City Council
101 W 10th Ave., Suite 203
Eugene, OR 97401
541-682-5010 • 541-682-5414 Fax
www.eugene-or.gov

EUGENE CITY COUNCIL AGENDA

May 22, 2023

7:30 p.m. CITY COUNCIL MEETING

City Council meetings will continue to be held in hybrid format using in person and virtual meeting technology. Information about online or other options for access and participation will be available at https://www.eugene-or.gov/3360/Webcasts-and-Meeting-Materials

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Meeting of May 22, 2023;
Her Honor Mayor Lucy Vinis Presiding

Councilors

Randy Groves, President	Matt Keating, Vice President
Alan Zelenka	Jennifer Yeh
Greg Evans	Mike Clark
Emily Semple	Lyndsie Leech

7:30 p.m. CITY COUNCIL MEETING

1. **PLEDGE OF ALLEGIANCE TO THE FLAG**

2. **CEREMONIAL MATTERS**
   - **A. Mayor Proclamations**

3. **COMMITTEE REPORTS AND ITEMS OF INTEREST**

4. **CONSENT CALENDAR 1**
   - **A. Approval of City Council Minutes**
   - **B. Approval of City Council Tentative Agenda**
   - **C. Initiation of Mims House Zone Change Application to Establish a Special Historic Zone (S-H)**
   - **D. Approval of Resources for Housing Affordable To Low- and Moderate-Income Persons**

5. **PUBLIC FORUM**

6. **ACTION: An Ordinance Concerning The Industrial Pretreatment Program; Repealing Sections 6.501, 6.506, 6.511, 6.516, 6.521, 6.526, 6.531, 6.536, 6.541, 6.546, 6.551, 6.556, 6.561, 6.566, 6.571, 6.576, 6.581, 6.586, 6.591 And 6.596 Of The Eugene Code, 1971; Adding Sections 6.550, 6.552, 6.554, 6.556, 6.560, 6.562, 6.564, 6.566, 6.568, 6.570, 6.572, 6.574, 6.576, 6.578, 6.580, 6.582 And 6.584 To**

That Code; And Providing For An Immediate Effective Date.

7. **ACTION: 1059 Willamette Redevelopment – Timeline Update**

The Eugene City Council welcomes your interest in these agenda items. This meeting location is wheelchair-accessible. For the hearing impaired, an interpreter can be provided with 48 hours' notice prior to the meeting. Spanish-language interpretation will also be provided with 48 hours' notice. To arrange for these services, contact the receptionist at 541-682-5010. City Council meetings are telecast live on Metro Television, Comcast channel 21, and rebroadcast later in the week.

El consejo de la Ciudad de Eugene agradece su interés en estos asuntos de la agenda. El lugar de la reunión tiene acceso para sillas de ruedas. Se puede proveer a un intérprete para las personas con discapacidad auditiva si avisa con 48 horas de anticipación. También se puede proveer interpretación para español si avisa con 48 horas de anticipación. Para reservar estos servicios llame al 541-682-5010. Las reuniones del consejo de la ciudad se transmiten en vivo por Metro Television, Canal 21 de Comcast y son retransmitidas durante la semana.

For more information, contact the Council Coordinator at 541-682-5010,
or visit us online at www.eugene-or.gov.

EUGENE CITY COUNCIL
AGENDA ITEM SUMMARY

Pledge of Allegiance to the Flag

Meeting Date: May 22, 2023
Department: Central Services
www.eugene-or.gov

Agenda Item Number: 1
Staff Contact: Cherish Bradshaw
Contact Telephone Number: 541-682-8340

ISSUE STATEMENT
In honor of Memorial Day on May 29, there will be a reciting of the Pledge of Allegiance to the Flag.

BACKGROUND
The City Council voted at its June 27, 2011, work session to begin formal council meetings with a voluntary recitation of the Pledge of Allegiance to the Flag at those meetings closest to the following holidays: Memorial Day, Veterans Day, Flag Day, and the Fourth of July.

According to the United States Code, Title 4 (U.S. Flag Code), the Pledge "…should be rendered by standing at attention and facing the flag with the right hand over the heart. When not in uniform, men should remove any non-religious headwear with their right hand and hold it at the left shoulder, the hand being over the heart. Persons in uniform should remain silent, face the flag, and render the military salute."

The Pledge is as follows: *"I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all."*

FOR MORE INFORMATION
Staff Contact: Cherish Bradshaw, Mayor and Council Support
Telephone: 541-682-8340
Staff E-Mail: cabradshaw@eugene-or.gov

EUGENE CITY COUNCIL
AGENDA ITEM SUMMARY

Ceremonial Matters

Meeting Date: May 22, 2023
Department: Central Services
www.eugene-or.gov

Agenda Item Number: 2
Staff Contact: Cherish Bradshaw
Contact Telephone Number: 541-682-8340

ISSUE STATEMENT
This item is to acknowledge awards and achievements and inform the public of proclamations by the Mayor. No action is required by the City Council.

BACKGROUND
Per City Council Operating Agreements (Adopted 12/14/2020), at the first regular meeting of each month, the first agenda item shall be used to acknowledge special recognition or awards given to the City of Eugene or for the Mayor to read proclamations which serve to encourage and educate the community. Proclamations shall be made and placed on the agenda at the discretion of the Mayor.

The following proclamations for the month of May will be read during the May 22, 2023 meeting:

- May 21st-27th – Public Works Week

Current and previous proclamations are available on the City's Proclamation webpage.

ATTACHMENTS
A. Public Works Week

FOR MORE INFORMATION
Staff Contact: Cherish Bradshaw, Mayor and Council Support
Telephone: 541-682-8340
Staff E-Mail: cabradshaw@eugene-or.gov

OFFICE OF THE MAYOR
City of Eugene, Oregon

PROCLAMATION

WHEREAS: Since 1960, The American Public Works Association (APWA) has observed an annual National Public Works Week to recognize the Public Works professionals who focus on infrastructure, facilities, and services that are of vital importance to the public health, quality of life, and well-being of the people of Eugene; and

WHEREAS: This year's Public Works Week theme, "Connecting the World through Public Works," recognizes how Public Works connects us all through infrastructure and service, enhancing the quality of life for all Eugeneans; and

WHEREAS: Each day, citizens depend on Public Works for streets that are safe for vehicular and pedestrian traffic, effective stormwater management to reduce flooding and pollution of our natural waterways, well-maintained parks and open spaces to support and enhance our quality of life, our safe and affordable Eugene Airport which provides a gateway to our country, and efficient solid waste collection to keep our community clean and sanitary; and

WHEREAS: The continued delivery of these vital services in Eugene would not be possible without the dedication and tireless efforts of hundreds of public works professionals, engineers, and administrators across the City of Eugene; and

WHEREAS: The City of Eugene is pleased to join in the celebration of National Public Works Week as a tribute to the hardworking staff that make Eugene one of the best places in the nation to live, work, play, and raise a family, and to increase public awareness about the important role that Public Works has in our community.

NOW, THEREFORE, I, Lucy Vinis, Mayor of the City of Eugene, Oregon do hereby proclaim, May 21st-27th, 2023, to be

"Public Works Week"

Mayor Lucy Vinis
City of Eugene
May 21, 2023

EUGENE CITY COUNCIL
AGENDA ITEM SUMMARY

Approval of City Council Minutes

Meeting Date: May 22, 2023
Department: Central Services
www.eugene-or.gov

Agenda Item Number: 4A
Staff Contact: Ellie Harwell
Contact Telephone Number: 541-682-8497

ISSUE STATEMENT
This is a routine item to approve City Council minutes.

BACKGROUND
Per City Council Operating Agreements (Adopted 12/14/2020), written minutes shall be taken for all City Council meetings in accordance with the Oregon Attorney General's Public Records and Meetings Manual. The minutes must give a true reflection of the matters discussed but need not be a full transcript, verbatim or recording.

As a matter of courtesy and efficiency a councilor should notify the Mayor and other councilors that they intend to propose an amendment to the minutes and should propose replacement text in advance of the meeting at which those minutes are scheduled to be approved. If the proposed amendment is a simple factual, grammatical, or spelling correction, the amendment may be proposed without consulting the minutes recorder. If the proposed amendment is substantive in nature or seeks to clarify the speaker's intent, the councilor should notify the minutes recorder and request verification of the proposed amendment.

SUGGESTED MOTION
Move to approve the minutes for the work sessions, meetings, and public hearings on April 24, 2023 and May 10, 2023.

ATTACHMENTS
A. April 24, 2023 Work Session
B. April 24, 2023 Meeting
C. May 10, 2023 Work Session

FOR MORE INFORMATION
Staff Contact: Ellie Harwell, City Council Coordinator
Telephone: 541-682-8497
Staff E-Mail: eharwell@eugene-or.gov

MINUTES

Eugene City Council
Work Session
Eugene, Oregon 97401

April 24, 2023
5:30 p.m.

Councilors Present: Emily Semple, Matt Keating, Alan Zelenka, Jennifer Yeh, Mike Clark, Greg Evans, Lyndsie Leech and Randy Groves

Mayor Vinis opened the April 24, 2023, work session of the Eugene City Council in a hybrid format at 101 W 10th Avenue, Eugene OR 97401.

1. **WORK SESSION: An Ordinance Concerning Prohibited Camping, Permitted Overnight Sleeping, and Prohibited Activities on Streets, Sidewalks, and Shared-Use Paths, and Amending Sections 4.815, 4.816, 4.860 and 5.135 of the Eugene Code, 1971.**
City Manager Sarah Medary introduced City Attorney Kathryn Brotherton, Public Works Director, Matt Rodrigues and Eugene Police Chief, Chris Skinner who presented information regarding An Ordinance Concerning Prohibited Camping, Permitted Overnight Sleeping, and Prohibited Activities on Streets, Sidewalks, and Shared-Use Paths, and Amending Sections 4.815, 4.816, 4.860 and 5.135 of the Eugene Code, 1971.

Councilor Discussion:

- Councilor Yeh – asked if banning camping but allowing other sidewalk obstructions could create legal issues.
- Councilor Groves – stated a preference for a camping ban 100 feet from all waterways; stated support for keeping sidewalks clear; asked how the Americans with Disabilities Act applies to situations where blocked sidewalks affect those with mobility issues; asked if the proposed ordinance would apply to sewage draining into wetlands; asked how the ordinance will be enforced; asked how members of the public would report violations; noted a concern that the emergency line would be overwhelmed with calls to report violations; would like the City to create a public education campaign regarding this ordinance and reporting violations.
- Councilor Zelenka – expressed concern that indigent individuals would not be able to pay fines; asked staff to define willful violation; clarified how the City's accountability systems direct people to community court; asked how the camping ban distance is determined for different waterways; asked if currently established Safe Sleep sites are banned within 1,000 feet of educational facilities.
- Councilor Clark – asked staff to clarify the term 'top of bank'; asked for the average difference between 'high water mark' and 'top of high bank'; noted concern about camp debris entering waterways; asked if this ordinance eliminates all overnight camping; asked if this ordinance will reduce complaints about camps near waterways; noted concern that the City does not have enough tools to reduce the impacts of unsanctioned camping; asked if the court system has the capacity to handle the increased enforcement needs for this ordinance.

- Councilor Evans – asked if there is a precedent for the 1,000-foot campsite-free buffer zone around educational institutions.
- Councilor Keating – noted support for a 1,000-foot buffer zone around educational facilities; noted that a buffer zone could improve the safety of those using educational facilities; asked Chief Skinner if there are potential issues enforcing a buffer zone; asked Chief Skinner if enforcement would be easier if all waterways used the same distance for the camping prohibition; stated support for using community court to enforce violations and using a standard 100-foot distance from waterways.
- Councilor Semple – asked for the definition of a campsite vs. someone sleeping; asked staff to define an 'established' campsite; asked if this ordinance will make it easier for individuals to sleep.
- Councilor Leech – asked if enforcement staff would provide individuals with information on where they are permitted to camp; asked if there are larger areas that could be mapped out to show individuals where they are allowed to camp.
- Mayor Vinis – noted that it is uncomfortable to tell people where they cannot sleep versus where they can; noted that Council has approved a total of 500 Safe Sleep spaces and 250 have been established.
- Councilor Groves – asked if there are any future rest stops in the works, specifically locations for RVs and trailers; noted that there are budget and staffing limitations regarding addressing the homelessness issue.
- Councilor Clark – noted that it will be effective to use community court to handle violations; spoke in favor of supporting individuals who want to get well and against enabling those who do not.
- Councilor Zelenka – spoke against a map outlining where people can camp; noted it is better to point individuals to established sites; noted that a trespass letter is needed to remove campers from private property; stated support for variable waterway buffer zones to be consistent with current codes; asked if there is a 1,000-foot buffer for current rest stops; stated interest in hearing the public's opinion on the 1,000-foot buffer zone around educational facilities; noted that this code would not allow camping where it is already banned.
- Councilor Yeh – believes that the public should know where it is legal to camp; spoke in favor of being proactive about determining where future unsanctioned camps may establish.
- Councilor Leech – spoke in favor of a simple user guide for people to understand City code regarding camping; noted the compassion fatigue felt by neighborhoods with large populations of unhoused neighbors; noted that safe sleep sites are full and there is a need for people to have a place to sleep.
- Councilor Semple – noted that individuals will be able to create their own maps of areas where camping is allowed.
- Councilor Keating – spoke in favor of making information about available services more accessible to the public; stated a preference for a camping ban 100-feet from all waterways for ease of enforcement; noted that a 1,000-foot buffer zone around educational facilities would increase accessibility, public health, and safety; spoke in favor of asking the state for additional resources to support our unhoused population.

MOTON AND VOTE: Councilor Groves, seconded by Councilor Keating, moved to direct the City Manager to schedule a public hearing on the draft ordinance, set forth on Attachment A with the following additions; 1) Camping restriction on public property located within 1000 feet of an educational facility, 2) Extending the Prohibitive Camping Zone for what is classified as other waterways to 100 feet top of bank, 3) Clarify that wetlands are protected areas with regard to camping and dumping, and move to direct the City Manager to add the proposed ordinance and Amendment to EC 4.990(8) making the penalty and process for willful violation applicable to any violation of EC 4.815, not just vehicular camping violations. **VOTE: 8:0 PASSED**

Mayor Vinis adjourned the meeting at 6:41 p.m.

Respectfully submitted,

Katie LaSala
City Recorder

(Recorded by Cherish Bradshaw)
Link to the webcast of this City Council meeting here.

MINUTES

Eugene City Council
Meeting
Eugene, Oregon 97401

April 24, 2023
7:30 p.m.

Councilors Present: Emily Semple, Matt Keating, Alan Zelenka, Jennifer Yeh, Mike Clark, Greg Evans, Lyndsie Leech, and Randy Groves

Mayor Vinis opened the April 24, 2023, meeting of the Eugene City Council in a hybrid in-person and virtual format at 101 W. 10th Avenue, Suite 114, Eugene, OR 97401.

1. COMMITTEE REPORTS AND ITEMS OF INTEREST

- Councilor Groves – noted that he attended a river cleanup along with Willamette RiverKeeper and Eugene Springfield Fire; noted that along with Councilors Leech and Evans, he attended an Active Bethel Community meeting regarding the dioxin contamination from J.H. Baxter; noted that he attended a meeting of the recently reestablished Churchill Area Neighborhood Association.
- Councilor Keating – noted that baseball season has begun, and that the Eugene Emeralds have games scheduled; noted that he had attended local Earth Day events; noted that he will be reading a proclamation for Worker's Memorial Day.
- Councilor Clark – asked staff if Councilors face individual liability if the decision of the ninth Circuit Court is upheld regarding the case of the Berkeley, California prohibition on natural gas infrastructure.
- Mayor Vinis – noted that along with Councilors Groves and Leech, she had attended the opening of the Ko-Kwel Wellness Center.

2. CONSENT CALENDAR 1

A. Approval of City Council Minutes

- April 5, 2023 Special Meeting
- April 12, 2023 Work Session
- April 17, 2023 Public Hearing

B. Approval of City Council Tentative Agenda

C. Approval of Appointments to the Human Rights Commission

MOTION AND VOTE: Councilor Groves, seconded by Councilor Keating, moved to approve the items on Consent Calendar 1.
VOTE: 8:0 PASSED

3. PUBLIC FORUM

1. Lin Woodrich – spoke in favor of a public health overlay zone in West Eugene.
2. Stefan Strek – spoke in support of continued funding for Greenhill Humane Society.
3. Alison Hunter – spoke in favor of more support for the unhoused.
4. Eric Jackson – spoke in favor of more support for the unhoused.
5. Vanessa Ringgold – spoke in support of funding for Greenhill Humane Society.

6. Richard Locke – spoke about the environmental impacts of unsanctioned camping.

4. ACTION: An Ordinance Concerning Construction Excise Tax Exemptions and Amending Section 3.734 of the Eugene Code, 1971.

MOTION AND VOTE: Councilor Groves, seconded by Councilor Keating, moved to adopt the Ordinance Concerning Construction Excise Tax Exemptions and Amending Section 3.734 of the Eugene Code, 1971, included as Attachment A to this Agenda Item Summary.
VOTE: 8:0 PASSED

Mayor Vinis adjourned the meeting at 8:04 p.m.

Respectfully submitted,

Katie LaSala
City Recorder

(Recorded by Cherish Bradshaw)
Link to the webcast of this City Council meeting here.

MINUTES

Eugene City Council
Work Session
Eugene, Oregon 97401

May 10, 2023
12:00 p.m.

Councilors Present: Matt Keating, Jennifer Yeh, Mike Clark, Alan Zelenka, Emily Semple, and Lyndsie Leech
Councilors Absent: Randy Groves and Greg Evans

Mayor Vinis opened the May 10, 2023, work session of the Eugene City Council in a hybrid format at 101 W 10th Avenue, Eugene OR 97401.

1. **WORK SESSION: Fossil Fuel Risk Bonds**
City Manager Medary introduced Sustainability Manager, Ian Penn, who presented an overview of Fossil Fuel Risk Bonds.

Councilor Discussion:

- Councilor Zelenka – would like this topic to be more encompassing of the area's needs; would like the expansion to include environmental and human harm caused by all chemical and industrial processes, spills, leaks, explosions, and air pollution; would like a process to hold polluters accountable; thinks a tiered approach starting with high potential impact sites would be most effective; thinks that the process that King County uses is effective; thinks a consultant would be the most efficient way to start the process.
- Councilor Clark – stated that protecting the community is important; asked City Attorney if enacting risk bonds would be a preemptive action that may be overreaching the authority of the City; believes that risk planning is important; would prefer to focus planning and preparedness efforts in areas of seismic concern; is concerned how this process could impact the budget.
- Councilor Yeh – is concerned about the impacts to the budget; asked staff how King County's model would work in Eugene; would support a tiered approach to this process; would like more details from staff about the cost and how to approach rolling out this process.
- Councilor Semple – thinks that pollutants should include more than fossil fuels; concerned about seismic resilience; asked staff if the City could start with a small model and expand later; would like to take preventative steps with pollution from industry; concerned over health impacts of current residents; would support using a consultant to start the planning process.
- Councilor Keating – asked how to prevent costs from being passed on to rate payers; asked how the City could regulate a specific type of insurance policy or require a credit line be established to cover potential liabilities; concerned that the cost of past pollutant disasters around the world have exceeded the amount of insurance meant to cover it; concerned that no surcharge would be sufficient to remediate the damage to

the climate from fossil fuels; asked if a surcharge could be assessed on fossil fuels that pass through the City.

- Mayor Vinis – asked staff how much information the City has regarding potential industrial risks; asked what overlaps would exist with risk bonds and public health overlay zones.
- Councilor Zelenka – noted that the City has very little influence or authority on railways; stated that risk bonds are designed to hold businesses accountable in the event that they cause or create pollution; believes that risk bonds may be better suited at the state or federal level but thinks that the City can lead the work; believes that assessing the scale of harm and risk is the best place to start.

> **MOTION**: Councilor Zelenka, seconded by Councilor Keating, move to have the City Manager bring back a memo in the fall scoping out the issue, and an Request For Proposals for an approach and budget for a consultant to do the work, that would start small and limited to high potential harm sites, and phase-in medium and small sites, looking at: 1) the risks (amount & level & likelihood) of potential harm; 2) assess gaps in funding, rules, and regulations, for risk mitigation (and our legal ability to act); and 3) options to close the gaps.

- Councilor Semple – asked City Manager if there is enough time to complete the work in the motion on the table; stated concern for the amount of staff time the motion will take.
- Councilor Clark – asked staff to estimate the time and cost impact of the work outlined in the motion; is concerned about creating a new program when facing budget deficits.
- Councilor Zelenka – clarified that his motion is for information only.

VOTE: **PASSED 6:0**

- Councilor Semple – asked if it is possible to secure the former site of J.H. Baxter to protect the neighbors.

2. **WORK SESSION: Willamette River Greenway Code Amendments Overview**

Mayor Vinis introduced Principal Planner, Gabe Flock and Senior Planner, Jeff Gepper, who presented an overview of proposed Willamette River Greenway Code Amendments.

Councilor Discussion:

- Councilor Zelenka – asked if the Willamette Greenway prohibits all development in the Greenway; asked if this amendment would continue to allow limited development in the Greenway; asked if more housing would be allowed in the Greenway; asked if the amendment would change any existing zoning in the Greenway; asked if the amendment eliminates or enhances environmental protections for the Greenway; asked if a public hearing would be required for every application for development in the Greenway; asked if the dual tract option is available throughout the City or just within the Greenway; thinks these amendments are a positive enhancement.
- Councilor Keating – asked if a public hearing will be held for future development plans in the proposed University of Oregon land swap area; asked for an estimate of annual

Greenway permits approved and denied; asked who the hearings officials are for the permit process; asked how the elevation heights were determined; asked what the process would be to lower the heights outlined in the materials; asked what percentage of the South Hills area falls in the 500-900 feet range.

- Councilor Clark – asked if the proposed amendments is meant to simplify and clarify the clear and objective path; asked staff if the Willamette Greenway is part of the comprehensive metro plan; asked staff if the proposed amendments would conflict with the River Road Santa Clara Neighborhood Plan; asked the City Attorney if there is potential for conflict between the neighborhood plan and clear and objective code amendments.
- Councilor Leech – asked why an applicant would choose the clear and objective standard permit option over discretionary or subjective permit option.

Mayor Vinis adjourned the meeting at 1:37 p.m.

Respectfully submitted,

Katie LaSala
City Recorder

(Recorded by Sara McKinney)
Link to the webcast of this City Council meeting here.

EUGENE CITY COUNCIL
AGENDA ITEM SUMMARY

Approval of Tentative Working Agenda

Meeting Date: May 22, 2023
Department: Central Services
www.eugene-or.gov

Agenda Item Number: 4B
Staff Contact: Katie LaSala
Contact Telephone Number: 541-682-5010

ISSUE STATEMENT
This is a routine item to approve the City Council Tentative Working Agenda.

BACKGROUND
At each regular meeting of the Council, the City Manager shall present the Tentative Agenda. This shall be placed on the Consent Calendar. If there are any concerns about the items on the Tentative Agenda, it may be removed at the request of any councilors from the Consent Calendar and discussed separately.

COUNCIL OPTIONS
The council may choose to approve, amend or not approve the tentative agenda.

SUGGESTED MOTION
Move to approve the items on the Tentative Working Agenda.

ATTACHMENTS
A. City Council Tentative Working Agenda

FOR MORE INFORMATION
Staff Contact: Katie LaSala, City Recorder
Telephone: 541-682-5010
Staff E-Mail: klasala@eugene-or.gov

City Council Tentative Agenda

Updated May 17, 2023

City Council meetings will continue to be held using hybrid and virtual meeting technology. Materials and information about how to access these meetings will be available at https://www.eugene-or.gov/3360/Webcasts-and-Meeting-Materials.

May 2023					
Date	**Day**	**Time**	**Title**	**Length**	**Dept. Contact**
22-May	Monday	5:30 pm	Boards and Commissions Interviews	90 mins	Sara McKinney, CS
Expected Absences: Mayor Vinis				*Interview Location: Virtual & Council Chambers, Room 114*	
22-May	Monday	7:30 pm	Pledge of Allegiance in recognition of Memorial Day		
			Ceremonial Matters		
			Committee Reports and Items of Interest		
			Mims House Zone Change Application to Establish a Special Historic Zone (S-H) (Consent Calendar)		Joshua Hoff, PDD
			Affordable Housing Trust Fund Request for Proposals (Consent Calendar)		Laura Hammond, PDD
			Public Forum		
			Industrial Pretreatment Program Code Updates (Action)		Michelle Miranda, PW
			1059 Willamette Redevelopment - Timeline Update (Action)		Amanda D'Souza, PDD
Expected Absences: Mayor Vinis				*Location: Public via Virtual & Council Chambers, Room 114*	
24-May	Wednesday	12 pm	Revenue Committee - Scope of Services (Work Session)	45 mins	Twylla Miller, CS
			Prohibited Camping Code Amendments (Work Session, Possible Action)	45 mins	Kathryn Brotherton, CAO
					Work Session Location: Public via Virtual Only
24-May	Wednesday	5:30 pm	Budget Committee: Public Hearing and Deliberation (Budget Committee)		Staff, CS
					Budget Committee Location: Virtual Only

Work Session | Action | Public Hearing | Public Forum | Consent Calendar
Committee Reports/Items of Interest | Ceremonial Matters | Pledge of Allegiance

June 2023					
Date	**Day**	**Time**	**Title**	**Length**	**Dept. Contact**
12-June	Monday	5:30 pm	Downtown Urban Renewal Amendment (Work Session)	45 mins	Amanda D'Souza, PDD
			Topic Pending Confirmation (Work Session)	45 mins	
					Work Session Location: Public via Virtual Only
12-June	Monday	7:30 pm	Pledge of Allegiance in recognition of Flag Day		
			Ceremonial Matters		
			Committee Reports and Items of Interest		
			Public Forum		
			Boards and Commissions Appointments (Action)		Sara McKinney, CS
					Location: Public via Virtual & Council Chambers, Room 114
14-June	Wednesday	12 pm	Civilian Oversight Protocols (Work Session)	60 mins	Leia Pitcher, PA
					Work Session Location: Public via Virtual Only
20-June	***Tuesday***	5:30 pm	Ordinance Adopting Hazardous Substance User Fees (Public Hearing)		Mark Dahl, ESF
			Updates Regarding Building Code Administration (Public Hearing)		Mark Whitmill, PDD
			Willamette River Greenway Code Amendments (CA 22-1) (Public Hearing)		Gabe Flock, PDD
					Location: Public via Virtual & Council Chambers, Room 114
21-June	Wednesday	12 pm	Downtown Urban Renewal (Work Session, Possible Action)	45 mins	Amanda D'Souza, PDD
			Revenue Committee (Work Session)	45 mins	Twylla Miller, CS
					Location: Public via Virtual Only
26-June	Monday	5:30 pm	Renter Protections, Phase 2 (Work Session)	90 mins	Amy Cameron, PDD
					Work Session Location: Public via Virtual Only

26-June	Monday	7:30 pm	Pledge of Allegiance and Reading in recognition of Independence Day Committee Reports and Items of Interest Public Forum City of Eugene FY23 Supplemental Budget (Public Hearing and Action) City of Eugene 2023-2025 Biennial Budget Adoption (Public Hearing and Action) Urban Renewal Agency FY23 Supplemental Budget (Public Hearing and Action) Urban Renewal Agency 2023-2025 Biennial Budget Adoption (Public Hearing and Action)		Elizabeth Butterfield, CS Vicki Silvers, CS Elizabeth Butterfield, CS Vicki Silvers, CS
Location: Public via Virtual & Council Chambers, Room 114					
28-June	Wednesday	12 pm	Executive Session pursuant to ORS 192.660(2)(i) (Work Session) *Topic Pending Confirmation* (Work Session)	45 mins 45 mins	Staff Staff
Work Session Location: Public via Virtual Only					

Note: Council Break July 27 – September 9

UPCOMING PUBLIC HEARINGS			
Date/Time	Topic/Title	Description	Staff Contact
June 20, 5:30 pm	**Willamette River Greenway Code Amendments (CA 22-1)**	The City Council will hold a public hearing to consider Willamette River Greenway Code Amendments (CA 22-1). This public hearing will provide an opportunity for public comment on a set proposed land use code amendments intended to establish a clear and objective approval criteria for the review of housing development within the Willamette River Greenway. The proposed ordinance will be posted online: https://www.eugene-or.gov/1781/Proposed-Ordinances	Gabe Flock, PDD GFlock@eugene-or.gov 541-682-5697

June 20, 5:30 pm	**Updates Regarding Building Code Administration**	The City Council will hold a public hearing to consider Building Code Updates. The public hearing provides an opportunity for public comment on proposed changes to Eugene Code Chapter 8 that remove obsolete language and include updates that reflect changes to laws regarding local administration of state building codes. These updates are necessary to maintain the city's current level of regulation of building and structures. The proposed ordinance will be posted online: https://www.eugene-or.gov/1781/Proposed-Ordinances	Mark Whitmill, PDD MWhitmill@eugene-or.gov 541-682-5128
June 20, 5:30 pm	**Ordinance Adopting Hazardous Substance User Fees**	The City Council will hold a public hearing to consider an Ordinance Adopting Hazardous Substance User Fees. The public hearing provides an opportunity for public comment on the proposed hazardous substance user fee for FY24, which will be used to fund the Eugene Toxics Right-to-Know Program. The proposed ordinance will be posted online: https://www.eugene-or.gov/1781/Proposed-Ordinances	Mark Dahl, ESF MDahl@eugene-or.gov 541-682-8361

Approved Work Session Polls to be Scheduled	**Councilor**	**Date Approved**
Gas Stations – TBD	Keating	4/15/22
Bethel Area Plan – April 19, 2023. Follow-up work session to be scheduled.	Evans	7/22/22

EUGENE CITY COUNCIL
AGENDA ITEM SUMMARY

Initiation: Mims House Zone Change Application to Establish a Special Historic Zone (S-H)

Meeting Date: May 22, 2023
Department: Planning and Development
www.eugene-or.gov

Agenda Item Number: 4C
Staff Contact: Joshua Hoff
Contact Telephone Number: 541-682-5437

ISSUE STATEMENT
The City Council is asked to initiate the process to establish a Special Historic Zone for the Mims House property (located at 330, 334, and 336 High Street). Council initiation will allow the City to process and review the application for a Special Historic Zone. Initiation does not approve, or even indicate support for, establishment of the zone.

BACKGROUND
The applicants, Willie and Sally Mims (Mims Houses LLC) are requesting the establishment of a Special Historic Zone (S-H) for the Mims House property, located at 330, 334, and 336 High Street. The purpose of the S-H Special Historic Zone is to recognize areas possessing distinctive buildings or features that have significance for the community and require special consideration or implementation of conservation and development measures that cannot otherwise be achieved through application of the City's standard base zones.

The Mims House property is a City Historic Landmark and is on the National Register of Historic Places. The Mims House property actually contains two structures, the original Mims House, referred to as Mims House I, and a two-unit dwelling known as Mims House II. Establishment of a Special Historic Zone for the property will help ensure the long-term preservation of the Mims House property and continue the site's productive and historic role in the community. Most notably, the proposed S-H Special Historic Zone would permit a "Club and Lodge of State or National Organization" and "Community and Neighborhood Center" as additional permitted land uses on the property. The property is currently zoned R-2/20, Medium-Density Residential with a Residential Density Range Overlay Zone limiting the number of dwellings to 20 units per acre. Generally, the proposed S-H Special Historic Zone mirrors the development and lot standards in the R-2 Zone, except for standards regarding motor vehicle parking, lot area, and landscaping.

Council initiation is required to begin review of the application to establish the S-H Special Historic Zone using the City's Type V land use application procedures. Council's initiation of the Type V proceedings will only begin the public process through which the Planning Commission and City Council will consider the merits of the proposed Special Historic Zone; Council initiation of the process does not indicate that Council takes any position in support of or against the

request. More information about the proposal is included in the application materials at: https://pdd.eugene-or.gov/LandUse/SearchApplicationDocuments?file=Z-23-0001

PROCEDURAL SUMMARY
If the Council initiates the process to establish the proposed S-H Special Historic Zone, the application will follow the Type V procedures of the Eugene Code starting at EC 9.7500. Due to the site-specific establishment of a Special Historic zone, this is a quasi-judicial land use decision. The adoption process includes notice to interested parties. The initial public hearing will be conducted by the Planning Commission, who will provide a recommendation to City Council. A second public hearing will then be held by the City Council prior to deliberation and final action by the City Council. Council initiation only begins the process through which the Planning Commission and City Council will consider the proposal.

PREVIOUS COUNCIL DIRECTION
May 9, 2022 Council Meeting
MOTION AND VOTE: Councilor Syrett, seconded by Councilor Keating, moved to use up to $7,500 of Council contingency funds to pay the City application fees for the establishment of a special area zone, historic zone for the Mims property at High Street and Third Alley.
PASSED 8:0

COUNCIL OPTIONS
1. Initiate the process to establish an S-H Special Historic Zone for the Mims House property.
2. Decline to initiate the establish an S-H Special Historic Zone on the Mims House property.

CITY MANAGER'S RECOMMENDATION
The City Manager recommends the City Council initiate the process to establish an S-H Special Historic Zone for the Mims House property.

SUGGESTED MOTION
Move to initiate the process to establish an S-H Special Historic Zone for the Mims House property.

ATTACHMENTS
A. Vicinity Map

FOR MORE INFORMATION
Staff Contact: Joshua Hoff, Associate Planner
Telephone: 541-682-5437
Staff E-Mail: JHoff@eugene-or.gov

Mims House Zone Change

City File: Z 23-1

Attachment A

Proposed Special Historic Zone

Taxlots

Eugene UGB

Caution: This map is based on imprecise source data, subject to change, and for general reference only.

Created on 5/8/2023
by City of Eugene Planning Division

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NORTH

EUGENE CITY COUNCIL
AGENDA ITEM SUMMARY

Approval of Resources for Housing Affordable To Low- and Moderate-Income Persons

Meeting Date: May 22, 2023
Department: Planning and Development
www.eugene-or.gov

Agenda Item Number: 4D
Staff Contact: Laura Hammond
Contact Telephone Number: 541-682-5502

ISSUE STATEMENT

Council is asked to approve the funds for three proposals submitted in response to the 2023 Affordable Housing Trust Fund Request for Proposals (RFP). The proposals recommended for funding are: 1) Grant Street Grow Homes by Cultivate Inc, new construction of 4 owner-occupied homes for low-income households; 2) Bridges on Broadway by Homes for Good, adaptive reuse of an existing building for 56 units of Permanent Supportive Housing (PSH) for people experiencing homelessness, and 3) The Coleman by Homes for Good, new construction of 38 units of PSH for people with conviction histories. Together these will create 98 new Affordable Housing units.

BACKGROUND

On April 8, 2019, Council passed Ordinance No. 20609 establishing a local Construction Excise Tax (CET) to provide a dedicated source of funding for Affordable Housing in Eugene. Funds generated by the CET go into the City's Affordable Housing Trust Fund (AHTF). The AHTF supports local housing related programs, incentives and services for households earning 100% of area median income and below. Attachment A provides an informational flyer on the AHTF and Frequently Asked Questions (FAQs) related to the CET.

Funding accrued in the AHTF in one fiscal year is made available for spending in the next fiscal year. The total amount in the AHTF for use in FY23 was $1,674,377 (which includes FY22 collected CET, remaining funds from prior years and Council's contribution of General Funds from the December 2021 Supplemental Budget).

In January 2022, Council approved the Housing Implementation Pipeline (HIP) which modeled the annual AHTF allocation with 75% of AHTF funds dedicated to development of permanent housing and 25% dedicated to direct assistance to renters and homeowners (minus project delivery administration). The FY23 allocation for development projects offered through the RFP process was $1,257,612. The amount requested by the proposals received through the RFP was $380,000 more than the amount of AHTF funds available.

2023 RFP Process
In the fall of 2022, the AHTF Advisory Committee (Advisory Committee) reviewed and discussed RFP criteria which was finalized in December 2022. The FY23 RFP included rental and homeownership as eligible development types and focused on innovations in design, financing, and management. The RFP was released to the public in January 2023 and was open for eight weeks. Four development proposals were received through the RFP in March 2023. One proposal, 22nd Avenue Townhomes by Habitat for Humanity, was withdrawn in April. Proposals were posted on the City website and the public comment opportunity notification was sent to interested parties and shared via City channels. A map of the proposed developments is in Attachment B.

The proposals were reviewed in April by staff and the Evaluation Committee, a sub-committee of the Advisory Committee. The full Advisory Committee then considered the proposals and made a recommendation to staff on April 27, 2023. Council makes the final funding decisions.

Summary of Proposals
The following summary of proposals are presented in order of their scores by the Evaluation Committee. See Attachments C-E for additional information about each proposal.

Grant Street Grow Homes
Cultivate Inc. proposes constructing four new homeownership homes at 1930 Grant Avenue, in the Far West Neighborhood. The four new homes would be built in the backyard area of an existing home and would be available for purchase by households earning between 61% to 80% of Area Median Income (AMI). Three of the new homes would be one bedroom, one-bathroom homes with ability to 'grow' to become three-bedroom, two-bathroom homes in the future. The plumbing and electrical systems will be built into upstairs space allowing for expansion and finishing by future owners. The fourth home will be a ground level only home and will be fully accessible under the Americans with Disabilities Act (ADA). The development would be affirmatively marketed to households of color, specifically Latino/a households. The homes would be sold with deed restrictions and a third-party nonprofit steward will ensure affordability and income-limits are met at sale.

The project is estimated to cost approximately $1.1 million. The AHTF request of $380,000 is approximately 34% of the cost with the remaining resources to be leveraged from other sources, primarily social impact investors. If financing is secured, the developer anticipates that construction would start in early 2024 and occupancy would occur by 2025.

Bridges on Broadway
Homes for Good Housing Agency proposes to convert the four story, 50-room former Red Lion Hotel, located at 599 East Broadway in downtown Eugene, into a 56-unit Permanent Supportive Housing (PSH) apartment community serving people experiencing chronic homelessness, including individuals with severe and persistent mental illness and/or substance use disorder. One additional unit will be reserved for an onsite manager, 14 units will be restricted to households with incomes at or below 30% AMI and 42 units will be restricted to households at or below 50% AMI. Six units will be fully ADA accessible. All residents will receive project-based vouchers as rental assistance so they will only pay 30% of their income on rent. Services will be provided to residents.

The total project cost is approximately $10.9 million. The AHTF request of $500,000 is approximately 5% of the development cost. Homes for Good has already secured project-based vouchers and Lane County will donate the property. They are currently applying for State PSH funding from Oregon Housing and Community Services (OHCS). If financing is secured, the developer anticipates that, construction would start in May 2024 with occupancy in the Spring of 2025.

<u>The Coleman</u>
Homes for Good proposes to build a new, mixed-use three-story building at the northeast corner of Highway 99 and Roosevelt Blvd that will include 38 units of PSH for people with conviction histories. The development will include eight studio and 30 one-bedroom units, and two of the units will be ADA accessible. All residents will be referred to the development from Sponsor's Transitional Housing program. Ten units will be income restricted for residents at or below 50% AMI, and the remaining 28 units will be income restricted at or below 60% AMI. Homes for Good intends to use project-based rent assistance vouchers for a portion of the units (10) which would limit rent costs to 30% of the resident's income. Homes for Good will partner with Lane County and Sponsors, Inc. on the development and services.

