

**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, MARCH 14, 2023, 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 ____
Penny Bakefelt ____ Eddie Melendrez ____ Mayor Deborah Folden ____

2) PLEDGE OF ALLEGIANCE

This Agenda was posted on March 10, 2023. 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) CONSENT AGENDA

- A) Approval of Council Meeting Minutes: February 14, 2023
- B) Liquor License Application: Damian's Downtown Night Club
- C) Liquor License Application: El Patron Ontario, LLC

5) 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.

6) PRESENTATIONS

- A) Introduction of New City Employees
- B) Proclamation: Border Town Comic Con Days
- C) TVCC Nursing & Allied Health Programs - Dana Young/Cathy Yasuda

7) OLD BUSINESS

- A) Solar Project w Fleet Development
- B) Fire Department Ladder Truck
- C) Ordinance #2820-2023: Nuisance Ordinance

8) NEW BUSINESS

- A) Appointment to Budget Committee
- B) FBO Contract: Silverhawk
- C) Beck Kiwanis Park: Disc Golf Course
- D) Bid Award: Equipment Storage Building
- E) Bid Award: MichroTech Systems - Storage Area Network (SANS)

9) DEPARTMENT HEAD UPDATES

- A) Fire & Rescue: Quarterly Report

10) DISCUSSION ITEMS

- A) Ontario Promise/529 Plan

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; (d) Labor Negotiations; (e) Real Property Transactions; (f) Exempt Public Records; (g) Trade Negotiations; (h) Litigation [Current or Potential]/Consult with Legal Counsel; (i) Performance Evaluation of Public Officers and Employees; (j) Trade Negotiations; and/or (l) Labor Negotiations.

The City of Ontario does not discriminate in providing access to its programs, services and activities on the basis of race, color, religion, ancestry, national origin, political affiliation, sex, age, marital status, physical or mental disability, or any other inappropriate reason prohibited by law or policy of the state or federal government. Should a person need special accommodations or interpretation services, contact the City at 889-7684 at least one working day prior to the need for services and every reasonable effort to accommodate the need will be made.

11) HAND-OUTS

- A) Minutes:
County Court 02-08-2023; 02-15-2023; 03-01-2023
Parks 01-19-2023
Public Works 08-16-2022
Tater Tots Trail 01-25-2023; 02-08-2023
- B) Monthly Departmental Stats: February 2023
Public Works; Fire & Rescue; Code Enforcement; Police

12) CORRESPONDENCE, COMMENTS AND EX-OFFICIO REPORTS

13) EXECUTIVE SESSION

- A) ORS 192.660(2)(e): Real Property

14) ADJOURN



CITY COUNCIL MEETING MINUTES February 14, 2023

The scheduled meeting of the Ontario City Council was called to order by Mayor Deborah Folden at 6:00 p.m. on Tuesday, February 14, 2023, in the Council Chambers of City Hall. Council members present were Deborah Folden, Susann Mills, Sam Baker, John Kirby, Eddie Melendrez, and Ken Hart. Penny Bakefelt was excused.

Members of staff present were Dan Cummings, Tori Barnett, Corinna Hysell, Clint Benson, Kari Ott, Casey Mordhorst, James Swank, Al Haun, and Paul Woods.

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

AGENDA

This Agenda was posted on February 10, 2022. Copies of the Agenda are available from the City Hall Customer Service Counter and on the city's website www.ontariooregon.org.

Dan Cummings, City Manager, asked for the addition of an action item under New Business to discuss the request by ODOT for a Letter of Support for a grant that was due February 27, 2023.

MELENDREZ moved, HART seconded, **TO ADOPT THE AGENDA AS AMENDED**. Roll call vote: Mills-yes; Baker-yes; Kirby-yes; Hart-yes; Bakefelt-out; Melendrez-yes; Folden-yes. Motion carried 6/0/1.

PUBLIC COMMENTS

Dan Burks, Post 67 Commander, Ontario, stated he was before Council that evening based on a resolution that had been passed to ask the Council to start a Veteran's Committee. The Ontario post had been here since 1919, and the veterans there had always supported the Ontario community. Recently, there appeared to be a disconnect between veterans and the city. This was something that could potentially benefit both entities.

CONSENT AGENDA

KIRBY moved, MELENDREZ seconded, **TO ADOPT THE CONSENT AGENDA, WHICH INCLUDED THE COUNCIL MEETING MINUTES OF JANUARY 24, 2023**. Roll call vote: Mills-yes; Baker-yes; Kirby-yes; Hart-yes; Bakefelt-out; Melendrez-yes; Folden-yes. Motion carried 6/0/1.

NEW BUSINESS

Appointments: City Committees (Budget, Diversity, Homelessness TPM; Planning)

Tori Barnett, City Recorder, presented.

There had recently been a resignation from the Budget Committee, so there was now a vacancy for that position, and a request for appointment had been received from Norm Crume. Also, one application received had asked to be appointed to two different committees.



The applicants for the various committees were as follows: Steffani Gilbert, Diversity and/or Homelessness; John Breidenbach, Manny Alvarado, Sandy Kendall, Marc Berg, Christine Hood, and Jenni Rodriguez, Homelessness; and Antonio Sunseri, Planning.

Councilor Hart asked if that had been an extra application for the Budget Committee, or had that been published as an opening? How did Mr. Crume become aware of the vacancy?

Ms. Barnett stated upon Mr. Braden's resignation, she received the application from Mr. Crume yesterday.

Councilor Hart stated while Mr. Crume would be an excellent addition, he would like it opened up to the community, for maybe just one Council meeting, to see if there were others in the community that might have an interest.

Ms. Barnett stated she knew staff was hoping to get it filled quickly as budget hearings were coming up.

Councilor Hart stated there would be at least one more meeting so they could try to see if there was anyone else interested.

Ms. Barnett stated if that was the direction of the Council, she'd make it happen.

Councilor Kirby stated it had been discussed that there would possibly be the cancellation of the second meeting in February.

Councilor Hart asked why there would not be a second February meeting.

Mr. Cummings stated that was an item on the current agenda to discuss the issue, but it was because he had made vacation plans to be gone during that meeting, before realizing it was a conflict. Regarding the vacancy on the Budget Board, advertising for that vacancy had been discussed at the staff level, and it was quite expensive. However, it could go on the city's website and Facebook page for no charge.

Councilor Baker stated his agreement with Councilor Hart in opening the position up to solicit other applications for the position.

Councilor Hart stated the March 7th meeting was all information and the board would not take any action, so anyone interested could attend, and at the following meeting of March 14th, the Council could act upon any applications received. He recommended they be more transparent.

KIRBY moved, HART seconded, **TO APPOINT STEFFANI GILBERT TO DIVERSITY AND ANTONIO SUNSERI TO PLANNING.** Roll call vote: Mills-yes; Baker-yes; Kirby-yes; Hart-yes; Bakefelt-out; Melendrez-yes; Folden-yes. Motion carried 6/0/1.

HART moved, MELENDREZ seconded, **TO APPOINT JOHN BREIDENBACH, MANNY ALVARADO, SANDY KENDALL, MARC BERG, AND CHRISTINE HOOD TO THE HOMELESSNESS TPM AD HOC COMMITTEE.** Roll call vote: Mills-yes; Baker-yes; Kirby-yes; Hart-yes; Bakefelt-out; Melendrez-yes; Folden-yes. Motion carried 6/0/1.

Bid Award: Airport Water Line Extension

Al Haun, Assistant Project Director, presented.

KIRBY moved, MILLS seconded, **THAT THE CITY COUNCIL APPROVE THE BIDS AS PRESENTED AND AWARD THE WATER LINE EXTENSION TO WARRINGTON CONSTRUCTION FOR THE AMOUNT OF NOT TO EXCEED \$25,800.** Roll call vote: Mills-yes; Baker-yes; Kirby-yes; Hart-yes; Bakefelt-out; Melendrez-yes; Folden-yes. Motion carried 6/0/1.



ODOT Letter of Support

Dan Cummings, City Manager, apologized for this late addition, but he'd only received the emailed request that day. ODOT was asking for a letter of support from the City of Ontario, as they wanted to pursue a grant for the East Idaho Avenue underpass, referred to as US 30. He was seeking a consensus from the Council to have him research this issue, to ensure it was a grant for a specific area, and that it would be a benefit to the city. And if it was, the Council authorized him to compose a letter of support for the Mayor's signature.

Councilor Kirby asked who had true ownership of the bridge.

Mr. Cummings stated the trussell, the crossing, belonged to Union Pacific Railroad. The underpass, the right of way, and the concrete walls belonged to the city. He was surprised that ODOT was going after a grant to fix that since it was a city street. That's why he wanted to confirm this project.

HART moved, MILLS seconded, **TO AUTHORIZE THE MAYOR TO SIGN A LETTER TO ODOT IN SUPPORT OF THE GRANT APPLICATION.** Roll call vote: Mills-yes; Baker-yes; Kirby-yes; Hart-yes; Bakefelt-out; Melendrez-yes; Folden-yes. Motion carried 6/0/1.

DEPARTMENT HEAD UPDATES**Finance: Monthly Update December 2022**

Kari Ott, Finance Director, presented.

Public Works: Annual Update 2022

Al Haun, Assistant Project Director, presented.

DISCUSSION ITEMS**Safe Streets for All \$280,000 Grant** *(PowerPoint attached)*

Paul Woods, City Engineer, presented. Some bullet points for background: Established as part of the Bipartisan Infrastructure Law; Provides \$5 billion in funding over 5 years; This is the first round of grant awards under the program; \$810 Million awarded to 510 communities; 473 Action Plans and 37 Implementation Projects; Only local governments are eligible for funding, state DOTs are not eligible; Merchant McIntyre identified the opportunity and coordinated the submittal. Last August, the city approved a resolution in support of the grant application, committing to the elimination of traffic fatalities or transportation related deaths from the current level of 3.4 to zero by 2027, as part of the vision zero program. In developing the scope of work, it indicated Ontario is committed to establishing a Comprehensive Safety Action Plan that is aimed at eliminating traffic fatalities and severe injuries in its community in the next 5 years.

In August of 2022, the Ontario City Council passed a resolution that pledged the city to working towards the goal of zero deaths in the community. If provided SS4A funding, the city would actively create opportunities for meaningful community engagement, including the creation of a SS4A Task force that represented diverse interests, and several opportunities for public input and feedback. The city's effort continued its strategic approach to updating its Transportation Plan and leverages Police Department leadership and experience with Vision Zero and safety implementation strategies.

Ontario would combine this experience with an evidence-based approach to drive the entire Action Plan development process. Specifically, the city would use data to examine trends of accident locations, conditions, and other factors that resulted in serious injury and death on its roads.



With 81.80% of its population in an Underserved Community Census tract, Ontario would seek to identify demographics and road users that were overrepresented in accidents in the community. This information, along with resources such as EJScreen and FHWA Socioeconomics and Equity Analysis, would help Ontario determine areas of the city that were in the most need of road safety improvements to promote equity. Ontario would also use this same evidence-based approach when selecting projects and strategies for its Action Plan, using FHWA resources and proven safety countermeasures to increase safety and equity in a low-cost, high-impact manner throughout the community.

The following email was received by the city: *The City of Ontario Safe Streets and Roads for All Action Plan, for the Notice of Funding Opportunity (NOFO) FY22 Safe Streets and Roads for All Action Plan, was selected for award. Congratulations! The selection is for \$280000 in Federal funding: This email is not authorization to begin work, and it does not guarantee Federal funding. USDOT and City of Ontario must establish and execute a signed, mutually agreed upon grant agreement prior to the disbursement of award funds. No costs incurred before USDOT signs and executes the grant agreement will be reimbursed. Below provides information on next steps.*

Immediate next steps: *USDOT will make public announcements related to the awards on Wednesday, February 1. We will also publish a short summary of the proposal from your application to put on our Safe Streets and Roads for All website as part of the public announcement, pursuant to Section H Part 2 of the Notice of Funding Opportunity (NOFO). If you want to modify what is provided on our website once you see it, please let me know by emailing SS4A@dot.gov. The website link is <https://www.transportation.gov/grants/SS4A>.*

What to expect in the next few weeks: *My colleagues at the Federal Highway Administration (FHWA) are responsible for establishing and executing a SS4A grant agreement with City of Ontario. You can expect to hear from a FHWA representative with your State's FHWA Division Office in the near future. In the weeks ahead you will receive more information about next steps, including an invitation to an upcoming FHWA-sponsored webinar for grant recipients to describe the process leading to an executed grant agreement. The webinar will be recorded for those who are unable to attend. In the meantime, if you have questions about next steps, please direct them to FHWA using the email SS4A.FHWA@dot.gov.*

Finally, we ask for your patience as we work diligently toward executing grant agreements so your important safety work may begin. This is a new program, with hundreds of new grant recipients, and it will take us time to process these grant agreements.

It's exciting to see so many communities on the path to improving roadway safety, and the whole SS4A Program team is passionate about helping you succeed. Thank you for your commitment to roadway safety.

For the grant implementation, Public Works would take the lead in implementing the grant, working closely with the Police Department and City Manager. Public Engagement Facilitation and Grant Administration would be done by Jacobs (\$50K); and Technical Consultant would be Kittelson (Likely the bulk of the work).

February 28th Council Meeting

Dan Cummings, City Manager, stated this was to ask for consideration in canceling the February 28, 2023, Council meeting. He had scheduled a trip with his wife in celebration of her birthday, and had accidentally booked it over the 28th, so he would miss that meeting. In meeting with staff, it was determined that the issues that needed to be presented to Council would be at the March 14th meeting.

Council consensus to cancel the meeting scheduled for February 28, 2023, Council meeting.



Ladder Truck #109: Status and Options (Letter attached)

Clint Benson, Fire Chief, presented.

On February 1st Ontario Fire and Rescue received a failed inspection report for ladder truck 109. Truck 109 is a 1987 Seagrave that currently has 20,898 miles and 3,997 hours recorded. The inspection was conducted by Apparatus Equipment & Service, Inc. for a cost of \$1,975.10. The inspection tested truck 109 in accordance with NFPA 1911, Standard for the Inspection, Maintenance, Testing, and Retirement of In-Service Emergency Vehicles. "The primary purpose of this standard is to provide requirements for an inspection, maintenance, and testing program that will ensure that in-service emergency vehicle are serviced and maintained to keep them in safe operating condition and ready for response at all times" (NFPA 1911, 1.2.1). The last test conducted on 109 was in 2020. Ladder truck 109 can now only be utilized to flow water from the ladder. The ladder is not safe for use by firefighting personnel for training or rescue operations.

The inspection report lists the main reasons for failure as failure of electrical components while rotating the aerial portion of the apparatus, leaking extension ram seals, and loose extension cables. I have reached out to Dusty Ballantyne of Star Fire District Maintenance Division, the company that currently provides maintenance and repairs to our fleet. Mr. Ballantyne informed me that the cost of the electrical issues alone would be more than \$20,000 and that due to the age of the apparatus, parts for the other required repairs will be very difficult, if not impossible to find. I am still gathering cost information for the other issues; however, they will be very costly as well and we have already spent over \$14,000 in repairs for 109 in this current budget year. Our budget for vehicle repairs for the 22-23 FY is \$14,610 and we are currently more than \$11,000 over budget.

I have gathered cost estimates for several options moving forward:

- 1. Complete refurbishment of Truck 109: Not recommended due to the age of 109 and inability to get parts.*
- 2. Purchase of a used ladder truck in good condition (2010 or newer): \$600K to \$750K.*
- 3. Lease a new ladder truck. I am still waiting for annual cost estimates for this option.*
- 4. Purchase a new ladder truck (stock unit- 2 to 8 months wait time): \$1.6 million*
- 5. Purchase a new ladder truck (custom unit- 35 to 38 months wait time) -1.75 million*

I will continue to explore options and cost estimates. My recommendation is option #2 if moneys are available. One of my future goals for the fire department is to create a capital reserve account for fire apparatus, so that apparatus is replaced on a scheduled basis, prior to incurring excessive repair costs and safety issues.

Councilor Mills stated it appeared 109 needed to be retired. Some of the over \$1M mark were scary. She believed that option 2, purchasing a used truck, not knowing what a used one would run, was the way to go.

Mr. Cummings stated staff was attempting to get a FEMA grant. Merchant McIntyre had been working on that for quite a while. That application was due in February. However, even if the city received the grant, it was 30 months out from notification to get one in. A new ladder would be approximately \$1.5M. The FEMA grant was only up to \$1M, so even if the city received the grant, they'd have to find the additional \$500K-700K to complete the purchase. That's why Chief Benson made the presentation. The city needed a ladder truck. The city was going to have a new 5-story motel soon. This was to put the information before the Council so they could determine the best route, and how they wanted to direct to staff to move. Where would the money come from for a used truck, for about the same price it would be to bring in match dollars for a new truck, with no guarantee the city would get the grant to make that purchase. Staff was seeking direction on their next move.

Councilor Kirby stated in reading the agreement the city had for shared equipment with other cities, was there someone in the valley that had a ladder truck?

Chief Benson stated there was. The city was in a good Mutual Aid Agreement with several departments around the area, and Weiser and Payette had ladder trucks. The issue could be that on a good day, if they were paged out for a ladder truck right when the call came in, it was still 20 minutes before getting that truck here. Could be up to 40 minutes on the average if they were requested as the guys were leaving the station.

Councilor Kirby verified that in the last budget cycle, there were funds set aside for a truck, but that was for Rescue One, and those funds had been expended.

Mr. Cummings stated that was correct. That truck had been ordered.

HAND-OUTS

Check Register *(Attached)*

January 2023; no questions.

Department Stats *(Attached)*

Police, Code Enforcement, Fire, Public Works – January 2023

Minutes: *(Attached)*

County Court: 01-18-2023; 01-25-2023; 02-01-2023

Tater Tots Trail: 12-14-2022; 01-11-2023

CORRESPONDENCE, COMMENTS, AND EX-OFFICIO REPORTS

Councilor Hart stated since Mr. Burks was still in attendance, he'd like to have on the March 14th agenda, to add the discussion regarding the development of a veteran's committee for the city. He would ask Mr. Burks, that since the city oftentimes struggled to find volunteers to serve on the various committees, that he attend the 14th meeting with a list of Ontario residents that would be interested in serving. That would help the Council put together a committee.

Mr. Burks stated with regard to the March 14th meeting, he'd be traveling to Washington, DC, and upon his return, he had to go to the Portland/Tillamook area, then St. Helens, and then down to Prineville. He would not be back to Ontario until the 19th. He could do the homework, but he would not be able to actually attend the meeting on the 14th.

Mr. Cummings stated he had discussed this request with Mr. Burks and informed him that this was not a normal city committee, and that city staff was already spread out very thin, along with meeting times. Mr. Burks indicated his group would operate the committee. They would have the membership appointed by the Council, but the committee would have a secretary that would handle the clerical pieces. They did not expect Ontario staff time for this. Also, if the Council Chambers were unavailable, they would hold their meetings at one of the veteran facilities.

Councilor Hart disbursed a hand-out to the Council, a document that had been released by the Governor on February 2, 2023. Governor Kotek was creating a statewide Housing Production Advisory Council. The Governor's office was looking for volunteers to be appointed to that committee. She was looking to appoint housing developers with an expertise in permanent, supportive, affordable, and market rate housing, representative of rural and coastal communities, communities of color, and local government representatives. It was to provide her advice and State of Oregon advice as she had made an increase in housing production one of her priorities. Former Mayor Riley Hill was going to submit his name on an application, which was due February 15th. Councilor Hart asked that the City of Ontario send a letter of support for Mr. Hill's candidacy. It was up to the Governor to determine the committee, but having support from the city would be beneficial. He'd like them to have a consensus to direct staff to draft a letter of support for Mr. Hill's application, with the Mayor as signatory.



Council consensus to compose the letter of support for the candidacy of Riley Hill to the Governor's committee.

EXECUTIVE SESSION

ORS 192.660(2)(e) – Real Property

An executive session was called at 7:05 p.m. under provisions of ORS 192.660(2)(e) to discuss real property. The Council reconvened into regular session at 8:10 p.m.

ADJOURN

BAKER moved, KIRBY seconded, **THAT THE MEETING BE ADJOURNED**. Roll call vote: Mills-yes; Baker-yes; Kirby-yes; Hart-yes; Bakefelt-out; Melendrez-yes; Folden-yes. Motion carried 6/0/1.

ACCEPTED:

ATTEST

Deborah K. Folden, Mayor

Tori Barnett, MMC, City Recorder





**AGENDA REPORT
CONSENT AGENDA
March 14, 2023**

To: Mayor and City Council
FROM: James Swank, Police Lieutenant
THROUGH: Danny K. Cummings, City Manager
SUBJECT: **LIQUOR LICENSE APPLICATION: DAMIAN'S DOWNTOWN NIGHT CLUB**
DATE: March 14, 2023

PROPOSED MOTION:

I MOVE THE CITY COUNCIL APPROVE THE FULL ON-PREMISES, OTHER PUBLIC LOCATION, LIQUOR LICENSE APPLICATION FOR DAMIAN'S DOWNTOWN NIGHT CLUB.

SUMMARY:

Damian's Downtown Night Club, located at 114 South Oregon Street, Ontario, Oregon completed the "New Outlet Full On-Premises" liquor license sales through the Oregon Liquor Control Commission.

All necessary paperwork has been approved through the Oregon Liquor Control Commission office and is awaiting recommendation approval through the Ontario City Council.

BACKGROUND:

Damian's Downtown Night Club, located at 114 South Oregon Street, Ontario, Oregon, under the ownership of Damian's Downtown Night Club has applied for a Full On-Premises Sales liquor license.

Criminal record process was completed on owner/manager Damian Figueroa. The record returned meeting state and local requirements. The application forms have been filled out appropriately and required fees have been paid. All permit and license requirements have been met through the Oregon Liquor Control Commission as well as through the City of Ontario Planning Department.

CURRENT SITUATION:

Damian's Downtown Night Club, is requesting to add the sale of alcohol to their establishment. To obtain this privilege, the Oregon Liquor Control Commission requires Damian's Downtown Night Club to complete the "New Outlet – Full On-Premises sales" application. Once this step is completed, the location will have the necessary license which will require renewal on a yearly basis.

ANALYSIS:

- A. **STRATEGIC PLAN** This meets the Council's adopted Strategic Plan for Lifestyle and Growth. Under Lifestyle, with the approval of this license, Damian's Downtown Night Club will offer a new bar-style amenity that supports DJ-based music and an area for dancing. Live band nights may be hosted as well. Damian's Downtown Night Club also has the potential to bring more visitors to the city, creating additional revenue which supports the Strategic Plan goal of Growth.
- B. **FINANCIAL** There is no financial impact for this action.
- C. **TIMING** Approval required prior to allowing the sale of alcohol at this location.
- D. **POLICY/LEGAL** All legal steps have been followed to completion, with no negative feedback.

ALTERNATIVES:

If the Council elects not to approve the license application, there is no true effect on the process, as the Oregon Liquor Control Commission may take the city's objections to the action into consideration, but are not obligated to do so. They are the ultimate authority on the issuance of the license.

RECOMMENDATION:

Staff recommends that the City Council approve the full on-premises, other public location, liquor license for Damian's Downtown Night Club.

ATTACHMENTS:

None



**AGENDA REPORT
CONSENT AGENDA
March 14, 2023**

To: Mayor and City Council
FROM: James Swank, Police Lieutenant
THROUGH: Danny K. Cummings, City Manager
SUBJECT: **LIQUOR LICENSE APPLICATION: EL PATRON ONTARIO, LLC**
DATE: March 14, 2023

PROPOSED MOTION:

I MOVE THE CITY COUNCIL APPROVE THE FULL ON-PREMISES COMMERCIAL LICENSE APPLICATION FOR EL PATRON ONTARIO LLC.

SUMMARY:

El Patron Ontario LLC, located at 35 W. Idaho Avenue, Ontario, Oregon completed the “New Outlet Full On-Premises” liquor license sales through the Oregon Liquor Control Commission.

All necessary paperwork has been approved through the Oregon Liquor Control Commission office and is awaiting recommendation approval through the Ontario City Council.

BACKGROUND:

El Patron Ontario LLC, located at 35 W. Idaho Avenue, Ontario, Oregon has applied for a Full On-Premises Commercial liquor license.

Criminal record process was completed on LLC owners/managers. The records returned meeting state and local requirement. The application forms have been filled out appropriately and required fees have been paid. All permit and license requirements have been met through the Oregon Liquor Control Commission as well as through the City of Ontario Planning Department.

CURRENT SITUATION:

El Patron Ontario LLC is requesting to add the sale of alcohol to their establishment. To obtain this privilege, the Oregon Liquor Control Commission requires El Patron Ontario LLC to complete the “New Outlet – Full On-Premises” application. Once this step is completed, the location will have the necessary license which will require renewal on a yearly basis.

ANALYSIS:

- A. **STRATEGIC PLAN** This meets the Council's adopted Strategic Plan for Lifestyle and Growth. Under Lifestyle, with the approval of this license, El Patron Ontario will offer a new bar style amenity. El Patron Ontario also has the potential to bring more visitors to the city creating additional revenue which supports the Strategic Plan goal of Growth.
- B. **FINANCIAL** There is no financial impact for this action.
- C. **TIMING** Approval required prior to allowing the sale of alcohol at this location.
- D. **POLICY/LEGAL** All legal steps have been followed to completion, with no negative feedback.

ALTERNATIVES:

If the Council should choose not to approve the license application, it would have no true effect on the process, as the Oregon Liquor Control Commission may take the city's objections to the action into consideration, but are not obligated to do so. They are the ultimate authority on the issuance of the license.

RECOMMENDATION:

Staff recommends that the City Council approve the full on-premises commercial liquor license for El Patron Ontario LLC.

ATTACHMENTS:

None

**CITY OF ONTARIO
MAYORAL PROCLAMATION
BORDER TOWN COMIC CON DAYS**

- WHEREAS,** With its colorful costumes, creative artistry, and imaginative storytelling, the world of comics and pop culture has captivated our hearts and imaginations for generations; and
- WHEREAS,** And we are thrilled to celebrate its rich history and influence with Border Town Comic Con 2023; and
- WHEREAS,** This event will showcase the talents, passion, and creativity of our local artists, writers, and cosplayers, and bring together a diverse community of comic book enthusiasts and pop culture lovers from near and far; and
- WHEREAS,** As we gather to appreciate the wonders of this unique and vibrant world, let us also embrace the values of inclusivity, diversity, and creativity that make Ontario such a special place to call home; and
- WHEREAS,** Let us come together in the spirit of unity, joy, and celebration on these special days. And let us continue to support and uplift our local artists and creators, who make Ontario an amazing place to be.

NOW, THEREFORE, BE IT RESOLVED that I, Deborah K. Folden, Mayor of Ontario, Oregon, do hereby proclaim March 18 and March 19, 2023, as

BORDER TOWN COMIC CON DAYS

and invite all our citizens to join me in extending a warm welcome to all the guests and participants of the Border Town Comic Convention, and urge everyone to take part in the many exciting activities, panels, and performances that this incredible event has to offer.

Deborah K. Folden, Mayor



Inspired by our community, Treasure Valley Community College has been transforming lives and education since 1962. As we celebrate our 60th anniversary, TVCC is committed to continuing this legacy by increasing enrollment, improving student success and access, and enhancing our facilities. We have a renewed emphasis on ensuring we have the programs and the building space to meet workforce needs and help fuel economic growth for the communities we serve.

The **Imagine. Invest. Inspire.** campaign is inspired by our students and our community. The goal is to raise \$13.8 million to help transform healthcare education and student opportunities in our region through three major initiatives. The first is the **Nursing & Allied Health Building and Initiative** fund, which will help us build a state-of-the-art facility to teach students. The second is the **New & Expanded Allied Health Programs** fund, which will allow TVCC to add and expand programs to meet the growing healthcare needs in the communities we serve. Third, is our initiative to support student scholarships.

Within this case for support, you will find more information about how TVCC plans to use the resources from this campaign.

At Treasure Valley Community College, we see our role as being first responders in meeting workforce and community needs, but we need your help. Please consider joining us as we chart the way forward, expand opportunities, and continue to change lives for generations to come.

Dr. Dana M. Young, President
Treasure Valley Community College



"We have a renewed emphasis on ensuring we have programs and the building space to meet workforce needs and help fuel the economic growth for the communities we serve."





Initiative ONE

**MEET GROWING
WORKFORCE DEMANDS WITH
STATE-OF-THE-ART TRAINING**

\$10 MILLION

NURSING AND ALLIED HEALTH PROFESSIONS CENTER AND TECHNOLOGY FUND

This initiative will provide matching dollars to construct a new Nursing & Allied Health Professions Center as well as specialized technology in support of TVCC's health programs. Existing and expected State XI-G Bonds and grant funding will provide approximately 50% of the anticipated costs, with the campaign providing the remaining 50%. The new Center will be designed to increase students being trained in healthcare programs.

Initiative TWO

**\$2.5 MILLION
NEW AND EXPANDED
ALLIED HEALTH
PROGRAMS FUND**

There is a growing need for additional allied health professions in our region. This fund will enable TVCC to expand our allied health programs to provide additional opportunities in the following areas:

Physical Therapy Assistant: professionals who provide support with physical rehabilitation following illness or injury

Occupational Therapy Assistant: professionals who provide support for learning or re-learning job-related and personal care skills following an illness or injury

Respiratory Therapy Assistant: professionals who help Respiratory Therapists treat patients who have heart and lung problems, or other health issues that affect breathing

Surgical Technician: professionals who provide support for clinicians in the operating room

Radiologic/X-ray Technician: professionals who provide diagnostic imaging services such as X-Ray tech, MRI tech, and CT tech

Initiative THREE

Proposed Campaign Amount

**\$1.3 MILLION
SCHOLARSHIPS AND
STUDENT SUPPORT**

Existing scholarship and financial aid programs do not provide all of the support our students need. TVCC is looking to create additional student support programs in the following areas.

FIRST GENERATION SCHOLARSHIPS

\$200,000

This scholarship will benefit students who are the first in their family to go to college. It will help students who demonstrate financial need in overcoming barriers to achieve their college goals.

MID-CAREER SCHOLARSHIPS

\$500,000

Business and industry is fast-paced and rapidly changing. The pandemic has only accelerated this pace of change. This scholarship is designed for individuals who are in, or have been in, the workforce and need to learn new skills for their jobs.

ALLIED HEALTH SCHOLARSHIPS

\$250,000

This scholarship will meet the growing need for financial support among nursing and allied health students as these programs grow.

CAREER AND TECHNICAL EDUCATION (CTE) SCHOLARSHIPS

\$250,000

These scholarships will provide financial support for students entering into degree or certificate programs in career and technical education fields. The demand for skilled employees in this area is growing rapidly.

NURSING STUDENT SUPPLIES AND FEES FUND

\$100,000

The cost of student supplies such as uniforms, equipment, and testing fees can often reach or exceed \$1,000 per student. This cost is above the support level usually provided by scholarships. This fund will provide nursing students with the financial support to help meet these costs.

TOTAL: \$1,300,000

NURSING & ALLIED HEALTH PROFESSIONS CENTER

New Opportunities for Growth and Expanded Programs

TVCC's Programs	CURRENT PROGRAMS Students	EXPANDED PROGRAMS Students	TOTAL INCREASE Students
Registered Nurse	32	64	32
Medical Assistant	30	45	15
Certified Nursing Assistant	10	20	10
Emergency Medical Technician	24	36	12
TOTAL	96	165	69

Proposed New Programs	1st Year Students	2nd Year Students
Physical Therapy Assistant NEW	16	32
Occupational Therapy Assistant NEW	8	16
Respiratory Therapy Technician NEW	8	16
Surgical Technician NEW	8	16
X-Ray/Radiology Technician NEW	8	16
ESTIMATED TOTALS	48	96

This new 30,000-square-foot building will provide space and state-of-the-art technology for critical addition/expansion of TVCC's health career & training programs.

ADDITIONAL STUDENTS AND NEW PROGRAM TOTALS

	Current Students	1st year in new building	2nd year in new building
Number of new students		117 (69 increase + 48 projected)	165 (69 increase + 96 projected)
Total Students	96	213 (165 expanded + 48 new in 1st year)	261 (165 expanded + 96 new by 2nd year)

Frequently ASKED QUESTIONS

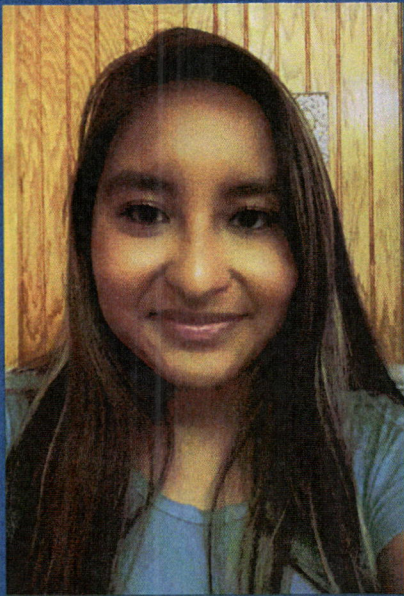
Why is NOW the right time for TVCC to lead a Major Gifts Campaign?

Right now, there are critical needs in our community that are not being met. For example, there is a significant overall healthcare worker shortage. Because of our successful leadership experience collaborating with the community to meet past needs, Treasure Valley Community College is well-positioned to address current and future needs through expanded programs and services. The College has created a thoughtful plan to collaboratively address community challenges in partnership with individuals, organizations, foundations, and businesses.

In addition, TVCC has already received \$5 million in matching funds from the State of Oregon to help construct a new Nursing & Allied Health Professions Center. The Imagine. Invest. Inspire. campaign will help us complete our goal of raising the remaining funds needed to improve, expand, and transform healthcare workforce training at TVCC. We need to have all the matching funds raised by Spring 2023.

Where does TVCC obtain its funding?

As a public community college, TVCC maintains a total operating budget of almost \$20 million. Revenues include a blend of sources including state funding, student tuition and fees, grants and local levy support. These revenues are used for operations. The State of Oregon has already awarded TVCC with \$5 million in capital construction matching funds to help construct a new building, but TVCC must secure the remaining \$5 million match, plus additional building and technology needs by Spring 2023. TVCC has not received any additional state dollars for healthcare programs expansion or enhancements. Therefore, private resources and donations are needed to meet student and community needs, and support for this project.



"I am a very hard worker and won't stop until I accomplish the goal I have set for myself which is to work as a registered nurse."

TVCC NURSING SCHOLARSHIP RECIPIENT

Janelle Jones

Nyssa, Oregon

Campaign LEADERSHIP

Dr. Dana M. Young, TVCC President

Cathy Yasuda, Campaign Manager

Bernie Babcock, Project Manager

CAMPAIGN CO-CHAIRS

Matt Frye

Fran Halcom

Cliff Looney

CAMPAIGN HONORARY CO-CHAIRS

Dr. David and Anne Brauer

Dr. Marc and Becky Iseri

Judge Frank and Patty Yraguen

TVCC BOARD OF EDUCATION MEMBERS

Dirk DeBoer, Chairperson

Mark Wettstein,

Vice Chairperson

Betty Carter

Stephen Crow

Cheryl Cruson

Roger Findley

Ken Hart

TVCC FOUNDATION BOARD MEMBERS

Dave Bean, Chairperson

Debbie DeLong,

Vice Chairperson

Matt Frye, Treasurer

Debbie Blackaby, Secretary

Bill Carter,

Executive Committee

Member at Large

Randi Svaty,

Executive Committee

Member at Large

Cheryl Cruson

Evelyn Dame

Jaime Grimaldo

Ron Haidle

Gary Halcom

Alexa Hine

Donna Jones

Holly Kerfoot

Arwyn Larson

Cliff Looney

Raeshelle Meyer

Barbara Olson

Torie Ramirez

Prudi Sherman

Julie Van Matre

Judge Frank Yraguen



For more information, please contact TVCC:

Cathy Yasuda, Chief Development Officer

cyasuda@tvcc.cc • tvcc.cc/foundation

541-881-5585

650 College, Blvd., Ontario, OR 97914

Treasure Valley Community College does not discriminate on the basis of race, color, sex, marital status, sexual orientation, religion, national origin, age or disability in any educational programs, activities or employment. Persons having questions about equal opportunity and nondiscrimination should contact the Human Resources Director in the PAC Building on the North End of campus, email HR@tvcc.cc or call (541) 881-5838 or TTY (541) 881-2723.

Opportunities commemoration & recognition

HONORARY NAMING

Nursing & Allied Health Professions Center \$1,000,000

FIRST FLOOR

Testing Center	\$100,000
4 Large Classrooms	\$100,000 Each
EMT/Occupational/Physical Therapy Classroom	\$100,000
West Student Lounge and Outdoor Common Area	\$50,000
Hallway Student Lounge	\$50,000

SECOND FLOOR

Medical Assistant/Phlebotomy Classroom	\$100,000
Nursing Lab	\$100,000
3 Simulation Labs	\$150,000 Each
Nursing Faculty Office Suite	\$75,000
3 Collaboration Rooms	\$25,000 Each
Collaboration Room/Conference Room	\$50,000
Hallway Student Lounge	\$50,000
Small Classroom	\$75,000





**AGENDA REPORT
OLD BUSINESS
March 14, 2023**

To: Mayor and City Council
FROM: Dan Cummings, City Manager
THROUGH: Danny K. Cummings, City Manager
SUBJECT: **SOLAR PROJECT W FLEET DEVELOPMENT**
DATE: February 7, 2023

PROPOSED MOTION:

I MOVE THE CITY COUNCIL TO APPROVE THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF ONTARIO AND VERDE LIGHT COMMUNITY SOLAR, LLC, AND AUTHORIZE THE MAYOR TO SIGN THE MOU.

SUMMARY:

The city and Verde Light Community Solar, LLC, desire to enter into this MOU to outline the obligations and conditions under which the city will act as an intermediary to the project company pursuant to the program for purposes of grant fund disbursement.

BACKGROUND:

On April 15, 2019, Verde Light Solar Community Solar, LLC, was formed by Ryan Sheehy to finance, develop, and construct a 2.95-megawatt community solar project within the city's incorporated limits (the "Project").

On January 6th, 2020, Fleet Development, LLC, ("Fleet"), an Oregon limited liability company, obtained a membership interest in the Project Company.

Fleet partnered with Trinity Development Alliance, Inc., ("TDA"), a Tennessee nonprofit corporation, for the purposes of financing and developing the Project.

On December 14, 2021, the Ontario City Council ("Council") passed Resolution #2021-140 authorizing city staff to collaborate with Fleet to research, draft, and submit an application for the Oregon Community Renewable Energy Program (the "Program"). Pursuant to the Program, the city will serve as a conduit for Project Company to obtain grant funds from the Oregon Department of Energy ("DOE") for purposes of the Project.

On July 8, 2022, Fleet and TDA submitted a Program grant application for and on behalf of the city; on November 17, 2022, the city was selected as a first-round recipient of a Program grant in the amount of \$900,000.

Under the grant requirements, grant funds must cover the actual cost of the acquisition, construction, and installation of the Project, and grant funds may only be dispersed by DOE directly to the city (i.e., funds are not dispersed to the Project Company) and therefore require this MOU to fulfill the grant requirements.

CURRENT SITUATION:

The City Attorney has drafted and approved the attached MOU and all parties are ready to enter into the agreement.

ANALYSIS:

- A. **STRATEGIC PLAN** None.
- B. **FINANCIAL** There will be no cost to the city. Verde Light Community Solar, LLC, will cover all costs associated with the project and grant.
- C. **TIMING** This MOU is needed so that the project may move forward with the construction of the solar panels.
- D. **POLICY/LEGAL** The City Council is the governing body authorized to enter into agreements and MOU's.

ALTERNATIVES:

None offered.

RECOMMENDATION:

Staff recommends the City Council approve the MOU.

ATTACHMENTS:

- 1. Memorandum of Understanding - Verde Light Community Solar Project (01558119xB6300)



**MEMORANDUM OF UNDERSTANDING
COMMUNITY RENEWABLE ENERGY PROGRAM
VERDE LIGHT COMMUNITY SOLAR LLC
GRANT FUNDS COMPLIANCE**

This Memorandum of Understanding (the “Memorandum”) is made this ____ day of March 2023, by and between VERDE LIGHT COMMUNITY SOLAR LLC, an Oregon limited liability company, hereinafter (the “Project Company”), and the CITY OF ONTARIO, an Oregon municipal corporation (“City”).

WHEREAS, On April 15, 2019, Project Company was formed by RYAN SHEEHY to finance, develop, and construct a 2.95-megawatt community solar project within City’s incorporated limits (the “Project”);

WHEREAS, On January 6th, 2020, FLEET DEVELOPMENT LLC (“Fleet”), an Oregon limited liability company obtained a membership interest in the Project Company;

WHEREAS, Fleet partnered with TRINITY DEVELOPMENT ALLIANCE, INC. (“TDA”), a Tennessee nonprofit corporation, for the purposes of financing and developing the Project;

WHEREAS, On December 14th, 2021, the CITY COUNCIL of City (the “Council”) passed RESOLUTION #2021-140 authorizing City staff to collaborate with Fleet to research, draft, and submit an application for the Oregon Community Renewable Energy Program (the “Program”);

WHEREAS, pursuant to the Program, City will serve as a conduit for Project Company to obtain grant funds from Oregon Department of Energy (“DOE”) for purposes of the Project;

WHEREAS, On July 8th, 2022, Fleet and TDA submitted a Program grant application for and on behalf of City;

WHEREAS, On November 17th, 2022, City was selected as a first-round recipient of a Program grant in the amount of \$900,000;

WHEREAS, grant funds must cover the actual cost of the acquisition, construction, and installation of the Project, and grant funds may only be dispersed by DOE directly to City (i.e., funds are not dispersed to Project Company);

WHEREAS, City and Project Company desire to enter into this Memorandum to outline the obligations and conditions under which City will act as an intermediary to the Project Company pursuant to the Program for purposes of grant fund disbursement.

NOW THEREFORE IT IS AGREED AS FOLLOWS:

1. **Performance Agreement.** Pursuant to the Program requirements, the Project Company and City will review the performance agreement provided by the DOE (the “Performance Agreement”). Upon both parties’ acceptance of the terms of the Performance Agreement, each party (if applicable) will sign the Performance Agreement. Each party will endeavor to meet the performance requirements as provided by the terms of the Performance Agreement. As of the Effective Date of this Memorandum, the Performance Agreement is under review by the Department of Justice and will be provided by the DOE to the Project Company upon completion.

2. **Project Development Obligations.** The Project Company is responsible for design, engineering, procurement, construction, operation, financing, and accounting of the Project. City is responsible for the disbursement of grant funds to the Project Company for reimbursement of eligible costs per the Program requirements and terms of the Performance Agreement. The City will have no other obligation, financial or otherwise, to the Project Company’s suppliers, contractors, or investors related to payment of Project costs, and/or Project’s operational success.

3. **Coordination.** In addition to all other party obligations under this Memorandum, in the spirit of cooperation and collaboration, and with the mutual understanding that this is a flexible relationship between the parties, the parties hereby commit to undertake the following actions: (a) support concerted, cooperative, effective, and collaborative efforts and communication to carry out the purposes and intent of this Memorandum; and (b) participate in meetings as necessary or appropriate to discuss the Project, the Performance Agreement, and/or this Memorandum.

4. **Project Costs; Grant Disbursement.** Subject to the terms contained in this Memorandum, the Project Company will be responsible for the cost of all Project expenses. The Project Company will submit monthly invoices to City for eligible Project costs (each an “Invoice”). Each Invoice will contain the following information: (a) a summary of the eligible Project expenses incurred by the Project Company; and (b) all other information and documentation City may reasonably request related to the Project. City will reimburse the Project Company and TDA the amount due for eligible Project costs under each Invoice within thirty (30) days after City has reviewed and approved the applicable Invoice. Total reimbursement payable by City to the Project Company and/or TDA under this Memorandum for purposes of the Project will not exceed the grant funds awarded for the Project (\$900,000).

5. **City Compensation.** In consideration of City’s performance of its obligations under this Memorandum, the Project Company will compensate the City in accordance with the following:

(a) A one-time grant funding fee payment of \$20,000, payable at the completion of the first draw on grant funds by the Project Company.

(b) City will be given priority right to subscribe up to 40% of the production of the

Project at a 10% discount. The subscription size is estimated to be 3,113,168 kilowatt hours or approximately one-third of City's annual utility usage. Depending on ambient solar conditions, the 10% energy cost savings provided to the City is estimated to be more than \$50,000 annually for the life of the project (20+ years).

6. **Project Completion and Reporting.** Upon completion of Project construction and financing, City and the Project Company will continue to adhere to the obligations provided under the Performance Agreement. The Project Company will prepare all accounting statements and performance metrics necessary and deliver periodic status reports to the DOE as required by the Performance Agreement.

7. **Compliance with Laws and Expenses.** Each party will perform its obligations under this Memorandum in compliance with all applicable federal, state, and local laws, rules, regulations, codes, and ordinances, all as now in force and/or which may hereafter be amended, modified, enacted, or promulgated (individually and collectively, the "Law(s)"). Except as otherwise expressly provided in this Memorandum, each party will bear the party's own expenses incurred in connection with the performance of the party's obligations under this Memorandum.

8. **Indemnity.** The Project Company releases and will defend, indemnify, and hold City and each City officer, employee, agent, and authorized representative harmless for, from, and against all claims, actions, proceedings, damages, liabilities, injuries, losses, and expenses of every kind, whether known or unknown, including, without limitation, attorney fees and costs, resulting from or arising out of, whether directly or indirectly, the following: (a) injury, death, and/or damage to person or property (whether or not such property is the Project Company's property or under the control of the Project Company) arising out of or resulting from the negligence or willful misconduct of the Project Company or its agents, employees, and/or contractors, and/or the Project Company's breach and/or failure to perform any Project Company representation, warranty, obligation, and/or covenant contained in this Memorandum. The Project Company indemnification obligations provided in this Section 8 will survive the earlier termination or expiration of this Memorandum.

9. **Severability.** Each provision contained in this Memorandum will be treated as a separate and independent provision. The unenforceability of any one provision will in no way impair the enforceability of any other provision contained herein. Any reading of a provision causing unenforceability will yield to a construction permitting enforcement to the maximum extent permitted by applicable law.

10. **Term and Termination.** The term of this Memorandum commenced on the Effective Date and will remain in full force and effect until terminated as provided in this Memorandum. This Memorandum may be terminated at any time by the mutual written agreement of the parties or by any party upon thirty (30) days' prior written notice to all other parties.

11. **Miscellaneous.** Each party acts independently in the performance of its obligations under this Memorandum and no party is an agent of the other. This Memorandum

contains the entire agreement and understanding between the parties with respect to the subject matter of this Memorandum and contains all the terms and conditions of the parties' agreement and supersedes any other oral or written negotiations, discussions, representations, and/or agreements. Any notice will be deemed given when personally delivered or delivered by facsimile or email transmission (with electronic confirmation of delivery), or will be deemed given three days following delivery of the notice by U.S. mail, certified, return receipt requested, postage prepaid, by the applicable party to the address of the other parties first shown above (or any other address that a party may designate by notice to the other party), unless that day is a Saturday, Sunday, or legal holiday, in which event it will be deemed delivered on the next following business day. For purposes of this Memorandum, the term "Effective Date" means the date upon which this Memorandum is executed by all parties. This Memorandum is a legally binding and enforceable agreement in accordance with its terms.

IN WITNESS WHEREOF, the undersigned have caused this Memorandum to be effective for all purposes as of this ____ day of March 2023.

CITY OF OREGON
an Oregon municipal corporation

Deborah Folden, Mayor

VERDE LIGHT COMMUNITY SOLAR LLC
an Oregon limited liability company

Ryan P. Sheehy, Manager



**AGENDA REPORT
OLD BUSINESS
March 14, 2023**

To: Mayor and City Council
FROM: Clint Benson, Fire Chief
THROUGH: Danny K. Cummings, City Manager
SUBJECT: FIRE DEPARTMENT LADDER TRUCK
DATE: March 9, 2023

PROPOSED MOTION:

I MOVE TO DIRECT STAFF TO MOVE FORWARD WITH PURSUING OPTIONS FOR THE PURCHASE OF A USED LADDER TRUCK, NOT TO EXCEED \$800,000.00.

SUMMARY:

The City's current ladder truck (109) is out of service due to safety issues. Repairing 109 is not recommended due to the age of the truck, unavailability of parts, and extensive costs related to such repairs. Several quality used ladder trucks are available throughout the United States. We have professional fire apparatus mechanic Dusty Ballantyne of Star Fire District Maintenance Division available for testing and inspection of prospective ladder trucks for sale. We have been diligently searching for good options for the City and community.

BACKGROUND:

The City of Ontario purchased its current ladder truck (109), a 1987 Seagrave, in 2006. 109 is a 110' ladder truck that has served our community and neighboring communities since that time. The National Fire Protection Association (NFPA) 1911, requires annual performance testing of aerial apparatus. Ontario Fire and Rescue has complied with NFPA standards and taken the appropriate steps to keep 109 safe and in service through required maintenance, testing, and repairs since 2006. In 2022, 109 spent several months out of service to repair leaking extension cylinders and a failed outrigger. Additionally, while on route to the repair shop, two tires blew out. The resulting repairs of the mechanical issues and tire replacements totaled over \$14,000. Our apparatus mechanic, Dusty Ballantyne of the Star Fire Maintenance Division, warned staff that other hydraulic cylinders may soon fail and would have to be engineered and custom built, due to the unavailability of parts.

Upon receiving 109 back from the repair shop, staff scheduled the NFPA 1911 inspection and testing with Apparatus Equipment & Service, Inc. On January 30, 2023, staff received the failed inspection report from Apparatus Equipment & Service, Inc. stating several reasons for failure: leaking extension rams, loose cables, and electrical malfunction during turntable rotation. Staff forwarded the report to Dusty Ballantyne who stated that the electrical issues would require the removal of the ladder and turntable, an extensive and expensive process. His estimate for

the electrical issues alone was \$20-\$30K, which does not include the work required to locate the source of water entering the electrical system. He also stated that the larger issues were related to the extension rams. The extension rams, and many other parts used on 109, are no longer manufactured and are not available to purchase. Therefore, new extension rams would require an engineer to design them and a manufacturing company to custom build them. Mr. Ballantyne estimated the cost of engineering and customization to equal or exceed the cost of a good, used ladder truck. His recommendation was to not invest any money in the aging 109.

Staff sought out a second opinion from Fire Trucks Unlimited, a company in Henderson, Nevada, specializing in the refurbishment of fire apparatus. Staff provided the inspection information and truck specifics to Brain Rayburn, of Fire Trucks Unlimited. Mr. Rayburn informed me that due to the age and condition of 109, that he does not recommend spending any additional resources on the truck and that Fire Trucks Unlimited would not provide refurbishment services for 109. Due to safety issues, and after receiving two industry experts' advice regarding 109, staff have finally concluded that truck 109 is permanently out of service.

CURRENT SITUATION:

The City of Ontario and Ontario Fire and Rescue does not currently have a working ladder truck. Ladder trucks are available through our mutual aid agreements. However, mutual aid for ladder trucks is not guaranteed and the response times are between twenty and forty minutes.

ANALYSIS:

- A. **STRATEGIC PLAN** A safe and operable ladder truck to serve the City of Ontario complies with Ontario's strategic plan in the following ways: keeping employees equipped and having adequate public safety equipment.
- B. **FINANCIAL** As reported in my letter to the Mayor and City Council on February 4, 2023, the costs for aerial apparatus are significant. A new ladder truck (stock unit) is currently around \$1.6 million, with costs rising quarterly. We have conducted significant research and found good used ladder trucks ranging from \$500K to \$800K. Our best option that we have found to date is a 2009 Pierce Arrow with only 34K miles and 4671 hours on it for \$550,000. The truck is in Texas. However, the sale of this truck is on hold; another department is scheduled to look at the truck on Friday March 17th. If that deal falls through, I highly recommend sending someone down to look at it. Dusty Ballantyne is a good resource for us and is currently aiding in our search. He can provide a site visit, inspection, and testing for a reasonable rate of approximately \$1000 per day and anticipates a maximum of two days to provide that service. Mr. Ballantyne is very knowledgeable and available to travel, inspect, and provide testing for apparatus that we are serious about purchasing.

Additional cost considerations are transportation charges, radios, paint (if needed), and decaling. Options for transportation include using a delivery company (truck and trailer) or sending two staff members to drive an apparatus back to Ontario from its location. I recommend approving an amount not to exceed \$800,000 for a quality used ladder truck. I am confident that we can find a good ladder truck for less than \$800,000, even

when accounting for transportation, radios, paint, inspection, and testing.

City staff have worked diligently to find grants for a ladder truck for several years. Federal grant awards are scarce and only provide a small number of ladder trucks each year nationwide. Our latest attempt has been in cooperation with Merchant McIntyre to obtain federal earmarks through Federal legislation. If awarded, Merchant McIntyre informed us that, based on population, the City of Ontario's match would be 45%. For example, the City of Ontario's funding match for a \$1.6 million dollar ladder truck would be \$720,000.

If a quality used ladder truck is found, we could use resources such as interfund loans (with interest) to purchase the equipment. There are a few different options for the payback of the loan.

- C. **TIMING** Given the current number of buildings that will require aerial apparatus in the event of a fire, timing is critical. Ontario Fire and Rescue personnel will require time to train on an aerial apparatus when one is acquired.
- D. **POLICY/LEGAL** This action requires City Council approval.

ALTERNATIVES:

Do not purchase a ladder truck at this time and rely on mutual aid ladder truck resources.

RECOMMENDATION:

Staff recommends the city pursue the purchase of a used ladder truck not to exceed \$800,000.

ATTACHMENTS:

None



**AGENDA REPORT
OLD BUSINESS
March 14, 2023**

To: Mayor and City Council

FROM: Jeremy Green, City Attorney

THROUGH: Danny K. Cummings, City Manager

SUBJECT: ORDINANCE #2820-2023: NUISANCE ORDINANCE

DATE: March 10, 2023

PROPOSED MOTION:

I MOVE THE CITY COUNCIL TO APPROVE ORDINANCE #2820-2023, AN ORDINANCE SUPERSEDING AND REPLACING TITLE 7, CHAPTER 1, 2, AND 2A OF THE ONTARIO MUNICIPAL CODE IN ITS ENTIRETY, COMMONLY KNOWN AS THE "ONTARIO NUISANCE ORDINANCE," WHICH TITLE 7, CHAPTER 1, 2 AND 2A ESTABLISHED DEFINITIONS OF NUISANCE, PENALTIES, AND PROCEDURES FOR ABATEMENT OF NUISANCES IN CITY OF ONTARIO; SUPERSEDING AND REPLACING ALL CITY ORDINANCES, RESOLUTIONS, AND/OR POLICIES IN CONFLICT WITH THIS ORDINANCE.

SUMMARY:

The Ontario City Council (the "Council") has determined that Title 7, Chapters 1, 2, and 2A of the Code is outdated, difficult to administer, and must be amended. By adoption of this Ordinance #2820-2023, the Council hereby supersedes and replaces Title 7, Chapters 1, 2, and 2A of the Code in its entirety.

BACKGROUND:

Title 7, Chapters 1, 2, and 2A of the Ontario Municipal Code (the "Code"), commonly known as the Ontario Nuisance Ordinance, establishes definitions of nuisance and certain penalties and procedures for abatement of nuisance. The Council has determined that Title 7, Chapters 1, 2, and 2A of the Code is outdated, difficult to administer, and must be amended,

The Council finds and declares that conditions tending to (a) reduce the value of private property, (b) promote blight and deterioration, (c) create a hazard to the health and safety of minors, and (d) create a harborage for pests that may be injurious to public health, safety, and general welfare and by adoption of this Ordinance #2820-2023, the Council hereby supersedes and replaces Title 7, Chapters 1, 2, and 2A of the Code in its entirety.

CURRENT SITUATION:

The Ordinance Committee created by the City Council has worked diligently with the City Attorney and has given their final approval of the ordinance and sent a recommendation to the City Council to approve Ordinance #2820-2023.

The City Attorney is available for comments and questions.

ANALYSIS:

- A. **STRATEGIC PLAN** None.
- B. **FINANCIAL** None.
- C. **TIMING** Adoption of this ordinance will allow the city to address the issues the city has been facing.
- D. **POLICY/LEGAL** The City Council is the governing body that approves city code.

ALTERNATIVES:

None offered.

