

**GLADSTONE CITY COUNCIL
SPECIAL MEETING
CITY HALL COUNCIL CHAMBERS
November 27, 2018 – 6:30 PM**

6:30 p.m.

CALL TO ORDER

ROLL CALL

FLAG SALUTE

CONSENT AGENDA:

1. Certify Results of the November 6, 2018 Election
2. Resolution 1151 – City Administrator Employment Agreement Amendment

REGULAR MEETING:

3. **SEWER RATE STUDY AND MUTUAL AGREEMENT AND ORDER**
Sewer Rate Study and Mutual Agreement and Order informational session
4. **SECOND READING OF ORDINANCE 1482 – AMENDING TITLE 17 OF THE GLADSTONE MUNICIPAL CODE – TEMPORARY STRUCTURES**
Complete the second reading of Ordinance 1482 as read at the November 13, 2018 City Council meeting.
5. **CONTRACT AMENDMENT TO AMERICAN INSTITUTE OF ARCHITECTS (AIA) DOCUMENT AGREEMENT FOR THE GLADSTONE CIVIC CENTER**
Consider approving Exhibit “A”, Design-Build Amendment to the standard form of agreement between the City of Gladstone and P&C Construction, in the amount of \$12,550,000.
6. **CITY OF GLADSTONE SECOND AMENDMENT TO PERSONAL SERVICES AGREEMENT**
Consider approval of the second amendment to an existing agreement for Project Management for Shiels Oblatz Johnsen of Gladstone Civic Center Project
7. **COUNCIL REPRESENTATIVE FOR THE WILLAMETTE FALLS LOCKS PROJECT**
Consider appointing a member of City Council to represent Gladstone on the Willamette Falls Lock Project
8. **DISCUSSION OF FIRE CHIEF AND POLICE CHIEF RECRUITMENT PROCESS**
Review the job descriptions and timeline for recruiting a permanent fire chief and police chief.

BUSINESS CARRIED FORWARD

ADJOURN

Upcoming Meeting Dates:

- December 11, 2018 Regular City Council Meeting, 6:30 pm



CONSENT AGENDA

City of Gladstone Staff Report

Report Date : November 20, 2018
Meeting Date: November 27, 2018
To : City Council
From : Jacque M. Betz, City Administrator

AGENDA ITEM

Clackamas County Certified Election Results for the November 6, 2018 Election were not available at the time of printing and will be distributed at the meeting.

City of Gladstone Staff Report

Report Date: November 20, 2018
Meeting Date: November 27, 2018
To: City Council
From: Nancy McDonald, Interim Human Resources Director

AGENDA ITEM

Approving modifications to the City Administrator's Employment Contract based on the positive results of the City Council's Evaluation of the City Administrator's job performance on October 9, 2018 and direction given to the Interim Human Resources Director on November 13, 2018.

History/Background

On October 9, 2018, the City Council adopted by Resolution 1149 the results of the City Council's positive evaluation of the job performance of the City Administrator.

The Interim Human Resources Director provided the City Council with an analysis of the compensation packages provided to City Administrator's/City Managers of six cities identified as market comparable to Gladstone. Also, provided was a copy of the City Administrator's current Employment Agreement. On November 13, 2018, the City Council reviewed, discussed and provided direction to the Interim Human Resources Director to modify the compensation portion of said agreement.

Proposal

Modification by resolution the terms and conditions of the current Employment Agreement of the City Administrator.

Cost Impact

Direct cost increase to the City Administrator's current annual base salary computed on a monthly basis will be \$765.00. Since December 1, 2017, provision of a City-issued cell phone to the City Administrator has already negated the monthly \$75.00 allowance.

Recommended Staff Action

Council approval and adoption of Resolution 1151, A Resolution Approving Modifications to the City Administrator's current Employment Contract which is attached as Exhibit "A".


Department Head
Signature


Date

City Administrator
Signature

Date

RESOLUTION 1151

***A RESOLUTION APPROVING MODIFICATIONS TO THE
CITY ADMINISTRATOR'S EMPLOYMENT CONTRACT***

WHEREAS, the Gladstone City Council evaluated the job performance of the City Administrator at the October 9, 2018 City Council meeting.

WHEREAS, the overall positive rating of the City Administrator's performance from October 10, 2017 to September 30, 2018 has initiated a change to the employment agreement between the City of Gladstone and the City Administrator.

WHEREAS, the current Employment Agreement of the City Administrator, attached as Exhibit "A" shall be modified by this resolution.

NOW THEREFORE BASED ON THE FOREGOING, the City of Gladstone hereby resolves as follows:

Section 1. Section IV SALARY, HOURS OF WORK, VACATION AND SICK LEAVE, of attached Exhibit "A" is modified as follows:

- A. Salary. EMPLOYEE shall receive a salary of \$131,580, and shall be paid at the same interval as the CITY pays its other employees. It is understood by CITY and EMPLOYEE that EMPLOYEE's yearly salary is subject to adjustment based on the City Council's review of EMPLOYEE's performance and budgetary considerations.

EMPLOYEE shall be entitled to receive a Cost of Living Adjustment (COLA) to her salary in the same percentage amount and at the same time as may be given to non-represented, regular, budgeted, full time employees in the City.

Section 2. Section VIII GENERAL BUSINESS EXPENSE, of attached Exhibit "A" is modified as follows:

- A. Cell Phone. Recognizing the importance of constant communication and maximum productivity, CITY shall provide EMPLOYEE a City-issued cell phone in lieu of a monthly cell phone allowance.

Section 3. The City Council authorizes the Interim Human Resources Director to initiate a Payroll Change Form to the Finance Department incorporating the above changes to the City Administrator's original employment agreement retroactive to October 11, 2018.

Duly passed by the City Council this _____th day of _____, 2018.

ATTEST:

Tamara Stempel, Mayor

Tami Bannick, City Recorder

RESOLUTION 1151 - EXHIBIT "A"

COPY

EMPLOYMENT AGREEMENT
between
THE CITY OF GLADSTONE, OREGON
and
Jacque Betz

THIS EMPLOYMENT AGREEMENT is made and entered this 11th day of October, 2017 (last dates signed by both parties below), by and between the CITY OF GLADSTONE, OREGON (hereinafter referred to as "CITY") and Jacque Betz (hereinafter referred to as "EMPLOYEE").

WITNESSETH

WHEREAS, CITY and EMPLOYEE desire a written agreement creating a professional and businesslike relationship serving as the basis for effective communication and to avoid misunderstanding;

NOW THEREFORE, in consideration of mutual covenants herein contained and for the consideration herein specified, CITY and EMPLOYEE mutually agree:

SECTION 1. EMPLOYMENT, DUTIES AND AUTHORITY.

- A. The CITY has agreed to employ EMPLOYEE as its City Administrator and EMPLOYEE has agreed to accept said employment. EMPLOYEE understands and agrees that she is for all purposes under this Agreement an at-will employee subject to the provisions of this employment agreement.
- B. The duties of EMPLOYEE, consistent with state law, the Gladstone City Charter, and pertinent ordinances shall include, but not be limited to, the following:
 1. Exercise control and supervision of all activities, departments and offices of the government except the office of Municipal Judge and the office of City Attorney, and shall as a member of a committee including the City Administrator, and such members of the City Council as determined by the Mayor and City Council, make recommendations to the Mayor and the City Council as to the appointment of certain positions as determined by the Gladstone Municipal Code 2.12.030 and the Gladstone City Charter. The City Recorder and department heads mentioned above shall be appointed by the Mayor and City Council after due consideration is given to the recommendation of the Committee. The City Administrator shall be responsible for the removal of all employees including department heads in accordance with the provisions of the city's personnel resolution and personnel policies. Before the City Administrator takes action to remove the City Recorder or a department head, the City Administrator shall consult with the City Council.
 2. Be the chief budget and fiscal officer of the city and shall perform the functions of budget

officer as prescribed by the Local Budget Law of Oregon (ORS Chapter 294). Shall provide for the Mayor and Council an annual fiscal year-end report showing the differences between revenues and expenditures and the ending cash balances for each fund as soon as possible after June 30th. Shall ensure that the accounts and fiscal affairs of the city are audited annually by accountants pursuant to a contract as required by ORS Chapter 297 and reported to the City Council.

3. Supervise the administration and be responsible for the enforcement of all laws and ordinances in effect within the city, except the provisions of any ordinance or laws which involve criminal violation, the responsibility of enforcement thereof shall be the duty of the police department; and shall be responsible for conducting analysis and making recommendations concerning policy matters to the City Council and shall administer and enforce the policies, rules, procedures and resolutions duly adopted by the Mayor and Council, and make recommendations to the Mayor and Council regarding the affairs of the city as the administrator may deem desirable.
4. Be the chief purchasing and business agent with respect to all departments of the city.
5. Prepare and submit to the Mayor and Council activity reports with respect to each of the city departments, not less than annually, and shall prepare and submit to the Mayor and Council such other reports as may be required or desirable concerning city affairs.
6. Make available to the public usual and customary information concerning the operations of the city government.
7. Perform such other and further duties as from time to time may be directed to be performed by action of the City Council.

C. The Mayor and the other members of City Council (collectively City Council) acknowledge and agree to the principle of non-interference in the City's administration as a necessary component to orderly and efficient implementation of City Council policy. The City Council agrees to direct concerns and communications relating to administration through the City Administrator. EMPLOYEE agrees to respond in a timely manner to all inquiries from the City Council whether made individually or collectively.

SECTION II. TERM.

- A. This Agreement commences October 10, 2017 and expires on December 31, 2019. When the Agreement expires, the CITY has no further financial or other obligation to the EMPLOYEE. In the event the Council desires to extend the Agreement beyond the expiration date, the Council must do so through an amendment.
- B. Council will either extend this Agreement or allow it to expire. In the event Council does not extend this Agreement, the CITY agrees to provide one hundred twenty (120) calendar days written notice to EMPLOYEE. In the event the CITY does not provide one hundred twenty (120) calendar days written notice to EMPLOYEE, EMPLOYEE will receive compensation equal to the amount of time the CITY was deficient in providing notice. EMPLOYEE shall receive payment for the deficiency in EMPLOYEE's final paycheck.

- C. Nothing in this Agreement limits, prevents or otherwise interferes with the right of the City Council to terminate the services of EMPLOYEE subject only to the provisions set forth in this Agreement.
- D. Nothing in this Agreement prevents, limits or otherwise interferes with the right of EMPLOYEE to resign at any time from her position with CITY subject only to the provisions set forth in this Agreement.
- E. EMPLOYEE agrees to remain in the exclusive employ of the CITY during the term of this Agreement, unless EMPLOYEE receives approval from City Council to hold outside employment.

SECTION III. TERMINATION.

- A. Termination. Before the Agreement expires, this Agreement may be terminated by either the CITY or EMPLOYEE for any reason whatsoever upon giving not less than thirty (30) calendar days' written notice to the other party. This notice provision does not apply to Terminations for Cause pursuant to subsection D.
- B. In the event the CITY terminates this agreement before the expiration date, the City Council may, at its discretion, opt not to have EMPLOYEE continue in her position during that thirty day period.
- C. Severance. In the event the CITY terminates this agreement before the expiration date and such termination is not for cause as set forth in (D) below, EMPLOYEE shall be entitled to (and CITY agrees to pay) a severance payment equal to the value of six (6) months' salary. Payment of the severance shall be made monthly, each payment being the value of one month's salary. The right to said payment shall cease if, during the period of the scheduled payments, EMPLOYEE accepts employment with another employer in local government administration. EMPLOYEE has an affirmative obligation to notify the City upon acceptance of other employment. In the event EMPLOYEE fails to notify CITY of her employment, CITY shall have the right (but not the obligation) to seek recovery from EMPLOYEE of any and all amounts improperly received as well as recovery of any cost(s) or fee(s) (including attorney fees) CITY incurs in pursuit thereof. In the event the City Council decides not to extend the Agreement and the Agreement expires, EMPLOYEE is not entitled to severance.
- D. Termination for Cause. EMPLOYEE's employment with CITY may be terminated immediately in the sole discretion of the CITY (acting by and through its City Council) upon the occurrence of any of the following events:
 - 1. EMPLOYEE fails or refuses to comply with the written policies, standards, and regulations of the CITY that are now in existence or that may from time to time be established;
 - 2. The CITY has reasonable cause to believe EMPLOYEE has committed fraud, misappropriated City funds, goods, or services to either her own or some other private

third party's benefit and/or other act(s) of misconduct which the City Council believes is/are detrimental to the City and/or its interests; or

3. EMPLOYEE fails to perform faithfully or diligently his duties as City Administrator.
- E. Effect of Termination for Cause. If EMPLOYEE is terminated for cause or conviction, then in that event the CITY shall have no obligation to pay the foregoing severance benefits.

SECTION IV. SALARY, HOURS OF WORK, VACATION AND SICK LEAVE.

- A. Salary. EMPLOYEE shall receive a salary of \$120,000 and shall be paid at the same interval as the CITY pays its other employees. It is understood by CITY and EMPLOYEE that EMPLOYEE's yearly salary is subject to adjustment based on the City Council's review of EMPLOYEE's performance and budgetary considerations.

Employee shall be entitled to receive a Cost of Living Adjustment (COLA) to her salary in the same percentage amount and at the same time as may be given to non-represented, regular budgeted, full time employees in the City.

- B. Hours of Work/Administrative Leave. It is recognized that EMPLOYEE must devote a great deal of time outside the normal office hours to the business of the CITY. EMPLOYEE may take up to a maximum of forty (40) hours during the term of this Agreement as Administrative Leave to be used at EMPLOYEE's discretion during the term of this Agreement. EMPLOYEE shall not be entitled to receipt of monetary compensation for any unused accrued Administrative Leave.
- C. Vacation. EMPLOYEE shall accrue vacation leave benefits at the same rate of 11.33 hours a month and otherwise consistent with the provisions of the City's most current Personnel Handbook.
- D. Holidays. EMPLOYEE shall accrue holiday benefits at the same rate as established for other similarly situated non represented City employees consistent with the provisions of the City's most current Personnel Handbook.
- E. Sick Leave. EMPLOYEE shall accrue sick leave benefits at the same rate as established for other similarly situated non represented City employees consistent with the provisions of the City's most current Personnel Handbook. In the event EMPLOYEE leaves employment, EMPLOYEE shall not be entitled to receipt of monetary compensation for any unused accrued sick leave.

SECTION V. RETIREMENT, DISABILITY, LIFE AND HEALTH INSURANCE.

- A. Retirement. EMPLOYEE will continue membership in the Oregon Public Employees Retirement System (PERS) and CITY and EMPLOYEE agree to be responsible for payment of any PERS contributions in the same manner as afforded or required other full-time City employees.

- A. Health Insurance. The CITY agrees to pay, consistent with the eligibility requirements of the plans, the insurance premiums for medical (including prescription coverage), dental, and vision benefit coverage for EMPLOYEE at the same rate established for other similarly situated non represented City employees. Payment of insurance premiums for coverage of other eligible members of EMPLOYEE's family shall be done consistent with current CITY policy.
- B. Disability and Life Insurance. The CITY agrees to provide Disability and Life Insurance, consistent with the eligibility requirements of the plans.

SECTION VI. PROFESSIONAL DEVELOPMENT AND EXPENSE

- A. The CITY encourages participation, as EMPLOYEE deems appropriate, in professional associations, short courses, seminars and conferences including, but not limited to: the League of Oregon Cities (LOC), International City/County Management Association (ICMA) and the Oregon City County Management Association (OCCMA). The CITY shall permit a reasonable amount of time for EMPLOYEE to attend short courses, seminars, and conferences and the CITY shall pay for the direct costs necessary for travel, subsistence, and registration subject to the availability of funds and as approved in the annual budget.
- B. The CITY recognizes certain expenses are incurred by EMPLOYEE on behalf of the CITY and agrees to reimburse or pay said expenses upon receipt of appropriate confirmation.
- C. The CITY shall pay for EMPLOYEE membership fees for ICMA, OCCMA and Rotary.

SECTION VII. PERFORMANCE EVALUATION

- A. The Mayor and City Council shall periodically identify concerns to EMPLOYEE either by informal discussions with EMPLOYEE or more formally. After EMPLOYEE's one (1) year anniversary in this position (October 2018), the City Council and EMPLOYEE will participate in a performance review. This performance evaluation shall be done in Executive Session and consistent with Oregon's Public Meetings Law.
- B. In the event the City Council believes performance of EMPLOYEE as City Administrator is unsatisfactory or needs significant improvement in any area, the Council shall set out these concerns in writing and in reasonable detail and provide a copy to EMPLOYEE with expected timetables for achievements of improvement in each identified area. In no way does this limit the CITY's ability to exercise its powers pursuant to Section III.D.

SECTION VIII. GENERAL BUSINESS EXPENSES

- A. Cell Phone. Recognizing the importance of constant communication and maximum productivity, CITY shall provide EMPLOYEE a cellular phone allowance of seventy-five

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(75) dollars per month. This allowance will be included in EMPLOYEE's regular paycheck.

- B. Automobile Allowance. Acknowledging that EMPLOYEE's duties require that she have the use of an automobile at all times during her employment with the CITY, EMPLOYEE shall receive a monthly motor vehicle allowance in the sum of Three Hundred Dollars (\$300.00) for the use of her private vehicle(s) on and for City purposes. EMPLOYEE shall neither be entitled to nor seek reimbursement for mileage for her private vehicle(s) for travel on and for CITY purposes. EMPLOYEE may but is not required utilize a City vehicle for travel on City business in excess of a 100 mile radius of the City.

SECTION IX. GENERAL PROVISIONS.

- A. Professional Liability. CITY agrees to defend, hold harmless, and indemnify EMPLOYEE from any and all demands, claims, suits, actions and legal proceedings brought against EMPLOYEE in her individual or in her official capacity as agent and/or employee of the CITY consistent with the terms of the Oregon Tort Claims Act (ORS 30.260 to 30.300).
- B. Nothing shall restrict the ability of the CITY and EMPLOYEE to amend or adjust the terms of this Agreement. However, no amendment or adjustment shall be valid unless in writing and signed by both an authorized representative of the City Council on behalf of the CITY and EMPLOYEE. EMPLOYEE reserves the right to discuss the terms of this Agreement with the City Council as a whole in either closed Executive Session or open Regular Session as state law allows and as EMPLOYEE deems appropriate.
- C. Severability. If any provision, or any portion thereof, contained in this Agreement is held to be unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable and shall not be affected, and shall remain in full force and effect.
- D. Mediation. Should a dispute arise between EMPLOYEE and CITY regarding the terms of this Agreement, it is agreed that such dispute is first required to be submitted to a mediator prior to arbitration. EMPLOYEE and CITY shall exercise good faith efforts to select a mediator who shall be compensated equally by both parties. Mediation will be conducted in Portland, Oregon, unless both parties agree otherwise. Both CITY and EMPLOYEE agree to exercise good faith efforts to resolve disputes covered by this section through this mediation process. If either party requests mediation and the other party fails to respond within ten (10) days or if the parties fail to agree on a mediator within ten (10) days, a mediator shall be appointed by the presiding judge of the Clackamas County Circuit Court upon request of either party.
- E. Arbitration. In the event the parties have a dispute concerning the terms of this Agreement, the terms and conditions of the employment relationship or the violation of any federal, state or local law relating to the employment relationship (and they have not otherwise resolved

the matter through the mediation process set out in subsection (D) above) then the dispute shall be resolved by arbitration in accordance with the then effective arbitration rules of (and by filing a claim with) the Arbitration Service of Portland, Inc., and judgment upon the award rendered pursuant to such arbitration may be entered in any court having jurisdiction thereof. Each party shall bear equally the expense of the arbitrator and all other expenses of conducting the arbitration. Each party shall bear its own expenses for witnesses, depositions and attorneys.

F. Integration. This Agreement contains the entire Agreement between the parties and supersedes all prior written or oral discussions or agreements regarding the same subject.

IN WITNESS WHEREOF, the CITY OF GLADSTONE, OREGON has caused this Agreement to be signed and executed by its Mayor; Jacque Betz has signed and executed this Agreement, both in duplicate, the day and year first written above



Tamara Stempel – Mayor



Jacque Betz



REGULAR AGENDA

City of Gladstone Staff Report

Report Date : November 20, 2018
Meeting Date: November 27, 2018
To : City Council
From : Jim Whynot, Public Works Director

AGENDA ITEM

Gladstone Sewer Rate Study and Department of Environmental Quality (DEQ) discussion regarding the proposed Mutual Agreement and Order (MAO)

History/Background

In 2017, The City Gladstone completed a Sanitary Sewer Master Plan (SSMP) and in 2018, completed a Sewer Utility Rate Study (SURS). The SSMP identifies the infrastructure improvements to the City's sewer system and the SURS is a financial plan in support of the improvements.

Gladstone's sewer system has deteriorated and during events of a heavy rain the City's raw sewage overflows to the Clackamas River, referred to as a Sanitary Sewer Overflow (SSO). This problem has reoccurred over the years and DEQ is working with the City to enter in a Mutual Agreement and Order (MAO) to fix the issues, or they will impose additional enforcement action (penalties) to the City. A MAO is a tool DEQ uses to create a plan to correct the underlying problem resulting in SSO's into the river. Staff has been coordinating with DEQ for several months to draft a five-year plan to address the infrastructure issues.

Proposal:

DEQ and City staff will have a conversation with the City Council regarding the following:

- DEQ's role in protecting water statewide
- Water Quality Standards
- How DEQ uses water quality standards to protect the environment and human health.
- Discuss previous enforcement action for releases from Gladstone's sewer collection system.
- Update where we are in the discussions regarding the MAO and how it will address the underlying problem.

Cost Impact/options:

Please see 2018 Sewer Utility Rate Study (attached). The 2017 SSMP project list equals \$27,940,000. There are 6 funding options provided in the study:

1. Complete the project list in prescribed 20 years, pay as you go with no debt.
2. Complete the project list in prescribed 20 years, with debt.
3. Complete the project list in 28 years @ \$1 million year.
4. Complete the project list in 56 years @ \$500,000 year.
5. Complete the project list in 94 years @ \$300,000 year.
6. No projects, O&M only.

Recommendations:

Staff requests guidance from the Council to finalize the MAO and to prepare for a Utility Rate Study work session in February.



Department Head
Signature

11/20/18

Date



City Administrator
Signature

11-21-18

Date

City of Gladstone

SEWER UTILITY RATE STUDY

FINAL REPORT
March 2018

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FCS GROUP

Solutions-Oriented Consulting

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Appendix B. Sewer Revenue Requirement Analysis – Master Plan Pay-Go

Appendix C. Sewer Revenue Requirement Analysis – Master Plan Debt

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Appendix E. Sewer Revenue Requirement Analysis – \$500,000 CIP

Appendix F. Sewer Revenue Requirement Analysis – \$300,000 CIP

Section I. INTRODUCTION

This section describes the policy context and project scope upon which the body of this report is based. Because the utility operates as a self-supporting entity, the report provides a financial plan that will allow the City of Gladstone (City) sewer utility to implement its capital improvement plan (CIP) while meeting its other financial obligations and policy objectives as a stand-alone enterprise.

I.A. PROJECT

The City contracted with FCS GROUP through Murraysmith to provide a sewer utility financial plan in support of the Sanitary Sewer Master Plan. We conducted the study using the following general approach:

- **Policy Framework for Charges.** In this step, we worked with City staff to identify and agree on the approach to be used and the components to be included in the analysis.
- **Technical Analysis.** In this step, we worked with City staff to perform a detailed financial analysis and revenue requirement for the sewer service.
- **Presentation and Report Preparation.** In this step, we presented findings to the City Council and documented the study.

I.B. METHODOLOGY

The revenue requirement is the amount of revenue that a utility's rates must generate to enable it to meet its various financial obligations. This analysis has two main purposes – it serves as a means of evaluating the utility's fiscal health and adequacy of current rate levels, and it sets the revenue basis for near-term and long-term rate planning. The rate revenue requirement is defined as the net difference between total revenue needs and the revenue generated through non-rate sources. Hence, the revenue requirement analysis involves defining and forecasting both needs and resources.

We begin by defining the City's resource needs. To define operating needs, we forecast operating expenditures as a function of the current operating budget and a set of escalation rates agreed upon with City staff. To define the capital needs, we forecast capital expenditures as a function of the current CIP and an escalation rate for capital project costs agreed upon with City staff. To define fiscal policies, we discuss target reserve levels with City staff and incorporate agreed-upon objectives into the cash needs.

We then determine the rate revenue necessary to accomplish these goals in the context of two revenue sufficiency tests:

- **Cash Flow Test:** The cash flow test requires that annual revenues be sufficient to fund all known cash requirements for each year of the planning period. Typically these include operations and maintenance (O&M) expenditures, debt service payments, rate-funded capital outlays, and any additions to reserve balances.
- **Coverage Test:** The coverage test requires that the City meet any applicable bond coverage requirements, as specified by the City's bond covenants and internal debt policies. This test focuses on annual performance and debt coverage calculations generally do not consider use of reserves, so meeting the applicable coverage requirements may result in the generation of excess cash flow that can be used for funding capital projects or any other utility-related purpose.

Based on the resulting multi-year forecast of resource needs and demand projections, we calculate the percent adjustments to rates that would be required to meet all resource needs. If feasible and desirable, we also include the issuance of new debt in our calculations as a means to mitigate rate increases.

Section II. POLICY FRAMEWORK

The financial plan is based on a framework of fiscal policies that promote the financial integrity and stability of the sewer utility. The ensuing discussion provides a brief summary of the key policies addressed by the City and incorporated into this analysis. Additionally, a summary of the common assumptions in the revenue requirement analyses are discussed.

II.A. RESERVE POLICIES

Like any business, a municipal utility requires certain minimum levels of cash reserves to operate. These reserves address the variability and timing of revenues and expenditures as well as occasional disturbances in activities. Given the City's responsibility to provide essential services to its customers at a certain standard, protection against financial disruption is even more important than it would be for private-sector or non-essential counterparts. In addition, a defined reserve structure serves to maintain appropriate segregation of funds and promote the use of resources for their intended purposes. This analysis assumes the following structure of reserves for the sewer utility:

- **Operating Reserve.** Operating reserves provide an unrestricted fund balance to accommodate the short-term cycles of revenues and expenditures, addressing unanticipated expenditures or revenue shortfalls. This study incorporates a target operating reserve balance of 45 to 60 days of cash operating expenditures (between approximately 12 and 16 percent of operating expenditures).
- **Capital Reserve.** The capital reserve hold debt proceeds and any transfers from the operating fund. While the City does not have a separate capital fund, it is included for analytical purposes.
- **SDC Accounts.** SDC revenues are tracked in separate reimbursement and improvement fee accounts and are spent in accordance with ORS 223.297–223.314.

II.B. CAPITAL FUNDING POLICIES

The utility has two general capital financing strategies: issue bonds to cover some capital expenditures or use rate revenue to wholly fund construction, termed “pay-as-you-go” (or pay-go). In the past, the City adopted Measures 3-394 and 3-395, which require a public vote prior to any debt issuance, including revenue bonds. City staff decided to model a majority of scenarios using pay-go funding and model one debt issuance scenario.

II.C. CURRENT RATE APPROACH

The City maintains collection lines but does not directly treat sewage from customers. The Oak Lodge Sanitary Sewer District (Oak Lodge) and Clackamas County's Water Environment Services (WES) treat sewage and maintain larger lines for the City. The City then bills its customers for Oak Lodge and WES in their respective services areas in the City. We have incorporated FY 2017-18 Oak Lodge and WES rates into the analysis, with the revenue functioning as a ‘pass-through’ expenditure for the City.

The City charges a flat rate per equivalent dwelling unit (EDU) to all customers, with one EDU equal to average water consumption for a single family home, 232 gallons per day. The City currently charges \$9.60 per EDU after the 5.0 percent rate increase for FY 2017-18 and will charge \$10.08 per EDU in FY 2018-19 based on the budgeted 5.0 percent rate increase.

Each service provider uses a different rate structure. WES charges a flat rate per EDU similar to Gladstone. WES also includes a \$0.32 administration fee into the rate per EDU that Gladstone keeps to mitigate billing costs. Oak Lodge charges customers based on average winter consumption resulting in EDU counts that can vary annually by customer. Gladstone normalizes the Oak Lodge charge into a charge per EDU similar to the Gladstone rate structure. This means that the revenue collected by the City is slightly different than the revenue requested by Oak Lodge each year.

II.D. FORECAST ASSUMPTIONS

II.D.1. Escalation Factors

Below is a list of the customer, cost, and non-rate revenue growth factors used in the analysis to project the utility's future cash flows.

- **Annual Customer Growth.**
 - Account Growth: 0.27 percent beginning fiscal year (FY) 2018-19. The growth rate is based on Metro's population forecast for the City.
- **Annual Cost Escalation.**
 - General Cost Escalation: 1.80 percent. This escalator applies to materials and services expenditures and is based on the Consumer Price Index.
 - Labor Cost Escalation: 2.60 percent. This escalator applies to salary and wage expenditures and is based on the Employment Cost Index.
 - Construction Cost Escalation: 3.60 percent. This escalator applies to the capital improvement plan and is based on the Engineering New Record Construction Cost Index for Seattle.
- **Non-Rate Revenue.** No escalation. We assume that non-rate revenue remains constant after FY 2018-19.

II.D.2. Other Assumptions

In addition to the escalation assumptions, the City charges a five percent right of way fee on total gross revenues, including revenue collected for WES and Oak Lodge. The City also already adopted rate increases of five percent for each year of the City's biennial budget effective in FY 2017-18 and FY 2018-19. All forecasts below account for these rate increases.

Section III. REVENUE REQUIREMENT

The revenue requirement analysis establishes the amount of rate revenue that the City must collect through rates, informing across-the-board adjustments to the existing rate structure.

III.A. REVENUE FORECAST

Total rate revenues are expected to be \$2,118,533 in FY 2017-18. The City currently does not bill City rates separate from Oak Lodge and WES rates, meaning pass-through revenues and rate revenues are grouped together in the City's accounting system. After comparing previous year total revenues with Oak Lodge and WES expenditures, it is feasible to estimate that the City will receive approximately \$542,431 from its own rates in FY 2017-18 and FY 2018-19, prior to the 5% rate increases. The remaining \$1,576,102 revenue is pass-through to Oak Lodge and WES.

The City also has non-rate revenue equal to \$25,000 in FY 2017-18 and \$35,000 in FY 2018-19. After FY 2018-19, non-rate revenues are projected to stay constant.

III.B. OPERATING FORECAST

O&M costs include on-going annual expenditures for the City such as personnel, professional services, regular maintenance, and transfers to the General Fund for administrative support. The sewer utility does not have any existing debt of its own. Based on the budget and discussions with staff, we estimate total O&M for FY 2017-18 to be \$2,232,911. Approximately 70 percent of total expenditures, or \$1,567,814, are pass-through to Oak Lodge and WES. Netting out Oak Lodge and WES pass-throughs, City-related O&M is \$665,097 in FY 2017-18. Based on the escalation factors, costs increase on average \$18,200 every year for the next nine years.

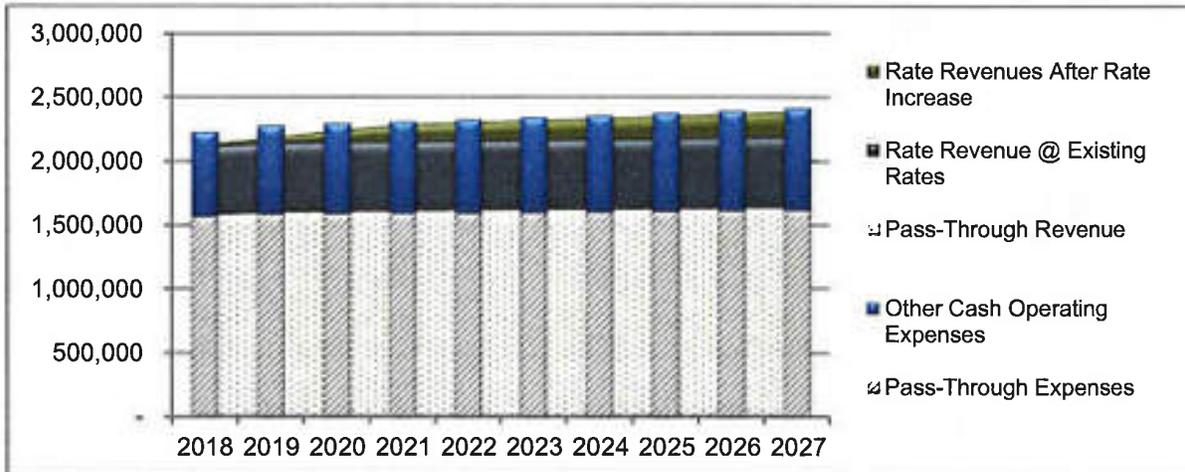
III.C. REVENUE REQUIREMENT – BUDGETED CAPITAL

Before considering capital forecast options, it is important to model the impacts of the O&M requirements on the City rate. After deducting Oak Lodge and WES pass-through revenues and corresponding expenditures, the City is taking in approximately \$575,000 and spending \$665,000. Revenues are lower than expenditures, resulting in an operating deficit that requires rate increases even before considering long-term capital needs.

In addition to the operating forecast, the City has adopted capital expenditures of \$604,735 and \$230,455 in FY 2017-18 and FY 2018-19, respectively. These capital expenditures are included in this analysis because they are in the adopted budget. The City has available fund balances above minimum requirements that allow budgeted capital expenditures to be addressed without affecting the rate forecast.

Figure 1 summarizes the annual revenue requirement for the utility based on the forecast of revenues, expenditures, and fund balances. Years shown indicate fiscal years, i.e., 2020 is FY 2019-20.

Figure 1. Revenue Requirement Summary – Budgeted Capital Only



Revenue Requirement (\$1,000s)	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027
Expenditures										
Operating Expenditures	\$2,233	\$2,282	\$2,298	\$2,314	\$2,330	\$2,346	\$2,363	\$2,380	\$2,397	\$2,415
Revenues										
Rate Rev. @ Existing Rates	\$542	\$542	\$544	\$545	\$547	\$548	\$550	\$551	\$553	\$554
Other Revenue	\$1,612	\$1,640	\$1,643	\$1,647	\$1,652	\$1,656	\$1,661	\$1,665	\$1,670	\$1,674
Total	\$2,155	\$2,183	\$2,187	\$2,192	\$2,198	\$2,204	\$2,210	\$2,216	\$2,222	\$2,228
Net Cash Flow @ Existing Rates	-\$82	-\$77	-\$61	\$1	\$0	\$0	-\$1	-\$1	-\$2	-\$2
Annual Rate Increase	5.0%	5.0%	12.0%	1.5%						
Rate Rev. After Increases	\$556	\$584	\$635	\$678	\$690	\$703	\$715	\$728	\$741	\$754
Net Cash Flow After Increases	-\$65	-\$60	-\$24	\$5	\$5	\$5	\$5	\$4	\$4	\$3

Figure 1 indicates that the utility must raise rates to cover operating expenditures and cover budgeted capital expenditures. Expenditures, the bars in the chart, are higher than revenues, the area graph. After factoring in the 5.0 percent rate increases in FY 2017-18 and FY 2018-19, the City still faces cash flow deficits. After FY 2018-19, the deficit increases annually due to inflation. The FY 2019-20 rate increase of 12.0 percent is required to ensure revenues can cover expenditures after the 5.0 percent rate increases. Following the initial rate increase, the City must raise rates by 1.5 percent annually to maintain long-term financial sustainability.

Figure 2 shows the City rate after rate increases and in the context of the total sewer bill sent to citizens. While the City rate increase is 12.0 percent in FY 2019-20, the actual effective rate increase is either 2.0 percent or 3.6 percent depending on which treatment district the customer is in.

Figure 2. Rate Increase Summary – Budgeted Capital Only

Rate Effective 1/1	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027
Fees Controlled by Gladstone - per EDU										
Rate Increase	5.00%	5.00%	12.00%	1.50%	1.50%	1.50%	1.50%	1.50%	1.50%	1.50%
Gladstone	\$9.60	\$10.08	\$11.29	\$11.46	\$11.63	\$11.81	\$11.98	\$12.16	\$12.34	\$12.53
Total Fee - per EDU										
Oak Lodge Customers	\$59.03	\$59.51	\$60.72	\$60.89	\$61.06	\$61.24	\$61.41	\$61.59	\$61.77	\$61.96
Clackamas County WES	\$32.18	\$32.66	\$33.87	\$34.04	\$34.21	\$34.39	\$34.56	\$34.74	\$34.92	\$35.11
Effective Rate Increase on Total Bill From City Fee										
Oak Lodge Customers										
Percent Increase		0.8%	2.0%	0.3%	0.3%	0.3%	0.3%	0.3%	0.3%	0.3%
Dollar Increase		\$0.48	\$1.21	\$0.17	\$0.17	\$0.17	\$0.18	\$0.18	\$0.18	\$0.19
Clackamas County WES										
Percent Increase		1.5%	3.6%	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%
Dollar Increase		\$0.48	\$1.21	\$0.17	\$0.17	\$0.17	\$0.18	\$0.18	\$0.18	\$0.19

III.D. REVENUE REQUIREMENT – CAPITAL FORECAST OPTIONS

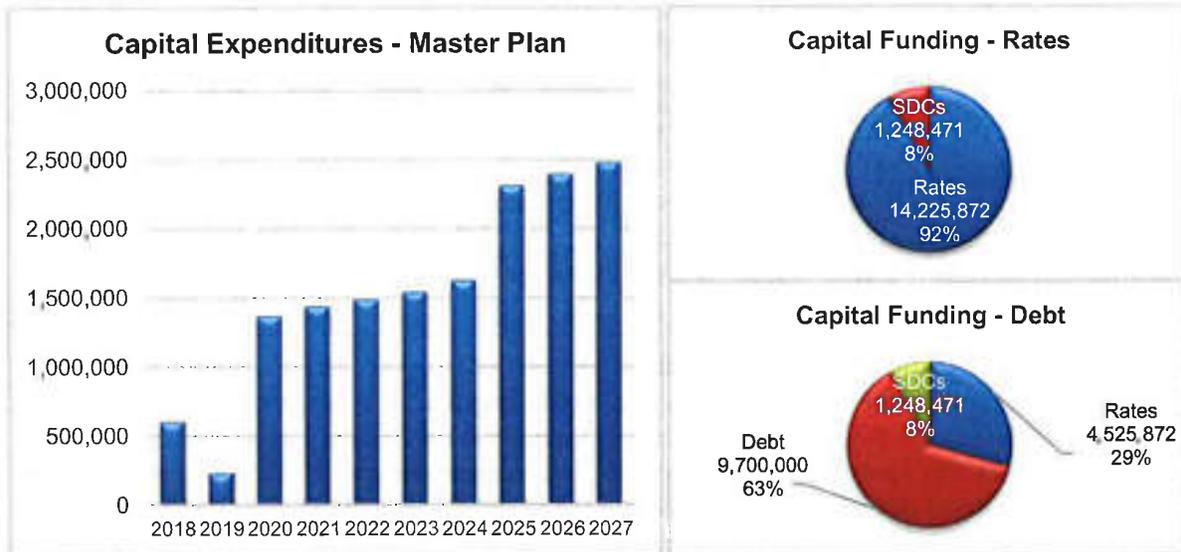
The City evaluated several options for funding the recommended capital program. The City outlined four capital expenditure scenarios, one based on the capital plan in the recently adopted Sanitary Sewer Master Plan. Below is a brief explanation of the scenarios and how long it will take to complete the Sewer Master Plan project list based on funding levels in the scenario.

- **Master Plan.** The City will complete the master plan project list in the prescribed timeline, 20 years. The rate forecasts include funding the Master Plan using pay-go and debt. The total Master Plan capital project list totals \$27,940,000 (in 2017 dollars).
- **\$1 million Annual CIP.** In this scenario, the City will spend \$1 million per year (in 2017 dollars) to construct projects from the Master Plan. In real dollar terms, it will take the City 28 years to complete the Master Plan capital project list under this strategy.
- **\$500,000 Annual CIP.** In this scenario, the City will spend \$500,000 per year (in 2017 dollars) to construct projects from the Master Plan. In real dollar terms, it will take the City 56 years to complete the Master Plan capital project list under this strategy.
- **\$300,000 Annual CIP.** In this scenario, the City will spend \$300,000 per year (in 2017 dollars) to construct projects from the Master Plan. In real dollar terms, it will take the City 94 years to complete the Master Plan capital project list under this strategy.

III.D.1. Master Plan

The first scenario allows the City to construct the full Sanitary Sewer Master Plan project list on the recommended timeline in the plan. Projects begin in FY 2019-20 and are scheduled based on the five- or ten-year timeframe in the plan. Costs are spread equally across the plan timeframe. **Figure 3** shows the annual capital costs for the next 10 years based on the master plan. The figure also shows the capital funding sources associated with the pay-go and debt scenarios.

Figure 3. Capital Expenditures and Funding – Master Plan

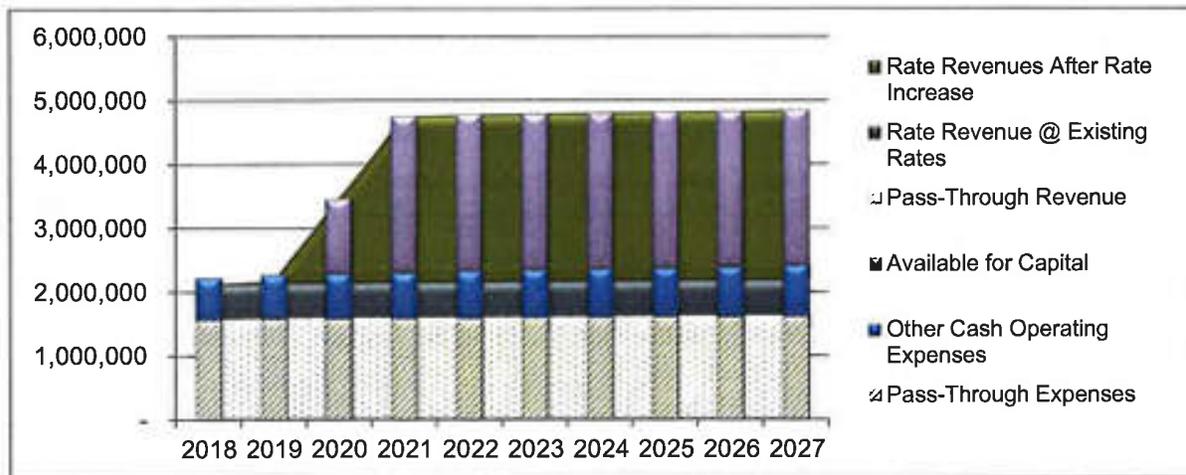


Based on the Master Plan, capital costs equal approximately \$15.5 million over the coming ten years. Disregarding the first two budgeted years of capital expenditures, the City will average \$1.8 million in capital costs per year from FY 2019-20 to FY 2026-27. The City can expect to cover about 8.0 percent of total capital costs through SDCs, with the remaining amount coming from rates and, if applicable, debt.

