

**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, OCTOBER 22, 2024, 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 _____ Ken Hart _____ Penny Bakefelt _____ Eddie Melendrez _____
Council President John Kirby _____ Mayor Deborah Folden _____

2) PLEDGE OF ALLEGIANCE

This Agenda was posted on October 18, 2024. 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: September 24, 2024; October 8, 2024

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) OLD BUSINESS

A) Ontario Sanitary Rate Increase

7) NEW BUSINESS

- A) Airport Hangar Sales: 331 Echo and 326 Foxtrot
- B) Airport Commercial Ground Lease Template: Aeronautical Use Improvements
- C) Ontario Municipal Airport BLM Way: Gate and East Fence

8) DEPARTMENT HEAD UPDATES:

A) Finance: Monthly Report

9) HAND-OUTS

- A) Minutes: Airport 08-05-2024; County Court 09-09-2024, 09-18-2024, 09-25-2024, 10-02-2024
- B) Check Register:

10) CORRESPONDENCE, COMMENTS AND EX-OFFICIO REPORTS

11) EXECUTIVE SESSION

A) ORS 192.660(2)(d): Labor Negotiation Contract

12) POSSIBLE ACTION FOLLOWING EXECUTIVE SESSION

A) Possible Action on Police CBA

13) ADJOURN

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.

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**CITY COUNCIL MEETING MINUTES****October 8, 2024**

The scheduled meeting of the Ontario City Council was called to order by Mayor Deborah Folden at 6:00 p.m. on Tuesday, October 8, 2024, in the Council Chambers of City Hall. Council members present were Deborah Folden, Susann Mills, Ken Hart, and John Kirby. Eddie Melendrez, Sam Baker, and Penney Bakefelt were excused.

Staff present were Dan Cummings, Tori Barnett, Corinna Hysell, Marshall Pierce, Al Haun, Andy Wood, and Casey Walker.

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

AGENDA

This Agenda was posted October 4, 2024. Copies of the Agenda are available from the City Hall Customer Service Counter and on the city's website www.ontariooregon.org.

HART moved, KIRBY seconded, **TO ADOPT THE AGENDA AS PRESENTED**. Roll call vote: Mills-yes; Baker-out; Hart-yes; Bakefelt-out; Melendrez-out; Kirby-yes; Folden-yes. Motion carried 4/0/3.

CONSENT AGENDA

HART moved, MILLS seconded, **TO ADOPT THE CONSENT AGENDA, WHICH CONSISTED OF A LIQUOR LICENSE APPLICATION: SELECT PLAYERS, LLC; AND A LETTER TO SISTER CITY OSAKASAYAMA, JAPAN, WITH CITY COIN**. Roll call vote: Mills-yes; Baker-out; Hart-yes; Bakefelt-out; Melendrez-out; Kirby-yes; Folden-yes. Motion carried 4/0/3.

Councilor Kirby read the letter to Osakasayama into the record:

The City of Ontario, Oregon, United States of America, would like to recognize the special relationship created fifty years ago between Ontario and her Sister City Osakasayama, Japan. This special relationship has allowed citizens from both countries to travel and experience the hospitality, generosity, and goodwill offered to travelers by both Ontario and Osakasayama. To commemorate this occasion, the City of Ontario presents this 100th Anniversary coin that was designed in celebration of Ontario's centennial. The coin is marked as celebrating 1883 as our date of establishment; however, it was later discovered the correct year of incorporation was 1884. The two sides of the coin signify different things. One side is a relief of the State of Oregon, whose territory initially occupied most of the Pacific Northwest. Once statehood was given, Oregon was provided a definition of boundaries, with Ontario's location noted on the far eastern border. The other side of the coin memorializes a Conestoga wagon that carried the possessions of pioneers traveling the Oregon Trail on their way to the Oregon Territory. Ontario is located near the original route of the Oregon Trail, a trail that allowed for the migration of the pioneers from the eastern states out to the wild, wild west. This coin is presented to you by two City Councilors from Ontario, as well as the son of one of the original sponsors of the Sister City relationship. It is our sincere hope that the friendship and goodwill established by this relationship will continue to prosper.
Respectfully, Deborah K. Folden, Mayor of Ontario



OLD BUSINESSCity Camera System Upgrade

Dan Cummings, City Manager, presented.

City staff had been working on options to improve city security cameras. The existing security camera system contract with Day Wireless would expire November 10th, with a two-week notice (October 25th). The city budgeted \$150,000 in the Enterprise Camera Fund and an additional \$13,651.00 in the Airport Camera Fund for a total of \$163,651.00 for replacing/upgrading and adding new cameras to the system. The existing cameras were out of date and did not give the total protection the city needed to combat theft and vandalism, as well as the protection of city employees, vehicles, and infrastructure.

The city also needed new body cameras and updated software for the protection of the city police officers, and for the safety of the public. The City Council asked staff to look into reducing the proposed security camera system to allow for some of the budgeted funds to go towards the needed body camera system.

At the August 27, 2024 City Council meeting, staff made a presentation to the Council on the body camera needs, as well as the security system needs. The Council voted (see motion below) and authorized staff to put out a Request for Proposal (RFP) for the body camera system. Staff was currently in the process of putting the RFP together. Motion: *"MELENDREZ moved, MILLS seconded, THE CITY COUNCIL APPROVE THE REQUEST TO BEGIN THE REQUEST FOR PROPOSAL PROCESS FOR A BODY-WORN CAMERA SYSTEM, WHICH IS CLOUD-BASED AND HAS THE ABILITY TO REDACT SENSITIVE INFORMATION PURSUANT TO LAW. Roll call vote: Mills-yes; Baker-out; Hart-yes; Bakefelt-yes; Melendrez-yes; Kirby-yes; Folden-yes. Motion carried 6/0/1."*

During that same meeting, OPD Lt. Jason Cooper made a presentation to the Council, outlining three options for the security camera system, which addressed the Council request. Lt. Cooper stated for all three options being presented, they were locked into the five-year plan for \$42,737. However, for the remaining funds from the initial \$150,000, there were three options:

- A: Option #1 would defer the camera improvement program to the next fiscal year, and pay just the mandatory five-year licensing subscription for \$42,737. They could then redirect the remaining funds towards the body-worn camera project for \$107,263.
- B: Option #2 would be the mandatory licensing for \$42,737, an upgrade/replacement of half the system cameras for \$43,112, defer the remaining cameras and airport cameras to the next fiscal year's budget process, and to redirect the remaining funds toward the body-worn camera project for \$64,151.
- C: Option #3 would be the mandatory licensing for \$42,737, an upgrade/replacement of half the system cameras for \$43,112, complete the airport camera expansion project for \$13,651, defer the remaining cameras to the next fiscal year budget process, and to redirect the remaining funds toward the body-worn camera project for \$50,500.

Mr. Cummings stated staff supported Option #1, because it provided time to obtain bids for the body cameras. Also, he and Lt. Cooper had met with another firm, who they were seeking a quote from for the camera system, and possibly, before the contract expired, there might be another option for the cameras. The cameras themselves belonged to Verkada, and they could not be used with another system. If the city selected a different firm, all the cameras would have to be replaced. He also wanted to personally speak with Verkada. He didn't like the city being strung out with a system that could potentially go away and with those cameras not belonging to the city, the city would have to purchase a whole new system anyway. He believed they'd be meeting with this other company later in the week, and hoped to get a quote from them. Based on that information, the Council made the following motion: *"HART moved, BAKEFELT seconded, THE CITY COUNCIL GIVE STAFF AUTHORITY TO MOVE FORWARD WITH OPTION #1, AND IF STAFF CHOSE A DIFFERENT PATH, THEY WOULD NEED TO COME BACK BEFORE COUNCIL FOR A CHANGE FROM OPTION #1. Roll call vote: Mills-yes; Baker-out; Hart-yes; Bakefelt-yes; Melendrez-yes; Kirby-yes; Folden-yes. Motion carried 6/0/1."*

Following the guidelines from the City Financial Policy, staff contacted different firms and requested written proposals; three proposals were received. Bid data summarized below:

- Vendor #1: Day Wireless, Boise: \$104,420.00 using Verkada manufacturing cameras that cannot be used with any other system, with a one-year service agreement. (Cloud based cameras)
- Vendor #2: Alpine Alarm, La Grande: \$90,617.80 using Verkada manufacturing cameras that cannot be used with any other system, with a one-year service agreement. (Cloud based cameras)
- Vendor #3: Avidity Solutionz, Ontario: \$68,367 using Open Eye manufacturing cameras that can be used with many other systems, with a one-year service agreement. (Cloud based cameras)

Avidity Solutionz was not only the lowest responsive bidder, but their cameras and systems could be used with any other provider. Staff requested only one-year contracts in order to have the ability to change service providers if staff was not satisfied with the service. Avidity Solutionz also provided a proposal for a mixed system of cloud-based and NVR-based cameras, which gave the city the ability to lower the overall cost of the system now, as well as when the city added more cameras. In the process of researching this project, as it was more than staff wanted to spend, Avidity provide a solution, in that they included a bid for a mixture of cloud based cameras and NVR based cameras. NVR-based was where they tied into a box and recorded to it, so all the memory wasn't stored in the cameras. That bid came in at \$54,684 (see hand-out), which was about \$10,000 more than was budgeted, like the \$42,000 just for the contract without placing any cameras. For the best money, it was to go with Avidity, for the additional \$10,000, still leaving the \$107,000 +/- for the body cameras. That way, staff would replace all the cameras. With the new system, if that's the option the Council selected, the evidence room, when it had been remodeled, there were ten cameras there, which was a stand-alone system. To connect that with the proposal, it was a cost of \$18,000+/- to connect those cameras to their system. On the hand-out presented that night, he had asked that provider for a cost to connect their system to ours, basically reusing the cameras. Just for getting hooked-up was an additional \$2,800. Or, what was recommended was a rack system, for another \$4,500. He was not convinced the city needed the rack, but that was up to the Council to decide. The first proposal was to go with Avidity with replacing all the cameras and connecting them all later, or, if they wanted to connect them now, then the not to exceed number would be the \$60,500, which left \$103,151 to go towards the body cameras.

Timing was of the essence as the existing contract expired near the end of October, so a decision was needed.

HART moved, MILLS seconded, **THE CITY COUNCIL APPROVE THE CITY MANAGER TO ENTER INTO A CONTRACT WITH AVIDITY SOLUTIONZ FOR THE UPGRADING OF THE EXISTING CITY SECURITY CAMERA SYSTEM FOR AN AMOUNT NOT TO EXCEED \$60,500.** Roll call vote: Mills-yes; Baker-out; Hart-yes; Bakefelt-out; Melendrez-out; Kirby-yes; Folden-yes. Motion carried 5/0/2.

NEW BUSINESS

Apron Expansion Project – COAR Grant

Andy Wood, Airport Manager, presented.

The Ontario Municipal Airport needs additional apron parking space for larger aircraft as growth at the airport has increased. This project would consist of the expansion of approximately 6,500 square yards of the large aircraft parking apron. The apron would be designed to meet the requirements of TDG-2A, and would allow for three additional parking spaces for larger aircraft.

The Airport Committee, city staff, and City Engineers JUB have been working to find additional funds for the Apron Expansion Project at the airport, which currently cost \$1,000,704, an increase above the original estimated budget of \$750,000. The funds for the original estimate would be provided from three entities: FAA @ 90% for \$675,000; the State of Oregon @ 9% for \$67,500; and the City of Ontario @ 1% for \$7,500. However, when JUB and city staff attended the bid opening in April 2024 for the project, the bids came in



higher than originally estimated. Due to those results, staff worked to find additional grant funds to cover the additional cost portions of the project.

The estimated total project cost was now \$1,000,704, which would be funded through an FAA Grant for \$900,633; a COAR Grant for \$90,000; with the city adding the remaining \$10,071. Currently the Fiscal Year 2024-2025 city budget had \$8,000 budgeted for the project match. The additional costs would require \$2,071 in additional funding. There was leftover funding in the Airport Gravel Project budget that could be utilized for this needed match increase. To stay on schedule, the Council should approve this project with the COAR grant as soon as possible, which would allow construction to begin mid-October 2024, with a completion in the Spring, 2025.

Councilor Mills verified that of the \$1,000,704, the city was responsible for \$10,071, correct, for three new landing pads?

Mr. Wood stated that was correct.

Councilor Hart stated he had sent an email to Mr. Wood and Mr. Cummings asking some questions on this project, and asked that those be answered in this forum.

Mr. Wood stated they looked at the return of value from last summer's earnings received. There were 70,000 gallons of Jet-A fuel sold through the FBO, in July and August, for a value of \$6,300, which was set aside. Above that, the corporate apron earned around \$5,800 this year, which came from tie-down fees, commercial usage fee, and the flowage fees for fuel that was brought onto the airport, not through the FBO. In that timeframe, the airport could see \$5,500-6,000 of income was coming in because of usage on the corporate apron. Corporate jets contributed to more than just the airport because they were usually here for a few days, staying at hotels, eating in restaurants, and conducting their business. Large, heavy aircraft currently had no landing fee, but that was under review by the Airport Committee. Worst case, they should be able to recoup a significant amount of funding through the fees that had been applied that year, as well as what they could apply for the landing fee, too. Looking at corporate jets within that same summer period, one corporate jet landed, but there was no fuel to fill him up, so he left for Boise. That was a regular customer the airport had every year, so that was disappointing.

Councilor Hart stated he had taken a tour with Andy, where they spoke with an individual, "JT", and they talked about landing fees, and, wanting to be mindful of the local folk who had planes in hangars, but the corporate jets, and he assumed that when that corporate jet went to Boise and landed, he didn't land for free. He was looking for ways to continue to generate additional income. JT noted pilots wouldn't blink at paying a landing fee. It would take some investment, and some type of camera to capture information on the plane, and some type of billing mechanism for billing automatically. They'd all heard him say before, oh there's another \$10K from the General Fund that could have been used for something else, and yes, it matched or leveraged other money, but leveraging additional money so other people could park corporate planes at the airport, didn't always benefit Ontario. He would support this action, with an eye towards that the city was going to work on seeing about implementing some landing fees, especially on the larger planes, who would probably be more than willing to reimburse the city. He thanked Mr. Wood for the follow-up on his email questions.

Mr. Cummings stated they were also looking at, to avoid running people off, the landing fee could be that if someone fueled up in Ontario, the landing fee could be reduced or removed. But, no fuel, pay the landing fee. The cameras could pick up the tail number, but they were researching the cost of developing the program to track that number, put it in a database, so staff would know how many times the aircraft landed, and then send an invoice out automatically. All that information would come back to the Council.

MILLS moved, HART seconded, THE CITY COUNCIL APPROVE THE APRON EXPANSION PROJECT, TOTALING \$1,000,704.00. THIS INCLUDES A MATCH INCREASE OF \$2,071.00 TO A TOTAL \$10,071.00, THE FAA COMPANION GRANTS EQUALING \$900,633.00 AND ODAV COAR GRANT OF \$90,000.00 AND ALLOWING THE CITY MANAGER TO SIGN ALL RELEVANT DOCUMENTATION FOR THE APRON EXPANSION PROJECT. Roll call vote: Mills-yes; Baker-out; Hart-yes; Bakefelt-out; Melendrez-out; Kirby-yes; Folden-yes. Motion carried 4/0/3.



HAND-OUTSMonthly Department Stats

Public Works, Fire & Rescue, Police, Code Enforcement: September 2024

CORRESPONDENCE, COMMENTS, AND EX-OFFICIO REPORTS

- Councilor Hart stated he hoped staff was continuing to work on what a possible fuel tax might look like, and deciding at what election they would go for, having that discussion with staff to say if they did raise the money, what would they use the funds for, and then convince the Council that was something to move forward on, and then work backwards to what election it would be.

Mr. Cummings stated he had met with Public Works, and they were working on a plan to figure out what streets they would propose to use the money for. They were putting together a CIP, of sorts, to base the fuel tax on. Once they knew what projects needed to be done, not only the projects to be fixed, like road repair, but also to ensure they were funding to keep them maintained, too. The proposal that would go before the citizens would show if they voted for a fuel tax, here were the projects that would be done, as well as the maintenance. He hoped to have that to the Council in the next few months. He'd like to hear how the public felt about such an action. He'd like to get the citizens talking about it, to see if they'd even support such a thing.

- Councilor Hart stated an article in the Idaho Statesman read that Boise was moving forward on installing cameras at their stop lights as a safety issue. He hoped that staff here was working on something similar to get some numbers together for the Council, to see if that was something the city could do here in Ontario, to help with chronic red light running and the safety hazard that caused.

Mr. Cummings stated that process had started. He had Chief and the two Lieutenants researching the pros and cons, and hopefully were getting some costs put together. He asked them to look at the lighted intersections only for now. Those were the ones with the most traffic violations. People were running full on red lights, not just yellow lights, and it was getting very scary. That information would be brought back to Council.

EXECUTIVE SESSIONExecutive Session: ORS 192.660(2)(d)

An executive session was called at 6:29 p.m. under provisions of ORS 192.660(2)(d) to provide a Labor Negotiation update. The Council reconvened into regular session at 6:38 p.m. No action was taken as a result of the executive session.

ADJOURN

HART moved, KIRBY seconded, **THAT THE MEETING BE ADJOURNED**. Roll call vote: Mills-yes; Baker-out; Hart-yes; Bakefelt-out; Melendrez-out; Kirby-yes; Folden-yes. Motion carried 4/0/3.

ACCEPTED:

ATTEST:

Deborah K. Folden, Mayor

Tori Barnett, MMC, City Recorder





CITY COUNCIL MEETING MINUTES September 24, 2024

The scheduled meeting of the Ontario City Council was called to order by Mayor Deborah Folden at 6:00 p.m. on Tuesday, September 24, 2024, in the Council Chambers of City Hall. Council members present were Deborah Folden, Susann Mills, Penny Bakefelt, John Kirby, and Eddie Melendrez. Sam Baker and Ken Hart were excused.

Staff present were Dan Cummings, Corinna Hysell, Laura Reyes, Tatiana Burgess, Marshall Pierce, Al Haun, Michael Iwai and Andy Wood.

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

AGENDA

This Agenda was posted September 20, 2024. Copies of the Agenda are available from the City Hall Customer Service Counter and on the city's website www.ontariooregon.org.

Request to add 4C under Consent Agenda – Liquor License Application for The Curb.

KIRBY moved, MELENDREZ seconded, **TO ADOPT THE AGENDA AS AMENDED**. Roll call vote: Mills-yes; Baker-out; Hart-out; Bakefelt-yes; Melendrez-yes; Kirby-yes; Folden-yes. Motion carried 5/0/2.

CONSENT AGENDA

MILLS moved, KIRBY seconded, **TO ADOPT THE CONSENT AGENDA, WHICH CONSISTED OF APPROVAL OF COUNCIL MEETING MINUTES OF SEPTEMBER 10, 2024; PROCLAMATION #2024-103: NATIONAL HISPANIC HERITAGE MONTH/RECOGNIZING EVA CASTELLANOZ AS A PIONEER OF CHANGE; AND LIQUOR LICENSE APPLICATION: THE CURB**. Roll call vote: Mills-yes; Baker-out; Hart-out; Bakefelt-yes; Melendrez-yes; Kirby-yes; Folden-yes. Motion carried 4/0/3.

Mayor Folden read the proclamation:

WHEREAS, Hispanic Heritage Month is celebrated the last half of September through the first half of October; and WHEREAS, It was started by President Lyndon B. Johnson as a week-long celebration, later expended to 30 days by President Ronald Reagan, to promote the history, culture, and contributions of Hispanic and Latin Americans through festivals and educational activities; and WHEREAS, The 2024 theme is "Pioneers of Change" and local "Pioneer" Eva Castellanoz has lived in this area for many years, as a mother, healer, artist, activist, and teacher; and WHEREAS, Eva has embraced Eastern Oregon as her home, while continuing to share her Hispanic heritage with pride. She has become an important figure among Mexican Americans due to her creations of paper and wax flowers used at baptisms, weddings, and quinceaneras; and WHEREAS, Eva, after the birth of her last child, was spiritually called to be a Curandera, a practice that blends the indigenous Mexican traditions; WHEREAS, Many years in the fields, struggling with poverty and other difficulties, engendered her activism. For over 30 years, she has worked with young people, including troubled youth. She teaches art as a tool for personal and social transformation. The "root" of culture, she argues, can heal social dislocation and strengthen communities; and WHEREAS, Eva has been recognized by President Richard Nixon as a national treasure with prestigious honors; and acknowledged by President Ronald Reagan through a National Heritage Award, National Public Radio has shared articles about her healing activities, and Four Rivers Cultural Center has showcased her floral art; and WHEREAS, Eva has demonstrated her commitment to Ontario by sharing her culture and caring for the people and youth of the community. NOW, THEREFORE,



BE IT RESOLVED that I, Deborah K. Folden, Mayor of Ontario, Oregon, do hereby acknowledge National Hispanic Heritage Month, and the life of Eva Castellanoz as a Pioneer of Change during National Hispanic Heritage Month. Dated this 24th day of September, 2024.

Councilor Melendrez presented a piece of his artwork as a gift to Ms. Castellanoz.

PUBLIC COMMENT

John Breidenbach, Chamber of Commerce CEO, Ontario, stated: *As you know, I run the Ontario area Chamber of Commerce and Visitors and Conventions Bureau. So, I wanted to come tonight, first and foremost to share with the candidates of this upcoming election. Thank you again for throwing your names in there and to candidates and the others that are running, we will host a candidates forum. I gave everybody a flyer and Tori and Corinna have one to share on October 7th, at 6:30, at TVCC, at Weese 110. There will be a question and answer period so our community can get to know the candidates. So I'd like to invite you to that. I also have had a meeting recently with City Manager Dan Cummings, and he said that it was time for me to come back to City Council and give a report on the Visitors and Conventions side. We were looking at a late October date, so I'm here to ask that if I can get that date in November or December, I would be much happier, just because there's been so much going on. But I'm going to tell you three quick stories of what's happened so wonderful lately. The Mayor knows one of the stories because she was there and witnessed it with Rick. So, we had the Tater Tot Festival here this last Saturday. Early in the Spring, I spent about \$9,000 of the TOT money, advertising really hard in the Oregonian, concentrating on their social media side for the Boise market, the Seattle market, the Portland market, and the Bend market. Did that prior to Global Village. Our numbers for Global Village were right around 3,800 people, and had them come from as far away as Kennewick, Washington. So, Saturday at the STOL event, we ran into a couple that was walking around the park, not the STOL event, at the Tater Tot event, I'll get to the STOL event, at the Tater Tot event we ran into a couple that were from Seattle, Washington, and they said they saw the story in the Seattle Times. I said no, it was probably in the Oregonian because we had a rider here, which you may have seen the video that she did, and then she followed up with the video about the onion. If you haven't seen that one, go to our Facebook page and see that one. That was amazing. So, anyway, he showed me on his phone, and her story was picked up by the Seattle Times. So this couple was on a two-week road trip, just husband and wife and the two dogs, and they changed their plans Saturday prior to coming, cancelled a reservation in Boise, in a hotel, on the river, and stayed here in Ontario because the Tater Tot Festival had them interested in what this was all about. They stayed at Ontario Inn, they had a great time, and so that is proof that TOT tax does come back around and events like the Tater Tot Festival make a big impact on our community. Don't have the final numbers for all that, which we will. National STOL event: there was quite the discussion prior to National STOL about would it be worth it, would it not be worth it, should we keep the airport open, should we not close the airport, so we interviewed those people from Seattle, and I have that, I'll have it in my November/December presentation. We also had an opportunity to interview two pilots that were from Springfield, Oregon, and Eugene, Oregon, and they both kind of considered this their home event, if you will, and by the way, one guy did really well and took first place in his class. But, so I asked them on the video about STOL events and where all they travel, and they loved Ontario for the one reason, was the grass runway. Back country pilots, which is where STOL was invented, coming out of Alaska and all that, love and will look for airports with grass runways. And we made a great impression and if you happen to go out there on that Saturday, there was about at least 400 spectators pretty much throughout the whole day. So, it did bring in a lot of people. So, with that being said, I know my three minutes are up. So, I gave you all a flyer for Santa's Breakfast, and then I'd like to remind you that in November, on the 22nd and 23rd, we'll be doing Frosty Fest downtown, and on December 7th we will host the Winter Wonderland Parade. The theme this year is Disney Out of the Books. Thank you Madam Mayor, Council.*

Mayor Folden added the STOL event was a huge success, and the Tater Tot Festival also was. The music was fabulous, and the food was great.