RECOMMENDATION:

Staff recommends the City Council approve Ordinance #2820-2023

ATTACHMENTS:

- 1. Ord #2820-2023 Nuisance Ordinance (01471944-4xB6300)
- 2. Nuisance Notice (01547673xB6300)
- 3. Placard - Warning (01547889xB6300)

After recording, return to:
City of Ontario
Attn: City Recorder
444 SW 4th Street
Ontario, OR 97914



ORDINANCE NO. 2820-2023

AN ORDINANCE SUPERSEDING AND REPLACING TITLE 7, CHAPTERS 1, 2, AND 2A OF THE ONTARIO MUNICIPAL CODE IN ITS ENTIRETY, COMMONLY KNOWN AS THE “ONTARIO NUISANCE ORDINANCE,” WHICH TITLE 7, CHAPTERS 1, 2, AND 2A ESTABLISHED DEFINITIONS OF NUISANCE, PENALTIES, AND PROCEDURES FOR ABATEMENT OF NUISANCES IN CITY OF ONTARIO; SUPERSEDING AND REPLACING ALL CITY ORDINANCES, RESOLUTIONS, AND/OR POLICIES IN CONFLICT WITH THIS ORDINANCE

- WHEREAS,** Title 7, Chapters 1, 2, and 2A of the Ontario Municipal Code (the “Code”), commonly known as the Ontario Nuisance Ordinance, establishes definitions of nuisance and certain penalties and procedures for abatement of nuisances; and
- WHEREAS,** the Ontario City Council (the “Council”) has determined that Title 7, Chapters 1, 2, and 2A of the Code is outdated, difficult to administer, and must be amended; and
- WHEREAS,** the Council finds and declares that conditions tending to (a) reduce the value of private property, (b) promote blight and deterioration, (c) create a hazard to the health and safety of minors, and (d) create a harborage for pests may be injurious to the public health, safety, and general welfare; and
- WHEREAS,** by adoption of this Ordinance No. 2820-2023, the Council hereby supersedes and replaces Title 7, Chapters 1, 2, and 2A of the Code in its entirety.

NOW, THEREFORE, the City of Ontario ordains as follows:

1. Findings. The above-stated findings are hereby adopted.
2. Short Title. This Ordinance No. 2820-2023 will be known as the “Nuisance Ordinance” and will be cited and referred to herein as this “Ordinance.”
3. Nuisance Definitions, Penalties, and Procedures for Abatement Established. City hereby establishes the nuisance definitions, penalties, and procedures for nuisances and nuisance abatement set forth in the attached Exhibit A (which Exhibit A will be deemed part of this Ordinance).
4. Supersede and Replace. This Ordinance supersedes and replaces Title 7, Chapters 1, 2, and 2A and (a) City may continue the prosecution, conviction, and/or punishment of any person who has or is in violation of Title 7, Chapters 1, 2, and 2A and/or Title 4, Chapter 3 of the Code as of the effective date of this Ordinance.
5. Interpretation; Severability; Errors. All pronouns contained in this Ordinance (and any variations thereof) will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word “or” is not exclusive. The words “include,” “includes,” and “including” are not limiting. Any reference to a particular law, rule, regulation, code, or ordinance includes the law, rule, regulation, code, or ordinance as now in force and hereafter

amended. The provisions of this Ordinance are hereby declared to be severable. If any section, subsection, sentence, clause, and/or portion of this Ordinance is for any reason held invalid, unenforceable, and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and (b) not affect the validity, enforceability, and/or constitutionality of the remaining portion of this Ordinance. This Ordinance may be corrected by order of the Council to cure editorial and/or clerical errors.

PASSED AND ADOPTED by the City Council of the City of Ontario this _____ day of March, 2023, by the following vote:

AYES:

NAYES:

ABSENT

APPROVED by the Mayor this _____ day of March, 2023.

Deborah K. Folden, Mayor

ATTEST:

Tori Barnett, MMC, City Recorder

Exhibit A
Nuisance Definitions, Penalties, and Procedures for Abatement

1. Definitions. Unless the context requires otherwise, the following terms and phrases have the meanings assigned to them below:

“Abandoned Structure(s)” means a vacant Building or Structure that is an Attractive Nuisance.

“Abate” or “abatement” means the removal, remediation, and/or correction of conditions deemed a violation of this Ordinance and/or completion of improvements needed to effect a rehabilitation of the subject property consistent with maintaining safe and habitable conditions.

“Ash(es)” means the residue of the combustion of solid fuels.

“Attractive Nuisance(s)” means Buildings, Structures, and/or Premises that is/are in an Unsecured, derelict, and/or dangerous condition so as to potentially constitute an attraction to minors, vagrants, criminals, and/or other unauthorized persons, and/or enable persons to resort thereto for the purpose of committing an unlawful act.

“Boarded” means the securing of an Unoccupied Building or Structure against entry by placement of material such as plywood, boards, and/or other similar material over openings (e.g., windows, doors, etc.).

“Building(s)” means any Structure designed for habitation, shelter, storage, trade, manufacture, business, education, and/or other similar purposes.

“Building Code” means the specialty building, plumbing, electrical, structural, and other codes applicable within City.

“Building Official” means the Building Code administrator (or his or her designee).

“Bulk Solid Waste(s)” means discarded bedding, mattresses, furniture, Junk, Yard Debris, uprooted tree stumps, demolition or construction debris, and/or other non-putrefactive and nonhazardous materials not placed in a Container, or too large to be placed in a Container.

“City” means City of Ontario, an Oregon municipal corporation.

“City Manager” means City’s then-appointed city manager (or his or her designee).

“Code” means City’s municipal code and ordinances, including, without limitation, the Building Code.

“Container(s)” means any container approved by the City Manager for storage of Solid Waste.

“Corrosive Substance(s)” means any salt and/or other substance which has a corrosive effect.

“Council” means City’s then-elected legislative body.

“Deterioration” means a lowering in the quality, condition, and/or appearance of a Building or Structure, characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting, and/or any other evidence of physical decay, neglect, excessive use, and/or lack of maintenance.

“Derelict Structure(s)” means a Building or Structure that is Unfit for Human Habitation, poses an Imminent Hazard, and/or is detrimental to public health, safety, and/or general welfare due to one or more of the following conditions: (a) is Unoccupied and Unsecured; (b) is Partially Constructed; (c) is an Abandoned Structure or Attractive Nuisance; (d) in a condition of Deterioration; and/or (e) has an Infestation of Pests.

“Dry Vegetation” means dry vegetation, including, without limitation, grass, weeds, and/or shrubs, that may be a fire hazard.

“Dwelling Unit(s)” or “Dwelling(s)” means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation. As used in this Ordinance, “Dwelling Unit” or “Dwelling” includes, without limitation, as the context requires, single family dwellings, duplexes, triplexes, condominiums, mobile homes, multi-family dwellings, and single units therein.

“Extermination” means the control, elimination, and removal of Pests by one or more of the following: (a) eliminating harborage places; (b) removing or making inaccessible materials that serve as food; (c) poison spraying, fumigating, and/or trapping, and/or (d) any other Pest elimination method approved by the City Manager.

“Food Waste(s)” means all waste from meats, fish, shellfish, grains, fruits, and/or vegetables which attends or results from the storage, preparation, cooking, handling, selling, and/or serving of food for human consumption. “Food Waste(s)” includes, without limitation, excess, spoiled, and/or unusable food or dairy products, meats, fish, shellfish, grains, fruits, vegetables, breads and dough, incidental amounts of edible oils, and organic waste from food processing. “Food Waste(s)” does not include large amounts of oils and meats which are collected for rendering, fuel production, and/or other reuse applications and/or dead animals not intended for human consumption or animal excrement.

“Fowl” means a duck, goose, chicken, pigeon, parrot, and other like bird.

“Garbage” means all classes of putrefactive and easily decomposable animal and vegetable matter, including, without limitation, wastes produced from the handling and preparation of food, and containers originally used for foodstuffs.

“Hazardous Thicket(s)” means vines or other thickets that (a) conceal trash, debris, or Junk, (b) create a harborage for people involved in criminal activity and/or products used for unlawful activity, and/or (c) encroach upon the public right-of-way and/or private property of another in a manner that may be hazardous.

“Hearings Officer” means the person or persons appointed by the City Council to serve as the nuisance enforcement hearings officer.

“Imminent Hazard(s)” means any condition of Deterioration that places public health, safety, and/or welfare in high risk of peril, when the peril is immediate, impending, and/or on the point of happening.

“Indoor Fixture(s)” means any item that is designed for use indoors and/or otherwise protected from environmental elements, including, without limitation, heating, plumbing, and electrical fixtures.

“Indoor Furnishing(s)” means any item that is designed to be used indoors and/or otherwise protected from environmental elements, including, without limitation, upholstered furniture, indoor appliances, and indoor carpet.

“Infestation(s)” or “Infested” means the presence of Pests in large numbers that are harmful or bothersome within or adjacent to a Building or Structure or upon a Premises.

“Junk” means articles of personal property that have outlived their usefulness in their original form, or articles of personal property that have been discarded and are no longer used for their manufactured purpose, regardless of value. “Junk” includes, without limitation, the following: (a) derelict motor vehicle (i.e., any used motor vehicle without a vehicle license or with an expired license); (b) neglected motor vehicle (i.e., any motor vehicle that is missing critical parts required for the normal and legal operation of the vehicle, but has all of its body parts intact, including fenders, hood, trunk, glass, and tires); (c) wrecked motor vehicle (or part thereof) (i.e., any motor vehicle that is dismantled or partially dismantled, or has a broken or missing window or windshield, or lacks a wheel or tire); (d) machinery (or parts thereof) that are inoperative, worn out, and/or in a state of disrepair; (e) appliances (or parts thereof) that are inoperative, worn out, and/or in a state of disrepair; (f) worn out or

dilapidated Indoor Fixtures or Indoor Furnishings (or parts thereof); (g) Bulk Solid Waste; and/or (h) Solid Waste items that are of a type or quantity inconsistent with normal and usual use such as wood, metal, scrap, and/or other similar items.

“Keep” or “Keeping” means to provide food or shelter of a permanent or semi-permanent nature.

“Legally Occupied” means the use and Occupancy of a Premises for a purpose authorized by law. A Premises will be considered “Legally Occupied” if the Premises is maintained in good order, is temporarily vacant, and the Owner is seeking, in good faith, to Let the Premises.

“Let for Occupancy” or “Let” means to permit, provide, or to offer possession or Occupancy of a Dwelling Unit, Building, Structure, or Premises pursuant to a lease, permit, agreement, or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

“Livestock Animal(s)” means a horse, cow, mule, sheep, goat, hog, potbellied pig, and/or any variation of pigs, and/or other like animal, but not including a dog, cat, household pet, rabbit, and/or other like animal.

“Noxious Vegetation” means (a) weeds more than ten (10) inches in height, (b) grass more than ten (10) inches in height, (c) dead Dry Vegetation or Rank Vegetation, (d) poison oak, poison hemlock, and poison ivy, (e) Hazardous Thickets, (f) puncturevine or “goathead” and all noxious weeds, regardless of height, identified in Malheur County’s noxious/invasive weed list, and/or (g) other rank, noxious, and/or dangerous vegetation that is a health, fire, and/or traffic hazard because it impairs the view of a public right-of-way (including, without limitation, all traffic signs and signals, street light and/or name signs), obstructs access of the public right-of-way, and/or otherwise makes use of the public right-of-way hazardous and/or creates a fire hazard to the public right-of way and/or other property. “Noxious Vegetation” does not include agriculture crops, endangered riparian grasses that have not come to seed, and/or wet land grasses that are neither a fire nor a traffic hazard.

“Occupancy” means the purpose for which a Building, Structure, or Premises is used or intended to be used.

“Occupant(s)” means any person living or sleeping in a Building or Structure, or having possession of a space within a Building or Structure or possession of a Premises.

“Owner(s)” means (a) the Person recorded in the official records of the state, county, or City as holding title to Premises, (b) any Person who has purchased or otherwise acquired a Premises but whose ownership is not yet reflected in the official records of the state, county, or City, (c) a trustee, executor, administrator, guardian, or mortgagee in possession and having control of the Premises, (d) a Person who has care and control of a Premises in the case of the absence or disability of the Person holding title thereto, and/or (e) a lessee, tenant, or licensee in possession.

“Partially Constructed” means an occupied or vacant Building or Structure that has been left in a state of partial construction for more than six months, or that has not been completed prior to the expiration of any building permit.

“Person(s)” means a natural person, partnership, corporation, limited liability partnership, limited liability company, co-operative, governmental entity, association, and/or other entity in law or fact.

“Pest(s)” means animals detrimental to humans or human concerns including, without limitation, insects, rodents, rats, or vermin.

“Premise(s)” means a lot, or parcel of land, including any Buildings or Structures located thereon.

“Private Place” means any place other than a Public Place.

“Public Place” means a building, way, place, and/or accommodation, whether publicly or privately owned, open and available to the general public.

“Rank Vegetation” means any vegetation existing in a state of uncontrolled growth or without commonly recognized vegetation maintenance or management practices applied.

“Remediation” means the elimination and/or correction of a condition, including, without limitation, repair, replacement, restoration, and/or removal.

“Rubbish” means worthless, discarded material, including, without limitation, cardboard, plastic, glass, paper, rags, sweepings, wood, rubber, leather, and similar waste materials that ordinarily may accumulate on a Premises.

“Skilled Manner” means executed in a proper manner, consistent with generally accepted standards of construction and maintenance (e.g., generally plumb, level, square, in line, undamaged, without marring adjacent work).

“Solid Waste(s)” means all waste, in solid, semisolid, and/or liquid form, including, without limitation, the following: (a) Garbage, Rubbish, trash, Ashes, street refuse, waste paper, corrugated material, and cardboard; (b) commercial, industrial, demolition, and construction wastes; (c) Food Waste; (d) small dead animals; (e) infectious waste as defined in ORS 459.386(4); and (f) other wastes. “Solid Waste(s)” does not include sewage, sewage sludge, and/or sewage hauled as an incidental part of a septic tank or cesspool cleaning service or materials that are used for fertilizer, for compost or composting, and/or for other productive agricultural or horticultural purposes.

“Structure(s)” means (a) that which is built or constructed, (b) an edifice or Building of any kind, including mobile or manufactured homes and mobile outbuildings, and/or (c) any work that is built up as an addition to or fixture on a Premises.

“Unfit for Human Habitation” means a Building or Structure the City Manager determines in disrepair or suffers from lack of maintenance, is unsanitary, is Pest Infested, contains filth and contamination, and/or lacks Ventilation, illumination, sanitary, and/or heating facilities, such that habitation would be injurious to the health, safety, and/or welfare of the Occupant(s).

“Unoccupied” means not Legally Occupied.

“Unsecured” means unlocked and/or otherwise open to entry.

“Ventilation” means the natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

“Waste Tire(s)” means a tire not suitable for its original intended purpose because of wear, damage, or defect.

“Wild or fur-bearing animal(s)” means all wild animals, and other animals raised for the fur, such as chinchillas, mink, snakes, wolves, and other similar animals, exotics, and hybrids.

“Wholly enclosed” means a Building or Structure containing a roof and having four exterior walls (which may be pierced only by windows, vents, and/or customary entrances and exits) constructed in a manner as to obscure from a person’s view from any street or adjacent property the contents within the Building or Structure.

“Yard Debris” means all vegetative waste generated from property maintenance and/or landscaping activities, including, without limitation, grass clippings, leaves, hedge trimmings and small tree branches, but excluding tree stumps and other similar bulky woody materials.

Where terms are not defined in this Ordinance and are defined in the state building, plumbing, and/or mechanical codes, such terms will have the meanings assigned to them in those codes. Terms not otherwise defined in this Ordinance or in the state building, plumbing, and/or mechanical codes will have ordinarily accepted

meanings. Whenever the words “Dwelling Unit,” “Dwelling,” “Premises,” “Building,” or “Structure” are used in this Ordinance, they will be construed as though they were followed by the words “or any part thereof.”

2. Scope; Intent; Application.

2.1 Scope of Ordinance. The provisions of this Ordinance are intended to protect the public health, safety, and general welfare by (a) regulating existing Buildings, Structures, and Premises, whether residential or nonresidential, (b) establishing minimum requirements and standards for Buildings, Structures, and Premises for protection from the elements, life safety, hazards, and for safe and sanitary maintenance, (c) identifying responsibility of Owners and Occupants, and (d) administration, enforcement, and penalties.

2.2 Intent. The provisions of this Ordinance will be construed to secure and ensure public health, safety, and general welfare insofar as they are affected by the continued Occupancy and maintenance of Buildings, Structures, and/or Premises. Existing Buildings, Structures, and Premises that do not comply with the provisions of this Ordinance will be altered, repaired, improved, and/or remediated to provide a minimum level of health, safety, and maintenance as required herein.

2.3 Application; Responsibility. Nothing in this Ordinance will be construed to relieve a Person from complying with any federal, state, and/or local laws, regulations, and/or ordinances, including any other provisions of the Code, and/or the requirement to obtain all necessary permits and approvals. Unless otherwise provided, the City Manager is responsible for the enforcement of all provisions of this Ordinance. The City Manager may appoint such officers, technical assistants, inspectors, consultants, contractors, and/or employees as necessary or appropriate for administration of this Ordinance. Without otherwise limiting the immediately preceding sentence, the City Manager is authorized to designate and delegate all the City’s Manager’s authority under this Ordinance to another City employee during the City Manager’s temporary absence or disability. Where conditions or prohibitions under this Ordinance are regulated by the Building Code, the Building Official will be responsible for making such determination and taking appropriate action as provided therein.

2.4 Modifications; Failure to Obey. Where there are extreme hardships involved in carrying out the provisions of this Ordinance, the City Manager will have the right to vary or modify such provisions upon application of an Owner or Occupant, provided that the intent of the law is observed and that the public health, safety, and general welfare is assured. It is unlawful for any Person to refuse to obey any City Manager order issued in the discharge or apparent discharge of the City Manager’s duties under this Ordinance. It is no defense to a prosecution for a violation of this Ordinance that the City Manager lacked legal authority to issue the order, provided the City Manager was acting under color of official authority.

3. Maintenance and Repairs.

3.1 Required Maintenance. All systems, devices, and safeguards required under this Ordinance or by a previous statute or code applicable to the Building, Structure, and/or Premises at the time the Building, Structure, and/or Premises was erected or altered will be maintained in good working order, thus insuring the health and safety of all inhabitants.

3.2 Skilled Work Required. All repairs, maintenance work, alterations, improvements, and/or installations which are caused directly or indirectly by enforcement of this Ordinance will be executed and installed in a Skilled Manner.

4. Junk.

4.1 Outside Storage Prohibited. Unless otherwise specifically allowed by law, it is unlawful to store items of personal property out-of-doors or outside of a Building or Structure that is not Wholly Enclosed.

4.2 Outside Storage Exceptions. Notwithstanding the prohibition under Section 4.1, the following items of personal property may be stored outside of a Building or Structure: (a) firewood that is stacked and useable (i.e., “useable” firewood is wood that is not rotted and cut to lengths intended to fit a lawful fireplace

or wood stove on the subject Premises); (b) construction material if the construction material is (i) stored in a manner intended to protect its utility and prevent Deterioration, and (ii) the construction material is reasonably expected to be used for construction on the subject Premises; (c) open storage of materials directly associated with the primary activity of a business if (i) the business is a permitted, special, or conditional use within any commercial or industrial zone, and (ii) the materials are safely stacked, bundled, or otherwise source-separated and remain in the stream of commerce with an articulable future use; and/or (d) all other items of personal property which are of a type, condition, and quantity consistent with their normal and intended use (e.g., barbeque grills, lawn furniture, and Solid Waste disposal Containers).

4.3 Keeping Junk Prohibited. No Person will deposit or Keep Junk within a public right-of-way or out-of-doors on any Premises within City or in a Structure that is not Wholly Enclosed.

4.4 Keeping Junk Exceptions. Notwithstanding the prohibition under Section 4.3, the following Junk may be deposited or kept out-of-doors on Premises within City: (a) any wrecked, neglected, and/or derelict motor vehicle (or parts thereof) kept in a motor vehicle wrecking business licensed by City; (b) any derelict or neglected motor vehicle displayed by a business offering new and used motor vehicles for sale in a commercial or industrial zone; (c) any wrecked motor vehicle stored outside an approved enclosure at a business offering "motor vehicle repair" as defined in the Standard Industrial Classification Manual as Industry Group No. 753, provided that no more than eight vehicles in an industrial zone or four vehicles in a commercial zone will be kept outside of an approved enclosure at any one time; (d) any neglected and/or derelict vehicle stored at a business offering "motor vehicle repair" as defined in the Standard Industrial Classification Manual as Industry Group No. 753; (e) recyclable Solid Waste that has been source separated and collected in conformance with this Ordinance; (f) "recyclable materials" or "source separated" Solid Waste kept at a scrap and waste material establishment as defined in the Standard Industrial Classification Manual as Industrial Group No. 5093, operating in compliance with all applicable laws and where the materials or Solid Waste are enclosed by a sight obscuring fence or otherwise stored in a manner conforming with applicable zoning ordinances or in a Container; and/or (g) any Waste Tire kept for storage, collection, transportation, and/or disposal by a Person licensed for that purpose by the State of Oregon.

4.5 Abatement of Junk Motor Vehicles. Abatement of Junk motor vehicles from private or public property is subject to the abatement provisions of this Ordinance.

5. General Exterior Building and Structure Maintenance.

5.1 General Maintenance and Repair. The exterior of Buildings and Structures will be maintained in good repair so as not to be in a state of Deterioration, and in a sanitary condition so as not to pose a threat to the public health, safety, and/or general welfare.

5.2 Exterior Surfaces. All wood and metal surfaces, including, without limitation, window frames, doors, door frames, cornices, porches, siding, and trim on Buildings and Structures, will be maintained in good condition so as not to be in a state of Deterioration.

5.3 Street Numbers. Each Building or Structure to which a street number has been assigned will have the street number displayed in a position adjacent to or directly above the Building's or Structure's main entrance and on the side of the Building or Structure closest to and easily observed and readable from the public right-of-way of the street (i.e., the street which is the Building's or Structure's address of record). All numbers will be in numerals, at least four inches high and one-half inch stroke for residential Buildings and Structures and six inches high and one-half inch stroke for commercial Buildings and Structures.

5.4 Foundation Walls. All foundation walls will be maintained free from large open cracks and breaks and will be kept in such condition to prevent the entry of Pests.

5.5 Exterior Walls and Windows. All Building and Structure exterior walls will be free from holes, breaks, and/or loose or rotting materials and will be maintained in good condition so as not to be in a state of Deterioration. The use of tarps or similar material for emergency repair will not exceed three months in any

two-year period. Every window, door, and frame will be kept in sound condition, good repair, and weather tight. Where windows and doors have been sealed by plastic or other materials for weather proofing, the materials will be maintained in a Skilled Manner. Any window and door screens will be maintained in a Skilled Manner.

5.6 Roofs and Drainage. Roof and flashing will be sound, tight, and not have defects that admit rain into the Building or Structure. Roof drainage will be adequate to prevent dampness or Deterioration in the walls or interior portion of the Building or Structure. Roof drains, gutters, and down spouts will be free from obstructions and maintained in good repair so as not to be in a state of Deterioration. Any non-residential Building or Structure having originally been designed for and fitted with gutters and downspouts will continuously be maintained with such devices, in proper working condition, and maintained so as not to be in a state of Deterioration. The use of tarps or similar material for emergency repair will not exceed three months in any two-year period.

5.7 Decorative Features. All cornices, belt courses, corbels, terra cotta trim, wall facings, and similar decorative features on a Building or Structure will be maintained in good repair with proper anchorage and in a safe condition so as not to be in a state of Deterioration. When any non-residential Building or Structure is found to be missing a decorative feature, the City Manager may require the missing decorative feature to be replaced with a similar material of similar size, shape, color, and texture.

5.8 Accessory Structures. All accessory sheds, fences, walls, and other similar structures will be erected in a Skilled Manner and maintained in a structurally sound condition and in good repair so as not to be in a state of Deterioration. Accessory structures covered by the Building Code will fall under the jurisdiction of the Building Official.

6. Derelict Structures.

6.1 Derelict Structures Prohibited. Derelict Structures on any Premises are hereby declared to be a public nuisance and violation of this Ordinance.

6.2 Order to Vacate Buildings or Structures. If the City Manager determines that a Building or Structure is in violation of Section 6.1, the City Manager may order that a placard be posted on the Building or Structure (containing the information required under Section 10.3) and order that (a) the Building or Structure be vacated, and/or (b) the Owner register the Building or Structure under Section 7.1. The Owner and/or Occupant may appeal the City Manager's order under Section 12.1.

6.3 Prohibited Habitation. No Person (which includes any Occupant) will inhabit a Derelict Structure or Building or a Building or Structure ordered vacated by the City Manager. No Owner will allow any Person to inhabit a Derelict Structure or Building or a Building or Structure ordered vacated by the City Manager.

6.4 Removal of Placard Prohibited. The City Manager will remove a placard whenever the conditions causing the order to vacate the Building or Structure have been eliminated. No Person will deface or remove a placard without approval of the City Manager.

6.5 Temporary Safeguards. Notwithstanding any other provision contained in this Ordinance providing otherwise, if the City Manager determines that a Building or Structure poses an Imminent Hazard, the City Manager may order and/or cause to be performed any necessary or appropriate work (including, without limitation, fencing the subject Premises, boarding openings, and/or other abatement) to render the Building or Structure temporarily safe and secure, whether or not proceedings to abate the hazard have been instituted. In addition to temporary safeguards, the Owner and/or Occupant will cause all other actions to be taken that the City Manager deems necessary or appropriate to render the Building or Structure temporarily safe and secure.

7. Derelict Structure Registration and Fees.

7.1 Registration. If the City Manager determines that a Building or Structure is a Derelict

Structure, the Owner must register the Building or Structure within ten (10) days after the City Manager's issuance of an order to register. Registration will be made on forms provided by the City Manager. Information required to be provided on the registration form will include, among other things, identification of the Derelict Structure's location and ownership, expected duration of vacancy, Owner's plan for regular maintenance during the period of vacancy, a plan for the Derelict Structure's re-Occupancy and use, and Owner's Remediation (or demolition) plan. Any change in the information required to be provided under this Section 7.1 will be given to the City Manager no more than thirty (30) days after the date of such change. When all conditions creating the Derelict Structure have been corrected (remediated), the Owner will contact the City Manager and request an inspection to determine compliance.

7.2 Derelict Structure Fees. An Owner who, after receipt of the order under Section 7.1, fails to register the Derelict Structure within the required time set forth in the order, or registers the Derelict Structure but allows the Derelict Structure to remain in a derelict condition, will pay a monthly Derelict Structure fee (which fee will be established by Council resolution from time to time). Payment of the fee is due on the fifteenth (15th) day each month. Any payment that is more than thirty (30) days past due will be considered delinquent and subject to a penalty of \$100.00. If any fee is delinquent for more than ninety (90) days, or if the Owner fails to timely register the Derelict Structure, the city attorney, on request of the City Manager, may file an action in the Malheur County Circuit Court for recovery of all delinquent fees and penalties due under this Section 7.2. All fees imposed under this Section 7.2 must be paid prior to issuance of any permit required for the demolition, alteration, or repair of the Derelict Structure. Notwithstanding anything contained in this Section 7.2 providing otherwise, the City Manager may, upon a showing by the Owner of undue economic hardship, (a) defer payment of the fees imposed under this Section 7.2 on an Owner-occupied residential Building or Structure deemed a Derelict Structure, and (b) issue a permit for the demolition, alteration, or repair of the Derelict Structure.

7.3 Refund of Derelict Structure Fees. The City Manager will refund Derelict Structure fees imposed under Section 7.2 if the following conditions are met: (a) a timetable for Remediation of the conditions or demolition of the Derelict Structure has been submitted by the Owner and approved by the City Manager; (b) all required permits have been obtained for repair or demolition of the Derelict Structure; (c) Remediation of the conditions or demolition of the Derelict Structure is completed within the time set forth in the permits or any approved extension; and (d) the Owner has provided written authorization for City to enforce all applicable trespass and illegal camping ordinances, if any, and laws.

8. Remediation.

8.1 Remediation Order. In addition to, and not in lieu of, the abatement remedies provided under Section 11 of this Ordinance and receivership authority under Section 13.4, the City Manager may file notice with the police department to set a public hearing before the Hearings Officer to seek an order for Remediation of the conditions creating a Derelict Structure.

8.2 Remediation Hearing Notice. Upon the police department's receipt of the hearing notice, the police department will set the matter for prompt public hearing before the Hearings Officer and will, no less than fifteen (15) days prior to the hearing, cause notice to be served in the manner provided under Section 10.4. Notice will also be posted on or near the Derelict Structure. Failure of the Owner(s) or Occupant(s) to receive notice or an error in the name or address of the Owner(s) or Occupant(s) will not render the notice void and in such case, the notice will be sufficient. Refusal to accept the registered or certified mail will not be deemed to, and will not, render the notice invalid.

8.3 Remediation Hearing. At the hearing, the City Manager will present whatever information, evidence, or testimony the City Manager may deem relevant to support of the City Manager's determination. During the hearing, the Owner(s) and Occupant(s) will be afforded an opportunity to rebut (or refute) the City Manager's determination. Any information, opinion, testimony, or evidence may be received which the Hearings Officer deems material, relevant, and probative of the matters in issue. The Owner(s) and Occupant(s) may represent themselves or be represented by legal counsel provided that such legal counsel is admitted to the practice of law in the State of Oregon.

8.4 Remediation Order. The Hearings Officer will order the conditions creating the Derelict Structure be remediated if the City Manager demonstrates, by a preponderance of the evidence, that the Building or Structure is a Derelict Structure. In determining whether the conditions are such that Remediation is necessary, the Hearings Officer will determine whether the Building or Structure is in a condition Unfit for Human Habitation, or in a condition that is an Imminent Hazard, based on the number and extent of the following factors: (a) dilapidation; (b) disrepair; (c) structural defects; (d) defects increasing hazards of fire, accident, and/or other calamity (e.g., parts standing or attached in such manner as to be likely to fall and cause damage or injury); (e) uncleanness or Infestations of Pests; (f) condition of sanitary facilities; (g) presence of a public nuisance; (h) history of unlawful activity in or around the Building or Structure; and/or (i) any other factors the Hearings Officer deems appropriate under the applicable circumstances.

8.5 Failure to Remediate Derelict Structure. If Remediation is not commenced and completed within the timeframe identified in the order for Remediation, the City may, in addition to all other rights and remedies provided under this Ordinance and applicable law, cause the Remediation to be performed and the cost thereof assessed as a lien against the Premises upon which the Derelict Structure is located. City's abatement may include, without limitation, demolition of the Derelict Structure, removal of property, and/or site cleanup. The cost of abatement and a twenty-five percent (25%) charge for administrative overhead will be assessed. If more than one Person is responsible for a nuisance, each responsible Person will be jointly and severally liable for correcting the violation and all costs and expenses incurred by City in abating the nuisance.

9. Miscellaneous Violations.

9.1 Pest Infestation Prohibited. All Premises will be kept free from Pest Infestation. Pest Infestations will be promptly exterminated in a manner that will not be injurious to human health. After Extermination, proper precautions will be taken to prevent re-Infestation.

9.2 Noxious Vegetation; Dry Vegetation Prohibited; Trees. No Owner will cause or permit Noxious or Rank Vegetation or Dry Vegetation upon Premises or in the right-of-way of a street abutting any Premises. In addition to, or in lieu of, any other enforcement action authorized by law, the City Manager may cause a violation of this Section 9.2 to be corrected in the same manner as a public nuisance pursuant to Section 11. No Owner of any Premises that abuts upon any street or sidewalk will permit trees or bushes on his or her Premises to interfere with street or sidewalk traffic. An Owner of Premises that abuts upon a street or sidewalk must Keep all trees and bushes on his or her Premises and on the adjoining parking strip trimmed to a height of no less than eight feet (8') above the sidewalks and no less than ten feet (10') above the streets. No Owner will allow to stand any dead or decaying tree that is a hazard to the public, persons, or property on or near the Owner's Premises.

9.3 Unenumerated Nuisances. The acts, conditions, and/or objects specifically enumerated and defined under this Ordinance are declared nuisances. Nuisances will be abated in accordance with this Ordinance. In addition to the nuisances specifically enumerated under this Ordinance, any condition, thing, substance, and/or act that is determined by the City Manager to be injurious or detrimental to the public health, safety, and/or general welfare is declared a nuisance and subject to the abatement procedures provided under this Ordinance, including, without limitation, Section 11.

10. Public Nuisances.

10.1 Public Nuisance Prohibited. A public nuisance is any thing, condition, and/or act which is or may become a detriment or menace to the public health, safety, and/or general welfare. No Person will cause, permit, and/or maintain a public nuisance on public or private property.

10.2 Specific Public Nuisances. The following are specifically declared to be public nuisances, which list is not exclusive:

10.2.1 Accumulation, exposure, and/or deposit of any Garbage, Rubbish, Bulk Solid

Waste, and/or Solid Waste on any public way or private street, alley, and/or lot, and/or into a stream, well, spring, brook, ditch, pond, river, and/or other inland waters within City, and/or the placing of such substances in such position that high water or natural seepage will carry the same into such waters.

10.2.2 Any physical condition of a Premises considered an Attractive Nuisance, including, without limitation, abandoned wells, shafts, basements (i.e., that portion of a Building or Structure which is partly or completely below grade), and unguarded machinery.

10.2.3 An abandoned, unattended, and/or discarded icebox, refrigerator, and/or other container accessible to children which has an airtight door or lock which may not be released for opening from the inside.

10.2.4 Dangerous pilings and unprotected excavations.

10.2.5 Any Premises that has unsanitary plumbing fixtures, or plumbing fixtures that permit the spillage of effluent outside of an approved sanitary sewer system, and/or the escape of sewer odors and gases.

10.2.6 Maintenance of Premises which are in such a state or condition as to cause an offensive odor.

10.2.7 Accumulation of feces or manure (whether in piles, heaps, and/or otherwise) unless enclosed in Containers capable of excluding flies and maintained in such a manner or condition that offensive odor is not emitted therefrom.

10.2.8 Burning of any Garbage, Rubbish, rubber, cloth, and/or any other thing, the burning of which, or the smoke emitted from such burning, creates an offensive odor.

10.2.9 Accumulation of stagnant water in which mosquitoes may breed.

10.2.10 Violation of Section 4 by Keeping more than five cubic yards of Junk on any residentially zoned property or by Keeping four or more neglected or wrecked motor vehicles on any residentially zoned property.

10.2.11 Violation of Section 6, "Derelict Structures." Violation of Section 9.1, "Pest Infestation." Violation of Section 9.2, "Noxious Vegetation."

10.2.12 Any Building or Structure that is in a condition that poses an Imminent Hazard.

10.3 Notice of Public Nuisance. If the City Manager has reasonable grounds to believe that a violation of Section 10.1 has occurred, a notice of public nuisance and order will be served to the Owner(s) and Occupant(s), if any, in any manner provided under Section 10.4. A notice of public nuisance and order will be in writing (English and Spanish) and include the following information: (a) description of the Premises sufficient for identification; (b) a short and plain statement of the reason(s) why the notice and order is being issued; (c) a correction order allowing a reasonable time for the repairs and improvements required to bring the Premises into compliance with this Ordinance; (d) a statement that City may abate the nuisance pursuant to this Ordinance and that the Person responsible will be responsible for the costs and expenses of such abatement; (e) a statement of the right to appeal the notice of public nuisance and order; (f) a short and plain statement of the appeal procedure; and (g) a statement that if a notice of appeal is not filed within the time allowed, the Person will have waived the right to review of the notice of public nuisance and order.

10.4 Method of Service. Any notice (including orders) required under this Ordinance will be (a) personally delivered to the Owner(s) and Occupant(s), if any, (b) sent to the Owner(s) and Occupant(s), if any, by first class mail to their last known residence or business address, or (c) posted at the Premises. Any notice issued in substantial compliance with this Section 10.4 will be effective from and after the date the notice is issued. All notices served in accordance with this Section 10.4 will be considered served (delivered) on the date of

personal service or posting or three days after the date of mailing. Failure of the Owner(s) or Occupant(s) to receive such notice or an error in the name or address of an Owner(s) or Occupant(s) will not render the notice void (i.e., the notice will be sufficient). Refusal to accept any notice provided under this Ordinance via registered or certified mail will not be deemed to, and will not, render the notice invalid.

10.5 Recording Violation. City may record a notice of violation with the Malheur County Clerk. Failure to record a notice of violation will not affect the validity of the notice as to Persons who receive the notice. If a notice of violation is recorded, a satisfaction of notice of violation will be recorded if and when the Premises is brought into compliance.

11. City Abatement and Procedures.

11.1 City Abatement. If the nuisance or other Ordinance violation has not been abated within the time prescribed by the abatement order, the City Manager may cause the nuisance or violation to be abated or corrected. The City Manager, or a person authorized by the City Manager, may enter upon the Premises to abate or correct the violation or nuisance. The City Manager will maintain an accurate record of costs and expenses incurred correcting the nuisance or violation and will include an administrative overhead fee in an amount of twenty percent (20%) of the actual cost and expense of correction.

11.2 Abatement Procedures - Assessment of Costs. After City's abatement, the police department will send to the Owner(s) and Occupant(s) a notice (billing notice) identifying the total cost and expense of abatement, including the administrative overhead fee. If the total cost and expense of abatement and administrative overhead are not paid within thirty (30) days after notice, the police department will file with the Hearings Officer an itemized statement of costs and expenses and administrative overhead fee and set the matter for public hearing. The police department will notify the Owner(s) and Occupant(s) of the public hearing no less than ten (10) days before the scheduled hearing.

11.3 Hearing – Cost Assessment. The Hearings Officer will review the itemized statement and declare the correctness of such statement. The amount determined correct by the Hearings Officer will be assessed and declared a lien against the subject Premises. Interest on the amount of assessment due will accrue interest at the rate of nine percent (9%) per annum from the date the lien is recorded.

11.4 Summary Abatement. The abatement procedures provided under this Ordinance is not exclusive. City may use any other procedures for abatement authorized by law. The general procedures set forth under this Ordinance may be used in conjunction with other abatement actions or procedures. Collection of abatement costs, fees, and penalties are in addition to any other remedies, civil or criminal, available to City under applicable law.

12. Appeals.

12.1 City Manager Reconsideration. Any Person affected by a notice or order of the City Manager (or Building Official) under this Ordinance may request reconsideration by filing a request with the City Manager. The request must be received by the City Manager within ten (10) days after the effective date of the notice or order. The request for reconsideration must be in writing and include (a) the name, address, and telephone number of the Person requesting reconsideration, (b) a copy of the notice or order being requested for reconsideration, and (c) a statement that the Person desires that the City Manager reconsider the notice or order. The City Manager may grant or deny the request for reconsideration by summary order. The City Manager's response to the request for reconsideration must be served in accordance with Section 10.4.

12.2 Appeal to Hearings Officer.

12.2.1 Any Person affected by a notice or order of the City Manager (or Building Official) may appeal the notice or order to the Hearings Officer by filing a notice of appeal with the police department, subject to the provisions of this Section 12.2. A Person will not file an appeal with the Hearings Officer unless and until the Person has filed a request for City Manager reconsideration under Section 12.1 (and, if

applicable, the City Manager has responded to the request for reconsideration). Filing a notice of appeal will stay all proceedings for abatement until final disposition of the appeal.

12.2.2 The notice of appeal must be filed within ten (10) days after the date the City Manager's response to the request for reconsideration is delivered to the Person. A copy of the notice of appeal to the Hearings Officer must be filed with the City Manager. A notice of appeal that is filed after the period provided for filing an appeal will be dismissed by the Hearings Officer as untimely. Failure to appeal as provided in this Section 12.2 is a waiver of all right to review the notice or order; the City Manager's notice or order (and determination) will be final and conclusive.

12.2.3 The notice of appeal must be in writing and include (a) the name, address, and telephone number of the appellant, (b) a copy of the notice or order being appealed, (c) a statement that the appellant wishes to appeal the notice or order, and (d) the basis for the appeal, stating with specificity why the notice or order was issued in error, based on one or more of the following: (x) City failed to follow the procedures prescribed in this Ordinance and that failure prejudiced the appellant in respect to some substantial right; (y) no violation exists on the Premises that are the subject of the notice or order; and/or (z) the time for or method of compliance required in the notice or order is impossible to comply with or, because of circumstances specific to the appellant or Premises, would cause an unreasonable and undue hardship.

12.2.4 The hearing upon the appeal will be limited to the reasons the notice or order was issued in error, as set forth in the notice of appeal. The appellant will be afforded the opportunity to provide evidence or a statement in opposition to the notice or order, and the appellant will be afforded the opportunity to cross-examine any witness presenting testimony. The City Manager will be afforded the opportunity to present any evidence, argument, or statement in support of the notice or order, and City will be afforded the opportunity to cross-examine any witness presenting such testimony.

12.2.5 The Hearings Officer will provide a written decision within twenty (20) days after the hearing. The Hearings Officer's decision will include findings and conclusions supporting a decision which either (a) affirms the notice or order as given, (b) modifies the notice or order, or (c) rescinds the notice or order. Upon a final disposition ordering abatement of a nuisance, and unless another period for compliance is provided in the Hearings Officer's decision, the Person responsible for abatement will have a period equal to that specified in the original notice, commencing from the date of the final disposition, in which to abate the nuisance prior to action by City.

12.3 Appeal of Hearings Officer's Decision or Order.

12.3.1 An appeal of the Hearings Officer's determination must be initiated by filing a notice of appeal with the police department, subject to the provisions of this Section 12.3. A Person will not file an appeal with the Council unless and until the Person has obtained the decision of the Hearings Officer. Filing a notice of appeal will stay all proceedings for abatement until final disposition of the appeal.

12.3.2 The notice of appeal must be filed with the Council within ten (10) days after the Hearings Officer has issued and delivered his or her decision. A copy of the notice of appeal to the Council must be filed with the City Manager. A notice of appeal that is not timely filed will be dismissed as untimely. Failure to appeal as provided in this Section 12.3 is a waiver of all appeal rights to the Council; the Hearing Officer's determination will be final and conclusive.

12.3.3 The notice of appeal must be in writing and include (a) the name, address, and telephone number of the appellant, (b) a copy of the decision being appealed, (c) a statement that the appellant wishes to appeal the decision, and (d) the basis for the appeal, stating with specificity why the Hearing Officer's decision is incorrect.

12.3.4 The Council hearing upon the appeal will be limited to the reasons the Hearing Officer's decision is incorrect, as set forth in the notice of appeal. The appellant will be afforded the opportunity to provide evidence or a statement in opposition to the decision, and the appellant will be afforded the opportunity

to cross-examine any witness presenting testimony. The City Manager will be afforded the opportunity to present any evidence, argument, or statement in support of the decision, and City will be afforded the opportunity to cross-examine any witness presenting such testimony.

12.2.5 The Council will provide a written decision within twenty (20) days after the hearing. The Council's decision will include findings and conclusions supporting a decision which either (a) affirms the Hearing Officer's determination, (b) modifies the Hearing Officer's determination, or (c) rescinds the notice or order. Upon a final disposition ordering abatement of a nuisance, and unless another period for compliance is provided in the Council's decision, the Person responsible for abatement will have a period equal to that specified in the original notice, commencing from the date of the final disposition, in which to abate the nuisance prior to action by City. The decision of the Council is final and conclusive.

13. Violations and Penalties.

13.1 Warnings. The City Manager may issue warnings, citations, and/or orders to any Person violating this Ordinance.

13.2 Violations. Violation of this Ordinance is an infraction and is punishable by a fine of no less than \$100.00 and no more than \$1,000.00, which sums may be amended by Council resolution from time to time. The second and subsequent violation of the same provision of this Ordinance in any one-year period is punishable by a fine of no less than \$250.00 and no more than \$2,000.00. In addition to any other rights or remedies provided under this Ordinance, City may file a civil action to recover unpaid fees, fines, and costs, including, without limitation, City's reasonable attorney fees and other fees, costs, and expenses incurred by City to enforce this Ordinance. Any lien imposed pursuant to this Ordinance will accrue interest at the rate of nine percent (9%) per annum from the date the lien is recorded.

13.3 Separate Violations. Each violation will constitute a separate offense. Continuing violations of the same offense will not constitute a separate offense for each day the violation occurs. The rights and remedies imposed under this Ordinance are in addition to, and not in lieu of, any other rights and remedies available to City. If any provision of this Ordinance is violated by a firm, corporation, limited liability company, or any other legal entity, the directors, officers, shareholders, managers, members, partners, and similarly situated Persons (as the case may be) will be personally subject to the penalties imposed under this Ordinance. In addition to any other penalty provided by law, a Person adjudged responsible for violation of any of the provisions of this Ordinance may be ordered by the Hearings Officer or court to correct the violation.

13.4 Receivership Authority. In addition to, and not in lieu of, any other provision in this Ordinance, when the City Manager finds residential property in violation of this Ordinance and believes that the violation is a threat to the public health, safety, or welfare, and the Owner has not acted in a timely manner to correct the violations, the City Manager may apply to a court of competent jurisdiction for the appointment of a receiver to perform an abatement pursuant to the Oregon Housing Receivership Act (ORS 105.420 to 105.455).

13.5 Entry and Warrants.

13.5.1 City may enter upon any Premises in connection with City's provision of any notice or order provided under this Ordinance, determining compliance with this Ordinance, and/or to enforce this Ordinance, including, without limitation, performing any abatement; City will not be liable for trespass or conversion in connection therewith.

13.5.2 Any circuit court or justice of the peace within Malheur County has the authority to issue warrants authorizing the City Manager and/or police department to enforce the provisions of this Ordinance, make searches and seizures reasonably necessary to enforce any provision of this Ordinance, and/or pursue any abatement or corrective action permitted under this Ordinance. Every warrant authorized by this Section 13.5.2 will be supported by affidavit or sworn testimony establishing probable cause to believe that a violation of this Ordinance has occurred. Searches and seizures authorized under this Section 13.5.2 may be executed by the City Manager and/or police department. All searches and seizures will be conducted according to

the requirements of Oregon law relating to warrants.

14. Miscellaneous.

14.1 Application of Other Codes. Nothing in this Ordinance will be construed to relieve a Person from complying with any federal, state, and/or local laws, regulations, and/or ordinances, including any other provisions of the Code, and/or the requirement to obtain all necessary permits and approvals. The existence of a less stringent standard does not relieve a person from complying with a more stringent standard.

14.2 Remedies Not Exclusive; Attorney Fees and Costs. The rights and remedies imposed under this Ordinance are in addition to, and not in lieu of, any other rights and remedies available to City, which may be pursued concurrently or consecutively and without waiving any right or remedy available to City.

14.3 Laws and Severability. All pronouns contained in this Ordinance (and any variations thereof) will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word "or" is not exclusive. The words "include," "includes," and "including" are not limiting. Any reference to a particular law, rule, regulation, code, or ordinance includes the law, rule, regulation, code, or ordinance as now in force and hereafter amended. The provisions of this Ordinance are hereby declared to be severable. If any section, subsection, sentence, clause, and/or portion of this Ordinance is for any reason held invalid, unenforceable, and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and (b) not affect the validity, enforceability, and/or constitutionality of the remaining portion of this Ordinance.

_____, 2023

Via: First Class and Certified Mail; Posting at Property

Re: Notice of Violations and Order to Abate Property
[PROPERTY ADDRESS]

Dear _____:

City of Ontario ("City") has determined that one or more violations of the Ontario City Code (the "Code") are occurring on and at the above-referenced property (the "Property"). You are receiving this notice because you have been identified as the owner or occupant of the Property. Be advised that City intends to pursue appropriate enforcement actions against you if these violations are not timely corrected or abated.

Nuisance Ordinance Violations

The following violations of Ordinance No. 2820-2023 (the "Nuisance Ordinance") are occurring on or about the Property:

1. The Property is in violation of Section _____ of the Nuisance Ordinance. Under Section _____, it is unlawful to _____ on and about the Property. City officials have observed, and City has received complaints of, _____ on the Property. Therefore, the Property is in violation of Section _____.

Order to Correct and Abate All Violations

YOU ARE HEREBY ORDERED TO ABATE THE NUISANCE(S) IDENTIFIED ABOVE WITHIN TEN (10) DAYS AFTER THE DATE OF THIS NOTICE (THE "ABATEMENT PERIOD"). The Abatement Period is a reasonable and sufficient amount of time within which any work, repairs, and/or improvements required to bring the Property into compliance with the Nuisance Ordinance may be accomplished. Abatement of the Property includes, without limitation, performing the following: (a) _____; (b) _____; and (c) _____. You are responsible for all costs and expenses incurred to perform any required abatement.

If you fail to correct and abate all conditions creating violations identified above prior to the expiration of the Abatement Period, City reserves the right to (a) enter upon Property to abate the identified nuisance(s), (b) initiate code enforcement proceedings against you, which code enforcement proceedings may include the assessment of fines up to \$1,000.00, and/or (c) pursue all other rights and remedies City may have available, including, without limitation, the placement of liens against the Property and commencement of appropriate legal action, if necessary. Be advised that you will be responsible for the payment of any costs and expenses City incurs to abate the identified nuisance(s), including any administrative and attorney fees and costs.

Appeal Rights

You have the right to appeal this notice in accordance with Sections 12.1 of the **Nuisance Ordinance**. To commence the appeal process, you must first file a notice of appeal with the city manager within ten (10) days after the date of this notice. The notice of appeal must be in writing and include (a) the name, address, and telephone number of the appellant, (b) a copy of the abatement notice, and (c) a statement that the person requests that the city manager reconsider the abatement notice. The notice of appeal must be accompanied by the applicable appeal fee.

In accordance with Section 12 of the Nuisance Ordinance, if you are not satisfied with the determination of the city manager, you may appeal this notice to the hearings officer by filing a notice of appeal with the police department. The decision of the hearings officer may be appealed to the city council. Be advised that any appeal from this notice must be made timely and in accordance with the procedures provided under the Nuisance Ordinance. If notice of appeal is not timely and properly filed, you will be deemed to have waived the right to appeal this notice.

Other violations may exist under the Code and City does not waive its right to enforce the aforementioned violations and/or any other violations that may exist under the Code. Nothing contained in this notice will be construed as a waiver of any City right to commence appropriate enforcement actions against you at any time. Further, nothing contained herein will be construed as a waiver or release of any obligations arising out of or under any federal, state, and/or local statute, regulation, and/or ordinance.

If you have any questions concerning this notice or your obligations under the Code, please feel free to contact me via email at _____. We trust this matter will receive your immediate attention. Thank you in advance for your anticipated cooperation and prompt attention to this matter.

Sincerely,

Dan Cummings, City Manager

cc: Jeremy M. Green, City Attorney, Bryant, Lovlien & Jarvis, P.C.

WARNING

**NUISANCE CONDITIONS EXIST AT THIS BUILDING.
THIS BUILDING IS POTENTIALLY A DERELICT
BUILDING. THEREFORE, THIS BUILDING IS NOT
SAFE TO OCCUPY.**

Be advised that this building is in violation of City of Ontario Nuisance Ordinance No. 2820-2023 and has been determined a potentially derelict building. The Ontario City Council will hold a public hearing on _____, at ____ P.M. at City Hall, 444 SW 4th Street, Ontario, Oregon 97914, to consider information, evidence, and testimony concerning the potentially derelict building determination.

In accordance with Ordinance No. 2820-2023, it is unlawful for anyone to remove this notice. Anyone found violating Ordinance No. 2820-2023 may be subject to fines of no less than \$____.00 per day, per violation, and civil or criminal prosecution.

**The owner of this property is ordered to register this house as a
derelict building in accordance with the Nuisance Code.**

Property Address: _____, Ontario, Oregon _____

Date Posted: _____, 2023

Posted By: _____

City of Ontario
444 SW 4th Street
Ontario, Oregon 97914
(541) 881-3201

Committee Appointments - 2023

Committee	New Term Expires	Current Member	Applicant-Interested
Airport [4 year term] Full			
Budget [4 year term] Public Member	2026	Vacant	Norm Crume Riley Hill Jackie Koehler
Diversity Advisory [3 year term] Full			
Homelessness TPM Ad Hoc Full			
Parks [3 year term] Full			
Planning Commission [4 year term] Full			
Public Works [3 year term] Full			
V&C [3 year term] Full			

Airport: 1st Monday each month, 6:00 p.m. @ City Hall

Audit: As needed @ City Hall

Budget: As needed @ City Hall/Four Rivers Cultural Center

Business Loan Fund: As needed @ City Hall

Code Enforcement Review Ad Hoc: 2nd and 4th Thursday each month, 5:30 p.m., @ City Hall

Diversity Advisory: 3rd Wednesday each month, 5:30 p.m., @ City Hall

Homelessness TPM Ad Hoc: 2nd Thursday each month 5:30-7:00 p.m., @ City Hall (4th Thursday if needed)

Parks: 3rd Thursday each month, 6:00 p.m. @ City Hall

Planning: 2nd Monday each month, 6:00 p.m. @ City Hall

Public Works: 3rd Tuesday each month, 3:00 p.m. @ City Hall

V&C: 1st Thursday each month, 7:00 a.m. @ Chamber Office

received
02-13-2023

CITY OF ONTARIO

REQUEST FOR BOARD OR COMMISSION APPOINTMENT

Mail, email or personally deliver to: **City of Ontario -- City Recorder**
444 SW 4th St., Ontario, OR 97914
(541) 889-3232 tori.barnett@ontariooregon.org

The Ontario City Council appoints individuals to numerous Boards, Committees, and the Planning Commission. Persons who wish to serve need to provide the following information.

NAME: crume Norman S
Last First, Middle Initial
HOME ADDRESS: 757 Skylane Dr Ontario 97914
Street City Zip Code
TELEPHONE: 541-889-7721 541-889-6446 normsautoelectric@yahoo.com
Home, Work, Cell, or Business (Include Area Code) E-mail Address

Name of Board, Committee, or Commission for appointment requested:

1. budget 2. 3.

Community Activities/Civic Organization/Boards/Committees:

Activity / Organization:	Length of Service	Position (s) Held:
Ontario City Council	12 years	

Employment:

Norm's AutoElectric	owner	1986
Current Employer:	Position:	Dates of Employment:

Education:

High School Graduate

Please indicate why you are requesting appointment to this Board (s) /Commission (s):

I am willing to help out the city.

Additional Information you feel may be helpful in considering your request for appointment:

I have had 12 years of Budget knowledge from being on the City Council of Ontario


Signature:

February 13, 2023

Date:

RESET FORM



RECEIVED

2/15/23

CITY OF ONTARIO

REQUEST FOR BOARD OR COMMISSION APPOINTMENT

Mail, email or personally deliver to: **City of Ontario -- City Recorder**
444 SW 4th St., Ontario, OR 97914
(541) 889-3232 tori.barnett@ontariooregon.org

The Ontario City Council appoints individuals to numerous Boards, Committees, and the Planning Commission. Persons who wish to serve need to provide the following information.

NAME: Hill Riley J.
Last First Middle Initial
HOME ADDRESS: 210 Tori Dr Ontario 97914
Street City Zip Code
TELEPHONE: _____
Home, Work, Cell, or Business (Include Area Code) E-mail Address

Name of Board, Committee, or Commission for appointment requested:

1. Budget 2. _____ 3. _____

Community Activities/Civic Organization/Boards/Committees:

Activity / Organization:	Length of Service	Position (s) Held:
_____	<u>Mayor</u>	_____
_____	_____	_____
_____	_____	_____

Employment:

Current Employer:	Position:	Dates of Employment:
_____	_____	_____

Education:

Self

Please indicate why you are requesting appointment to this Board (s) /Commission (s):

Interested in City Business

Additional Information you feel may be helpful in considering your request for appointment:

[Signature]
Signature:

February 15, 2023
Date:

RESET FORM

CITY OF ONTARIO

REQUEST FOR BOARD OR COMMISSION APPOINTMENT

Mail, email or personally deliver to: *City of Ontario -- City Recorder*
444 SW 4th St., Ontario, OR 97914
(541) 889-3232 tori.barnett@ontariooregon.org

The Ontario City Council appoints individuals to numerous Boards, Committees, and the Planning Commission. Persons who wish to serve need to provide the following information.