III.D.1.a Revenue requirement summary – Pay-Go

Figure 4 summarizes the annual revenue requirement based on the forecast of revenues, expenditures, and fund balances.

Figure 4. Revenue Requirement Summary – Master Plan Capital; Pay-Go



Revenue Requirement (\$1,000s)	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027
Expenditures										
Operating Expenditures	\$2,233	\$2,282	\$2,298	\$2,314	\$2,330	\$2,346	\$2,363	\$2,380	\$2,397	\$2,415
Revenues										
Rate Rev. @ Existing Rates	\$542	\$542	\$544	\$545	\$547	\$548	\$550	\$551	\$553	\$554
Other Revenue	\$1,612	\$1,639	\$1,643	\$1,647	\$1,652	\$1,656	\$1,661	\$1,665	\$1,670	\$1,674
Total	\$2,155	\$2,181	\$2,186	\$2,192	\$2,199	\$2,205	\$2,211	\$2,217	\$2,222	\$2,228
Net Cash Flow @ Existing Rates	-\$82	-\$79	-\$61	\$2,453	\$2,481	\$2,477	\$2,473	\$2,468	\$2,464	\$2,459
Annual Rate Increase	5.0%	5.0%	420.0%	1.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Rate Rev. After Increases	\$556	\$584	\$1,858	\$3,141	\$3,166	\$3,174	\$3,183	\$3,192	\$3,200	\$3,209
Net Cash Flow After Increases	-\$65	-\$62	\$1,138	\$2,345	\$2,357	\$2,353	\$2,349	\$2,345	\$2,340	\$2,336

As explained in the O&M scenario, rate increases are required to cover annual operating costs. In addition to the operating cost deficit, the City does not have sufficient funds to cover capital costs in the FY 2019-20. Because this scenario uses the pay-go method for funding capital projects, the City must raise rates by 420.0 percent to avoid negative fund balances and pay \$1.37M for capital projects in that year. The initial rate increase both stabilizes the operating cash deficit and allows the City to construct the capital projects. The rate is largely sufficient to construct projects using pay-go because capital expenditures in the following years do not increase dramatically. In FY 2020-21, a 1.0 percent increase is necessary to maintain long term financial viability.

Figure 5 shows the City rate after rate increases and in the context of the total sewer bill sent to customers. While the City rate increase is 420.0 percent in FY 2019-20, the actual effective rate increase is either 41.6 percent or 56.5 percent depending on which treatment district the customer is in.

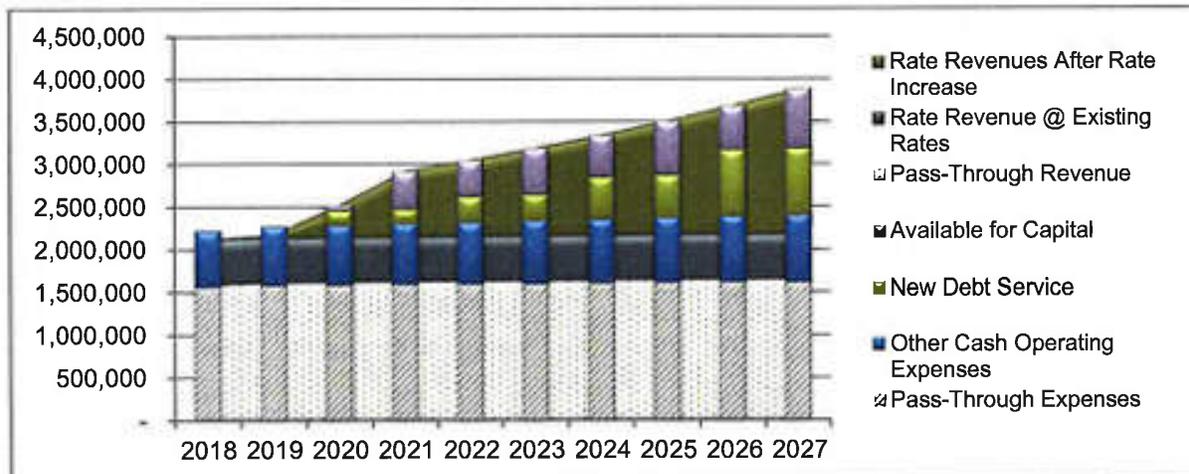
Figure 5. Rate Increase Summary – Master Plan; Pay-Go

Rate Effective 1/1:	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027
Fee Controlled by Gladstone - per EDU										
Rate Increase	5.00%	5.00%	420.00%	1.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Gladstone	\$9.60	\$10.08	\$52.42	\$52.94	\$52.94	\$52.94	\$52.94	\$52.94	\$52.94	\$52.94
Total Fee - per EDU										
Oak Lodge Customers	\$59.03	\$59.51	\$101.85	\$102.37	\$102.37	\$102.37	\$102.37	\$102.37	\$102.37	\$102.37
Clackamas County WES Cu:	\$32.18	\$32.66	\$75.00	\$75.52	\$75.52	\$75.52	\$75.52	\$75.52	\$75.52	\$75.52
Effective Rate Increase on Total Bill From City Fee										
Oak Lodge Customers										
Percent Increase		0.8%	41.6%	0.5%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Dollar Increase		\$0.48	\$42.34	\$0.52	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Clackamas County WES										
Percent Increase		1.5%	56.5%	0.7%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Dollar Increase		\$0.48	\$42.34	\$0.52	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

III.D.1.b Revenue requirement summary – Debt

Figure 6 summarizes the annual revenue requirement based on the forecast of revenues, expenditures, and fund balances.

Figure 6. Revenue Requirement Summary – Master Plan Capital; Debt



Revenue Requirement (\$1,000s)	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027
Expenditures										
Operating Expenditures	\$2,233	\$2,282	\$2,462	\$2,478	\$2,631	\$2,647	\$2,857	\$2,874	\$3,176	\$3,194
Revenues										
Rate Rev. @ Existing Rates	\$542	\$542	\$544	\$545	\$547	\$548	\$550	\$551	\$553	\$554
Other Revenue	\$1,612	\$1,639	\$1,643	\$1,649	\$1,653	\$1,659	\$1,663	\$1,670	\$1,674	\$1,681
Total	\$2,155	\$2,181	\$2,186	\$2,194	\$2,200	\$2,207	\$2,213	\$2,221	\$2,227	\$2,235
Net Cash Flow @ Existing Rates	-\$82	-\$79	-\$321	\$340	\$222	\$346	\$161	\$316	\$7	\$195
Annual Rate Increase	5.0%	5.0%	110.0%	9.0%						
Rate Rev. After Increases	\$556	\$584	\$929	\$1,319	\$1,442	\$1,576	\$1,722	\$1,882	\$2,058	\$2,249
Net Cash Flow After Increases	-\$65	-\$62	\$90	\$451	\$420	\$536	\$470	\$612	\$480	\$651

As shown in the pay-go scenario above, a large initial rate increase is necessary to pay for the Master Plan capital program. Issuing debt mitigates the first year required rate increase, but requires additional rate increases in the following years. Instead of a 420.0 percent increase in the first year, the City must raise rates by 110.0 percent in FY 2019-20. However, rates must increase by 9.0 consistently after FY 2019-20 in order to pay for debt service and meet coverage requirements.

As noted in **Figure 3**, the City issues \$9.7 million in debt which covers 63% of the total capital costs during the 10-year period. As per City code, this scenario does require a public vote to issue the revenue bonds.

Figure 7 shows the City rate after rate increases and in the context of the total sewer bill sent to citizens. While the City rate increase is 110.0 percent in FY 2019-20, the actual effective rate increase is either 15.7 percent or 25.3 percent depending on which treatment district the customer is in.

Figure 7. Rate Increase Summary – Master Plan Capital; Debt

Rate Effective 1/1:	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027
Fees Controlled by Gladstone - per EDU										
Rate Increase	5.00%	5.00%	110.00%	9.00%	9.00%	9.00%	9.00%	9.00%	9.00%	9.00%
Gladstone	\$9.60	\$10.08	\$21.17	\$23.07	\$25.15	\$27.41	\$29.88	\$32.57	\$35.50	\$38.70
Fees Not Controlled by Gladstone - per EDU										
Oak Lodge	\$49.43	\$49.43	\$49.43	\$49.43	\$49.43	\$49.43	\$49.43	\$49.43	\$49.43	\$49.43
Clackamas County WES	\$22.58	\$22.58	\$22.58	\$22.58	\$22.58	\$22.58	\$22.58	\$22.58	\$22.58	\$22.58
Total Fee - per EDU										
Oak Lodge Customers	\$59.03	\$59.51	\$70.60	\$72.50	\$74.58	\$76.84	\$79.31	\$82.00	\$84.93	\$88.13
Clackamas County WES Cur	\$32.18	\$32.88	\$43.75	\$46.65	\$47.73	\$49.99	\$52.46	\$55.15	\$58.08	\$61.28
Effective Rate Increase on Total Bill From City Fee										
Oak Lodge Customers										
Percent Increase		0.8%	15.7%	2.6%	2.8%	2.9%	3.1%	3.3%	3.5%	3.6%
Dollar Increase		\$0.48	\$11.09	\$1.91	\$2.08	\$2.26	\$2.47	\$2.69	\$2.93	\$3.20
Clackamas County WES										
Percent Increase		1.5%	25.3%	4.2%	4.4%	4.5%	4.7%	4.9%	5.0%	5.2%
Dollar Increase		\$0.48	\$11.09	\$1.91	\$2.08	\$2.26	\$2.47	\$2.69	\$2.93	\$3.20

III.D.2. \$1 Million Annual CIP

In this scenario, the City completes \$1 million (in 2017 dollars) in capital projects per year. To allow the utility to address O&M deficits and mitigate initial rate increases, annual capital expenditures increase to \$1 million over a three year period. **Figure 8** shows the annual capital expenditures and the capital funding mechanisms used by the City.

Figure 8. Capital Expenditures and Funding – \$1 Million Annual CIP

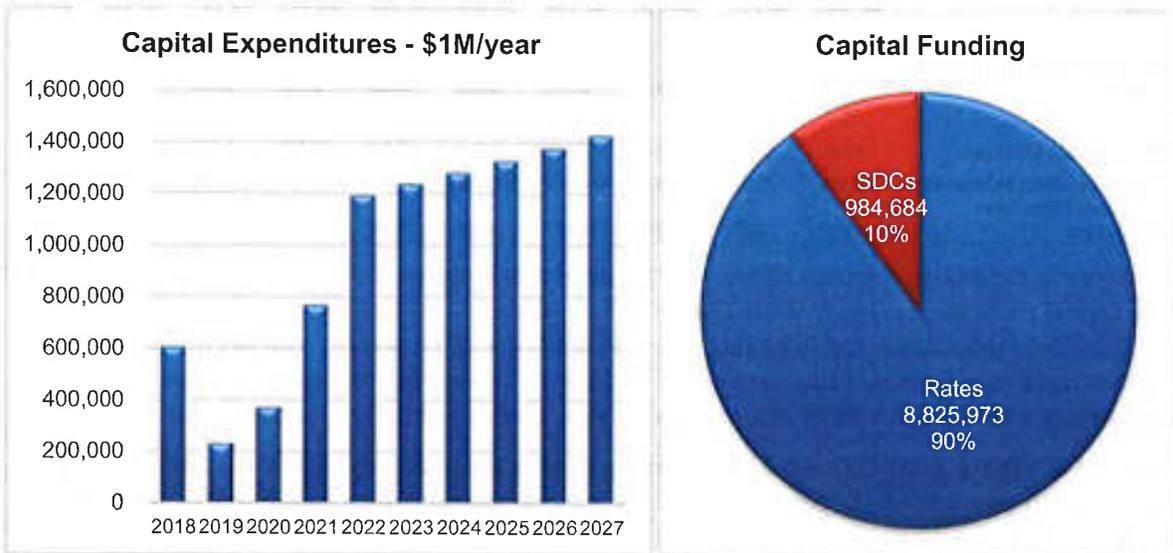
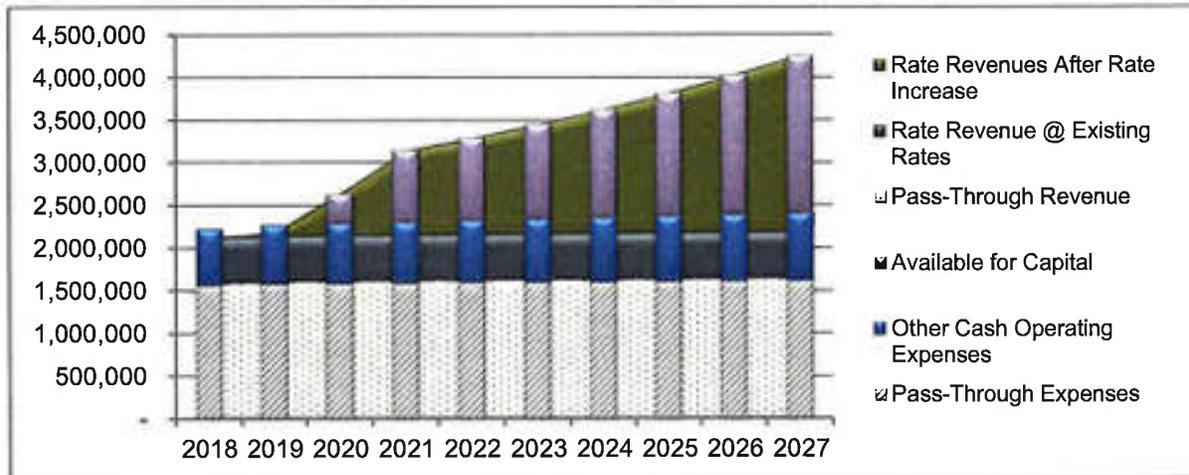


Figure 9 summarizes the annual revenue requirement based on the forecast of revenues, expenditures, and fund balances.

Figure 9. Revenue Requirement Summary – \$1M Annual CIP



Revenue Requirement (\$1,000s)	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027
Expenditures										
Operating Expenditures	\$2,233	\$2,282	\$2,298	\$2,314	\$2,330	\$2,346	\$2,363	\$2,380	\$2,397	\$2,415
Revenues										
Rate Rev. @ Existing Rates	\$542	\$542	\$544	\$545	\$547	\$548	\$550	\$551	\$553	\$554
Other Revenue	\$1,612	\$1,639	\$1,643	\$1,648	\$1,652	\$1,656	\$1,661	\$1,665	\$1,670	\$1,674
Total	\$2,155	\$2,181	\$2,186	\$2,193	\$2,199	\$2,205	\$2,211	\$2,217	\$2,222	\$2,228
Net Cash Flow @ Existing Rates	-\$82	-\$79	-\$61	\$800	\$925	\$1,062	\$1,213	\$1,378	\$1,560	\$1,760
Annual Rate Increase	5.0%	5.0%	145.0%	9.0%						
Rate Rev. After Increases	\$556	\$584	\$1,034	\$1,539	\$1,682	\$1,838	\$2,009	\$2,196	\$2,400	\$2,624
Net Cash Flow After Increases	-\$65	-\$62	\$355	\$823	\$948	\$1,084	\$1,234	\$1,399	\$1,580	\$1,779

A 145.0 percent increase is required in FY 2019-20 to stabilize the cash flow and provide enough funds for capital expenditures. That increase is followed by 9.0 percent annual rate increases to maintain long term financial viability while continuing the capital program.

Figure 10 shows the City rate after rate increases and in the context of the total sewer bill sent to customers. While the City rate increase is 145.0 percent in FY 2019-20, the actual effective rate increase is either 19.7 percent or 30.9 percent depending on which treatment district the customer is in. After FY 2019-20, 9.0 percent rate increases result in 3.0 and 5.0 percent increases by district until FY 2026-27.

Figure 10. Rate Increase Summary – \$1M Annual CIP

Rate Effective 1/1:	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027
Fees Controlled by Gladstone - per EDU										
Rate Increase	5.00%	5.00%	145.00%	9.00%	9.00%	9.00%	9.00%	9.00%	9.00%	9.00%
Oak Lodge Monthly Fee	\$9.60	\$10.08	\$24.70	\$26.92	\$29.34	\$31.98	\$34.86	\$38.00	\$41.42	\$45.15
Total Fee - per EDU										
Oak Lodge	\$59.03	\$59.51	\$74.13	\$76.35	\$78.77	\$81.41	\$84.29	\$87.43	\$90.85	\$94.58
Clackamas County WES	\$32.18	\$32.66	\$47.28	\$49.50	\$51.92	\$54.56	\$57.44	\$60.58	\$64.00	\$67.73
Effective Rate Increase on Total Bill From City Fee										
Oak Lodge Customers										
Percent Increase		0.8%	19.7%	2.9%	3.1%	3.2%	3.4%	3.6%	3.8%	3.9%
Dollar Increase		\$0.48	\$14.62	\$2.22	\$2.42	\$2.64	\$2.88	\$3.14	\$3.42	\$3.73
Clackamas County WES										
Percent Increase		1.5%	30.9%	4.5%	4.7%	4.8%	5.0%	5.2%	5.3%	5.5%
Dollar Increase		\$0.48	\$14.62	\$2.22	\$2.42	\$2.64	\$2.88	\$3.14	\$3.42	\$3.73

III.D.3. \$500,000 Annual CIP

In this scenario, the City completes \$500,000 (in 2017 dollars) in capital projects per year. Similar to the \$1 million capital scenario, annual expenditures increase to \$500,000 over a three year period to allow the utility to address O&M deficits and mitigate initial rate increases. **Figure 11** shows the annual capital expenditures and the capital funding mechanisms used by the City.

Figure 11. Capital Expenditures and Funding – \$500,000 Annual CIP

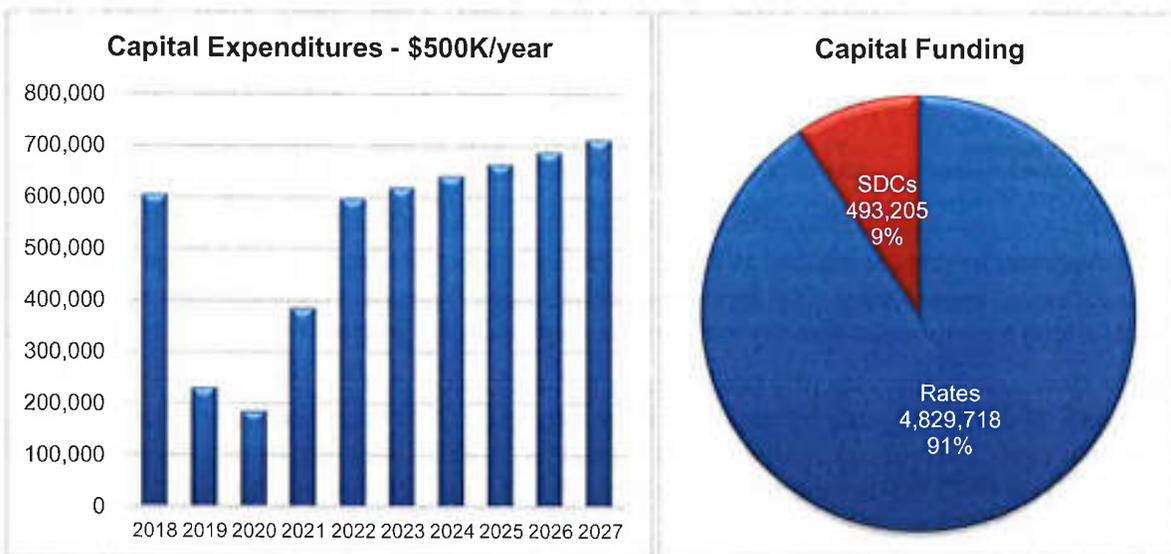
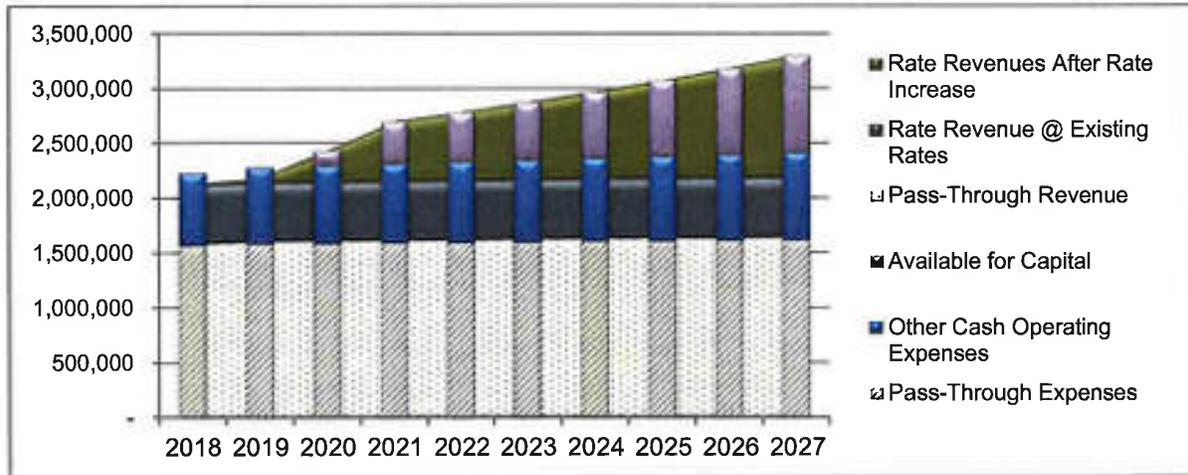


Figure 12 summarizes the annual revenue requirement based on the forecast of revenues, expenditures, and fund balances.

Figure 12. Revenue Requirement Summary – \$500,000 Annual CIP



Revenue Requirement (\$1,000s)	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027
Expenditures										
Operating Expenditures	\$2,233	\$2,282	\$2,298	\$2,314	\$2,330	\$2,346	\$2,363	\$2,380	\$2,397	\$2,415
Revenues										
Rate Rev. @ Existing Rates	\$542	\$542	\$544	\$545	\$547	\$548	\$550	\$551	\$553	\$554
Other Revenue	\$1,612	\$1,639	\$1,643	\$1,647	\$1,652	\$1,656	\$1,660	\$1,665	\$1,670	\$1,674
Total	\$2,155	\$2,181	\$2,186	\$2,193	\$2,199	\$2,204	\$2,210	\$2,216	\$2,222	\$2,228
Net Cash Flow @ Existing Rates	-\$82	-\$79	-\$61	\$379	\$444	\$513	\$589	\$670	\$759	\$854
Annual Rate Increase	5.0%	5.0%	75.0%	7.0%						
Rate Rev. After Increases	\$556	\$584	\$824	\$1,089	\$1,168	\$1,253	\$1,345	\$1,443	\$1,548	\$1,661
Net Cash Flow After Increases	-\$65	-\$62	\$155	\$395	\$459	\$528	\$602	\$683	\$771	\$865

As in previous scenarios, a large rate increase, 75.0 percent, is required in FY 2019-20 to stabilize cash flow and provide enough revenue for the first year capital expenditures. That increase is followed by consistent 7.0 percent annual rate increases to maintain long term financial viability and fund the capital program.

Figure 13 shows the City rate after rate increases and in the context of the total sewer bill sent to customers. While the City rate increase is 75.0 percent in FY 2019-20, the actual effective rate increase is either 11.3 percent or 18.8 percent depending on which treatment district the customer is in. In subsequent years, the effective rate increase is 2.0 and 3.0 percent by district.

Figure 13. Rate Increase Summary – \$500,000 Annual CIP

Rate Effective 1/1:	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027
Fees Controlled by Gladstone - per EDU										
Rate Increase	5.00%	5.00%	75.00%	7.00%	7.00%	7.00%	7.00%	7.00%	7.00%	7.00%
Monthly Fee	\$9.60	\$10.05	\$17.64	\$18.87	\$20.20	\$21.61	\$23.12	\$24.74	\$26.47	\$28.33
Fees Not Controlled by Gladstone - per EDU										
Oak Lodge	\$49.43	\$49.43	\$49.43	\$49.43	\$49.43	\$49.43	\$49.43	\$49.43	\$49.43	\$49.43
Clackamas County WES	\$22.58	\$22.58	\$22.58	\$22.58	\$22.58	\$22.58	\$22.58	\$22.58	\$22.58	\$22.58
Total Fee - per EDU										
Oak Lodge	\$59.03	\$59.51	\$67.07	\$68.30	\$69.63	\$71.04	\$72.55	\$74.17	\$75.90	\$77.76
Clackamas County WES	\$32.18	\$32.66	\$40.22	\$41.45	\$42.78	\$44.19	\$45.70	\$47.32	\$49.05	\$50.91
Effective Rate Increase on Total Bill From City Fee										
Oak Lodge Customers										
Percent Increase		0.8%	11.3%	1.8%	1.9%	2.0%	2.1%	2.2%	2.3%	2.4%
Dollar Increase		\$0.48	\$7.56	\$1.23	\$1.32	\$1.41	\$1.51	\$1.62	\$1.73	\$1.85
Clackamas County WES										
Percent Increase		1.5%	18.8%	3.0%	3.1%	3.2%	3.3%	3.4%	3.5%	3.6%
Dollar Increase		\$0.48	\$7.56	\$1.23	\$1.32	\$1.41	\$1.51	\$1.62	\$1.73	\$1.85

III.D.4. \$300,000 Annual CIP

In this scenario, the City completes \$300,000 (in 2017 dollars) in capital projects per year. Similar to the other fixed annual CIP scenarios, annual capital expenditures increase to \$300,000 over a three year period to allow the utility to address O&M deficits and lessen the initial rate increases. **Figure 14** shows the annual capital expenditures and the capital funding mechanisms used by the City.

Figure 14. Capital Expenditures and Funding – \$300,000 Annual CIP

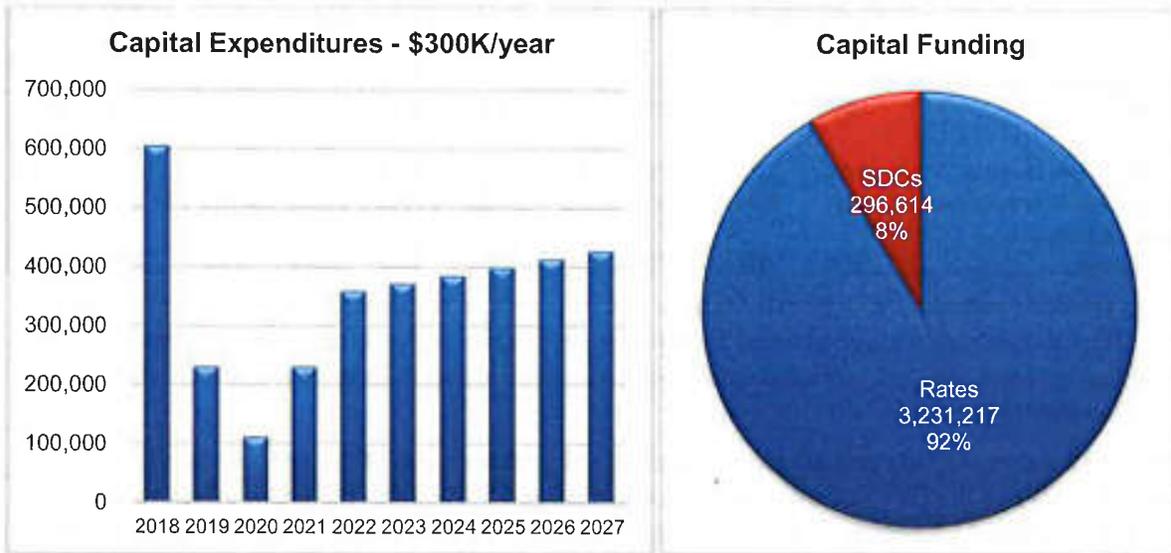
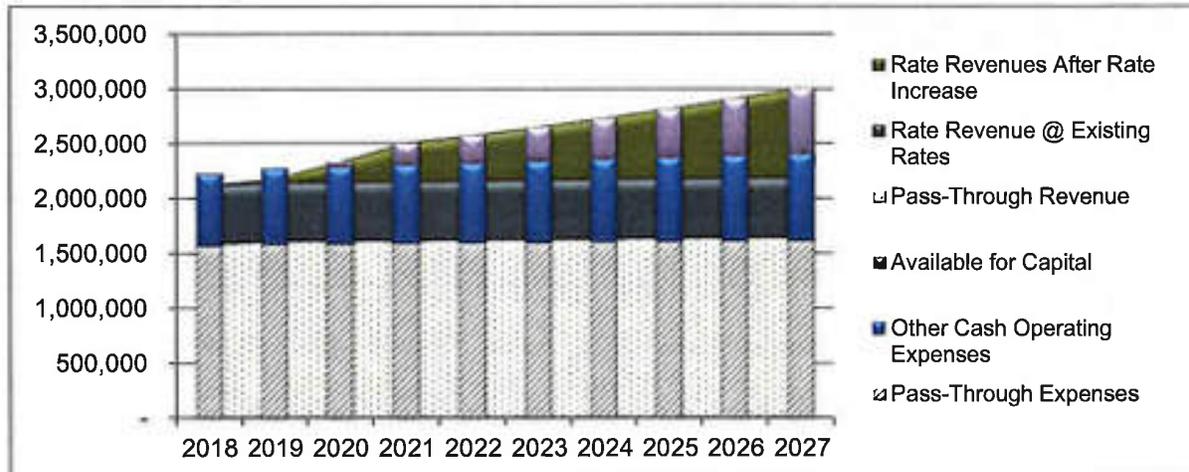


Figure 15 summarizes the annual revenue requirement based on the forecast of revenues, expenditures, and fund balances.

Figure 15. Revenue Requirement Summary – \$300,000 Capital per Year



Revenue Requirement (\$1,000s)	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027
Expenditures										
Operating Expenditures	\$2,233	\$2,282	\$2,298	\$2,314	\$2,330	\$2,346	\$2,363	\$2,380	\$2,397	\$2,415
Revenues										
Rate Rev. @ Existing Rates	\$542	\$542	\$544	\$545	\$547	\$548	\$550	\$551	\$553	\$554
Other Revenue	\$1,612	\$1,639	\$1,643	\$1,647	\$1,652	\$1,656	\$1,660	\$1,665	\$1,670	\$1,674
Total	\$2,155	\$2,181	\$2,186	\$2,192	\$2,198	\$2,204	\$2,210	\$2,216	\$2,222	\$2,228
Net Cash Flow @ Existing Rates	-\$82	-\$79	-\$61	\$199	\$250	\$305	\$366	\$431	\$502	\$579
Annual Rate Increase	5.0%	5.0%	45.0%	7.0%						
Rate Rev. After Increases	\$556	\$584	\$734	\$902	\$968	\$1,038	\$1,114	\$1,195	\$1,283	\$1,376
Net Cash Flow After Increases	-\$65	-\$62	\$70	\$218	\$269	\$323	\$383	\$448	\$519	\$594

As in previous scenarios, a large rate increase, 45.0 percent, is required in FY 2019-20 to stabilize cash flow and provide enough revenue for capital expenditures. After FY 2019-20, consistent 7.0 percent annual rate increases are necessary to maintain long term financial viability while continuing the capital program.

Figure 16 shows the City rate after rate increases and in the context of the total sewer bill sent to customers. While the City rate increase is 45.0 percent in FY 2019-20, the actual effective rate increase is either 7.1 percent or 12.2 percent depending on which treatment district the customer is in. In subsequent years, the effective rate increase is 2.0 and 3.0 percent by district.

Figure 16. Rate Increase Summary – \$300,000 Annual CIP

Rate Effective 1/1:	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027
Fees Controlled by Gladstone - per EDU										
Rate Increase	5.00%	5.00%	45.00%	7.00%	7.00%	7.00%	7.00%	7.00%	7.00%	7.00%
Gladstone	\$9.60	\$10.08	\$14.62	\$15.64	\$16.73	\$17.91	\$19.16	\$20.50	\$21.93	\$23.47
Fees Not Controlled by Gladstone - per EDU										
Oak Lodge	\$49.43	\$49.43	\$49.43	\$49.43	\$49.43	\$49.43	\$49.43	\$49.43	\$49.43	\$49.43
Clackamas County WES	\$22.58	\$22.58	\$22.58	\$22.58	\$22.58	\$22.58	\$22.58	\$22.58	\$22.58	\$22.58
Total Fee - per EDU										
Oak Lodge	\$69.03	\$69.51	\$64.05	\$65.07	\$66.16	\$67.34	\$68.59	\$69.93	\$71.36	\$72.90
Clackamas County WES	\$32.18	\$32.66	\$37.20	\$38.22	\$39.31	\$40.49	\$41.74	\$43.08	\$44.51	\$46.05
Effective Rate Increase on Total Bill From City Fee										
Oak Lodge Customers										
Percent Increase		0.8%	7.1%	1.6%	1.7%	1.7%	1.8%	1.9%	2.0%	2.1%
Dollar Increase		\$0.48	\$4.54	\$1.02	\$1.09	\$1.17	\$1.25	\$1.34	\$1.43	\$1.54
Clackamas County WES										
Percent Increase		1.5%	12.2%	2.7%	2.8%	2.9%	3.0%	3.1%	3.2%	3.3%
Dollar Increase		\$0.48	\$4.54	\$1.02	\$1.09	\$1.17	\$1.25	\$1.34	\$1.43	\$1.54

Section IV. CONCLUSION

The section summarizes the rate forecast scenarios and provides a recommendation resulting from this study.

IV.A. RATE SUMMARY

The City currently charges \$9.60 per EDU after the 5.0 percent rate increase for FY 2017-18 and will charge \$10.08 per EDU in FY 2018-19 based on the budgeted 5.0 percent rate increase. In FY 2019-20, a minimum rate increase of 12.0 percent is necessary to address the operating deficit before considering capital projects after FY 2018-19.

Figure 17 shows the rate forecast summaries for each of the scenarios described above. The first section shows the City rate after rate increases. The next section shows the total sewer rate a customer would pay in both Oak Lodge and WES districts, respectively. The next sections shows the dollar change on the total bill. The final section shows the effective percent rate increases on the total bill for Oak Lodge and WES, respectively.

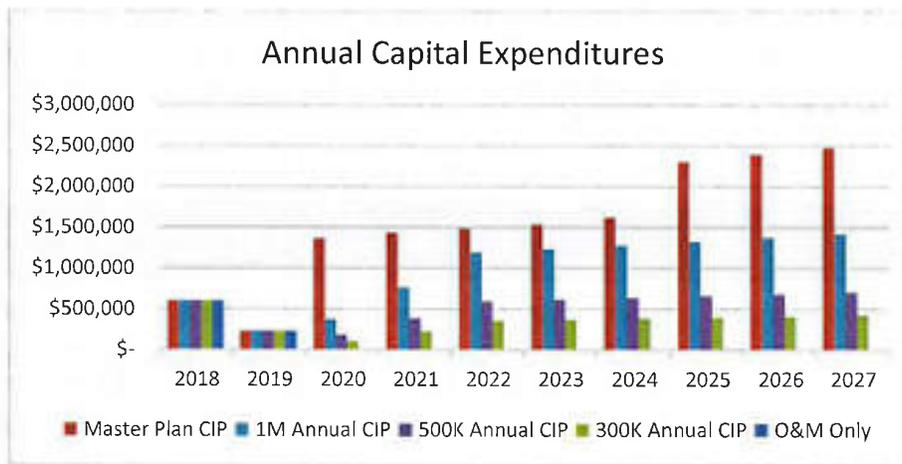
Figure 17. Rate Forecast Summary by Scenario

Rate Effective 1/1:	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027
City Rate										
Master Plan										
CIP - Pay-Go	\$9.60	\$10.08	\$52.42	\$52.94	\$52.94	\$52.94	\$52.94	\$52.94	\$52.94	\$52.94
Master Plan										
CIP - Debt	\$9.60	\$10.08	\$21.17	\$23.07	\$25.15	\$27.41	\$29.88	\$32.57	\$35.50	\$38.70
1M Annual CIP	\$9.60	\$10.08	\$24.70	\$26.92	\$29.34	\$31.98	\$34.86	\$38.00	\$41.42	\$45.15
500K Annual										
CIP	\$9.60	\$10.08	\$17.64	\$18.87	\$20.20	\$21.61	\$23.12	\$24.74	\$26.47	\$28.33
300K Annual										
CIP	\$9.60	\$10.08	\$14.62	\$15.64	\$16.73	\$17.91	\$19.16	\$20.50	\$21.93	\$23.47
O&M Only	\$9.60	\$10.08	\$11.29	\$11.46	\$11.63	\$11.81	\$11.98	\$12.16	\$12.34	\$12.53
Total Rate (Oak Lodge & WES)										
Master Plan	\$59.03	\$59.51	\$101.85	\$102.37	\$102.37	\$102.37	\$102.37	\$102.37	\$102.37	\$102.37
CIP - Pay-Go	\$32.18	\$32.66	\$75.00	\$75.52	\$75.52	\$75.52	\$75.52	\$75.52	\$75.52	\$75.52
Master Plan	\$59.03	\$59.51	\$70.60	\$72.50	\$74.58	\$76.84	\$79.31	\$82.00	\$84.93	\$88.13
CIP - Debt	\$32.18	\$32.66	\$43.75	\$45.65	\$47.73	\$49.99	\$52.46	\$55.15	\$58.08	\$61.28
1M Annual CIP	\$59.03	\$59.51	\$74.13	\$76.35	\$78.77	\$81.41	\$84.29	\$87.43	\$90.85	\$94.58
500K Annual	\$32.18	\$32.66	\$47.28	\$49.50	\$51.92	\$54.56	\$57.44	\$60.58	\$64.00	\$67.73
CIP	\$59.03	\$59.51	\$67.07	\$68.30	\$69.63	\$71.04	\$72.55	\$74.17	\$75.90	\$77.76
300K Annual	\$32.18	\$32.66	\$40.22	\$41.45	\$42.78	\$44.19	\$45.70	\$47.32	\$49.05	\$50.91
CIP	\$59.03	\$59.51	\$64.05	\$65.07	\$66.16	\$67.34	\$68.59	\$69.93	\$71.36	\$72.90
O&M Only	\$32.18	\$32.66	\$37.20	\$38.22	\$39.31	\$40.49	\$41.74	\$43.08	\$44.51	\$46.05
O&M Only	\$59.03	\$59.51	\$60.72	\$60.89	\$61.06	\$61.24	\$61.41	\$61.59	\$61.77	\$61.96
O&M Only	\$32.18	\$32.66	\$33.87	\$34.04	\$34.21	\$34.39	\$34.56	\$34.74	\$34.92	\$35.11
Dollar Increase on Total Bill										
Master Plan										
CIP - Debt		\$0.48	\$11.09	\$1.91	\$2.08	\$2.26	\$2.47	\$2.69	\$2.93	\$3.20
Master Plan										
CIP - Pay-Go		\$0.48	\$42.34	\$0.52	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
1M Annual CIP		\$0.48	\$14.62	\$2.22	\$2.42	\$2.64	\$2.88	\$3.14	\$3.42	\$3.73
500K Annual										
CIP		\$0.48	\$7.56	\$1.23	\$1.32	\$1.41	\$1.51	\$1.62	\$1.73	\$1.85
300K Annual										
CIP		\$0.48	\$4.54	\$1.02	\$1.09	\$1.17	\$1.25	\$1.34	\$1.43	\$1.54
O&M Only		\$0.48	\$1.21	\$0.17	\$0.17	\$0.17	\$0.18	\$0.18	\$0.18	\$0.19
Effective Rate Increase From City Rate on Total Bill (Oak Lodge & WES)										

Rate Effective 1/1:	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027
Master Plan	0.8%	15.7%	2.6%	2.8%	2.9%	3.1%	3.3%	3.5%	3.6%	3.6%
CIP - Debt	1.5%	25.3%	4.2%	4.4%	4.5%	4.7%	4.9%	5.0%	5.2%	5.2%
Master Plan CIP - Pay-Go	0.8%	41.6%	0.5%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
1M Annual CIP	1.5%	56.5%	0.7%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
500K Annual CIP	0.8%	19.7%	2.9%	3.1%	3.2%	3.4%	3.6%	3.8%	3.9%	3.9%
300K Annual CIP	1.5%	30.9%	4.5%	4.7%	4.8%	5.0%	5.2%	5.3%	5.5%	5.5%
O&M Only	0.8%	11.3%	1.8%	1.9%	2.0%	2.1%	2.2%	2.3%	2.4%	2.4%
	1.5%	18.8%	3.0%	3.1%	3.2%	3.3%	3.4%	3.5%	3.6%	3.6%
	0.8%	7.1%	1.6%	1.7%	1.7%	1.8%	1.9%	2.0%	2.1%	2.1%
	1.5%	12.2%	2.7%	2.8%	2.9%	3.0%	3.1%	3.2%	3.3%	3.3%
	0.8%	2.0%	0.3%	0.3%	0.3%	0.3%	0.3%	0.3%	0.3%	0.3%
	1.5%	3.6%	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%

Higher capital expenditures directly correspond to higher rate increases. Additionally, higher capital expenditures also allow the City to complete the Sanitary Sewer Master Plan project list closer to the recommended timeline (20 years). To illustrate the relative capital requirements by scenario, **Figure 18** shows a comparison of capital expenditures by year.

Figure 18. Rate Forecast Summary by Scenario



IV.B. BILLING SYSTEM

The City provided revenue data in the process of the study and, in doing so, identified that City rate revenue is not separated from Oak Lodge or WES revenue. We recommend that the City track City charges separately from Oak Lodge and WES charges. Additionally, we recommend the City track expenditures sent to WES and Oak Lodge to reconcile Oak Lodge receipts with the actual amount Oak Lodge bills.

City of Gladstone Staff Report

Report Date : November 20, 2018
Meeting Date: November 27, 2018
To : City Council
From : Jacque M. Betz, City Administrator

AGENDA ITEM

Complete the second reading of Ordinance 1482- Amending Title 17 of the Gladstone Municipal Code- Temporary Structures.

ORDINANCE NO. 1482
CITY OF GLADSTONE, OREGON

An Ordinance Amending Chapter 17 of the Gladstone Municipal Code Pertaining to Temporary Structures, and Reaffirming all Remaining Provisions of the Gladstone Municipal Code.

The City of Gladstone ordains as follows:

SECTION 1. Chapter 17.06, Definitions, of the Gladstone Municipal Code (GMC) is amended as shown in underline as follows:

17.06.537 Temporary Structures.

An area covered by a plastic, tarp, fabric, or metal membrane that is either attached to a rigid framework, natural feature or some other structure that is used for storage. It does not include greenhouses or weather proofing of a vehicle, boat, or other individual item by tarp or other type of covering as long as the covering is attached directly to and covers only the particular item.

SECTION 2 All remaining provisions of Chapter 17.06 of the Gladstone Municipal Code are reaffirmed in their entirety.

