

**MISSION STATEMENT: TO CREATE A HEALTHY, SAFE, DIVERSE, AND PROSPEROUS CITY
BY ENGAGING COMMUNITY MEMBERS TO DEVELOP AN ENRICHED QUALITY OF LIFE.**



**COUNCIL MEETING AGENDA
CITY COUNCIL – CITY OF ONTARIO OREGON
TUESDAY, SEPTEMBER 28, 2021, 6:00 PM, MT
[Zoom Link](#)**

Pursuant to the Public Meetings Laws and Rules within the Oregon Revised Statutes, the City Council has the authority, ability, and standing to take action on any items on the Agenda, or add items to the Agenda, during the Study Session or Regular Meeting, as long as all public meeting notice requirements have been met.

1) CALL TO ORDER

Roll Call: Susann Mills ____ Sam Baker ____ John Kirby ____ Ken Hart ____
Michael Braden ____ Eddie Melendrez ____ Mayor Riley Hill ____

2) PLEDGE OF ALLEGIANCE

This Agenda was posted on September 24, 2021. Copies of the Agenda are available from the City Hall Customer Service Counter and on the city's website at www.ontariooregon.org.

3) MOTION TO ADOPT THE AGENDA

4) PUBLIC COMMENTS Citizens may address the Council; however, Council may not be able to provide an immediate answer or response. Out of respect to the Council and others in attendance, please limit your comment to three (3) minutes. Please state your name and city of residence for the record.

5) CONSENT AGENDA

- A) Minutes: City Council Meeting 08-10-2021
- B) Hangar Lease: Altitude Development, LLC (Tyler Frazier) - 220 Golf
- C) Housing Incentive Program: Ernesto Juarez (37-2021)
- D) Housing Incentive Program: BK Construction (38-2021)

6) PRESENTATIONS

- A) COVID 19 Update: Malheur County Health Department
- B) Merchant McIntyre Update
- C) City Manager Update

7) OLD BUSINESS

- A) Evergreen Cemetery North Gate Access - Update and Final Report
- B) Resolution #2021-133: Adopting a Supplemental Budget to Appropriate Funding for the Ameresco Energy Savings Project
- C) Ordinance #2796-2021: Business Registrations Amendment
- D) Ordinance #2797-2021: Transient Room Tax for RV Parks and Transient Lodging Intermediaries

8) NEW BUSINESS

- A) New Hanger Lease: William Dan Penn - 140 Golf
- B) New Hanger Leases: Greg Guymon & Alexander Heap - 141, 143, 145, 147, 149 & 151 (6 hangers) Beechcraft
- C) New Hanger Leases: Alexander Heap - 153, 155, 157 & 159 (4 hangers) Beechcraft
- D) Request Contract Extension #2 with Ontario Rural Fire Protection District for Negotiations
- E) Resolution #2021-132: Airport Security Fence Improvements
- F) Ordinance #2795-2021: Cable One/Sparklight Proposed Franchise Agreement Renewal

The City Council may recess/adjourn to Executive Session under ORS 192.660(2) as follows: (a) Employment of Public Officers, Employees, or Agents; (b) Discipline of Public Officers, Employees, or Agents; (c) Labor Negotiations; (d) Real Property Transactions; (e) Exempt Public Records; (f) Trade Negotiations; (g) Litigation /Consult with Legal Counsel; (h) Performance Evaluation of Public Officers and Employees; (i) Trade Negotiations; and/or (j) Labor Negotiations.

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9) PUBLIC HEARING

- A) Ordinance #2794-2021: Planning Action 2021-04-15AZ - A Request by Kathryn M. Blackmon for the Annexation and Rezone of Property from Urban Growth Area Residential (UGA-R) to City Single Family Residential (RS-50) to Allow Connection to City Services, and Withdrawing Said Territory from the Ontario Rural Fire Protection District #7-301 (769 North Park Boulevard)

10) DEPARTMENT HEAD UPDATE

- A) Finance: Monthly Report
- B) Financial Forecast
- C) Community Development: Quarterly Report

11) DISCUSSION ITEMS

- A) NE Traffic Signs Update

12) HAND-OUTS

- A) Check Register: August 2021
- B) Monthly Stats: Code Enforcement August 2021
- C) Minutes: County Court 09-08-2021; 09-13-2021

13) CORRESPONDENCE, COMMENTS AND EX-OFFICIO REPORTS

14) EXECUTIVE SESSION

- A) ORS 192.660(2)(h)

15) ADJOURN



CITY COUNCIL MEETING MINUTES

August 10, 2021

The scheduled meeting of the Ontario City Council was called to order by Mayor Riley Hill at 6:00 p.m. on Tuesday, August 10, 2021, in the Council Chambers of City Hall. Council members present were Riley Hill, Ken Hart, John Kirby, Eddie Melendrez, Michael Braden, and Sam Baker.

Members of staff present in person or via telephone were Adam Brown, Tori Barnett, Peter Hall, Terry Leighton, Steven Romero, Kari Ott, Dan Cummings, Al Cablay, Paul Woods, Kim Lord, and Larry Sullivan.

The meeting was recorded, and copies are available at City Hall.

Riley Hill led everyone in the Pledge of Allegiance.

AGENDA

This Agenda was posted on August 6, 2021. Copies of the Agenda are available from the City Hall Customer Service Counter and on the city's website www.ontariooregon.org.

Staff request to include Resolution #2021-131, a resolution creating a Code Enforcement Review Ad Hoc Committee.

BAKER moved, HART seconded, **TO ADOPT THE AGENDA AS AMENDED**. Roll call vote: Baker-yes; Kirby-yes; Hart-yes; Braden-yes; Melendrez-yes; Hill-yes. Motion carried 6/0/0.

PUBLIC COMMENTS

Jack Franklin, Ontario, stated: *I live on NW 2nd Street in Ontario. I've lived there for 58 or 59 years in the same house, so I'm well aware of what goes on on that street. I have spoke to the City Council and every Chief of Police we've ever had many times about the traffic on the street, the speed of the traffic on that street. About 80% of the people drive like regular people. The rest of them are crazy. They rip down the street, they don't slow down for the intersections, I've sat and watched them many times roll through those intersections at 30 miles an hour and not even touch a brake. It's plumb crazy. I'm surprised we haven't had a lot more wrecks. And the reason we don't is because the old timers like myself that live down there, watch out for them. I have spoke many times about patrol industries, which I realize is not going to happen, I've been told by the Chief and the patrolmen that it's not going to happen, and I've suggested speed bumps. They don't want to put in speedbumps because of the street sweeper and the snowplow, which are non-existent. Really and truly. We've had the snowplow down there once last winter, and I think when we had the big snow we had, it was twice down there. The street sweeper, once a month. All they have to do is put up a sign that says "bump" like they do up at the college where they have speed bumps in front of the cemetery there is two nice speed bumps. They are not large speed bumps; they're just little ones, but I'll guarantee you that it'll slow them down. I think they're worried about the parts falling off their cars. Even the motor bikes run faster than the street sweeper, which is sensible down there. I'm talking about bicycles with motors on them. Motorcycles, they're like Evel Knievel, most of them. Some of them are sensible. But I really think that some inexpensive, nailed down speed bumps on that street would solve the problem. I can't think they cost a lot of money. It'd be a lot cheaper than having patrolmen down there, which, like I said, is not going to happen. So, I would appreciate it if something were done about this before they kill somebody. There have been some wrecks down there. Not real bad ones, but I have seen a car upside in the vacant lot, which has now got a building on it, but it was struck from the intersection and knocked the car clear out of the intersection. This was years ago. But something could be done about this to make it*



a lot safer. The street is about three or four blocks long with no cross streets. It's a very wide street and it's just an ideal place to really get on it. Those kids do. It's not necessarily just kids, but people who don't have any respect for others. Thank you kindly for your time.

CONSENT AGENDA

KIRBY moved, HART seconded, **TO ADOPT THE CONSENT AGENDA, WHICH INCLUDED COUNCIL MEETING MINUTES OF JUNE 29, 2021, AND JULY 6, 2021.** Roll call vote: Baker-yes; Kirby-yes; Braden-yes; Hart-yes; Melendrez-yes; Hill-yes. Motion carried 6/0/0.

NEW BUSINESS

Resolution #2021-130: Appropriating Funding for the Traffic Analysis of East Idaho Avenue

Paul Woods, City Engineer, presented.

HART moved, KIRBY seconded, **THE CITY COUNCIL APPROVE RESOLUTION #2021-130: A RESOLUTION TO APPROPRIATE FUNDING FOR THE TRAFFIC ANALYSIS OF EAST IDAHO STREET AND TO AWARD THE CONTRACT TO JACOBS ENGINEERING FOR PERFORMANCE OF THE WORK.** Roll call vote: Baker-yes; Kirby-yes; Hart-yes; Braden-yes; Melendrez-yes; Hill-yes. Motion carried 6/0/0.

Parks Committee Recommendation for Improvements at Lanterman Park

Adam Brown, City Manager, presented.

MELENDREZ moved, KIRBY seconded, **THE CITY COUNCIL APPROVE THE LETTER REQUESTING THE ADDITION OF A SAND VOLLEYBALL COURT AT LANTERMAN KIWANIS PARK, AMENDING THE PARKS MASTER PLAN TO ADD THE LETTER AS AN ADDENDUM TO THE PLAN, AND APPROVING THE USE OF THE SERVICE CLUB PARK MATCH PROGRAM IN AN AMOUNT NOT TO EXCEED THE \$10,000 RESERVE.** Roll call vote: Baker-yes; Kirby-yes; Hart-yes; Braden-yes; Melendrez-yes; Hill-yes. Motion carried 6/0/0.

Parks Committee Recommendation for Improvements at Beck Kiwanis Park

Adam Brown, City Manager, presented.

MELENDREZ moved, BRADEN seconded, **THE CITY COUNCIL ACCEPT AND APPROVE THE LETTER REQUESTING THE ADDITION OF A DISC GOLF COURSE AND DOG RUN TO BECK KIWANIS PARK AND AMEND THE PARKS MASTER PLAN BY ADDING THE LETTER AS AN ADDENDUM TO THE PLAN.** Roll call vote: Baker-yes; Kirby-yes; Hart-yes; Braden-yes; Melendrez-yes; Hill-yes. Motion carried 6/0/0.

IT Services Agreement

Peter Hall, Assistant City Manager/HR Manager, presented.

BRADEN moved, HART seconded, **THE CITY COUNCIL ACCEPT THE PROPOSED AGREEMENT WITH MICRO TECHNOLOGY SYSTEMS, INC. FOR TECHCARE SERVICES FOR FOUR MONTHS AT A RATE OF \$8,850 PER MONTH.** Roll call vote: Baker-yes; Kirby-yes; Hart-yes; Braden-yes; Melendrez-yes; Hill-yes. Motion carried 6/0/0.

Resolution #2021-131: Create Code Enforcement Review Ad Hoc Committee

BRADEN moved, KIRBY seconded, **THAT THE CITY COUNCIL APPROVE RESOLUTION #2021-131, A RESOLUTION TO CREATE A CODE ENFORCEMENT REVIEW AD HOC COMMITTEE.** Roll call vote: Baker-yes; Kirby-yes; Hart-yes; Braden-yes; Melendrez-yes; Hill-yes. Motion carried 6/0/0.



Requests for Appointment to City Boards: Diversity Advisory; Airport; Code Enforcement Review

Mayor Hill appointed Billy Carter to the Diversity Advisory Committee, and Brianna Lemmon to the alternate spot on the Airport Committee.

Council determined they would wait until the next meeting to appoint members to the Code Enforcement Review Ad Hoc Committee and directed staff to invite the applicants to the meeting.

PUBLIC HEARINGS**ORDINANCE #2792-2021: AMENDING THE CITY OF ONTARIO ZONING MAP FROM SINGLE FAMILY RESIDENTIAL (RS-50) TO PLANNED DEVELOPMENT RESIDENTIAL (PD) FOR A PROPERTY KNOWN AS TAX LOTS 3200 AND 3500 ON TAX MAP 18S47E09CC AND STREETS ADJACENT THERETO**

It being the date advertised for public hearing on the matter stated above, the Hearing was declared open. There were no objections to the city's jurisdiction to hear the action, no abstentions, ex-parte contact, and no declarations of conflict of interest.

Dan Cummings, Community Development Director, presented.

Councilor Hart stated the slide and staff presentation included "veterans", but now the paperwork no longer said it.

Mr. Cummings stated that was not a criterion. The 55-years or older was a requirement that once put in, there were state requirements that had to be followed. Veterans was something that the developer wanted to happen. She had been in contact with several veterans who wanted a small home on a small lot. But they would have to be 55 or older. It was a senior park.

Mayor Hill asked if the street section was 30 feet of paved street?

Mr. Cummings stated it was.

Mayor Hill asked if a duplex was one or two units.

Mr. Cummings stated a duplex counted as two units, so two of the proposed 36.

Mayor Hill asked if the enforcement of these issues, would those be deed restrictions or homeowners?

Mr. Cummings stated it would be a homeowner's association. In a planned development, if the HOA did not enforce those rules, the city had the right to go in and require the enforcement. The HOA had no rights to change any of the regulations. If they wanted something changed, they had to go back through a public hearing process with the city to get the ordinance changed. That would require going through the Planning Commission and the City Council.

Mayor Hill stated if the City Council were to approve the action, there would have to be an HOA established first.

Mr. Cummings stated yes, and it would be approved by staff based on the set conditions. However, if the Council wanted it back to them, that could be done.

Mayor Hill asked the minimum size of a home.

Mr. Cummings stated it had not been specified, but it had been designed and laid out from 800 square feet to 1200 square feet. The developer recognized that none of the homes would qualify for the city's housing incentive unless they found a lot that had a minimum size of 1250 with a two-car garage. She was not trying to build a regular subdivision and was more concerned with keeping the cost down for the seniors to afford. It was not prohibited. The lots met the normal 5,000 square foot lot.

Mr. Cummings stated duplex units would be allowed in the development, which followed state law. That could not be prohibited and would count as two units for the overall count of 36. It could also be a townhouse. Further, an additional requirement was that all buildings within the development be limited to single story construction.

Councilor Hart stated one component was “affordable”, and that was not a condition of the CCRs. The intent of the developer was for it to be affordable, but they didn’t have to be. It could be market rate.

Mr. Cummings stated they were trying to keep the cost down to keep the development down so they could sell the lots as reasonable as possible. If someone wanted to build a 1,000 square foot mini mansion for \$300K, that could be done. The developer was not doing the construction; it would be open to any contractor to build the homes.

Councilor Kirby asked if there would adequate space on the lots should someone want to park an RV?

Mr. Cummings believed it would be difficult. That would be a regulation that the developer could impose. Those would need to be addressed in the CC&Rs.

Councilor Baker asked what the consensus was from the participants in the Planning Commission public hearing. Was it well received?

Mr. Cummings stated there were some concerns voiced from the general public who lived in that area. They were in attendance and would be speaking. He hoped that some concerns had already been addressed.

Mayor Hill asked, since it was a private street, if it would be a condition of the HOA that a fund be created so that later on that street could be repaired as needed?

Mr. Cummings stated that was a normal requirement and would be addressed. It would be a condition of the CC&Rs so everyone was aware of the monthly fee and what that money would be used for.

The Hearing was opened for public testimony.

Proponents:

Cindy Bryant, Developer, stated: *Many of you, hearing Dan and many of you, I’m sure, read the notes from the last Planning and Zoning meetings. I’m just requesting that you do like he mentioned, the property, really just to try and meet the needs of the community. So, it’s already set up to be a subdivision and there are many people, probably even some sitting in here, that would agree that my plan is not the highest and best return on investment plan, but it is something that I feel the community needs. That we need something so that we can be looking out for the seniors that either live in the county, they want to retire, sell the farm, they want to sell the big house with the big yard, and they don’t want to have to leave the community. I’ve been around for a long time and that is generally what you see. Unless they have family in the area, they have to move to another community, and it would be nice to build a house someplace where they could downsize and live comfortably. Really, this community, we need small lots, small houses, the single level was always my idea, that’s why I wasn’t opposed to the recommendation or number five or six, whatever it was, again, it’s not, you build up. That’s how you make your money, but that isn’t the plan, that isn’t the idea because this is really for the seniors. The veteran’s thing, I have a soft spot for them. I have all kinds of family members that are veterans and so that was something that along the road, I realized that yes, it’s not state mandated, or federal, so I would have to remove that part. It would be the HOA, the CC&Rs, it would all be 55 and older. Really, with the affordable, the costs of everything going they way they are, that’s a constant conversation, but the affordable that I’m really referring to is energy efficient. Yes, I would love to have the houses be inexpensive, but really overall, the plan is for them to be energy efficient. Moving out of a house maybe off of 3rd Street that was built in the ‘40s that they spent \$500 a month in the winter to heat, now they can live in a house that’s more affordable. I’m working pretty closely with an energy trust and one of the statistics that came up is over 50% of our Malheur County residents really struggle with utility bills. That just kind of rang true with what it is I’m trying to do. The other thing that was just brought to my attention is looking at the city website, this plan really just kind of fits in*

with the city strategic plan – desirably, to be able to stay in the community; lifestyle, we all know the lifestyle that we can lead here in Ontario; beautification, and then growth. Again, it's a small, little chunk, but it would help increase the tax base. That, I would think, would be helpful to the city. Overall, the plan with what I'm trying to do is in hopes that this does go forward, but it doesn't go to a developer necessarily that's going to build townhomes or apartment complexes or even twenty great big houses with public streets, which is, people have come to me wanting to purchase it for that reason, and I have turned it down because I feel so passionately about doing this. But, in hopes with this plan, I was hoping that if it's successful I would like to be able to use this as a pilot to be able to take this over to some of our other rural communities, like Baker City or even across the river, to be able to show them that, look, this is something that we established a project in Ontario with seniors, a little over four acre property and it's been a great success. Do you have any questions?

Opponents:

Craig de Boer, Ontario, stated: *I got a letter early spring about this development coming about. We showed up. The person that's doing this did not show up that night. So, the Planning and Zoning, and Dan, they floored that meeting for the proposal until July 12th. We did not receive a notice about this until July 15th. So, there was a snide comment that was made from the committee that if we were interested in what was going on, we should have attended the meeting and stayed for the whole thing. I thought that was pretty asinine. I brought the letter here that states the meeting was July 12, 2021; this letter is dated July 15, 2021, about the meeting, this proposed meeting. To me, that's pretty poor planning. There were several people here for that meeting. The person was here for that meeting that night and she's here again tonight. My hats off to her for trying this and doing this or wanting to do this. I think there is better ways to do it. I don't think that there should be 36 homes in there, even with duplexes or complexes or whatever. I'm glad there's no two-story. That just is disastrous to the backyard. There are things that nobody in the neighborhood knew anything about this until it was brought to the committee. Then the gal, she says she's from here. She doesn't even live in Ontario, so I don't know that she has a lot of, I think she has interest in Ontario, investment interest, but not the personal interest that goes on in everyday life in Ontario. That particular property, if it's private, the police can't go in there to regulate anything, the city ordinance can't go in there unless it's mandated by somebody. If she gets to the point where here CC&Rs, from what I understand, change, she can change the rules and put her daughter in the house, from what I've been told. There was just a lot of things that don't add up to this. There's traffic, it's bad enough as it is on Alameda; traffic bad enough on SW 12th Street, as Jack said earlier about the police and maintaining law and order, you put that many more cars coming in and out, it's just going to be insane. But my biggest complaint was how the city can do something like this and think nobody gives a crap. I just, I don't know what the legalities are, but I know it isn't right. So hopefully you guys can figure it out and I know the Planning and Zoning won't change their minds. They've made their decision, but hopefully you guys take strong look at it and figure out something worthwhile. Thank you.*

June Krasznovolgyi, Ontario, stated: *Mr. Mayor, Councilmen, I have a cane here and hopefully everyone can hear me. This stretch of land is environment. There are rabbits, there's turkeys, and it's just nice. I did send a letter to Mr. Cummings with my strong objection. We all here are going to be building on our land until we can't raise crops and I just, we have lived there in excess of 50 years, and I just hate to see more growth in that area. Good Heavens, there's barren land all over the place. Why come into a community and build all over the place? Thank you.*

There being no further Proponent and no further Opponent testimony, the Hearing was closed.

Mayor Hill stated to Mr. Cummings that he was somewhat concerned about enforcement on HOAs or city enforcement. Mr. de Boer's thoughts about police getting in or responding, that would not be an issue, but the enforcement of the HOA and whether enough money was put aside to maintain the streets, that concerned him. Also, if this were RS-50, how many units could be put in?

Mr. Cummings guesstimated 20-25. Regarding enforcement, it was always difficult with CC&Rs.

Mayor Hill verified the city accepted responsibility for the water and sewer?



Mr. Cummings stated yes. The entire 35-foot would be a public utility easement and the city would be approving and taking over the sewer and water lines as city lines.

Councilor Melendrez asked for clarification on what an HOA or a CC&R were.

Mr. Cummings stated an HOA was a Homeowner's Association that had to be formed to enforce the CC&Rs. CC&Rs were restrictions put in a subdivision, along with fees to cover things, such as street maintenance. The HOA would pay to maintain the streets, to plow the snow, landscaping, that type of things.

Councilor Melendrez asked about the earlier question about changing the age restrictions.

Mr. Cummings stated any condition for approval – and that was one of them – were in an ordinance, so for any of those to change, it would have to come back before the Planning Commission and the City Council requesting those changes in a new ordinance. But, before that could even occur, they had to have a majority of the HOA request the change.

Mayor Hill asked, for example, if some grandparents live in the subdivision and had to adopt their grandchild, what then?

Mr. Cummings stated they would have to move out. They could own the home still but could not live there with the grandchild.

Councilor Melendrez stated they had talked about the number of homes projected, but if were sold to a regular developer, how many could they fit on there?

Mr. Cummings stated his estimate was 20 or 25. But that was because it would now fall under city regulations such as sidewalks on both sides of the street, which would also be city required width.

Councilor Hart stated with the concern raised about lack of notice on the second meeting. Was that a snafu in the mail, or had he received other complaints?

Mr. Cummings stated the legality of it was, his department mailed out the advertisement for the first Planning Commission meeting, which was following formal state rule. At that meeting, since it was tabled to the next meeting, the public was informed what date it would table to, which met state law. All those in attendance were noticed that the meeting would be on that date. At the second meeting the question came up about how the neighbors who were not in attendance would know about the Council meeting. The state law mandated that it was the requirement of the people to attend the meeting if they cared, so they were put on notice as to when this current Council meeting would take place. He understood Mr. de Boer's concern, but Mr. Cummings, at the cost of the city, sent out another notice to all the property owners telling them about this Council meeting. He assumed that all those who received his first notice, also received the second notice. That second notice advertising this current meeting was not a requirement, but he had done it as a courtesy. The law had been followed. There had also been proper signage placed on the property and was still there.

KIRBY moved, BRADEN seconded, **THAT THE CITY COUNCIL ACCEPT THE RECOMMENDATION OF THE PLANNING COMMISSION AND APPROVE THE FINDINGS OF FACTS WITHIN THE STAFF REPORTS AND ESTABLISHED BY THE PLANNING COMMISSION AND HEREBY APPROVES AND ESTABLISHES THE CONDITION OF APPROVAL RECOMMENDED BY THE PLANNING COMMISSION.** Roll call vote: Baker-yes; Kirby-yes; Hart-yes; Braden-yes; Melendrez-yes; Hill-yes. Motion carried 6/0/0.



KIRBY moved, BRADEN seconded, **THAT THE CITY COUNCIL APPROVE ORDINANCE #2792-2021 AN ORDINANCE AMENDING THE CITY OF ONTARIO ZONING MAP FROM SINGLE FAMILY RESIDENTIAL (RS-50) TO PLANNED DEVELOPMENT RESIDENTIAL (PD) FOR A PROPERTY KNOWN AS TAX LOTS 3200 AND 3500 ON TAX MAP 18S47E09CC AND STREETS ADJACENT THERETO.** Roll call vote: Baker-yes; Kirby-yes; Hart-yes; Braden-yes; Melendrez-yes; Hill-yes. Motion carried 6/0/0.

KIRBY moved, BRADEN seconded, **THAT THE CITY COUNCIL WAIVE A SECOND READING OF ORDINANCE #2792-2021, AN ORDINANCE AMENDING THE CITY OF ONTARIO ZONING MAP FROM SINGLE FAMILY RESIDENTIAL (RS-50) TO PLANNED DEVELOPMENT RESIDENTIAL (PD) FOR A PROPERTY KNOWN AS TAX LOTS 3200 AND 3500 ON TAX MAP 18S47E09CC AND STREETS ADJACENT THERETO.** Roll call vote: Baker-yes; Kirby-yes; Hart-yes; Braden-yes; Melendrez-yes; Hill-yes. Motion carried 6/0/0.

RESOLUTION #2021-126: CITY COUNCIL TO DECLARE CERTAIN REAL PROPERTY, BEING A PORTION OF THE PROPERTY KNOWN AS THE SUNSET DRIVE WATER TANK PROPERTY, AS SURPLUS LAND AND NO LONGER NEEDED FOR PUBLIC USE AND APPROVING THE SALE OF SAID REAL PROPERTY

It being the date advertised for public hearing on the matter stated above, the Hearing was declared open. There were no objections to the city's jurisdiction to hear the action, no abstentions, ex-parte contact, and no declarations of conflict of interest.

Dan Cummings, Community Development Director, presented.

The Hearing was opened for public testimony. Opponents: None. Proponents: None. There being no Proponent and no Opponent testimony, the Hearing was closed.

HART moved, BRADEN seconded, **THE CITY COUNCIL APPROVE RESOLUTION #2021-126: A RESOLUTION OF THE ONTARIO CITY COUNCIL DECLARING CERTAIN REAL PROPERTY, BEING A PORTION OF THE PROPERTY KNOWN AS THE SUNSET DRIVE WATER TANK PROPERTY, AS SURPLUS LAND AND NO LONGER NEEDED FOR PUBLIC USE AND APPROVING THE SALE OF SAID REAL PROPERTY.** Roll call vote: Baker-yes; Kirby-yes; Hart-yes; Braden-yes; Melendrez-yes; Hill-yes. Motion carried 6/0/0.

HART moved, BRADEN seconded, **THE CITY COUNCIL AUTHORIZE THE CITY MANAGER TO SIGN ALL THE DOCUMENTS REQUIRED TO COMPLETE THIS SALE INCLUDING THE DEED TO TRANSFER TITLE.** Roll call vote: Baker-yes; Kirby-yes; Hart-yes; Braden-yes; Melendrez-yes; Hill-yes. Motion carried 6/0/0.

RESOLUTION #2021-128: CITY COUNCIL APPROVING THE SALE OF REAL PROPERTY, LOT 5 STELLING SUBDIVISION

It being the date advertised for public hearing on the matter stated above, the Hearing was declared open. There were no objections to the city's jurisdiction to hear the action, no abstentions, or ex-parte contact declared. One conflict of interest declared.

Mayor Hill declared a conflict of interest, handed the action over to the Council President, and stepped down from the dais.

Dan Cummings, Community Development Director, presented.

The Hearing was opened for public testimony.

Opponents:

Linda Henderson, Ontario, stated: *I'm not sure I'm an opponent as much as I just have questions about all of this. In the notice of public hearing, it states that it's farmland and you just said that it's some industrial. Is there a difference?*

Mr. Cummings stated yes. Currently, the ground was basically farm and range land. But to develop it, it had to develop as industrial.



Ms. Henderson: *So it's no longer zoned agricultural.*

Mr. Cummings stated agricultural was allowed in the heavy industrial zones.

Ms. Henderson: *But not taxed as agricultural.*

Mr. Cummings stated no because it belonged to the city. Once the sale was completed, it would return to the tax rolls.

Ms. Henderson: *My point was, because it said farmland and I'm aware that if you take off a chunk to build a house, it's subject, the piece of property is now subject to ten years back taxes and I was trying to figure out how that was going to work in this instance, but it sounds as if it's not.*

Mr. Cummings stated it was already in the city, and that was actually a county requirement, not a city one.

Ms. Henderson: *I thought it was a state requirement.*

Mr. Cummings stated it was for county property.

Ms. Henderson: *Okay, okay. And in the notice, it also says the purchaser intends to develop the property. Could you define develop?*

Mr. Cummings stated the purchaser planned to install a couple facilities that met code, but he had not submitted specific items, not was he required to do that.

Ms. Henderson: *But it doesn't sound as if housing is...because it's industrial. Okay.*

Mr. Cummings stated the purchaser was in attendance, who indicated he would be willing to answer any questions.

Joel Ruiz, Ontario, stated: *I own Ruiz Enterprises and we were thinking of taking a big chunk for our company.*

Ms. Henderson: *I apologize, as an English major, I kind of wanted to know what these words meant because they're subject obviously to lots of interpretations. So, I don't really have any objections to this. It was more I have questions, but I also have a question, if I may, going back to the new business with the Park Committee projects. Are the parks under the purview of the Recreation Department or are they funded differently?*

Councilor Hart appreciated her questions but believed she should speak to the City Manager during a break. This public hearing needed to remain germane to what was being discussed.

Ms. Henderson: *Okay. Then, good luck!*

There being no further Proponent and no further Opponent testimony, the Hearing was closed.

BAKER moved, KIRBY seconded, **THE CITY COUNCIL APPROVE RESOLUTION #2021-128 A RESOLUTION OF THE ONTARIO CITY COUNCIL APPROVING THE SALE OF REAL PROPERTY BEING LOT 5 OF THE STELLING SUBDIVISION.** Roll call vote: Baker-yes; Kirby-yes; Hart-yes; Braden-yes; Melendrez-yes; Hill-abstain. Motion carried 5/0/0/1.

KIRBY moved, BAKER seconded, **THE CITY COUNCIL AUTHORIZE THE CITY MANAGER TO SIGN ALL THE DOCUMENTS REQUIRED TO COMPLETE THE SALE OF THE PROPERTY INCLUDING THE DEED TO TRANSFER TITLE TO THE PROPERTY.** Roll call vote: Baker-yes; Kirby-yes; Hart-yes; Braden-yes; Melendrez-yes; Hill-abstain. Motion carried 5/0/0/1.



Mayor Hill returned to the dais.

DEPARTMENT HEAD UPDATES

Public Works: Quarterly Report *(Document attached)*

Al Cablay, Public Works Director, presented.

DISCUSSION ITEMS

Storm Drain and Street Sweeping

Al Cablay, Public Works Director, presented. *Two matters: first of all, the street sweeping question. I think one of the questions or matter that needed to be settled was street sweeping being done more frequently or as often before our public-private partnership with the city and Jacobs and there really, I'm not sure, from my experience, that the answer is no. If anything, it's more frequent. We're a little more sensitized to it just to give you an idea. We, per the contract that we have with the city, we currently sweep the city three times, at a minimum, each year. We do it in three cycles. Cycle one, which is from February and March; then cycle two which is May through July; and cycle three which is October through December. In those times, we also hit the downtown area entirely and the underpasses two to three times a month. In times past, and we do that with two operators operating two machines, they are also part of another crew as well, but keep in mind, in times past what we can recollect from folks that were part of the city crews back then, they had one operator operating one street sweeper five days a week during three-quarters of the year, unless it's either snowplow or icy. In my experience, I believe we're sensitive to street sweeping as any community that I've ever managed in Public Works. That being said, the other matter was in regard to flooding and how that relates to the basins being cleaned and that sort of issue. When I was responding in the brief chat that I had with the Argus, in regard to the basins that are cleaned, we do clean them, we have almost 1,500 basins that we clean, I believed there is the matter of the undersized storm drains that the basins feed. So, the basins are clean, but what happened when this deluge that we just experienced, that amount of rain in that short duration of time, our system was not handled, hasn't been handled, and we have a 2003 Storm Water Master Plan that identified those areas. The mapping that I allude to in that chat that I had with the Argus was to give new homeowners, folks like myself, that say these are areas that you ought to be cognizant of in traveling where there's flooding and that sort of thing, did not mean to be anything more than something that would be helpful, and as I've done in other communities as well. So, with that, I don't know if there's anything more to address. City Engineer and I spoke a little bit about daylighting some of the Storm Water Master Plan, but that was a 2003 Keller and Associates study. Perhaps that's a chat for another time if the Council would like to see what was brought up back then and what has been done since that, since that Mater Plan was brought before the Council.*

Councilor Kirby stated after the storm, he drove 4th Avenue and some back streets, and where it might have previous flooding, it was clean. He believed they'd made progress in that area.

Councilor Melendrez asked how the youth work crew was doing overall.

Mr. Cablay replied they had been both a joy and welcome relief. They were A+.

State Park Land Acquisition for Tater Tots Trail *(Document attached)*

Adam Brown, City Manager, presented.

Council consensus to lease the easement, not take ownership of the park.

ARPA Budget *(Document attached)*

Adam Brown, City Manager, presented.



Parks Committee Report *(Document attached)*

Adam Brown, City Manager, presented.

Councilor Melendrez asked to fill the vacancy on the Parks Committee as the Council representative.

PERS Assumed Rate of Return *(Document attached)*

Adam Brown, City Manager, presented.

Staff would like to proceed with paying off the \$1.5M of the amount budgeted soon, so it could be included in any upcoming pre-actuarial studies or the final for the next biennium. The funds were already budgeted, so if he received the consensus from the Council, staff would prepare the check for signature.

Council consensus to expend the funds.

Mayor Hill asked if the city had to narrow it down, what was the city's obligation? Was the 30% of the \$35M what the city owed?

Mr. Brown stated it was \$15M.

Water Sampling Information *(Document attached)*

Kim Lord, Water Superintendent, presented.

This memorandum was intended to inform city leadership of a regulatory activity involving the city's drinking water system and certain households within the community. The Oregon Health Authority implemented on behalf of the Environmental Protection Agency certain provisions of the federal Safe Drinking Water Act called the Lead and Copper Rule. In 1986, EPA published a regulation to control lead and copper in drinking water. This regulation was known as the Lead and Copper Rule (also referred to as the LCR). Since 1986 the LCR had undergone various revisions. The rule required public drinking water systems to monitor drinking water at customer taps to determine if there was lead or copper exposure. If the action level for lead or copper was exceeded, the system must also inform the public about steps they should take to protect their health such as replacing certain fixtures or service lines under their control. The sampling occurred every three years and the Oregon Health Authority provided a list of homes that fit the sampling criteria, generally homes built between 1982 and 1989. The city then reached out to homeowners within the approved subset and requested that homeowners voluntarily participate in the sampling. Staff delivered the sample bottles in person to sample participants, answered any questions, and picked up the samples after collection. Sample results were shared with each homeowner. The city previously conducted this sampling without any issues. Staff would be reaching out to approximately 30 households to conduct this sampling, many of whom participated previously. The intent of this memorandum was to daylight this activity in case members of the public contacted city leadership regarding this program.

HAND-OUTS**Monthly Department Stats** *(Attached)*

Fire & Rescue, Public Works, Code Enforcement, Police: July 2021

Packet: *(Attached)*

V&C Board Meeting 08/05/2021 w/ 07/01/2021 Minutes

Minutes: *(Attached)*

County Court: 07/07/2021; 07/12/2021

SREDA: 08/03/2021



CORRESPONDENCE, COMMENTS, AND EX-OFFICIO REPORTS

- Councilor Hart stated the V&C Committee approved the grant to the STOL drag races at the airport for \$2,500. However, the proposal that was submitted alluded that the event could make money, so the committee asked that if they took in over \$2,500, they would pay back the \$2,500 to the V&C account.

EXECUTIVE SESSION

An executive session was called at 9:21 p.m. under ORS 192.660(2)(h) to discuss current or potential litigation. Council returned to regular session at 10:13 p.m.

ADJOURN

KIRBY moved, BAKER seconded, **THAT THE MEETING BE ADJOURNED**. Roll call vote: Baker-yes; Kirby-yes; Hart-yes; Braden-yes; Melendrez-yes; Hill-yes. Motion carried 6/0/0.

ACCEPTED:**ATTEST**

Riley J. Hill, Mayor

Tori Barnett, MMC, City Recorder



**AGENDA REPORT
CONSENT AGENDA
September 28, 2021**

To: Mayor and City Council

FROM: Tori Barnett, City Recorder

THROUGH: Adam J. Brown, City Manager

SUBJECT: HANGAR LEASE: ALTITUDE DEVELOPMENT, LLC (TYLER FRAZIER) - 220 GOLF

DATE: September 20, 2021

PROPOSED MOTION:

I MOVE THE CITY COUNCIL APPROVE THE LEASE TO ALTITUDE DEVELOPMENT, LLC FOR HANGAR 220 GOLF AT THE ONTARIO AIRPORT.

SUMMARY:

Tyler Frazier, Altitude Development, LLC, has purchased Hangar 220 Golf from SSI. A new lease agreement is required between Altitude Development, LLC, and the City of Ontario.

BACKGROUND:

The City Council approves all hangar leases.

CURRENT SITUATION:

The purchase of 220 Golf by Altitude Development from SSI has been completed. It is necessary for the city to enter a new agreement between Altitude Development, LLC and the City of Ontario.

ANALYSIS:

- A. **STRATEGIC PLAN** Keeping current on hangar leases complies with the city's strategic plan.
- B. **FINANCIAL** Keeping the leases current at the Ontario Municipal Airport will provide an uninterrupted flow of fees.
- C. **TIMING** Timing is important as the hangar has already been sold and the new owner seeks compliance with the City of Ontario.
- D. **POLICY/LEGAL** It is the responsibility of the city to have a legal contract with tenants at the airport.

ALTERNATIVES:

The City Council could choose not to approve the new agreement with Altitude Development, LLC.

RECOMMENDATION:

Staff recommends that the Lease Agreement with Altitude Development, LLC, be granted.

ATTACHMENTS:

1. 220 Golf (Altitude) Lease Agreement
2. 220 Golf (Altitude) Exhibit A Map
3. 220 Golf (Altitude) Insurance Certificate
4. 220 Golf (Altitude) Bill of Sale
5. 220 Golf (Altitude) Square Footage Cert



LEASE AGREEMENT

220 GOLF

THIS AGREEMENT, made and entered into this day April 13, 2021, by and between the **CITY OF ONTARIO, OREGON**, as first party, hereinafter referred to as the "LANDLORD" and, **ALTITUDE DEVELOPMNT, LLC (ALTITUDE DEVELOPMENT)**, as second party, hereinafter referred to as "TENANT."

WITNESETH:

WHEREAS, LANDLORD is the owner of certain real property known and operated as the Ontario Municipal Airport; and

WHEREAS, TENANT desires to lease certain real property for airplane storage and hangar use.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein it is agreed as follows:

- 1) LANDLORD lease to TENANT and TENANT leases from LANDLORD the real property described in Exhibit "A," attached hereto and by this reference incorporated herein, for a period of TWENTY (20) years, commencing on the 1st day of July. If the lease is not in default, unless either party shall give written notice prior to each anniversary date of this lease, and subject to LANDLORD'S receipt from TENANT of the annual lease payment, the lease term will automatically renew for a successive ten-year term. A decision by LANDLORD to give TENANT written notice that LANDLORD does not intend to extend the ten-year term of this lease shall be based upon LANDLORD'S need to utilize the subject property for other airport or aircraft purposes.
- 2) TENANT shall pay to the LANDLORD as yearly rent the sum of **FIFTEEN POINT SIX FOUR (15.64)** cents per square foot of the property described in Exhibit "A", subject to the rights of LANDLORD to escalate said rental amount as more specifically provided for hereinafter. The parties hereto covenant and agree that the total area of the property described in Exhibit "A" is 3,900 square feet for the purposes of determining the annual rent herein. The annual rental amount shall be paid on or before the 15th day of August each year and is payable each year in advance.
- 3) It is mutually understood and agreed between the parties hereto that the rental amount may be adjusted upward or downward annually in the sole discretion of the Common Council of the City of Ontario. Such adjustment may be made in any year and shall be effective for the balance of the lease term or until further adjustment, if any. Any increase in rent shall not exceed the percentage increase in the Consumer Price Index for Oregon for the previous year. Adjustments to the rent shall not be made more frequently than one adjustment per year and each yearly adjustment shall not be an amount greater than 6% of the then existing rent.
- 4) The property shall be used to build an airplane hangar to be used primarily as storage of one or more airplanes. Any such construction shall be completed solely with TENANT'S labor and at TENANT'S expense.

- 5) Any new construction or improvements made on the property are to be approved writing prior to commencement of either, and the same to be constructed and operated conformity with all ordinances and regulations of the City period of time following expiration of the term or termination of the lease.
- 6) The TENANT will keep and maintain all structures on the leased property in a constant state of good repair, and will refrain from storing any airplane parts, equipment, or debris outside buildings and will keep the premises in a clean, sightly condition. Any aircraft hangar located on the leased premises shall have operative doors. It is mutually understood and agreed between the parties hereto that the building inspector of the City of Ontario shall have the right to inspect the premises periodically. In the event the building inspector of the City of Ontario deems any structure upon the leased premises not to be in compliance with any applicable statute, ordinance, rules or regulation or this agreement the TENANT agrees to correct such non-complying item at the TENANT'S sole expense.
- 7) The TENANT agrees to spray or otherwise control weeds located on and around the leased premises.
- 8) The color of paint used in all new construction and in the painting of any and all structures shall conform to the airport color scheme as adopted by the Airport Committee.
- 9) The TENANT shall not use leased land for any purposes other than those authorized herein without the written consent of the LANDLORD.
- 10) The LANDLORD reserves the right to further develop the airport or landing area of the airport as it sees fit.
- 11) The LANDLORD reserves the right, but not the obligation to maintain and keep in repair the landing area of the airport and all public facilities of the airport.
- 12) This lease shall be subordinate to the provisions of any existing or future agreement between the LANDLORD and the United States relative to the operation or maintenance of the airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the airport.
- 13) During the time of war or national emergency, the LANDLORD shall have the right to lease the landing area or any part thereof to the United States government for military or naval use, and if such lease is executed, the provisions of this instrument insofar as they are inconsistent with the provisions of the lease to the government shall be suspended.
- 14) Except with respect to activities for which the LANDLORD is responsible, the TENANT shall pay as due all claims for work done on and for services rendered or material furnished to the leased premises and shall keep the premises free from any liens. If the TENANT fails to pay such claims or to discharge any lien, LANDLORD may do so and collect the cost as additional rent. Any amount so added shall bear interest at the rate of 12% per annum from the date expended by LANDLORD and shall be payable on demand. Such action by LANDLORD shall not constitute a waiver of any right or remedy which LANDLORD may have on account of TENANT'S default.

TENANT may withhold payment of any claim in connection with a good-faith dispute over the obligation to pay, so long as LANDLORD'S property interests are not jeopardized. If a lien is filed as a result of non-payment, TENANT shall, within ten days after knowledge of the filing, secure the discharge of the lien or deposit with LANDLORD cash or a sufficient corporate surety bond or other security satisfactory to LANDLORD in an amount sufficient to discharge the lien plus any costs, attorney fees and other charges that could accrue as a result of a foreclosure or sale under the lien.

- 15) The TENANT shall obtain Commercial General Liability Insurance in a responsible company, with limits of \$1,000,000 each occurrence with a \$2,000,000 General Aggregate. Such insurance shall cover all risks arising directly or indirectly out of TENANT'S activities on or any condition of the leased premises whether or not related to an occurrence caused or contributed to by LANDLORD'S negligence, shall protect TENANT against the claims of LANDLORD on account of the obligations assumed by TENANT under the provisions of the indemnification paragraph contained herein, and shall protect LANDLORD and TENANT against any and all claims of third persons. TENANT is required to provide a copy of current insurance coverage to the city.

For purposes of compliance with this section, the LANDLORD may provide sufficient insurance, naming the TENANT as an additional insured. Should the LANDLORD be unable to obtain liability and property damage insurance which provides adequate coverage, the TENANT shall be responsible for such coverage as specified above. In the event the LANDLORD provides said insurance, LANDLORD makes no representations, warranties or assurances that said coverage is adequate for the purposes of protecting TENANT. The purpose of said insurance is solely for the protection of LANDLORD and nothing in this paragraph is intended to waive the limits as established in the Oregon Tort Claims Act, ORS 30.260 et seq., as it applies to LANDLORD.

Should the LANDLORD be required to pay additional or increased rates, the City shall have a right to surcharge the TENANTS in an amount in excess of the annual rental rate as defined in Section 3 of this agreement sufficient to reimburse the City.

- 16) No part of the leased property may be assigned to any third person without the prior written consent of the LANDLORD. This provision shall apply to all transfers by operation of law and to transfers to and by trustees in bankruptcy, receivers, administrators, executors and legatees. No consent in one instance shall prevent the provision from applying to a subsequent instance. The LANDLORD shall consent to a transaction covered by this provision when withholding such consent would be unreasonable in the circumstances.

- 17) The following shall be events of default:

a) Failure of TENANT to pay any rent or other charge within thirty (30) days after it is due.

b) Failure of TENANT to comply with any term or condition or fulfill any obligation of the lease (other than the payment of rent or other charges) within fifteen (15) days after written notice by LANDLORD specifying the nature of the default with reasonable particularity. If the default is of such a nature that it cannot be completely remedied with the fifteen (15) day period, this provision shall be complied with if TENANT begins correction of the default within the fifteen (15) day period and thereafter proceeds with reasonable diligence and in good faith to affect the remedy as soon as practicable.

c) Insolvency of TENANT; an assignment by TENANT for the benefit of creditors; the filing by TENANT of a voluntary petition in bankruptcy; and adjudication that TENANT is bankrupt or the appointment of a receiver of the properties of TENANT; the filing of an involuntary petition of bankruptcy and failure of the TENANT to secure a dismissal of the petition within thirty (30) days after filing; attachment of or the levy of execution on the leasehold interest and failure of the TENANT to secure discharge of the attachment or release of the levy of execution within thirty (30) days. If TENANT consists of two (2) or more individuals or business entities, the events of default specified in this paragraph shall apply to each individual unless within thirty (30) days after an event of default occurs the remaining individuals produce evidence satisfactory to LANDLORD that they have unconditionally acquired the interest of the one causing the default. If the lease has been assigned, the events of default so specified shall apply only with respect to the one then exercising the rights of TENANT under the lease.

- 18) In the event of a default, the lease may be terminated at the option of the LANDLORD by notice in writing to TENANT. The notice may be given before or within thirty (30) days after the running of the grace period for default and may be included in a notice of failure of compliance given under the provisions of paragraph 17(b) above set forth. If the property is abandoned by TENANT in connection with a default, termination shall be automatic and without notice.
- 19) If the lease is not terminated by election of LANDLORD or otherwise, LANDLORD shall be entitled to recover damages from TENANT for the default.
- 20) If the lease is terminated for any reason, TENANT'S liability for damages shall survive such termination, and TENANT shall vacate the property immediately and shall remove all improvements and buildings constructed on the leased premises and shall perform any necessary clean-up or other work required to lease the property in its original condition. Any improvements not removed within ninety (90) days after the termination of this agreement shall become the property of the LANDLORD. LANDLORD may re-enter, take possession of the premises and remove any persons or property by legal action or by self-help with the use of reasonable force and without the liability for damages.
- 21) The foregoing remedies shall be in addition to and shall not exclude any other remedy available to LANDLORD under applicable law.
- 22) Waiver by either party of strict performance of any provision of this lease shall not be a waiver of or prejudice the party's right to require strict performance of the same provision in the future or of any other provision.
- 23) If suit or action is instituted in connection with any controversy arising out of this lease, the prevailing party shall be entitled to recover in addition to the costs such sum as the court may adjudge reasonable as attorney fees, including attorney fees upon appeal.
- 24) Any notice required or permitted under this lease shall be given when delivered or when deposited in the United States mail as certified mail, addressed as follows:

To LANDLORD:
City of Ontario
444 SW 4th Street
Ontario, OR 97914

To TENANT:
Altitude Development, LLC
1224 11th Avenue, North
Nampa, ID 83687

or to such other address as may be specified from time to time by either of the parties in writing.

- 25) Subject to the above-stated limitation on transfer of TENANT’S interest, this lease shall be binding upon and inure to the benefit of the parties, their respective successors, and assigns.
- 26) If the TENANT fails to perform any obligation under this lease, the LANDLORD shall have the option to do so after fifteen (15) day's written notice to the TENANT. All of the LANDLORD’S expenditures to correct the default shall be reimbursed by the TENANT on demand with interest at the rate of 12% per annum from the date of expenditure by the LANDLORD.
- 27) In construing this lease, it is understood that the LANDLORD or TENANT may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

IN WITNESS WHEREOF, LESSEE, has caused these presents to be signed by its owner, this 1st day of July, 2021.

CITY OF ONTARIO

TENANT

By: _____
Riley J. Hill, Mayor

By: _____
Altitude Development, LLC

ATTEST:

Print Name

By: _____
Tori Barnett, MMC, City Recorder

Title

Exhibit "A"

Hanger Lease
220 GOLF



City of Ontario
Municipal Airport,
Malheur County,
Oregon



ALTIDEV-01

LKNIGGE

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

6/25/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Boise Office PayneWest Insurance, Inc. 960 Broadway Avenue Suite 500 Boise, ID 83706	CONTACT NAME: PHONE (A/C, No, Ext): (208) 424-2900		FAX (A/C, No): (208) 424-2999
	E-MAIL ADDRESS:		
	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A : Liberty Mutual Insurance Company		23043
	INSURER B :		
	INSURER C :		
INSURED Altitude Development LLC 1224 11th Ave. N. Nampa, ID 83687	INSURER D :		
	INSURER E :		
	INSURER F :		

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER:	X		BZS63449062	6/24/2021	6/24/2022	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
	AUTOMOBILE LIABILITY ☐ ANY AUTO OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) ☐ Y / N If yes, describe under DESCRIPTION OF OPERATIONS below		N / A				PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

CANCELLATION

City of Ontario
 444 SW 4th Street
 Ontario, OR 97914

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

for Knigge

BUYER'S CLOSING STATEMENT

MALHEUR COUNTY TITLE COMPANY, INC.
81 South Oregon St., Ontario, OR 97914

BUYER:

Altitude Development, LLC

SELLER:

BVS, LLC By SSI Management Corporation, sole member

PROPERTY LOCATION:

220 Golf Runway Ontario, OR 97914

FILE NO: 34652

SETTLEMENT DATE: 4/9/2021

	CREDITS	EXPENSES
SALES DATA:		
Purchase Price		\$ 110,000.00
PRORATIONS:		
County taxes from 04/09/21 to 07/01/21 @ \$1764.85/365 = 84 days @ 4.835205		\$ 406.16
Land Lease from 04/09/21 to 07/01/21 @ \$709.88/365 = 84 days @ 1.944877		\$ 163.37
COSTS:		
Settlement or closing fee to Malheur County Title Company		\$ 255.00
Wire fee to Malheur County Title Company		\$ 25.00
TOTAL CREDITS and EXPENSES:	\$.00	\$ 110,849.53
AMOUNT DUE FROM BUYER:		\$ 110,849.53
TOTAL FUNDS DUE FROM BUYER		\$ 110,849.53

MALHEUR COUNTY TITLE COMPANY, INC., hereby certifies that this is a true and exact copy of the buyer/seller closing statement and that the parties have received a copy of this document at close of escrow

By: _____

We are in receipt of a copy of the foregoing statement. Having examined the above statement and found it to be correct, authorization is hereby given to disburse funds in accordance with same

Altitude Development, LLC

By:

Stanley Dean Beus, II, member

By:

Brendan-Tyler Frazier, member

Telephone: 1-541-889-7625

Malheur County Title Company, Inc.

81 S. Oregon Street
Ontario, OR 97914
(541) 889-7625
Fax: (541) 889-3785

CLOSING ESCROW INSTRUCTIONS

Date: **April 8, 2021**
Title Order No.: **34652**
Escrow No.: **34652 E**

To: **Malheur County Title Company, Inc.,**
(Hereinafter designated as "Malheur" or as "Escrow Agent")

From: Seller: **BVS, LLC**

Buyer: **ALTITUDE DEVELOPMENT, LLC**
(Seller and Buyer are collectively referred to herein as "The Principals" or "the Undersigned")

Instructions:

The Principal(s) deliver to Escrow Agent herewith the original documents, money or property described below, to hold and dispose of only as provided in these Instructions.

Funds Delivered: \$110,000.00

Purchase Price to be paid as follows:

\$	Earnest Money Deposit
\$110,000.00	plus Closing Costs due at signing
\$	Loan Amount
\$	Contract/Note(s) from buyer to seller
\$	Other: _____
\$	Other: _____

Documents Delivered:

☒ Earnest Money Agreement
☐ Promissory Note
☐ Trust Deed
☐ Mortgage
☐ Contract of Sale
☐ Loan documents from
☒ Copy of existing Lease between BVS, LLC and City of Ontario
☐ Other: _____
☐ Collection Escrow Instructions to be executed through closing

- A. **Total Consideration.** The total consideration to be paid by Buyer to Seller is **\$110,000.00**
- B. **Date of Closing.** Malheur is instructed to close this transaction only when the Conditions Precedent (below) have been satisfied. **ESTIMATED DATE OF COMPLETION OF TRANSACTION: April 9, 2021**
- C. **Conditions Precedent to Closing.** Before closing this transaction, the following conditions must be satisfied:
1. Escrow Agent must have received the Funds (see "Funds Delivered" above);
 2. Escrow Agent must have received the Documents delivered (see "Documents Delivered" above), fully and correctly executed;
 3. Malheur must be able to furnish the title insurance policy in the form and in the amount described in paragraph D;
 4. **Lender Approval.** If applicable, Escrow Agent must have received lender approval. The Principals acknowledge that recording and disbursement may be subject to final review and approval by the Lender of the Buyer's loan. Escrow Agent is instructed to record the documents in this transaction following receipt, but prior to the disbursement, of loan funds from lender; and with buyers and sellers signature herein, escrow is authorized to follow the written instructions of lender.
 5. The Principals must have examined, approved, and signed the appropriate Documents delivered to this escrow, these Instructions, and the Settlement Statement(s).

Sellers Initials _____

Buyers Initials  

- D. **Title Insurance.** Malheur is instructed to issue or cause to be issued a title insurance policy (or policies) in the following amounts and form:
1. Owner's/Buyer's Policy in the amount of \$n/a
 2. Showing title vested in n/a:
 3. Lender's Loan Policy in the amount of \$n/a;
 4. Insuring the interest of n/a ;
 5. In the following described real property located in Malheur County, State of Oregon:
Hangar Address: 220 Golf Runway, Ontario, OR 97914, more particularly described in the Preliminary Title Report prepared by Malheur, title order no. 34652, dated *March 23, 2021 and;
 6. Subject to the usual preprinted exceptions found in said policies and further subject to only the following specific exceptions set out in said Preliminary Title Report: being exceptions 6-10.
- E. **Closing.** Immediately following satisfaction of the Conditions Precedent (above), Escrow Agent is instructed to close this transaction by delivering and/or recording all of the Documents Delivered and by disbursing the Funds Delivered pursuant to the provisions of the Settlement Statements signed and dated by the Principals. (The Settlement Statements also reflect the fees charged by Malheur for its services provided in closing this Escrow.)
- F. **Adjustments.** The Escrow Agent may make adjustments to the numbers contained in the Settlement Statement(s) after the Statements have been signed reflecting changes in interest, unusual recording fees, loan fees, and pre-approved payment of bills which are generated after the closing.
- G. **Fees and Costs.**
1. **Closing Escrow Fees.** Closing Escrow fees charged by Escrow Agent shall be paid as follows: ½ by buyer; ½ by seller.
 2. **Additional Fees.** The disbursement/posting fee and fees for additional services will be charged in accordance with the current Malheur Escrow Fee Schedule.
 3. **Interest.** Malheur does not earn interest on any monies deposited hereunder. If any principal wants interest to accrue on balances deposited with the Escrow Agent, it must separately instruct the Escrow Agent in writing concerning such investment.
 4. **Lien on Escrow Property for Fees.** In addition to any escrow fee paid or agreed upon at the initiation of this escrow, Principal(s) agree to pay reasonable compensation for any additional services rendered at the request of such Principal(s). In addition to any other remedies it may have, Malheur is entitled to a possessory lien upon all funds, documents, and other property held hereunder to secure the payment of its fees and expenses. Unless otherwise agreed in writing, the Principal(s) agree that each shall be jointly and severally responsible for the fees provided in this paragraph G. The Principal(s) acknowledge that Malheur's fee schedule may change from time to time.
 5. **Dishonored Checks.** Escrow Agent is instructed to disburse funds received as herein provided. Should a check delivered by Buyer(s) or on behalf of Buyer(s) be dishonored by the Bank for any reason, Malheur is authorized to assess its current fee for bad checks in accordance with the then effective Malheur Escrow Fee Schedule.
 6. **Availability Schedule.** Escrow Agent is not required to disburse until funds are available as provided in the then applicable "Malheur Funds Availability Schedule".
 7. **Escrow Charge.** It is understood that the escrow fee provided for in these Instructions is based upon the duties set forth herein, and that Malheur reserves the right to assess an additional charge should any changes be made in these Instructions, or should the closing of this escrow be delayed beyond the original time limit through the fault or direction of the undersigned. The escrow charges are based upon Malheur's current Escrow Fee Schedule. If for any reason disputed funds are retained in escrow, Malheur may deduct therefrom a custodial fee as provided in said schedule.
- H. **Electronic Transfer.** If so instructed, Escrow Agent shall receive and/or disburse any funds in connection with this escrow by electronic (wire) transfer. Should funds be deposited in a form other than wire transfer, the Principal(s) acknowledge that Malheur will be unable to disburse until such time as said funds are considered collected.
- I. **Required Disclosures.**
1. **Trust Account.** The Principal(s) acknowledge that the monies managed by Malheur in connection with this escrow will be held in an escrow trust account. As consideration for the establishment of such trust account, the bank in which the account is held may provide certain benefits to Malheur which may or may not be passed on to the consumer by Malheur in the form of lower escrow fees. Malheur (as required by OAR 863-50-065(2)), discloses that its estimated monetary benefit for the past year on a per closing basis is \$*.
 2. **RESPA.** If applicable, and the buyer is obtaining a loan, pursuant to the federal TILA-RESPA Integrated Disclosure Rules ("TRID") buyer and seller will each receive a federally required document called a Closing Disclosure (CD) which among other things summarizes each party's closing costs. TRID requires that the CD must be received by a residential loan borrower at least 3 business days prior to consummation of the transaction which in most cases in Oregon will be the date on which buyer signs the loan documents. Under certain circumstances, a change to the CD late in the transaction could result in a delay in closing to comply with the three business day rule.
NOTE: The manner in which TRID requires title insurance costs to be disclosed differs from the actual costs that may be charged to the parties under Oregon Law. In such instances at closing escrow issue a separate statement showing the actual costs for an owner's and lenders policy of title insurance.
 3. **Gramm-Leach-Bliley Act.** In accordance with the Gramm-Leach-Bliley Act, the appropriate parties have been provided with a copy of Malheur's Privacy Policy.

S. Initial

S. Initial

B. Initial

B. Initial

Sellers Initials _____

Buyers Initials

4. **Representations Concerning Oregon Law.** The Principal(s) acknowledge that Malheur has made no representations regarding compliance with Oregon laws concerning: water rights or domestic water supplies, well identification, well information, Consumer Protection, statutory required seller disclosures, subdivision acts, zoning, or hazardous substances.
5. **Referral.** The Principal(s) have not been referred by Malheur to any named attorney, nor have they been discouraged to seek the advice of an attorney. The Principal(s) have been advised to seek legal counsel of their own choosing at their personal expense for any questions the Principal(s) may have. The Principal(s) have been specifically informed that Malheur is not licensed to practice law and no legal advice has been offered by Malheur or its employees. Malheur is acting only as an escrow holder and has not advised any party respecting the merits of this transaction or the nature or quality of the instruments utilized.
6. **FIRPTA.** Malheur assumes no liability or responsibility for verification of the nationality or foreign status of any transferor/seller in this transaction and has no responsibility for the collection, withholding, reporting or payment of any amounts due under Section 1445 and 6039C of the Internal Revenue Code, commonly referred to as FIRPTA.
7. **Escrow Agent Obligations/Escrow Instructions Controlling.** Malheur's liability hereunder is limited to its obligations specifically set forth herein. Notwithstanding anything to the contrary herein appearing, Malheur shall have no duty to know or determine the performance or non-performance of any term or condition of any contract or agreement between the Principal(s) hereto. Malheur's duties and responsibilities are limited to those specifically stated herein. Malheur has no responsibility for the authenticity, validity, sufficiency, or content of any document supplied by the Principal(s). In the event of conflict or omission between the deposited documents and these Escrow Instructions, these Escrow Instructions shall control as to the obligations of Escrow Agent.
8. **Escrow Agent Liability.** Malheur shall not be liable for any loss which may occur by reason of forgeries, false representations or damages arising from the lack of a smoke detector, or the exercise of its discretion in any particular manner or for any other reason, except gross negligence or wilful misconduct.
9. **Controversy or Dispute.** If a controversy arises between the Principal(s) hereto or with any third person, Malheur may delay acting hereunder while it awaits the outcome of such controversy as reflected in a judgment or decree. Malheur may institute interpleader or other proceedings as Malheur may deem proper. If such proceedings are initiated, Malheur shall not be liable for interest or damages. The Principal(s) shall reimburse and indemnify Malheur for any and all attorney fees, court costs, and expenses it incurs as a result of such controversy.
10. **Record of Balance.** In the event any provision in the escrow Instructions shall refer to a balance which is being computed outside this escrow, Malheur shall not be bound to verify said balance. It shall be the duty of the Principal(s) to inform the Escrow Agent of any such balance, payment amount and due date. No liability shall attach to an action or failure to act by Malheur in the event such information shall be material to the performance of the escrow Instructions.
11. **Not Responsible for Liens.** Escrow Agent shall not in any way be responsible for liens attaching after the recordings required in this closing.
12. **Underlying/Existing Encumbrances.** The underlying encumbrances as shown on the title report, if any, if not paid in full through escrow, may contain terms and provisions that permit the security holder, e.g., the mortgagee, to exercise certain rights, e.g., the right to accelerate payment of the debt or charge penalties. The Seller and Buyer have been requested by Escrow to review these documents and seek legal advice, and the Seller and Buyer do hereby relieve and hold harmless Malheur County Title Company, Inc., from any and all claims, suits, demands, damages, expenses, including attorney fees, or causes of action arising out of the security holder's exercise of the rights contained in the terms and provisions of the encumbrance. All required consents will be provided by the parties outside of escrow. Malheur has no responsibility to obtain consents unless so instructed to do so in writing.
- J. **Scope of Escrow.** All terms and provisions of the Earnest Money Agreement and any amendments or addendums thereto have been complied with to the complete satisfaction of the parties or will be complied with outside of this escrow. Unless otherwise set forth herein it is understood that water, sewer, waste collection, electricity charges and inventory for fuel will be adjusted between the Principal(s) outside this escrow.
- K. **Acceptance Upon Signature.** Any and all documents prepared by Malheur at the Principal(s) direction have been reviewed and are hereby approved by the Principal(s) as to content, form and terms.
- L. **Counterparts.** These Instructions and/or any non-notarized closing documents may be signed in counterpart, with like effect as if all signatures appeared on a single copy of the document(s). Consent, acceptance or approval required or remitted by any party hereunder may be given by facsimile or email transmission.
- M. **Evidence of Assignment.** Should the interest of any Principal pass to any other Party(s), Escrow Agent is not required to take notice of such transfer unless and until documents in evidence thereof, satisfactory to and required by Malheur, have been deposited to Escrow Agent together with any applicable fee.
- N. **Insurance.** If any fire insurance or other insurance policies are deposited in this escrow, Malheur shall have no duty to (1) determine the sufficiency thereof; (2) to pay or see to the payment of any premiums thereon, (3) to renew or to see to the renewal thereof, or (4) to notify any person of the expiration thereof.
- O. **Termination or Expiration.**
 1. **Expiration.** These Instructions are effective upon receipt and thereafter until revoked in writing by the Undersigned or any one of them. If these Instructions are not signed, they shall not be effective.
 2. **Termination of Escrow.** Escrow Agent is authorized to resign from and cancel this escrow after giving 60 days written Notice, as defined herein, to the Principal's last known address. At the expiration of the 60 day period, Escrow Agent may return the documents herein by first-class mail, certified or registered, to the Principal(s). Upon return of the documents, Malheur's liability hereunder shall cease and terminate. Any unpaid fees owed to Escrow Agent shall be paid upon termination.
 3. **Closure of Escrow File.** At any time after the expiration of one year from the time when this escrow should by its terms be concluded, Escrow Agent may, after giving written Notice, as defined herein, to the Principal(s), close its records, thereby terminating its responsibilities with respect to this escrow.

Sellers Initials _____

Buyers Initials TPB SB

4. **Termination Upon Default.** If Escrow Agent is advised in writing by the Payee/Seller, or their authorized representative, that a default has occurred, Escrow Agent is authorized to surrender to the Payee/Seller, or their authorized representative, upon written demand, all documents then in Malheur's possession, thereby terminating this escrow. The Payee/Seller will pay any costs due to Escrow Agent as provided in this document.

P. General Provisions.

1. **Attorney Fees.** In the event the Principal(s) refuse to reimburse Malheur for funds advanced and Malheur turns the file over to an attorney for collection of debt, the Principal(s) deemed responsible shall pay all of Malheur's attorney fees in connection with the collection of the debt. In the event of controversy, whether or not resulting in litigation, or in the event of an action to recover Malheur's expenses or charges from either or any of the Principal(s), Malheur shall be entitled to reasonable attorney fees and reimbursement of its expenses.
2. **Binding Agreement.** This agreement is binding upon the heirs, executors, administrators, successors and assigns of all Principal(s) executing this document. This clause is not intended to create a presumption of assignability and any specific prohibition on assignment herein shall supersede this paragraph.
3. **Notice.** Any notice under these Instructions shall be in writing and shall be effective when actually delivered in person, via facsimile, or deposited in the U.S. mail, registered or certified, postage prepaid and address stated in these Instructions or such other address as either Principal may subsequently designate by written notice to Malheur and the other party.
4. **Applicable Law.** These Instructions have been issued and accepted in Oregon and the Property deposited with Malheur is located in Oregon. The Principal(s) agree that the laws of the state of Oregon shall be used in construing the Instructions and enforcing the rights and remedies of the undersigned.
5. **Time of Essence.** The Principal(s) and Malheur acknowledge that time is of the essence in these Instructions.
6. **Escrow Information.** You are authorized to furnish to any attorney, realtor, broker, or lender who represents a principal identified with this transaction, any information requested regarding this escrow. The escrow agent is authorized to provide a copy of the closing statement of the represented principal(s), upon request, to any real estate broker/realtor representing such principals(s) involved in the transaction and any additional copy to a principal or the principal's designee.
7. **Certification.** The Principal(s) hereby certify, under the penalty of perjury, that the information provided in these Instructions is true, correct and complete.
8. **Death of Principal.** Upon receipt of written notice of death of one of the Principal(s), Escrow Agent is authorized to hold all funds received for the account of said party until receipt of written Instructions addressing the disposition of funds and such additional written evidence that Escrow Agent may require concerning the identity of the legal heirs or successors.

Q. Definitions.

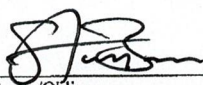
1. **Close of Escrow.** The term "close of escrow" means the date on which instruments referred to herein are filed or recorded, or in the case where there are no filings or recordings, when documents have been executed by all parties and funds exchanged.
2. **Singular/Plural Terms.** As used in these Instructions, the words "Principal", "Seller", "Payor", "Obligee", "Payee", "Buyer", "Escrow Agent", and "Obligor" shall include both the singular and the plural.
3. **Captions.** All captions used herein are intended solely for convenience and reference, and they shall not limit any of the provisions of these Instructions.
4. **Instructions.** As used throughout this document, "Written Instructions" or "Instructions" is defined as Instructions, in writing, mailed, hand-delivered or faxed, signed and dated by the principals directing and authorizing the escrow agent to act or refrain from acting. All Instructions to modify or cancel this Escrow Account shall be in writing signed by all principals to this agreement.

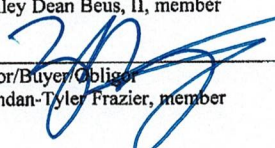
IT IS UNDERSTOOD BY THE PARTIES SIGNING THESE INSTRUCTIONS THAT THESE INSTRUCTIONS ARE THE COMPLETE INSTRUCTIONS BETWEEN MALHEUR AS ESCROW AGENT AND THE UNDERSIGNED AS PRINCIPAL(S) TO THIS ESCROW TRANSACTION. THESE INSTRUCTIONS MAY NOT INCLUDE ALL THE TERMS OF THE AGREEMENT WHICH IS THE SUBJECT OF THIS ESCROW. READ THESE INSTRUCTIONS CAREFULLY AND DO NOT SIGN THEM UNLESS THEY ARE ACCEPTABLE TO YOU.

Principal: BVS, LLC
By SSI Management Corporation,
Sole member

By _____ Date _____
Payee/Seller/Obligee
Kirk G. Smith, President

Principal: Altitude Development, LLC

By  Date 4-8-21
Payor/Buyer/Obligor
Stanley Dean Beus, II, member

By  Date 4-8-21
Payor/Buyer/Obligor
Brendan-Tyler Frazier, member

Seller Mailing Address/Phone:

Buyer Mailing Address/Phone:
1224 11th Ave N.
Nampa, ID 83687

Malheur hereby acknowledges receipt of the Instructions and accepts the Instructions this 8 day of April, 2021.

MALHEUR COUNTY TITLE COMPANY, INC.

By: _____

ADDENDUM TO ESCROW INSTRUCTIONS TO
MALHEUR COUNTY TITLE COMPANY, INC.

DOCUMENT PREPARATION AUTHORIZATION

ESCROW NO: 34652

Date: April 8, 2021

The undersigned hereby request and instruct MALHEUR COUNTY TITLE COMPANY, INC. to act as scrivener, on our behalf, in accordance with these written instructions and Earnest Money Agreement, if any, and to prepare the following documents in connection with the real estate transaction under the above shown escrow number.

DOCUMENTS TO PREPARE:

BILL OF SALE from BVS, LLC to ALTITUDE DEVELOPMENT, LLC, AN Idaho limited liability company, for transfer of an airport hangar located at 220 Golf Runway, Ontario, OR 97914.

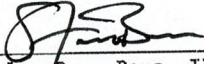
LEGAL DESCRIPTION OF LEASED LAND AS SHOWN ON PRERLIMINARY TITLE REPORT NO. 34652, ISSUED BY MALHEUR COUNTY TITLE COMPANY, INC., SCHEDULE A, EXCEPTION 5.

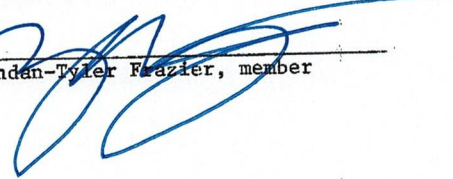
The undersigned hereby acknowledge that they have been advised they have the right to seek legal counsel concerning this real property transaction. MALHEUR COUNTY TITLE COMPANY, INC. is acting solely under the direction of the undersigned and has not offered any legal advice to the undersigned concerning the appropriate documents to be used nor the method of completing the documents which are necessary to close the above described real property transaction.

BVS, LLC
By SSI Management Corporation, sole member

By _____
Kirk G. Smith, President

ALTITUDE DEVELOPMENT, LLC

By  _____
Stanley Dean Beus, II, member

By  _____
Brendan-Tyler Frazier, member

REF# 19506

REF# 19506 BVS, LLC

APPRAISED 1/01/2017 BY 21 CHRIS RUSSELL

MAP 18S4707

4100A

CODE ZONE

28 0001 O-AD

AA 1 VA

PCL 021 MCL 201

SITE

IMPROVEMENTS

L#	BCL	INT	INSP	N	BY	21	DATE	6/02/16
		SQ	FT	YRBL	YRAP		MARKET	RMV
1	681	AIRPLANE	HANGARS	3,900	1999	2017	116,730	116,730C

116,730 TOT MKT IMPROVEMENTS
MARKET LAND

APPRAISED	1/01/1998	BY	DATE	0/00/00
L#	ACRES	CLAS	MARKET	RMV
			EXM	%

.00 0 0 TOTAL MARKET LAND

116,730 TOTAL MARKET VALUE

IMPROVEMENT DETAIL

L#	1	BK/BCL	2017	681	AIRPLANE	HANGARS
YRBL	1999	YRRM	SITUS	220	GOLF	
ENDTR			CONDITION:		APP	21
RP30		1	EACH	HANDINPUT/NEW	CONST	100
4444		3,900	SQFT	UNIV COMM IND	SQFT	100
		LCM	100	PHY	100	FNC
			100	CL+	100	CL-
					1.00	1.00

***** COMMENTS *****

3-10-2000/G NEW CONST FOR 2000.HANGER ON CITY OWNED PROPERTY. AIRPORT.
081505 RWT MAP CHANGE BY JV R000420 FOR GIS PURPOSES.
062911 GCR CORRECTED SQFT OF CONC.AND EVE HEIGHT.RADIANT HEAT,10X12 OFFICE.
R&M STEEL BUILDINGS OF CALDWELL
050614 TF MAILING ADD CHG PER WRITTEN REQ FROM CUSTOMER (SEE REQ IN FILE).
112217 KF MAILING ADD CHG PER WRITTEN REQ SIGNED BY KAREN HIGLEY
021021 MM ADDRESS CHG PER TAX STATEMENT STUB.
072921 ADJUSTED SQUARE FOOTAGE AND RMV BASED ON FIELD INSPECTION. RM

PRIOR 6 YEARS VALUES

YEAR	ACRES	RMV	RMV	RMV	M5	ASSESSED	TAXES
		LAND	IMP	TOTAL	TOTAL	TOTAL	
2020	.00	0	131,880	131,880	131,880	114,706	1,764.85
2019	.00	0	129,290	129,290	129,290	111,366	1,718.37
2018	.00	0	134,680	134,680	134,680	108,123	1,611.36
2017	.00	0	146,390	146,390	146,390	104,974	1,561.74
2016	.00	0	104,210	104,210	104,210	101,917	1,488.04
2015	.00	0	106,340	106,340	106,340	98,949	1,475.53



City of Ontario, Oregon
Housing Incentive Program Checklist

Applicant: Ernesto Juarez Date: 8-4-2021

Site Address or Tax Lot: 924 Reiter Dr. Ontario OR, 97914

Application Number: 37-2021 (City Use Only)

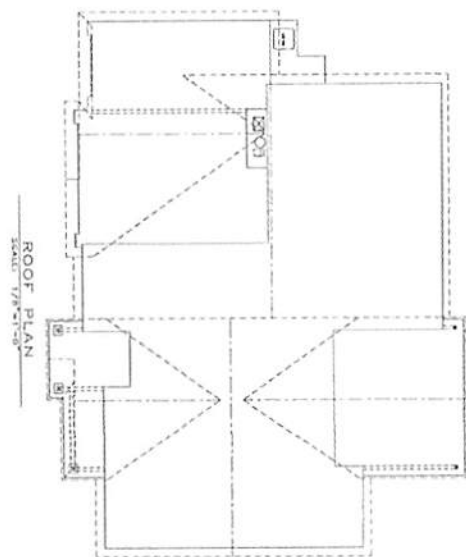
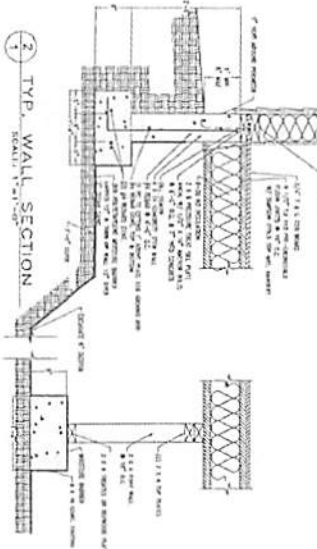
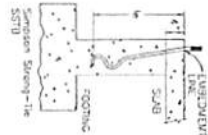
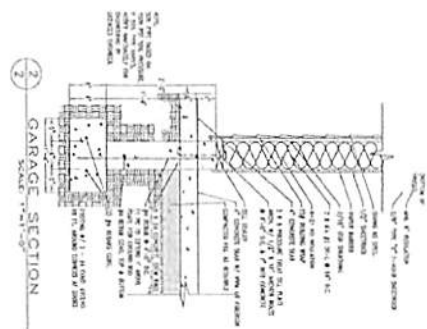
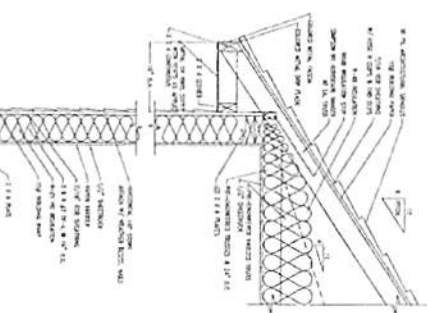
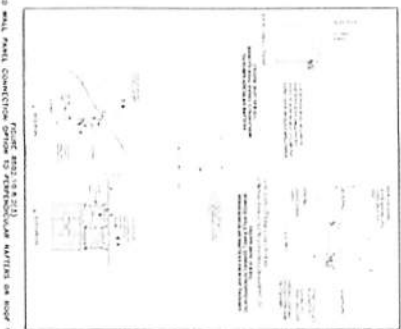
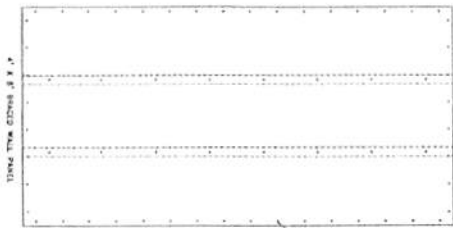
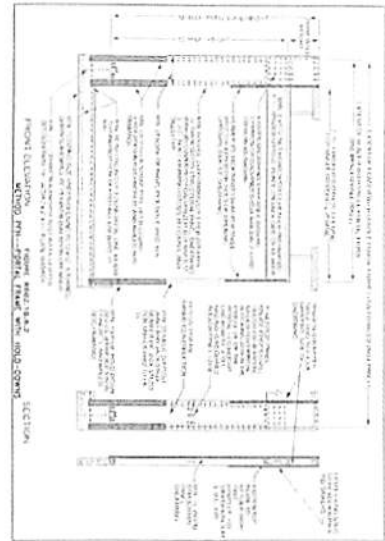
Application Information: (Applicant or Staff)

- ☒ Completed Application Signed & Dated: _____
- ☒ Documentation showing funding: _____
- ☒ Within City Limits
- ☐ In Urban Growth Boundary Annexation Application filed: N/A
- ☒ Floor Plan or description describing minimum square footage:
 - 1. House Square footage: 2,384
 - 2. Number of Baths: 2.5
 - 3. Size of Garage: 905 sqft.
- ☒ Description of Property of Home:
 - 1. Tax Lot map & Number: 1610
 - 2. Copy of Deed: 2021-2307
 - 3. Or written description: LOT 15 SAGE RIDGE PLACE SUB.
- ☒ Completed W-9 Taxpayer Form.

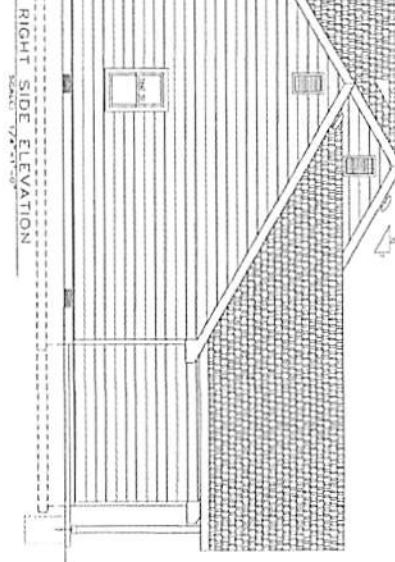
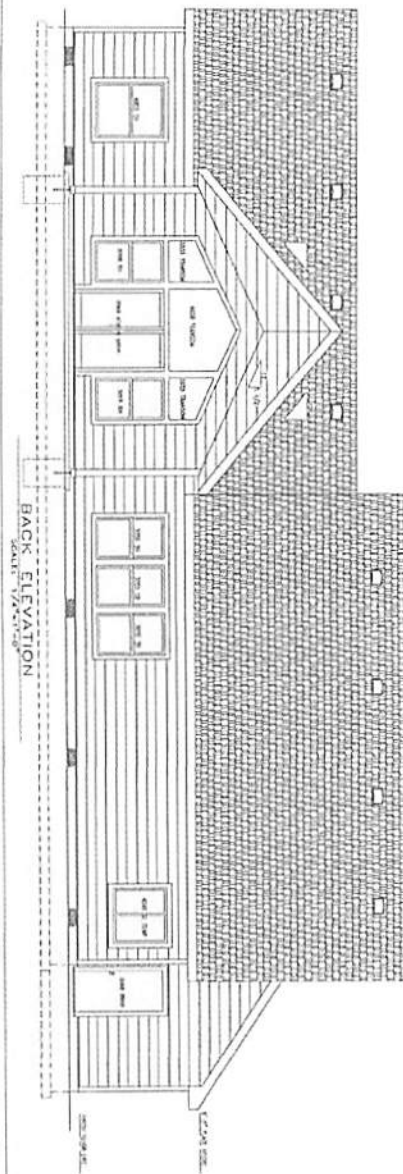
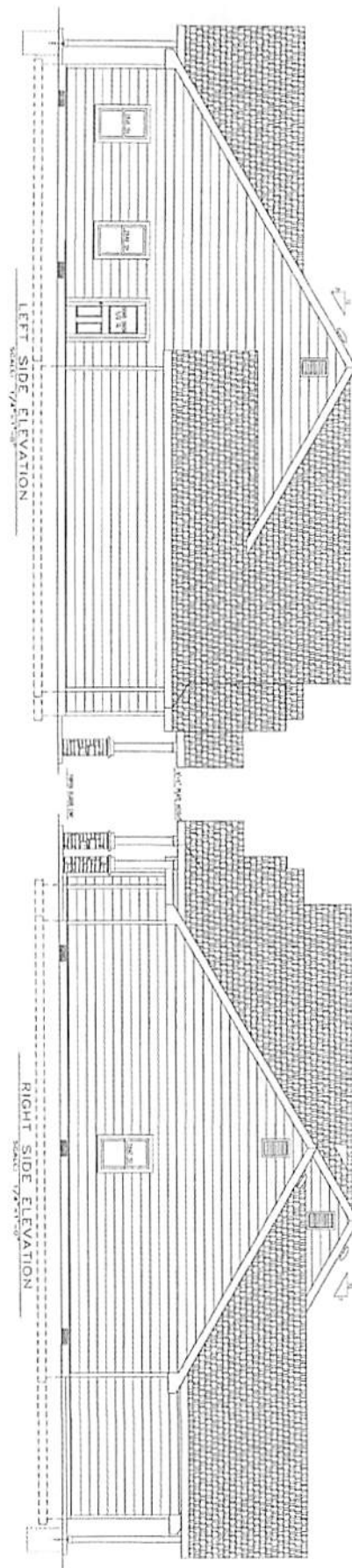
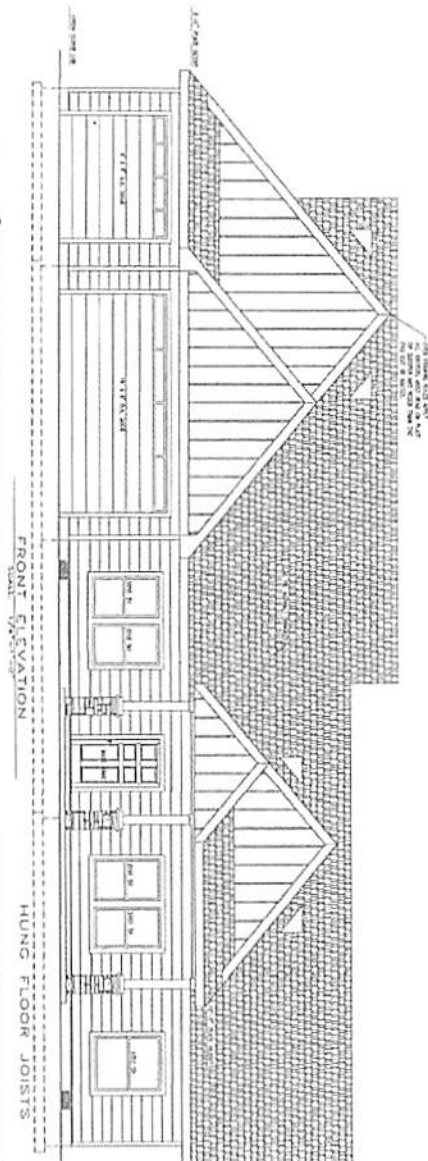
Process Completed: (Staff Use Only below)

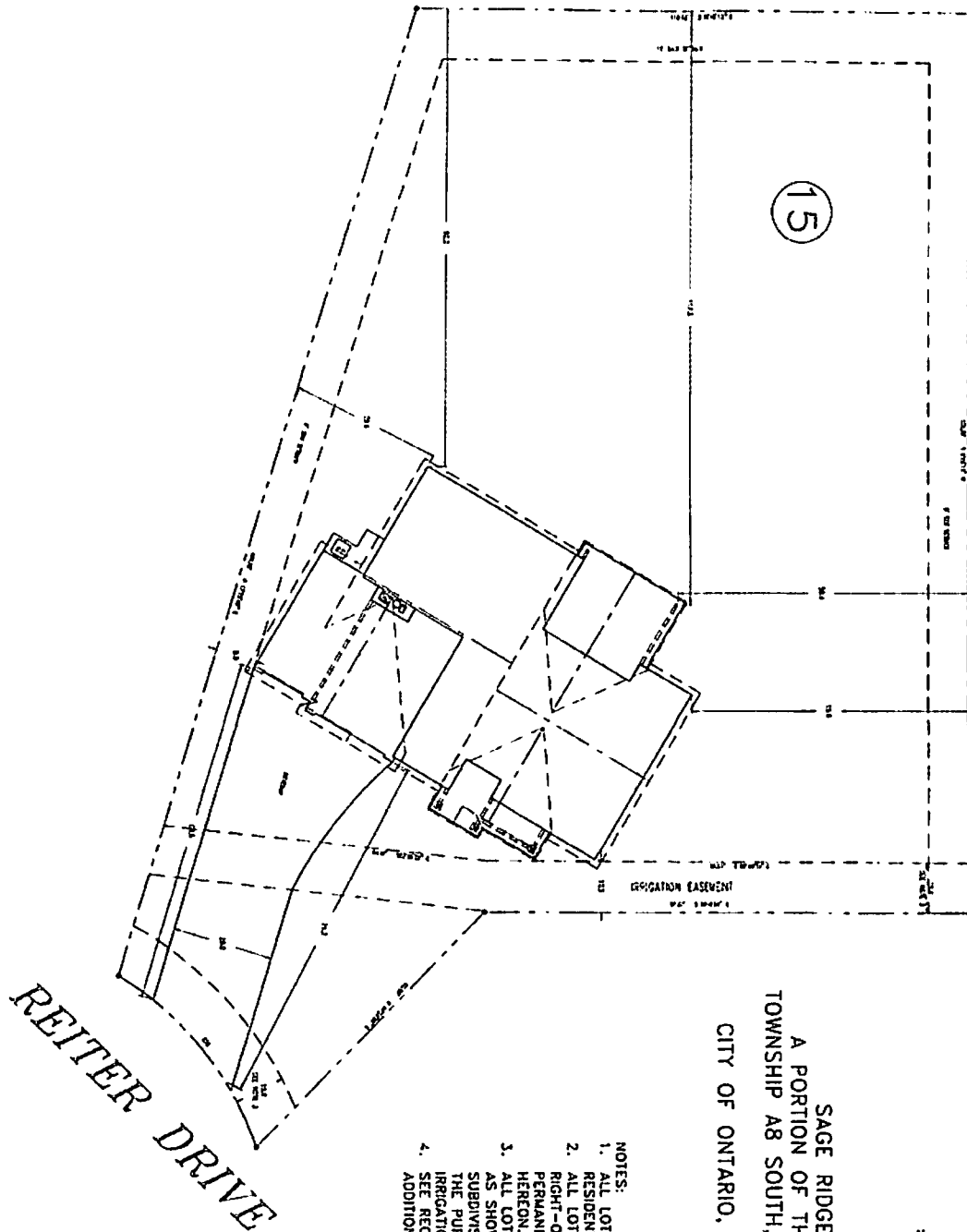
- ☒ PDAC (if Required) date Completed: N/A
- ☒ Community Development Director approval date: 8/9/2021
- ☐ Forwarded to Business Loan Fund Committee: _____
- ☐ BLF Committee forwards recommendation to City Manager: _____
- ☐ City Council Approval or Denial: _____
- ☐ City Manager signs application signifying Council Approval: _____
- ☐ Application submitted to Finance for tracking: _____
- ☐ Certificate of Occupancy issued (within 2 yrs. of Council approval): _____
- ☐ Proof of Owner Occupancy (must be within 1 yr. of C of O): _____
- ☐ Payment made to Owner: _____

Return to: Dan K Cummings, Community Development Director, 458 SW 3rd Street, Ontario, OR 97914
541-881-3222 – dan.cummings@ontariooregon.org









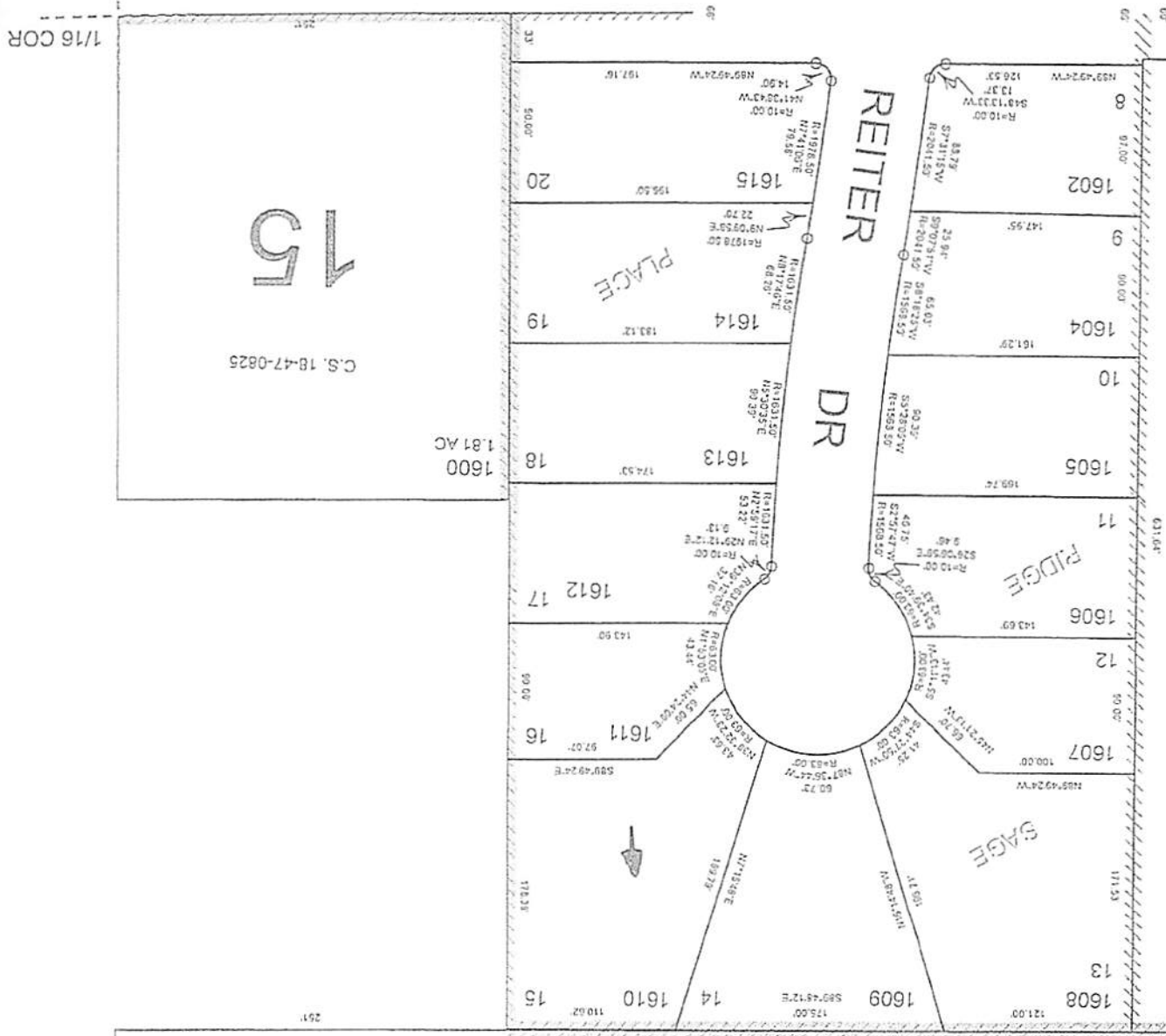
SAGE RIDGE PLACE SUBDIVISION
 A PORTION OF THE NW 1/4 OF SECTION 4
 TOWNSHIP A8 SOUTH, RANGE 47 EAST, WILLAMETTE
 MERIDIAN
 CITY OF ONTARIO, MALHEUR COUNTY, OREGON

- NOTES:
1. ALL LOTS IN THIS SUBDIVISION ARE SINGLE-FAMILY RESIDENTIAL LOTS
 2. ALL LOT LINES COMMON TO THE PUBLIC RIGHT-OF-WAY HAVE A TEN FOOT (10') WIDE PERMANENT PUBLIC UTILITY EASEMENT AS SHOWN HEREON.
 3. ALL LOTS ARE SUBJECT TO AN IRRIGATION EASEMENT AS SHOWN HEREON IN FAVOR OF SAGE RIDGE PLACE SUBDIVISION AND HOMEOWNER'S ASSOCIATION FOR THE PURPOSE OF ACCESSING AND MAINTAINING THE IRRIGATION SYSTEM.
 4. SEE RECORD OF SURVEY NO. 18-47-0906 FOR ADDITION BOUNDARY INFORMATION.

Rywest Homes Inc.
 dream • design • build

RCCL 2

7

Revised: MA
10/25/2019



**AGENDA REPORT
CONSENT AGENDA
September 28, 2021**

To: Mayor and City Council

FROM: Kari Ott, Finance Director

THROUGH: Adam J. Brown, City Manager

SUBJECT: HOUSING INCENTIVE PROGRAM: BK CONSTRUCTION (38-2021)

DATE: September 20, 2021

PROPOSED MOTION:

I MOVE THE CITY COUNCIL APPROVE THE APPLICATION BY BK CONSTRUCTION AT 724 SW 16TH STREET FOR THE ONTARIO HOUSING INCENTIVE PROGRAM IN THE AMOUNT OF \$10,000.

SUMMARY:

BK Construction Inc. submitted an application for \$10,000 from the Housing Incentive Program.

The property is located at 724 SW 16th St. (Lot 4 Brockside Subdivision).

The Business Loan Committee is the reviewing and recommending authority for the City of Ontario Business Loan Fund and as such the Committee is tasked with reviewing and providing a recommendation to the City Council on all applications submitted for loan requests and Housing Incentive payments. The City Council is the final authority for approval of the applications. The City Manager, Finance Director and Community Development Director are responsible for insuring all requirements are met prior to payment of the approved application.

BACKGROUND:

The City Council, under Resolution #2018-111, updated the City of Ontario Business Loan Fund codes under Section 11a Housing Incentive Program to promote new housing development with the city limits of Ontario.

CURRENT SITUATION:

BK CONSTRUCTION INC is requesting approval of their application for the \$10,000.00 Incentive on a new home to be located at 724 SW 16th Street being Tax Lot 4 Brockside Subdivision. The

proposed Dwelling will be 1522 Square feet with two (2) bathrooms and three (3) car garage. The application was deemed to be complete by the Community Development Director and meeting or exceeding the minimum requirements of Section 11 of the Business Loan Fund code and was being forwarded to the Committee for their review and recommendation. The Business Loan Fund Committee recommended the loan for approval by the Council on September 16, 2021.

ANALYSIS:

- A. **STRATEGIC PLAN** The Housing Incentive Program promotes growth and desirability goals of the Ontario Strategic Plan. It specifically addresses the activities to build a variety of housing options and add fill-in housing.
- B. **FINANCIAL** If approved, the city would pay the funds from the Business Loan Fund. The \$10,000.00 would be paid back to the fund through the city portion of the property taxes collected on the property and dwelling approved under this application.
- C. **TIMING** Time is of the essence on this application as the applicant wants to pull a building permit and start construction as soon as they receive their approval.
- D. **POLICY/LEGAL** The Business Loan Fund Committee makes recommendations to the City Council. If the City Council approves the action, the City Manager will have the Agreement signed by all parties authorizing the Building Department to issue a permit under this Agreement.

ALTERNATIVES:

Table the Action: The City Council could table the request and request further information from the Applicant.

Deny the Action: The \$10,000 payment would not be made.

RECOMMENDATION:

Staff has reviewed the application for completeness and find it meeting or exceeding the minimum requirements. The Business Loan Fund Committee sent a favorable recommendation to the City Council. Therefore, staff recommends that the City Council approve the Application by BK Construction in the amount of \$10,000.00.

ATTACHMENTS:

1. Incentive Application 38-2021_BK Construction



received
9/3/2021

City of Ontario, Oregon
Housing Incentive Program Checklist

Applicant: BK Construction Inc Date: 09/03/2021

Site Address or Tax Lot: lot 4 - 724 SW 16th Street

Application Number: 38-2021 (City Use Only)

Application Information: (Applicant or Staff)

- ☒ Completed Application Signed & Dated: 09/03/2021
- ☒ Documentation showing funding: Self funded
- ☒ Within City Limits
- ☐ In Urban Growth Boundary Annexation Application filed: _____
- ☒ Floor Plan or description describing minimum square footage:
 - 1. House Square footage: 1522
 - 2. Number of Baths: 2
 - 3. Size of Garage: 3
- ☒ Description of Property of Home:
 - 1. Tax Lot map & Number: 724 SW 16th Street
 - 2. Copy of Deed: _____
 - 3. Or written description: LOT 4 BROOKSIDE SUBDIVISION
- ☒ Completed W-9 Taxpayer Form.

Process Completed: (Staff Use Only below)

- ☒ PDAC (if Required) date Completed: N/A
- ☒ Community Development Director approval date: Dan Cummings 9/9/21
- ☐ Forwarded to Business Loan Fund Committee: _____
- ☐ BLF Committee forwards recommendation to City Manager: _____
- ☐ City Council Approval or Denial: _____
- ☐ City Manager signs application signifying Council **Approval**: _____
- ☐ Application submitted to Finance for tracking: _____
- ☐ Certificate of Occupancy issued (within 2 yrs. of Council approval): _____
- ☐ Proof of Owner Occupancy (must be within 1 yr. of C of O): _____
- ☐ Payment made to Owner: _____

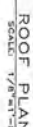
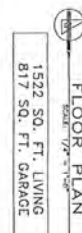
Return to: Dan K Cummings, Community Development Director, 458 SW 3rd Street, Ontario, OR 97914
541-881-3222 – dan.cummings@ontariooregon.org

also called test activity be noted on the sampling. The test conducter should be notified if the test results are not as expected. The test results should be recorded on the test report. The test results should be recorded on the test report. The test results should be recorded on the test report.

Flow rate test: 40 PPS
Shut the valve: 40 PPS
Flow rate test: 1500 PPS (estimated)
TOPOCATH: 1500 PPS (estimated)
 As history is better in firm established use, estimate 2" flow limit problem
 C&B can handle compression strength to be 2000 PSI at 25 feet
 (it scales to be 1000 PSI)
 Pressure based control points in all lower rates are good
 1000 PSI at 25 feet, 1000 PSI at 100 feet, 1000 PSI at 200 feet
 50" O.D. at 1000 PSI, 1000 PSI at 200 feet, 1000 PSI at 400 feet
 800000000 PSI
 All with ground anchoring. Inside stress bars
 2" x 2" x 2" by 1000 PSI, 1000 PSI at 100 feet, 1000 PSI at 200 feet
 and 1000 PSI. Provide details in ratings to match effects
 and anchoring.

[illegible][illegible]

Occurrence of disease, title	R-49
Flowers were abundant	R-50
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Flowers were abundant	R-98
Flowers were abundant	R-99
Flowers were abundant	R-100



UNITED STATES PATENT
OFFICE
WASHINGTON 25, D.C.
20540

NOTES:
ENERGY PATH

WORKER REQUIRED TO SET UP
IF TO REMOVE THE WINDOW
GLASS & SMALL PANEL WINDOW
FROM DOOR - STEEL
CUTTING TOOL
50000 50122-045
ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 08-01-01 BY 60321
EXCEPT WHERE SHOWN
OTHERWISE TO BE IN THE
PUBLIC DOMAIN

DATE: 08-01-01

REVIEWED FOR CODE COMPLIANCE

Duplicating Permit No. _____

Address 724 SW 16th St

By _____ Date _____

REC'D
01-03-2021

COPY

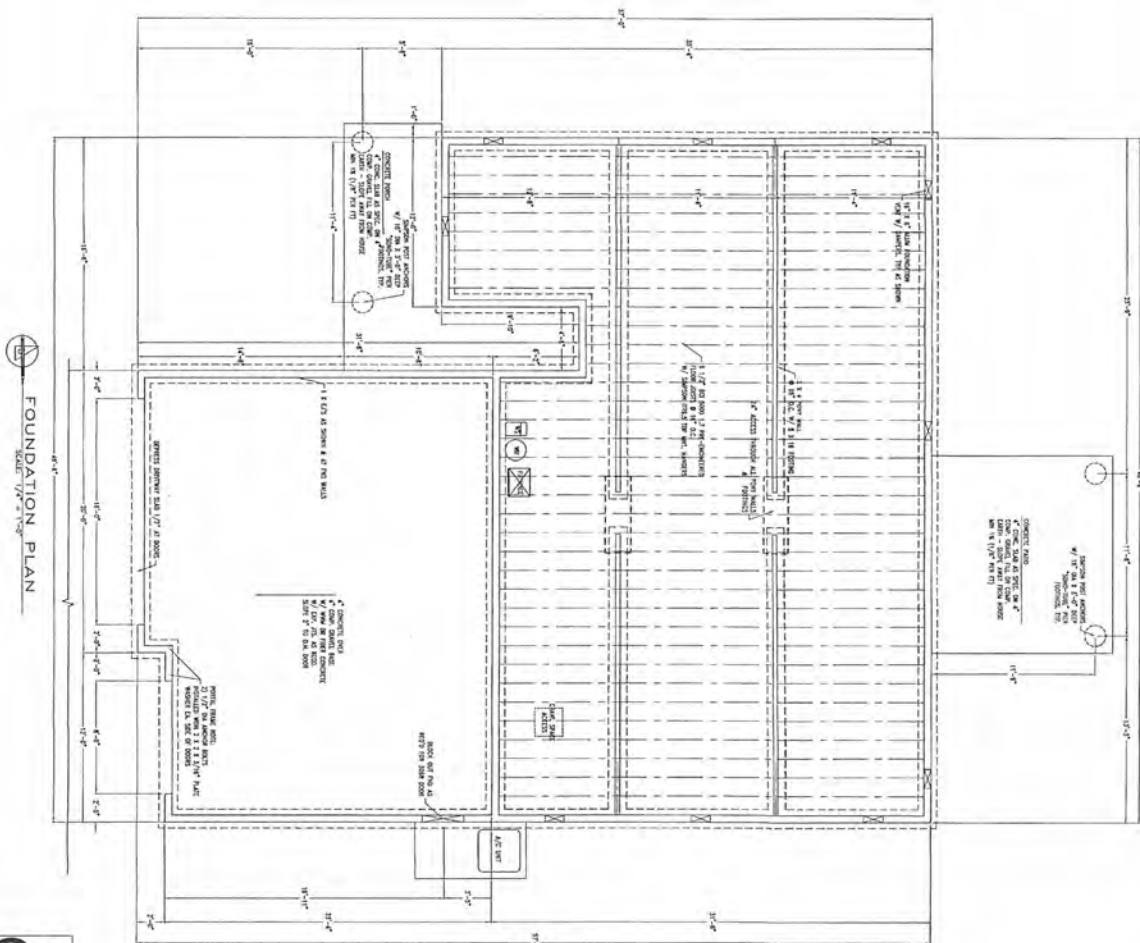
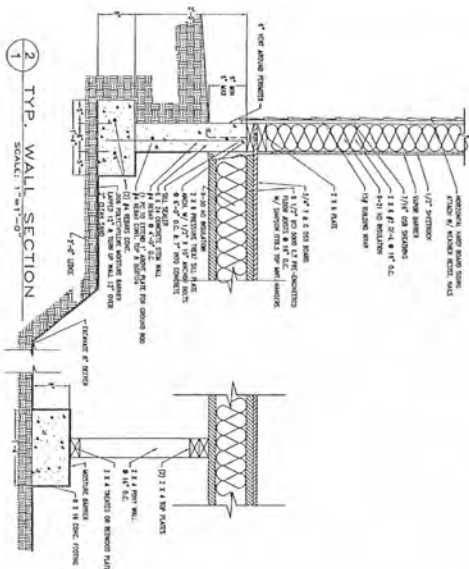
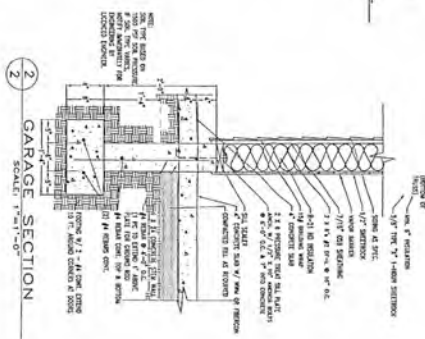
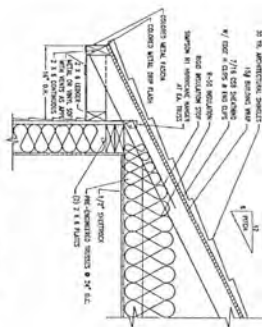
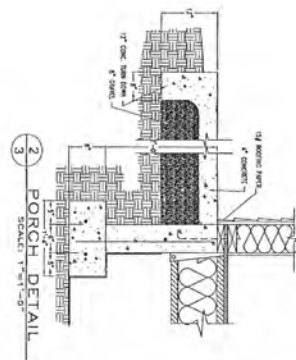
FOR: BEN MUSSER-PARADISE BUILDERS COMPANY
STURTEVANT, WISCONSIN P.O. BOX 303, FARGO, ND 58103
1201 S. 7TH ST., SUITE 100, FARGO, ND 58103-2405

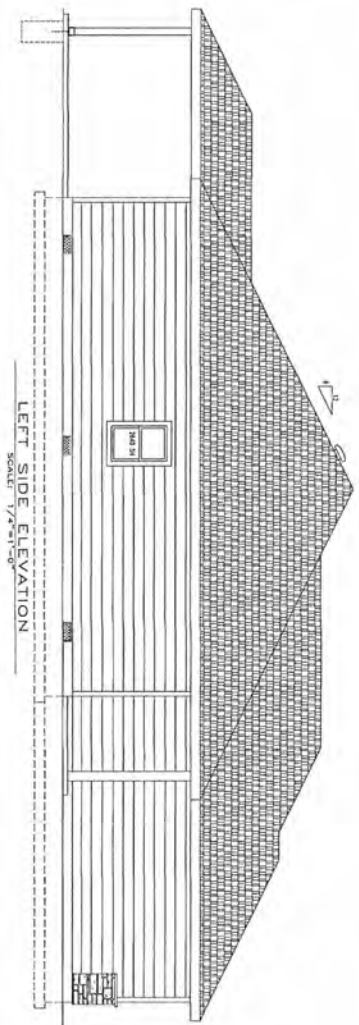
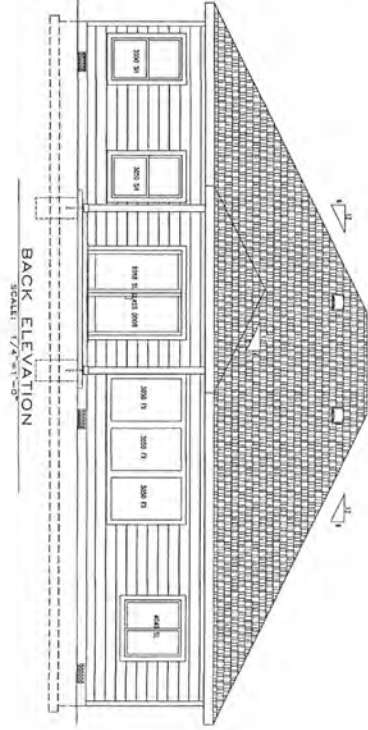
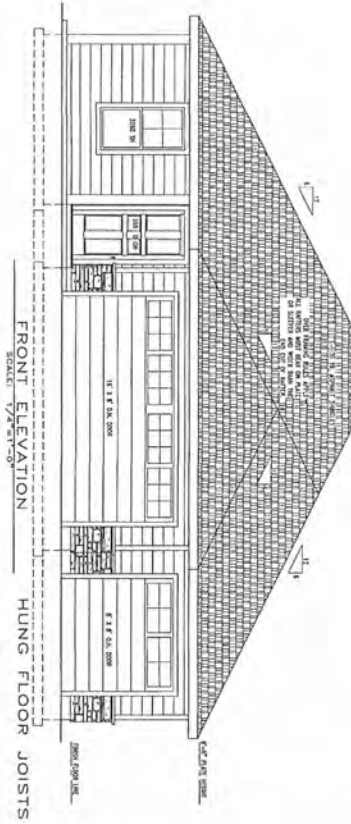
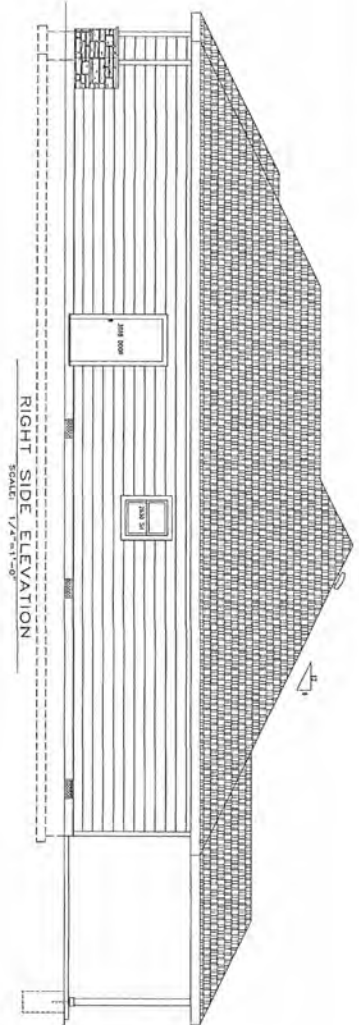
SCALE: 1/4" = 1' OR AS NOTED

FLOOR PLAN, ROOF PLAN

DRAWN BY: Felix Hittingman - E-DEC, Inc.
CHECKED BY: D.J. Smith
DATE: 10-10-2021 DATE: 10-10-2021







FOR: BEN MUSSEY-PARADISE BUILDERS COMPANY
P.O. BOX 802, THUNDER, ID 83853
107 E. 12th St. N. DEPENDS, ID 83840-1000

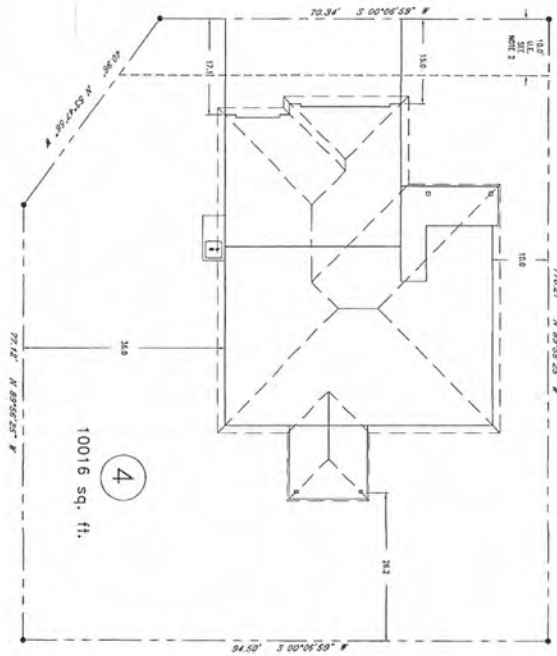
SCALE: 1/2"=1'-0" OR AS NOTED

ELEVATIONS

DESIGN BY: Fully Articulation - F-GIS, Inc.
Computer Aided Drafting Services
DATE: 8-30-2021
Olathe, KS 67450-Phone: (316)388-3228



SW 16 TH STREET



CURVE TABLE				
C#	LENGTH	RADIUS	DELTA	CH. BEARING
C1	100.85'	165.00'	35.0112°	N23°33'32\"
C2	59.26'	200.00'	16°58'34\"	N14°32'12\"
C3	31.42'	20.00'	90°00'49\"	N44°53'26\"
C4	31.41'	20.00'	89°59'11\"	S45°06'34\"
C5	55.96'	54.00'	59°22'32\"	S29°48'15\"
C6	59.59'	54.00'	63°13'36\"	N88°53'41\"
C7	52.03'	54.00'	55°12'27\"	N29°40'39\"
C8	75.12'	54.00'	79°42'11\"	N37°46'40\"
C9	20.86'	20.00'	59°46'06\"	N47°44'43\"
C10	6.19'	20.00'	17°44'41\"	S08°59'19\"
C11	31.42'	20.00'	90°00'49\"	S44°53'26\"
C12	8.25'	165.00'	2°51'54\"	S07°28'52\"
C13	92.60'	165.00'	32°09'19\"	S24°59'29\"
C14	25.40'	200.00'	7°16'31\"	S28°09'44\"



BROCKSIDE SUBDIVISION
BEING A REPLAT OF PARCEL #3 OF PARTITION PLAT #19-12
WITHIN THE SW1/4NE1/4NE1/4 OF SECTION 8,
TOWNSHIP 18 SOUTH, RANGE 47 EAST, W.M.,
CITY OF ONTARIO, MALHEUR COUNTY, OREGON

- NOTES:
- 1) ALL LOTS IN THIS SUBDIVISION ARE SINGLE-FAMILY RESIDENTIAL LOTS.
 - 2) ALL LOT LINES COMMON TO THE PUBLIC RIGHT-OF-WAY HAVE A PUBLIC UTILITY EASEMENT AS SHOWN.
 - 3) SEE PARTITION PLAT #19-12 (M.C. SURVEY #18-47-0969 FOR ADDITIONAL BOUNDARY INFORMATION.

