

CITY OF SILVERTON
CITY COUNCIL WORK SESSION & REGULAR MEETING
Monday, May 20, 2024 – 6:30 PM



Council Chambers – 421 South Water Street and Zoom

Americans with Disabilities Act – The City of Silverton intends to comply with the A.D.A. The meeting location is accessible to individuals needing special accommodations such as a sign language interpreter, headphones, or other special accommodations for the hearing impaired. To participate, please contact the City at 503-874-2204 at least 48 hours prior to the meeting.

A copy of the full packet is available on the City’s website at <https://silverton.or.us/meetings>. In accordance with House Bill 2560 and City of Silverton Resolution 22-06, the meeting will be held in a hybrid format: in person, and electronically using the Zoom web conference platform. Please submit written comments to publiccomment@silverton.or.us by 3:00 PM on Monday, May 20, 2024. Comments received will be shared with the City Council and included in the record. If you wish to participate through the Zoom web conference platform, see meeting information below.

Zoom meeting link:

<https://us02web.zoom.us/j/84746513800>

Or Telephone:

+1 253 215 8782 US (Tacoma)

Webinar ID: 847 4651 3800

AGENDA

6:30 PM WORK SESSION

1. OPENING CEREMONIES – Call to Order, Pledge of Allegiance, and Roll Call

2. DISCUSSION ITEMS

- 2.1 Presentation by Republic Services, Sustainability in Action, Rate Adjustment Request
- Cindy Rogers, Municipal Relationship Manager for Republic Services

- 2.2 Affordable Housing Presentations – Jason Gottgetreu, Community Development
Director

7:30 PM REGULAR MEETING

3. PUBLIC COMMENT – This is a business meeting of the City Council. The City values and welcomes public input. Please address the Council as a whole and not individual Council Members. Do not address staff or members of the audience. Council action on items brought up in Public Comment is limited by the Oregon Open Meeting Law. The Council may direct staff to study the matter and reschedule it for further consideration later. Items on the agenda will not be heard or discussed during Public Comment but will be accepted at that place on the agenda. Individuals are

limited to three (3) minutes.

4. CONSENT AGENDA

- 4.1 Resolution 24-08 Authorizing Signers on City Bank Accounts – Kathleen Zaragoza, Finance Director/Deputy City Manager

5. ACTION ITEMS

- 5.1 Ordinance 24-07 An Ordinance Allowing the City of Silverton to Implement 20 MPH Speed Zones in Select Areas – Cory Misley, City Manager
- 5.2 Authorize City Manager to Enter into Contract with Buildscape in the Amount of \$258,500 for Construction and Renovation Services on the Senior Center Subject to Legal Revisions – Mike Dahlberg, Public Works Operations Manager
- 5.3 Authorize City Manager to Enter into Contract with R.L. Reimers in the Amount of \$195,765 to Replace the Head Works Bar Screen Subject to Legal Revisions – Travis Sperle, Public Works Director
- 5.4 Employee Handbook Updates – Tammy Shaver, Human Resources Manager and Cory Misley, City Manager
- 5.5 City Hall Construction and Opening Celebration Event Update – Cory Misley, City Manager

6. CITY MANAGER UPDATE

7. COUNCIL COMMUNICATIONS

8. ADJOURNMENT



Silverton

Sustainability in Action

Cindy Rogers

Municipal Relationship Manager

Oregon's Franchise System

Franchises benefits:

- ✿ ORS 459 grants service and reporting authority to Oregon Cities.
- ✿ An increase in operational efficiency leading to a decrease in truck noise, street wear, energy waste, air pollution and public inconvenience.
- ✿ Operational efficiencies help to keep the rates lower.
- ✿ We help Silverton to meet DEQ's mandated Opportunity to Recycle requirements and annual reporting.
- ✿ Cities have an additional source of revenue, through a franchise fee.
 - Silverton's franchise fee is 7% on gross receipts (not revenue).
- ✿ Provides incentive for investment in solid waste equipment, facilities, sites and technology by the hauler.

2023 Silverton Service Facts





- ❄ Republic Services has 14 drivers servicing your city.
- ❄ Drivers are at the curbs of 3,209 homes 12x each month (3 trucks each week).
- ❄ Approximately 385,080 carts were picked up last year.



Additional Silverton Community Support

- ✿ State Opportunity to Recycle Program Compliance Assistance
- ✿ Annual support of Silverton's Christmas Market, Fine Art Festival and Arts Association, Pet Parade, Homer Davenport Days, Fire Department's Mothers Day Breakfast, and Christmas Tree Lighting
- ✿ All Abilities Park Project Service and Disposal
- ✿ Silverton High School Career Day & Mock Interviews Events

2023 Silverton Customer Counts

-  3,209 Single-family Customers (Not including on-call)
-  34 Multi-family Customers
-  211 Commercial Customers
-  1,111 Industrial Hauls (Drop-boxes and Compactors)

2023 Residential Customers

Residential

Container Counts

 20 Gallon Cart

401 (12% of customer base)

 35 Gallon Cart

1,272 (40% of customer base)

 65 Gallon Cart

919 (29% of customer base)

 95 Gallon Cart

617 (19% of customer base)

10% Return on Revenue Target

The Solid Waste Industry target and Silverton Franchise goal are both 10%, no less than 8% nor greater than 12%. Does the hauling company really retain the full 10% margin? The answer is no. Before the profit can be returned to the owners, the following need to be distributed.

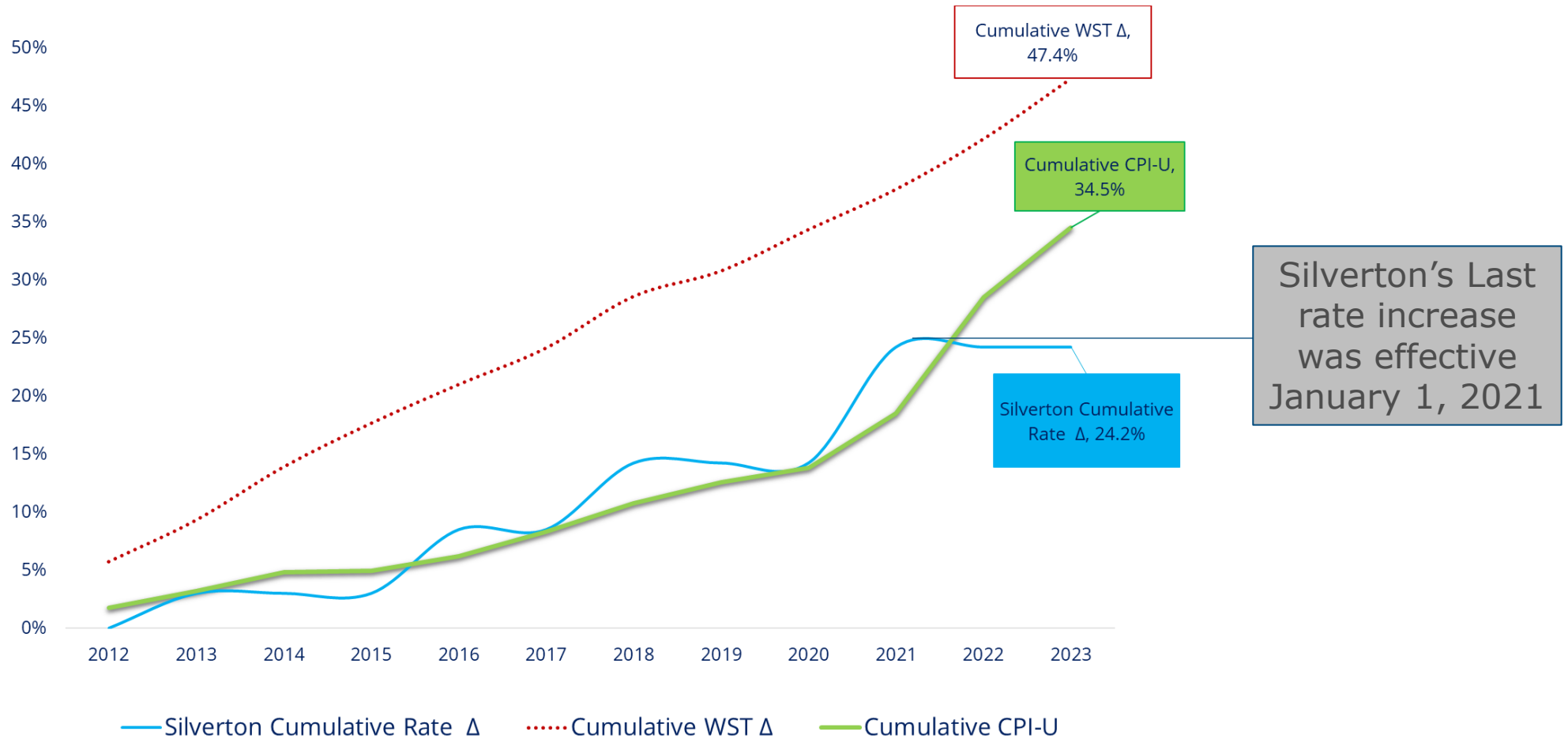
An average of 3-4% of the margin is paid in local, state, and federal taxes. Most taxing authorities, tax the profits of the business while some tax the personal property. These taxes are not included as an allowable expense when calculating the operating margin by the local jurisdiction.

An average of 3-4% is allocated to reserves used to run the day-to-day activities of the business. Every well-run business needs adequate *cash reserves* to meet payroll and daily operational expenses, vehicle maintenance, disposal costs, and capital investments.

Remaining portions are then dispersed as dividends or distributions, which is then again taxed as income.

Cumulative Price Adjustments and WST Index

(Years 2012 - 2023)



Statement of Income

(without requested adjustment)

Financials	Actuals	Annual Review*	Forecast	
	2022	2023	2024	2025
Revenue	\$ 2,387,973	\$ 2,439,752	\$ 2,451,951	\$ 2,464,210
Franchise Fees	\$ 165,578	\$ 167,706	\$ 171,637	\$ 172,495
Cost of Operations	\$ 1,901,307	\$ 2,062,350	\$ 2,130,544	\$ 2,191,537
Gross Profit	\$ 321,088	\$ 209,695	\$ 149,770	\$ 100,178
Sales, General and Administrative	\$ 269,021	\$ 304,912	\$ 318,358	\$ 327,909
Operating Income	\$ 52,067	\$ (95,217)	\$ (168,588)	\$ (227,731)
<i>Op Income as a % of Revenue</i>	<i>2.2%</i>	<i>-3.9%</i>	<i>-6.9%</i>	<i>-9.2%</i>
Income Taxes	\$ 19,432	\$ -	\$ -	\$ -
Net Income	\$ 32,636	\$ (95,217)	\$ (168,588)	\$ (227,731)
<i>Net Income as a % of Revenue</i>	<i>1.4%</i>	<i>-3.9%</i>	<i>-6.9%</i>	<i>-9.2%</i>

*Marion County annual review process concludes each October.

Table of Expenses

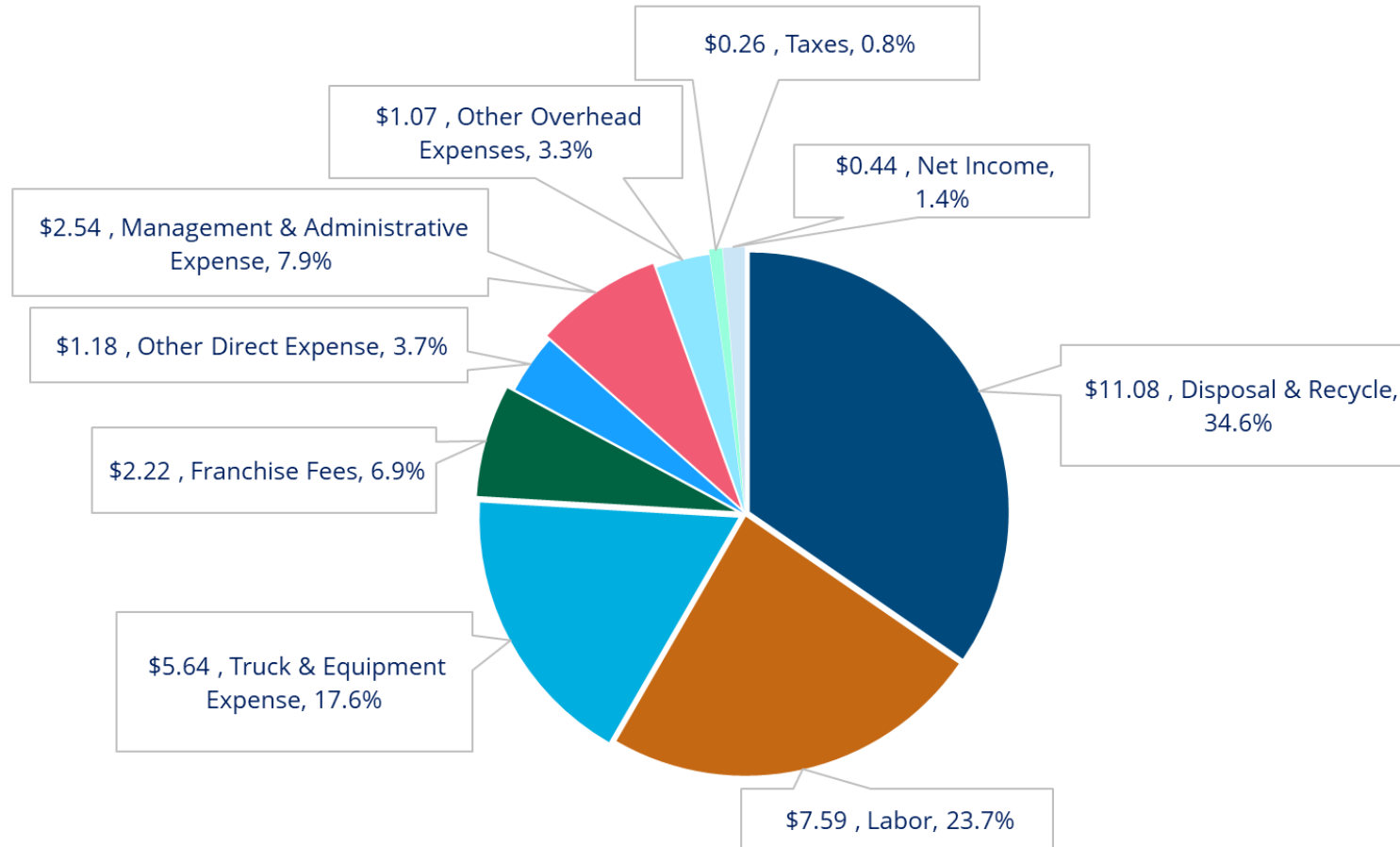
(without requested adjustment)

	<i>Actuals</i>	<i>Annual Review</i>	<i>Forecast</i>	
4Y Financial	2022	2023	2024	2025
<i>Pass Through Expenses</i>				
Franchise Fees	\$ 165,578	\$ 167,706	\$ 171,637	\$ 172,495
Franchise Fees	\$ 165,578	\$ 167,706	\$ 171,637	\$ 172,495
<i>Cost of Operations</i>				
Disposal & Recycle	\$ 826,582	\$ 1,001,749	\$ 1,021,784	\$ 1,052,438
Labor	\$ 566,328	\$ 553,371	\$ 581,039	\$ 598,471
Truck & Equipment Expense	\$ 420,456	\$ 415,203	\$ 431,092	\$ 441,101
Other Direct Expense	\$ 87,942	\$ 92,027	\$ 96,628	\$ 99,527
Cost of Operations	\$ 1,901,307	\$ 2,062,350	\$ 2,130,544	\$ 2,191,537
<i>Sales, General and Administrative</i>				
Management & Administrative Expense	\$ 189,458	\$ 214,914	\$ 225,660	\$ 232,430
Other Overhead Expenses	\$ 79,563	\$ 89,998	\$ 92,698	\$ 95,479
Sales, General, and Administrative	\$ 269,021	\$ 304,912	\$ 318,358	\$ 327,909

*Marion County annual review process concludes each October.

Where does my monthly payment go?

(Based on 2023 figures for a 35-gallon customer's monthly rate: \$32.01)



Rate Adjustment Options

Option 1: Requested August 1, 2024, rate adjustment of 23%. This helps to level set Silverton's rates and allow for smaller annual adjustments based upon the Consumer Price Index (CPI). Resetting the adjustment process and the next adjustment would take effect January 1, 2026.

NEW Addition – Republic will add two annual bulky waste day events, starting in 2024.

Option 2: Stairstep adjustment to level set Silverton's rates with an August 2024 adjustment of 11.5% and a February 2025 adjustment of 11.5%.

NEW Addition – Republic will add two annual bulky waste day events, starting in 2025.

Silverton's last adjustment was effective January 1, 2021

Statement of Income

(with Option 1 - 23% Effective August 1st, 2024)

	Actuals	Annual Review*	Forecast	
Financials	2022	2023	2024	2025
Revenue	\$ 2,387,973	\$ 2,439,752	\$ 2,686,929	\$ 3,030,979
Franchise Fees	\$ 165,578	\$ 167,706	\$ 188,085	\$ 212,169
Cost of Operations	\$ 1,901,307	\$ 2,062,350	\$ 2,130,544	\$ 2,191,537
Gross Profit	\$ 321,088	\$ 209,695	\$ 368,300	\$ 627,273
Sales, General and Administrative	\$ 269,021	\$ 304,912	\$ 318,358	\$ 327,909
Operating Income	\$ 52,067	\$ (95,217)	\$ 49,942	\$ 299,364
<i>Op Income as a % of Revenue</i>	2.2%	-3.9%	1.9%	9.9%
Income Taxes	\$ 19,432	\$ -	\$ 18,638	\$ 111,723
Net Income	\$ 32,636	\$ (95,217)	\$ 31,304	\$ 187,641
<i>Net Income as a % of Revenue</i>	1.4%	-3.9%	1.2%	6.2%

Statement of Income

(with Option 2 – 11.5% Effective August 1st, 2024 and 11.5 % February 1st, 2025)

	Actuals	Annual Review*	Forecast	
Financials	2022	2023	2024	2025
Revenue	\$ 2,387,973	\$ 2,439,752	\$ 2,569,440	\$ 3,037,237
Franchise Fees	\$ 165,578	\$ 167,706	\$ 179,861	\$ 212,607
Cost of Operations	\$ 1,901,307	\$ 2,062,350	\$ 2,130,544	\$ 2,191,537
Gross Profit	\$ 321,088	\$ 209,695	\$ 259,035	\$ 633,093
Sales, General and Administrative	\$ 269,021	\$ 304,912	\$ 318,358	\$ 327,909
Operating Income	\$ 52,067	\$ (95,217)	\$ (59,323)	\$ 305,184
<i>Op Income as a % of Revenue</i>	2.2%	-3.9%	-2.3%	10.0%
Income Taxes	\$ 19,432	\$ -	\$ -	\$ 113,895
Net Income	\$ 32,636	\$ (95,217)	\$ (59,323)	\$ 191,289
<i>Net Income as a % of Revenue</i>	1.4%	-3.9%	-2.3%	6.3%

Rate Options

		Option 1		Option 2			
		23%	\$ Δ	11.5%	\$ Δ	11.5%	\$ Δ
Residential		Current	8/1/2024		8/1/2024		2/1/2025
20 gallon	\$25.76	\$31.68	\$5.92	\$28.72	\$2.96	\$32.03	\$3.30
35 gallon	\$32.01	\$39.37	\$7.36	\$35.69	\$3.68	\$39.80	\$4.10
65 gallon	\$39.70	\$48.83	\$9.13	\$44.27	\$4.57	\$49.36	\$5.09
95 gallon	\$42.47	\$52.24	\$9.77	\$47.35	\$4.88	\$52.80	\$5.45
Commercial		Current	8/1/2024		8/1/2024		2/1/2025
35 gallon	\$22.66	\$27.87	\$5.21	\$25.27	\$2.61	\$28.17	\$2.91
95 gallon	\$36.03	\$44.32	\$8.29	\$40.17	\$4.14	\$44.79	\$4.62
1 yard	\$106.85	\$131.43	\$24.58	\$119.14	\$12.29	\$132.84	\$13.70
1.5 yard	\$142.05	\$174.72	\$32.67	\$158.39	\$16.34	\$176.60	\$18.21
2 yard	\$182.25	\$224.17	\$41.92	\$203.21	\$20.96	\$226.58	\$23.37
3 yard	\$257.50	\$316.73	\$59.23	\$287.11	\$29.61	\$320.13	\$33.02
4 yard	\$332.80	\$409.34	\$76.54	\$371.07	\$38.27	\$413.75	\$42.67
6 yard	\$484.65	\$596.12	\$111.47	\$540.38	\$55.73	\$602.53	\$62.14
8 yard	\$635.20	\$781.30	\$146.10	\$708.25	\$73.05	\$789.70	\$81.45
Drop Box Garbage		Current	8/1/2024		8/1/2024		2/1/2025
10 yard	\$292.93	\$330.40	\$37.47	\$311.67	\$18.74	\$355.85	\$44.19
20 yard	\$449.46	\$493.04	\$43.58	\$471.25	\$21.79	\$522.63	\$51.38
30 yard	\$610.94	\$661.76	\$50.82	\$636.35	\$25.41	\$696.27	\$59.92
Drop Box Recycling		Current	8/1/2024		8/1/2024		2/1/2025
10 yard	\$162.93	\$200.40	\$37.47	\$181.67	\$18.74	\$202.56	\$20.89
20 yard	\$189.46	\$233.04	\$43.58	\$211.25	\$21.79	\$235.54	\$24.29
30 yard	\$220.94	\$271.76	\$50.82	\$246.35	\$25.41	\$274.68	\$28.33

\$Δ represents the difference between the current rate and adjustment option. While disposal is shown for Industrial Garbage service in this chart, disposal is not subject to City adjustments and is a pass through cost to the customer.

Forecasted Rate Options

Options Financials	Actuals	Annual Review*	Forecasted			
			Option 1		Option 2	
	2022	2023	2024	2025	2024	2025
Revenue	\$2,387,973	\$2,439,752	\$2,686,929	\$3,030,979	\$2,569,440	\$3,037,237
Franchise Fee	\$165,578	\$182,195	\$188,085	\$212,169	\$179,861	\$212,607
Cost of Operations	\$1,901,307	\$2,062,350	\$2,130,544	\$2,191,537	\$2,130,544	\$2,191,537
Gross Profit	\$321,088	\$195,207	\$368,300	\$627,273	\$259,035	\$633,093
Sales, General and Administrative	\$269,021	\$304,912	\$318,358	\$327,909	\$318,358	\$327,909
Operating Income	\$52,067	-\$109,706	\$49,942	\$299,364	-\$59,323	\$305,184
<i>Op Income as a % of Revenue</i>	2.2%	-4.5%	1.9%	9.9%	-2.3%	10.0%
Income Taxes	\$19,432	\$0	\$18,638	\$111,723	\$0	\$113,895
Net Income	\$32,636	-\$95,217	\$31,304	\$187,641	-\$59,323	\$191,289
<i>Net Income as a % of Revenue</i>	1.4%	-3.9%	1.2%	6.2%	-2.3%	6.3%

Residential Rate Comparison

	Silverton		Marion County Sparse	Marion County Rural	Salem Marion County	Sublimity	Stayton
Residential Rates	1/1/2021	8/1/2024	2024*	2024*	2024*	2024*	2024*
20 gallon	\$25.76	\$31.68	\$35.32	\$31.03	\$30.95	\$28.91	\$29.28
35 gallon	\$32.01	\$39.37	\$36.13	\$31.89	\$34.75	\$32.33	\$34.43
65 gallon	\$39.70	\$48.83	\$44.59	\$39.84	\$45.35	\$38.64	\$46.87
95 gallon	\$42.47	\$52.24	\$52.70	\$48.53	Not Available	\$45.20	\$52.52
Trash	Weekly		Weekly	Weekly	Weekly	Weekly	Weekly
Recycle	Every Other Week		Every Other Week	Every Other Week	Every Other Week	Every Other Week	Every Other Week
Glass, oils, and batteries			Do Not Receive		Every Other Week	Every Other Week	Every Other Week
Yard Debris	Weekly		Do Not Receive		Weekly	Every Other Week	Weekly
Food Waste in Yard Debris			Do Not Receive		Weekly	Do Not Receive	Weekly

Residential rates listed above are monthly and billed out on a bi-monthly basis. **Silverton's last rate adjustment was effective January 1, 2021.**

Comparable rates are for '2024*' because they are under review for adjustment between now and January 2025*. Most recent Adjustments:

Marion County on 1/1/2024: Sparse 3.7% and Rural 4.9% ([County adjusts rates annually](#))

Salem on 1/1/2023 10.54%

Sublimity on 5/1/2023 18%

Stayton on 1/1/2024 18% ([rate adjusted annually based upon CPI](#))

Option 1 – rate review process would be reset and next rate adjustment effective January 1, 2026.



Cindy Rogers

Municipal Relationship Manager

CRogers2@republicservices.com

Thank you

Sustainability in Action



RESPONSE TO REQUEST FOR PROPOSAL // SILVERTON

APRIL 9, 2024



COVER LETTER

City of Silverton

Re: Request for Proposals Westfield Site

Attn: Jason Gottgetreu

DevNW and Ink Built are delighted to present our joint proposal for the development of affordable housing on the Westfield Site. With strong ties to the Willamette Valley and extensive expertise in planning, designing, constructing, and managing affordable housing, we are committed to addressing the pressing need for sustainable, equitable, and affordable housing that leverages the strengths and resources of communities. Our mission is to bring innovative thinking, design, and collaboration to the forefront as we strive not only to create exceptional buildings but also to foster justice and connection through the spaces we co-create.

DevNW and Ink Built envision a thriving new neighborhood for the Silverton community. The first phase on roughly 2 acres will begin with a multi-family rental development affordable for residents below 60% area median income. Our plan includes 48 units of housing and a community center, spread throughout 6 buildings across the site. There will be a mixture of one, two, and three bedroom apartments. Later phases on the remaining 5 acres of the site could include affordable community land trust homes (single unit detached and townhomes) for homebuyers below 80% area median income, and a cottage cluster designed to help seniors age-in-place in a community setting.

The design we envision focuses on creating community through the built environment, including thoughtful use of community spaces, green space, connectivity to neighboring resources, and the creation of micro-communities through cluster design. While the first phase (and we hope the majority of a future phase) will focus on affordable housing, we are also interested in exploring the inclusion of some market rate units in later phases for a truly mixed income neighborhood.

Together, DevNW and Ink Built offer a unique blend of experience, expertise, and commitment that positions us as ideal partners for the City of Silverton on this transformative project. We eagerly anticipate the opportunity to collaborate with you throughout the development process.

Primary Point of Contact

Nora Cronin, DevNW
Director of Real Estate Development
nora.cronin@devnw.org
541-345-7106 x2092



DEVELOPING THRIVING COMMUNITIES

212 Main Street //
Springfield, OR 97477

528 Cottage St //
Salem, OR 97301



2808 NE MLK BLVD //
SUITE G //
PORTLAND // OR // 97212

[503] 454-6793

OR WBE|ESB #11068

DESIGN - PHASE 1



PHASE 1

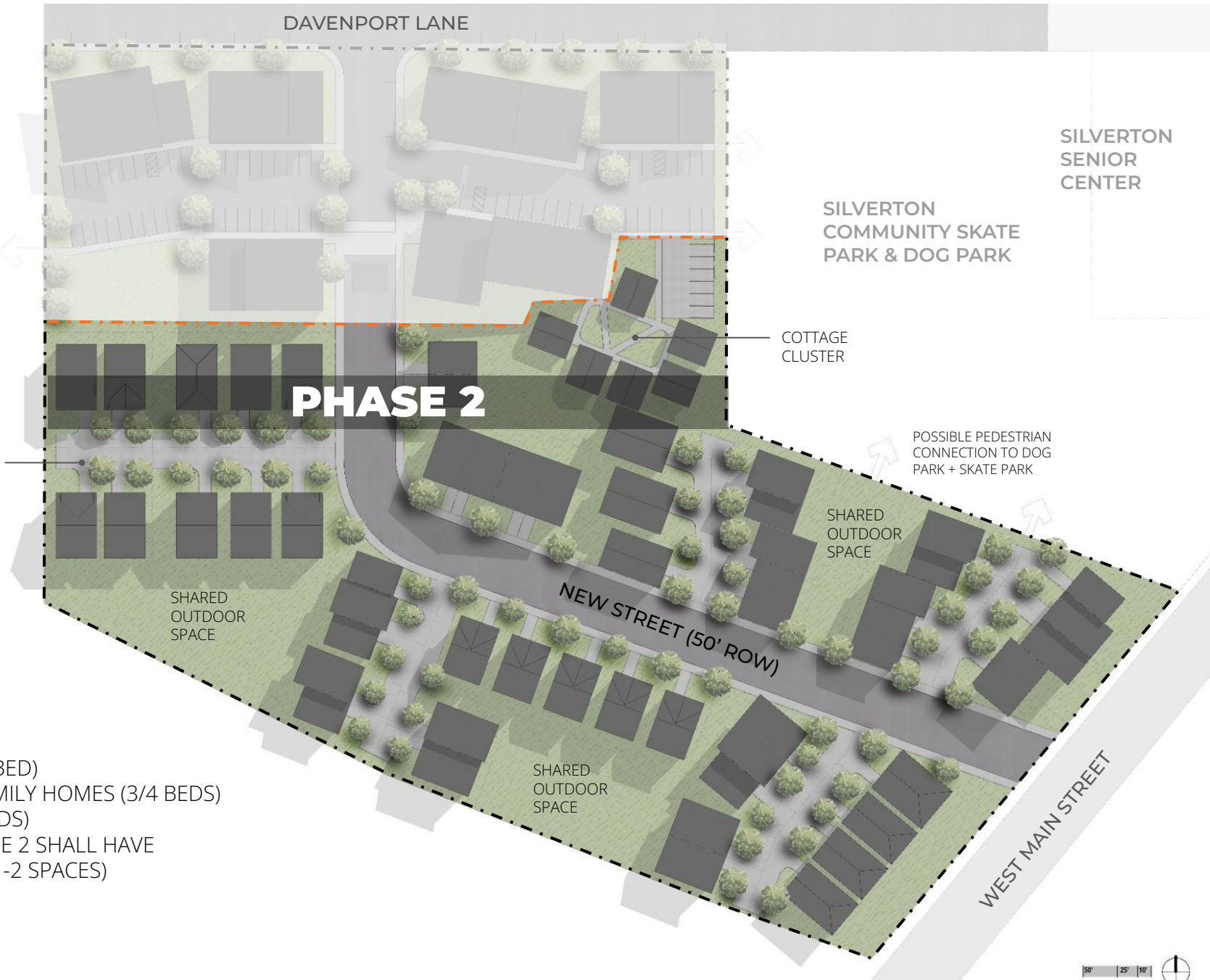
APPROX. 2 ACRES
40 - 60 UNITS MAX
(30/ACRE PER SB8)

(6) 2- STORY BUILDINGS
48 UNITS //

(22) 3 BEDROOM
(14) 2 BEDROOM
(12) 1 BEDROOM

83 PARKING // (1.7/UNIT)
62 SPACES (SURFACE LOT)
21 SPACES (ON STREET)

DESIGN - PHASE 2



PHASE 2

PHASE 2

5.7 ACRES
 110 - 170 UNITS MAX
 (30/ACRE PER SB8)

- 59 UNITS //
 - (6) COTTAGE CLUSTERS (1 BED)
 - (22) DETACHED SINGLE FAMILY HOMES (3/4 BEDS)
 - (33) TOWNHOUSES (2/3 BEDS)
- NOTE: ALL HOMES IN PHASE 2 SHALL HAVE PARKING AT EACH HOME (1-2 SPACES)

DESIGN - UTILITIES

DAVENPORT LANE 1/2 STREET IMPROVEMENT



DESIGN



DESIGN



DESIGN



DESIGN



PROGRAM

SUMMARY

Taking advantage of the location adjacent to the Senior Center and Robert Frost Elementary, we envision a mix of generations living in the development community, and have planned a mix of units types: smaller, single story units for seniors (or other 1-2 person households), alongside larger 2-3 bedroom units for families. Based on community engagement, we would also be interested in the demand for 4-bedroom units for multi-generational families.

Our proposal includes 48 units of housing and a community center, spread throughout 6 two-story buildings across the roughly 2 acre site. There will be a mixture of one, two, and three bedroom apartments, along with sufficient parking and ample outdoor spaces.

DevNW will enter into a 60-year covenant with OHCS for their funding sources to keep these units affordable in perpetuity.

HOUSING DETAILS

Unit Type	# of units	Total # of bedrooms	Sq Ft per unit	Total sq ft	Affordability	Net rent per month
1 bedroom	12	12	640	7,680	60% AMI	\$782
2 bedroom	14	28	960	13,440	60% AMI	\$956
3 bedroom	22	66	1,140	25,080	60% AMI	\$1,116
Community Center			2,000	2,000		
Total	48	106		48,200		

PROGRAM

UNIT AMENITIES

Unit amenities will include the following:

- In-unit washer and dryer hookups with appliances included
- Secure bike parking
- Ductless heat pumps for energy efficient heating/cooling
- Energy Star appliances
- Durable and easy-to-clean vinyl plank flooring
- Extra insulation and tight building envelope to provide thermal comfort and energy costs savings
- Three units are ADA-compliant and accessible to people with physical disabilities
- One unit is compliant with hearing and visually impaired regulations



COMMUNITY SPACE

Our proposed design boasts a 2,000 square foot community center complemented by outdoor space and a nature play area, all designated exclusively for residents. This inviting hub features essential amenities including restrooms, a moderate-sized kitchen, a community room, a manager's office, and ample storage for maintenance, cleaning, and supplies such as folding chairs. This space will be used for facilitating community gatherings, enrichment classes, and other events. Access to this space is provided to residents free of charge and can be scheduled to use for birthday parties or family gatherings.

The community center plays a pivotal role in nurturing a robust resident community. It offers a venue for shared meals, celebrations, and various events, while also serving as a convenient meeting point for residents to connect with service providers, including those from DevNW and other partners, for accessing essential resources.



PROGRAM

SHARED/SITE AMENITIES

We envision a neighborhood that offers green space, community gardens, and walking/biking connectivity to the skate park, Senior Center, and Robert Frost Elementary. It will be a shared priority to create inviting community space on the Westfield site, while also fostering easy connections with the rest of the neighborhood. We would work closely with the City to coordinate access to these neighboring sites.

Our site design includes a variety of shared, outdoors spaces that are stitched together with connecting corridors between buildings. These open spaces can be a combination of lawn and nature play areas. Our site design also includes a community garden space and smaller garden spaces woven throughout.

The 2-acre site includes approximately 23,000 SF of open outdoor space and 3,000 SF of stormwater filtration facilities in two areas which can be expanded if required. In the event available open space doesn't allow for large scale, traditional stormwater treatment facilities (or in addition to), we're prepared for and experienced in installation of alternative, compact, engineered treatment equipment that can be installed under roadways and parking facilities.

Our parking plan, including 62 onsite parking spaces and 21 street parking spaces (on the extended Davenport Ln), attempts to minimize the space needed for parking lots while also honoring the reality that many people rely on daily use of cars: commuters to Salem or rural agricultural jobs, seniors with limited mobility, families taking kids to activities, etc.



PROGRAM

TARGET POPULATION

DevNW and InkBuilt have collaborated on a deliberately inclusive and community-oriented development, ensuring it caters to residents from diverse backgrounds.

We will provide a range of affordable housing options tailored to different income levels and family sizes. While our initial proposal targets rents affordable at 60% Area Median Income (AMI), we are exploring the addition of vouchers in partnership with the Marion County Housing Authority to accommodate households with fixed incomes or below 30% AMI.

Our design approach prioritizes elements of universal design, trauma-informed design, and cultural sensitivity. This includes creating spaces that are accessible to individuals with varying needs and abilities, fostering welcoming and calming environments, and incorporating architectural features and programming that celebrate diverse cultural identities. Language accessibility will be ensured through multilingual resources.

Throughout the development process, we will actively engage the community for input and employ affirmative marketing strategies to reach a broad audience, including traditionally underserved populations. DevNW will collaborate with community organizations and City staff to ensure the inclusion of underserved populations.

For instance, DevNW has initiated discussions with the Hope and Safety Alliance, serving Marion and Polk counties, to address the need for affordable rental units to support survivors of domestic violence within the new development.

ENVIRONMENTAL SUSTAINABILITY

Our proposal emphasizes our commitment to environmental sustainability through various strategies aimed at reducing ecological impact and promoting a healthy ecosystem. We are dedicated to pursuing the Path to Net Zero and adhering to Earth Advantage guidelines, seeking certification under their Multifamily Residential program.

The Path to Net Zero focuses on minimizing energy use in buildings and generating the remaining energy needed from renewable sources like solar power. It involves designing energy-efficient buildings with features such as better insulation, efficient appliances, and natural lighting and ventilation. This approach can lead to achieving net-zero carbon emissions.

At the core of our approach is optimizing density to protect valuable land and ecosystems. Our design incorporates energy-efficient features like high-performance building envelopes and HVAC systems, as well as carefully selected materials with recycled content and low toxicity.

Additionally, we will implement water conservation measures and responsible stormwater management to further enhance our environmental stewardship. During construction, strict protocols will be in place to minimize site disturbance and divert recyclable waste from landfills.

Moreover, our infrastructure design will include provisions for future solar energy generation. We will explore incentives in collaboration with local authorities to support this forward-thinking approach.

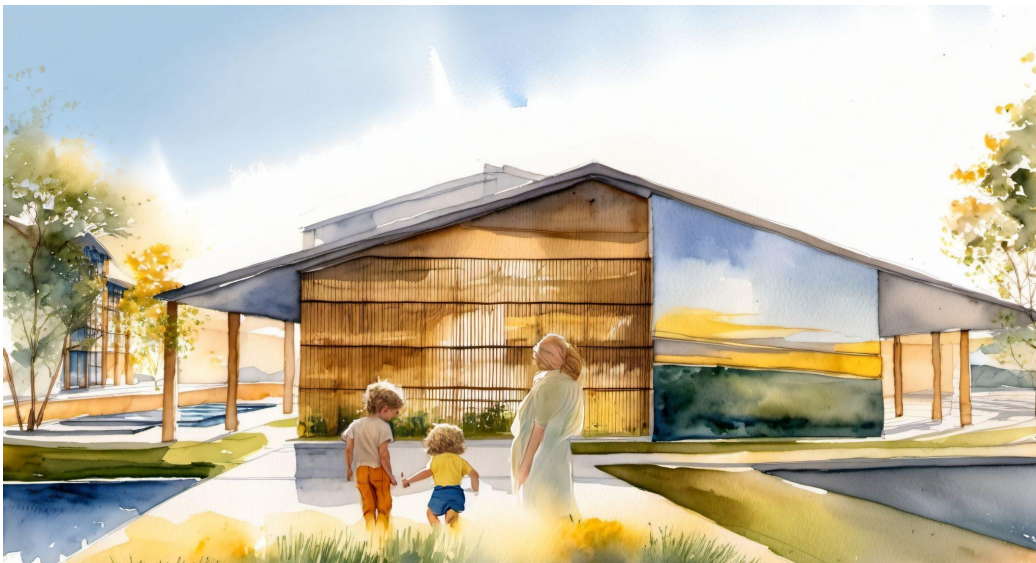
PROGRAM

ART

Community-based art enhances the vibrancy of any residential setting. Leveraging Silverton's commendable commitment to murals, we've engaged with a local artist who has previously contributed to the city's artistic landscape. If selected, we plan to collaborate with additional local artists, fostering a diverse artistic community.

Recognizing the City's interest in both honoring history and embracing diversity, we see an opportunity to commission a mural acknowledging Silverton's indigenous Kalapuya and Molala communities, or honoring former Mayor Stu Rasmussen, the country's first transgender Mayor. Alternatively, a mural depicting "The Old Oak" or the Oregon Gardens could serve as a tribute to Silverton's heritage while engaging contemporary residents.

With our team's expertise in mural installations and knowledge of available grants, we are well-equipped to facilitate these projects. Furthermore, we propose incorporating art and art classes into community spaces, if desired by the future residents, by partnering with local artists and artist associations, thereby fostering creativity and community engagement.



PRO FORMA

2-ACRE SITE

Project Name	Westfield Site
Project Type	New Construction
# of Units	48
Street Address	Westfield St & Davenport Ln
City/County/State	Silverton/Marion/OR
Zip Code	97381



Sources & Uses	Amount
Sources	
OHCS GHAP	\$ 600,000
9% LIHTC Funding	\$ 14,236,076
Perm. Loan	\$ 2,100,000
Total Sources:	\$ 16,936,076
Uses	
Acquisition Cost	\$ -
General Costs	\$ 1,566,045
Financing Costs	\$ 1,320,966
Construction Costs	\$ 12,175,072
Reserves & Lease Up	\$ 134,941
Developer Fee	\$ 1,739,052
Total Uses:	\$ 16,936,076

Gap: \$ -

Budget			
	Assumption	Budget	Budget / Unit
			48
Acquisition Cost			
Acquisition Cost	No Cost Land Lease	0	0
Sub Total		0	0
General Costs			
Appraisal		10,000	208
SDC	City SDC Exemption	0	0
Building Permits		384,000	8,000
Review & Inspection Fee		50,000	1,042
Architecture & Engineering	7%	814,545	16,970
Utility Distribution Engineering		100,000	2,083
Survey		30,000	625
Legal		75,000	1,563
Environmental		10,000	208
Utilities		7,500	156
Miscellaneous		5,000	104
Soft Cost Contingency	5%	80,000	1,667
Sub Total		1,566,045	32,626
Financing Costs			
Construction Loan Fee		87,500	1,823
Perm Loan Fee		10,000	208
OHCS Application Charges (9%LIHTC)	9.5%	162,625	3,388
Closing Cost (lender legal, title insurance, recording fees)		75,000	1,563
Construction Interest Exp.		985,841	20,538
Sub Total		1,320,966	27,520
Construction Costs			
Site Development		2,880,000	60,000
Vertical Construction		7,894,400	164,467
Design/Inflation Contingency	8%	861,952	17,957
Construction Contingency	5%	538,720	11,223
Sub Total		12,175,072	253,647
Reserves & Lease Up			
Lease-up Cost		24,000	500
Operating Reserve		110,941	2,311
Sub Total		134,941	2,811
Developer Fee			
Developer Fee	12%	1,739,052	36,230
Total Development Cost		16,936,076	352,835

DEAL STRUCTURE AND FINANCE

FUNDING SOURCES

DevNW proposes to finance the initial phase of affordable rental housing through a combination of funding sources. These include 9% Low Income Housing Tax Credits (LIHTC), Oregon Housing and Community Services (OHCS) GHAP grant funds, and a permanent loan using Oregon Affordable Housing Tax Credits (OAHTC). Additionally, our financial projections anticipate contributions from the City of Silverton, including a no-cost land lease, waivers for System Development Charges (SDCs), and property tax exemption.

Although not currently reflected in our proforma, DevNW plans to leverage incentives and rebates offered by the Energy Trust of Oregon for implementing energy-efficient measures, as well as tax credits for the installation of solar energy systems. These funding sources, while non-competitive, align with our commitment to sustainability and affordability.

Furthermore, DevNW has initiated preliminary discussions with the Marion County Housing Authority regarding the potential utilization of Project-Based Housing Vouchers for a portion of the units within this development. Initial indications suggest a favorable outlook, prompting DevNW to collaborate closely with authority staff to explore and potentially implement this option.

CITY ROLE IN DEVELOPMENT PROCESS

DevNW proposes that the City provide a no-cost land lease and waivers for System Development Charges (SDCs) to facilitate the development of the project. Furthermore, we suggest the City take responsibility for financing and executing the land partition for the initial phase, encompassing approximately 2 acres. We request the City collaborate closely with our design team to ensure the partition line aligns harmoniously with our building and site design objectives, including provisions for desired outdoor space, ample parking, and appropriate building setbacks.