Councilor Bakefelt thanked Mr. Breidenbach and the Chamber for supporting the grant fund for National Night Out. Attendance and vendors were doubled, and doubled the fun, too.



Mr. Breidenbach: *I really, looking back, to me, the season always kicks off with Global Village, the first Saturday in June, and usually ends with this last weekend. But we had, new events, I won't say extra events, but we had new events between the Tater Tot Festival and that second year for National Night Out. And I really can't think of an event this year that wasn't better attended than the years before and the community just really appreciates that we keep doing that. So, we are spending some tax, TOT money, Transient Occupancy Tax money, on a program that has a geofencing so when you do National Night Out, or we have a big event in town, we can see where the people came from, where they go next, and how much money they spent there. And my class on that is actually October 7th, so I'm still learning how to use that software because it's new software to me, and so that's one of the reasons I want to push my presentation down, so I can bring numbers. If you want to know for a specific event, I can have those numbers, too. Thanks again.*

NEW BUSINESS

Construction Change Order #4: SE 5th Avenue Project

Marshall Pierce, City Engineer, presented.

The original design and traffic control plan for this project allowed for full bridge closure along SE 5th Avenue. In May (Memorial Day weekend), this was attempted and not well executed due to the delays caused to motorists. ODOT preferred the city keep at least one lane open to minimize impacts to motorists. As such, a revised traffic control plan was needed, construction work was re-sequenced, and additional time and materials required, above and beyond the project's base-contract/awarded scope of work. ODOT awarded the city grant funding to implement the project, and a portion of those funds were being used to fund this construction change order. Irvco Change Order #4 was ready for approval, paid for with remaining ODOT grant funds. The amount of the change order was \$167,586.

If the City Council elected not approve the change order, the project would be put on hold with incomplete sidewalks/road work, as well as risk extended General Condition costs that would be the city's responsibility to pay.

KIRBY moved, MELENDREZ seconded, **THE CITY COUNCIL APPROVE IRVCO CHANGE ORDER #4 TO MODIFY CONSTRUCTION SCHEDULE AND SEQUENCING TO ALLOW FOR A SINGLE LANE BRIDGE CLOSURE AND RELATED EXPENSES AND AUTHORIZE THE CITY MANAGER TO SIGN THE RELATED DOCUMENTS.** Roll call vote: Mills-yes; Baker-out; Hart-out; Bakefelt-yes; Melendrez-yes; Kirby-yes; Folden-yes. Motion carried 5/0/2.

Bid Award: Excavation Services: Water Meter Material Confirmation for Lead/Copper Inventory Project

Marshall Pierce, City Engineer, presented.

The city contracted with Jacobs Engineering to lead the water service line inventory compliance support. The city was required to develop an initial LSL (lead service line) inventory (as part of the Lead and Copper Rule revisions) by performing a preliminary records review to include field verification of service line material, and submit the inventory to Oregon Health Authority by October 16, 2024.

As the anticipated contract amount was less than \$50,000, the city was able to forego the formal procurement process and obtain quotes by reaching out to qualified contractors directly. The city reached out to three contractors, receiving only one proposal. Staff was prepared to award the contract and issue a Notice to Proceed for field services to commence.

The city budgeted \$100,000 for Lead and Copper Rule Revisions in total, and \$50,000 for this field support contract. Time was of the essence, as the inventory was due to OHA by October 16, 2024.

The buildings or customers were randomly selected, but randomly selected from a list of buildings or residences that were older than 1988, regarding construction. 1988 was when the EPA banned lead building materials. Their hypothesis was that they should not find any lead containing service lines. That was more common during the 1920-1940s. There was no record in the State of Oregon, that he was aware of, of having lead service lines. They might find rusted galvanized lines, which should be replaced, but that was not lead or copper.

MELENDREZ moved, BAKEFELT seconded, **THE CITY COUNCIL APPROVE THE BID AWARD TO OLSON LLC FOR THE EXCAVATION FIELD SERVICES CONTRACT IN THE AMOUNT OF \$30,585.00, PLUS A 50% CONSTRUCTION CONTINGENCY, FOR A TOTAL OF \$45,878.00, AND AUTHORIZE THE CITY MANAGER TO SIGN THE RELATED DOCUMENTS.** Roll call vote: Mills-yes; Baker-out; Hart-out; Bakefelt-yes; Melendrez-yes; Kirby-yes; Folden-yes. Motion carried 5/0/2.

Accept Public Utility Easement Along North Park Boulevard

Dan Cummings, City Manager, presented.

Norm Poole Oil, Inc., through Ralph Poole, as part of the improvement of their property in building a portion of NW 16th Avenue for future development of the property, needed to dedicate a Public Utility Easement to allow for the construction of the project and inspections thereof. In doing so, they wanted to dedicate the Public Utility Easements prior to any partition or subdividing of the land to allow for the extension of a waterline to connect to the waterline in NW 16th Avenue for a looped system.

To be able to construct public utilities, an easement was required to be in the city's name so the water line could be constructed to city standards and to provide inspections of the project.

The Council could, by motion, not accept the easement offered and require the developer to have some other means of connecting the waterlines. This could result in the city not having a looped water system to maintain good fire pressure and clean water.

KIRBY moved, MILLS seconded, **THE CITY COUNCIL TO APPROVE AND ACCEPT THE UTILITY EASEMENT ALONG A PORTION OF NORTH PARK BOULEVARD AND ADJACENT PUBLIC UTILITY EASEMENT FOR THE DORK CANAL AS DESCRIBED AND SHOWN IN THE EASEMENT DOCUMENT AS ATTACHMENT 1 OF THIS REPORT AND AUTHORIZE THE MAYOR TO SIGN THE PUBLIC UTILITY EASEMENT AND CAUSE IT TO BE RECORDED WITH THE COUNTY CLERK.** Roll call vote: Mills-yes; Baker-out; Hart-out; Bakefelt-yes; Melendrez-yes; Kirby-yes; Folden-yes. Motion carried 5/0/2.

City Council Policy for Proclamations

Dan Cummings, City Manager, presented.

Council asked staff if there was a set policy in place which addressed the procedure for accepting and/or adopting proclamations by the City Council from external organizations. Staff was unable to locate a written policy after conducting a search of city records. Staff also researched what type of proclamations the city had done previously; however, the list was possibly incomplete as it's unclear if copies of proclamations were kept in city records.

Staff researched how other communities created or accepted proclamations. The process varied, with some communities stopping external proclamations completely. The cities which did perform proclamations required them to be of citywide significance, and demonstrate relevancy to their city and its community. Staff created, based on the summary of what other communities do, a policy and application process for the City Council to consider.

The Council could choose not to establish a set policy. Staff would accept and present any proclamation request to the Council before adding it to the agenda. Council would then review each submission and decide what to do on a case by case basis.

MELENDREZ moved, KIRBY seconded, **THE CITY COUNCIL TO APPROVE THE ONTARIO PROCLAMATION POLICY 2024 AND THE APPLICATION LABELED REQUEST FOR PROCLAMATION AS PER ATTACHMENTS ONE AND TWO RESPECTIVELY.** Roll call vote: Mills-yes; Baker-out; Hart-out; Bakefelt-yes; Melendrez-yes; Kirby-yes; Folden-yes. Motion carried 5/0/2.

PUBLIC HEARING**Ordinance #2829-2024: Annexation of Tax Lot 301 on Assessor's Map 18S47E05AA – A 0.34 Acre Parcel and Rezone from Urban Growth Area Residential Zone (UGA-RS) to Single Family Residential Zone (RS-50)**

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

Tatiana Burgess, Planning Director, presented.

In 2020, the subject parcel consisted of 0.97 acres, more or less, zoned Residential (RS) within the Urban Growth Area. Per Ordinance #2780-2020 (Malheur County Recorded Instrument #2020-4380), a portion of the parcel (27,549 square feet, or approximately 0.63 acres, more or less) was rezoned to Light-Industrial (I-1) within the Urban Growth Area, with the intent of processing a property line adjustment, and to add the newly rezoned land to the adjacent Tax Lot 300 on Assessor's Map 18S47E05AA. The deed for the property line adjustment was filed on April 6, 2021, and was done to align the property lines with the existing occupational lines.

The remaining parcel, consisting today of 14,908 square feet, or approximately 0.34 acres, zoned Residential within the Urban Growth Area, was already developed. There was a single-family dwelling on the property, constructed in 1966. The adjacent right-of-way (North Verde Drive) was previously annexed to the city by Ordinance #2757-2019.

This request for annexation received a recommendation for approval from the Planning Commission to the City Council, who would be the decision maker for this action. This action was seeking approval for the annexation of Tax Lot 301 on Assessor's Map 18S47E05AA to the city limits, within the Single-family Residence (RS-50) zone, consisting of 0.34 acres, more or less. The Planning Commission held a public hearing on September 9, 2024. No testimony was received. There were no comments submitted by Fair Housing Council of Oregon.

The proposed development must comply with applicable provisions of the OCC (City of Ontario Zoning Ordinance as set forth in the Ontario City Code), and the City of Ontario Comprehensive Plan. Generally, unless otherwise noted, if a request was found to be consistent with the zoning ordinance, it was considered to be consistent with the Comprehensive Plan, and the planned development was approved zoning under the Comprehensive Plan.

A. Rezone

1. *Section 10B-20-30 REQUIRED FINDINGS, DECISION CRITERIA. In preparing findings to support a quasi-judicial zoning map amendment decision, the following findings shall be addressed except when alternatives are set forth or where a required finding clearly does not apply to the current action:*

- a. *The zoning map amendment is in conformance with statewide planning goals and guidelines.*
- b. *The zoning map amendment is in conformity with the acknowledged comprehensive plan.*
- c. *The applicant has demonstrated a mistake or error in the original zone designation, or the applicant has demonstrated a change in physical, social or market conditions generally affecting the area which makes the proposed change appropriate.*
- d. *A public need is demonstrated for this zoning at this location and is not the granting of a special privilege for a single property or small group of properties.*
- e. *The property affected by the change is adequate in size and shape to facilitate its use and development as permitted under the new zoning classification.*



- f. The property affected by the proposed change of zone is properly related to streets and public facilities and with services adequate to meet the demands of the uses allowed in the new zone.*
- g. The proposed zoning map change will not result in adverse effects upon surrounding properties or surrounding uses from dust, noise, vibration, odor, heat, glare, lighting, or discharges into the air, water or land.*

Findings:

- 1. Explain how the proposed zoning map amendment is in conformance with statewide planning goals and guidelines.*

The City of Ontario, Malheur County and the State of Oregon have all agreed upon the Comprehensive Plan and Map. Within that map, the parcel is currently zoned UGA-Residential. It is a natural progression per the Comprehensive Plan that this parcel be moved into city as City Residential, requesting a Single Family Residence designation.

- 2. Explain how the proposed zoning map amendment is in conformance with the Acknowledged Comprehensive Plan.*

The property is within the City of Ontario UGA and the annexation and rezoning of the property is in compliance to the acknowledged Comprehensive Plan and will bring further compliance by fixing a previous cross zoning of the property, which is not a recognized policy, as well as matching the UGA zone in the Comprehensive Plan to the city matching zone.

- 3. As applicant, you must explain how there has been a mistake or error in the original zone designation or a change in physical, social or market conditions generally affecting the area, which makes this proposed zone change appropriate.*

The applicants requested zone change from UGA-Residential Zone to City Single Family Residence Zone does not imply that there has been a mistake or an error in the original zone. In fact, this request for annexation and zone change only shows that the original zone designation of UGA zones was done with future thought of economic growth in mind. What has changed is the growth and development around the parcel and the need for more affordable housing.

- 4. As applicant, you must show a public need is demonstrated for this zoning at this location and is not the granting of a special privilege for a single property or small group of properties.*

The public will benefit by annexing and re-zoning this parcel into the city limits through increased tax revenue. The rezoning of the UGA Residential portion to City Single Family Residence which matches the Comprehensive Plan, and allows for more affordable housing. This action, together with a previous property line adjustment action will fix the crossing zoning of the land which is usually not allowed.

- 5. Explain how the property affected by the change, if approved, is adequate in size and shape to facilitate its use and development as permitted under the new zoning classification.*

The property consists of 0.34 acres (~14,810.4 sq.ft.), zoned residential, which are large enough to allow for development into the allowed zone.

- 6. Explain how the property affected by the proposed change of zone is properly related to streets and other public facilities and with services adequate to meet the demands of the uses allowed in the new zone. This shall explain how this proposal will not absorb a disproportionate share of public facilities, utilities and general assets.*

The parcels far exceed the minimum parcel size of 5,000 sq. ft. as planned in the comprehensive plan. The property is adjacent to existing streets and utilities and is readily available to be extended and expanded to accommodate the existing single family dwelling on the subject parcel. As part of the UGA, the property has



been part of the City Transportation Master Plan, Water Master Plan, Wastewater Master Plan and the City Storm Water Master Plan and therefore, has been approved to provide city services to the properties.

7. Explain how the proposed change in zoning will not result in adverse effects upon surrounding properties or surrounding uses from dust, noise, vibration, odor, heat, glare, lighting, or discharges into the air, water or land.

The property is part of the city approved zoning and has been approved for the type of zoning once brought into the City limits and is in harmony with the surrounding developed property zoned accordingly and will not result in any adverse effects on the adjacent properties zoned the same.

Summary Conclusions: Based on the findings above:

a. The City of Ontario Municipal Code Implements policies contained in the City of Ontario Comprehensive Plan conform to the Statewide Planning Goals; generally, if a proposed rezone meets all criteria and standards contained in the OMC, the request will be consistent with Comprehensive Plan Policies and therefore conform to the Statewide Planning Goals. As this proposal meets the criteria in the above section, this proposal is consistent with Statewide Planning Goals. **CRITERION IS MET**

b. The findings 2 above show that the request is within goals and conformance of the Acknowledged Comprehensive plan. Therefore, this proposal has demonstrated to be consistent with the Comprehensive Plan. **CRITERION IS MET**

c. The information in finding 3 is that there has been no mistake, and the request follows the comprehensive plan. Therefore, there is no mistake, and the request follows the comprehensive plan and approved zoning and demonstrates that this criterion is met. **CRITERION IS MET**

d. As noted in applicant's finding 4, rezoning from the UGA zones to City zones would not be considered as the granting of a special privilege for a single property or group of property owners as it is providing for the same zoning as the comprehensive plan and is the same zoning of the lands adjacent to these properties. **CRITERION IS MET**

e. As noted in finding 5, the subject property size is adequate to demonstrate consistency with this criterion. **CRITERION IS MET**

f. As noted in the finding 6 above, the properties are properly related to streets and public facilities within the public streets and the existing uses and services demonstrate that uses allowed in the proposed zone are provided. **CRITERION IS MET**

g. In finding 7 above, that while the impact on surrounding properties will be low, with the proposed change in zoning, compliance with present City of Ontario ordinances will be essential in eliminating these issues. The permitted uses are related to low volume traffic and uses which do not lend themselves to the creation of significant amounts of noise or other discharges of dust or odor into the air are uncommon in this type of use. **CRITERION IS MET**

Final Conclusion: ALL CRITERIA ARE MET

B. Annexation:

1. 10B-45-10 INITIATION OF ACTION. When a person, authorized by statute, wishes to extend the city's boundaries, an application on forms supplied by the city shall be filed with the Planning Director and which include: annexation consent forms, by the property owners, and by tenants if required by law or court decision; request for a change in zoning map designation, or plan change if required; request for other quasi-judicial action if required; fees, and other exhibits and requirements for a quasi-judicial action as set forth in this Title. All land use actions associated with the annexation shall be consolidated, as feasible, and one fee paid.

2. *Oregon Revised Statute 222.125: Annexation by consent of all owners of land and majority of electors; proclamation of annexation. The legislative body of a city need not call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing otherwise required under ORS 222.120 when all of the owners of land in that territory and not less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the legislative body. Upon receiving written consent to annexation by owners and electors under this section, the legislative body of the city, by resolution or ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation.*

Findings:

1. *The applicants have paid the fees and provided the proper application with signatures.*
2. *The property is annexable because it lies inside the Urban Growth Boundary and is contiguous with the current city limits.*
3. *The property currently being zoned UGA Residential, being rezoned to City Single Family Residence zone is consistent with contiguous property.*
4. *Findings from preceding sections of this report are herein included by this reference. A change to the comprehensive plan map or text is not necessary to annex the property; however, the annexation of the property must be consistent with all applicable Comprehensive Plan Policies.*
5. *Annexation would benefit the city by increasing tax revenue, and by providing more potentially developable residential land.*

Final Conclusion: All criteria and standards applicable to a request for annexation have been met. The property may be annexed.

SUMMARY CONCLUSIONS AND PLANNING COMMISSION DECISION

A request for annexation and rezoning of property may be recommended for approval or denial by the Planning Commission to the City Council if all applicable decision criteria and standards are found met, or able to be met through appropriate conditions of approval. In this case, findings must be made by the Planning Commission that the specific criteria are either met, able to be met through conditions of approval, or not met; options and discussion are provided under "Findings:" and "Conclusion:" for each criterion. All the criteria and standards must be met in order for the request to be recommended for approval. At the Planning Commission Public Hearing on September 9, 2024, the Planning Commission approved the findings of facts as presented and made a recommendation to the City Council to approve action 2024-07-10AZ.

This project fell under the Growth goal of the City Council's Strategic Plan, specifically allowing for annexation of land to add growth and more tax base, which allowed for the development of the property. This annexation would add to the city tax base. The rezoning of this property was needed in a timely manner to allow for development. The proposed development had to comply with applicable provisions of the City of Ontario Zoning Ordinance as set forth in the Ontario City Code, and the City of Ontario Comprehensive Plan. Generally, unless otherwise noted, if a request was found to be consistent with the Zoning Ordinance, it was consistent with the Comprehensive Plan. An annexation and rezone had to be done by an ordinance and the City Council was the final authority for approving a city ordinance. The City Council could table the action until a time certain if more information was needed to make a decision or remand it back to the Planning Commission for more information.

Councilor Kirby asked where the drain field would be.

Mr. Cummings stated the applicants were allowed to hook up to city sewer and water at the time of the approval of the UGA changes.

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

MILLS moved, KIRBY seconded, **THE CITY COUNCIL APPROVE THE FINDING OF FACTS AND RECOMMENDATION OF THE PLANNING COMMISSION FOR THE ANNEXATION AND REZONE OF 0.34 ACRES OF THE SUBJECT PROPERTY FROM UGA RESIDENTIAL (UGA-RS) TO CITY SINGLE FAMILY RESIDENCE ZONE (RS-50) AS SET FORTH IN ACTION 2024-07-10AZ BASED ON THE INFORMATION, FINDINGS, AND CONCLUSIONS SET FORTH IN THIS REPORT.** Roll call vote: Mills-yes; Baker-out; Hart-out; Bakefelt-yes; Melendrez-yes; Kirby-yes; Folden-yes. Motion carried 5/0/2.

KIRBY moved, BAKEFELT seconded, **IN ACCORDANCE WITH SECTION 8.2(2) OF THE CITY CHARTER, THAT THE CITY COUNCIL APPROVE ORDINANCE #2829-2024, AN ORDINANCE PROCLAIMING THE ANNEXATION AND REZONE OF 0.34 ACRES OF THE SUBJECT PROPERTY FROM UGA RESIDENTIAL (UGA-RS) TO CITY SINGLE FAMILY RESIDENCE ZONE (RS-50) AS SET FORTH IN ACTION 2024-07-10AZ, AT A SINGLE MEETING BY TITLE ONLY.** Roll call vote: Mills-yes; Baker-out; Hart-out; Bakefelt-yes; Melendrez-yes; Kirby-yes; Folden-yes. Motion carried 5/0/2.

MILLS moved, KIRBY seconded, **IN ACCORDANCE WITH SECTION 8.2(2) OF THE CITY CHARTER, THAT THE CITY COUNCIL APPROVE ORDINANCE #2829-2024, AN ORDINANCE PROCLAIMING THE ANNEXATION AND REZONE OF 0.34 ACRES OF THE SUBJECT PROPERTY FROM UGA RESIDENTIAL (UGA-RS) TO CITY SINGLE FAMILY RESIDENCE ZONE (RS-50) AS SET FORTH IN ACTION 2024-07-10AZ, AT A SINGLE MEETING BY TITLE ONLY.** Roll call vote: Mills-yes; Baker-out; Hart-out; Bakefelt-yes; Melendrez-yes; Kirby-yes; Folden-yes. Motion carried 5/0/2.

HAND-OUTS

Minutes

County Court 08-21-2024, 09-04-2024, 09-11-2024

Check Register

August, 2024

CORRESPONDENCE, COMMENTS, AND EX-OFFICIO REPORTS

Mayor Folden commended the Revitalization Committee and everyone else that participated, in the Tater Tot Festival. It was great, and having it held at Lion's Park was the best place. The trees kept it cool, the music was great, and the food was fabulous.

Councilor Kirby stated last night on the news, they showed movement of Venezuela gangs, who were going to the areas such as Colorado, Houston, and New York. But, it they also showed, on a major network, Canyon County, Idaho. If that was true, and Ontario being so aligned in this valley, had there been any activity by that gang in this area?

Chief Iwai stated no, not to his knowledge.