LOT 4
724 SW 16TH STREET
ONTARIO, OR 97914





GRANTS UPDATE

TO: Mr. Adam J. Brown, City Manager
City of Ontario, OR

FROM: Mr. Brent Merchant, Principal, and Mr. Will Hoing, Vice President

RE: Grants Update

DATE: September 24, 2021

Thank you for the continued opportunity to serve the City of Ontario and your residents. Following our most recent discussion, we've aligned the city's top infrastructure priorities with the federal funding opportunities we've targeted for grant submissions:

City Infrastructure Priority	Federal Grant Program	Anticipated Timing
Ontario-Fruitland Second Bridge Crossing	Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Planning Grant	Spring 2022
NE 2 nd Street Project	Rural Surface Transportation Grant Program	(T) Summer-Fall 2022
East Idaho Street Underpass	Bridge Grant Program	(T) Summer-Fall 2022
SE 5 th Street Pedestrian Crossing	DOT Consolidated Rail Infrastructure and Safety Improvements (CRISI) Grant	Fall 2022

Of course, there are additional grants we are actively considering for submission over the next several weeks and months as well. These include:

Additional Grants Under Consideration for Fall-Winter 2021-2022:

- Oregon Parks and Recreation Department (OPRD) programs, including:
 - Recreational Trails Program (RTP): \$150,000
 - Land and Water Conservation Fund (LWCF): \$1.5 million max (actual request is more likely to be in the \$200,000-\$500,000 range)
 - Local Government Grant Program (LGGP): \$1 million
- Federal Emergency Management Agency (FEMA) program resubmissions, including:
 - Assistance to Firefighters Grant (AFG): \$1 million
 - Staffing for Adequate Fire and Emergency Response (SAFER): No award ceiling.

We've also included an updated list of our submitted grants to date to reflect the submission of the Economic Development Administration (EDA) application for the SE 2nd Street improvements project.

Submitted Grants List (updated September 2021):

- Economic Development Administration (EDA) – SE 2nd Street: \$3.1 million
- Oregon Community Paths Grant: \$75,000
- Oregon Transportation Committee – North-South Connector Planning Grant: \$67,298 *(recommended for funding)*
- Congressionally Directed Spending request (formerly “earmarks”) – River Trail Project: \$500,000
- National Endowment for the Arts’ (NEA) Our Town grant program: \$75,000
- NEA’s Our Town grant program – 2021 resubmission: \$75,000
- Oregon Office of State Fire Marshal’s (OSFM) Wildland Urban Interface (WUI) Assistance Grant (for Ontario Fire & Rescue Department) – \$105,507 *(awarded)*
- OSFM’s WUI Assistance Grant (for the Rural Fire District) – \$105,507
- FEMA’s Assistance to Firefighters Grant (AFG): \$1 million
- FEMA’s Staffing for Adequate Fire and Emergency Response (SAFER): \$757,503

###



City Manager Update

September 24, 2021



Airport Way Widening

- Construction underway
- Fence had to be moved
- Public Works is trouble shooting issues as they arise with turbulent construction pricing.



CITY HALL
POLICE DEPARTMENT
FIRE & RESCUE

Tater Tots Trail



- All parties have signed off on the easement agreement.
- CK3 is working on the property description for the request to the state of Oregon for the easement.



HALL
DEPARTMENT
& RESCUE

Economic Impact of Arts & Culture

- \$3,000 Shared-Cost Study
- Proposed Partners: Cities of Ontario, Vale, and Nyssa; Four Rivers Cultural Center; Drexel Foundation; Border Board
- Cost Sharing based on size
- Oregon Arts Commission



Recruitments

- Assistant to the City Manager/HR Manager – Second interviews scheduled for October 8
- Airport Manager – Second interview with a candidate on September 28.
- Chief of Police – Recruitment opening ends at the end of September



Ribbon Cutting Goodfellow

- Opened Goodfellow all the way to 5th Avenue



New Housing Construction

- We are at a record-breaking year for new construction.
- We have issued 19 Housing Incentive Program grants for single family homes to date in the 2021 Calendar Year.



Downtown Attraction

Concept presentation with the work group on October 29.



Wayfinding

- Getting sign specs to the fabricator so they can begin work.



New Hanger Construction at Ontario Airport

We have land leases for approval today for the construction of 11 new hangers.

- One intends to be owner-occupied
- 10 are investment hangers to lease out





**AGENDA REPORT
OLD BUSINESS
September 28, 2021**

To: Mayor and City Council

FROM: Al Cablay, Public Works Director

THROUGH: Adam J. Brown, City Manager

SUBJECT: EVERGREEN CEMETERY NORTH GATE ACCESS - UPDATE AND FINAL REPORT

DATE: September 21, 2021

PROPOSED MOTION:

I MOVE THE CITY COUNCIL RECEIVE AND FILE THE UPDATE AND FINAL REPORT.

SUMMARY:

The Public Works Committee (PWC) considered this matter at their May 11, 2021 meeting. Three- (3) options were presented for consideration. These options were:

- **Option A** - Remain Open 24/7
- **Option B** - Full Closure 24/7
- **Option C** - Modified Opening and Closing

The PWC recommended "Option C" be considered by the City Council.

At the June 15, 2021 City Council meeting Councilor Sam Baker reported on this PWC item. During the report, Public Works staff recommended another option be attempted. That option would be to open the gate during business hours and weekdays and remain open for weekends. The duration would be for 60 days with all complaints tracked and logged in for use in determining which option to select.

BACKGROUND:

The 60-day monitoring period was completed as of August 21, 2021, with no complaints on the Opening-Closing issue received.

CURRENT SITUATION:

The gates have been allowed to remain open since the 60-day trial period concluded. There continues to be no complaints received.

It is Public Works staff's opinion that Option A - Open 24/7 remains their recommendation. This practice would also align with Oregon Municipal Cemetery Best Practices which is how all of the remaining gates in Evergreen Cemetery currently operate.

ANALYSIS:

- A. **STRATEGIC PLAN** No strategic plan impact.
- B. **FINANCIAL** There is no financial impact for this action.
- C. **TIMING** Staff would immediately implement whichever option the Council adopts.
- D. **POLICY/LEGAL** There is no legal issue associated with this action.

ALTERNATIVES:

The Council could choose a different option than that recommended by Public Works. The options available are:

- **Option A** - Remain Open 24/7
- **Option B** - Full Closure 24/7
- **Option C** - Modified Opening and Closing

RECOMMENDATION:

Staff recommends Option A - Open 24/7, to be implemented immediately.

ATTACHMENTS:

1. EvergreenCem.11x17

Evergreen Cemetery



SW 11TH AVE

SW 12TH AVE

COLLEGE GREEN PL

OAK CIR

LILAC LN

LOCUST

PLANE

SW 11TH ST

SW 14TH AVE

S PARK BLVD

S PARK BLVD

SW 11TH AVE

SW 14TH AVE



**AGENDA REPORT
OLD BUSINESS
September 28, 2021**

To: Mayor and City Council

FROM: Adam J. Brown, City Manager

THROUGH: Adam J. Brown, City Manager

**SUBJECT: RESOLUTION #2021-133: ADOPTING A SUPPLEMENTAL BUDGET TO
APPROPRIATE FUNDING FOR THE AMERESCO ENERGY SAVINGS PROJECT**

DATE: September 21, 2021

PROPOSED MOTION:

I MOVE THE CITY COUNCIL APPROVE RESOLUTION 2021-133 TO ADOPT A SUPPLEMENTAL BUDGET TO FUND THE AMERESCO PROJECT AND APPROVE PAYMENT OF \$35,340 TO AMERESCO FOR THE ENERGY AUDIT FEE AND AUTHORIZE \$447,700 FOR THE DOWNTOWN DECORATIVE STREET LIGHT PROJECT; \$78,315 FOR SEWER FLOW PACE PUMPING IMPROVEMENTS; AND \$80,000 IN WATER TREATMENT PLANT ENGINEERING DESIGN FOR PUMPING AND MOTOR CONTROL IMPROVEMENTS AND AUTHORIZE THE MAYOR TO SIGN.

SUMMARY:

The city entered into an Energy Saving Performance Contract with Ameresco in 2020 under a competitive selection process. Ameresco completed an energy audit of all city facilities and identified three projects that are appropriate for consideration at this time related to:

1. STREET LIGHTING
2. WATER TREATMENT PLANT PUMPING
3. SEWER LIFT STATION FLOW PACING

BACKGROUND:

The city selected and procured Ameresco (an energy services company, aka ESCO) in December 2019 through a competitive RFQ process to identify energy efficiency related improvements throughout the city. With guidance from city staff and Jacobs, Ameresco identified improvements at the Water Treatment Plant, the Wastewater Treatment Plant, sewer collection system, various city-owned buildings and sites, and the replacement of the decorative streetlighting on South Oregon Street and SW 1st Street. Ameresco has patiently waited with the City of Ontario through the pandemic, which greatly slowed this project.

CURRENT SITUATION:

Ameresco completed the approved investment grade audit (energy audit) to identify a broad list of energy saving opportunities in early 2021. Over the past several months the city and Jacobs staff have worked with Ameresco to refine these energy efficiency measures (EEMs) based on the city's needs and priorities. After lengthy evaluation by the city, including presentation to the City Council, that list has been narrowed down to meet current strategic and budgetary objectives.

The street lighting project has been in the capital improvement program for the last two years. We have worked with vendors to hone in on an accurate price over that time period. While only a small piece of the decorative street lighting relates to energy savings, we believe using Ameresco to deliver the project makes sense given our current staffing capacities and sheer number of projects in progress.

One of the projects being addressed in the Ameresco proposal deals with the Water Treatment Plant by replacing aging pumping equipment, modernizing control systems, and adding system capacity and redundancy. This measure, which was initially developed by Jacobs, is currently in the concept phase and therefore would undergo full design and budgeting in Phase 1A, and then receive funding for execution in Phase 1B.

The city and Ameresco are now ready to move forward with design and implementation of said facility and infrastructure upgrades. The projects were presented to the public works committee and received unanimous support to recommend delivering the projects through the ESCO delivery option. We are asking the City Council for permission to move forward with final design and construction of Phase 1A of the Energy Services Project.

The primary energy projects are the flow pacing and lighting. We are using the ESCO mechanism however to carry out the water project, which will have some future savings, and implement the decorative light poles, which was a project already in the budget. The water project also importantly solves some issues at the plant that need to be resolved for further expansion. Delivering these projects knowing a guaranteed maximum cost without our staff having to manage additional projects, on top of an extremely heavy workload is a motive for this project. In short, this is an alternative deliver mode for needed projects.

ANALYSIS:

- A. **STRATEGIC PLAN** Ameresco's proposal addresses the city's Strategic Goals of beautification of the downtown city scape with ornate light poles and new luminaires to light the streets and sidewalks. The lighting project is consistent with the downtown development plan.

The changes to the water and wastewater station are consistent with the growth strategy to have capacity to support new and expanding industries in the city.

- B. **FINANCIAL** The City Manager is asking to move to the design and implementation phase of the project. Ameresco has completed the investment grade audit previously approved by City Council on April 2020 (\$35,340). Phase 1A of construction includes the guaranteed total maximum costs of the interior/exterior lighting upgrades, decorative street lighting improvements, lift station flow placing improvements, and the fully developed design and budgeting package for the Water Treatment Plant upgrades.

The total cost of project phase 1A is \$631,093 which includes the audit fee (\$35,340). The guaranteed total cost of phase 1B will be determined in Phase 1A and implemented once approved and funded by the city. Preliminary estimated project cost of the implementation of phase 1B is \$845,559, subject to change.

From the collective scope of work, the City of Ontario is expected to save \$19,512/year (lighting and lift stations scope). The estimated utility incentive associated with the project is \$25,614 with the potential to increase.

Currently there is \$171,000 budgeted for the street lighting project, \$26,630 budgeted for the flow pacing, and the \$80,000 will be covered by the \$531,712 for the WTP pumps.

There are options to make this project go forward that the City Manager shared with the Council on September 14, 2021. With feedback from Council members the following combination of funding is proposed.

Jet Display Pad \$15,000
Parklet \$50,000
Stellings Property \$223,480
Sewer Fund \$63,465

- C. **TIMING** The Public Works Committee has approved the recommendation to move forward on these projects. Ameresco is ready to move forward with implementation upon approval from the City Council. We believe Ameresco can deliver these projects more quickly under the ESCO rules of engagement than City or Jacobs staff could under our restrictions and regulations.
- D. **POLICY/LEGAL** Ameresco has been selected through a competitive process to use Energy Saving Performance Contracting as a procurement vehicle to implement energy saving measures and project delivery throughout the city.

ALTERNATIVES:

Take No Action - If the decision is made not to pursue the projects, the city will reimburse Ameresco the cost of conducting the energy audit. The city will have to manage the downtown lighting project with existing staff. That would be very challenging under the current work load

levels.

RECOMMENDATION:

Staff recommends the City Council approve all three projects and the associated resolution needed to make all three projects happen under the guaranteed maximum pricing.

ATTACHMENTS:

1. City of Ontario - Final PDP 2021_09_20
2. City of Ontario - Technical Energy Audit (TEA)
3. City of Ontario ESPC Agreement - Construction
4. Resolution #2021-133 AMERESCO



ENERGY EFFICIENCY UPGRADES PART A PROJECT DEVELOPMENT PLAN

9/20/2021

SCHEDULE 1 to PDP

EQUIPMENT TO BE INSTALLED BY ESCO

The provisions of the Schedules to the PDP, including this Schedule 1, shall govern in the event of any inconsistencies between the provisions of the other Contract Documents and the Schedules.

This Schedule 1 sets forth a description of existing equipment and the Energy Conservation Measures (ECM) and related equipment to be installed by ESCO at the Facilities. The provisions of the Schedules to the PDP, including this Schedule 1, shall govern in the event of any inconsistencies between the provisions of the other Contract Documents and the Schedules. Installation of the ECM(s) and the included equipment is subject to change if ESCO discovers unforeseen conditions at the Facilities that render its preliminary analysis of the Facilities inaccurate, or significantly affect achievement of the Annual Guaranteed Savings Amount. Any changes to the installation of the ECM(s) and the included equipment are subject to approval of Owner, which approval shall not be unreasonably withheld, conditioned, or delayed.

List of Energy Conservation Measures

The ECMs described below are included in the Part A Scope of Services.

Table 1 - List of Energy Efficiency Measures in the Scope of Services

ECM #	Conservation Measure
<i>City Wide (ONT)</i>	
ONT-L1.1	Interior LED lighting retrofit in city buildings. Some LED conversions have been done on a limited basis, there are many remaining T-8 and even T-12 fixtures. Upgrading the lighting will greatly increase the comfort of the spaces and provide added SAFETY where lighting is minimal and city staff is working on equipment. Buildings selected for interior lighting: City Hall, Airport Shop, Annex Building, Beck Park Shop, Cemetery House and Shop, Fire Station #2, Lions Park Shop, Modular Building/Shooting Range, Public Works, Pump Houses, Water Treatment Plant, and Wastewater Treatment Plant. a. Lighting Retrofit (interior): This measure will retrofit or replace interior fluorescent, incandescent and HID lighting utilizing LED technology. b. Interior Lighting Controls: install occupancy or vacancy sensors to shut off lights when spaces are unoccupied. Exterior LED lighting retrofit in ALL city building/properties. Buildings selected for exterior lighting: City Hall, Airport Shop, Beck Park Shop, Cemetery House and Shop, Fire Station #2, Public Works, Pump Houses, Water Treatment Plant, and Wastewater Treatment Plant. a. Lighting Retrofit (exterior and parking): This measure will retrofit or replace exterior and parking lighting utilizing LED technologies.
ONT-L3a	S. Oregon St. LED Decorative Street Lighting Upgrade. a. Install (19) decorative poles and luminaires in the downtown corridor on S. Oregon St.. Include new poles, luminaires, and 6 new utility meters.

ECM #	Conservation Measure
ONT-L3b	SW 1st Street LED Decorative Street Lighting Upgrade. a. Install (17) decorative poles and luminaires in the downtown corridor on SW 1st St. [Requires ECM-ONT-31a, LED street lighting upgrade]
<i>Wastewater Collection System (WWCS)</i>	
WWCS-M2	The measure evaluated Flow Pacing for NW 8th Avenue, Malheur, NW Regional, and Murakami lift stations utilizing existing VFDs and SCADA system. Proposed flow control will utilize a PID loop for controlling the level in the lift stations instead of an on - NW 8th Ave lift station comprises roughly 70% of the WWTP flow and would be an ideal location for pumping efficiency. There are (4) pumps at 100 hp at 2200 GPM each - Malheur has (2) pumps at 30 hp at 1100 GPM each - Murakami and NW Regional both have (2) pumps at 20 hp at 750 GPM each
<i>Water Treatment Plant (WTP) – (Design Scope Part A, Construction Scope Part B)</i>	
WTP-M1	Pumping efficiency – Evaluated “Smart Pump” technology and premium efficiency motors, permanent magnet motors. a. Install VFDs for soft-start feature and flow control of pumps on finished water pump #2 and #3. b. Replace finished water pump #3 with 250hp pump to match pump #4 and required upgrades. c. Electrical room Motor Control Center MCC upgrade and expansion for new VFDs and MCC.
WTP-M1.1	VFD & SCADA Upgrades: Replace existing VFDs and SCADA hardware that are at the end of their life cycle reducing risk of downtime and increasing reliability for the WTP. Minimum includes VFDs for finished pumps #1 and #4 and SCADA hardware will be identified during the design to accommodate new VFDs and high-risk failure points.

Upon completion of the Part A design work for ECMs WTP-M1 and WTP-M1.1 scope of services described above, Ameresco will present Part B, a revised PDP and construction implementation agreement for these ECMs. The following Table identifies the Part A and Part B scope of services.

ECM	Design	Construction
ONT-L1.1	PART A	PART A
ONT-L3a	PART A	PART A
ONT-L3b	PART A	PART A
WWCS-M2	PART A	PART A
WTP-M1	PART A	PART B
WTP-M1.1	PART A	PART B

List of Facilities

The following is a list of the buildings, facilities, and areas that will be impacted by the list of Energy Efficiency Measures listed above.

Table 2 - List of Buildings, Facilities and Areas

Building Name	Building Address
City Hall/Fire Station	444 SW 4th Street
Annex Building	458 SW 3rd Street
Airport Shop	581 SW 33rd Street
Evergreen Cemetery Buildings	1155 Park Blvd
Fire Station #2	3288 SW 4th Avenue
Public Works	1551 NW 9th Street
Wastewater Treatment Plant	405 Malheur Drive
Water Treatment Plant	1900 SE 5th Street
Beck Park Shop	901 NW 4th Street
Lions Park Shop	745 SW 3rd Ave
Modular Building/Shooting Range	4275 Heinz Boulevard
Pump Houses	Multiple

List of All Energy Efficiency Measures Studied and Selected Measures for the Project

The following tables detail the energy efficiency measures studied and the energy efficiency measures that were selected to be included in the Design and Construction Contract. The first table, “All Measures Studied”, comes from the TEA report. The second table, “Selected Measures”, excludes all measures that are not going forward and shows the cost and savings with remaining measure interactions included. The savings has been cascaded as to avoid double counting benefits from the selected ECMs. Also, some pricing has been updated based on additional information collected since publishing the TEA.

Table 3 – All Measures Studied

ECM #	Conservation Measure	Current Annual Use - Baseline					Future Total Annual Use - Proposed					Annual Savings					Annual Maintenance Savings Yr.1				
		Electric Consume (kWh)	Gas Demand (kW)	Current Gas Use (Therms)	Current Water Use (CCF)	Current Electric Cost (\$)	Current Gas Cost (\$)	Current Water Cost (\$)	Current Total Cost (\$)	Future Gas Use (Therms)	Future Water Use (CCF)	Future Electric Cost (\$)	Future Gas Cost (\$)	Future Water Cost (\$)	Future Total Cost (\$)	Annual Electric Consume (kWh)		Annual Gas Demand (kW)	Annual Savings Gas (Therms)	Annual Water Savings (CCF)	Annual Resource Savings (\$)
	City Wide (ONT)																				
	Water Conservation Measures																				
ONT-W1	Plumbing fixture retrofit for all city buildings. 1. The City does not bill itself for water/sewer, this measure would reduce wear & tear on building plumbing systems and reduce water consumption to provide more system capacity for growth of customer base. a. Install water conservation devices (aerators on sinks, flush valves on urinals and toilets, or new fixtures) to reduce water consumption and save energy for water heating.																				
ONT-W2a	Irrigation management system: Replace existing stand-alone irrigation controllers with network accessible (web enabled) irrigation controllers which can be accessed from a central location and/or from any computer on the City's wide area network (WAN). a. Add master meters with valve for automated shut-off at irrigation main feeds. b. Disable irrigating during rainy conditions. c. Add "Irrigation Weather Control" to interlock the irrigation control system with a weather station to eliminate unnecessary watering. - Evergreen Cemetery web access controller included																				
ONT-W2b	Irrigation management system: Replace existing stand-alone irrigation controllers with network accessible (web enabled) irrigation controllers which can be accessed from a central location and/or from any computer on the City's wide area network (WAN). a. Add master meters with valve for automated shut-off at irrigation main feeds. b. Disable irrigating during rainy conditions. c. Add "Irrigation Weather Control" to interlock the irrigation control system with a weather station to eliminate unnecessary watering. - Evergreen Cemetery irrigation automation and network accessible controller is included in this measure.																				
	Lighting Conservation Measures																				
ONT-L1	Interior LED lighting retrofit in city buildings. Some LED conversions have been done on a limited basis, there are many remaining T-8 and even T-12 fixtures. Upgrading the lighting will greatly increase the comfort of the spaces and provide added SAFETY where lighting is minimal and city staff is working on equipment. a. Interior LED lighting retrofit will retrofit or replace interior fluorescent, incandescent and HID lighting utilizing LED technology. b. Interior Lighting Controls: install occupancy or vacancy sensors to shut off lights when spaces are unoccupied.	119,659				\$ 7,024	\$ -	\$ -	\$ 7,024	56,155											
ONT-L2	Exterior LED lighting retrofit at city building/properties. a. Lighting Retrofit (exterior and parking): This measure will retrofit or replace exterior and parking lighting utilizing LED technologies.	40,587				\$ 2,382	\$ -	\$ -	\$ 2,382	14,588											
ONT-L3a	LED street lighting retrofits. a. Install (19) decorative poles and luminaires in the downtown corridor b. City-owned roadway luminaires (6) Note: Includes (19) decorative lights on S. Oregon St. only	45,990				\$ 8,463	\$ -	\$ -	\$ 8,463	26,014											
ONT-L3b	LED street lighting retrofits. a. Install (36) decorative poles and luminaires in the downtown corridor b. City-owned roadway luminaires (6) Note: Includes (19) decorative lights on S. Oregon St. and (17) on SW 1st St.	45,990				\$ 8,463	\$ -	\$ -	\$ 8,463	18,965											

Table 3—All Measures Studied (Continued)

[illegible]

Table 3- All Measures Studied (Continued)

ECM #	Conservation Measure	Baseline						Proposed						Savings					Annual Maintenance Savings Yr 1		
		Current Annual Use - Electrical (kWh)	Current Gas Use (Therms)	Current Water Use (CCF)	Current Electric Cost (\$)	Current Gas Cost (\$)	Current Water Cost (\$)	Future Total Annual Use - Electric Consume (kWh)	Future Gas Use (Therms)	Future Water Use (CCF)	Future Electric Cost (\$)	Future Gas Cost (\$)	Future Water Cost (\$)	Future Total Cost (\$)	Annual Savings Electric Consume (kWh)	Annual Savings Electric Demand (kW)	Annual Savings Gas (Therms)	Annual Water Savings (CCF)	Annual Resource Savings (\$)		
	Wastewater Collection System (WWCS)																				
	Mechanical Conservation Measures																				
	The measure adds Flow Pacing for NW 8th Avenue, Malheur, NW Regional, and Murakami lift stations utilizing existing VFDs and SCADA system. - NW 8th Ave lift station comprises roughly 70% of the WWTP flow and would be an ideal location for pumping efficiency. There are (4) pumps at 100 hp at 2200 GPM each - Murakami has (2) pumps at 30 hp at 1100 GPM each - Murakami and NW Regional both have (2) pumps at 20 hp at 750 GPM each - Tapadera has (2) pumps at 20 hp at 500 GPM each - The current liquid level is controlled by a cycle on/off on level control for all lift station. * Tapadera Elcuded - has a possible capital improvement in the next 18-24 months	180,485			\$ 10,594	\$ -	\$ -	\$ 10,594	119,474			\$ 7,013	\$ -	\$ -	\$ 7,013	61,011	-	-	-	\$ 3,581	
	West Idaho Street station pump voltage issue: The installed ABS pumps are single phase motors whereas all other lift station sites utilize 480V 3-phase. These single phase ABS pumps are problematic as they experience "trip-outs" and clogging problems. Public Works would prefer 3-phase pumps by ABS.																				
	Improve Operation of lift stations with Triu Twister mixing aerator and ozone system 1. Add Twister at the (9) sewage lift stations for FOG and scum abatement, de-ragging, etc.	325,490			\$ 19,106	\$ -	\$ -	\$ 19,106	551,936			\$ 32,399	\$ -	\$ -	\$ 32,399	(226,446)	-	-	-	\$ (13,252)	
	Water Treatment Plant (WTP)																				
	Mechanical Conservation Measures																				
	Pumping efficiency – Evaluated "Smart Pump" technology and premium efficiency motors, permanent magnet motors. a. Install VFDs for soft-start feature and flow control of pumps on finished water pump #2 and #3. b. Replace finished water pump #3 with 250hp pump to match pump #4 and required upgrades.																				
	Replace air-over-hydraulic actuators on distribution pumping system (2 intake valves and 2 effluent valves)– All valves used in the WTP use pneumatic air controlled actuators. There are no Air-over-hydraulic actuators.																				

* This is a cost only measure that would provide VFDs on the two finished water pumps #3 and #2 w/o VFDs.

* Also includes new 250hp for finished water pumps #3.

* Because the operators currently do manual flow adjustment, there is no energy savings associated with this ECM.

* This measure was eliminated since these are not Air-Over-Hydraulic actuators.

Equipment to be Installed by ESCO

General Scope of Work

Descriptions of work in this section are provided for a general description of scope and are not inclusive to all work required to be performed for a working system. Design documentation and specifications generated during the project may add or delete scope in order to provide a working, safe and code-compliant system. The owner will be notified if additional work is discovered due to unseen, unknown, or undisclosed conditions and it will be the owner's discretion to approve scope changes for additional work, to self-perform the work, or to abandon the measure.

Equipment and materials provided on this project will be new, and will be free of faults and defects. Owner equipment that is removed during demolition activities will be returned to the owner at the owner's discretion. Equipment will be installed level and true and per manufacturer's installation instructions. Equipment will be installed to maintain manufacturer's recommended clearances, and to provide convenient access. Equipment and utility shutdowns will be clearly coordinated with the owner, city, utility, and facility staff as required.

Work will be performed to avoid interruption of facility function including swing shift as required. Saw-cutting, drilling, or other noise generating activities will be scheduled to minimize disruption to occupants. As much as possible, functional areas of the facility where after-hours work is done will be returned to the state existing prior to the start of work including relocating furniture, vacuuming floors and cleaning surfaces. Existing surfaces impacted by installation of new equipment including floors, ceilings, paint, tile, and paving, will be restored as well as possible to match the existing finished surface. It may be required to install oversized escutcheon plates or other devices to cover finished surfaces rather than repair them.

Lighting retrofits will be designed to provide lighting levels of not less than recommendations by IESNA. The project will remove and lawfully recycle/dispose of existing lamps and PCB ballasts. Existing egress lighting or emergency lighting may remain as-is, and upgrades to these systems are not automatically included in the scope of work unless specifically included in an associated measure. Improvements to add proper grounding, fix existing switches, or upgrade the other building electrical equipment outside of the fixture replacement is not included unless specified.

Lighting Scope Clarifications:

- The scope includes retrofit of the noted fixtures only and does not address or include any fix-up / upgrade / replacement of existing wiring, switching, conduits, hangers, etc. If items are found to be in need of repair or replacement – this is not included in the scope of work and associated costing. This scope does include replacement of existing broken lighting sockets when replacing bulbs.
- It is assumed that all emergency lighting is on generator or independent battery control. Replacements of emergency ballasts are not included in the project.

- Replacement or repair of fixture lenses or louvers are not included, fixture lenses will be wiped with a dry cloth.
- Ameresco is not responsible for fixtures that are found to be damaged prior to commencement of its Scope of Work.
- All manufacturers' warranties (and related information) will be transferred to Customer at project close-out.
- With respect to the specific lighting scope - Ameresco will remove and lawfully recycle / dispose of existing lamps and PCB ballasts. All ballasts that are determined to be non-PCB shall be disposed of with non-hazardous waste. Noted items will be carefully recycled and disposed of through a licensed recycling firm in accordance with all state and federal guidelines. Certificates verifying the proper disposal and recycling of PCB containing materials will be provided by the vendor.
- Lighting levels, if existing is identified to be over-lit per recommended standards, may be reduced.
- Ameresco is not responsible for any pre-existing electrical code violations or electrical system deficiencies.
- Existing Utility-owned infrastructure issues related to street lighting may delay installation of fixtures within scope. Repairs to Utility infrastructure are excluded from this scope. Repairs to Utility infrastructure acquired for Oregon St. project are excluded from this scope. Delays as a result of awaiting required repairs by the Utility are not included as Liquidated Damages delays.
- Street lighting scope includes lighting level design and fixture selection.
- Street lighting to be performed during day shift.

Water Treatment Plant Scope Clarifications:

The water treatment plant scope of work will go through a design phase prior to final project cost being submitted for the build phase of work (aka Design and construction agreement Part B). The following is the proposed scope for the design phase. The build phase (Part B) will be presented up on completion of the design and costing.

Pump, VFD, and MCC Replacement:

- 1) Replace existing 100hp finished water pump #3 with 250hp pump to match pump #4 with required upgrades.
- 2) Room alterations (General Contractor):
 - a) Remove abandoned pump

- b) Relocate conduit
 - c) Relocate 4" water pipe (supplying 2 hose bibs)
 - d) Remove abandoned Chlorine pipe
 - e) Construct new platform at the height of existing MCC room floor
 - f) Remove window and CMU wall
 - g) Construct new wall on platform to expand room
 - h) Install windows facing equipment to maintain line of site between equipment and disconnect
 - i) Install new light fixtures as required
 - j) Provide and install new door
- 3) Motor Control Center Alterations (Electrical):
- a) Provide and install new MCC cabinet
 - b) Provide and install new breakers to match existing sizes for each piece of equipment powered through the existing MCC
 - c) Provide and install new four (4) new VFDs
 - d) Migrate connections from existing MCC to new MCC one at a time
 - e) Clearly label all breakers
- 4) Controls
- a) Connect all VFDs to existing Control system
 - b) Integrate VFDs into GUI
 - c) Make all VFD points available over coms visible and trendable to SCADA
 - d) Program and Tune local PIDs for all VFDs
 - e) Startup and commission all VFDs
- 5) HVAC
- a) Provide and install new split system to provide cooling for MCC room
 - b) Seal return duct from existing HVAC system
 - c) Adjust existing flow to room to 100 CFM

This Scope of Work is subject to change based on the requirements of the contractor or client.

General Work Scope Comments:

- Permitting through AHJ is included with scope of work.
- Start-up, training, and commissioning of new equipment only is included.

- Control valves and actuators are included in the direct digital controls scopes of work only as required to achieve the level of control described for each ECM.
- Some amount of delay is unavoidable. There will be provisions for continuation of work if a work area becomes unavailable due to owner circumstances or a security event. Unusual or excessive owner delays will be handled according to the contract.
- Unless specifically noted in the scope of work – abatement of ACM and other hazardous materials is excluded.
- As final engineering is not started and equipment is not ordered until Ameresco has a signed contract / notice to proceed - Ameresco cannot guarantee delivery dates / system start-up and is not responsible for costs associated with additional mobilizations, temporary equipment, etc. if long lead times affect construction schedule.
- Material ordering and final scheduling will not occur until a signed agreement is received.
- Unless specifically noted in the scope of work – paint / patch is excluded. If noted in the work scope – only the affected areas will be addressed (not the entire area / wall). Paint will match existing adjacent as close as possible, but an exact match cannot be guaranteed.
- Piping / conduit / wire mold may be run exposed in occupied spaces (as applicable). Wiring in secure places will not use surface mount conduit or plug mold.
- Unless specifically noted in the scope of work – conduit / wire mold is un-painted.
- Some existing equipment may be left abandoned in place.
- Unless specifically noted in the scope of work – no piping covers have been included.
- If applicable - tile and carpet in-fill strips will match adjacent existing as close as possible but an exact match cannot be guaranteed.
- If applicable - existing ceiling tiles will be removed and reinstalled. New ceiling / grid is not included in the work scope unless specifically noted.

Warranty:

Materials and labor provided in the scope of work will be warrantied for a period of 1 year from substantial completion.

Project scope associated with each facility is as follows:

City Wide Conservation Measures

ONT-L1.1: Interior and Exterior LED Lighting Upgrades

The interior lighting at the buildings listed herein will retrofit or replace interior fluorescent, incandescent and HID lighting utilizing LED technology. Additionally, occupancy or vacancy sensors will be included in select spaces to shut off lights when spaces are unoccupied. The city has done some LED conversions on a one-off basis, and these will remain as-is. Only the non-LED fixtures are proposed to be upgraded.

Interior lighting upgrades are included for City Hall, Airport Shop, Annex Building, Beck Park Shop, Cemetery House and Shop, Fire Station #2, Lions Park Shop, Modular Building/Shooting Range, Public Works, Pump Houses, Water Treatment Plant, and Wastewater Treatment Plant. The scope for this ECM includes upgrading 671 interior fixtures.

The exterior lighting at the buildings listed herein will retrofit or replace exterior lighting.

Exterior lighting upgrades are included for City Hall, Airport Shop, Beck Park Shop, Cemetery House and Shop, Fire Station #2, Public Works, Pump Houses, Water Treatment Plant, and Wastewater Treatment Plant. The scope for this ECM includes upgrading 63 exterior fixtures.

Appendix B of the TEA, as clarified in the Lighting Scope Clarifications section above, details the specific lighting scope included with these ECMs.

City Wide Conservation Measures

ONT-L3a: LED Street Lighting Upgrades

Install (19) decorative poles and luminaires in the downtown corridor on S. Oregon St. Also included is the transfer of ownership of the infrastructure to the City and the installation of 6 electric meters and removal of existing ID Pwr streetlights. In addition, several Idaho Power streetlights on SW 1st St. will be handed over to the city as part of this project.

ONT-L3b: LED Street Lighting Upgrades

Install (17) decorative poles and luminaires in the downtown corridor on SW 1st St. Also included is the transfer of ownership of the infrastructure to the City from Idaho Power

Wastewater Collection System Conservation Measures

WWCS-M2: Lift Station Flow Pacing Upgrade

The programming in the SACDA system at each Lift Station will be modified to provide flow control through a PID loop based on the liquid level in the sump. The existing VFDs, pumps and SCADA system will remain. NW 8th Avenue, Malheur, NW Regional, and Murakami lift stations will receive the flow pacing programming upgrade.

Water Treatment Plant Conservation Measures

WTP-M1: Pumping Efficiency Upgrade (Design Only)

This ECM will require a design for the electrical and structural components prior to providing full budget for the build phase. The design fee is included in this phase of the combined ESCO project.

This measure will install a VFD on clearwell pump #2 (150hp) and upgrade the SCADA programming allowing for the operators to optimize the pumping efficiency. This measure will also replace clearwell pump #3 with a new 250hp pump to match pump #4 capacity adding redundancy. The new pump will also receive a VFD and required SCADA programming. Additionally, the HVAC in the electric room will be modified to increase the effectiveness of it in the electric room. Electrically, the MCC will be upgraded, and room expanded as necessary.

WTP-M1.1: Pumping Efficiency Upgrade (Design Only)

This ECM will replace existing VFDs on clearwell pumps #1 & #4 and SCADA hardware identified during the design for WTP-M1, that are at the end of their life cycle reducing risk of downtime and increasing reliability for the WTP. This measure is an add on to above measure WTP-M1.

Table 5 – Appendix B from TEA – Lighting Study’s

Project Name	City of Ontario - All Lighting
Date	September 18, 2020

Site Information										Existing										Selected										Savings	
Item #	Site	Location (Room name, etc.)	Exist. Fixture Code	Fixture Description	Fixture Quantity	If Controlled by a Device on another Line, Enter Item # Here	Existing Control Description	Notes/Quantity	Selected/Quantity	Foot Candle Reading (lm/ft²)	Total Power (kW)	Burn Hours (hrs/yr)	Energy Consumption (kWh/yr)	Replaced (kW/yr)	Average Annual Maintenance Cost (\$/yr)	Comments # of hours per week, area condition, light switching, etc.)	Selected Fixture Code	Fixture Description	Fixture Quantity	If Controlled by a Device on another Line, Enter Item # Here	Selected Control Description	Notes/Quantity	Total Power (kW)	Burn Hours (hrs/yr)	Energy Consumption (kWh/yr)	Replaced (kW/yr)	Average Annual Maintenance Cost (\$/yr)	Comments	Energy Savings (kWh/yr)		
1	City Hall	1st floor back entry	E174L15	Existing Volumetric luminaire 2 lamp T5	2		Upgrade Fluores		Upgrade Fluores	0.22	2.000	432	\$2		\$2		NLED1SL4TC	New LED T5 2 Lamp Type C-4 Retrofit (Eaton Core)	2				0.10	2.000	192				240		
2	City Hall	1st floor back entry	ELEDXIT	Existing LED Exit Sign	1		Remain As Is		Remain As Is	0.00	8.700	18			\$2		ELEDXIT	Existing LED Exit Sign	1				0.00	8.700	18		\$2				
3	City Hall	Junior closet	E3422N	Existing Strip 4'x2L T5 32 watt Luminaire Normal Reflected Floor	1		Upgrade Fluores & Controls		Upgrade Fluores & Controls	0.06	1.800	115	\$0		\$0		NLED1SL4TC	New LED T5 2 Lamp Type C-4 Retrofit (Eaton Core)	1				0.03	1.800	94				61		
4	City Hall	Storage	E172L14	Existing Volumetric luminaire 2 lamp T5	1		Upgrade Fluores		Upgrade Fluores	0.03	800	22					NLED1SL2TC	New LED T5 2 Lamp Type C-2 Retrofit (Eaton Core)	1				0.02	800	18				5		
5	City Hall	Basin room	E174L15	Existing Volumetric luminaire 2 lamp T5	1		Upgrade Fluores & Controls		Upgrade Fluores & Controls	0.11	1.800	194	\$1		\$1		NLED1SL4TC	New LED T5 2 Lamp Type C-4 Retrofit (Eaton Core)	1				0.05	1.800	86				108		
6	City Hall	Administration open workspace	E174L15	Existing Volumetric luminaire 2 lamp T5	8		Upgrade Fluores		Upgrade Fluores	0.86	2.000	1,728	\$17		\$17		NLED1SL4TC	New LED T5 2 Lamp Type C-4 Retrofit (Eaton Core)	8				0.38	2.000	768				960		
7	City Hall	Administration open workspace	E172L14	Existing Volumetric luminaire 2 lamp T5	1		Upgrade Fluores		Upgrade Fluores	0.03	2.000	56	\$1		\$1	Existing low/void switches	NLED1SL2TC	New LED T5 2 Lamp Type C-2 Retrofit (Eaton Core)	1				0.02	2.000	44				12		
8	City Hall	Administration open workspace	ELEDXIT	Existing LED Exit Sign	1		Remain As Is		Remain As Is	0.00	8.700	18			\$2		ELEDXIT	Existing LED Exit Sign	1				0.00	8.700	18		\$2				
9	City Hall	Police Chief office	E174L15	Existing Volumetric luminaire 2 lamp T5	2		Upgrade Fluores		Upgrade Fluores	0.22	2.000	432	\$2		\$2		NLED1SL4TC	New LED T5 2 Lamp Type C-4 Retrofit (Eaton Core)	2				0.10	2.000	192				240		
10	City Hall	Office manager	E174L15	Existing Volumetric luminaire 2 lamp T5	2		Upgrade Fluores & Controls		Upgrade Fluores & Controls	0.22	2.000	432	\$2		\$2		NLED1SL4TC	New LED T5 2 Lamp Type C-4 Retrofit (Eaton Core)	2				0.10	1.800	173				259		
11	City Hall	Detachable Bar Entry	E174L15	Existing Volumetric luminaire 2 lamp T5	1		Upgrade Fluores & Controls		Upgrade Fluores & Controls	0.11	1.800	194	\$1		\$1		NLED1SL4TC	New LED T5 2 Lamp Type C-4 Retrofit (Eaton Core)	1				0.05	1.800	86				108		
12	City Hall	Sergeants area	E174L15	Existing Volumetric luminaire 2 lamp T5	2		Upgrade Fluores & Controls		Upgrade Fluores & Controls	0.22	2.000	432	\$2		\$2		NLED1SL4TC	New LED T5 2 Lamp Type C-4 Retrofit (Eaton Core)	2				0.10	1.800	173				259		
13	City Hall	Lieutenant	E174L15	Existing Volumetric luminaire 2 lamp T5	2		Upgrade Fluores & Controls		Upgrade Fluores & Controls	0.22	1.800	389	\$2		\$2		NLED1SL4TC	New LED T5 2 Lamp Type C-4 Retrofit (Eaton Core)	2				0.10	1.800	173				216		
14	City Hall	Small hallway	E174L15	Existing Volumetric luminaire 2 lamp T5	1		Upgrade Fluores		Upgrade Fluores	0.11	2.000	216	\$1		\$1		NLED1SL4TC	New LED T5 2 Lamp Type C-4 Retrofit (Eaton Core)	1				0.05	2.000	96				120		
15	City Hall	Small hallway	ELEDXIT	Existing LED Exit Sign	1		Remain As Is		Remain As Is	0.00	8.700	18			\$2		ELEDXIT	Existing LED Exit Sign	1				0.00	8.700	18		\$2				
16	City Hall	Front desk reception	E174L15	Existing Volumetric luminaire 2 lamp T5	2		Upgrade Fluores & Controls		Upgrade Fluores & Controls	0.22	1.800	389	\$2		\$2		NLED1SL4TC	New LED T5 2 Lamp Type C-4 Retrofit (Eaton Core)	2				0.10	1.800	173				216		
17	City Hall	Lobby	E174L15	Existing Volumetric luminaire 2 lamp T5	5		Upgrade Fluores		Upgrade Fluores	0.54	2.000	1,080	\$9		\$9	Existing low/void switches	NLED1SL4TC	New LED T5 2 Lamp Type C-4 Retrofit (Eaton Core)	5				0.24	2.000	480				600		
18	City Hall	Lobby	ELEDXIT	Existing LED Exit Sign	1		Remain As Is		Remain As Is	0.00	8.700	18			\$2		ELEDXIT	Existing LED Exit Sign	1				0.00	8.700	18		\$2				
19	City Hall	Verbode	E174L15	Existing Volumetric luminaire 2 lamp T5	2		Upgrade Fluores & Controls		Upgrade Fluores & Controls	0.22	2.000	432	\$2		\$2		NLED1SL4TC	New LED T5 2 Lamp Type C-4 Retrofit (Eaton Core)	2				0.10	1.800	173				259		
20	City Hall	Verbode	ELEDXIT	Existing LED Exit Sign	1		Remain As Is		Remain As Is	0.00	8.700	18			\$2		ELEDXIT	Existing LED Exit Sign	1				0.00	8.700	18		\$2				
21	City Hall	Men's RR	E174322N	Existing Parabolic luminaire 1x4.2, 32 Watt, 2500K, Normal Reflected Floor	1		Upgrade Fluores & Controls		Upgrade Fluores & Controls	0.08	2.000	128	\$1		\$1		NLED1SL4TC	New LED T5 2 Lamp Type C-4 Retrofit (Eaton Core)	1				0.03	1.800	54				74		
22	City Hall	Men's RR	E14324N	Existing Vireg 4'x2L, 1x4 T5 Lamps, Normal Reflected Floor	5		Upgrade Fluores & Controls		Upgrade Fluores & Controls	0.54	2.000	1,080	\$9		\$9		NLED1SL4TC	New LED T5 2 Lamp Type C-4 Retrofit (Eaton Core)	5				0.24	1.800	432				648		
23	City Hall	Women's RR	E174322N	Existing Parabolic luminaire 1x4.2, 32 Watt, 2500K, Normal Reflected Floor	1		Upgrade Fluores & Controls		Upgrade Fluores & Controls	0.08	2.000	128	\$1		\$1		NLED1SL4TC	New LED T5 2 Lamp Type C-4 Retrofit (Eaton Core)	1				0.03	1.800	54				74		
24	City Hall	Women's RR	E14324N	Existing Vireg 4'x2L, 1x4 T5 Lamps, Normal Reflected Floor	4		Upgrade Fluores & Controls		Upgrade Fluores & Controls	0.43	2.000	864	\$7		\$7		NLED1SL4TC	New LED T5 2 Lamp Type C-4 Retrofit (Eaton Core)	4				0.19	1.800	346				518		
25	City Hall	Records apartment	E174L15	Existing Volumetric luminaire 2 lamp T5	3		Upgrade Fluores		Upgrade Fluores	0.32	2.000	646	\$6		\$6		NLED1SL4TC	New LED T5 2 Lamp Type C-4 Retrofit (Eaton Core)	3				0.14	2.000	288				360		
26	City Hall	Records apartment	ECP1P26	Existing CFL Pin Based 26 watt Luminaire	3		Upgrade Fluores		Upgrade Fluores	0.09	2.000	180	\$6		\$6	6' CAN LIGHT	NLED1SL4TC	New LED 3 Watt 4 Pin CFL, Type B (LED Only)	3				0.03	2.000	54				126		
27	City Hall	Records apartment	E13325W	Existing Task Strip 3' 1 Lamp 25 Watt	1		Upgrade Fluores		Upgrade Fluores	0.03	2.000	50					NLED1SL3TC	New LED T5 3 Lamp Type C-3 Retrofit (Eaton Core)	1				0.01	2.000	22				28		
28	City Hall	Hallway	E174L15	Existing Volumetric luminaire 2 lamp T5	5		Upgrade Fluores		Upgrade Fluores	0.54	2.000	1,080	\$9		\$9		NLED1SL4TC	New LED T5 2 Lamp Type C-4 Retrofit (Eaton Core)	5				0.24	2.000	480				600		
29	City Hall	Hallway	ELEDXIT	Existing LED Exit Sign	4		Remain As Is		Remain As Is	0.01	8.700	70			\$7		ELEDXIT	Existing LED Exit Sign	4				0.01	8.700	70		\$7				
30	City Hall	Basin room	E174L15	Existing Volumetric luminaire 2 lamp T5	2		Upgrade Fluores		Upgrade Fluores	0.22	2.000	432	\$2		\$2		NLED1SL4TC	New LED T5 2 Lamp Type C-4 Retrofit (Eaton Core)	2				0.10	2.000	192				240		
31	City Hall	Paid room south	E174L15	Existing Volumetric luminaire 2 lamp T5	1		Upgrade Fluores & Controls		Upgrade Fluores & Controls	0.11	1.800	194	\$1		\$1		NLED1SL4TC	New LED T5 2 Lamp Type C-4 Retrofit (Eaton Core)	1				0.05	1.800	86				108		
32	City Hall	Detachable St. Snyder	E174L15	Existing Volumetric luminaire 2 lamp T5	1		Upgrade Fluores & Controls		Upgrade Fluores & Controls	0.11	1.800	194	\$1		\$1		NLED1SL4TC	New LED T5 2 Lamp Type C-4 Retrofit (Eaton Core)	1				0.05	1.800	86				108		

Site Information				Existing										Selected										Savings						
Item #	Site	Location (Room, etc.)	Exist. Fixture Code	Fixture Description	Device Quantity	Foot Candles (lm/ft²)	Selected Solution	Device Quantity	Existing Controls Description	Foot Candles (lm/ft²)	Total Power (Watt)	Item Power (Watt)	Energy Consumption (kWh/yr)	Demand (kW/yr)	Average Annual Consumption (kWh/yr)	Comments (if it fails to meet out, then condition, light switching, etc.)	Selected Fixture Code	Fixture Description	Fixture Quantity	Foot Candles (lm/ft²)	Existing Controls Description	Foot Candles (lm/ft²)	Total Power (Watt)	Item Power (Watt)	Energy Consumption (kWh/yr)	Demand (kW/yr)	Average Annual Consumption (kWh/yr)	Comments	Energy Savings (kWh/yr)	
33	City Hall	Server closet	E1027N	Existing Wp 2, 2, 17 75 Lamps, NSF Ballast	1		Upgrade Fixtures & Controls	1	Existing Wp1 Switch Sensor		0.03	720	24			EVIS	NLED1SL2TC	New LED T5 2 Lamp Type C-2 Recess (Eston Core)	1		Existing Wp1 Switch Sensor	1	0.02	720	14					9
34	City Hall	Figurating	E1742LS	Existing Volumetric Trefler 2 Lamp T5	1		Upgrade Fixtures				0.11	2,000	216		\$1		NLED1SL4TC	New LED T5 2 Lamp Type C-4 Recess (Eston Core)	1				0.05	2,000	96					120
35	City Hall	Conference room	E1742LS	Existing Volumetric Trefler 2 Lamp T5	2		Upgrade Fixtures				0.22	2,000	432		\$2		NLED1SL4TC	New LED T5 2 Lamp Type C-4 Recess (Eston Core)	2				0.10	2,000	192					240
36	City Hall	Storage closet	E321NNT5	Existing Ship 2, 4, 14 75 Lamps, NSF Ballast	1		Upgrade Fixtures				0.02	800	14				NLED21WMI	New LED 2 11 Watt Wp1 Fluores (SBL2)	1				0.02	800	14					360
37	City Hall	Holding cells	E1742LS	Existing Trefler M 2, 154 T5 Lamps	3		Upgrade Fixtures				0.32	2,000	648		\$5		NLED1SL4TC	New LED T5 2 Lamp Type C-4 Recess (Eston Core)	3				0.14	2,000	288					360
38	City Hall	Holding cell south	E1742LS	Existing Trefler M 2, 154 T5 Lamps	3		Upgrade Fixtures				0.32	2,000	648		\$5		NLED1SL4TC	New LED T5 2 Lamp Type C-4 Recess (Eston Core)	3				0.14	2,000	288					360
39	City Hall	Small hallway	E1742LS	Existing Volumetric Trefler 2 Lamp T5	2		Upgrade Fixtures				0.22	2,000	432		\$2		NLED1SL4TC	New LED T5 2 Lamp Type C-4 Recess (Eston Core)	2				0.10	2,000	192					240
40	City Hall	Small hallway	ELED8KIT	Existing LED Exit Sign	1		Remain As Is				0.00	8,760	18				ELED8KIT	Existing LED Exit Sign	1				0.00	8,760	18			\$2		
41	City Hall	Stairs	E1742LS	Existing Volumetric Trefler 2 Lamp T5	2		Upgrade Fixtures				0.22	2,000	432		\$2		NLED1SL4TC	New LED T5 2 Lamp Type C-4 Recess (Eston Core)	2				0.10	2,000	192					240
42	City Hall	Hallway	E1742LS	Existing Volumetric Trefler 2 Lamp T5	6		Upgrade Fixtures				0.06	2,000	1,296		\$14		NLED1SL4TC	New LED T5 2 Lamp Type C-4 Recess (Eston Core)	6				0.29	2,000	576					720
43	City Hall	Hallway	ELED8KIT	Existing LED Exit Sign	4		Remain As Is				0.01	8,760	70		\$7		ELED8KIT	Existing LED Exit Sign	4				0.01	8,760	70			\$7		
44	City Hall	Entry to Server room	E1742LS	Existing Volumetric Trefler 2 Lamp T5	1		Upgrade Fixtures				0.11	2,000	216		\$1	EVIS	NLED1SL4TC	New LED T5 2 Lamp Type C-4 Recess (Eston Core)	1				0.05	2,000	96					120
45	City Hall	Server room	E1742LS	Existing Volumetric Trefler 2 Lamp T5	2		Upgrade Fixtures & Controls				0.22	720	166		\$1		NLED1SL4TC	New LED T5 2 Lamp Type C-4 Recess (Eston Core)	2		Existing Wp1 Switch Sensor	1	0.10	720	69					86
46	City Hall	Radio room	E3045MI	Existing Ship 2, 4, 14 75 Lamps, NSF Ballast	1		Upgrade Fixtures				0.22	1,800	389		\$1	EVIS	NLED1SL4TC	New LED T5 2 Lamp Type C-4 Recess (Eston Core)	1		Existing Wp1 Switch Sensor	1	0.10	1,800	173					216
47	City Hall	Finance area	E1742LS	Existing Volumetric Trefler 2 Lamp T5	3		Upgrade Fixtures				0.32	2,000	648		\$6	ECM	NLED1SL4TC	New LED T5 2 Lamp Type C-4 Recess (Eston Core)	3		Existing Ceiling Mount Sensor	1	0.14	1,800	259					389
48	City Hall	Accounts receivable	E1742LS	Existing Volumetric Trefler 2 Lamp T5	1		Upgrade Fixtures & Controls				0.11	1,800	194		\$1	EVIS	NLED1SL4TC	New LED T5 2 Lamp Type C-4 Recess (Eston Core)	1		Existing Wp1 Switch Sensor	1	0.05	1,800	86					108
49	City Hall	Utility lighting	E1742LS	Existing Volumetric Trefler 2 Lamp T5	3		Upgrade Fixtures				0.32	2,000	648		\$6	ECM	NLED1SL4TC	New LED T5 2 Lamp Type C-4 Recess (Eston Core)	3		Existing Ceiling Mount Sensor	1	0.14	1,800	259					389
50	City Hall	Conference room	E1742LS	Existing Volumetric Trefler 2 Lamp T5	2		Upgrade Fixtures				0.22	1,800	389		\$2	EVIS	NLED1SL4TC	New LED T5 2 Lamp Type C-4 Recess (Eston Core)	2		Existing Wp1 Switch Sensor	1	0.10	1,800	173					216
51	City Hall	Copy room	E1742LS	Existing Volumetric Trefler 2 Lamp T5	1		Upgrade Fixtures & Controls				0.11	1,800	194		\$1	EVIS	NLED1SL4TC	New LED T5 2 Lamp Type C-4 Recess (Eston Core)	1		Existing Wp1 Switch Sensor	1	0.05	1,800	86					108
52	City Hall	Technology room	E1742LS	Existing Volumetric Trefler 2 Lamp T5	1		Upgrade Fixtures				0.11	2,000	216		\$1		NLED1SL4TC	New LED T5 2 Lamp Type C-4 Recess (Eston Core)	1				0.05	2,000	96					120
53	City Hall	Council chambers lobby	E1742LS	Existing Volumetric Trefler 2 Lamp T5	3		Upgrade Fixtures				0.32	2,000	648		\$6		NLED1SL4TC	New LED T5 2 Lamp Type C-4 Recess (Eston Core)	3				0.14	2,000	288					360
54	City Hall	Council chambers lobby	ELED8KIT	Existing LED Exit Sign	2		Remain As Is				0.00	8,760	35		\$3		ELED8KIT	Existing LED Exit Sign	2				0.00	8,760	35			\$3		
55	City Hall	Council chambers	E1742LS	Existing Volumetric Trefler 2 Lamp T5	12		Upgrade Fixtures				1.30	2,000	2,592		\$27		NLED1SL4TC	New LED T5 2 Lamp Type C-4 Recess (Eston Core)	12				0.58	2,000	1,152					1,440
56	City Hall	Council chambers	E1742LS	Existing Volumetric Trefler 2 Lamp T5	2		Upgrade Fixtures				0.06	2,000	112		\$2		NLED1SL2TC	New LED T5 2 Lamp Type C-2 Recess (Eston Core)	2				0.04	2,000	88					24
57	City Hall	Council chambers	ELED8KIT	Existing LED Exit Sign	1		Remain As Is				0.00	8,760	18		\$2		ELED8KIT	Existing LED Exit Sign	1				0.00	8,760	18			\$2		
58	City Hall	Men's RR	E1742N	Existing Plumatic Trefler M 2, 152 T5 with 2 watt Normal SBLast	1		Upgrade Fixtures & Controls				0.06	2,000	128		\$1	ECM	NLED1SL4TC	New LED T5 2 Lamp Type C-4 Recess (Eston Core)	1		Existing Ceiling Mount Sensor	1	0.03	1,800	94					74
59	City Hall	Men's RR	E1045MI	Existing Wp 2, 2, 154 T5 Lamps, NSF Ballast	5		Upgrade Fixtures				0.54	2,000	1,080		\$9		NLED1SL4TC	New LED T5 2 Lamp Type C-4 Recess (Eston Core)	5				0.24	2,000	480					600
60	City Hall	Women's RR	E1742N	Existing Plumatic Trefler M 2, 152 T5 with 2 watt Normal SBLast	1		Upgrade Fixtures & Controls				0.06	2,000	128		\$1	ECM	NLED1SL4TC	New LED T5 2 Lamp Type C-4 Recess (Eston Core)	1		Existing Ceiling Mount Sensor	1	0.03	1,800	94					74
61	City Hall	Women's RR	E1045MI	Existing Wp 2, 2, 154 T5 Lamps, NSF Ballast	4		Upgrade Fixtures				0.45	2,000	864		\$7		NLED1SL4TC	New LED T5 2 Lamp Type C-4 Recess (Eston Core)	4				0.19	2,000	384					480
62	City Hall	Stairwell 2	E1742LS	Existing Volumetric Trefler 2 Lamp T5	2		Upgrade Fixtures				0.22	2,000	432		\$2		NLED1SL4TC	New LED T5 2 Lamp Type C-4 Recess (Eston Core)	2				0.10	2,000	192					240
63	City Hall	Fire Chief	E1742LS	Existing Volumetric Trefler 2 Lamp T5	2		Upgrade Fixtures & Controls				0.22	2,000	432		\$2	ECM	NLED1SL4TC	New LED T5 2 Lamp Type C-4 Recess (Eston Core)	2		Existing Ceiling Mount Sensor	1	0.10	1,800	173					259
64	City Hall	Storage backroom	E3045MI	Existing Ship 2, 4, 14 75 Lamps, NSF Ballast	1		Upgrade Fixtures				0.11	800	86				NLED1SL4TC	New LED T5 2 Lamp Type C-4 Recess (Eston Core)	1				0.05	800	38					48
65	City Hall	City Recorder	E1742LS	Existing Volumetric Trefler 2 Lamp T5	2		Upgrade Fixtures & Controls				0.22	2,000	432		\$2	ECM	NLED1SL4TC	New LED T5 2 Lamp Type C-4 Recess (Eston Core)	2		Existing Ceiling Mount Sensor	1	0.10	1,800	173					259
66	City Hall	City Manager	E1742LS	Existing Volumetric Trefler 2 Lamp T5	2		Upgrade Fixtures & Controls				0.22	1,800	389		\$2	EVIS	NLED1SL4TC	New LED T5 2 Lamp Type C-4 Recess (Eston Core)	2		Existing Wp1 Switch Sensor	1	0.10	1,800	173					216

Site Information				Existing										Selected										Savings					
Item #	Site	Location (Room, room #, etc.)	Exis. Fixture Code	Fixture Description	Fixture Quantity	If Controlled by a Device on another Line, Enter Item # Here	Exis. Controls Description	Device Quantity	Foot Candles (lm/ft²)	Total Power (kW)	Hours Consumed (h/yr)	Energy Consumption (kWh/yr)	Estimated (kW/yr)	Average Annual Maintenance Cost (\$/yr)	Comments (if a bulb is burned out, check for a loose connection, etc.)	Selected Fixture Code	Fixture Description	Fixture Quantity	If Controlled by a Device on another Line, Enter Item # Here	Selected Controls Description	Device Quantity	Total Power (kW)	Hours Consumed (h/yr)	Energy Consumption (kWh/yr)	Estimated (kW/yr)	Average Annual Maintenance Cost (\$/yr)	Comments	Energy Savings (kWh/yr)	
67	City Hall	Board room	E17-02L15	Existing Volumetric Ceiling 2 Lamp T5	2		Existing Wall Switch Sensor	1		0.22	1,800	389		\$2	EVIS	NLED15LTC	New LED T5 2 Lamp Type C-4 Recent (Estimate Code)	2		Existing/Wall Switch Sensor	1	0.10	1,800	173				216	
68	City Hall	HR Manager	E17-02L15	Existing Volumetric Ceiling 2 Lamp T5	2		Existing Volumetric Ceiling 2 Lamp T5			0.22	2,000	432		\$2		NLED15LTC	New LED T5 2 Lamp Type C-4 Recent (Estimate Code)	2				0.10	2,000	192				240	
69	City Hall	Fire department	E17-02L15	Existing Volumetric Ceiling 2 Lamp T5	3		Existing Volumetric Ceiling 2 Lamp T5			0.32	2,000	646		\$6		NLED15LTC	New LED T5 2 Lamp Type C-4 Recent (Estimate Code)	3				0.14	2,000	288				360	
70	City Hall	Small hallway	E17-02L15	Existing Volumetric Ceiling 2 Lamp T5	1		Existing Volumetric Ceiling 2 Lamp T5			0.11	2,000	216		\$1		NLED15LTC	New LED T5 2 Lamp Type C-4 Recent (Estimate Code)	1				0.05	2,000	96				120	
71	City Hall	Small hallway	ELED01T	Existing LED Exit Sign	1		Remain As Is			0.00	8,760	18		\$2		ELED01T	Existing LED Exit Sign	1				0.00	8,760	18		\$2			
72	City Hall	Starwell to fire garage	E17-02L15	Existing Volumetric Ceiling 2 Lamp T5	2		Existing Volumetric Ceiling 2 Lamp T5			0.22	2,000	432		\$2		NLED15LTC	New LED T5 2 Lamp Type C-4 Recent (Estimate Code)	2				0.10	2,000	192				240	
73	City Hall	Starwell to fire garage	ELED01T	Existing LED Exit Sign	1		Remain As Is			0.00	8,760	18		\$2		ELED01T	Existing LED Exit Sign	1				0.00	8,760	18					
74	City Hall	Dayroom line	E17-02L15	Existing Volumetric Ceiling 2 Lamp T5	6		Existing Volumetric Ceiling 2 Lamp T5			0.06	2,000	1,296		\$14	ECM	NLED15LTC	New LED T5 2 Lamp Type C-4 Recent (Estimate Code)	6		Existing Ceiling Mount Sensor	1	0.29	2,000	576				720	
75	City Hall	The Dorm	E17-02L15	Existing Volumetric Ceiling 2 Lamp T5	6		Existing Volumetric Ceiling 2 Lamp T5			0.06	2,000	1,296		\$14	ECM	NLED15LTC	New LED T5 2 Lamp Type C-4 Recent (Estimate Code)	6		Existing Ceiling Mount Sensor	1	0.29	1,600	516				778	
76	City Hall	Fire pole	EMH25N	Existing Wall 4' x 2.4' T5 Lamp, 100' Ballast	1		Remain As Is			0.11	2,000	216		\$1	EMBALLAST	NLED15LTC	New LED T5 2 Lamp Type C-4 Recent (Estimate Code)	1				0.05	2,000	96				120	
77	City Hall	Fire pole	EMH27N	Existing Wall 4' x 2.4' T5 Lamp, 100' Ballast	1		Upgrade Fluorescent			0.03	2,000	66		\$1		NLED15LTC	New LED T5 2 Lamp Type C-4 Recent (Estimate Code)	1				0.02	2,000	40				26	
78	City Hall	Locker room	ET1422N	Existing Plismatic Traffic 14.2' x 732 T8 32 watt Lamp(s), Normal Ballast	3		Upgrade Fluorescent			0.19	2,000	384		\$3		NLED15LTC	New LED T5 2 Lamp Type C-4 Recent (Estimate Code)	3				0.09	2,000	180				204	
79	City Hall	Locker room	EMH25N	Existing Wall 4' x 2.4' T5 Lamp, 100' Ballast	3		Upgrade Fluorescent			0.32	2,000	646		\$5		NLED15LTC	New LED T5 2 Lamp Type C-4 Recent (Estimate Code)	3				0.14	2,000	288				360	
80	City Hall	Fire garage minibay	EMH25H	Existing Hood 4' x 2 Lamp (54 T5 Lamps)	43		Upgrade Fluorescent			4.64	2,000	9,388		\$84		NLED15LTC	New LED T5 2 Lamp Type C-4 Recent (Estimate Code)	43				2.06	2,000	4,128				5,160	
81	City Hall	Fire garage main bay	ELED01T	Existing LED Exit Sign	2		Remain As Is			0.00	8,760	36		\$3		ELED01T	Existing LED Exit Sign	2				0.00	8,760	36					
82	City Hall	Fire garage minibay	EMH25H	Existing Hood 4' x 2 Lamp(s) (54 T5 Lamps)	3		Upgrade Fluorescent			0.06	2,000	1,296		\$8		NLED15LTC	New LED T5 2 Lamp Type C-4 Recent (Estimate Code)	3				0.29	2,000	576				720	
83	City Hall	Fire garage main bay	ES425H	Existing Strip 4' x 2.4' T5 Lamps, 1 Lamp(s)	1		Upgrade Fluorescent			0.11	2,000	216		\$1		NLED15LTC	New LED T5 2 Lamp Type C-4 Recent (Estimate Code)	1				0.05	2,000	96				120	
84	City Hall	Hour room	ECFLS32S	Existing CFL Screw 32 watt Lamp(s)	2		Upgrade Fluorescent			0.06	2,000	128		\$1	ROUND WALL PACK	NLED15H92	New LED 9 Watt A19 Lamp(2)	2				0.04	2,000	72				56	
85	City Hall	Hour room	EMH25H	Existing Woodgrain 4' x 2.4' T5 Lamps	1		Upgrade Fluorescent			0.11	2,000	216		\$1		NLED15LTC	New LED T5 2 Lamp Type C-4 Recent (Estimate Code)	1				0.05	2,000	96				120	
86	City Hall	Electrical room	ES425H	Existing Strip 4' x 2.4' T5 Lamps, 1 Lamp(s)	1		Upgrade Fluorescent			0.11	800	86				NLED15LTC	New LED T5 2 Lamp Type C-4 Recent (Estimate Code)	1				0.05	800	38				48	
87	City Hall	Laundry room	EMH44H	Existing Strip 4' x 4' T5 Lamps, 2 Lamp(s)	2		Upgrade Fluorescent	1		0.43	1,800	778		\$3	EVIS	NLED15LTC	New LED T5 2 Lamp Type C-4 Recent (Estimate Code)	2		Existing/Wall Switch Sensor	1	0.19	1,800	346				432	
88	City Hall	Laundry room	ES425H	Existing Strip 4' x 2.4' T5 Lamps, 1 Lamp(s)	1		Upgrade Fluorescent			0.11	2,000	216		\$1		NLED15LTC	New LED T5 2 Lamp Type C-4 Recent (Estimate Code)	1				0.05	2,000	96				120	
89	City Hall	Exterior building envelope	EMLED10	Existing Metalpole LED 10 watt Lamps	7		Remain As Is			0.07	4,390	307		\$21		EMLED10	Existing Metalpole LED 10 watts	7				0.07	4,390	307			\$21		
90	City Hall	Exterior building envelope	ELED022W	Existing LED Corn C-Grid 32 watt Lamps	1		Upgrade Fluorescent			0.02	4,390	88			12' SHOCKBOX Pole with Com Code	NLED03WH3	New LED 38 Watt Corn Head with 2 Watt 4' x 2 Bracket (ERL10554082)	1				0.04	4,390	171				43	
91	City Hall	Exterior building envelope	ECFLS32S	Existing CFL Screw 32 watt Lamps	2		Upgrade Fluorescent			0.06	4,390	280		\$5	ROUND CANOPY	NLED15H92	New LED 9 Watt A19 Lamp(2)	2				0.04	4,390	158			\$1		123
92	City Hall	Front entry	EMH44H	Existing Fluores Metal Hood 100 watt Lamp	1		Upgrade Fluorescent			0.13	4,390	585		\$11	12' SHOCKBOX Pole	NLED03WH3	New LED 38 Watt Corn Head with 2 Watt 4' x 2 Bracket (ERL10554082)	1				0.04	4,390	171				384	
93	City Hall	Front entry	ELED022W	Existing LED Corn C-Grid 32 watt Lamps	1		Upgrade Fluorescent			0.02	4,390	88			12' SHOCKBOX Pole	NLED03WH3	New LED 38 Watt Corn Head with 2 Watt 4' x 2 Bracket (ERL10554082)	1				0.04	4,390	171				43	
94	City Hall	Parking lot	EMH4250	Existing Pole Light Metal Hood 250 watt Lamp	2		Upgrade Fluorescent			0.09	4,390	2,884		\$25	280 T SHOCKBOX	NLED03H11W	New LED Corn Head Fluore 111 Watt (ERL44)	2				0.22	4,390	972			\$8		1,612
95	City Hall	Parking lot	EMH4250	Existing Pole Light Metal Hood 250 watt Lamp	3		Upgrade Fluorescent			0.06	4,390	3,876		\$42	DUEL HEAD POLE 280W	NLED03H11W3	New LED Corn Head Fluore 2 111 Watt 4' x 2 Bracket (ERL44)	3				0.33	4,390	1,459				2,148	
96	Apport Shop	Exterior	ERL4200	Existing translucent hood (2) 90 watt Lamps	2		Upgrade Fluorescent			0.36	4,390	1,577		\$53	TWO HEADED FLOOD	NLED03WH3	New LED 28 Watt 2 Headed Flood (CFL)	2				0.05	4,390	219			\$8		1,358
97	Apport Shop	Interior	E82H16H	Existing Shadow 2' x 16' 12' 165 watt Lamp	1		Upgrade Fluorescent			0.39	2,000	780		\$1		NLED03WH3	New LED 19 Watt Low Bay (AFT)	1				0.06	2,000	122				658	
98	Apport Shop	Interior	E82H16H	Existing Shadow 2' x 16' 12' 165 watt Lamp	6		Upgrade Fluorescent			1.98	2,000	3,960		\$19		NLED03WH3	New LED 19 Watt Low Bay (AFT) 800LM	6				0.37	2,000	732				3,228	
99	Apport Shop	Interior	E8302N	Existing Sky 1' x 4' 100 Watt, 2, 160 T12 Straine	1		Upgrade Fluorescent			0.12	2,000	246		\$1		NLED03WH3	New LED 19 Watt Low Bay (AFT) 800LM	1				0.06	2,000	122				124	
100	Apport Shop	Interior Tool room	E8302N	Existing Sky 1' x 4' 100 Watt, 2, 160 T12 Straine	4		Upgrade Fluorescent			0.49	2,000	984		\$5		NLED03WH3	New LED 19 Watt Low Bay (AFT) 800LM	4				0.24	2,000	468				466	

Site Information				Existing						Selected						Savings													
Item #	Site	Location (near room #, etc.)	Exist. Fixture Code	Fixture Description	Future Quantity	Estimated Annual Footcandle (Foot-candle)	Item #s Here	Existing Controls/Description	Device Quantity	Selection	Prop. Example (lumens)	Total Power (Watt)	Beam Angle (deg)	Energy Consumption (kWh/yr)	Average Price (\$/ft²)	Comments (if bulb is turned out, item condition, light savings, etc.)	Selected Fixture Code	Fixture Description	Future Quantity	Estimated Annual Footcandle (Foot-candle)	Item #s Here	Existing Controls/Description	Device Quantity	Total Power (Watt)	Beam Angle (deg)	Energy Consumption (kWh/yr)	Average Price (\$/ft²)	Comments	Energy Savings (kWh/yr)
101	Alport Shop	Interior Tool room	EH4222N	Existing Hood 4.2, F32 78 watt Lamp(s), Normal Ballast Factor	1	Upgrade Fluores			Upgrade Fluores	Upgrade Fluores		0.06	2,000	112	\$1		NLED78BL4TC	New LED 78 2 Lamp Type C-4 Recess (Espan Cone)	1				0.03	2,000	60			52	
102	Alport Shop	Interior Tool room	BLER10	Existing LED Reflector Lamp 8 watts	1	Remain As Is			Remain As Is	Remain As Is		0.01	2,000	20			ELED10	Existing LED Reflector Lamp 8 watts Recess (Espan Cone)	1				0.01	2,000	20			2,000	
103	Armes Building	Fronters area	E14422N	Existing Plumatic 4.2, F32 78 watt Lamp, NSF Ballast	7	Upgrade Fluores			Upgrade Fluores	Upgrade Fluores		0.30	2,000	1,392	\$12		NLED78BL4TC	New LED 78 2 Lamp Type C-4 Recess (Espan Cone)	7				0.42	2,000	840			962	
104	Armes Building	Office on/off	E14422N	Existing Plumatic 4.2, F32 78 watt Lamp, NSF Ballast	2	Upgrade Fluores			Upgrade Fluores	Upgrade Fluores		0.26	2,000	512	\$2		NLED78BL4TC	New LED 78 2 Lamp Type C-4 Recess (Espan Cone)	2				0.12	2,000	240			272	
105	Armes Building	Office on/off	E68422N	Existing Strip 3x3 Fixture 4L 32 78 watt Lamp(s), Normal Ballast	1	Upgrade Fluores			Upgrade Fluores	Upgrade Fluores		0.11	2,000	224	\$1		NLED78BL4TC	New LED 78 4 Lamp Type C-4 Recess (Espan Cone)	1				0.06	2,000	120			104	
106	Armes Building	Restroom	E14422N	Existing Wre 4.2, F32 78 32 watt Lamp(s), Normal Ballast Factor	1	Upgrade Fluores			Upgrade Fluores	Upgrade Fluores		0.06	2,000	126	\$1		NLED78BL4TC	New LED 78 2 Lamp Type C-4 Recess (Espan Cone)	1				0.03	2,000	60			68	
107	Armes Building	Cocktail room	E57422N	Existing CFL Screw-in 26 watt Lamp(s)	1	Upgrade Fluores			Upgrade Fluores	Upgrade Fluores		0.05	2,000	92	\$1	NEWLESS	NLED78BL4TC	New LED 78 Watt A19 Lamp Recess (Espan Cone)	1				0.01	2,000	18			34	
108	Armes Building	Cocktail room	ENR200	Existing Incandescent 60 watt Lamp(s)	1	Upgrade Fluores			Upgrade Fluores	Upgrade Fluores		0.08	2,000	120	\$2	NEWLESS	NLED78BL4TC	New LED 78 Watt A19 Lamp Recess (Espan Cone)	1				0.01	2,000	18			102	
109	Armes Building	Conference area	E14422N	Existing Plumatic 4.2, F32 78 26 watt Lamp, NSF Ballast	7	Upgrade Fluores			Upgrade Fluores	Upgrade Fluores		0.30	2,000	1,392	\$12		NLED78BL4TC	New LED 78 4 Lamp Type C-4 Recess (Espan Cone)	7				0.42	2,000	840			962	
110	Armes Building	Development Director	E14422N	Existing Plumatic 4.2, F32 78 26 watt Lamp, NSF Ballast	2	Upgrade Fluores			Upgrade Fluores	Upgrade Fluores		0.26	2,000	512	\$2		NLED78BL4TC	New LED 78 4 Lamp Type C-4 Recess (Espan Cone)	2				0.12	2,000	240			272	
111	Back Park Shop	Rear room building Exterior	EFL12200	Existing Flood LED 26 watts	2	Remain As Is			Upgrade Fluores	Upgrade Fluores		0.04	4,300	176	\$19		EFL1200	Existing Flood LED 26 watts Recess (Espan Cone)	2				0.04	4,300	176		\$19		
112	Back Park Shop	Rear room building Exterior	ENR200	Existing Incandescent 60 watt Lamp(s)	2	Upgrade Fluores			Upgrade Fluores	Upgrade Fluores		0.12	4,300	526	\$9	JELLY JAR NO ACCESS	NLED78BL4TC	New LED 78 Watt A19 Lamp Recess (Espan Cone)	2				0.02	4,300	79		\$8	447	
113	Back Park Shop	Restroom building Shop building Restroom	BLER200P	Existing LED 30W WALLPACK	2	Remain As Is			Upgrade Fluores	Upgrade Fluores		0.06	4,300	263			ELED200P	Existing LED 30W WALLPACK Recess (Espan Cone)	2				0.06	4,300	263			248	
114	Back Park Shop	Restroom building Shop building Restroom	ESR200N	Existing Strip 1x4 Fixture 2L 160 712 watt Lamp, NSF Ballast	2	Upgrade Fluores			Upgrade Fluores	Upgrade Fluores		0.26	2,000	482	\$1		NLED78BL4TC	New LED 78 16 Watt Bay Day (off) 8000LM Recess (Espan Cone)	2				0.12	2,000	244			300	
115	Back Park Shop	Restroom building Shop building Restroom	ES424N	Existing Strip 4.2L 160 712 watt Lamp(s)	3	Upgrade Fluores			Upgrade Fluores	Upgrade Fluores		0.24	2,000	480	\$6		NLED78BL4TC	New LED 78 2 Lamp Type C-4 Recess (Espan Cone)	3				0.09	2,000	180			800	
116	Back Park Shop	Restroom building Shop building Restroom	ES8407W	Existing Strip 4L 160 712 watt Lamp	4	Upgrade Fluores			Upgrade Fluores	Upgrade Fluores		0.84	2,000	1,280	\$4		NLED78BL4TC	New LED 78 4 Lamp Type C-4 Recess (Espan Cone)	4				0.24	2,000	480			300	
117	Back Park Shop	Restroom building Shop building Exterior	EFL12200	Existing Flood LED 26 watts	1	Remain As Is			Upgrade Fluores	Upgrade Fluores		0.02	4,300	86			EFL1200	Existing Flood LED 26 watts Recess (Espan Cone)	1				0.02	4,300	86			100	
118	Canemey House	Main area	E14422N	Existing Wre 4.2L 160 712 watt Lamp(s), Normal Ballast	3	Upgrade Fluores			Upgrade Fluores	Upgrade Fluores		0.24	2,000	480	\$10		NLED78BL4TC	New LED 78 2 Lamp Type C-4 Recess (Espan Cone)	3				0.09	2,000	180			300	
119	Canemey House	Office	ES424N	Existing Strip 4.2L 160 712 watt Lamp(s)	2	Upgrade Fluores			Upgrade Fluores	Upgrade Fluores		0.16	2,000	320	\$5		NLED78BL4TC	New LED 78 2 Lamp Type C-4 Recess (Espan Cone)	2				0.06	2,000	120			200	
120	Canemey House	Restroom	ES424N	Existing Strip 4.2L 160 712 watt Lamp(s)	1	Upgrade Fluores			Upgrade Fluores	Upgrade Fluores		0.08	2,000	160	\$1		NLED78BL4TC	New LED 78 2 Lamp Type C-4 Recess (Espan Cone)	1				0.03	2,000	60			100	
121	Canemey House	Building exterior envelope	NLED13WA19	New LED 13 Watt A19 Lamp	1	Remain As Is			Upgrade Fluores	Upgrade Fluores		0.01	4,300	95			NLED13WA19	New LED 13 Watt A19 Lamp Recess (Espan Cone)	1				0.01	4,300	55			320	
122	Canemey House	Building exterior envelope	BYWPS170	Existing Wre 170 watt 180° Flood Fixture	1	Upgrade Fluores			Upgrade Fluores	Upgrade Fluores		0.09	4,300	399	\$10		NLED17WHP	New LED 170 Watt Flood Fixture with PC Mount (Espan Cone)	1				0.02	4,300	79			434	
123	Canemey Shop	Exterior lot storage	EFL10400	Existing Flood Fixture 10400 watt	2	Upgrade Fluores			Upgrade Fluores	Upgrade Fluores		0.52	800	723		TRIAXION MOUNT FIXTURE	NLED10WFL	New LED 10 Watt Crosslinkable Mount (Espan Cone)	2				0.37	800	259			307	
124	Canemey Shop	Shop building Exterior	EFL10P320	Existing Flood Fixture 10P320 watt	1	Remain As Is			Upgrade Fluores	Upgrade Fluores		0.09	4,300	399	\$10		NLED10WFL	New LED 10 Watt Crosslinkable Mount (Espan Cone)	1				0.02	4,300	92		\$7		
125	Canemey Shop	Shop building Exterior	EWLED10	Existing Walkpack LED 10 watts	1	Remain As Is			Upgrade Fluores	Upgrade Fluores		0.01	4,300	44		COOPER CROSSFOUR	EWLED10	Existing Walkpack LED 10 watts Recess (Espan Cone)	1				0.01	4,300	44			200	
126	Canemey Shop	Shop building Interior	ES424N	Existing Strip 4.2L 160 712 watt Lamp(s)	2	Upgrade Fluores			Upgrade Fluores	Upgrade Fluores		0.16	2,000	320	\$5		NLED78BL4TC	New LED 78 2 Lamp Type C-4 Recess (Espan Cone)	2				0.06	2,000	120			100	
127	Canemey Shop	Shop building Interior	E14420W	Existing Strip 4.2L 160 712 watt Lamp(s)	1	Upgrade Fluores			Upgrade Fluores	Upgrade Fluores		0.08	2,000	160	\$1		NLED78BL4TC	New LED 78 2 Lamp Type C-4 Recess (Espan Cone)	1				0.03	2,000	60			104	
128	Canemey Shop	Shop building Interior	ES7420S	Existing Hood 4.2L 40 712 watt Lamp(s)	1	Upgrade Fluores			Upgrade Fluores	Upgrade Fluores		0.08	4,300	260	\$11	WALLPACK	NLED78BL4TC	New LED 78 2 Lamp Type C-4 Recess (Espan Cone)	1				0.02	4,300	79		\$1	44	
129	Canemey Shop	Shop building Pump house Interior	ECFL20S	Existing CFL Pin Base 20 watt Lamp(s)	2	Upgrade Fluores			Upgrade Fluores	Upgrade Fluores		0.04	2,000	80	\$1	NEWLESS	NLED78BL4TC	New LED 9 Watt 4 Pin A19, TypeB8 (LED 1254)	2				0.02	2,000	36			2,667	
130	Canemey Shop	Shop building Pump house Interior	ECFL20S	Existing CFL Screw-in 20 watt Lamp(s)	2	Upgrade Fluores			Upgrade Fluores	Upgrade Fluores		0.04	2,000	80	\$1	NEWLESS	NLED78BL4TC	New LED 9 Watt A19 Lamp Recess (Espan Cone)	2				0.02	2,000	36			204	
131	Canemey Shop	Exterior	BYWPS170	Existing Wre 170 watt 180° Flood Fixture	8	Upgrade Fluores			Upgrade Fluores	Upgrade Fluores		0.58	4,300	2,233	\$114	CHAIN HUNG	NLED17WHP	New LED 170 Watt Flood Fixture with PC Mount (Espan Cone)	8				1.80	100	180				
132	Canemey Shop	Exterior	ELB4120W	Existing Lowbay 4120 watt	30	Upgrade Fluores			Upgrade Fluores	Upgrade Fluores		3.84	100	384			NLED78BL4TC	New LED 78 Watt A19 Lamp Recess (Espan Cone)	30				0.01	8,700	70		\$7		
133	Canemey Shop	Exterior	ELED20IT	Existing LED Exit Sign	4	Remain As Is			Upgrade Fluores	Upgrade Fluores		0.01	8,700	70	\$7		ELED20IT	Existing LED Exit Sign Recess (Espan Cone)	4				0.01	8,700	70			3	
134	Canemey Shop	Exterior	EWLED10	Existing Wre 10 watt 180° Flood Fixture	1	Upgrade Fluores			Upgrade Fluores	Upgrade Fluores		0.06	100	6		EMERGENCY BALLAST	NLED78BL4TC	New LED 78 2 Lamp Type C-4 Recess (Espan Cone)	1				0.03	100	3			7	
135	Canemey Shop	Exterior	EWLED10	Existing Wre 10 watt 180° Flood Fixture	1	Upgrade Fluores			Upgrade Fluores	Upgrade Fluores		0.13	100	13			NLED78BL4TC	New LED 78 2 Lamp Type C-4 Recess (Espan Cone)	2				0.06		6				

Site Information				Existing						Selected						Savings										
Item #	Site	Location (Room, room #, etc.)	Exis. Fixture Code	Fixture Description	Fixture Quantity	IF Commodity is a Device on Mobile Linc. Enter Item # Here	Existing Controls Description	Device Quantity	Foot Candles (lm/ft²)	Total Power (W)	Energy Consumption (kWh/yr)	Demand (kW/yr)	Average Annual Maintenance Cost (\$/yr)	Comments (If fixture is turned out, item condition, light switching, etc.)	Selected Fixture Code	Fixture Description	Fixture Quantity	IF Commodity is a Device on Mobile Linc. Enter Item # Here	Selected Controls Description	Device Quantity	Total Power (W)	Energy Consumption (kWh/yr)	Demand (kW/yr)	Average Annual Maintenance Cost (\$/yr)	Comments	Energy Savings (kWh/yr)
135	Gold Club House	Interior Male area	ES842N	Existing Strip 14 ft. 30 watt LED 32 watt lamps, Normal Ballast Factor	9				1.01	2,000	2,016		\$17		NLED78AL4TC	New LED 78 4 Lamp Type C-4 Recess (Eaton Core)	9				0.54	2,000	1,000			936
136	Gold Club House	Interior Male area	EC71520	Existing CFL Screw-in 20 watt Lamp(s)	2				0.04	2,000	80		\$1		NLED9WA19	New LED 9 WEA19 Lamp	2				0.02	2,000	36			44
137	Gold Club House	Interior Male area	BNK20	Existing Incandescent 60 watt Lamp(s)	7				0.42	2,000	840		\$14		NLED9WA19	New LED 9 WEA19 Lamp	7				0.06	2,000	126			714
138	Gold Club House	Interior Male area	EC7183222	Existing Screw-in CFL Lamps 32 watt	6				0.40	2,000	792		\$25		NLED9WA19S3	New LED 9 WEA19 Lamp (3 Recess (Eaton Core)	6				0.16	2,000	324			468
139	Gold Club House	Interior Male area	E1442N	Existing Plumatic-Twister 4 ft. F32 18-28 watt lamps, NSF Ballast	6				0.77	2,000	1,368		\$12		NLED78AL4TC	New LED 78 4 Lamp Type C-4 Recess (Eaton Core)	6				0.36	2,000	720			816
140	Gold Club House	Interior Male area	BNK20	Existing Incandescent 60 watt Lamp(s)	3				0.16	2,000	360		\$6		NLED9WA19	New LED 9 WEA19 Lamp	3				0.03	2,000	64			306
141	Gold Club House	Interior Kitchen closet	BNK20	Existing Incandescent 60 watt Lamp(s)	1				0.06	800	48		\$1		NLED9WA19	New LED 9 WEA19 Lamp	1				0.01	800	7			41
142	Gold Club House	Interior Meeting room	ES842N	Existing Strip 14 ft. 30 watt LED 32 watt lamps, Normal Ballast Factor	2				0.22	2,000	448		\$2		NLED78AL4TC	New LED 78 4 Lamp Type C-4 Recess (Eaton Core)	2				0.12	2,000	240			208
143	Gold Club House	Interior Meeting room	EC71520	Existing CFL Screw-in 20 watt Lamp(s)	1				0.02	2,000	40		\$1		NLED9WA19	New LED 9 WEA19 Lamp	1				0.01	2,000	18			22
144	Gold Club House	Interior Women's restroom	ES842N	Existing Strip 14 ft. 30 watt LED 32 watt lamps, Normal Ballast	1				0.11	2,000	224		\$1		NLED78AL4TC	New LED 78 4 Lamp Type C-4 Recess (Eaton Core)	1				0.06	2,000	120			104
145	Gold Club House	Interior Men's restroom	ES842N	Existing Strip 14 ft. 30 watt LED 32 watt lamps, Normal Ballast	1				0.11	2,000	224		\$1		NLED78AL4TC	New LED 78 4 Lamp Type C-4 Recess (Eaton Core)	1				0.06	2,000	120			104
146	Gold Club House	Interior Back room	ES842N	Existing Strip 14 ft. 30 watt LED 32 watt lamps, Normal Ballast	2				0.22	2,000	448		\$2		NLED78AL4TC	New LED 78 4 Lamp Type C-4 Recess (Eaton Core)	2				0.12	2,000	240			208
147	Gold Club House	Interior Back room Closets	BNK20	Existing Incandescent 60 watt Lamp(s)	1				0.06	800	48		\$1		NLED9WA19	New LED 9 WEA19 Lamp	1				0.01	800	7			41
148	Gold Club House	Interior Hallway	ES842N	Existing Strip 14 ft. 30 watt LED 32 watt lamps, Normal Ballast	1				0.11	2,000	224		\$1		NLED78AL4TC	New LED 78 4 Lamp Type C-4 Recess (Eaton Core)	1				0.06	2,000	120			104
149	Gold Club House	Interior Hallway	ES422N	Existing Strip 4 ft. 20 78 32 watt Lamp(s), Normal Ballast Factor	1				0.06	2,000	128		\$1		NLED78AL4TC	New LED 78 4 Lamp Type C-4 Recess (Eaton Core)	1				0.03	2,000	60			68
150	Gold Club House	Interior Basement	ES842N	Existing Strip 14 ft. 30 watt LED 32 watt lamps, Normal Ballast	15				1.68	800	1,344		\$10		NLED78AL4TC	New LED 78 4 Lamp Type C-4 Recess (Eaton Core)	15				0.90	800	720			624
151	Gold Club House	Interior Basement	ELED13S	Existing LED 13W Strip Lamp(s)	4				0.07	800	96		\$9		ELED13S	Existing LED 13W Strip	4				0.07	800	58		\$9	
152	Gold Club House	Interior Exterior	EPLED200	Existing Flood LED 20 watts	1				0.02	4,300	88				EPLED200	Existing Flood LED 20 watts	1				0.02	4,300	88			
153	Gold Club House	Interior Exterior	EWLED10	Existing Walkback LED 10 watts	1				0.01	4,300	44				EWLED10	Existing Walkback LED 10 watts	1				0.01	4,300	44			364
154	Lon Park Shop	Bay shop	BN422N	Existing Flood 2 ft. 192 32 watt Lamp(s), Normal Ballast	7				0.39	2,000	764		\$9		NLED78AL4TC	New LED 78 4 Lamp Type C-4 Recess (Eaton Core)	7				0.21	2,000	420			68
155	Lon Park Shop	Bay shop Restroom	EW422N	Existing Flood 2 ft. 192 32 watt Lamp(s), Normal Ballast Factor	1				0.06	2,000	128		\$1		NLED78AL4TC	New LED 78 4 Lamp Type C-4 Recess (Eaton Core)	1				0.03	2,000	60			1,216
156	Modular Bldg. Boasting Range	Kitchen area	EW434N	Existing Walkback 4 ft. lamp(s) F34 F12 Standard Ballast	8				1.09	2,000	2,176		\$26		NLED78AL4TC	New LED 78 4 Lamp Type C-4 Recess (Eaton Core)	8				0.48	2,000	960			152
157	Modular Bldg. Boasting Range	Kitchen area	EW425W	Existing Walkback 2 ft. 192 32 watt Lamp(s)	2				0.14	2,000	272		\$1		NLED78AL4TC	New LED 78 4 Lamp Type C-4 Recess (Eaton Core)	2				0.06	2,000	120			152
158	Modular Bldg. Boasting Range	Kitchen area	ELED50IT	Existing LED Exit Sign	1				0.00	8,700	18		\$2		ELED50IT	Existing LED Exit Sign	1				0.00	8,700	18		\$2	
159	Modular Bldg. Boasting Range	Kitchen area	BNK20	Existing Incandescent 60 watt Lamp(s)	1				0.06	2,000	100				BNK20	New Start above Bay-Eye	1				0.00	2,000	6			94
160	Modular Bldg. Boasting Range	Kitchen area	BNK20	Existing Incandescent 60 watt Lamp(s)	1				0.06	2,000	100				BNK20	New Start above Bay-Eye	1				0.00	2,000	6			94
161	Modular Bldg. Boasting Range	Kitchen area	BNK20	Existing Incandescent 60 watt Lamp(s)	1				0.06	2,000	100				NLED78AL4TC	New LED 78 4 Lamp Type C-4 Recess (Eaton Core)	5		Existing Ceiling Mount Sensor	1	0.30	1,800	540			740
165	Public Works	Office area Reception area	E1442N	Existing Plumatic-Twister 4 ft. F32 18-28 watt lamps, NSF Ballast	4				0.91	2,000	1,084		\$8		NLED78AL4TC	New LED 78 4 Lamp Type C-4 Recess (Eaton Core)	4				0.24	2,000	480			544
166	Public Works	Office area Reception area	ELED50IT	Existing LED Exit Sign	1				0.00	8,700	18		\$2		ELED50IT	Existing LED Exit Sign	1				0.00	8,700	18		\$2	RED EXIT
167	Public Works	Office area Dining Room	E1442N	Existing Plumatic-Twister 4 ft. F32 18-28 watt lamps, NSF Ballast	12				1.54	2,000	3,072		\$23		NLED78AL4TC	New LED 78 4 Lamp Type C-4 Recess (Eaton Core)	12				0.72	2,000	1,440			1,632
168	Public Works	Office area Dining Room	ELED50IT	Existing LED Exit Sign	1				0.00	8,700	18		\$2		ELED50IT	Existing LED Exit Sign	1				0.00	8,700	18		\$2	RED EXIT

Site Information				Existing										Selected										Savings				
Item #	Site	Location (Room, Suite, etc.)	Exis. Fixture Code	Fixture Description	Quantity	Device Quantity	Existing Controls Description	If Controlled by a Device on another Line, Enter Item # Here	Foot Candle (lm/ft²)	Total Power (W)	Item Consumption (W/ft²)	Energy Consumption (kWh/yr)	Demand (kW/yr)	Average Annual Maintenance Cost (\$/yr)	Comments (if it fails to meet out, then condition, light savings, etc.)	Selected Fixture Code	Fixture Description	Quantity	Device Quantity	Special Controls Description	Device Quantity	Total Power (W)	Item Consumption (W/ft²)	Energy Consumption (kWh/yr)	Demand (kW/yr)	Average Annual Maintenance Cost (\$/yr)	Comments	Energy Savings (kWh/yr)
169	Public Works	Office area Dining Room	E1227N	Existing Troffer 2x2, 2' x 17' 78 Lamps, NSF Ballast	4					0.13	2,000	264		\$7	ECM	NLED78LTC	New LED 78 12 Lamp Type C-2 Recess (Eaton Core)	4		Existing Ceiling Mount Sensor	1	0.08	1,800	144				120
170	Public Works	Office area Dining Room	E1232SW	Existing Task Shop 3' Lamp 25 Watt	1					0.03	2,000	90				NLED78LTC	New LED 78 12 Lamp Type C-2 Recess (Eaton Core)	1				0.01	2,000	22				28
171	Public Works	Office area Printer Area	E1432N	Existing Plume-Troffer 4' x 4, F32 19 28 watt Lamps, NSF Ballast	2					0.36	2,000	52		\$2		NLED78LTC	New LED 78 12 Lamp Type C-2 Recess (Eaton Core)	2				0.12	2,000	240				272
172	Public Works	Office area Office near printer	E1432N	Existing Plume-Troffer 4' x 4, F32 19 28 watt Lamps, NSF Ballast	4					0.91	2,000	1,024		\$8		NLED78LTC	New LED 78 12 Lamp Type C-2 Recess (Eaton Core)	4				0.24	2,000	480				544
173	Public Works	Office area Conference room	E1432N	Existing Plume-Troffer 4' x 4, F32 19 28 watt Lamps, NSF Ballast	4					0.91	2,000	1,024		\$8		NLED78LTC	New LED 78 12 Lamp Type C-2 Recess (Eaton Core)	4				0.24	2,000	480				544
174	Public Works	Office area Women's restroom	EWAN322N	Existing Vanity Fixture 4' x 2, F32 18 Watt Lamps, NSF Ballast	1					0.06	2,000	128		\$1		NLED78LTC	New LED 78 12 Lamp Type C-2 Recess (Eaton Core)	1				0.03	2,000	60				68
175	Public Works	Office area Men's restroom	EWAN322N	Existing Vanity Fixture 4' x 2, F32 18 Watt Lamps, NSF Ballast	1					0.06	2,000	128		\$1		NLED78LTC	New LED 78 12 Lamp Type C-2 Recess (Eaton Core)	1				0.03	2,000	60				68
176	Public Works	Office area Men's restroom	BNK20	Existing Incandescent 0' wall (Lamps)	1					0.06	2,000	128		\$2	FAN LIGHT COMBO	NLED9WA19	New LED 9 WEA A19 Lamp	1				0.01	2,000	18				102
177	Public Works	Office area Women's restroom	BNK20	Existing Incandescent 0' wall (Lamps)	1					0.06	2,000	128		\$2	FAN LIGHT COMBO	NLED9WA19	New LED 9 WEA A19 Lamp	1				0.01	2,000	18				102
178	Public Works	Office area Office	E1432N	Existing Plume-Troffer 4' x 4, F32 19 28 watt Lamps, NSF Ballast	2					0.36	2,000	52		\$2		NLED78LTC	New LED 78 12 Lamp Type C-2 Recess (Eaton Core)	2				0.12	2,000	240				272
179	Public Works	Office area Break room	E1432N	Existing Plume-Troffer 4' x 4, F32 19 28 watt Lamps, NSF Ballast	2					0.36	2,000	52		\$2		NLED78LTC	New LED 78 12 Lamp Type C-2 Recess (Eaton Core)	2				0.12	2,000	240				272
180	Public Works	Office area Robert Treacy's office	E1432N	Existing Plume-Troffer 4' x 4, F32 19 28 watt Lamps, NSF Ballast	2					0.36	2,000	52		\$2	ADD WS	NLED78LTC	New LED 78 12 Lamp Type C-2 Recess (Eaton Core)	2				0.12	2,000	240				272
181	Public Works	Office area Casey Mullins	E1432N	Existing Plume-Troffer 4' x 4, F32 19 28 watt Lamps, NSF Ballast	2					0.36	2,000	52		\$2	ADD WS	NLED78LTC	New LED 78 12 Lamp Type C-2 Recess (Eaton Core)	2				0.12	2,000	240				272
182	Public Works	Office area Next office	E1432N	Existing Plume-Troffer 4' x 4, F32 19 28 watt Lamps, NSF Ballast	2					0.36	2,000	52		\$2	ADD WS	NLED78LTC	New LED 78 12 Lamp Type C-2 Recess (Eaton Core)	2				0.12	2,000	240				272
183	Public Works	Office area Next office	E1432N	Existing Plume-Troffer 4' x 4, F32 19 28 watt Lamps, NSF Ballast	2					0.36	2,000	52		\$2	ADD WS	NLED78LTC	New LED 78 12 Lamp Type C-2 Recess (Eaton Core)	2				0.12	2,000	240				272
184	Public Works	Public works shop Reception	BNK20	Existing Incandescent 0' wall (Lamps)	1					0.06	2,000	128		\$2		NLED9WA19	New LED 9 WEA A19 Lamp	1				0.01	2,000	18				102
185	Public Works	Public works shop Reception	EWAN322N	Existing Vep 4' x 2, F32 32 watt Lamps, Normal Ballast Factor	1					0.06	2,000	128		\$1		NLED78LTC	New LED 78 12 Lamp Type C-2 Recess (Eaton Core)	1				0.03	2,000	60				68
186	Public Works	Public works shop Small office	EWAN322N	Existing Vep 4' x 2, F32 32 watt Lamps, Normal Ballast Factor	4					0.36	2,000	52		\$5		NLED78LTC	New LED 78 12 Lamp Type C-2 Recess (Eaton Core)	4				0.12	2,000	240				272
187	Public Works	Public works shop Baller room	ECF1528	Existing CFL Scones 28 watt (Lamps)	2					0.05	800	42		\$1	KEYLESS	NLED511W	New LED Strip 4' 11 Wae (ANSL221L)	2				0.02	800	18				24
188	Public Works	Public works shop Capital area	ECF1528	Existing CFL Scones 28 watt (Lamps)	2					0.05	800	42		\$1	KEYLESS	NLED511W	New LED Strip 4' 11 Wae (ANSL221L)	2				0.02	800	18				24
189	Public Works	Public works shop Tool storage	ECF1528	Existing CFL Scones 28 watt (Lamps)	4					0.10	800	83		\$2	KEYLESS	NLED511W	New LED Strip 4' 11 Wae (ANSL221L)	4				0.04	800	35				48
190	Public Works	Public works shop Tool storage	EWAN322N	Existing Vep 4' x 2, F32 32 watt Lamps, Normal Ballast Factor	1					0.06	800	51				NLED78LTC	New LED 78 12 Lamp Type C-2 Recess (Eaton Core)	1				0.03	800	24				27
191	Public Works	Public works shop Equipment storage	EWAN322N	Existing Vep 4' x 2, F32 32 watt Lamps, Normal Ballast Factor	4					0.36	800	205		\$1		NLED78LTC	New LED 78 12 Lamp Type C-2 Recess (Eaton Core)	4				0.12	800	96				109
192	Public Works	Public works shop Equipment storage	ECF1528	Existing CFL Scones 28 watt (Lamps)	1					0.03	800	21				NLED511W	New LED Strip 4' 11 Wae (ANSL221L)	1				0.01	800	9				12
193	Public Works	Public works shop Upstairs storage	ECF1528	Existing CFL Scones 28 watt (Lamps)	4					0.10	800	80		\$2		NLED511W	New LED Strip 4' 11 Wae (ANSL221L)	4				0.04	800	35				48
194	Public Works	Public works shop Main shop	BNK432N	Existing High Bay 4' x 6, F32 78 Lamps, NSF Ballasts	21					3.97	2,000	7,140		\$118		NLED78LTC	New LED 78 12 Lamp Type C-2 Recess (Eaton Core)	21				1.89	2,000	3,780				3,360
195	Public Works	Public works shop Upstairs above equipment storage	EWAN322N	Existing Vep 4' x 2, F32 32 watt Lamps, Normal Ballast Factor	4					0.36	800	205		\$1		NLED78LTC	New LED 78 12 Lamp Type C-2 Recess (Eaton Core)	4				0.12	800	96				109
196	Public Works	Public works shop Maintenance shop	EWAN322N	Existing Hood 4' x 4, F32 78 Lamps, Bic Ballast	5					0.04	2,000	1,280		\$18		NLED78LTC	New LED 78 12 Lamp Type C-2 Recess (Eaton Core)	5				0.30	2,000	600				600
197	Public Works	Public works shop 2nd Maintenance shop	BNK432N	Existing High Bay 4' x 6, F32 78 Lamps, NSF Ballasts	1					0.17	2,000	340		\$5		NLED78LTC	New LED 78 12 Lamp Type C-2 Recess (Eaton Core)	1				0.09	2,000	180				180
198	Public Works	Public works shop Employees locker restroom	BNK20	Existing Incandescent 3', 18watts (Lamps)	1					0.18	2,000	360		\$6	VANITY	NLED9WA19	New LED 9 WEA Vanity 2 (PMTBL)	1				0.02	2,000	36				324
199	Public Works	Public works shop Employees locker restroom	BNK20	Existing Incandescent 0' wall (Lamps)	1					0.06	2,000	128		\$2	FAN LIGHT COMBO	NLED9WA19	New LED 9 WEA A19 Lamp	1				0.01	2,000	18				102
200	Public Works	Public works shop Lockers area	EWAN322N	Existing Vep 4' x 2, F32 32 watt Lamps, Normal Ballast Factor	3					0.19	2,000	384		\$3		NLED78LTC	New LED 78 12 Lamp Type C-2 Recess (Eaton Core)	3				0.09	2,000	180				204
201	Public Works	Public works shop Lockers area	ECF1515	Existing CFL Scones 15 watt (Lamps)	8					0.12	2,000	240		\$7	PAR 30 LAMP	NLED78W30	New LED 12 Wae Par 30 LAMP	8				0.10	2,000	192				48
202	Public Works	Public works shop Upstairs above locker area	EWAN322N	Existing Vep 4' x 2, F32 32 watt Lamps, Normal Ballast Factor	1					0.06	2,000	128		\$1		NLED78LTC	New LED 78 12 Lamp Type C-2 Recess (Eaton Core)	1				0.03	2,000	60				68

