



City Council Meeting Agenda

Tuesday, April 12, 2022

5:00 p.m. – City Council Informal Dinner Meeting

6:00 p.m. – City Council Work Session Meeting

6:30 p.m. – Executive Sessions (CLOSED TO THE PUBLIC)

7:00 p.m. – City Council Regular Meeting

REVISED 04/08/2022

Welcome! The public is strongly encouraged to participate remotely but there is seating at Civic Hall for those who are not able to participate remotely. However, if you are not feeling well, please stay home and take care of yourself.

The public is strongly encouraged to relay concerns and comments to the Council in one of three ways:

- *Email at any time up to 12 p.m. the day of the meeting to Claudia.Cisneros@mcminnvilleoregon.gov;*
- *If appearing via telephone only please sign up prior to the meeting by emailing the City Recorder at Claudia.Cisneros@mcminnvilleoregon.gov as the chat function is not available when calling in zoom;*
- *Join the zoom meeting; send a chat directly to City Recorder, Claudia Cisneros, to request to speak and use the raise hand feature in zoom to request to speak, once your turn is up we will announce your name and unmute your mic. **You will need to provide your First and Last name, Address, contact information (email or phone) to the City Recorder. You do not need to state your address for the record when called to speak.***

*You can live broadcast the City Council Meeting on cable channels Xfinity 11 and 331,
Frontier 29 or webstream here:*

www.mcm11.org/live

CITY COUNCIL WORK SESSION & REGULAR MEETING:

You may join online via Zoom Meeting:

<https://mcminnvilleoregon.zoom.us/j/86727948927?pwd=QUtVTE9RZnEyN3A3TFROV2NhcnlrQT09>

Zoom ID: 867 2794 8927

Zoom Password: 618537

Or you can call in and listen via zoom: 1-253- 215- 8782

ID: 867 2794 8927

5:00 PM – CITY COUNCIL INFORMAL DINNER MEETING–AT CIVIC HALL CONFERENCE ROOM

1. THE DINNER MEETING WILL BE HELD AT THE MCMINNVILLE CIVIC HALL CONFERENCE ROOM AND WILL BEGIN AT 5:00 P.M. A QUORUM OF THE CITY COUNCIL WILL BE PRESENT BUT NO DELIBERATIONS TOWARDS ANY DECISIONS WILL BE TAKEN BY THE COUNCIL.

6:00 PM – CITY COUNCIL WORK SESSION MEETING– VIA ZOOM AND SEATING AT CIVIC HALL

1. CALL TO ORDER
2. NEWBERG-DUNDEE BYPASS UPDATE FROM DAVE HAUGEBOG
3. ADJOURNMENT

6:30 PM – EXECUTIVE SESSIONS- VIA ZOOM (NOT OPEN TO THE PUBLIC)

1. CALL TO ORDER
2. **Executive Session pursuant to ORS 192.660(2)(d)**: To conduct deliberations with persons designated by the governing body to carry on labor negotiations.
3. **Executive Session pursuant to ORS 192.660 (2)(h)**: To consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed. (Added on 04.08.2022)
4. ADJOURNMENT

7:00 PM – REGULAR COUNCIL MEETING – VIA ZOOM AND SEATING AT CIVIC HALL

1. CALL TO ORDER & ROLL CALL
2. PLEDGE OF ALLEGIANCE
3. INVITATION TO COMMUNITY MEMBERS FOR PUBLIC COMMENT – *The Mayor will announce that any interested audience members are invited to provide comments. Anyone may speak on any topic other than: a matter in litigation, a quasi-judicial land use matter; or a matter scheduled for public hearing at some future date. The Mayor may limit comments to 3 minutes per person for a total of 30 minutes. The Mayor will read comments emailed to City Recorded and then any citizen participating via Zoom.*
4. ADVICE/ INFORMATION ITEMS
 - a. Reports from Councilors on Committee & Board Assignments
 - b. Department Head Reports
5. CONSENT AGENDA
 - a. Consider **Resolution No. 2022-16**: A Resolution providing for and approving a form of contract by and between the City of McMinnville, Oregon and the McMinnville Rural Fire Protection District.
 - b. Consider request from C + C Wine Bar LLC DBA: Elena’s Wine Bar for Full On-Premises, Commercial OLCC Liquor License located at 546 NE 3rd Street.
 - c. Consider request from Balsall Creek LLC DBA: Balsall Creek for Winery 1st location, Commercial OLCC Liquor License located at 2803 NE Orchard Avenue.
 - d. Consider request from Northrock 1 LLC DBA: Freddie’s Deli & Pub #3 for Full on-premises, Commercial OLCC Liquor License located at 1250 NE Baker Street.
 - e. Consider request from Mad Wines Co. DBA Goodfellow Family Cellars for Winery 2nd location OLCC Liquor License located at 845 NE 5th Street.
 - f. Consider request from 618 3rd St Restaurant LLC-Historic 3rd and Ford LLC dba Tributary Hotel Full On-Premises, Commercial OLCC Liquor License located at 608, 610, & 618 NE 3rd Street.

6. RESOLUTION

- a. Consider **Resolution No. 2022-17**: A Resolution Authorizing the City Manager to Execute an Amendment to the Lease between the City of McMinnville (Lessor) and Gary Wells and Alison Row (collectively, Lessee).
- b. Consider **Resolution No. 2022-19**: A Resolution Establishing an In-Lieu-Of Tax Payment of Ten Percent (10%) by the Water and Light Commission to the City of McMinnville from the Electric Utility and Repealing Resolution Nos. 1988-31, 1990-4, and 2003-14.
- c. Consider **Resolution No. 2022-20**: A Resolution Revising Paragraph F of Resolution No. 2019-35 Regarding the Franchise Fee for Wastewater Services.
- d. Consider **Resolution No. 2022-21**: A Resolution Establishing a Franchise Fee for Water Services.

7. ADJOURNMENT OF REGULAR MEETING

Memorandum

DATE: April 4, 2022
TO: Mayor and City Councilors
FROM: Yamhill County Parkway Committee
SUBJECT: Newberg-Dundee Bypass local funding match

Background:

Federal funding for bypass construction for the bypass segments, Hwy219 to Hwy99W at Rex Hill and from Dayton to Dundee, will require local and state matching funds. Dundee, Newberg, McMinnville, Yamhill County, and the Confederated Tribes of the Grand Ronde participated in providing a local match for the construction of Phase 1, which has been constructed.

The Summary spreadsheet you have been provided sets forth a scenario where the local entities would extend the term of their current debt for Phase 1 and make these additional funds available towards a local match for the above construction. Your current annual debt payments will remain the same in the proposed scenario.

The only change in the lower funding scenario is a scenario where Yamhill County's share is increased as a contribution for the seven Yamhill County communities that have not been involved in the bypass project or contributed to the local match.

Attachments:

1. Newberg Dundee Scenarios Spreadsheet

Attachment 1 - Newberg Dundee Scenarios Spreadsheet

	Refinance	Loan Autorization	Fixed Payment Scenario				Total Term	Post-disbursement Term
			Payment	Principal	Interest	Total Cost of Loan		
Dundee	\$260,220.75	\$347,137.00	\$20,373.00	\$607,357.75	\$359,298.65	\$966,656.40	47	32
McMinnville	\$2,310,505.21	\$3,658,220.00	\$201,248.00	\$5,968,725.21	\$3,316,718.44	\$9,285,443.65	46	31
Newberg	\$1,587,499.55	\$2,641,150.00	\$142,916.00	\$4,228,649.55	\$2,310,699.47	\$6,539,349.02	45	30
Yamhill Co	\$8,503,195.53	\$11,156,460.00	\$655,259.79	\$19,659,655.53	\$11,648,490.23	\$31,308,145.76	47	32
Totals	\$12,661,421.04	\$17,802,967.00		\$30,464,388.04	\$17,635,206.79	\$48,099,594.83		

	Refinance	Loan Autorization	Fixed Payment Scenario +Yamhill \$350,000				Total Term	Post-disbursement Term
			Payment	Principal	Interest	Total Cost of Loan		
Dundee	\$260,220.75	\$347,137.00	\$20,373.00	\$607,357.75	\$359,298.65	\$966,656.40	47	32
McMinnville	\$2,310,505.21	\$3,658,220.00	\$201,248.00	\$5,968,725.21	\$3,316,718.44	\$9,285,443.65	46	31
Newberg	\$1,587,499.55	\$2,641,150.00	\$142,916.00	\$4,228,649.55	\$2,310,699.47	\$6,539,349.02	45	30
Yamhill Co	\$8,503,195.53	\$11,509,960.00	\$655,259.79	\$20,013,155.53	\$12,447,506.46	\$32,460,661.99	49	34
Totals	\$12,661,421.04	\$18,156,467.00		\$30,817,888.04	\$18,434,223.02	\$49,252,111.06		

Assumptions:

1. Includes one refinance for funds described from Feb. meeting.
2. Loan start date of 5/18/2022.
3. Disbursements based on Cindy's assumptions (adjusted for sooner loan date).

From: [sfeston](#)
To: [Claudia Cisneros](#)
Subject: Council meeting 3.22.22
Date: Wednesday, March 23, 2022 10:20:52 AM

This message originated outside of the City of McMinnville.

Claudia- Please forward to Mayor Hill and all Councilors

Mayor Hill and City Council,

I have been listening to council meetings concerning the Mac Water and Light fees. One citizen spoke and asked for a public hearing concerning the fee increases. I am also asking for a public hearing. I don't feel that most people are aware these increases are about to happen. I think McMinnville needs to open this topic for discussion before it goes to a vote instead of letting our community know after it's already been decided. It seems there still haven't been questions answered about the affect on businesses.

In general, I am concerned about the spending I have seen, especially with the budget already being in the red. I would like to know more about how that happened. McMinnville citizens have a right to know how we got in this current financial state.

A public hearing would allow citizens to voice concerns before Council votes.

Thank you,
Sandy Feston

Sent from [Mail](#) for Windows

From: [Gioia Goodrum](#)
To: [Claudia Cisneros](#)
Cc: [Andrew Anderson](#); [Becky Simpson](#); [David Mahn](#); [Debbie Brockett](#); [Jack Maxwell III](#); [Jeff Towery](#); [Jose Lopez](#) (jblandscape09@comcast.net); kristi@seatandhutch.com; [Maryann Rodriguez](#); [Mike Morris](#) (morrisinc@onlinemac.com); pam@lumsautocenter.com; [Rodrigo Lagunas](#) (Rodrigo.Lagunas@onemainfinancial.com); "Russell Mark"; [Mark Siegel](#)
Subject: Questions for City Council to be added to public comment
Date: Thursday, March 24, 2022 12:47:06 PM
Attachments: [We sent you safe versions of your files.msg](#)
[public comment city council march 2022.pdf](#)

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

This message originated outside of the City of McMinnville.

Claudia,

The McMinnville Chamber is submitting a list of questions to Council regarding two current discussions. Please add the attached to the public comment section for the next Council meeting. We hope that Council will take a few minutes to answer our questions about the proposed Fire District and the proposed City Service Fees.

I appreciate your help. Please let me know if you have any questions.

Best,

Gioia

Gioia Goodrum, MBA, IOM
President/CEO
McMinnville Area Chamber of Commerce
503-472-6196



Convener, Catalyst, Champion

Stakeholder Members:





McMINNVILLE AREA
CHAMBER of COMMERCE

To: McMinnville City Council

From: McMinnville Area Chamber of Commerce

RE: Questions regarding proposed Fire District and City Service Fees

The McMinnville Area Chamber of Commerce, representing approximately 450 member businesses in the McMinnville area is interested in learning more about the proposed creation of a Fire District and the proposed City Service Fees. We are concerned about the potential negative effects of increased taxes on residents and businesses and want to learn more about how the City's plans will impact our community. We would appreciate the inclusion of these questions as public comment. Thank you in advance for the opportunity to ask these questions. We look forward to your response.

Fire District:

1. To create the new fire district, will it require a vote by both city and rural residents served by the new tax district?
2. Should the new tax district for fire be created, what will happen to the funds currently collected by the City that are used to pay for the fire department? Will the tax level remain the same and the additional funds go to the City's general fund?
3. Or, as the City moves forward with the formation of a separate city and rural fire department tax district, will there be a mechanism in place to reduce the resident's tax obligation to the City of McMinnville and shift it to the new fire tax district?

City Service Fees:

1. Where is the City with the business license program? Is the plan to still form a task force with the chamber having a seat at the table?
2. The City is considering increasing development and planning fees, will the City reach out to their economic partners for feedback on how those increased fees impact our ability to recruit new business?
3. How do our building and development fees compare to similar cities of similar size?
4. Realizing measure 5 and 50 are at the root of the issue, at what point did the City begin to operate at an annual deficit, and what steps have been taken to mitigate that deficit, layoffs, program cuts, increased fees, etc?
5. Excluding police and EMS/fire, how many FTEs does McMinnville employ compared to other similar sized cities in the State per capita?

6. Excluding police and EMS/fire, how does total payroll compare to other cities of similar size in the State per capita?
7. Outside of the public comment portion of meetings, has the City reached out to the citizens for feedback on the impact of increased fees, since they will be unable to vote, as would occur with a tax? If not, does the City plan to?
8. Has the City reached out to their community and economic partners for feedback on the impact increased fees will have on business, examples EVLC, MEDP, the Chamber, MLC, etc? If not, does the City plan to?
9. Does the City plan on putting together a presentation to groups like Rotary, Kiwanis, Soroptimist, etc., explaining how we have arrived at a deficit, and the plan to move forward, much like was done when we were discussing the UGB expansion?
10. If the city is facing a budget shortfall, why doesn't the city ask voters for temporary taxing authority above the permanent rate limitation or "local option tax"? If there are capital projects that are in consideration over the next 5 years, why wouldn't a bond levy be considered instead of a permanent fee?
11. "Fees", by definition, should be used for a specific service and should not be used for the general fund. What specific service or services is the water and sewer fee supposed to fund? Are these "services" able to be provided by the private sector?
12. What items in the current budget would be cut in order to balance the budget, if nothing is passed?
13. What is the value of physical property or assets, that the city has, that could be sold?

Thank you again for your time and kind consideration.

###

From: [Kellie Menke](#)
To: [Claudia Cisneros](#)
Subject: Fwd: Council comments
Date: Sunday, April 3, 2022 5:08:05 PM

Please see citizen email I received below from Jan Montgomery regarding City utility fee, three mile lane planning and the new recreation center.

Kellie Menke

Get [Outlook for iOS](#)

From: Kellie Menke <[REDACTED]>
Sent: Sunday, April 3, 2022 6:21 AM
To: Kellie Menke <Kellie.Menke@mcminnvilleoregon.gov>
Subject: Fwd: Council comments

This message originated outside of the City of McMinnville.

Sent from my iPad

Begin forwarded message:

From: Jan Montgomery <[REDACTED]>
Date: April 2, 2022 at 5:17:21 PM PDT
To: Kellie Menke <[REDACTED]>
Subject: Council comments

Hi Kellie,

Hoping this reaches you. I have had so much going on as Parliamentarian for Soroptimist Region (5 states) plus several other things, that I am very late with this. These are simply my thoughts, and I feel pretty strongly or I wouldn't be taking the time.

1. Regarding the recreation center, plus. I think the Linfield location would be very nice in several ways, but since we can't own the property, I would never vote to invest all that money. Therefore I prefer the area by water and light.
2. I am totally opposed to the utility surcharges! For years back as A.John and others dealt with this division of water

and light from city, I heard only good comments about how great it was that these are separate entities. Mary Koch used to talk about it. A. John audited both of these and commented about how smart the early planners were. It has been a major blessing to our citizens in keeping costs somewhat reasonable.

3. I know Heather wasn't around, but is no one on the council able to remember how when Hwy 18 opened with a mall? There were stores in the whole complex. The dishes I have come from there. The only thing left (a bit later) is the theater and Chemeketa. That is a horrible plan from beginning to end! I intensely dislike the light that turns into Evergreen and the areas back there. A light change when going 55 miles an hour is a challenge. The suggested plan is awful. If it were to go into effect, I would never go that way. I would be using Lafayette. I also believe it would change many coast drivers to head to Salem.

Thank you for your service, and hearing me out.

Jan Montgomery

ENTERED INTO THE RECORD
DATE RECEIVED: 04/11/2022
SUBMITTED BY: Mark Davis
SUBJECT: Public Comment

From: [Mark Davis](#)
To: [Claudia Cisneros](#)
Subject: Comment for City Council
Date: Monday, April 11, 2022 9:36:08 AM
Attachments: [We sent you safe versions of your files.msg](#)
[CityFinancesComments0422.pdf](#)
[TMLAP Cost Estimate.pdf](#)
[ExtraUGBLandRequestfromEOA.pdf](#)

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

This message originated outside of the City of McMinnville.

Claudia,

Please pass along the attached comment to the City Council. Thank you.

Mark Davis

Mark Davis

McMinnville, OR 97128

April 10, 2022

McMinnville City Council
230 NE Second Street
McMinnville, OR 97128

Dear Mayor Hill and Members of the Council:

I am pleased to see in your packet for the April 12th meeting that you are moving away from a funding system for the City deficit that charges customers based on having service to one based on their usage using a simple percentage system. This is much less expensive to implement (saving the City money) and gives the customer the option to reduce their usage to save money themselves. Further, it encourages conservation of scarce resources, another value the City supports.

I am, however, disappointed to see the Council appears ready implement these fees without holding a public hearing. Sure, I doubt anyone wants to pay more for utility services, so you are likely to get a lot of people complaining about the increases.

But if you do hold a hearing you will have an opportunity to explain to the public why the increases are necessary and build support for the vision the Council has for moving the City forward. I doubt many citizens have listened to the debate about how to fund City services and many will feel like these fees are being foisted off on them without giving them a chance for input. I know the Budget Committee has participated and provided certain citizen perspectives, but they certainly don't represent all views.

I think the real danger of approving these fees without public understanding is the backlash the City could face when the public is allowed to vote on the next tax increase the City wants—the Fire District. Further, you are going to need a public vote for a bond measure to build the pool/rec center, even if it is not the full \$110 million in the MacPac plan.

Speaking of plans, this City is awash in plans that imply the City and/or some generous donors are going to spend hundreds of millions of dollars in the next 20 years to implement them. Really!?!? Here are a few I am aware of:

- MacPac: I already mentioned the \$110 million, but that report also includes \$25 for a new library and about \$4 million to remodel the Senior Center.
- MacTown 2032: In the preparation of the draft Economic Opportunities Analysis (EOA) City staff created a list of 10 projects from the Mac-Town 2032 plan that required additional land so they could be constructed inside the next UGB (see attached Exhibit 52). One of the 10 is the rec center already mentioned and certainly not all of them will take public dollars, but they will be asking for

money from the same potential donors the City will be approaching for their other projects.