Councilor Bakefelt stated there was another upcoming fundraiser for first responders. It was the Haunted Woods at Montgomery Farms at the end of October. One thing needed to make this event successful was volunteers to be part of the cast out in the woods. Both Corinna (Hysell) and Chief Iwai, working with Maddison Kendall from the Boys & Girls Club, had a sign up site where anyone could go to and sign up for any shift they wanted to work. About two weeks prior, she would have a cast meeting, to go over what to wear and what individual roles would be. She encouraged everyone and anyone interested to reach out and let them know, as volunteers were needed. The event was only going to be successful if there were enough volunteers, and they needed at least 13-18 volunteers per night. The roles and costumes were easy. Please consider helping out as it all went for the first responders.



Mr. Breidenbach stated Ashley just told him if he passed her some flyers, she'd get them to the schools, so he'd get some flyers.

Mr. Breidenbach stated on October 5th at 1:00 p.m. at Montgomery Farms, there would be a ribbon cutting for them. They had received funds for their new huge slide, which was a permanent year-round attraction.

Councilor Mills asked if there was anything scheduled for the Recreation Department to provide an update on the status of the swimming pool?

Mr. Cummings stated he had reached out to Andrew Maeda, but he had not heard back yet. He would reach out again.

Mayor Folden stated she had been receiving a lot of questions about the pool, so she appreciated Mr. Cummings following up on that.

Councilor Bakefelt stated she recently accepted a new position as the Interim Director at the Cultural Center, and she had started that week.

Councilor Melendrez stated something that Councilor Kirby mentioned about the Venezuelan gangs reminded him of a question for the Council. When they asked staff to follow-up on something, maybe news they'd heard or someone in the community wanted something looked into, like a particular group of people, such as the undocumented people who were traveling through to work on Washington. Councilor Kirby asked law enforcement to send someone to see who they were, only to find out they were workers. Was there a process in place to ask officers or designated staff to follow through with something that the Council brought to their attention? He could see the Mayor or any Councilor ask to have someone check on hunches or news that they'd heard. Could someone speak to that?

Mr. Cummings stated the proper procedure was for that to be brought to the Council, and then Council would ask the City Manager to direct staff. Council was not supposed to individually ask staff to do anything. For example, if Councilor Kirby brought it up, and wanted staff to investigate, he would need to ask the Council, as a whole, to direct the City Manager have staff do that. If someone just filed a report about something occurring, and asked police to look, it was up to the Chief whether he wanted to send staff to investigate.

Councilor Melendrez stated he brought that up because there was also a large group of Venezuelan folks coming who were seeking asylum. He feared that bringing up questions like that could cause fear for folks that lived in our community. Should those questions be brought up through the Council?

Mr. Cummings stated there was no issue with what Councilor Kirby asked, who then asked the Chief, in a public setting, if he had heard anything, and Chief responded that he had not. That was alright. However, if Councilor Kirby wanted staff to investigate that further, that would be where the Council needed to act as a whole and ask the City Manager to address it with staff.

ADJOURN

BAKEFELT moved, MILLS seconded, **THAT THE MEETING BE ADJOURNED**. Roll call vote: Mills-yes; Baker-out; Hart-out; Bakefelt-yes; Melendrez-yes; Kirby-yes; Folden-yes. Motion carried 5/0/2.

ACCEPTED:

ATTEST:

Deborah K. Folden, Mayor

Tori Barnett, MMC, City Recorder





**AGENDA REPORT
OLD BUSINESS
October 22, 2024**

To: Mayor and City Council
FROM: Travis Willams
THROUGH: Danny K. Cummings, City Manager
SUBJECT: **ONTARIO SANITARY RATE INCREASE**
DATE: October 3, 2024

PROPOSED MOTION:

I MOVE THE CITY COUNCIL TO APPROVE THE 4 PERCENT (4%) SOLID WASTE RATE INCREASE REQUESTED BY ONTARIO SANITARY SERVICE INC., FOR BOTH COMMERCIAL AND RESIDENTIAL SERVICES AS ALLOWED BY CONTRACT.

SUMMARY:

The request is for a 4% price increase for both Commercial and Residential service, effective December 1, 2024.

BACKGROUND:

Over the course of providing many years of service to the residents of Ontario, we have actively sought out new cost-effective ways to provide a high level of service to our customers. We have invested over \$750k in our operations over the last year to assure that level of service to the citizens of Ontario. Ontario Sanitary Service and our employees are committed to “Doing Good in our Communities”.

CURRENT SITUATION:

The proposed adjustment is based on the Consumer Price Index for the State of Oregon and would get the pricing in the City of Ontario in line with the rest of our service area. This adjustment equates to an additional \$0.95/month for our most frequently utilized service level, which is residential trash pickup with recycling.

ANALYSIS:

- A. **STRATEGIC PLAN** None.
- B. **FINANCIAL** The consumers would pay the increase on their Sanitary Service bill.
- C. **TIMING** Needs approved to allow for the increase to happen by the December 1, 2024, effective date.
- D. **POLICY/LEGAL** Allowed by current franchise agreement.

ALTERNATIVES:

None offered.

RECOMMENDATION:

Staff recommends the rate increase be approved.

ATTACHMENTS:

1. 2024 City of Ontario PI Request Letter
2. City of Ontario Pricing Sheet 2024



October 3rd, 2024

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

RE: Request for Solid Waste Rate Adjustment CPI (4%) from Ontario Sanitary Service

Dear City Council:

We would like to be placed on City of Ontario's City Council on agenda October 22nd, to request a 4% price increase for both Commercial and Residential service, effective Dec 1st, 2024. The proposed adjustment is based on the Consumer Price Index for the State of Oregon and would get the pricing in the City of Ontario in line with the rest of our service area. This adjustment equates to an additional \$0.95/month for our most frequently utilized service level, which is residential trash pickup with recycling.

Over the course of providing many years of service to the residents of the City of Ontario, we have actively sought out new cost-effective ways to provide a high level of service to our customers. We have invested over \$750k in our operations over the last year to assure that level of service to Citizens of Ontario. Ontario Sanitary Service and our employees are committed to "Doing Good in our Communities".

We look forward to meeting with the members of the City Council to answer any questions you may have. Thank you in advance for your time and please let us know if you need any additional information.

Respectfully Submitted,

Travis Williams

Travis Williams
District Manager
Ontario Sanitary Service

City of Ontario Pricing Sheet

category	b_area	descript	AreaDefault	NewRate
COMMERCIAL	CITY OF ONTARIO	3YD ON CALL	\$ 25.11	\$ 26.11
COMMERCIAL	CITY OF ONTARIO	6YD ON CALL	\$ 54.76	\$ 56.95
COMMERCIAL	CITY OF ONTARIO	DELIVERY FEE TEMP	\$ 32.40	\$ 33.70
COMMERCIAL	CITY OF ONTARIO	FL 1 YD 1X WK 1	\$ 66.96	\$ 69.64
COMMERCIAL	CITY OF ONTARIO	FL 1 YD 1X WK 2	\$ 133.92	\$ 139.28
COMMERCIAL	CITY OF ONTARIO	FL 1 YD 2X WK 1	\$ 106.87	\$ 111.14
COMMERCIAL	CITY OF ONTARIO	FL 1 YD 3X WK 1	\$ 146.64	\$ 152.51
COMMERCIAL	CITY OF ONTARIO	1.5 YD 1X WK 1	\$ 87.13	\$ 90.62
COMMERCIAL	CITY OF ONTARIO	1.5 YD 2X WK 1	\$ 147.26	\$ 153.15
COMMERCIAL	CITY OF ONTARIO	FL 2 YD 1X WK 1	\$ 106.86	\$ 111.13
COMMERCIAL	CITY OF ONTARIO	FL 2 YD 1X WK 2	\$ 213.71	\$ 222.26
COMMERCIAL	CITY OF ONTARIO	FL 2 YD 2X WK 1	\$ 186.60	\$ 194.06
COMMERCIAL	CITY OF ONTARIO	FL 2 YD 3X WK 1	\$ 266.50	\$ 277.16
COMMERCIAL	CITY OF ONTARIO	2 YD EOW 1	\$ 62.64	\$ 65.15
COMMERCIAL	CITY OF ONTARIO	FL 3 YD 1X WK 1	\$ 151.41	\$ 157.47
COMMERCIAL	CITY OF ONTARIO	FL 3 YD 1X WK 2	\$ 302.81	\$ 314.92
COMMERCIAL	CITY OF ONTARIO	FL 3 YD 1X WK 3	\$ 454.22	\$ 472.39
COMMERCIAL	CITY OF ONTARIO	FL 3 YD 2X WK 1	\$ 271.14	\$ 281.99
COMMERCIAL	CITY OF ONTARIO	FL 3 YD 2X WK 2	\$ 542.29	\$ 563.98
COMMERCIAL	CITY OF ONTARIO	FL 3 YD 3X WK 1	\$ 380.86	\$ 396.09
COMMERCIAL	CITY OF ONTARIO	FL 3 YD 4X WK 1	\$ 511.87	\$ 532.34
COMMERCIAL	CITY OF ONTARIO	FL 3 YD 5X WK 1	\$ 630.17	\$ 655.38
COMMERCIAL	CITY OF ONTARIO	FL 3 YD 6X WK 1	\$ 749.93	\$ 779.93
COMMERCIAL	CITY OF ONTARIO	FL 4 YD 1X WK 1	\$ 198.01	\$ 205.93
COMMERCIAL	CITY OF ONTARIO	FL 4 YD 1X WK COMPACTOR 1	\$ 307.31	\$ 319.60
COMMERCIAL	CITY OF ONTARIO	FL 4 YD 1X WK 2	\$ 849.14	\$ 883.11
COMMERCIAL	CITY OF ONTARIO	FL 4 YD 2X WK 1	\$ 355.45	\$ 369.67
COMMERCIAL	CITY OF ONTARIO	FL 4 YD 2X WK COMPACTOR	\$ 607.33	\$ 631.62
COMMERCIAL	CITY OF ONTARIO	FL 4 YD 3X WK 1	\$ 513.93	\$ 534.49
COMMERCIAL	CITY OF ONTARIO	FL 4 YD 3X WK COMPACTOR 1	\$ 878.90	\$ 914.06
COMMERCIAL	CITY OF ONTARIO	FL 4 YD 4X WK 1	\$ 674.59	\$ 701.57
COMMERCIAL	CITY OF ONTARIO	FL 4 YD 5X WK 1	\$ 834.20	\$ 867.57
COMMERCIAL	CITY OF ONTARIO	FL 5YD 2X WK	\$ 435.21	\$ 452.62
COMMERCIAL	CITY OF ONTARIO	FL 6 YD 1X WK 1	\$ 289.33	\$ 300.90
COMMERCIAL	CITY OF ONTARIO	FL 6 YD 2X WK 1	\$ 528.64	\$ 549.79
COMMERCIAL	CITY OF ONTARIO	FL 6 YD 3X WK 1	\$ 767.82	\$ 798.53
COMMERCIAL	CITY OF ONTARIO	FL 6 YD 4X WK 1	\$ 1,007.47	\$ 1,047.77
COMMERCIAL	CITY OF ONTARIO	FL 6 YD 5X WK 1	\$ 1,259.12	\$ 1,309.48
COMMERCIAL	CITY OF ONTARIO	FL 6 YD 6X WK 1	\$ 1,486.27	\$ 1,545.72
COMMERCIAL	CITY OF ONTARIO	FL 8 YD 1X WK 1	\$ 369.01	\$ 383.77
COMMERCIAL	CITY OF ONTARIO	FL 8 YD 2X WK 1	\$ 688.33	\$ 715.86
COMMERCIAL	CITY OF ONTARIO	FL 8 YD 3X WK 1	\$ 1,007.47	\$ 1,047.77
COMMERCIAL	CITY OF ONTARIO	FL 8 YD 4X WK 1	\$ 1,326.76	\$ 1,379.83
COMMERCIAL	CITY OF ONTARIO	8 YD 6X WK 1	\$ 1,947.75	\$ 2,025.66
COMMERCIAL	CITY OF ONTARIO	1 FL 3 YD ON CALL - COMM	\$ 27.38	\$ 28.48

COMMERCIAL	CITY OF ONTARIO	FL 3 YD RECYCLE ON CALL	\$ 16.96	\$ 17.64
COMMERCIAL	CITY OF ONTARIO	1 FL 6 YD ON CALL - COMM	\$ 54.76	\$ 56.95
COMMERCIAL	CITY OF ONTARIO	REINSTATEMENT FEE - COM	\$ 25.00	\$ 26.00
COMMERCIAL RECYCLE	CITY OF ONTARIO	3 YARD CARDBOARD 1X WEEK	\$ 40.00	\$ 41.60
COMMERCIAL RECYCLE	CITY OF ONTARIO	5 YARD CARDBOARD 2X WEEK	\$ 90.00	\$ 93.60
COMMERCIAL RECYCLE	CITY OF ONTARIO	5 YARD CARDBOARD 3X WEEK	\$ 135.00	\$ 140.40
COMMERCIAL RECYCLE	CITY OF ONTARIO	5 YARD CARDBOARD 4X WEEK	\$ 180.00	\$ 187.20
COMMERCIAL RECYCLE	CITY OF ONTARIO	5 YARD CARDBOARD 5X WEEK	\$ 225.00	\$ 234.00
COMMERCIAL RECYCLE	CITY OF ONTARIO	8 YARD CARDBOARD 1X WEEK	\$ 75.00	\$ 78.00
COMMERCIAL RECYCLE	CITY OF ONTARIO	8 YARD CARDBOARD 3X WEEK	\$ 202.50	\$ 210.60
COMMERCIAL RECYCLE	CITY OF ONTARIO	8 YARD CARDBOARD 5X WEEK	\$ 337.50	\$ 351.00
RESIDENTIAL	CITY OF ONTARIO	KART SERVICE W/REC	\$ 23.87	\$ 24.82
RESIDENTIAL	CITY OF ONTARIO	KART SERVICE W/REC EOW	\$ 19.01	\$ 19.77
RESIDENTIAL	CITY OF ONTARIO	REINSTATEMENT FEE RESI	\$ 25.00	\$ 26.00
RESIDENTIAL	CITY OF ONTARIO	95 GL YARD WASTE EOW	\$ 5.40	\$ 5.62
RESIDENTIAL	CITY OF ONTARIO	95 GL YARD WASTE EOW BI MONTHLY	\$ 10.80	\$ 11.23
RESIDENTIAL	CITY OF ONTARIO	SL 95 GL 1X MO 1	\$ 9.50	\$ 9.88
RESIDENTIAL	CITY OF ONTARIO	SL 95 GL 1X WK 1	\$ 23.87	\$ 24.82
RESIDENTIAL	CITY OF ONTARIO	95 GL 1X WK CARRY OUT 1	\$ 27.05	\$ 28.13
RESIDENTIAL	CITY OF ONTARIO	SL 95 GL 1X WK 2	\$ 47.74	\$ 49.65
RESIDENTIAL	CITY OF ONTARIO	SL 95 GL 1X WK 3	\$ 71.60	\$ 74.46
RESIDENTIAL	CITY OF ONTARIO	SL 95 GL 1X WK 4	\$ 95.47	\$ 99.29
RESIDENTIAL	CITY OF ONTARIO	SL 95 GL 1X WK 5	\$ 119.34	\$ 124.11
RESIDENTIAL	CITY OF ONTARIO	SL 95 GL EOW 1	\$ 15.45	\$ 16.07
RESIDENTIAL	CITY OF ONTARIO	SL 95 GL EOW 1	\$ 22.19	\$ 23.08
RESIDENTIAL	CITY OF ONTARIO	SL 95 GL EOW 2	\$ 38.02	\$ 39.54
ROLL OFF	CITY OF ONTARIO	CONT CLEANING FEE - RO	\$ 54.00	\$ 56.16
ROLL OFF	CITY OF ONTARIO	DAMAGED CONTAINER - RO	\$ 108.00	\$ 112.32
ROLL OFF	CITY OF ONTARIO	DISPOSAL CHARGE - RO	\$ 29.16	\$ 30.33
ROLL OFF	CITY OF ONTARIO	DISPOSAL APPLIANCE	\$ 32.40	\$ 33.70
ROLL OFF	CITY OF ONTARIO	FINAL PULL 10 YD - RO	\$ 149.04	\$ 155.00
ROLL OFF	CITY OF ONTARIO	FINAL PULL 20 YD ROLL OFF	\$ 149.04	\$ 155.00
ROLL OFF	CITY OF ONTARIO	FINAL PULL 30 YD RO	\$ 149.04	\$ 155.00
ROLL OFF	CITY OF ONTARIO	FINAL PULL 40 YD RO	\$ 149.04	\$ 155.00
ROLL OFF	CITY OF ONTARIO	COMPACTOR HAUL 10 YD - RO	\$ 183.76	\$ 191.11
ROLL OFF	CITY OF ONTARIO	HAUL 10 YD - RO	\$ 149.04	\$ 155.00
ROLL OFF	CITY OF ONTARIO	COMPACTOR HAUL 20 YD - RO	\$ 183.76	\$ 191.11
ROLL OFF	CITY OF ONTARIO	HAUL 20 YD ROLL OFF	\$ 149.04	\$ 155.00
ROLL OFF	CITY OF ONTARIO	COMPACTOR HAUL 30 YD - RO	\$ 183.76	\$ 191.11
ROLL OFF	CITY OF ONTARIO	HAUL 30 YD ROLL OFF	\$ 149.04	\$ 155.00
ROLL OFF	CITY OF ONTARIO	COMPACTOR HAUL 40 YD - RO	\$ 183.76	\$ 191.11
ROLL OFF	CITY OF ONTARIO	HAUL 40 YD - RO	\$ 149.04	\$ 155.00
ROLL OFF	CITY OF ONTARIO	RELOCATION FEE - RO	\$ 54.00	\$ 56.16
ROLL OFF	CITY OF ONTARIO	RENTAL FEE DAILY - RO	\$ 5.89	\$ 6.13
ROLL OFF	CITY OF ONTARIO	RENTAL FEE ROLL OFF MTHLY	\$ 176.58	\$ 183.64
ROLL OFF	CITY OF ONTARIO	TRIP FEE - RO	\$ 54.00	\$ 56.16



**AGENDA REPORT
NEW BUSINESS
October 22, 2024**

To: Mayor and City Council
FROM: Andy Wood, Airport Manager
THROUGH: Danny K. Cummings, City Manager
SUBJECT: **AIRPORT HANGAR SALES: 331 ECHO AND 326 FOXTROT**
DATE: September 27, 2024

PROPOSED MOTION:

I MOVE THE CITY COUNCIL TO APPROVE THE SALE OF HANGAR 331 ECHO AND 326 FOXTROT TO NATHAN MORGAN.

SUMMARY:

The current owner has requested the sale of Hangar 331 Echo and 326 Foxtrot to the buyer, Nathan Morgan, of Boise.

BACKGROUND:

Nathan Morgan is currently an airline pilot wanting to use the facilities at Ontario Municipal Airport. Pete Morgan is one of our long-term leaseholders, EAA member, former Airport Manager, and volunteer who is related to Nathan, and who recommended him to Kevin Berg.

CURRENT SITUATION:

Kevin Berg has agreed to sell Hangars 331 Echo and 326 Foxtrot. Nathan Morgan is requesting consent to purchase as the new lease owner.

ANALYSIS:

- A. **STRATEGIC PLAN** None.
- B. **FINANCIAL** None.
- C. **TIMING** Bill of Sale/Transferred on October 7, 2024.
- D. **POLICY/LEGAL** None.

ALTERNATIVES:

None.

RECOMMENDATION:

Staff recommends the City Council approve the sale/transfer of Hangars 331 Echo and 326 Foxtrot to Nathan Morgan.

ATTACHMENTS:

1. 20241023 - Nathan Morgan - Lease Agreement



NON-COMMERCIAL AIRPORT GROUND LEASE FOR AERONAUTICAL USE IMPROVEMENTS
(Hangar 331 Echo and 326 Foxtrot Lease)

This Non-Commercial Airport Ground Lease for Aeronautical Use Improvements (Define Use i.e. Hangar) (this "Lease") is dated effective for all purposes as of **Wednesday, 23rd of October 2024** (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 **Nathan Morgan** ("Tenant"), whose address is 2313 E Boise Ave, Boise, ID 83706.

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 1,876 total square feet of land commonly known as 581 SW 33rd Street & Hangar 331 Echo and 326 Foxtrot, Ontario, Oregon 97914 (the "Property"). As of the Effective Date, an approximately 1,800sq ft Property is identified and depicted in the attached Exhibit A.

B. Tenant desires to lease the Property from Landlord for purposes of owning and operating the Improvements 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 **Friday, 21st of October 2044** (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 **10 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 once and will require a new lease negotiated to continue a lease. **THE ONE TIME EXTENSION WILL BE DOCUMENTED BY AN ADDENDUM TO THE ORIGINAL LEASE SIGNED AND DATED BY BOTH PARTIES.**

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) Nathan Morgan is Tenant's only member and no other person has any ownership rights and/or interests in and to Tenant, and (z) Nathan Morgan 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 Land 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 this Agreement. A Tenant default under this Lease constitutes a default by Tenant of all conditions of the lease.

1.7 Parking Area. The Parking Area consists of two public parking areas, one on SW 33rd Street and one on Airport way. No vehicle or any other items (including trailers) may be parked outside of the hangar building other than in a designated area approved by the Airport Authority and included as part of the leased area. The owner of the hanger may park their vehicle inside the hanger while they are using their aircraft otherwise, they must be parked in the public parking area or approved designated area as noted above. All visitors or people flying with the owner must park their vehicle in the Public Parking area and be escorted onto the airport. **Under no circumstances may the hanger owner give the code to unauthorized persons.**

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 **\$315.90** (\$0.1755 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 an

invoice from Landlord will be sent, but all parties understand the rent is due and payable whether an invoice is sent or not. A tenant's first payment of Rent is due and payable on the Effective Date. 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) as per the current rate schedule 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") if any: (a) NONE.

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, and power, so to not incur any liens against the landlord property.

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, so to not incur any liens against the landlord property.

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 (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 "Permitted Use" means Tenant's Private Aircraft Hanger 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, if applicable), 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 Private Hanger 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 outside of the hanger. 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, 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 written 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 that they will (a) 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 and 8.5, 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 and exterior walls of the structure in a new condition with the exception of fading of the paint.

5.2.2 Repair and maintain the plumbing system (environmental issues), electrical system (fire hazard), 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 associated to the lease of the building site.

5.2.4 All 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) At the discretion of the Landlord, the 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; and (d) any other conditions that Landlord may reasonable 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. Tenant will maintain, at Tenant's cost and expense, a policy of fire, extended coverage, vandalism, and malicious mischief insurance insuring the personal property (aircraft related), of the Tenant located in or on the Improvements. The amount of the insurance will 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 \$2,000,000.00, 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; and/or (e) 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 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.