NAME: Koehler Jackie S
Last First Middle Initial
HOME ADDRESS: 1099 NW 2nd Avenue Ontario 97914
Street City Zip Code
TELEPHONE: 208-891-1764 jackieinboise@gmail.com
Home, Work, Cell, or Business (Include Area Code) E-mail Address

Name of Board, Committee, or Commission for appointment requested:

1. Budget Board 2. 3.

Community Activities/Civic Organization/Boards/Committees:

Activity / Organization:	Length of Service	Position (s) Held:
Polly Bemis Ranch	21 years	Management liaison / Budget Director
Girls on the Run	2 seasons	volunteer coach

Employment:

Atkins Electric	Project Manager	7/2007 - present
Current Employer:	Position:	Dates of Employment:

Education:

HSD, 4-year Electrical Apprenticeship, 20 years experience bookkeeping and managing accounts

Please indicate why you are requesting appointment to this Board (s) /Commission (s):

As a resident of Ontario, I have a vested interest in assisting with Local Government.

Additional Information you feel may be helpful in considering your request for appointment:

I have 20 years experience managing the budget for not only the Polly Bemis Ranch, but also for every Project I manage through my current job.


Signature:

February 21, 2023
Date:



**AGENDA REPORT
NEW BUSINESS
March 14, 2023**

To: Mayor and City Council
FROM: Dan Cummings, City Manager
THROUGH: Danny K. Cummings, City Manager
SUBJECT: **FBO CONTRACT: SILVERHAWK**
DATE: March 6, 2023

PROPOSED MOTION:

I MOVE THE CITY COUNCIL TO APPROVE THE DOCUMENTS SUBMITTED BASED ON LEGAL REVISIONS AND CITY MANAGER APPROVAL, AND AUTHORIZE THE MAYOR TO SIGN THE FINAL DOCUMENTS.

SUMMARY:

Silverhawk Properties Oregon, LLC, purchased the assets of Frazier Aviation at the Ontario Airport and new leases are required by the City of Ontario for Silverhawk to continue their operations on the Ontario Airport property.

BACKGROUND:

On October 1, 2021, Frazier Aviation, LLC, sold its assets at the Ontario Municipal Airport, which consists of four buildings and an aviation fuel storage and pumping facility, as well as other assets with the business.

The sale of the business and buildings was not presented to the City Council as required by the Frazier Aviation lease. It was discovered that it was brought to the Airport Committee, but never made it to the City Council, which has caused several issues in regards to getting this action finalized.

City staff and the City Attorney have been working diligently in trying to get the Frazier lease terminated and new leases signed by Silverhawk so they can continue their operations at the Airport.

On March 6, 2023, the Airport Committee reviewed all four leases and recommended approval of the leases to the City Council.

CURRENT SITUATION:

Staff has terminated the lease with Frazier Aviation (see attachment). New leases have been approved by city staff and the City Attorney and they are ready for the City Council to approve.

ANALYSIS:

- A. **STRATEGIC PLAN** Completion of these leases will provide growth for our community with the continuing aviation business at the airport.
- B. **FINANCIAL** Due to procedure not being followed by the lessors, as well as the issues in obtaining release of the existing lease and new lease, the city has incurred costs for the City Attorney to obtain the above stated items.
- C. **TIMING** Timing is of the essence, so Silverhawk can work under approved leases.
- D. **POLICY/LEGAL** The City Council is the approving body for new leases at the Ontario Airport.

ALTERNATIVES:

None.

RECOMMENDATION:

Staff recommends the City Council approve all four new leases with Silverhawk Properties Oregon, LLC.

ATTACHMENTS:

- 1. 20221205_FIXED BASED OPERATOR LEASE TERMINATION AGREEMENT (01535862xB6300)
- 2. Airport Ground Lease for Aeronautical Use Improvements (FBO Lease) (01441304-5xB6300)(SH 3.4.23)
- 3. Fixed Based Operator Services Agreement (Silverhawk) (01452299-3xB6300)(SH-3.4.23)
- 4. Airport Ground Lease for Aeronautical Use Improvements (Modular Lease) (01561026xB6300)(SH-3.4.23)
- 5. Airport Ground Lease for Aeronautical Use Improvements (Ancillary Lease) (01561025xB6300)(SH-4.5.23))

FIXED BASED OPERATOR LEASE TERMINATION AGREEMENT

This Fixed Based Operator Lease Termination Agreement (this "Termination") is dated November 21, 2022, but made effective for all purposes as of October 1, 2021 (the "Effective Date"), and is entered into between City of Ontario ("Landlord"), an Oregon municipal corporation, Frazier Aviation, LLC ("Tenant"), an Oregon limited liability company, Tom Frazier ("Frazier"), Silverhawk Properties Oregon, LLC ("Silverhawk"), and Catherine R. Weber ("Weber").

RECITALS:

A. Landlord is the owner, sponsor, and operator of the Ontario Municipal Airport, a public municipal airport located in Ontario, Oregon (the "Airport").

B. Landlord and Tenant are parties to the following leases and agreements concerning and/or related to the Airport:

1. Commercial Twenty Year Lease Agreement (Main Office and Hangar 175,185 FBO Area) dated April 1, 2012 (the "FBO Agreement") concerning Tenant's provision of certain fixed based operator services and lease of certain Landlord real property located at the Airport consisting of approximately 12,344 square feet. The real property under the FBO Agreement has been improved with the construction of the following: (a) fixed based operator office consisting of approximately 2,024 square feet ("FBO Office"); (b) airplane hangar consisting of approximately 4,000 square feet ("Hangar A"); and (c) airplane hangar consisting of approximately 4,800 square feet ("Hangar B"). The remaining real property (i.e., 1,520 square feet) consists of an unimproved parking area.

2. Lease Agreement (Ground Lease Frazier Aviation, LLC) dated March 17, 2020 concerning Tenant's lease of certain Landlord unimproved real property located at the Airport consisting of approximately 4,222 square feet (the "Modular Lease No. 1"). The real property under the Modular Lease No. 1 is used for the placement of a modular building, parking, and storage.

3. Lease Agreement (Ground Lease Frazier Aviation, LLC) dated March 20, 2018 concerning Tenant's lease of certain Landlord unimproved real property located at the Airport consisting of approximately 5,906 square feet (the "Modular Lease No. 2"). The real property under the Modular Lease No. 2 is used for placement of a modular building, parking, and storage. For purposes of this Termination, the term "Lease(s)" mean the FBO Agreement, Modular Lease No. 1, and/or Modular Lease No. 2, individually and collectively; the term "Property" means the Landlord real property located at the Airport subject to the Leases described and depicted on the attached Exhibit A; the term "Improvement(s)" means the FBO Office, Hangar A, and/or Hangar B described and depicted on the attached Exhibit B, individually and collectively.

C. Pursuant to the terms of a certain Asset Sale Agreement dated on or about August 18, 2021 between Tenant, Frazier, Silverhawk, and Weber, as amended (the "Sale Agreement"), Tenant and Frazier are selling, conveying, transferring, and assigning all their rights and interests in and to Improvements (and certain personal property located therein or thereon) to Silverhawk (the "Transaction"). This Termination is entered into between the parties to (a) terminate the Leases as provided under Section 9 of the Sale Agreement, and (b) address certain conditions that must be satisfied and/or performed by Tenant and Silverhawk as a condition to Landlord agreeing to terminate the Leases and enter into the New Leases (as defined below).

AGREEMENT:

NOW, THEREFORE, in consideration of the covenants and obligations contained in this Termination, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Termination. Subject to the terms and conditions contained in this Termination, if the Conditions (as defined below) have been satisfied in full no later than January 31, 2023, the Leases will be deemed terminated

and no further force and effect as of the Effective Date. Tenant represents, warrants, and covenants to Landlord that Tenant paid and performed all Tenant's obligations arising out of or under the Leases through the Effective Date. Subject to the terms and conditions contained in this Termination, as of the Effective Date Tenant has no further rights and/or interests in and/or to the Property and/or Improvements.

2. **Lease Termination Conditions.** Termination of the Leases is conditioned on performance and satisfaction of the following conditions (individually and collectively, the "Condition(s)"): (a) Tenant's payment and performance of all Tenant's obligations arising out of or under the Leases through the Effective Date; (b) Landlord and Silverhawk entering into a new fixed based operating agreement concerning Silverhawk's provision of certain fixed based operator services on and at the Airport; and (c) Landlord and Silverhawk entering into one or more airport ground leases concerning Silverhawk's lease of the Property from Landlord for Silverhawk's ownership, use, and operation of the Hangars (and all other Improvements). For purposes of this Termination, the new fixed based operator agreement and leases will be individually and collectively referred to herein as the "New Lease(s)". The New Lease(s) will contain Landlord's standard terms and conditions and be in form and content satisfactory to Landlord. **Notwithstanding anything contained in this Termination to the contrary, if the Conditions are not satisfied on or before January 31, 2023, this Termination (including the lease termination provided under Section 1 of this Termination) will be null and void and of no force and effect without further act of the parties.**

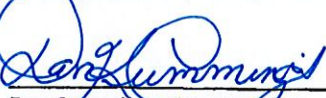
3. **Lease Obligations.** Tenant, Frazier, Silverhawk, and Weber acknowledge and agree that (a) a substantial part of the consideration to Landlord for entering into this Termination is Silverhawk's execution of the New Leases, and (b) Landlord would not have entered into this Termination unless Silverhawk entered into the New Leases. Tenant acknowledges and agrees that the parties' execution of this Termination does not constitute a waiver and/or release of Tenant's liabilities and/or obligations arising out of or under the Leases.

4. **Miscellaneous.** The parties will sign other documents and take other actions reasonably necessary to further effect and evidence this Termination. This Termination is governed by the laws of the State of Oregon, without giving effect to any conflict-of-law principle that would result in the laws of any other jurisdiction governing this Termination. Any action or proceeding arising out of this Termination will be litigated in courts located in Malheur County, Oregon. Each party consents and submits to the jurisdiction of any local, state, or federal court located in Malheur County, Oregon. If any arbitration or litigation is instituted to interpret, enforce, or rescind this Termination, the prevailing party on a claim will be entitled to recover with respect to the claim, in addition to any other relief awarded, the prevailing party's attorney fees and other fees, costs, and expenses of every kind, including, without limitation, the costs and disbursements specified in ORCP 68 A(2), incurred in connection with the arbitration, the litigation, any appeal or petition for review, the collection of any award, or the enforcement of any order, as determined by the arbitrator or court. This Termination contains the entire understanding of the parties regarding the subject matter of this Termination and supersedes all prior and contemporaneous negotiations and agreements, whether written or oral, between the parties with respect to the subject matter of this Termination. This Termination may be signed in counterparts. Tenant and Silverhawk will sign other documents and take other actions reasonably necessary to further effect and evidence this Termination.

[end of agreement – signature page immediately follows]

IN WITNESS WHEREOF, the undersigned have caused this Termination to be binding and effective for all purposes as of the Effective Date.

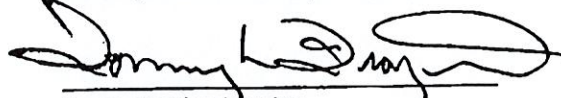
LANDLORD:
City of Ontario,
an Oregon municipal corporation



Dan Cummings, City Manager

Dated: December 27, 2022

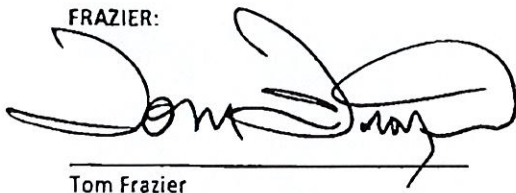
TENANT:
Frazier Aviation, LLC,
an Oregon limited liability company



Tommy Frazier, Member

Dated: ~~November~~ Dec 2, 2022

FRAZIER:



Tom Frazier

Dated: ~~November~~ Dec 2, 2022

WEBER:



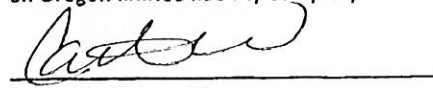
Catherine Weber

~~Dated: November 21, 2022~~

Dec 5, 2022

SILVERHAWK:

Silverhawk Properties Oregon, LLC
an Oregon limited liability company



Catherine Weber, Manager

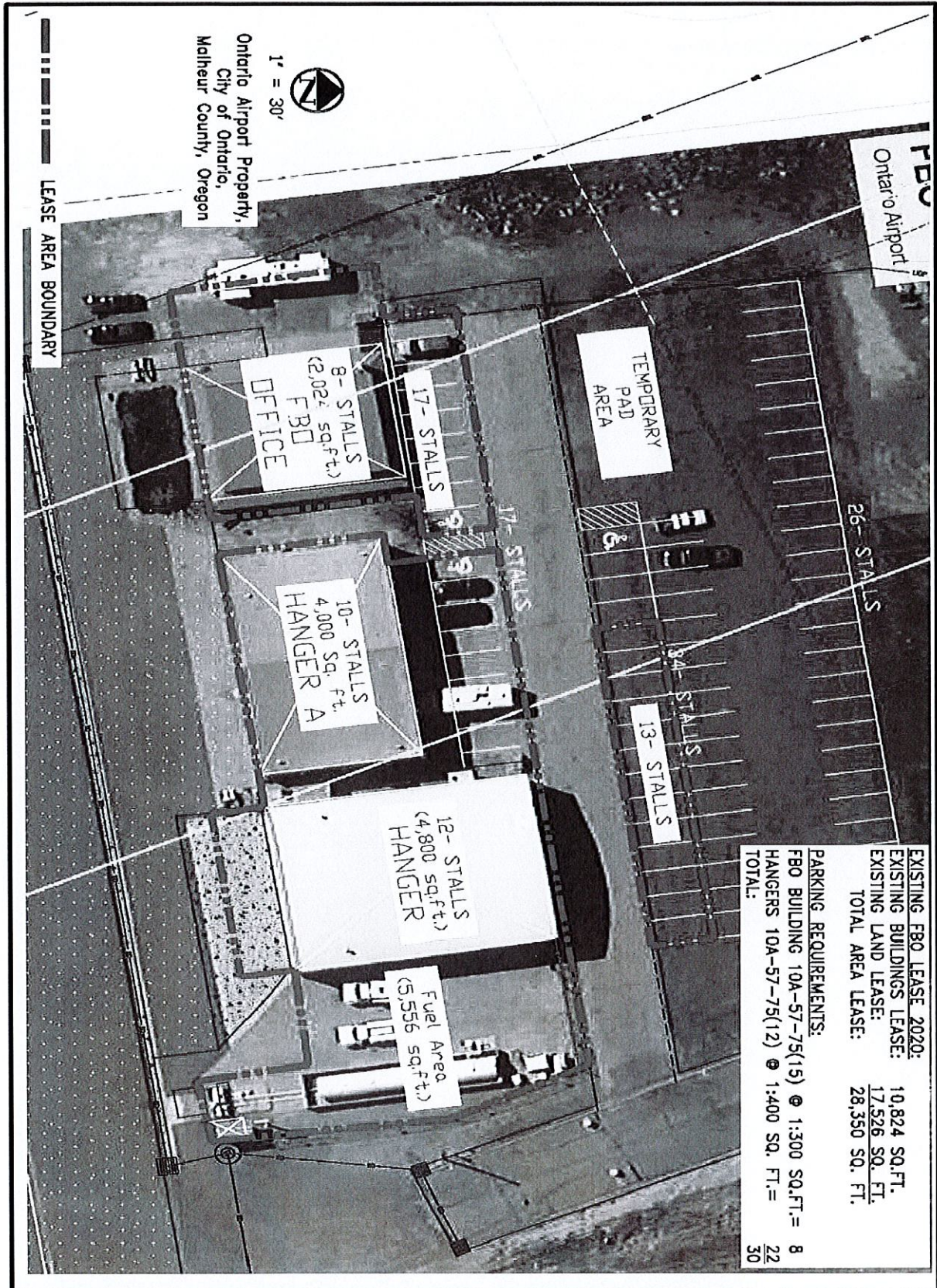
Dated: ~~November 21~~, 2022

Dec 5

Exhibit A
Property – Description and Depiction

[attached]

EXHIBIT "A"



FBO OFFICE SPACE HANGERS & PARKING

EXHIBIT "A"

FBO MODULAR GROUND LEASE

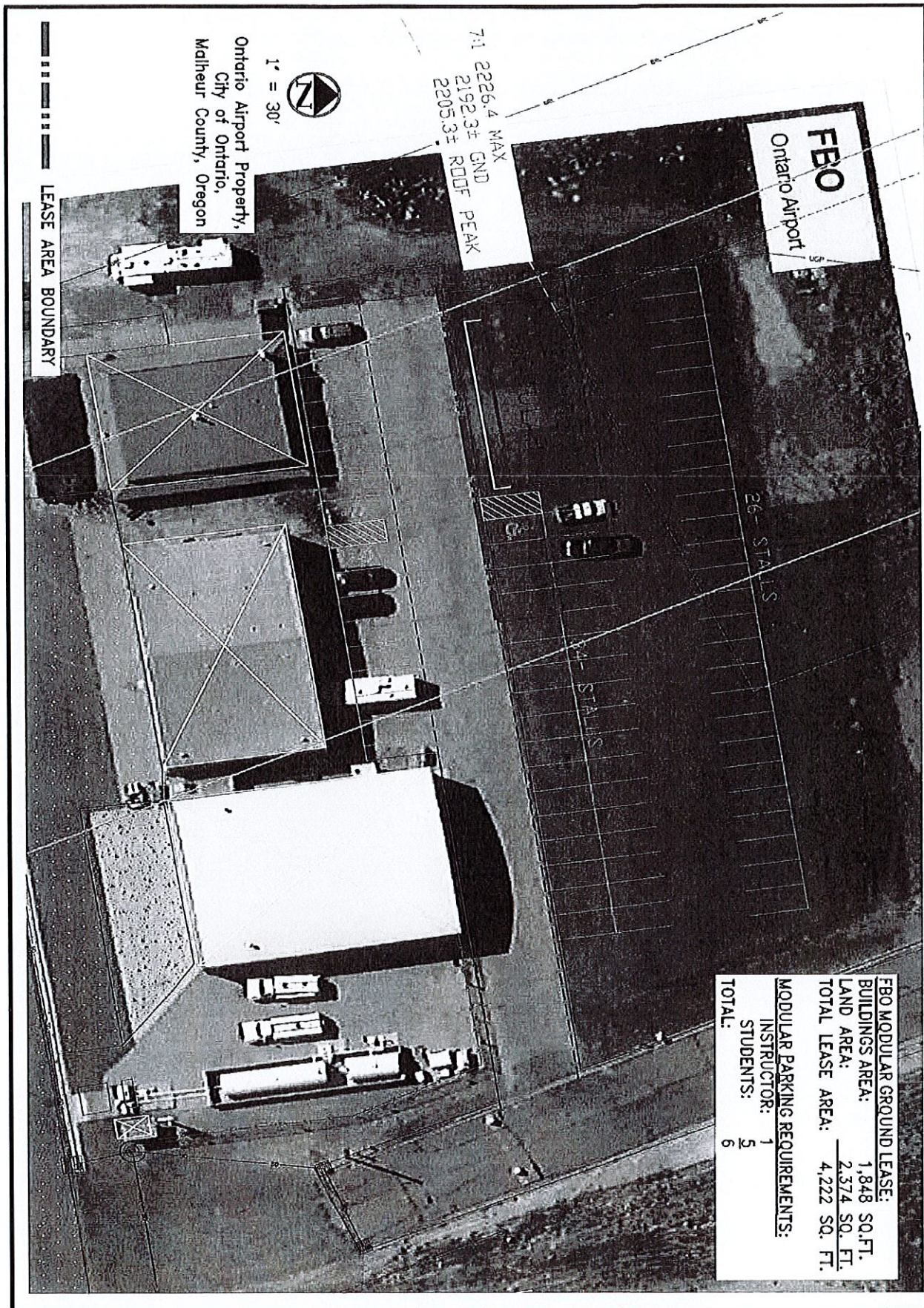
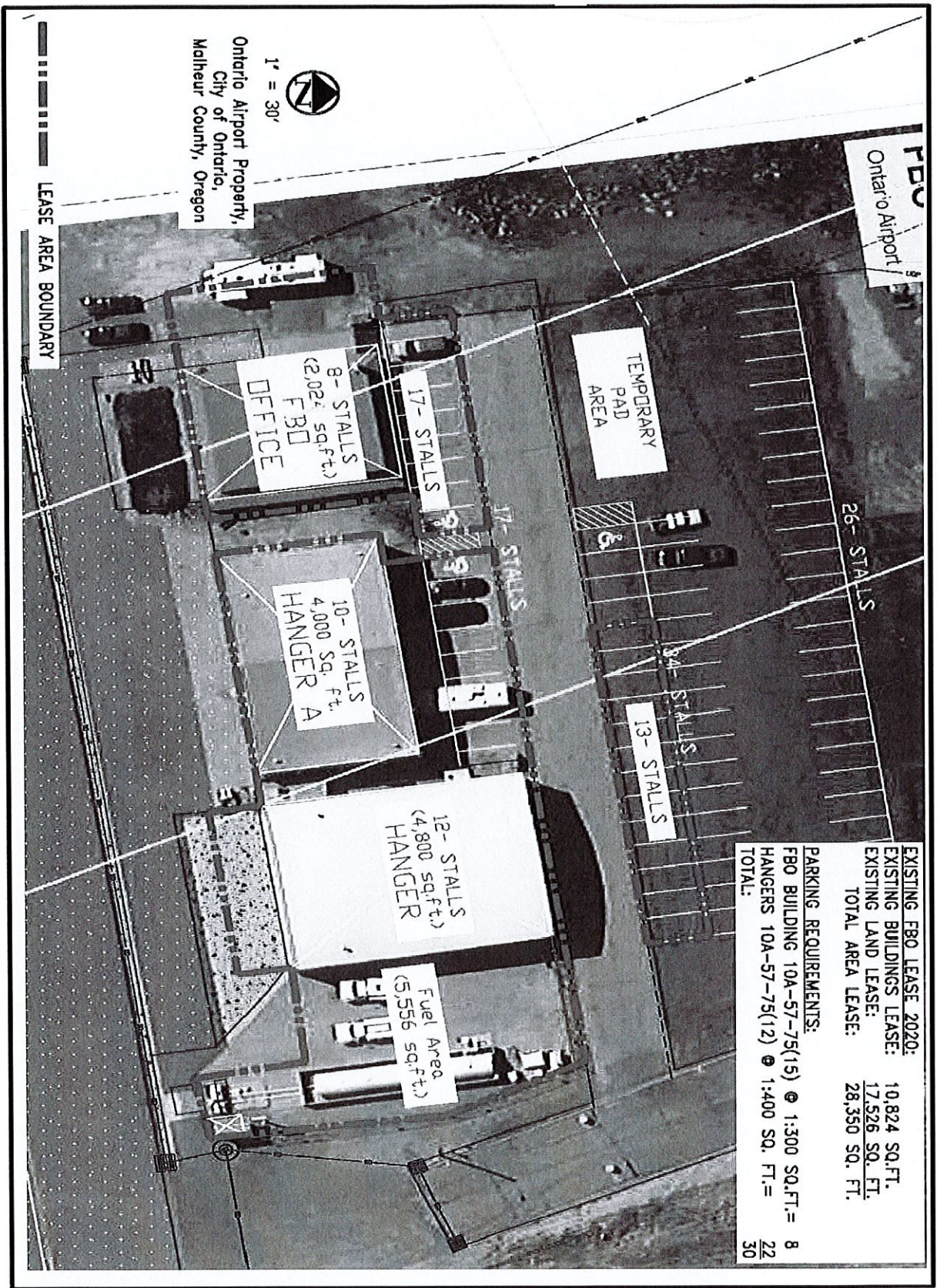


Exhibit B
Improvements – Description and Depiction
[attached]

EXHIBIT "B"



FBO OFFICE SPACE HANGERS & PARKING

AIRPORT GROUND LEASE FOR AERONAUTICAL USE IMPROVEMENTS
(Fixed Based Operator Lease)

This Airport Ground Lease for Aeronautical Use Improvements (Fixed Based Operator Lease) (this "Lease") is dated effective for all purposes as of October 1, 2021 (the "Effective Date") and is entered into between City of Ontario ("Landlord"), an Oregon municipal corporation, whose address is 444 SW 4th Street, Ontario, Oregon 97914, and Silverhawk Properties Oregon LLC ("Tenant"), an Oregon limited liability company, whose address is 581 SW 33rd Street, Ontario, Oregon 97914.

RECITALS:

A. Landlord is the owner, sponsor, and operator of the Ontario Municipal Airport, a public municipal airport located in Ontario, Oregon (the "Airport"). Landlord is the owner of certain real property at the Airport consisting of approximately 13,375 total square feet commonly known as 581 SW 33rd Street, Ontario, Oregon 97914 (the "Property"). As of the Effective Date, a portion of the Property has been improved by, and consists of, the following: (a) an approximately 2,024 square foot fixed base operations office building (the "Office") and associated parking space area located immediately adjacent to the Improvements consisting of approximately 9 unassigned parking spaces (the "Parking Area"); and (b) fuel farm area consisting of approximately 5,200 square feet (the "Fuel Farm"). For purposes of this Lease, the term "Improvement(s)" means the Office and/or fuel tanks and related equipment located on or about the Fuel Farm. The Property is identified and depicted in the attached Exhibit A.

B. Tenant provides certain fixed based operator ("FBO") services at the Airport for and on behalf of Landlord under the terms of a certain Fixed Based Operator Services Agreement dated effective October 1, 2021 between Landlord and Tenant (the "FBO Agreement"). Pursuant to the terms of a certain Airport Ground Lease for Aeronautical Use Improvements (Fixed Based Operator Ancillary Lease) dated as of the Effective Date between Landlord and Tenant (the "Ancillary Lease"), Landlord has leased certain real property to Tenant to facilitate Tenant's provisions of the FBO services subject to the FBO Agreement. The real property subject to the Ancillary Lease includes, without limitation, certain Landlord real property upon which Tenant's (a) approximately 4,000 square foot airplane hangar (commonly known as Hangar A), and (b) approximately 4,800 square foot airplane hangar (commonly known as Hangar B) are located.

C. Pursuant to the terms of a certain Airport Ground Lease for Aeronautical Use Improvements (Fixed Based Operator Modular Lease) dated as of the Effective Date between Landlord and Tenant (the "Modular Lease"), Landlord has leased certain real property to Tenant to facilitate Tenant's provisions of the FBO services subject to the FBO Agreement. The real property subject to the Modular Lease includes, without limitation, certain Landlord real property upon which Tenant's approximately 1,848 square foot modular building is located.

D. Tenant desires to lease the Property from Landlord for purposes of owning and operating the Improvements, operating the fuel farm, and providing the FBO services on and at the Airport. Subject to the terms and conditions contained in this Lease, Tenant will lease the Property from Landlord, and Landlord will lease the Property to Tenant, for the Permitted Use (as defined below).

AGREEMENT:

NOW, THEREFORE, in consideration of the parties' mutual obligations contained in this Lease, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. LEASE; OCCUPANCY

1.1 Lease Term. Subject to the terms and conditions contained in this Lease, Landlord leases the Property to Tenant and Tenant leases the Property from Landlord. The term of this Lease, Tenant's right to

possession of the Property, and Tenant's obligation to pay Rent (as defined below) commenced on the Effective Date and will continue, subject to the terms and conditions contained in this Lease, until September 30, 2026 (the "Initial Term"), unless sooner terminated as provided under this Lease. For purposes of this Lease, the term "Lease Term" means the Initial Term and Extended Term (as defined below), if applicable.

1.2 Extended Term. If Tenant is not then in default under this Lease, Tenant has the option (the "Extension Option") to extend the Initial Term for one consecutive additional term of five years (the "Extended Term"). Tenant will exercise the Extension Option by providing Landlord written notice (the "Notice of Extension") no less than one hundred twenty (120) days prior to the last day of the Initial Term. Subject to the terms and conditions contained in this Lease, providing the Notice of Extension will be sufficient to make this Lease binding for the Extended Term. The Extended Term will commence on the day immediately following the expiration of the Initial Term. The terms and conditions for the Extended Term will be identical with the Initial Term except for (a) Base Rent (as defined below), (b) Additional Rent (as defined below), and (c) Tenant will no longer have the Extension Option that has been exercised.

1.3 Airport Facilities. Subject to the terms and conditions contained in this Lease, during the Lease Term Landlord grants Tenant a limited, revocable, non-exclusive license to use the Airport's common hangar related facilities (if any) and that portion of the Airport's approach areas, runways, ramps, taxiways, and aprons reasonably necessary to facilitate the expeditious movements of aircraft to and from the runway and takeoff areas. Tenant's use of the Airport's common hangar related facilities (if any) and Airport approach areas, runways, ramps, taxiways, and aprons will be for the sole purpose of Tenant's use of the Property for the Permitted Use (as defined below). Tenant's use of the Airport facilities (and all flight and ground operations on and at the Airport or otherwise) will be made subject to and in accordance with the Laws (as defined below).

1.4 Tenant's Financial Capability; Authority; Improvement Ownership. Tenant represents and warrants the following to Landlord: (a) Tenant has sufficient assets and net worth to ensure Tenant's performance of this Lease and the payment of its obligations under this Lease as and when they become due; (b) Tenant has full power and authority to sign and deliver this Lease and to perform all Tenant's obligations under this Lease; (c) this Lease is the legal, valid, and binding obligation of Tenant, enforceable against Tenant in accordance with its terms; (d) Tenant is the sole, fee simple owner of the Improvements and no other person has any ownership, rights, and/or interests in and to the Improvements (except Landlord as provided under this Lease); and (e) the Improvements are free from all Encumbrances (as defined below) and Tenant will keep the Improvements and Property free from all Encumbrances. Tenant represents, warrants, and covenants that as of the Effective Date, (y) Catherine Weber is Tenant's only member and no other person has any ownership rights and/or interests in and to Tenant, and (z) Catherine Weber has full power and authority to sign and deliver this Lease on behalf of Tenant. For purposes of this Lease, the term "Encumbrance(s)" means any lien, mortgage, pledge, security interest, reservation, restriction, adverse claim, and/or other encumbrance.

1.5 No Representations or Warranties. Tenant is bound in accordance with the terms of this Lease from and after the Effective Date. Tenant has entered into this Lease on the basis of its own examination and personal knowledge of the Airport and Property. Tenant accepts the Airport and Property in their "as-is" and "with all faults and defects" condition as of the Effective Date. Tenant has not relied on any representations or warranties made by Landlord and/or Landlord's Agents (as defined below). Provided Tenant is not in default of this Lease, Landlord will defend Tenant's right to quiet enjoyment of the Property from the lawful claims of all persons during the Lease Term. Except for Landlord's covenant of quiet enjoyment contained in the immediately preceding sentence, Landlord makes no representations or warranties of any kind, whether express or implied, with respect to all or any part of the Airport and/or Property. Landlord has made no promise or agreement to repair, alter, construct, and/or improve all or any part of the Airport, Improvements, and/or Property.

1.6 FBO Agreement; Ancillary and Modular Leases. Notwithstanding anything contained in this Lease to the contrary, Tenant acknowledges and agrees that Landlord's lease of the Property to Tenant is conditioned on Tenant's timely payment and performance of all its obligations arising out of or under the FBO Agreement, Ancillary Lease, and Modular Lease. A Tenant default under this Lease constitutes a default by Tenant under the

FBO Agreement, Ancillary Lease, and Modular Lease. A default by Tenant under the FBO Agreement, Ancillary Lease, and/or Modular Lease constitutes a default by Tenant under this Lease.

1.7 Parking Area. The Parking Area consists of eighteen unassigned parking spaces for use by Airport pilots, contractors, invitees, employees, representatives, and agents. Tenant has a nonexclusive license to use the Parking Area for the benefit of Tenant and Tenant's Agents. Landlord will not be liable for any damage or destruction of any nature to, or any theft of, vehicles, or contents therein, in or about the Parking Area. Overnight parking in the Parking Area is prohibited and any vehicle violating this restriction is subject to removal at the owner's expense. Notwithstanding anything contained in this Lease to the contrary, Landlord will have the right to implement any reasonable parking restrictions (including, without limitation, assigning parking spaces to tenants and/or restricting parking in close proximity to the Improvements either for customer-only parking or for limited-duration parking) at any time upon 10 days' prior written notice to Tenant, which parking restrictions will be binding on Tenant and Tenant's Agents. Tenant acknowledges and agrees to the following: (a) the Parking Area is an Airport facility of which Landlord is the sole owner; and (b) Tenant (and/or any other person) has no rights and/or interests in and/or to the Parking Area whatsoever other than as expressly provided under this Lease.

1.8 Fuel Farm. Tenant will maintain and manage the Fuel Farm (and all associated Improvements) in accordance with the Laws. Landlord reserves the right to construct an additional fuel farm in another location within the Airport.

2. BASE RENT; ADDITIONAL RENT; TAXES; ASSESSMENTS

2.1 Base Rent. Subject to the terms and conditions contained in this Lease, Tenant will pay Landlord guaranteed minimum annual base rent, without offset, in the amount of \$_____ (\$0.1564 per square foot), per year ("Base Rent"). Base Rent is payable annually in advance of each year on or before the 30th day of June without invoice from Landlord. Tenant's first payment of Rent is due and payable on the Effective Date. Tenant will pay all outstanding Base Rent (totaling \$_____) contemporaneously with Tenant's execution of this Lease. Base Rent will be prorated with respect to any partial year in which the Lease Term commences and ends. Base Rent will be payable to the order of Landlord at the address first shown above or any other address designated by Landlord from time to time.

2.2 Base Rent Escalation. Notwithstanding anything contained in this Lease to the contrary, Landlord may adjust (increase or decrease) the Base Rent at any time and from time to time during the Lease Term through council resolution. Landlord will provide Tenant no less than 30 days' prior written notice of any Base Rent adjustment. Unless otherwise adjusted by council resolution, commencing on the first-year anniversary of the Effective Date, during each year of the Lease Term upon the anniversary of the Effective Date, Base Rent will escalate (increase) by three percent (3.0%) over Base Rent for the immediately preceding twelve-month period. Tenant will pay the Base Rent established by Landlord from time to time.

2.3 Additional Rent.

2.3.1 Tenant will timely pay in full the following charges, costs, and expenses related to or concerning (whether directly or indirectly) the Property and/or Improvements (collectively, "Additional Rent"): (a) all taxes (real property and personal property, if any), general and special assessments, insurance costs, telephone charges, licenses, utility charges, fuel, and all costs, expenses, and/or charges identified under Sections 2.3.2 and 2.3.3, below; (b) all costs and expenses incurred in connection with Tenant's ownership (in the case of the Improvements), use, occupancy, maintenance, improvement, and/or repair of the Property and/or Improvements; (c) all applicable Airport charges, fees, and/or assessments that may be imposed or assessed from time to time; and (d) all other sums Tenant is required to pay Landlord or any third party under this Lease or otherwise. Additional Rent is due and payable to the applicable payee commencing on the Effective Date. All Rent payable under this Lease will be net to Landlord and all costs, expenses, and obligations imposed on Tenant under this Lease and/or arising out of Tenant's ownership (in the case of the Improvements), use, occupancy, maintenance, and/or repair of the Property and/or Improvements will be paid by Tenant. Tenant will furnish Landlord with

receipts or other proof of payment of Additional Rent within ten (10) days after Landlord's written request. For purposes of this Lease, the term "Rent" means both Base Rent and Additional Rent.

2.3.2 Without otherwise limiting Section 2.3.1, Tenant will pay when due all costs, expenses, and charges for services and utilities incurred in connection with the ownership (in the case of the Improvements), use, lease, occupancy, operation, repair, maintenance, and/or improvement of the Property and/or Improvements, including, without limitation, charges and expenses for fuel, connection fees, water, gas, electricity, sewage disposal, power, refrigeration, air conditioning, telephone, internet, and janitorial services (including, without limitation, all connection fees, costs, and expenses related thereto).

2.3.3 Tenant will pay before delinquency all real and personal property taxes, general and special assessments, system development charges, and all other charges of every description levied on and/or assessed against the Property, any improvements located on the Property (including, without limitation, the Improvements), and/or personal property and/or fixtures located on the Property. Tenant will make all such payments directly to the applicable governing authority. If any such tax assessment or charges may be paid in installments, Tenant may elect to do so provided each installment together with interest is paid before it becomes delinquent.

3. USE OF PROPERTY

3.1 Permitted Use. Subject to the terms and conditions contained in this Lease, Tenant will use the Property for Tenant's operation of the Business (as defined below) and maintenance, repair, use, and/or operation of the Improvements (collectively, the "Permitted Use"). Tenant will not use the Property for any purpose other than the Permitted Use. For purposes of this Lease, the term "Business" means Tenant's FBO services business performed on and from the Property pursuant to the FBO Agreement.

3.2 Conditions, Limitations, and Restrictions. In addition to any other conditions, limitations, and/or restrictions contained in this Lease, Tenant represents, warrants, and covenants to perform and comply with the following conditions, limitations, and restrictions concerning the Property, Improvements, and/or Airport:

3.2.1 Tenant will conform and comply with the Laws. Without otherwise limiting the generality of the immediately preceding sentence, Tenant will conform and comply with the Laws in connection with Tenant's use of the Property for the Permitted Use. Tenant will correct, at Tenant's own expense, any failure of compliance created through Tenant's fault, the Permitted Use, and/or by reason of Tenant's use of the Property, Improvements, and/or Airport. Prior to the Effective Date, Tenant had the opportunity to review (and ask questions concerning) and understands all Laws. Tenant will obtain all necessary permits, licenses, reviews, studies, inspections, reports (including, without limitation, environmental reports), and approvals required under the Laws to lease the Property and occupy and use the Improvements for the Permitted Use, including, without limitation, all reviews, studies, and approvals required under Landlord's leasing policies and regulations. For purposes of this Lease, the term "Law(s)" means all policies, rules, leases, covenants, conditions, restrictions, easements, declarations, laws, statutes, liens, ordinances, orders, codes, and regulations directly or indirectly affecting the Property, Improvements, Airport, and/or Permitted Use, including, without limitation, fire and/or building codes, Airport master plan, the Americans with Disabilities Act of 1990 (and the rules and regulations promulgated thereunder), Environmental Laws (as defined below), any rules or regulations promulgated by the Federal Aviation Administration ("FAA") and/or any other federal airport authority (including, without limitation, Landlord's Grant Assurances and requirements under 14 CFR Part 77), Title 3, Chapter 9 of Landlord's municipal code, Landlord's policies governing agreements involving the lease, use, and/or disposition of Airport property for aeronautical activities, and the Rules and Regulations (as defined below), all as now in force and/or which may hereafter be amended, modified, enacted, and/or promulgated.

3.2.2 Tenant will store all aircraft, vehicles, machinery, equipment, tools, and/or supplies within the Property boundaries and in a safe, neat, clean, and orderly manner; Tenant will not permit any machinery, aircraft, vehicles, equipment, tools, and/or supplies to remain unattended on or about the Property.

Tenant will refrain from any activity which would make it impossible to insure the Property against casualty, or would prevent Landlord from taking advantage of any ruling of the Oregon Insurance Rating Bureau (or its successor) allowing Landlord to obtain reduced premium rates for long-term fire insurance policies, unless Tenant pays the additional costs of the insurance. Tenant will refrain from any use and/or activities which would be reasonably offensive to Landlord, other users of the Airport, and/or neighboring property, and/or which would tend to create or cause fire risk, a nuisance, and/or damage the reputation of the Property and/or Airport, all as reasonably determined by Landlord. Tenant will conduct and operate the Permitted Use and all activities at the Airport in a safe, prudent, professional, and lawful manner.

3.2.3 Tenant will not cause and/or permit any Hazardous Substances (as defined below) to be spilled, leaked, disposed of, and/or otherwise released on, under, and/or about the Property and/or Improvements. Without otherwise limiting the generality of the immediately preceding sentence, but subject to applicable laws, Tenant may use, store, and/or otherwise handle on or in the Property only those Hazardous Substances typically used, stored, sold, and/or handled in the prudent and safe operation of the Permitted Use; provided, however, Tenant will use, store, and/or otherwise handle on or in the Property the Hazardous Substances in a safe, neat, clean, and orderly manner consistent with applicable Laws. Upon the earlier termination or expiration of this Lease, Tenant will properly remove and dispose of all Hazardous Substances from the Property. For purposes of this Lease, the term "Environmental Law(s)" means any federal, state, and/or local statute, regulation, and/or ordinance, or any judicial or other governmental order, pertaining to the protection of health, safety, and/or environment; the term "Hazardous Substance(s)" means any hazardous, toxic, infectious, and/or radioactive substance, waste, and/or material as defined or listed by any Environmental Law, including, without limitation, pesticides, aviation fuel, paint, petroleum oil, and their fractions

3.2.4 Tenant will conform and comply with all rules and regulations concerning the Airport, Improvements, and/or Property, which now exist or may hereafter become effective, including, without limitation, all Airport security, screening, and/or fire safety rules, regulations, and procedures (collectively, the "Rules and Regulations"). Tenant will not perform any acts or carry on any practice prohibited by the Rules and Regulations. Tenant acknowledges and agrees that Landlord is permitted to adopt new Rules and Regulations, or amend the Rules and Regulations, from time to time as Landlord determines necessary or appropriate. Any adoption or amendment to the Rules and Regulations will be effective 30 days after Landlord provides Tenant notice of such adoption or amendments.

3.3 Aviation Easement; Aeronautical Uses. Tenant's use of the Property and Improvements is secondary and subordinate to the operation of the Airport and Laws. Landlord reserves for itself, and for the public, a right of flight for the passage of aircraft in the airspace above the Property and Improvements together with the right to cause noise, vibration, dust, fumes, smoke, vapor, and other effects inherent in the navigation or flight of aircraft and/or operation of the Airport. Notwithstanding anything contained in this Lease to the contrary, Tenant will protect the Airport and Airport property for aeronautical and related uses, will not interfere or impede, and will conduct all activities in a manner that will not adversely affect or interfere with, Landlord's operations and/or those of other tenants and authorized users of the Airport or general public. Any Tenant activities that Landlord determines interfere or impede with the operation, use, and/or maintenance of the Airport, Airport property, and/or aeronautical activities is specifically prohibited and will constitute an Event of Default (as defined below) under this Lease.

3.4 Airport Operations; Security. Notwithstanding anything contained in this Lease to the contrary, Landlord reserves the right to control and regulate all Airport property, facilities, and/or operations, including, without limitation, taxiways, ramps, runways, improvements, aprons, fuel areas, and parking facilities. Landlord may impose certain taxi proceedings, requirements, and/or controls to promote efficient and orderly operation of other operators. Tenant acknowledges and agrees that Landlord does not provide continuous security for the Property, Improvements, and/or Airport (including, without limitation, the Parking Area). Tenant is responsible for securing and safeguarding the Property, Improvements, and all aircraft and other personal property located on or about the Property. Landlord will not be liable for any loss and/or damage to Tenant's property due to theft, vandalism, and/or any other causes, including forces of nature.

3.5 Construction Activities. Tenant's use of the Property and/or Improvements may be disrupted by certain expansion, improvement, construction, development, remodeling, and/or other activities on or at the Airport, including, without limitation, runway maintenance and repairs. Landlord will not be in default under this Lease (and Tenant will not be entitled to any abatement of Rent and/or other concessions) if Tenant is disrupted (temporarily or otherwise) in the use of the Property, Improvements, and/or Airport due to the aforementioned activities.

3.6 Non-Discrimination; Unfair Practices. Tenant covenants and agrees as follows: (a) if any facilities and/or improvements (including, without limitation, Alterations (as defined below) are constructed, maintained, and/or otherwise operated on the Property and/or Improvements for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, Tenant will maintain and operate such facilities and services in compliance with all requirements imposed under 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, as amended; (b) no person will, on the grounds of race, color, national origin, and/or other protected classification, be excluded from participation in, denied the benefits of, and/or otherwise subjected to discrimination in the use of any facilities located on or in the Property and/or Improvements; and (c) in the construction of any improvements on, over, and/or under the Property and/or Improvements and the furnishing of services thereon, no person will, on the grounds of race, color, national origin, and/or other protected classification, be excluded from participation in, denied the benefits of, and/or otherwise subjected to discrimination.

3.7 Notice of Action. Tenant will immediately notify Landlord in writing of the occurrence of any of the following events: (a) any enforcement, clean-up, removal, and/or other governmental or regulatory action is instituted, completed, and/or threatened concerning the Improvements and/or Property pursuant to any Environmental Laws; and/or (b) any claim is made or threatened by any person against or concerning Tenant, Tenant's activities, and/or the condition of the Property and/or Improvements. Tenant will provide Landlord copies of any written documentation related to the foregoing.

3.8 Subordination – United States. Notwithstanding anything contained in this Lease to the contrary, (a) this Lease is subordinate to the terms of any agreement between Landlord and the United States concerning Airport operations and/or maintenance (the terms of such agreement will supersede the terms of this Lease), and (b) during times of war or national emergency, Landlord may lease the Airport's landing area (or any part thereof) to the United States for military or naval use (and, in connection therewith, the provisions of this Lease will be suspended to the extent inconsistent with Landlord's lease with the United States).

4. ALTERATIONS

Except any ordinary and necessary Improvement maintenance and/or repairs performed (or caused to be performed) by Tenant, Tenant will make no additions, improvements, modifications, and/or alterations in or to the Property and/or Improvements of any kind or nature whatsoever, including, without limitation, the installation of any improvements, fixtures, and/or devices on or to the Property and/or Improvements (individually and collectively, "Alteration(s)"), without Landlord's prior written consent. Any Alterations approved by Landlord will be made in a good and workmanlike manner, in compliance with applicable Laws, at Tenant's cost and expense, and consistent with the general appearance, quality, and décor of the Property and/or Improvements and surrounding property. Subject to Section 8.4, Alterations performed in or to the Property and/or Improvements by either Landlord or Tenant will be the property of Landlord. Construction of any exterior Alterations must be approved (i.e., must receive a "no objection" determination) by the FAA through the notice of proposed construction review process, submittal of FAA Form 7460-1, and will be subject to all applicable Laws. Tenant will timely file FAA Form 7460-2 Supplemental Notice concerning the Alterations.

5. MAINTENANCE AND REPAIRS

5.1 Landlord Maintenance and Repairs. Notwithstanding anything contained in this Lease to the contrary, Landlord has no obligation to make or perform any repairs, maintenance, replacements, alterations,

and/or improvements in or to the Property (and/or the Improvements), including, without limitation, snow removal. All repairs, maintenance, replacements, alterations, and/or improvements in or to the Property and/or Improvements will be made by Tenant at Tenant's cost and expense.

5.2 **Tenant Maintenance and Repairs.** Tenant will maintain, at Tenant's cost and expense, the Property and Improvements (interior and exterior) in good condition, repair, working order, and appearance, and will preserve the Property and Improvements, normal wear and tear excepted, and will not commit or permit waste. Without otherwise limiting the generality of the immediately preceding sentence, Tenant will perform, at Tenant's cost and expense, the following maintenance and repairs:

5.2.1 Repair and maintain the roof, gutters, bearing walls, structural members, foundation, walls (exterior and interior), ceilings, doors, windows, and related hardware, light fixtures, switches, wiring, plumbing, water, sewage, gas, and electrical services concerning or related to the Improvements.

5.2.2 Repair and maintain the plumbing system, electrical system, and HVAC system concerning or related to the Improvements. Repair and maintain Improvement-related boilers, lighting facilities, fired or unfired pressure vessels, fire hose connections, fire sprinkler and standpipe and hose, and all other aspects of the fire extinguishing system, including, without limitation, the fire alarm and/or smoke detection systems and equipment.

5.2.3 Repair and maintain the sidewalks, driveways, and landscaping, including, without limitation, all necessary or appropriate snow removal.

5.2.4 All sweeping, mopping, trash collection and removal, and washing required to keep the Property and Improvements clean and orderly.

5.2.5 All repairs or maintenance necessitated by the acts or omissions of Tenant and/or Tenant's Agents.

5.2.6 All repairs, maintenance, and/or improvements required under Tenant's obligation to comply with the Laws.

If Tenant fails or refuses to perform or complete the repairs, maintenance, and/or improvements required under this Section 5.2 within 10 days after Landlord's written notice, Landlord may make the repair or improvement or perform the maintenance and charge the actual costs and expenses of repair, improvement, and/or maintenance to Tenant; provided, however, if Tenant's failure or refusal to perform or complete the repairs, maintenance, and/or improvements causes or threatens loss of life, injury, significant damage, and/or destruction to person or property, human suffering, and/or significant financial loss, Landlord may make the repair or improvement or perform the maintenance (and charge the actual costs and expenses of repair, improvement, and/or maintenance to Tenant) without first having provided Tenant written notice. Tenant will reimburse Landlord for the costs and expenses of repairs, improvements, and/or maintenance on demand, together with interest at the rate of twelve percent (12%) per annum from the date of expenditure until paid in full.

5.3 **Signage; Encumbrances.**

5.3.1 Tenant will not be permitted to erect or maintain any signage on or about the Property without Landlord's prior written consent. Any signage authorized by Landlord will be erected and maintained at Tenant's cost and expense. Signage installed by Tenant will be removed by Tenant, at Tenant's cost and expense, upon the expiration or earlier termination of this Lease and the sign location restored to its former state unless Landlord elects to retain all or any portion of the signage.

5.3.2 Tenant will keep the Property and Improvements free from all Encumbrances. Tenant will pay as and when due all claims for work done on and for services rendered or material furnished to the

Property. If Tenant fails to pay any such claims to discharge any Encumbrance, Landlord may do so and collect the costs as Rent. Any amount so added will bear interest at the rate of twelve percent (12%) per annum from the date expended by Landlord and will be payable on Landlord's demand. Landlord's payment of Tenant's claims or discharge of any Tenant Encumbrance will not constitute a waiver of any other right or remedy which Landlord may have on account of Tenant's default. If an Encumbrance is filed due to nonpayment, Tenant will, within 10 days after knowledge of the filing, secure the discharge of the Encumbrance or deposit with Landlord cash or sufficient corporate surety bond or other surety satisfactory to Landlord in an amount sufficient to discharge the Encumbrance plus any costs, attorney fees, and other charges that could accrue as a result of a foreclosure or sale under the Encumbrance. Tenant will indemnify, defend, and hold Landlord harmless for, from, and against all claims, losses, and/or liabilities arising out of Tenant's failure to comply with this Section 5.3.2.

6. ASSIGNMENT; INSURANCE; INDEMNIFICATION

6.1 Transfer.

6.1.1 Tenant will not sell, assign, mortgage, sublet, lien, convey, encumber, and/or otherwise transfer (whether directly, indirectly, voluntarily, involuntarily, and/or by operation of law) all or any part of Tenant's rights and/or interests in or to this Lease, the Property, and/or Improvements (including, without limitation, any Alterations) (collectively, "Transfer") without Landlord's prior written consent, which consent Landlord will not unreasonably withhold, condition, and/or delay. For purposes of this Lease, a "Transfer" includes the sale, assignment, encumbrance, and/or transfer - or series of related sales, assignments, encumbrances, and/or transfers - of 51% or more of the shares, membership, and/or other ownership interests of Tenant, regardless of whether the sale, assignment, encumbrance, and/or transfer occurs voluntarily or involuntarily, by operation of law, or because of any act or occurrence.

6.1.2 Tenant will provide Landlord no less than 30 days' prior written notice of a proposed Transfer (the "Transfer Notice"), which Transfer Notice will include the name and address of the proposed transferee and a true and complete copy of the proposed Transfer documentation and/or instruments. Landlord's consent to any proposed Transfer is conditioned on the following: (a) Tenant demonstrating (to Landlord's reasonable satisfaction) that the proposed transferee's condition (financial and otherwise), style of operation, business reputation, and use of the Property and Improvements is consistent with the terms of this Lease and that Landlord's interests in the Property, Airport, and Improvements will not be adversely affected in any material respect; (b) Tenant reimbursing Landlord for the costs and expenses incurred by Landlord in connection with its review of all Transfer documentation and/or instruments (and otherwise related to Landlord's determination as to whether to consent to the proposed Transfer); (c) the transferee agreeing in writing to comply with and be bound by all the terms, covenants, conditions, provisions, and agreements of this Lease; (d) Tenant's assignment of the FBO Agreement, Ancillary Lease, and Modular Lease to the proposed transferee (and the transferee assuming all Tenant's obligations arising out of or under the FBO Agreement, Ancillary Lease, and Modular Lease); and (e) any other conditions that Landlord may reasonably impose under the particular circumstances surrounding the proposed Transfer. Tenant acknowledges and agrees that Landlord's conditioning of its consent to any proposed Transfer on Tenant's satisfaction of the conditions contained in this Section 6.1 is reasonable under this Lease.

6.1.3 If Landlord consents to a Transfer, the following will apply: (a) the terms and conditions of this Lease will in no way be deemed waived or modified; (b) consent will not be deemed consent to any further Transfer by Tenant or any transferee; (c) the acceptance of Rent by Landlord from any other person will not be deemed a waiver by Landlord of any provision of this Lease; and (d) no Transfer relating to this Lease and/or the Improvements, whether with or without Landlord's consent, will modify, relieve, and/or eliminate any liabilities and/or obligations Tenant and/or any guarantor of this Lease may have under this Lease. Landlord may consent to subsequent assignments, subletting, and/or amendments or modifications to this Lease with assignees of Tenant without notifying Tenant, or any successor of Tenant, and without obtaining its or their consent thereto and such action will not relieve Tenant of any liability under this Lease.

6.2 Tenant Insurance. Tenant will keep the Improvements insured against fire and other risks covered under a standard fire insurance policy with an endorsement for extended coverage. Tenant will maintain, at Tenant's cost and expense, a policy of fire, extended coverage, vandalism, and malicious mischief insurance insuring the personal property, furniture, furnishings, and fixtures belonging to Tenant located in or on the Improvements. The amount of the insurance will be no less than 100% of the replacement cost of the Improvements and will also be sufficient to prevent Tenant from becoming a coinsurer under the provisions of the policies. Landlord will not be responsible for any loss or damage to Tenant's personal property, whether or not insured.

6.3 Liability Insurance. Tenant will procure, and thereafter will continue to carry, (a) general liability insurance (occurrence version) with a responsible licensed Oregon insurance company against personal injury claims arising directly or indirectly out of Tenant's activities on, or any condition of, the Property and/or Improvements, whether or not related to an occurrence caused, or contributed to, by Landlord's negligence, and will insure the performance by Tenant of Tenant's indemnification obligations under this Lease, and (b) aircraft liability insurance. Tenant's general liability insurance required to be carried under this Section 6.3 will have a general aggregate limit of no less than \$4,000,000.00, a per occurrence limit of no less than \$2,000,000.00; the aircraft liability insurance will have a general aggregate and per occurrence limit of no less than \$1,000,000.00. Each liability insurance policy required under this Lease will be in form and content satisfactory to Landlord and will contain a severability of interest clause. By separate endorsement, each liability insurance policy will name Landlord and Landlord's officers, employees, agents, and volunteers as additional insureds. The insurance Tenant is required to obtain under this Lease may not be cancelled without 10 days' prior written notice to Landlord. Tenant's insurance will be primary and any insurance carried by Landlord will be excess and noncontributing. Tenant will furnish Landlord with policy copies (including applicable endorsements) evidencing the insurance coverage, endorsements, and provisions Tenant is required to obtain under this Lease upon Tenant's execution of this Lease and at any other time requested by Landlord. If Tenant fails to maintain insurance as required under this Lease, Landlord will have the option, but not the obligation, to obtain such coverage with costs to be reimbursed by Tenant immediately upon Landlord's demand. Notwithstanding anything contained in this Lease to the contrary, Landlord may increase the minimum levels of insurance Tenant is required to carry under this Lease by providing Tenant 90 days' prior written notice. All policies of insurance which Tenant is required by this Lease to carry will provide that the insurer waives the right of subrogation against Landlord.

6.4 Tenant Release and Indemnification. Tenant releases and will defend, indemnify, and hold Landlord and Landlord's present and future officers, employees, contractors, representatives, and agents (collectively, "Landlord's Agents") harmless for, from, and against all claims, demands, charges, proceedings, costs, expenses, losses, damages, and/or liabilities, including, without limitation, attorney fees and costs, resulting from or arising out of, whether directly or indirectly, the following: (a) any damage, loss, and/or injury to person or property in, on, and/or about the Property and/or Improvements provided such damage, loss, and/or injury to person or property is not caused by Landlord's gross negligence or willful misconduct; (b) Tenant's and/or Tenant's directors, officers, shareholders, members, managers, employees, agents, representatives, invitees, and/or contractors (collectively, "Tenant's Agents") acts and/or omissions, including, without limitation, Tenant's and/or Tenant's Agents operations at the Airport, Improvements, and/or Property; (c) Tenant's use of the Property, Improvements, and/or Airport; (d) Tenant's construction, maintenance, repair, and/or occupancy of the Property and/or Improvements and/or any condition of the Property and/or Improvements; (e) the use, storage, treatment, transportation, presence, release, and/or disposal of Hazardous Substances in, on, under, and/or about the Property and/or Improvements; and/or (f) Tenant's breach and/or failure to perform any Tenant representation, warranty, covenant, and/or obligation under this Lease. Tenant's indemnification obligations under this Section 6.4 will survive the expiration or earlier termination of this Lease.