An integral role for the City would involve championing the project and providing steadfast support in engaging with neighbors and community groups. This includes advocating for the project during funding requests and adeptly navigating and potentially expediting City development, land use, and building permit processes.

DevNW has initiated preliminary discussions with Marion County regarding the availability of HOME or Community Development Block Grant (CDBG) funds that could be utilized for this development. Currently, these funds are exclusively allocated for homeownership initiatives by the county. We believe the City could facilitate discussions with the County to explore the possibility of redirecting HOME funds toward rental housing at the Westfield site. Collaboration between the City and County in this regard could unlock additional resources vital for the success of the project.

DEAL STRUCTURE AND FINANCE

OWNERSHIP

The first phase of affordable multi-family rental housing will uphold a distinct ownership structure as per the City's request to retain ownership of the land. To honor this request, we propose establishing a separate entity—a Limited Partnership (LP)—to own the rental housing development. Under this arrangement, the City will engage in a 99-year ground lease with the Limited Partnership. Ownership of the LP will primarily be held by the Limited Partner (Tax Credit Investor) at 99.99%, with a minimal 0.01% ownership held by the General Partner (DevNW).

Additionally, DevNW has initiated discussions with the Marion County Housing Authority regarding potential participation as a Special Limited Partner within the ownership structure. This arrangement would grant them a fractional ownership stake in the project, facilitate negotiation for a portion of the developer fee, and enable the project to benefit from property tax exemption. The Housing Authority has shown interest in similar partnerships with other developers for affordable housing initiatives, indicating a promising opportunity for collaboration at the Westfield site.

Should the remaining 5 acres be developed as Community Land Trust (CLT) homes, DevNW anticipates navigating complexities stemming from the City's retention of land ownership. Typically, in the CLT model operated by DevNW, the CLT owns the land and common areas, while homebuyers acquire the homes and pay a lease for the land. The land lease needs to be a renewable 99-year lease, so that the owner's right to the land is never jeopardized. Collaboration with the City will be essential in determining the optimal ownership structure for this segment of the development.

The CLT model being used is innovative in ensuring permanent affordability of these homes in perpetuity. This model incorporates permanent income restrictions and imposes resale price limits, safeguarding long-term affordability. Upon resale, the new sales price is determined by a formula encompassing the homeowner's base price, any "qualified capital improvements" stipulated in the ground lease, and the homeowner's 25% share of the change in appraised value since their purchase.

DevNW employs this model to maintain affordability of CLT homes for subsequent generations of buyers while affording each homeowner to benefit from a portion of the appreciated value. The goal is to ensure these homes remain accessible to families who would otherwise be priced out of the market.

DEAL STRUCTURE AND FINANCE

SITE INFRASTRUCTURE

DevNW proposes to pay for site infrastructure (the extension of Davenport Ln and utilities to service the first phase of rental housing) through the combined sources listed in the proforma (9% LIHTC, OHCS GHAP grant funds, and a perm loan).

Another possibility is to apply for CDBG funding just for the Davenport Ln road extension. CDBG triggers prevailing wage rates so we would need to determine if prevailing wage rates would apply to just the road extension costs or if it would apply to the entire housing development. Marion County staff indicated that they typically fund up to \$350,000-\$500,000 in CDBG funds per project.

If the City has access to other funding that can be used for the road extension, DevNW is open to exploring the viability of other sources.



PREVAILING WAGES

The deal structure presented in our proforma will not require BOLI prevailing wage rates for this development.

If CDBG or other federal funding is used, federal Davis-Bacon wage rates would apply. This could increase the projected construction costs by roughly 10%.



DEAL STRUCTURE AND FINANCE

LIKELIHOOD OF FINANCING

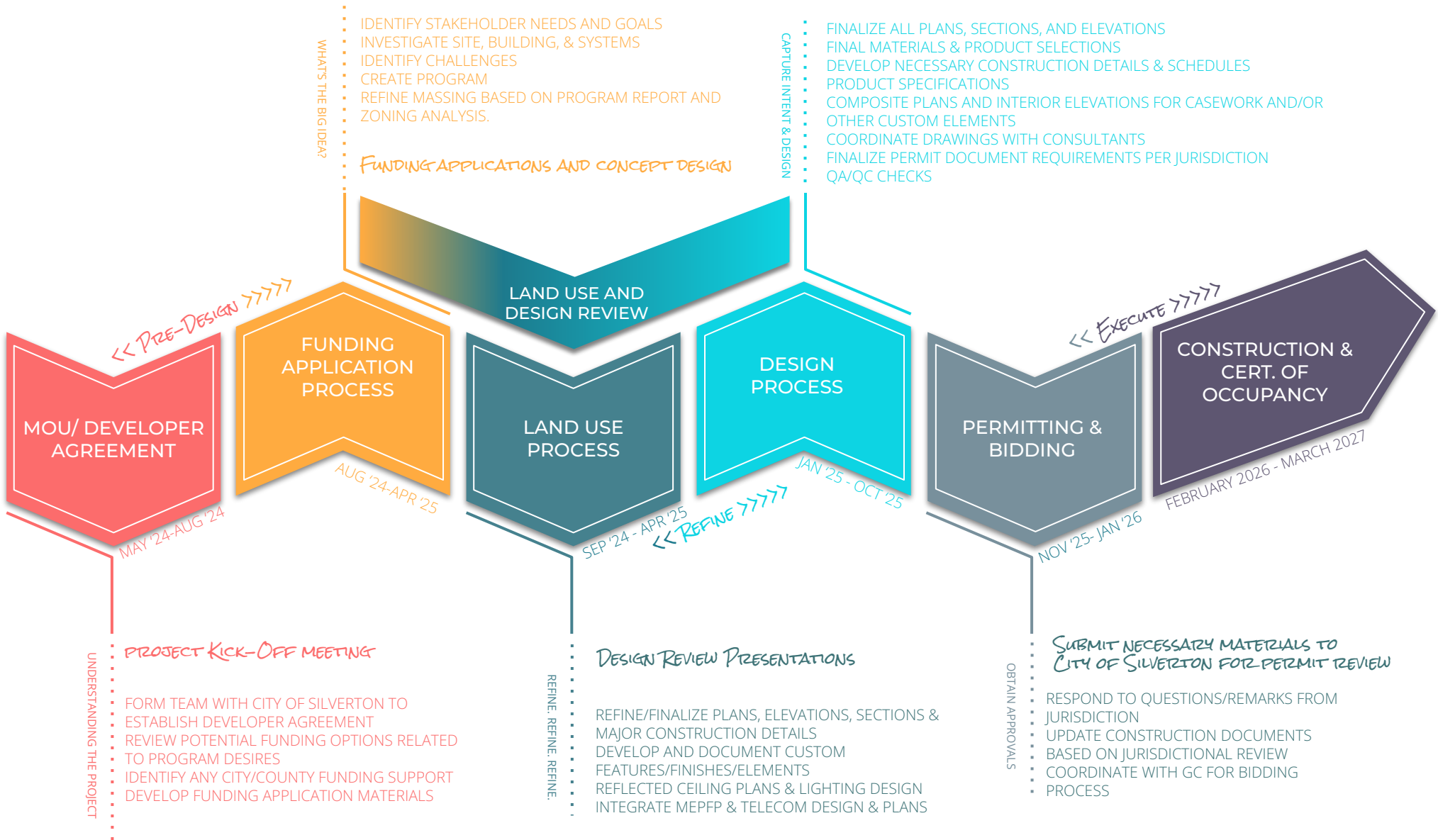
OHCS is introducing a new funding application process in 2024, moving away from the traditional NOFA (Notice of Funding Availability) format confined to a specific time of the year. This innovative approach will involve multiple steps and technical assistance from OHCS staff as we navigate through the development process. The aim is to ensure the financial structure and assumptions are robust, and there is greater amount of surety, as we progress through the stages of development.

Unlike the conventional method of submitting an application and waiting for a year if unsuccessful, this new process offers flexibility. It will be an open-ended procedure, allowing for preliminary funding commitments early on. We can then collaborate with OHCS as we move through our development process and milestones until we secure a final commitment and close on the financing.

Although 9% LIHTC is unavailable in 2024, it is slated to return in 2025. While the scoring criteria will differ in this new application process, we believe, based on the criteria from the 2023 application for 9% LIHTC and our understanding of this new process, that this funding would align well with our project. The main unknown lies in the criteria related to local funding commitments, which OHCS anticipates, particularly from HOME Participating Jurisdictions. This requirement applies to all projects in Marion County, given its allocation of HOME and CDBG funds. We will collaborate with the City, County, and OHCS to ensure the appropriate level and type of funding is secured.

Another potential funding avenue from OHCS could involve utilizing LIFT Rental funding. However, with no 4% LIHTC and Private Activity Bonds currently available to complement LIFT funds, this option appears unlikely. DevNW's financial model projected a significant gap exceeding \$1.5 million when considering LIFT funds from OHCS alone, owing to existing assumptions regarding allowable LIFT subsidies per unit. Should these assumptions or other factors change, the extensive LIFT resources available at OHCS could present a viable funding avenue.

SCHEDULE AND TIMING



PUBLIC OUTREACH/ENGAGEMENT PROCESS

OUR GENERAL APPROACH

Public outreach, engagement, and education are crucial components of any affordable housing development. Here are some general concepts that would guide your approach:

1. Transparent Communication: Ensure transparency throughout all stages of the project, from planning to implementation. This includes providing clear information about the goals, timelines, and decision-making processes involved in the development. Maintain open and honest communication with the community, providing regular updates on the progress of the project and addressing any concerns or questions that arise.

2. Community Engagement: Actively engage with community members, stakeholders, and local organizations throughout the project, seeking input and feedback at various stages. This could involve holding community meetings, small stakeholder meetings, or establishing advisory committees to ensure that community voices are heard and considered in decision-making. DevNW recognizes the diversity within the community and will tailor outreach strategies to reach different demographics effectively. We will utilize various communication channels, such as social media, local newspapers, and community newsletters, to ensure broad engagement.

3. Education: Provide opportunities for education about affordable housing, including the benefits it brings to the community, while addressing common misconceptions and dispelling myths. DevNW would offer information sessions at community meetings to help residents understand the importance of affordable housing and how they can get involved.

4. Inclusivity and Equity: Prioritize inclusivity and equity in all outreach efforts, ensuring that marginalized voices and underrepresented communities are heard and valued. Create opportunities for meaningful participation and engagement for all residents, regardless of socioeconomic status.

5. Collaboration and Partnership: Forge partnerships with local stakeholders, including government agencies, nonprofit organizations, faith-based groups, and educational institutions, to leverage resources, expertise, and community networks. By working together, we can address the complex challenges of affordable housing development. DevNW has already engaged with several government agencies and community organizations to inform our development proposal thus far. We look forward to continuing to build those relationships and collaborating to ensure that this development meets the needs of the community.

6. Long-Term Success: DevNW is dedicated to maintaining meaningful relationships with the community and neighbors throughout the lifespan of the project, fostering trust, and nurturing a sense of shared responsibility for the community's well-being. Being a good neighbor as a developer of affordable housing involves actively engaging with the community, maintaining open communication, collaborating with local organizations, empowering residents, promoting social integration, and sharing resources. This long-term approach ensures the continued success and sustainability of the affordable housing project.

PUBLIC OUTREACH/ENGAGEMENT PROCESS

DEVNW AND CITY PARTNERSHIP

DevNW envisions a collaborative approach to outreach, where city officials and staff work alongside our team to engage with residents and stakeholders in meaningful dialogue about the project.

Prior to Formal Development Agreement:

1. Initial Discussions: Seek feedback from city staff and representatives to understand their priorities and concerns regarding our proposal and assumptions of financial commitment. Engage with city planning, permitting, and public works staff to identify development challenges, city processes and timelines, and opportunities for collaboration, especially regarding the Davenport road extension design and construction.

2. Community Meetings: Collaborate with the city to organize community meetings or workshops aimed at informing residents about the proposed development. Address questions and concerns raised by community members and gather input to refine the project plan.

3. Stakeholder Engagement: Work closely with city staff to identify key stakeholders, including neighborhood associations, business groups, and advocacy organizations. Access city's communication channels, such as newsletters, social media platforms, and community calendars, to promote community meetings and events related to this project. Establish regular communication channels and opportunities for dialogue to ensure diverse perspectives are considered in the planning process.

4. Feedback Incorporation: Continuously incorporate feedback received from the city and community into the project design and development plans. Demonstrate flexibility and a willingness to adjust the proposal based on input from stakeholders.

After Formal Development Agreement:

1. Public Meetings: Participate in public meetings if required by the formal development agreement process. Present updates on the project's progress, address any concerns raised by city officials or residents, and provide transparency about next steps.

2. Regular Progress Updates: Maintain regular communication with city representatives through progress updates, reports, and meetings. Share milestones achieved, challenges encountered, and strategies for addressing them to keep all parties informed and engaged.

3. Community Events and Engagements: Continue to engage with the community through various events and initiatives, such as neighborhood meetings, informational sessions, or volunteer opportunities. Foster a sense of ownership and pride in the project among residents by involving them in its implementation.

4. Mitigation and Issue Resolution: Collaborate with the city to address any issues or concerns that arise during the development process, such as zoning challenges, infrastructure needs, or community opposition. Work together to identify solutions and mitigate potential impacts on the project's timeline or budget.

5. Celebration and Recognition: Celebrate project milestones and achievements with the city and the community to acknowledge progress and foster positive relationships. Recognize the contributions of city officials, staff, and community members who have supported the project's success.

Working together with the city is critical for the success and acceptance of this affordable housing development.

OTHER ISSUES: TOP 3 CONCERNS

1. SITE CONDITIONS

The site's conditions present significant uncertainties at this stage. If awarded this project, our immediate priority will be to conduct a comprehensive environmental assessment and a thorough geotechnical study. These assessments are vital as they will reveal any hidden conditions that may necessitate mitigation measures. Without a complete understanding of the site's environmental factors, we cannot confidently proceed with development plans.

Furthermore, without the completion of a geotechnical study, our ability to finalize site development costs is constrained. We are cognizant of the prevalence of Columbia River Basalt under Silverton, a factor that has the potential to significantly impact site costs. This emphasizes the critical importance of conducting a thorough geotechnical analysis to accurately estimate project expenses.

Additionally, the absence of a site survey raises concerns about potential unidentified elements such as easements and topographic constraints. Without this essential information, we acknowledge the possibility of encountering unforeseen obstacles during the development process.

2. SITE INFRASTRUCTURE

Connectivity to public and franchise utilities will require creativity and cooperation between DevNW and the City. We recognize the necessity of establishing a Lift Station and forced main sanitary sewer installation to meet the recommended sewer tap connection requirements to existing infrastructure at Main/Davenport. Plans entail extending electrical service and franchise utilities to Davenport Dr to cater to Phase 1 requirements. Additionally, the management of treated Stormwater will involve routing it through the land earmarked for Phase 2 development, linking it with the current stormwater infrastructure on Main St. Thoughtful consideration for the future volume of Stormwater generated during Phase 2 development must be factored into the Phase 1 installation to facilitate straightforward future connections to the installed stormwater conveyance system.

Ensuring vehicular and emergency vehicle access demands close cooperation between DevNW and Traffic Control/Local Fire Department. The Fire Department turnaround has been incorporated into the parking area in the Phase 1 conceptual design. However, provision for a secondary emergency access may be warranted, potentially connecting to Main St at the southeastern corner of the

property designated for Phase 2 development. The location of this access point, if not constrained to a specific spot, could significantly impact later phases of development. Thus, careful consideration is necessary to ensure seamless integration with the overall development plan.

Building upon the precedent established by the partial extension to Davenport Dr, DevNW proposes to continue the half-street improvement of Davenport, extending it to the northwest corner of the development. If the City requires a full street improvement, we would work with the City to see if additional local funding would be available to help with that increase in infrastructure costs.

3. POTENTIAL WETLANDS

We are concerned about potential costs linked to wetland mitigation if DSL approval is not received. Our design adjustments were made assuming a positive review from DSL, indicating no wetlands on site. If the DSL review isn't favorable, it's likely site density would decrease, or we would need to incur extra expenses for wetland mitigation, provided suitable off-site wetlands are available for credits.



The **quality of relationships** we build with the people we serve is fundamental to the quality of design we provide.

Restoring **equity** and broadening **affordability** in the housing system is our key mission and focus, and we're working to challenge the conventions that prevent the fundamental changes our communities need.

We've designed our practice around this goal, tailoring everything we do to improve **cost efficiency**, enrich **design quality**, and maximize **health, joy and livability** for the individuals and families who call our projects home.

We don't just talk collaboration, we **actively empower** residents, citizens, policy makers, owners, contractors, students, and advocates to help us make design better, **restoring community and the planet** we share.

We love the challenge of affordable housing, and the opportunity it gives us to **stretch creativity** discovering better solutions with **bigger impact**.

CITY OF SILVERTON
RFP – WESTFIELD SITE

April 9, 2024

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DESIGN



DESIGN NARRATIVE



COMMUNITY INFORMED DESIGN APPROACH

Our proposal aims to be a reflection of the community's desires for a beautiful, creative, and ADA-accessible building design that blends seamlessly with the City's aesthetic, while preserving the natural ecology that gives Silverton its unique identity. Inspiration of the design style draws from the Victorian vernacular that is emblematic of Silverton residences. Simplified articulation of ornamentation, utilizing narrow forms, steep pitched roofs, arched windows, and covered porches is a fresh take on a traditional residential style.

By additionally incorporating Universal Design principles into our placemaking strategies, we have created gathering spaces, informal indoor and outdoor meeting areas, a community room with a kitchen, and outdoor seating areas that are welcoming to all individuals. Our design process fosters a sense of community and inclusivity, empowering residents to participate in the design and to build a communal life.

SUSTAINABLE FEATURES

Our commitment to sustainability is evident in the building's features, which include energy-efficient appliances, 100% electric building systems, solar panels and lighting, passive solar design, trees for natural cooling, mini-split heating/cooling, and EV hookups on site. By prioritizing these features, we have ensured the building's longevity and efficiency for years to come.

Sustainable design approaches include:

- **Sustainable and passive house strategies** will improve health and wellness and reduce the energy and carbon footprint. Durable materials will be considered for maintenance and the overall live-cycle costs.
- **Energy, air, and water conservation** through implementation of strategies around envelope design, energy and water conservation and improved indoor air quality. The team will utilize early phase energy modeling to evaluate options and understand life-cycle costs.
- **Renewable energy strategies** to integrate a roof-top solar array and EV-ready parking. Various incentives and grants will be pursued to support these initiatives. We have a track record for successful intergration where others have found this as a funding burden.
- **Proposed systems and appliances will be all electric**, eliminating the need for natural gas in the project.
- **Maximizing repetition and building types** to generate an economy of scale and efficient use of materials to minimize waste. Prefabrication will be considered where possible to reduce labor costs and improve construction schedules.

Refer to page 14 for Environmental and Sustainable goals.

LANDSCAPE NARRATIVE

OUTDOOR ENVIRONMENT

Silverton is a community that values access to rich natural resources and public amenities. Our team understands that the new community should be a reflection of this value. We aim to provide beautiful and sensible site design through partnership with local landscape architect, Laurus Designs. Our proposal connects people of all abilities to nature and provides safe and healthy spaces for kids to play, learn, discover, and sets a scene for educational opportunities in the outdoors.

A centralized community garden celebrates the ecology of the region while providing an educational opportunity for residents of all ages. Meandering leisure trails connect the community, stitching nodes of smaller community pockets to one another. The development is surrounded by varying and amenity-rich spaces for placemaking and includes covered and uncovered outdoor seating, and a centralized community garden, and more intimate settings created through pavilions. While our proposal expresses the intent of placemaking concepts, the authors of the final design will be the community through focus groups.

DEFENSIBLE SPACE & FIRE RESISTANT DESIGN

Over the last several years the risk of wildfire across our region has increased, in particular for communities at the edges of the wildland-urban interface. The Westfield site is at a higher risk than some other areas of Silverton due to the proximity to the creek and associated vegetation.

Our proposed approach to the projects design includes Class A roof covering, metal roof valleys, metal gutters and downspouts, protected roof eaves, 1-hour exterior walls with non-combustible fiber cement siding and trim, no crawl spaces, non-combustible windows and doors. The residential structures and community building will include fire sprinkler systems.

A fire buffer around each building will be provided and landscaping will be native, drought resistant, and thoughtful in fire resistant design. Additionally, fire resistant landscaping will be addressed with ongoing maintenance of the landscape, keeping trees trimmed and free of deadwood, landscape free of leaves and needles.

ENGAGEMENT PLAN FOR OUTDOOR SPACES

For community engagement sessions focusing on design input of outdoor spaces we plan to implement the following principles:

Engage with the community. No one knows a place’s problems, weaknesses, and strengths better than the community itself. Identity and vision become the products of community engagement. Engagement will create a sense of belonging and pride, further promoting collaboration and collective thinking.

Establish a shared vision. It’s important to establish a shared vision with the community for the place that must be based on its real identity. Our team will align this vision with place identity and ensure its support by all stakeholders.

Think beyond structures. Structures can be understood as the immobile aspects of a place, its buildings, its architecture, and its landscape. We believe a place is much more than that. People bring unique experiences and cultural perspectives and activities give life to the place. This in turn creates the identity. A good place doesn’t need new products, just a good program of activities or the promotion of existing cultural characteristics.

Read more about our comprehensive community engagement plan on page 27.



PHASE 1 SITE PLAN



PHASE 1 UNIT TYPE AND QUANTITIES

TYPE	1 BR	2 BR	3 BR	TOTAL
60% Units	9	22	5	36
TOTAL FAMILY-SIZED UNITS				27
TOTAL UNITS				37

PHASE 1 COMMUNITY AMENITIES

AMENITY	SQFT/ QUANTITY
Developed Buildings	32,786 SQFT
Open Space	43,063 SQFT
Community Room	1,7180 SQFT
Parking Stalls	61

SITE LEGEND

- 1 Raised garden beds, patio, play area, and barbeque
- 2 Community building
- 3 Trash enclosure (2 provided)
- 4 Paved internal sidewalks connecting residential units and amenities to public sidewalk
- 5 Play structures (2 provided)
- 6 Pavilion (2 provided)
- 7 East/West connecting trail

SITE DESIGN. The site is organized around a circulation axis, linking the housing and outdoor spaces from east to west with sidewalks and vehicular circulation running north to south in the development. The proposed north/south circulation will connect in a loop in phase 2 of the project. The east/west trail is flanked by the residential buildings and several open spaces, each with unique character. Amenities include pavilions for community gathering, play spaces, open green, community garden, and generous seating

INGRESS/EGRESS. The project provides vehicular ingress egress from Davenport Lane. For pedestrians, differentiating surface materials provides visual interest while creating easy wayfinding for pedestrian specific paths. We minimized the distance residents must travel when parking by segmenting the site into thirds.

PARKING. Parking is located along Davenport Lane and along the interior streets for a total of 61 stalls. This move allows for greater density of units on site while providing much needed parking for residents. Parking stall to unit ratio is 1.6:1

PERSPECTIVE OF OPEN AREA



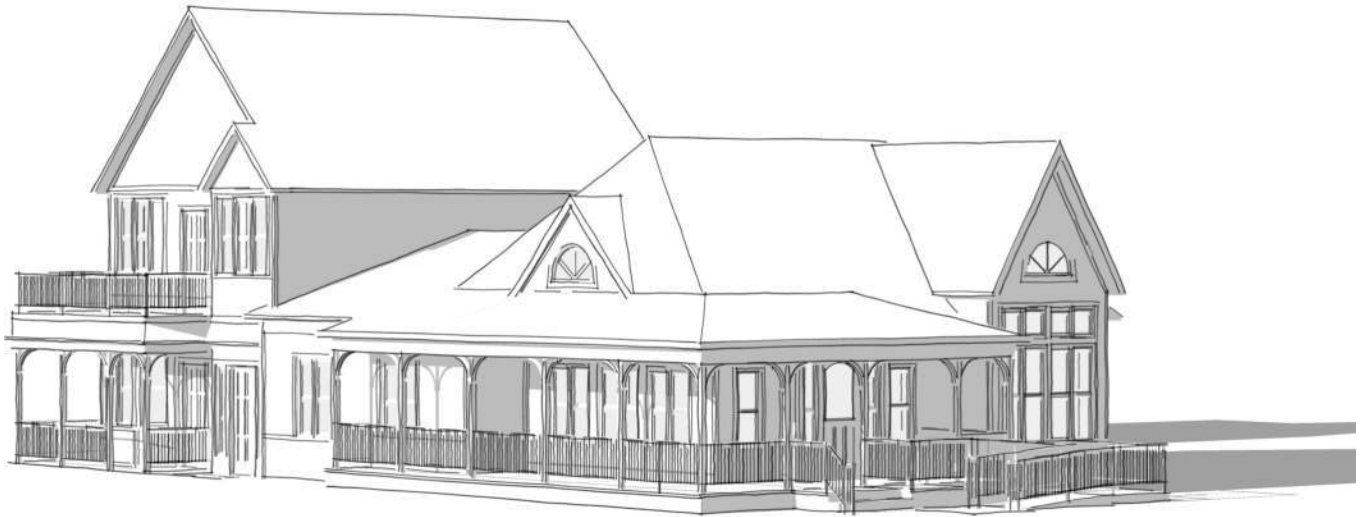
VARIETY OF PLACEMAKING. A variety of private and reflective spaces are scattered around the site and in between buildings. They are organized as focal points in front of communal porches stitched together through meandering paths. These play, gathering, and reflective spaces will provide private and safe areas for residents to get to know one another.

PERSPECTIVE OF COMMUNITY BUILDING



CENTRALIZED COMMUNITY BUILDING. At the center of the development we have proposed a community building. The community building will serve as the heart of the development with adjacent open space all linked along a central trail connecting the development east and west. Within the community building residents will have access to a management office, resident services office, central laundry, and a community room with kitchen and gathering space. The outdoor area adjacent to the community room will include barbecues, a community garden, and picnic seating.

BUILDING ELEVATIONS AND BUILDING TYPES



^ COMMUNITY BUILDING

The East to West pedestrian trail converges at the centrally located community building. Above is a concept rendering of the community building taken from a view from south east corner. There is an attached duplex with stacked flat 2-bedroom units on west side of building. A wrap-around porch provides covered community gathering space at the lower level of the community building that's adjacent to open area and community garden to the east side. The small footprint that is created by adjoining the community building and the duplex reconciles the existing grade more efficiently.

∨ RESIDENTIAL BUILDINGS

The approach taken for designing the residential buildings is to complement the scale of the varying Victorian style homes within Silverton. We are utilizing seven different building types to provide a diversity of floorplans, elevations, and character to the community. All ground level unit, over 75% of the total units, will be accessible or adaptable to people with disabilities to meet the community needs. The following pages illustrate the concept elevations of the buildings types and unit mixes proposed.



Type 1 Duplex Elevation. 1-bedroom + 2-bedroom: Side by side units with covered front porch at grade for accessibility.



Type 2 Duplex Elevation. 2-bedroom units: Ground floor unit with second floor unit access from interior stair at side of unit.

BUILDING ELEVATIONS AND BUILDING TYPES



Type 1 Triplex Elevation. Two 1-bedroom units + 2-bedroom unit: 1-bedroom and 2-bedroom ground floor unit flank a central entry that provides access to an interior stair for the second floor 2-bedroom unit.



Type 1 Fourplex Elevation. Three 1-bedroom units + 3-bedroom unit: 1-bedroom ground floor units flank a central entry porch that provides access to an interior stair for the second floor 1-bedroom and 3-bedroom units.



Type 2 Fourplex Elevation. Two 2-bedroom units + two 3-bedroom units: 2-bedroom ground floor units flank a central entry that provides access to an interior stair for the second floor 3-bedroom units.

PHASE 2 PROPOSAL

CONCEPT SUMMARY

Our proposal envisions the development of phase 2 as a continuation of clustered groupings of residences around pockets of greenspaces with plentiful meandering trails. The hiking trails make use of the undevelopable wetland buffer that consumes and restricts much of the remaining 5 acres of the Westfield site. Roads and crossing are allowed to be built over wetlands with considerable cost implications that we would like to review with the city when the time comes.

The vision for phase 2 provides an additional 24 units though 9 additional buildings as a mix of duplexes and triplexes organized along the northeast of the Westfield site. To the southeast, 9 single family homes with attached carports are proposed. The scale of residences in phase 1 and phase 2 intentionally provide a cohesive and complementary scale for these single-family homes to provide a diversity of building types and homeownership. A total of 66 additional parking spaces, not including private carports are proposed for phase 2. The parking to unit ratio for would be 2.5:1. As a project total, the parking to unit ratio is 1.9:1 for phase 1 and 2 combined.

By accessing W. Main St we can provide fire access to the south side of the site with limited environmental impacts and a lower carbon footprint by using significantly less construction materials such as concrete. Access to W. Main Street is proposed while the RFP states access to W. Main St. is challenging. We think it is a worthwhile discussion to have about access versus environment. As an alternative approach, looped vehicle access connecting the north and south roads would be required if access to W. Main Street could not be achieved.

Connecting trails from the skate park could be a potential collaborative effort with the City, effectively connecting the recreation facilities in the northeast to the wetlands as a public park though private and public ownership.

“Our development team consists of BIPOC-owned businesses, leveraging expertise through local consultants including 7Oaks Engineering and Laurus Designs based in Silverton”

SITE UTILITY SUMMARY

For phase 1 and 2 we have partnered with 7Oaks Engineering, a Civil Engineering firm based in Silverton. They have provided the following site utility summary for the phase 2 proposal:

WATER. We have assumed that the City will require the line in W. Main Street to be extended at least to the project boundary, we understand the city may further require it along the full frontage. The City may also require the line to be extended down Davenport Lane and looped through the site in a public easement and back up to W Main Street in Phase 2.

SEWER. With the location of the property, sloping away from both W Main Street and Davenport Lane a sewer lift station has been assumed.

STORMWATER. Based on area soil conditions, we have assumed on-site infiltration is not feasible. Stormwater is proposed to discharge to the creek provided we don't increase the runoff from Pre to Post Development. Alternatively, on-site stormwater basins at the south & west edge of the property can be accommodated by either require additional site area or a reduction to some combination of program, open space, parking or building area.

PHASE 2 UNIT TYPE AND QUANTITIES

TYPE	1 BR	2 BR	3 BR	TOTAL
Rental Units	12	14	0	26
Single Family Dwelling		9		9
TOTAL FAMILY-SIZED UNITS				23
TOTAL UNITS				35

PHASE 2 COMMUNITY AMENITIES

AMENITY	SQFT/QUANTITY
Developed Buildings	33,664 SQFT
Open Space	175,185 SQFT
Parking Stalls	66

MASTER PLAN - PHASE 1 & 2



DESIGN INTENT AND GOAL. Our masterplan envisions the development of phase 2 as a complementary extension of the scale of building types, amenities, and circulation of phase 1. Unique to phase 2 is the inclusion of single-family dwelling units to provide a diversity of home inventory in the City and an opportunity for homeownership. Rental units are clustered to the north to maintain a cottage style community feeling.

LIMITATIONS OF PHASE 2 SITE DESIGN. The developable area of phase 2, based on the wetland information, is fairly limited. The wetland report provided by the City contends that the stream on the site is intermittent and non-fish bearing. For this reason, we have based the design of phase 2 maintaining a 50-foot buffer zone along each bank conforming to state requirements of non-fish bearing streams. As you can see, this undevelopable buffer consumes much of the site. We believe, however, that an encroachment into the buffer to provide vehicle crossing of the stream is worthwhile and allows a connection of the buildable zone to the south. A park, with hiking trails make use of the wetland buffer zone which can be open to the greater community to enjoy.

PROGRAM



PROGRAM SUMMARY



HOUSING UNIT MIX AND AFFORDABILITY

Our proposal will offer apartments that will be affordable to households earning 60% and below the Area Median Income (AMI). The project proposes 37 total units, with 9 one-bedroom, 22 two-bedrooms, 5 three-bedroom units including an on-site managers unit through a mix of duplexes, triplexes, and fourplexes. State funding sources require that rent be restricted to individuals or families making 60% AMI. 27 (72%) of the apartments will be 2- & 3-bedroom units to assist the goal of providing family sized affordable homes that are multigenerational, multicultural and catering to a variety of income levels.

Our expertise and passion is serving a mix of individuals and families experiencing financial needs. Additionally, our proposal shows our commitment to accessible development with over 75% of the total units being ADA accessible or adaptable for persons with disabilities. We hope to partner with the Marion County Housing Authority to coordinate access for additional rental assistance programs and needs for permanent supportive housing, given the opportunity. See unit mix and affordability matrix to below for more information.

PHASE 1 UNIT TYPE AND QUANTITIES

TYPE	1 BR	2 BR	3 BR	TOTAL
60% Units	9	23	5	36
TOTAL FAMILY-SIZED UNITS				28
TOTAL UNITS				37

PHASE 1 COMMUNITY AMENITIES

AMENITY	SQFT/QUANTITY
Developed Buildings	32,786 SQFT
Open Space	43,063 SQFT
Community Room	1,7180 SQFT
Parking Stalls	61

RESIDENTIAL AMENITIES

The approach to resident amenities is to provide shared amenities as great as possible to maximize units and promote community gathering. Employing Universal Design Principles in these common areas will ensure access to supportive services. Universal Design Principles include providing wide pathways, generous maneuvering space, increased access, and a comprehensive, clear wayfinding system. Additionally, public restrooms will be gender neutral to respect all identities.

Central to the site will be a community room which will host supportive functions including a waiting lobby, an office for the property manager and resident service coordinator. The community room itself will be outfitted with a public kitchen to host life-enriching and supportive workshops. Its close adjacency to the outdoor community garden provides a great opportunity for cooking demonstrations and other health and wellness focused activities.

Additional building amenities and features include:

- **Flexible indoor and outdoor common spaces** with shared uses to maximize opportunities for changing needs. This includes outdoor pavilions, walking trails, and covered and uncovered bike parking
- **On-site Laundry facilities** to maximize efficiency and ease for residents
- **WiFi in common spaces** to connect residents to the web so they can pay bills, help children with schoolwork, or just to have access for recreational browsing.
- **On-site Parking** with a ratio of 1.6:1.
- **Community event space** with food prep kitchen
- **Resident Service Offices** for 1:1 meetings.
- **Communal porches** for building specific residents.
- **Bike Parking** that is covered and uncovered.
- **Centralized trash** for convenient management

BUILDING NARRATIVE

OVERALL DESIGN APPROACH SUMMARY

The project pursues a human-centered approach that considers both universal and accessible design principles through an outcome-based design process for both the site and building. The result is 13 buildings that will provide 37 new affordable units that respond to the context of the Silverton community.

The buildings will be oriented around a central community building. This is done to anchor the site and provide spacial wayfinding to establish a pedestrian presence and scale. We are proposing to divide the site into three components separated by two roads oriented north to south. This layout maximizes parking opportunities and distributes parking more evenly for resident's convenience. To further improve the pedestrian circulation and experience we are including pedestrian trails connecting the site east to west.

SITE DESIGN AND AMENITIES

The site is intentionally laid out to maximize development opportunity and to provide a balance of adequate parking, but additionally, to provide ample landscaping and open spaces. Our primary strategy for designing the site is to provide a wide variety of open and accessible spaces for gathering, including covered and open seating, a community garden with raised beds, native plant landscaping, nature-based accessible playgrounds, pavilions, picnic structures, pedestrian trails, and a thoughtful consideration to fire resistant landscape design. The result is sculpted residential spaces and outdoor amenity areas that balance public and private experiences.

ART APPROACH AND GOALS

Our art approach begins with the understanding that the built environment represents an opportunity to cultivate community and identity. Art will play a pivotal role in achieving these objectives by infusing spaces with vibrancy, color, culture, and social interaction. Our art goals are to integrate art seamlessly into the fabric of the development, reflecting the unique character of Silverton while promoting inclusivity and creativity. This will be done by a combination of murals, paintings, or sculptures to create focal points for social interaction.

Additionally, we will involve the community in the art selection process when feasible to create ownership and pride among residents. We will solicit talent from the local community to express the cultural heritage of Silverton through artwork that reflects its history, traditions, and values.

ENVIRONMENTAL SUSTAINABILITY GOALS

Our proposal consists of the following sustainability goals and features:

SITE DESIGN. Designed with Pedestrian Circulation prioritized linking residents east/west and to Phase 2 will encourage walking throughout the site and to the broader community.

LANDSCAPE. Adaptive and Native plants will be used throughout the project. Turf will be used in limited areas for resident use all year. The landscape will be irrigated with water efficient systems.

SOLAR ORIENTATION. The majority of buildings are oriented for southern roof exposure to integrate solar PV systems. The units generally integrate large windows for ample daylight within the buildings.

HIGH PERFORMANCE BUILDING ENVELOPE. The building envelope will be designed for high insulation values and air tight design to conserve energy. High efficiency windows and doors will also be included.

HIGH EFFICIENCY APPLIANCES & LIGHTING. All appliances will be Energy Star rated and all lighting will be high efficiency LED fixtures. Lighting color temperature will be designed for residential feel rather than cooler commercial lighting.

ALL ELECTRIC. The development will be proposed as all electric without the use of carbon based fuels. High efficiency electric water heaters will be proposed within each unit.

AIR QUALITY. All units will be equipped with filtered fresh air using heat recovery ventilation systems. The project will also include air conditioning accommodations to allow residents to cool their units even during poor air quality events such as wildfires.

DURABILITY. Interior and exterior materials will be selected for their durability and ability to maintain a high-quality project.

THIRD-PARTY VERIFICATION. A consultant separate from the design and construction teams will provide third-party verification the sustainable design strategies were implemented as intended.

EARTH ADVANTAGE CERTIFICATION of Gold or greater.

SOLAR PANELS. Our project aims provide 100% renewable energy production to fully cover energy demand, not just in common areas. This directly benefits the resident by allowing the developer to cover utility resident bills.



SERVICES NARRATIVE

Hacienda CDC is a unique organization as we are both a developer and service provider which means we have direct access and ability to execute needs identified by residents. As a culturally specific organization, a central piece of Hacienda's mission is to advance equity in access and outcomes to provide services that go beyond housing to support economic and educational mobility for all residents in all ages, cultural backgrounds, languages, and stages of life. The project will include several programs which will allow for enhanced resident services at the property to support and empower a resilient community. Additionally, our financial and digital literacy programs, small business coaching, and housing assistance programs are not exclusive to residents, but open to the larger community.

RESIDENT SERVICES

Hacienda delivers a suite of programs to build on the strengths of our residents and help them achieve their dreams. The Resident Services Coordinators are key to connecting residents to Hacienda's programs. As we get to know the families and their needs, we can provide warm introductions to program staff and help residents enroll. Hacienda will have 1.0 FTE Resident Services Coordinator on site.

Over the years, Hacienda has developed a suite of programs to build on the strengths of our residents and help them achieve their dreams. These programs will be accessible to this community and may include:

PATH TO HOME PROGRAM. Financial coaching and home ownership preparation by Hacienda's HUD-certified housing counselors.

SOWING SEEDS PROGRAM. Hacienda's early childhood education program brings certified parent educators into the homes of families with children age 0-5. Our Early Childhood Educators empower parents to learn about their child's development, help parents meet the needs of their child as they grow and prepare to enter school.

EXPRESSIONS PROGRAM. Hacienda offers out-of-school programming for youth in grades K-8. Students receive academic tutoring, access to enrichment opportunities, parent engagement, and resource identification

ABC'S OF SMALL BUSINESS. Workshops with one-on-one business advisors for financial coaching, access to legal clinics, and access to concept-to-consumer support to foster entrepreneurship and economic development in the city from the ground up.

PROFORMA



CONCEPTUAL FINANCIAL ANALYSIS

SOURCES AND USES SUMMARY

Sources	Total	Per Unit	Site A
LIHTC Equity	6,732,000	100,478	6,732,000
Federal Energy Credits	80,100	1,196	80,100
Permanent Loan	3,126,147	46,659	3,126,147
ORMEP	200,000	2,985	200,000
Energy Trust of Oregon	20,000	299	20,000
OHCS LIFT	7,200,000	107,463	7,200,000
Deferred Developer Fee	1,000,000	14,925	1,000,000
CDBG Funds	1,154,294	17,228	1,154,294
SDC Waiver	903,231	13,481	903,231
TOTAL SOURCES	20,415,772	304,713	20,415,772

Uses	Total	Per Unit	Site A
Acquisition	1	0	1
Construction	13,250,000	197,761	13,250,000
Soft Costs	2,699,091	40,285	2,699,091
Financing Costs	1,233,362	18,408	1,233,362
Reserves	233,318	3,482	233,318
Developer Fee	3,000,000	44,776	3,000,000
TOTAL USES	20,415,772	304,713	20,415,772

Surplus /(gap):		(0)	(0)
	Construction loan amount	8,100,000	
	Bond amount	8,090,000	

PROJECT PROFORMA

PLEASE SEE DIGITAL ATTACHMENT FOR PROFORMA WORKBOOK

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DEAL STRUCTURE AND FINANCE



DEAL STRUCTURE AND FINANCE

PRIMARY FUND SOURCE PURSUED

Affordable housing is prevalently funded with Low-Income Housing Tax Credit (LIHTC) Bonds, which are allocated by the federal government annually to the states. In Oregon, Oregon Housing and Community Services (OHCS) administers and awards these funds, among other federal and state funding sources. These LIHTC funds are separated in two different categories; 9% LIHTC, which are more competitive due to the high subsidy benefit, but limited award candidates; and 4% LIHTC, which has a larger pool to draw from, but with a smaller subsidy benefit. These LIHTC credits require affordable housing to serve individuals and families making 60% Annual Median Income (AMI) and below. Affordable Housing relies on these sources of equity, because without them there would not be enough income generated at the properties to support the project debt on the property or to attract private market investors.

For 2024, there are no 9% or 4% tax credits available for disbursement. However, we expect that there will be tax credits available in 2025 and 2026. The timing for this project, however, aligns well with the funding sources. Predevelopment activities, including architectural drawings, bidding, permitting, land use review, environmental review, etc., would position this project for a 2025 or 2026 tax credit allocation. However, there are 2024 allocations of predevelopment grants and capacity building grants that Hacienda, as a non-profit culturally specific developer, would be able to apply for and rank competitively high as compared to non- culturally specific developers.

This year, OHCS is reconfiguring the Notice of Funding Applications for tax credits. While this new process, known as the Oregon Centralized Application (ORCA), aims to streamline the application process for all available funding streams, it will certainly present some unknowns for funding distribution. However, ORCA will allow developers to get preliminary approval from OHCS for projects prior to pursuing financing, this in turn reduces the numerous rounds of financial paperwork and wait times for funding to be received. We are excited to see OHCS shifting to a more collaborative approach to affordable housing development.

PROPOSED FUNDING STRUCTURE

For this project, we have are proposed a funding structure that utilizes 4% LIHTC. For funding contingency, we are also considering a 9% LHTC structure, as we do not yet know what the tax credit allocations and changing rules at OHCS will hold in 2025 and beyond.

Our 4% LIHTC deal combines the Local Innovation and Fast Track (LIFT) housing funds from OHCS and a permanent loan, with 37 units of 1-, 2-, and 3-bedrooms at 60% AMI. The permanent loan would be secured from a partner lender. This capital stack is simple and effective and designed for 4% LIHTC and LIFT to harmoniously work together. We will also pursue grants as pertinent to the project such as Oregon Multifamily Energy Program (ORMEP), Energy Trust of Oregon (ETO), and other philanthropic granting opportunities. While its not fair to say for certain that we will be awarded funds from these sources, we can with confidence say that we have a high track record for success. By nature, because Hacienda is a non-profit and culturally specific organization and a community development corporation, we meet many of the funding sources requirements for developer qualifications. Additionally, our MWESB participation percentages of professional firms, contractors, and subcontractors contracted, has historically exceeded project goals. MWESB participation percentages are a requirement and metric measured by the state funding agencies. We believe Hacienda, Salazar, and Colas' high track record gives us an advantage in positioning for fund allocations.