- Three Mile Lane Area Plan: This plan calls for development along Highway 18 and along land inside the UGB on both sides of the highway. Presumably ODOT would pay for Highway 18 costs and the City would cover the balance. The incomplete cost estimates (attached is Table 7 from Appendix D of the TMLAP) run around \$100 million. Table 7 is intentionally vague on who is paying for what. ODOT's comment in support of this plan indicated that the decision of what they could pay for would be made later. Given their history of asking the City to help pay for the Newberg-Dundee bypass, it would not be surprising for ODOT to ask the City to cover some TMLAP highway costs also.
- Housing Needs Analysis (HNA) and Economic Opportunities Analysis (EOA): Neither of these documents required for a UGB expansion commit the City to specifically spending any money, but from a practical standpoint growth requires extensive funding. State law precludes the City from charging for all costs of development meaning the City must pay the difference. The City can charge System Development Charges (SDCs) for water, sewer, storm drainage, parks and roads, but to date has only levied a small percentage of what could be charged.
- Transportation Systems Plan: The capital spending called for in this document was largely covered by a \$25 million bond measure. The plan expires next year, requiring a new TSP that will undoubtedly require tens of millions of dollars like the last one.
- Parks Plan: Our last 20-year Parks Plan, approved in 1999, has expired without meeting its stated goals. That plan called for spending \$70 million to increase per person park acreage; the City spent about \$10 million and now has fewer acres of parks per person than when the plan was adopted. Another Parks Plan is being funded by ARPA dollars. Given inflation, just trying to meet the previous goal will cost well north of \$100 million.

So, I see lots of wonderful plans calling for spending hundreds of millions of dollars in the next couple of decades. Even if the voters were willing to tax themselves to cover all these plans, I doubt we have the practical bonding capacity to borrow that much money.

I'm left to wonder how the City is going to choose what to use their bonding capacity for. We cannot pay for everything, so there are going to have to be choices made. How about making a plan to show the public where the money is going to come from and what isn't realistic at this time? If we go ahead with the rec center/pool plan, aren't we going to have to forego something else in the future?

In all this rush to compare our public salaries and public facilities to what other communities have I think we have overlooked the fact that median family incomes are lower here than in the County and State. And the jobs the City seems focused on bringing to the City—tourism and retail—don't on average even reach the median income we currently have.

We would be better served by recalling a plan that seems to have been forgotten: the goal set in 2017 by MEDP to create 1500 family-wage manufacturing jobs in the next 15 years

(<https://newsregister.com/archive?page=/archive&articleArchiveId=1488848171>). I listen to annual updates on what MEDP does at the Council and Water & Light meetings and this goal seems to have been abandoned. If we are going ask current citizens to pay more for both current City services with increased utility fees and new capital facilities like the rec center with higher property taxes, we should give them the opportunity to raise their incomes by making higher paying jobs available.

I support the City's goal of increasing equity in the community. Increasing the quantity and quality of City services and facilities while decreasing the disposable income of the very citizens you claim to be helping seems contradictory to me.

Perhaps I missed it, but I don't recall any of you running for City Council on the platform of raising taxes or fees. Given the impact on your constituents, I think we deserve the opportunity to address you on the fees in a public hearing.

Personally, I support increasing taxes or fees to cover the City's operating costs, but perhaps not to highest level proposed; I support the concept of formation of the fire district but am waiting to see the numbers; and I would like to see a new rec center/pool, library, roads, parks, etc. but would like to see a realistic funding plan that considers them as a package completed over 20 years.

My perception as I have watched these funding options evolve over the past year is that the decision is now being driven by the budget deadline (i.e., what can be implemented by July 1) rather than by the principles you originally used to pick among possible revenue sources. Perhaps you now have the best options on the table to consider, but it wouldn't hurt to give the public an opportunity to suggest alternatives.

Sincerely,

//S//

Mark Davis

3.6 PLANNING-LEVEL COST ESTIMATES AND A PHASING APPROACH

Table 7 summarizes the planning-level costs associated with the OR 18 Preferred Facility Design. Cost estimates are in 2021 dollars and include preliminary estimates of capital improvements and new rights-of-way where likely needed. A preliminary approach to the phasing of key transportation projects in the study area is also noted.

Table 7. Planning Level Cost Estimates and Phasing - OR 18 Preferred Facility Design

Phase	Description	Notes	Cost - 2021 Dollars (millions)	
			Low	High
1 Independent State and/or City Projects				
	New Multi-Lane Roundabout at OR 18 and Cirrus Avenue		\$8.0	\$10.0
	Construct Bicycle Lanes and Sidewalks on NE Cumulus Avenue from Cumulus Avenue to Evergreen Air and Space Museum Entrance		\$0.4	\$0.6
	Extend Cumulus Avenue East from Norton Lane and Modify Intersection Traffic Control at Existing Norton Lane/Cumulus Avenue Intersection	[1]	To be determined	
2 City/State Projects Reliant on Completion of New OR 18/Cirrus Roundabout				
	Disconnect Loop Road from OR 18 and Re-align to Cirrus Avenue		\$2.5	\$3.0
	New OR 18 Frontage Roads Between Cumulus Avenue and Cirrus Avenue (both north and south of OR 18)	[2]	To be determined	
3 City/State Projects Commensurate with/Reliant on New Extension of Cumulus Avenue South of OR 18				
	Construct Cumulus Avenue south of OR 18	[2]	To be determined	
	Revise Traffic Signal at OR 18/Cumulus Avenue Intersection		\$1.1	\$1.2
	Construct Bicycle Lanes and Sidewalks on Cumulus Avenue from OR 18 to NE Cumulus Avenue		\$0.5	\$0.7
4 State and City Projects Commensurate with/Reliant on New OR 18/Three Mile Lane Interchange				
	Reconstruct OR 18/Three Mile Lane Interchange	[3]	\$65.0	\$95.0
	Re-align Cumulus Avenue and Nehemiah Lane at Three Mile Lane		\$2.4	\$2.6
	New Traffic Signal on Three-Mile Lane at Cumulus Avenue		\$0.5	\$0.6
	Re-align Lawson Lane		\$1.5	\$1.7
Total			\$81.9	\$115.4

Notes

- [1] Subject to coordination and approval between City of McMinnville and Chemeketa Community College.
- [2] Subject to private development access needs.
- [3] Including general cost items of demolition, pavement, curb, sidewalk, signing and striping, drainage and landscaping, and new traffic signal or roundabout at junction of OR 18 eastbound ramps and Stratus Avenue.

These cost estimates are for planning purposes only and are subject to refinement during concept development and preliminary engineering. Neither ODOT, City of McMinnville or private development roles and responsibilities in funding these projects have been identified.

Exhibit 52. Land needs identified in the MAC-Town 2032 Economic Development Strategic Plan (EDSP) that are not represented in the employment forecast

Use	Description or Example*	Land Need	EDSP Reference or Other Reference
1. Community Center/Recreation Facility	Update, improve, expand and add recreational facilities that serve the community's needs including a Community Center and Aquatic Center.	10 acres	3.2.2
2. Outdoor Stage/ Amphitheater	Les Schwab Amphitheater, Bend)	5 acres plus parking	3.2.1.
3. See Ya Later Foundation – Champions Center	The Champions Center is planned as a youth and family recreational and educational complex.	28 acres (4 acres for buildings, 6 acres for parking, 12 acres for 6 athletic fields, 6 acres for associated facilities)	See Ya Later Foundation UGB Application
4. Arts and culture focused event center	Chehalem Cultural Center, Newberg)	3.5 acres	3.3
5. Evergreen Aviation and Space Museum and Yamhill County Heritage Museum	Support existing facilities	27 acres	
6. Wings and Waves	Opportunities for growth and expansion	Location-specific land need at existing partially vacant site	6.3.
7. Conference Center:	40,000 sf conference space, accommodation, and parking:	5 acres	6.4
8. Equestrian center with supporting commercial activity inside UGB	Would include facilities that cannot be developed on EFU land	20 acres in UGB, larger footprint outside	(6.3)
9. Food hub and public market	Focused on local craft foods & beverages	3.5 acres	3.2.2.
10. Makerspace/innovation hub/ fabrication center	Supports local innovation & entrepreneurial ecosystem	2 acres	6.3.
TOTAL		104 acres	

*Additional examples are provided in the following narrative.

1. COMMUNITY CENTER/RECREATION FACILITY

Strategy 3.2.2 of the MAC-Town 2032 EDSP seeks to cultivate partnerships to develop and market McMinnville's recreation amenities. A specific action in that section is to add recreational facilities that serve the community's needs including a Community Center and Aquatic Center.

April 11, 2022

McMinnville City Council
200 NE Second Street
McMinnville, OR 97128

ENTERED INTO THE RECORD
DATE RECEIVED: 04/11/2022
SUBMITTED BY: John Dietz
SUBJECT: Public Comment -
Agenda Item 6b - 6d

Re: McMinnville City Council action on payment in-lieu of tax and water franchise fee

Dear Council:

I am the general manager at McMinnville Water Light. I work for the City of McMinnville's Water and Light Commission. I write at the direction of the Water and Light Commission with concerns about the proposed city council resolutions to raise the payment in-lieu of tax under ORS 225.270 and the creation of a water franchise fee on user fees collected for water services by the water department.

The Water and Light Commission has the authority of the City of McMinnville under the city charter to operate and manage the city's water and light departments (charter section 51). The commission's charter authority is solely over those two city departments. Along with the mayor, the commission is made up of four commissioners who serve 4-year terms and can only be removed for cause upon filing of written charges by the mayor with the clerk of the Water and Light Commission. (s.43). The commission is an independent governing body with the city's authority over the water and light departments as provided in the city charter.

Funds paid to the water and light departments are under the jurisdiction of the commission (s. 46). The charter requires that water and electric funds are kept separate and apart from the other funds of the city (s. 59). The commission determines the manner of withdrawal of these funds (s. 49). The City of McMinnville's authority to transfer money out of the water or electric fund rests with the Water and Light Commission. Under the charter the city council does not have authority to withdraw or transfer money from the water and light funds.

I note that the explanatory staff report language purports to interpret the council resolutions to instruct Water and Light staff to execute actions ordered by the city council. The commission hires and discharges employees of the water and light departments who hold their positions at the pleasure of the commission (s. 50). MW&L staff will continue to take their instruction from the MW&L general manager under authority of the commission. On this same point, the city charter also explains that the city manager does not exert control over Water and Light department staff or commissioners (s. 23).

Electric (Payment in lieu of tax – "PILOT"):

Under state law, with one exception, the earnings of a municipal electric utility must only be expended in connection with the city's electric system. ORS 225.250. Where the officer in control of the electric



system finds that there exist sufficient reserves, the city will pay itself not less than 3% of the electric system's gross operating revenues "for the purpose of reducing general property taxes within such city." See ORS 225.270. Because the McMinnville Charter places the commission in control of the city's electric system, the commission is the officer charged by state law to observe and enforce any payment of electric fund earnings to the city's general fund from electric department reserves. As the officer, the commission has the authority and responsibility to make findings about the sufficiency of surplus funds. The commission establishes the payment amount and enforces the payment. Where, as in McMinnville, an independent utility board is the "officer", the city council may exercise its interests through an agreement with the utility board. For example, both the cities of Springfield and Eugene have "PILOT" agreements with their respective utility boards. Likewise, in 1961 the McMinnville City Council entered an agreement with the Water and Light Commission to establish the PILOT at 6% (prior to 1961 the PILOT was 4%).

From 1961 to 1988 the PILOT was uniformly 6%. In August 1988 the commission and council agreed to reduce the industrial PILOT to 3%. Any change to the PILOT requires action by the commission. The authority and responsibility under state law to make findings and decisions on the PILOT remain with the commission as the officer in charge of the electric system.

I suggest that the council take no action to disturb the 1961 agreement (referenced as recently as council Res. No. 2003-14). Before any future change in the PILOT, the commission will need to hold hearings and adopt findings consistent with Oregon law. See ORS 225.010 et seq.

Water (Franchise Fee):

The Water and Light Commission owns and operates the water plant and system on behalf of the City of McMinnville. The water plant and system includes the watershed, transmission lines, reservoir, and distribution system within the city. Under the charter the commission has the authority of the city to "construct, erect, [and] maintain . . ." a water system to furnish the city and its inhabitants with water (s. 51). Where the water system lies on city property or right of way, the commission has jurisdiction under the charter to construct and maintain the city's water system. The commission needs no additional permission or authority to use the city right of way. The citizens of McMinnville, who approved the charter, required no franchise of its water department. For purposes of water system impact to other city uses the commission recognizes the water department's duty and authority to pay costs caused by the water system to other city funds. However, the commission (on behalf of the city) owns and operates the water system in the right-of-way. There is no basis to require compensation from the water department for the mere occupation of the city right of way.

The proposed transfer of funds from the water fund to the general fund in order to pay for general fund expenditures is also inconsistent with the charter's requirement to keep water funds separate and apart. The council lacks authority to order such a transfer, and the commission lacks authority to transfer water funds into the general fund.

Thank you for taking the time to read this letter and consider the commission's concerns. The MW&L commission and staff remain committed to continuing conversations with city staff to address topics raised in this letter.

Sincerely,



John C. Dietz
General Manager



From: [Kellie Menke](#)
To: [Claudia Cisneros](#)
Subject: Fwd: Proposed Increase to Franchise Fee
Date: Friday, April 8, 2022 4:21:34 AM
Attachments: [image001.png](#)

Fyi

Get [Outlook for iOS](#)

From: Khanh Tran <ktran1@schn.com>
Sent: Friday, April 8, 2022 12:00:39 AM
To: Kellie Menke <Kellie.Menke@mcminnvilleoregon.gov>
Subject: Proposed Increase to Franchise Fee

This message originated outside of the City of McMinnville.

Greetings, Councilor Menke,

My name is Khanh Tran and I am the Government Affairs Manager for Schnitzer steel. Schnitzer Steel owns and operates Cascade Steel Rolling Mills. I would like the opportunity to discuss with you the City's proposed changes to the PILOT / Franchise Fees.

I recently received an attached document from the City's office regarding the proposed increases to the PILOT / Franchise Fees. While I understand the City's need for increased general fund revenue, the option 2 proposal laid out in the document would have significant financial impacts on Cascade. We estimate the Option 2 proposal would increase our costs by more than \$1.3M per year (which would be close to 40% of the \$3.3M per year of additional revenue the report indicated this proposal would generate). An increase of this magnitude could impact our ability to (i) grow, (ii) make capital investments, and/or (iii) remain profitable / cost competitive. If pressed, we much prefer option 1, with an increase over the next few fiscal years rather than immediately.

Cascade participates in the steel commodity industry which is an extremely competitive / international industry. The steel industry is a very cyclical commodity business with low margins. Furthermore like all commodity businesses, we are extremely sensitive to costs and since we compete in a domestic / global market we do not have the ability to pass along cost increases.

Cascade Steel has always been a supporter of the McMinnville community, and a bedrock in the region's economy. Cascade (and Schnitzer) has made countless investments, both in McMinnville and Yamhill County over the years and we hope to continue doing so, but such a high increase in fees may cause us to reduce our reinvestments in the community out of operational necessity. I would welcome an opportunity to discuss this issue with you prior to the April 12th meeting, my cell is: 503.319.1994, please feel free to give me a call anytime. Or, I'd be happy to give you a call at your earliest convenience, just let me know, I know the life of an elected official is quite busy.

All the best,

Khanh Tran

Government & Public Affairs Manager | **SCHNITZER STEEL INDUSTRIES, INC.**

Cell: 503.319.1994 | ktran1@schn.com



ENTERED INTO THE RECORD
DATE RECEIVED: 04/08/2022
SUBMITTED BY: Carol Granger
SUBJECT: Public Comment - Agenda
Item 6b - 6d

From: [Kellie Menke](#)
To: [Jeff Towery](#); [Scott Hill](#); [Claudia Cisneros](#)
Subject: Fwd: Text from Carol Granger
Date: Friday, April 8, 2022 9:45:26 PM

This message originated outside of the City of McMinnville.

FYI:

Hi, we're still in Nevada but we will be leaving for home in the next few days. I have spent the majority of today emailing back and forth to numerous people talking about the proposed water and light rate hicks to help balance the city budget short fall. This will be a high hill to climb as there's a lot of resistance to this rate hike in our current economic situation. We are talking about the lest among us that this will effect. People that are already on the fringes food,gas etc. not that but the restaurants and small businesses that have been asked to give and give and give. There's got to be a way to get through this and look forward to a better choice for McMinnville.

Sorry to bother you but I and many others are very concerned.

Carol

Sent from my iPad

ENTERED INTO THE RECORD
DATE RECEIVED: 04/11/2022
SUBMITTED BY: Shannon Botten
SUBJECT: Public Comment - Agenda
Item 6b - 6d

From: [Chris Chenoweth](#)
To: [Claudia Cisneros](#)
Subject: FW: New tax
Date: Monday, April 11, 2022 3:06:29 PM
Attachments: [image001.png](#)

I'm not sure if this was sent to just me. in case it was could you please forward this on to the rest of the City Councilor and add it to the packet.

Thank you,

Chris Chenoweth

McMinnville City Councilor, Ward 1



From: Shannon Botten <botten.shannon@outlook.com>
Sent: Monday, April 11, 2022 2:46 PM
To: Chris Chenoweth <Chris.Chenoweth@mcminvilleoregon.gov>
Subject: New tax

This message originated outside of the City of McMinnville.

Hey there,

In response to the pending vote and discussion for the Utilities tax I ask that you vote no. As a small business hit hard the last few years not only with the changes the pandemic brought but also with the increased taxes being brought down from the state level it is becoming increasingly difficult to not feel like a punching bag. Our small businesses are the back bone of this community, trying to provide jobs to working families who are also trying to make ends meet. With everything going up, look within our own government organization to look for areas to cut.

Thank you,

Shannon Botten
503-472-1599
Botten's Equipment & Event Rental

Our mission is to provide the finest quality and best maintained rental equipment and supplies to our community. Our family oriented team of well-trained professionals is committed to deliver the best, most convenient and truly caring service to our customers and community.

www.bottensrental.com

From: [Chris Chenoweth](#)
To: [Claudia Cisneros](#)
Subject: FW: Public Comment about Utility Increases
Date: Monday, April 11, 2022 3:08:11 PM
Attachments: [image001.png](#)

This one as well please.

Thank you,

Chris Chenoweth

McMinnville City Councilor, Ward 1



From: Terry Conlon <terconlon@hotmail.com>
Sent: Monday, April 11, 2022 1:32 PM
To: Chris Chenoweth <Chris.Chenoweth@mcminnvilleoregon.gov>
Subject: Public Comment about Utility Increases

This message originated outside of the City of McMinnville.

Hi Chris.

I'm hoping you can help me understand something. As I understand it, the city has a budget deficit of \$2 million. There is a proposal being considered to increase residential utility rates by about 5% sewer, 4% power and 7-8% on water.

As I understand it, the city has increased FTE employees 27% in the last 5 years, and has increased wages 54% in that same time period. I'm sure the city has grown and needs more services, but from a taxpayer's standpoint there appears to be a disconnect between the growth in number of employees and the corresponding increase in wages.

As the city considers how to close the budget gap, I want to express I'm **NOT** in favor of adding to utility rates/fees. Inflation is surging right now. Everything is going up, except wages. People are being stretched thin and are having to make choices about how to cut corners to meet household budgets.

Thanks for listening!