6.5 Reconstruction After Damage. If the Improvements are damaged or destroyed by fire or any other cause at any time during the Lease Term, whether or not covered by insurance, Tenant will promptly repair the damage and restore the Improvements. The completed repair, restoration, and/or replacement Improvements will be equal in value, quality, and use and will be restored to the condition of the Improvements immediately before the damage or destruction. Tenant will pay all costs and expenses of repairing and restoring

the Improvements, which repairs and restoration will be completed no later than three hundred sixty-five (365) days after the date of the fire or other cause of damage. Tenant will not be entitled to any abatement of Rent on account of any damage to or destruction of the Improvements, nor will any other obligations of Tenant under this Lease be altered or terminated except as specifically provided in this Lease.

6.6 Waiver of Subrogation. Neither party will be liable to the other (or to the other's successors or assigns) for any loss or damage caused by fire, or any of the risks covered by the property insurance policies required under this Lease, and in the event of insured loss, neither party's insurance company will have a subrogated claim against the other. This waiver will be valid only if the insurance policy in question expressly permits waiver of subrogation or if the insurance company agrees in writing that such a waiver will not affect coverage under the policies. Each party agrees to obtain such an agreement from its insurer if the policy does not expressly permit a waiver of subrogation.

7. DEFAULT; REMEDIES

7.1 Default. The occurrence of any one or more of the following events constitutes a default by Tenant under this Lease (each an "Event of Default"): (a) Tenant's failure to pay Rent and/or any other charge, cost, and/or expense under this Lease when due; (b) Tenant's breach and/or failure to perform any representation, warranty, obligation, and/or covenant contained in this Lease (other than the payment of Rent or other charge, cost, and/or expense under Section 7.1(a)) within 10 days after written notice from Landlord specifying the nature of the breach and/or failure to perform with reasonable particularity; provided, however, if Tenant's breach and/or failure to perform causes or threatens loss of life, injury, significant damage, and/or destruction to person or property, human suffering, and/or significant financial loss, Tenant must cure or remedy such breach and/or failure to perform immediately upon receipt of written notice from Landlord; (c) attachment, execution, levy, and/or other seizure by legal process of any right or interest of Tenant under this Lease if not released within 30 days; (d) Tenant dies, dissolves, becomes insolvent within the meaning of the United States Bankruptcy Code, as amended from time to time; a general assignment by Tenant for the benefit of creditors; the filing by Tenant of a voluntary petition in bankruptcy; an adjudication that Tenant is bankrupt or the appointment of a receiver of the properties of Tenant; the filing of any involuntary petition of bankruptcy and failure of Tenant to secure a dismissal of the petition within 30 days after filing; attachment of or the levying of execution on the leasehold interest and failure of Tenant to secure discharge of the attachment or release of the levy of execution within 30 days; (e) Tenant's breach and/or failure to perform Tenant's obligations, representations, warranties, and/or covenants under the FBO Agreement, Ancillary Lease, and/or Modular Lease; and/or (f) Tenant's failure for 30 days or more to occupy the Property and Improvements for the Permitted Use.

7.2 Landlord's Remedies. Upon an Event of Default, Landlord may elect any one or more of the following remedies:

7.2.1 Landlord may terminate this Lease, the FBO Agreement, Ancillary Lease, and/or Modular Lease by notice to Tenant. If this Lease is not terminated by Landlord, Landlord will be entitled to recover damages from Tenant for the default. If this Lease is terminated by Landlord, Tenant's liability to Landlord for damages will survive such termination, and Landlord may reenter, take possession of the Property and Improvements, and remove any persons or property (including the Improvements) by legal action or by self-help with the use of reasonable force and without liability for damages. Landlord may pursue all rights and remedies provided Landlord under the FBO Agreement, Ancillary Lease, and/or Modular Lease, including, without limitation, termination. Notwithstanding anything contained in this Lease to the contrary, upon termination of the FBO Agreement, Ancillary Lease, and/or Modular Lease, Landlord will have all rights and remedies available to Landlord under the FBO Agreement, Ancillary Lease, Modular Lease, and/or applicable law.

7.2.2 Following reentry or abandonment, Landlord may relet the Property, and in that connection may make any suitable alterations or refurbish the Property or Improvements (or both), or change the character or use of the Property and/or Improvements, but Landlord will not be required to relet the Property and/or Improvements for any use or purpose other than compatible uses or which Landlord may reasonably

consider injurious to the Property, or to any tenant which Landlord may reasonably consider objectionable. Landlord may relet all or part of the Property or Improvements, alone or in conjunction with other properties, for a term longer or shorter than the term of this Lease, upon any reasonable terms and conditions, including the granting of some rent-free occupancy or other rent concession.

7.2.3 Upon the happening of an Event of Default, Landlord will be entitled to recover immediately, without waiting until the due date of any future Rent or until the date fixed for expiration of this Lease, and in addition to any other damages recoverable by Landlord, the following amounts as damages: (a) the loss of reasonable rental value from the date of default until a new tenant has been, or with the exercise of reasonable efforts could have been, secured; (b) the reasonable costs of reentry and reletting including, without limitation, the cost of any demolition, construction, clean-up, refurbishing, removal of Tenant's property and fixtures, or any other expense occasioned by Tenant's failure to quit the Property and Improvements (if applicable) upon termination and leave the Property and Improvements (if applicable) in the required condition, including, without limitation, any remodeling costs, attorney fees, court costs, broker commissions, and advertising costs; and/or (c) any excess of the value of the Rent, and all of Tenant's other obligations under this Lease, over the reasonable expected return from the Property and/or Improvements for the period commencing on the earlier of the date of trial or the date the Property and/or Improvements are relet and continuing through the end of the Lease Term.

7.3 Cumulative Remedies; Right to Cure. Termination of this Lease will not constitute a waiver or termination of any rights, claims, and/or causes of action Landlord may have against Tenant; Tenant's obligations under this Lease, including, without limitation, Tenant's indemnification obligations under Section 6.4, will survive the termination. Landlord may sue periodically to recover damages during the period corresponding to the remainder of the Lease Term, and no action for damages will bar a later action for damages subsequently accruing. The foregoing remedies will be in addition to and will not exclude any other remedy available to Landlord under applicable law. Unless a shorter time is otherwise provided in this Lease, if Tenant fails to perform any obligation under this Lease Landlord will have the option to do so after ten (10) days' written notice to Tenant specifying the nature of the default. Landlord's performance of any Tenant obligation under this Lease will not waive any other remedy available to Landlord. All of Landlord's expenditures to correct the default will be reimbursed by Tenant on demand with interest at the rate of twelve percent (12%) per annum from the date of expenditure by Landlord until paid in full.

7.4 Termination Rights. Notwithstanding anything contained in this Lease to the contrary, this Lease may be terminated (a) at any time by the mutual written agreement of Landlord and Tenant; (b) by Landlord immediately upon notice to Tenant if Landlord reasonably determines that Tenant's acts or omissions cause or threaten loss of life, injury, significant damage, and/or destruction to person or property, human suffering, and/or significant financial loss; and/or (c) by Landlord upon termination of the FBO Agreement, Ancillary Lease, and/or Modular Lease. Termination of this Lease will not constitute a waiver or termination of any rights, claims, and/or causes of action Landlord may have against Tenant; Tenant's obligations under this Lease, including, without limitation, Tenant's indemnification obligations under Section 6.4, will survive the termination. Tenant will not be entitled to damages and/or any other recovery if Landlord exercises its termination right under this Section 7.4.

8. SURRENDER; HOLDOVER

8.1 Improvements and Alterations. In addition to all other Tenant obligations required under this Lease, upon the earlier termination or expiration of this Lease, Tenant will, at Tenant's cost and expense, pay and perform the following: (a) perform all Property and Improvements maintenance and repairs for which Tenant is responsible under this Lease; and (b) surrender the Property and Improvements (subject to Section 8.4) to Landlord in good condition, repair, working order, and appearance, free of waste and debris. If Tenant fails to timely surrender the Property and Improvements in accordance with this Section 8.1, the following will apply: (x) by written notice given to Tenant within 10 days after Tenant's surrender obligations were required to be performed, Landlord may elect to hold Tenant to its surrender obligations under this Section 8.1; (y) Landlord may cause Tenant's surrender obligations to be performed in accordance with this Section 8.1, at Tenant's cost and

expense; and/or (z) Landlord may treat Tenant as a holdover tenant under Section 8.3. Tenant is liable to Landlord for all costs and expenses Landlord incurs to cause the Property and Improvements to be surrendered in accordance with this Section 8.1 with interest at 12% per annum from the date of expenditure by Landlord until paid in full.

8.2 Tenant Personal Property Removal Obligations. Prior to the earlier termination or expiration of this Lease, Tenant will remove from the Property and Improvements all aircraft, vehicles, furnishings, furniture, equipment, tools, trade fixtures, and personal property which remain its property, including all resulting waste and/or debris. If Tenant fails to timely remove the aircraft, vehicles, furnishings, furniture, equipment, tools, trade fixtures, personal property, and all resulting waste and/or debris, the following will apply: (a) at Landlord's election, Tenant will be deemed to have abandoned the property, and Landlord may retain the property and all rights of Tenant with respect to the property will cease; (b) by written notice given to Tenant within 10 days after removal was required, Landlord may elect to hold Tenant to its removal obligations (provided, however, if Landlord elects to require Tenant to remove, Landlord may effect a removal and place the property in storage for Tenant's account); (c) Landlord may cause the property to be removed in accordance with this Section 8.2, at Tenant's cost and expense; and/or (d) Landlord may treat Tenant as a holdover tenant under Section 8.3. Tenant is liable to Landlord for all costs and expenses Landlord incurs to cause the property's removal and/or storage with interest at 12% per annum on all such expenses from the date of expenditure by Landlord until paid in full.

8.3 Holdover. If Tenant does not vacate and surrender the Property and Improvements in accordance with Sections 8.1 and 8.2 at the time required, Landlord will have the option to treat Tenant as a tenant from month-to-month, subject to the provisions of this Lease (except the provisions for term and extension), except that Base Rent will be equal to 150% of the then applicable Base Rent. Failure of Tenant to timely surrender the Property and Improvements and remove its aircraft, vehicles, trade fixtures, furniture, furnishings, equipment, tools, and/or any other personal property in accordance with this Lease will constitute a failure to vacate to which this Section 8.3 will apply. If a month-to-month tenancy results from a holdover by Tenant under this Section 8.3, the tenancy will be terminable at the end of any monthly rental period on written notice from Landlord given not less than 30 days prior to the termination date which will be specified in the notice.

8.4 Removal and Ownership. Notwithstanding anything contained in this Lease to the contrary, upon the earlier termination or expiration of this Lease, Landlord may (a) require Tenant to remove the Improvements and/or Alterations from the Property (and surrender the Property to Landlord in good condition, repair, working order, and appearance, free of waste and debris), at Tenant's cost and expense, prior to the earlier termination or expiration of this Lease, or (b) purchase the Improvements in accordance with Section 8.5. If Tenant fails to timely remove the Improvements and/or Alterations from the Property under this Section 8.4 to Landlord's reasonable satisfaction (including all resulting waste or debris), Landlord may, in addition to any other Landlord rights and remedies, (y) cause the Improvements and/or Alterations to be removed at Tenant's cost and expense, and/or (z) treat Tenant as a holdover tenant under Section 8.3. Tenant is liable to Landlord for all costs and expenses Landlord incurs to cause the removal of the Improvements and/or Alterations and Property's restoration with interest at 12% per annum on all such expenses from the date of expenditure by Landlord until paid in full.

8.5 Landlord Purchase. If Landlord purchases the Improvements in accordance with Section 8.4, Landlord will purchase the Improvements for the fair market value of the Improvements as of the expiration or earlier termination of this Lease. The purchase will be made effective as of the date of the expiration or earlier termination of the Lease. Landlord will obtain ownership of the Improvements free and clear of all Encumbrances, including, without limitation, any Tenant rights or interests in and to the Improvements. Tenant will sign and deliver all documents and instruments Landlord determines necessary or appropriate to effectuate the transfer and conveyance of the Improvements.

8.6 Fair Market Value. If Landlord elects to purchase the Improvements, then the fair market value of the Improvements will be determined by the parties through good faith negotiation, which the parties will commence at least 90 days before the expiration or earlier termination of the Lease (unless not known) and

pursue with diligence. If the parties cannot reach agreement within 30 days, then the fair market value will be determined by the following process:

8.6.1 no later than 90 days before the expiration or earlier termination of this Lease, each party will submit in confidence its written evaluation of the fair market value of the Improvements. At the same time, the parties will attempt in good faith to appoint a mutually acceptable, independent, qualified appraiser. No later than 30 days after the appraiser is appointed, the appraiser will choose one of the two proposals as the fair market value of the FBO, which determination will be final and binding.

8.6.2 If the parties cannot agree on an appraiser, then each party will appoint a qualified, independent appraiser no later than 75 days before the expiration or earlier termination of this Lease. The appraisers appointed by each party will select a qualified, independent appraiser, who will choose one of the two proposals as the fair market value of the Improvements, which determination will be final and binding. If a party fails to timely appoint a qualified appraiser, then the one appraiser timely appointed will determine the fair market value by choosing one of the two proposals as the fair market value of the Improvements, which determination will be final and binding. If a party fails to timely submit its evaluation of the fair market value, then the timely submitted evaluation will be the final and binding fair market value of the Improvements.

8.6.3 Each party will bear one-half of the expense of the mutually appointed appraiser and the entire expense of any appraiser appointed by the party individually. Landlord will pay Tenant the agreed or determined fair market value, as the case may be, no later than 30 days after it is determined; provided, however, if Landlord determines necessary or appropriate, Landlord may pay the agreed or determined fair market value over an installment period not exceeding 48 months. Tenant will defend, indemnify, and hold Landlord harmless for, from, and against all liability and loss arising from Tenant's failure to deliver the Improvements free and clear of all Encumbrances.

9. MISCELLANEOUS

9.1 Non-waiver; Attorney Fees. No waiver will be binding on a party unless it is in writing and signed by the party making the waiver. Waiver by either party of strict performance of any provision of this Lease will 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. If an Event of Default occurs, Tenant will pay Landlord, within 10 days after Landlord's demand, all attorney fees and costs Landlord incurs to enforce the terms of this Lease whether or not Landlord instituted arbitration or litigation proceedings. If any arbitration or litigation is instituted to interpret, enforce, or rescind this Lease, including, without limitation, any proceeding brought under the United States Bankruptcy Code, the prevailing party on a claim will be entitled to recover with respect to the claim, in addition to any other relief awarded, the prevailing party's attorney fees, expert fees, and other fees, costs, and expenses of every kind, including, without limitation, the costs and disbursements specified in ORCP 68 A(2), incurred in connection with the arbitration, the litigation, any appeal or petition for review, the collection of any award, or the enforcement of any order, as determined by the arbitrator or court.

9.2 Addresses for Notices; Binding Effect. All notices or other communications required or permitted by this Lease must be in writing, must be delivered to the parties at the addresses set forth above, or at any other address that a party may designate by notice to the other parties. Any notice will be considered delivered upon actual receipt if delivered personally, via email or facsimile (with electronic confirmation of delivery), or an overnight delivery service, or at the end of the third business day after the date deposited in the United States mail, postage pre-paid, certified, return receipt requested. Subject to the limitations under Section 6.1 concerning the Transfer of this Lease by Tenant, this Lease will be binding upon and inure to the benefit of the parties, their respective successors and assigns. This Lease (or any memorandum of this Lease) will not be recorded. Tenant will cause Tenant's Agents to conform and comply with this Lease.

9.3 Entry for Inspection; Late Fees; Interest. Landlord may enter the Property and Improvements for the purpose of investigating compliance with the terms of this Lease, general safety inspections, and/or for any other reasonable purposes (as determined by Landlord), including, without limitation, to show the

Property/Improvements to a prospective tenant. Except in the case of an emergency, Landlord will endeavor to provide Tenant no less than 24 hours' prior written notice before entering the Property. In addition, Landlord will have the right, at any time during the last 90 days of the Lease Term, to place and maintain upon the Property/Improvements notices for leasing the Property/Improvements. If Rent (or other payment due from Tenant) is not received by Landlord within 10 days after it is due, Tenant will pay a late fee equal to 10% of the payment or \$100.00, whichever is greater (a "Late Fee"). Landlord may levy and collect a Late Fee in addition to all other remedies available for Tenant's failure to pay Rent (or other payment due from Tenant). Any Rent or other payment required to be paid by Tenant under this Lease (and/or any payment made or advanced by Landlord in connection with Landlord's performance of any Tenant obligation under this Lease) will bear interest at the rate of 12% per annum from the due date (or, if applicable, the date of Landlord's payment) until paid by Tenant in full.

9.4 Severability; Further Assurance; Governing Law; Venue; Joint and Several. If a provision of this Lease is determined to be unenforceable in any respect, the enforceability of the provision in any other respect, and of the remaining provisions of this Lease, will not be impaired. The parties will sign such other documents and take such other actions as are reasonably necessary to further effect and evidence this Lease. This Lease is governed by the laws of the State of Oregon, without giving effect to any conflict-of-law principle that would result in the laws of any other jurisdiction governing the Lease. If any dispute arises regarding this Lease, the parties agree that the sole and exclusive venue for resolution of such dispute will be in Malheur County, Oregon. All parties submit to the jurisdiction of courts located in Malheur County, Oregon for any such disputes.

9.5 Entire Agreement; Signatures; Time. This Lease contains the entire understanding of the parties regarding the subject matter of this Lease and supersedes all prior and contemporaneous negotiations and agreements, whether written or oral, between the parties with respect to the subject matter of this Lease. This Lease may be signed in counterparts. A fax or email transmission of a signature page will be considered an original signature page. At the request of a party, a party will confirm a fax or email-transmitted signature page by delivering an original signature page to the requesting party. Time is of the essence with respect to Tenant's performance of its obligations under this Lease. If the date for performance of an obligation or delivery of any notice hereunder falls on a day other than a business day, the date for such performance or delivery of such notice will be postponed until the next ensuing business day. For purposes of this Lease, a "business day" means a normal working day (i.e., Monday through Friday of each calendar week, exclusive of Federal and state holidays and one day following each of Thanksgiving, Christmas, and New Year's).

9.6 Discretion; Landlord Default. When a party is exercising any consent, approval, determination, and/or similar discretionary action under this Lease, the standard will be the party's commercially reasonable discretion, which discretion will not be unreasonably withheld, conditioned, and/or delayed. No act or omission of Landlord will be considered a default under this Lease until Landlord has received 30 days' prior written notice from Tenant specifying the nature of the default with reasonable particularity. Commencing from Landlord's receipt of such default notice, Landlord will have 30 days to cure or remedy the default before Landlord will be deemed in default of this Lease; provided, however, that if the default is of such a nature that it cannot be completely remedied or cured within the thirty-day cure period, there will not be a default by Landlord under this Lease if Landlord begins correction of the default within the thirty-day cure period and thereafter proceeds with reasonable diligence to effect the remedy as soon as practical.

9.7 Additional Provisions; Attachments; Interpretation. The provisions of all exhibits, schedules, instruments, and other documents referenced in this Lease are part of this Lease. All pronouns contained herein and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word "or" is not exclusive. The words "include," "includes," and "including" are not limiting. The term "person" means any natural person, corporation, limited liability company, partnership, joint venture, firm, association, trust, unincorporated organization, government or governmental agency or political subdivision, or any other entity. The titles, captions, or headings of the sections herein are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Lease.

IN WITNESS WHEREOF, the undersigned have caused this Lease to be executed and effective for all purposes as of the Effective Date.

LANDLORD:
City of Ontario,
an Oregon municipal corporation

TENANT:
Silverhawk Properties Oregon LLC,
an Oregon Limited Liability Company

By: Riley J. Hill, Mayor

By: Catherine Weber, Manager

DRAFT

Exhibit A
Property Description and Depiction

[attached]

DRAFT

FIXED BASED OPERATOR SERVICES AGREEMENT

(Silverhawk)

This Fixed Based Operator Services Agreement (this "Agreement") is dated effective for all purposes as of October 1, 2021 (the "Effective Date") and is entered into between City of Ontario ("City"), an Oregon municipal corporation, whose address is 444 SW 4th Street, Ontario, Oregon 97914, and Silverhawk Properties Oregon LLC ("Contractor"), an Oregon limited liability company, whose address is 581 SW 33rd Street, Ontario, Oregon 97914.

RECITALS:

A. City is the owner, sponsor, and operator of the Ontario Municipal Airport, a public municipal airport located in Ontario, Oregon (the "Airport"). City desires to contract with Contractor to provide certain fixed based operator ("FBO") services on and at the Airport. Subject to the terms and conditions contained in this Agreement, Contractor will perform the FBO services at the Airport.

B. Pursuant to the terms of a certain Airport Ground Lease for Aeronautical Use Improvements (Fixed Based Operator Lease) dated as of the Effective Date between City and Contractor (the "FBO Lease"), City has leased certain real property to Contractor to facilitate Contractor's provision of the FBO services subject to this Agreement. The real property subject to the FBO Lease includes, without limitation, certain City real property upon which Contractor's approximately 2,024 square foot fixed base operations office building is located and fuel farm area consisting of approximately 5,200 square feet (all as described and depicted in the FBO Lease).

C. Pursuant to the terms of a certain Airport Ground Lease for Aeronautical Use Improvements (Fixed Based Operator Ancillary Lease) dated as of the Effective Date between City and Contractor (the "Ancillary Lease"), City has leased certain real property to Contractor to facilitate Contractor's provisions of the FBO services subject to this Agreement. The real property subject to the Ancillary Lease includes, without limitation, certain City real property upon which Contractor's (a) approximately 4,000 square foot airplane hangar (commonly known as Hangar A), and (b) approximately 4,800 square foot airplane hangar (commonly known as Hangar B) are located.

D. Pursuant to the terms of a certain Airport Ground Lease for Aeronautical Use Improvements (Fixed Based Operator Modular Lease) dated as of the Effective Date between City and Contractor (the "Modular Lease"), City has leased certain real property to Contractor to facilitate Contractor's provisions of the FBO services subject to this Agreement. The real property subject to the Modular Lease includes, without limitation, certain City real property upon which Contractor's approximately 1,848 modular building is located.

AGREEMENT:

NOW, THEREFORE, in consideration of the parties' mutual obligations contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Fixed Based Operator Services.

1.1 Services; Standards. Subject to the terms and conditions contained in this Agreement, Contractor will perform the following fixed based operator services concerning the Airport for and on behalf of City (collectively, the "Services"): (a) those fixed based operator services described on the attached Schedule 1.1; (b) all other necessary or appropriate services customarily provided by Contractor in connection with its performance of those services identified in Schedule 1.1; and (c) such other fixed based operator services requested by City's airport manager from time to time. Contractor will (w) consult with and advise City on all matters concerning the Services reasonably requested by City, (x) communicate all matters and information concerning the Services to the airport manager and perform the Services under the general direction of the airport manager, (y) devote such time and attention to performance of the Services as City deems necessary or appropriate, and (z) perform the Services to the best of

Contractor's ability. Contractor will not participate in and/or perform any aeronautical and/or nonaeronautical services on or at the Airport except for the Services. Contractor will not store (or permit the storage) any personal vehicles or recreational equipment unrelated to Contractor's performance of the Services on or at the Airport. For purposes of this Agreement, the term "airport manager" means City's then designated airport manager and his or her designee.

1.2 Schedule; Condition Precedent. The Services will be completed expeditiously and in a timely manner. Notwithstanding anything contained in this Agreement to the contrary, City's performance of its obligations under this Agreement is conditioned on Contractor's performance of its obligations under this Agreement, including, without limitation, those Contractor obligations identified under Section 4.4. Contractor will immediately notify City in writing of the occurrence of any of the following events: (a) any enforcement, clean-up, removal, and/or other governmental or regulatory action is instituted, completed, and/or threatened concerning any Environmental Laws (as defined below); and/or (b) any claim is made or threatened by any person against or concerning Contractor, Contractor's activities, and/or the condition of the Airport. Contractor will provide City copies of any written documentation related to the foregoing immediately upon City's demand.

1.3 Non-Exclusive Services. Contractor acknowledges and agrees that this Agreement does not grant and/or convey an exclusive right or license to provide the Services. Notwithstanding anything contained in this Agreement to the contrary, City reserves the right to grant franchises, licenses, permits, and/or other similar rights to other persons to provide the same or similar FBO services at any time and from time to time as City determines necessary or appropriate. Contractor has entered into this Agreement on the basis of its own examination and personal knowledge of the Airport and Services. Contractor has not relied on any representations or warranties made by City concerning the Airport and/or Services. City makes no representations or warranties of any kind, whether express or implied, with respect to all or any part of the Airport and/or Services.

1.4 City Delegation. If Contractor fails or refuses to provide or perform any Mandatory Services identified in Schedule 1.1 within 10 days after City's written notice (the "Failed Services"), in addition to all other rights and remedies available to City under this Agreement, City may assign or delegate the Failed Services to another contractor or consultant to provide or perform the Failed Services (or City may perform the Failed Services with its own forces). City may charge all costs, expenses, and charges City incurs to provide or perform the Failed Services to Contractor. Contractor will reimburse City for the costs, expenses, and charges City incurs to provide or perform the Failed Services immediately on demand, together with interest at the rate of twelve percent (12%) per annum from the date of expenditure until paid by Contractor in full.

2. Federal Aviation Administration; Relationship.

2.1 Aviation Easement; Aeronautical Uses. Contractor will protect the Airport and Airport property for aeronautical and related uses. Contractor will not interfere and/or impede with Airport operations. Any Contractor activities that City determines interfere and/or impede Airport operations is prohibited. Contractor's operations from the Airport may be disrupted by certain expansion, improvement, construction, development, remodeling, and/or other activities on or at the Airport, including, without limitation, runway maintenance and repairs. City will not be in default under this Agreement (and Contractor will not be entitled to any concessions) if Contractor is disrupted (temporarily or otherwise) in its operations from the Airport due to the aforementioned activities.

2.2 Airport Operations; Security. Notwithstanding anything contained in this Agreement to the contrary, City reserves the right to control and regulate all Airport property, facilities, and/or operations, including, without limitation, taxiways, ramps, runways, improvements, aprons, fuel areas, and parking facilities. City may impose certain taxi proceedings, requirements, and/or controls to promote efficient and orderly operation of other operators. Contractor acknowledges and agrees that City does not provide continuous security for the Airport. Contractor is responsible for securing and safeguarding all Contractor aircraft and other personal property located on the Airport. City will not be liable for any loss and/or damage to Contractor's property due to theft, vandalism, and/or any other causes, including forces of nature.

2.3 Non-Discrimination. Contractor covenants and agrees that, in connection with Contractor's performance of the Services, no person will, on the grounds of race, color, national origin, and/or other protected classification, be excluded from participation in, denied the benefits of, and/or otherwise subjected to discrimination in the use of any facilities located on or about the Airport.

2.4 Subordination – United States. Notwithstanding anything contained in this Agreement to the contrary, (a) this Agreement is subordinate to the terms of any agreement between City and the United States concerning Airport operations and/or maintenance (the terms of such agreement will supersede the terms of this Agreement), and (b) during times of war or national emergency, City may lease the Airport's landing area (or any part thereof) to the United States for military or naval use (and, in connection therewith, the provisions of this Agreement will be suspended to the extent inconsistent with City's lease with the United States).

2.5 Independent Contractor. Contractor is an independent contractor of City. Contractor is not an employee of City. Contractor will be free from direction and control over the means and manner of performing the Services, subject only to the right of City to specify the desired results. This Agreement does not create an agency relationship between City and Contractor and does not establish a joint venture or partnership between City and Contractor. Contractor does not have the authority to bind City or represent to any person that Contractor is an agent of City. Contractor has the authority to hire other persons to assist Contractor in performing the Services (and has the authority to fire such persons).

2.6 Taxes; Licenses. City will not withhold any taxes from any payments made to Contractor, and Contractor will be solely responsible for paying all taxes arising out of or resulting from Contractor's performance of the Services, including, without limitation, income, social security, workers' compensation, and employment insurance taxes. Contractor will be solely responsible for obtaining all licenses, approvals, and certificates necessary or appropriate to perform the Services.

3. Compensation.

3.1 Compensation. Subject to the terms and conditions contained in this Agreement, in consideration of Contractor's timely performance of the Services in accordance with this Agreement, City will pay (or Contractor will be entitled to receive) the following compensation:

3.1.1 Rental of the buildings subject to the FBO Lease, Ancillary Lease, and/or Modular Lease (each subject to City's prior written consent in accordance with the applicable lease).

3.1.2 One-half (or 50%) of City's aircraft tie-down space rental proceeds. Airport City Manager is responsible for collecting all aircraft tie-down space rental.

The aforementioned compensation is accepted by Contractor as full compensation for performing the Services.

3.2 No Benefits; No Reimbursement. City will not provide any benefits to Contractor, and Contractor will be solely responsible for obtaining Contractor's own benefits, including, without limitation, insurance, medical reimbursement, and retirement plans. Contractor will provide, at Contractor's cost and expense, all materials, equipment, and supplies necessary or appropriate to perform the Services. City will not reimburse Contractor for any expenses Contractor incurs to perform the Services.

4. Representations; Warranties; Covenants.

In addition to any other Contractor representation, warranty, and/or covenant made in this Agreement, Contractor represents, warrants, and covenants to City as follows:

4.1 Authority; Binding Obligation; Conflicts. Contractor is duly organized under Oregon law and validly existing and in good standing under applicable Oregon law. Contractor has full power and authority to sign

and deliver this Agreement and to perform all Contractor's obligations under this Agreement. This Agreement is the legal, valid, and binding obligation of Contractor, enforceable against Contractor in accordance with its terms. The signing and delivery of this Agreement by Contractor and the performance by Contractor of all Contractor's obligations under this Agreement will not (a) breach any agreement to which Contractor is a party, or give any person the right to accelerate any obligation of Contractor, (b) violate any law, judgment, or order to which Contractor is subject, or (c) require the consent, authorization, or approval of any person, including, without limitation, any governmental body.

4.2 Minimum Standards. Contractor will perform the Services to the best of Contractor's ability, diligently, in good faith, in a professional manner, free from errors and omissions, and consistent with the terms and conditions contained in this Agreement. The Services will be performed subject to and in accordance with the Laws (as defined below). Contractor will be solely responsible for the Services. Contractor will make all decisions called for promptly and without unreasonable delay. Contractor has sufficient assets and net worth to ensure Contractor's timely and complete payment and performance of its obligations under this Agreement.

4.3 Insurance. During the term of this Agreement, Contractor will obtain and maintain, in addition to any other insurance required under this Agreement, the following minimum levels of insurance: (a) general liability insurance for all losses or claims arising out of or related to Contractor's performance of its obligations under this Agreement (including, without limitation, damages as a result of death or injury to any person or destruction or damage to any property) with limits of no less than \$2,000,000 per occurrence, \$4,000,000 in the aggregate; (b) comprehensive automobile liability insurance for all owned, non-owned, and hired vehicles that are or may be used by Contractor in connection with Contractor's performance of the Services with limits of no less than \$1,000,000 combined single limit; (c) employer liability insurance with limits of no less than \$1,000,000 per occurrence, \$2,000,000 in the aggregate; and (d) workers' compensation insurance in form and amount sufficient to satisfy the requirements of applicable Oregon law. Each liability insurance policy required under this Agreement will be in form and content satisfactory to City, will list City and each City Representative (as defined below) as an additional insured, and will contain a severability of interest clause; the workers' compensation insurance will contain a waiver of subrogation in favor of City. The insurance Contractor is required to obtain under this Agreement may not be cancelled without 10 days' prior written notice to City. Contractor's insurance will be primary and any insurance carried by City will be excess and noncontributing. Contractor will furnish City with appropriate documentation evidencing the insurance coverage (and provisions) and endorsements Contractor is required to obtain under this Agreement upon Contractor's execution of this Agreement and at any other time requested by City. If Contractor fails to maintain insurance as required under this Agreement, City will have the option, but not the obligation, to obtain such coverage with costs to be reimbursed by Contractor immediately upon City's demand.

4.4 Laws. Contractor will comply and perform the Services in accordance with the Laws. Without otherwise limiting the generality of the immediately preceding sentence, Contractor will comply with each obligation applicable to Contractor and/or this Agreement under ORS 279B.220, 279B.225, 279B.230, and 279B.235, which statutes are incorporated herein by reference. Prior to the Effective Date, Contractor obtained all licenses, approvals, and/or certificates necessary or appropriate to perform the Services, including, without limitation, an unexpired certificate issued by the Oregon Department of Administrative Services under ORS 279A.167. For purposes of this Agreement, the term "Law(s)" means all policies, rules, leases, covenants, conditions, restrictions, easements, declarations, laws (federal, state, and local), statutes, liens, ordinances, orders, codes, and regulations directly or indirectly affecting the Airport and/or Services, including, without limitation, the Americans with Disabilities Act of 1990 (and the rules and regulations promulgated thereunder), Environmental Laws, any rules or regulations promulgated by the Federal Aviation Administration ("FAA") and/or any other federal airport authority (including, without limitation, City's Grant Assurances and requirements under 14 CFR Part 77), Title 3, Chapter 9 of City's municipal code, and/or City's policies governing fixed based operator services, all as now in force and/or which may hereafter be amended, modified, enacted, and/or promulgated.

4.5 Indemnification. Contractor will defend, indemnify, and hold City, and each present and future City officer, employee, agent, and representative (individually and collectively, "City's Representative(s)"),

harmless for, from, and against all claims, actions, proceedings, damages, liabilities, injuries, losses, and expenses, including, without limitation, attorney fees and costs, resulting from or arising out of the following: (a) damage, injury, and/or death to person or property caused by Contractor (and/or Contractor's directors, officers, shareholders, partners, managers, members, employees, agents, representatives, and/or contractors); (b) Contractor's failure to pay any tax arising out of or resulting from performance of the Services; and/or (c) Contractor's breach and/or failure to perform any Contractor representation, warranty, covenant, and/or obligation contained in this Agreement. Contractor's indemnification obligations provided in this Section 4.5 will survive the termination of this Agreement.

4.6 Hazardous Substances. Contractor will not cause and/or permit any Hazardous Substances (as defined below) to be spilled, leaked, disposed of, and/or otherwise released on, under, and/or about the Airport. Upon the earlier termination or expiration of this Agreement, Contractor will properly remove and dispose of all Hazardous Substances from the Airport. For purposes of this Agreement, the term "Environmental Law(s)" means any federal, state, and/or local statute, regulation, and/or ordinance, or any judicial or other governmental order, pertaining to the protection of health, safety, and/or environment; the term "Hazardous Substance(s)" means any hazardous, toxic, infectious, and/or radioactive substance, waste, and/or material as defined or listed by any Environmental Law, including, without limitation, pesticides, aviation fuel, paint, petroleum oil, and their fractions.

4.7 Records. Contractor will maintain complete and accurate records concerning all Services performed, the number of hours each person spent to perform the Services, and all documents produced under this Agreement for a period of three years after termination of this Agreement. Contractor's records will be maintained in accordance with sound accounting practices. Contractor will provide City access to any Contractor books, documents, papers, and/or records which are pertinent to this Agreement and/or the Services. Contractor will maintain all books, documents, papers, and records generated under this Agreement for a period no less than three years commencing on the date of City's final payment to Contractor under this Agreement.

4.8 Confidential Information. During the term of this Agreement, and at all times thereafter, Contractor will maintain all Confidential Information (as defined below) in the strictest confidence and will not directly or indirectly use, communicate, or disclose any Confidential Information to any person, or remove or make reproductions of any Confidential Information, except that Contractor may (a) use Confidential Information to perform the Services to the extent necessary, and (b) communicate or disclose Confidential Information in accordance with a judicial or other governmental order or as required by applicable law, but only if Contractor promptly notifies the airport manager of the order and complies with any applicable protective or similar order. Contractor will promptly notify the airport manager of any unauthorized use, communication, or disclosure of any Confidential Information and will assist City in every way to retrieve any Confidential Information that was used, communicated, or disclosed by Contractor and will exert Contractor's best efforts to mitigate the harm caused by the unauthorized use, communication, or disclosure of any Confidential Information. Upon the earlier of City's request or termination of this Agreement, Contractor will immediately return to City all documents, instruments, or materials containing any Confidential Information accessed or received by Contractor, together with all copies and summaries of such Confidential Information. If requested by City, Contractor will execute a written certification satisfactory to City pursuant to which Contractor will represent and warrant that Contractor has returned all Confidential Information to City in accordance with the terms of this Agreement. Notwithstanding anything contained in this Agreement to the contrary, the terms of this Agreement do not operate to transfer any ownership or other rights in or to the Confidential Information to Contractor or any other person. For purposes of this Agreement, the term "Confidential Information" means all documentation, information, and/or materials identified by City as confidential and/or any documentation, information, and/or materials relating to or concerning City's future plans, business affairs, employment, legal, and litigation matters that need to be protected from improper disclosure, in whatever form (e.g., hard and electronic copies, etc.), that is received or assessed by Contractor; provided, however, the term "Confidential Information" does not include City's public records which are non-exempt public records under applicable federal, state, and/or local laws.

5. Term; Termination.

5.1 Term of Agreement.

5.1.1 Subject to the terms and conditions contained in this Agreement, the term of this Agreement commenced on the Effective Date and will remain in full force and effect until September 30, 2026 (the "Initial Term"), unless sooner terminated or extended as provided in this Agreement. Notwithstanding anything contained in this Agreement to the contrary, (a) this Agreement may be terminated at any time by the mutual written agreement of City and Contractor, (b) by City immediately upon notice to Contractor if City determines that Contractor's acts or omissions cause or threaten loss of life, injury, significant damage, and/or destruction to person or property, human suffering, and/or significant financial loss; and/or (c) termination of the FBO Lease. Upon receipt of the notice of termination, except as explicitly directed by City, Contractor must immediately discontinue performing any Services.

5.1.2 If Contractor is not then in default under this Agreement, Contractor has the option (the "Extension Option") to extend the Initial Term for one consecutive additional term of five years (the "Extended Term"). Contractor will exercise the Extension Option by providing City written notice (the "Notice of Extension") no less than 120 days prior to the last day of the Initial Term. Subject to the terms and conditions contained in this Agreement, providing the Notice of Extension will be sufficient to make this Agreement binding for the Extended Term. The Extended Term will commence on the day immediately following the expiration of the Initial Term. The terms and conditions for the Extended Term will be identical with the Initial Term except that Contractor will no longer have the Extension Option that has been exercised.

5.2 Termination For Cause. Notwithstanding anything contained in this Agreement to the contrary, City may terminate this Agreement immediately upon notice to Contractor upon the happening of any of the following events: (a) Contractor engages in any negligent or illegal acts or omissions that reflect adversely on the reputation or operations of City; (b) Contractor fails to comply with any applicable law related to Contractor's independent contractor relationship with City; (c) Contractor breaches and/or otherwise fails to perform any Contractor representation, warranty, covenant, and/or obligation contained in this Agreement, the FBO Lease, Ancillary Lease, and/or Modular Lease. City will make the determination as to whether any events identified in this Section 5.2 have occurred.

5.3 Consequences of Termination. Upon termination of this Agreement, City will not be obligated to reimburse or pay Contractor for any continuing contractual commitments to others or for penalties or damages arising from the cancellation of such contractual commitments. Notwithstanding anything contained in this Agreement to the contrary, termination of this Agreement by City will not constitute a waiver or termination of any rights, claims, and/or causes of action City may have against Contractor. Within a reasonable period of time after termination of this Agreement (but in no event later than five days after termination), Contractor will deliver to City all materials and documentation related to or concerning the Services.

6. Miscellaneous.

6.1 Severability; Assignment; Binding Effect. Each provision contained in this Agreement will be treated as a separate and independent provision. The unenforceability of any one provision will in no way impair the enforceability of any other provision contained herein. Any reading of a provision causing unenforceability will yield to a construction permitting enforcement to the maximum extent permitted by applicable law. Contractor will not assign this Agreement to any person without City's prior written consent. Subject to the immediately preceding sentence, this Agreement will be binding on the parties and their respective heirs, personal representatives, successors, and permitted assigns, and will inure to their benefit. This Agreement may be amended only by a written agreement signed by each party.

6.2 Attorney Fees; Dispute Resolution. If any arbitration or litigation is instituted to interpret, enforce, and/or rescind this Agreement, including, without limitation, any proceeding brought under the United States Bankruptcy Code, the prevailing party on a claim will be entitled to recover with respect to the claim, in

addition to any other relief awarded, the prevailing party's reasonable attorney fees and other fees, costs, and expenses of every kind, including, without limitation, costs and disbursements specified in ORCP 68 A(2), incurred in connection with the arbitration, the litigation, any appeal or petition for review, the collection of any award, or the enforcement of any order, as determined by the arbitrator or court. If any claim, dispute, or controversy arising out of or related to this Agreement occurs (a "Dispute"), City and Contractor will exert their good faith effort to seek a fair and prompt negotiated resolution of the Dispute and will meet at least once to discuss and seek a resolution of the Dispute. If the Dispute is not resolved by negotiated resolution, either party may initiate a suit, action, arbitration, or other proceeding to interpret, enforce, and/or rescind this Agreement.

6.3 Governing Law; Venue. This Agreement is governed by the laws of the State of Oregon, without giving effect to any conflict-of-law principle that would result in the laws of any other jurisdiction governing this Agreement. Any action or proceeding arising out of this Agreement will be litigated in courts located in Malheur County, Oregon. Each party consents and submits to the jurisdiction of any local, state, or federal court located in Malheur County, Oregon.

6.4 Attachments; Further Assurances; Notices. Any exhibits, schedules, instruments, documents, and other attachments referenced in this Agreement are part of this Agreement; provided, however, if any exhibit, schedule, instrument, document, and/or other attachment conflicts with this Agreement, the terms contained in this Agreement will control. The parties will sign other documents and take other actions reasonably necessary to further effect and evidence this Agreement. Time is of the essence with respect to Contractor's performance of its obligations under this Agreement. All notices or other communications required or permitted by this Agreement must be in writing, must be delivered to the parties at the addresses set forth above, or any other address that a party may designate by notice to the other party, and are considered delivered upon actual receipt if delivered personally, by fax or email transmission (with electronic confirmation of delivery), or by a nationally recognized overnight delivery service, or at the end of the third business day after the date of deposit if deposited in the United States mail, postage pre-paid, certified, return receipt requested.

6.5 Waiver; Entire Agreement. No provision of this Agreement may be modified, waived, or discharged unless such waiver, modification, or discharge is agreed to in writing by City and Contractor. No waiver of either party at any time of the breach of, or lack of compliance with, any conditions or provisions of this Agreement will be deemed a waiver of other provisions or conditions hereof. This Agreement contains the entire agreement and understanding between the parties with respect to the subject matter of this Agreement and contains all the terms and conditions of the parties' agreement and supersedes any other oral or written negotiations, discussions, representations, or agreements. Contractor has not relied on any promises, statements, representations, or warranties except as set forth expressly in this Agreement.

6.6 Person; Interpretation; Execution. For purposes of this Agreement, the term "person" means any natural person, corporation, limited liability company, partnership, joint venture, firm, association, trust, unincorporated organization, government or governmental agency or political subdivision, or any other entity. All pronouns contained herein and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word "or" is not exclusive. The words "include," "includes," and "including" are not limiting. The titles, captions, or headings of the sections herein are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement. The parties may execute this Agreement in separate counterparts, each of which when executed and delivered will be an original, but all of which together will constitute one and the same instrument. When a party is exercising any consent, approval, determination, and/or similar discretionary action under this Agreement, the standard will be the party's commercially reasonable discretion, which discretion will not be unreasonably withheld, conditioned, and/or delayed.

[end of agreement – signature page immediately follows]

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be binding and effective for all purposes as of the Effective Date.

CITY:

City of Ontario,
an Oregon municipal corporation

CONTRACTOR:

Silverhawk Properties of Oregon LLC,
an Oregon limited liability company

By: Dan K. Cummings, City Manager

By: Catherine Weber, Manager

Schedule 1.1
Fixed Based Operator Services

A. Mandatory Services. In addition to all other Services identified under this Agreement, Contractor will perform the following fixed based operator services for and on behalf of City:

1. During the days and hours identified in Section 9, below, Contractor will ensure that the FBO Office is staffed with a front desk receptionist capable of, among other things, greeting and welcoming pilots, contractors, and guests, receiving and delivering all incoming and outgoing mail, answering all calls and directing as needed.

2. Operate the assigned Airport UNICOM (or CTAF) radio frequency in conformance with standards set forth in Federal law, the Federal Aviation Regulations (14 CFR et seq.), and Aeronautical Information Manual.

3. Encourage pilots operating on the Airport or in the Airport traffic pattern to conduct their operations in conformance with the standards set forth in the FAA Regulations, Aeronautical Information Manual, and all applicable local rules or practices established at the Airport.

4. Perform janitorial service and maintenance concerning all areas from which the Services will be performed, including minor repairs as required.

5. Auxiliary services, consisting of the following: restroom facilities; communication access (telephone, Internet access); waiting areas; flight planning and weather information; pilot/crew rest lounge.

6. Provide material and data on Airport operations and the Services in a timely manner.

7. Omitted.

8. Purchase and manage the Airport's fuel sales, including, without limitation, performing the following:

8.1 Maintaining adequate and acceptable supplies and quality of avgas and jet fuel in fuel trucks and storage tanks. Maintain all fuel systems in good working order and repair. Daily determine appropriate competitive fuel pricing. Properly operate the computerized aircraft fueling system and fuel tanks (including the filter system). Contractor will test all fuels and will inspect all tanks and components of the fuel supply system as required by, and in accordance with, the Laws and fuel suppliers.

8.2 Providing fuel service for aircraft during normal working hours and, for an extra service charge, provide on-call fuel service should the card lock system not be sufficient.

8.3 Report promptly to the airport manager the need for maintenance or repairs concerning any FBO equipment, including, without limitation, fuel tanks, the card lock system, pumps, trucks, and/or related equipment.

9. During the off season/winter months (October – April), Contractor will generally provide the Services from 9:00 a.m. to 3:00 p.m., Monday – Friday. During the regular season/spring, summer, and fall (May – September), Contractor will generally provide the Services from 9:00 a.m. to 5:00 p.m., Monday – Friday. Contractor may modify Contractor's hours of operation from time to time when Contractor reasonably determines necessary; provided, however, Contractor will provide the airport manager written notice of any modification to Contractor's hours. Contractor and/or its employee(s) will be present at the Airport or available on-call in case of emergency at all times. Contractor will maintain its cellular telephone in good, working order and condition. Contractor's cellular phone number as of the Effective Date is _____. If Contractor changes its cellular phone number, Contractor will immediately provide the new phone number to City.

10. In accordance with the Laws, prepare, complete, update, and implement the Airport's spill prevention, control, and countermeasure plan (the "Plan"). The Plan must be designed to prevent oil spills and identify adequate control measures should a spill occur.

B. Discretionary Services. In addition to all other Services identified under this Agreement, Contractor may perform the following fixed based operator services for and on behalf of City:

1. Line services for general aviation aircraft.
2. Air Taxi and air charter services and operations. Scheduled or nonscheduled air carrier services and support services.
3. Pilot training.
4. Aircraft rental and sightseeing. Aircraft sales, service, repair, and maintenance.
5. Aerial photography.
6. Provide and maintain an airport courtesy car(s).

AIRPORT GROUND LEASE FOR AERONAUTICAL USE IMPROVEMENTS
(Fixed Based Operator Modular Lease)

This Airport Ground Lease for Aeronautical Use Improvements (Fixed Based Operator Modular Lease) (this "Lease") is dated effective for all purposes as of October 1, 2021 (the "Effective Date") and is entered into between City of Ontario ("Landlord"), an Oregon municipal corporation, whose address is 444 SW 4th Street, Ontario, Oregon 97914, and Silverhawk Properties Oregon LLC ("Tenant"), an Oregon limited liability company, whose address is 581 SW 33rd Street, Ontario, Oregon 97914.

RECITALS:

A. Landlord is the owner, sponsor, and operator of the Ontario Municipal Airport, a public municipal airport located in Ontario, Oregon (the "Airport"). Landlord is the owner of certain real property at the Airport consisting of approximately 4,870 total square feet commonly known as 581 SW 33rd Street, Ontario, Oregon 97914 (the "Property"). As of the Effective Date, an approximately 1,848 square foot modular building (the "Improvement(s)") has been located on or about the Property. The Property is identified and depicted in the attached Exhibit A.

B. Tenant provides certain fixed based operator ("FBO") services at the Airport for and on behalf of Landlord under the terms of a certain Fixed Based Operator Services Agreement dated effective October 1, 2021 between Landlord and Tenant (the "FBO Agreement"). Pursuant to the terms of a certain Airport Ground Lease for Aeronautical Use Improvements (Fixed Based Operator Lease) dated as of the Effective Date between Landlord and Tenant (the "FBO Lease"), Landlord has leased certain real property to Tenant to facilitate Tenant's provision of the FBO services subject to the FBO Agreement. The real property subject to the FBO Lease includes, without limitation, certain Landlord real property upon which Tenant's approximately 2,024 square foot fixed base operations office building is located and fuel farm area consisting of approximately 5,200 square feet (all as described and depicted in the FBO Lease).

C. Pursuant to the terms of a certain Airport Ground Lease for Aeronautical Use Improvements (Fixed Based Operator Ancillary Lease) dated as of the Effective Date between City and Contractor (the "Ancillary Lease"), City has leased certain real property to Contractor to facilitate Contractor's provisions of the FBO services subject to this Agreement. The real property subject to the Ancillary Lease includes, without limitation, certain City real property upon which Contractor's (a) approximately 4,000 square foot airplane hangar (commonly known as Hangar A), and (b) approximately 4,800 square foot airplane hangar (commonly known as Hangar B) are located.

D. Tenant desires to lease the Property from Landlord for purposes of owning and operating the Improvements and providing the FBO services on and at the Airport. Subject to the terms and conditions contained in this Lease, Tenant will lease the Property from Landlord, and Landlord will lease the Property to Tenant, for the Permitted Use (as defined below).

AGREEMENT:

NOW, THEREFORE, in consideration of the parties' mutual obligations contained in this Lease, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. LEASE; OCCUPANCY

1.1 Lease Term. Subject to the terms and conditions contained in this Lease, Landlord leases the Property to Tenant and Tenant leases the Property from Landlord. The term of this Lease, Tenant's right to possession of the Property, and Tenant's obligation to pay Rent (as defined below) commenced on the Effective Date and will continue, subject to the terms and conditions contained in this Lease, until September 30, 2026 (the

“Initial Term”), unless sooner terminated as provided under this Lease. For purposes of this Lease, the term “Lease Term” means the Initial Term and Extended Term (as defined below), if applicable.

1.2 Extended Term. If Tenant is not then in default under this Lease, Tenant has the option (the “Extension Option”) to extend the Initial Term for one consecutive additional term of five years (the “Extended Term”). Tenant will exercise the Extension Option by providing Landlord written notice (the “Notice of Extension”) no less than one hundred twenty (120) days prior to the last day of the Initial Term. Subject to the terms and conditions contained in this Lease, providing the Notice of Extension will be sufficient to make this Lease binding for the Extended Term. The Extended Term will commence on the day immediately following the expiration of the Initial Term. The terms and conditions for the Extended Term will be identical with the Initial Term except for (a) Base Rent (as defined below), (b) Additional Rent (as defined below), and (c) Tenant will no longer have the Extension Option that has been exercised.

1.3 Airport Facilities. Subject to the terms and conditions contained in this Lease, during the Lease Term Landlord grants Tenant a limited, revocable, non-exclusive license to use the Airport’s common hangar related facilities (if any) and that portion of the Airport’s approach areas, runways, ramps, taxiways, and aprons reasonably necessary to facilitate the expeditious movements of aircraft to and from the runway and takeoff areas. Tenant’s use of the Airport’s common hangar related facilities (if any) and Airport approach areas, runways, ramps, taxiways, and aprons will be for the sole purpose of Tenant’s use of the Property for the Permitted Use (as defined below). Tenant’s use of the Airport facilities (and all flight and ground operations on and at the Airport or otherwise) will be made subject to and in accordance with the Laws (as defined below).

1.4 Tenant’s Financial Capability; Authority; Improvement Ownership. Tenant represents and warrants the following to Landlord: (a) Tenant has sufficient assets and net worth to ensure Tenant’s performance of this Lease and the payment of its obligations under this Lease as and when they become due; (b) Tenant has full power and authority to sign and deliver this Lease and to perform all Tenant’s obligations under this Lease; (c) this Lease is the legal, valid, and binding obligation of Tenant, enforceable against Tenant in accordance with its terms; (d) Tenant is the sole, fee simple owner of the Improvements and no other person has any ownership, rights, and/or interests in and to the Improvements (except Landlord as provided under this Lease); and (e) the Improvements are free from all Encumbrances (as defined below) and Tenant will keep the Improvements and Property free from all Encumbrances. Tenant represents, warrants, and covenants that as of the Effective Date, (y) Catherine Weber is Tenant’s only member and no other person has any ownership rights and/or interests in and to Tenant, and (z) Catherine Weber has full power and authority to sign and deliver this Lease on behalf of Tenant. For purposes of this Lease, the term “Encumbrance(s)” means any lien, mortgage, pledge, security interest, reservation, restriction, adverse claim, and/or other encumbrance.

1.5 No Representations or Warranties. Tenant is bound in accordance with the terms of this Lease from and after the Effective Date. Tenant has entered into this Lease on the basis of its own examination and personal knowledge of the Airport and Property. Tenant accepts the Airport and Property in their “as-is” and “with all faults and defects” condition as of the Effective Date. Tenant has not relied on any representations or warranties made by Landlord and/or Landlord’s Agents (as defined below). Provided Tenant is not in default of this Lease, Landlord will defend Tenant’s right to quiet enjoyment of the Property from the lawful claims of all persons during the Lease Term. Except for Landlord’s covenant of quiet enjoyment contained in the immediately preceding sentence, Landlord makes no representations or warranties of any kind, whether express or implied, with respect to all or any part of the Airport and/or Property. Landlord has made no promise or agreement to repair, alter, construct, and/or improve all or any part of the Airport, Improvements, and/or Property.

1.6 FBO Agreement; FBO and Ancillary Leases. Notwithstanding anything contained in this Lease to the contrary, Tenant acknowledges and agrees that Landlord’s lease of the Property to Tenant is conditioned on Tenant’s timely payment and performance of all its obligations arising out of or under the FBO Agreement, FBO Lease, and Ancillary Lease. A Tenant default under this Lease constitutes a default by Tenant under the FBO Agreement, FBO Lease, and Ancillary Lease. A default by Tenant under the FBO Agreement, FBO Lease, and/or Ancillary Lease constitutes a default by Tenant under this Lease.

1.7 Parking Area. The Parking Area consists of eighteen (18) unassigned parking spaces for use by Airport pilots, contractors, invitees, employees, representatives, and agents. Tenant has a nonexclusive license to use the Parking Area for the benefit of Tenant and Tenant's Agents. Landlord will not be liable for any damage or destruction of any nature to, or any theft of, vehicles, or contents therein, in or about the Parking Area. Overnight parking in the Parking Area is prohibited and any vehicle violating this restriction is subject to removal at the owner's expense. Notwithstanding anything contained in this Lease to the contrary, Landlord will have the right to implement any reasonable parking restrictions (including, without limitation, assigning parking spaces to tenants and/or restricting parking in close proximity to the Improvements either for customer-only parking or for limited-duration parking) at any time upon 10 days' prior written notice to Tenant, which parking restrictions will be binding on Tenant and Tenant's Agents. Tenant acknowledges and agrees to the following: (a) the Parking Area is an Airport facility of which Landlord is the sole owner; and (b) Tenant (and/or any other person) has no rights and/or interests in and/or to the Parking Area whatsoever other than as expressly provided under this Lease.

