed scraps to yard debris cart. Not sure it is necessary to have it collected every week.	2/21/2020 4:43 PM
36	NO PRICE INCREASES. DUMB IDEAS.	2/21/2020 4:37 PM
37	We do our own composting so we would not need that added service.	2/21/2020 4:18 PM
38	This is a great direction to be moving toward!	2/21/2020 3:26 PM
39	I can't see ONE neighbor that fills their recycle to the point of needing weekly pick up. This feels like a scam to increase the rates without a need for the extra service.	2/21/2020 3:04 PM
40	I don't need weekly services for yard debris or recycling.	2/21/2020 2:03 PM
41	I would like to pay less for monthly recycling pickups. For me, yard debris goes more in phases with the season. Every other week is enough.	2/21/2020 2:02 PM
42	I would not put food scraps in my yard debris bin ever. Recycling every other week is plenty. Please keep the service as is with no rate increase please.	2/21/2020 1:54 PM
43	I love the idea of adding food waste to our yard debris! Please implement this!!	2/21/2020 1:51 PM
44	We want better service for less money.. find a way	2/21/2020 1:47 PM
45	The rate increase is an issue for my household but I believe it helpful How often can we expect increases to happen?	2/21/2020 1:44 PM
46	Stop trying to increase how much we pay for it. Its mandatory and you take advantage of that. You've already raised the price of your services. You make up reasons to get us to pay even more and that's not ok whatsoever	2/21/2020 1:29 PM
47	Glass pick up. I don't live in city limits, and don't have the option, but would really like to	2/21/2020 12:55 PM

48	additions are tied to convenience; unnecessary service and costs. If you need more you can request extra bins (for a cost)	2/21/2020 12:50 PM
49	No rate Increases and better recycling facility on Wyooski and Bottle/glass glass containers near Walgreens. Keep it clean please.	2/21/2020 12:43 PM
50	Consider lowering the price of glass pick-up and reducing the frequency.	2/21/2020 12:32 PM
51	I compost all my food scraps and make my own compost for my garden.	2/21/2020 12:15 PM
52	We have GOT to have better options for disposal of hazardous waste than a semi-annual overcrowded, understaffed collection at some distant point in the county.	2/21/2020 11:50 AM
53	The community can't afford an extra nearly \$4/month on top of increasing water rates. WE are already in a poverty/homelessness crisis and this affects them directly. Those who want to recycle more can take it to the site directly if they choose.	2/21/2020 11:48 AM
54	Please add food waste!!!	2/21/2020 11:30 AM
55	I'm very interesting in having recycling expanded to recycle as much variety of materials as possible. Food debris is a great start! Hopefully more types of plastic recycling can happen as well!	2/21/2020 11:26 AM
56	While I like the idea of composting food scraps, getting those food scraps from the kitchen to the outdoor bin would be a pain.	2/21/2020 11:21 AM
57	We compost it's not necessary for food scrap disposal	2/21/2020 11:20 AM
58	I so miss food recycling (recent transplant from Seattle area), but not mentioned in the description was dirty paper. I think the think I loved the most about the food recycling bin was being able to throw pizza boxes or paper plates into the food/yard bin. Would that not be included? I don't mind the every other week aspect of pick-ups, but would definitely love being able to recycle more with weekly pick-up. Would we still use the large containers for recycling and bio waste if pick-up was weekly? My only concern is the amount of curb space needed for trash, glass, recycle and bio containers when both are picked up weekly (or will glass be added to the regular recycling - I did find it odd that glass is not included in regular recycling when I moved here WM does include glass in recycling up north). Fingers crossed that the food waste happens and that it includes dirty paper! It feels so weird to me to throw all of that away.	2/21/2020 11:19 AM
59	Please add food debris to our yard debris collection and save the planet!	2/21/2020 11:16 AM
60	Would like to see the flat garbage rate be reduced some if these increases would take effect. There should be less "garbage" being collected.	2/21/2020 11:14 AM
61	If you are offering another service with another price increase, it needs to be opt-in. I am perfectly happy with what I have now, and I do not want to pay any more.	2/21/2020 11:09 AM
62	The first 2 questions are not clear are you talking about non yard debris recycling? If so I rarely fill up my can more than once a month. Yard debris on the other hand, I would like to be weekly and including food scraps would be awesome! I am willing to pay for that.	2/21/2020 11:02 AM
63	I have a small household and generate very little waste. As of right now I have a small can and once/mth pickup. I usually only put out the recycling every other pick up. Yard debris (depending upon the season) can be even less. I do support the kitchen scrap plan if it helps other households.	2/21/2020 10:53 AM
64	No additional fees We pay enough already	2/21/2020 10:52 AM
65	I would LOVE to have weekly recycling and weekly yard pick up. I would ESPECIALLY love to be able to add food scraps to my yard debris! Thank you!	2/21/2020 10:49 AM
66	I am definitely for food scrap recycling, but only if it's paired with weekly collection. I don't want food scraps sitting outside stinking for up to two weeks.	2/21/2020 10:38 AM
67	What is happening to the yard recycling currently? The other recycling? Where is it going or how is it being used?	2/21/2020 10:37 AM
68	I have an active compost pile in my garden which takes all non-animal sourced food waste. I have never needed weekly recycling service to keep up with the recyclable items. No changes are necessary if people use the current service correctly.	2/21/2020 10:35 AM