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. 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 (specified by landlord in writing) 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 Improvement, 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 by visual violation). 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:
Nathan Morgan

By: Deborah Folden Mayor


By: Nathan Morgan

Exhibit A
Property Description and Depiction

[attached]

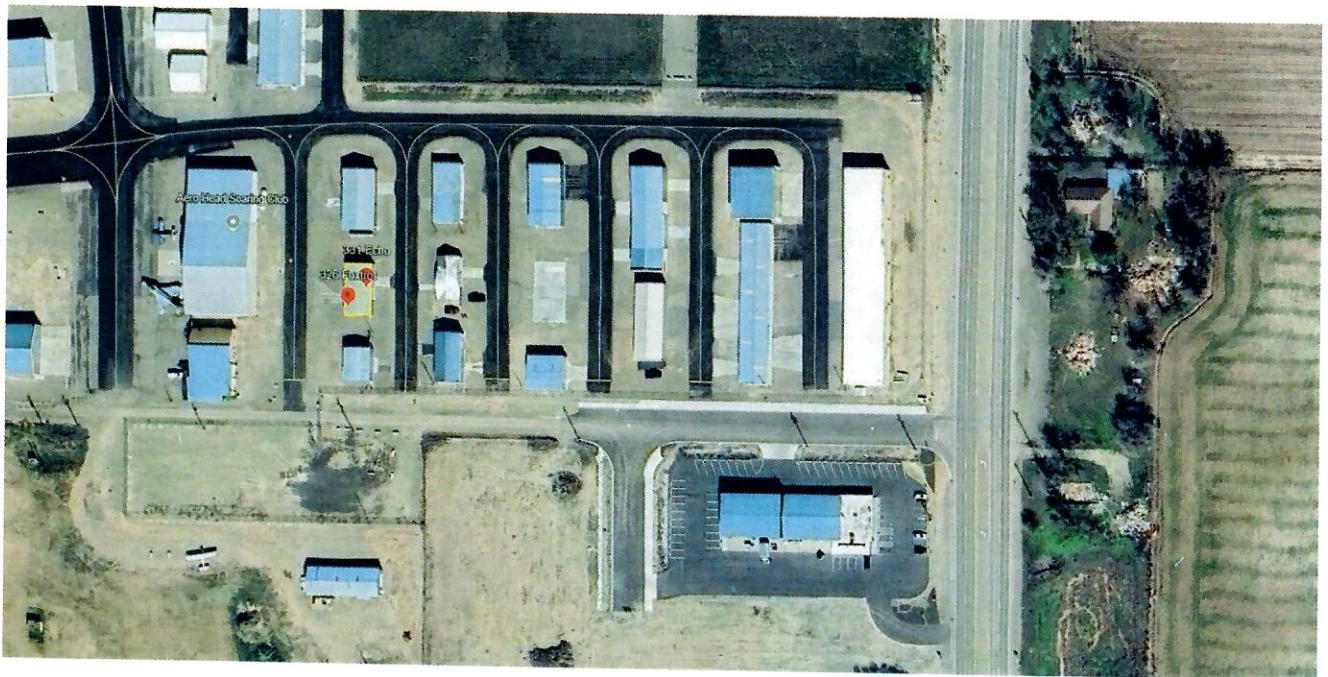


EXHIBIT A – 331 Echo/326 Foxtrot, Ontario, OR
97914 (44.0217404, -117.0082170), 2XCR+MPV
Ontario, Oregon



**AGENDA REPORT
NEW BUSINESS
October 22, 2024**

To: Mayor and City Council

FROM: Andy Wood, Airport Manager

THROUGH: Danny K. Cummings, City Manager

SUBJECT: **AIRPORT COMMERCIAL GROUND LEASE TEMPLATE: AERONAUTICAL USE IMPROVEMENTS**

DATE: October 10, 2024

PROPOSED MOTION:

I MOVE THE CITY COUNCIL TO APPROVE THE COMMERCIAL LEASE AGREEMENT TEMPLATE TO BE USED FOR ALL FUTURE NEW AND RENEWAL GROUND LEASES AND COMMERCIAL BUSINESSES.

SUMMARY:

The city is striving to improve the Ontario Airport and sometimes require that the lease meet the current need to protect the Airport and city in ensuring that all rules and regulations are being met, as well as conform to the city agreement with FAA, who has made substantial monetary investments in the Ontario Airport.

BACKGROUND:

Staff, the City Attorney, and the Airport Committee have been working on new templates for ground leases for both noncommercial and commercial lease agreements for some time now.

In the past, the city has had to spend quite a bit on attorney fees to enforce the city regulations and FAA rules and therefore, required a new, stronger Lease Agreement to be created to protect the city and taxpayers.

CURRENT SITUATION:

The noncommercial lease has been approved and now the commercial lease needs to be finalized with the same changes as were approved in the noncommercial lease with the addition of the commercial requirements.

ANALYSIS:

- A. **STRATEGIC PLAN** It meets the livability and lifestyle of the strategic plan.
- B. **FINANCIAL** It should save in future attorney fees to enforce the rules and regulations of the airport.

C. **TIMING** No set timing.

D. **POLICY/LEGAL** The editable template was created by the City Attorney.

ALTERNATIVES:

None given.

RECOMMENDATION:

Staff recommends the City Council approve the new non-commercial hangar lease agreement template.

ATTACHMENTS:

1. Airport Ground Lease for Aeronautical Use Improvements (commercial ground Lease)
Template October 2024



COMMERCIAL AIRPORT GROUND LEASE FOR AERONAUTICAL USE IMPROVEMENTS
(address Hangar Lease)

This Commercial Airport Ground Lease for Aeronautical Use Improvements (Define Use i.e. Hangar/Ground) (this "Lease") is dated effective for all purposes as of DATE (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 NAME ("Tenant"), whose address is BILLING ADDRESS.

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 LEASE AREA (Including any required area for commercial operation as per City Code 10A, including but not limited to Parking and Landscaping), total square feet of land commonly known as 581 SW 33rd Street and HANGAR ADDRESS, Ontario, Oregon 97914 (the "Property"). As of the Effective Date, an approximately HANGAR square foot aircraft hangar (the "Improvement(s)") has been located on or about the Property. The Property is identified and depicted in the attached Exhibit A.

B. Tenant desires to lease the Property from Landlord for purposes of owning and operating the Improvements at the Airport as well as operating a Commercial type of business on the Airport property. 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).

C. In addition to the fee for the land lease the Tenant shall pay the Commercial fee set by resolution for each commercial type of business operated out of the land lease or associated with the land lease.

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 DATE (not to exceed 20 years) (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 NUMBER (see term above) 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 once and will require a new Lease negotiated to continue a Lease. THE ONE TIME EXTENSION WILL BE DOCUMENTED BY AN ADDENDUM TO THE ORIGINAL LEASE SIGNED AND DATED BY BOTH PARTIES.

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) **NAME OF LEASE OWNER(S)** is Tenant's only member and no other person has any ownership rights and/or interests in and to Tenant, and (z) **NAME OF LEASE OWNER(S)** 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 Land 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 this Agreement. A Tenant default under this Lease constitutes a default by Tenant of all conditions of the Lease.

1.7 Parking Area. The Parking Area consists of two public parking areas, one on SW 33rd Street and one on Airport Way. No vehicle or any other items (including trailers) may be parked outside of the hangar building other than in a designated area approved by the Airport Authority and included as part of the leased area. The owner of the hangar may park their vehicle inside the hangar while they are using their aircraft otherwise, they must be parked in the public parking area or approved designated area as noted above. All visitors or people flying with the owner must park their vehicle in the Public Parking area and be escorted onto the airport. **Under no circumstances may the hangar owner give the code to unauthorized persons.**

1.8 Commercial Parking Area. If the commercial operation is developed outside of the fenced area and is open to the public, the commercial business shall be subject to the Parking requirements for a commercial operation as defined under City Code 10A-57-70 through 10A-57-100. All required commercial parking areas shall be included within the ground lease area and pay the current rate as established by resolution.

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 \$ _____ (\$**current rate** 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. An invoice from Landlord will be sent, but all parties understand the rent is due and payable whether an invoice is sent or not. A Tenant's first payment of Rent is due and payable on the Effective Date. 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) as per the current rate schedule 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") if any:

(a) Commercial fee set by resolution for **each** commercial type of business operated out of the land lease or doing business on the airport.

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, and power, so to not incur any liens against the Landlord property.

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, so to not incur any liens against the Landlord property.

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 (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 "Permitted Use" means Tenant's Commercial Aircraft Hangar on the Property **add any additional allowed uses if any**.

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, if applicable), 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 Commercial Hangar or in the case of public parking in the offsite parking area designated for the commercial business 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 outside of the hangar. 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, 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 written 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 that they will (a) 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 and 8.5, 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 and exterior walls of the structure in a like new condition with normal wear and tear and the exception of fading of the paint.

5.2.2 Repair and maintain the plumbing system (environmental issues), electrical system (fire hazard), 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 associated to the lease of the building site.

5.2.4 All 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 and will be subject to the City of Ontario and State building codes and tenant shall be required to obtain a building structural sign permit prior to construction. 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) At the discretion of the Landlord, the 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; and (d) any other conditions that Landlord may reasonable 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. Tenant will maintain, at Tenant's cost and expense, a policy of fire, extended coverage, vandalism, and malicious mischief insurance insuring the personal property (aircraft related), of the Tenant located in or on the Improvements. The amount of the insurance will 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 \$2,000,000.00, 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; and/or (e) 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 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.

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. 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 (specified by Landlord in writing) 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 T'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 Improvement, 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 by visual violation). 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:
TENANT NAME
an STATE if applicable Limited Liability Company

By: CURRENT NAME, Mayor

By: NAME OF OWNER

Exhibit A
Property Description and Depiction
[attached]



**AGENDA REPORT
NEW BUSINESS
October 22, 2024**

To: Mayor and City Council

FROM: Andy Wood, Airport Manager

THROUGH: Danny K. Cummings, City Manager

SUBJECT: ONTARIO MUNICIPAL AIRPORT BLM WAY: GATE AND EAST FENCE

DATE: October 14, 2024

PROPOSED MOTION:

I MOVE THE CITY COUNCIL TO APPROVE THE ONTARIO MUNICIPAL AIRPORT BLM WAY GATE AND EAST FENCE PROJECT ESTIMATE FOR \$150,00.00, WITH THE ODOT CONNECT OREGON GRANT AT 70% \$105,000.00 AND THE CITY OF ONTARIO MATCHING FUND AT 30% EQUALING \$45,000.00 AND THE MAYOR AND CITY MANAGER TO SIGN ODOT CONNECT OREGON GRANT AGREEMENT AND ALL RELEVANT DOCUMENTATION FOR THE ONTARIO MUNICIPAL AIRPORT BLM WAY GATE AND EAST FENCE.

SUMMARY:

The Airport Committee, city staff, and City Engineers “JUB” have been working this year to find suitable grants to fund the Ontario Municipal Airport BLM Way Gate and East Fence installation of approximately 2,600 feet of a 7-foot chain-link perimeter fence and an automated vehicle access gate along the east side boundary of approximately 51 acres of airport property for airfield security and safety. The City of Ontario is in the process of constructing an access road, utilities for additional hangar development, and other airport development on the east side of the airport. This fence and gate project is critical to ensuring this area has safe and secure access control to the 51-acre east side development.

BACKGROUND:

The City of Ontario Municipal Airport Layout Plan sets forth the improvements of the east side security for planned growth and development of the complete site. The southeast corner of the airport is currently vulnerable to multiple residential and commercial properties neighboring the airport premises. The east side of the property in this area does not currently have an adequate security fence along the property line. This project will allow access to the new BLM Airbase and the east side airport hangar development.

CURRENT SITUATION:

A further COAR Grant application is in progress to find funding to minimize the matching fund required. Bid requests are also in progress to ascertain whether the project value is within the engineer’s estimate.

The BLM will be paying approximately \$30,000 of this project, leaving the remaining \$15,000 for the city to fund.

ANALYSIS:

- A. **STRATEGIC PLAN** The Ontario Municipal Airport BLM Way Gate and East Fence project is compliant with the Airport Master Plan and airport improvements.
- B. **FINANCIAL** A further COAR Grant application is in progress to find funding to minimize the matching fund required. Bid requests are also in progress to ascertain whether the project value is within the engineer's estimate.
- C. **TIMING** Start Construction: June 1, 2025
Complete Construction: August 31, 2025
- D. **POLICY/LEGAL** The Ontario Municipal Airport BLM Way Gate and East Fence will meet all FAA, ODOT, and ODAV grant requirements.

ALTERNATIVES:

None.

RECOMMENDATION:

Staff recommends the City Council approve signing the grant agreement and all relevant documentation for the Ontario Municipal Airport BLM Way Gate and East Fence.

ATTACHMENTS:

- 1. CO9-003 City of Ontario (1) (2)
- 2. Ontario-BLMFence&Gate
- 3. CO_9_Final_Review_Committee_Final_Rankings

GRANT AGREEMENT
OREGON DEPARTMENT OF TRANSPORTATION
CONNECT OREGON (CO)

Project Name: Ontario Municipal Airport Gate and Fence Install

This Grant Agreement ("Agreement") is made and entered into by and between the **State of Oregon**, acting by and through its Department of Transportation ("ODOT"), and **City of Ontario, Oregon**, acting by and through its Governing Body, ("Recipient"), both referred to individually or collectively as "Party" or "Parties."

1. **Effective Date.** This Agreement shall become effective on the date this Agreement is fully executed and approved as required by applicable law (the "Effective Date"). The availability of Grant Funds (as defined in Section 3) shall end three (3) years after the Effective Date (the "Availability Termination Date").
2. **Agreement Documents.** This Agreement consists of this document and the following documents, which are attached hereto and incorporated by reference:
 - a. Exhibit A: **Project Description, Key Milestones, Schedule and Budget**
 - b. Exhibit B: **Recipient Requirements**
 - c. Exhibit C: **Contractor Insurance Requirements**

In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The precedence of each of the documents comprising this Agreement is as follows, listed from highest precedence to lowest precedence: this Agreement without Exhibits; Exhibit A; Exhibit B; and Exhibit C.

3. **Project Cost; Grant Funds.** The total estimated Project cost is **\$150,000.00**. In accordance with the terms and conditions of this Agreement, ODOT shall provide Recipient grant funds in a total amount not to exceed **\$105,000.00** (the "Grant Funds"). Recipient will be responsible for all Project costs not covered by the Grant Funds.
4. **Project.**
 - a. **Use of Grant Funds.** The Grant Funds shall be used solely for the Project described in Exhibit A (the "Project") and shall not be used for any other purpose. No Grant Funds will be disbursed for any changes to the Project unless ODOT approves such changes by amendment pursuant to **Subsection 4.c.**
 - b. **Eligible Costs.** Recipient may seek reimbursement for its actual costs to develop the Project, consistent with the terms of this Agreement ("Eligible Costs").
 - i. Eligible Costs are actual costs of Recipient to the extent those costs are:
 - A. reasonable, necessary and directly used for the Project;

- B. permitted by generally accepted accounting principles established by the Governmental Accounting Standards Board, as reasonably interpreted by the State, to be capitalized to an asset that is part of the Project; and
- C. eligible or permitted uses of the Grant Funds under the Oregon Constitution, the statutes and laws of the state of Oregon, and this Agreement.

ii. Eligible Costs do NOT include:

- A. operating and working capital or operating expenditures charged to the Project by Recipient;
- B. loans or grants to be made to third parties;
- C. any expenditures incurred before the Effective Date or after the Availability Termination Date; or
- D. costs associated with the Project that substantially deviate from Exhibit A, Project Description, unless such changes are approved by ODOT by amendment of this Agreement;

c. **Project Change Procedures.**

- i. If Recipient anticipates a change in scope, Key Milestone Dates, or Availability Termination Date, Recipient shall submit a Request for Change Order (Form 734-2648), the form of which is hereby incorporated by reference, to the ODOT Program Manager as soon as Recipient becomes aware of any possible delay. The Request for Change Order must be submitted prior to the milestone completion date shown in Exhibit A. The fillable form can be downloaded on-line at the following address:
<https://www.oregon.gov/odot/Forms/2ODOT/7342648.doc>
- ii. Recipient shall not proceed with any changes to scope, Key Milestone Dates, or Availability Termination Date before the execution of an amendment to this Agreement executed in response to ODOT's approval of a recipient's Request for Change Order. A Request for Change Order may be rejected at the sole discretion of ODOT. Further, in its discretion, ODOT may submit a Request for Change Order to the Oregon Transportation Commission for the Commission's review and approval.

5. Reimbursement Process and Reporting.

- a. ODOT shall reimburse Recipient for 70.00% of Eligible Costs up to the Grant Fund amount provided in **Section 3**. ODOT shall reimburse Eligible Costs within forty-five (45) days of ODOT's receipt and approval of a request for reimbursement from Recipient. Recipient must pay its contractors, consultants and vendors before submitting a request for reimbursement to ODOT for reimbursement. ODOT will not reimburse more than one request for reimbursement per month.

- b. Recipient must submit to ODOT its first reimbursement request within one (1) *year* of the Effective Date.
- c. Each reimbursement request shall be submitted on ODOT's Reimbursement Request form located at <https://www.oregon.gov/odot/Forms/2ODOT/7345217.docx> to LGSCConnectOregon@odot.oregon.gov and include the Agreement number, the start and end date of the billing period, itemize all expenses for which reimbursement is claimed. Upon ODOT's request, Recipient shall provide to ODOT evidence of payment to contractors. Recipient shall also include with each reimbursement request a summary describing the work performed for the period seeking reimbursement and work expected for the next period, if any.
- d. **Retainage.** ODOT will withhold five percent (5%) retainage from the amount paid pursuant to each reimbursement request and shall release this retainage to Recipient as the following conditions are met:
 - i. Eighty percent (80%) of the five percent retainage shall be released to Recipient upon completion of a final site review and final project acceptance by ODOT.
 - ii. Twenty percent (20%) of the five percent retainage shall be released to Recipient upon approval by ODOT of the report described in **Subsection 5.i.ii** of this Agreement. ODOT may not pay, and the Recipient forfeits, the amount under this paragraph if the Recipient does not submit the report required by **Subsection 5.i.ii** on or before the due date. Recipient acknowledges and agrees that Recipient may not apply for another Connect Oregon grant during the next application cycle if Recipient fails to submit the report required by **Subsection 5.i.ii** on or before the due date.
- e. Recipient shall, no later than ninety (90) days after the completion of the Project or Availability Termination Date, whichever occurs earlier, submit a final reimbursement request. Failure to submit the final request for reimbursement within ninety (90) days after could result in non-payment.
- f. Upon ODOT's receipt of a monthly progress report or an email to the Connect Oregon Program Manager indicating that the Project is complete, ODOT will conduct a final on-site review. If ODOT deems the Project successful after completion of the on-site review, ODOT will confirm project acceptance by issuing a Project Acceptance Form.
- g. ODOT's obligation to disburse Grant Funds to Recipient is subject to the satisfaction, with respect to each disbursement, of each of the following conditions precedent:
 - i. ODOT has received funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow ODOT, in the exercise of its reasonable administrative discretion, to make the disbursement.
 - ii. Recipient is in compliance with the terms of this Agreement.
 - iii. Recipient's representations and warranties set forth in Section 6 are true and correct on the date of disbursement with the same effect as though made on the date of disbursement.

h. Recovery of Grant Funds.

- i. Recovery of Misexpended Funds or Nonexpended Funds.** Any Grant Funds disbursed to Recipient under this Agreement that are either (i) disbursed but unexpended at the end of the Availability Termination Date (“Unexpended Funds”) or (ii) expended in violation of one or more of the provisions of this Agreement (“Misexpended Funds”) must be returned to ODOT. Recipient shall return all Unexpended Funds to ODOT no later than fifteen (15) days after the Availability Termination Date. Recipient shall return all Misexpended Funds to ODOT promptly after ODOT’s written demand and no later than fifteen (15) days after ODOT’s written demand.
- ii. Recovery of Grant Funds upon Termination.** If this Agreement is terminated under any of **Subsections 11.b.i, 11.b.ii, 11.b.iii or 11.b.vi**, Recipient shall return to ODOT all Grant Funds disbursed to Recipient within 15 days after ODOT’s written demand for the same.

i. Reporting

- i. Monthly Reports.** Recipient shall submit monthly progress reports to ODOT using the Connect Oregon Monthly Progress Report (Form 734-2668), incorporated by reference and made a part of this Agreement. Progress reports must be submitted to the ODOT Connect Oregon Program Manager by the first Wednesday of each month. The fillable form can be downloaded on-line at the following address:

<https://www.cognitofrms.com/ODOT2/grantagreementprogressreport>

- ii. Final Report.** Recipient shall submit a written report to ODOT’s Connect Oregon Program Manager that identifies the number of jobs created or retained both during construction and after Project completion, as a direct result of this Project. The report must also include the number of jobs projected, the measures of the Project’s success and the methodology used to arrive at each as described in the information provided to ODOT before execution of the Agreement. The report must be received and approved by ODOT within eighteen (18) months after the completion of Project. Recipient’s obligation to provide this report will survive expiration of this Agreement. Recipient shall use “Final Report” Form 734-2947, which Recipient must also sign. The form is available on-line at the following address:

<https://www.oregon.gov/ODOT/Forms/2ODOT/7342947.doc>

6. Representations and Warranties of Recipient. Recipient represents and warrants to ODOT as follows:

- a. Organization and Authority.** Recipient is duly organized and validly existing under the laws of the State of Oregon and is eligible to receive the Grant Funds. Recipient has full power, authority and legal right to make this Agreement and to incur and perform its obligations hereunder, and the making and performance by Recipient of this Agreement (1) have been duly authorized by all necessary action of Recipient and (2) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of Recipient’s Articles of Incorporation or Bylaws, if applicable, (3) do not and will not result in the breach of, or constitute a default or require any

consent under any other agreement or instrument to which Recipient is a party or by which Recipient or any of its properties may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Recipient of this Agreement.

- b. Binding Obligation.** This Agreement has been duly executed and delivered by Recipient and constitutes a legal, valid and binding obligation of Recipient, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.
- c. No Solicitation.** Recipient's officers, employees, and agents shall neither solicit nor accept gratuities, favors, or any item of monetary value from contractors, or potential contractors. No member or delegate to the Congress of the United States or State of Oregon employee shall be admitted to any share or part of this Agreement or any benefit arising therefrom.
- d. No Debarment.** Neither Recipient nor its principals is presently debarred, suspended, or voluntarily excluded from any federally-assisted transaction, or proposed for debarment, declared ineligible or voluntarily excluded from participating in this Agreement by any state or federal agency. Recipient agrees to notify ODOT immediately if it is debarred, suspended or otherwise excluded from any federally assisted transaction for any reason or if circumstances change that may affect this status, including without limitation upon any relevant indictments or convictions of crimes.
- e. Compliance with Oregon Taxes, Fees and Assessments.** Recipient is, to the best of the undersigned(s) knowledge, and for the useful life of the Project will remain, current on all applicable state and local taxes, fees and assessments.

The warranties set forth in this Section 6 are in addition to, and not in lieu of, any other warranties set forth in this Agreement or implied by law.