Terry Conlon

From: [Khanh Tran](#)
To: [Claudia Cisneros](#)
Cc: [Matt Ruckwardt](#)
Subject: REVISED: Links to Agenda & Packet for 04-12-2022 City Council Work Session Meeting & City Council Regular Meeting
Date: Monday, April 11, 2022 3:29:37 PM
Attachments: [image001.png](#)
[We sent you safe versions of your files.msg](#)
[Cascade Steel McMinnville City Council April12 2022.pdf](#)

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

This message originated outside of the City of McMinnville.

Hi Claudia,

City Manager Jeff Towery and Mayor Hill asked my colleague, Matt Ruckwardt (Cascade Steel), and I to come and present to City Council tomorrow, April 12th at the Council meeting; regarding the possible increase in the franchise fees. Attached is our short presentation - in PDF form, Jeff Towery mentioned that we should send this to beforehand so you're able to pull this up for the Council.

Matt and I plan on attending the meeting in person, please let us know if there is anything else we need to do/know about the meeting.

Thank you,

Khanh Tran

Government & Public Affairs Manager | **SCHNITZER STEEL INDUSTRIES, INC.**

Cell: 503.319.1994 | ktran1@schn.com





Cascade Steel



Added on 01.13.2022

April 12, 2022

Amended on 04.13.2022
30 of 101



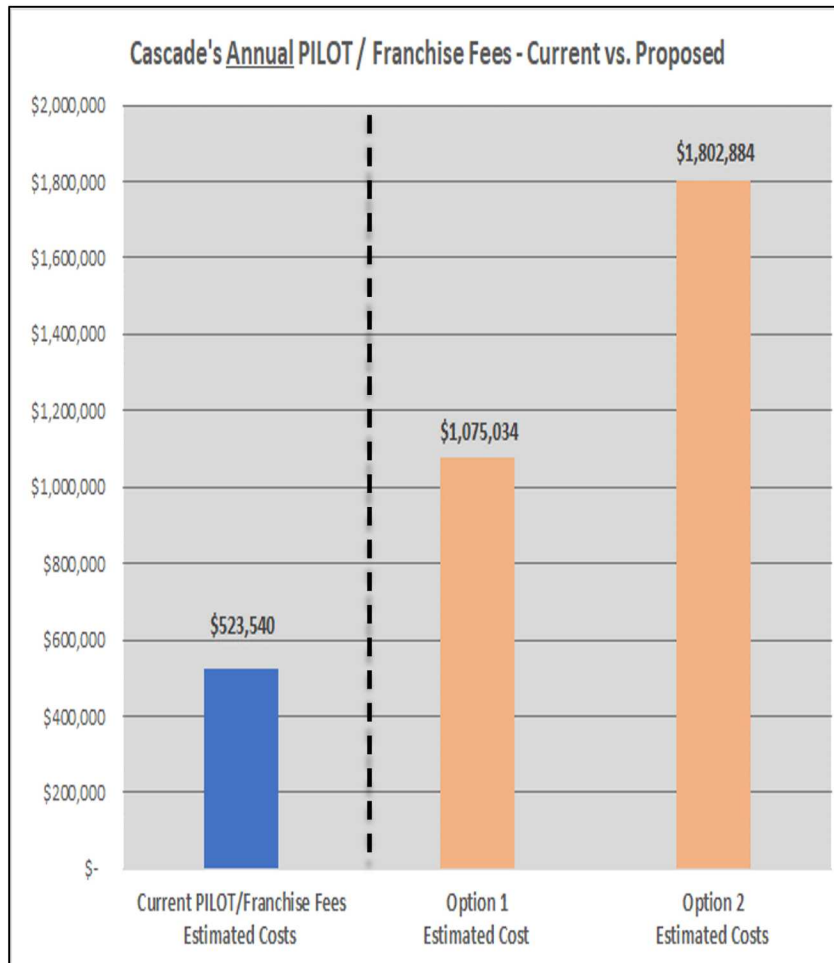
• Facility Overview:

- Operating since 1969
- Manufacture rebar and wire rod products primarily used in the construction industry
- Approximately 400 employees including 280 members of United Steelworkers Union
 - Largest employer in McMinnville
 - Economic multiplier of approximately 3 jobs for every 1 Mill job. Mill supports approximately 1600 jobs in McMinnville
- Sustainability is a core value → People, Planet, Economic Viability
- Strong supporter of the McMinnville / Yamhill community with annual donations exceeding \$45,000 per year through numerous groups including:
 - Yamhill County Action Partnership Food Bank
 - Charity Golf Tournament
 - CASA Sponsor
 - High School Vocational Training Sponsors
 - Yamhill County / McMinnville School District
 - Juliette's House – Child Abuse Intervention Center
 - McMinnville Area Chamber of Commerce & Lemonade Day Sponsor
- Only remaining steel mill in Oregon
 - One of only two remaining steel mills on the West Coast
 - Cascade used to have two production lines but reduced operations around 2010 due to economic conditions

• Industry Dynamic:

- Steel industry is a cyclical commodity business with low margins
 - Majority of steel is shipped outside of Oregon
 - Extremely competitive / international industry which competes with imports
- Very sensitive to costs with no ability to pass along specific cost increases

Impact on Cascade From Proposed Increases to the Franchise Fee & PILOT



- **Impact of Option 2** (PILOT from 3% to 10%, Franchise Fees of 10%)
 - Cascade's annual **cost will increase by over \$1.25 million:**
 - 244% increase effective July 2022
 - Significant impact on Cascade
 - Cost increase represents approximately 20 hourly full-time positions, or 7% of the hourly workforce
 - Cascade will be solely **responsible for approximately 40%** of the staff's estimated \$3.3 million of incremental annual revenue generated from their recommended Option 2 proposal
- **Impact of Option 1** (PILOT from 3% to 6%, additional Franchise Fees)
 - Cascade's annual **cost will increase by over \$0.55 million:**
 - 105% increase effective July 2022
 - Significant impact on Cascade
 - Cost increase represents approximately 9 hourly full-time positions, or 3% of the hourly workforce
 - Cascade will be solely **responsible for approximately 80%** of the staff's estimated \$0.7 million of incremental annual revenue from Option 1 proposal

Note: Oregon's recently enacted Climate Protection Program will be increasing Cascade's cost in excess of \$2 million per year

➔ Due to Cascade being in a commodity industry which is extremely competitive, the proposed cost increases will impact our ability to (i) grow, (ii) make capital investments, and/or (iii) remain profitable / cost competitive.

From: [Deven Paolo](#)
To: [Claudia Cisneros](#); [Scott Hill](#); [Sal Peralta](#); [Chris Chenoweth](#); [Kellie Menke](#); [Zack Geary](#); [Remy Drabkin](#); [Adam Garvin](#)
Cc: [Doug Hurl \(duck@oregon.com\)](mailto:doug.hurl@duck.com)
Subject: MIP Letter
Date: Tuesday, April 12, 2022 10:35:29 AM
Attachments: [We sent you safe versions of your files.msg](#)
[MIP Letter to Mayor Hill and City Council April 12 2022.pdf](#)

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

This message originated outside of the City of McMinnville.

Good morning all,

On behalf of the MIP board of directors, please find attached a letter regarding proposed resolutions 2022-19, 2022-20 and 2022-21.

Regards,

Deven Paolo
Secretary/Treasurer
McMinnville Industrial Promotions, Inc.

Mayor Hill and City Counselors:

McMinnville Industrial Promotions (MIP) is opposed to proposed resolutions 2022-19 (Water and Light Commission 10% PILOT), 2022-20 (10% franchise fee for wastewater services), and 2022-21 (10% franchise fee for water services) as they are currently written.

First, we acknowledge the difficult financial situation the city of McMinnville is facing and realize that relying on reserves to cover budget shortfalls is unsustainable. We also acknowledge that factors beyond the control of city management, such as limits on property tax revenues, are contributing factors to the City's budget problems. However, from an economic development perspective, the proposed resolutions will destroy a decades long strategic advantage that has resulted in tremendous benefits for the citizens and businesses of McMinnville, namely access to affordable water and power.

The proposed 10% franchise fees and PILOT rates will be among the highest rates in the state. This will have an immediate negative impact on business retention and expansion efforts and will change the narrative on business recruitment. People who want to live and work in McMinnville are already struggling to find affordable living situations. Adding costs to basic services will only exacerbate the affordability problem, making it more difficult for families to make ends meet and for businesses to recruit employees to work in McMinnville. At a time when citizens and businesses are struggling with impacts from the pandemic, facing inflation rates at a 40-year high, and are feeling the effects of a spike in gas prices, a surprise increase in water and light bills will not land well.

We feel a better approach is to delay a decision and hold more public forums to further the conversation on this matter as it has long-reaching consequences for many. It is important for the public to understand what cost-cutting and/or alternative revenue options have been considered. If, after appropriate public conversation, an increase in fees appears to be the best option, we would recommend a phased approach to ease the burden of increased fees. Additionally, a temporary increase of fees until budgets are balanced seems more appropriate than a permanent resolution.

The MIP board of directors' thanks you for your thoughtful consideration on this important matter.

Best regards,

MIP board of directors

Doug Hurl
Carol Granger

Harold Washington
Deven Paolo

Teresa Smith
Mike Bisset

Skip Huwaldt
Chris Huwaldt



April 12, 2022

Mayor Scott Hill
City of McMinnville, City Council
City Hall
230 NE 2nd Street
McMinnville, OR 97128

Dear Mayor Hill, Council President Drabkin, and Councilors.

In consideration of Resolution No. 2022-19, 20 and 21 regarding the increase in 'Payments in Lieu of Taxes' (PILOT) and franchise fees for water and wastewater services, McMinnville Economic Development Partnership (MEDP) respectfully submits comment regarding potential economic impacts of the staff recommendation.

MEDP was established to meet the critical need for business development support through a focus on the retention, expansion, and recruitment of traded-sector (manufacturing) companies. Our community benefits from the manufacturing base and traded sector businesses that through the export of products and services brings new money into the region. This new money is partially spent in the local economy, supporting jobs and incomes in the local sector. The goods and services provided by local-sector employers improve quality of life and contribute to the overall productivity and competitiveness of the regional economy. Manufacturing businesses in our community offer value through job creation, career opportunities, and above average wages. Annually, traded sector businesses benefit McMinnville's economy providing 5,589 jobs, \$334 million in payroll, and \$1.565 billion in economic output.¹

The recommended changes to increase PILOT and franchise fees for water and wastewater to 10% will put McMinnville rates, according to the staff report, **"...among the highest franchise and PILOT rates in the state."** This increase will have significant impacts on the retention, expansion, and attraction of businesses, and it will disproportionately impact one of the largest manufacturing businesses and third largest private employer in McMinnville.² Cascade Steel has 400 employees with 40% of the employees residing in McMinnville³ and 280 are members of the United Steel Workers Union. Nationally, the steel industry average salary is \$89,519 per year.⁴ In McMinnville, the overall Manufacturing average annual wage is \$65,753.06 and Iron and Steel Mills Manufacturing wage is \$97,914.46. The median annual wage in McMinnville for Structural Iron and Steel Workers is \$73,386.72.⁵

As a commodity-based business, Cascade Steel is a market "price taker" without the ability to pass on higher production and regulatory costs to customers. The staff report noted concerns from Cascade Steel management about changes to the PILOT because the steel industry is "a very cyclical commodity business with relatively low margins." Increasing rates as proposed in staff recommended Option 2 will have a \$1.3 million annual impact on Cascade Steel⁶ putting a disproportional burden on this singular traded-sector, manufacturing business. This also

¹ <https://www.mcminnvillebusiness.com/investor-circle>

² <https://www.mcminnvillebusiness.com/industries>

³ According to Cascade Steel operations management

⁴ American Iron and Steel Institute Economic Impact Oregon State Report <https://steel.guerrillaeconomics.net/reports//9e4ceb89-4ec1-4b23-bb85-6a612aa90ad8?>

⁵ <https://properties.zoomprospector.com/oregon/community/McMinnville-OR-/4145000/emsiadvanced>

⁶ According to Cascade Steel operations management

comes within three months of implementation leaving little time to prepare budget adjustments. This substantial rate increase could severely impact future expansion plans and potentially put jobs at risk.

According to an estimate developed by economist Enrico Moretti, on average, one additional high-skill traded-sector job creates 2.5 local-sector jobs, and one additional low skill traded-sector jobs is associated with one additional local-sector job.⁷ The proposed rate increases could not only negatively impact one of the largest private sector employers in McMinnville but may also have adverse impacts on indirect employment in the region.

Cascade Steel competes both nationally and internationally. The proposed rate changes, according to the staff report, “...will be among the highest franchise and PILOT rates in the state.” This would put Cascade Steel at a serious competitive disadvantage within the current market conditions resulting from the global pandemic. Increasing rates will not only reduce Cascade Steel’s competitive advantage, but also reduce McMinnville’s competitive advantage as the third lowest utility rate in Oregon. High utility rates will negatively impact businesses still recovering from the pandemic, while also encountering workforce shortages, and supply chain disruptions.

The staff report notes this action will “...remove the significant subsidy that heavy industrial customers have enjoyed relative to all other electric utility customers since it was first established over thirty years ago by the City Council in 1990.” PILOT has been an effective economic incentive tool for the community creating investment in taxable infrastructure by negotiating the rate to create a public benefit. That benefit being the ability of the community to retain and expand one of the largest traded-sector businesses resulting in more living-wage jobs in the community.

McMinnville has faced previous devastating economic crisis in 1953 when several plants closed, and 300 jobs were lost. Community and professional leaders pledged their own money to attract new businesses to McMinnville. These leaders formed McMinnville Industrial Promotions with a primary concern not only with business success, but with the long-term health and economic vitality of McMinnville. The proposed rate increases will eliminate a significant competitive advantage McMinnville offers residents and businesses with current utility rates resulting in a negative impact on the economic health and vitality of our community.

In the analysis of increasing revenues, there must a balance between the assessment of revenue generating measures and cost saving options to determine the relative and incremental cost/benefit effectiveness. Total additional revenues projected in Option 2 are \$3.3165 million, and while this may be enough to balance the budget, how will this affect the balance of public and private economic needs and at what cost to our economy?

The MAC-Town 2032 Strategic Plan includes aspirational goals in City Government Capacity, Civic Leadership, Community Safety & Resiliency, Economic Prosperity, Engagement & Inclusion, Growth & Development Character, and Housing Opportunities (across the income spectrum). The strategic plan includes an economic prosperity goal to, “Provide economic opportunity for all residents through sustainable growth across a balanced array of traditional and innovative industry sectors.”⁸ The economic impacts of the proposed rate increases will have a considerable impact on traditional manufacturing businesses that are vulnerable to utility rate increases and have minimal cost recovery provisions.

⁷ https://portlandalliance.com/assets/cta_items/pdf/traded-sector-study-FINAL.pdf

⁸ Page 23: https://www.mcminnvilleoregon.gov/sites/default/files/fileattachments/city_administration/page/9441/mcm-strategic_plan-final-2032.pdf

The challenge is determining whether increasing revenues through PILOT and franchise fees will help or hinder our community in the long run and how these rates will influence future decision-making factors that encourage the location, formation, and growth of traded-sector firms in McMinnville.

McMinnville's ability to attract and retain traded-sector businesses depends on our ability to leverage resources such as a favorable business climate, a supply of market-ready, developable land, and tax structures that encourage investment and economic growth. Together with public and private sector involvement we can ensure a resilient economy and create an environment for economic growth leading to sustainable revenue for public services.

MEDP stands ready to support the city in these important economic discussions and welcomes the opportunity to form business roundtables for public/private sector collaboration in finding solutions to these critical fiscal challenges.

Respectfully,



Patty Herzog

From: [Paul Smark](#)
To: [Claudia Cisneros](#)
Subject: No to increased fees
Date: Tuesday, April 12, 2022 2:14:39 PM

This message originated outside of the City of McMinnville.

Council,

I am absolutely opposed to any increased fees (sneaky,not voter approved taxes) that go into the general fund that we as citizens have no control over how it is spent. If the council is so sure about their long term plans for the city then put it to a vote and let us have a say in how the money is spent. I am more than happy to spend money for increased fire, police and funding of social services but these need to be the priority before building new swimming pools, libraries and recreation centers. Put some faith in your citizens and let our voice be heard instead of back door taxes that you spend they way you see fit.

Jennifer Smark
McMinnville

Sent from my iPhone

From: [Khanh Tran](#)
To: [Claudia Cisneros](#)
Subject: Resolution 2022-19
Date: Tuesday, April 12, 2022 3:39:30 PM
Attachments: [image001.png](#)
[We sent you safe versions of your files.msg](#)
[Cascade Steel McMinnville City Council April12 2022.pdf](#)
[Cascade Steel Pilot and Franchise Fee Letter 4.12.2022.pdf](#)

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

This message originated outside of the City of McMinnville.

Hi again, Claudia!

I promise these are the final items you'll receive from today!

Attached is the final form of the presentation we will be working from tonight, as well as a letter addressed to City Council from Matt, the manager of the plant.

I appreciate you helping me and Matt with everything.

Thank you!

Khanh Tran

Government & Public Affairs Manager | **SCHNITZER STEEL INDUSTRIES, INC.**

Cell: 503.319.1994 | ktran1@schn.com





Cascade Steel



Added on 01.13.2022

April 12, 2022

Amended on 04.13.2022
40 of 101



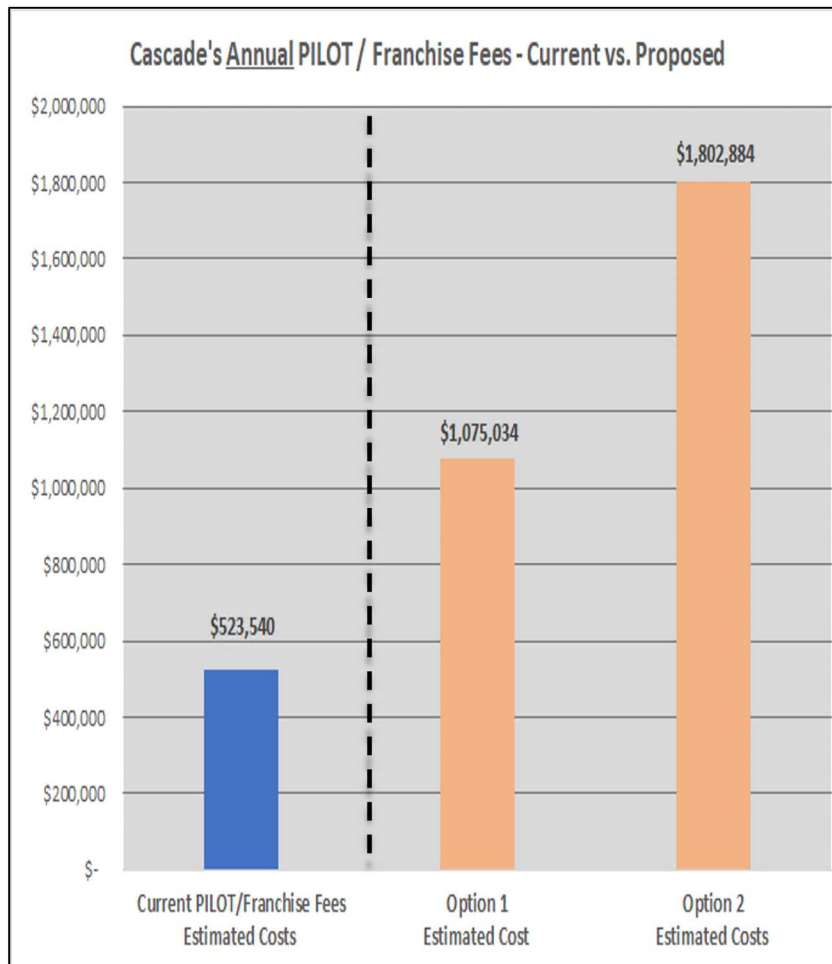
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Note: Oregon's recently enacted Climate Protection Program will be increasing Cascade's cost in excess of \$2 million per year

➔ Due to Cascade being in a commodity industry which is extremely competitive, the proposed cost increases will impact our ability to (i) grow, (ii) make capital investments, and/or (iii) remain profitable / cost competitive.