The total project cost is approximately $19.2 million. The AHTF request of $757,612 is approximately 4% of the development cost. Lane County will provide the site and Homes for Good is applying for several funding sources including state 4% Low Income Housing Tax Credits (LIHTC), OHCS Small Projects funds and Congressionally Directed Spending. Council awarded HOME funds to the project in 2022, but Homes for Good withdrew from the award to instead use the funds for their Naval Reserve Apartments and Early Learning Center project (now called Ollie Court). If financing is secured, the developer anticipates that construction would start in May 2024 and occupancy would begin in the Spring of 2025.

Public Comment on Proposals
Public comment on the proposals was submitted in writing and verbally at the Evaluation Committee and full Advisory Committee meetings. Comments included support for the proposed projects or specific projects as well as community concerns. All concerns were related to the Grant Street Grow Homes proposal and the potential impact of having four additional housing units in the Grant Street area including on-street parking, traffic, and property values. Other comments specific to the Grant Street proposal supported the creation of additional Affordable Housing options and the opportunity to expand and diversify Affordable Homeownership.

Evaluation Committee Scoring and Advisory Committee Recommendation
The Evaluation Committee scored the proposals in April 2023 according to the RFP criteria within the following criteria categories: 1) project concept and design, 2) site feasibility, 3) income qualified population and services, 4) cost benefit, 5) financial feasibility, and 6) organizational experience and performance.

The Evaluation Committee discussed the proposals with the full Advisory Committee on April 27, 2023. The Advisory Committee recommended funding all three development proposals. The list of Advisory Committee members and their recommendation is included in Attachment F.

Funding All Three Proposals
All three proposals for 2023 AHTF development funding scored highly and within one to two points of each other. Council has $1,257,612 in AHTF resources available for Affordable Housing development and the total request of the three projects was $380,000 more than the amount of AHTF funds available. Additional City resources are also available for the project proposals including City Fee Assistance, which could cover Systems Development Charges (SDCs) and building permit fees. Adding the City Fee Assistance subsidy reduces the amount of AHTF needed by each project. Using this combination of City funds would allow all three projects to receive the City resources they have requested.

Based on the City Fee Assistance needs for each project proposal, the following uses are proposed for the total AHTF available.

Project	AHTF	City Fee Assistance[1]	Total City Award
Grant Street Grow Homes	$321,528	$58,472	$380,000
Bridges on Broadway	$383,434	$173,590	$557,024
The Coleman	$552,650	$470,847	$1,023,497
Total	**$1,257,612**	**$702,909**	**$1,960,521**

1. City Fee Assistance for the purposes of this table includes SDC exemptions.

RELATED CITY POLICIES
Housing Implementation Pipeline (HIP)
The HIP units pipeline estimated the AHTF could support the creation of approximately 320 income-qualified units including 220 rental units and 125 homeownership units for low- and moderate-income households that would be occupied during the 5-year Housing Implementation Pipeline period. To date, $1.3 million from AHTF has leveraged more than $14 million to support the creation of 80 new affordable homes in Eugene (70 homeownership, 10 rental). The projects proposed for funding in the 2023 RFP would receive $1.2 million in AHTF investment to support an additional 98 affordable homes (4 homeownership, 94 rental/PSH).

PREVIOUS COUNCIL DIRECTION
April 8, 2019 Meeting
Council approved the Construction Excise Tax ordinance. MOTION AND VOTE: Move to adopt an ordinance concerning the imposition of a construction excise tax on commercial and residential improvements consistent with the City Manager's recommendation of December, 2018. That recommendation being the ordinance in council's packet with the following change: replace "From July 1, 2020 through June 30, 2021:" in EC 3.732(1)(b) and (2)(b) with "Beginning July 1, 2020:" and delete EC 3.732(1)(c) and (2)(c).
PASSED 5:3

January 24, 2022 Work Session

Council approved the Housing Implementation Pipeline (HIP) document, a 5-year internal work plan to coordinate current and future housing resources, goals. MOTION AND VOTE: Councilor Syrett, seconded by Councilor Keating, moved to approve the Housing Implementation Pipeline. PASSED 6:0

May 23, 2022 Meeting
Council approved the use of 2022 AHTF development funds and carried forward remaining dollars to the FY23 RFP. MOTION AND VOTE: Councilor Syrett, seconded by Councilor Keating, moved to approve the use of $670,000 of Affordable Housing Trust Funds for Peace Village by SquareOne Villages and $350,000 of Affordable Housing Trust Funds for Green Lane Veteran's Housing by Saint Vincent De Paul of Lane County, and to allocate the remaining $91,000 of the FY22 Affordable Housing Trust Funds to the 2023 Request for Proposals.
PASSED 8:0

COUNCIL OPTIONS
The City Council has three options:
1. Approve the use of FY23 Affordable Housing Trust Funds for Grant Street Grow Homes by Cultivate Inc ($321,528), Bridges on Broadway by Homes for Good ($383,434) and The Coleman by Homes for Good ($552,650).
2. Give alternate direction with specific modifications for funding.
3. Decline to approve funding.

CITY MANAGER'S RECOMMENDATION
The City Manager recommends Council select option 1.

SUGGESTED MOTION
Move to approve the use of $321,528 of Affordable Housing Trust Funds for Grant Street Grow Homes by Cultivate Inc, $383,434 of Affordable Housing Trust Funds for Bridges on Broadway by Homes for Good, and $552,650 of Affordable Housing Trust Funds for The Coleman by Homes for Good.

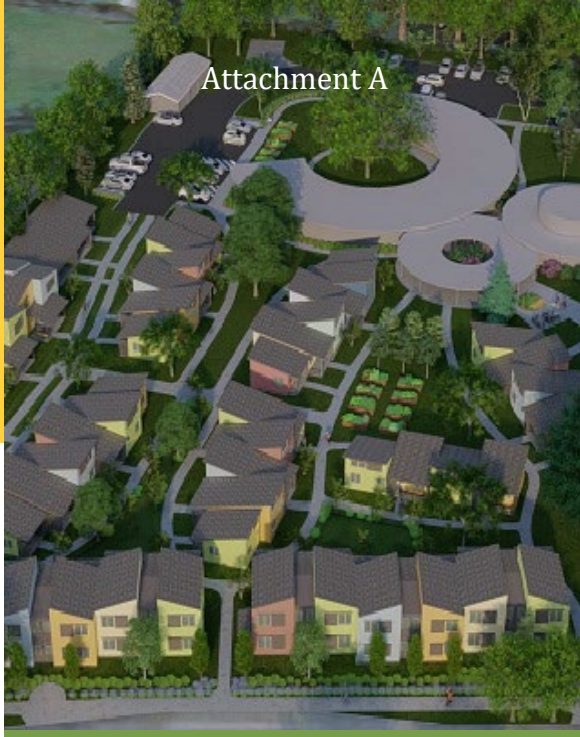
ATTACHMENTS
A. Informational Flyer on AHTF and FAQs on CET
B. Map of 2023 AHTF development proposals
C. Summary of Grant Street Grow Homes
D. Summary of Bridges on Broadway
E. Summary of The Coleman
F. Membership of Affordable Housing Trust Fund Advisory Committee & Recommendation

FOR MORE INFORMATION

Staff Contact: Laura Hammond, Housing Tools Analyst
Telephone: 541-682-5502
Staff E-Mail: LHammond@eugene-or.gov

City of Eugene
Affordable Housing Trust Fund (AHTF)

Fact Sheet



Investing in Affordable Housing

A dedicated source of funding for affordable housing in Eugene

Eugene's AHTF pays for projects and programs that increase availability and access to owner and renter occupied housing that is affordable to middle- and low-income community members.

The AHTF is funded by a local Construction Excise Tax (CET). The Eugene City Council passed Ordinance No. 20609 establishing the CET for affordable housing in 2019. The CET collects 0.5% on the construction of new structures and additions to existing structures in Eugene.

The Ordinance also created a community member advisory committee to advise City staff on the use of the AHTF.

CET revenue changes from year to year based on demand for construction. The City Council also makes annual general fund contributions to the AHTF.

	CET	Council General Fund	Total AHTF
FY21	$300,000	$500,000	$800,000
FY22	$1,140,000	$500,000	$1,640,000

Most of the AHTF (75%) goes toward housing development; 25% goes toward direct assistance to renters and homeowners to help increase access to housing.

AHTF Highlights 2020 – 2022

- **$1.3 million from AHTF will leverage more than $14 million to support new affordable housing in Eugene**
- **Supporting creation of 70 new owner-occupied tiny homes and 10 supportive units for Veterans exiting homelessness**
- **Kept over 100 local families and individuals in their homes in the wake of the pandemic with rental assistance and foreclosure prevention funds**

AHTF Funded Projects

- **Peace Village – 70 owner-occupied tiny homes**
- **Green Lane Veteran's Housing** – 10 transitional units and services for homeless Veterans
- **Rental assistance** – 93 households assisted
- **Foreclosure prevention** –13 households (33 people) assisted to avoid foreclosure and keep housing
- **Homeownership assistance** – starting in 2022, down payment assistance affirmatively marketed to Black, Indigenous and People of Color
- **Rental access/support** – starting in 2022, supporting tenant hotline and rental housing navigation services

Learn more at: eugene-or.gov/affordablehousingfund

Construction Excise Tax

What Is the Construction Excise Tax?

In 2016, Oregon Legislature passed Senate Bill 1533 authorizing Oregon cities and counties to establish a construction excise tax (CET). In May of 2019, the Eugene City Council passed Ordinance 20609 establishing the tax in Eugene. The tax will create a dedicated source of funding for affordable housing. The law authorizes a city or county to tax new residential and commercial buildings, additions, and alterations. Specifically, it applies to all improvements which result in a new structure, additional square footage to an existing structure, or addition of living space to an existing structure.

Why is this tax needed?

Eugene City Council and State Legislature both recognize traditional funding sources for affordable housing – especially federal sources- have declined. Because of this decline, our community has fallen far behind in meeting the housing needs of Eugene residents with limited incomes. The money collected from the CET will be put into the Affordable Housing Trust Fund. This fund will provide critical funding and is one part of a larger effort to help address the housing challenge.

What does the CET pay for?

Money collected from the CET will go into the Affordable Housing Fund, which will pay for projects and programs that increase availability and access to owner- and renter-occupied housing that is affordable to lower income community members. Examples of how these funds may be used include:

- Gap financing for the development of new affordable housing
- Acquisition of existing housing that will become affordable
- Acquisition of land for future affordable housing development
- Down payment assistance for home buyers
- Rental or security deposit assistance forpeople who rent their homes.

CET resources will be used to supplement the limited federal resources that support the City's existing federal affordable housing programs. Revenues will be allocated to fund projects, programs, incentives, and services related to the housing of households earning 100% of area medium income and below, and in accordance with state law.

The Affordable Housing Trust Fund Advisory Committee advises staff on the use of Affordable Housing Trust Funds resources. The CET went into effect July 1, 2019. Funds were allocated to housing programs and projects starting in 2020.

Who needs to pay and when?

The CET is required to be paid by the developer or property owner who is developing property within Eugene city limits. The CET applies to certain improvements to property that result in additional square footage or improvements which create additional living space. The CET is paid when the permit is issued.

Who is exempt from paying the CET?

The following are exempt from the CET:

- Private school improvements
- Public improvements as defined in ORS 279A.010
- Residential housing that is guaranteed to be affordable to households that earn no more than 80% of the median household income for a period of at least 20 years following the date of construction
- Public or private hospital improvements
- Improvements to religious facilities primarily used for worship or education associated with worship

- Agricultural building as defined by ORS 455.315
- Long term care facilities operated by a not-for- profit corporation, as defined in ORS 442.015
- Residential care facilities operated by a not- for-profit corporation, as defined in ORS 443.400
- Facilities for people experiencing homelessness, including but not limited to transitional housing and shelters.
- Continuing care retirement communities operated by a not-for-profit corporation, as defined in ORS 101.020
- Residential dwellings sold for $250,000 or less
- Housing for low-income persons that is exempt, or is eligible to be exempt, from systems development charges (SDCs) pursuant to section 7.725c
- Projects granted a multi-unit property tax exemption (MUPTE) by the city.
- Residential housing being constructed on a lot or parcel of land to replace residential housing on the lot or parcel of land that was destroyed or damaged by wildfire or another event or circumstance that is the basis for a state of emergency declared under ORS 401.165 or 401.309 or for the exercise of authority under ORS 476.510 to 476.610.

To demonstrate a project is exempt from the CET a Construction Excise Tax Exemption Form must be completed, signed, and submitted with the building permit application identifying what exemptions are applicable to the project.

How much is the CET?

The CET is 0.5% of the value of permitted work for improvements which result in a new structure, additional square footage to an existing structure, or addition of living space to an existing structure.

How long is the CET active?

Based on legislation adopted in 2016, the City can continue levying the tax for an indefinite amount of time. Eugene City Council will review the overall management and outcomes of the program every two years.

Whom can I contact for more information?

If you have additional questions, you may contact the City of Eugene's Building and Permit Services by phone: (541) 682-5086.

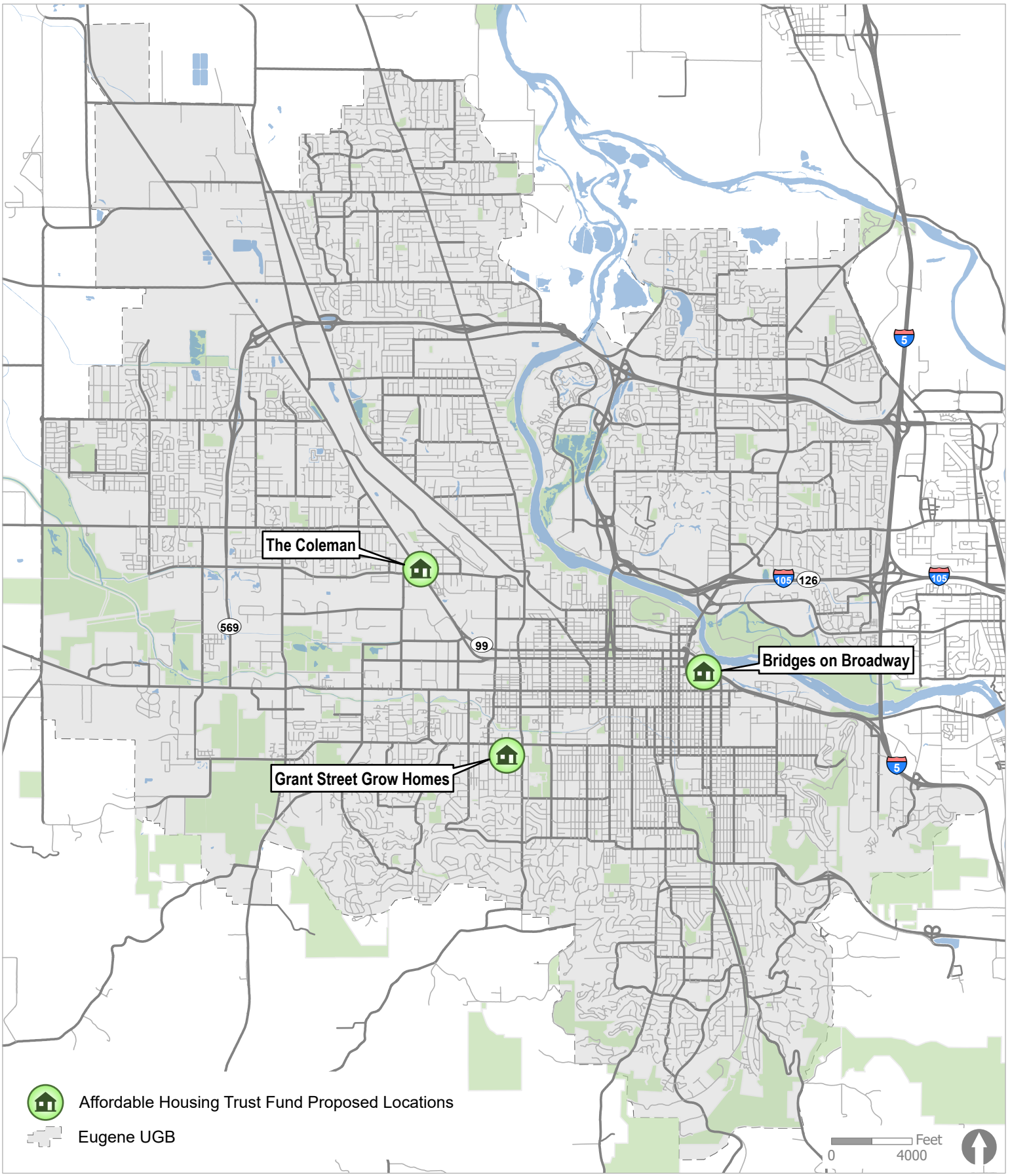
Additional information on the affordable housing programs and the advisory committee can be found at: eugene-or.gov/affordablehousingtrustfund

What is "affordable housing" and how can I learn more about City affordable housing programs and resources?

Across the United States, housing costs are considered "affordable" if the monthly rent or mortgage, plus utilities, add up to no more than one-third (or 30%) of gross household earnings. Affordable housing developments receive public subsidies in exchange for a commitment to provide homes with limited rents for people with limited incomes.

The City of Eugene has supported the creation of affordable housing using both federal and local funds for over 40 years.

2023 Affordable Housing Trust Fund Proposed Locations



Caution: This map is based on imprecise source data, subject to change, and for general reference only.

City of Eugene, PDD
4/7/2023

SR2303_0976

Affordable Housing Trust Fund 2023 Request for Proposals

Grant Street Grow Homes

Cultivate Inc.

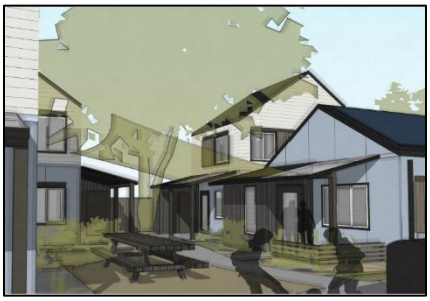
1930 Grant Street

- New construction proposal
- Four units, with a total of four bedrooms: Three one-bedroom units with upstairs that can be finished by owner to become three-bedroom units; one ADA accessible one-bedroom unit
- Middle housing type development in backyard of existing home
- Uses fee-simple, homeownership model; includes deed restrictions and a third-party nonprofit steward to ensure affordability and income-limits at sale

- Would assist low-income homeowners; Eligible buyers earn between 61-80% Area Median Income (AMI)
- Affirmatively marketed to Latino/a households
- Lower cost homeownership opportunities help address historic and systemic disparities that continue to limit homeownership opportunities for people of color in Eugene and further widen the racial wealth gap.

- AHTF funds requested $380,000
- Total development cost: $1,107,709
- Cost per unit: $276,927
- Cost per bedroom: $276,927
- Other proposed funding sources: Social impact investors, Eugene City Fee Assistance

- Construction is anticipated to begin by May 2024



Affordable Housing Trust Fund 2023 Request for Proposals

Bridges on Broadway

Homes for Good Housing Agency

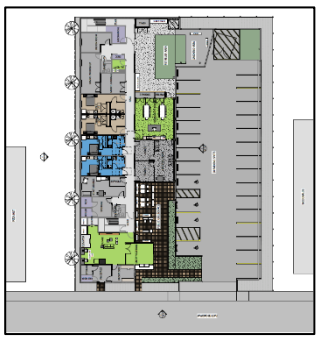
599 East Broadway

- Adaptive reuse of an existing building proposal
- 56 studio units of permanent supportive housing (PSH), one manager unit; six units ADA accessible
- Four story former hotel, will include common space, supportive service offices, a community room, management offices, a public restroom, laundry facilities on each floor, green space, a pet relief area, and bike storage
- On-site resident services provided, including case management

- 14 units will be for households with incomes at or below 30% AMI and 42 units will be for households at or below 50% AMI.
- All residents will receive project-based vouchers as rental assistance so they will only pay 30% of their income on rent
- Will serve people experiencing chronic homelessness, including individuals with severe and persistent mental illness and/or substance use disorder
- On-site services will help residents maintain stable housing, access needed health and mental health services, connect to benefits, and help residents increase or maintain their income

- AHTF funds requested $500,000
- Total development cost: $10,907,024
- Cost per unit: $191,351
- Cost per bedroom: $191,351
- Other proposed funding sources: Oregon Housing and Community Services PSH funding, Eugene City Fee Assistance

- Construction anticipated to begin by May 2024



Affordable Housing Trust Fund 2023 Request for Proposals

The Coleman

Homes for Good Housing Agency

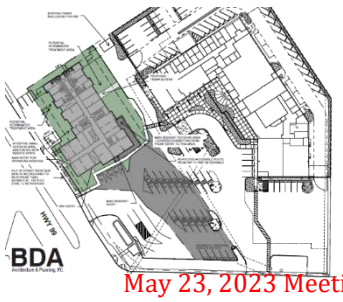
Hwy 99 and Roosevelt Blvd

- New mixed-use construction proposal
- 38 units with total of 38 bedrooms of permanent supportive housing: 8 studio and 30 one-bedroom units; two ADA accessible units
- Three-story building will include bike storage on each floor, a residential common area on the first floor with community room and kitchen, a laundry, and a fitness room; one wing will provide office space, a meeting room and space for the relocated Sponsors' Re-entry Resource Center
- On-site resident services provided, including case management

- Ten units will be for households with incomes at or below 50% AMI, 28 units will be for households with incomes at or below 60% AMI
- Ten units will have project-based vouchers as rental assistance so they will only pay 30% of their income on rent
- Will serve people with conviction histories
- Residents will receive individualized, regularly scheduled case management, and have access to behavioral health services, therapy groups, training and classes, and employment support.

- AHTF funds requested $757,612
- Total development cost: $19,256,200
- Cost per unit: $506,742
- Cost per bedroom: $506,742
- Other proposed funding sources: 4% Low Income Housing Tax Credits (LIHTC), Oregon Housing and Community Services Small Projects funds, Congressionally Directed Spending funds; Eugene City Fee Assistance, bank loan
- Council awarded HOME funds to the project in 2022, but Homes for Good withdrew from the award to instead use the funds for their Naval Reserve Apartments and Early Learning Center project (now called Ollie Court).

- Construction anticipated to begin by May 2024



Affordable Housing Trust Fund Advisory Committee Membership & FY23 Recommendation

John Barofsky^

Ibrahim Coulibaly

Isaac Judd

Pete Knox*

Kaarin Knudson*

Jason Lear (Chair)

Sarah Pishioneri^

Carmel Perez Snyder*^

Jennifer Volem

*Members of the Evaluation Committee for the 2023 AHTF RFP.
^Not present at the meeting April 27, 2023.

Recommendation to staff on April 27, 2023
The Affordable Housing Trust Fund (AHTF) Advisory Committee passed motions to:

1. Recommend that $321,528 of AHTF be used to support Grant Street Grow Homes by Cultivate Inc, $383,434 of AHTF be used to support Bridges on Broadway by Homes for Good, and $552,650 of AHTF be used to support The Coleman by Homes for Good.

2. Support the use of System Development Charge (SDC) Assistance and City Fee Assistance for affordable housing for the three projects that applied for 2023 AHTF development funding to cover SDC and building permit fees for the projects.

EUGENE CITY COUNCIL
AGENDA ITEM SUMMARY

Public Forum

Meeting Date: May 22, 2023
Department: Central Services
www.eugene-or.gov

Agenda Item Number: 5
Staff Contact: Ellie Harwell
Contact Telephone Number: 541-682-8497

ISSUE STATEMENT

This item allows members of the public the opportunity to express opinions and provide information to the council. Testimony presented during the Public Forum should be on city-related issues and should not address items which have already been heard by a Hearings Official, items on the present agenda as a public hearing item, or items related to a quasi-judicial matter after the official record has been closed.

BACKGROUND

Per City Council's operating agreement pilots initially approved by Council in January 2020, speakers at the Public Forum will be limited to two and a half minutes and the Public Forum will be limited to 90 minutes total. Speakers will be randomized, and no persons will be allowed to submit a "Request to Speak" form 30 minutes prior to the start of the meeting. Persons wishing to speak must sign up to do so not later than 5 minutes after the meeting has been opened by the Mayor or presiding officer.

At the end of the Public Forum each member of the Council has the opportunity to respond to comments made during the Public Forum. The time allocated to each member of the Council for such responses shall be up to three minutes.

FOR MORE INFORMATION

Staff Contact: Ellie Harwell, City Council Coordinator
Telephone: 541-682-8497
Staff E-Mail: eharwell@eugene-or.gov

EUGENE CITY COUNCIL
AGENDA ITEM SUMMARY

Action: An Ordinance Concerning The Industrial Pretreatment Program; Repealing Sections 6.501, 6.506, 6.511, 6.516, 6.521, 6.526, 6.531, 6.536, 6.541, 6.546, 6.551, 6.556, 6.561, 6.566, 6.571, 6.576, 6.581, 6.586, 6.591 And 6.596 Of The Eugene Code, 1971; Adding Sections 6.550, 6.552, 6.554, 6.556, 6.560, 6.562, 6.564, 6.566, 6.568, 6.570, 6.572, 6.574, 6.576, 6.578, 6.580, 6.582 And 6.584 To That Code; And Providing For An Immediate Effective Date.

Meeting Date: May 22, 2023 | Agenda Item Number: 6
Department: Public Works, Wastewater Division | Staff Contact: Michelle Miranda
www.eugene-or.gov | Contact Telephone Number: 541-682-8615

ISSUE STATEMENT

In November 2022, the Oregon Department of Environmental Quality (OR-DEQ) issued a revised National Pollutant Discharge Elimination System (NPDES) Waste Discharge Permit to the Metropolitan Wastewater Management Commission (MWMC). The last revision to this permit occurred in 2002. The permit requires amendments to sections of the Eugene Code related to use of the municipal wastewater sewer system and treatment plant by industrial and commercial users. Staff provided council with information about the Industrial Pretreatment Program, and amendments of the sections of Eugene Code 6.501 – 6.596 at their work session on April 26. A public hearing was held on May 15 to provide an opportunity for community input on the proposed amendments. No one testified at the public hearing.

BACKGROUND

Established as part of the Clean Water Act, the National Pretreatment Program is a cooperative effort of federal, state, and local regulatory agencies established to protect public health, wastewater infrastructure, and water quality. The local pretreatment program was first established in 1984 and has been very effective in protecting the health of the community and the environment, and specifically the Willamette River. The program regulates wastewater discharged by industries and other non-domestic sources into the municipal wastewater sewer systems. Oregon Revised Statutes stipulates that municipal wastewater treatment plants must implement an Industrial Pretreatment Program that meets the requirements outlined in the Federal Code of Regulations (CFR) 403 and Schedule E of the NPDES permit. The Industrial Pretreatment Program sets restrictions on what industrial and commercial facilities can discharge to the municipal wastewater sewer system and treatment plant. These restrictions, or Local Limits, are developed to protect operations and ensure compliance with federal, state, and local requirements.

The rules governing the Industrial Pretreatment Program appear in Eugene Code 6.501 – 6.596 &

6.995 and were last amended in 1997. In December of 2022, the MWMC submitted a revised Model Pretreatment Ordinance, along with uniform City Ordinances from the City of Eugene and the City of Springfield. The MWMC received conditional approval by OR-DEQ for these submittals in February 2023. A public notice process pursuant ended on March 31, 2023. A Public Hearing was conducted by the MWMC on April 14, 2023, and the Model Pretreatment Ordinance was approved by Resolution 23-07. The proposed amendments update the code with current federal and state requirements, and satisfy requirements included in MWMC's NPDES Waste Discharge Permit. The City Council held a work session to consider the ordinance on April 26 and held a public hearing on the ordinance on May 15. No one testified at the public hearing.

COUNCIL OPTIONS

1. Adopt the ordinance as proposed in Attachment A to this Agenda Item Summary.
2. Direct the City Manager to bring the ordinance back for City Council consideration with specific modifications as specified by the City Council.
3. Take no action.

CITY MANAGER'S RECOMMENDATION

The City Manager recommends adoption of the Ordinance as provided in Attachment A to this AIS.

SUGGESTED MOTION

Move to adopt the Ordinance Amending Sections 6.501 – 6.596 of the Eugene Code, 1971, Updating the Industrial Pretreatment Program, as provided in Attachment A to this AIS.

ATTACHMENTS

A. An Ordinance Concerning The Industrial Pretreatment Program; Repealing Sections 6.501, 6.506, 6.511, 6.516, 6.521, 6.526, 6.531, 6.536, 6.541, 6.546, 6.551, 6.556, 6.561, 6.566, 6.571, 6.576, 6.581, 6.586, 6.591 And 6.596 Of The Eugene Code, 1971; Adding Sections 6.550, 6.552, 6.554, 6.556, 6.560, 6.562, 6.564, 6.566, 6.568, 6.570, 6.572, 6.574, 6.576, 6.578, 6.580, 6.582 And 6.584 To That Code; And Providing For An Immediate Effective Date.
B. Eugene Code sections to be repealed by Section 1 of the Ordinance.

FOR MORE INFORMATION

Staff Contact: Michelle Miranda, Wastewater Division Director
Telephone: 541-682-8615
Staff E-Mail: MMiranda@eugene-or.gov

ORDINANCE NO. _____

AN ORDINANCE CONCERNING THE INDUSTRIAL PRETREATMENT PROGRAM; REPEALING SECTIONS 6.501, 6.506, 6.511, 6.516, 6.521, 6.526, 6.531, 6.536, 6.541, 6.546, 6.551, 6.556, 6.561, 6.566, 6.571, 6.576, 6.581, 6.586, 6.591 AND 6.596 OF THE EUGENE CODE, 1971; ADDING SECTIONS 6.550, 6.552, 6.554, 6.556, 6.560, 6.562, 6.564, 6.566, 6.568, 6.570, 6.572, 6.574, 6.576, 6.578, 6.580, 6.582 AND 6.584 TO THAT CODE; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Sections 6.501, 6.506, 6.511, 6.516, 6.521, 6.526, 6.531, 6.536, 6.541, 6.546, 6.551, 6.556, 6.561, 6.566, 6.571, 6.576, 6.581, 6.586, 6.591, and 6.596 of the Eugene Code, 1971, are repealed.

Section 2. Sections 6.550, 6.552, 6.554, 6.556, 6.560, 6.562, 6.564, 6.566, 6.568, 6.570, 6.572, 6.574, 6.576, 6.578, 6.580, 6.582, and 6.584 of the Eugene Code, 1971, attached as Exhibit A to this Ordinance are added.

Section 3. The City Recorder, at the request of, or with the consent of the City Attorney, is authorized to administratively correct any reference errors contained herein, or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

Section 4. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 5. To ensure there is no lapse in the City's compliance with the federal Clean Water Act It is necessary for this Ordinance to take effect concurrently with the Oregon Department of Environmental Quality's final approval of it, which could occur within the thirty days described in Section 32(1) of the Eugene Charter of 2002. Therefore, pursuant to the provisions of Section 32(2) of the Eugene Charter 2002, with the affirmative vote of two-thirds of the

members of the City Council, this Ordinance shall become effective on the date the Oregon Department of Environmental Quality grants it final approval,

Passed by the City Council this

___ day of _____, 2023

_____
City Recorder

Approved by the Mayor this

____ day of _____, 2023

_____
Mayor

INDUSTRIAL PRETREATMENT PROGRAM

6.550 Industrial Pretreatment Program — General Provisions.

(1) Purpose and Policy. EC 6.550 to 6.586 set forth uniform requirements for Users of the Publicly Owned Treatment Works for the City and enables the City to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code U.S.C. section 1251 et seq.), and the regulations promulgated pursuant to the Clean Water Act, including but not limited to, and the General Pretreatment Regulations (Title 40 of the *Code of Federal Regulations* CFR Part 403)and National Categorical Pretreatment Standards (40 CFR Chapter 1 Subchapter N).

(a) The objectives of EC 6.550 to 6.586 are:

1. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with the operation of the system or contaminate the resulting sludge;

2. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works;

3. To protect both Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

4. To promote reuse and recycling of industrial wastewater and sludge from the Publicly Owned Treatment Works; and

5. To enable the City to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the Publicly Owned Treatment Works is subject.

(b) In achieving the objectives of EC 6.550 to 6.586, it shall be the policy of the City to actively support the community's commerce and industry through accommodation, assistance and cooperation consistent with the City's responsibility to protect the waters of the state from pollution and to secure the health, safety and welfare of the residents of the metropolitan area.

(c) Pollutants shall be accepted into the Publicly Owned Treatment Works subject to regulations and requirements as may be promulgated by state and federal regulatory agencies or the City for the protection of sewerage facilities and treatment processes, public health and safety, receiving water quality and avoidance of nuisance.

(d) The City, in carrying out the provisions of EC 6.550 to 6.586 regarding industrial discharge of pollutants by Users into the Publicly Owned Treatment Works necessary for the proper disposal of sewage and drainage from the City and adjacent territory, is further

authorized, in its administrative discretion, to adopt and to promulgate as regulations any laws of the state or the federal government.

(e) Discharge permit conditions shall be predicated on federal, state and local regulations and requirements and on the results of analysis of the type, concentration, quantity and frequency of discharge including the geographical relationship of the point of discharge to sewerage and treatment facilities. Discharge permit conditions shall be reevaluated upon expiration of the permit and may be revised by the City Manager as required, to remain consistent with local, state or federal laws, regulations and requirements or to meet any emergency.

(f) Discharge permits may include, but shall not be limited to, conditions pertaining to discharge standards, self-monitoring requirements, treatment methods, housekeeping practices, inventory storage, manufacturing methods, etc., that are intended to protect the waters of the state.

(2) Applicability. EC 6.550 to 6.586 shall apply to all persons within the City of Eugene, and to all Users of the Publicly Owned Treatment Works. EC 6.550 to 6.586 authorize the issuance of individual wastewater discharge permits; provide for monitoring, compliance, and enforcement activities; establish administrative review procedures; require User reporting; and provide for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(3) Administration. Except as otherwise provided herein, the City Manager shall administer, implement, and enforce the provisions of EC 6.550 to 6.586 to ensure that the City's pretreatment program complies with the objectives of EC 6.550 to 6.586, the applicable state and federal laws and regulations and the City's policy to cooperate with state and federal government. Any powers granted to or duties imposed upon the City Manager may be delegated by the City Manager to a duly authorized designee of the City Manager. The City Manager, in carrying out the provisions of EC 6.550 to 6.586 may adopt administrative rules pursuant to EC 2.019 of this code.

(4) Abbreviations. The following abbreviations, when used in EC 6.550 to 6.586, shall have the designated meanings:

BOD – Biochemical Oxygen Demand
BMP – Best Management Practice
BMR – Baseline Monitoring Report
CFR – Code of Federal Regulations
CIU – Categorical Industrial User
DEQ – The Oregon Department of Environmental Quality.
EPA – U.S. Environmental Protection Agency
gpd – gallons per day
IU – Industrial User or User
mg/l – milligrams per liter
MWH – Mobile Waste Hauler
MWMC – The Metropolitan Wastewater Management Commission
NAICS – The North American Industry Classification System
NPDES – National Pollutant Discharge Elimination System

NSCIU – Non-Significant Categorical Industrial User
POTW – Publicly Owned Treatment Works
RCRA – Resource Conservation and Recovery Act
SIU – Significant Industrial User
SNC – Significant Noncompliance
TSS – Total Suspended Solids
U.S.C. – United States Code

(5) Definitions. Unless a provision explicitly states otherwise, the following terms and phrases, as used in EC 6.550 to 6.586, shall have the meanings hereinafter designated.

Act or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. section 1251 et seq.

Approval Authority. The State of Oregon.

Authorized or Duly Authorized Representative of the User.

(a) If the User is a corporation:

1. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

2. The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(c) If the User is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(d) The individuals described in paragraphs (a) through (c), above, may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.

Best Management Practices or ("BMPs"). Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in EC 6.552(1) and 6.552(4). BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. BMPs also include alternative means (i.e., management plans) of complying with, or in place of certain established categorical Pretreatment Standards and effluent limits.

Biochemical Oxygen Demand ("BOD"). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/l).

Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

Categorical Industrial User. An Industrial User subject to a categorical Pretreatment Standard or categorical Standard.

City. The City of Eugene.

City Manager. The City Manager of the City as defined by the City's Charter, or the City Manager's designee.

Composite Sample. A representative sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

Control Authority. The City.

Daily Maximum. The arithmetic average of all effluent samples for a pollutant collected during a calendar day.

Daily Maximum Limit. The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

Domestic User ("Residential User"). Any person who contributes, causes, or allows the contribution of wastewater into the POTW that is of a similar volume and/or chemical make-up to that of a residential dwelling unit.

Environmental Protection Agency ("EPA"). The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said agency.

Existing Source. Any source of discharge that is not a "New Source."

Food Service Establishment. A non-domestic discharger where preparation, manufacturing, or processing of food and/or beverage occurs and include, but are not limited to restaurants, cafes, fast food outlets, pizza outlets, delicatessens, sandwich shops, coffee shops, schools, nursing homes and other facilities that prepare, service, or otherwise make foodstuff available for consumption.

General Discharge Authorization. A written authorization issued for the discharge of wastewater from a User into the POTW.

Grab Sample. A sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

Gray water. Gray water means shower and bath wastewater, bathroom sink wastewater, kitchen sink wastewater and laundry wastewater. Gray water does not mean toilet or garbage wastes, or wastewater contaminated by soiled diapers.

Indirect Discharge or Discharge. The introduction of pollutants into the POTW from any nondomestic source, including a Mobile Waste Hauler, regulated under section 307 (b), (c), or (d) of the Act.

Instantaneous Limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

Interference. A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the City's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

Local Limit. Specific discharge limits developed and enforced by the City upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

Mobile Waste Hauler. A person who, by contract or otherwise, collects wastewater, including domestic waste and septage waste, for transportation to and discharge into any portion of the POTW.

New Source.

(a) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under section 307(c) of the Act that will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:

1. The building, structure, facility, or installation is constructed at a site at which no other source is located; or

2. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or

3. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.

(b) Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of (a)2. or (a)3. above but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a New Source as defined under this definition has commenced if the owner or operator has:

1. Begun, or caused to begin, as part of a continuous onsite construction program:

a. any placement, assembly, or installation of facilities or equipment; or

b. significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

2. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

Noncontact Cooling Water. Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

Pass Through. A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the NPDES permit, including an increase in the magnitude or duration of a violation.

Person. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.

pH. A measure of the acidity or alkalinity of a solution, expressed in standard units.

Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, Medical Wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor). Pollution is the introduction of pollutants which alters the chemical, physical, biological or radiological state of water.

Pollution Prevention. Source reduction and other practices that reduce or eliminate the creation of pollutants through:

(a) Increased efficiency in the use of raw materials, energy, water, or other resources; or

(b) Protection of natural resources by conservation.

Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable Pretreatment Standard.

Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.

Pretreatment Standards or Standards. Pretreatment Standards shall mean prohibited discharge standards, categorical Pretreatment Standards, and Local Limits.

Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 2.1 of EC 6.550 to 6.586.

Publicly Owned Treatment Works or POTW. A treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292), which is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.

Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

Sewage. Human excrement and gray water, including, but not limited to wastes from bathrooms, laundries, and kitchens.

Sewer. Any pipe, conduit ditch, or other device used to collect and transport sewage from the generating source.

SIC Number. A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget.

Significant. Except as otherwise defined in EC 6.550 to 6.586, significant is defined on a case-by-case basis. If a person subject to EC 6.550 to 6.586 is concerned about whether an act, omission, or change is "significant," they are advised to immediately contact the office of the City's pretreatment program for clarification.

Significant Industrial User (SIU).

(a) An Industrial User subject to categorical Pretreatment Standards; or

(b) An Industrial User that:

1. Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding domestic waste, noncontact cooling and boiler blowdown wastewater);

2. Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

3. Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.

(c) The City may determine that an Industrial User subject to categorical Pretreatment Standards is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:

1. The Industrial User, prior to City's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;

2. The Industrial User annually submits the certification statement required in Section 8.14 B, together with any additional information necessary to support the certification statement; and

3. The Industrial User never discharges any untreated concentrated wastewater.

(d) Upon a finding that a User meeting the criteria in subsection(b) has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement, the City may at any time, on its own initiative or in response to a petition received from an Industrial User, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such User should not be considered a Significant Industrial User.

Significant Noncompliance. A SIU (or an IU which violates(c), (d) or (h) below) is in significant noncompliance if its violation meets one or more of the following criteria:

(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for the same pollutant parameter taken during a six (6) month period exceed (by any magnitude) a numeric Pretreatment Standards or Pretreatment Requirement, including instantaneous limits;

(b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric Pretreatment Standards or Requirement including instantaneous Limits multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

(c) Any other violation of a pretreatment effluent limit (daily maximum, long-term average, instantaneous limit, or narrative standard) that the City Manager determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public;

(d) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the City Manager's exercise of its emergency authority to halt or prevent such a discharge;

(e) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(f) Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(g) Failure to accurately report noncompliance; or

(h) Any other violation(s), which may include a violation of Best Management Practices, which the City Manager determines will adversely affect the operation or implementation of the local Pretreatment program.

Slug Load or Slug Discharge. Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards inEC 6.552(1) or Local Limits as described in 6.552(4). A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.

Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

Total Suspended Solids or Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.

User or Industrial User. A source of indirect discharge into a POTW. The source shall not include a Domestic User.

Wastewater. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

Wastewater Treatment Plant or Treatment Plant. That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

6.552 Industrial Pretreatment Program — Regulations.

(1) Prohibited Discharge Standards.

(a) General Prohibitions. No User shall introduce or cause to be introduced into the POTW any pollutant or wastewater which will harm the health of the City's employees working in and around the POTW, interfere with the operation or performance of the POTW, contaminate the resulting biosolids, or will cause Pass Through or Interference. These general prohibitions apply to all Users of the POTW whether or not they are subject to categorical Pretreatment Standards or any other National, State, or local Pretreatment Standards or Requirements.

(b) Specific Prohibitions.

1. No User shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

a. Any liquids, solids or gases which by reason of their nature or quantity are, or may be sufficient either alone or in combination with other pollutants to create a fire or explosive hazard in the POTW, or be injurious in any other way to the POTW or its operations, including, but not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides or wastestreams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21 or otherwise specified by the City Manager. At no time shall two successive readings on an explosion hazard meter, at the point of discharge (or at any point in the POTW) be more than five (5) percent nor shall any single reading be over ten percent of the lower explosive limit of the meter;

b. Wastewater having a pH less than 5.5 or more than 12.0, or otherwise having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.;

c. Solid or viscous substances which, either alone or in combination with other pollutants, may cause obstruction to the flow in a sewer or other interference with the operation of the POTW such as, but not limited to: grease, garbage with particles greater than one-half inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains or hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes;

d. Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause Interference with the POTW;

e. Wastewater having a temperature greater than 150 degrees F (65 degrees C), or which will inhibit biological activity in the treatment plant or stimulate excessive biological activity in the POTW, resulting in Interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees F (40 degrees C);

f. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause Interference or Pass Through;

g. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

h. Trucked or hauled pollutants, except at discharge points designated by the City Manager in accordance with EC 6.554(4);

i. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other pollutants, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;

j. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the City's NPDES permit;

k. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable local limits and State or Federal regulations;

l. Any unpolluted water including, but not limited to, storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the City Manager;

m. Medical Wastes, except as specifically authorized by the City Manager in an individual wastewater discharge permit

n. Any trucked or hauled domestic or non-domestic wastewater hauled and discharged into the POTW treatment plant influent having a pH less than 6.0 or greater than 9.0.

o. Any wastewater containing pollutants which, either alone or in combination with other pollutants, may injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, creates a toxic effect in the receiving waters of the POTW or exceed any limitation set forth in a National Categorical Pretreatment Standard or any other Pretreatment Standard.

p. Any pollutant which may cause the POTW's effluent or any other product of the POTW such as residues, biosolids, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process.

q. Any pollutant which will cause the City to violate its NPDES permit.

r. Discontinued, expired, or unused pharmaceuticals to the sanitary sewer is prohibited. Pharmaceuticals include, but are not limited to: hazardous and non-hazardous prescriptions and over-the counter therapeutic drugs; excess medication in IV bags, syringes, or vials; chemotherapy drug wastes;

diagnostic agents; nutraceuticals; and antibiotics. Or any hazardous waste pharmaceutical as defined in 40 CFR 266.500.

2. Users that use continuous monitoring techniques for pH shall meet the requirements specified in EC 6.552(1)(b)(2); except that temporary excursion above the upper and lower pH values are allowed as long as:

a. The total time during which values for pH are outside the prohibition or limitation value does not exceed eight (8) hours in any calendar month;

b. No individual excursion exceeds sixty (60) minutes in length; and

c. No excursion results in or contributes to violations of the prohibitions in EC 6.552.

d. In no case shall the discharge have a pH lower than 5.0 except as authorized by the City Manager.

e. When the City Manager determines that a sixty (60) minute excursion by any User will or may result in a violation, the City Manager may establish a shorter allowable duration for that User.

3. Pollutants, substances, or wastewater prohibited by EC 6.552 shall not be processed or stored in such a manner that they could be discharged to the POTW.

(2) National Categorical Pretreatment Standards**.** Users must comply with the categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405–471. These categorical standards shall be met by all industrial users of the regulated industrial categories.

(a) Where a categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the City Manager may impose equivalent concentration or mass limits.

(b) When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the City Manager may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users.

(c) When wastewater subject to a categorical Pretreatment Standard is mixed with wastewater not regulated by the same Standard, the City Manager shall impose an alternate limit in accordance with 40 CFR 403.6(e).

(d) When a categorical Pretreatment Standard is expressed only in terms of pollutant concentrations, an Industrial User may request that the City convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the City Manager. The City may establish equivalent mass limits only if the

Industrial User meets all the conditions set forth in Sections (2)(d)1.a. through (2)(d)1.e. below.

1. To be eligible for equivalent mass limits, the Industrial User must:

    a. Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its individual wastewater discharge permit;

    b. Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical Pretreatment Standard, and not have used dilution as a substitute for treatment;

    c. Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;

    d. Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the Discharge; and

    e. Have consistently complied with all applicable categorical Pretreatment Standards during the period prior to the Industrial User's request for equivalent mass limits.

2. An Industrial User subject to equivalent mass limits must:

    a. Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;

    b. Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;

    c. Continue to record the facility's production rates and notify the City Manager whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in EC 6.552(2)(d)1.c, above. Upon notification of a revised production rate, the City Manager will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and

    d. Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to EC 6.552(2)(d)1.a., so long as it discharges under an equivalent mass limit.

3. When developing equivalent mass limits, the City Manager:

a. Will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the Industrial User by the concentration-based Daily Maximum and Monthly Average Standard for the applicable categorical Pretreatment Standard and the appropriate unit conversion factor;

b. Upon notification of a revised production rate, will reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and

c. May retain the same equivalent mass limit in subsequent individual wastewater discharger permit terms if the Industrial User's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to EC 6.552(6). The Industrial User must also be in compliance with EC 6.582(3) regarding the prohibition of bypass.

d. The City Manager may convert the mass limits of the categorical Pretreatment Standards of 40 CFR Parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual Industrial Users. The conversion is at the discretion of the City Manager.

(e) Once included in its permit, the Industrial User must comply with the equivalent limitations developed in EC 6.552 in lieu of the promulgated categorical Standards from which the equivalent limitations were derived.

(f) Many categorical Pretreatment Standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum Monthly Average, or 4-day average, limitations. Where such Standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation.

(g) Any Industrial User operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based Standard shall notify the City Manager within two (2) business days after the User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any User not notifying the City Manager of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long term average production rate.

(3) State Pretreatment Standards. State requirements and limitations on discharges to the POTW shall be met by all users which are subject to such standards in any instance in which they are more stringent than the federal requirements and limitations or those in EC 6.550 to 6.586.

(4) Local Limits.

(a) The City Manager is authorized to establish Local Limits pursuant to 40 CFR 403.5(c).

(b) The pollutant limits are established to protect against Pass Through and Interference. No SIU shall discharge wastewater containing those pollutants into the POTW, in excess of limitations specified by conditions of its discharge permit or published by the City Manager.

(c) The City Manager shall publish and revise from time to time rules that designate and establish limits for Restricted Substances. At all times these rules shall cover and be at least as strict as those for pollutants as defined in State or federal regulations.

(d) The limits apply at the point where the wastewater is discharged into the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise. The City Manager may impose mass limitations in addition to the concentration-based limitations above.

(e) Individual limits for specific Users may be established on a case-by-case basis for compounds not specifically listed in published local limits.

(f) The City Manager may develop BMPs, by administrative order or in individual wastewater discharge permits, to implement Local Limits and the requirements of EC 6.552(1).

(5) City's Right of Revision. The City Manager reserves the right to establish, by administrative order or in individual wastewater discharge permits, more stringent Standards or Requirements on discharges to the POTW consistent with the purpose of EC 6.550 to 6.586.

(6) Dilution. No User shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable Pretreatment Standard or Requirement. The City Manager may impose mass limitations on Users who are using dilution to meet applicable Pretreatment Standards or Requirements, or in other cases when the imposition of mass limitations is appropriate.

(7) Pretreatment Standards – Best Management Practices.

(a) The City Manager may develop BMPs, or require a User to develop BMPs, to implement the prohibitions of EC 6.552(1) (Prohibited Discharge Standards), and EC 6.552(4) (Local Limits). BMPs shall be considered pretreatment standards and local limits for the purposes of EC 6.550 through 6.586 and Section 307(d) of the CWA. Additionally, BMPs may be categorical pretreatment standards as established by EPA.

(b) The City Manager may develop general BMPs that are applicable to categories of Users, or geographic areas.

(8) Special Agreements.

(a) Nothing contained in EC 6.552(1) (Prohibited Discharge Standards), EC 6.552(4) (Local Limits), and EC 6.552(7) (BMPs) shall be construed to prohibit an agreement between the City and any person whereby a discharge which would otherwise be prohibited by EC 6.550 to 6.586 may be admitted to the POTW.

(b) Such an agreement may be made when, in the opinion of the City Manager, special circumstances justify such agreement, provided that no Interference or Pass Through results from the discharge, no contamination of the resulting Biosolids or recycled wastewater occurs, and no additional costs are incurred by the City without recompense by the person.

(c) Categorical pretreatment standards and federal pretreatment requirements shall not be waived by special agreement of the parties.

(9) Wastewater Discharge Survey.

(a) User may be required to provide information to the City Manager pertaining to the nature and quantity of its wastewater discharge. The City Manager may, from time to time, require that a wastewater discharge survey be completed and returned to the City.

(b) Optionally, a site survey may be conducted and the necessary information obtained for evaluation. A User may also be required to complete a short-form wastewater discharge survey at the time of the site survey.

(c) In addition to or in place of a wastewater discharge survey, the City Manager may require a User to complete an individual wastewater discharge permit application.

6.554 Industrial Pretreatment Program — Pretreatment of Wastewater.

(1) Pretreatment Facilities.

(a) Users shall provide wastewater treatment as necessary to comply with EC 6.550 to 6.586 and shall achieve compliance with all categorical Pretreatment Standards, Local Limits, and the prohibitions set out in EC 6.552 within the time limitations specified by EPA, the State, or the City Manager, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the User's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the City Manager for review, and shall be acceptable to the City Manager before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the

User from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the City under the provisions of EC 6.550 to 6.586.

(b) A User may be required to install pretreatment facilities or make plant or process modifications or implement pollution management practices as deemed necessary by the City Manager to meet the requirements of EC 6.550 to 6.586.

(c) Whenever such facilities or modifications are required, they shall be constructed, installed, operated and maintained at the expense of the User and in a manner and within the time prescribed by the City Manager as to enable the City to comply with all applicable regulations and requirements or to protect the POTW or treatment process.

(d) Review and approval of proposed facilities or modifications by the City Manager will not in any way guarantee that these facilities or modifications will function in the required manner or attain the required results, nor shall it relieve an User of the responsibility of enlarging or otherwise modifying or replacing such facilities to accomplish the intended purpose and to meet the applicable standards, limitations and conditions of EC 6.550 to 6.586 and any individual wastewater discharge permit or Discharge Authorization issued to the User.

(e) Deadline for Compliance with Applicable Pretreatment Requirements.

1. Compliance by Existing Sources covered by Categorical Pretreatment Standards shall be within three (3) years of the date the Standard is effective unless a shorter compliance time is specified in the appropriate Standard.

2. The City Manager shall establish a final compliance deadline date for any Existing Source not covered by Categorical Pretreatment Standards or for any categorical user when the local limits for said User are more restrictive than federal Categorical Pretreatment Standards.

3. New Sources are required to comply with the applicable pretreatment standards within the shortest feasible time, not to exceed ninety (90) days from the beginning of the discharge. New Sources shall install, have in operating condition, and shall start up all pollution control equipment required to meet applicable pretreatment standards before beginning discharge.

(2) Additional Pretreatment Measures.

(a) Whenever deemed necessary, the City Manager may require Users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the User's compliance with the requirements of EC 6.550 to 6.586.

(b) The City Manager may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An individual wastewater discharge permit may be issued solely for flow equalization.

(c) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(3) Accidental Discharge/Slug Discharge Control Plans. Users shall provide protection against accidental or slug discharges. The City Manager shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control Slug Discharges. The City Manager may require any User to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control Slug Discharges. An accidental discharge/ slug discharge control plan shall be provided and maintained at the User's cost and expense. Alternatively, the City Manager may develop such a plan for any User. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

(a) Description of discharge practices, including nonroutine batch discharges;

(b) Description of stored chemicals;

(c) Procedures for immediately notifying the City Manager of any accidental or Slug Discharge, as required by EC 6.564(6); and

(d) Procedures to prevent adverse impact from any accidental or Slug Discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(e) Whenever the facility changes its operations in such a way as to change the potential for an accidental/slug discharge, the plan must be updated.

(4) Hauled Waste.

(a) Any hauled waste approved to be discharged into the POTW is subject to all the requirements in EC 6.550 to 6.586.

(b) MWHs proposing to discharge waste to the Septage Receiving Station at the POTW Treatment Plant shall apply for a Mobile Waste Hauler Discharge Permit.

(c) With the exception of recreational vehicle waste and boat sewage, persons proposing to discharge waste to the RV Disposal Station shall request and be issued a Discharge Authorization Letter prior to discharge.

(d) Persons who wish to discharge recreational vehicle waste are not required to receive discharge authorization; however, a person may be prohibited from discharging if an actual or potential discharge violates the general discharge prohibitions in EC 6.552(1)(a).

6.556 Industrial Pretreatment Program — Individual Wastewater Discharge Permits.

(1) Wastewater Analysis. When requested by the City Manager, a User must submit information on the nature and characteristics of its wastewater. The City Manager is authorized to prepare a form for this purpose and may periodically require Users to update this information in accordance with EC 6.552(9).

(2) Individual Wastewater Discharge Permit Requirement.

(a) No Significant Industrial User shall discharge wastewater into the POTW without first obtaining an individual wastewater discharge permit from the City Manager, except that a Significant Industrial User that has filed a timely application pursuant to EC 6.556 may continue to discharge for the time period specified therein.

(b) The City Manager may require other Users to obtain individual wastewater discharge permits as necessary to carry out the purposes of EC 6.550 to 6.586. Any User that is informed by the City Manager that it is required to obtain an individual wastewater discharge permit shall do so in accordance with EC 6.556(3).

(c) Any violation of the terms and conditions of an individual wastewater discharge permit shall be deemed a violation of EC 6.550 to 6.586 and subjects the wastewater discharge permittee to the sanctions set out in EC 6.576, 6.578 and 6.580. Obtaining an individual wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State Pretreatment Standards or Requirements or with any other requirements of Federal, State, and local law.

(3) Duty to Apply.

(a) Users notified by the City Manager shall apply for an individual wastewater discharge permit ninety (90) days prior to:

1. Commencing discharge at a new connection where the discharge characteristics will meet the definition of a SIU;

2. Establishing a new point of discharge or making a substantial change in the volume or character of its discharge or process at a facility with an existing connection that will meet the definition of a SIU; or

3. Establishing a process or modifying a process that would then be subject to Categorical Pretreatment Standards;

(b) Any Users that do not meet the conditions above shall apply for an individual wastewater discharge permit within sixty (60) days of being notified by the City Manager of meeting the definition of a SIU.

(c) A User with an existing individual wastewater discharge permit proposing to establish a new point of discharge or make a substantial change in the volume or character of its discharge or process, shall apply for an amended permit and may discharge only in conformity with its existing permit until the permit is modified.

(d) A User with an existing individual wastewater discharge permit that wishes to continue operations or discharges covered under the permit after expiration shall apply for a new individual wastewater discharge permit a minimum of ninety (90) days prior the expiration of the existing permit.

(4) Individual Wastewater Discharge Permit Application Contents.

(a) All Users required to obtain an individual wastewater discharge permit must submit a permit application on forms provided by the City. The City Manager may require Users to submit all or some of the following information as part of a permit application:

1. Identifying Information.

a. The name and address of the facility, including the name of the operator and owner;

b. Contact information, description of activities, facilities, and plant production processes on the premises;

c. SIC number and/or NAICS.

2. Environmental Permits. A list of any environmental control permits held by or for the facility and/or copies of any state or federal licenses issued to the applicant related to the transportation of wastewater, stormwater, or other liquid Waste.

3. Description of Operations.

a. A description of activities, facilities, plant processes and products produced on the premises including a general description of types and quantities of all materials which are or could be discharged into the POTW;

b. Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;

c. Number and type of employees, hours of operation, and proposed or actual hours of operation;

d. Type and amount of raw materials and chemicals processed (average and maximum per day) and stored;

e. Water source, water use, water use distribution throughout the facility and wastewater flow rates;

f. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

g. Any pertinent special agreements between the applicant and the City concerning treatment of discharges, special user charges or rates, or any other information deemed necessary by the City Manager;

h. A list of wastewater pollutants and their characteristics actually or potentially discharged at the applicable plant site including pollutant measurements if requested by the City;

i. A description of activities and methods of collection, transportation, storage, and discharge of wastewater, stormwater, or other liquid waste;

j. A description of transportation and storage facilities;

k. A list of all vehicles that the applicant wishes to authorize to discharge into the POTW including vehicle make/model, vehicle license numbers, vehicle numbers, total tank capacity, and type of waste hauled;

l. Proof of adequate general liability and property damage insurance;

4. Time and duration of discharges;

5. The location for monitoring all wastes covered by the permit;

6. A description of spill prevention measures or plans which are currently in place;

7. Flow Measurement. Information providing a description of flow monitoring and wastewater sampling equipment to be installed and methods to be used.

8. Any other information as may be deemed necessary by the City Manager to evaluate the permit application.

(b) Incomplete or inaccurate applications will not be processed and will be returned to the User for revision.

(5) Application Signatories and Certifications.

(a) All wastewater discharge permit applications, User reports and certification statements must be signed by an Authorized Representative of the User and contain the certification statement in EC 6.566(1).

(b) If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the City Manager prior to or together with any reports to be signed by an Authorized Representative.

(c) A facility determined to be a Non-Significant Categorical Industrial User by the City Manager pursuant to subsection (3) and (4) of the definition of "Significant Industrial User" at EC 6.550(5) must annually submit the signed certification statement in EC 6.556(14)(b).

(6) Individual Wastewater Discharge Permit Decisions. The City Manager will evaluate the data furnished by the User and may require additional information. Within sixty (60) days of receipt of a complete permit application, the City Manager will determine whether to issue an individual wastewater discharge permit. The City Manager may deny any application for an individual wastewater discharge permit.

6.560 Industrial Pretreatment Program — Individual Wastewater Discharge Permit Issuance.

(1) Individual Wastewater Discharge Permit Duration. An individual wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. An individual wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the City Manager. Each individual wastewater discharge permit will indicate a specific date upon which it will expire.

(2) Individual Wastewater Discharge Permit Contents. An individual wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the City Manager to prevent Pass Through or Interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

(a) Individual wastewater discharge permits must contain:

1. A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date;

2. A statement that the wastewater discharge permit is nontransferable without prior notification to the City Manager, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

3. Effluent limits, including BMPs, based on applicable Pretreatment Standards;

4. Specifications for monitoring and sampling programs which may include monitoring and sampling locations, frequency of monitoring, sampling, number and types of tests, standards for tests and reporting schedules based on Federal, State and local law;

5. Requirements for submitting technical reports, discharge reports, licenses, manifests, or plans;

6. Requirements for maintaining and retaining records required by a wastewater discharge permit, and affording the City Manager access thereto;

7. Requirements for notifying the City two (2) days after a permit holder that is subject to equivalent mass or concentration limits calculated from a production-based standard has a reasonable basis to know that the production level will significantly change within the next calendar month, and that without such notification, permit holder must meet the mass or concentration limits in its permit that were based on the original estimate of the long term average flow rate;

8. A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.

9. Requirements to control Slug Discharge, if determined by the City Manager to be necessary.

10. Requirements for immediately notifying the City of slug load discharges or a change in potential for spill or slug discharges;

11. Requirement to report a bypass or upset of a pretreatment facility;

12. Requirement for notifying the City Manager where self- monitoring results indicate noncompliance;

13. Requirement for the SIU who reports noncompliance to repeat the sampling and analysis and submit analysis to the City Manager within thirty (30) days after becoming aware of the violation.

(b) Individual wastewater discharge permits may contain, but need not be limited to, the following conditions:

1. Payment of applicable fees;

2. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

3. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

4. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;

5. Requirements to limit, control, or reduce the concentrations of pollutant discharges through the use of BMPs;

6. The unit charge or schedule of User charges and fees for the management of the wastewater discharged to the POTW;

7. Requirements for installation and maintenance of pretreatment, inspection, or monitoring and sampling facilities and equipment, including flow measurement devices;

8. Compliance schedules;

9. Requirements for notifying the City of any new discharge of a restricted substance or any substantial change in the volume or character of the wastewater or any restricted substances being discharged;

10. Requirements that the permit holder notify the City of any disposal of wastewater in excess of five-hundred (500) gallons to any person in any period of twelve (12) consecutive calendar months;

11. Authorized points of discharge, regulated processes or waste streams;

12. Requirement for a written report within five (5) days of notification of an effluent limit violation;

13. Requirement for the SIU to establish and maintain a Sampling and Analysis Plan;

14. Requirement for adequate general liability and property damage insurance;

15. Requirement to apply in writing for permission to discharge any hauled non-domestic wastewater;

16. Requirement to provide the City advanced notice of any non- routine or hauled non-domestic wastewater discharges, and a statement on the authority for the City Manager to prohibit or condition such discharges;

17. Requirement that a hauled waste discharge site have any spilled material removed or cleaned up after discharge; or

18. A statement that compliance with the individual wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the individual wastewater discharge permit; and

19. Other conditions as deemed appropriate by the City Manager to ensure compliance with EC 6.550 to 6.586, and State and Federal laws, rules, and regulations.

(c) The City Manager may, at its discretion, issue a certification in lieu of a control mechanism for NSCIUs and NDCIUs.

(3) Permit Modification. The City Manager may modify an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(a) To incorporate any new or revised Federal, State, or local Pretreatment Standards or Requirements;

(b) To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge permit issuance;

(c) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(d) Information indicating that the permitted discharge poses a threat to the City's POTW, City personnel, or the receiving waters;

(e) Violation of any terms or conditions of the individual wastewater discharge permit;

(f) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(g) Revision of or a grant of variance from categorical Pretreatment Standards pursuant to 40 CFR 403.13;

(h) To correct typographical or other errors in the individual wastewater discharge permit; or

(i) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with (4) below.

(4) Individual Wastewater Discharge Permit Transfer.

Individual wastewater discharge permits may be assigned or transferred to a new owner or operator only if the permittee gives at least thirty (30) days advance notice to the City Manager and the City Manager approves the individual wastewater discharge permit transfer. Failure to provide advance notice of a transfer renders the individual wastewater discharge permit voidable as of the date of facility transfer. The notice to the City Manager must include a written certification by the new owner or operator which:

(a) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

(b) Identifies the specific date on which the transfer is to occur; and

(c) Assumes full responsibility for complying with the existing individual wastewater discharge permit.

(5) Individual Wastewater Discharge Permit Revocation.

(a) The City Manager may revoke an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

1. Failure to notify the City Manager of significant changes to the wastewater prior to the changed discharge;

2. Failure to provide prior notification to the City Manager of changed conditions pursuant to EC 6.566(5);

3. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

4. Falsifying self-monitoring reports and certification statements;

5. Tampering with monitoring equipment;

6. Refusing to allow the City Manager timely access to the facility premises and records;

7. Failure to meet discharge limitations;

8. Failure to pay fines;

9. Failure to pay sewer charges;

10. Failure to meet compliance schedules;

11. Failure to complete a wastewater survey or the wastewater discharge permit application;

12. Failure to provide advance notice of the transfer of business ownership of a permitted facility;

13. If the City Manager has to invoke its emergency provision as cited in EC 6.576(8); or

14. Violation of any Pretreatment Standard or Requirement, or any terms of the wastewater discharge permit or EC 6.550 to 6.586.

(b) Individual wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All individual wastewater discharge permits issued to a User are void upon the issuance of a new individual wastewater discharge permit to that User.

(c) The industrial user whose discharge permit is revoked pursuant to this subsection (5) above shall be prohibited from applying for a new discharge permit for a period of two years from the date of final decision. The prohibition may be waived if the City Manager determines that the issuance of a new discharge permit is necessary to avert an imminent or existing danger to the health or welfare of persons, property, or the environment.

(d) The filing of an appeal pursuant to EC 6.562 shall stay enforcement of the action by the City Manager under this subsection (5) above pending final administrative action on the appeal. This provision supplements and does not restrict other provisions of this code, laws or regulations authorizing termination of service for delinquency in payment of fees or charges.

(6) Individual Wastewater Discharge Permit Reissuance. A User with an expiring individual wastewater discharge permit shall apply for individual wastewater discharge permit reissuance by submitting a complete permit application, in accordance with EC 6.556(4), a minimum of ninety (90) days prior to the expiration of the User's existing individual wastewater discharge permit. Discharge limits or rules in effect and incorporated into any permit shall remain in effect for that permit until it expires, except as modified pursuant to EC 6.560(3).

(7) Continuation of Expired Permits. Individual wastewater discharge permits issued for a duration of less than five (5) years, may be administratively extended up to five (5) years from the effective date of the permit, but in no case shall an individual wastewater discharge permit be administratively extended past the maximum duration established in EC 6.560(1). An expired permit shall continue to be in effect until a final action has been taken on the renewal application to issue or deny the permit if:

(a) The permit holder has submitted a complete permit application at least ninety (90) days prior to the expiration of its permit; and

(b) The failure to take Final Action is not due to any act or failure to act on the part of the permit holder.

6.562 Industrial Pretreatment Program — Reconsideration and Appeals

(1) Reconsideration by Industrial Pretreatment Program. Any person may request a modification to a decision by the City Manager related to the provisions of EC 6.550 to 6.586 via an administrative review with the City. The request for modification must be submitted within fifteen (15) days of receipt of notification of a decision or action. If the request for modification is denied by Industrial Pretreatment Program staff, the requestor may file for Reconsideration by City Manager per subsection (2) below.

(2) Reconsideration by City Manager. Any person aggrieved by the final determination of the Industrial Pretreatment Program staff or aggrieved of any other decision or action not subject to Industrial Pretreatment Program administrative review, other than judicial enforcement actions, may file a written request with the City Manager for reconsideration thereof within fifteen (15) days of receipt of notification of such decision or action. The notice of appeal shall be on a form provided by the City Manager and shall set forth in reasonable detail the decision or action appealed from and the facts and arguments supporting the appellant's request for reconsideration. The City Manager may establish such procedures as may be deemed necessary or proper to conduct the reconsideration process. The filing of a request for reconsideration shall be a condition precedent to the right to appeal to the MWMC pursuant to subsection (3) below.

(3) Appeal to MWMC.

(a) Any person aggrieved by the final determination of the City Manager may appeal such determination to the MWMC. Written notification of such appeal shall be filed with the MWMC and City Manager, together with the payment of a fee of $50.00, within ten (10) days after receipt of the final determination of the City Manager. The notice of appeal shall be on a form provided by the MWMC and shall set forth in reasonable detail the decision or action appealed from and the facts and arguments supporting the appellant's request for reversal or modification of the City Manager's determination.

(b) The MWMC shall conduct a hearing on the appeal according to procedures to be established by the MWMC pursuant to paragraph twelve (12) of the Intergovernmental Agreement. The MWMC shall submit a copy of its findings and recommendations regarding the appeal to the City Council within ten (10) days after the hearing. The City Council may hold a hearing on the recommendations. If the City Council decides to hold a hearing, it will do so within sixty (60) days after their filing.

(4) Settlement of Administrative Penalty Assessment. Upon receipt of a Notice of Administrative penalty Assessment, a User may request a conference with the City Manager or designee. The City Manager may compromise or settle any unpaid administrative penalty assessed under EC 6.550 to 6.586. A request under this subsection shall not act as a stay, or otherwise affect the filing or processing of an appeal under subsection (3) above.

EC 6.564 Industrial Pretreatment Program — General Discharge Authorization.

(1) Sector Control Programs.

(a) The City Manager may establish sector control programs for, and issue discharge authorization letters to User to control specific pollutants as necessary to meet the objectives and requirements of EC 6.550 to 6.586.

(b) The City Manager may require a User to provide information through a wastewater discharge survey, wastewater discharge permit application, or other means to aid in the classification of a User.

(2) Discharge Authorization Letter Conditions.

(a) Users subject to sector control program requirements will be issued a Discharge Authorization Letter. Letters shall contain, where applicable, the following conditions:

1. A statement of general requirements containing the applicable sector control program requirements to which the User is subject;

2. Issuance date and effective date of the discharge authorization;

3. Requirements for the installation and maintenance of pretreatment facilities or devices, if applicable;

4. Applicable effluent limits and BMPs;

5. Requirements for submitting discharge reports, BMP compliance reports, technical reports, manifests, maintenance records, or plans;

6. Requirements for maintaining and retaining records required by a Discharge Authorization Letter.

(3) Discharge Authorization Letter Duration. Discharge authorizations shall be in effect indefinitely unless it is cancelled by the City Manager, a User fails to meet the requirements of a discharge authorization letter, or the authorization letter contains an end date or end discharge date.

6.566 Industrial Pretreatment Program — Reporting Requirements.

(1) Baseline Monitoring Reports.

(a) Within either one hundred eighty (180) days after the effective date of a categorical Pretreatment Standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing Categorical Industrial Users currently discharging to or scheduled to discharge to the POTW shall submit to the City Manager a

report which contains the information listed in subsection (1)(b). A New Source shall report the method of pretreatment it intends to use to meet applicable categorical Standards. A New Source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(b) Users described above shall submit the information set forth below.

1. The name and address of the facility including the name of the operator and owners;

2. A list of any environmental control permits held by or for the facility;

3. A brief description of the nature, average rate of production, and SIC number of the operation(s) carried out by such User. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes;

4. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:

a. Regulated process streams; and

b. Other streams as necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e). (See subsection (b)6.d. below.)

5. The City Manager may allow for the verifiable estimates of these flows where it is justified by cost or feasibility considerations.

6. Measurement of pollutants.

a. Pretreatment Standards applicable to each regulated process;

b. The results of sampling and analysis identifying the nature and concentration (or mass, where required by the Standard or City Manager) of regulated pollutants in the discharge from each regulated process. The sample shall be representative of daily operations. In cases where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the City Manager or the applicable Standards to determine compliance with the Standard;

c. The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this subsection 6.

d. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process

if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the City Manager;

e. Sampling and analysis shall be performed in accordance with subsections (10) and (11);

f. The City Manager may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;

g. The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW.

7. Compliance Certification. A statement, reviewed by the User's Authorized Representative and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the Pretreatment Standards and Requirements.

8. Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule pursuant to EC 6.566 must meet the requirements set out in subsection (2) below.

9. The conditions established in EC 6.6.566(2) shall apply to any schedule required by subsection (1)(b)8. above.

10. Signature and Report Certification. All baseline monitoring reports must be certified in accordance with subsection (14)(a) below and signed by an Authorized Representative.

(2) Compliance Schedule. Should any schedule of compliance be established in accordance with the requirements of EC 6.550 to 6.586, the following conditions shall apply to such schedule:

(a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Standards

(such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

(b) No increment referred to above shall exceed nine (9) months;

(c) The User shall submit a progress report to the City no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule; and

(d) In no event shall more than nine (9) months elapse between such progress reports to the City Manager.

(3) Reports on Compliance with Categorical Pretreatment Standard Deadline. Within ninety (90) days following the date for final compliance with applicable categorical Pretreatment Standards, or in the case of a New Source following commencement of the introduction of wastewater into the POTW, any User, including all existing sources, subject to such Pretreatment Standards and Requirements shall submit to the City Manager a report containing the information described in subsections (1)(b)4. through (1)(b)6. For Users subject to equivalent mass or concentration limits established in accordance with the procedures inEC 6.552(2), this report shall contain a reasonable measure of the User's long-term production rate. For all other Users subject to categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with subsection (14) below. All sampling will be done in conformance with subsection (11).

(4) Periodic Compliance Reports.

(a) All SIUs must, at a frequency determined by the City Manager submit no less than twice per year, in June and December reports indicating the nature, concentration of pollutants in the discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by the City Manager or the Pretreatment Standard necessary to determine the compliance status of the SIU.

1. In support of the information submitted with a periodic compliance report, the City Manager may also require supporting documents such as, but not limited to, calibration records, instrumentation maintenance records, and off-site disposal methods and/or records.

2. The City Manager may, in its discretion, require NSCIUs and NDCIUs to comply with EC 6.566.

(b) Hauled Waste Reports.

1. All MWHs subject to the requirements of a Mobile Waste Hauler Permit must, at a frequency determined by the City Manager, submit a hauled waste manifest for each load discharged that includes information on the origination, collection, source, and type of wastes discharged along with any other information necessary to track the source, collection, and discharge of hauled waste into the POTW.

2. Any MWH may be required to provide a waste analysis of any loads for any pollutants necessary to determine compliance with EC 6.550 to 6.586.

3. In addition to hauled waste manifests, MWHs may be required to submit information showing that the hauler is authorized to haul waste in the state, that the hauler's vehicles are in proper working order, and that the hauler has a minimum amount of liability insurance as deemed necessary by the City Manager.

(c) BMP Reports. All IUs required to implement BMPs must, at a frequency determined by the City Manager, submit documentation necessary to determine compliance with the BMP. The documentation may include, but is not limited to, calibration records, instrumentation maintenance records, off- site disposal methods and/or records, and wastewater treatment records.

(d) Sector Control Program Reports. All Users required to keep and maintain records in accordance discharge authorization requirements may be required to submit those records to the City Manager as necessary to evaluate compliance with Discharge Authorization Letter requirements.

(e) If a User subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the City Manager, using the procedures prescribed in Section 8.11 of this Ordinance, the results of this monitoring shall be included in the report.

(5) Reports of Changed Conditions. Each IU must notify the City Manager of any significant changes to the User's operations or system which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change unless a permit application is required to be submitted in which case, the IU must notify the City Manager ninety (90) days before the change.

(a) The City Manager may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under EC 6.560(2).

(b) The City Manager may issue an individual wastewater discharge permit under EC 6.560(5) or modify an existing discharge permit under EC 6.560(3) in response to changed conditions or anticipated changed conditions.

(6) Reports of Potential Problems.

(a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, on becoming aware of the circumstances, the User shall immediately telephone and notify the City Manager of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User.

(b) Within five (5) days following such discharge, the User shall, unless waived by the City Manager, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant to EC 6.550 to 6.586**.**

(c) A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees who to call in the event of a discharge described in(6)(a) above, above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

(d) SIUs are required to notify the City Manager immediately of any changes at its facility affecting the potential for a Slug Discharge.

(7) Reports from Unpermitted Users. All Users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the City Manager as the City Manager may require.

(8) Notice of Violation/Repeat Sampling and Reporting. If sampling performed by a User indicates a violation, the User must notify the City Manager within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the City Manager within thirty (30) days after becoming aware of the violation. The User must submit a certified report with the laboratory report or field data showing the violation and a written narrative detailing the cause of the violation and what the User will do or has done to prevent the violation from happening again within five (5) days after notification. Resampling by the User is not required if the City performs sampling at the User's facility at least once a month, or if the City performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the City receives the results of this sampling, or if the City has performed the sampling and analysis in lieu of the User.

(9) Notification of the Discharge of Hazardous Waste and Reporting Requirements.

(a) Any User who commences the discharge of hazardous waste shall notify the City Manager, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if

otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the User discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the User: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this subsection (9) need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under subsection (5) above. The notification requirement in this subsection (9) does not apply to pollutants already reported by Users subject to categorical Pretreatment Standards in baseline monitoring, ninety (90) day and periodic compliance reports.

(b) Users are exempt from the requirements ofsubsection (9)(a), above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the User discharges more than such quantities of any hazardous waste do not require additional notification.

(c) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the User must notify the City Manager, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(d) In the case of any notification made under this subsection (9), the User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(e) This subsection (9) does not create a right to discharge any substance not otherwise permitted to be discharged by EC 6.550 to 6.586, a permit issued thereunder, or any applicable Federal or State law.

(10) Analytical Requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant

in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the City Manager or other parties approved by EPA.

(11) Sample Collection. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

(a) Except as indicated in (b) and (c) below, the User must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the City Manager. Where time-proportional composite sampling or grab sampling is authorized by the City, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the City, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.

(b) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(c) Samples for pH may be obtained by using grab collection techniques or continuous monitoring techniques.

1. The method required is at the discretion of the City Manager.

2. For continuous monitoring techniques, the City Manager may specify the period and conditions of a pH excursion, including, but not limited to, equipment maintenance and calibration.