2. BASE RENT; ADDITIONAL RENT; TAXES; ASSESSMENTS

2.1 Base Rent. Subject to the terms and conditions contained in this Lease, Tenant will pay Landlord guaranteed minimum annual base rent, without offset, in the amount of \$_____ (\$0.1564 per square foot), per year) ("Base Rent"). Base Rent is payable annually in advance of each year on or before the 30th day of June without invoice from Landlord. Tenant's first payment of Rent is due and payable on the Effective Date. Tenant will pay all outstanding Base Rent (totaling \$_____) contemporaneously with Tenant's execution of this Lease. Base Rent will be prorated with respect to any partial year in which the Lease Term commences and ends. Base Rent will be payable to the order of Landlord at the address first shown above or any other address designated by Landlord from time to time.

2.2 Base Rent Escalation. Notwithstanding anything contained in this Lease to the contrary, Landlord may adjust (increase or decrease) the Base Rent at any time and from time to time during the Lease Term through council resolution. Landlord will provide Tenant no less than 30 days' prior written notice of any Base Rent adjustment. Unless otherwise adjusted by council resolution, commencing on the first-year anniversary of the Effective Date, during each year of the Lease Term upon the anniversary of the Effective Date, Base Rent will escalate (increase) by three percent (3.0%) over Base Rent for the immediately preceding twelve-month period. Tenant will pay the Base Rent established by Landlord from time to time.

2.3 Additional Rent.

2.3.1 Tenant will timely pay in full the following charges, costs, and expenses related to or concerning (whether directly or indirectly) the Property and/or Improvements (collectively, "Additional Rent"): (a) all taxes (real property and personal property, if any), general and special assessments, insurance costs, telephone charges, licenses, utility charges, fuel, and all costs, expenses, and/or charges identified under Sections 2.3.2 and 2.3.3, below; (b) all costs and expenses incurred in connection with Tenant's ownership (in the case of the Improvements), use, occupancy, maintenance, improvement, and/or repair of the Property and/or Improvements; (c) all applicable Airport charges, fees, and/or assessments that may be imposed or assessed from time to time; and (d) all other sums Tenant is required to pay Landlord or any third party under this Lease or otherwise. Additional Rent is due and payable to the applicable payee commencing on the Effective Date. All Rent payable under this Lease will be net to Landlord and all costs, expenses, and obligations imposed on Tenant under this Lease and/or arising out of Tenant's ownership (in the case of the Improvements), use, occupancy, maintenance, and/or repair of the Property and/or Improvements will be paid by Tenant. Tenant will furnish Landlord with receipts or other proof of payment of Additional Rent within ten (10) days after Landlord's written request. For purposes of this Lease, the term "Rent" means both Base Rent and Additional Rent.

2.3.2 Without otherwise limiting Section 2.3.1, Tenant will pay when due all costs, expenses, and charges for services and utilities incurred in connection with the ownership (in the case of the Improvements), use, lease, occupancy, operation, repair, maintenance, and/or improvement of the Property and/or Improvements, including, without limitation, charges and expenses for fuel, connection fees, water, gas, electricity,

sewage disposal, power, refrigeration, air conditioning, telephone, internet, and janitorial services (including, without limitation, all connection fees, costs, and expenses related thereto).

2.3.3 Tenant will pay before delinquency all real and personal property taxes, general and special assessments, system development charges, and all other charges of every description levied on and/or assessed against the Property, any improvements located on the Property (including, without limitation, the Improvements), and/or personal property and/or fixtures located on the Property. Tenant will make all such payments directly to the applicable governing authority. If any such tax assessment or charges may be paid in installments, Tenant may elect to do so provided each installment together with interest is paid before it becomes delinquent.

3. USE OF PROPERTY

3.1 Permitted Use. Subject to the terms and conditions contained in this Lease, Tenant will use the Property for Tenant's operation of the Business (as defined below) and maintenance, repair, use, and/or operation of the Improvements (collectively, the "Permitted Use"). Tenant will not use the Property for any purpose other than the Permitted Use. For purposes of this Lease, the term "Business" means Tenant's flight school business performed from and on the Property.

3.2 Conditions, Limitations, and Restrictions. In addition to any other conditions, limitations, and/or restrictions contained in this Lease, Tenant represents, warrants, and covenants to perform and comply with the following conditions, limitations, and restrictions concerning the Property, Improvements, and/or Airport:

3.2.1 Tenant will conform and comply with the Laws. Without otherwise limiting the generality of the immediately preceding sentence, Tenant will conform and comply with the Laws in connection with Tenant's use of the Property for the Permitted Use. Tenant will correct, at Tenant's own expense, any failure of compliance created through Tenant's fault, the Permitted Use, and/or by reason of Tenant's use of the Property, Improvements, and/or Airport. Prior to the Effective Date, Tenant had the opportunity to review (and ask questions concerning) and understands all Laws. Tenant will obtain all necessary permits, licenses, reviews, studies, inspections, reports (including, without limitation, environmental reports), and approvals required under the Laws to lease the Property and occupy and use the Improvements for the Permitted Use, including, without limitation, all reviews, studies, and approvals required under Landlord's leasing policies and regulations. For purposes of this Lease, the term "Law(s)" means all policies, rules, leases, covenants, conditions, restrictions, easements, declarations, laws, statutes, liens, ordinances, orders, codes, and regulations directly or indirectly affecting the Property, Improvements, Airport, and/or Permitted Use, including, without limitation, fire and/or building codes, Airport master plan, the Americans with Disabilities Act of 1990 (and the rules and regulations promulgated thereunder), Environmental Laws (as defined below), any rules or regulations promulgated by the Federal Aviation Administration ("FAA") and/or any other federal airport authority (including, without limitation, Landlord's Grant Assurances and requirements under 14 CFR Part 77), Title 3, Chapter 9 of Landlord's municipal code, Landlord's policies governing agreements involving the lease, use, and/or disposition of Airport property for aeronautical activities, and the Rules and Regulations (as defined below), all as now in force and/or which may hereafter be amended, modified, enacted, and/or promulgated.

3.2.2 Tenant will store all aircraft, vehicles, machinery, equipment, tools, and/or supplies within the Property boundaries and in a safe, neat, clean, and orderly manner; Tenant will not permit any machinery, aircraft, vehicles, equipment, tools, and/or supplies to remain unattended on or about the Property. Tenant will refrain from any activity which would make it impossible to insure the Property against casualty, or would prevent Landlord from taking advantage of any ruling of the Oregon Insurance Rating Bureau (or its successor) allowing Landlord to obtain reduced premium rates for long-term fire insurance policies, unless Tenant pays the additional costs of the insurance. Tenant will refrain from any use and/or activities which would be reasonably offensive to Landlord, other users of the Airport, and/or neighboring property, and/or which would tend to create or cause fire risk, a nuisance, and/or damage the reputation of the Property and/or Airport, all as

determined by Landlord. Tenant will conduct and operate the Permitted Use and all activities at the Airport in a safe, prudent, professional, and lawful manner.

3.2.3 Tenant will not cause and/or permit any Hazardous Substances (as defined below) to be spilled, leaked, disposed of, and/or otherwise released on, under, and/or about the Property and/or Improvements. Without otherwise limiting the generality of the immediately preceding sentence, but subject to applicable laws, Tenant may use, store, and/or otherwise handle on or in the Property only those Hazardous Substances typically used, stored, sold, and/or handled in the prudent and safe operation of the Permitted Use; provided, however, Tenant will use, store, and/or otherwise handle on or in the Property the Hazardous Substances in a safe, neat, clean, and orderly manner consistent with applicable Laws. Upon the earlier termination or expiration of this Lease, Tenant will properly remove and dispose of all Hazardous Substances from the Property. For purposes of this Lease, the term "Environmental Law(s)" means any federal, state, and/or local statute, regulation, and/or ordinance, or any judicial or other governmental order, pertaining to the protection of health, safety, and/or environment; the term "Hazardous Substance(s)" means any hazardous, toxic, infectious, and/or radioactive substance, waste, and/or material as defined or listed by any Environmental Law, including, without limitation, pesticides, aviation fuel, paint, petroleum oil, and their fractions

3.2.4 Tenant will conform and comply with all rules and regulations concerning the Airport, Improvements, and/or Property, which now exist or may hereafter become effective, including, without limitation, all Airport security, screening, and/or fire safety rules, regulations, and procedures (collectively, the "Rules and Regulations"). Tenant will not perform any acts or carry on any practice prohibited by the Rules and Regulations. Tenant acknowledges and agrees that Landlord is permitted to adopt new Rules and Regulations, or amend the Rules and Regulations, from time to time as Landlord determines necessary or appropriate. Any adoption or amendment to the Rules and Regulations will be effective 30 days after Landlord provides Tenant notice of such adoption or amendments.

3.3 Aviation Easement; Aeronautical Uses. Tenant's use of the Property and Improvements is secondary and subordinate to the operation of the Airport and Laws. Landlord reserves for itself, and for the public, a right of flight for the passage of aircraft in the airspace above the Property and Improvements together with the right to cause noise, vibration, dust, fumes, smoke, vapor, and other effects inherent in the navigation or flight of aircraft and/or operation of the Airport. Notwithstanding anything contained in this Lease to the contrary, Tenant will protect the Airport and Airport property for aeronautical and related uses, will not interfere or impede, and will conduct all activities in a manner that will not adversely affect or interfere with, Landlord's operations and/or those of other tenants and authorized users of the Airport or general public. Any Tenant activities that Landlord determines interfere or impede with the operation, use, and/or maintenance of the Airport, Airport property, and/or aeronautical activities is specifically prohibited and will constitute an Event of Default (as defined below) under this Lease.

3.4 Airport Operations; Security. Notwithstanding anything contained in this Lease to the contrary, Landlord reserves the right to control and regulate all Airport property, facilities, and/or operations, including, without limitation, taxiways, ramps, runways, improvements, aprons, fuel areas, and parking facilities. Landlord may impose certain taxi proceedings, requirements, and/or controls to promote efficient and orderly operation of other operators. Tenant acknowledges and agrees that Landlord does not provide continuous security for the Property, Improvements, and/or Airport (including, without limitation, the Parking Area). Tenant is responsible for securing and safeguarding the Property, Improvements, and all aircraft and other personal property located on or about the Property. Landlord will not be liable for any loss and/or damage to Tenant's property due to theft, vandalism, and/or any other causes, including forces of nature.

3.5 Construction Activities. Tenant's use of the Property and/or Improvements may be disrupted by certain expansion, improvement, construction, development, remodeling, and/or other activities on or at the Airport, including, without limitation, runway maintenance and repairs. Landlord will not be in default under this Lease (and Tenant will not be entitled to any abatement of Rent and/or other concessions) if Tenant is disrupted

(temporarily or otherwise) in the use of the Property, Improvements, and/or Airport due to the aforementioned activities.

3.6 Non-Discrimination; Unfair Practices. Tenant covenants and agrees as follows: (a) if any facilities and/or improvements (including, without limitation, Alterations (as defined below) are constructed, maintained, and/or otherwise operated on the Property and/or Improvements for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, Tenant will maintain and operate such facilities and services in compliance with all requirements imposed under 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, as amended; (b) no person will, on the grounds of race, color, national origin, and/or other protected classification, be excluded from participation in, denied the benefits of, and/or otherwise subjected to discrimination in the use of any facilities located on or in the Property and/or Improvements; and (c) in the construction of any improvements on, over, and/or under the Property and/or Improvements and the furnishing of services thereon, no person will, on the grounds of race, color, national origin, and/or other protected classification, be excluded from participation in, denied the benefits of, and/or otherwise subjected to discrimination.

3.7 Notice of Action. Tenant will immediately notify Landlord in writing of the occurrence of any of the following events: (a) any enforcement, clean-up, removal, and/or other governmental or regulatory action is instituted, completed, and/or threatened concerning the Improvements and/or Property pursuant to any Environmental Laws; and/or (b) any claim is made or threatened by any person against or concerning Tenant, Tenant's activities, and/or the condition of the Property and/or Improvements. Tenant will provide Landlord copies of any written documentation related to the foregoing.

3.8 Subordination – United States. Notwithstanding anything contained in this Lease to the contrary, (a) this Lease is subordinate to the terms of any agreement between Landlord and the United States concerning Airport operations and/or maintenance (the terms of such agreement will supersede the terms of this Lease), and (b) during times of war or national emergency, Landlord may lease the Airport's landing area (or any part thereof) to the United States for military or naval use (and, in connection therewith, the provisions of this Lease will be suspended to the extent inconsistent with Landlord's lease with the United States).

4. ALTERATIONS

Except any ordinary and necessary Improvement maintenance and/or repairs performed (or caused to be performed) by Tenant, Tenant will make no additions, improvements, modifications, and/or alterations in or to the Property and/or Improvements of any kind or nature whatsoever, including, without limitation, the installation of any improvements, fixtures, and/or devices on or to the Property and/or Improvements (individually and collectively, "Alteration(s)"), without Landlord's prior written consent. Any Alterations approved by Landlord will be made in a good and workmanlike manner, in compliance with applicable Laws, at Tenant's cost and expense, and consistent with the general appearance, quality, and décor of the Property and/or Improvements and surrounding property. Subject to Section 8.4, Alterations performed in or to the Property and/or Improvements by either Landlord or Tenant will be the property of Landlord. Construction of any exterior Alterations must be approved (i.e., must receive a "no objection" determination) by the FAA through the notice of proposed construction review process, submittal of FAA Form 7460-1, and will be subject to all applicable Laws. Tenant will timely file FAA Form 7460-2 Supplemental Notice concerning the Alterations.

5. MAINTENANCE AND REPAIRS

5.1 Landlord Maintenance and Repairs. Notwithstanding anything contained in this Lease to the contrary, Landlord has no obligation to make or perform any repairs, maintenance, replacements, alterations, and/or improvements in or to the Property (and/or the Improvements), including, without limitation, snow removal. All repairs, maintenance, replacements, alterations, and/or improvements in or to the Property and/or Improvements will be made by Tenant at Tenant's cost and expense.

5.2 Tenant Maintenance and Repairs. Tenant will maintain, at Tenant's cost and expense, the Property and Improvements (interior and exterior) in good condition, repair, working order, and appearance, and will preserve the Property and Improvements, normal wear and tear excepted, and will not commit or permit waste. Without otherwise limiting the generality of the immediately preceding sentence, Tenant will perform, at Tenant's cost and expense, the following maintenance and repairs:

5.2.1 Repair and maintain the roof, gutters, bearing walls, structural members, foundation, walls (exterior and interior), ceilings, doors, windows, and related hardware, light fixtures, switches, wiring, plumbing, water, sewage, gas, and electrical services concerning or related to the Improvements.

5.2.2 Repair and maintain the plumbing system, electrical system, and HVAC system concerning or related to the Improvements. Repair and maintain Improvement-related boilers, lighting facilities, fired or unfired pressure vessels, fire hose connections, fire sprinkler and standpipe and hose, and all other aspects of the fire extinguishing system, including, without limitation, the fire alarm and/or smoke detection systems and equipment.

5.2.3 Repair and maintain the sidewalks, driveways, and landscaping, including, without limitation, all necessary or appropriate snow removal.

5.2.4 All sweeping, mopping, trash collection and removal, and washing required to keep the Property and Improvements clean and orderly.

5.2.5 All repairs or maintenance necessitated by the acts or omissions of Tenant and/or Tenant's Agents.

5.2.6 All repairs, maintenance, and/or improvements required under Tenant's obligation to comply with the Laws.

If Tenant fails or refuses to perform or complete the repairs, maintenance, and/or improvements required under this Section 5.2 within 10 days after Landlord's written notice, Landlord may make the repair or improvement or perform the maintenance and charge the actual costs and expenses of repair, improvement, and/or maintenance to Tenant; provided, however, if Tenant's failure or refusal to perform or complete the repairs, maintenance, and/or improvements causes or threatens loss of life, injury, significant damage, and/or destruction to person or property, human suffering, and/or significant financial loss, Landlord may make the repair or improvement or perform the maintenance (and charge the actual costs and expenses of repair, improvement, and/or maintenance to Tenant) without first having provided Tenant written notice. Tenant will reimburse Landlord for the costs and expenses of repairs, improvements, and/or maintenance on demand, together with interest at the rate of twelve percent (12%) per annum from the date of expenditure until paid in full.

5.3 Signage; Encumbrances.

5.3.1 Tenant will not be permitted to erect or maintain any signage on or about the Property without Landlord's prior written consent. Any signage authorized by Landlord will be erected and maintained at Tenant's cost and expense. Signage installed by Tenant will be removed by Tenant, at Tenant's cost and expense, upon the expiration or earlier termination of this Lease and the sign location restored to its former state unless Landlord elects to retain all or any portion of the signage.

5.3.2 Tenant will keep the Property and Improvements free from all Encumbrances. Tenant will pay as and when due all claims for work done on and for services rendered or material furnished to the Property. If Tenant fails to pay any such claims to discharge any Encumbrance, Landlord may do so and collect the costs as Rent. Any amount so added will bear interest at the rate of twelve percent (12%) per annum from the date expended by Landlord and will be payable on Landlord's demand. Landlord's payment of Tenant's claims or discharge of any Tenant Encumbrance will not constitute a waiver of any other right or remedy which Landlord

may have on account of Tenant's default. If an Encumbrance is filed due to nonpayment, Tenant will, within 10 days after knowledge of the filing, secure the discharge of the Encumbrance or deposit with Landlord cash or sufficient corporate surety bond or other surety satisfactory to Landlord in an amount sufficient to discharge the Encumbrance plus any costs, attorney fees, and other charges that could accrue as a result of a foreclosure or sale under the Encumbrance. Tenant will indemnify, defend, and hold Landlord harmless for, from, and against all claims, losses, and/or liabilities arising out of Tenant's failure to comply with this Section 5.3.2.

6. ASSIGNMENT; INSURANCE; INDEMNIFICATION

6.1 Transfer.

6.1.1 Tenant will not sell, assign, mortgage, sublet, lien, convey, encumber, and/or otherwise transfer (whether directly, indirectly, voluntarily, involuntarily, and/or by operation of law) all or any part of Tenant's rights and/or interests in or to this Lease, the Property, and/or Improvements (including, without limitation, any Alterations) (collectively, "Transfer") without Landlord's prior written consent, which consent Landlord will not unreasonably withhold, condition, and/or delay. For purposes of this Lease, a "Transfer" includes the sale, assignment, encumbrance, and/or transfer - or series of related sales, assignments, encumbrances, and/or transfers - of 51% or more of the shares, membership, and/or other ownership interests of Tenant, regardless of whether the sale, assignment, encumbrance, and/or transfer occurs voluntarily or involuntarily, by operation of law, or because of any act or occurrence.

6.1.2 Tenant will provide Landlord no less than 30 days' prior written notice of a proposed Transfer (the "Transfer Notice"), which Transfer Notice will include the name and address of the proposed transferee and a true and complete copy of the proposed Transfer documentation and/or instruments. Landlord's consent to any proposed Transfer is conditioned on the following: (a) Tenant demonstrating (to Landlord's reasonable satisfaction) that the proposed transferee's condition (financial and otherwise), style of operation, business reputation, and use of the Property and Improvements is consistent with the terms of this Lease and that Landlord's interests in the Property, Airport, and Improvements will not be adversely affected in any material respect; (b) Tenant reimbursing Landlord for the costs and expenses incurred by Landlord in connection with its review of all Transfer documentation and/or instruments (and otherwise related to Landlord's determination as to whether to consent to the proposed Transfer); (c) the transferee agreeing in writing to comply with and be bound by all the terms, covenants, conditions, provisions, and agreements of this Lease; (d) Tenant's assignment of the FBO Agreement, FBO Lease, and Ancillary Lease to the proposed transferee (and the transferee assuming all Tenant's obligations arising out of or under the FBO Agreement, Ancillary Lease, and FBO Lease); and (e) any other conditions that Landlord may reasonably impose under the particular circumstances surrounding the proposed Transfer. Tenant acknowledges and agrees that Landlord's conditioning of its consent to any proposed Transfer on Tenant's satisfaction of the conditions contained in this Section 6.1 is reasonable under this Lease.

6.1.3 If Landlord consents to a Transfer, the following will apply: (a) the terms and conditions of this Lease will in no way be deemed waived or modified; (b) consent will not be deemed consent to any further Transfer by Tenant or any transferee; (c) the acceptance of Rent by Landlord from any other person will not be deemed a waiver by Landlord of any provision of this Lease; and (d) no Transfer relating to this Lease and/or the Improvements, whether with or without Landlord's consent, will modify, relieve, and/or eliminate any liabilities and/or obligations Tenant and/or any guarantor of this Lease may have under this Lease. Landlord may consent to subsequent assignments, subletting, and/or amendments or modifications to this Lease with assignees of Tenant without notifying Tenant, or any successor of Tenant, and without obtaining its or their consent thereto and such action will not relieve Tenant of any liability under this Lease.

6.2 Tenant Insurance. Tenant will keep the Improvements insured against fire and other risks covered under a standard fire insurance policy with an endorsement for extended coverage. Tenant will maintain, at Tenant's cost and expense, a policy of fire, extended coverage, vandalism, and malicious mischief insurance insuring the personal property, furniture, furnishings, and fixtures belonging to Tenant located in or on the Improvements. The amount of the insurance will be no less than 100% of the replacement cost of the

Improvements and will also be sufficient to prevent Tenant from becoming a coinsurer under the provisions of the policies. Landlord will not be responsible for any loss or damage to Tenant's personal property, whether or not insured.

6.3 Liability Insurance. Tenant will procure, and thereafter will continue to carry, (a) general liability insurance (occurrence version) with a responsible licensed Oregon insurance company against personal injury claims arising directly or indirectly out of Tenant's activities on, or any condition of, the Property and/or Improvements, whether or not related to an occurrence caused, or contributed to, by Landlord's negligence, and will insure the performance by Tenant of Tenant's indemnification obligations under this Lease, and (b) aircraft liability insurance. Tenant's general liability insurance required to be carried under this Section 6.3 will have a general aggregate limit of no less than \$4,000,000.00, a per occurrence limit of no less than \$2,000,000.00; the aircraft liability insurance will have a general aggregate and per occurrence limit of no less than \$1,000,000.00. Each liability insurance policy required under this Lease will be in form and content satisfactory to Landlord and will contain a severability of interest clause. By separate endorsement, each liability insurance policy will name Landlord and Landlord's officers, employees, agents, and volunteers as additional insureds. The insurance Tenant is required to obtain under this Lease may not be cancelled without 10 days' prior written notice to Landlord. Tenant's insurance will be primary and any insurance carried by Landlord will be excess and noncontributing. Tenant will furnish Landlord with policy copies (including applicable endorsements) evidencing the insurance coverage, endorsements, and provisions Tenant is required to obtain under this Lease upon Tenant's execution of this Lease and at any other time requested by Landlord. If Tenant fails to maintain insurance as required under this Lease, Landlord will have the option, but not the obligation, to obtain such coverage with costs to be reimbursed by Tenant immediately upon Landlord's demand. Notwithstanding anything contained in this Lease to the contrary, Landlord may increase the minimum levels of insurance Tenant is required to carry under this Lease by providing Tenant 90 days' prior written notice. All policies of insurance which Tenant is required by this Lease to carry will provide that the insurer waives the right of subrogation against Landlord.

6.4 Tenant Release and Indemnification. Tenant releases and will defend, indemnify, and hold Landlord and Landlord's present and future officers, employees, contractors, representatives, and agents (collectively, "Landlord's Agents") harmless for, from, and against all claims, demands, charges, proceedings, costs, expenses, losses, damages, and/or liabilities, including, without limitation, attorney fees and costs, resulting from or arising out of, whether directly or indirectly, the following: (a) any damage, loss, and/or injury to person or property in, on, and/or about the Property and/or Improvements provided such damage, loss, and/or injury to person or property is not caused by Landlord's gross negligence or willful misconduct; (b) Tenant's and/or Tenant's directors, officers, shareholders, members, managers, employees, agents, representatives, invitees, and/or contractors (collectively, "Tenant's Agents") acts and/or omissions, including, without limitation, Tenant's and/or Tenant's Agents operations at the Airport, Improvements, and/or Property; (c) Tenant's use of the Property, Improvements, and/or Airport; (d) Tenant's construction, maintenance, repair, and/or occupancy of the Property and/or Improvements and/or any condition of the Property and/or Improvements; (e) the use, storage, treatment, transportation, presence, release, and/or disposal of Hazardous Substances in, on, under, and/or about the Property and/or Improvements; and/or (f) Tenant's breach and/or failure to perform any Tenant representation, warranty, covenant, and/or obligation under this Lease. Tenant's indemnification obligations under this Section 6.4 will survive the expiration or earlier termination of this Lease.

6.5 Reconstruction After Damage. If the Improvements are damaged or destroyed by fire or any other cause at any time during the Lease Term, whether or not covered by insurance, Tenant will promptly repair the damage and restore the Improvements. The completed repair, restoration, and/or replacement Improvements will be equal in value, quality, and use and will be restored to the condition of the Improvements immediately before the damage or destruction. Tenant will pay all costs and expenses of repairing and restoring the Improvements, which repairs and restoration will be completed no later than three hundred sixty-five (365) days after the date of the fire or other cause of damage. Tenant will not be entitled to any abatement of Rent on account of any damage to or destruction of the Improvements, nor will any other obligations of Tenant under this Lease be altered or terminated except as specifically provided in this Lease.

6.6 Waiver of Subrogation. Neither party will be liable to the other (or to the other's successors or assigns) for any loss or damage caused by fire, or any of the risks covered by the property insurance policies required under this Lease, and in the event of insured loss, neither party's insurance company will have a subrogated claim against the other. This waiver will be valid only if the insurance policy in question expressly permits waiver of subrogation or if the insurance company agrees in writing that such a waiver will not affect coverage under the policies. Each party agrees to obtain such an agreement from its insurer if the policy does not expressly permit a waiver of subrogation.

7. DEFAULT; REMEDIES

7.1 Default. The occurrence of any one or more of the following events constitutes a default by Tenant under this Lease (each an "Event of Default"): (a) Tenant's failure to pay Rent and/or any other charge, cost, and/or expense under this Lease when due; (b) Tenant's breach and/or failure to perform any representation, warranty, obligation, and/or covenant contained in this Lease (other than the payment of Rent or other charge, cost, and/or expense under Section 7.1(a)) within 10 days after written notice from Landlord specifying the nature of the breach and/or failure to perform with reasonable particularity; provided, however, if Tenant's breach and/or failure to perform causes or threatens loss of life, injury, significant damage, and/or destruction to person or property, human suffering, and/or significant financial loss, Tenant must cure or remedy such breach and/or failure to perform immediately upon receipt of written notice from Landlord; (c) attachment, execution, levy, and/or other seizure by legal process of any right or interest of Tenant under this Lease if not released within 30 days; (d) Tenant dies, dissolves, becomes insolvent within the meaning of the United States Bankruptcy Code, as amended from time to time; a general assignment by Tenant for the benefit of creditors; the filing by Tenant of a voluntary petition in bankruptcy; an adjudication that Tenant is bankrupt or the appointment of a receiver of the properties of Tenant; the filing of any involuntary petition of bankruptcy and failure of Tenant to secure a dismissal of the petition within 30 days after filing; attachment of or the levying of execution on the leasehold interest and failure of Tenant to secure discharge of the attachment or release of the levy of execution within 30 days; (e) Tenant's breach and/or failure to perform Tenant's obligations, representations, warranties, and/or covenants under the FBO Agreement, FBO Lease, and/or Ancillary Lease; and/or (f) Tenant's failure for 30 days or more to occupy the Property and Improvements for the Permitted Use.

7.2 Landlord's Remedies. Upon an Event of Default, Landlord may elect any one or more of the following remedies:

7.2.1 Landlord may terminate this Lease, the FBO Agreement, FBO Lease, and/or Ancillary Lease by notice to Tenant. If this Lease is not terminated by Landlord, Landlord will be entitled to recover damages from Tenant for the default. If this Lease is terminated by Landlord, Tenant's liability to Landlord for damages will survive such termination, and Landlord may reenter, take possession of the Property and Improvements, and remove any persons or property (including the Improvements) by legal action or by self-help with the use of reasonable force and without liability for damages. Landlord may pursue all rights and remedies provided Landlord under the FBO Agreement, FBO Lease, and/or Ancillary Lease, including, without limitation, termination. Notwithstanding anything contained in this Lease to the contrary, upon termination of the FBO Agreement, FBO Lease, and/or Ancillary Lease, Landlord will have all rights and remedies available to Landlord under the FBO Agreement, FBO Lease, Ancillary Lease, and/or applicable law.

7.2.2 Following reentry or abandonment, Landlord may relet the Property, and in that connection may make any suitable alterations or refurbish the Property or Improvements (or both), or change the character or use of the Property and/or Improvements, but Landlord will not be required to relet the Property and/or Improvements for any use or purpose other than compatible uses or which Landlord may reasonably consider injurious to the Property, or to any tenant which Landlord may reasonably consider objectionable. Landlord may relet all or part of the Property or Improvements, alone or in conjunction with other properties, for a term longer or shorter than the term of this Lease, upon any reasonable terms and conditions, including the granting of some rent-free occupancy or other rent concession.

7.2.3 Upon the happening of an Event of Default, Landlord will be entitled to recover immediately, without waiting until the due date of any future Rent or until the date fixed for expiration of this Lease, and in addition to any other damages recoverable by Landlord, the following amounts as damages: (a) the loss of reasonable rental value from the date of default until a new tenant has been, or with the exercise of reasonable efforts could have been, secured; (b) the reasonable costs of reentry and reletting including, without limitation, the cost of any demolition, construction, clean-up, refurbishing, removal of Tenant's property and fixtures, or any other expense occasioned by Tenant's failure to quit the Property and Improvements (if applicable) upon termination and leave the Property and Improvements (if applicable) in the required condition, including, without limitation, any remodeling costs, attorney fees, court costs, broker commissions, and advertising costs; and/or (c) any excess of the value of the Rent, and all of Tenant's other obligations under this Lease, over the reasonable expected return from the Property and/or Improvements for the period commencing on the earlier of the date of trial or the date the Property and/or Improvements are relet and continuing through the end of the Lease Term.

7.3 Cumulative Remedies; Right to Cure. Termination of this Lease will not constitute a waiver or termination of any rights, claims, and/or causes of action Landlord may have against Tenant; Tenant's obligations under this Lease, including, without limitation, Tenant's indemnification obligations under Section 6.4, will survive the termination. Landlord may sue periodically to recover damages during the period corresponding to the remainder of the Lease Term, and no action for damages will bar a later action for damages subsequently accruing. The foregoing remedies will be in addition to and will not exclude any other remedy available to Landlord under applicable law. Unless a shorter time is otherwise provided in this Lease, if Tenant fails to perform any obligation under this Lease Landlord will have the option to do so after ten (10) days' written notice to Tenant specifying the nature of the default. Landlord's performance of any Tenant obligation under this Lease will not waive any other remedy available to Landlord. All of Landlord's expenditures to correct the default will be reimbursed by Tenant on demand with interest at the rate of twelve percent (12%) per annum from the date of expenditure by Landlord until paid in full.

7.4 Termination Rights. Notwithstanding anything contained in this Lease to the contrary, this Lease may be terminated (a) at any time by the mutual written agreement of Landlord and Tenant; (b) by Landlord immediately upon notice to Tenant if Landlord reasonably determines that Tenant's acts or omissions cause or threaten loss of life, injury, significant damage, and/or destruction to person or property, human suffering, and/or significant financial loss; and/or (c) by Landlord upon termination of the FBO Agreement, FBO Lease, and/or Ancillary Lease. Termination of this Lease will not constitute a waiver or termination of any rights, claims, and/or causes of action Landlord may have against Tenant; Tenant's obligations under this Lease, including, without limitation, Tenant's indemnification obligations under Section 6.4, will survive the termination. Tenant will not be entitled to damages and/or any other recovery if Landlord exercises its termination right under this Section 7.4.

8. SURRENDER; HOLDOVER

8.1 Improvements and Alterations. In addition to all other Tenant obligations required under this Lease, upon the earlier termination or expiration of this Lease, Tenant will, at Tenant's cost and expense, pay and perform the following: (a) perform all Property and Improvements maintenance and repairs for which Tenant is responsible under this Lease; and (b) surrender the Property and Improvements (subject to Section 8.4) to Landlord in good condition, repair, working order, and appearance, free of waste and debris. If Tenant fails to timely surrender the Property and Improvements in accordance with this Section 8.1, the following will apply: (x) by written notice given to Tenant within 10 days after Tenant's surrender obligations were required to be performed, Landlord may elect to hold Tenant to its surrender obligations under this Section 8.1; (y) Landlord may cause Tenant's surrender obligations to be performed in accordance with this Section 8.1, at Tenant's cost and expense; and/or (z) Landlord may treat Tenant as a holdover tenant under Section 8.3. Tenant is liable to Landlord for all costs and expenses Landlord incurs to cause the Property and Improvements to be surrendered in accordance with this Section 8.1 with interest at 12% per annum from the date of expenditure by Landlord until paid in full.

8.2 Tenant Personal Property Removal Obligations. Prior to the earlier termination or expiration of this Lease, Tenant will remove from the Property and Improvements all aircraft, vehicles, furnishings, furniture, equipment, tools, trade fixtures, and personal property which remain its property, including all resulting waste and/or debris. If Tenant fails to timely remove the aircraft, vehicles, furnishings, furniture, equipment, tools, trade fixtures, personal property, and all resulting waste and/or debris, the following will apply: (a) at Landlord's election, Tenant will be deemed to have abandoned the property, and Landlord may retain the property and all rights of Tenant with respect to the property will cease; (b) by written notice given to Tenant within 10 days after removal was required, Landlord may elect to hold Tenant to its removal obligations (provided, however, if Landlord elects to require Tenant to remove, Landlord may effect a removal and place the property in storage for Tenant's account); (c) Landlord may cause the property to be removed in accordance with this Section 8.2, at Tenant's cost and expense; and/or (d) Landlord may treat Tenant as a holdover tenant under Section 8.3. Tenant is liable to Landlord for all costs and expenses Landlord incurs to cause the property's removal and/or storage with interest at 12% per annum on all such expenses from the date of expenditure by Landlord until paid in full.

8.3 Holdover. If Tenant does not vacate and surrender the Property and Improvements in accordance with Sections 8.1 and 8.2 at the time required, Landlord will have the option to treat Tenant as a tenant from month-to-month, subject to the provisions of this Lease (except the provisions for term and extension), except that Base Rent will be equal to 150% of the then applicable Base Rent. Failure of Tenant to timely surrender the Property and Improvements and remove its aircraft, vehicles, trade fixtures, furniture, furnishings, equipment, tools, and/or any other personal property in accordance with this Lease will constitute a failure to vacate to which this Section 8.3 will apply. If a month-to-month tenancy results from a holdover by Tenant under this Section 8.3, the tenancy will be terminable at the end of any monthly rental period on written notice from Landlord given not less than 30 days prior to the termination date which will be specified in the notice.

8.4 Removal and Ownership. Notwithstanding anything contained in this Lease to the contrary, upon the earlier termination or expiration of this Lease, Landlord may (a) require Tenant to remove the Improvements and/or Alterations from the Property (and surrender the Property to Landlord in good condition, repair, working order, and appearance, free of waste and debris), at Tenant's cost and expense, prior to the earlier termination or expiration of this Lease, or (b) purchase the Improvements in accordance with Section 8.5. If Tenant fails to timely remove the Improvements and/or Alterations from the Property under this Section 8.4 to Landlord's reasonable satisfaction (including all resulting waste or debris), Landlord may, in addition to any other Landlord rights and remedies, (y) cause the Improvements and/or Alterations to be removed at Tenant's cost and expense, and/or (z) treat Tenant as a holdover tenant under Section 8.3. Tenant is liable to Landlord for all costs and expenses Landlord incurs to cause the removal of the Improvements and/or Alterations and Property's restoration with interest at 12% per annum on all such expenses from the date of expenditure by Landlord until paid in full.

8.5 Landlord Purchase. If Landlord purchases the Improvements in accordance with Section 8.4, Landlord will purchase the Improvements for the fair market value of the Improvements as of the expiration or earlier termination of this Lease. The purchase will be made effective as of the date of the expiration or earlier termination of the Lease. Landlord will obtain ownership of the Improvements free and clear of all Encumbrances, including, without limitation, any Tenant rights or interests in and to the Improvements. Tenant will sign and deliver all documents and instruments Landlord determines necessary or appropriate to effectuate the transfer and conveyance of the Improvements.

8.6 Fair Market Value. If Landlord elects to purchase the Improvements, then the fair market value of the Improvements will be determined by the parties through good faith negotiation, which the parties will commence at least 90 days before the expiration or earlier termination of the Lease (unless not known) and pursue with diligence. If the parties cannot reach agreement within 30 days, then the fair market value will be determined by the following process:

8.6.1 no later than 90 days before the expiration or earlier termination of this Lease, each party will submit in confidence its written evaluation of the fair market value of the Improvements. At the same

time, the parties will attempt in good faith to appoint a mutually acceptable, independent, qualified appraiser. No later than 30 days after the appraiser is appointed, the appraiser will choose one of the two proposals as the fair market value of the FBO, which determination will be final and binding.

8.6.2 If the parties cannot agree on an appraiser, then each party will appoint a qualified, independent appraiser no later than 75 days before the expiration or earlier termination of this Lease. The appraisers appointed by each party will select a qualified, independent appraiser, who will choose one of the two proposals as the fair market value of the Improvements, which determination will be final and binding. If a party fails to timely appoint a qualified appraiser, then the one appraiser timely appointed will determine the fair market value by choosing one of the two proposals as the fair market value of the Improvements, which determination will be final and binding. If a party fails to timely submit its evaluation of the fair market value, then the timely submitted evaluation will be the final and binding fair market value of the Improvements.

8.6.3 Each party will bear one-half of the expense of the mutually appointed appraiser and the entire expense of any appraiser appointed by the party individually. Landlord will pay Tenant the agreed or determined fair market value, as the case may be, no later than 30 days after it is determined; provided, however, if Landlord determines necessary or appropriate, Landlord may pay the agreed or determined fair market value over an installment period not exceeding 48 months. Tenant will defend, indemnify, and hold Landlord harmless for, from, and against all liability and loss arising from Tenant's failure to deliver the Improvements free and clear of all Encumbrances.

9. MISCELLANEOUS

9.1 Non-waiver; Attorney Fees. No waiver will be binding on a party unless it is in writing and signed by the party making the waiver. Waiver by either party of strict performance of any provision of this Lease will 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. If an Event of Default occurs, Tenant will pay Landlord, within 10 days after Landlord's demand, all attorney fees and costs Landlord incurs to enforce the terms of this Lease whether or not Landlord instituted arbitration or litigation proceedings. If any arbitration or litigation is instituted to interpret, enforce, or rescind this Lease, including, without limitation, any proceeding brought under the United States Bankruptcy Code, the prevailing party on a claim will be entitled to recover with respect to the claim, in addition to any other relief awarded, the prevailing party's attorney fees, expert fees, and other fees, costs, and expenses of every kind, including, without limitation, the costs and disbursements specified in ORCP 68 A(2), incurred in connection with the arbitration, the litigation, any appeal or petition for review, the collection of any award, or the enforcement of any order, as determined by the arbitrator or court.

9.2 Addresses for Notices; Binding Effect. All notices or other communications required or permitted by this Lease must be in writing, must be delivered to the parties at the addresses set forth above, or at any other address that a party may designate by notice to the other parties. Any notice will be considered delivered upon actual receipt if delivered personally, via email or facsimile (with electronic confirmation of delivery), or an overnight delivery service, or at the end of the third business day after the date deposited in the United States mail, postage pre-paid, certified, return receipt requested. Subject to the limitations under Section 6.1 concerning the Transfer of this Lease by Tenant, this Lease will be binding upon and inure to the benefit of the parties, their respective successors and assigns. This Lease (or any memorandum of this Lease) will not be recorded. Tenant will cause Tenant's Agents to conform and comply with this Lease.

9.3 Entry for Inspection; Late Fees; Interest. Landlord may enter the Property and Improvements for the purpose of investigating compliance with the terms of this Lease, general safety inspections, and/or for any other reasonable purposes (as determined by Landlord), including, without limitation, to show the Property/Improvements to a prospective tenant. Except in the case of an emergency, Landlord will endeavor to provide Tenant no less than 24 hours' prior written notice before entering the Property. In addition, Landlord will have the right, at any time during the last 90 days of the Lease Term, to place and maintain upon the Property/Improvements notices for leasing the Property/Improvements. If Rent (or other payment due from

Tenant) is not received by Landlord within 10 days after it is due, Tenant will pay a late fee equal to 10% of the payment or \$100.00, whichever is greater (a "Late Fee"). Landlord may levy and collect a Late Fee in addition to all other remedies available for Tenant's failure to pay Rent (or other payment due from Tenant). Any Rent or other payment required to be paid by Tenant under this Lease (and/or any payment made or advanced by Landlord in connection with Landlord's performance of any Tenant obligation under this Lease) will bear interest at the rate of 12% per annum from the due date (or, if applicable, the date of Landlord's payment) until paid by Tenant in full.

9.4 Severability; Further Assurance; Governing Law; Venue; Joint and Several. If a provision of this Lease is determined to be unenforceable in any respect, the enforceability of the provision in any other respect, and of the remaining provisions of this Lease, will not be impaired. The parties will sign such other documents and take such other actions as are reasonably necessary to further effect and evidence this Lease. This Lease is governed by the laws of the State of Oregon, without giving effect to any conflict-of-law principle that would result in the laws of any other jurisdiction governing the Lease. If any dispute arises regarding this Lease, the parties agree that the sole and exclusive venue for resolution of such dispute will be in Malheur County, Oregon. All parties submit to the jurisdiction of courts located in Malheur County, Oregon for any such disputes.

9.5 Entire Agreement; Signatures; Time. This Lease contains the entire understanding of the parties regarding the subject matter of this Lease and supersedes all prior and contemporaneous negotiations and agreements, whether written or oral, between the parties with respect to the subject matter of this Lease. This Lease may be signed in counterparts. A fax or email transmission of a signature page will be considered an original signature page. At the request of a party, a party will confirm a fax or email-transmitted signature page by delivering an original signature page to the requesting party. Time is of the essence with respect to Tenant's performance of its obligations under this Lease. If the date for performance of an obligation or delivery of any notice hereunder falls on a day other than a business day, the date for such performance or delivery of such notice will be postponed until the next ensuing business day. For purposes of this Lease, a "business day" means a normal working day (i.e., Monday through Friday of each calendar week, exclusive of Federal and state holidays and one day following each of Thanksgiving, Christmas, and New Year's).

9.6 Discretion; Landlord Default. When a party is exercising any consent, approval, determination, and/or similar discretionary action under this Lease, the standard will be the party's commercially reasonable discretion, which discretion will not be unreasonably withheld, conditioned, and/or delayed. No act or omission of Landlord will be considered a default under this Lease until Landlord has received 30 days' prior written notice from Tenant specifying the nature of the default with reasonable particularity. Commencing from Landlord's receipt of such default notice, Landlord will have 30 days to cure or remedy the default before Landlord will be deemed in default of this Lease; provided, however, that if the default is of such a nature that it cannot be completely remedied or cured within the thirty-day cure period, there will not be a default by Landlord under this Lease if Landlord begins correction of the default within the thirty-day cure period and thereafter proceeds with reasonable diligence to effect the remedy as soon as practical.

9.7 Additional Provisions; Attachments; Interpretation. The provisions of all exhibits, schedules, instruments, and other documents referenced in this Lease are part of this Lease. All pronouns contained herein and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word "or" is not exclusive. The words "include," "includes," and "including" are not limiting. The term "person" means any natural person, corporation, limited liability company, partnership, joint venture, firm, association, trust, unincorporated organization, government or governmental agency or political subdivision, or any other entity. The titles, captions, or headings of the sections herein are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Lease.

[end of lease – signature page immediately follows]

IN WITNESS WHEREOF, the undersigned have caused this Lease to be executed and effective for all purposes as of the Effective Date.

LANDLORD:
City of Ontario,
an Oregon municipal corporation

TENANT:
Silverhawk Properties Oregon LLC,
an Oregon Limited Liability Company

By: Riley J. Hill, Mayor

By: Catherine Weber, Manager

DRAFT

Exhibit A
Property Description and Depiction

[attached]

DRAFT

AIRPORT GROUND LEASE FOR AERONAUTICAL USE IMPROVEMENTS
(Fixed Based Operator Modular Lease)

This Airport Ground Lease for Aeronautical Use Improvements (Fixed Based Operator Modular Lease) (this "Lease") is dated effective for all purposes as of October 1, 2021 (the "Effective Date") and is entered into between City of Ontario ("Landlord"), an Oregon municipal corporation, whose address is 444 SW 4th Street, Ontario, Oregon 97914, and Silverhawk Properties Oregon LLC ("Tenant"), an Oregon limited liability company, whose address is 581 SW 33rd Street, Ontario, Oregon 97914.

RECITALS:

A. Landlord is the owner, sponsor, and operator of the Ontario Municipal Airport, a public municipal airport located in Ontario, Oregon (the "Airport"). Landlord is the owner of certain real property at the Airport consisting of approximately 4,870 total square feet commonly known as 581 SW 33rd Street, Ontario, Oregon 97914 (the "Property"). As of the Effective Date, an approximately 1,848 square foot modular building (the "Improvement(s)") has been located on or about the Property. The Property is identified and depicted in the attached Exhibit A.

B. Tenant provides certain fixed based operator ("FBO") services at the Airport for and on behalf of Landlord under the terms of a certain Fixed Based Operator Services Agreement dated effective October 1, 2021 between Landlord and Tenant (the "FBO Agreement"). Pursuant to the terms of a certain Airport Ground Lease for Aeronautical Use Improvements (Fixed Based Operator Lease) dated as of the Effective Date between Landlord and Tenant (the "FBO Lease"), Landlord has leased certain real property to Tenant to facilitate Tenant's provision of the FBO services subject to the FBO Agreement. The real property subject to the FBO Lease includes, without limitation, certain Landlord real property upon which Tenant's approximately 2,024 square foot fixed base operations office building is located and fuel farm area consisting of approximately 5,200 square feet (all as described and depicted in the FBO Lease).

C. Pursuant to the terms of a certain Airport Ground Lease for Aeronautical Use Improvements (Fixed Based Operator Ancillary Lease) dated as of the Effective Date between City and Contractor (the "Ancillary Lease"), City has leased certain real property to Contractor to facilitate Contractor's provisions of the FBO services subject to this Agreement. The real property subject to the Ancillary Lease includes, without limitation, certain City real property upon which Contractor's (a) approximately 4,000 square foot airplane hangar (commonly known as Hangar A), and (b) approximately 4,800 square foot airplane hangar (commonly known as Hangar B) are located.

D. Tenant desires to lease the Property from Landlord for purposes of owning and operating the Improvements and providing the FBO services on and at the Airport. Subject to the terms and conditions contained in this Lease, Tenant will lease the Property from Landlord, and Landlord will lease the Property to Tenant, for the Permitted Use (as defined below).

AGREEMENT:

NOW, THEREFORE, in consideration of the parties' mutual obligations contained in this Lease, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. LEASE; OCCUPANCY

1.1 Lease Term. Subject to the terms and conditions contained in this Lease, Landlord leases the Property to Tenant and Tenant leases the Property from Landlord. The term of this Lease, Tenant's right to possession of the Property, and Tenant's obligation to pay Rent (as defined below) commenced on the Effective Date and will continue, subject to the terms and conditions contained in this Lease, until September 30, 2026 (the

DRAFT

AIRPORT GROUND LEASE FOR AERONAUTICAL USE IMPROVEMENTS
(Fixed Based Operator Ancillary Lease)

This Airport Ground Lease for Aeronautical Use Improvements (Fixed Based Operator Ancillary Lease) (this "Lease") is dated effective for all purposes as of October 1, 2021 (the "Effective Date") and is entered into between City of Ontario ("Landlord"), an Oregon municipal corporation, whose address is 444 SW 4th Street, Ontario, Oregon 97914, and Silverhawk Properties Oregon LLC ("Tenant"), an Oregon limited liability company, whose address is 581 SW 33rd Street, Ontario, Oregon 97914.

RECITALS:

A. Landlord is the owner, sponsor, and operator of the Ontario Municipal Airport, a public municipal airport located in Ontario, Oregon (the "Airport"). Landlord is the owner of certain real property at the Airport consisting of approximately 17,048 total square feet commonly known as 581 SW 33rd Street, Ontario, Oregon 97914 (the "Property"). As of the Effective Date, a portion of the Property has been improved by, and consists of, the following: (a) approximately 4,000 square foot airplane hangar (commonly known as Hangar A) and associated parking space located immediately adjacent to the hangar consisting of approximately 8 unassigned parking spaces; and (b) approximately 4,800 square foot airplane hangar (commonly known as Hangar B) and associated parking space area located immediately adjacent to the hangar consisting of approximately 10 unassigned parking spaces. For purposes of this Lease, the term "Improvement(s)" means Hangar A and/or Hangar B; the term "Parking Area" means the parking area(s) adjacent to Hangar A and/or Hangar B. The Property is identified and depicted in the attached Exhibit A.

B. Tenant provides certain fixed based operator ("FBO") services at the Airport for and on behalf of Landlord under the terms of a certain Fixed Based Operator Services Agreement dated effective October 1, 2021 between Landlord and Tenant (the "FBO Agreement"). Pursuant to the terms of a certain Airport Ground Lease for Aeronautical Use Improvements (Fixed Based Operator Lease) dated as of the Effective Date between Landlord and Tenant (the "FBO Lease"), Landlord has leased certain real property to Tenant to facilitate Tenant's provision of the FBO services subject to the FBO Agreement. The real property subject to the FBO Lease includes, without limitation, certain Landlord real property upon which Tenant's approximately 2,024 square foot fixed base operations office building is located and fuel farm area consisting of approximately 5,200 square feet (all as described and depicted in the FBO Lease).

C. Pursuant to the terms of a certain Airport Ground Lease for Aeronautical Use Improvements (Fixed Based Operator Modular Lease) dated as of the Effective Date between Landlord and Tenant (the "Modular Lease"), Landlord has leased certain real property to Tenant to facilitate Tenant's provisions of the FBO services subject to the FBO Agreement. The real property subject to the Modular Lease includes, without limitation, certain Landlord real property upon which Tenant's approximately 1,848 square foot modular building is located.

D. Tenant desires to lease the Property from Landlord for purposes of owning and operating the Improvements and providing the FBO services on and at the Airport. Subject to the terms and conditions contained in this Lease, Tenant will lease the Property from Landlord, and Landlord will lease the Property to Tenant, for the Permitted Use (as defined below).

AGREEMENT:

NOW, THEREFORE, in consideration of the parties' mutual obligations contained in this Lease, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. LEASE; OCCUPANCY

1.1 Lease Term. Subject to the terms and conditions contained in this Lease, Landlord leases the Property to Tenant and Tenant leases the Property from Landlord. The term of this Lease, Tenant's right to possession of the Property, and Tenant's obligation to pay Rent (as defined below) commenced on the Effective Date and will continue, subject to the terms and conditions contained in this Lease, until September 30, 2026 (the "Initial Term"), unless sooner terminated as provided under this Lease. For purposes of this Lease, the term "Lease Term" means the Initial Term and Extended Term (as defined below), if applicable.

1.2 Extended Term. If Tenant is not then in default under this Lease, Tenant has the option (the "Extension Option") to extend the Initial Term for one consecutive additional term of five years (the "Extended Term"). Tenant will exercise the Extension Option by providing Landlord written notice (the "Notice of Extension") no less than one hundred twenty (120) days prior to the last day of the Initial Term. Subject to the terms and conditions contained in this Lease, providing the Notice of Extension will be sufficient to make this Lease binding for the Extended Term. The Extended Term will commence on the day immediately following the expiration of the Initial Term. The terms and conditions for the Extended Term will be identical with the Initial Term except for (a) Base Rent (as defined below), (b) Additional Rent (as defined below), and (c) Tenant will no longer have the Extension Option that has been exercised.

1.3 Airport Facilities. Subject to the terms and conditions contained in this Lease, during the Lease Term Landlord grants Tenant a limited, revocable, non-exclusive license to use the Airport's common hangar related facilities (if any) and that portion of the Airport's approach areas, runways, ramps, taxiways, and aprons reasonably necessary to facilitate the expeditious movements of aircraft to and from the runway and takeoff areas. Tenant's use of the Airport's common hangar related facilities (if any) and Airport approach areas, runways, ramps, taxiways, and aprons will be for the sole purpose of Tenant's use of the Property for the Permitted Use (as defined below). Tenant's use of the Airport facilities (and all flight and ground operations on and at the Airport or otherwise) will be made subject to and in accordance with the Laws (as defined below).

1.4 Tenant's Financial Capability; Authority; Improvement Ownership. Tenant represents and warrants the following to Landlord: (a) Tenant has sufficient assets and net worth to ensure Tenant's performance of this Lease and the payment of its obligations under this Lease as and when they become due; (b) Tenant has full power and authority to sign and deliver this Lease and to perform all Tenant's obligations under this Lease; (c) this Lease is the legal, valid, and binding obligation of Tenant, enforceable against Tenant in accordance with its terms; (d) Tenant is the sole, fee simple owner of the Improvements and no other person has any ownership, rights, and/or interests in and to the Improvements (except Landlord as provided under this Lease); and (e) the Improvements are free from all Encumbrances (as defined below) and Tenant will keep the Improvements and Property free from all Encumbrances. Tenant represents, warrants, and covenants that as of the Effective Date, (y) Catherine Weber is Tenant's only member and no other person has any ownership rights and/or interests in and to Tenant, and (z) Catherine Weber has full power and authority to sign and deliver this Lease on behalf of Tenant. For purposes of this Lease, the term "Encumbrance(s)" means any lien, mortgage, pledge, security interest, reservation, restriction, adverse claim, and/or other encumbrance.

1.5 No Representations or Warranties. Tenant is bound in accordance with the terms of this Lease from and after the Effective Date. Tenant has entered into this Lease on the basis of its own examination and personal knowledge of the Airport and Property. Tenant accepts the Airport and Property in their "as-is" and "with all faults and defects" condition as of the Effective Date. Tenant has not relied on any representations or warranties made by Landlord and/or Landlord's Agents (as defined below). Provided Tenant is not in default of this Lease, Landlord will defend Tenant's right to quiet enjoyment of the Property from the lawful claims of all persons during the Lease Term. Except for Landlord's covenant of quiet enjoyment contained in the immediately preceding sentence, Landlord makes no representations or warranties of any kind, whether express or implied, with respect to all or any part of the Airport and/or Property. Landlord has made no promise or agreement to repair, alter, construct, and/or improve all or any part of the Airport, Improvements, and/or Property.

1.6 FBO Agreement; FBO and Modular Leases. Notwithstanding anything contained in this Lease to the contrary, Tenant acknowledges and agrees that Landlord's lease of the Property to Tenant is conditioned on

Tenant's timely payment and performance of all its obligations arising out of or under the FBO Agreement, FBO Lease, and Modular Lease. A Tenant default under this Lease constitutes a default by Tenant under the FBO Agreement, FBO Lease, and Modular Lease. A default by Tenant under the FBO Agreement, FBO Lease, and/or Modular Lease constitutes a default by Tenant under this Lease.

1.7 Parking Area. The Parking Area consists of 18 unassigned parking spaces for use by Airport pilots, contractors, invitees, employees, representatives, and agents. Tenant has a nonexclusive license to use the Parking Area for the benefit of Tenant and Tenant's Agents. Landlord will not be liable for any damage or destruction of any nature to, or any theft of, vehicles, or contents therein, in or about the Parking Area. Overnight parking in the Parking Area is prohibited and any vehicle violating this restriction is subject to removal at the owner's expense. Notwithstanding anything contained in this Lease to the contrary, Landlord will have the right to implement any reasonable parking restrictions (including, without limitation, assigning parking spaces to tenants and/or restricting parking in close proximity to the Improvements either for customer-only parking or for limited-duration parking) at any time upon 10 days' prior written notice to Tenant, which parking restrictions will be binding on Tenant and Tenant's Agents. Tenant acknowledges and agrees to the following: (a) the Parking Area is an Airport facility of which Landlord is the sole owner; and (b) Tenant (and/or any other person) has no rights and/or interests in and/or to the Parking Area whatsoever other than as expressly provided under this Lease.