- **Our Ask:**

- We ask for a continuance on Resolution 2022-19, so that all stakeholders may have time to evaluate and consider more options and possible new solutions.
- We also ask that Council and City staff consider the addition of other ideas, such as a phase in approach or sunset on the fee increase.

- **Our Promise:**

- Cascade Steel and Schnitzer Steel will be happy to take an active stakeholder role in working with the City of McMinnville to find solutions to this, and any other issues our expertise can assist in.



Cascade Steel Rolling Mills, Inc.

3200 North Hwy 99W
McMinnville, OR 97128

A **Schnitzer**  Company

800-283-2776 - 503-472-4181 - 503-434-9843 (Fax)

April 12, 2022

Mayor Hill and McMinnville City Council
McMinnville Civic Hall
200 NE 2nd Street
McMinnville, OR 97128

Submitted via email: Claudia.Cisneros@mcminnvilleoregon.gov

Regarding: Sustainable Resources: FY23 Franchise Fees
Resolution Nos. 2022-19, 2022-20, and 2022-21

Dear Mayor Hill and City Councilors:

Cascade Steel learned of the proposed increases to the PILOT and franchise fees on Wednesday, April 6, 2022. We have not had adequate time to evaluate the proposals, and **respectfully request that the City Council continue its hearing to a future date so that we have time to fully analyze the proposal and help develop viable solutions.**

Cascade Steel is the largest employer in McMinnville. We have approximately 400 employees, including 280 members of United Steelworks Union. With the economic multiplier of approximately 3 jobs for every 1 mill job, our mill supports approximately 1,600 jobs in McMinnville.

We understand the City's stated goal is to increase revenues by approximately \$1 million to \$3 million annually. Option 2 will increase Cascade's annual costs by over \$1.25 million, with this 244% increase effective in just a few months. No business can absorb this drastic and immediate increase in costs, but it is particularly detrimental to a business like ours, which is a cost sensitive commodity business that competes in a global market.

I appreciate the brief Zoom meeting with the City Manager and Mayor on December 8, 2021. That meeting did not indicate the order of magnitude or timing of any potential changes to the PILOT and franchise fees. Furthermore, Cascade has not been involved in any subsequent discussions. In addition, my general concerns about the impacts of increasing costs from a variety of sources has neither been addressed nor considered.

The staff report acknowledges that Option 2's rate structure is extraordinary: "It merits noting that 10% will be among the highest franchise and PILOT rates in the state." (April 12, 2022, staff report, page 4). The amount of these fees, as well as the rushed process without meaningfully engaging the business community will be detrimental to McMinnville's current



Cascade Steel Rolling Mills, Inc.


3200 North Hwy 99W
McMinnville, OR 97128

A **Schnitzer**  Company

800-283-2776 - 503-472-4181 - 503-434-9843 (Fax)

and future economic development prospects. Not only is it a disincentive for companies like ours to continue to invest in McMinnville, but it will also deter businesses from locating in McMinnville. These consequences contradict some of McMinnville’s goals, including:

- The PILOT/Franchise Fee increases are framed in the staff report as implementing the City Council’s adopted 2021 Annual Goals, including “Right-Size Services.” However, the proposal does not address, and we believe undermines, another one of the 2021 Annual Goals, “Economic Prosperity”:

 **ECONOMIC PROSPERITY –**
Provide economic opportunity for all residents through sustainable growth across a balanced array of traditional and innovative industry sectors

- ❖ Accelerate growth in living wage jobs across a balanced array of industry sectors by supporting Stable Table partners
 - Secure funding for key planning and infrastructure projects such as:
 - Third Street Improvement design work
 - Innovation Center

- The City has spent years and considerable effort to create the Three Mile Lane Area Plan. A critical component of this long-range vision is attracting a broad mix of job-creating uses, including industrial and office campus uses. The Option 2 fee increase proposal will make it challenging to attract new businesses to the Three Mile Lane Area.

We are disappointed that even though we are the largest employer and largest ratepayer, we have not had a meaningful seat at the table during the discussions about revenue sources, or any notice of the many work sessions that have been underway for over a year. We believe that once we have additional time to review the materials and collaborate with the City about the negative impacts to our and other businesses, as a community we can find a more workable solution. Examples may include more diversified funding sources, a phase-in of increases, fee caps, and a sunset date of 2 years.

In recognition of our over 50-year relationship with the City and our commitment to this community, we respectfully request that the City Council continue the public hearing on Resolutions Nos. 2022-19, 2022-20, and 2022-21 so that public engagement can occur and solutions can be identified.

Sincerely,

Matt Ruckwardt
Chief of Steel Operations & Business Performance
Cascade Steel Rolling Mills, Inc.

From: [Lee, Rachel C.](#)
To: [Claudia Cisneros](#)
Cc: [Scott Hill](#); [Sal Peralta](#); [Chris Chenoweth](#); [Kellie Menke](#); [Zack Geary](#); [Remy Drabkin](#); [Adam Garvin](#); [Amanda Guile-Hinman](#)
Subject: April 12 City Council Meeting: Sustainable Resources & FY23 Fees
Date: Tuesday, April 12, 2022 4:15:08 PM
Attachments: [image001.png](#)
[We sent you safe versions of your files.msg](#)
[LT McMinnville City Council and Mayor re Sustainable Resources and FY23 Fees.pdf](#)

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

This message originated outside of the City of McMinnville.

Dear Ms. Cisneros,

Attached is written testimony concerning this evening's City Council Agenda item regarding Resolution No. 2022-19.

I would also like to comment orally on this item during the Council Meeting this evening.

Please let me know if you have any questions.

Regards,

Rachel Lee

Rachel Lee | Partner

STOEL RIVES LLP | 760 SW Ninth Ave, Suite 3000 | Portland, OR 97205

Direct: (503) 294-9403 | Mobile: (503) 964-8417

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April 12, 2022

Rachel C. Lee
760 SW Ninth Avenue, Suite 3000
Portland, OR 97205
D. 503.294.9403
rachel.lee@stoel.com

VIA EMAIL

McMinnville City Council and Mayor
City Hall
230 NE 2nd Street
McMinnville, OR 97218
Claudia.Cisneros@mcminnvilleoregon.gov

Re: April 12, 2022 City Council Agenda Item: Sustainable Resources: FY23 Franchise Fees

Dear Mayor Hill and City Councilors:

We represent Cascade Steel and its parent company Schnitzer Steel, Inc. and I am writing to bring your attention to the unlawfulness of proposed Resolution No. 2022-19, which is on the agenda for the City Council's consideration this evening.

Under Oregon law, because the City of McMinnville owns and operates McMinnville Water & Light, the City "shall charge such rates therefor as meet the requirements of ORS 225.220 to 225.300." ORS 225.210. Furthermore, Oregon law limits how the City may spend any funds generated by McMinnville Water & Light. Crucially, ORS 225.250 provides that the earnings of McMinnville Water & Light's electric plant or distributing system "shall be expended only in connection with and for improving such plant or system **and not for other municipal purposes, except as otherwise provided in ORS 225.270.**" ORS 225.250 (emphasis added).

ORS 225.270 does not permit McMinnville Water & Light to pay the City earnings from the electric plant and system to support the general City budget except for the purpose of reducing property taxes. ORS 225.270 provides that, under certain circumstances, a city shall "**for the purpose of reducing general property taxes within such city**, pay to itself not less than three percent of the annual gross revenue of such [municipal electric] plant or system." ORS 225.270 (emphasis added).

But here, contrary to ORS 225.270, the funds that would be generated by Resolution No. 2022-19's increased payment-in-lieu-of-taxes ("PILOT") would **not** be used to reduce general property taxes within McMinnville. As the resolution itself acknowledges, the purpose of increasing the

McMinnville City Council and Mayor

April 12, 2022

Page 2

PILOT is to obtain “additional revenues to ensure the City can continue to operate at current levels of service,” and the City’s property taxes are already at maximum and “cannot be increased due to State Measures 5 and 50.” Resolution No. 2022-19. As a result, if the resolution passes, property taxes will not decrease, and if it does not pass, property taxes will not increase. In other words, the increased PILOT is not “for the purpose of reducing general property taxes.” ORS 225.270.

Because the increased PILOT rates would not be for the purpose of reducing general property taxes in McMinnville, spending the increased PILOT funds on general municipal purposes would violate ORS 225.250. Resolution No. 2022-19 would be unlawful.

The City should note that existing PILOT revenue stream that the City obtains from McMinnville Water & Light may well be unlawful for the same reason. However, Cascade Steel values its partnership with the City of McMinnville to create a stable, thriving community in McMinnville, and Cascade Steel does not wish to abruptly worsen the City’s financial condition unless forced to do so. Thus, Cascade Steel does not currently intend to challenge the current PILOT scheme, but retaining the current industrial users PILOT rate is critically important to Cascade Steel. If the City Council adopts proposed Resolution No. 2022-19, which would more than triple that rate in a few months time, Cascade Steel has a fiduciary duty to its shareholders and intends to consider all its options, including a judicial challenge.

Additionally, we only recently became aware of the City’s “Sustainable Resources” proposal and have not had time to fully evaluate all of its components. Given the legal flaw with the PILOT proposal, we are concerned that there may also be legal issues with the increases to franchise fees proposed in Resolutions Nos. 2022-20 and 2022-21. We encourage the City to take sufficient time to consider Resolutions Nos. 2022-19, 2022-20, and 2022-21 so that the community can be assured that whatever tools the City uses to fix its perennial general fund budget deficit are lawful.

Very truly yours,



Rachel C. Lee

cc: Scott.Hill@mcminnvilleoregon.gov
Sal.Peralta@mcminnvilleoregon.gov
Chris.Chenoweth@mcminnvilleoregon.gov
Kellie.Menke@mcminnvilleoregon.gov
Zack.Geary@mcminnvilleoregon.gov
Remy.Drabkin@mcminnvilleoregon.gov
Adam.Garvin@mcminnvilleoregon.gov
Amanda.Guile@mcminnvilleoregon.gov

STAFF REPORT

DATE: April 27, 2022
TO: Jeff Towery, City Manager
FROM: Rich Leipfert, Fire Chief
SUBJECT: Contract with McMinnville Rural Fire Protection District
STRATEGIC PRIORITY & GOAL:



CITY GOVERNMENT CAPACITY

Strengthen the City's ability to prioritize & deliver municipal services with discipline and focus.

OBJECTIVE/S: Develop and foster local and regional partnerships

Report in Brief:

This action is a resolution for the City of McMinnville to renew the Intergovernmental Agreement (IGA) with the McMinnville Rural Fire Protection District for Fire protection and prevention services.

Background:

This contract includes an increase of \$162,661 from last year's contract. The contract allows for the City of McMinnville to provide fire protection and prevention services to the McMinnville Rural Fire Protection District in exchange for monetary compensation.

Discussion:

The Rural District was formally notified on April 26, 2021 of a fee increase above the 3% guarantee according to the current year contract for the FY 22-23 contract. We identified that we want to renegotiate a revised or new cost allocation model as part of this negotiations. After negotiations both parties agreed that the percentage of assessed value would be used to determine the new baseline of the contract. The McMinnville Rural Fire District assessed values is 16% of the total assessed value of both entities. The new contract cost of \$573,017 is 16% of the City's general fund allocation for the year-end FY 20-21 fire protection and prevention services provided by the City. The remainder of the contract remains unchanged.

Attachments:

1. Resolution No. 2022-16
 - a. Exhibit A – Rural District IGA

Fiscal Impact:

The total remuneration for services outlined in the 2022 – 2023 contract are \$573,017

Recommendation:

Staff recommends that the City Council approve the Resolution authorizing the City to renew the IGA with the McMinnville Rural Fire District.

RESOLUTION NO. 2022-16

A Resolution providing for and approving a form of contract by and between the City of McMinnville, Oregon and the McMinnville Rural Fire Protection District.

RECITALS:

Whereas, the present contract between the City of McMinnville and the McMinnville Rural Fire Protection District (MRFPD) expires June 30, 2022, and it is necessary that a new contract be executed. The new contract will be in full force and effect for a period up to and including June 30, 2023; and

Whereas, the City of McMinnville and the McMinnville Rural Fire Protection District have mutually agreed to the renewal of the fire protection service contract. This year we have agreed to a five percent increase; and

Whereas, the City of McMinnville has the necessary equipment to furnish rural fire protection to the area surrounding and adjacent to the City.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF McMINNVILLE, OREGON, as follows:

1. That a contract prepared by the City Attorney, and submitted to the Council of the City of McMinnville on the 23rd day of June 2022, be entered into by and between the City of McMinnville and the McMinnville Rural Fire Protection District for the period July 1, 2022 through June 30, 2023. The contract provides that the City shall furnish fire protection to the District and the inhabitants of the District. The contract, in the amount of \$573,017.00, is hereby approved and accepted as submitted. Payment shall be made as follows:

\$286,508.00 by December 15, 2022

\$143,254.00 by March 15, 2023

\$143,254.00 by June 15, 2023

2. The Mayor is hereby authorized and directed to execute the contract in duplicate and to deliver one executed copy thereof to the McMinnville Rural Fire Protection District and to retain one executed copy thereof to be kept on file in the office of the City Recorder.
3. This Resolution shall take effect immediately upon passage and shall continue in full force and effect until revoked or replaced

Adopted by the Common Council of the City of McMinnville at a regular meeting held the 12th day of April 2022 by the following votes:

Ayes: _____

Nays: _____

Approved this 12th day of April, 2022.

MAYOR

Approved as to form:

Attest:

City Attorney

City Recorder

EXHIBITS:

- A. Rural District Intergovernmental Agreement

INTERGOVERNMENTAL AGREEMENT

THIS AGREEMENT, authorized by ORS 190.010, is made this 8th day of June, 2022, by and between the CITY OF MCMINNVILLE, an Oregon municipal corporation, hereinafter referred to as “CITY”, and the MCMINNVILLE RURAL FIRE PROTECTION DISTRICT (MRFPD), an Oregon municipal corporation, hereinafter referred to as “DISTRICT”, the promises and agreements of each being in consideration of the promises and agreements of the other.

The parties agree as follows:

1. **Term:** The term of this Agreement is one (1) year, beginning on the 1st day of July, 2022 and ending on the 30th day of June, 2023.
2. **Scope of Services:**
 - A. The CITY agrees to provide fire protection throughout the DISTRICT, as required. In providing fire protection throughout the DISTRICT, the CITY, through its Fire Department, shall:
 1. Provide fire suppression throughout the DISTRICT.
 2. Provide the use of available pumpers, tenders and ladder equipment, and all other necessary equipment, as well as sufficient personnel to operate said apparatus, subject to the condition that reasonably sufficient apparatus and personnel shall remain within the CITY to assure adequate fire protection to the CITY. If the demands of the DISTRICT exceed the available apparatus and personnel which the CITY can provide, the CITY agrees to invoke then current mutual aid agreements as may be necessary to supplement the CITY’S apparatus and personnel.
 3. Review building and construction plans within the DISTRICT.
 - a. Request that Yamhill County submit all plans for new developments/construction in the DISTRICT requiring a “fire-and-life-safety” plan check to CITY for review. Plans will be reviewed for fire access, fire-flow, built-in-fire protection, road grades, and other fire code issues.
 - b. Perform field inspections to ensure new development and construction is accomplished in accordance with reviewed plans as regards those items listed in (3)(a) above.
 4. Investigate all fires within the DISTRICT to determine cause.
 5. Initiate and sustain a program of study, reasonably calculated to result in the formulation and necessary revision of operating procedures necessary to maintain a high level of fire protection within the DISTRICT.
 6. Review and propose fire codes and ordinances for adoption by the DISTRICT.

7. Investigate all fire code complaints; perform on-site inspection to determine validity of complaint.
8. Perform inspections as required by a priority plan adopted by the DISTRICT and agreed to by the CITY. Conduct home fire-safety inspections upon request.
9. Enforce codes, ordinances, and regulations adopted by the DISTRICT, including the assessment and collection of fees in accordance with Code Enforcement Fee Schedule adopted by DISTRICT.
10. Maintain, for the DISTRICT, adequate records of activity as may be required by the Insurance Services Office and the Oregon State Fire Marshal.
11. Participate in mutual aid agreements with the fire protection districts which are contiguous with the MRFPD and establish and maintain an automatic aid agreement in areas in which service might be improved by such an agreement, so long as it is in the best interests of all parties to do so.
12. Subject to the provisions of Section 2A of this agreement, the CITY shall maintain and operate an adequate fire protection service in the DISTRICT. CITY shall use due diligence to maintain continuous and uninterrupted service. Under no circumstances is the CITY liable to the DISTRICT for interruption or failure of service caused by acts of nature, unavoidable accident, or other circumstances beyond the control of the CITY through no fault of its own.
13. The CITY shall operate the fire protection program authorized by this Agreement twenty-four (24) hours per day, seven (7) days per week.
14. The CITY shall take all reasonable steps to maintain all of its trucks, equipment and the entire system in a good state of repair, and shall at all times conduct its operation under this Agreement in a safe and professional manner so as not to present a danger to the public or DISTRICT.
15. The CITY shall consider the needs of the DISTRICT when designing and purchasing fire apparatus, with specific regard to hill climbing ability, maneuverability, foam production and compatibility with rural fire applications.
16. The DISTRICT shall have the right to use the CITY Fire Department conference room for the DISTRICT'S regularly scheduled meetings, as well as specially scheduled meetings, given sufficient advance notice.
17. The CITY shall assist the Board of the DISTRICT in recommending the site for and development of future station needs as may be required in the DISTRICT.
18. The CITY shall provide public education as follows:
 - a. Conduct a Fire Prevention Open House each October, with announcement flyers sent to all students in all schools in the MRFPD area, including private schools.
 - b. Solicit opportunities to give fire safety education programs to all DISTRICT neighborhood associations on an annual basis.