Site Information				Existing				Selected				Savings															
Item #	Site	Location (Room, floor, etc.)	Exis. Fixture Code	Fixture Description	Device Quantity	IF Controlled by a Device on another Line, Enter Item # Here	IF Controlled by a Device on another Line, Enter Item # Here	Foot Candles (lm/ft²)	Total Watts (W)	Hours (hrs/yr)	Energy Consumption (kWh/yr)	Demand (kW)	Average Annual Maintenance Cost (\$/yr)	Selected Fixture Code	Fixture Description	IF Controlled by a Device on another Line, Enter Item # Here	IF Controlled by a Device on another Line, Enter Item # Here	Foot Candles (lm/ft²)	Total Watts (W)	Hours (hrs/yr)	Energy Consumption (kWh/yr)	Demand (kW)	Average Annual Maintenance Cost (\$/yr)	Comments	Energy Savings (kWh/yr)		
203	Public Works	Public works shop Exterior parking bay	EB444H	Existing High Bay 4'x4' T5 1 Lamp	2			0.47	4,300	2,050		\$13		NLED16ALTC	New LED 16'x16' High Bay 4'x4' T5 1 Lamp	2			0.47	4,300	2,050		\$8			1,209	
204	Public Works	Public works shop Exterior envelope	EMW420	Existing Wall Pack 4'x4' T5 1 Lamp	3			0.89	4,300	3,876		\$42		NLED16WHP	New LED 16'x16' Wall Pack with Adjustable Sighting (T5W)	3			0.15	4,300	670		\$7			3,206	
205	Public Works	Public works shop Exterior envelope	EMW420	Existing Wall Pack 4'x4' T5 1 Lamp	1			0.07	4,300	289		\$10		NLED16WHP	New LED 16'x16' Wall Pack with PC (T5W)	1			0.02	4,300	79					210	
206	Public Works	Public works shop Exterior envelope	ENLED10	Existing Wallpack LED 10'x10' T5 1 Lamp	2			0.02	4,300	88		\$7		ENLED10	Existing Wallpack LED 10'x10' T5 1 Lamp	2			0.02	4,300	88		\$7				
207	Public Works	Public works shop Exterior envelope	ECW420	Existing Wall Pack 4'x4' T5 1 Lamp	2			0.16	4,300	797		\$23		NLED16WHP	New LED 16'x16' Wall Pack with PC (DMRY)	2			0.05	4,300	201		\$14			596	
208	Public Works	Public works shop Outside storage bay	ECF1628	Existing Flood Light 16'x28' T5 1 Lamp	6			0.17	4,300	736		\$19		NLED16WHP	New LED 16'x16' Wall Pack with PC (DMRY)	6			0.12	4,300	526		\$86			210	
209	Public Works	Public works shop Exterior envelope	ELED23	Existing LED 23W	2			0.05	4,300	201				ELED23	Existing LED 23W	2			0.05	4,300	201					LED Beam Light	
210	Public Works	Public works shop Outside storage bay	EMW420	Existing Wall Pack 4'x4' T5 1 Lamp	1			0.30	4,300	1,322		\$11		NLED16WHP	New LED 16'x16' Wall Pack with Adjustable Sighting (T5W)	1			0.05	4,300	223					1,099	
211	Public Works	Public works shop Sprinkler	EPUP1000	Existing Flood Light 10'x10' T5 1 Lamp	1			0.12	4,300	536		\$10		NLED21WFL	New LED 21'x11' Wall Flood (T5W)	1			0.02	4,300	92		\$7			434	
212	Pump Houses	Styrene pump house	E4422N	Existing Vapor Light 4'x2' T5 1 Lamp	4			0.23	100	23				NLED16ALTC	New LED 16'x16' Wall Pack with PC (DMRY)	4			0.12	100	12					11	
213	Pump Houses	Skyline editor	EMW420	Existing Wall Pack 4'x4' T5 1 Lamp	1			0.19	4,300	625		\$10		NLED16WHP	New LED 16'x16' Wall Pack with PC (DMRY)	1			0.03	4,300	149					675	
214	Pump Houses	Canyon pump house	E4422N	Existing Vapor Light 4'x2' T5 1 Lamp	4			0.26	100	26				NLED16ALTC	New LED 16'x16' Wall Pack with PC (DMRY)	4			0.12	100	12					14	
215	Pump Houses	Canyon pump house	EMW420	Existing Wall Pack 4'x4' T5 1 Lamp	2			0.38	4,300	1,647		\$23		NLED16WHP	New LED 16'x16' Wall Pack with PC (DMRY)	2			0.07	4,300	298					1,349	
216	Pump Houses	Canyon pump house	ENW420	Existing Wall Pack 4'x4' T5 1 Lamp	1			0.08	4,300	263		\$4		NLED16WHP	New LED 16'x16' Wall Pack with PC (DMRY)	1			0.01	4,300	39		\$0			223	
217	Pump Houses	Beach pump house	E4422N	Existing Vapor Light 4'x2' T5 1 Lamp	4			0.22	100	22				NLED16ALTC	New LED 16'x16' Wall Pack with PC (DMRY)	4			0.12	100	12					10	
218	Pump Houses	Booster west pump house	E4422N	Existing Vapor Light 4'x2' T5 1 Lamp	2			0.22	100	22				NLED16ALTC	New LED 16'x16' Wall Pack with PC (DMRY)	2			0.12	100	12					10	
219	Pump Houses	Booster west pump house	EDH425W	Existing Direct Flood 4'x2' T5 1 Lamp	5			0.75	100	75				NLED16WHP	New LED 16'x16' Wall Pack with PC (DMRY)	5			0.31	100	31					45	
220	Pump Houses	Booster west pump house	EDH425W	Existing Direct Flood 4'x2' T5 1 Lamp	1			0.30	100	30				NLED16WHP	New LED 16'x16' Wall Pack with PC (DMRY)	1			0.06	100	6					24	
221	Pump Houses	Booster west pump house	EMW420	Existing Wall Pack 4'x4' T5 1 Lamp	1			0.19	4,300	625		\$10		NLED16WHP	New LED 16'x16' Wall Pack with PC (DMRY)	1			0.03	4,300	149					675	
222	Pump Houses	Booster west pump house	ELED11	Existing LED 11W	2			0.02	4,300	96				ELED11	Existing LED 11W	2			0.02	4,300	96					CONCORDIA SCREW IN	
223	Pump Houses	Booster East pump house	EDH425W	Existing Direct Flood 4'x2' T5 1 Lamp	5			0.75	100	75		\$5		NLED16WHP	New LED 16'x16' Wall Pack with PC (DMRY)	5			0.31	100	31					45	
224	Pump Houses	Booster East pump house	ECF1628	Existing Flood Light 16'x28' T5 1 Lamp	2			0.05	4,300	228		\$1		NLED16WHP	New LED 16'x16' Wall Pack with PC (DMRY)	2			0.03	4,300	114					114	
225	Water Treatment Plant	Man Building Foot entry	E4422N	Existing Vapor Light 4'x2' T5 1 Lamp	1			0.06	2,000	116		\$1		NLED16ALTC	New LED 16'x16' Wall Pack with PC (DMRY)	1			0.03	2,000	60					96	
226	Water Treatment Plant	Man Building Corridor	E4422N	Existing Vapor Light 4'x2' T5 1 Lamp	3			0.06	2,000	120		\$2		ENLED16-2	Existing LED 16'x28' T5 1 Lamp	3			0.06	2,000	108		\$2			EW425X4 TROOPER	
227	Water Treatment Plant	Man Building Corridor	E4422N	Existing Vapor Light 4'x2' T5 1 Lamp	3			0.06	2,000	120		\$2		ENLED16-2	Existing LED 16'x28' T5 1 Lamp	3			0.06	2,000	120		\$2			EW425X4 TROOPER	
228	Water Treatment Plant	Man Building Bank room	E4422N	Existing Vapor Light 4'x2' T5 1 Lamp	4			0.08	2,000	160		\$3		ENLED16-2	Existing LED 16'x28' T5 1 Lamp	4			0.08	2,000	160		\$3			EW425X4 TROOPER	
229	Water Treatment Plant	Man Building Phone bank	E4422N	Existing Vapor Light 4'x2' T5 1 Lamp	2			0.11	2,000	224		\$1		NLED16ALTC	New LED 16'x16' Wall Pack with PC (DMRY)	2			0.06	1,800	108					116	
230	Water Treatment Plant	Man Building Gangway	EMW420	Existing Wall Pack 4'x4' T5 1 Lamp	4			0.26	2,000	932		\$5		NLED16ALTC	New LED 16'x16' Wall Pack with PC (DMRY)	4			0.12	2,000	240					272	
231	Water Treatment Plant	Man Building Boiler room	EMW420	Existing Wall Pack 4'x4' T5 1 Lamp	4			0.22	800	179		\$1		NLED16ALTC	New LED 16'x16' Wall Pack with PC (DMRY)	4			0.12	800	96					83	
232	Water Treatment Plant	Man Building Storage shed	ECF1628	Existing Flood Light 16'x28' T5 1 Lamp	1			0.03	800	21				NLED16WHP	New LED 16'x16' Wall Pack with PC (DMRY)	1			0.01	800	7					14	
233	Water Treatment Plant	Man Building Restroom	ELED16-2	Existing LED 16'x28' T5 1 Lamp	1			0.02	2,000	42				ELED16-2	Existing LED 16'x28' T5 1 Lamp	1			0.02	1,800	38					4	EW425X4 TROOPER
234	Water Treatment Plant	Man Building Restroom	ECF1628	Existing Flood Light 16'x28' T5 1 Lamp	1			0.03	2,000	82		\$1		NLED16WHP	New LED 16'x16' Wall Pack with PC (DMRY)	1			0.01	2,000	18					34	EW425X4 TROOPER
235	Water Treatment Plant	Man Building Small corridor	ELED13	Existing LED 13W Strip	1			0.02	2,000	36				ELED13	Existing LED 13W Strip	1			0.02	2,000	36						
236	Water Treatment Plant	Man Building Closet	ECF1613	Existing Flood Light 16'x28' T5 1 Lamp	1			0.01	800	10				NLED16WHP	New LED 16'x16' Wall Pack with PC (DMRY)	1			0.01	800	7					3	

Site Information				Existing				Selected				Savings												
Item #	Site	Location (Room, etc.)	Exist Fixture Code	Fixture Description	Quantity	Selected Solution	Foot Candles (lm/ft²)	Total Power (kW)	Item Consumption (kW/ft²)	Demand (kW/ft²)	Average Annual (kWh/ft²)	Comments (if fixture is turned out, on timer, on motion sensor, etc.)	Selected Fixture Code	Fixture Description	Quantity	IF Commodity is Device on the Line, Enter Item # Here	Selected Controls Description	Device Quantity	Total Power (kW)	Item Consumption (kW/ft²)	Demand (kW/ft²)	Average Annual (kWh/ft²)	Comments	Energy Savings (kWh/ft²)
237	Water Treatment Plant	Man Building High storage room	BH422N	Existing Hood 4'x2, 132 32 watt Lamps, Normal Ballast Factor	2	Upgrade Controls Only	0.11	800	90		\$0	EWS	NLED1SL4TC	Existing Hood 4'x2, 132 32 watt Lamps, Normal Ballast Factor	2		Existing/Wall Switch Sensor	1	0.06	720	43		EWS	46
238	Water Treatment Plant	Man Building Pump area	BLED33W	Existing LED Low Bay Fixture 30'Wx6'	2	Upgrade Controls Only	0.06	2,000	120			EWS	ELED33W	Existing LED Low Bay Fixture 30'Wx6'	2		Existing/Wall Switch Sensor	1	0.06	1,800	108		EWS	12
239	Water Treatment Plant	Man Building Stairs	EWLED10	Existing Wallpack LED 10 watts	3	Upgrade Controls Only	0.03	2,000	60			EWS	EWLED10	Existing Wallpack LED 10 watts	3		Existing/Wall Switch Sensor	1	0.03	1,800	54		EWS	6
240	Water Treatment Plant	Man Building Lab area	ETLED20	Existing Traffic LED 2 20watts	6	Upgrade Controls Only	0.12	2,000	240		\$25	ECM	ETLED20	Existing Traffic LED 2 20watts	6		Existing/Ceiling Mount Sensor	1	0.12	1,800	216		ECM	24
241	Water Treatment Plant	Man Building Whitelabel room	ETLED20	Existing Traffic LED 2 20watts	9	Remain As Is	0.18	2,000	360		\$35		ETLED20	Existing Traffic LED 2 20watts	9				0.18	2,000	360		\$35	
242	Water Treatment Plant	Man Building Electrical Hall	EW422N	Existing Wp 4'x2, 132 32 watt Lamps, Normal Ballast Factor	3	Upgrade Controls Only	0.19	2,000	384		\$3	ECM	NLED1SL4TC	New LED T8 2 Lamp Type C-4 Recess (Espan Cone)	3		Existing/Ceiling Mount Sensor	1	0.09	1,800	162			222
243	Water Treatment Plant	Man Building Locker area	EWLED19-2	Existing 4' TLED T8 1 Lamp Type B	1	Remain As Is	0.02	2,000	40			2X4	EWLED19-2	Existing 4' TLED T8 1 Lamp Type B	1				0.02	2,000	40		2X4	
244	Water Treatment Plant	Man Building Locker area	ECF428	Existing CFI Suspend 28 watt (Normal Lamp)	1	Upgrade Furniture	0.03	2,000	32		\$1	RECESSED CANOPY	NLED9WVA	New LED 9' WEA 19' Lamp	1				0.01	2,000	18			34
245	Water Treatment Plant	Man Building Locker area	BLEDAMP9L9	Existing LED Lamp 2L 9 watts	1	Remain As Is	0.02	2,000	36			VANITY AIS	ELEDAMP9L9	Existing LED Lamp 2L 9 watts	1				0.02	2,000	36		VANITY A 9	
246	Water Treatment Plant	Man Building Blarney storage	ES822W	Existing Ship 2'x2, 132 32 Watt	1	Upgrade Controls Only	0.06	800	51			EWS	NLED1SL4TC	New LED T8 2 Lamp Type C-4 Recess (Espan Cone)	1		Existing/Wall Switch Sensor	1	0.03	720	22			30
247	Water Treatment Plant	Man Building Blarney storage	ECRC262D	Existing Cridine Lamp 13 5'x4' 262D	1	Upgrade Furniture	0.03	800	26			REPLACE CANOPY FUTURE	NLED21WVA	New LED 2' 17" Wide Wp Fixture (88.2)	1				0.02	800	14			12
248	Water Treatment Plant	Man Building Blarney storage	EW422N	Existing Wp 4'x2, 132 32 watt Lamps, Normal Ballast Factor	1	Upgrade Furniture	0.06	800	51				NLED1SL4TC	New LED T8 2 Lamp Type C-4 Recess (Espan Cone)	1				0.03	800	24			27
249	Water Treatment Plant	Man Building Blarney storage	BH422N	Existing Hood 4'x2, 132 32 watt Lamps, Normal Ballast Factor	1	Upgrade Furniture	0.06	800	46				NLED1SL4TC	New LED T8 2 Lamp Type C-4 Recess (Espan Cone)	1				0.03	800	24			21
250	Water Treatment Plant	Man Building Outside storage	BLEDAMP9	Existing LED Lamp 9watts	4	Remain As Is	0.04	800	29			KEYLESS	ELEDAMP9	Existing LED Lamp 9 watts	4				0.04	800	29		KEYLESS	
251	Water Treatment Plant	Man Building Outside in between	EWLED10	Existing Wallpack LED 10 watts	1	Remain As Is	0.01	4,300	44				EWLED10	Existing Wallpack LED 10 watts	1				0.01	4,300	44			
252	Water Treatment Plant	Man Building O'Quinn	EW425W	Existing Vaportight 4'x2, 54' 75	64	Upgrade Furniture	6.91	2,000	13,324		\$112		NLED1SL4TC	New LED T8 2 Lamp Type C-4 Recess (Espan Cone)	64				3.07	2,000	5,144			7,650
253	Water Treatment Plant	Man Building O'Quinn	ELEDV16W	Existing LED Vapor Tight 49'Watt	1	Remain As Is	0.05	2,000	98				ELEDV16W	Existing LED Vapor Tight 49'Watt	1				0.05	2,000	98			
254	Water Treatment Plant	Man Building O'Quinn	EF1MH10	Existing Hood 10'x4 Metal Hood 10'x4 watt Lamp	2	Upgrade Furniture	0.36	2,000	516		\$5		NLED21WVL	New LED 21" Metal Hood/Kitchen Hood (60" H)	2				0.04	2,000	84			432
255	Water Treatment Plant	Man Building Outside animal	ECF4222	Existing CFI 4'x4 Blended with 2 32 watt Lamp(s)	1	Upgrade Furniture	0.07	4,300	296		\$8		NLED16WVP	New LED 16" Metal Hood with Adjustable Siding (100W)	1				0.01	4,300	61			237
256	Water Treatment Plant	Man Building Building envelope	EF1MH40	Existing Hood 4'x4 Metal Hood 4'x4 watt Lamp	1	Upgrade Furniture	0.46	4,300	2,006		\$11		NLED16WVL	New LED 16" Metal Hood (16x40) (100W)	1				0.19	4,300	819		\$70	1,187
257	Water Treatment Plant	Man Building Outside storage area	EW422W	Existing Hood 4'x2, 132 32 watt Lamps, Normal Ballast Factor	1	Upgrade Furniture	0.13	4,300	561		\$6		NLED1SL4TC	New LED T8 2 Lamp Type C-4 Recess (Espan Cone)	1				0.06	4,300	263		\$2	298
258	Water Treatment Plant	Man Building Outside storage area	ES822W	Existing Ship 2'x2, 132 32 Watt	4	Upgrade Furniture	0.26	4,300	1,121		\$18		NLED1SL4TC	New LED T8 2 Lamp Type C-4 Recess (Espan Cone)	4				0.12	4,300	528		\$5	596
259	Water Treatment Plant	Man Building Building envelope	EW42510	Existing Wall Pack High Pressure Sodium 70 watt Lamp	2	Upgrade Furniture	0.18	4,300	79		\$23		NLED19WVP	New LED 19" WEA Metal Hood with PC (70W)	2				0.04	4,300	158			639
260	Water Treatment Plant	Man Building Building envelope	EWLED10	Existing Wallpack LED 10 watts	2	Remain As Is	0.02	4,300	88		\$7		EWLED10	Existing Wallpack LED 10 watts	2				0.02	4,300	88		\$7	
261	Water Treatment Plant	Man Building Building envelope	ELED33W	Existing LED Flood 30'Wx6'	2	Remain As Is	0.12	4,300	508				ELED33W	Existing LED Flood 30'Wx6'	2				0.12	4,300	508			
262	Water Treatment Plant	Ship building Shipman area	BH422N	Existing Hood 4'x2, 132 32 watt Lamps, Normal Ballast Factor	16	Upgrade Furniture	0.40	2,000	1,792		\$20		NLED1SL4TC	New LED T8 2 Lamp Type C-4 Recess (Espan Cone)	16				0.48	2,000	960			832
263	Water Treatment Plant	Ship building Ship area	EW422N	Existing Vapor Tight 4'x2, 132 32 watt Lamps, Normal Ballast Factor	4	Upgrade Furniture	0.20	2,000	464		\$5		NLED1SL4TC	New LED T8 2 Lamp Type C-4 Recess (Espan Cone)	4				0.12	2,000	240			224
264	Water Treatment Plant	Ship building Wood storage	ES842N	Existing Ship 18'x4 Inmate ALF 2 19 32 watt Lamps, Normal Ballast Factor	2	Upgrade Furniture	0.22	800	179		\$1		NLED1SL4TC	New LED T8 4 Lamp Type C-4 Recess (Espan Cone)	2				0.12	800	96			83
265	Water Treatment Plant	Ship building Building envelope	EW42510	Existing Wall Pack High Pressure Sodium 70 watt Lamp	1	Upgrade Furniture	0.09	4,300	398		\$10	DECOMMISSION	DECOM	Decommission fixture	1					4,300				368
266	Water Treatment Plant	Water/Tech Building Chem tank area	ES842N	Existing Ship 18'x4 Inmate ALF 2 19 32 watt Lamps, Normal Ballast Factor	18	Upgrade Furniture	2.32	800	1,613		\$12		NLED1SL4TC	New LED T8 4 Lamp Type C-4 Recess (Espan Cone)	18				1.08	800	864			748
267	Water Treatment Plant	Water/Tech Building Chem tank area	EWLED19-4	Existing 8' TLED T8 1 Lamp Type B	10	Remain As Is	0.40	800	320			8' STRIP	EWLED19-4	Existing 8' TLED T8 1 Lamp Type B	10				0.40	800	320			8' STRIP
268	Water Treatment Plant	Water/Tech Building Chem tank area	ELED20IT	Existing LED Exit Sign	2	Remain As Is	0.00	8,700	35		\$3		ELED20IT	Existing LED Exit Sign	2				0.00	8,700	35		\$3	
269	Water Treatment Plant	Water/Tech Building Control room	EW422N	Existing Vapor Tight 4'x2, 132 32 watt Lamps, Normal Ballast Factor	2	Upgrade Furniture	0.12	2,000	232		\$1		NLED1SL4TC	New LED T8 2 Lamp Type C-4 Recess (Espan Cone)	2				0.06	2,000	120			112
270	Water Treatment Plant	Water/Tech Building Restroom	EW422N	Existing Vapor Tight 4'x2, 132 32 watt Lamps, Normal Ballast Factor	1	Upgrade Furniture	0.06	2,000	116		\$1		NLED1SL4TC	New LED T8 2 Lamp Type C-4 Recess (Espan Cone)	1				0.03	2,000	60			56

Site Information				Existing				Selected				Savings											
Item #	Site	Location (Room, Room #, etc.)	Exis. Fixture Code	Fixture Description	Fixture Quantity	If Considered by a Device on another Line, Enter Item # Here	Existing Controls Description	Device Quantity	Selected Fixture Code	Fixture Description	Fixture Quantity	If Considered by a Device on another Line, Enter Item # Here	Saved Control Description	Device Quantity	Total Power (kW)	Hours (hr/yr)	Energy Consumption (kWh/yr)	Demand (kW/yr)	Average Annual Maintenance Cost (\$/yr)	Comments	Energy Savings (kWh/yr)	Hours (hr/yr)	Power (kW)
305	Waste/Water Treatment Plant	WVTP SHED Shop interior	ELED23	Existing LED 23W	2			Remain As Is	ELED23	Existing LED 23W	2				0.05	4,300	201			shop dome fixture with con cobb led			
306	Waste/Water Treatment Plant	Head works building Screening room	ELED23	Existing LED 23W	4			Remain As Is	ELED23	Existing LED 23W	4				0.09	2,000	184			LARGE DOME FIXTURE			
307	Waste/Water Treatment Plant	Head works building Electrical room	ES440N	Existing Strip 4'x2, 540 T12 40 watt Lamp(s)	1			Upgrade Fixture	NLED71SL4TC	New LED 7'x12 Lamp Type C-4' Retrofit (Espec Core)	1				0.03	800	24						
308	Waste/Water Treatment Plant	Head works building Press room	ELED23	Existing LED 23W	2			Remain As Is	ELED23	Existing LED 23W	2				0.05	2,000	92						
309	Waste/Water Treatment Plant	Head works building Building exterior	ENLED10	Existing Walkback LED 10 watt	4			Remain As Is	ENLED10	Existing Walkback LED 10 watt	4				0.04	4,300	175		\$12				
310	Our Public Works Office	Exterior	ELED23	Existing LED 23W	3			Remain As Is	ELED23	Existing LED 23W	3				0.07	4,300	302						
311	Our Public Works Office	Exterior	EMK100	Existing Roundmount 100 watt Lamp(s)	1			Upgrade Fixture	NLED21WHL	New LED 21 Watt Round Mount (CFL 8')	1				0.02	4,300	92		\$7				
312	Our Public Works Office	Exterior	EF14000	Existing Roundmount Flood (2'x3.00 watt Lamp(s))	1			Upgrade Fixture	NLED25WHFL	New LED 25 Watt 2 Headed Flood (CFL 8')	1				0.03	4,300	110		\$4				
313	Our Public Works Office	Interior First bay restroom	ES440N	Existing Strip 4'x2L 40 T12 40 watt Lamp(s)	1			Upgrade Fixture	NLED71SL4TC	New LED 7'x12 Lamp Type C-4' Retrofit (Espec Core)	1				0.03	2,000	60						
314	Our Public Works Office	Interior Back room storage	ES440N	Existing Strip 4'x2L 40 T12 40 watt Lamp(s)	1			Upgrade Fixture	NLED71SL4TC	New LED 7'x12 Lamp Type C-4' Retrofit (Espec Core)	1				0.03	800	24						
315	Our Public Works Office	Interior Back room storage	ES3800W	Existing Strip 8' Lamp(s) R60 T12	1			Upgrade Fixture	NLED5102W	New LED Strip 4' 20 Watt (MNSL24 L)	1				0.02	800	16						
316	Our Public Works Office	Interior Office area	ES440N	Existing Strip 4'x2, 540 T12 40 watt Lamp(s)	2			Upgrade Fixture	NLED71SL4TC	New LED 7'x12 Lamp Type C-4' Retrofit (Espec Core)	2				0.06	2,000	120						
317	Our Public Works Office	Interior Upper storage	ES440N	Existing Strip 4'x2, 540 T12 40 watt Lamp(s)	1			Upgrade Fixture	NLED71SL4TC	New LED 7'x12 Lamp Type C-4' Retrofit (Espec Core)	1				0.03	800	24						
318	Our Public Works Office	Interior First bay main area	ES440N	Existing Strip 4'x2, 540 T12 40 watt Lamp(s)	3			Upgrade Fixture	NLED71SL4TC	New LED 7'x12 Lamp Type C-4' Retrofit (Espec Core)	3				0.09	2,000	180						
319	Our Public Works Office	Interior First bay main area	ES3800N	Existing Strip 16' Fluores 2L R60 T12 Slimline	3			Upgrade Fixture	NLED20WLLB	New LED 6'1 Watt Low Bay (JF FT)	3				0.18	2,000	366						
320	Our Public Works Office	Interior First bay main area	EDH5275W	Existing Circle Indirect 8'xL 8' T12 Lamps	4			Upgrade Fixture	NLED20WLLB	New LED 6'1 Watt Low Bay (JF FT)	4				0.24	2,000	488						
321	Our Public Works Office	Interior 2nd bay	ES3800N	Existing Strip 16' Fluores 2L R60 T12 Slimline	4			Upgrade Fixture	NLED20WLLB	New LED 6'1 Watt Low Bay (JF FT)	4				0.24	2,000	488						
322	Our Public Works Office	Interior 2nd bay Christmas storage	ES3800N	Existing Strip 16' Fluores 2L R60 T12 Slimline	5			Upgrade Fixture	NLED20WLLB	New LED 6'1 Watt Low Bay (JF FT)	5				0.31	800	244						
323	Our Public Works Office	Interior 2nd bay Christmas storage room	ES3800N	Existing Strip 16' Fluores 2L R60 T12 Slimline	5			Upgrade Fixture	NLED20WLLB	New LED 6'1 Watt Low Bay (JF FT)	5				0.31	800	244						
324	Our Public Works Office	Interior 2nd bay Painting bay	ES3800N	Existing Strip 16' Fluores 2L R60 T12 Slimline	10			Upgrade Fixture	NLED20WLLB	New LED 6'1 Watt Low Bay (JF FT)	10				0.61	2,000	1,220						
325	Our Public Works Office	Interior 2nd bay Painting bay Paint storage	ES3800N	Existing Strip 16' Fluores 2L R60 T12 Slimline	1			Upgrade Fixture	NLED20WLLB	New LED 6'1 Watt Low Bay (JF FT)	1				0.06	800	49						
326	Our Public Works Office	Interior 2nd bay Painting bay 3rd bay	ES3800N	Existing Strip 16' Fluores 2L R60 T12 Slimline	5			Upgrade Fixture	NLED20WLLB	New LED 6'1 Watt Low Bay (JF FT)	5				0.31	2,000	610						
327	Our Public Works Office	Interior 2nd bay Painting bay 3rd bay Back room	ES440N	Existing Strip 4'x2L 40 T12 40 watt Lamp(s)	4			Upgrade Fixture	NLED71SL4TC	New LED 7'x12 Lamp Type C-4' Retrofit (Espec Core)	4				0.12	2,000	240						
328	Street Lighting	Various Locations 4 TC	EPCHPSP3200	Existing Pole Light 3200 Watt High Pressure Sodium 200	10			Upgrade Fixture	NLED71WH	New LED Cobroad Fixture 2'1 Watt with PC (BL 1)	10				0.71	4,300	3,110						
329	Decorative Street Lighting	Downstream Restoration Plaza	EPCHPSP3200	Existing Pole Light 3200 Watt High Pressure Sodium 200	22			Upgrade Fixture	NLED08WH	New LED Decorative Pole and Fixture Head 8'9 W	22				1.96	4,300	8,576						
330	Decorative Street Lighting	Downstream Restoration Plaza	EPCHPSP3200	Existing Pole Light 3200 Watt High Pressure Sodium 200	14			Upgrade Fixture	NLED08WH	New LED Decorative Pole and Fixture Head 13'9 W	14				1.96	4,300	8,523						
331																							
332																							
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SCHEDULE 2 to PDP

CALCULATION OF ENERGY SAVINGS GUARANTEE

The provisions of the Schedules to the PDP, including this Schedule 2, shall govern in the event of any inconsistencies between the provisions of the other Contract Documents and the Schedules.

ESCO guarantees that the Annual Savings to be achieved as a result of installation and operation of the ECMs shall equal or exceed the Annual Guaranteed Savings Amount for each Guarantee Year during the Guarantee Period, subject to and as more particularly set forth in the Guaranteed Savings Contract Provisions set forth in “Schedule 6 – Measurement and Verification Plan and Guaranteed Savings Contract Provisions”. Annual Savings, as such term is defined in Schedule 6, shall be determined as provided in the M&V Plan set forth in “Schedule 6 - Measurement and Verification Plan and Guaranteed Savings Contract Provisions”, and the savings calculation methodologies and adjustments to baseline set forth in “Schedule 5 - Savings Calculation Formulae; Methodology to Adjust Baseline”.

Table 1- Guaranteed Annual Savings

Utility	Estimated Annual Energy Savings	Guaranteed Annual Energy Savings
Electricity (kWh)	163,811	147,429
Electricity (kW)	0	0

The unit prices to be used to calculate the Annual Savings for the purposes of the Guarantee of Energy Savings are described in Schedule 4 – Baseline Energy Use.

Year	Annual Value of Guaranteed Savings at Baseline Rates
1	\$17,561

SCHEDULE 3 to PDP

COMPENSATION TO ESCO

The provisions of the Schedules to the PDP, including this Schedule 3, shall govern in the event of any inconsistencies between the provisions of the other Contract Documents and the Schedules.

- A) **ESCO Compensation for the Construction Work.** In consideration of ESCO's performance of the work necessary for the procurement, construction and installation of the equipment (Schedule 1 Equipment to be Installed by ESCO), ESCO shall be paid a sum of Six Hundred and Forth One Thousand, Three Hundred and Fifty dollars (\$641,350) herein the "Contract Price", as a Guaranteed Maximum Price (GMP), subject, however, to adjustment as set forth in the Contract, including, without limitation, Section 7.1.3 of Division 3 Phase 1 of the Contract, Division 3 Phase 2, and in this Schedule 3.

Although we are proposing this as a single project under one contract, the selected ECMs and their associated costs and energy savings have been divided into three 'scopes' based on their respective City funding sources (Wastewater, Water Treatment and General Fund). However, the ESCO pricing guarantees apply to the project as a whole, not three separate scopes, and the ESCO reserves the right to utilize surplus funds from one ECM to supplement cost overruns that may occur on another ECM. The three 'scopes' of work are broken out in Schedule 1 Equipment to be Installed by ESCO.

This Proposal describes the scope, costs, guarantees, and other aspects of the project. The amount of \$641,350 has been designated for the "Part A" scope of work. The second Phase of work, "Part B" will be added by change order once design and costing are complete for Part B and funding is amended to include the Part B costs.

Items Included in Guaranteed Maximum Price (GMP) are listed below:

PROJECT COSTS	Wastewater Enterprise Fund	Water Treatment Enterprise Fund	General Fund	Total Project Costs
Engineering Audit				\$ 35,340
Guaranteed Maximum Price for Construction Work				
Cost of Work	\$ 51,911	\$ -	\$ 315,585	\$ 367,496
Bonding @ 2.0% of Cost of Work	\$ 1,038	\$ -	\$ 6,312	\$ 7,350
Construction Contingency @ 10.0% of M, W, G Cost of Work	\$ 5,191	\$ -		\$ 5,191
Construction Contingency @ 5.0% of Lighting Cost of Work			\$ 15,779	\$ 15,779
Guaranteed Maximum Price for Construction Work (GMP):	\$ 58,140	\$ -	\$ 337,676	\$ 395,816
Fixed Project Fees				
M,W,G Design @ 10.0% of Cost of Work	\$ 5,191	\$ -		\$ 5,191
WTP Phase 1A Design Fee		\$ 80,000		\$ 80,000
Lighting Design @ 6.0% of Cost of Work			\$ 18,935	\$ 18,935
Construction Mgt @ 8.0% of Cost of Work	\$ 4,153	\$ -	\$ 25,247	\$ 29,400
ESCO Overhead and Profit @ 18.0% of Cost of Work	\$ 9,344	\$ -	\$ 56,805	\$ 66,149
System Start-Up and Commissioning Fee @ 2.0% of Cost of Work	\$ 1,038	\$ -	\$ 6,312	\$ 7,350
Training of Owner's O&M Personnel Fee @ 0.2% of Cost of Work	\$ 104	\$ -	\$ 631	\$ 735
1st Year of Ameresco M&V	\$ 344	\$ -	\$ 2,090	\$ 2,434
Fixed Fees Subtotal:	\$ 20,174	\$ 80,000	\$ 110,020	\$ 210,194
Project Cost Summary				
Contract Price	\$ 78,314	\$ 80,000	\$ 447,696	\$ 641,350

Table 1 - Project Costs

1. Contract Price of \$641,350 includes the following:
 - a. Technical Energy Audit (TEA) and Project Development Plan (PDP). This is a fixed cost of \$35,340.
 - b. Engineering Design Services. This is a fixed fee, based on estimated labor & material cost, of \$104,126 (Mechanical, Water and General Design is \$5,191 and Lighting Design is \$18,935 and WTP Phase 1A Design Fee is \$80,000).
 - c. Construction management services. This is a fixed fee, based on estimated labor & material cost, of \$29,400.
 - d. Performance and payment bond. This is an estimated cost, based on estimated labor and material cost, of \$7,350.
 - e. Estimated labor and material costs for installation of the ESCO equipment. This is an estimated cost of work of \$367,496, and a contingency of \$20,970, to cover the following:
 - i. All costs paid by the ESCO for the installation of the ESCO equipment. This includes costs paid to subcontractors or directly to ESCO personnel, when related to installation or system verification of the ESCO equipment.
 - ii. The portion of reasonable travel, lodging & meals expenses of the ESCO or of its officers or employees incurred while traveling in discharge of duties connected with the Work.

- iii. Cost of all equipment, materials, supplies and equipment incorporated in the Work, including costs of transportation thereof.
 - iv. Cost or rental charges, including transportation and maintenance, of all materials, supplies, equipment, temporary facilities and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost less salvage value on such items used but not consumed which remain the property of the ESCO.
 - v. Cost of premiums for all insurance which the ESCO is required to purchase and maintain.
 - vi. Sales, use or similar taxes related to the Work and for which the ESCO is liable imposed by a governmental authority.
 - vii. Permit fees, royalties, and deposits lost for causes other than the ESCO's negligence.
 - viii. Losses and expenses not compensated by insurance or otherwise, sustained by the ESCO in connection with the Work, provided they have resulted from causes other than the fault or neglect of the ESCO. Such losses shall include settlements made with the written consent and approval of the Owner. If, however, such loss requires reconstruction and the ESCO is placed in charge thereof, the ESCO shall be paid for their services a fee.
 - ix. Minor expenses such as copies, long distance telephone calls, telephone service at the site, express mail services, and similar petty cash items.
 - x. Demolition cost and cost of removal of all debris.
 - xi. Costs incurred due to an emergency affecting the safety of persons and property.
 - xii. Metering equipment costs for any permanent metering or monitoring equipment left on site to the extent included in the Scope of Services set forth in Schedule 1.
- f. ESCO overhead and profit. This is a fixed fee, based on estimated labor & material cost, of \$66,149, and will be subject to adjustment as a result of any Change Orders. This includes the ESCO's remuneration for compensation of personnel, expenses, risks related to the project, and profit.
 - g. One year of the Measurement & Verification Services. This is a fixed cost of \$2,434, detailed in Schedule 6 – Measurement and Verification Plan and Guaranteed Saving Contract Provision.
 - h. System Start-Up and Commissioning Fee. Cost of equipment startup, training, system commissioning and balancing performed by the ESCO in accordance with

“Schedule 7 - Systems Start-Up and Commissioning; Operating Parameters of Installed Equipment”. This is a fixed cost of \$7,350.

- i. Training of Owner’s Operations and Maintenance Personnel Fee. This is a fixed cost of \$735.
 2. The ESCO shall provide a revised Schedule of Values at the end of construction. The schedule of values will include all costs related to the installation of the ESCO equipment including fixed fee items.
- B) **ESCO Compensation for Technical Energy Audit and Project Development Plan Analysis of the Premises.** The Owner has agreed to pay the ESCO for work performed on the Technical Energy Audit and Project Development Plan in a separate contract.
- C) **Monthly Progress Payments.** During the performance of the Construction Work ESCO shall submit invoices to the Owner for monthly progress payments to ESCO based upon the percentage of the Equipment construction and procurement completed at the end of each month (the “Monthly Completion Percentage”), so that ESCO is paid the percentage of the Contract Price (less the Audit Fee), that is commensurate with the Monthly Completion Percentage (less retainage in the amount of 5.0%, if required by (D) below). The Owner shall make payment to ESCO, within thirty (30) days after the submission of each such invoice. The Owner shall not unreasonably withhold, condition or delay the payment of any invoice.
- D) **Retainage.** Until such time as the Monthly Completion Percentage is equal to or exceeds ninety-five percent (95%) (“95% Completion”) each disbursement of a monthly progress payment pursuant to (C) above shall be subject to retainage in the amount of 5.0 percent (5.0%) of such disbursement. Retainage shall be released and paid to ESCO on Substantial Completion less one and one half times the anticipated value of remaining punch list items. Notwithstanding the forgoing, the Owner may elect, in its sole discretion, to release and pay some or all of the retainage at or prior to Substantial Completion.
- E) **Late Payment.** All amounts not paid to ESCO on or before the due dates specified in Subsections 4(b) and (d), shall accrue interest at the Prime Rate of interest as published in the Wall Street Journal for major banks, or such lower rate as is prescribed by applicable law.
- F) **Measurement and Verification Fees.** The fee for Measurement and Verification Services for the first Year of the Guarantee Period, as listed in the GMP above, is \$2,434 and is included in the Contract Price. The Energy Savings Guarantee Contract Fee associated with the Measurement and Verification Services has been waived for this project.
- G) In the event Owner elects, by written notice to ESCO at least 90 days prior to the end of the current M&V year, to continue M&V Services, which may be for consecutive years only, beyond the first Guarantee Year, the M&V Services Fee for the following Year shall be \$2,234 and, in each subsequent Year, the M&V Services Fee shall be per the fee table below. The Owner shall pay the ESCO the M&V Services Fee within thirty (30) days following the

first day of each Year for which the Owner has elected to continue the M&V Services following Year 1.

H) The following table outlines the cost of Measurement and Verification over a 15 year term.

Table 2- Measurement and Verification Fee Schedule

Year 1	Year 2	Year 3	Year 4	Year 5
\$2,343	\$4,413	\$4,605	\$4,804	\$5,008
Year 6	Year 7	Year 8	Year 9	Year 10
\$5,218	\$5,434	\$5,657	\$5,887	\$6,124
Year 11	Year 12	Year 13	Year 14	Year 15
\$6,368	\$6,619	\$6,878	\$7,144	\$7,418

Table 3 – Cash Flow

PROJECT SAVINGS BASED ON ESTIMATED ENERGY SAVINGS (100%)

Year ending Reference year	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041
Mechanical, General, and Water savings:	\$ -	\$ 3,591	\$ 3,635	\$ 3,689	\$ 3,745	\$ 3,801	\$ 3,858	\$ 3,916	\$ 3,974	\$ 4,034	\$ 4,094	\$ 4,156	\$ 4,218	\$ 4,282	\$ 4,346	\$ 4,411	\$ 4,477	\$ 4,544	\$ 4,612	\$ 4,682	\$ 4,752
Lighting Savings:	\$ -	\$ 15,931	\$ 16,170	\$ 16,413	\$ 16,659	\$ 16,909	\$ 17,162	\$ 17,420	\$ 17,681	\$ 17,946	\$ 18,215	\$ 18,489	\$ 18,766	\$ 19,047	\$ 19,333	\$ 19,623	\$ 19,917	\$ 20,216	\$ 20,519	\$ 20,827	\$ 21,140
Lighting Maintenance Savings:	\$ -	\$ 1,302	\$ 1,322	\$ 1,341	\$ 1,361	\$ 1,382	\$ 1,403	\$ 1,424	\$ 1,445	\$ 1,467	\$ 1,489	\$ 1,511	\$ 1,534	\$ 1,557	\$ 1,580	\$ 1,604	\$ 1,628	\$ 1,652	\$ 1,677	\$ 1,702	\$ 1,728
Other Maintenance Savings:	\$ -	\$ -	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Depreciation Tax Credit:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Savings:	\$ -	\$ 20,814	\$ 21,127	\$ 21,443	\$ 21,764	\$ 22,091	\$ 22,423	\$ 22,759	\$ 23,100	\$ 23,447	\$ 23,799	\$ 24,155	\$ 24,518	\$ 24,886	\$ 25,259	\$ 25,638	\$ 26,023	\$ 26,412	\$ 26,809	\$ 27,211	\$ 27,619
Cumulative Savings:	\$ -	\$ 20,814	\$ 41,941	\$ 63,383	\$ 85,148	\$ 107,239	\$ 129,662	\$ 152,421	\$ 175,522	\$ 198,969	\$ 222,768	\$ 246,923	\$ 271,441	\$ 296,327	\$ 321,586	\$ 347,224	\$ 373,246	\$ 399,659	\$ 426,468	\$ 453,679	\$ 481,298

PROJECT SAVINGS BASED ON GUARANTEED ENERGY SAVINGS (90)%

Year ending	2023	2023	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041
Mechanical, General, and Water savings:	\$ -	\$ 3,223	\$ 3,271.24	\$ 3,320	\$ 3,370	\$ 3,421	\$ 3,472	\$ 3,524	\$ 3,577	\$ 3,631	\$ 3,685	\$ 3,740	\$ 3,796	\$ 3,853	\$ 3,911	\$ 3,970	\$ 4,029	\$ 4,090	\$ 4,151	\$ 4,213	\$ 4,277
Lighting Savings:	\$ -	\$ 14,338	\$ 14,552.97	\$ 14,771	\$ 14,993	\$ 15,218	\$ 15,446	\$ 15,678	\$ 15,913	\$ 16,152	\$ 16,394	\$ 16,640	\$ 16,888	\$ 17,143	\$ 17,400	\$ 17,661	\$ 17,926	\$ 18,195	\$ 18,468	\$ 18,745	\$ 19,026
Lighting Maintenance Savings:	\$ -	\$ 1,302	\$ 1,322	\$ 1,341	\$ 1,361	\$ 1,382	\$ 1,403	\$ 1,424	\$ 1,445	\$ 1,467	\$ 1,489	\$ 1,511	\$ 1,534	\$ 1,557	\$ 1,580	\$ 1,604	\$ 1,628	\$ 1,652	\$ 1,677	\$ 1,702	\$ 1,728
Other Maintenance Savings:	\$ -	\$ -	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Depreciation Tax Credit:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Savings:	\$ -	\$ 18,863	\$ 19,146	\$ 19,433	\$ 19,724	\$ 20,020	\$ 20,321	\$ 20,626	\$ 20,935	\$ 21,249	\$ 21,568	\$ 21,891	\$ 22,220	\$ 22,553	\$ 22,891	\$ 23,235	\$ 23,583	\$ 23,936	\$ 24,296	\$ 24,660	\$ 25,030
Cumulative Savings:	\$ -	\$ 18,863	\$ 38,009	\$ 57,442	\$ 77,166	\$ 97,186	\$ 117,507	\$ 138,133	\$ 159,067	\$ 180,317	\$ 201,884	\$ 223,775	\$ 245,995	\$ 268,548	\$ 291,439	\$ 314,674	\$ 338,257	\$ 362,193	\$ 386,469	\$ 411,149	\$ 436,179

ANNUAL PROJECT COSTS

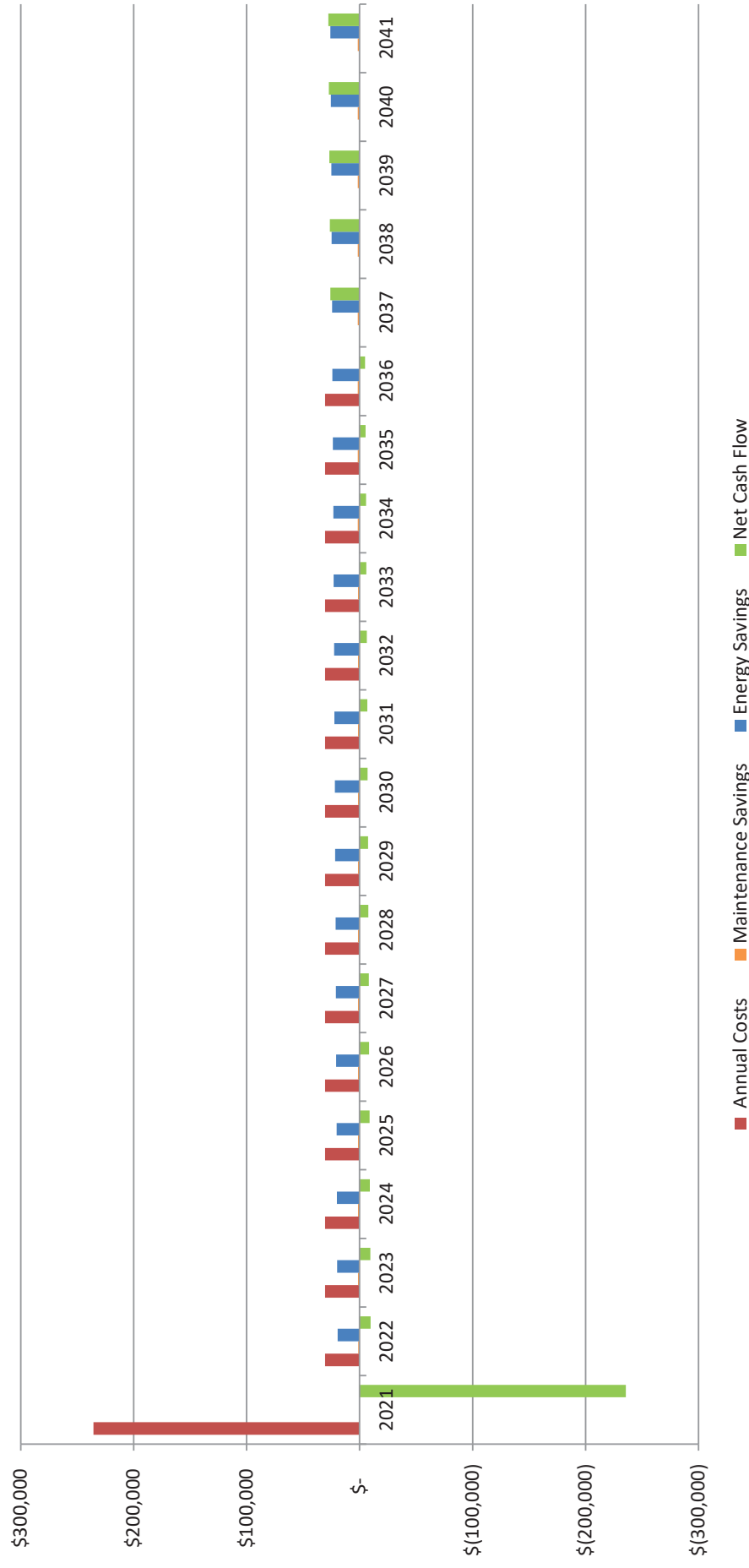
Amount Financed: \$ 380,019
Cash Payment: \$ 235,717

Year ending	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041
Annual Financing Costs	\$ -	\$ 30,537	\$ 30,537	\$ 30,537	\$ 30,537	\$ 30,537	\$ 30,537	\$ 30,537	\$ 30,537	\$ 30,537	\$ 30,537	\$ 30,537	\$ 30,537	\$ 30,537	\$ 30,537	\$ 30,537	\$ 30,537	\$ 30,537	\$ 30,537	\$ 30,537	\$ 30,537
Amersco Measurement and Verification	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Annual Costs to Client	\$ 235,717	\$ 30,537	\$ 30,537	\$ 30,537	\$ 30,537	\$ 30,537	\$ 30,537	\$ 30,537	\$ 30,537	\$ 30,537	\$ 30,537	\$ 30,537	\$ 30,537	\$ 30,537	\$ 30,537	\$ 30,537	\$ 30,537	\$ 30,537	\$ 30,537	\$ 30,537	\$ 30,537

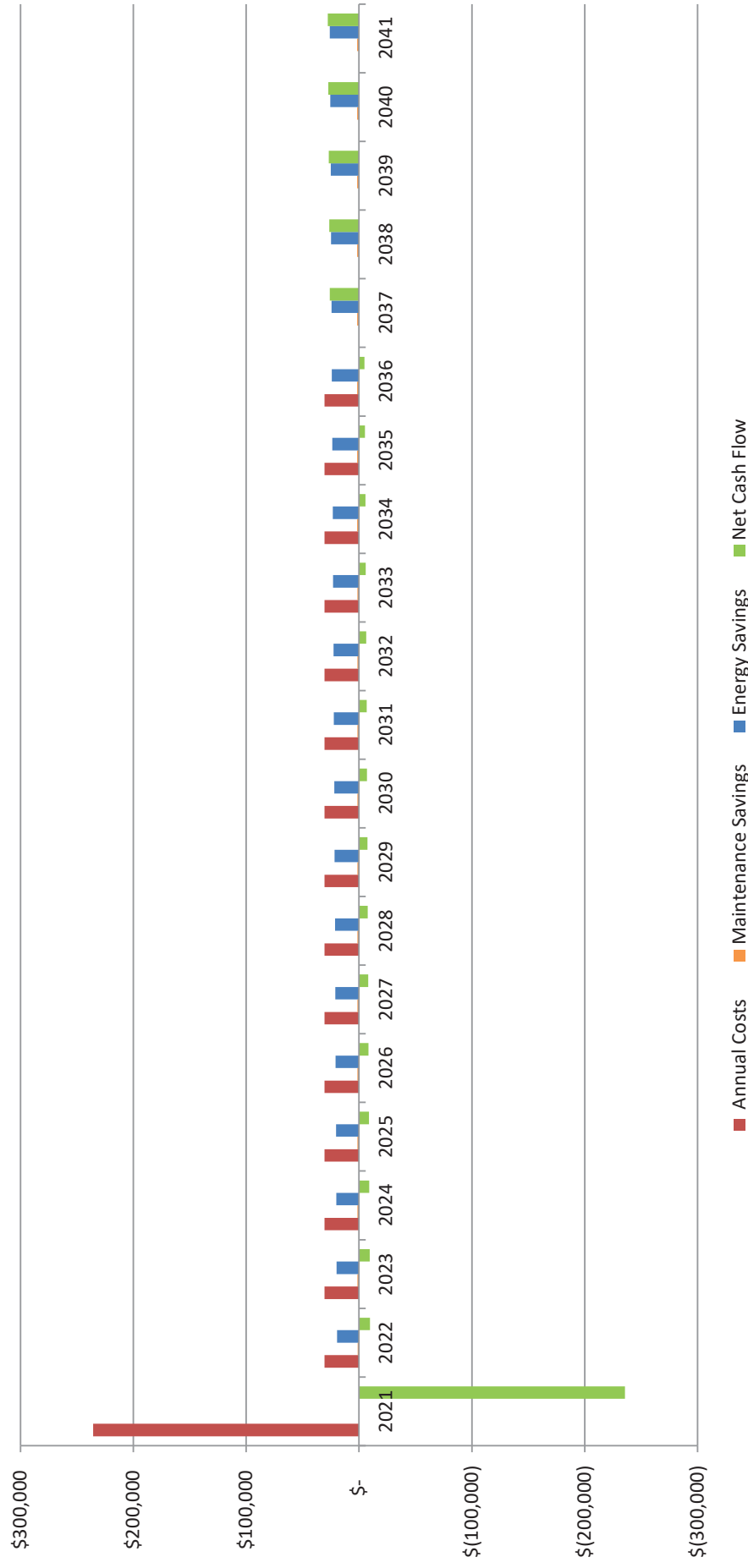
NET ANNUAL CASH FLOW WHEN FINANCING PROJECT:

Year ending	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041
Cash Flow from Estimated Energy Savings (with Inflation)	\$ (235,717)	\$ (9,723)	\$ (9,411)	\$ (9,094)	\$ (8,773)	\$ (8,446)	\$ (8,114)	\$ (7,778)	\$ (7,437)	\$ (7,090)	\$ (6,738)	\$ (6,382)	\$ (6,019)	\$ (5,651)	\$ (5,278)	\$ (4,899)	\$ 26,023	\$ 26,412	\$ 26,809	\$ 27,211	\$ 27,619
Cumulative	\$ (235,717)	\$ (245,440)	\$ (254,851)	\$ (263,945)	\$ (272,718)	\$ (281,164)	\$ (289,278)	\$ (297,036)	\$ (304,493)	\$ (311,563)	\$ (318,322)	\$ (324,704)	\$ (330,723)	\$ (336,374)	\$ (341,652)	\$ (346,552)	\$ (320,529)	\$ (294,117)	\$ (267,308)	\$ (240,097)	\$ (212,478)
Cash Flow from Guaranteed Energy Savings (with Inflation)	\$ (235,717)	\$ (11,674)	\$ (11,391)	\$ (11,105)	\$ (10,813)	\$ (10,517)	\$ (10,216)	\$ (9,912)	\$ (9,602)	\$ (9,288)	\$ (8,969)	\$ (8,646)	\$ (8,318)	\$ (7,984)	\$ (7,646)	\$ (7,303)	\$ 23,583	\$ 23,936	\$ 24,296	\$ 24,660	\$ 25,030
Cumulative	\$ (235,717)	\$ (247,391)	\$ (258,782)	\$ (269,887)	\$ (280,700)	\$ (291,217)	\$ (301,434)	\$ (311,345)	\$ (320,948)	\$ (330,236)	\$ (339,205)	\$ (347,851)	\$ (356,169)	\$ (364,153)	\$ (371,799)	\$ (379,102)	\$ (355,519)	\$ (331,582)	\$ (307,267)	\$ (282,627)	\$ (257,596)

Annual (Estimated) Cash Flow



Annual (Estimated) Cash Flow



SCHEDULE 4 TO PDP

BASELINE ENERGY USE

The provisions of the Schedules to the PDP, including this Schedule 4, shall govern in the event of any inconsistencies between the provisions of the other Contract Documents and the Schedules.

Utility Rates

“Table 1 – Utility Rates” summarizes the baseline utility rates for each building based on the baseline data received by ESCO from Owner. The rates are based on the current rates as of January 2021. These rates were used in establishing the Baseline Energy Use and Energy Savings Calculations. The Owner acknowledges and accepts the utility rates set forth in “Table 1 – Utility Rates” as reasonable.

Table 1 - Utility Rates

Facility	Electric		
	\$/kWh	\$/kW	Schedule*
City Hall/Fire Station	\$0.054/\$0.0582	\$4.44/\$5.90	9s
Annex Building	\$0.054/\$0.0582	\$4.44/\$5.90	9s
Airport Shop	\$0.078/\$0.103	NA	7
Evergreen Cemetery Buildings	\$0.078/\$0.103	NA	7
Fire Station #2	\$0.078/\$0.103	NA	7
Public Works	\$0.054/\$0.0582	\$4.44/\$5.90	9s
Old Public Works	\$0.078/\$0.103	NA	7
Wastewater Treatment Plant	\$0.054/\$0.0582	\$4.44/\$5.90	9s
Wastewater Collection Stations	\$0.054/\$0.0582	\$4.44/\$5.90	9
Water Treatment Plant	\$0.054/\$0.0582	\$4.44/\$5.90	9s
Beck Park Shop	\$0.054/\$0.0582	\$4.44/\$5.90	9s
Lions Park Shop	\$0.078/\$0.103	NA	7
Modular Building/Shooting Range	\$0.078/\$0.103	NA	7
Golf Club House	\$0.078/\$0.103	NA	7
Pump Stations	\$0.054/\$0.0582	\$4.44/\$5.90	9s

*Street Lighting based on fixed fee per fixture of \$19.59 per month, rate Schedule 41A

Existing Utility Information

The baseline annual energy usage including electrical usage (kWh) and demand (kW) usage for each building is presented below. The period analyzed was from January 2018 through December 2019.

Table 2 - Total Baseline Energy Use and Cost

	Area (ft ²)	Annual Electricity Usage (kWh)	Annual Electricity Demand (kW)	Energy Use Index (kBtu/ft ²)	Energy Cost (\$/Yr.)	Energy Cost Index (\$/ft ²)
Facility		Base	Base	Base	Base	Base
City Hall/Fire Station	17,879	249,233	602	48	\$20,249	\$1.13
Annex Building – Community Development	1,536	22,573	185	51	\$2,551	\$1.66
Evergreen Cemetery Buildings/Irrigation Pumps	414	27,472	0	NA	\$3,264	\$7.88
Fire Station #2	6,768	26,692	0	11	\$2,200	\$0.32
Public Works	18,178	79,193	274	15	\$7,000	\$0.38
Wastewater Treatment Plant & Aerators	8,589	1,652,457	3.338	NA	\$123,244	NA
Water Treatment Plant	23,182	1,567,450	3,914	231	\$127,510	\$5.50
Beck Park Shop	NA	15,148	6	NA	\$1,781	NA
Lions Park Shop	NA	22,573	602	48	\$1,781	NA
Various Pump Stations	NA	1,250,491	2,808	NA	\$101,500	NA
Lift Stations*	NA	295,634	1,015	NA	\$26,881	NA

* 8th Ave Lift Station, NW Regional Lift Station, Malheur Lift Station, Murakami Lift Station

SCHEDULE 5 TO PDP

SAVINGS CALCULATION FORMULAE; METHODOLOGY TO ADJUST BASELINE

The provisions of the Schedules to the PDP, including this Schedule 5, shall govern in the event of any inconsistencies between the provisions of the other Contract Documents and the Schedules.

I. Methodology Used to Calculate Project Savings

Measurement and Verification (M&V) involves two components: (1) verifying the ability of the project to generate all the projected savings; and (2) measuring actual performance of the project against the established baseline(s). These baselines are developed from a rigorously derived data logging, end-use analysis, and historical energy consumption data.

There are a variety of ways to accomplish the two primary M&V tasks, but a critical prerequisite is the establishment of the aforementioned baseline(s). Techniques range from stipulating all factors affecting Energy Conservation Measure (ECM) performance to installing extensive, highly accurate metering systems. When deciding the appropriate level of sophistication for a particular plan, factors such as complexity of the measure, expected magnitude of savings from the measure, and the customer's aversion to risk all weigh upon the decision. In an effort to aid agencies in gaining an understanding of measurement and verification, an international guideline was established.

ESCO bases all of its site-specific measurement and verification plans on the International Performance Measurement and Verification Protocol (IPMVP). The general approach to determining energy savings in these plans involves comparing the energy use associated with a facility, or certain energy consuming systems within a facility, before installation of the ECM (baseline) and after installation of the ECM (post-installation). In general:

$$\text{Energy Savings} = (\text{Baseline Energy Use}) - (\text{Post Installation Energy Use}) \pm \text{Adjustment}$$

Table 1- Summary of Annual Savings

ECM #	Conservation Measure	Annual Savings Electric		Annual Resource
		Consump.	Demand	Savings
		kWh	kW	\$
ONT - L1.1	Interior and Exterior Lighting Upgrade: This measure will upgrade the existing lighting to LED's at the City Hall, Airport Shop, Annex, Beck Park, Cemetery House & Shop, Fire Station #2, Lions Park, Shooting Range, Public Works, Pump Houses, Water Treatment Plant, and Wastewater Treatment Plant.	89,504		\$8,512
ONT-L3a	S. Oregon St. LED Decorative Street Lighting Upgrade. a. Install (19) decorative poles and luminaires in the downtown corridor on S. Oregon St.. Include new poles, luminaires, and 6 new utility meters.	11,780		\$3,916
ONT-L3b	[Requires ECM-ONT-31a, LED street lighting upgrade] SW 1st Street LED Decorative Street Lighting Upgrade. a. Install (17) decorative poles and luminaires in the downtown corridor on SW 1st St.	1,515		\$3,504
WWCS-M2	The measure adds Flow Pacing for NW 8th Avenue, Malheur, NW Regional, and Murakami lift stations utilizing existing VFDs and SCADA system. - NW 8th Ave lift station comprises roughly 70% of the WWTP flow and would be an ideal location for pumping efficiency. There are (4) pumps at 100 hp at 2200 GPM each - Malheur has (2) pumps at 30 hp at 1100 GPM each - Murakami and NW Regional both have (2) pumps at 20 hp at 750 GPM each	61,011		\$3,581
WTP-M1	Pumping efficiency – Evaluated “Smart Pump” technology and premium efficiency motors, permanent magnet motors. a. Install VFDs for soft-start feature and flow control of pumps on finished water pump #2 and #3. b. Replace finished water pump #3 with 250hp pump to match pump #4 and required upgrades. c. Electrical room MCC upgrade and expansion for new VFDs and MCC.	TBD		TBD
WTP-M1.1	VFD & SCADA Upgrades: Replace existing VFDs and SCADA hardware that are at the end of their life cycle reducing risk of downtime and increasing reliability for the WTP	TBD		TBD
	Total:	163,811		\$19,513
Sub-Total	Mechanical	61,011		\$3,581
Sub-Total	Lighting	102,800		\$15,931

The energy savings calculations are included in the City of Ontario TEA document. These savings calculations have been reviewed and accepted by the Owner and the ESCO.

The following details the savings calculation methodology associated with each Energy Conservation Measure (ECM) included in Table 1 – Summary of Annual Savings.

Multiple Measures Calculation Formulas

Lighting Upgrades

The following equations were used to calculate the lighting upgrade savings:

$$\text{Lighting Savings} = \text{Baseline} - \text{Proposed}$$

$$\text{Baseline} = \sum_{\text{fixture}} (kW_{\text{Base}} \times \text{Hrs}_{\text{Base}})$$

$$\text{Proposed} = \sum_{\text{fixture}} (kW_{\text{retro}} \times \text{Hrs}_{\text{retro}})$$

Where:

- kW_{Base} - Existing base fixture kW, as per lighting audit calculation
- kW_{retro} - Proposed retrofit fixture kW, as per lighting audit calculation
- Hrs_{Base} - Base fixture operating hours, as per lighting audit calculation
- $\text{Hrs}_{\text{retro}}$ - Retrofit fixture operating hours (usually these will equal base hours), as per lighting audit calculation

This calculation applies to the following buildings:

City of Ontario	
City Hall	Airport Shop
Annex Building	Beck Park Shop
Cemetery House and Shop	Fire Station #2
Lions Park Shop	Modular Building/Shooting Range
Public Works	Pump Houses
Water Treatment Plant	Wastewater Treatment Plant

Hours of operation as determined in the Technical Energy Audit are stipulated below in Table 2
Stipulated Lighting Hours Used for Calculations

Table 2

Space Type	Number of Line Items	Days per Year				Burn Hours (without Lighting Controls)				Controls Inputs	
		Weekday	Weekend	Holiday	Total	Weekday Hours	Weekend Hours	Holiday Hours	Burn Hours (Hrs/Yr)	# of Line Items w/Controls	Burn Hour Reduction
Office	33	200	80	85	365	10			2,000	20	10%
Office Common Area	21	200	80	85	365	10			2,000	11	10%
Common Area	33	200	80	85	365	10			2,000	3	
Restroom	31	200	80	85	365	10			2,000	9	10%
Custodial	5	200	80	85	365	10			2,000	5	10%
Classroom	2	200	80	85	365	10			2,000	2	10%
Classroom - Shop	7	200	80	85	365	10			2,000	2	10%
Kitchen	1	200	80	85	365	10			2,000	2	10%
Emergency or 24HPD	19	200	80	85	365	24	24	24	8,760		10%
Stairs & Hallways	20	200	80	85	365	10			2,000	4	10%
Shops	37	200	80	85	365	10			2,000	1	10%
Non-Emergency Hallways		200	80	85	365	10			2,000		
Resident Room	3	200	80	85	365	10			2,000	1	10%
Storage	43	200	80	85	365	4			800	6	10%
Pump Houses	13	200	80	85	365	1			100		
Fire Station #2	3	200	80	85	365	1			100		
Exterior--Parking Lot	4	200	80	85	365	12	12	12	4,380		10%
Exterior--All Other	55	200	80	85	365	12	12	12	4,380		10%

Lift Station VFDs

The following equations were used to calculate the SCADA flow pacing upgrade savings:

$$\text{Pumping Savings} = \text{Baseline} - \text{Proposed}$$

Cycle time was calculated for both fill flow and drain time using provided total run hours and pump gpm

$$\text{Fill Flow} = \text{Design Fill Time} \times (\text{design fill gpm} / \text{estimated flow gpm})$$

Drain Time = trial and error until volume in well reached the pump stop level. This is the amount of time that it takes until the level of the well reach the shut off level assuming flow was still entering the well.

Drain Time was also calculated for the proposed pumps running at 45hz. Again this was through trial and error process until the level of the well reach the shut off level assuming flow was still entering the well.

$$\text{kWh baseline} = \text{measured kW at 60hz} \times \text{run hours.}$$

$$\text{kWh proposed} = \text{proposed kW (calculated using infinity pump laws for power)} \times \text{run hours} \times 80\%$$

II. Methodology to Adjust Baseline

ESCO has developed the M&V plan and calculated the estimated energy savings based on the assumption that the buildings and systems will continue to operate under the same conditions as observed during the Technical Energy Audit. The savings calculations, baseline and/or M&V methodologies are subject to adjustment as set forth in Schedule 6, in the Contract and herein. In addition, in the event that changes are made to the buildings, systems, operations, or utilization of the buildings other than those made by ESCO during the performance of the Scope of Services, ESCO may, at its discretion, make reasonable adjustments to the savings calculations and/or the M&V methodologies to account for such changes. Any adjustments will be included in the M&V Report.

Baseline adjustments for routine and non-routine adjustments are discussed below:

Routine Adjustments

Routine adjustments are changes to the baseline energy consumption due to factors which are both significant to the energy consumption and vary predictably. Factors resulting in routine adjustments include, but are not limited to, weather, building temperature setpoint, hours of operation, and number of occupants. Routine adjustments, if required according to the respective measurement and verification plan, will be performed annually and will affect the performance period in which the adjustment occurs only, and will not be continued into later performance periods. If routine adjustments result in a reduction of energy savings and are beyond the control of ESCO, the value of the savings guarantee will be reduced by the magnitude of the routine adjustment.

Non-Routine Adjustments

Non-routine adjustments are changes to the baseline energy consumption due to factors that are significant to the energy consumption but do not vary predictably. Factors resulting in non-routine adjustments include, but are not limited to, additions or reductions to the area of a building, changes to the use of a building, installation, modification, or replacement of equipment, and changes to the building envelope. Non-routine adjustments, if required according to the respective measurement and verification plan, will be performed once and will be affective for the remainder of the performance period. If non-routine adjustments result in a reduction of energy savings and are beyond the control of ESCO, the value of the savings guarantee will be reduced by the magnitude of the routine adjustment.

Reporting of Routine and Non-Routine Adjustments

Both ESCO and Owner share responsibility in identifying routine and non-routine adjustments. ESCO will monitor key parameters and perform site visits as required per the measurement and verification plan. If, during the course of these actions, ESCO identifies operations or changes to

the buildings or systems that would result in a baseline adjustment, ESCO will notify Owner accordingly as outlined in the measurement and verification plan. Owner is obligated to notify ESCO when material changes occur within the facilities and provide additional information, if required, to perform baseline adjustments, including, but not limited to, equipment submittals, building plans, and dates that such changes occurred. ESCO will calculate baseline adjustments, when required, and submit the results to Owner and its agents.

The energy savings guarantee is based on the proper performance of the conservation measures as indicated in “Schedule 2 – Calculation of Energy Cost Savings Guarantee”. Should the performance of the conservation measures be adversely impacted by changes in weather, occupancy patterns, building modifications, or inadequate maintenance, the baseline may require an adjustment.

SCHEDULE 6 TO PDP

MEASUREMENT AND VERIFICATION PLAN; GUARANTEED SAVINGS CONTRACT PROVISIONS

The provisions of the Schedules to the PDP, including this Schedule 6, shall govern in the event of any inconsistencies between the provisions of the other Contract Documents and the Schedules.

I. MEASUREMENT AND VERIFICATION PLAN

Schedule & Reporting of M&V Services

Table 6-1: Schedule of Reports

Item	Schedule
First Year Annual M&V Report	60 days after the end of the first Guarantee Year
Subsequent Annual M&V Reports, if any	60 days after the end of each subsequent Guarantee Year

Measurement & Verification Overview

Ameresco shall perform the M&V Services as set forth in this Schedule 6 in order to determine and document the Annual Savings under this Agreement. As used herein, the term “Guarantee Year” refers to a “Savings Year.”

The approach to M&V is based on the International Performance Measurement and Verification Protocol (IPMVP) Volume 1 2012 (January 2012). IPMVP Volume 1 is a guidance document describing common practice in measuring, computing, and reporting savings achieved by energy or water efficiency projects at end user facilities. The IPMVP presents a framework and the four M&V methods. For purposes of this Agreement, the Parties have also included an additional M&V Method – “Agreed Upon” savings. “Agreed Upon” savings are not subject to measurement or verification and do not include M&V activities. This method is utilized on ECMs with savings that are too low to justify the costs associated with verification.

Method A: Partially Measured with Stipulated Values
Savings are determined by field measurement of the key performance parameter(s) which define the energy use of the ECM's affected system(s). Estimates of the non-key parameter are used for the savings calculations.
Method B: Fully Measured
Savings are determined by field measurement of the energy use of the ECM-affected system.
Method C: Whole Facility Meter Analysis
Savings are determined by measuring energy use at the whole facility or sub-facility level.

Method D: Calibrated Simulation
Savings are determined through simulation of the energy use of the whole facility or of a sub-facility. Simulation routines are demonstrated to adequately model actual energy performance measured in the facility. The model is closely calibrated with data collected for each ECM.
Agreed Upon Savings: No M&V, Operational Verification
Used when savings are not enough to justify the cost of accurately calculating and/or measuring the savings.

Table 6-2 below sets forth the M&V methods to be used for the various ECMs and the details of the plan execution.

Table 6.2 - M&V methods

ECM Name	IPMVP Option	Key Performance Indicators	Baseline Condition	Proposed Condition	Baseline M&V Requirements	Post Installation M&V Requirements	Stipulated Variables	Performance Period M&V Requirements	Owner Responsibilities
ONT-W2b	NA	NA							
ONT-L1.1	A	Rated Power used (kW), Nameplate Wattage	1. Various. Based on existing fixtures' manufacturer product information. 2. Varies by zone. Manual or via occupancy sensor and/or daylight sensor	1. Various. Based on proposed fixtures' manufacturer product information 2. To remain as-is where occupancy sensors not in scope or already in place, otherwise controlled via occupancy sensor or daylight sensor as shown in TEA Appendix B	Perform detailed survey of facility lighting fixtures. Calculate total electricity consumption based on scheduled occupancy and estimated hours of occupancy. See Schedule 5 for detailed hours.	Complete detailed as-built of installed facility lighting fixtures. Calculate total electricity consumption based on installed wattage and proposed hours of operation. Measure pre and post wattage of sample of installed fixtures	Burn hours, hours of occupancy	Confirm function of lighting fixtures and usage/function of occupancy sensors	Maintain lighting fixtures per manufacturer recommendations
ONT-L3a	A	Nameplate Wattage	1. Various. Based on existing fixtures' manufacturer product information. 2. Varies by zone. Manual or via occupancy sensor and/or daylight sensor	1. Various. Based on proposed fixtures' manufacturer product information 2. To remain as-is where occupancy sensors not in scope or already in place, otherwise controlled via occupancy sensor or daylight sensor as shown in TEA Appendix B	Perform detailed survey of facility lighting fixtures. Calculate total electricity consumption based on scheduled occupancy and estimated hours of occupancy. See Schedule 5 for detailed hours.	Complete detailed as-built of installed facility lighting fixtures. Calculate total electricity consumption based on installed wattage and proposed hours of operation. Measure pre and post wattage of sample of installed fixtures	Burn hours, hours of occupancy	Confirm function of lighting fixtures and usage/function of occupancy sensors	Maintain lighting fixtures per manufacturer recommendations
ONT-L3b	A	Nameplate Wattage	1. Various. Based on existing fixtures' manufacturer product information. 2. Varies by zone. Manual or via occupancy sensor and/or daylight sensor	1. Various. Based on proposed fixtures' manufacturer product information 2. To remain as-is where occupancy sensors not in scope or already in place, otherwise controlled via occupancy sensor or daylight sensor as shown in TEA Appendix B	Perform detailed survey of facility lighting fixtures. Calculate total electricity consumption based on scheduled occupancy and estimated hours of occupancy. See Schedule 5 for detailed hours.	Complete detailed as-built of installed facility lighting fixtures. Calculate total electricity consumption based on installed wattage and proposed hours of operation. Measure pre and post wattage of sample of installed fixtures	Burn hours, hours of occupancy	Confirm function of lighting fixtures and usage/function of occupancy sensors	Maintain lighting fixtures per manufacturer recommendations

ECM Name	IPMVP Option	Key Performance Indicators	Baseline Condition	Proposed Condition	Baseline M&V Requirements	Post Installation M&V Requirements	Stipulated Variables	Performance Period M&V Requirements	Owner Responsibilities
WWCS-M2	A	Ability of pump speed or water flow to reduce.	1. pumps operating through SCADA system through on/off cycling, only running at full speed.	1. pumps operating through SCADA through PID control loop to maintain liquid level in well, running at various speeds.	Measure Pump kW and perform energy savings calculation using run hours provided by owner.	Trend pumps for ability of pump speed or water flow to reduce	Operating load of system. Existing pump kW.	Samples of pump speeds or water flow will be used to verify the system is turning down motor speed for specified conditions.	Maintain and operate pumps.
WTP-M1*	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD

* WTP-M1 M&V will be determined upon completion of design for build phase

Operating Parameters/Stipulated Variables and Owner Responsibilities

In addition to any of its other obligations under this Agreement, the Owner agrees to operate and maintain all ECMs to the standards set forth in Table 6-2 of this Schedule 6 and in the O&M Manuals delivered to the Owner at Substantial Completion and/or Final Completion, as appropriate. Deviation from these standards may result in adjustments to the Baseline, the Annual Guaranteed Savings, or the determination of Annual Savings.

II. GUARANTEED SAVINGS CONTRACT PROVISIONS

The “Annual Guaranteed Savings” are:

Utility	Guaranteed Annual Energy Savings
Electricity (kWh)	147,429
Electricity (kW)	0
Gas (Therms)	0
Fuel Oil (Gal)	0

The Guarantee Term (also known as the Savings Term or Energy Savings Term) shall be the consecutive twelve (12) month period (“Guarantee Year”) beginning with the date of Notice of Commencement of Energy Savings of the ECMs, (the “M&V Commencement Date”), as set forth in the Notice of Commencement of Energy Savings letter provided by ESCO. ESCO guarantees that the Annual Savings (as such term is defined below) to be achieved as a result of installation and operation of the ECMs shall equal or exceed the Annual Guaranteed Savings for the Guarantee Term, determined as provided in Schedules 1, 2, 4, 5 and Section I of this Schedule 6.

ESCO guarantees that the Annual Guaranteed Savings will be achieved by operation and beneficial use of all ECMs taken in the aggregate, but does not guarantee the savings amount achieved by each ECM individually.

ESCO’s obligations in respect of this Savings Guarantee are subject to the Owner performing all of its maintenance, repair, service, and other obligations under this Agreement, including, without limitation, the Owner’s maintenance responsibilities set forth in Schedule 9 , maintenance of the Standards of Service and Comfort set forth in Schedule 10, and the Owner’s obligations with respect to the Premises as set forth in the Contract Documents, that may affect achievement of the Annual Guaranteed Savings. If the Owner fails to perform its obligations under the Contract Documents, including the PDP, and related Schedules and Exhibits, or interferes with or permits any third party to take any action which, in the reasonable opinion of ESCO, may prevent the achievement of the Annual Guaranteed Savings under this Agreement, ESCO may adjust the Annual Guaranteed Savings during the period in which such savings were affected to reflect the impact such actions had on same. ESCO’s rights set forth in this Schedule 6A shall not be in limitation of any other rights it is entitled to by law and under this Agreement.

OWNER REVIEW

The Owner has reviewed and accepted the Annual Guaranteed Savings, calculations, assumptions, and methodologies contained in the M&V Plan set forth in Schedule 6, the Calculation Methodology set forth in Schedule 2, the Baseline set forth in Schedule 4, and the Stipulations and Operating Parameters set forth in Schedules 6 and 7, as well as the assumptions set forth in Schedule 1.

MEASUREMENT AND VERIFICATION PLAN

The “Measurement and Verification Plan” consists of the measurement and verification plan and the savings calculation methodologies set forth in Schedules 1, 2, 4, 5, and 6. The total savings achieved by the combined ECMs, determined as provided in the M&V Plan, including any “Agreed upon Savings,” as such term is defined in the M&V Plan, shall be deemed the total “Annual Savings.” Agreed Upon Savings amounts shall be deemed achieved upon Substantial Completion of installation of the related ECMs.

For each Guarantee Year for which measurement and verification services are to be performed, measurements shall be completed and Annual Savings determined as described in the M&V Plan, and ESCO will submit to the Owner a report documenting the guarantee reconciliation (the “Annual M&V Report”) within 60 days following the end of such Guarantee Year (collectively, the “M&V Services”). The Annual M&V Report will include a calculation of the Annual Savings achieved.

If, for the Guarantee Year during the Guarantee Period/Savings Term, the Annual Guaranteed Savings is not achieved, as evidenced by the fact that the Annual Savings as detailed in the Annual M&V Report is less than the Annual Guaranteed Savings for the Guarantee Year being reconciled, ESCO shall pay or provide in-kind services to the Owner the amount (“Savings Shortfall”) by which the Annual Guaranteed Savings Amount exceeds the Annual Savings, or, by mutual written agreement of the Parties, in lieu of making a payment of the Savings Shortfall, ESCO may rectify the Savings Shortfall through installation of additional ECM(s) or modifications. Such payment, installation, or modification shall be the sole and exclusive remedy of Owner in the event of a Savings Shortfall.

In addition, in the event of a Savings Shortfall, ESCO shall have the right but not the obligation, at Ameresco’s sole discretion and expense, to install additional ECM(s) or modifications to mitigate any future Savings Shortfall with the approval of Owner, such approval not to be unreasonably withheld, conditioned, or delayed. If, in any Guarantee Year, the Annual Savings exceed the Annual Guaranteed Savings Amount for such Guarantee Year, the excess savings will be used first to reimburse ESCO for any Savings Shortfall payments made in previous years, whether such payment was made in cash or through installation of additional ECMs.

M&V SERVICES

The M&V Services will be performed, the Annual M&V Report delivered for the Guarantee Year which comprises the Guarantee Period, and the M&V Service Fees shall be due and payable for each year in which an Annual M&V Report is delivered, as provided in Section 9.5 of the Design and Construction Contract, and in Schedule 3 PDP.

In the event of early termination of this Agreement or of the M&V Services, unless termination is effective on the last day of the Guarantee Year, no Annual M&V Report will be produced for the Guarantee Year then in effect and the Annual Guaranteed Savings shall be deemed achieved for the Guarantee Year then in effect, i.e. for the balance of the Savings Term.

ADJUSTMENTS TO SAVINGS CALCULATIONS OR M&V PLAN

ESCO has developed the M&V Plan and calculated the Annual Guaranteed Savings based on the assumption that the buildings and systems will continue to operate under the baseline conditions as observed during performance of the Technical Energy Audit and development of the Project Development Plan. The savings calculations, baseline, and/or M&V methodologies are subject to adjustment as set forth in the Schedules to the PDP. In addition, in the event that changes are made to the buildings, systems, operations, or utilization of the buildings other than those made by ESCO during the performance of the Scope of Services, ESCO may, at its discretion, make reasonable adjustments to the savings calculations and/or the M&V methodologies to account for such changes. Any adjustments will be included in the M&V Report.

DISPUTE RESOLUTION PLAN

Notwithstanding anything else to the contrary in the Agreement, any dispute, claim, or disagreement of any kind or nature between the Parties (a "Dispute") arising out of or in connection with this M&V Plan, Adjustment to the Baseline, or the Energy Savings Guarantee shall be subject to a meeting of senior management and, if necessary, mediation as a condition precedent to any and all remedies at law or in equity and shall be resolved in accordance with this Dispute Resolution Plan.

Any Dispute arising concerning the M&V Plan, Adjustment to the Baseline, or the Energy Savings Guarantee, if not amicably settled by the Parties within thirty (30) days following notice of dispute, shall be referred to senior management of the Parties for resolution. A representative from management of both Parties shall meet in person or by phone within ten (10) business days after either Party gives the other Party written notice of the Dispute (the "Dispute Notice"). The Dispute Notice shall set forth in reasonable detail the aggrieved party's position and its proposal for resolution of the Dispute. In the event the Dispute has not been resolved within forty-five (45) days following referral to senior management, or such longer period as the Parties may mutually agree, then a request for mediation shall be made in writing and delivered to the other Party. The request may be made concurrently with the filing of any and all remedies at law or in equity but, in such event, mediation shall proceed in advance of any proceedings filed in a judicial forum, which shall be stayed pending mediation for a period of 60 days from the date of filing unless stayed for a longer period of time by agreement of the parties or court order.

The Parties shall share the fees of the mediation equally. The mediation shall be held in the place where the Project is located unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

If the parties do not resolve the Dispute through informal dispute resolution or mediation, either Party may then pursue available remedies at law in the state or federal courts of the State of Oregon.

SCHEDULE 7 TO PDP

SYSTEMS START-UP AND COMMISSIONING; OPERATING PARAMETERS OF INSTALLED EQUIPMENT

The provisions of the Schedules to the PDP, including this Schedule 7, shall govern in the event of any inconsistencies between the provisions of the other Contract Documents and the Schedules.

I. Systems Start-Up and Commissioning

Create Master List of Commissioned Equipment: Based on the final design, addendum and submittal information, a master list of equipment and systems is created. This list identifies each piece of equipment and system to be commissioned. It further identifies all modes of operation and any integrated system relationships. This list is integrated into the final commissioning plan and is used to track equipment and systems as they move through the commissioning process.

Create Final Commissioning Plan: The final commissioning plan outlines the entire commissioning process including roles and responsibilities, scheduling, installation verification forms and functional test forms. Depending on the overall project schedule, the installation verification and functional test forms may be “sample” versions only at this time.

Develop Installation Verification Documents: Based on the master equipment list, a pre-functional installation verification checklist is created for every piece of equipment and system scheduled to be commissioned. These checklists are used to help assure that equipment and systems are installed correctly and ready for functional testing.

Develop Functional Performance Documents: Based on the master equipment list, a functional performance test is created for every piece of equipment and system that is to be commissioned. These tests are designed to simulate as many potential modes of operation as is within the commissioning scope of work.

Conduct Installation Verification: Using the installation verification sheets, the facility is reviewed to verify that equipment and systems are properly installed and ready for functional testing. Issues are noted on a “Commissioning Issues” list. This list becomes a working and regularly revised document that records the eventual resolution of all issues.

Conduct Functional Performance Tests: Once the installation verification is complete, functional performance testing may commence. Ameresco completes the functional testing with the help of the Controls Contractor. Issues are noted on the Commissioning Issues list.

Conduct Acceptance Tests: Once the functional performance tests are completed, acceptance testing may commence. Ameresco completes the acceptance testing with the help of the Controls Contractor by focusing on system performance measured via trend-logging and with testing equipment.

Re-Testing and Issue Resolution: All issues reported as corrected by the responsible contractors are verified by Ameresco prior to being considered as fully resolved. In some cases this may involve a

repeat of the initial functional testing procedures. Issue resolution may also involve working with the members of the Design Team to develop and implement appropriate changes or retrofits to design.

Final Report: At the close of the project, a final report based on the commissioning plan is created. This report will contain all previously generated commissioning documentation and a project summary that identifies any unresolved issues and makes further recommendations.

Training: Once commissioning is complete the Commissioning Agent will participate in the formal training presented by the system installers and supplier. The Commissioning Agent's role in the training is to share specific input regarding the system function in the owner's facility.

Start Up: ESCO will ensure that all major equipment is started up by a factory authorized technician and that all start up documents are registered as required to start the warranty process. The start-up is witnessed by the Commissioning Agent and the owner's staff is also encouraged to participate in the start-up process.

The following is a sample of a Variable Frequency Drive Commissioning Report for a K-12 project. It is representative of the start-up and commissioning reports that are completed for all of the installed measures that are part of an Energy Savings Performance Contract.

The final Start-Up and Commissioning report will be developed during project implementation and will be delivered at the close-out of the ESPC project and will be part of the final Operations & Maintenance Manuals.

System Testing Manual

Variable Pump Speed Control

I. VFD INSTALLATION VERIFICATION

Provide and install two VFD's with bypass, one 7.5hp, one 10hp. VFD's to have Bacnet/lonworks communication to building controls for general point's supervision. Hardwire enable, speed and status points.

Equipment:	CP-2	Mark:	CP-2
Location:	Mech. Rm. Attic above Custodial Rm.	Serves:	Hydronic Loop

II. INSTALLATION VERIFICATION

Validation Description	Yes	No	N/A	Comments
Unit/ Casing/ Maintenance Access				
Permanent labels affixed		X		
Unit condition good: no dents, no leaks	X			
Maintenance access acceptable for unit and components	X			
Drive location not subject to excessive temperatures, moisture, or dirt	X			
Drive size matches motor size	X			
Provide and install new VFDs with factory-installed bypass contactors and switching.	X			
Electrical				
Power disconnects in place and labeled	X			
Controls				
Internal setting designating the model is correct	X			
Input of motor FLA represents 100% to 105% of motor FLA rating	X			
Appropriate Volts vs Hz curve is being used	X			
Accel. And decel. Times are around 10-60 seconds, except for special applications. Record actual for each unit.	X			Set for 120 seconds
VFD interlocked to control system	X			
VFD minimum speed setting set >15.0Hz	X			
Controlling DP sensors calibrated and properly located and per drawings	X			

System Testing Manual

Variable Pump Speed Control

I. VFD INSTALLATION VERIFICATION

Provide and install two VFD's with bypass, one 7.5hp, one 10hp. VFD's to have Bacnet/lonworks communication to building controls for general point's supervision. Hardwire enable, speed and status points.

Equipment:	CP-3	Mark:	CP-3
Location:	Mech. Rm. Attic above Custodial Rm.	Serves:	Hydronic Loop

II. INSTALLATION VERIFICATION

Validation Description	Yes	No	N/A	Comments
Unit/ Casing/ Maintenance Access				
Permanent labels affixed		X		
Unit condition good: no dents, no leaks	X			
Maintenance access acceptable for unit and components	X			
Drive location not subject to excessive temperatures, moisture, or dirt	X			
Drive size matches motor size	X			
Provide and install new <i>ABB VFDs</i> with factory-installed bypass contactors and switching.	X			
Electrical				
Power disconnects in place and labeled	X			
Controls				
Internal setting designating the model is correct	X			
Input of motor FLA represents 100% to 105% of motor FLA rating	X			
Appropriate Volts vs Hz curve is being used	X			
Accel. and decel. times are around 10-60 seconds, except for special applications. Record actual for each unit.	X			Set for 120 seconds
VFD interlocked to control system	X			
VFD minimum speed setting set >15.0Hz	X			
Controlling DP sensors calibrated and properly located and per drawings	X			

III. OPERATION VERIFICATION

Provide and install two loop differential pressure sensors located toward end of loop in East and West Attic. From drawings this would be near HP-6 and HP-53, respectively. Location for sensors to be chosen by Controls Contractor.

Verify the following sensors have been calibrated. Physically measure each device with an independent meter and compare to readings on DDC. Differential pressure transducer shall have an accuracy of +/- 2%

Sensor Calibration	DDC	Field	Offset	Comments
Loop DP Sensor #1 (HP-6)	16.0	Pass	-----	
Loop DP Sensor #2 (HP-53)	18.0	Pass	-----	

Analog Output Verification	DDC	Field	Comments
P-1 VFD Speed Command	Pass	Pass	
P-2 VFD Speed Command	Pass	Pass	

Digital Output Verification	DDC	Field	Comments
P-1 Enable / Disable	Pass	Pass	
P-2 Enable / Disable	Pass	Pass	

Digital Input Verification	DDC	Field	Comments
P-1 Status	Pass	Pass	
P-2 Status	Pass	Pass	

Set Points	Design	Actual	Comments
Loop Static Pressure Set point	na	15.0	

IV. SEQUENCE OF OPERATION

Variable Pump Speed Control

- The VFD shall vary loop pump speed to maintain 5 psi differential pressure (adjustable) when any heat pump compressor is running.
- Pumps to modulate and stage to maintain the lower of the two differential pressure sensors to the loop differential set point (adj.). Pumps to be engaged with a call for compressor from any one heat pump, do not schedule the pumps. If pump is commanded on and status from vfd does not indicate it's enabled, than generate alarm and enable back-up pump.
- If no heat pumps are calling for compressor then shut down loop pump.
- Two pumps are to be sequenced in a lead / lag configuration, with the lead pump rotating every two weeks (adj.).

Show all applicable status points and all alarm points on graphics.

Check if Okay. Enter comment or note number if deficient.

Sequence of Operation			
Equip Tag->	The sequences of operation & control graphics for the equipment listed below and systems integral to them are complete.	Check Okay	Notes
Variable Pump Speed Control – Sequence of Operation		☒	
Variable Pump Speed Control – Graphic Interface		☒	
Variable Pump Speed Control – Alarm Interface		☒	
Variable Pump Speed Control – Trend Logs		☒	

V. COMMENTS

[illegible]

II. Operating Parameters for ECMs / Standards of Comfort and Service

In addition to any of its other obligations under this Contract, the Owner agrees to operate and maintain all ECMs to the standards set forth in this Schedule 7, in Schedule 9 and in the O&M Manuals delivered to the Owner at beneficial use, Substantial Completion and/or Final Acceptance, as appropriate. Deviation from these standards may result in adjustments to the Baseline, the Annual Guaranteed Savings, and/or the determination of Annual Savings.

SCHEDULE 8 TO PDP

ESCO'S TRAINING RESPONSIBILITIES

The provisions of the Schedules to the PDP, including this Schedule 8, shall govern in the event of any inconsistencies between the provisions of the other Contract Documents and the Schedules.

- ESCO will implement a comprehensive training program that involves classroom and hands-on/field training. Training sessions will include a review of the overall installation and performance characteristics of installed Energy Efficiency Measures. Documentation will include review of O&M manuals, drawings, and equipment specification literature. Facilities personnel, and select building occupants, will receive comprehensive manuals for reference. The primary goal of Ameresco's training program will be to educate designated operations, maintenance, and building staff in the key areas that relate to the ECMs installed throughout the project. ESCO has identified three (3) levels of training which may be required depending on the specific ECMs which are installed. Refer to the Training Matrix on the next page for applications of Training Levels.
 - Level 1: For systems and equipment which are essentially direct replacements of existing equipment, such that no additional skills will be required to perform operations and maintenance functions, the training will be limited to a general overview of the equipment installed, a review of the manufacturer's O&M manuals, and an explanation of equipment warranties. This level of training will provide operations and maintenance staff the familiarity with the equipment that is installed, manufacturer's recommended maintenance procedures, and all warranty information. This training will be conducted one time and will include up to 8 hours of classroom instruction for all ECMs designated for Level 1 training.
 - Level 2: For systems and equipment which are new to the site, and require some general understanding as to their function and operation, training will include a minimum amount of classroom instruction that will provide an overview of the specific technology selected, specific equipment installed, review of the manufacturer's O&M manuals, and an explanation of equipment warranties. Following the classroom training session, a site tour will be scheduled to view the specific installation and operation of the equipment. This level of training will provide operations and maintenance staff with additional equipment details (including equipment cut sheets), familiarity with the equipment that is installed, manufacturer's recommended maintenance procedures, and all warranty information. This training will be conducted one time and will include up to 12 hours of combined classroom and field instruction for all ECMs designated for Level 2 training.
 - Level 3: For systems and equipment which are new to the site, and are more complex in nature - training will be directed to facilities engineering and the operations and maintenance staff. Level 3 training will require more extensive classroom training to discuss design intent, specific system design, energy efficiency considerations, seasonal

modes of operations, comfort conditions, operation of individual components, emergency conditions, sequences of operations, alarms, diagnostics, and any additional ECM specific information as required. This training will be conducted up to two (2) sessions and will include up to 12 hours per session of combined classroom and field instruction for all ECMs designated for Level 3 training.

- Level 3 classroom training will also include a review of the manufacturer’s operation and maintenance manuals, and an explanation of equipment warranties. Following the classroom training session, a site tour will be scheduled to view the specific installation, operation of the equipment, and hands on maintenance instructions by qualified personnel and manufacturers’ representatives. This level of training will provide staff with a comprehensive understanding of all equipment details as well as hands on familiarity with the equipment that is installed and a detailed review of manufacture’s recommended maintenance procedures and warranty information.
- Note: “Classroom” refers to a setting where information is presented to Agency personnel and may occur on-site in a meeting room, office, boiler room, etc.).

The Agency shall provide suitable space and make personnel available, as reasonably required for ESCO to conduct training under this Schedule 8.

Training Matrix					
ECM #	Conservation Measure	Level 1	Level 2	Level 3	Not Applicable
ONT-L1.1	Replace or Retrofit Interior & Exterior Lighting	X			
ONT-L3b	Downtown Beautification – Decorative Lights	X			
WWCS-M2	Lift Station Flow Pacing – SCADA Programming		X		
WTP-M1	Water Treatment Plant Pump #3 Upgrade		X		
WTP-M1.1	Water Treatment Plant VFD’s and SCADA Upgrade		X		

SCHEDULE 9 TO PDP

OWNER'S MAINTENANCE RESPONSIBILITIES

The provisions of the Schedules to the PDP, including this Schedule 9, shall govern in the event of any inconsistencies between the provisions of the other Contract Documents and the Schedules.

Owner, at its own expense, will keep and maintain, or cause to be kept and maintained, the ECMs and all equipment in as good operating condition as when delivered to the Owner hereunder, ordinary wear and tear resulting from proper use thereof alone excepted, and will provide maintenance and service and make all repairs necessary for such purpose. Responsibility for the proper maintenance, service, repair and adjustments to each ECM, ECM system and related ancillary systems and equipment, including related expenses, shall transfer to the Owner on an ECM by ECM basis on the date of **“Substantial Completion”** of each ECM as such date is determined in accordance with Section 2 and Section 18.2 of the “Phase II – Design and Construction Contract”. The Owner will be responsible for such maintenance, service, repair and adjustments for the remainder of the Term. Operation and Maintenance Manuals (O&M Manuals) will be provided to the Owner, by the ESCO. Included with the O&M manuals will be a list of maintenance responsibilities and tasks for the Owner, as well as the final “Schedule 10 – Facility Maintenance Checklist”.

Start-up and Shutdown: The Owner's responsibilities include all system start-ups and shut-downs. System start-up (beginning of season) and shut-down (end of season) refers to specific manufacturer recommendations with respect to “proper” system start-up, operation, maintenance, and shut-down as defined in the manufacturer's installation / operation / maintenance (O&M) manuals which will be provided to the Owner upon Beneficial Use, Substantial Completion and / or Final Completion, as appropriate.

Operations: The Owner shall operate the equipment installed hereunder in accordance with parameters noted in the manufacturers' recommendations, and any supplemental procedures supplied to the Owner by ESCO, including those set forth in the O&M manuals. The Owner shall also operate the equipment and systems (including ancillary related systems) in accordance with Table 6.2 in “Schedule 6, M&V Plan; Guaranteed Savings Contract Provisions” and “Schedule 7, System Start-Up and Commissioning, Operating Parameters of Installed Equipment”.

Maintenance: The Owner's maintenance responsibilities include the proper operation and prompt repair and maintenance of each ECM, ECM system and related ancillary systems and equipment such that they are maintained in good working order during the Term. The Owner shall repair and maintain (i) the equipment and all other components which comprise the ECM and (ii) all other equipment which is attached thereto and/or is integral to the proper functioning of the ECM, including performance of the maintenance tasks, manufacturer's recommendations and supplemental procedures included in the O&M Manuals. Maintenance also refers to performing required maintenance of ancillary systems.

SCHEDULE 10 to PDP

FACILITY MAINTENANCE CHECKLIST

The provisions of the Schedules to the PDP, including this Schedule 10, shall govern in the event of any inconsistencies between the provisions of the other Contract Documents and the Schedules.

The following is a draft Facility Maintenance Checklist for the ECMs that require maintenance. A final Facility Maintenance Checklist will be delivered at the close-out of the ESPC project and will be part of the final Operations & Maintenance Manuals.

Lighting Systems

Tasks	Frequency
Fluorescent and Incandescent – Continually monitor all buildings for burned out tubes and bulbs replacing as necessary.	As-Needed. Minimal
LED – Continually monitor all buildings for burned out fixtures replacing failed components or fixtures as needed.	As-Needed. Minimal
Outdoor Lighting – Check control circuits introducing photocells, timers, and manual by-pass switches for proper operations. Repair or replace any malfunctioning components. Continually replace all burned out bulbs as needed.	As-Needed. Minimal
Occupancy and Daylighting Sensors – Confirm lights are off when ambient light is sufficient where daylight sensor controls light. Confirm lights are off when rooms are unoccupied and that lighting turns on when needed.	As-Needed. Minimal

Variable Frequency Drives

Tasks	Frequency
Check for alarms or status flags on panel	Weekly
Inspect drive for thermal damage	Annually
Check Pumps for signs of bearing failure or foreign objects	Monthly
Inspect DC bus capacitors for bulging and leakage	Monthly
Take voltage measurements while the VFD is in operation	Monthly
Monitor heat sink temperatures	Monthly

CONTRACT # 8851000
CITY OF ONTARIO OREGON



CITY OF ONTARIO ENERGY EFFICIENCY UPGRADES TECHNICAL ENERGY AUDIT

9/20/2021

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1. PURPOSE OF STUDY

The purpose of this report is to evaluate opportunities to save resources and improve the facilities for City of Ontario located in Ontario, OR. This study evaluates the existing facilities and equipment and provides proposed modifications aimed at improving the functionality, maintainability, and resource efficiency.

Facility improvements analyzed include:

- Aeration efficiency
- Pumping efficiency
- Interior/Exterior Lighting building lighting
- Plumbing fixture efficiency
- Street Lighting – Downtown revitalization project
- Smart Irrigation Controls

Upon selection of the preferred retrofit alternatives by City of Ontario, Ameresco will present a proposal for the Project Development Plan (PDP) that will guarantee the maximum project cost, equipment performance and energy savings for the project.

We would like to take this opportunity to thank those involved in providing information, ideas, and feedback throughout the audit. Individuals from the City of Ontario and Jacobs provided support throughout the Technical Energy Audit process. Each site's public works staff were especially knowledgeable, insightful, and helpful. Most helpful were the Jacobs staff – Kevin Mullin and Paul Woods were especially knowledgeable, insightful, and helpful throughout all the audit.

2. EXECUTIVE SUMMARY

OVERVIEW

This TEA presents an opportunity to greatly improve the systems at the following facilities within the City of Ontario while saving resources.

- City Hall/Fire Station
- Annex Building
- Airport Shop
- Evergreen Cemetery Buildings
- Fire Station #2
- Public Works
- Old Public Works
- Wastewater Treatment Plant (WWTP)
- Water Treatment Plant (WTP)
- Beck Park Shop
- Lions Park Shop
- Modular Building/Shooting Range
- Golf Club House
- Pump Houses

Improvements to lighting system, SCADA controls, mechanical pumping, and mechanical aeration capabilities are extensive.

PROJECT DESCRIPTION

MECHANICAL UPGRADES

The conservation measures that we have developed provided improved process control through adding VFDs at the WTP on two clear well pumps. At the WWTP, we have developed a long-term strategy for improving the aeration in Lagoon # 1 that improves the biological treatment process. The WTP and WWTP process equipment are controlled through a SCADA system which will be utilized for controlling the proposed mechanical measures at the WTP and WWTP.

SCADA CONTROL SYSTEM UPGRADES

The SCADA controls measures that we have developed will upgrade the programming at the wastewater collection lift stations adding flow pacing to the existing pumps through a new PID control sequence of operation. The new PID SCADA control will also be fully commissioned to assure proper operation.

LIGHTING SYSTEM UPGRADES

The lighting systems were evaluated at multiple facilities as part of a city-wide lighting audit. The city has a mixture of lighting which includes pin and screw in Compact Fluorescent Lights (CFL), High Pressure Sodium can and flood lights, Metal Halide (MH) flood fixtures, incandescent screw in bulbs, and T-8 fixtures. The city has also replaced several fixtures and upgraded them to LED. The lighting measure we have developed will replace or retro fix non-LED fixtures to LEDs. The LED lighting upgrade includes interior and exterior fixtures.

We have also developed a measure to upgrade the lighting on Oregon St. in the downtown area to LED decorative fixtures. The proposed fixtures will replace the existing utility owned street lighting and require the installation of electrical meters for the city to take ownership of the Oregon St. lighting.

WATER SYSTEM UPGRADES

The plumbing fixtures were evaluated at multiple facilities as part of a city-wide plumbing audit. A retrofit and replacement plan was developed where non-modern low-consumption equipment was identified. The audit proposes replacing the existing toilets with new low consumption toilets, retrofitting urinals and lavatories with flush valves, diaphragm kits, and faucet aerators, the associated water consumption can be reduced and the wear and tear on the system.

We also developed an irrigation management system to replace the existing stand-alone irrigation controllers with network accessible (web enabled) irrigation controllers which can be accessed from a central location with internet access. The irrigation controller will also be provided with a master valve for automated shut-off at irrigation mains if a leak is detected.

SUMMARY OF ENERGY AND ENVIRONMENTAL BENEFITS

This report presents the potential energy savings by installing the eight recommended measures outlined Figure 27, recommended measures. All documented energy conservation measures have been analyzed using data collected by onsite measurements, short term data logging, operator interviews, and historical utility data. The following table outlines the energy savings associated with the recommended measures at 100% of the energy savings and at the guaranteed level of 90%.

Table 1: Summary of Energy Savings Guarantee

	100% of the Energy Savings		90% of the Energy Savings	
	Units of Energy	Cost Savings	Units of Energy	Cost Savings
Electricity - kWh	1,567,622	\$109,049	1,172,114	\$98,144
Electricity – kW	2,434	(incl. above)	2,191	(incl. above)
Water – CCF	1,711	\$0	1,540	\$0

In addition to the facility improvements and energy savings, the recommended measures also have a significant positive impact on the environment by reducing the use of fossil fuel and electricity. The recommended measures will reduce greenhouse gases like carbon dioxide (CO₂) that adversely impact climate change, as well as reducing other emissions that contribute to the formation of smog – nitrogen oxides (NO_x), acid rain – sulfur dioxide (SO₂) and toxic heavy metals compounds like mercury (Hg).

Table 2: Summary of Green House Gas (GHG) Reductions

Pollutant	Approximate Annual Reduction
Carbon Dioxide (CO ₂)	2,449,217 pounds

On average, a single automobile produces 15,000 pounds of CO₂ annually and one acre of trees absorbs 7,333 pounds of CO₂ annually. By implementing these efficiency improvements, annual CO₂ greenhouse gas emissions

are reduced by 1,224 tons, which is equivalent to removing over 106 cars from the road or preserving over 1,361 acres of mature trees.

SUMMARY OF FINANCIAL BENEFITS

Overall, the proposed project represents an excellent opportunity to save approximately \$150,000 annually in utility costs and provides about \$4,589,000 in improvements for the City of Ontario at multiple facilities. Utility incentives available for the proposed measures are estimated to be approximately \$84,000. With the energy savings and incentives considered, the proposed energy efficiency efficient measures of the project have a simple payback of about 19 years. We are eager to work with the City of Ontario and Jacobs to implement these beneficial facility improvements.

3. BUILDING DESCRIPTIONS

Table 3: Summary table of all facilities detailed in TEA.

Building Name	Sq. ft.	Approx. Year Built	Address
City Hall/Fire Station	17,879	1977	444 SW 4th Street
Annex Building	1,536	Unknown	458 SW 3rd Street
Airport Shop	2,044	Unknown	581 SW 33rd Street
Evergreen Cemetery Buildings	414	Unknown	1155 Park Blvd
Fire Station #2	6,768	NA	3288 SW 4th Avenue
Public Works	18,178	NA	1551 NW 9th Street
Old Public Works	12,102	NA	55 NE 2nd Avenue
Wastewater Treatment Plant	8,589	1960	405 Malheur Drive
Wastewater Collections	NA	NA	Various
Water Treatment Plant	23,182	NA	1900 SE 5th Street
Beck Park Shop	Na	NA	901 NW 4th Street
Lions Park Shop	NA	NA	745 SW 3rd Ave
Modular Building/Shooting Range	1,848	NA	4275 Heinz Boulevard
Golf Club House	3,600	1970's	1345 Golf Course Rd
Pump Houses	NA	NA	Multiple

CITY HALL

Figure 1: City Hall/Fire Station



GENERAL FACILITY DESCRIPTION

City Hall is a 17,879 sq.ft. facility with two story facility originally built in 1977 that is serves as the police station, fire station, fire dispatch, city staff, and council chamber.

BUILDING ENVELOPE

As there are no EEMs pertaining to the envelope, details for the roof, walls, windows, and doors were not investigated.

ENERGY USING SYSTEMS

HVAC SYSTEMS

No HVAC systems were evaluated as part of this energy audit.

DOMESTIC HOT WATER

The domestic hot water system was not evaluated as part of this energy audit.

DOMESTIC PLUMBING FIXTURES

A complete plumbing audit was performed.

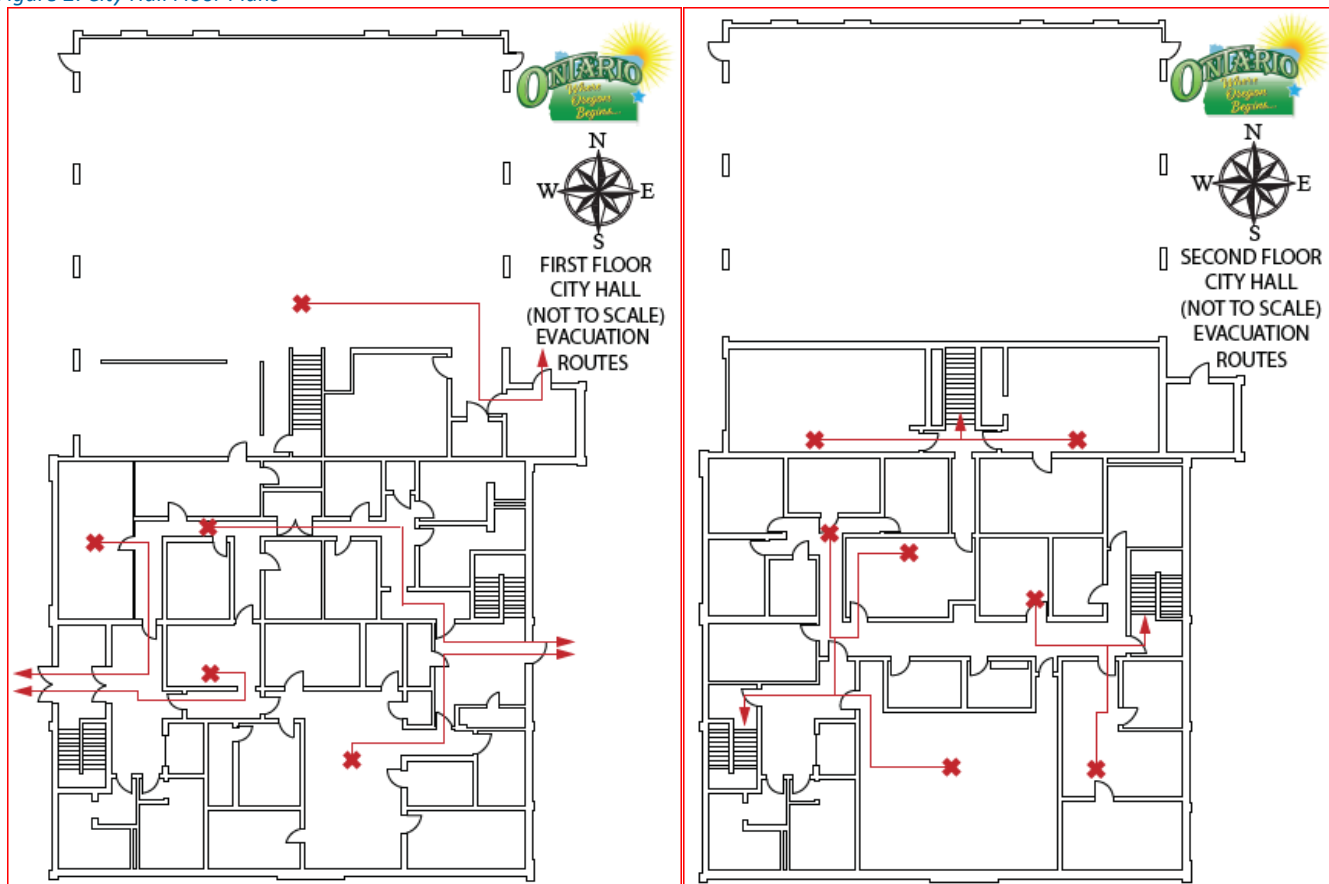
LIGHTING

A complete lighting audit for interior and exterior lighting system was performed.

PLUG LOADS AND OTHER EQUIPMENT

No plug loads or other equipment were evaluated as part of this energy audit.

Figure 2: City Hall Floor Plans



COMMUNITY DEVELOPMENT CENTER (ANNEX BUILDING)

Figure 3: Annex Building



GENERAL FACILITY DESCRIPTION

The Community Development Center is located east of the City Hall/Fire Station at 458 SW 3rd Street. The facility is 1,636 sq.ft. single story building that the City uses for their planning/permitting department.

BUILDING ENVELOPE

There are no EEMs pertaining to the envelope, details for the roof, walls, windows, and doors were not investigated.

ENERGY-USING SYSTEMS

HVAC SYSTEMS

No HVAC systems were evaluated as part of this energy audit.

DOMESTIC HOT WATER

The domestic hot water system was not evaluated as part of this energy audit.

DOMESTIC PLUMBING FIXTURES

A complete plumbing audit was performed.

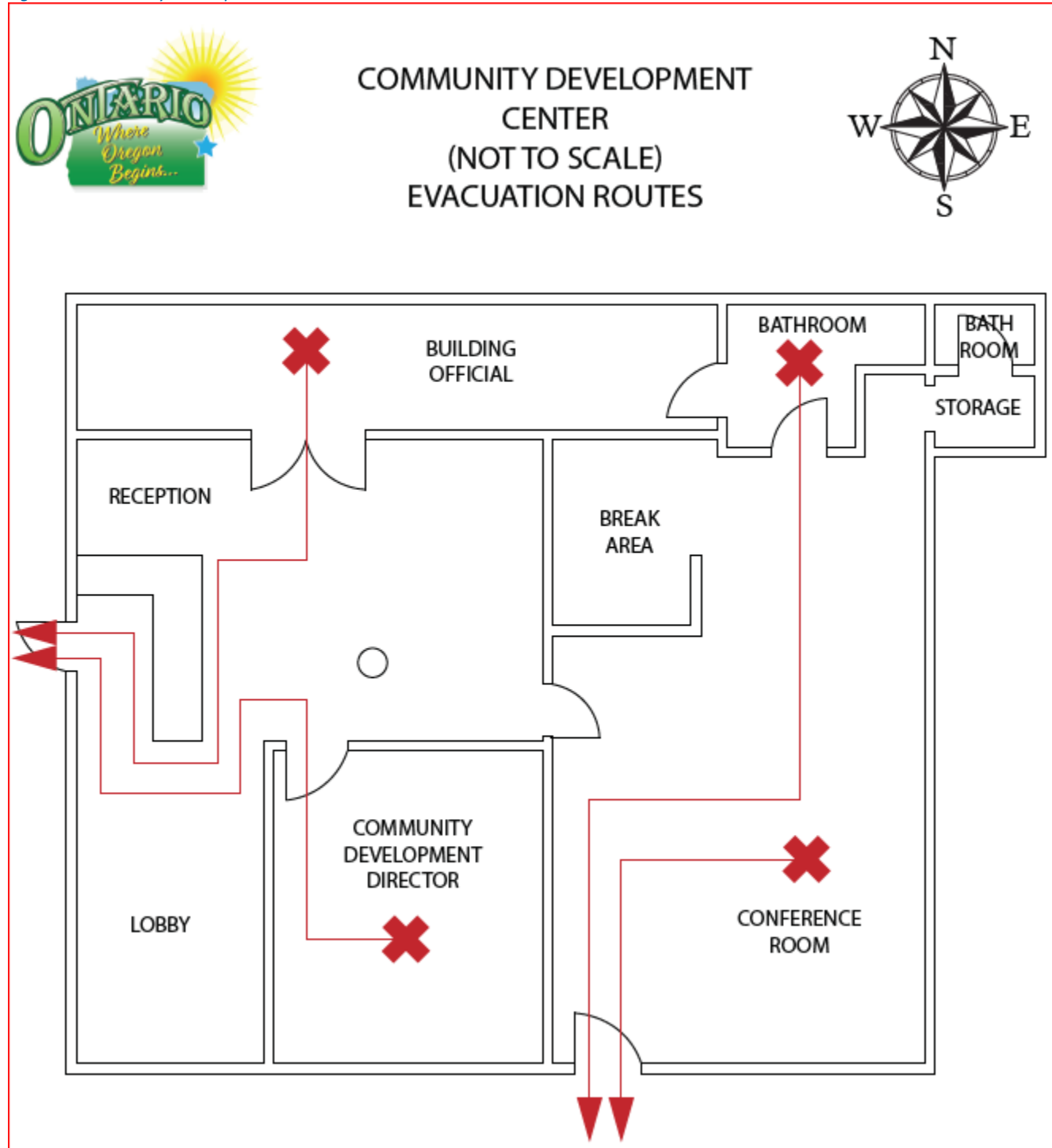
LIGHTING

A complete lighting audit for interior and exterior lighting system was performed.

PLUG LOADS AND OTHER EQUIPMENT

No plug loads or other equipment were evaluated as part of this energy audit.