Advantages of our proposed funding structure:

- 4% tax credits are plentiful and available most years.
- The only restriction for potential residents is an income restriction, which verifies financially burdened families receive access to housing.
- There is no occupational restriction unlike under funding sources.
- Funding requirements least complex as compared to other funding sources.
- LIFT funding designed to pair easily with 4% tax credits.
- Availability of credits may lead to a shorter predevelopment timeline.

CONTINGENT/ALTERNATE FUNDING STRUCTURE

As a contingent funding source, we see that 9% LIHTC is a suitable alternative financial structure. While 9% LIHTC has traditionally been competitive, the new OHCS ORCA process, may allow this fund to become more accessible. The benefit of a 9% LIHTC structure grants a deeper subsidy to the property finances, eliminating the need for a secondary, large funding source, keeping the capital stack as simple as possible.

Increased simplicity equates to less burden of applications, compliance, reporting and a potential for a streamlined project financing schedule. Fewer funding sources pursued also leads to less financial risk for the project.

For 9% LIHTC projects, Hacienda typically signs multiyear memorandum of understanding with the land-owning entity to accommodate additional funding cycles to compete for credit allocations from OHCS. Hacienda is however uniquely suited to score well for 9% tax credits as there are separate set aside allocations for Rural and for Culturally Specific organizations. In essence, we would qualify for two different pools of these 9% LIHTC funds, doubling our chances of success.

OWNING ENTITIES

We believe generational wealth is derived from the equity of appreciable assets. In real estate, homes are considered a depreciable asset, while the land they sit on appreciates in value. For this reason, we don't believe a community land-trust model is an appropriate tool for the Westfield site. Instead, Hacienda prefers LIHTC deals which allow for the appreciable assets to remain accessible with community.

The typical entity structure for LIHTC deals involve a formation of a limited liability partnership which gives investors 99.99% ownership of the project and gives the remaining .01% ownership to the non-profit partner, namely Hacienda, for 15 years. At the end of 15 years a financial exit takes place in which the investor exits the partnership and transfers their share of ownership to the non-profit. Some may think this poses an opportunity for non-profits to flip the property for market rate development, but in fact, OHCS requires that deeds maintain a 60-year affordable housing use clause for projects funded. Hacienda's current business model is to hold properties in perpetuity - we want to be a permanent resource for the community!

PROJECT ASSUMPTIONS AT AT GLANCE

For both finance structures, the following financial assumptions were used for our proforma. Please note that these are estimates based on research and Hacienda historical data:

- LIHTC equity pricing at .86 and .89 for energy credits, from consulting with multiple tax credit investors on projected appetite for area and macroeconomic conditions
- Construction loan with 6.25% rate, based on recent property funding.
- Permanent loan with 5.8% rate and 40 year amortization and 1.15 minimum year 1 Debt Service Coverage Ratio, based on recent property funding
- LIFT allocation within OHCS 2023 Rural guideless for maximums per unit size
- Developer fee under maximum 18% of total development costs per OHCS standard for property size
- SDC and waiver estimated by Salazar Architects
- Construction costs estimated by Colas Construction
- Solar costs estimated by size and cost of prior solar installations.
- Other professional and financial service fees based off of current actual development costs, resized for project scope when necessary.
- Rents and incomes based off HUD 2023 schedule for Marion County
- Rents are purposely not reduced by a Utility Allowance, as Hacienda will cover WSG and electric usage over what is produced by Solar Array (no gas)
- Operating costs based on Hacienda current portfolio performance and recent financial analysis of similar rural development in Oregon of \$6,005 per unit per year plus \$450 replacement reserves per unit per year. Operating cost assumes city currently has in place or is able and willing to adopt ORS 307.540 or similar state tax exemption measure for a full property tax exemption.
- Operating reserve sized on 6 months expenses plus debt service per OHCS and investor guidelines.
- Replacement reserve based on \$450/unit; note that this is more than OHCS guideline.
- Inflation for Income and Expenses and Vacancy Rates are in compliance with AHIC underwriting requirements used by tax credit investors and lenders.

ROLE OF THE CITY

The City of Silverton can support the development efforts through a variety of ways. The first is through permitting a full SDC waiver which helps us minimize project costs. SDC fees are typically higher than market rate costs due to additional levels of oversight and due diligence required by state and federal sources.

The second provision would be city council adoption of a 10-year minimum property tax exemption for affordable housing; taxes are our single largest line item in annual operational expenses. As incomes cannot be increased, the only way affordable housing developers can increase property net operating income is by decreasing expenses – however, it is hard to decrease expenses too far without compromising effective programming and property upkeep and quality. Tax exemptions allow us to decrease expenses without decreasing quality. With the decreased expenses, our net operating income increases, which is then leveraged at a 1:15 coverage ratio to increase permanent loan capacity, reducing funding gaps that would otherwise be insurmountable to a minimal or nonexistent level and allowing project financial feasibility.

Lastly, the City can support this development by offering multiple Land Use Review pre-application or working sessions with the jurisdiction having authority prior to the final application at no or low cost. This also contributes to the assurance that the project is truly developed jointly with the desires and concerns of the community. We typically see a need for 1 or 2 pre-application sessions.

Finally, per the RFP, we would ask the city to work with us to apply for CDBG funding for qualified public improvements, as it is our understanding Silverton is not an entitlement community with HUD and would need to compete in the twice-yearly State funding for CDBG.

ASSUMPTIONS ON PRIMARY SITE INFRASTRUCTURE

For assumptions on primary site infrastructure, we are carrying a ¾ Right of Way improvement on Davenport Lane. With the grading of the site showing that it is sloping away from both W Main Street and Davenport Lane a sewer lift station has been assumed. For water utilities we have assumed that the line will need to be extended down Davenport Lane. We anticipate site infrastructure and right of way improvements are an appropriate and eligible expense to utilize community development block grant funds.

For more site infrastructure assumptions refer to page 10.

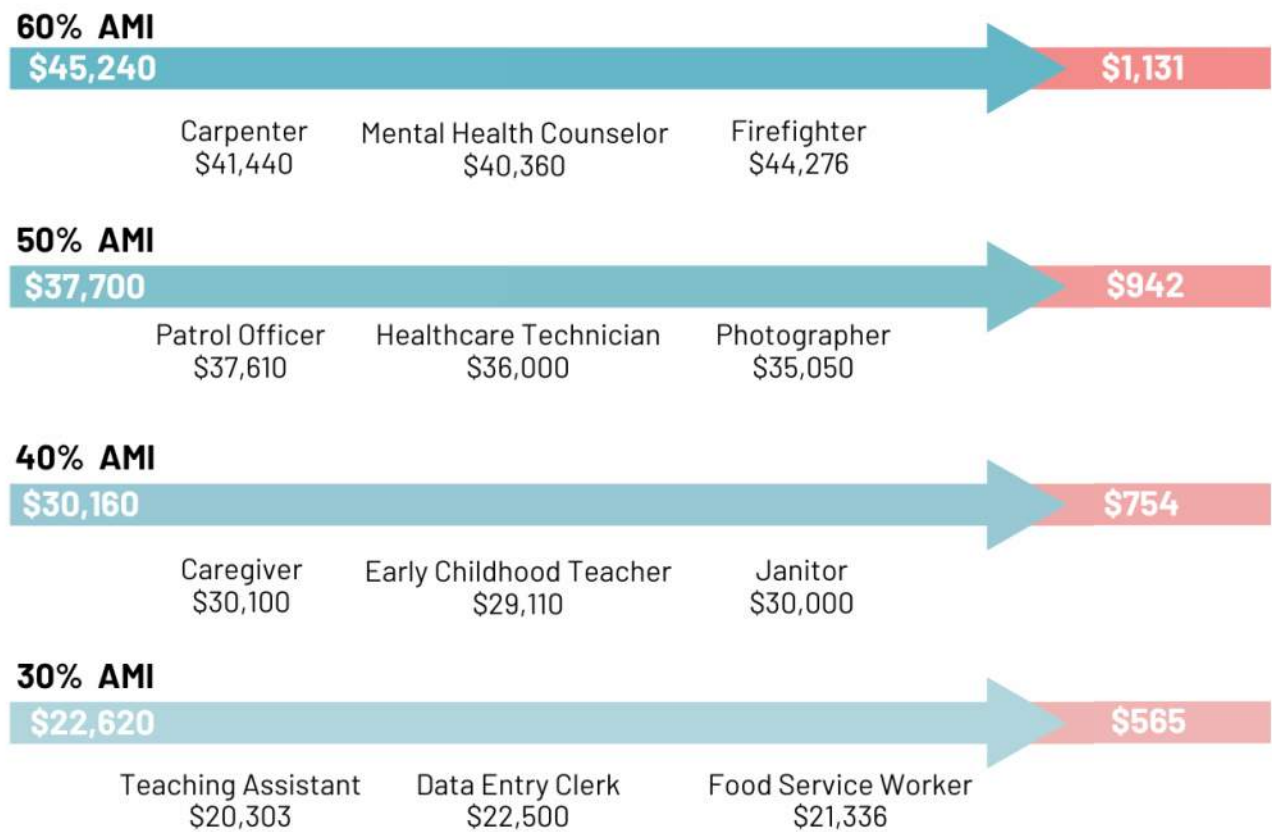
PREVAILING WAGE ASSUMPTIONS

At this time we are not anticipating prevailing wage rates. If BOLI/Davis-Bacon commercial wages are triggered we can expect to add 10% to the total project budget.

ANNUAL MEDIAN INCOME AND RENT AFFORDABILITY

The chart below illustrates examples of the household income levels at 60% AMI and less to convey the affordability and access to housing provided by affordable housing projects utilizing LIHTC funds.

IF A FAMILY OF (4) EARNS THEN THAT FAMILY MAY AFFORD*



*2023 OHCS income and rent limits - Income Limits for LIHTC & Tax-exempt Bonds

TIMING AND ANTICIPATED PROJECT SCHEDULE



ANTICIPATED PROJECT SCHEDULE

Anticipated project schedule assumes an executed award agreement in July 2024.

<u>Pre-Development</u>	
City/Developer Agreements executed	July 2024
Community Engagement Kickoff	August 2024
Design Phase Begins	August 2024
Site Acquisition	September 2024
Site Analysis	September 2024
Design Review (Type I or Type II)	December 2024
Building Permits & Fees Submitted	April 2025
Design Phase Ends/ Plans Completed	May 2025
Building Permit Completed	August 2025
Final Bids	September 2025
<u>Financing Construction Loan</u>	
CDBG Application	January 2025
Proposal	April 2025
Firm Commitment	September 2025
Syndication/Partnership Agreement (LIHTC)	October 2025
Partnership Agreement (LIFT)	October 2025
Closing/Funding of Loan	October 2025
<u>Development / Construction</u>	
Contractor Selected	April 2024
Construction Begins	October 2025
Certificate of Substantial Completion	January 2027
Construction Completed	February 2027
Construction Duration	16 months
Community Engagement Completed	January 2027
<u>Financing Permanent Loan</u>	
Proposal	January 2027
Firm Commitment	October 2027
Closing/Funding of Loan	November 2027
<u>Unit Availability</u>	
Lease Up Begins	January 2027
Lease Up Completed	June 2027
Unit Absorption	8 units per month

OUTREACH AND ENGAGEMENT PROCESS





COMMUNITY ENGAGEMENT

COMMUNITY ENGAGEMENT MODEL

Hacienda and Salazar has been deeply involved in the design and execution of extensive community engagement around affordable housing for many years. Our proven model folds environmental equity, social justice, and policy advocacy into the heart of the process to build people-first, resilient, and lasting communities. Our people-first approach describes community engagement that can be distilled down to “listen and execute”. Our goal is to deepen collaboration between the City, community, and future residents to shape the exterior and interior design of our buildings.

Our engagement strategy will include convening two separate focus groups during each phase of design (SD, DD, CD, CA) so community members and prospective residents can learn more about the proposed design. In fact, because Hacienda will also be the Resident Service Provider, this will lay the groundwork for us to understand the specific needs of future residents, which will be carried not only into the final design, but beyond.

THE CITY’S ROLE IN ENGAGEMENT

The City can have a significant role in this process by identifying and connecting us with community leaders, synchronize press release news and announcements to further broadcast our reach of community engagement events, and hosting neighborhood meeting spaces at public city facilities. The goal of engagement is to arrive at a design that honors the design principles of the City while bringing new perspectives and richness to Silverton.

Hacienda will engage community members around final design elements and amenities as well as future programming on site.

“We believe that a diverse use of methods of community engagement captures a diversity of experience.”

ONGOING ENGAGEMENT

As a way to provide ongoing engagement, we will create a project website so that all who are interested in the project can stay informed. See an example of this by visiting one of our current project’s engagement web page: EngageWithLakeGrove.com

All Hacienda community engagement includes the following main principles that we believe reduce barriers and allow for authentic engagement:

COMPENSATION. Hacienda compensates all community members who participate in community engagement activities as if they were consultants.

LANGUAGE NEEDS AND MULTILINGUAL RESOURCES. We assess interpretation and translation needs before engagement activities. We are committed to hosting both virtual and in-person engagement sessions in multiple languages and providing multilingual resources ensure that non-English speaking individuals can access our services.

MEETING FORMAT AND VIRTUAL OPTIONS. Included in our community engagement effort we plan to provide virtual programming to serve people who may not be able to attend in-person events. Although our projects have successfully instituted virtual community engagement sessions, Hacienda acknowledges that meeting in person is the best way to build relationships and community.

PARTNERSHIP WITH OTHER ORGANIZATIONS. Paramount to the success of our engagement is partnerships with local organizations. Hacienda will first reach out to other local resources and partners to amplify voices, focus reach, and serve specific communities that we otherwise could not.

TOP CONCERNS AND OTHER CONSIDERATIONS

Work about
y Preparedness:
- Outages
how events
ing people from
ng
edia Earthquake
ge of emergency
es

Communication
with neighbors
~~then~~ during
construction
process; Not using
street for ~~off~~ construction trucks

Add
your
thoughts

Designating EV spaces
if residents don't
have EV vehicles
only reduces the
number of spaces
available. Please
think about how to
make these fully
useable

Can families in these
units become
child care providers?
Co-locate child care

ADDITIONAL CONSIDERATIONS

The City has truly identified an auspicious opportunity for affordable housing in the City of Silverton, which is emphasized by its unique access to transportation and close proximity to places of leisure and play. We are enthusiastic about the possibilities and we have assembled a some additional thoughts for the development of this community for the City's consideration.

TOP CONCERNS

RECONFIGURATION OF STATE FUNDING PROCESSES

It's worth noting that Oregon's Housing and Community Services (OHCS) funding programs are undergoing restructuring. While this should streamline the delivery of affordable housing units in Oregon, we think that there will be an inherent disruption to the predictability of funding opportunities. We have additionally heard that there will not be 4% or 9% Low Income Housing Tax Credits allocations for the 2024 fiscal year.

While we can not say for certain that we will be awarded funds for the 2025 fiscal year, we realize that our organization has some advantages over other firms through the new project evaluation standards that will be implemented with the reconfiguration of the OHCS funding process. Project Evaluation Standards require that all projects must meet two of the following: culturally specific organization ownership, BIPOC ownership, plans for BIPOC business utilization, culturally specific resident services, racially equitable tenant population, tenant outcomes by race and ethnicity. Hacienda is proud to say, as a culturally specific houser and service provider, that we meet these requirements!

Our team is committed to navigating the ever-changing funding landscape and we look forward to collaborating and sharing resources with the City through this development.

WETLAND MITIGATION

The wetland report contends the stream is interment and non-fish bearing, until the state accepts these finding there is risk the majority of the Phase 2 property is undevelopable. Typically a minimum 200 foot buffer is required on each bank of a perennial or fish bearing stream, some of which can be intermittent. We have proposed a design based on a 50-foot buffer zone along each bank based on state requirements of non-fish bearing streams. Encroachments into the buffer and crossing the stream will require mitigation which is costly so we have suggested limiting impacts and crossings. The permitting time line for wetland impacts can be long through the state so this is another risk that will need to be monitored as designs are refined, in particular in Phase 2 where crossing the creek is proposed.

STORMWATER

Until a geotechnical report is completed with site specific infiltration testing we can only make assumptions based on past experience in Silverton. We assume infiltration on-site is unlikely so two options would likely be explored. Either a stormwater basin(s) on the west/south side of the site or discharge to the creek (provided we don't increase the runoff from Pre to Post Development). Including on-site stormwater basins may either require additional site area or a reduction in some combination of program - open space, parking, building area.

INDUSTRY WIDE PROCUREMENT DELAYS

The largest concern that would affect the timely delivery of affordable housing units is the procurement period for building products and equipment. Global factors have far reaching effects that disrupt material delivery. While we can't be certain that conditions will stabilize, we can employ several risk management strategies to absorb equipment delays as best as possible.

- Proactive Risk assesment and contingency planning - By developing contingency plans and alternative sourcing strategies, we minimize the impact of potential delays and maintain project momentum.
- Early on-boarding of subcontractors - By involving subcontractors during the initial planning and design phases, we gain valuable insights into project requirements and potential challenges
- Frequent communitcation with vendors - Essential for building trust, we maintain open lines of communication throughout the construction process, and with procurement, subcontractors are provided with timely updates on project timelines, specifications, and any changes or adjustments.

ADDITIONAL CONSIDERATIONS FOR THE CITY

COMPLETION OF DAVENPORT LANE

Our team has budgeted for 3/4 road right of way (ROW) improvement of Davenport Lane in our proforma. While this scope exceeds typical (ROW) responsibility for a developer, there is still a significant stretch of Davenport Lane should be improved. The existing street condition in front of the dog park which provides connectivity to the Westfield site is currently gravel. We'd like to put forward that the City considers improving the gravel road to an asphalt surface. Collaboration with the contractors construction schedule for ROW improvements would certainly lead to a successful and complete street connection.

LOW INCOME HOUSING TAX CREDIT 4% VS. 9%

Our proposal is based on the anticipation of 4% Low Income House Tax Credit (LIHTC) equity award. This tax credit is not competitive which provides a degree of certainty for funding assumptions for the project. This approach allows us to maximize the unit density of the site while also maintaining parking ratio goals of 1.6:1.

Alternatively, our team had also found that a 9% LIHTC approach for financing the project would be feasible. 9% LIHTC tends to generate around 70% of a development's equity while a 4% tax credit generates around 30% of a development's equity. If the project were to pursue a 9% LIHTC proforma this would result in less funding sources required for the project which would in turn provide greater predictability for the fund sources used the caveat is there is greater risk associated with this approach as 9% tax credits are very competitive.


9% tax credits have regional set asides as well as set asides for culturally specific nonprofit developers such as Hacienda, giving a 9% application a unique edge for this competitive credit were we to pursue it. Additionally, the uncertainty of Local Innovation and Fast Track funds available for 2025, which we are holding as an assumption in our current proforma, would position the 9% LIHTC approach as a considerable alternative.

PROJECT PHASING AND PHASE 2 CIRCULATION

The developable area of Phase 2, based on the wetland information, is fairly limited. For long term cost efficiency and to minimize disruption to Phase I residents the utilities for both phases should be master planned and constructed to at least a stub out for Phase 2. This is a costly burden for the Phase 1 project.

Access to W. Main Street is proposed while the RFP states access to W. Main St. is challenging. We think it is a worthwhile discussion to have about access versus environment. By accessing W. Main St we can provide fire access to the south side of the site with limited environmental impacts and a lower carbon footprint by using significantly less construction materials such as concrete.

**SILVERTON CITY COUNCIL STAFF REPORT
TO THE HONORABLE MAYOR AND CITY COUNCILORS**

	Agenda Item No.:	Topic:
	4.1	Resolution No. 24-08 – Authorizing signers on City bank accounts
	Agenda Type:	
	Consent	
	Meeting Date:	
May 20, 2024		
Prepared by:	Reviewed by:	Approved by:
Sheena Lucht	Cory Misley	Cory Misley

Recommendation:

Adopt Resolution No. 24-08 authorizing signers on City bank accounts.

Background:

The City of Silverton is required to change bank signers as our Police Chief, Jim Anglemier has retired effective May 17, 2024, and the Captain, Todd Engstrom has taken over the position.

Once the resolution is adopted, the signers will also need to complete the required documents with Citizens Bank to finalize who has been approved to sign. This will provide continuation of ongoing City operations regarding banking transactions.

Budget Impact	Fiscal Year	Funding Source
None	2023-2024	N/A

Attachments:

1. Resolution No. 24-08

CITY OF SILVERTON
RESOLUTION
24-08

A RESOLUTION OF THE SILVERTON CITY COUNCIL AUTHORIZING SIGNERS ON CITY BANK ACCOUNTS

WHEREAS, it is now necessary to change authorized signers on the City bank accounts with the following banks due to the change in the Chief position; and

WHEREAS, Resolution No. 23-29. A resolution currently authorizing signatures on City bank accounts shall be repealed.

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF SILVERTON, AS FOLLOWS:

Section 1: That the following persons are authorized signers and whose signatures appear above the respective authorized offices as follows:

CITIZENS BANK

Jason Freilinger, Mayor

Elvi Cuellar Sutton, Council President

Cory Mисley, City Manager

Kathleen Zaragoza, Deputy City Manager/Finance Director

Todd Engstrom, Police Chief

Sheena Lucht, Assistant Finance Director
(ACH TRANSACTIONS & INQUIRY ABILITY)

Sarah Crofts, Accounting Manager
(ACH TRANSACTIONS & INQUIRY ABILITY)

OREGON STATE TREASURY ACCOUNT:
Local Government Investment Pool

Cory Misley, City Manager

Kathleen Zaragoza, Deputy City Manager/Finance Director

Sheena Lucht, Assistant Finance Director
(ACH TRANSACTIONS & INQUIRY ABILITY)

Sarah Crofts, Account Manager
(ACH TRANSACTIONS & INQUIRY ABILITY)

XPRESS ECHECKING:

Cory Misley, City Manager

Kathleen Zaragoza, Deputy City Manager/Finance Director

Sheena Lucht, Assistant Finance Director
(ACH TRANSACTIONS & INQUIRY ABILITY)

Sarah Crofts, Account Manager
(ACH TRANSACTIONS & INQUIRY ABILITY)

Section 2: Resolution No. 23-29 is hereby repealed.

Section 3: That this resolution is and shall be effective beginning May 20, 2024.

Resolution adopted by the City Council of the City of Silverton, this 20th day of May 2024.

ATTEST

Mayor, City of Silverton
Jason Freilinger

City Manager/Recorder, City of Silverton
Cory Misley

ORDINANCE NO. 24-07

**AN ORDINANCE TO ALLOW THE CITY OF SILVERTON (“City”) TO IMPLEMENT
20 MPH SPEED ZONES IN SELECT AREAS**

WHEREAS, ORS 810.180 authorizes cities to designate by ordinance a speed that is five MPH lower than statutory speed on non-arterial streets in “residence districts” under their jurisdiction: and

WHEREAS, reduced vehicle speeds supports Goal 1, Policy d of the adopted Transportation System Plan: the City shall protect neighborhoods from excessive through traffic and travel speeds while providing reasonable access to and from residential areas. Streets shall be designated to minimize speeding; and

WHEREAS, reduced vehicle speeds supports Goal 1, Policy e of the adopted Transportation System Plan: the City shall develop and maintain street design standards and neighborhood traffic management criteria. These regulations will be used in the design of new development and addressing neighborhood traffic concerns; and

WHEREAS, reduced vehicle speeds supports Goal 2, Policy a of the adopted Transportation System Plan: the City shall plan for, design, and build streets, sidewalks, pathways, bicycle lanes, and other transportation facilities to ensure mobility and connectivity for a full range of travel modes, including pedestrians, bicyclists, and motorized vehicles traveling to, through, and between residential areas, schools, parks, commercial areas, and major employment centers; and

WHEREAS, reduced vehicle speeds supports Goal 3, Policy a of the adopted Transportation System Plan: the City shall strive to improve traffic safety through a comprehensive program of engineering, education, traffic calming, access management, regulation, and enforcement.

NOW, THEREFORE, THE CITY OF SILVERTON ORDAINS AS FOLLOWS:

Section 1. Consistent with ORS 810.180, the City of Silverton establishes a designated speed of 20 MPH, 5 MPH lower than the statutory speed of 25 MPH, on local streets in “residence districts” as defined by ORS 801.430 and 810.180(12).

Section 2. Per ORS 810.180, the designated speed established by this Ordinance will take effect on a segment of a local street upon the City’s removal of any 25 MPH signs and installation of 20 MPH signs on that street segment. The City Manager will have the authority to approve eligible locations and direct staff to install necessary signage.

Section 3. This Ordinance shall be effective 30 days after its passage by the council, signature by the mayor, and posting by the city recorder.


Ordinance adopted by the City Council of the City of Silverton, this __ day of __, 2024.

Mayor, City of Silverton
Jason Freiling

ATTEST:

Cory Misley, City Manager/City Recorder

**SILVERTON CITY COUNCIL STAFF REPORT
TO THE HONORABLE MAYOR AND CITY COUNCILORS**

	Agenda Item No.:	Topic:
	5.2	Senior Center Reconstruction Contract Award
	Agenda Type:	
	Action	
	Meeting Date:	
	May 20, 2024	
Prepared by:	Reviewed by:	Approved by:
Mike Dahlberg	Kathleen Zaragoza	Cory Misley

Recommendation: Staff makes recommendations to allow City Manager to enter into a contract with Buildskape in the amount of \$258,500.00 with an additional \$50,000.00 in contingency totaling \$308.500.00

Background:

In January the Silverton Senior Center succumbed damage from a broken fire sprinkler system due to freezing. To date City Staff has worked with CIS to complete the mitigation portion of the damage. City Staff has published an Invitation to Bid (ITB) looking for Tier 1 contractors to obtain bids for the reconstruction of the building. CIS has given approval to accept the bid given by Buildskape.

The City will pay for the work and reimbursed to be made whole by CIS. The work will be completed by September 1st, 2024.

Budget Impact	Fiscal Year	Funding Source
\$258,500	FY 2023-24 & 24-25	010-190-82100

Attachments:

1. Email from CIS Accepting Buildskape Bid
2. Contract with Buildskape for Construction and Renovation Services on the Senior Center

Mike Dahlberg

From: Carol Drouet <cdrouet@cisoregon.org>
Sent: Thursday, May 16, 2024 3:56 PM
To: Cory Misley; Mike Dahlberg
Cc: compassinbox-prslv2024097236@cisoregon.org
Subject: PRSLV2024097236 | Silverton - Bid approval

**** This email is from an EXTERNAL sender. Exercise caution when opening attachments or click links from unknown senders or unexpected email. ****

Hi Cory and Mike,

First of all, thank you for working with us in resolving the issues with the RFP bids and for Mike, who was working with Colby at OnPoint, in reaching a successful price agreement with Buildskape for the repairs.

CIS has approved the negotiated Buildskape bid in the amount of \$258,500. You have our approval to award this bid to Buildskape. CIS will issue a supplemental ACV payment to the City in the amount of \$77,430.37 as follows:

RFP - Buildskape Bid	258,500.00
Demolition - Summitt	78,689.90
Servpro - Mitigation	14,378.78
Less Depreciation	47,720.50
Net Claim	303,848.18
Less Deductible	1,000.00
Less Previous payments	225,417.81
Supplemental owing	77,430.37

The recoverable depreciation will be paid upon completion of the repairs and receipt of the final repair invoice from the City, corresponding to the full amount of the bid.

Please let us know if you have any questions.

Thank you,
Carol



Carol Drouet | Senior Property Claims Consultant
CIS | 15875 Boones Ferry Rd #1469 | Lake Oswego, OR 97035
☎ 503-763-3872 | 📠 503-763-3900
cisoregon.org

Our popular Spring Supervisor Training series is back, offering multiple dates and locations to suit your schedule. Elevate your HR skills — register now at learn.cisoregon.org!

PUBLIC IMPROVEMENT CONTRACT
between
CITY OF SILVERTON, OREGON
and
Buildskape LLC

THIS PUBLIC IMPROVEMENT CONTRACT ("Contract") is made by and between the City of Silverton, a municipal corporation of the State of Oregon ("City"), and Buildskape LLC ("Contractor") to provide [construction, renovation, etc.] services on the following Facility Reconstruction Silverton Senior Center renovation, briefly described below:

Restoration of Silverton Senior Center

The parties agree as follows:

1. WORK.

Contractor shall execute fully the Work described by the Contract Documents, unless specifically indicated in the Contract Documents to be the responsibility of others. "Work" means the public improvement services and any related services required by or reasonably inferable from the Contract Documents, whether completed or partially completed, including (except as otherwise expressly stated in this Contract) all other labor, materials, equipment, tools, permits, fees, licenses, facilities, taxes, transportation, supervision, temporary constructions of every nature, and all other services, management, and facilities of every nature whatsoever necessary to fulfill Contractor's duties by executing and completing this Contract within the Contract Time. The Work may constitute the whole or a part of the Project.

2. EFFECTIVE DATE AND TERMINATION DATE.

The effective date of this Contract shall be the Contract Start Date identified in Section 2.1 or the date on which each Party has signed this Contract, whichever is later. Unless earlier terminated as provided below, the termination date shall be the Contract End Date, subject to extension as provided in the Contract Documents.

Offer and Contract Dates

2.1. Contract Start Date: May 22, 2024

"Work" Time Dates

2.2. Anticipated Notice to Proceed Date: May 21, 2024

2.3. Anticipated Substantial Completion Date: August 15, 2024

2.4. Anticipated Final Completion Date: September 1, 2024

2.5. Contract End Date: September 1, 2024

2.6. "Work" Time in Calendar Days: 101

PLEASE NOTE: Contractor shall not commence Work under this Contract until the Notice to Proceed has been issued.

3. ENUMERATION OF CONTRACT DOCUMENTS.

The "Contract Documents" include the following:

- This Contract with these terms and conditions.
- EXHIBIT A: City's General Conditions to the Contract - included in this form

- EXHIBIT B: Insurance Requirements - included in this form
- EXHIBIT C: BOLI Prevailing Wage Rates: ORS 279C.800-ORS 279C.870
- EXHIBIT D: Contractors Bid
- EXHIBIT E: Form of Warranty Bond
- EXHIBIT F: N/A
- EXHIBIT G: N/A
- EXHIBIT H: N/A
- EXHIBIT I: N/A

4. CONTRACT; CONTRACT DOCUMENTS; ENTIRE AGREEMENT.

This Contract and the other Contract Documents forms the entire and integrated agreement between the parties. Unless the context requires otherwise, any reference to the “Contract” includes the Contract Documents. In the event of a conflict between the Contract Documents, the Contract Documents shall be given precedence in the order listed in Section 3.

5. THE CONTRACT TIME.

Contractor shall achieve Substantial Completion of the Work under this Contract within 94 consecutive calendar days (“Contract Time”) from the date specified in City's Notice to Proceed, subject to adjustments of this Contract Time as provided in the Contract Documents.

6. THE CONTRACT TOTAL.

- 6.1. The Contract Total is \$ 258,500.00. The Contract Total is the total amount payable by the City to Contractor for the completion of the Work in its entirety under the Contract Documents.
- 6.2. The following bid alternates are included in the Contract Total:
- 6.3. Unit prices if any:
- 6.4. Allowances included in the Contract Total, if any: List or refer to Exhibit
- 6.5. Notwithstanding any other provision of this Contract or the Contract Documents, the Contract Total includes all construction contingencies for existing site conditions other than for pre-existing Hazardous Materials. Contractor is thoroughly acquainted with and has inspected the Project site without restriction, understands the potential risks in this construction Work, and accepts the full risk of construction contingencies to complete the Work within the Contract Time and Contract Total set out in this Contract.

7. PROGRESS PAYMENTS.

- 7.1. The Contractor will submit an application for payment to the City Representative as provided in the General Conditions. The City Representative may require the Contractor to simultaneously submit an application for payment to the Design Professional working on the Project.
- 7.2. Each application for payment shall be for one calendar month ending on the last day of the month.
- 7.3. Payments are due and payable 30 days following receipt of the Contractor’s complete Application for Payment or 15 days from the date after payment is approved by the City Representative, whichever is earlier. Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate set forth in ORS 279C.570(2).

- 7.4. The amount of each progress payment shall be determined as provided in the General Conditions, less retainage of 5% pursuant to ORS 279C.550 to 279C.565, ORS 701.420 and 701.430, and less liquidated damages, if any.
- 7.5. Unless otherwise specified in the Contract Documents, Contractor elects to have the City deposit the retainage as accumulated in an interest-bearing account in a bank, savings bank, trust company, or savings association as outlined in ORS 279C.560(5) and OAR 137-049-0820(3), from which earnings on such account shall accrue to the Contractor.

8. INDEPENDENT CONTRACTOR STATUS.

By its signature on this contract, Contractor certifies that the service or services to be performed under this Contract are those of an independent contractor as defined in ORS 670.600, and that Contractor is solely responsible for the work performed under this Contract. Contractor represents and warrants that Contractor, its subcontractors, employees, and agents are not "officers, agents, or employees" of the City within the meaning of the Oregon Tort Claims Act (ORS 30.260 through 30.300). Contractor shall be responsible for all federal, state, and local taxes and any and all fees applicable to payments for services under this Contract.

9. COMPLIANCE WITH APPLICABLE LAW.

Contractor shall comply with all federal, state, and local laws applicable to the Work under this Contract, and all regulations and administrative rules established pursuant to those laws, including without limitation, the following requirements of the Oregon Public Contract Code:

- 9.1. ORS 279A.110 (Non-discrimination Certification): Contractor shall certify that Contractor has not discriminated and will not discriminate against a Subcontractor in the awarding of a subcontract because the Subcontractor is a minority, women, or emerging small business enterprise (certified under ORS 200.055.), or a business that is owned or controlled by, or employs a disabled veteran (as defined in ORS 408.225).
- 9.2. ORS 279C.380 (Performance and Payment Bonds): Unless exempted by the City in writing pursuant to the City's local public contracting rules, prior to starting Work under this Contract, Contractor or its Subcontractor shall execute and deliver to City a good and sufficient performance bond, in a form acceptable to City, in a sum equal to 100% of the construction portion of the Contract Price, and Contractor or its Subcontractor shall execute and deliver to City a good and sufficient payment bond, in a form acceptable to City, in a sum equal to 100% of the construction portion of the Contract Price, solely for the protection of claimants under ORS 279C.600.
- 9.3. ORS 279C.505 (Prompt Pay Requirement, Liens, Taxes, and Drug Testing): Contractor shall make payment promptly, as due, to all persons supplying to such Contractor labor or material for the performance of the Work provided for in such Contract; pay all contributions or amounts due the Industrial Accident Fund from such Contractor or Subcontractor incurred in the performance of the Contract; not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished; and pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. Contractor shall further demonstrate that an employee drug testing program is in place.
- 9.4. ORS 279C.510 (Recycling/Composting): If this Contract includes demolition work, the Contractor shall salvage or recycle construction and demolition debris, if feasible and cost-effective. If this Contract includes lawn or landscape maintenance, the Contractor shall compost or mulch yard waste material at an approved site, if feasible and cost-effective.

- 9.5. ORS 279C.515 (Failure to Pay Promptly): If Contractor fails, neglects, or refuses to make prompt payment of any Claim for labor or services furnished to the Contractor or a Subcontractor by any person in connection with this Contract as such Claim becomes due, the City may pay such Claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due the Contractor by reason of this Contract. The payment of a Claim in the manner authorized in this Section shall not relieve the Contractor or the Contractor's surety from any obligation with respect to any unpaid Claims. Unless the payment is subject to a good-faith dispute as defined in ORS 279C.580, if Contractor or any first-tier Subcontractor fails to pay any Claim for materials or labor furnished under this Contract within 30 days after being paid by City, interest shall be due on such claim as specified in ORS 279C.515(2) at the end of the 10-day period that payment is due under ORS 279C.580(4). A person with any such unpaid Claim may file a complaint with the Construction Contractor's Board unless the complaint is subject to a good-faith dispute as defined in ORS 279C.580.
- 9.6. ORS 279C.520 and 279C.540 (Hours of Labor, Holidays, and Overtime): Except as otherwise provided in an applicable collective bargaining agreement with a labor organization, Contractor shall not employ and shall require that its Subcontractors not employ any person to perform construction work for more than ten hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency, or where the public policy absolutely requires it, and in such cases, except in cases of Contracts for personal services as defined in ORS 279A.055, the laborer shall be paid at least time and a half pay:
- 9.6.1. For all overtime in excess of eight hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; and
- 9.6.2. For all overtime in excess of ten hours a day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and
- 9.6.3. For work performed on Saturday and on any legal holiday specified in any applicable collective bargaining agreement or ORS 279C.540(1)(b).
- 9.6.4. The requirement to pay at least time and a half for all overtime worked in excess of 40 hours in any one week shall not apply to individuals who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. Section 201 to 209 from receiving overtime. Contractor shall and shall require its Subcontractors to give notice in writing to their employees who work under this Contract, either at the time of hire or before commencement of Work on the Contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.
- 9.7. ORS 279C.525 (Notice of Environmental Regulations): State law requires that solicitation documents for a public improvement contract make specific reference to federal, state, and local agencies that have enacted ordinances, rules, or regulations dealing with the prevention of environmental pollution or the preservation of natural resources that may affect the performance of this Contract. These agencies include, but are not limited to:

- 9.7.1. Federal Agencies: Department of Agriculture, Forest Service, Soil and Water Conservation Service, Coast Guard, Department of Defense, Army Corps of Engineers, Department of Emergency, Federal Energy Regulatory Commission, Environmental Protection Agency, Department of Health and Human Services, Department of Housing and Urban Development, Solar Energy and Energy Conservation Bank, Department of Interior, Bureau of Land Management, Bureau of Indian Affairs, Bureau of Mines, Bureau of Reclamation, Geological Survey, Minerals Management Service, U.S. Fish and Wildlife Service, Department of Labor, Mine Safety and Health Administration, Occupational Safety and Health Administration, Department of Transportation, Federal Highway Administration, and Water Resources Council.
- 9.7.2. State Agencies: Department of Administrative Services, Department of Agriculture, Soil and Water Conservation Commission, Columbia River Gorge Commission, Department of Energy, Department of Environmental Quality, Department of Fish and Wildlife, Department of Forestry, Department of Geology and Mineral Industries, Department of Human Resources, Department of Consumer and Business Services, Land Conservation and Development Commission, Department of Parks and Recreation, Division of State Lands, and Department of Water Resources.
- 9.7.3. Local Agencies: City councils, county courts, county boards of commissioners, metropolitan service district councils, design commissions, historic preservation commissions, planning commissions, development review commissions, special district boards of directors, and other and special governmental agencies such as Tri-Met, urban renewal agencies, and Port districts.
- 9.7.4. Tribal Governments.
- 9.8. ORS 279C.530 (Payment for Medical Care and Workers' Compensation): Contractor shall promptly, as due, make payments to any person, co-partnership, association, or corporation furnishing medical, surgical, and hospital care or other needed care and attention, incident to sickness or injury, to the employees of such Contractor, of all sums which the Contractor agrees to pay for such services and all moneys and sums which the Contractor collected or deducted from the wages of employees pursuant to any law, contract, or agreement for the purpose of providing or paying for such service. All employers, including the Contractor, that employ subject workers who work under this Contract 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. Contractor shall ensure that each of its Subcontractors complies with these requirements.
- 9.9. ORS 279C.545 (Time Limitations on Claims for Overtime): Construction workers employed by the Contractor or its Subcontractor shall be foreclosed from the right to collect for any overtime under this Contract unless a claim for payment is filed with the Contractor or Subcontractor within 90 days from the completion of the Contract, providing the Contractor or Subcontractor has:
 - 9.9.1. Caused a circular clearly printed in blackface pica type and containing a copy of this Section to be posted in a prominent place alongside the door of the timekeeper's office or in a similar place which is readily available and freely visible to any or all workers employed on the Work; and
 - 9.9.2. Maintained such circular continuously posted from the inception to the completion of the Contract on which workers are or have been employed.

- 9.10. ORS 279C.580(3) (Prompt Payment of First-Tier Subcontractors): Contractor shall include in each subcontract for property or services with a first-tier Subcontractor a clause that obligates the Contractor to pay the first-tier Subcontractor for satisfactory performance under its subcontract within ten days out of such amounts as are paid to the Contractor by the City. Contractor shall also include in each subcontract a clause that states that if the Contractor fails to pay any claim for materials or labor furnished under this Contract within 30 days after being paid by City, interest shall be due on such claim as specified in ORS 279C.515(2) at the end of the ten-day period that payment is due under ORS 279C.580(3). Contractor shall require each first-tier Subcontractor to include a payment clause and interest clause conforming to the requirements of ORS 279C.580 in each of its subcontracts, and to require each of its Subcontractors to include a similar clause in each contract with a lower-tiered subcontractor or supplier.
- 9.11. ORS 279C.605 (Notice of Claim on Bond): Any person claiming a right of action under ORS 279C.600 must file a notice of claim as provided in ORS 279C.605.
- 9.12. ORS 279C.800 to 279C.870 (Payment of Prevailing Wage Required):
- 9.12.1. The hourly rate of wage to be paid by Contractor or any Subcontractor to workers in each trade or occupation required for the public works employed in the performance of this Contract shall not be less than the specified minimum rate of wage in accordance with ORS 279C.838 and ORS 279C.840 for each trade or occupation as defined by the Commissioner of the Oregon Bureau of Labor and Industries in the applicable publication entitled Definitions of Covered Occupations for Public Works Contracts in Oregon available at <https://www.oregon.gov/boli/employers/pages/prevailing-wage-rates.aspx>.
- 9.12.2. This Contract is subject to the prevailing wage rates published as specified in the City's procurement document, which are included in this Contract as Exhibit C.
- 9.12.3. Contractor and all Subcontractors shall keep the prevailing wage rates for this Project posted in a conspicuous and accessible place in or about the Project.
- 9.12.4. The City shall pay a fee to the Commissioner of the Oregon Bureau of Labor and Industries as provided in ORS 279C.825. The fee shall be paid to the Commissioner under the administrative rule of the Commissioner.
- 9.12.5. If Contractor or any Subcontractor also provides for or contributes to a health and welfare plan or a pension plan, or both, for its employees on the Project, it shall post notice describing such plans in a conspicuous and accessible place in or about the Project. The notice shall contain information on how and where to make claims and where to obtain future information.
- 9.13. ORS 279C.836 (Public Works Bond Required): Contractor shall:
- 9.13.1. File a public works bond with the Construction Contractors Board pursuant to ORS 279C.836 before starting Work on the Project, unless exempt under ORS 279C.836(2), (7) or (8); and
- 9.13.2. Include in every subcontract a provision requiring the Subcontractor to file a public works bond with the Construction Contractors Board pursuant to ORS 279C.836 before starting work on the Project, unless exempt under ORS 279C.836(2), (7) or (8).
- 9.14. ORS 279C.845 (Prevailing Wage Certification; Additional Retainage):

- 9.14.1. Contractor and every Subcontractor shall file certified statements with City in writing in the form prescribed by the Commissioner of the Bureau of Labor and Industries, certifying the hourly rate of wage paid each worker whom Contractor or Subcontractor has employed upon such public work, and further certifying that no worker employed upon such public work has been paid less than the prevailing rate of wage or less than the minimum hourly rate of wage specified in the Contract, which certificate and statement shall be verified by the oath of Contractor or Contractor's surety or Subcontractor or Subcontractor's surety that Contractor and any Subcontractor has read such statement and certificate and knows the contents thereof, and that the same is true to Contractor or Subcontractor's knowledge. The certified statements shall set out accurately and completely the payroll records for the prior week including the name and address of each worker, the worker's correct classification, rate of pay, daily and weekly number of hours worked, deductions made, and actual wages paid.
- 9.14.2. The certified statement shall be delivered or mailed by Contractor or Subcontractor to City. Certified statements for each week during which the Contractor or Subcontractor employs a worker upon the public work shall be submitted once a month, by the fifth business day of the following month. Information submitted on certified statements may be used only to ensure compliance with the provisions of ORS 279C.800 to 279C.870. Notwithstanding any other provision of this Contract and in addition to any other retainage required under this Contract, the City shall retain 25% of any amount earned by the Contractor until the Contractor has filed the certified statements with the City as required by this Section. The City will pay the retainage required under this Section within 14 days after Contractor files the certified statements required by this Section.
- 9.14.3. Contractor and each Subcontractor shall preserve the certified statements for a period of three years from the date of completion of the Contract.
- 9.15. ORS 671.560, 701.026 (Landscape/Construction Contractors License Required): If Contractor is performing work as a landscape contractor as defined in ORS 671.520(2), Contractor must have a current, valid landscape contractor's license issued under ORS 671.560. If Contractor is performing work as a Contractor as defined in ORS 701.005(2), Contractor must have a current, valid construction contractor's license issued under ORS 701.026. Contractor shall further certify that all Subcontractors performing Work described in ORS 701.005(2) are registered with the Construction Contractors Board or licensed by the State Landscaping Contractor's Board as required by the above-noted statutes before they commence Work under this Contract. Contractor shall maintain in effect all licenses, permits, and certifications required for the performance of the Work. Contractor shall notify City immediately if any license, permit, or certification required for performance of this Contract shall cease to be in effect for any reason.
- 9.16. Oregon Tax Law Compliance: Contractor must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Contractor (to the best of Contractor's knowledge, after due inquiry), for a period of no fewer than six calendar years preceding the date of this Contract, represents and warrants that it has faithfully has complied with, and will continue to comply with during the term fo this Contract:
- 9.16.1. All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;

- 9.16.2. Any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor;
- 9.16.3. Any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and
- 9.16.4. Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

Failure to comply with this section is a default for which the City may terminate the Contract and seek damages and other relief available under the terms of the Contract or under applicable law.