7. Records Maintenance and Access; Audit.

- a. Records, Access to Records and Facilities.** Recipient shall make and retain proper and complete books of record and account and maintain all fiscal records related to this Agreement and the Project in accordance with all applicable generally accepted accounting principles, as well as generally accepted governmental auditing standards and state minimum standards for audits of municipal corporations, if applicable. Recipient shall ensure that each of its contractors complies with these requirements. ODOT, the Secretary of State of the State of Oregon (the "Secretary") and their duly authorized representatives shall have access to the books, documents, papers and records of Recipient that are directly related to this Agreement, the Grant Funds, or the Project for the purpose of making audits and examinations. In addition, ODOT, the Secretary and their duly authorized representatives may make and retain excerpts, copies, and transcriptions of the foregoing books, documents, papers, and records. Recipient shall permit authorized representatives of ODOT and the Secretary to perform site reviews of the Project, and to inspect all vehicles, real property, facilities and equipment purchased by Recipient as part of the Project, and any transportation services rendered by Recipient.

- b. Retention of Records.** Recipient shall retain and keep accessible all books, documents, papers, and records that are directly related to this Agreement, the Grant Funds or the Project for a period of six (6) years after final payment. If there are unresolved audit questions at the end of the period described in this section, Recipient shall retain the records until the questions are resolved.
- c. Expenditure Records.** Recipient shall document the expenditure of all Grant Funds disbursed by ODOT under this Agreement. Recipient shall create and maintain all expenditure records in accordance with generally accepted accounting principles and in sufficient detail to permit ODOT to verify how the Grant Funds were expended.

This Section 7 shall survive any expiration or termination of this Agreement.

8. Recipient Contracts and Procurements.

Recipient may enter into contracts with contractors for performance of the Project. If Recipient enters into a contract, Recipient agrees to comply with the following:

a. Contracts.

- i.** All contracts must be in writing, executed by Recipient and must incorporate and pass through all of the applicable requirements of this Agreement to the other party or parties to the contract(s). Use of a contract does not relieve Recipient of its responsibilities under this Agreement.
- ii.** Recipient shall require all of its contractors performing work under this Agreement to name ODOT as a third-party beneficiary of Recipient's contract with the contractor.
- iii.** Recipient shall require its construction contractor to submit a performance bond and payment bond to Recipient for an amount equal to or greater than the estimated cost of the construction contract price. Recipient shall require its construction contractor to name ODOT as an additional or dual obligee on construction contractor's performance and payment bonds.
- iv.** Recipient shall provide ODOT with a copy of any signed contract(s), as well as any other purchasing or contracting documentation, upon ODOT's request at any time. This paragraph shall survive expiration or termination of this Agreement.
- v.** Recipient must report to ODOT any material breach of a term or condition of a contract within ten (10) days of Recipient discovering the breach.

b. Contract Indemnification.

- i.** *Recipient's contract(s) shall require the other party to such contract(s) that is not a unit of local government as defined in ORS 190.003, if any, to indemnify, defend, save, and hold harmless State of Oregon, the Oregon Transportation Commission and its members and the Oregon Department of Transportation, and its officers, agents and employees, from and against any and all claims, suits, actions, liabilities, damages, losses, cost, and expenses, including attorneys' fees, of any nature whatsoever resulting from, arising out of or relating to, in whole or in part, the negligent or willful acts or omissions of the other party to Recipient's contract or any of such party's officers, agents, employees or*

subcontractors ("Claims"). It is the specific intention of the Parties that ODOT shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of ODOT, be indemnified by the other party to Recipient's contract(s) from and against any and all Claims.

- ii. Any such indemnification shall also provide that neither Recipient's contractor(s) nor subcontractor(s), nor any attorney engaged by Recipient's contractor(s) nor subcontractor(s) shall defend any claim in the name of ODOT or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State may, at any time at its election, assume its own defense and settlement in the event that it determines that Recipient's contractor is prohibited from defending the State, or that Recipient's contractor is not adequately defending the State's interests, or that an important governmental principle is at issue or that it is in the best interests of the State to do so. The State reserves all rights to pursue claims it may have against Recipient's contractor if the State of Oregon elects to assume its own defense.
- iii. Recipient shall include provisions in each of its contract(s) requiring its contractor(s) to comply with the indemnification requirements within this Contract Indemnification section.

c. Contractor Insurance.

- i. Recipient shall require its contractor(s) to meet the minimum insurance requirements provided in Exhibit C. Recipient shall perform a risk assessment for the work to be performed under its contract(s) and may specify insurance requirements for its contractor(s) above the minimum insurance requirements specified in Exhibit C. Recipient shall verify that each of its contractor(s) meet the minimum insurance requirements in Exhibit C.
 - ii. Recipient shall require its contractor(s) to require and verify that all contractors carry insurance coverage deemed appropriate based on the risks of the subcontracted work.
 - iii. Recipient shall include provisions in each of its contracts requiring its contractor(s) to comply with the insurance requirements within this Contract Insurance section.
- d. Procurements.** Recipient shall make purchases of any equipment, materials, or services for the Project under procedures that comply with Oregon law, including all applicable provisions of the Oregon Public Contracting Code, Oregon Revised Statute (ORS) 279 A, B, and C, and rules, ensuring that:
- i. All applicable clauses required by federal statute, executive orders and their implementing regulations are included in each competitive procurement; and
 - ii. All procurement transactions are conducted in a manner providing full and open competition.
- 9. Self-Performing Work.** Recipient must receive prior approval from the Connect Oregon Program Manager for any self-performing work.

10. Conflicts of Interest.

- i. Recipient's public officials shall comply with Oregon's government ethics laws, ORS 244.010 *et seq.*, as those laws may be subsequently amended.

11. Termination

- a. **Mutual Termination.** This Agreement may be terminated by mutual written consent of the Parties.
- b. **Termination by ODOT.** ODOT may terminate this Agreement effective upon delivery of written notice of termination to Recipient, or at such later date as may be established by ODOT in such written notice, under any of the following circumstances:
 - i. If Recipient fails to perform the Project within the time specified in this Agreement, or any extension of such performance period;
 - ii. If Recipient takes any action pertaining to this Agreement without the approval of ODOT and which under the provisions of this Agreement would have required ODOT's approval;
 - iii. If Recipient fails to perform any of its other obligations under this Agreement, and that failure continues for a period of ten (10) calendar days after the date ODOT delivers Recipient written notice specifying such failure. ODOT may agree in writing to an extension of time if it determines Recipient instituted and has diligently pursued corrective action;
 - iv. If ODOT fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow ODOT, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement;
 - v. If Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement; or
 - vi. If the Project would not produce results commensurate with the further expenditure of funds.
 - vii. If the Project is not bid or construction started within 1 year from the effective date of the Agreement.
- c. **Termination by Either Party.** Either Party may terminate this Grant Agreement upon at least ten (10) days' notice to the other Party and failure of the other Party to cure within the period provided in the notice, if the other Party fails to comply with any of the terms of this Grant Agreement.
- d. **Rights upon Termination; Remedies.** Any termination of this Grant Agreement shall not prejudice any rights or obligations accrued before termination. The remedies set forth in this Grant Agreement are cumulative and are in addition to any other rights or remedies available at law or in equity.

12. GENERAL PROVISIONS

- a. **Contribution and Contract-Related Indemnification.**

- i. For purposes of this **Subsection 12.a.**, the term “ODOT” means “the State of Oregon, the Oregon Transportation Commission, the Oregon Department of Transportation, and their respective officers, members, agents, and employees.”

ii. Contribution.

- A. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 (“Third Party Claim”) against ODOT or Recipient with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense, and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party’s liability with respect to the Third Party Claim.
- B. Except as otherwise provided in **Subsection 10.b.** below, with respect to a Third Party Claim for which ODOT is jointly liable with Recipient (or would be if joined in the Third Party Claim), ODOT shall contribute to the amount of expenses (including attorneys’ fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Recipient in such proportion as is appropriate to reflect the relative fault of ODOT on the one hand and of the Recipient on the other hand in connection with the events which resulted in such expenses, judgments, fines, or settlement amounts, as well as any other relevant equitable considerations. The relative fault of ODOT on the one hand and of Recipient on the other hand shall be determined by reference to, among other things, the Parties’ relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines, or settlement amounts. ODOT’s contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if ODOT had sole liability in the proceeding.
- C. Except as otherwise provided in **Subsection 12.b.** below, with respect to a Third Party Claim for which Recipient is jointly liable with ODOT (or would be if joined in the Third Party Claim), Recipient shall contribute to the amount of expenses (including attorneys’ fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred and paid or payable by ODOT in such proportion as is appropriate to reflect the relative fault of Recipient on the one hand and of ODOT on the other hand in connection with the events which resulted in such expenses, judgments, fines, or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Recipient on the one hand and of ODOT on the other hand shall be determined by reference to, among other things, the Parties’ relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines, or settlement amounts. Recipient’s contribution amount in any instance

is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

iii. Contract-related Indemnification. Notwithstanding Subsection 10.a.ii., and subject to any limitations imposed by State law and the Oregon Constitution, Recipient agrees to the following contract-related indemnification for all projects authorized under this Agreement:

Where Recipient contracts for services or performs project management for a project, Recipient shall accept all responsibility, defend lawsuits, indemnify, and hold ODOT harmless, for all contract-related claims and suits. This includes but is not limited to all contract claims or suits brought by any contractor, whether arising out of the contractor's work, Recipient's supervision of any individual project or contract, or Recipient's failure to comply with the terms of this Agreement.

iv. This **Subsection 12.a.** shall survive expiration or termination of this Agreement.

- b. Insurance; Workers' Compensation and Employer's Liability.** All employers, including Recipient, that employ subject workers who provide services in the state of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Employer's Liability insurance with coverage limits of not less than \$500,000 each accident must be included. Recipient shall ensure that each of its subrecipient(s) or contractor(s) complies with these requirements.
- c. Dispute Resolution.** The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
- b. Amendments.** This Agreement may be amended or extended only by a written instrument signed by both Parties and approved as required by applicable law.
- c. Duplicate Payment.** Recipient is not entitled to compensation or any other form of duplicate, overlapping or multiple payments for the same work performed under this Agreement from any agency of the State of Oregon or the United States of America or any other party, organization or individual.
- d. No Third-Party Beneficiaries.** ODOT and Recipient are the only Parties to this Agreement and are the only Parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly or indirectly, to a third person unless such a third person is individually identified by name herein and expressly described as an intended beneficiary of the terms of this Agreement.
- e. Notices.** Except as otherwise expressly provided in this Agreement, any communications between the Parties hereto or notices to be given hereunder shall be given in writing by personal delivery, email or mailing the same, postage prepaid, to Recipient Contact or Program Manager at the address or number set forth on the signature page of this Agreement, or to such other addresses or numbers as either Party may hereafter indicate pursuant to this **Subsection 12.g.** Any communication or notice personally delivered shall be deemed to be given when actually delivered. Any communication or notice delivered by facsimile shall be deemed to be given

when receipt of the transmission is generated by the transmitting machine, and to be effective against ODOT, such facsimile transmission must be confirmed by telephone notice to Program Manager. Any communication by email shall be deemed to be given when the recipient of the email acknowledges receipt of the email. Any communication or notice mailed shall be deemed to be given when received.

- f. Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between ODOT (or any other agency or department of the State of Oregon) and Recipient that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County in the State of Oregon. In no event shall this section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.
- g. Compliance with Law.** Recipient shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to the implementation of the Project, including without limitation as described in Exhibit B. Without limiting the generality of the foregoing, Recipient expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. Recipient agrees to comply with the requirements of ORS 366.514, Use of Highway Fund for footpaths and bicycle trails.
- h. Independent Contractor.** Recipient shall perform the Project as an independent contractor and not as an agent or employee of ODOT. Recipient has no right or authority to incur or create any obligation for or legally bind ODOT in any way. ODOT cannot and will not control the means or manner by which Recipient performs the Project, except as specifically set forth in this Agreement. Recipient is responsible for determining the appropriate means and manner of performing the Project. Recipient acknowledges and agrees that Recipient is not an "officer", "employee", or "agent" of ODOT, as those terms are used in ORS 30.265, and shall not make representations to third parties to the contrary.
- i. Severability.** If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if this Agreement did not contain the particular term or provision held to be invalid.
- j. Counterparts.** This Agreement may be executed in two or more counterparts, each of which is an original and all of which together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.

- k. Integration and Waiver.** This Agreement, including all Exhibits, constitutes the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. The delay or failure of either party to enforce any provision of this Agreement shall not constitute a waiver by that party of that or any other provision. Recipient, by the signature below of its authorized representative, acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.
- l. Survival.** In addition to sections of this Agreement specifically so designated, sections 5(h) (Recovery of Grant Funds), 12(h) (Governing Law; Consent to Jurisdiction) and 12(n) (Survival) survive expiration or termination of this Agreement.
- m. Electronic Signatures.** Signatures showing on PDF documents, including but not limited to PDF copies of the Agreement, Work Orders, and amendments, submitted or exchanged via email are “Electronic Signatures” under ORS Chapter 84 and bind the signing Party and are intended to be and can be relied upon by the Parties. State reserves the right at any time to require the submission of the hard copy originals of any documents.

THE PARTIES, by execution of this Agreement, acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

The Oregon Transportation Commission at its October 10, 2024 meeting approved the Connect Oregon VIII project application list and delegated authority to the Director of the Oregon Department of Transportation to enter into project agreements.

Signature Page to Follow

CITY OF ONTARIO, OREGON, by and through its elected officials

By _____
(Legally designated representative)

Name _____
(printed)

Date _____

By _____

Name _____
(printed)

Date _____

**LEGAL REVIEW APPROVAL
(If required in Recipient's process)**

By _____
Recipient's Legal Counsel

Date _____

Recipient Contact:

Dan Cummings, City Manager
444 SW 4th Street
Ontario, OR 97914
(541) 881-3223
Dan.cummings@ontariooregon.org

STATE OF OREGON, by and through its Department of Transportation

By _____
Assistant Director for Revenue, Finance & Compliance

Name _____
(printed)

Date _____

APPROVAL RECOMMENDED

By _____
Program Manager

Date _____

**APPROVED AS TO LEGAL SUFFICIENCY
(For funding over \$250,000)**

By _____
Assistant Attorney General

Date _____

Connect Oregon Program Manager:

Cecelia Gilbert
355 Capitol Street NE
Mail Stop 21
Salem, OR 97301-4178
Phone: 503-991-8689
Email: cecelia.gilbert@odot.oregon.gov

EXHIBIT A

Project Description, Key Milestones, Schedule and Budget

Agreement No. CO9-003

Project Name: Ontario Municipal Airport Gate and Fence Install

A. PROJECT DESCRIPTION

Ontario Municipal Airport – perimeter fencing.

The Project will install approximately 2,600-ft of 7-ft chain-link perimeter fence and an automated vehicle access gate along the east side boundary of approximately 51 acres of Airport property.

Recipient acknowledges that such Project improvements funded under this Agreement may trigger other Recipient responsibilities under the Americans with Disabilities Act. Recipient agrees that it is solely responsible for ensuring Americans with Disabilities Act compliance pursuant to Exhibit B, Recipient Requirements, Paragraph 5.

B. PROJECT KEY MILESTONES AND SCHEDULE

The Project has two (2) Key Milestone(s). Key Milestones are used for evaluating performance on the Project as described in the Agreement. Neither Key Milestone can be changed without an amendment to the Agreement.

If Recipient anticipates Key Milestone 1 or 2 will be delayed by more than ninety (90) days, Recipient must submit a Request for Change Order, as described in **Subsection 4.c.** of the Agreement, to the Connect Oregon Program Manager as soon as Recipient becomes aware of any possible delay.

Table 1: Key Milestones

Key Milestone	Description	Estimated Due Date
1	Start Construction	6/1/2025
2	Complete Construction*	08/31/2025

*Construction completion is when all work is complete, including punch list items, final cleanup, demobilization and submittal of final documentation, in accordance with the contract documents.

Commented [SZ1]: Consistent with UGA template update. If UGA template is incorrect, then reverse this deletion in both this and the UGA templates.

EXHIBIT B

Recipient Requirements

1. Recipient shall comply with all applicable provisions of ORS 279C.800 to 279C.870 pertaining to prevailing wage rates and including, without limitation, that workers on the Project shall be paid not less than rates in accordance with ORS 279C.838 and 279C.840 pertaining to wage rates and ORS 279C.836 pertaining to having a public works bond filed with the Construction Contractors' Board.
2. Recipient shall notify the Connect Oregon Program Manager in writing when any contact information changes during the Agreement.
3. Recipient shall, at its own expense, maintain, operate and provide power to the Project upon completion and throughout the useful life of the Project at a minimum level that is consistent with normal depreciation or service demand or both. The Parties agree that the useful life of the Project is defined as ten (10) years from its completion date (the "Project Useful Life"). For the useful life of the project, Recipient shall reinvest any proceeds from the sale of improvements in similar improvements. At the conclusion of the Project Useful Life, Recipient and ODOT shall negotiate any additional maintenance obligations for any features installed on ODOT's right of way. If the Parties are unable to reach a consensus regarding additional maintenance obligations, Recipient shall remove all features installed on ODOT's right of way at no expense to ODOT. This paragraph shall survive the expiration or termination of this Agreement.
4. Recipient shall maintain insurance policies with responsible insurers or self-insurance programs, insuring against liability and risk of direct physical loss, damage or destruction of the Project, at least to the extent that similar insurance is customarily carried for constructing, operating and maintaining similar facilities. If the Project or any portion is destroyed, insurance proceeds will be paid to ODOT, unless Recipient has informed ODOT in writing that the insurance proceeds will be used to rebuild the Project.
5. **Americans with Disabilities Act Compliance**
 - a. **State Highway:** For portions of the Project located on or along the State Highway System or a State-owned facility ("state highway"):
 - i. Recipient shall utilize ODOT standards to assess and ensure Project compliance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 as amended (together, "ADA"), including ensuring that all sidewalks, curb ramps, pedestrian-activated signals meet current ODOT Highway Design Manual standards;
 - ii. Recipient shall follow ODOT's processes for design, construction, or alteration of sidewalks, curb ramps, and pedestrian-activated signals, including using the ODOT Highway Design Manual, ODOT Design Exception process, ODOT Standard Drawings, ODOT Construction Specifications, providing a temporary pedestrian accessible route plan and current ODOT Curb Ramp Inspection form;
 - iii. During Project Construction, Recipient must have a contractor with an active ODOT ADA Contractor Certification directly supervise any construction or alteration of curb ramps. At

Project completion, Recipient shall send a completed ODOT Curb Ramp Inspection Form 734-5020 to the address on the form for each curb ramp constructed or altered as part of the Project. The completed form is the documentation required to show that each curb ramp meets ODOT standards and is ADA compliant. ODOT's fillable Curb Ramp Inspection Form and instructions are available at the following address:

<https://www.oregon.gov/ODOT/Engineering/Pages/Accessibility.aspx>

- iv. Recipient shall promptly notify ODOT of Project completion and allow ODOT to inspect Project sidewalks, curb ramps, and pedestrian-activated signals located on or along a state highway prior to acceptance of Project by Recipient and prior to release of any Recipient contractor.
 - v. Recipient shall ensure that temporary pedestrian routes are provided through or around any Project work zone. Any such temporary pedestrian route shall include directional and informational signs, comply with ODOT standards, and include accessibility features equal to or better than the features present in the existing pedestrian facility. Recipient shall also ensure that advance notice of any temporary pedestrian route is provided in accessible format to the public, people with disabilities, disability organizations, and ODOT at least 10 days prior to the start of construction.
- b. Local Roads:** For portions of the Project located on Recipient roads or facilities that are not on or along a state highway:
- i. Recipient shall ensure that the Project, including all sidewalks, curb ramps, and pedestrian-activated signals, is designed, constructed and maintained in compliance with the ADA.
 - ii. Recipient may follow its own processes or may use ODOT's processes for design, construction, or alteration of Project sidewalks, curb ramps, and pedestrian-activated signals, including using the ODOT Highway Design Manual, ODOT Design Exception process, ODOT Standard Drawings, ODOT Construction Specifications, providing a temporary pedestrian accessible route plan and current Curb Ramp Inspection form, available at:

<https://www.oregon.gov/ODOT/Engineering/Pages/Accessibility.aspx>;

Additional ODOT resources are available at the above-identified link. ODOT has made its forms, processes, and resources available for Recipient's use and convenience.

- iii. Recipient assumes sole responsibility for ensuring that the Project complies with the ADA, including when Recipient uses ODOT forms and processes. Recipient acknowledges and agrees that ODOT is under no obligation to review or approve Project plans or inspect the completed Project to confirm ADA compliance.
- iv. Recipient shall ensure that temporary pedestrian routes are provided through or around any Project work zone. Any such temporary pedestrian route shall include directional and informational signs and include accessibility features equal to or better than the features present in the existing pedestrian route. Recipient shall also ensure that advance notice of

any temporary pedestrian route is provided in accessible format to the public, people with disabilities, and disability organizations prior to the start of construction.

- c. Recipient shall ensure that any portions of the Project under Recipient's maintenance jurisdiction are maintained in compliance with the ADA throughout the useful life of the Project. This includes, but is not limited to, Recipient ensuring that:
 - i. Pedestrian access is maintained as required by the ADA,
 - ii. Any complaints received by Recipient identifying sidewalk, curb ramp, or pedestrian-activated signal safety or access issues are promptly evaluated and addressed,
 - iii. Recipient, or abutting property owner, pursuant to local code provisions, performs any repair or removal of obstructions needed to maintain the Project in compliance with the ADA requirements that were in effect at the time the Project was constructed or altered,
 - iv. Any future alteration work on Project or Project features during the useful life of the Project complies with the ADA requirements in effect at the time the future alteration work is performed, and
 - v. Applicable permitting and regulatory actions are consistent with ADA requirements.
- d. Maintenance obligations in this Paragraph 5 shall survive termination of this Agreement.

6. Work Performed within ODOT's Right of Way

- a. For all improvements within ODOT's right of way, Recipient shall design all work in accordance with the standards specified in the current *ODOT Highway Design Manual* and related references. Construction plans for such projects shall be in conformance with standard practices of the State and all specifications shall be in substantial compliance with the most current Oregon Standard Specifications for Highway Construction and current ODOT drafting manuals.
- b. Prior to advertising the Project for bid, for all improvements within ODOT's right of way, Recipient must receive written approval of the Project's plans and specifications from ODOT's Roadway Engineering Section, in the Engineering and Technical Services Branch. This Agreement is not ODOT's approval of the plans or specifications.
- c. In addition to ODOT's approval of the plans and specifications and prior to the commencement of work, Recipient shall obtain, or require its contractor to obtain, written permission from the appropriate ODOT District Office to work on or along the state highway. This Agreement does not provide permission to work on or along the state highway.
- d. Pursuant to OAR 734-020-0430, Recipient shall obtain written approval from the State Traffic Engineer prior to the design, construction, or removal of any traffic signal, traffic control device, or illumination to be installed on a state highway. An engineering study may be required for approval. See *ODOT's Traffic Manual* for the approval process. This Agreement is not the State Traffic Engineer's written approval.