Waste Management's Recycling and Food Waste Survey for the City of Newberg

SurveyMonkey

69	Thank you for considering changes! The community appreciates your efforts to be current with what is expected in regards to composting and recycling.	2/21/2020 10:34 AM
70	Would love weekly pickup of recycle and would be ok with paying more. I know it would help me recycle more too. When our Recycle is full I end up throwing it in the trash just to get rid of it.	2/21/2020 10:32 AM
71	I don't necessarily need a weekly recycling pick-up, but I am 100% excited about composting food scraps!	2/21/2020 10:32 AM
72	We live on Home Acres Road and do not have yard debris collection. We would LoVe to add food scraps but without yard debris I do not think we would have access to that.	2/21/2020 10:25 AM
73	Has there been research on whether vermin increases with food scraps sitting in debris bins?	2/21/2020 10:22 AM
74	Let people who want it pay for it as an extra Svc and leave the rest of us out of it! Why should a retiree be mandated tp pay for the additional services of a large family?	2/21/2020 10:21 AM
75	I think this is an awesome idea to add food scraps to yard debris. By just going with this option, we also can be good neighbors and rates don't increase too much! i'm worried that if we did increase to every week, it would be a pretty big burden.	2/21/2020 10:15 AM
76	We DO NOT need ANY additional services or (more importantly) fees. I am NOT in favor of these proposed changes.	2/21/2020 10:15 AM
77	Not interested in this service since we compost at home for free.	2/21/2020 10:03 AM
78	Having weekly recycling does not outweigh the negatives of having another truck out on the road. More needs to be done on not contaminating the current recycling program before thinking of increasing. The contamination outweighs any recycling that is being done correctly. Please focus on getting the community to clean up their recycling first. As for organics services, we are county and ineligible for yard debris. However, adding food scraps and making it organic weekly pickup would be great, and if I were in town I would love to have that service. But again, communication on contamination needs to be paramount. And charging for contamination needs to happen with photos and communication with those individuals. I work for RS so I know the problems. It does us no good as a whole to increase "bad" services, make the "good" then increase them. That's my 2 cents.	2/21/2020 9:52 AM
79	I dont like rotting food smell or rats, so no, I dont fucking want this!	2/21/2020 9:48 AM
80	Food scraps can get stinky pretty fast. It could increase the stench in the neighborhood and lead to cats and other varmints trying to get into the trash cans. If there were compostable containers to seal the food scraps in to prevent the negative side effects, that might increase my interest in participating.	2/21/2020 9:31 AM
81	I FULLY support adding food composting to our yard debris bins. Please make this happen.	2/21/2020 9:13 AM
82	The only time I would like to see weekly yard debris pickup is in the fall. Even with paying for two containers I am still stockpiling leaves and trying to get them out of my yard in December	2/21/2020 9:09 AM
83	I'm already paying for services I barely use. Please stop tacking on more stuff I'll forget to do, ain't nobody got time for this.	2/21/2020 9:08 AM
84	Unincorporated newberg residents dont have yard debris bins yet we're being asked to subsidized food composting for restaurants. This is absolutely ridiculous and makes Newberg that much more unaffordable to live.	2/21/2020 8:55 AM
85	My food waste is very minimal, probably no more than a large Baggie full. Why should this cost any extra for every other week.	2/21/2020 8:49 AM
86	Please please please do the food scrap in the yard debris bucket thing!!!!!! It would make such a big difference in the water we produce in our house, as sometimes we have to throw a bag of garbage out when the bag isn't fill, because of the smell from food scraps.	2/21/2020 8:45 AM
87	How about make the collection schedule super easy to find online? I find it very difficult to find it if it's even possible-it's a guessing game	2/21/2020 8:41 AM
88	Not interested in anything that would add to my cost.	2/21/2020 8:36 AM
89	Our family forgoes paid recycling services and instead takes our recycling to the waste mgt	2/21/2020 8:33 AM

building whenever our receptacle is full. It saves money and it saves space (as the recycling bins provided by the city service are too big for our small home).

90	I compost my own food scraps and rarely put out my recycling bins more than once a month. I should only have to pay for the service I use.	2/21/2020 8:25 AM
91	I compost, have chickens i give food too, and have garbage disposal. why should I pay more for service not needed? lots of folks have disposals.	2/21/2020 8:20 AM
92	The hard working citizens of Newberg already pay too much money for sub-par garbage and recycling services. It's bad enough we get charged an extra \$3+ if the garbage can lid is 2-3" from being closed. We already get screwed on the water bill so please don't screw us	2/21/2020 8:17 AM

2021 NEWBERG CITY COUNCIL MEETING INFORMATION

Meeting Date: 7/6/21 Start: 6:00 p.m. Stop: 8:55 p.m.

Councilors	Roll Call	Committee Appointments Multiple Student	Consent Calendar Res 3746 Res 3721 Res 3751 Res 3759				
MCBRIDE	X	Yes	Yes				
COEFIELD	X	Yes	Yes				
YARNELL HOLLAMON	X	Yes	Yes				
MARTINEZ PLANCARTE	Absent	Absent	Absent				
ROGERS	X	Yes	Yes				
BACON	X	Yes	Yes				
FINDLEY	X	Yes	Yes				
ROLL CALL VOTES		YES: 6 NO: 0 ABSENT: 1	YES: 6 NO: 0 ABSENT: 1				
MOTION (1 st /2 nd):		McBride/ Bacon	Bacon/Findley				
Department/ Staff:		CR	ENG/LEGAL				
Changes:							
Tabled:							

City Recorder [3] Workmen's Compensation hours - hours [X] Timesheets

EXEC – ORS 192.660 (2) e Real Property

Start: 8:33 p.m.

Stop: 8:55 p.m.

Staff present: CM Weinheimer, CA Walker, CDD Rux, City Engineer Hofmann, Cable Huston attorney Gretchen Barnes