- 9.17. Foreign Contractor. If Contractor is not domiciled in or registered to do business in the state of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State Corporation Division all information required by those agencies relative to this Contract. Contractor shall demonstrate its legal capacity to perform these services in the state of Oregon prior to entering into this Contract.

10. NOTICE.

Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery or mailing with postage prepaid to Contractor or City at the address set forth below. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

For the City of Silverton

Contract Administrator Name, Title: **Cory Misley, City Manager**
 Address, City, State and ZIP Code: **306 S. Water St, Silverton, OR, 97381**
 Telephone: **503-873-2205**
 Email: **cmisley@silverton.or.us**

For the Contractor

Contract Administrator Name, Title: **Peter Chilico Chief Executive Officer**
 Address, City, State and ZIP Code: **8285 SW Nimbus Avenue, Suite 113 Beaverton OR 97008**
 Telephone: **503-351-6126**
 Email: **Pete@Build-skape.com**

11. CONTRACTOR INFORMATION AND CERTIFICATION.

Contractor shall provide Contractor's Social Security number or Contractor's federal tax ID number and the additional information set forth below. This information is requested pursuant to ORS 305.385 and OAR 125-246-0330. Social Security numbers provided pursuant to this paragraph will be used for the administration of state, federal and local tax laws.

Legal Name: **Buildskape LLC**

Address, City, State and ZIP Code: **8285 SW Nimbus Avenue, Suite 113, Beaverton, OR, 97008**

Citizenship, if applicable: Non-resident alien? Yes No

Business Designation (check one):

Professional Corporation Partnership Limited Partnership
 Limited Liability Company Limited Liability Partnership Sole Proprietorship Other

Federal Tax ID#: **85-4144353** or SSN: **Enter SSN if no Federal Tax ID**

Oregon CCB License Number: **233943**

City may report the information set forth above in conjunction with any reports it makes to the Internal Revenue Service (IRS) under the name and Social Security number or taxpayer identification number provided. Contractor shall be responsible for all federal, state, and local taxes and any fees applicable to payments for Work under this Contract.

[Remainder of this page is intentionally left blank; signatures are on the following page.]

The individual signing on behalf of Contractor hereby certifies and swears under penalty of perjury that: (a) the number shown on this form is Contractor's correct taxpayer identification; (b) Contractor is not subject to backup withholding because (i) Contractor is exempt from backup withholding, (ii) Contractor has not been notified by the IRS that Contractor is subject to backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified Contractor that Contractor is no longer subject to backup withholding; (c) s/he is authorized to act on behalf of Contractor, s/he has authority and knowledge regarding Contractor's payment of taxes, and to the best of her/his knowledge, (d) Contractor is not in violation of any Oregon tax laws named in ORS 305.380(4). Contractor is an independent contractor as defined in ORS 670.600; and (e) the supplied Contractor data is true and accurate.

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

FOR THE CITY OF SILVERTON:

FOR Buildskape LLC:

Cory Misley City Manager

Signature

Name (Printed)

Name (Printed)

Title

Title

Date

Date

EXHIBIT A

PUBLIC IMPROVEMENT CONTRACT

GENERAL CONDITIONS

1. GENERAL PROVISIONS.

- 1.1. Architect/Engineer. The “Architect/Engineer” is N/A. If no Architect/Engineer is included for the Project, the City shall bear the responsibilities of the Architect/Engineer pursuant to this Contract.
- 1.2. Contract Documents. The “Contract Documents” are enumerated in Section 3 of the Contract.
- 1.3. Contract Schedule. The “Contract Schedule” is the graphical representation of the practical plan for carrying out the Work and completing the Work within the Contract Time as set forth in the Contract Documents. The Contract Schedule provides a list of intended events and times to complete each event as set forth in the Contract Documents.
- 1.4. Drawings. The “Drawings” are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.
- 1.5. Knowledge. The terms “knowledge,” “recognize” and “discover” their respective derivatives and similar terms in the Contract Documents, when used in reference to the Contractor, means that which the Contractor knows or should know, recognizes or should recognize and discovers or should discover. Analogously, the expression “reasonably inferable” and similar terms in the Contract Documents means reasonably inferable by a contractor familiar with the Project and exercising the care, skill and diligence required of the Contractor by the Contract Documents.
- 1.6. Modification. A “Modification” is
 - 1.6.1. a written amendment to this Contract signed by both parties;
 - 1.6.2. a Change Order;
 - 1.6.3. a Construction Change Directive; or
 - 1.6.4. a written order for a minor change in the Work issued by the Architect/Engineer.
- 1.7. Organization of Drawings and Specifications. “Organization of Drawings and Specifications” into divisions, sections, articles, or otherwise arranged will not control Contractor in dividing the Work among subcontractors or in establishing the extent of Work to be performed by any trade subcontractor.
- 1.8. Project. The “Project” is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by City and by separate Contractors.
- 1.9. Project Site. The “Project Site” is the property upon which the Project lies and City’s property that surrounds the Project, extending to the City’s property boundary.
- 1.10. Specifications. The “Specifications” are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards, and workmanship for the Work and performance of related services.

2. CITY'S RESPONSIBILITIES.

- 2.1. Authorized Representative. City shall designate a person in writing to be the authorized representative with express authority, to the extent permitted by law, to bind and communicate on behalf of City with respect to all matters requiring City's approval or authorization ("City Representative"). The term "City" includes City Representative.
- 2.2. Contract Administration. City shall provide contract administrative services for the Project through City's authorized representative. The City Representative may engage and delegate authority to such additional staff and professional and technical consultants as City deems necessary to assist in perform its administrative tasks. Contractor shall direct all Project communications to City and in accordance with the Contract Documents, or as City directs in writing.
 - 2.2.1. City may engage professional architects or engineers to assist City during construction of the Project to interpret technical contract provisions and to determine the amount, quality, acceptability, and fitness of the Work. Such architects or engineers will be authorized to act on behalf of City only to the extent expressly provided in the Contract Documents or as City otherwise directs in writing.
 - 2.2.2. City may engage a consulting construction manager to provide Project administrative services on City's behalf. Such construction manager will be authorized to act on behalf of City to the extent expressly provided in the Contract Documents or as City otherwise directs in writing.
 - 2.2.3. City may retain certain project inspectors to monitor compliance with Drawings and Specifications for the Project, as well as applicable codes and ordinances. Such project inspectors will be authorized to act on behalf of City to the extent expressly provided in the Contract Documents or as City otherwise directs in writing.
- 2.3. Access to the Work. City and its designated representatives shall have free access to the Work at all times. Contractor shall not carry on Work except with the knowledge of City and its designated representatives. City may require special inspection or testing of any portion of the Work, whether it has been fabricated, installed, or fully completed. Inspection or observation of Work shall not relieve Contractor from any obligation to fulfill the Contract.
- 2.4. Right to Stop or Reject Work. City may reject Work that fails to conform to the Contract Documents, as determined by City. If Contractor fails to promptly correct such defective Work, City may issue a written order directing Contractor to stop the Work, or designated portion thereof, until the cause for such order is eliminated. The right of City to stop the Work shall not give rise to a duty on the part of City, or any of its representatives, to discover nonconforming Work or to exercise the right to stop the Work for the benefit of Contractor or any other person or entity.
- 2.5. Permits and Access. Except for permits and fees that are Contractor's responsibility under the Contract Documents, City shall secure and pay for all other necessary approvals, easements, assessments and charges required to complete the Work.
- 2.6. Subsurface Surveys. City shall make available to Contractor, and Contractor shall study, the results of such test borings and information that City has concerning subsurface conditions and site geology. Contractor shall inform City of any other site investigation, analysis, study, or test conducted by or for Contractor or its agents and shall make the results available to City upon City's request.

- 2.7. City's Rights. The rights stated in this Section and elsewhere in the Contract Documents are cumulative and do not limit any rights City may have under the Contract Documents, at law or in equity. Without limiting the generality of the foregoing sentence, any right City has under the Contract Documents to compel Contractor to fix defective Work, up to and including any warranty period the Contract Documents may establish, does not operate to shorten or otherwise limit statutes of limitations applicable to the Work.

3. CONTRACTOR'S RESPONSIBILITIES.

3.1. General Responsibilities.

- 3.1.1. Authorized Representative. Contractor shall designate a person in writing to be the authorized representative with express authority to bind and communicate on behalf of Contractor with respect to all matters requiring Contractor's approval or authorization ("Contractor Representative"). The term "Contractor" means the Contractor or the Contractor Representative.
- 3.1.2. Materials, Equipment, and Services. The Contractor will provide all labor, materials, equipment, and services necessary to complete the Work, all of which will be provided in full accord with the Contract Documents.
- 3.1.3. Supervision and Coordination. Unless otherwise expressly provided in the Contract Documents, the Contractor will be solely responsible for the supervision and coordination of the Work, including the construction means, methods, techniques, sequences, and procedures utilized.
- 3.1.4. Project Correspondence. Contractor shall provide City with a copy of all written communications between Contractor and City's consultants at the same time as that communication is made to such consultants, including, without limitation, all requests for information, correspondence, submittals, notices, and change order proposals. Contractor shall confirm oral communications in writing.
- 3.1.5. Project Boundary. Contractor shall confine operations at the site to areas permitted by law, ordinances, permits, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.
- 3.1.6. Taxes. Contractor shall pay all applicable taxes for the Work provided by Contractor that are legally applicable at the time the bid is submitted, whether or not yet effective or merely scheduled to go into effect.
- 3.1.7. Permits, Fees and Notices. Except as otherwise provided in the Contract Documents, Contractor shall secure and pay for all permits, licenses, and certificates that are the Contractor's responsibility under the Contract Documents and that are necessary for prosecution of Work before the date of the commencement of the Work or before the permits, licenses, and certificates are legally required to continue the Work without interruption. Contractor shall obtain and pay, when legally required, for all licenses, permits, inspections, and inspection certificates required by any authority having jurisdiction over any part of the Work included in the Contract. Contractor shall deliver all final permits, licenses, and certificates to City before demand is made for final payment.

3.2. Worksite Conditions.

- 3.2.1. Benchmarks and Monuments. Contractor shall protect and preserve established benchmarks and monuments and shall not change locations of benchmarks and monuments without City's prior written approval. Contractor shall replace any benchmarks or monuments that are lost or destroyed subsequent to proper notification of City and with City's approval.
 - 3.2.2. Field Verification. Prior to the commencement of the Work, Contractor shall review the Project Site with City in detail and identify the area of the Work, staging areas, connections or interfacing with existing structures and operations, and restrictions on the Work site area. Contractor shall ensure that all forces on the Project Site are instructed about the acceptable working and staging areas and restrictions on use of the site. Contractor, with advance consent of City, shall erect such barriers and devices as are necessary to restrict access within the Work site to authorized areas and to prevent unauthorized access to non-Work areas.
 - 3.2.3. Utility Locates. Contractor will be responsible to locate existing utilities and underground facilities that are indicated in the Contract Documents or that are known or reasonably should be known to exist in proximity to the Work. Contractor shall provide timely notice and locate requests with any affected utility or through contact with appropriate notification centers before commencing excavation or demolition Work that Contractor knows or reasonably should know is in proximity to such utilities or facilities. Contractor assumes the sole risk and will be responsible for all delay and expense arising out of Contractor's failure to do so. Contractor acknowledges that utility companies and other third parties owning or managing facilities that may need to be relocated are not City's agents and do not act for the City.
- 3.3. Responsibility for Performance.
- 3.3.1. Before beginning the Work, Contractor shall examine and compare the drawings and specifications with information furnished by City that are Contract Documents, relevant filed measurements made by the Contractor, and any visible conditions at the worksite affecting the Work.
 - 3.3.2. Reporting Inconsistencies. Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations, but Contractor shall promptly report any nonconformity it discovers to City. Contractor will be liable to City for damages if it fails, in the exercise of normal diligence, to recognize any error, inconsistency, omission or difference between field conditions and the Contract Documents. Contractor shall promptly report any errors, inconsistencies, or omissions it discovers, as a request for information, in such a form as City or Architect/Engineer may require. Contractor will not be entitled to any modification in Contract Total or Contract Time solely by the request for information. Contractor shall carefully study and compare all Contract Documents, including Drawings, Specifications, and other instructions and shall at once report, in writing to City any error, inconsistency, or omission that Contractor or its employees or subcontractors may discover. In the event of an inconsistency within or between parts of the Contract Documents, or between the Contract Documents and applicable law, and regardless of whether Contractor reports the inconsistency to the City, the Contractor must: (i) provide the better quality or greater quantity of Work; or (ii) comply with the more stringent requirement as applicable.

- 3.3.3. Unnecessary Inquiries. Contractor is liable for costs incurred by City for professional services for interpretations or decisions of matters where the information sought is equally available to the party making the request.
- 3.4. Construction Materials and Supplies.
 - 3.4.1. Quantities of Materials. Contractor shall provide materials in sufficient quantities on hand at such times as to ensure uninterrupted progress of Work and shall store materials properly and protect materials as required.
 - 3.4.2. Complete Assembly. For all materials and equipment specified or indicated in the Drawings, Contractor shall provide all labor, materials, equipment, and services necessary for complete assemblies and complete working systems, functioning as intended. Contractor shall furnish incidental items not indicated on Drawings, nor mentioned in the Specifications, that can be legitimately and reasonably inferred to belong to the Work described, or necessary in good practice to provide a complete assembly or system, as though itemized here in every detail. In all instances, Contractor shall install material and equipment in strict accordance with each manufacturer's most recent published recommendations and specifications. Contractor shall be responsible for appropriately sequencing the Work and for verification of suitability of prior work before subsequent construction activities.
 - 3.4.3. Timely Ordering of Materials. Contractor shall coordinate submittal approvals and place orders for materials and/or equipment so that delivery of same will be made without delays to the Work. Contractor shall, upon City's reasonable request, provide documentary evidence that orders have been placed.
 - 3.4.4. No Right to Lien. Contractor warrants good title to all material, supplies, and equipment installed or incorporated in Work and agrees upon completion of all Work to deliver the site to City, together with all improvements and appurtenances constructed or placed thereon by it, and free from any claims, liens, or charges. Because City's property is public property, Contractor and any person, firm, or corporation furnishing any materials or labor for any Work covered by this Contract, will not have any right to lien any portion of the Project Site or any improvement or appurtenance thereon.
 - 3.4.5. Storage. Contractor and its subcontractors shall obtain City approval before delivering or storing materials or tools on City's premises. Upon approval, Contractor shall store materials and tools so that they do not hamper the operation of equipment or persons and do not present a fire or safety hazard.
- 3.5. Construction Personnel and Supervision.
 - 3.5.1. Supervision. During progress of the Work, Contractor shall keep on the Project Site, and at all other locations where any Work related to this Contract is being performed, a competent project manager, construction superintendent and staff, who are employees of Contractor, to whom City does not object and at least one of whom is fluent in English, written and verbal. Contractor shall provide efficient supervision to the Work, using its best skill and attention. Before commencing the Work, Contractor shall give written notice to City of the name of its project manager and construction superintendent. Contractor is bound by all directions given to Contractor's project manager and/or construction superintendent as if such direction was given to Contractor.

- 3.5.2. Replacement of Supervision. Contractor shall not otherwise remove or replace the construction superintendent or project manager for any reason, including their need to work on other projects, or to take extended vacations, without submitting thirty (30) days' written notice to City. If Contractor's project manager, construction superintendent, or support staff member is no longer employed by Contractor, Contractor shall provide City with notice of the termination of the employment relationship and shall consult with City with respect to replacement personnel.
- 3.5.3. Discipline and Removal. Contractor shall at all times enforce strict discipline and good order among its subcontractors and employees and shall not employ or work any unfit person, or anyone not skilled in work assigned to that person. City may require Contractor to permanently remove unfit persons from Project Site. Contractor shall not employ any person whom City may deem incompetent or unfit on the Project except with the prior written consent of City. City may require removal and replacement of any or all construction superintendents or project managers upon ten (10) days' notice to Contractor.
- 3.5.4. Acts or Omissions. Contractor is responsible to City for acts and omissions of Contractor's employees, subcontractors and their agents and employees, and other persons or entities performing portions of the Work for or on behalf of Contractor or any of its subcontractors.
- 3.5.5. Identification Badges. The Contractor and its subcontractors, and the employees and the agents of any of them shall comply with City's policies and requirements to obtain, display, and return identification badges at any time while they are present on City's property.
- 3.6. Contractor's Construction Master Schedule.
 - 3.6.1. Schedule Required. Within no more than ten (10) days of being awarded the Contract, and before commencing the Work, Contractor shall prepare and submit to City for City's approval a construction master schedule for the Work. The construction schedule shall be in a detailed precedence-style critical path method (CPM) type format, which will include any interim dates that are critical in ensuring the timely completion of the Work as provided in the Contract Documents. City shall provide approval or comment on the submitted schedule within seven (7) days. Contractor shall be responsible for amending construction schedule in response to City comments.
 - 3.6.2. Logic. Schedule shall use retained logic during the development and updating of the schedule. Any function that would cause the retained logic of the logic network to be overridden is prohibited unless approved, in writing and in advance, by the Architect/Engineer and City.
 - 3.6.3. Schedule shall include: date of Notice to Proceed, date of Substantial Completion, and date of Final Completion in accordance with Contract Documents.

- 3.6.4. Schedule Maintenance. The schedule shall not exceed the Contract Time for the Work. Contractor shall revise and update the schedule at appropriate intervals, no greater than monthly, or as required by City or the conditions of the Work and Project. Should the Contractor fail to meet any scheduled date as shown on the current Construction Progress Schedule, the Contractor shall promptly notify the City, and if requested, be required at its own expense to submit within five (5) days of the request an updated Construction Progress Schedule. If the Contractor's progress indicates to the City that the Work will not be Substantially Completed within the Contract Time, the Architect/Engineer and City may require the Contractor develop a Recovery Schedule that adequately demonstrates how the Contractor will, at its own expense, increase its work force and/or working hours to bring the actual completion dates of the activities into conformance with the Construction Progress Schedule and Substantial Completion within the Contract Time. Neither the City nor the Architect/Engineer will, however, be obligated to review the substance or sequence of the Construction Progress Schedule or otherwise determine whether it is correct, appropriate or attainable.
- 3.6.5. Submittal Schedule. Contractor shall prepare and keep current, for City's review and acceptance, a schedule of submittals that is coordinated with the construction schedule and allows City and its consultants reasonable time to review submittals and to provide information necessary for procurement and installation of Work for which allowances are provided under the Contract Documents. City may require Contractor to include preparation of Contract submittals as a line item payment in the schedule of values.
- 3.6.6. Execution of Schedule. Contractor shall perform the Work in general accordance with the most recent schedules submitted to and accepted by City. Contractor shall indicate in the schedule updates any Work that is not proceeding according to the schedule and shall provide a written plan of action to bring the Work into compliance with the schedule or to otherwise ensure that the Work will be completed within the Contract Time.
- 3.7. Documents and Records.
- 3.7.1. Record Documents. Contractor shall update at least weekly, at the Project Site, or at such other location as City may authorize in writing, one legible copy of all Contract Documents annotated with all changes ("Record Documents"), including but not limited to Addenda, RFIs, ASIs, and Change Orders. Contractor shall also maintain on site a complete record and copy of all approved submittals, shop drawings and product samples. Failure to update in a timely manner as required by this Section may result in withholding payment by City. Contractor shall keep these documents in good order and available to City's consultants or representatives and all authorities having jurisdiction. Contractor shall coordinate with City's representatives and consultants and shall submit its verified report(s) according to Oregon law or as required by authorities having jurisdiction. The Contractor shall submit the completed and finalized project record to City in accordance with the contract documents prior to Final Acceptance.

- 3.7.2. Daily Job Reports. Contractor shall maintain at least one (1) set of reports on the Project prepared by Contractor's employee(s) present on site, and which includes following information: a brief description of all Work performed on that day; a summary of all pertinent events and/or occurrences on that day including records of all tests and inspections; a list of all subcontractor(s) working on that day; a list of each Contractor employee working on that day; the total hours worked for each employee; a complete list of all equipment on the Project that day, whether in use or not; the time Work commenced and ended; weather conditions; accidents or injuries; and Work progress made for that day ("Daily Job Reports"). Contractor shall keep the Daily Job Reports current and in good order and shall make current copies available to City upon request.
- 3.7.3. Maintenance of Records after Final Payment. Contractor shall make available at its office at all reasonable times the materials described in this paragraph for the examination, audit, or reproduction until six (6) years after final payment under this Contract: (a) all Daily Job Reports or other Project records of Contractor's project manager(s), construction superintendent(s), and/or project foreperson(s); (b) all certified payroll records and/or related documents including, without limitation, payroll, payment, timekeeping and tracking documents; (c) all books, estimates, records, contracts, documents, bid documents, bid cost data, subcontract job cost reports, and other data of Contractor, any subcontractor, and/or supplier, including computations and projections related to bidding, negotiating, pricing, or performing the Work or Contract modification, in order to evaluate the accuracy, completeness, and currency of the cost, manpower, coordination, supervision, or pricing data at no additional cost to City. These documents may be duplicative and/or be in addition to any bid documents held in escrow by City.
- 3.7.4. Submittals. Contractor shall submit shop drawings, product data, samples and mock ups as required by the Contract Documents that have been verified and coordinated with the requirements of the Work and of the Contract Documents. Contractor shall not perform any portion of the Work until the submittals for that portion have been approved by City.
- 3.7.5. Professional Design Services. City will not require Contractor to perform professional services which constitute the practice of architecture, engineering, or surveying unless such services are specifically required by the Contract Documents as a part of the Work or unless Contractor must provide such services in order to carry out Contractor's responsibilities under the Contract. City shall specify performance and design criteria that such professional services must satisfy.
- 3.7.6. Ownership of Documents. All copies of Drawings, Specifications, and copies of other incidental architectural and engineering work, or copies of other Contract Documents furnished by City or generated by Contractor, including those in electronic form, are the property of City.
- 3.7.7. Copyright and License. Neither Contractor nor any subcontractor, or material or equipment supplier, will own or claim a copyright in the documents prepared by the City's consultants. City hereby grants Contractor, subcontractors, sub-subcontractors, and material or equipment suppliers a limited license to use applicable portions of the Drawings and Specifications prepared for the Project in the execution of their Work under the Contract Documents.

- 3.7.8. Royalties, Licenses and Copyrights. Contractor shall obtain and pay, when required by law, all royalties and license fees necessary for prosecution of Work before the earlier of the date of the commencement of the Work or the date the license is legally required to continue the Work without interruption. Contractor shall defend suits or claims of infringement of patent, copyright, or other rights and shall hold City, City's consultants, and City's representatives harmless and indemnify them from loss on account of claims for infringement to the extent Contractor knew, or with reasonable diligence should have known, that the use of a specified design, process, or product would constitute infringement.
- 3.7.9. Intellectual Property. The review by City or Architect/Engineer of any method of construction, invention, appliance, process, article, device, or material of any kind is limited to a review for adequacy for the Work and is not approval for use by Contractor in violation of any patent or other rights of any person or entity.
- 3.8. Tests and Inspections.
 - 3.8.1. Tests, inspections and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities.
 - 3.8.2. Unless otherwise provided, Contractor shall arrange for such tests, inspections, and approvals, and shall bear the associated costs. Contractor shall notify City of scheduled tests and/or inspections and approvals, so that City or its designated representative may be present for such procedures, which presence shall be at City's expense.
 - 3.8.3. Contractor shall not incorporate any material into the Work that has not satisfied all testing, inspection, or approval requirements of the Contract Documents.
 - 3.8.4. Contractor shall secure and promptly deliver required certificates of testing, inspection or approval to City, unless otherwise provided by the Contract Documents.
 - 3.8.5. If testing, inspection, or approval required by the Contract Documents, or otherwise required by City, reveal failure of the Work to comply with requirements of the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation of City's costs, shall be at Contractor's expense.
- 3.9. Work Under the Contract.
 - 3.9.1. Defective Work. At City's sole option, Contractor shall repair or replace any and all Work, together with any other Work that may be displaced in doing so, that may prove defective in workmanship and/or materials within a one (1) year period from Substantial Completion of the Work without expense whatsoever to City. In the event Contractor fails to commence and diligently pursue such replacements or repairs within ten (10) days after being notified in writing, Contractor hereby acknowledges and agrees that City may correct such defects, without voiding any guarantee or warranty, at Contractor's expense. Payment shall become due upon City's demand, and shall be an obligation secured by Contractor's performance bond.

- 3.9.2. Correction of Work. If, in the opinion of City, defective Work creates an exigent or dangerous condition or requires immediate correction or attention to prevent injury to persons or property or to prevent interruption of City operations, City may, upon making a good faith attempt to notify Contractor, proceed to make some or all replacements or repairs as may be reasonably required in the circumstances. The costs of such work will be charged against Contractor and shall become due upon City's demand.
- 3.9.3. Manufacturer's Warranties. The above provisions do not in any way limit the guarantees on any items for which a longer guarantee is specified or on any items for which a manufacturer gives a guarantee for a longer period. Contractor shall furnish to City all appropriate guarantee or warranty certificates as indicated in the Specifications or upon request by City. Contractor shall obtain and preserve for the benefit of City, manufacturer's warranties on material, fixtures, and equipment incorporated into the Work. Contractor shall furnish City with all guarantee or warranty certificates as indicated in the Specifications or upon City's request.
- 3.9.4. Cutting and Patching. Contractor shall do all cutting, fitting, patching, and preparation of Work as required to make its several parts come together properly, to fit it to receive, or be received by work of other Contractors, and to coordinate tolerances to various pieces of work, showing upon, or reasonably implied by, the Drawings and Specifications for the completed structure, and shall conform them as City may direct.
- 3.9.5. Alteration of Work by Contractor or Others. Contractor shall not endanger any Work performed by it or anyone else by cutting, excavating, or otherwise altering Work and shall not cut or alter Work of any other Contractor except with consent of City.
- 3.9.6. Cleaning up. Contractor shall keep the Project Site and surrounding area, including public rights of way, free from dust, mud, dirt, or accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, Contractor shall clean the site, streets, and sidewalks and shall remove from the Project waste materials, rubbish, Contractor's tools, construction equipment, machinery, and surplus materials.
- 3.9.7. Access to Work. Contractor shall provide City and its representatives access to the Work in preparation and progress wherever located.
- 3.10. Allowances.
 - 3.10.1. Contractor shall include all allowances stated in the Contract Documents in the Contract Total. Unless the Contract Documents provide otherwise, Contractor shall include in the Contract Total, separate from allowances, amounts necessary to cover the cost of materials and equipment delivered at the site and all required taxes, less applicable trade discounts, Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance. City shall adjust the Contract Total through a Change Order whenever costs are more than allowances. City shall provide a Change Order amount that reflects the difference between the actual cost and the allowance.
- 3.11. Warranty.

- 3.11.1. Contractor warrants to City and Architect/Engineer that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform to the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by Architect/Engineer or City, Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.
- 3.11.2. Contractor guarantees all work against defects in material or workmanship for a period of one (1) year from the date of substantial completion.
- 3.11.3. If, after 10 days' notice, Contractor fails to proceed to cure any breach of this warranty, City may have the defects corrected and Contractor and its surety shall be liable for all expenses incurred. In case of an emergency, where, in the opinion of City or Architect/Engineer, delay would cause serious loss or damage, corrective work may be undertaken without advance notice to Contractor; but Contractor and its surety shall remain liable for all expenses incurred. The remedies stated in this subsection are not exclusive, but are cumulative of any other remedies City may have.
- 3.11.4. Contractor shall assign, and shall obtain from subcontractors and assign, all manufacturers' warranties to City and all guarantees and warranties of goods supplied under this Contract shall be deemed to run to the benefit of City. Contractor shall provide City with all manufacturers' warranty documentation and operations and maintenance manuals not later than the date of Final Acceptance of the Work by the City.

4. SUBCONTRACTORS.

- 4.1. Subcontractor Disclosure. Contractor shall provide City a list of all subcontractors and major suppliers with a name, address, telephone and fax numbers, Oregon license number(s), classification, and monetary value of each subcontract for labor, material, or equipment. If City objects, City shall promptly provide a written notice of objection. Contractor shall not contract with a proposed person or entity to which City reasonably objects or that is ineligible to receive a subcontract under ORS 279C.860, and shall procure a replacement subcontractor that is acceptable to City. City shall provide a Change Order before commencement of substitute subcontractor's Work for the increase or decrease in the Contract Total and Contract Time occasioned by such change, unless the subcontractor is ineligible under ORS 279C.860, and Contractor shall be fully responsible for performance of the substituted subcontractor under the Contract Documents. Contractor shall be solely responsible to determine whether any proposed subcontractor is eligible.
- 4.2. Pass-Through. Contractor shall require each subcontractor, by written agreement, to be bound to Contractor by terms of this Contract to the extent it applies to the Work performed by subcontractor. Contractor shall provide copies of subcontract agreements upon City's request.
- 4.3. No Waiver. City's consent or failure to object to any subcontractor does not relieve Contractor of any obligations under this Contract and is not a waiver of any provisions of this Contract. A waiver is not effective unless it is in writing and is signed by the City.

- 4.4. Substitution and Assignment. Contractor shall not, without City's written consent:
 - 4.4.1. Substitute any person as a subcontractor in place of the subcontractor designated in the original bid.
 - 4.4.2. Permit any Subcontract to be assigned or transferred, or allow any portion of the Work to be performed by anyone other than the subcontractor listed in the original bid; or
 - 4.4.3. Sublet or subcontract any portion of the Work in excess of one-half of one percent (1/2 of 1%) of Contractor's total bid as to which his original bid did not designate a subcontractor.
- 4.5. Coordination of Work. Contractor shall coordinate the trades, subcontractors, sub-subcontractors and material or equipment suppliers working on the Project.
- 4.6. Subcontractor Dispute Resolution. Contractor shall settle any difference between Contractor and its subcontractor(s) or between subcontractors.
- 4.7. Assignment. Contractor shall include assignment provisions in each subcontract as indicated in the termination provisions set forth in these General Conditions.
 - 4.7.1. Contingent Assignment of Subcontractors. Contractor shall assign to City each subcontract agreement for a portion of the Work provided that:
 - 4.7.1.1. Assignment is effective only after termination of this Contract by City for cause or stoppage of the Work by City, and only for those subcontract agreements which City accepts in its sole discretion by notifying the subcontractor and Contractor in writing; and
 - 4.7.1.2. Assignment is subject to the prior rights of the surety, if any, obligated under bond relating to this Contract.
 - 4.7.2. Upon such assignment, if the Work has been suspended for more than thirty (30) days, City shall equitably adjust subcontractor's compensation for increases in cost resulting from the suspension.
- 4.8. Prompt Payment of Subcontractors. Contractor shall promptly pay subcontractors as required by the Contract.

5. CONSTRUCTION BY CITY.

- 5.1. Other Contractors. City may let other contractors perform work with its own forces, in connection with the Project. Contractor shall afford other contractors reasonable opportunity for introduction and storage of materials and execution of their work and shall properly coordinate and connect the Work with the work of other contractors. If Contractor claims that delay or additional cost is involved because of such action by City, Contractor shall make such claim in the manner provided in the Contract Documents.
 - 5.1.1. Contractor shall protect the work of other contractors that it encounters while working on the Project.

- 5.1.2. If any part of Contractor's Work depends upon completion of the work of City or others for proper execution, Contractor shall inspect and promptly report to City any discrepancy or defective condition in such work. Contractor's failure to inspect and report will be deemed acceptance of all work of others as fit and proper for reception of Contractor's Work. Contractor is liable for damages for work of others that Contractor failed to inspect, except for defects that were not discoverable and may develop in City's or any other contractor's work after execution of Contractor's Work.
- 5.2. Mutual Responsibility. Contractor shall reimburse City for costs incurred by City which are payable to a separate contractor because of delays, improperly timed activities or defective construction of Contractor. City shall reimburse Contractor for costs incurred by Contractor because of delays, improperly timed activities, and damage to the Work or defective construction of a separate contractor.
- 5.3. City's Right to Clean Up. If a dispute arises among Contractor, separate contractors and City as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, City may clean up and the City shall allocate the cost among those responsible.

6. CHANGES IN THE WORK.

6.1. Change Orders.

- 6.1.1. Change Order. A document prepared by the City Representative and signed by the City, the City Representative, the Architect/Engineer, and the Contractor or assigned designee, stating their agreement upon all of the following: (1) a change in the Work; (2) the amount of the adjustment in the Contract Total, including all costs, overhead and profit, if any; and (3) the extent of the adjustment in the Contract Time, if any, issued after the effective date of the Contract.
- 6.1.2. A Proposed Change Order (PCO) is a document prepared by the Contractor to seek additional compensation and/or time from the City. The Contractor shall provide a written PCO narrative explaining its reasons for requesting additional compensation or time. The written PCO narrative shall reference all related schedule activities and contract specification sections and drawings directly pertaining to the PCO, include all costs, overhead and profit.
- 6.1.3. Change Pricing. In the absence of applicable unit prices or other agreement, the changed work will be priced in accordance with the following provisions:
 - 6.1.3.1. In no case shall the sum of the individual markups applied to a General Contractor's Modification exceed fifteen percent (15%), regardless of the number of Subcontractor tiers involved in performing the Work.
 - 6.1.3.2. The total combined mark-up for a Subcontractor and his lower-tier Subcontractor shall not exceed ten percent (10%). Costs of tax and insurance shall not be marked up.
 - 6.1.3.3. For work perform by a subcontractor, the subcontractor will receive 10% markup for direct costs. The General Contractor shall receive a five percent (5%) of the subcontractor's direct costs for processing.
 - 6.1.3.4. For self-performed work by the General Contractor, the markup shall equal fifteen percent (15%) of the direct cost as defined herein.
 - 6.1.3.5. Bonding may be increased a maximum of one percent (1%) provided the Contractor demonstrates to the City a requirement to increase bonding.

6.1.3.6. If the net value of a change results in a credit from the Contractor or subcontractor, the credit shall be the actual net cost, plus five percent (5%) for overhead and profit. When both additions and credits covering related work or substitutions are involved in any one change, the allowance for overhead and profit shall be figured on the basis of the net increase or decrease, if any, with respect to the change.

6.1.4. Equipment Costs:

6.1.4.1. The allowance for equipment costs (both rental as well as Contractor owned equipment) shall be based on actual and verified rental company rates. Hourly, daily, weekly, or monthly rates shall be used, whichever is lower. Hourly rates including operator shall not be used. Unless otherwise specified, manufacturer's ratings and manufacturer approved modifications shall be used to classify equipment for determination of applicable rental rates.

6.1.4.2. The actual time to be paid for equipment shall be the time that the equipment is in productive operation on the Work under Contract Modification. In computing the hourly rental of equipment, any time less than thirty (30) minutes shall be considered one half (1/2) hour. No payment will be made for time while equipment is inoperative due to breakdown, or for non-workdays. In addition, the rental time shall not include the time required to move the equipment to and from the project site. No mobilization or demobilization will be allowed for equipment already on site. If such equipment is not moved by its own power, then loading and transportation costs will be paid in lieu of rental time thereof. However, neither moving time nor loading and transportation costs will be paid if the equipment is used on the Project Site in any other way than upon the work directly related to the Contract Modification.

6.1.5. Small Tools. Individual pieces of equipment having a replacement value of two thousand dollars (\$2,000) or less shall be considered to be small tools or small equipment, and no payment will be made since the costs of these tools and equipment is included as part of the markup for overhead and profit defined herein.

6.1.6. Labor rates will not be recognized when in excess of the applicable prevailing wage rate pursuant to ORS 279C.800 to 279C.870 or wage established in any applicable collective bargaining agreement, whichever is higher. The costs for all supervision, including general superintendents and foreman, shall be included in the markup defined herein. Working foreman will be considered a direct cost if the individual is on the project site only installing Work under Contract Modification with no other work being performed at the time. A breakdown of the payroll rates for each trade used for Contract Modifications shall be furnished to the City within thirty (30) calendar days of the Contract Notice to Proceed.

6.1.7. Premium Time Rate. Shall be the difference between the Overtime Hourly Rate and Straight Time Rate per specific trade and classification as more fully defined herein. City will pay taxes on the Premium Time Rate only. The Premium Time Rate shall be paid without overhead and profit calculated against the differential.

- 6.1.8. Material costs directly required for the performance of the Contract Modification. Such costs may include the cost of transportation. If a trade reduction by an actual supplier is available to the Contractor, it shall be credited to the City. If the materials are obtained from a supplier or source owned wholly by or in part by the Contractor, payment thereof will not exceed the current wholesale price for the materials. The term trade reduction includes the concept of cash discounting.
- 6.1.9. Agreement on Change Order. Agreement on any Change Order is a final settlement of all matters relating to the change in the Work that is the subject of the Change Order, including, but not limited to, all direct and indirect costs associated with such change and any and all adjustments to the Contract Total and the construction schedule.
- 6.1.10. Additional Credits. Contractor shall credit all trade discounts, rebates, refunds, and returns from the sale of surplus material to City
- 6.1.11. Cost Accounting Records. Contractor shall provide all cost accounting records to City upon City's request.
- 6.2. Construction Change Directives. A Construction Change Directive is a written order signed by City, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Total or Contract Time, or both. City may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract, the Contract Total and Contract Time being adjusted accordingly. City and Contractor may use a Construction Change Directive in the absence of total agreement on the terms of a Change Order. Upon receipt of a Construction Change Directive, Contractor shall promptly proceed with the change in Work directed and shall advise City of Contractor's agreement or disagreement with the proposed method, if any, provided in the Construction Change Directive for adjustment in the Contract Total or Contract Time.
 - 6.2.1. Force Account. When a definite price has not been agreed upon in advance and it is to be paid on a force account basis, City may establish a not-to-exceed budget. Contractor shall submit daily all direct costs necessarily incurred and paid for labor, material, equipment, permit fees, taxes, and increased costs of bonds and insurance related to the Work for approval by City. Contractor shall not exceed the budget unless City specifically authorizes the overrun in writing. City shall pay only for actual costs verified in the field by City on a daily basis. When City and Contractor reach agreement upon the adjustment for price and time, Contractor and City shall prepare and execute an appropriate Change Order.
 - 6.2.2. Negotiating Changes. If City and Contractor are unable to agree upon change order terms, or if in the opinion of City the Work must proceed before an agreement can be negotiated, City may order Contractor to proceed with the changes, and Contractor shall comply. In such event, Contractor shall keep detailed daily records as to all labor employed in connection with the changes. Contractor's records will itemize costs for labor, materials, equipment rental, and transportation. Contractor shall submit the records for approval to the City. If Contractor fails to keep such records, all such Work will be deemed to have been performed at Contractor's own expense. City and Contractor shall attempt to negotiate fair and reasonable adjustments to the Contract for changes in the Work. Contractor shall submit to City all evidence in support of Contractor's proposals.

- 6.2.3. Markup. No fee or other markup of any kind will be applicable to any premium portion of wages, taxes, or related benefits. In the event of addition or deletion of like items in a change order or change directive, the like item quantity will be summed and the unit prices or the percentage fee will be applied to the total.
- 6.2.4. Written Authorization Required. In no event shall Contractor proceed with changes in the Work without a written order from City to so proceed. City will be under no obligation to pay for unauthorized extra, additional, or changed Work performed by Contractor without a written Change Order, Construction Change Directive, or other written order to proceed duly authorized and executed by City.
- 6.2.5. Minor Changes. Contractor shall promptly carry out minor changes in the Work issued through written order of City's representative, through the authority granted to it by City, not involving adjustment in the Contract Total or extension of the Contract Time, and not inconsistent with the intent of the Contract Documents.

7. TIME.

- 7.1. Time is of the Essence. Time limits stated in the Contract Documents are of the essence of the Contract. Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.
- 7.2. No Work Without Insurance. Contractor shall not, except by written direction by City, prematurely commence operations on the site or elsewhere prior to the effective date of insurance to be furnished by City and Contractor pursuant to Exhibit B. The date of commencement of the Work is not changed by the effective date of insurance.
- 7.3. Notice to Proceed. City shall issue a Notice to Proceed within a reasonable time following the date of execution of this Contract. To the maximum extent permitted by law, Contractor is not entitled to additional compensation as a result of a postponement of the issuance of Notice to Proceed. The Parties acknowledge the sole remedy for the Contractor in such circumstances is an extension of Contract Time to achieve Substantial Completion.
- 7.4. Working Hours. Contractor shall perform Work during regular working hours as permitted by City. Contractor shall, when required to achieve Substantial Completion within the Contract Time, Work outside of regular working hours such as evenings and/or weekends at no additional cost to City. Contractor shall perform all evening and/or weekend work only upon City's advance approval and in compliance with all applicable rules, regulations, laws, and local ordinances including, without limitation, all noise and light limitations.
- 7.5. Delays and Extensions of Time.

- 7.5.1. Float and Slack. Float or slack is the amount of time between the early start date and the late start date, or the early finish date and the late finish date, of any activity in the schedule. Any float time to activities not on the critical path shall belong to the Project, and may be used by the Project to optimize its construction process. Any float time between the end of the final construction activity and the final completion date shall belong to the City, and may be used by the City in determining if additional contract days are to be awarded for changes in the contract or for delays to the contract caused by the City. The Contractor will not be entitled to any adjustment in the Contract Time, the Construction Schedule, or the Contract Total, or to any additional payment of any sort by reason of the City's use of float time between the end of the final construction activity and the final completion date or by reason of the loss or use of any float time, including time between the Contractor's anticipated completion date and end of the Contract Time, whether or not the float time is described as such on the Construction Progress Schedule.
- 7.5.2. Adverse Weather. Contract Time is determined with consideration given to the average climate weather conditions prevailing in the County in which the Project is located during any given month as published by the National Oceanic and Atmospheric Administration (NOAA) and averaged over the past 10 years. Contractor may request a time extension for adverse weather if it causes delays that unreasonably increase the labor required to complete the scheduled tasks on the day affected by adverse weather not reasonably anticipated. Contractor shall not be allowed an increase in Contract Total for the delay. Contractor shall work additional days, if necessary, at no cost to City, irrespective of adverse weather, to maintain access and the Contract Schedule, and to protect the Work from the effects of Adverse Weather.
- 7.5.3. Extensions of Time. Extensions of Contract Time will be permitted for a delay only to the extent the delay: (1) is not caused or could not have been anticipated by the Contractor; (2) could not be limited or avoided by the Contractor's timely notice to the City of the delay or reasonable likelihood that a delay will occur; and (3) is of a duration not less than one day. Such occurrences may include industry-wide labor dispute, fire, unavoidable casualties, adverse weather conditions not reasonably anticipated, or other occurrences that City determines may justify delay. Any extension the City grants will be net of any delays caused by or due to the fault or negligence of Contractor, and net of any contingency or "float" allowance included in the Progress Schedule. Contractor will not be allowed an increase in Contract Total for an extension of Contract Time. The Contractor shall be deemed to have control over the supply of labor, materials, equipment, methods, techniques and over the Contractor's subcontractors and suppliers.
- 7.5.4. Requests for Extension. Contractor shall submit requests for extension of time in writing and shall include (a) the duration of the activity relating to changes in the Work and the resources, including manpower, equipment, and material, required to perform the activities within the stated duration; (b) specific logical ties to the Contract Schedule for the proposed change showing the activities that are affected by the change and/or delay; and (c) recovery schedule.