- c. Post updated information for rural district residents containing pertinent fire safety information on the City Fire Department Web Site.
19. The CITY shall provide fire suppression training and provide for fire suppression preparedness as follows;
- a. Equip all operations personnel with wild land firefighting apparel.
 - b. Conduct training for all personnel in wild land fire behavior and urban/forest interface strategy and tactics prior to fire season.
 - c. Identify locations throughout the DISTRICT where water supply might be established or improved.
 - d. Train on rural water supply operations, with surrounding rural districts, to reduce turnaround time and improve water supply procedures in rural area.
 - e. Maintain a supply of forestry type fire suppression foam.
 - f. Develop a countywide major fire event plan to be implemented as a component of the City's and County's disaster plan.
 - g. Maintain nominal staffing (call back) and situation status management plan to ensure adequate fire defense resources in the event of simultaneous responses which may deplete on-duty resources.
- B. The DISTRICT agrees that the CITY shall not be required to duplicate those efforts or services regularly provided by other governmental agencies; nor shall the CITY be required to provide any services which are, by law, reserved for another government agency.
- C. The CITY agrees to provide the DISTRICT with regular reports based on the fire protection services provided in Section 2A (see above) of this Agreement. Also, a copy of the annual audit of the City of McMinnville shall be provided to the DISTRICT. The DISTRICT agrees to provide a copy of the annual audit of the DISTRICT to the CITY.
- D. The CITY shall keep the DISTRICT informed of all new developments, issues or concerns affecting the fire operations of the CITY as they may relate to the DISTRICT. The CITY shall endeavor to notify the DISTRICT in advance of any public announcement concerning this Agreement that is to be made. The DISTRICT shall endeavor to notify the CITY of any developments or uses concerning the Agreement in advance of any public announcement on the subject.
- E. At all times during the term of this Agreement, the CITY and DISTRICT shall comply with all applicable laws, ordinances, rules and regulations of the United States of America and the State of Oregon, including all agencies and subdivisions thereof.
- F. The City agrees to support and defend the MRFPD where the MRFPD has taken action to implement rules and or ordinances at the request of, or when benefit accrues to, the City.

3. **Compensation:** The DISTRICT agrees to pay the CITY during the term of this Agreement the sum of \$573,017.00 for fire protection during fiscal year 2022-2023. In addition, as additional compensation, the CITY shall retain all fees collected by the CITY related to the Code Enforcement Fee Schedule adopted by DISTRICT.

A. The CITY and DISTRICT shall retain the right to renegotiate the service level and/or service cost as of the 30th day of June, 2021, by giving 180 days' prior written notice to the other party (see Sections 4 and 5).

B. The DISTRICT agrees to make payments to the CITY according to the following schedule unless these funds are not made available by the county tax collector.

<u>Payment #</u>	<u>Due Date</u>	<u>Amount</u>
1	Dec. 15	\$ 286,508
2	Mar. 15	\$ 143,254
3	June 15	\$ 143,254

C. The DISTRICT agrees that it will levy taxes during the term of this Agreement sufficient to provide the payments required to be made to the CITY during this Agreement.

D. It is understood and agreed by the parties that no director, officer or other representative of the DISTRICT shall be individually liable for any payments due to the CITY.

E. If, as a result of the tax limitation, the CITY is unable to provide the level of service described in Section 2 above, or the DISTRICT is unable to pay for the current level of services, then the parties agree to renegotiate in good faith the amount of compensation to be paid to the CITY for the services provided.

F. It is understood that while this agreement is in place that the City will not bill for motor vehicle accident "Fire Fees" to residents of the McMinnville Rural Fire Protection District.

4. **Future Fee Increases:** The CITY and DISTRICT agree that the fee for each future year will be increased three percent per annum. The parties agree to enter into negotiations regarding a change in the three percent increase or any other change in the fee when requested by either party so long as said request to negotiate is given not less than 180 days prior to the expiration of the Agreement. In the event negotiations have not been completed by June 30, 2023, the CITY may decline to provide the services described in Section 2 of this Agreement.

5. **Renegotiation/Termination/Renewal:** This Agreement shall be renewed unless CITY or DISTRICT gives written notice to the other party 180 days prior to the expiration of this Agreement, informing the other party that the notice-giving

party wishes to renegotiate the terms of the Agreement or to terminate the Agreement.

- A. If notification of the intent to renegotiate this Agreement has been given, the parties agree that, prior to June 30, 2023, they will negotiate in good faith concerning the terms of this Agreement.
- B. If the DISTRICT has notified the CITY of its intent to renegotiate this Agreement and a successful renegotiation has not been completed before June 30, 2023, this Agreement shall be automatically extended for 90 days to allow continuing negotiations. This Agreement may be extended further by mutual agreement for additional increments of up to 90 days each.
- C. If notification of the intent to terminate this Agreement has been given, the Agreement shall terminate on the 30th day of June 2023. If both parties agree in writing, a termination pursuant to this section may be effective at an earlier date.

6. **Rules of Construction/Interpretation:**

- A. Unless otherwise specifically prescribed in this Agreement , the following provisions shall govern its interpretation and construction:
 - 1. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number.
 - 2. Time is of the essence of this Agreement. Neither the CITY nor the DISTRICT shall be relieved of its obligation to comply promptly with any provisions of this Agreement by any failure of the other party to enforce prompt compliance with any of its provisions.
 - 3. Every duty and every act to be performed by either party imposes an obligation of good faith on the party to perform such.
- B. All notices, reports or demands required to be given in writing under this Agreement shall be deemed to be given a) when delivered personally to the person designated below, or b) when three (3) days have elapsed after it is deposited in the United States mail in a sealed envelope, registered or certified mail, postage prepaid, or c) on the next business day when sent by express mail, all addressed to the party to whom the notice is being given:

Fire Chief Rich Leipfert,
City of McMinnville,
175 NE First St,
McMinnville, Oregon 97128

Steve Leonard
Chairman, McMinnville Rural Fire Protection District,
175 NE First St,

McMinnville, Oregon 97128

- C. Neither the CITY nor the DISTRICT shall be relieved of its obligation to comply with any of the provisions of this Agreement by reason of any failure of the other party to enforce prompt compliance.
 - D. The paragraph captions and headings in this Agreement are for convenience and reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.
 - E. For purposes of determining time of performance, time shall be computed so as to exclude the first and include the last day of the prescribed period of time. When the last day of the period falls on Saturday, Sunday or a legal holiday, the next working day shall be construed to be the last day of the prescribed period.
 - F. None of the provisions of this Agreement shall be construed to create in the DISTRICT any right, interest or ownership in any real or personal property used by the CITY for the performance of this Agreement.
7. **Hold Harmless:** The parties agree that neither the CITY nor any of the CITY’S officers, agents, representatives, employees or volunteers shall be liable to the DISTRICT, or any owner within the DISTRICT, or any other person, for any claim for injury or damage or any loss or expense growing out of or resulting directly or indirectly from the performance of this Agreement, including but not limited to, a claim for alleged failure to provide firefighting or fire protection apparatus or services, or for court costs and attorneys’ fees (including an appeal filed in connection with any legal proceedings arising out of this Agreement).
8. **Discrimination:** The parties agree not to discriminate on the basis of race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation or source of income in the performance of this Agreement.
9. **Waiver of Breach:** A waiver of any breach of any provision of this Agreement by either party shall not operate as a waiver of any subsequent breach of the same or any other provision of this Agreement.

City of McMinnville
an Oregon Municipal
Corporation

McMinnville Rural Fire
Protection District, an
Oregon Municipal Corporation

By: _____
Scott Hill, Mayor

By: _____
Steve Leonard, Chairman

Date: _____
Approved as to form:

Date: _____

Amanda Guile-Hinman, City Attorney

Liquor License Recommendation

BUSINESS NAME / INDIVIDUAL: C + C Wine Bar LLC DBA: Elena's Wine Bar
BUSINESS LOCATION ADDRESS: 546 NE 3rd Street
LIQUOR LICENSE TYPE: Full on-premises, commercial

Is the business at this location currently licensed by OLCC

Yes No

If yes, what is the name of the existing business:
Same business, just changing license type from LIMITED to FULL

Hours of operation: Sunday-Wednesday 1pm to 10pm, Thursday-Saturday 1pm to 11pm
Entertainment: Live music, recorded music and DJ music
Hours of Music: Friday and Saturday 7pm to 10pm
Seating Count: 64; 24 outdoor and 40 lounge

EXEMPTIONS:
(list any exemptions)

Tritech Records Management System Check: Yes No

Criminal Records Check: Yes No

Recommended Action: Approve Disapprove



Chief of Police / Designee

City Manager / Designee



City Recorder Use
Final Action: Approved <input type="checkbox"/> Disapproved <input type="checkbox"/>

Liquor License Recommendation

BUSINESS NAME / INDIVIDUAL: Balsall Creek LLC DBA: Balsall Creek
 BUSINESS LOCATION ADDRESS: 2803 NE Orchard Avenue
 LIQUOR LICENSE TYPE: Winery 1st location

Is the business at this location currently licensed by OLCC

Yes	No
<input checked="" type="checkbox"/>	<input type="checkbox"/>

If yes, what is the name of the existing business:
 Multiple businesses currently license at this storage facility

Hours of operation: N/A
 Entertainment: N/A
 Hours of Music: N/A
 Seating Count: N/A

EXEMPTIONS:
 (list any exemptions)

Tritech Records Management System Check: Yes No

Criminal Records Check: Yes No

Recommended Action: Approve Disapprove

Chief of Police / Designee

City Manager / Designee



OREGON LIQUOR CONTROL COMMISSION

LIQUOR LICENSE APPLICATION

PRINT FORM

Espinosa

RESET FORM

1. Application. **Do not include** any OLCC fees with your application packet (the license fee will be collected at a later time). Application is being made for:

License Applied For:	CITY AND COUNTY USE ONLY
<input type="checkbox"/> Brewery 1 st Location	Date application received and/or date stamp: 3/31/2022
Brewery Additional location (2 nd) <input type="checkbox"/> (3 rd) <input type="checkbox"/>	
<input type="checkbox"/> Brewery-Public House (BPH) 1 st location	Name of City or County:
BPH Additional location (2 nd) <input type="checkbox"/> (3 rd) <input type="checkbox"/>	
<input type="checkbox"/> Distillery	Recommends this license be: <input type="checkbox"/> Granted <input type="checkbox"/> Denied
<input type="checkbox"/> Full On-Premises, Commercial	
<input type="checkbox"/> Full On-Premises, Caterer	By: _____
<input type="checkbox"/> Full On-Premises, Passenger Carrier	Date: _____
<input type="checkbox"/> Full On-Premises, Other Public Location	
<input type="checkbox"/> Full On-Premises, For Profit Private Club	
<input type="checkbox"/> Full On-Premises, Nonprofit Private Club	
<input type="checkbox"/> Grower Sales Privilege (GSP) 1 st location	
GSP Additional location (2 nd) <input type="checkbox"/> (3 rd) <input type="checkbox"/>	
<input type="checkbox"/> Limited On-Premises	OLCC USE ONLY
<input type="checkbox"/> Off-Premises	Date application received: <u>3-4-22</u>
<input type="checkbox"/> Warehouse	Date application accepted: <u>3-4-22</u>
<input type="checkbox"/> Wholesale Malt Beverage & Wine	
<input checked="" type="checkbox"/> Winery 1 st Location	License Action(s):
Winery Additional location (2 nd) <input type="checkbox"/> (3 rd) <input type="checkbox"/>	N/O
(4 th) <input type="checkbox"/> (5 th) <input type="checkbox"/>	

2. Identify the applicant(s) applying for the license(s). **ENTITY (example: corporation or LLC) or INDIVIDUAL(S)**¹ applying for the license(s):

Balsall Creek, LLC

App #1: NAME OF ENTITY OR INDIVIDUAL APPLICANT

App #2: NAME OF ENTITY OR INDIVIDUAL APPLICANT

App #3: NAME OF ENTITY OR INDIVIDUAL APPLICANT

App #4: NAME OF ENTITY OR INDIVIDUAL APPLICANT

3. Trade Name of the Business (Name Customers Will See) Balsall Creek		
4. Business Address (Number and Street Address of the Location that will have the liquor license) 2803 NE Orchard Ave.		
City McMinnville	County Yamhill	Zip Code 97128

¹ **Read the instructions on page 1 carefully.** If an entity is applying for the license, list the name of the entity as an applicant. If an individual is applying as a sole proprietor (no entity), list the individual as an applicant.

Liquor License Recommendation

BUSINESS NAME / INDIVIDUAL: Northrock 1 LLC DBA: Freddie's Deli & Pub #3
BUSINESS LOCATION ADDRESS: 1250 NE Baker Street
LIQUOR LICENSE TYPE: Full on-premises, commercial

Is the business at this location currently licensed by OLCC
Yes No

If yes, what is the name of the existing business:

Changing ownership on current license

Hours of operation: Monday-Saturday 8am to 12am, Sunday 10am to 12am
Entertainment: Recorded music, Karaoke, Video Lottery Machines
Hours of Music: open times
Seating Count: 36; 30 lounge and 6 lottery machines

EXEMPTIONS:
(list any exemptions)

Tritech Records Management System Check: Yes No

Criminal Records Check: Yes No

Recommended Action: Approve Disapprove



Chief of Police / Designee

City Manager / Designee



LIQUOR LICENSE APPLICATION

PRINT FORM

RESET FORM

Cooper

1. Application. Do not include any OLCC fees with your application packet (the license fee will be collected at a later time). Application is being made for:

License Applied For:		CITY AND COUNTY USE ONLY	
<input type="checkbox"/> Brewery 1 st Location	Brewery Additional location (2 nd) <input type="checkbox"/> (3 rd) <input type="checkbox"/>	Date application received and/or date stamp: 4/1/2022	
<input type="checkbox"/> Brewery-Public House (BPH) 1 st location	BPH Additional location (2 nd) <input type="checkbox"/> (3 rd) <input type="checkbox"/>	Name of City or County:	
<input type="checkbox"/> Distillery	<input checked="" type="checkbox"/> Full On-Premises, Commercial	Recommends this license be: <input type="checkbox"/> Granted <input type="checkbox"/> Denied	
<input type="checkbox"/> Full On-Premises, Caterer	<input type="checkbox"/> Full On-Premises, Passenger Carrier	By: _____	
<input type="checkbox"/> Full On-Premises, Other Public Location	<input type="checkbox"/> Full On-Premises, For Profit Private Club	Date: _____	
<input type="checkbox"/> Full On-Premises, Nonprofit Private Club	<input type="checkbox"/> Grower Sales Privilege (GSP) 1 st location	OLCC USE ONLY	
<input type="checkbox"/> GSP Additional location (2 nd) <input type="checkbox"/> (3 rd) <input type="checkbox"/>	<input type="checkbox"/> Limited On-Premises	Date application received: 02/10/2022	
<input type="checkbox"/> Off-Premises	<input type="checkbox"/> Warehouse	Date application accepted: 02/10/2022	
<input type="checkbox"/> Wholesale Malt Beverage & Wine	<input type="checkbox"/> Winery 1 st Location	License Action(s): C/O & C/TN	
Winery Additional location (2 nd) <input type="checkbox"/> (3 rd) <input type="checkbox"/>	(4 th) <input type="checkbox"/> (5 th) <input type="checkbox"/>		

2. Identify the applicant(s) applying for the license(s). ENTITY (example: corporation or LLC) or INDIVIDUAL(S)¹ applying for the license(s):

NORTHROCK 1 LLC

App #1: NAME OF ENTITY OR INDIVIDUAL APPLICANT

App #2: NAME OF ENTITY OR INDIVIDUAL APPLICANT

App #3: NAME OF ENTITY OR INDIVIDUAL APPLICANT

App #4: NAME OF ENTITY OR INDIVIDUAL APPLICANT

3. Trade Name of the Business (Name Customers Will See) Freddies Deli & Pub #3		
4. Business Address (Number and Street Address of the Location that will have the liquor license) 1250 NE Baker St		
City McMinnville	County Yamhill	Zip Code 97128

¹ Read the instructions on page 1 carefully. If an entity is applying for the license, list the name of the entity as an applicant. If an individual is applying as a sole proprietor (no entity), list the individual as an applicant.

Liquor License Recommendation

BUSINESS NAME / INDIVIDUAL: Mad Wines Co. DBA Goodfellow Family Cellars
BUSINESS LOCATION ADDRESS: 845 NE 5th Street
LIQUOR LICENSE TYPE: Winery 2nd Location

Is the business at this location currently licensed by OLCC
Yes No

If yes, what is the name of the existing business:

Hours of operation: N/A
Entertainment: N/A
Hours of Music: N/A
Seating Count: N/A

EXEMPTIONS:
(list any exemptions)

Tritech Records Management System Check: Yes No
Criminal Records Check: Yes No
Recommended Action: Approve Disapprove



Chief of Police / Designee

City Manager / Designee



LIQUOR LICENSE APPLICATION

PRINT FORM

RESET FORM

1. Application. **Do not include** any OLCC fees with your application packet (the license fee will be collected at a later time). Application is being made for:

License Applied For:	CITY AND COUNTY USE ONLY
<input type="checkbox"/> Brewery 1 st Location	Date application received and/or date stamp: <u>4/4/2022</u>
<input type="checkbox"/> Brewery Additional location (2 nd) <input type="checkbox"/> (3 rd) <input type="checkbox"/>	Name of City or County: _____
<input type="checkbox"/> Brewery-Public House (BPH) 1 st location	Recommends this license be: <input type="checkbox"/> Granted <input type="checkbox"/> Denied
<input type="checkbox"/> BPH Additional location (2 nd) <input type="checkbox"/> (3 rd) <input type="checkbox"/>	By: _____
<input type="checkbox"/> Distillery	Date: _____
<input type="checkbox"/> Full On-Premises, Commercial	OLCC USE ONLY
<input type="checkbox"/> Full On-Premises, Caterer	Date application received: <u>2.2.2022</u>
<input type="checkbox"/> Full On-Premises, Passenger Carrier	Date application accepted: <u>2.2.2022</u>
<input type="checkbox"/> Full On-Premises, Other Public Location	License Action(s): <u>N/O</u>
<input type="checkbox"/> Full On-Premises, For Profit Private Club	
<input type="checkbox"/> Full On-Premises, Nonprofit Private Club	
<input type="checkbox"/> Grower Sales Privilege (GSP) 1 st location	
<input type="checkbox"/> GSP Additional location (2 nd) <input type="checkbox"/> (3 rd) <input type="checkbox"/>	
<input type="checkbox"/> Limited On-Premises	
<input type="checkbox"/> Off-Premises	
<input type="checkbox"/> Warehouse	
<input type="checkbox"/> Wholesale Malt Beverage & Wine	
<input type="checkbox"/> Winery 1 st Location	
<input type="checkbox"/> Winery Additional location (2 nd) <input checked="" type="checkbox"/> (3 rd) <input type="checkbox"/> (4 th) <input type="checkbox"/> (5 th) <input type="checkbox"/>	

2. Identify the applicant(s) applying for the license(s). **ENTITY (example: corporation or LLC) or INDIVIDUAL(S)¹** applying for the license(s):

Mad Wines Co.

App #1: NAME OF ENTITY OR INDIVIDUAL APPLICANT

App #2: NAME OF ENTITY OR INDIVIDUAL APPLICANT

App #3: NAME OF ENTITY OR INDIVIDUAL APPLICANT

App #4: NAME OF ENTITY OR INDIVIDUAL APPLICANT

3. Trade Name of the Business (Name Customers Will See) Goodfellow Family Cellars		
4. Business Address (Number and Street Address of the Location that will have the liquor license) 845 NE 5th Street		
City McMinnville	County Yamhill	Zip Code 97128

¹ **Read the instructions on page 1 carefully.** If an entity is applying for the license, list the name of the entity as an applicant. If an individual is applying as a sole proprietor (no entity), list the individual as an applicant.