SECTION 3. Chapter 17.44.020, Building Siting and Design; General Standards, of the Gladstone Municipal Code is amended as shown in underline as follows:

(9) Temporary Structures. All temporary structures:

(a) Shall be located behind the front building line of the primary structure and shall meet the setback requirements for accessory structures of the underlying zoning district. On corner lots the streetside setback can be reduced to 5 ft.

(b) Exceptions to these standards may be made by the planning department for temporary storage of materials as long as the temporary structure is removed within fifteen days, is not erected for more than thirty days in one calendar year and is not seen as a nuisance to the city. Any temporary structures for current activities, such as lemonade stands, gardening, temporary mechanical repair, temporary storage, and other similar activities, would be subject to this same provision.

(c) This section shall apply to all temporary structures in place before, on, or after the effective date of this section.

(d) Any temporary structure will be secured per manufacturer's instructions for proper anchoring.

SECTION 4 All remaining provisions of Chapter 17.44 of the Gladstone Municipal Code are reaffirmed in their entirety.

SECTION 5. Chapter 17.98.010 of the Gladstone Municipal Code is amended as shown in underline as follows:

17.98.010 Enforcement measures.

- (1) The city may take action it deems necessary to enforce the provisions of this title, including the institution of injunction, mandamus, abatement citing to Municipal Court or similar proceedings to prevent, enjoining temporarily or permanently abate, or remove the unlawful location, construction maintenance, repair, alteration or use.
- (2) Violation of any provision of Title 17 of this code or condition of approval shall be punished by a fine not to exceed five hundred dollars (\$500), per offense. The daily fine shall be determined based on the nature, extent, and duration of the violation pursuant to Chapter 1.08 of the GMC. In addition, the City Attorney, upon the request of the City Administrator, shall institute any necessary civil proceedings to enforce compliance with the terms of this section.
- (3) Each violation of a separate provision of this title shall constitute a separate offense and each day that violation of this title is committed or permitted to continue shall constitute a separate offense. The City Police Chief has the discretion to determine that Violations of Title 17 are civil infractions and are subject to Chapter 1.08 of the GMC.
- (4) Whenever the City Administrator has determined, based on substantial evidence, that real property has been developed in violation of this Title, the City Administrator, in conjunction with the City Police Chief, may cause a violation notification letter to be mailed by regular and certified mail to the owner of the real property at issue, describing the real property, identifying the nature of the violation, naming the owners thereof, and stating that the violator shall provide evidence that the violation has been eliminated within business 30 days of the date of the violation notification letter. A daily fine will be assessed starting on the 31st day from the date of the violation notification letter unless:
 - (a) A response from the violator received by the City within 30 business days of the date of the violation notification letter provides ample evidence that the violation has been eliminated;
 - (b) A site visit by the City Police Chief demonstrates that the violation has been eliminated; or
 - (c) The City Administrator, in conjunction with the City Police Chief, determine that

there are no public health and safety issues resulting from the violation and there are extenuating circumstances that justify providing the violator additional time, in excess of 30 business days from the date of the violation letter, to abate the violation. The amount of additional time to be provided to the violator shall be determined in the City Administrator's sole discretion.

(5) When there is a violation of conditions attached to any land use permit approved pursuant to this Title, the City Administrator may initiate a public hearing before the Planning Commission for revocation of the land use approval, pursuant to section 17.94.100 of the GMC.

SECTION 6 All remaining provisions of Chapter 17.98 of the Gladstone Municipal Code are reaffirmed in their entirety.

This Ordinance adopted by the Common Council of the City of Gladstone City Council and approved by the Mayor this _____ day of _____, 2018.

ATTEST:

Tamara Stempel, Mayor

Tami Bannick, City Recorder

City of Gladstone Staff Report

Report Date: November 20, 2018
Meeting Date: November 27, 2018
To: Gladstone City Council
Via:
From: Jacque M. Betz, City Administrator

AGENDA ITEM

Consider authorizing the City Administrator to approve Exhibit "A" to the American Institute of Architects (AIA) document agreement for the Gladstone Civic Center in the amount of \$12,565,338.

History/Background/Proposal

A summary of the City of Gladstone's Progressive Design-Build Procurement process for the Gladstone Civic Center Project, and pending review of the Exhibit "A"- Design Build Amendment has been prepared by Project Manager Kim Knox and is attached to the staff report.

At the May 8, 2018 City Council meeting, the Council approved the AIA Document A141-2014 *Standard form of Agreement Between Owner and Design Builder*. What is being considered tonight is an amendment to Exhibit "A" to allow for construction and completion of the project.

Options

- The City could choose not to approve the amendment as presented and discuss an alternate proposal

Cost Impact

The funds for the Exhibit A- Design-Build Amendment in the amount of \$12,565,338 are funded from the Civic Buildings Capital Fund in the 2017-19 adopted budget.

Relevancy to Council Goals and Objectives Identified in the Strategic Plan

ADDRESS CRITICAL CIVIC BUILDING NEEDS	
2.3	Post pictures or concept of new buildings, facilities
2.4	Move forward with constructing new Library/City Hall/Police Station per citizens' vote.
2.5	In the design phase use existing or new facilities to supply needs for public safety, seniors, administration office, multipurpose use, training, etc.

Recommended Staff Action

Authorize the City Administrator to approve Exhibit "A" to the American Institute of Architects (AIA) document agreement for the Gladstone Civic Center in the amount of \$12,565,338.

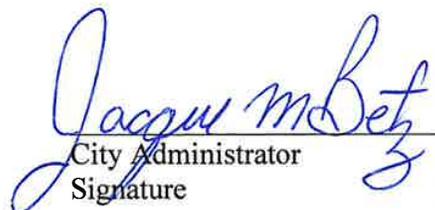
Attachments in Packet

- Kim Knox memo regarding Exhibit "A" amendments
- Kim Knox memo regarding Gladstone Civic Center
- AIA Document-A141-2014 Standard Form of Agreement between Owner Design Builder
- AIA Document- 2014 Exhibit "A" Design Build Amendment

- Exhibit A – GMP Cost Summary
- Exhibit B – Project Enhancements
- Exhibit C- Scope Definitions and Clarifications
 - C- FF&E Narrative
- Exhibit D- Executive Summary
- Exhibit E – MEP Narrative
- Exhibit F – Exterior Perspective (Option A)
 - F - Floor Plan (Larger lobby)
- Exhibit G – PC Billable Labor Rates

Department Head
Signature

Date


City Administrator
Signature

11-21-18
Date



MEMORANDUM

TO: Jacques Betz, City Administrator
FROM: Kim Knox, Project Manager
DATE: November 19, 2018
SUBJECT: Gladstone Civic Center
Exhibit A - Design-Build Amendment

Below and attached are a summary of the City of Gladstone’s Progressive Design-Build Procurement for the Gladstone Civic Center Project and pending review of the Design-Build Amendment.

Background. On February 5, 2018, the City issued a Request for Proposals (RFP) for a Progressive Design-Build Procurement for the Gladstone Civic Center Project. On March 5, 2018, the City of Gladstone received proposals from five Contractor/ Architect design-build teams. The proposals were evaluated by the City’s selection committee and three firms were interviewed on March 26, 2018.

On May 5, 2018, City Council approved the selection committee’s recommendation and authorized staff to enter into negotiations with P&C Construction to complete Phase One services and advance the Project per terms identified in Attachment A including:

- Building Program consistent with that described in the Request for Proposals
- Project Budget (hard and soft costs) of \$12,000,000 with authority to include up to \$775,000 in additional program elements/enhancements
- Phase 1 Scope of Work including 50% Design Development level of design and establishment of a Guaranteed Maximum Price for completion of the Project.

Phase One. Following execution of the Agreement, the Design-Build Team conducted due diligence efforts identified as Phase One services to identify a a feasible ‘Base Project’ which meets the program and budget authorized by City Council.

Due diligence investigations included:

- Tours of comparable police facilities with City staff and Council members
- Site geotechnical evaluation
- Programming and design meetings with City police and City Hall staff
- Preliminary offsite infrastructure design scoping/coordination
- Evaluation of site layout options and preliminary Duniway Avenue design
- Mechanical, electrical, plumbing systems review
- Investigation of City and County development and permitting requirements
- Sustainability work session with City and Energy Trust of Oregon
- Traffic analysis
- Design/Construction phasing and scheduling
- Cost estimating

On November 7, 2018, the Design-Build Team presented the Base Project and a list of program and potential design enhancements for City Council consideration. On November 13, 2018, City Council requested \$566,650 of enhancements be included in the Base Project. Council has directed that the un-allocated enhancements budget be considered and incorporated into the project as appropriate based upon planned community input and further design refinements not to exceed \$775,000.

What Council is Approving with Exhibit A – Design-Build Amendment

Now that the Design-Build Team has identified and performed their own Project due diligence, Exhibit A to the AIA A141 Agreement establishes specific contract terms related to:

- Contract Sum: Establishes the Base Project as \$12,565,338
- Contract Time: Substantial Completion date of February 14, 2020; City move-in March 2020
- Project Understanding: The program, on- and off-site scope of work, permitting and design upon which the Contract Sum and Contract Time are based.
- Personnel: Key Design-Builder Personnel involved with the Project and date when additional personnel will be identified.
- Cost of the Work: Terms associated with Project expenses.

Attachments

Attachment A: RFP Summary Memo dated 5/1/18; prepared by SOJ

Attachment A

Shiels | Obletz | Johnsen



MEMORANDUM

TO: Jacque Betz, City Administrator
FROM: Kim Knox, Project Manager
DATE: May 1, 2018
SUBJECT: Gladstone Civic Center – Design-Build Team Recommendation

Based upon successful discussions and contract clarifications negotiated with the Design-Builder, the selection committee recommends City Council enter into an agreement with **P&C Construction** to provide Phase 1 Progressive Design-Build services for a contract amount of \$451,572.

Background. A summary of the procurement process was presented to Council on March 27, 2018 (attached). Council authorized City staff enter into contract negotiations with the Design-Build Team headed by P&C Construction.

Design-Builder Team. Team lead is Steve Anderson, President, P&C Construction with Will Somme serving as the Project Manager. Scott Edwards Architects' Sid Scott and Jennifer Marsicek will serve as the Design Manager and Design Lead respectively and will be responsible for overall management of the design team.

Strengths of P&C Team:

- Overall highest combined interview score for qualifications, approach and compatibility
- Strong portfolio of successful, similar size and scope projects for public clients
- Well organized and collaborative team presentation
- Strong leadership and strategy for staying within City's budget
- P&C to supplement their team with additional police facility design expertise

Project Budget. The Request for Proposals included a target Design-Build budget of \$10.5 million based upon preliminary programming work prepared for the City in 2016. Since then, rising labor and material costs throughout the region have been experiencing significant annual cost escalation in the range of 5 to 8%.

In their RFP responses, Proposers were asked to provide perspectives on the feasibility of the 2016 budget. While every proposer indicated it was possible to achieve this budget, all teams qualified their statements noting that additional planning work would be required to stay within that value. Proposers recommended Design-Build base budgets ranging from \$10.2 million to \$13 million. It should be noted that project budget was not a criterion for Design-Build Team selection.

What Council is Approving with the AIA A141 Agreement

The Request for Proposals solicitation included AIA Document A141 and Exhibits A, B and C describing the City’s contract terms. P&C Construction has requested non-substantive clarifications to that agreement which have been accepted by the City Attorney.

Key elements contained in the Agreement include:

Building Program	Consistent with the program identified in the RFP (see AIA A141 paragraph 1.1.1)
Project Budget	\$12,000,000 Base Project Budget with City option to include up to \$775,000 of additional program elements (see AIA A141 paragraph 1.1.6).
Phase 1 Scope of Work	<p>P&C has proposed a Phase 1 Budget of \$451,572 for this work; supplemental information regarding the team and tasks is attached in the P&C Proposal dated May 1, 2018 (see also AIA A141, Article 4).</p> <p>Upon completion of Phase 1 work, the Design-Builder will have collaborated with the City to complete a 50% Design Development level of design and establish a Guaranteed Maximum Price (GMP) for completion of the Project. The GMP would be approved as an amendment to the AIA A141 Agreement prior to commencing Phase 2 work.</p>
Phase 2 Scope of Work	Consistent with the program identified in RFP (see Article 5).
Schedule	<p>P&C has committed to complete Phase 1 work by November 1, 2018 assuming Council authorizes the contract on May 8, 2018 and Notice to Proceed occurs May 16th assuming no protests are received by other proposers.</p> <p>Projected building occupancy dated is March, 2020.</p>

Attachments

- Attachment A: RFP Summary Memo dated 3/26/18; prepared by SOJ
- Attachment B: P&C Design-Build Proposal dated May 1, 2018.

 **AIA** Document A141™ – 2014

COPY

Standard Form of Agreement Between Owner and Design-Builder

AGREEMENT made as of the ___ day of May in the year 2018
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

City of Gladstone an Oregon municipal corporation
525 Portland Avenue
Gladstone, OR
97027

and the Design-Builder:
(Name, legal status, address and other information)

P&C Construction Company
2133 NW York Street
Portland, Oregon 97210
Oregon CCB# 38619

for the following Project:
(Name, location and detailed description)

City of Gladstone Civic Center
On Portland Avenue, adjacent to Gladstone Public Works building.
The Project consists of a new municipal building that will serve as a combined city hall and police station for the city. It will contain a municipal court, a dedicated space for the Gladstone Police Department, chambers for the Gladstone City Council and typical office space and meeting rooms for administrative staff and the public.

The Owner and Design-Builder agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Consultation with an attorney is also encouraged with respect to professional licensing requirements in the jurisdiction where the Project is located.

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TABLE OF ARTICLES

- 1 **GENERAL PROVISIONS**
- 2 **COMPENSATION AND PROGRESS PAYMENTS**
- 3 **GENERAL REQUIREMENTS OF THE WORK OF THE DESIGN-BUILD CONTRACT**
- 4 **WORK PRIOR TO EXECUTION OF THE DESIGN-BUILD AMENDMENT**
- 5 **WORK FOLLOWING EXECUTION OF THE DESIGN-BUILD AMENDMENT**
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- 8 **TIME**
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- 11 **UNCOVERING AND CORRECTION OF WORK**
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TABLE OF EXHIBITS

- A **DESIGN-BUILD AMENDMENT**
- B **INSURANCE AND BONDS**
- C **SUSTAINABLE PROJECTS**
- D **DESIGN-BUILDER'S PROPOSAL/SCOPE OF WORK DATED MAY 1, 2018**

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Owner's Criteria

This Agreement is based on the Owner's Criteria set forth in this Section 1.1, other documents listed in and incorporated into this Agreement, and Modifications issued after execution of this Agreement.

(Note the disposition for the following items by inserting the requested information or a statement such as "not applicable" or "unknown at time of execution." If the Owner intends to provide a set of design documents, and the requested information is contained in the design documents, identify the design documents and insert "see Owner's design documents" where appropriate.)

§ 1.1.1 The Owner's program for the Project:

(Set forth the program, identify documentation in which the program is set forth, or state the manner in which the program will be developed.)

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On behalf of the Owner, a preliminary program evaluation has been prepared for the Project. Documents associated with the evaluation are included in Exhibit B to the RFP. Exhibit B of the RFP is incorporated into this Agreement by reference. The Owner expects to further develop the program with the Design-Builder.

§ 1.1.2 The Owner's design requirements for the Project and related documentation:

(Identify below, or in an attached exhibit, the documentation that contains the Owner's design requirements, including any performance specifications for the Project.)

The Gladstone Police Department is a "critical and essential facility" under Oregon law and its design and construction must conform to the building code and other regulatory standards applicable to those facilities. One aspect of the development of the program will be to determine how and whether to integrate the space for the police department into the space for remaining elements of the Project. Other design requirements are included in Exhibit B to the RFP.

§ 1.1.3 The Project's physical characteristics:

(Identify or describe, if appropriate, size, location, dimensions, or other pertinent information, such as geotechnical reports; site, boundary and topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site; etc.)

Contained in Exhibit B to the RFP.

§ 1.1.4 The Owner's anticipated Sustainable Objective for the Project, if any:

(Identify the Owner's Sustainable Objective for the Project such as Sustainability Certification, benefit to the environment, enhancement to the health and well-being of building occupants, or improvement of energy efficiency. If the Owner identifies a Sustainable Objective, incorporate AIA Document A141™-2014, Exhibit C, Sustainable Projects, into this Agreement to define the terms, conditions and Work related to the Owner's Sustainable Objective.)

The Project shall incorporate sustainable systems, which must meet or exceed the State Department of Energy requirements and specifications per ORS 279C.528. Owner is interested in carrying sustainability-related improvements in excess of these standards as additional alternates through Phase One for inclusion with the Design-Builder's scope of work as appropriate.

§ 1.1.5 Incentive programs the Owner intends to pursue for the Project, including those related to the Sustainable Objective, and any deadlines for receiving the incentives that are dependent on, or related to, the Design-Builder's services, are as follows:

(Identify incentive programs the Owner intends to pursue for the Project and deadlines for submitting or applying for the incentive programs.)

While Owner is not pursuing LEED certification for the Project, there are other incentive programs or grants the Owner may in its sole discretion choose to pursue for the Project.

§ 1.1.6 The Owner's budget for the Work to be provided by the Design-Builder is set forth below:

(Provide total for Owner's budget, and if known, a line item breakdown of costs.)

The budget for the Work is \$12 million dollars to accommodate the following base Project:

- Program elements listed in the RFP 20,714 sf building list
- 6500 sf secured parking/outdoor storage
- 47 public parking spaces
- Emergency operations/training/community meeting room
- Increased area for physical training
- Offsite improvements
- Space planning, furniture, fixtures and equipment ("FF&E") coordination and procurement and move-in services

During Phase 1, supplemental scope elements will be identified/and priced up to a value of \$750,000 and added to the Project scope at Owner's discretion during Phase 2. The Project funding method will be confirmed by the Owner during Phase One. Assuming the Owner ultimately approves a Design-Build Proposal and enters into a Design-Build Amendment, the Owner and Design-Builder will agree on a Guaranteed Maximum Price as provided in Exhibit A that delivers the Project within the Owner's budget.

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§ 1.1.7 The Owner's design and construction milestone dates:

- .1 Design phase milestone dates:
Completed by November 1, 2018
- .2 Submission of Design-Builder Proposal:
By November 1, 2018
- .3 Phased completion dates:
N/A
- .4 Substantial Completion date:
To be determined and identified in Exhibit A
- .5 Other milestone dates:
N/A

§ 1.1.8 The Owner requires the Design-Builder to retain the following Architect, Consultants and Contractors at the Design-Builder's cost:

(List name, legal status, address and other information.)

.1 Architect

Scott Edwards Architecture
2525 E Burnside St, Portland, OR 97214

.2 Consultants

Civil Engineer: Harper Houf Peterson Rhighellis (HHPR)
205 SE Spokane St., Suite 200, Portland, OR 97202

Structural Engineer: WDY Structural Engineers
6443 SW Beaverton Hillsdale Hwy # 210, Portland, OR 97221

Geotechnical Engineer: To be determined

Mechanical, Electrical and Plumbing Engineers: PAE Consulting Engineers
522 SW 5th Ave #1500, Portland, OR 97204

Acoustical Engineer: To be determined

Landscape Architect: Lango Hansen
1100 NW Glisan St #3B, Portland, OR 97209

.3 Contractor

P&C Construction Company
2133 NW York Street
Portland, Oregon 97210

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The Owner reserves the right to review, comment on and approve in its reasonable discretion the Design-Builder's agreement with the Architect prior to executing this Agreement.

§ 1.1.9 Additional Owner's Criteria upon which the Agreement is based:
(Identify special characteristics or needs of the Project not identified elsewhere, such as historic preservation requirements.)

The Design-Builder shall work with Owner to finalize a plan that maximizes participation of state-certified disadvantaged, minority and woman-owned and emerging small businesses ("DMWESB") on the Project. The Owner's goal is to have at least 10% participation from DMWESB entities.

§ 1.1.10 The Design-Builder shall confirm and be responsible to the Owner to ensure that the information included in the Owner's Criteria complies with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.

§ 1.1.10.1 If the Owner's Criteria conflicts with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Design-Builder shall notify the Owner of the conflict as soon as practicable.

§ 1.1.11 If there is a change in the Owner's Criteria, the Owner and the Design-Builder shall execute a Modification in accordance with Article 6.

§ 1.1.12 If the Owner and Design-Builder intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

§ 1.1.13 The Design-Builder accepts the relationship of trust and confidence established by the Contract and covenants with the Owner: to exercise the Design-Builder's skill and judgment in furthering the interests of the Owner; to furnish efficient construction administration, management services and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests.

§ 1.2 Project Team

§ 1.2.1 The Owner identifies the following representative in accordance with Section 7.1.1:
(List name, address and other information.)

Kim Knox, Partner
Shiels Obletz Johnsen
1140 SW 11th Ave #500, Portland, OR 97205
knox@sojpdx.com
503.242.0084

§ 1.2.2 The persons or entities, in addition to the Owner's representative, who are required to review the Design-Builder's Submittals are as follows:
(List name, address and other information.)

Gladstone Public Works Director
Review or approval by Owner or its agents of Design-Builder's design, means, methods, techniques, procedures or Submittals, or of any other aspect of Design-Builder's Work or services shall not relieve Design-Builder of its sole liability for any damages resulting from or arising out of defects or deficiencies in the Design-Builder's design, means, methods, techniques, procedures or Submittals, or of any other aspect of Design-Builder's Work or services.

§ 1.2.3 The Owner will retain the following consultants and separate contractors:
(List discipline, scope of work, and, if known, identify by name and address.)

Materials Testing and Inspections Consultant: To be determined

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Commissioning Agent: To be determined

Despite the identification of specific consultants and contractors, the Owner reserves the right to retain those consultants and separate contractors as it deems appropriate. Design-Builder agrees to cooperate and coordinate with all of Owner's consultants and separate contractors, regardless of whether they are identified in the Contract

§ 1.2.4 The Design-Builder identifies the following representative in accordance with Section 3.1.2:
(List name, address and other information.)

Steve Anderson, Vice President
P&C Construction Company
2133 NW York Street
Portland, OR 97210
sanderson@builtbypanc.com
(503) 665-0165

§ 1.2.5 Neither the Owner's nor the Design-Builder's representative shall be changed without ten days' written notice to the other party. Notwithstanding any contrary language in the Contract, Design-Builder shall not change its representative unless good cause exists and in every event must secure Owner's written approval prior to the change.

§ 1.3 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Section 14.3, the method of binding dispute resolution shall be the following:

(Check the appropriate box. If the Owner and Design-Builder do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

- Arbitration pursuant to Section 14.4
- Litigation in a court of competent jurisdiction
- Other: (Specify)

§ 1.4 Definitions

§ 1.4.1 Design-Build Documents. The Design-Build Documents consist of this Agreement between Owner and Design-Builder and its attached Exhibits (hereinafter, the "Agreement"); other documents listed in this Agreement; and Modifications issued after execution of this Agreement. A Modification is (1) a written amendment to the Contract signed by both parties, including the Design-Build Amendment, (2) a Change Order, or (3) a Change Directive.

§ 1.4.2 The Contract. The Design-Build Documents form the Contract. The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. Unless agreed to by the parties through a Modification, any proposed special terms or conditions proposed by Design-Builder, Architect, Consultants or Contractors (including, but not limited to, any limitations of liability or remedy or disclaimers of liability or remedy) whether in a warranty or otherwise shall expressly not be part of this Contract and shall not otherwise apply to the Project even if such terms and conditions are attached as an Exhibit or otherwise. The Design-Build Documents shall not be construed to create a contractual relationship of any kind between any persons or entities other than the Owner and the Design-Builder.

§ 1.4.3 The Work. The term "Work" means the design, construction and related services required to fulfill the Design-Builder's obligations under the Design-Build Documents, whether completed or partially completed, and includes all labor, materials, equipment and services provided or to be provided by the Design-Builder. The Work may constitute the whole or a part of the Project.

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§ 1.4.4 The Project. The Project is the total design and construction of which the Work performed under the Design-Build Documents may be the whole or a part, and may include design and construction by the Owner and by separate contractors.

§ 1.4.5 Instruments of Service. Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Design-Builder, Contractor(s), Architect, and Consultant(s) under their respective employment or agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, digital models and other similar materials.

§ 1.4.6 Submittal. A Submittal is any submission to the Owner for review and approval demonstrating how the Design-Builder proposes to conform to the Design-Build Documents for those portions of the Work for which the Design-Build Documents require Submittals. Submittals include, but are not limited to, shop drawings, product data, and samples. Submittals are not Design-Build Documents unless incorporated into a Modification.

§ 1.4.7 Owner. The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Design-Build Documents as if singular in number. The term "Owner" means the Owner or the Owner's authorized representative.

§ 1.4.8 Design-Builder. The Design-Builder is the person or entity identified as such in the Agreement and is referred to throughout the Design-Build Documents as if singular in number. The term "Design-Builder" means the Design-Builder or the Design-Builder's authorized representative.

§ 1.4.9 Consultant. A Consultant is a person or entity providing professional services for the Design-Builder for all or a portion of the Work, and is referred to throughout the Design-Build Documents as if singular in number. To the extent required by the relevant jurisdiction, the Consultant shall be lawfully licensed to provide the required professional services.

§ 1.4.10 Architect. The Architect is a person or entity providing design services for the Design-Builder for all or a portion of the Work, and is lawfully licensed to practice architecture in the State of Oregon. The Architect is referred to throughout the Design-Build Documents as if singular in number.

§ 1.4.11 Contractor. A Contractor is a person or entity performing all or a portion of the construction, required in connection with the Work, for the Design-Builder. The Contractor shall be lawfully licensed in the State of Oregon. The Contractor is referred to throughout the Design-Build Documents as if singular in number and means a Contractor or an authorized representative of the Contractor.

§ 1.4.12 Confidential Information. Confidential Information is information containing confidential or business proprietary information that is clearly marked as "confidential" or "trade secret" and that the Oregon Public Records Act or other applicable law permits Owner to treat as exempt from public disclosure.

§ 1.4.13 Contract Time. Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, as set forth in the Design-Build Amendment for Substantial Completion of the Work.

§ 1.4.14 Day. The term "day" as used in the Design-Build Documents shall mean calendar day unless otherwise specifically defined.

§ 1.4.15 Contract Sum. The Contract Sum is the amount to be paid to the Design-Builder for performance of the Work after execution of the Design-Build Amendment, as identified in Article A.1 of the Design-Build Amendment.

(Paragraph deleted)

§ 1.4.16 Final Completion. Final Completion means the completion of all Work required by, and in strict compliance with, the Design-Build Documents, including start up, testing, obtaining regulatory approvals from all applicable authorities, and all preparations necessary to operate and maintain the Project.

§ 1.4.17 Site. The term "Site" or "Project site" refers to that portion of the property on which the Work is to be performed or which has been otherwise designated for use by the Design-Builder.

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§ 1.4.18 Approved, Satisfactory or as Directed. When the words "approved," "satisfactory," "proper" or "as directed" are used, this refers to approval, satisfaction, determination, or direction by the Owner, unless the context otherwise requires.

§ 1.4.19 Provide. The word "provide" and its forms and derivatives means to properly fabricate, complete, transport, deliver, install, erect, construct, test, and furnish all labor, materials, equipment, apparatus, appurtenances, and all items and expenses necessary to properly complete in place, ready for operation or use under the terms of the Specifications.

§ 1.4.20 Knowledge, Recognize and Discover. The words "knowledge," "recognize" and "discover," their respective forms and derivatives, and similar terms in the Design-Build Documents, as used in reference to the Design-Builder, shall mean that which the Design-Builder knows or should know, recognizes or should recognize and discovers or should discover in exercising the care, skill, and diligence required by the Design-Build Documents. The expression "reasonably inferable" and similar terms in the Design-Build Documents shall mean reasonably inferable by a design-builder familiar with the Project and exercising the care, skill and diligence required of the Design-Builder by the Design-Build Documents.

§ 1.4.21 Construction Documents. All design and construction documents, including but not limited to, drawings, specifications, engineering reports, site assessments and other related project documentation necessary and, in a form sufficiently complete, that such documents could be reasonably relied upon by a prudent general contractor having experience constructing similar projects in order to satisfactorily complete the Project.

§ 1.4.22 Subcontractor. The term "subcontractor(s)" refers to any person(s) or legal entity with which the Design-Builder contracts directly for any of the Work to be performed under this Contract. Unless the context clearly suggests otherwise, the term subcontractors shall include the Architect, Consultant, and Contractor.

ARTICLE 2 COMPENSATION AND PROGRESS PAYMENTS

§ 2.1 Compensation for Work Performed Prior To Execution of Design-Build Amendment

§ 2.1.1 Unless otherwise agreed, payments for Work performed prior to Execution of the Design-Build Amendment shall be made monthly. For the Design-Builder's performance of Work prior to the execution of the Design-Build Amendment, the Owner shall compensate the Design-Builder as follows:
(Insert amount of, or basis for, compensation, including compensation for any Sustainability Services, or indicate the exhibit in which the information is provided. If there will be a limit on the total amount of compensation for Work performed prior to the execution of the Design-Build Amendment, state the amount of the limit.)

Detailed in Exhibit D.

§ 2.1.2 The hourly billing rates for services of the Design-Builder and the Design-Builder's Architect, Consultants and Contractors, if any, are set forth below.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

Detailed in Exhibit D.

(Table deleted)

§ 2.1.3 Compensation for Reimbursable Expenses Prior To Execution of Design-Build Amendment

§ 2.1.3.1 Reimbursable Expenses are in addition to compensation set forth in Section 2.1.1 and 2.1.2 and include expenses, directly related to the Project, incurred by the Design-Builder and the Design-Builder's Architect, Consultants, and Contractors, as follows:

- .1 Transportation and Owner-authorized out-of-town travel and subsistence;
- .2 Project-dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, standard form documents;
- .5 Postage, handling and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner;

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- .8 All taxes levied on professional services and on reimbursable expenses; and
- .9 Other Project-related expenditures, if authorized in advance by the Owner.

§ 2.1.3.2 For Reimbursable Expenses, the compensation shall be the expenses the Design-Builder and the Design-Builder's Architect, Consultants and Contractors incurred, plus an administrative fee of five percent (5 %) of the expenses incurred.

§ 2.1.4 Payments to the Design-Builder Prior To Execution of Design-Build Amendment

§ 2.1.4.1 Payments are due and payable

(Paragraphs deleted)

thirty (30) days from the date the Owner receives the Design-Builder's invoice and Owner deems it accurate and complete. Documentation of reimbursable expenses must be included with each invoice. Undisputed amounts unpaid after the date on which payment is due shall bear simple interest at three percent (3%) per year.

§ 2.1.4.2 Records of Reimbursable Expenses and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times for a period of two years following execution of the Design-Build Amendment or termination of this Agreement, whichever occurs first.

§ 2.2 Contract Sum and Payment for Work Performed After Execution of Design-Build Amendment

For the Design-Builder's performance of the Work after execution of the Design-Build Amendment, if applicable, the Owner shall pay to the Design-Builder the Contract Sum in current funds as agreed in the Design-Build Amendment subject to the Guaranteed Maximum Price ("GMP") established in the Design-Build Amendment.

(Paragraph deleted)

ARTICLE 3 GENERAL REQUIREMENTS OF THE WORK OF THE DESIGN-BUILD CONTRACT

§ 3.1 General

§ 3.1.1 The Design-Builder shall comply with any applicable licensing requirements in the State of Oregon.

§ 3.1.2 The Design-Builder shall designate in writing a representative who is authorized to act on the Design-Builder's behalf with respect to the Project and who is authorized to bind the Design-Builder in its performance under the Contract.

§ 3.1.3 The Design-Builder shall perform the Work in accordance with the Design-Build Documents. The Design-Builder shall not be relieved of the obligation to perform the Work in accordance with the Design-Build Documents by the activities, tests, inspections or approvals of the Owner.

§ 3.1.3.1 The Design-Builder shall perform the Work in compliance with all applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. The standard of care for design services provided by the Design-Builder shall equal or exceed the degree of care and skill used by members of the architectural/engineering profession performing design services for projects of comparable scale and complexity in the Portland, Oregon metro area. The standard of care for construction services provided by the Design-Builder shall equal or exceed the degree of care and skill used by members of the construction profession performing construction services for projects of comparable scale and complexity in the Portland, Oregon metro area. If the Design-Builder performs Work contrary to the Construction Documents applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, the Design-Builder shall assume responsibility for such Work and shall bear the costs attributable to correction. Without limiting the generality of the first sentence, the Design-Builder:

- .1 Shall promptly pay all Persons supplying labor or material; contribute to Industrial Accident Fund; comply with provisions regarding liens and withholding taxes (ORS 279C.505).
- .2 Shall demonstrate that an employee drug testing program is in place (ORS 279C.505).
- .3 Shall salvage or recycle construction and demolition debris, if feasible and cost-effective (ORS 279C.510).
- .4 Acknowledges that Owner may, at its sole discretion, pay claims by those providing labor, services or materials to Design-Builder (ORS 279C.515).
- .5 Acknowledges its liability and that of its first-tier subcontractors for late payment to laborers and material suppliers (ORS 279C.515).
- .6 Acknowledges a person's right to file a complaint with the Construction Contractors Board for all Contracts related to a Public Improvement Contract (ORS 279C.515).

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- .7 Shall comply with hours of labor requirements pursuant to ORS 279C.520.
- .8 Shall comply with environmental and natural resources regulations (ORS 279C.525).
- .9 Shall make payment for medical care for its employees in accordance with ORS 279C.530.
- .10 Shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless Design-Builder is exempt pursuant to ORS 656.126. Design-Builder shall ensure that each of its subcontractors complies with these requirements.
- .11 Shall comply with ORS 279C.540 regarding maximum work hours, holidays and overtime.
- .12 Acknowledges ORS 279C.545 and its limitations on overtime claims.
- .13 Shall compensate workers in accordance with ORS 279C.800 to 279C.870 regarding prevailing wage rates. The applicable rates of prevailing wages will be set out in the Design-Build Amendment or, if the parties agree that Design-Builder will provide construction services prior to the parties entering into the Design-Build Amendment, in a written agreement establishing the scope and cost of the pre-Design-Build Amendment construction services.
- .14 Shall possess and maintain a BOLI Public Works bond (ORS 279C.830).
- .15 Shall comply with ORS 279C.550 to 279C.570 regarding retainage of subcontractor earnings.
- .16 Shall comply with ORS 279C.570 regarding prompt payments, progress payments and rate of interest on unpaid amounts to subcontractors.
- .17 Shall comply with ORS 279C.580 regarding relations with subcontractors.
- .18 Certifies that all subcontractors performing construction Work will be registered will be registered with the Construction Contractors Board before the subcontractors commence such Work under the Agreement.
- .19 In accordance with ORS 305.385, represents and warrants that it is not delinquent in the filing or payment of any Oregon income taxes, Oregon personal property taxes, Oregon municipal taxes or Oregon real property taxes and that it has otherwise complied with all Oregon tax laws and all tax laws of those Oregon municipalities to which Design-Builder is subject.

§ 3.1.3.2 Neither the Design-Builder nor any Contractor, Consultant, or Architect shall perform or be obligated to perform any act that is a violation of any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Design-Builder determines that implementation of any instruction received from the Owner, including those in the Owner's Criteria, would cause a violation of any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Design-Builder shall notify the Owner in writing. If Owner agrees that a change to the Owner's Criteria is required to remedy the violation, the Owner and the Design-Builder shall execute a Modification in accordance with Article 6.

§ 3.1.4 The Design-Builder shall be responsible to the Owner for acts and omissions of the Design-Builder's employees, Architect, Consultants, Contractors, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work.

§ 3.1.5 **General Consultation.** The Design-Builder shall schedule and conduct periodic meetings with the Owner to review matters such as procedures, progress, coordination, and scheduling of the Work. Design-Builder shall cause its representatives, and representatives of Architect, Consultants and Contractors at all tiers to attend and participate in weekly progress meetings, except as Owner otherwise permits. The Owner or Owner's Representative shall prepare and distribute to all attendees minutes of such progress meetings. Progress meetings may be utilized to review the Design-Builder's design and construction schedules, requests for information, or to address any delays, unusual conditions, or critical items that have affected or could affect the progress of the Work, and to consider any other matter or subject of relevance to the Work as determined by Owner.

§ 3.1.6 When applicable law requires that services be performed by licensed professionals, the Design-Builder shall provide those services through qualified, licensed professionals. Each agreement with Architect, Consultants and Contractors at every tier shall provide that the Owner is and shall be a third-party beneficiary of such subcontract, purchase order and similar agreement, and that the Owner shall have the right, but not the obligation, to assert claims directly against the Architect, Consultants and Contractors for breach of contract, breach of express warranties, breach of implied warranties including but not limited to warranties of merchantability and of fitness for a particular purpose, negligence and other claims arising out of or related to the Work or the Project. The purpose of this Section is to enable the Owner at its discretion, in addition to the Design-Builder, to assert claims for damages and indemnification directly against Architect, Consultants and Contractors that are or may be responsible for breach of the contract, defects in the Work, and other damages incurred by the Owner arising out of or related to the Work or the Project.

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§ 3.1.7 The Design-Builder, with the assistance of the Owner, shall prepare and file documents required to obtain necessary approvals of governmental authorities having jurisdiction over the Project.

§ 3.1.8 Progress Reports

§ 3.1.8.1 The Design-Builder shall keep the Owner informed of the progress and quality of the Work. On a weekly basis, or otherwise as permitted by the Owner, the Design-Builder shall submit written progress reports to the Owner, showing estimated percentages of completion and other information identified below:

- .1 Work completed for the period;
- .2 Project schedule status;
- .3 Submittal schedule and status report, including a summary of outstanding Submittals;
- .4 Responses to requests for information to be provided by the Owner;
- .5 Approved Change Orders and Change Directives;
- .6 Pending Change Order and Change Directive status reports;
- .7 Tests and inspection reports;
- .8 Status report of Work rejected by the Owner;
- .9 Status of Claims previously submitted in accordance with Article 14;
- .10 Cumulative total of the Cost of the Work to date including the Design-Builder's compensation and Reimbursable Expenses, if any;
- .11 Current Project cash-flow and forecast reports; and
- .12 Additional information as agreed to by the Owner and Design-Builder.

§ 3.1.8.2 In addition, the Design-Builder shall include the following additional information in its progress reports:

- .1 Design-Builder's work force report;
- .2 Equipment utilization report; and
- .3 Cost summary, comparing actual costs to updated cost estimates.

§ 3.1.9 Design-Builder's Schedules

§ 3.1.9.1 The Design-Builder, within 30 days of the execution of this Agreement, or within a longer time period as Owner in its sole discretion may allow, shall prepare and submit for the Owner's approval a Project Schedule (Critical Path Method or "CPM Schedule") for the Work. The schedule, including the time required for design and construction, shall not exceed time limits current under the Design-Build Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Design-Build Documents, shall provide for expeditious and practicable execution of the Work, and shall include allowances for periods of time required for the Owner's review and for approval of submissions by authorities having jurisdiction over the Project. The approval of any CPM Schedule by the Owner shall not relieve the Design-Builder of its sole responsibility to complete the Project within the Contract Time.

- .1 The CPM Schedule shall be a critical path method schedule created and maintained on an industry-standard computer program.
- .2 The CPM Schedule to be prepared and submitted to Owner shall consist of a CPM network (diagram of activities) in a format acceptable to Owner.
- .3 The network must show the order and inter-dependence of activities and the sequence in which the Design-Builder will complete the Work.
- .4 CPM schedule must include tasks and activities that are the responsibility of the Owner. The Design-Builder shall promptly notify the Owner if a delay in any such task or activity will delay construction.
- .5 The Design-Builder shall provide regular monitoring of the schedule as design and construction progresses, identify potential variances between scheduled and desired completion dates, review the schedule for Work not started or incomplete, review the status of submittals and delivery of long-lead time deliveries, review the Owner's occupancy priorities, and take the action necessary to meet the required completion date.
- .6 In the weekly report submitted pursuant to 3.1.8, the Design-Builder shall show the actual Work completed to date in comparison with the original amount of Work scheduled. If the Work is behind schedule, the Design-Builder must indicate in writing what measures are being taken to bring the Work back on schedule and ensure that the Contract completion date is not exceeded. If the Work is greater than five (5) days behind schedule, then the Design-Builder shall prepare and submit to the Owner a

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recovery schedule for Owner's review and approval and provide the proposed recovery schedule to Owner in the next weekly progress report.

§ 3.1.9.2 The Design-Builder shall perform the Work in general accordance with the most recent schedules submitted to the Owner.

§ 3.1.9.3 If the Contract Time is extended in accordance with the Contract, any "float" or "slack" time for the whole or any part of the Work shall not be for the exclusive use or benefit of either the Owner or the Design-Builder but shall be reserved and apportioned by the Owner and Design-Builder in accordance with the needs of the Project. The Design-Builder shall not be entitled to make and waives any claim based upon an alleged inability to complete the Project early. In the event that Design-Builder experiences a delay caused by Owner and begins pacing the Work to mitigate its damages, Design-Builder shall give written notice of pacing to the Owner within seven calendar days of such pacing of the Work.

§ 3.1.9.4 If the Owner determines that the performance of the Work has not progressed or reached the level of completion required by the current, approved Design-Builder's schedule or recovery schedule, the Owner, without waiving any other right it may have, shall have the right to order the Design-Builder to take corrective measures as necessary to restore the progress of the Work to the requirements of such schedule, including but not limited to (1) working additional shifts or overtime, (2) furnishing additional labor, services, materials, equipment and facilities and (3) other similar acceleration measures. The costs incurred by the Design-Builder pursuant to this Section shall be paid by the Design-Builder.

§ 3.1.10 Certifications. Upon the Owner's written request, the Design-Builder shall obtain from the Architect, Consultants, and Contractors, and furnish to the Owner, certifications with respect to the documents and services provided by the Architect, Consultants, and Contractors: (a) that, to the best of their knowledge, information and belief, the documents or services to which the certifications relate (i) are consistent with the Design-Build Documents, except to the extent specifically identified in the certificate, and (ii) comply with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities governing the design of the Project; and (b) that the Owner and its consultants shall be entitled to rely upon the accuracy of the representations and statements contained in the certifications. The Design-Builder's Architect, Consultants, and Contractors shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of their services.

§ 3.1.11 Design-Builder's Submittals

§ 3.1.11.1 Within 30 days of the execution of this Agreement, or within a longer time period as Owner in its sole discretion may allow, the Design-Builder shall prepare a Submittal schedule, and shall submit the schedule for the Owner's approval. The Owner's approval shall not unreasonably be delayed or withheld. The Submittal schedule shall (1) be coordinated with the Design-Builder's schedule provided in Section 3.1.9.1, (2) allow the Owner reasonable time to review Submittals, and (3) be periodically updated to reflect the progress of the Work. If the Design-Builder fails to submit a Submittal schedule, the Design-Builder shall not be entitled to any increase in its compensation, the GMP or an extension of Contract Time based on the time required for review of Submittals.