8. PROTECTION OF PERSONS, PROPERTY, AND THE ENVIRONMENT.

- 8.1. Safety Program. Contractor shall initiate, maintain, and supervise all safety precautions and programs in connection with performance of the Contract. Contractor is solely and completely responsible for conditions of the Work site, including safety of all persons and property during performance of the Work, including the property of third-parties and real and personal property outside the Project area. This requirement will apply continuously and is not limited to normal working hours.
- 8.2. City's Policies. This Contract and all individual contracts and purchase orders incorporate by this reference City's safety policies current as of the date of commencement of Work, which have been or will be made available to Contractor.
- 8.3. Subcontractor Safety. Contractor shall review with all subcontractors the methods, materials, tools, and equipment to be used to verify their compliance with all safety standards and laws and Contractor shall comply with them, to ensure safe, hazard-free conditions for all persons visiting or working on the entire Project Site and City's adjoining facilities. Contractor shall implement and maintain a safety program that is specifically adapted for the Project and complies with all applicable requirements of Oregon OSHA. Contractor shall furnish a copy of the safety program to City before commencing Work.
- 8.4. MSDS Sheets. Contractor shall provide Material Safety Data Sheets to City for all chemicals used on the Project Site as required by law.
- 8.5. Safety Coordinator. Contractor shall designate a responsible member of its organization on the Project, whose duty is to post information regarding protection and obligations of workers and other notices required under occupational safety and health laws, to comply with reporting and other occupational safety requirements, and to protect the life, safety, and health of workers. Contractor shall report the name and position of person so designated to City.
- 8.6. Correction of Unsafe Conditions. Contractor shall correct any violations of safety laws, rules, orders, standards, or regulations. Contractor shall correct violations promptly upon the issuance of a citation or notice of violation by the Division of Occupational Safety and Health.
- 8.7. Personal Protection Equipment. Contractor's personnel and all workers shall wear personal protective equipment at all times. Contractor shall maintain supplies of protective equipment sufficient to properly equip all employees and visitors.
- 8.8. Safety Devices. Contractor shall take, and require subcontractors to take, all reasonably necessary precautions for safety of workers on the Project. Contractor shall furnish, erect, and properly maintain at all times, all necessary safety devices, safeguards, construction canopies, signs, nets, barriers, lights, and watchmen for protection of workers and the public and shall post danger signs warning against hazards created by such features in the course of the Work.
- 8.9. Barricades and Signage. Contractor shall post necessary warning signs and barricades to ensure the safety of all occupants. Contractor shall not display any signs not required by law or the Contract Documents without City's prior written approval.
- 8.10. Labeling of Containers. Contractor shall ensure proper labeling of substances on the Project Site.

- 8.11. Storage. Contractor shall confine apparatus, the storage of materials, and the operations of workers to limits indicated by law, ordinances, permits, or directions of City, and shall not interfere with the Work or unreasonably encumber the Project Site or overload any structure with materials. Contractor shall enforce all instructions of City regarding signs, advertising, fires, and smoking, and require that all workers comply with all regulations while on Project Site
- 8.12. Protection of Work. Contractor shall protect the Work, including stored materials and equipment, from all damage or harm, including damage from heat, cold, rain, snow, wind, flooding, and dampness. Contractor shall provide and maintain temporary roofs, window and door coverings, enclosures, or other construction reasonably required to protect the Work at all times during the course of construction. Contractor shall take all additional steps reasonably necessary, or as directed by City, to protect the Project, the Site, and the Work from damage associated with anticipated extreme weather events. Contractor shall not be entitled to additional payment or time to the extent its costs or delays would have been avoided if Contractor had complied.
- 8.13. Protection of Existing Structures. Contractor shall protect existing structures, walks, curbs, pavements, roads, trees, landscaping, survey markers, monuments, or other devices marking property boundaries or corners, and/or improvements in working areas, utilities, and adjoining property (including, without limitation, protection from settlement or loss of lateral support). Contractor shall replace same at his expense with same kind, quality, and size of Work or item if temporary removal is necessary, or damage occurs due to the Work.
- 8.14. Water Quality. Contractor shall comply with all applicable water quality laws and regulations, including permitting, monitoring, and reporting of storm water discharge applicable to the Work, at no additional cost to City. Contractor shall indemnify and hold City harmless from loss, cost, or liability arising out of Contractor's violation of such laws or regulations.
- 8.15. Neighborhood Impacts. Contractor shall take all reasonable precautions to protect neighborhood property from damage or nuisance associated with the Work. Contractor shall promptly respond to complaints by neighbors or authorities concerning impacts to neighboring properties and public facilities and shall be solely responsible for cleaning, repair, or replacement of property soiled or damaged by Contractor's operations and settlement of claims or demands of neighbors associated with conduct of its personnel.
- 8.16. Housekeeping. Contractor shall maintain good housekeeping practices to reduce the risk of fire damage and shall make a fire extinguisher, fire blanket, and/or fire watch, as applicable, available at each location where cutting, braising, soldering, and/or welding is being performed or where there is an increased risk of fire.
- 8.17. Security and Site Access. Contractor shall ensure that all existing or operating systems, utilities, existing on-site services and access avenues are on and in operating condition before leaving the Project Site each day. If any system, utility, or access avenue is not operable, Contractor shall notify City before Contractor leaves the Project Site that day.

9. HAZARDOUS MATERIALS.

- 9.1. With respect to Hazardous Materials to be used during the course of the Work, the Contractor will implement and enforce a program to inventory and properly store and secure all Hazardous Materials that may be used or present on the Project site, maintain available for inspection at the Project site all material safety data sheets, and comply with all regulations required by law for the storage, use, and disposal of Hazardous Materials. The program must provide for notification of all personnel of potential chemical hazards. Review of these hazards must be included in the Contractor's safety training program. The Contractor shall submit to the City a list of all Hazardous Materials to be brought by the Contractor or its Subcontractors onto the City's property, including the purpose for their use on the Project.
- 9.2. In the event of a release or discovery of a preexisting release of Hazardous Materials, or if it is foreseeable that injury or death to persons may occur because of any material or substance (including without limitation Hazardous Materials) encountered on the Project site, the Contractor shall immediately (a) stop the Work or the portion of the Work affected; (b) notify the City orally and in writing; and (c) protect against exposure of persons to the Hazardous Materials. The Contractor shall provide all written warnings, notices, reports, or postings required at law or by contract for the existence, use, release, or discovery of Hazardous Materials.
- 9.3. With respect to any Hazardous Materials or other material or substance reported to the City under the above that was not introduced to the Project site by the Contractor or its Subcontractors of any tier, the City shall obtain the services of a qualified environmental consultant to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify it to be rendered harmless. Unless otherwise required by the Contract Documents, the City shall furnish in writing to the Contractor and Architect/Engineer the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. The Contractor and the Architect/Engineer will promptly reply to the City in writing stating whether or not either has reasonable objection to the persons or entities proposed by the City. If either the Contractor or Architect/Engineer has an objection to a person or entity proposed by the City, the City shall propose another to whom the Contractor and the Architect/Engineer have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the City and Contractor. By Change Order, the Contract Time may, subject to agreement by the City and the Contractor, be extended appropriately and the Contract Total shall be increased in the amount of the Contractor's reasonable additional costs of shut-down, delay and start-up, which adjustments shall be accomplished as provided in the Contract.

- 9.4. With respect to any Hazardous Materials or other material or substance reported to the City under the above that was introduced to the Project site by the Contractor or its Subcontractors of any tier, the Contractor shall be responsible to carry out the duties of (a) proposing to the City and the Architect/Engineer a qualified environmental consultant; (b) obtaining and paying for the services of the environmental consultant; and (c) verifying that the material is rendered harmless, as otherwise set forth in the above. The Contractor will not be entitled to an increase in the Contract Total if the Contractor or its Subcontractors of any tier are responsible for the condition requiring the testing of the material and the stoppage of the Work. Remediation work must be conducted by properly qualified contractors approved in advance by the City. Generally, the City may at its option contract directly with environmental consultants, and remediation contractors, regardless of whether the work will be performed at the Contractor's expense.
- 9.5. To the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, the City shall indemnify and hold harmless the Contractor, Subcontractors, Architect/Engineer, Architect/Engineer's consultants and the agents and employees of the Contractor, Subcontractors, Architect/Engineer, and Architect/Engineer's consultants from and against claims, damages, losses and expenses, including without limitation attorney fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance was not introduced to the Project site by the Contractor or its Subcontractors of any tier, presents the risk of bodily injury or death, and has not been rendered harmless. No indemnification provided by the City under this Section will be required to indemnify the Contractor, Subcontractors, or their employees or agents to the extent of liability for death or bodily injury to persons or damage to property caused in whole or in part by the Contractor's own negligence, but will require indemnity to the extent of the fault of the City or its agents or representatives.
- 9.6. To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the City, the City's Representatives, and the employees of the City from and against claims, damages, losses, and expenses, including without limitation attorney fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance was introduced to the Project site by the Contractor or its Subcontractors of any tier, presents the risk of bodily injury or death, and has not been rendered harmless. No indemnification provided by the Contractor under this Section will be required to indemnify the City or its agents or representatives to the extent of liability for death or bodily injury to persons or damage to property caused in whole or in part by the City's own negligence, but will require indemnity to the extent of the fault of the City or its agents or representatives.
- 9.7. Hazardous Materials are any substance defined or designated as being radioactive, infectious, hazardous, dangerous, or toxic by any federal, state, or local statute, regulation, or ordinance presently in effect or subsequently enacted. For purposes of Article 9, the term "introduce" means the physical placement or transportation of Hazardous Materials in or on the Project site regardless of whether the Hazardous Material was specified, required, or otherwise addressed in the Contract Documents.

10. INSURANCE AND BONDS.

- 10.1. Contractor's Insurance. Contractor shall procure, prior to commencement of Work, and maintain for the duration of this Contract, or such longer time as may be provided, insurance as required by Exhibit B.
- 10.2. Performance Bond and Payment Bond. Contractor shall provide a performance bond and a payment bond as required by the Contract prior to start of Work.

11. UNCOVERING AND CORRECTION OF WORK.

- 11.1. Uncovering of Work. If a portion of the Work is covered without Project Inspector and/or Architect/Engineer approval or not in compliance with the Contract Documents, Contractor shall, if required in writing by City, Project Inspector, or Architect/Engineer, uncover the Work for observation and replace it at Contractor's expense without change in Contract Total or Contract Time.
- 11.2. Correction of Work. Contractor shall, at its own expense, promptly correct Work that is rejected by City, Architect/Engineer, or any governmental authority or otherwise fails to conform to the requirements of the Contract Documents, regardless of when it is discovered and regardless of whether the Work is fabricated, installed or completed. Contractor shall pay for all additional testing, inspection, or other compensation including City and Architect/Engineer's additional services required for the correction of Work.
- 11.3. Correction of Work after Substantial Completion. If, after Substantial Completion, any Work is not in accordance with the requirements of the Contract Documents, City shall provide Contractor with written notice to correct the Work promptly after discovery of the condition. Contractor shall correct the nonconforming Work within a reasonable time after receipt of notice.

12. RIGHTS AND REMEDIES.

- 12.1. No Waiver. The duties and obligations imposed by the Contract Documents and rights and remedies available are in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law. No action or failure to act by any party shall constitute a waiver of a right or duty afforded the party under this Contract, nor does any act or omission constitute approval of or acquiescence in a breach, except as may be specifically agreed in writing.
- 12.2. Independent Contractor.
 - 12.2.1. Contractor is engaged as an independent Contractor. Although City reserves the right: (a) to determine (and modify) the delivery schedule for the Work; and (b) to evaluate the quality of the completed performance, City cannot and will not control the means or manner of Contractor's performance, nor provide any tools or equipment for the performance of the Work, except as provided elsewhere in this Contract. Contractor shall determine the appropriate means and manner of performing the Work.
 - 12.2.2. Contractor is wholly responsible for the manner in which it and its subcontractors perform the Work required of it by the Contract Documents. City may monitor Contractor's activities to determine compliance with the terms of this Contract.
 - 12.2.3. Contractor shall pay all federal, state and local taxes applicable to compensation or payments paid to Contractor under this Contract and, unless Contractor is subject to backup withholding, City shall not withhold from such compensation or payments any amount(s) to cover Contractor's tax obligations.
 - 12.2.4. Contractor is not an employee of the federal government or the State of Oregon.
 - 12.2.5. Contractor is not a contributing member of the Public Employees Retirement System.

12.2.6. Neither Contractor, nor any of Contractor's subcontractors, agents or employees are "officers," "employees," or "agents" of City or any of City's employees or agents, as those terms are used in ORS 30.265. Contractor bears exclusive responsibility for the acts of its employees as they relate to the services to be provided during the course and scope of their employment. Contractor, its subcontractors, agents, and its employees are not entitled to any rights or privileges of City employees.

13. COMPLIANCE WITH LAWS.

- 13.1. Contractor shall comply with all laws, codes, regulations, and applicable requirements imposed by governmental authorities having jurisdiction over the Work, including but not limited to, environmental, zoning, building code, public contracting, and other related laws.
- 13.2. Environmental Mitigation. Contractor shall comply with all applicable mitigation measures, if any, adopted by any public agency with respect to this Project pursuant to the environmental protection laws of the State of Oregon.
- 13.3. Work Performed Illegally. Contractor will bear all costs arising from Work performed that it knew, or through exercise of reasonable care should have known, was contrary to any applicable laws, ordinance, rules, or regulations.
- 13.4. Prior Approvals. Contractor shall obtain approval of material, processes, or procedures by the Oregon state agencies or other body or agency where required by the Specifications or Drawings.

14. CLAIMS AND DISPUTES.

- 14.1. Claim. A Claim is a demand or assertion by a party seeking, as a matter of right, adjustment or interpretation of Contract terms, payment of money, extension of time, or other relief with respect to the terms of the Contract. Claim includes other disputes and matters in question between City and Contractor arising out of or relating to the Contract. Parties will initiate Claims only by written notice. The party making the Claim is responsible for substantiating the Claim.
- 14.2. Time to Initiate Claim. The party making a Claim shall initiate the Claim within fourteen (14) days after the occurrence of the event giving rise to such Claim or within fourteen (14) days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. The party making the Claim shall submit written notice to the other party that identifies the known bases for each Claim and the nature and amount of relief sought.
- 14.3. Written Notice of Claim. If Contractor claims that any instructions issued after the effective date of this Contract, by Drawings or otherwise, involve extra costs, Contractor will be entitled to reimbursement for such extra costs only to the extent Contractor so notifies City in writing before proceeding to execute the affected Work and within five (5) days after receipt of such instructions. Claims and demands for any other cause, whatsoever, by Contractor against City must be served in writing upon City within five (5) days from the occurrence of the cause giving rise to the claim. Timely compliance with the written claim requirements of this Contract is a condition precedent to Contractor's right to payment on account of any claim and failure to provide such written claim or demand or notice will constitute a waiver of such claim.
- 14.4. No Work Stoppage. Contractor shall proceed diligently with performance of this Contract and City shall continue to make payments in accordance with the Contract Documents pending final resolution of a Claim, except as otherwise agreed in writing or provided for in this Contract.

- 14.5. Differing Site Conditions. A party shall give notice to the other party promptly, and in no event later than five (5) days after first observation, before conditions encountered at the site are disturbed that are: (a) subsurface or otherwise concealed physical conditions that differ materially from those indicated on the Contract Documents; or (b) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents. The parties shall promptly investigate such conditions, and if they differ materially and cause an increase or decrease in the cost of or time required for performance of any part of the Work, City will propose an equitable adjustment in the Contract Total, Contract Time, or both. If City does not find that the conditions differ materially and cause an increase or decrease in the cost of or time required for performance of any part of the Work, City will notify Contractor in writing. If Contractor disputes City's determination, Contractor shall proceed with the Work and may initiate a Claim no later than twenty-one (21) days after receiving notice of the decision.
- 14.6. Claim for Additional Cost. Contractor shall file a Claim for additional cost under this Section if Contractor believes additional cost is involved for reasons including: (a) City's written interpretation of the Contract Documents; (b) City's order to stop Work where Contractor is not at fault; (c) written order for a minor change in Work issued by City's consultant or representative; (d) failure of payment by City; (e) termination of Contract by City; (f) City's suspension; or (g) other reasonable grounds.
- 14.7. Claim for Delay. If Contractor wishes to make a Claim for a delay, written notice shall be given within fourteen (14) calendar days of the occurrence of the event giving rise to the delay. Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary. Contractor will not be entitled to additional Contract Time for delays that do not affect the critical path of the Work.
- 14.8. Claim for Additional Time (Adverse Weather). If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction. Contractor shall not be entitled to additional compensation for delays caused by adverse weather conditions or any causes beyond City's control. If the Oregon Office of Emergency Management orders Contractor to halt the Work for reasons beyond Contractor's control and that were not reasonably anticipated, the Contract Time shall be equitably extended by Change Order, but only on condition that Contractor provides City with written notice of the delay in accordance with the notice requirements of this Contract.
- 14.9. Claim for Injury or Damage to Person or Property. If any person suffers physical injury or property damage arising from the Work, regardless of the cause, the party shall immediately give notice of such injury or damage, whether or not insured, to City and Contractor with sufficient detail to enable City and any other party affected to investigate the matter.
- 14.10. Acceptance of Claim. Upon timely receipt of a properly completed Claim and all documentation and/or evidence necessary to substantiate the Claim, City shall evaluate the Claim and provide Contractor with its written decision either accepting the Claim (in whole or in part) or rejecting the Claim (in whole or in part) within twenty (20) days. Should City reject the Claim in whole or in part, City shall generally explain the reasons for such rejection.

- 14.11. Mediation. Contractor and City agree that any dispute that may arise under the Contract will be submitted to a mediator agreed to by both parties as soon as such dispute arises, but in any event prior to commencement of arbitration or litigation. This provision shall be specifically enforceable in any arbitral or judicial proceeding through stay or abatement of the proceeding upon petition of a party. Mediation shall be conducted in Silverton, Oregon, and the mediation fee and expenses shall be shared equally by the parties who agree to exercise their best efforts in good faith to resolve all disputes in mediation.

15. TERMINATION OR SUSPENSION BY CONTRACTOR.

- 15.1. Termination by Contractor for Work Stoppage. Contractor may terminate this Contract if the Work is stopped for a period of thirty (30) consecutive days through no act or fault of Contractor, subcontractor, or sub subcontractor, or their agents or employees, or any other persons or entities performing portions of the Work under direct or indirect contract with Contractor, for any of the following reasons: (a) issuance of an order of a court or other public authority having jurisdiction which requires all Work to be stopped; (b) an act of government, such as a declaration of a national emergency which requires all Work to be stopped; (c) because the Architect/Engineer has not issued a Certificate of Payment and has not notified Contractor of the reason for withholding certification, or because City has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or (d) City failed to furnish to Contractor reasonable evidence that financial arrangements have been made to fulfill City's obligations under this Contract.
- 15.2. Termination by Contractor for Work Interruption. Contractor may terminate this Contract if, through no act or fault of Contractor, subcontractor, or sub subcontractor, or their agents or employees, or any other persons or entities performing portions of the Work under direct or indirect contract with Contractor, repeated suspensions, delays or interruptions of the entire Work by City constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365 day period, whichever is less, or if Work is stopped for a period of sixty (60) consecutive days.
- 15.3. Compensation. Contractor may recover from City payment for Work executed and for proven loss with respect to materials, equipment, tools, and construction equipment and machinery including reasonable profit and overhead if it provides seven (7) days' written notice to Architect/Engineer and City prior to termination for the reasons set forth above.

16. TERMINATION OR SUSPENSION BY CITY.

- 16.1. Termination by City for Cause. City may terminate Contract and/or terminate Contractor's right to perform the Work of this Contract without prejudice to any other rights or remedies by providing seven (7) days' written notice to Contractor and Contractor's surety if Contractor:
 - 16.1.1. refuses or fails to execute the Work or any separable part with sufficient diligence to ensure its completion within the time specified or any extension;
 - 16.1.2. persistently or repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
 - 16.1.3. fails to make payment to subcontractors in accordance with respective agreements;
 - 16.1.4. persistently disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction;
 - 16.1.5. files a petition for relief as a debtor, or a petition is filed against Contractor without its consent, and the petition is not dismissed within sixty (60) days;

- 16.1.6. makes a general assignment for the benefit of its creditors, or a receiver is appointed on account of its insolvency; or
- 16.1.7. is otherwise guilty of a substantial breach of a provision of the Contract Documents or fails to observe the training, safety, and other precautions including City's policies and Contractor's own safety policies for the Project.
- 16.2. City's Right to Take Possession. Upon termination for cause, City may take possession of the site and of all materials, equipment, tools, and construction equipment and machinery on the site owned by Contractor, accept assignment of subcontracts, and finish the Work by whatever reasonable method City may deem expedient. Upon request, City shall provide Contractor a detailed accounting of the costs incurred in finishing the Work.
- 16.3. Compensation. Contractor will not be entitled to receive further payment until the Work is finished. If the unpaid balance of the Contract Total exceeds City's costs to finishing the Work, including compensation for City's consultants and representatives for services made necessary by Contractor's default, and other damages incurred by City which have not been expressly waived, City shall pay the excess to Contractor. If City's costs and damages exceed the unpaid balance, Contractor shall pay the difference to City.
- 16.4. Suspension for Convenience. City may, without cause, order Contractor in writing to suspend, delay, or interrupt the Work in whole or in part for such period of time as City may determine. City shall adjust Contract Total and Contract Time for increases in the cost (including profit) and time caused by the suspension, delay, or interruption referenced in Section 16.3, so long as the performance would not have been suspended, delayed, or interrupted by another cause for which Contractor is responsible and City has not already made or denied another equitable adjustment under another provision of this Contract for the suspension, delay, or interruption.
- 16.5. Termination for Convenience. City may terminate all or part of this Contract for City's convenience at any time and without cause. Contractor shall, upon written notice of such termination, cease operations as directed by City, take actions necessary to protect and preserve the Work, and terminate all existing subcontracts and purchase orders that are not required to perform the Work up to the effective date of termination and the portion of Work not terminated, and enter into no further subcontracts or purchase orders for the portion of this Contract that was terminated. City shall pay Contractor for Work executed and costs reasonably incurred by reason of such termination, along with reasonable overhead and profit on the Work completed. City will not pay profit or overhead allocable to Work which is not performed at the time of termination. If the City terminates Contractor for cause and a court or other tribunal finds that City did not have cause to terminate Contractor, then the court or other tribunal will deem the City's termination a termination for convenience under this Section.

17. PAYMENTS AND COMPLETION.

- 17.1. Contract Total. The Contract Total is stated in the Contract, and including authorized adjustments, is the total amount payable by City to Contractor for performance of Work under the Contract Documents.

- 17.2. Schedule of Values. Prior to submission of the first Application for Payment, Contractor shall submit a preliminary schedule of values for all of the Work, including quantities and prices of items aggregating the Contract Total and subdividing the Work into component parts in sufficient detail to serve as the basis for progress payments during construction. Contractor shall include, at a minimum: (a) overhead and profit; (b) supervision; (c) general conditions; (d) layout; (e) mobilization; (f) scheduling; (g) submittals; (h) bonds and insurance; (i) close-out documentation; (j) demolition; (k) installation; (l) rough-in; (m) finishes; (n) testing; and (o) punch list and acceptance (“Schedule of Values”).
- 17.3. Applications for Payment. Contractor shall submit an itemized and notarized application for payment for operations completed in accordance with the Schedule of Values and reflecting applicable retainage (“Application for Payment”). Applications for Payment shall be prepared using forms provided by the City. Contractor shall submit data substantiating Contractor’s right to payment where required, such as copies of requisitions from subcontractors and material suppliers, Construction Change Directives, Change Orders, and/or force account information. Contractor shall provide:
 - 17.3.1. The amount paid to the date of the Application for Payment to Contractor, all its subcontractors, and all others furnishing labor, material, or equipment for this Contract;
 - 17.3.2. The amount being requested by Contractor on its own behalf and separately stating the amount requested on behalf of each of the subcontractors and all others furnishing labor, material, or equipment for this Contract;
 - 17.3.3. The balance that is due to each of such entities after payment is made;
 - 17.3.4. Certification that the Record Documents are current;
 - 17.3.5. Itemized breakdown of Work done for the purpose of requesting partial payment;
 - 17.3.6. Updated construction schedule;
 - 17.3.7. Additions and subtractions from the Contract Total and Contract Time;
 - 17.3.8. Total of retainage held;
 - 17.3.9. Material invoices, evidence of equipment purchases, rentals, and other support City may request;
 - 17.3.10. Percentage complete of Contractor’s Work by line item;
 - 17.3.11. A Schedule of Values updated from the preceding Application for Payment; and
 - 17.3.12. Contractors’ Certified Payroll.
- 17.4. Waivers and Releases. Contractor shall submit conditional waivers and releases upon progress payment from Contractor and each subcontractor of any tier and supplier to be paid from current progress payment along with an unconditional waiver and release upon progress payment from Contractor and each subcontractor of any tier that received payment from the previous progress payment. Contractor shall certify as follows: “Contractor warrants title to all Work performed and materials purchased as of the date of the payment application; and Contractor warrants that all Work performed and materials purchased as of the date of the payment application are free and clear of liens, claims, security interests, or encumbrances in favor of any persons or entities making a claim by reason of having provided labor, materials, or equipment relating to the Work, except those of which City has been informed.”

- 17.5. False Claims. Contractor is subject to the False Claims Act set forth under ORS Chapter 180 for information provided with any Application for Payment.
- 17.6. Certificates for Payment.
- 17.6.1. City shall review the Contractor's Application for Payment within a reasonable time after receipt not to exceed seven (7) days for the purpose of determining that it is properly submitted. City shall either return the Application for Payment to Contractor with a document setting forth the reasons why the Application for Payment is not proper, or shall issue a Certificate for Payment for the amounts properly due.
- 17.6.2. City's issuance of a Certificate for Payment is a representation by City, based upon City's evaluation of the Work and the data comprising the Application for Payment, that Contractor is entitled to payment in the amount certified because the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. City's approval of the certified Application for Payment is based on Contractor complying with all requirements for a fully complete and valid certified Application for Payment.
- 17.7. Decisions to Withhold Certification.
- 17.7.1. City shall notify Contractor in writing if any amounts are not due, and the reasons for withholding certification in whole or in part. If Contractor and City cannot agree on a revised amount, City shall promptly issue a Certificate for Payment for the amount for which City determines that Contractor is entitled to payment. City may withhold Certificate for Payment or nullify the whole or part of a Certificate for Payment previously issued, to such extent as may be reasonably necessary to protect City from loss for which Contractor is responsible, including loss resulting from acts and omissions because of defective Work not remedied, third party claims filed or reasonable evidence indicating probable filing of such claim unless security acceptable to City is provided by Contractor, failure of Contractor to make payments properly to subcontractors or for labor, materials, or equipment, reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Total, damage to City or another contractor, reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay, persistent failure to carry out the Work in accordance with the Contract Documents, or failure to maintain Record Documents.
- 17.7.2. Contractor shall not receive any interest on any retainage or amounts withheld due to the failure of Contractor to perform in accordance with the Contract Documents.
- 17.7.3. City may apply any withheld amount to pay outstanding claims or obligations on behalf of Contractor, without prior judicial determination of the claim or obligation. If any payment is made by City, that amount is deemed a payment made under this Contract by City to Contractor.
- 17.7.4. City shall promptly issue a Certificate for Payment for amounts previously withheld when the reasons for withholding certification are removed.
- 17.8. Progress Payments.

- 17.8.1. City shall make payment in the manner and within the time provided in the Contract Documents. City may withhold the portion of any progress payment for which certified payroll statements have not been received until such certified statements are submitted.
 - 17.8.2. Contractor shall promptly pay each subcontractor, upon receipt of payment from City, out of the amount City paid to Contractor on account of each subcontractor's portion of the Work. Contractor shall, by written agreement, require each subcontractor to make payments to sub-subcontractors in a similar manner.
 - 17.8.3. City may issue joint checks made payable to Contractor, subcontractor(s) and material or equipment suppliers. Joint check payees are responsible for the allocation and disbursement of funds included as part of any such joint check payment. Joint check payment does not create a contract, rights, or obligations between City and any subcontractor or material or equipment supplier.
 - 17.8.4. Certificate for Payment, progress payment, or partial or entire use or occupancy of the Project does not constitute acceptance of Work not in accordance with the Contract Documents.
- 17.9. Substantial Completion.
- 17.9.1. Substantial Completion. Substantial completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that City can occupy or utilize the Work for its intended purpose.
 - 17.9.2. Punch List. When Contractor considers the Work or a designated portion of the Work to be substantially complete, Contractor shall prepare and submit to City a comprehensive list of items to be completed or corrected prior to final payment ("Punch List"). The Punch List does not alter Contractor's responsibility to complete the Work in accordance with the Contract Documents.
 - 17.9.3. Certificate of Substantial Completion. Upon receipt of Contractor's Punch List, City shall make an inspection to determine whether the Work or designated portion thereof is substantially complete. If City determines that the Work is not substantially complete, City shall notify Contractor of any Work to be completed in accordance with the Contract Documents before the Work or designated portion can be certified as such, and Contractor shall complete all such items. Upon determining that the Work or designated portion thereof is substantially complete, City and Contractor shall execute a Certificate of Substantial Completion.
 - 17.9.4. Commencement of Warranty. Contractor's general and special warranties shall be effective as of the date that the Work is deemed finally complete.
 - 17.9.5. Close-Out Documentation. Contractor shall assemble for City's approval within thirty (30) days of Substantial Completion all close-out documentation as required by the Contract Documents, including the required number of copies of operating, maintenance, and warranty data from all manufacturers whose equipment is installed in the Work, and Record Documents of the Work.
- 17.10. Final Completion.

- 17.10.1. The Work will be deemed finally complete when all conditions set out in the Contract Documents are satisfied and City accepts such Work. Final completion is achieved when all punchlist work is complete, all close-out documentation has been received, all final testing, equipment calibration and training have been completed, and the Contractor is entitled to Final Payment. Unless special circumstances exist that are defined at the time of Punch List creation, Contractor shall achieve Final Completion within 45 days of Substantial Completion.
- 17.10.2. Final Inspection. When Contractor considers all of the Punch List Work to be complete, Contractor shall notify City which shall inspect such Work.
- 17.10.3. Final Application for Payment. If City finds the Punch List Work complete and acceptable under the Contract Documents, City shall notify Contractor, who shall then submit its Final Application for Payment.
- 17.10.4. Payment of Retainage. City shall make payment of retainage applying to such Work or designated portion thereof after receiving all Close Out Documentation, an affidavit that bills for indebtedness connected with the Work for which City's property might be encumbered have been satisfied; a certificate to indicate that insurance required by the Contract Documents shall remain in force after final payment is in effect and will not be cancelled or expire until thirty (30) days' prior written notice is given to City and that Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents; the consent of surety to final payment; and valid waivers of all construction lien claims, bond claims, and other claims by Contractor and each subcontractor in a form acceptable to City.
- 17.10.5. Bond in Lieu of Waiver. If a subcontractor refuses to furnish a release or waiver required by City, Contractor may furnish a bond satisfactory to City to indemnify City against such lien. If such lien remains unsatisfied after payments are made, Contractor shall refund to City all money that City may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.
- 17.10.6. Delay in Final Completion. City shall make payment of the balance due for any portion of the Work fully completed and accepted if final completion is materially delayed through no fault of Contractor or by issuance of Change Orders affecting final completion. In the event that final completion is not accomplished within thirty (30) days after the date of Substantial Completion due to any fault of Contractor, City may withhold from the final payment 150 percent of the reasonable cost to complete the unfinished Work and to attain final completion. In the event Contractor fails to complete the Work necessary to attain final completion after forty-five (45) days from Substantial Completion, City may, without waiving other remedies it may have, complete the Work and deduct the actual cost thereof from the funds withheld.
- 17.10.7. Contractor's Waiver of Claims. Contractor's acceptance of final payment constitutes a waiver of claims except those previously made in writing and identified by Contractor as unsettled at the time of final Application for Payment.

18. INDEMNITY AND LIABILITY.

- 18.1. To the fullest extent permitted by Oregon law, Contractor shall indemnify, defend with legal counsel reasonably acceptable to City, and hold harmless City and its consultants and separate contractors, and their respective council members, board members, officers, representatives, agents, trustees, volunteers, and employees, in both individual and official capacities (“Indemnitees”), against all suits, claims, damages, losses, and expenses, including but not limited to attorney’s fees, caused by, arising out of, resulting from, or incidental to, the performance of the Work under this Contract by Contractor, its subcontractors, vendors, or suppliers, including, without limitation, any such suit, claim, damage, loss, or expense attributable to, without limitation, bodily injury, sickness, disease, death, alleged patent violation or copyright infringement, or to injury to or destruction of tangible property (including damage to the Work itself) including the loss of use resulting therefrom, except to the extent caused by the sole negligence, active negligence, or willful misconduct of the Indemnitees, and/or to any extent that would render these provisions void or unenforceable. This agreement and obligation of Contractor will not be construed to negate, abridge, or otherwise reduce any right or obligation of indemnity that would otherwise exist as to any party or person described herein. This indemnification, defense, and hold harmless obligation includes any failure or alleged failure by Contractor to comply with any provision of law, any failure or alleged failure to timely and properly fulfill all of its obligations under the Contract Documents in strict accordance with their terms.
- 18.2. Contractor shall fully indemnify, defend, and hold harmless City, and each person, entity, firm, or agency that owns or has any interest in adjacent property in any action arising out of any agreement between Contractor and adjacent property owners that is made for the purpose of entering upon the adjacent property to perform the Work. Contractor shall obtain City’s approval of the form and content of the agreement prior to the commencement of any Work on or about the adjacent property.
- 18.3. Severability of Indemnity Provisions. Contractor shall give prompt notice to City in the event of any injury (including death), loss, or damage included herein. Without limitation of the provisions herein, if Contractor’s agreement to indemnify, defend, and hold harmless the Indemnitees as provided herein against liability for damage arising out of bodily injury to persons or damage to property caused by or resulting from the negligence of any of the Indemnitees will to any extent be or be determined to be void or unenforceable, it is the intention of the parties that these circumstances will not otherwise affect the validity or enforceability of Contractor’s agreement to indemnify, defend, and hold harmless the rest of the Indemnitees, as provided herein, and in the case of any such suits, claims, damages, losses, or expenses caused in part by the default, negligence, or act or omission of Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, and in part by any of the Indemnitees, Contractor shall be and remain fully liable on its agreements and obligations herein to the full extent permitted by law.
- 18.4. In any and all claims against any of the Indemnitees by any employee of Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, Contractor’s indemnification obligation herein shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any subcontractor under workers’ compensation acts, disability benefit acts, or other employee benefit acts, unless it is limited by ORS 30.140.

- 18.5. Contractor's defense and indemnification obligations survive the completion of Work, including any warranty period and/or termination of this Contract.

19. SECURITY.

- 19.1. Security. Contractor shall not use or disturb City's property, materials or documents except for the purpose of responding to City's request for proposal or invitation to bid or pursuant to completion of the Work under this Contract. Contractor shall treat all documents as confidential and shall not disclose such documents without approval from City. Any unauthorized disclosure of documents or removal of City property will be deemed a substantial breach of this Contract. Contractor shall bear sole responsibility for any liability including, but not limited to, attorneys' fees, resulting from any action or suit brought against City as a result of Contractor's willful or negligent release of information, documents, or property contained in or on City property. City hereby deems all information, documents, and property contained in or on City property privileged and confidential.
- 19.2. Employee Removal. At City's request, Contractor shall immediately remove any employee from all City properties in cases where City determines in its sole discretion that removal of that employee is in City's best interests.

20. MISCELLANEOUS PROVISIONS.

- 20.1. Non-Appropriation; Adequate Funding. City shall, at Contractor's written request, prior to commencement of Work, provide Contractor with reasonable evidence that financial arrangements have been made to fulfill City's obligations under the Contract. If payment for Work under this Contract extends into City's next fiscal year, City's obligation to pay for such Work is subject to approval of future city council appropriations to fund this Contract. Continuation of this Contract at specified levels is specifically conditioned on adequate funding under City's budget adopted in June of each year. City may adjust the Work provided for in this Contract in accordance with funding levels adopted by the City Council.
- 20.2. Law and Venue. Any dispute under this Contract or related to this Contract is governed by all provisions of the Oregon Constitution and laws of Oregon governing, controlling, or affecting City, or the property, funds, operations, or powers of City, which are incorporated herein by reference. This Contract is deemed to include any provision that the law requires to be included. Any litigation arising out of this Contract shall be conducted in in the Circuit Court for Marion County, Oregon. The Contractor consents to the personal jurisdiction of this court.
- 20.3. Severability. If any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions are not affected, and the rights and obligations of the parties are construed and enforced as if this Contract did not contain the particular term or provision held to be invalid.
- 20.4. No Waiver. The failure of City in any one or more instances to insist upon strict performance of any of the terms of this Contract or to exercise any option herein conferred is not a waiver or relinquishment to any extent of the right to assert or rely upon any such terms or option on any future occasion. No action or failure to act by City, Architect/Engineer, or Construction Manager waives any right or duty afforded City under this Contract, nor does action or failure to act constitute an approval of or acquiescence in any breach, except as specifically agreed in writing.

- 20.5. Non-discrimination. Contractor shall comply with all applicable federal, state and local laws, rules and regulations regarding nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition, or disability.
- 20.6. No Third Party Beneficiaries. City and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract provides any benefit or right, directly or indirectly, to third persons unless they are individually identified by name in this Contract and expressly described as intended beneficiaries of this Contract. The Contract Documents shall not be construed to create a contractual relationship of any kind: (a) between Contractor and City's representatives or consultants, (b) between City and a subcontractor or a sub-subcontractor, (c) between City and a supplier; or (d) between any persons or entities other than City and Contractor.
- 20.7. Media Contacts. Contractor shall issue no news release, press release, or other statement to members of the news media or any other publication regarding this Contract or the Project within one (1) year of Project completion without City's prior written authorization. Contractor shall not post or publish any textual or visual representations of the Project without approval of City.
- 20.8. Successors in Interest. This Contract will bind, and inure to the benefit of, the parties, their successors, and approved assigns, if any.
- 20.8.1. Contractor shall not assign all or any part of this Contract including, without limitation, any services or money to become due under this Contract without the prior written consent of City. Assignment without City's prior written consent is null and void. Any assignment of money due or to become due under this Contract is subject to a prior lien for services rendered or material supplied for performance of Work called for under this Contract in favor of all persons, firms, or corporations rendering services or supplying material to the extent that claims are filed pursuant to Oregon law, and is also subject to deductions for liquidated damages or withholding of payments as determined by City in accordance with this Contract. Contractor shall not assign or transfer in any manner to a subcontractor or supplier the right to prosecute or maintain an action against City.
- 20.8.2. Contractor shall first notify City prior to any change in the name or legal nature of Contractor's entity. City shall determine if Contractor's intended change is permissible while performing this Contract.
- 20.9. Liquidated Damages.

20.9.1. Failure to complete the Project by the specified time will result in damages to the City. The parties to this Contract agree that establishing the exact amount of damages the City will incur will be difficult. In order to compensate the City, the parties to this Contract have estimated the amount the City would be damaged for every calendar day completion is delayed. Consequently, the Contractor agrees to pay the City the sum of [\$500] per calendar day, not as a penalty but as liquidated damages, for each day elapsed beyond the Substantial Completion date set forth in the bid document. The total liquidated damages shall be deducted from the final payment due the Contractor. The City may waive its right to claim part or all of the liquidated damages due under this provision, but such full or partial waiver shall not negate or abridge any other right of action the City may have to enforce the provisions of this Contract. Contractor will not contest such sums as being other than a reasonable measure of delay damages in the event those damages become payable under these provisions.

EXHIBIT B

PUBLIC IMPROVEMENT CONTRACT

INSURANCE REQUIREMENTS

1. INSURANCE.

Contractor shall procure, prior to commencement of Work, and maintain for the duration of this Contract, or such longer time as may be provided, all insurances required of it by law and the following:

- 1.1. Required Coverage. Without waiver of any other requirement of the Contract Documents, the Contractor will provide, pay for, and maintain in full force and effect at all times during the performance of the Work until final acceptance of the Work or for such further duration as required, the following policies of insurance issued by a responsible carrier. All of the Contractor's insurance carriers shall be rated A VII or better by A.M. Best's rating service, unless otherwise approved by the City.
 - 1.1.1. Workers Compensation. Contractor and its subcontractors, if any, are subject to Oregon Workers' Compensation Law, which requires all employers that employ subject workers who work under this Contract in the State of Oregon to comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its subcontractors, if any, complies with these requirements (ORS 279B.230(2)). Unless otherwise exempt, Contractor shall provide the City with certification of Workers' Compensation Insurance and shall maintain Employers' Liability Insurance with limits not less than \$1,000,000 for each accident, \$1,000,000 for disease each employee and \$1,000,000 each policy limit
 - 1.1.2. Employer's Liability. The Contractor shall purchase and maintain employer's liability insurance in addition to its workers' compensation coverage with at least the minimum limits in Section 1.2 below.
 - 1.1.3. Commercial General Liability. The Contractor shall purchase and maintain commercial general liability ("CGL") insurance for off-site exposures on an occurrence basis, written on ISO Form CG 00 01 (12/04 or later) or an equivalent form approved in advance by the City. CGL coverage shall include all major coverage categories including bodily injury, property damage and products/completed operations coverage. The CGL insurance will also include the following: (1) separation of insureds; (2) incidental medical malpractice; and (3) per-project aggregate for premises operations.
 - 1.1.4. Professional Liability/Errors and Omissions. To the extent that the Contractor accepts design or design/build responsibilities, the Contractor shall purchase and maintain professional liability/errors and omissions insurance or cause those Subcontractors providing design services do so.
 - 1.1.5. Automobile Liability. The Contractor shall purchase and maintain automobile liability insurance with coverage for owned, hired, and non-owned vehicles on ISO form CA 00 01 or an equivalent form approved in advance by the City. The automobile liability insurance shall include pollution liability coverage resulting from vehicle overturn and collision.

- 1.2. Limits. The insurance required by this exhibit shall be written for at least the limits of liability specified in this Section or required by law, whichever is greater.