Liquor License Recommendation

BUSINESS NAME / INDIVIDUAL: 618 3rd St Restaurant LLC/Historic 3rd and Ford LLC dba: Tributary Hotel
BUSINESS LOCATION ADDRESS: 608, 610 & 618 NE 3rd Street
LIQUOR LICENSE TYPE: Full on premises, commercial

Is the business at this location currently licensed by OLCC
 Yes No

If yes, what is the name of the existing business:

Hours of operation: Sunday-Saturday 5pm to 10pm
Entertainment: Recorded music
Hours of Music: open to close
Seating Count: 82; 32 restaurant, 40 basement, 10 (seating throughout hotel)

EXEMPTIONS:
(list any exemptions)

Tritech Records Management System Check: Yes No

Criminal Records Check: Yes No

Recommended Action: Approve Disapprove



Chief of Police / Designee

City Manager / Designee



LIQUOR LICENSE APPLICATION

PRINT FORM

RESET FORM

1. Application. **Do not include** any OLCC fees with your application packet (the license fee will be collected at a later time). Application is being made for:

License Applied For:	CITY AND COUNTY USE ONLY
<input type="checkbox"/> Brewery 1 st Location	Date application received and/or date stamp: <i>4/5/2022</i>
Brewery Additional location (2 nd) <input type="checkbox"/> (3 rd) <input type="checkbox"/>	
<input type="checkbox"/> Brewery-Public House (BPH) 1 st location	Name of City or County: _____
BPH Additional location (2 nd) <input type="checkbox"/> (3 rd) <input type="checkbox"/>	
<input type="checkbox"/> Distillery	Recommends this license be: <input type="checkbox"/> Granted <input type="checkbox"/> Denied
<input checked="" type="checkbox"/> Full On-Premises, Commercial	
<input type="checkbox"/> Full On-Premises, Caterer	By: _____
<input type="checkbox"/> Full On-Premises, Passenger Carrier	Date: _____
<input type="checkbox"/> Full On-Premises, Other Public Location	OLCC USE ONLY Date application received: <u>03/04/2022</u> Date application accepted: <u>03/04/2022</u>
<input type="checkbox"/> Full On-Premises, For Profit Private Club	
<input type="checkbox"/> Full On-Premises, Nonprofit Private Club	License Action(s): A/Licensee A/Privilege
<input type="checkbox"/> Grower Sales Privilege (GSP) 1 st location	
GSP Additional location (2 nd) <input type="checkbox"/> (3 rd) <input type="checkbox"/>	
<input type="checkbox"/> Limited On-Premises	
<input type="checkbox"/> Off-Premises	
<input type="checkbox"/> Warehouse	
<input type="checkbox"/> Wholesale Malt Beverage & Wine	
<input type="checkbox"/> Winery 1 st Location	
Winery Additional location (2 nd) <input type="checkbox"/> (3 rd) <input type="checkbox"/> (4 th) <input type="checkbox"/> (5 th) <input type="checkbox"/>	

2. Identify the applicant(s) applying for the license(s). **ENTITY (example: corporation or LLC) or INDIVIDUAL(S)¹** applying for the license(s):

618 3rd St. Restaurant, LLC

Historic 3rd and Ford, LLC

App #1: NAME OF ENTITY OR INDIVIDUAL APPLICANT

App #2: NAME OF ENTITY OR INDIVIDUAL APPLICANT

App #3: NAME OF ENTITY OR INDIVIDUAL APPLICANT

App #4: NAME OF ENTITY OR INDIVIDUAL APPLICANT

3. Trade Name of the Business (Name Customers Will See) Tributary Hotel		
4. Business Address (Number and Street Address of the Location that will have the liquor license) 608, 610, & 618 NE 3rd Street		
City McMinnville	County Yamhill	Zip Code 97128

¹ Read the instructions on page 1 carefully. If an entity is applying for the license, list the name of the entity as an applicant. If an individual is applying as a sole proprietor (no entity), list the individual as an applicant.



**City of
McMinnville**

ADMINISTRATION

**City of McMinnville
City Attorney's Office**

230 NE Second Street
McMinnville, OR 97128
(503) 434-7303

www.mcminnvilleoregon.gov

STAFF REPORT

DATE: April 12, 2022
TO: Jeff Towery, City Manager
FROM: Amanda Guile-Hinman, City Attorney
SUBJECT: Resolution No. 2022-17: Amendment to the Lease between the City of McMinnville (Lessor) and Gary Wells and Alison Row (collectively, Lessee)

I. Report in Brief

City staff seeks Council consideration of an amendment to the lease between the City and Gary Wells and Alison Row (collectively, "Lessee") for the hangar premises at McMinnville Municipal Airport. This particular lease concerns the premises where Jerry Trimble Helicopters operates its business and flight school.

Upon the recommendation of the Airport Commission, Council is to consider whether to extend the lease term of the office modular building located on the premises from May 1, 2022 to May 1, 2025, with an additional two-year option to extend the lease term of the office modular upon the Lessee meeting certain criteria.

II. Background

In 1998, the City entered into a Lease with Caddis Manufacturing, Inc. to lease certain premises located at the McMinnville Municipal Airport ("Lease"). That Lease is recorded with the Yamhill County Recorder's Office as document no. 199823897. The Lease has been assigned several times since 1998, and Gary Wells and Alison Row are identified as the current Lessee in the Assignment of Lease recorded with the Yamhill County Recorder's Office as document no. 201719130.

In 2012, the then-current lessee requested that the City allow them to locate an office modular building on-site while they worked to either renovate their current hangar or build a new hangar. Pursuant to Resolution No. 2012-10, the City agreed to allow the then-lessee to place an office modular building on the Lease premises. That Resolution required the removal of the office modular building by no later than May 1, 2022.

Prior to the March 1, 2022 Airport Commission meeting, Lessee submitted a request to extend the lease term of the office modular building to either a rolling five-year term or to end at the same time as the current overarching lease, which is May 31, 2038.

While the Airport Commission did not ultimately recommend to extend the lease term requested by Lessee, the Airport Commission recommended an extension of three years to May 1, 2025, with an additional two-year option to extend the office modular lease upon evidence that the office modular building is compliant with applicable laws and regulations and that Lessee has submitted any and all applicable applications necessary to either remodel the existing hangar or build a new hangar to incorporate the uses currently housed in the office modular building.

III. Discussion:

Staff recommends that the Council approve Resolution No. 2022-17, which will allow Lessee additional time to plan for a renovation or new hangar to house its business and flight school. The Airport Commission noted in its discussion that, particularly due to the COVID-19 pandemic, allowing for additional time for such construction to occur was reasonable. However, the Airport Commission wanted to create an incentive and milestone for such renovation or new construction to begin by allowing for an additional two-year extension to the office modular lease term if the Lessee could demonstrate that it had submitted any and all applicable applications necessary to either remodel the existing hangar or build a new hangar to incorporate the uses currently housed in the office modular building.

Given the considerations of COVID-19 and recent supply chain issues, along with the incentive of the additional two-year extension being tied to performance metrics that will demonstrate that either a renovation or new hangar is being undertaken, staff is supportive of the Airport Commission's recommendation.

IV. Attachments:

Attachment: Resolution No. 2202-17
Exhibit A to Resolution No. 2022-17 – Amendment to Lease

V. Fiscal Impact:

N/A.

RESOLUTION NO. 2022-17

A Resolution Authorizing the City Manager to Execute an Amendment to the Lease between the City of McMinnville (Lessor) and Gary Wells and Alison Row (collectively, Lessee).

RECITALS:

Whereas, in 1998, Lessor entered into a Lease with Caddis Manufacturing, Inc. to lease from Lessor certain premises located at the McMinnville Municipal Airport ("Lease"), which is recorded with the Yamhill County Recorder's Office as document no. 199823897; and

Whereas, the Lease has been assigned several times since 1998, and the current Lessees are identified in the Assignment of Lease recorded with the Yamhill County Recorder's Office as document no. 201719130; and

Whereas, in 2012, pursuant to Resolution No. 2012-10, Lessor agreed to allow the then-lessee to place an office modular building on the Lease premises, but required that the office modular building be removed by May 1, 2022; and

Whereas, Lessee requested an extension of the lease term for the office modular building; and

Whereas, at the March 1, 2022 McMinnville Airport Commission meeting, the Airport Commission recommended that Lessor extend the lease term for the office modular building for three years; and

Whereas, the Airport Commission also recommended an additional two-year option to extend the office modular lease upon evidence that the office modular building is compliant with applicable laws and regulations and that Lessee has submitted any and all applicable applications necessary to either remodel the existing hangar or build a new hangar to incorporate the uses currently housed in the office modular building.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF McMINNVILLE, OREGON, as follows:

1. The City Manager is authorized to execute an amendment to the Lease, which amendment must be substantially similar to **Exhibit A** attached hereto.
2. That this resolution shall take effect immediately upon passage and shall continue in full force and effect until modified, revoked, or replaced.

Adopted by the Common Council of the City of McMinnville at a regular meeting held the 12th day of April, 2022 by the following votes:

Ayes: _____

Nays: _____

Approved this 12th day of April 2022.

MAYOR

Approved as to form:

Attest:

City Attorney

City Recorder

EXHIBITS:

- A. Amendment to Lease

After recording, return to:
City of McMinnville
Attn: Legal Department
230 NE Second Street
McMinnville, OR 97128

AMENDMENT TO LEASE

This Amendment to Lease is entered into on this ___ day of _____, 2022 by and between the **City of McMinnville**, a municipal corporation of the State of Oregon (hereinafter referred to as “Lessor”), and **Gary Wells and Alison Row** (collectively, “Lessee”).

RECITALS:

In 1998, Lessor entered into a Lease with Caddis Manufacturing, Inc. to lease from Lessor certain premises located at the McMinnville Municipal Airport (“Lease”). That Lease is recorded with the Yamhill County Recorder’s Office as document no. 199823897. The Lease has been assigned several times since 1998, and the current Lessees are identified in the Assignment of Lease recorded with the Yamhill County Recorder’s Office as document no. 201719130.

In 2012, pursuant to Resolution No. 2012-10, Lessor agreed to allow the then-lessee to place an office modular building on the Lease premises. That Resolution required the removal of the office modular building by no later than May 1, 2022.

Lessee has requested a term extension of the placement of the office modular building on the Lease premises.

The parties desire to amend the Lease to include the provisions provided herein.

NOW, THEREFORE, Lessor and Lessee agree as follows:

1. **Extension of Term.** The Lease is hereby amended to extend the term date when the office modular building must be removed from the Lease premises from May 1, 2022 to May 1, 2025 (“New Modular Term”).

2. **Option to Further Extend.** No less than ninety (90) days prior to the end of the New Modular Term, Lessee may request, in writing, to the City for a two (2) year extension from the New Modular Term, which, if approved, will further extend the New Modular Term to May 1, 2027. The written request from Lessee must include the following information in order for Lessee to receive approval from the City for the additional two (2) year extension:

2.1. Inspections performed by the City building department and the City fire department of the office modular confirming that the office modular is compliant with applicable state and

LESSEE:

Gary Wells, an individual

By: _____

Print Name: _____

STATE OF OREGON)
) ss.
County of _____)

This instrument was acknowledged before me on _____, 20__,
by Gary Wells.

Notary Public – State of Oregon

Alison Row, an individual

By: _____

Print Name: _____

STATE OF OREGON)
) ss.
County of _____)

This instrument was acknowledged before me on _____, 20__,
by Alison Row.

Notary Public – State of Oregon

After recording, return to:
City of McMinnville
Attn: Legal Department
230 NE Second Street
McMinnville, OR 97128

AMENDMENT TO LEASE

This Amendment to Lease is entered into on this ___ day of _____, 2022 by and between the **City of McMinnville**, a municipal corporation of the State of Oregon (hereinafter referred to as “Lessor”), and **Gary Wells and Alison Row** (collectively, “Lessee”).

RECITALS:

In 1998, Lessor entered into a Lease with Caddis Manufacturing, Inc. to lease from Lessor certain premises located at the McMinnville Municipal Airport (“Lease”). That Lease is recorded with the Yamhill County Recorder’s Office as document no. 199823897. The Lease has been assigned several times since 1998, and the current Lessees are identified in the Assignment of Lease recorded with the Yamhill County Recorder’s Office as document no. 201719130.

In 2012, pursuant to Resolution No. 2012-10, Lessor agreed to allow the then-lessee to place an office modular building on the Lease premises. That Resolution required the removal of the office modular building by no later than May 1, 2022.

Lessee has requested a term extension of the placement of the office modular building on the Lease premises.

The parties desire to amend the Lease to include the provisions provided herein.

NOW, THEREFORE, Lessor and Lessee agree as follows:

- Extension of Term.** The Lease is hereby amended to extend the term date when the office modular building must be removed from the Lease premises from May 1, 2022 to May 1, 2025 (“New Modular Term”).
- Option to Further Extend.** No less than ninety (90) days prior to the end of the New Modular Term, Lessee may request, in writing, to the City for a two (2) year extension from the New Modular Term, which, if approved, will further extend the New Modular Term to May 1, 2027. The written request from Lessee must include the following information in order for Lessee to receive approval from the City for the additional two (2) year extension:

2.1. Inspections performed by the City building department and the City fire department of the office modular confirming that the office modular is compliant with applicable state and

local building and fire codes. Lessee is responsible for coordinating with the relevant departments to ensure that such inspections occur.

2.2. Any and all applicable applications for either a remodel to Lessee’s hangar or a new hangar that incorporates the necessary offices, classrooms, and restrooms that are currently housed in the office modular building must be submitted and determined to be complete by the City, and which applications may include, but are not limited to, a building permit application.

3. Temporary Lease Modification. For so long as the Modular Building remains on the Lease premises, Lessee agrees it will not make use of the of the western 20 feet of the Lease Premises currently used for parking (“Western 20 Feet”) and will place no obstructions in the Western 20 Feet. Lessor authorizes Lessee its customers, guests, and invitees to park in designated public parking at no cost or expense to Lessee. For so long as Lessee is not making use of the Western 20 Feet, Lessee’s annual rent shall be reduced by the per square footage rate multiplied by 4,000 square feet (the area of the western portion of the Premises). Once the Modular is no longer on Lease Premises, Lessee’s use of the Western 20 Feet may resume and Lessee will resume paying the full annual rent, unless the parties agree otherwise.

3.4. All Other Terms. All of the other terms and conditions of the Lease, as previously amended shall remain in full force and effect, as therein written. Unless otherwise defined herein, the defined terms of the Lease shall apply to this Amendment.

IN WITNESS WHEREOF, the undersigned have executed this Amendment to Lease effective as of the date first above written.

LESSOR:

ACCEPTED on behalf of the public and Lessor by the City of McMinnville, Oregon:

Jeff Towery, City Manager

STATE OF OREGON)
) ss.
County of Yamhill)

This instrument was acknowledged before me on _____, 20__,
by Jeff Towery, as City Manager of the City of McMinnville.

Notary Public – State of Oregon

APPROVED AS TO FORM:

Amanda Guile-Hinman, City Attorney

LESSEE:

Gary Wells, an individual

By: _____

Print Name: _____

STATE OF OREGON)
) ss.
County of _____)

This instrument was acknowledged before me on _____, 20__,
by Gary Wells.

Notary Public – State of Oregon

Alison Row, an individual

By: _____

Print Name: _____

STATE OF OREGON)
) ss.
County of _____)

This instrument was acknowledged before me on _____, 20__,
by Alison Row.

Notary Public – State of Oregon

STAFF REPORT

DATE: April 12, 2022
TO: Jeff Towery, City Manager
FROM: Jennifer Cuellar, Finance Director
SUBJECT: Sustainable Resources: FY23 Franchise Fees

Strategic Priority and Goal:



CITY GOVERNMENT CAPACITY

Strengthen the City's ability to prioritize & deliver municipal services with discipline and focus.

Report in Brief:

At the Council's 6/22/2021 meeting, the governing body adopted its 2021 Annual Goals; included among them is the following goal under City Government Capacity:

Right-Size Services: Address insufficient resources by finding new sustainable funding sources: Looking for ways to bring additional revenue into the City's general fund

This goal came following the difficult FY2021-22 budget decisions which required service cuts and in recognition of the long-term trend of leaning on reserves to backfill budget gaps and pay for general operating activities. New sustainable resources are required to support a steady state budget relative current service levels as they cannot be supported by the traditional mix of property tax and existing general fund revenue sources such as franchise fees, state shared revenues, and fees for service. A commitment to rebuild reserves; make prudent investments in facilities maintenance and capital equipment replacement; and meet MacTown 2032 strategic plan goals with new programming require an even more substantial level of additional resources.

At the work sessions on 2/16/2022 and 3/22/2022, concrete options to add sustainable resources to the City of McMinnville General Fund were presented and discussed by Council and the Budget Committee (with the McMinnville Water and Light's Commission also in joint session at the February meeting). These deliberations, as well as input from the series of meetings undertaken over the last year on sustainable resources and core service delivery, indicates that Council is interested in acting on this 2021 goal to assure service level continuity and, in some priority areas, improvements in core service delivery. The importance of addressing deferred maintenance and capital equipment replacement as well as offering new programming to serve MacTown 2032's strategic goals and priorities has also been a theme many Council and Budget Committee members have stressed in these public meetings.

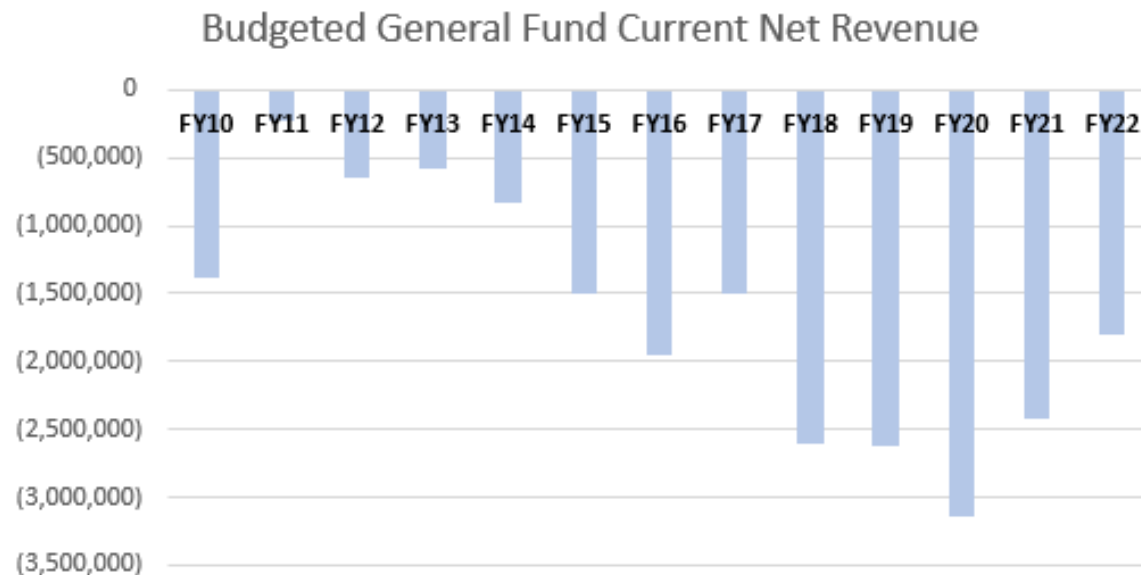
A decision on three resolutions is sought at the Council meeting of 4/12/2022. In addition, guidance on preferred approach for addressing the impact of a higher franchise rate for wastewater is also requested.