Figure 4: Community Development Center Floor Plan



AIRPORT SHOP

GENERAL FACILITY DESCRIPTION

The airport shop is located at 581 SW 33rd street. The facility is 2,044 sq.ft. single story building that the at the airport that serves as a storage and maintenance facility for the airport..

BUILDING ENVELOPE

There are no EEMs pertaining to the envelope, details for the roof, walls, windows, and doors were not investigated.

ENERGY-USING SYSTEMS

HVAC SYSTEMS

No HVAC systems were evaluated as part of this energy audit.

DOMESTIC HOT WATER

The domestic hot water system was not evaluated as part of this energy audit.

DOMESTIC PLUMBING FIXTURES

A complete plumbing audit was performed.

LIGHTING

A complete lighting audit for interior and exterior lighting system was performed.

PLUG LOADS AND OTHER EQUIPMENT

No plug loads or other equipment were evaluated as part of this energy audit.

{No Floor plan available for the airport shop.}

EVERGREEN CEMETERY BUILDING

GENERAL FACILITY DESCRIPTION

The cemetery is located at 1155 Park Blvd. The cemetery is located on approximately 18 acres which includes an office and shop. The office building is 414 sq.ft. and services as the Cemetery office. The shop is used for general and ground maintenance.

BUILDING ENVELOPE

There are no EEMs pertaining to the envelope, details for the roof, walls, windows, and doors were not investigated.

ENERGY-USING SYSTEMS

HVAC SYSTEMS

No HVAC systems were evaluated as part of this energy audit.

DOMESTIC HOT WATER

The domestic hot water system was not evaluated as part of this energy audit.

DOMESTIC PLUMBING FIXTURES

A complete plumbing audit was performed.

LIGHTING

A complete lighting audit for interior and exterior lighting system was performed.

PLUG LOADS AND OTHER EQUIPMENT

No plug loads or other equipment were evaluated as part of this energy audit.

No Floor plan available for this facility.

FIRE STATION #2

GENERAL FACILITY DESCRIPTION

Fire station #2 is a 6,768 sq.ft. facility located at 3288 SW 4th Ave. The station is not staffed, but utilizes a volunteer program to operate when called upon. The facility has one main bay with 5 doors for fire truck access and a small storage and restroom area.

BUILDING ENVELOPE

There are no EEMs pertaining to the envelope, details for the roof, walls, windows, and doors were not investigated.

ENERGY-USING SYSTEMS

HVAC SYSTEMS

No HVAC systems were evaluated as part of this energy audit.

DOMESTIC HOT WATER

The domestic hot water system was not evaluated as part of this energy audit.

DOMESTIC PLUMBING FIXTURES

A complete plumbing audit was performed.

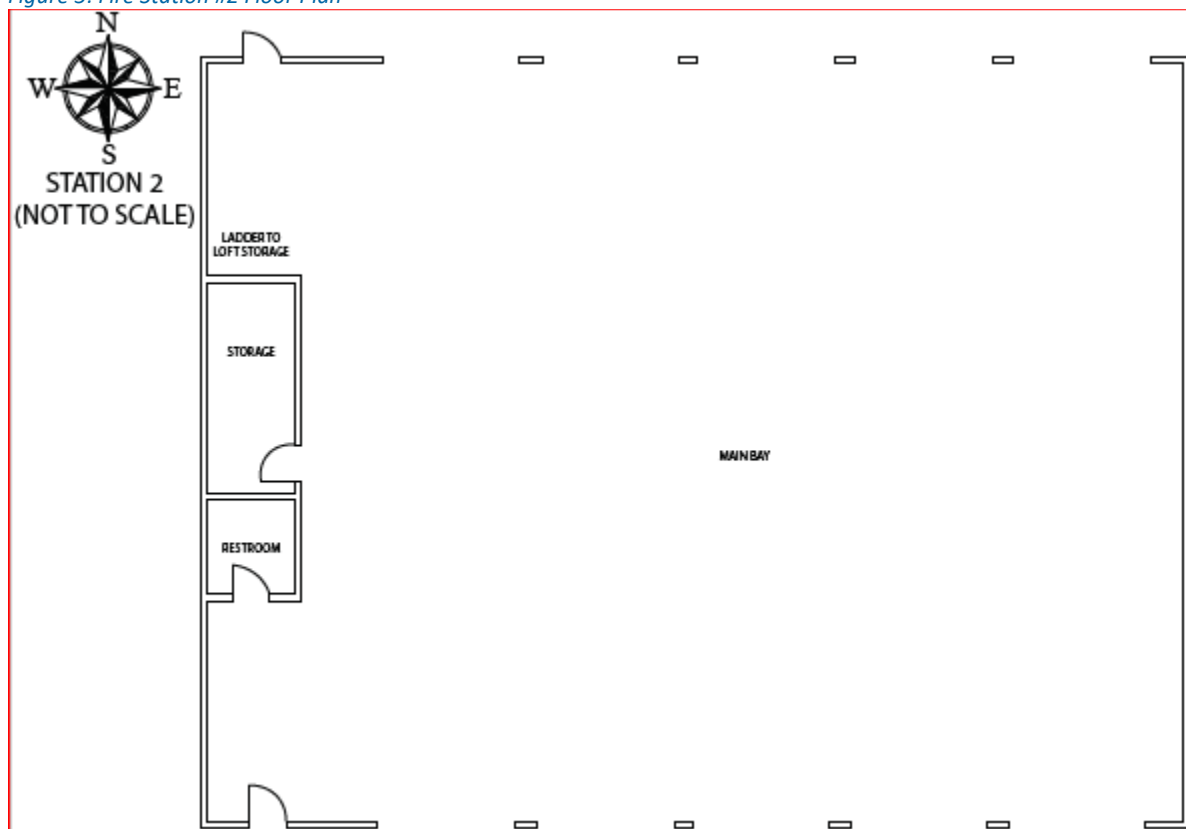
LIGHTING

A complete lighting audit for interior and exterior lighting system was performed.

PLUG LOADS AND OTHER EQUIPMENT

No plug loads or other equipment were evaluated as part of this energy audit.

Figure 5: Fire Station #2 Floor Plan



{No Floor plan available for this facility}

PUBLIC WORKS

Figure 6. City of Ontario Public Works Facility



GENERAL FACILITY DESCRIPTION

The public works facility is a 10,178 sq.ft. facility located at 1551 NW 9th Street. The facility includes offices for JACOBS who operates the City of Ontario's public works department and a work shop area for the operations team which includes administration, engineering, building, planning and operations.

There are no EEMs pertaining to the envelope, details for the roof, walls, windows, and doors were not investigated.

ENERGY-USING SYSTEMS

HVAC SYSTEMS

No HVAC systems were evaluated as part of this energy audit.

DOMESTIC HOT WATER

The domestic hot water system was not evaluated as part of this energy audit.

DOMESTIC PLUMBING FIXTURES

A complete plumbing audit was performed.

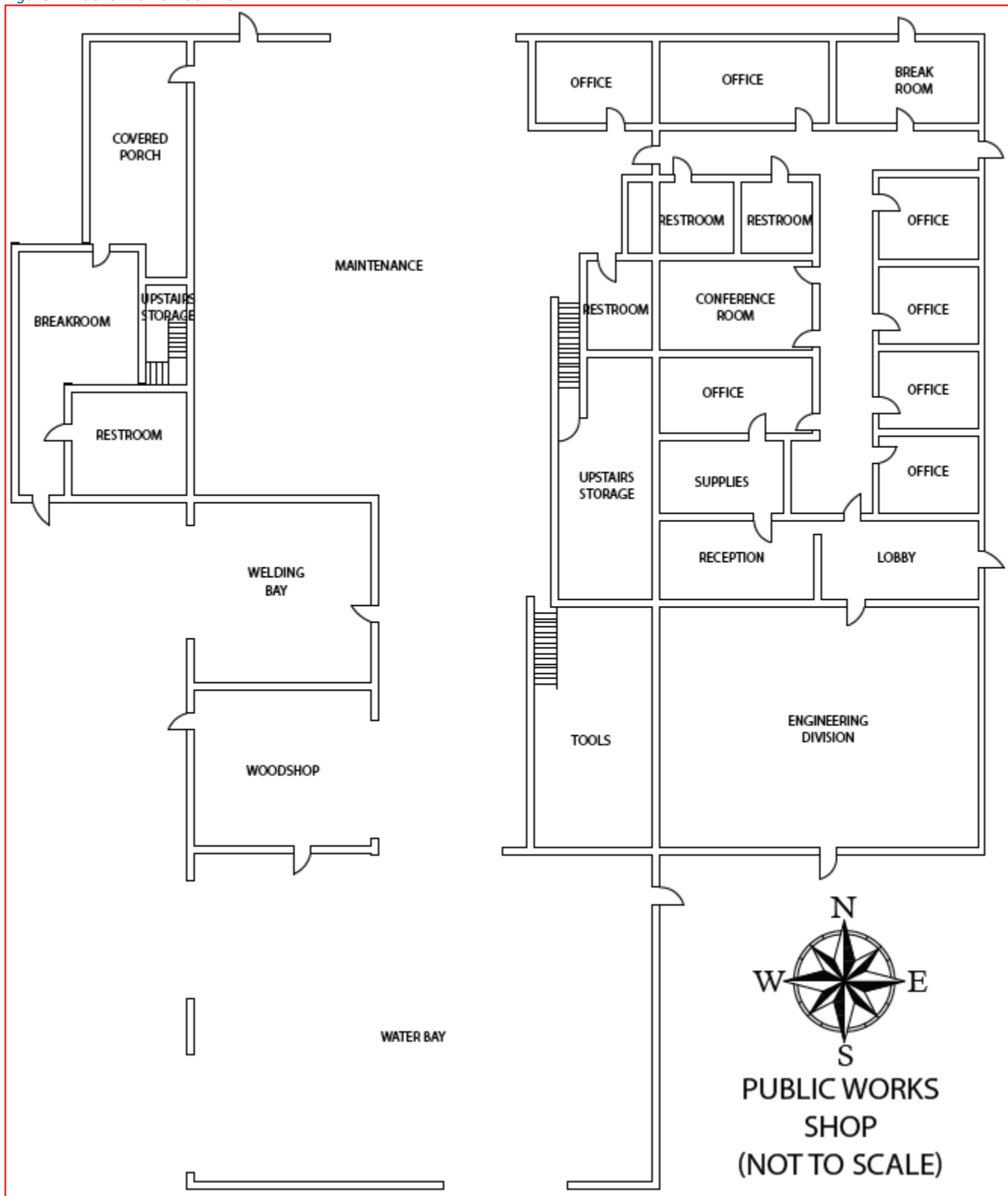
LIGHTING

A complete lighting audit for interior and exterior lighting system was performed.

PLUG LOADS AND OTHER EQUIPMENT

No plug loads or other equipment were evaluated as part of this energy audit.

Figure 7: Public Works Floor Plan



OLD PLUBIC WORKS

Figure 8. Old Public Works Bilding



GENERAL FACILITY DESCRIPTION

The old public works is a 12,102 sq.ft. facility located at 55 NE 2nd Avenue. The city lightly utilizes some of this facility for storage and has rented part of it out to Ani-Care Animal Shelter.

BUILDING ENVELOPE

There are no EEMs pertaining to the envelope, details for the roof, walls, windows, and doors were not investigated.

ENERGY-USING SYSTEMS

HVAC SYSTEMS

No HVAC systems were evaluated as part of this energy audit.

DOMESTIC HOT WATER

The domestic hot water system was not evaluated as part of this energy audit.

DOMESTIC PLUMBING FIXTURES

A complete plumbing audit was performed.

LIGHTING

A complete lighting audit for interior and exterior lighting system was performed.

PLUG LOADS AND OTHER EQUIPMENT

No plug loads or other equipment were evaluated as part of this energy audit.

{No Floor plan available for this facility}

WASTEWATER TREATMENT PLANT

Figure 9. Wastewater Treatment Plant Lagoon #1



GENERAL FACILITY DESCRIPTION

The Wastewater Treatment Plant (WWTP) went into service in 1960 and was updated again in 1994 and again in 1996 to bring the lagoon system to its current 5 cell configurations. The lagoons are aerated Airo-O₂® floating aerators with the focal point of the aeration being in lagoon #1 in. Lagoon #1 receives the influent wastewater from both the Snake River Correctional Institution (SRCI) and the residential and commercial customers. The effluent from the lagoons in the summertime is pumped to the skyline farm and in the winter the effluent is

discharged to the Malheur river. The WWTP has a headworks building for the residential and commercial wastewater influent and an operation building with a total of 8,559 sqft. of facilities.

BUILDING ENVELOPE

There are no EEMs pertaining to the envelope, details for the roof, walls, windows, and doors were not investigated.

ENERGY-USING SYSTEMS

HVAC SYSTEMS

No HVAC systems were evaluated as part of this energy audit.

DOMESTIC HOT WATER

The domestic hot water system was not evaluated as part of this energy audit.

DOMESTIC PLUMBING FIXTURES

A complete plumbing audit was performed.

LIGHTING

A complete lighting audit for interior and exterior lighting system was performed.

PLUG LOADS AND OTHER EQUIPMENT

No plug loads or other equipment were evaluated as part of this energy audit.

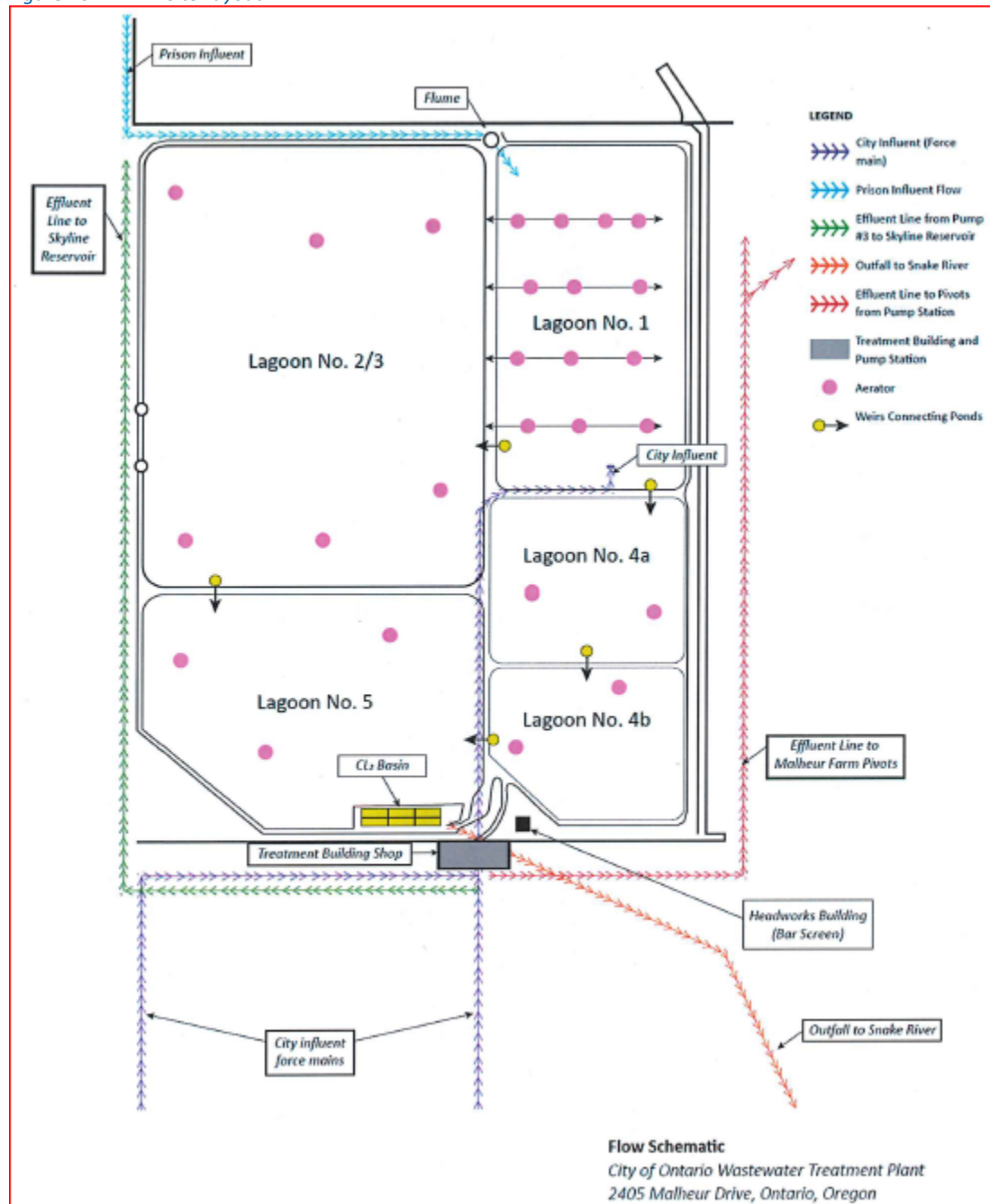
WWTP PROCESS EQUIPMENT

The aeration equipment at the lagoons consists of 26 Airo-O₂[®] floating aerators with 13 in lagoon #1, 7 in lagoon #2/3, and 2 each in lagoons 4A, 4b, and 5. The aerators in lagoon #1 also have blowers whereas the ones in the other 4 lagoons do not. The aerator unit horsepower per unit is 15 and another 2.5 horsepower blower on select units. The units are controlled by the SCADA and through manual means.

Additionally, the skyline effluent pump, 250 horsepower system was evaluated. We looked at two options. The first option was to discharge the effluent to the Malheur farms; however it was determined that the permit would not allow for this and the City is under contract to pump water to the skyline farms. The second option, we looked at installing a VFD to operate the pump at lower speeds, however the design data and operating data we received indicated that the pump was operating at full capacity and there would be no to little benefit to installing a VFD.

{No Floor plan available for this facility}

Figure 10: WWTP Site Layout



WASTEWATER COLLECTIONS

Figure 11. Ontario Wastewater Collection Sites: Malheur, NW Regional, Tapadera, Murakami, NW 8th Ave



Malheur Lift



NW Regional Lift



Tapadera Lift



Murakami Lift



NW 8th Ave Lift Station

GENERAL FACILITY DESCRIPTION

The Wastewater collection system consist of 8 lift station. The 8 lifts station are Eastside, LID #44, Malheur, Murakami, Tapadera, NW 8th Ave, NW Regional, and W. Idaho. This audit focused on the higher hp lift stations which were Malheur, Murakami, Tapadera, NW 8th Ave, and NW Regional. Each lift station in the focused audit consists of a wet well with two pumps except for NW 8th Ave which has two wet wells and 4 pumps. Each lift station has a building to protect the electrical equipment. The pumping horsepower ranges from 1hp to 100hp. The pumps are controlled through the SCADA system to maintain the wet well level.

BUILDING ENVELOPE

There are no EEMs pertaining to the envelope, details for the roof, walls, windows, and doors were not investigated.

ENERGY-USING SYSTEMS

HVAC SYSTEMS

No HVAC systems were evaluated as part of this energy audit.

DOMESTIC HOT WATER

The domestic hot water system was not evaluated as part of this energy audit.

DOMESTIC PLUMBING FIXTURES

A complete plumbing audit was performed.

LIGHTING

A complete lighting audit for interior and exterior lighting system was performed.

PLUG LOADS AND OTHER EQUIPMENT

No plug loads or other equipment were evaluated as part of this energy audit.

WASTEWATER COLLECTION PROCESS EQUIPMENT

The audit focused on the control sequence on how the pumps were being controlled at the higher capacity/larger lift stations. The existing SCADA programming for Malheur, Murakami, Tapadera, NW 8th Ave, and NW Regional lift station run the pumps at full speed regardless of the level in the wet well once the pumps have been enabled by the liquid level reaching the pump start level. New lift stations are now being installed with flow pacing controls and or smart pumps to reduce energy. This audit evaluated flow pacing through the existing SCADA system using a PID loop to control the pump speed to maintain the liquid level at or below a liquid level setpoint.

{No Floor plan available for these facilities}

WATER TREATMENT PLANT

Figure 12: Water Treatment Plant



GENERAL FACILITY DESCRIPTION

The Water Treatment Plant (WTP) went into service in 1960 and was updated again in 1994 and again in 1996 to bring the lagoon system to its current 5 cell configurations. The lagoons are aerated Airo-O₂[®] floating aerators with the focal point of the aeration being in lagoon #1 in. Lagoon #1 receives the influent wastewater from both the Snake River Correctional Institution (SRCI) and the residential and commercial customers. The effluent from the lagoons in the summertime is pumped to the skyline farm and in the winter the effluent is discharged to the Malheur river. The WWTP has a headworks building for the residential and commercial wastewater influent and an operation building with a total of 8,559 sqft. of facilities.

BUILDING ENVELOPE

There are no EEMs pertaining to the envelope, details for the roof, walls, windows, and doors were not investigated.

ENERGY-USING SYSTEMS

HVAC SYSTEMS

No HVAC systems were evaluated as part of this energy audit.

DOMESTIC HOT WATER

The domestic hot water system was not evaluated as part of this energy audit.

DOMESTIC PLUMBING FIXTURES

A complete plumbing audit was performed.

LIGHTING

A complete lighting audit for interior and exterior lighting system was performed.

PLUG LOADS AND OTHER EQUIPMENT

No plug loads or other equipment were evaluated as part of this energy audit.

WTP PROCESS EQUIPMENT

The water treatment plant provided potable water for the city in over 96 miles of water lines. The WTP filters and treats water from the Snake river and wells on site. Four clear-well pumps are used to distribute the water to the east and west sides of town. The four clear-well pumps range from 100hp to 250hp.

{No Floor plan available for this facility}

FACILITIES WITH LIMITED AUDIT SCOPE

Beck Park Shop: Lighting Audit
Lions Park Shop: Lighting & Plumbing Audit
Modular Building/Shooting Range: Lighting Audit
Golf Club House: Lighting Audit
Pump Houses: Lighting Audit

GENERAL FACILITY DESCRIPTION

Beck Park, Lions Park, Modular Building at Shooting Range, Golf Club House, and Pump House are facilities that were identified for a lighting audit. Lions Park was also included in the plumbing audit. Beck park shop is an older brick facility that is used for maintenance and storage of park O&M equipment. Lions Park is a garaged area on the back of the recreation department building built of CMU block and wood truss framing with asphalt shingle roofing. The golf club house is a facility that the city rents out was built in the 1970's and has a brick and wood façade with what appears to be a membrane roof with solar panels. The modular building is the office at the shooting range. The lighting was audited at the skyline, canyon, bench, west booster, and east booster pump houses.

BUILDING ENVELOPE

As there are no EEMs pertaining to the envelope, details for the roof, walls, windows, and doors were not investigated.

ENERGY-USING SYSTEMS

HVAC SYSTEMS

No HVAC systems were evaluated as part of this energy audit.

DOMESTIC HOT WATER

The domestic hot water system was not evaluated as part of this energy audit.

DOMESTIC PLUMBING FIXTURES

A complete plumbing audit was performed at Lion's park shop only..

LIGHTING

A complete lighting audit for interior and exterior lighting system was performed.

PLUG LOADS AND OTHER EQUIPMENT

No plug loads or other equipment were evaluated as part of this energy audit.

{No Floor plan available for this facility}

4. UTILITY DATA ANALYSIS

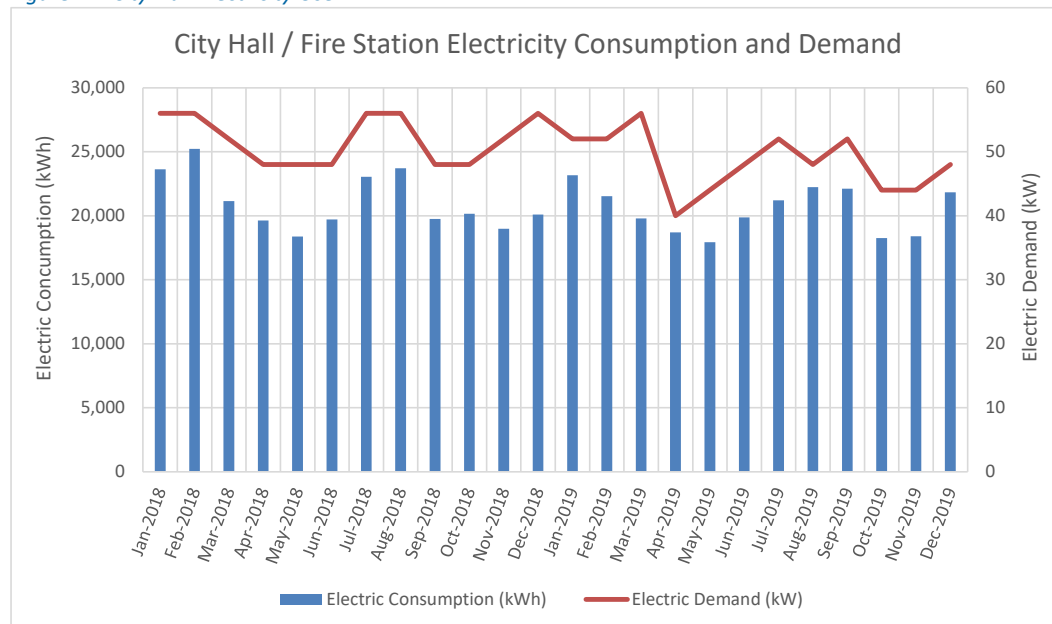
The average energy intensity (kBtu/ft²) for electrical usage for each facility is presented below. The two-year period analyzed was from January 2018 to June 2019. None of the facilities studied experienced any recent changes to usage, therefore this data is representative of current typical energy consumption. Proposed energy intensity is compared with baseline energy intensity, based on the recommended measures that Ameresco has analyzed for the City of Ontario. Detailed energy use and cost is available below.

Figure 13: Baseline Energy Use

Facility	Area (sqft)	Annual Electrical Usage			Overall EUI (kBtu/sqft)	Energy Cost (\$)
		(kWh)	(kW)	(kBtu)		
Public Works Shop	18,178	79,193	274	270,286	14.9	\$ 7,000
Water Treatment Plant	23,182	1,567,450	3,914	5,349,707	230.8	\$ 127,510
Old Public Works	12,102	5,029	0	17,164	1.4	\$ 507
Murakami Lift Station	NA	37,302	133	127,310		\$ 3,528
Fire Station #2	6,768	21,692	0	74,033	10.9	\$ 2,200
City Hall / Fire Station	17,879	249,233	602	850,631	47.6	\$ 20,249
Community Development Center	1,536	22,753	185	77,656	50.6	\$ 2,551
Lions Park Shop	NA	22,753	185	77,656		\$ 2,551
Beck Park Shop	NA	15,148	6	51,700		\$ 1,781
Sunset Cem	NA	12,674	0	43,256		\$ 1,239
Evergreen Cemetery Buildings	414	27,472	0	93,762	226.5	\$ 3,264
WWTP & Malheur Aerators	8,589	1,652,457	3,338	5,639,836	656.6	\$ 123,244
Pump Stations	NA	1,250,491	2,808	4,267,924		\$ 101,500
Lift Stations	NA	295,634	1,015	1,008,997		\$ 26,881

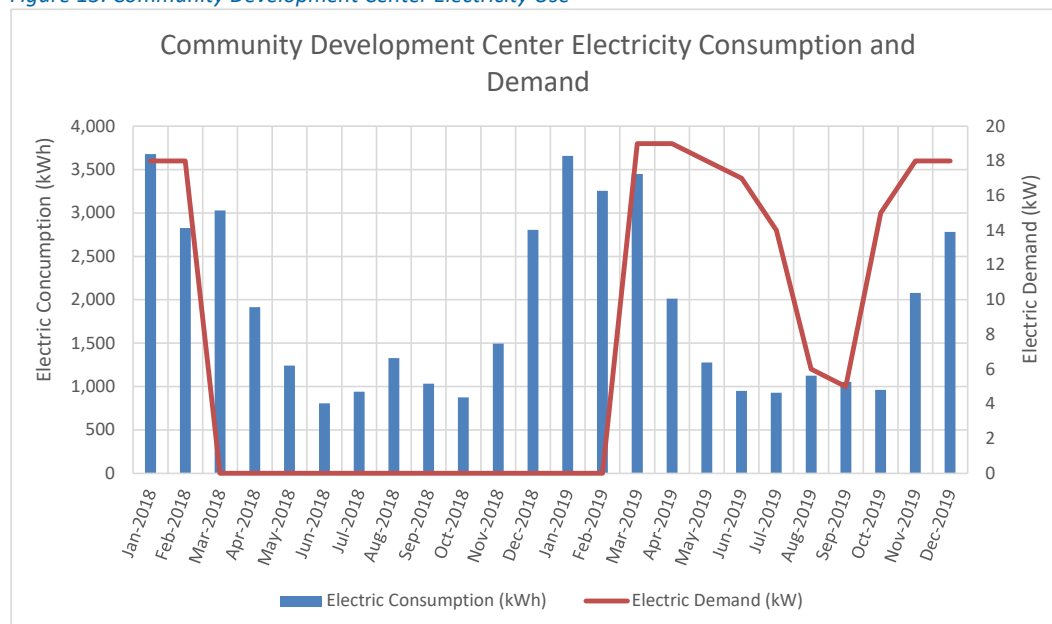
CITY HALL/FIRE STATION

Figure 14: City Hall Electricity Use



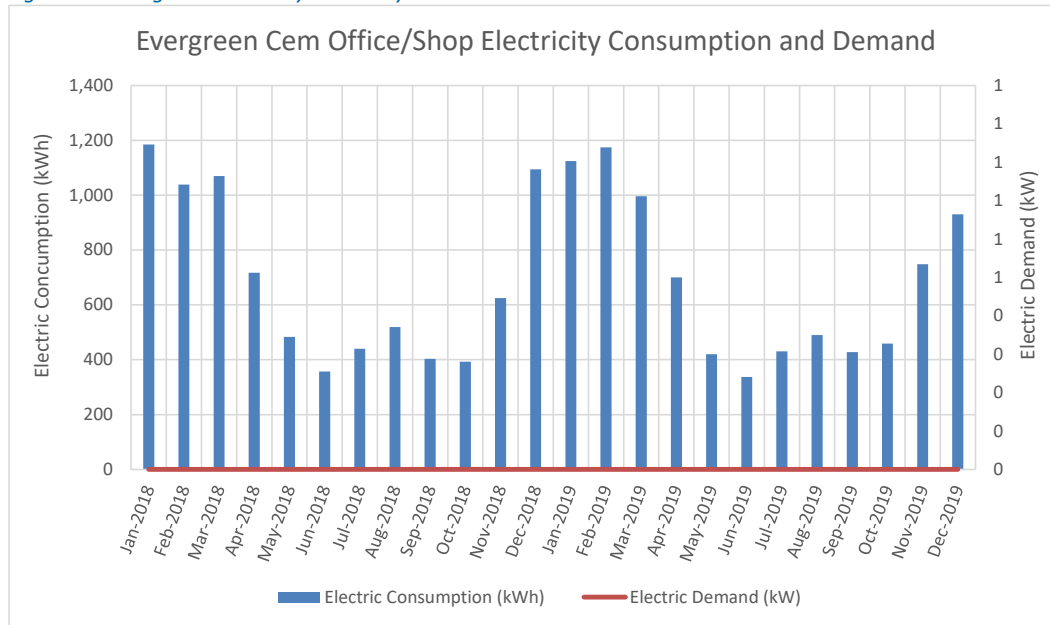
COMMUNITY DEVELOPEMENT CENTER (ANNEX BUILDING)

Figure 15: Community Development Center Electricity Use



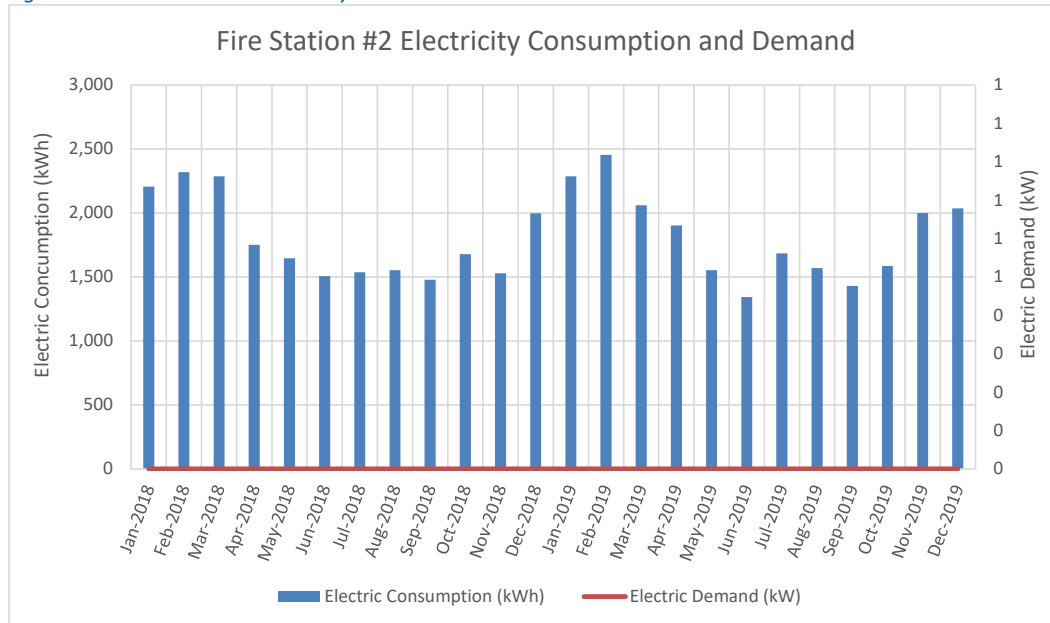
EVERGREEN CEMETARY

Figure 16: Evergreen Cemetery Electricity Use



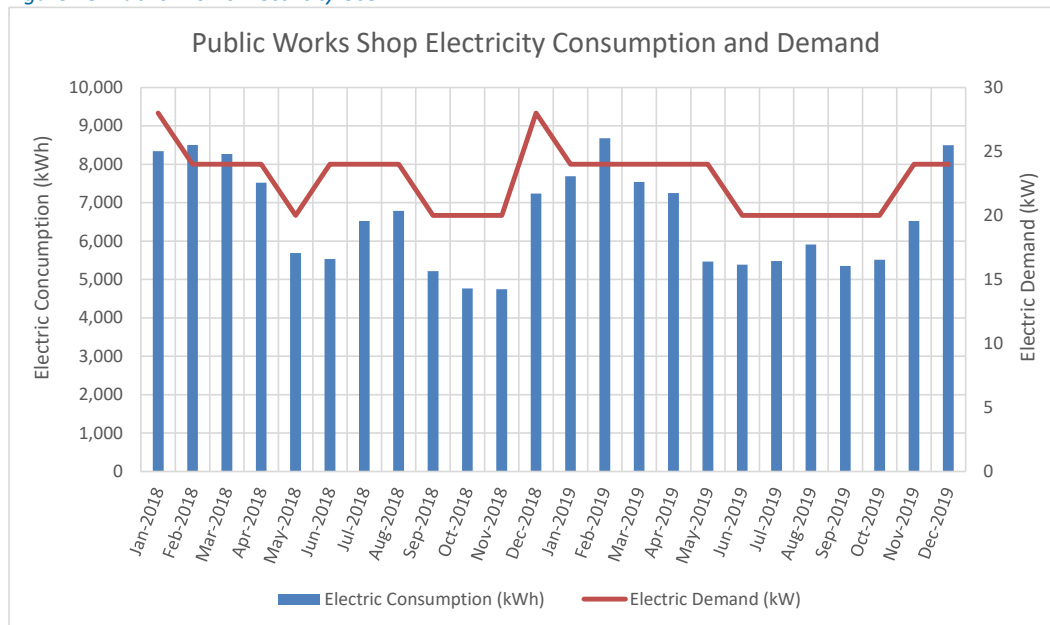
FIRE STATION #2

Figure 17: Fire Station #2 Electricity Use



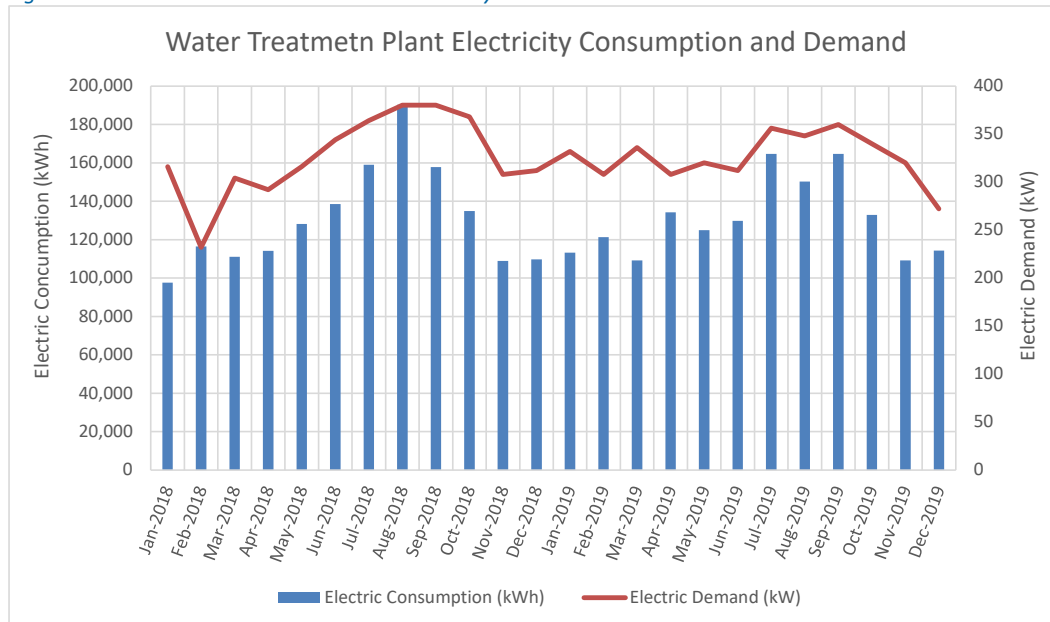
PUBLIC WORKS

Figure 18: Public Works Electricity Use



WASTEWATER TREATMENT PLANT

Figure 19: Wastewater Treatment Plant Electricity Use



WASTEWATER COLLECTION SYSTEM

Figure 20: Wastewater Collection System – Malheur Lift Station Electricity Use

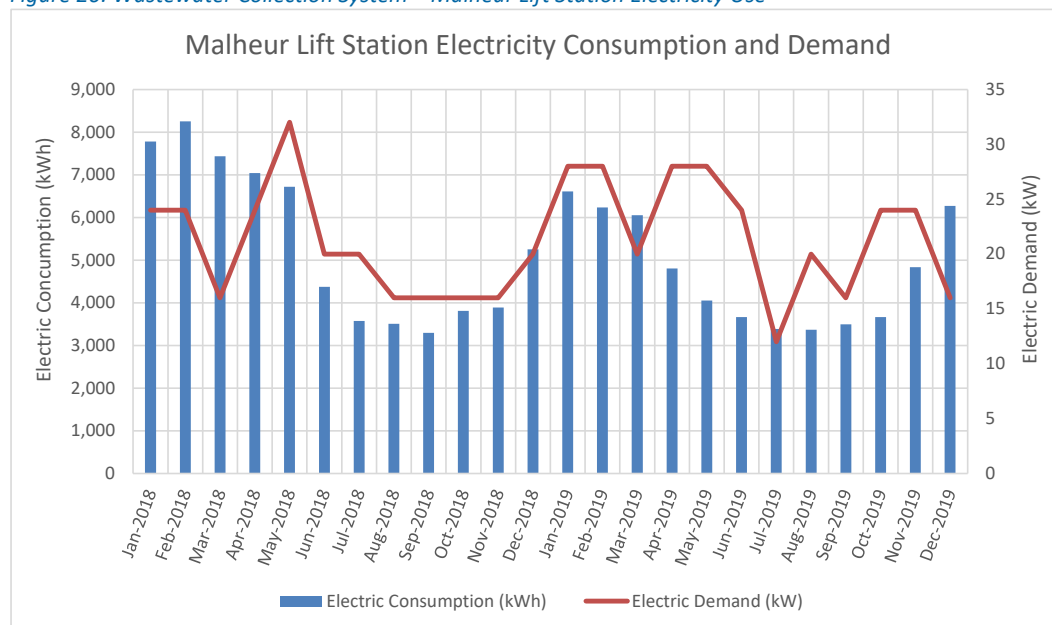


Figure 21: Wastewater Collection System – NW Regional Electricity Use

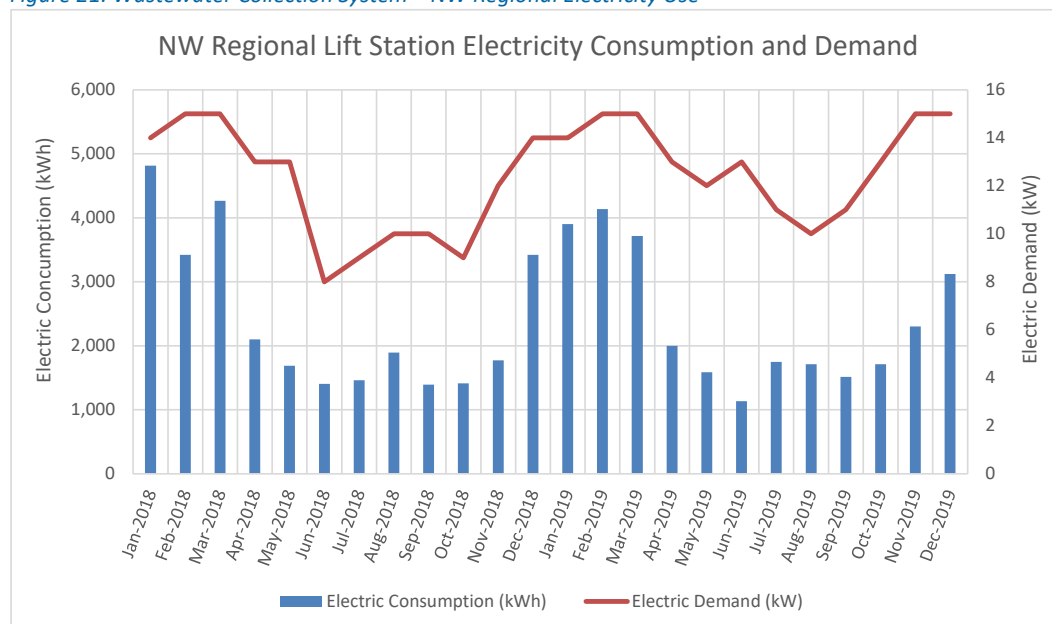


Figure 22: Wastewater Collection System – 8th Ave Lift Station Electricity Use

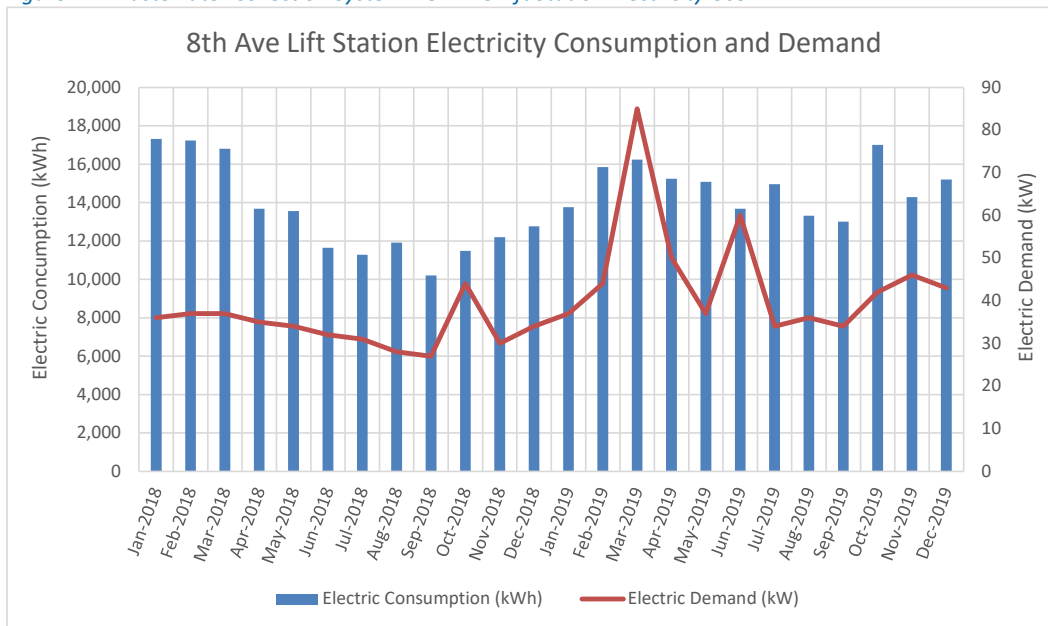
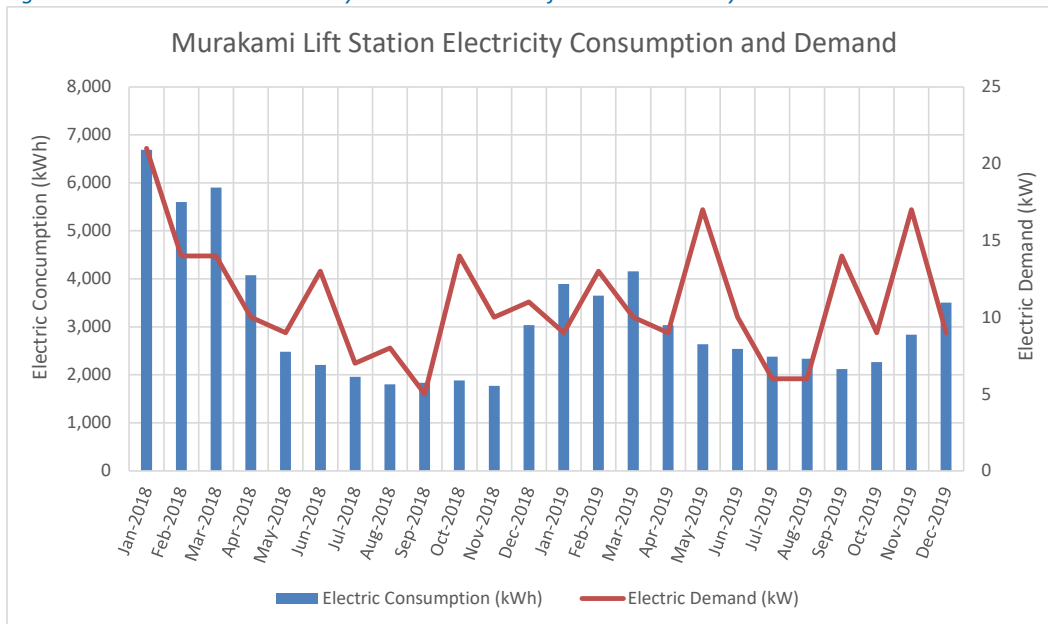
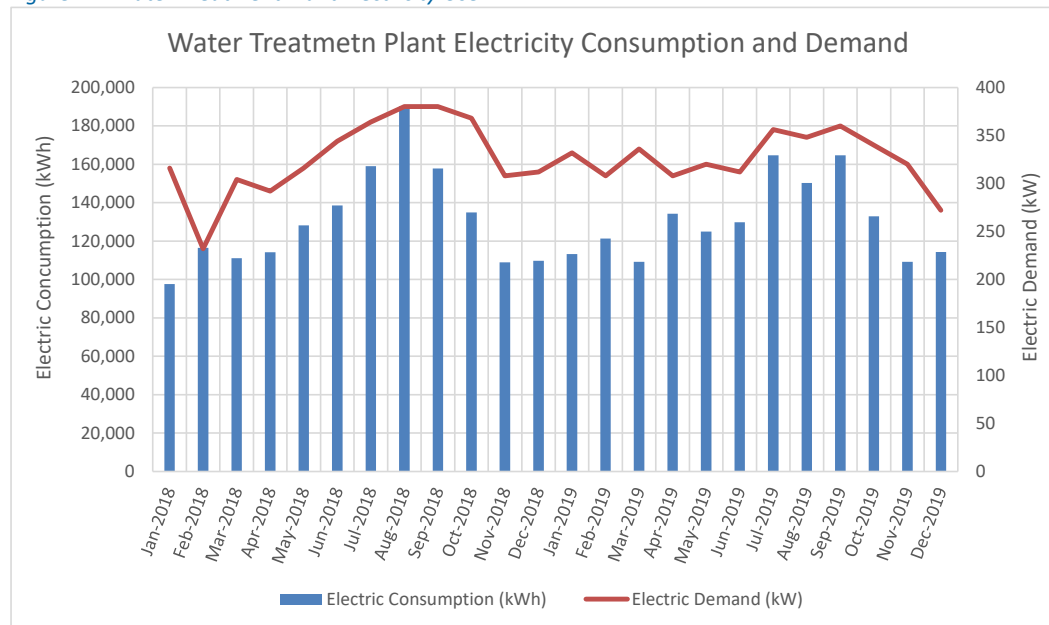


Figure 23: Wastewater Collection System – Murakami Lift Station Electricity Use



WATER TREATMENT PLANT

Figure 24: Water Treatment Plant Electricity Use



5. METHODOLOGY

MECHANICAL SYSTEMS

The mechanical audit focused on SCADA controls and process equipment.

Ameresco performed extensive metering to determine a baseline for the proposed changes to the SCADA controls and process equipment. All energy calculations were then based on this metering, power bills and collected information from the Jacobs. Metering methods used included the use of Onset loggers to determine equipment runtime and amperage, and instantaneous power measurements were taken as-well. This data was collected at 15-minute intervals for at least two weeks.

Based on this extensive metering, Ameresco performed engineering calculations using the metered data to match the current operating conditions. These results were then compared to utility records to verify accuracy. This accurate baseline was then used for the proposed system. The data and engineering calculations for baseline and proposed systems appear in Appendix A. Table 5 lists the equipment used to collect data for this audit.

LIGHTING SYSTEMS

The lighting systems at each facility were reviewed and itemized. The hours provided by the facility director were used to determine operating hours and occupancy levels. Spreadsheets were then prepared to summarize the existing lighting fixtures and operating hours. Proposed systems were also itemized in the spreadsheet to be compared directly with the existing systems analyzed in the baseline.

Lighting Audits for baseline and proposed systems appear in Appendix B.

WATER SYSTEMS

The water using systems at each facility were quantified and cataloged. Occupancy info was used to determine frequency of use. Spreadsheets were then prepared to summarize the existing fixtures and usage. Proposed systems were also itemized in the spreadsheet to be compared directly with the existing systems analyzed in the baseline.

Water Audits for baseline and proposed systems appear in Appendix C.

Figure 25: Data Logging Equipment Used

Logger Type	Manufacturer	Serial Number	
Hobo 4-Channel UX120-006	Onset Corp.	Multiple	

6. SCOPE OF WORK

Figure 26: List of All Measures Studied

ECM #	Conservation Measure	Baseline								Proposed								Savings					Financials				
		Current Annual Use - Electrical		Current Propane Use	Current Water Use	Current Electric Cost	Current Propane Cost	Current Water Cost	Current Total Cost	Future Total Annual Use - Electric		Future Propane Use	Future Water Use	Future Electric Cost	Future Propane Cost	Future Water Cost	Future Total Cost	Annual Savings Electric		Annual Propane Savings	Annual Water Savings	Annual Resource Savings	Labor/Mat'l Cost	Estimated Incentive	CIP Funds	Final Labor/Mat'l Cost	Simple Payback
		Consume (kWh)	Demand (kW)	Use (Gal)	Use (CCF)	Cost (\$)	Cost (\$)	Cost (\$)	Cost (\$)	Consume (kWh)	Demand (kW)	Use (Gal)	Use (CCF)	Cost (\$)	Cost (\$)	Cost (\$)	Cost (\$)	Consume (kWh)	Demand (kW)	Savings (Gal)	Savings (CCF)	Savings (\$)					
	City Wide (ONT)																										
	Water Conservation Measures																										
ONT-W1	City Wide Plumbing Retrofit				-	\$ -	\$ -	\$ -	\$ -				(493)	\$ -	\$ -	\$ -	\$ (15)	-	-	-	493	\$ 15	\$ 36,050	\$ -		\$ 36,050	94.64
ONT-W2a	Irrigation management system: w/o Evergreen Cemetery				5,914	\$ -	\$ -	\$ -	\$ -				4,202	\$ -	\$ -	\$ -	\$ -	-	-	-	1,711	\$ -	\$ 142,178	\$ -	\$ -	\$ 220,376	17.01
ONT-W2b	Irrigation management system: w/Evergreen Cemetery				5,914	\$ -	\$ -	\$ -	\$ -				4,202	\$ -	\$ -	\$ -	\$ -	-	-	-	1,711	\$ -	\$ 236,678	\$ -	\$ 53,000	\$ 284,701	21.97
	Lighting Conservation Measures																										
ONT-L1	Interior LED Retrofit	119,659				\$ 7,024	\$ -	\$ -	\$ 7,024	56,155				\$ 3,296	\$ -	\$ -	\$ 3,296	63,504	-	-	-	\$ 3,728	\$ 73,917	\$ 7,083	\$ -	\$ 100,251	21.45
ONT-L2	Exterior LED Retrofit	40,587				\$ 2,382	\$ -	\$ -	\$ 2,382	14,588				\$ 856	\$ -	\$ -	\$ 856	26,000	-	-	-	\$ 1,526	\$ 22,549	\$ 4,707	\$ -	\$ 17,842	9.49
ONT-L3a	S. Oregon St. Street Light Beautification	45,990				\$ 8,463	\$ -	\$ -	\$ 8,463	26,014				\$ 3,143	\$ -	\$ -	\$ 3,143	19,976	-	-	-	\$ 5,320	\$ 134,421	\$ 3,294	\$ 75,000	\$ 56,127	10.88
ONT-L3b	S. Oregon St. and SW 1st St. Street Light Beautificaion	39,420				\$ 8,463	\$ -	\$ -	\$ 8,463	18,965				\$ 1,044	\$ -	\$ -	\$ 1,044	20,455	-	-	-	\$ 7,419	\$ 209,087	\$ 4,955	\$ 171,000	\$ 33,132	4.47
	Wastewater Treatment Plant (WWTP)																										
	Mechanical Conservation Measures																										
WWTP-M1 1.738 MGD	1.738 MGD TriplePoint "Ares" Mechanical Aeration System for Lagoon #1	978,587	1,504			\$ 64,361	\$ -	\$ -	\$ 64,361	663,174	1,316			\$ 44,982	\$ -	\$ -	\$ 44,982	315,412	188	-	-	\$ 19,379	\$ 1,232,707	\$ 56,774	\$ -	\$ 1,175,933	26.85
WWTP-M1 3.06MGD	3.06 MGD TriplePoint "Ares" Mechanical Aeration System for Lagoon #1	978,587	1,504			\$ 64,361	\$ -	\$ -	\$ 64,361	663,174	1,316			\$ 44,982	\$ -	\$ -	\$ 44,982	315,412	188	-	-	\$ 19,379	\$ 1,688,033	\$ 56,774	\$ 621,000	\$ 1,010,259	23.63
WWTP-M1a Modified	3.06 MGD TriplePoint "Ares" Mechanical Aeration System for Lagoon #1: Modified Baseline	#####	3,750			\$137,777	\$ -	\$ -	\$ 137,777	663,174	1,316			\$ 44,982	\$ -	\$ -	\$ 44,982	#####	2,434	-	-	\$ 92,795	\$ -	\$ 56,774	\$ 621,000	\$ (677,774)	
WWTP-M1b Modified Baseline & Blower Skid	3.06 MGD TriplePoint "Ares" Mechanical Aeration System for Lagoon #1: Modified Baseline w/blower skid.	#####	3,750			\$137,777	\$ -	\$ -	\$ 137,777	663,174	1,316			\$ 44,982	\$ -	\$ -	\$ 44,982	#####	2,434	-	-	\$ 92,795	\$ 1,882,394	\$ 56,774	\$ 621,000	\$ 1,867,161	16.07
WWTP-M3	"Grid Bee" Mechanical Aeration System Submental Mixing:	978,587	1,504			\$ 64,361	\$ -	\$ -	\$ 64,361	901,710	1,825			\$ 61,327	\$ -	\$ -	\$ 61,327	76,877	(321)	-	-	\$ 3,034	\$ 678,252	\$ 13,838	\$ -	\$ 664,414	65.87
	General Conservation Measures																										
WWTP-G1	Skyline Pump Efficiency: add VFD	* This is a cost only measure that would provide soft start and pump throttling benefits. * There are no energy savings associated with adding a VFD.																	-	-	-	\$ -	\$ 35,725	\$ -	\$ -	\$ 35,725	
	Wastewater Collection System (WWCS)																										
	Mechanical Conservation Measures																										
WWCS-M2	Lift StationFlow Pacing for NW 8th Avenue, Malheur, NW Regional, and Murakami lift stations utilizing existing VFDs and SCADA system.	180,485				\$ 10,594	\$ -	\$ -	\$ 10,594	119,474				\$ 7,013	\$ -	\$ -	\$ 7,013	61,011	-	-	-	\$ 3,581	\$ 51,911	\$ 10,982	\$ 26,630	\$ 14,299	3.99
WWCS-M3	West Idaho Street station pump voltage issue	* This measure was ruled out due to minimal benefit for the relatively high cost.																-	-	-	-	\$ -	\$ 12,360	\$ -	\$ -	\$ 12,360	
WWCS-M4	Improve Operation of lift stations with Titus Twister mixing aerator and ozone system	325,490				\$ 19,106	\$ -	\$ -	\$ 19,106	551,936				\$ 32,399	\$ -	\$ -	\$ 32,399	#####	-	-	-	\$ (13,292)	\$ 376,723	\$ -	\$ 26,630	\$ 350,093	
	Water Treatment Plant (WTP)																										
	Mechanical Conservation Measures																										
WTP-M1	Pumping efficiency – Evaluated "Smart Pump" technology and premium efficiency motors	* This is a cost only measure that would provide VFDs on the two finished water pumps #3 and #2 w/o VFDs. * Also includes new 250hp for finished water pumps #3. * Because the operators currently do manual flow adjustment, there is no energy savings associated with this ECM.																-	-	-	-	\$ -	\$ 531,712	\$ -	\$ 531,712	\$ -	
WTP-M2	Replace air-over-hydraulic actuators	* This measure was eliminated since these are not Air-Over-hydraulic actuators.																	-	-	-	\$ -	\$ -	\$ -		\$ -	

Figure 27: Recommended and/or Selected Measures

ECM #	Conservation Measure	Current Annual Use - Electrical		Current Gas Use (Therms)	Current Water Use (CCF)	Current Electric Cost \$	Current Gas Cost \$	Current Water Cost \$	Current Total Cost \$	Future Total Annual Use - Electric		Future Gas Use (Therms)	Future Water Use (CCF)	Future Electric Cost \$	Future Gas Cost \$	Future Water Cost \$	Future Total Cost \$	Annual Savings Electric		Annual Gas Savings (Therms)	Annual Water Savings (CCF)	Annual Resource Savings \$	Annual Maintenance Savings Yr 1	Labor/Mat'l Cost	Estimated Utility Incentive \$	Capital Funds	Final Labor/Mat'l Cost \$	Simple Payback
		Consume kWh	Demand kW							Consume kWh	Demand kW							Consume kWh	Demand kW									
	<u>City Wide (ONT)</u>																											
	<u>Water Conservation Measures</u>																											
ONT-W1	City Wide Plumbing Retrofit											-25	-493		-\$15		-\$15			25	493	\$15	\$366	\$36,050			\$36,050	94.64
ONT-W2b	Irrigation management system: w/Evergreen Cemetery				5,914								4,202								1,711		\$12,957	\$236,678		\$53,000	\$284,701	21.97
	<u>Lighting Conservation Measures</u>																											
ONT-L1	Interior LED Retrofit	119,659				7,024			\$7,024	56,155				\$3,296			\$3,296	63,504				\$3,728	\$16	\$73,917	\$7,083		\$100,251	21.45
ONT-L2	Exterior LED Retrofit	40,587				2,382			\$2,382	14,588				\$856			\$856	26,000				\$1,526	\$66	\$22,549	\$4,707		\$17,842	9.49
ONT-L3b	S. Oregon St. and SW 1st St. Street Light Beautification	39,420				8,463			\$8,463	18,965				\$1,044			\$1,044	20,455				\$7,419		\$209,087	\$4,955	\$171,000	\$33,132	4.47
	<u>Wastewater Treatment Plant (WWTP)</u>																											
WWTP-M1b Modified Baseline &	3.06 MGD TriplePoint "Ares" Mechanical Aeration System for Lagoon #1: Modified Baseline w/blower skid.	2,053,256	3,750			137,777			\$137,777	663,174	1,316			\$44,982			\$44,982	1,390,082	2,434			\$92,795	\$29,000	\$1,882,394	\$56,774	\$621,000	\$1,867,161	16.07
	<u>Wastewater Collection System (WWCS)</u>																											
	<u>Mechanical Conservation Measures</u>																											
WWCS-M2	Lift StationFlow Pacing for NW 8th Avenue, Malheur, NW Regional, and Murakami lift stations utilizing existing VFDs and SCADA system.	180,485				10,594			\$10,594	119,474				\$7,013			\$7,013	61,011				\$3,581		\$51,911	\$10,982	\$26,630	\$14,299	3.99
	<u>Water Treatment Plant (WTP)</u>																											
	<u>Mechanical Conservation Measures</u>																											
WTP-M1	Pumping efficiency – Evaluated "Smart Pump" technology and premium efficiency motors, permanent magnet motors. a. Install VFDs for soft-start feature and flow control of pumps on finished water pump #2 and #3. b. Replace finished water pump #3 with 250hp pump to match pump #4 and required upgrades.	* This is a cost only measure that would provide VFDs on the two finished water pumps #3 and #2 w/o VFDs. * Also includes new 250hp for finished water pumps #3. * Because the operators currently do manual flow adjustment, there is no ex																						\$531,712		\$531,712		

DETAILED SCOPES OF WORK

Detailed scopes of work will be determined in the Project Development Plan (PDP). See Section 4 for descriptions of ECMs proposed for this project.

PRELIMINARY PROJECT SCHEDULE

The following information lists several preliminary milestone dates for the project. Ameresco will develop a detailed schedule outlining all the various design, pre-construction, construction, and closeout tasks associated with the project once a design and construction contract is executed.

These dates are preliminary and are not to be interpreted as final.

Figure 28: Preliminary Project Schedule

Item	Date
Audit Scope Identification	January 2021
Project Development Plan	February 2021
City Council Resolution	February 2021
Project Financing	February 2021
Implementation Contract	March 2021
Project Design and Pre-Construction	March 2021
Construction - Start	April 2021
Close-Out	February 2022

7. ENERGY CONSERVATION MEASURE DESCRIPTIONS

This section outlines each Energy Conservation Measure (ECM) studied. Calculations, formulas, assumptions and key data are detailed in the energy calculation back up sheets located in Appendices. General M&V methodology for the ECMs studied is located at the end of this section. A detailed M&V Plan summary that describes how each ECM will be measured and verified will be provided in the PDP.

ONT-W1: CITY WIDE PLUMBING FIXTURE RETROFIT

GENERAL DESCRIPTION

Install water conservation devices (aerators on sinks, flush valves on urinals and toilets, or new fixtures) to reduce water consumption and save energy for water heating.

BASELINE CONDITION

An audit was conducted to collect the existing conditions of the aerators on sinks, flush valves on urinals and toilets to determine a baseline. The baseline consumption was calculated based on the average occupancy of each facility using ASHRAE standard uses per day for each facility type.

PROPOSED CONDITION

Furnish and install new aerators on sinks, flush valves on urinals and toilets, or new fixtures to reduce water consumption

BENEFITS SUMMARY

The city does not charge itself for water use and therefore there is not an economic benefit at the billing level. However, a benefit would be less water consumption at each facility which would reduce the amount of water used from the Water Treatment Plant and the wear and tear on the plumbing infrastructure in each facility from the reduced flows.

ENERGY CALCULATION METHODOLOGY

The water savings is difference between the existing and proposed aerators on sinks, flush valves on urinals and toilets, or new fixtures flow rating using the same average occupancy and usage rates as the baseline conditions.

See Appendix C for calculation details.

ONT-W2/W2B: IRRIGATION MANAGEMENT SYSTEM

GENERAL DESCRIPTION

Replace existing standalone irrigation controller running on time clocks with network accessible irrigation controllers that can be accessed from any computer or smartphone. Additionally, a master meter with auto shutoff valve will be installed.

BASELINE CONDITION

Currently the city has several standalone irrigation controllers running on time clocks that need periodic checking and each watering site needs minimum of weekly checking.

PROPOSED CONDITION

Furnish and install network accessible irrigation controllers and master meters with auto shutoff valves at Beck, Eastside, Laxson, Lions, Moore, and Optimist parks and Sunset Cemetery are to receive network accessible irrigation controllers.

Additionally, ONT-W2b includes adding Evergreen Cemetery network accessible irrigation controllers and master meters with auto shutoff valves and automating the existing system.

BENEFITS SUMMARY

The benefit of this system is a reduction in manhours to check on the parks to adjust time each zone is watered. The system also has built in leak detection that will automatically turn off zones or close the master valve. Also, the web-based interface will allow for 24/7 access to the system that would allow quick access to shut off sprinklers quickly without having to visit the site when they come on unexpectedly during a city park event.

ENERGY CALCULATION METHODOLOGY

The savings for this measure is based on reducing manhours to manage the sprinkler system based on input from Jacobs.

East Side, Moore Park, Beck Park, Laxson Park, Optimist, Lions Park, and Sunset Cemetery. Approximate time spent inspecting to make sure location is receiving water.

- FTE hours claimed in Energy Study = 0.5 hours for 24 weeks (assumed watering week) for each location = 84 hrs @ \$40 per hour or \$3,360

Evergreen Cemetery with automation and irrigation controller. This was mainly time spent tending to setup and moving of sprinklers.

- FTE hours claimed in Energy Study = 8 hours for 24 weeks (assumed watering week) weeks for each location = 192 hrs @ \$40 per hour or \$7,680

Additional O&M savings included:

- \$316 in overtime callouts – based on 2-4 call per year.
- \$800 in irrigation O&M material

- \$800 in irrigation plant and material (examples: replace dried out plants, reseeding dry spots, repairing washout from line break)

See Appendix C for calculation details.

ONT-L1: INTERIOR LIGHTING UPGRADE

GENERAL DESCRIPTION

Replace or retrofit existing fluorescent and HID lighting fixtures with LED fixtures and linear LED tubes. Buildings selected for interior lighting: City Hall, Airport Shop, Annex Building, Beck Park Shop, Cemetery House and Shop, Fire Station #2, Lions Park Shop, Modular Building/Shooting Range, Public Works, Pump Houses, Water Treatment Plant, and Wastewater Treatment Plant.

BASELINE CONDITION

The building interior spaces are lit primarily with a combination of T8 and compact fluorescent lighting. Interior lighting is controlled manually by local switches and through motion sensors.

PROPOSED CONDITION

Replace or retrofit all interior lighting with LED fixtures and tube LED lamps. See Appendix B for complete list of recommended lighting.

ENERGY CALCULATION METHODOLOGY

Existing lighting hours supplied by the facilities manager were applied to the existing and proposed fixtures' wattage to determine a potential electricity demand and consumption reduction when upgrading to lower wattage fixtures. See Appendix A and B for complete lighting upgrade audit and calculations.

ONT-L2: EXTERIOR LIGHTING UPGRADE

GENERAL DESCRIPTION

Replace or retrofit existing compact fluorescent, Metal Halide (MH) and High Pressure Sodium (HPS) lighting fixtures with LED fixtures and linear LED tubes. Buildings selected for exterior lighting: City Hall, Airport Shop, Beck Park Shop, Cemetery House and Shop, Fire Station #2, Public Works, Pump Houses, Water Treatment Plant, and Wastewater Treatment Plant.

BASELINE CONDITION

The building exteriors are lit primarily with compact fluorescent, MH and HPS lighting fixtures. Some fixtures have been upgraded already to LED. Exterior lighting is mostly photocell controlled.

PROPOSED CONDITION

Replace or retrofit all non-LED exterior lighting with LED fixtures. See Appendix B for complete list of recommended lighting.

ENERGY CALCULATION METHODOLOGY

Exterior lighting hours of 4,380 was applied to the existing and proposed fixtures' wattage to determine a potential electricity demand and consumption reduction when upgrading to lower wattage fixtures. See Appendix B for complete lighting upgrade audit and calculations.

ONT-L3/3B: EXTERIOR LIGHTING UPGRADE

GENERAL DESCRIPTION

Downtown beautification: Remove existing (19) Idaho Power streetlights on S. Oregon St. and replace with decorative post top streetlights. Additionally (6) electric meters will be installed for metering these new lights. Also included is (6) city owned HPS streetlights on Idaho Power Schedule 41C/CM to be upgraded to LED.

3b: Includes the above plus removing existing (17) Idaho Power streetlights on SW 1st St. and replace with decorative post top streetlights.

BASELINE CONDITION

Existing fixtures are Idaho Power owned streetlights using 250HPS cobra heads.

PROPOSED CONDITION

Replace Idaho Power streetlighting poles with a decorative post top fixture. Additionally, the city owned fixtures will be upgraded to LED. See Appendix B for complete list of proposed lights.

ENERGY CALCULATION METHODOLOGY

Street lighting hours of 4,380 was applied to the existing and proposed fixtures' wattage to determine a potential electricity demand and consumption reduction when upgrading to lower wattage fixtures. Additionally, the currently Idaho Power rate schedule was used for calculating cost savings due to change from rate schedule 41A to 41CM. See Appendix B for complete lighting upgrade audit and calculations.

WWTP-M1: TRIPLEPOINT “ARES” MECHANICAL AERATION FOR LAGOON #1

GENERAL DESCRIPTION

Replace the existing Aero2 units in Lagoon #1 with a TriplePoint “Ares” mechanical aeration system. This measure was proposed as ECM-WWTP-M1 1.738MGD option and an ECM-WWTP-M1 3.06 MGD option. This measure also addresses removing electrical cords from being submerged in the water.

BASELINE CONDITION

The existing floating aerators are in various states of needing repaired and not maintaining the proper DO level to have a functional healthy lagoon.

PROPOSED CONDITION

Replace the existing Aero2 aerators in Lagoon #1 with a TriplePoint Ares mechanical lagoon system that includes the necessary blowers, controls, headers, aerators, for a functional aeration system. No changes to Lagoons #3-5.

ENERGY CALCULATION METHODOLOGY

The energy calculations were calculated using two methods. The first method was using the current operating conditions and the second was using a modified baseline for the existing condition. The modified baseline assumed that all the aerators in Lagoon #1 operated 24/7.

Method #1: Utility Baseline

The existing operating conditions of the lagoon system was calculated using kW power measurements taken on site and existing utility bills to determine the Aero2 energy consumption over a year. The savings was calculated by taking the difference in consumption between the new TriplePoint system proposed energy consumption and the existing system.

Method #2: Modified Baseline

The modified baseline was calculated based on where the existing system would be expected to operate to maintain the required aeration and mixing for a health functioning treatment lagoon. The modified baseline was calculated assuming the existing Aero2 aerators operating 24/7, the ideal way Jacobs would operate them if they were all available for operation. The energy consumption was calculated using kW power measurements taken on site for the Aero2 units multiplied by the number of run hours in a year. The savings was calculated by taking the difference in consumption between the new TriplePoint system energy consumption and the modified baseline energy consumption.

WWTP-M2: MECHAICAL AREATION WITH DO CONTROL

This measure was absorbed in to WWTP-M1: TriplePoint “Ares” Mechanical Aeration For Lagoon #1 and eliminated.

WWTP-M3: GRID BEE" MECHANICAL AERATION SYSTEM SUBMENTAL MIXING

GENERAL DESCRIPTION

Replace a portion of existing Aero2 units in Lagoon #1 & #2 with "Grid Bee" mechanical aerators. A Select few of the existing Aero2 units would need to remain to supplement the Grid Bee units.

BASELINE CONDITION

The existing floating aerators are in various states of needing repaired and not maintaining the proper DO level to have a functional healthy lagoon.

PROPOSED CONDITION

Replace existing Aero2 aerators in Lagoon #1 and #2 with a Grid Bee mechanical float aerator. The hp of the Aero Aerators/mixers would be reduced to the need of 2-3 units in the winter months and 105 in the summer months. No changes to Lagoons #3-5.

ENERGY CALCULATION METHODOLOGY

The energy calculations were calculated using the existing Aero2 measured kW and compared to the proposed energy consumption provided by Grid Bee for their proposed solution. The difference between the baseline and the proposed is the calculated savings.

WWTP-G1: SKYLINE PUMPING MODIFICATIONS

GENERAL DESCRIPTION

This measure was analyzed two ways. Initially this measure was to determine if the WWTP effluent could be redirected to the Malheur farm pivots instead of being pumped to the Skyline farm pond for irrigation. It was determined that the city is contracted to provide water to the Skyline farm pond and the WWTP effluent appeared to be the most cost effective for the WWTP operations. With this information, the Skyline pump was evaluated to determine if installing a VFD on the pump could reduce operating cost.

BASELINE CONDITION

The current vertical turbine pump (VTP) with a 250hp operates to maintain the Skyline Pond level during the summer months.

PROPOSED CONDITION

Remain as is.

ENERGY CALCULATION METHODOLOGY

Energy savings calculations were not performed due to pump running at design conditions. The pump cannot be slowed down and still meet the pump requirements.

WWCS-M2: FLOW PACING FOR LIFT STATIONS

GENERAL DESCRIPTION

This would measure adds Flow Pacing for NW 8th Avenue, Malheur, NW Regional, and Murakami lift stations utilizing existing VFDs and SCADA system.

BASELINE CONDITION

NW 8th Ave lift station pass nearly 70% of the WWTP flow it and there are (4) pumps at 100 hp at 2200 GPM each. Malheur has (2) pumps at 30 hp at 1100 GPM each. Murakami and NW Regional both have (2) pumps at 20 hp at 750 GPM each. The current liquid level is controlled by a cycle on/off on level control for all lift station.

PROPOSED CONDITION

The liquid level will continue to be controlled through the SCADA system; however, the level control will utilize a PID loop control to modulate the pump(s) speed to maintain a liquid level setpoint.

ENERGY CALCULATION METHODOLOGY

Energy savings calculations were based on reduced pump flows creating lower energy consumption from the baseline runtime hours, design flow, power measurements and utility bills.

WWCS-M3: W. IDAHO STEET PUMP STATION VOLTAGE CHANGE

GENERAL DESCRIPTION

This measure looked at upgrading the current single-phase electrical service at the lift station to three-phase power.

BASELINE CONDITION

The installed ABS pumps are single phase motors whereas all other lift station sites utilize 480V 3-phase. These single-phase ABS pumps are problematic as they experience "trip-outs" and clogging problems. Public Works would prefer 3-phase pumps by ABS.

PROPOSED CONDITION

This measure was eliminated due to cost. This measure would have redesigned the electrical systems to operate on three-phase power and worked with Idaho Power to add transformers to allow the power upgrade.

ENERGY CALCULATION METHODOLOGY

This was strictly a capital improvement ECM and there are no energy savings.

WWCS-M4: IMPROVE LIFT STATIONS WITH TITUS TWISTERS

GENERAL DESCRIPTION

This measure proposed installing the Titus Twister at lift stations city wide. The Titus Twister provides aeration and mixing within the wet well that significantly reduces the build up of a scum cap and significantly reduces the probability of pump clogging. Additionally, the Titus Twister has an Ozone options that is helpful to reduce odors and help with the initial treatment of FOG.

BASELINE CONDITION

The lift stations currently build up scum caps and need to be cleaned out occasionally using a vac-truck. Additionally, the pumps incur a clogging and it need to be removed by pulling the pump.

PROPOSED CONDITION

The measure would install a Titus Twister at each lift station to significantly reduce the scum cap and help prevent pump clogging and rag-ups.

ENERGY CALCULATION METHODOLOGY

This was strictly a capital improvement ECM and there are no energy savings. This measure would likely reduce the number of yearly pump clogs and number of vac-truck cleaning trips. This measure would also increase electrical consumption due to the energy need to the Titus Twister.

WTP-M1: PUMPING EFFICIENCY

GENERAL DESCRIPTION

This measure will add a VFD to Pump #2 and upgrade pump #3 with a 250hp pump to match pump #4. A new VFD will also be included with the new 250hp pump.

BASELINE CONDITION

Pump #2 is used occasionally, however with a VFD it would provide more flexibility to incorporate into the pump strategy. Pump #3 is used occasionally; however, it does not provide the necessary flow velocity needed for cleaning the filters through a back wash.

PROPOSED CONDITION

This measure will install a VFD for pump #2 and a new 250hp pump and VFD for pump #3.

ENERGY CALCULATION METHODOLOGY

This was a capital improvement ECM and there are no energy savings.

8. FINANCIALS

Energy Savings Performance Contracts are structured to minimize the risks associated with construction projects. Energy Savings Performance Contracts have a guaranteed maximum construction cost, with open book pricing. The open book pricing structure is applied to the labor and material costs of the project. This means that subcontracted portions of the direct construction cost are reconciled against final invoices. The client is only responsible to pay for the work performed. Since Ameresco uses guaranteed maximum project costs, our clients are protected from increases in construction costs, and benefits from construction cost savings.

The following table outlines the compensation summary for the recommended Energy Conservation Measures that are being developed for the Junction City School District.

Table 4: Recommended Project, Financial Breakdown

PROJECT COSTS	Mech, Water, General	Lighting	Total Project Costs
Engineering Audit	\$ 31,480	\$ 3,860	\$ 35,340
Guaranteed Maximum Price for Construction Work			
Cost of Work	\$ 2,738,744	\$ 305,554	\$ 3,044,298
Bonding @ 2.0% of Cost of Work	\$ 54,775	\$ 6,111	\$ 60,886
Construction Contingency @ 10.0% of M, W, G Cost of Work	\$ 273,874		\$ 273,874
Construction Contingency @ 5.0% of Lighting Cost of Work		\$ 15,278	\$ 15,278
Construction Contingency - WTP New 250hp Pump Upgrade	\$ -		\$ -
Guaranteed Maximum Price for Construction Work (GMP):			\$ 3,394,336
Fixed Project Fees			
M,W,G Design @ 10.0% of Cost of Work	\$ 273,874		\$ 273,874
Lighting Design @ 6.0% of Cost of Work		\$ 18,333	\$ 18,333
Construction Mgt @ 8.0% of Cost of Work	\$ 219,100	\$ 24,444	\$ 243,544
ESCO Overhead and Profit @ 18.0% of Cost of Work	\$ 492,974	\$ 55,000	\$ 547,974
System Start-Up and Commissioning Fee @ 2.0% of Cost of Work	\$ 54,775	\$ 6,111	\$ 60,886
Training of Owner's O&M Personnel Fee @ 0.2% of Cost of Work	\$ 5,477	\$ 611	\$ 6,089
1st Year of Ameresco M&V			\$ 8,840
Energy Savings Guarantee Contract Fee			
Fixed Fees Subtotal:			\$ 1,159,540
Project Cost Summary			
Contract Price			\$ 4,589,215
Client Initial Cash Payment			\$ 1,403,342
Estimated Utility Incentive and/or Grant	\$ 67,756	\$ 16,746	\$ 84,502
Client Bond Counsel Fee Estimate (for reference only)			\$ 54,000
Amount to be Financed by Client:			\$ 3,155,371
Year 1 Estimated Cash Flow:			\$ (90,821)
Year 1 Cash Flow with Guaranteed Energy Savings (90%):			\$ (101,728)

COST CATEGORIES

Engineering Audit – This is Ameresco's compensation for the energy engineering and project development services to put together the Technical Energy Audit and Project Development Plan.

Cost of Work – This is the estimated costs of the construction work for the measures selected to be implemented.

Bonding – This is the fee associated with providing a required performance bond on the project.

Construction Contingency – This is a contingency for unforeseen issues. If it is not used the amount reverts to the owner. If mutually agreed upon, these funds can be used for fund owner directed change orders.

Mechanical Water and General Design – This is the fee for designing the installed measures to be installed, excluding lighting.

Lighting Design – This is the fee for designing the lighting measures to be installed.

Construction Management – This is the fee for the construction administration and site supervision of the installed measures.

ESCO Overhead and Profit – This is Ameresco's Overhead and Profit for the project.

System Start up and Commissioning Fee – This is the fee for start-up of equipment and commissioning of all installed work.

Training of Owner's Operations & Maintenance Personnel Fee – This is the fee to provide proper training on the operations and maintenance of newly installed equipment.

Energy Savings Guarantee Contract Fee – This is the fee to cover the ESCO's risk to guarantee the energy savings of a project. Ameresco does not typically charge a fee for this.

1st Year of Ameresco Measurement and Verification – This is the fee for administering the Energy Savings Guarantee and determining the energy savings with the installed measures

Contract Price - This is the project cost before any reductions, such as utility incentives.

Client Initial Cash Payment– This is for any capital contribution that the client may make to the project.

Estimated Utility Incentive and/or Grant – These are estimated utility incentives that are associated with the recommended ECMs. In this case they are from Idaho Power.

Other / Client Bond Counsel Fee Estimate (for reference only) – This is an estimate of the fee the District's bond council may charge for their services. This amount is not part of the ESCO contract but should be budgeted for and included in the financing. There may be additional financing costs depending on the type of loan used to fund the project.

PROJECT COST

Please refer to Table 14: Recommended Project Financials for a financial analysis based on the recommended measures.

CASH FLOW

Please refer to Table 15: Project Cash Flow for Selected Measures for Selected Projects, and Figure 20: Annual Estimated Cash Flow or a detailed account of the recommended project cashflow.

INCENTIVES

Ameresco has estimated a total incentive amount of \$54,502 based on current available program guidelines as of the publishing of this report. While we feel these values are accurate, we cannot guarantee the actual amount reimbursed for these measures.

Table 5: Project Cash Flow for Selected Measures

PROJECT SAVINGS BASED ON ESTIMATED ENERGY SAVINGS (100%)

Year ending Reference year	2021 0	2022 1	2023 2	2024 3	2025 4	2026 5	2027 6	2028 7	2029 8	2030 9	2031 10	2032 11	2033 12	2034 13	2035 14	2036 15	2037 16	2038 17	2039 18	2040 19	2041 20
Mechanical, General, and Water savings	\$ -	\$ 96,391	\$ 97,837	\$ 99,305	\$ 100,794	\$ 102,306	\$ 103,841	\$ 105,399	\$ 106,980	\$ 108,584	\$ 110,213	\$ 111,866	\$ 113,544	\$ 115,247	\$ 116,976	\$ 118,731	\$ 120,512	\$ 122,319	\$ 124,154	\$ 126,017	\$ 127,907
Lighting Savings:	\$ -	\$ 12,673	\$ 12,863	\$ 13,056	\$ 13,252	\$ 13,451	\$ 13,653	\$ 13,857	\$ 14,065	\$ 14,276	\$ 14,490	\$ 14,708	\$ 14,928	\$ 15,152	\$ 15,380	\$ 15,610	\$ 15,844	\$ 16,082	\$ 16,323	\$ 16,568	\$ 16,817
Lighting Maintenance Savings	\$ -	\$ 82	\$ 375	\$ 1,057	\$ 2,327	\$ 1,883	\$ 1,836	\$ 2,043	\$ 1,325	\$ 1,352	\$ 2,247	\$ 3,323	\$ (2,322)	\$ 803	\$ 1,027	\$ 1,713	\$ 1,420	\$ 1,716	\$ 1,527	\$ 1,409	\$ 888
Other Maintenance Savings	\$ -	\$ 42,957	\$ 43,601	\$ 44,255	\$ 44,919	\$ 45,593	\$ 46,277	\$ 46,971	\$ 47,675	\$ 48,391	\$ (3,108)	\$ 36,601	\$ 37,151	\$ 51,360	\$ 52,130	\$ 52,912	\$ 53,706	\$ 54,512	\$ 55,329	\$ 56,160	\$ (3,607)
Depreciation Tax Credit	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Savings:	\$ -	\$ 152,104	\$ 154,677	\$ 157,673	\$ 161,293	\$ 163,233	\$ 165,606	\$ 168,270	\$ 170,045	\$ 172,603	\$ 123,843	\$ 166,498	\$ 163,301	\$ 182,563	\$ 185,513	\$ 188,966	\$ 191,482	\$ 194,629	\$ 197,334	\$ 200,154	\$ 142,005
Cumulative Savings:	\$ -	\$ 152,104	\$ 306,780	\$ 464,454	\$ 625,747	\$ 788,980	\$ 954,586	\$ 1,122,856	\$ 1,292,901	\$ 1,465,505	\$ 1,589,347	\$ 1,755,845	\$ 1,919,146	\$ 2,101,709	\$ 2,287,222	\$ 2,476,189	\$ 2,667,671	\$ 2,862,300	\$ 3,059,634	\$ 3,259,788	\$ 3,401,793

PROJECT SAVINGS BASED ON GUARANTEED ENERGY SAVINGS (90)%

Year ending	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041
Mechanical, General, and Water savings	\$ -	\$ 86,752	\$ 88,053.62	\$ 89,374	\$ 90,715	\$ 92,076	\$ 93,457	\$ 94,859	\$ 96,282	\$ 97,726	\$ 99,192	\$ 100,680	\$ 102,190	\$ 103,723	\$ 105,279	\$ 106,858	\$ 108,461	\$ 110,087	\$ 111,739	\$ 113,415	\$ 115,116
Lighting Savings:	\$ -	\$ 11,406	\$ 11,577.01	\$ 11,751	\$ 11,927	\$ 12,106	\$ 12,287	\$ 12,472	\$ 12,659	\$ 12,849	\$ 13,041	\$ 13,237	\$ 13,436	\$ 13,637	\$ 13,842	\$ 14,049	\$ 14,260	\$ 14,474	\$ 14,691	\$ 14,911	\$ 15,135
Lighting Maintenance Savings	\$ -	\$ 82	\$ 375	\$ 1,057	\$ 2,327	\$ 1,883	\$ 1,836	\$ 2,043	\$ 1,325	\$ 1,352	\$ 2,247	\$ 3,323	\$ (2,322)	\$ 803	\$ 1,027	\$ 1,713	\$ 1,420	\$ 1,716	\$ 1,527	\$ 1,409	\$ 888
Other Maintenance Savings	\$ -	\$ 42,957	\$ 43,601	\$ 44,255	\$ 44,919	\$ 45,593	\$ 46,277	\$ 46,971	\$ 47,675	\$ 48,391	\$ (3,108)	\$ 36,601	\$ 37,151	\$ 51,360	\$ 52,130	\$ 52,912	\$ 53,706	\$ 54,512	\$ 55,329	\$ 56,160	\$ (3,607)
Depreciation Tax Credit	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Savings:	\$ -	\$ 141,197	\$ 143,607	\$ 146,437	\$ 149,888	\$ 151,657	\$ 153,857	\$ 156,344	\$ 157,941	\$ 160,317	\$ 111,372	\$ 153,841	\$ 150,454	\$ 169,523	\$ 172,278	\$ 175,532	\$ 177,847	\$ 180,789	\$ 183,286	\$ 185,896	\$ 127,532
Cumulative Savings:	\$ -	\$ 141,197	\$ 284,804	\$ 431,241	\$ 581,129	\$ 732,787	\$ 886,644	\$ 1,042,988	\$ 1,200,929	\$ 1,361,246	\$ 1,472,618	\$ 1,626,459	\$ 1,776,913	\$ 1,946,436	\$ 2,118,713	\$ 2,294,245	\$ 2,472,092	\$ 2,652,881	\$ 2,836,167	\$ 3,022,063	\$ 3,149,595

ANNUAL PROJECT COSTS

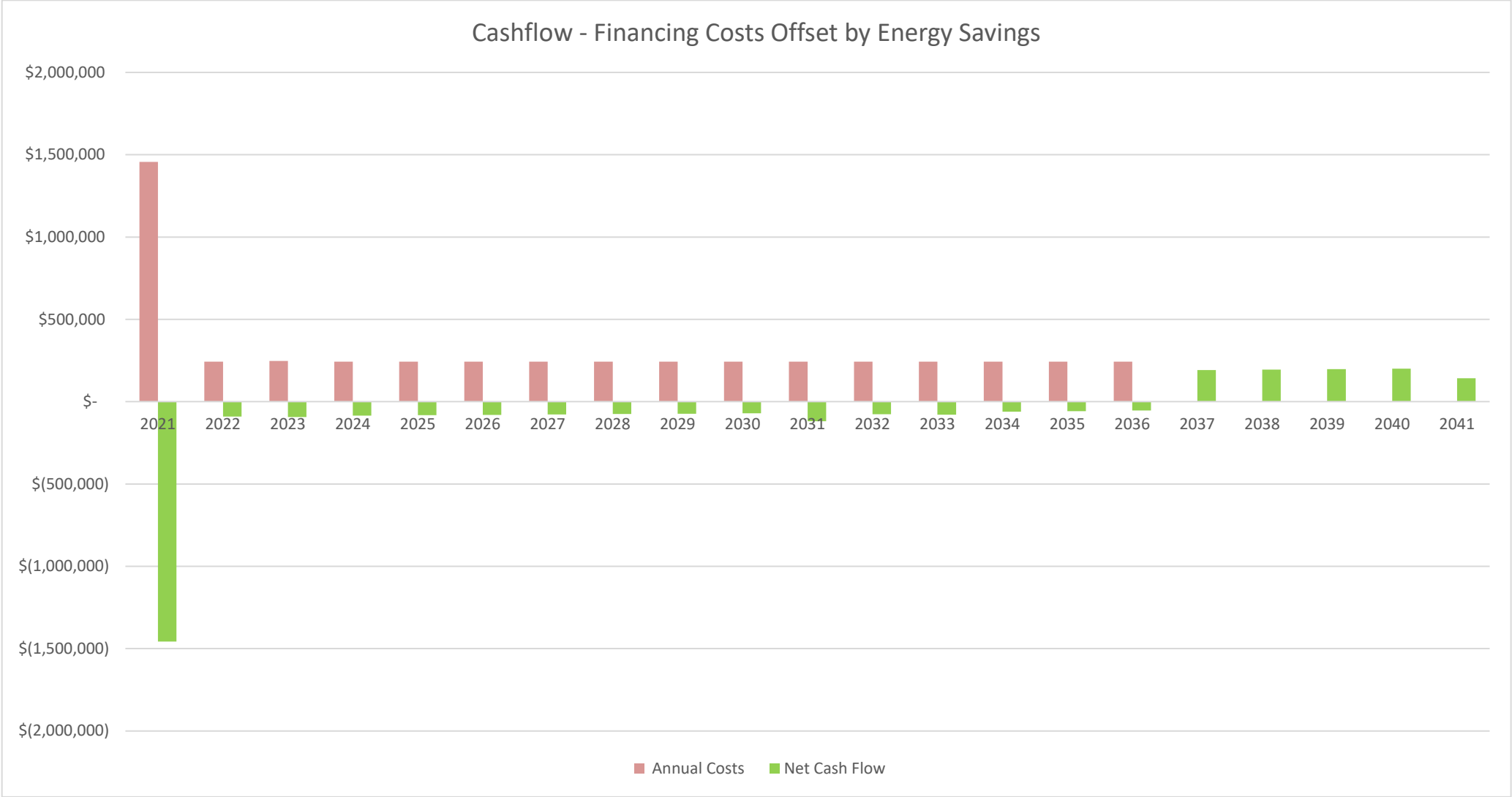
Amount Financed: \$ 3,155,371
Cash Payment: \$ 1,457,342

Year ending	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041
Annual Financing Costs		\$ 242,925	\$ 242,925	\$ 242,925	\$ 242,925	\$ 242,925	\$ 242,925	\$ 242,925	\$ 242,925	\$ 242,925	\$ 242,925	\$ 242,925	\$ 242,925	\$ 242,925	\$ 242,925	\$ 242,925	\$ -	\$ -	\$ -	\$ -	\$ -
Ameresco Measurement and Verification	\$ -	\$ -	\$ 5,027	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Annual Costs to Client	\$ 1,457,342	\$ 242,925	\$ 247,952	\$ 242,925	\$ 242,925	\$ 242,925	\$ 242,925	\$ 242,925	\$ 242,925	\$ 242,925	\$ 242,925	\$ 242,925	\$ 242,925	\$ 242,925	\$ 242,925	\$ 242,925	\$ -	\$ -	\$ -	\$ -	\$ -

NET ANNUAL CASH FLOW WHEN FINANCING PROJECT:

Year ending	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041
Cash Flow from Estimated Energy Savings (with inflation)	\$ (1,457,342)	\$ (90,821)	\$ (93,275)	\$ (85,251)	\$ (81,632)	\$ (79,692)	\$ (77,318)	\$ (74,655)	\$ (72,880)	\$ (70,322)	\$ (119,082)	\$ (76,427)	\$ (79,624)	\$ (60,362)	\$ (57,412)	\$ (53,958)	\$ 191,482	\$ 194,629	\$ 197,334	\$ 200,154	\$ 142,005
Cumulative	\$ (1,457,342)	\$ (1,548,163)	\$ (1,641,438)	\$ (1,726,690)	\$ (1,808,322)	\$ (1,888,014)	\$ (1,965,332)	\$ (2,039,987)	\$ (2,112,867)	\$ (2,183,188)	\$ (2,302,271)	\$ (2,378,697)	\$ (2,458,321)	#####	#####	\$ (2,630,054)	\$ (2,438,571)	\$ (2,243,942)	\$ (2,046,608)	\$ (1,846,454)	\$ (1,704,449)
Cash Flow from Guaranteed Energy Savings (with inflation)	\$ (1,457,342)	\$ (101,728)	\$ (104,345)	\$ (96,488)	\$ (93,037)	\$ (91,267)	\$ (89,068)	\$ (86,581)	\$ (84,984)	\$ (82,608)	\$ (131,553)	\$ (89,084)	\$ (92,471)	\$ (73,402)	\$ (70,647)	\$ (67,393)	\$ 177,847	\$ 180,789	\$ 183,286	\$ 185,896	\$ 127,532
Cumulative	\$ (1,457,342)	\$ (1,559,070)	\$ (1,663,415)	\$ (1,759,902)	\$ (1,852,939)	\$ (1,944,207)	\$ (2,033,275)	\$ (2,119,855)	\$ (2,204,839)	\$ (2,287,447)	\$ (2,419,000)	\$ (2,508,084)	\$ (2,600,555)	#####	#####	\$ (2,811,997)	\$ (2,634,150)	\$ (2,453,361)	\$ (2,270,075)	\$ (2,084,179)	\$ (1,956,647)

Table 6: Annual Estimated Cast Flow



9. CONCLUSION

This project represents a clear opportunity to dramatically improve the WWTP, WTP, WWCC, and lighting systems within the City of Ontario facilities. These improvements are either funded by capital dollars or pay for themselves well within their respective useful lifetimes. We at Ameresco are eager to work with the City of Ontario to improve these facilities while saving resources.

APPENDICIES

APPENDIX A - ECM DATA AND CALCULATIONS

APPENDIX B - LIGHTING STUDIES

APPENDIX C - PLUMBING STUDIES

APPENDIX A - ECM DATA AND CALCULATIONS

APPENDIX B - LIGHTING STUDIES

APPENDIX C - PLUMBING STUDIES

ENERGY SAVINGS PERFORMANCE CONTRACT (“ESPC”)

THIS ENERGY SAVINGS PERFORMANCE CONTRACT (the “ESPC” or “Contract”) is between City of Ontario Oregon, and (the “Owner”), and:

Company	Ameresco, Inc	Contract #	8851000
Address	9700 SW Capitol Hwy, Suite 110	PCA Project/Phase	One
City, State Zip	Portland, OR 97219	Tax ID #	04-3512838
Phone	503.290.1285	Date	April 29, 2020

(the “ESCO” or “Consultant”) (collectively Owner and Consultant are referred to as the "Parties"). This Contract is for all Services related to completion of the project more particularly described as follows (the “Project”):

The scope for this, phase one, project is at the city of Ontario, Oregon located at 444 SW 4th Street Ontario Oregon 97914 energy efficiency upgrades for lighting, water, select mechanical and electrical systems, process controls, and other related upgrades. This phase of the project includes the list of facilities below which have been identified by the City of Ontario.

• City Hall/City Hall Annex • Fire Station • Public Works • Parks • WWTP • WTP • Lift Stations • Decorative Streetlighting	• Roadway Lighting (streetlights) • Misc. Facilities for Lighting and/or Irrigation • WWTP • WTP • Lift Stations • Decorative Streetlighting • Roadway Lighting (streetlights) • Misc. Facilities for Lighting and/or Irrigation
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The work to be performed under this contract shall commence as soon as the ESCO has been officially notified to proceed (the “Effective Date”). No Services shall be performed prior to the Effective Date. The Contract shall expire, unless otherwise terminated or extended, on April 28, 2022. The expiration or termination of the Contract shall not extinguish, prejudice, or limit either Party’s right to enforce this Contract with respect to any default or defect in performance that has not been cured.

Generally, the Services to be performed by Consultant on the Project consist of the following (the “Services”):

- 1) PHASE 1, PART A: TECHNICAL ENERGY AUDIT (“Phase 1, Part A” or “Audit, Part A” or “TEA”)
- 2) PHASE 1, PART B: PROJECT DEVELOPMENT PLAN (“Phase 1, Part B” or “Audit, Part B” or “PDP”)
- 3) PHASE 2: CONSTRUCTION
- 4) PHASE 3: MEASUREMENT & VERIFICATION
ENERGY SAVINGS GUARANTEE - Guarantee the Project’s projected energy savings

The Services are more specifically described in Division 1, Section 3, which includes the delivery schedule for such Services. ESCO shall perform the Services in accordance with the terms and conditions of this Contract.

THIS CONTRACT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES ON THE SUBJECT MATTERS ADDRESSED HEREIN. THE TERMS OF THIS CONTRACT CANNOT BE WAIVED, ALTERED, MODIFIED, SUPPLEMENTED

OR AMENDED, IN ANY MANNER WHATSOEVER, EXCEPT BY WRITTEN INSTRUMENT SIGNED BY THE PARTIES AND CONTAINING ALL REQUIRED OWNER APPROVALS. ANY SUCH WAIVER, ALTERATION, MODIFICATION, SUPPLEMENTATION OR AMENDMENT SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, REGARDING THIS CONTRACT EXCEPT AS CONTAINED, INCORPORATED OR REFERENCED HEREIN. CONSULTANT, BY THE SIGNATURE BELOW OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS CONTRACT, UNDERSTANDS THIS CONTRACT, AND AGREES TO BE BOUND BY ALL OF THIS CONTRACT'S TERMS AND CONDITIONS. THIS CONTRACT, AND ANY AMENDMENTS TO IT, MAY BE EXECUTED IN COUNTERPARTS (EACH OF WHICH SHALL BE AN ORIGINAL AND ALL OF WHICH SHALL CONSTITUTE BUT ONE AND THE SAME INSTRUMENT) OR IN MULTIPLE ORIGINALS. A FAXED FORM OF THIS CONTRACT OR ANY AMENDMENT THERETO, EXECUTED BY ONE OR MORE OF THE PARTIES, WILL CONSTITUTE A COUNTERPART HEREOF, AS LONG AS THE COUNTERPART BEARING THE PARTY'S ORIGINAL SIGNATURE IS PROMPTLY TRANSMITTED TO THE OTHER PARTY AND RECEIVED BY THAT PARTY FORTHWITH.

Agreed To and Signed By:

ESCO: _____

Date: _____

Signature

Ron Haxton, Vice President Northwest Region

AGENCY: _____

Date: _____

Signature

Adam Brown, City of Ontario, City Manager
444 SW 4th Street, Ontario, OR 97914

STANDARD TERMS AND CONDITIONS

1. RELATIONSHIP OF THE PARTIES

1.1. Consultant shall provide the Services for the Project in accordance with the terms and conditions of this Contract. Consultant's performance of Services shall be as a professional consultant to Owner to carry out the Project and to provide the technical documents and supervision to achieve Owner's Project objectives.

1.2. In administering this Contract, Owner may retain the services of an independent project manager and other consultants as needed to fulfill Owner's objectives.

1.3. Consultant shall provide a list of all sub-consultants which Consultant intends to utilize on the Project (the "Sub-consultants"). This list shall include such information on the qualifications of the Sub-consultants as may be requested by Owner. Owner reserves the right to review the Sub-consultants proposed. Consultant shall not retain a Sub-consultant to which Owner has a reasonable objection.

1.4. Consultant acknowledges that this Contract was awarded on the basis of the unique background and abilities of the key personnel of Consultant and Sub-consultants identified by Consultant (collectively, the "Key Personnel" and individually, the "Key Person"). Therefore, Consultant shall make available Key Personnel as identified in its proposal. Consultant shall provide to Owner a list of the proposed Key Personnel to be assigned to the Project. This list shall include such information on the professional background of each Key Person as may be requested by Owner. If any Key Person becomes unavailable to Consultant, the Parties shall mutually agree upon an appropriate replacement. Without prior notice to, and the written consent of, Owner, Consultant shall not: (i) re-assign or transfer any Key Person to other duties or positions so that the Key Person is unable to fully perform his or her responsibilities under the Contract; (ii) allow any Key Person to delegate to anyone his or her performance of any management authority or other responsibility required under the Contract; or (iii) substitute any Key Person. Any of these actions shall constitute a material breach of the Contract. Consultant shall remove any individual or Sub-consultant from the Project if so directed by Owner in writing following discussion with Consultant, provided that Consultant shall have a reasonable time period within which to find a suitable replacement.

2. CONSULTANT'S RESPONSIBILITIES; REPRESENTATIONS AND WARRANTIES

2.1. Consultant agrees that:

2.1.1. The phrase "Standard of Care" that is used in this Contract is defined as follows: the same professional skill, care, diligence and standards as other professionals

performing similar services under similar conditions (the "Standard of Care");

2.1.2. Consultant shall perform all Services in accordance with the Standard of Care;

2.1.3. Consultant shall prepare, in accordance with the Standard of Care, all drawings, specifications, deliverables and other documents so that they accurately reflect, fully comply with and incorporate all applicable laws, rules, and regulations, and so that they are complete and functional for the purposes intended, except as to any deficiencies which are due to causes beyond the control of Consultant;

2.1.4. Consultant shall be responsible for correcting any inconsistencies, errors or omissions in the drawings, specifications, deliverables and other documents prepared by Consultant at no additional cost to Owner;

2.1.5. Owner's review or acceptance of documents shall not be deemed as approval of the adequacy of the drawings, specifications, deliverables and other documents. Any review or acceptance by Owner will not relieve Consultant of any responsibility for complying with the Standard of Care;

2.1.6. Except as specifically provided, Consultant shall, at no additional cost to Owner, render assistance to Owner in resolving problems or other issues relating to the Project design or to specified materials;

2.1.7. During the term of the Contract, Consultant shall obtain, hold, maintain and fully pay for all licenses and permits required by law for Consultant to conduct its business and perform the Services. During the term of the Contract, Owner shall pay for and Consultant shall obtain, hold and maintain all licenses and permits required for the Project, unless otherwise specified in the Contract. Consultant shall review the Project site and the nature of the Services and advise Owner throughout the course of the Project as to the necessity of obtaining all Project permits and licenses, the status of the issuance of any such permits and licenses, and any issues or impediments related to the issuance or continuation of any such permits and licenses; and

2.1.8. Consultant shall pay all Sub-consultants and other subcontractors as required by Consultant's contracts with those Sub-consultants and subcontractors. Consultant agrees that Owner has no direct or indirect contractual obligation or other legal duty whatsoever to pay the Sub-consultants and other subcontractors of Consultant or otherwise ensure that Consultant makes full and timely payment to those Sub-consultants and subcontractors for services performed on the Project.

2.2. Consultant represents and warrants to Owner that:

2.2.1. Consultant has the power and authority to enter into and perform this Contract; the persons executing this Contract on behalf of Consultant have the actual authority to bind Consultant to the terms of this Contract;

2.2.2. When executed and delivered, this Contract shall be a valid and binding obligation of Consultant enforceable in accordance with its terms; the provisions of this Contract do not conflict with or result in a default under any agreement or other instrument binding upon Consultant and do not result in a violation of any law, regulation, court decree or court order or other legal process applicable to Consultant;

2.2.3. Consultant shall, at all times during the term of this Contract, be duly licensed to perform the Services, and if there is no licensing requirement for the profession or Services, be duly qualified and competent;

2.2.4. Consultant is an experienced firm having the skill, legal capacity, and professional ability necessary to perform all the Services required under this Contract and to design and administer a project having the scope and complexity of the Project;

2.2.5. Consultant has the capabilities and resources necessary to perform Consultant's obligations under this Contract;

2.2.6. Consultant is, or shall become, in a manner consistent with the Standard of Care, familiar with all current laws, rules, and regulations which are applicable to the design and construction of the Project;

2.2.7. All Services shall be performed in accordance with the Standard of Care;

2.2.8. The Project, when completed and if constructed in accordance with the intent established by the drawings, specifications, deliverables and other documents prepared by Consultant pursuant to this Contract, shall be structurally sound and a complete and properly functioning facility suitable for the purposes for which it is intended; and

2.2.9. The published specifications of the "Automated Systems" that Consultant has specified, designated and planned pursuant to this Contract conform to the Contract requirements. For the purposes of this subsection, "Automated Systems" shall mean any computers, software, firmware, HVAC systems, elevators, electrical systems, fire or life safety systems, security systems and any other electrical, mechanized or computerized devices serving the Project.

2.3. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided in this Contract or at law.

3. RESERVED

4. GENERAL CONTRACT PROVISIONS

4.1. Contract Performance. Consultant shall at all times perform the Services diligently and without delay and shall punctually fulfill all Contract requirements consistent with the schedule for the performance of Services set forth herein. Expiration or termination of the Contract shall not extinguish, prejudice, or limit either party's right to enforce this Contract with respect to any default or defect in performance. Time is of the essence in the performance of this Contract.

4.2. Access to Records. For not less than three (3) years after the Contract's expiration or termination, Owner, the Secretary of State's Office of the State of Oregon, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of Consultant and the Sub-consultants which pertain to the Contract for the purpose of making audits, examination, excerpts, and transcripts. If, for any reason, any part of this Contract, any Project-related consultant contract or any Project-related construction contract(s) is involved in litigation, Consultant shall retain all pertinent records for not less than three years or until all litigation is resolved, whichever is longer. Consultant shall provide Owner and the other entities referenced above with full access to these records in preparation for and during litigation.

4.3. Funds Available and Authorized. Owner reasonably believes as of the Effective Date that sufficient funds are available and authorized for expenditure to finance the cost of this Contract within Owner's appropriation or limitation. Consultant understands and agrees that, to the extent that sufficient funds are not available and authorized for expenditure to finance the cost of this Contract, Owner's payment of amounts under this Contract attributable to Services performed after the last day of the current biennium is contingent on Owner receiving from the Oregon Legislative Assembly appropriations, limitations or other expenditure authority sufficient to allow Owner, in the exercise of its reasonable administrative discretion, to continue to make payments under this Contract.

4.4. Insurance. Consultant shall maintain in effect for the duration of this Contract, or any other time periods required herein, the insurance set forth herein.

4.5. Indemnity.

4.5.1. CLAIMS FOR OTHER THAN PROFESSIONAL LIABILITY. CONSULTANT SHALL INDEMNIFY, DEFEND, SAVE, AND HOLD HARMLESS OWNER, AND ITS OFFICERS, AGENTS, AND EMPLOYEES, FROM AND AGAINST ALL CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES OF WHATSOEVER NATURE RESULTING FROM OR ARISING OUT OF THE ACTS OR OMISSIONS OF CONSULTANT OR ITS SUB-CONSULTANTS,

SUBCONTRACTORS, AGENTS, OR EMPLOYEES UNDER THIS CONTRACT.

4.5.2. CLAIMS FOR PROFESSIONAL LIABILITY. CONSULTANT SHALL INDEMNIFY, DEFEND, SAVE, AND HOLD HARMLESS THE OWNER, AND ITS OFFICERS, AGENTS, AND EMPLOYEES, FROM AND AGAINST ALL CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES OF WHATSOEVER NATURE ARISING OUT OF THE PROFESSIONALLY NEGLIGENT ACTS, ERRORS OR OMISSIONS OF CONSULTANT OR ITS SUB-CONSULTANTS, SUBCONTRACTORS, AGENTS, OR EMPLOYEES IN THE PERFORMANCE OF PROFESSIONAL SERVICES UNDER THIS CONTRACT.

4.5.3. Owner Defense Requirements. Notwithstanding the obligations under Sections 4.5.1 and 4.5.2, neither Consultant nor any attorney engaged by Consultant shall defend any claim in the name of the Owner, nor purport to act as legal representative of the Owner or any of its agencies, without the prior written consent of the Oregon Attorney General. Owner may, at any time and at its election, assume its own defense and settlement of any claims in the event that: it determines that Consultant is prohibited from defending the Owner; Consultant is not adequately defending the Owner's interests; an important governmental principle is at issue; or it is in the best interests of the Owner to do so. The Owner reserves all rights to pursue any claims it may have against Consultant if the Owner elects to assume its own defense.

4.5.4. Owner's Actions. This Section 4.5 does not include indemnification by Consultant of the Owner or its officers, agents, and employees, for the acts or omissions of the Owner or its officers, agents, and employees, whether within the scope of the Contract or otherwise.

4.6. Consultant's Status.

4.6.1. Consultant shall perform all Services as an independent contractor. Although Owner reserves the right to set the delivery schedule for the Services to be performed and to evaluate the quality of the completed performance, Owner cannot and will not control the means and manner of Consultant's performance. Consultant is responsible for determining the appropriate means and manner of performing the Services. Consultant, Consultant's employees and the Sub-consultants are not "officers, employees, or agents" of the Owner, as those terms are used in ORS 30.265.

4.6.2. Consultant shall not have control or charge of, and shall not be responsible for, the acts or omissions of other consultants or contractors under contract with Owner who are performing services or construction work on the Project. However, this provision does not in any way change Consultant's professional responsibility to report to Owner any information, including information

on the performance of consultants or contractors outside the control or charge of Consultant, concerning activities or conditions that have or could have an adverse effect on Owner or the Project.

4.6.3. Consultant is not a contributing member of the Public Employee's Retirement System and will be responsible for any federal, state or other taxes applicable to any compensation or payments paid to Consultant under this Contract. Consultant will not be eligible for any benefits from any payments made under this Contract for federal Social Security, unemployment insurance, or worker's compensation, except as a self-employed individual. If any payment under this Contract is to be charged against federal funds, Consultant certifies that it is not currently employed by the federal government.

4.7. Successors & Assignments. The provisions of this Contract shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns. After the original Contract is executed, Consultant shall not enter into any Sub-consultant agreements for any of the Services or assign or transfer any of its interest in this Contract, without the prior written consent of Owner.

4.8. Compliance with Applicable Law. Consultant shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Services. Owner's performance under this Contract is conditioned upon Consultant's compliance with the provisions of ORS 279C.505, 279C.515, 279C.520, and 279C.530, which are hereby incorporated by reference. Consultant, the Sub-consultants, if any, and all employers providing Services, labor or materials under this Contract are subject employers under the Oregon workers' compensation law and shall comply with ORS 656.017.

4.9. Governing Law; Jurisdiction; Venue. This Contract shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively "Claim") between Owner and Consultant that arises from or relates to this Contract shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this "Governing Law; Jurisdiction; Venue" section be construed as a waiver by the Owner of any form of defense or immunity, whether based on sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the United States Constitution or otherwise. CONSULTANT, BY EXECUTION

OF THIS CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

4.10. Tax Compliance Certification.

4.10.1. By signature on this Contract, the undersigned certifies under penalty of perjury that the undersigned is authorized to act on behalf of Consultant and that Consultant is, to the best of the undersigned's knowledge, not in violation of any Oregon Tax Laws.