- e. Recipient and ODOT shall have an executed maintenance and operations agreement to cover obligations for any signaling devices being installed on a state highway for this Project. This agreement must be in effect prior to receiving design approval from ODOT. Traffic signals on a state highway must be designed per the current edition of ODOT's *Traffic Signal Design Manual*.
- f. Electrical inspectors used by Recipient or its contractor(s), shall possess a current State Certified Traffic Signal Inspector certificate in order to inspect electrical installations on state highways.
- g. ODOT will, at no cost to the Project, perform signal equipment environmental testing. For ODOT-owned or ODOT-maintained signals, ODOT will, at no cost to the Project, perform the signal field testing and turn-on. Traffic signal timing for ODOT-owned and ODOT-operated signals shall be the responsibility of ODOT, unless there is an agreement that specifically allows Recipient to perform that function.
- h. Recipient shall ensure that all work involving pedestrian-activated signals performed under this Agreement, including maintenance activities, complies with ODOT's ADA standards. Recipient shall ensure that all traffic signals, illumination poles, and foundations installed on a state highway conform to State's standards, pursuant to the versions of ODOT's Traffic Structures Design Manual and Geotechnical Design Manual in effect at the time the work is conducted.

7. General Standards

The Project shall be completed within industry standards and best practices to ensure that the functionality and serviceability of the Program's investment meets the intent of the application and the Program.

8. Land Use Decisions

- a. Recipient shall obtain all permits, "land use decisions" as that term is defined by ORS 197.015(1) (2020), and any other approvals necessary for Recipient to complete the Project by the Project completion deadline identified in Exhibit A (each a "Land Use Decision" and collectively, "Land Use Decisions").
- b. If at any time before the Availability Termination Date identified in Section 1 of this Agreement ODOT concludes, in its sole discretion, that Recipient is unlikely to obtain one or more Land Use Decisions before the Availability Termination Date, ODOT may (i) suspend the further disbursement of Grant Funds upon written notice to Recipient (a "Disbursement Suspension") and (ii) exercise any of its other rights and remedies under this Agreement, including, without limitation, terminating the Agreement and recovering all Grant Funds previously disbursed to Recipient.
- c. If after a Disbursement Suspension ODOT concludes, in its sole discretion and based upon additional information or events, that Recipient is likely to timely obtain the Land Use Decision or Decisions that triggered the Disbursement Suspension, ODOT will recommence disbursing Grant Funds as otherwise provided in this Agreement.

- d. This Paragraph 8 is in addition to, and not in lieu of, ODOT's rights and remedies under **Subsection 5.f.** ("Recovery of Grant Funds") of this Agreement.

9. Website

Recipient shall provide ODOT a link to any website created about the Project identified in Exhibit A before any costs being considered eligible for reimbursement. Recipient shall notify the Program Manager in writing when the link changes during the term of this Grant Agreement.

10. Photographs

Recipient shall provide pre-construction Project photographs within thirty (30) days of the execution of this Agreement. Recipient shall provide Project photographs thirty (30) days after Project is completed.

11. Applicable Requirements

Recipient shall comply with all applicable requirements of ORS 367.080 to 367.086 and OAR chapter 731, Division 35. Failure by Recipient to comply with these requirements will subject Recipient to the sanctions as described in OAR731-035-0080.

EXHIBIT C

Contractor Insurance Requirements

1. GENERAL.

- a. Recipient shall require in its first tier contracts with entities that are not units of local government as defined in ORS 190.003 (if any) that its contractors ("contractor"): i) obtain insurance specified in this Exhibit under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before performance under the contract commences, and ii) maintain the insurance in full force throughout the duration of the contract. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to the Recipient. Recipient shall not authorize work to begin under contracts until the insurance is in full force. Thereafter, Recipient shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. Recipient shall incorporate appropriate provisions in the contract permitting it to enforce compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. In no event shall Recipient permit work under a contract when Recipient is aware that the contractor is not in compliance with the insurance requirements. As used in this section, "first tier" means a contract in which the Recipient is a Party. All references to "contractor" in this Exhibit refer to Recipient's contractor as identified in this Paragraph 1.a.
- b. The insurance specified below is a minimum requirement that the Recipient shall require each of its contractors to meet, and shall include such requirement in each of Recipient's contracts with its contractors. Recipient may determine insurance types and amounts in excess of the minimum requirement as deemed appropriate based on the risks of the work outlined within the contract.
- c. Recipient shall require each of its contractors to require that all of its subcontractors carry insurance coverage that the contractor deems appropriate based on the risks of the subcontracted work. Recipient's contractors shall obtain proof of the required insurance coverages, as applicable, from any subcontractor providing services related to the subcontractor contract(s).

2. TYPES AND AMOUNTS.

- a. **WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY.**
All employers, including Recipient's contractors, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide **Workers' Compensation Insurance** coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). The coverage shall include Employer's Liability Insurance with limits not less than \$500,000 each accident. **Recipient's contractors shall require compliance with these requirements in each of their subcontractor contracts.**
- b. **COMMERCIAL GENERAL LIABILITY.**
Commercial General Liability Insurance shall be issued on an occurrence basis covering bodily injury and property damage and shall include personal and advertising injury liability, products

and completed operations, and contractual liability coverage. When work to be performed includes operations or activity within 50 feet of any railroad property, bridge, trestle, track, roadbed, tunnel, underpass or crossing, the Recipient's contractors shall provide the Contractual Liability – Railroads CG 24 17 endorsement, or equivalent, on the Commercial General Liability policy.

Prime construction contractor:

Coverage shall be written on an occurrence basis in an amount of not less than ☒ \$1,000,000 ☐ \$2,000,000 ☐ \$5,000,000 per occurrence.

Annual aggregate limit shall not be less than ☒ \$2,000,000 ☐ \$4,000,000 ☐ \$10,000,000.

Other contractor(s):

Coverage shall be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence.

Annual aggregate limit shall not be less than \$2,000,000.

c. AUTOMOBILE LIABILITY.

Automobile Liability Insurance covering business-related automobile use covering all owned, non-owned, or hired vehicles for bodily injury and property. Amount below is a minimum requirement as determined by ODOT:

Coverage shall be written with a combined single limit of not less than \$1,000,000.

d. EXCESS/UMBRELLA LIABILITY.

A combination of primary and Excess/Umbrella Liability insurance may be used to meet the minimum required limits of insurance. If any Excess/Umbrella Liability policies are in place, they must be on a true "following form" or broader coverage basis, with coverage at least as broad as provided on the underlying insurance.

e. ADDITIONAL INSURED.

The liability coverages, except Professional Liability and Workers' Compensation/Employer's Liability, if included, must endorse the **"State of Oregon, the Oregon Transportation Commission and the Oregon Department of Transportation, and their respective officers, members, agents and employees"** as an **endorsed** Additional Insured but only with respect to the contractor's activities to be performed under the contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

Additional Insured Endorsements on the Commercial General Liability shall be written on ISO Form CG 20 10 07 04, or equivalent, with respect to liability arising out of ongoing operations and ISO Form CG 20 37 07 04, or equivalent, with respect to liability arising out of completed

operations. Additional Insured Endorsements shall be submitted with the Certificate(s) of Insurance and must be acceptable to the Recipient.

f. "TAIL" COVERAGE.

If any of the required insurance policies is on a "claims made" basis, such as Professional Liability insurance or Pollution Liability insurance, the contractor shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the contract, for a minimum of twenty-four (24) months following the later of: (i) the contractor's completion and Recipient's acceptance of all Services required under the contract or, (ii) the expiration of all warranty periods provided under the contract. Notwithstanding the foregoing twenty-four (24) month requirement, if the contractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the twenty-four (24) month period described above, then the contractor may request and ODOT may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If ODOT approval is granted, the contractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

3. NOTICE OF CANCELLATION OR CHANGE.

The contractor or its insurer must provide thirty (30) days' written notice to Recipient before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

4. CERTIFICATE(S) OF INSURANCE.

Recipient shall obtain from the contractor a certificate(s) of insurance for all required insurance before the contractor performs under the contract. The certificate(s) or an attached endorsement must endorse: i) **"State of Oregon, the Oregon Transportation Commission and the Oregon Department of Transportation, and their respective officers, members, agents and employees"** as an endorsed Additional Insured in regards to the Commercial General Liability and Automobile Liability policies and ii) that all liability insurance coverages shall be primary and non-contributory with any other insurance and self-insurance, with exception of Professional Liability and Workers' Compensation/Employer's Liability.

The Recipient shall immediately notify ODOT of any change in insurance coverage.

Connect Oregon

Final Review Committee Prioritized Funding Recommendation

APP. #	APPLICANT	PROJECT NAME	TOTAL PROJECT COST	CO GRANT FUNDS REQUESTED	TOTAL PROJECT MATCH	FINAL COMMITTEE RANK
					Green = Recommend Fund	
1R0485	Mt. Hood Railroad	Mt. Hood Railroad Track Upgrade for Freight Expansion	\$ 2,526,400.00	\$ 1,743,216.00	\$ 783,184.00	1
3M0502	Mith-ih-Kwuh Economic Development Corporation	Ko'Kwel Wharf Improvements Project - Marine Dock Facilities	\$ 9,300,087.00	\$ 4,470,437.00	\$ 4,829,650.00	2
4A0508	City of Redmond	Redmond Airport Terminal Building Expansion Project	\$ 155,000,000.00	\$ 10,000,000.00	\$ 145,000,000.00	3
4R0510	Lake County	Lake County Railroad Customer Connections	\$ 3,225,692.53	\$ 2,225,692.53	\$ 1,000,000.00	4
5R0515	Oregon Eastern Railroad	Oregon Eastern Railroad 286k Upgrade Phase 3	\$ 1,114,204.00	\$ 657,380.00	\$ 456,824.00	5
2M0494	Port of Newport	Dock 7 and Commercial Marina Rebuild	\$ 34,570,110.00	\$ 9,570,110.00	\$ 25,000,000.00	6
3A0498	Jackson County	Medford Airport East Side Heavy Duty Aircraft Apron Expansion	\$ 7,300,000.00	\$ 3,000,000.00	\$ 4,300,000.00	7
2M0489	Columbia River Bar Pilots, LLC	Columbia River Bar and Coastal Wave Safety Technology	\$ 229,598.48	\$ 160,718.94	\$ 68,879.54	8
4A0505	Christmas Valley Park and Recreation District	Christmas Valley Airport Runway Reconstruction	\$ 8,291,111.00	\$ 524,111.00	\$ 7,767,000.00	9
2A0488	Oregon Department of Aviation	Oakridge Airport Runway Rehabilitation	\$ 2,630,000.00	\$ 1,788,400.00	\$ 841,600.00	10
2M0495	Port of Columbia County	Port Westward Beaver Dock Modernization Project	\$ 3,900,000.00	\$ 2,730,000.00	\$ 1,170,000.00	11
5A0513	Grant County	Grant County Regional Airport Fuel Tank Expansion and Upgrade	\$ 1,403,000.00	\$ 982,100.00	\$ 420,900.00	12
2R0496	Green Hill Reload	Greenhill Reload Multi-Modal Center Rail Improvement	\$ 2,982,991.00	\$ 2,058,264.00	\$ 924,727.00	13
3R0504	Central Oregon & Pacific Railroad	Douglas County Rail Access and Expansion Project	\$ 1,230,957.00	\$ 614,248.00	\$ 616,709.00	14
1A0481	Port of Portland	PDX Airtrans Center (ATC) Air Cargo Expansion	\$ 5,813,085.42	\$ 3,600,000.00	\$ 2,213,085.42	15
5A0514	City of Ontario	Ontario Municipal Airport Gate and Fence Install	\$ 150,000.00	\$ 105,000.00	\$ 45,000.00	16
2R0497	Portland & Western RR	Salem to Woodburn Rail Modernization	\$ 2,731,365.00	\$ 1,775,387.00	\$ 955,978.00	17
4A0506	City of The Dalles	Columbia Gorge Airport Aviation Hangar Expansion	\$ 2,415,000.00	\$ 1,690,000.00	\$ 725,000.00	18
3A0499	City of Roseburg	Taxiway A Extension	\$ 1,722,222.00	\$ 172,222.00	\$ 1,550,000.00	19
2M0492	Port of Astoria	Pier 2 West Rehabilitation & Lift Replacement	\$ 36,733,019.00	\$ 6,415,126.00	\$ 30,317,893.00	20
1M0483	Port of Portland	Berth 601 Auto Carrier Expansion and Safety Project	\$ 5,169,918.00	\$ 3,400,000.00	\$ 1,769,918.00	21
3M0501	Oregon International Port of Coos Bay	Charleston Shipyard Capacity Enhancement Project	\$ 5,000,000.00	\$ 3,500,000.00	\$ 1,500,000.00	22
2A0487	City of Eugene	Eugene Airport Terminal Concourse A Seating Expansion	\$ 19,320,000.00	\$ 13,524,000.00	\$ 5,796,000.00	23
3A0500	Coos County Airport District	Southwest Oregon Airport Apron Reconstruction	\$ 5,200,000.00	\$ 3,000,000.00	\$ 2,200,000.00	24
2M0491	Pacific Seafood - Warrenton, LLC	Pacific Seafood Warrenton Fuel and Ice Dock Repair	\$ 1,340,210.00	\$ 938,147.00	\$ 402,063.00	25
4R0509	Beaver Pumice, LLC	Beaver Pumice Rail Spur	\$ 3,740,000.00	\$ 2,618,000.00	\$ 1,122,000.00	26
2M0490	Pacific Seafood Newport LLC	Pacific Seafood Newport LLC Dock Pilings	\$ 1,349,800.00	\$ 944,860.00	\$ 404,940.00	27
1M0482	Gunderson Marine LLC	Gunderson Marine Wharf & Trestle Upgrades for Transloading	\$ 12,377,600.00	\$ 4,800,000.00	\$ 7,577,600.00	28
4R0511	NW Volcanic Holdings, LLC	NW Volcanic Holdings SCM Rail Facility	\$ 1,870,000.00	\$ 1,309,000.00	\$ 561,000.00	29
5A0512	City of Burns	Burns Airport UAS Range Infrastructure and Development	\$ 425,000.00	\$ 297,500.00	\$ 127,500.00	30
2A0486	City of Corvallis	Corvallis Airport Hangar Taxilanes and Taxiway B and C Seal Coat	\$ 2,563,000.00	\$ 800,000.00	\$ 1,763,000.00	31
4A0507	Port of Arlington	Linus Pauling Field Fuel Storage & Sales	\$ 575,500.00	\$ 402,850.00	\$ 172,650.00	32
1A0480	Oregon Department of Aviation	Mulino State Airport Waterline Improvements	\$ 1,394,234.25	\$ 948,079.29	\$ 446,154.96	33
1R0484	Hampton Lumber	Hampton Lumber Portland Reload Expansion	\$ 101,355.00	\$ 70,948.50	\$ 30,406.50	34
3R0503	Knife River Materials	Green Siding Aggregate Offloading Facility	\$ 3,100,000.00	\$ 2,100,000.00	\$ 1,000,000.00	35

**CITY OF ONTARIO
GENERAL FUND - DEPARTMENT REVENUE
FOR THE PERIOD ENDED
AUGUST 31, 2024**

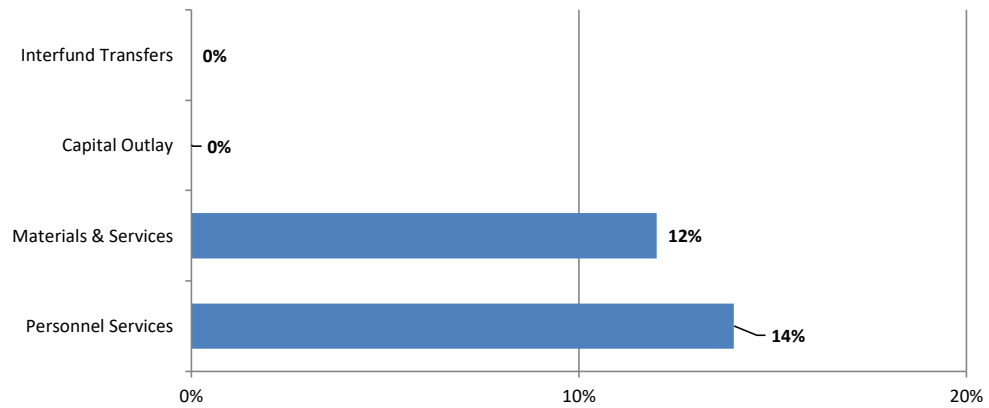
DEPARTMENT	BUDGET	ACTUAL	% REALIZED	COMMENTS
GENERAL FUND BEGINNING FUND BALANCE	3,356,532	-	0.0%	
Parks	111,020	20,276	18.3%	
Parks & Recreation	111,020	20,276	18.3%	
Fire	242,280	934	0.4%	
Code Enforcement	13,100	389	3.0%	
Police	458,885	66,990	14.6%	
Dispensary Business License	130,200	31,000	23.8%	
Public Safety Total	844,465	99,313	11.8%	
Interest	85,000	45,114	53.1%	
State Revenue Sharing	158,062	-	0.0%	
Administrative Services	497,148	82,858	16.7%	
Other General Revenues	8,000	2,678	33.5%	
Donations	-	-	#DIV/0!	
Property Taxes	4,404,315	30,683	0.7%	
Alcohol Bvg License & Fee	233,109	420	0.2%	
Cigarette tax	8,292	611	7.4%	
Marijuana tax	2,500,000	-	0.0%	
Franchise Fees	1,806,579	221	0.0%	
Cemetery	100,900	9,700	9.6%	
General Government Total	9,801,405	172,284	1.8%	
Planning & Zoning	4,000	781	19.5%	
Community development	4,000	781	19.5%	
GENERAL FUND REVENUE TOTALS	\$ 10,760,890	\$ 292,654	2.7%	
YTD CURRENT YEAR PROFIT(LOSS)				\$ (1,127,616)
YTD BUDGET BENCHMARK				16.7% -13.9%

**CITY OF ONTARIO
GENERAL FUND - DEPARTMENT EXPENDITURES
FOR THE PERIOD ENDED
AUGUST 31, 2024**

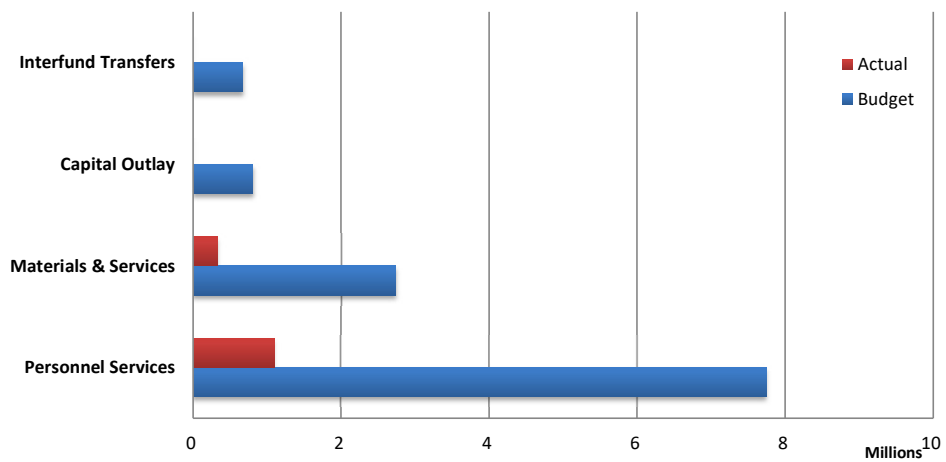
DEPARTMENT	BUDGET	ACTUAL	% EXPENDED	COMMENTS
Parks	278,294	23,528	8.5%	
Parks & Recreation	278,294	23,528	8.5%	
Fire	2,300,409	346,341	15.1%	
Code Enforcement	165,030	13,114	7.9%	
Police	5,645,814	663,542	11.8%	
Public Safety Total	8,111,253	1,022,997	12.6%	
Administration	605,440	79,963	13.2%	
City Council	33,357	1,884	5.6%	
Business Registration	1,100	5	0.4%	
Cemetery	218,082	21,496	9.9%	
Finance	273,878	-	0.0%	
Technology	239,559	21,650	9.0%	
General Government Total	1,371,416	124,997	9.1%	
Community development	199,025	32,791	16.5%	
Community Development	199,025	32,791	16.5%	
Administrative Overhead	916,714	210,312	22.9%	
Non-Departmental Contributions	433,000	5,644	1.3%	
Other Total	1,349,714	215,956	16.0%	
Operating Transfers Out	639,558	-	0.0%	
GENERAL FUND TOTALS	\$ 11,949,260	\$ 1,420,270	11.9%	
YTD BUDGET BENCHMARK			16.7%	 4.8%