Discussion:

The primary vehicle discussed for increasing stable funding for the City of McMinnville has been establishing a City Services Charge. While staff has received indication of the preferred charge structure (option 3 of the 4 structures described by our rate consultant Deborah Galardi), concerns about the timing of this new charge relative the Fire District ballot measure indicate that there is more interest in focusing efforts on franchise and payment in lieu of tax (PILOT) for the FY2022-23 budget cycle. In addition, the complexities of implementing a service charge in partnership with McMinnville Water and Light, the City of McMinnville's municipal utility component unit, mean that it would pragmatically not be ready for next year's budget starting July 1, 2022.

A mix of two franchise fees and PILOT will combine to raise resource levels for general fund core services including police, fire, library, parks and recreation, short- and long-term planning efforts and municipal court, among others. The amount of resources to be generated depend on the fee levels across the three municipal fee types, all funding mechanisms that are commonly utilized by Oregon cities to support general fund activities that McMinnville seeks to stabilize and strengthen with time.

The budget gap staff is working to close for FY2022-23 for a steady state budget – one that does not include add packages - is consistent with the largest negative net revenue general fund budget adopted for FY2019-20.



Option 1:

At one end of the spectrum, Council might opt to establish a water franchise fee at 5%, consistent with the current wastewater franchise fee, and remove the subsidy for industrial electric customer contribution to PILOT. Currently, industrial customers pay 3% while all other commercial and residential electric utility payers are charged double that rate at 6%. This would generate approximately \$700,000 more general fund revenue in FY2022-23.

At this level of new sustainable revenues, it would require staff to present a budget that strips out routine building maintenance and capital investments as well as a reduction in service levels relative to the staffing capacity and program costs present in the current

fiscal year. No investments in raising the service delivery level of any core services from below base to base or adding capacity in new initiatives envisioned by MacTown 2032 could be contemplated.

Estimates for additional resources - Option 1

			Resid %	Biz-Industrial %
Payment in Lieu of Tax (PILOT)	500,000	all pay 6%	34%	66%
Water Franchise Fee*	205,000	5% franchise net revenue	58%	42%
Wastewater Franchise Fee	0	5% franchise fee (unchanged)	77%	23%
Total Additional Revenue	705,000		41%	59%

*Net amount noted, assumes \$200k annual water costs

Staff does not recommend Option 1 as it would result in a FY2022-23 budget requiring general fund service level reductions.

Option 2:

Staff recommends that the Council set the payment rates for all three of these revenue streams at 10%. This proposed action would also remove the significant subsidy that heavy industrial customers have enjoyed relative all other electric utility customers since it was first established over thirty years ago by the City Council in 1990.

Estimates for additional resources - Option 2

			Resid %	Biz-Industrial %
Payment in Lieu of Tax (PILOT)	2,175,000	all pay 10%	34%	66%
Water Franchise Fee*	605,000	10% franchise net revenue	58%	42%
Wastewater Franchise Fee	535,000	10% franchise fee	77%	23%
Total Additional Revenue	3,315,000		45%	55%

*Net amount noted, assumes \$200k annual water costs

This estimated funding injection totals \$3.3 million, enough to allow for a steady state budget along with basic facilities maintenance and capital investments. It also stretches to make some targeted advances on improving core service delivery levels from below base to base and MacTown2032 priority investments that in past years have not been possible.

While this amount is substantial, budget challenges would still be faced in terms of continuing to make progress on budgeted reserve targets as well as with core services investments and MacTown 2032 programming. We anticipate new resources will also be required to meet state mandates and our own local aspirations to better serve historically marginalized communities, address climate change and build resiliency in the face of potential natural disasters, while also future proofing our community so that it remains affordable and desirable to live and work in for new generations of upper-Willamette Valley Oregonians.

It merits noting that 10% will be among the highest franchise and PILOT rates in the state. Despite this unfavorable benchmark, this solution represents the best - and most realistic - funding strategy still open to the Council that can be enacted and implemented for the FY2022-23 budget year.

In December 2021, the City Manager and Mayor met with the Chief of Steel Operations and Business Performance of Schnitzer Steel Industries, Inc., the parent company of Cascade Steel. Among the topics of conversation was the PILOT subsidy and rate

generally. Mr. Ruckwardt expressed concerns about making changes to the PILOT because the steel industry is “a very cyclical commodity business with relatively low margins.” He shared Schnitzer Steel’s response to rule changes at the state level on Oregon’s Climate Protection Program (attached).

In terms of equity associated with the balance of resident to commercial and industrial contributions towards new sustainable resources for city programming, the weighted average contribution for this proposed combination of actions is 45% residential and 55% commercial and industrial customers. This compares favorably with 82% residential to 18% commercial and industrial estimates for the favored Option 3 of the City Service Charge rate structure.

When the lay of the land is clearer regarding the significant choices that will be brought to McMinnville voters in the next 6 to 24 months regarding the creation of a new fire district and a bond measure to support new recreation and library facilities, a rebalancing of franchise fees, PILOT rates and even a city services charge can be made so that the City’s funding is equitably shouldered by all the beneficiaries of great city services – all McMinnville’s residents and business owners, large and small, operating in town.

Wastewater Rate Recommendation Input Needed

At the 3/22/2022 work session, a wastewater utility rate study presentation was given. The recommendation of no rate increase for FY2022-23 included the assumption that the wastewater franchise fee would remain 5%. City staff seek input from Council as to preferences for how to proceed given decisions made tonight on an increase to the wastewater franchise fee:

1. Maintain a 0% wastewater rate increase for FY2022-23 and consider lower fund balance/higher rate increases in future years as part of FY2023-24 fiscal planning
2. Increase wastewater rates by the same amount of the franchise fee rate increase, thus keeping long range financial projections on same trajectory
3. Phase in wastewater rate increase by half on 7/1/2022 and the other half on either 1/1/2023 or 7/1/2023

Based on feedback from Council, staff will run the data through the rate model and come back with a refined recommendation and action, as needed, on FY2022-23 wastewater rates.

McMinnville Water and Light partnership

While less complicated than work required with the City Services Charge, implementation of a new water franchise fee and updates to the wastewater franchise fee and PILOT will impact the City’s utility component unit, McMinnville Water and Light. As the Council makes these decisions, it is effectively instructing McMinnville Water and Light staff, as well as City staff, to execute these resolutions in time for a 7/1/2022 start date.

Concerns from McMinnville Water and Light’s appointed Commissioners and staff have been raised regarding the new revenue options under consideration this last year. City employees will continue to partner with utility staffers to address implementation issues with the goal of efficient business processes with strong internal control frameworks.

Fiscal Impact:

These discussions will have an impact on the City’s financial sustainability and ability to maintain services in the FY23 budget cycle and beyond.

To meet budget process deadlines and allow the Council, Budget Committee and public ample time to review the proposed budget prior to mid-May public meetings, staff had to include assumptions on new revenues for the City and includes Option 2 assumptions in the balanced, proposed budget. Should Council choose a different revenue path, staff will prepare a companion document that describes the programming and budgetary impacts of a smaller or larger revenue estimate for the general fund in FY2022-23.

Attachments:

1. Resolution 2022-19, Payment in Lieu of Tax
2. Resolution 2022-20, Wastewater Franchise Fee
3. Resolution 2022-21, Water Franchise Fee
4. Schnitzer comments on rulemaking to Oregon Department of Environmental Quality on the Climate Protection Program

RESOLUTION NO. 2022-19

A Resolution Establishing an In-Lieu-Of Tax Payment of Ten Percent (10%) by the Water and Light Commission to the City of McMinnville from the Electric Utility and Repealing Resolution Nos. 1988-31, 1990-4, and 2003-14.

RECITALS:

Whereas, the Water and Light Commission is authorized and empowered by City Charter to act on behalf of the City in the management, operation, and acquisition of electricity; and

Whereas, ORS 225.270 provides that a municipal electric utility shall pay to the City not less than three percent (3%) of the annual gross operating revenue of such utility; and

Whereas, since 1961, the Water and Light Commission has paid to the City in-lieu-of tax payments; and

Whereas, in 1988, the City Council, via Resolution No. 1988-31, established an in-lieu-of tax payment by the Water and Light Commission of six percent (6%) of annual gross operating revenue except for heavy industrial users that had a rate of four and one-half percent (4.5%); and

Whereas, in 1990, the City Council, via Resolution No. 1990-4, again required an in-lieu-of tax payment by the Water and Light Commission of six percent (6%) of annual gross operating revenue, but it reduced the rate for heavy industrial users from four and one-half percent (4.5%) to three percent (3%); and

Whereas, the City Council, via Resolution No. 2003-14, established that each Water and Light customer within the heavy industry class shall be charged, at maximum, the total actual fee revenue collected from that heavy industry customer plus three percent (3%), and each subsequent year increase could not exceed three percent (3%); and

Whereas, the City seeks additional revenues to ensure that the City can continue to operate at current levels of service, and

Whereas, the City's property tax, the largest revenue source supporting general fund City services, cannot be increased due to State Measures 5 and 50 passed in the 1990s.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF McMinnville, OREGON, as follows:

1. Beginning on July 1, 2022, the in-lieu-of tax payment by the Water and Light Commission to the City of McMinnville is ten percent (10%) of annual gross operating revenue across all customer classes.
2. Resolution Nos. 1988-31, 1990-4, and 2003-14 are hereby repealed.
3. That this resolution shall take effect on July 1, 2022 and shall continue in full force and effect until modified, revoked, or replaced.

Adopted by the Common Council of the City of McMinnville at a regular meeting held the 12th day of April, 2022 by the following votes:

Ayes: _____

Nays: _____

Approved this 12th day of April 2022.

MAYOR

Approved as to form:

Attest:

City Attorney

City Recorder

RESOLUTION NO. 2022-19

A Resolution establishing an in-lieu-of tax payment of six percent (6%) by the Water and Light Commission to the City of McMinnville from the electric utility and repealing Resolution Nos. 1988-31, 1990-4, and 2003-14.

RECITALS:

Whereas, the Water and Light Commission is authorized and empowered by City Charter to act on behalf of the City in the management, operation, and acquisition of electricity; and

Whereas, ORS 225.270 provides that a municipal electric utility shall pay to the City not less than three percent (3%) of the annual gross operating revenue of such utility; and

Whereas, since 1961, the Water and Light Commission has paid to the City in-lieu-of tax payments at a rate of six percent (6%); and

Whereas, in 1988, the City Council, via Resolution No. 1988-31, established an in-lieu-of tax payment by the Water and Light Commission of six percent (6%) of annual gross operating revenue except for heavy industrial users that had a rate of four and one-half percent (4.5%); and

Whereas, in 1990, the City Council, via Resolution No. 1990-4, again required an in-lieu-of tax payment by the Water and Light Commission of six percent (6%) of annual gross operating revenue, but it reduced the rate for heavy industrial users from four and one-half percent (4.5%) to three percent (3%); and

Whereas, the City Council, via Resolution No. 2003-14, established that each Water and Light customer within the heavy industry class shall be charged, at maximum, the total actual fee revenue collected from that heavy industry customer plus three percent (3%), and each subsequent year increase could not exceed three percent (3%); and

Whereas, the City seeks to reinstate its in-lieu-of tax payment of six percent (6%) of annual gross operating revenue across all electric utility customer classes.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF McMINNVILLE, OREGON, as follows:

1. Beginning on July 1, 2022, the in-lieu-of tax payment by the Water and Light Commission to the City of McMinnville is six percent (6%) of annual gross operating revenue across all customer classes.

2. Resolution Nos. 1988-31, 1990-4, and 2003-14 are hereby repealed.
3. That this resolution shall take effect on July 1, 2022 and shall continue in full force and effect until modified, revoked, or replaced.

Adopted by the Common Council of the City of McMinnville at a regular meeting held the 12th day of April, 2022 by the following votes:

Ayes: _____

Nays: _____

Approved this 12th day of April 2022.

MAYOR

Approved as to form:

Attest:

City Attorney

City Recorder

RESOLUTION NO. 2022-20

A Resolution Revising Paragraph F of Resolution No. 2019-35 Regarding the Franchise Fee for Wastewater Services.

RECITALS:

Whereas, in 2019, the City Council, via Resolution No. 2019-35, established a franchise fee for wastewater services; and

Whereas, the franchise fee is provided in paragraph F of Resolution No. 2019-35, and is in the amount of five percent (5%) of all wastewater revenues generated from the user fees set forth therein; and

Whereas, franchise fees collected by the City support general fund City services and the City seeks resources to maintain its current levels of service.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF McMinnville, OREGON, as follows:

1. Beginning on July 1, 2022, paragraph F of Resolution No. 2019-35 is amended as follows: "five-percent (5%)" of paragraph F is hereby deleted and replaced with "ten percent (10%)."
2. All other terms of Resolution No. 2019-35 continue to be in full force and effect.
3. That this resolution shall take effect on July 1, 2022 and shall continue in full force and effect until modified, revoked, or replaced.

Adopted by the Common Council of the City of McMinnville at a regular meeting held the 12th day of April, 2022 by the following votes:

Ayes: _____

Nays: _____

Approved this 12th day of April 2022.

MAYOR

Approved as to form:

Attest:

City Attorney

City Recorder

RESOLUTION NO. 2022-21

A Resolution Establishing a Franchise Fee for Water Services.

RECITALS:

Whereas, the City of McMinnville, by and through the Water and Light Commission, provides water services throughout the city and the region and utilizes publicly-owned space including, but not limited to, City right-of-way and easement areas, to provide such services; and

Whereas, the City seeks to establish a franchise fee for water services to compensate the City for the use of its right-of-way and easement areas.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF McMINNVILLE, OREGON, as follows:

1. Beginning on July 1, 2022, a franchise fee in the amount of ten percent (10%) is assessed on all water revenues generated from the user fees collected for the provision of water services provided by the City through the Water and Light Commission.
2. The water franchise fee will be remitted by the Water and Light Commission to the City each month and will be transferred to the City General Fund for appropriation by the City Council.
3. This resolution shall take effect on July 1, 2022 and shall continue in full force and effect until modified, revoked, or replaced.

Adopted by the Common Council of the City of McMinnville at a regular meeting held the 12th day of April, 2022 by the following votes:

Ayes: _____

Nays: _____

Approved this 12th day of April 2022.

MAYOR

Approved as to form:

Attest:

City Attorney

City Recorder



October 25, 2021

PETER B. SABA
Direct: (503) 323-2809
psaba@schn.com

Nicole Singh (GHGCR2021@deq.state.or.us)
Oregon Department of Environmental Quality
700 NE Multnomah St.; Suite 600
Portland, OR 97232-4100

Re: Comments on DEQ’s Notice of Proposed Rulemaking – Greenhouse Gas Emissions Program 2021 Rulemaking (GHGCR2021): Climate Protection Program

Dear Ms. Singh:

Schnitzer Steel Industries, Inc. (“Schnitzer”) appreciates the opportunity to comment on the State of Oregon Department of Environmental Quality (“DEQ”) Proposed Rulemaking for the Greenhouse Gas Emissions Program. Schnitzer began operations in Portland, Oregon in 1906. Through our recycling operations and state-of-the-art mini-mill at the Cascade Steel Rolling Mills (“Cascade”) located in McMinnville, Oregon, we are a major contributor to Oregon’s employment, economy, and environmental stewardship. Cascade is listed as a potentially covered stationary source that would be subject to the proposed rule.

At Schnitzer, sustainability is at the core of what we do as a leader in the metals recycling industry and is at the core of how we operate. We have and are continuing to take action to reduce greenhouse gases. However, we are concerned that the proposed rule will not promote those actions and as structured contains provisions that are contrary to the program’s objectives and that would create substantial “leakage” resulting in increased greenhouse gas (“GHG”) emissions.

As further detailed below, our key comments on the proposed rule include:

- Best Available Emission Reduction (BAER) Regulation for Covered Stationary Sources Provides a Sound Approach to Achieving the Program’s Goals, But Needs Important Revisions to Work Properly
- Subjecting Covered Stationary Sources that Use Natural Gas, Such As Cascade, to Dual Regulation (BAER and Cap) Creates Unnecessary Complexity and Would Be Counterproductive
- The Proposed Program takes an Unnecessarily Costly Approach to Compliance and Should Provide Greater Flexibility for Obtaining Compliance Instruments and Compliance Credits

A. Sustainability at Schnitzer

In December 2020, we issued our seventh annual Sustainability Report centered around our sustainability framework of People, Planet, and Profit. Advancing sustainable business practices, including reduction of greenhouse gases and further integrating sustainability throughout our operations, have been foundational elements of our success. We provided our first set of company-wide, multi-year sustainability goals in our December 2019 report. These goals included reducing greenhouse gas emissions from our recycling operations by 25% and achieving and maintaining 90% carbon-free electricity use, both by the end of Fiscal 2025. Two accomplishments that I want to highlight here include:

- First, we have already achieved a 15% reduction in greenhouse gas emissions at our recycling operations; and
- Second, we exceeded our 90 percent carbon-free electricity goal well before our original target date of Fiscal 2025.

As a result, our new carbon-free electricity goal is to achieve 100 percent net carbon-free electricity usage by the end of Fiscal 2022. As a Company, we are making substantial progress in achieving our sustainability goals and contributing to a lower-carbon future.

B. Cascade's Role in a Low-Carbon Future

Our low-carbon steel manufacturing at Cascade is at the forefront of our sustainability efforts. Cascade is a state-of-the art, energy-efficient, electric arc furnace ("EAF") unique to Oregon's economy. We produce long products, such as rebar and wire rod, using 100% recycled scrap metal primarily sourced from our own metals recycling operations throughout Oregon. Moreover, over 95% of Cascade's electricity consumption comes from carbon-free generation sources, and we use natural gas for our reheat furnaces.

Using recycled metal in steel manufacturing as we do at Cascade saves approximately 75% in energy input, reduces water use by approximately 40% and virgin material use by 90%, and minimizes mining waste generation by 97% compared to steel manufacturing using newly mined ore. Using recycled scrap metal as our feedstock at Cascade results in significant greenhouse gas savings compared to traditional steel manufacturing from newly mined ore. Based on our output of finished steel products for fiscal year 2020, we estimate that production at Cascade resulted in approximately 90% avoidance of the greenhouse gas emissions on a CO₂ equivalent basis in relation to producing the same amount of steel at a blast furnace, which is the most common form of steel production. In other words, if this steel was produced by a competitor using a blast furnace it would have resulted in almost 10 times the amount of GHG emissions.