§ 3.1.11.2 By providing Submittals the Design-Builder represents to the Owner that it has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so and (3) checked and coordinated the information contained within such Submittals with the requirements of the Work and of the Design-Build Documents.

§ 3.1.11.3 The Design-Builder shall perform no portion of the Work for which the Design-Build Documents require Submittals until the Owner has approved the respective Submittal.

§ 3.1.11.4 The Work shall be in accordance with approved Submittals except that the Design-Builder shall not be relieved of its responsibility to perform the Work consistent with the requirements of the Design-Build Documents. The Design-Builder shall not be relieved of responsibility for errors or omissions in Submittals by the Owner's approval of the Submittals.

§ 3.1.11.5 All professional design services or certifications to be provided by the Design-Builder, including all drawings, calculations, specifications, certifications, shop drawings and other Submittals, shall contain the signature and seal of the licensed design professional preparing them. Submittals related to the Work designed or certified by the

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licensed design professionals, if prepared by others, shall bear the licensed design professional's written approval. The Owner and its consultants shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals.

§ 3.1.12 Warranty. The Design-Builder makes the following representations and warranties in order to induce the Owner to execute this Agreement. The Design-Builder recognizes that, in making these representations and warranties, Owner is entitled to rely upon the Design-Builder's representations and warranties and is relying upon them in entering into this Contract. In addition to other representations and warranties, the Design-Builder, by executing this Agreement, makes the following express representations and warranties to the Owner:

- .1 The Design-Builder is fully qualified to act as the Design-Builder and perform the Work for the Project and has, and shall maintain, any and all licenses, permits or other authorizations necessary to act as the Design-Builder.
- .2 The Design-Builder has become familiar with the Project site, the local conditions under which the Project is to be constructed and operated and its surrounding territory and is informed regarding all of the conditions affecting the Work to be done and labor and materials to be furnished for the completion of this Contract, including the existence of poles, wires, pipes, and other facilities and structures of municipal and other public service corporations on, over, or under the site and that its information was secured by personal and other investigation and research.
- .3 The Design-Builder warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless the Design-Build Documents require or permit otherwise. The Design-Builder further warrants that the Work will conform to the requirements of the Design-Build Documents and will be free from defects. Work, materials, or equipment not conforming to these requirements may be considered defective. The Design-Builder's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Design-Builder, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Owner, the Design-Builder shall furnish satisfactory evidence as to the kind and quality of materials and equipment.
- .4 The Design-Builder has received, reviewed and carefully examined all of the documents which make up this Contract and has found them in all respects to be complete, accurate, adequate, consistent, coordinated and sufficient for design and construction of the Work for the Project. Design-Builder is responsible for performing Work shown on the Design-Build Documents, including reasonably implied or inferred Work from the Design-Build Documents, which a reasonably prudent Design-Builder of Design-Builder's reputation, expertise and experience would conclude were inferable from the Design-Build Documents. The Design-Builder is obligated to conduct a careful and thorough pre-Bid. review of all of the Design-Build Documents and to inform the Owner prior to execution of the Design-Build Amendment of any errors, omissions, or conflicts or other issues in the Design-Build Documents which will either increase the Contract Sum or extend the Contract Time. Design-Builder's performance with respect to its review of the Design-Build Documents shall be that of an experienced Design-Build Design-Builder performing work of a similar nature in the locale of the Project. Design-Builder will not be compensated for the performance of any additional or change order work or for any delays or cumulative impact, lost efficiency, or lost productivity arising from any errors, omissions or conflicts or other issues in Design-Build Documents which Design-Builder or a reasonably prudent design-builder of Design-Builder's reputation, expertise and experience should have discovered as a result of such review.

§ 3.1.13 Royalties, Patents and Copyrights

§ 3.1.13.1 The Design-Builder shall pay all royalties and license fees.

§ 3.1.13.2 The Design-Builder shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and its separate contractors and consultants harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Owner, or where the copyright violations are required in the Owner's Criteria. However, if the Design-Builder has reason to believe that the design, process or product required in the Owner's Criteria is an infringement of a copyright or a patent, the Design-Builder shall be responsible for such loss unless such information is promptly furnished to the Owner. If the Owner receives notice from a patent or copyright owner of an alleged violation of a patent or copyright, attributable to the Design-Builder, the Owner shall give prompt written notice to the Design-Builder.

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§ 3.1.14 Indemnification

§ 3.1.14.1 To the fullest extent permitted by law, the Design-Builder shall defend, indemnify, and hold harmless Indemnitees from and against all Charges that arise in any manner from, in connection with, or out of, performance of the Work as a result of acts or omissions of the Design-Builder, Architect, a Consultant, a Contractor, a Subcontractor or anyone directly or indirectly employed by them or any one of them. In performing its indemnification duties, the Design-Builder shall at its sole expense defend Indemnitees with legal counsel reasonably acceptable to the Owner. "Charges" means third-party claims, judgments, costs, damages, losses, demands, liabilities, obligations, fines, penalties, royalties, settlements, and expenses, including interest and reasonable attorney fees associated with a Charge. "Indemnitees" means City of Gladstone, its officers, officials, employees, agents and volunteers but does not include the Design-Builder, Architect, a Consultant, a Contractor, a Subcontractor or anyone directly or indirectly employed by them. Nothing in Section 3.1.14 will affect any warranties in favor of the Owner. This Section 3.1.14.1 is in addition to and will be construed separately from any other indemnification provisions that may be in the Contract. Section 3.1.14 shall remain in force despite termination of this Contract (whether by expiration of the term or otherwise) and termination of the services of the Design-Builder under this Contract.

§ 3.1.14.2 The indemnification obligation under this Section 3.1.14 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for Design-Builder, Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by them, under workers' compensation acts, disability benefit acts or other employee benefit acts.

§ 3.1.15 Contingent Assignment of Agreements

§ 3.1.15.1 Each agreement for a portion of the Work is assigned by the Design-Builder to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause, pursuant to Sections 13.1.4 or 13.2.2, and only for those agreements that the Owner accepts by written notification to the Design-Builder and the Architect, Consultants, and Contractors whose agreements are accepted for assignment; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

If the Owner accepts the assignment of an agreement, the Owner assumes the Design-Builder's rights and obligations under the agreement.

§ 3.1.15.2 Upon an assignment under this Section 3.1.15, if the Work has been suspended for more than 30 days, the compensation under the assigned agreement shall be equitably adjusted for increases in cost resulting from the suspension.

§ 3.1.15.3 Upon an assignment to the Owner under this Section 3.1.15, the Owner may further assign the agreement to a successor design-builder or other entity. If the Owner assigns the agreement to a successor design-builder or other entity, the Owner shall nevertheless remain legally responsible for all of the successor design-builder's or other entity's obligations under the agreement.

§ 3.1.16 Design-Builder's Insurance and Bonds. The Design-Builder shall purchase and maintain insurance and provide bonds as set forth in Exhibit B.

(Paragraph deleted)

§ 3.1.16.1 Design-Builder shall furnish separate bonds covering the faithful performance of the Contract and the payment of obligations arising thereunder. The amount of each bond shall be equal to one hundred percent (100%) of the GMP and be adjusted as the GMP may be adjusted pursuant to the Design-Build Documents.

§ 3.1.16.2 Any Change Order, Construction Change Directive, order for a minor change in the Work or other Modification under the Contract shall not be subject to inspection or approval by any surety on any required bond. The surety on such bond, by issuing the bond, expressly waives its right to approve, and consents to, any such Change Order, Construction Change Directive, order or Modification.

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ARTICLE 4 WORK PRIOR TO EXECUTION OF THE DESIGN-BUILD AMENDMENT

§ 4.1 General

§ 4.1.1 Any information submitted by the Design-Builder, and any interim decisions made by the Owner, shall be for the purpose of facilitating the design process and shall not modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.1.2 The Design-Builder shall advise the Owner in writing on proposed site use and improvements, selection of materials, and building systems and equipment. The Design-Builder shall also provide the Owner with written recommendations, consistent with the Owner's Criteria, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

§ 4.2 Evaluation of the Owner's Criteria

§ 4.2.1 The Design-Builder shall schedule and conduct meetings with the Owner and any other necessary individuals or entities to discuss and review the Owner's Criteria as set forth in Section 1.1. The Design-Builder shall thereafter again meet with the Owner to discuss a preliminary evaluation of the Owner's Criteria. The preliminary evaluation shall address possible alternative approaches to design and construction of the Project and include the Design-Builder's recommendations, if any, with regard to accelerated or fast-track scheduling, procurement, or phased construction. The preliminary evaluation shall consider cost information, constructability, and procurement and construction scheduling issues.

§ 4.2.2 After the Design-Builder meets with the Owner and presents the preliminary evaluation, the Design-Builder shall provide a written report to the Owner, summarizing the Design-Builder's evaluation of the Owner's Criteria. The report shall also include

- .1 allocations of program functions, detailing each function and their square foot areas;
- .2 a preliminary estimate of the Cost of the Work, and, if necessary, recommendations to adjust the Owner's Criteria to conform to the Owner's budget;
- .3 a preliminary schedule, which shall include proposed design milestones; dates for receiving additional information from, or for work to be completed by, the Owner; anticipated date for the Design-Builder's Proposal; and dates of periodic design review sessions with the Owner; and
- .4 the following:
(List additional information, if any, to be included in the Design-Builder's written report.)

§ 4.2.3 The Owner shall review the Design-Builder's written report and, if acceptable, provide the Design-Builder with written consent to proceed to the development of the Preliminary Design as described in Section 4.3. The consent to proceed shall not be understood to modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.3 Preliminary Design

§ 4.3.1 Upon the Owner's issuance of a written consent to proceed under Section 4.2.3, the Design-Builder shall prepare and submit a Preliminary Design to the Owner. The Preliminary Design shall include a report identifying any deviations from the Owner's Criteria and the justification for same, and shall include the following:

- .1 Confirmation of the allocations of program functions;
- .2 Site plan;
- .3 Building plans, sections and elevations;
- .4 Structural system;
- .5 Selections of major building systems, including but not limited to mechanical, electrical and plumbing systems;
- .6 Outline specifications or sufficient drawing notes describing construction materials;
- .7 An interior space plan showing all furniture and equipment to accommodate program functions; and
- .8 A list of anticipated furniture and equipment and their associated costs.

The Preliminary Design may include some combination of physical study models, perspective sketches, or digital modeling.

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§ 4.3.2 Without limiting any of Design-Builder's obligations identified in the Contract, during the preparation of the Preliminary Design, the Design-Builder's Proposal and as applicable the Construction Documents, Design-Builder shall perform the following services for Owner:

1. Review design documents for constructability and propose revisions to reduce cost and time.
2. During the design process, participate in sustainability reviews of costs and life-cycle analyses for sustainable practices, as requested by Owner.
3. Prepare and submit to Owner, at periodic intervals acceptable to Owner, construction cost estimates during the Preliminary Design phase, Design-Builder's Proposal phase and, as applicable, the Construction Documents phase. Design-Builder shall use the Construction Specifications Institute ("CSI") or other estimating format acceptable to Owner. At the Preliminary Design phases and Design-Builder Proposal phases, the Design-Builder shall identify value engineering and cost reduction options, including projected cost savings offset with any additional design costs, if necessary to bring its construction cost estimate within Owner's construction budget. If the Design-Builder's cost estimate at 90% Construction Document phase is greater than the approved construction budget, the Design-Builder shall work with the Owner to identify a list of add-back alternates and cost reduction strategies to achieve scope and budget alignment.
4. Work with Owner to develop a Contracting Plan for accomplishment of all construction. Recommend divisions of the work to facilitate bidding and award of trade contracts. Recommend which work, if any, should be procured through value-based competitive selection in lieu of low bid. Identify Work that the Design-Builder proposes to self-perform and how competitive pricing will be accomplished. Identify the plan to manage any subcontractor who is not performing in accordance with the Project's requirements for budget control, on-time schedule performance, safety and/or quality control.
5. Develop a Hazardous Materials Plan that addresses the handling of unanticipated hazardous materials that may be encountered during construction. Work with the Owner to develop a strategy for site remediation, if indicated by the Phase 1 Environmental Site Assessments and/or other environmental reports.
6. Develop a job-specific Safety Plan that addresses the Project location, resident and public safety and worker safety.
7. Provide a Quality Control Plan for use during construction.
8. Prepare bid packages, solicit and receive bids.
9. After receipt of subcontractor bids, prepare an estimate for review by Owner. If the initial construction cost estimate exceeds Owner's approved construction cost estimate, the Design-Builder shall notify Owner and propose how to complete the Work within budget.

§ 4.3.3 The Owner shall review the Preliminary Design and, if acceptable, provide the Design-Builder with written consent to proceed to development of the Design-Builder's Proposal. If the Preliminary Design is not acceptable to the Owner, the Owner shall provide in writing to the Design-Builder comments requesting modification(s) to the Preliminary Design. The Design-Builder shall re-submit the Preliminary Design to reasonably satisfy the concerns and comments of the Owner. The Preliminary Design shall not modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.4 Design-Builder's Proposal

§ 4.4.1 Upon the Owner's issuance of a written consent to proceed under Section 4.2.3, the Design-Builder shall prepare and submit the Design-Builder's Proposal to the Owner. The Design-Builder's proposal shall illustrate and describe the development of the approved Preliminary Design and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design-Builder's Proposal shall include preliminary specifications that identify major materials and systems and establish in general their quality levels. The Design-Builder's Proposal shall also include the following:

1. [INTENTIONALLY OMITTED].
2. The proposed GMP, including a written statement of estimated cost organized by trade categories, allowances, contingencies, Design-Builder's Fee, and other items that comprise the GMP;
3. The proposed date the Design-Builder shall achieve Substantial Completion;
4. An enumeration of any qualifications and exclusions, if applicable;
5. A list of the Design-Builder's key personnel, Contractors and suppliers; and

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- .6 The date on which the Design-Builder's Proposal expires, which may not be less than sixty (60) days from the date of the Design-Builder's Proposal.

§ 4.4.2 Submission of the Design-Builder's Proposal shall constitute a representation by the Design-Builder that it has visited the site and become familiar with local conditions under which the Work is to be completed, all subsurface site conditions for the Work and all applicable federal, state and local statutes, laws, regulations, ordinances and orders. Design-Builder will be responsible for all such site conditions and subsurface conditions and all statutes, laws, regulations, ordinances and orders it becomes aware of or should have become aware of.

§ 4.4.3 If the Owner and Design-Builder agree on a proposal, the Owner and Design-Builder shall execute the Design-Build Amendment setting forth the terms of their agreement. It is the intent of the Owner to accept a reasonable proposal which purports to deliver the Project within the Owner's established budget and delivery schedule for the Project. Notwithstanding the foregoing, the Owner may terminate this agreement after receiving the Design-Builder's Proposal for any reason pursuant to Section 13.1.5.

(Paragraph deleted)

ARTICLE 5 WORK FOLLOWING EXECUTION OF THE DESIGN-BUILD AMENDMENT

§ 5.1 Construction Documents

§ 5.1.1 If the parties execute the Design-Build Amendment, the Design-Builder shall prepare Construction Documents. The Construction Documents shall be consistent with the Design-Builder's Proposal and set forth in detail the requirements for construction of the Project and shall include all items necessary for the proper execution and completion of the Work and reasonably inferable from the Design-Build Documents, including but not limited to the Owner's Criteria, as being necessary to produce the indicated results. The Construction Documents shall include drawings and specifications that establish the quality levels of materials and systems required and include documents customarily required for regulatory agency approvals. Deviations, if any, from the Design-Build Documents shall be disclosed in writing and subject to the written approval of Owner. Unless the Owner and Design-Builder execute a Modification specifically identifying the particular deviation and Owner's agreement with such deviation, the Design-Builder shall correct the deviation in accordance with Article 11 at its sole cost and expense.

§ 5.1.2 The Design-Builder shall provide the Construction Documents to the Owner for the Owner's approval. If the Owner discovers any deviations between the Construction Documents and the Design-Build Documents, the Owner shall notify the Design-Builder of such deviations and objections in writing. The Construction Documents shall not modify the Design-Build Documents unless the Owner and Design-Builder execute a Modification. The Design-Builder shall address the Owner's objections to the Design Construction Documents before commencement of any Work, except as permitted in Section 5.2.2. The failure of the Owner to discover any such deviations shall not relieve the Design-Builder of the obligation to perform the Work in accordance with the Design-Build Documents.

§ 5.1.3 Without limiting the Design-Builder's duties under Article 5, and except as permitted in Section 5.2.2, Design-Builder may not apply for or receive approval of any permit to begin construction of the Work unless it has: (1) presented Owner with ninety percent (90%) complete Construction Documents; and (2) received Owner's written approval of same.

§ 5.1.4 Design-Builder's duties under Article 5 also include acting on Owner's behalf with respect to procurement, receipt and installation of FF&E and assisting Owner with moving from the current location of city hall and the police department and moving into the building resulting from the Work.

§ 5.2 Construction

§ 5.2.1 Commencement. Except as permitted in Section 5.2.2, construction shall not commence prior to execution of the Design-Build Amendment.

§ 5.2.2 If the Owner and Design-Builder agree in writing, construction may proceed prior to the execution of the Design-Build Amendment. However, such authorization shall not waive the Owner's right to reject the Design-Builder's Proposal.

§ 5.2.3 The Design-Builder shall supervise and direct the Work, using the Design-Builder's best skill and attention consistent with its standard of care obligations. The Design-Builder shall be solely responsible for, and have control

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over, construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work under the Contract, unless the Design-Build Documents give other specific instructions concerning these matters.

§ 5.2.4 The Design-Builder shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 5.3 Labor and Materials

§ 5.3.1 Unless otherwise provided in the Design-Build Documents, the Design-Builder shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services, necessary for proper execution and completion of the Work, whether temporary or permanent, and whether or not incorporated or to be incorporated in the Work.

§ 5.3.2 When a material or system is specified in the Design-Build Documents, the Design-Builder may make substitutions only in accordance with Article 6.

§ 5.3.3 The Design-Builder shall enforce strict discipline and good order among the Design-Builder's employees and other persons carrying out the Work. The Design-Builder shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 5.4 Taxes

The Design-Builder shall pay sales, consumer, use and similar taxes, for the Work provided by the Design-Builder, that are legally enacted when the Design-Build Amendment is executed, whether or not yet effective or merely scheduled to go into effect.

§ 5.5 Permits, Fees, Notices and Compliance with Laws

§ 5.5.1 Unless otherwise provided in the Design-Build Documents, the Design-Builder shall secure and pay for the building permit as well as any other permits, fees, licenses, and inspections by government agencies, necessary for proper execution of the Work and Substantial Completion of the Project. All such costs and fees shall be included in the Design-Build Amendment.

§ 5.5.2 The Design-Builder shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, applicable to performance of the Work.

§ 5.5.3 **Concealed or Unknown Conditions.** If the Design-Builder encounters conditions that it could not have discovered from a diligent surface and subsurface site investigation at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Design-Build Documents or observable from the required inspections or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Design-Build Documents, the Design-Builder shall promptly provide written notice to the Owner before conditions are disturbed and in no event later than seven (7) days after first observance of the conditions. The Owner shall promptly investigate such conditions and, if the Owner determines that they differ materially and cause an increase or decrease in the Design-Builder's cost of, or time required for, performance of any part of the Work, shall recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Owner determines that the conditions at the site are not materially different from those indicated in the Design-Build Documents and that no change in the terms of the Contract is justified, the Owner shall promptly notify the Design-Builder in writing, stating the reasons. If the Design-Builder disputes the Owner's determination or recommendation, the Design-Builder may proceed as provided in Article 14. As a condition precedent to the Owner having any liability to the Design-Builder due to concealed and unknown conditions, the Design-Builder must give the Owner written notice of, and an opportunity to observe, such condition prior to disturbing it. The failure by the Design-Builder to give the written notice in accordance with this section and make a claim as provided in Article 14 shall constitute a waiver by the Design-Builder of any rights arising out of or relating to a concealed and unknown condition.

§ 5.5.4 If, in the course of the Work, the Design-Builder encounters human remains, or recognizes the existence of burial markers, archaeological sites, or wetlands, not indicated in the Design-Build Documents, the Design-Builder shall immediately suspend any operations that would affect them and shall notify the Owner. Upon receipt of such

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notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Design-Builder shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the GMP and Contract Time arising from the existence of such remains or features may be made as provided in Article 14.

§ 5.6 Allowances

§ 5.6.1 The Design-Builder shall include in the Contract Sum all allowances stated in the Design-Build Documents and as approved by Owner. Items covered by allowances shall be supplied for such amounts, and by such persons or entities as the Owner may direct, but the Design-Builder shall not be required to employ persons or entities to whom the Design-Builder has reasonable objection.

§ 5.6.2 Unless otherwise provided in the Design-Build Documents,

- .1 allowances shall cover the cost to the Design-Builder of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 the Design-Builder's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts, shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 5.6.2.1 and (2) changes in Design-Builder's costs under Section 5.6.2.2.

§ 5.6.3 The Owner shall make selections of materials and equipment with reasonable promptness for allowances requiring Owner selection.

§ 5.7 Key Personnel, Contractors and Suppliers

§ 5.7.1 The Design-Builder shall not employ personnel, or contract with Contractors, Subcontractors or suppliers to whom the Owner has made reasonable and timely objection.

§ 5.7.2 If the Design-Builder changes any of the personnel, Contractors or suppliers identified in the Design-Build Amendment, the Design-Builder shall notify the Owner and provide the name and qualifications of the new personnel, Contractor or supplier. The Owner may reply within 14 days to the Design-Builder in writing, stating (1) whether the Owner has reasonable objection to the proposed personnel, Contractor or supplier or (2) that the Owner requires additional time to review.

§ 5.7.3 Except for those persons or entities already identified or required in the Design-Build Amendment, the Design-Builder, within seven days after execution of the Design-Build Amendment, shall furnish in writing to the Owner the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Owner may reply within 14 days to the Design-Builder in writing stating (1) whether the Owner has reasonable objection to any such proposed person or entity or (2) that the Owner requires additional time for review. Failure of the Owner to reply within the 14-day period shall constitute notice of no reasonable objection.

§ 5.7.3.1 If the Owner has reasonable objection to a person or entity proposed by the Design-Builder, the Design-Builder shall propose another to whom the Owner has no reasonable objection. If the rejected person or entity was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute person or entity's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Design-Builder has acted promptly and responsively in submitting names as required.

§ 5.8 Documents and Submittals at the Site

The Design-Builder shall maintain at the site for the Owner one copy of the Design-Build Documents and a current set of the Construction Documents, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Submittals. The Design-Builder shall deliver these items to the Owner in accordance with Section 9.10.2 as a record of the Work as constructed.

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§ 5.9 Use of Site

§ 5.9.1 The Design-Builder shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Design-Build Documents, and shall not unreasonably encumber the site with materials or equipment.

§ 5.9.2 The Design-Builder shall not store any materials or equipment on the Site except those which are to be used directly in the Work. After equipment is no longer required for the Work, the Design-Builder shall promptly remove it from the Site. The Design-Builder shall provide suitable protection of materials and equipment stored at the Site from adversity of the kinds that may be reasonably expected, and from weather, theft, and other damage.

§ 5.9.3 The Design-Builder shall not permit any workers to use any existing facilities at the Site, including lavatories, toilets, entrances, and parking areas, other than those designated by the Owner. Without limitation of any other provision of the Design-Build Documents, if the Owner is using or occupying areas adjacent to the Work, the Design-Builder shall comply with all regulations promulgated by the Owner in connection with the use and occupancy thereof, as amended from time to time. The Design-Builder shall immediately give notice to the Owner if during the performance of the Work, the Design-Builder finds compliance with any portion of such regulations to be impracticable, setting forth the problems of such compliance. The Owner shall use reasonable efforts to accommodate the Design-Builder's concerns, if in the Owner's discretion it is reasonably practical to do so. The Design-Builder shall also comply with all insurance requirements applicable to use and occupancy of the Site.

§ 5.10 Cutting and Patching

The Design-Builder shall not cut, patch or otherwise alter fully or partially completed construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Design-Builder shall not unreasonably withhold from the Owner or a separate contractor the Design-Builder's consent to cutting or otherwise altering the Work.

§ 5.11 Cleaning Up

§ 5.11.1 The Design-Builder shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Design-Builder shall remove waste materials, rubbish, the Design-Builder's tools, construction equipment, machinery and surplus materials from and about the Project.

§ 5.11.2 If the Design-Builder fails to clean up as provided in the Design-Build Documents, the Owner may do so and Owner shall be entitled to reimbursement from the Design-Builder.

§ 5.12 Access to Work

The Design-Builder shall provide the Owner and its separate contractors and consultants access to the Work in preparation and progress wherever located. The Design-Builder shall notify the Owner regarding Project safety criteria and programs, which the Owner, and its contractors and consultants, shall comply with while at the site.

§ 5.13 Construction by Owner or by Separate Contractors

§ 5.13.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 5.13.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces; and to award separate contracts in connection with other portions of the Project, or other construction or operations on the site, according to terms and conditions the Owner deems appropriate. The Owner shall notify the Design-Builder promptly after execution of any separate contract. If the Design-Builder claims that delay or additional cost is involved because of such action by the Owner, the Design-Builder shall make a Claim as provided in Article 14.

§ 5.13.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Design-Builder" in the Design-Build Documents in each case shall mean the individual or entity that executes each separate agreement with the Owner.

§ 5.13.1.3 The Design-Builder shall provide for coordination of the activities of the Owner's own forces, and of each separate contractor, with the Work of the Design-Builder, who shall cooperate with the Owner's personnel and separate contractors. The Design-Builder shall participate with other separate contractors and the Owner in reviewing their construction schedules. The Design-Builder shall make any revisions to the construction schedule deemed

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necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Design-Builder, separate contractors and the Owner until subsequently revised.

§ 5.13.1.4 Unless otherwise provided in the Design-Build Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or separate contractors, the Owner shall be deemed to be subject to the same obligations, and to have the same rights, that apply to the Design-Builder under the Contract.

§ 5.14 Mutual Responsibility

§ 5.14.1 The Design-Builder shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Design-Builder's construction and operations with theirs as required by the Design-Build Documents.

§ 5.14.2 If part of the Design-Builder's Work depends upon construction or operations by the Owner or a separate contractor, the Design-Builder shall, prior to proceeding with that portion of the Work, prepare a written report to the Owner, identifying apparent discrepancies or defects in the construction or operations by the Owner or separate contractor that would render it unsuitable for proper execution and results of the Design-Builder's Work. Failure of the Design-Builder to report shall constitute an acknowledgment that the Owner's or separate contractor's completed or partially completed construction is fit and proper to receive the Design-Builder's Work, except as to defects not then reasonably discoverable.

§ 5.14.3 The Design-Builder shall reimburse the Owner for costs the Owner incurs that are payable to a separate contractor because of the Design-Builder's failure to coordinate properly with the Owner's own forces or separate contractors, delays, improperly timed activities or defective construction.

§ 5.14.4 The Design-Builder shall promptly remedy damage the Design-Builder wrongfully causes to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section 10.2.5.

§ 5.14.5 The Owner and each separate contractor shall have the same responsibilities for cutting and patching the Work as the Design-Builder has with respect to the construction of the Owner or separate contractors in Section 5.10.

§ 5.15 Owner's Right to Clean Up

If a dispute arises among the Design-Builder, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and will allocate the cost among those responsible.

(Paragraph deleted)

ARTICLE 6 CHANGES IN THE WORK

§ 6.1 General

§ 6.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order or Change Directive, subject to the limitations stated in this Article 6 and elsewhere in the Design-Build Documents. Except as permitted in Section 6.3, a change in the GMP or the Contract Time shall be accomplished only by Change Order. Accordingly, none of the following shall be grounds for any increase in the Contract Sum or in the Contract Time: (a) course of conduct or dealings between the parties; (b) express or implied acceptance of alterations or additions to the Work; or (c) any unjust enrichment accruing to the Owner by any alteration or addition to the Work.

§ 6.1.2 A Change Order shall be based upon agreement between the Owner and Design-Builder. The Owner may issue a Change Directive without agreement by the Design-Builder.

§ 6.1.3 The Owner, unilaterally and at any time, may have changes made in the Work covered by the Contract, including but not limited to changes: (1) in the specifications or drawings; (2) in the sequence, method or manner of performance of the Work; (3) in the Owner-furnished facilities, equipment, materials, services or site; or (4) directing acceleration in the performance of the Work. Furthermore, it is understood and agreed that refinement and detailing may be accomplished from time to time with respect to the drawings and specifications. The Design-Builder's entitlement to an increase in the Contract Sum or an extension of time, or both, if any, for such changes shall be determined in accordance with this Contract.

§ 6.1.4 The Owner may, from time to time, order or authorize additions, deletions, and other changes in the Work by

Change Order or Construction Change Directive, without invalidating the Contract, and without notice to Surety. Absence of such notice shall not relieve such surety(s) of any of its obligations to the Owner. The Design-Builder shall notify the Surety of any such changes.

§ 6.1.5 Except in an emergency endangering life or property, no change shall be made by the Design-Builder except upon receipt of approved change order or written Change Directive from the Owner. No claim for increases in the Contract Sum shall be honored or valid unless this procedure is followed. A Change Directive, transmitted by fax or hand-delivered, may be used where the change involved impacts the critical path of the Work. A formal Change Order shall be issued within the time stated on the Change Directive.

§ 6.1.6 All Change Orders shall be supported by a breakdown showing method of arriving at net cost as defined below. The Owner will review the Design-Builder's analysis and cost data and advise the Design-Builder of its findings. The Design-Builder will provide such supporting data in suitable format. Within fourteen (14) days after receipt of the Design-Builder's proposal, the Owner shall prepare the Change Order and forward to the Design-Builder for its signature or otherwise respond, in writing, to the Design-Builder's proposal. Within seven (7) days after receipt of the Change Order, the Design-Builder shall return the Change Order to the Owner for the Owner's signature. The Owner shall endeavor to execute the Change Order within seven (7) days of receipt, or in accordance with the Owner's standard procedures. Upon approval by the Owner, a copy of the Change Order will be sent to the Design-Builder. In case of emergency or extenuating circumstances, approval of Change Orders may be obtained verbally by telephone or field orders approved by all parties, then shall be substantiated in writing as outlined under normal procedure.

§ 6.1.7 The Owner reserves the right to reject the Design-Builder's proposal for a change in the Work and to elect to perform said Work using a separate subcontractor. Under such circumstances, the Design-Builder shall coordinate the performance of the Work.

§ 6.1.8 If the Owner requests a Change Order and the Design-Builder's terms are unacceptable, the Owner may require the Design-Builder to perform such Work on a time and material basis. If the Owner elects to have the change in the Work performed on a time and material basis, the Design-Builder shall submit to the Owner daily time and material tickets, to include the identification number assigned to the change in the Work, the location and description of the change in the Work, the classification of labor employed (and names and social security numbers), the materials used, the equipment rented (not tools) and such other evidence of cost as the Owner may require. The Owner may require authentication of all time and material tickets and invoices by persons designated by the Owner for such purpose. The failure of the Design-Builder to secure any required authentication shall constitute a waiver by the Design-Builder of any claim for the cost of that portion of the change in the Work covered by a non-authenticated ticket or invoice.

§ 6.1.19 In the event that the parties are unable to agree as to the reasonable cost and time to perform the change in or addition to the Work based upon the Design-Builder's proposal and the Owner does not elect to have the change in the Work performed on a time and material basis, Owner has the right to direct in writing that the Design-Builder perform the change in the Work. Failure of the parties to reach agreement regarding the cost and time of the performing the change in the Work, regardless of any pending protest or claim, shall not relieve the Design-Builder from performing the change in the Work promptly and expeditiously.

§ 6.2 Change Orders

A Change Order is a written instrument signed by the Owner and Design-Builder stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation; and
- .3 The extent of the adjustment, if any, in the Contract Time.

No party may reserve a right to additional compensation or time for the change in the Work incorporated into a Change Order without the written consent of the Owner. Agreement on any Change Order shall constitute a final settlement of all matters relating to the change in the Work which is the subject of the Change Order, including all direct and indirect costs associated with such change and any and all adjustments to the Contract Sum and the construction schedule. If a

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Change Order increases the Contract Sum, the Design-Builder shall include the Work covered by such Change Orders in Applications for Payment.

§ 6.3 Change Directives

§ 6.3.1 A Change Directive is a written order signed by the Owner directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, or Contract Time. The Owner may by Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, and Contract Time being adjusted accordingly.

§ 6.3.2 A Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 6.3.3 If the Change Directive provides for an adjustment to the Contract Sum or, if prior to execution of the Design-Build Amendment, an adjustment in the Design-Builder's compensation, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Design-Build Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 6.3.7.

§ 6.3.4 If unit prices are stated in the Design-Build Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Change Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Design-Builder, the applicable unit prices shall be equitably adjusted.

§ 6.3.5 Upon receipt of a Change Directive, the Design-Builder shall promptly proceed with the change in the Work involved and advise the Owner of the Design-Builder's agreement or disagreement with the method, if any, provided in the Change Directive for determining the proposed adjustment in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, or Contract Time.

§ 6.3.6 A Change Directive signed by the Design-Builder indicates the Design-Builder's agreement therewith, including adjustment in Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 6.3.7 If the Design-Builder does not respond within seven days of its receipt of the Change Directive or disagrees with the method for adjustment in the Contract Sum or, if prior to execution of the Design-Build Amendment, the method for adjustment in the Design-Builder's compensation, the Owner shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 6.3.3.3, the Design-Builder shall keep and present, in such form as the Owner may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Design-Build Documents, costs for the purposes of this Section 6.3.7 shall be limited to the following:

- .1 Additional costs of professional services;
- .2 Costs of labor, including social security, unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;
- .3 Costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
- .4 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Design-Builder or others;
- .5 Costs of premiums for all bonds, permit fees, and sales, use or similar taxes related to the Work; and
- .6 Additional costs of supervision and field office personnel directly attributable to the change.

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§ 6.3.8 The amount of credit to be allowed by the Design-Builder to the Owner for a deletion or change that results in a net decrease in the Contract Sum or, if prior to execution of the Design-Build Amendment, in the Design-Builder's compensation, shall be actual net cost. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 6.3.9 Pending final determination of the total cost of a Change Directive to the Owner, the Design-Builder may request payment for Work completed under the Change Directive in Applications for Payment. The Owner will make an interim determination for purposes of certification for payment for those costs deemed to be reasonably justified. The Owner's interim determination of cost shall adjust the Contract Sum or, if prior to execution of the Design-Build Amendment, the Design-Builder's compensation, on the same basis as a Change Order, subject to the right of Design-Builder to disagree and assert a Claim in accordance with Article 14.

§ 6.3.10 [INTENTIONALLY OMITTED].

(Paragraph deleted)

ARTICLE 7 OWNER'S RESPONSIBILITIES

§ 7.1 General

§ 7.1.1 The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all Project matters requiring the Owner's approval or authorization. The Owner in its sole discretion may designate a successor to the representative identified in Section 1.2.1.

§ 7.1.2 The Owner shall render decisions in a timely manner. The Owner shall furnish to the Design-Builder, within 15 days after receipt of a written request, information necessary and relevant for the Design-Builder to evaluate, give notice of or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 7.2 Information and Services Required of the Owner

§ 7.2.1 The Owner shall furnish information or services required of the Owner by the Design-Build Documents with reasonable promptness.

§ 7.2.2 The Owner shall provide, to the extent under the Owner's control and if not required by the Design-Build Documents to be provided by the Design-Builder, the results and reports of prior tests, inspections or investigations conducted for the Project involving structural or mechanical systems; chemical, air and water pollution; hazardous materials; or environmental and subsurface conditions and information regarding the presence of pollutants at the Project site. Upon receipt of a written request from the Design-Builder, the Owner shall also provide surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site under the Owner's control.

§ 7.2.3 The Owner shall promptly obtain easements, zoning variances, and legal authorizations or entitlements regarding site utilization where essential to the execution of the Project.

§ 7.2.4 The Owner shall cooperate with the Design-Builder in securing building and other permits, licenses and inspections. Unless otherwise specified in the Design-Build Documents, the Design-Builder shall be responsible for securing all building and other permits, licenses and inspections.

§ 7.2.5 The services, information, surveys and reports required to be provided by the Owner under this Agreement, shall be furnished at the Owner's expense, and except as otherwise specifically provided in this Agreement or elsewhere in the Design-Build Documents, the Design-Builder shall not be entitled to rely upon the accuracy and completeness thereof. In no event shall the Design-Builder be relieved of its responsibility to exercise proper precautions relating to the safe performance of the Work.

§ 7.2.6 If the Owner observes or otherwise becomes aware of a fault or defect in the Work or non-conformity with the Design-Build Documents, the Owner shall give prompt written notice thereof to the Design-Builder.

§ 7.2.7 [INTENTIONALLY OMITTED].

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§ 7.2.8 Except as otherwise provided in the Design-Build Documents or when direct communications have been specially authorized, the Owner shall communicate through the Design-Builder with persons or entities employed or retained by the Design-Builder.

§ 7.2.9 The Design-Builder shall furnish the services of geotechnical engineers or other consultants at the Design-Builder's expense. The Design-Builder shall coordinate all geotechnical services with the Owner who shall have the right to approve the dates and locations of all geotechnical tests.

§ 7.2.10 The Owner shall purchase and maintain insurance as set forth in Exhibit B.

§ 7.3 Submittals

§ 7.3.1 The Owner shall review Submittals. Review of Submittals is not conducted for the purpose of determining the accuracy and completeness of other details, such as dimensions and quantities; or for substantiating instructions for installation or performance of equipment or systems; or for determining that the Submittals are in conformance with the Design-Build Documents, all of which remain the responsibility of the Design-Builder as required by the Design-Build Documents. Owner will review Submittals solely for its own benefit and is not responsible for any errors or omissions in those documents. The Owner's action will be taken in accordance with the submittal schedule approved by the Owner or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Owner's judgment to permit adequate review. The Owner's review of Submittals shall not relieve the Design-Builder of the obligations under Sections 3.1.11, 3.1.12, and 5.2.3. The Owner's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Owner, of any construction means, methods, techniques, sequences or procedures. The Owner's review of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 7.3.2 Upon review of the Submittals required by the Design-Build Documents, the Owner shall notify the Design-Builder of any non-conformance with the Design-Build Documents the Owner discovers and recognizes as not conforming with the Design-Build Documents.

§ 7.4 Visits to the site by the Owner shall not be construed to create an obligation on the part of the Owner to make on-site inspections to check the quality or quantity of the Work. The Owner shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, because these are solely the Design-Builder's rights and responsibilities under the Design-Build Documents.

§ 7.5 The Owner shall not be responsible for the Design-Builder's failure to perform the Work in accordance with the requirements of the Design-Build Documents. The Owner shall not have control over or charge of, and will not be responsible for acts or omissions of the Design-Builder, Architect, Consultants, Contractors, or their agents or employees, or any other persons or entities performing portions of the Work for the Design-Builder.

§ 7.6 The Owner has the authority to reject Work that does not conform to the Design-Build Documents. The Owner shall have authority to require inspection or testing of the Work in accordance with the terms of the Design-Build Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Owner nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Owner to the Design-Builder, the Architect, Consultants, Contractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 7.7 The Owner shall determine the date or dates of Substantial Completion in accordance with Section 9.8 and the date of Final Completion in accordance with Section 9.10.

§ 7.8 Owner's Right to Stop Work

If the Design-Builder fails to correct Work which is not in accordance with the requirements of the Design-Build Documents as required by Section 11.2 or persistently fails to carry out Work in accordance with the Design-Build Documents, the Owner may issue a written order to the Design-Builder to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Design-Builder or any other person or entity.

§ 7.9 Owner's Right to Carry Out the Work

If the Design-Builder defaults or neglects to carry out the Work in accordance with the Design-Build Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case, an appropriate Change Order or Change Directive shall be issued deducting from payments then or thereafter due the Design-Builder the reasonable cost of correcting such deficiencies. If payments then or thereafter due the Design-Builder are not sufficient to cover such amounts, the Design-Builder shall pay the difference to the Owner.

ARTICLE 8 TIME

§ 8.1 Progress and Completion

§ 8.1.1 Time limits stated in the Design-Build Documents are of the essence of the Contract. By executing the Design-Build Amendment the Design-Builder confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.1.2 The Design-Builder shall not, except by agreement of the Owner in writing, commence the Work prior to the effective date of insurance, other than property insurance, required by this Contract. The Contract Time shall not be adjusted as a result of the Design-Builder's failure to obtain insurance required under this Contract.

§ 8.1.3 The Design-Builder shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.2 Delays and Extensions of Time

§ 8.2.1 If the Design-Builder is delayed at any time in the commencement or progress of the Work by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Design-Builder's control; or by delay authorized by the Owner pending resolution dispute resolution process or by other causes that the Owner determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Owner may determine. Increases to Contract Time will be permitted for a delay only to the extent such delay adversely affects the critical path of the Project and is not caused, or could not have been anticipated, by the Design-Builder, could not be limited or avoided by the Design-Builder's timely notice to the Owner of the delay and is of a duration not less than one (1) day.

§ 8.2.2 Claims relating to time shall be made in accordance with applicable provisions of Article 14.

§ 8.2.3 Liquidated damages for delays. Owner and Design-Builder agree that if Substantial Completion is not achieved by the Substantial Completion date, the amount of the Owner's actual damages for delay will be difficult, impractical or impossible to determine. Accordingly, the Owner and Design-Builder agree that in the event Design-Builder fails to achieve Substantial Completion by the Substantial Completion date, Design-Builder shall pay to the Owner as liquidated damages to compensate the Owner for damages related to delay five hundred dollars per day (\$500.00/day) for every day Design-Builder fails to meet the Substantial Completion date. The parties agree that the liquidated damages represent a reasonable estimate of Owner's damages for delay and do not constitute a penalty against Design-Builder. Owner may withhold liquidated damages from any payments otherwise due Design-Builder. The Contract does not liquidate any other damages except for those resulting from Design-Builder's delay in achieving Substantial Completion.

(Paragraph deleted)

§ 8.2.4 Despite anything to the contrary in the Contract, the Design-Builder's sole remedy for any (1) delay in the commencement, prosecution or completion of the Work; (2) hindrance or obstruction in the performance of the Work; (3) loss of productivity or acceleration; or (4) other similar claims (collectively "Delays"), whether or not such Delays are foreseeable, shall be an extension of Contract Time if permitted under Section 8.2.1 and, to the extent permitted under this Section 8.2.3, an adjustment in the GMP. In no event will Design-Builder be entitled to any other compensation or recovery of any damages in connection with Delays, including, without limitation, consequential damages, lost opportunity costs, impact damages or other similar remuneration.