4.10.2. For purposes of this certification, "Oregon Tax Laws" means a state tax imposed by ORS 401.792 to 401.816 (Tax For Emergency Communications), 118 (Inheritance Tax), 314 (Income Tax), 316 (Personal Income Tax), 317 (Corporation Excise Tax), 318 (Corporation Income Tax), 320 (Amusement Device and Transient Lodging Taxes), 321 (Timber and Forestland Tax), 323 (Cigarettes and Tobacco Products Tax), the elderly rental assistance program under ORS 310.630 to 310.706, and any local taxes administered by the Department of Revenue under ORS 305.620.

4.11. Severability. The Parties agree that if any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected and the rights and obligations of the Parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.

4.12. Force Majeure. Neither party shall be held responsible for delay or default in the performance of its obligations due to a cause beyond its reasonable control, including, but not limited to fire, riot, acts of God, terrorist acts or war where such cause was beyond such party's reasonable control. Each party shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under the Contract.

4.13. Waiver. The failure of Owner to enforce any provision of this Contract shall not constitute a waiver by Owner of that or any other provision.

4.14. Third Party Beneficiaries. Nothing contained in this Contract shall create a contractual relationship with or a cause of action in favor of a third party against Owner or Consultant. Consultant's Services under this Contract shall be performed solely for Owner's benefit and no other entity or person shall have any claim against Consultant because of this Contract for the performance or nonperformance of Services hereunder.

4.15. Ownership of Work Product; Confidentiality.

4.15.1. Definitions. As used in this Contract, the following terms have the meanings set forth below:

a. "Consultant Intellectual Property" means any intellectual property that is owned by Consultant and developed independently from this Contract and that is applicable to the Services or included in the Work Product.

b. "Third Party Intellectual Property" means any intellectual property that is owned by parties other than Owner or Consultant and that is applicable to the Services or included in the Work Product.

c. "Work Product" means the Services Consultant delivers or is required to deliver to Owner under this Contract. Work Product includes every invention, discovery, work of authorship, trade secret or other tangible or intangible item and all intellectual property rights therein, and all copies of plans, specifications, reports and other materials, whether completed, partially completed or in draft form.

4.15.2. Work Product. Except as provided in Sections 4.15.3 and 4.15.4, all Work Product created by Consultant pursuant to this Contract, including derivative works and compilations, and whether or not such Work Product is considered a "work made for hire" or an employment to invent, shall be the exclusive property of Owner. Owner and Consultant agree that such original works of authorship are "work made for hire" of which Owner is the author within the meaning of the United States Copyright Act. To the extent that Owner is not the owner of the intellectual property rights in such Work Product, Consultant hereby irrevocably assigns to Owner any and all of its rights, title, and interest in all original Work Product created pursuant to this Contract, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Upon Owner's reasonable request, Consultant shall execute such further documents and instruments necessary to fully vest such rights in Owner. Consultant forever waives any and all rights relating to original Work Product created pursuant to this Contract, including without limitation, any and all rights arising under 17 USC §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

4.15.3. Consultant Intellectual Property. In the event that Consultant Intellectual Property is necessary for the use of any Work Product, Consultant hereby grants to Owner an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use Consultant Intellectual Property, including the right of Owner to authorize contractors, consultants and others to use Consultant Intellectual Property, for the purposes described in this Contract.

4.15.4. Third Party Intellectual Property. In the event that Third Party Intellectual Property is necessary for the

use of any Work Product, Consultant shall secure on Owner's behalf and in the name of Owner, an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use the Third Party Intellectual Property, including the right of Owner to authorize contractors, consultants and others to use the Third Party Intellectual Property, for the purposes described in this Contract.

4.15.5. Consultant Intellectual Property-Derivative Work. In the event that Work Product created by Consultant under this Contract is a derivative work based on Consultant Intellectual Property or is a compilation that includes Consultant Intellectual Property, Consultant hereby grants to Owner an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use the pre-existing elements of Consultant Intellectual Property employed in the Work Product, including the right of Owner to authorize contractors, consultants and others to use the pre-existing elements of Consultant Intellectual Property employed in a Work Product, for the purposes described in this Contract.

4.15.6. Third Party Intellectual Property-Derivative Work. In the event that Work Product created by Consultant under this Contract is a derivative work based on Third Party Intellectual Property, or is a compilation that includes Third Party Intellectual Property, Consultant shall secure on Owner's behalf and in the name of Owner an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use the pre-existing elements of the Third Party Intellectual Property employed in a Contract Work Product, including the right to authorize contractors, consultants and others to use the pre-existing elements of the Third Party Intellectual Property employed in a Contract Work Product, for the purposes described in this Contract.

4.15.7. Limited Owner Indemnity. To the extent permitted by the Oregon Constitution, Article XI, Section 7, and by the Oregon Tort Claims Act, ORS 30.260 through 30.397, Consultant shall be indemnified and held harmless by Owner from liability arising out of re-use or alteration of the Work Product by Owner which was not specifically contemplated and agreed to by the Parties in this Contract or under separate contract.

4.15.8. Consultant Use of Work Product. Consultant may refer to the Work Product in its brochures or other literature that Consultant utilizes for advertising purposes and, unless otherwise specified, Consultant may use standard line drawings, specifications and calculations on other, unrelated projects.

4.15.9. Confidential Information. Consultant acknowledges that it or its employees, Sub-consultants, subcontractors or agents may, in the course of performing their responsibilities under this Contract, be exposed to or

acquire information that is the confidential information of Owner or Owner's clients. Any and all information provided by Owner and marked confidential, or identified as confidential in a separate writing, that becomes available to Consultant or its employees, Sub-consultants, subcontractors or agents in the performance of this Contract shall be deemed to be confidential information of Owner ("Confidential Information"). Any reports or other documents or items, including software, that result from Consultant's use of the Confidential Information and any Work Product that Owner designates as confidential are deemed Confidential Information. Confidential Information shall be deemed not to include information that: (a) is or becomes (other than by disclosure by Consultant) publicly known; (b) is furnished by Owner to others without restrictions similar to those imposed by this Contract; (c) is rightfully in Consultant's possession without the obligation of nondisclosure prior to the time of its disclosure under this Contract; (d) is obtained from a source other than Owner without the obligation of confidentiality; (e) is disclosed with the written consent of Owner; or (f) is independently developed by employees or agents of Consultant who can be shown to have had no access to the Confidential Information.

4.15.10. Non-Disclosure. Consultant agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Consultant uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than the provision of Services to Owner under this Contract, and to advise each of its employees, Sub-consultants, subcontractors and agents of their obligations to keep Confidential Information confidential. Consultant shall use its best efforts to assist Owner in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the generality of the foregoing, Consultant shall advise Owner immediately in the event Consultant learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Contract and Consultant will at its expense cooperate with Owner in seeking injunctive or other equitable relief in the name of Owner or Consultant against any such person. Consultant agrees that, except as directed by Owner, Consultant will not at any time during or after the term of this Contract disclose, directly or indirectly, any Confidential Information to any person, except in accordance with this Contract, and that upon termination of this Contract or at Owner's request,

Consultant will turn over to Owner all documents, papers, and other matter in Consultant's possession that embody Confidential Information.

4.15.11. Injunctive Relief. Consultant acknowledges that breach of this Section 4.15, including disclosure of any Confidential Information, will give rise to irreparable injury to Owner that is inadequately compensable in damages. Accordingly, Owner may seek and obtain injunctive relief against the breach or threatened breach of this Section 4.15, in addition to any other legal remedies that may be available. Consultant acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of Owner and are reasonable in scope and content.

4.15.12. Publicity. Consultant agrees that news releases and other publicity relating to the subject of this Contract will be made only with the prior written consent of Owner.

4.15.13. Security. Consultant shall comply with all virus-protection, access control, back-up, password, and other security and other information technology policies of Owner when using, having access to, or creating systems for any of Owner's computers, data, systems, personnel, or other information resources.

4.16. Termination.

4.16.1. Parties Right to Terminate by Agreement. This Contract may be terminated at any time, in whole or in part, by written mutual consent of the Parties.

4.16.2. Owner's Right to Terminate for Convenience. Owner may, at its sole discretion, terminate this Contract, in whole or in part, by written notice to Consultant specifying the termination date of the Contract.

4.16.3. Owner's Right to Terminate for Cause. Owner may terminate this Contract immediately, in whole or in part, upon written notice to Consultant, or such later date as Owner may establish in such notice, upon the occurrence of any of the following events:

4.16.3.1. Owner lacks lawful funding, appropriations, limitations or other expenditure authority at levels sufficient to allow Owner, in the exercise of its reasonable discretion, to pay for Consultant's Services;

4.16.3.2. Federal, state or local laws, regulations or guidelines are modified or interpreted in such a way that either the Services under this Contract are prohibited or Owner is prohibited from paying for such Services from the planned funding source;

4.16.3.3. Consultant no longer holds all licenses or certificates that are required to perform the Services; or

4.16.3.4. Consultant fails to provide Services within the times specified or allowed under this Contract; fails to perform any of the provisions of this Contract; or so fails to perform the Services as to endanger performance of

this Contract in accordance with its terms, and after receipt of written notice from Owner, does not correct such failures within the time that Owner specifies (which shall not be less than 10 calendar days, except in the case of emergency).

4.16.3.5. Consultant commits any material breach or is in default of any covenant, warranty obligation or agreement under this Contract.

4.16.3.6. Consultant makes any false or misleading representation or warranty to Owner.

4.16.3.7. ESCO (a) applies for or consents to the appointment or possession by, a receiver, custodian, trustee, or liquidator of ESCO or all or substantially all of its property, (b) admits in writing its inability, or is unable, to pay its debts as they become due, (c) makes a general assignment for the benefit of its creditors, (d) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (e) is adjudicated bankrupt or insolvent, (f) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, liquidation, winding-up, or composition or adjustment of debts, (g) acquiesces in writing to, any petition filed against it in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect), or (h) takes any corporate action for the purpose of effecting any of the foregoing.

4.16.3.8. A proceeding or case is commenced, without the application or consent of ESCO, in any court of competent jurisdiction, seeking (a) the liquidation, dissolution or winding-up, or the composition or readjustment of debts, of ESCO, (b) the appointment of a receiver, custodian, trustee, liquidator, or the like of ESCO or of all or any substantial part of its assets, or (c) similar relief in respect to ESCO under any law relating to bankruptcy, insolvency, reorganization, liquidation, winding-up, or composition or adjustment of debts, and such proceeding or case continues un-dismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues un-stayed and in effect for a period of 20 consecutive days, or an order for relief against ESCO is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).

4.16.3.9. ESCO has any change in ownership or control without the prior approval of Owner, which consent shall not be unreasonably withheld.

4.16.4. Cessation of Services. Upon receiving a notice of termination, and except as otherwise directed in writing by Owner, Consultant shall immediately cease all activities related to the Services or the Project.

4.16.5. Consultant's Right to Terminate for Cause.

4.16.5.1. Consultant may terminate this Contract if Owner fails to pay Consultant pursuant to this Contract, provided

that Owner has failed to make such payment to Consultant within forty-five (45) calendar days after receiving written notice from Consultant of such failure.

4.16.5.2. Consultant may terminate this Contract, for reasons other than non-payment, if Owner commits any material breach or default of any covenant, warranty, obligation or agreement under this Contract, fails to perform under the Contract within the time specified, or so fails to perform as to endanger Consultant's performance under this Contract, and such breach, default or failure is not cured within thirty (30) calendar days after delivery of Consultant's notice, or such longer period as Consultant may specify in such notice.

4.16.6. Delivery of Work Product/Retained Remedies of Owner. As directed by Owner, Consultant shall, upon termination, promptly deliver to Owner all documents, information, works in progress and other property that are deliverables or would be deliverables if the Contract had been completed. Consultant shall remain responsible to Owner for the quality of its Work Product. By Consultant's signature on this Contract, Consultant allows Owner to use Work Product and other property for Owner's intended use. The rights and remedies of Owner provided in this Section 4.16 are not exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

4.16.7. Payment upon Termination.

4.16.7.1. In the event of termination pursuant to Sections 4.16.1, 4.16.2, 4.16.3.1, 4.16.3.2 or 4.16.5, Consultant's sole remedy shall be a claim for the sum designated for accomplishing the Services multiplied by the percentage of Services completed and accepted by Owner plus Consultant's reasonable Contract close-out costs, less previous amounts paid and any claim(s) which Owner has against Consultant, except in the event of a termination under Section 4.16.3.1, where no payment will be due and payable for Services performed or costs incurred after the last day of the current biennium, consistent with Section 4.3. Within thirty (30) days after termination, Consultant shall submit an itemized invoice for all un-reimbursed Services completed before termination and all Contract close-out costs actually incurred by Consultant. Owner shall not be obligated to pay for any such costs invoiced to and received by Owner later than thirty (30) days after termination. If previous amounts paid to Consultant exceed the amount due to Consultant under this subsection, Consultant shall promptly refund any excess amount upon demand.

4.16.7.2. In the event of termination, Owner shall have any remedy available to it in law or equity. Such remedies may be pursued separately, collectively or in any order whatsoever. If it is determined for any reason that Consultant was not in default under this Contract, the rights and obligations of the Parties shall be the same as if the Contract was terminated pursuant to Section 4.16.2.

4.17. Foreign Contractor. If Consultant is not domiciled in or registered to do business in the State of Oregon as of the Effective Date, Consultant shall promptly provide to the Oregon Department of Revenue and the Secretary of State's Corporation Division all information required by those agencies relative to this Contract. Consultant shall demonstrate its legal capacity to perform the Services under this Contract in the State of Oregon prior to executing this Contract.

4.18. Notice. Except as otherwise expressly provided in this Contract, any notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mail, postage prepaid, to Consultant or Owner at the address or number set forth herein, or to such other address or number as either party may provide pursuant to this "Notice" section. Any notice delivered by mail shall be deemed to be given five (5) calendar days after the date of mailing. Any notice delivered by facsimile shall be deemed to be given when the transmitting machine generates a receipt of the transmission. To be effective against Owner, any facsimile communication or notice must be confirmed by telephone notice to Owner's Representative for the Project as indicated herein and shall not be deemed to be given until such confirmation is completed. Any notice by personal delivery shall be deemed to be given when actually delivered. Regular, day-to-day communications between the Parties may be transmitted through one of the methods set forth above, in person, by telephone, by e-mail, or by other similar electronic transmission.

4.19. Media Contacts; Confidentiality. Consultant shall provide no news release, press release, or any other statement to a member of the news media regarding this Project, without Owner's prior written authorization.

4.20. Conflict of Interest. Except with Owner's prior written consent, Consultant shall not engage in any activity, or accept any employment, interest or contribution that would, or would reasonably appear to, compromise Consultant's professional judgment with respect to this Project, including, without limitation, concurrent employment on any project in direct competition with the Project.

**ENERGY SAVINGS PERFORMANCE CONTRACT
DIVISION 1 – GENERAL PROVISIONS**

1. SECTION 1: DEFINITIONS

Key terms used within this Contract are defined in Section A.1 of the State of Oregon General Conditions for Public Improvement Contracts, revised January 1, 2012 (the General Conditions”), and as follows:

- 1.1. “Commissioning” means a systematic process that ensures that building systems perform interactively according to the design intent and Owner's operational needs. For the purposes of this Contract, the commissioning process begins in Phase II with documentation of the design intent, including construction, Owner acceptance, training of Facility Maintenance and Operations Staff, and extends through Phase III and the warranty period with actual and documented verification of the proper performance of each system and each piece of equipment.
- 1.2. “Construction Contract Documents” means the Design and Construction Contract, the General Conditions, any Supplemental General Conditions, any amendments to the Design and Construction Contract, ESCO’s performance bond and payment bond, the Plans, the Measurement and Verification documents, the Energy Cost Savings Guarantee, Specifications and approved shop drawings for the Project, all approved change orders related to the Design and Construction Contract, any solicitation documents, and any response by a successful bidder/ proposer to any such solicitation documents.
- 1.3. “Construction Documents” means Owner-approved Plans, drawings, Specifications and other documents necessary to allow complete and accurate construction of the Project.
- 1.4. “Contract Documents” means, notwithstanding the definition in Section A.1 of the General Conditions, the documents identified in Section 2 of this Contract.
- 1.5. “Contract Price” means, notwithstanding the definition in Section A.1 of the General Conditions, that amount set forth in the Phase 1, Part B, Project Development Plan, being the total amount Owner will pay for the Project including the Direct Construction Costs. The Contract Price shall include all costs for ESCO’s services including, but not limited to, costs related to:
 - Engineering and design
 - Energy savings equipment procurement and installation
 - Construction Work/services
 - Commissioning
 - Training
 - Overhead and profit margins
 - Measurement and verification
- 1.6. RESERVED
- 1.7. “Design-Builder” means ESCO in its capacity of being responsible for providing all services necessary to achieve the purposes and intent of the RFP including without limitation, Project coordination and supervision, architectural and engineering design, procurement of goods, materials and services necessary to complete the Project, construction work/ services, and commissioning services.
- 1.8. “Design Professional” means: 1) an architect who is registered and holds a valid certificate in the practice of architecture in the State of Oregon; 2) an engineer who is registered and holds a valid certificate in the practice of engineering in the State of Oregon; 3) a surveyor who is registered and holds a valid certificate in the practice of land surveying in the State of Oregon; or 4) such other professional person or entity otherwise registered and holding a valid certificate to provide professional design services in the State of Oregon.
- 1.9. “Direct Construction Costs” means the costs to Owner of all divisions of construction, including portable equipment designed or specified in the Specifications.

- 1.10. "Energy Baseline" means the calculation or measure of each type of energy consumed in the Facility, prior to the installation of Energy Efficiency Measures. For purposes of this Contract, peak electrical demand, measured in kilowatts (kW) shall be considered a type of energy. The Energy Baseline of this Contract shall be based on those items set forth in Schedule 4 to Division 3 of this Contract, as part of Phase I work, including without limitation, the average consumption of electricity, fuel and water as reflected by utility bills for the 24 months preceding the month in which ESCO delivers the Phase 1, Part A Technical Energy Audit.
- 1.11. "Energy Efficiency Measure" (or "EEM") means the installation of new equipment, modification or alteration of existing equipment or facilities, or revised operations procedures that reduce energy and water costs by improving efficiency of use.
- 1.12. "Energy Savings" means a reduction of energy or water consumption or water or electrical demand resulting from ESCO's EEMs. Such savings shall be determined by comparing the Energy Baseline with the energy consumed (or demand) after ESCO has implemented the EEMs.
- 1.13. "Energy Savings Guarantee" means, pursuant to Division 3 of this Contract and Schedules 2 and 5 to Division 3, the units of energy and the corresponding sum that ESCO represents that the Facility will realize from energy and water savings resulting from the implementation of energy efficiency measures.
- 1.14. "Facility" means the facility(s) listed below:
City of Ontario Buildings
- 1.15. "List of Services" means all items of services or Work that ESCO is obligated to provide under the Contract Documents, each of which is related to a cost item to be included in the Contract Price.
- 1.16. "Measurement and Verification" ("M&V") means the examination of installed ECMs using the International Performance Measurement and Verification Protocol ("IPMVP"), or any other comparable protocol or process, to monitor and verify the operation of energy-using systems pre-installation and post-installation.
- 1.17. "Notice of Commencement of Energy Savings" means the official written notice from ESCO that indicates all Energy Efficiency Measures are installed and functioning in a manner as to achieve the Energy Savings Guarantee.
- 1.18. "Notice to Proceed" means the official written notice from Owner that indicates that all of the threshold contractual requirements have been met, including full negotiation of contract terms, execution and delivery of all Contract Documents, Owner's receipt of acceptable and fully executed performance and payment bonds and certificates of insurance, and that ESCO is authorized to proceed with the Work.
- 1.19. "Operational Savings" means savings resulting from changes in scheduling and temperature and ventilation set points, and other operational activities at the Facility.
- 1.20. "Owner" means City of Ontario acting by and through its individuals designated in writing by Owner to act on its behalf as authorized representatives.
- 1.21. "Project Development Plan" means the design development documents and Schedules 1 through 6 to Division 3 of this Contract, prepared by ESCO as part of the Phase 1, Part B services, as well as drafts of Schedules 7, 8, 9, and 10 to Exhibit A.
- 1.22. "RFP" means that Request for Proposals dated Nov. 13, 2019 to which this form of Contract is attached and pursuant to which this completed Contract is drafted and executed by the Parties.
- 1.23. "Statement of Work" means the Work and services set forth in detail in Divisions 2 and 3 and in Exhibit A.
- 1.24. "Standards of Comfort" means, unless otherwise negotiated as a result of Phase 1, Part A, those minimum air quality, volume, temperature, and lighting standards established by:
- ASHRAE Standard 62.1-2004, (Ventilation Standard for Acceptable Indoor Air Quality),

- ASHRAE Standard 55-1992 (Air Quality and Comfort Standards) and Thermal Environmental Conditions for Human Occupancy),
 - All related ASHRAE interpretations,
 - Illuminating Engineering Society (IES), 10th Edition, Lighting Standards, and
 - All applicable standards established by local uniform building codes.
- 1.25. "Substantial Completion Date" has the meaning of "Substantial Completion" as defined in the General Conditions in Section A.1 and as provided in the General Conditions Section K.4.2. This term is not applicable to Phase III.
 - 1.26. "Technical Energy Audit" means Division 2 of this Contract and the Technical Energy Audit contemplated by Division 2.
 - 1.27. "Work Product" means all Plans, Specifications, drawings, audits, reports, and other work product required to be delivered by ESCO under this Contract.

2. SECTION 2: CONTRACT DOCUMENTS

This Contract has three Divisions and consists of the following documents, which are listed in descending order of precedence:

- 2.1. Amendments and approved Change Orders to the Contract, with those of a later date having precedence over those of an earlier date;
- 2.2. This Contract;
- 2.3. All Exhibits, Schedules and Attachments to the Contract;
- 2.4. The Supplemental General Conditions;
- 2.5. The General Conditions;
- 2.6. Final Owner-approved Schedules 1, 2, 3, 4, 5 and 6 to the Project Development Plan and draft Schedules 7, 8, 9 and 10 to the Construction Contract;
- 2.7. The RFP and all Attachments, Exhibits and Addenda thereto;
- 2.8. ESCO's response to the RFP;
- 2.9. The ESCO Agreement between ESCO and the Oregon Department of Energy, and all Attachments, Exhibits and Addenda thereto;
- 2.10. The Oregon Department of Energy's RFQ #13-095 and all Attachments, Exhibits and Addenda thereto.

3. SECTION 3: STATEMENT OF WORK

ESCO agrees to take all actions reasonably necessary to develop and implement Phase 1, Parts A and B, and to procure and provide all necessary Phase II and Phase III project management, architectural, engineering, construction, construction management commissioning, training and administration services and Work in the most economical and timely manner possible, with minimal interruption to the on-going business and the occupants of the Facility. The services and Work referenced above are described in detail in Division 2 and Division 3 of this Contract and in the Exhibit A, Design and Construction Contract. In summary, these services and Work consist of three phases as follows:

- 3.1. Phase I. ESCO shall perform the Technical Energy Audit, Part A pursuant to the terms of Division 2 of this Contract, and develop the Project Development Plan pursuant to the terms of Division 3 of this Contract. The Project Development Plan shall include, without limitation, preparation of Schedules 1, 2, 3, 4, 5 and 6 to Division 3, as well as drafts of Schedules 7, 8, 9, and 10 to Exhibit A.
- 3.2. Phase II. ESCO shall manage, design, construct and commission the Project defined in the Project Development Plan approved by Owner, and shall provide training to Facility operations staff regarding proper use and maintenance of the designed systems, pursuant to the provisions of Exhibit A. The

Statement of Work shall include, without limitation, final preparation and completion of Schedules 7, 8, 9, and 10 to Exhibit A.

- 3.3. Phase III. ESCO shall perform all functions necessary to measure, verify, and achieve the Energy Savings Guarantee that it establishes under Schedule 2 (Calculation of Energy Savings Guarantee), pursuant to the (Schedule 6) Measurement and Verification Plan and energy savings guarantee provisions of Exhibit A.
- 3.4. Project Schedule. ESCO shall perform the Work for all phases according to the "Project Schedule" negotiated by Owner and ESCO, which is set forth in this Section 3.4:
- May, 2020, Execute Technical Energy Audit and Project Development Plan Agreement.
 - July 21, 2020, Review Preliminary findings with City.
 - Aug 18, 2020, Review project scope, costs, and savings with City.
 - Aug 25, 2020, Deliver Technical Energy Audit and Project Development Plan to City.
 - Sept 8, 2020, Present Final Project Building Options, - Final Scope, Pricing and Financing to City Council.
 - Sept 22, 2020, Final Scope and Contract Documents for City Council Approval.
 - October 2020, Signing of ESCO Contract Phase II - Design and Construction.
 - October 2020, Issuance of the Notice to Proceed by City.
 - November 2020, Construction Begins.
- 3.5. Work Time Limitations. ESCO shall comply with the limitations negotiated by Owner and ESCO respecting hours of work and days of the week when Work is permitted on site at the Facility (the "Work Time Limitations"):

Ameresco will work the City Staff to minimize the impact on the facilities and limit work to during hours of normal operation.

4. SECTION 4: GENERAL PROVISIONS

- 4.1. Each Phase Independent. It is the Parties' intention to proceed with the Project and, in good faith, take all actions reasonably necessary to complete each of the three Phases of this Contract. However, the Parties understand and agree that Owner may, for cause or for convenience, terminate this Contract or any Phase hereof, should Owner, in its sole discretion determine it is in the public interest to do so.
- 4.2. Commencement Dates. The Commencement Date for Phase I and the Commencement Date for Phase II shall be the dates upon which Owner issues a respective Notice to Proceed for each such phase. ESCO shall perform no services prior to the applicable Commencement Date. Phase III shall commence on the date Owner issues its certificate of final completion for Phase II.
- 4.3. RESERVED
- 4.4. RESERVED
- 4.5. RESERVED
- 4.6. Design Services Provider. All design services to be performed by ESCO under this Contract are appurtenant to construction services being provided by ESCO. Whether ESCO is a Design Professional,

has a Design Professional as a member or on staff, or shall otherwise provide a consultant to perform the services of a Design Professional, all services constituting professional design services (whether constituting the practice of architecture, the practice of engineering, the practice of surveying or the practice of other design services) and referred to in this Contract shall be provided by a duly licensed and certified Design Professional employed or otherwise retained by ESCO as a consultant. The Design Professional(s) currently qualified and designated to provide such services is (are): Jason Carver, P.E.. Owner hereby consents to ESCO's retention of said Design Professional(s) to provide these services. No substitution of the consultant(s) listed in this Section 4.6 as ESCO's Design Professional(s) for the Project shall occur except with the prior approval of Owner. ESCO agrees to support Owner's efforts to create a collaborative and cooperative team among ESCO, Owner's Project Manager, ESCO's Design Professional(s) (if separate from ESCO), and the remainder of ESCO's Project staff. Notwithstanding the fact that Owner has consented to ESCO's decision to retain the consultant(s) listed in this Section 4.6 as the Design Professional(s) for the Project, ESCO remains solely liable to Owner for completion and delivery of all services required under this Contract and this Contract shall confer no rights to the Design Professional(s) not contained in the agreement (if any) between ESCO and the Design Professional(s).

5. SECTION 5: RESERVED

6. SECTION 6: RESERVED

7. SECTION 7: RESERVED

8. SECTION 8: HAZARDOUS SUBSTANCES

- 8.1. It is not anticipated that this Project will involve the removal and destruction of asbestos, asbestos-related materials, or other hazardous substances or materials (collectively the "Hazardous Substances"). Owner will contract separately for the identification and removal of any Hazardous Substances at such time as such Hazardous Substances may be detected. It is understood and agreed that ESCO shall not and does not prescribe any safety measure or abatement procedure, and is not responsible for any act or omission of Owner or any professional consultant, contractor or subcontractor which Owner selects relating to the abatement of Hazardous Substances.
- 8.2. Notwithstanding Section 8.2, in the event of the discovery or release of Hazardous Substances at the Facility by ESCO or ESCO's sub-consultants, sub-contractors, employees or agents, ESCO shall fully comply with its obligations in regard to the discovery or release of Hazardous Substances as provided in Section F.5 of the General Conditions, and shall immediately notify Owner's authorized representative of the circumstances surrounding the discovery or release of the Hazardous Substances, and restrict access of any persons in the vicinity of the Hazardous Substances until such time as Owner's authorized representative can take over supervision of the area.

9. SECTION 9: INSURANCE

ESCO shall obtain at ESCO's expense, the insurance specified in this Section 9 prior to performing under any ESPC and shall maintain it in full force and at its own expense throughout the duration of the ESPC and all warranty periods. ESCO shall obtain the following insurance from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to Owner.

9.1. **WORKERS' COMPENSATION.** All employers, including ESCO, that employ subject workers, as defined in Oregon Revised Statute (ORS) 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). ESCO shall require and ensure that each of its subcontractors complies with these requirements.

9.2. **EMPLOYERS' LIABILITY.** If ESCO is a subject employer, as defined in ORS 656.023, ESCO shall obtain employers' liability insurance coverage.

9.3. **PROFESSIONAL LIABILITY**

☒ Required by Owner ☐ Not required by Owner

Professional Liability Insurance covering any damages caused by an error, omission or any negligent acts related to the services to be provided under the ESPC. ESCO shall provide proof of insurance of not less than the following amounts as determined by Owner:

<i>Per occurrence limit for any single claimant:</i>	\$2,000,000
<i>Aggregate limit for multiple claimants:</i>	\$4,000,000

9.4. **COMMERCIAL GENERAL LIABILITY**

☒ Required by Owner ☐ Not required by Owner

Commercial General Liability Insurance covering bodily injury, death and property damage in a form and with coverages that are satisfactory to Owner. This insurance shall include personal injury liability, products and completed operations. Coverage shall be written on an occurrence basis. ESCO shall provide proof of insurance of not less than the following amounts as determined by Owner:

Bodily Injury/Death and Property Damage:

<i>Per occurrence limit for any single claimant:</i>	\$2,000,000
<i>Aggregate limit for multiple claimants:</i>	\$4,000,000

9.5. **AUTOMOBILE LIABILITY**

☒ Required by Owner ☐ Not required by Owner

Automobile Liability Insurance covering all owned, non-owned, or hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for "Commercial General Liability" and "Automobile Liability"). ESCO shall provide proof of insurance of not less than the following amounts as determined by Owner:

Bodily Injury/Death and Property Damage:

Combined Single Limit: \$4,000,000

9.6. EXCESS/ UMBRELLA INSURANCE

A combination of primary and excess/ umbrella insurance is acceptable. If ESCO is using excess/ umbrella insurance to meet the minimum insurance requirement, ESCO's certificate must include a list of the policies that fall under the excess/ umbrella insurance. Sample wording is "The Excess/ Umbrella policy is excess over Commercial General Liability, Automobile Liability, etc."

9.7. ADDITIONAL INSURED

The Commercial General Liability insurance and Automobile Liability insurance required under the ESPC shall include the Owner, its officers, employees and agents as Additional Insureds but only with respect to ESCO's activities to be performed under the ESPC. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

9.8. "TAIL" COVERAGE

If any of the required professional liability insurance is on a "claims made" basis, ESCO shall either maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the ESPC, for a minimum of 24 months following the later of (i) ESCO's completion and Owner's acceptance of all Services required under the ESPC, or, (ii) the expiration of all warranty periods provided under the ESPC. Notwithstanding the foregoing 24-month requirement, if ESCO elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then ESCO shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace for the coverage required under the ESPC. ESCO shall provide to Owner, upon Owner's request, certification of the coverage required under this Attachment 7.

9.9. CERTIFICATE OF INSURANCE

ESCO shall provide to Owner, Certificate(s) of Insurance for all required insurance before delivering any Goods and performing any Services required under the ESPC. The Certificate(s) must specify all entities and individuals who are endorsed on the policy as Additional Insured (or Loss Payees). ESCO shall pay for all deductibles, self-insured retention and self-insurance, if any. ESCO shall immediately notify Owner in writing of any change in insurance coverage.

9.10. NOTICE OF CANCELLATION OR CHANGE

There shall be no cancellation or non-renewal of insurance coverage(s) without sixty (60) days' written notice, except ten (10) days for nonpayment of premium, from ESCO or its insurer(s) to Owner. Any failure to comply with the reporting provisions of this clause shall constitute a material breach of contract and shall be grounds for immediate termination of the ESPC by Owner.

10. SECTION 10: RESERVED**11. SECTION 11: RESERVED****12. SECTION 12: MEDIATION**

ESCO and Owner, in an effort to resolve any conflicts that may arise during the design or construction of the Project or following the completion of the Project, agree that all disputes between them arising out of or

relating to this Contract or any amendments hereto shall be submitted to non-binding mediation unless the Parties mutually agree otherwise. ESCO further agrees to include a similar provision in all agreements with sub-consultants or subcontractors retained for the Project, thereby providing for mediation as the primary method for dispute resolution between the Parties to those agreements. All Parties agree to exercise their best effort in good faith to resolve all disputes in mediation.

13. SECTION 13: RESERVED

14. SECTION 14: RESERVED

15. SECTION 15: RESERVED

16. SECTION 16: RESERVED

17. SECTION 17: RESERVED

18. SECTION 18: RESERVED

19. SECTION 19: RESERVED

20. SECTION 20: RESERVED

21. SECTION 21: RESERVED

22. SECTION 22: SURVIVAL

All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth as follows:

Standard Terms and Conditions

Section 2: Consultant's Responsibilities, Representations and Warranties

Section 4.2 Access to Records

Section 4.5 Indemnity

Section 4.9: Governing Law, Jurisdiction, Venue

Section 4.15 Ownership of Work Product; Confidentiality

Section 4.16: Termination (including the termination rights and remedies under Division 2 and Division 3)

Division 1

Section 9: Insurance

Section 22: Survival

23. SECTION 23: RESERVED

24. SECTION 24: RESERVED

25. SECTION 25: RESERVED

26. SECTION 26: RESERVED

27. SECTION 27: RESERVED

28. SECTION 28: RECYCLED PRODUCTS CERTIFICATION

Pursuant to ORS 279A.125 and OAR 137-046-0320, ESCOs shall use recyclable products to the maximum extent economically feasible in the performance of the services and Work set forth in this Contract. By executing this Contract, the undersigned duly authorized representative of ESCO certifies that ESCO shall comply with the above recycled products provision.

29. SECTION 29: RESERVED

ENERGY SAVINGS PERFORMANCE CONTRACT
DIVISION 2 – PHASE 1, PART A: TECHNICAL ENERGY AUDIT

1. COMMENCEMENT DATE: As provided in Section 4.2 of Division 1 of this Contract, the Phase 1, Part A Technical Energy Audit shall commence on the date Owner issues a Notice to Proceed for Phase 1.
2. SUBSTANTIAL COMPLETION (DELIVERY OF TECHNICAL ENERGY AUDIT DUE): ESCO shall perform the Technical Energy Audit in accordance with the Statement of Work described at Section 6 below. ESCO agrees to complete and present to Owner a final Audit, Part A within 120 business days from Owner's issuance of the Notice to Proceed for Phase 1.
3. RESERVED.
4. CONTRACT DOCUMENTS. For the purposes of the contractual obligations set forth in this Division 2, all of the Contract Documents described in Section 2 of Division 1 are hereby incorporated by this reference.
5. COMPENSATION
 - 5.1. The following terms provide the basis upon which Owner will pay to ESCO a fixed fee ("Audit, Part A Fee") for ESCO's delivery of a satisfactory Audit, Part A. The sum, not to exceed **\$32,340** will be due to ESCO from Owner, subject to the remaining provisions of this Section 5.
 - 5.2. Reserved.
 - 5.3. Owner reserves the right to terminate this Contract for convenience. Should Owner, during the performance of the Audit, Part A, terminate this Contract for convenience by providing written notice thereof to ESCO, Owner shall pay to ESCO a percentage, equal to the percentage of the completion of the Statement of Work (Section 6 of this Division 2) that is accepted by Owner, of the Audit, Part A Fee.
 - 5.4. The termination rights and remedies in this Section 5 are in addition to those provided in the Standard Terms and Conditions of this Contract.
6. STATEMENT OF WORK. ESCO agrees that the Audit, Part A shall include all items of energy related services or Work (described as "Energy Efficiency Measures" or "EEMs") and related non-energy services or Work set forth in Technical Energy Audit (TEA) and Project Development Plan (PDP) Fee Proposal for April 2, 2020 (aka. Energy Audit Fee Proposal), which services or Work shall form the basis of the Statement of Work related to the Project Development Plan and Phases II and III of this Contract. The Audit, Part A shall also include the following items of services/Work:
 - 6.1. ESCO shall establish allowable cost and savings factors for energy related services/ Work for consideration by Owner as follows:
 - 6.1.1. Savings estimates may include as mutually agreed to between Owner and ESCO:
 - 6.1.1.1. Energy, water and operational savings.
 - 6.1.1.2. Savings resulting from fuel switching.
 - 6.1.1.3. Outside labor cost savings, including maintenance contracts.
 - 6.1.1.4. Other out-of-pocket cash savings identified by ESCO and specifically approved by Owner.
 - 6.1.1.5. Owner material/ commodity savings, including scheduled replacement of parts.

- 6.1.1.6. Owner in-house labor costs.
- 6.1.1.7. Maintenance savings.
- 6.1.1.8. Owner deferred maintenance cost.

- 6.2. ESCO shall collect data and background information from Owner concerning Facility operation and energy use for the most recent two years prior to the Commencement Date of this Contract. Data collection shall include without limitation, the following:
- Facility area (square footage)
 - Construction date of Facility and major additions thereto
 - Utility company invoices
 - Occupancy and usage information
 - Description of all energy-consuming or energy-saving equipment used in the Facility, as available
 - Description of energy management procedures utilized in the Facility
 - Description of any energy-related improvements made or currently being implemented
 - Description of any changes in structure of the Facility or energy-using or water-using equipment
 - Description of future plans regarding Facility modifications or equipment modifications and replacements
 - Plans and Specifications, as available (may include mechanical, plumbing, electrical, building automation and temperature controls, structural, architectural, modifications, and remodel Plans and Specifications related to the Facility.)
 - Original construction submittals, shop drawings, balancing reports, commissioning reports, and factory data (Specifications, pump curves, etc.), as available
 - Operating engineer logs, maintenance work orders, etc., as available
 - Records of maintenance expenditures on energy-using equipment, including service contracts, as available
 - Prior energy audits or studies
- 6.3. Owner agrees to furnish ESCO, upon request, accurate and complete data and information, to the extent reasonably available. Where information is not available from Owner, ESCO shall collect such information through the Facility inspection, staff interviews, and utility company interviews. ESCO agrees to work diligently to assess the validity of the information provided and to confirm or correct the information as needed.
- 6.4. ESCO shall perform an inspection survey of the Facility that shall include the following:
- 6.4.1. Interviews with the Facility manager, maintenance staff or others regarding:
 - Facility operation, including energy management procedures
 - Equipment maintenance program and problems
 - Comfort problems and requirements
 - Equipment reliability
 - Projected equipment needs
 - Occupancy and use schedules for the Facility and specific equipment
 - Facility improvements, past and planned
 - 6.4.2. Inspections of the major energy-using equipment at the Facility, including equipment related to:
 - Lighting (indoor and outdoor)
 - Heating and heat distribution systems
 - Cooling systems

- Automatic temperature control systems
 - Air distribution systems
 - Outdoor ventilation systems
 - Exhaust systems
 - Hot water systems
 - Electric motors, transmission and drive systems
 - Special systems (computer equipment, etc.)
 - Other energy using systems
 - Water consuming systems (cooling towers, restroom fixtures, water fountains, etc.)
- 6.4.3. Performance of surveys outside of normal business hours, including "late-night" or weekend surveys if ESCO deems them necessary (but only with the approval and escort of Owner).
- 6.4.4. Diligent performance of the services under this Section 6.4 to assess the validity of information provided and to confirm or correct the information as needed.
- 6.4.5. Owner will allow ESCO reasonable access to Facility staff to ensure understanding of existing systems.
- 6.5. ESCO shall establish base year consumption and end use consumption estimates. In completing these services, ESCO shall perform the following tasks:
- 6.5.1. Examine utility bills for the past 24 months and establish base year consumption for electricity, gas, water, etc. in terms of energy units (kWh, kW, ccf, therms, gallons, or other units used in bills) and in terms of dollars. Describe the process used to determine the base year (averaging, selecting most representative contiguous 12 months, etc.). Consult with Facility personnel to account for and compensate for any anomalous billings that could skew the base year numbers;
-
- 6.6. ESCO shall analyze each EEM as follows:
- 6.6.1. ESCO shall consider technologies in a comprehensive manner, including, but not limited to: lighting systems; heating, ventilating, air conditioning equipment, and distribution systems; controls systems; renewable energy systems; building envelope; motors; kitchen equipment; pools; or other special equipment.
- 6.6.2. For each EEM, ESCO shall use its best judgment regarding the employment of instrumentation and recording duration so as to achieve an accurate and faithful characterization of energy use.
- 6.7. ESCO shall prepare a preliminary analysis of potential EEMs as follows:
- 6.7.1. ESCO shall identify EEMs which appear in the judgment of ESCO to be cost effective and therefore warrant detailed analysis.
- 6.7.2. For each EEM, ESCO shall prepare a preliminary estimate of energy cost savings including a description of analysis methodology, supporting calculations and assumptions used to estimate savings. ESCO shall use current energy costs and those expected in five years to provide a range of potential energy savings.
- 6.7.3. Where loading or usage are highly uncertain, including variable loads such as cooling, ESCO shall use its best judgment or take direction from Owner to use spot measurements or short-term monitoring.
- 6.7.4. ESCO shall identify EEMs that ESCO evaluated but does not recommend and shall explain the basis for rejecting these measures.

- 6.7.5. Potential EEMs shall address the following:
- Comfort and maintenance issues
 - Energy use, loads, proper sizing, efficiencies and hours of operation
 - Current operating condition
 - Remaining useful life of equipment to be replaced
 - Implications of system replacement
 - Hazardous materials and other environmental concerns associated with EEMs
 - Owner's future plans for equipment replacement or Facility renovations
 - Facility operation and maintenance procedures that could be affected.
- 6.8. ESCO shall prepare a summary including the following:
- Information from Owner contacts.
 - Summary table of recommended EEMs, with the estimated design and construction costs for each EEM, annual maintenance costs, the first year cost avoidance (in dollars and energy units), and annual energy savings.
 - Summary of annual retrofit energy use and costs related to base year use and costs.
 - Calculation of annual savings expected if all recommended EEMs are implemented at current energy rates and those expected in five years.
 - General description of the existing Facility and its mechanical and electrical systems.
 - Discussion of EEMs considered but not investigated in detail.
 - Preliminary analysis of applicable regulations including a code analysis as they pertain to the EEMs.
 - Complete appendices including identification of data used to prepare analyses and data collection methods.
 - Proposed Project schedule showing significant milestones.
 - Conclusions and recommendations.
- 6.9. ESCO shall provide a written description of each recommended EEM including:
- 6.9.1. General description.
- 6.9.2. Existing conditions.
- 6.9.3. Recommendations. Include a discussion of Facility operations and maintenance implications of EEM installation/implementation.
- 6.9.4. Base year consumption and a description of how it was established.
- 6.9.5. Savings calculations
- 6.9.5.1. Base year energy use and cost.
 - 6.9.5.2. Post-retrofit energy use and cost.
 - 6.9.5.3. Savings estimates including analysis methodology, supporting calculations and assumptions used.
 - 6.9.5.4. Savings estimates must be limited to savings allowed by Owner as described above.
 - 6.9.5.5. Percent cost-avoidance projected.
 - 6.9.5.6. Describe impact of energy rate increases (those expected in five years).
 - 6.9.5.7. Explanation of how savings duplication or interaction between retrofit options is avoided.
 - 6.9.5.8. Operational savings, including calculations and descriptions.

- 6.9.5.9. A computer simulation shall not be used as part of the Audit, Part A. It may be used as part of the Project Development Plan if requested by Owner or recommended by ESCO.
- 6.9.5.10. Calculations, formulas, assumptions and key data shall be stated.
- 6.9.5.11. Preliminary measurement and verification plan, which shall describe how each EEM is to be measured and verified (e.g., stipulated by contract, utility bill analysis, end-use measurement and calculation, etc.).
- 6.10. Reserved.
- 6.11. ESCO shall develop recommendations, estimated costs and/or cost reductions, and considerations for incorporating sustainable practices into the Project. Such practices may include the following:
 - Construction debris reuse and/or recycling
 - Purchasing products that are made from environmentally attractive materials, are available locally, reduce environmental impacts during construction and building operation, and that contribute to a safe, healthy indoor environment.
- 6.12. ESCO shall meet with Owner to:
 - 6.12.1. Review the energy related services/ Work proposed in Section 6.8, and assemble a package of options compatible with Owner's budget and to establish Facility improvement goals to be carried forward into the Project Development Plan;
 - 6.12.2. Review the non-energy related services/Work and describe a package compatible with Owner's budget and Facility improvement goals.
 - 6.12.3. ESCO shall record revisions to the Audit, Part A as requested and approved by Owner. These revisions will be retained for use in the Project Development Plan.
- 6.13. Describe the interrelationship of the energy and non-energy related services/ Work in the Project.
- 6.14. ESCO shall prepare a project cost estimate based on Owner-selected energy and non-energy related services/ Work. This estimate shall be done in a format agreed upon by ESCO and Owner. The estimate shall include but not be limited to the following:
 - 6.14.1. Contract Price including the following:
 - 6.14.1.1. Guarantee Maximum Price comprised of the following items:
 - 6.14.1.1.1. The Cost of the Work
 - 6.14.1.1.2. Performance bond and payment bond costs
 - 6.14.1.1.3. A not to exceed contingency
 - 6.14.1.2. Audit and development fee comprised of the Audit, Part A Fee and the Project Development Plan Fee
 - 6.14.1.3. Design fee
 - 6.14.1.4. Project management/ Construction management costs
 - 6.14.1.5. ESCO overhead and profit
 - 6.14.1.6. Systems Start-up and Commissioning Fee
 - 6.14.1.7. Training Services Fee
 - 6.14.1.8. Measurement and Verification Services Fee
 - 6.14.1.9. Energy Cost Savings Guarantee Fee

- 6.15. ESCO and Owner must negotiate all markups and costs prior to proceeding with Phase II of the Contract.

ESCO:	_____	OWNER:	_____
	Signature		Signature
By	<u>Ron Haxton</u>	By	<u>Adam Brown</u>
Title	<u>Vice President, Northwest Region</u>	Title	<u>City Manager</u>
Date	_____	Date	_____
Federal I.D. #:	<u>04-3512838</u>		_____

ENERGY SAVINGS PERFORMANCE CONTRACT
DIVISION 3 – PHASE 1, PART B: PROJECT DEVELOPMENT PLAN

1. COMMENCEMENT DATE: As provided in Section 4.2 of Division 1 of this Contract, the Project Development Plan shall commence on the date Owner issues a Notice to Proceed for this Project Development Plan.
2. SUBSTANTIAL COMPLETION (DELIVERY OF PROJECT DEVELOPMENT PLAN): ESCO shall perform and provide the Project Development Plan contemplated by this Division 3 of the Contract in accordance with the Statement of Work described at Section 6 below. ESCO agrees to complete and present to Owner a final Project Development Plan within 120 business days from Owner's issuance of the Notice to Proceed for this Phase of this Contract.
3. RESERVED.
4. CONTRACT DOCUMENTS. For the purposes of the contractual obligations set forth in this Division 3, all of the Contract Documents described at Section 2 of Division 1 are hereby incorporated by this reference.
5. COMPENSATION
 - 5.1. The following terms provide the basis upon which Owner will pay to ESCO a fixed fee ("Project Development Plan Fee") for ESCO's delivery of a satisfactory Project Development Plan. The sum of **\$3,000** will be due to ESCO from Owner, subject to the terms of this Section 5 and the other provisions of this Contract. If at the time Owner and ESCO enter into this Contract they are unable to determine or agree to the amount of the Project Development Plan Fee, they agree to negotiate in good faith and use their best efforts to agree on the amount of the Project Development Plan Fee during or after the Audit, Part A and the Project Development Plan Fee shall be added by amendment to this Contract.
 - 5.2. Reserved.
 - 5.3. Owner reserves the right to terminate this Contract for convenience. Should Owner, during the performance of the Project Development Plan, terminate this Contract for convenience by providing written notice thereof to ESCO, Owner shall pay to ESCO a percentage, equal to the percentage of the completion of the Statement of Work (Section 6 of this Division 3) that is accepted by Owner, of the Project Development Plan Fee.
 - 5.4. Should ESCO determine at any time during the performance of the Project Development Plan that sufficient savings cannot be attained to meet Owner's terms as set forth in the RFP and this Contract, ESCO may terminate this Contract by written notice to Owner. In this event Owner shall have no obligation to pay, in whole or in part, the Project Development Plan Fee, any amount for the Design and Construction Contract, any amount for Phase III of the Project, or any other amount due under this Contract unless Owner is obligated to pay part or all of the Audit, Part A Fee.
 - 5.5. The termination rights and remedies in this Section 5 are in addition to those provided in the Standard Terms and Conditions of this Contract.
6. STATEMENT OF WORK/ PROJECT DEVELOPMENT PLAN. Based on the Energy and Non-Energy-related work selected by Owner from the Audit, Part A, ESCO shall prepare a Project Development Plan that shall include the following: concept design development documents as necessary unless otherwise specified; final Schedules 1 through 6 (described more particularly below), and draft Schedules 7 through 10 for the Design and Construction Contract. Documents shall reflect consideration of the availability of materials, equipment and labor, construction sequencing and scheduling, acknowledging the requirement that the work be

accomplished after normal working hours, economic analysis of construction and operations, Owner's safety and maintenance requirements, and sustainability in design and construction practices. The Project Development Plan shall be the basis for the Statement of Work for Phases II and III of this Contract and Project.

- 6.1. Design development documents shall include:
 - 6.1.1. Floor plans of all spaces to receive new equipment.
 - 6.1.2. Key plans showing the location in the building of relevant spaces.
 - 6.1.3. Identification of all fixed equipment to be installed under this Contract and the Design and Construction Contract.
 - 6.1.4. Legend showing all symbols used on the drawings.
 - 6.1.5. Outline specifications, catalog cuts and samples of specified items.
 - 6.1.6. Reflected ceiling development including ceiling grid and all devices that penetrate ceiling (i.e., light fixtures, sprinkler heads, ceiling register or diffusers, etc.).
 - 6.1.7. Analysis of applicable regulations including a code analysis as they pertain to the Project.
 - 6.1.8. During design development, ESCO shall identify issues within their control as designers, specifiers, and constructors that involve "Sustainability" ("Sustainability" means using, developing and protecting resources at a rate and in a manner that enables people to meet their current needs and also provides that future generations can meet their own needs). Sustainability requires simultaneously meeting environmental, economic and community needs). These issues shall be discussed with Owner and decisions shall be made based on the best Sustainability practices and cost-effectiveness. Sustainability issues include analyzing alternative materials and building components to determine which are the most sustainable..
 - 6.1.9. Design development documents shall include electronic data of the floor plans, key plans, legends and anything that is drawn that can be used for future "As-Built" Plans.
- 6.2. ESCO shall prepare the following final documents in anticipation of Phases II and III of this Contract:
 - Schedule 1** Equipment to be installed by ESCO
 - Schedule 2** Calculation of Energy Cost Savings Guarantee
 - Schedule 3** Compensation to ESCO, including Guaranteed Maximum Price ("GMP")
 - Schedule 4** Baseline Energy Consumption
 - Schedule 5** Savings Calculation Formulae; Methodology to Adjust Baseline
 - Schedule 6** Measurement and Verification Plan and Guaranteed Savings Contract Provisions (to be included in the Design and Construction Contract)
- 6.3. ESCO shall prepare a draft of the following documents in anticipation of Phases II and III of this Contract:
 - Schedule 7** Systems Start-Up and Commissioning; Operating Parameters of Installed Equipment
 - Schedule 8** ESCO's Training Responsibilities
 - Schedule 9** Owner's Maintenance Responsibilities
 - Schedule 10** Facility Maintenance Checklists
- 6.4. ESCO shall meet with Owner to:
 - 6.4.1. Review the design development documents for energy and non-energy related work to ensure that design and resulting project cost is compatible with Owner's investment and Facility improvement goals.

- 6.4.2. Review Schedules 1 through 6. ESCO is required to provide final versions of Schedules 1 through 6; however, ESCO shall provide proposed Schedules 1 through 6 for review by Owner, and ESCO shall then revise Schedules 1 through 6 as required by Owner or as negotiated between Owner and ESCO to arrive at final versions of Schedules 1 through 6 acceptable to Owner, as part of the Project Development Plan. More than one version of one or more of these Schedules may be necessary in arriving at accepted final versions. These Schedules must fully address and include their respective subject matters, terms and provisions as identified in their titles and in the RFP. Schedule 6 (the Measurement and Verification Plan and Guarantee Savings Contract Provisions to be included in the Design and Construction Contract) must address and include those matters, terms and conditions as noted above and must be agreed to and finalized as part of the Project Development Plan under this Division 3 of this Contract so that those terms and provisions can be included or incorporated in the Design & Construction Contract at or before its execution.
- 6.4.3. Review draft Schedules 7 through 10. ESCO is required to provide drafts of Schedules 7 through 10, which shall fully address and include their respective subject matters, terms and provisions as identified in their titles and in the RFP. ESCO shall revise these Schedules as required by Owner or as negotiated between Owner and ESCO to arrive at drafts of these Schedules that are acceptable to Owner as part of the Project Development Plan under this Division 3 of this Contract. Schedules 7 through 10 will be finalized as part of Phase II.
- 6.5. ESCO shall record revisions to Project Development Plan requested by Owner.

7. COMPLETION OF SCHEDULE 3

As part of the Project Development Plan, ESCO shall complete Schedule 3, which shall include the establishment of the Contract Price for the remaining design services, project management services, construction management/construction administration services and construction services and work to implement and complete the Project, and that Contract Price is to be made up of the following components:

- 7.1. The GMP for the construction services and work for the Project shall be a firm fixed price in an amount to be established during the completion of the Project Development Plan, and shall include the following items:
- 7.1.1. Cost of the Work. The "Cost of the Work", as that term is defined in Section 11 of the Design and Construction Contract, shall be included in the GMP.
 - 7.1.2. Bonding.
 - 7.1.3. Not to Exceed Contingency. The GMP is based on incomplete design documents. In developing the GMP, ESCO shall identify and include such contingencies as may be necessary to pay for unforeseen elements that are required for a complete, fully functional facility. The GMP includes a not to exceed contingency amount, in an amount to be determined, which is available for ESCO's exclusive use for cost that are incurred in performing the construction Work that are not included in a specific line item or the basis for a change order under the Contract Documents (the "Contingency"). By way of example, and not as a limitation, such costs include trade buy-out differentials, overtime, acceleration, costs in correcting defective, damaged or nonconforming Work, design errors or omissions and subcontractor defaults. The Contingency is not available to Owner for its use in completion of the Project, including changes in the scope of the Project or any other item which would enable ESCO to increase the GMP under the Contract Documents. ESCO shall provide Owner with notice of all anticipated changes against the Contingency, consistent with the terms of the Design and Construction Contract. In the event that a

- portion of the Contingency is not utilized by ESCO during completion of the Project, that savings shall accrue to Owner consistent with Section 7.1.7.
- 7.1.4. Acceptance of GMP. Owner's written approval of the Project Development Plan provided by ESCO under this Contract, and Owner's full execution of the Phase II Design and Construction Contract will signify the formal acceptance of the GMP by Owner. The full performance and payment security required by the RFP, the General Conditions, and the Design and Construction Contract shall be equal to the GMP.
- 7.1.5. Failure to Furnish an Acceptable GMP. If ESCO is unable to furnish a GMP within Owner's budget, or if Owner determines at any time in its sole discretion, that the Parties may fail to reach a timely agreement on a GMP acceptable to Owner, Owner may terminate this Contract. ESCO specifically agrees that Owner shall not be liable for any damages whether actual, consequential or otherwise for termination of this Contract under this provision. Provided, however, that if not already paid, Owner will pay ESCO the Audit, Part A Fee and the Project Development Plan Fee if it is due and owing.
- 7.1.6. Following Acceptance of GMP. Upon acceptance of the GMP by Owner, Owner and ESCO shall enter into the Design and Construction Contract. The full performance and payment security required by the RFP, the General Conditions and the Design and Construction Contract shall be increased as needed to include any additive amendments to the GMP.
- 7.1.7. Owner Savings. If the actual and final Cost of the Work plus the Contingency and Bond is less than the Guaranteed Maximum Price For Construction Work, as may be amended, the difference shall accrue to Owner.
- 7.2. Audit and Development Fee. A fixed fee in the aggregate amount of the Audit, Part A Fee and the Project Development Fee for completing the TEA and PDP in Phase 1, Parts A and B respectively.
- 7.3. The "Design Fee" for preparation of Construction Documents shall be a firm fixed price, in an amount to be established in the Project Development Plan, to provide those services defined in Section 5.3 of the Design and Construction Contract.
- 7.4. Project Management/ Construction Management/ Construction Administration Services. All project management/ construction management/ construction administration services for the Project shall be included.
- 7.5. ESCO's Fee. ESCO's fee ("Overhead and Profit") shall be included as a percentage (%) of the Cost of the Work as described in Section 11 of the Design and Construction Contract.
- 7.6. The "Systems Start-up and Commissioning Fee" shall be a firm fixed price, in an amount to be established in the Project Development Plan, to provide those services as agreed upon by ESCO and Owner, based on the Proposal presented by ESCO in the Project Development Plan.
- 7.7. The "Training of Owner's Operations & Maintenance Personnel Fee" shall be a firm fixed price, in an amount to be established in the Project Development Plan, to provide those services as agreed upon by ESCO and Owner, based on the Proposal presented by ESCO in the Project Development Plan.
- 7.8. The "Measurement and Verification Services ("M & V") Fee" shall be an annual price, in an amount to be established in the Project Development Plan, to be paid upon completion of the M & V annual report as agreed upon by ESCO and Owner, based on the proposal presented by ESCO in the Project

Development Plan. The M & V services shall run parallel with the Energy Savings Guarantee provisions of the Design and Construction Contract and shall end when those Energy Savings Guarantee provisions end.

7.9. The “Energy Savings Guarantee Contract Fee” shall be an annual price, in an amount to be established in the Project Development Plan, to be paid upon ESCO’s substantiation that the guaranteed savings have been achieved in the preceding 12 month period by ESCO’S Measurement and Verification services. The energy savings contract provisions shall be as agreed upon by ESCO and Owner in the final Schedule 6 (as provided in Section 6.4.2 of this Division 3) and included in the Design and Construction Contract.

7.9.1. If, at the end of each 12 month period, the guaranteed savings have not been achieved, ESCO shall pay to Owner the difference between the actual amount saved and the guaranteed amount.

7.9.2. The term of these energy savings contract provisions of the Design and Construction Contract shall be 1 year, unless terminated by Owner before that time or extended for consecutive annual savings terms up to the financing term of the project. The Owner may terminate the Design and Construction Contract (as to these energy savings contract provisions) at any time. If cancellation occurs, Owner is responsible for payment to ESCO for the work completed.

ESCO:	_____	OWNER:	_____
	Signature		Signature
By	<u>Ron Haxton</u>	By	<u>Adam Brown</u>
Title	<u>Vice President, Northwest Region</u>	Title	<u>City Manager</u>
Date	_____	Date	_____
Federal I.D. #:	<u>04-3512838</u>		_____

ENERGY SAVINGS PERFORMANCE CONTRACT
EXHIBIT A
PHASE 2: PART A DESIGN AND CONSTRUCTION CONTRACT

THIS **PHASE 2 DESIGN AND CONSTRUCTION CONTRACT** is between City of Ontario, (the “Owner”), and:

Company	Ameresco, Inc.	Contract #	8851000
Address	9700 SW Capitol Hwy, Suite 110	PCA Project/Phase	One
City, State Zip	Portland, OR 97219	Tax ID #	04-3512838
Phone	503.290.1285	Date	TBD

(the “ESCO” or “Consultant”) (collectively Owner and Consultant are referred to as the "Parties"). This Contract is for all Services related to completion of the project more particularly described as follows (the “Project”):

The scope for this, phase one, project is at the city of Ontario, Oregon located at 444 SW 4th Street Ontario Oregon 97914 energy efficiency upgrades for lighting, water, select mechanical and electrical systems, process controls, and other related upgrades. This phase of the project includes the list of facilities below which have been identified by the City of Ontario.

• City Hall/City Hall Annex • Fire Stations • Public Works • Parks • WWTP • WTP	• Roadway Lighting (streetlights) • Lift Stations • Decorative Streetlighting • Misc. Facilities for Lighting
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The work to be performed under this contract shall commence as soon as the ESCO has been officially notified to proceed (the “Effective Date”). No Services shall be performed prior to the Effective Date. The Contract shall expire, unless otherwise terminated or extended, on February 1, 2024. The expiration or termination of the Contract shall not extinguish, prejudice, or limit either Party’s right to enforce this Contract with respect to any default or defect in performance that has not been cured.

1. RESERVED.
2. SUBSTANTIAL COMPLETION DATE: August 31, 2022. See requirements in Sections 18.2 and 18.3 of this Design and Construction Contract.
3. DEFINITIONS. The key, defined terms used in this Design and Construction Contract, are set forth at Section 1 of Division 1 of the Energy Savings Performance Contract between Owner and ESCO, with an Effective Date of April 30, 2020 (the “ESPC” or the “Contract”) and Section A, State of Oregon General Conditions for Public Improvement Contracts, Exhibit 1A to this Contract (the “General Conditions”), unless defined in the body of this Contract, and in this Section 3 as follows:
 - 3.1. “Construction Work” means the providing of all work, services, construction management services, materials, equipment, transportation, tools, labor and incidentals necessary to complete the construction work described in and reasonably inferred from this Contract and the other Contract

Documents, including but not limited to the services and work set forth in Sections 5.5 and 5.6 of this Design and Construction Contract.

- 3.2. "Contract Time" means any incremental period of time allowed under the Design and Construction Contract to complete any portion of the Work as reflected in the project schedule.
 - 3.3. "Design Services" means all the design services and construction administration services to be performed by ESCO under this Design and Construction Contract and the other Contract Documents, including but not limited to Sections 5.3 and 5.4 of this Design and Construction Contract.
 - 3.4. "Project Management Services" means the project management services that ESCO shall perform throughout the period of performance of this Design and Construction Contract, as more particularly described in Section 5.2 of this Design and Construction Contract.
 - 3.5. "Work" means all Project Management Services, Design Services and Construction Work to be performed by ESCO under this Design and Construction Contract and the other Contract Documents for the Project.
4. CONTRACT DOCUMENTS. The Contract Documents listed at Section 4.1 below are intended to reflect the Parties' understanding of their respective rights and responsibilities concerning completion of the Work under the Design and Construction Contract.
- 4.1. Interpretation. In the event of any inconsistency, conflict, or ambiguity between or among the Contract Documents, the Contract Documents shall take precedence in the following order:
 - 4.1.1. All written modifications, amendments and change orders to this Design and Construction Contract that have been executed by Owner following any required Owner approvals;
 - 4.1.2. This Design and Construction Contract, and all Exhibits, Schedules and Attachments to this Contract, including Exhibit 2A, Supplemental General Conditions to the State of Oregon General Conditions;
 - 4.1.3. The State of Oregon General Conditions (Exhibit 1A hereto);
 - 4.1.4. All design and construction drawings, Plans, Specifications and documents prepared and approved for the Project;
 - 4.1.5. The Contract;
 - 4.1.6. The RFP;
 - 4.1.7. ESCO's Proposal submitted in response to the RFP.
 - 4.2. Ownership of Work Product. All drawings, Plans, Specifications, audits, reports, and other work product required to be delivered by ESCO under this Contract ("Work Product") shall be the exclusive property of Owner. Owner and ESCO intend that such Work Product be deemed "work made for hire." If for any reason the Work Product is not deemed "work made for hire," ESCO hereby irrevocably assigns to Owner all of its right, title and interest in and to any and all of the Work Product, whether arising from copyright, or any state or federal intellectual property law or doctrine. ESCO shall execute such further documents and instruments as Owner may reasonably request in order to fully vest such rights in Owner. ESCO forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

- 4.2.1. ESCO, notwithstanding other conditions in this Section 4.2, shall have, with Owner's written permission, the right to utilize such Work Product on its brochures or other literature that it may utilize for marketing and sales, and in addition, ESCO may use standard line drawings, specifications and calculations on other unrelated projects.
- 4.2.2. If Owner reuses or modifies the Work Product without ESCO's involvement or prior written consent, Owner shall to the extent permitted by Article XI, Section 7, of the Oregon Constitution and by the Oregon Tort Claims Act, indemnify ESCO against liability for damage to person or property arising from Owner's reuse or modification of the Work Product, provided Owner shall not be required to indemnify ESCO for any such liability arising out of or related to the wrongful or negligent acts of ESCO or ESCO's employees or agents.

5. ESCO's SERVICES

5.1. General.

- 5.1.1. ESCO agrees that the Project Development Plan package of Energy related items, Non-Energy-related items and water-saving measures, and the Design Development Documents approved by ESCO and Owner shall serve as the basis for the Statement of Work for Phase II (as described in Section 3 of Division 1 of the Contract.)
- 5.1.2. As the Design-Builder for this Project, ESCO shall perform all Project Management Services, Design Services, and Construction Work necessary to complete the Project.
- 5.1.3. ESCO shall obtain at its own expense, and shall maintain in effect for the duration of this Design and Construction Contract, the insurance coverage required both in Section G of the General Conditions and in Section 9.3 of Division 1 of the Contract. Before execution of this Design and Construction Contract, ESCO shall provide to Owner certificates of insurance in compliance with the foregoing insurance provisions that demonstrate the required coverages are in effect and are being maintained for this Design and Construction Contract and the Work and services to be performed hereunder. In addition, before execution of this Design and Construction Contract, ESCO shall provide to Owner a performance bond and a payment bond, as required by Section G.2 of the General Conditions, on the bond forms furnished by Owner (attached hereto as Exhibit 3A). Each bond shall be in the total amount of those elements of the Contract Price for this Design and Construction Contract as provided in Section 9.1.5 below. Notwithstanding any provision to the contrary herein, any payment and performance bonds associated with this Contract guarantee only the performance of the installation portion of this Contract, and shall not be construed to guarantee the performance of: (1) any efficiency or energy savings guarantees, (2) any support or maintenance service agreement, or (3) any other guarantees or warranties with terms beyond one (1) year in duration from the completion of the installation portion of this Contract. In addition, before beginning work, ESCO and all subcontractors shall file and maintain with the Construction Contractors Board the public works bond required by ORS 279C.836.
- 5.1.4. ESCO shall perform all services in good faith and shall perform all Work as expeditiously as is consistent with the highest professional skill, care and the orderly progress of the Work.
- 5.1.5. Within one week after execution of this Design and Construction Contract, ESCO shall submit for Owner's approval a schedule for the performance of the Work, which shall include allowances for periods of time required for Owner's review and for approval by authorities having jurisdiction over the Project. Time limits established by this schedule and approved by Owner shall not, except for reasonable cause, be exceeded by ESCO or Owner.

- 5.1.6. ESCO shall in good faith provide Owner with the necessary technical documentation for, and assist Owner in the procurement of, any utility rebates or incentives (the “Rebates”) and tax credits (the “Tax Credits”) that may be available for the Project. ESCO estimates the Rebates to be approximately \$25,762.00 and the Tax Credits to be approximately \$0.00. ESCO does not guarantee the specific availability or amount of the Rebates or the Tax Credits.
- 5.1.7. Under Section 6.4.3 of Division 3 of the Contract, ESCO was required to provide drafts of Schedules 7 through 10 as provided in that Section. As part of the services under this Design and Construction Contract, ESCO is required to provide final versions of Schedules 7 through 10. ESCO shall provide proposed final versions of these Schedules for review by Owner, and ESCO shall then revise these Schedules as required by Owner or as negotiated between Owner and ESCO to arrive at final versions of Schedules 7 through 10. More than one version of one or more of these Schedules may be necessary in arriving at accepted final versions.
- 5.1.8. Reserved
- 5.2. Project Management.
 - 5.2.1. ESCO shall appoint an ESCO staff person as ESCO’s Project Manager (the “EPM”, who is identified in Section 6.3 of this Design and Construction Contract) who shall be reasonably available to Owner and who shall have the expertise and experience required to supervise the Work for the duration of the Project. EPM shall communicate regularly with Owner and shall have the authority to act on behalf of ESCO. EPM shall consult with Owner’s Project Manager (the “OPM”) on issues affecting design, construction, Contract performance, Project budget and Project schedule. The EPM may be replaced during the Project only with Owner’s prior consent, consistent with the provisions of Section 6.3 and 6.5 of this Design and Construction Contract.
 - 5.2.2. The EPM shall provide Owner with a status report every two weeks, in which it shall detail the progress of the Work including the following: 1) whether the Work is proceeding according to schedule; 2) any discrepancies, conflicts, or ambiguities in the Contract Documents that require resolution; 3) any safety issues related to the Work; 4) any other matter that requires resolution to ensure timely and cost-effective completion of the Work. At least four working days prior to the scheduled meeting, ESCO shall submit to Owner a list of identified matters that require resolution; any matters that require Owner approvals, and any proposed deviations from the Project schedule.
 - 5.2.3. The EPM shall be the principal contact between the OPM and all other ESCO representatives, and shall be responsible for all communications, including, but not limited to, conveying concerns, decisions and formal actions.
 - 5.2.4. The EPM shall be responsible for maintaining thorough and complete project records and regular briefings to the OPM. The EPM shall coordinate the flow of information, communications and formal Documents so that Owner has the material required for its timely action on policy, design and budget matters. The EPM shall be responsible for transmission of Documentation required for Owner approval or actions.
 - 5.2.5. Owner’s review of, and response to, any of the matters presented above shall not relieve ESCO of its obligation to complete the Work within the Contract Time, and shall not be construed as relieving ESCO of its complete and exclusive control over the means, methods, sequences and techniques for executing the Work.
- 5.3. Design.

Based on approved design development documents generated by ESCO and approved by Owner during the Project Development Plan, and any further adjustments in the scope or quality of the Project or in the construction budget authorized by Owner, ESCO shall prepare, for approval by Owner, Construction Documents.

5.3.1. The Construction Documents must meet the following requirements:

5.3.1.1. ESCO shall provide Specifications that comply with the Construction Specifications Institute's 3-part and 16-division format, shall provide drawings and Plans based on the approved preliminary design documents and shall set forth in detail the architectural, structural, mechanical and electrical construction requirements for the Project.

5.3.1.2. ESCO shall provide Owner with catalog cuts of all specified items, if different than design development documents.

5.3.1.3. ESCO shall provide Owner with in-progress Construction Documents as needed. At the completion of construction ESCO shall supply record drawings, and a copy of the final Construction Documents on a re-recordable compact disk.

5.3.1.4. ESCO shall prepare 95% Construction Documents for review and approval by Owner, and shall continue with preparation of the final Construction Documents, including final Specifications for all authorized Work on the Project, and shall incorporate into those final Construction Documents the comments and any modifications or changes desired by Owner, and any modifications required for compliance with applicable codes, regulations or standards. The resulting final Construction Documents shall be a complete, fully coordinated, integrated package, suitable for use in the construction of the Project, without significant addenda or further clarifications required. All submittals shall be made in accordance with the schedule made pursuant to Section 5.1.5 of this Design and Construction Contract.

5.3.1.5. ESCO shall file all documents required for the approval of governmental authorities having jurisdiction over the Project and shall obtain all necessary permits. In the event that Owner files any permits, ESCO shall assist Owner as Owner deems necessary.

5.3.2. All specified items shall be standard, cataloged, manufactured items or "off the shelf" items. No custom items are to be designed or specified without prior written authorization of Owner. No proprietary or "sole source" items shall be specified. Brand name products may be specified so long as "or approved equal" is included with their specification.

5.3.3. Recycled products shall be used where they are economically feasible. ESCO shall give preference to materials and supplies manufactured from recycled materials under the following conditions:

- The recycled product is available;
- The recycled product meets applicable standards;
- The recycled product can be substituted for a comparable non-recycled product; and
- Recycled product costs do not exceed the costs of non-recycled products by more than five percent.

5.4. Construction Administration Services

5.4.1. GENERAL OFFICE CONSTRUCTION ADMINISTRATION. ESCO shall process submittals, including without limitation, the receipt, review and disposition of shop drawings, product data, and samples. ESCO shall transmit any such submittals to Owner, as required and shall

maintain a master file of submittal communications. ESCO shall keep a submittal log on a spreadsheet program and send a copy to Owner on a weekly basis.

- 5.4.2. INSPECTION COORDINATION. ESCO shall provide all necessary services relating to independent inspection and testing required by applicable regulatory agencies, or relating to other inspection, testing and commissioning of the systems and equipment installed on the Project site as part of the Work, including but not limited to the following:
administration and coordination of field testing as required by the Contract Documents; establishing the scope, standards, procedures and frequency of testing and inspections required to complete the Work; arranging for testing and inspections; notifying inspection and testing agencies of status of any portion of the Work requiring testing and inspection; evaluating compliance by testing and inspection agencies with required scope, standards, procedures and frequency; review of reports on inspections and tests; notifying Owner of any observed deficiencies in the Work; and, providing copies of all reports on inspections and tests, as well as copies of all correspondence from the testing and inspection agencies, to Owner.
- 5.4.3. SUPPLEMENTAL DOCUMENTS. ESCO shall prepare, reproduce and distribute supplemental drawings, Plans and Specifications and shall issue interpretations in response to requests for clarification by Owner's Project Manager, or subcontractors or as required by construction exigencies. ESCO shall be responsible for notifying the appropriate parties of Owner's instructions and of changed requirements and schedule revisions.
- 5.4.4. CHANGE REQUESTS/CHANGE ORDERS, requested or approved by Owner: ESCO shall prepare, reproduce and distribute drawings, Plans and Specifications to describe Work to be added, deleted or modified; review proposals from subcontractor(s) for reasonableness of quantities and costs of labor and materials; review and recommend changes in time for substantial completion; assist in preparation of Owner approved modifications to the GMP; coordinate communications, approvals and notifications. ESCO shall keep a log of all change requests on a spreadsheet program and copy Owner bi-weekly.
- 5.4.5. PAYMENT REVIEW. ESCO shall evaluate and certify applications for payment and shall maintain detailed records supporting approved applications for payment.
- 5.4.6. PROJECT CLOSEOUT. ESCO shall verify that work is sufficiently complete, in accordance with the Contract Documents, to permit occupancy or utilization for the use for which it is intended. ESCO shall coordinate a detailed inspection with Owner's representative to ensure that the Work conforms to the Contract Documents; to verify the list submitted by the subcontractor(s) of items to be completed or corrected; to determine the amounts to be withheld until final completion; to issue Certificates of Substantial Completion; to perform inspection(s) upon notice by the sub-contractor(s) that the Work is ready for final inspection and acceptance; to notify Owner and subcontractor(s) of deficiencies found in follow-up inspection(s), if any; to perform final inspection with Owner's representative to verify final completion of the Work; receipt and transmittal of warranties, affidavits, receipts, releases and waivers of lien or bonds indemnifying Owner against liens; and issuance of Final Certificate(s) for Payment.
- 5.4.7. RECORD DRAWINGS services consisting of: Preparation of record drawings on reproducible Mylar, and on a re-recordable compact disk, based on information furnished by the subcontractors including significant changes in the work made during construction including modifying the floor plan layouts including partitions, furniture and equipment; transmittal of record drawings and general data, appropriately identified, to Owner and others as directed.

- 5.4.8. WARRANTY REVIEW: Prior to the expiration of the warranties of any subcontractors and manufacturers, ESCO and Owner's representative shall perform a warranty review, documenting defects or deficiencies in installation, materials, systems and equipment and preparing instructions to the sub-contractors and manufacturers for correction of noted defects. The ESCO shall then follow through to ensure that each defect or deficiency is appropriately addressed and verify that an appropriate remedy has been accomplished. ESCO shall copy Owner on the correspondence related to these warranty issues.
- 5.5. Construction Services/Construction Management Services.
- 5.5.1. ESCO shall have complete control over and charge of and shall be responsible for construction means, methods, techniques, sequences or procedures, and for safety precautions and programs in connection with the Work on the Project, so that, upon completion of the Work, the Project shall be structurally sound and shall be a complete, fully-functioning facility suitable for the purposes for which it is intended. These roles are solely ESCO's responsibility under this Design and Construction Contract. ESCO shall be fully responsible for maintaining construction schedules and for any failure to carry out the Work in accordance with the Contract Documents. ESCO shall be deemed to have complete control over or charge of acts or omissions of all ESCO employees, agents, design professionals, and construction managers, as well as subcontractors, or their agents or employees, or of any other persons performing portions of the Work.
- 5.5.2. ESCO's responsibility to provide the Work under this Design and Construction Contract commences with the execution of this Design and Construction Contract and terminates upon ESCO's satisfaction of all obligations set forth in this Design and Construction Contract including those enumerated at Section K of the General Conditions.
- 5.5.3. ESCO shall provide, supervise and administer all Construction Work as set forth in this Design and Construction Contract and in the General Conditions unless otherwise provided in this Design and Construction Contract.
- 5.5.4. ESCO's duties, responsibilities and limitations of authority shall not be modified or extended without the express written agreement of the Parties and any required Owner approvals.
- 5.5.5. Except as may otherwise be provided in the Contract Documents or when direct communications have otherwise been specifically authorized, Owner shall conduct all communications concerning the Work through the EPM.
- 5.5.6. Subject to the right to suspend and terminate as provided in Section J of the General Conditions, in no event shall the existence of any claim, dispute or question constitute a justification for either party to suspend or terminate the progress of the Work, and both parties, in such event, shall continue to prosecute the Work and perform under this Design and Construction Contract diligently, and shall resolve the claim, dispute or question by agreement, mediation or other means.
- 5.5.7. At its own expense, ESCO shall correct Construction Work which does not conform to the Construction Documents.
- 5.5.8. ESCO warrants to Owner that materials and equipment incorporated in the Construction Work shall be new unless otherwise specified, and that the Construction Work shall be of good quality, free from faults and defects, and in conformance with the Contract Documents.
- 5.5.9. ESCO shall pay all sales, consumer, use and similar taxes and shall secure and pay for building and other permits and governmental fees, licenses and inspections necessary for the proper execution and completion of the Construction Work which are either customarily

secured or are legally required. Owner shall compensate ESCO for the actual cost of approved changes in the Construction Work including the cost of permits, licenses, inspections or governmental fees incurred by ESCO as a direct result of this Project; provided, however, ESCO shall pay all costs of this Project that result from errors or defects in the design of the Project or in the Construction Work.

- 5.5.10. ESCO shall give notices and comply with all laws, ordinances, rules, regulations and lawful orders of public authorities relating to the Project, including but not limited to compliance with energy conservation design measures required under ORS 276.900 to 276.915 and rules adopted pursuant to those statutes.
- 5.5.11. ESCO shall be responsible to Owner for the completion of the Construction Work in accordance with this Design and Construction Contract.
- 5.5.12. ESCO shall keep the premises free from accumulation of waste materials or rubbish caused by ESCO's operations. At the completion of the Construction Work, ESCO shall remove from and about the Project all of ESCO's tools, construction equipment, machinery, surplus materials, waste materials and rubbish.
- 5.5.13. ESCO shall prepare Change Orders for Owner's approval and execution and shall have authority to make minor changes in the design of the Project and Construction Work consistent with the intent of the Project, not involving an adjustment in the contract sum or an extension of the contract time. ESCO shall promptly inform Owner, in writing, of all minor changes in the design of the Project and the Construction Work.
- 5.5.14. ESCO shall notify Owner when the Construction Work or an agreed upon portion thereof is substantially completed by issuing a Certificate of Substantial Completion which shall establish the date of Substantial Completion; state the responsibility for each party for security, maintenance, heat, utilities, and damage to the Construction Work; include a list of items to be completed or corrected; and fix the time within which ESCO shall complete items listed
- 5.5.15. ESCO shall maintain in good order at the site one true and correct record copy of the drawings, Plans, Specifications, product data, samples, shop drawings, Change Orders, and other modifications, marked currently to record changes made during construction. ESCO shall deliver in-progress construction drawings and Plans to Owner upon completion of the design and construction of the Project, and prior to final payment. The record copy shall be based solely on information obtained by ESCO.
- 5.5.16. For this Project, the provisions of ORS 279C.800 to 279C.870, relative to prevailing wage rates, shall apply, and ESCO and all subcontractors shall comply with the foregoing requirements and the related requirements as provided in Section C of the General Conditions, including but not limited to the requirement to pay workers at not less than the specified minimum hourly rate of wage. A copy of the Oregon Bureau of Labor and Industries (BOLI) current prevailing wage rate publication applicable to this Project is appended to this Contract as Exhibit 4A and is incorporated herein by this reference. The ESCO's signature on this Design and Construction Contract constitutes a certification that ESCO agrees to be bound by such rates and the foregoing requirements for this Project, and that ESCO agrees to the attachment of a copy of the applicable BOLI publication. (A copy of the then applicable BOLI prevailing wage rates was referenced in the RFP and incorporated into the RFP, together with the BOLI web address where they were available. However, Owner reserves the right to require that the applicable BOLI wage rates current at the time this Design and Construction Contract is executed be attached to, or incorporated into, and apply to this Design and Construction Contract).

5.5.17. Pursuant to ORS 279C.825, the PWR fee shall be paid by Owner according to the administrative rules of the Commissioner of BOLI.

5.6. Protection of Persons and Property.

5.6.1. ESCO shall be fully responsible for initiating, maintaining and providing supervision of safety precautions and programs in connection with the Work.

5.6.2. ESCO shall take reasonable precautions to ensure the safety of and shall provide reasonable protection to prevent damage, injury or loss to: 1) employees of Owner present on the Work site, employees of ESCO, and other persons who may be affected; 2) the Work and materials and equipment to be incorporated therein; and 3) other property at, or adjacent to the Work site.

5.6.3. ESCO shall be liable for damage or loss to property at the site caused by the negligence of ESCO, or anyone directly or indirectly employed by ESCO, or by anyone for whose acts it may be liable, except to the extent that damage or loss is attributable to the acts or omissions of Owner. This subparagraph shall in no way affect the applicability or coverage of the insurance required in Section G of the General Conditions.

5.7. Additional Services. All other services requested by Owner and mutually agreed to in writing by Owner and ESCO, including, among others, changes in the Work exceeding that described in Section 5 of this Design and Construction Contract, shall constitute additional services and shall be paid by Owner as provided in the written agreement applicable thereto.

6. RELATIONSHIP BETWEEN AND ROLES OF THE PARTIES

6.1. Owner Responsibilities.

6.1.1. Owner shall designate a representative authorized to act on Owner's behalf with respect to the Project. Owner or such authorized representative shall examine documents submitted by ESCO and shall promptly render decisions pertain thereto to avoid delay in the orderly progress of the Work. Owner shall render approval of formal submittals on the Schedule of Performance within ten (10) calendar days after receipt of submittals from ESCO.

6.1.2. If Owner observes or otherwise becomes aware of a fault or defect in the Work or nonconformity with the design documents or Construction Documents, Owner shall give prompt written notice thereof to ESCO.

6.1.3. Owner shall furnish required information and services and shall promptly render decisions pertaining thereto to avoid delay in the orderly progress of the design and construction.

6.1.4. No approval or acceptance of Construction Documents or changes herein given by or on behalf of Owner shall establish any warranty or representation on the part of Owner that such Construction Documents or changes are technically sound, complete or correct.

6.1.5. Owner shall communicate with the design professionals only through ESCO's Representative except in matters of public safety.

6.2. Independent Contractor. ESCO is an independent contractor and not an officer, employee, or agent of Owner as those terms are used in ORS 30.265.

6.3. ESCO's Key Personnel. ESCO's project staff shall consist of the following personnel. ESCO's personnel identified herein shall be considered unique, key personnel, and shall not be replaced during the Project without the written permission of Owner, which shall not be unreasonably withheld.

6.3.1. Ron Haxton shall be ESCO's Principal-in-Charge.

- 6.3.2. Kurt Lundgren shall be the EPM and shall participate in all meetings throughout the Project term.
- 6.3.3. The design professional identified in Section 4.5 of Division 1 of the Contract, namely Wyeth Crawford, shall be ESCO's design professional that shall provide all design services or design services oversight provided for in this Design and Construction Contract.
- 6.3.4. Wyeth Crawford shall be ESCO's on-site job superintendent for the Construction Work throughout the Project.

6.4. Design Builder's Consultants/Subcontractors. ESCO shall be assisted by the consultants and/ or subcontractors set forth in Exhibit 5A hereto. The Parties acknowledge and agree that the consultants have been reviewed and approved by Owner, prior to the execution of this Design and Construction Contract.

6.5. Replacement of ESCO's Project Team. If ESCO intends to substitute key personnel, consultants, or subcontractors, a request must be given to Owner at least 10 days prior to the intended time of substitution. When Owner has approved replacements, ESCO shall provide a transition period of at least 10 working days during which the original and replacement personnel shall be working on the Project concurrently, if feasible. Once a replacement for any key personnel, consultants or subcontractors is authorized, further replacement shall not occur without the written permission of Owner.

7. PAYMENT OF COMPENSATION

Owner shall make payments to ESCO for those portions of the Contract Price (as defined in Section 9 herein) pertaining to the Construction Work in the manner set forth at Section E "Payments" of the General Conditions. Owner shall compensate ESCO for design, engineering and all other contracted Work pursuant to the terms of Section 9 herein.

8. TERMINATION

8.1. Parties' Right to Terminate by Mutual Agreement. This Design and Construction Contract may be terminated by written agreement of the Parties.

8.2. Owner's Right to Terminate for Convenience. Owner may, in its sole discretion, terminate this Design and Construction Contract by written notice to ESCO specifying the date of termination. If Owner, during Phase II terminates this Design and Construction Contract for convenience by providing 15 days advance written notice thereof to ESCO, Owner shall pay to ESCO that sum equal to the percentage of the Work that is completed and accepted by Owner.

8.3. Owner's Right to Terminate for Cause. Owner may terminate this Design and Construction Contract, in whole or in part, immediately upon notice to ESCO, or such later date as Owner may establish in such notice, upon the occurrence of any of the following events:

- 8.3.1. Owner fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for ESCO's services;
- 8.3.2. Federal, state or local laws, regulations or guidelines are modified or interpreted in such a way that either the services under this Contract are prohibited or Owner is prohibited from paying for such services from the planned funding source;
- 8.3.3. ESCO no longer holds a license or certificate that is required to perform the services;

- 8.3.4. ESCO commits any material breach or default of any covenant, warranty, obligation or agreement under this Design and Construction Contract, fails to perform the work under this Design and Construction Contract within the time specified herein or any extension thereof, or so fails to perform as to endanger ESCO's performance under this Design and Construction Contract in accordance with its terms, and such breach, default or failure is not cured within 10 calendar days after delivery of Owner's notice, or such longer period of cure as Owner may specify in such notice.
- 8.4. Cessation of Work. Upon receiving a notice of termination, and except as otherwise directed in writing by Owner, ESCO shall immediately cease all activities related to this Design and Construction Contract.
- 8.5. ESCO's Right to Terminate for Cause.
 - 8.5.1. ESCO may terminate this Design and Construction Contract if Owner fails to pay ESCO pursuant to the terms of this Design and Construction Contract, provided that Owner does not cure its failure to make payment to ESCO within 15 calendar days after receiving written notice from ESCO of such failure to make payment.
 - 8.5.2. ESCO may terminate this Design and Construction Contract, for reasons other than non-payment, if Owner commits any other material breach or default of this Contract, and fails to cure such breach or default within 30 calendar days after delivery of ESCO's notice, or such longer period as ESCO may specify in such notice.

9. CONTRACT PRICE

The "Contract Price" is the maximum, not-to-exceed, total amount payable under this Design and Construction Contract unless it is increased or decreased by the price of approved change orders, is \$641,350, as established by ESCO as part of the Project Development Plan. The execution of this Design and Construction Contract signifies the acceptance of the Contract Price by Owner. The Contract Price is composed of the following component parts:

- 9.1. Guaranteed Maximum Price For Construction Work. ESCO agrees that the portion of the Contract Price attributable to the Construction Work shall not exceed \$395,816, that amount having been proposed by ESCO as part of the Project Development Plan. The Guaranteed Maximum Price for Construction Work is composed of the following parts and/or includes the following parts:
 - 9.1.1. Cost of the Work. The Guaranteed Maximum Price For Construction Work includes the Cost of the Work, more particularly described in Section 11 herein. The Cost of Work is \$367,496
 - 9.1.2. Bonding. The Guaranteed Maximum Price For Construction Work includes Bonding in the amount of \$7,350.00.
 - 9.1.3. Not to Exceed Contingency. The Guaranteed Maximum Price For Construction Work includes a contingency amount of \$ 20,970 which is available for ESCO's exclusive use for costs that are incurred in performing the Construction Work that are not included in a specific line item of the Cost of the Work, or the basis for a Change Order under the Contract Documents (the "Contingency"). By way of example, and not as a limitation, such costs include trade buy-out differentials, overtime, unforeseen conditions, acceleration, costs in correcting damaged Work that are not covered by insurance, or Subcontractor defaults. The Contingency is not available to Owner for any reason, including changes in scope or any other item, which would enable ESCO to increase the GMP under the Contract Documents. ESCO shall provide Owner with notice of all anticipated charges against the Contingency;

Owner will notify ESCO, within ten (10) days of Owner's receipt of ESCO's notice of anticipated charges against the Contingency, of any objection of Owner to any ESCO-proposed charges against the Contingency.

- 9.1.4. GMP Savings. In the event that the actual and final Cost of the Work plus the Contingency is less than the GMP as amended, the difference shall accrue to Owner.
- 9.1.5. RESERVED
- 9.1.6. RESERVED
- 9.2. Design Services Fee. This fee shall be a firm fixed price of \$104,126 (\$5,191 for Mechanical, Water and General, and \$18,935 for Lighting, \$80,000 for WTP) to provide those services defined in Sections 5.3 and 5.4 of this Design and Construction Contract. A portion of this amount is payable with each application for payment during the design phase, as a percentage of the completed design services.
- 9.3. Systems Start-up and Commissioning Fee shall be a firm fixed price of \$7,350, to provide those services as agreed upon by ESCO and Owner, based on the Proposal presented by ESCO in the Project Development Plan. A portion of this amount is payable with each application for payment, as a percentage of the completed systems start-up and commissioning services/work.
- 9.4. Training of Owner's Operations & Maintenance Personnel Fee. This fee shall be a firm fixed price of \$735 to provide those services as agreed upon by ESCO and Owner, based on the proposal presented by ESCO in the Project Development Plan. A portion of this amount is payable with each application for payment, as a percentage of the completed training services/work.
- 9.5. Measurement and Verification ("M & V") Services Fee. This fee shall be \$2,434, to be paid upon completion and delivery of the M & V annual report. The annual report shall be based on the prior 12 months beginning with the M & V Commencement Date (as defined in Exhibit 6A). The annual report is due within 60 days after the end of each M&V period. The M & V services shall run parallel with the energy savings guarantee contract provisions (the "Savings Contract") (See Section 9.6 below) and shall terminate when the Savings Contract terminates. Should the M & V services be terminated by Owner, the Savings Contract shall also be terminated.
- 9.6. Energy Savings Guarantee Contract Fee. This fee shall be \$0, to be paid upon completion and delivery of the M & V annual report. The Savings Contract terms and provisions shall be as provided in Exhibit 6A (which is attached hereto and incorporated by this reference). Notwithstanding any term or provision to the contrary in Exhibit 6A, any of the referenced Schedules, or this Design and Construction Contract, the terms of this Section 9.6 shall be controlling for the Savings Contract and ESCO and Owner hereby specifically agree that: (1) The Savings Term (or Energy Savings Term) shall be One (1) Year, beginning on the Notice of Commencement of Energy Savings, defined as the date contracting Agency issues its Notice of Commencement of Energy Savings. (2) Exhibit 6A may contain provisions regarding potential changes to increase savings. Notwithstanding any such provisions to the contrary, any such changes must be made during the eighteen (18) months immediately following the Notice of Commencement of Energy Savings, may be made only with the consent of Owner, and shall be made at sole expense of ESCO unless agreed otherwise in Owner's sole discretion.
 - 9.6.1. If at the end of each twelve (12) month period the guaranteed savings have not been achieved, ESCO shall pay to Owner the difference between the actual amount saved and the guaranteed amount, upon receipt of Owner's written request for payment. Owner also has

the option of withholding payments otherwise due ESCO (if any) in the amount of the difference between the actual amount saved and the guaranteed amount.

- 9.6.2. The Savings Contract term shall commence on the date ESCO issues its Notice of Commencement of Energy Savings for Phase II and shall be one (1) year, unless extended for additional consecutive years up to the project financing term or sooner terminated by Owner before that time. The Owner may terminate the Savings Contract at any time. If cancellation occurs, Owner is responsible for payment to ESCO for the work completed.

- 9.7. ESCO's Overhead and Profit. ESCO's fee shall be included as a firm fixed fee of \$66,149, which is 18% of the Cost of the Work (as that term is defined in Section 11 herein).
- 9.8. Construction Management. Project Management, Construction Management, and Construction Administration Services shall be a firm fixed fee of \$29,400, which is 8% of the Cost of Work.
- 9.9. Audit and Development Fee. The Contract Price includes the Audit and Development Fee, which is \$35,340 (Amount contracted in Phase I applied to Phase II at Customer's request).

10. CHANGES IN THE WORK. Adjustments to the GMP required by changes in the Work beyond the stated scope may be determined by any of the methods listed in Section D of the General Conditions, except that the overhead and profit markup for ESCO shall be limited to the Overhead and Profit percentage as noted in Section 9.7 of this Design and Construction Contract and the other firm fixed fees at the same percentage of the Cost of Work as the original scope.

11. COST OF THE WORK. (Covered in the GMP, to be reimbursed) The term "Cost of the Work" shall mean costs necessarily incurred by ESCO in the proper performance of the Construction Work; provided, however, the Cost of the Work shall include only the items specifically identified in this Section 11 and must be directly related to the construction of the Project.

11.1. Labor Costs.

- 11.1.1. Wages of construction workers directly employed by ESCO to perform the Construction Work at the site.
- 11.1.2. Wages and salaries of ESCO's supervisory and administrative personnel stationed at the site, and for such personnel off the site when specifically related to the Project and with Owner's agreement after review of any information and Documents required by Owner.
- 11.1.3. Wages and salaries of ESCO'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 directly required for the Construction Work.
- 11.1.4. Fringe benefit costs paid or incurred by ESCO 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 Sections 11.1 through 11.3 of this Design and Construction Contract.

11.2. Subcontract Costs.

- 11.2.1. Payments made by ESCO to Subcontractors in accordance with the requirements of the subcontracts toward completion of the Construction Work.
- 11.2.2. Costs, including transportation, of materials and equipment incorporated or to be incorporated into the completed Construction Work.

- 11.2.3. Costs of materials in excess of those actually installed but required to provide reasonable allowance for waste and for spoilage. Unused excess materials, if any, shall be delivered to Owner at the completion of the Work or, at Owner's option, shall be sold by ESCO. Any sale shall be commercially reasonable and ESCO shall provide an accounting for such a sale within 15 days of the transaction. Net amounts realized if any, from such sales shall be credited to Owner as a deduction from the Cost of the Work
- 11.3. Costs of Other Materials and Equipment, and Related Items.
 - 11.3.1. Costs, including transportation, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment, and hand tools not customarily owned by the construction workers, which are provided by ESCO at the site and fully consumed in the performance of the Construction Work; and cost less salvage value on such items if not fully consumed, whether sold to others or retained by ESCO. Cost for items previously used by ESCO shall mean fair market value.
 - 11.3.2. Rental charges for temporary facilities, machinery, and equipment and hand tools not customarily owned by the construction workers, which are provided by ESCO at the site, whether rented from ESCO or others, and costs of transportation, installation, minor repairs and replacements, dismantling and removal thereof. Rates and quantities of equipment rented shall be according to industry standards, shall not exceed acquisition costs, and for individual items exceeding \$10,000, shall be subject to Owner's prior approval.
 - 11.3.3. Costs of removal of debris from the site.
 - 11.3.4. Cost of telegrams and long-distance telephone calls, postage and parcel delivery charges, telephone service at the site and reasonable petty cash expenses of the site office, which are solely for the benefit of the Construction Work.
 - 11.3.5. That portion of the reasonable travel and subsistence expenses of ESCO's personnel, at Owner approved rates, but not in excess of the rates allowed State Employees, incurred while traveling in discharge of duties connected with the Construction Work. Main office staff travel shall not be reimbursed unless approved in advance by Owner.
- 11.4. Miscellaneous Costs.
 - 11.4.1. That portion of premiums for insurance directly attributable to this Design and Construction Contract, including deductible for builders all/risk insurance (but excluding premiums for comprehensive/commercial general liability, automobile liability, professional liability/errors & omissions, and worker's compensation coverage), and payment and performance bonds as required by Section G of the General Conditions (but excluding premiums for Subcontractor bonds unless authorized by Owner), Section 9.3 of Division 1 of the Contract, and Section 9.1.5 this Design and Construction Contract.
 - 11.4.2. Sales, use or similar excise taxes imposed by a governmental authority which are directly related to the Construction Work and for which ESCO is liable.
 - 11.4.3. Fees and assessments for the building permit and for other permits, licenses and inspections for which ESCO is required by the Contract Documents to pay.
 - 11.4.4. Direct costs associated with ESCO's job site safety program.
 - 11.4.5. ESCO deposits lost for causes other than ESCO's fault or negligence.
- 11.5. Other Costs.
 - 11.5.1. Costs of drawings, Plans, Specifications and other Documents required to complete the Construction Work, except as provided by Owner.

11.5.2. Other costs incurred in the performance of the Construction Work if and to the extent approved in advance in writing by Owner.

11.6. Repairs to Damaged, Defective or Nonconforming Construction Work. The Cost of the Work shall also include costs, which are incurred by ESCO in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property.

12. COSTS INCLUDED IN OVERHEAD AND PROFIT (Not to be reimbursed). The Overhead and Profit shall include all costs that are not directly attributable to the Construction Work as defined in Section 11 of this Design and Construction Contract. Generally, the Overhead and Profit shall include the following:

12.1. Salaries and other compensation of ESCO's personnel stationed at ESCO's principal office or offices other than the site office except as otherwise allowed under the Contract.

12.2. Expenses of ESCO's principal office and offices other than the site office.

12.3. Any overhead and general expenses, except as may be expressly included in Section 11 of this Design and Construction Contract.

12.4. ESCO's capital expenses, including interest on ESCO's capital employed for the Construction Work.

12.5. Any cost associated with the Project not specifically and expressly described in Section 11 of this Design and Construction Contract.

12.6. Costs due to the fault or negligence of ESCO, subcontractors, anyone directly or indirectly employed by any of them, or for whose acts any of them may be liable, including but not limited to costs for the correction of damaged, defective or nonconforming Construction Work, disposal and replacement of materials and equipment incorrectly ordered or supplied, and making good damage to property not forming part of the Construction Work.

12.7. Any costs which would exceed the GMP.

13. DISCOUNTS, REBATES AND REFUNDS

13.1. Discounts, Rebates and Refunds. Cash discounts obtained on payments made by ESCO shall accrue to Owner. Trade discounts, rebates, refunds and net amounts received from sales of surplus materials and equipment shall accrue to Owner, and ESCO shall use its best efforts to obtain such discounts, refunds and net amounts.

13.2. Amounts Credited to Owner. Amounts, which accrue to Owner in accordance with the provisions of Section 13.1 of this Design and Construction Contract, shall be credited to Owner as a deduction from the Cost of the Work.

14. ESCO'S OBLIGATIONS UNDER SUBCONTRACTS.

14.1. No use of a subcontractor shall relieve ESCO of any of its obligations or liabilities under this Design and Construction Contract. ESCO shall be fully responsible and liable for the acts or omissions of all subcontractors and suppliers including persons directly or indirectly employed by them. ESCO shall have sole responsibility for managing and coordinating the operations of its subcontractors and suppliers, including the settlement of disputes with or between ESCO and any such subcontractor.

- 14.2. ESCO shall include in each subcontract and require each subcontractor to include in any lower tier subcontract, any provisions necessary to make all of the provisions of the General Conditions fully effective as applied to subcontractors. The ESCO shall provide all necessary Plans, Specifications, and instructions to its suppliers and subcontractors to enable them to properly perform their work.

15. SUBCONTRACTOR SELECTION.

- 15.1. The selection of all subcontractors shall be the sole responsibility of ESCO.
- 15.2. RESERVED

16. MISCELLANEOUS LABOR.

- 16.1. ESCO may provide normal layout, clean up, and other "pick-up" work required to complete the Project with its own forces, without the necessity of subcontracting.
- 16.2. If ESCO desires to perform any other Construction Work through third-party subcontractors or other entities, that Construction Work shall be bid according to the provisions of Section 16 of this Design and Construction Contract.

17. ACCOUNTING; AUDIT ACCESS. ESCO shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management under this Design and Construction Contract; the accounting and control systems shall be satisfactory to Owner. Owner and Owner's representatives, including the Oregon Secretary of State accountants and auditors, shall be afforded reasonable and regular access to ESCO's records, books, correspondence, instructions, drawings, Plans, Specifications, receipts, subcontracts, purchase orders, vouchers, memoranda and other data relating to this Agreement, and ESCO shall preserve these for a period of three years after final payment, or for such longer period as may be required by law. Owner may, at its discretion, perform periodic audits of the Cost of the Work and any other reimbursable costs associated with the Project. Owner intends to conduct a final audit of reimbursable costs prior to the Agreement closeout. The ESCO shall cooperate fully with Owner in the performance of such audits.

18. CONTRACT TIME

- 18.1. Commencement of Work. The Work shall commence on the date ESCO receives Owner's Notice to Proceed, unless the parties mutually agree otherwise in writing. Owner's Notice to Proceed shall be issued on or after the effective date of this Design and Construction Contract.
- 18.2. Substantial Completion. Substantial Completion for the entire Construction Work shall be achieved no later than the date note on Phase 2, Division 2 ("Scheduled Substantial Completion Date"), subject to adjustment as set forth in the Contract Documents.
- 18.3. Acceptance of Work. A prerequisite to Owner's acceptance is that ESCO must first warrant, by written notice to Owner's authorized representative, that ESCO has substantially completed the Statement of Work as follows: Phase II, The Energy Related and Non-Energy related items are substantially complete, commissioning has been performed, and the EEMs are producing savings equal to or greater than the Guaranteed Savings.
- 18.4. Final Completion of the Construction Work. Final Completion of the Construction Work, or identified portions of the Construction Work, shall be achieved as expeditiously as practicable. All of the dates set forth in this Section 18 shall be subject to adjustment in accordance with the General Conditions.

- 18.5. Project Schedule and Work Time Limitations. ESCO shall comply with the "Project Schedule" and "Work Time Limitations" for the Project negotiated by Owner and ESCO as provided in Sections 3.4 and 3.5 of Division 1 of the Contract. Changes, if any, to the Project Schedule and Work Time Limitations, including changes for the Work under this Design and Construction Contract, must be agreed to in writing by Owner and ESCO.
19. LIQUIDATED DAMAGES FOR DELAY. ESCO understands that if it does not attain Substantial Completion by the Scheduled Substantial Completion Date, Owner will suffer damages, which are difficult to determine and accurately specify. ESCO agrees that if it does not attain Substantial Completion by the Scheduled Substantial Completion Date, ESCO shall pay to Owner \$100 PER DAY as liquidated damages for each subsequent day until ESCO attains Substantial Completion. The liquidated damages provided herein shall be in lieu of a claim for consequential damages incurred by Owner as a result of delay in achieving Substantial Completion.
20. STANDARD OF CARE; DRAWINGS, PLANS & SPECIFICATIONS. ESCO hereby represents and warrants that all drawings, Plans, Specifications, and other Documents prepared pursuant to this Design and Construction Contract shall be completed in a manner consistent with the highest professional standard of care, and shall function for the purposes intended, and that the Project, if constructed in accordance with such drawings, Plans, Specifications, and other Documents, shall be structurally sound and a complete and properly functioning and suitable for the purposes for which it is intended.
21. CORRECTION OF DRAWINGS, PLANS & SPECIFICATIONS. ESCO shall be responsible for correcting any inconsistencies, errors or omissions in the drawings, Plans, Specifications, and other documents. ESCO shall correct, at no additional cost to Owner, any and all inconsistencies, errors and omissions in the drawings, Plans and Specifications.
22. FUNDS AVAILABLE AND AUTHORIZED; PAYMENTS. Owner reasonably believes that sufficient funds are anticipated to pay all amounts due hereunder and hereby covenants and agrees that it will use its best efforts to obtain and properly request and pursue funds from which payments hereunder may be made, including making provisions for such payments to the extent necessary in the budget submitted for the purpose of obtaining funds and using its best efforts to have such budget approved. It is Owner's intention to make all payments due hereunder if funds are legally available for this Project and in that regard Owner represents and warrants to ESCO that this Design and Construction Contract is important to Owner's efficient and economic operation. If, despite the above, Owner is not allotted sufficient funds for the next succeeding fiscal period by appropriation, appropriation limitation, grant, or other funds source lawfully available to it for such purposes to continue the Project and make payments hereunder, Owner may terminate this Agreement, by notice to ESCO, without penalty, effective at the end of the current fiscal period for which funds have been allocated and if not so terminated Owner will remain fully obligated for all amounts owing hereunder. Such termination shall not constitute an event of default under any other provision of the Design and Construction Contract, but Owner shall be obligated to pay all charges incurred through the end of such fiscal period. Owner shall give ESCO notice of such non-availability of funds within thirty (30) days after it received notice of such non-availability.
23. MISCELLANEOUS.
- 23.1. Governing Law; Jurisdiction; Venue. This Design and Construction Contract shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts

of law. Any claim, action, suit or proceeding (collectively "Claim") between Owner and ESCO that arises from or relates to this Design and Construction Contract shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, the it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Subsection be construed as a waiver by the Owner of any form of defense or immunity, whether based on sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the United States Constitution or otherwise. ESCO, BY EXECUTION OF THIS DESIGN AND CONSTRUCTION CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

- 23.2. Foreign Contractor. If ESCO is not domiciled in or registered to do business in the State of Oregon, ESCO shall promptly provide to the Oregon Department of Revenue and the Secretary of State Corporation Division all information required by those agencies relative to this Design and Construction Contract. ESCO shall demonstrate its legal capacity to perform the work under this Design and Construction Contract in the State of Oregon prior to entering into this Design and Construction Contract.
- 23.3. Notices. Except as otherwise expressly provided in this Design and Construction Contract, any notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid, to ESCO or Owner at the addresses or numbers as either party may hereafter indicate pursuant to this Section. Any notice so addressed and mailed shall be deemed to be given five (5) calendar days after the date of mailing. Any notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. To be effective against Owner, such facsimile transmission must be confirmed by telephone notice to Owner's Representative for the Project. Any notice by personal delivery shall be deemed to be given when actually delivered.
- 23.4. Disclosure of Tax Identification Number. ESCO must provide its federal tax ID number to Owner. This number is required pursuant to ORS 305.385. The Tax Identification Number provided pursuant to this authority will be used for the administration of state, federal and local tax laws.
- 23.5. Compliance with Applicable Law. ESCO agrees to comply with all federal, state, county, and local laws, ordinances, and regulations applicable to the Services to be provided under this Design and Construction Contract. ESCO specifically agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. ESCO also shall comply with the Americans with Disabilities Act of 1990 (Pub. L. No. 101-336), ORS 659A.142, and all regulations and administrative rules established pursuant to those laws. Failure or neglect on the part of ESCO to comply with any or all such laws, ordinances, rules, and regulations shall not relieve ESCO of these obligations nor of the requirements of this Design and Construction Contract. ESCO further agrees to make payments promptly when due, to all persons supplying to such ESCO labor or materials for the performance of the Services to be provided under this Design and Construction Contract; pay all contributions or amounts due the Industrial Accident Fund from such ESCO incurred in the performance of this Design and Construction Contract; not permit any lien or claim to be filed or prosecuted against the Owner on account of any labor or material furnished; and pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. If ESCO fails or refuses to make any such payments required herein, the appropriate Institution official may pay such

claim. Any payment of a claim in the manner authorized in this Section shall not relieve ESCO from obligation with respect to any unpaid claims.

Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act and the Oregon Building Codes require all new construction to be totally accessible to people with physical limitations. Owner expects that all spaces in designs for new facilities and in remodel projects shall be accessible to people with physical limitations.

- 23.6. Tax Compliance Certification. By signature on this Design and Construction Contract, the undersigned hereby swears or affirms under penalty of perjury that the undersigned is authorized to act on behalf of ESCO and has authority and knowledge regarding the payment of taxes, and that ESCO is, to the best of the undersigned's knowledge, not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means those programs listed in ORS 305.380(4), namely any state tax imposed by ORS chapters 118, 314, 316, 317, 318, 321 and 323 and sections 10 to 20, chapter 533, Oregon Laws 1981, as amended by chapter 16, Oregon Laws 1982 (first special session); the elderly rental assistance program under ORS 310.630 to 310.706; and local taxes administered by the Department of Revenue under ORS 305.620.
- 23.7. Severability. If any term or provision of this Design and Construction Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Design and Construction Contract did not contain the particular term or provision held to be invalid.
- 23.8. Waiver. The failure of Owner to enforce any provision of this Design and Construction Contract shall not constitute a waiver by Owner of that provision or any other provision.
- 23.9. Media Contacts; Confidentiality. ESCO shall provide no news release, press release, or any other statement to a member of the news media regarding this Project, without Owner's prior written authorization. Furthermore, except in the case where Owner specifically authorizes disclosure of Owner's confidential information in writing, ESCO shall maintain the confidentiality of Owner's information pertaining to the Project, unless withholding such information would violate the law, create the risk of significant harm to the public or prevent ESCO from establishing a claim or defense in an adjudicatory proceeding. ESCO shall require of its subcontractors similar agreements to maintain the confidentiality of Owner's information.
- 23.10. Conflict of Interest. Except with Owner's prior written consent, ESCO shall not engage in any activity, or accept any employment, interest or contribution that would, or would reasonably appear, to compromise ESCO's professional judgment with respect to this Project, including, without limitation, concurrent employment on any project in direct competition with the Project.

THIS DESIGN AND CONSTRUCTION CONTRACT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES ON THE SUBJECT MATTER ADDRESSED HEREIN. THE TERMS OF THIS DESIGN AND CONSTRUCTION CONTRACT CAN NOT BE WAIVED, ALTERED, MODIFIED, SUPPLEMENTED, OR AMENDED, IN ANY MANNER WHATSOEVER, EXCEPT BY WRITTEN INSTRUMENT SIGNED BY THE PARTIES AND CONTAINING ALL REQUIRED OWNER APPROVALS. ANY SUCH WAIVER, ALTERATION, MODIFICATION, SUPPLEMENTATION, OR AMENDMENT, IF MADE, SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO

UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, REGARDING THIS DESIGN AND CONSTRUCTION CONTRACT EXCEPT AS CONTAINED, INCORPORATED OR REFERENCED HEREIN. ESCO, BY THE SIGNATURE BELOW OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS DESIGN AND CONSTRUCTION CONTRACT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS. THIS DESIGN AND CONSTRUCTION CONTRACT MAY BE EXECUTED IN SEVERAL COUNTERPARTS, EACH OF WHICH SHALL BE AN ORIGINAL, AND ALL OF WHICH SHALL CONSTITUTE THE SAME INSTRUMENT.