(c) For sampling required in support of baseline monitoring and 90-day compliance reports required in EC 6.566, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the City Manager may authorize a lower minimum. For the reports required byEC6.566(3), the User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

(12) Date of Receipt of Reports. Written reports will be deemed to have been submitted on the date postmarked or on the date of receipt of the report by the City Manager.

(13) Recordkeeping. Users subject to the reporting requirements of EC 6.550 to 6.586 shall retain, and make available for inspection and copying, all records of information obtained pursuant to any

monitoring activities required by EC 6.550 to 6.586, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with BMPs. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years and shall be made available for physical or electronic inspection and copying by the City Manager, State, or EPA. This retention period shall be automatically extended for the duration of any litigation concerning the User or the City, or where the User has been specifically notified of a longer retention period by the City Manager, State, or EPA.

(14) Certification Statements.

(a) Certification of Permit Applications, User Reports and Initial Monitoring Waiver. The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with EC 6.556(5); Users submitting baseline monitoring reports under subsection (1) above; Users submitting reports on compliance with the categorical Pretreatment Standard deadlines; Users submitting 90-Day compliance reports required by EC 6.566(3), and Users submitting an initial request to forego sampling of a pollutant. The following certification statement must be signed by an Authorized Representative as defined in EC 6.550(5):

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

(b) Annual Certification for Non-Significant Categorical Industrial Users. A facility determined to be a Non-Significant Categorical Industrial User by the City Manager must annually submit the following certification statement signed in accordance with the definition of "Authorized or Duly Authorized Representative of the User" inEC 6.550(4). This certification must accompany an alternative report required by the City Manager:

Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR ____, I certify that, to the best of my knowledge and belief that during the period from _____, to _____, [months, days, year]:

(a) The facility described as _____ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in

subsections (3) and (4) of the definition of "Significant Industrial User" at EC 6.550(5);

(b) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and

(c) The facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based on the following information.

_____

_____

(c) Hauled Waste Manifests. For MWHs subject to discharge reporting requirements in Hauled Waste Permits, the following certification Statement must be signed by a driver/operator of a hauled waste vehicle authorized to discharge at the Septage Receiving Station:

I certify under penalty of law that the information listed in this manifest was prepared by me and the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations. I further certify that all discharges covered by this manifest are not hazardous as defined at 40 CFR Part 261. I further certify that all discharges made to the POTW are being made in accordance and in compliance with the requirements specified in Sections ____ to ___ of ____ City Code and the Mobile Waste Hauler Permit.

(15) Electronic Reporting. Users that submit electronic documents to the City to satisfy the requirements of EC 6.566 must ensure all documents comply with the CROMERR requirements, as set out in EC 6.552.

6.568 Industrial Pretreatment Program — Compliance Monitoring.

(1) Right of Entry: Inspection and Sampling. The City Manager shall have the right to enter the premises of any User as often as deemed necessary (SIUs should expect to be inspected at a minimum once annually) to determine whether the User is complying with all requirements of EC 6.550 to 6.586 and any individual wastewater discharge permit or order issued hereunder. Users shall allow authorized representatives of the City, State and EPA ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(a) Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the representatives shall be permitted to enter without delay for the purposes of performing specific responsibilities. Unreasonable delays in allowing representatives from the City, State, or EPA access to the User's premises shall be a violation of EC 6.550 to 6.586.

(b) Entry may not be conditioned upon any City, State, or EPA representative signing any type of confirmation, release, consent, acknowledgement, or other type of agreement.

(c) The City, State and EPA shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct sampling, observation, inspection, compliance monitoring and/or metering of the User's operations.

(d) The City, State and EPA may require the User to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at the manufacturer's recommendation to ensure their accuracy.

(e) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of the City, State and EPA and shall not be replaced. The costs of clearing such access shall be borne by the User.

(f) Unreasonable delays in allowing the City, State and EPA access to the User's premises shall be a violation of EC 6.550 to 6.586.

(2) Monitoring Facilities.

(a) The City Manager may require the User to install and maintain at its expense a suitable sampling location(s) and/or monitoring equipment, to facilitate representative observation, sampling and measurement of wastewater being discharged.

(b) If feasible, such sampling location shall be located where it is accessible from a public road or street and shall be arranged so that flow measuring and sampling equipment and a shutoff gate or a screen may be conveniently installed by the City. If infeasible, the User shall receive prior approval for deviation from this requirement.

(c) It shall be constructed in accordance with plans and at a location approved by the City Manager. The approval of such plans shall in no way relieve the User from the responsibility of modifying such sampling location(s) as necessary to ensure representative observation, sampling and measurement.

(d) The sampling location(s) and monitoring equipment required in this subsection (2) shall be maintained in proper working order and kept safe and accessible at all times.

(3) Search Warrants. If the City Manager has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of EC 6.550 to 6.586, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with EC 6.550 to 6.586 or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the City Manager may seek issuance of a search warrant from the Lane County Circuit Court of Oregon.

6.570 Industrial Pretreatment Program — Confidential Information. Information and data on a User obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits, and monitoring programs, and from inspection and sampling activities, shall be available to the public and other governmental agencies without restriction, unless the User specifically requests in writing, and is able to demonstrate to the satisfaction of the City Manager, that such records are exempt from disclosure under the Oregon Public Records Law ORS 192.410, et seq. All such information and data shall be available at least to the extent necessary to permit the City Manager to ensure compliance with EC 6.550 to 6.586 as well as the requirements of 40 CFR section 2.302. Any such request must be asserted at the time of submission or collection of the information or data. When requested and demonstrated by the User furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. However, all information and data reported shall be available for use by the City, state or any state agency or federal agency in judicial or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction.

6.572 Publication of Users in Significant Noncompliance. The City Manager shall publish annually, in a newspaper or other media of general circulation that provides meaningful public notice within the City metropolitan area, a list of the Users which, at any time during the previous twelve (12) months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements.

6.574 Industrial Pretreatment Program — Cross Media Electronic Reporting (Cromerr).

(1) EC 6.574 serves as the framework establishing electronic reporting in compliance with 40 CFR Part 403 and 40 CFR part 3.

(2) Definitions to establish the framework for electronic reporting. For the purposes of EC 6.574, the following definitions apply:

> Copy of Record. A true and correct copy of an electronic document received by an electronic document receiving system, which copy can be viewed in a human-readable

format that clearly and accurately associates all the information provided in the electronic document with descriptions or labeling of the information. A copy of record includes:

(a) All electronic signatures contained in or logically associated with that document;

(b) The date and time of receipt; and

(b) Any other information used to record the meaning of the document or the circumstances of its receipt.

Electronic Document. Any information in digital form that is conveyed to an agency or third-party, where "information" may include data, text, sounds, codes, computer programs, software, or databases. "Data," in this context, refers to a delimited set of data elements, each of which consists of a content or value together with an understanding of what the content or value means; where the electronic document includes data, this understanding of what the data element content or value means must be explicitly included in the electronic document itself or else be readily available to the electronic document recipient.

Electronic Document Receiving System. Any set of apparatus, procedures, software, records, or documentation used to receive electronic documents.

Electronic Signature Agreement. An agreement signed by an individual with respect to an electronic signature device that the individual will use to create his or her electronic signatures requiring such individual to protect the electronic signature device from compromise; to promptly report to the agency or agencies relying on the electronic signatures created any evidence discovered that the device has been compromised; and to be held as legally bound, obligated, or responsible by the electronic signatures created as by a handwritten signature.

Electronic Signature Device. A code or other mechanism that is used to create electronic signatures. Where the device is used to create an individual's electronic signature, then the code or mechanism must be unique to that individual at the time the signature is created and they must be uniquely entitled to use it. The device is compromised if the code or mechanism is available for use by any other person.

Electronic Signature. Any information in digital form that is included in or logically associated with an electronic document for the purpose of expressing the same meaning and intention as would a handwritten signature if affixed to an equivalent paper document with the same reference to the same content. The electronic document bears or has on it an electronic signature where it includes or has logically associated with it such information.

Handwritten Signature. The scripted name or legal mark of an individual, handwritten by that individual with a marking-or writing-instrument such as a pen or stylus and executed or adopted with the present intention to authenticate a writing in a permanent form, where "a writing" means any intentional recording of words in a visual form, whether in the form of handwriting, printing, typewriting, or any other tangible form. The physical instance of the

scripted name or mark so created constitutes the handwritten signature. The scripted name or legal mark, while conventionally applied to paper, may also be applied to other media.

Valid Electronic Signature. An electronic signature on an electronic document that has been created with an electronic signature device that the identified signatory is uniquely entitled to use for signing that document, where this device has not been compromised, and where the signatory is an individual who is authorized to sign the document by virtue of his or her legal status and/or his or her relationship to the entity on whose behalf the signature is executed.

(3) Reporting Requirements for Electronic Submissions. Beginning on [FILL IN the effective date of this Ordinance], and if authorized by the City, reports and notifications required by SIUs under EC 6.550 to 6.586 shall be electronically submitted to the City. All electronic documents shall be submitted by the designated electronic document receiving systems and verified with a valid electronic signature to develop a copy of record.

(4) Reporting Requirements.

(a) A person is subject to any applicable federal civil, criminal, or other penalties or remedies for failure to comply with a reporting requirement if the person submits an electronic document to the City and fails to comply with the applicable provisions for electronic reporting.

(b) Where an electronic document submitted to the City bears an electronic signature, the electronic signature legally binds, obligates, and makes the signatory responsible, to the same extent as the signatory's handwritten signature would on a paper document submitted to the City.

(c) Proof that a particular signature device was used to create an electronic signature will suffice to establish that the individual uniquely entitled to use the device did so with the intent to sign the electronic document and give it effect.

(d) Nothing in EC 6.574 limits the use of electronic documents or information derived from electronic documents as evidence in enforcement or other proceedings.

(5) IU Reporting and Notification Requirements. Non-SIU Users who are not subject to mandatory electronic reporting may choose to provide reports and notifications electronically, and may do so only by in accordance with the requirements set out in EC 6.574.

6.576 Industrial Pretreatment Program — Administrative Compliance Remedies.

(1) Warning Letter. When the City Manager finds a User has violated any provision of EC 6.550 to 6.586, a wastewater discharge permit, General Discharge Authorization, Discharge Authorization Letter, or any other Pretreatment Standard or Requirement, the City may issue a written Warning Letter to the User. The Warning Letter shall specify the violations(s) and consequences of

continued noncompliance. For violations of a Discharge Authorization Letter, the Warning Letter may contain corrective action(s) and a schedule for completing the corrective action(s).

(2) Notification of Violation. When the City Manager finds that a User has violated, or continues to violate, any provision of EC 6.550 to 6.586, an individual wastewater discharge permit, General Discharge Authorization, Discharge Authorization Letter or order issued hereunder, or any other Pretreatment Standard or Requirement, the City may serve upon that User a written Notice of Violation. The Notice of Violation shall specify the violation and may require a written response from the violator detailing the actions that will be taken to resolve the violation(s) and/or corrective actions and a schedule for completing the corrective action(s). A Notice of Violation may also include a Notice of Administrative Penalty Assessment. Submission of such a plan in no way relieves the User of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in EC 6.574 shall limit the authority of the City Manager to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

(3) Administrative Compliance Orders. When the City Manager finds that a User has violated, or continues to violate, any provision of EC 6.550 to 6.586, an individual wastewater discharge permit, General Discharge Authorization, Discharge Authorization Letter, or order issued hereunder, or any other Pretreatment Standard or Requirement, the City may issue a written Administrative Compliance Order to the User directing that the User come into compliance within a specified time. The Order shall specify the violation(s) and require compliance measures. The Order may also include a Notice of Administrative Penalty Assessment for the violation. If the User does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does a compliance order relieve the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User.

(4) Stipulated Enforcement Orders. The City Manager may enter into a stipulated enforcement order for any violation. The Stipulated Enforcement Order shall state findings, direct the User to come into compliance within a specified time and may contain other requirements to address the noncompliance, including but not limited to interim pretreatment limits and compliance goals, and additional self-monitoring and management designed to minimize the amount of pollutants discharged to the POTW.

(5) Service. Enforcement actions shall either be served by personal service or shall be sent by registered or certified mail and by first class mail. Any such notice served by mail shall be deemed received for purposes of any time computations hereunder three (3) days after the date mailed if to

an address within this stare, and seven (7) days after the date mailed if to an address outside of this state.

(6) Cease and Desist Orders. When the City Manager finds that a User has violated, or continues to violate, any provision of EC 6.550 to 6.586, an individual wastewater discharge permit, General Requirement, Discharge Authorization or order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User's past violations are likely to recur, the City Manager may issue an order to the User directing it to cease and desist all such violations and directing the User to:

(a) Immediately comply with all requirements; and

(b) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the User.

(7) Administrative Penalties or Fines.

(a) When the City Manager finds that a User has violated, or continues to violate, any provision of EC 6.550 to 6.586, an individual wastewater discharge permit, General Requirements, Discharge Authorization, or order issued hereunder, or any other Pretreatment Standard or Requirement, the City Manager may fine such User in an amount not to exceed $25,000. Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.

(b) As a part of a Notice of Violation, Administrative Compliance Order, or separately, the City Manager may issue a Notice of Administrative Penalty Assessment pursuant to EC 6.550 to 6.586 for any violation. The amount of the administrative penalty shall be determined through the use of the Enforcement Response Plan.

(c) Collection of the penalties determined by the City Manager may be in the manner provided in this code for the collection of sewer user charges, in accordance with any other provisions of this code, or in any other manner provided by law.

(d) If the User objects to the assessment of any penalty provided by EC 6.576, the User shall have all the rights and shall proceed in compliance with the provisions of EC 6.562.

(e) Any person who violates EC 6.550 to 6.586 or a condition of a discharge permit, as a result of which the City performs or causes to be performed preventative or corrective work or which results in damage to the POTW shall be liable to the City for such damage and the cost of such preventive or corrective work, additional treatment and for any penalties, including withholding of any grant money, levied against the City for violation of State or federal permits resulting from said violation. The City may collect such charges in the

manner provided in this code for the collection of sewer user charges, in accordance with any other provisions of this code, or in any other manner provided by law.

(f) In the event that a User discharges such pollutants which cause the City to violate any condition of its NPDES permit and the City is fined by EPA or the State for such violation, then such User shall be fully liable for the total amount of the fine assessment against the City by the EPA and /or State.

(g) No person shall willfully or negligently break, destroy, uncover, deface, tamper with, or prevent access to any structure, appurtenance or equipment, or other part of the POTW. Any person found in violation of this requirement shall be subjected to sanctions set out in EC 6.550 to 6.586.

(h) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the User.

(8) Emergency Suspensions.

(a) The City Manager may immediately suspend a User's discharge, after informal notice to the User, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present, or cause an imminent or substantial endangerment to the health or welfare of persons. The City Manager may also immediately suspend a User's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

1. Any User notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a User's failure to immediately comply voluntarily with the suspension order, the City Manager may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The City Manager may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the City Manager that the period of endangerment has passed, unless the termination proceedings EC 6.576(9) are initiated against the User.

2. A User that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the City Manager prior to the date of any Reconsideration or Appeal under EC 6.562.

(b) The filing of an appeal pursuant to EC 6.562 shall not stay an emergency suspension by the City Manager.

(9) Termination of Discharge.

(a) In addition to the provisions in EC 6.560(2), any User who violates the following conditions is subject to discharge termination:

1. Violation of individual wastewater discharge permit conditions;

2. Failure to accurately report the wastewater constituents and characteristics of its discharge;

3. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;

4. Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or

5. Violation of the Pretreatment Standards in EC 6.552.

(b) Such User will be notified of the proposed termination of its discharge and be offered an opportunity to appeal as set out in EC 6.562. Exercise of this option by the City Manager shall not be a bar to, or a prerequisite for, taking any other action against the User.

6.578 Industrial Pretreatment Program — Judicial Enforcement Remedies.

(1) General. Nothing in EC 6.550 to 6.586 shall prevent the City Manager from seeking judicial or governmental agency assistance to implement the purposes and provisions of EC 6.550 to 6.586.

(2) Injunctive Relief. When the City Manager finds that a User has violated, or continues to violate, any provision of EC 6.550 to 6.586, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the City Manager may petition the Lane County Circuit Court through the City's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit, order, or other requirement imposed by EC 6.550 to 6.586 on activities of the User. the City Manager may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.

(3) Civil Penalties.

(a) A User who has violated, or continues to violate, any provision of EC 6.550 to 6.586, an individual wastewater discharge permit or order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to the City for a maximum civil penalty allowed under State law but not less than $1,000 per violation but not to exceed

$25,000, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(b) The City Manager may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.

(c) In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other factor as justice requires.

(d) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User.

(4) Criminal Prosecution.

(a) A User who willfully or negligently violates any provision of EC 6.550 to 6.586, an individual wastewater discharge permit or order issued hereunder, or any other Pretreatment Standard or Requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not less than $1,000 but not more than $25,000 per violation, per day, or imprisonment for not more than one year, or both.

(b) A User who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least $1,000 but not more than $25,000, or be subject to imprisonment for not more than one year, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

(c) A User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to EC 6.550 to 6.586 individual wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under EC 6.550 to 6.586 shall, upon conviction, be punished by a fine of not less than $1,000 but not more than $25,000 per violation, per day, or imprisonment for not more than one year, or both.

(d) In the event of a second conviction, a User shall be punished by a fine of not less than $1,000 but not more than $25,000 per violation, per day, or imprisonment for not more than three years, or both.

(5) Remedies Nonexclusive. The remedies provided for in EC 6.550 to 6.586 are not exclusive. The City Manager may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with the City's

enforcement response plan. However, the City Manager may take other action against any User when the circumstances warrant. Further, the City Manager is empowered to take more than one enforcement action against any noncompliant User.

6.580 Industrial Pretreatment Program — Supplemental Enforcement. Action.

(1) Payment of Outstanding Fees and Penalties. The City Manager may decline to issue or reissue an individual wastewater discharge permit to any User who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of EC 6.550 to 6.586, a previous individual wastewater discharge permit, or order issued hereunder.

(2) Water Supply Severance. Whenever a User has violated or continues to violate any provision of EC 6.550 to 6.586, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, water service to the User may be severed. Service will recommence, at the User's expense, only after the User has satisfactorily demonstrated its ability to comply.

(3) Public Nuisances. A violation of any provision of EC 6.550 to 6.586, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the City Manager. Any person(s) creating a public nuisance shall be subject to the provisions of the City Code governing such nuisances, including reimbursing the City for any costs incurred in removing, abating, or remedying said nuisance.

6.582 Industrial Pretreatment Program — Affirmative Defenses to Discharge Violations.

(1) Upset.

(a) An upset means an exceptional incident in which there is unintentional and temporary noncompliance with categorical Pretreatment Standards because of factors beyond the reasonable control of the User. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical Pretreatment Standards if the requirements of subsection (1)(c) below are met.

(c) A User who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

1. An upset occurred and the User can identify the cause(s) of the upset;

2. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

3. The User has submitted the following information to the City Manager within twenty-four (24) hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five (5) days:

a. A description of the indirect discharge and cause of noncompliance;

b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

c. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(d) In any enforcement proceeding, the User seeking to establish the occurrence of an upset shall have the burden of proof.

(e) Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical Pretreatment Standards.

(f) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical Pretreatment Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

(2) Prohibited Discharge Standards. A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in EC 6.552(1)(a) or the specific prohibitions in EC 6.552(1)(b)1.c. through EC 6.552(1)(b)1.g. if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause Pass Through or Interference and that either:

(a) A Local Limit exists for each pollutant discharged and the User was in compliance with each limit directly prior to, and during, the Pass Through or Interference; or

(b) No Local Limit exists, but the discharge did not change substantially in nature or constituents from the User's prior discharge when the City was regularly in compliance with its NPDES permit, and in the case of Interference, was in compliance with applicable sludge use or disposal requirements.

(3) Bypass.

(a) For the purposes of EC 6.582:

1. "Bypass" means the intentional diversion of wastestreams from any portion of a User's treatment facility.

2. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) A User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of subsections (3)(c) and (3)(d).

(c) Bypass Notifications.

1. If a User knows in advance of the need for a bypass, it shall submit prior notice to the City Manager, at least ten (10) days before the date of the bypass, if possible.

2. A User shall submit oral notice to the City Manager of an unanticipated bypass that exceeds applicable Pretreatment Standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. the City Manager may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(d) Bypass.

1. Bypass is prohibited, and the City Manager may take an enforcement action against a User for a bypass, unless:

a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which

occurred during normal periods of equipment downtime or preventive maintenance; and

c. The User submitted notices as required under subsection (3)(c) above.

2. The City Manager may approve an anticipated bypass, after considering its adverse effects, if the City Manager determines that it will meet the three conditions listed in subsection (3)(d) above.

6.584 Industrial Pretreatment Program — Fees.

(1) Purpose. The purpose of EC 6.584 is to reduce the City's cost of implementation of the pretreatment program through a system of equitable charges or fees to be paid by the IUs subject to EC 6.550 to 6.586. These fees are in addition to the basic charges and flow based fees. The applicable charges or fees shall be set forth in a schedule of fees.

(2) Pretreatment Charges and Fees. To implement the provisions of EC 6.550 to 6.586, the City Manager may administratively impose fees pursuant to EC 2.020 of this code.

(a) In establishing or modifying industrial or business use fees for the POTW, the City Manager may consider all applicable factors, including but not limited to the following:

1. Reimbursement of costs of setting up and operating the POTW pretreatment program, and including the cost of plant investment, supplies, equipment, and personnel; and

2. Monitoring, inspection, and surveillance procedures including the cost of reviewing monitoring reports submitted by the industrial users.

(b) In addition to fees of general application, the POTW may charge user-specific fees based upon the actual cost for personnel, supplies and equipment, for the following:

1. Reviewing accidental discharge procedures and construction;

2. Permit application, to include the cost for processing permit applications;

3. For filing appeals; or

4. For sewer maintenance as a result of inadequate pretreatment equipment or improper maintenance of pretreatment equipment.

(c) Other fees as the City Manager may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by EC 6.550 to 6.586 and are separate from all other fees, fines, and penalties chargeable to the POTW.

6.501 Industrial Pretreatment Program – Declaration of Policy.

(1) The provisions of sections 6.501 to 6.596 of this code set forth requirements for the industrial discharge of pollutants into the city wastewater system. The objectives of these sections are to:

(a) Prevent the discharge of pollutants into the city wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;

(b) Prevent the discharge of pollutants into the city sewerage system which will pass through the system, inadequately treated, into receiving waters;

(c) Improve the opportunity to recycle and reclaim wastewater and sludge from the city wastewater system;

(d) Protect the health of the city's employees working in and around the city wastewater system.

(2) In achieving the objectives of sections 6.501 to 6.596 of this code it shall be the policy of the city to actively support the community's commerce and industry through accommodation, assistance and cooperation consistent with the city's responsibility to protect the waters of the state from pollution and to secure the health, safety and welfare of the residents of the metropolitan area.

(3) Pollutants shall be accepted into the city wastewater system subject to regulations and requirements as may be promulgated by state and federal regulatory agencies or the city for the protection of sewerage facilities and treatment processes, public health and safety, receiving water quality and avoidance of nuisance. Pretreatment standards shall be developed to ensure that, at a minimum, the city and industrial users comply with Sections 307(b) and 307(c) of the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977 and the regulations promulgated pursuant to these sections of the Act, including but not limited to, 40 CFR Part 403 (General Pretreatment Regulations) and 40 CFR Chapter I Subchapter N (National Categorical Pretreatment Standards).

TO BE REPEALED

(4) The city manager, in carrying out the provisions of sections 6.501 to 6.596 of this code regarding industrial discharge of pollutants by industrial users into the city wastewater system necessary for the proper disposal of wastewater and stormwater from the city and adjacent territory, is authorized, in his or her administrative discretion, to adopt and to promulgate as regulations any laws of the state or the federal government in accordance with the procedures of section 2.019 of this code. Discharge permit conditions shall be predicated on federal, state and local regulations and requirements and on the results of analysis of the type, concentration, quantity and frequency of discharge including the geographical relationship of the point of discharge to sewerage and treatment facilities. Discharge permits may include, but shall not be limited to, conditions pertaining to discharge standards, self monitoring requirements, treatment methods, housekeeping practices, inventory storage, manufacturing methods, etc., that are intended to protect the waters of the state. Permit conditions shall be reevaluated upon expiration of the permit and may be revised by the city manager as required, to remain consistent with local, state or federal laws, regulations and requirements or to meet any emergency.

(5) The city manager shall administer, implement, and enforce the provisions of sections 6.501 to 6.596 of this code to ensure that the city's pretreatment program complies with the objectives of sections 6.501 to 6.596 of this code, the applicable state and federal laws and regulations and the city's policy to cooperate with the state and federal government. Cross references in sections 6.501 to 6.596 of this code to other statutes and regulations are to the versions in effect on the effective date of this ordinance.

TO BE REPEALED

6.506 Industrial Pretreatment Program – Definitions.

Unless the context specifically indicates otherwise, the following terms and phrases, as used in sections 6.501 to 6.596 of this code shall have the following meanings.

Act. The Federal Water Pollution Control Act, also known as the Clean Water Act, 33 U.S.C. 1251, et seq.

Authorized representative of industrial user. An authorized representative of an industrial user shall be:

(a) A president, vice-president, secretary or treasurer in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, if the industrial user is a corporation.

(b) A general partner or proprietor if the industrial user is a partnership or sole proprietorship, respectively; or

(c) A duly authorized representative of the individual designated in (a) or (b) provided the authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the discharge originates or a position of equivalent responsibility or having overall responsibility for environmental matters for the company, is made in writing by an individual designated in (a) or (b) and such authorization is provided to the city prior to or together with any reports signed by an authorized representative as provided in 40 CFR 403.12(1) or required by the city manager.

BOD (Biochemical oxygen demand). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius expressed in milligrams per liter.

CFR. The referenced Code of Federal Regulations provision.

City manager. The city manager of the city of Eugene, or the city manager's designee.

City wastewater system. A treatment works as defined by section 212 of the Act. This definition includes any publicly owned sewer that convey wastewater to the treatment plant, whether or not a part of the regional sewerage facilities as defined in the Intergovernmental Agreement executed by the cities of Eugene and Springfield and Lane County as of February 9, 1977, as amended (Intergovernmental Agreement), but does not include the city stormwater system.

Constituent. Any pollutant regulated by section 6.501 to 6.596 of this code or by any permit issued pursuant to section 6.551 of this code, or any volume discharge limits established by a permit issued pursuant to section 6.551 of this code.

Cooling water. The water discharged from any use to which the only pollutant added is heat.

DEQ. The Oregon Department of Environmental Quality.

Discharge. The deposit of pollutants into the city wastewater system, whether deliberate or as an unintended result of any action or failure to act.

TO BE REPEALED

Discharge permit. A wastewater discharge permit or a mobile waste hauler permit.

Domestic waste. Wastewater derived from ordinary living processes, free from process wastewater and which will permit satisfactory disposal without special treatment into the city wastewater system.

EPA. The United States Environmental Protection Agency.

Immediate or Immediately. Immediate or immediately means as soon as reasonably possible but in no event longer than 24 hours.

Industrial user. Any person, including a mobile waste hauler, who discharges wastewater from a source other than a single or multiple dwelling unit directly connected to the city wastewater system.

Interference. A discharge which, alone or in conjunction with a discharge or discharges from other sources, either:

(a) Inhibits or disrupts the city, its wastewater system treatment processes or operations, or its sludge processes, use or disposal; or

(b) Is a cause of a violation of any requirement of the city's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations); Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act or regulations promulgated by the city manager.

Mobile waste hauler. A person who, by contract or otherwise, collects wastewater, including domestic waste and septage waste, for transportation to and discharge into any portion of the city wastewater system. "Domestic waste" and "septage waste" as used herein have the meaning found in section 6.506.

Mobile waste hauler permit. A permit issued pursuant to section 6.551 of this code.

TO BE REPEALED

NPDES permit. National Pollution Discharge Elimination System permit issued pursuant to ORS 468.740 and the Act.

New significant industrial user. Any person discharging from any building, structure, facility or installation (source), the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) ot the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(a) The building, structure, facility or installation is constructed at a site at which no other source is located; or

(b) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(c) The production of wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of paragraphs (b) or (c) of this paragraph but otherwise alters, replaces, or adds to existing process or production equipment. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

(d) Begun, or caused to begin as part of a continuous on-site construction program:

1. Any placement, assembly, or installation of facilities or equipment; or

2. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(e) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and

TO BE REPEALED

contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

Pass through. A discharge which exits the city wastewater system into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city wastewater system NPDES permit (including an increase in the magnitude or duration of a violation).

Person. Any individual, partnership, joint-venture, firm, company, cooperative, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity. The masculine gender shall include the feminine and the singular shall include the plural.

pH. The logarithm (base 10) of the reciprocal of the hydrogen ion activity expressed in moles per liter of solution.

Pollutant. Any element or compound discharged into the city wastewater system except water unless the water has been heated, cooled or irradiated.

Pollution. The alteration of the chemical, physical, biological or radiological state of water.

Pollution management practices. Schedules of activities, requirements or prohibitions of practices, operating procedures, maintenance procedures, and other management procedures used to reduce the amount of pollutants entering the city wastewater system.

Pollution prevention. Source reduction and other practices that reduce or eliminate the creation of pollutants through:

(a) Increased efficiency in the use of raw materials, energy, water, or other resources, or

(b) Protection of natural resources by conservation.

Pretreatment. The reduction or elimination of pollutants in wastewater prior to discharge.

Process wastewater. Water which, during manufacturing or processing, comes into contact with or results from the production of or use of any raw material, intermediate product, finished product, byproduct or waste product.

Restricted substance. Pollutants listed in section 6.511 of this code, or as prescribed by the city manager pursuant to section 6.516 of this code.

TO BE REPEALED

Sample. Any portion of wastewater representing a discharge, which may be a grab sample, or a composite of several samples representing the sewer discharge over a period of time.

Septage waste. Domestic waste extracted from a sewage containment system.

SIC number. A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972, through the effective date of this ordinance.

Significant industrial user. Any industrial user which:

(a) Is subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N or rules promulgated by the city manager, or

(b) Discharges an average of at least 25,000 gallons per day of wastewater (excluding domestic waste, boiler blowdown, and noncontact cooling water) in any period of 12 consecutive calendar months, or

(c) Discharges process wastewater, which on any day in any period of 12 consecutive calendar months constitutes at least five percent of the average daily dry weather hydraulic or organic capacity of the city wastewater system, or

(d) Is determined by the city manager to have a reasonable potential for adversely affecting the city wastewater system's operation or for violating any pretreatment standards.

Slugload. Any discharge of a non-routine episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge.

Standards. The limitations and requirements established by federal, state and local laws and regulations for discharges to the city wastewater system.

Suspended solids. The total elements and compounds which float on the surface of, or are suspended in, wastewater and which are removable by laboratory filtration.

Toxic pollutant. Any pollutant or combination of pollutants identified pursuant to section 307(a) and section 502 of the Act or otherwise listed as toxic in regulations previously promulgated by the EPA, or as identified by the city manager.

TO BE REPEALED

Wastewater. Liquid or water-carried pollutants including any stormwater that may be present, whether treated or untreated, which is discharged, flows, or infiltrates into the city wastewater system.

Wastewater discharge permit. A permit issued pursuant to section 6.551 of this code.

6.511 Industrial Pretreatment Program – General Discharge Prohibitions.

No industrial user shall discharge any pollutant in a quantity which will harm the health of the city's employees working in and around the city wastewater system, interfere with the operation or performance of the city wastewater system, or contaminate the resulting sludge, or will pass through the system inadequately treated, into receiving waters, including but not limited to any of the following substances.

(a) Any liquids, solids or gases which by reason of their nature or quantity are, or may be sufficient either alone or in combination with other pollutants to cause fire or explosion or be injurious in any other way to the city wastewater system or its operations, including, but not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, prechlorates, bromates, carbides, hydrides and sulfides; wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified by the city manager. At no time shall two successive readings on an explosion hazard meter, at the point of discharge (or at any point in the city wastewater system) be more than five percent nor any single reading over ten percent of the lower explosive limit of the meter.

(b) Pollutants which result in the presence of toxic gases, vapors, or fumes within the city wastewater system in a quantity that may cause acute worker health and safety problems.

(c) Any trucked or hauled pollutants, except at discharge points designated by the city manager.

(d) Solid or viscous substances which either alone or in combination with other pollutants may cause obstruction to the flow in a sewer or other interference with the operation of the city wastewater system such as, but not limited to: grease, garbage with particles greater than one-half inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or

TO BE REPEALED

fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains or hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

(e) Any wastewater having a pH less than 5.5 or greater than 12.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the city wastewater system.

(f) Any wastewater containing pollutants which, either alone or in combination with other pollutants, may injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, creates a toxic effect in the receiving waters of the city wastewater system or exceeds any limitation set forth in a National Categorical Pretreatment Standard or any other pretreatment standard.

(g) Any noxious or malodorous liquid, gas or solid which, either alone or in combination with other pollutants, is sufficient to create a public nuisance or hazard to life or is sufficient to prevent entry into the city wastewater system for maintenance or repair.

(h) Any pollutant which may cause the city wastewater system's effluent or any other product of the city wastewater system such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process.

(i) Any pollutant which will cause the city to violate its NPDES permit.

(j) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

(k) Any wastewater having a temperature which will inhibit biological activity in the treatment plant or stimulate excessive biological activity in the city wastewater system, but in no case wastewater with a temperature at the point of discharge into the city wastewater system which exceeds 65 degrees C (150 degrees F) or with a temperature which exceeds 40 degrees C (104 degrees F) at the regional treatment works plant influent.

(l) Any wastewater containing any radioactive wastes or isotopes of such half life or concentration as may exceed limits established by the city manager or applicable state or federal standards.

TO BE REPEALED

(m) Any unpolluted water, including, but not limited to, non-contact cooling water, or stormwater.

6.516 Industrial Pretreatment Program – Pretreatment Standards – Restricted Substances.

No industrial user shall discharge wastewater containing restricted substances into the city wastewater system, in excess of limitations specified by conditions of its discharge permit or published by the city manager. The city manager shall publish and revise from time to time rules which designate and establish limits for restricted substances. At all times these rules shall cover and be at least as strict as those for pollutants as defined in state or federal regulations. Discharge limits or rules in effect and incorporated into any discharge permit shall remain in effect for that permit until it expires, except as modified as provided in section 6.551 of this code.

6.521 Industrial Pretreatment Program – Excessive Discharge.

No industrial user shall increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate pretreatment to achieve compliance with the standards contained in sections 6.501 to 6.596 of this code.

6.526 Industrial Pretreatment Program – Accidental Discharges.

Industrial users shall provide protection from accidental discharge of prohibited or regulated materials or substances established in this section. Where deemed necessary by the city, facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the industrial user's cost and expense. An accidental spill prevention plan (ASPP) showing facilities and operating procedures to provide this protection shall be submitted to the city for review and approval before implementation. The city shall determine which industrial user is required to develop an ASPP and require that industrial user to submit the ASPP within 60 days after notification by the city. Each industrial user shall implement its ASPP as submitted after such ASPP has been reviewed and approved by the city. Review and approval of such

TO BE REPEALED

plans and operating procedures by the city shall not relieve the industrial user from the responsibility to modify its facility as necessary to meet the requirements of sections 6.501 to 6.596 of this code.

6.531 Industrial Pretreatment Program – Notice of Discharges.

(1) *Telephone notice.* Any industrial user or employee thereof becoming aware of a discharge which:

(a) Could cause interference or pass through, including any slug load; or

(b) Violates sections 6.501 to 6.596 of this code, shall report such discharge immediately by telephone to the city manager. Prompt notification of such discharges will allow the city to take necessary precautions to minimize hazards and to prevent damage to the receiving waters, thereby avoiding or minimizing discharge violations and fines from state and federal regulatory agencies and the city. The notification shall include the location of the discharge, type, concentration and volume of pollutant discharged and corrective actions proposed and/or taken.

(2) *Written notice.* Within five days following such a discharge, the industrial user shall submit to the city manager a detailed written report describing the cause and location of the discharge, the type, concentration and volume of pollutant discharged, and any hazards which may be posed to life or property and the measures taken or to be taken to prevent similar future occurrences.

(3) *Advance notice.* An industrial user shall promptly notify the city manager in advance of any substantial change in the volume or character of pollutants in its discharge, including hazardous wastes for which the industrial user has provided initial notification under section 6.536 of this code.

(4) *Notice to employees.* Each industrial user subject to section 6.551 of this code shall permanently post a notice on its bulletin board or other prominent place advising employees whom to call in the event of a discharge covered by subsection (1) of this section. Employers shall ensure that all employees who may cause or suffer such a discharge to occur or who are likely to detect such discharge are advised of the emergency notification procedure.

TO BE REPEALED

6.536 Industrial Pretreatment Program – Notice of Hazardous Waste Discharge.

(1) *Local notice and prior approval.* Prior to the discharge of any substance referenced in subsection (2) of this section, the industrial user shall obtain prior written approval from the city manager for such discharge. The written request for prior approval shall include the name of the hazardous waste as set forth in 40 CFR Part 261, identification of the hazardous constituents contained in the waste, an estimate of the mass and concentration of such constituents, the volume of the discharge, and any other information the city manager may deem appropriate.

(2) *Federal notice requirements.* Industrial users shall notify the city manager, the EPA Regional Waste Management Division Director, and state hazardous waste authorities in writing of any discharge into the city wastewater system of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch or other). If the industrial user discharges more than 100 kilograms of such waste per calendar month to the city wastewater system, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user:

(a) An identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month; and

(b) An estimation of the mass constituents in the wastestream discharged during that calendar month; and

(c) An estimation of the mass constituents in the wastestream expected to be discharged during the following 12 months. Industrial users who commence discharging after December 31, 1991 shall provide the notification no later than 180 days after the discharge of the listed or characteristic hazardous waste. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notification of changed discharges must be submitted under section 6.430(3) of this code. The notification requirement in this section does not apply to pollutants already reported under self-monitoring requirements of this code.

TO BE REPEALED

(3) *Exemption.* Industrial users are exempt from the requirements of subsection (2) of this section during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the industrial user discharges more than such quantities of any hazardous waste do not require additional notification.

(4) *New regulations.* In the case of any new regulations under section 3001 of the Resource Conservation and Recover Act identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the industrial user must notify the city manager, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.

(5) *Certification.* In the case of any notification made under this section, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

TO BE REPEALED

6.541 Industrial Pretreatment Program – Agreements.

Nothing contained in sections 6.501 to 6.521 of this code shall be construed to prohibit an agreement between the city and any person whereby a discharge which would otherwise be prohibited by sections 6.501 to 6.596 of this code may be admitted to the city wastewater system. Such an agreement may be made when, in the opinion of the city manager, special circumstances justify such agreement, provided that no interference or pass through results from the discharge and no additional costs are incurred by the city without recompense by the person. Categorical pretreatment standards shall not be waived by special agreement of the parties.

(Section 6.541, formerly Section 6.434 added by Ordinance No. 19791, enacted July 8, 1991; renumbered by Ordinance No. 19939, enacted November 17, 1993, effective December 17, 1993; and amended by Ordinance No. 19940, enacted November 17, 1993, effective December 17, 1993.)