- .1 The Design-Builder shall be permitted an adjustment in the Contract Sum if any Delays, either individually or in the aggregate, cause the Contract Time to be increased by more than thirty (30) days (the "Elimination Period"). Any adjustment in the GMP under this section will be limited to the increase, if any, of direct costs incurred by the Design-Builder in performing the Work as a result of

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that portion of any Delay or Delays that cause the Contract Time to be increased in excess of the Elimination Period. Direct costs for purposes of this section are those items set forth in Exhibit A but in all cases do not include profit or home office overhead.

- 2 The Elimination Period shall not apply to a Delay caused solely by the Owner. Any extension in the Contract Time in connection with an Owner-caused Delay shall not be considered in determining whether or not the Design-Builder has incurred Delays that, in the aggregate, exceed the Elimination Period.

ARTICLE 9 PAYMENT APPLICATIONS AND PROJECT COMPLETION

§ 9.1 Contract Sum

The Contract Sum is stated in the Design-Build Amendment.

§ 9.2 Schedule of Values

Where the Contract Sum is based on a stipulated sum or Guaranteed Maximum Price, the Design-Builder, prior to the first Application for Payment after execution of the Design-Build Amendment shall submit to the Owner a schedule of values allocating the entire Contract Sum to the various portions of the Work and prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Design-Builder shall submit to the Owner an itemized Application for Payment for completed portions of the Work. The application shall be notarized, if required, and supported by data substantiating the Design-Builder's right to payment as the Owner may require, such as copies of requisitions from the Architect, Consultants, Contractors, and material suppliers, and shall reflect retainage if provided for in the Design-Build Documents.

§ 9.3.1.1 As provided in Section 6.3.9, Applications for Payment may include requests for payment on account of changes in the Work that have been properly authorized by Change Directives, or by interim determinations of the Owner, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Design-Builder does not intend to pay the Architect, Consultant, Contractor, material supplier, or other persons or entities providing services or work for the Design-Builder, unless such Work has been performed by others whom the Design-Builder intends to pay.

§ 9.3.1.3 Each Application for Payment must be accompanied by (1) a summary showing payments that will be made to the Architect, Consultant, subconsultant, Contractor, Subcontractor, material supplier, or other persons or entities covered by such application and conditional waivers and releases of claims and stop notices, (2) certified payroll in accordance with Oregon law of Design-Builder, Architect, Consultant, subconsultant, Contractor, Subcontractor, material supplier, or other persons or entities covered by such application, and (3) unconditional waivers and releases of claims and stop notices from the Architect, Consultant, subconsultant, Contractor, subcontractor, material supplier, or other persons or entities listed in the preceding application for payment covering sums disbursed pursuant to that preceding application for payment. Design-Builder warrants that, upon submittal of an application for payment, all Work for which certificates for payment have been previously issued and payment has been received from Owner, shall be free and clear of all claims, stop notices, security interests, and encumbrances in favor of Architect, Consultant, subconsultant, Contractor, subcontractor, material supplier; or other persons or entities entitled to make claims by reason of having provided labor, materials, or equipment relating to the Work.

§ 9.3.2 Unless otherwise provided in the Design-Build Documents, payments shall be made for services provided as well as materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Design-Builder with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site.

§ 9.3.3 The Design-Builder warrants that title to all Work, other than Instruments of Service, covered by an Application for Payment will pass to the Owner no later than the time of payment. The Design-Builder further warrants that, upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Design-Builder's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Design-Builder, Architect, Consultants, Contractors, material suppliers, or other persons or entities entitled to make a claim by reason of having provided labor, materials and equipment relating to the Work.

§ 9.4 Certificates for Payment

The Owner shall, within seven days after receipt of the Design-Builder's Application for Payment, issue to the Design-Builder a Certificate for Payment indicating the amount the Owner determines is properly due, and notify the Design-Builder in writing of the Owner's reasons for withholding certification in whole or in part as provided in Section 9.5.1.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Owner may withhold a Certificate for Payment in whole or in part to the extent reasonably necessary to protect the Owner due to the Owner's determination that the Work has not progressed to the point indicated in the Design-Builder's Application for Payment, or the quality of the Work is not in accordance with the Design-Build Documents. If the Owner is unable to certify payment in the amount of the Application, the Owner will notify the Design-Builder as provided in Section 9.4. If the Design-Builder and Owner cannot agree on a revised amount, the Owner will promptly issue a Certificate for Payment for the amount that the Owner deems to be due and owing. The Owner may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued to such extent as may be necessary to protect the Owner from loss for which the Design-Builder is responsible because of

- .1 defective Work, including design and construction, not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Design-Builder;
- .3 failure of the Design-Builder to make payments properly to the Architect, Consultants, Contractors or others, for services, labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a separate contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Design-Build Documents.

§ 9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.3 If the Owner withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Design-Builder and to the Architect or any Consultants, Contractor, material or equipment suppliers, or other persons or entities providing services or work for the Design-Builder to whom the Design-Builder failed to make payment for Work properly performed or material or equipment suitably delivered. The Design-Builder and such Architect, Consultant, subconsultant, Contractor, or subcontractor shall be responsible for the allocation and disbursement of funds included as part of any such joint payment. Any such joint payment shall constitute payment to the Design-Builder, in the full amount of the joint payment, as if such joint payment were made to the Design-Builder alone. In no event shall any joint payment be construed to create any contract between the Owner and any Architect, Consultant, subconsultant, Contractor, or subcontractor of any tier, obligations for the Owner to such Architects, Consultant, subconsultant, Contractors or subcontractors, or any rights in such Architects, Consultant, subconsultant, Contractors or subcontractors against the Owner.

§ 9.6 Progress Payments

§ 9.6.1 After the Owner has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Design-Build Documents.

§ 9.6.2 The Design-Builder shall pay each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder no later than the time period required by applicable law, but in no event more than seven days after receipt of payment from the Owner the amount to which the Architect, Consultant, Contractor,

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and other person or entity providing services or work for the Design-Builder is entitled, reflecting percentages actually retained from payments to the Design-Builder on account of the portion of the Work performed by the Architect, Consultant, Contractor, or other person or entity. The Design-Builder shall, by appropriate agreement with each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder, require each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder to make payments to subconsultants and subcontractors in a similar manner.

§ 9.6.3 The Owner will, on request and if practicable, furnish to the Architect, a Consultant, Contractor, or other person or entity providing services or work for the Design-Builder, information regarding percentages of completion or amounts applied for by the Design-Builder and action taken thereon by the Owner on account of portions of the Work done by such Architect, Consultant, Contractor or other person or entity providing services or work for the Design-Builder.

§ 9.6.4 The Owner has the right to request written evidence from the Design-Builder that the Design-Builder has properly paid the Architect, Consultants, Contractors, or other person or entity providing services or work for the Design-Builder, amounts paid by the Owner to the Design-Builder for the Work. If the Design-Builder fails to furnish such evidence within seven days, the Owner shall have the right to contact the Architect, Consultants, and Contractors to ascertain whether they have been properly paid. The Owner shall have no obligation to pay or to see to the payment of money to a Consultant or Contractor, except as may otherwise be required by law.

§ 9.6.5 Design-Builder payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Design-Build Documents.

§ 9.6.7 Unless the Design-Builder provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Design-Builder for Work properly performed by the Architect, Consultants, Contractors and other person or entity providing services or work for the Design-Builder, shall be held by the Design-Builder for the Architect and those Consultants, Contractors, or other person or entity providing services or work for the Design-Builder, for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Design-Builder, shall create any fiduciary liability or tort liability on the part of the Design-Builder for breach of trust or shall entitle any person or entity to an award of punitive damages against the Design-Builder for breach of the requirements of this provision.

§ 9.7 Failure of Payment

If the Owner is entitled to reimbursement or payment from the Design-Builder under or pursuant to the Design-Build Documents, such payment shall be made promptly upon demand by Owner. Notwithstanding anything contained in the Design-Build Documents to the contrary, if the Design-Builder fails to promptly make any payment due the Owner, or the Owner incurs any costs and expenses to cure any default of the Design-Builder or to correct defective Work, the Owner shall have an absolute right to offset such amount against the Contract Sum and may, in the Owner's sole discretion, elect either to deduct an amount equal to that which the Owner is entitled from any payment then or thereafter due the Design-Builder from the Owner, or issue a written notice to the Design-Builder reducing the Contract Sum by an amount equal to that which the Owner is entitled.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Design-Build Documents, including testing, approval by any applicable regulatory authority, and receipt of all the certificates of occupancy and other permits, approvals, licenses, and other documents from all governmental authorities that are necessary for the beneficial occupancy and use of the portion to be occupied or utilized such that the Work and the Project are functionally and legally usable by Owner for the purpose for which they are intended. The date of Substantial Completion is the date certified by the Owner in accordance with this Section 9.8.

§ 9.8.2 When the Design-Builder considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Design-Builder shall prepare and submit to the Owner a comprehensive list of items to be completed or corrected prior to final payment ("Punch List"). Failure to include an item on such list does

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not alter the responsibility of the Design-Builder to complete all Work in accordance with the Design-Build Documents.

§ 9.8.3 Upon receipt of the Design-Builder's list, the Owner shall make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Owner's inspection discloses any item, whether or not included on the Design-Builder's list, which is not sufficiently complete in accordance with the Design-Build Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Design-Builder shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Owner. In such case, the Design-Builder shall then submit a request for another inspection by the Owner to determine Substantial Completion.

§ 9.8.4 Prior to issuance of the Certificate of Substantial Completion under Section 9.8.5, the Owner and Design-Builder shall discuss and then determine the parties' obligations to obtain and maintain property insurance following issuance of the Certificate of Substantial Completion.

§ 9.8.5 When the Work or designated portion thereof is substantially complete, the Design-Builder will prepare for the Owner's signature a Certificate of Substantial Completion that shall, upon the Owner's signature, establish the date of Substantial Completion; establish responsibilities of the Owner and Design-Builder for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Design-Builder shall finish all items on the list accompanying the Certificate. Warranties required by the Design-Build Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.6 The Certificate of Substantial Completion shall be submitted by the Design-Builder to the Owner for written acceptance of responsibilities assigned to it in the Certificate. Upon the Owner's acceptance, and consent of surety, if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Design-Build Documents.

§ 9.8.7 The acceptance of Substantial Completion payment shall constitute a waiver of all claims by the Design-Builder and the Architect, Consultant, subconsultant, Contractor, and subcontractors, except those previously made in writing and identified by the Design-Builder as unsettled at the time the Design-Builder submits the application for payment for substantial completion, and except for the retained sums due at final acceptance.

§ 9.8.8 The Design-Builder shall indemnify and hold the Owner harmless against any claims by the Architect, Consultant, subconsultant, Contractor, and subcontractors that are waived because they were not made in writing and identified by the Design-Builder as unsettled when the Design-Builder submitted the application for payment for substantial completion.

§ 9.8.9 The Owner shall have the option to correct or complete any and all Punch List items not completed by the Design-Builder to the satisfaction of the Owner within ninety (90) days from the actual date of Substantial Completion for the Project by utilizing its own forces or by hiring others. The cost of such correction of remaining Punch List items by the Owner or others shall be deducted from the final payment to the Design-Builder.

§ 9.8.10 If the Design-Builder does not complete certain Punch List items within the required time period, all warranties and guarantees for such incomplete Punch List items shall become effective upon Design-Builder submitting to the Owner certification of the date such items were completed and approval by the Owner's representative. The issuance of the certificate of Substantial Completion does not indicate final acceptance of the individual Project by the Owner, and the Design-Builder is not relieved of any responsibility for the individual Project except as specifically stated in the certificate of Substantial Completion.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Design-Builder, provided such occupancy or use is consented to, by endorsement or otherwise, by the insurer providing property insurance and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Design-Builder have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and

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insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Design-Build Documents. When the Design-Builder considers a portion substantially complete, the Design-Builder shall prepare and submit a list to the Owner as provided under Section 9.8.2. Consent of the Design-Builder to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Design-Builder.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner and Design-Builder shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Design-Build Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Design-Builder's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Owner will promptly make such inspection. When the Owner finds the Work acceptable under the Design-Build Documents and the Contract fully performed, the Owner will, subject to Section 9.10.2, promptly issue a final Certificate for Payment.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Design-Builder submits to the Owner (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work, for which the Owner or the Owner's property might be responsible or encumbered, (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Design-Build Documents to remain in force after final payment is currently in effect, (3) a written statement that the Design-Builder knows of no substantial reason that the insurance will not be renewable to cover the period required by the Design-Build Documents, (4) consent of surety, if any, to final payment, (5) as-constructed record copy of the Construction Documents marked to indicate field changes and selections made during construction, (6) manufacturer's warranties, guarantees, product data, and maintenance and operations manuals, and (7) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, or releases and waivers of liens, claims, security interests, or encumbrances, arising out of the Contract, to the extent and in such form as may be designated by the Owner. If an Architect, a Consultant, or a Contractor, or other person or entity providing services or work for the Design-Builder, refuses to furnish a release or waiver required by the Owner, the Design-Builder may furnish a bond satisfactory to the Owner to indemnify the Owner against such liens, claims, security interests, or encumbrances. If such liens, claims, security interests, or encumbrances remains unsatisfied after payments are made, the Design-Builder shall refund to the Owner all money that the Owner may be compelled to pay in discharging such liens, claims, security interests, or encumbrances, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Design-Builder or by issuance of Change Orders affecting Final Completion, the Owner shall, upon application by the Design-Builder, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Design-Build Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Design-Builder to the Owner prior to issuance of payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

§ 9.10.4

(Paragraphs deleted)

[INTENTIONALLY OMITTED].

§ 9.10.5 Acceptance of final payment by the Design-Builder shall constitute a waiver of claims by the Design-Builder except those previously made in writing and identified by the Design-Builder as unsettled at the time of final Application for Payment.

(Paragraph deleted)

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ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Design-Builder shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Design-Builder shall be responsible for precautions for the safety of, and reasonable protection to prevent damage, injury or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Design-Builder or the Architect, Consultants, or Contractors, or other person or entity providing services or work for the Design-Builder; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, or structures and utilities not designated for removal, relocation or replacement in the course of construction.

§ 10.2.2 The Design-Builder shall comply with, and give all notices required by, applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property, or their protection from damage, injury or loss.

§ 10.2.3 The Design-Builder shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notify owners and users of adjacent sites and utilities of the safeguards and protections. The Design-Builder shall also be responsible, at the Design-Builder's sole cost and expense, for all measures necessary to protect all property outside the Site against all hazards arising out of the Work. Any damage to property or improvements outside the Site attributable to Design-Builder shall be promptly repaired by the Design-Builder.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods, are necessary for execution of the Work, the Design-Builder shall exercise utmost care, and carry on such activities under supervision of properly qualified personnel. When use or storage of explosives or other hazardous materials or equipment or unusual construction methods are necessary, the Design-Builder shall give the Owner reasonable advance notice.

§ 10.2.5 The Design-Builder shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Design-Build Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3, caused in whole or in part by the Design-Builder, the Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Design-Builder is responsible under Sections 10.2.1.2 and 10.2.1.3; except damage or loss attributable to acts or omissions of the Owner, or anyone directly or indirectly employed by the Owner, or by anyone for whose acts the Owner may be liable, and not attributable to the fault or negligence of the Design-Builder. The foregoing obligations of the Design-Builder are in addition to the Design-Builder's obligations under Section 3.1.14.

§ 10.2.6 The Design-Builder shall designate a responsible member of the Design-Builder's organization, at the site, whose duty shall be the prevention of accidents. This person shall be the Design-Builder's superintendent unless otherwise designated by the Design-Builder in writing to the Owner.

§ 10.2.7 The Design-Builder shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

(Paragraph deleted)

§ 10.2.8 When all or a portion of the Work is suspended for any reason, the Design-Builder shall securely fasten down all coverings and fully protect the Work, as necessary, from injury or damage by any cause.

§ 10.2.9 The Design-Builder shall promptly report in writing to the Owner all accidents arising out of or in connection with the Work that cause death, personal injury, or property damage, giving full details and statements of any

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witnesses. In addition, if death, serious personal injuries, or serious damages are caused, the accident shall be reported immediately by telephone or message to the Owner.

§ 10.2.10 Injury or Damage to Person or Property. If the Owner or Design-Builder suffers injury or damage to person or property because of an act or omission of the other, or of others for whose acts such party is legally responsible, written notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials

§ 10.3.1 The Design-Builder is responsible for compliance with any requirements included in the Design-Build Documents regarding hazardous materials. If the Design-Builder encounters a hazardous material or substance, as those terms are defined in Oregon law, not addressed in the Design-Build Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Design-Builder, the Design-Builder shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner in writing.

§ 10.3.2 Upon receipt of the Design-Builder's written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Design-Builder and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Design-Build Documents, the Owner shall furnish in writing to the Design-Builder the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. The Design-Builder will promptly reply to the Owner in writing stating whether or not the Design-Builder has reasonable objection to the persons or entities proposed by the Owner. If the Design-Builder has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Design-Builder has no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Design-Builder. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Design-Builder's reasonable additional costs of shut-down, delay and start-up.

§ 10.3.3 To the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, and only to the extent the hazardous substances or materials are not addressed in the Design-Build Documents, the Owner shall indemnify and hold harmless the Design-Builder, the Architect, Consultants, and Contractors, and employees of any of them, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the area affected by such hazardous substances or materials, if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to, or destruction of, tangible property (other than the Work itself), except to the extent that such damage, loss or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for materials or substances the Design-Builder brings to the site unless such materials or substances are required by the Owner's Criteria. The Owner shall be responsible for materials or substances required by the Owner's Criteria, except to the extent of the Design-Builder's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Design-Builder shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Design-Builder brings to the site and negligently handles, or (2) where the Design-Builder fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 [INTENTIONALLY OMITTED]

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Design-Builder shall act, at the Design-Builder's discretion, to prevent threatened damage, injury or loss.

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(Paragraph deleted)

ARTICLE 11 UNCOVERING AND CORRECTION OF WORK

§ 11.1 Uncovering of Work

In its sole discretion, the Owner may request to examine a portion of the Work that the Design-Builder has covered to determine if the Work has been performed in accordance with the Design-Build Documents. If such Work is in accordance with the Design-Build Documents, the Owner and Design-Builder shall execute a Change Order to adjust the Contract Time and Contract Sum, as appropriate. If such Work is not in accordance with the Design-Build Documents, the costs of uncovering and correcting the Work shall be at the Design-Builder's expense and the Design-Builder shall not be entitled to a change in the Contract Time unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs and the Contract Time will be adjusted as appropriate.

§ 11.2 Correction of Work

§ 11.2.1 Before or After Substantial Completion. The Design-Builder shall promptly correct Work rejected by the Owner or failing to conform to the requirements of the Design-Build Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for any design consultant employed by the Owner whose expenses and compensation were made necessary thereby, shall be at the Design-Builder's expense. If prior to the date of Substantial Completion, the Design-Builder, the Architect, Consultants, Contractors, subconsultants, Subcontractors or others directly or indirectly under their employment or authority use or damage any portion of the Work, including mechanical, electrical, plumbing, or other building systems, machinery, equipment, or other mechanical device, the Design-Builder, at no expense to the Owner, shall cause such portion, system, device, or item to be restored (whether by replacement, repair, or otherwise) to the condition the item was required to be in, if such use or damage had not occurred. Nothing herein shall reduce the duty of the Design-Builder with respect to such item in order to obtain a final Certificate for Payment.

§ 11.2.2 After Substantial Completion

§ 11.2.2.1 In addition to the Design-Builder's obligations under Section 3.1.12, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of an applicable special warranty required by the Design-Build Documents, any of the Work is found not to be in accordance with the requirements of the Design-Build Documents, the Design-Builder shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Design-Builder a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. Such a written acceptance is not effective unless an acceptance unless it specifically describes the condition that is not in accordance with the Design-Build Documents and contains substantially the following statement: "The Owner accepts [such condition] despite its not being in accordance with the Design-Build Documents." During the one-year period for correction of the Work, if the Owner fails to notify the Design-Builder and give the Design-Builder an opportunity to make the correction, the Owner waives the rights to require correction by the Design-Builder and to make a claim for breach of warranty. If the Design-Builder fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner, the Owner may correct it in accordance with Section 7.9.

§ 11.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 11.2.2.3 [INTENTIONALLY OMITTED].

§ 11.2.3 The Design-Builder shall remove from the site portions of the Work that are not in accordance with the requirements of the Design-Build Documents and are neither corrected by the Design-Builder nor accepted by the Owner.

§ 11.2.4 The Design-Builder shall bear the cost of correcting destroyed or damaged construction of the Owner or separate contractors, whether completed or partially completed, caused by the Design-Builder's correction or removal of Work that is not in accordance with the requirements of the Design-Build Documents.

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§ 11.2.5 Nothing contained in this Section 11.2 shall be construed to establish a period of limitation with respect to other obligations the Design-Builder has under the Design-Build Documents. Establishment of the one-year period for correction of Work as described in Section 11.2.2 relates only to the specific obligation of the Design-Builder to correct the Work, and has no relationship to the time within which the obligation to comply with the Design-Build Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Design-Builder's liability with respect to the Design-Builder's obligations other than specifically to correct the Work.

§ 11.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Design-Build Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

(Paragraph deleted)

ARTICLE 12 COPYRIGHTS AND LICENSES

§ 12.1 All drawings, specifications, models and other documents or expressions arising out of or related to the Work, including those in electronic form, prepared by the Design-Builder, its Architects, its Consultants or any other person or entity performing Work on its behalf and those prepared by and furnished by the Design-Builder, are Instruments of Service. All Instruments of Service are and shall be deemed the property of the Owner when provided to the Owner and the Owner will and shall be deemed to hold the copyright to the Instruments. The Design-Builder will include in any contracts and subcontracts arising out of or related to the Work that produce or yield an Instrument of Service a provision or provisions that the copyrights for all such Instruments of Service are the exclusive property of the Owner and the Owner shall hold the copyrights to all of them regardless of form. The Owner's obligation to pay the Design-Builder is expressly conditioned upon the Design-Builder including such provisions in such contracts and subcontracts. The Owner may use the Instruments of Service in any manner it deems appropriate. If this Agreement is terminated for any reason, the Owner shall be at most liable to the Design-Builder and its Architects and Consultants only for the value of the actual time spent by the Design-Builder, its Architects and its Consultants in preparing the Instruments of Service and for which the Owner has not already paid Design-Builder in accordance with this Agreement. The Owner, in return, hereby grants the Design-Builder, Architect, Consultants and Contractors a revocable, nonexclusive license to reproduce the documents for purposes relating directly to the Design-Builder's performance of its obligations under this Agreement for the Design-Builder's archival records, and for the Design-Builder's reproduction of drawings and photographs in the Design-Builder's marketing materials, provided that the Project-related contents of those materials are approved by Owner. This nonexclusive license shall terminate automatically upon the occurrence of either a breach of this Agreement by the Design-Builder or the accused commission by the Design-Builder of a tort or a crime affecting the Owner or the Project or upon termination of this Agreement. This nonexclusive license is granted to the Design-Builder alone and shall not be assigned by the Design-Builder to any other person or entity, except that the non-exclusive license granted in this Agreement to the Design-Builder for purposes of the Design-Builder's performance hereunder may be sub-licensed to the Architect, Consultants, and Contractors (with the same limitations). Subject to the foregoing, this nonexclusive license shall terminate automatically upon a Design-Builder's assignment of this nonexclusive license to another or its attempt to do so.

§ 12.2 [INTENTIONALLY OMITTED].

§ 12.3 [INTENTIONALLY OMITTED].

§ 12.3.1 [INTENTIONALLY OMITTED]

§ 12.3.2 [INTENTIONALLY OMITTED].

(Paragraph deleted)

§ 12.3.3 Except for the license granted in this Article 12, no other license or right shall be deemed granted or implied under this Agreement. No other Project-related data, expression, or documents may be reproduced by the Design-Builder, Architect, Consultants or Contractors for any other purposes without the express written permission of the Owner.

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ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 Termination or Suspension Prior to Execution of the Design-Build Amendment

§ 13.1.1 If the Owner fails to make undisputed payments to the Design-Builder for Work prior to execution of the Design-Build Amendment in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination. If the Owner suspends the Work, the Design-Builder shall have no liability to the Owner for delay or damage caused by the Owner's suspension of the Work. Before resuming the Work, the Design-Builder shall be paid all undisputed sums due prior to suspension and any expenses incurred in the interruption and resumption of the Design-Builder's Work.

§ 13.1.2 [INTENTIONALLY OMITTED]

§ 13.1.3 If the Owner suspends the Project for more than 90 cumulative days for reasons that are solely due to a breach of the Design-Build Documents by the Owner, the Design-Builder may terminate this Agreement by giving not less than ten (10) days' written notice.

§ 13.1.4 The Owner may terminate this Agreement upon not less than seven days' written notice should the Design-Builder fail substantially to perform in accordance with the terms of this Agreement through no fault of the Owner.

§ 13.1.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Design-Builder for the Owner's convenience and without cause.

§ 13.1.6 In the event of termination not the fault of the Design-Builder, the Design-Builder shall be compensated only the actual costs incurred by the Design-Builder and approved by the Owner for Work performed prior to termination, together with Reimbursable Expenses already incurred and approved by the Owner for which the Design-Builder is not otherwise compensated. In no event shall the Design-Builder be entitled to any additional compensation under Section 13.1.6, including but not limited to lost profits or consequential damages of any kind.

§ 13.2 Termination or Suspension Following Execution of the Design-Build Amendment

§ 13.2.1 Termination by the Design-Builder

§ 13.2.1.1 The Design-Builder may terminate the Contract if the Work is stopped for a period of 60 consecutive days through no act or fault of the Design-Builder, the Architect, a Consultant, or a Contractor, or their agents or employees, or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency that requires all Work to be stopped; or
- .3 Because the Owner has not issued a Certificate for Payment and has not notified the Design-Builder of the good-faith basis for withholding certification as provided in Section 9.5.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Design-Build Documents.

§ 13.2.1.2 The Design-Builder may terminate the Contract if, through no act or fault of the Design-Builder, the Architect, a Consultant, a Contractor, or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, repeated suspensions, delays or interruptions of the entire Work by the Owner as described in Section 13.2.3 constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 13.2.1.3 The notices referred to in this Article 13 shall state the reasons and grounds for the termination. The reasons and grounds for termination by the Design-Builder set forth in Article 13 are exclusive. In all instances, those reasons and grounds shall not constitute reasons or grounds for termination by the Design-Builder if a substantial cure occurs within ten (10) days after the Owner receives notice of proposed termination.

§ 13.2.1.4 If an extension of Contract Time has been granted because of a circumstance set forth in Section 13.2.1.1, the period of that extension shall be not be counted towards the 60-day period created in the first clause of Section 13.2.1.1.

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§ 13.2.2 Termination by the Owner For Cause

§ 13.2.2.1 The Owner may terminate the Contract if the Design-Builder

- .1 fails to submit the Proposal by the date required by this Agreement, or if no date is indicated, within a reasonable time consistent with the date of Substantial Completion;
- .2 repeatedly refuses or fails to supply an Architect, or enough properly skilled Consultants, Contractors, or workers or proper materials;
- .3 fails to make payment to the Architect, Consultants, or Contractors for services, materials or labor in accordance with their respective agreements with the Design-Builder;
- .4 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority;
- .5 becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency;
- .6 fails to make satisfactory progress as defined in Section 13.2.2 on the Project; or
- .7 is otherwise guilty of substantial breach of a provision of the Design-Build Documents.

§ 13.2.2.2 When any of the above reasons exist, the Owner may without prejudice to any other rights or remedies of the Owner and after giving the Design-Builder seven days' written notice, terminate employment of the Design-Builder and may, subject to any prior rights of the surety:

- .1 Exclude the Design-Builder from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Design-Builder;
- .2 Accept assignment of the Architect, Consultant and Contractor agreements pursuant to Section 3.1.15; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Design-Builder, the Owner shall furnish to the Design-Builder a detailed accounting of the costs incurred by the Owner in finishing the Work.

The Owner's failure to exercise its rights under this Subparagraph 13.2.2.2 shall not be considered a failure to mitigate damages, nor shall it be the grounds for any claim against the Owner. In the notice, the Owner may specify when the termination is effective or it may state that the termination shall be effective upon additional notice as specified in the notice.

§ 13.2.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 13.2.2.1, the Design-Builder shall not be entitled to receive further payment until the Work is finished.

§ 13.2.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Design-Builder. If such costs and damages exceed the unpaid balance, the Design-Builder shall pay the difference to the Owner. The obligation for such payments shall survive termination of the Contract.

§ 13.2.3 Suspension by the Owner for Convenience

§ 13.2.3.1 The Owner may, without cause, order the Design-Builder in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

§ 13.2.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in Section 13.2.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Design-Builder is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 13.2.4 Termination by the Owner for Convenience

§ 13.2.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. Termination, whether for Owner's convenience or otherwise, shall not release either the Design-Builder or its surety from liability or responsibility for any default or other transaction or occurrence prior to the date of termination and demobilization from the Project.

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§ 13.2.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Design-Builder shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and,
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing Project agreements, including agreements with the Architect, Consultants, Contractors, and purchase orders, and enter into no further Project agreements and purchase orders.

§ 13.2.4.3 In case of such termination for the Owner's convenience, the Design-Builder shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, but in no event shall Design-Builder be entitled to recover from Owner, on its own account or on behalf of the Architect, Consultants, Contractors or subcontractors, lost profits or other consequential damages, whether its own or those of the Architect, Consultants, Contractors or subcontractors on account of a termination for convenience or an erroneous termination for cause.

(Paragraph deleted)

ARTICLE 14 CLAIMS AND DISPUTE RESOLUTION

§ 14.1 Claims

§ 14.1.1 **Definition.** A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Design-Builder arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim.

§ 14.1.2 **Time Limits on Claims.** The Owner and Design-Builder shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other, arising out of or related to the Contract in accordance with the requirements of the dispute resolution process described in this Article 14, within the time period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Design-Builder waive all claims and causes of action not commenced in accordance with this Section 14.1.2.

§ 14.1.3 Notice of Claims

§ 14.1.3.1 **Prior To Final Payment.** Prior to Final Payment, Claims by either the Owner or Design-Builder must be initiated by written notice to the other party within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Failure of the Design-Builder to provide the written notice of a Claim in the time permitted in this section results in a waiver of the Claim. The notice must set forth in detail all known facts supporting the claim.

§ 14.1.3.2 **Claims Arising After Final Payment.** After Final Payment, Claims by either the Owner or Design-Builder (assuming the claim has not been waived pursuant to Section 9.10.5) must be initiated by prompt written notice to the other party. The notice requirement in Section 14.1.3.1 and the Initial Decision requirement as a condition precedent to mediation in Section 14.2.1 shall not apply.

§ 14.1.4 **Continuing Contract Performance.** Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 13, the Design-Builder shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Design-Build Documents.

§ 14.1.5 **Claims for Additional Cost.** If Design-Builder seeks to make a claim for an increase in its compensation, or an adjustment of the Contract Sum, or both, then as a condition precedent to any liability of Owner, Design-Builder shall strictly comply with the requirements of paragraph 14.1.3 and 14.2 and such claim must be made by Design-Builder before proceeding to execute any additional or changed work. Failure to satisfy these conditions precedent will constitute a waiver by Design-Builder of any claim for additional compensation. Any liability of Owner for additional costs to Design-Builder will be strictly limited to actual and reasonable direct costs incurred by Design-Builder and will in no event include indirect costs or consequential damages of Design-Builder or others.. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

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§ 14.1.6 Claims for Additional Time

§ 14.1.6.1 If the Design-Builder intends to make a Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Design-Builder's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary. If Design-Builder makes any claim for delay, Design-Builder shall specifically set forth how and why the delay in question affected the critical path, including submission of a time impact analysis based upon the most recently submitted schedule.

- .1 No-Claim for an increase in the Contract Time shall be considered unless the Design-Builder includes with its Claim a time impact analysis of the critical path. If approved by Owner, the time extension requested by the Design-Builder shall be limited to the days of delay shown on the time impact analysis.
- .2 The Design-Builder is not entitled to any extension of the Contract Time unless the delay affected the end date or milestone as shown by a time impact analysis based upon the approved CPM schedule submitted with the Application for Payment immediately preceding the date of the delaying event or occurrence.
- .3 Each time impact analysis shall provide information justifying the request and stating the extent of the adjustment requested for each specific change or alleged delay. The time impact analysis shall be provided to the Owner at no cost. Each time impact analysis shall be in a form and content reasonably acceptable to the Owner, and shall include, but not be limited to, the general information set forth in this section appropriate to the type of request (i.e., change or alleged delay), plus the following:
 - .1 A fragmentary CPM network ("FRAGNET") illustrating how the Design-Builder proposes to have the change or alleged delay incorporated into the current project schedule and;
 - .2 Identification of the preceding and succeeding activities in the current project schedule to which the FRAGNET is to be connected, together with engineering estimates and other appropriate data justifying the proposal.
 - .3 The analysis must clearly show that the Design-Builder has used in full all the activity float time available for the work involved in this request.
 - .4 The time impact analysis must be based upon the dates when the alleged delay or delays began, the status of the work at that time, and shall include time computations for all affected activities.
- .4 Notwithstanding anything else contained in this Article or elsewhere, Design-Builder shall not be entitled to an extension of time unless it can show that the abnormal weather or site conditions specifically affected the critical path, and it meets all of the requirements for such a claim under this Agreement. Time extensions will not be granted for rain, wind, snow or other natural phenomena of normal intensity for the locality where Work is performed. For purpose of determining the extent of delay attributable to unusual weather phenomena, a determination shall be made by comparing the weather for the contract period involved with the average of the preceding twenty (20) year climatic range during the same time interval based on the National Oceanic and Atmospheric Administration National Weather Service statistics for the locality where Work is performed and on daily weather logs kept on the job site by the Design-Builder reflecting the effect of the weather on progress of the Work and initialed by the Owner.
- .5 Only delays that Owner determines extend the critical path of the schedule and are not the fault of Design-Builder will result in an extension of Contract Time. Neither the Owner nor the Design-Builder will be considered to own the schedule float time. Nothing in this provision, however, will entitle the Design-Builder to an additional time or compensation for a delay that prevents the Design-Builder from completing the project prior to the original contract period, as adjusted by Change Orders.

§ 14.1.6.2 [INTENTIONALLY OMITTED].

§ 14.1.7 Claims for Consequential Damages

The Design-Builder and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Design-Builder for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

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This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 13. Nothing contained in this Section 14.1.7 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Design-Build Documents.

§ 14.2 Initial Decision

§ 14.2.1 An initial decision shall be required as a condition precedent to mediation of all Claims between the Owner and Design-Builder initiated prior to the date final payment is due, excluding those arising under Sections 10.3 and 10.4 of the Agreement and Sections B.3.2.9 and B.3.2.10 of Exhibit B to this Agreement, unless 30 days have passed after the Claim has been initiated with no decision having been rendered. Unless otherwise mutually agreed in writing, the Owner shall render the initial decision on Claims.

§ 14.2.2 Procedure

§ 14.2.2.1 Claims Initiated by the Owner. If the Owner initiates a Claim, the Design-Builder shall provide a written response to Owner within twenty (20) days after receipt of the notice required under Section 14.1.3.1. Thereafter, the Owner shall render an initial decision within ten days of receiving the Design-Builder's response: (1) withdrawing the Claim in whole or in part, (2) approving the Claim in whole or in part, or (3) suggesting a compromise.

§ 14.2.2.2 Claims Initiated by the Design-Builder. If the Design-Builder initiates a Claim, the Owner will take one or more of the following actions within twenty (20) days after receipt of the notice required under Section 14.1.3.1: (1) request additional supporting data, (2) render an initial decision rejecting the Claim in whole or in part, (3) render an initial decision approving the Claim, (4) suggest a compromise or (5) indicate that it is unable to render an initial decision because the Owner lacks sufficient information to evaluate the merits of the Claim.

§ 14.2.3 In evaluating Claims, the Owner may, but shall not be obligated to, consult with or seek information from persons with special knowledge or expertise who may assist the Owner in rendering a decision. The retention of such persons shall be at the Owner's expense.

§ 14.2.4 If the Owner requests the Design-Builder to provide a response to a Claim or to furnish additional supporting data, the Design-Builder shall respond, within twenty (20) days after receipt of such request, and shall either (1) provide a response on the requested supporting data, (2) advise the Owner when the response or supporting data will be furnished or (3) advise the Owner that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Owner will either reject or approve the Claim in whole or in part.

§ 14.2.5 The Owner's initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) identify any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to the dispute resolution process described in Section 14.3.

§ 14.2.6 [INTENTIONALLY OMITTED].

§ 14.2.6.1 [INTENTIONALLY OMITTED].

§ 14.2.7 In the event of a Claim against the Design-Builder, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Design-Builder's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 14.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 14.3 Mediation

§ 14.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.5 and 14.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 14.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the Arbitration Service of Portland, Inc. in accordance with its rules in effect on the date a party requests mediation. A request for mediation shall be made in writing, delivered to the other party to the

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Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this Section 14.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 14.3.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in Clackamas County, Oregon, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction.

§ 14.4 Arbitration

§ 14.4.1 If the parties have selected arbitration as the method for binding dispute resolution in Section 1.3, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the Arbitration Service of Portland, Inc in accordance with its rules in effect on the date of a party's demand for arbitration. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 14.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations or statute of repose. For statute of limitations or statute of repose purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 14.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction.

§ 14.4.3 The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 14.4.4 Consolidation or Joinder

§ 14.4.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 14.4.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 14.4.4.3 The Owner and Design-Builder grant to any person or entity made a party to an arbitration conducted under this Section 14.4, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Design-Builder under this Agreement.

(Paragraph deleted)

ARTICLE 15 MISCELLANEOUS PROVISIONS

§ 15.1 Governing Law

The Contract shall be governed by Oregon law without respect to conflict of laws principles. Any disputes that a party may bring outside of arbitration under Article 14 are subject to the exclusive jurisdiction of the Circuit Court of the State of Oregon, Clackamas County. No action may be commenced in nor removed to federal court. The parties consent to the personal jurisdiction of Clackamas County Circuit Court.

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§ 15.2 Successors and Assigns

§ 15.2.1 The Owner and Design-Builder, respectively, bind themselves, their partners, successors, assigns and legal representatives to the covenants, agreements and obligations contained in the Design-Build Documents. Except as provided in Section 15.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 15.2.2 The Owner may, without consent of the Design-Builder, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Design-Build Documents. The Design-Builder shall execute all consents reasonably required to facilitate such assignment.

§ 15.2.3 If the Owner requests the Design-Builder, Architect, Consultants, or Contractors to execute certificates, other than those required by Section 3.1.10, the Owner shall submit the proposed language of such certificates for review at least 14 days prior to the requested dates of execution. If the Owner requests the Design-Builder, Architect, Consultants, or Contractors to execute consents reasonably required to facilitate assignment to a lender, the Design-Builder, Architect, Consultants, or Contractors shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to them for review at least 14 days prior to execution. The Design-Builder, Architect, Consultants, and Contractors shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of their services.

§ 15.3 Written Notice

Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice.

§ 15.4 Rights and Remedies

§ 15.4.1 Duties and obligations imposed by the Design-Build Documents, and rights and remedies available thereunder, shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

§ 15.4.2 No action or failure to act by the Owner or Design-Builder shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

§ 15.5 Tests and Inspections

§ 15.5.1 Tests, inspections and approvals of portions of the Work shall be made as required by the Design-Build Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities. Unless otherwise provided, the Design-Builder shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Design-Builder shall give the Owner timely notice of when and where tests and inspections are to be made so that the Owner may be present for such procedures. The Owner shall bear costs of (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Design-Builder.

§ 15.5.2 If the Owner determines that portions of the Work require additional testing, inspection or approval not included under Section 15.5.1, the Owner will instruct the Design-Builder to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Design-Builder shall give timely notice to the Owner of when and where tests and inspections are to be made so that the Owner may be present for such procedures. Such costs, except as provided in Section 15.5.3, shall be at the Owner's expense.

§ 15.5.3 If such procedures for testing, inspection or approval under Sections 15.5.1 and 15.5.2 reveal failure of the portions of the Work to comply with requirements established by the Design-Build Documents, all costs made necessary by such failure shall be at the Design-Builder's expense.

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§ 15.5.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Design-Build Documents, be secured by the Design-Builder and promptly delivered to the Owner.

§ 15.5.5 If the Owner is to observe tests, inspections or approvals required by the Design-Build Documents, the Owner will do so promptly and, where practicable, at the normal place of testing.

§ 15.5.6 Tests or inspections conducted pursuant to the Design-Build Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 15.6 Confidential Information

If the Owner or Design-Builder transmits Confidential Information, the transmission of such Confidential Information constitutes a warranty to the party receiving such Confidential Information that the transmitting party is authorized to transmit the Confidential Information. If a party receives Confidential Information, the receiving party shall keep the Confidential Information strictly confidential and shall not disclose it to any other person or entity except as set forth in Section 15.6.1 or, as applied to Owner, may be required under applicable law, including the Oregon Public Records Act.

§ 15.6.1 A party receiving Confidential Information may disclose the Confidential Information as required by law or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity. A party receiving Confidential Information may also disclose the Confidential Information to its employees, consultants or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of Confidential Information as set forth in this Contract.

§ 15.7 Capitalization

Terms capitalized in the Contract include those that are (1) specifically defined, (2) the titles of numbered articles or (3) the titles of other documents published by the American Institute of Architects.

§ 15.8 Interpretation

§ 15.8.1 In the interest of brevity the Design-Build Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 15.8.2 Unless otherwise stated in the Design-Build Documents, words which have well-known technical or construction industry meanings are used in the Design-Build Documents in accordance with such recognized meanings.

(Paragraph deleted)

§ 15.9 Third Party Beneficiaries. There are no third-parties who benefit, or are intended to benefit, from this Contract.

ARTICLE 16 SCOPE OF THE AGREEMENT

§ 16.1 This Agreement is comprised of the following documents listed below:

- .1 AIA Document A141™-2014, Standard Form of Agreement Between Owner and Design-Builder
- .2 AIA Document A141™-2014, Exhibit A, Design-Build Amendment, if executed
- .3 AIA Document A141™-2014, Exhibit B, Insurance and Bonds
- .4 AIA Document A141™-2014, Exhibit C, Sustainable Projects, if completed
- .5 AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, if completed, or the following:

- .6 Other:

Exhibits D (Design-Builder Proposal for Phase 1 Services, May 1, 2018)

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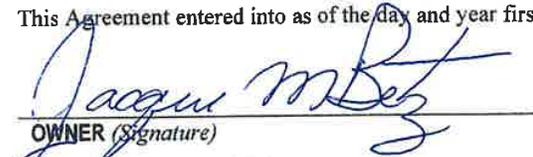
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This Agreement entered into as of the day and year first written above.