IN WITNESS WHEREOF, and intending to be legally bound, the authorized representatives of the parties hereto subscribe their names.

ESCO:	_____	OWNER:	_____
	Signature		Signature
By	<u>Ron Haxton</u>	By	<u>Adam Brown</u>
Title	<u>Vice President, Northwest Region</u>	Title	<u>City Manager</u>
Date	_____	Date	_____
Federal I.D. #:	<u>04-3512838</u>		_____

TABLE OF EXHIBITS TO THE DESIGN AND CONSTRUCTION CONTRACT

Exhibit 1A	<u>State of Oregon Standard General Conditions (January 1, 2012)</u>
Exhibit 2A	<u>Phase II, Supplemental General Conditions</u>
Exhibit 3A	<u>Performance and Payment Bond(s)</u>
Exhibit 4A	<u>Prevailing Wage Rate Schedules</u>
Exhibit 5A	<u>Consultants/Sub-contractors List</u>
Exhibit 6A	<u>Savings Contract Provisions</u>

**ENERGY SAVINGS PERFORMANCE CONTRACT
EXHIBIT 1A
STATE OF OREGON GENERAL CONDITIONS**

State of Oregon General Conditions for Public Improvement Contracts January 1, 2012 Addition is contract attachment referenced herein via <https://www.oregon.gov/das/Procurement/Guiddoc/GenCon4PI.pdf>.

**ENERGY SAVINGS PERFORMANCE CONTRACT
EXHIBIT 2A
PHASE 2, SUPPLEMENTAL GENERAL CONDITIONS**

Project Development Plan is attached.

**ENERGY SAVINGS PERFORMANCE CONTRACT
EXHIBIT 3A
PERFORMANCE AND PAYMENT BONDS**

Project Performance and Payment Bonds are attached.

ENERGY SAVINGS PERFORMANCE CONTRACT
EXHIBIT 4A
PREVAILING WAGE RATE SCHEDULES

Prevailing wage is based on Oregon Bureau of Labor and Industries rates as published July 1, 2021 and effective as of July 1, 2021. Information available on BOLI website:
www.oregon.gov/boli/employers/Pages/prevailing-wage-rates.aspx

ENERGY SAVINGS PERFORMANCE CONTRACT
EXHIBIT 5A
SUBCONTRACTOR/ SUB-CONSULTANT LIST

Final Subcontractor list to be determined. The following subcontractors are recommended, and other may be added prior to construction to complete the project withing the allowed schedule.

- Keller Associates
- Vale Electric
- Advanced Controls System
- Idaho Power

**ENERGY SAVINGS PERFORMANCE CONTRACT
EXHIBIT 6A
SAVINGS CONTRACT PROVISIONS**

NA

**ENERGY SAVINGS PERFORMANCE CONTRACT
EXHIBIT B
RESERVED**

NA

**ENERGY SAVINGS PERFORMANCE CONTRACT
EXHIBIT C
RESERVED**



RESOLUTION #2021-133

A RESOLUTION ADOPTING A SUPPLEMENTAL BUDGET TO APPROPRIATE NECESSARY FUNDING FOR AMERESCO ENERGY AUDIT PROJECTS

- WHEREAS,** The City discussed the Ameresco Energy Audit study in the 2021-2022 budget hearings, the project was partially funded; **and**
- WHEREAS,** The City has finished the Ameresco study and wishes to appropriate funds for Phase 1 of the projects; **and**
- WHEREAS,** The City desires to modify the 2021-2022 budget in order to pay the necessary expenditures.

NOW THEREFORE, BE IT HEREBY RESOLVED by the Ontario City Council, to approve the following adjustment to the fiscal year 2021-2022 budget:

Line Item	Item Description	FY 21-22 Budget	Amount of Change	Adjusted Budget
GENERAL FUND				
001-000-458000	Transfer In	\$ -	\$223,480	\$223,480
001-004-713601	Downtown Lighting	\$171,000	\$288,480	\$459,480
001-004-713660	Downtown Attraction	\$50,000	(\$50,000)	\$ -
001-004-832000	Transfer to Airport Fund	\$207,095	(\$15,000)	\$192,095
AIRPORT FUND				
120-000-458000	Transfer In	\$207,095	(\$15,000)	\$192,095
120-006-712106	Phantom Concrete Pad	\$15,000	(\$15,000)	\$ -
CAPITAL PROJECTS FUND – SPECIAL PROJECTS				
030-000-469605	Capital Asset Sales	\$ -	\$223,480	\$223,480
030-086-827000	Transfer Out	\$ -	\$223,480	\$223,480
SEWER FUND				
110-165-719327	Flow Pacing	\$26,630	\$63,465	\$90,095
110-165-871000	Contingency	\$2,102,738	(\$63,465)	\$2,039,273

EFFECTIVE DATE: Effective immediately upon passage.

PASSED AND ADOPTED by the City Council of the City of Ontario this 28th day of September 2021, by the following vote:

AYES:

NAYES:

ABSENT:

APPROVED by the Mayor this 28th day of September, 2021.

Riley J. Hill, Mayor

ATTEST:

Tori Barnett, MMC, City Recorder



**AGENDA REPORT
OLD BUSINESS
September 28, 2021**

To: Mayor and City Council

FROM: Adam J. Brown, City Manager

THROUGH: Adam J. Brown, City Manager

SUBJECT: ORDINANCE #2796-2021: BUSINESS REGISTRATIONS AMENDMENT

DATE: August 17, 2021

PROPOSED MOTION:

I MOVE THE CITY COUNCIL APPROVE ORDINANCE #2796-2021 AMENDING TITLE 3 CHAPTER 4 GENERAL BUSINESS REGISTRATION.

IF UNANIMOUS APPROVAL:

I MOVE THE CITY COUNCIL WAIVE THE SECOND READING OF ORDINANCE #2796-2021 AMENDING TITLE 3 CHAPTER 4 GENERAL BUSINESS REGISTRATION AND ADOPT CHANGES AS PRESENTED.

SUMMARY:

The City Council previously discussed amending the city code to not require business registrations. After multiple discussions, the Council directed staff to prepare an amendment to the city code to go to a voluntary registration.

BACKGROUND:

Staff presented an explanation on the reason for business registration on July 2021. The impetus for the business registration was to provide key information for public safety officials responding to emergency events at businesses. Police and Fire have access or knowledge of the owner's contact information, fire suppression systems, security systems, guard dogs, Knox box location, hazardous materials, and whether anyone is residing at the business.

The information collected in the business registration is intended to help staff address what they may encounter on scene as they respond to incidents. The information can be valuable for pre-incident planning, crime statistics, and infrastructure profiles.

CURRENT SITUATION:

At its July 27, 2021 meeting the City Council weighed the benefits of the program with the requirements and the ability to enforce a mandatory statute. After weighing the benefits and costs and burden on business owners to annually renew registration, the Council requested staff to prepare an ordinance that would provide for a voluntary program without penalties.

An ordinance and revision is attached and ready for critique, amendment, or approval.

ANALYSIS:

- A. **STRATEGIC PLAN** No strategic plan impact.
- B. **FINANCIAL** The collections of business registration fees were only \$25 for the first year and \$10 for each year after that. With approximately 220 registrations the revenue is only between \$2,000 and \$2,500 which is barely enough to cover the cost of the stickers, mailings, and staff time. Without an annual requirement the burden on staff would be less, as well as the cost for stickers. The total financial impact of making it voluntary would be less than \$2,000.
- C. **TIMING** Approving the ordinance now would allow us to not proceed with annual notifications for 2022.
- D. **POLICY/LEGAL** Only the City Council can approve city ordinances. Ordinances require two readings. If unanimous, the Council can waive the second reading and approve it at the same meeting.

ALTERNATIVES:

Take No Action - The collection of business registrations is an onerous process, but does provide benefit. Staff's challenge is that we do not have resources to enforce the mandatory requirement. Therefore, we have an ordinance that we do not have the means of enforcing. The mandatory requirement would continue and staff would send out annual reminders to re-register each year.

RECOMMENDATION:

Staff recommends approval of Ordinance #2796-2021 amending the city's business registration from a mandatory to voluntary compliance.

ATTACHMENTS:

- 1. Draft_CC_Business Registration Strike Out_9 28 2021
- 2. Ord #2796-2021 Business Registration Amendments

Chapter 4 GENERAL BUSINESS REGISTRATION

3-4-1 Definitions.

(A) BUSINESS means:

1. An organization engaged in commercial, industrial, or professional activities.
2. An individual engaged in commercial, industrial or professional activities, other than as an employee.

(B) COMMERCIAL means providing goods, services or a combination of goods and services for payment.

3-4-2 Registration requirement.

(A) The City Business Registration is a voluntary program intended to assist public safety personnel from the Ontario Fire and Rescue and Ontario Police Departments responding to emergencies at businesses. Except as exempted under Section 3-4-3, businesses engaging in activity in the City ~~must~~ are requested to register with the City.

(B) The following provisions apply to the registration requirement:

1. Electronic businesses, including Internet businesses, with a fixed location in the City, are ~~required~~ requested to register.
2. If more than one business is conducted on the same premises, each business ~~must~~ is requested to register separately.
3. A single business operation ~~that occupies~~ ingies more than one building ~~must~~ may complete only one registration application. The application ~~shall~~ is requested to list all buildings and activities carried on in each building.
4. If ownership of a business is transferred during the year, the new owner is requested to update the registration information for the business.
5. Businesses that change physical location or business name are requested to submit a change of registration form.

3-4-3 Exemptions.

(A) The following ~~are operations do not have not required~~ to obtain a business registration, but may apply for the same public safety benefit, if they currently qualify for one or more of the following exemptions:

1. ~~A service business operated by a person under the age of eighteen (18), such as a lawn mowing business, a newspaper delivery business, a lemonade stand, and the like.~~
2. ~~Individuals who work only on the premises of, and as part of, a registered business that includes the activity of the individual. Examples include barbers, beauticians, and others who perform services as part of the overall registered business. This exemption does not apply if the overall business operation has not submitted an approved registration application to the City.~~

~~3. Persons selling goods or services exclusively during a permitted special event activity where the sponsor of the event has obtained a City permit for the event and has an approved City business registration.~~

14. Activities that qualify as hobbies or passive holding of property for investment purposes under the U.S. Internal Revenue Code.

25. A business whose business activities in the City total less than thirty-two (32) hours per year for all employees, or whose gross annual revenue from business activities in the City is less than three thousand dollars (\$3,000.00) for all employees.

~~6. A person or organization that does not operate a business from a fixed location in the City is exempt from registering with the City.~~

~~(B) The following must register but are exempt from payment of the registration fee:~~

~~1. Any business exempted from paying local business license fees or taxes by Federal or State constitution or law.~~

~~2. Any business exempt from paying property tax.~~

~~3. Any entity registered with the Oregon Secretary of State as a not for profit corporation.~~

(Ord. No. 2702-2015, § 1, 6-15-15; Ord. No. 2711-2015, § 2, 11-2-15)

~~3-4-4 Duration of registration; change of registration.~~

~~(A) New registrations shall be valid from the date of issuance to the end of the calendar year, and will be prorated accordingly. Renewals will be due by the fifteenth (15th) of January of each year.~~

~~(B) If ownership of a business is transferred during the year, the new owner shall update the registration information for the business.~~

~~(C) Businesses that change physical location or business name shall submit a change of registration form.~~

~~3-4-5~~ 4 Registration submittal and registration fee.

(A) Each organization or individual ~~wishing to engage involuntarily registering a~~ business shall submit a business registration form to the City, ~~accompanied by payment of the registration fee of twenty-five dollars (\$25.00), or in an amount set by Council resolution.~~ The City shall treat information other than the name, type and location of the business as confidential to the extent permitted by state public records law, but may use the information in connection with the provision of City services. The registration shall contain:

1. A description of the nature of the business, non-profit activity or public utility to be engaged in;
2. The date that business operations in the City limits began or will begin;
3. The name and address of the applicant, including email address; if a partnership, the names and addresses of all partners; if a corporation, its name and the address of the home office, the name and address of the designated agent in the state if a foreign corporation, and the name and address of the local agent or representative who will be in charge of the business in the City;
4. The addresses where the business will be located or have its office and all branch, storefront, warehouse and other associated locations within the City limits of Ontario;
5. The date of application;

-
6. Emergency contact information;
 7. Any other information relevant to the type and location of the business the City determines that the application should contain;
 8. Other information intended to assist the police and fire departments provide assistance to the business.
 9. The signature of an authorized representative.
- (B) One purpose of this Chapter is to increase the effectiveness of the City's response to fires. As part of the registration application, each business shall sign a consent authorizing a pre-fire inspection of the business premises to allow the fire department to diagram the interior of the building and identify features relevant to fire suppression. The fire department will reasonably cooperate with the business to attempt to schedule the inspection at a mutually convenient time. The information gathered will be kept confidential, to the extent permitted under the state public records laws.

~~3-4-6 Additional fee.~~

~~Any business required to file a business registration has up to six (6) months to comply following the enactment of the ordinance codified in this chapter, or shall pay an additional registration fee of twenty-five dollars (\$25.00). The Council may change the additional registration fee from time to time by resolution.~~

~~3-4-7~~5 Compliance with law.

The registration of a business does not signify that the business is acting in compliance with law, and does not authorize a business to operate in violation of any laws.

~~3-4-8 Violations and civil penalties.~~

~~The fine for knowingly failing to register a business with the City is one hundred dollars (\$100.00) plus ten dollars (\$10.00) per each day that the business fails to register. A knowing violation of any other provision of this Chapter or knowing submission of false information in a business registration is punishable by a fine of one hundred dollars (\$100.00). The fines set forth herein may be changed by resolution of the Council.~~

~~3-4-9 Renewal.~~

~~Registrations shall be renewed prior to the expiration of the previous registration.~~
(Ord. No. 2702-2015, § 1, 6-15-15)



ORDINANCE #2796-2021

AN ORDINANCE AMENDING TITLE 3 CHAPTER 4 GENERAL BUSINESS REGISTRATION

- WHEREAS,** The City of Ontario has a business registration to improve the public safety of property and notify business owners of public safety issues; and
- WHEREAS,** The City Council has reviewed the costs and benefits of the program and determined that the cost to businesses of annual renewal is burdensome; and
- WHEREAS,** The City does not have the resources to enforce current regulations prescribed by City Code with regard to non-compliance; and
- WHEREAS,** The City Council wishes to relieve businesses of the annual process and associated fee.

NOW THEREFORE, BE IT HEREBY RESOLVED by the Ontario City Council to adopts the amended language for Title 3, Section 4 General business registration in attachment A.

EFFECTIVE DATE: Effective 30 days upon passage.

PASSED AND ADOPTED by the Common Council City Council of the City of Ontario this 28th day of September 2021, by the following vote:

AYES:

NAYES:

ABSENT:

APPROVED by the Mayor this ____ day of _____, 20____.

Riley J. Hill, Mayor

ATTEST:

Tori Barnett, MMC, City Recorder

Attachment A – Ordinance #2796-2021

Chapter 4 GENERAL BUSINESS REGISTRATION

3-4-1 Definitions.

(A) BUSINESS means:

1. An organization engaged in commercial, industrial, or professional activities.
2. An individual engaged in commercial, industrial or professional activities, other than as an employee.

(B) COMMERCIAL means providing goods, services or a combination of goods and services for payment.

3-4-2 Registration.

(A) The City Business Registration is a voluntary program intended to assist public safety personnel from the Ontario Fire and Rescue and Ontario Police Departments responding to emergencies at businesses. Except as exempted under Section 3-4-3, businesses engaging in activity in the City are requested to register with the City.

(B) The following provisions apply to the registration requirement:

1. Electronic businesses, including Internet businesses, with a fixed location in the City, are requested to register.
2. If more than one business is conducted on the same premises, each business is requested to register separately.
3. A single business operation occupying more than one building may complete only one registration application. The application is requested to list all buildings and activities carried on in each building.
4. If ownership of a business is transferred during the year, the new owner is requested to update the registration information for the business.
5. Businesses that change physical location or business name are requested to submit a change of registration form.

3-4-3 Exemptions.

The following operations do not have to obtain a business registration, but may apply for the same public safety benefit, if they currently qualify for one or more of the following exemptions:

1. Activities that qualify as hobbies or passive holding of property for investment purposes under the U.S. Internal Revenue Code.
2. A business whose business activities in the City total less than thirty-two (32) hours per year for all employees, or whose gross annual revenue from business activities in the City is less than three thousand dollars (\$3,000.00) for all employees.

3-4-4 Registration submittal and registration fee.

- (A) Each organization or individual voluntarily registering a business shall submit a business registration form to the City. The City shall treat information other than the name, type and location of the business as confidential to the extent permitted by state public records law but may use the information in connection with the provision of City services. The registration shall contain:
1. A description of the nature of the business, non-profit activity or public utility to be engaged in;
 2. The date that business operations in the City limits began or will begin;
 3. The name and address of the applicant, including email address; if a partnership, the names and addresses of all partners; if a corporation, its name and the address of the home office, the name and address of the designated agent in the state if a foreign corporation, and the name and address of the local agent or representative who will be in charge of the business in the City;
 4. The addresses where the business will be located or have its office and all branch, storefront, warehouse and other associated locations within the City limits of Ontario;
 5. The date of application;
 6. Emergency contact information;
 7. Any other information relevant to the type and location of the business the City determines that the application should contain;
 8. Other information intended to assist the police and fire departments provide assistance to the business.
 9. The signature of an authorized representative.
- (B) One purpose of this Chapter is to increase the effectiveness of the City's response to fires. As part of the registration application, each business shall sign a consent authorizing a pre-fire inspection of the business premises to allow the fire department to diagram the interior of the building and identify features relevant to fire suppression. The fire department will reasonably cooperate with the business to attempt to schedule the inspection at a mutually convenient time. The information gathered will be kept confidential, to the extent permitted under the state public records laws.

3-4-5 Compliance with law.

The registration of a business does not signify that the business is acting in compliance with law and does not authorize a business to operate in violation of any laws.



**AGENDA REPORT
OLD BUSINESS
September 28, 2021**

To: Mayor and City Council

FROM: Adam J. Brown, City Manager

THROUGH: Adam J. Brown, City Manager

SUBJECT: **ORDINANCE #2797-2021: TRANSIENT ROOM TAX FOR RV PARKS AND
TRANSIENT LODGING INTERMEDIARIES**

DATE: September 23, 2021

PROPOSED MOTION:

I MOVE THE CITY COUNCIL APPROVE ORDINANCE #2797-2021 AMENDING THE ONTARIO MUNICIPAL CODE TITLE 3, SECTION 11 TRANSIENT ROOM TAX.

IF UNANIMOUS;

I MOVE TO WAIVE THE SECOND READING OF ORDINANCE #2797-2021 AND APPROVE ORDINANCE #2797-2021 AMENDING THE ONTARIO MUNICIPAL CODE TITLE 3, SECTION 11 TRANSIENT ROOM TAX.

SUMMARY:

At the request of City Councilman Hart, staff was asked to review the Ontario Municipal Code in August of 2021 to see if recreational vehicles are subject to transient lodging tax. Staff found that while state language clearly includes recreational vehicles, the Ontario Municipal Code is not as clear as it relates to the same vehicles. Changes have been made as discussed and must be amended by ordinance.

BACKGROUND:

The Ontario Municipal Code (OMC) defines Hotel as meaning "any structure, or any portion of any structure which is occupied or intended or designed for transient occupancy for thirty (30) days or less, for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, space in mobile home or trailer parks, or similar structure or portions thereof so occupied; provided such occupancy is for less than a thirty (30) day period."

As it relates to recreational vehicles, the city might broadly make a case that some RVs are trailers and that an RV park is a trailer park. That would not include all RVs though as many are not pulled as a "trailer". Not only would it be incomplete, but is vague and may not stand up to scrutiny.

The definition of transient in the Ontario Municipal Code is built upon the definition of Hotel. OMC defines Transient to mean "any individual who exercises occupancy or is entitled to occupancy in a hotel for a period of thirty (30) consecutive calendar days or less counting portions of calendar days as full days. The day a transient checks out of the hotel shall not be included in determining the thirty (30) day period if the transient is not charged rent for that day by the operator. Any such individual so occupying space in a hotel shall be deemed to be transient until the period of thirty (30) days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy." (See attachment 1 for full text)

CURRENT SITUATION:

As presented on August 24, 2021, staff presented the following summary of defaults in Title 3, Section 11.

The definition of "hotel in the city ordinance is not clear or broad enough to include Recreation Vehicles "RVs" and that we should amend the ordinance to include RVs. Staff recommended the city use the language from the Oregon Revised Statutes (ORS) by reference. The state language under ORS 320.300 defines transient as:

(11) "Transient lodging" means:

- (a) Hotel, motel and inn dwelling units that are used for temporary overnight human occupancy;
- (b) Spaces used for parking recreational vehicles or erecting tents during periods of human occupancy; or
- (c) Houses, cabins, condominiums, apartment units or other dwelling units, or portions of any of these dwelling units, that are used for temporary human occupancy. (See Attachment 2 for full text)

Staff also recommended that it add the state section that defines Transient Lodging Intermediary as defined by the state to include third parties that facilitate rentals under 30 days such as airbnb.

The State law defines transient intermediaries as follows:

12) "Transient lodging intermediary" means a person other than a transient lodging provider that facilitates the retail sale of transient lodging and:

- (a) Charges for occupancy of the transient lodging;
- (b) Collects the consideration charged for occupancy of the transient lodging; or

(c) Receives a fee or commission and requires the transient lodging provider to use a specified third-party entity to collect the consideration charged for occupancy of the transient lodging.

Staff recommended that for simplification, the local code could refer to the state code to define transient lodging and transient intermediaries.

ANALYSIS:

- A. **STRATEGIC PLAN** This change in ordinance directly impacts the City Council's goal of being financially sustainable.
- B. **FINANCIAL** This change will realize the intent and maximize the amount of the city's local tax policy for short term rentals (30-days or less). It is difficult to predict how much local revenue will be derived from RV parks. Many stays will exceed 30 days, but many stays will also be less than 30 days.
- C. **TIMING** It would be advantageous for the city to amend the ordinance prior to or as soon as possible afterwards to the opening of the new 170 unit RV Park being built now to help with the implementation of the owner's financial processes.
- D. **POLICY/LEGAL** The City Council must approve this by ordinance. Ordinances require two readings, but the second reading can be waived if the first is approved unanimously.

ALTERNATIVES:

Take No Action: Air BnB type establishments or RV parks would not collect transient room taxes for stays under 30 days.

RECOMMENDATION:

Staff recommends that Council approve Ordinance #2797-2021 amending Title 3, Section 11 of the Ontario Municipal Code.

ATTACHMENTS:

- 1. 2797-2021 Transient Room Tax Ordinance Amendment_9 28 2021
- 2. Amend_CC_TOT Revisions strike out version_9 28 2021



ORDINANCE #2797-2021

AN ORDINANCE AMENDING TITLE 3 CHAPTER 11 TRANSIENT ROOM TAX

WHEREAS, The City of Ontario has a transient room tax to improve which supports public safety, roads, and economic development activities; and

WHEREAS, The City Council has reviewed existing Ontario Municipal Code and deemed that the transient room tax is not applied equally across transient housing services; and

WHEREAS, The City desires all providers of transient housing to be treated the same.

NOW THEREFORE, BE IT HEREBY RESOLVED by the Ontario City Council to adopts the amended language for Title 3, Section 11 Transient Room Tax in attachment A.

EFFECTIVE DATE: Effective 30 days upon passage.

PASSED AND ADOPTED by the Common Council City Council of the City of Ontario this 28th day of September 2021, by the following vote:

AYES:

NAYES:

ABSENT:

APPROVED by the Mayor this _____ day of _____, 20____.

Riley J. Hill, Mayor

ATTEST:

Tori Barnett, MMC, City Recorder

Chapter 11 TRANSIENT ROOM TAX

Sections:

3-11-1 Title.

This Chapter shall be known as the Transient Room Tax Ordinance of the City.

3-11-2 Definitions.

Except where the context otherwise requires, the definitions given in this Section govern the construction of this Chapter:

ACCRUAL ACCOUNTING means the operator or transient lodging intermediary enters the rent due from a transient on his records when the rent is earned whether or not it is paid.

CASH ACCOUNTING means the operator or transient lodging intermediary does not enter the rent due from a transient on his records until rent is paid.

CITY COUNCIL means the City Council of the City.

OCCUPANCY means the use or possession, or the right to the use or possession for lodging or sleeping purposes of any room or rooms in transient lodging, or space in a mobile home or trailer park or portion thereof.

OPERATOR means the person who is proprietor of the transient lodging in any capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this Chapter and shall have the same duties and liabilities as his principal. Compliance with the provisions of this Chapter by either the principal or the managing agent shall be considered to be compliance by both.

PERSON means any individual, firm, partnership, joint venture, association, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as unit.

RENT means the consideration charged, whether or not received by the operator or transient lodging intermediary, for the occupancy of space in transient lodging valued in money, goods, labor, credits, property or other consideration valued in money, without any deduction.

RENT PACKAGE PLAN means the consideration charged for both food and rent where a single rate is made for the total of both. The amount applicable to rent for determination of transient room tax under this Chapter shall be the same charge made for rent when consideration is not a part of a package plan.

TAX ADMINISTRATOR means the Finance Director of the City.

TAX means either the tax payable by the transient, or the aggregate amount of taxes due from an operator or transient lodging intermediary during the period for which he is required to report his collections.

TRANSIENT means any individual who exercises occupancy or is entitled to occupancy in a transient lodging for a period of thirty (30) consecutive calendar days or less counting portions of calendar days as full days. The day a transient checks out of the transient lodging shall not be included in determining the thirty (30) day period if the transient is not charged rent for that day by the operator or transient lodging intermediary. Any such individual so occupying space in transient lodging shall be deemed to be transient until the period of thirty (30) days has expired unless there is an agreement in writing between the operator or transient lodging intermediary and the occupant providing for a longer period of occupancy.

TRANSIENT LODGING shall be defined by Oregon Revised Statute 320.300 (11).

TRANSIENT LODGING INTERMEDIARY shall be defined by Oregon Revised Statute 320.300 (12).

(Ord. No. 2721-2016, § 1, 12-5-16)

3-11-3 Tax imposed.

- (A) For the privilege of occupancy in any Transient Lodging, on and after the effective date hereof each transient shall pay a tax in the amount of eight percent (8%) of the rent charged by the operator or transient lodging intermediary. The tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator or transient lodging intermediary or to the city. The transient shall pay the tax to the operator or transient lodging intermediary of the transient lodging at the time the rent is paid. The operator or transient lodging intermediary shall enter the tax on his records when rent is collected if the operator or transient lodging intermediary keeps his records on the accrual accounting basis. If rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the operator or transient lodging intermediary with each installment. If for any reason the tax due is not paid to the operator or transient lodging intermediary of the transient lodging, the Tax Administrator may require that such tax shall be paid directly to the City. In all cases, the rent paid or charged for occupancy shall exclude the sale of any goods, services and commodities, other than the furnishing of rooms, accommodations and parking space in mobile home parks or trailer parks.

(Ord. 2450 § 1, 2000: amd. Ord. 2344, 4-4-94)

3-11-4 Distribution of proceeds.

Every operator or transient lodging intermediary liable for the collection and remittance of the tax imposed by Section 3-11-3, may withhold three and seventy-five one hundredths percent (3.75%) of the net tax due under that Section to cover the operator or transient lodging intermediaries' expense in the collection and remittance of said tax. The balance of the funds collected and remitted to the City shall be distributed as follows:

Twelve and five tenths' percent (12.5%) of the gross tax collected shall go to the Ontario Parks and Recreation and/or community enhancement projects.

Twenty-six and twenty-five hundredths' percent (26.25%) shall be dedicated to street maintenance activities.

Twenty-six and twenty-five hundredths' percent (26.25%) shall be deposited into a public safety reserve account to be spent for public safety activities as directed by the City Council.

Twenty-two and five tenths percent (22.5%) shall be divided with thirty thousand dollars (\$30,000.00), to be distributed in monthly payments of two thousand five hundred dollars (\$2,500.00) each to a grant fund to be administered by a Visitor and Convention Board created pursuant to the Agreement to Provide Tourism Promotion Services between the City of Ontario and the Chamber of Commerce dated September 3, 1997, and the balance to go to the Ontario Chamber of Commerce for tourist promotion, subject to the Chamber's performance in accordance with the terms and conditions of the Agreement to Provide Tourism Promotion Services between the City of Ontario and the Chamber of Commerce dated September 3, 1997.

Twelve and five tenths' percent (12.5%) shall be placed in a dedicated fund to be held for distribution pursuant to an agreement to be negotiated between the City of Ontario, Four Rivers Cultural Center (FRCC) and the transient lodging Operators or transient lodging intermediary and approved by the Ontario City Council.

(Ord. 2450 § 2, 2000: amd. Ord. 2344, 4-4-94)

(Ord. No. 2685-2013, § 1, 11-4-13; Ord. No. 2698-2015, § 1, 2-17-15)

3-11-5 Collection of tax from transients.

- (A) Every operator or transient lodging intermediary renting rooms in this City, the occupancy of which is not exempted under the terms of this Chapter, shall collect the tax set forth in Section 3-11-3 from the occupant. The tax collected or accrued by the operator or transient lodging intermediary constitutes a debt owed by the operator or transient lodging intermediary to the city.
- (B) In all cases of credit or deferred payment of rent, the payment of tax to the operator or transient lodging intermediary may be deferred until the rent is paid, and the operator or transient lodging intermediary shall not be liable for the tax until credits are paid or deferred payments are made.
- (C) For rent collected on portions of a dollar (\$1.00), the following shall apply:

Amount of Rent	Tax Collected
\$0.07 through \$0.20 inclusive	First 1¢
0.21 through 0.34 inclusive	Second 1¢
0.35 through 0.48 inclusive	Third 1¢
0.49 through 0.62 inclusive	Fourth 1¢
0.63 through 0.76 inclusive	Fifth 1¢
0.77 through 0.91 inclusive	Sixth 1¢
0.92 through 1.06 inclusive	Seventh 1¢

(Ord. 2450 § 3, 2000; amd. Ord. 2344, 4-4-94)

3-11-6 Duties of operator or transient lodging intermediary.

Each operator or transient lodging intermediary shall collect the tax imposed by Section 3-11-3 at the same time as the rent is collected from every transient. The amount of tax shall be separately stated upon the operator or transient lodging intermediary's records, and any receipt rendered by the operator or transient lodging intermediary. No operator or transient lodging intermediary of transient lodging shall advertise that the tax or any part of the tax will be assumed or absorbed by the operator or transient lodging intermediary, or that it will not be added to the rent, or that, when added, any part will be refunded, except in the manner provided by this Chapter.

(Ord. 2450 § 4, 2000)

3-11-7 Registration requirements.

- (A) Registration Required. Every person engaging or about to engage in business as an operator or transient lodging intermediary of a hotel in this City shall register with the Tax Administrator on a form provided by him. Operator or transient lodging intermediaries engaged in business at the effective date hereof must register not later than thirty (30) calendar days after said effective date. Operator or transient lodging intermediaries starting business after the effective date hereof must register within fifteen (15) calendar days after commencing business. The privilege of registration after the date of imposition of such tax shall not relieve any person from the obligation of payment or collection of tax regardless of registration.
- (B) Contents of Registration. Registration shall set forth the following:
 - 1. Name under which an operator or transient lodging intermediary transacts or intends to transact business.

-
2. The location of his place or places of business; and
 3. Such other information to facilitate the collection of the tax as the Tax Administrator may require.

The registration shall be signed by the operator or transient lodging intermediary.

- (C) Certificate of Authority. The Tax Administrator shall, within ten (10) days after registration, issue without charge a certificate of authority to each registrant to collect the tax from the occupant, together with a duplicate thereof for each additional place of business for each registrant. Certificates shall be non-assignable and nontransferable and shall be surrendered immediately to the Tax Administrator upon the cessation of business at the location named or upon its sale or transfer. Each certificate and duplicate shall state the place of business to which it is applicable and shall be prominently displayed therein so as to be seen and come to the notice readily of all occupants and persons seeking occupancy. Said certificate shall, among other things, state the following:
1. The name of the operator or transient lodging intermediary;
 2. The address of the transient lodging;
 3. The date upon which the certificate was issued; and
 4. "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Transient Room Tax Regulations of the City of Ontario by registration with the Tax Administrator for the purpose of collecting from transients the room tax imposed by said City and remitting said tax to the Tax Administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate transient lodging without strictly complying with all local applicable laws including but not limited to those requiring a permit from any board, commission, department or office of the City of Ontario. This certificate does not constitute a permit."

3-11-8 Tax returns and payments.

- (A) The tax imposed by Section 3-11-3 shall be paid by the transient to the operator or transient lodging intermediary at the time that rent is paid. All amounts of such taxes collected by any operator or transient lodging intermediary are due and payable to the Tax Administrator on a monthly basis on the fifteenth day of the month for the preceding month; and are delinquent on the last day of the month in which they are due.
- (B) On or before the fifteenth day of the month following each month, a return for the preceding month's tax collections under Section 3-11-3 shall be filed with the Tax Administrator. The return shall be filed in such form as the Tax Administrator may prescribe by every operator or transient lodging intermediary liable for payment of the tax.

Returns shall show the amount of tax collected or otherwise due for the related period. The Tax Administrator may require returns to show the total rentals upon which tax was collected or otherwise due, gross receipts of each operator or transient lodging intermediary for such period and an explanation in detail of any discrepancy between such amounts, and the amount of rents exempt, if any.

The person required to file the return shall deliver the return, together with the remittance of the amount of the tax due, to the Tax Administrator at his office either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.

- (C) For good cause, the Tax Administrator may extend, but not to exceed one month, the time for making any return or payment of tax. No further extension shall be granted except by the City Council. Any operator or transient lodging intermediary to whom an extension is granted shall pay interest at the rate of one percent (1%) per month on the amount of tax due without proration for a fraction of a month. If a return is not filed, and the tax and interest due is not paid by the end of the extension granted, then the interest shall become a part of the tax for computation of penalties described in Section 3-11-9 of this Chapter.

-
- (D) The Tax Administrator, if he deems it necessary in order to insure payment or facilitate collection by the City of the amount of taxes in any individual case may require returns and payment of the amount of taxes for other monthly periods.

(Ord. 2450 § 5, 2000)

3-11-9 Penalties and interest.

- (A) Original Delinquency. Any operator or transient lodging intermediary who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by this Chapter prior to delinquency shall pay a penalty of ten percent (10%) of the amount of the tax due in addition to the amount of the tax.
- (B) Continued Delinquency. Any operator or transient lodging intermediary who has not been granted an extension of time for remittance of tax due and who failed to pay any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of fifteen percent (15%) of the amount of the tax due in addition to the amount of the tax and the ten percent (10%) penalty first imposed.
- (C) Fraud. If the Tax Administrator determines that the nonpayment of any remittance due under this Chapter is due to fraud or intent to evade the provisions thereof, a penalty of twenty five percent (25%) of the amount of the tax shall be added thereto in addition to the penalties stated in subsections (A) and (B) of this Section.
- (D) Interest. In addition to the penalties imposed, any operator or transient lodging intermediary who fails to remit any tax imposed by this Chapter shall pay interest at the rate of one-half of one percent (0.5%) per month or fraction thereof without proration for portions of a month, on the amount of the tax due, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
- (E) Penalties Merged With Tax. Every penalty imposed and such interest as accrues under the provisions of this Section shall be merged with and become a part of the tax herein required to be paid.
- (F) Petition for Waiver. Any operator or transient lodging intermediary who fails to remit the tax herein levied within the time herein stated shall pay the penalties herein stated; provided, however, the operator or transient lodging intermediary may petition the City Council for waiver and refund of the penalty or any portion thereof and the City Council may, if a good and sufficient reason is shown, waive and direct a refund of the penalty or any portion thereof.

3-11-10 Deficiency determinations; fraud, evasion, operator or transient lodging intermediary delay.

- (A) Deficiency Determination. If the Tax Administrator determines that the returns are incorrect, he may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns or upon the basis of any information within his possession or that may come into his possession. One or more deficiency determinations may be made of the amount due for one, or more than one period, and the amount so determined shall be due and payable immediately upon service of notice as herein provided after which the amount determined is delinquent. Penalties on deficiencies shall be applied as set forth in Section 3-11-9 of this Chapter.
1. In making a determination, the Tax Administrator may offset overpayments if any, which may have been previously made for a period or periods, against any underpayment for a subsequent period or periods, or against penalties and interest on the underpayments. The interest on underpayments shall be computed in the manner set forth in Section 3-11-9 of this Chapter.
 2. The Tax Administrator shall give to the operator or transient lodging intermediary or occupant a written notice of his determination. The notice may be served personally or by mail; if by mail, the notice shall be addressed to the operator or transient lodging intermediary at his address as it appears

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- in the records of the Tax Administrator. In case of service by mail or any notice required by this Chapter the service is complete at the time of deposit in the United States Post Office.
3. Except in the case of fraud, intent to evade this Chapter or authorized rules and regulations, every deficiency determination shall be made and notice thereof mailed within three (3) years after the last day of the month following the close of the monthly period for which the amount is proposed to be determined or within three (3) years after the return is filed, whichever period expires the later.
 4. Any determination shall become due and payable immediately upon receipt of notice and shall become final within ten (10) days after the Tax Administrator has given notice thereof; provided, however, the operator or transient lodging intermediary may petition redemption and refund if the petition is filed before the determination becomes final as herein provided.
- (B) **Fraud, Refusal to Collect, Evasion.** If any operator or transient lodging intermediary shall fail or refuse to collect said tax or to make, within the time provided in this Chapter any report and remittance of said tax or any portion thereof required by this Chapter, or makes a fraudulent return or otherwise willfully attempts to evade this Chapter, the Tax Administrator shall proceed in such manner as he may deem best to obtain facts and information on which to base an estimate of the tax due. As soon as the Tax Administrator has determined the tax due that is imposed by this Chapter from any operator or transient lodging intermediary who has failed or refused to collect the same and to report and remit said tax, he shall proceed to determine and assess against such operator or transient lodging intermediary the tax, interest and penalties provided for by this Chapter. In case such determination is made, the Tax Administrator shall give a notice in the manner aforesaid of the amount so assessed. Such determination and notice shall be made and mailed within three (3) years after discovery by the Tax Administrator of any fraud, intent to evade or failure or refusal to collect said tax, or failure to file return. Any determination shall become due and payable immediately upon receipt of notice and shall become final within ten (10) days after the Tax Administrator has given notice thereof; provided, however, the operator or transient lodging intermediary may petition redemption and refund if the petition is filed before the determination becomes final as herein provided.
- (C) **Operator or Transient Lodging Intermediary Delay.** If the Tax Administrator believes that the collection of any tax or any amount of tax required to be collected and paid to the City will be jeopardized by delay, or if any determination will be jeopardized by delay, he shall thereupon make a determination of the tax or amount of tax required to be collected, noting the fact upon the determination. The amount so determined as herein provided shall be immediately due and payable, and the operator or transient lodging intermediary shall immediately pay same determination to the Tax Administrator after service of notice thereof; provided, however, the operator or transient lodging intermediary may petition, after payment has been made, for redemption and refund of such determination, if the petition is filed within ten (10) days from the date of service of notice by the Tax Administrator.

3-11-11 Redeterminations.

- (A) Any person against whom a determination is made under Section 3-11-10 of this Chapter or any person directly interested may petition for a redetermination and redemption and refund within the time required in said Section 3-11-10. If a petition for redetermination and refund is not filed within the time required in Section 3-11-10 of this Chapter, the determination becomes final at the expiration of the allowable time.
- (B) If a petition for redetermination and refund is filed within the allowable period, the Tax Administrator shall reconsider the determination, and if the person has so requested in his petition, shall grant the person an oral hearing and shall give him ten days' notice of the time and place of the hearing. The Tax Administrator may continue the hearing from time to time as may be necessary.
- (C) The Tax Administrator may decrease or increase the amount of the determination as a result of the hearing and if an increase is determined, such increase shall be payable immediately after the hearing.

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- (D) The order or decision of the Tax Administrator upon a petition for redetermination of redemption and refund becomes final ten (10) days after service upon the petitioner of notice thereof, unless appeal of such order or a decision is filed with the City Council within the ten (10) days after service of such notice.
 - (E) No petition for redetermination of redemption and refund or appeal therefrom shall be effective for any purpose unless the operator or transient lodging intermediary has first complied with the payment provisions hereof.

3-11-12 Security for collection of tax.

- (A) The Tax Administrator, whenever he deems it necessary to insure compliance with this Chapter, may require any operator or transient lodging intermediary subject thereto to deposit with him such security in the form of cash, bond or other security as the Tax Administrator may determine. The amount of the security shall be fixed by the Tax Administrator but shall not be greater than twice the operator or transient lodging intermediary's estimated average monthly liability for the period for which he files returns, determined in such manner as the Tax Administrator deems proper, or five thousand dollars (\$5,000.00), whichever amount is the lesser. The amount of the security may be increased or decreased by the Tax Administrator subject to the limitations herein provided.
- (B) At any time within three (3) years after any tax or any amount of tax required to be collected becomes due and payable or at any time within three (3) years after any determination becomes final, the Tax Administrator may bring an action in the courts of this State, or any other state, or of the United States in the name of the City to collect the amount delinquent together with penalties and interest.

3-11-13 Lien.

The tax imposed by this Chapter together with the interest and penalties herein provided and the filing fees paid to the Clerk of Malheur County, Oregon, and advertising costs which may be incurred when same becomes delinquent as set forth in this Chapter shall be and, until paid, remain a lien from the date of its recording with the Clerk of Malheur County, Oregon, and superior to all subsequent recorded liens on all tangible personal property used in the transient lodging of an operator or transient lodging intermediary within the City and may be foreclosed on and sold as may be necessary to discharge said lien, if the lien has been recorded. Notice of lien may be issued by the Tax Administrator or his deputy whenever the operator or transient lodging intermediary is in default in the payment of said tax, interest and penalty and shall be recorded, and a copy sent to the delinquent operator or transient lodging intermediary. The personal property subject to such lien seized by any deputy or employee of the Tax Administrator may be sold by the department seizing the same at public auction after ten days' notice which shall mean one publication in a newspaper published in the City.

Any lien for taxes as shown on the records of the proper County official shall, upon the payment of all taxes, penalties and interest thereon, be released by the Tax Administrator when the full amount determined to be due has been paid to the City and the operator or transient lodging intermediary or person making such payment shall receive a receipt therefor stating that the full amount of taxes, penalties, and interest thereon have been paid and that the lien is thereby released and the record of lien is satisfied.

3-11-14 Refunds.

- (A) Operator or Transient Lodging Intermediary's Refund. Whenever the amount of any tax, penalty or interest has been paid more than once or has been erroneously or illegally collected or received by the Tax Administrator under this Chapter, it may be refunded; provided a verified claim in writing therefor, stating the specific reason upon which the claim is founded, is filed with the Tax Administrator within three (3) years from the date of payment. The claim shall be made on forms provided by the Tax Administrator within three (3) years from the date of payment. The claim shall be made on forms provided by the Tax Administrator. If

the claim is approved by the Tax Administrator, the excess amount collected or paid may be refunded or may be credited on any amounts then due and payable from the operator or transient lodging intermediary from whom it was collected or by whom paid and the balance may be refunded to each operator or transient lodging intermediary, his administrators, executors or assignees.

- (B) Transient Refund. Whenever the tax required by this Chapter has been collected by the operator or transient lodging intermediary and deposited by the operator or transient lodging intermediary with the Tax Administrator, and it is later determined that the tax was erroneously or illegally collected or received by the Tax Administrator, it may be refunded by the Tax Administrator to the transient; provided a verified claim in writing therefor, stating the specific reason on which the claim is founded, is filed with the Tax Administrator within three (3) years from the date of payment.

3-11-15 Administration of regulations.

- (A) Records Required From Operators or Transient Lodging Intermediaries, Form. Every operator or transient lodging intermediary shall keep guest records of room sales and accounting books and records of the room sales. All records shall be retained by the operator or transient lodging intermediary for a period of three (3) years and six (6) months after they come into being.
- (B) Examination of Records; Investigations. The Tax Administrator or any person authorized in writing by him may examine during normal business hours, the books, papers and accounting records relating to room sales of any operator or transient lodging intermediary after notification to the operator or transient lodging intermediary liable for the tax and may investigate the business of the operator or transient lodging intermediary in order to verify the accuracy of any return made, or if no return is made by the operator or transient lodging intermediary, to ascertain and determine the amount required to be paid.
- (C) Information to be Confidential. It shall be unlawful for the Tax Administrator or any person having an administrative or clerical duty under the provisions of this Chapter to make known in any manner whatever the business affairs, operations or information obtained by an investigation of records and equipment of any person required to obtain a transient occupancy registration certificate, or pay a transient occupancy tax, or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth in any statement or application, or to permit any statement or application, or copy of either, or any book containing any abstract or particulars thereof to be seen or examined by any person; provided, that nothing in this subsection shall be construed to prevent:
1. The disclosure to, or the examination of records and equipment by another City official, employee or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this Chapter; or collecting taxes imposed hereunder.
 2. The disclosure after the filing of a written request to that effect, to the tax payer himself, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, of information as to any paid tax, any unpaid tax or amount of tax required to be collected or interest and penalties; provided, however, that the City Attorney approves each such disclosure and that the Tax Administrator may refuse to make any disclosure referred to in this paragraph when, in his opinion, the public interest would suffer thereby.
 3. The disclosure of the names and addresses of any persons to whom transient occupancy registration certificates have been issued.
 4. The disclosure of general statistics regarding taxes collected or business done in the City.

3-11-16 Appeals to City Council.

Any person aggrieved by any provision of the Tax Administrator may appeal to the City Council of the City by filing a notice of appeal with the Tax Administrator within ten (10) days of the Administrator's decision. The Tax Administrator shall transmit said notice of appeal, together with the file of said appealed matter to the City Council who shall fix a time and place for hearing such appeal. The Council shall give the appellant not less than ten (10) days' written notice of the time and place of hearing of said appealed matter.

3-11-17 Enforcement.

The Tax Administrator shall enforce provisions of this Chapter and shall have the power to adopt rules and regulations not inconsistent with this Chapter as may be necessary to aid in its enforcement.

3-11-18 Exemptions.

No tax imposed under this Chapter shall be imposed upon:

- (A) Any occupant for more than thirty (30) successive calendar days (a person who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a transient);
- (B) Any occupant whose rent is of a value less than two dollars (\$2.00) per day;
- (C) Any person who rents a private home, vacation cabin, or like facility from any owner who rents such facilities incidentally to his own use thereof;
- (D) Any occupant whose rent is paid for hospital room or to a medical clinic, convalescent home or home for aged people.

3-11-19 Violations.

It is unlawful for any operator or transient lodging intermediary or other person so required to fail or refuse to register as required herein, or to furnish any return required to be made, or fail or refuse to furnish a supplemental return or other data required by the Tax Administrator or to render a false or fraudulent return. No person required to make, render, sign or verify any report shall make any false or fraudulent report with intent to defeat or evade the determination of any amount due required by this Chapter.

3-11-20 Penalty for violation.

Any person willfully violating any of the provisions of this Chapter shall be guilty of a violation and upon conviction thereof shall be subject to the penalty provided in Section 1-4-1 of the City Code.

(Ord. 2212, 3-16-87)

(Ord. No. 2652-2010, § 1, 11-15-2010)

3-11-21 Effective date of tax collection.

Each operator or transient lodging intermediary shall collect the tax beginning on August 1, 1987.

(Ord. 2227, 5-18-87)

DRAFT

Chapter 11 TRANSIENT ROOM TAX

Sections:

3-11-1 Title.

This Chapter shall be known as the Transient Room Tax Ordinance of the City.

3-11-2 Definitions.

Except where the context otherwise requires, the definitions given in this Section govern the construction of this Chapter:

ACCRUAL ACCOUNTING means the operator or transient lodging intermediary enters the rent due from a transient on his records when the rent is earned whether or not it is paid.

CASH ACCOUNTING means the operator or transient lodging intermediary does not enter the rent due from a transient on his records until rent is paid.

CITY COUNCIL means the City Council of the City.

~~HOTEL means any structure, or any portion of any structure which is occupied or intended or designed for transient occupancy for thirty (30) days or less, for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, space in mobile home or trailer parks, or similar structure or portions thereof so occupied; provided such occupancy is for less than a thirty (30) day period.~~

OCCUPANCY means the use or possession, or the right to the use or possession for lodging or sleeping purposes of any room or rooms in ~~a hotel~~transient lodging, or space in a mobile home or trailer park or portion thereof.

OPERATOR means the person who is proprietor of the ~~hotel~~transient lodging in any capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this Chapter and shall have the same duties and liabilities as his principal. Compliance with the provisions of this Chapter by either the principal or the managing agent shall be considered to be compliance by both.

PERSON means any individual, firm, partnership, joint venture, association, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as unit.

RENT means the consideration charged, whether or not received by the operator or transient lodging intermediary, for the occupancy of space in ~~a hotel~~transient lodging valued in money, goods, labor, credits, property or other consideration valued in money, without any deduction.

RENT PACKAGE PLAN means the consideration charged for both food and rent where a single rate is made for the total of both. The amount applicable to rent for deter-mination of transient room tax under this Chapter shall be the same charge made for rent when consideration is not a part of a package plan.

TAX ADMINISTRATOR means the Finance Director of the City.

TAX means either the tax payable by the transient, or the aggregate amount of taxes due from an operator or transient lodging intermediary during the period for which he is required to report his collections.

TRANSIENT means any individual who exercises occupancy or is entitled to occupancy in a ~~hotel~~transient lodging for a period of thirty (30) consecutive calendar days or less counting portions of calendar days as full days. The day a transient checks out of the ~~hotel~~transient lodging shall not be included in determining the thirty (30) day period if the transient is not charged rent for that day by the operator or transient lodging intermediary. Any such individual so occupying space in a ~~hotel~~transient lodging shall be deemed to be transient until the period of thirty (30) days has expired unless there is an agreement in writing between the operator or transient lodging intermediary and the occupant providing for a longer period of occupancy.

TRANSIENT LODGING shall be defined by Oregon Revised Statute 320.300 (11).

TRANSIENT LODGING INTERMEDIARY shall be defined by Oregon Revised Statute 320.300 (12).

(Ord. No. 2721-2016, § 1, 12-5-16)

3-11-3 Tax imposed.

- (A) For the privilege of occupancy in any ~~hotel~~Transient Lodging, on and after the effective date hereof each transient shall pay a tax in the amount of eight percent (8%) of the rent charged by the operator or transient lodging intermediary. The tax constitutes a debt owed by the transient to the City which is extinguished only by payment to the operator or transient lodging intermediary or to the City. The transient shall pay the tax to the operator or transient lodging intermediary of the ~~hotel~~transient lodging at the time the rent is paid. The operator or transient lodging intermediary shall enter the tax on his records when rent is collected if the operator or transient lodging intermediary keeps his records on the accrual accounting basis. If rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the operator or transient lodging intermediary with each installment. If for any reason the tax due is not paid to the operator or transient lodging intermediary of the ~~hotel~~transient lodging, the Tax Administrator may require that such tax shall be paid directly to the City. In all cases, the rent paid or charged for occupancy shall exclude the sale of any goods, services and commodities, other than the furnishing of rooms, accommodations and parking space in mobile home parks or trailer parks.

(Ord. 2450 § 1, 2000: amd. Ord. 2344, 4-4-94)

3-11-4 Distribution of proceeds.

Every operator or transient lodging intermediary liable for the collection and remittance of the tax imposed by Section 3-11-3, may withhold three and seventy-five one hundredths percent (3.75%) of the net tax due under that Section to cover the operator or transient lodging intermediaries expense in the collection and remittance of said tax. The balance of the funds collected and remitted to the City shall be distributed as follows:

Twelve and five tenths percent (12.5%) of the gross tax collected shall go to the Ontario Parks and Recreation and/or community enhancement projects.

Twenty-six and twenty-five hundredths percent (26.25%) shall be dedicated to street maintenance activities.

Twenty-six and twenty-five hundredths percent (26.25%) shall be deposited into a public safety reserve account to be spent for public safety activities as directed by the City Council.

Twenty-two and five tenths percent (22.5%) shall be divided with thirty thousand dollars (\$30,000.00), to be distributed in monthly payments of two thousand five hundred dollars (\$2,500.00) each to a grant fund to be administered by a Visitor and Convention Board created pursuant to the Agreement to Provide Tourism Promotion Services between the City of Ontario and the Chamber of Commerce dated September 3, 1997, and the balance to go to the Ontario Chamber of Commerce for tourist promotion, subject to the Chamber's performance in

accordance with the terms and conditions of the Agreement to Provide Tourism Promotion Services between the City of Ontario and the Chamber of Commerce dated September 3, 1997.

Twelve and five tenths percent (12.5%) shall be placed in a dedicated fund to be held for distribution pursuant to an agreement to be negotiated between the City of Ontario, Four Rivers Cultural Center (FRCC) and the ~~Hotel~~transient lodging Operators or transient lodging intermediary and approved by the Ontario City Council.

(Ord. 2450 § 2, 2000; amd. Ord. 2344, 4-4-94)

(Ord. No. 2685-2013, § 1, 11-4-13; Ord. No. 2698-2015, § 1, 2-17-15)

3-11-5 Collection of tax from transients.

- (A) Every operator or transient lodging intermediary renting rooms in this City, the occupancy of which is not exempted under the terms of this Chapter, shall collect the tax set forth in Section 3-11-3 from the occupant. The tax collected or accrued by the operator or transient lodging intermediary constitutes a debt owed by the operator or transient lodging intermediary to the City.
- (B) In all cases of credit or deferred payment of rent, the payment of tax to the operator or transient lodging intermediary may be deferred until the rent is paid, and the operator or transient lodging intermediary shall not be liable for the tax until credits are paid or deferred payments are made.
- (C) For rent collected on portions of a dollar (\$1.00), the following shall apply:

Amount of Rent	Tax Collected
\$0.07 through \$0.20 inclusive	First 1¢
0.21 through 0.34 inclusive	Second 1¢
0.35 through 0.48 inclusive	Third 1¢
0.49 through 0.62 inclusive	Fourth 1¢
0.63 through 0.76 inclusive	Fifth 1¢
0.77 through 0.91 inclusive	Sixth 1¢
0.92 through 1.06 inclusive	Seventh 1¢

(Ord. 2450 § 3, 2000; amd. Ord. 2344, 4-4-94)

3-11-6 Duties of operator or transient lodging intermediary.

Each operator or transient lodging intermediary shall collect the tax imposed by Section 3-11-3 at the same time as the rent is collected from every transient. The amount of tax shall be separately stated upon the operator or transient lodging intermediary's records, and any receipt rendered by the operator or transient lodging intermediary. No operator or transient lodging intermediary of a ~~hotel~~transient lodging shall advertise that the tax or any part of the tax will be assumed or absorbed by the operator or transient lodging intermediary, or that it will not be added to the rent, or that, when added, any part will be refunded, except in the manner provided by this Chapter.

(Ord. 2450 § 4, 2000)

3-11-7 Registration requirements.

(A) Registration Required. Every person engaging or about to engage in business as an operator or transient lodging intermediary of a hotel in this City shall register with the Tax Administrator on a form provided by him. Operator or transient lodging intermediaries engaged in business at the effective date hereof must register not later than thirty (30) calendar days after said effective date. Operator or transient lodging intermediarys starting business after the effective date hereof must register within fifteen (15) calendar days after commencing business. The privilege of registration after the date of imposition of such tax shall not relieve any person from the obligation of payment or collection of tax regardless of registration.

(B) Contents of Registration. Registration shall set forth the following:

1. Name under which an operator or transient lodging intermediary transacts or intends to transact business;
2. The location of his place or places of business; and
3. Such other information to facilitate the collection of the tax as the Tax Administrator may require.

The registration shall be signed by the operator or transient lodging intermediary.

(C) Certificate of Authority. The Tax Administrator shall, within ten (10) days after registration, issue without charge a certificate of authority to each registrant to collect the tax from the occupant, together with a duplicate thereof for each additional place of business for each registrant. Certificates shall be non-assignable and nontransferable and shall be surrendered immediately to the Tax Administrator upon the cessation of business at the location named or upon its sale or transfer. Each certificate and duplicate shall state the place of business to which it is applicable and shall be prominently displayed therein so as to be seen and come to the notice readily of all occupants and persons seeking occupancy. Said certificate shall, among other things, state the following:

1. The name of the operator or transient lodging intermediary;
2. The address of the ~~hotel~~transient lodging;
3. The date upon which the certificate was issued; and
4. "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Transient Room Tax Regulations of the City of Ontario by registration with the Tax Administrator for the purpose of collecting from transients the room tax imposed by said City and remitting said tax to the Tax Administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate ~~a hotel~~transient lodging without strictly complying with all local applicable laws including but not limited to those requiring a permit from any board, commission, department or office of the City of Ontario. This certificate does not constitute a permit."

3-11-8 Tax returns and payments.

- (A) The tax imposed by Section 3-11-3 shall be paid by the transient to the operator or transient lodging intermediary at the time that rent is paid. All amounts of such taxes collected by any operator or transient lodging intermediary are due and payable to the Tax Administrator on a monthly basis on the fifteenth day of the month for the preceding month; and are delinquent on the last day of the month in which they are due.
- (B) On or before the fifteenth day of the month following each month, a return for the preceding month's tax collections under Section 3-11-3 shall be filed with the Tax Administrator. The return shall be filed in such

form as the Tax Administrator may prescribe by every operator or transient lodging intermediary liable for payment of the tax.

Returns shall show the amount of tax collected or otherwise due for the related period. The Tax Administrator may require returns to show the total rentals upon which tax was collected or otherwise due, gross receipts of each operator or transient lodging intermediary for such period and an explanation in detail of any discrepancy between such amounts, and the amount of rents exempt, if any.

The person required to file the return shall deliver the return, together with the remittance of the amount of the tax due, to the Tax Administrator at his office either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.

- (C) For good cause, the Tax Administrator may extend, but not to exceed one month, the time for making any return or payment of tax. No further extension shall be granted except by the City Council. Any operator or transient lodging intermediary to whom an extension is granted shall pay interest at the rate of one percent (1%) per month on the amount of tax due without proration for a fraction of a month. If a return is not filed, and the tax and interest due is not paid by the end of the extension granted, then the interest shall become a part of the tax for computation of penalties described in Section 3-11-9 of this Chapter.
- (D) The Tax Administrator, if he deems it necessary in order to insure payment or facilitate collection by the City of the amount of taxes in any individual case may require returns and payment of the amount of taxes for other monthly periods.

(Ord. 2450 § 5, 2000)

3-11-9 Penalties and interest.

- (A) Original Delinquency. Any operator or transient lodging intermediary who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by this Chapter prior to delinquency shall pay a penalty of ten percent (10%) of the amount of the tax due in addition to the amount of the tax.
- (B) Continued Delinquency. Any operator or transient lodging intermediary who has not been granted an extension of time for remittance of tax due and who failed to pay any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of fifteen percent (15%) of the amount of the tax due in addition to the amount of the tax and the ten percent (10%) penalty first imposed.
- (C) Fraud. If the Tax Administrator determines that the nonpayment of any remittance due under this Chapter is due to fraud or intent to evade the provisions thereof, a penalty of twenty five percent (25%) of the amount of the tax shall be added thereto in addition to the penalties stated in subsections (A) and (B) of this Section.
- (D) Interest. In addition to the penalties imposed, any operator or transient lodging intermediary who fails to remit any tax imposed by this Chapter shall pay interest at the rate of one-half of one percent (0.5%) per month or fraction thereof without proration for portions of a month, on the amount of the tax due, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
- (E) Penalties Merged With Tax. Every penalty imposed and such interest as accrues under the provisions of this Section shall be merged with and become a part of the tax herein required to be paid.
- (F) Petition for Waiver. Any operator or transient lodging intermediary who fails to remit the tax herein levied within the time herein stated shall pay the penalties herein stated; provided, however, the operator or transient lodging intermediary may petition the City Council for waiver and refund of the penalty or any portion thereof and the City Council may, if a good and sufficient reason is shown, waive and direct a refund of the penalty or any portion thereof.

3-11-10 Deficiency determinations; fraud, evasion, operator or transient lodging intermediary delay.

- (A) Deficiency Determination. If the Tax Administrator determines that the returns are incorrect, he may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns or upon the basis of any information within his possession or that may come into his possession. One or more deficiency determinations may be made of the amount due for one, or more than one period, and the amount so determined shall be due and payable immediately upon service of notice as herein provided after which the amount determined is delinquent. Penalties on deficiencies shall be applied as set forth in Section 3-11-9 of this Chapter.
1. In making a determination, the Tax Administrator may offset overpayments if any, which may have been previously made for a period or periods, against any underpayment for a subsequent period or periods, or against penalties and interest on the underpayments. The interest on underpayments shall be computed in the manner set forth in Section 3-11-9 of this Chapter.
 2. The Tax Administrator shall give to the operator or transient lodging intermediary or occupant a written notice of his determination. The notice may be served personally or by mail; if by mail, the notice shall be addressed to the operator or transient lodging intermediary at his address as it appears in the records of the Tax Administrator. In case of service by mail or any notice required by this Chapter the service is complete at the time of deposit in the United States Post Office.
 3. Except in the case of fraud, intent to evade this Chapter or authorized rules and regulations, every deficiency determination shall be made and notice thereof mailed within three (3) years after the last day of the month following the close of the monthly period for which the amount is proposed to be determined or within three (3) years after the return is filed, whichever period expires the later.
 4. Any determination shall become due and payable immediately upon receipt of notice and shall become final within ten (10) days after the Tax Administrator has given notice thereof; provided, however, the operator or transient lodging intermediary may petition redemption and refund if the petition is filed before the determination becomes final as herein provided.
- (B) Fraud, Refusal to Collect, Evasion. If any operator or transient lodging intermediary shall fail or refuse to collect said tax or to make, within the time provided in this Chapter any report and remittance of said tax or any portion thereof required by this Chapter, or makes a fraudulent return or otherwise willfully attempts to evade this Chapter, the Tax Administrator shall proceed in such manner as he may deem best to obtain facts and information on which to base an estimate of the tax due. As soon as the Tax Administrator has determined the tax due that is imposed by this Chapter from any operator or transient lodging intermediary who has failed or refused to collect the same and to report and remit said tax, he shall proceed to determine and assess against such operator or transient lodging intermediary the tax, interest and penalties provided for by this Chapter. In case such determination is made, the Tax Administrator shall give a notice in the manner aforesaid of the amount so assessed. Such determination and notice shall be made and mailed within three (3) years after discovery by the Tax Administrator of any fraud, intent to evade or failure or refusal to collect said tax, or failure to file return. Any determination shall become due and payable immediately upon receipt of notice and shall become final within ten (10) days after the Tax Administrator has given notice thereof; provided, however, the operator or transient lodging intermediary may petition redemption and refund if the petition is filed before the determination becomes final as herein provided.
- (C) Operator or Transient Lodging Intermediary Delay. If the Tax Administrator believes that the collection of any tax or any amount of tax required to be collected and paid to the City will be jeopardized by delay, or if any determination will be jeopardized by delay, he shall thereupon make a determination of the tax or amount of tax required to be collected, noting the fact upon the determination. The amount so determined as herein provided shall be immediately due and payable, and the operator or transient lodging intermediary shall

immediately pay same determination to the Tax Administrator after service of notice thereof; provided, however, the operator or transient lodging intermediary may petition, after payment has been made, for redemption and refund of such determination, if the petition is filed within ten (10) days from the date of service of notice by the Tax Administrator.

3-11-11 Redeterminations.

- (A) Any person against whom a determination is made under Section 3-11-10 of this Chapter or any person directly interested may petition for a redetermination and redemption and refund within the time required in said Section 3-11-10. If a petition for redetermination and refund is not filed within the time required in Section 3-11-10 of this Chapter, the determination becomes final at the expiration of the allowable time.
- (B) If a petition for redetermination and refund is filed within the allowable period, the Tax Administrator shall reconsider the determination, and if the person has so requested in his petition, shall grant the person an oral hearing and shall give him ten days' notice of the time and place of the hearing. The Tax Administrator may continue the hearing from time to time as may be necessary.
- (C) The Tax Administrator may decrease or increase the amount of the determination as a result of the hearing and if an increase is determined, such increase shall be payable immediately after the hearing.
- (D) The order or decision of the Tax Administrator upon a petition for redetermination of redemption and refund becomes final ten (10) days after service upon the petitioner of notice thereof, unless appeal of such order or a decision is filed with the City Council within the ten (10) days after service of such notice.
- (E) No petition for redetermination of redemption and refund or appeal therefrom shall be effective for any purpose unless the operator or transient lodging intermediary has first complied with the payment provisions hereof.

3-11-12 Security for collection of tax.

- (A) The Tax Administrator, whenever he deems it necessary to insure compliance with this Chapter, may require any operator or transient lodging intermediary subject thereto to deposit with him such security in the form of cash, bond or other security as the Tax Administrator may determine. The amount of the security shall be fixed by the Tax Administrator but shall not be greater than twice the operator or transient lodging intermediary's estimated average monthly liability for the period for which he files returns, determined in such manner as the Tax Administrator deems proper, or five thousand dollars (\$5,000.00), whichever amount is the lesser. The amount of the security may be increased or decreased by the Tax Administrator subject to the limitations herein provided.
- (B) At any time within three (3) years after any tax or any amount of tax required to be collected becomes due and payable or at any time within three (3) years after any determination becomes final, the Tax Administrator may bring an action in the courts of this State, or any other state, or of the United States in the name of the City to collect the amount delinquent together with penalties and interest.

3-11-13 Lien.

The tax imposed by this Chapter together with the interest and penalties herein provided and the filing fees paid to the Clerk of Malheur County, Oregon, and advertising costs which may be incurred when same becomes delinquent as set forth in this Chapter shall be and, until paid, remain a lien from the date of its recording with the Clerk of Malheur County, Oregon, and superior to all subsequent recorded liens on all tangible personal property used in the ~~hotel~~ transient lodging of an operator or transient lodging intermediary within the City and may be foreclosed on and sold as may be necessary to discharge said lien, if the lien has been recorded. Notice of lien may be issued by the Tax Administrator or his deputy whenever the operator or transient lodging intermediary is in

default in the payment of said tax, interest and penalty and shall be recorded, and a copy sent to the delinquent operator or transient lodging intermediary. The personal property subject to such lien seized by any deputy or employee of the Tax Administrator may be sold by the department seizing the same at public auction after ten days' notice which shall mean one publication in a newspaper published in the City.

Any lien for taxes as shown on the records of the proper County official shall, upon the payment of all taxes, penalties and interest thereon, be released by the Tax Administrator when the full amount determined to be due has been paid to the City and the operator or transient lodging intermediary or person making such payment shall receive a receipt therefor stating that the full amount of taxes, penalties, and interest thereon have been paid and that the lien is thereby released and the record of lien is satisfied.

3-11-14 Refunds.

- (A) Operator or Transient Lodging Intermediary's Refund. Whenever the amount of any tax, penalty or interest has been paid more than once or has been erroneously or illegally collected or received by the Tax Administrator under this Chapter, it may be refunded; provided a verified claim in writing therefor, stating the specific reason upon which the claim is founded, is filed with the Tax Administrator within three (3) years from the date of payment. The claim shall be made on forms provided by the Tax Administrator within three (3) years from the date of payment. The claim shall be made on forms provided by the Tax Administrator. If the claim is approved by the Tax Administrator, the excess amount collected or paid may be refunded or may be credited on any amounts then due and payable from the operator or transient lodging intermediary from whom it was collected or by whom paid and the balance may be refunded to each operator or transient lodging intermediary, his administrators, executors or assignees.
- (B) Transient Refund. Whenever the tax required by this Chapter has been collected by the operator or transient lodging intermediary and deposited by the operator or transient lodging intermediary with the Tax Administrator, and it is later determined that the tax was erroneously or illegally collected or received by the Tax Administrator, it may be refunded by the Tax Administrator to the transient; provided a verified claim in writing therefor, stating the specific reason on which the claim is founded, is filed with the Tax Administrator within three (3) years from the date of payment.

3-11-15 Administration of regulations.

- (A) Records Required From Operators or Transient Lodging Intermediaries, Form. Every operator or transient lodging intermediary shall keep guest records of room sales and accounting books and records of the room sales. All records shall be retained by the operator or transient lodging intermediary for a period of three (3) years and six (6) months after they come into being.
- (B) Examination of Records; Investigations. The Tax Administrator or any person authorized in writing by him may examine during normal business hours, the books, papers and accounting records relating to room sales of any operator or transient lodging intermediary after notification to the operator or transient lodging intermediary liable for the tax and may investigate the business of the operator or transient lodging intermediary in order to verify the accuracy of any return made, or if no return is made by the operator or transient lodging intermediary, to ascertain and determine the amount required to be paid.
- (C) Information to be Confidential. It shall be unlawful for the Tax Administrator or any person having an administrative or clerical duty under the provisions of this Chapter to make known in any manner whatever the business affairs, operations or information obtained by an investigation of records and equipment of any person required to obtain a transient occupancy registration certificate, or pay a transient occupancy tax, or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth in any statement or application, or to permit

any statement or application, or copy of either, or any book containing any abstract or particulars thereof to be seen or examined by any person; provided, that nothing in this subsection shall be construed to prevent:

1. The disclosure to, or the examination of records and equipment by another City official, employee or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this Chapter; or collecting taxes imposed hereunder.
2. The disclosure after the filing of a written request to that effect, to the tax payer himself, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, of information as to any paid tax, any unpaid tax or amount of tax required to be collected or interest and penalties; provided, however, that the City Attorney approves each such disclosure and that the Tax Administrator may refuse to make any disclosure referred to in this paragraph when, in his opinion, the public interest would suffer thereby.
3. The disclosure of the names and addresses of any persons to whom transient occupancy registration certificates have been issued.
4. The disclosure of general statistics regarding taxes collected or business done in the City.

3-11-16 Appeals to City Council.

Any person aggrieved by any provision of the Tax Administrator may appeal to the City Council of the City by filing a notice of appeal with the Tax Administrator within ten (10) days of the Administrator's decision. The Tax Administrator shall transmit said notice of appeal, together with the file of said appealed matter to the City Council who shall fix a time and place for hearing such appeal. The Council shall give the appellant not less than ten (10) days' written notice of the time and place of hearing of said appealed matter.

3-11-17 Enforcement.

The Tax Administrator shall enforce provisions of this Chapter and shall have the power to adopt rules and regulations not inconsistent with this Chapter as may be necessary to aid in its enforcement.

3-11-18 Exemptions.

No tax imposed under this Chapter shall be imposed upon:

- (A) Any occupant for more than thirty (30) successive calendar days (a person who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a transient);
- (B) Any occupant whose rent is of a value less than two dollars (\$2.00) per day;
- (C) Any person who rents a private home, vacation cabin, or like facility from any owner who rents such facilities incidentally to his own use thereof;
- (D) Any occupant whose rent is paid for hospital room or to a medical clinic, convalescent home or home for aged people.

3-11-19 Violations.

It is unlawful for any operator or transient lodging intermediary or other person so required to fail or refuse to register as required herein, or to furnish any return required to be made, or fail or refuse to furnish a supplemental return or other data required by the Tax Administrator or to render a false or fraudulent return. No person required to make, render, sign or verify any report shall make any false or fraudulent report with intent to defeat or evade the determination of any amount due required by this Chapter.

3-11-20 Penalty for violation.

Any person wilfully violating any of the provisions of this Chapter shall be guilty of a violation and upon conviction thereof shall be subject to the penalty provided in Section 1-4-1 of the City Code.

(Ord. 2212, 3-16-87)

(Ord. No. 2652-2010, § 1, 11-15-2010)

3-11-21 Effective date of tax collection.

Each operator or transient lodging intermediary shall collect the tax beginning on August 1, 1987.

(Ord. 2227, 5-18-87)



**AGENDA REPORT
NEW BUSINESS
September 28, 2021**

To: Mayor and City Council

FROM: Dan Cummings, Community Development Director

THROUGH: Adam J. Brown, City Manager

SUBJECT: **NEW HANGER LEASE: WILLIAM DAN PENN - 140 GOLF**

DATE: September 14, 2021

PROPOSED MOTION:

I MOVE THE CITY COUNCIL APPROVE THE HANGER LEASE OF 140 GOLF TO WILLIAM DAN PENN.

SUMMARY:

William (Dan) Penn would like to construct a 4,200 square foot (70' x 60') box hanger on two of the proposed hanger sites being addressed as 140 Golf for a total lease area of 6,000 square feet (100' x 60') to store his private aircraft.

BACKGROUND:

In 2020, under a grant from the FAA, taxiways "Golf", "Delta", "Beechcraft" and "Cessna" were completed, opening up new hanger site pads as shown on Attachment #1.

Mr. Penn held a PDAC with city staff and was advised of the requirements needed to construct a hanger.

On September 7, 2021, the proposed lease was presented to the Airport Committee at their regular meeting and the site and lease request was approved.

CURRENT SITUATION:

Mr. Penn would like to move forward with constructing a private hanger to store his personal aircraft on the hanger space addressed as 140 Golf.

ANALYSIS:

- A. **STRATEGIC PLAN** Growth within the airport is part of the Council Strategic Plan aiding in the stability of the airport and the local economy.

- B. **FINANCIAL** This ground lease will bring an annual payment of \$938.40 as well as (depending on the type of construction) approximately \$1,400 to \$2,000 in property taxes to the Ontario Airport fund.
- C. **TIMING** Approval of the lease will allow the developer to move forward with obtaining building permits and the construction of the hanger.
- D. **POLICY/LEGAL** It is required of all developers to obtain a ground lease from the City of Ontario prior to construction of any building on airport property.

ALTERNATIVES:

The Council could choose not to approve the lease and construction of new hangers on the airport.

RECOMMENDATION:

Staff recommends the City Council approve the ground lease between the City of Ontario and William Dan Penn for 140 Golf of the Ontario Airport.

ATTACHMENTS:

- 1. PRIVATE HANGERS NE (1)
- 2. 2021 Hangar Lease 140 GOLF_DAN PENN_DRAFT



LEASE AGREEMENT

140 GOLF

THIS AGREEMENT, made and entered into this 1st day of October, 2021 by and between the **CITY OF ONTARIO, OREGON**, as first party, hereinafter referred to as the "LANDLORD" and, **William Dan Penn**, as second party, hereinafter referred to as "TENANT."

WITNESETH:

WHEREAS, LANDLORD is the owner of certain real property known and operated as the Ontario Municipal Airport; and

WHEREAS, TENANT desires to lease certain real property for airplane storage and hangar use.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein it is agreed as follows:

- 1) LANDLORD lease to TENANT and TENANT leases from LANDLORD the real property described in Exhibit "A," attached hereto and by this reference incorporated herein, for a period of TWENTY (20) years, commencing on the 1st day of October 2021. If the lease is not in default, unless either party shall give written notice prior to each anniversary date of this lease, and subject to LANDLORD'S receipt from TENANT of the annual lease payment, the lease term will automatically renew for a successive ten-year term. A decision by LANDLORD to give TENANT written notice that LANDLORD does not intend to extend the ten-year term of this lease shall be based upon LANDLORD'S need to utilize the subject property for other airport or aircraft purposes.
- 2) TENANT shall pay to the LANDLORD as yearly rent the sum of **FIFTEEN POINT SIX FOUR (15.64)** cents per square foot of the property described in Exhibit "A", subject to the rights of LANDLORD to escalate said rental amount as more specifically provided for hereinafter. The parties hereto covenant and agree that the total area of the property described in Exhibit "A" is 6,000 square feet for the purposes of determining the annual rent herein. The annual rental amount shall be paid on or before the 15th day of August each year and is payable each year in advance.
- 3) It is mutually understood and agreed between the parties hereto that the rental amount may be adjusted upward or downward annually in the sole discretion of the Common Council of the City of Ontario. Such adjustment may be made in any year and shall be effective for the balance of the lease term or until further adjustment, if any. Any increase in rent shall not exceed the percentage increase in the Consumer Price Index for Oregon for the previous year. Adjustments to the rent shall not be made more frequently than one adjustment per year and each yearly adjustment shall not be an amount greater than 6% of the then existing rent.
- 4) The property shall be used to build an airplane hangar to be used primarily as storage of one or more airplanes. Any such construction shall be completed solely with TENANT'S labor and at TENANT'S expense.

- 5) Any new construction or improvements made on the property are to be approved writing prior to commencement of either, and the same to be constructed and operated conformity with all ordinances and regulations of the City period of time following expiration of the term or termination of the lease.
- 6) The TENANT will keep and maintain all structures on the leased property in a constant state of good repair, and will refrain from storing any airplane parts, equipment, or debris outside buildings and will keep the premises in a clean, sightly condition. Any aircraft hangar located on the leased premises shall have operative doors. It is mutually understood and agreed between the parties hereto that the building inspector of the City of Ontario shall have the right to inspect the premises periodically. In the event the building inspector of the City of Ontario deems any structure upon the leased premises not to be in compliance with any applicable statute, ordinance, rules or regulation or this agreement the TENANT agrees to correct such non-complying item at the TENANT'S sole expense.
- 7) The TENANT agrees to spray or otherwise control weeds located on and around the leased premises.
- 8) The color of paint used in all new construction and in the painting of any and all structures shall conform to the airport color scheme as adopted by the Airport Committee.
- 9) The TENANT shall not use leased land for any purposes other than those authorized herein without the written consent of the LANDLORD.
- 10) The LANDLORD reserves the right to further develop the airport or landing area of the airport as it sees fit.
- 11) The LANDLORD reserves the right, but not the obligation to maintain and keep in repair the landing area of the airport and all public facilities of the airport.
- 12) This lease shall be subordinate to the provisions of any existing or future agreement between the LANDLORD and the United States relative to the operation or maintenance of the airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the airport.
- 13) During the time of war or national emergency, the LANDLORD shall have the right to lease the landing area or any part thereof to the United States government for military or naval use, and if such lease is executed, the provisions of this instrument insofar as they are inconsistent with the provisions of the lease to the government shall be suspended.
- 14) Except with respect to activities for which the LANDLORD is responsible, the TENANT shall pay as due all claims for work done on and for services rendered or material furnished to the leased premises and shall keep the premises free from any liens. If the TENANT fails to pay such claims or to discharge any lien, LANDLORD may do so and collect the cost as additional rent. Any amount so added shall bear interest at the rate of 12% per annum from the date expended by LANDLORD and shall be payable on demand. Such action by LANDLORD shall not constitute a waiver of any right or remedy which LANDLORD may have on account of TENANT'S default.

TENANT may withhold payment of any claim in connection with a good-faith dispute over the obligation to pay, so long as LANDLORD'S property interests are not jeopardized. If a lien is filed as a result of non-payment, TENANT shall, within ten days after knowledge of the filing, secure the discharge of the lien or deposit with LANDLORD cash or a sufficient corporate surety bond or other security satisfactory to LANDLORD in an amount sufficient to discharge the lien plus any costs, attorney fees and other charges that could accrue as a result of a foreclosure or sale under the lien.

- 15) The TENANT shall obtain Commercial General Liability Insurance in a responsible company, with limits of \$1,000,000 each occurrence with a \$2,000,000 General Aggregate. Such insurance shall cover all risks arising directly or indirectly out of TENANT'S activities on or any condition of the leased premises whether or not related to an occurrence caused or contributed to by LANDLORD'S negligence, shall protect TENANT against the claims of LANDLORD on account of the obligations assumed by TENANT under the provisions of the indemnification paragraph contained herein, and shall protect LANDLORD and TENANT against any and all claims of third persons. TENANT is required to provide a copy of current insurance coverage to the city.

For purposes of compliance with this section, the LANDLORD may provide sufficient insurance, naming the TENANT as an additional insured. Should the LANDLORD be unable to obtain liability and property damage insurance which provides adequate coverage, the TENANT shall be responsible for such coverage as specified above. In the event the LANDLORD provides said insurance, LANDLORD makes no representations, warranties or assurances that said coverage is adequate for the purposes of protecting TENANT. The purpose of said insurance is solely for the protection of LANDLORD and nothing in this paragraph is intended to waive the limits as established in the Oregon Tort Claims Act, ORS 30.260 et seq., as it applies to LANDLORD.

Should the LANDLORD be required to pay additional or increased rates, the City shall have a right to surcharge the TENANTS in an amount in excess of the annual rental rate as defined in Section 3 of this agreement sufficient to reimburse the City.

- 16) No part of the leased property may be assigned to any third person without the prior written consent of the LANDLORD. This provision shall apply to all transfers by operation of law and to transfers to and by trustees in bankruptcy, receivers, administrators, executors and legatees. No consent in one instance shall prevent the provision from applying to a subsequent instance. The LANDLORD shall consent to a transaction covered by this provision when withholding such consent would be unreasonable in the circumstances.

- 17) The following shall be events of default:

a) Failure of TENANT to pay any rent or other charge within thirty (30) days after it is due.

b) Failure of TENANT to comply with any term or condition or fulfill any obligation of the lease (other than the payment of rent or other charges) within fifteen (15) days after written notice by LANDLORD specifying the nature of the default with reasonable particularity. If the default is of such a nature that it cannot be completely remedied with the fifteen (15) day period, this provision shall be complied with if TENANT begins correction of the default within the fifteen (15) day period and thereafter proceeds with reasonable diligence and in good faith to affect the remedy as soon as practicable.

c) Insolvency of TENANT; an assignment by TENANT for the benefit of creditors; the filing by TENANT of a voluntary petition in bankruptcy; and adjudication that TENANT is bankrupt or the appointment of a receiver of the properties of TENANT; the filing of an involuntary petition of bankruptcy and failure of the TENANT to secure a dismissal of the petition within thirty (30) days after filing; attachment of or the levy of execution on the leasehold interest and failure of the TENANT to secure discharge of the attachment or release of the levy of execution within thirty (30) days. If TENANT consists of two (2) or more individuals or business entities, the events of default specified in this paragraph shall apply to each individual unless within thirty (30) days after an event of default occurs the remaining individuals produce evidence satisfactory to LANDLORD that they have unconditionally acquired the interest of the one causing the default. If the lease has been assigned, the events of default so specified shall apply only with respect to the one then exercising the rights of TENANT under the lease.

- 18) In the event of a default, the lease may be terminated at the option of the LANDLORD by notice in writing to TENANT. The notice may be given before or within thirty (30) days after the running of the grace period for default and may be included in a notice of failure of compliance given under the provisions of paragraph 17(b) above set forth. If the property is abandoned by TENANT in connection with a default, termination shall be automatic and without notice.
- 19) If the lease is not terminated by election of LANDLORD or otherwise, LANDLORD shall be entitled to recover damages from TENANT for the default.
- 20) If the lease is terminated for any reason, TENANT'S liability for damages shall survive such termination, and TENANT shall vacate the property immediately and shall remove all improvements and buildings constructed on the leased premises and shall perform any necessary clean-up or other work required to lease the property in its original condition. Any improvements not removed within ninety (90) days after the termination of this agreement shall become the property of the LANDLORD. LANDLORD may re-enter, take possession of the premises and remove any persons or property by legal action or by self-help with the use of reasonable force and without the liability for damages.
- 21) The foregoing remedies shall be in addition to and shall not exclude any other remedy available to LANDLORD under applicable law.
- 22) Waiver by either party of strict performance of any provision of this lease shall not be a waiver of or prejudice the party's right to require strict performance of the same provision in the future or of any other provision.
- 23) If suit or action is instituted in connection with any controversy arising out of this lease, the prevailing party shall be entitled to recover in addition to the costs such sum as the court may adjudge reasonable as attorney fees, including attorney fees upon appeal.
- 24) Any notice required or permitted under this lease shall be given when delivered or when deposited in the United States mail as certified mail, addressed as follows:

To LANDLORD:
City of Ontario
444 SW 4th Street
Ontario, OR 97914

To TENANT:
William Dan Penn
Need address
City, State Zip

or to such other address as may be specified from time to time by either of the parties in writing.

- 25) Subject to the above-stated limitation on transfer of TENANT'S interest, this lease shall be binding upon and inure to the benefit of the parties, their respective successors, and assigns.
- 26) If the TENANT fails to perform any obligation under this lease, the LANDLORD shall have the option to do so after fifteen (15) day's written notice to the TENANT. All of the LANDLORD'S expenditures to correct the default shall be reimbursed by the TENANT on demand with interest at the rate of 12% per annum from the date of expenditure by the LANDLORD.
- 27) In construing this lease, it is understood that the LANDLORD or TENANT may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

IN WITNESS WHEREOF, LESSEE, has caused these presents to be signed by its owner, this ____ day of _____, 2021.

CITY OF ONTARIO

TENANT

By: _____
Riley J. Hill, Mayor

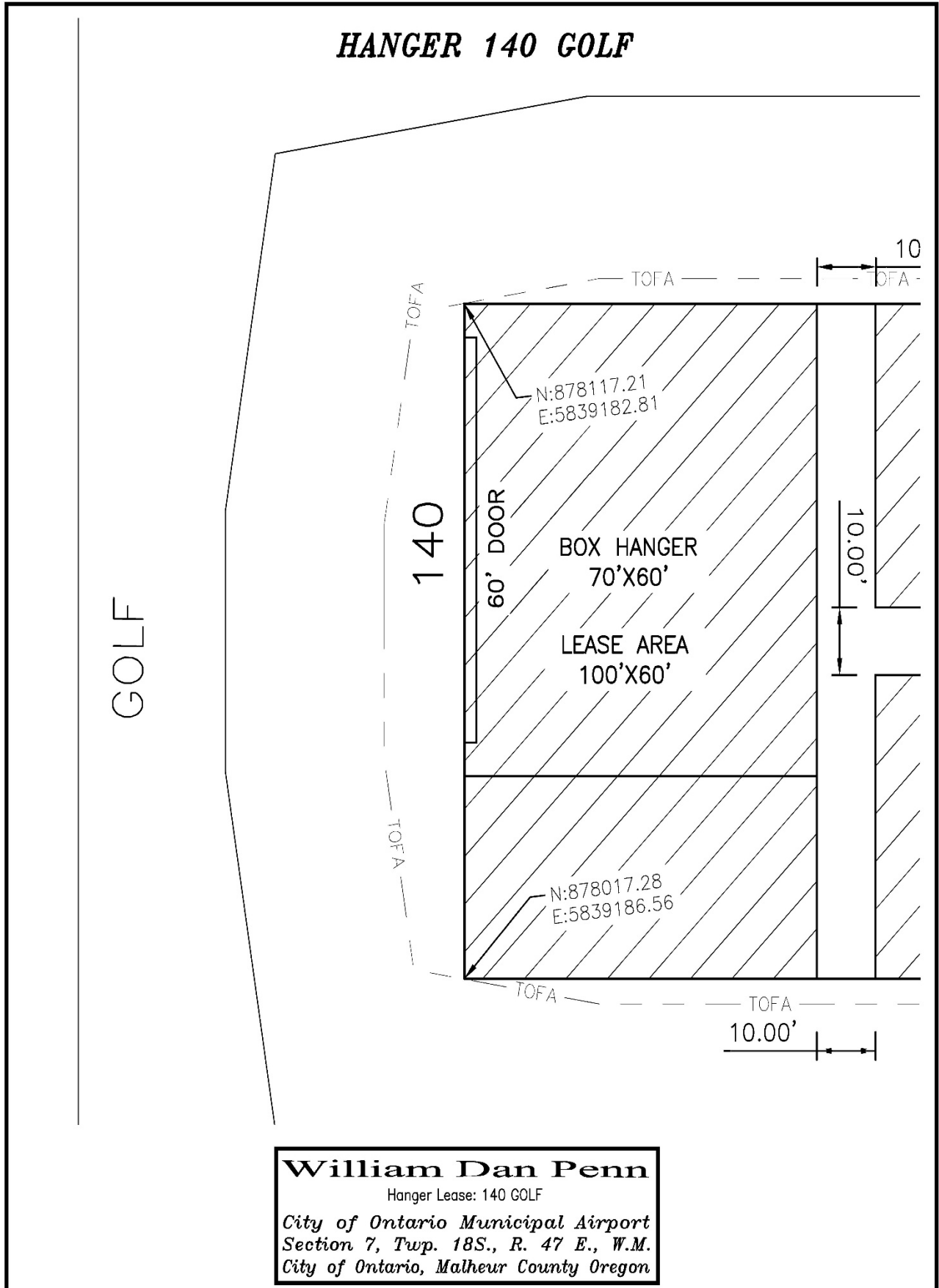
By: _____
William Dan Penn

ATTEST:

By: _____
Tori Barnett, MMC, City Recorder

EXHIBIT A

HANGER 140 GOLF





**AGENDA REPORT
NEW BUSINESS
September 28, 2021**

To: Mayor and City Council

FROM: Dan Cummings, Community Development Director

THROUGH: Adam J. Brown, City Manager

SUBJECT: NEW HANGER LEASES: GREG GUYMON & ALEXANDER HEAP - 141, 143, 145, 147, 149 & 151 (6 HANGERS) BEECHCRAFT

DATE: September 20, 2021

PROPOSED MOTION:

I MOVE THE CITY COUNCIL APPROVE THE HANGER LEASES OF 141, 143, 145, 147, 149 AND 151 BEECHCRAFT TO GREG GUYMON AND ALEXANDER HEAP.

SUMMARY:

Greg Guymon and Alexander Heap would like to construct 6 42' x 30' (1,260 square feet) box hangers on six of the proposed hanger sites being addressed as 141, 143, 145, 147, 149 and 151 Beechcraft to rent/lease to potential owners of aircraft.

BACKGROUND:

In 2020, under a grant from the FAA, taxiways "Golf", "Delta", "Beechcraft" and "Cessna" were completed, opening up new hanger site pads as shown on Attachment #1.

Mr. Heap held a PDAC with city staff and was advised of the requirements needed to construct the hangers.

On September 7, 2021, the proposed leases were presented to the Airport Committee at their regular meeting and the sites and leases requested were approved.

CURRENT SITUATION:

Mr. Guymon and Mr. Heap would like to move forward with constructing the six private hangers to lease out or rent out to potential aircraft owners.

ANALYSIS:

- A. **STRATEGIC PLAN** Growth within the airport is part of the Council Strategic Plan aiding in the stability of the airport and the local economy.
- B. **FINANCIAL** These six ground leases will bring an annual payment of \$1,182.38 to the Airport fund as well as (depending on the type of construction) bring in approximately \$400 to \$600 in property taxes per unit to the Ontario Airport fund. (\$2,400 to \$3,600 per year)
- C. **TIMING** Approval of the lease will allow the developers to move forward with obtaining building permits and the construction of the hangers.
- D. **POLICY/LEGAL** It is required of all developers to obtain a ground lease from the City of Ontario prior to construction of any building on airport property.

ALTERNATIVES:

The Council could choose not to approve the leases and construction of new hangers on the airport.

RECOMMENDATION:

Staff recommends the City Council approve the ground lease between the City of Ontario and developers Greg Guymon and Alexander Heap at 141, 143, 145, 147, 149 and 151 Beechcraft on the Ontario Airport.

ATTACHMENTS:

- 1. PRIVATE HANGERS NE (1)
- 2. 2021 Hangar Lease 141 BEEHCRAFT_GUYMON-HEAP
- 3. 2021 Hangar Lease 143 BEEHCRAFT_GUYMON-HEAP
- 4. 2021 Hangar Lease 145 BEEHCRAFT_GUYMON-HEAP
- 5. 2021 Hangar Lease 147 BEEHCRAFT_GUYMON-HEAP
- 6. 2021 Hangar Lease 149 BEEHCRAFT_GUYMON-HEAP
- 7. 2021 Hangar Lease 151 BEEHCRAFT_GUYMON-HEAP



LEASE AGREEMENT

141 BEEHCRAFT

THIS AGREEMENT, made and entered into this 1st day of October, 2021 by and between the **CITY OF ONTARIO, OREGON**, as first party, hereinafter referred to as the "LANDLORD" and, **GREG GUYMON AND ALEXANDER HEAP**, as second party, hereinafter referred to as "TENANT."

WITNESETH:

WHEREAS, LANDLORD is the owner of certain real property known and operated as the Ontario Municipal Airport; and

WHEREAS, TENANT desires to lease certain real property for airplane storage and hangar use.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein it is agreed as follows:

- 1) LANDLORD lease to TENANT and TENANT leases from LANDLORD the real property described in Exhibit "A," attached hereto and by this reference incorporated herein, for a period of TWENTY (20) years, commencing on the 1st day of October 2021. If the lease is not in default, unless either party shall give written notice prior to each anniversary date of this lease, and subject to LANDLORD'S receipt from TENANT of the annual lease payment, the lease term will automatically renew for a successive ten-year term. A decision by LANDLORD to give TENANT written notice that LANDLORD does not intend to extend the ten-year term of this lease shall be based upon LANDLORD'S need to utilize the subject property for other airport or aircraft purposes.
- 2) TENANT shall pay to the LANDLORD as yearly rent the sum of **FIFTEEN POINT SIX FOUR (15.64)** cents per square foot of the property described in Exhibit "A", subject to the rights of LANDLORD to escalate said rental amount as more specifically provided for hereinafter. The parties hereto covenant and agree that the total area of the property described in Exhibit "A" is 1,260 square feet for the purposes of determining the annual rent herein. The annual rental amount shall be paid on or before the 15th day of August each year and is payable each year in advance.
- 3) It is mutually understood and agreed between the parties hereto that the rental amount may be adjusted upward or downward annually in the sole discretion of the Common Council of the City of Ontario. Such adjustment may be made in any year and shall be effective for the balance of the lease term or until further adjustment, if any. Any increase in rent shall not exceed the percentage increase in the Consumer Price Index for Oregon for the previous year. Adjustments to the rent shall not be made more frequently than one adjustment per year and each yearly adjustment shall not be an amount greater than 6% of the then existing rent.
- 4) The property shall be used to build an airplane hangar to be used primarily as storage of one or more airplanes. Any such construction shall be completed solely with TENANT'S labor and at TENANT'S expense.

- 5) Any new construction or improvements made on the property are to be approved writing prior to commencement of either, and the same to be constructed and operated conformity with all ordinances and regulations of the City period of time following expiration of the term or termination of the lease.
- 6) The TENANT will keep and maintain all structures on the leased property in a constant state of good repair, and will refrain from storing any airplane parts, equipment, or debris outside buildings and will keep the premises in a clean, sightly condition. Any aircraft hangar located on the leased premises shall have operative doors. It is mutually understood and agreed between the parties hereto that the building inspector of the City of Ontario shall have the right to inspect the premises periodically. In the event the building inspector of the City of Ontario deems any structure upon the leased premises not to be in compliance with any applicable statute, ordinance, rules or regulation or this agreement the TENANT agrees to correct such non-complying item at the TENANT'S sole expense.
- 7) The TENANT agrees to spray or otherwise control weeds located on and around the leased premises.
- 8) The color of paint used in all new construction and in the painting of any and all structures shall conform to the airport color scheme as adopted by the Airport Committee.
- 9) The TENANT shall not use leased land for any purposes other than those authorized herein without the written consent of the LANDLORD.
- 10) The LANDLORD reserves the right to further develop the airport or landing area of the airport as it sees fit.
- 11) The LANDLORD reserves the right, but not the obligation to maintain and keep in repair the landing area of the airport and all public facilities of the airport.
- 12) This lease shall be subordinate to the provisions of any existing or future agreement between the LANDLORD and the United States relative to the operation or maintenance of the airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the airport.
- 13) During the time of war or national emergency, the LANDLORD shall have the right to lease the landing area or any part thereof to the United States government for military or naval use, and if such lease is executed, the provisions of this instrument insofar as they are inconsistent with the provisions of the lease to the government shall be suspended.
- 14) Except with respect to activities for which the LANDLORD is responsible, the TENANT shall pay as due all claims for work done on and for services rendered or material furnished to the leased premises and shall keep the premises free from any liens. If the TENANT fails to pay such claims or to discharge any lien, LANDLORD may do so and collect the cost as additional rent. Any amount so added shall bear interest at the rate of 12% per annum from the date expended by LANDLORD and shall be payable on demand. Such action by LANDLORD shall not constitute a waiver of any right or remedy which LANDLORD may have on account of TENANT'S default.

TENANT may withhold payment of any claim in connection with a good-faith dispute over the obligation to pay, so long as LANDLORD'S property interests are not jeopardized. If a lien is filed as a result of non-payment, TENANT shall, within ten days after knowledge of the filing, secure the discharge of the lien or deposit with LANDLORD cash or a sufficient corporate surety bond or other security satisfactory to LANDLORD in an amount sufficient to discharge the lien plus any costs, attorney fees and other charges that could accrue as a result of a foreclosure or sale under the lien.

- 15) The TENANT shall obtain Commercial General Liability Insurance in a responsible company, with limits of \$1,000,000 each occurrence with a \$2,000,000 General Aggregate. Such insurance shall cover all risks arising directly or indirectly out of TENANT'S activities on or any condition of the leased premises whether or not related to an occurrence caused or contributed to by LANDLORD'S negligence, shall protect TENANT against the claims of LANDLORD on account of the obligations assumed by TENANT under the provisions of the indemnification paragraph contained herein, and shall protect LANDLORD and TENANT against any and all claims of third persons. TENANT is required to provide a copy of current insurance coverage to the city.

For purposes of compliance with this section, the LANDLORD may provide sufficient insurance, naming the TENANT as an additional insured. Should the LANDLORD be unable to obtain liability and property damage insurance which provides adequate coverage, the TENANT shall be responsible for such coverage as specified above. In the event the LANDLORD provides said insurance, LANDLORD makes no representations, warranties or assurances that said coverage is adequate for the purposes of protecting TENANT. The purpose of said insurance is solely for the protection of LANDLORD and nothing in this paragraph is intended to waive the limits as established in the Oregon Tort Claims Act, ORS 30.260 et seq., as it applies to LANDLORD.

Should the LANDLORD be required to pay additional or increased rates, the City shall have a right to surcharge the TENANTS in an amount in excess of the annual rental rate as defined in Section 3 of this agreement sufficient to reimburse the City.

- 16) No part of the leased property may be assigned to any third person without the prior written consent of the LANDLORD. This provision shall apply to all transfers by operation of law and to transfers to and by trustees in bankruptcy, receivers, administrators, executors and legatees. No consent in one instance shall prevent the provision from applying to a subsequent instance. The LANDLORD shall consent to a transaction covered by this provision when withholding such consent would be unreasonable in the circumstances.

- 17) The following shall be events of default:

a) Failure of TENANT to pay any rent or other charge within thirty (30) days after it is due.

b) Failure of TENANT to comply with any term or condition or fulfill any obligation of the lease (other than the payment of rent or other charges) within fifteen (15) days after written notice by LANDLORD specifying the nature of the default with reasonable particularity. If the default is of such a nature that it cannot be completely remedied with the fifteen (15) day period, this provision shall be complied with if TENANT begins correction of the default within the fifteen (15) day period and thereafter proceeds with reasonable diligence and in good faith to affect the remedy as soon as practicable.

c) Insolvency of TENANT; an assignment by TENANT for the benefit of creditors; the filing by TENANT of a voluntary petition in bankruptcy; and adjudication that TENANT is bankrupt or the appointment of a receiver of the properties of TENANT; the filing of an involuntary petition of bankruptcy and failure of the TENANT to secure a dismissal of the petition within thirty (30) days after filing; attachment of or the levy of execution on the leasehold interest and failure of the TENANT to secure discharge of the attachment or release of the levy of execution within thirty (30) days. If TENANT consists of two (2) or more individuals or business entities, the events of default specified in this paragraph shall apply to each individual unless within thirty (30) days after an event of default occurs the remaining individuals produce evidence satisfactory to LANDLORD that they have unconditionally acquired the interest of the one causing the default. If the lease has been assigned, the events of default so specified shall apply only with respect to the one then exercising the rights of TENANT under the lease.

- 18) In the event of a default, the lease may be terminated at the option of the LANDLORD by notice in writing to TENANT. The notice may be given before or within thirty (30) days after the running of the grace period for default and may be included in a notice of failure of compliance given under the provisions of paragraph 17(b) above set forth. If the property is abandoned by TENANT in connection with a default, termination shall be automatic and without notice.
- 19) If the lease is not terminated by election of LANDLORD or otherwise, LANDLORD shall be entitled to recover damages from TENANT for the default.
- 20) If the lease is terminated for any reason, TENANT'S liability for damages shall survive such termination, and TENANT shall vacate the property immediately and shall remove all improvements and buildings constructed on the leased premises and shall perform any necessary clean-up or other work required to lease the property in its original condition. Any improvements not removed within ninety (90) days after the termination of this agreement shall become the property of the LANDLORD. LANDLORD may re-enter, take possession of the premises and remove any persons or property by legal action or by self-help with the use of reasonable force and without the liability for damages.
- 21) The foregoing remedies shall be in addition to and shall not exclude any other remedy available to LANDLORD under applicable law.
- 22) Waiver by either party of strict performance of any provision of this lease shall not be a waiver of or prejudice the party's right to require strict performance of the same provision in the future or of any other provision.
- 23) If suit or action is instituted in connection with any controversy arising out of this lease, the prevailing party shall be entitled to recover in addition to the costs such sum as the court may adjudge reasonable as attorney fees, including attorney fees upon appeal.
- 24) Any notice required or permitted under this lease shall be given when delivered or when deposited in the United States mail as certified mail, addressed as follows:

To LANDLORD:
City of Ontario
444 SW 4th Street
Ontario, OR 97914

To TENANT:
Greg Guymon / Alexander Heap
11652 W Annalee LN
Boise, ID 83709

or to such other address as may be specified from time to time by either of the parties in writing.

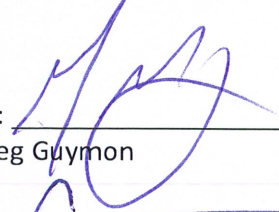
- 25) Subject to the above-stated limitation on transfer of TENANT'S interest, this lease shall be binding upon and inure to the benefit of the parties, their respective successors, and assigns.
- 26) If the TENANT fails to perform any obligation under this lease, the LANDLORD shall have the option to do so after fifteen (15) day's written notice to the TENANT. All of the LANDLORD'S expenditures to correct the default shall be reimbursed by the TENANT on demand with interest at the rate of 12% per annum from the date of expenditure by the LANDLORD.
- 27) In construing this lease, it is understood that the LANDLORD or TENANT may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

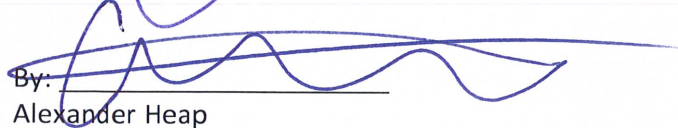
IN WITNESS WHEREOF, LESSEE, has caused these presents to be signed by its owner, this ____ day of _____, 2021.

CITY OF ONTARIO

TENANT

By: _____
Riley J. Hill, Mayor

By: 
Greg Guymon

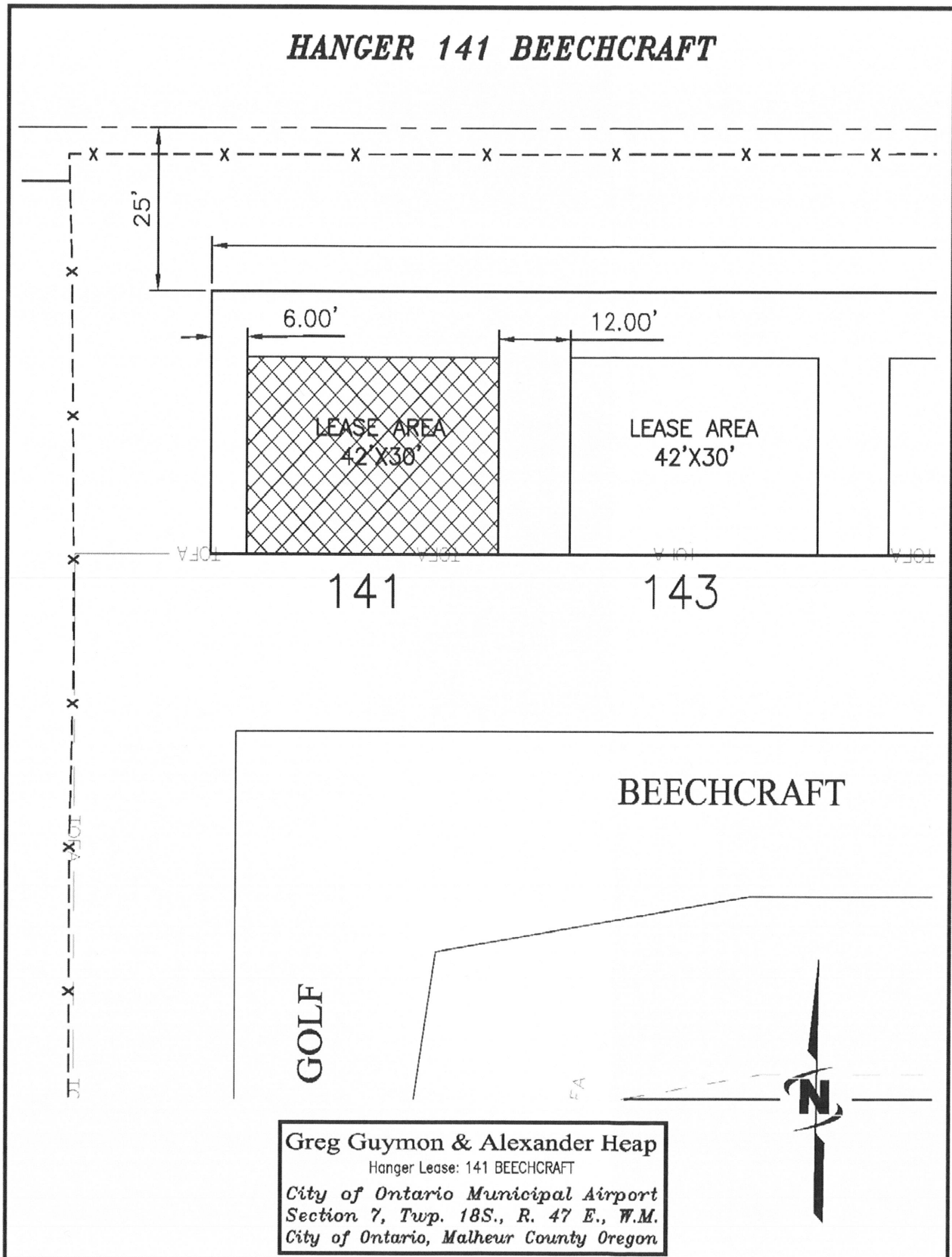
By: 
Alexander Heap

ATTEST:

By: _____
Tori Barnett, MMC, City Recorder

EXHIBIT A

HANGER 141 BEECHCRAFT





LEASE AGREEMENT

143 BEEHCRAFT

THIS AGREEMENT, made and entered into this 1st day of October, 2021 by and between the **CITY OF ONTARIO, OREGON**, as first party, hereinafter referred to as the "LANDLORD" and, **GREG GUYMOM AND ALEXANDER HEAP**, as second party, hereinafter referred to as "TENANT."

WITNESETH:

WHEREAS, LANDLORD is the owner of certain real property known and operated as the Ontario Municipal Airport; and

WHEREAS, TENANT desires to lease certain real property for airplane storage and hangar use.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein it is agreed as follows:

- 1) LANDLORD lease to TENANT and TENANT leases from LANDLORD the real property described in Exhibit "A," attached hereto and by this reference incorporated herein, for a period of TWENTY (20) years, commencing on the 1st day of October 2021. If the lease is not in default, unless either party shall give written notice prior to each anniversary date of this lease, and subject to LANDLORD'S receipt from TENANT of the annual lease payment, the lease term will automatically renew for a successive ten-year term. A decision by LANDLORD to give TENANT written notice that LANDLORD does not intend to extend the ten-year term of this lease shall be based upon LANDLORD'S need to utilize the subject property for other airport or aircraft purposes.
- 2) TENANT shall pay to the LANDLORD as yearly rent the sum of **FIFTEEN POINT SIX FOUR (15.64)** cents per square foot of the property described in Exhibit "A", subject to the rights of LANDLORD to escalate said rental amount as more specifically provided for hereinafter. The parties hereto covenant and agree that the total area of the property described in Exhibit "A" is 1,260 square feet for the purposes of determining the annual rent herein. The annual rental amount shall be paid on or before the 15th day of August each year and is payable each year in advance.
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Should the LANDLORD be required to pay additional or increased rates, the City shall have a right to surcharge the TENANTS in an amount in excess of the annual rental rate as defined in Section 3 of this agreement sufficient to reimburse the City.

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Ontario, OR 97914

To TENANT:
Greg Guymon / Alexander Heap
11652 W Annalee LN
Boise, ID 83709

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IN WITNESS WHEREOF, LESSEE, has caused these presents to be signed by its owner, this ____ day of _____, 2021.

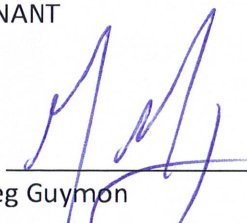
CITY OF ONTARIO

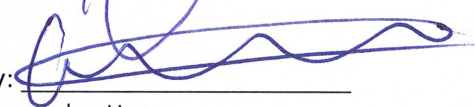
By: _____
Riley J. Hill, Mayor

ATTEST:

By: _____
Tori Barnett, MMC, City Recorder

TENANT

By: 
Greg Guymon

By: 
Alexander Heap

HANGER 143 BEECHCRAFT





LEASE AGREEMENT

145 BEEHCRAFT

THIS AGREEMENT, made and entered into this 1st day of October, 2021 by and between the **CITY OF ONTARIO, OREGON**, as first party, hereinafter referred to as the "LANDLORD" and, **GREG GUYMON AND ALEXANDER HEAP**, as second party, hereinafter referred to as "TENANT."

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TENANT may withhold payment of any claim in connection with a good-faith dispute over the obligation to pay, so long as LANDLORD'S property interests are not jeopardized. If a lien is filed as a result of non-payment, TENANT shall, within ten days after knowledge of the filing, secure the discharge of the lien or deposit with LANDLORD cash or a sufficient corporate surety bond or other security satisfactory to LANDLORD in an amount sufficient to discharge the lien plus any costs, attorney fees and other charges that could accrue as a result of a foreclosure or sale under the lien.

- 15) The TENANT shall obtain Commercial General Liability Insurance in a responsible company, with limits of \$1,000,000 each occurrence with a \$2,000,000 General Aggregate. Such insurance shall cover all risks arising directly or indirectly out of TENANT'S activities on or any condition of the leased premises whether or not related to an occurrence caused or contributed to by LANDLORD'S negligence, shall protect TENANT against the claims of LANDLORD on account of the obligations assumed by TENANT under the provisions of the indemnification paragraph contained herein, and shall protect LANDLORD and TENANT against any and all claims of third persons. TENANT is required to provide a copy of current insurance coverage to the city.