Workers' Compensation Statutory Limits

Employer's Liability

Each Accident:	\$1,000,000
Each Bodily Injury Disease:	\$1,000,000
Aggregate Bodily Injury Disease:	\$1,000,000

Commercial General Liability

Each Occurrence:	\$1,000,000
General Aggregate:	\$2,000,000
Product/Completed Operations:	\$2,000,000
Personal & Advertising Injury:	\$1,000,000
Fire Damage Limit:	\$100,000
Medical Expense Limit:	\$5,000
<u>Automobile Liability</u>	
Combined Single Limit:	\$1,000,000

Professional Liability/Errors & Omissions

Single Limit:	\$1,000,000
Aggregate:	\$1,000,000

- 1.3. Additional Insureds. The Contractor's third-party liability insurance policies shall include the City and its officers, employees, and agents as additional insureds. The policy endorsement must extend premises operations and products/completed operations to the additional insureds. The additional insured endorsement for the CGL insurance must be written on ISO Form CG 20 10 (11/85), a CG 20 37 (07/04) together with CG 20 33 (07/04), or the equivalent; but shall not use the following forms: CG 20 10 (10/93) or CG 20 10 (03/94).
- 1.4. Joint Venture. If the Contractor is a joint venture, the joint venture shall be a named insured for the liability insurance policies.
- 1.5. Primary Coverage. The Contractor's insurance shall be primary insurance coverage and may not seek contribution from any insurance or self-insurance carried by the City or the Architect/Engineer including any property damage coverage carried by the City. Contractor's insurance shall apply separately to each insured against whom a claim is made or suit is brought. The Contractor's insurance shall not include any cross-suit exclusion or preclude an additional insured party from asserting a claim as a third party.
- 1.6. Contractor's Failure to Maintain Insurance. If the Contractor for any reason fails to maintain required insurance coverage, such failure shall be deemed a material breach of the Contract and the City, at its sole discretion, may suspend or terminate the Contract pursuant to Section 16 of the General Conditions. The City may, but has no obligation to, purchase such required insurance, and without further notice to the Contractor, the City may deduct from the Contract Total any premium costs advanced by the City for such insurance. Failure to maintain the insurance coverage required by this exhibit shall not waive the Contractor's obligations to the City.
- 1.7. Certificates of Insurance. Prior to commencement of the Work, and before bringing any equipment or construction equipment on to the project site, the Contractor shall provide Certificates of Insurance, to the City Representative, for the insurance policies required by this contract.

- 1.7.1. Additional Certificates. To the extent that the Contractor's insurance coverages are required to remain in force after final payment and are reasonably available, an additional certificate evidencing continuation of such coverage shall be submitted with the final Application for Payment. Information concerning reduction of coverage on account of revised limits or claims paid under the general aggregate, or both, shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.
- 1.7.2. Prohibition Until Certificates Received. The City shall have the right, but not the obligation, to prohibit the Contractor and its Subcontractors from entering the Project site until the required certificates (or other competent evidence that insurance has been obtained in complete compliance with this exhibit) are received and approved by the OCIP Administrator and or City.
- 1.7.3. Deductibles/Self-Insured Retentions. Payment of deductibles or self-insured retentions is a Cost of the Work within the Guaranteed Maximum Price and does not justify a Change Order. Satisfaction of all self-insured retentions or deductibles will be the sole responsibility of the Contractor.
- 1.8. Subcontractors Insurance. The Contractor shall cause each Subcontractor to purchase and maintain in full force and effect policies of insurance as specified in this exhibit, except for coverage limits, which will be agreed upon between the City and the Contractor. The Contractor will be responsible for the Subcontractors' coverage if the Subcontractors fail to purchase and maintain the required insurance. When requested by the City, the Contractor will furnish copies of certificates of insurance establishing coverage for each Subcontractor.
- 1.9. Limitations on Coverage.
 - 1.9.1. No insurance provided by the Contractor under this exhibit will be required to indemnify the City, the Architect/Engineer, or their employees or agents to the extent of liability for death or bodily injury to persons or damage to property caused in whole or in part by their own negligence, but will require indemnity to the extent of the fault of the Contractor or its agents, representatives, or Subcontractors.
 - 1.9.2. The obligations of the Contractor under this exhibit shall not extend to the liability of the Architect/Engineer or its consultants for (1) the preparation or approval of maps, Drawings, opinions, reports, surveys, Change Orders, designs, or specifications, or (2) the giving or failure to give directions or instructions, to the extent that the directions, or failure to provide directions, are the cause of the injury or damage.
 - 1.9.3. By requiring insurance, the City does not represent that coverage and limits will necessarily be adequate to protect the Contractor. Insurance in effect or procured by the Contractor will not reduce or limit the Contractor's contractual obligations to indemnify and defend the City for claims or suits that result from or are connected with the performance of the Contract.

2. **PROPERTY INSURANCE.**

- 2.1. **Builder's Risk:** (For new construction or building additions) During the term of this Contract, the Contractor shall maintain in force, at its own expense, Builder's Risk insurance on an all risk form, including earthquake and flood, for an amount equal to the full amount of the Contract. Any deductible shall not exceed \$50,000 for each loss, except the earthquake and flood deductible shall not exceed 2 percent of each loss or \$50,000, whichever is more. The policy will include as loss payees the City, the Contractor and its Subcontractors as their interests may appear.
- 2.2. **Builder's Risk Installation Floater:** (For other than new construction) The Contractor shall obtain, at the Contractor's expense, and keep in effect during the term of this Contract, a Builder's Risk Installation Floater for coverage of the Contractor's labor, materials and equipment to be used for completion of the Work performed under this Contract. The minimum amount of coverage to be carried shall be equal to the full amount of the Contract. This insurance shall include as loss payees the City, the Contractor and its Subcontractors as their interests may appear.
- 2.3. Such insurance shall be maintained until the City has occupied the facility.
- 2.4. Contractor must provide insurance for its own machinery, tools, equipment, or supplies that are not to become a part of the Project.

EXHIBIT C PREVAILING WAGE RATES (BOLI)

Silverton Senior Center Reconstruction

PREVAILING WAGES

This Public Works Project is subject to the applicable prevailing wage rates. If a contractor fails to pay for labor and services, the City can withhold these amounts from payments due the contractor.

The latest Prevailing Wages applicable to this project can found electronically at:
<https://www.oregon.gov/boli/employers/Pages/prevailing-wage-rates.aspx>.

EXHIBIT D
FORM OF WARRANTY BOND

EXHIBIT D – FORM OF BID BOND

We, Buildskape, LLC as "Principal," and Everest National Insurance Company
(Name of Principal) (Name of Surety)

an Delaware Corporation,
 authorized to transact Surety business in Oregon, as "Surety," hereby jointly and severally bind ourselves, our
 respective heirs, executors, administrators, successors and assigns to pay unto The City of Silverton ("Obligee")
 the sum of
 (\$ 10% of Bid) Ten Percent of Amount Bid dollars.


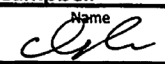

WHEREAS, the condition of the obligation of this bond is that Principal has submitted its proposal or Bid to the
 Obligee in response to Obligee's procurement document (PN24-1091) for the project
 identified as:

Title: _____
City of Silverton Senior Center Water Damage Repairs ITB which proposal or Bid is made
Reconstruction Services for Water Damage at Senior Center a part of

this bond by reference, and Principal is required to furnish Bid security in an amount equal to ten (10%) percent
 of the total amount of the Bid pursuant to ORS 279C.365(5) and the procurement document.

NOW, THEREFORE, if the proposal or Bid submitted by Principal is accepted, and if a contract pursuant to the
 proposal or Bid is awarded to Principal, and if Principal enters into and executes such contract within the time
 specified in the procurement document and executes and delivers to Obligee its good and sufficient
 performance bond and payment bond required by Obligee within the time fixed by Obligee, then this obligation
 shall be void; otherwise, it shall remain in full force and effect.


IN WITNESS WHEREOF, we have caused this instrument to be executed and sealed by our duly authorized legal
 representatives this 24th day of April 2024

PRINCIPAL: By <u>Buildskape, LLC</u>  <small>signature</small> <u>CEO</u> <small>Official Capacity</small>	BY ATTORNEY-IN-FACT: [Power-of-Attorney must accompany each surety bond] <u>Ian Campbell</u> <small>Name</small>  <small>Signature</small> <u>100 Everest Way, Warren Corporate Center</u> <small>Address</small> <u>Warren, NJ 07059</u> <small>City State Zip</small> <u>(908) 604-3000</u> <u>N/A</u> <small>Phone Fax</small>
Attest:  <u>Corporation Secretary</u> SURETY: <u>Everest National Insurance Company</u>	

{00885421; 1 }23
 City of Silverton Senior Center Water Damage Repairs ITB

EXHIBIT E
CONTRACTORS BID

**SILVERTON CITY COUNCIL STAFF REPORT
TO THE HONORABLE MAYOR AND CITY COUNCILORS**

	Agenda Item No.:	Topic:
	5.3	Authorize City Manager to Enter into Contract with R.L Reimers in the amount of \$195,765 to Replace the Head Works Bar Screen.
	Agenda Type:	
	Action	
Meeting Date:		
	May 20, 2024	
Prepared by:	Reviewed by:	Approved by:
Brad Jensen	Travis Sperle/Kathleen Zaragoza	Cory Misley

Recommendation:

Authorize City Manager enter into a contract with R.L. Reimers Company in the amount of \$195,765 to replace head works bar screen.

Background:

In January 2024, during the Ice Storm the Bar Screen froze up causing severe damage and needs to be replaced before high flows return. Staff is recommending to replace the bar screen rather than repairing it as it is to be replaced within the next few years. The project will be done in the 2024-2025 fiscal year as the equipment will take approximately 11 weeks to be delivered.

Staff will be requesting a budget amendment of \$195,765 at the Budget Committee meeting to provide the additional appropriation authority in the 2024-2025 Budget. A portion of the replacement cost will be from insurance proceeds.

Budget Impact	Fiscal Year	Funding Source
\$195,765	2024-2025	Sewer Fund

Attachments:

1. R.L Reimer Quote
2. Staff Memo
3. Contract



CITY OF SILVERTON Water Quality

400 Schemmel Lane | Silverton, Oregon 97381

May 15, 2024

Travis

On the morning of January 16th my operators found the old bar screen had tripped out in the motor control center. Upon investigation into why the screen tripped they found that the rake arm and drive system had bent and was frozen solid. We had heat trace on the system to prevent it from freezing but the amount of freezing rain and low temperatures didn't help at all. Attached are a few pictures showing the bent drive system. RL Reimers is currently on site working on the blowers and I had them take a look into fixing the bar screen. This needs to be fixed ASAP, the new screen is designed for a flow of 4 mgd and our current flows are well over 6 mgd. Without this old screen working we are letting rags and other debris through the headworks and this can cause major issues downstream in the treatment process. My recommendation is to get this screen fixed as soon as we possibly can.







CITY OF SILVERTON Water Quality

400 Schemmel Lane | Silverton, Oregon 97381

AGREEMENT

WWTP Headworks Screen

This Agreement is entered into by and between the City of Silverton, hereinafter referred to as the “City”, and R.L. Reimers Company, hereinafter called the “Contractor”, to provide the services described in the Invitation to Bid for the **WWTP Headworks Screen, SILVERTON, OREGON**, which by this reference is hereby made part of this Agreement. Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

The project includes installation of a Mechanical Bar Screen system at the Silverton Wastewater Treatment Plant in the channel upstream of the UV disinfection system.

5.1 CONTRACT TIMES:

The Work will be substantially completed on or before **February 15, 2025**, and completed and ready for final payment on or before **March 1, 2025**.

The anticipated issuance date of the Notice to Proceed is the 8thth of July, 2024.

5.2 LIQUIDATED DAMAGES

Contractor and Owner recognize that time is of the essence and that the Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the times specified in 5.1 above, plus any extensions thereof allowed in accordance with the Contract. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):

- **Substantial Completion:** Contractor shall pay Owner \$100 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 5.1 above for Substantial Completion until the Work is substantially complete.
- **Completion of Remaining Work:** After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$200 for each day that expires after such time until the Work is completed and ready for final payment.

Liquidated damages for failing to timely attain Substantial Completion and final completion are not cumulative and will not be imposed concurrently.

5.3 COMPENSATION:

The City agrees to compensate the Contractor on a fee-for-services basis as outlined in these Documents. This agreement covers the period listed above. Work shall be performed in accordance with an approved schedule provided to the City by the Contractor as part of this document. Invoices submitted for payment in connection with this agreement shall be properly documented and shall indicate pertinent City contract and/or purchase order numbers. All invoices shall be consistent with the bid amount accepted by the City and shall reflect any savings or reductions provided for in the bid amount. The City will retain **5%** from progress payments. The retainage will be released with the final payment after the project has been accepted as complete by the City. The compensation authorized under this contract is found under subsection 5.11 Contract Price.

The Contractor is engaged hereby as an independent contractor and will be so deemed for purposes of the following:

1. The Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this agreement.
2. This contract is not intended to entitle the Contractor to any benefits generally granted to City employees. Without limitation but by way of illustration, the benefits which are not intended to be extended by this contract to the Contractor are vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits (except insofar as benefits are otherwise required by law if the Contractor is presently a member of the Public Employees Retirement System).
3. The Contractor is a sole proprietor or a partner or is an insured employer for purposes of the Oregon Workers' Compensation law (ORS Chapter 656) and is solely liable for any Workers' Compensation coverage under this contract. If the Contractor has the assistance of other persons in the performance of this contract, the Contractor shall qualify and remain qualified for the term of this contract as an insured employer under ORS 656.017 and ORS 656.407.

The Contractor, if an individual, certifies that he or she is not a program, City, or Federal employee. The Contractor, if an individual, certifies that he or she is not a member of the Public Employees Retirement System.

5.4 SERVICES TO BE PROVIDED:

The Contractor shall provide all materials and services required for the Project; as set forth in the Contract Documents, and the documents it references.

5.5 CONTRACTOR OBLIGATIONS

This contract is expressly subject to all applicable State contracting laws and further, is expressly subject to the constitutional and charter debt limitation, and incorporates by reference all provisions required by applicable ORS 279A and ORS 279C and Oregon Administrative Rule Divisions 47 and 49 (i.e., OAR 137-049-0200(c)(A) through and including OAR 137-049-0200(c)(V) (2006). The contract is contingent upon funds being appropriated therefore.

1. The Contractor shall comply fully with all statutory requirements for payment of prevailing wage rates on public works projects. The hourly rate of wage to be paid workers on this project shall not be less than the prevailing wage for an hour's work in the same trade or occupation in the locality of the project. This requirement shall apply to all workers employed on the project by the prime contractor, subcontractors, or other persons doing, or contracting to do the whole or any part of the work required for the project. The existing prevailing rates of wages as established by the Commissioner of the Bureau of Labor and Industries pursuant to ORS 279.359 are hereby incorporated into these Specifications. A reference to the Prevailing Wage Rates is attached to this Contract in **Section 8**. When a contractor or subcontractor is a party to a statewide collective bargaining agreement in effect with any labor organization, the rate of wages provided for in such agreement shall be considered to be the prevailing rate of wage to be paid to the workers on this project.
2. The Contractor shall indemnify, save harmless and defend the City, its officers, councilors, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to person or property caused by the errors, omissions, fault or negligence of the Contractor or the Contractor's employees and agents.
3. Contractor shall comply with all applicable federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor shall maintain valid all required licenses and certificates required by law.
4. If the Contractor fails to pay for labor and services, the City can pay for them and withhold those amounts from payment to the Contractor. ORS 279C.515; OAR 839-025-0020(2)(a)

5. The Contractor must pay daily, weekly and holiday overtime as required. ORS 279C.520; OAR839-025-0020(2)(b)
6. The Contractor must make prompt payment for all medical services for which the Contractor has agreed to pay, and for all amounts for which the Contractor collects or deducts from workers wages. ORS 279C.530; OAR 839-025-0020(2)(d)
7. The Contractor must submit a Public Work Contract Fee form (WH-39) and pay a prevailing wage rate fee to BOLI. ORS 279C-830 (2); OAR 839-025-0020(2)(e)
8. The Contractor must pay the workers not less than the applicable state or federal prevailing wage rate, whichever is higher. ORS 279C3830 (1)(c); OAR 839-025- 0020(3)
9. The Contractor must have a public works bond filed with the Construction Contractors Board before commencement of any work on the project. ORS 279C.830(3)(a)
10. The Contractor shall include in every subcontract a provision requiring the Subcontractor to have a public works bond filed with the Construction Contractors Board before commencing any work on the project. ORS 279C.830(3)(b).

Contractor warrants all installed materials or systems to be free from design, material or construction defects and the systems shall perform to the City's satisfaction for two years from the date the City accepts the work. Contractor warrants that the renovation work shall be performed consistent with professional standards found to be prevalent in the State of Oregon.

5.6 INSURANCE COVERAGES:

Required Insurance Coverages are found in Section 00170.70 of the General Conditions.

5.7 SUBCONTRACTS:

The Contractor shall be responsible to the City for the actions of persons and firms performing subcontract work.

5.8 TERMINATION OF CONTRACT:

The City may terminate the whole or any part of this contract in any one of the following circumstances.

1. The City may terminate this Agreement if sufficient funds are not appropriated for the completion of this project.
2. If the Contractor fails to make delivery of the supplies or to perform the services within the time specified (to be determined) herein or any extension thereof; or
3. If the Contractor fails to perform any of the other provisions of this contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms, and in either of these two circumstances does not cure such failures within a period of ten (10) days (or such longer period as the City may authorize in writing) after receipt of notice from the City specifying such failure.
4. In the event the City terminates this contract in whole, or in part, the City may procure, upon such terms and in such manner as the City may deem appropriate, supplies or services similar to those terminated, and the Contractor shall be liable to the City for any excess costs for such similar supplies or services; provided, that the Contractor shall continue the performance of this contract to the extent not terminated under the provisions of this clause.
5. Except with respect to defaults of subcontractors, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the Contractor(s). Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the City in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather; but, in every case, the failure to perform must be beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for excess costs for failure to perform, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery schedule.
6. The rights and remedies of the City provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.
7. As used in paragraph (5) of this clause, the terms "subcontractor" and "subcontractors" mean subcontractor(s) at any tier.

5.9 PERFORMANCE AND PAYMENT BOND

The Contractor will be required to file with the City Performance and Labor and Material Payment bonds in the full amount of the contract price at the time of execution of the contract. The surety company furnishing this bond shall have a sound financial standing and a record of service satisfactory to the City and shall be authorized to do business in the State of Oregon. The Attorney-in-Fact (Resident Agent) who executes this performance and payment bond in behalf of the surety company must attach a copy of his power-of-attorney as evidence of his authority. A notary shall acknowledge the power as of the date of the execution of the surety bond, which it covers. The forms for the Performance and Labor and Material Payment bonds are in the bid documents.

5.10 WARRANTY BOND

At the completion of the project and prior to received final acceptance by the City, the Contractor shall provide the City with a Warranty Bond in the amount of 15% of the contract amount, which covers any defects in either materials or workmanship, for a period of two years from the date of acceptance. AIA forms will be used for the Warranty Bond.

5.11 CONTRACT PRICE:

Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:

<u>ITEM</u>	<u>QNTY</u>	<u>UNIT</u>	<u>UNIT PRICE</u>	<u>TOTAL PRICE</u>
1. Purchase and Install New UV Mechanical Bar Screen	1	LS	<u>\$189,765.00</u>	<u>\$189,765.00</u>
2. Install New Controller and Transducer for UV Screen	1	LS	<u>\$5,000.00</u>	<u>\$ 5,000.00</u>
3. Commissioning and Startup	1	LS	<u>\$ 1,000.00</u>	<u>\$ 1,000.00</u>
BID TOTAL				<u><u>\$195,765.00</u></u>

5.12 PAYMENT PROCEDURES:

Payment procedures are defined in section 00195 of the Supplemental Conditions.

5.13 INTEREST:

All amounts not paid when due shall be subject to terms listed on invoice.

5.14 TERMINATIONS AND AMENDMENTS:

This contract and any amendments thereto will not be effective until approved in writing by the City of Silverton.

This contract supersedes and cancels any prior contracts between the parties hereto for similar services.

In the event of litigation arising out of or relating to this Agreement, the prevailing party in such suit or action shall be entitled to recover its reasonable attorney fees as may be awarded by the court in which such suit or action is tried, heard or decided, and on any appeal therefrom.

5.15 SIGNATURES:

By their signatures below, the parties to this contract agree to the terms, conditions, and content expressed herein.

CONTRACTOR

CITY OF SILVERTON

Authorized Signature Date

Cory Misley City Manager

Printed Name and Title

Date

Telephone/Fax Number


93-0677013

Federal Tax I.D. Number

60891

CCB Number

**SILVERTON CITY COUNCIL STAFF REPORT
TO THE HONORABLE MAYOR AND CITY COUNCILORS**

	Agenda Item No.:	Topic:
	5.4	Revised Silverton Employee Handbook
	Agenda Type:	
	Action Item	
	Meeting Date:	
May 20, 2024		
Prepared by:	Reviewed by:	Approved by:
Tammy Shaver	Cory Misley	Cory Misley

Recommendation: Adoption of the administrative and legal revisions to the Employee Handbook.

Background:

On December 5, 2016, Council adopted a City of Silverton Employee Handbook, this was substantially revised from the original document titled Personnel Policies. The Employee Handbook has continued its evolution in the years since, based on the ever-changing workforce, legislative, legal, and best practice changes.

The attached Handbook updates include legal recommendations from CityCounty Insurance Services (CIS) as well as staff recommendations. CIS recommended revisions, in response to legislation, are:

- a revised No-Discrimination, No-Retaliation and No-Harassment Policy
- a revised No-Harassment policy based including required language from the Crown Act
- a new policy based on Paid Leave Oregon
- modifications to sick leave based on Oregon’s Sick Leave Law and Oregon’s Domestic Violence leave Law
- update to Pregnancy Accommodation based on the Pregnant Workers Fairness Act
- addition of longevity pay
- updated OFLA verbiage adding “affinity”
- a new policy prohibiting secret recordings
- overall modernization of language

Staff is proposing clarifications in the above referenced sections including recruitment, vacation leave, sick leave, and bereavement leave. Bargaining units and management will be provided with copies and given the opportunity to provide feedback.

Additionally, CIS has recommended all elected officials receive the instruction and reminder that their positions are covered by the Handbook and its Equal Employment Opportunity policies, including this updated No-Harassment Policy. Staff is available for questions on this and any other updated policies to ensure that all representatives of the City understand the responsibilities of the City in responding to any complaints of unlawful harassment and the provisions against retaliation. When reviewing the handbook, please pay particular attention to the Equal Opportunity Policies in pages 8-14. Elected officials, along with staff and volunteers, will

**SILVERTON CITY COUNCIL STAFF REPORT
TO THE HONORABLE MAYOR AND CITY COUNCILORS**

receive a copy of the Handbook’s Acknowledgement Form to sign in advance of the Handbook’s effective date.

Budget Impact	Fiscal Year	Funding Source
None	2023-2024	N/A

Attachments:

1. Summary Chart – changes and page numbers
2. Proposed Employee Handbook

Attachment 1 to Agenda Item No. 5.4

<i>Handbook Section:</i>	<i>Part</i>	<i>Proposed Changes to be effective July 1, 2024 If not noted here, no substantial changes were made (grammar, spelling and modernization may have occurred)</i>
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Welcome	n/a	No changes
Section I – Equal Opportunity Employment (EEO) Policies	A	<ul style="list-style-type: none"> • A revised No-Discrimination, No-Retaliation Policy: adds “race” is defined to include all physical characteristics that are historically associated with race, including but not limited to natural hair, hair texture, hair type and protective hair styles. Defines protective hairstyles. (p. 8)
	C	<ul style="list-style-type: none"> • A revised No-Harassment Policy that includes the language required under the Crown Act (p. 9)
	F	<ul style="list-style-type: none"> • Update to Pregnancy Accommodations, includes reference to Pregnant Workers Fairness Act (PWFA). EEOC issued final regulation April 15, 2024. Effective Date: June 18, 2024. (p. 12)
	G	<ul style="list-style-type: none"> • Added verbiage: “A violation of law, regulation, or standard pertaining to safety and health in the place of employment” (p. 13)
Section II - Employment Status	A	<ul style="list-style-type: none"> • Added, Probationary Period of Employment (p. 16)
	F	<ul style="list-style-type: none"> • Updated to include No Discrimination, No Retaliation (p. 20)
	L	<ul style="list-style-type: none"> • Added Longevity Pay (p. 22)
Section III – Time Off and Leaves of Absence	B	<ul style="list-style-type: none"> • Clarification of vacation accrual cap and updated procedure for scheduling vacation, executive and/or comp leave. (p. 25)
	D	<ul style="list-style-type: none"> • Updated Eligibility and Accrual of Sick Leave to reflect after 80 contiguous hours of unpaid leave, sick leave does not accrue (Paid Leave Oregon is deemed unpaid leave by the City). • Updated Use of Sick Leave to include “affinity” per SB 999 (p. 27)
	E	<ul style="list-style-type: none"> • Updated OFLA definitions to include affinity per SB 999 (p. 29) • Updated One-Year Calculation Period to explain the “forward-looking” method used to calculate. (p. 31) • Updated Holiday Pay While on Leave to include verbiage that “Paid Leave Oregon is deemed unpaid leave by the City). (p. 33)
	F	<ul style="list-style-type: none"> • Added Section F Paid Leave Oregon (PLO)
	N	<ul style="list-style-type: none"> • Included PLO reference. (p. 38)
	O	<ul style="list-style-type: none"> • Included PLO reference. (p. 38)
Section V – Workplace Expectations, Conduct, and Discipline	A	<ul style="list-style-type: none"> • Added Performance Reviews (p. 43-44)
	C	<ul style="list-style-type: none"> • Improper Employee Conduct. Added to #1 and #2 including more clarification to drug and alcohol use. (p.47) • Added #8 and #11 (p. 47-48)
Section VI – Miscellaneous Policies	B	<ul style="list-style-type: none"> • Added Employee- and City-Owned Communications Devices and Public Record. (p. 50)
	I	<ul style="list-style-type: none"> • Added Prohibition on Secret Recordings (p. 57)

City of Silverton Employee Handbook



Adopted June 1, 2020

Effective July 1, 2020

Revised May 2024

Welcome!

Welcome to the City of Silverton; we're glad to have you on our team. At the City, we believe that our employees are our most valuable asset. In fact, we attribute our success as an organization in significant part to our ability to recruit, hire, and maintain a motivated and productive workforce. We hope that during your employment with the City, you will become a productive and successful member of the City's team.

Commitment to the Public

The City is committed to quality public service based on high ethical and professional standards. Courtesy, honesty, equity, and patience are characteristics that we strive for in our partnership with the citizens and elected officials in maintaining and improving the quality of life in Silverton. We also strive for open and honest communication with people in our community. Our business is public service and we're proud of the service we provide.

Commitment to Teamwork

We work as a team emphasizing:

- **Communication** both within our organization and with the public we serve. Friendly, service-oriented employees are vital to our success.
- **Fiscal Responsibility** when using resources that we are entrusted to manage.
- **Cooperation** and respect for co-workers by showing regard for their time, responsibilities, efforts, and feelings.
- **Collaboration**. We value the contribution and active participation of all team members' skills, diverse backgrounds, and aspirations.
- **Recognition**. We believe in celebrating our achievements and those of others that support the goals of the community.

We encourage you to ask questions if there are policies or procedures you don't understand. If you have any questions about any of the information contained in this Handbook, please contact your Supervisor, Department Head, or the Human Resources representative.

We sincerely hope you will enjoy your employment with the City of Silverton.

Sincerely,

Cory Misley

City Manager
City of Silverton

This Handbook:

This employee handbook describes, in summary, the personnel policies and procedures that govern the employment relationship between the City and its employees, other than those found in applicable collective bargaining agreements. These policies and procedures apply to all employees of the City of Silverton, and to elected officials and volunteers except where noted in this Handbook.

The policies stated in this handbook are subject to change at any time at the sole discretion of the City with or without prior notice. This handbook supersedes any prior handbooks or written policies of the organization that are inconsistent with its provisions. It does not, however, substitute for collective bargaining agreement provisions or other employment agreements. To the extent that a provision in a valid collective bargaining agreement or employment agreement contradicts or is inconsistent with what is in this Employee Handbook, the collective bargaining agreement or other employment agreement provision controls.

This handbook does not create a contract of employment between the City and its employees. With the exception of employees who are subject to a collective bargaining agreement, all employment at the City is "at will." That means that either you or the City may terminate this relationship at any time, for any reason, with or without cause or notice (unless you are subject to a collective bargaining agreement or written contract of employment). No supervisor, manager, or representative of the City other than the City Manager has the authority to enter into any agreement with you regarding the terms of your employment that changes our at-will relationship or deviates from the provisions in this handbook, unless the change or deviation is put in writing and signed by the City Manager.

The City of Silverton operates under the Council-Manager form of government as created by the City Charter. The Council sets policy and the Manager is charged with implementing the policies adopted by the Council. The City Manager is responsible for personnel administration, including adoption of this Handbook, and may delegate this responsibility to another City employee.

The City reserves the right to change, add to, or delete sections of the Handbook at any time. Amendments to the Handbook are handled administratively. The addition of policies, or changes which alter the major meaning of existing policies, will be handled by Council Resolution.

Department Heads are responsible for ensuring the policies are communicated to and understood by employees. Each Department Head can assist in keeping this Handbook up to date by notifying Human Resource when improvements may be needed.

You may receive updated information concerning changes in policy from time to time, and those updates should be kept with your copy of the handbook. If you have any questions about any of the provisions in the handbook, or any policies that are issued after the handbook, please ask your supervisor or the Human Resources Representative.

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I. Equal Employment Opportunity (EEO) Policies

The following EEO Policies apply to all employees, elected officials, and all members of City Committees and Commissions, as well as City volunteers. All are expected to adhere to and enforce the following EEO Policies. Any employee's failure to do so may result in discipline, up to and including termination.

All employees are encouraged to discuss these EEO Policies with the Human Resources Representative or their Supervisor at any time if they have questions relating to the issues of harassment, discrimination, or bullying, or what it means to work in a respectful workplace.

A. No-Discrimination, No-Retaliation Policy

The City provides equal employment opportunity to all qualified employees and applicants without unlawful regard to race, color, religion, sex, gender identity, pregnancy (including childbirth and related medical conditions), sexual orientation, national origin, age, disability, genetic information, veteran status, domestic violence victim status or any other status protected by applicable federal, Oregon, or local law. The City also recognizes an employee's right to engage in protected activity under Oregon and federal law, as discussed in various policies below, and will not retaliate against an employee for engaging in protected activity.

For purposes of this and all other City policies, "race" is defined to include physical characteristics that are historically associated with race, including but not limited to natural hair, hair texture, hair type and protective hair styles. Further, "protective hairstyles" is defined as "hairstyle, hair color or manner of wearing hair, including braids (regardless of whether the braids are created with extensions or styled with adornments, locs and twists)".

The City's commitment to equal opportunity applies to all aspects of the employment relationship — including but not limited to, recruitment, hiring, compensation, promotion, demotion, transfer, disciplinary action, layoff, recall, and termination of employment.

B. Statement Regarding Pay Equity

The City supports Oregon's Pay Equity Law and federal and Oregon laws prohibiting discrimination between employees on the basis of a protected class (as defined by Oregon law) in the payment of wages or other compensation for work of comparable character. Employees who believe they are receiving wages or other compensation at a rate less than that at which the City pays wages or other compensation to other employees for work of comparable character are encouraged to discuss the issue with their Supervisor or the Human Resources Representative.

C. No-Harassment Policy

The City prohibits harassment of any kind in the workplace, or harassment or sexual assault outside of the workplace that violates its employees', volunteers, and interns' right to work in a harassment-free workplace. Specifically, the City prohibits harassment or conduct related to an individual's race, color, religion, sex, pregnancy, gender identity, sexual orientation, national origin, age, disability, genetic information, veteran status, domestic violence victim status, or any other protected status or activity recognized under Oregon, federal or local law.

Each member of management is responsible for creating an atmosphere free of discrimination, harassment, and bullying. Further, all employees are responsible for respecting the rights of other employees and to refrain from engaging in conduct prohibited by this policy, regardless of the circumstances, and regardless of whether others participate in the conduct or did not appear to be offended. All employees are encouraged to discuss this policy with their immediate supervisor, any member of the management team, or the Human Resources representative at any time if they have

questions relating to the issues of discrimination, harassment, or bullying.

This policy applies to and prohibits sexual or other forms of harassment that occur during working hours, during City-related or –sponsored trips (such as conferences or work-related travel), and during off-hours when that off-duty conduct creates an unlawful hostile work environment for any of the City’s employees.

Such harassment is prohibited whether committed by City employees or by non- employees, such as elected officials, members of the community, volunteers, interns, and vendors.

Sexual Harassment

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature (regardless of whether such conduct is “welcome”), when:

1. Submission to such conduct is made either implicitly or explicitly a term or condition of employment;
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive work environment.

Some examples of conduct that could give rise to sexual harassment are unwanted sexual advances; demands for sexual favors in exchange for favorable treatment or continued employment; sexual jokes; flirtations; advances or propositions; verbal abuse of a sexual nature; comments about an individual’s body, sexual prowess, or deficiency; talking about your sex life or asking others questions about theirs; leering or whistling; unwelcome touching or assault; sexually suggestive, insulting, or obscene comments or gestures; displays of sexually suggestive objects or pictures; making derogatory remarks about individuals who are gay, lesbian, bisexual or transgender; or discriminatory treatment based on sex.

This is not a complete list.

Other Forms of Prohibited Harassment

City policy also prohibits harassment against an individual based on the individual’s race, color, religion, sex, pregnancy, gender identity, national origin, age, sexual orientation, marital status, disability, protected activity, and any other status protected by applicable law.

Such harassment may include verbal, written or physical conduct that denigrates or shows hostility towards an individual because of that individual’s protected class or protected activity, and can include:

- Jokes, pictures (including drawings), epithets, or slurs;
- Negative stereotyping;
- Displaying racist symbols anywhere on City property;
- “Teasing” or mimicking the characteristics of someone with a physical or mental disability;
- Criticizing or making fun of another person’s religious beliefs, or “pushing” your religious beliefs on someone who doesn’t have them;
- Threatening, intimidating, or hostile acts that relate to a protected class or protected activity; or
- Written or graphic material that denigrates or shows hostility or aversion toward an individual or group because of the protected status.
- Negative comments or teasing a person about their natural hair, hair texture, hair type or hair style (see definition of “race” on page 8). Employees may not touch another employee’s hair without permission to do so, even if the touch is extended out of curiosity or as a compliment.

This is not a complete list. All employees are expected to exercise common sense and refrain from other similar kinds of conduct.

Complaint Procedure

Employees, volunteers, or interns who have experienced a sexual assault or any harassment, discrimination, who have witnessed such behavior, or who have credible information about such behavior occurring, are expected and should bring the matter to the attention of the Human Resources Representative or the City Manager as soon as possible. Employees may report a concern to any Supervisor or member of management as well. Employees are strongly encouraged to document the information or incident in any written or electronic form, or with a voice mail message (or phone call). An employee who experiences or witnesses harassment is encouraged, but not required, to tell the harasser that the behavior is offensive and unwanted, and that he/she wants it to stop.

Investigation and Confidentiality

All complaints and reports will be promptly and impartially investigated and will be kept confidential to the extent possible under state law and consistent with the City's need to investigate the complaint and address the situation. If conduct in violation of this policy is found to have occurred, the City will take prompt, appropriate corrective action, and any employee found to have violated this policy will be subject to disciplinary action, up to and including termination of employment.

Employees who have been subjected to harassment, sexual assault, or discrimination are encouraged to use the City's complaint-reporting procedure, described above, to ensure a timely, thorough investigation and handling of the situation. Employees may, however, seek redress from the Oregon Bureau of Labor and Industries (BOLI) pursuant to ORS 659A.820 to 659A.865, or in a court under any other available law, whether criminal or civil. Although the City cannot provide employees with legal advice, employees should be aware of the statute of limitations applicable to harassment or discrimination claims under ORS 659A.030, 659A.082 or 659A.121 (five years). Further, before an employee can take any legal action against the City, the employee must provide written notice of the claim within 180 days of the act or omission the employee claims has caused him/her harm. When an employee can prove harm as a result of unlawful harassment or discrimination in an administrative proceeding or in a court, remedies available to the employee include enforcement of a right, imposition of a penalty, or issuance of an order to the employee's employer (in limited circumstances).

Protection Against Retaliation

The City prohibits retaliation in any way against an employee because the employee has made a good-faith complaint pursuant to this policy or the law, has reported (in good faith) sexual assault, harassing, discriminatory, or has participated in an investigation of such conduct.

Employees who believe they have been retaliated against in violation of this policy should immediately report it to the Human Resources Representative or City Manager, or any Supervisor or member of management. Any employee who is found to have retaliated against another employee in violation of this policy will be subject to disciplinary action up to and including termination of employment. *See also* the No-Discrimination, No-Retaliation Policy, above, and the Reporting Improper and Unlawful Activity Policy, below.

Other Resources Available to Employees

The City provides an Employee Assistance Program (EAP) to employees and dependents who are enrolled in the City's medical coverage. EAP programs provide access to free and confidential help 24 hours a day, seven days a week. Information regarding this service and current contacts can be obtained by contacting the Human Resources representative or consulting on the bulletin boards at each work location and benefits information on the shared internet drive.

The City cannot provide legal resources to its employees or referrals to specific attorneys. Employees may contact the Oregon State Bar for more information: <https://www.osbar.org/public/>.

Other Employee Rights

Nothing in this policy is intended to diminish or discourage an employee who has experienced workplace harassment or discrimination, or sexual assault, from talking about or disclosing his/her experience.

The City is committed to creating and maintaining a workplace free of sexual assault, harassment, discrimination, and retaliation and it has confidence in the process it has developed for addressing good-faith complaints. However, Oregon law requires the City to inform employees that if they have been aggrieved by workplace harassment, discrimination or sexual assault and want to enter into an agreement with the City regarding his/her experience and/or employment status, the employee should contact the Human Resources representative or the City Manager. The employee's request to enter into such an agreement must be in writing (email is acceptable). Requests of this nature will be considered on a case-by-case basis; such agreements are not appropriate for every situation. If the City and employee do reach an agreement, the City will not require an employee to enter into a nondisclosure agreement (which would prohibit the employee from discussing or communicating about his/her experiences in the workplace or the terms of the agreement) or a non-disparagement agreement (which would prohibit the employee from speaking slightly about the City or making comments that would lower the City in rank or reputation). If, however, the employee makes a request for an agreement under this paragraph, nondisclosure and non-disparagement are terms that the City and the employee may agree to. The employee will have seven days to revoke the agreement after signing it.

D. No Bullying Policy

The City strives to promote a positive, professional work environment free of physical or verbal harassment, "bullying," or discriminatory conduct of any kind. The City, therefore, prohibits employees from bullying one another or engaging in any conduct that is disrespectful, insubordinate, or that creates a hostile work environment for another employee for any reason. For purposes of this policy, "bullying" refers to repeated, unreasonable actions of individuals (or a group) directed towards an individual or a group of employees, which is intended to intimidate and that creates a risk to the health and safety of the employee(s). Examples of bullying include:

1. Verbal Bullying: Slandering, ridiculing, or maligning a person or his/her family; persistent name calling that is hurtful, insulting, or humiliating; using a person as butt of jokes; abusive and offensive remarks.
2. Physical Bullying: Pushing; shoving; kicking; poking; tripping; assault, or threat of physical assault; damage to a person's work area or property.
3. Gesture Bullying: Non-verbal threatening gestures, glances that can convey threatening messages.
4. Exclusion Bullying: Socially or physically excluding or disregarding a person in work-related activities. In some cases, failing to be cooperative and working well with co-workers may be viewed as bullying.
5. Cyber Bullying: Bullying that takes place using electronic technology, which includes devices and equipment such as cell phones, computers, and tablets as well as communication tools including social media sites, text messages, chat, and websites. Examples of cyberbullying include transmitting or showing mean-spirited text messages, emails, embarrassing pictures, videos or

graphics, rumors sent by email or posted on social networking sites, or creating fake profiles on websites for co-workers, managers or supervisors or elected officials.

This is not a complete list.

Employees who have experienced bullying in violation of this policy, who has witnessed an incident of bullying, or who have credible information about an incident, are expected and should bring the matter to the attention of their supervisor or a member of management as soon as possible. If conduct in violation of this policy is found to have occurred, the City will take prompt, appropriate action, and any employee found to have violated this policy will be subject to disciplinary action, up to and including termination of employment.

E. Disability Accommodation Policy

The City is committed to complying fully with the Americans with Disabilities Act (ADA) and Oregon's disability accommodation and anti-discrimination laws. The City is also committed to ensuring equal opportunity in employment for qualified persons with disabilities.

Accommodations

The City will make reasonable efforts to accommodate a qualified applicant or employee with a known disability, unless such accommodation creates an undue hardship on the operations of the City.

Requesting an Accommodation

A reasonable accommodation is any change or adjustment to a job or work environment that does not cause an undue hardship on the department or unit (or, in some cases, City) and that permits a qualified applicant or employee with a disability to participate in the job application process, to perform the essential functions of a job, or to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities. For example, a reasonable accommodation may include providing or modifying equipment or devices, job restructuring, allowing part-time or modified work schedules, reassigning an individual, adjusting or modifying examinations or training materials, providing readers and interpreters, or making the workplace readily accessible to and usable by people with disabilities.

Employees should request accommodation as soon as it becomes apparent that reasonable accommodation may be necessary to enable the employee to perform the essential duties of a position. All requests for accommodation should be made to the Human Resources representative or a Supervisor and should specify which essential functions of the employee's job cannot be performed without reasonable accommodation. In most cases, an employee will need to secure medical verification of his or her need for reasonable accommodation.

F. Pregnancy Accommodation Policy

The City is committed to fully complying with the Pregnant Workers Fairness Act (PWFA), the Oregon Pregnancy Disability Act and anti-discrimination laws.

Employees who are concerned that their pregnancy, childbirth, or a related medical condition (including lactation) will impact their ability to work should contact the Human Resources representative to discuss their options for continuing to work and, if necessary, leave of absence options. The City will provide one or more reasonable accommodations pursuant to this policy for employees with known limitations unless such accommodations impose an undue hardship on the City's operations.

Although this policy refers to "employees," the City will apply this policy equally to an applicant with known limitations caused by pregnancy, childbirth, or a related medical condition.

Requesting a Pregnancy-Related Accommodation

Employees who are concerned that their pregnancy, childbirth, or a related medical condition will limit their ability to perform their duties should request an accommodation as soon as it becomes apparent that a reasonable accommodation may be necessary to enable the employee to work. All requests for accommodation should be made with the Human Resources representative and should specify which essential functions of the employee's job cannot be performed without reasonable accommodation. In most cases, information from the employee's doctor may be needed to assist the City and the employee in finding an effective accommodation, or to verify the employee's need for an accommodation. Both the City and employee must monitor the employee's accommodation situation and adjust as needed.

No Discrimination, No Retaliation

The City prohibits retaliation or discrimination against any employee who, under this policy: (1) asked for information about or requested accommodations; (2) used accommodations provided by the City; or (3) needed accommodation.

Employees who ask about, request, or use accommodations under this policy and applicable Oregon law have the right to refuse an accommodation that is unnecessary for the employee to perform the essential functions of the job or when the employee doesn't have a known limitation. Under Oregon law, an employer can't require an employee to use sick leave, OFLA, or FMLA if reasonable accommodation can be made that doesn't impose an undue hardship on the operations of the City. Also, no employee will be denied employment opportunities if the denial is based on the need of the City to make reasonable accommodations under this policy.

Leave of Absence Options for Pregnant Employees

Employees who are pregnant or experiencing pregnancy-related medical conditions should also be aware of their leave of absence options under Oregon's sick leave law, OFLA, FMLA, and Paid Leave Oregon. See Section III Time Off and Leaves of Absence, Section E. Family Medical Leave on page 28 or speak with the Human Resources representative.

G. Reporting Improper or Unlawful Conduct — No Retaliation

Employees may report reasonable concerns about the City's compliance with any law, regulation, or policy, using one of the methods identified in this policy. The City will not retaliate against employees who disclose information that the employee reasonably believes is evidence of:

- A violation of any federal, Oregon, or local law, rules or regulations by the City;
- A violation of law, regulation, or standard pertaining to safety and health in the place of employment;
- Mismanagement, gross waste of funds, abuse of authority;
- A substantial and specific danger to public health and safety resulting from actions of the City ; or
- The fact that a recipient of government services is subject to a felony or misdemeanor arrest warrant.