OWNER (Signature)
Jacque Betz City Administrator
(Printed name and title)

 5/29/18
DESIGN-BUILDER (Signature)
Steve Anderson Vice President, P&C
(Printed name and title)

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AIA[®] Document A141[™] – 2014 Exhibit A

Design-Build Amendment

This Amendment is incorporated into the accompanying AIA Document A141[™]-2014, Standard Form of Agreement Between Owner and Design-Builder dated the 29th day of May in the year 2018 (the "Agreement")
(In words, indicate day, month and year.)

for the following PROJECT:
(Name and location or address)

Gladstone Civic Center

THE OWNER:
(Name, legal status and address)

City of Gladstone an Oregon municipal corporation
525 Portland Avenue
Gladstone, OR
97027

THE DESIGN-BUILDER:
(Name, legal status and address)

P&C Construction Company
2133 NW York Street
Portland, Oregon 97210
Oregon CCB# 38619

On this ___ day of _____, 2018, the Owner and Design-Builder hereby amend the Agreement as follows.

TABLE OF ARTICLES

- A.1 CONTRACT SUM
- A.2 CONTRACT TIME
- A.3 INFORMATION UPON WHICH AMENDMENT IS BASED
- A.4 DESIGN-BUILDER'S PERSONNEL, CONTRACTORS AND SUPPLIERS
- A.5 COST OF THE WORK

ARTICLE A.1 CONTRACT SUM

§ A.1.1 The Owner shall pay the Design-Builder the Contract Sum in current funds for the Design-Builder's performance of the Contract after the execution of this Amendment. The Contract Sum shall be one of the following and shall not include compensation the Owner paid the Design-Builder for Work performed prior to execution of this Amendment:

(Check the appropriate box.)

Stipulated Sum, in accordance with Section A.1.2 below

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Consultation with an attorney is also encouraged with respect to professional licensing requirements in the jurisdiction where the Project is located.

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Cost of the Work plus the Design-Builder's Fee, in accordance with Section A.1.3 below

Cost of the Work plus the Design-Builder's Fee with a Guaranteed Maximum Price, in accordance with Section A.1.4 below

(Based on the selection above, complete Section A.1.2, A.1.3 or A.1.4 below.)

§ A.1.2 Stipulated Sum

§ A.1.2.1 [INTENTIONALLY OMITTED]

§ A.1.2.2

(Paragraphs deleted)

[INTENTIONALLY OMITTED]

§ A.1.2.3 [INTENTIONALLY OMITTED]

(Table deleted)

§ A.1.3 Cost of the Work Plus Design-Builder's Fee

§ A.1.3.1 [INTENTIONALLY OMITTED]

§ A.1.3.2

(Paragraphs deleted)

[INTENTIONALLY OMITTED]

§ A.1.4 Cost of the Work Plus Design-Builder's Fee With a Guaranteed Maximum Price

§ A.1.4.1 The Cost of the Work is as defined in Article A.5, Cost of the Work.

§ A.1.4.2 The Design-Builder's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Design-Builder's Fee and the method for adjustment to the Fee for changes in the Work.)

Design-Builder's Fee is 5.50% of the Cost of the Work.

§ A.1.4.3 Guaranteed Maximum Price

§ A.1.4.3.1 The sum of the Cost of the Work and the Design-Builder's Fee is guaranteed by the Design-Builder not to exceed Twelve Million, Five Hundred Sixty-Five Thousand, Three Hundred Thirty-Eight Dollars and No Cents (\$12,565,338.00), subject to additions and deductions for changes in the Work as provided in the Design-Build Documents. Costs that would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Design-Builder without reimbursement by the Owner.

(Paragraph deleted)

The Design Builder will not participate in an savings. All savings will be returned to the Owner

§ A.1.4.3.2 Itemized Statement of the Guaranteed Maximum Price

Provided below is an itemized statement of the Guaranteed Maximum Price organized by trade categories, allowances, contingencies, alternates, the Design-Builder's Fee, and other items that comprise the Guaranteed Maximum Price.

(Provide information below or reference an attachment.)

See Attachment A entitled "GMP Cost Summary – Option A."

§ A.1.4.3.3 The Guaranteed Maximum Price includes the following enhancements, which are shown as "Accepted" in Attachment B entitled "Project Enhancements Tracker. Owner may decide to accept additional enhancements subsequent to the execution of this Amendment. If Owner accepts such additional enhancements in the future, the parties will update Attachment B to reflect the date Owner accepts such additional enhancements.

§ A.1.4.3.4 Unit Prices, if any:
(Identify item, state the unit price, and state any applicable quantity limitations.)

Item	Units and Limitations	Price per Unit (\$0.00)
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§ A.1.4.3.5 Assumptions, if any, on which the Guaranteed Maximum Price is based:

See Attachment C entitled "Scope, Definition and Clarifications" and Attachment D entitled "Executive Summary" and Attachment E entitled "Schematic Design MEP Narrative."

§ A.1.5 Payments

§ A.1.5.1 Progress Payments

§ A.1.5.1.1 Based upon Applications for Payment submitted to the Owner by the Design-Builder, the Owner shall make progress payments on account of the Contract Sum to the Design-Builder as provided below and elsewhere in the Design-Build Documents.

§ A.1.5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ A.1.5.1.3 Provided that an Application for Payment is received not later than the 25th day of the month, the Owner shall make payment of the certified amount to the Design-Builder not later than the 15th day of the following month. If an Application for Payment is received by the Owner after the application date fixed above, payment shall be made by the Owner not later than twenty (20) days after the Owner receives the Application for Payment.

§ A.1.5.1.4 With each Application for Payment where the Contract Sum is based upon the Cost of the Work, or the Cost of the Work with a Guaranteed Maximum Price, the Design-Builder shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner to demonstrate that cash disbursements already made by the Design-Builder on account of the Cost of the Work equal or exceed (1) progress payments already received by the Design-Builder, less (2) that portion of those payments attributable to the Design-Builder's Fee; plus (3) payrolls for the period covered by the present Application for Payment.

§ A.1.5.1.5 With each Application for Payment where the Contract Sum is based upon a Stipulated Sum or Cost of the Work with a Guaranteed Maximum Price, the Design-Builder shall submit the most recent schedule of values in accordance with the Design-Build Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. Compensation for design services, if any, shall be shown separately. Where the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, the Design-Builder's Fee shall be shown separately. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule of values, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment.

§ A.1.5.1.6 In taking action on the Design-Builder's Applications for Payment, the Owner shall be entitled to rely on the accuracy and completeness of the information furnished by the Design-Builder and shall not be deemed to have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Sections A.1.5.1.4 or A.1.5.1.5, or other supporting data; to have made exhaustive or continuous on-site inspections; or to have made examinations to ascertain how or for what purposes the Design-Builder has used amounts previously paid. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ A.1.5.1.7 Except with the Owner's prior approval, the Design-Builder shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ A.1.5.2 Progress Payments—Stipulated Sum

§ A.1.5.2.1 [INTENTIONALLY OMITTED]

§ A.1.5.2.2

(Paragraphs deleted)

[INTENTIONALLY OMITTED]

§ A.1.5.2.3

(Paragraphs deleted)

[INTENTIONALLY OMITTED]

§ A.1.5.2.4

(Paragraphs deleted)

[INTENTIONALLY OMITTED]

§ A.1.5.3 Progress Payments—Cost of the Work Plus a Fee

§ A.1.5.3.1 [INTENTIONALLY OMITTED]

§ A.1.5.3.2

(Paragraphs deleted)

[INTENTIONALLY OMITTED]

§ A.1.5.3.3 [INTENTIONALLY OMITTED]

§ A.1.5.4 Progress Payments—Cost of the Work Plus a Fee with a Guaranteed Maximum Price

§ A.1.5.4.1 Applications for Payment where the Contract Sum is based upon the Cost of the Work Plus a Fee with a Guaranteed Maximum Price shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed; or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Design-Builder on account of that portion of the Work for which the Design-Builder has made or intends to make actual payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ A.1.5.4.2 Subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 6.3.9 of the Agreement.
- .2 Add that portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 Add the Design-Builder's Fee, less retainage of five percent (5 %). The Design-Builder's Fee shall be computed upon the Cost of the Work at the rate stated in Section A.1.4.2 or, if the Design-Builder's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .4 Subtract retainage of five percent (5 %) from that portion of the Work that the Design-Builder self-performs;
- .5 Subtract the aggregate of previous payments made by the Owner;
- .6 Subtract the shortfall, if any, indicated by the Design-Builder in the documentation required by Section A.1.5.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .7 Subtract amounts, if any, for which the Owner has withheld or nullified a payment as provided in Section 9.5 of the Agreement.

§ A.1.5.4.3 The Owner and Design-Builder shall agree upon (1) a mutually acceptable procedure for review and approval of payments to the Architect, Consultants, and Contractors and (2) the percentage of retainage held on agreements with the Architect, Consultants, and Contractors; and the Design-Builder shall execute agreements in accordance with those terms.

§ A.1.5.5 Final Payment

§ A.1.5.5.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Design-Builder not later than 30 days after the Design-Builder has fully performed the Contract and the requirements of Section 9.10 of the Agreement have been satisfied, except for the Design-Builder's responsibility to correct non-conforming Work discovered after final payment or to satisfy other requirements, if any, which extend beyond final payment.

§ A.1.5.5.2 If the Contract Sum is based on the Cost of the Work, the Owner's auditors will review and report in writing on the Design-Builder's final accounting within 30 days after the Design-Builder delivers the final accounting to the Owner. Based upon the Cost of the Work the Owner's auditors report to be substantiated by the Design-Builder's final accounting, and provided the other conditions of Section 9.10 of the Agreement have been met, the Owner will, within seven days after receipt of the written report of the Owner's auditors, either issue a final Certificate for Payment, or notify the Design-Builder in writing of the reasons for withholding a certificate as provided in Section 9.5.1 of the Agreement.

ARTICLE A.2 CONTRACT TIME

§ A.2.1 Contract Time, as defined in the Agreement at Section 1.4.13, is the period of time, including authorized adjustments, for Substantial Completion of the Work.

§ A.2.2 The Design-Builder shall achieve Substantial Completion of the Work not later than *(Paragraphs deleted)*

~~February 14, 2020~~. At least 60 days prior to the start of construction, the Design-Builder will provide Owner a schedule that shows in calendar days how the Work will be completed by February 14, 2020. The Design-Builder shall achieve Final Completion of the Work no later than forty-five (45) days following the date of Substantial Completion.

(Table deleted)

The Substantial Completion date is subject to adjustments of the Contract Time as provided in the Design-Build Documents.

§ A.2.3 Design-Builder acknowledges that the Owner will incur damages for delay if the Project is not completed within the Contract Time, including damages in the form of: inability to use the Project and all related facilities; delay costs for completion of portions of the Project or related projects to be constructed by the Owner or the Owner's separate contractors; or costs of extended services of the Owner's project management staff, outside construction management firms, any separate contractors and consultants, and others performing work or services related to the Project. In consideration of these factors, the Design-Builder acknowledges and agrees that time is of the essence in the Design-Builder's performance of the Work in accordance with the agreed date of commencement of the Work, the agreed dates of Substantial Completion and Final Completion of the Work, and the approved construction schedule.

§ A.2.3.1 Owner and Design-Builder acknowledge and agree that if Substantial Completion of the Work is not achieved by the Contract Time, the amount of the Owner's damages for delay will be difficult, impractical or impossible to determine. Accordingly, the parties agree that if Substantial Completion is not achieved by the agreed date of Substantial Completion (as may be adjusted pursuant to the Contract Documents) because of the acts or omissions of the Design-Builder, the Design-Builder shall pay to the Owner liquidated damages, in place of actual damages for Design-Builder's delay in achieving Substantial Completion of the Work in the Contract Time and not as a penalty or forfeiture, as follows:

.1 Liquidated damages shall be assessed by the Owner and paid by Design-Builder at the rate of \$500.00 for each day (or fraction thereof) of delay beginning fifteen (15) days after the date of Substantial Completion through and including thirty (30) days after the date of Substantial Completion.

.2 Thereafter, liquidated damages shall be assessed by the Owner and paid by Design-Builder at the rate of \$750.00 for each day (or fraction thereof) of delay beginning thirty-one (31) days after the date of Substantial Completion through and including sixty (60) days after the date of Substantial Completion.

.3 Thereafter, liquidated damages shall be assessed by the Owner and paid by Design-Builder at the rate of \$1500.00 for each subsequent day (or fraction thereof) of delay in Design-Builder achieving Substantial Completion.

§ A.2.4 Owner may withhold liquidated damages from final payment.

ARTICLE A.3 INFORMATION UPON WHICH AMENDMENT IS BASED

§ A.3.1 The Contract Sum and Contract Time set forth in this Amendment are based on the following:

§ A.3.1.1 The Supplementary and other Conditions of the Contract: None

(Table deleted)

§ A.3.1.2 The Specifications:

(Paragraphs deleted)

To be established within 90 days following execution of this Amendment.

(Table deleted)

§ A.3.1.3 The Drawings:

See Attachment F entitled "Option A – Floor Plan (dated November 14, 2018), Site Plan (dated November 16, 2018) and Perspective (dated October 31, 2018)."

(Table deleted)

§ A.3.1.4

(Paragraphs deleted)

[INTENTIONALLY OMITTED]

§ A.3.1.5 Allowances and Contingencies:

(Identify any agreed upon allowances and contingencies, including a statement of their basis.)

.1 Allowances

Off-site improvements in the amount of \$1,050,000.
Building Permit Fees in the amount of \$560,000.
Furniture, Fixtures and Equipment ("FF&E") in the amount of \$250,000.
Audio Visual ("AV") and Access Control in the amount of \$220,000.

.2 Contingencies

Design, construction and bidding included in the GMP.
AIA A141 Article 4 deliverables will be completed within 90 days of the execution of this Amendment.

§ A.3.1.6 Design-Builder's assumptions and clarifications:

See Article A.1.4.3.5 of this Amendment.

§ A.3.1.7 Deviations from the Owner's Criteria as adjusted by a Modification:

Building square footage increased by 84 square feet.
Secure parking area increased by 5,356 square feet.
Community/Incident Operations Center ("IOC") room included in Project.
Added policy facility consultant to design-build team.

§ A.3.1.8 To the extent the Design-Builder shall be required to submit any additional Submittals to the Owner for review, indicate any such submissions below:

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List to be provided within 90 days after execution of this Amendment.

ARTICLE A.4 DESIGN-BUILDER'S PERSONNEL, CONTRACTORS AND SUPPLIERS

§ A.4.1 The Design-Builder's key personnel are identified below:
(Identify name, title and contact information.)

.1 Superintendent

To be established no later than 60 days prior to start of construction.

.2 Project Manager

Will Somme of P&C Construction.

.3 Others

§ A.4.2 The Design-Builder shall retain the following Consultants, Contractors and suppliers, identified below:
(List name, discipline, address and other information.)

ARTICLE A.5 COST OF THE WORK

§ A.5.1 Cost To Be Reimbursed as Part of the Contract

§ A.5.1.1 Labor Costs

§ A.5.1.1.1 Wages of construction workers directly employed by the Design-Builder to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops.

§ A.5.1.1.2 With the Owner's prior approval, wages or salaries of the Design-Builder's supervisory and administrative personnel when stationed at the site.

(Paragraph deleted)

See Attachment G entitled "P&C Billable Labor Rates." Design-Builder's personnel shall charge time to the Project only for that time Work is being executed or provided for this Project regardless of location of such personnel.

(Table deleted)

§ A.5.1.1.3 Wages and salaries of the Design-Builder's supervisory or administrative personnel engaged at factories, workshops or on the road, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§ A.5.1.1.4 Costs paid or incurred by the Design-Builder for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Section A.5.1.1.

§ A.5.1.1.5 Bonuses, profit sharing, incentive compensation and any other discretionary payments paid to anyone hired by the Design-Builder or paid to the Architect or any Consultant, Contractor or supplier, with the Owner's prior approval.

§ A.5.1.2 Contract Costs. Payments made by the Design-Builder to the Architect, Consultants, Contractors and suppliers in accordance with the requirements of their subcontracts.

§ A.5.1.3 Costs of Materials and Equipment Incorporated in the Completed Construction

§ A.5.1.3.1 Costs, including transportation and storage, of materials and equipment incorporated or to be incorporated in the completed construction.

§ A.5.1.3.2 Costs of materials described in the preceding Section A.5.1.3.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Design-Builder. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

§ A.5.1.4 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ A.5.1.4.1 Costs of transportation, storage, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Design-Builder at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment and tools that are not fully consumed shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Design-Builder shall mean fair market value.

§ A.5.1.4.2 Rental charges for temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Design-Builder at the site and costs of transportation, installation, minor repairs, dismantling and removal. The total rental cost of any Design-Builder-owned item may not exceed the purchase price of any comparable item. Rates of Design-Builder-owned equipment and quantities of equipment shall be subject to the Owner's prior approval.

§ A.5.1.4.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ A.5.1.4.4 Costs of document reproductions, electronic communications, postage and parcel delivery charges, dedicated data and communications services, teleconferences, Project websites, extranets and reasonable petty cash expenses of the site office.

§ A.5.1.4.5 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, with the Owner's prior approval.

§ A.5.1.5 Miscellaneous Costs

§ A.5.1.5.1 Premiums for that portion of insurance and bonds required by the Design-Build Documents that can be directly attributed to the Contract. With the Owner's prior approval self-insurance for either full or partial amounts of the coverages required by the Design-Build Documents.

§ A.5.1.5.2 Sales, use or similar taxes imposed by a governmental authority that are related to the Work and for which the Design-Builder is liable.

§ A.5.1.5.3 Fees and assessments for the building permit and for other permits, licenses and inspections for which the Design-Builder is required by the Design-Build Documents to pay.

§ A.5.1.5.4 Fees of laboratories for tests required by the Design-Build Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Section 15.5.3 of the Agreement or by other provisions of the Design-Build Documents, and which do not fall within the scope of Section A.5.1.6.3.

§ A.5.1.5.5 Royalties and license fees paid for the use of a particular design, process or product required by the Design-Build Documents; the cost of defending suits or claims for infringement of patent rights arising from such requirement of the Design-Build Documents; and payments made in accordance with legal judgments against the Design-Builder resulting from such suits or claims and payments of settlements made with the Owner's consent. However, such costs of legal defenses, judgments and settlements shall not be included in the calculation of the Design-Builder's Fee or subject to the Guaranteed Maximum Price. If such royalties, fees and costs are excluded by the second to last sentence of Section 3.1.13.2 of the Agreement or other provisions of the Design-Build Documents, then they shall not be included in the Cost of the Work.

§ A.5.1.5.6 With the Owner's prior approval, costs for electronic equipment and software directly related to the Work.

§ A.5.1.5.7 Deposits lost for causes other than the Design-Builder's negligence or failure to fulfill a specific responsibility in the Design-Build Documents.

§ A.5.1.5.8 With the Owner's prior approval, which shall not be unreasonably withheld, legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Design-Builder, reasonably incurred by the Design-Builder after the execution of the Agreement and in the performance of the Work.

§ A.5.1.5.9 With the Owner's prior approval, expenses incurred in accordance with the Design-Builder's standard written personnel policy for relocation, and temporary living allowances of, the Design-Builder's personnel required for the Work.

§ A.5.1.5.10 That portion of the reasonable expenses of the Design-Builder's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

§ A.5.1.6 Other Costs and Emergencies

§ A.5.1.6.1 Other costs incurred in the performance of the Work if, and to the extent, approved in advance in writing by the Owner.

§ A.5.1.6.2 Costs incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property.

§ A.5.1.6.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Design-Builder, Contractors or suppliers, provided that such damaged or nonconforming Work was not caused by negligence or failure to fulfill a specific responsibility of the Design-Builder and only to the extent that the cost of repair or correction is not recovered by the Design-Builder from insurance, sureties, Contractors, suppliers, or others.

§ A.5.1.7 Related Party Transactions

§ A.5.1.7.1 For purposes of Section A.5.1.7, the term "related party" shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Design-Builder; any entity in which any stockholder in, or management employee of, the Design-Builder owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the Design-Builder. The term "related party" includes any member of the immediate family of any person identified above.

§ A.5.1.7.2 If any of the costs to be reimbursed arise from a transaction between the Design-Builder and a related party, the Design-Builder shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction, then the cost incurred shall be included as a cost to be reimbursed, and the Design-Builder shall procure the Work, equipment, goods or service from the related party, as a Contractor, according to the terms of Section A.5.4. If the Owner fails to authorize the transaction, the Design-Builder shall procure the Work, equipment, goods or service from some person or entity other than a related party according to the terms of Section A.5.4.

§ A.5.2 Costs Not to Be Reimbursed as Part of this Contract

The Cost of the Work shall not include the items listed below:

- .1 Salaries and other compensation of the Design-Builder's personnel stationed at the Design-Builder's principal office or offices other than the site office, except as specifically provided in Section A.5.1.1;
- .2 Expenses of the Design-Builder's principal office and offices other than the site office;
- .3 Overhead and general expenses, except as may be expressly included in Section A.5.1;
- .4 The Design-Builder's capital expenses, including interest on the Design-Builder's capital employed for the Work;
- .5 Except as provided in Section A.5.1.6.3 of this Agreement, costs due to the negligence or failure of the Design-Builder, Contractors and suppliers or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable to fulfill a specific responsibility of the Contract;
- .6 Any cost not specifically and expressly described in Section A.5.1; and
- .7 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded.

§ A.5.3 Discounts, Rebates, and Refunds

§ A.5.3.1 Cash discounts obtained on payments made by the Design-Builder shall accrue to the Owner if (1) before making the payment, the Design-Builder included them in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Design-Builder with which to make payments; otherwise, cash discounts shall accrue to the Design-Builder. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Design-Builder shall make provisions so that they can be obtained.

§ A.5.3.2 Amounts that accrue to the Owner in accordance with Section A.5.3.1 shall be credited to the Owner as a deduction from the Cost of the Work.

§ A.5.4 Other Agreements

§ A.5.4.1 When the Design-Builder has provided a Guaranteed Maximum Price, and a specific bidder (1) is recommended to the Owner by the Design-Builder; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Design-Build Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Design-Builder may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Design-Builder and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ A.5.4.2 Agreements between the Design-Builder and Contractors shall conform to the applicable payment provisions of the Design-Build Documents, and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner. If an agreement between the Design Builder and a Contractor is awarded on a cost plus a fee basis, the Design-Builder shall provide in the agreement for the Owner to receive the same audit rights with regard to the Cost of the Work performed by the Contractor as the Owner receives with regard to the Design-Builder in Section A.5.5, below.

§ A.5.4.3 The agreements between the Design-Builder and Architect and other Consultants identified in the Agreement shall be in writing. These agreements shall be promptly provided to the Owner upon the Owner's written request.

§ A.5.5 Accounting Records

The Design-Builder shall keep full and detailed records and accounts related to the cost of the Work and exercise such controls as may be necessary for proper financial management under the Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Design-Builder's records and accounts, including complete documentation supporting accounting entries, books, correspondence, instructions, drawings, receipts, subcontracts, Contractor's proposals, purchase orders, vouchers, memoranda and other data relating to the Contract. The Design-Builder shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

§ A.5.6 Relationship of the Parties

The Design-Builder accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to exercise the Design-Builder's skill and judgment in furthering the interests of the Owner; to furnish efficient construction administration, management services and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests.

This Amendment to the Agreement entered into as of the day and year first written above.

OWNER *(Signature)*

Jacque Betz City Administrator
(Printed name and title)

DESIGN-BUILDER *(Signature)*

Steve Anderson Vice President
(Printed name and title)

Additions and Deletions Report for AIA® Document A141™ – 2014 Exhibit A

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 00:43:58 ET on 11/20/2018.

PAGE 1

This Amendment is incorporated into the accompanying AIA Document A141™-2014, Standard Form of Agreement Between Owner and Design-Builder dated the 29th day of May in the year 2018 (the "Agreement")

...

Gladstone Civic Center

...

City of Gladstone an Oregon municipal corporation
525 Portland Avenue
Gladstone, OR
97027

...

P&C Construction Company
2133 NW York Street
Portland, Oregon 97210
Oregon CCB# 38619

The On this day of , 2018, the Owner and Design-Builder hereby amend the Agreement as follows.

PAGE 2

[] Cost of the Work plus the Design-Builder's Fee with a Guaranteed Maximum Price, in accordance with Section A.1.4 below

...

§ A.1.2.1 The Stipulated Sum shall be (\$), subject to authorized adjustments as provided in the Design-Build Documents. [INTENTIONALLY OMITTED]

§ A.1.2.2 The Stipulated Sum is based upon the following alternates, if any, which are described in the Design-Build Documents and are hereby accepted by the Owner:
(State the numbers or other identification of accepted alternates. If the Owner is permitted to accept other alternates subsequent to the execution of this Amendment, attach a schedule of such other alternates showing the change in Stipulated Sum for each and the deadline by which the alternate must be accepted.)

[INTENTIONALLY OMITTED]

§ A.1.2.3 Unit prices, if any:

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User Notes: (1867413296)

(Identify item, state the unit price, and state any applicable quantity limitations.)~~[INTENTIONALLY OMITTED]~~

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

...

§ A.1.3.1 The Cost of the Work is as defined in Article A.5, Cost of the Work.~~[INTENTIONALLY OMITTED]~~

§ A.1.3.2 The Design-Builder's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Design-Builder's Fee, and the method for adjustment to the Fee for changes in the Work.)

~~[INTENTIONALLY OMITTED]~~

...

~~Design-Builder's Fee is 5.50% of the Cost of the Work.~~

...

§ A.1.4.3.1 The sum of the Cost of the Work and the Design-Builder's Fee is guaranteed by the Design-Builder not to exceed Twelve Million, Five Hundred Sixty-Five Thousand, Three Hundred Thirty-Eight Dollars and No Cents (\$ \$12,565,338.00), subject to additions and deductions for changes in the Work as provided in the Design-Build Documents. Costs that would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Design-Builder without reimbursement by the Owner.

(Insert specific provisions if the Design-Builder is to participate in any savings.)

~~The Design Builder will not participate in any savings. All savings will be returned to the Owner~~

...

~~See Attachment A entitled "GMP Cost Summary – Option A."~~

§ A.1.4.3.3 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Design-Build Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the Owner is permitted to accept other alternates includes the following enhancements, which are shown as "Accepted" in Attachment B entitled "Project Enhancements Tracker. Owner may decide to accept additional enhancements subsequent to the execution of this Amendment, attach a schedule of such other alternates showing the change in the Cost of the Work and Guaranteed Maximum Price for each and the deadline by which the alternate must be accepted.) Amendment. If Owner accepts such additional enhancements in the future, the parties will update Attachment B to reflect the date Owner accepts such additional enhancements.

PAGE 3

~~See Attachment C entitled "Scope, Definition and Clarifications" and Attachment D entitled "Executive Summary" and Attachment E entitled "Schematic Design MEP Narrative."~~

...

§ A.1.5.1.3 Provided that an Application for Payment is received not later than the 25th day of the month, the Owner shall make payment of the certified amount to the Design-Builder not later than the 15th day of the following month. If an Application for Payment is received by the Owner after the application date fixed above, payment shall be made by the Owner not later than twenty (20) days after the Owner receives the Application for Payment.

(Federal, state or local laws may require payment within a certain period of time.)

PAGE 4

§ A.1.5.2.1 Applications for Payment where the Contract Sum is based upon a Stipulated Sum shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. [INTENTIONALLY OMITTED]

§ A.1.5.2.2 Subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:

- 1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of percent (%) on the Work. Pending final determination of cost to the Owner of Changes in the Work, amounts not in dispute shall be included as provided in Section 6.3.9 of the Agreement;
- 2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing); less retainage of percent (%);
- 3 Subtract the aggregate of previous payments made by the Owner; and
- 4 Subtract amounts, if any, the Owner has withheld or nullified, as provided in Section 9.5 of the Agreement. [INTENTIONALLY OMITTED]

§ A.1.5.2.3 The progress payment amount determined in accordance with Section A.1.5.2.2 shall be further modified under the following circumstances:

- 1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Owner shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and
(Section 9.8.6 of the Agreement discusses release of applicable retainage upon Substantial Completion of Work.)
- 2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Design-Builder, any additional amounts payable in accordance with Section 9.10.3 of the Agreement. [INTENTIONALLY OMITTED]

§ A.1.5.2.4 Reduction or limitation of retainage, if any, shall be as follows:

(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections A.1.5.2.2.1 and A.1.5.2.2.2 above, and this is not explained elsewhere in the Design-Build Documents, insert provisions here for such reduction or limitation.)

[INTENTIONALLY OMITTED]

...

§ A.1.5.3.1 Where the Contract Sum is based upon the Cost of the Work plus a fee without a Guaranteed Maximum Price, Applications for Payment shall show the Cost of the Work actually incurred by the Design-Builder through the end of the period covered by the Application for Payment and for which Design-Builder has made or intends to make actual payment prior to the next Application for Payment. [INTENTIONALLY OMITTED]

§ A.1.5.3.2 Subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:

- 1 Take the Cost of the Work as described in Article A.5 of this Amendment;
- 2 Add the Design-Builder's Fee, less retainage of percent (%). The Design-Builder's Fee shall be computed upon the Cost of the Work described in the preceding Section A.1.5.3.2.1 at the rate stated in Section A.1.3.2; or if the Design-Builder's Fee is stated as a fixed sum in that Section, an amount which bears the same ratio to that fixed sum Fee as the Cost of the Work in that Section bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- 3 Subtract retainage of percent (%) from that portion of the Work that the Design-Builder self-performs;
- 4 Subtract the aggregate of previous payments made by the Owner;

- ~~5~~ Subtract the shortfall, if any, indicated by the Design-Builder in the documentation required by Section A.1.5.3.4 or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- ~~6~~ Subtract amounts, if any, for which the Owner has withheld or withdrawn a Certificate of Payment as provided in the Section 9.5 of the Agreement. **[INTENTIONALLY OMITTED]**

~~§ A.1.5.3.3~~ The Owner and Design-Builder shall agree upon (1) a mutually acceptable procedure for review and approval of payments to the Architect, Consultants, and Contractors and (2) the percentage of retainage held on agreements with the Architect, Consultants, and Contractors, and the Design-Builder shall execute agreements in accordance with those terms. **[INTENTIONALLY OMITTED]**

- 3 Add the Design-Builder's Fee, less retainage of five percent (5 %). The Design-Builder's Fee shall be computed upon the Cost of the Work at the rate stated in Section A.1.4.2 or, if the Design-Builder's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- 4 Subtract retainage of five percent (5 %) from that portion of the Work that the Design-Builder self-performs;

PAGE 5

~~§ A.2.2~~ The Design-Builder shall achieve Substantial Completion of the Work not later than ~~()~~ days from the date of this Amendment, or as follows:
(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

February 14, 2020. At least 60 days prior to the start of construction, the Design-Builder will provide Owner a schedule that shows in calendar days how the Work will be completed by February 14, 2020. The Design-Builder shall achieve Final Completion of the Work no later than forty-five (45) days following the date of Substantial Completion.

Portion of Work	Substantial Completion Date

~~The Substantial Completion date is~~ subject to adjustments of the Contract Time as provided in the Design-Build Documents.

~~§ A.2.3~~ Design-Builder acknowledges that the Owner will incur damages for delay if the Project is not completed within the Contract Time, including damages in the form of: inability to use the Project and all related facilities; delay costs for completion of portions of the Project or related projects to be constructed by the Owner or the Owner's separate contractors; or costs of extended services of the Owner's project management staff, outside construction management firms, any separate contractors and consultants, and others performing work or services related to the Project. In consideration of these factors, the Design-Builder acknowledges and agrees that time is of the essence in the Design-Builder's performance of the Work in accordance with the agreed date of commencement of the Work, the agreed dates of Substantial Completion and Final Completion of the Work, and the approved construction schedule.

~~§ A.2.3.1~~ Owner and Design-Builder acknowledge and agree that if Substantial Completion of the Work is not achieved by the Contract Time, the amount of the Owner's damages for delay will be difficult, impractical or impossible to determine. Accordingly, the parties agree that if Substantial Completion is not achieved by the agreed date of Substantial Completion (as may be adjusted pursuant to the Contract Documents) because of the acts or omissions of the Design-Builder, the Design-Builder shall pay to the Owner liquidated damages, in place of actual damages for Design-Builder's delay in achieving Substantial Completion of the Work in the Contract Time and not as a penalty or forfeiture, as follows:
(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on-time or for bonus payments for early completion of the Work.)

1 Liquidated damages shall be assessed by the Owner and paid by Design-Builder at the rate of \$500.00 for each day (or fraction thereof) of delay beginning fifteen (15) days after the date of Substantial Completion through and including thirty (30) days after the date of Substantial Completion.

2 Thereafter, liquidated damages shall be assessed by the Owner and paid by Design-Builder at the rate of \$750.00 for each day (or fraction thereof) of delay beginning thirty-one (31) days after the date of Substantial Completion through and including sixty (60) days after the date of Substantial Completion.

3 Thereafter, liquidated damages shall be assessed by the Owner and paid by Design-Builder at the rate of \$1500.00 for each subsequent day (or fraction thereof) of delay in Design-Builder achieving Substantial Completion.

§ A.2.4 Owner may withhold liquidated damages from final payment.

PAGE 6

§ A.3.1.1 The Supplementary and other Conditions of the Contract: None

Document	Title	Date	Pages

...

(Either list the specifications here or refer to an exhibit attached to this Amendment.)

To be established within 90 days following execution of this Amendment.

Section	Title	Date	Pages

...

(Either list the drawings here or refer to an exhibit attached to this Amendment.)

See Attachment F entitled "Option A – Floor Plan (dated November 14, 2018), Site Plan (dated November 16, 2018) and Perspective (dated October 31, 2018)."

Number	Title	Date

§ A.3.1.4 The Sustainability Plan, if any:

(If the Owner identified a Sustainable Objective in the Owner's Criteria, identify the document or documents that comprise the Sustainability Plan by title, date and number of pages, and include other identifying information. The Sustainability Plan identifies and describes the Sustainable Objective; the targeted Sustainable Measures; implementation strategies selected to achieve the Sustainable Measures; the Owner's and Design-Builder's roles and responsibilities associated with achieving the Sustainable Measures; the specific details about design reviews, testing or metrics to verify achievement of each Sustainable Measure; and the Sustainability Documentation required for the Project, as those terms are defined in Exhibit C to the Agreement.)

Title	Date	Pages

Other identifying information:

[INTENTIONALLY OMITTED]

...

Off-site improvements in the amount of \$1,050,000.
Building Permit Fees in the amount of \$560,000.
Furniture, Fixtures and Equipment ("FF&E") in the amount of \$250,000.
Audio Visual ("AV") and Access Control in the amount of \$220,000.

Design, construction and bidding included in the GMP.
AIA A141 Article 4 deliverables will be completed within 90 days of the execution of this Amendment.

...

See Article A.1.4.3.5 of this Amendment.

...

Building square footage increased by 84 square feet.
Secure parking area increased by 5,356 square feet.
Community/Incident Operations Center ("IOC") rooms included in Project.
Added policy facility consultant to design-build team.

PAGE 7

List to be provided within 90 days after execution of this Amendment.

...

To be established no later than 60 days prior to start of construction.

...

Will Somme of P&C Construction.

...

(If it is intended that the wages or salaries of certain personnel stationed at the Design-Builder's principal or other offices shall be included in the Cost of the Work, identify below the personnel to be included, whether for all or only part of their time, and the rates at which their time will be charged to the Work.)

See Attachment G entitled "P&C Billable Labor Rates." Design-Builder's personnel shall charge time to the Project only for that time Work is being executed or provided for this Project regardless of location of such personnel.

<u>Person Included</u>	<u>Status (full-time/part-time)</u>	<u>Rate (\$0.00)</u>	<u>Rate (unit of time)</u>
------------------------	-------------------------------------	----------------------	----------------------------

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Jacque Betz, City Administrator

Steve Anderson, Vice President

ATTACHMENT A



Project: **Gladstone Civic Center**
 Location: **Gladstone, OR**

Issue Date: 11/13/18
 Version: 1.2

GMP COST SUMMARY - Option A

Line #	Division	Description	TOTAL COST
1	A10	Foundations	\$583,209
2	B10	Superstructure	\$967,996
3	B20	Exterior Closure	\$225,670
4	B30	Roofing	\$406,419
5	C10	Interior Construction	\$625,252
6	C30	Interior Finish	\$424,375
7	D10	Conveying Systems	\$0
8	D20	Plumbing	\$270,946
9	D30	Heating, Ventilating, & Air Conditioning	\$479,366
10	D40	Fire Protection	\$93,789
11	D50	Electrical, Communications & Security	\$1,143,934
12	E10	Equipment	\$16,500
13	E20	Furnishings	\$92,255
14	G10	Site Preparation	\$332,538
15	G20	Site Improvements	\$422,381
16	G30	Site Utilities	\$140,935
17	G40	Site Electrical	\$90,170
18	G90	Off Site Construction	\$1,050,000
19	Z10	Design and Permits	\$1,629,572
20	Z20	Fixtures, Furnishings & Equipment (FF&E)	\$250,000
21	Z30	General Project Requirements	\$697,323
22	Z40	Project Logistics	\$236,978
23		SUBTOTAL	\$10,179,605
24		Design Builder Contingency @ 4.00%	\$407,184
25		Escalation & Bidding Contingency @ 5.00%	\$508,980
26		SUBTOTAL - COST OF WORK	\$11,095,769
27		Design-Builder Bonds and Insurance	\$277,394
28		SUBTOTAL	\$11,373,164
29		Design-Builder Fee	\$625,524
30		TOTAL ESTIMATE AMOUNT	\$11,998,688

NOTE: Costs outlined here are based on Option A Site Plan and Floorplan design dated 10/31/18 prepared by SEA and Scope Definition and Clarifications prepared by P&C dated 11/13/18

ATTACHMENT B

PROJECT ENHANCEMENTS TRACKER
Gladstone Civic Center

UPDATED 11-19-18 (R5.0)

Active Items based on 10.31.18 GMP Cost Proposal

Item No.	Description	Estimated Value	Add (Deduct) Construction Schedule Days*	Need Decision By Date	Decision Date	R=Rejected P=Pending A=Accepted	Rejected	Pending	Accepted
1 Base Project									
101	Total Project - 20,798 square feet	\$11,998,688	NA	NA		A			\$11,998,688
2 Enhanced Features									
201	Larger Main Lobby	\$153,800	14	11/14/2018	11/13/18	A			\$153,800
202	Direct and secure police vehicle access only to Portland Ave via 12' wide paved drive	\$113,636	0	12/10/2018	11/13/18	A			\$113,636
203	Ground face CMU walls in lieu of concrete tilt-up walls	\$72,568	28	11/14/2018	11/13/18	R	\$72,568		
204	Increase ceiling height from 8' (base scope) to between 10' and 11'	\$184,596	14	11/14/2018	11/13/18	A			\$184,596
205	Added height of CMU walls if items 203 and 204 accepted	\$10,173	0	11/14/2018	11/13/18	R	\$10,173		
206	Sloped roof (1 1/2 to 12 pitch) with sheet metal roof panels	\$433,329	49	11/14/2018	11/13/18	R	\$433,329		
207	LVT (i.e. linoleum) flooring in lieu of VCT flooring	\$47,091	0	Mar-19		P		\$47,091	
208	Heavy timber exposed structure at Lobby	\$19,085	0	Jan-19	11/13/18	A			\$19,085
209	If items 201 and 208 accepted, heavy timber for expanded lobby	\$14,648	0	Jan-19	11/13/18	A			\$14,648
210	Increase total glazing (i.e. window) area from 15% to 20%	\$59,668	0	11/14/2018	11/13/18	A			\$59,668
211	Add twelve (12) unit skylights at Lobby	\$21,217	0	Jan-19	11/13/18	A			\$21,217
212	Change heating / cooling system to a VAV system from VAV (base scope)	\$196,532	0	Jan-19		P		\$196,532	
213	Enhanced lighting in selected public areas	\$36,850	0	Jan-19		P		\$36,850	
3 Dictionary Adds During Final Design									
301	TBD	\$0		TBD		P		\$100,000	
302	TBD	\$0				P		\$0	
303	TBD	\$0				P		\$0	
4 Other									
401	TBD	\$0				P		\$0	
402	TBD	\$0				P		\$0	
403	TBD	\$0				P		\$0	
	Adds						\$516,070	\$380,473	\$12,565,338
	Deducts						\$0	\$0	\$0
	Total						\$516,070	\$380,473	\$12,565,338

* NOTE: The "Construction Schedule Days" column reflects the number of calendar days that must added to the overall 10-month baseline scope schedule should any single line item be incorporated into the project. Also, the "Estimated Values" listed above do NOT include any cost for schedule time extension (i.e. General Conditions) beyond that already include in the 10-month baseline schedule. Such General Conditions costs will be in the range of \$15,000 per week and will be identified once any Enhancements are selected and an updated schedule is created.

ATTACHMENT C



SCOPE DEFINITION AND CLARIFICATIONS – Base Scope Only

(Revised 11-21-18)

This document shall serve as the narrative that describes key components of our proposed design (i.e. "Option A") that fits within the \$12,000,000 target budget and meets the requirements set forth in the RFP and the design-build contract

1. Site layout, building footprint, and interior spaces shall be in accordance with Site Plan and Floor Plan for Option A as prepared by SEA dated 10-31-18 and included here as part of this packet
2. The structure shall consist of concrete tilt up walls with painted exterior finish. Height of all exterior walls shall be 13' above finished floor (AFF).
3. The Police Department area only shall meet the requirements for a Category 4 structure. No extraordinary measures are included for redundant systems.
4. Roof structure shall consist of steel columns, glulam beams, TJI rafters, plywood sheathing, rigid insulation installed above roof deck, and a 4-ply built-up roof system with 20-year warranty. Roof slope shall be 3/8" per foot sloped downward from center to scuppers and exterior downspouts.
5. Interior ceilings shall consist of t-bar with 2x4 ACT installed at 8' AFF throughout all public spaces. Storage areas, mechanical rooms, and the like shall have no drop ceilings (i.e. exposed to structure and unpainted).
6. Flooring shall consist of a combination of VCT, carpet tiles, and sealed concrete
7. HVAC system shall consist of a VAV systems in accordance with Mechanical and Electrical Narrative prepared by PAE dated 10/31/18 and included here as part of this packet
8. Allowance for FF&E is \$250,000. NOTE: See Attachment C entitled "FF&E Narrative" dated 11-13-18 for a general description of items included and not included in this Allowance
9. Allowance for audio / visual (A/V) and access control is \$220,000
10. Secure parking area for Police Department is 11,875 sf. NOTE: This is 5,375 sf greater than program requirement set forth in contract.
11. A free-standing structure will be installed in secure parking to serve as covered storage
12. There will be no cast-in-place concrete curbs in public parking or secure parking areas. Wheel stops will be installed in place of such curbs at appropriate locations.
13. New concrete sidewalks will be limited to only those areas shown on sketch. Asphalt paving thickness in new parking areas shall be 2 ½" thick throughout



FF&E NARRATIVE

FURNITURE, FIXTURES, and EQUIPMENT

The Furniture, Fixtures and Equipment (FF&E cost included in the GMP shall include, space planning, procuring, purchasing, and installing new fixtures, furniture, and equipment defined in this narrative and per final documents approved by the City of Gladstone.

