

**ACCESS AGREEMENT**  
**BETWEEN THE**  
**OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**AND**  
**YAMHILL COUNTY**

1. Yamhill County, a political subdivision of the State of Oregon (herein after referred to as Owner) hereby gives consent to the Department of Environmental Quality (DEQ) and its employees, officers, agents, contractors, and authorized representatives to enter the property located at 185 S. Maple St., Yamhill, Oregon, Yamhill County Tax Lots #R3404AC-01500 and #R3404AC-01501. ("the Property") for the sole purpose of conducting actions authorized by ORS 465.200 to 465.455, in accordance with the terms of this Agreement. DEQ will coordinate access to the Property through the Owner's contact Christian Boenisch, (503) 434-7501.

2. This access and right-of-way is granted to enable DEQ to undertake remedial action or removal activities as those terms are defined in ORS 465.200. Specifically, these actions include starting Phase 1 and Phase 2 of environmental testing for possible contamination and include sampling and inspecting soils and groundwater on or under the Property and photographing or otherwise documenting activities and site conditions, herein after referred to as the "Work". DEQ shall obtain all applicable permits and licenses required to perform any Work on the Property. DEQ is not relying on any warrant or representation of the Owner concerning the condition of the Property.

3. All tools, equipment, improvements and other property taken upon or placed upon the Property by or at the direction of DEQ shall remain the property of DEQ, its employees, agents, authorized representative(s) or contractors.

4. DEQ shall properly abandon any soil borings immediately after collecting soil and/or groundwater samples. When DEQ determines that continued access to the Property is not necessary, or upon expiration or termination of this Agreement, DEQ, or its employees, agents, authorized representative(s) or contractors, shall properly abandon any well(s) in accordance with applicable regulations, shall remove all tools and equipment, soil, groundwater and other waste of any kind generated on, at or under the Property and shall restore the surface condition of areas disturbed by DEQ's activities, to the maximum extent reasonably possible, to a condition equivalent to the condition existing prior to commencement of the Work (collectively, the "Restoration").

5. DEQ shall take all steps reasonably necessary (including, but not limited to performance of Work and Restoration during non-peak business hours with respect to business activities on the Property) to prevent injury resulting from the Work and Restoration to persons or property and to allow the full utilization of the Property by the Owner during the performance of the Work and Restoration.

6. The license granted herein shall be non-exclusive, and Owner retains for itself and its successors, assigns, lessees, franchisees, licensees, and invitees the right to continue to use the Property for all lawful purposes so long as such use does not unreasonably interfere with the use of the Property by DEQ for the purposes set forth herein.

7. Owner reserves the right, at its own expense, to have its consultant, agents, authorized representative(s) or contractors (herein referred to as "consultant") observe the Work, Restoration, or other activities performed by DEQ on the Property, provided that in no event shall such observation be deemed an approval by Owner or its consultant of (or waiver of any such rights of Owner in connection with) any such activities conducted by DEQ. Any consultant on the site must have health and safety training consistent with the requirements of the health and

safety plan for this site. Before any consultant will be allowed access during the Work, Restoration, or other activities performed by DEQ on the Property, written notification, Owner approval, and acknowledgment that DEQ is in no way liable or responsible for the consultant's health and safety must be provided to the DEQ at least 48 hours before commencement of any Work activities on the Property and in accordance with Section 12 of the agreement.

8. The Owner may, at the Owner's own expense and in accordance with section 7, obtain "split samples" of any samples taken on the Property.
9. To the extent permitted by Article XI, Section 7 of the Oregon Constitution and by the Oregon Tort Claims Act, the State of Oregon shall hold harmless and indemnify Owner from and against any and all claims arising from acts or omissions related to the Work or Restoration of the State of Oregon or its commissions, agencies, officers, employees, contractors, agents or authorized representatives. This indemnity does not extend to liability for any claim to the extent caused by negligent acts or omissions of Owner, or its officers, employees, agents, contractors, successors or assigns, any third party, or attributable to contamination already existing at or under the Property. Owner shall not be considered a party to any contract made by DEQ or its agents in carrying out activities under this Agreement.
10. This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective heirs, successors and assigns.
11. At least 48 hours before commencement of any Work activities on the Property, DEQ shall notify Owner in writing, or verbally (with written confirmation after a verbal notification) of the intended activities.

12. All notices, requests, and other communications hereunder shall be in writing (except in emergency situations, which may be telephoned to the Owner herein and then followed in writing) and shall be deemed to have been duly given if delivered by hand, or sent by telex or telecopy (fax), or sent by United States mail, first class, registered or certified, return receipt requested with proper postage prepaid, in each case addressed as follows:

**IF TO THE OWNER:**

Christian F. Boenisch  
Yamhill County  
County Counsel  
535 NE Fifth Street  
McMinnville, OR 97128  
503-434-7502  
Fax: 503-435-7553  
E-Mail [boenischc@co.yamhill.or.us](mailto:boenischc@co.yamhill.or.us)

**IF TO DEQ:**

Oregon Department of Environmental Quality  
165 E. 7<sup>th</sup> Ave, Suite 100  
Eugene, OR 97401  
ATTN: Mary Camarata  
Ph No. 541-687-7435  
Fax 541-686-7551  
E-Mail [mary.camarata@state.or.us](mailto:mary.camarata@state.or.us)

13. If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held invalid.

14. The term of this Agreement is two (2) year from the date of the last signature below.

**YAMHILL COUNTY**

**BOARD OF COMMISSIONERS:**

*[Handwritten signature]*

Chair

*[Handwritten signature: Lindsay Blum]*  
Commissioner

*[Handwritten signature: Casey Felt]*  
Commissioner

1/7/2021  
Date

*[Handwritten signature]* 1/7/2021  
County Administrator Date

**APPROVED AS TO FORM:**

*[Handwritten signature]* 1/7/21  
Yamhill County Legal Counsel Date

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

*[Handwritten signature: Michael E. Kucinski]* Date: 1/13/2021

Michael E. Kucinski - Western Region Environmental Cleanup Manager, DEQ

Accepted by Yamhill County  
Board of Commissioners on  
1/7/2021 by Board Order  
# 21-14