Further, in accordance with Oregon law, the City will not prohibit an employee from discussing the activities of a public body or a person authorized to act on behalf of a public body with a member of the Legislative Assembly, legislative committee staff acting under the direction of a member of the Legislative Assembly, any member of the elected governing body of a political subdivision, or an elected auditor of a city, county or metropolitan service district.

Employee Reporting Options

In addition to the City's Open Door Policy, an employee who wishes to report improper or unlawful conduct should first talk to their supervisor. If you are not comfortable speaking with your supervisor, or you are not satisfied with your supervisor's response, you are encouraged to speak with a Department Head or the City Manager. Supervisors and Department Heads are required to inform the City Manager about reports of improper or unlawful conduct they receive from employees.

Reports of unlawful or improper conduct will be kept confidential to the extent allowed by law and consistent with the need to conduct an impartial and efficient investigation.

If the City were to prohibit, discipline, or threaten to discipline an employee for engaging in an activity described above, the employee may file a complaint with the Oregon Bureau of Labor and Industries or bring a civil action in court to secure all remedies provided for under Oregon law.

Additional Protection for Reporting Employees

Oregon law provides that, in some circumstances, an employee who discloses a good faith and objectively reasonable belief of the City's violation of law will have an "affirmative defense" to any civil or criminal charges related to the disclosure. For this defense to apply, the employee's disclosure must relate to the conduct of his/her coworker or supervisor acting within the course and scope of his or her employment. The disclosure must have been made to: (1) a state or federal regulatory agency; (2) a law enforcement agency; (3) a manager with the City; or (4) an Oregon-licensed attorney who represents the employee making the report/disclosure. The defense also only applies in situations where the information disclosed was lawfully accessed by the reporting employee.

Policy Against Retaliation

The City will not retaliate against employees who make reports or disclosures of information of the type described above when the employee reasonably believes he or she is disclosing information about conduct that is improper or unlawful, and who lawfully accessed information related to the violation (including information that is exempt from disclosure as provided in Oregon law or by City policy).

In addition, the City prohibits retaliation against an employee because he or she participates in good faith in any investigation or proceeding resulting from a report made pursuant to this policy. Further, no City employee will be adversely affected because they refused to carry out a directive that constitutes fraud or is a violation of local, Oregon, federal or other applicable laws and regulations. The City may take disciplinary action (up to and including termination of employment) against an employee who has engaged in retaliatory conduct in violation of this policy.

This policy is not intended to protect an employee from the consequences of his or her own misconduct or inadequate performance simply by reporting the misconduct or inadequate performance. Furthermore, an employee is not entitled to protections under this policy if the City determines that the report was known to be false, or information was disclosed with reckless disregard for its truth or falsity. If such a determination is made, an employee may be subject to discipline up to and including termination of employment.

II. Employment Status

A. Recruitment and Selection

The City of Silverton complies with all applicable state and federal laws concerning hiring practices and procedures. It is City policy to select the most qualified person for each available position. Upon Department Head recommendation, the City will consider conducting an internal recruitment for a position. The City will comply with federal and state preference for veterans.

The Human Resources representative will work with the hiring Department Head to determine when a recruitment period will be opened for applications, and whether the recruitment will be limited to internal candidates or open to the public. If a recall list exists for a classification, it will be exhausted in compliance with any collective bargaining agreements or recall rights within this Handbook. All application materials will become City property. Internal recruitments are also open to temporary and seasonal employees.

The Human Resources representative will be responsible for overseeing each phase of the selection process. Human Resources may establish a hiring list of qualified applicants that can be used to fill other anticipated vacancies, and will determine the duration of the hiring list, but not to exceed six months from the date it was created. The list may be discontinued at any time.

Selection

Except for appointments reserved to the City Council by statute, ordinance, or charter, the City Manager has exclusive authority to select and employ all City employees.

All job offers with the City are contingent on a background check appropriate for the position, and in certain positions, a criminal background check, and any other specific requirements of the position, including a pre-employment drug screen. Physical/medical evaluations, psychological testing, and a driving record check may be required for some positions.

Immigration Reform Act

All employees must be legally authorized to work in the United States. To comply with federal law, employment will be contingent upon presentation of acceptable documents verifying identity and authorization for employment in the United States.

Employment of Relatives (Nepotism)

Nepotism is the showing of favoritism toward a relative. The practice of nepotism in hiring personnel or awarding contracts is not allowed by the City. The City recognizes that the employment of relatives in the same area of the City has the potential to cause serious conflicts and problems with favoritism and employee morale. Therefore, the City shall not hire, promote, or appoint an employee if the position exercises direct supervision, appointment, or grievance adjustment authority over a position held by immediate relatives of the individual, or an immediate relative would exercise such authority over the employee. This applies to promotions, demotions, transfers, reinstatements, and new appointments.

For purposes of this policy, "immediate relatives" consists of the employee's spouse, children, parents/parents-in-law, grandparents, siblings/siblings-in-law, grandchildren, aunts, uncles, first cousins, corresponding in-laws or "step" relations, or individuals with whom the employee resides. In the case of employment of more distant relatives and other personal relationships that raise conflict of interest issues, the City will use discretion in its decision-making.

In the event one of the above situations occurs, the City will attempt to find a suitable position within the City to which one of the affected employees may transfer. If accommodations of this nature are not feasible within ninety (90) days, the affected employees will be permitted to determine which of them will resign.

Former Employees/Retiree Rehire

Former employees who resigned without written notice, who were not in good standing with a performance grade of "satisfactory" or better at time of separation, or who were dismissed for disciplinary reasons may not be considered for reemployment.

Former employees who left the City in good standing may be considered for reemployment. Former

employees who apply to be rehired must complete the same application process and undergo the same evaluation process as other applicants. However, special consideration will be given to past job performance, the circumstances surrounding termination of previous employment, and the former employee's knowledge of City procedures and functions.

A former employee who is reemployed will be considered a new employee from the date of reemployment. The employee must serve a new 12-month Probationary period and will be considered a new employee from the effective date of re-employment for all purposes, including for the purposes of measuring benefits.

Employees as Volunteers

Consistent with the Fair Labor Standards Act (FLSA) and Oregon wage and hour law, employees of the City may perform volunteer work for the City only if the work is at the employee's initiative, performed outside their regular work hours, without contemplation of payment, and involves performing tasks outside of their regular job functions.

Orientation

To ensure a positive integration into the City's operations and to get new employees started on a productive and satisfying employment relationship, new employees will be scheduled for an orientation by Human Resources on general policies, leave policies, procedures, safety, benefits, and basic information on pay.

Department Heads are responsible to ensure an orientation and training is conducted on the specific department, position, and work environment requirements and expectations, including specific safety requirements. Whenever possible, employees shall receive on-the-job training under close supervision.

Probationary Period of Employment

All new employees, including current employees who are promoted or transferred within the City, are hired into a probationary training period of twelve (12) months, except for sworn police officers who will serve a probationary period of eighteen (18) months. If an employee is assigned to modified duty during their probationary period as part of a workplace injury and unable to perform all job functions, their probationary period will be extended by that amount of time. Represented employees should refer to the collective bargaining agreement.

The probationary period is an extension of the employee selection process. During this period, the employee is considered to be in training and under observation and evaluation by their manager. Evaluation of the employee's adjustment to work tasks, conduct, and other work rules, attendance and job responsibilities will be considered during the probationary period. This period gives the employee an opportunity to demonstrate satisfactory performance for the position, and provides an opportunity to determine the employee's knowledge, skills and abilities and the requirements of the position match. It is also an opportunity for the employee to decide if the City meets their expectations of an employer.

During the Probationary period, the City's goal is to have the employees' Supervisor conduct three (3) month, six (6) month and nine (9) month performance reviews. These reviews will be used to determine if the employee is performing the essential functions of the job to department standard and can be released from probation at twelve (12) or eighteen (18) months. Underperforming or not performing to standard, is cause to extend probation or terminate employment.

At or before the end of the probationary period, a decision about the employee's employment status will be made. The City will decide whether to: (1) Extend the probationary period; (2) Move to regular full-time, or regular part-time status; or (3) Terminate employment.

Employees are not guaranteed any length of employment upon hire or transfer/promotion; both the employee and the City may terminate the employment relationship during the probationary period for any lawful reason. Further, completion of the probationary period or continuation of employment after the probationary period does not entitle the employee to remain employed by the City for any definite period of time. Both the employee and the City are free to terminate the employment relationship, at any time, with or without notice and for any reason not prohibited by law.

Personnel Files

All official personnel records will be maintained in the Human Resources office. The Police Department also maintains personnel files for its employees, however, upon termination, resignation or retirement, personnel files from the Police Department will be turned over to Human Resources for retention in accordance with state law. The personnel file will contain information on each employee to meet state and federal legal requirements and to assure efficient personnel administration. Records that are exempt from disclosure under state and federal law shall be maintained in the Human Resource office and will be kept separate if required and confidential if allowed by law. The Finance Department retains information necessary for pay administration.

The City will not release personal information to outside sources without the employee's written approval, unless legally required to do so. Verifications of employment dates, position, salary, and title may be provided without prior approval of the employee. A written request by the employee to review their personnel file can be made to Human Resources. Any copy of the file will be supplied within 45 days of the written request. Requests by persons other than the employee will be handled through a public records process and subject to applicable state public records laws.

B. Employee and Volunteer Classification

All employees are classified as regular full-time, regular part-time, or seasonal/ temporary, as explained below. The City uses Employee and Volunteer classifications to determine compensation, benefit eligibility and other conditions. Please refer to these definitions as you read the City's policies. If you have any questions about your position or classification, please contact your Supervisor or the Human Resources representative.

All employees are classified according to federal and state regulations and wage and hour laws as "Exempt" or "Non-exempt". Exempt employees are not entitled to overtime compensation. Non-exempt employees are eligible to receive overtime compensation. The appropriate designation of each City position or when a position changes substantially is made by Human Resources with input from the Department Head and approval of the City Manager. Also refer to Classifications and Compensation, below.

Employee and Volunteer Classifications are as follows:

Regular Full-Time: A position that is scheduled for forty (40) continuous hours per workweek for a period longer than six (6) months. Regular Full-Time status is achieved at the conclusion of the initial or promoted probationary period. This appointment is made by the Department Head, and carries with it the rights, privileges, and protections extended to the employee by this Handbook.

Regular Part-Time: A position that is scheduled for a yearly average of less than forty (40) hours per week for a period longer than six (6) months. Those part-time employees scheduled for a yearly average of more than twenty (20) hours per week are eligible for pro-rated City benefits. Regular Part-Time status is achieved at the conclusion of the initial or promoted probationary period. This appointment is made by the Department Head, and carries with it the rights, privileges, and protections extended to the employee by this Handbook on a pro-rated basis, depending upon the regularly scheduled hours.

Temporary/Seasonal: An appointment may be made to prevent undue delay or interference with necessary public services, or when a short-term increase in workload requires additional employees, provided budgeted funds are available. Temporary/Seasonal employees are eligible to receive sick leave in accordance with state laws. Temporary/Seasonal positions normally will last no longer than six (6) months, or 600 hours, whichever comes first.

Volunteer: An appointment, as defined in ORS 657.015, to which the appointee volunteers or donates services without receiving or expecting remuneration. Volunteer appointments are not eligible for benefits, except that the City Manager may authorize workers' compensation coverage for specified categories of volunteers. Refer to the City's Volunteer Handbook.

C. Classification and Compensation

Every position in the City is allocated a classification and salary range. Each position classification has a position description containing the specific duties and responsibilities of the position. Position descriptions are intended to be explanatory and flexible. Any employee may be asked to perform tasks not specifically included in the position description. Department Heads are responsible for ensuring the content of the descriptions are current and retain the ability to modify specific and/or daily tasks as required, including assigning employees' higher-level duties for limited periods of time. Human Resources will maintain the official record of all active position descriptions and will ensure employees are notified of their position classification.

Department Heads are responsible for ensuring that the number of current employees does not exceed the number of budgeted positions.

Compensation levels will be evaluated against the comparable current labor market and will be subject to available funds and the City budget. For purposes of this policy, compensation includes both salary and benefits. Compensation levels will be based on all relevant information including, but not limited to: internal equity, compensation provided by other employers for comparable work, and the City's financial condition.

Classification Review and Reclassification

If an employee is to be assigned a new ongoing duty or set of duties, the Department Head will review the classification specifications to determine if the duties are appropriate for that employee's classification. After a review, if there continues to be a question about the appropriateness of the duty, the Director will request a determination by Human Resources prior to the assignment of the duty to the employee. Human Resources allocates positions to the appropriate classification and may make revisions in the Classification System including the reclassification of existing positions, addition of new classes, combination and/or revision of existing classes, and deletion of obsolete classes, with review and approval of the City Manager.

If an employee believes their duties and responsibilities have changed significantly since their position classification, they may request a review of their position classification by submitting a written request to the Department Head. The Department Head will forward the request to Human Resources, who will then conduct an analysis of the duties and responsibilities of the position and determine the appropriate classification with the approval of the City Manager.

When an employee's position has been re-classified to a higher-level position, the employee will be assigned to the position without a competitive recruitment process and will not be required to serve a transitional probationary period.

Nothing in this section affects any rights under collective bargaining agreements or other employment

agreements.

D. The Workweek

The workweek is defined as a seven (7)-day period commencing at 12:01 a.m. Saturday and ending at 12:00 midnight Friday.

E. Meal Periods and Rest Breaks

Non-exempt employees working six (6) or more hours are required to take an uninterrupted meal period of at least thirty (30) minutes about midway through the workday. The length of time designated for meal periods may vary from department to department and position to position but in no event will be less than 30 minutes. Employees will be assigned meal periods of either thirty (30) minutes or one hour. All meal periods are unpaid, except for Sworn Police Officers. If, because of the nature or circumstances of the work, an employee is required to remain on duty or to perform any tasks during the meal period, the employee must inform his or her Supervisor before the end of the shift so the City may pay the employee for that work.

The City also provides all non-exempt employees with a fifteen (15) minute paid rest break period for every four (4) hours worked. Rest breaks should be taken as nearly as possible to the middle of each four (4) hours worked and must be uninterrupted. The City will accommodate employees requiring lactating breaks as set forth below.

Break and lunch period times may be adjusted by a Supervisor due to emergencies or operational needs of the City but any adjustment must be approved in advance by the employee's Supervisor. In the event of an emergency the adjustment may be approved after the fact by the employee's Supervisor.

Meal periods and rest breaks are mandatory and are not optional. An employee's meal period and rest break(s) may not be taken together as one break. Meal periods and rest breaks may not be "skipped" to come in late or leave early. An employee who fails to abide by this policy and applicable laws may be subjected to discipline, up to and including termination.

Failure to adhere to state mandated rest and meal periods without approval could result in discipline of an employee.

F. Rest Breaks for Expression of Breast Milk

The City is committed to complying with the Oregon Rest Periods for Expression of Breast Milk and the federal Providing Urgent Maternal Protections for Nursing Mother (PUMP) Act.

The City will provide reasonable rest periods to accommodate an employee who needs to express milk for her child who is eighteen (18) months or younger. If possible, the employee will take the rest periods to express milk at the same time as the rest breaks or meal periods that are otherwise provided to the employee. If not possible, or if the employee is exempt from overtime laws, the employee is entitled to take reasonable time as needed to express breast milk.

The City will treat the rest breaks used by the employee for expressing milk as paid rest breaks up to the amount of time the City is required to provide as paid rest breaks and/or meal periods under applicable personnel rules or collective bargaining agreements. Additional time needed beyond the paid rest breaks and/or meal periods may be taken as unpaid time.

If an employee takes unpaid rest breaks, the City may, at the discretion of the employee's supervisor, allow the employee to work before or after her normal shift to make up the amount of time used during the unpaid rest periods. The City will allow, but not require, an employee to substitute paid leave time for unpaid rest periods taken in accordance with this rule.

The City will make a reasonable effort to provide the employee with a private location within close proximity to the employee's work area to express milk. For purposes of this policy, "close proximity" means within walking distance from the employee's work area that does not appreciably shorten the rest or meal period. A "private location" is a place, other than a public restroom or toilet stall, near the employee's work area for the employee to express milk concealed from view and without intrusion by other employees or the public.

If a private location is not within close proximity to the employee's work area, the City will identify a private location the employee can travel to. The travel time to and from the private location will not be counted as a part of the employee's break period.

Notice

An employee who intends to express milk during work hours must give their Supervisor or the Human Resources representative reasonable oral or written notice of her intention to do so in order to allow the City time to make any preparations necessary for compliance with this rule.

Storage

Employees are responsible for storing expressed milk. Employees may bring a cooler or other insulated food container to work for storing the expressed milk. If an office provides access to refrigeration for personal use, an employee who expresses milk during work hours may use the available refrigeration.

No Discrimination, No Retaliation

The City prohibits discrimination and harassment against any employee who, under this policy, asked for information about or requested or used break time to express milk. Conduct that violates the City's no-harassment and no-discrimination policies will not be tolerated and may subject an employee to discipline, up to and including termination. See the No-Harassment Policy on page 9.

Employees who have experienced discrimination or harassment or believe the City is not compliant with federal or Oregon law regarding rest breaks to express milk, should discuss it with Human Resources or the City Manager as soon as possible.

G. Overtime and Compensatory Time

If your position is eligible for overtime, you must have prior approval from your Supervisor before working overtime. If you are covered by a collective bargaining agreement, you should refer to the applicable section of the agreement for information regarding overtime pay. Exempt employees are paid a salary that covers all their hours worked and are not entitled to additional pay for overtime.

Sergeants follow the Silverton Police Officers Association (SPOA) agreement with regards to overtime and compensatory time; compensatory time may be banked up to a maximum of 40 hours.

Supervisors and employees will make every effort to keep the hours worked to the regular 40-hour work week. This may be accomplished by flexing the hours worked during the week with the Supervisor's approval. Supervisors should attempt to avoid overtime and accumulated compensatory time by employees.

Non-exempt employees are eligible for overtime compensation. Compensation shall be paid at the rate of time-and-one-half for all hours worked, to the nearest quarter, more than forty hours in one workweek.

Compensatory time, in lieu of overtime pay, may be granted in the event the City does not have budgeted funds to cover overtime payments. Compensatory time will be earned at one and one-half times the number of hours *worked* when you work more than 40 hours in the workweek and may be accrued up to a maximum of forty (40) hours. Once the forty-hour maximum has been reached, the employee will

receive compensation at the rate of time-and-one-half.

H. Timekeeping Requirements

All non-exempt employees must accurately record time according to the procedure approved by the Finance Department.

Salaried exempt employees are also required to record their time. These employees will be instructed on this process.

I. General Payroll Policies

As a City employee you will typically be paid on a bi-weekly basis. The pay period ends on Friday at 12:00 midnight and employees are paid the second Friday after a pay period ends for the completion of work performed during the previous pay period. If a regularly scheduled payday falls on a holiday, paychecks will be issued on the last workday before the holiday. The City reserves the right to deviate from this schedule due to extenuating circumstances, such as a natural disaster.

The City does not provide advance payments of salary or loans from salary to be earned. Net pay will be directly deposited into the employee's bank account. If an employee requests to pick up his/her check from the City, only the employee named on the paycheck will be allowed to do so unless the employee provides written permission to the City for someone else to receive the check.

J. Statement Regarding Pay Practices

The City makes all efforts to comply with applicable Oregon and federal wage and hour laws. In the event you believe that the City has made any improper deductions, has failed to pay you for all hours worked or for overtime, has failed to pay you in accordance with the law, or has failed to properly calculate your wages in any way, you must immediately report the error to the Finance Director. The City will investigate all reports of improper pay practices and will reimburse employees for any improper deductions or omissions. No employee will suffer retaliation or discrimination for reporting an error or complaint regarding the City's pay practices.

K. Reporting Changes to an Employee's Personal Data

Because personnel records are used to administer pay and benefits, and other employment decisions, employees are responsible for keeping information current regarding changes in name, address, phone number, exemptions, dependents, beneficiary, etc. Keeping your personnel records current can be important to you with regard to pay, deductions, benefits and other matters. If you have changes in any of the following items, please notify the Human Resources representative to ensure that the proper updates/paperwork are completed as quickly as possible:

- Name
- Marital status/Domestic Partnership (for purposes of benefit eligibility determination only)
- Address or telephone number
- Dependents
- Person(s) to be notified in case of emergency and their contact information
- Other information having a bearing on your employment
- Tax withholding
- Emergency contact information for yourself so that the City may contact you related to work emergencies, including a personal email address
- Bank account information for payroll purposes

Employees may not intentionally withhold information from the City about the items listed above in order

to continue to receive benefits or anything of value for themselves or anyone else. Upon request, the City may require employees to provide proof of marital status/domestic partnership status. Employees who violate this policy may be subject to discipline, up to and including termination.

L. Pay Administration

The City of Silverton values its employees and is committed to compensating them for their work efforts and results. It is the City's intent to provide a competitive compensation package that will attract, retain, and motivate employees and be administered consistently throughout the City. The compensation of employees covered by collective bargaining agreements will be governed by the terms of the applicable agreement. All compensation is based upon budgetary considerations.

Rates of Pay

The rate of pay may be hourly or monthly depending on the conditions of employment. Hourly rates for 40-hour per week employees are determined by dividing the annual salary by 2,080.

New Employees

New employees normally start at the beginning of the salary range for their position. Upon successful completion of their Probationary Period and a successful performance evaluation, a step increase may be recommended by the Department Head and authorized by the City Manager. The Human Resources representative will prepare a Personnel Action Form for the increase in the base pay.

Salary Increases

It is the City's policy to reward employees with increases in pay for their dedication to work, extra effort, and contributory performance. Wage increases with the City are not automatic, and are made at the discretion of the City. Employees will be eligible for pay increases based on but not limited to performance, attendance, customer service, safety on the job, interpersonal skills, and contributions to the City. For additional information, please review the most recent version of the Step Increases and Performance Policy 2.6.

Cost of Living Adjustment (COLA)

Employees may be granted COLAs on an annual basis as a modification to base salary. The City is not obligated to provide COLAs, and any potential increase is subject to budget appropriation and City Manager directive.

Longevity Pay

It is the City's policy to celebrate employees' time with the City. Employees who achieve ten (10) years of continuous service with the City of Silverton will on their one-hundred and twenty-first (121st) month, be compensated fifty-dollars (\$50) per month.

Employees who achieve fifteen (15) years of continuous service with the City of Silverton will on their one hundred and eighty-first (181st) month, be compensated with an additional fifty dollars (\$50) per month for a total of one hundred (\$100) per month.

Employees who achieve twenty (20) years of continuous service with the City of Silverton will, on their two hundred and forty-first (241st) month, be compensated with an additional fifty dollars (\$50) per month, for a total of one hundred and fifty dollars (\$150) per month.

Longevity pay will be reflected as a line item on the employee's wage statement.

Compensation Studies

To ensure that pay and benefits are reasonable, compensation studies will be conducted on a periodic

basis. The information obtained will be considered and, when applicable, salary ranges and benefits will be adjusted accordingly by the City Manager. The collection of data will be by the City Manager or his/her designated representative. Department Heads shall notify the City Manager when conditions warrant a study of special cases.

Transfers

If you are transferred to a position with the same salary range, there will be no adjustment of salary.

Promotional Increases

Upon promotion, an employee is eligible for a pay adjustment to the first step of the new range. If the employee's pay already exceeds this step, the employee will be placed at the next step of the new range.

Higher Classification Work

At the discretion and direction of the City Manager, employees assigned to work in a higher classification for periods of two (2) weeks or longer (excludes periods for vacation, sick leave, workshops, etc.) may receive a five percent (5%) wage differential. To receive this premium pay, the employee must be assigned the full range of duties and have full authority and responsibilities of the position being filled. This premium does not apply in situations where you are performing higher level duties for the purposes of professional development.

Overpayment

The City has a legal obligation to collect wages or reimbursement for overpayments made to the employee. The City must be able to show the employee received more than the employee was due for hours actually worked, or more than what should have been appropriately reimbursed. Upon verification, the City will notify the employee of the overpayment and work with the employee on an agreeable repayment plan to be formalized in writing. If an employee should separate from their employment from the City before the overpayment is recovered, the final balance will be deducted from the employee's final paycheck.

Underpayment

In the event it has been determined that an employee has been underpaid, the underpayment will be handled according to ORS 652.120(5). Payment arrangements to pay the unpaid amount will be discussed and mutually agreed upon between the employee and the Finance Department.

Payroll Deductions

Certain mandatory and elective deductions are made from your pay and are noted on the paycheck stub. Only those deductions authorized by law and those you have authorized in writing are made. The City is required by law to recognize certain court orders, liens, and wage assignments to an employee's paycheck. When the City receives notice of a pending garnishment or wage assignment, the Finance Department is compelled to comply with such valid wage garnishments.

Final Paycheck

Final paychecks will be in paper form and distributed in accordance with federal and state laws.

City-Issued Credit Cards

Employees are generally encouraged to pay for City-related business transactions through regular accounts payable procedures rather than with credit cards. However, the City may issue credit cards to facilitate City-related business transactions. Credit cards are issued at the discretion of the Department Head with the approval of City Manager. No cardholder may procure goods or services for personal purposes using the City-issued credit cards.

Lost or stolen credit cards must be reported immediately to the Finance Department. All credit cards must be returned to the Finance Department upon termination of employment. Contact the Finance Department for all City-issued credit card questions or concerns.

Bilingual Pay

Employees who are certified by the City for bilingual proficiency shall receive three percent (3%) added to their base wage. The City retains the discretion to determine the need for certification and the criteria for certification. The City also reserves the right to contract out language services as it deems necessary and to determine which languages are eligible for bilingual pay.

III. Time Off and Leaves of Absence

A. Attendance, Punctuality and Reporting Absences

Employees are expected to report to work as scheduled, on time and be prepared to start work. Employees are also expected to remain at work for their entire work schedule, except for unpaid break periods or when required to leave on authorized City business, and perform the work assigned to or requested of them. Late arrivals, early departures, or other absences from scheduled hours are disruptive and must be avoided.

Unless specified otherwise in a policy below, employees who will be unexpectedly absent from work for any reason or who will not show up for work on time must inform their Supervisor via phone no later than 30 minutes before the start of the employee's shift. Not reporting to work and not calling to report the absence is a no-call/no-show and is a serious matter. Please see "Improper Conduct" below.

B. Vacation

It is the policy of the City to provide each benefits-eligible employee with vacation time on a periodic basis. The amount of vacation to which an employee becomes entitled is determined by the employee's length of service as of his or her hire date.

Eligible employees accrue vacation leave based on years of continuous service according to the table below. Employees with a hire date between the 1st and 15th of the month will accrue vacation leave time for that month. Employees with a hire date on the 16th or later of the month will begin accruing vacation leave the following month. Employees are not eligible to take vacation until they have completed (6) months of employment.

Years of Service	Monthly Accrual (hours) for fulltime employee
0 thru year 4 (through month 48)	8
5 thru year 9 (months 49 – 108)	10
10 thru year 14 (months 109-168)	12
year 15+ (month 169+)	16

- Part-time employees regularly scheduled to work at least twenty (20) hours or more per week are eligible for pro-rated vacation and sick leave accrual based on hours hired to work and will begin to accrue leave as per eligible employees.

- Vacation leave will be deposited into the employee’s bank following the month in which it was earned. Vacation must be earned before it may be used.
- After 80 contiguous hours of unpaid leave, vacation does not accrue (PLO is deemed unpaid leave by the City).
- Regular employees that leave City service shall be entitled to payment for unused vacation leave at their current rate of pay. In the case of death, compensation for accrued vacation leave shall be paid to the beneficiary of the employee.
- Employees should strive to be at or below two hundred forty (240) hours by July 1 of each year. Employees shall schedule vacation to use any amount above two hundred forty (240) hours. If two (2) months have passed and the employee has not submitted a plan to use the hours by the end of the third (3) month or has not used the hours in excess of two hundred and forty (240), the excess vacation shall be forfeited to the City. If the work of the City interferes with an employee’s ability to use this vacation, the balance over two hundred forty (240) hours may be paid with the City Manager’s approval.

Procedure for Scheduling Vacation, Executive, and/or Comp Leave

A regular full-time employee desiring to take leave must provide the City appropriate advance notice. To this end, an employee must request their preferences for use of leave in accordance with the following schedule:

Reason or Duration of vacation, executive and/or comp time	Required Notice and Approval*
One day	Minimum of 24 hours advance notice to (and approval from) your direct supervisor and in his or her absence, the City Manager
Two to Three Days	Two weeks’ advance notice to (and approval from) your direct supervisor.
Four or more Days	30 days’ advance notice to (and approval from) your direct supervisor.

Requests for vacation time should be made using Caselle Connect. Vacation must be taken in a manner that will not materially and unreasonably interfere with City’s operations. Although an employee’s vacation preferences will be given deference, City does not guarantee that each employee will be permitted to use his or her vacation during the period(s) preferred by the employee. The City Manager may waive or accept less advance notice than required under extenuating circumstances.

**The Collective Bargaining Agreement, Section (2) Vacation Scheduling, for the Silverton Police Officer’s Association supersedes this procedure.*

C. Holiday Leave

Eligible employees working forty (40) hours per week shall receive eight (8) hours of paid time off on each of the holidays listed below which falls within their work week and on which they perform no work. Employees working between twenty (20) and forty (40) hours per week will receive Holiday Leave on a prorated basis based on hours hired to work.

If an eligible hourly employee works on any of the holidays listed, they shall receive time-and-one-half compensation for all hours worked in addition to the holiday pay. If a holiday falls on an employee’s regular day off, he/she shall receive holiday hours to be taken at the option of the employee, subject to the operating requirements of the department and Supervisor approval.

The holidays observed are:

#	MONTH	DAY	HOLIDAY
1	January	1 st	New Year's Day
2	January	3 rd Monday	Martin Luther King Day
3	February	3 rd Monday	President's Day
4	May	Last Monday	Memorial Day
5	June	19 th	Juneteenth National Independence Day
6	July	4 th	Independence Day
7	September	1 st Monday	Labor Day
8	November	11 th	Veteran's Day
9	November	4 th Thursday	Thanksgiving Day
10	November	4 th Friday	Day after Thanksgiving Day
11	December	25 th	Christmas Day
12	N/A	N/A	Floating Holiday

A holiday that falls on a weekend will be observed on either the preceding Friday or the following Monday to coincide with local custom. The exception to this rule is the Police Sergeants, who take holidays on the observed day.

If a holiday occurs during an employee's vacation or sick leave, the time shall be charged as holiday leave.

Floating Holiday

Employees may select 1 additional day off with pay (known as "floating holiday") during a fiscal year.

Employees must coordinate requests for Floating Holiday with their Supervisor.

The floating holiday is awarded on July 1 of each year. New employees receive their floating holiday during their first pay period. If an employee has not used the Floating Holiday prior to the last day of June in the year in the fiscal year any remaining unused hours will be added to the employee's vacation hours.

D. Sick Leave

The City of Silverton provides eligible employees with sick leave in accordance with Oregon's Paid Sick Leave Law (not the same as Paid Leave Oregon). This policy will be updated as necessary to reflect changes in and to ensure compliance with Oregon law.

Employees with questions about this policy may contact the Human Resources representative. Please also refer to the Oregon Sick Leave Law poster that is posted in City Hall and all worksites and is incorporated here by reference.

Eligibility and Accrual of Paid Sick Leave

Oregon's Paid Sick Leave Law and this policy covers all employees. Sick leave runs concurrently with Oregon Family Medical Leave, federal Family and Medical Leave and other leave where allowed by law.

Eligible employees accrue sick leave at the rate of 8 hours per month. Employees with a hire date between the 1st and 15th of the month will accrue sick leave for that month. Employees with a hire date on the 16th or later of the month will begin accruing sick leave the following month.

Part-time employees regularly scheduled to work twenty (20) hours or more per week are eligible for pro-rated sick leave accrual based on hours hired to work and will begin to accrue leave as per eligible employees.

Part-time employees scheduled to work less than 20 hours per week will accrue in accordance with Oregon's Sick Leave Law.

Temporary and seasonal employees are eligible for pro-rated sick leave in accordance with State laws, with a maximum annual accrual limit of eighty (80) hours.

- After 80 contiguous hours of unpaid leave, sick leave does not accrue (Paid Leave Oregon is deemed unpaid leave by the City).

Pay Rate and Carryover

Paid sick leave will be paid at the employee's regular rate of pay. Exempt employees are presumed to work 40 hours in each workweek for purposes of their sick leave accrual unless their normal workweek is less than 40 hours, in which case sick leave is accrued based on the employee's normal workweek. Generally, sick leave pay will be included in the paycheck for the next payroll period after sick leave is used, provided the employee submits adequate documentation verifying that the absence was for a qualifying reason as defined in the "Use of Sick Leave" section below.

Sick leave is meant to be used or carried over; any unused sick leave will not be cashed out upon separation from employment for any reason, including death. If an employee leaves employment and is rehired within 180 days, the employee's sick leave balance will be restored.

Use of Sick Leave

Accrued paid sick leave may be used for any of the following reasons:

- For the diagnosis, care, or treatment of a mental or physical illness, injury or health condition or need for preventive medical care. This is available for the employee or his/her covered family member.
 - a. "Family member" means "Family member" means:
 - The spouse of an eligible employee;
 - A child of an eligible employee or the child's spouse or domestic partner;
 - A parent of an eligible employee or the parent's spouse or domestic partner;
 - A sibling or stepsibling of an eligible employee or the sibling's or stepsibling's spouse or domestic partner;
 - A grandparent of an eligible employee or the grandparent's spouse or domestic partner;
 - A grandchild of an eligible employee or the grandchild's spouse or domestic partner;
 - The domestic partner of an eligible employee; or
 - Any individual related by blood or affinity whose close association with an eligible employee is the equivalent of a family relationship.
- For any purpose allowed under the Oregon Family Leave Act, including bereavement leave.
- If the employee, or the employee's minor child or dependent, is a victim of domestic violence, harassment, sexual assault or stalking as defined by Oregon law and requires leave for any of the purposes under Oregon's domestic violence leave law (ORS 659A.272).
- In the event of certain public health emergencies or other reasons specified under Oregon's sick leave law.

Employees absent from work for a qualifying reason must use accrued sick time hours for that reason and on each subsequent day of absence unless they are utilizing Paid Leave Oregon (PLO).

Paid sick leave may be taken in increments to the nearest quarter hour.

Employee Notice of Need for Sick Leave

Foreseeable. If the need for sick leave is foreseeable or planned, an employee must notify their Supervisor as soon as practicable before the leave is to begin. Generally, an employee must provide at least 10 days' notice for foreseeable sick leave. The request shall include the anticipated duration of the sick leave, if possible. Employees must make reasonable effort to schedule foreseeable sick leave time in a manner that minimally disrupts the operations of the City. Employees must notify the Human Resource Manager and their Supervisor of any change in the expected duration of leave as soon as known.

Unforeseeable: If the need for sick leave is unforeseeable, the employee must notify their Supervisor as soon as practicable and comply with the City's call-in procedures. Generally, an employee should notify their Supervisor of unforeseeable sick leave at least 30 minutes prior to the beginning of his/her shift,

An employee must contact his/her supervisor daily while on sick leave unless an extended period of sick leave has been prearranged and approved by the supervisor, when off work on protected leave. The employee shall inform his/her supervisor of any change in the duration of sick leave as soon as practicable. Any change in the duration of sick leave, the Human Resource Manager shall be notified as soon as feasible.

If an employee fails to provide proper notice or make a reasonable effort to schedule leave in a manner that is only minimally disruptive to the organization and operations, the City may deny the use and legal protections of sick leave.

Sick Leave Documentation

If an employee takes more than three consecutive scheduled workdays as sick leave, the City may require reasonable documentation showing that the employee was absent for an approved reason. Reasonable documentation includes documentation signed by a healthcare provider, or documentation for victims of domestic violence, harassment, sexual assault, or stalking.

Sick Leave Abuse

If the City suspects sick leave abuse, including but not limited to repeated use of unscheduled sick leave or repeated use of sick leave adjacent to weekends, holidays, vacations and paydays, the City may require documentation from a healthcare provider. Employees found to have abused sick leave as described here may also be subject to discipline, up to and including termination.

E. Family Medical Leave

The following is a summary of Family and Medical Leave policy and procedures under the federal Family Medical Leave Act (FMLA) and the Oregon Family Leave Act (OFLA). Generally, and as will be discussed, eligible employees are entitled to 12 weeks of unpaid leave of absence for the reasons identified below. Federal and state law prohibit retaliation against an employee with respect to hiring or any other term or condition of employment because the employee asked about, requested, or used Family and Medical Leave. In all cases, applicable Oregon and federal laws, rules, policies, and collective bargaining agreements govern the employee's and the City's rights and obligations, not this policy.

Employees seeking further information should contact the Human Resources representative. Please also refer to the "Employee Rights and Responsibilities Under the Family Medical Leave Act" and "Oregon Family Leave Act" notices posted in City Hall and other City worksites, which are incorporated here by

reference. Employee must take leave under PLO/OFLA/FMLA concurrently if it is for the same qualifying event.

Definitions

Child/Son or Daughter

For purposes of OFLA, “child” includes a biological, adopted, foster or stepchild, the child of a registered same-sex domestic partner or a child with whom the employee is in a relationship of *in loco parentis*. For purposes of OFLA Serious Health Condition Leave, the “child” can be any age; for all other types of leave under OFLA, the “child” must be under the age of 18 or over 18 if incapable of self-care.

A “son or daughter” is defined by FMLA as a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis* who is either under 18 years of age or is 18 years of age or older and “incapable of self-care because of a mental or physical disability” at the time FMLA leave is to commence. FMLA also provides separate definitions of “son or daughter” for FMLA military family leave that are not restricted by age — see below.

Eligible Employee

OFLA – To qualify for OFLA leave for a Serious Health Condition or Sick Child Leave, an employee must have been employed for at least 180 days and worked an average of at least 25 hours per week. To qualify for Parental Leave under OFLA, an employee must have been employed for at least 180 days (no per-week hourly minimum is required).

OMFLA — For purposes of Oregon Military Family Leave Act leave, the employee need have only worked 20 hours per week (no minimum length of employment required). A different calculation method applies for reemployed service members under USERRA who seek OMFLA leave; see the Human Resources representative for more information.

FMLA — Employees are eligible for FMLA leave if they have worked for a covered employer for at least one year (which may be based on separate stints of employment) and for 1,250 hours during the 12 months preceding the date leave is to begin. They must also be employed at a worksite where 50 or more employees are employed by the employer within 75 miles of that worksite.

Leave under Oregon and federal law will run concurrently when permitted.

Family Medical Leave

This includes all the types of leave identified in the section below, entitled “Reasons for Taking Leave,” unless otherwise specified (see PLO for the program’s definitions).

Family Member

- For purposes of FMLA, “family member” is defined as a spouse, parent or a “son” or “daughter” (defined above).

For purposes of OFLA, “family member” includes:

- The spouse of an eligible employee;
- A child of an eligible employee or the child’s spouse or domestic partner;
- A parent of an eligible employee or the parent’s spouse or domestic partner;
- A sibling or stepsibling of an eligible employee or the sibling’s or stepsibling’s spouse or domestic partner;
- A grandparent of an eligible employee or the grandparent’s spouse or domestic partner;

- A grandchild of an eligible employee or the grandchild's spouse or domestic partner;
- The domestic partner of an eligible employee; or
- Any individual related by blood or affinity whose close association with an eligible employee is the equivalent of a family relationship.

Serious Health Condition

"Serious health condition" is defined under FMLA and OFLA as an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job or prevents the qualified family member from participating in school or other daily activities. Under OFLA only, "serious health condition" includes any period of absence for the donation of a body part, organ, or tissue, including preoperative or diagnostic services, surgery, post-operative treatment, and recovery.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition.

Other conditions may meet the definition of a "serious health condition"; see the Human Resources representative for more information. The common cold, flu, earaches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, and cosmetic treatments (without complications), are examples of conditions that are not generally defined as serious health conditions.

Reasons for Taking Leave

Family Medical Leave may be taken under any of the following circumstances:

- *Call to Active Duty Leave:* Eligible employees with a spouse, son, daughter or parent on active duty or call to active duty status in the regular Armed Forces, National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain "qualifying exigencies." "Qualifying exigencies" may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings. This type of leave is available under FMLA only; however, under OFLA, specifically under the Oregon Military Family Leave Act, during a period of military conflict, as defined by the statute, eligible employees with a spouse or registered same-sex domestic partner who is a member of the Armed Forces, National Guard, or military reserve forces of the U.S. and who has been notified of an impending call or order to active duty, or who has been deployed, is entitled to a total of 14 days of unpaid leave per deployment after the military spouse or registered same-sex domestic partner has been notified of an impending call or order to active duty and before deployment and when the military person is on leave from deployment.
- *Employee's Serious Health Condition Leave:* To recover from or seek treatment for an employee's serious health condition, including pregnancy-related conditions and prenatal care.
- *Family Member's Serious Health Condition Leave:* To care for a family member with a serious health condition.
- *Parental Leave:* For the birth of a child or for the placement of a child under 18 years of age for adoption or foster care. Parental leave must be completed within 12 months of the birth of a newborn or placement of an adopted or foster child.

- *Pregnancy Disability Leave*: For incapacity due to pregnancy, prenatal medical care or birth.
- *Service member Family Leave*: Eligible employees may take up to 26 weeks of leave to care for a “covered service member” during a single 12-month period. A “covered service member” is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list. Under some circumstances, a veteran will be considered a “covered service member.” This type of leave is available under FMLA only.
- *Sick Child Leave*: To care for a child who suffers from an illness or injury that does not qualify as a serious health condition but that requires home care. This type of leave does not provide for routine medical and dental appointments or issues surrounding the availability of childcare when the child is not ill or injured. Sick child leave is not available if another family member is able and willing to care for the child. This type of leave is available only to employees who are eligible under OFLA.
- *Bereavement Leave*: This type of leave is addressed under OFLA; see the Bereavement Leave Policy for more information.

Length of Leave

In any One-Year calculation period, eligible employees may take:

- Up to twelve (12) weeks of Parental Leave, Serious Health Condition Leave (employee’s own or family member), Sick Child Leave, or Call to Active Duty Leave;
- In some cases, an additional twelve (12) weeks of leave may be available to an eligible employee for an illness, injury or condition related to pregnancy or childbirth that disables the employee; and
- In some cases, employees who take the entire twelve (12) weeks of OFLA Parental Leave will be entitled to an additional twelve (12) weeks of Sick Child Leave.

When leave is taken for Service member Family Leave, an eligible employee may take up to 26 weeks of leave during the One-Year Calculation Period to care for the service member. During the One-Year Calculation Period in which Service member Family Leave is taken, an eligible employee is entitled to a combined total of 26 weeks of FMLA Leave (some of which may include other types of FMLA-specific leaves of absence).

One-Year Calculation Period

The “12-month period” during which leave is available (also referred to as the “One-Year Calculation Period”) will be the “forward-looking” method and determines the benefit year.

A benefit year is a 52-week (one-year) period that begins on the Sunday before the day you start your leave. For example, if you start your leave claim on Monday, Oct.2, 2024, your benefit year starts on Sunday, Oct.1, 2024, and ends on Saturday, Sept. 28, 2025. You can claim up to 12 weeks of leave during this time frame. On Sept. 29, 2025, your leave amount resets, which means that you can apply to start another benefit year if you have a new or continuing qualifying event and get a new 12 weeks of benefits.

Please note that the “forward-looking” method for FMLA leave is effective 30 days after implementation of this Handbook, until such time, the current calendar year period will be used.

Intermittent Leave

Intermittent or reduced schedule leave may be taken during a period of Family Member or Employee Serious Health Condition Leave or Service member Family Leave. Additionally, Call to Active-Duty Leave may be taken on an intermittent or reduced leave schedule basis. An employee may be temporarily reassigned to a position that better accommodates an intermittent or reduced schedule; employees covered by OFLA will not be reassigned without their express consent and agreement. Employees must make reasonable efforts to schedule planned medical treatments so as to minimize disruption of City operations, including consulting management prior to the scheduling of treatment in order to work out a treatment schedule which best suits the needs of both the City and the employee. Intermittent leave for Parental Leave is not available.