Items in the FF&E scope of work shall generally include, but not limited to,

Furniture	such as tables, chairs, desks, and office partitions/cubicles. Lounge furniture for the Lobby and waiting areas. A reclining chair for the Police Quiet Room.
Fixtures	such as trash and recycling bins, as well as special items such as exercise equipment, floor mats, and gymnasium lockers and benches. Eye wash stations will be provided at both the Sallyport and the Evidence Garage. Specialty plumbing fixtures for the temporary Holding Cell.
Office Equipment	such as file cabinets and white boards. All occupied rooms will include telephone and data connections.
Kitchen Appliances	such as refrigerators, microwave ovens, and coffee makers for Break Rooms and the Conference/Jury Room. A washer/dryer and associated countertop, base and wall cabinet for Police operations Laundry Room.
A.V. Equipment	such as televisions, digital display monitors, projectors, and built-in projection screens. Sound systems will be included in the Court/Council space as well as the Community Room / I.O.C.
Storage Items	such as free-standing shelving units. Special storage items such as bins and high-density shelving for Evidence Storage. Gun lockers, ammunition, and other Ready Room and Armory storage systems. NOTE: Police Storage Lockers are included in GMP in area other than FFE
Specialties	A portable metal detection system for the entry to the Court/Council space, Intoxilizer and associated equipment. Secure pass-thru for Evidence Pick-up.
Site Items	K-9 wash station and kennel. NOTE: All other site items are included elsewhere in GMP and thus not part of FF&E

ITEMS NOT INCLUDED

- Computers, computer monitors, photocopiers, telephone system and telephones, office supplies, murals, custom artwork, city banners and city flags, and relocating existing historic displays.
- The purchase or replacement of existing items and systems determined by the City of Gladstone that are to be relocated from the existing Police Department facility and City Hall building

ATTACHMENT D



EXECUTIVE SUMMARY

(Revised 11-21-18)

This package of information represents the efforts by P&C to provide design, scope definition, pricing, phasing, logistical, and schedule information to the project team. Key points include:

1. The City of Gladstone has established \$12,000,000 as the target value (i.e. "GMP") of the base scope in accordance with the contract. The target GMP includes all Phase 1 services, design, permit fees required by AHJ's, off-site work directly associated with this project, direct construction costs of the site and building, furniture fixtures and Equipment (FF&E), Design-Builder markups for fee, bond, & insurance, unforeseen conditions, and sufficient contingencies for design and construction.
2. In addition to the \$12,000,000 for base scope, there is \$750,000 available for enhanced features approved by the City of Gladstone
3. Base scope includes a 20,798 sf, single-story, concrete type up building that meets the program needs of the Police Department and City Administration. There are separate rooms for the Court / Council and Community / IOC functions.
4. The GMP Cost Estimate is \$11,998,688 for defined BASE scope only defined in this packet. Accepted enhancements (see Enhancements Tracking Log dated 11-14-18) are NOT included in BASE scope.
5. The GMP Cost Estimate includes:
 - Phase 1 services in the amount of \$451,572
 - An TOTAL allowance of \$1,050,000 for offsite improvements that include Sanitary Sewer for \$350,000, Storm Sewer for \$250,000, Water Service for \$350,000, and Other for \$100,000 related to Gladstone Transportation System Plan improvements related to this project
 - An allowance of \$560,500 for building permit fees, system development charges, and other fees required by AHJ's (see lines 265-272 in GMP Cost Estimate)
 - An allowance of \$250,000 for Fixtures, Furniture, and Equipment (FF&E) in accordance with narrative for such included in this packet.
 - An allowance of \$220,000 for Audio Visual (A/V) and access control systems
6. Exclusions from the GMP Cost Estimate include securing and payment of third-party testing and inspection services, analysis and remediation of any hazardous materials (if required), removal or remediation of unsuitable soil (if found), and removal and disposal of rock or boulders (if found).

END OF EXECUTIVE SUMMARY

Attachment E - PAE MEP Narrative



Gladstone Civic Center

100 Schematic Design MEP Narrative

October 31, 2018
pae-engineers.com

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Project Directory

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1.0 Project Description

1.1 Executive Summary

This narrative is intended to give a general overview of the mechanical, electrical, and plumbing systems concepts that will be explored as the project moves through schematic design.

Not all system details are included as many of these items have not been discussed with the design team.

The intent of this narrative is to aid in further defining MEP system scope and associated project budget as the design moves into the next phase – Design Development.

1.2 General Building Description

Project scope includes construction of a new single-story building in Gladstone, Oregon.

The site is flanked by Duniway Street to the north and Portland Avenue to the east.

Program includes a split program; one wing will serve city staff and public functions; one wing will serve the police department.

A 65-seat city council and courtroom will be located adjacent to the city staff offices. As a project alternate, a ~950 square foot multipurpose community room and IOC will be located adjacent to the city/civic program.

Table 1: Building Summary

Building Summary

Size: ~22,350 sf (including IOC)

Number of Floors: 1

Function: Police Department, City Court, Community Meeting

Additional Amenities: On-site public parking, on-site secured police parking

1.3 Codes and Standards

Include all applicable codes, guidelines, regulations and other references that will be put into practice.

- 2014 Oregon Structural Specialty Code
- 2014 Oregon Fire Code
- 2014 Oregon Mechanical Specialty Code
- 2014 Oregon Energy Efficiency Specialty Code
- 2014 Oregon Plumbing Specialty Code
- 2014 Oregon Residential Specialty Code
- 2011 Oregon Reach Code
- 2014 Oregon Electrical Specialty Code



2.0 Mechanical

2.1 HVAC Systems

DESIGN CRITERIA

Table 2: Outdoor Conditions

Outdoor Conditions	Summer	Winter
ASHRAE 1% Summer and 99% Winter Data	87°F DB/ 65°F WB	26°F

Table 3: Indoor Conditions

Indoor Conditions	Summer	Winter
Offices	75°F ±2°F	70°F ±2°F
Conference	72°F ±2°F	72°F ±2°F
Storage	85°F ±2°F	60°F ±2°F
Circulation and Restrooms	78°F ±2°F	68°F ±2°F
Relative Humidity	<50% ±5%RH	No control

Table 4: More Indoor Conditions

More Indoor Conditions	
Outside Air Requirements	
General Office	0.2 CFM/SF
Exhaust Air Requirements	
Restrooms and Janitors	2.0 CFM/SF
Acoustical Criteria	
Offices	RC 40
Public/Open Areas	RC 45

Table 5: Duct and Pipe Sizing Criteria

Low-Pressure Ductwork	
Static Pressure Loss	Maximum 0.1-inches wc per 100-feet
Main Velocity	Maximum 1,500-feet per minute
Branch Velocity	Maximum 1,200 fpm
Flexible Ducts	Maximum length 7-feet/ minimize total 90 degree bends.



Medium-Pressure Ductwork

Static Pressure Loss	Maximum 0.28-inches wc per 100-feet
Main Velocity	Maximum 2,400-feet per minute
Branch Velocity	Maximum 2,000 fpm

GENERAL

Two systems, a baseline and one alternate, have been studied during the schematic design period. The systems are described below in detail for a pricing effort by the contractor. The baseline option will be a code compliant system. The alternate system option represents a more efficient and comfort driven option that also allows for system redundancy and resiliency measures.

BASELINE HVAC SYSTEM

The baseline HVAC system consists of a mixture of multi-zone and single-zone packaged, variable air volume rooftop units to deliver space heating, cooling and ventilation to all occupied spaces. All air handling units will be located on the roof. Multi-zone units will be equipped with MERV 8 filters, modulating gas fired heating section, DX cooling coils, economizer mixing boxes, sound attenuators (as recommended by acoustician to achieve sound criteria in the space), and supply and exhaust fans with variable speed drives. Supply fans will be modulated based on static pressure in the duct system, exhaust fans will be modulated to maintain building pressure.

Single-zone units will be equipped with MERV 8 filters, staged gas fired heating section, DX cooling coils, economizer mixing boxes, sound attenuators (as recommended by acoustician to achieve sound criteria in space), and supply and exhaust fans with variable speed drives. Supply fans will be modulated to maintain space temperature and exhaust fans will be modulated to maintain building pressure.

Multi-zone VAV units will utilize medium pressure ductwork from the air handlers to variable air volume terminal units with electric heating coils and discharged via overhead diffusers. Terminal units will vary the amount of air delivered to cool and heat the spaces based on local room mounted thermostats. There will be one terminal unit for each temperature zone. Low pressure ductwork will extend from each terminal unit to supply diffusers in each space. Return air will be returned to the units via ducted return.

Single-zone VAV units will utilize low pressure ductwork from the air handler to diffusers in the space. The units will vary the supply air and temperature to the space based on local room mounted thermostats. Return air will be returned to the units via ducted return.



To optimize system zoning, the building will be served by seven (7) rooftop units as outlined in the table below:

Table 6: Preliminary Single Zone RTU Schedule

	RTU-1	RTU-2	RTU-3	RTU-4	RTU-5	RTU-6	RTU-7
Area Served	Police Office	Court Office	Court/Council	Reception Lobby	Open Locker & Gym	General Evidence Storage	IOC
Supply (CFM)	9,000	4,500	1,000	2,500	2,000	1,200	1,500
Ventilation (CFM)	1,500	1,250	500	550	1,500	300	350
Cooling Capacity (Tons)	20	11	4	8	7.5	3	6
Heating Capacity (MBH)	200	125	30	75	60	30	40

Additional Equipment:

- (11) Single duct terminal units with electric reheat for the police office VAV unit.
- (8) Single duct terminal units with electric reheat for the court office VAV unit.
- (4) Electric wall mounted unit heaters



ALTERNATE HVAC SYSTEM

The alternate distribution system will utilize a dedicated outside air system (DOAS) coupled with an air source variable refrigerant flow (VRF) system. Two DOAS units will be mounted on the roof and sized to deliver the code required ventilation air to all occupied spaces. One will serve the police office and the other unit will serve the rest of the building. The VRF system will provide all space cooling and heating. The VRF system will be a heat recovery type to allow for simultaneous heating and cooling to different thermal zones in the building and greater energy savings overall. The outdoor condensing units will be installed on the roof of the building. The premium option represents a more efficient and comfort driven option that allows for system redundancy and resiliency measures.

The DOAS units will consist of central, outdoor, semi-custom, factory fabricated, variable air volume air handling units located on the roof. Unit will be equipped with pre-filters, final filters, heat recovery section, modulating, gas heating coil, DX cooling coil, sound attenuators, and supply and return fans with variable speed drives. The exhaust air from the building will be directed through these units for maximizing energy recovery.

Medium pressure ventilation air will be ducted down from each DOAS unit, through variable air volume terminal units and discharged via overhead diffusers directly to each occupied space. The VAV boxes will be used for the purpose of demand control ventilation of high occupancy, irregularly used spaces and/or zone isolation or programs used at different schedules. Relief air will be returned to the DOAS unit via return air plenum.

Equipment:

- (2) 2,500 CFM DOAS Air Handlers
- (15) Single duct terminal units
- (2) 20 ton air cooled VRF condensing units
- (35) indoor ceiling cassette VRF fan coil units
- (10) indoor ceiling concealed, ducted VRF fan coil units

EXHAUST SYSTEMS

For the base HVAC option, general building exhaust from restrooms, showers and locker rooms to be ducted to dedicated exhaust fan on the roof. Based on the building layout, one fan will pick up all exhaust for the community/civic side of the building and another will pick up all exhaust for the police side of the building. If fire rated walls are required within the building, multiple smaller exhaust fans may be utilized to avoid fire-smoke dampers.

For the alternate HVAC option, general building exhaust from restrooms, showers and locker rooms will be ducted back with building relief to the DOAS unit for heat recovery and exhausted to the exterior. Each individual shower room will be provided an aluminum exhaust grille and branch duct back to main. Individual lockers will also be provided an exhaust connection for ventilation and odor control, each locker to be provided a means of balancing airflow.

Dedicated exhaust fans will be provided to serve the sally port and evidence garage. Exhaust fans will be controlled by local CO sensor.



TELECOM AND ELECTRICAL ROOMS

Cooling will be provided to all telecom and electrical rooms with air cooled mini splits. A fan coil unit will be provided in each room and connected to the outdoor condensing units located on the roof. Mini splits will range in size from 1 to 3 tons. These will be allowed to run 24/7 and be independent from building central heating/cooling systems.

CONTROLS

A direct digital control (DDC) system will be provided to control and monitor all HVAC equipment and systems. Valve and damper actuation will be electric type. The control system will perform all required control functions, including optimization of equipment and system performance, reliability, equipment life and energy consumption.

3.0 Plumbing Systems

DESIGN CRITERIA

Table 7: Plumbing Piping Sizing Criteria

Domestic Water Piping	
Minimum Pressure	35 PSI at most remote outlet
Maximum Pressure	80 PSI
Static Pressure Loss	Maximum 6 psi per 100 feet
Velocity	Maximum 8 feet per second (Cold Water) Maximum 5 feet per second (Hot Water)
Storm Drainage	
Rainfall Rate	Maximum 1.1 Inch/hr
Piping Slope	Minimum 1/8" per foot
Waste and Vent Piping Sizing	
Piping Slope	Minimum 1/4" per foot

PLUMBING FIXTURES

Commercial grade low flow fixtures will be provided where indicated on the architectural drawings. Refer to table below for representative flow rates for each type of fixture.

Table 8: Plumbing Fixture Types and Locations

Plumbing Fixture Types and Locations						
Fixture	Location	Type	Control	Flow	Basis of Design	Notes
WC-1 Water Closet	Restrooms	Wall hung, vitreous china	Sensor Operated flush valve	1.28 GPF	Kohler water closets with Sloan flush valve	



Plumbing Fixture Types and Locations

Fixture	Location	Type	Control	Flow	Basis of Design	Notes
WC-2 Water Closet	Restrooms (ADA wheel chair and ambulatory stalls)	Wall hung, vitreous china	Sensor Operated flush valve	1.28 GPF	Kohler water closets with Sloan flush valve	Seat at 18-inches above floor, centerline at 17-inches from wall
WC-3 Water Closet	Booking Restroom	Wall hung, Stainless Steel	Remote flush valve	1.6 GPF	Acorn water closets with Sloan flush valve	Temp Cell and Booking RR
L-1 Lavatory	Restrooms	Counter mounted, vitreous china	Sensor Operated	0.5 GPM	Kohler sink basin with Delta faucet	All locations are ADA accessible
L-2 Lavatory	Booking Restroom	Wall mounted, Stainless Steel	Single lever with remote solenoid shut-off	0.5 GPM	Acorn	
U-1 Urinal	Restrooms	Wall Hung, vitreous china	Sensor Operated flush valve	0.125 GPF	Kohler Urinal with Sloan flush valve	
U-2 Urinal	Restrooms (ADA)	Wall Hung, vitreous china	Senor Operated flush valve	0.125 GPF	Kohler Urinal with Sloan flush valve	Rim mounted at 17-inches above floor
S-1 Sink	Kitchenettes	Self rimming, counter mounted, Stainless steel	Single lever faucet, swing spout	1.5 GPM	Elkay sink basin with Delta faucet	ADA faucet
SH-1 Shower	Showers	Tiled surround	Single lever mixing valve	1.75 GPM	Delta	
DF-1 Drinking fountain with bottle filler	Varies	Dual height with bottle filling station, stainless steel	Front push pad operation for drinking fountains and sensor operation at bottle filler	1.5 GPM at bottle filler	Elkay	Non-refrigerated

DOMESTIC COLD WATER SYSTEM

A utility vault located at the north side of the site will house the backflow device on the incoming domestic water supply. The domestic water system shall be provided with positive means to control backflow, with appropriate backflow preventers at sources of possible contamination within the building, such as mechanical equipment or industrial cold/hot water systems.

Cold water will be distributed to the plumbing fixtures and other areas requiring water. Refer to Architectural Drawings for plumbing fixtures and room locations. Freeze-proof hose bibs to be distributed around perimeter of building at every 100 feet. A hose reel will be located inside the sally port for washdown of vehicles. Eyewash and shower stations will be provided in both the sally port and evidence garage.



Irrigation: A backflow device will be provided for the irrigation system within the water service room. Irrigation piping will be stubbed out of the building for the landscape use.

BASELINE DOMESTIC HOT WATER SYSTEM

New high efficiency natural gas fired water heaters with separate storage tanks will provide domestic hot water to the building. A recirculating hot water loop and hot water circulation pump will be provided. The water heaters will produce 140°F for health and equipment efficiency purposes. A master mixing valve assembly will be utilized at water heaters to temper the hot water for plumbing fixture used to deliver 120°F hot water. Expansion tanks will be provided on hot water systems at water heaters to eliminate pressure buildup when the system is not being used.

Equipment:

- (2) 150 MBH Natural gas fired condensing water heaters, with 100 gallon storage each.

ALTERNATE DOMESTIC HOT WATER SYSTEM

To add an option for a more resilient domestic hot water system design, new high efficiency dual fuel water heaters with separate storage tanks will provide domestic hot water to the building. A recirculating hot water loop and hot water circulation pump will be provided. The water heaters will produce 140°F for health and equipment efficiency purposes. A master mixing valve assembly will be utilized at water heaters to temper the hot water for plumbing fixture used to deliver 120°F hot water. Expansion tanks will be provided on hot water systems at water heaters to eliminate pressure buildup when the system is not being used.

Equipment:

- (2) 150 MBH Dual fuel condensing water heaters, with 100 gallon storage each.

STORM DRAIN SYSTEM

A roof and overflow drain system will be provided as required by code. Overflow storm drain system will daylight utilizing downspout nozzles at the first floor level above grade. Primary roof drainage will route and connect to city storm water.

SANITARY SEWER SYSTEM

Sanitary waste and vent piping will be provided to toilet rooms and other spaces as required. Sanitary waste piping leaving the site will connect to city main.

Trench drains will be located at the sally port and evidence garage entries. A floor drain will be located in any mechanical room and in the locker/shower room. All floor and trench drains to connect to sanitary waste.

NATURAL GAS SYSTEM

A new natural gas service will be provided from a gas main. Gas piping up to, and including the gas meters will be by NW Natural.

Natural gas will be extended to serve the new rooftop air handling units (base HVAC option) and domestic water heaters. Connection to the gas meter and installation of the house gas piping shall be per local gas company and OSSC requirements.

October 31, 2018



For the alternate options, natural gas will be extended to the generator and water heaters only.

RESILIENCY MEASURES

A 5,000 gallon domestic water storage tank will be provided in the event that water service is interrupted. The tank will be sealed to allow the use of city pressure for distribution during normal operation. A duplex domestic water pump will be provided to circulate water during normal operation and to distribute water if main service is interrupted. A UV water treatment system will be provided to maintain water quality within tank.

A 500 gallon propane tank, fill station, controls and piping to be provided. Propane system to serve as a redundant fuel source for domestic hot water systems. Propane piping to be distributed to water heaters in mechanical/sprinkler room.

A 5,000 gallon waste water storage tank will be provided in the event that the waste line is blocked or interrupted. A sewage ejector pump will be provided to discharge waste once service is restored.



4.0 Fire Protection Systems

DESIGN CRITERIA

Table 9: Hazard Levels

Hazard Level	
Office Areas	Light Hazard
Storage Areas	Ordinary Hazard

POLICE DEPARTMENT SPRINKLER SYSTEM

A 6-inch fire service will be provided and enter the building at the Mechanical/Sprinkler Room.

The entire building will be totally sprinklered in accordance with NFPA 13. A detector double check assembly will be provided for the fire service by the Civil in an exterior buried vault. The fire department connection (FDC) will be located adjacent to the backflow device vault.

The fire sprinkler system shall comply with NFPA 13, and local Fire Marshal requirements. In general, the fire sprinkler system shall consist of connection to new water service, including main flow alarm station, zone control valves and flow indicators, alarm bell, fire sprinkler piping and heads. All related fire protection accessories as required will be provided. Coordinate location and type of tamper, flow, and pressure switches with the fire alarm system. All fire sprinkler piping to be concealed.

The fire department test drain shall terminate outside of the building. Dry pipe sprinkler systems will be provided for areas subject to freezing. Dry pipe systems shall be galvanized inside and out, threaded or with cut grooves. All fire protection system materials to be of a domestic manufacture.

Institutional type sprinkler heads shall be provided in detention areas. Other than detention areas, fire sprinkler heads to be chrome plated semi-recessed pendant type with polished chrome escutcheons in finished areas and upright rough brass finish type heads in unfinished areas. Horizontal dry sidewall sprinkler heads will be provided for overhangs, loading dock, and other perimeter areas subject to freezing. Quick-Response heads will be provided in all light hazard areas.

RESILIENCY MEASURES

A 10,000 gallon fire water storage tank will be provided in the event that the fire service is interrupted. System to include a fire water storage tank, electric fire pumps, jockey pump, controllers, automatic transfer switch.

Equipment:

- (1) 25 HP base mounted fire pump
- (1) 5 HP jockey pump



5.0 Electrical

5.1 Service and Distribution

LOAD DENSITIES - LIGHTING AND POWER SYSTEMS

The following load allowances have been used to calculate the electric service size for the building

Table 10: Lighting and Power Load Densities

Area	Lighting Systems (VA/SF)	Power Systems (VA/SF)
Offices	0.9	3.5
Telecommunication Room	1.2	80
Circulation/Transition	0.5 – 0.6	1.0
Lobby	1.5	1.5
Conference Rooms	0.9	3.5
Stairs	0.5 – 0.6	0.5
Restrooms	0.9	1.0
Storage	0.9	0.5
Mechanical/Electrical Rooms	0.9	0.5

UTILITY SERVICE

The local utility for the building will be Portland General Electric (PGE). Existing primary medium voltage overhead lines are located along the north side of Duniway Ave and along the east side of Portland Ave.

Primary utility service will be extended from an existing PGE power pole (preliminary pole location is directly north of the proposed parking lot entrance) to a utility pad mounted transformer located adjacent to the trash area in the surface parking lot. Secondary service will be routed from the transformer and will terminate at a main distribution panel located in the main electrical room of the building.

The transformer shall be located within 10-feet of a drivable surface and have a minimum of 10-feet clearance in front of it and 3 feet of clearance around the sides and back.

An exterior current transformer cabinet, meter, and main distribution panel will be located within the secured parking area of the site and adjacent to the building.

The electrical contractor shall furnish and install the following service equipment and associated materials related to electrical service to the building:

- Transformer pad
- Primary service conduits
- Secondary service conduits
- CT and metering cabinet



The utility will furnish and install the following components:

- Building transformer
- Primary and secondary conductors
- Meter

DISTRIBUTION

The main service has been calculated as 1200-1400 amps at a voltage of 208Y/120V. 208V has been selected for the building as the bulk of the loads within the building are utilizing this voltage. This will avoid the need for transformers within the building.

Larger rooftop mechanical equipment will be served directly from the MDP. Smaller branch panelboards will be in electrical rooms in each wing of the building. These panelboards will serve interior branch circuits for power, lighting, and equipment throughout the building.

Table 11: Service Load Calculation Summary

Load Description	Estimated Connected (kVA)	Remarks / Comments
Lighting	34	
General Receptacles	45	
Computer Receptacles	17	
HVAC	268	Assumes use of gas for heating energy
Electric Water Heating	0	Assumes gas water heating
Network Systems	22	
Exterior Lighting	10	
Load Summary		
Connected Load Sub Total	396	
Design Contingency	60	15% of subtotal – accounts for variances in mechanical system options
Total Calculated Load	456	

5.2 On-Site Power Systems

EMERGENCY GENERATOR

Power loads for the building requiring continual power will be supplied by a diesel fired generator. The generator shall be provided with a level II sound attenuating, weather-proof, enclosure. Onsite fuel storage will be in the form of a subbase fuel tank located directly below the generator. Base tank refueling shall be performed from a service truck with minimum 50-foot hose connection A quick connect generator tap box or docking station shall be provided to allow temporary generators to be connected to the building service should the primary generator fail.

The generator will be located within the secured parking area of the site.

A single feed will be routed from the generator to one of the interior electrical rooms described above. Within the room this feeder will be tapped to provide a dedicate life safety feeder and separate dedicated standby feeder for other loads.



A life safety and separate standby automatic transfer switch will be located in the electrical room, as well as their associated branch panels to serve these various load types within the building.

All automatic transfer will be 4-pole.

GENERATOR LOADS

At a minimum, code requires emergency loads meeting the criteria of NEC 700 to be connected to the generator. These loads include:

- Emergency egress lighting
- Exit signs
- Distributed Antenna System (DAS)
- Fire alarm system

Code requires legally required standby loads meeting the criteria of NEC 701 to also be connected to the generator. This building is not anticipated to contain any legally required standby loads.

Optional standby loads are designated as meeting the criteria of NEC 702. These loads are to be determined by the owner and code does not dictate these loads be connected to the generator.

Items under consideration for this building include:

- Network room equipment and cooling
- Building security and access controls
- Selected convenience receptacles to maintain civic functions during power outage
- Fire pump (this pump is not required for life safety but would pressurize the sprinkler system during extended periods of power outages)

GENERATOR SIZING

The generator size will depend on what loads are connected. Since optional standby loads have not been specifically coordinated, the generator sizes step as follows for the various components connected to it.

Requirements to support life safety + optional standby loads:

The minimum size generator to support code required NEC 700 loads and optional standby loads listed above is estimated at ~50kW generator.

Requirements to support full building generator backup:

The minimum size generator to support the entire building's electrical load would be ~450kW generator. In this scenario loads would need to be sequenced on/off the generator in an orderly manner to prevent generator overload. Life safety loads would be brought online first, followed by optional standby loads in a selected order.

GENERATOR FUEL TANK



The generator fuel tank will be sized to run a minimum on 90 minutes to support life safety code runtimes. Additional fuel storage will be added to extend the run time of the generator for optional standby loads as desired by the owner. A run time of 24 hours at full load is recommended to minimize the amount of refueling required in an extended power outage.

GENERATOR DOCKING STATION

An exterior remote docking station and manual transfer switch will be specified to provide an alternate backup power source to the life safety and optional standby loads connected to the generator. The docking station will allow a quick connection of a temporary generator that would occupy a couple of parking stalls on the site.

In addition to the docking station, a manual transfer switch will be specified to manually transfer power from the permanent generator to the temporary generator.

UNINTERRUPTIBLE POWER SUPPLY (UPS)

Since the project will contain a generator, UPS systems for telecommunication and critical security systems will be required to maintain continuous power while normal power is interrupted, and the generator is starting.

It is assumed the project will utilize distributed rack-mounted UPS units within the network rooms rather than a centralized UPS.

RENEWABLE POWER SYSTEM (PV)

A roof mounted traditional PV array shall be included in the project design to meet the 1.5% Green Energy Technology state requirement. The array size will be determined based on the construction cost for the project and will be located directly on the roof or on adjacent parking canopies.

Based on the current construction budget, a solar array size of ~55kW will be required. This assumes a total construction cost of ~\$14.3mil and an installed cost of ~\$4/watt for PV.

RESILIENCY MEASURES

Selective Load Shedding:

To enhance further resiliency of the building emergency and standby power system, the design team will explore grouping non-life safety loads of the building together to allow portions of the building not being utilized during a catastrophe to be switched off (load shed). Reducing the loads connected to the generator will allow the generator to operate longer run times on a fixed amount of fuel.

PV future planning:

While today's battery storage technology is not ready for dependable low cost alternative solutions to grid connectivity, it will likely advance in the short term future to allow for local storage. The design team will explore preserving space on the site to allow for future battery banks and charging controls that will interact with the building's electrical system and rooftop photovoltaic array.



5.3 Lighting

SITE LIGHTING

Building lighting will be integrated with the building exterior features. Illumination will be designed for occupant security and safety. Pole mounted luminaires will be used to illuminate public and secured parking areas.

Wall mounted exterior scones will provide building perimeter lighting.

Site illumination will use LED source and cutoff optics to address light trespass issues.

INTERIOR LIGHTING AND CONTROLS

The electrical lighting systems will be designed in compliance with the State of Oregon Structural Specialty Code. Energy efficient sources and automatic control technologies will be implemented to provide the most efficient and effective electric lighting system for the facility occupants and task. Controls will provide switching and dimming of the lighting to permit maximum use of the available natural light.

LED luminaries will be primarily used in all interior areas of the building.

The type of luminaire will be coordinated with area task. The following basis of design lighting and control solutions will be refined as project design develops:

Table 12: Illumination and Lighting Control Methods by Area

Task/Area	Basis of Design
Building Exterior	Wall mounted exterior sconce Basis of Design: McGraw Edison ISC Control: Time Clock
Parking Lot	Pole mounted luminaires Basis of Design: McGraw Edison Galleon Control: Time Clock
Corridor	Linear pendants or recessed linear (pending ceiling) Basis of Design: Fluxwerx View Control: Timeclock for automatic off with photocell for daylight dimming (in daylight areas). Multi-level switched control from lighting control panel. Integrate with intrusion detection system for on/off control after hours.
Lobby	Decorative pendants and pendant downlights Basis of Design: Gotham Incito, decorative pendant TBD Control: Timeclock for automatic off with photocell for daylight dimming (in daylight areas). Multi-level switched control from lighting control panel. Integrate control with intrusion detection system for on/off control after hours.
Court/Council Room	Linear pedants and downlights or recessed (pending ceiling) Basis of Design: Gotham Incito, Fluxwerx View Control: Local non-networked room controller with dimming/occupancy sensing/photocell control.
Open Office and Conference Spaces	Linear pendants or recessed (pending ceiling) Basis of Design: Fluxwerx View



	<p>Conference Room Control: Local non-networked room controller with dimming/occupancy sensing/photocell control.</p> <p>Open Office Control: Dimming only for daylight areas. Multi-level switches control from lighting control panel. Integrate control with intrusion detection system for on/off control after hours.</p>
Private Offices	<p>Linear pendants or recessed (pending ceiling)</p> <p>Basis of Design: Fluxwerx View</p> <p>Control: Manual dimming, local occupancy sensor switch</p>
Work Rooms	<p>Recessed 2x2 troffers</p> <p>Basis of Design: Metalux Encounter</p> <p>Control: Occupancy sensor with manual wall switch override</p>
Detention/Holding Cells Areas (including corridors, etc)	<p>Recessed confinement rated linears</p> <p>Basis of Design: Failsafe FMR</p> <p>Control: Wall switch control located outside room.</p>
Restrooms	<p>Recessed linear and recessed downlights</p> <p>Basis of Design: Neoray Define and Portfolio LD6</p> <p>Control: Line voltage occupancy sensors in small restrooms. Timeclock with occupancy sensor override after hours. Additional override switch in lobby.</p>
Locker Room/Gym	<p>Recessed linear lensed LED</p> <p>Basis of Design: Axis Beam 3</p> <p>Control: Occupancy sensor, no dimming</p>
Shower Rooms	<p>Wet listed, IP66 recessed downlights</p> <p>Basis of Design: Halo PD6</p> <p>Control: Occupancy sensor with manual wall switch override</p>
Maintenance and Storage Spaces	<p>Linear strip</p> <p>Basis of Design: Lithonia ZL1N</p> <p>Control: Occupancy sensor with manual wall switch override</p>
Sallyport	<p>Surface mounted wet-listed, vandal resistant troffer</p> <p>Basis of Design: Fail-Safe FWS</p> <p>Control: Multi-level switching for each luminaire</p>
Electrical and Mechanical Rooms	<p>Linear strip</p> <p>Basis of Design: Lithonia ZL1N</p> <p>Control: Manual wall switch</p>
Site/Parking	<p>12-14' pole mounted LED</p> <p>Basis of Design: Lithonia Lighting D Series Pole Luminaire</p> <p>Control: Dusk to dawn timeclock; integral 50% auto dimming and occupancy sensor</p>

5.4 Fire Alarm

FIRE ALARM

The Fire Alarm system will consist of a supervised addressable supervised, Class B hard wired system. Manual pull stations will be provided at each exit and exit leaving an elevated floor.

Table 13: Fire Alarm Device Coverage



Device	Coverage
Manual pull stations	Located at each exit and each exit leaving an elevated floor.
Smoke Detectors	Corridors, Air handlers (>2,000CFM), Elevators lobbies, Elevator machine rooms, Elevator hoistways.
Fire Sprinkler	Tamper and Flow
Annunciation	Remote Annunciation at entry
Building Annunciation	Horn and Strobe annunciation throughout the facility.
System output	Relay interface for mechanical system shut down and elevator recall.
Monitoring	Central Station Monitoring



5.5 Security/Access Control

SUMMARY

Provisions for security have not been specifically discussed for the building; however, the building will include an increased number of cameras with the public lobby and at the exterior entrances of the building. Supplemental locking provisions at the building public entries will be required along with securing of interior doors that access the city and police wings.

The following security and video surveillance coverage is included for schematic pricing efforts, but should be refined during design development.

CAMERAS

Video Surveillance systems will be IP based and signals will be routed back to central display. Archival requirements and additional video storage requirements will be detailed in future versions of this document. Camera layout and requirements will meet law enforcement standards.

All cameras will be IP-based, and ONVIF compliant, allowing them to be used with a variety of VMS software platforms and accessible through the LAN and WAN.

Cameras will include Wide Dynamic Range (WDR) capabilities to allow more detailed capture of images in areas where natural or artificial lighting presents scenes with high contrast.

The cameras will also include automatic day-night functionality, allowing full color capture during daylight hours, and blank-and white capture during the night.

The cameras resolution will be 1.3 Megapixels at a minimum, allowing greater detail image capture.

COVERAGE

Camera locations include:

- Entry vestibules
- Service entrances
- Parking lots
- Sally ports (interior/exterior)
- Evidence storage, intake and interview rooms
- Armory and equipment rooms

INTRUSION DETECTION

Intrusion Detection system will be deployed to provide the ability to monitor the building. Devices

IDS systems will include initiation devices such as:

- Motion Sensors
- Glass Break Sensors
- Door Contacts

The system shall allow real time monitoring through a central access control system.



Control devices (such as keypads) will be located at primary entry points to provide for arming, and disarming the system.

The intrusion detection system will primarily cover the civic/city wing of the building as this portion of the building will contain an independent schedule from the police wing.

ACCESS CONTROL

Electronic Access Control system will be specified to control access to the building during off-hours, or between back-of-house and secured spaces where the public or non-credentialed personnel are not allowed.

DEVICES

Anticipated devices for access control will include:

- Card readers (proximity wireless)
- Door position switches
- Request to exit sensors
- Request to exit manual push buttons
- Electrified locking hardware (by others)
- Automated door operators and buttons (by others)

At each designated door location a card reader, door position sensors (or door contact), request-to-exit devices (either standalone or hardware combined), electrified locking hardware, and / or transfer hinges (as specified by others), and cabling, along with associated pathways and support will be provided.

Card/credential reader will be provided at each location. The card readers must be mounted at ADA compliant heights.

5.6 Telecommunications

SERVICE ENTRANCE/EQUIPMENT ROOMS

A minimum of one franchise utility will be coordinated for telecommunications service into the building (i.e. Comcast, Century Link, etc), unless additional utilities are required by the owner.

(1) 4" conduit will be routed from the nearest franchise utility vault, or overhead pole span, to a network room established inside the building.

Within the network room, the following equipment is anticipated to support the building telecommunications network:

- 4-post racks will for city/police department network equipment
- 12" wide cable tray around the perimeter of the room for cable management
- 3-phase receptacles will be specified at top of each rack to facilitate integral rack power distribution unit (PDU)
- Additional 120V 1-phase receptacles will be located at the top of each rack
- General purpose receptacles will be located around the perimeter of the room; (1) double duplex receptacle per wall



HORIZONTAL CABLING

Horizontal cabling from network room to workstation ports is assumed to be Category 6 network cabling.

In areas containing accessible ceilings, 1-1/4" concealed conduit will be specified from outlets stubbed to above accessible ceilings.

12" wide cable tray located above accessible ceiling areas (i.e. main corridors and hallways) in each wing for consolidated cable management back to network rooms.

WIRELESS INTERNET (WI-FI)

The building is assumed to contain an array of wireless antennas throughout for coverage anywhere in the building. The wireless access points are assumed to operate as power-over-ethernet and will each receive a network cable at designated locations throughout the building.

PUBLIC SAFETY DAS

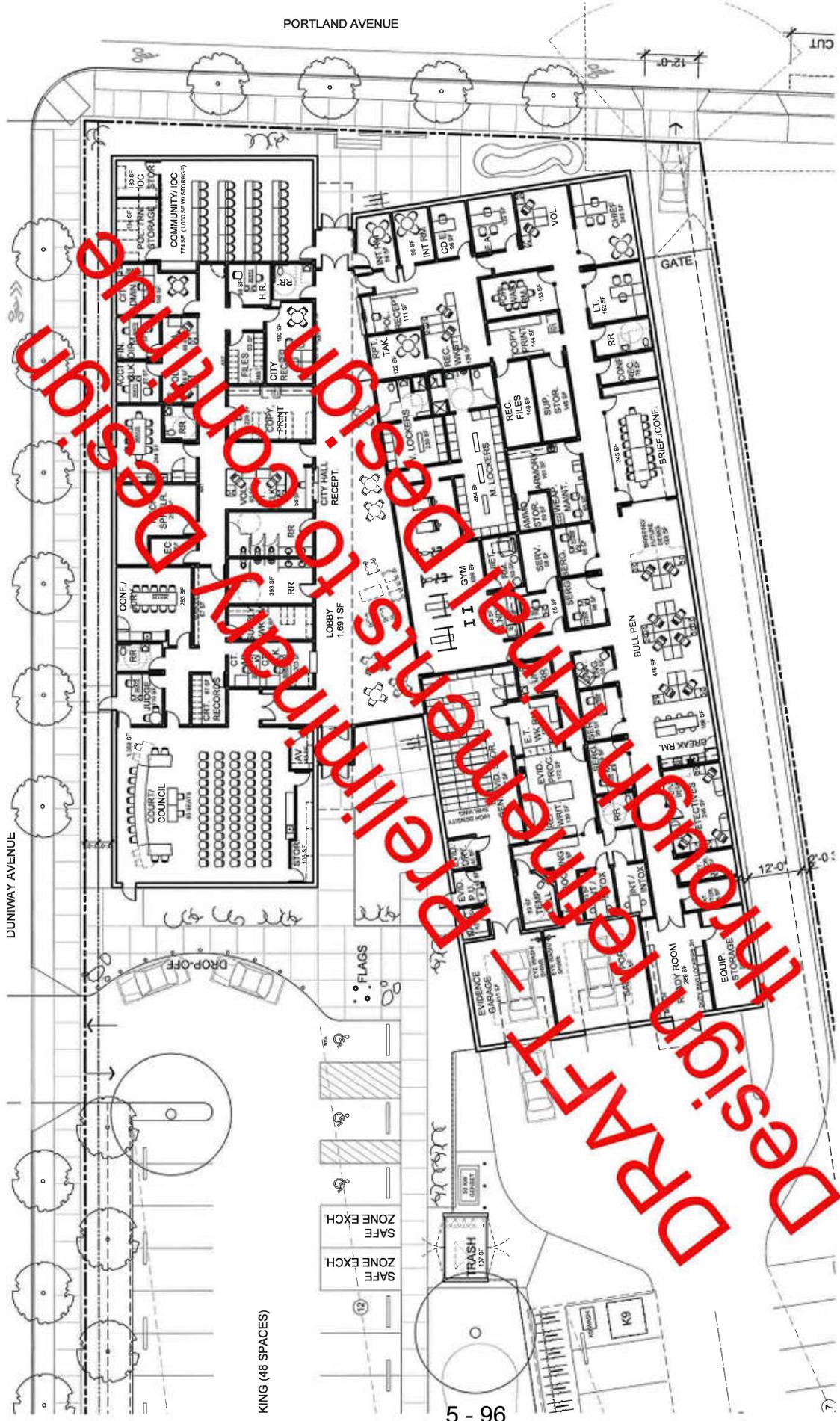
Contractor shall price this as a project alternate until an RF map of the structure can be developed and it is confirmed the DAS system is required for the building.

A code compliant public safety Distributed Antenna System (DAS) will be provided by small radiating antennas mounted throughout the enclosed portions of the building. Coordination with AHJ will be required to determine their requirements. These antennas receive signals from the outside air and rebroadcast them inside areas of the building where first-responder radios' may not be able to communicate with the outside world on their own (due to modern building materials and construction techniques).

The system will support the Local EMS Radio Service Group which provides services for the following entities:

- Emergency Responder 1 / Police Department

A donor antenna will be mounted on the roof to receive/transmit these signals to transceivers located on the top-most telecommunication room.