**CITY OF ONTARIO
GENERAL FUND - DEPARTMENT EXPENDITURES
FOR THE PERIOD ENDED
AUGUST 31, 2024**

% Expended by Category



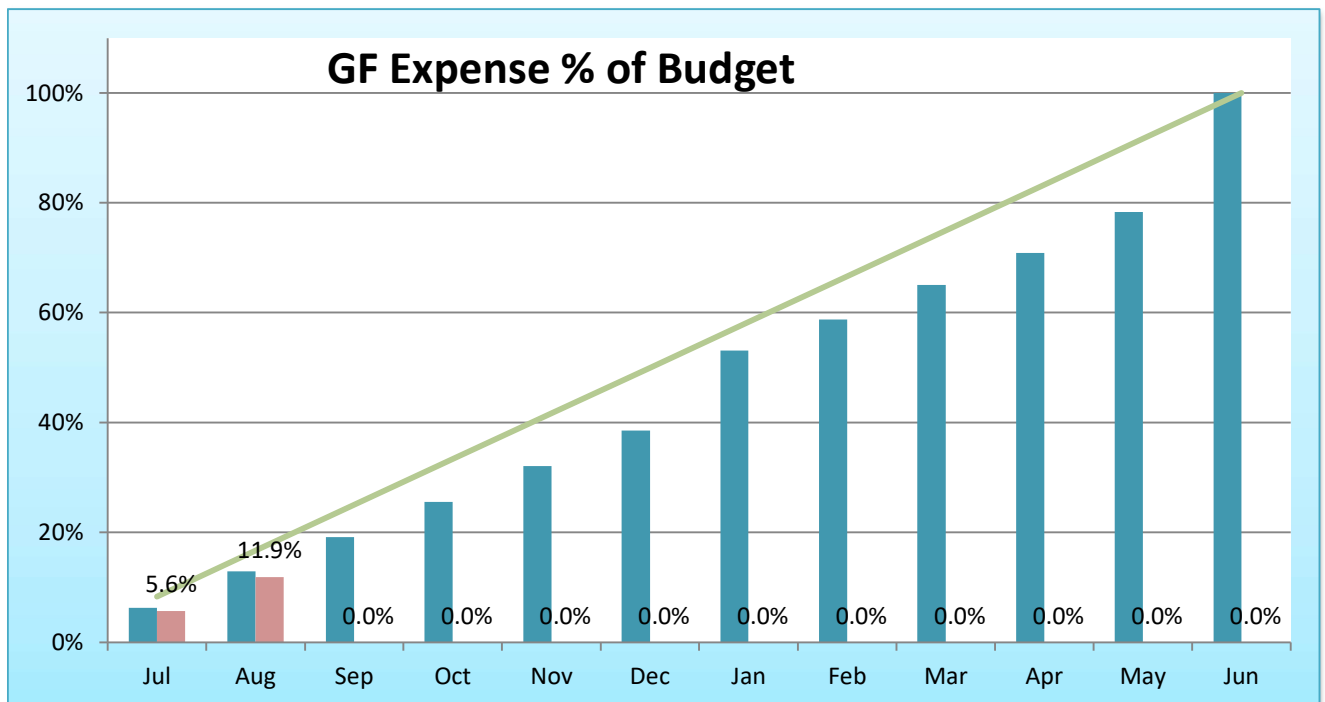
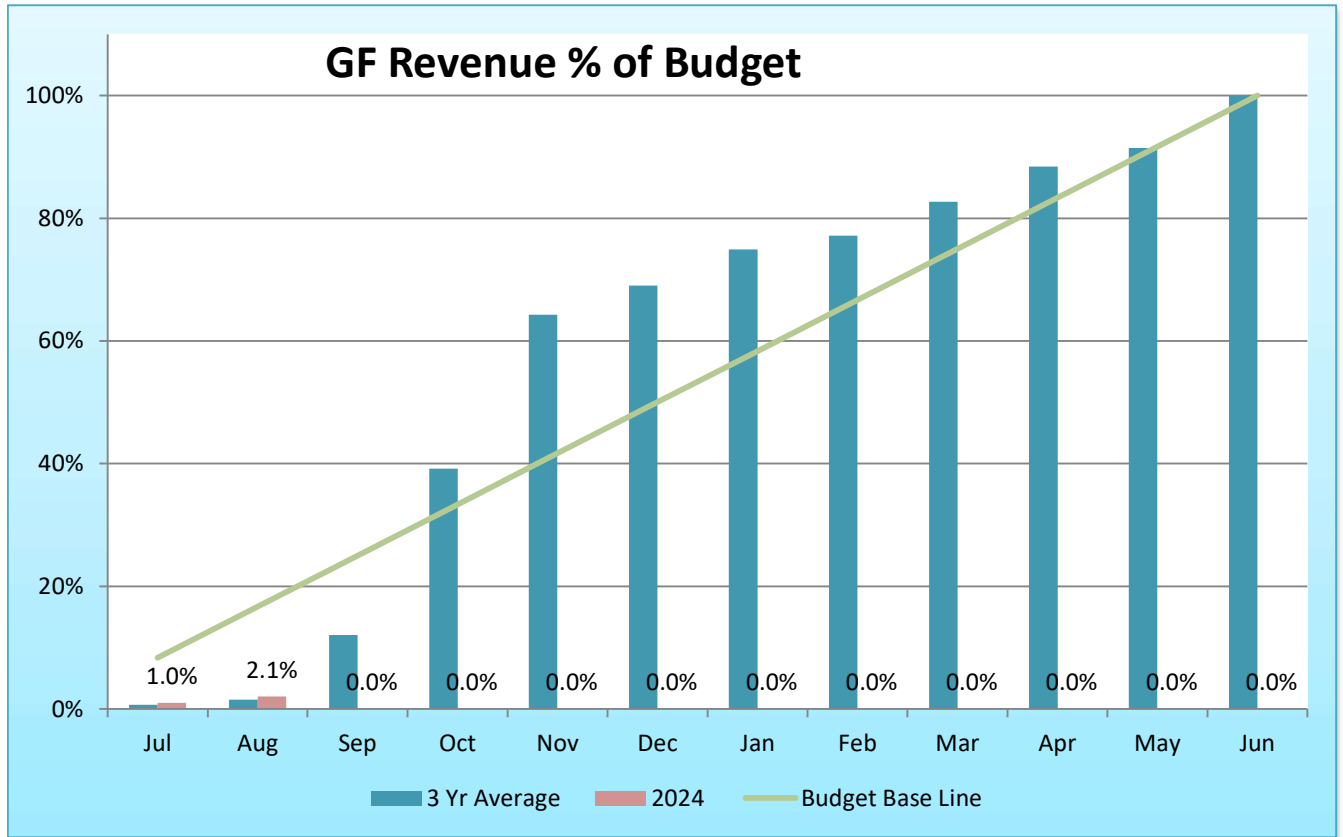
Budget to Actual by Category



**CITY OF ONTARIO
GENERAL FUND - LEGAL SERVICES
AS OF OCTOBER 17, 2024**

LEGAL EXPENSES	
JULY	\$ 4,916
AUGUST	5,539
SEPTEMBER	5,204
OCTOBER	-
NOVEMBER	-
DECEMBER	-
JANUARY	-
FEBRUARY	-
MARCH	-
APRIL	-
MAY	-
JUNE	-
TOTAL	\$ 15,659
BUDGETED AMOUNT	\$ 150,000
(OVER) UNDER BUDGET AMOUNT	\$ 134,341
Budget remaining	89.6%

**CITY OF ONTARIO
GENERAL FUND
FOR THE PERIOD ENDED
AUGUST 31, 2024**



**CITY OF ONTARIO
OTHER FUNDS - EXPENDITURES
FOR THE PERIOD ENDED
AUGUST 31, 2024**

DEPARTMENT/FUND	REVENUES				EXPENDITURES		
	BUDGET	ACTUAL	% REALIZED		BUDGET	ACTUAL	% EXPENDED
002 Marijuana Enforcement Fund	32,455	-	0.0%		32,455	-	0.0%
010 Grant Fund	1,611,652	18,000	1.1%		1,611,652	1,022	0.1%
027 Building Fund	790,653	27,246	3.4%		314,871	40,341	12.8%
030 Capital Projects Fund	7,005,638	133,107	1.9%		7,005,638	11,765	0.2%
031 SDC Fund	915,814	-	0.0%		915,814	-	0.0%
045 Street Fund	6,563,003	266,234	4.1%		6,563,003	375,924	5.7%
050 Trust Funds	1,398,836	109,369	7.8%		1,221,388	77,214	6.3%
055 Reserve Funds	4,475,406	3,000	0.1%		3,841,445	26,140	0.7%
060 Revolving Loan Fund	321,014	-	0.0%		321,014	-	0.0%
105 Water Fund	6,396,041	910,907	14.2%		4,771,578	554,592	11.6%
110 Sewer Fund	6,429,820	658,469	10.2%		4,765,641	512,304	10.7%
115 Storm Sewer Fund	479,590	21,782	4.5%		162,083	21,903	13.5%
120 Airport Fund	340,277	43,755	12.9%		340,277	51,580	15.2%

Comments:

YTD BUDGET BENCHMARK

16.7%



ONTARIO
OREGON

"The Gateway to Adventure"

Ontario Municipal Airport
444 SW 4th Street | Ontario, OR 97914
P: (541) 709-7651 | F: (541) 889-7121
andy.wood@ontariooregon.org

Airport Committee Meeting Minutes

August 5, 2024

The committee meeting was called to order by Chairman Dan Beaubien at 6:03 pm.

- 1) **Roll Call:** Rick Todd-excused, Bill Hager-present, John Freeburg-present, Gary Taylor-present, Shawn Coleman-present, Michael Franks-present, Chairman Dan Beaubien-present, Alternate Jim Beaumont-present

Ex Officio members: John Kirby (City Council)-present, Dan Cummings (City Manager)-present.

Airport Manager: Andy Wood-present

FBO: Silverhawk: Charlotte-present

- 2) **PLEDGE OF ALLEGIANCE:** Dedicated to fallen SEAT plane pilot.
- 3) **MOTION TO ADOPT THE AGENDA:** *Gary Taylor moved to approve the agenda as presented. John Freeburg second. Roll call vote: Rick-out, Bill-yes, John-yes, Gary-yes, Shawn-yes, Mike-yes, Dan-yes and Jim-yes. Motion carried 7/0/1.*
- 4) **APPROVAL OF MINUTES:** *Gary Taylor moved to approve the minutes from 7/1/2024 as presented. Shawn Coleman second. Roll call vote: Rick-out, Bill-yes, John-yes, Gary-yes, Shawn-yes, Mike-yes, Dan-yes and Jim-yes. Motion carried 7/0/1.*
- 5) **PUBLIC COMMENT** None
- 6) **OLD BUSINESS:** A) Airport Ground Lease for Aeronautical Use Improvements (Non-Commercial) Dan C presented the revised lease agreement going through each paragraph as committee members asked questions and were given explanations. *Shawn Coleman moved to accept the Airport Ground Lease for Aeronautical Use Improvements (Non-Commercial) as presented. Gary Taylor seconded. Roll call vote: Rick-out, Bill-yes, John-yes, Gary-yes, Shawn-yes, Mike-yes, Dan-yes and Jim-yes. Motion carried 7/0/1.*
- 7) **HAND-OUTS/DISCUSSION ITEMS**
A) JUB, BLM, FBO, Flight School, City Andy reported for JUB stating that the Jet Apron expansion will now begin in early October. Andy also reported on the BLM firefighting efforts. Charlotte said that the airport closure to put gravel on the runway



ONTARIO
OREGON

Ontario Municipal Airport
444 SW 4th Street | Ontario, OR 97914
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andy.wood@ontariooregon.org

"The Gateway to Adventure"

edges did not adversely affect their operation as the smoke was already causing a shift to the Caldwell airport. Shawn asked if the square footage and rate for hangar lease will be on the bill from the city this year. Dan C said that it will be in the upper right corner of each bill.

B) National STOL Event Andy gave a rundown of prep work as he gets ready to host the event. He has received an additional \$1,500 that will help with the \$1,800 needed to cover the porta potties. He also asked for help setting up the spectator canopies. Andy said to check out the volunteer link on the website as we can all volunteer at the event to help make it a success. Dan C talked briefly about the sprinklers and mowing of the grass strip.

8) CORRESPONDENCE, COMMENTS AND EX-OFFICIO REPORTS None

9) ADJOURN *Moved by Bill Hager, Second by Shawn Coleman.*

Roll call vote: Rick-out, Bill-yes, John-yes, Gary-yes, Shawn-yes, Mike-yes, Dan-yes, and Jim-yes. *Motion carried 7/0/1.*

The meeting was adjourned at 8:52 pm.

Next meeting: Tuesday September 3, 2024, at 6 pm at Ontario City Hall.

Dan Beaubien - Chairman

Mike Franks - Secretary

MALHEUR COUNTY SPECIAL MEETING MINUTES

Pursuant to Initiative Measure No. 23-64

Meet to Promote Relocating Oregon-Idaho Border Ordinance

September 9, 2024

The Special Meeting of the County Court was called to order by Judge Dan Joyce at 9:00 a.m. with Judge Joyce presiding and Commissioner Ron Jacobs present. Commissioner Jim Mendiola was absent. The Special Meeting was held pursuant to Initiative Measure 23-64 and Malheur County Meet to Promote Relocating Oregon-Idaho Border Ordinance to discuss how to promote the interests of Malheur County in any negotiations regarding the relocation of the Oregon-Idaho border. Present in the meeting room were public members Brent Grasty, Blu Fortner, Linda Feeley, Tara Dominick, Lucy Hutchens, Joe Recla, Steve Christensen, Mary Christensen, Rene House, and RiEtta Pattee. Present electronically were public members David Armstrong and Linda Simmons; Antonio Sunseri with the Argus Observer, and an unidentified listener. Notice of the meeting was emailed to the Argus Observer and Malheur Enterprise and posted on the Courthouse bulletin board and County website. The meeting was audio recorded. The agenda is recorded as instrument # ***

Judge Joyce asked for comments from the public.

Blu Fortner: I wanted to take a second to say that we were able to collect the full number of validated signatures and that we will be on the ballot in November for repealing the mandatory nature of these meetings, repealing this measure, which won't preclude anyone from meeting to talk about this in the future. They'll just have to get on the docket like regular County business. And the way to repeal those meetings is to vote yes on 23-74. And I also want to say a big thank you and round of gratitude and appreciation for the Greater Oregon group that helped collect all those signatures and it was a truly grassroots effort. We all worked together and it's been a real blessing to work together to be a part of the group.

Joe Recla: I'm here in support of the 23-74 for removing the requirements of the County to speak to this issue three times a year. And as I thought about things that I like about Oregon or love about Oregon, I love the fact that Oregon promotes reading books and is not interested in banning books. I love the fact that Oregon actually actively tries to support people in the right to vote and makes it easier to get registered. I love Oregon because they support a woman's rights to her own body and supports families to make the decisions about what's best for the health and welfare of their own children. Those are just to name a few of the things that I support.

Mary Christensen: I was an educator, I'm a retired educator, and I want us to stay Oregon. Our daughter is a teacher in Idaho and I see the difference between the education in Idaho and the education that Oregon gives our children. That's really important to me as well. And my husband, and he'll speak for himself, I'm sure, but because I've been married to him for so long, he's just stuck with me, but he's a hunter and he hunts with our son and our son lives in Hillsboro, and I'm a proud mom of a Hillsboro police officer, and so, when he goes hunting, they hunt together, for big game and if we're in Idaho...(comments were interrupted as others entered the meeting room)

Mr. Grasty: You want them to be able to keep hunting together - is that what you're saying?

Ms. Christensen: Well you know what, I love him to pieces, because like I said, I've been married to this man a very long time. He goes away for a while and hunts with my son.

Steve Christensen: A small piece of that is I am on the verge of qualifying for my Pioneer Hunting License and I have invested a considerable amount of time to get there. And that's just one little small piece of many similar that would need to be changed if we were to become a part of Idaho. The infrastructure that would have to be transferred. I mean, it's just a large change. And I am somewhat disappointed with the misinformation or, whether intentional or just partially, on the Greater Idaho website. Such things as a boundary change between Washington and Oregon in 1958, so it can be done; well it's not a cultural thing as large a scale as we're proposing with the Greater Idaho Movement. So I would suggest this information be fact-checked as we go through this. A greater thing is probably the misinformation, intentional or not, of so many counties that have voted to actually become part of Idaho. When in fact, they have voted to have meetings such as this, and I'm sure that you've had a great opportunity through, what, three years now to hear many sides and get a lot of the information, and fact-check the information. So I think it's time to stop the mandated meetings and just allow conversation to continue, whether through normal commissioner meetings or between groups and between parts of the population.

Ms. Christensen: I'm a born and raised Oregonian; that's a long time.

Judge Joyce: So what's the age for Pioneer?

Mr. Christensen: Well it's not an age; it's 50 years of residency.

Judge Joyce: So there's no age limit?

Mr. Christensen: Well there is a 65 year old and 50 years of residency.

Brent Grasty: Can I just ask as question? When I've come to Court meetings, which is rare, I've been on the agenda. How do you get on it? If Greater Idaho wanted to get on the agenda or we did, how do you get on the agenda?

Judge Joyce and Commissioner Jacobs: You talk to Kim

Mr. Grasty: Just talk to Kim and say hey, I'd like to

Commissioner Jacobs: And you have to do it a few days in advance because it has to be publicized

Mr. Grasty: Sure, and your meetings are Wednesdays, correct?

Commissioner Jacobs: Yes

Mr. Grasty: Okay, thanks.

David Armstrong submitted comments in the chat box as his audio was not working. Mr. Armstrong's comments were: Thank you for taking the time to listen to your constituents. I look forward to voting yes on 23-74 and end these unnecessary meetings and allow our government to focus on the other important matters affecting our county. While our county and state faces many challenges, I believe we solve them through getting our voices heard in Salem.

Linda Simmons: I fully support the work of the Greater PAC to remove this from the obligation of the County to meet. I support anyone being able to schedule in and have an informational meeting, but I don't think it any longer needs to be the three times a year mandated, and I support that.

Linda Feeley: I've never been able to understand why people think they can just move borders around. I would hope that maybe Eastern Oregon could maybe meet in Salem more and get their voice heard. But you don't go to those drastic measures of move a border. It doesn't make any sense to me, but that's the movement. So, I love Oregon; if I didn't I'd move across the river. I mean, I love Oregon. They have a wonderful education system. They're not a welfare state, which I know as a welfare state means they get more from the federal government than they pay in; and I realize it doesn't come from our area, it comes from the other side of the state. I like the laws, even though I'm in Ontario you get a lot of the Idaho opinions. I'm happy to be in Oregon and be governed by Oregon laws. Just for instance, I had a plumber the other day and he was telling me when he was checking our water heater, I said, you know, what's the difference between the regulations for Oregon and Idaho? And he said, oh, he says, Idaho doesn't care what you put in; Oregon does and they have all these little precautions in to help the homeowner. It's just little things like that that make me very thankful that I'm in a state that cares about the people.

Lucy Hutchens: I haven't understood this whole thing and sometimes I get very, very divisive. I've been called divisive. If this went through and everybody agreed, none of us would still be alive when the Congress of the United States of America, which is such a cooperative group, agreed to this. And I've talked to some of the people that want it moved, and I just said, why are you so upset? And they said, well, we don't get what we want from Salem. It's all these Democrats, and it's everything in the legislature in Salem. And I said, you know, for years there were people from this area that were from two different parties, but they had one attribute. They went there with the attitude that they would compromise. We had senators, one who would go on the Yturri bypass, and he worked for years in the Oregon legislature, and he was kind of a middle-of-the-road guy. But he went with the idea that he would try to get things that Eastern Oregonians needed, but they would find a path to compromise. And if the people that are sent to Salem go there with an attitude, it's my way or the highway, then that's when they have to walk out of the legislature and go hide in a motel someplace and I consider that divisive. So, I just don't understand why they don't find some good candidates to run from this part of the world and sit down and figure out how they can accept things that they don't want but that they can live with and then gradually get to a point where they can accept not being the head honchos in Salem.

Mr. Grasty: I'm just curious, I imagine the Court can't really take an opinion on this, but do you see a downside to having these kinds of conversations at the regular meetings as opposed to here or an upside? Is it a push? I mean we're here and there are no representatives from Greater Idaho, so it's at least the second meeting, maybe the third, and, you know, they've often mentioned, you know, we want to send a message, but do you see any difference? Can you handle the conversation in a regular Court meeting? How do you feel like that would work if this passes, this new bill passes?

Judge Joyce: I don't think it'd change.

Commissioner Jacobs: I think it'd be fine myself.

Judge Joyce: We can handle it.

Mr. Grasty: I went back through the notes over the last 10 meetings now and there was, a couple of meetings had some questions about meeting or communicating with the other counties on how they're approaching it, what their sense is. Have you had any conversations with the other counties? What's your take away from what's going on with these meetings there?

Judge Joyce: Not really.

Commissioner Jacobs: We have an Eastern Oregon Counties Association, and we've discussed it briefly about some of this stuff, but we haven't ever really gotten into detail about it. I think everybody's a little bit like we are; there might be some other counties that are pushing it harder, I don't know.

Mr. Christensen: It sounds like Harney County is going the same direction that we would like to see Malheur County go.

Mr. Fortner: Yeah, they repealed it in May, having these meetings.

Judge Joyce: They did?

Mr. Fortner: Harney County did.

Judge Joyce: Really?

Commissioner Jacobs: They're just going to have it in their regular meetings.

Mr. Grasty: What did they do Blu?

Mr. Fortner: Harney County repealed the need to have mandatory meetings outside of regular meetings to talk about this in May.

Mr. Grasty: Through the Court? Or through a ballot measure?

Mr. Fortner: Through a ballot measure.

Judge Joyce: Really, I didn't know that.

Mr. Fortner: So I think the time is coming where we're going to have to find some compromises, and have the Greater Idaho group and the Greater Oregon group working together to build a consensus that we all agree on, and things that we like to see

change or how to communicate other ideas for changes, besides such an extreme unrealistic one. I think the time for compromise and collaboration is just very ripe in my opinion.

Judge Joyce: Do you talk to those people often?

Mr. Fortner: No, I lost an email that they sent asking to get together back in June. And then when I was interviewing with Pat Caldwell he brought it up and I looked in and found it so I'm going to be responding to that later today. See if they have any interest in still getting together and talking about some of the issues and what some other compromises might be.

Commissioner Jacobs: Well, I don't want you to think that we expect you to do all the, you know, to step forward first either, so, you know, they haven't made an effort to...

Mr. Fortner: So maybe instead of just looking at it as Greater Idaho and Greater Oregon working together, we could look at it as Greater Idaho, Greater Oregon and the County Court working together. If you guys are okay with that.

Commissioner Jacobs: Well, we'll see what happens.

Mr. Fortner: Fair enough. I'll CC you guys in the emails that I send.

Tara Dominick: I am a 20 year educator, also I like the, you know, talking about the banning of the books, I am a librarian and a teacher and so I really, well, one, again, I love Oregon. I live in Oregon because I want to be in Oregon. If I wanted to move to Idaho I would move over there. But I also see not just that, but what would happen again as educators and having a child who is in the school district in Ontario and knowing the difference between the educational systems between the two states, it would be very detrimental to the youth of our state to switch over to their educational system. Not to mention the fact that most of us would probably lose our jobs if that were to happen, right? I mean, if we're, you know, I work at the college and all of a sudden you become Idaho we are no longer going to be, right. And the courthouse here, we're no longer, everything would have to shift, the amount of money that would, not to mention the fact that just legally, it would most likely never happen, and like you said, it would take forever in Congress and all of that. So I think the wasting of time and energy to have a conversation on something that is not going to happen, that just causes more animosity between people. It just doesn't need to be discussed three times a year. And again, if someone wants to have that discussion, then they can go through other legal means to come to different meetings to have that. But we're Oregon and we live here because we choose to live here. It's a wonderful state. I have the right to choose what to do with my own body. I have a right to work in a career that I love and where children can be educated without restrictions. And so, that's why I support this.

Ms. Christensen: I'd like to tag on to you because I didn't think of our certifications. I'm an Oregon certified teacher, but I'm not certified to teach in Idaho, so our certifications...

Ms. Dominick: We can transfer over but in Oregon you need a master's, but in Idaho you only have to have a high school diploma to be a substitute so this is where we talk about the lowering of standards for education, where Oregon, you have to have a bachelor's to be a substitute.

Ms. Christensen: Right, and then I was thinking as you were talking about physicians, to get their certification or a doctor, I don't know how that works, just because I've been an educator and know that what I needed to have for Oregon certification, so other businesses, other doctors, lawyers, are you able to go from state to state to state without having some certification, some extra that it's going to cost them in order to maintain their businesses in Oregon or Idaho.

Ms. Hutchens: Would there be any way that your secretary could just give a ballpark estimate of what one of these meetings costs to set up? I mean there's electronic stuff and staff time etc. etc. I'm just curious what this costs in dollars and cents because one of the problems with people wanting to move the border is that there's money.