6.546 Industrial Pretreatment Program – Fees.

(1) *Purpose.* It is the purpose of this section to reduce the city's cost of implementation of the pretreatment program through a system of equitable charges or fees to be paid by the industrial users of the city wastewater system who are subject to section 6.551(1)(a) of this code for certain services. The applicable charges or fees shall be set forth in a schedule of fees established as provided in section 2.020 of this code.

(2) *Fees.* When adopting fees as provided in subsection (1) of this section the city manager may adopt fees to reduce the city's cost of providing the following services:

(a) Setting up and operating the pretreatment program;

(b) Sampling, monitoring, inspections and surveillance procedures;

(c) Reviewing accidental discharge procedures and control;

(d) Reviewing and acting upon permit applications; and

(e) Other services as the city manager may deem necessary to carry out the requirements contained in sections 6.501 to 6.596 of this code.

TO BE REPEALED

6.551 Industrial Pretreatment Program – Administration.

(1) *General.*

(a) *Wastewater discharge survey.* The city manager or designee may require an industrial user to provide information pertaining to the nature and quantity of the industrial user's wastewater discharge. The city manager may, from time to time, require an industrial user to complete a wastewater discharge survey and returned it to the city.

(b) *Monitoring facilities.* When required by the city manager, the industrial user shall install and maintain at its expense a suitable control accesshole to facilitate observation, sampling and measurement of wastewater being discharged. Such accesshole shall be located, if feasible, where it is accessible from a public road or street. It shall be constructed in accordance with plans and at a location approved by the city manager and shall be

arranged so that flow measuring and sampling equipment and a shutoff gate or a screen may be conveniently installed by the city.

(c) *Inspection and sampling.* The city may inspect the facilities of any industrial user as often as deemed necessary (significant industrial users should expect to be inspected no less often than at least one to four times annually) to ascertain whether the provisions of sections 6.501 to 6.596 of this code are being complied with. The owner, operator or agent in charge of the premises shall allow authorized representatives of the city, state and EPA access at all reasonable times to all parts of the premises where wastewater related facilities are located or in which records required by this code are kept for the purpose of the performance of any of their duties, including but not limited to, inspection, observation, photographing, sampling, and/or records copying and examination. The city, state and EPA shall have the right to set up on the industrial user's property such devices as may be necessary or proper to conduct sampling, observation, inspection, compliance monitoring and/or metering operations. The industrial user shall make arrangements with its employees so that upon presentation of their credentials, representatives from the city, state or EPA will be permitted to enter, without delay, for the purpose of performing their responsibilities.

(d) *Pretreatment facilities.* An industrial user may be required to install pretreatment facilities or make plant or process modifications or implement pollution management practices as deemed necessary by the city manager to meet the requirements of sections 6.501 to 6.596 of this code. Whenever such facilities or modifications are required, they shall be constructed, installed, operated and maintained at the expense of the industrial user and in a manner and within the time prescribed by the city manager to enable the city to comply with all state and federal regulations or to protect the city wastewater system or treatment process. The industrial user shall maintain records indicating routine maintenance check dates, cleaning and waste removal dates and means of disposal of accumulated wastes. Such records shall be retained for a minimum of three years and shall be subject to review in accordance with subsection (1)(a) of this section. Approval of proposed facilities or modifications by the city manager will not in any way guarantee that these facilities or modifications will function in the required manner or attain the required results, nor shall it relieve an industrial user of the responsibility of enlarging or otherwise modifying or replacing such facilities to accomplish the intended purpose and to meet the

TO BE REPEALED

applicable standards, limitations and conditions of sections 6.501 to 6.596 of this code and, in the case of a permit holder, the wastewater discharge permit.

(e) *Confidential information.* Information and data obtained by the city from reports, questionnaires, permit applications, permits and monitoring programs shall be available to the public and other governmental agencies without restriction unless the industrial user requests in writing that it be confidential and demonstrates to the satisfaction of the city manager that such records are exempt from disclosure under the Oregon Public Records Law, ORS 192.410, et seq. Notwithstanding anything herein to the contrary, all such data shall be available at least to the extent necessary, to permit the city manager to ensure compliance with sections 6.501 to 6.596 of this code as well as the requirements of 40 CFR section 2.302. When confidentiality is requested and the right thereto is established by the industrial user, the confidential information shall not be made available for inspection by the public but may be made available upon written request to governmental agencies for uses related to sections 6.501 to 6.596 of this code, the NPDES permit, or pretreatment programs. However, all portions of a report shall be available for use by the city, state or any state agency or federal agency in judicial or enforcement proceedings involving the person furnishing the report.

(2) *Wastewater discharge permits.*

(a) *General.* Every significant industrial user shall secure a wastewater discharge permit from the city. Any discharge by a significant industrial user without a wastewater discharge permit is a violation of this code except as provided in subparagraph (b) of this subsection.

(b) *Application.* An existing industrial user which will become a significant industrial user upon establishing a new point of discharge, or making a substantial change in the volume or character of its discharge or process, shall apply for a wastewater discharge permit at least 90 days prior to establishing a new discharge point or making such change in discharge or process. Any such action by the industrial user without a permit is a violation of sections 6.501 to 6.596 of this code. Any other existing industrial users shall apply for a wastewater discharge permit within seven days of becoming a significant industrial user and may continue to discharge until the earlier of, the denial of the application or the passage of 90 days without permit issuance. Thereafter, any further discharge shall be a violation of sections 6.501 to 6.596 of this code. New significant industrial users shall apply for a wastewater discharge permit at least 90 days prior to the earlier of connecting to the

TO BE REPEALED

city wastewater system or discharging. Any discharge by a new significant industrial user without a permit is a violation of sections 6.501 to 6.596 of this code. An existing significant user proposing to establish a new point of discharge or make a substantial change in the volume or character of its discharge or process, shall apply for an amended permit and may discharge only in conformity with its existing permit until the permit is modified. Applications shall be made to the city manager in writing on forms provided by the city and shall include the following information:

1. Name, address, telephone number and authorized representative of the applicant and service address together with the name of the operator and owners;

2. SIC number;

3. A list of environmental control permits held by or for the applicant;

4. A list of wastewater pollutants and their characteristics actually or potentially discharged at the applicable plant site including measured or estimated daily average and daily maximum concentrations of these pollutants;

5. A description of spill prevention measures or plans which are currently in place in the plant;

6. Water use and wastewater flow rates, including maximum daily, average daily, average monthly and seasonal variations, if any;

7. A detailed site, floor, or plumbing plan showing the size and location of all sewers, sewer connections and appurtenances, or any other facilities designed to help the applicant in meeting sections 6.501 to 6.596 of this chapter;

8. A description of activities, facilities and plant processes on the premises including a general description of types and quantities of all materials which are or could be discharged into the city wastewater system;

9. A statement regarding whether or not compliance is being achieved with sections 6.501 to 6.596 of this code on a consistent basis and if not, whether additional operation and maintenance activities and/or additional pretreatment is required for the applicant to comply with sections 6.501 to 6.596 of this code;

TO BE REPEALED

10. Where additional pretreatment and/or operation and maintenance activities will be required to comply with sections 6.501 to 6.596 of this code, the applicant shall provide a compliance schedule consisting of a declaration of the shortest schedule by which the applicant will provide such additional pretreatment and/or implementation of additional operational and maintenance activities.

a. The schedule shall contain milestone dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the applicant to comply with the requirements of this division including, but not limited to, dates relating to hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, and all other acts necessary to achieve compliance with sections 6.501 to 6.596 of this code.

b. Under no circumstances shall a time increment for any single step directed toward compliance which exceeds nine months be permitted.

c. Not later than 14 days following each milestone date in the schedule and the final date for compliance, the applicant shall submit a progress report to the city, including at least, a statement on whether or not the applicant complied with the increment of progress represented by that milestone date and if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the applicant to return the construction to the approved schedule. In no event shall more than nine months elapse between such progress reports to the city;

11. A list of each product produced by type, amount, process or processes, and rate of production;

12. A list of the type and amount of raw materials utilized including chemicals used in process which may be discharged to the city wastewater system (average and maximum per day);

13. Any pertinent special agreements between the applicant and the city concerning treatment of discharges, special user charges or rates, or any other information deemed necessary by the city manager;

TO BE REPEALED

14. The application shall be signed by an authorized representative of the industrial user;

The city manager will evaluate the data furnished by the applicant and may determine that additional information or sampling of wastewater characteristics is necessary. If such a determination is made, the applicant, unless the time period is extended, will be given 30 days to provide the required information or sampling. If it is not provided within the designated time period, the application shall be denied. After determining that the submitted application contains all of the information required by this subsection, the city manager will consider the submission, any additional evidence that may have been requested, and any other available information relevant to the application. If the city manager determines that the proposed discharge meets the requirements of sections 6.501 to 6.596 of this code, the city manager will, within 30 days after determining that the application is complete, issue a wastewater discharge permit subject to appropriate conditions. Any application determined by the city manager to be complete shall constitute compliance with baseline monitoring report requirements under 40 CFR 403.12(b).

(c) *Modification of permit.* Conditions included in a wastewater discharge permit shall remain in effect for that permit until it expires, except that they may be revised by the city manager whenever the city manager deems a revision is necessary in order to effectively implement the pretreatment program, as required by city, state or federal standards or in order to effectuate the objectives of sections 6.501 to 6.596 of this code, and the city's policy to cooperate with the state and federal government or to meet any emergency. The permit holder shall be informed of any proposed changes in its permit at least 30 days prior to the effective date of change except in the event of an emergency.

(d) *Duration.* Permits shall be issued for a specified time period, not to exceed three years. The permit holder shall apply for permit reissuance a minimum of 90 days prior to the expiration of its existing permit if it desires to continue to discharge. An expired permit will continue to be in effect until the city takes final action on the renewal application to issue or deny the permit ("final action") if:

1. The permit holder has submitted a complete permit application at least 90 days prior to the expiration of its permit; and

2. The failure to take final action is not due to any act or failure to act on the part of the permit holder.

TO BE REPEALED

(e) *Conditions.* Wastewater discharge permits shall be expressly subject to all provisions of sections 6.501 to 6.596 of this code. Where applicable, permits shall contain the following conditions:

1. Payment of applicable fees;

2. Limits on the average and maximum discharge of restricted substances, including mass limits;

3. Limits on average and maximum rate and time of discharge or requirements for flow regulators and equalization;

4. Requirements for installing and maintaining pretreatment, inspection or monitoring sampling facilities;

5. Specifications for monitoring and sampling programs which may include monitoring and sampling locations, frequency of monitoring, sampling, number, types and standards for tests and reporting schedules;

6. Compliance schedules;

7. Requirements for submitting technical reports or discharge reports;

8. Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city manager, and affording the city manager access thereto;

9. Requirements for notifying the city of any new discharge of a restricted substance or any substantial change in the volume or character of the wastewater or any restricted substances being discharged into the city wastewater system;

10. Requirements for notifying the city within two business days after a permit holder has a reasonable basis to know that the production level will significantly change within the next calendar month, and that without such notification, a permit holder must meet the mass or concentration limits in its permit that were based on the original estimate of the long term average production rate;

11. Requirements for immediately notifying the city of slug load discharges;

TO BE REPEALED

12. Requirements that the permit holder notify the city of any disposal of wastewater in excess of 500 gallons to any person in any period of 12 consecutive calendar months;

13. Authorized points of discharge and regulated processes;

14. Requirement for immediately notifying the city manager where self-monitoring results indicate noncompliance;

15. Requirement to report a bypass or upset of a pretreatment facility;

16. Requirement for the significant industrial user who reports noncompliance to repeat the sampling and analysis and submit analysis to the city manager within 30 days after becoming aware of the violation;

17. Requirement for any significant industrial user whose pretreatment system contains a back-up system to notify the city before the primary system is taken off-line, and the back-up system is put into use;

18. Statement of applicable civil and criminal penalties for violation of pretreatment standards; and

19. Other conditions as deemed appropriate by the city manager to achieve compliance with sections 6.501 to 6.596 of this code.

(f) *Transfer.* A wastewater discharge permit shall be issued to a specific significant industrial user for a specific operation. A wastewater discharge permit shall not be assigned, transferred or sold without the approval of the city manager. Any successor significant industrial user shall agree to comply with the terms and conditions of the existing permit as a condition precedent to the approval by the city manager of a transfer, sale or assignment of the permit.

(g) *Analysis and reporting requirements.* Permit holders will be required to submit information, certifications, compliance schedules and samples of discharges or perform such tests and report such test results to the city manager as follows:

1. When required by the terms and provisions of 40 CFR Sec. 403.12 or 403.6(c)(7);

2. When requested by state or local public agencies; or

TO BE REPEALED

3. When deemed necessary by the city manager for the proper treatment, analysis or control of discharges.

All such tests and reports shall be at the cost of the permit holder. The city shall have the right to implement and enforce the provisions of 40 CFR Sec. 403.12 and 403.6(c)(7) by order of the city manager. When deemed necessary by the city manager, a permit holder may be required to obtain, install, operate and maintain an automatic sampler, analyzer or flow measuring device to monitor its discharges in the manner directed by the city.

All sampling and analysis shall be done in a manner and by a laboratory previously approved by the city manager. The city manager shall require all analysis related to any permit to be performed in accordance with the procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR Sec. 136 or other applicable analytical procedures approved by the EPA.

To the degree practicable, the city manager will provide each permit holder or applicant with information on applicable local, state and federal wastewater analysis and reporting requirements, provided, however, that any failure to do so shall not excuse the permit holder from compliance with said requirements.

(3) *Mobile waste hauler permits.*

(a) *Permit required.* Any person proposing to be a mobile waste hauler and any person the city manager has determined is likely to be a mobile waste hauler shall secure a mobile waste hauler discharge permit from the city. Any discharge by a mobile waste hauler without a permit is a violation of sections 6.501 to 6.596 of this code except as provided in subparagraph (b) of this subsection.

(b) *Application.* Any existing mobile waste hauler shall apply for a mobile waste hauler discharge permit within 30 days after becoming subject to the requirements of subparagraph (a) of this subsection. Any new mobile waste hauler subject to the requirements of subparagraph (a) of this subsection shall apply at least 30 days prior to its initial discharge. Applications shall be made to the city manager in writing on forms provided by the city and shall include the following information:

1. Name, address, telephone number and authorized representative of the applicant;

2. SIC number and other state or federal license numbers;

TO BE REPEALED

3. A list of environmental control permits held by or for the applicant;

4. A description of spill prevention measures or plans which are currently in place for use during storage or discharge of wastewater;

5. A description of activities and methods of collection, transportation, storage and discharge of wastewater, a description of transportation and storage facilities, and a general description of types and quantities of all materials which are or could be discharged; and

6. Proof of adequate general liability and property damage insurance.

The city manager shall evaluate the data furnished by the applicant and may determine that additional information or sampling of wastewater characteristics is necessary. If such a determination is made, the applicant, unless the time period is extended, will be given 30 days to provide the required information or sampling. If it is not provided within the designated time period, the application shall be denied. After determining that the submitted application contains all the information required by this subsection, the city manager shall consider the submission, any additional evidence that may have been requested, and any other available information relevant to the application. If the city manager determines that the proposed discharge meets the requirements of sections 6.501 to 6.596 of this code, the city manager shall, within 30 days after determining that the application is complete, issue a mobile waste hauler discharge permit subject to appropriate conditions.

(c) *Modification of permit.* Conditions included in a mobile waste hauler discharge permit shall remain in effect for that permit until it expires, except that they may be revised by the city manager whenever the city manager deems a revision is necessary in order to effectively implement the pretreatment program, as required by city, state or federal standards in order to effectuate the objectives of sections 6.501 to 6.596 of this code, and the policy of the city to cooperate with the state and federal government or to meet any emergency. The permit holder shall be informed of any proposed change in its permit at least 30 days prior to the effective date of change except in the event of an emergency.

(d) *Duration.* Permits shall be issued for a specified time period, not to exceed three years. The permit holder shall apply for permit reissuance a minimum of 90 days prior to the expiration of its existing permit if it desires to continue to discharge. An expired permit will

TO BE REPEALED

continue to be in effect until the city takes final action on the renewal application to issue or deny the permit ("final action") if:

1. The permit holder has submitted a complete permit application at least 90 days prior to the expiration of its permit; and

2. The failure to take final action is not due to any act or failure to act on the part of the permit holder.

(e) *Conditions.* Mobile waste hauler discharge permits shall be expressly subject to all provisions of sections 6.501 to 6.596 of this code. Mobile waste hauler permits shall contain the following conditions:

1. Payment of applicable fees;

2. Limits on the average and maximum discharge of restricted substances;

3. Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;

4. Compliance schedules;

5. Requirements for submission of technical reports or discharge reports;

6. Requirements for notification of the city of any new introduction of restricted substances or any substantial change in the volume or character of the wastewater or any restricted substances being discharged;

7. Requirements that the permit holder notify the city of any disposal of wastewater in excess of 500 gallons to any other person in any period of 12 consecutive calendar months;

8. Requirements for insurance coverage for all activities subject to the provisions of sections 6.501 to 6.596 of this code;

9. Requirements that the permit holder retain a copy of a valid mobile waste hauler discharge permit in each vehicle used for transportation of wastewater, and present that permit to any employee of the city authorized to inspect the mobile waste hauler discharge permit;

TO BE REPEALED

10. Requirements that the permit holder present a manifest of origin of all wastewater proposed for discharge;

11. Requirements that the permit holder discharge only at the designated discharge point and at designated times;

12. Requirements that the permit holder remove or otherwise clean up all spilled material or waste after discharge and that the permit holder agree to pay any public agency which provides assistance in such clean up or which performs such clean up after a failure by the permit holder to comply, an amount representing twice the amount of the actual expenditures of the public agency for labor and materials necessary to clean any spilled waste;

13. Requirements that the permit holder apply in writing on approved forms for permission to discharge any wastewater containing any restricted substance or wastewater containing any substances other than domestic or septage waste and provide the operator of the treatment facility at least 24 hours' notice of proposed time of delivery of any such approved waste; and

14. Other conditions as deemed appropriate by the city manager to achieve compliance with sections 6.501 to 6.596 of this code.

(f) *Transfer.* A mobile waste hauler discharge permit shall be issued to a specific mobile waste hauler for a specific operation. A mobile waste hauler discharge permit shall not be assigned, transferred or sold without the approval of the city manager. Any successor mobile waste hauler shall agree to comply with the terms and conditions of the existing permit as a condition precedent to the approval by the city manager of a transfer, sale or assignment of the permit.

(g) *Analysis and reporting requirements.* Permit holders shall be required to submit information, certifications, compliance schedules and samples of discharges or perform such tests and report such test results to the city manager as follows:

1. When requested by state or local public agencies; or

2. When deemed necessary by the city manager for the proper treatment, analysis or control of discharges.

TO BE REPEALED

All such tests and reports shall be at the cost of the permit holder. To the degree practicable, the city manager shall provide each permit holder or applicant with information on applicable local, state and federal wastewater analysis and reporting requirements, provided, however, that any failure to do so shall not excuse the permit holder from compliance with said requirements.

6.556 Industrial Pretreatment Program – Public Nuisance.

(1) *Unlawful discharges.* Any discharge in violation of sections 6.501 to 6.596 of this code, the conditions of a discharge permit, or any other violation of sections 6.501 to 6.596 of this code is hereby declared to be a public nuisance. Such nuisance may be abated or enjoined and damages assessed therefor in accordance with other provisions in this code or in any other manner provided by law.

(2) *Activities causing unlawful discharge.* Any activity which could result in or cause discharges in violation of sections 6.501 to 6.596 of this code on at least one day a month for any six months during the course of 12 consecutive calendar months is hereby declared to be a public nuisance. Such nuisance may be abated or enjoined and damages assessed therefor in accordance with other provisions in this code or in any other manner provided by law.

(3) *Additional personnel or monitoring devices.* The city manager may order the employment of one or more personnel or the installation of secured monitoring devices to assure compliance with any abatement order. Where the city manager deems such action necessary, the city manager may select the persons to be employed as monitors. The cost for compliance with such order shall be apportioned according to the laws regarding nuisance abatement.

TO BE REPEALED

6.561 Industrial Pretreatment Program – Cease and Desist Order.

(1) In the event of any actual or threatened discharge in violation of sections 6.501 to 6.596 of this code or the conditions of a discharge permit, which discharge presents an imminent or existing danger to the health or welfare of persons, property or the environment or which has caused or will cause interference, pass through or contamination of the resulting sludge, the city manager may issue an order to cease and desist and direct that the person responsible for such violation:

(a) Comply forthwith;

(b) Comply in accordance with the time schedule set forth by the city manager; or

(c) Take appropriate remedial or preventative action.

(2) If the person or permit holder in violation fails to comply with the order, the city shall take such steps as are deemed necessary or proper including immediate severance of the sewer connection. The city shall reinstate the wastewater treatment service upon proof of the elimination of the actual or threatened violation. The filing of an appeal pursuant to section 6.591 of this code shall not stay enforcement.

6.566 Industrial Pretreatment Program – Submission of Time Schedule.

If the city manager finds that a discharge has taken or may take place in violation of sections 6.501 to 6.596 of this code or the conditions of a discharge permit, the city manager may require the person or permit holder responsible therefor to submit for approval, within such time and with such modifications as the city manager deems necessary, a detailed time schedule of specific actions which the person or permit holder shall take in order to prevent or correct the violation.

6.571 Industrial Pretreatment Program – Termination and Revocation of Discharge Permit.

(1) Any industrial user who violates any of the provisions of sections 6.501 to 6.596 of this code or, where applicable, the conditions of its discharge permit, may have its discharge permit revoked and/or sewer connection severed by order of the city manager.

(2) The order shall be signed by the city manager and shall specify the nature and source of the violation. The order shall be delivered or sent by regular mail to the address of the industrial user. The order may specify the corrective actions to be taken and shall allow reasonable time for satisfactory correction. If the industrial user does not correct the violation within the time specified, or such additional time as may be allowed in writing by the city

TO BE REPEALED

manager, then the discharge permit shall be revoked and/or the sewer connection severed as provided in the order. Correction of the violation shall not preclude assessment of monetary penalties.

(3) The filing of an appeal pursuant to section 6.591 of this code shall stay enforcement under this section pending final administrative action on the appeal. This provision supplements and does not restrict other provisions of this code, laws or regulations authorizing termination of service for delinquency in payment of fees or charges.

(4) Any industrial user whose discharge permit is revoked pursuant to this section shall be prohibited from applying for a new discharge permit for a period of two years from the date of final decision. The prohibition may be waived if the city manager determines that the issuance of a new discharge permit is necessary to avert an imminent or existing danger to the health or welfare of persons, property or the environment.

6.576 Industrial Pretreatment Program – Public Notification of Significant Noncompliance.

The city shall publish in a daily newspaper with the largest daily circulation in the metropolitan area, not less than annually, a list of those industrial users which during the previous 12 months were in significant noncompliance with sections 6.501 to 6.596 of this code or their discharge permits. This notification will summarize enforcement action by the city during the same 12 months. For purposes of this section, an industrial user is in significant noncompliance if its violation meets one or more of the following criteria.

(a) Chronic violations of wastewater discharge limits, defined herein as those in which 66 percent or more of all of the measurements taken during a six month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;

(b) Technical review criteria (TRC) violations, defined herein as those in which 33 percent or more of all of the measurements for each pollutant parameter taken during a six month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);

TO BE REPEALED

(c) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the city manager determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of city personnel or the general public);

(d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the city's exercise of its emergency authority under section 6.561 of this code to halt or prevent such a discharge;

(e) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone for starting construction, completing construction, or attaining final compliance;

(f) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(g) Failure to accurately report noncompliance;

(h) Any other violation or group of violations which the city manager determines will adversely affect the operation or implementation of the local pretreatment program.

(Section 6.576, formerly 6.462 added by Ordinance No. 19791, enacted July 8, 1991; renumbered by Ordinance No. 19939, enacted November 17, 1993, effective December 17, 1993; and amended by Ordinance No. 19940, enacted November 17, 1993, effective December 17, 1993.)

TO BE REPEALED

6.581 Industrial Pretreatment Program – Implementation.

Nothing in sections 6.501 to 6.596 shall prevent the city manager from seeking judicial or governmental agency assistance to implement the purposes and provisions thereof.

6.586 Industrial Pretreatment Program – Enforcement Orders.

(1) *Generally.* In addition to any penalty or fine which may otherwise be charged, or other enforcement action which may otherwise be taken against any industrial user found to be in violation of any provision of this code, the city manager may:

(a) Issue a written notice of noncompliance;

(b) Issue a written notice of violation;

(c) Impose an administrative civil penalty under section 2.018 of this code; and

(d) Issue a written compliance order. The person to whom the compliance order is issued shall comply with the order. Any violation of the compliance order shall be subject to the same enforcement actions as any other violation of this code.

The notices or orders authorized hereunder shall advise the industrial user of the right to appeal the penalty or order in accordance with the provisions of subsection (6) of this section.

(2) *Basis of penalty.* A noncompliance penalty may be levied by the city manager when either a constituent limitation has been exceeded or a compliance requirement has not been met. The city manager may impose a penalty on any such industrial user for each day the industrial user has allowed a discharge in violation of this code, rules adopted hereunder, notice of violation, or administrative compliance order, or in excess of permit limitations or otherwise has failed to observe the requirements of its discharge permit. The city manager may adopt a schedule of graduated penalties based on the nature, length and frequency of noncompliance.

(3) *Constituent limitation.* A constituent limitation is exceeded when:

(a) The concentration of a restricted substance in any sample or in a series of samples taken during the appropriate time period therefor, has exceeded limitations published by the city manager, or any other limitation imposed by a discharge permit; or

(b) The pH of any sample is outside the permitted pH range, or

(c) A continuous recording pH instrument indicates that the pH of the industrial discharge:

1. Is lower than 5.5 or greater than 12.0 for more than 30 minutes in any calendar day, or

2. Is lower than 5.0 or greater than 12.5 at any time during a calendar day, or

(d) The volume restrictions of a discharge permit are exceeded.

(4) *Compliance requirement.* A compliance requirement has not been met when any requirement established by the discharge permit or by any provision of sections 6.501 to 6.596

TO BE REPEALED

of this code, or by regulations published by the city manager or by an order issued by the city manager other than a constituent limitation, has not been met, including a failure to submit any required reports.

(5) *Collection procedure.* Collection of the penalties determined by the city manager shall be in the manner provided in this code for the collection of sewer user charges, in accordance with any other provisions of this code, or in any other manner provided by law.

(6) *Appeal.* If the industrial user objects to any civil penalty or compliance order issued pursuant to subsection (1) of this section, the industrial user may appeal therefrom in accordance with the provisions of section 2.021 of this code.

(7) *Penalties cumulative.* The penalties provided in this section shall be in addition to any other remedy that the city may have pursuant to this code or in any other manner provided by law.

TO BE REPEALED

6.591 Industrial Pretreatment Program – Reconsideration and Appeal.

(1) *Reconsideration by city manager.* Any person aggrieved by any decision or action of the city manager, other than action under section 6.586 of this code, may file a written request with the city manager for reconsideration thereof within ten days of receipt of notification of such decision or action. The request for reconsideration shall be on a form provided by the city manager and shall set forth in reasonable detail the decision or action objected to and the facts and arguments supporting the appellant's request for reconsideration. The city manager may establish such procedures as may be deemed necessary or proper to conduct the reconsideration process. The filing of a request for reconsideration shall be a condition precedent to the right to appeal to the Metropolitan Wastewater Management Commission (MWMC) pursuant to subsection (2) of this section.

(2) *Appeal to Metropolitan Wastewater Management Commission.* Any person aggrieved by the final determination of the city manager, other than action under section 6.586 of this code, may appeal such determination to the MWMC. Written notification of such appeal shall be filed with the MWMC and city manager within ten days after receipt of the final determination of the city manager. A fee established as provided in section 2.020 of this code shall accompany the notice of appeal filed with the city. The notice of appeal shall be on a form provided by MWMC and

shall set forth in reasonable detail the decision or action appealed from and the facts and arguments supporting the appellant's request for reversal or modification of the city manager's determination. The MWMC shall conduct a hearing on the appeal according to procedures to be established by the MWMC pursuant to paragraph 12 of the Intergovernmental Agreement. The MWMC shall submit a copy of its findings and recommendations regarding the appeal to the city council within ten days after the hearing. The city council may hold a hearing on the recommendations and, in any event, shall take action on the recommendations within 20 days after their filing.

6.596 Industrial Pretreatment Program – Damage to Facilities/Correction of Violations.

Any person who violates sections 6.501 to 6.596 of this code or a condition of a discharge permit, as a result of which the city performs or causes to be performed preventive or corrective work or which results in damage to the city wastewater system shall be liable to the city for such damage and the cost of such preventive or corrective work, additional treatment and for any penalties, including withholding of any grant money, levied against the city for violation of state or federal permits resulting from said violation. The city may collect such charges in the manner provided in this code for the collection of sewer service charges, in accordance with any other provisions of this code, or in any other manner provided by law.

TO BE REPEALED

EUGENE CITY COUNCIL
AGENDA ITEM SUMMARY

Action: 1059 Willamette Redevelopment – Timeline Update

Meeting Date: May 22, 2023
Department: Planning and Development
www.eugene-or.gov

Agenda Item Number: 7
Staff Contact: Amanda D'Souza
Contact Telephone Number: 541-682-5540

ISSUE STATEMENT

On October 20, 2021, Council approved terms for the disposition and redevelopment of 1059 Willamette. Since approval of the terms, significant changes in the financing and construction landscapes have necessitated continued work with the selected development team to negotiate a development agreement. Council is asked to review and take action on the proposed revisions to the approved terms in order to finalize and execute the development agreement. (See proposed revisions in Attachment A.)

BACKGROUND

The building located at 1059 Willamette served as the Lane Community College (LCC) Downtown Center until 2012 when the new Mary Spilde Center opened at 10th Avenue and Olive Street. In January 2020, Council approved the use of $500,000 of federal Community Development Block Grant (CDBG) funds to acquire the site in order to pilot an innovative, mixed-income, multi-family housing project through the Land Acquisition for Affordable Housing Program, also known as the land bank program. The City acquired the site in April 2020.

The direction that Council gave for this project was to pursue an innovative mix of income-qualified units and market-rate units, where 51% of the units are targeted to households earning up to 80% of Area Median Income (AMI) and 49% of the units are market-rate. The income-qualified housing will support an underserved population. There are very few housing options targeting households earning between 60% and 80% AMI, and households in this range typically do not qualify for other Affordable Housing options.

At the January 2020 work session, Council approved the use of a Request for Proposals (RFP) process for disposition of the site. In September 2020, Council approved RFP criteria and made $1.1 million of public funds available with the RFP to reduce the anticipated financial gap.

The City received one submission: a proposal from a development team led by deChase Miksis and Edlen & Company. (See Attachment B for the full proposal.) The development team proposed a new mixed-use, mixed-income building, called the Montgomery. The development team estimated total project costs would be about $35M. The proposed project would have 129 units: 66 of the

units would be for households with incomes up to 80% of AMI, the other 63 units would be rented at market rates without income qualifications. Other project features would include:

- Providing support services to meet needs of all residents;
- Providing 10 set-aside units for survivors of domestic violence (in partnership with the Hope & Safety Alliance, formerly Womenspace);
- Design that builds on the historic main-street character of Willamette Street;
- Ground-floor incubator retail spaces;
- Opportunities for art, including a public gallery in the lobby and a mural wall; and
- Using cost-effective green building measures to be certified under the LEED Multifamily program.

Project Status and Proposed Changes to Terms

On October 20, 2021, Council approved terms for the disposition and redevelopment of 1059 Willamette. Staff began negotiating a development agreement with the development team in late 2021. During negotiations, steeply rising interest rates and construction costs resulted in the development team needing to revise their financing strategy to include Opportunity Zone investment, which added time to the negotiation period. Further, due to the unanticipated length of the negotiation period, the development team cannot complete construction of the project by the deadlines Council originally approved. Should Council approve the proposed changes to the terms, staff expect the development agreement will be executed within two weeks. The proposed changes include:

- **Closing Date:** The approved term stated that closing will occur 15 months after the development agreement is signed and includes a specific date of October 1, 2023. The proposed change in Attachment A removes the specific date and allows 17 months for closing. The additional two months takes into consideration the application process for the Multi-Unit Property Tax Exemption program, which typically takes 5-6 months. If the development agreement is executed by June 1, 2023, closing would need to occur no later than November 1, 2024.
- **Completion of Construction:** The approved term stated that the project will be completed and begin occupancy no later than April 30, 2025, which would have been 18 months after closing. That specific date had been a project requirement based on a mistaken understanding about the requirements for the CDBG funding used by the City to acquire the property. Staff have since clarified with the U.S. Department of Housing and Urban Development (HUD) that the City is not limited by such a strict construction schedule. The proposed changes require project completion and occupancy no later than 20 months after the closing date. The additional two months takes into consideration the complexity of the demolition and general challenges in the construction industry due to material supply and labor issues. If the closing occurs on November 1, 2024, then completion of construction would need to occur no later than July 1, 2026.

The development agreement also includes a provision that addresses financial market instability. This provision allows for closing to be extended for up to 12 months because of market instability, provided the development team demonstrates to the City's reasonable satisfaction that construction financing is unobtainable due to market factors outside the control of the development team, that the development team have been making diligent efforts to secure

financing, and that similar situated development projects are also unable to secure financing due to market conditions.

All other Council-approved terms remain the same. Key elements of those include:

- The property will be conveyed to the development team for $1.
- The development team must meet the federal Environmental Review requirements related to contamination and toxic substances, noise levels, stormwater management, and historic context.
- The income-qualified units will maintain their affordability to 80% AMI households for at least 35 years after project completion. The team will verify at move-in that these units are occupied by households with incomes up to 80% of AMI.
- The development team intends to apply for a Multi-Unit Property Tax Exemption (MUPTE).

Next Steps

If Council revises the previously approved terms those revisions will be incorporated into the development agreement and presented to the development team for signature. Execution of the agreement by both parties will begin the due diligence period. During due diligence, the development team will begin raising equity, securing financing, and refining the design. The development team anticipates the MUPTE application process (including public engagement, the Review Panel, and Council action) will take place in the fall of 2023.

RELATED CITY POLICIES

Housing Implementation Pipeline (HIP)

Encouraging compact development in the downtown core is one critical way to provide housing for our growing community. Increasing the number of housing units in the downtown core achieves other policy goals related to climate recovery and resiliency, compact development transportation efficiency, downtown vibrancy, and fiscal sustainability. A target goal in the HIP is to increase the amount of housing downtown by 50% from 2021: an increase of over 1,000 units.

Eugene Downtown Plan

- Downtown development shall support the urban qualities of density, vitality, livability, and diversity to create a downtown, urban environment.
- Use downtown development tools and incentives to encourage development that provides character and density downtown.
- Actively pursue public/private development opportunities to achieve the vision for an active, vital, growing downtown.

Climate Action Plan (CAP) 2.0

CAP 2.0 includes multiple strategies that support the development of downtown and increase of compact housing in the downtown. Smaller homes tend to have a smaller carbon footprint during construction and use, and housing units built close to transit, jobs, and other amenities allow residents to access the community using fewer trips.

Envision Eugene Pillars

- Provide ample economic opportunities for all community members.

- Promote compact urban development and efficient transportation options.
- Protect, repair, and enhance neighborhood livability.
- Provide for adaptable, flexible, and collaborative implementation.

PREVIOUS COUNCIL DIRECTION

June 13, 2016 Work Session

Council adopted Ordinance 20564 (Council Bill 5155), an amended Urban Renewal Plan for the Downtown Urban Renewal District. In this plan, 1059 Willamette (formerly "Old LCC") was identified as a project eligible to receive Urban Renewal funds, with housing as a potential use.
MOTION AND VOTE: PASSED 5:3

May 29, 2018 Meeting

Council approved the *Eugene-Springfield One-Year Action Plan, the One-Year Supplemental Plan for the 2015 Consolidated Plan.* This plan identified a strategy of increasing the supply of affordable housing using land acquisition. The plan identified sources and uses of funding to implement these strategies, including the funds that were used to purchase 1059 Willamette. MOTION AND VOTE: Councilor Taylor, seconded by Councilor Pryor, moved to approve the Eugene-Springfield 2016 One-Year Action Plan summary for use of Federal CDBG and HOME funds in FY19 provided in Attachment B.
PASSED 8:0

January 29, 2020 Work Session

Council authorized the purchase of the property at 1059 Willamette using Community Development Block Grant funds. Council also approved the Land Acquisition for Affordable Housing property disposition process for the site's redevelopment.

MOTION AND VOTE: Councilor Yeh, seconded by Councilor Taylor, moved to authorize the City Manager to acquire the property of 1059 Williamette (formerly the LCC Downtown Center) using $500,000 of Community Development Block Grant Funds.
PASSED 8:0

MOTION AND VOTE: Councilor Yeh, seconded by Councilor Taylor, moved to direct the City Manager to dispose of the property at 1059 Williamette (formerly the LCC Downtown Center) with the Land Acquisition for Affordable Housing property disposition process outlined in Attachment A.
PASSED 8:0

July 15, 2020 Work Session

MOTION AND VOTE: Councilor Semple, seconded by Councilor Yeh, moved to direct the City Manager to schedule a Public Hearing on the 1059 Willamette project in order to solicit public feedback on whether the project should move forward, as well as the appropriate funding mechanisms for the project. The City Manager is further directed to implement the proposed public engagement process.
PASSED 8:0

July 27, 2020 Meeting
The Agency Board directed the Agency Director to commence the Park Blocks & Open Space and Farmers Market projects using Urban Renewal funds to fully fund the Farmers Market pavilion/plaza, fund Park Block improvements (including a free-standing restroom and right of way improvements around the northwest Park Block), and specified that a "minimal" amount of the estimated remaining $1.1M of tax increment funds should be spent on Open Space projects.

September 21, 2020 Public Hearing
The public was invited to comment on a) whether the 1059 Willamette project should move forward, b) if so, how it should be funded, and c) draft criteria to be used in the RFP.

September 30, 2020 City Council Work Session and Eugene Urban Renewal Agency Meeting
COUNCIL MOTION AND VOTE: Councilor Semple, seconded by Councilor Yeh, moved to direct the City Manager to release the RFP for disposition of the 1059 Willamette site using the RFP criteria in Attachment A, and direct the City Manager to identify the Gordon Lofts MUPTE Moderate Income Housing fee (an estimated $400K) as available funding in the RFP to support the 1059 Willamette project; with additional weighting to favor projects that continue affordable housing units up to 80 percent AMI past the 20-year period.
PASSED 8:0

AGENCY BOARD MOTION AND VOTE: Councilor Semple, seconded by Councilor Yeh, moved to direct the Agency Director to identify $700K of Downtown Urban Renewal tax increment funds as available funding in the City RFP to support the 1059 Willamette project.
PASSED 8:0

June 9, 2021 Work Session
MOTION AND VOTE: Councilor Yeh, seconded by Councilor Syrett, moved to direct the City Manager to a) enter into exclusive negotiations with the deChase Miksis/Edlen & Company development team for the disposition and redevelopment of 1059 Willamette and b) return to Council with the proposed terms for action.
PASSED 6:1

MOTION AND VOTE: Councilor Syrett, seconded by Councilor Yeh, moved to ask the City Manager to bring back to Council options for filling the proposed $2 million gap in this project in order to set the rents at the HUD Fair Market housing value.
PASSED 7:0

October 20, 2021 Work Session
MOTION AND VOTE: Councilor Yeh, seconded by Councilor Zelenka, moved to approve the terms in Attachment A and to authorize the City Manager to enter into a real property transfer agreement consistent with the terms included in Attachment A.
PASSED: 5:0

COUNCIL OPTIONS

1. Approve the revised terms shown in strikethrough and bold text in Attachment A.

2. Propose modifications to the revised terms.
3. Schedule another work session and action on the revised terms.

CITY MANAGER'S RECOMMENDATION
The City Manager recommends option 1, approval of the revised terms included in Attachment A.