DUNIWAY AVENUE

PORTLAND AVENUE

Design for Drafting - Site Plan

KING (48 SPACES)

SAFE ZONE EXCH
SAFE ZONE EXCH

5 - 96

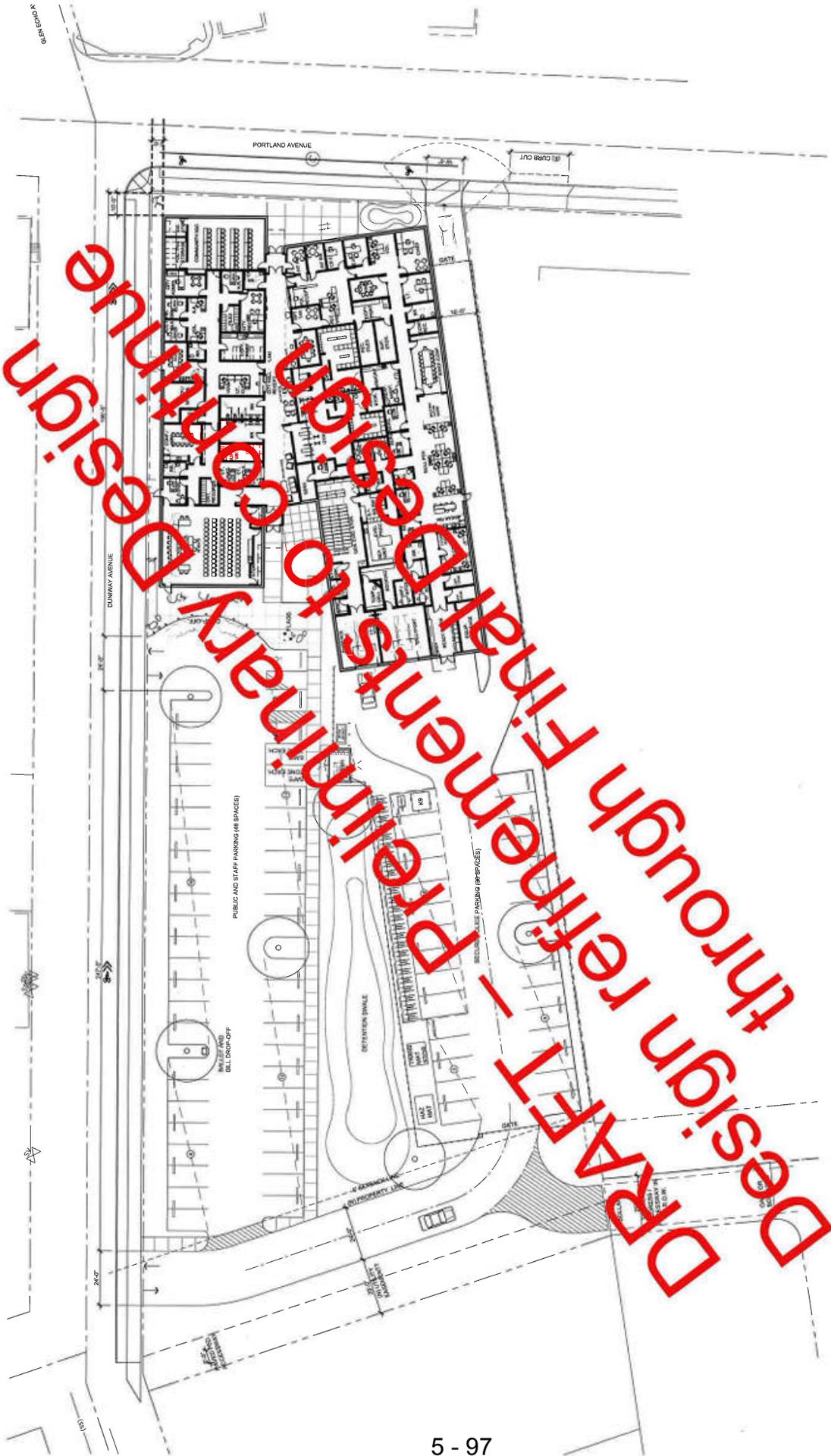
GLADSTONE CIVIC CENTER | FLOOR PLAN

Job No: 18044
Date: 11/14/18

PORTLAND AVE.
GLADSTONE, OR

Attachment F - Floor Plan





DRAFT - Preliminary Design through Final Design

GLADSTONE CIVIC CENTER | SITE PLAN w/ 1-way access to PORTLAND AVE

Job No: 18044
Date: 11/16/18

Attachment F - Site Plan





ATTACHMENT G

GLADSTONE CIVIC CENTER PROJECT **P&C – BILLABLE HOURLY LABOR RATES**

P&C Project Executive	\$145.00 per hour
P&C Preconstruction Manager	\$135.00 per hour
P&C Chief Estimator	\$125.00 per hour
P&C Resource Manager/Scheduler	\$115.00 per hour
P&C Senior Project Manager	\$110.00 per hour
P&C Site Superintendent	\$105.00 per hour
P&C Project Manager	\$97.00 per hour
P&C Safety Director	\$90.00 per hour
P&C Assistant Superintendent	\$88.00 per hour
P&C On-Site Foreman	\$84.00 per hour
P&C Tradesperson	\$81.00 per hour
P&C Project Engineer	\$78.00 per hour
P&C BIM Coordinator	\$75.00 per hour
P&C Support Staff	\$65.00 per hour

NOTES:

Rates listed here:

1. Include all labor burdens and dues. As such they are billable hourly rates to the project.
2. Do not include any tools, equipment, vehicles, mileage reimbursement, or materials required to complete any work tasks performed by P&C personnel
3. Do not include any markups for OH&P on P&C self-performed (if any) or CM/GC fee
4. Do not include any costs associated with premium time for work performed outside of normal working hours established for this project

City of Gladstone Staff Report

Report Date: November 20, 2018
Meeting Date: November 27, 2018
To: Gladstone City Council
Via:
From: Jacque M. Betz, City Administrator

AGENDA ITEM

Consider approval of the second amendment to an existing agreement for project management of the Gladstone Civic Center for Shiels Oblatz Johnsen (SOJ) to continue as the Owner's Representative to complete Phase 2 of the Progressive Design-Build Services, and authorizing the City Administrator to sign the agreement.

History/Background

On January 10, 2018 the City of Gladstone entered into a personal services agreement with Shiels Oblatz Johnsen (SOJ) Inc. to assist the City with the project set-up and selection of a design-builder for the design and construction of a new building in Gladstone that will contain a police station, a municipal court, a council chambers and administrative offices. In the agreement it states the City may subsequently agree to engage SOJ in additional services related to additional phases of the project and shall mutually agree to amend this Contract to incorporate any additional work or compensation.

On May 8, 2018 the City Council approved an amendment to the contract to permit Kim Knox, a partner at SOJ, to perform additional consulting and project management services relative to the Gladstone Civic Center Project; specifically "Phase 1" Progressive Design-Build services.

Phase 1 Progressive Design- Build Services are complete and the City and has asked Kim Knox to continue as the Owner's Representative through "Phase 2" Design-Permit-Construction. The agreement, the provider's services, and compensation are included as Exhibit A.

Options

- The City could choose not to approve the amendment to the current agreement however; the City does not have the necessary resources in-house to manage the Gladstone Civic Center project.

Cost Impact

The cost for SOJ to be the Owner's Representative for Phase Design- Permit- Construction is a not to exceed amount of \$133,440 and is funded from the Civic Buildings Capital Fund in the 2017-19 adopted budget.

Relevancy to Council Goals and Objectives Identified in the Strategic Plan

ADDRESS CRITICAL CIVIC BUILDING NEEDS	
2.3	Post pictures or concept of new buildings, facilities
2.4	Move forward with constructing new Library/City Hall/Police Station per citizens' vote.
2.5	In the design phase use existing or new facilities to supply needs for public safety, seniors, administration office, multipurpose use, training, etc.

Recommended Staff Action

Consider approval of the second amendment to an existing agreement for project management of the Gladstone Civic Center for Shiels Oblatz Johnsen to continue as the Owner's Representative to complete Phase 2 Design-Permit-Construction, and authorizing the City Administrator to sign the agreement.

 Department Head
 Signature

Date

Jacqueline M. Betz 11-21-18

 City Administrator
 Signature

Date

- Exhibit A – Scope of Work
- Attachment 1- Memo from David Doughman, City Attorney
- Attachment 2 – Second Amendment to Personal Services Agreement
- Attachment 3 - First Amendment to Personal Services Agreement
- Attachment 4 – Original Personal Services Agreement

EXHIBIT A
Shiels Oblatz Johnsen
Phase 2 Scope of Work - Gladstone Civic Center
19 November, 2018

The City has requested extension of SOJ services for the Gladstone Civic Center through Phase 2 as defined by the Design-Build Agreement with P&C Construction. SOJ will continue to serve as the Owner's Representative and provide the following additional services:

1. Participate in regular Owner/Architect/Contractor meetings; prepare minutes
2. Prepare budget and contract tracking systems reports
3. Track construction changes and secure City approvals for contract changes
4. Review and comment on construction progress schedules
5. Review and comment on invoices and progress payment requests
6. Coordinate third-party testing and associated agreements
7. Assist City staff in resolving special issues outside the purview of the Design-Builder
8. Represent Owner through project closeout to ensure Design-Builder contractual obligations are met
9. Participate in Council briefings and prepare materials as requested

Changes to the prior SOJ agreement with the City include:

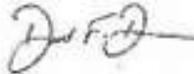
- Phase 1 Pre-Construction / GMP completion is 11/27/18 (additional 4.5 months duration)
- Phase 2 Design-Permit-Construction completion is March, 2020 (additional 8.5-month duration per Design-Build Contractor schedule)

Shiels Oblatz Johnsen, Inc.							
Summary Fee Estimate for Owner's Representative Services							
Gladstone Civic Center Building							
		Project Setup / D-B Selection		Phase 1 - Pre-Construction / GMP		Phase 2 - Design / Permit / Construction	
Estimated Dates		1/8/2018 - 3/16/18		3/19/18 - 7/13/18		7/16/18 - 2/28/19	
Estimated Duration		10 weeks		17 weeks		39 weeks	
SOJ Staff	Rate	Hours		Hours		Hours	TOTAL FEE
Francesca Gambetti, Strategic Advisor	\$160	12	\$1,920	10	\$1,600	10	\$5,120
Kim Knox, Sr Project Manager	\$160	180	\$28,800	340	\$54,400	104	\$99,840
Dan Naughton, Project Manager	\$140	0	\$0	68	\$9,520	780	\$118,720
Subtotal - Fee for Services		192	\$30,720	418	\$65,520	894	\$223,680
Est Reimbursable Expenses			\$200		\$2,000		\$6,200
CONTRACT AMOUNT			\$30,920		\$67,520		\$231,880

At this time, SOJ anticipates that Project Setup, Phase 1 Pre-Construction and Phase 2 services can be completed for a not-to-exceed total budget of \$231,880 within a March 2020 completion date.

MEMORANDUM

TO: Jacque Betz, City Administrator, City of Gladstone

FROM: David Doughman, City Attorney's Office 

SUBJECT: Extending SOJ's Personal Service Contract for Additional Work

DATE: April 30, 2018

This memo briefly discusses the city's desire to amend the contract with Shiels Oblatz Johnsen ("SOJ") to permit SOJ and Kim Knox, a partner at SOJ, to perform additional consulting and project management services relative to the Civic Center project. I do believe the city may approve an amendment to the contract to extend SOJ's engagement, revise the scope of work and increase the not-to-exceed dollar value of the contract.

When the city began considering consultants late last year, you exercised your discretion pursuant to Section 1.10.020(3) to select a consultant using a competitive quote process. This involved the city soliciting quotes from three firms with experience in delivering projects through "alternative contracting methods," which include the CM/GC delivery method and the design-build delivery method that the city is using for the Civic Center project. You, Chief Jolley, Jim Whynot and Jeff Smith carefully reviewed the proposals from the three firms and recommended to the council that the city engage SOJ and Kim Knox based on that firm's demonstrated success in managing in similar projects.

The resulting contract with SOJ identified Kim as the point person for finishing the design-build RFP, managing responses from prospective design-build teams, assisting the city in determining the most highly ranked team and, most recently, leading the negotiations with that team (P&C Construction and Scott Edwards Architects).

The contract with SOJ expressly contemplates that the city and SOJ "may subsequently agree to engage [SOJ] for additional services related to additional phases of the project, and shall mutually agree to amend this Contract to incorporate any additional work and compensation." Moreover, the city's rules related to personal services at 1.10.020(5) allow the city to negotiate with a single entity when they "have special skills uniquely required for the performance of the services."

In this case, because the contract envisioned the parties agreeing to an amendment for SOJ to perform additional services related to additional phases of the project, and because of the unique and specific knowledge Kim Knox and SOJ have developed as project manager to date, I believe it is lawful and appropriate for the city to consider amending the contract with SOJ to proceed with "Phase 1" services as described in the attachment to the draft amendment.

**CITY OF GLADSTONE, OREGON
SECOND AMENDMENT TO
PERSONAL SERVICES AGREEMENT**

The City of Gladstone, Oregon ("City") and Shiels Oblatz Johnsen Inc. ("Provider") enter into this agreement (the "Second Amendment").

RECITALS

City and Provider are parties to an existing agreement executed on or about January 10, 2018 (the "Original Agreement"). Pursuant to the Original Agreement, Provider has been delivering services to the City related to the design and construction of a new building in Gladstone (the "Project").

The scope of Provider's services in the Original Agreement was limited to an initial phase of a potentially multi-phase set of services Provider could deliver to City. The Original Agreement contemplated the parties amending the Original Agreement if they subsequently agreed for Provider to provide additional services to City.

The parties executed a First Amendment on May 8, 2018, to permit Provider to deliver additional services to City relative to the Project generally described as "Phase 1" services. The parties wish to amend the Original Agreement through this Second Amendment to permit Provider to provide additional services as described below. Except as modified in this Second Amendment, all terms and conditions of the Original Agreement and the First Amendment remain in full force and effect.

AGREEMENT

1. Term

Paragraph 1 of the Original Agreement is amended to state that it will run through and including May 31, 2020. The remaining language in Paragraph 1 of the Original Agreement is unchanged.

2. Provider's Service

Paragraph 2 of the Original Agreement is amended to update the scope of Provider's services. As of the date this Second Amendment is executed, the scope of Provider's services and the estimated time of the Provider's performance are set forth in Exhibit "A" which is incorporated into this Second Amendment. The remaining language in Paragraph 2 of the Original Agreement is unchanged.

3. Compensation

Paragraph 4 of the Original Agreement is amended to state that Provider may not invoice or charge City more than \$133,440.00 for its services from the date this Second Amendment is executed through and including May 31, 2020, unless the City approves a higher amount in

writing. Provider shall use its best efforts to notify City as soon as possible of a potential need to increase the not-to-exceed figure of \$133,440.00. The remaining language in Paragraph 4 of the Original Agreement is unchanged.

4. No Other Changes to Original Agreement

The parties make no other changes to the Original Agreement or First Amendment except for those expressly made in this Second Amendment.

For City	For Provider
<hr/> <p>Jacque Betz, City Administrator</p>	<hr/> <p>Carter MacNichol, Managing Director</p>
<hr/> <p>Date</p>	<hr/> <p>Date</p>

**CITY OF GLADSTONE, OREGON
FIRST AMENDMENT TO
PERSONAL SERVICES AGREEMENT**

The City of Gladstone, Oregon ("City") and Shiels Oblatz Johnsen Inc. ("Provider") enter into this agreement (the "First Amendment").

RECITALS

City and Provider are parties to an existing agreement executed on January 10, 2018 (the "Original Agreement"). Pursuant to the Original Agreement, Provider has been delivering services to the City related to project set-up and selection of a design-build contractor for the design and construction of a new building in Gladstone (the "Project").

The scope of Provider's services in the Original Agreement was limited to an initial phase of a potentially multi-phase set of services Provider could deliver to City. The Original Agreement contemplated the parties amending the Original Agreement if they subsequently agreed for Provider to provide additional services to City.

This First Amendment is an amendment to the Original Agreement to permit Provider to deliver additional services to City relative to the Project and specifically described below. Except as modified in this First Amendment, all terms and conditions of the Original Agreement remain in full force and effect.

AGREEMENT

1. Term

Paragraph 1 of the Original Agreement is amended to state that it will run through and including November 30, 2018. The remaining language in Paragraph 1 of the Original Agreement is unchanged.

2. Provider's Service

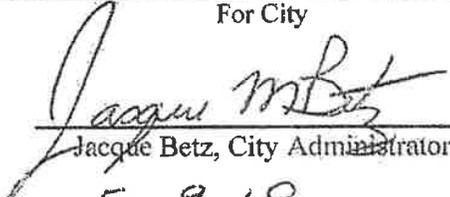
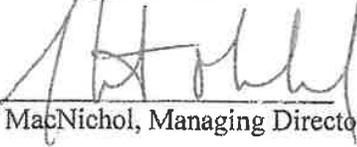
Paragraph 2 of the Original Agreement is amended to update the scope of Provider's services. As of the date this First Amendment is executed, the scope of Provider's services and the time of the Provider's performance are set forth in Exhibit "A" which is incorporated into this First Amendment. The remaining language in Paragraph 2 of the Original Agreement is unchanged.

3. Compensation

Paragraph 4 of the Original Agreement is amended to state that Provider may not invoice or charge City more than \$53,540.00 for its services from the date this First Amendment is executed through and including November 30, 2018, unless the City approves a higher amount in writing. Provider shall use its best efforts to notify City as soon as possible of a potential need to increase the not-to-exceed figure of \$53,540.00. The remaining language in Paragraph 4 of the Original Agreement is unchanged.

4. No Other Changes to Original Agreement

The parties make no other changes to the Original Agreement except for those expressly made in this First Amendment.

<p style="text-align: center;">For City</p> <p style="text-align: center;"> _____ Jacquie Betz, City Administrator</p> <p style="text-align: center;">5-9-18 _____ Date</p>	<p style="text-align: center;">For Provider</p> <p style="text-align: center;"> _____ Carter MacNichol, Managing Director</p> <p style="text-align: center;">5/10/18 _____ Date</p>
--	---

**CITY OF GLADSTONE, OREGON
PERSONAL SERVICES AGREEMENT**

AN AGREEMENT between the City of Gladstone, Oregon ("City") and Shiels Obletz Johnsen Inc. ("Provider").

WHEREAS, City and Provider believe it in their respective and mutual interests to enter into this Agreement setting out their understandings concerning Provider's assistance with the project set-up and selection of a design-builder for the design and construction of a new building in Gladstone that will contain a police station, a municipal court, a council chambers and administrative offices.

1. Term

This Agreement shall run from January ¹⁰, 2018 through and including March 19, 2018 unless sooner terminated under the provisions of this Agreement or as may be extended in a written document signed by the parties.

2. Provider's Service

The scope of Provider's services and time of performance under this Agreement are set forth in Exhibit "A" which is incorporated into this Agreement. In the interest of clarity, this Agreement only covers the "Project Set-up / D-B Selection" phase outlined in Exhibit "A". City and Provider may subsequently agree to engage Provider for additional services related to additional phases of the project, and shall mutually agree to amend this Contract to incorporate any additional work and compensation. Conflicts between this Agreement and Provider's proposal (if any) shall be resolved first in favor of this Agreement. Provider will, in the rendering of its services to City, use its best efforts and due diligence and provide such personnel as are necessary to successfully provide the services covered under this Agreement.

3. Provider Identification

Provider shall furnish to City Provider's employer identification number, as designated by the Internal Revenue Service or, if the Internal Revenue Service has designated no employer identification number, Provider's Social Security number.

4. Compensation

City agrees to pay Provider net 30 days from date of invoice and in the amount(s) set out in and in accordance with Exhibit "A". Provider may not invoice or charge City more than \$30,920.00 for its services under this Agreement unless City approves a higher amount in writing. Provider shall use its best efforts to notify City as soon as possible of a potential need to increase the not-to-exceed figure of \$30,920.

5. Project Managers

City's Project Manager is Jacque Betz. Provider's Project Manager is Kim Knox. Each party shall give the other written notification of any change in their respective Project Manager.

employees, insuring against bodily injury and property damage and arising out of or resulting from Consultant's acts, omissions, activities or services in an amount not less than \$1,000,000 combines single limit per occurrence. Such insurance shall be endorsed to include contractual liability. In the event Consultant's coverage is on a claims basis, Consultant is responsible for purchasing extended reporting period/tail coverage for a minimum of one (1) year.

- iv. **Workers' Compensation Coverage:** Provider certifies that Provider has qualified for State of Oregon Workers' Compensation coverage for all Provider's employees who are subject to Oregon's Workers' Compensation statute, either as a carrier-insured employer as provided by ORS 656.407, or as a self-insured employer. Provider shall provide to City within ten (10) days after Agreement award a certificate of insurance evidencing coverage of all subject workers under Oregon's Workers' Compensation statutes insured by an insurance company satisfactory to City, if any. The certificate and policy shall indicate that the policy shall not be terminated by the insurance carrier without thirty (30) days' advance written notice to City. A copy of the certificate of self-insurance issued by the State shall be provided to City if the Provider is self-insured.
- v. **Certificates:** Provider shall furnish City certificates evidencing the date, amount, and type of insurance required by this Agreement. All policies will provide for not less than thirty (30) days' written notice to City before they may be canceled.
- vi. **Primary Coverage:** The coverage provided by insurance required under this Agreement shall be primary, and any other insurance carried by City shall be excess.

10. Work is Property of City

All work, including but not limited to documents, drawings, papers, computer programs, and photographs, performed or produced by Provider under this Agreement shall be the property of City.

11. Law of Oregon

The Agreement shall be governed by the laws of the State of Oregon without respect to conflict of laws principles. Venue shall be in Clackamas County, Oregon.

12. Errors

Provider shall perform such additional work as may be necessary to correct errors in the work required under this Agreement without undue delays and without additional cost.

13. Extra or Changes in Work

Only the City Manager or City Project Manager may authorize extra (and/or change) work. Failure of Provider to secure authorization for extra work shall constitute a waiver of all right to adjustment in the Agreement price or Agreement time due to such unauthorized extra work and Provider

convenience with at least ten (10) days written notice to the other party. Upon termination under this paragraph, Provider shall be entitled to compensation for all services rendered prior to actual notice of the termination or the receipt of the City's or Provider's written notice of termination, whichever is earlier, plus Provider's reasonable costs actually incurred in closing out the Agreement.

18. Terms Required by Oregon Law

As applicable, the terms of ORS 279B.220, 279B.225 and 279B.230 are incorporated into this Agreement by reference.

19. Compliance with Oregon Tax Laws

Provider warrants that it is not delinquent in the filing or payment of any Oregon income taxes, Oregon personal property taxes, Oregon municipal taxes, or Oregon real property taxes and that it has otherwise complied with all Oregon tax laws and all tax laws of those Oregon municipalities to which Provider is subject.

20. Modification

Any modification of the provisions of this Agreement shall be reduced to writing and signed by authorized agents of City and Provider.

21. No Waiver of Legal Rights

A waiver by a party of any breach by the other shall not be deemed to be a waiver of any subsequent breach.

22. Integration

This Agreement contains the entire agreement between the parties and supersedes all prior written or oral discussions or agreements regarding the same subject.

<p>CITY OF GLADSTONE, OREGON</p> <p><i>Jacqueline M. Betz</i> 1-10-18 City Manager</p>	<p>Provider</p> <p><i>Carter MacNichol</i> Carter MacNichol, Managing Director</p>
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City of Gladstone Staff Report

Report Date : November 20, 2018
Meeting Date: November 27, 2018
To : City Council
From : Jacque M. Betz, City Administrator

AGENDA ITEM

Appoint a member from City Council to represent Gladstone as a non-voting member on the Willamette Falls Locks Project.

City of Gladstone Staff Report

Report Date: November 15, 2018
Meeting Date: November 27, 2018
To: City Council
From: Nancy McDonald, Interim Human Resources Director

AGENDA ITEM

Fire Chief Recruitment - process and timeline.

Process

At the direction of the City Administrator and in coordination with the Interim Fire Chief, the Interim Human Resources Director will conduct a thorough and comprehensive recruitment for the City of Gladstone's next regular, full-time Fire Chief. Examples of advertising sources would include: National Fire Chiefs Association, Oregon Fire Chiefs Association, Western Fire Chiefs Association; National League of Cities, League of Oregon Cities, and other national fire professional/ affiliation associations. The updated position description with the January 1, 2019 salary range is attached for your reference.

Timeline - 2019

December 10 – February 1 Advertise
February 4 – February 10 Screen applicant materials
February 11 – February 26 Interviews scheduled for applicants.
March 4 – March 15 Conditional offer with background form completed/returned
March 18 Background materials sent to Investigator
March 26 Staff formal recommendation to Council
April 8 – April 21 Schedule finalist for physical and psychological exam
April 22 Extend offer to finalist; set start date
May 28 Target start; intro at Staff Meeting; swear-in at Council Meeting

Cost Impact

With the exception of the indirect costs incurred by the principals working on this project, exact direct costs are unknown, but may include: printing of brochures and postage required for direct mail options; facility rental and food/drink provision, transportation and lodging; vendor provision of background investigation and physical/psychological testing of the finalist(s).

Recommended Staff Action

Council approval of the process and timeline identified above for the Fire Chief Recruitment.


Department Head
Signature

11/15/18
Date


City Administrator
Signature

11-21-18
Date

CITY OF GLADSTONE POSITION DESCRIPTION

Title:	Fire Chief	Range: 52	\$8,490-\$10,320/month
Department:	Fire Department	FLSA Status:	Exempt
Date:	December 2018		Non-Represented

GENERAL STATEMENT OF DUTIES

The Fire Chief is responsible for department leadership and all activities and employees of the municipal fire department. The Chief is responsible for the effective utilization of the equipment and personnel of the department in the prevention and extinguishing of fires, protection of property, and lifesaving.

SUPERVISION RECEIVED

Reports to and receives general administrative direction from the City Administrator.

SUPERVISION EXERCISED

Exercises supervision over all employees within the Fire Department, either directly or indirectly through Captains.

ESSENTIAL DUTIES & RESPONSIBILITIES

Directs fire services and operations for the City of Gladstone; plans, organizes, directs, supervises, and reviews all operations of the Fire Department in order to provide maximum service to the community.

Develops and directs the implementation of goals, objectives, policies, procedures, and work standards for the Department; assure compliance with federal, state, county and municipal laws and ordinances.

Schedules and reviews work; assigns personnel for optimum effectiveness; mentors, coaches, and evaluates staff performance, and provides for the professional development of staff.

Oversees and coordinates the preparation and presentation of the Department budget; administers and controls Department expenditures through sound fiscal practices and oversight.

Identifies federal, state, and private research and development grants; determines scope of work for which funds are needed and prepares proposals to obtain them; administers grant funds.

Prepares, recommends, and implements strategies to meet the City's current and long-term needs that are compatible with the Gladstone City Council Goals.

Prioritizes and allocates available resources; reviews and evaluates program and service delivery for improvement, and ensures effective service provision to all community members. Informs and advises the City Administrator on Fire Department issues and community safety; represents the Fire Department in all public relations matters.

Provides necessary training to prepare new Fire Fighters to meet the challenges of Fire service, and to maintain existing Fire Fighter's certification requirements and skills to improve the Department's professional standards and response.

Directs on-going research into new fire science technologies and trends, and recommends implementation of programs and equipment to help the Department achieve its objectives more efficiently.

Directs analysis of emergency services concerns in the community; implements appropriate actions to meet identified needs through these analysis, and reports major issues and trends to the City Administrator and City Council.

Develops, directs and performs emergency management functions in coordination with the Police Chief.

Coordinates Department activities with those of other City departments to ensure a consistent approach towards common projects and interests.

Recruits and retains qualified personnel consistent with applicable laws, regulations and professional standards.

Responsible for the conduct and general behavior of assigned personnel; reviews work performance of Captains and conducts their performance evaluations; ensures that all Gladstone Fire Department personnel operate within the parameters of performance and conduct expectations; provides recognition and reward; handles grievances, takes corrective action by issuing discipline as necessary to maintain compliance with Department policies.

Recommends promotions, transfers, disciplinary actions and discharges. Works proactively to resolve grievances and other personnel matters. Reviews time and attendance records.

Establishes and maintains cooperative relationships with neighboring and regional fire service providers to ensure coordinated, concerted services to communities served by those agencies.

Analyzes future personnel staffing, apparatus, equipment and facility needs and develops short and long-term plans to meet those needs.

Serves as the City's representative to committees and organizations concerned with improvements in emergency services, public education, and public relations.

Attends various Community meetings and makes presentations about topics of interest. Solicits and encourages Community input and involvement whenever appropriate.

PERIPHERAL FUNCTIONS

Provides response to media representatives on issues, events and activities related to the Gladstone Fire Department in collaboration with the PIO (Public Information Officer).

The duties listed above are intended only as illustrations of the various types of work that may be performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related or a logical assignment to the position.

QUALIFICATIONS

Education and Experience:

Graduation from high school, supplemented by advanced course work in Fire Department administration and other related subjects desirable.

Minimum ten (10) years of progressively responsible experience in a Fire Department, with a minimum of five (5) years in a leadership position such as Captain, Lieutenant or Battalion Chief or higher authority.

Equivalent combinations of education and work experience will be considered.

Demonstrated success in managing a combination paid and volunteer fire department with supervisory and management experience and extensive knowledge and experience in all phases of fire protection work.

A valid Oregon State Driver's license.

Should be able to show progressive responsible supervisory experience as a fire officer.

REQUIRED KNOWLEDGE, SKILLS & ABILITIES

- Extensive knowledge of modern principles, practices and methods of fire administration, organization, operations, and staffing.
- Extensive knowledge of technical aspects of firefighter work, including fire prevention, investigation techniques, traffic control and safety, and record keeping.
- Extensive knowledge of the principles of supervision and leadership within a fire protection agency; knowledge and understanding of the Department's "Standards of Coverage and Strategic Plan", Core Values, and administrative and personnel rules.
- Extensive knowledge of safety regulations and procedures and practices for fire service.
- Extensive knowledge of pertinent federal, state, and local laws, codes and regulations.

- Extensive knowledge of fundamental principles and modern practices related to office management, personnel, purchasing, accounting controls, and general budgetary and fiscal practices with special emphasis in the area of public safety.
- Extensive knowledge of the City's geography.
- Excellent interpersonal skills, utilizing tact, patience and courtesy.
- Skill in the use of all firefighting and emergency rescue equipment, including pumpers, tankers utility trucks, jaws-of-life, chain saws, air bags, self-contained breathing apparatus, gas detector, and numerous hand tools.
- Skill in effective, clear and persuasive oral and written communications.
- Skill in resolving conflicts and gaining cooperation among competing interest groups.
- Skill in identifying, implementing, and refining the Department's organizational structure to obtain desired results as efficiently as possible.
- Skill in planning, organizing, directing, and coordinating the work of supervisory and support staff, and in the appropriate delegation of authority and responsibility.
- Skill in the operation of the tools and equipment necessary for the job.
- Ability to lead a team of firefighting professionals competently in the protection of life and property.
- Ability to command a fire scene, able to communicate orders clearly and directly.
- Ability to manage and integrate the training and response of fire personnel in the prevention and extinguishing of fires, protection of property, and the saving of life.
- Ability to analyze and evaluate operations and develop and implement solutions to resolve problems.
- Ability to communicate effectively, both orally and in writing, regarding complex or sensitive issues.
- Ability to exercise sound judgment in evaluating situations and in making decisions.
- Ability to perform effectively under extremely stressful and dangerous conditions.
- Ability to work effectively with others to achieve personal, team, department and City-wide goals.

- Ability to provide leadership, counsel, motivation and constructive performance reviews to department personnel at all levels, establishing trust, and securing their respective commitments to the Department's goals.
- Ability to analyze complex problems and develop appropriate responses and reasonable courses of action given available resources and circumstances, and provide consequences of proposed actions.
- Ability to develop and maintain productive relationships with staff, employees, elected officials, business leaders, advisory boards, the news media, and the general public.
- Ability to perform work requiring good physical condition.
- Ability to wear personal protective equipment and gear.
- Ability to meet all essential duties and responsibilities of the position.

TOOLS AND EQUIPMENT USED

Fire apparatus, fire pumps, hoses, ladders and other standard firefighting equipment. EMS equipment, fire evidence collection equipment, personal protective equipment/gear, various communication devices, computer, office application software, department specific software, the Internet, digital camera and mobile computer terminal.

PHYSICAL DEMANDS

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations will be made to meet the needs of a qualified individual with limitations who can perform the essential functions of the job.

While performing the duties of this job, the employee is frequently required to sit and talk or hear. The employee is occasionally required to stand; walk; use hands to handle, or operate objects, controls, or tools listed above; reach with hands and arms; climb or balance; stoop, kneel, run, crouch, or crawl; and taste or smell.

The employee must occasionally lift and/or move more than 100 pounds.

Specific vision abilities required by this job include close vision, distance vision, color vision, peripheral vision, depth perception, and the ability to adjust focus.

Ability to wear personal protective equipment/gear.

WORK ENVIRONMENT

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job.

Duties are primarily performed in an office environment sitting at a desk or in the field where the employee is exposed to varying and extreme weather conditions. When responding to emergencies, employee risks physical hazard while providing EMS, performing technical rescue, vehicle extrication, fighting fires and from noise, noxious odors, chemicals and potentially toxic substances, bodily secretions, sharp objects, traffic, drugs and drug paraphernalia. Physical exertion is required to climb stairs and over walls, stoop, run, move heavy objects, crawl through tight spaces, kneel in confined areas, all while wearing personal protective equipment (PPE). Physical effort is required to lift materials, equipment and persons.

The noise level in the work environment is usually quiet in the office and moderately to extremely noisy in the field.

Employee is required to don personal protective equipment/gear when the circumstances or situation warrants the necessity to do so.

PERFORMANCE FACTORS NOT PREVIOUSLY IDENTIFIED IN THIS DOCUMENT

Employees are expected to follow and adhere to all City of Gladstone policies which include, but are not limited to, the Personnel Handbook and Occupational Health and Safety Manual.

This position description does not constitute an employment agreement between the City and employee and is subject to change by the employer as the needs of the employer and requirements of the job change.

Classification History: Created 3/2016; Revised 11/2018.

City of Gladstone Staff Report

Report Date: November 15, 2018
Meeting Date: November 27, 2018
To: City Council
From: Nancy McDonald, Interim Human Resources Director

AGENDA ITEM

Police Chief Recruitment - process and timeline.

Process

At the direction of the City Administrator and in coordination with the soon-to-be appointed Interim Police Chief, the Interim Human Resources Director will conduct a thorough and comprehensive recruitment for the City of Gladstone's next regular, full-time Police Chief. Examples of advertising sources would include: National Association of Police Chiefs, Oregon Police Chiefs Association, National League of Cities, League of Oregon Cities, and other national law enforcement professional/ affiliation associations. The updated position description with the January 1, 2019 salary range is attached for your reference.

Timeline - 2019

December 10 – February 1 Advertise
February 4 – February 10 Screen applicant materials
February 11 – February 26 Interviews scheduled for applicants.
March 4 – March 15 Conditional offer with background form completed/returned
March 18 Background materials sent to Investigator
March 26 Staff formal recommendation to Council
April 8 – April 21 Schedule finalist for physical and psychological exam
April 22 Extend offer to finalist; set start date
May 28 Target start; intro at Staff Meeting; swear-in at Council Meeting

Cost Impact

With the exception of the indirect costs incurred by the principals working on this project, exact direct costs are unknown, but may include: printing of brochures and postage required for direct mail options; facility rental and food/drink provision, transportation and lodging; vendor provision of background investigation and physical/psychological testing of the finalist(s).

Recommended Staff Action

Council approval of the process and timeline identified above for the Police Chief Recruitment.


Department Head
Signature

11/15/19
Date


City Administrator
Signature

11-21-18
Date

CITY OF GLADSTONE POSITION DESCRIPTION

Title:	Police Chief	Range: 55	\$9,829-\$11,947/month
Department:	Police Department	FLSA Status:	Exempt
Date:	December 2018		Non-Represented

GENERAL STATEMENT OF DUTIES

To plan, organize, direct, and control activities and operations of the Police Department including crime prevention, law enforcement, community relations, rules of evidence, and related functions such as criminal investigations, field patrol, traffic control and safety, and record maintenance; coordinate and work in partnership with other City departments and outside agencies in accomplishing assigned activities; perform all assigned duties in accordance with the City of Gladstone Public Policy on Policing.

SUPERVISION RECEIVED

The Police Chief is a sworn position that reports to and receives general administrative direction from the City Administrator.

SUPERVISION EXERCISED

Exercises supervision over all employees within the Police Department, either directly or indirectly through supervisors.

ESSENTIAL DUTIES AND RESPONSIBILITIES

Directs police services and operations for the City of Gladstone; plans, organizes, directs, supervises, and reviews all operations of the Police Department in order to provide maximum service to the community.

Develops and directs the implementation of goals, objectives, policies, procedures, and work standards for the Department; assure that federal, state, county and municipal laws and ordinances are enforced.

Schedules and reviews work; assigns personnel for optimum effectiveness; mentors, coaches, and evaluates staff performance, and provides for the professional development of staff.

Oversees and coordinates the preparation and presentation of the Department budget; administers and controls Department expenditures through sound fiscal practices and oversight.

Prepares, recommends, and implements strategies to meet the City's current and long-term needs that are compatible with the Gladstone Public Policy Statement on Policing.

Prioritizes and allocates available resources; reviews and evaluates program and service delivery for improvement, and ensures effective service provision to all community members.

Informs and advises the City Administrator on Police Department issues and community safety; represents the Police Department in all public relations matters.

Provides necessary training to prepare new Officers to meet the challenges of police service, and to maintain existing Officers' certification requirements and skills to improve the Department's professional standards and response.

Directs on-going research into new law enforcement technologies and trends, and recommends implementation of programs and equipment to help the Department achieve its objectives more efficiently.

Directs analyses of crime trends, juvenile delinquency, traffic issues, illegal drug issues, and related law enforcement concerns in the community; implements appropriate actions to meet identified needs through these analyses, and reports major issues and trends to the City Administrator and City Council.

Coordinates Department activities with those of other City departments to ensure a consistent approach towards common projects and interests.

Recruits and retains qualified personnel consistent with applicable laws, regulations and professional standards.

Responsible for the conduct and general behavior of assigned personnel; reviews work performance of Sergeants and conducts their performance evaluations; ensures that all Gladstone Police Department personnel operate within the parameters of performance and conduct expectations; provides recognition and reward; handles grievances, takes corrective action by issuing discipline as necessary to maintain compliance with Department policies.

Recommends promotions, transfers, disciplinary actions and discharges. Works proactively to resolve grievances and other personnel matters. Reviews time and attendance records.

Establishes and maintains cooperative relationships with neighboring and regional law enforcement and security agencies to ensure coordinated, concerted police services to communities served by those agencies.

Identifies federal, state, and private research and development grants; determines scope of work for which funds are needed and prepares proposals to obtain them; administers grant funds.

Analyzes future personnel staffing needs and develops short and long-term plans to meet those needs.

Serves as the City's representative to committees and organizations concerned with improvements in law enforcement, public education, and public relations.

Attends various Community meetings and makes presentations about law enforcement topics of interest. Solicits and encourages Community input and involvement whenever appropriate.

PERIPHERAL DUTIES

Provides response to media representatives on issues, events and activities related to the Gladstone Police Department in collaboration with the PIO (Public Information Officer).

The duties listed above are intended only as illustrations of the various types of work that may be performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related or a logical assignment to the position.

QUALIFICATIONS

Education and Experience:

Bachelor's Degree in Public Administration, Criminal Justice, Police Science or related field.

Minimum ten (10) years of progressive law enforcement experience with at least five (5) years in a supervisory or management position.

Possession of Executive level certification from DPSST.

Bilingual in English and Spanish preferred.

Any satisfactory equivalent combination of experience and training which ensures the ability to perform the work may substitute for the above.

Special Requirements:

Must possess, or be able to obtain by time of hire, a valid states driver's license with a good driving record.

Must successfully pass a psychological exam, medical exam and a thorough background check, as well as be able to pass the City's security (CJIS) clearance standards for unescorted access to certain City facilities.

REQUIRED KNOWLEDGE, SKILLS & ABILITIES

- Extensive knowledge of modern principles, practices and methods of police administration, organization, operations, and staffing.
- Extensive knowledge of technical aspects of police work, including crime prevention, investigation techniques, criminal identification, apprehension, detention, rules of evidence, traffic control and safety, and record keeping.

- Extensive knowledge of the principles of supervision and leadership within a law enforcement agency; knowledge and understanding of the Department's "Public Policy on Policing", Core Values, collective bargaining agreement, and administrative and personnel rules.
- Extensive knowledge of safety regulations and procedures and practices in law enforcement.
- Extensive knowledge of pertinent federal, state, and local laws, codes and regulations.
- Extensive knowledge of fundamental principles and modern practices related to office management, personnel, purchasing, accounting controls, and general budgetary and fiscal practices with special emphasis in the area of public safety.
- Extensive knowledge of the City's geography.
- Excellent interpersonal skills, utilizing tact, patience and courtesy.
- Skill in effective, clear and persuasive oral and written communications.
- Skill in resolving conflicts and gaining cooperation among competing interest groups.
- Skill in identifying, implementing, and refining the Department's organizational structure to obtain desired results as efficiently as possible.
- Skill in planning, organizing, directing, and coordinating the work of supervisory and support staff, and in the appropriate delegation of authority and responsibility.
- Skill in the operation of the tools and equipment necessary for the job.
- Ability to analyze and evaluate operations and develop and implement solutions to resolve problems.
- Ability to communicate effectively, both orally and in writing, regarding complex or sensitive issues.
- Ability to exercise sound judgment in evaluating situations and in making decisions.
- Ability to perform effectively under extremely stressful and dangerous conditions.
- Ability to work effectively with others to achieve personal, team, department and City-wide goals.

- Ability to provide leadership, counsel, motivation and constructive performance reviews to department personnel at all levels, establishing trust, and securing their respective commitments to the Department's goals.
- Ability to analyze complex police problems and develop appropriate responses and reasonable courses of action given available resources and circumstances, and provide consequences of proposed actions.
- Ability to develop and maintain productive relationships with staff, other employees, bargaining unit representatives, elected officials, business leaders, advisory boards, the news media, and the general public.
- Ability to administer labor agreements, and communicate effectively with organized personnel.
- Ability to perform work requiring good physical condition.
- Ability to wear personal protective equipment and gear.
- Ability to meet all essential duties and responsibilities of the position.

TOOLS AND EQUIPMENT USED

Police car, Police radio, radar gun, duty rifle, duty pistol, baton, handcuffs, Taser CEW, OC spray, personal protective equipment/gear, Intoxilyzer, mobile phone, evidence collection equipment, first aid equipment, computer, office application software, law enforcement and department specific software, the Internet, digital camera and mobile computer terminal.

PHYSICAL DEMANDS

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations will be made to meet the needs of a qualified individual with limitations who can perform the essential functions of the job.

While performing the duties of this job, the employee is frequently required to sit and talk or hear. The employee is occasionally required to stand; walk; use hands to handle, or operate objects, controls, or tools listed above; reach with hands and arms; climb or balance; stoop, kneel, run, crouch, or crawl; and taste or smell.

By use of weapon(s) or physical abilities and when lawful and justified, the employee must be able to make an arrest, protect self, protect co-workers, protect other persons, protect property, perform defensive tactics and physically control and detain suspects.

The employee must occasionally lift and/or move more than 100 pounds.

Specific vision abilities required by this job include close vision, distance vision, color vision, peripheral vision, depth perception, and the ability to adjust focus.

Ability to wear personal protective equipment/gear.

WORK ENVIRONMENT

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job.

Duties are primarily performed in an office environment sitting at a desk or in the field where the employee is exposed to varying and extreme weather conditions. When responding to emergencies, employee risks physical hazard from violent, aggressive and hostile people, a variety of weapons, noise, noxious odors, chemicals, bodily secretions, sharp objects, traffic, drugs and drug paraphernalia. Physical exertion is required to climb stairs and over walls, run, move heavy objects, crawl through tight spaces, kneel in confined areas. Physical effort is required to lift materials, equipment and persons.

The noise level in the work environment is usually quiet in the office and moderately to extremely noisy in the field.

Employee is required to don personal protective equipment/gear when the circumstances or situation warrants the necessity to do so.

PERFORMANCE FACTORS NOT PREVIOUSLY IDENTIFIED IN THIS DOCUMENT

Employees are expected to follow and adhere to all City of Gladstone policies which include, but are not limited to, the Personnel Handbook and Occupational Health and Safety Manual.

This position description does not constitute an employment agreement between the City and employee and is subject to change by the employer as the needs of the employer and requirements of the job change.

Classification History: Created 2008; Revised 2013, 2018.