Judge Joyce: I'm sure she could figure something out.

Commissioner Jacobs: If no one else has anything else to say, I just want to say something about our representation that we have here on our side of the state and I'm very happy with Senator Findley and Representative Owens. I don't think that we could have better representation. Hopefully we can find somebody good that will replace Senator Findley, but I think he's been a great representative for a senator for our Eastern Oregon; I don't think we could ask for a better one. I just want to thank them for their efforts and let you know how I feel about our representatives.

There were no further comments. Judge Joyce adjourned the meeting.

After the meeting was adjourned it was noted that Matt McCaw with Greater Idaho had just joined the meeting electronically.

Judge Joyce allowed Mr. McCaw to speak.

Matt McCaw: I am sorry, I had some technical difficulties, sorry to join late. You guys probably know me by now, I'm with the movement, I try to come to all of these meetings to be able to answer questions, give updates, and all those sorts of things; be a resource for you guys if questions come up. So again, I apologize for not being on time and being here earlier. But if there's anything that the commissioners would like to know or anybody else in the audience had questions that I might be able to answer as part of the representative of the movement I'm happy to do that.

There were no questions for Mr. McCaw.

MALHEUR COUNTY COURT MINUTES

September 18, 2024

The regularly scheduled meeting of the County Court was called to order by Commissioner Ron Jacobs at 9:00 a.m. in the County Court Office with Commissioner Jim Mendiola present. Judge Dan Joyce was absent. Members of the media, public and staff had the opportunity to join the meeting electronically or in-person. Staff present in the meeting room was Economic and Community Development Director Taylor Rembowski. 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 # [2024-2590](#)

COURT MINUTES

Commissioner Mendiola moved to approve Court Minutes of September 11, 2024 as written. Commissioner Jacobs seconded and the motion passed.

BURN BAN LIFTED

Commissioner Mendiola moved to approve Order No. GO-08-24: Order Lifting Burn Ban in Unincorporated Areas of Malheur County Located Outside of a Fire District; Repeal Order GO-05-24. Commissioner Jacobs seconded and the motion passed. See instrument# [2024-2591](#)

STIF ADVISORY COMMITTEE

Commissioner Mendiola moved to appoint Aravela (Vela) Sanchez to the Malheur County Statewide Transportation Improvement Fund (STIF) Advisory Committee. Commissioner Jacobs seconded and the motion passed.

Administrative Officer Lorinda DuBois joined the meeting.

SUPPLEMENTAL BUDGET RESOLUTION

Commissioner Mendiola moved to approve Supplemental Budget Resolution R24-23: In the Matter of Fiscal Year 2024/2025 Supplemental Budget by Resolution Under Local Budget Law ORS 294.471. Commissioner Jacobs seconded and the motion passed. The purpose of the supplemental budget is to allocate MCDC Reimbursement funds from ODOT that were not anticipated when the budget was adopted; these funds reimburse the County for paying off the MCDC Line of Credit while waiting for payment from ODOT. See instrument # [2024-2593](#)

SUPPLEMENTAL BUDGET RESOLUTION

Commissioner Jacobs moved to approve Supplemental Budget Resolution R24-24: In the Matter of Fiscal Year 2024/2025 Supplemental Budget by Resolution Under Local Budget Law ORS 294.471. Commissioner Mendiola seconded and the motion passed. The purpose of the supplemental budget is to decrease the allocation of State Veterans/SB 100 Funds to the CVSO Expansion Fund from the Oregon Department of Veterans' Affairs. See instrument # [2024-2592](#)

CHECK REGISTER

Commissioner Jacobs moved to approve the Accounts Payable Register for April 2024, May 2024, June 2024, July, 2024 and August 2024. Commissioner Mendiola seconded and the motion passed.

TREASURE VALLEY PARAMEDICS (TVP) FUNDING REQUEST

The Court members discussed the request from Treasure Valley Paramedics for funding assistance. (Court meeting of September 4, 2024) The County has a contract with TVP to provide ambulance service coverage for the Ontario Ambulance Service Area (ASA) and the Nyssa ASA. Additionally, TVP is the only advanced life support ambulance in the County. Commissioner Jacobs moved to fund TVP \$50,000 from the County's ARPA funding; and to fund Vale Ambulance and Jordan Valley Ambulance \$12,500 each from ARPA funding. Commissioner Mendiola seconded and the motion passed.

WILDLAND FIRE RECOVERY TOWNHALL

Commissioner Jacobs noted that there is a Wildland Fire Recovery Townhall tonight at 7:00 p.m. at the Vale ESD building.

COURT ADJOURNMENT

Commissioner Jacobs adjourned the meeting.

MALHEUR COUNTY COURT MINUTES

September 25, 2024

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 with Commissioner Ron Jacobs and Commissioner Jim Mendiola present. Members of the media, public and staff had the opportunity to join the meeting electronically or in-person. Staff present in the meeting room were Administrative Officer Lorinda DuBois and Economic and Community Development Coordinator Taylor Rembowski. 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 # [2024-2670](#)

GRANT APPLICATION - OREGON INVASIVE SPECIES COUNCIL

Economic and Community Development Coordinator Taylor Rembowski met with the Court and requested authorization to submit an Invasive Species Outreach and Education Grant application to the Oregon Invasive Species Council for quagga/zebra mussels. Also present was Sheriff Travis Johnson. The mussel is an invasive species and has been found in the Snake River near Twin Falls, Idaho. It is hoped to prevent the mussel from entering the Owyhee watershed. A watercraft inspection station near Lake Owyhee would also be beneficial and is a future goal. The Court was supportive of the grant application and echoed the importance of keeping the invasive mussel out of the waterways in the county. After discussion, consensus was for Mr. Rembowski to submit the outreach and education grant application to the Oregon Invasive Species Council.

COURT MINUTES

Commissioner Jacobs moved to approve Court Minutes of September 18, 2024 as written. Commissioner Mendiola seconded and the motion passed. (Judge Joyce was absent for the meeting of September 18, 2024.)

SPECIAL MEETING MINUTES

Judge Joyce moved to approve Special Meeting Minutes of September 9, 2024 as written. Commissioner Jacobs seconded and the motion passed. (Commissioner Mendiola was absent for the meeting of September 9, 2024.)

EMPLOYMENT AGREEMENT - GERRARD

Commissioner Jacobs moved to approve Temporary Employment Agreement for Modernization Contract Position - Malheur County Health Department with Angela Gerrard. Commissioner Mendiola seconded and the motion passed unanimously. The agreement terminates June 30, 2025. See instrument # [2024-2672](#)

AMENDMENT - IGA #180022

Commissioner Jacobs moved to approve Eleventh Amendment to Oregon Health Authority 2023-2025 Intergovernmental Agreement (IGA) for the Financing of Public Health Services, Agreement #180022. Commissioner Mendiola seconded and the motion passed unanimously. Funding is added to the Public Health Practice - Immunization Services program element. A copy will be returned for recording.

SOLID WASTE SYSTEM PARTICIPATION AGREEMENT - CLAY PEAK

Commissioner Jacobs moved to approve Payette County Solid Waste System Participation Agreement for Clay Peak Landfill. Commissioner Mendiola seconded and the motion passed unanimously. See instrument # [2024-2673](#)

VALE FOOD PANTRY - REQUEST FOR FUNDING

Jessica Patton, Chris Strauchon, and Luwana Hinrich from the Vale Food Pantry met with the Court and requested funding to support the Vale Food Pantry's Capital Campaign project to purchase its building for the Vale Food Pantry and Community Resource Center. The building is currently leased by the food pantry with an option to purchase. The goal is to purchase the building for use as a food pantry as well as a community resource center to serve those in need for food or access to services. The food pantry serves the communities of Vale, Ironside, Brogan, Jamison, Willowcreek, Harper, Westfall, and Juntura. The food pantry has received two grants; one grant is a technical assistance grant from the Ford Family Foundation for the board members to take grant writing classes. Additional grant opportunities are being sought; Kathy Collins is assisting with grant writing. Community resource agencies from Ontario have expressed an interest in being a part of the community resource center. The vision of the Vale Food Pantry is a collaboration of partnerships working together to create strong, capable, self-sustaining individuals. The Court thanked the food pantry representatives for the presentation and agreed to take the funding request under advisement. See instrument # [2024-2671](#) for correspondence from Katherine Collins and for the Vale Food Pantry & Community Resource Center Strategic Plan Summary.

COMMISSIONER COMMENTS

Commissioner Mendiola noted that both he and Commissioner Jacobs attended a recent meeting concerning the wildland fires and the information provided by the grass specialist was very informative. Commissioner Jacobs noted that Representative Bentz has a new field representative who lives in Vale.

COURT ADJOURNMENT

Judge Joyce adjourned the meeting.

MALHEUR COUNTY COURT MINUTES

October 2, 2024

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 with Commissioner Ron Jacobs and Commissioner Jim Mendiola present. Members of the media, public and staff had the opportunity to join the meeting electronically or in-person. Staff present in the meeting room were Administrative Officer Lorinda DuBois and Economic and Community Development Coordinator Taylor Rembowski. 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 # [2024-2738](#)

CROSSING PERMITS

Commissioner Mendiola moved to approve the following Crossing Permits: Permit #69-24 to Kendall Fletcher for work on Riata Circle #1533; Permit #70-24 to Idaho Power for maintenance work on Reed Loop Road #512; Permit #71-24 to Idaho Power for maintenance work on Bishop Road #657; and Permit #72-24 to Marathon Pipe Line LLC for work on Lockett Road #730. 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 September 25, 2024 as written. Commissioner Mendiola seconded and the motion passed unanimously.

MOA - ADA COUNTY

Commissioner Jacobs moved to approve Agreement between County of Malheur, State of Oregon and County of Ada, State of Idaho FY 2025. Agreement #15419-1-24. Commissioner Mendiola seconded and the motion passed unanimously. The agreement is for juvenile offenders under the jurisdiction of Malheur County to be temporarily housed at the Ada County Detention Center. A copy will be returned for recording.

VECTOR CONTROL DISTRICT

Commissioner Jacobs moved to reappoint Jeremy Evers to the Vector Control Board of Trustees. Commissioner Mendiola seconded and the motion passed unanimously.

IGA - VALE SCHOOL DISTRICT

Commissioner Jacobs moved to approve Intergovernmental Agreement between Malheur County, Oregon and Vale School District #84 for School Resource Deputy Services. Commissioner Mendiola seconded and the motion passed unanimously. The agreement expires June 2025. See instrument # [2024-2739](#)

FARMLAND LEASE - FARMERS

Commissioner Jacobs proposed that the County modify the farmland lease with Farmers (Charles, James, and Margaret Farmer; original lease is recorded as instrument #2020-0142) and allow Farmers to only farm the ground west of the road that runs directly north and south through the property. Commissioner Jacobs has been in contact with Stephen Parrott about the matter. Commissioner Jacobs is also working with Oregon Water Resources Department to transfer the County's portion of the water right to park it instream to protect it so that the County can utilize it at a later date if needed. The Court had no objections to the proposals and authorized Judge Joyce to sign a letter to Farmers regarding the farmland lease.

MISCELLANEOUS UPDATES

Commissioner Jacobs reported that he, Mr. Rembowski, and Road Supervisor Dave Tiffany traveled to the site of the HiTech/Jindalee McDermitt Lithium Project. The company has requested additional maintenance on the road; the County currently grades the road twice a year. The road is nearly 20 miles and mostly graveled (some areas are not even graveled.) Commissioner Jacobs noted that the County does not have the personnel or equipment to do added improvements to the road and that HiTech may need to look to another source to work on the road. (An outside source would need to confer with the County road department as it is a public road.)

Judge Joyce noted he received concerns about the condition of the boat ramp at Lake Owyhee; he is following up with State Parks.

ADJOURNMENT

The meeting was adjourned.

Accounts Payable

Checks by Date - Summary by Check Date

User: kari.ott
Printed: 10/18/2024 2:34 AM



Check No	Vendor No	Vendor Name	Check Date	Check Amount
132187	440000	L.N. Curtis and Sons	09/05/2024	85.00
132188	879163	McCurry Ontario Motors, LLC	09/05/2024	356.23
132189	716553	Saint Luke's	09/05/2024	142.00
132190	879742	Trinity Health Epic - PP	09/05/2024	150.00
Total for 9/5/2024:				733.23
132191	033300	Argus Observer 117-A	09/06/2024	704.00
132192	033301	Argus Observer 117-C	09/06/2024	251.00
132193	879886	Comfort Zone	09/06/2024	125.89
132194	270205	Emergency Responder Services, Inc.	09/06/2024	1,674.00
132195	428200	League of Oregon Cities	09/06/2024	740.00
132196	432000	Les Schwab Tires - Warehouse Center	09/06/2024	65.65
132197	879882	Malheur County Building Department	09/06/2024	1,459.20
132198	&509	Matsy's Restaurant & Catering	09/06/2024	75.00
132199	461607	MicroTechnology Systems, Inc.	09/06/2024	595.00
132200	602320	NAPA Auto Parts	09/06/2024	82.04
132201	879301	Net Assets Corporation	09/06/2024	315.00
132202	879884	Lakeyland, Inc.	09/06/2024	217.39
132203	582530	Oregon Corrections Enterprises	09/06/2024	31.00
132204	516494	State of Oregon Department of Transportati	09/06/2024	643.36
132205	642093	Red's Automotive Repair, Inc.	09/06/2024	551.00
132206	644210	Roadrunner Towing, Inc.	09/06/2024	445.46
132207	879885	Trish Robinson	09/06/2024	350.00
132208	879469	SBRK Finance Holdings, Inc.	09/06/2024	1,660.00
132209	879145	Silver Signet, LLC	09/06/2024	65.00
132210	698800	Stan's Heating, Inc.	09/06/2024	166.00
132211	879007	Weidner Fire	09/06/2024	345.00
Total for 9/6/2024:				10,560.99
132212	037600	AT&T	09/09/2024	25.46
132213	637830	Century Link	09/09/2024	693.15
132214	637828	Century Link Communications, LLC	09/09/2024	57.54
132215	UB*12213	JESSICA DELEON	09/09/2024	11.81
132216	UB*12209	CLAIRE FARBER	09/09/2024	73.43
132217	376000	Idaho Power	09/09/2024	1,206.01
132218	UB*12210	KERRY KEGEL	09/09/2024	142.60
132219	879417	LightSpeed Networks, Inc.	09/09/2024	1,213.59
132220	UB*12212	OFFER NOW IDAHO LLC	09/09/2024	66.91
132221	UB*12211	VALLEY FAMILY HEALTH CARE	09/09/2024	47.89
132222	288897	Verizon	09/09/2024	1,349.31
132223	879733	Waste Connections of Oregon, Inc.	09/09/2024	444.10
Total for 9/9/2024:				5,331.80
ACH	878915	Jacobs Engineeering Group, Inc.	09/12/2024	596,902.19

Check No	Vendor No	Vendor Name	Check Date	Check Amount
132225	879145	Silver Signet, LLC	09/12/2024	50.87
132226	879111	Foremost Promotions	09/12/2024	412.87
132227	0143466	Amazon Capital Services	09/12/2024	9,941.25
Total for 9/12/2024:				607,307.18
132228	21409	Big Sky Sportswear	09/13/2024	105.52
132229	626400	Campo & Poole Distributing, LLC	09/13/2024	1,919.31
132230	879747	Teton Radiology Caldwell	09/13/2024	150.00
132231	868233	Witco, Inc.	09/13/2024	576.00
132232	010500	Tori Barnett	09/13/2024	224.50
132233	879244	Jon Laurenson	09/13/2024	248.00
132234	879012	State of Oregon Dept of Public Safety Stan	09/13/2024	92.50
132235	879263	Casey Walker	09/13/2024	147.50
Total for 9/13/2024:				3,463.33
132236	626400	Campo & Poole Distributing, LLC	09/16/2024	20,768.34
132237	216000	D & B Supply Company	09/16/2024	1,579.44
132238	253494	Durham Gravel Works, Inc.	09/16/2024	6,085.00
132239	360015	Home Depot Credit Services	09/16/2024	282.13
Total for 9/16/2024:				28,714.91
132240	033300	Argus Observer 117-A	09/18/2024	95.32
132241	879494	Bruneel, LLC	09/18/2024	751.15
132242	879637	Bryant Lovlien & Jarvis PC Attorneys at La	09/18/2024	9,458.59
132243	879451	CDR Labor Law, LLC	09/18/2024	971.50
132244	270205	Emergency Responder Services, Inc.	09/18/2024	795.00
132245	284000	Farmers Supply Co-Op	09/18/2024	15,021.93
132246	879191	Kristy Lynn Janti	09/18/2024	40.00
132247	441140	Looks Nu, Inc.	09/18/2024	476.00
132248	461607	MicroTechnology Systems, Inc.	09/18/2024	9,480.00
132249	879113	Municipal Emergency Services, Inc.	09/18/2024	336.28
132250	879301	Net Assets Corporation	09/18/2024	450.00
132251	879723	State of Oregon Department of Administrat	09/18/2024	500.00
132252	242083	State of Oregon Department of Transportati	09/18/2024	12.85
132253	516494	State of Oregon Department of Transportati	09/18/2024	2,305.88
132254	583450	State of Oregon Dept of Corrections	09/18/2024	4,000.00
132255	614087	PORAC LDF	09/18/2024	438.00
132256	642093	Red's Automotive Repair, Inc.	09/18/2024	1,592.72
132257	879469	SBRK Finance Holdings, Inc.	09/18/2024	1,705.00
132258	879145	Silver Signet, LLC	09/18/2024	442.35
132259	879845	Student Loan Fund of Idaho Marketing Ass	09/18/2024	3,937.50
132260	738002	Symbol Arts, LLC	09/18/2024	1,699.50
132261	788402	TransUnion Risk & Alternative Data Soluti	09/18/2024	150.00
132262	879212	Uniforms 2 Gear	09/18/2024	1,468.24
132263	823500	Vale Electric, Inc.	09/18/2024	460.91
132264	842040	Warrington Irrigation, Inc.	09/18/2024	105.38
132265	879151	Waste-Pro	09/18/2024	50.24
Total for 9/18/2024:				56,744.34
ACH	878915	Jacobs Engineeering Group, Inc.	09/19/2024	28.44
ACH	878915	Jacobs Engineeering Group, Inc.	09/19/2024	2,432.06
ACH	878915	Jacobs Engineeering Group, Inc.	09/19/2024	538,005.88

Check No	Vendor No	Vendor Name	Check Date	Check Amount
132266	879888	Bauer Heating & Cooling	09/19/2024	455.24
132267	879880	Bo J. DeForest	09/19/2024	6,000.00
132268	879889	Gary Faw	09/19/2024	280.00
132269	879877	Leonel Dionicio Martinez	09/19/2024	6,000.00
132270	879867	Nuno Homes, LLC	09/19/2024	10,000.00
132271	879881	Raquel Sandoval-Gonzalez	09/19/2024	6,000.00
132272	879311	Treasure Valley Community College	09/19/2024	1,000.00
132273	879777	Vale Heritage Reflections Mural Society, In	09/19/2024	3,000.00
132274	879892	Steven G and Ida Vielma	09/19/2024	6,000.00
132275	879879	Gary Wentzel	09/19/2024	6,000.00
Total for 9/19/2024:				585,201.62
132276	879530	Nicholas Ducote	09/20/2024	1,677.50
132277	879455	Carquest Auto Parts	09/20/2024	19,957.00
132278	183201	CK3, LLC	09/20/2024	432.50
132279	22427	Consor North America, Inc.	09/20/2024	15,081.25
132280	879883	Conveyored Materials Company of Idaho, I	09/20/2024	7,770.29
132281	879530	Nicholas Ducote	09/20/2024	2,997.50
132282	269295	Edge Performance Sports, LLC	09/20/2024	15,000.00
132283	270205	Emergency Responder Services, Inc.	09/20/2024	31,031.80
132284	879819	Express Services, Inc.	09/20/2024	325.00
132285	393500	Irvco Asphalt & Gravel, Inc.	09/20/2024	164,878.00
132286	412500	Keller Associates, Inc.	09/20/2024	8,141.00
132287	879865	Kittelson & Associates, Inc.	09/20/2024	30,398.54
132288	461607	MicroTechnology Systems, Inc.	09/20/2024	2,225.00
132289	468350	Motion Industries, Inc.	09/20/2024	23,180.63
132290	879856	Newterra Corporation, Inc.	09/20/2024	32,547.12
132291	644110	Riverside, Inc.	09/20/2024	11,421.93
132292	879423	Romans Precision Irrigation	09/20/2024	4,656.75
132293	183201	CK3, LLC	09/20/2024	1,315.00
132294	22427	Consor North America, Inc.	09/20/2024	4,066.25
Total for 9/20/2024:				377,103.06
132295	879745	AT&T Mobility, LLC	09/23/2024	1,286.64
132296	144000	Cascade Natural Gas Corporation	09/23/2024	64.45
132297	637830	Century Link	09/23/2024	1,221.98
132298	376000	Idaho Power	09/23/2024	3,331.79
132299	130950	Sparklight Business	09/23/2024	140.72
Total for 9/23/2024:				6,045.58
132300	0143466	Amazon Capital Services	09/25/2024	4,039.81
132301	702008	Staples Business Credit	09/25/2024	715.29
132302	879764	T&Z Hardware, Inc.	09/25/2024	550.87
132303	610100	Malheur Memorial Health Clinic	09/25/2024	100.00
132304	376000	Idaho Power	09/25/2024	2,113.89
132305	UB*12214	JEFF PARKER	09/25/2024	132.50
132306	288897	Verizon	09/25/2024	1,346.89
Total for 9/25/2024:				8,999.25
ACH	PRAFLAC	AMERICAN FAMILY LIFE ASSURANCE	09/30/2024	534.37
ACH	PRAMERF	AMERICAN FUNDS GROUP	09/30/2024	300.00
ACH	PRCCIS	E B S TRUST	09/30/2024	75,051.98

Check No	Vendor No	Vendor Name	Check Date	Check Amount
ACH	PRCOLONI	COLONIAL LIFE	09/30/2024	688.02
ACH	PRFED	PAYROLL TAXES	09/30/2024	82,954.28
ACH	PRNATW	NATIONWIDE RETIREMENT SOLUTIO	09/30/2024	500.00
ACH	PRORJU	OREGON DEPARTMENT OF JUSTICE	09/30/2024	68.42
ACH	PRORTAX2	OREGON DEPARTMENT OF REVENUE	09/30/2024	3,571.76
ACH	PRORTAXE	OREGON DEPARTMENT OF REVENUE	09/30/2024	21,823.82
ACH	PROSGP	OREGON SAVINGS & GROWTH PLAN	09/30/2024	3,754.92
ACH	PRPERS	OREGON PERS	09/30/2024	112,479.49
ACH	878915	Jacobs Engineeering Group, Inc.	09/30/2024	13,108.43
132348	PRSFIRE	UMPQUA BANK	09/30/2024	750.00
Total for 9/30/2024:				315,585.49
Report Total (136 checks):				2,005,790.78