SUGGESTED MOTION
Move to approve the revised terms in Attachment A and to authorize the City Manager to enter into a real property transfer agreement consistent with the revised terms included in Attachment A.

ATTACHMENTS
A. Proposed Revisions to Approved Terms for Transfer of 1059 Willamette Property
B. deChase Miksis/Edlen & Company proposal for 1059 Willamette Street Housing Infill Development (the Montgomery)

FOR MORE INFORMATION
Staff Contact: Amanda D'Souza, Development Programs Manager
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Staff E-Mail: adsouza@eugene-or.gov

Proposed Revisions to Approved Terms for Transfer of 1059 Willamette Property

Buyer: Joint venture led by Edlen & Company and deChase Miksis

Seller: City of Eugene ("City")

Property: Land (approximately 0.42 acres) located at 1059 Willamette Street (Map No. 17-03-31-14, Tax lot 12800)

Purchase Price: Property will be conveyed to Buyer for $1.

Agreement: Following the City Council's approval of terms, Buyer and Seller shall enter into a real property transfer agreement.

Due Diligence Period: Upon execution of the Agreement, Buyer will have a period of 180 days in which to review property information and to conduct on-site tests and studies to determine the condition of the property.

Environmental Condition: During the Due Diligence Period, Buyer will be able to perform environmental investigation to satisfy itself of the environmental condition of the property, the results of which will be provided to the Seller for review.

Federal Environmental Review: Buyer must meet the federal Environmental Review requirements related to contamination and toxic substances, noise levels, stormwater plan, and historic context.

Project Description: Buyer intends to develop a 6-story, 129-unit mixed use project, called the Montgomery. It includes: 66 income-qualified units available to households at 80% of Eugene's area median income (AMI), which is a federally defined criterion, and 63 market-rate units. 10 of the income-qualified units will be set aside for survivors of domestic violence, in partnership with Hope & Safety Alliance (formerly Womenspace). Cornerstone Community Housing will provide resident services through their Healthy Homes program. The project will include pet amenities such as pet-care areas to exercise and wash dogs. The ground floor, facing Willamette Street and 11th Avenue will include commercial uses, such as low-rent spaces for start-up businesses. The project will also incorporate art through features such as a public gallery in the lobby and an outdoor mural.

Income-Qualified Rents and Affordability Period: For a period of 35 years after completion of the project, Buyer agrees to ensure that 51% of the units bear housing costs (rents and utilities) that are no greater than 30% of the HUD-published income limits for households at 80% AMI. Buyer shall also verify at move-in that these units are occupied by households that qualify as low-income (households with incomes up to 80% AMI). Compliance with this requirement shall be monitored with an annual certification to the City.

Financing: Prior to the closing of the real property transfer, Buyer shall demonstrate that all financing necessary for the project has been secured.

Closing Date: The closing of the transfer shall occur at commencement of construction, which will be no later than **17** ~~15~~ **months** after the Agreement is signed~~, but in no event later than October 1, 2023~~.

Completion of Construction: Project will be completed and begin occupancy no later than **20 months after the Closing Date** ~~April 30, 2025~~.

MUPTE: Buyer has stated their intent to apply for a Multi-Unit Property Tax Exemption. In such a case, the transfer of the property would then be contingent on the Council approval of the MUPTE resolution.

City/Agency Financial Assistance: City and/or Agency will provide $1.1 million in additional financial assistance for the Project. City and/or Agency, in its sole discretion, shall make such financial assistance available in the form of payments for system development charges (SDCs), building permit and related fees, electric-connection fees for the construction of the Project, demolition costs, asbestos abatement, and/or other project-related costs. The City will also provide facilitated permit review.

Brokerage Commission: Buyer is responsible for all real estate broker fees. No brokers represent either party.

Exclusive Negotiation: While negotiating the terms of the real property transfer agreement with Buyer, City will not enter into negotiations with any other party.

Right of Repurchase: In the event that the Buyer does not meet the construction and completion requirements included in the real property transfer agreement, the City has the right to repurchase the Property for $1, the Buyer's purchase price.

CITY OF EUGENE

1059 WILLAMETTE STREET HOUSING INFILL DEVELOPMENT

CHASE MIKSIS + EDLEN & CO. EDLEN KRAGE SHERMAN IMPACT REAL ESTATE

ROWELL BROKAW + CORNERSTONE COMMUNITY HOUSING + AFFINITY PROPERTY MANAGEMENT

Proposal for Development Services

February 2, 2021

Appendix A
PROPOSAL REQUIREMENTS FOR 1059 WILLAMETTE RFP
General Instructions

Proposal Components:
Proposals must be composed of **three** parts, all of which must be submitted for the proposal to be reviewed:

1. **Narrative Questions (Appendix A)**
   This WORD document contains the Narrative Questions portion of the application. The Narrative Questions are divided into Sections.

2. **Project Pro Forma (Appendix B)**
   The Project Pro Forma portion of the application is an EXCEL document.

3. **Attachments**
   Required attachments are indicated with this symbol: A list of required attachments are summarized at the end of each Section.

Submission Assembly:

- Materials should be organized in the following manner:
  - First, insert the responses to the narrative questions in this document.
  - Second, insert pro forma and other forms from Appendix B.
  - Third, insert required attachments labeled with the name of the Attachment.
- Please print double-sided whenever possible.

Submit Your Proposal by 5:00pm (PST) on February 2, 2021.
Submit one (1) original proposal using 8 ½" x 11" size paper (postmarked by the above date) and an electronic copy (submitted by 5:00pm). Responses can be submitted to City of Eugene, Attn: Amanda D'Souza, 99 W. 10th Avenue, Eugene, OR 97401, Adsouza@eugene-or.gov

SECTION 1
Project Concept and Design

Project Title: The Montgomery

Project Narrative

1. Please provide a brief summary of the vision for the proposed project including any unique project characteristics, how it generally meets the RFP criteria, and whether you plan to demolish or rehab the existing building. If rehabbing the existing building, please describe your re-use plan. Please describe any unique project characteristics.

Response:

We are excited to present to the selection committee our team's vision for The Montgomery Building, a new ground up building that will build on many of the recent successes in Eugene's downtown. The team we have assembled brings the best of the local development community in partnership with one of the premiere regional, urban housing developers. Our key concepts are outlined below:

- *We plan a mixed income project targeted to downtown residents with the support services that address the needs of all residents of the building. 51% of the units will be income restricted to 80% of AMI and we plan to maintain the affordability period for a minimum of 35 years.*
- *We have partnered with Womenspace to provide 10 set aside units for victims of domestic violence and will provided targeted support services for these set aside units.*
- *The project building builds on the historic main street character of Willamette Street with a design that responds to scale and character of the adjacent historic buildings.*
- *The ground floor of the building builds on the thriving entrepreneurial community in the downtown core by offering incubator retail spaces with shared common areas at below market rent.*
- *Opportunities for art and community creativity will be generated with a public gallery in the lobby of the building and a mural wall to build on the City's hugely successful mural project.*
- *The project will be designed to be certified under the LEED Multifamily program by employing cost effective green building measures that reduce the environmental impact of the building while maximizing the living and working environment of the tenants and visitors of the building.*
- *The project will build with prevailing wage rates that ensure a quality living wage is provided to all the workers who will help to build this vision.*
- *The proposed timeline will deliver the project well in advance of the April 2025 deadline.*

Affordable Units

2. At least 51% of the project's units must be affordable to households earning up to 80% of Area Median Income (AMI). Respondents may include lower thresholds for the income-qualified units. Describe the make-up of the project's units, including total number of units and number of income-qualified units (including income qualification level). Please also describe whether there will be a unit set aside for an on-site manager.

Response:
The project has a total of 129 units consisting of 65 studios, 59 one bed and 5 two bed units. Of these 129 units 66 units (51%) will be income qualified and 63 will be market rate. We anticipate a full-time manager but do not plan to set aside a unit.

3. The minimum affordability period for this project is 20 years. Additional points will be given to proposals that demonstrate a commitment to an affordability period longer than 20 years. Please indicate below the affordability period for the proposed project:

Response:
We plan to commit to an affordability period of 30 years on the income qualified units.

Project Design

4. *Please provide a site plan/first floor plan, at least one perspective rendering and/or rendered elevation of the Willamette Street façade, an elevation of the 11th Street façade, and example floor plans of the proposed project.*

Provide a detailed description of the proposed design, construction, rehabilitation, and/or other improvements. Include a description of how the design of the project is suitable for the targeted population(s) and project location: The City will be involved in the design review process and will use the Community Development Handbook during this process.

Response:

Our design approach is to amplify the historic context and the positive local surroundings. Nearby are some of Eugene's most significant historic buildings, many have been historically renovated, and well maintained. Most contextually significant for 1059 Willamette is the Schaeffer building, at the other end of the block, lovingly renovated by a team led by Architect Ray Dodson a couple of decades ago. The Shaeffer Building shares an intersection with three of our historic downtown jewels, the McDonald Theatre and the Ax Billy building, saved and renovated into the Downtown Athletic Club by the Bennett Family. Willamette Street in this area, and the high representation of historic buildings, feels rich, whole, and embedded in history. Parts of Willamette in these couple of blocks form the model of what we are collectively working to achieve throughout downtown Eugene, safe active sidewalks and streets, buildings at a scale that have facades at less than one quarter block, and a variety and richness of styles, materials, and eras represented.

For this new project, the number one goal for the Willamette façade is to echo the scale, craft, and material weight and quality of the original Montgomery Ward building and create a modern companion to the other historic buildings nearby. Our Willamette façade is proposed to be brick, probably in a lighter color to echo the original building, dark windows to reinforce the deep shadows, and a vertical and horizontal rhythm and fenestration very close in character to the original building. The South façade facing 11th we think should have an entirely different feel. The historic context along 11th is less legible in the fabric of the streetscape and gives us the opportunity to celebrate our own times and that

something "new" is happening in downtown. We also see 11th as a significant automobile, bus, and bicycle street; thus, the building presents itself as fresh, lively, and is meant to be read while moving through the streetscape. The retail and street level of our proposed building address the scale and vitality that we see across the street with the new Civic Winery, Lion and Owl, and Eugene Toy & Hobby.

We believe it is important to break this building into at least two components that are read quite differently. Buildings in the past did not typically create large 'L' shapes through a block. Buildings today are necessarily larger, due to economics of construction and development efficiencies, but at a certain size, we need to read them as smaller parts of a greater whole, the city, than just themed as one large monolithic new development, thus our design presents two quite different faces and building masses to each street.

This project is suitable for the population served as the unit mix and amenities focus on the needs of residents in the downtown core. We anticipate many of the residents of this building to be young professionals and seniors, often single, who either work or rely on the services offered by the central location. While there may be residents who will choose the larger 2-bedroom units we anticipate the demand to be primarily for the studio and one-bedroom units to match the smaller household size and match the rent level that is acceptable to this demographic. We will also provide amenity spaces that will serve the anticipated population such as pet services for singles and elderly who may have pets for companionship, a common conference room for young professionals in the work force looking for training/networking opportunities or the club room and patio that will serve as a space for the residents to socialize.

5. Please describe any unique design components or characteristics of the Project.

Response:

Unique Design Components or Characteristics:

Historically resonant new façade along Willamette. In the question above we outlined our approach to the new façade along Willamette. Taking it one step further, we are embracing the challenge of creating a high-quality façade in brick, with the depth, relief, proportions, and material quality that echo the historic character of the neighborhood. We need to do this on a budget that supports cost effective housing, so we will be using materials, detailing, and methods, that are commonly used, but in a way that speaks to past that we have lost in this location. We were faced with a similar goal with the new housing we designed on the University of Oregon campus along Agate Street. The brick is going up as we write this proposal, and we encourage you to look at how it is turning out.

Internal Ground Level Courtyard. We have created an unusual space within the building that is a byproduct of the south and west setback from the adjacent corner property. Because of the post-tensioned slab on the second floor and this setback, we can create a significant private open space that will receive south and west sun, provide shelter from rain, and be a place that people can gather, tenants can visit, and bring their dogs down day or night. We will create a pet area, with a washroom, and place for them to relieve themselves, while the owners can stay within the apartment security

perimeter, especially at night. We are looking forward to developing this unique outdoor space that we have not seen in an urban project like this before.

Incubator Office/Retail along Willamette, 11th Street and alley. Along Willamette Street and the ground floor at the highly visible corner along 11th we have inserted small retail/office suits with large garage doors and a conference room shared with the residents of the building. This space is intended to be incubator space for the thriving retail and office starts-ups in the downtown core. The space will be offered at below market rent with flexible terms and will have shared common spaces to foster collaboration between tenants. This active ground floor will also build on the current retail and restaurant trends that have developed along this stretch of 11th.

Alley art/mural wall. Along the north façade of the building and wrapping the corner along the west alley we propose to commission a mural to tie into the City of Eugene's highly successful mural project. This mural will enliven the pedestrian alley along the north edge of the building and will catch the eye of the passer by driving or walking west along 11th.

Lobby art Gallery. Building on the tradition of the downtown as a center for the arts we are proposing to place a public art gallery in the main lobby of the building. We have reached out to the Lane Arts Council to assist and partner in curation and management of this gallery. The intent is that this space will be open to the public and host a rotation of local artists. The gallery will be a featured stop on the First Friday Art Walk acting as an anchor for the arts at the south end of downtown.

6. Does the Project meet Section 504 (Rehabilitation Act of 1973) accessibility standards? For new construction and major rehabilitation projects with 5 or more units, 5% of units must be accessible to persons with physical disabilities and 2% must be accessible to persons with sensory disabilities. For small projects or minor rehabilitation, accessibility improvements must be made to the maximum extent feasible. Please make a statement about your plan for accessible units.

Response:
The design will meet the Section 504 requirements. Most of our projects in recent years have exceeded the minimum requirements to meet the actual higher demand for accessible units.

Populations Served and On-Site Amenities

7. Will this project serve Special Needs[1] populations? Yes ☒ No ☐

- If yes, describe Special Needs served:

Response:
Special Needs populations listed in the Eugene-Springfield Consolidated Plan that will be served at this project are Victims of Domestic Violence (referred to in this document as Survivors of Domestic Violence) and Seniors.

[1] Examples of Special Needs populations are: Homeless, Families with children, Seniors, Ex-offenders, People with HIV/AIDS, Victims of Domestic Violence, People with Drug and Alcohol Addictions, People who are Evicted/Foreclosed, People with Physical Disabilities, People with Mental Disabilities, Veterans, Youth

Survivors of Domestic Violence will be served through a partnership with Womenspace, who will refer clients for a targeted goal of 10% of the units and provide onsite case management for each client for up to two years.

Based on the team's experience at WestTown on 8th, there is a great demand for affordable units located near downtown Eugene amongst Seniors. The proximity of 1059 Willamette to public transit and to Lane County Senior & Disability Services (among other downtown amenities) make it an ideal location for seniors aging in place.

8. Please describe any on-site amenities, including any project characteristics that address special needs of the population you intend to serve:

Response:
All tenants referred for units prioritized for survivors of domestic violence will be offered on-going voluntary case management services through Womenspace that includes access to education, resources, and economic empowerment.

Our Resident Services staff has a wealth of experience in supporting the needs of seniors and connecting seniors to supportive services such as Senior and Disability Services, the Social Security Administration, and healthcare partners. The Resident Services team will leverage these existing partnerships to cater to the needs of seniors at this property.

The project will have full time on-site management with a dedicated office that will act the primary contact point for residents about the community events and services in the building. There will be a shared conference/community room that will provide a space for onsite services and community events for residents. The building will also be pet friendly with a dog grooming/washroom and dog run. We believe these amenities will serve well the many single and elderly residents who rely on pets as companions.

9. Will this project provide services for residents? (e.g. Child Care, Case Management, Counseling, Job Training, Transportation etc.) Yes ☒ No ☐

- If yes, describe:

Response:
The focus of Resident Services at 1059 Willamette is to increase self-sufficiency by providing opportunities for networking, professional development, education, and asset building. Since this property will serve a range of income levels, Resident Services staff will work to ensure a cohesive community where all residents are encouraged to connect, collaborate, and build on their own strengths.

At 1059 Willamette, Cornerstone will provide services through the Healthy Homes program. This program is designed to support a variety of residents, ranging from young professionals just starting

out to seniors who may be downsizing and "aging in place." Residents will enjoy easy access to alternative transportation options, services located downtown, and employment opportunities.

Cornerstone has a 29-year history of delivering programs and revitalizing communities. We know safe, quality housing is the bedrock of success and we are uniquely positioned to deliver services at the front doors of income constrained households. In addition to experience developing and managing affordable housing, we are a leader in designing and delivering resident services programs to support household stability and build resiliency. We currently offer services at 16 locations across Oregon, reaching 1,242 households monthly. To reduce barriers, programs and services are offered on-site, at no cost. In 2019, we had an estimated 20,000 visits to programs.

The Healthy Homes program is designed specifically to support a wide range of needs, cultures, and backgrounds. Healthy Homes has five focus areas: Food Security, Youth Development, Health and Wellness, Community Building, and Economic Stability. Services are adapted to meet the specific needs of each community and a Resident Services Coordinator (RSC) is available to plan events and work with key partners. RSC's also provide referral services for tenants who may need assistance with accessing outside services.

On-site events: To connect neighbors with one another and younger generations to the seniors living at this site, we will host community building events that may include movie nights, sushi making, or art exploration classes throughout the year. Through partnerships as available, flu shot clinics, yoga classes, or dental screenings will promote overall health and wellness. On-site community building will connect tenants to local arts and artists through events like "First Friday Artwalk" or other community-based arts programs and collaboratives available through Lane Arts Council and ArtCity.

Key Partnerships: To connect residents with opportunities for professional development, continuing education, or asset building, the RSC will work with key partners like Lane Workforce Partnership, DevNW, and local colleges and Universities like Lane Community College, UO, and Bushnell University. Letters of support are available from partners upon request.

Cornerstone is also known for our collaborative approach and partnering in the community to reduce barriers and coordinate services with a network of partners. We partner locally with a team of both public and private businesses and non-profit organizations to help coordinate a variety of programs and services throughout the year. In addition to partners mentioned above, we work closely with Food for Lane County, City of Eugene Library and Recreation Services, YMCA, PeaceHealth, United Way of Lane County, Advantage Dental, Capital Dental, Senior and Disability Services, Centro Latino Americano, PacificSource Health Plans, and Trillium Community Partners.

Zoning

10. Is the proposed project consistent with the zoning status of the site? Yes ☒ No ☐
Please provide documentation that the projects meets local zoning and land use laws.

- If current zoning is not consistent, please explain:

Response:
The project we envision in this proposal meets the current Zoning and Land Use requirements as we understand their applicability at this stage of concept design. The property is zoned C-3 with a TD Overlay (Transit Oriented Development). Minimum Floor Area Ratio (FAR) requirement is 2.0. The building exceeds the 2.0 FAR. Housing and retail are allowed subject to development standards in 9.5500, However multi-family standards do not apply within this area. Building height is permitted to be 150'. Our building is designed to top out at less than 70ft. Setbacks are to be no greater than 15 ft at streets, we are well under. The downtown area is parking exempt; however, we are providing some onsite parking. Bike parking will be accommodated on the ground floor, with possible accommodations in other parts of the building as we further develop the design.

- Please outline the steps that will be taken to address zoning issues and include the time frame needed to resolve these issues:

Response:
Any zoning or land use issues that need to be resolved would be addressed early in design and the applications for approval would run concurrent with the design timeframe outlined in the schedule and not impact the overall delivery of the project.

Potential Development Obstacles

11. Are there any known issues or circumstances that may delay the project? Yes ☐ No ☒

- If yes, list issues below, including an outline of steps that will be taken and the time frame needed to resolve these issues:

  Response:
  We have developed a clear plan and built the appropriate timeframes into the schedule to address the typical issues that occur with project of this size and complexity.

- Do you anticipate applying for any Adjustment Reviews through the land use application process? Please outline the adjustments that would potentially be requested, if known.

  Response:
  We do not anticipate any adjustment reviews at this time.

12. Describe your plan to accommodate parking for the proposed project.

Response:
We are showing approximately 18 spaces on the ground level under the building. The project is located just across the alley from the Overpark parking structure. Other parking structures are just two and three blocks away north and south of the site, including the underutilized garages at 13th and Olive. We plan to work with the city's parking services department to arrange for resident parking in these facilities if parking demand outpaces supply.

In many of our recent urban projects we have found less demand than originally planned for. In this location we expect a significant portion of tenants to be less dependent on cars and rely heavily on biking, walking, and transit. By limiting the high development costs for parking we can reduce rents and invest in other resident amenities.

Environmental Review Issues

13. The federal environmental review identified issues that would need to be mitigated by the redevelopment proposal (see RFP document for more details). Please describe how your proposal will mitigate the following environmental issues:

- Toxic materials

Response:
As with all our projects that have existing structures that are planned for renovation or demolition, we engage a licensed professional to complete a hazardous material survey for the property. Once we have detailed survey a complete abatement plan is generated to ensure the proper measures are followed to protect the workers and the public for the hazard. Proper workplace safety and disposal measures are designed to exceed all EPA requirements for the abatement of hazardous materials.

- Noise/Residential setback from 11th Ave

Response:
The design sets the south building face back a minimum of five feet from the south property line. Rowell Brokaw has worked on several projects in Oregon and California with strict noise requirements and challenges. Crosswood, here in Eugene, a HUD financed project, required that we show how the building can maintain livable and compliant noise levels due to the proximity of the train. We were able to manipulate the glazing, wall assemblies, and use compliant HVAC units to achieve the standards. In Santa Rosa, California we have a project now under construction, Sage Commons, a homeless supportive living project that required special HVAC units, and specialized window and glazing design to mitigate the sound from the nearly by commuter rail line. Working with our acoustic engineers, we have a toolbox of approaches to mitigate interior noise levels at our disposal. These include using distance, mass and insulation, special window and glazing systems, acoustic HVAC and venting measures among others, depending on the specific needs.

- Stormwater

Response:
We do have a ground floor garden amenity space that we may be able to use for partial filtration and storage of stormwater. This will take further investigation and design to determine, but most of the stormwater will have to leave the site, since the building occupies nearly all the lot area. On-site mechanical treatment is an option to be investigated further as well, along with the paying fees.

- Historic buildings in the area

Response:

The historic façade and even the historic bones of the existing building are mostly gone, not buried under the façade we see today. Members of our team (Miksis and Brokaw) who investigated this building in previous years determined that there was little to nothing remaining of the façade that we see in the gorgeous historic photographs. As stated earlier our design approach is the amply the historic context and the positive local surroundings.

Other Federal Regulations

14. For projects using federal HUD funds[2], developers are required to make a good faith effort to provide employment and/or job training opportunities for low-income individuals in the development of your project, per HUD Section 3 requirements. How would you ensure a good faith effort to hire and/or train low-income individuals or businesses?

Response:

Our development team has extensive experience on prior projects that included HUD funding and Section 3 requirements. We are committed to increasing economic opportunities for low-income individuals and recognize the importance of inclusive hiring and contracting practices in all stages of development. We understand that such practices are key to ensuring that low-income individuals have access to economic opportunities. Through our commitment, Cornerstone has modeled an internal program shared with partners that is based on the Good Faith Efforts (GFE) program utilized by the City of Portland in their contracting practices to ensure adherence to Section 3 requirements.

Federal funding also requires a good faith effort to contract with businesses that are registered with the State of Oregon as Minority Business Enterprises (MBE) or Women's Business Enterprises (WBE) firms. What steps will you take to hire MBE/WBE businesses for your project including subcontractors?

Response:

Collectively our team has extensive experience implementing programs that ensure the equity and diversity within their own companies and in connection to the projects we develop. We have a strong commitment to diversity and hiring equity in both internal practices and with external partnerships in the development and management of affordable housing. Drawing from our teams' experience and with the leadership of Cornerstone Community Housing we plan to implement a program that is based on the Good Faith Efforts (GFE) program utilized by the City of Portland in their contracting practices. Working with our partners, we develop a project specific program that targets a MWESB utilization rate that exceeds the availability rate and track these metrics to determine the success of our strategies.

The goals for the design professionals and construction partners vendors of the project will include:

- *A target MWESB firm utilization rate between 10% and 20%*
- *Including minority and women business, and other diverse groups in all contracting opportunities throughout the design, construction and operations phases of the project*

[2] The City acquired this property using U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant funds (CDBG).

- *Extensive outreach that ensures all qualified vendors are given equal access to bid on business*
- *Fostering an inclusive work environment that results in both personal and business success.*
- *Supporting our community as responsible corporate citizens*

During design and construction our team will draw on the extensive track record set by Edlen & Co. in achieving meaningful MWESB participation for construction as well as professional services on its projects. The firm has a depth of experience implementing successful programs in its extensive development portfolio as outlined in the experience section of the RFP response.

Once in operations Affinity's Woman Owned, Minority Owned, Small Businesses (WMSEB) and Equity procedures will require that any work performed by a 3rd party vendor in excess of $1,000 include at least one out of the three bids from a minority-owned, women-owned vendor, and emerging small businesses. In addition, as part of Affinity's on-going equity training the Portfolio Manager along with the site staff will attended regular social equity trainings to ensure all staff are aware of the importance of social equity in the operational practices of the building.

Additional Public Benefits

15. Preference will be given to proposals that:
    - Integrate art or opportunities for public creativity;
    - Demonstrate intention or plan to solicit services from local contractors and/or Minority and Women-owned business enterprises;
    - Use cost effective green building measures; and/or
    - Provide services promoting self-sufficiency and independent living that are available to residents in affordable housing units.

Describe whether your proposed project incorporates any of the additional public benefits listed above:

Response:

We plan to integrate art and provide opportunities for public creativity. Refer to the response in Section 1/question 5.

We will implement a vigorous program to solicit services from Minority and Women-owned business enterprises. Our approach and experience is outlined in Section 1 question 14 and Section 3 question 3.

We will seek LEED certification for multi-family. Our approach will include cost effective measures that have a direct impact on the living experience of the residents and visitors to the building. Our approach and experience on green building measures are outlined in Section 3, question 4.

We have outlined a robust program that will serve all residents in the building. We have outlined these services in Section 1, questions 7, 8 and 9.

Section 1 Attachments

☒ Site plans, architectural renderings, and example floor plans

☒ Documentation that proposed project meets Zoning and Land Use laws

SECTION 2
Timeliness and Feasibility

Project Schedule

1. *Please attach a project schedule* and provide a narrative description below to accompany the attachment. Please be specific about how the timelines were determined for obtaining commitments for leveraged project financing, forming legal ownership entities, property acquisition, design and preparation of plans, construction commencement, construction completion, lease-up, etc. The schedule should provide for development in a logical and expeditious manner and demonstrate completion and lease-up no later than April 30, 2025.

Response:

Upon award we would begin immediate negotiations with the City of Eugene to establish an Exclusive Negotiation Agreement (ENA). Upon execution of the ENA we anticipate that we would work towards a Development and Disposition Agreement (DDA) outlining the terms of the transaction. We anticipate that we will have this complete within the first six months of award of the RFP.

Once we have a signed DDA we will immediately engage our lender to start securing the HUD 221(D)(4) sponsored loan. The underwriting process for securing this financing is extensive and can take up to 12 months to close on the loan.

Concurrent with the HUD underwriting process we will engage the design team and begin community outreach and schematic design working toward design approval from the City. We anticipate that this process will parallel the HUD preapplication process and lead to design approval and an invitation to Firm Application with HUD by the end of the 4th quarter of 2021.

We will kick off Construction Documentation and HUD Firm Submittal the first quarter of 2022 with the goal of permit approval and HUD loan closing at the end of the 2nd quarter of 2022 allowing construction to start.

We anticipate a 15–16-month construction schedule with pre-leasing starting mid-summer of 2023, construction completion at the end of the 3rd quarter of 2023 and a fully occupied and stabilized building by the end of the 1st quarter of 2024 well ahead of the City's completion goal of April 30, 2025.

Development Budget Narrative

2. Please provide a thorough narrative description regarding the development budget in Attachment B (specifically related to the Sources and Uses of Funds tabs in the pro forma). Please provide justifications of all costs and assumptions. Describe any identified resources the development team will leverage to implement this project. Describe any choices the development team has made related to long-term affordability and cost savings. *Please attach any funding commitment letters and/or a description of the status of investor negotiations, if applicable.*

Response:

Project uses include site costs, hard costs, soft costs and financing costs. For site cost, the land is assumed to be contributed to the project at no cost. The budget includes the cost (based on information provided by the City as well as input from Hyland) for hazardous material abatement and demolition of

the existing building. The hard cost estimate was provided by Hyland based on similar projects they are currently bidding and constructing, escalated for a construction start at the end of the 2nd quarter of 2022. The hard cost estimate includes a premium for Davis Bacon wages as well as a performance and payment bond (both of which are requirements of the HUD loan). Additional hard costs include signage (unit numbers, wayfinding and building identity), FF&E (furniture, fixtures and equipment for the residential lobby and amenity spaces), security equipment (security cameras and access control), $500 per unit for unit upgrades and a tenant improvement allowance of $35 per rentable square foot for the retail space.

Soft cost estimates are based on recent experience with similar projects in Eugene as well as input from consultants. Soft costs include site due diligence (geotechnical study, environmental studies and site survey), architecture and engineering fees, permits and systems development charges, marketing, legal, geotechnical and materials testing and inspection during construction, property taxes during construction and builder's risk and general liability insurance. A development fee of 4% of site, hard and soft costs is included. Owner contingency of 5% of all site, hard and soft costs is included.

Financing costs were provided by Greystone and include all costs required for the HUD 221(d)(4) loan program: application and loan fees, HUD inspection fees, market study, appraisal, title insurance and construction and lease up period interest. The assumed interest rate of 3.65% is based on today's interest rate plus a cushion of .25% and a mortgage insurance premium of .25%. The interest rate is fixed at close of financing and the amortization period for the loan is 40 years. Greystone is the country's leading FHA lender and has partnered with DeChase Miksis to successfully close loans on prior projects. A letter of interest from Greystone is included in the appendix.

The sources for funding for the project include debt, equity and public funds. The debt is a construction to permanent loan anticipated to be provided by the HUD 221(d)(4) program. Loan sizing was provided by Greystone. The equity requirement for the project is approximately $5.2 million. Edlen & Co has a long and successful track record of raising equity from multiple sources including high net worth individuals and institutional investors for projects ranging in size from $5 million to $200 million. Should our team be selected, once we are further along in the design process, we will put together an Offering Memorandum to solicit equity commitments for the project. Based on the projected returns, investor risk mitigation provided by below-market rents for half of the units, and relatively modest amount of equity required, we are confident that we will secure the equity required for the project. The $1.1M in public funds help to bridge the financial gap so that we can achieve a return that will attract the equity required for the project. We have flexibility in the specific uses of these funds.

3. Total Project cost: $29,045,000

City Incentives

4. The City/Urban Renewal Agency has made $1.1M of public funds available to support the 1059 Willamette redevelopment. The funds can be used to cover pre-development costs, such as the potential uses below, to reduce the project's anticipated financial gap. Please indicate specifically which project costs you are requesting public funds for and estimated amounts*:

Response:

Potential Uses	Estimated Amount
System Development Charges	**$650,000**
Permits & Other Fees	**$350,000**
EWEB Downtown Connection Fee	**$100,000**
Other* (describe:)	$0.00
Other* (describe:)	$0.00
Total	**$1,100,000**

*Using public funds to cover other pre-development costs may make this a prevailing wage rate (PWR) project.

5. Do you plan to apply for a Multi-Unit Property Tax Exemption (MUPTE)? Yes ☒ No ☐
(visit www.eugene-or.gov/MUPTE for more information on the MUPTE program)

Response:
Yes.

Unique Financing Circumstances

6. Please describe any unique financing details or structures as they pertain to this project. Discuss the timing of obtaining other funding commitments prior to receiving City/Agency Funds.

While the loan underwriting process takes longer and the fees are higher than typical bank debt, the HUD loan program has a number of advantages which contribute to the financial feasibility of the project. Specifically, the program provides a very attractive long-term fixed interest rate, a maximum loan to eligible costs of 85% and a longer amortization period, all of which contribute to achieving the return required to attract equity investment in the project.

In addition, the site is located in an Opportunity Zone (OZ) and we anticipate that some, if not all, of the investment will be through an OZ fund, allowing the investors to take advantage of significant tax benefits. Edlen & Co and DeChase Miksis have both used OZ investments in prior projects.

We do not anticipate any City funds would be spent prior to obtaining the other funding commitments required to build the project.

Operations Narrative

7. Please provide a narrative description of the long-term operations (specifically related to the Income and Expenses tabs in your pro forma). Please justify all costs and assumptions. Describe how the projected revenue was determined. Please describe why the rents were selected and why they are appropriate to the long term viability of the project.

The below-market rents have been set to be affordable to households that earn 80% of area median income (AMI). For these units, gross rents were calculated using 2020 AMI and reduced by a utility allowance to account for all tenant-paid utilities to determine net rent. For the market-rent units, the rents are based on today's market rents for comparable projects escalated 3% per year to the beginning of lease up. Other income includes utility billbacks (for the market-rate units only), miscellaneous income such as application fees and pet rent (for the market-rate units only). Retail income (1.50 per rentable

square foot per month) is set below retail rents at similar locations to attract small startup tenants. Parking income ($120 per space per month) is based on what comparable residential properties are currently charging for onsite, covered parking.

With the below-market rents at 80%, we are able to achieve returns required to secure equity for the project without needing additional gap funds from the City (above the property contribution and $1.1M) Note that if the below-market rents were set at CDBG fair market rent levels instead of 80% AMI, the project gap would increase by approximately $2M.

Operating expenses were provided by Affinity based on their experience operating similar properties and escalated at 3% annually to the beginning of lease up. A detailed estimated operating budget is included in the proforma attachment.

8. Utility allowances must factor into the affordability of housing for low-income households. HUD defines affordability as 30% of household income, and utility payments are included in that calculation as a part of overall housing costs. The HUD defined rent limits are gross rent limits that include a calculated Utility Allowance. Utility Allowances are calculated annually by the Public Housing Authority (Homes for Good). UA's must be subtracted from gross rent limits to calculate the net rent limits that can be charged for each unit size. Please see Homes for Good's website to calculate UA's by unit size for electricity/gas and water/sewer/trash: https://www.homesforgood.org/services-for-residents/resident-toolkit/downloads-and-resources

   Please explain how you calculated the UA's used in your pro forma:

   Response:
   Utility allowances included within the pro forma are calculated using the Homes for Good utility allowance schedule for 2021 specific to Lane County. Utilities that are tenant-paid are as follows: electricity (service charge, heating, cooking, lights/appliances, and water heating), and trash. The allowances for our unit types are $86, $94 and $110 per month for studios, one-bedroom and two-bedroom units respectively. Water and sewer charges are owner-paid.

Section 2 Attachments

- ☒ Project schedule
- ☒ Pro forma and other forms (Appendix B)
- ☒ Funding commitment letters
- ☐ Description of status of investor negotiations *(included in narrative above)*

SECTION 3
Experience and Qualifications

Respondent Information

Lead Organization: Joint Venture: deChase Miksis Development and Edlen & Company.

Primary Contact Person: Mark Miksis

Phone: 541-232-2508 Fax: N/A

Email: mark@dechase.com

List the names of principal person(s) of the development team, their contact information, and their organization.

Name	Contact Info (phone number and email)	Organization
Mark Miksis	541-232-2508; mark@dechase.com	deChase Miksis Development
Dean Pape	208-830-7071; dean@dechase.com	deChase Miksis Development
Jill Sherman	503-956-7210; jill.sherman@edlenandco.com	Edlen & Company
Mark Edlen	503-201-2800; mark.edlen@edlenandco.com	Edlen & Company

Lead Development Organization/Applicant Type *(check only one):*

- ☐ Corporation
- ☐ Nonprofit Community, Neighborhood, State, or Regional Organization
- ☐ Public Entity
- ☐ Partnership (describe: ☐)
- ☒ Other (please specify): Edlen & Company. and deChase Miksis Development are both Oregon limited liability companies (LLC). The project owner will be a new special purpose entity (LLC) with the deChase Miksis Development and Edlen & Company joint venture as the Manager.

Experience

1. Please describe experience, if any, members of the development team have with similar projects, including high quality redevelopment in urban areas and public/private developments. Please include information about project costs. *Please submit examples and images of prior projects (maximum 5) that demonstrate high-quality urban design and use*.

Response:

This project will be a Joint Venture between deChase Miksis Development and Edlen & Company as co-developers of the project. This partnership has successfully completed a recent workforce housing project, Ash & River, in Boise with additional partnership projects in the pipeline in Oregon, Washington, and Idaho. deChase Miksis Development will bring the local knowledge of the entitlement process and construction management expertise to the project while Edlen & Company will coordinate the financing, development structure and bring extensive affordable housing experience to the project.

The design team will be led by Rowell Brokaw Architects. Rowell Brokaw have worked with Mark Miksis of deChase Miksis Development continuously for over 16 years. Significant projects include the Crescent Village Mixed-Use development, Northwest Community Credit Union Headquarters, 1203 Willamette and neighboring 1235 Willamette adaptive reuse. We are currently working with deChase Miksis Development on Crosswood Apartments, a Cross Laminated Timber housing project in Eugene, set to begin construction in June 2021.

The contractor will be Hyland Construction. deChase Miksis and Rowell Brokaw are currently working on the Crosswood Apartments. Rowell Brokaw has partnered with Hyland on several recent public construction projects.

Resident services and our social equity and inclusion programs including the HUD Section 3 requirements and the Good Faith Efforts program will be led by Cornerstone Community Housing. deChase Miksis and Cornerstone have worked together for the last 6 years. Together they completed the renovation of Cornerstone's WestTown on 8th affordable housing project. That renovation was made possible by the successful application and an award of $1.2 million from Oregon Housing and Community Services GHAP Construction Defects NOFA. Their continued partnership has grown to also include Rowell Brokaw as they have collaborated on phase II of Delta Court, a property owned by Cornerstone. This collaboration is currently in the predevelopment stage and will create 36 additional units of affordable multifamily housing.

Day to day management of the property will be led by Affinity Property Management. Affinity Property management has extensive experience in leasing and management in the Eugene market, including the recently completed Gordon Lofts, and is currently working with deChase Miksis and Rowell Brokaw on the development of the Crosswood Apartments.

5 project examples have been included featuring the strength of the above partnerships in the delivery of high-quality urban housing. These projects serve a range of income levels from affordable, workforce to market rate with many achieving significant sustainability certifications. Additionally, a more comprehensive list of relevant projects of the key development partners has also been included to show the depth of background of the assembled team.