2. BASE RENT; ADDITIONAL RENT; TAXES; ASSESSMENTS

2.1 Base Rent. Subject to the terms and conditions contained in this Lease, Tenant will pay Landlord guaranteed minimum annual base rent, without offset, in the amount of \$_____ (\$0.1564 per square foot), per year) ("Base Rent"). Base Rent is payable annually in advance of each year on or before the 30th day of June without invoice from Landlord. Tenant's first payment of Rent is due and payable on the Effective Date. Tenant will pay all outstanding Base Rent (totaling \$_____) contemporaneously with Tenant's execution of this Lease. Base Rent will be prorated with respect to any partial year in which the Lease Term commences and ends. Base Rent will be payable to the order of Landlord at the address first shown above or any other address designated by Landlord from time to time.

2.2 Base Rent Escalation. Notwithstanding anything contained in this Lease to the contrary, Landlord may adjust (increase or decrease) the Base Rent at any time and from time to time during the Lease Term through council resolution. Landlord will provide Tenant no less than 30 days' prior written notice of any Base Rent adjustment. Unless otherwise adjusted by council resolution, commencing on the first-year anniversary of the Effective Date, during each year of the Lease Term upon the anniversary of the Effective Date, Base Rent will escalate (increase) by three percent (3.0%) over Base Rent for the immediately preceding twelve-month period. Tenant will pay the Base Rent established by Landlord from time to time.

2.3 Additional Rent.

2.3.1 Tenant will timely pay in full the following charges, costs, and expenses related to or concerning (whether directly or indirectly) the Property and/or Improvements (collectively, "Additional Rent"): (a) all taxes (real property and personal property, if any), general and special assessments, insurance costs, telephone charges, licenses, utility charges, fuel, and all costs, expenses, and/or charges identified under Sections 2.3.2 and 2.3.3, below; (b) all costs and expenses incurred in connection with Tenant's ownership (in the case of the Improvements), use, occupancy, maintenance, improvement, and/or repair of the Property and/or Improvements; (c) all applicable Airport charges, fees, and/or assessments that may be imposed or assessed from time to time; and (d) all other sums Tenant is required to pay Landlord or any third party under this Lease or otherwise. Additional Rent is due and payable to the applicable payee commencing on the Effective Date. All Rent payable under this Lease will be net to Landlord and all costs, expenses, and obligations imposed on Tenant under this Lease and/or arising out of Tenant's ownership (in the case of the Improvements), use, occupancy, maintenance, and/or repair of the Property and/or Improvements will be paid by Tenant. Tenant will furnish Landlord with receipts or other proof of payment of Additional Rent within ten (10) days after Landlord's written request. For purposes of this Lease, the term "Rent" means both Base Rent and Additional Rent.

2.3.2 Without otherwise limiting Section 2.3.1, Tenant will pay when due all costs, expenses, and charges for services and utilities incurred in connection with the ownership (in the case of the Improvements), use, lease, occupancy, operation, repair, maintenance, and/or improvement of the Property and/or Improvements, including, without limitation, charges and expenses for fuel, connection fees, water, gas, electricity, sewage disposal, power, refrigeration, air conditioning, telephone, internet, and janitorial services (including, without limitation, all connection fees, costs, and expenses related thereto).

2.3.3 Tenant will pay before delinquency all real and personal property taxes, general and special assessments, system development charges, and all other charges of every description levied on and/or assessed against the Property, any improvements located on the Property (including, without limitation, the Improvements), and/or personal property and/or fixtures located on the Property. Tenant will make all such payments directly to the applicable governing authority. If any such tax assessment or charges may be paid in installments, Tenant may elect to do so provided each installment together with interest is paid before it becomes delinquent.

3. USE OF PROPERTY

3.1 Permitted Use. Subject to the terms and conditions contained in this Lease, Tenant will use the Property for Tenant's operation of the Business (as defined below) and maintenance, repair, use, and/or operation of the Improvements (collectively, the "Permitted Use"). Tenant will not use the Property for any purpose other than the Permitted Use. For purposes of this Lease, the term "Business" means Tenant's flight school business performed from and on the Property.

3.2 Conditions, Limitations, and Restrictions. In addition to any other conditions, limitations, and/or restrictions contained in this Lease, Tenant represents, warrants, and covenants to perform and comply with the following conditions, limitations, and restrictions concerning the Property, Improvements, and/or Airport:

3.2.1 Tenant will conform and comply with the Laws. Without otherwise limiting the generality of the immediately preceding sentence, Tenant will conform and comply with the Laws in connection with Tenant's use of the Property for the Permitted Use. Tenant will correct, at Tenant's own expense, any failure of compliance created through Tenant's fault, the Permitted Use, and/or by reason of Tenant's use of the Property, Improvements, and/or Airport. Prior to the Effective Date, Tenant had the opportunity to review (and ask questions concerning) and understands all Laws. Tenant will obtain all necessary permits, licenses, reviews, studies, inspections, reports (including, without limitation, environmental reports), and approvals required under the Laws to lease the Property and occupy and use the Improvements for the Permitted Use, including, without limitation, all reviews, studies, and approvals required under Landlord's leasing policies and regulations. For purposes of this Lease, the term "Law(s)" means all policies, rules, leases, covenants, conditions, restrictions, easements, declarations, laws, statutes, liens, ordinances, orders, codes, and regulations directly or indirectly affecting the Property, Improvements, Airport, and/or Permitted Use, including, without limitation, fire and/or building codes, Airport master plan, the Americans with Disabilities Act of 1990 (and the rules and regulations promulgated thereunder), Environmental Laws (as defined below), any rules or regulations promulgated by the Federal Aviation Administration ("FAA") and/or any other federal airport authority (including, without limitation, Landlord's Grant Assurances and requirements under 14 CFR Part 77), Title 3, Chapter 9 of Landlord's municipal code, Landlord's policies governing agreements involving the lease, use, and/or disposition of Airport property for aeronautical activities, and the Rules and Regulations (as defined below), all as now in force and/or which may hereafter be amended, modified, enacted, and/or promulgated.

3.2.2 Tenant will store all aircraft, vehicles, machinery, equipment, tools, and/or supplies within the Property boundaries and in a safe, neat, clean, and orderly manner; Tenant will not permit any machinery, aircraft, vehicles, equipment, tools, and/or supplies to remain unattended on or about the Property. Tenant will refrain from any activity which would make it impossible to insure the Property against casualty, or would prevent Landlord from taking advantage of any ruling of the Oregon Insurance Rating Bureau (or its successor) allowing Landlord to obtain reduced premium rates for long-term fire insurance policies, unless Tenant

pays the additional costs of the insurance. Tenant will refrain from any use and/or activities which would be reasonably offensive to Landlord, other users of the Airport, and/or neighboring property, and/or which would tend to create or cause fire risk, a nuisance, and/or damage the reputation of the Property and/or Airport, all as determined by Landlord. Tenant will conduct and operate the Permitted Use and all activities at the Airport in a safe, prudent, professional, and lawful manner.

3.2.3 Tenant will not cause and/or permit any Hazardous Substances (as defined below) to be spilled, leaked, disposed of, and/or otherwise released on, under, and/or about the Property and/or Improvements. Without otherwise limiting the generality of the immediately preceding sentence, but subject to applicable laws, Tenant may use, store, and/or otherwise handle on or in the Property only those Hazardous Substances typically used, stored, sold, and/or handled in the prudent and safe operation of the Permitted Use; provided, however, Tenant will use, store, and/or otherwise handle on or in the Property the Hazardous Substances in a safe, neat, clean, and orderly manner consistent with applicable Laws. Upon the earlier termination or expiration of this Lease, Tenant will properly remove and dispose of all Hazardous Substances from the Property. For purposes of this Lease, the term "Environmental Law(s)" means any federal, state, and/or local statute, regulation, and/or ordinance, or any judicial or other governmental order, pertaining to the protection of health, safety, and/or environment; the term "Hazardous Substance(s)" means any hazardous, toxic, infectious, and/or radioactive substance, waste, and/or material as defined or listed by any Environmental Law, including, without limitation, pesticides, aviation fuel, paint, petroleum oil, and their fractions

3.2.4 Tenant will conform and comply with all rules and regulations concerning the Airport, Improvements, and/or Property, which now exist or may hereafter become effective, including, without limitation, all Airport security, screening, and/or fire safety rules, regulations, and procedures (collectively, the "Rules and Regulations"). Tenant will not perform any acts or carry on any practice prohibited by the Rules and Regulations. Tenant acknowledges and agrees that Landlord is permitted to adopt new Rules and Regulations, or amend the Rules and Regulations, from time to time as Landlord determines necessary or appropriate. Any adoption or amendment to the Rules and Regulations will be effective 30 days after Landlord provides Tenant notice of such adoption or amendments.

3.3 Aviation Easement; Aeronautical Uses. Tenant's use of the Property and Improvements is secondary and subordinate to the operation of the Airport and Laws. Landlord reserves for itself, and for the public, a right of flight for the passage of aircraft in the airspace above the Property and Improvements together with the right to cause noise, vibration, dust, fumes, smoke, vapor, and other effects inherent in the navigation or flight of aircraft and/or operation of the Airport. Notwithstanding anything contained in this Lease to the contrary, Tenant will protect the Airport and Airport property for aeronautical and related uses, will not interfere or impede, and will conduct all activities in a manner that will not adversely affect or interfere with, Landlord's operations and/or those of other tenants and authorized users of the Airport or general public. Any Tenant activities that Landlord reasonably determines interfere or impede with the operation, use, and/or maintenance of the Airport, Airport property, and/or aeronautical activities is specifically prohibited and will constitute an Event of Default (as defined below) under this Lease.

3.4 Airport Operations; Security. Notwithstanding anything contained in this Lease to the contrary, Landlord reserves the right to control and regulate all Airport property, facilities, and/or operations, including, without limitation, taxiways, ramps, runways, improvements, aprons, fuel areas, and parking facilities. Landlord may impose certain taxi proceedings, requirements, and/or controls to promote efficient and orderly operation of other operators. Tenant acknowledges and agrees that Landlord does not provide continuous security for the Property, Improvements, and/or Airport (including, without limitation, the Parking Area). Tenant is responsible for securing and safeguarding the Property, Improvements, and all aircraft and other personal property located on or about the Property. Landlord will not be liable for any loss and/or damage to Tenant's property due to theft, vandalism, and/or any other causes, including forces of nature.

3.5 Construction Activities. Tenant's use of the Property and/or Improvements may be disrupted by certain expansion, improvement, construction, development, remodeling, and/or other activities on or at the

Airport, including, without limitation, runway maintenance and repairs. Landlord will not be in default under this Lease (and Tenant will not be entitled to any abatement of Rent and/or other concessions) if Tenant is disrupted (temporarily or otherwise) in the use of the Property, Improvements, and/or Airport due to the aforementioned activities.

3.6 Non-Discrimination; Unfair Practices. Tenant covenants and agrees as follows: (a) if any facilities and/or improvements (including, without limitation, Alterations (as defined below) are constructed, maintained, and/or otherwise operated on the Property and/or Improvements for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, Tenant will maintain and operate such facilities and services in compliance with all requirements imposed under 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, as amended; (b) no person will, on the grounds of race, color, national origin, and/or other protected classification, be excluded from participation in, denied the benefits of, and/or otherwise subjected to discrimination in the use of any facilities located on or in the Property and/or Improvements; and (c) in the construction of any improvements on, over, and/or under the Property and/or Improvements and the furnishing of services thereon, no person will, on the grounds of race, color, national origin, and/or other protected classification, be excluded from participation in, denied the benefits of, and/or otherwise subjected to discrimination.

3.7 Notice of Action. Tenant will immediately notify Landlord in writing of the occurrence of any of the following events: (a) any enforcement, clean-up, removal, and/or other governmental or regulatory action is instituted, completed, and/or threatened concerning the Improvements and/or Property pursuant to any Environmental Laws; and/or (b) any claim is made or threatened by any person against or concerning Tenant, Tenant's activities, and/or the condition of the Property and/or Improvements. Tenant will provide Landlord copies of any written documentation related to the foregoing.

3.8 Subordination – United States. Notwithstanding anything contained in this Lease to the contrary, (a) this Lease is subordinate to the terms of any agreement between Landlord and the United States concerning Airport operations and/or maintenance (the terms of such agreement will supersede the terms of this Lease), and (b) during times of war or national emergency, Landlord may lease the Airport's landing area (or any part thereof) to the United States for military or naval use (and, in connection therewith, the provisions of this Lease will be suspended to the extent inconsistent with Landlord's lease with the United States).

4. ALTERATIONS

Except any ordinary and necessary Improvement maintenance and/or repairs performed (or caused to be performed) by Tenant, Tenant will make no additions, improvements, modifications, and/or alterations in or to the Property and/or Improvements of any kind or nature whatsoever, including, without limitation, the installation of any improvements, fixtures, and/or devices on or to the Property and/or Improvements (individually and collectively, "Alteration(s)"), without Landlord's prior written consent. Any Alterations approved by Landlord will be made in a good and workmanlike manner, in compliance with applicable Laws, at Tenant's cost and expense, and consistent with the general appearance, quality, and décor of the Property and/or Improvements and surrounding property. Subject to Section 8.4, Alterations performed in or to the Property and/or Improvements by either Landlord or Tenant will be the property of Landlord. Construction of any exterior Alterations must be approved (i.e., must receive a "no objection" determination) by the FAA through the notice of proposed construction review process, submittal of FAA Form 7460-1, and will be subject to all applicable Laws. Tenant will timely file FAA Form 7460-2 Supplemental Notice concerning the Alterations.

5. MAINTENANCE AND REPAIRS

5.1 Landlord Maintenance and Repairs. Notwithstanding anything contained in this Lease to the contrary, Landlord has no obligation to make or perform any repairs, maintenance, replacements, alterations, and/or improvements in or to the Property (and/or the Improvements), including, without limitation, snow

removal. All repairs, maintenance, replacements, alterations, and/or improvements in or to the Property and/or Improvements will be made by Tenant at Tenant's cost and expense.

5.2 **Tenant Maintenance and Repairs.** Tenant will maintain, at Tenant's cost and expense, the Property and Improvements (interior and exterior) in good condition, repair, working order, and appearance, and will preserve the Property and Improvements, normal wear and tear excepted, and will not commit or permit waste. Without otherwise limiting the generality of the immediately preceding sentence, Tenant will perform, at Tenant's cost and expense, the following maintenance and repairs:

5.2.1 Repair and maintain the roof, gutters, bearing walls, structural members, foundation, walls (exterior and interior), ceilings, doors, windows, and related hardware, light fixtures, switches, wiring, plumbing, water, sewage, gas, and electrical services concerning or related to the Improvements.

5.2.2 Repair and maintain the plumbing system, electrical system, and HVAC system concerning or related to the Improvements. Repair and maintain Improvement-related boilers, lighting facilities, fired or unfired pressure vessels, fire hose connections, fire sprinkler and standpipe and hose, and all other aspects of the fire extinguishing system, including, without limitation, the fire alarm and/or smoke detection systems and equipment.

5.2.3 Repair and maintain the sidewalks, driveways, and landscaping, including, without limitation, all necessary or appropriate snow removal.

5.2.4 All sweeping, mopping, trash collection and removal, and washing required to keep the Property and Improvements clean and orderly.

5.2.5 All repairs or maintenance necessitated by the acts or omissions of Tenant and/or Tenant's Agents.

5.2.6 All repairs, maintenance, and/or improvements required under Tenant's obligation to comply with the Laws.

If Tenant fails or refuses to perform or complete the repairs, maintenance, and/or improvements required under this Section 5.2 within 10 days after Landlord's written notice, Landlord may make the repair or improvement or perform the maintenance and charge the actual costs and expenses of repair, improvement, and/or maintenance to Tenant; provided, however, if Tenant's failure or refusal to perform or complete the repairs, maintenance, and/or improvements causes or threatens loss of life, injury, significant damage, and/or destruction to person or property, human suffering, and/or significant financial loss, Landlord may make the repair or improvement or perform the maintenance (and charge the actual costs and expenses of repair, improvement, and/or maintenance to Tenant) without first having provided Tenant written notice. Tenant will reimburse Landlord for the costs and expenses of repairs, improvements, and/or maintenance on demand, together with interest at the rate of twelve percent (12%) per annum from the date of expenditure until paid in full.

5.3 **Signage; Encumbrances.**

5.3.1 Tenant will not be permitted to erect or maintain any signage on or about the Property without Landlord's prior written consent. Any signage authorized by Landlord will be erected and maintained at Tenant's cost and expense. Signage installed by Tenant will be removed by Tenant, at Tenant's cost and expense, upon the expiration or earlier termination of this Lease and the sign location restored to its former state unless Landlord elects to retain all or any portion of the signage.

5.3.2 Tenant will keep the Property and Improvements free from all Encumbrances. Tenant will pay as and when due all claims for work done on and for services rendered or material furnished to the Property. If Tenant fails to pay any such claims to discharge any Encumbrance, Landlord may do so and collect the

costs as Rent. Any amount so added will bear interest at the rate of twelve percent (12%) per annum from the date expended by Landlord and will be payable on Landlord's demand. Landlord's payment of Tenant's claims or discharge of any Tenant Encumbrance will not constitute a waiver of any other right or remedy which Landlord may have on account of Tenant's default. If an Encumbrance is filed due to nonpayment, Tenant will, within 10 days after knowledge of the filing, secure the discharge of the Encumbrance or deposit with Landlord cash or sufficient corporate surety bond or other surety satisfactory to Landlord in an amount sufficient to discharge the Encumbrance plus any costs, attorney fees, and other charges that could accrue as a result of a foreclosure or sale under the Encumbrance. Tenant will indemnify, defend, and hold Landlord harmless for, from, and against all claims, losses, and/or liabilities arising out of Tenant's failure to comply with this Section 5.3.2.

6. ASSIGNMENT; INSURANCE; INDEMNIFICATION

6.1 Transfer.

6.1.1 Tenant will not sell, assign, mortgage, sublet, lien, convey, encumber, and/or otherwise transfer (whether directly, indirectly, voluntarily, involuntarily, and/or by operation of law) all or any part of Tenant's rights and/or interests in or to this Lease, the Property, and/or Improvements (including, without limitation, any Alterations) (collectively, "Transfer") without Landlord's prior written consent, which consent Landlord will not unreasonably withhold, condition, and/or delay. For purposes of this Lease, a "Transfer" includes the sale, assignment, encumbrance, and/or transfer - or series of related sales, assignments, encumbrances, and/or transfers - of 51% or more of the shares, membership, and/or other ownership interests of Tenant, regardless of whether the sale, assignment, encumbrance, and/or transfer occurs voluntarily or involuntarily, by operation of law, or because of any act or occurrence.

6.1.2 Tenant will provide Landlord no less than 30 days' prior written notice of a proposed Transfer (the "Transfer Notice"), which Transfer Notice will include the name and address of the proposed transferee and a true and complete copy of the proposed Transfer documentation and/or instruments. Landlord's consent to any proposed Transfer is conditioned on the following: (a) Tenant demonstrating (to Landlord's reasonable satisfaction) that the proposed transferee's condition (financial and otherwise), style of operation, business reputation, and use of the Property and Improvements is consistent with the terms of this Lease and that Landlord's interests in the Property, Airport, and Improvements will not be adversely affected in any material respect; (b) Tenant reimbursing Landlord for the costs and expenses incurred by Landlord in connection with its review of all Transfer documentation and/or instruments (and otherwise related to Landlord's determination as to whether to consent to the proposed Transfer); (c) the transferee agreeing in writing to comply with and be bound by all the terms, covenants, conditions, provisions, and agreements of this Lease; (d) Tenant's assignment of the FBO Agreement, Ancillary Lease, and Modular Lease to the proposed transferee (and the transferee assuming all Tenant's obligations arising out of or under the FBO Agreement, Ancillary Lease, and Modular Lease); and (e) any other conditions that Landlord may reasonably impose under the particular circumstances surrounding the proposed Transfer. Tenant acknowledges and agrees that Landlord's conditioning of its consent to any proposed Transfer on Tenant's satisfaction of the conditions contained in this Section 6.1 is reasonable under this Lease.

6.1.3 If Landlord consents to a Transfer, the following will apply: (a) the terms and conditions of this Lease will in no way be deemed waived or modified; (b) consent will not be deemed consent to any further Transfer by Tenant or any transferee; (c) the acceptance of Rent by Landlord from any other person will not be deemed a waiver by Landlord of any provision of this Lease; and (d) no Transfer relating to this Lease and/or the Improvements, whether with or without Landlord's consent, will modify, relieve, and/or eliminate any liabilities and/or obligations Tenant and/or any guarantor of this Lease may have under this Lease. Landlord may consent to subsequent assignments, subletting, and/or amendments or modifications to this Lease with assignees of Tenant without notifying Tenant, or any successor of Tenant, and without obtaining its or their consent thereto and such action will not relieve Tenant of any liability under this Lease.

6.2 Tenant Insurance. Tenant will keep the Improvements insured against fire and other risks covered under a standard fire insurance policy with an endorsement for extended coverage. Tenant will maintain,

at Tenant's cost and expense, a policy of fire, extended coverage, vandalism, and malicious mischief insurance insuring the personal property, furniture, furnishings, and fixtures belonging to Tenant located in or on the Improvements. The amount of the insurance will be no less than 100% of the replacement cost of the Improvements and will also be sufficient to prevent Tenant from becoming a coinsurer under the provisions of the policies. Landlord will not be responsible for any loss or damage to Tenant's personal property, whether or not insured.

6.3 Liability Insurance. Tenant will procure, and thereafter will continue to carry, (a) general liability insurance (occurrence version) with a responsible licensed Oregon insurance company against personal injury claims arising directly or indirectly out of Tenant's activities on, or any condition of, the Property and/or Improvements, whether or not related to an occurrence caused, or contributed to, by Landlord's negligence, and will insure the performance by Tenant of Tenant's indemnification obligations under this Lease, and (b) aircraft liability insurance. Tenant's general liability insurance required to be carried under this Section 6.3 will have a general aggregate limit of no less than \$4,000,000.00, a per occurrence limit of no less than \$2,000,000.00; the aircraft liability insurance will have a general aggregate and per occurrence limit of no less than \$1,000,000.00. Each liability insurance policy required under this Lease will be in form and content satisfactory to Landlord and will contain a severability of interest clause. By separate endorsement, each liability insurance policy will name Landlord and Landlord's officers, employees, agents, and volunteers as additional insureds. The insurance Tenant is required to obtain under this Lease may not be cancelled without 10 days' prior written notice to Landlord. Tenant's insurance will be primary and any insurance carried by Landlord will be excess and noncontributing. Tenant will furnish Landlord with policy copies (including applicable endorsements) evidencing the insurance coverage, endorsements, and provisions Tenant is required to obtain under this Lease upon Tenant's execution of this Lease and at any other time requested by Landlord. If Tenant fails to maintain insurance as required under this Lease, Landlord will have the option, but not the obligation, to obtain such coverage with costs to be reimbursed by Tenant immediately upon Landlord's demand. Notwithstanding anything contained in this Lease to the contrary, Landlord may increase the minimum levels of insurance Tenant is required to carry under this Lease by providing Tenant 90 days' prior written notice. All policies of insurance which Tenant is required by this Lease to carry will provide that the insurer waives the right of subrogation against Landlord.

6.4 Tenant Release and Indemnification. Tenant releases and will defend, indemnify, and hold Landlord and Landlord's present and future officers, employees, contractors, representatives, and agents (collectively, "Landlord's Agents") harmless for, from, and against all claims, demands, charges, proceedings, costs, expenses, losses, damages, and/or liabilities, including, without limitation, attorney fees and costs, resulting from or arising out of, whether directly or indirectly, the following: (a) any damage, loss, and/or injury to person or property in, on, and/or about the Property and/or Improvements provided such damage, loss, and/or injury to person or property is not caused by Landlord's gross negligence or willful misconduct; (b) Tenant's and/or Tenant's directors, officers, shareholders, members, managers, employees, agents, representatives, invitees, and/or contractors (collectively, "Tenant's Agents") acts and/or omissions, including, without limitation, Tenant's and/or Tenant's Agents operations at the Airport, Improvements, and/or Property; (c) Tenant's use of the Property, Improvements, and/or Airport; (d) Tenant's construction, maintenance, repair, and/or occupancy of the Property and/or Improvements and/or any condition of the Property and/or Improvements; (e) the use, storage, treatment, transportation, presence, release, and/or disposal of Hazardous Substances in, on, under, and/or about the Property and/or Improvements; and/or (f) Tenant's breach and/or failure to perform any Tenant representation, warranty, covenant, and/or obligation under this Lease. Tenant's indemnification obligations under this Section 6.4 will survive the expiration or earlier termination of this Lease.

6.5 Reconstruction After Damage. If the Improvements are damaged or destroyed by fire or any other cause at any time during the Lease Term, whether or not covered by insurance, Tenant will promptly repair the damage and restore the Improvements. The completed repair, restoration, and/or replacement Improvements will be equal in value, quality, and use and will be restored to the condition of the Improvements immediately before the damage or destruction. Tenant will pay all costs and expenses of repairing and restoring the Improvements, which repairs and restoration will be completed no later than three hundred sixty-five (365) days after the date of the fire or other cause of damage. Tenant will not be entitled to any abatement of Rent on

account of any damage to or destruction of the Improvements, nor will any other obligations of Tenant under this Lease be altered or terminated except as specifically provided in this Lease.

6.6 Waiver of Subrogation. Neither party will be liable to the other (or to the other's successors or assigns) for any loss or damage caused by fire, or any of the risks covered by the property insurance policies required under this Lease, and in the event of insured loss, neither party's insurance company will have a subrogated claim against the other. This waiver will be valid only if the insurance policy in question expressly permits waiver of subrogation or if the insurance company agrees in writing that such a waiver will not affect coverage under the policies. Each party agrees to obtain such an agreement from its insurer if the policy does not expressly permit a waiver of subrogation.

7. DEFAULT; REMEDIES

7.1 Default. The occurrence of any one or more of the following events constitutes a default by Tenant under this Lease (each an "Event of Default"): (a) Tenant's failure to pay Rent and/or any other charge, cost, and/or expense under this Lease when due; (b) Tenant's breach and/or failure to perform any representation, warranty, obligation, and/or covenant contained in this Lease (other than the payment of Rent or other charge, cost, and/or expense under Section 7.1(a)) within 10 days after written notice from Landlord specifying the nature of the breach and/or failure to perform with reasonable particularity; provided, however, if Tenant's breach and/or failure to perform causes or threatens loss of life, injury, significant damage, and/or destruction to person or property, human suffering, and/or significant financial loss, Tenant must cure or remedy such breach and/or failure to perform immediately upon receipt of written notice from Landlord; (c) attachment, execution, levy, and/or other seizure by legal process of any right or interest of Tenant under this Lease if not released within 30 days; (d) Tenant dies, dissolves, becomes insolvent within the meaning of the United States Bankruptcy Code, as amended from time to time; a general assignment by Tenant for the benefit of creditors; the filing by Tenant of a voluntary petition in bankruptcy; an adjudication that Tenant is bankrupt or the appointment of a receiver of the properties of Tenant; the filing of any involuntary petition of bankruptcy and failure of Tenant to secure a dismissal of the petition within 30 days after filing; attachment of or the levying of execution on the leasehold interest and failure of Tenant to secure discharge of the attachment or release of the levy of execution within 30 days; (e) Tenant's breach and/or failure to perform Tenant's obligations, representations, warranties, and/or covenants under the FBO Agreement, FBO Lease, and/or Modular Lease; and/or (f) Tenant's failure for 30 days or more to occupy the Property and Improvements for the Permitted Use.

7.2 Landlord's Remedies. Upon an Event of Default, Landlord may elect any one or more of the following remedies:

7.2.1 Landlord may terminate this Lease, the FBO Agreement, FBO Lease, and/or Modular Lease by notice to Tenant. If this Lease is not terminated by Landlord, Landlord will be entitled to recover damages from Tenant for the default. If this Lease is terminated by Landlord, Tenant's liability to Landlord for damages will survive such termination, and Landlord may reenter, take possession of the Property and Improvements, and remove any persons or property (including the Improvements) by legal action or by self-help with the use of reasonable force and without liability for damages. Landlord may pursue all rights and remedies provided Landlord under the FBO Agreement, FBO Lease, and/or Modular Lease, including, without limitation, termination. Notwithstanding anything contained in this Lease to the contrary, upon termination of the FBO Agreement, FBO Lease, and/or Modular Lease, Landlord will have all rights and remedies available to Landlord under the FBO Agreement, FBO Lease, Modular Lease, and/or applicable law.

7.2.2 Following reentry or abandonment, Landlord may relet the Property, and in that connection may make any suitable alterations or refurbish the Property or Improvements (or both), or change the character or use of the Property and/or Improvements, but Landlord will not be required to relet the Property and/or Improvements for any use or purpose other than compatible uses or which Landlord may reasonably consider injurious to the Property, or to any tenant which Landlord may reasonably consider objectionable. Landlord may relet all or part of the Property or Improvements, alone or in conjunction with other properties, for a

term longer or shorter than the term of this Lease, upon any reasonable terms and conditions, including the granting of some rent-free occupancy or other rent concession.

7.2.3 Upon the happening of an Event of Default, Landlord will be entitled to recover immediately, without waiting until the due date of any future Rent or until the date fixed for expiration of this Lease, and in addition to any other damages recoverable by Landlord, the following amounts as damages: (a) the loss of reasonable rental value from the date of default until a new tenant has been, or with the exercise of reasonable efforts could have been, secured; (b) the reasonable costs of reentry and reletting including, without limitation, the cost of any demolition, construction, clean-up, refurbishing, removal of Tenant's property and fixtures, or any other expense occasioned by Tenant's failure to quit the Property and Improvements (if applicable) upon termination and leave the Property and Improvements (if applicable) in the required condition, including, without limitation, any remodeling costs, attorney fees, court costs, broker commissions, and advertising costs; and/or (c) any excess of the value of the Rent, and all of Tenant's other obligations under this Lease, over the reasonable expected return from the Property and/or Improvements for the period commencing on the earlier of the date of trial or the date the Property and/or Improvements are relet and continuing through the end of the Lease Term.

7.3 Cumulative Remedies; Right to Cure. Termination of this Lease will not constitute a waiver or termination of any rights, claims, and/or causes of action Landlord may have against Tenant; Tenant's obligations under this Lease, including, without limitation, Tenant's indemnification obligations under Section 6.4, will survive the termination. Landlord may sue periodically to recover damages during the period corresponding to the remainder of the Lease Term, and no action for damages will bar a later action for damages subsequently accruing. The foregoing remedies will be in addition to and will not exclude any other remedy available to Landlord under applicable law. Unless a shorter time is otherwise provided in this Lease, if Tenant fails to perform any obligation under this Lease Landlord will have the option to do so after ten (10) days' written notice to Tenant specifying the nature of the default. Landlord's performance of any Tenant obligation under this Lease will not waive any other remedy available to Landlord. All of Landlord's expenditures to correct the default will be reimbursed by Tenant on demand with interest at the rate of twelve percent (12%) per annum from the date of expenditure by Landlord until paid in full.

7.4 Termination Rights. Notwithstanding anything contained in this Lease to the contrary, this Lease may be terminated (a) at any time by the mutual written agreement of Landlord and Tenant; (b) by Landlord immediately upon notice to Tenant if Landlord reasonably determines that Tenant's acts or omissions cause or threaten loss of life, injury, significant damage, and/or destruction to person or property, human suffering, and/or significant financial loss; and/or (c) by Landlord upon termination of the FBO Agreement, FBO Lease, and/or Modular Lease. Termination of this Lease will not constitute a waiver or termination of any rights, claims, and/or causes of action Landlord may have against Tenant; Tenant's obligations under this Lease, including, without limitation, Tenant's indemnification obligations under Section 6.4, will survive the termination. Tenant will not be entitled to damages and/or any other recovery if Landlord exercises its termination right under this Section 7.4.

8. SURRENDER; HOLDOVER

8.1 Improvements and Alterations. In addition to all other Tenant obligations required under this Lease, upon the earlier termination or expiration of this Lease, Tenant will, at Tenant's cost and expense, pay and perform the following: (a) perform all Property and Improvements maintenance and repairs for which Tenant is responsible under this Lease; and (b) surrender the Property and Improvements (subject to Section 8.4) to Landlord in good condition, repair, working order, and appearance, free of waste and debris. If Tenant fails to timely surrender the Property and Improvements in accordance with this Section 8.1, the following will apply: (x) by written notice given to Tenant within 10 days after Tenant's surrender obligations were required to be performed, Landlord may elect to hold Tenant to its surrender obligations under this Section 8.1; (y) Landlord may cause Tenant's surrender obligations to be performed in accordance with this Section 8.1, at Tenant's cost and expense; and/or (z) Landlord may treat Tenant as a holdover tenant under Section 8.3. Tenant is liable to Landlord for all costs and expenses Landlord incurs to cause the Property and Improvements to be surrendered in

accordance with this Section 8.1 with interest at 12% per annum from the date of expenditure by Landlord until paid in full.

8.2 Tenant Personal Property Removal Obligations. Prior to the earlier termination or expiration of this Lease, Tenant will remove from the Property and Improvements all aircraft, vehicles, furnishings, furniture, equipment, tools, trade fixtures, and personal property which remain its property, including all resulting waste and/or debris. If Tenant fails to timely remove the aircraft, vehicles, furnishings, furniture, equipment, tools, trade fixtures, personal property, and all resulting waste and/or debris, the following will apply: (a) at Landlord's election, Tenant will be deemed to have abandoned the property, and Landlord may retain the property and all rights of Tenant with respect to the property will cease; (b) by written notice given to Tenant within 10 days after removal was required, Landlord may elect to hold Tenant to its removal obligations (provided, however, if Landlord elects to require Tenant to remove, Landlord may effect a removal and place the property in storage for Tenant's account); (c) Landlord may cause the property to be removed in accordance with this Section 8.2, at Tenant's cost and expense; and/or (d) Landlord may treat Tenant as a holdover tenant under Section 8.3. Tenant is liable to Landlord for all costs and expenses Landlord incurs to cause the property's removal and/or storage with interest at 12% per annum on all such expenses from the date of expenditure by Landlord until paid in full.

8.3 Holdover. If Tenant does not vacate and surrender the Property and Improvements in accordance with Sections 8.1 and 8.2 at the time required, Landlord will have the option to treat Tenant as a tenant from month-to-month, subject to the provisions of this Lease (except the provisions for term and extension), except that Base Rent will be equal to 150% of the then applicable Base Rent. Failure of Tenant to timely surrender the Property and Improvements and remove its aircraft, vehicles, trade fixtures, furniture, furnishings, equipment, tools, and/or any other personal property in accordance with this Lease will constitute a failure to vacate to which this Section 8.3 will apply. If a month-to-month tenancy results from a holdover by Tenant under this Section 8.3, the tenancy will be terminable at the end of any monthly rental period on written notice from Landlord given not less than 30 days prior to the termination date which will be specified in the notice.

8.4 Removal and Ownership. Notwithstanding anything contained in this Lease to the contrary, upon the earlier termination or expiration of this Lease, Landlord may (a) require Tenant to remove the Improvements and/or Alterations from the Property (and surrender the Property to Landlord in good condition, repair, working order, and appearance, free of waste and debris), at Tenant's cost and expense, prior to the earlier termination or expiration of this Lease, or (b) purchase the Improvements in accordance with Section 8.5. If Tenant fails to timely remove the Improvements and/or Alterations from the Property under this Section 8.4 to Landlord's reasonable satisfaction (including all resulting waste or debris), Landlord may, in addition to any other Landlord rights and remedies, (y) cause the Improvements and/or Alterations to be removed at Tenant's cost and expense, and/or (z) treat Tenant as a holdover tenant under Section 8.3. Tenant is liable to Landlord for all costs and expenses Landlord incurs to cause the removal of the Improvements and/or Alterations and Property's restoration with interest at 12% per annum on all such expenses from the date of expenditure by Landlord until paid in full.

8.5 Landlord Purchase. If Landlord purchases the Improvements in accordance with Section 8.4, Landlord will purchase the Improvements for the fair market value of the Improvements as of the expiration or earlier termination of this Lease. The purchase will be made effective as of the date of the expiration or earlier termination of the Lease. Landlord will obtain ownership of the Improvements free and clear of all Encumbrances, including, without limitation, any Tenant rights or interests in and to the Improvements. Tenant will sign and deliver all documents and instruments Landlord determines necessary or appropriate to effectuate the transfer and conveyance of the Improvements.

8.6 Fair Market Value. If Landlord elects to purchase the Improvements, then the fair market value of the Improvements will be determined by the parties through good faith negotiation, which the parties will commence at least 90 days before the expiration or earlier termination of the Lease (unless not known) and pursue with diligence. If the parties cannot reach agreement within 30 days, then the fair market value will be determined by the following process:

8.6.1 no later than 90 days before the expiration or earlier termination of this Lease, each party will submit in confidence its written evaluation of the fair market value of the Improvements. At the same time, the parties will attempt in good faith to appoint a mutually acceptable, independent, qualified appraiser. No later than 30 days after the appraiser is appointed, the appraiser will choose one of the two proposals as the fair market value of the FBO, which determination will be final and binding.

8.6.2 If the parties cannot agree on an appraiser, then each party will appoint a qualified, independent appraiser no later than 75 days before the expiration or earlier termination of this Lease. The appraisers appointed by each party will select a qualified, independent appraiser, who will choose one of the two proposals as the fair market value of the Improvements, which determination will be final and binding. If a party fails to timely appoint a qualified appraiser, then the one appraiser timely appointed will determine the fair market value by choosing one of the two proposals as the fair market value of the Improvements, which determination will be final and binding. If a party fails to timely submit its evaluation of the fair market value, then the timely submitted evaluation will be the final and binding fair market value of the Improvements.

8.6.3 Each party will bear one-half of the expense of the mutually appointed appraiser and the entire expense of any appraiser appointed by the party individually. Landlord will pay Tenant the agreed or determined fair market value, as the case may be, no later than 30 days after it is determined; provided, however, if Landlord determines necessary or appropriate, Landlord may pay the agreed or determined fair market value over an installment period not exceeding 48 months. Tenant will defend, indemnify, and hold Landlord harmless for, from, and against all liability and loss arising from Tenant's failure to deliver the Improvements free and clear of all Encumbrances.

9. MISCELLANEOUS

9.1 Non-waiver; Attorney Fees. No waiver will be binding on a party unless it is in writing and signed by the party making the waiver. Waiver by either party of strict performance of any provision of this Lease will 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. If an Event of Default occurs, Tenant will pay Landlord, within 10 days after Landlord's demand, all attorney fees and costs Landlord incurs to enforce the terms of this Lease whether or not Landlord instituted arbitration or litigation proceedings. If any arbitration or litigation is instituted to interpret, enforce, or rescind this Lease, including, without limitation, any proceeding brought under the United States Bankruptcy Code, the prevailing party on a claim will be entitled to recover with respect to the claim, in addition to any other relief awarded, the prevailing party's attorney fees, expert fees, and other fees, costs, and expenses of every kind, including, without limitation, the costs and disbursements specified in ORCP 68 A(2), incurred in connection with the arbitration, the litigation, any appeal or petition for review, the collection of any award, or the enforcement of any order, as determined by the arbitrator or court.

9.2 Addresses for Notices; Binding Effect. All notices or other communications required or permitted by this Lease must be in writing, must be delivered to the parties at the addresses set forth above, or at any other address that a party may designate by notice to the other parties. Any notice will be considered delivered upon actual receipt if delivered personally, via email or facsimile (with electronic confirmation of delivery), or an overnight delivery service, or at the end of the third business day after the date deposited in the United States mail, postage pre-paid, certified, return receipt requested. Subject to the limitations under Section 6.1 concerning the Transfer of this Lease by Tenant, this Lease will be binding upon and inure to the benefit of the parties, their respective successors and assigns. This Lease (or any memorandum of this Lease) will not be recorded. Tenant will cause Tenant's Agents to conform and comply with this Lease.

9.3 Entry for Inspection; Late Fees; Interest. Landlord may enter the Property and Improvements for the purpose of investigating compliance with the terms of this Lease, general safety inspections, and/or for any other reasonable purposes (as determined by Landlord), including, without limitation, to show the Property/Improvements to a prospective tenant. Except in the case of an emergency, Landlord will endeavor to provide Tenant no less than 24 hours' prior written notice before entering the Property. In addition, Landlord will have

the right, at any time during the last 90 days of the Lease Term, to place and maintain upon the Property/Improvements notices for leasing the Property/Improvements. If Rent (or other payment due from Tenant) is not received by Landlord within 10 days after it is due, Tenant will pay a late fee equal to 10% of the payment or \$100.00, whichever is greater (a "Late Fee"). Landlord may levy and collect a Late Fee in addition to all other remedies available for Tenant's failure to pay Rent (or other payment due from Tenant). Any Rent or other payment required to be paid by Tenant under this Lease (and/or any payment made or advanced by Landlord in connection with Landlord's performance of any Tenant obligation under this Lease) will bear interest at the rate of 12% per annum from the due date (or, if applicable, the date of Landlord's payment) until paid by Tenant in full.

9.4 Severability; Further Assurance; Governing Law; Venue; Joint and Several. If a provision of this Lease is determined to be unenforceable in any respect, the enforceability of the provision in any other respect, and of the remaining provisions of this Lease, will not be impaired. The parties will sign such other documents and take such other actions as are reasonably necessary to further effect and evidence this Lease. This Lease is governed by the laws of the State of Oregon, without giving effect to any conflict-of-law principle that would result in the laws of any other jurisdiction governing the Lease. If any dispute arises regarding this Lease, the parties agree that the sole and exclusive venue for resolution of such dispute will be in Malheur County, Oregon. All parties submit to the jurisdiction of courts located in Malheur County, Oregon for any such disputes.

9.5 Entire Agreement; Signatures; Time. This Lease contains the entire understanding of the parties regarding the subject matter of this Lease and supersedes all prior and contemporaneous negotiations and agreements, whether written or oral, between the parties with respect to the subject matter of this Lease. This Lease may be signed in counterparts. A fax or email transmission of a signature page will be considered an original signature page. At the request of a party, a party will confirm a fax or email-transmitted signature page by delivering an original signature page to the requesting party. Time is of the essence with respect to Tenant's performance of its obligations under this Lease. If the date for performance of an obligation or delivery of any notice hereunder falls on a day other than a business day, the date for such performance or delivery of such notice will be postponed until the next ensuing business day. For purposes of this Lease, a "business day" means a normal working day (i.e., Monday through Friday of each calendar week, exclusive of Federal and state holidays and one day following each of Thanksgiving, Christmas, and New Year's).

9.6 Discretion; Landlord Default. When a party is exercising any consent, approval, determination, and/or similar discretionary action under this Lease, the standard will be the party's commercially reasonable discretion, which discretion will not be unreasonably withheld, conditioned, and/or delayed. No act or omission of Landlord will be considered a default under this Lease until Landlord has received 30 days' prior written notice from Tenant specifying the nature of the default with reasonable particularity. Commencing from Landlord's receipt of such default notice, Landlord will have 30 days to cure or remedy the default before Landlord will be deemed in default of this Lease; provided, however, that if the default is of such a nature that it cannot be completely remedied or cured within the thirty-day cure period, there will not be a default by Landlord under this Lease if Landlord begins correction of the default within the thirty-day cure period and thereafter proceeds with reasonable diligence to effect the remedy as soon as practical.

9.7 Additional Provisions; Attachments; Interpretation. The provisions of all exhibits, schedules, instruments, and other documents referenced in this Lease are part of this Lease. All pronouns contained herein and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word "or" is not exclusive. The words "include," "includes," and "including" are not limiting. The term "person" means any natural person, corporation, limited liability company, partnership, joint venture, firm, association, trust, unincorporated organization, government or governmental agency or political subdivision, or any other entity. The titles, captions, or headings of the sections herein are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Lease.

IN WITNESS WHEREOF, the undersigned have caused this Lease to be executed and effective for all purposes as of the Effective Date.

LANDLORD:
City of Ontario,
an Oregon municipal corporation

TENANT:
Silverhawk Properties Oregon LLC,
an Oregon Limited Liability Company

By: Riley J. Hill, Mayor

By: Catherine Weber, Manager

DRAFT

Exhibit A
Property Description and Depiction

[attached]

DRAFT



**AGENDA REPORT
NEW BUSINESS
March 14, 2023**

To: Mayor and City Council

FROM: Casey Mordhorst, Public Works Director

THROUGH: Danny K. Cummings, City Manager

SUBJECT: BECK KIWANIS PARK: DISC GOLF COURSE

DATE: March 7, 2023

PROPOSED MOTION:

I MOVE THE CITY COUNCIL TO APPROVE THE RECOMMENDATION FROM THE PARKS COMMITTEE FOR THE INSTALLATION OF THE DISC GOLF COURSE AT BECK KIWANIS PARK.

SUMMARY:

The Kiwanis Club presented their Park Master Plan to the Parks Committee for approval. The first addition they want to add to the park is a Disc Golf Course. All installation will be covered by fund-raising and sponsorships. Disc Golf is a recreational activity that is inexpensive to do and will bring people from the surrounding area and states to play in Ontario. Once installed, the course will be added to the directory of an online app that people use all over the world. The group that will be installing the course are enthusiasts from the Treasure Valley and own a Disc Golf shop in Boise. The Parks Committee approved the Beck Kiwanis Disc Golf Course in February and requested it be presented to the City Council for approval.

BACKGROUND:

A trial Disc Golf tournament was held last year at Beck Kiwanis Park and had about 80 participants. This will be a low-cost addition to the park that will bring people to Ontario that the business owners will benefit from. The Parks Committee approved the Disc Golf Course and requested it be presented to the City Council for approval.

CURRENT SITUATION:

Currently there is no course at Beck Kiwanis Park, and if a course is set up at Beck Kiwanis Park, it would be a portable course. Currently, the TVCC campus has the only disc golf course in Ontario.

ANALYSIS:

- A. **STRATEGIC PLAN** This improves the outdoor recreation opportunities for the citizens of Ontario.

- B. **FINANCIAL** There will be no financial impact on the city because the installation of the Disc Golf Course will be funded through money raised and sponsorships sold for each hole.
- C. **TIMING** This spring, after the City Council approved the installation.
- D. **POLICY/LEGAL** None.

ALTERNATIVES:

If this is not approved, the coordinators will use their portable course for events at Beck Kiwanis Park.

RECOMMENDATION:

Staff recommends the approval of the Disc Golf Course at Beck Kiwanis Park.

ATTACHMENTS:

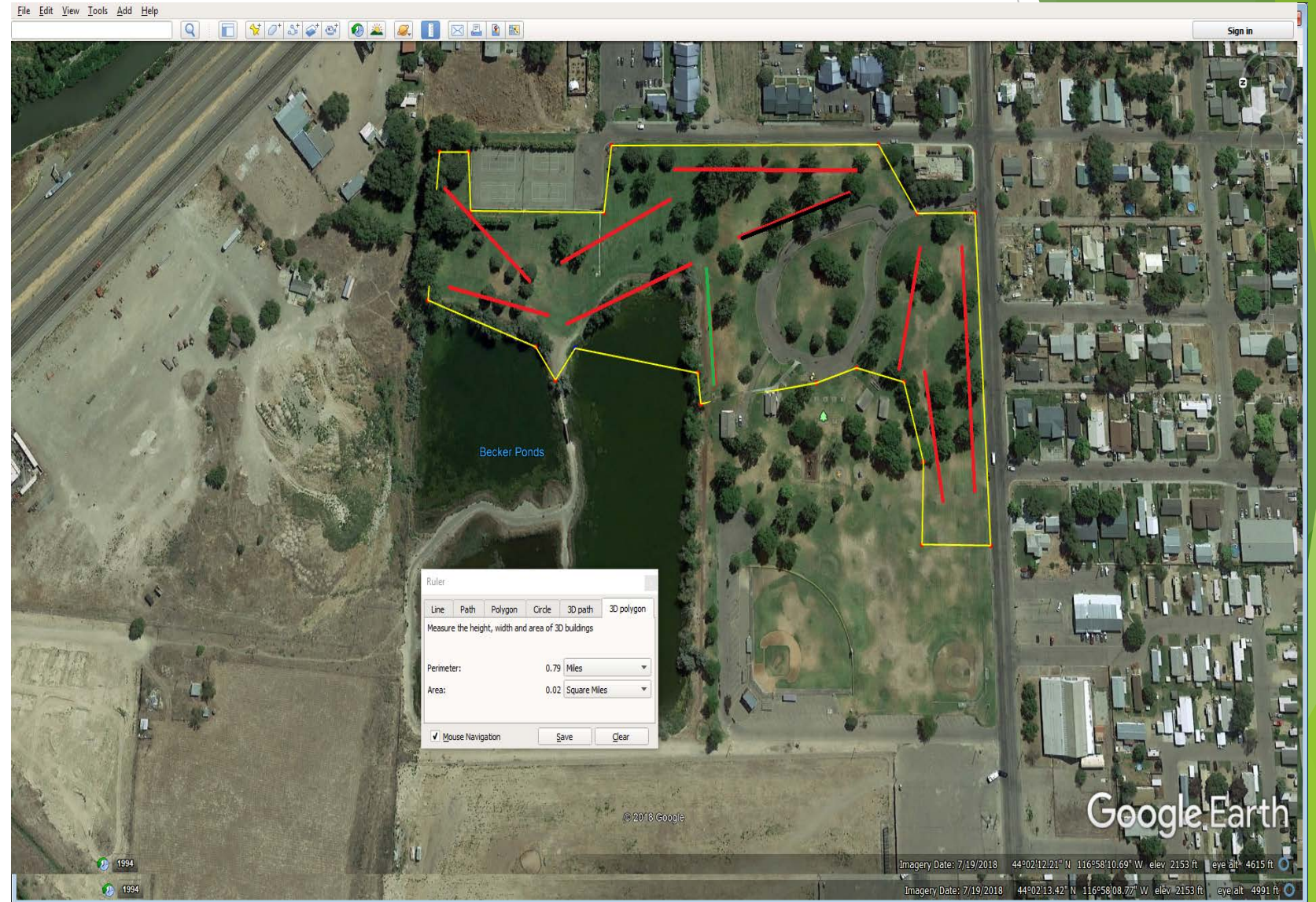
1. Beck Park Disc Golf

Beck Park Disc Golf



Kiwanis Club Project

- ▶ 9 hole course
- ▶ Sponsorships for each hole and Tee Sign
- ▶ Volunteer installation
- ▶ Annual Tournament
- ▶ Approval From the Parks Committee



Tee Signs



Disc Baskets





Questions?



**AGENDA REPORT
NEW BUSINESS
March 14, 2023**

To: Mayor and City Council

FROM: Casey Mordhorst, Public Works Director

THROUGH: Danny K. Cummings, City Manager

SUBJECT: BID AWARD: EQUIPMENT STORAGE BUILDING

DATE: March 7, 2023

PROPOSED MOTION:

I MOVE THE CITY COUNCIL TO ACCEPT THE BIDS RECEIVED AND AWARD THE PUBLIC WORKS EQUIPMENT STORAGE BUILDING PROJECT TO PARAMOUNT IRONWORKS, LLC, FOR THE AMOUNT OF \$175,040.00

SUMMARY:

The Public Works utilizes both the old city shop and the new city shop to keep the equipment out of inclement weather throughout the year. Some equipment is stored outside all year long due to the lack of covered storage. The new equipment storage building will give Public Works the ability to keep the shop open for maintenance during the winter months. Snow and ice equipment will be covered and eliminate the freezing of the sander chains to the truck beds during the winter months.

BACKGROUND:

Public Works requested funding in the last fiscal year for the installation of the 30x75 equipment storage building. After purchasing the building from Sourcewell and designing the underground, there were not enough funds to erect the building and pour the required concrete. Obtaining additional funds in FY 22-23, the project can be completed. The building will be used to store the equipment for Public Works throughout the year, keeping the equipment out of the weather.

CURRENT SITUATION:

Currently, the Public Works equipment is stored outside and strategically staged inside the shop, making it difficult to work on equipment. The old city shop is also used for storing equipment in the winter months.

ANALYSIS:

- A. **STRATEGIC PLAN** The approval of this project will allow the equipment to be kept out of inclement weather and extend the life span. This would lower the replacement schedule and financial impact to the city.

- B. **FINANCIAL** The city Budget Committee approved the additional funds to complete this project in the fy 22-23 budget. The CIP budget was adopted by the City Council. Funds from Water, Sewer, and General Funds all contributed to this project.
- C. **TIMING** With the approval of bids received, staff will issue a notice to proceed to Paramount Ironworks, LLC. This project will be started this spring and completed by this fall
- D. **POLICY/LEGAL** None.

ALTERNATIVES:

If not approved, storage of equipment will continue to be spread out between shops.

RECOMMENDATION:

Staff recommends the City Council accept the bids received and award the Public Works Equipment Storage building Project to Paramount Ironworks, LLC, for the amount \$174,040.00

ATTACHMENTS:

1. Paramount-03072023111117
2. Holcom-03072023111324

**BID FORM
(STIPULATED PRICE BASIS)**

1. BID RECIPIENT

1.1. This Bid is submitted to:

Owner: **City of Ontario, OR**

Address: **1551 NW Park Street, Ontario, OR 97914**

Project Identification: **Public Works Equipment Storage Facility**

1.2. The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

2. BIDDER'S ACKNOWLEDGEMENTS

2.1. Bidder accepts all the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 60 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

3. BIDDER'S REPRESENTATIONS

3.1. In submitting this Bid, Bidder represents that:

3.1.1. Bidder has examined and carefully studied the Bidding Documents, the other related data identified in the Bidding Documents, and the following Addenda, receipt of which is hereby acknowledged.

<u>Addendum No.</u>	<u>Addendum Date</u>
<u>1</u>	<u>1-11-2023</u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>

(Bidder shall insert number of each Addendum received.)

3.1.2. Bidder has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

3.1.3. Bidder is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.

3.1.4. Bidder has carefully studied: i) reports of explorations and tests of subsurface conditions at or contiguous to the Site and drawings of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) which have been identified in Paragraph 5.03 of the Supplementary Conditions as containing reliable "technical data,"; and ii) reports and drawings of Hazardous Environmental Conditions, if any, at the Site that have been identified in Paragraph 5.06 of the Supplementary Conditions as containing reliable "technical data."

3.1.5. Bidder has considered the information known to Bidder; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and the Site-related reports and drawings identified in the Bidding Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, including applying the specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents; and (3) Bidder's safety precautions and programs.

3.1.6. Based on information and observations referred to in paragraph above, Bidder does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price(s) Bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents.

3.1.7. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.

3.1.8. Bidder has given Engineer written notice of conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and the written resolution thereof by Engineer is acceptable to Bidder.

3.1.9. The Bidding Documents are generally sufficient to indicate and convey understanding of terms and conditions for the performance of the Work for which this Bid is submitted.

4. BIDDER'S CERTIFICATION

4.1. Bidder certifies:

4.1.1. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization or corporation;

4.1.2. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid;

4.1.3. Bidder has not solicited or induced any individual or entity to refrain from bidding; and

X JA 4.1.4. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this paragraph:

4.1.4.1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process;

4.1.4.2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Owner, (b) to establish Bid prices at artificial noncompetitive levels, or (c) to deprive Owner of the benefits of free and open competition;

4.1.4.3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, noncompetitive levels; and

4.1.4.4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

4.1.5. Required sales and use taxes are included in the stated Bid prices for the Work unless provision is made herein for the Bidder to separately itemize the estimated amount of sales tax or if Instructions to Bidders state Owner is tax exempt.

4.1.6. Bidder accepts the provisions required by ORS 279C.840 relating to prevailing wage rates and that Bidder shall make applicable restitution to the Oregon Bureau of Labor and Industries Commissioner in accordance with ORS 279C.825.

4.1.7. Neither Bidder nor their Subcontractors are on the Bureau of Labor and Industries list of persons having violated prevailing wage rate laws.

X JA 4.1.8. Bidder has not discriminated against minority, women, or emerging small business enterprises in obtaining required subcontracts.