As a result, fiscal 2020 production at Cascade's state-of-the-art mill avoided more than 687,000 metric tons of CO₂ equivalent emissions as compared to traditional steel production. Due to its EAF process, utilization of carbon-free electricity, and locally sourced recycled metals, Cascade already produces steel at extremely low carbon emissions compared to its competitors. As the only EAF mini-mill in the State, the Climate Protection Program should be incentivizing production and expansion at Cascade, or at a

minimum not put Cascade’s production at a competitive disadvantage, in order to support a lower carbon future.

Cascade is an Energy/Emissions Intensive Trade Exposed (EITE) business. Our finished steel products trade as a commodity and given our output relative to the markets in which we compete, we are a “price taker” meaning we do not have the ability to pass on higher production or regulatory costs to our customers. Moreover, we compete with producers in jurisdictions both nationally and internationally that do not have costs or other regulations to reduce greenhouse gas emissions. It is critical that the Climate Protection Program be designed to provide adequate protection to EITE businesses such as Cascade and not put Cascade at a competitive disadvantage. Failure to provide such protections in the final rule would likely undermine the program’s objectives and result in increased greenhouse gas emissions as production shifts from Cascade’s relatively low carbon steel to higher carbon steel produced elsewhere as a result of “leakage.”

Also, as described in the 2018 Vivid Economics report, *Oregon Sectoral Competitiveness under Carbon Pricing*, prepared for the Oregon Carbon Policy Office, the primary metals manufacturing sector is relatively significant to the Oregon economy. 400 employees keep the Cascade steel mill operating, 280 of which are members of the United Steel Workers Union. Cascade is the largest employer in McMinnville. The steel mill’s operations also directly support 130 employees in our Portland Yard and another 40 at locations around the State. These are all family-wage jobs. Cascade’s ripple effect within the economy is estimated at 1200 additional jobs in McMinnville and 1700 statewide, when using the economic multiplier of approximately 3 jobs for every 1 manufacturing job. The impact on these workers and on Oregon’s economy needs to be fully considered prior to finalizing the rule.

C. Specific Comments on the Proposed Rule

1. Best Available Emission Reduction (BAER) Regulation for Covered Stationary Sources Provides a Sound Approach to Achieving the Program’s Goals, But Needs Important Revisions to Work Properly

We are encouraged to see the Best Available Emissions Reduction (BAER) framework for facilities with process emissions, such as Cascade, but believe that the assessment and determination process needs important refinement to be structured clearly and appropriately.

a. Objective Criteria for BAER Determinations Needed

We have concerns regarding the language of the proposed BAER rules. Specifically, proposed OAR 340-271-0320(2) states that DEQ “may consider any information it deems relevant” in making a BAER determination and sets forth the factors which DEQ “must consider.” While that list sets forth critical factors that we agree should be considered, nowhere does the proposed rule language define the objective criteria ultimately used to establish BAER. The Environmental Quality Commission (EQC) is delegated authority to adopt rules by the legislature. That delegation depends on the EQC establishing objective standards by which DEQ makes decisions and employs its delegated authority. A rule that fails to establish objective criteria to which the agency must adhere is constitutionally defective. Neither the definition of BAER in proposed OAR 340-271-0020(2), nor the proposed language about BAER determinations in proposed OAR 340-271-0320, identify any objective criteria to be used by DEQ to establish BAER. This does a disservice to the agency staff who must implement the rule as well as the

regulated entities and general public. Therefore, we suggest that the definition of “BAER” in proposed OAR 340-271-0020(2) be revised as follows to establish clear criteria:

“Best available emissions reduction determination” or “BAER determination” means a DEQ determination of the required actions to limit covered emissions from a covered stationary source. The BAER determination may include conditions, requirements, or a combination of conditions and requirements. DEQ must make each BAER determination on a case-by-case basis and find that the determination is technically feasible, does not change the nature or quality of product produced and does not impose excessive energy, environmental or economic impacts upon the source.

We recommend reflecting this same concept in proposed OAR 340-271-0320(1):

DEQ may make a BAER determination for each covered stationary source that must submit a BAER assessment as provided in OAR 340-271-0310. A BAER determination will establish the actions that a covered stationary source must take to reduce covered emissions and the timeline on which the actions must be taken. BAER determinations shall be made on a case-by-case basis based on findings that the determination is technically feasible, does not change the nature or quality of product produced and does not impose excessive energy, environmental or economic impacts upon the source.

Adding such clarity of the rules will improve the efficiency of program implementation and enable the public to better understand the process.

Such clarity is also critical for the proper functioning of the process for review of DEQ determinations. We support the inclusion of proposed OAR 340-271-0320(7) that provides a mechanism for owners or operators of a covered stationary source to challenge a BAER determination through a contested case hearing. However, such a process is illusory at best unless there is clear standard against which DEQ’s determination can be reviewed.

b. Economic Impact Considerations Should Focus on Cost-Effectiveness, Not on Cost-Prohibitiveness

In relation to the information that DEQ must consider in making a BAER determination, we support the concept expressed in proposed OAR 340-271-0310(2)(f) that economic impacts must be considered. The heart of any such determination process is assessing the cost/benefit of a particular option and providing a means to compare options based on relative and incremental cost-effectiveness. However, we strongly encourage revising this portion of the proposed rule to provide greater clarity. Currently the proposed language suggests comparing the cost of a particular control to whether the costs are so extreme that “a new source could not be built or an existing source could not be operated.” Any suggestion that a source should have to install a control technology unless the cost is so prohibitive that the plant would not be built or would be shut down is an unprecedented and inappropriate standard. Furthermore, it focuses on the entirely wrong metric. All other cost-effectiveness standards relating to

air emissions of which we are aware reduce the assessment to a “dollars per ton” evaluation tool. This type of approach is well-established in DEQ and federal programs. This approach properly focuses the assessment not on whether adopting the technology would put the source out of business (and its employees out of work), but whether there is a meaningful return in terms of GHG reductions on the investment. This both allows meaningful comparisons between options as well as ensures that resources are properly allocated. A technology that costs \$1 million to control one ton of greenhouse gas should be rejected regardless of whether the source could afford it.

c. Environmental Impact Considerations Should Be Consistent with Statutory Authority

We are also concerned as to the language relating to the consideration of environmental impacts as part of a BAER determination. The proposed OAR 340-271-0310(2)(e) states that the air quality impacts for nearby communities must be assessed in evaluating potential control options. We agree that there should be a means for rejecting certain proposed emission reduction technologies based on their having negative impacts on neighboring communities. For example, increased biomass combustion would, in many circumstances, not be an appropriate choice for BAER as it impacts community air quality. However, the BAER process is fundamentally part of a program to reduce GHG emissions and cannot be a mechanism to impose unrelated emission controls. The statutory authority underpinning the program does not extend to imposing reductions of emissions other than “covered emissions” as defined elsewhere in the proposal. We request that DEQ clearly state that the assessment of air quality impacts is limited to evaluation of whether a technology option is not appropriately chosen and that reductions of non-GHG pollutants cannot be the basis for choosing an emission reduction technology as BAER.

d. Five Year BAER Reassessment Period Is Too Short and Should Be Extended to 10 Years

We also are very concerned that the proposed approach of reassessing BAER every five years is too short and should be extended to 10 years. Conducting BAER assessments and then implementing any required actions will be complex and significant undertakings that especially with respect to implementation of capital investment will require multi-year planning, permitting, construction and start-up timeframes before it is possible to assess the effectiveness and GHG reductions achieved by such measures. Moreover, it is highly unlikely that new, achievable, technically feasible, tested, commercially available, and cost-effective GHG emission reduction technologies will be available on such a rapid, five-year cycle. Accordingly, the five-year reassessment cycle is not practical and unduly burdensome and should be extended to 10 years.

e. Stationary Sources Should Have Additional Compliance Flexibility

In addition, consistent with principles of how best to design climate change programs to achieve greenhouse gas emission reductions in the most cost-effective manner, the BAER determination process should include a mechanism where stationary sources can meet their obligation to implement the reductions mandated by the BAER determination through purchasing offsets or credits. Mandates to take or implement certain measures as would be reflected in a BAER determination are inherently a blunt, command and control instrument.¹ If a stationary source is able to achieve the equivalent reductions in greenhouse gas emissions through obtaining offsets or credits then an efficient regulatory

¹ See, e.g., proposed OAR 340-271-0320(1) (“A BAER determination will establish the actions that a covered stationary source must take to reduce covered emissions and the timeline on which the actions must be taken.”)

approach should allow for such a mechanism. Additional compliance flexibility will also reduce “leakage” risk and benefit Oregon’s economy and workers by achieving GHG emission reductions at lower costs.

2. Subjecting Covered Stationary Sources that Use Natural Gas to Dual Regulation (BAER and Cap) Creates Unnecessary Complexity and Would Be Counterproductive

Emissions from Natural Gas Use by Covered Stationary Sources Should Be Regulated as Covered Emissions of the Stationary Source and Not as Covered Emissions of the Local Distribution Company

For potentially covered stationary sources such as Cascade, the proposed rule provides that covered emissions would not include emissions from natural gas used on-site that was delivered by a local distribution company (“LDC”).² Instead those emissions would be attributed to the LDC as a covered fuel supplier and subject to the annual reduction in the greenhouse gas emissions limits allocated to that fuel supplier. Covered fuel suppliers would be required to demonstrate compliance with their greenhouse gas emissions limits through the use of compliance instruments and community climate investments (“CCI”) credits.

How the annual reduction in the fuel supplier’s allocation and the associated costs of demonstrating compliance by the fuel supplier would be passed on to Cascade are not addressed in the rule. Presumably these critical issues would be addressed in rate making proceedings before the Oregon Public Utilities Commission (PUC). However, the process and cost of compliance have not been fully evaluated, and the impact on Cascade of this proposed approach creates significant regulatory and cost uncertainty. Assuming that Cascade’s LDC would have to buy CCI credits to meet their reducing cap and passes those costs proportionally to Cascade, we have estimated that the additional cost to Cascade could exceed \$2 million a year by 2035 (we understand that NW Natural has predicted that the cost of natural gas will increase by more than 50% for industrial sources by 2047).

We believe that the proposed rule’s approach to the combustion of natural gas by stationary sources is backward and creates a significant risk of “leakage” for EITE businesses such as Cascade that is contrary to the goals of the program. Instead, natural gas emissions from stationary sources should be included, not excluded, as covered emissions of the stationary source consistent with the long-standing reporting under DEQ’s Greenhouse Gas Reporting Program and subject to the BAER assessment and determination framework along with the other process emissions of these facilities. Correspondingly, those emissions should be excluded from the fuel supplier’s covered emissions.

We believe that the proposed rules would introduce significant complexity for those few stationary sources that have natural gas combustion emissions, are not direct connects, and also have stationary source covered emissions of more than 25,000 tons per year. Cascade has integrated processes that generate both natural gas combustion emissions that would be subject to the cap (as the rule is proposed) and covered process emissions. As a result, we will be required to determine BAER for equipment whose natural gas combustion emissions are subject to the cap. This is going to create tremendous complexity and put the two aspects of the program in tension with one another. It is not even clear how BAER could be determined for equipment where a significant quantity of emissions from

² See proposed OAR 340-271-0110(5)(b)(B)(iv).

that equipment is not subject to BAER (but, rather, the cap). By contrast, covering both combustion and process emissions as part of the same BAER process will not significantly increase administrative burden while allowing for a holistic assessment of a facility such as ours. Our understanding is that very few stationary sources have integrated processes that would be subject to both BAER and the cap. For sources, such as Cascade, that would be so regulated under both aspects of the proposed rule, we strongly urge DEQ to revise the final rule so that a stationary source subject to BAER is not also regulated under the cap. Such an approach would simplify implementation and avoid contradictory incentives that could slow or even prevent optimal process improvements and greenhouse gas reductions.³

With these goals in mind, we recommend that DEQ revise proposed OAR 340-271-0110(4) and (5) as shown below:

(4) Applicability for local distribution companies.

(b) Except as provided in paragraph (B), covered emissions include emissions described in paragraph (A).

(B) Covered emissions do not include:

(i) Emissions that are from the combustion of biomass-derived fuels including biomethane;

(ii) Emissions described in 40 CFR part 98 subpart W – Petroleum and Natural Gas Systems;

(iii) **Emissions from the combustion of solid or gaseous fuels at stationary sources subject to OAR 340-271-0310;**

(iv) Emissions that result from non-combustion-related processes that use natural gas, as determined by DEQ; and

(iv) Emissions from natural gas delivered to an air contamination source that is an electric power generating plant with a nominal electric generating capacity greater than or equal to 25 megawatts.

(5) Applicability for stationary sources.

(B) Covered emissions do not include:

³ In addition, such an approach would avoid the inequitable and inexplicable disparate treatment of covered stationary sources that use natural gas based solely on the method of natural gas distribution. Cascade purchases the natural gas it uses in its manufacturing process on a merchant basis and that natural gas is delivered through a LDC. If the same natural gas was delivered through a direct connect, it would be included, not excluded from Cascade's covered emissions and would be subject to the BAER assessment and determination framework and not the cap applied to fuel suppliers. From the perspective of climate science and design of a sound GHG emissions program, it makes no difference whether Cascade's natural gas molecules are delivered through a direct connect or LDC. The recommended revision to the proposed rule would eliminate this inequitable regulatory disparity.

(iv) Emissions from natural gas, compressed natural gas, or liquefied natural gas used onsite that was delivered by a local distribution company **unless the stationary source is subject to OAR 340-271-0310 in which case such emissions shall be solely addressed through the BAER process;**

3. The Proposed Program takes an Unnecessarily Costly Approach to Compliance and Should Provide Greater Flexibility for Obtaining Compliance Instruments and Compliance Credits

A key objective of any well-designed GHG emissions program should be to obtain the required GHG emissions in the most cost-effective manner. Trading of compliance instruments and availability of compliance credits or off-sets are critical to achieving that objective. However, the program as proposed unnecessarily constrains trading of compliance instruments and inappropriately limits the amount and source of compliance credits. Climate change is a global issue, and as long as the GHG emission reduction that is achieved is measurable and verifiable then there should be no limitation on how a covered source meets its compliance obligation, including obtaining compliance instruments, credits or off-sets. To do otherwise, unnecessarily harms Oregon's workers and economy and significantly increases the risk of "leakage" by imposing additional, unneeded costs on Oregon products and shifting manufacturing and emissions to other regions to the detriment of the program's goals to reduce GHG emissions.

As proposed, the program limits trading of compliance instruments to excess compliance instruments among covered fuel suppliers and limits the application of credits to not more than 10% increasing to 20% of a fuel supplier's compliance obligations and then only limited to credits from contributions to Community Climate Investment entities. At this time, it is unclear to what extent covered fuel suppliers will generate excess compliance instruments and even if they do, given their limited options for obtaining instruments or credits in the future whether they will be willing to trade such credits or will just retain them for future use. Without broader options, one can reasonably expect that the trading of compliance instruments will be limited. As a result, the program is then reliant on the availability of credits from yet to be established Community Climate Investment entities and then as noted, only for a limited percentage of a covered entity's compliance obligations. This structure is likely to result in compliance costs that far exceed, by some estimates as much as 10 times, the cost of obtaining equivalent measurable and verifiable emission reductions through a broader allowance and trading framework.

We strongly urge revisions to the proposed program that will increase the availability of alternative compliance instruments in the form of verified allowances and credits with no percentage caps or geographic limitations. Such revisions would result in more cost-effective GHG emission reductions, promote compliance, and minimize "leakage."

D. Conclusion

At Schnitzer, sustainability is at the core of what we do as a leader in metals recycling industry and is at the core of how we operate. In 2021, we were recognized as one of the World's Most Ethical Companies for the seventh consecutive year by Ethisphere Institute, a global leader in defining and advancing the

standards of ethical business practices. We were the only metals recycling company worldwide, the only U.S. steel manufacturing company, and one of only three companies in the “Metals, Minerals and Mining” category worldwide to attain this recognition. Environmental sustainability is a key criterion in this rigorous selection process, and this award underscores our employees’ commitment to acting ethically, safely and sustainably every day.

Again, we appreciate the opportunity to engage in this dialogue on this rulemaking and look forward to continuing to work with DEQ and the Governor’s office on these and other issues.

Best regards,

A handwritten signature in blue ink that reads "Peter B. Saba". The signature is written in a cursive, flowing style.

Peter B. Saba
Senior Vice President and General Counsel*
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April 10, 2021

Vickie Ybarguen, Executive Director
Housing Authority of Yamhill County
135 NE Dunn Place
McMinnville, OR 97128

RE: Letter of Support for Funding Request by the Housing Authority of Yamhill County

Dear Vickie:

The McMinnville City Council is pleased to submit this letter in support of the Housing Authority of Yamhill County's (HAYC's) application to Oregon Housing and Community Services (OHCS) for LIFT and 4% Low-Income Housing Tax Credits / tax exempt bonds funding to finance Stratus Village in McMinnville. Stratus Village would provide 175 units of critically-needed affordable housing in McMinnville.

In 2021, McMinnville Affordable Housing Task Force previously recommended, and City Council adopted, a resolution to submit this letter of support for the funding request. We continue to support the project today.

The City of McMinnville is highly supportive of HAYC's plan to finance, construct and operate 175 units of affordable housing called Stratus Village. In addition to creating housing, we understand HAYC will focus on providing housing opportunities for communities of color that are disproportionately and historically denied access to housing.

McMinnville is facing extraordinary affordable housing crisis. Yamhill County demographic and housing profile information included in Breaking New Ground, Oregon's Statewide Housing Plan indicated Yamhill County had a deficit of nearly 5,000 affordable rental units by 2015. Given the Covid-19 pandemic and related economic crisis, low income people, and communities of color, are in more crisis than during our strong economic times. The need for housing has only grown.

To address this need, creating more affordable housing is a priority for the City of McMinnville. To be successful, we must work together with other organizations that finance, construct, and own and operate quality affordable housing.

We also believe it is important for OHCS to be aware of the following information. HAYC purchased approximately 7 acres of land in the summer of 2020 to develop as affordable rental housing. The site is near Chemeketa Community College, Willamette Valley Medical Center, Department of Human Service, and the housing authority offices. The site is located on a bus stop for Yamhill County Transit.

HAYC has been working with service providers to create a community that is supportive of their

needs and assists with linking residents to important opportunity. HAYC will link partner with Unidos, Chemeketa Community College, Willamette Valley Medical Center, Department of Human Service, Yamhill Community Care (YCCO) and the Confederated Tribes of the Grand Ronde.

HAYC plans to construct 175 units of affordable housing that includes a range of one-bedroom to three-bedroom apartments. The project has already received initial approval from the City Council to modify the underlying zoning of the site to allow for multifamily residential development.

The project will meet the City of McMinnville great neighborhood design standards and incorporate elements of McMinnville's agricultural and heritage in the building design.

We understand HAYC will be pursuing LIFT and 4% Low-Income Housing Tax Credits / tax exempt bonds funding from Oregon Housing and Community Services to finance Stratus Village. These resources are critical to providing affordable housing in McMinnville.

Please include this letter of support with your funding request. We encourage OHCS to support HAYC's application for this critical funding.

Sincerely,

Scott Hill
Mayor