2. Please describe experience, if any, members of the development team have with developing affordable housing and/or serving the targeted population(s).

Response:

Edlen & Company's portfolio includes over 800 units of affordable housing (0-60% of area medium income, AMI) completed, under construction, or in predevelopment. Most of these projects are partnerships with nonprofits and serve low-wage workers as well as populations with special needs, including individuals with persistent mental illness, families in recovery, addiction treatment, formerly homeless households, and individuals with intellectual and developmental disabilities. Typically, these projects were funded with Low-Income Housing Tax Credits, tax-exempt bonds, and local gap funds including urban renewal funds specifically set aside for the production of affordable housing.

Edlen & Company is focused on providing housing for all income levels. In addition to subsidized affordable housing, Edlen & Company serve workforce or middle-income households through their development projects. Workforce housing or middle-income housing generally provides housing for those earning between approximately 80% to 120% of AMI such as our teachers, hourly workers, and many others. Edlen & Company's 38 Davis project includes mixed income housing with 65 units at 80-120% AMI. It integrates office, housing, and higher education in one building and was built to be a central hub for the neighborhood to foster community and creativity. Additionally, The Civic Condos and Morrison Apartments, a 400-unit urban renewal project, combines deeply affordable for-rent housing for the Housing Authority of Portland (HAP) with market rate condos. These two buildings sit above 40,000 sq. ft. of ground retail space and a 400-stall underground parking garage. Finally, The Nick Fish, which is set to be complete in March of 2021, is a 75-unit mixed-use development consisting of mixed income housing, office space, and ground floor commercial retail. The 75 rental apartment units include 52 affordable units for households earning between 30% and 60% AMI, and 23 market rate units. These three examples of mixed-income and mixed-use projects were design and financed thoughtfully and have or are set to achieve LEED Gold Status.

Recently Edlen & Company created a partnership with deChase Miksis to focus on the development of workforce housing in secondary markets throughout the intermountain west. The first of these projects to be completed is the Ash & River project providing 34 units of workforce housing to the Boise downtown core. Additional projects are in the predevelopment stages in Oregon, Washington, Idaho and Utah. These projects are predominantly Public Private Partnerships that leverage public resources and assets to help fill the 'missing middle' housing pipeline that is currently severely underserved.

Cornerstone Community Housing is a leading housing provider in Lane County and best known for building exceptionally high-quality housing and ultimately revitalizing communities. This year we celebrate a 29-year commitment to building affordable housing communities for people on limited incomes and providing support services designed for personal growth and economic independence. Cornerstone has developed 483 affordable homes in Eugene and Springfield and currently own a portfolio of 336 units.

3. Please describe experience, if any, with using local contractors and/or Minority-owned business (MBE) or Women-owned business (WBE) enterprises in previous projects.

Response:

Both Cornerstone and Affinity Property management have existing programs in place that ensure opportunities for MWESB are expanded in all their ongoing operations contracts with vendors and project partners. These programs are the basis for the program that is outlined in Section 1 of the RFP response.

In addition, Edlen & Co has extensive experience and a successful track record in MWESB participation in their development portfolio. Examples of successful program development and metric tracking can be found in the following projects:

- *38 Davis, completed in 2017, (80,000 square feet office, 5,000 square feet retail, 12,000 square feet academic space, 65 middle income units), 26% MWESB participation.*

- *Hill Park Apartments, completed in 2017, (40 units of affordable housing), general contractor and architect both minority-owned, 20% MWESB participation.*
- *The Beatrice Morrow, completed in 2018, general contractor and architect both minority-owned (80 units of affordable housing, ground floor affordable commercial space and community meeting space), 59% MWESB participation.*
- *The South Waterfront redevelopment, a 38-acre sustainable urban community that includes OHSU Center for Health and Healing and four residential towers met participation goals cross multiple projects, with MWESB participation from 16% to 43.2%.*

4. Please describe experience, if any, with incorporating cost-effective green building measures in previous projects.

Response:

Collectively, Edlen & Company and principals have over 147 years of experience in the design, construction, and operation of sustainable, high-performance buildings. Edlen & Company is the nation's leader in developing LEED-certified buildings with 78 projects certified or registered, including 23 Platinum, 50 Gold, and 5 Silver. Edlen & Company has pioneered and implemented various cutting edge sustainable design strategies, from our first project where ice generation storage machines were used for generating building cooling capacity, to solar and wind installations, rainwater harvesting and reuse, and on-site wastewater treatment to full biophilic design and construction. Along the way, some of our ideas have ended up in the recycling bin; however, we continue to challenge ourselves, our designers, our engineers, and our contractors to raise the bar to achieve the most environmentally responsible projects while adhering to budgetary objectives. Much like design excellence, we believe the environmental footprint of our buildings is a lasting legacy to our community.

Edlen & Company is currently developing the PAE Living Building project which is pursuing certification as a Living Building. The Living Building Challenge is the most aspirational green building certification in existence: Living Buildings are net-zero energy, water, and waste. The building is currently under construction and when completed will be the largest Living Building in the world and the first developer led Living Building anywhere. In December Edlen & Company will break ground on the Albertina Kerr Workforce and Accessible Housing project which will be net-zero energy. Features such as improved insulation, triple pane windows, a highly efficient heat pump system for water and space heating, 100% LED lighting with advanced controls, and top-rated Energy Star appliances, result in a building that uses 43% less energy than a typical building. And a large integrated on-site solar array will offset 105% of the electricity used by the building on an annual basis. Quite often what others may view as financially unfeasible, with our 25-plus-year history of leading sustainable development in the US we view it as attainable through innovative engineering and financing techniques along with hard work.

deChase Miksis was an early leader in the Eugene area in the development of highly efficient and sustainable projects. Mark Miksis was one of the original members of the Mayor's Sustainability Commission and sat on the City's Green Building Task force. The principals of deChase Miksis were involved in many of the first LEED projects in the community from The Inkwell Building at Crescent Village (Gold), Arlie & Company's Headquarters (Platinum), Northwest Community Credit Union (Gold) and Kendall Toyota the first Platinum car dealership in the county. In all of these projects tight budget

constraints led to the selection of green building measures that provided economic benefit to the project through reduced operational costs, increased occupant comfort and performance, and implementing passive strategies such as daylighting and natural ventilation. The development approach in these projects was never to buy our way into reaching a specific certification with expensive systems or construction techniques but to instead to have a whole building approach that uses simple low-cost measures that decreased the environmental footprint of development while improving the occupant's environment.

5. Please describe current projects underway and their status. How will you manage additional projects?

Response:
Edlen & Company is currently developing six projects, of which five are set to be complete by the end of 2021. The completion of 80% of our construction portfolio by 2022 generates great capacity among our development management and project management team.

deChase Miksis is in active development of four projects with two set to be complete at the end of 2021 and two set to be complete by the end of 2022 or early 2023. 50% of our active development projects are scheduled to be complete prior to the scheduled construction of this proposed project.

The combined management staff of Edlen & Company and deChase Miksis has adequate capacity to ensure the City of Eugene will be well supported through every step of the development process including design, financing, construction, and budget management.

Financial Capacity

6. Please describe and *provide evidence* of prior ability to finance and complete similar projects.

Response:
Our team specializes in identifying, securing, and integrating both traditional and non-traditional sources of financing. Experience with non-traditional sources includes tax credits (New Markets Tax Credits, Historic Tax Credits, Low-Income Housing Tax Credits, Solar Investment Tax Credit), taxable and tax-exempt bonds, capital campaigns, program-related Investments (PRIs), HOME Funds, and Tax Increment Financing through urban renewal districts. Many of our projects include more than one of these sources, increasing complexity but maximizing the benefit to our nonprofit partner. Our team is also expert at securing traditional debt and equity. Over the years, Edlen & Company and its predecessor firm have successfully capitalized approximately $5B of real estate projects providing confidence around the ability to deliver an excellent inclusive housing project for the City of Eugene.

7. Identify and describe any relationship the respondent may have with subsidiaries, joint venture partners, or others who are significant to the project.

Response:
As described in Section 1 deChase Miksis and Edlen and Co are joint venture partners in the project.

Ownership Entity

8. What is the legal status of the anticipated Ownership Entity for the project?
   - ☐ Currently Exists (please describe: Overwrite this text with your answer)
   - ☒ To Be Formed prior to development: Estimated formation date 6/1/2021

9. If a new entity, indicate the anticipated Ownership Structure: *(check all that apply)*
   - ☐ Nonprofit or Nonprofit Single Asset Entity
   - ☒ Limited Liability Corporation (LLC)
   - ☐ Limited Liability Partnership (LLP)
   - ☐ Limited Partnership (LP)
   - ☐ Other Corporation
   - ☐ Joint Venture
   - ☐ Cooperative
   - ☐ Other, Describe:

Property Management

10. Briefly summarize the management plan for this project. Be sure to address facility maintenance, on-site management, and services provided.

Response:

Affinity has the experience and capacity to effectively manage the complexity and diversity of the reporting, financing, and compliance requirements of the ownership. We have managed affordable housing since our inception in 2003. Affinity has extensive experience managing various types of affordable housing. Our affordable portfolio has consisted of LIHTC, HOME financing, PSH units, PHB financed projects, Project-Based Section 8, B2H, HUD, farm worker housing, and low-barrier housing in addition to market rate units.

Affinity management has a Management Agent's Certification from HUD to manage projects with HUD-held mortgages or insured multifamily projects. We have staff members that have extensive experience with HUD compliance documents and our staff continues to receive training on all tax credit certifications including the Spectrum C3P Tax Credit Certification Seminar. This training seminar includes extensive case studies of HUD properties with detailed discussion of IRS regulations, income limits, recapture issues and continuing compliance.

The best practices in managing affordable housing can be broken down into six sections. These individual sections need to be managed separately while at the same time nurturing a symbiotic relationship which makes a successful project. These six areas include financial management, physical plant management, tenant services, compliance, human resources, and communication management.

Financial Management

Affinity has a policy and procedures manual which schedules out the day-to-day operations at a property and sets expectations for all onsite personnel from the appearance of the office to record keeping, and from expense control to identification theft protection. Affinity has some of the most tenured and knowledgeable staff in the industry. Our onsite Community Managers go through continual training to improve their abilities and incorporate the best practices from other Managers throughout our portfolio. Affinity's Portfolio Managers all have extensive experience in multi-family management, tenant

relations, resident services, and direct profit-and-loss responsibilities. Our Portfolio Managers are hands-on trainers, confidants, and mentors for the onsite staff. The onsite teams are supported with an extensive accounting department spearheaded by our Controller who has a CPA background.

Physical Plant Management

Affinity has procedures in place which systematizes daily, monthly, quarterly, and yearly maintenance and capital replacement schedules. Our Portfolio Managers continually audit the property for the completeness of tenant files, record keeping, and maintenance. Open communication between the onsite staff and tenants help Affinity take care of any physical issues as they happen. During any third party physical and file inspections Affinity will make available the necessary personnel to help complete the inspections as quickly and efficiently as possible, including notifying tenants of the upcoming physical inspection at least 24 hours in advance, and earlier if possible. If any follow-up is necessary Affinity will immediately take action and the Community Manager, Maintenance Manager, compliance manager and Portfolio Manager will all verify that the necessary changes, improvements, fixes, and follow-up have occurred. Affinity staff also walk each unit twice a year to look for any outstanding maintenance issues that may not have been reported by the resident.

Tenant Customer Service

Affinity believes that tenant customer service is at the heart of any successful community. We have written systems and procedures for tenant selection, tenant rights and responsibilities, evictions, marketing, and directing residents to tenant supportive services.

Compliance

Affinity uses a system for compliance that leverages the property manager's time and knowledge as well as a double check system to make sure the property remains in compliance at all time.

Human Resources

Affinity uses written job descriptions and reviews an employee's rights and responsibilities with every staff member during their new hire training, 90-day reviews, and yearly performance evaluations. In addition, we have a full time HR department that serves our current employees needs as well as constantly recruits for new positions so that we are ready to grow when opportunity arises.

Communication Management

It is extremely important at Affinity to keep the lines of communications open with the property owner. Affinity sets up a one-point-of contact system which allows owners to contact one person at the corporate office who will answer all questions from operation to maintenance, and from compliance to accounting. However, Affinity also has an "open door" policy which gives the owner direct access to anybody in the company if they wish to communicate directly with any Affinity employee involved in their project.

Affinity takes pride in the longevity and experience of its employees. Many of our Managers have been awarded Manager of the Year awards through the Multi-Family Housing Association and we are event sponsors for many non-profit groups in Oregon. Affinity is a member of the Streamlining Compliance Initiative. We have had no major findings on any of our audits throughout the years. We have had no verifiable fair housing claims or material litigation in the last three years. We continually train our on-site and off-site staff in affordable housing management including the annual Miller-Nash conference in Portland and like conferences in our service area, the Oregon Opportunity Network conferences, Spectrum and Prism conferences, and as many Oregon Affordable Housing Management Association

trainings as we can fit into our schedules. We also go through twice yearly fair housing training with our law firm.

11. Describe your tenant selection process, and how you will market the units to be offered, particularly to those least likely to apply (such as protected classes under the Fair Housing Act), ensuring they are provided information about the housing opportunity. Describe any experience members of your development team have with income verification.

Response:

During the initial lease up period, residents will be placed on an initial waitlist obtained through various marketing and outreach efforts identified in Affinity's Affirmative Fair Housing Marketing Plan. Applicants are selected on a first come first serve basis determined by the time/date stamp from the waitlist application. Upon an applicant coming up on the waitlist, the application will be screened for criteria noted in the Screening Criteria as well as for affordable program requirements which will be outlined in the Tenant Selection Plan and based off Land use Regulatory agreements specific to the property.

Marketing of the affordable units will be based on the Affordable Fair Housing Marketing Plan. Affinity will incorporate Census information for the target area to identify those least likely to apply. Upon identification, the determination is made on agency and marketing sources for outreach and marketing. This process is closely followed to ensure that we are targeting those identified on our marketing plan as least likely to apply. On select projects, Affinity has hired an equity navigator in efforts to ensure we are removing all barriers for our target population.

Cornerstone will work with Affinity to support and supplement marketing efforts. We employ Affirmatively Furthering Fair Housing marketing best practices, including but not limited to the following:

- ***Analysis of neighborhood-level and regional demographics:*** *Analysis of demographics including race/ethnicity, national origin, disability, language spoken at home, literacy, familial status, and occupation type (a protected class in Eugene) for income eligible households helps us characterize the market and determine who is least likely to apply. We assume that people who already live in the neighborhood are more likely to apply than those who do not.*

- ***Selection of appropriate marketing strategies:*** *Cornerstone cultivates relationships with local social service agencies, employers, and culturally specific organizations such as Centro Latino Americano, Downtown Languages, Latino Business Network, NAACP, Eugene/Springfield Asian Council, Eugene 4J School District Natives Program, and Springfield Public Schools Office of Indian Education. At times, input is requested to develop marketing strategies for specific population groups and for support disseminating information.*

- ***Ongoing evaluation of marketing and outreach:*** *Success of marketing is evaluated by comparing resident demographics to regional demographics for households with qualifying incomes. Resident demographics should closely mirror regional demographics. Property management and asset*

management staff consult with community contacts to identify marketing strategies to reach underrepresented groups.

Additionally, 10 units have been set aside for victims of domestic violence. Cornerstone will work with Affinity and Womenspace to manage these set aside to ensure that they are serving the populations they are designated for.

Fair Housing and Cultural Competency

12. Explain how your development team and property management staff stay educated about fair housing issues and are working to broaden staff/board knowledge around cultural competency.

Response:

Diversity, equity, and inclusion (DEI) is a key priority in Cornerstone's 5-year Strategic Plan (2018-2022). Cornerstone is committed to building a multicultural organization and continually challenging ourselves to learn and improve. Cornerstone's DEI Steering Committee will continue to meet bi-monthly in 2021 to discuss and lead the implementation of various DEI initiatives, while staff work to develop and implement changes on the off months.

Some of Cornerstone's current efforts and goals include:

- *Fostering an organizational culture that honors difference. Shifting the organizational culture through DEI training, intentional conversations, and operational changes.*
- *Revamping recruitment practices. Recruiting a diverse staff and board of directors.*
- *Investing in professional development and leadership development for residents and staff at all levels. Providing pathways for individuals with under-represented identities to advance their careers.*
- *Using an equity lens tool to analyze and improve the way that we respond to the needs of populations facing disparities.*

Affinity's Woman Owned, Minority Owned, Small Businesses (WMSEB) and Equity procedures require that any work performed by a 3rd party vendor in excess of $1,000 include at least one out of the three bids from a minority-owned, women-owned vendor, and emerging small businesses. Additionally, the Portfolio Manager along with the Affordable site staff have attended several social equity trainings. Continued social equity training is key to understanding and overcoming all factors which create barriers of any kind to individuals of a specific society or isolated group.

Affinity has a proven track record of working with and housing resident populations who face many social and economic challenges. We take pride in our history and rapport working with multiple program partners throughout the area. To maintain these working relationships, we attend housing partnership workgroups as well as regular meetings with property specific programs in effort to ensure we have the most up to date contact list and that we can work together to overcome any challenges in effort to benefit the program, the clients, and the properties.

Trainings include but not limited to:

- *Fair Housing Training*
- *Landlord Tenant Training*
- *Low Income Housing Tax Credit (LIHTC) Compliance Training*

- *Housing Credit Certified Professional (HCCP) Training*
- *LIHTC Seminars offered by OHCS*
- *Public Housing Agency waitlist trainings*
- *Various AHMA multi-family continuing education trainings throughout the year*

Affinity has managed lease-up of three tax credit buildings; a 51-unit community in Woodland, Washington which consisted of farm-worker tax credits, and a 240-unit community in Eugene, Oregon and a 50-unit mixed SE project in Rockwood, Gresham, Oregon. All three completed the lease up on time and within budget. This experience gives Affinity the background needed to work collaboratively to successfully lease up and manage 1059 Willamette.

We usually start building the marketing material and strategic plan which includes outreach to local program partners for purposes to build waitlists up to six months in advance of opening a new lease up. As we get closer to the 90-day period, Affinity would start to identify and approve prospective residents who have been identified through waitlists and PBVs. This will ensure that we will be able to open the building with as many residents as possible. We will continue this process as efficiently and effectively as possible to ensure that we meet the required lease up occupancy goal.

13. Describe how you will ensure property management staff will provide culturally competent services in working with protected classes.

Response:

Since 2018, Cornerstone has hosted semi-annual cross training events with property management and resident services staff. Training topics have included crisis de-escalation, self-awareness and self-care, bed bugs / pest management, and cultural humility. Training and team building efforts support more collaborative, effective, and equitable frontline service for residents. Providing ongoing professional development opportunities related to cultural competency and inclusion are of the highest priority for Cornerstone. Cornerstone will work with Affinity to provide this ongoing professional development for property management staff.

Third Party Support Experience

Affinity and its managers have a well-versed history working with program partners in our local industry such as Rent Well and Fresh Start programs. We understand that many of our diverse clientele have barriers that will often prevent them from obtaining stable housing. Our policy allows for the acceptance of the above-mentioned certificates of completion in effort to overturn denials and offer permanent stable housing. In addition, Affinity is accustomed to developing tailored screening criteria for each specific property which allows specific target populations to be housed in coordination with agency referrals and supportive services.

Community Outreach

Affinity uses many approaches for outreach and marketing which depends on the specific property, its location, and target demographic. Aside from our standard marketing approaches, Affinity relies greatly on leveraging our connections with our community service providers and partner agencies for outreach purposes. Most of Affinity's Affordable portfolio utilizes specific program referrals to build waitlists and house our target populations. Affinity utilizes both digital and print marketing in demographic specific publications to reach a diverse group of prospective tenants.

On/Off Site Resident Services Personnel

It is Affinity's policy to have site managers work directly with resident service personnel. This can be through weekly in person interaction, email communication, or phone calls. Site managers discuss all facets of lease compliance with the resident service personnel prior to issuing any notices as well as any concerns for the resident. When notices are issued, resident services is copied in on that notice and the details. This practice is used in efforts to help our residents remain successful in their housing.

While the overall U.S economy is in an economic expansion, poverty remains a daily reality for many. The need for affordable housing has grown significantly and requires community-minded individuals and institutions to face the challenge head-on. Affinity wants to be part of helping the community by operating the 1059 Willamette to its fullest potential. We are well equipped to successfully operate the 1059 Willamette and serve its residential clients. By putting in place effective systems and investing in on-site staff, the property will continue to operate successfully.

Section 3 Attachments

- ☒ Examples/images of prior projects that demonstrate high-quality urban design and use
- ☐ Evidence of financial capacity *(included in Section 2 and 3 narratives)*

Appendix B. Pro Forma Instructions

This excel workbook is an independent, stand-alone series of worksheets.
Do not link this workbook to any other workbooks!

This workbook was created by the City of Eugene in Excel **2010; th**ough efforts have been made to ensure compatibilty with previous versions, it is not guaranteed.

Each worksheet has identified cells that need to be completed; identified in green.

Individual worksheet notes and directions are listed to the right of the primary tables.

To Start: Begin on the Summary Worksheet, and fill in the Project Name, Date, type of project, and Pro Forma type. These selections will carry over to all of the other worksheets; if you have any changes to make to these criteria you will need to make them here.

After these elements are completed, you should proceed through all of the remaining green worksheet tabs and complete the needed information in green cells.

Calculations won't work until all of the needed information has been entered in the workbook.

All worksheets are locked, in order to preserve the integrity of the internal calculations. To unlock a sheet, right click on the tab and select "unprotect"; there is no password on these sheets though it is important to note that any adjustments made improperly may result in errors throughout the workbook.

cell colors indicate:
Worksheet guidance
to complete by applicant
calculated in worksheet
value imported from other worksheet
white cells are fixed fields and can not be over-written

Project Summary

Project Name: The Montgomery **Date:** 2/2/2021

Project Square Feet

	Total	% of Total
Residential (leasable)	64,107	68.5%
Common Space	25,976	27.8%
Commercial	3,438	3.7%
Total Res Sq Ft	90,083	96.3%
Total	93,521	--

Number of Housing Units

	Income Qualified	Market Rate	Total
Studio	65	0	65
1 bedroom	1	58	59
2 bedroom	0	5	5
3 bedroom	0	0	0
4 bedroom	0	0	0
5 bedroom	0	0	0
Total	66	63	129

Overall Costs

	Total	Acquisition	Construction	Development
Total Costs	$29,045,132	-	$22,246,137	$6,758,995
% of Total Costs	100%	0%	77%	23%
Total Cost / Res. Unit	$225,156	$0	$172,451	$52,395
Total Cost / Res. SF	$322	$0	$247	$75
Residential Only Costs	$27,803,231	$0	$21,430,392	$6,372,839
Res. Only Cost / Unit	$215,529	$0	$166,127	$49,402
Res. Only Cost / Res. SF	$309	$0	$238	$71

Financial Factors

Developer Fee Percent	5%
Contractor Profit, Overhead & GC as % of	0%

Debt Coverage Ratio

	Year 1	Year 3
Primary Debt	1.29	1.33
Total Debt	1.29	1.33

SOURCES OF FUNDING

Project Name: **The Montgomery**

Date: **2/2/2021**

Funding Source	
Cash	$5,184,632
Permanent Bank Loan-primary	$22,710,500
Permanent Bank Loan-secondary	$0
City of Eugene-Urban Renewal	$1,100,000
Utility Efficiency Incentive	$50,000
TOTAL FUND SOURCES	$29,045,132

Surplus or Gap $0

USES OF FUNDS

Project Name: The Montgomery **Date:** 2/2/2021

Number of Units:	129
Square Footage Summary:	
Residential Unit Square Footage:	64,107
Residential Common Areas:	25,976
Commercial/other	3,438
Total Residential Square Footage:	90,083
Total Square Footage:	93,521

Summary of Costs

	Total	Acquisition	Construction	Development
Total Costs	$29,045,132	$40,000	$22,246,137	$6,758,995
% of Total Costs	100%	0%	77%	23%
Total Cost / Res. Unit	$225,156	$310	$172,451	$52,395
Total Cost / Res. Sq Ft	$322	$0	$247	$75
Residential Only Costs	$27,803,231	$0	$21,430,392	$6,372,839
Res. Only Cost / Unit	$215,529	$0	$166,127	$49,402

Costs	Total Costs (Residential + Commercial)	Residential	Commerical	Total Cost per Unit
Acquisition Costs				
Purchase Price:				
Land	$0			-
Improvements	$0			-
Liens and Other Taxes	$0			-
Closing/Recording	$40,000			$310
Extension Fees	$0	$0	$0	-
Other (list below):				
	$0			-
	$0			-
	$0			-
Acquisition Costs Subtotal:	**$40,000**	**$0**	**$0**	$310
Construction Costs				
Off-site Work	$0			-
On-site Work	$0			-
Hazardous Materials Abatement	$300,000	$288,900	$11,100	$2,326
Demolition	$375,000	$361,125	$13,875	$2,907
Residential Building	$19,498,147	$19,498,147		$151,148
Commercial Space/Building	$749,150		$749,150	$5,807
Common Use Facilities	$0			-
FF&E (Common Area Furnishings)	$125,000	$125,000		$969
Internet Wiring & Equipment	$0			-
Landscaping	$0			-
Elevator	$0			-
Laundry Facilities	$0			-
Storage/Garages	$0			-
Builder's Risk Insurance	$0			-
Performance Bond	$0			-
3rd Party Const. Management	$0			-
Contingency	$1,059,340	$1,020,495	$38,845	$8,212
General Conditions	$0			-
Contractor Overhead	$0			-
Contractor Profit	$0			-
Other (list below):				
Unit Upgrades	$64,500	$64,500		$500
Signage, Security & Access Control	$75,000	$72,225	$2,775	$581
	$0			-
Construction Costs Subtotal:	**$22,246,137**	**$21,430,392**	**$815,745**	$172,451

worksheet guidance

cell colors indicate:

to complete by applicant

calculated in worksheet

value imported from other worksheet

USES OF FUNDS

Project Name: The Montgomery **Date:** 2/2/2021

Development Costs				
Land Use Approvals	$0			-
Building Permits/Fees	$417,736	$402,280	$15,456	$3,238
System Development Charges	$731,038	$703,990	$27,048	$5,667
Market Study	$12,500	$12,500		$97
Environmental Report	$20,000	$19,260	$740	$155
Lead Based Paint Report	$0			-
Asbestos Report	$0			-
Soils Report (Geotechnical)	$20,000	$19,260	$740	$155
Survey	$15,000	$14,445	$555	$116
Capital Needs Assessment	$0			-
Marketing/Advertising	$100,000	$100,000		$775
Insurance	$150,000	$144,450	$5,550	$1,163
Other (list below):				
Utilities	$225,750	$217,397	$8,353	$1,750
Tenant Improvement Allowance	$120,330		$120,330	$933
	$0			-
General Fees				
Architectural	$1,535,180	$1,478,378	$56,802	$11,901
Engineering	$0			-
Legal/Accounting	$50,000	$48,150	$1,850	$388
Cost Certification	$12,000	$11,556	$444	$93
Appraisals	$10,000	$9,630	$370	$78
Special Inspections/Testing	$65,000	$62,595	$2,405	$504
Developer Fee	$1,073,946	$1,034,210	$39,736	$8,325
Consultant Fee	$252,000	$242,676	$9,324	$1,953
Rate Lock Fee	$0			-
Other (list below):				
LEED	$80,000	$77,040	$2,960	$620
Retail Leasing Commission	$18,565		$18,565	$144
	$0			-
Construction Loan Costs/Fees				
Lender Inspection Fees	$113,553	$109,352	$4,201	$880
Lender Title Insurance	$60,000	$57,780	$2,220	$465
Lender Legal Fees	$100,000	$96,300	$3,700	$775
Loan Fees	$329,303	$317,119	$12,184	$2,553
Loan Closing Fees	$32,350	$31,153	$1,197	$251
Property Taxes (Constr Period)	$25,000	$24,075	$925	$194
Insurance	$0			-
Bridge Loan Fees				
Bridge Loan Legal	$0			-
Bridge Loan Trustee	$0			-
Bridge Loan Underwriting	$0			-
Permanent Loan Fees				
Perm. Loan Fee	$0			-
Perm. Loan Closing Fees	$0			-

USES OF FUNDS

Project Name: The Montgomery **Date:** 2/2/2021

Bond Issuance Fees				
Cost of Bond Issuance	$0			-
Negative Arbitrage (1.50%)	$0			-
Bond Cost Certification	$0			-
Other (list below):				
	$0			-
Interest				
Construction Period	$580,253	$558,784	$21,469	$4,498
Construction Bridge Loan	$0			-
Other (list below):				
	$0			-
	$0			-
Development Contingency				
Development Contingency	$191,755	$178,180	$13,575	$1,486
Contingency Escrow Account (3%)	$0			-
Lease Up / Tenant Relocation				
Lease Up	$0			-
Tenant Relocation	$0			-
Reserves/Cash Accounts				
Operating Reserve	$0			-
Deposit to Replacement Reserves	$0			-
Other (list below):				
Lease Up Reserve	$417,736	$402,280	$15,456	$3,238
	$0			-
	$0			-
	$0			-
Development Costs Subtotal:	**$6,758,995**	**$6,372,839**	**$386,156**	$52,395
TOTAL PROJECT COST	**$29,045,132**	**$27,803,231**	**$1,201,901**	$225,156
Surplus or Gap	**$0**			

Summary of Fees and Contingencies		**Preferred Rates**
Developer Fee Percent	4.9%	No more than 15% of total project costs net of developer fee, reserves and cash accounts.
Project Development Percentage	23.3%	No more than 30% of total project costs.
Development Contingency	2.9%	No more than 5%.
Construction Contingency	5.0%	No more than 5% for new construction, 10% for rehabilitation.
Contractor Profit, Overhead & GC	0.0%	Contractor Profit (8%), Overhead (2%) and General Conditions (6%), with combined no more than 14% of construction costs.
Construction less Contractor P & O & GC	$22,246,137	

Project costs net of developer fee, reserves and cash accounts	$26,883,713.8
Development and Construction Costs, total	$29,005,131.8

HOUSING OPERATING BUDGET - INCOME

Project Name: The Montgomery

Date: 2/2/2021

Income Inflation Rate: 2.00%

Type	Unit Size	Unit Type (BDR /MGR)	# of Baths	Square Feet / Unit	Median Income %	Gross Monthly Rent /Unit		Tenant Paid Utility Allow		Net Monthly Rent / Unit		# of Units		Year 1	2	3	4	5	10	15	20	30
Income Qualified	Studio		1.0	477	80%	$980	-	$86	=	894	X 12	15	=	$160,920	$164,138	$167,421	$170,770	$174,185	$192,314	$212,331	$234,430	$285,769
Income Qualified	Studio		1.0	369	80%	$980	-	$86	=	894	X 12	15	=	$160,920	$164,138	$167,421	$170,770	$174,185	$192,314	$212,331	$234,430	$285,769
Income Qualified	Studio		1.0	391	80%	$980	-	$86	=	894	X 12	30	=	$321,840	$328,277	$334,842	$341,539	$348,370	$384,629	$424,661	$468,860	$571,538
Income Qualified	Studio		1.0	352	80%	$980	-	$86	=	894	X 12	5	=	$53,640	$54,713	$55,807	$56,923	$58,062	$64,105	$70,777	$78,143	$95,256
Income Qualified	1 bedroom		1.0	568	80%	$1,050	-	$94	=	956	X 12	1	=	$11,472	$11,701	$11,935	$12,174	$12,418	$13,710	$15,137	$16,713	$20,372
Market Rate	1 bedroom		1.0	491		$1,530	-	$0	=	1,530	X 12	5	=	$91,800	$93,636	$95,509	$97,419	$99,367	$109,709	$121,128	$133,735	$163,023
Market Rate	1 bedroom		1.0	576		$1,530	-	$0	=	1,530	X 12	5	=	$91,800	$93,636	$95,509	$97,419	$99,367	$109,709	$121,128	$133,735	$163,023
Market Rate	1 bedroom		1.0	581		$1,565	-	$0	=	1,565	X 12	20	=	$375,600	$383,112	$390,774	$398,590	$406,562	$448,877	$495,596	$547,178	$667,007
Market Rate	1 bedroom		1.0	666		$1,590	-	$0	=	1,590	X 12	5	=	$95,400	$97,308	$99,254	$101,239	$103,264	$114,012	$125,878	$138,980	$169,416
Market Rate	1 bedroom		1.0	568		$1,530	-	$0	=	1,530	X 12	23	=	$422,280	$430,726	$439,340	$448,127	$457,089	$504,664	$557,189	$615,182	$749,904
Market Rate	2 bedroom		2.0	802		$2,300	-	$0	=	2,300	X 12	5	=	$138,000	$140,760	$143,575	$146,447	$149,376	$164,923	$182,088	$201,040	$245,067
							-		=	0	X 12		=	$0	$0	$0	$0	$0	$0	$0	$0	$0
							-		=	0	X 12		=	$0	$0	$0	$0	$0	$0	$0	$0	$0
							-		=	0	X 12		=	$0	$0	$0	$0	$0	$0	$0	$0	$0
SUB-TOTALS												129	=	$1,923,672	$1,962,145	$2,001,388	$2,041,416	$2,082,244	$2,298,966	$2,538,244	$2,802,427	$3,416,143

Total Residential Leasable Square Feet
64,107

See Appendix C of RFP for allowed rents in income-qualified units

Total Annual Income

Site-based rental assistance:									
Site-based rental assistance:		$0	$0	$0	$0	$0	$0	$0	$0
Other Revenue:									
Laundry		$0	$0	$0	$0	$0	$0	$0	$0
Garage/Parking	$25,920	$26,438	$26,967	$27,507	$28,057	$30,977	$34,201	$37,761	$46,030
Deposits on Turnover		$0	$0	$0	$0	$0	$0	$0	$0
Cable TV		$0	$0	$0	$0	$0	$0	$0	$0
Interest Income		$0	$0	$0	$0	$0	$0	$0	$0
Application Fees		$0	$0	$0	$0	$0	$0	$0	$0
Internet Access Fees		$0	$0	$0	$0	$0	$0	$0	$0
RUBS	$26,460	$26,989	$27,529	$28,080	$28,641	$31,622	$34,913	$38,547	$46,989
Other Income	$32,250	$32,895	$33,553	$34,224	$34,908	$38,542	$42,553	$46,982	$57,271
SUB-TOTAL OTHER REVENUE	**$84,630**	**$86,323**	**$88,049**	**$89,810**	**$91,606**	**$101,141**	**$111,667**	**$123,290**	**$150,290**
Gross Residential Income:	$2,008,302	$2,048,468	$2,089,437	$2,131,226	$2,173,851	$2,400,107	$2,649,912	$2,925,717	$3,566,432
Annual Vacancy Rate (stable at Yr 3)	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%
Less Vacancy	($100,415)	($102,423)	($104,472)	($106,561)	($108,693)	($120,005)	($132,496)	($146,286)	($178,322)
Effective Res. Gross Income:	**$1,907,887**	**$1,946,045**	**$1,984,966**	**$2,024,665**	**$2,065,158**	**$2,280,101**	**$2,517,416**	**$2,779,431**	**$3,388,111**

HOUSING OPERATING BUDGET - INCOME

Project Name: The Montgomery

Date: 2/2/2021

Income Inflation Rate: 2.00%

Type	Unit Size	Unit Type (BDR /MGR)	# of Baths	Square Feet / Unit	Median Income %	Gross Monthly Rent /Unit	Tenant Paid Utility Allow	Net Monthly Rent / Unit	# of Units		Year 1	2	3	4	5	10	15	20	30
										years	1	2	3	4	5	10	15	20	30
					Commercial Income:		Retail			=	$61,884	$63,122	$64,384	$65,672	$66,985	$73,957	$81,655	$90,153	$109,896
					Other:					=		$0	$0	$0	$0	$0	$0	$0	$0
					Other:					=		$0	$0	$0	$0	$0	$0	$0	$0
					Other:					=		$0	$0	$0	$0	$0	$0	$0	$0
					Other:					=		$0	$0	$0	$0	$0	$0	$0	$0
					Other:					=		$0	$0	$0	$0	$0	$0	$0	$0
					Other:					=		$0	$0	$0	$0	$0	$0	$0	$0
											$61,884	$63,122	$64,384	$65,672	$66,985	$73,957	$81,655	$90,153	$109,896
										Annual Vacancy Rate (stable at Yr 3)	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%
										Less Vacancy	($3,094)	($3,156)	($3,219)	($3,284)	($3,349)	($3,698)	($4,083)	($4,508)	($5,495)
										Effective Comm. Gross Income:	**$58,790**	**$59,966**	**$61,165**	**$62,388**	**$63,636**	**$70,259**	**$77,572**	**$85,646**	**$104,402**
										Effective Total Gross Income:	**$1,966,677**	**$2,006,010**	**$2,046,130**	**$2,087,053**	**$2,128,794**	**$2,350,361**	**$2,594,988**	**$2,865,077**	**$3,492,512**

HOUSING OPERATING BUDGET - EXPENSES

Project Name: The Montgomery **Date:** 2/2/2021

Expense Inflation Rate: 3.00% if you change this expense inflation rate from it's default (3%) you must support it in your narrative

Annual Operating Expenses	Annual per Unit	Enter annual expense for ALL units below — Year 1	2	3	4	5	10	20	30
Insurance	$179	$23,145	$23,839	$24,555	$25,291	$26,050	$30,199	$40,585	$54,543
Utilities:(common areas)									
Gas/Oil	$0	$0	$0	$0	$0	$0	$0	$0	$0
Electric	$191	$24,665	$25,405	$26,167	$26,952	$27,761	$32,182	$43,250	$58,125
Water & Sewer	$226	$29,210	$30,086	$30,989	$31,919	$32,876	$38,112	$51,220	$68,835
Garbage Removal	$121	$15,600	$16,068	$16,550	$17,047	$17,558	$20,354	$27,355	$36,762
Cable TV	$17	$2,165	$2,230	$2,297	$2,366	$2,437	$2,825	$3,796	$5,102
Repairs & Maintenance	$785	$101,210	$104,246	$107,374	$110,595	$113,913	$132,056	$177,472	$238,508
Landscape Maintenance	$54	$6,910	$7,117	$7,331	$7,551	$7,777	$9,016	$12,117	$16,284
Replacement Reserve	$250	$32,250	$33,218	$34,214	$35,240	$36,298	$42,079	$56,551	$75,999
Property Management:									
On-site	$633	$81,690	$84,141	$86,665	$89,265	$91,943	$106,587	$143,244	$192,508
Contracted (Off-Site)	$0		$0	$0	$0	$0	$0	$0	$0
Professional Services:									
Resident Services	$47	$6,050	$6,232	$6,418	$6,611	$6,809	$7,894	$10,609	$14,257
Case Management	$50	$6,470	$6,664	$6,864	$7,070	$7,282	$8,442	$11,345	$15,247
Legal	$8	$1,060	$1,092	$1,125	$1,158	$1,193	$1,383	$1,859	$2,498
Accounting	$16	$2,120	$2,184	$2,249	$2,317	$2,386	$2,766	$3,717	$4,996
Compliance Monitoring Fees	$89	$11,495	$11,840	$12,195	$12,561	$12,938	$14,998	$20,157	$27,089
Office & Administration	$773	$99,730	$102,722	$105,804	$108,978	$112,247	$130,125	$174,877	$235,020
Advertising/Marketing & Promotion	$164	$21,220	$21,857	$22,512	$23,188	$23,883	$27,687	$37,209	$50,006
Unit Turnover	$79	$10,190	$10,496	$10,811	$11,135	$11,469	$13,296	$17,868	$24,013
Taxes(non-real estate)	$0		$0	$0	$0	$0	$0	$0	$0
Property Taxes	$1,284	$165,615	$170,583	$175,701	$180,972	$186,401	$216,090	$290,407	$390,283
MUPTE Exemption: Yr 1 - Yr 10	($1,155)	($149,055)	($153,527)	($158,132)	($162,876)	($167,763)	($194,483)	$0	$0
Payroll Taxes	$50	$6,435	$6,628	$6,827	$7,032	$7,243	$8,396	$11,284	$15,164
Downtown Service District Fee	$109	$14,056	$14,478	$14,913	$15,360	$15,821	$18,341	$24,648	$33,125
Occupied Square Feet		87,853							
Internet Connection Fee	$0	$0	$0	$0	$0	$0	$0	$0	$0
Other: (list below)									
Asset Management Fee	$414	$53,350	$54,951	$56,599	$58,297	$60,046	$69,610	$93,550	$125,723
	$0		$0	$0	$0	$0	$0	$0	$0
Total Annual Operating Expenses:	**$4,384**	**$565,581**	**$582,549**	**$600,025**	**$618,026**	**$636,567**	**$737,956**	**$1,253,119**	**$1,684,088**