4.1.9. Bidder is not in violation of any tax laws described in ORS 305.385.

4.1.10. Bidder has established a drug-testing program for employees per ORS 279C.505.

4.1.11. In accordance with OAR 137-049-0200, Subcontractors performing work will be registered with the Construction Contractors Board before Subcontractor commences work

5. BASIS OF BIDS

5.1. Bidder shall complete the Work in accordance with the Contract Documents for the following price(s):

5.2. A: Lump Sum Bid Schedule:

5.2.1. Lump sums have been computed in accordance with Paragraph 13.03.C of the General Conditions.

Unit Price Bid Schedule					
Item No.	Description	Estimated Quantity	Unit	Bid Unit Price	Extended Bid Unit Price
1.	Mobilization	1	LS	\$7,000.00	\$7,000.00
2.	Construction Survey	1	LS	\$6,000.00	\$6,000.00
3.	Earthwork	1	LS	\$75,940.00	\$75,940.00
Total of Extended Bid Unit Prices:					\$88,940.00
4A.	BID ALTERNATE A: Structural Work with gravel finished floor	1	LS	\$	\$
Total of Extended Bid Unit Prices with BID ALTERNATE A:					\$
4B.	BID ALTERNATE B: Structural Work with concrete finished floor	1	LS	\$86,100.00	\$86,100.00
Total of Extended Bid Unit Prices with BID ALTERNATE B:					\$175,040.00

6. TIME OF COMPLETION

6.1. Bidder agrees the Work will be substantially complete on the date agreed to by the City and the Contractor and will be completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within 10 working days after that. In no case will Final Completion be after June 15, 2023 unless material supply issues beyond the control of the Contractor and the City are experienced.

6.2. Bidder accepts the provisions of the Agreement as to liquidated damages in the event of failure to complete the Work, and any specified Milestones, within the Contract Times.

7. ATTACHMENTS TO THIS BID

7.1. The following documents are submitted with and made a condition of this Bid:

7.1.1. Certificate of Bidder Regarding Equal Opportunity.

7.1.2. Evidence of authority to do business in the state of the Project; or a written covenant to obtain such license within the time for acceptance of Bids.

7.1.3. Contractor's License No.: 206517

7.1.4. Subcontractor Disclosure Form (required within two hours of Bid closing).

7.1.5. Noncollusion Affidavit.

8. DEFINED TERMS

8.1. The terms used in this Bid with initial capital letters have the meanings stated in the Invitation to Bid, the General Conditions, and the Supplementary Conditions.

9. BID SUBMITTAL

9.1. This Bid submitted by:

If Bidder is:

An Individual

Name (typed or printed): _____

By (signature): _____

Doing business as: _____

A Partnership

EQUIPMENT STORAGE FACILITY

CITY OF ONTARIO

Partnership Name: _____ (SEAL)

By: _____
(Signature of general partner – attach evidence of authority to sign)

Name (typed or printed): _____

A Corporation

Corporation Name: Paramount Ironworks LLC _____ (SEAL)

State of Incorporation: Oregon _____

Type (General Business, Professional, Service, Limited Liability):
LLC _____

By: _____
(Signature – attach evidence of authority to sign)

Name (typed or printed): Jordan Adams _____

Title: Owner _____ (CORPORATE SEAL)

Attest: _____
(Signature of Corporate Secretary)

Date of Qualification to do business in Oregon is:
11-19-2014

A Joint Venture

Joint Venturer Name: _____ (SEAL)

By: _____
(Signature of joint venture partner – attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

(Each joint venture must sign. The manner of signing for each individual, partnership, and corporation that is a party to the joint venture should be in the manner indicated above.)

Bidder's Business Address: 30016 Leghorn Ave Eugene, Oregon 97402 _____

EQUIPMENT STORAGE FACILITY

CITY OF ONTARIO

Phone No.: (541) 636-4982 _____

FAX No.: (541) 246-8779 _____

E-mail: jordan@paramountironworks.com__

SUBMITTED on February 7th _____, 2023 _____

Oregon Contractor's License No.: 206517 _____

Contractor's License Class (where applicable): _____

Bidder is an Oregon company as defined in ORS 279A.120.

☒ Yes ☐ No

END OF SECTION

FIRST-TIER SUBCONTRACTOR DISCLOSURE FORM

Project Name: Ontario Public Works Shop Equipment Storage Facility.

Contractor: Paramount Ironworks LLC

FIRST-TIER SUBCONTRACTORS

Firm Name: Brian Black Construction	Dollar Amount
Category of Work: Concrete prep and pour	\$60,000.00

Firm Name	Dollar Amount
Category of Work	

Firm Name	Dollar Amount
Category of Work	

Firm Name	Dollar Amount
Category of Work	

Firm Name	Dollar Amount
Category of Work	

Firm Name	Dollar Amount
Category of Work	

BID BOND
(Percentage)

Bond Number: 66534028

KNOW ALL PERSONS BY THESE PRESENTS, That we Paramount Ironworks LLC
_____ of
30016 Leghorn Avenue, Eugene, OR 97402, hereinafter
referred to as the Principal, and Western Surety Company,
as Surety, are held and firmly bound unto City of Ontario OR Oregon & Jacob Engineering Division
of 1551 N 9th Street, Ontario, OR 97914,
hereinafter referred to as the Oblige, in the sum of 10.00% of the
Amount Bid (10 %) percent of the greatest
amount bid, for the payment of which we bind ourselves, our legal representatives, successors and assigns, jointly
and severally, firmly by these presents.

WHEREAS, Principal has submitted or is about to submit a proposal to Oblige on a contract for _____
City of Ontario Or, Ontario Public Works Shop Equipment Storage Facility

NOW, THEREFORE, if the said contract be awarded to Principal and Principal shall, within such time as may be
specified, enter into the contract in writing and give such bond or bonds as may be specified in the bidding or
contract documents with surety acceptable to Oblige; or if Principal shall fail to do so, pay to Oblige the
damages which Oblige may suffer by reason of such failure not exceeding the penalty of this bond, then this
obligation shall be void; otherwise to remain in full force and effect.

SIGNED, SEALED AND DATED this 7th day of February, 2023

Paramount Ironworks LLC

(Principal)

By [Signature] (Seal)

Western Surety Company

(Surety)

By [Signature] (Seal)

Megan Clegg,
Attorney In Fact



Western Surety Company

POWER OF ATTORNEY - CERTIFIED COPY

Bond No. 66534028

Know All Men By These Presents, that WESTERN SURETY COMPANY, a corporation duly organized and existing under the laws of the State of South Dakota, and having its principal office in Sioux Falls, South Dakota (the "Company"), does by these presents make, constitute and appoint Megan Clegg

its true and lawful attorney(s)-in-fact, with full power and authority hereby conferred, to execute, acknowledge and deliver for and on its behalf as Surety, bonds for:

Principal: Paramount Ironworks LLC

Obligee: City of Ontario OR, Oregon & Jacobs, Engineering Division

Amount: \$1,000,000.00

and to bind the Company thereby as fully and to the same extent as if such bonds were signed by the Vice President, sealed with the corporate seal of the Company and duly attested by its Secretary, hereby ratifying and confirming all that the said attorney(s)-in-fact may do within the above stated limitations. Said appointment is made under and by authority of the following bylaw of Western Surety Company which remains in full force and effect.

"Section 7. All bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, any Assistant Secretary, Treasurer, or any Vice President or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile."

If Bond No. 66534028 is not issued on or before midnight of May 8th, 2023, all authority conferred in this Power of Attorney shall expire and terminate.

In Witness Whereof, Western Surety Company has caused these presents to be signed by its Vice President, Paul T. Bruflat, and its corporate seal to be affixed this 7th day of February, 2023.

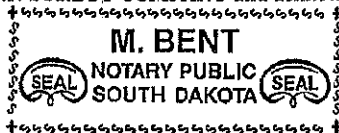


WESTERN SURETY COMPANY

Paul T. Bruflat

Paul T. Bruflat, Vice President

On this 7th day of February, in the year 2023, before me, a notary public, personally appeared Paul T. Bruflat, who being to me duly sworn, acknowledged that he signed the above Power of Attorney as the aforesaid officer of WESTERN SURETY COMPANY and acknowledged said instrument to be the voluntary act and deed of said corporation.



M. Bent

Notary Public - South Dakota

My Commission Expires March 2, 2026

I the undersigned officer of Western Surety Company, a stock corporation of the State of South Dakota, do hereby certify that the attached Power of Attorney is in full force and effect and is irrevocable, and furthermore, that Section 7 of the bylaws of the Company as set forth in the Power of Attorney is now in force.

In testimony whereof, I have hereunto set my hand and seal of Western Surety Company this 7th day of February, 2023.

WESTERN SURETY COMPANY

Paul T. Bruflat

Paul T. Bruflat, Vice President

To validate bond authenticity, go to www.cnasurety.com > Owner/Obligee Services > Validate Bond Coverage.



PO Box 5077 Sioux Falls SD 57117-5077

1-800-331-6053
Fax 1-605-335-0357
www.cnasurety.com
uwservices@cnasurety.com

DATE: February 6th, 2023

AGENT CODE: 36 00380

ATTENTION: Misty

Number of Pages: 2

RE: Bond 66534028 . Paramount Ironworks LLC

City of Ontario Or, Ontario Public Works Shop Equipment Storage Facility
10%

Contract Amount: \$ 175,040.00
Company Code: 0601

Thank you for placing this business with CNA Surety.

Please execute the requested bond(s) by using the documents sent with this fax/email. Sign the bond(s) and attach a gold colored seal from your Western Surety Company kit to each bond issued.

****Please advise us of the bid results as soon as they are available. Please complete and fax/email us the following:

Contract Price: \$ _____

Contract Date: _____

Next two lowest bidders: \$ _____
\$

Was the principal the low bidder? ☐ Yes ☐ No

Do you need approval for the Performance and Payment bond at this time? ☐ Yes ☐ No

Please check your supply of gold seals periodically to ensure you have an adequate amount. To reorder gold seals, simply visit cnasurety.com and click on the "Order Supplies Here" icon under the Broker/Agent Services section.

****IMPORTANT NOTICE AND REMINDER:** Approval of the requested Bid Bond is NOT an approval of any final or other bonds that may be requested by this principal. Further, the Bid Bond approval is limited to the contract amount approved by the underwriter. If the anticipated bid exceeds this amount, you must contact the underwriter at 800-331-6053 to inquire about specific approval before filing the bid. Failure to receive approval could result in declination of any subsequent performance and payment bond(s) requested. Furthermore, we reserve the right to decline any bond for any reason per the terms of the General Indemnity Agreement, and shall not be liable to the principal or any person or entity for such declination.

Business Services

**BID FORM
(STIPULATED PRICE BASIS)****1. BID RECIPIENT****1.1. This Bid is submitted to:****Owner: City of Ontario, OR****Address: 1551 NW Park Street, Ontario, OR 97914****Project Identification: Public Works Equipment Storage Facility**

1.2. The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

2. BIDDER'S ACKNOWLEDGEMENTS

2.1. Bidder accepts all the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 60 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

3. BIDDER'S REPRESENTATIONS**3.1. In submitting this Bid, Bidder represents that:**

3.1.1. Bidder has examined and carefully studied the Bidding Documents, the other related data identified in the Bidding Documents, and the following Addenda, receipt of which is hereby acknowledged.

Addendum No.	Addendum Date
<u>1</u>	<u>JANUARY 11 2023</u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>

(Bidder shall insert number of each Addendum received.)

3.1.2. Bidder has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

3.1.3. Bidder is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.

3.1.4. Bidder has carefully studied: i) reports of explorations and tests of subsurface conditions at or contiguous to the Site and drawings of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) which have been identified in Paragraph 5.03 of the Supplementary Conditions as containing reliable "technical data,"; and ii) reports and drawings of Hazardous Environmental Conditions, if any, at the Site that have been identified in Paragraph 5.06 of the Supplementary Conditions as containing reliable "technical data."

3.1.5. Bidder has considered the information known to Bidder; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and the Site-related reports and drawings identified in the Bidding Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, including applying the specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents; and (3) Bidder's safety precautions and programs.

3.1.6. Based on information and observations referred to in paragraph above, Bidder does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price(s) Bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents.

3.1.7. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.

3.1.8. Bidder has given Engineer written notice of conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and the written resolution thereof by Engineer is acceptable to Bidder.

3.1.9. The Bidding Documents are generally sufficient to indicate and convey understanding of terms and conditions for the performance of the Work for which this Bid is submitted.

4. BIDDER'S CERTIFICATION

4.1. Bidder certifies:

4.1.1. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization or corporation;

4.1.2. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid;

4.1.3. Bidder has not solicited or induced any individual or entity to refrain from bidding; and

4.1.4. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this paragraph:

4.1.4.1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process;

4.1.4.2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Owner, (b) to establish Bid prices at artificial noncompetitive levels, or (c) to deprive Owner of the benefits of free and open competition;

4.1.4.3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, noncompetitive levels; and

4.1.4.4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

4.1.5. Required sales and use taxes are included in the stated Bid prices for the Work unless provision is made herein for the Bidder to separately itemize the estimated amount of sales tax or if Instructions to Bidders state Owner is tax exempt.

4.1.6. Bidder accepts the provisions required by ORS 279C.840 relating to prevailing wage rates and that Bidder shall make applicable restitution to the Oregon Bureau of Labor and Industries Commissioner in accordance with ORS 279C.825.

4.1.7. Neither Bidder nor their Subcontractors are on the Bureau of Labor and Industries list of persons having violated prevailing wage rate laws.

EQUIPMENT STORAGE FACILITY

CITY OF ONTARIO

4.1.8. Bidder has not discriminated against minority, women, or emerging small business enterprises in obtaining required subcontracts.

4.1.9. Bidder is not in violation of any tax laws described in ORS 305.385.

4.1.10. Bidder has established a drug-testing program for employees per ORS 279C.505.

4.1.11. In accordance with OAR 137-049-0200, Subcontractors performing work will be registered with the Construction Contractors Board before Subcontractor commences work

5. BASIS OF BIDS

5.1. Bidder shall complete the Work in accordance with the Contract Documents for the following price(s):

5.2. A: Lump Sum Bid Schedule:

5.2.1. Lump sums have been computed in accordance with Paragraph 13.03.C of the General Conditions.

Unit Price Bid Schedule					
Item No.	Description	Estimated Quantity	Unit	Bid Unit Price	Extended Bid Unit Price
1.	Mobilization	1	LS	\$2880 ⁰⁰	\$2880 ⁰⁰
2.	Construction Survey	1	LS	\$1920 ⁰⁰	\$1920 ⁰⁰
3.	Earthwork	1	LS	\$53970 ⁰⁰	\$53970 ⁰⁰
Total of Extended Bid Unit Prices:					\$58770 ⁰⁰
4A.	BID ALTERNATE A: Structural Work with gravel finished floor	1	LS	\$102570 ⁰⁰	\$102570 ⁰⁰
Total of Extended Bid Unit Prices with BID ALTERNATE A:					\$161340 ⁰⁰
4B.	BID ALTERNATE B: Structural Work with concrete finished floor	1	LS	\$116530 ⁰⁰	\$116530 ⁰⁰
Total of Extended Bid Unit Prices with BID ALTERNATE B:					\$175300 ⁰⁰

6. TIME OF COMPLETION

6.1. Bidder agrees the Work will be substantially complete on the date agreed to by the City and the Contractor and will be completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within 10 working days after that. In no case will Final Completion be after June 15, 2023 unless material supply issues beyond the control of the Contractor and the City are experienced.

6.2. Bidder accepts the provisions of the Agreement as to liquidated damages in the event of failure to complete the Work, and any specified Milestones, within the Contract Times.

7. ATTACHMENTS TO THIS BID

7.1. The following documents are submitted with and made a condition of this Bid:

7.1.1. Certificate of Bidder Regarding Equal Opportunity.

7.1.2. Evidence of authority to do business in the state of the Project; or a written covenant to obtain such license within the time for acceptance of Bids.

7.1.3. Contractor's License No.: 1581

7.1.4. Subcontractor Disclosure Form (required within two hours of Bid closing).

7.1.5. Noncollusion Affidavit.

8. DEFINED TERMS

8.1. The terms used in this Bid with initial capital letters have the meanings stated in the Invitation to Bid, the General Conditions, and the Supplementary Conditions.

9. BID SUBMITTAL

9.1. This Bid submitted by:

If Bidder is:

An Individual

Name (typed or printed): _____

By (signature): _____

Doing business as: _____

A Partnership

Partnership Name: _____ (SEAL)

By: _____
(Signature of general partner – attach evidence of authority to sign)

Name (typed or printed): _____

A CorporationCorporation Name: Holcomb Construction Inc. (SEAL)State of Incorporation: Oregon

Type (General Business, Professional, Service, Limited Liability): _____

By: Bradley Holcomb
(Signature – attach evidence of authority to sign)Name (typed or printed): Brad HolcombTitle: President (CORPORATE SEAL)Attest: Scott Holcomb
(Signature of Corporate Secretary)

Date of Qualification to do business in Oregon is:

1945A Joint Venture

Joint Venturer Name: _____ (SEAL)

By: _____
(Signature of joint venture partner – attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

(Each joint venture must sign. The manner of signing for each individual, partnership, and corporation that is a party to the joint venture should be in the manner indicated above.)

Bidder's Business Address: _____

Phone No.: _____ FAX No.: _____

EQUIPMENT STORAGE FACILITY

CITY OF ONTARIO

E-mail: holccnst@yahoo.com

SUBMITTED on February 7, 2023

Oregon Contractor's License No.: 1581

Contractor's License Class (where applicable): Level 1

Bidder is an Oregon company as defined in ORS 279A.120.

X Yes No

END OF SECTION



JACOBS®

Engineering Division
1551 NW 9th St
Ontario, OR 97914
Public Works (541) 889-8572

Addendum No. 1
To the Contract Documents
For the Public Works Storage Facility Building

Date: January 11, 2023

To all plan holders and/or Prospective Bidders:

The following changes, additions, and/or deletions are hereby made part of the contract documents for the construction of the Public Works Storage Facility Building dated December 30, 2022 as fully and completely as if the same were fully set forth:

I. Bid Closing Date and Time

Bid Closing time has been changed to 3:00PM (MST) Mountain Standard Time on Tuesday February 7th 2023.

All bidders shall acknowledge receipt and acceptance of this Addendum No. 1 in the bid form or by submitting the Addendum with the bid package. Bid Forms submitted without acknowledgement or without this Addendum will be considered in nonconformance.

Jacobs

Al Haun
Project Manager

End of Addendum

Scott Holcomb 1/11/2023

NON-DISCRIMINATION AFFIDAVIT

Holcomb Construction Inc.

(Name of Contractor)

Acknowledges that in ORS 279A.110, a Bidder that competes for or is awarded a public contract may not discriminate against a subcontractor in awarding a subcontract because the subcontractor is a disadvantaged business enterprise, a minority-owned business, a woman owned business, a business that a service-disabled veteran owns or an emerging small business that is certified under ORS 200.055. Accordingly, the undersigned Bidder hereby certifies that as part of its bid submission that it has not discriminated and will not discriminate against a disadvantaged business enterprise, a minority-owned business, a woman owned business, a business that a service-disabled veteran owns or an emerging small business in awarding a subcontract for this Project.

**CERTIFICATION OF BIDDER
REGARDING EQUAL EMPLOYMENT OPPORTUNITY**

Instructions

This certification is required pursuant to Executive Order 11246 (30 F.R. 12319-25). The implementing rules and regulations provide that any bidder or prospective contractor or any of their proposed subcontractors, shall state as an initial part of the bid or negotiations of the contract whether it has participated in any previous contract or subcontract subject to the equal opportunity clause; and if so, whether it has filed all compliance reports due under applicable instructions.

Where the certification indicates that the bidder has not filed a compliance report due under applicable instructions, such bidder shall be required to submit a compliance report within seven calendar days after bid opening. No contract shall be awarded unless such report is submitted.

Certification By Bidder

Name and Address of Bidder (including Zip Code)

Holcomb Construction Inc.
407 S 4th St
Nyssa OR 97913

1. Bidder has participated in a previous contract or subcontract subject to the Equal Opportunity Clause. • • Yes • • No
2. Compliance reports were required to be filed in connection with such contract or subcontract. • • Yes • • No
3. Bidder has filed all compliance reports due under applicable instructions. • • Yes • • No • • None required
4. Have you ever been or are you being considered for sanction due to violation of Executive Order 11246, as amended? • • Yes • • No

Name and Title of Signer (Please type or print)

Scott Holcomb Secretary

Signature

Scott Holcomb

**NOTICE OF REQUIREMENT OF AFFIRMATIVE ACTION
TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY
(EXECUTIVE ORDER 11246)**

1. ☐ The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Specifications" set forth herein. ☐
2. ☐ The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows: ☐

Timetables	Goals for minority participation for each trade	Goals for female participation for each trade
	6.9	6.9

These goals are applicable to all the Contractor's construction work (whether or not it is federally assisted) performed in the covered area. If the contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the contractor also is subject to the goals for both its federally involved and nonfederally involved construction. ☐

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60.4.3(a), and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed. ☐

3. ☐ The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed. ☐
4. ☐ As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is (insert description of the geographical areas where the contract is to be performed giving the state, county and city, if any). ☐

APPENDIX E
FIRST-TIER SUBCONTRACTOR DISCLOSURE FORM

Project Name: Malheur County Courthouse Elevator

Bid Opening Date: October 5, 2016 at 2:00 p.m. local prevailing time. Form must be delivered no later than 4:00 p.m. local prevailing time.

Name of Contractor Holcomb Const. INC

☒ CHECK THIS BOX IF YOU WILL NOT BE USING ANY FIRST-TIER SUBCONTRACTORS OR IF YOU ARE NOT SUBJECT TO THE DISCLOSURE REQUIREMENTS (SEE INSTRUCTIONS).

FIRST-TIER SUBCONTRACTORS

Firm Name	Dollar Amount
CCB#	
Category of Work	

Firm Name	Dollar Amount
CCB#	
Category of Work	

Firm Name	Dollar Amount
CCB#	
Category of Work	

Firm Name	Dollar Amount
CCB#	
Category of Work	

Firm Name	Dollar Amount
CCB#	
Category of Work	

Firm Name	Dollar Amount
CCB#	
Category of Work	

Firm Name	Dollar Amount
CCB#	
Category of Work	

Firm Name	Dollar Amount
CCB#	
Category of Work	

(Attach additional sheets as necessary)



HOLCCON-01

NCRADDUCK

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

1/31/2023

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 Three Rivers Insurance, Inc. PO Box 219 Payette, ID 83661	CONTACT NAME:	
	PHONE (A/C, No, Ext): (208) 642-9311 FAX (A/C, No): (208) 642-2017	
	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: American Hallmark Ins. Company	43494
	INSURER B: SAIF	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

INSURED

Holcomb Construction, Inc.
407 S. 4th Street
Nyssa, OR 97913-3631

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 ☐ PROJECT ☐ LOC ☐ OTHER:	X		44-CL-000629434	3/17/2022	3/17/2023	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
A	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY			44-CL-000629434	3/17/2022	3/17/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☒ RETENTION \$ 10,000			44-CL-000629434	3/17/2022	3/17/2023	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) ☒ Y/N ☒ N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	482823	7/1/2022	7/1/2023	☒ PER STATUTE ☒ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

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

RE: "New HVAC, HOOD, FLOORING, etc. for the Alameda Elementary School Kitchen Remodel"

The Contractor shall defend, indemnify and hold the Ontario School District 8C, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the Ontario School District 8C.

CERTIFICATE HOLDER

CANCELLATION

Ontario School District 8C
195 SW 3rd Avenue
Ontario, OR 97914

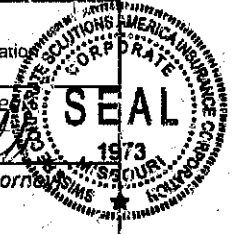
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Mar. Caldwell

BID BOND (PENAL SUM FORM)

Bidder Name: Holcomb Construction, Inc. and Construction Management Address (principal place of business): 407 South 4th Street Nyssa, OR 97913	Surety Name: Swiss Re Corporate Solutions America Insurance Corporation Address (principal place of business): 1200 Main Street, Suite 800 Kansas City, MO 64105
Owner Name: City of Ontario Address (principal place of business): 444 SW 4th Street Ontario, OR 97914	Bid Project (name and location): Public Works Equipment Storage Facility, Ontario, Oregon Bid Due Date: February 7, 2023
Bond Penal Sum: 10% Ten Percent of Amount Bid Date of Bond: January 19, 2023	
Surety and Bidder, intending to be legally bound hereby, subject to the terms set forth in this Bid Bond, do each cause this Bid Bond to be duly executed by an authorized officer, agent, or representative.	
Bidder Holcomb Construction, Inc. and Construction Management (Full formal name of Bidder) By: <u>[Signature]</u> (Signature) Name: <u>Bradley Holcomb</u> (Printed or typed) Title: <u>President</u> Attest: <u>[Signature]</u> (Signature) Name: <u>Scott Holcomb</u> (Printed or typed) Title: <u>Secretary</u>	Surety Swiss Re Corporate Solutions America Insurance Corporation (Full formal name of Surety) (Corporate Seal) By: <u>[Signature]</u> (Signature) (Attach Power of Attorney) Name: <u>Brenda J. Smith</u> (Printed or typed) Title: <u>Attorney-In-Fact</u> Attest: <u>[Signature]</u> (Signature) Name: <u>Linda Miner</u> (Printed or typed) Title: <u>Witness</u>
Notes: (1) Note: Addresses are to be used for giving any required notice. (2) Provide execution by any additional parties, such as joint venturers, if necessary.	



1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Bidder's and Surety's liability. Recovery of such penal sum under the terms of this Bond will be Owner's sole and exclusive remedy upon default of Bidder.
2. Default of Bidder occurs upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents.
3. This obligation will be null and void if:
 - 3.1. Owner accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents, or
 - 3.2. All Bids are rejected by Owner, or
 - 3.3. Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by Paragraph 5 hereof).
4. Payment under this Bond will be due and payable upon default of Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.
5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the total time for issuing Notice of Award including extensions does not in the aggregate exceed 120 days from the Bid due date without Surety's written consent.
6. No suit or action will be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph 4 above is received by Bidder and Surety, and in no case later than one year after the Bid due date.
7. Any suit or action under this Bond will be commenced only in a court of competent jurisdiction located in the state in which the Project is located.
8. Notices required hereunder must be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Postal Service registered or certified mail, return receipt requested, postage pre-paid, and will be deemed to be effective upon receipt by the party concerned.
9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.
10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond will be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute governs and the remainder of this Bond that is not in conflict therewith continues in full force and effect.
11. The term "Bid" as used herein includes a Bid, offer, or proposal as applicable.

SWISS RE CORPORATE SOLUTIONS AMERICA INSURANCE CORPORATION ("SRCSAIC")
SWISS RE CORPORATE SOLUTIONS PREMIER INSURANCE CORPORATION ("SRCSPIC")

KNOW ALL MEN BY THESE PRESENTS, THAT SRCSAIC, a corporation duly organized and existing under laws of the State of Missouri, and having its principal office in the City of Kansas City, Missouri, and SRCSPIC, a corporation organized and existing under the laws of the State of Missouri and having its principal office in the City of Kansas City, Missouri, each does hereby make, constitute, and appoint: **Brenda J. Smith**

Its true and lawful Attorney(s)-in-Fact, to make, execute, seal and deliver, for and on its behalf and as its act and deed, bonds or other writings obligatory in the nature of a bond on behalf of each of said Companies, as surety, on contracts of suretyship as are or may be required or permitted by law, regulation, contract or otherwise, provided that no bond or undertaking or contract or suretyship executed under this authority shall exceed the amount of:

**Jeffrey Goldberg, Senior Vice President &
Assistant Secretary of SRCSAIC and
SRCSPIC**



**AGENDA REPORT
NEW BUSINESS
March 14, 2023**

To: Mayor and City Council

FROM: Kari Ott, Finance Director

THROUGH: Danny K. Cummings, City Manager

SUBJECT: BID AWARD: MICHROTECH SYSTEMS - STORAGE AREA NETWORK (SANS)

DATE: March 8, 2023

PROPOSED MOTION:

I MOVE THE CITY COUNCIL AWARD THE BID TO MICROTECH SYSTEMS FOR THE PURCHASE AND INSTALLATION OF THE STORAGE AREA NETWORK IN THE AMOUNT OF \$68,733.

SUMMARY:

Attached is the bid from Microtech.

BACKGROUND:

During the 2022-2023 budget process, MicroTech had just taken over the information technology services fully for the city. At that point, MicroTech didn't have the opportunity to go through the entire system to see where all the needs were. The budget had \$50,000 for network infrastructure cleanup upgrades, and there is \$25,216 remaining.

CURRENT SITUATION:

The current storage area network (SAN) is eight years old and is completely out of hard drive space and doesn't have the power to be the production SAN. There were some issues during the holidays where two of the master drives in the array of the SAN died and the city system was down for a while. MicroTech moved drives around and ordered new drives to make the system function. However, this is not a long-term solution.

The current SAN doesn't have enough space and power to handle the new evidence software, so the implementation is at a stand still until a new SAN is installed. The purchase of the new SAN system will keep the city going. Realistically, we will also be looking at purchasing another one in the next few years.

MicroTech provided a bid for the installation and purchase of the equipment for \$68,732.93. This includes setting up the new system and also taking the old SAN and setting it up as the backup SAN.

ANALYSIS:

- A. **STRATEGIC PLAN** No strategic plan impact noted.
- B. **FINANCIAL** The SAN system and installation will cost the city \$68,733. There is \$25,216 budgeted in the IT budget already. Staff is proposing to take the remaining \$43,517 out of the General Fund contingency and the Public Safety Fund (\$21,758.50 each). This will leave \$218,080 in General Fund contingency and \$85,355 in the Public Safety Fund contingency. If this action is approved, staff will bring a resolution to the next meeting.
- C. **TIMING** As soon as the bid is awarded, the SAN can be ordered. The longer we are without a new SAN the higher the possibility the network could go down.
- D. **POLICY/LEGAL** The City Council is required to approve the bid.

ALTERNATIVES:

The City Council could choose not to approve the bid, however, this would mean the purchase of the new SAN system could not occur.

RECOMMENDATION:

Staff recommends the approval of the SAN bid from Microtech.

ATTACHMENTS:

1. Quote_City of Ontario_7027 (1)



Quote

Quote Number: 7027

Payment Terms:
Expiration Date: 02/24/2023

Quote Prepared For

Sheri Smith
City of Ontario
444 SW 4th St
Ontario, OR 97914
United States
Phone:15418813238
sheri.smith@ontariooregon.org

Quote Prepared By

Jeremy Young
MicroTech Systems Inc
125 E 50th Street
Garden City, Idaho 83714
United States
Phone:(208) 345-0054
Fax:208-345-0120
jeremy@microtechboise.com

Item#	Quantity	Item	Unit Price	Adjusted Unit Price	Extended Price
One-Time Items					
1)	1	Dell ME5012 Storage Array Dell EMC ME5012 Storage Array 10GB iSCSI BaseT 8 Port Dual Controller 12 - 20TB 7.2K RPM SAS Drives Dell HBA355e Adapter Low Rack Rails 2U 580W Redundant Power Supply 3 Year, Pro-Support and 4Hr Mission Critical Dell Warranty	\$31,187.93	\$31,187.93	\$31,187.93
2)	250	Storage Area Network (SAN) project estimated at 200-300hrs SAN Replacement / Migration of Server VMs 1. Device prep 2. Installation of new hardware 3. Configuration of new hardware 4. Migration of existing virtual servers and data 5. Setup backup device *repurposed old primary SAN for backup 6. Document environment FileOnQ Project 1. Create new Virtual Server 2. Install OS 3. Apply OS updates 3. Install SQL 4. Apply SQL updates 5. Work w/ vendor to install FileOnQ software 6. Set backups 7. Document environment	\$150.00	\$150.00	\$37,500.00
invoice will reflect actual hours worked					

Interest Charges on Past Due Accounts and Collection Costs Overdue amounts shall be subject to a monthly finance charge. In addition, customer shall reimburse all costs and expenses for attorney's fees incurred in collecting any amounts past due. Additional training or Professional Services can be provided at our standard rates.

Item#	Quantity	Item	Unit Price	Adjusted Unit Price	Extended Price
				One-Time Subtotal	\$68,687.93
Shipping Items					
3)	1	Shipping	\$45.00	\$45.00	\$45.00
				Shipping Subtotal	\$45.00
Replacement SAN Project					
Hardware will be invoice upon arrival at Microtech Systems					
				Total	\$68,732.93

Authorizing Signature _____

Date _____

Interest Charges on Past Due Accounts and Collection Costs Overdue amounts shall be subject to a monthly finance charge. In addition, customer shall reimburse all costs and expenses for attorney's fees incurred in collecting any amounts past due. Additional training or Professional Services can be provided at our standard rates.



FIRST QUARTER REPORT

December – February 2023



DEPARTMENT UPDATES

- Kyle Ervin joined the department mid January filling Chief Benson's vacant spot. He brings 10 years of experience with him and is jumping right in, even helping to train our new firefighters.
- Our in-house firefighter academy ended February 23rd. All three of our new recruits passed and are now able to respond to fires as exterior firefighters



Kyle Ervin



Blu Fortner



Miguel Torres



Logan McDowall



MEDICAL & FIRE CALL STATS



Medical Responses

- City medical responses = 493
- Rural medical responses = 67
- Total medical responses = 560

Quarterly Overdose Calls = 8

Total Emergency Responses = 546

Fire Responses

- City fire responses = 53
- Rural fire responses = 12
- Total fire responses = 65
- Total mutual aid fires = 3



Comparison between 2013/2022 Calls (1st Quarter)

	2013/2014	2022/2023	Difference
Medical Responses	455	560	+105 (23% increase)
Fire Responses	58	65	+7 (12% increase)
Total Emergency Responses	513	625	+112 (22% increase)

FLEET



Ladder Truck 109 (1987 Seagrave)

- 109 failed its aerial testing and is not safe to operate
- We are currently looking into multiple different replacement options

Command 105 (2023 Chevy Silverado)

- In December we received our replacement command vehicle
- It has been decaled and is currently waiting to have lights and radios installed later this month



Rescue 1

- Rescue 1 is still in the process of being built. We are excited to see the finished product and have it join the fleet

Hazmat 14a/14b

- Oregon State Fire Marshals Office will be replacing both of our Hazmat units this summer. The replacements will be better equipped for our needs



FIRE PREVENTION



- Chief Benson passed the International Code Council Fire Plans Examiner Test in February. He is now able to review construction plans, hazardous materials storage, and provide other important fire prevention activities.
- Chief Benson has been busy with several construction plan reviews this quarter.
- Chief Benson has teamed up with the Oregon State Fire Marshal's Office on several facility inspections this last quarter.



DEPARTMENT AWARDS



ONTARIO
OREGON

- On December 3rd Garrett Waddell was awarded Firefighter of the Year by the American Legion
- On December 3rd we had our annual Firefighter banquet. Brule Lehman was named Firefighter of the Year and multiple other awards were given
- On January 13th Firefighter Allen Montgomery was awarded Agriculturist of the year and Retired Chief Terry Leighton was awarded Man of the Year by the Ontario Chamber.
- January 14th Firefighter Jonathan Rico was awarded Firefighter of the year by the Elks Lodge



COMMUNITY INVOLVEMENT



- On December 15th members of Ontario Fire & Rescue volunteered, making deliveries for Help Them to Hope. Over 30 families received food and Christmas gifts
- With the support of the Ontario Volunteer Firefighter Association crews were able to deliver Christmas gifts, warm clothes and new boots to a family in need. The family was overwhelmed by the surprise and the kids loved taking a ride on the truck

Other Involvement

- Breakfast with Santa
- Winter Wonderland Parade
- Chamber of Commerce luncheons
- Coffee with the Veterans
- National Night Out Committee
- Local Emergency Planning Committee
- Snake River Valley Fire Chief's Association
- Rural Addressing Project



TRAINING

- ☐ IV Set up
- ☐ Denver Drill
- ☐ Engine Company Training
- ☐ Extrication Drill
- ☐ 6-week probationary firefighter academy
- ☐ Multi-family structure training – Payette
- ☐ Rapid intervention team training
- ☐ HAZMAT drill
- ☐ Vehicle Decontamination
- ☐ Air Management



STRATEGIC PLANNING



- Chief Benson distributed a department-wide survey in late February. The purpose of the survey is to identify the members common values and goals for the fire department.
- Part of the survey included a section titled “Likes and Dislikes”. We will use the results of the survey to make small changes that will address members’ dislikes.
- Our next goal is to complete a comprehensive hazards analysis of our community.





THANK YOU!

Ontario Fire and Rescue is grateful for the support of the community,
City staff, the Mayor and City Council.

MALHEUR COUNTY COURT MINUTES

February 8, 2023

The regularly scheduled meeting of the County Court was called to order by Judge Dan Joyce at 10:00 a.m. in the County Court Office of the Malheur County Courthouse with Commissioner Ron Jacobs and Commissioner Jim Mendiola present. Staff present was Administrative Officer Lorinda DuBois. Members of the media, public, and staff had the opportunity to join the meeting electronically or in-person. Notice of the meeting was posted on the County website, Courthouse bulletin board, and emailed to the Argus Observer, Malheur Enterprise, and those persons who have requested notice. The meeting was audio recorded. The agenda is recorded as instrument # [2023-385](#)

COURT MINUTES

Commissioner Jacobs moved to approve Court Minutes of February 1, 2023 as written. Commissioner Mendiola seconded and the motion passed unanimously.

CROSSING PERMIT

Commissioner Jacobs moved to approve Crossing Permit #04-23 to Warrington Construction for work on Verde Drive #899. Commissioner Mendiola seconded and the motion passed unanimously.

AMENDMENT - LAKE OWYHEE ROAD FLAP AGREEMENT

Commissioner Jacobs moved to approve Amendment 5 to the Federal Lands Access Program (FLAP) agreement, Project Number/Name: OR MALHEUR 846(1), Owyhee Lake Road Overstreet Road - Owyhee Reservoir; Western Federal Lands Highway Division, FHWA Agreement #DTFH7016E00041 - Amendment 0005. Commissioner Mendiola seconded and the motion passed unanimously. The expiration date is extended to December 31, 2023.

CHECK REGISTER

Commissioner Jacobs moved to approve Accounts Payable register for January 2023. Commissioner Mendiola seconded and the motion passed unanimously.

AMENDMENT - ALTRUISTIC RECOVERY

Commissioner Mendiola moved to approve First Amendment to Provider Contract for Juvenile Crime Prevention Services 2021-2023 between Malheur County Juvenile Department and Altruistic Recovery LLC; Recorded with the Malheur County Clerk as Instrument Number [2021-5865](#). Commissioner Jacobs seconded and the motion passed unanimously. An additional \$5,000 is added for the period January 1, 2023 - June 30, 2023 to cover increased costs and for additional youth to attend the MRT program. See instrument # [2023-386](#)

AMENDMENT - LIFEWAYS INC

Commissioner Jacobs moved to approve First Amendment to Provider Contract between Lifeways Inc and Malheur County for the Financing of Community Mental Health, Addiction Treatment, Recovery & Prevention, and Problem Gambling Services (recorded with Malheur County Clerk as instrument number [2022-1230](#)). Commissioner Mendiola seconded and the motion passed unanimously. The contract is extended to June 30, 2023. See instrument # [2023-387](#)

BULLY CREEK PARK

Commissioner Mendiola inquired if the Road Department could remove the dead trees at Bully Creek Park and possibly donate the wood for firewood for the community. Followup will need to be made with Road Supervisor Dave Tiffany. Judge Joyce also noted that the irrigation pump needs a float (the irrigation pump was replaced last year.)

EXECUTIVE SESSION

Executive Session was called in accordance with ORS 192.660(2)(h) - Legal Counsel with Judge Joyce presiding and Commissioner Jacobs and Commissioner Mendiola present. Also present were: County Counsel Stephanie Williams, Administrative Officer Lorinda DuBois, and present by telephone were: Jeremy Green, Mark Reinecke, and Dustin Hawkins from Bryant, Lovlien & Janis PC. No decisions were made during or following the session

ADJOURNMENT

Judge Joyce adjourned the meeting.

MALHEUR COUNTY COURT MINUTES

February 15, 2023

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 Ron Jacobs and Commissioner Jim Mendiola present. Staff present was Administrative Officer Lorinda DuBois and County Counsel Stephanie Williams. Members of the media, public, and staff had the opportunity to join the meeting electronically or in-person. Notice of the meeting was posted on the County website, Courthouse bulletin board, and emailed to the Argus Observer, Malheur Enterprise, and those persons who have requested notice. The meeting was audio recorded. The agenda is recorded as instrument # [2023-440](#)

PROPOSED TRUANCY ORDINANCE

Malheur Education Service District (ESD) Superintendent Mark Redmond met with the Court to further discuss the proposed County truancy ordinance and answered questions from the Court members; also present were Vale School District Superintendent Alisha McBride, District Attorney Dave Goldthorpe, and Juvenile Department Director Ted Martinez; Adrian School District Superintendent Nick Ketterling and Ontario School District Superintendent Nikki Albisu later joined the session. Mr. Redmond explained that letters of support and/or resolutions of support for the proposed ordinance were submitted by all school districts in the county; Nyssa City Police Department, Ontario City Police Department, and Sheriff Wolfe; and the cities of Ontario, Nyssa, and Jordan Valley. City of Vale may support the ordinance with some jurisdictional language modifications to the ordinance. See instrument # [2023-447](#) for the resolutions/letters.

A snapshot of current attendance numbers for this school year as of January 17, 2023 show that there has been an average of 82 school days, 5431 students, and 197 students with more than 20 days absent. See instrument # [2023-448](#) for the handout. Mr. Redmond also reviewed the Pyramid Model for Attendance Collaboration. Tier 1 is school level responsibilities, Tier 2 is Justice Court, and Tier 3 is Circuit Court under ORS 163.577(1)(c). See instrument # [2023-449](#) for the Pyramid Model handout.

Ms. McBride explained the schools have in place the tools listed under Tier 1. The County ordinance allows for the Justice Court to implement the tools in Tier 2; without the County ordinance there is not the supportive collaborative process for the family and community services and schools will be forced to go to the more punitive process - Tier 3. Malheur county has the highest child poverty rate in the state of Oregon; a pathway out of poverty is an education and access to resources.

Commissioner Jacobs expressed appreciation for the work done in gathering support for the proposed ordinance. Commissioner Jacobs inquired if there were efforts in the schools for additional vocational opportunities for students. Jordan Valley has a welding program; Adrian has a CNA program which will include phlebotomy; Harper has an auto program; Ontario has culinary and drafting; Nyssa has CNA and phlebotomy, and welding; Vale has four programs - agriculture, automotive, business, and construction; a CNA program will be added next school year. The goal this year is to have 300 certifications across the county (last year was about 250 industry level certifications).

Mr. Goldthorpe expressed his support for the proposed County ordinance.

Commissioner Mendiola inquired if there had been any feedback from parents. Ms. McBride explained she had heard one concern that the proposal is financially motivated by the schools; schools in Oregon receive funding based on enrollment, not attendance rates.

A final ordinance will be drafted and two public hearings will be scheduled.

Ms. Williams left the meeting.

UNCOLLECTIBLE PERSONAL PROPERTY TAXES

Treasurer/Tax Collector Jennifer Forsyth met with the Court and presented information on uncollectible personal property tax accounts. Commissioner Jacobs moved to approve Order GO-03-23: In the Matter of Uncollectible Taxes on Personal Property Situated within Malheur County and the Cancellation Thereof. Commissioner Mendiola seconded and the motion passed unanimously. Two accounts were cancelled; total charge off is \$146.89. See instrument# [2023-441](#)

VALLEY FAMILY HEALTH CARE CENTER

Meeting with the Court from Valley Family Health Care Center were: CEO Ken Hart, CFO Cheri Hung, Practice Manager Adam Dold, Chief Nursing Officer Jenny Boone, and Chief Operations Officer Ben Murray. Valley Family is a not-for-profit, 501(c)(3) with clinics in Idaho and Oregon (8 medical clinics/4 dental clinics and an additional medical clinic is under construction in Ontario); has 270 employees - approximately 50 of those are providers and is a Federally Qualified Health Center (FQHC). Valley Family is governed by a local board. Over 21,000 patients were served by Valley Family in 2022 with 77,015 clinic visits and 3,005 telehealth visits. Facilities in Malheur county are: Nyssa: Medical Clinic and Dental Clinic; Vale: Medical Clinic and Malheur County Correctional Facility; Ontario: Medical Clinic, Dental Clinic, Treasure Valley Pediatric Clinic, and Treasure Valley Women & Family Medicine Clinic. Valley Family also provides behavioral health services in Malheur county schools and at the pediatric clinic; unless additional providers can be added, Valley Family will not be able to continue to provide the school based mental health services. The Real Market Value of Valley Family real estate in Malheur county is \$5.4 million and the annual property tax exemption is over \$70,000. Mr. Hart answered questions from the Court members. See instrument # [2023-462](#) for the handout.

Ms. DuBois left the meeting

CROSSING PERMITS

Commissioner Jacobs moved to approve Crossing Permit #05-23 to Idaho Power Company for maintenance work on Enterprise Avenue #662, Cloverdale Avenue #556, Alberta Avenue #768, Echo Road #770, Gray Boulevard #956, Eureka Avenue #862, Gem Avenue #865, Clark Boulevard #857, King Avenue #866, and Alameda Drive #893; Crossing Permit #06-23 to Idaho Power for replacement of a pole and transformer on NW 19th Avenue #1541; Crossing Permit #07-23 to Romans Precision Irrigation for installation of a culvert on McLay Road #667; and Crossing Permit #08-23 to Romans Precision Irrigation for pipe installation across Harper-Westfall Road #805. Commissioner Mendiola seconded and the motion passed unanimously. Original permits will be kept on file at the Road Department.

COURT MINUTES

Commissioner Jacobs moved to approve Court Minutes of February 8, 2023 as written. Commissioner Mendiola seconded and the motion passed unanimously.

SUPPLEMENTAL BUDGET

Commissioner Mendiola moved to approve Resolution R23-06: In the Matter of Fiscal Year 2022/2023 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 additional Reimbursement funds in the Weed Control budget that were not anticipated when the adopted budget was prepared; the funds will be used to offset the rise in fuel prices. See instrument # [2023-442](#)

FAIR BOARD - ADVISORY MEMBER

Commissioner Jacobs moved to appoint Maddie Hewitt to the Fair Board as an Advisory Member. Commissioner Mendiola seconded and the motion passed unanimously.

BUDGET COMMITTEE VACANCY

There is one vacancy on the County Budget Committee.

OWYHEE WATERSHED COUNCIL - ANNUAL REPORT

Owyhee Watershed Council Coordinator Nicole Sullivan and Jordan Valley Cooperative Weed Management Area (JVCWMA) Coordinator Eric Morrison met with the Court and provided an annual update on the Owyhee Watershed Council (OWC), and answered questions from the Court members. Also present was County Weed Inspector Amanda Zander. Ms. Sullivan explained that throughout the duration of the 21-23 biennium the Council has been working with partners, landowners and other stakeholders to address three main watershed issues: water quality improvement, riparian habitat restoration, and Sage-steppe rangeland habitat restoration. Addressing those watershed issues is a Council Action Plan priority and a continual process through both stakeholder engagement and restoration actions.

Over the course of the last year and a half OWC has been working on stakeholder engagement. Monthly membership meetings have resumed - held on the second Wednesday of each month (an Annual Meeting will be held June 14th); management of the Owyhee Small Grants Team; worked over the last year with 21 private landowners on restoration project improvement proposals; and worked with with partners and stakeholders in 2021 and 2022 to develop a county wide Regional Conservation Partnership NRCS funding proposal focused on Stage Steppe and upland restoration - the proposal received positive feedback and a high priority ranking but was not selected for funding, this partnership group is now working on a proposal to develop a countywide rangeland strategy plan. OWC regularly engages with the Vale Sage Grouse Local Implementation Team in meetings and discussions.

In 2022 OWC was able to hold its 20th Annual Owyhee 5th Grade Field Day. (The program had been on hold for two years due to COVID restrictions.) 2023 Owyhee 5th Grade Field Day is April 26 and 27.

OWC had ten small grant applications; six were awarded funding; applied for six Restoration grants and was awarded three (two are currently pending); two Technical Assistance application were submitted and one was funded; one Stakeholder Engagement application was submitted and funded; and OWC/JVCWMA applied for and was awarded two ODA Weed Board grants.

Four large grant projects and one small grant project was implemented over the last year and a half. Two hundred and five acres of row cropped traditional flood irrigated agricultural land was converted to sprinkler irrigation through the installation of a pivot, wheel-line and irrigation conveyance infrastructure. Eighty eight acres were converted from gated pipe to sprinkler irrigation through the installation of a pivot system and irrigation conveyance infrastructure.

OWC is currently working with landowners to implement several large, small and technical assistance projects. Additionally, OWC is working with eleven landowners to develop funding applications for potential restoration projects addressing both water quality and upland restoration.

Mr. Morrison updated the Court on activities of the Jordan Valley Cooperative Weed Management Area (CWMA). The Jordan Valley CWMA assisted in treating 834.3 acres of noxious weed species in conjunction with private landowners and Oregon State Lands. Three hundred fifty-five acres of Perennial Pepperweed were treated (271 acres being in the Quinn area); and two hundred sixty-three acres of Scotch Thistle were treated (221 acres being in the Arock and Danner areas). Puncture vine was a new addition to the noxious weeds treated in the Jordan Valley CWMA; there is very little puncture vine in the CWMA area and they want to keep it from increasing.

The Jordan Valley Whitetop Give-A-Way distributed 180 plus gallons of mixed chemical for whitetop to 18 individuals. Whitetop has decreased by over 90% since the event started in Jordan Valley.

Russian knapweed biocontrol agent releases were done in the Burns Junction area and Danner area; more releases will be done as agents are available.

Fifty-three people attended the 2023 Winter Weed Seminar and 111 recertifications credits were awarded in two states. Seven monthly meetings were held; and 8 noxious weed articles were published in the Owyhee Avalanche. Additionally, grasshopper meetings were organized for landowners with APHIS and ODA to deal with the outbreak in 2022.

See instrument # [2023-463](#) for the OWC written report and the CWMA written report.

EXECUTIVE SESSION

Executive Session was called in accordance with ORS 192.660(2)(e) - Real Property Transactions with Judge Joyce presiding and Commissioner Jacobs and Commissioner Mendiola present. Also present were County Counsel Stephanie Williams and Administrative Officer Lorinda DuBois. No decisions were made during the session.

PURCHASE & SALE AGREEMENT

Commissioner Jacobs moved to authorize Ms. Williams to draft a Purchase and Sale Agreement with Kelly Johnson for two parcels (Reference Nos. 18781/19936) for a purchase price of \$1,400,000. Commissioner Mendiola seconded and the motion passed unanimously. See instrument # [2023-458](#)

COURT ADJOURNMENT

Judge Joyce adjourned the meeting.

MALHEUR COUNTY COURT MINUTES

March 1, 2023

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 Ron Jacobs and Commissioner Jim Mendiola present. Staff present was Administrative Officer Lorinda DuBois. Members of the media, public, and staff had the opportunity to join the meeting electronically or in-person. Present in the meeting room was Pat Caldwell from the Malheur Enterprise. Notice of the meeting was posted on the County website, Courthouse bulletin board, and emailed to the Argus Observer, Malheur Enterprise, and those persons who have requested notice. The meeting was audio recorded. The agenda is recorded as instrument # [2023-0544](#)

REVISIONS TO NOXIOUS WEED LIST

Weed Inspector Amanda Zander met with the Court to consider any public comments regarding recommended changes to the County noxious weed list. Notice of the public comment opportunity was published in the Argus Observer on February 15 and February 22, 2023; and posted on the County website. No written comments were received. No oral public comments were received. Commissioner Jacobs moved to approve Resolution No. R23-05: Resolution Adopting Noxious Weed List for Malheur County Weed Control District. Commissioner Mendiola seconded and the motion passed unanimously. The List replaces all prior noxious weed lists adopted by the Court and is effective April 1, 2023. See instrument # [2023-0545](#)

AGENDA REVISIONS

By consensus, the Court removed the City of Vale Wastewater Project Request for Funding from the Business Items of the meeting agenda; and added Economic Development Director Vacancy.

CROSSING PERMITS

Commissioner Mendiola moved to approve Crossing Permit #09-23 to Idaho Power Company for work on NW 4th Avenue #890; and Crossing Permit #10-23 to Idaho Power Company for work on Elderberry Lane #1569. Commissioner Jacobs seconded and the motion passed unanimously. Original permits will be kept on file at the Road Department.

COURT MINUTES

Commissioner Jacobs moved to approve Court Minutes of February 15, 2023 as written. Commissioner Mendiola seconded and the motion passed unanimously.

EMPLOYMENT AGREEMENT - ZEMMER

Commissioner Jacobs moved to approve Legal Assistant - employment of PERS retiree Employment Agreement with Melanie Zemmer. Commissioner Mendiola seconded and the motion passed unanimously. See instrument # [2023-0547](#)

CONTRACT WITH LIFEWAYS - OPIOID FUNDS

Commissioner Jacobs moved to approve Contract with Lifeways, Inc for use of Opioid Settlement Funds. Commissioner Mendiola seconded and the motion passed unanimously. Lifeways will provide opioid-related efforts and activities that align with the remediation uses in the Johnson and Johnson settlement agreement. See instrument # [2023-0546](#)

AMENDMENT - IGA #169522

Commissioner Jacobs moved to approve Eleventh Amendment to Oregon Health Authority 2021-2023 Intergovernmental Agreement for the Financing of Public Health Services, Agreement #169522. Commissioner Mendiola seconded and the motion passed unanimously. Exhibit B Program Elements #10, #43, and #51 are replaced in their entirety; the Financial Assistance Award for FY23 is replaced in its entirety; and Exhibit J is amended. A copy will be returned for recording.

AGRICULTURAL EDUCATIONAL EXTENSION SERVICE DISTRICT ADVISORY BOARD - SKEEN

Commissioner Jacobs moved to appoint Paul Skeen to the Agricultural Educational Extension Service District Advisory Board. Commissioner Mendiola seconded and the motion passed unanimously. Mr. Skeen replaces Bob Komoto on the Advisory Board.

SHERIFF'S OFFICE UPDATE - RETIREMENT OF WOLFE

Sheriff Brian Wolfe met with the Court and provided an update of activities at the Sheriff's Office. The jail has been in operation since 1996 and needed upgrades are taking place; the kitchen will be shut down for two weeks in April for upgrades and planning is underway for providing meals during this time. Dispatch has one vacancy. The Jail has nine vacancies. The annual all staff meeting was held yesterday- Deputy Dan Perkins was selected as Deputy of the Year. Sheriff Wolfe announced he will retire in April 2023 (exact date to be determined). Sheriff Wolfe recommended, and requested, that the County Court appoint Undersheriff Travis Johnson to fill the remainder of Sheriff Wolfe's term as Sheriff. Sheriff Wolfe expressed his full confidence in Undersheriff Johnson. The Court expressed appreciation to Sheriff Wolfe for his service to Malheur County.

ENVIRONMENTAL HEALTH/PLANNING

Interim Environmental Health Director/Planning Director Eric Evans met with the Court. Mr. Evans introduced Environmental Health (EH) Specialist Evan Wagner to the Court; Mr. Wagner began employment in November and performs both EH Specialist services and public health modernization services under the Health Department. Mr. Evans explained that the full-time EH Specialist recently resigned; it is planned to move Mr. Wagner into the full-time EH Specialist position. Due to shortage of staff Mr. Evans requested authorization to contract with Melissa Ney temporarily for Environmental Health Specialist Services in Baker and Malheur counties. Consensus of the Court was to draft an agreement with Ms. Ney.

Mr. Evans presented an IGA with the City of Adrian for floodplain management. Commissioner Jacobs moved to approve Intergovernmental Agreement (IGA) for Flood Hazard Management in the City of Adrian. Commissioner Mendiola seconded and the motion passed unanimously. A copy will be returned for recording after execution by the City of Adrian.

The landfill power line project is awaiting BLM review; the last correspondence from BLM indicated that there were staffing vacancies and they did not know when the project would be worked on.

One application for the Environmental Health Director vacancy was recently received; it will be forwarded for review.

CAPITAL FUNDING REQUEST

County Counsel Stephanie Williams explained that at last week's Malheur County Development Corporation (MCDC) board meeting it was requested that Malheur County Court ask the legislature for \$6.5 million for completion of the Treasure Valley Reload Center. The \$6.5 million does not appear to include items such as paving of roads, scale, weigh station, yard engine, or approximately \$1.5 million of equipment in the building. Ms. Williams and Commissioner Jacobs have been working on filling out the Capital Funding Request Project Information Form and request direction from the other Court members as to what the funding request should be.