For purposes of compliance with this section, the LANDLORD may provide sufficient insurance, naming the TENANT as an additional insured. Should the LANDLORD be unable to obtain liability and property damage insurance which provides adequate coverage, the TENANT shall be responsible for such coverage as specified above. In the event the LANDLORD provides said insurance, LANDLORD makes no representations, warranties or assurances that said coverage is adequate for the purposes of protecting TENANT. The purpose of said insurance is solely for the protection of LANDLORD and nothing in this paragraph is intended to waive the limits as established in the Oregon Tort Claims Act, ORS 30.260 et seq., as it applies to LANDLORD.

Should the LANDLORD be required to pay additional or increased rates, the City shall have a right to surcharge the TENANTS in an amount in excess of the annual rental rate as defined in Section 3 of this agreement sufficient to reimburse the City.

- 16) No part of the leased property may be assigned to any third person without the prior written consent of the LANDLORD. This provision shall apply to all transfers by operation of law and to transfers to and by trustees in bankruptcy, receivers, administrators, executors and legatees. No consent in one instance shall prevent the provision from applying to a subsequent instance. The LANDLORD shall consent to a transaction covered by this provision when withholding such consent would be unreasonable in the circumstances.

- 17) The following shall be events of default:

a) Failure of TENANT to pay any rent or other charge within thirty (30) days after it is due.

b) Failure of TENANT to comply with any term or condition or fulfill any obligation of the lease (other than the payment of rent or other charges) within fifteen (15) days after written notice by LANDLORD specifying the nature of the default with reasonable particularity. If the default is of such a nature that it cannot be completely remedied with the fifteen (15) day period, this provision shall be complied with if TENANT begins correction of the default within the fifteen (15) day period and thereafter proceeds with reasonable diligence and in good faith to affect the remedy as soon as practicable.

c) Insolvency of TENANT; an assignment by TENANT for the benefit of creditors; the filing by TENANT of a voluntary petition in bankruptcy; and adjudication that TENANT is bankrupt or the appointment of a receiver of the properties of TENANT; the filing of an involuntary petition of bankruptcy and failure of the TENANT to secure a dismissal of the petition within thirty (30) days after filing; attachment of or the levy of execution on the leasehold interest and failure of the TENANT to secure discharge of the attachment or release of the levy of execution within thirty (30) days. If TENANT consists of two (2) or more individuals or business entities, the events of default specified in this paragraph shall apply to each individual unless within thirty (30) days after an event of default occurs the remaining individuals produce evidence satisfactory to LANDLORD that they have unconditionally acquired the interest of the one causing the default. If the lease has been assigned, the events of default so specified shall apply only with respect to the one then exercising the rights of TENANT under the lease.

- 18) In the event of a default, the lease may be terminated at the option of the LANDLORD by notice in writing to TENANT. The notice may be given before or within thirty (30) days after the running of the grace period for default and may be included in a notice of failure of compliance given under the provisions of paragraph 17(b) above set forth. If the property is abandoned by TENANT in connection with a default, termination shall be automatic and without notice.
- 19) If the lease is not terminated by election of LANDLORD or otherwise, LANDLORD shall be entitled to recover damages from TENANT for the default.
- 20) If the lease is terminated for any reason, TENANT'S liability for damages shall survive such termination, and TENANT shall vacate the property immediately and shall remove all improvements and buildings constructed on the leased premises and shall perform any necessary clean-up or other work required to lease the property in its original condition. Any improvements not removed within ninety (90) days after the termination of this agreement shall become the property of the LANDLORD. LANDLORD may re-enter, take possession of the premises and remove any persons or property by legal action or by self-help with the use of reasonable force and without the liability for damages.
- 21) The foregoing remedies shall be in addition to and shall not exclude any other remedy available to LANDLORD under applicable law.
- 22) Waiver by either party of strict performance of any provision of this lease shall not be a waiver of or prejudice the party's right to require strict performance of the same provision in the future or of any other provision.
- 23) If suit or action is instituted in connection with any controversy arising out of this lease, the prevailing party shall be entitled to recover in addition to the costs such sum as the court may adjudge reasonable as attorney fees, including attorney fees upon appeal.
- 24) Any notice required or permitted under this lease shall be given when delivered or when deposited in the United States mail as certified mail, addressed as follows:

To LANDLORD:
City of Ontario
444 SW 4th Street
Ontario, OR 97914

To TENANT:
Greg Guymon / Alexander Heap
11652 W Annalee LN
Boise, ID 83709

or to such other address as may be specified from time to time by either of the parties in writing.

- 25) Subject to the above-stated limitation on transfer of TENANT'S interest, this lease shall be binding upon and inure to the benefit of the parties, their respective successors, and assigns.
- 26) If the TENANT fails to perform any obligation under this lease, the LANDLORD shall have the option to do so after fifteen (15) day's written notice to the TENANT. All of the LANDLORD'S expenditures to correct the default shall be reimbursed by the TENANT on demand with interest at the rate of 12% per annum from the date of expenditure by the LANDLORD.
- 27) In construing this lease, it is understood that the LANDLORD or TENANT may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

IN WITNESS WHEREOF, LESSEE, has caused these presents to be signed by its owner, this ____ day of _____, 2021.

CITY OF ONTARIO

By: _____
Riley J. Hill, Mayor

ATTEST:

By: _____
Tori Barnett, MMC, City Recorder

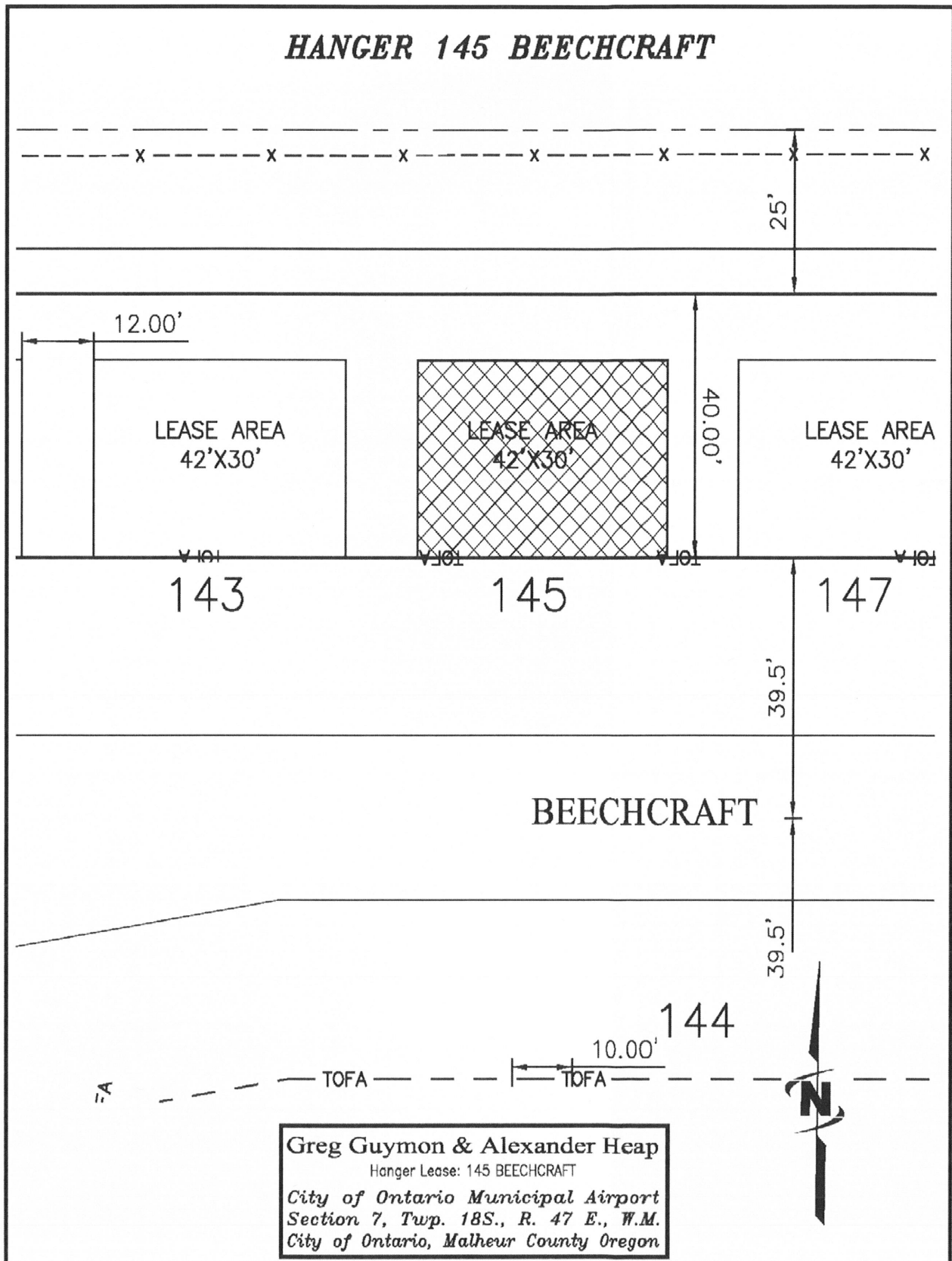
TENANT

By: _____
Greg Guymon

By: _____
Alexander Heap

EXHIBIT A

HANGER 145 BEECHCRAFT





LEASE AGREEMENT

147 BEEHCRAFT

THIS AGREEMENT, made and entered into this 1st day of October, 2021 by and between the **CITY OF ONTARIO, OREGON**, as first party, hereinafter referred to as the "LANDLORD" and, **GREG GUYMON AND ALEXANDER HEAP**, as second party, hereinafter referred to as "TENANT."

WITNESETH:

WHEREAS, LANDLORD is the owner of certain real property known and operated as the Ontario Municipal Airport; and

WHEREAS, TENANT desires to lease certain real property for airplane storage and hangar use.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein it is agreed as follows:

- 1) LANDLORD lease to TENANT and TENANT leases from LANDLORD the real property described in Exhibit "A," attached hereto and by this reference incorporated herein, for a period of TWENTY (20) years, commencing on the 1st day of October 2021. If the lease is not in default, unless either party shall give written notice prior to each anniversary date of this lease, and subject to LANDLORD'S receipt from TENANT of the annual lease payment, the lease term will automatically renew for a successive ten-year term. A decision by LANDLORD to give TENANT written notice that LANDLORD does not intend to extend the ten-year term of this lease shall be based upon LANDLORD'S need to utilize the subject property for other airport or aircraft purposes.
- 2) TENANT shall pay to the LANDLORD as yearly rent the sum of **FIFTEEN POINT SIX FOUR (15.64)** cents per square foot of the property described in Exhibit "A", subject to the rights of LANDLORD to escalate said rental amount as more specifically provided for hereinafter. The parties hereto covenant and agree that the total area of the property described in Exhibit "A" is 1,260 square feet for the purposes of determining the annual rent herein. The annual rental amount shall be paid on or before the 15th day of August each year and is payable each year in advance.
- 3) It is mutually understood and agreed between the parties hereto that the rental amount may be adjusted upward or downward annually in the sole discretion of the Common Council of the City of Ontario. Such adjustment may be made in any year and shall be effective for the balance of the lease term or until further adjustment, if any. Any increase in rent shall not exceed the percentage increase in the Consumer Price Index for Oregon for the previous year. Adjustments to the rent shall not be made more frequently than one adjustment per year and each yearly adjustment shall not be an amount greater than 6% of the then existing rent.
- 4) The property shall be used to build an airplane hangar to be used primarily as storage of one or more airplanes. Any such construction shall be completed solely with TENANT'S labor and at TENANT'S expense.

- 5) Any new construction or improvements made on the property are to be approved writing prior to commencement of either, and the same to be constructed and operated conformity with all ordinances and regulations of the City period of time following expiration of the term or termination of the lease.
- 6) The TENANT will keep and maintain all structures on the leased property in a constant state of good repair, and will refrain from storing any airplane parts, equipment, or debris outside buildings and will keep the premises in a clean, sightly condition. Any aircraft hangar located on the leased premises shall have operative doors. It is mutually understood and agreed between the parties hereto that the building inspector of the City of Ontario shall have the right to inspect the premises periodically. In the event the building inspector of the City of Ontario deems any structure upon the leased premises not to be in compliance with any applicable statute, ordinance, rules or regulation or this agreement the TENANT agrees to correct such non-complying item at the TENANT'S sole expense.
- 7) The TENANT agrees to spray or otherwise control weeds located on and around the leased premises.
- 8) The color of paint used in all new construction and in the painting of any and all structures shall conform to the airport color scheme as adopted by the Airport Committee.
- 9) The TENANT shall not use leased land for any purposes other than those authorized herein without the written consent of the LANDLORD.
- 10) The LANDLORD reserves the right to further develop the airport or landing area of the airport as it sees fit.
- 11) The LANDLORD reserves the right, but not the obligation to maintain and keep in repair the landing area of the airport and all public facilities of the airport.
- 12) This lease shall be subordinate to the provisions of any existing or future agreement between the LANDLORD and the United States relative to the operation or maintenance of the airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the airport.
- 13) During the time of war or national emergency, the LANDLORD shall have the right to lease the landing area or any part thereof to the United States government for military or naval use, and if such lease is executed, the provisions of this instrument insofar as they are inconsistent with the provisions of the lease to the government shall be suspended.
- 14) Except with respect to activities for which the LANDLORD is responsible, the TENANT shall pay as due all claims for work done on and for services rendered or material furnished to the leased premises and shall keep the premises free from any liens. If the TENANT fails to pay such claims or to discharge any lien, LANDLORD may do so and collect the cost as additional rent. Any amount so added shall bear interest at the rate of 12% per annum from the date expended by LANDLORD and shall be payable on demand. Such action by LANDLORD shall not constitute a waiver of any right or remedy which LANDLORD may have on account of TENANT'S default.

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- 15) The TENANT shall obtain Commercial General Liability Insurance in a responsible company, with limits of \$1,000,000 each occurrence with a \$2,000,000 General Aggregate. Such insurance shall cover all risks arising directly or indirectly out of TENANT'S activities on or any condition of the leased premises whether or not related to an occurrence caused or contributed to by LANDLORD'S negligence, shall protect TENANT against the claims of LANDLORD on account of the obligations assumed by TENANT under the provisions of the indemnification paragraph contained herein, and shall protect LANDLORD and TENANT against any and all claims of third persons. TENANT is required to provide a copy of current insurance coverage to the city.

For purposes of compliance with this section, the LANDLORD may provide sufficient insurance, naming the TENANT as an additional insured. Should the LANDLORD be unable to obtain liability and property damage insurance which provides adequate coverage, the TENANT shall be responsible for such coverage as specified above. In the event the LANDLORD provides said insurance, LANDLORD makes no representations, warranties or assurances that said coverage is adequate for the purposes of protecting TENANT. The purpose of said insurance is solely for the protection of LANDLORD and nothing in this paragraph is intended to waive the limits as established in the Oregon Tort Claims Act, ORS 30.260 et seq., as it applies to LANDLORD.

Should the LANDLORD be required to pay additional or increased rates, the City shall have a right to surcharge the TENANTS in an amount in excess of the annual rental rate as defined in Section 3 of this agreement sufficient to reimburse the City.

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c) Insolvency of TENANT; an assignment by TENANT for the benefit of creditors; the filing by TENANT of a voluntary petition in bankruptcy; and adjudication that TENANT is bankrupt or the appointment of a receiver of the properties of TENANT; the filing of an involuntary petition of bankruptcy and failure of the TENANT to secure a dismissal of the petition within thirty (30) days after filing; attachment of or the levy of execution on the leasehold interest and failure of the TENANT to secure discharge of the attachment or release of the levy of execution within thirty (30) days. If TENANT consists of two (2) or more individuals or business entities, the events of default specified in this paragraph shall apply to each individual unless within thirty (30) days after an event of default occurs the remaining individuals produce evidence satisfactory to LANDLORD that they have unconditionally acquired the interest of the one causing the default. If the lease has been assigned, the events of default so specified shall apply only with respect to the one then exercising the rights of TENANT under the lease.

- 18) In the event of a default, the lease may be terminated at the option of the LANDLORD by notice in writing to TENANT. The notice may be given before or within thirty (30) days after the running of the grace period for default and may be included in a notice of failure of compliance given under the provisions of paragraph 17(b) above set forth. If the property is abandoned by TENANT in connection with a default, termination shall be automatic and without notice.
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- 23) If suit or action is instituted in connection with any controversy arising out of this lease, the prevailing party shall be entitled to recover in addition to the costs such sum as the court may adjudge reasonable as attorney fees, including attorney fees upon appeal.
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To LANDLORD:
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To TENANT:
Greg Guymon / Alexander Heap
11652 W Annalee LN
Boise, ID 83709

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IN WITNESS WHEREOF, LESSEE, has caused these presents to be signed by its owner, this ____ day of _____, 2021.

CITY OF ONTARIO

By: _____
Riley J. Hill, Mayor

ATTEST:

By: _____
Tori Barnett, MMC, City Recorder

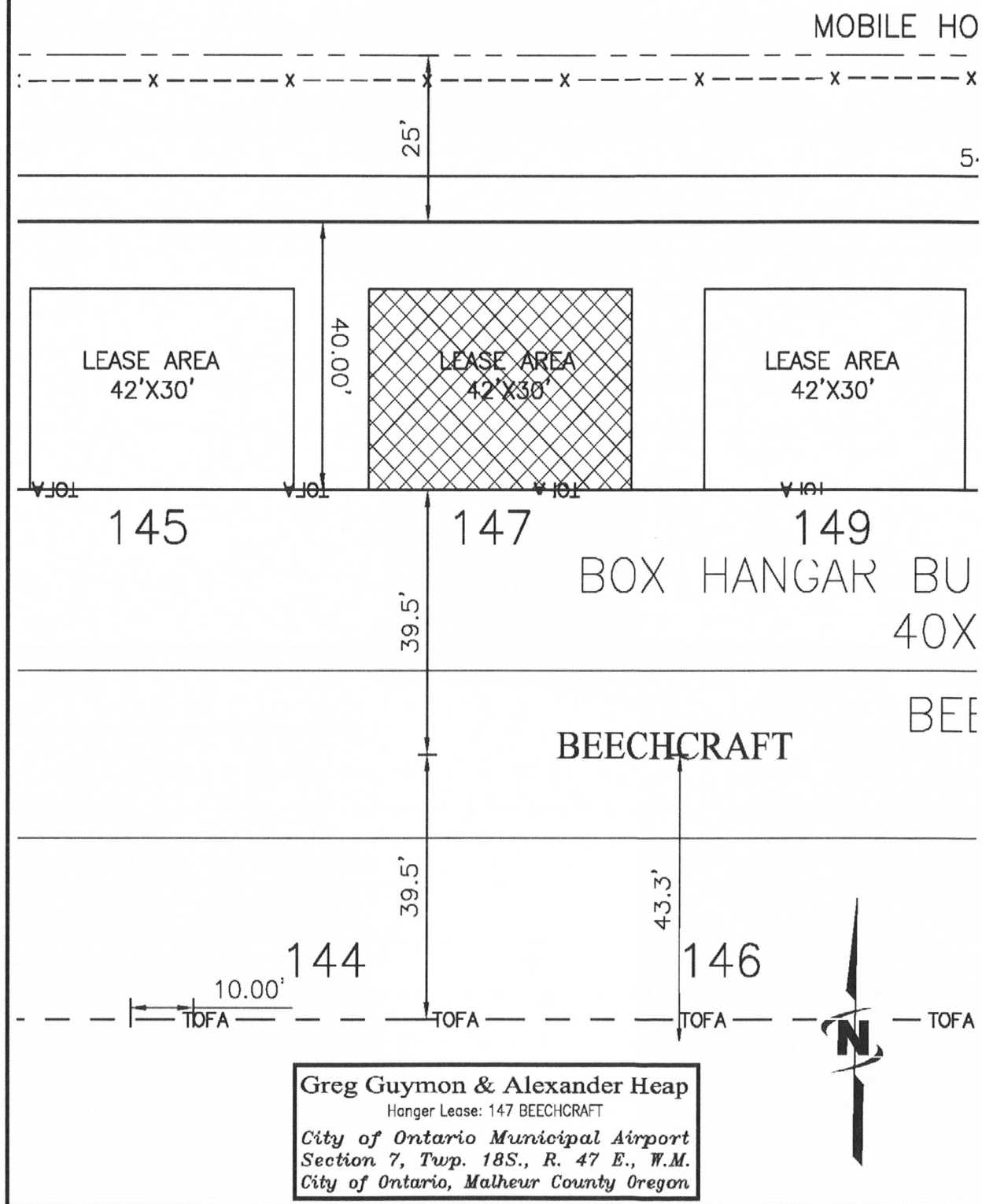
TENANT

By: _____
Greg Guymon

By: _____
Alexander Heap

EXHIBIT A

HANGER 147 BEEHCRAFT





LEASE AGREEMENT

149 BEEHCRAFT

THIS AGREEMENT, made and entered into this 1st day of October, 2021 by and between the **CITY OF ONTARIO, OREGON**, as first party, hereinafter referred to as the "LANDLORD" and, **GREG GUYMON AND ALEXANDER HEAP**, as second party, hereinafter referred to as "TENANT."

WITNESETH:

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- 5) Any new construction or improvements made on the property are to be approved writing prior to commencement of either, and the same to be constructed and operated conformity with all ordinances and regulations of the City period of time following expiration of the term or termination of the lease.
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Should the LANDLORD be required to pay additional or increased rates, the City shall have a right to surcharge the TENANTS in an amount in excess of the annual rental rate as defined in Section 3 of this agreement sufficient to reimburse the City.

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c) Insolvency of TENANT; an assignment by TENANT for the benefit of creditors; the filing by TENANT of a voluntary petition in bankruptcy; and adjudication that TENANT is bankrupt or the appointment of a receiver of the properties of TENANT; the filing of an involuntary petition of bankruptcy and failure of the TENANT to secure a dismissal of the petition within thirty (30) days after filing; attachment of or the levy of execution on the leasehold interest and failure of the TENANT to secure discharge of the attachment or release of the levy of execution within thirty (30) days. If TENANT consists of two (2) or more individuals or business entities, the events of default specified in this paragraph shall apply to each individual unless within thirty (30) days after an event of default occurs the remaining individuals produce evidence satisfactory to LANDLORD that they have unconditionally acquired the interest of the one causing the default. If the lease has been assigned, the events of default so specified shall apply only with respect to the one then exercising the rights of TENANT under the lease.

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- 20) If the lease is terminated for any reason, TENANT'S liability for damages shall survive such termination, and TENANT shall vacate the property immediately and shall remove all improvements and buildings constructed on the leased premises and shall perform any necessary clean-up or other work required to lease the property in its original condition. Any improvements not removed within ninety (90) days after the termination of this agreement shall become the property of the LANDLORD. LANDLORD may re-enter, take possession of the premises and remove any persons or property by legal action or by self-help with the use of reasonable force and without the liability for damages.
- 21) The foregoing remedies shall be in addition to and shall not exclude any other remedy available to LANDLORD under applicable law.
- 22) Waiver by either party of strict performance of any provision of this lease shall not be a waiver of or prejudice the party's right to require strict performance of the same provision in the future or of any other provision.
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To LANDLORD:
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444 SW 4th Street
Ontario, OR 97914

To TENANT:
Greg Guymon / Alexander Heap
11652 W Annalee LN
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or to such other address as may be specified from time to time by either of the parties in writing.

- 25) Subject to the above-stated limitation on transfer of TENANT'S interest, this lease shall be binding upon and inure to the benefit of the parties, their respective successors, and assigns.
- 26) If the TENANT fails to perform any obligation under this lease, the LANDLORD shall have the option to do so after fifteen (15) day's written notice to the TENANT. All of the LANDLORD'S expenditures to correct the default shall be reimbursed by the TENANT on demand with interest at the rate of 12% per annum from the date of expenditure by the LANDLORD.
- 27) In construing this lease, it is understood that the LANDLORD or TENANT may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

IN WITNESS WHEREOF, LESSEE, has caused these presents to be signed by its owner, this ____ day of _____, 2021.

CITY OF ONTARIO

By: _____
Riley J. Hill, Mayor

TENANT

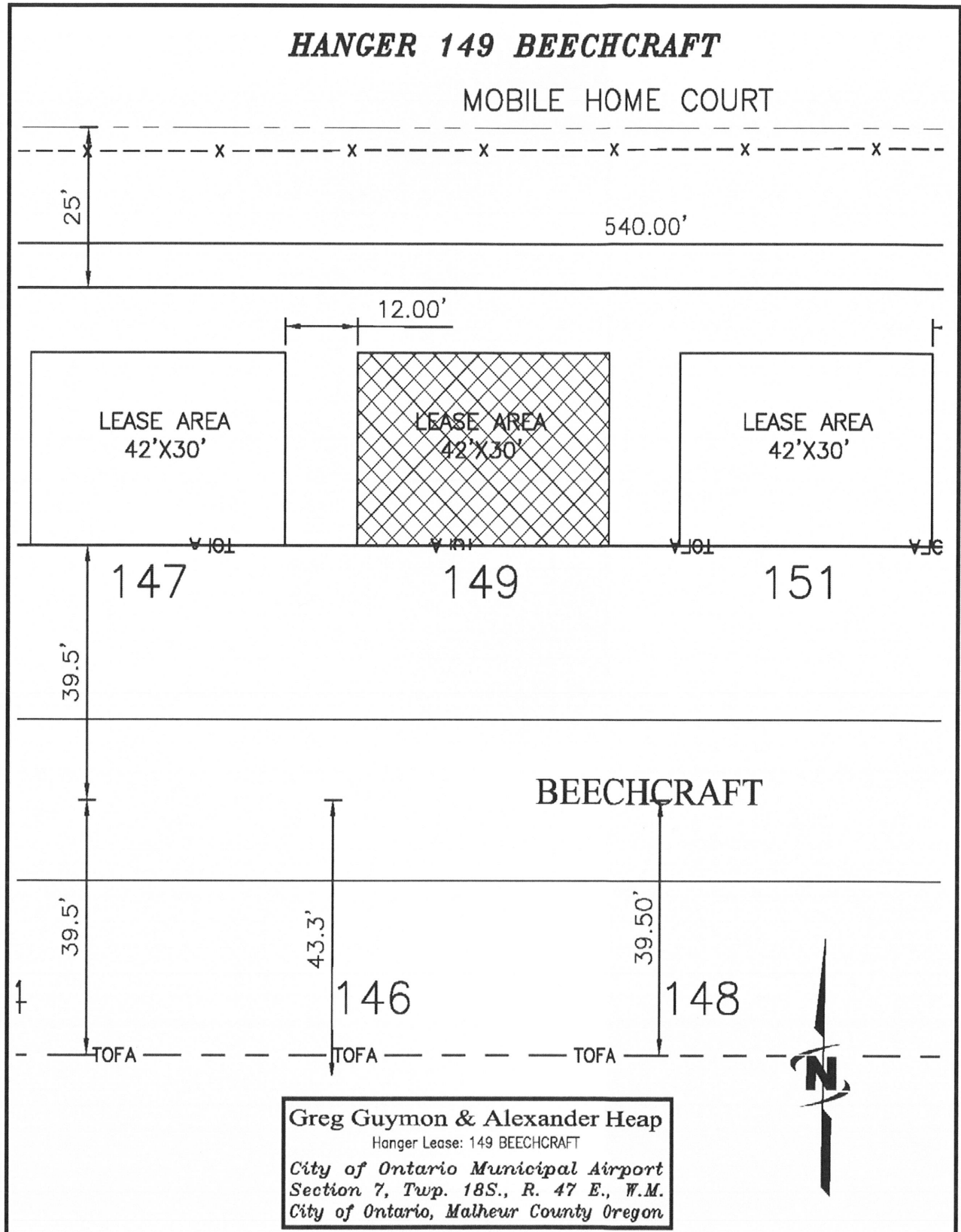
By: _____
Greg Guymon

By: _____
Alexander Heap

ATTEST:

By: _____
Tori Barnett, MMC, City Recorder

EXHIBIT A





LEASE AGREEMENT

151 BEEHCRAFT

THIS AGREEMENT, made and entered into this 1st day of October, 2021 by and between the **CITY OF ONTARIO, OREGON**, as first party, hereinafter referred to as the "LANDLORD" and, **GREG GUYMOM AND ALEXANDER HEAP**, as second party, hereinafter referred to as "TENANT."

WITNESETH:

WHEREAS, LANDLORD is the owner of certain real property known and operated as the Ontario Municipal Airport; and

WHEREAS, TENANT desires to lease certain real property for airplane storage and hangar use.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein it is agreed as follows:

- 1) LANDLORD lease to TENANT and TENANT leases from LANDLORD the real property described in Exhibit "A," attached hereto and by this reference incorporated herein, for a period of TWENTY (20) years, commencing on the 1st day of October 2021. If the lease is not in default, unless either party shall give written notice prior to each anniversary date of this lease, and subject to LANDLORD'S receipt from TENANT of the annual lease payment, the lease term will automatically renew for a successive ten-year term. A decision by LANDLORD to give TENANT written notice that LANDLORD does not intend to extend the ten-year term of this lease shall be based upon LANDLORD'S need to utilize the subject property for other airport or aircraft purposes.
- 2) TENANT shall pay to the LANDLORD as yearly rent the sum of **FIFTEEN POINT SIX FOUR (15.64)** cents per square foot of the property described in Exhibit "A", subject to the rights of LANDLORD to escalate said rental amount as more specifically provided for hereinafter. The parties hereto covenant and agree that the total area of the property described in Exhibit "A" is 1,260 square feet for the purposes of determining the annual rent herein. The annual rental amount shall be paid on or before the 15th day of August each year and is payable each year in advance.
- 3) It is mutually understood and agreed between the parties hereto that the rental amount may be adjusted upward or downward annually in the sole discretion of the Common Council of the City of Ontario. Such adjustment may be made in any year and shall be effective for the balance of the lease term or until further adjustment, if any. Any increase in rent shall not exceed the percentage increase in the Consumer Price Index for Oregon for the previous year. Adjustments to the rent shall not be made more frequently than one adjustment per year and each yearly adjustment shall not be an amount greater than 6% of the then existing rent.
- 4) The property shall be used to build an airplane hangar to be used primarily as storage of one or more airplanes. Any such construction shall be completed solely with TENANT'S labor and at TENANT'S expense.

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- 6) The TENANT will keep and maintain all structures on the leased property in a constant state of good repair, and will refrain from storing any airplane parts, equipment, or debris outside buildings and will keep the premises in a clean, sightly condition. Any aircraft hangar located on the leased premises shall have operative doors. It is mutually understood and agreed between the parties hereto that the building inspector of the City of Ontario shall have the right to inspect the premises periodically. In the event the building inspector of the City of Ontario deems any structure upon the leased premises not to be in compliance with any applicable statute, ordinance, rules or regulation or this agreement the TENANT agrees to correct such non-complying item at the TENANT'S sole expense.
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- 9) The TENANT shall not use leased land for any purposes other than those authorized herein without the written consent of the LANDLORD.
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- 11) The LANDLORD reserves the right, but not the obligation to maintain and keep in repair the landing area of the airport and all public facilities of the airport.
- 12) This lease shall be subordinate to the provisions of any existing or future agreement between the LANDLORD and the United States relative to the operation or maintenance of the airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the airport.
- 13) During the time of war or national emergency, the LANDLORD shall have the right to lease the landing area or any part thereof to the United States government for military or naval use, and if such lease is executed, the provisions of this instrument insofar as they are inconsistent with the provisions of the lease to the government shall be suspended.
- 14) Except with respect to activities for which the LANDLORD is responsible, the TENANT shall pay as due all claims for work done on and for services rendered or material furnished to the leased premises and shall keep the premises free from any liens. If the TENANT fails to pay such claims or to discharge any lien, LANDLORD may do so and collect the cost as additional rent. Any amount so added shall bear interest at the rate of 12% per annum from the date expended by LANDLORD and shall be payable on demand. Such action by LANDLORD shall not constitute a waiver of any right or remedy which LANDLORD may have on account of TENANT'S default.

TENANT may withhold payment of any claim in connection with a good-faith dispute over the obligation to pay, so long as LANDLORD'S property interests are not jeopardized. If a lien is filed as a result of non-payment, TENANT shall, within ten days after knowledge of the filing, secure the discharge of the lien or deposit with LANDLORD cash or a sufficient corporate surety bond or other security satisfactory to LANDLORD in an amount sufficient to discharge the lien plus any costs, attorney fees and other charges that could accrue as a result of a foreclosure or sale under the lien.

- 15) The TENANT shall obtain Commercial General Liability Insurance in a responsible company, with limits of \$1,000,000 each occurrence with a \$2,000,000 General Aggregate. Such insurance shall cover all risks arising directly or indirectly out of TENANT'S activities on or any condition of the leased premises whether or not related to an occurrence caused or contributed to by LANDLORD'S negligence, shall protect TENANT against the claims of LANDLORD on account of the obligations assumed by TENANT under the provisions of the indemnification paragraph contained herein, and shall protect LANDLORD and TENANT against any and all claims of third persons. TENANT is required to provide a copy of current insurance coverage to the city.

For purposes of compliance with this section, the LANDLORD may provide sufficient insurance, naming the TENANT as an additional insured. Should the LANDLORD be unable to obtain liability and property damage insurance which provides adequate coverage, the TENANT shall be responsible for such coverage as specified above. In the event the LANDLORD provides said insurance, LANDLORD makes no representations, warranties or assurances that said coverage is adequate for the purposes of protecting TENANT. The purpose of said insurance is solely for the protection of LANDLORD and nothing in this paragraph is intended to waive the limits as established in the Oregon Tort Claims Act, ORS 30.260 et seq., as it applies to LANDLORD.

Should the LANDLORD be required to pay additional or increased rates, the City shall have a right to surcharge the TENANTS in an amount in excess of the annual rental rate as defined in Section 3 of this agreement sufficient to reimburse the City.

- 16) No part of the leased property may be assigned to any third person without the prior written consent of the LANDLORD. This provision shall apply to all transfers by operation of law and to transfers to and by trustees in bankruptcy, receivers, administrators, executors and legatees. No consent in one instance shall prevent the provision from applying to a subsequent instance. The LANDLORD shall consent to a transaction covered by this provision when withholding such consent would be unreasonable in the circumstances.

- 17) The following shall be events of default:

a) Failure of TENANT to pay any rent or other charge within thirty (30) days after it is due.

b) Failure of TENANT to comply with any term or condition or fulfill any obligation of the lease (other than the payment of rent or other charges) within fifteen (15) days after written notice by LANDLORD specifying the nature of the default with reasonable particularity. If the default is of such a nature that it cannot be completely remedied with the fifteen (15) day period, this provision shall be complied with if TENANT begins correction of the default within the fifteen (15) day period and thereafter proceeds with reasonable diligence and in good faith to affect the remedy as soon as practicable.

c) Insolvency of TENANT; an assignment by TENANT for the benefit of creditors; the filing by TENANT of a voluntary petition in bankruptcy; and adjudication that TENANT is bankrupt or the appointment of a receiver of the properties of TENANT; the filing of an involuntary petition of bankruptcy and failure of the TENANT to secure a dismissal of the petition within thirty (30) days after filing; attachment of or the levy of execution on the leasehold interest and failure of the TENANT to secure discharge of the attachment or release of the levy of execution within thirty (30) days. If TENANT consists of two (2) or more individuals or business entities, the events of default specified in this paragraph shall apply to each individual unless within thirty (30) days after an event of default occurs the remaining individuals produce evidence satisfactory to LANDLORD that they have unconditionally acquired the interest of the one causing the default. If the lease has been assigned, the events of default so specified shall apply only with respect to the one then exercising the rights of TENANT under the lease.

- 18) In the event of a default, the lease may be terminated at the option of the LANDLORD by notice in writing to TENANT. The notice may be given before or within thirty (30) days after the running of the grace period for default and may be included in a notice of failure of compliance given under the provisions of paragraph 17(b) above set forth. If the property is abandoned by TENANT in connection with a default, termination shall be automatic and without notice.
- 19) If the lease is not terminated by election of LANDLORD or otherwise, LANDLORD shall be entitled to recover damages from TENANT for the default.
- 20) If the lease is terminated for any reason, TENANT'S liability for damages shall survive such termination, and TENANT shall vacate the property immediately and shall remove all improvements and buildings constructed on the leased premises and shall perform any necessary clean-up or other work required to lease the property in its original condition. Any improvements not removed within ninety (90) days after the termination of this agreement shall become the property of the LANDLORD. LANDLORD may re-enter, take possession of the premises and remove any persons or property by legal action or by self-help with the use of reasonable force and without the liability for damages.
- 21) The foregoing remedies shall be in addition to and shall not exclude any other remedy available to LANDLORD under applicable law.
- 22) Waiver by either party of strict performance of any provision of this lease shall not be a waiver of or prejudice the party's right to require strict performance of the same provision in the future or of any other provision.
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IN WITNESS WHEREOF, LESSEE, has caused these presents to be signed by its owner, this ____ day of _____, 2021.

CITY OF ONTARIO

By: _____
Riley J. Hill, Mayor

TENANT

By: _____
Greg Guymon

By: _____
Alexander Heap

ATTEST:

By: _____
Tori Barnett, MMC, City Recorder

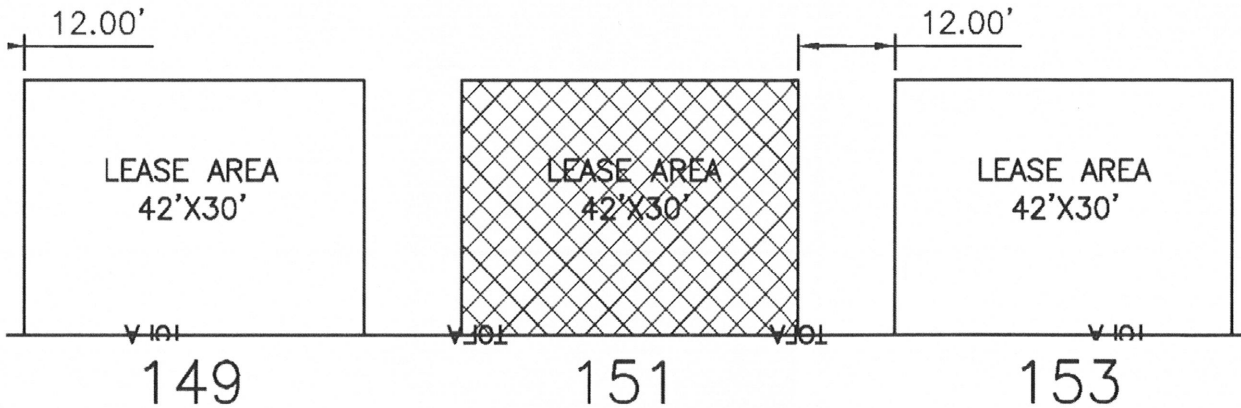
EXHIBIT A

HANGER 151 BEECHCRAFT

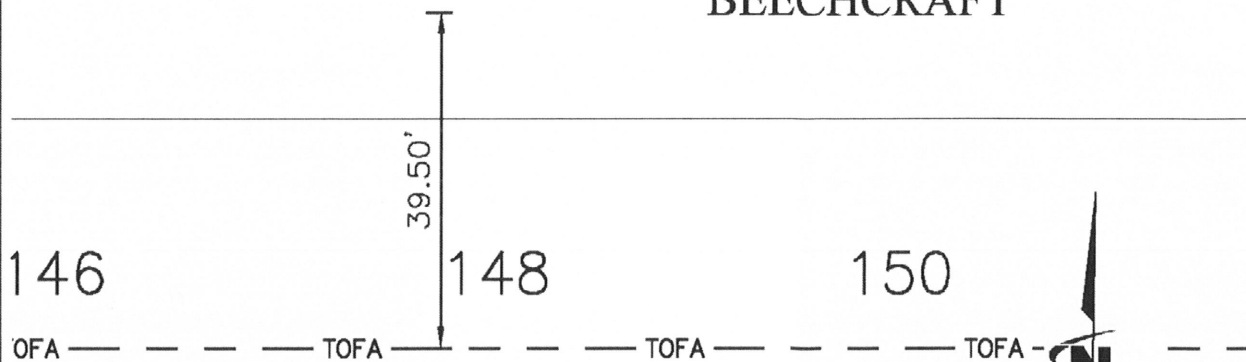
MOBILE HOME COURT

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540.00'



BEECHCRAFT



Greg Guymon & Alexander Heap
Hanger Lease: 151 BEECHCRAFT
City of Ontario Municipal Airport
Section 7, Twp. 18S., R. 47 E., W.M.
City of Ontario, Malheur County Oregon





**AGENDA REPORT
NEW BUSINESS
September 28, 2021**

To: Mayor and City Council

FROM: Dan Cummings, Community Development Director

THROUGH: Adam J. Brown, City Manager

SUBJECT: **NEW HANGER LEASES: ALEXANDER HEAP - 153, 155, 157 & 159 (4 HANGERS)
BEECHCRAFT**

DATE: September 20, 2021

PROPOSED MOTION:

I MOVE THE CITY COUNCIL APPROVE THE HANGER LEASES OF 153, 155, 157 AND 159 BEECHCRAFT TO ALEXANDER HEAP.

SUMMARY:

Alexander Heap would like to construct 4 42' x 30' (1,260 square feet) box hanger on four of the proposed hanger sites being addressed as 153, 155, 157 and 159 Beechcraft to rent/lease to potential owners of aircraft.

BACKGROUND:

In 2020, under a grant from the FAA, taxiways "Golf", "Delta", "Beechcraft" and "Cessna" were completed, opening up new hanger site pads as shown on Attachment #1.

Mr. Heap held a PDAC with city staff and was advised of the requirements needed to construct the hangers.

On September 7, 2021, the proposed leases were presented to the Airport Committee at their regular meeting and the sites and leases requested were approved.

CURRENT SITUATION:

Mr. Heap would like to move forward with constructing the four private hangers to lease out or rent out to potential aircraft owners.

ANALYSIS:

- A. **STRATEGIC PLAN** Growth within the airport is part of the Council Strategic Plan aiding

in the stability of the airport and the local economy.

- B. **FINANCIAL** These four ground leases will bring an annual payment of \$788.24 to the Airport fund as well as (depending on the type of construction) bring in approximately \$400 to \$600 in property taxes per unit to the Ontario Airport fund. (\$1,600 to \$2,400 per year)
- C. **TIMING** Approval of the lease will allow the developer to move forward with obtaining building permits and the construction of the hangers.
- D. **POLICY/LEGAL** It is required of all developers to obtain a ground lease from the City of Ontario prior to construction of any building on airport property.

ALTERNATIVES:

The Council could choose not to approve the leases and construction of new hangers on the airport.

RECOMMENDATION:

Staff recommends the City Council approve the ground lease between the City of Ontario and the developer Alexander Heap at 153, 155, 157 and 159 Beechcraft on the Ontario Airport.

ATTACHMENTS:

1. PRIVATE HANGERS NE (1)
2. 2021 Hangar Lease 153 BEEHCRAFT_HEAP
3. 2021 Hangar Lease 155 BEEHCRAFT_HEAP
4. 2021 Hangar Lease 157 BEEHCRAFT_HEAP
5. 2021 Hangar Lease 159 BEEHCRAFT_HEAP



LEASE AGREEMENT

153 BEEHCRAFT

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WHEREAS, TENANT desires to lease certain real property for airplane storage and hangar use.

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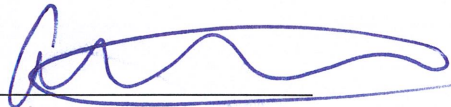
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IN WITNESS WHEREOF, LESSEE, has caused these presents to be signed by its owner, this ____ day of _____, 2021.

CITY OF ONTARIO

TENANT

By: _____
Riley J. Hill, Mayor

By: 
Alexander Heap

ATTEST:

By: _____
Tori Barnett, MMC, City Recorder

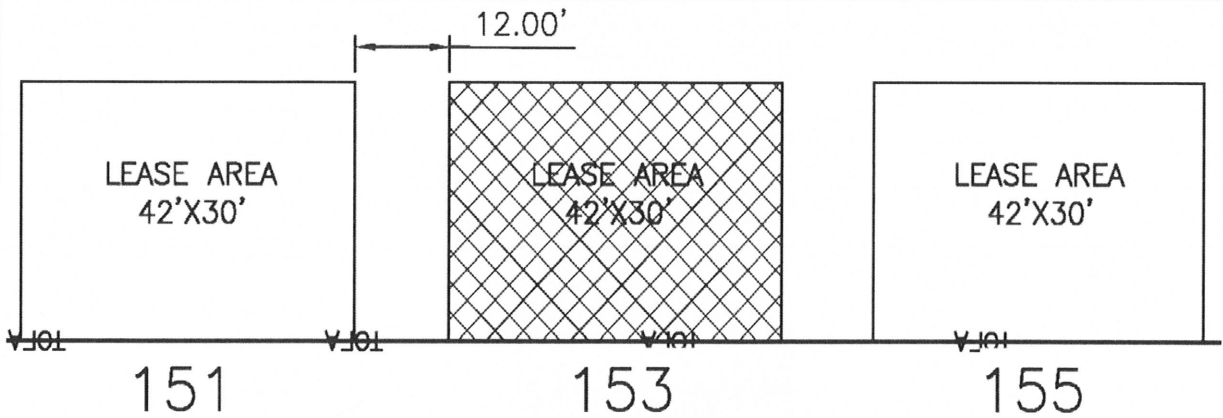
EXHIBIT A

HANGER 153 BEECHCRAFT

COURT

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0'



BEECHCRAFT

148 150 152

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10
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Alexander Heap
Hanger Lease: 153 BEECHCRAFT
*City of Ontario Municipal Airport
Section 7, Twp. 18S., R. 47 E., W.M.
City of Ontario, Malheur County Oregon*





**LEASE AGREEMENT
155 BEEHCRAFT**

THIS AGREEMENT, made and entered into this 1st day of October, 2021 by and between the **CITY OF ONTARIO, OREGON**, as first party, hereinafter referred to as the "LANDLORD" and, **ALEXANDER HEAP**, as second party, hereinafter referred to as "TENANT."

WITNESETH:

WHEREAS, LANDLORD is the owner of certain real property known and operated as the Ontario Municipal Airport; and

WHEREAS, TENANT desires to lease certain real property for airplane storage and hangar use.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein it is agreed as follows:

- 1) LANDLORD lease to TENANT and TENANT leases from LANDLORD the real property described in Exhibit "A," attached hereto and by this reference incorporated herein, for a period of TWENTY (20) years, commencing on the 1st day of October 2021. If the lease is not in default, unless either party shall give written notice prior to each anniversary date of this lease, and subject to LANDLORD'S receipt from TENANT of the annual lease payment, the lease term will automatically renew for a successive ten-year term. A decision by LANDLORD to give TENANT written notice that LANDLORD does not intend to extend the ten-year term of this lease shall be based upon LANDLORD'S need to utilize the subject property for other airport or aircraft purposes.
- 2) TENANT shall pay to the LANDLORD as yearly rent the sum of **FIFTEEN POINT SIX FOUR (15.64)** cents per square foot of the property described in Exhibit "A", subject to the rights of LANDLORD to escalate said rental amount as more specifically provided for hereinafter. The parties hereto covenant and agree that the total area of the property described in Exhibit "A" is 1,260 square feet for the purposes of determining the annual rent herein. The annual rental amount shall be paid on or before the 15th day of August each year and is payable each year in advance.
- 3) It is mutually understood and agreed between the parties hereto that the rental amount may be adjusted upward or downward annually in the sole discretion of the Common Council of the City of Ontario. Such adjustment may be made in any year and shall be effective for the balance of the lease term or until further adjustment, if any. Any increase in rent shall not exceed the percentage increase in the Consumer Price Index for Oregon for the previous year. Adjustments to the rent shall not be made more frequently than one adjustment per year and each yearly adjustment shall not be an amount greater than 6% of the then existing rent.
- 4) The property shall be used to build an airplane hangar to be used primarily as storage of one or more airplanes. Any such construction shall be completed solely with TENANT'S labor and at TENANT'S expense.

- 5) Any new construction or improvements made on the property are to be approved writing prior to commencement of either, and the same to be constructed and operated conformity with all ordinances and regulations of the City period of time following expiration of the term or termination of the lease.
- 6) The TENANT will keep and maintain all structures on the leased property in a constant state of good repair, and will refrain from storing any airplane parts, equipment, or debris outside buildings and will keep the premises in a clean, sightly condition. Any aircraft hangar located on the leased premises shall have operative doors. It is mutually understood and agreed between the parties hereto that the building inspector of the City of Ontario shall have the right to inspect the premises periodically. In the event the building inspector of the City of Ontario deems any structure upon the leased premises not to be in compliance with any applicable statute, ordinance, rules or regulation or this agreement the TENANT agrees to correct such non-complying item at the TENANT'S sole expense.
- 7) The TENANT agrees to spray or otherwise control weeds located on and around the leased premises.
- 8) The color of paint used in all new construction and in the painting of any and all structures shall conform to the airport color scheme as adopted by the Airport Committee.
- 9) The TENANT shall not use leased land for any purposes other than those authorized herein without the written consent of the LANDLORD.
- 10) The LANDLORD reserves the right to further develop the airport or landing area of the airport as it sees fit.
- 11) The LANDLORD reserves the right, but not the obligation to maintain and keep in repair the landing area of the airport and all public facilities of the airport.
- 12) This lease shall be subordinate to the provisions of any existing or future agreement between the LANDLORD and the United States relative to the operation or maintenance of the airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the airport.
- 13) During the time of war or national emergency, the LANDLORD shall have the right to lease the landing area or any part thereof to the United States government for military or naval use, and if such lease is executed, the provisions of this instrument insofar as they are inconsistent with the provisions of the lease to the government shall be suspended.
- 14) Except with respect to activities for which the LANDLORD is responsible, the TENANT shall pay as due all claims for work done on and for services rendered or material furnished to the leased premises and shall keep the premises free from any liens. If the TENANT fails to pay such claims or to discharge any lien, LANDLORD may do so and collect the cost as additional rent. Any amount so added shall bear interest at the rate of 12% per annum from the date expended by LANDLORD and shall be payable on demand. Such action by LANDLORD shall not constitute a waiver of any right or remedy which LANDLORD may have on account of TENANT'S default.

TENANT may withhold payment of any claim in connection with a good-faith dispute over the obligation to pay, so long as LANDLORD'S property interests are not jeopardized. If a lien is filed as a result of non-payment, TENANT shall, within ten days after knowledge of the filing, secure the discharge of the lien or deposit with LANDLORD cash or a sufficient corporate surety bond or other security satisfactory to LANDLORD in an amount sufficient to discharge the lien plus any costs, attorney fees and other charges that could accrue as a result of a foreclosure or sale under the lien.

- 15) The TENANT shall obtain Commercial General Liability Insurance in a responsible company, with limits of \$1,000,000 each occurrence with a \$2,000,000 General Aggregate. Such insurance shall cover all risks arising directly or indirectly out of TENANT'S activities on or any condition of the leased premises whether or not related to an occurrence caused or contributed to by LANDLORD'S negligence, shall protect TENANT against the claims of LANDLORD on account of the obligations assumed by TENANT under the provisions of the indemnification paragraph contained herein, and shall protect LANDLORD and TENANT against any and all claims of third persons. TENANT is required to provide a copy of current insurance coverage to the city.

For purposes of compliance with this section, the LANDLORD may provide sufficient insurance, naming the TENANT as an additional insured. Should the LANDLORD be unable to obtain liability and property damage insurance which provides adequate coverage, the TENANT shall be responsible for such coverage as specified above. In the event the LANDLORD provides said insurance, LANDLORD makes no representations, warranties or assurances that said coverage is adequate for the purposes of protecting TENANT. The purpose of said insurance is solely for the protection of LANDLORD and nothing in this paragraph is intended to waive the limits as established in the Oregon Tort Claims Act, ORS 30.260 et seq., as it applies to LANDLORD.

Should the LANDLORD be required to pay additional or increased rates, the City shall have a right to surcharge the TENANTS in an amount in excess of the annual rental rate as defined in Section 3 of this agreement sufficient to reimburse the City.

- 16) No part of the leased property may be assigned to any third person without the prior written consent of the LANDLORD. This provision shall apply to all transfers by operation of law and to transfers to and by trustees in bankruptcy, receivers, administrators, executors and legatees. No consent in one instance shall prevent the provision from applying to a subsequent instance. The LANDLORD shall consent to a transaction covered by this provision when withholding such consent would be unreasonable in the circumstances.

- 17) The following shall be events of default:

a) Failure of TENANT to pay any rent or other charge within thirty (30) days after it is due.

b) Failure of TENANT to comply with any term or condition or fulfill any obligation of the lease (other than the payment of rent or other charges) within fifteen (15) days after written notice by LANDLORD specifying the nature of the default with reasonable particularity. If the default is of such a nature that it cannot be completely remedied with the fifteen (15) day period, this provision shall be complied with if TENANT begins correction of the default within the fifteen (15) day period and thereafter proceeds with reasonable diligence and in good faith to affect the remedy as soon as practicable.

c) Insolvency of TENANT; an assignment by TENANT for the benefit of creditors; the filing by TENANT of a voluntary petition in bankruptcy; and adjudication that TENANT is bankrupt or the appointment of a receiver of the properties of TENANT; the filing of an involuntary petition of bankruptcy and failure of the TENANT to secure a dismissal of the petition within thirty (30) days after filing; attachment of or the levy of execution on the leasehold interest and failure of the TENANT to secure discharge of the attachment or release of the levy of execution within thirty (30) days. If TENANT consists of two (2) or more individuals or business entities, the events of default specified in this paragraph shall apply to each individual unless within thirty (30) days after an event of default occurs the remaining individuals produce evidence satisfactory to LANDLORD that they have unconditionally acquired the interest of the one causing the default. If the lease has been assigned, the events of default so specified shall apply only with respect to the one then exercising the rights of TENANT under the lease.

- 18) In the event of a default, the lease may be terminated at the option of the LANDLORD by notice in writing to TENANT. The notice may be given before or within thirty (30) days after the running of the grace period for default and may be included in a notice of failure of compliance given under the provisions of paragraph 17(b) above set forth. If the property is abandoned by TENANT in connection with a default, termination shall be automatic and without notice.
- 19) If the lease is not terminated by election of LANDLORD or otherwise, LANDLORD shall be entitled to recover damages from TENANT for the default.
- 20) If the lease is terminated for any reason, TENANT'S liability for damages shall survive such termination, and TENANT shall vacate the property immediately and shall remove all improvements and buildings constructed on the leased premises and shall perform any necessary clean-up or other work required to lease the property in its original condition. Any improvements not removed within ninety (90) days after the termination of this agreement shall become the property of the LANDLORD. LANDLORD may re-enter, take possession of the premises and remove any persons or property by legal action or by self-help with the use of reasonable force and without the liability for damages.
- 21) The foregoing remedies shall be in addition to and shall not exclude any other remedy available to LANDLORD under applicable law.
- 22) Waiver by either party of strict performance of any provision of this lease shall not be a waiver of or prejudice the party's right to require strict performance of the same provision in the future or of any other provision.
- 23) If suit or action is instituted in connection with any controversy arising out of this lease, the prevailing party shall be entitled to recover in addition to the costs such sum as the court may adjudge reasonable as attorney fees, including attorney fees upon appeal.
- 24) Any notice required or permitted under this lease shall be given when delivered or when deposited in the United States mail as certified mail, addressed as follows:

To LANDLORD:
City of Ontario
444 SW 4th Street
Ontario, OR 97914

To TENANT:
Alexander Heap
11652 W Annalee LN
Boise, ID 83709

or to such other address as may be specified from time to time by either of the parties in writing.

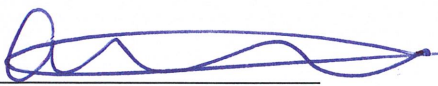
- 25) Subject to the above-stated limitation on transfer of TENANT'S interest, this lease shall be binding upon and inure to the benefit of the parties, their respective successors, and assigns.
- 26) If the TENANT fails to perform any obligation under this lease, the LANDLORD shall have the option to do so after fifteen (15) day's written notice to the TENANT. All of the LANDLORD'S expenditures to correct the default shall be reimbursed by the TENANT on demand with interest at the rate of 12% per annum from the date of expenditure by the LANDLORD.
- 27) In construing this lease, it is understood that the LANDLORD or TENANT may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

IN WITNESS WHEREOF, LESSEE, has caused these presents to be signed by its owner, this ____ day of _____, 2021.

CITY OF ONTARIO

TENANT

By: _____
Riley J. Hill, Mayor

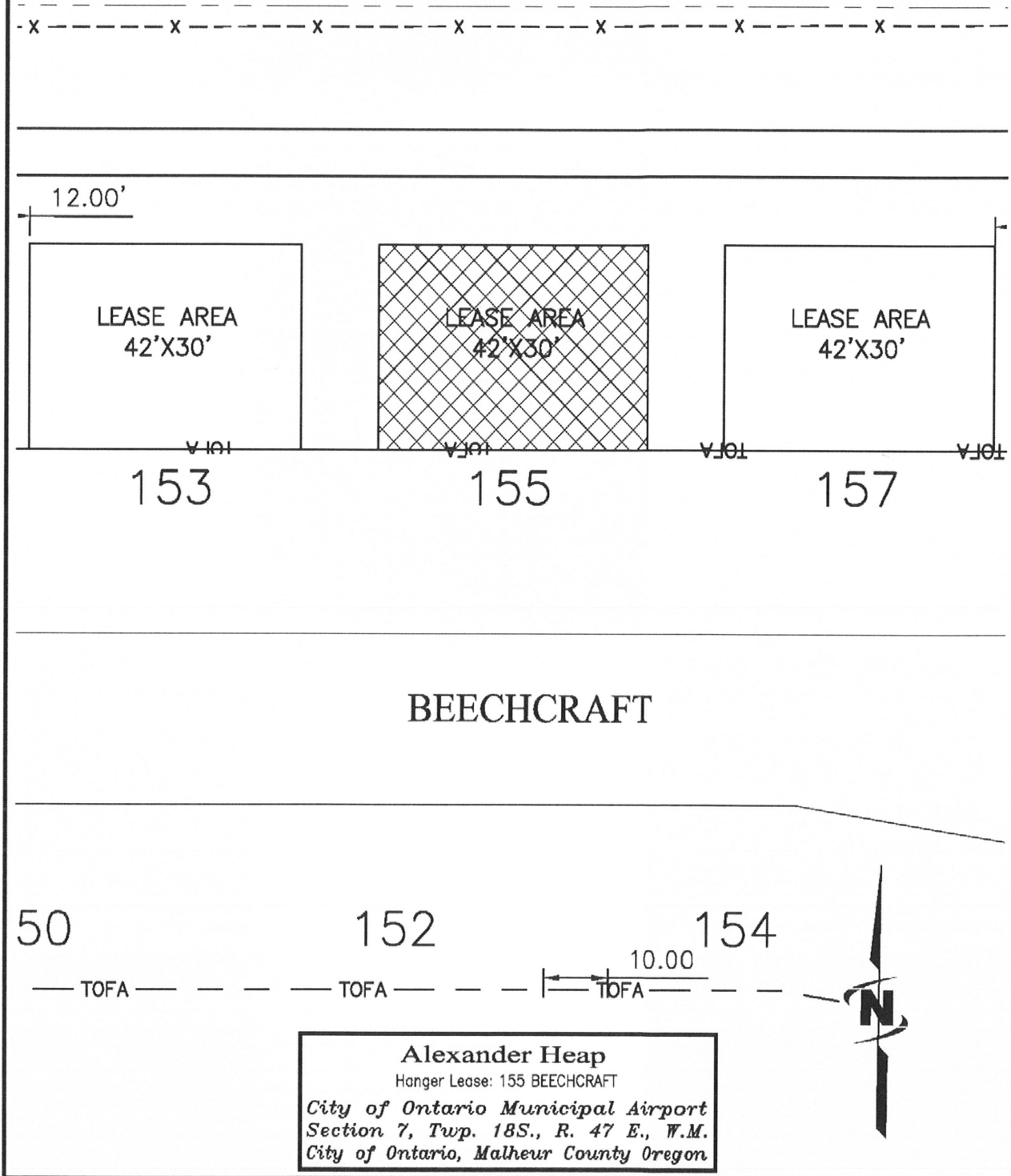
By: _____
Alexander Heap

ATTEST:

By: _____
Tori Barnett, MMC, City Recorder

EXHIBIT A

HANGER 155 BEECHCRAFT





LEASE AGREEMENT

157 BEEHCRAFT

THIS AGREEMENT, made and entered into this 1st day of October, 2021 by and between the **CITY OF ONTARIO, OREGON**, as first party, hereinafter referred to as the "LANDLORD" and, **ALEXANDER HEAP**, as second party, hereinafter referred to as "TENANT."

WITNESETH:

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For purposes of compliance with this section, the LANDLORD may provide sufficient insurance, naming the TENANT as an additional insured. Should the LANDLORD be unable to obtain liability and property damage insurance which provides adequate coverage, the TENANT shall be responsible for such coverage as specified above. In the event the LANDLORD provides said insurance, LANDLORD makes no representations, warranties or assurances that said coverage is adequate for the purposes of protecting TENANT. The purpose of said insurance is solely for the protection of LANDLORD and nothing in this paragraph is intended to waive the limits as established in the Oregon Tort Claims Act, ORS 30.260 et seq., as it applies to LANDLORD.

Should the LANDLORD be required to pay additional or increased rates, the City shall have a right to surcharge the TENANTS in an amount in excess of the annual rental rate as defined in Section 3 of this agreement sufficient to reimburse the City.

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c) Insolvency of TENANT; an assignment by TENANT for the benefit of creditors; the filing by TENANT of a voluntary petition in bankruptcy; and adjudication that TENANT is bankrupt or the appointment of a receiver of the properties of TENANT; the filing of an involuntary petition of bankruptcy and failure of the TENANT to secure a dismissal of the petition within thirty (30) days after filing; attachment of or the levy of execution on the leasehold interest and failure of the TENANT to secure discharge of the attachment or release of the levy of execution within thirty (30) days. If TENANT consists of two (2) or more individuals or business entities, the events of default specified in this paragraph shall apply to each individual unless within thirty (30) days after an event of default occurs the remaining individuals produce evidence satisfactory to LANDLORD that they have unconditionally acquired the interest of the one causing the default. If the lease has been assigned, the events of default so specified shall apply only with respect to the one then exercising the rights of TENANT under the lease.

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- 19) If the lease is not terminated by election of LANDLORD or otherwise, LANDLORD shall be entitled to recover damages from TENANT for the default.
- 20) If the lease is terminated for any reason, TENANT'S liability for damages shall survive such termination, and TENANT shall vacate the property immediately and shall remove all improvements and buildings constructed on the leased premises and shall perform any necessary clean-up or other work required to lease the property in its original condition. Any improvements not removed within ninety (90) days after the termination of this agreement shall become the property of the LANDLORD. LANDLORD may re-enter, take possession of the premises and remove any persons or property by legal action or by self-help with the use of reasonable force and without the liability for damages.
- 21) The foregoing remedies shall be in addition to and shall not exclude any other remedy available to LANDLORD under applicable law.
- 22) Waiver by either party of strict performance of any provision of this lease shall not be a waiver of or prejudice the party's right to require strict performance of the same provision in the future or of any other provision.
- 23) If suit or action is instituted in connection with any controversy arising out of this lease, the prevailing party shall be entitled to recover in addition to the costs such sum as the court may adjudge reasonable as attorney fees, including attorney fees upon appeal.
- 24) Any notice required or permitted under this lease shall be given when delivered or when deposited in the United States mail as certified mail, addressed as follows:

To LANDLORD:
City of Ontario
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Ontario, OR 97914

To TENANT:
Alexander Heap
11652 W Annalee LN
Boise, ID 83709

or to such other address as may be specified from time to time by either of the parties in writing.

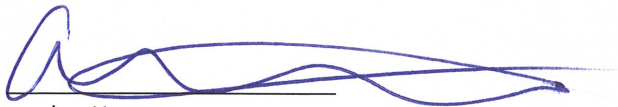
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- 27) In construing this lease, it is understood that the LANDLORD or TENANT may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

IN WITNESS WHEREOF, LESSEE, has caused these presents to be signed by its owner, this ____ day of _____, 2021.

CITY OF ONTARIO

TENANT

By: _____
Riley J. Hill, Mayor

By: 
Alexander Heap

ATTEST:

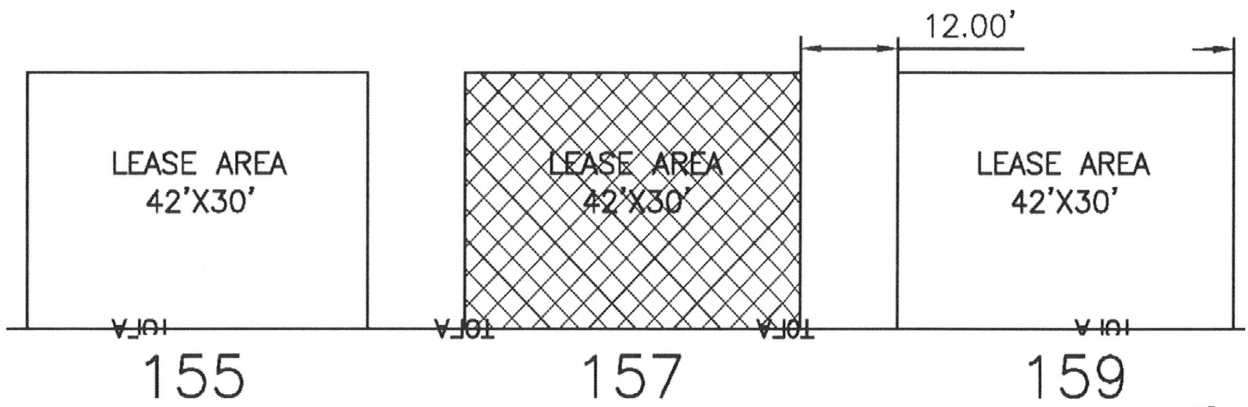
By: _____
Tori Barnett, MMC, City Recorder

EXHIBIT A

HANGER 157 BEECHCRAFT

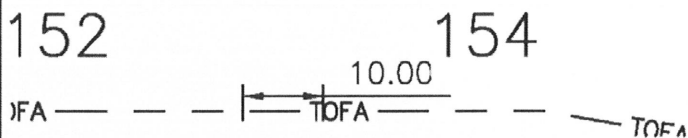
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BEECHCRAFT



DELTA



Alexander Heap
Hanger Lease: 157 BEECHCRAFT
*City of Ontario Municipal Airport
Section 7, Twp. 18S., R. 47 E., W.M.
City of Ontario, Malheur County Oregon*



LEASE AGREEMENT

159 BEEHCRAFT

THIS AGREEMENT, made and entered into this 1st day of October, 2021 by and between the **CITY OF ONTARIO, OREGON**, as first party, hereinafter referred to as the "LANDLORD" and, **ALEXANDER HEAP**, as second party, hereinafter referred to as "TENANT."

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- 3) It is mutually understood and agreed between the parties hereto that the rental amount may be adjusted upward or downward annually in the sole discretion of the Common Council of the City of Ontario. Such adjustment may be made in any year and shall be effective for the balance of the lease term or until further adjustment, if any. Any increase in rent shall not exceed the percentage increase in the Consumer Price Index for Oregon for the previous year. Adjustments to the rent shall not be made more frequently than one adjustment per year and each yearly adjustment shall not be an amount greater than 6% of the then existing rent.
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- 9) The TENANT shall not use leased land for any purposes other than those authorized herein without the written consent of the LANDLORD.
- 10) The LANDLORD reserves the right to further develop the airport or landing area of the airport as it sees fit.
- 11) The LANDLORD reserves the right, but not the obligation to maintain and keep in repair the landing area of the airport and all public facilities of the airport.
- 12) This lease shall be subordinate to the provisions of any existing or future agreement between the LANDLORD and the United States relative to the operation or maintenance of the airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the airport.
- 13) During the time of war or national emergency, the LANDLORD shall have the right to lease the landing area or any part thereof to the United States government for military or naval use, and if such lease is executed, the provisions of this instrument insofar as they are inconsistent with the provisions of the lease to the government shall be suspended.
- 14) Except with respect to activities for which the LANDLORD is responsible, the TENANT shall pay as due all claims for work done on and for services rendered or material furnished to the leased premises and shall keep the premises free from any liens. If the TENANT fails to pay such claims or to discharge any lien, LANDLORD may do so and collect the cost as additional rent. Any amount so added shall bear interest at the rate of 12% per annum from the date expended by LANDLORD and shall be payable on demand. Such action by LANDLORD shall not constitute a waiver of any right or remedy which LANDLORD may have on account of TENANT'S default.

TENANT may withhold payment of any claim in connection with a good-faith dispute over the obligation to pay, so long as LANDLORD'S property interests are not jeopardized. If a lien is filed as a result of non-payment, TENANT shall, within ten days after knowledge of the filing, secure the discharge of the lien or deposit with LANDLORD cash or a sufficient corporate surety bond or other security satisfactory to LANDLORD in an amount sufficient to discharge the lien plus any costs, attorney fees and other charges that could accrue as a result of a foreclosure or sale under the lien.

- 15) The TENANT shall obtain Commercial General Liability Insurance in a responsible company, with limits of \$1,000,000 each occurrence with a \$2,000,000 General Aggregate. Such insurance shall cover all risks arising directly or indirectly out of TENANT'S activities on or any condition of the leased premises whether or not related to an occurrence caused or contributed to by LANDLORD'S negligence, shall protect TENANT against the claims of LANDLORD on account of the obligations assumed by TENANT under the provisions of the indemnification paragraph contained herein, and shall protect LANDLORD and TENANT against any and all claims of third persons. TENANT is required to provide a copy of current insurance coverage to the city.

For purposes of compliance with this section, the LANDLORD may provide sufficient insurance, naming the TENANT as an additional insured. Should the LANDLORD be unable to obtain liability and property damage insurance which provides adequate coverage, the TENANT shall be responsible for such coverage as specified above. In the event the LANDLORD provides said insurance, LANDLORD makes no representations, warranties or assurances that said coverage is adequate for the purposes of protecting TENANT. The purpose of said insurance is solely for the protection of LANDLORD and nothing in this paragraph is intended to waive the limits as established in the Oregon Tort Claims Act, ORS 30.260 et seq., as it applies to LANDLORD.

Should the LANDLORD be required to pay additional or increased rates, the City shall have a right to surcharge the TENANTS in an amount in excess of the annual rental rate as defined in Section 3 of this agreement sufficient to reimburse the City.

- 16) No part of the leased property may be assigned to any third person without the prior written consent of the LANDLORD. This provision shall apply to all transfers by operation of law and to transfers to and by trustees in bankruptcy, receivers, administrators, executors and legatees. No consent in one instance shall prevent the provision from applying to a subsequent instance. The LANDLORD shall consent to a transaction covered by this provision when withholding such consent would be unreasonable in the circumstances.

- 17) The following shall be events of default:

a) Failure of TENANT to pay any rent or other charge within thirty (30) days after it is due.

b) Failure of TENANT to comply with any term or condition or fulfill any obligation of the lease (other than the payment of rent or other charges) within fifteen (15) days after written notice by LANDLORD specifying the nature of the default with reasonable particularity. If the default is of such a nature that it cannot be completely remedied with the fifteen (15) day period, this provision shall be complied with if TENANT begins correction of the default within the fifteen (15) day period and thereafter proceeds with reasonable diligence and in good faith to affect the remedy as soon as practicable.

c) Insolvency of TENANT; an assignment by TENANT for the benefit of creditors; the filing by TENANT of a voluntary petition in bankruptcy; and adjudication that TENANT is bankrupt or the appointment of a receiver of the properties of TENANT; the filing of an involuntary petition of bankruptcy and failure of the TENANT to secure a dismissal of the petition within thirty (30) days after filing; attachment of or the levy of execution on the leasehold interest and failure of the TENANT to secure discharge of the attachment or release of the levy of execution within thirty (30) days. If TENANT consists of two (2) or more individuals or business entities, the events of default specified in this paragraph shall apply to each individual unless within thirty (30) days after an event of default occurs the remaining individuals produce evidence satisfactory to LANDLORD that they have unconditionally acquired the interest of the one causing the default. If the lease has been assigned, the events of default so specified shall apply only with respect to the one then exercising the rights of TENANT under the lease.

- 18) In the event of a default, the lease may be terminated at the option of the LANDLORD by notice in writing to TENANT. The notice may be given before or within thirty (30) days after the running of the grace period for default and may be included in a notice of failure of compliance given under the provisions of paragraph 17(b) above set forth. If the property is abandoned by TENANT in connection with a default, termination shall be automatic and without notice.
- 19) If the lease is not terminated by election of LANDLORD or otherwise, LANDLORD shall be entitled to recover damages from TENANT for the default.
- 20) If the lease is terminated for any reason, TENANT'S liability for damages shall survive such termination, and TENANT shall vacate the property immediately and shall remove all improvements and buildings constructed on the leased premises and shall perform any necessary clean-up or other work required to lease the property in its original condition. Any improvements not removed within ninety (90) days after the termination of this agreement shall become the property of the LANDLORD. LANDLORD may re-enter, take possession of the premises and remove any persons or property by legal action or by self-help with the use of reasonable force and without the liability for damages.
- 21) The foregoing remedies shall be in addition to and shall not exclude any other remedy available to LANDLORD under applicable law.
- 22) Waiver by either party of strict performance of any provision of this lease shall not be a waiver of or prejudice the party's right to require strict performance of the same provision in the future or of any other provision.
- 23) If suit or action is instituted in connection with any controversy arising out of this lease, the prevailing party shall be entitled to recover in addition to the costs such sum as the court may adjudge reasonable as attorney fees, including attorney fees upon appeal.
- 24) Any notice required or permitted under this lease shall be given when delivered or when deposited in the United States mail as certified mail, addressed as follows:

To LANDLORD:
City of Ontario
444 SW 4th Street
Ontario, OR 97914

To TENANT:
Alexander Heap
11652 W Annalee LN
Boise, ID 83709

or to such other address as may be specified from time to time by either of the parties in writing.

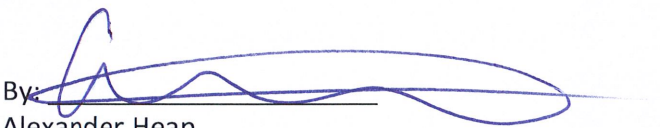
- 25) Subject to the above-stated limitation on transfer of TENANT'S interest, this lease shall be binding upon and inure to the benefit of the parties, their respective successors, and assigns.
- 26) If the TENANT fails to perform any obligation under this lease, the LANDLORD shall have the option to do so after fifteen (15) day's written notice to the TENANT. All of the LANDLORD'S expenditures to correct the default shall be reimbursed by the TENANT on demand with interest at the rate of 12% per annum from the date of expenditure by the LANDLORD.
- 27) In construing this lease, it is understood that the LANDLORD or TENANT may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

IN WITNESS WHEREOF, LESSEE, has caused these presents to be signed by its owner, this ____ day of _____, 2021.

CITY OF ONTARIO

TENANT

By: _____
Riley J. Hill, Mayor

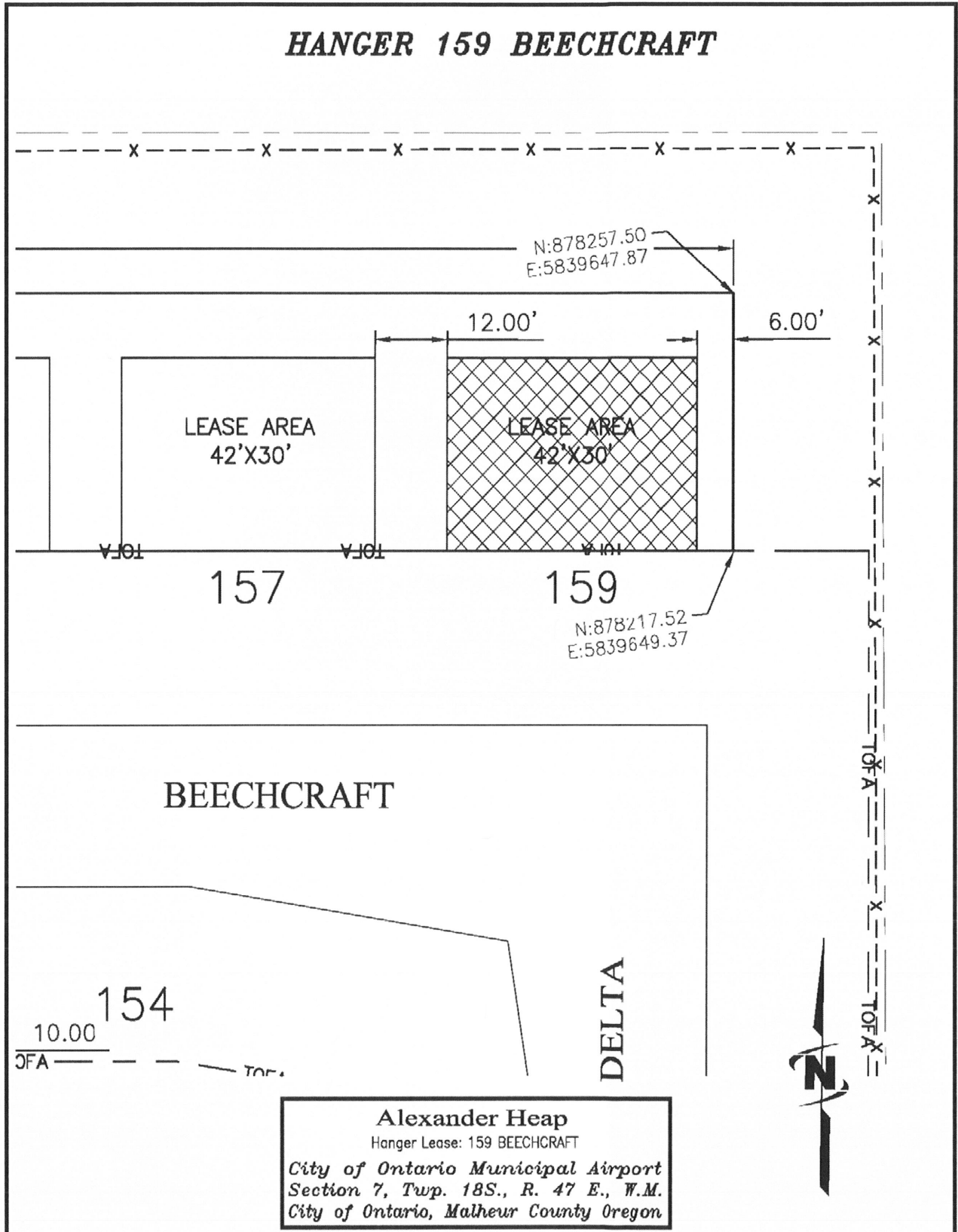
By: 
Alexander Heap

ATTEST:

By: _____
Tori Barnett, MMC, City Recorder

EXHIBIT A

HANGER 159 BEECHCRAFT





**AGENDA REPORT
NEW BUSINESS
September 28, 2021**

To: Mayor and City Council

FROM: Terry Leighton, Fire Chief

THROUGH: Adam J. Brown, City Manager

SUBJECT: REQUEST CONTRACT EXTENSION #2 WITH ONTARIO RURAL FIRE PROTECTION DISTRICT FOR NEGOTIATIONS

DATE: September 20, 2021

PROPOSED MOTION:

I MOVE THE CITY COUNCIL APPROVE EXTENSION #2 OF THE AGREEMENT WITH THE RURAL FIRE PROTECTION BOARD.

SUMMARY:

The City of Ontario needs to negotiate a long-term extension of its contract with the Ontario Rural Fire Protection District. Conducting a review of a staff cost study with a private firm stalled negotiations, but staff is now ready to proceed negotiating, but needs a short term extension of the contract.

BACKGROUND:

The city has a long-standing relationship with the Ontario Rural Fire Protection District (ORFPD). Essentially, the city shares a fire department with the ORFPD. The district has its own taxing power and elects its own members. They cover approximately 60 square miles of area outside of the Ontario city limits.

The district also provides contracted services to the Snake River Correctional Institute (SRCI). That contract was renewed for a ten-year period and the district recovered additional revenue to serve the fire protection needs of SRCI. That demand for service ultimately impacts the services the city fire department renders to the district.

The city's current agreement with the district expired on June 30, 2021; however Extension #1 was executed July 13, 2021, extending the contract to September 30, 2021.

CURRENT SITUATION:

The immediate need is to have a written extension of the Intergovernmental Agreement (IGA) so that the city and the district still have a formal relationship, and can move forward with negotiations.

ANALYSIS:

- A. **STRATEGIC PLAN** The contract with the Ontario Rural Fire Protection District supports the city's financial stability strategic goal; however, the Council would like the Fire Protection District to support their own operations.
- B. **FINANCIAL** Key to the negotiation of the contract with the Ontario Rural Fire Protection District was the settling of the 3-year negotiation process of the Fire Protection District. That wrapped up in late 2020.

Staff conducted a financial analysis of the Rural Fire District. The City Council asked that an accounting firm, Nichols Accounting Group, validate the study conducted by staff prior to negotiations. That study wrapped up with minor edits made by both staff and Nichols. The study shows that the city is currently subsidizing the rural district fire operations by a significant amount.

- C. **TIMING** The current contract expired on June 30, 2021. Extension #1 was executed in July, extending the time to September 30, 2021. Staff is requesting approval of Extension #2 for an additional 3-month extension from September 30 - December 31, 2021 of the IGA to allow for negotiations for a new contract between the City and the Fire Protection District. Since the study is wrapped up with Nichols Accounting, staff is ready to proceed with negotiations.
- D. **POLICY/LEGAL** Authority to approve Intergovernmental Agreements lies with the City Council.

ALTERNATIVES:

Take No Action - Without action, there will be no active agreement with the Ontario Rural Fire Protection District.

RECOMMENDATION:

Staff recommends the City Council approve the requested 3-month extension of the current Intergovernmental Agreement.

ATTACHMENTS:

1. AGMT_CC_Rural Fire Extension #2 Agreement

**EXTENSION #2 TO
AGREEMENT TO PROVIDE FIRE SUPPRESSION AND OTHER SERVICES**

THIS EXTENSION AGREEMENT is entered into this _____ day of _____, 2021, between the Ontario Rural Fire Protection District No. 7-302 ("District") and the City of Ontario, a municipal corporation ("City").

WHEREAS, on February 3, 1999, City entered into an Agreement to Provide Fire Suppression and Other Services with District, which Agreement was amended by Addendum #1, dated February 22, 2000, by Addendum #2 dated February 20, 2001, by Addendum #3 dated March 7, 2002, by Addendum #4 dated February 4, 2003, by Addendum #5 dated March 1, 2004, by Addendum #6 dated January 18, 2005, by Addendum #7 dated February 6, 2006, by Addendum #8 dated March 5, 2007, by Addendum #9 dated March 3, 2008, by Addendum #10 dated May 7, 2009; by Addendum #11 dated July 1, 2010; and by Addendum #12 dated February 16, 2016, which expired on June 30, 2021.

WHEREAS, the parties, through Extension #1, entered into a three-month extension of the Agreement on July 13, 2021; and

WHEREAS, the parties, through Extension #2, desire to extend the Agreement for an additional three months.

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

The Agreement between the parties based upon Extension #2 is hereby extended through December 31, 2021.

IN WITNESS WHEREOF, this Extension Agreement #2 has been executed as the day and year first above written.

Mayor Riley J. Hill
City of Ontario

Chairman Larry White
Ontario Rural Fire Protection District



**AGENDA REPORT
NEW BUSINESS
September 28, 2021**

To: Mayor and City Council

FROM: Dan Cummings, Community Development Director

THROUGH: Adam J. Brown, City Manager

SUBJECT: RESOLUTION #2021-132: AIRPORT SECURITY FENCE IMPROVEMENTS

DATE: September 20, 2021

PROPOSED MOTION:

I MOVE THE CITY COUNCIL APPROVE RESOLUTION #2021-132: A RESOLUTION TO APPROPRIATE NECESSARY FUNDING FOR AIRPORT SECURITY FENCING IMPROVEMENTS.

SUMMARY:

Attached is Resolution #2021-132, a resolution to appropriate an increase in funding due to increase in fencing material costs.

BACKGROUND:

The Budget Committee, during the 2021-2022 budget process, budgeted \$35,000.00 for moving of the security fencing along Airport Way to accommodate future construction of Airport Way, and the addition of fencing around the future parking lot area for visitor parking.

Staff had estimated the construction cost based on material cost in February of 2021.

This project was recommended by the Airport Committee.

CURRENT SITUATION:

Staff contacted five fencing vendors, soliciting bids for the project in early September. See attached bid list Attachment 4.

The city received only two bids as shown on Attachments 2 and 3 with the apparent low bid at \$47,320.00, which is \$12,320.00 over the budget of \$35,000.00

In discussing the cost increase it was stated it was due to the increase in material cost since the first of the year. An example was given that a corner post in February was around \$22.00 and at the time of bidding was around \$102.00.

This project is something that needs to be done now as it is holding up the construction of Airport Way improvements, as well as needing the fencing around the parking area to keep unauthorized vehicles, mainly the TVCC students, outside of the active airport.

A budget adjustment is needed to cover the extra cost of \$12,230. The contractor stated he will guarantee the bid until September 28, 2021.

ANALYSIS:

- A. **STRATEGIC PLAN** Growth and improvements at the Ontario Municipal Airport is part of the Ontario 2019-2023 strategic plan. This project is needed to improve the security of the airport to allow for this growth.
- B. **FINANCIAL** The \$12,320 additional funding needed will come from the General Fund contingency which will leave the balance at \$133,330.
- C. **TIMING** This project is needed as soon as possible so there is no delay in the construction of Airport Way.
- D. **POLICY/LEGAL** A formal resolution approved by the City Council is required to expend funds per ORS 294.

ALTERNATIVES:

A. Take No Action - The Council could take no action on this matter; this would not allow additional security fencing around the parking area to keep unauthorized vehicles outside of the active airport area.

RECOMMENDATION:

Staff recommends approval of Resolution #2021-132.

ATTACHMENTS:

- 1. 2021 FENCING PROJECT_9-8-21
- 2. Bid 1_VernsCustomRanch_ontario airport
- 3. Bid 2_Frontier Fence Co_ontario airport
- 4. Airport Fence Bid-Quote-Track-Form_9-8-21
- 5. Resolution #2021-132 SECURITY IMPROVEMENTS

AIRPORT WAY FENCING PROJECT 2021

Ontario Airport Property,
City of Ontario,
Malheur County, Oregon

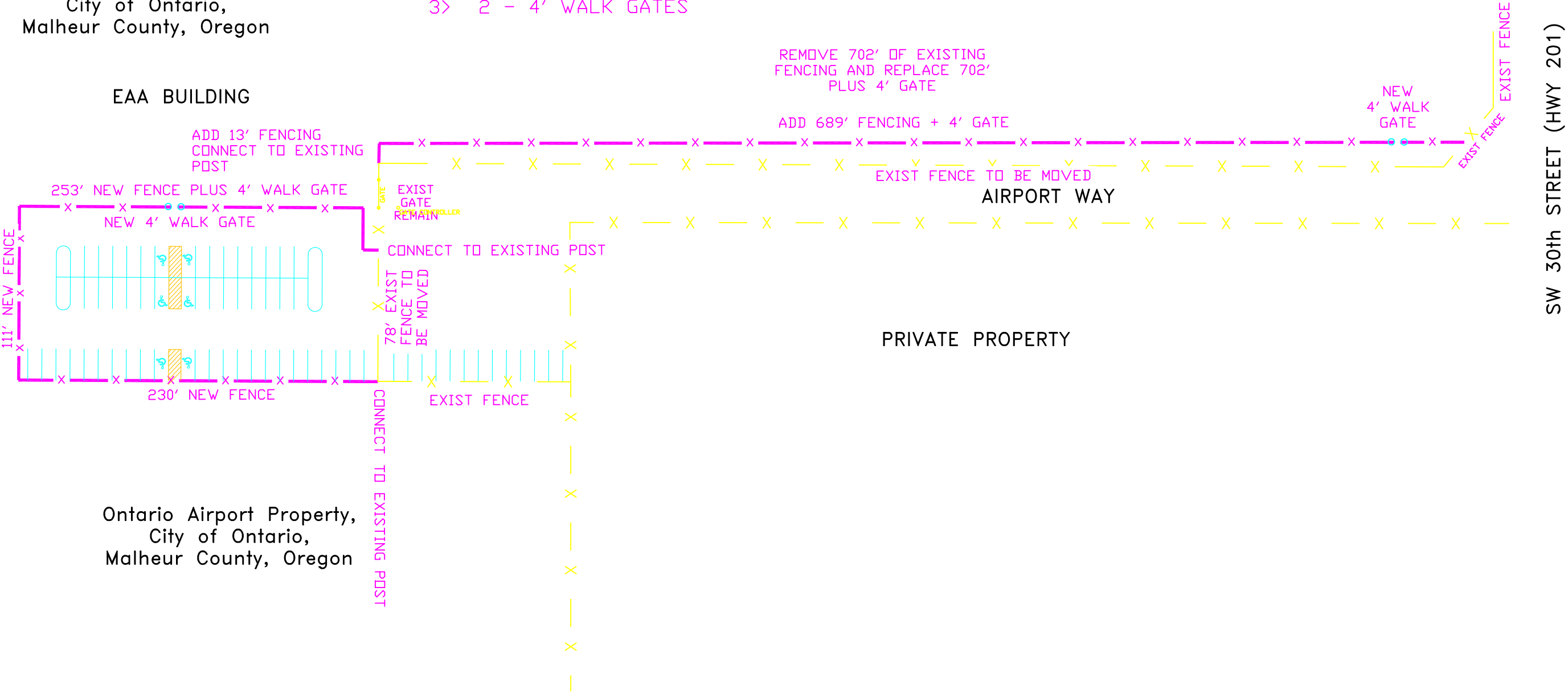


NEW FENCING
EXISTING FENCING

- PROJECT CONSISTS OF:
- 1). REMOVE AND REPLACE IN NEW LOCATION 780 FEET OF FENCING
 - 2). ADD 516 FEET OF NEW FENCING.
 - 3> 2 - 4' WALK GATES

Ontario Airport Property,
City of Ontario,
Malheur County, Oregon

EAA BUILDING



VERN'S CUSTOM RANCH CONSTRUCTION

1043 HWY 20-26
ONTARIO, OR 97914
(208) 741-0296 vbark9@gmail.com
CCB# 98178

PROPOSAL SUBMITTED TO: <i>City of Ontario</i>		JOB NAME <i>Air Port 32nd</i>	JOB #
ADDRESS		JOB LOCATION	
		DATE <i>9-13-21</i>	DATE OF PLANS
PHONE #	FAX #	ARCHITECT	

We hereby submit specifications and estimates for:

Remove and Reinstall 780 LF 27,300⁰⁰

Add 516 Feet new fence 23,220

Add 2 walk Gates 1,800⁰⁰

47,320

*Material on Now the Same as old
Materials not to be Certified
but will meet wrieghts and bases*

We propose hereby to furnish material and labor - complete in accordance with the above specifications for the sum of:

\$ _____ Dollars

with payments to be made as follows: _____

Any alteration or deviation from above specifications involving extra costs will be executed only upon written order, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our control.

Respectfully
submitted

[Signature]

Acceptance of Proposal

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payments will be made as outlined above.

Signature _____

Date of Acceptance _____

Signature _____



FRONTIER FENCE COMPANY

(208) 344-5817

RCE-31285

PO Box 9306

Boise, ID 83707

www.FrontierFenceCompany.com

DATE:

09/15/2021

COMMERCIAL

RESIDENTIAL

INDUSTRIAL

CHAIN LINK, WOOD, VINYL FENCES, ORNAMENTAL IRON

CUSTOMER INFO:

COMPANY

City of Ontario Airport

CONTACT NAME

Al Haun

PHONE#

(541) 889-8572

FENCE QUOTE

ITEM / DESCRIPTION:	ITEM COST
1) 1400' of 9 ga w/3 strand barb wire	\$ 50,596.00
2) Tear out and remove approx 720'	\$ 3120.00
3) Man gate (posts in price of footage)	\$ 350.00
4) Travel and perdium multiple trips	\$ 7000.00
5)	\$
6)	\$
7)	\$
8)	\$
9)	\$
TOTAL	\$ 61,066.00

PROJECT DESCRIPTION:



City of Ontario

444 SW 4th Street
Ontario, OR 97914

Bid or Quote Tracking Form

Item: Airport Fencing Project

Item On State Bid List? Yes ☐ No ☒

City Representative: Al Haun

Budgeted Amount: _____

Date: 9/8/2021

Line Item: _____

Vendor #1 Name: Vern's Custom Ranch

Contact Person: Vern Keffer

Phone # 208-741-0296

First Attempt: Contact Date: 9/9/21 Contact Time: _____ Response? Yes ☒ No ☐

Second Attempt: Contact Date: _____ Contact Time: _____ Response? Yes ☐ No ☐

Bid Attached? Yes ☒ No ☐ Verbal Quote? ☐ Written Quote? ☒ Amount: \$47,320.00

Notes:

Emailed plans to vbark9@gmail.com

Vendor #2 Name: Butte Fence

Contact Person: Doug Nell

Phone # 208-994-2614

First Attempt: Contact Date: 9/9/21 Contact Time: 11:54 AM Response? Yes ☐ No ☒

Second Attempt: Contact Date: 9/14/21 Contact Time: 2:20pm Response? Yes ☐ No ☒

Bid Attached? Yes ☐ No ☒ Verbal Quote? ☐ Written Quote? ☐ Amount: _____

Notes:

called 11:54AM left message; left voicemail at office #208-985-2782; No Response

Vendor #3 Name: Frontier Fence Company

Contact Person: Ward

Phone # 208-344-5817

First Attempt: Contact Date: 9/9/21 Contact Time: 11:50am Response? Yes ☐ No ☒

Second Attempt: Contact Date: 9/14/21 Contact Time: 2:41PM Response? Yes ☒ No ☐

Bid Attached? Yes ☒ No ☐ Verbal Quote? ☐ Written Quote? ☒ Amount: \$61,066.00

Notes:

called 11:50AM left message; emailed bid 241pm

Vendor #4 Name: Boise River Fence

Contact Person: Tony Phone # 208-383-9535

First Attempt: Contact Date: 9/9/21 Contact Time: 11:45 AM Response? Yes ☐ No ☒

Second Attempt: Contact Date: 9/14/21 Contact Time: 247pm Response? Yes ☒ No ☐

Bid Attached? Yes ☐ No ☐ Verbal Quote? ☐ Written Quote? ☐ Amount:

Notes:

Left message with secretary 11:45AM; left message with frontdesk; Emailed bid packet. Will not be able to bid

Vendor #5 Name: JLCC

Contact Person: Brian Phone #

First Attempt: Contact Date: 9/14/21 Contact Time: 9:20AM Response? Yes ☒ No ☐

Second Attempt: Contact Date: 9/14/21 Contact Time: 1136AM Response? Yes ☒ No ☐

Bid Attached? Yes ☐ No ☐ Verbal Quote? ☐ Written Quote? ☐ Amount:

Notes:

emailed plans 9/14/2021; Will not be able to bid job

Vendor #6 Name:

Contact Person: Phone #

First Attempt: Contact Date: Contact Time: Response? Yes ☐ No ☐

Second Attempt: Contact Date: Contact Time: Response? Yes ☐ No ☐

Bid Attached? Yes ☐ No ☐ Verbal Quote? ☐ Written Quote? ☐ Amount:

Notes:



RESOLUTION #2021-132

A RESOLUTION TO APPROPRIATE NECESSARY FUNDING FOR AIRPORT SECURITY FENCING IMPROVEMENTS

- WHEREAS,** The City budgeted 35,000 for moving the security fencing along Airport Way based of an estimate in February 2021; **and**
- WHEREAS,** The City solicited bids from five companies and the low bid came in \$12,320 over budget; **and**
- WHEREAS,** The City desires to modify the 2021-2022 budget in order to pay the necessary expenditures.

NOW THEREFORE, BE IT HEREBY RESOLVED by the Ontario City Council, to approve the following adjustment to the fiscal year 2021-2022 budget:

Line Item	Item Description	FY 21-22 Budget	Amount of Change	Adjusted Budget
GENERAL FUND				
001-004-871000	Contingency	\$145,650	(\$12,320)	\$133,330
001-004-832000	Transfer to Airport Fund	\$194,775	\$12,320	\$207,095
AIRPORT FUND				
120-000-458000	Transfer In	\$194,775	\$12,320	\$207,095
120-006-712108	Security Fencing	\$35,000	\$12,320	\$47,320

EFFECTIVE DATE: Effective immediately upon passage.

PASSED AND ADOPTED by the City Council of the City of Ontario this 28th day of September 2021, by the following vote:

AYES:

NAYES:

ABSENT:

APPROVED by the Mayor this 28th day of September, 2021.

Riley J. Hill, Mayor

ATTEST:

Tori Barnett, MMC, City Recorder



**AGENDA REPORT
NEW BUSINESS
September 28, 2021**

To: Mayor and City Council

FROM: Adam J. Brown, City Manager

THROUGH: Adam J. Brown, City Manager

SUBJECT: **ORDINANCE #2795-2021: CABLE ONE/SPARKLIGHT PROPOSED FRANCHISE AGREEMENT RENEWAL**

DATE: September 20, 2021

PROPOSED MOTION:

I MOVE THE CITY COUNCIL APPROVE ORDINANCE #2795-2021, AN ORDINANCE GRANTING TO CABLE ONE, INC. THE RIGHT TO MAINTAIN A CABLE COMMUNICATIONS SYSTEM IN THE CITY OF ONTARIO AND TO USE THE RIGHTS OF WAY OF THE CITY OF ONTARIO FOR ITS BUSINESS OPERATIONS.

IF UNANIMOUS:

I MOVE THE CITY COUNCIL WAIVE THE SECOND READING OF ORDINANCE #2795-2021, AN ORDINANCE GRANTING TO CABLE ONE, INC. THE RIGHT TO MAINTAIN A CABLE COMMUNICATIONS SYSTEM IN THE CITY OF ONTARIO AND TO USE THE RIGHTS OF WAY OF THE CITY OF ONTARIO FOR ITS BUSINESS OPERATIONS.

SUMMARY:

Cable One's most recent Franchise Agreement was approved on October 13, 2016. Their Agreement is up for renewal and requires Council action.

BACKGROUND:

Since Cable One's last Franchise Agreement approval in 2016 they are now doing business as Sparklight. The Franchise Agreement was for a five year term ending in September of 2021.

CURRENT SITUATION:

The terms of the Franchise Agreement are the same and are consistent with other franchise agreements within the city. The franchise fee is 5% of gross receipts. Franchise agreements make up a significant portion of our general fund revenues at \$1,579,874.

The City Attorney, staff, and Cable One have reviewed and approved the proposed Franchise Agreement. Approval by the Ontario City Council is required for the Agreement to continue. The Franchise Agreement allows the company to operate within the city's right-of-way.

ANALYSIS:

- A. **STRATEGIC PLAN** The strategic plan does not specifically address franchise agreements.
- B. **FINANCIAL** The terms of the Franchise Agreement are similar with most other franchise agreements within the city except that there is a federal cap on cable tv franchise agreements of 5% of gross receipts. Our standard franchise fee is 7%. Franchise agreements make up a significant portion of our general fund revenues at \$1,579,874.

During the 2020-2021 budget year, Lightspeed Networks paid the City \$30,147 in franchise fees. If the City Council does not approve the Franchise Agreement, this will deprive the city of franchise fee revenue from Cable One/Sparklight.

- C. **TIMING** Cable One intends to continue cable tv services and telecommunications activities in the city limits in the foreseeable future. Any delays in approval of the Franchise Agreement may cause delays in the plans of Cable One and will likely delay receipt of franchise revenues by the city.

The term of the proposed franchise agreement is 5 years.

- D. **POLICY/LEGAL** Local governments are authorized under Section 541 of Title 47 of the US Code to charge cable television operators a franchise fee of 5% of gross revenues earned from customers within the jurisdiction of the local government. Cable One (Sparklight) falls within the definition of a cable television operator subject to that fee, which is the same fee charged by the City to Cable One and its predecessors for many years. Although Cable One also provides internet (telecommunications services), and local governments are allowed to charge a franchise fee of up to 7% on telecommunications operators, the 6th Circuit Federal Court of Appeals recently ruled that cable television operators who provide “mixed use” services, including telecommunications services, may not have a 7% franchise fee imposed on them by reason of providing those additional mixed use services. Therefore, the City is limited to imposing the 5% fee on the gross revenues from Cable One’s cable television services without regard to the telecommunications services from which it also receives gross revenues.

ALTERNATIVES:

Take No Action - The city will discontinue franchise fees coming to the city and discontinue service to Ontario households.

RECOMMENDATION:

Staff recommends approval of Ordinance #2795-2021, a Franchise Agreement renewal between the City of Ontario and Cable One/Sparklight.

ATTACHMENTS:

1. Ord #2795-2021 Cable One Sparklight proposed franchise agreement



ORDINANCE NO. 2795-2021

AN ORDINANCE GRANTING TO CABLE ONE, INC. THE RIGHT TO MAINTAIN A CABLE COMMUNICATIONS SYSTEM IN THE CITY OF ONTARIO AND TO USE THE RIGHTS OF WAY OF THE CITY OF ONTARIO FOR ITS BUSINESS OPERATIONS

WHEREAS, Cable One, Inc., a Delaware corporation (hereinafter “PROVIDER”) desires to renew its cable communications system Franchise, Ordinance No. 2795-2021, within the City of Ontario, Oregon (hereinafter “CITY”) (hereafter each a “Party” and collectively the “Parties”) in connection with PROVIDER’s cable communications system in, under, along, over and across present and future rights-of-way of CITY; and

WHEREAS, CITY, in exercise of its management of public rights-of-way, believes that it is in the best interest of the public to provide the PROVIDER a nonexclusive Franchise to operate a cable communications system in CITY.

NOW THEREFORE, The Common Council for the City Of Ontario ordains as follows:

SECTION 1. FRANCHISE AGREEMENT AND ORDINANCE.

- 1.1 Agreement. Upon approval by the City Council and execution by the Parties, this Agreement shall be deemed to constitute a contract by and between CITY and PROVIDER.
- 1.2 Franchise Description. The Cable Communications System Franchise hereby granted shall confer upon PROVIDER the nonexclusive right, privilege, and Franchise to install, construct, operate, and maintain a cable communications system in, upon, under, above and across the present and future public rights-of-way in CITY. Such poles, wires and other appliances and conductors comprising the cable communications system may be strung upon poles or other fixtures above ground, or at the option of PROVIDER, may be laid underground, and such other apparatus may be used as may be necessary or property to operate and maintain the same.
- 1.3 Cable Communication System or System. “Cable communication system” or “system” means a system of antennas, cable, amplifiers, towers, microwave links, waveguides, laser beams, satellites, earth stations, or any other conductors, converters, equipment, or facilities, designed and constructed for the purpose of producing, receiving, amplifying, storing, processing, or distributing audio, video, digital, or other forms of electronic or electrical signals.
- 1.4 Licenses. PROVIDER acknowledges that it has obtained the necessary approvals, licenses or permits required by federal and state law to operate the cable communications system consistent with the provisions of this Agreement.
- 1.5 Relationship. Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the Parties and neither Party is authorized to, nor shall either Party act toward third persons or the public in a manner that would indicate any such relationship with each other.
- 1.6 Adequate Assurance. In the provision of cable television service, PROVIDER shall provide CITY with adequate assurance that PROVIDER will provide adequate public, educational, and governmental access channel capacity, facilities, or financial support, as required by 47 US Code Sec. 541.

SECTION 2. FRANCHISE FEE.

2.1 Franchise Fee.

- (a) For the cable communications system Franchise granted herein, PROVIDER shall pay to CITY a franchise fee of 5% per annum of its Gross Revenues for local cable service rendered to cable television subscribers within CITY limits consistent with 47 US Code Sec. 542(b).
- (b) "Gross Revenues" means all compensation derived from the operation of the cable communications system to provide cable service, except for the standard initial installation charge and all bad debts.
- (c) All payments shall be made to CITY, and sent as follows, unless PROVIDER is otherwise notified of a change in address in writing by CITY:

City of Ontario
Attn: Finance Department
444 SW 4th Street
Ontario, Oregon 97914

- (d) The fee required by this section shall be due and payable within 60 days after the end of each applicable financial quarter.

2.2 Equal Treatment. CITY agrees that if any cable service forming part of the base for calculating the Franchise fee under this Agreement is, or becomes, subject to competition from a third party, CITY will work to impose and collect from such third party a fee or tax on Gross Revenues from such competing cable service in the same percentage specified herein, plus the percentage specified as a utility revenue tax or license fee in the then current ordinances of CITY. Any such fee imposition will be subject to local, state, and federal rules and regulations.

2.2 Audit. PROVIDER shall keep accurate books of financial accounts at its corporate headquarters in Phoenix, Arizona throughout the term of this Franchise and for six years after the expiration or termination of this Agreement. Franchisee shall produce all books and records directly concerning its Gross Revenues for purposes of calculation of the Franchise fee for inspection by City, upon 10 business days' written notice, during normal working hours. City shall have the right during the term of this Franchise or within 180 days after expiration or termination of the Franchise to audit PROVIDER's records for the period of three years prior to the audit. If the audit reveals underpayment of 5% or more, the City may expand the audit to cover up to 6 years. The audits shall be undertaken by an independent auditor. The cost of the audit shall be borne by City, unless the results of the audit reveal an underpayment of more than 5% of the Franchise fee for the period audited. In the case of underpayment of 5% or more, the full cost of the audit shall be paid by PROVIDER. PROVIDER shall immediately pay the amount of the underpayment as determined by the audit to City together with 6% annual interest from the date the payment should have been made to the date the payment is actually made. Any audit information obtained by City under these provisions shall be kept confidential to the maximum extent allowed by Oregon law, except that this obligation shall not prevent the City from introducing audit results in any forum where payment of the Franchise fee is at issue.

SECTION 3. TERM.

3.1 Term. The Franchise granted to PROVIDER shall be for a period of five (5) years commencing on the first day of the month following this Agreement unless this Franchise be sooner terminated as herein provided.

- 3.2 Rights of PROVIDER upon Expiration or Revocation. Upon expiration of the Franchise granted herein, whether by lapse of time, by agreement between PROVIDER and CITY, or by revocation or forfeiture, PROVIDER shall have the right to remove from the rights-of-way any and all of its System, but in such event, it shall be the duty of PROVIDER, immediately upon such removal, to restore the rights-of-way from which such System is removed to as good condition as the same was before the removal was effected subject to reasonable wear and tear.

SECTION 4. POLICE POWERS.

CITY expressly reserves, and PROVIDER expressly recognizes, CITY's right and duty to adopt, from time to time, in addition to provisions herein contained, such ordinances and rules and regulations as CITY may deem necessary in the exercise of its police power for the protection of the health, safety and welfare of its citizens and their properties to the extent consistent with federal and state law.

SECTION 5. CHANGE IN LAW AND SEVERABILITY.

- 5.1 Meet to Confer. PROVIDER and CITY recognize that many aspects of the cable business are subject to examination and inquiry by federal government authorities that may mandate changes in law or regulation that may affect the way PROVIDER conducts its business and the way CITY manages its public rights-of-way. PROVIDER and CITY each agree, any rule, regulation, or other change mandated by any federal, state, or local authority that interferes with or adversely affects either Parties' rights, obligations, or intended benefit under the Agreement, Parties shall use good faith commercially reasonable efforts to negotiate appropriate changes to this Agreement, so it is no longer unlawful for either Provider or City to perform its obligations under this Agreement.

- 5.2 Severability. If any section, sentence, paragraph, term or provision of this Agreement is for any reason determined to be or rendered illegal, invalid or superseded by other lawful authority, including any state or federal, legislative, regulatory or administrative authority having jurisdiction thereof, or is determined to be unconstitutional, illegal or invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision, all of which shall remain in full force and effect for the term of this Agreement or any renewal or renewals thereof. Provided however, if the invalidated portion is considered a material consideration for entering into this Agreement, the Parties will negotiate, in good faith, an amendment to this Agreement. As used herein, "material consideration" for CITY is its ability to collect the Franchise fee during the term of this Agreement and its ability to manage the rights-of-way in a manner similar to that provided in this Agreement. For PROVIDER, "material consideration" is its ability to use the rights-of-way for cable communications system purposes in a manner similar to that provided in this Agreement.
- SECTION 6. EARLY TERMINATION, REVOCATION OF FRANCHISE AND OTHER REMEDIES.

- 6.1 Grounds for Termination. CITY may terminate or revoke this Agreement and all rights and privileges herein provided for any of the following reasons:
- (a) PROVIDER fails to make timely payments of the Franchise fee as required under Section 2 of this Agreement and does not correct such failure within sixty (60) calendar days after written notice by CITY of such failure;
 - (b) PROVIDER, by act or omission, materially violates a material duty herein set forth in any manner particularly within PROVIDER's control, and with respect to which redress is not otherwise herein provided. In such event, CITY, acting by or through its CITY Council, may determine, after hearing, that such failure is of a material nature, and thereupon, after written notice giving PROVIDER notice of such determination, PROVIDER, within thirty (30) calendar days of such notice, shall commence efforts to remedy the conditions identified in the notice and shall have

ninety (90) calendar days from the date it receives notice to remedy the conditions. After the expiration of such 90-day period and failure to correct such conditions, CITY may declare the Franchise forfeited and this Agreement terminated, and thereupon, PROVIDER shall have no further rights or authority hereunder; provided, however, that any such declaration of forfeiture and termination shall be subject to judicial review as provided by law, and provided further, that in the event such failure is of such nature that it cannot be reasonably corrected within the 90-day time period provided above, CITY shall provide additional time for the reasonable correction of such alleged failure if the reason for the noncompliance was not the intentional or negligent act or omission of PROVIDER; or

- (d) PROVIDER becomes insolvent, unable or unwilling to pay its debts; is adjudged bankrupt; or all or part of its facilities should be sold under an instrument to secure a debt and is not redeemed by PROVIDER within sixty (60) days.

- 6.2 Reserved Rights. Nothing contained herein shall be deemed to preclude PROVIDER from pursuing any legal or equitable rights or remedies it may have to challenge the action of CITY. By accepting this Agreement, PROVIDER reserves all rights under the law including, but not limited to, those rights arising under section 253 of the federal Communications Act of 1934, as amended and the law of the State of Oregon.
- 6.3 Remedies at Law. In the event PROVIDER or CITY fails to fulfill any of its respective obligations under this Agreement, CITY or PROVIDER, whichever the case may be, shall have a breach of contract claim and remedy against the other, in addition to any other remedy provided herein or by law; provided, however, that no remedy that would have the effect of amending the specific provisions of this Agreement shall become effective without such action that would be necessary to formally amend the Agreement.
- 6.4 Third Party Beneficiaries. The benefits and protection provided by this Agreement shall inure solely to the benefit of CITY and PROVIDER. This Agreement shall not be deemed to create any right in any person who is not a Party and shall not be construed in any respect to be a contract in whole or in part for the benefit of any third party (other than the permitted successors and assigns of a Party hereto).

SECTION 7. PARTIES' DESIGNEES.