HOUSING OPERATING BUDGET - EXPENSES

Project Name: The Montgomery **Date:** 2/2/2021

Expense Inflation Rate: 3.00% if you change this expense inflation rate from it's default (3%) you must support it in your narrative

Annual Operating Expenses	Annual per Unit	Enter annual expense for ALL units below — Year 1	2	3	4	5	10	20	30
Less Debt Service:									

Permanent Bank Loan-primary			Annual per Unit	Year 1	2	3	4	5	10	20	30
Rate	Amortization (Years)	Loan Amount									
3.65%	40	$22,710,500	$90,696	$1,088,349	$1,088,349	$1,088,349	$1,088,349	$1,088,349	$1,088,349	$1,088,349	$1,088,349

Permanent Bank Loan-secondary											
Rate	Amortization (Years)	Loan Amount									
		$0	$0	$0	$0	$0	$0	$0	$0	$0	$0

Other Loans / Deferred Fee											
Deferred Developer Fee											
Rate	Amortization (Years)	Loan Amount									
			$0	$0	$0	$0	$0	$0	$0	$0	$0

Other Loans											
Rate	Amortization (Years)	Loan Amount									
			$0	$0	$0	$0	$0	$0	$0	$0	$0
			$0	$0	$0	$0	$0	$0	$0	$0	$0
			$0	$0	$0	$0	$0	$0	$0	$0	$0
Total Debt Service			**$90,696**	**$1,088,349**	**$1,088,349**	**$1,088,349**	**$1,088,349**	**$1,088,349**	**$1,088,349**	**$1,088,349**	**$1,088,349**

HOUSING OPERATING BUDGET - EXPENSES

Project Name: The Montgomery **Date:** 2/2/2021

Expense Inflation Rate: 3.00% if you change this expense inflation rate from it's default (3%) you must support it in your narrative

Annual Operating Expenses	Annual per Unit	Enter annual expense for ALL units below — Year 1	2	3	4	5	10	20	30
	Annual per Unit	1	2	3	4	5	10	20	30
Effective Gross Income:	*$15,246*	*$1,966,677*	*$2,006,010*	*$2,046,130*	*$2,087,053*	*$2,128,794*	*$2,350,361*	*$2,865,077*	*$3,492,512*
Total Annual Operating Expenses:	*$4,384*	*$565,581*	*$582,549*	*$600,025*	*$618,026*	*$636,567*	*$737,956*	*$1,253,119*	*$1,684,088*
Net Operating Income:	*$10,861*	*$1,401,095*	*$1,423,461*	*$1,446,105*	*$1,469,027*	*$1,492,227*	*$1,612,405*	*$1,611,957*	*$1,808,425*
Primary Debt Service	*$90,696*	*$1,088,349*	*$1,088,349*	*$1,088,349*	*$1,088,349*	*$1,088,349*	*$1,088,349*	*$1,088,349*	*$1,088,349*
Total Debt Service	*$90,696*	*$1,088,349*	*$1,088,349*	*$1,088,349*	*$1,088,349*	*$1,088,349*	*$1,088,349*	*$1,088,349*	*$1,088,349*
Cash Flow Per Year Primary:	***($79,835)***	***$312,747***	***$335,113***	***$357,756***	***$380,678***	***$403,878***	***$524,056***	***$523,609***	***$720,076***
Cash Flow Per Year Total:	***($79,835)***	***$312,747***	***$335,113***	***$357,756***	***$380,678***	***$403,878***	***$524,056***	***$523,609***	***$720,076***
Primary Debt Coverage Ratio		*1.29*	*1.31*	*1.33*	*1.35*	*1.37*	*1.48*	*1.48*	*1.66*
Total Debt Coverage Ratio		*1.29*	*1.31*	*1.33*	*1.35*	*1.37*	*1.48*	*1.48*	*1.66*

Utility Allowance

Project Name: **The Montgomery** **Date:** **2/2/2021**

Utilities	Specify Type of Utility (Gas, elec., Oil, etc.)	choose from drop down menu Owner or Tenant Paid	fill in the dollar amounts in cells below 0 BDRM	1 BDRM	2 BDRM	3 BDRM	4 BDRM	5 BDRM
Heating	Electric	Tenant Paid	$34	$37	$42			
Lighting	Electric	Tenant Paid	$14	$17	$23			
Air Conditioning								
Cooking	Electric	Tenant Paid	$4	$4	$6			
Hot Water	Electric	Tenant Paid	$9	$11	$14			
Water		Owner Paid						
Sewer		Owner Paid						
Trash Removal		Tenant Paid	$25	$25	$25			
Total Utility Allowance			**$86**	**$94**	**$110**	**$0**	**$0**	**$0**

If allowances are calculated by other methods, attach the appropriate schedule and include unit rents, number of bedrooms, and allowances

View of Proposed Willamette Street Facade

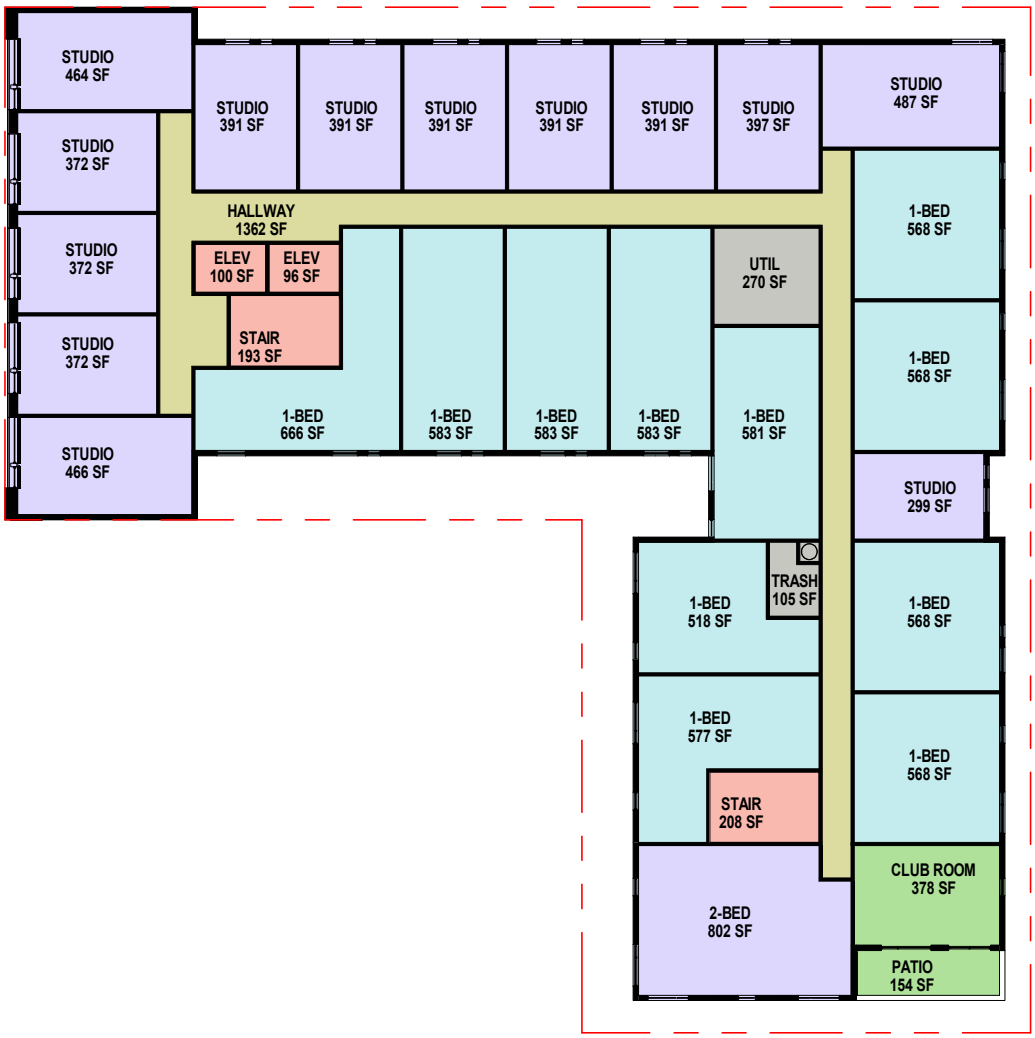
View of Proposed Corner on 11th Avenue and Oak Alley

ROWELL BROKAW

Aerial Composite with Proposed Building Massing

1 TYPICAL FLOOR PLAN (2-5)

1" = 30'-0"



1 6TH FLOOR PLAN

1" = 30'-0"

1 1ST FLOOR

1" = 30'-0"

ROWELL BROKAW

1203 Willamette
Suite 210
Eugene, Oregon 97401
541 485 1003
rowellbrokaw.com

Architecture. Design. Strategy

2 February 2021

City of Eugene

1059 Willamette Street Project

RE: Request for Proposals – Zoning and Land Use Documentation

Dear Reviewer,

The project we envision in this proposal meets the current Zoning and Land Use requirements as we understand their applicability at this stage of concept design. The property is zoned C-3 with a TD Overlay (Transit Oriented Development). Minimum Floor Area Ratio (FAR) requirement is 2.0. The building exceeds the 2.0 FAR. Housing and retail are allowed subject to development standards in 9.5500, However multi-family standards do not apply within this area. Building height is permitted to be 150'. Our building is designed to top out at less than 70ft. Setbacks are to be no greater than 15 ft at streets, we are well under. The downtown area is parking exempt; however, we are providing some onsite parking. Bike parking will be accommodated on the ground floor, with possible accommodations in other parts of the building as we further develop the design.

Any zoning or land use issues that need to be resolved would be addressed early in design and the applications for approval would run concurrent with the design timeframe outlined in the schedule and not impact the overall delivery of the project.

Sincerely,

Gregory Brokaw, Architect

Rowell Brokaw Architects, PC

Greystone & Co., Inc.
111 Rockville Pike Suite 1150
Rockville, MD 20850
https://www.greystone.com/

GREYSTONE

January 27, 2021

Mr. Mark Miksis
DeChase Miksis Development
PO Box 11943
Eugene OR 97440

RE: **MAP 221(D)(4) NEW CONSTRUCTION LOAN FOR 1059 WILLAMETE**

Dear Mr. Miksis,

I'm writing to express my support for the proposed multifamily project located at 1059 Willamete Street, Eugene OR 9740. Upon receiving your loan inquiry, my team at Greystone has conducted an initial loan screening, which produced an estimated loan amount of $22,710,500. This loan will be insured under Section 221(d)(4) new construction program of the National Housing Act. The estimated interest rate of the loan is 3.25% plus 0.25% for Mortgage Insurance Premium, which will be fixed during construction and for 40 years thereafter.

The proposed project is located in an opportunity zone with 51% of the unit designated to workforce housing with tenants earning 80% of Area Median Income. The US Housing and Urban Development (HUD) will find both features attractive to their mission during their review of the loan application.

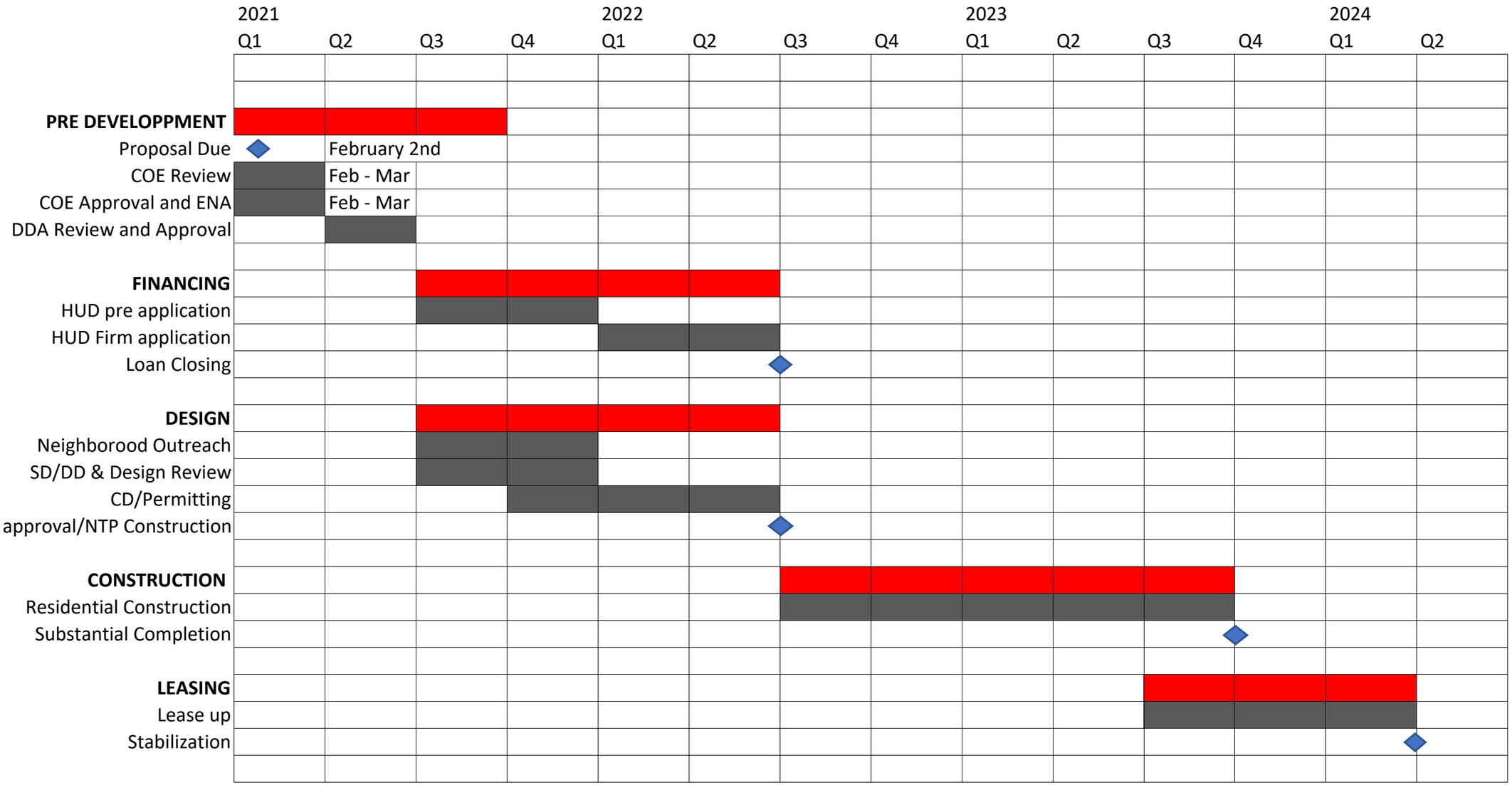
Greystone is the #1 Lender in the HUD loans business with roughly 15% of the market share. Upon our initial research and underwriting of the proposed project, we believe this is a viable project and would like to have the opportunity to work with you on this project in the near future. Please let me know if you have any questions.

Sincerely,

Phiet Nguyen
Managing Director – FHA Finance

Attachment B

The Montomery Project Timeline



PROJECT EXPERIENCE

DECHASE MIKSIS + EDLEN & CO.

ASH + RIVER WORKFORCE HOUSING

BOISE, IDAHO

DETAILS: 34-Unit Mixed-Use Workforce Housing
47,000 Gross Sq Ft
500 Sq Ft Retail
Project Cost: $9.9MM
Covered Parking
Public-Private Partnership
Urban Renewal
Catalyst Project
LEED Gold Certified
Completion: 2019

Ash + River Workforce Housing was a collaboration between CCDC and the Development Team. A catalyst for the emerging neighborhood, the project fronts on the Pioneer Pathway, nestled in between a City Park and the Historic Hayman House.

In response to its context, townhomes front the street and park frontages, with parking tucked between the two bays of buildings and under a small structure. Views from the public realm are of a locally inspired landscape, warm overhead soffits and quality building materials.

An incubator retail space holds the corner, fronting the Pioneer Pathway and drawing pedestrians and cyclists through the project and down toward the Boise River.

38 DAVIS

PORTLAND, OREGON

DETAILS: 65-Unit Mixed-Use Middle-Income Housing
124,000 Gross Sq Ft
5,400 Sq Ft Retail
80,000 Sq Ft Office Space
Project Cost: $45.3MM
Public-Private Partnership
Urban Renewal
LEED Gold Certified
Completion: 2016

Located in Portland's Old Town/Chinatown neighborhood, 38 Davis was the area's first new construction project in 10 years as of 2016. This critical development contains dynamic office space, market-rate and middle-income housing, and higher education classrooms for the University of Oregon's Executive MBA program. The L shape structure is designed to create a harmony between the old and the new. The historical façade integrates well into the neighborhood while the warehouse-like interior compliments modern demands for flexible and open office space featuring exposed wood beams. 38 Davis was completely new construction but the commitment to historical authenticity gives tenants the true feel of a repurposed historic building.

Retail and the University of Oregon's classrooms sit on the first floor, followed by 3 floors of office, and finished off with 2 floors of apartments, more than half of which are affordable at 80% to 100% of area median income. Financed through a combination of debt and equity, Edlen & Co. (formerly Gerding Edlen) acquired the right to develop the site from a competitive Request for Intent process with Prosper Portland. The building was able to achieve below-market rents through a 10-year property tax abatement on residential improvements, SDC waivers on 2/3 of the units, and no structured parking.
The property tax abatement required a minimum of 20% of the units to be at 80% AMI, the SDC waivers require units to stay at 100% AMI for 10 years and then 120% AMI for another 5 years.

Finally, to supplement the lack of structured parking, access was granted to a city-owned garage across the street. To pay tribute to the neighborhood's historic roots, the building features a cast iron grove constructed out of iron columns from eight demolished Old Town Buildings. A greywater reclamation system is used to recycle shower water from upper residential units to flush the toilets in the office space. To preserve energy on heating and cooling, the office space utilizes large fans, operable windows, and software to measure optimal times to open windows to decrease the use of HVAC. 38 Davis achieved the LEED Gold certification through sustainability elements such as a greywater treatment system, green roof, solar hot water system, and photovoltaic solar array. 38 Davis focused on marrying thoughtful design and creative financing to deliver much-needed housing and economic stimulus to the area.

CROSSWOOD

EUGENE, OREGON

DETAILS: 127-Unit Market-Rate Housing
112,554 Gross Sq Ft
Project Cost: $37.5MM
Urban Renewal
Earth-Advantage Certification Anticipated
Anticipated Completion: 2021

This contemporary apartment building will be adjacent to the University of Oregon's Riverfront Research Park and the Willamette River. This sophisticated project will be built with cross-laminated timber and will provide the ideal living space for professionals. Close to everything and yet a step off the beaten path, it will be at the nexus of innovation and inquiry, conveniently located near the Phil and Penny Knight Campus for Accelerating Scientific Impact and the University of Oregon.

Crosswood will feature dynamic living spaces including large windows providing ample natural light, a community room for residents, desirable amenities, and a rooftop patio that provides views to the north. Units will be a mix of studios, one-bedrooms, and two-bedrooms, offering the finest amenities and features of modern living.

The project will be financed using federally backed HUD financing through the 221(d)(4) program for market rate housing. This program required extensive federal environmental review along with complicated underwriting and prevailing wage requirements.

CORNERSTONE COMMUNITY HOUSING

WEST TOWN ON 8TH

EUGENE, OREGON

DETAILS: 102-Unit Mixed-Use, Affordable Housing
127,342 Gross Sq Ft
1,340 Sq Ft Retail
Project Cost: $22.9MM
Public-Private Partnership
Low-Income Housing Tax Credits
Completion: 2008

WestTown on 8th is a mixed-use project consisting of 102 Affordable Housing units marketed to residents making 60% area median income or less. This development showcases the addition of 8 live/work retail spaces and commercial office space.

The intentional design resembled the established streetscape resulting in the appearance of a 2-story development on 8th Avenue with the bulk of the 6-story build placed on the backside alley. Residential amenities include a rooftop terrace between the north and south towers that provide outdoor seating and community space. There is an additional 1,326 square feet of interior community space with a full kitchen offered to residents for various uses. The 57 parking spaces are secured and include 8 double spaces and 9 garages.

May 22, 2023 Meeting — Item 7

AMAZON CORNER

EUGENE, OREGON

DETAILS: Mixed-Use Housing
125,600 Gross Sq Ft
8,810 Retail Sq Ft
Project Cost: $24.5MM
Completion: 2019

Amazon Corner is a 125,000 sf mixed-use apartment building at 32nd Avenue and Hilyard Street in South Eugene. The building is wood framed over a concrete framed first floor and basement. The ground floor contains a mix of housing units, retail, and services, including Provisions South Café and Restaurant. Housing units range from studios to two-bedroom units. The developer is Mike Coughlin, whose Burley bike trailer company is a well-known local business, is a long-term Eugene resident.

An important goal of the project is to create a durable building with high-quality materials. The exterior of the building uses brick, metal panels, a drained exterior insulation finish system, and wood cladding for accents. A southwest-facing plaza with ground-floor retail invites the larger community of Eugene to intermingle with residents and enjoy a lively outdoor space.

The retail focus in the plaza is toward food and beverage providers anchored by Provisions Cafe. Public spaces ancillary to food and beverage retailers include a mix of covered and uncovered outdoor dining areas. Private balconies are provided for most residents and the building exterior form attempts to maximize available views and stimulate urban vibrancy. From the upper floors, there are views of Spencer Butte.

Amazon Corner fits in with community goals of smart growth along transit corridors. Particular attention is given to creating convenient access and welcoming spaces for pedestrians and cyclists, as well as motorists.

COMPLETED PROJECTS	Project Type	Location	deChase Miksis	Edlen & Co.	Rowell Brokaw Architects	New Market Tax Credits	Historic Tax Credits	Low Income Housing Tax Credit	Public-Private Partnership	Sustainability Certification	Mixed-Use	Urban Renewal	Affordable Housing	Workforce Housing
Ash + River Townhomes	Mixed-Use Workforce Housing	Boise, ID	✓	✓					✓	✓	✓	✓		✓
The Gibson	Mixed-Use Market-Rate Housing	Boise, ID	✓						✓	✓	✓	✓		
6th & Front Parking Garage	Parking Garage	Boise, ID	✓						✓		✓	✓		
The Hixon	Mixed-Use Market-Rate Housing	Bend, OR	✓							✓	✓			
1203 Willamette	Mixed-Use Retail/Office	Eugene, OR	✓		✓						✓			
The Andy	Student Housing	Eugene, OR	✓											
Northwest Community Credit Union	Financial Institution	Eugene, OR	✓		✓					✓	✓			
K-14	Student Housing	Eugene, OR	✓							✓				
Crescent Village *	Mixed-Use Residential/Retail	Eugene, OR	✓		✓					✓	✓			
Courtside	Student Housing	Eugene, OR	✓							✓				
The Janey *	Mixed-Use Residential/Retail	Portland, OR	✓							✓	✓			
Brewery Blocks	Mixed-Use	Portland, OR		✓		✓	✓		✓	✓	✓	✓		
BB1: Whole Foods	Mixed-Use Retail/Office	Portland, OR		✓						✓		✓		
BB2: Brewhouse and Cellar	Mixed-Use Retail/Office	Portland, OR		✓			✓			✓		✓		
BB3: The Gerding Theater	Performing Arts Center	Portland, OR		✓		✓	✓		✓	✓		✓		
BB3: The Henry	Mixed-Use Condos/Retail	Portland, OR		✓						✓		✓		
BB4: M Financial	Mixed-Use Retail/Office	Portland, OR		✓						✓		✓		
BB5: The Louisa	Apartments & Retail	Portland, OR		✓						✓		✓		
South Waterfront	Mixed-Use	Portland, OR		✓					✓	✓	✓	✓		
OHSU Center for Health and Healing	Medical	Portland, OR		✓					✓	✓	✓	✓		
The Meriwether	Mixed-Use Condos/Retail	Portland, OR		✓					✓	✓	✓	✓		
The John Ross	Mixed-Use Condos/Retail	Portland, OR		✓					✓	✓	✓	✓		
Atwater Place	Mixed-Use Condos/Retail	Portland, OR		✓					✓	✓	✓	✓		
The Ardea	Mixed-Use Affordable Housing	Portland, OR		✓					✓	✓	✓	✓		
The Civic	Condos	Portland, OR		✓		✓		✓	✓	✓	✓		✓	
Indigo @ 12 West	Apartments	Portland, OR		✓		✓				✓	✓	✓		
38 Davis	Mixed-Use	Portland, OR		✓					✓	✓	✓	✓		
Life Works NW	Medical & Apartments	Portland, OR		✓		✓		✓	✓	✓	✓		✓	
Beatrice Morrow	Mixed-Use Affordable Housing	Portland, OR		✓				✓	✓	✓	✓		✓	
City of Beaverton City Hall	Office	Portland, OR		✓					✓	✓		✓		
Old Town Recovery Clinic	Medical	Portland, OR		✓		✓			✓	✓		✓		
Hill Park Apartments	Apartments	Portland, OR		✓				✓	✓	✓		✓	✓	
Meier & Frank Delivery Depot	Office	Portland, OR		✓			✓		✓	✓		✓		
Lane Community College Titan Court & Downtown Campus	Student Housing & Academic	Eugene, OR		✓		✓			✓	✓	✓	✓		
PNCA Arlene & Harold Schnitzer Center for Art and Design	Academic	Portland, OR		✓		✓	✓		✓	✓	✓	✓		
Amazon Corner Apartments	Mixed-Use	Eugene, OR			✓						✓			
UO Hamilton Walton Student Housing	MIxed-Use Student Housing	Eugene, OR			✓						✓			
Bayview Heights Veterans and Homeless Housing	Apartments	Eureka, CA			✓			✓	✓	✓	✓		✓	
O Town Student Housing	Apartments	Eugene, OR			✓									
Woodmansee Supportive Housing	Apartments	Eugene, OR			✓								✓	
Edwards Center and Supportive Housing	Community Center and Housing	Aloha, OR			✓									
First on Broadway Mixed-Use	Apartments and Retail	Eugene, OR			✓					✓	✓	✓		
PROJECTS UNDER DEVELOPMENT														
The Lucy (Eugene - Delta Court)	Affordable Housing	Eugene, OR	✓		✓								✓	
The Lucy (Boise - 5th & Grove)	Mixed-Use Market-Rate Housing	Boise, ID	✓						✓	✓	✓	✓		
Thomas Logan	Mixed-Use Affordable Housing	Boise, ID	✓					✓	✓	✓	✓	✓	✓	
Murray Master Plan	Mixed-Use Market-Rate Housing	Murry, UT	✓	✓					✓	✓	✓	✓		
Eugene YMCA	Recreation Center	Eugene, OR	✓						✓					
Crosswood (Garden Avenue)	Market-Rate Housing	Eugene, OR	✓		✓	✓				✓				
5th & Grove Office Building	Office Building	Boise, ID	✓									✓		
Steam Plant Adaptive Reuse	Mixed-Use Office/Retail	Eugene, OR	✓		✓		✓		✓		✓			
De Paul Treatment Center	Mixed-Use	Portland, OR		✓		✓			✓		✓	✓	✓	
The Nick Fish	Mixed-Use Housing/Retail/Office	Portland, OR		✓		✓		✓	✓	✓	✓	✓	✓	
Patricia Reser Center for the Arts (PRCA)	Civic & Cultural	Portland, OR		✓					✓	✓		✓		
Beaverton Central Parking Garage	Mixed-Use Parking/Retail	Beaverton, OR		✓					✓	✓	✓	✓		
PAE Living Building	Mixed-Use Retail/Office	Portland, OR		✓					✓	✓	✓	✓		
Sage Commons Supportive Housing	Apartments	Santa Rosa, CA			✓			✓	✓	✓			✓	
Meridian Corona Station	Apartments and Services	Petaluma, CA			✓			✓	✓	✓			✓	✓

* Project completed while lead developer was at another firm

1059 Willamette Request for Proposal – Additional Questions

This document includes questions the City sent to the development team in response to their submitted proposal. The Developer's responses are in ***italic Bold.***

General Questions

1. In Section 1, #1, you say the affordability period will be 35 years. In #3, you say it will be 30 years. Could you clarify the intended affordability period?

   The affordability period will be 35 years.

2. *Section 1, #5* - You say you have reached out to Lane Arts Council but we don't see any commitment or interest from LAC. Could you please elaborate on any conversations you've had with LAC?

   Please find attached letters of support from both Lane Workforce Partnership and Lane Arts Council.

3. *Section 3, #11* - The proposal describes how you will market the affordable units, but it doesn't provide information on the marketing of market rate units. Can the team provide a summary of that marketing effort?

   Our marketing team will provide a comprehensive action plan outlining strategies and tactics to achieve occupancy goals. This property specific plan will use various digital, social, print and traditional marketing to achieve occupancy results.

4. *Section 3, #11* - The proposal describes the Fair Housing marketing best practices that it employs. One item is 'analysis of neighborhood-level' demographics. Can you describe what geographic area will comprise the 'neighborhood'?

   We would utilize the Census Tract 16 for the geographic area in which this project is located. The housing and expanded housing market area utilized would be Eugene and Springfield.

Financials

5. *Section 2, Assumed interest rate on loan* – The narrative says the assumed interest rate is 3.65%, based on today's rate, plus a mortgage insurance premium of 0.25%, and a cushion of 0.25%. The letter from Greystone quotes 3.25%. Adding the mortgage insurance premium and cushion to that, brings the rate to 3.75% (3.25+0.25+0.25 = 3.75) compared to the assumed rate of 3.65% in the pro forma. Does the proposed project pencil if the interest rate increases to 3.75%?

   The 10 basis points will not have a significant impact on the proforma. The actual interest rate will be locked in at the time of closing the loan.

6. *Section 2, Budget narrative* - The narrative says there is a 4% development fee and 5% owner contingency. Could you point these figures out in the provided pro forma?

   Under "General Fees, Developer Fee," 1,073,946 (4% of hard and soft costs) is included. We have also included under "General Fees, Consultant Fee" 252,000 that covers Cornerstone's program management for resident services as well as construction management. Together, the developer fee and consultant fee are 4.9% of total project cost less reserves and cash accounts. Under "Construction Costs, Contingency," 1,059,340 (5% of hard costs) is included; under "Development Contingency, Development Contingency" 191,755 (5% of soft costs) is included.

7. In Section 3, we asked for evidence of financial capacity, which you briefly addressed in the narrative. Our goal with this requirement was to see evidence that shows your team has capital available, so that the project will continue to progress if unexpected problems arise. Some examples of the documents we've asked for in other RFPs are: a most recent audited financial statement and current operating budget OR two years of tax returns and an annual operating budget. Could you either a) provide documents similar to the above to demonstrate financial capacity OR b) submit a statement explaining your contingency plan or risk plan?

   Both deChase Miksis and Edlen and Co have a strong balance sheet with adequate liquidity to support the predevelopment phase of this project. In addition, we have a broad group of equity investors that can provide additional capital to fund the project until the debt is put in place. We understand the risks that are inherent in development projects and we are willing to put our funds at risk as we scope the early stages of the project. During development we partner with strong equity partners that provide the necessary capital to execute projects of this size and scope. We also build into our project budget the necessary contingencies to ensure that adequate capital is on hand to bring the project to a successful completion.

8. From our understanding, Edlen & Company is a different company than Gerding and Edlen. Can the team explain how the new company will access equity investors, and how it is different from the previous company?

   Edlen & Company is one of two successor companies to Gerding Edlen. Edlen & Company retained Gerding Edlen's 25+ year development business along with its long standing mission-based business focusing on public-private partnerships along with middle income and affordable housing projects. Mark Edlen, Roger Krage and Jill Sherman are all founding partners of Edlen & Company. Mark Edlen co-founded and Roger Krage and Jill Sherman were partners in Gerding Edlen. Roger Krage was responsible for raising equity (for projects not funded with Green Cities Funds I, II and III) and debt at Gerding Edlen and continues that function for Edlen and Company. Since its formation, Elden & Company has capitalized $136 million of development ($51 million of equity and $85 million of debt).

9. *Pro Forma, Sources of Funding* - Please explain what is the "utility efficiency incentive".

   We have assumed that the project will receive a EWEB utility incentive based on its energy performance.

10. *Uses of Funds* - Is hazardous abatement costs part of the overall demo costs?

    $300,000 is included for abatement and $375,000 is included for demolition as separate line items.

11. *Engineering* - You show $0 for engineering. Can you explain?

    Engineering is included under Architectural. We have estimated 7% of the construction cost plus reimbursable expenses which would be sufficient to cover architecture and engineering as well as other specialty design consultants.

12. *Income* - Your mix of units in the pro forma does not equal the mix of units in your drawings. Which is the correct mix?

    Floors 2, 3, 4 and 5 include 13 studios, 12 1-bedrooms, and 1 2-bedroom. Floor 6 includes 13 studios, 11 1-bedrooms, and 1 2-bedroom for a total of 65 studios, 59 1-bedrooms, and 5 2-bedrooms.

13. *Income* - The drawing shows 20 parking spaces but the pro forma includes revenue for 18 spaces. Is there a reason for the discrepancy?

    This is an oversight on our part. The proforma should include revenue for 20 parking spaces.

14. *Income* - You show a 5% vacancy rate for the residential and commercial portions in Year 1. That seems optimistic (especially for the commercial). What are your plans to manage a higher vacancy rate?

    We assumed that Year 1 in the City proforma was the first stabilized year. We would assume an approximately seven month lease up period (20 units per month) for residential and that the retail would be leased by six months after construction completion.

15. *Expenses* - Is Oregon's CAT tax included in the costs?

    CAT Tax is included in the overall construction cost of the project.

16. *Expenses* - Do you plan to connect to the Downtown fiber network (EUGNet)? It has a $10k connection fee.

    Yes, we plan to connect to EUgNet. We have assumed this in our budget.

17. *Miscellaneous* - What return do you expect to provide your equity investors?

    We are targeting a year 10 IRR (internal rate of return) of 12%.

Urban Design

Our Urban Design team will be preparing a memo summarizing their review of the project. They had a couple of follow-up questions based on your proposal. You aren't required to answer these, but if you did, they could speak to them in their memo:

- The development team is not required to indicate a ground floor height but as the Urban Design team we have interest in a generous ground floor height in the Downtown Core for flexibility of use and harmony within the context. Could you provide information on any consideration you've given to the ground floor height? If they are willing to answer this question we can highlight it in the memo.

The Concepts Design currently assumes 14-foot floor-to-floor for the ground floor, which is typical for retail/commercial ground floors in generously proportioned mixed-use projects. With open ceilings and tall windows along the streets, this will convey a tall ground floor presence to the street.

- Are there any historic interior features or fixtures that they plan to utilize or salvage? It sounds like everything is gone although I do seem to remember some remnants of a "grand" stairway and cornice mouldings but I haven't been inside the building for years.

Several years ago, members of our team did investigative work to determine if any of the original historic character of the exterior of the building was preserved. Unfortunately, it was not. If there are some artifacts in the interior of the building that are worth preserving, we will consider how to incorporate them into the new design.

Lane Arts Council
1590 Willamette Street, Suite 200, Eugene, OR 97401
541.485.2278 | lanearts.org

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Kari Welch
Development and Communications Coordinator

Becca Schaefer
Program Coordinator

Melanie Martin
Finance Coordinator

February 2, 2021

To Whom It May Concern,

I am writing to express Lane Arts Council's support of the proposal submitted by Cornerstone Community Housing to the City of Eugene for the mixed-use housing project to be located at 1059 Willamette Street.

Cornerstone Community Housing has a rich history of building quality affordable housing and a deep understanding surrounding the need for workforce housing in our community. They partner with multiple agencies that promote personal improvement and economic independence for the residents they serve. We appreciate the benefits they bring to our community and their vision to integrate affordable and market-rate housing, space for small businesses, opportunities for local artists, and pathways for personal growth and economic independence for residents.

Lane Arts Council's mission is to cultivate strong and creative arts communities through arts education, arts experiences, supporting artists, and building community partnerships. We understand the need for affordable housing and space for artists and creative entrepreneurs to share their work and build their businesses.

Lane Arts Council is excited to support Cornerstone Community Housing's desire to promote financial stability, economic wellbeing, career growth, and opportunities for artists that creates upward mobility in our community. Thank you for considering their proposal.

Sincerely,

Stacey Ray
Executive Director

Attachment B

January 20, 2021

To Whom it May Concern:

This letter is to express Lane Workforce Partnership's support of Cornerstone Community Housing's proposal to the City of Eugene for the mixed-use housing project to be located at 1059 Willamette Street.

The work that Cornerstone Community Housing is engaged in to develop the property at 1059 Willamette Street in Eugene, Oregon presents an important benefit to the community. This site will integrate workforce housing with market rate housing and create a place to spark opportunities for people at all stages of their lives.

Cornerstone Community Housing has a rich history of building quality affordable housing and a deep understanding surrounding the need for workforce housing in our community. They are partnering with DE Chase Miksis and Elden & Company, which rounds out the team to ensure expertise for a successful project that promotes personal growth and economic independence for the residents of this community.

Lane Workforce Partnership, the designated local Workforce Development Board for Lane County, Oregon, funds and delivers programs that empower job seekers to meet the current and future workforce needs of employers in Lane County. Programs and services are delivered through a network of local partners including employers, labor groups, government, community colleges, high schools, community-based organizations, and economic development.

Lane Workforce Partnership is pleased to support the vision of this project at 1059 Willamette and the development team's desire to promote financial stability, economic wellbeing, and career growth designed to create upward mobility for those this project will serve over the years.

Sincerely,

Kristina Payne

Kristina Payne
Executive Director

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