

IMPROVEMENT AGREEMENT

PROJECT TITLE: N. Front Street Improvement Agreement
LOCATION: 2775 N. Front Street
DEVELOPER: Cirrus Northwest LLC 2775 N. Front St, Woodburn, OR 97071

This Improvement Agreement ("**Agreement**") is made between the City of Woodburn, Oregon, an Oregon municipal corporation (the "**City**") and Cirrus Northwest LLC, an Oregon limited liability company (the "**Developer**") on July 18, 2024 (the "**Effective Date**"). The City and Developer shall be jointly referred to herein as the "**Parties**" and individually as a "**Party**."

Recitals:

- A. Developer is the owner of that certain real property commonly known as 2775 N. Front Street, Woodburn, which is legally described on **Exhibit A** attached and incorporated herein by this reference (the "**Property**").
- B. On January 25, 2024, the City Planning Commission issued to the Developer consolidated approval for Design Review 2023-08, Street Adjustment 23-05, and Variance 23-06, providing land use approval for an expansion onto the east end of the eastwardly existing building (the "**Decision**").
- C. Applicant's request included an Adjustment to Street Improvement Requirements (City of Woodburn Development Ordinance, Section 5.02.04) and Variance (City of Woodburn Development Ordinance, Section 5.03.12) requesting to maintain the rural road as it exists. The road has one travel lane in each direction but no center turn lane, has gravel shoulders but no curb with underground pipe drainage facilities, and has no sidewalk nor landscaping strip with street trees. There are existing above-ground power and communication utility lines running along the west side of the street.
- D. This Agreement is entered into to satisfy conditions of approval 11 and 13 in the Decision (collectively the "**Conditions**"):
 - 11. N. Front Street Improvements: Prior to building permit issuance, the developer shall enter into an improvement agreement with the City for the future construction of right-of-way improvements along the N. Front Street frontage of the subject property. As part of this agreement, the property owner is to either privately construct the improvements at private expense or have the City construct the improvements at private expense. Construction of the improvements, or payment to the City for said

construction, shall be due when the City includes right-of-way improvements along the N. Front Street frontage of the subject property within the Capital Improvement Plan (CIP), or when either of the adjacent properties to the north or south are required to construct right-of-way improvements. Right-of-way improvements that are subject to this agreement include:

- a. Street improvements to meet 3.01.01B, 3.04.01B, and Figure 3.01C:
 - i. 12 additional feet of pavement for a bike lane and half of the center turn lane;
 - ii. Curb and drainage facilities;
 - iii. A 6-foot sidewalk; and
 - iv. A 6-foot landscape strip with 13 large street trees.
- b. Street lighting pursuant to 3.02.03A, following City of Woodburn and Portland General Electric (PGE) standards and specifications.

13. Power line burial/relocation: Prior to building permit issuance, the developer shall enter into an improvement agreement with the City for the future burial and relocation of overhead utility lines along N. Front Street. As part of this agreement, the property owner is to either privately bury all overhead utilities except high-voltage transmission lines, which must be relocated, at private expense, or have the City perform this work at private expense. This utility burial and relocation work, or payment to the City for said work, shall be due when the City includes such work along the N. Front Street frontage of the subject property within the Capital Improvement Plan (CIP), or when either of the adjacent properties to the north or south are required to complete such work.

Agreement:

NOW THEREFORE, as consideration mutual covenants and obligations herein, including, but not limited to, the City's willingness to consent to the construction of all improvements required as a condition of development, the Parties agree to:

1. The above Recitals are incorporated herein by this reference as if set forth herein.
2. Developer shall construct the of right-of-way improvements along the N. Front Street frontage of the subject property. As part of this agreement, the property owner is to either privately construct the improvements at private expense or have the City construct the improvements at private expense. Construction of the improvements, or payment to the City for said construction, shall be due

when the City includes right-of-way improvements along the N. Front Street frontage of the subject property within the Capital Improvement Plan (CIP), or when either of the adjacent properties to the north or south are required to construct right-of-way improvements. Right-of-way improvements that are subject to this agreement include:

- a. Street improvements to meet 3.01.01B, 3.04.01B, and Figure 3.01C:
 - i. 12 additional feet of pavement for a bike lane and half of the center turn lane;
 - ii. Curb and drainage facilities;
 - iii. A 6-foot sidewalk; and
 - iv. A 6-foot landscape strip with 13 large street trees.
 - b. Street lighting pursuant to 3.02.03A, following City of Woodburn and Portland General Electric (PGE) standards and specifications.
 - c. Power line burial/relocation: Either privately bury all overhead utilities except high-voltage transmission lines, which must be relocated, at private expense, or have the City perform this work at private expense. This utility burial and relocation work, or payment to the City for said work, shall be due when the City includes such work along the N. Front Street frontage of the subject property within the Capital Improvement Plan (CIP), or when either of the adjacent properties to the north or south are required to complete such work.
3. If a third party is obligated to construct the Street Improvements as a condition to development, Developer may construct the Street Improvements.
 4. If Developer is unwilling to construct the Street Improvements and the City constructs the Street Improvements, Developer agrees to reimburse the City for the reasonable costs incurred in construction of the Street Improvements (the "**Reimbursement Costs**") as follows:
 - a. Developer shall not be obligated to pay such Reimbursement Costs until the City has granted its final approval of the Street Improvements; and
 - b. Within thirty (30) days after the City's delivery to Developer of a reimbursement request for Reimbursement Costs incurred, which shall include copies of invoices and other documentation as reasonably necessary to substantiate such Reimbursement Costs.
 5. Upon the City's acceptance of the Street Improvements, and if applicable, Developer's payment to the City of the Reimbursement Costs, the City shall enter into an Accord and Satisfaction Agreement acknowledging satisfaction

of all obligations under this Agreement and releasing the Property from this encumbrance.

6. If the City constructs future improvements within the N. Front Street right-of-way that would require the relocation of the existing monument sign, fire sprinkler and water vaults, and any appurtenances, it shall be the responsibility of the Developer to either relocate the equipment at Developer's expense or enter into an agreement with the City to have the City complete the relocation at Developer's expense. The Developer shall retain the responsibility and liability in the interim for providing fire protection for the subject property for either relocation scenario.
7. The City shall indemnify, defend and hold harmless Developer, its manager, members, employees and agents, for and from all claims, suits, actions and proceedings ("**Claims**") by third parties (including reasonable attorneys' fees and expenses incurred in connection with such Claims) for damages or bodily injury, personal injury, death or property damage arising from constructing the Street Improvements, to the extent such injury or damage is caused by the City's negligence or intentional or reckless misconduct.
8. No provision of this Agreement may be amended or modified except by an agreement in writing executed by the Parties.
9. In the event that one or more provisions contained in this Agreement shall for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable, such invalidity, illegality or unenforceability shall affect no other provision hereof, and the remainder of this Agreement shall continue in full force and effect without impairment.
10. Failure of either Party to require performance of any provision of this Agreement shall not limit the Party's right to enforce the provision, nor shall any waiver of any breach of any provision constitute a waiver of any succeeding breach of that provision or a waiver of that provision itself.
11. This Agreement shall bind the Parties successors and assigns and shall be deemed appurtenant to the Property. All obligations and rights burdening and benefitting the Parties shall run with the land.
12. This document is the entire, final, and complete agreement of the Parties pertaining to constructing the Street Improvements and supersedes and replaces all prior or existing written and oral agreements between the Parties and/or their representatives relating to constructing improvements within the N. Front Street right-of-way.
13. Any notice under this Agreement shall be in writing and shall be effective when actually delivered in person, or one (1) business day after deposit with a nationally recognized overnight courier service, with charges pre-paid, or three (3) business days after being deposited in the U.S. mail, registered or

certified, return-receipt requested, postage prepaid and addressed to the Party at the address set forth below or such other address as either Party may designate by written notice to the other.

If to CITY: City of Woodburn
Scott Derickson, City Administrator
270 Montgomery Street
Woodburn, OR 97071

If to DEVELOPER: Cirrus Northwest LLC
Attn: Ronald Robertson
3651 Sausalito Street
Los Alamitos, CA 9072

14. Time is of the essence in relation to the Parties' performance of any their obligations under this Agreement.
15. Any reference in this Agreement to "days" shall mean calendar days, unless specified as "business days." A business day is any day that is not a Saturday, Sunday or a federal or State of Oregon holiday. Any period ending on a day that is not a business day shall be extended until the next business day.
16. Unless otherwise specifically stated, any consent by a Party shall not be unreasonably withheld, conditioned or delayed.

Developer:
Cirrus Northwest, LLC



Signature

Ronald S. Robertson - Member

JULY 18, 2024

Date

Certificate of Acknowledgement

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of Oregon)
County of Marion)

On July 18, 2024 before me, personally appeared Ronald S. Robertson, Member of Cirrus Northwest LLC, an Oregon limited liability company, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Oregon that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Handwritten Signature] (Seal)

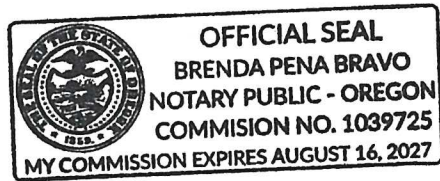


EXHIBIT A
Legal Description of Property

Parcel 1 of Partition Plat No. 2020-034, recorded June 10, 2020, Control Number 603924, Instrument 2020 00029641, Deed Records for Marion County, Oregon.

4833-1424-6333, v. 3