It was noted that there are two vacancies on the MCDC board and Commissioner Jacobs will discuss that with MCDC board chair Grant Kitamura.

ADDENDUM TO AGREEMENT FOR FUNDING - MCDC

The addendum to the funding agreement with MCDC for \$2 million for construction of Track C was reviewed by the MCDC board and attorney. MCDC proposed to remove language concerning onsite material and wanted to be clear that the material currently onsite has not been tested or certified. All three Court members expressed that they wanted the onsite material tested before executing the funding agreement addendum.

ECONOMIC DEVELOPMENT DEPARTMENT DIRECTOR

Ms. DuBois will update the job description for the vacant Economic Development Department Director and forward to the Court members for review.

SHERIFF APPOINTMENT - JOHNSON

Commissioner Jacobs moved to appoint Undersheriff Travis Johnson to fill the remainder of Sheriff Brian Wolfe's term upon his retirement in April 2023. Commissioner Mendiola seconded and the motion passed unanimously.

OREGON BROADBAND PRESENTATION

Seth Thompson, Broadband Project Coordinator with the Oregon Broadband Office gave a presentation on the Broadband Office's programs. Mr. Thompson's job as project coordinator is to provide technical assistance support to applicants of the State's upcoming broadband grant programs. The objective of the Broadband Office is to close the digital divide in Oregon by connecting more people with high speed internet. The Oregon Broadband Office will achieve this objective by providing grant funds to pay for broadband planning and deployment. In the coming months the Broadband Office will be conducting extensive stakeholder engagement throughout Oregon. The goal of this public outreach is to provide stakeholders the opportunity to help the Broadband Office better understand the lived experience of being digitally disconnected.

Broadband Technical Assistance Program (BTAP) (\$1.5 M) - is meant to help pay for the future **planning** of a broadband fiber network in the community; it will help pay for the professional services required to get that objective done. \$1.5 million is currently allocated to this program. The purpose of BTAP is to provide funding for eligible applicants to acquire professional help conducting the following activities: strategic planning, feasibility studies, business planning and pre-engineering for broadband networks. Applicants will pick the technical assistance level that matches their activity and need. Level One - Strategic Planning is getting a group together to discuss what you have, what you don't have, and what are the gaps. Level Two - Feasibility Study is evaluating different alternatives and trying to decide what is best. Level Three - Business Planning is where you've possibly chosen an alternative and you want to test it out and run it through some scenarios to figure out what maintenance and management might cost. Level Four - Pre-engineering is where you take one of those pretty good ideas with a targeted business plan and figure out how many route miles you might need, how much conduit, where you need to go, underground or above; this is close to a shovel ready project. Once you have something pre-engineered you are pretty much ready for financing. Eligible Applicants are: municipalities (ORS 285B.410(9)); electric co-operatives, nonprofit organizations, municipal affiliates, the nine federally recognized Tribes in Oregon; and private for-profit providers IF partnered with one of the previous mentioned eligible applicants.

ARPA Capital Projects Fund (CPF) Broadband Deployment Program (BDP) - is to help pay for the **deployment** of broadband infrastructure (trenching, conduits, fiber etc.). \$157 million is allocated through the US Treasury; Oregon has submitted an application for funding - the program is not yet funded. Eligible locations are those currently lacking a wired connection reliably capable of 100/20 Mbps. Eligible Applicants are: municipalities, including Tribes, private and for-profit, electric utilities, co-operatives, municipal affiliates, and non-profits. Eligible Projects are broadband infrastructure projects that will provide 100/100 Mbps service to end-users currently lacking 100/20 Mbps; projects may be wired or wireless as long as service quality requirements are met per the standards in the handbook. Any middle mile projects must be associated with a last-mile build.

Broadband Equity, Access, and Deployment (BEAD) program and the Statewide Digital Equity Plan: Starting in the next few months, the Broadband Office, in partnership with a consultant, will be conducting listening sessions and focus groups throughout the entire state of Oregon to better understand the needs within communities and the experience of Oregonians who do not have access to high speed internet. The Broadband Office is conducting this massive public engagement campaign to better inform the programs and planning materials required for the State to offer BEAD and digital equity to Oregon.

Mr. Thompson answered questions from the Court members.

See instrument # *** for the presentation.

COURT ADJOURNMENT

Judge Joyce adjourned the meeting.

**ORIGINAL****Jacobs**

**PARK'S
COMMITTEE MEETING MINUTES
Thursday January 19, 2023, 6:30 p.m. MT**

Call to Order

The scheduled meeting of the Park's Committee was called to order by Commissioner Lynn Johnson at approximately 6:32 p.m. on Thursday, January 19, 2023, in the Council Chambers of City Hall. Committee members present in person were Lynn Johnson, Michael Miller, Mike Pratt, & Efren Garza; Andrew Maeda, Eddie Melendrez, and Michael Partin were excused.

Others present in person were, Ex-Officio City Manager/Ex-Officio Economic Development Director Dan Cummings, and Public Works Director, Casey Mordhorst.

Lynn Johnson led everyone in the Pledge of Allegiance.

AGENDA

This Agenda was posted on January 11, 2023; copies of the agenda and minutes are available at the Public Works Headquarters and on the city's website at www.ontariooregon.org.

Motion to Adopt the Agenda**RESOLUTION, ACTION &/OR MOTION**

MOTION TO AMEND THE AGENDA TO ADD PUBLIC COMMENT AS SECTION #4 AND ADD OFFICER ELECTIONS IN NEW BUSINESS A) AND MOVE THE CIP TO B) IN NEW BUSINESS. EFREN GARZA MADE THE MOTION, MIKE PRATT 2ND, ROLL CALL 4 TO 0

Public Comments

Deanna Brown, Ontario Residence – Asked why there are not bathrooms open year-round in each park.

Approval of Minutes**A) November 17, 2023****RESOLUTION, ACTION &/OR MOTION**

MIKE PRATT MADE A MOTION TO APPROVE THE MINUETS FROM THE NOV. 2022 MEETING, EFREN GARZA SECOND, ROLL CALL 4 TO 0

Signature

Date

(Lynn Johnson, Chairman /Michael Miller, Vice-Chairman)



PUBLIC WORKS COMMITTEE MEETING MINUTES

Tuesday, August 16, 2022, 3:00 p.m. MT

The scheduled meeting of the Public Works was called to order by Chairman Bernie Babcock at approximately 3:00 p.m. on Tuesday, August 16, 2022, in the Council Chambers of City Hall. Committee members present in person or attended via Teams were Bernie Babcock, Scott Wilson, and Pat Woodcock; Galeener and Fox were excused.

Others present in person or via Teams were Casey Mordhorst, Al Haun, Suzanne Mulvany, and Dan Cummings.

The press was notified; this Agenda was posted on August 12, 2022. Copies of the agenda and minutes are available at the Public Works Headquarters and on the city's website at www.ontariooregon.org.

ADOPTION OF MINUTES – FEBRUARY 15, 2022

RESOLUTION, ACTION &/OR MOTION:

THE MOTION WAS MADE BY MR. WILSON, SECONDED BY MR. WOODCOCK TO ADOPT THE MINUTES OF THE PREVIOUS MEETING, FEBRUARY 15, 2022: MOTION PASSED UNANIMOUSLY.

OPERATION UPDATES

Priority Focus

1. CDBG Project Close Out: All information requests submitted to Business Oregon, public hearing notices published in the Argus Friday and Sunday for August 23 meeting, IMCO completed all punch-list items except re-stocking of materials, holding retainer until re-stocking occurs. Meeting with Business Oregon on Thursday.
2. Water Treatment Plant Expansion: Sole source purchase recommendation of WesTech filtration unit to Council for consideration in August 23. Setting up discussion with State Drinking Water Revolving Loan fund for other improvements.
3. Ameresco Decorative Light Project: Met onsite 2-weeks ago with Ameresco and Idaho Power. Idaho Power indicated that Adam agreed to take over ownership of the downtown lights. No trenching or conduit replacement is planned as part of the project. Will schedule discussion with Ameresco to confirm details prior to installation.
4. South Oregon CIP funding for irrigation to bulb outs: Since there will be no trenching by Idaho Power as part of the street light project, we cannot see how \$80K will be anywhere nearly enough to get water to the bulb outs.
5. Kraft Heinz Water Supply Agreement: Preparing memo on history and need to develop approach moving forward.

Streets

- Safe Routes to Schools: Waiting on Warrington for cost estimate. Need to decide if re-bidding is the path forward.
- SE 5th Avenue Pedestrian Improvements: Keller Associates working to deliver 75% design by end of August.
- North Park Blvd Extension: Anderson Perry is finalizing design based on our storm water discussion.
- SE 2nd Street Curb Return Fix: Scheduled for repair in late July but still no right of way permit request.

Wastewater

- Facility Plan Update: Work in progress (Keller Associates).

- Pollutant Source Identification Plan: We only had cooperation from 13 of 32 sewer only customers for source water sampling. 9 of the households have arsenic levels above the Maximum Contaminant Level of 0.010 mg/L meaning they really ought to transition to City Water. Need to develop strategy for addressing this condition.
- Tapadera Lift Station: Wet well is done, work will pause while parts supply is continuing, might not start until late in the year.
- Diffuser Outfall Design: Murraysmith, will need your involvement in permit approval conditions with State Parks.

Field Services

- T 200: Met with Irrigation District to confirm water alignment (5/16), still waiting for response.

Water

- Repair Floc Mechanism: Murraysmith work in progress.
- Water Master Plan Water Right Strategy: Completed review of Anderson Parry technical memo. Will setup meeting to discuss approach moving forward.

Stormwater

- Dorian Drive: CK3 has started this work and is requesting geotechnical exploration work to confirm assumptions. Need permission from Oaks for test hole.
- Secondary Trunk Line Design: Need to select consultant and kick this design off.

Parks

- Beck Park Bathroom: Roof is on and done, concrete sidewalk and interior demo is done. Waiting on plumbers and electricians. Completion not expected until November.
- Cemetery Sprinkler Irrigation System: Finished. Save 3-4 hours of labor pr day.

Airport

- Airport Utilities Extension: CK3 will submit final plans based on our discussion last week. We have from last year's budget \$35K in water and sewer and \$105K in street funding to extend to BLM. CK3 to get updated cost estimate when Dave returns this week.

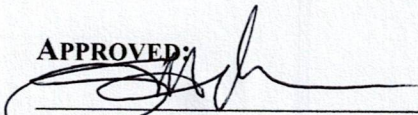
SRCI

- Siphon Design: All submittals in and approved. Draft amendment for Water Line Replacement given to attorney. Will also have change order to address Skyline pipeline.

ADJOURN 4:10 PM

THE MOTION WAS MADE BY MR. WILSON AT 4:10 PM; SECONDED BY MR. WOODCOCK TO ADJOURN: MOTION PASSED UNANIMOUSLY.

APPROVED:



Signature

2-21-2023

Date

(Bernie Babcock, Chairman / Scott Wilson, Vice-Chairman)

TATER TOTS TRAIL AD HOC COMMITTEE MINUTES

January 25, 2023

The scheduled meeting of the Tater Tots Trail Ad Hoc Committee was called to order at 6:01 p.m. in the City Council Chambers. Committee members present were Andrew Maeda, Antonio Sunseri, John Breidenbach, John Kirby, Phillip Millburn, Timothy Davis, Bruce Hunter, and Barbara Wilson.

Staff and presenters present: Dan Cummings, City Manager; Corinna Hysell, Assistant to City Manager, and Alexandra Stone, National Park Service, RTCA Program.

Pledge of Allegiance.

Andrew Maeda moved, Phillip Millburn seconded to add review the mission statement under old business. Motion passes 7-0-0.

Andrew Maeda moved, Phillip Millburn seconded to adopt the agenda as amended. Motion passes 7-0-0.

John Breidenbach moved, Andrew Maeda seconded to approve the January 11, 2023 Tater Tots Trail Ad Hoc Minutes. Motion passes 7-0-0.

The committee revisited the mission statement, the committee changed it. To create and promote a safe accessible recreation trail with an interactive connection to the natural environment.

John Breidenbach moved, Andrew Maeda seconded: to amend the mission statement. To create and promote a safe accessible recreation trail with an interactive connection to the natural environment. Motion passes 7-0-0.

Antonio Sunseri presented the state holder prioritization presentation. There was a discussion on the presentation, the committee members gave their input.

There was a discussion about seeing if a family member from Griggs, could be at the charrette meeting to talk about tater tots.

Phillip Millburn stated that fraction mapping may help. Millburn stated he will send on out and talk about it more at the next meeting.

There was a discussion on changing the name of the trail to Snake River Tater Tots Trail.

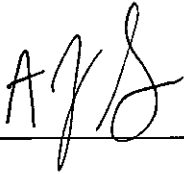
Dan Cummings let the committee know that he has not talked to the fire department yet for the drone fly over. He stated he will do that, but it may have to wait for the weather to get nicer, so it would not be muddy.

Alexandra Stone stated that a community outreach survey needs to be created, and she will send some sample survey's out in the next week.

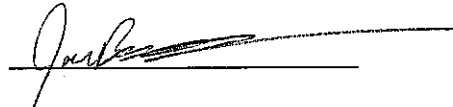
Next meeting will be February 8, 2023, at 6:00 p.m.

John Breidenbach moved, Andrea Maeda seconded to adjourn at 7:28 p.m. Motion passes 7-0-0.

ACCEPTED:

A handwritten signature in dark ink, appearing to read 'AJS', is written over a horizontal line.

Antonio Sunseri, Chairperson

A handwritten signature in dark ink, appearing to read 'John Breidenbach', is written over a horizontal line.

John Breidenbach, Secretary

TATER TOTS TRAIL AD HOC COMMITTEE MINUTES
February 8, 2023

The scheduled meeting of the Tater Tots Trail Ad Hoc Committee was called to order at 6:03 p.m. in the City Council Chambers. Committee members present were Antonio Sunseri, John Breidenbach, John Kirby, Phillip Millburn, Timothy Davis, Bruce Hunter, and Barbara Wilson.

Staff and presenters present: Corinna Hysell, Assistant to City Manager.

Pledge of Allegiance.

Bruce Hunter moved, Timothy Davis seconded to adopt the agenda. Motion passes 7-0-0.

Phillip Millburn presented the fraction mapping. John Kirby asked if this is the time, we need to get the fraction mapping done, Millburn and Wilson stated yes.

There was a lengthy discussion on the fraction mapping and each member will bring back the following meeting, what they have come up with. Some of the issues could be safety, funding, and land use.

There was a question on who would be making and paying for the flyers. John Breidenbach stated that the Chamber would provide this using TOT money. There was a discussion on the flyers. The committee want to have the city and chambers logo, picture of a similar trail, the mission statement, maybe a person walking a dog on the trail, and FAQ.

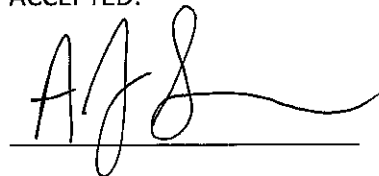
John Breidenbach moved, Bruce Hunter seconded for Barbara Wilson to make a draft flyer and present it at the next meeting. Motion passes 7-0-0.

The committee went over Antonio Sunseri's handout on the survey's. There was a lengthy discussion on what the committee wanted to add. Sunseri stated that he will put this on google docs and send it out to the committee, to be able to make changes before the next meeting.

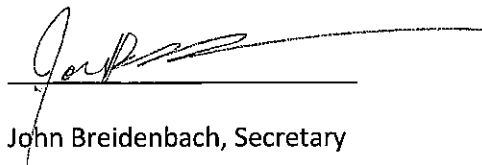
Next meeting will be February 22, 2023, at 6:00 p.m.

Bruce Hunter moved, Tim Davis seconded to adjourn at 7:13 p.m. Motion passes 7-0-0.

ACCEPTED:



Antonio Sunseri, Chairperson



John Breidenbach, Secretary

Jacobs

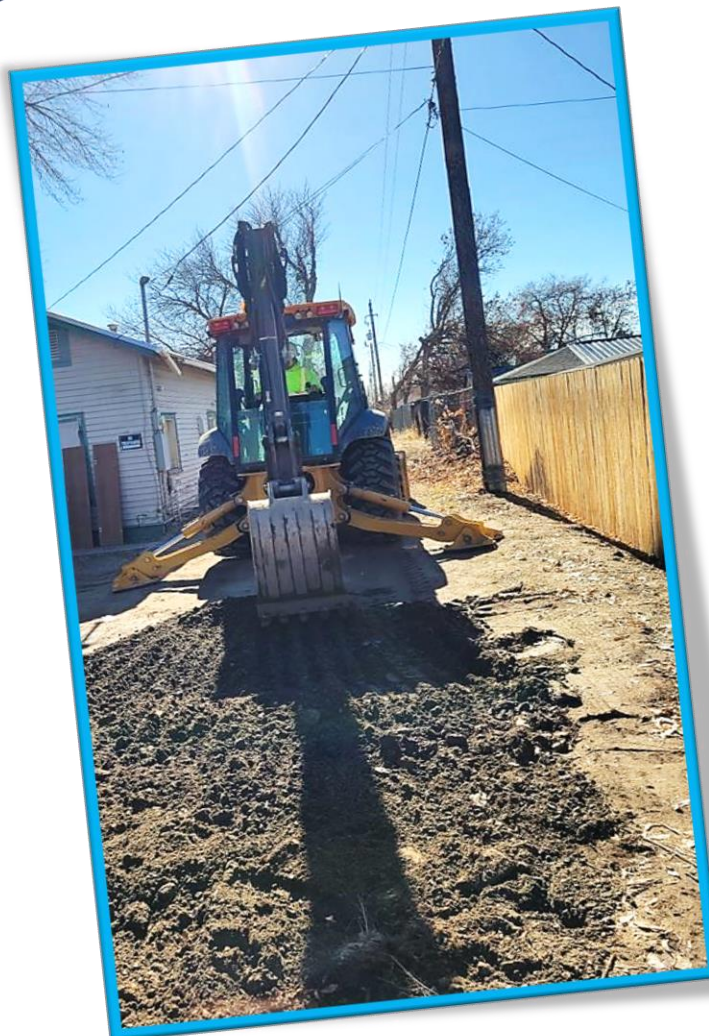
Public Works Department

Monthly Report

February 2023



Jacobs



Monthly Business Review

Public Works Department

Contents:

- ENGINEERING DEVELOPMENT REVIEW SUMMARY
- WATER TREATMENT PLANT AND DISTRIBUTION SYSTEM SUMMARY
- WASTEWATER TREATMENT PLANT AND COLLECTION SYSTEM SUMMARY
- OPERATIONS MAINTENANCE SUMMARY
- FACILITIES, CEMETERIES & PARKS
- APPENDIX

February Business Review

DEVELOPMENT REVIEW

ACTIVITIES FEBRUARY 2023

- Issued 5 ROW Permits
- Attended 2 PDAC meeting to discuss new businesses.
- Attended the Jacobs monthly safety meeting.
- Mailed out 136 backflow test notifications due by the end of March
- Multiple plan reviews for new construction
- Multiple construction inspections
- Continuous updating of the GIS mapping
- SRCI Sewer line upgrade has been completed and is currently running in syphon as designed.
- Tapadera Lift Station construction continuing.



February Business Review

WATER: TREATMENT PLANT AND DISTRIBUTION SUMMARY

ACTIVITIES FEBRUARY 2023

- Water treatment staff run diagnostic checks (jar testing) weekly to ensure that the chemical dosing is correct for the river water quality
- Monthly Bacterial samples taken
- Received material for new media retention screens for replacement
- 17 water services turned on customer request
- 6 water services shut off customer request
- 32 water services turned on/off read only customer request
- 50 water services shut off for non-payment
- 51 water services turned on for payment received
- 26 water meters changed out for non-functioning
- 55 water services checked for consumption issues, 0 or high consumption
- 19 water services checked and verified off from the non-payment list
- 10 water services shut off for repair
- 4 water services turned on and verified leaks repaired by customer
- 13 new water services installed

WATER TREATMENT PLANT AND DISTRIBUTION SUMMARY**ACTIVITIES FEBRUARY 2023**

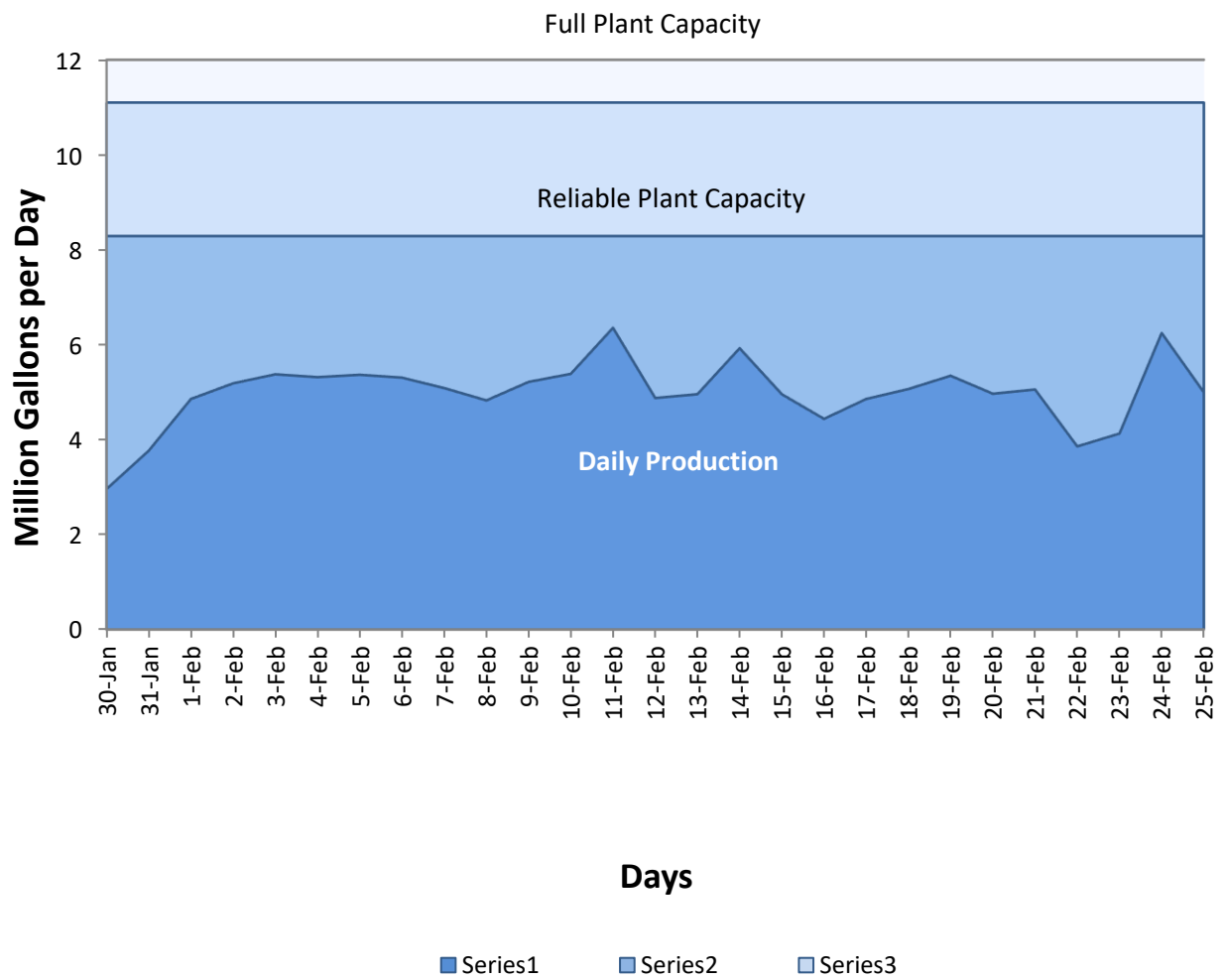
New absorption media will be installed in WesTech Filter #1

Drain Clarifier #2 for engineering inspection and winter maintenance and repair



WATER TREATMENT PLANT PRODUCTION VS. CAPACITY

Demand vs. Availability Jan 30-Feb 28, 2023



February Business Review

WASTEWATER TREATMENT PLANT AND DISTRIBUTION SUMMARY

ACTIVITIES FEBRUARY 2023

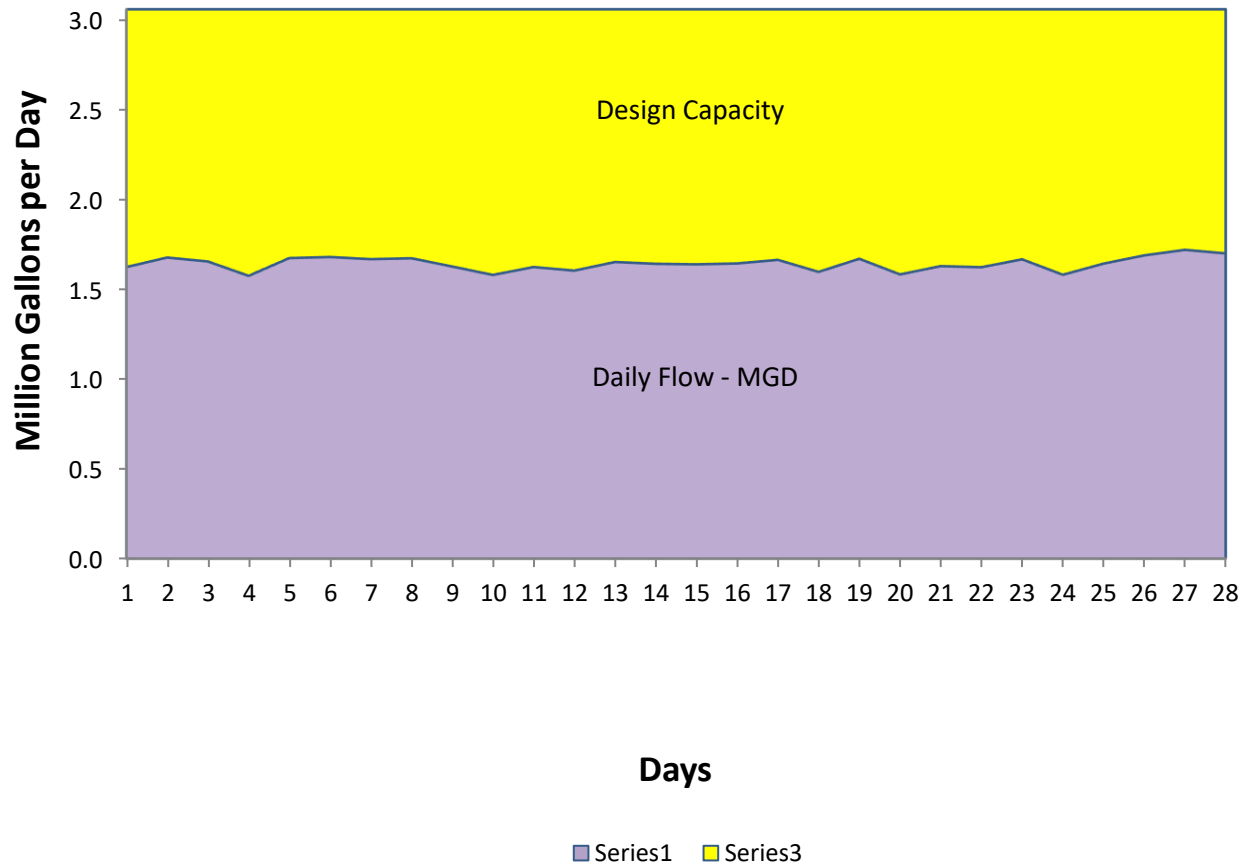
- All sampling per the 2019 NPDES permit have been taken.
- All OSU covid 8 samples sent to lab. To date no other sample vails have been sent and are waiting on OSU's path forward on further sampling.
- Started pH Adjustment using 31% Hydrochloric Acid, this is to stay in compliance with our NPDES permit.
- All lagoon tops and access roads were leveled using the Road Boss.
- Assisted in WesTech Media grating issue.
- Had a gas meter replaced at the operations building.
- New regulator was installed on the SO2 tank, and the Fire Department switched to the new tank.
- Updated Sample Tracking Tool (STT) for the sample year 2023.

February Business Review

WASTEWATER TREATMENT PLANT AND DISTRIBUTION SUMMARY**ACTIVITIES FEBRUARY 2023**

WASTEWATER TREATMENT PLANT

Wastewater Treatment Flows Feb1, 2022 - Feb 28, 2023



OPERATIONS MAINTENANCE: STREETS AND COLLECTION/DISTRIBUTION SUMMARY

ACTIVITIES FEBRUARY 2023

- Continued sweeping a full town route, picking up leaves that were late falling last fall
- Swept the underpass and downtown weekly on Fridays do to wind and trash being blown into the road
- Repaired a 12" water main leak on SE 5th Ave near the RR tracks
- Equipment maintenance, all small equipment serviced and ready for this year
- Sign maintenance, replacing damaged poles/signs throughout town
- Water Distribution maintenance replaced a leaking angle stop, broken meter box lid/ring, 2" leaking compression joint.
- Cleaned sanitary sewer lines with the CCTV contractor, finishing up the list of problem lines
- Reviewing CCTV footage, taking this information and using it to put together the next CDBG sewer line replacement project.
- Sidewalk inspection, grinding joints that are raised to prevent tripping hazards for all City owned sidewalk
- Cleaned 3 lift station wet wells, remove grease and debris from the wet wells
- Cleaned storm lines in preparation for the upcoming irrigation season, removed roots and mud from the system
- Pothole repair throughout town
- Treated the primary and secondary routes for a small snow and ice storm on February 23, 2023.
- Graded gravel sections of road throughout town
- Switched the SRCI Lower Lift Station over to a siphon, monitoring the pressure readings in the system to ensure operation. The lift station will be used for back up situations and operated one day a month to keep the equipment functional
- Replaced a broken valve box on SE 5th Ave, damaged by a snowplow
- 103 utility locates completed

OPERATIONS MAINTENANCE: STREETS AND COLLECTION/DISTRIBUTION SUMMARY

ACTIVITIES FEBRUARY 2023

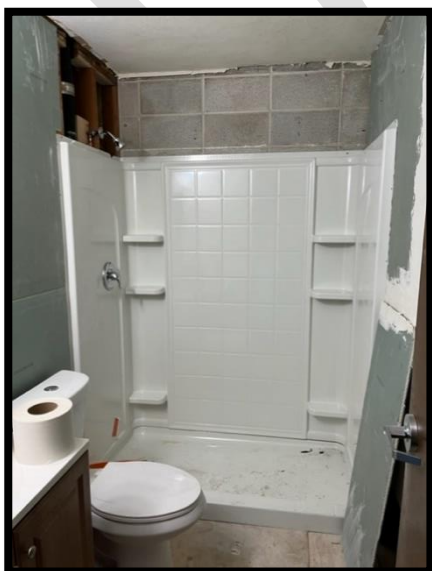


February Business Review

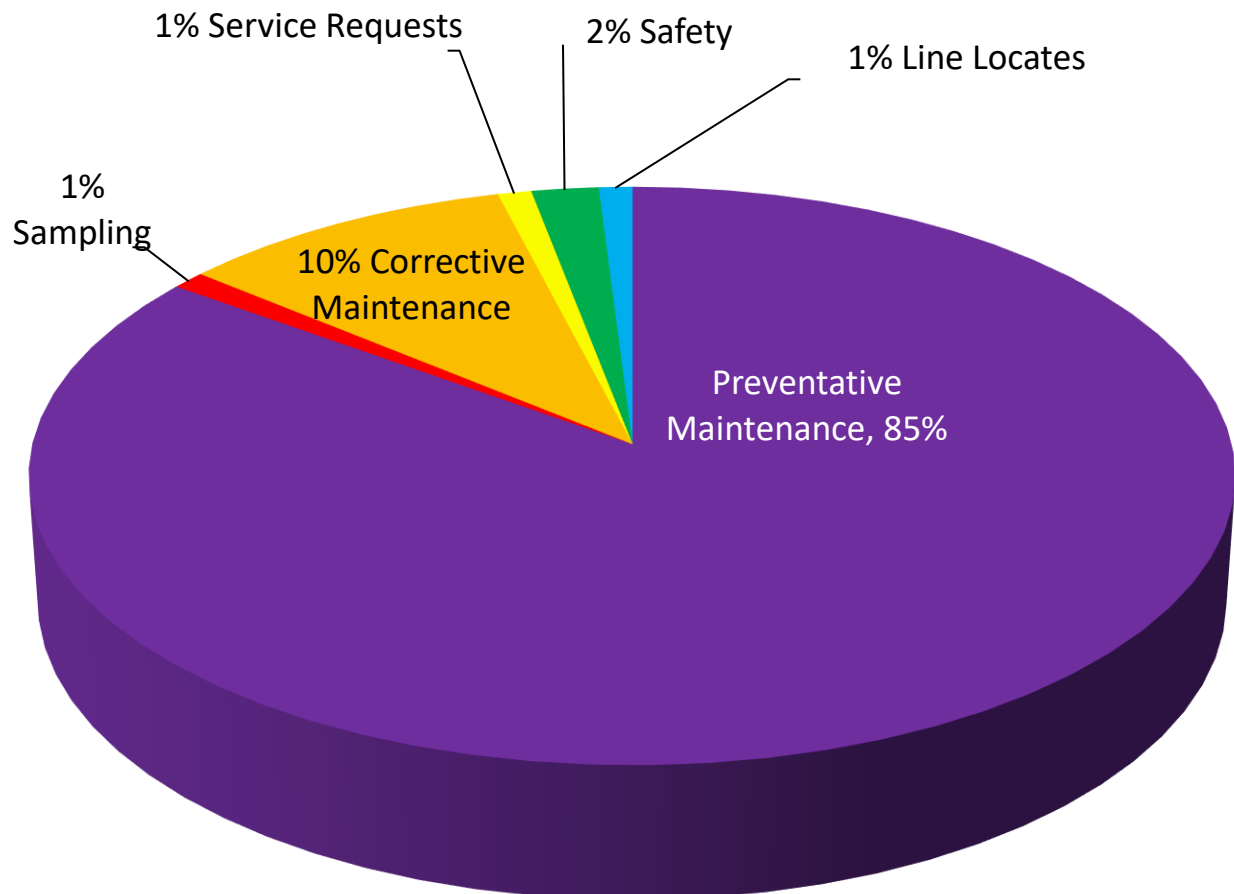
FACILITIES, CEMETERIES, AND PARKS SUMMARY

ACTIVITIES FEBRUARY 2023

- 3 burials at Evergreen Cemetery and 0 at Sunset Cemetery.
- Repaired wooden picnic tables and benches.
- Proficient Roof Maintenance has started repairing the roofs at the wastewater plant.
- Hired a plumber to clean the drain in the apartment building, they installed a new clean out for the building.
- Tree trimming is complete for the parks.
- Installed new shower in the lady's locker room.
- Three new keypad locks installed in the upstairs at City Hall.



OPERATIONS MAINTENANCE: BUILDINGS, PARKS, CEMETERIES AND STREETS SUMMARY



APPENDIX

PUBLIC WORKS DEPARTMENT

The City of Ontario Public Works Department consists of five Divisions that include Administration, Engineering, Water Treatment and Distribution, Wastewater Treatment and Operations (Streets, Stormwater, Buildings, Parks and Cemeteries). The Department has 30 FTEs (full-time equivalent) employees. This service is provided via a Public-Private Partnership with Jacobs Engineering Group, INC.

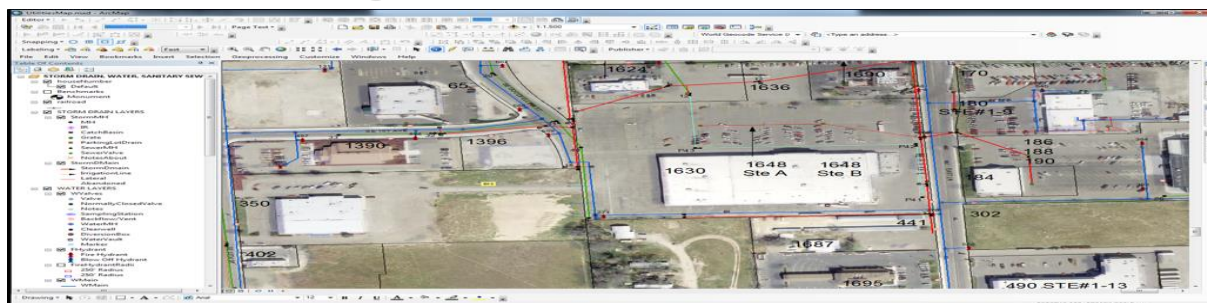
Public Works maintains a water system that complies with the EPA and Division of Health requirements. Staff also maintains the Wastewater Collection system and Wastewater Treatment facilities to meet DEQ standards. These same employees provide sewer and water line construction and maintenance to the City's transportation system (i.e.: streets, sidewalks, bicycle paths, storm-sewer systems, and other infrastructure within the city).

ADMINISTRATION

The Administration Division is responsible for the delivery of all of the contractual obligations and oversees the financial, human resource and all resource management processes. The Administrative Staff evaluate the needs for contracted services, implementing necessary service agreements, developing energy management strategies, and formulating short- and long-term programs and plans in conjunction with City Administration (City Management and City Council).

ENGINEERING

The Engineering Division Department works with other utilities, developers, and property owners in addressing utility issues, public improvements, subdivision development, local improvement districts and other municipal projects. The Department also maintains a set of Standard Specifications for providing uniform procedures for the installation. The staff reviews and approves construction plans for subdivisions, partitions, streets, sanitary sewer, water lines, and storm drainage construction projects. They also design projects, prepare bid documents, and provide project management for Public Works Capital Improvement Program (CIP) project improvements.



February Business Review

The Geographic Information System (GIS) database is maintained by Engineering Department staff. The department also provides support to the city by creating, analyzing, and maintaining the city's geographical digital data. They provide updates to the record maps for all city utilities, right-of-way, easements, land division plots, and city base maps.

OPERATIONS MAINTENANCE

Public Works maintains more than 122 lane miles of improved streets and more than 9 miles of alleys and is responsible for resurfacing, repairing, and maintaining the streets, installing, and maintaining street signs and markings, tree trimming, and repairing all established pavement markings. This Division also completes excavation and repair of deteriorating streets, gravel road grading, street sweeping, crack sealing, chip sealing, snow removal and sanding during the winter months, and weed control along the alleys. Public Works assist Ontario Chamber of Commerce by placing Holiday decorations on streetlights during the season.

ONTARIO PUBLIC WORKS MAINTAINS MORE THAN
122 LANE MILES OF IMPROVED STREETS 9 MILES OF
ALLEYS CHIP SEALS LAST A MINIMUM OF 8 YEARS, AND
PUBLIC WORKS CHIP SEALS 7 MILES PER YEAR 56 MILES
OF STORM DRAIN COLLECTION LINES, AND 1,450 CATCH
BASINS

As part of the annual Street Maintenance Program, crews chip seal street surfaces in the summer months to protect them from water and weather damage and to keep them in good condition. Chip seal roadway treatments help to maintain the existing pavement, delaying further aging resulting from water and sun,

and provides a moisture barrier to existing pavements by sealing surficial cracks. A chip seal application provides substantial savings to taxpayers and can last 8 to 10 years with just minimal roadway maintenance required. The city chip seals approximately 10 miles of streets per year.

The Ontario Park system consists of both active and passive recreational areas. There are four neighborhood parks, one community park, one large urban park, and numerous special use sites in the park system. In total, the City owns 13 park and recreational areas representing more than 1,012 acres of land. The city also owns the Wayne King Skateboard Park. There are two municipally owned and operated Cemeteries – Evergreen and Sunset Cemeteries. The Operations Division is responsible for the operation and maintenance of those areas. Included in their responsibilities are all municipal buildings. This includes general maintenance and repair work, the implementation of preventative maintenance programs, and the administering of service contracts (janitorial, HVAC, electrical, elevator, etc.). This division is also charged with the oversight of facility-related projects, including remodels and systems upgrades.

WATER TREATMENT PLANT

Water treatment plant staff is responsible for treatment of the city's drinking water supply. They must reliably produce high-quality water in adequate volume to meet city needs. Besides the daily laboratory checks, there are monthly, quarterly, and yearly reports.

There are two sources of water for Ontario's estimated 11,090 residents: 80 percent comes from the Snake River and 20 percent comes from wells. Two plants treat the City's water. One is a conventional filtration plant and the other is an up-flow clarifier. The steps for treatment are flocculation, sedimentation, filtration, and disinfection, which meet the compliance of the Oregon Health Authority (OHA).

The Oregon Health Authority requires an operator be on duty 365 days a year. Ontario customers account for 3,845 water services, not including Snake River Correctional Institute (SRCI).

THE WATER TREATMENT PLANT HAS A RELIABLE CAPACITY OF 8.3 MGD AND A MAXIMUM CAPACITY OF 11 MGD.

APPROXIMATELY 80 PERCENT OF WATER COMES FROM THE SNAKE RIVER, THE OTHER 20 PERCENT FROM WELLS.

MAINTAINS 80 MILES OF WATER MAINS.

The Water Treatment Plant has a reliable capacity (capacity with the largest pump out of service) of 8.3 Million Gallons Per Day (MGD) and a maximum capacity of 11 MGD. The water treatment plant average production is 6 MGD and the City's largest industrial user, Heinz Frozen Foods, uses an average of 2.2 MGD of that water.

The City retains surface and groundwater rights permits for a combined total of 38.23 cubic feet per second (cfs), 24.71 MGD for municipal use. One hundred percent (100%) of the City's potable water is treated and disinfected at the water treatment plant. The plant has an original 8-MGD design capacity based on the optimum filter loading rates. The City expanded its treatment capacity in 2006, through the addition of two adsorption clarification and filtration tanks.

Water Distribution System include maintenance and repair of approximately 97 miles of water lines and 3,625 services that include service installations, mainline installation, meter reading, maintenance of more than 600 fire hydrants, and valve exercising of more than 1,700 water valves.

WASTEWATER TREATMENT PLANT

The wastewater treatment plant collects wastewater from the entire city and SRCI. The prison accounts for approximately 16 percent of the flow to the plant.

Wastewater treatment plant operators use a conventional treatment system of aerated lagoons and secondary chlorination treatment. Effluent from the treatment process is used to irrigate forage crops during the growing season. Nine lift stations transport sanitary sewer waste to the Wastewater Treatment Plant. Wastewater is screened and the flow measured at the headworks. Five cells (lagoons) with 25 mechanical aerators assist with biological treatment. Onsite generation of chlorine is used for disinfection.

PUBLIC WORKS MAINTAINS 78 MILES OF SANITARY
SEWER LINES THROUGHOUT CITY LIMITS

Average discharge volume is approximately 1.5 MGD. Winter discharge is to the Snake River from November through March. Summer discharge is land applied to approximately 353 acres of cropland at the Skyline Farm. Sewer collection duties include maintenance and repair of approximately 78 miles of sanitary sewer lines within the city. Responsibilities include constructing new pipelines, cleaning all gravity sanitary sewer lines, repairing or replacing sanitary sewer lines as needed, providing line locations for all water and sewer lines, and maintaining eight lift stations plus a bar screen and one lift station from SRCI. The city has approximately 56 miles of storm drain collection lines and 1,450 catch basins throughout city limits. Duties include storm drain maintenance and repair, cleaning of approximately 11 miles of storm drain lines, and cleaning the catch basins.



February 2023 ACTIVITY REPORT



February 2023



Ontario Fire & Rescue February Statistics		
Total City Emergency Responses	162	84% of Total Responses
City Medical Responses	142	74% of Total Responses; 4 Generals
City Fire Responses	20	10% of Total Responses; 1 General
Top 5 City Emergency Call Types		
Canceled on Scene	21	13% of City Calls
Breathing Problem	13	8% of City Calls
Sick Person	13	8% of City Calls
Lift Assist (non-injury)	8	5% of City Calls
Other	8	5% of City Calls
Other Important Trends		
Overdoses	2	1 % of City Calls
Known COVID	0	0 % of City Calls

Ontario Rural Fire Protection District February Statistics		
Total Rural Emergency Responses	30	16 % of Total Responses
Rural Medical Responses	25	13% of Total Responses
Rural Fire Responses	5	3% of Total Responses; 1 General
Mutual Aid	1	Vale – Canceled Enroute
Top 5 Rural Emergency Call Types		
Psychiatric	5	17% of Rural Calls
Breathing Problem	4	13% of Rural Calls
Sick Person	3	10% of Rural Calls
Pain	2	7% of Rural Calls
Trauma	2	7% of Rural Calls
Other Important Trends		
Overdoses	1	3% of Rural Calls
Known COVID	0	0% of Rural Calls



February 2023



Combined Fire Department February Statistics		
Total Emergency Responses	192	
Total Medical Responses	167	87% of Total Calls; 4 Generals
Total Fire Responses	25	13% of Total Calls; 2 Generals
Top 5 Emergency Call Types		
Canceled on Scene	21	11% of Total Calls
Breathing Problem	13	7% of Total Calls
Sick Person	13	7% of Total Calls
Lift Assist (non-injury)	8	4% of Total Calls
Other	8	4% of Total Calls
Other Important Trends		
Overdoses	3	2% of Total Calls
Known COVID	0	0% of Total Calls

Inspections:

- Cowboy's Bar & Grill
- Dollar General
- Chief Benson has been busy reviewing fire safety plans for multiple buildings and systems in Ontario.

Burn Permits Issued:

City Open Burns – 1
City Burn Barrels - 1

Rural Open Burns - 30
Rural Burn Barrels - 6



February 2023
Firefighter Training

2/2/23 – New recruits learned about fire behavior.

2/9/23 – The class of new recruits trained on ropes, knots, forcible entry, and fire extinguishers. The night ended with a fire extinguisher drill where the recruits put their new skills into practice.



2/16/23 – The new recruits completed their class on ladders and were also put through a physical agility test. The test gave a realistic expectation to the exhaustion that comes with fighting a fire.

2/21/23 – Weekly drill covered air management. LT Grimaldo organized a game of dodgeball which required members to be in full turnouts and air packs. The object of the game was to preserve air and to be mindful of how much was being used.



2/23/23 – The last class for the new firefighters covered fire hose. Once all sections in their training manual are signed off, they can start responding to calls.

2/28/23 – The Hazmat team met for their monthly training. Those not on the Hazmat team ran through a circuit drill training on multiple different skills.



February 2023



Department Updates

- February 23rd was the last day of our in-house academy for our new recruits. They will be presented with department shirts and badges at our next business meeting in March. We are very excited to have these firefighters joining us.
- Chief Benson attended a fire code class in Denver. Upon his return, he passed the International Code Council Fire Plans Examiner test. He is now certified to review fire safety plans in all fifty states and internationally.
- Chief Benson has been researching options to replace ladder truck 109. One of these options involves a Federal Grant. Cost estimates for a good used ladder truck range from \$600-\$750K. New stock (not custom) ladder trucks currently cost around \$1.6 million.
- Administrative Assistant Charlotte New started the Chamber of Commerce Leadership Class. She is excited to network with others in the community and learn valuable skills to help the department.

Community Involvement:

- Chief Benson and Charlotte have been working with Penny Bakefield and the National Night out committee to prepare for an event in August.
- Tom Davis continues to move forward with the Rural Addressing Project. He just received an order of over 100 more signs and will be putting them up as soon as the weather allows him to.
- Chief Benson attended Chamber Lunch and Coffee with the Veterans at the Veterans Hall.
- The department is preparing for the 43rd Annual Firefighter Benefit Dance and Dinner. Proceeds from the event fund programs such as the burnout fund and the smoke detector program.



February 2023
Major Incidents:

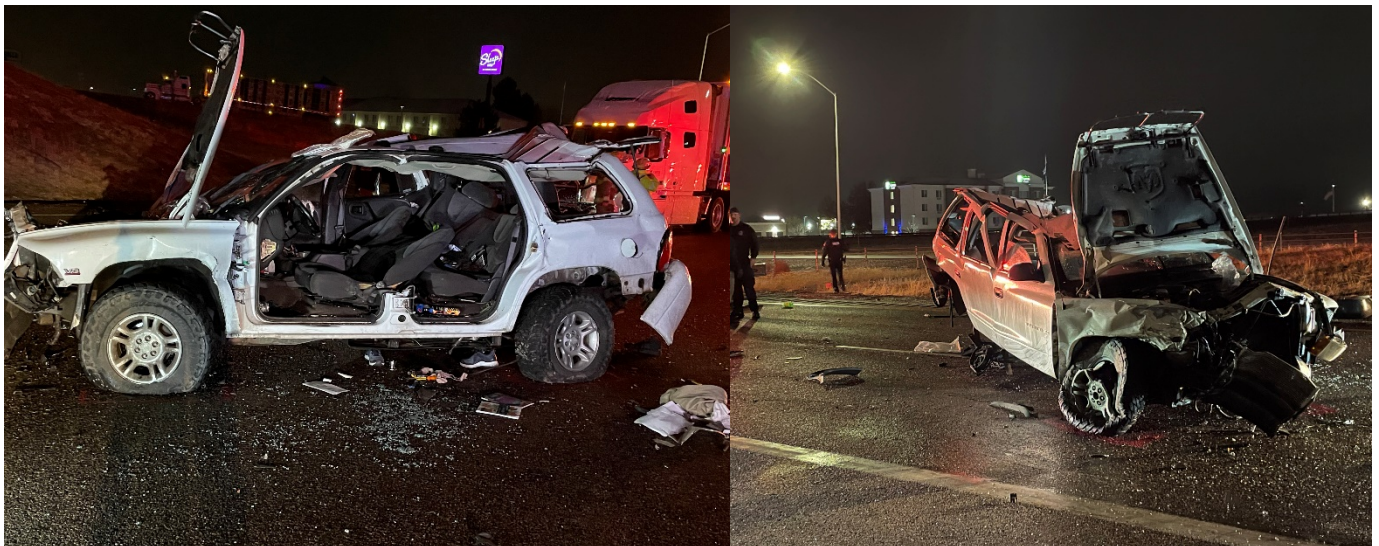
2/13 E Idaho Ave/ SE 2nd St – Male subject was struck by a vehicle in the cross walk. The operator of the vehicle left the scene. Male had non-life-threatening injuries and was transported to the hospital for further evaluation.

2/21 Ontario High School 1115 W Idaho Ave – Police, Fire and EMS were dispatched to the Ontario High School for a potential active shooter situation. Fire responded and staged in the area for further instruction. Fire was on standby for approximately an hour and cleared the scene after being released by law enforcement.

2/24 SW 18th Ave/Alameda Dr – R1 was dispatched to a Motor Vehicle Crash requiring extrication. Upon arrival vehicle was on its side with the operator trapped inside. R1 was able to extricate the victim through the back window.

2/26 768 SE 7th St – Crews were dispatched to a residential address for a possible chimney fire. When on scene a small fire was located and the crew were able to quickly extinguish it

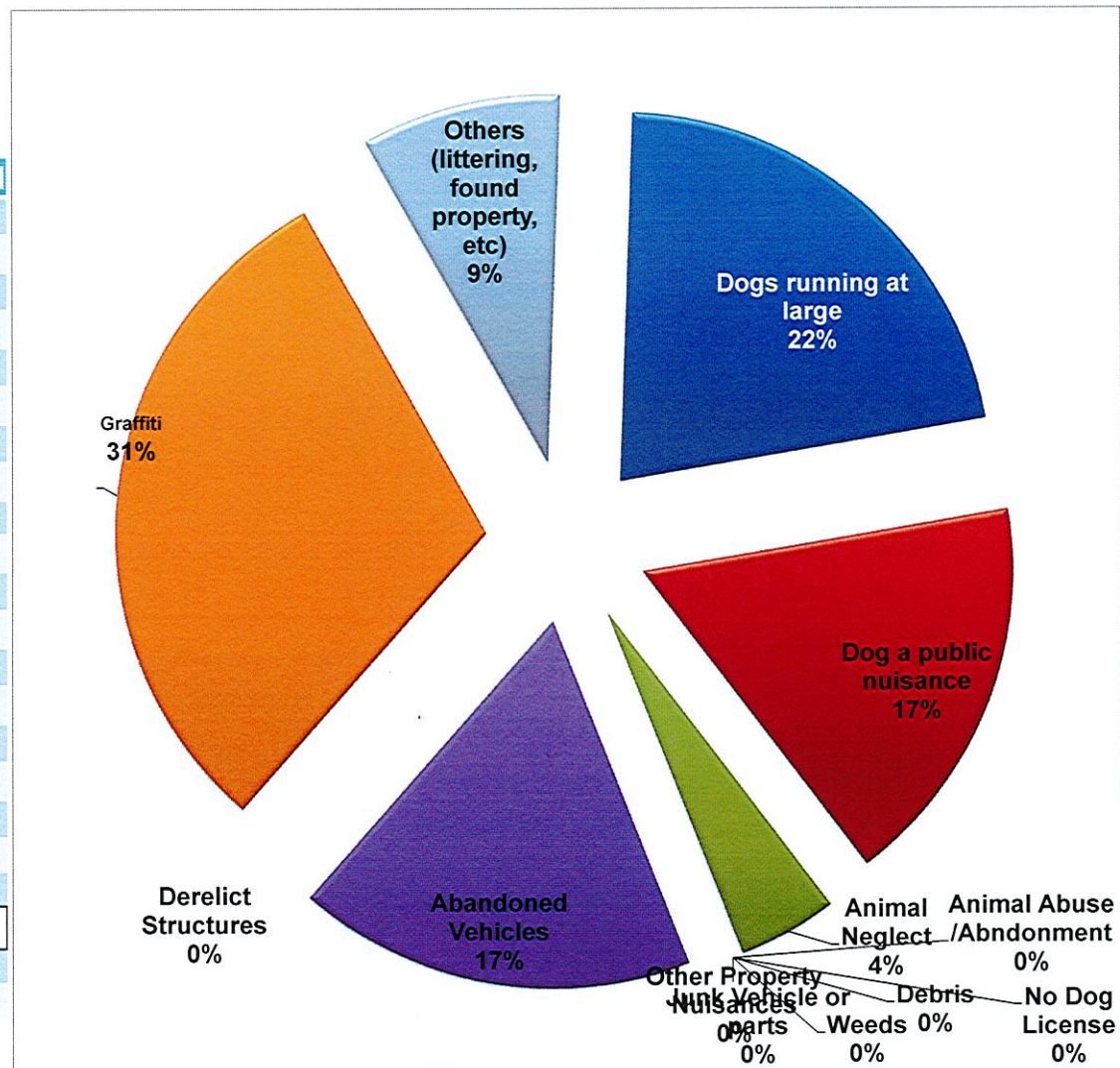
2/28 I-84 MP 376 – R1 was dispatched to a motor vehicle crash. When on scene it was found that the vehicle drove off the overpass and crashed onto the freeway ejecting one passenger and trapping two others. Truck 103 responded to assist with extricating the victims out. All three patients sustained major injuries and were transported to the hospital.



CODE ENFORCEMENT

FEBRUARY: 2023 Stats

Violation	Feb-23	Column1
Dogs running at large	5	
Dog a public nuisance	4	
Animal Neglect	1	
Animal Abuse /Abandonment	0	
No Dog License	0	
Debris	0	
Weeds	0	
Junk Vehicle or parts	0	
Other Property Nuisances	0	
Abandoned Vehicles	4	
Derelict Structures	0	
Graffiti	7	
Others (littering, found property, etc)	2	
Dogs taken to (Fetch This Kennel)	0	
Civil Penalties Issued	0	
C.P. Amount Sent	\$0	
Total Parking Citations	3	
Total Violations	26	
Total Cases	26	



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.





Police Stat Report

FEBRUARY 2023

Activity	2023 January	2023 February	YTD 2023	PRIOR YTD 2022
Calls for Service	1075	967	2042	2126
Case Activity	703	647	1350	1249
Murder	0	0	0	0
Manslaughter	0	0	0	0
Robbery	1	0	1	2
Sex Crimes	5	13	18	12
Burglary	3	13	16	29
Assault	12	12	24	25
Arson	0	1	1	0
UUMV / Auto Theft	7	0	7	20
Arrests	84	75	159	137
Arrests w/Use of Force	2	1	3	5
Gang Related Cases	1	5	6	3
Graffiti	0	6	6	6
Death Investigations	0	5	5	6
SRO Cases	14	15	29	21
Thefts	73	56	129	128
Traffic Stops	76	75	151	305
Cited Traffic/Parking	63	46	109	186
Traffic Crashes	47	35	82	64
Alarms	44	22	66	58