- 7.1 CITY Designee and Address. The City Manager or his/her designee(s) shall serve as CITY's representative regarding administration of this Agreement. Unless otherwise specified herein, all notices from PROVIDER to CITY pursuant to or concerning this Agreement shall be delivered to CITY's representative at: 444 SW 4th Street, Ontario, Oregon, 97914, or such other officer and address as CITY may designate by written notice to PROVIDER.
- 7.2 PROVIDER Designee and Address. The Corporate President or his/her designee(s) shall serve as PROVIDER's representative regarding administration of this Agreement. Unless otherwise specified herein, all notices from CITY to PROVIDER pursuant to or concerning this Agreement shall be delivered to: Julia M. Laulis, President, Cable One, Inc., with a copy to Alan Silverman, Senior Vice President, General Counsel and Secretary, 210 E. Earll Drive, Phoenix, Arizona 85012-2626, or such other office as PROVIDER may designate by written notice to CITY.
- 7.3 Failure of Designee. The failure or omission of CITY's or PROVIDER's representative to act shall not constitute any waiver or estoppel by CITY or PROVIDER.

SECTION 8. INSURANCE AND INDEMNIFICATION

- 8.1 Insurance. Prior to commencing operations in CITY pursuant to this Agreement, PROVIDER shall furnish to CITY evidence that it has adequate general liability and property damage insurance, automobile insurance, worker's compensation insurance, and comprehensive hazards insurance. The evidence may consist of a statement that PROVIDER is effectively self-insured if PROVIDER has substantial financial resources, as evidenced by its current certified financial statements and established credit rating, or substantial assets located in the state of Oregon. Any and all insurance, whether purchased by PROVIDER from a commercial carrier, whether provided through a self-insured program, or whether provided in some other form or other program, shall be in a form, in an amount and of a scope of coverage acceptable to CITY.
- 8.2 Indemnification. Both Parties to this Franchise agree to indemnify and hold the other respective Party and its officers, employees, agents and representatives harmless from and against any and all claims, demands, liens, and all liability or damage of whatsoever kind on account of or arising from the indemnifying Party's acts or omissions, actual or alleged, pursuant to or related to this Agreement, and to pay any and all costs, including reasonable attorneys' fees, incurred in defense of such claims. The indemnified Party shall promptly give written notice to the indemnifying Party of any claim, demand, lien, liability, or damage with respect to which the indemnified Party seeks indemnification and, unless in the indemnified Party's judgment a conflict of interest may exist between the Parties with respect to the claim, demand, lien, liability, or damage, the indemnified Party may permit the indemnifying Party to assume the defense of such with counsel of the indemnifying Party's choosing, unless the indemnified Party reasonably objects such counsel. Notwithstanding any provision of this section to the contrary, the indemnifying Party shall not be obligated to indemnify, defend or hold the indemnified Party harmless to the extent any claim, demand, lien, damage, or liability arises solely out of or in connection with negligent acts or omissions of the indemnified Party.

SECTION 9. CONSTRUCTION PROVISIONS

- 9.1 Oregon Utility Notification. CITY agrees to locate underground facilities owned and operated by CITY in accordance with Oregon Administrative Rules, in particular section 952-001-0070, entitled "Operators to Mark Underground Facilities or Notify Excavators that None Exist." Furthermore, it is agreed and understood that there are existing sewer service lines that run from the user to CITY's main line that are defined as un-locatable underground facilities pursuant to paragraph 17 of the "Definitions" section 952-001-0010. In these cases, and in CITY's judgment, CITY has no record of location or practical way of locating these sewer service lines. PROVIDER will assume all responsibility for damages to these lines and all damages to property related to damaging these lines by PROVIDER or its agents.

SECTION 10. GENERAL PROVISIONS.

- 10.1 Binding Agreement. The Parties represent that (a) when executed by their respective Parties, this Agreement shall constitute legal and binding obligations of the Parties; and (b) that each Party has complied with all relevant statutes, ordinances, resolutions, by-laws and other legal requirements applicable to their operation in entering into this Agreement.
- 10.2 Governing Law. This Agreement shall be interpreted pursuant to the provisions of the Constitution and laws of the United States, the State of Oregon, and the ordinances and Charter of the City.
- 10.3 Time of Essence. Time shall be of the essence of this Agreement.

- 10.4 Interpretation of Agreement. The invalidity of any portion of this Agreement shall not prevent the remainder from being carried into effect. Whenever the context of any provision shall require it, the singular number shall be held to include the plural number, and vice versa, and the use of any gender shall include any other and all genders. The paragraphs and section headings in this Agreement are for convenience only and do not constitute a part of the provisions hereof.
- 10.5 Amendments. This Agreement may be modified or amended by written agreement only. No oral modifications or amendments shall be effective.
- 10.6 Binding on Successors. This Agreement shall be binding upon the heirs, successors, administrators and assigns of each of the parties.
- 10.7 Confidentiality. CITY agrees to use its best efforts to preserve the confidentiality of information as requested by PROVIDER, to the extent permitted by the Oregon Public Records Law.
- 10.8 Transfer of Franchise. PROVIDER shall not, directly or indirectly, transfer, assign, or dispose of by sale, lease, merger, consolidation or other act of PROVIDER, ownership or control of a majority interest in the cable communications system, without the prior consent of CITY, which consent shall not be unreasonably withheld or delayed, and then only on such reasonable conditions as may be prescribed in such consent.
- 10.9 Acceptance of Franchise. this ordinance shall become effective 30 days after final passage. Within 30 days from the effective date of this ordinance, PROVIDER shall file with the City Recorder a written unconditional acceptance of this Franchise and all of its terms and conditions, and if PROVIDER fails to do so, this ordinance shall be void and of no effect.

PASSED AND ADOPTED by the Common Council of the City of Ontario this _____ day of _____, 2021, by the following vote:

AYES:

NAYS:

ABSENT:

APPROVED by the Mayor this _____ day of _____, 2021.

CITY OF ONTARIO

ATTEST:

Riley Hill, Mayor

Tori Barnett, MMC, City Recorder

ACCEPTANCE BY PROVIDER:

Ordinance No. 2795-2021 is accepted this _____ day of _____, 2021.

CABLE ONE, INC.

ATTEST

Secretary



**AGENDA REPORT
PUBLIC HEARING
September 28, 2021**

To: Mayor and City Council

FROM: Dan Cummings, Community Development Director

THROUGH: Adam J. Brown, City Manager

SUBJECT: **ORDINANCE #2794-2021: PLANNING ACTION 2021-04-15AZ - A REQUEST BY KATHRYN M. BLACKMON FOR THE ANNEXATION AND REZONE OF PROPERTY FROM URBAN GROWTH AREA RESIDENTIAL (UGA-R) TO CITY SINGLE FAMILY RESIDENTIAL (RS-50) TO ALLOW CONNECTION TO CITY SERVICES, AND WITHDRAWING SAID TERRITORY FROM THE ONTARIO RURAL FIRE PROTECTION DISTRICT #7-301 (769 NORTH PARK BOULEVARD)**

DATE: September 20, 2021

PROPOSED MOTION:

A. APPROVAL:

1. I MOVE THAT THE CITY COUNCIL APPROVE THE FINDING OF FACTS AND THE PLANNING COMMISSION RECOMMENDATION FOR THE ANNEXATION AND REZONE OF THE SUBJECT PROPERTY FROM URBAN GROWTH AREA RESIDENTIAL (UGA-R) TO CITY SINGLE FAMILY RESIDENTIAL (RS-50) , AS SET FORTH IN ACTION 2021-04-15AZ BASED ON THE INFORMATION, FINDINGS AND CONCLUSIONS SET FORTH IN SECTIONS I THROUGH IV OF THIS REPORT.

2. I MOVE THAT THE CITY COUNCIL APPROVE ORDINANCE #2794-2021, AN ORDINANCE PROCLAIMING THE ANNEXATION AND REZONING OF CERTAIN TERRITORY TO THE CITY OF ONTARIO FROM URBAN GROWTH AREA RESIDENTIAL (UGA-R) TO CITY SINGLE FAMILY RESIDENTIAL (RS-50), BEING A PARCEL WITHIN THE SW1/4 NW1/4 SECTION 4, TOWNSHIP 18 SOUTH RANGE 47 EAST, W.M.; AND WITHDRAWING SAID TERRITORY FROM THE ONTARIO RURAL FIRE PROTECTION DISTRICT 7-302, ON FIRST READING BY TITLE ONLY.

IF VOTE IS UNANIMOUS:

3. I MOVE THE CITY COUNCIL WAIVE THE SECOND READING OF ORDINANCE #2794-2021, AN ORDINANCE PROCLAIMING THE ANNEXATION AND REZONING OF CERTAIN TERRITORY TO THE CITY OF ONTARIO FROM URBAN GROWTH AREA RESIDENTIAL (UGA-R) TO CITY SINGLE FAMILY RESIDENTIAL (RS-50), BEING A PARCEL WITHIN THE SW1/4 NW1/4 SECTION 4, TOWNSHIP 18 SOUTH RANGE 47 EAST, W.M.; AND WITHDRAWING SAID TERRITORY FROM THE ONTARIO RURAL FIRE PROTECTION DISTRICT #7-302, BY TITLE ONLY

4.). I MOVE THE CITY COUNCIL APPROVE THE DEFERMENT OF THE STREET IMPROVEMENTS FOR NORTH PARK BOULEVARD UNTIL IT IS DETERMINED TO BE NEEDED OR AT THE TIME OF FURTHER DEVELOPMENT OF THE PROPERTY.

B. DENIAL:

1. I MOVE THAT THE REQUEST FOR REZONE OF THE SUBJECT PROPERTY FROM URBAN GROWTH AREA RESIDENTIAL (UGA-R) TO CITY SINGLE FAMILY RESIDENTIAL (RS-50), AS SET FORTH IN ACTION 2021-04-15AZ BE DENIED, BASED ON THE INFORMATION, FINDINGS AND CONCLUSIONS SET FORTH BELOW. (NEED TO CHANGE STAFF FINDINGS AND LEGAL REASONS FOR DENIAL).

SUMMARY:

The applicants owns a parcel of land, known as 18S4704BD, tax lot 5600. The applicants wish to annex and rezone the property into the city to connect to city sanitary sewer and water due to a failed septic system. The subject property is within 300 feet of the city sanitary sewer system and therefore under state regulations they are not allowed to repair their septic system, and must annex to connect to city services. This application, if approved, will result in the annexation of 2.31 acres, plus the right of way for North Park Boulevard, adjacent to the lands, into the city and a rezone of the property from Urban Growth Area Residential (UGA-R) to City Single Family Residential (RS-50).

BACKGROUND:

This request for annexation and rezone needs a recommendation for approval or rejection from the Planning Commission to the City Council. The Ontario Municipal Code (OMC) designates the Planning Commission as the decision-making body for a request for rezone, without City Council participation. The OMC designates the City Council as the decision-making body for a request for annexation, without Planning Commission participation. State Law requires an Ordinance city's governing body is the City Council, and they are the only body that may adopt an ordinance; therefore, a request for rezone should go before the Council for a final decision. Staff feels that the best procedure is consistency with State law; therefore, this matter needs a recommendation from the Planning Commission, and then will be forwarded to the City Council for their decision.

There have been no recent Planning Commission actions on this property in the past 20+ years that could be found in the planning records other than a city-wide Comprehensive Plan update in 2007.

CURRENT SITUATION:

The proposed development must comply with applicable provisions of the OCC (City of Ontario Zoning Ordinance as set forth in the Ontario City Code), and the City of Ontario Comprehensive Plan. Generally, unless otherwise noted, if a request is found to be consistent with the Zoning Ordinance it is considered to be consistent with the Comprehensive Plan.

A. Rezone

1. Section 10B-20-30 REQUIRED FINDINGS, DECISION CRITERIA. In preparing findings to support a quasi-judicial zoning map amendment decision, the following findings shall be addressed except when alternatives are set forth or where a required finding clearly does not apply to the current action:

a. The zoning map amendment is in conformance with statewide planning goals and guidelines.

- b. The zoning map amendment is in conformity with the acknowledged comprehensive plan.
- c. The applicant has demonstrated a mistake or error in the original zone designation, or the applicant has demonstrated a change in physical, social or market conditions generally affecting the area which make the proposed change appropriate.
- d. A public need is demonstrated for this zoning at this location and is not the granting of a special privilege for a single property or small group of properties.
- e. The property affected by the change is adequate in size and shape to facilitate its use and development as permitted under the new zoning classification.
- f. The property affected by the proposed change of zone is properly related to streets and public facilities and with services adequate to meet the demands of the uses allowed in the new zone.
- g. The proposed zoning map change will not result in adverse effects upon surrounding properties or surrounding uses from dust, noise, vibration, odor, heat, glare, lighting, or discharges into the air, water or land.

Findings of fact based on the answers and information given in the application made a part hereof:

1. Explain how the proposed zoning map amendment is in conformance with statewide planning goals and guidelines.

The rezoning is in conformance with the statewide planning goals and the City Comprehensive plan as the existing property is zoned UGA Residential and the proposed zoning is Residential in conformance to the City Comprehensive plan and no changes are being requested.

The City of Ontario Municipal Code Implements policies contained in the City of Ontario Comprehensive Plan, which conforms to the Statewide Planning Goals; if a proposed rezone meets all criteria and standards contained in the OMC, the request will be consistent with Comprehensive Plan Policies and therefore conform to the Statewide Planning Goals. The existing property is zoned UGA Residential and is proposed to be rezoned to City RS-50 Single Family Residential.

2. Explain how the proposed zoning map amendment is in conformance with the Acknowledged Comprehensive Plan.

The rezone is in conformance with the acknowledged plan as the requested rezone is the same as the acknowledge Comprehensive plan, no change is requested.

The subject properties are currently zoned UGA Residential and the request is to rezone to the companion City RS-50(Single Family Residential) Zone that is the same zone as adjacent and nearby properties. The requested zone allows basically the same use as the UGA zone and is reflected in the Comprehensive Plan. No Comprehensive Plan amendment is necessary for this rezone; therefore, the proposal is consistent with, and conforms to, the Comprehensive Plan

3. As applicant, you must explain how there has been a mistake or error in the original zone designation or a change in physical, social or market conditions generally affecting the area, which makes this proposed zone change appropriate.

There is no mistake made, the requested zone is required due to annexation into City Limits and matches the planned zoning as per Comprehensive Plan.

The applicants have requested annexation into the City of Ontario concurrent with the request for rezone; a City Zone must be applied to the property once within City Limits. The existing zone is not a mistake, and there is no need to demonstrate a change in conditions in the surrounding area; the change in zone is necessary and appropriate.

4. As applicant, you must show a public need is demonstrated for this zoning at this location and is not the granting of a special privilege for a single property or small group of properties.

This is not a granting of special privilege as the requested rezone is the same as the Comprehensive Plan and is requested of the annexation of the property into city limits.

This request is legally necessary due to the annexation of the property; granting of this request is not a special privilege and no public need has to be demonstrated. The property is residentially designated under the Comprehensive Plan so a residential zone is the most appropriate for the property.

5. Explain how the property affected by the change, if approved, is adequate in size and shape to facilitate its use and development as permitted under the new zoning classification.

The minimum parcel size in the requested RS-50 zone is 5,000 square feet, the property is 100,624 square feet, more or less. The property exceeds the minimum parcel size and can easily be development into smaller parcels.

6. Explain how the property affected by the proposed change of zone is properly related to streets and other public facilities and with services adequate to meet the demands of the uses allowed in the new zone. This shall explain how this proposal will not absorb a disproportionate share of public facilities, utilities and general assets.

The property fronts onto the city/county street North Verde Drive and city water is available within the right of way for North Park Boulevard, the Sewer main in North Park Boulevard will need to be extended to the north property line of the applicant and then services can be extended into the property for connection of the existing home and future development of the property.

7. Explain how the proposed change in zoning will not result in adverse effects upon surrounding properties or surrounding uses from dust, noise, vibration, odor, heat, glare, lighting, or discharges into the air, water or land.

The zone change will not adversely affect the surrounding area as the current use is the same use as the proposed zone change which is a single-family dwelling.

Uses allowed by the current zone are basically identical to the proposed zone. No significant difference in allowed uses will occur as a result of the rezone. Allowed uses under city residential zone designations are no more likely to produce dust, noise, etc., than those under the UGA residential zone.

Summary Conclusions: Based on the findings above:

a. The City of Ontario Municipal Code Implements policies contained in the City of Ontario Comprehensive Plan, which

conforms to the Statewide Planning Goals; generally, if a proposed rezone meets all criteria and standards contained in the OMC, the request will be consistent with Comprehensive Plan Policies and therefore conform to the Statewide Planning Goals. As this proposal meets the criteria in the above section, this proposal is consistent with Statewide Planning Goals. CRITERION IS MET

b. The finding 2 above, show that the request is within goals and conformance of the Acknowledged Comprehensive plan. Therefore, this proposal has demonstrated to be consistent with the Comprehensive Plan. CRITERION IS MET

c. The applicant states in finding 3, that no mistake was made, that the requested zone is required due to annexation into City Limits and matches the planned zoning as per Comprehensive Plan. Therefore, there is no mistake made the findings demonstrates that this criterion is met. CRITERION IS MET

d. The applicant states in finding 4, that request is legally necessary due to the annexation of the property; granting of this request is not a special privilege and no public need has to be demonstrated. The property is residentially designated under the Comprehensive Plan so a residential zone is the most appropriate for the property. CRITERION IS MET

e. As noted in the findings 5, the subject property exceeds the minimum parcel size of the requested zoning and is of adequate size for future development. CRITERION IS MET

f. As noted in the finding 6 above, the property is properly related to streets and public facilities within the public streets and the existing uses and services demonstrate that uses allowed in the proposed zone are provided. CRITERION IS MET

g. The applicant states in the finding 7 above, the zone change will not adversely affect the surrounding area as the current use is the same use as the proposed zone change which is single family dwelling. The permitted uses are related to low volume traffic and uses which do not lend themselves to the creation to significant amounts of noise or other discharges of dust or odor into the air is uncommon in a residential zone. CRITERION IS MET

Conclusion Rezone: ALL CRITERIA ARE MET

B. Annexation:

1. 10B-45-10 INITIATION OF ACTION. When a person, authorized by statute, wishes to extend the city's boundaries, an application on forms supplied by the city shall be filed with the Planning Director and which include: annexation consent forms, by the property owners, and by tenants if required by law or court decision; request for a change in zoning map designation, or plan change if required; request for other quasi-judicial action if required; fees, and other exhibits and requirements for a quasi- judicial action as set forth in this Title. All land use actions associated with the annexation shall be consolidated, as feasible, and one fee paid.

2. Oregon Revised Statute 222.125: Annexation by consent of all owners of land and majority of electors; proclamation of annexation. The legislative body of a city need not call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing otherwise required under ORS 222.120 when all of the owners of land in that territory and not less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the legislative body. Upon receiving written consent to annexation by owners and electors under this section, the legislative body of the city, by resolution or ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation.

Findings based on the answers and information given in the application made a part hereof:

1. The applicants have paid the fees and provided the proper application with signatures.
 2. The property is annexable because it lies inside the Urban Growth Boundary and is contiguous with current city limits.
 3. The property is currently zoned for Residential use in the Urban Growth Area; the requested zone, City Single Family Residential (RS-50), is consistent with contiguous property.
 4. Findings from preceding sections of this report are herein included by this reference. A change to the comprehensive plan map or text is not necessary to annex the property; however, the annexation of the property must be consistent with all applicable Comprehensive Plan Policies.
 5. Annexation would benefit the city by increasing tax revenue, and, by providing more residential lands in a highly developable area.
- Conclusion: All criteria and standards applicable to a request for annexation have been met. The property may be annexed.

SUMMARY CONCLUSIONS AND PLANNING COMMISSION DECISION

A request a rezone of property may be recommended for approval or denial by the Planning Commission to the City Council if all applicable decision criteria and standards are found met, or able to be met through appropriate conditions of approval. In this case, findings must be made by the Planning Commission that the specific criteria are either met, able to be met through conditions of approval, or not met; options and discussion are provided under "Findings:" and "Conclusion:" for each criterion. All the criteria and standards must be met in order for the request to be recommended for approval.

At the September 13, 2021 Planning Commission meeting the Planning commission sent a recommendation to the City Council to approve the Findings of Facts and the Annexation and Rezone of the Property as outlined in this report.

Staff and the Planning Commission is recommending to the City Council that due to the financial difficulties the owners have already faced in providing the extension of the Sanitary sewer main along N. Park Boulevard and there is no current need for the curb, gutter and sidewalk along N. Park Boulevard that the improvements to the street section deferred under a DIA (Deferred Improvement Agreement) until such time as the street improvements are need or the property is further developed.

ANALYSIS:

- A. **STRATEGIC PLAN** This action is in alignment with the City Council Strategic Plan for desirability of the property to be used for residential use as well as allowing for future development of the city meeting it potential for future growth of the community.
- B. **FINANCIAL** This is no financial impact to the city currently.

- C. **TIMING** This action is needed as soon as possible so the lands can be developed and connected to city services.
- D. **POLICY/LEGAL** The proposed development must comply with applicable provisions of the OCC (City of Ontario Zoning Ordinance as set forth in the Ontario City Code), and the City of Ontario Comprehensive Plan. Generally, unless otherwise noted, if a request is found to be consistent with the Zoning Ordinance it is consistent with the Comprehensive Plan.

An annexation and rezone must be done by an ordinance and the City Council is the final authority for approving a city ordinance.

ALTERNATIVES:

The City Council could table the action until a time certain if more information is needed to make a decision.

The City Council could send this action back to the Planning commission for further recommendations.

RECOMMENDATION:

Staff recommends that the City Council approve and adopt the findings of facts and approve Ordinance #2794-2021 approving the annexation and rezone from UGA-Residential to City Single Family Residential (RS-50) of the subject property.

ATTACHMENTS:

1. Ord #2794-2021 Annex & Rezone Blackmon 2021-04-14AZ
2. Attachment 1_Zoning Before
3. Attachment 2_Zoning After
4. Attachment 3_Area Map
5. Attachment 4_Rezone Description
6. Attachment 5_Rezone Tax Map



ORDINANCE #2794-2021

AN ORDINANCE PROCLAIMING THE ANNEXATION AND REZONING OF CERTAIN TERRITORY TO THE CITY OF ONTARIO FROM URBAN GROWTH AREA RESIDENTIAL (UGA-R) TO CITY SINGLE FAMILY RESIDENTIAL (RS-50), BEING A PARCEL WITHIN THE SW¼ NW¼ SECTION 4, TOWNSHIP 18 SOUTH RANGE 47 EAST, W.M.; AND WITHDRAWING SAID TERRITORY FROM THE ONTARIO RURAL FIRE PROTECTION DISTRICT #7-302

- WHEREAS,** There has been submitted to the City of Ontario a written request for annexation and rezoning to the city signed by 100% of the owners of land within the affected territory to be annexed; and
- WHEREAS,** All of the owners of land in that territory have consented in writing to the annexation of their land in the territory and have filed a statement of their consent with the legislative body of the city; and
- WHEREAS,** The City Charter does not expressly require the city to submit a proposal of annexation of territory to the electors of the city; and
- WHEREAS,** All the owners have requested the lands to be rezoned from UGA Residential (UGA RS-50) to City Single Family Residential (RS-50); and
- WHEREAS,** The city desires to withdraw the land to be annexed from the ONTARIO RURAL FIRE PROTECTION DISTRICT #7-302, pursuant to ORS 222.120(5) and has received assent from the District to do so.

NOW THEREFORE, THE CITY OF ONTARIO ORDAINS AS FOLLOWS:

1. Annexation Area. The following contiguous territory be and the same is hereby annexed: The property legally described and mapped in the attached Exhibits “A” and “B” respectively.
2. Rezoning. That based on the Planning Commission findings and recommendation in Planning Action 2021-04-15AZ, the lands as shown and described in the attached Exhibits “A” and “B” be rezoned from UGA Residential (UGA RS-50) to City Single Family Residential (RS-50).
3. Withdrawing above-described area from Ontario Rural Fire Protection District #7-302. The Common Council of the City of Ontario deems it in the best interest of the public of the City of Ontario and hereby declares that the real property described hereinabove is withdrawn from the Ontario Rural fire Protection District No. 7-302 on the effective date of this annexation pursuant to ORS 222.120(5).

4. Record. The City Planner shall submit to the Oregon Secretary of State (1) a copy of this Ordinance, (2) a copy of the statement of consent of the landowner in the territory annexed; and (3) Shall send a description by metes and bounds, or legal subdivision, and a map depicting the new boundaries of the City within 10 days of the effective date of annexation to the Malheur County Assessor, Malheur County Clerk and the State Department of Revenue.

PASSED AND ADOPTED by the Common Council of the City of Ontario this _____ day of _____, 2021 by the following vote:

AYES:

NAYS:

ABSENT:

APPROVED by the Mayor this _____ day of _____, 2021.

ATTEST:

Riley J. Hill, Mayor

Tori Barnett, MMC, City Recorder

Exhibit "A"
Property Description for Annexation/Rezone
City Action No. 2021-04-15AZ

EXHIBIT A

INSTRUMENT NO. 2010 -2884
Page 3 of 3 Pages

Parcel I:

Land lying partially within the City of Ontario, Malheur County, Oregon, as follows:

In Township 18 South, Range 47 East of the Willamette Meridian:

Section 4: A parcel of land in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ more particularly described as follows:

Commencing at the Southeast corner of the said SE $\frac{1}{4}$ NW $\frac{1}{4}$;

Thence North 0°08'54" West, along the East boundary thereof, 660.83 feet;

Thence North 89°58'19" West, along the South boundary of the S $\frac{1}{2}$ N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, 25 feet to the TRUE POINT OF BEGINNING;

Thence North 89°58'19" West, along said South boundary, 294.30 feet;

Thence South 0°56' East, 176.28 feet;

Thence South 28°32' West, 81.30 feet to the intersection with the East boundary of Loveridge's Addition to the City of Ontario, Oregon;

Thence North 0°56' West, along the said East boundary, 578.28 feet to the North boundary of the S $\frac{1}{2}$ N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$;

Thence South 89°57'28" East, along the said North boundary, 338.83 feet;

Thence South 0°08'54" East, parallel with the East boundary of the SE $\frac{1}{4}$ NW $\frac{1}{4}$, 330.42 feet to the Point of Beginning.

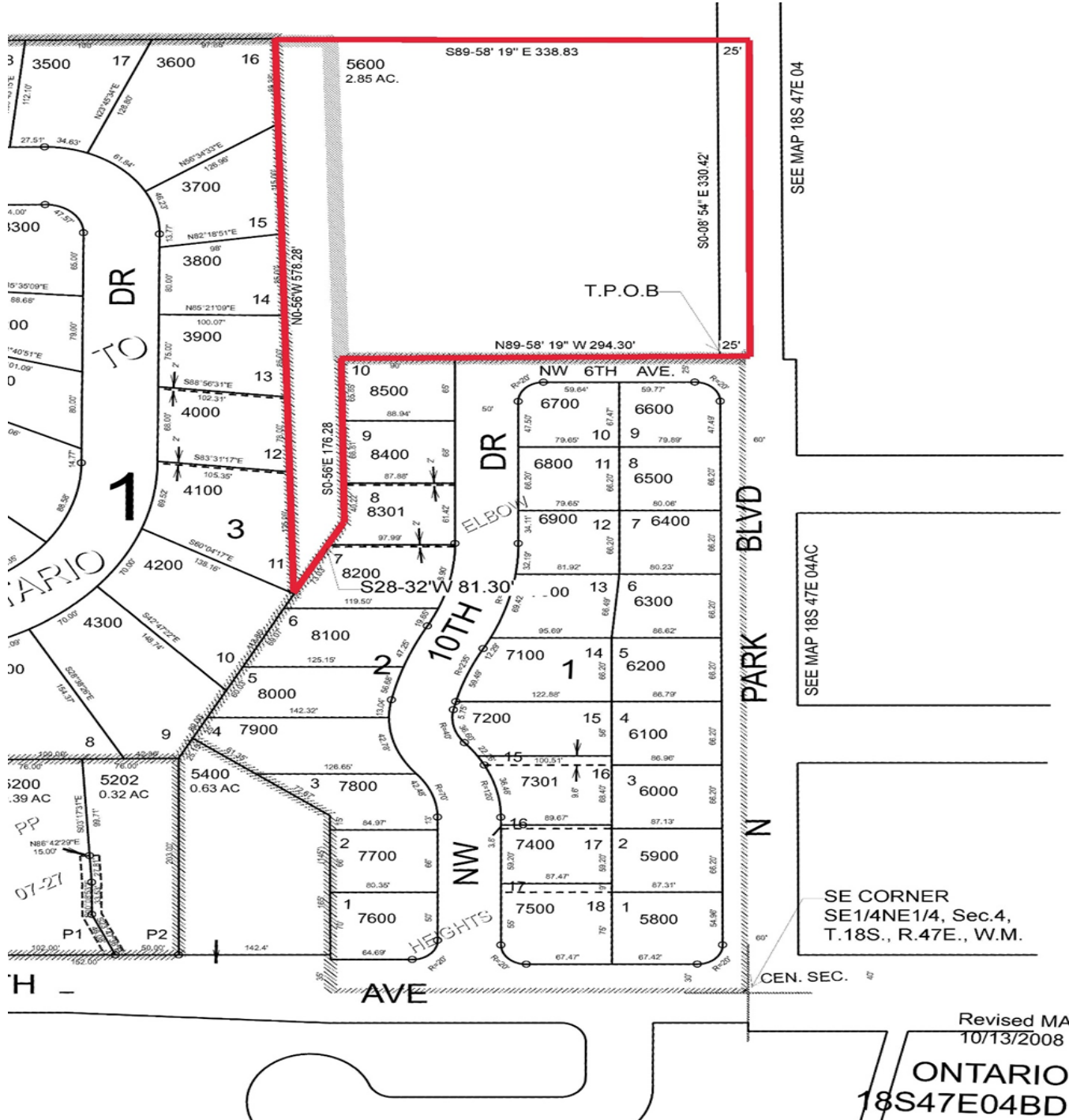
TOGETHERWITH the West 25.00 feet of the Right of Way of North Park Boulevard adjacent to the above described parcel of land.

- End Description -

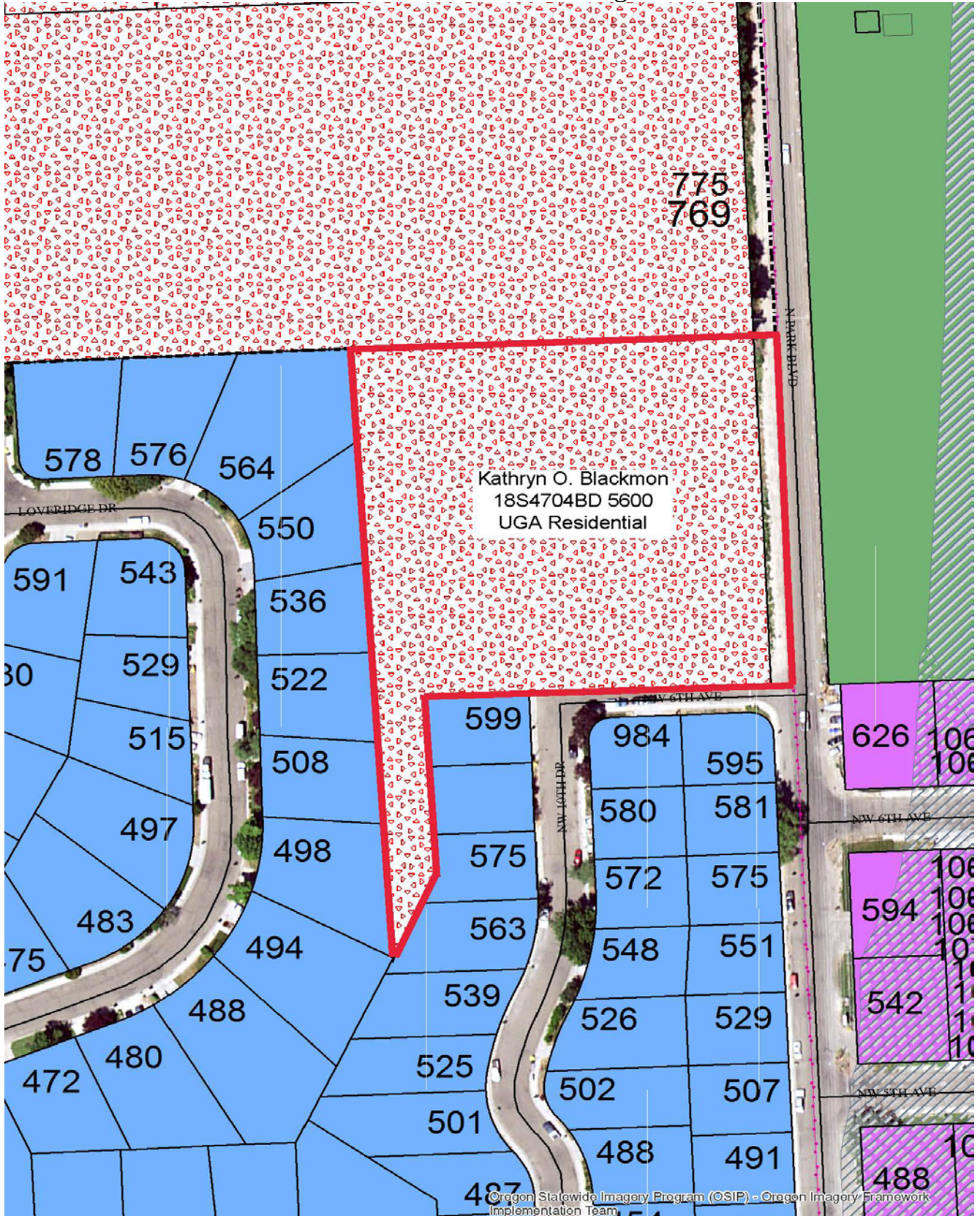
Exhibit "B"

Subject property

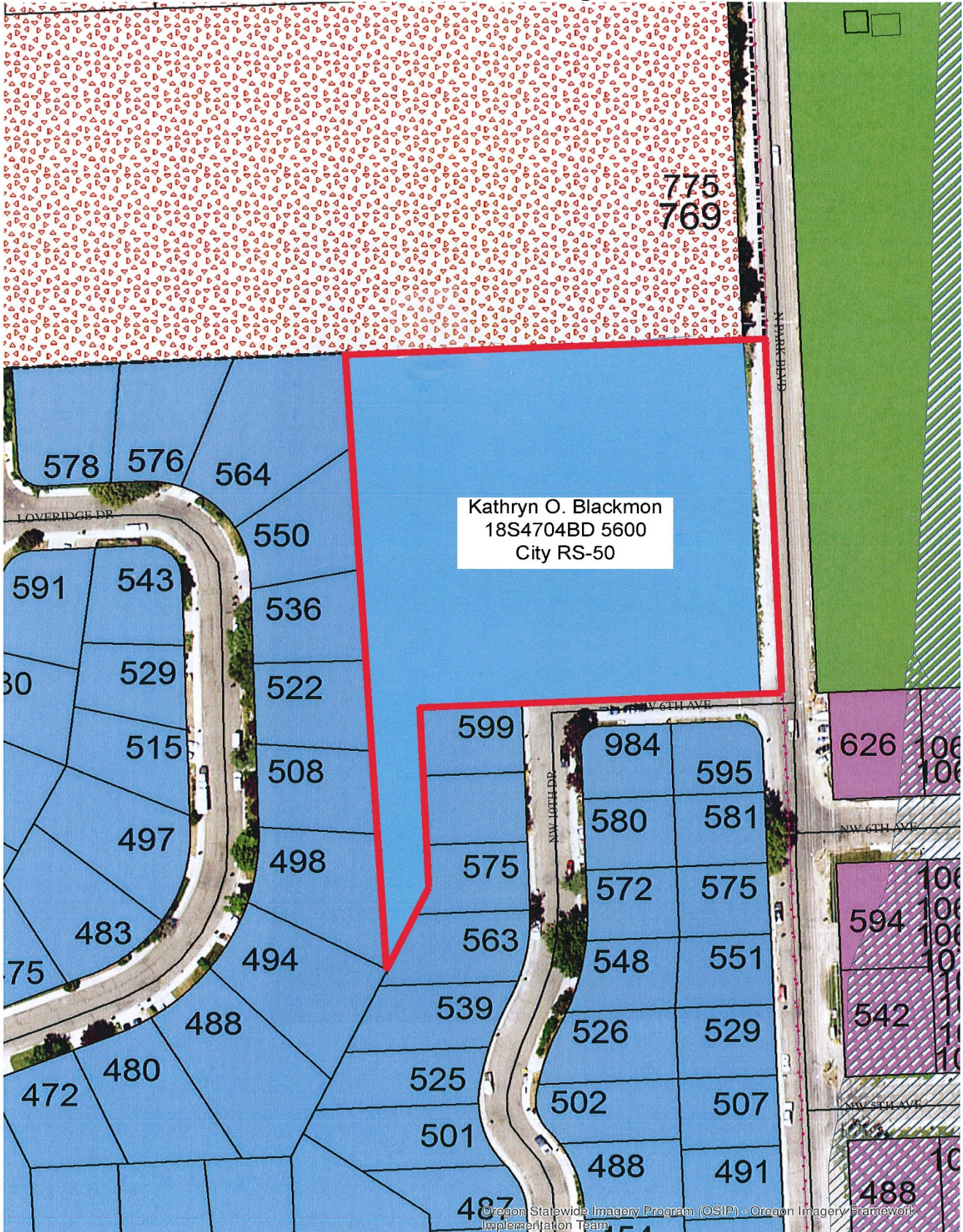
MAP 18S4704BD Tax Lot 5600



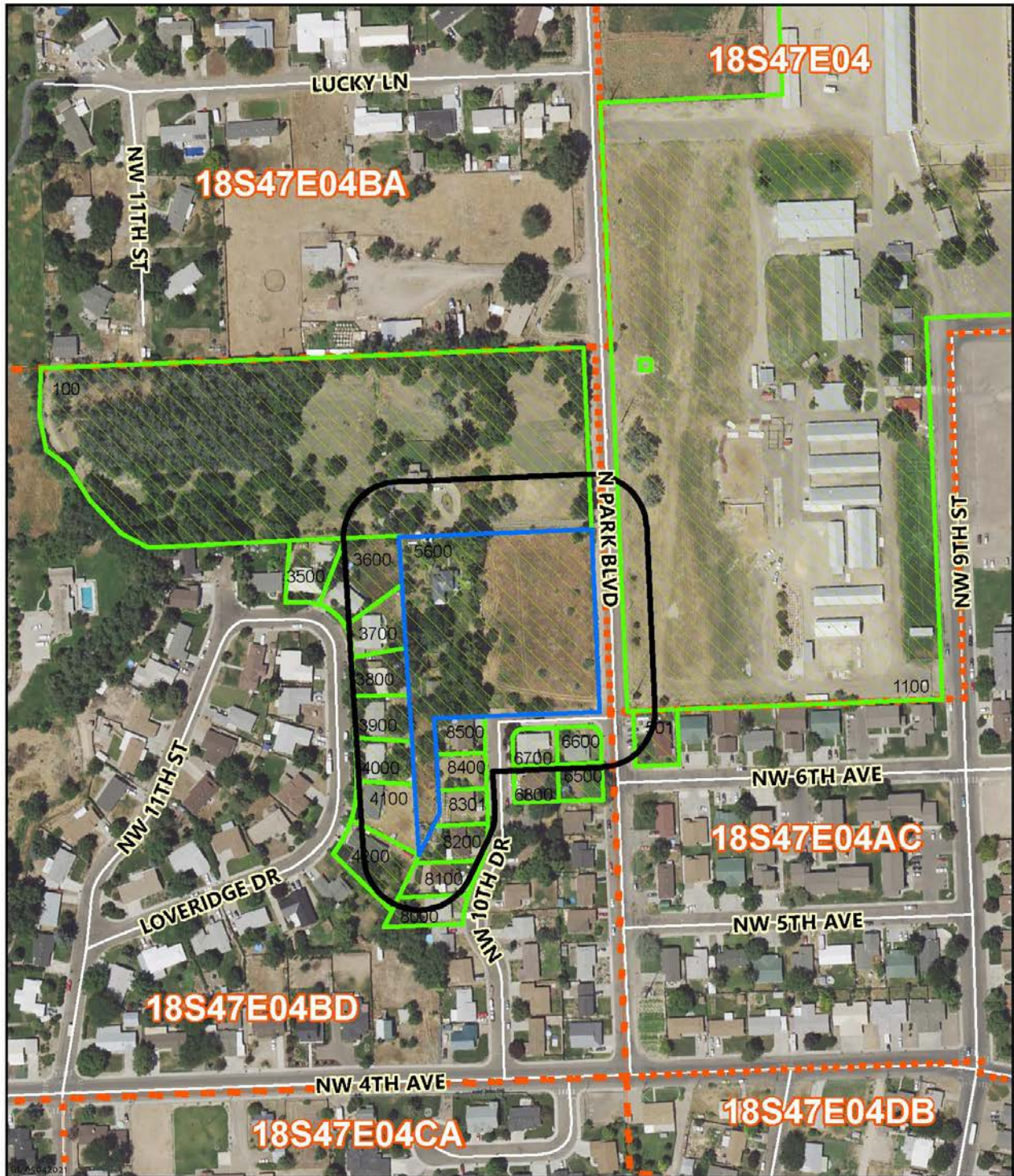
Parcel Before Rezoning



Parcel After Rezoning



Attachment "3"



Legend

- 100 ft radius
- Map Index
- Blackmon_R801
- TL wn 100' rad fr BlackmonKathryn

100 Feet Radius Map

BlackmonKathryn_R801

0 200
Feet

*Map is prepared for
assessment purposes only*

Attachment "4"

Rezone Parcel Description

EXHIBIT A

INSTRUMENT NO. 2010 - 2884
Page 3 of 3 Pages

Parcel I:

Land lying partially within the City of Ontario, Malheur County, Oregon, as follows:

In Township 18 South, Range 47 East of the Willamette Meridian:

Section 4: A parcel of land in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ more particularly described as follows:

Commencing at the Southeast corner of the said SE $\frac{1}{4}$ NW $\frac{1}{4}$;

Thence North 0°08'54" West, along the East boundary thereof, 660.83 feet;

Thence North 89°58'19" West, along the South boundary of the S $\frac{1}{2}$ N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, 25 feet to the TRUE POINT OF BEGINNING;

Thence North 89°58'19" West, along said South boundary, 294.30 feet;

Thence South 0°56' East, 176.28 feet;

Thence South 28°32' West, 81.30 feet to the intersection with the East boundary of Loveridge's Addition to the City of Ontario, Oregon;

Thence North 0°56' West, along the said East boundary, 578.28 feet to the North boundary of the S $\frac{1}{2}$ N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$;

Thence South 89°57'28" East, along the said North boundary, 338.83 feet;

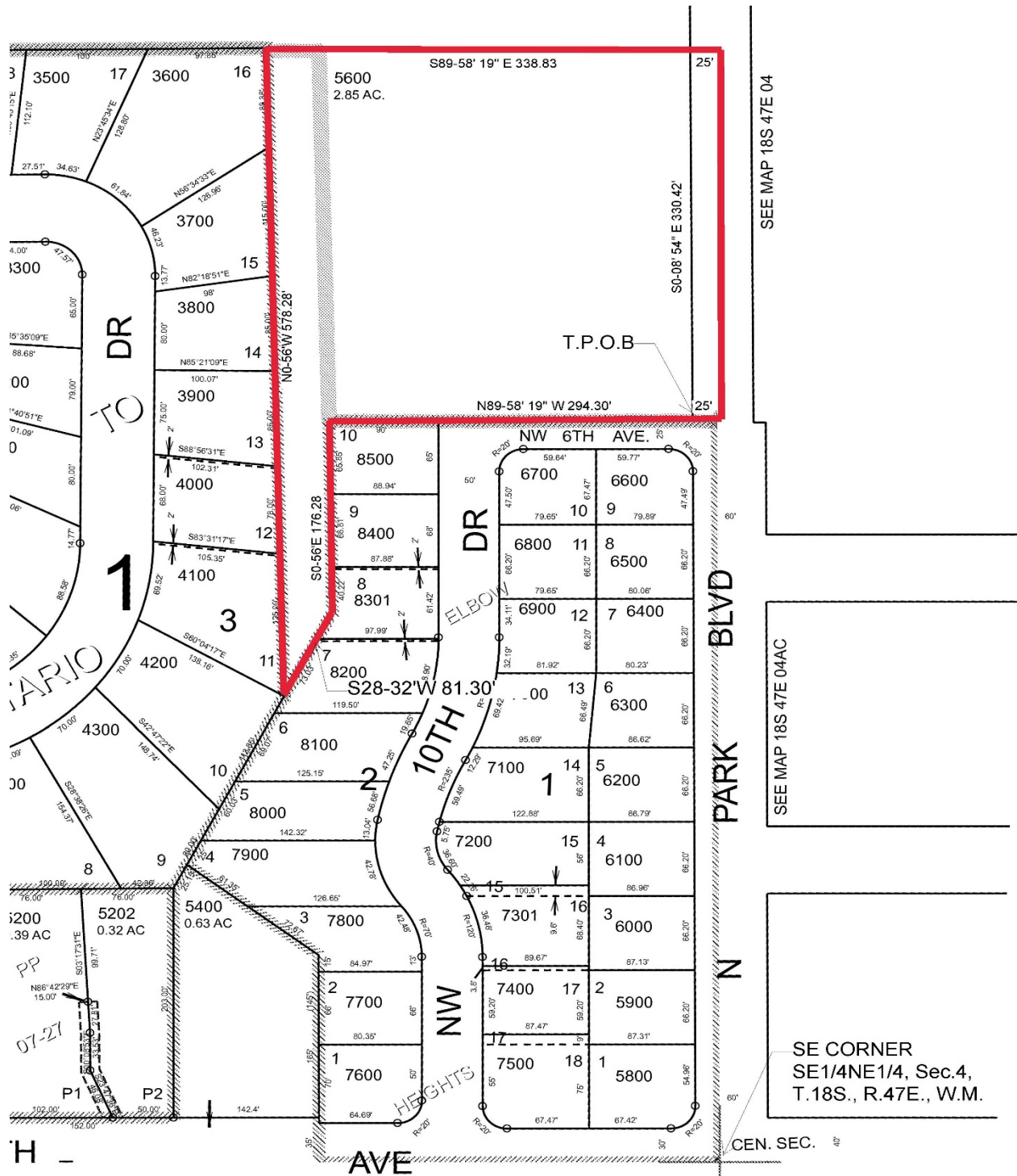
Thence South 0°08'54" East, parallel with the East boundary of the SE $\frac{1}{4}$ NW $\frac{1}{4}$, 330.42 feet to the Point of Beginning.

TOGETHERWITH the West 25.00 feet of the Right of Way of North Park Boulevard adjacent to the above described parcel of land.

End of Description.

Attachment “5”

Rezoned Parcel Tax Map



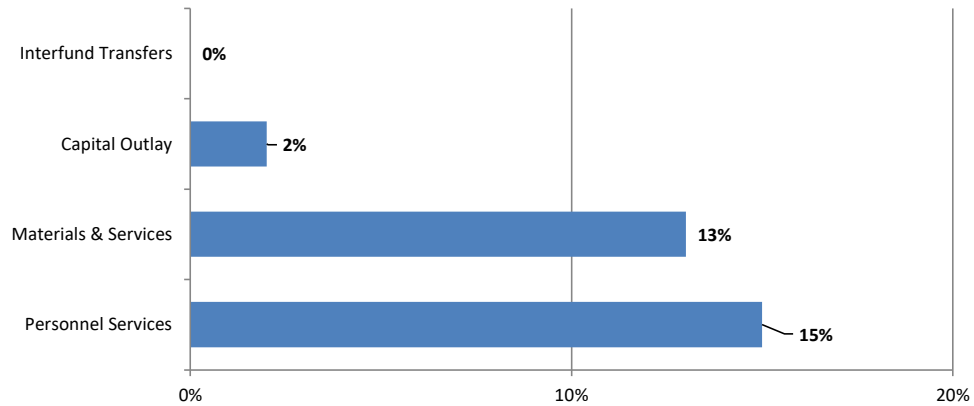
Revised MA
10/13/2008
ONTARIO
18S47E04BD

**CITY OF ONTARIO
GENERAL FUND - DEPARTMENT EXPENSE
FOR THE PERIOD ENDED
AUGUST 31, 2021**

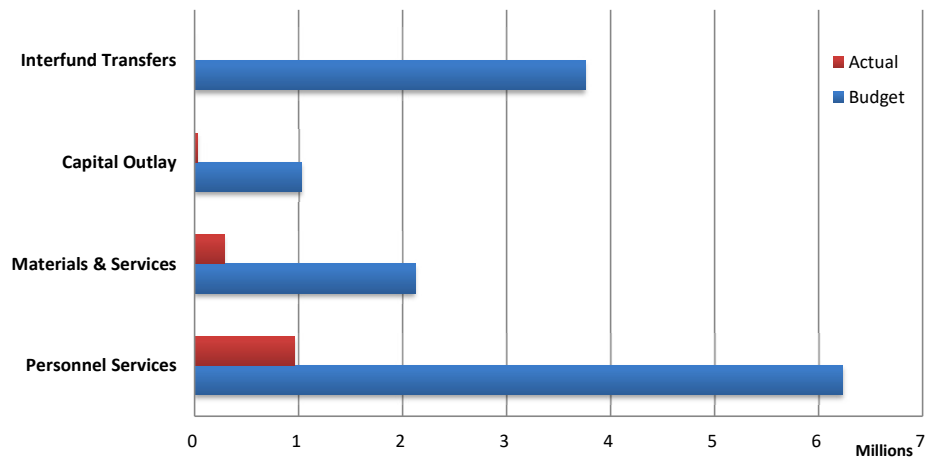
DEPARTMENT	BUDGET	ACTUAL	% EXPENDED	COMMENTS
Parks	339,707	26,002	7.7%	
Parks & Recreation	339,707	26,002	7.7%	
Fire	1,884,340	256,552	13.6%	
Code Enforcement	151,348	19,077	12.6%	
Police	4,171,983	625,540	15.0%	
Police reserves	2,625	320	12.2%	
Emergency operations	-	-	#DIV/0!	
Public Safety Total	6,210,296	901,489	14.5%	
Administration	535,334	80,227	15.0%	
City Council	28,359	7,386	26.0%	
Business Registration	1,100	4	0.4%	
Cemetery	206,775	5	0.0%	
Finance	254,736	18,617	7.3%	
Technology	193,641	37,913	19.6%	
General Government Total	1,219,945	144,152	11.8%	
Community development	192,607	27,424	14.2%	
Community Development	192,607	27,424	14.2%	
Administrative Overhead	1,062,630	155,693	14.7%	
Non-Departmental Contributions	379,015	8,950	2.4%	
Other Total	1,441,645	164,643	11.4%	
Operating Transfers Out	3,730,818	-	0.0%	
GENERAL FUND TOTALS	\$ 13,135,018	\$ 1,263,709	9.6%	
YTD BUDGET BENCHMARK			16.6667%	

**CITY OF ONTARIO
GENERAL FUND - DEPARTMENT EXPENSE
FOR THE PERIOD ENDED
AUGUST 31, 2021**

% Expended by Category



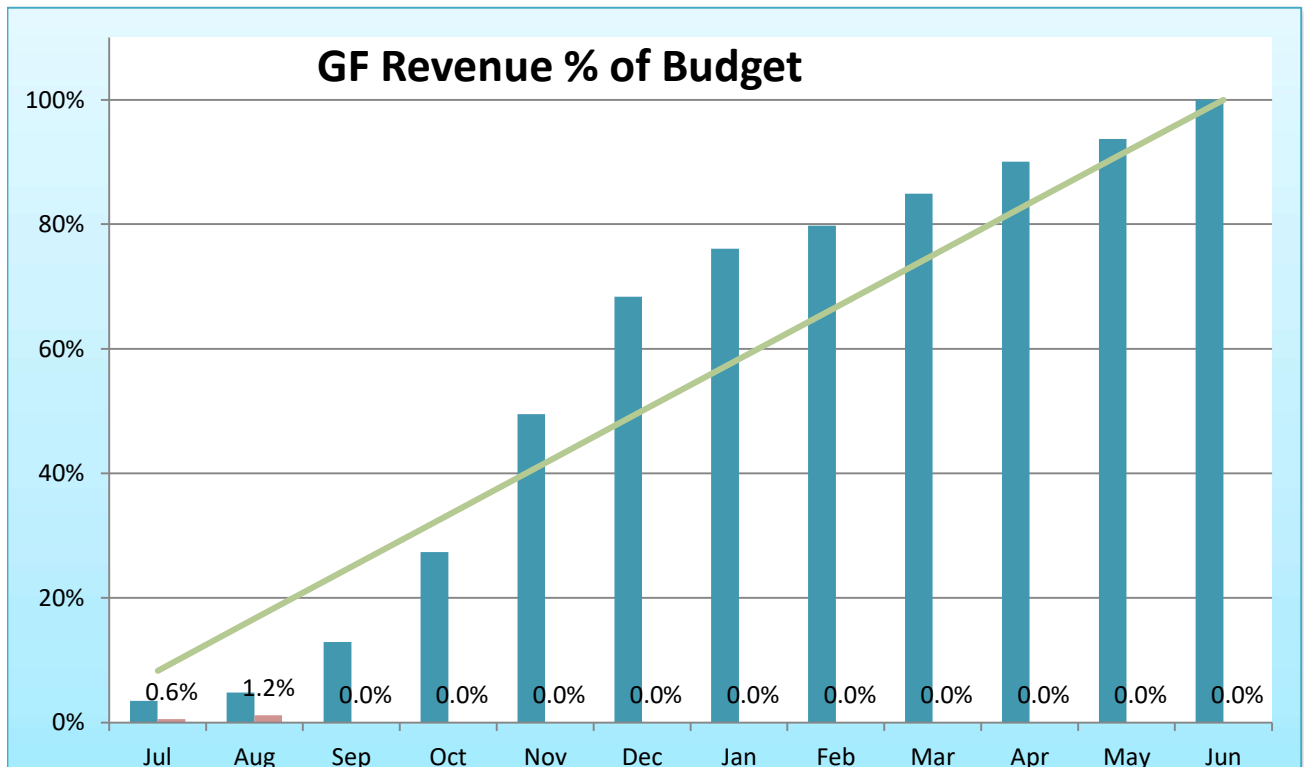
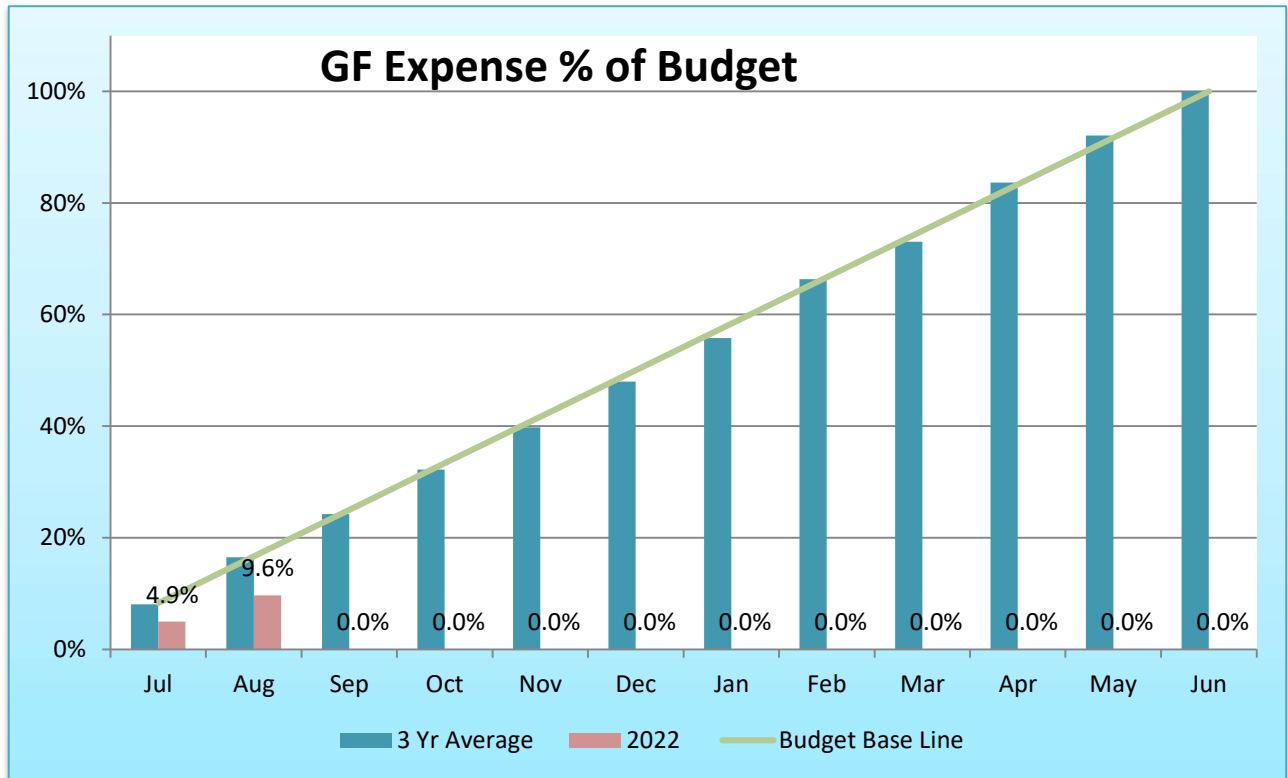
Budget to Actual by Category



**CITY OF ONTARIO
GENERAL FUND - DEPARTMENT REVENUE
FOR THE PERIOD ENDED
AUGUST 31, 2021**

DEPARTMENT	BUDGET	ACTUAL	% REALIZED	COMMENTS
GENERAL FUND BEGINNING FUND BALANCE	4,864,297	0	0.0%	(not calculated in totals)
Parks	2,000	140	7.0%	
Parks & Recreation	2,000	140	7.0%	
Fire	234,572	-	0.0%	
Code Enforcement	70,800	1,730	2.4%	
Police	199,850	9,435	4.7%	
Dispensary Business License	55,800	14,646	26.2%	
COVID-19 Grant	-	-	#DIV/0!	
Public Safety Total	561,022	25,811	4.6%	
Interest	28,000	3,661	13.1%	
State Revenue Sharing	153,265	-	0.0%	
Administrative Services	497,148	82,858	16.7%	
Other General Revenues	8,485	8,827	104.0%	
Donations	10,000	-	0.0%	
Property Taxes	3,983,255	37,740	0.9%	
Alcohol Bvg License & Fee	238,446	520	0.2%	
Cigarette tax	13,376	861	6.4%	
Marijuana tax	3,000,000	-	0.0%	
Franchise Fees	1,579,874	9,956	0.6%	
Business Registration	2,500	-	0.0%	
Cemetery	35,000	4,275	12.2%	
General Government Total	9,549,349	148,698	1.6%	
Planning & Zoning	4,000	-	0.0%	
Grants	-	-	#DIV/0!	
Wayfinding Grant	-	-	#DIV/0!	
Community development	4,000	-	0.0%	
GENERAL FUND REVENUE TOTALS	\$ 10,116,371	\$ 174,649.43	1.7%	
YTD CURRENT YEAR PROFIT(LOSS)	\$ (1,089,059)			
YTD BUDGET BENCHMARK	16.7%			-14.9%

**CITY OF ONTARIO
GENERAL FUND
FOR THE PERIOD ENDED
AUGUST 31, 2021**



**CITY OF ONTARIO
OTHER FUNDS - DEPARTMENT EXPENSES AND REVENUE
FOR THE PERIOD ENDED
AUGUST 31, 2021**

DEPARTMENT/FUND	EXPENDITURES				REVENUES		
	BUDGET	ACTUAL	% EXPENDED		BUDGET	ACTUAL	% REALIZED
002 Marijuana Enforcement Fund	30,000	-	0.0%		30,000	-	0.0%
010 Grant Fund	152,500	18,909	12.4%		152,500	1,244,279	815.9%
027 Building Fund	200,945	23,460	11.7%		393,464	32,096	8.2%
030 Capital Projects Fund	3,027,069	1,090	0.0%		5,785,897	887,001	15.3%
031 SDC Fund	539,542	-	0.0%		539,542	1,262	0.2%
045 Street Fund	6,048,299	30,398	0.5%		6,048,299	423,736	7.0%
050 Trust Funds	815,886	2,500	0.3%		815,886	81,260	10.0%
055 Reserve Funds	3,951,207	1,528,486	38.7%		5,166,407	31,624	0.6%
060 Revolving Loan Fund	339,021	-	0.0%		339,021	1,097	0.3%
105 Water Fund	6,768,246	194,027	2.9%		8,091,463	762,726	9.4%
110 Sewer Fund	8,540,986	176,441	2.1%		9,924,236	573,277	5.8%
115 Storm Sewer Fund	314,109	5,146	1.6%		463,445	18,341	4.0%
120 Airport Fund	451,632	19,153	4.2%		451,632	37,567	8.3%
Comments:							
YTD BUDGET BENCHMARK			16.7%				

**CITY OF ONTARIO
BUDGET RESOLUTIONS
FOR THE PERIOD
JULY 31, 2021**

RESOLUTION #	FUND	DEPARTMENT	ACCOUNT		BUDGET CHANGE	NET CHANGE
2021-123	SEWER FUND	SEWER FUND	CDBG SEWER PROJECT	\$	434,744	\$ 434,744.00
2021-123	SEWER FUND	SEWER FUND	CDBG GRANT	\$	50,000	
2021-123	SEWER FUND	SEWER FUND	CONTINGENCY	\$	(384,744)	
2021-125	AIRPORT FUND	AIRPORT	CARES ACT FUNDING	\$	13,000	\$ 13,000.00
2021-125	AIRPORT FUND	AIRPORT	SECURITY IMPROVEMENTS	\$	14,492	
2021-125	AIRPORT FUND	AIRPORT	MINOR AIRPORT IMPROVEMENTS	\$	(1,492)	

Beginning Fund Balance Forecast

Budgeted Beginning Fund Balance 2021-2022	\$4,864,297
Actual Estimated Beginning Fund Balance 2021-2022	\$5,009,902
DIFFERENCE	\$145,605

There will be a resolution with carryover projects. The Estimated balance includes these adjustments.



Presentation by Dan Cummings
Tuesday Sept 28th 2021

CITY OF ONTARIO COMMUNITY DEVELOPMENT

Fiscal Year 2020-21
Fourth Quarter

Building
Department

Economic
Development

Planning and Zoning

Building Department Statistics

Mechanical and Structural Permit Amounts and Fees



April – June 2021

Mechanical Permits and Fees Issued

- Mechanical Permits Issued **59**
- Mechanical Valuation Totals **\$ 1,723,168**
- Total Mechanical Fees **\$ 12,000**

Structural Permits and Fees Issued

- Structural Permits Issued **120**
- Structural Valuation Totals **\$ 33,862,450**
- Total Structural Fees **\$ 306,750**



Building Department Statistics

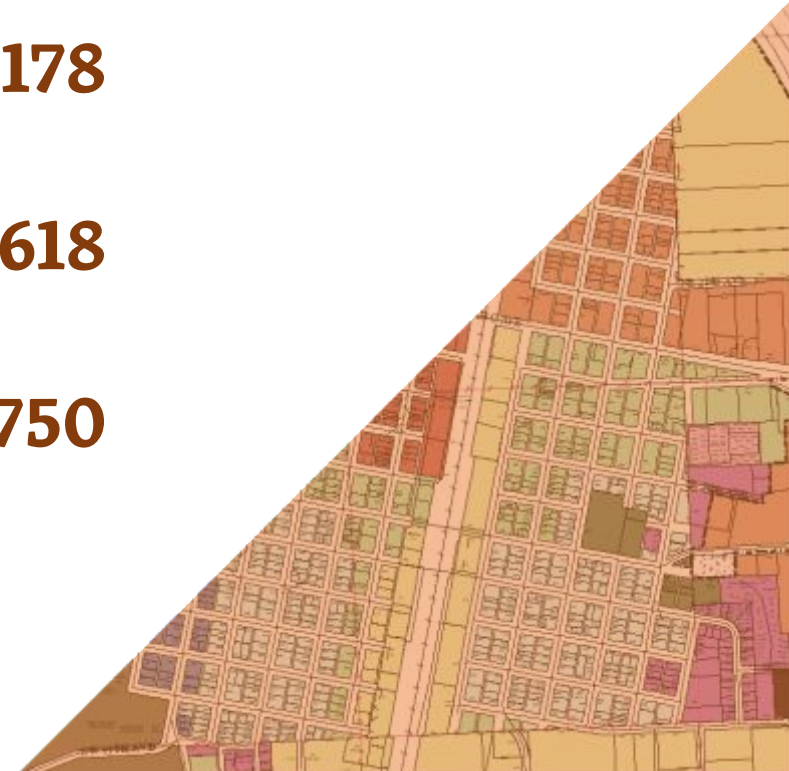
Mechanical and Structural Permit Amounts and Fees



April – June 2021

Total Permits and Fees Issued in 4th Quarter FY 20-21

- Total Permits Issued **178**
- Valuation Totals **\$ 35,585,618**
- Total Permit Fees **\$ 318,750**



Planning and Zoning Department

April, May, June 2021

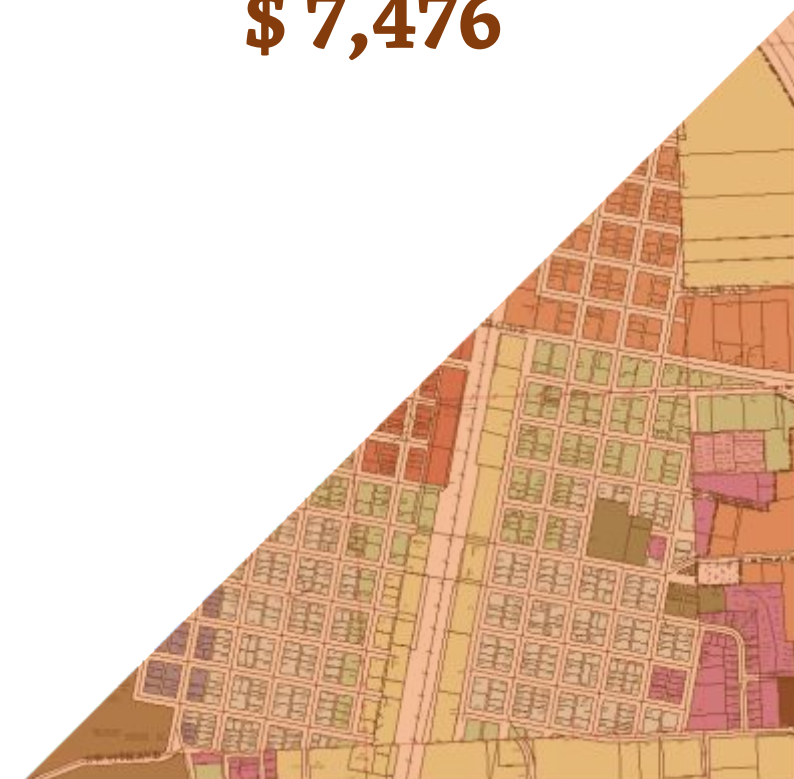


• Annexation	1
• Conditional Use Permits	3
• Property Line Adjustments	4
• Site Developments	1
• Subdivisions	3

Total Fees

\$ 7,476

Total Land Use Actions for the Quarter	12
---	-----------



Phase II Façade Grant Program



- Taking applications along SW 4th Avenue
- Two initial applicants this quarter, in Phase II Grant
- \$18,286 worth of business
- \$8,700 of matching grant money awarded

New Remodel

Berts Growler Garage
1635 SW 4th Ave

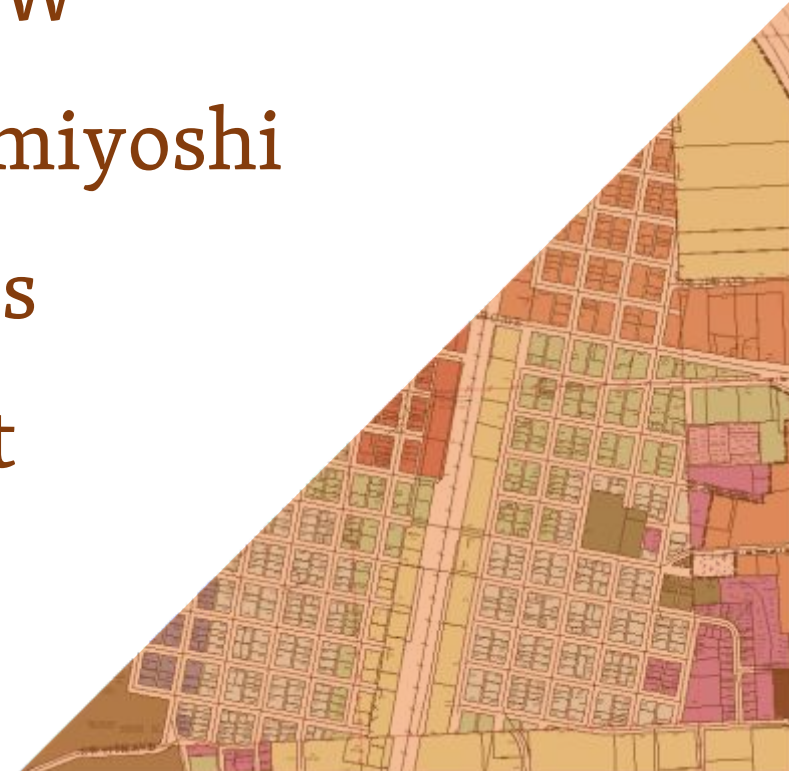


Ontario Economic Activity

April, May, June 2021



- Project Build Ontario
- Project West Park
- Project Grand Prix
- Project Gild-Gold
- Project Plus
- Project Champ
- Brownfield Grant Program
- Project PNW
- Project Tomiyoshi
- Project Otis
- Project Vet



Ontario Economic Activity



Continued

“Project Build Ontario”

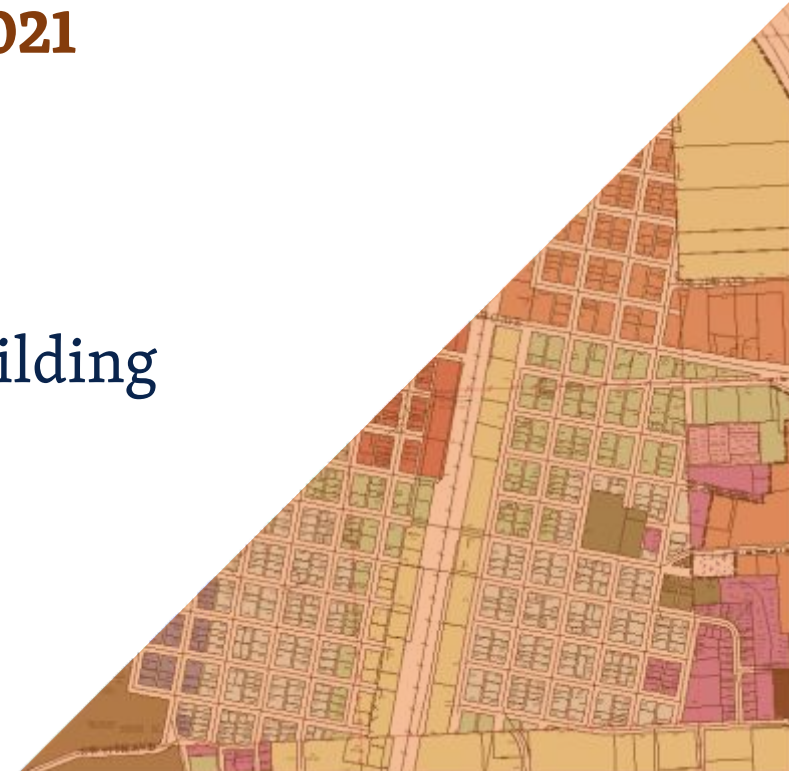
- Single Family Residential Housing Incentive program promotes new housing within the City Limits

Status: 7 new incentive applications submitted this quarter
36 total applications at the end of June 2021

“Project Westpark”

- Redevelopment of the West Park Plaza Mall
- Creating business ownership of portions of existing building
- Creation of new indoor mini storage
- Consideration of 150-unit apartment complex

Status: On-going



Ontario Economic Activity

Continued



EPA Brownfield Grant Program

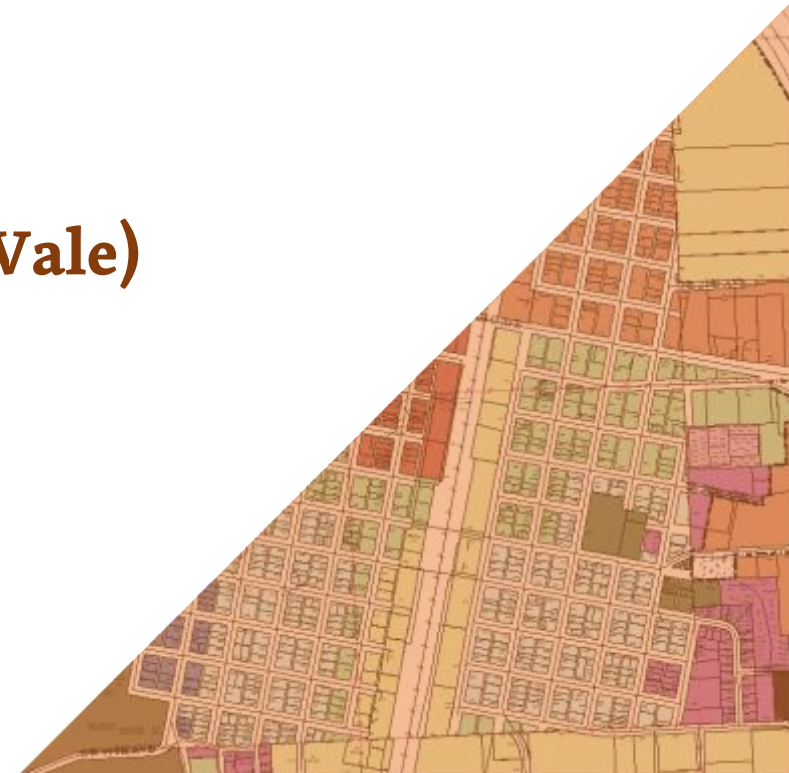
- \$600,000 in Brownfield grants to Ontario, Nyssa, Vale
- Redevelopment of Brownfields within Malheur County
- Phase I and Phase II studies ongoing

Status: Seeking a 6-month extension

Outreach done this summer (Online and City of Vale)

“Project PNW”

- 100-acre project for a distribution center
- Serving 115 – 155 retail stores and 300 – 350 employees



Ontario Economic Activity



Continued

“Project VET”

- Affordable Mini Housing Development for Veterans and Seniors Citizens

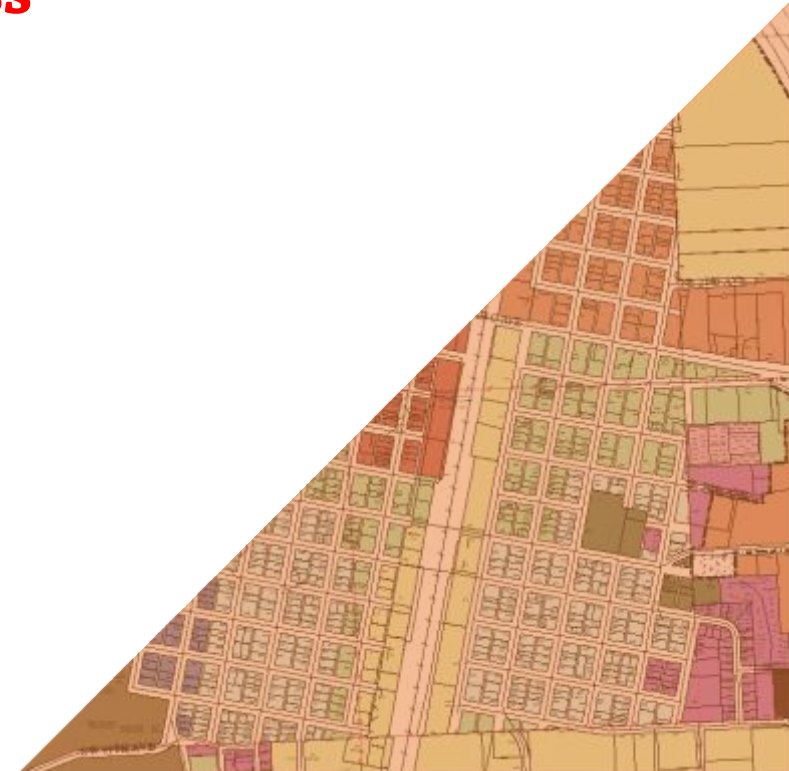
Status: Site Design moving forward

Preliminary Plat Application in progress

“Project Tomiyoshi”

- 56.33 acre tract of land
- 9.83 acres of UGA commercial class land
- 36.50 acres of UGA residential class land
- Looking at retail and mixed density development

Status: On-going



Ontario Economic Activity



Continued

“Project Champ”

- Thermoformed packaging company (food, medical, retail products)
- \$10 million in equipment investment
- 33 employees to start
- 200 maximum employees at full buildout

Status: On-going

“Project Grand Prix”

- Meter manufacturing looking for industrial lands
- Expected to hire 150-200 employees (5-8 acres)

Status: On-going



Ontario Economic Activity

Continued



“Project Guild Gold”

- Food manufacturing company
- Needing between 100 - 200 acres
- 200 - 300 employees at total buildout

Status: On-going

“Project Plus”

- Food Processing Company looking for 100-150 acres
- Will employ 500 - 670 employees and managers

Status: On-going

“Project Otis”

- 16-acre industrial property in Ontario
- Promoting to several industrial clients

Status: On-going



Projects in Development



Gazebo Installation
at Moore Park



Projects in Development



Grissett Townhomes
North Oregon Street



RV Park Clubhouse
SE 5th Avenue



Projects in Development



1602 SW 7th Avenue

Sunset Villa Memory Care
1690 Arcata Way



Projects in Development



746 SW 16th Street



1480 W Idaho Ave

RESIDENTIAL UPDATE

4 New Single Family Home Building Permits Issued this Quarter

70 Townhouses under construction, including **2** Duplexes



Upcoming Construction



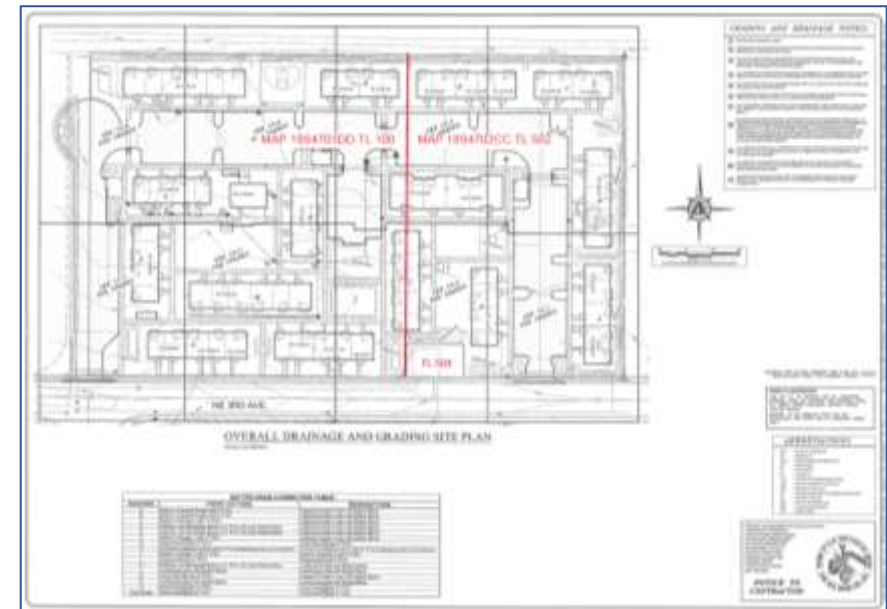
- Family Eye Center
- River Point RV Park
- ID Holdings - New Dispensary
- Dutch Brothers
- Sunset Villa Memory Care
- N. Oregon Townhouses

AFFORDABLE HOUSING

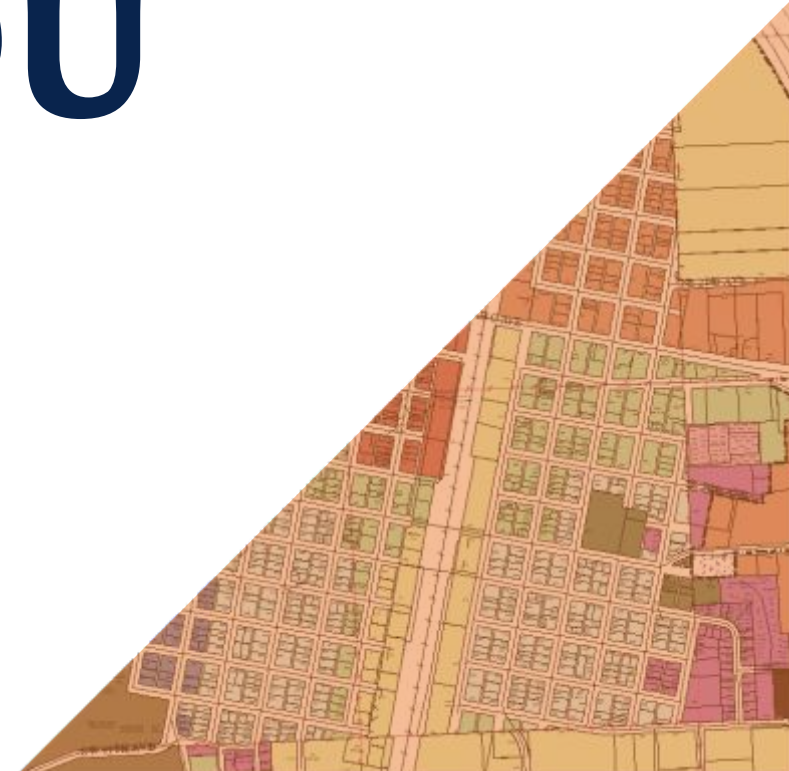
- 70 Units on NE 3rd Ave
- 56 Units on Fortner Street

NASCOSTO Affordable Multifamily
Project at NE 3rd Avenue

Construction Begun



THANK YOU



Accounts Payable

Checks by Date - Summary by Check Date

User: kari.ott
Printed: 9/20/2021 1:43 PM

Highlighted items are
EOBB Housing
Incentive Payments.



Check No	Vendor No	Vendor Name	Check Date	Check Amount
127581	&260	Four Rivers Cultural Center	08/03/2021	37,312.87
127582	539200	Ontario Area Chamber of Commerce	08/03/2021	31,301.31
Total for 8/3/2021:				68,614.18
127583	879299	Dwayne Allen Holloway	08/06/2021	1,278.75
Total for 8/6/2021:				1,278.75
127584	&525	American Staffing, Inc.	08/10/2021	1,119.87
127585	037600	AT&T	08/10/2021	23.85
127586	130624	B & W Car Wash	08/10/2021	21.00
127587	21409	Big Sky Sportswear	08/10/2021	23.04
127588	879494	Bruneel, LLC	08/10/2021	991.13
127589	192000	CDW Government	08/10/2021	1,556.88
127590	637828	Century Link Communications, LLC	08/10/2021	91.98
127591	237002	Dell Marketing, L.P.	08/10/2021	13,880.46
127592	247940	Dooley Enterprises, Inc.	08/10/2021	4,894.94
127593	879529	FlowMSP, Inc.	08/10/2021	600.00
127594	879247	Idaho Communications, LLC	08/10/2021	470.00
127595	376000	Idaho Power	08/10/2021	2,807.77
127596	879191	Kristy Lynn Janti	08/10/2021	24.00
127597	879218	Richard Kerfoot	08/10/2021	300.00
127598	440000	L.N. Curtis and Sons	08/10/2021	17.86
127599	879490	Law Enforcement Technologies	08/10/2021	1,292.00
127600	434008	Lexipol, LLC	08/10/2021	7,482.00
127601	456402	Malheur County Clerk	08/10/2021	4,117.77
127602	879225	Malheur Media, LLC	08/10/2021	732.00
127603	&419	Ontario Lions Club	08/10/2021	60.00
127604	879578	Ontario Physical Therapy	08/10/2021	10.00
127605	572000	Ontario Sanitary Service, Inc.	08/10/2021	336.11
127606	582200	Oregon Association Chiefs of Police	08/10/2021	500.00
127607	PHELPS	Scott Phelps	08/10/2021	136.00
127608	608001	Pitney-Bowes, Inc.	08/10/2021	565.10
127609	642093	Red's Automotive Repair, Inc.	08/10/2021	2,133.95
127610	879145	Silver Signet, LLC	08/10/2021	567.50
127611	689005	Chad Sombke, Ph.D., PC	08/10/2021	400.00
127612	T6999	StopStick, Ltd.	08/10/2021	947.00
127613	879292	StormWind, LLC	08/10/2021	1,580.00
127614	738002	Symbol Arts, LLC	08/10/2021	92.00
127615	738560	Tailored Solutions Corporation	08/10/2021	705.00
127616	879340	Teskey, Inc.	08/10/2021	1,325.00
127617	879579	Tizza Design	08/10/2021	560.00
127618	879553	Training & Employment Consortium	08/10/2021	1,278.00
127619	788402	TransUnion Risk & Alternative Data Soluti	08/10/2021	75.00
127620	879576	Trio Systems, LLC	08/10/2021	473.00
127621	879212	Uniforms 2 Gear	08/10/2021	3,422.00

Check No	Vendor No	Vendor Name	Check Date	Check Amount
127622	863995	White Cloud Communications-Boise, Inc.	08/10/2021	483.00
127623	774001	Wtechlink	08/10/2021	600.00
Total for 8/10/2021:				56,695.21
127624	COOPJ	Jason Cooper	08/12/2021	41.25
127625	405945	Jeremy Jones	08/12/2021	510.53
127626	879542	Atlas Land Surveying	08/12/2021	2,261.72
127627	183201	CK3, LLC	08/12/2021	14,407.50
127628	879530	Nicholas Ducote	08/12/2021	1,010.00
127629	408200	J-U-B Engineers, Inc.	08/12/2021	13,984.96
Total for 8/12/2021:				32,215.96
127630	879581	Nathaniel Corey Andrews	08/18/2021	1,305.20
127631	879515	Beus Excavation, LLC	08/18/2021	224,867.53
127632	22427	Murrysmith, Inc.	08/18/2021	382.00
127633	879423	Romans Precision Irrigation	08/18/2021	16,085.95
Total for 8/18/2021:				242,640.68
ACH	879469	SBRK Finance Holdings, Inc.	08/19/2021	319.68
ACH	879484	Bluefin Payment Systems	08/19/2021	7,109.54
127634	440000	L.N. Curtis and Sons	08/19/2021	866.50
127635	702008	Staples Business Credit	08/19/2021	209.57
127636	UB*11891	NIGEL BERGAM	08/19/2021	70.64
127637	144000	Cascade Natural Gas Corporation	08/19/2021	40.69
127638	637830	Century Link	08/19/2021	475.79
127639	878926	Jared Cutler	08/19/2021	350.00
127640	UB*11890	KATHLEEN KRENZLER	08/19/2021	20.16
127641	566003	Ontario Municipal Airport	08/19/2021	2,500.00
127642	130950	Sparklight Business	08/19/2021	104.41
127643	UB*11892	SHELLIE UTLEY	08/19/2021	128.38
127644	UB*11893	LINDA WALKER	08/19/2021	113.43
Total for 8/19/2021:				12,308.79
127645	879545	Miller Nash Graham & Dunn, LLP	08/20/2021	19,321.50
127646	240100	State of Oregon Dept of Consumer & Busin	08/20/2021	30,020.34
127647	&525	American Staffing, Inc.	08/20/2021	654.61
127648	033300	Argus Observer	08/20/2021	138.80
127649	879583	Benson's Trophies & Plaques, Inc.	08/20/2021	125.00
127650	626400	Campo & Poole Distributing, LLC	08/20/2021	11,021.33
127651	520400	Dorman's, Inc.	08/20/2021	115.87
127652	270205	Emergency Responder Services, Inc.	08/20/2021	381.00
127653	284000	Farmers Supply Co-Op	08/20/2021	199.90
127654	634311	Frazier Aviation, LLC	08/20/2021	425.00
127655	335000	Glock, Inc.	08/20/2021	139.00
127656	333895	Grant Mechanical, Inc.	08/20/2021	6,137.50
127657	336800	Hach Company	08/20/2021	12,745.35
127658	879247	Idaho Communications, LLC	08/20/2021	470.00
127659	879547	J & B Flatbed Service, LLC	08/20/2021	3,700.00
127660	420000	John Deere Financial	08/20/2021	67.24
127661	440000	L.N. Curtis and Sons	08/20/2021	24.66
127662	428200	League of Oregon Cities	08/20/2021	20.00
127663	441140	Looks Nu, Inc.	08/20/2021	190.00

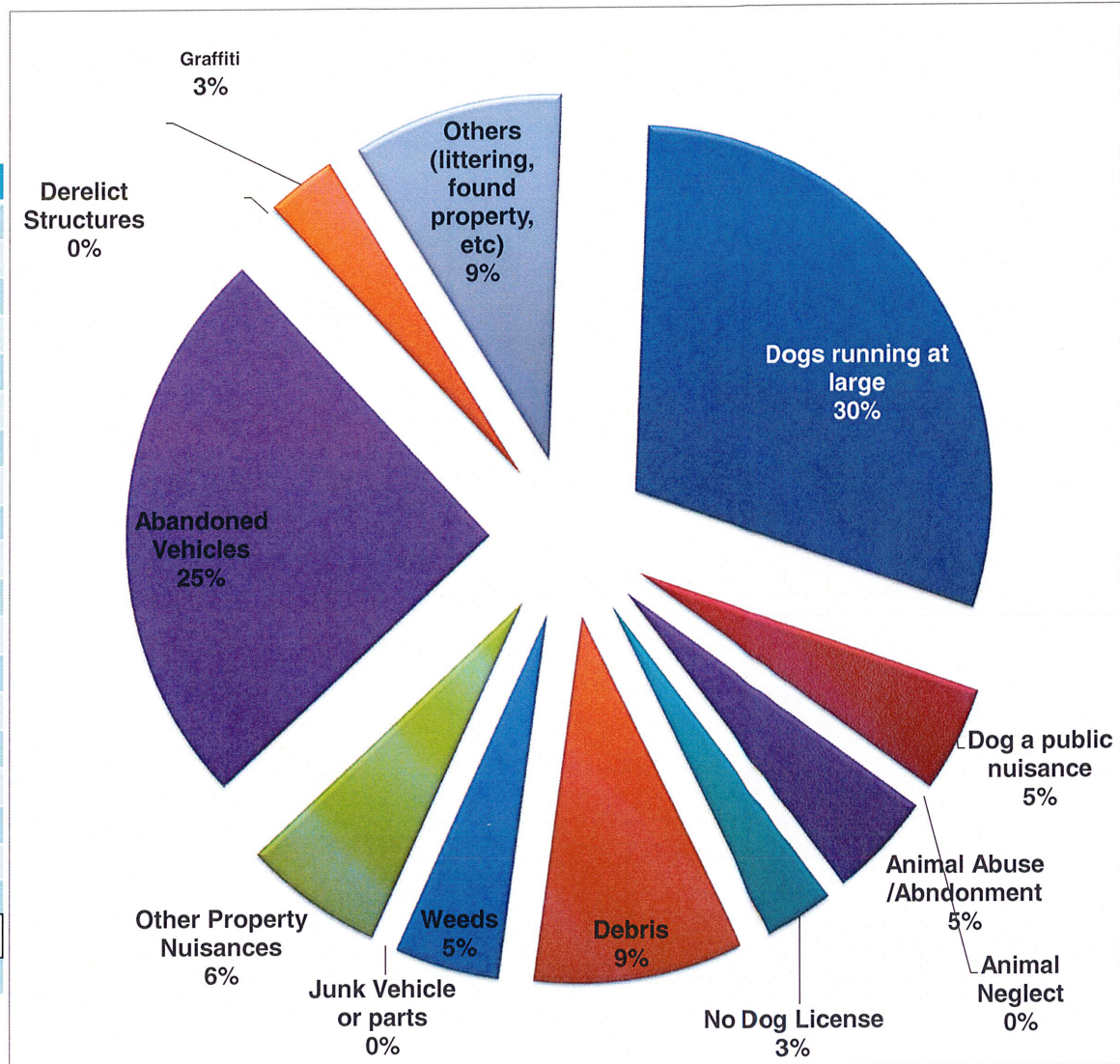
Check No	Vendor No	Vendor Name	Check Date	Check Amount
127664	&509	Matsy's Restaurant & Catering	08/20/2021	10.00
127665	879464	Merchant McIntyre Associates, LLC	08/20/2021	6,500.00
127666	879582	Mottlab West, Inc.	08/20/2021	4,773.75
127667	477523	Municode	08/20/2021	2,499.84
127668	602320	NAPA Auto Parts	08/20/2021	76.17
127669	879301	Net Assets Corporation	08/20/2021	636.00
127670	879349	State of Oregon Public Retirement System	08/20/2021	1,500,000.00
127671	528405	Oster Professional Group, CPA's PC	08/20/2021	24,822.42
127672	879551	Painter Holdings & Business Ventures, Inc.	08/20/2021	12.50
127673	642093	Red's Automotive Repair, Inc.	08/20/2021	240.40
127674	644210	Roadrunner Towing, Inc.	08/20/2021	531.67
127675	716553	Saint Luke's	08/20/2021	64.00
127676	879469	SBRK Finance Holdings, Inc.	08/20/2021	1,305.00
127677	879138	Stantec Consulting Services, Inc.	08/20/2021	5,649.50
127678	704400	Star Fire District	08/20/2021	734.40
127679	879584	Strictly Technology	08/20/2021	1,250.00
127680	&357	Larry A. Sullivan	08/20/2021	4,385.41
127681	774300	T-N-T Signs & Graphics	08/20/2021	360.00
127682	879146	Toshiba Financial Services	08/20/2021	1,721.89
127683	879553	Training & Employment Consortium	08/20/2021	495.00
127684	879151	Waste-Pro	08/20/2021	40.05
127685	832852	Wells Fargo Business Elite Card	08/20/2021	17,296.42
Total for 8/20/2021:				1,659,301.52
127686	033300	Argus Observer	08/24/2021	197.60
127687	183201	CK3, LLC	08/24/2021	475.00
127688	879586	Iliad Media Group	08/24/2021	2,290.00
127689	879471	JLCC, Inc.	08/24/2021	21,700.00
127690	428200	League of Oregon Cities	08/24/2021	20.00
127691	879363	Danielle Llamas	08/24/2021	96.50
127692	879588	Cody Servis	08/24/2021	6,000.00
127693	879589	Kristin and Aaron Sutton	08/24/2021	8,950.00
127694	879590	Stanley Tuckness	08/24/2021	6,000.00
Total for 8/24/2021:				45,729.10
ACH	PRAFLAC	AMERICAN FAMILY LIFE ASSURANCE	08/31/2021	774.22
ACH	PRAMERF	AMERICAN FUNDS GROUP	08/31/2021	225.00
ACH	PRCCIS	E B S TRUST	08/31/2021	74,273.90
ACH	PRCOLONI	COLONIAL LIFE	08/31/2021	1,008.60
ACH	PRFED	PAYROLL TAXES	08/31/2021	70,233.93
ACH	PRICMA	I C M A RETIREMENT TRUST 457	08/31/2021	550.00
ACH	PRNATW	NATIONWIDE RETIREMENT SOLUTIO	08/31/2021	400.00
ACH	PRORJU	OREGON DEPARTMENT OF JUSTICE	08/31/2021	732.00
ACH	PRORTAX2	OREGON DEPARTMENT OF REVENUE	08/31/2021	275.06
ACH	PRORTAXE	OREGON DEPARTMENT OF REVENUE	08/31/2021	11,454.41
ACH	PROSGP	OREGON SAVINGS & GROWTH PLAN	08/31/2021	3,500.00
ACH	PRPERS	OREGON PERS	08/31/2021	105,606.91
127695	637830	Century Link	08/31/2021	729.28
127696	637828	Century Link Communications, LLC	08/31/2021	89.49
127697	376000	Idaho Power	08/31/2021	3,345.16
127698	572000	Ontario Sanitary Service, Inc.	08/31/2021	313.06
127699	288897	Verizon	08/31/2021	1,940.72
127700	PRLINC	LINCOLN NATIONAL LIFE INS CO	08/31/2021	600.00
127701	PRSFIRE	UMPQUA BANK	08/31/2021	360.00

Check No	Vendor No	Vendor Name	Check Date	Check Amount
Total for 8/31/2021:				276,411.74
Report Total (135 checks):				2,395,195.93

CODE ENFORCEMENT

August: 2021 Stats

Violation	Aug-21	Column1
Dogs running at large	19	
Dog a public nuisance	3	
Animal Neglect	0	
Animal Abuse /Abndonment	3	
No Dog License	2	
Debris	6	
Weeds	3	
Junk Vehicle or parts	0	
Other Property Nuisances	4	
Abandoned Vehicles	16	
Derelict Structures	0	
Graffiti	2	
Others (littering, found property, etc)	6	
Dogs taken to (Fetch This Kennel)	0	
Civil Penalties Issued	0	
C.P. Amount Sent	\$0	
Total Parking Citations	2	
Total Violations	66	
Total Cases	66	



Notes: CODE ENFORCEMENT HAS BEEN MAKING MORE VERBAL CONTACT WITH PROPERTIES THAT HAVE VIOLATIONS ABATEMENTS ARE BEING DONE /WITH NO CIVIL PENALTIES BEING SENT AT THIS TIME. CODE ENFORCEMENT HAS BEEN VERY LUCKY AND HAVE BEEN GETTING COMPLIANCE FROM THE BUISNESS AND RESIDENCE WITH CLEANING UP THEIR PROPERTIES.



MALHEUR COUNTY COURT MINUTES

September 8, 2021

The regularly scheduled meeting of the County Court was called to order by Judge Dan Joyce at 9:00 a.m. in the County Court Office of the Malheur County Courthouse with Commissioner Don Hodge and Commissioner Ron Jacobs present. Staff present was Administrative Officer Lorinda DuBois. Members of the media, public and staff were present electronically. Notice of the meeting was emailed to the Argus Observer, Malheur Enterprise, and those persons who have requested notice and posted on the Courthouse bulletin board. The meeting was audio recorded. The agenda is recorded as instrument # [2021-4623](#)

PUBLIC HEARING - SUPPLEMENTAL BUDGET

Judge Joyce opened the public hearing for consideration of supplemental budget Resolution R21-30. Notice of the hearing was published in the Argus Observer. A public hearing was required as the supplemental budget will adjust the current budget fund by 10% or more of the expenditures of that fund. No public comments were received. The hearing was closed. Commissioner Hodge moved to approve Resolution R21-30: In the Matter of Fiscal Year 2021/2022 Supplemental Budget by Resolution Under Local Budget Law ORS 294.471. Commissioner Jacobs seconded and the motion passed unanimously. The purpose of the supplemental budget is to allocate Contingency Funds to MCSO Communication Center - these are holdover funds from the Homeland Security Grant for the Dispatch Center. See instrument # [2021-4624](#)

COURT MINUTES

Commissioner Jacobs moved to approve Court Minutes of September 1, 2021 as written. Commissioner Hodge seconded and the motion passed unanimously.

CROSSING PERMIT

Commissioner Hodge moved to approve Crossing Permit #26-21 for Oregon Idaho Utilities to place new fiber optic cable along Red Top Road and Syringa Road #1106. Commissioner Jacobs seconded and the motion passed unanimously. The original permit will be kept on file at the Road Department.

EOCA DUES

Commissioner Jacobs moved to authorize payment of Eastern Oregon Counties Association (EOCA) FY 2021-2022 membership dues in the amount of \$12,500. Commissioner Hodge seconded and the motion passed unanimously.

PROVIDER CONTRACT - BOYS & GIRLS CLUB

Commissioner Hodge moved to approve Provider Contract for Juvenile Crime Prevention Services 2021-2023 with Boys and Girls Club of the Western Treasure Valley. Commissioner Jacobs seconded and the motion passed unanimously. See instrument # [2021-4625](#)

MEETING PURSUANT TO INITIATIVE MEASURE NO. 23-64

The Court will hold a special meeting on Monday, September 13, 2021 at 9:00 a.m. pursuant to Initiative Measure No. 23-64 to discuss how to promote the interests of Malheur County in any negotiations regarding the relocation of the Oregon-Idaho border.

COURT ADJOURNMENT

Judge Joyce adjourned the meeting.

MALHEUR COUNTY COURT SPECIAL MEETING MINUTES

September 13, 2021

A Special Meeting of the County Court was called to order by Judge Dan Joyce at 9:00 a.m. with Commissioner Don Hodge and Commissioner Ron Jacobs present. The meeting was held electronically. The Special Meeting was held pursuant to Initiative Measure No. 23-64 to discuss how to promote the interests of Malheur County in any negotiations regarding the relocation of the Oregon-Idaho border. Notice of the meeting was emailed to the Argus Observer and Malheur Enterprise and posted on the Courthouse bulletin board and County website. The meeting was audio recorded. The agenda is recorded as instrument # [2021-4704](#). Various individuals were present for the meeting including: Administrative Officer Lorinda DuBois, Brent Grasty, Ruth Rubelt, Mike McCarter from Citizens for Greater Idaho, Nyssa City Manager Jim Maret, SREDA Executive Director Kristen Nieskens, Paul Skeen, Abbey McDonald from the Malheur Enterprise, and Larry Mayer from the Argus Observer.

Mike McCarter from Citizens for Greater Idaho: Thank you very much and good morning Judge Joyce and Commissioners Jacobs and Hodge. As you know, in May of this year Measure 23-64, an initiative ballot measure was passed by the citizens of Malheur County requiring the County Court to meet regarding relocation of the Oregon Idaho border and/or promoting the issue. A lot has happened since May and Move Oregon's Border or Greater Idaho is moving forward. We've got seven counties that have passed similar measures. And we are working with both the Idaho Legislature and the Oregon Legislature to bring this into a discussion mode at their level. In the meantime, we feel that a measure like this is extremely important at the county level, because it gives an opportunity to the counties to kind of get a head start, that when negotiations start, and I believe that they will at some point, as to how in-depth they'll be I'm not sure. But when they do start, I think it's important that the counties have an idea of the important issues that affect their county that want to be brought up in these negotiations. Now you as a County Court, you guys I'm sure have your hands full with all the things that are changing around from a state level, from a COVID level, from a county level. And of course, the citizens hold you guys accountable to run the operation, to run the county's operation, and make sure that their best interests are looked out for. So, I'm not going to propose what I think that you might be looking at as important issues. Looking at it from somebody who lives over in Deschutes County, I'm not over in the Ontario- Vale area that often. Looking over at the Ontario area, I know that water is always a big issue that's going on. The marijuana issue is a big deal. I would think probably the prison issue because you have a very large prison in your county over there, and how all these things take place. But that's the importance issue that we think about with the County Commissioners, to take and look at these issues or even have a list of these issues. Crook County has started a committee to delve into the comparisons and some of the problems. If and when a border change takes place, it's going to be a complicated process; there's going to be a lot of steps involved; a lot of things are going to be talked about. I don't know, or I don't think we know of everything that's going to need to be talked about because it's setting some groundbreaking issues there. Borders have been changed in the past, but not to the extent that we're talking about right now. Where you can help with this particular issue is really in your particular comments up to your state representatives and your state senator. To make sure that it's taking place in the legislature, because we know that even if every one of the counties voted in favor, it has no leverage on the legislature, because that's where it has to take place. So, our push is to get people talking about it, to get the discussions going. And hopefully at that point then we roll in, or you roll in those particular issues that are important to the County. Can I answer any questions for you about where we are going? And we're continuing with more counties - we've got Klamath County coming up in an election next Spring, Harney County's voting in November of this year. It looks like Douglas County will be voting next Spring on it, and potentially Josephine County, and we're continuing to move forward. We also have initiated a very expensive project on our side to put together a, we've potentially set up a contract with a company to do an economic impact study of what a move like this would do for both Oregon, rural Oregon counties and Idaho. And that's the meat and potatoes, that's where the bottom line sits there, and so, that's how we're working forward.

Judge Joyce asked if there was an estimated timeline. Mr. McCarter said the timeline was pretty flexible as it depends upon the legislatures taking it up and talking about it, and any legal procedures that need to be done either in Idaho to accept land or Oregon to release land to Idaho. Citizens for Greater Idaho would like to see some action take place within the next three years.

Commissioner Jacobs asked if Douglas County had previously voted on the matter and what other counties have previously voted on the matter. Mr. McCarter explained that last Spring they were 30 signatures short of qualifying the measure for the November 2020 ballot; as such, Douglas County Commissioner's put it on the ballot as an advisory vote. Enough signatures have now been gathered to place the proposed measure before the voters. Of the rural Oregon counties, other than Jackson County, Douglas County is the largest county out there so it required over 3300 signatures just to get it on the ballot. An advisory vote was done in November 2020 and 61,000 people voted on the issue; the advisory vote was 35,000 No and 26,000 Yes. The effort is not corporate or politically supported; it is Rural Oregonians financially supporting this issue and now the message is out there and the people are starting to respond. This is not a succession vote, it is a vote to start looking into the process, to start delving into it ahead of time. The decision was made in the beginning to take it county-by-county because if the county citizens weren't interested in looking into an issue like this then why even work at it. The May 2021 vote on average was 62% of the people across the five counties that were up for election on this measure voted positively on it.

Brent Grasty: Good morning, my name is Brent Grasty, I'm a local, I was born here, I just want to go on the record in opposition to the action, and I completely support and respect the results of the election in May, that question was - carry on the discussion. I think we should go forward with working through that, taking comments, but I want to see an end point to this, where we reach that point without belaboring the investments and the time of our elected officials and our public with developing a proposal that has an inordinate number of challenges and reflects more of splitting up the state than it does about working together to solve problems. I don't know if the Court can address this, or if you can Mike, but help me, check me where I'm wrong on this. This would take a majority of each of the state's legislatures, so Idaho and Oregon would have to support it in a majority, or is that a super majority - that's the first question. Then, if there's a majority in both states, then it would go to Congress for both houses and then signed by the President. Am I off on either of those.

Mike McCarter explained that yes it does require both the Oregon and Idaho legislatures to come together to form a compact or an agreement. Once the agreement is processed and/or any potential money exchanged, then it goes to the government to approve that agreement; in this particular case Oregon and Idaho agreeing to a compact like this and then it goes to the US Congress to be approved. It doesn't add new senators, it doesn't change the mix necessarily in either the House or the Senate at the US level.

Brent Grasty asked if it was a majority or a super majority, a two-thirds majority in each of the legislatures and congress. Mr. McCarter said it is just a majority vote in both the US House and the Senate.

Mr. Grasty commented that previous boundary adjustments in history we're not politically motivated, rather they were managerial or administrative. Mr. Grasty also suggested the County keep track of how much investment it makes in this matter.

Written comments were also submitted by Brent Grasty, see instrument # [2021-4706](#)

Commissioner Jacobs commented that this is a process set up so that people can voice their opinion and discussions can take place to determine what people want to do.

Jim Maret: The only comment that I would make is that the voters of Malheur County voted to do this and I think as a County Court you're doing a great job, we're doing what the voters have asked. I'd just like to see this through to see what happens. I think it's a great idea. I think that your 100% spot on Mr. McCarter, when you say that the Oregon legislature does not listen to this side of the State, we don't have enough representatives there, we have some great representatives within our State that are from this side, but it's a minority, and so we kind of get ran over on this side of the State and so even if it's just a matter where the State actually starts to listen to us we've accomplished some goals and I think that's the key. Whether this works or not we're going to have these meetings and continue to try and go forward. I think that's a very important point here and hopefully the State will take it seriously. Hopefully our votes will start to count a little bit more than what they do right now. So anyway, that's all I have, thank you. I appreciate everyone that's in the audience and all the comments.

Paul Skeen: Thanks for having us and I hope I can keep all my thoughts together. Everything people have said is probably all true. I do worry that we're trying to bite the whole elephant at one bite, and there is a lot of people, especially in the farming sector of the Treasure Valley that is working their way into Idaho. Some of my partners in packing facilities have had to move and I will have to move if we don't get something done. I own about 1000 acres, and on the record, if you'll look it up, Oregon has the highest death tax in the nation, tied with Massachusetts and it's a million for me and a million for my wife and after that it's 16%. So when you take farmland that you're trying to keep in the family, it just doesn't work and so I've done a lot of talking through the years, I'm the union president for Malheur county and we need to do something and I don't think it's going to get done in Salem, I'd love to say it is, but I don't think it's going to get done in Salem. In talking with some of my friends over on the Idaho side that are the majority leader in the House, the assistant majority leader, and Chuck Winder on the Senate side, they're ready and raring to take on, whether it be the Treasure Valley or maybe even Malheur County, but I worry that we're just trying to bite off more than we can chew to begin with. And the Treasure Valley, if you went back into the 1800's and bridges weren't a problem, the Treasure Valley would be in Idaho, or the same time zone or the same shopping centers. Our beliefs in Malheur county are very similar to those of Idaho; so, I was talking to one of them just this last week and he said, so do we need to give a situation together where we approve you before you even get approved? And I said, no, I don't think that's how it works. But they seem excited to do something. I worry that we're trying to bite off too much at one time. Again, I guess I've said that about three times. I wish things would change in Oregon. Some of you are all old enough that you remember when we used to have two Republican senators, a Republican governor, and life was a little better as far as rules and regulations. We absolutely have no voting power here whatsoever, and they know that and they treat us accordingly. And that's what's sad. Anybody got any questions for me on what we're doing? One of the things that we struggle with a little bit is the onion industry in this valley is divided by the Snake River, and so we have the Idaho Onion Growers Association, and the Malheur County Onion Growers Association. We have to have two separate boards; my board fights on defense constantly trying to stop things that are getting shoved down our throat from Salem; and Idaho meets once or twice a year. And so I see, the joke is, I see the good-looking gal over on the other side of the river and I've got....well, I'll leave that, I'll let you guys figure out what I was going to say. It's a fight for us non-stop. I never play offense, all I do is play defense in this situation with Salem.

Jim Maret: If I can comment, I'm going to tell you the city, that's all we do is play defense with the State all the time.

Paul Skeen: I know you all personally and I appreciate everything that you guys do. You know, it has nothing to do with this, but the deal at Cairo, that's getting shoved down our throats and when we can't find truck drivers, we're going to have tipped over trucks, that's what's going to happen when you put somebody in that doesn't know what they're doing. It's not like we've got CDL's around here. You can go 150 miles without having a CDL, but that's another story, that's just an example of how we can't stop anything.

Mr. McCarter commented that 78% of Oregon's population is in northwest Oregon - in the Willamette Valley, and for the most part they're dealing with their issues over there and they don't even stop and consider what's going on in rural Oregon and how that's affecting us over there.

Mr. Skeen reiterated that he thinks we need to bite off a little bit to begin with and see how it works, and then move on. Mr. Skeen believes Idaho will support it if it's not too big. Mr. McCarter explained that the reason the rural Oregon counties were chosen is that there needs to be enough people speaking out and enough state representatives trying to move it forward in the legislature.

Written comments were submitted by Ruth Rubelt: I want to encourage our Commissioners to take this seriously and with open minds. I do not want to move from Oregon, but as we are not represented well by our Governor or many of the other politicians, we find there are not many other options, but moving or changing the state lines and becoming a part of Idaho, which does a better job of representing all of their constituents. We have tried and tried, and continue to do so, to get our politicians to realize

that we do not all live one way. Rules/laws/regulations for some areas, make no sense in other areas. We have a right to be represented properly. See instrument # [2021-4705](#)

The next meeting will be the second Monday of January 2022.

ADJOURNMENT

Judge Joyce adjourned the meeting.