Employee Responsibilities — Notice

If using Paid Leave Oregon (PLO), employee must follow PLO notification requirements, failure to follow PLO notification requirements may result in reduced PLO benefits.

Employees must provide at least 30 days' notice before Family Medical Leave is to begin if the reason for leave is foreseeable based on an expected birth, placement for adoption or foster care, planned medical treatment for a serious health condition of the employee or of a family member, or the planned treatment for a serious injury or illness of a covered service member (Service member Family Leave). If 30 days' notice is not practicable, such as because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, notice must be given as soon as practicable. If the situation giving rise to a Sick Child Leave is unforeseeable, an employee must give verbal or written notice to the City within 24 hours of commencement of the leave.

For Call to Active-Duty Leave, notice must be provided as soon as practicable, regardless of how far in advance such leave is foreseeable.

Whether leave is to be continuous or is to be taken intermittently or on a reduced schedule basis, notice need only be given one time, but the employee must let their Supervisor or the Human Resource Mmanager know as soon as practicable if dates of scheduled leave change or are extended, or were initially unknown. If circumstances change during the leave and the leave period differs from the original request, the employee must notify their Supervisor or the Human Resources representative within three business days, or as soon as possible. Further, employees must provide written notice within three days of returning to work.

Regardless of the reason for leave, or whether the need for leave is foreseeable, employees will be expected to comply with the City's normal call-in procedures. Employees who fail to comply with the City's leave procedures may be denied leave, subject to discipline, or the start date of the employee's Family Medical Leave may be delayed.

Certification

Employees must provide sufficient information for the City to determine if the leave may qualify for FMLA or OFLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for either Call to Active Duty or Service member Family Leave.

Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Additionally:

- Employees requesting serious health condition leave for themselves or to care for a covered family member will be required to provide certification from the health care provider of the employee or the covered family member to support the request.
- Employees requesting sick child leave under OFLA may be required to submit, at a minimum, a note from a doctor if the employee has requested to use more than three days (i.e., one three-day occurrence or three separate instances) of sick child leave within a one-year period.

Employees must furnish the City’s requested medical certification information within 15 calendar days after such information is requested by the City. In some cases (except for leave to care for a sick child), the City may require a second or third opinion, at the City’s expense. Employees also may be required to submit subsequent medical verification.

Employees will not be asked for, and they should not provide, any genetic information about themselves or a family member in connection with a FMLA/OFLA medical certification.

Medical Certification Prior to Returning to Work

If Family Medical Leave is for the employee’s own serious health condition, the employee must furnish, prior to returning to work, medical certification from their health care provider stating that the employee is able to resume work.

Substitution of Paid Leave for Unpaid Leave

Employees are required to use accrued paid leave, including floating holidays, vacation, compensatory time, and sick leave prior to a period of unpaid leave of absence on Family Medical Leave unless they are utilizing Paid Leave Oregon (PLO). Use of accrued paid leaves will run concurrently with Family Medical Leave. Represented employees may reserve accrued leave and compensatory time if provided by their collective bargaining agreement. If the employee has no accrued paid leave, floating holidays, vacation, compensatory time, or sick leave available to use during a Family Medical Leave, the leave will be unpaid. PLO is deemed unpaid leave by the City.

Holiday Pay While on Leave

Employees receiving short- or long-term disability will not qualify for holiday pay. Employees using vacation pay or sick pay during a portion of approved Family Medical Leave in which a holiday occurs will qualify to receive holiday pay. Employees who are on unpaid leave during a holiday will not qualify to receive holiday pay (PLO is deemed unpaid leave by the City).

On-the-Job Injury or Illness

Periods of employee disability resulting from a compensable on-the-job injury or illness will qualify for FMLA Leave if the injury or illness is a “serious health condition” as defined by applicable law.

OFLA leave will not be reduced by and will not run concurrently with any period the employee is unable to work because of a disabling compensable on-the-job injury; however, if the injury or illness is a “serious health condition” as defined by Oregon law and the employee has refused a bona fide offer of light-duty or modified employment, OFLA leave will commence.

If the employee’s serious health condition is the result of an on-the-job injury or illness, the employee may qualify for workers’ compensation time-loss benefits.

Benefits While on Leave

If an employee is on approved FMLA or OFLA Leave, the City will continue the employee’s health coverage under any “group health plan” on the same terms as if the employee had continued to work. An employee wishing to maintain health insurance during a period of approved FMLA or OFLA leave will be responsible

for bearing the cost of his/her share of group health plan premiums which had been paid by the employee prior to the OFLA/FMLA leave. Employees will not accrue vacation, sick leave, or holiday pay while the employee is on FMLA or OFLA leave if they have been in unpaid leave status for more than 80 contiguous hours (PLO is deemed unpaid leave by the City). The leave period, however, will be treated as continuous service (i.e., no break in service) for purposes of vesting and eligibility to participate in the City benefit plans.

Job Protection

Employees returning to work from Family Medical Leave will be reinstated to their former position. If the position has been eliminated, the employee may be reassigned to an available equivalent position. Reinstatement is not guaranteed if the position has been eliminated under circumstances where the law does not require reinstatement.

Employees are expected to promptly return to work when the circumstances requiring Family Medical Leave have been resolved, even if leave was originally approved for a longer period. If an employee does not return to work at the end of a designated Family Medical Leave period, reinstatement may not be available unless the law requires otherwise.

The use of Family Medical Leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

Employees who work for other employers during a "serious health condition" leave may be subject to discipline up to and including termination. Additionally, all employees who use Family Medical Leave for reasons other than the reason for which leave had been granted may be subject to discipline up to and including termination.

F. Paid Leave Oregon (PLO)

Paid Leave Oregon is a program offered by the State of Oregon through the Oregon Employment Department. Employees will be required to follow the City's PLO policy (Administrative Policy 2.4) and should refer to that policy for information on PLO.

G. Catastrophic Sick Leave Bank

The City recognizes that employees may have a serious medical hardship, or catastrophic illness or injury that causes a severe impact to them resulting in a need for additional time off in excess of their available accrued leave or which may not qualify for Paid Leave Oregon (PLO). In response to this need, the City has established a Catastrophic Sick Leave Bank where employees can donate sick or vacation leave from their unused balance to their co-workers who are in need, in accordance with the policy outlined below. This policy is strictly voluntary.

The Catastrophic Sick Leave Bank is intended to cover serious medical hardship or catastrophic illness or injury, such as cancer, major surgery, serious accident, heart attack, etc., and requires completed OFLA/FMLA application.

Note: The Catastrophic Sick Leave Bank must be self-supporting. The Bank shall have a maximum accumulation of 2,000 hours. If a request is approved and the bank is low or empty, a notice will be sent to all employees indicating that there is a need for additional leave time. If additional leave time is not donated, the requesting party will be unable to receive shared leave.

Employees who donate sick or vacation time from their unused balance must adhere to the following requirements:

- Employee must be a regular, non-probationary City employee accruing sick or vacation leave.

- Minimum Donation: Eight (8) hours. Donations must be in full day increments.
- Maximum Donation: Eighty (80) hours per fiscal year.
- Employees who are currently on an approved leave cannot donate sick/vacation time.
- Employees who donate time must have a minimum combined total of 120 hours of sick and vacation leave after making the donation in case they experience their own personal need for time off.

Note: Employees cannot borrow against future sick or vacation time to donate.

Withdrawal Guidelines

Employees who would like to make a request to receive leave Bank time must adhere to the following criteria:

- Employee must qualify for OFLA, FMLA or both.
- A serious medical hardship or critical or catastrophic illness or injury that poses a threat to life and/or requires inpatient or hospice health care must exist.
- All accumulated sick, vacation, and compensatory leave must first be expended.
- The event does not qualify for Paid Leave Oregon.
- An employee is limited to a maximum of 520 hours. Additional time, up to 520 hours, may be allowed if crucial circumstances exist and with approval from the City Manager.
- Applicant is not eligible to draw from the Bank if he or she is receiving long term disability, worker's compensation, or Paid Leave Oregon (PLO) benefits.
- Employees eligible for City-paid long-term disability insurance shall submit long term disability paperwork for the City's insurance carrier before being able to receive donated leave time.

Procedure

Employees who would like to make a request to receive donated time from the Catastrophic Bank must complete a Catastrophic Sick Leave Bank Form and must qualify for OFLA, FMLA or both. The application must be signed and accompanied by a physician's certification of a medical hardship or catastrophic injury or illness. The physician must also estimate in writing how long, in days, the recovery is expected to take.

All forms should be returned to the City Manager for approval. All donations and withdrawals will be kept in confidence by the Finance Department/Payroll.

Approval

The City Manager or designee shall review all forms for compliance with the established conditions and requirements and approve or deny the application within five days after receiving the request. During the review of the application, the City Manager has the right to request additional information from the applicant as necessary.

Termination

Leave will be terminated if any of the following conditions apply:

- The physician's certification indicates a date certain that leave is no longer necessary.
- If the recipient recovers more rapidly than the physician initially estimated, the recipient must terminate leave as soon as the physician deems appropriate. Failure to notify the physician of this requirement, or to report changes in the estimated date of return to the City Manager will subject the recipient to disciplinary action, as described in the Participation Abuse section below.
- The recipient is receiving long-term disability or workers' compensation benefits.
- If the balance in the Catastrophic Bank is fully expended.
- If OFLA and FMLA runs out or employee is disqualified from OFLA and FMLA

- The recipient dies.

Participation Abuse

The City Manager will investigate alleged abuse of the Catastrophic Sick Leave Bank. If an employee is found to have abused use of the Catastrophic Sick Leave Bank, the employee may be subject to disciplinary action as determined by the City Manager.

H. Bereavement Leave

Employees who have worked for the City for 180 calendar days, and averaged at least 25 hours per week, may take up to two weeks of unpaid bereavement leave per death of a Family Member (defined below). Employees who have worked for the City for 90-180 days, and who have experienced the death of a Family member (defined below) may use up to 40 hours of accrued sick leave for bereavement purposes). Employees who have worked for the City for fewer than 90 days may not be eligible for leave; see the Human Resources representative for more information.

Full-time employees who have worked for the City for at least 180 days are allowed to receive up to five (5) calendar days for Bereavement Leave for a covered family member without loss of pay. Part-time employees will receive a pro-rated amount of paid time based on their hours hired to work. If you choose to take additional bereavement leave allowed by state law, you must either use accrued leave or take unpaid leave. The City Manager has the discretion to award equivalent paid time off for other situations of bereavement the City Manager also has the discretion to allow an employee additional leave.

Bereavement leave may be used to attend the funeral or alternative to a funeral of the family member, to make arrangements necessitated by the death of the family member, or to grieve the death of the family member. The bereavement leave must be taken in the 60-day period following notice of death of a family member and will be deducted from the employee's available leave time under OFLA. For purposes of this policy, "Family Member" is defined to include the employee's spouse, same-sex domestic partner (registered), child, parent, parent-in-law, sibling, grandparent, or grandchild, same relations of an employee's same-sex domestic partner (registered) or spouse, or a person with whom the employee was in a relationship of in loco parentis. Employees who wish to take bereavement leave must inform the City as soon as possible after receiving notification of a Family Member's death. Although prior notice is not required, oral notice must be provided within 24 hours of beginning leave. Written notice must be provided to the employer within three days of returning to work. Employees are required to use any available sick leave during the period of bereavement leave; vacation time will be used if the employee has no available sick leave.

I. Executive Leave

The purpose of this leave is to compensate FLSA Exempt employees for times when an employee spends more hours at work than normal due to special projects or increased workloads.

Executive Leave accrues monthly up to a maximum amount determined by the City Manager. These leave hours may accrue up to a balance of 80 hours for Department Heads or 40 hours for other qualifying exempt employees. If the balance exceeds these limits, then Executive Leave shall no longer accrue. Executive Leave hours cannot be cashed out during employment; however, the hours will be paid out upon separation from employment with the City. To use Executive Leave, eligible employees shall complete a City "Leave Request" form and submit it to the Department Head or City Manager for approval.

Exceptions to this policy can only be made with the written approval of the City Manager.

J. Merit Leave

The purpose of this leave is to recognize an employee for outstanding performance and achievements.

The granting and use of Merit Leave and the amount of leave awarded is at the recommendation of the Department Head and is subject to City Manager approval. Use of merit leave must follow City and Department leave procedures.

To use awarded Merit Leave, eligible employees shall complete a City "Leave Request" form and submit it to the Department Head or City Manager for approval.

K. Administrative Leave

Bargaining Unit employees should refer to their collective bargaining agreements contracts for information.

An employee may be placed on paid or unpaid Administrative Leave at the City's discretion. Administrative Leaves are not disciplinary in nature and may be used in situations such as internal investigations (e.g., after officer involved shootings, investigations of possible misconduct, etc.). An employee placed on Administrative Leave may be subject to the following guidelines:

- Employee may continue to receive regular pay and benefits.
- Employee may be required by a Supervisor to relinquish any City property, including building keys, identification, and assigned weapon(s).
- Employee may be ordered to refrain from taking any action as a City employee or in an official capacity.
- Employee shall be required to continue to comply with all policies and lawful orders of a Supervisor.
- Employee may be temporarily reassigned to a different shift during the pendency of an investigation.
- Employee may be required to be available for contact at all times during such shift and report as ordered.
- It shall be the responsibility of the Supervisor to promptly notify the Department Head and City Manager or designee before any action is taken.

L. Jury and Witness Duty

Jury Duty

The City will grant employees time off for mandatory jury duty and/or jury duty orientation. A copy of the court notice must be submitted to the employee's Supervisor to verify the need for such leave. This leave shall be with pay; however, all jury fees accepted during jury duty must be turned in to the City's Finance Department (except for mileage). If an employee is dismissed from jury service prior to the end of his/her workday, he/she shall report to work for the remainder of the workday.

The employee is expected to report for work when doing so does not conflict with court obligations. It is the employee's responsibility to keep his or her supervisor or manager informed about the amount of time required for jury duty.

Witness Duty

Time spent serving as a witness in a work-related, legal proceeding will be treated as time worked for pay purposes, provided the time served occurs during regularly scheduled hours, the employee is subpoenaed to testify, and the employee submits witness fees to the Finance Department upon receipt.

Except for employee absences covered under the City's "Crime Victim Leave Policy" or "Domestic Violence Leave and Accommodation Policy," employees who are subpoenaed to testify in non-work-related legal proceedings must use any available vacation time to cover their absence from work. If the employee does

not have any available vacation time, the employee's absences may be unexcused and may subject the employee to discipline, up to and including termination. Employees must present a copy of the subpoena served on them to their supervisor for scheduling and verification purposes no later than 24 hours after being served.

M. Religious Observances Leave and Accommodation Policy

The City respects the religious beliefs and practices of all employees. The City will make, upon request, accommodation for such observances when reasonable accommodation is available that does not create an undue hardship on the City's business. Employees may use vacation or unpaid time for religious holy days or to participate in a religious observance or practice; if accrued leave is not available, then an employee may request to take unpaid leave. Requests for religious leave or accommodation should be made with a Supervisor or the Human Resources representative.

N. Crime Victim Leave Policy

Any employee who has worked an average of at least 25 hours per week for 180 days is eligible for reasonable, unpaid leave to attend criminal proceedings if the employee or his or her immediate family member (defined below) has suffered financial, social, psychological, or physical harm as a result of being a victim of certain felonies, such as kidnapping, rape, arson, and assault.

"Immediate family member" includes a spouse, registered same-sex domestic partner, father, mother, sibling, child, stepchild, or grandparent.

Employees who are eligible for crime victim leave must:

- Use any accrued, but unused vacation/sick leave during the leave period, unless using PLO benefits (see Paid Leave Oregon for notification requirements);
- Provide as much advance notice as is practicable of his/her intention to take leave (unless giving advance notice is not feasible); and
- Submit a request for the leave in writing to the Human Resources representative as far in advance as possible, indicating the amount of time needed, when the time will be needed, and the reason for the leave.

In all circumstances, the City may require certification of the need for leave, such as copies of any notices of scheduled criminal proceedings that the employee receives from a law enforcement agency or district attorney's office, police report, a protective order issued by a court, or similarly reliable sources.

O. Domestic Violence Leave and Accommodation Policy

All employees are eligible for reasonable unpaid leave to address domestic violence, harassment, sexual assault, or stalking of the employee or his or her minor dependents.

Reasons for taking leave include the employee's (or the employee's dependent's) need to: seek legal or law enforcement assistance or remedies; secure medical treatment for or time off to recover from injuries; seek counseling from a licensed mental health professional; obtain services from a victim services provider; or relocate or secure an existing home.

Leave is generally unpaid, but the employee may use any accrued vacation or sick leave while on this type of leave or may apply for PLO benefits (see Paid Leave Oregon for notification requirements).

When seeking this type of leave, the employee should provide as much advance notice as is practicable of his or her intention to take leave, unless giving advance notice is not feasible.

Notice of need to take leave should be provided by submitting a request for leave in writing to the Supervisor or the Human Resources representative as far in advance as possible, indicating the time

needed, when the time will be needed, and the reason for the leave. The City will then generally require certification of the need for the leave, such as a police report, protective order or other evidence of a court proceeding, or documentation from a law enforcement officer, attorney, healthcare professional, member of the clergy, or victim services provider.

If more leave than originally authorized needs to be taken, the employee should give the City notice as soon as is practicable prior to the end of the authorized leave. When taking leave in an unanticipated or emergency situation, the employee must give oral or written notice as soon as is practicable. When leave is unanticipated, this notice may be given by any person on the employee's behalf. See Paid Leave Oregon (PLO) for Safe Leave notification requirements.

Finally, employees who are victims of domestic violence, harassment, sexual assault or stalking may be entitled to a "reasonable safety accommodation" that will allow the employee to more safely continue to work, unless such an accommodation would impose an "undue hardship" on the City. Please contact the Human Resources representative immediately with requests for reasonable safety accommodations.

P. Military Leave

Employees who wish to serve in the military and take military leave should contact the Human Resources representative for information about their rights before and after such leave. You are entitled to reinstatement upon completion of military service, provided you return or apply for reinstatement within the time allowed by law.

Further, eligible employees called for initial active duty for training and for all periods of annual active duty for training as a member of the National Guard, National Guard Reserve or of any reserve component of the Armed Forces of the United States or of the United States Public Health Service, may be entitled to leave with pay for all regular workdays that fall within a period not to exceed 21 work days in any federal training year (October 1 – September 30), provided you are employed at least six months prior to the leave ORS 408.290(2). Weekend drill obligations are not considered "federal active duty" for training under this policy; other requirements apply. Please contact the Human Resources representative for more information and to make arrangements for this paid leave.

Additional military leave is without pay unless you elect to utilize vacation, compensatory time, or other benefits earned before commencement of the leave and are otherwise eligible to use such benefits. You must request and obtain approval to use leave accrual pay during military leaves of absence.

Q. Unpaid Personal Leave

An employee may be eligible for Unpaid Personal Leave after twelve months of continuous service. This leave may be granted for up to ninety (90) days if the leave does not adversely affect the operations of the City and the Department, and for reasons that are not covered by the Family and Medical Leave policy or other protected leave.

Request for such leave must be submitted in writing at least five (5) working days in advance, except in cases of emergency, and must include an expected date of return. Requests must be approved by the Department Head and City Manager. Unpaid Personal Leave will be granted only after all accumulated vacation time, holiday time, executive leave, and compensatory time has been used.

An employee who does not return within three days of the expected date of return, and where no extension has been requested and approved, will be assumed to have voluntarily resigned.

Benefits do not accrue during an Unpaid Personal Leave of absence but are retained at the same level.

Employees on Unpaid Personal Leave must pay the premium for Group Benefits by the first of each month to continue the coverage.

IV. Employee Benefits

A. Insurance and Other Benefits

Employees who meet the definition of “benefit eligible” under both City policy and that of its insurance providers are entitled to the benefit options offered by the City. Please consult the Human Resources representative for the most recent premiums information.

The group insurance policies and the summary plan descriptions issued to employees set out the terms and conditions of the insurance plans offered by the City. These documents govern all issues relating to employee insurance. As other employee benefits are offered by the City, employees will be advised and provided with copies of relevant plan documents. Copies are available from the Human Resources Representative.

B. Employee Assistance Program (EAP)

This free, confidential service is provided to all employees covered by our medical insurance benefits, and their covered dependents who may be experiencing life problems. Information regarding this service can be obtained by contacting the Human Resources representative or consulting the bulletin boards at each work location and the benefits information on the shared internet drive.

C. Workers’ Compensation and Safety on the Job

You are protected by workers' compensation insurance under Oregon law. This insurance covers you in case of occupational injury or illness by providing, among other things, medical care, and compensation and temporary or other disability benefits. Employees are expected to work safely and in a safe environment. You are also expected to follow all safety rules and regulations at all times, including the use of protective clothing and equipment, attendance at all training sessions related to their job description, and following the directions of warning signs or signals and/or directions of Supervisory personnel.

Steps to Take if You are Injured, Suffer an Occupational Illness, or have a Near-Miss

If you are injured on the job or have a safety incident, the City wants to know about it and expects to learn about it no later than 24 hours afterwards (report all work-related injuries to your supervisor).

You are expected to complete the Incident/Accident Form as soon as possible, but no later than the next shift, after any incident or near-miss and submit it to your Supervisor for review and signatures.

If you seek treatment for a work-related injury and want to apply for workers' compensation benefits, you must do all the following:

1. Report any work-related injury to your supervisor. You must report the injury within 24 hours after the injury.
2. Seek medical treatment and follow-up care if required.
3. Promptly complete a written Employee’s Claim Form (Form 801) and return it to the Human Resources representative.

Failure to timely follow these steps may negatively affect your ability to receive benefits.

In the case of a work-related accident or injury, you may use accrued leave to be made whole for your net pay based on a regular workweek. At no time, however, can the combination of these exceed normal earnings, nor can you use more sick time than what you have accumulated.

Return to Work

If you require workers' compensation leave, you will — under most circumstances — be reinstated to the same position that you held at the time your leave began, or to an equivalent position, if available. However, you must first submit documentation from a health care provider who is familiar with your condition certifying your ability to return to work and perform the essential functions of your position.

When returning from a workers' compensation leave you have no greater right to reinstatement than if you had been continuously employed rather than on leave. For example, if you would have been laid off had you not been on leave, or if your position is eliminated, and no equivalent or comparable positions are available, then you may not be entitled to reinstatement. These are only examples, and all reinstatement/reemployment decisions are subject to the terms of any applicable collective bargaining agreement. The City does not discriminate against employees who suffer a workplace injury or illness.

Early Return-to-Work Program

Our Return-to-Work program provides guidelines for returning you to work at the earliest possible time after you have suffered an on-the-job injury or illness that results in time loss. This program is not intended as a substitute for reasonable accommodation when an injured employee also qualifies as an individual with a disability. The Return-to-Work Program is intended to be transitional work, to enable you to return to your regular job in a reasonable period of time. The Return-to-Work program for job-related injuries consists of a team effort by the City, injured employees and their treating physicians, and our workers' compensation insurance carrier claims staff. The goal is to return our employees to full employment at the earliest possible date that is consistent with their medical condition and the advice of the treating physician.

If your doctor determines that you are able to perform modified work, the City will attempt to provide you with a temporary job assignment for a reasonable period of time until you can resume your regular duties (except where provided as an accommodation for a disability). If, due to a work-related injury, you are offered a modified position that has been medically approved, failure to phone in or report at the designated time and place may affect your compensation and employment with the City. While you are on modified or transitional work, you are still subject to all other City rules and procedures.

Overlap with Other Laws

The City will account for other leave and disability laws that might also apply to your situation, such as the Americans with Disabilities Act (ADA) and FMLA or OFLA. If, after returning from a workers' compensation leave, it is determined that you are unable to perform the essential functions of your position because of a qualifying disability, you may be entitled to a reasonable accommodation, as governed by the ADA and/or applicable Oregon laws covering disabilities in the workplace.

Additional Safety Information

All newly hired employees are to receive the proper safety training from their departments for their position. Providing education to employees helps to empower them to take responsibility for their own safety. All City employees must receive training from their department when new equipment or processes are introduced, or when procedures have been revised or updated.

Safety Committee

The City has established a Safety Committee to bring employees and management together in a non-adversarial, cooperative effort to promote safety and health. The Safety Committee has representatives from various departments and holds monthly meetings to review workplace hazards and make recommendations for change. Anyone interested in serving on the Safety Committee should contact their Supervisor.

Safety Manual

The workplace Safety Manual incorporates specific policies, procedures, work rules, regulations, and practices. Each Department shall be issued a Safety Manual by the Safety Officer. Updates, when developed, will be sent to each department. The Supervisor or designee is responsible for the maintenance of the Safety Manual issued to their department.

Reporting Unsafe Working Conditions

The City believes that all employees are responsible for helping ensure a safe workplace by alerting their Supervisor to potentially unsafe conditions. An employee who sees an unsafe or dangerous working condition that can easily be corrected, (such as a cord lying across a walkway), should immediately fix the problem. Employees are expected to report any unsafe working conditions or other safety concerns to their Supervisor, a member of the Safety Committee or submit complete the Safety Reporting Form.

Violation of the Safety Policy

To maintain a safe and productive work environment, a violation of departmental safety rules and procedures will be considered a very serious case of misconduct and will be subject to disciplinary action.

Tobacco Products and Marijuana-Free Workplace

If you wish to smoke or chew you must do so outside of City facilities/buildings, and only in designated areas. Check with your Supervisor for the location of designated areas.

Under Oregon's Indoor Clean Air Act (ORS 433.835-870), smoking, aerosolizing, or vaporizing of inhalants is not allowed within 10 feet of building entrances, exits, windows, air intake vents, and accessibility ramps. The City buildings, vehicles, equipment, or machinery are tobacco and marijuana-free areas. Use of any of these products is prohibited during working hours.

The City of Silverton provides a tobacco and marijuana-free environment for all employees and visitors. For purposes of this policy, "tobacco" includes the smoking or vaping of any tobacco-based product, smoking, or vaping in any form (including, without limitation, cigars and e-cigarettes), the use of oral tobacco products or "chew/spit" tobacco, and marijuana used by smoking, vaporization, within food, as an extract, or any other means. This policy applies to all individuals while on City property, in City vehicles, or City-owned facilities/buildings.

D. PERS (Public Employees' Retirement System) Benefits

The City participates in the Public Employees Retirement System (PERS); therefore, your designation as a Tier I, Tier II, or Oregon Public Service Retirement Plan (OPSRP) member will depend on your prior PERS service and PERS rules. An employee's designation and eligibility for participation in PERS or the OPSRP are determined by law. Unused sick leave may be used by PERS in calculating PERS retirement benefits. For more information about these plans, please contact PERS at 1-888-320-7377 or visit their website at www.oregon.gov/PERS. For information about the City's contributions to employee PERS or OPSRP plans, please see the Finance Department.

V. Workplace Expectations, Conduct, and Discipline

A. Expectations

The following standards are not all-inclusive but serve as a guide to demonstrate work behaviors considered important to the City.

In addition to following these rules, you are urged to always use reasonable judgment and to seek Supervisory advice in any doubtful or unclear situation. If everyone does their best to meet both the spirit and intent of these guidelines, disciplinary issues should be minimal.

As a matter of policy, the City seeks to resolve conduct and performance problems in the most informal and positive manner possible. However, when someone does not conduct themselves in accordance with the intent of the standards, action will be taken to correct the situation promptly and completely. Outright violations of workplace rules will result in corrective action, up to and including termination.

Be on Time and Ready to Perform a Full Day's Work

Employees' punctuality and regular attendance are essential functions of each employee's job and critical for efficient operation. Employees are expected to report to work as scheduled, on time, and prepared to start work. Any employee who is unable to get to work on time is expected to notify their Supervisor in the event other arrangements need to be made.

Unauthorized or excessive tardiness or absenteeism (excused or not) may be cause for disciplinary action up to and including termination. Performing other than City work during work hours, deliberately delaying, or limiting work tasks, or inciting others to delay or limit work tasks are unacceptable standards and may be cause for discipline. Each situation of excessive tardiness or absenteeism will be evaluated on a case-by-case basis.

Appearance

Employees are expected to maintain an appropriate appearance that is businesslike, neat, and clean as determined by the requirements of the area in which the employee works. Clothing that displays offensive slogans is prohibited.

Respect for City Property

Employees are expected to regard their workplace with respect and attention. City records, equipment, and property are to be treated carefully and appropriately. Employees should practice fiscal responsibility in the discharge of their duties, including but not limited to turning off lights, electric heaters, motors, etc. when not needed, maintain City equipment, and be conservative in the use of City supplies. Employees are responsible for those items in their custody and are accountable for their maintenance, appropriate use, and/or accuracy.

Quality of Work

Employees are expected to deliver quality work. Potential infractions include careless, inaccurate, unreliable, or otherwise unsatisfactory work performance or productivity.

Performance Reviews

All City employees will receive performance reviews. Performance reviews serve as one factor in decisions related to employment, such as training, merit pay increases, job assignments, employee development, promotions, retention, and discipline/termination. Any employee who fails to satisfactorily perform the essential duties of their position is subject to disciplinary action (including termination).

The City's goal is to provide an employee with their first formal performance evaluation/review within three (3) months after hire or promotion and, during probation, every three (3) months thereafter until one year (performance reviews at three, six and nine months). After the probationary reviews, the City will strive to provide a formal performance review on an annual basis.

Reviews will generally include the following:

- An evaluation of the employee's quality and quantity of work

- A review of exceptional employee accomplishments
- Establishment of goals for career development and job enrichment
- A review of areas needing improvement
- Setting of performance goals for the employee for the following year.

Employees who disagree with a performance review may submit a written response with reasons for disagreement. The employee's response shall be filed with the employee's performance evaluation in the employee's personnel file. Such response must be filed not later than 30 days following the date the performance evaluation was received.

Supervisors and managers are encouraged to provide employees with informal evaluations of their employees' work on an as-needed basis.

Work Conduct

Employees are expected to conduct themselves in a professional manner that will exemplify such characteristics as honesty, integrity, constraint, impartiality, and dedication to the public interest. Employees are expected to be courteous and considerate to everyone with whom they come into contact. Telephones should always be answered in a friendly manner, and persons greeted in an office or over the counter should be given the impression that our employees are capable and anxious to help them.

Employees are expected to report hours worked accurately on timecards and to follow the City's purchasing policy.

Workspace Inspections and Investigations

The City reserves the right to search all City property, including desks, computers, file cabinets, lockers, and City vehicles with or without cause. Employees should not bring anything to work or put or store anything in City files, closets, shelves, boxes, workstations, computers, and computer files (including email, voice mail, etc.), desks, file cabinets, lockers, vehicles, etc. that could embarrass or otherwise cause discomfort or problems for any employee if the item were found or seen by others. Employees should have no expectation of privacy in the use of City property, or any information contained therein at any time.

Confidentiality

Employees are expected to maintain the confidentiality of City information or customer information in their possession.

Customer Service

Public relations are an integral part of each employee's job. Employees are expected to be professional and courteous when dealing with co-workers, managers, customers, or business associates. Discourteous or threatening behavior or failing to come to the aid of a co-worker when a legitimate need is known or apparent is unacceptable and cause for disciplinary action.

Insubordination

Failure to follow any verbal or written instruction issued by a person in the position of authority as determined by the City is unacceptable and cause for disciplinary action, including termination.

Outside Employment

Outside employment by full-time employees is permitted with prior written approval of the Department Head and City Manager. Employees must be able to meet performance, attendance, overtime and other requirements of the City. Off-duty work must not, in the City's view, interfere with or negatively reflect on the interests and reputation of the City.

Any employee with existing outside employment on the effective date of this Handbook shall notify their Supervisor within thirty (30) days thereafter. The City requires employees to report outside employment to their Supervisor on an annual basis, or sooner if any changes in outside employment occur.

Work Safely

Potential infractions include, but are not limited to: failure to follow safe working practices, provoking or instigating arguments, dissension or fights during working hours or on City premises or engaging in horseplay which results in injury or property damage, any unauthorized, careless act of destroying or damaging City property, tools or equipment, or the property of others on City premises, (Note: When we determine an employee has committed a serious safety violation, that employee is subject to immediate discharge).

B. Ethics

At the City of Silverton, we believe in treating employees with respect and adhering to ethical and fair practices. We expect employees to avoid situations that might cause their personal interests to conflict with the interests of our organization or to compromise the City's reputation and integrity. Employees who conduct themselves inappropriately or who create a detrimental impact on the City may be subject to corrective action up to and including termination.

Employees are responsible for carrying out their duties in a manner that contributes to a positive and productive work environment and further achieves City goals and objectives. All behavior should reflect favorably on the City and serve the public interest as opposed to individual interest.

Supervisors and Department Heads are responsible for providing leadership that encourages high performance and good conduct and holds employees accountable for their actions.

City employees are subject to the State of Oregon's ethics laws which prohibit certain gifts and conflicts of interest. If you have any questions about the City's ethics standards, please consult your Supervisor. In addition to the Oregon Government Ethics Laws, City employees are also subject to the following standards.

Conflict of Interest

You may not solicit, obtain, accept, or retain any personal benefit from any supplier, vendor, customer/client, or individual or organization doing or seeking business with the City. This means you may not maintain an outside business or financial interest or engage in any outside business or financial activity that conflicts with the interests of the City or interferes with your ability to fully perform your job responsibilities.

Misrepresentation

As an employee, you should consider how you represent the City in your transactions and interactions. You should be careful not to misrepresent City policies, practices, or procedures, and you should not misrepresent your status and authority to enter into agreements. You should also not use the City's name, likeness, facilities, assets, or other resources or use the authority of your position with the City for personal gain or private interests.

Gifts and Gratuities

Occasionally City employees are offered personal gifts, discounts, or gratuities in connection with their employment. While such offers may be made in good faith, it is important that everyone representing the City avoid any appearance of inappropriate business practices or other impropriety. Each employee is expected to exercise good judgment and politely refuse such personal gifts, cash, discounts, or gratuities offered in connection with their employment with the City. Employees should notify their Department

Head in the event they have questions regarding any offer. To avoid a violation of State Ethics law, no gift accepted by the City shall exceed more than \$50.00 in a year from a single source.

Travel Awards

Travel awards, including frequent flier miles, compensation for being displaced, and related items accrued or earned by officials and employees on official City business, are part of the salary and benefits to which you are entitled. You should make decisions regarding travel arrangements and expenses in the best interest of the City rather than maximize accrual of this benefit. Abuse of this benefit, including influencing travel arrangements so as to maximize accrual of awards to the detriment of the City or public is prohibited and is cause for discipline. You are responsible for ensuring that this compensation is reported as income for tax purposes to the extent required by law.

Off-Duty Conduct

As a rule, the City regards off-duty activities to be a personal matter. However, certain types of positions are more restrictive than others and off-duty activities are of concern due to the potential negative impact on the City's reputation. For that reason, employees who engage in or are associated with illegal or other conduct that adversely affects the City or the employee's ability or credibility to carry out their employment responsibilities, may be subject to corrective action up to and including termination.

Solicitation on City Property

The City strives to establish a work environment that is productive and without undue disruptions to the workday. Therefore, soliciting by one employee of another, or collecting from one employee by another, is prohibited while either employee is on work time. Distributing literature and circulating petitions during work time or in work areas at any time is also prohibited. However, employees may use areas designated by the City Manager, such as bulletin boards in break rooms, to post notices of items for sale or otherwise of interest to other employees. It is the obligation of employees wishing to utilize this privilege to do so during off-duty hours, and in a manner which does not interfere with their work, or the work of other employees.

Bulletin Boards

City bulletin boards are intended to keep you up to date on work-related notices and events and are used to post information required by law. Employees covered by a Collective Bargaining Agreement may also fund a union bulletin board in the Department. Please refer to your Collective Bargaining Agreement for additional details. Bulletin boards are to be used only for posting or distributing notices or announcements of a business nature that are equally applicable and of interest to employees or are directly concerned with City business. The City may have bulletin boards open to employee postings in lunch rooms/break areas.

Political Activity

Employees may engage in political activity except to the extent prohibited by Oregon law when on the job, during working hours. This means employees cannot:

- Be required to give money or services to aid any political committee or any political campaign;
- Solicit money or services (including signatures) to aid or oppose any political committee, nomination or election of a candidate, ballot measure, or referendum, or political campaign while on the job, during working hours (this is not intended to nor does it restrict the right of City employees to express their personal political views) or
- Be disciplined or rewarded in any manner for either giving or withholding money or services for any political committee or campaign.

City employees also may not hold an elected office within the Silverton City government.

C. Improper Employee Conduct

The term “improper conduct” shall mean any action by an employee which affects the employee’s ability to perform assigned duties properly, threatens the safe and productive conduct of City operations, or endangers City personnel or property. “Improper conduct” is grounds for disciplinary action, and includes but is not limited to:

1. Use of intoxicants, or being under the influence of intoxicants, while on duty, on call, or on standby. Intoxicant is defined as a liquor or brew containing alcohol as the active agent, and a drug that can produce a state of intoxication. Refer to the City’s Alcohol and Drug Policy for more information.
 - The conduct prohibited by this rule includes consumption of any intoxicating liquor within four hours of reporting to work or during rest breaks or meal periods. If use of alcoholic liquor or an alcohol “hangover” adversely affects an employee's physical or mental faculties while at work to any perceptible degree, or the employee’s blood alcohol content exceeds .02 percent, the employee will be deemed “under the influence” for purposes of this rule.
2. Possession, distribution, dispensing, sale, attempted sale, use, manufacture or being under the influence of any narcotic, hallucinogen, stimulant, sedative, drug, or other controlled substance while on City of Silverton property, on City of Silverton time, while driving City of Silverton vehicles (or personal vehicles while on City of Silverton business), or in other circumstances which adversely affect the City of Silverton operations or safety of City employees. Employees may not have any detectable amount of narcotic, hallucinogen, stimulant, sedative, drug, or other controlled substance in system while on City property or on City time.
 - The conduct prohibited by this rule includes consumption of any such substance prior to reporting to work or during rest breaks or meal periods. If use of such substances or withdrawal symptoms adversely affects an employee's physical or mental faculties while at work to any perceptible degree, or the employee tests "positive" for any such substances by screening and confirmation tests, the employee will be deemed "under the influence" for purposes of this rule.
 - As used in this policy, "controlled substance" includes, but is not limited to, any controlled substance listed in Schedules I through V of the Federal Controlled Substance Act, including marijuana that is otherwise lawful to use under Oregon, Washington, or any other state’s law.
3. Discourteous treatment directed towards a Supervisor, Department Head, City Manager, City Councilor, the public, a co-worker, or a volunteer.
4. Threatening, intimidating, coercing, or interfering with fellow employees, or use of improper or offensive language or gestures toward the public or other employees.
5. Falsifying employment application, timecard, personnel, or other City documents or records.
6. Engaging in acts of dishonesty, fraud, theft, or sabotage.
7. Fighting, throwing things, horseplay, practical jokes, or other disorderly conduct which may endanger the well-being of co-workers or of City operations.
8. Unauthorized possession of City or employee property, gambling, carrying unauthorized weapons, dangerous weapons, firearms, or explosives, or violating criminal laws on City

premises.

9. Use of any City-granted leave under false pretenses or abuse of said leave.
10. Conviction of a crime which, in the City's judgment, would impair effectiveness as a City employee or renders the employee incapable of performing essential job functions as defined in the job description.
11. Communication, written or verbal, to Council, City Staff members, or the public about employment with the City, a supervisor(s) or a co-worker(s) which is negative and could reflect adversely on the City or impact the individuals' ability to successfully perform their job.
12. Use of the employee's position for personal advantage.
13. Absence from duty without approved leave, failure to report after leave of absence has expired, or after such leave of absence has been disapproved or revoked by the Supervisor, Department Head or City Manager.
14. Outside employment or private activities that are conducted on City time, or with City resources.
15. Solicitation of a contribution, response or action in the name of the City, or solicitation designed to further a political or charitable cause while on duty, unless specifically authorized by the City Manager.
16. Failure to report to work. Not reporting to work and not calling to report the absence is a no-call/no-show and is a serious matter. The first instance of a no call/no show will result in a final written warning. The second separate offense may result in termination of employment with no additional disciplinary steps. A no call/no show lasting three days may be considered job abandonment and may be deemed an employee's voluntary resignation of employment.

D. Corrective Action/Discipline Policy

Employees are expected to perform to the best of their abilities at all times. There will be occasions, however, where employees perform at an unsatisfactory level, violate a policy or law, or commit an act that is inappropriate. When performance or conduct does not meet the City standards, the City will determine whether it will terminate the employee's employment or provide the employee a reasonable opportunity to correct the deficiency through progressive discipline (such as, in no particular order, verbal warnings, written warnings, suspensions without pay, and demotions). The corrective action process will not always commence with verbal counseling or include a sequence or steps. Some acts, particularly those that are intentional or serious, warrant more severe action (including termination) on the first or subsequent offense.

In lieu of terminating the employment of an employee for serious violations of policies, procedures, and rules and for other inappropriate behavior or conduct, the City may choose to provide the employee a final opportunity to continue employment in the form of a last-chance agreement. The City may also choose to send the employee to training or provide an education opportunity.

In all cases, the City will determine the nature and extent of any discipline based upon the circumstances of each individual case and, where applicable, collective bargaining agreement provisions. The City may proceed directly to a written warning, demotion, last chance agreement, or termination for misconduct or performance deficiency, without any prior disciplinary steps, when deems such action appropriate. The City retains the right to terminate any employee's employment at any time and for any reason, with or without advance notice or other prior disciplinary action (other than those employees who are subject to a collective bargaining agreement or contract of employment).

E. Complaint/Appeal Procedure

It is the City's policy to assure all employees, using a formalized procedure, a method and procedure whereby they may have their complaints or appeals considered as fairly and as rapidly as possible without

fear of reprisal. This procedure does not apply to complaints involving discrimination/harassment or complaints involving retaliation for raising concerns related to unlawful discrimination or harassment.

This complaint procedure applies to all employees who are not covered by a collective bargaining agreement.

Appeal of Disciplinary Action

All employees to whom this provision is applicable and who are not covered by a collective bargaining agreement may appeal disciplinary actions, except oral reprimand, in the following manner:

STEP 1: The employee shall orally present the concern or complaint to the immediate Supervisor as soon as possible after the disciplinary action is finalized but in no event later than within ten (10) working days of the final action. The Supervisor shall have five (5) working days from receipt of the grievance to provide an oral response.

STEP 2: If the concern or complaint remains unresolved, the employee shall submit the concern or complaint in written form within ten (10) working days of receipt of the Supervisor's reply. The written complaint shall be signed and delivered to the Department Head. The Department Head shall respond to the employee in writing within ten (10) working days after receipt of the employee's written statement.

STEP 3: If the employee is not satisfied with the Department Head's response, the employee may appeal to the City Manager. The appeal shall be submitted in writing within five (5) working days of the completion of Step 2. All documents shall be attached to the appeal. The City Manager shall meet with the aggrieved party and the Department Head and shall respond to the grievance in writing within ten (10) working days. The decision of the City Manager shall be final and binding upon all parties.

VI. Miscellaneous Policies

A. Alcohol/Drug Use, Abuse and Testing

Please see your Supervisor or the Human Resource Manager for the most recent adopted Alcohol Drug/Use, Abuse, and Testing policy (City of Silverton Administrative Policy 2.1). All employees will be provided a copy for their signature at hire and will be notified of any regulatory changes which affect their position.

B. Communication Devices Policy

The purpose of this policy is to establish guidelines on the use of Communication Devices (CD) and accessories, which includes cell phones, smart phones (iPhones, Androids, PDAs), tablets or any mobile wireless access, all of which are referred to as "CD" in this policy.

The use of a CD includes, but are not limited to, placing and receiving calls, text messaging, blogging and microblogging, emailing, using video or camera features, playing games and accessing sites or services on the Internet.

Violation of this policy will subject an employee to discipline, up to and including termination.

Communication Devices in General

Employees are allowed to bring personal CDs to work with them. During working hours, however, employees should refrain from using them except in an emergency or during a meal period or rest break.

Employees who use personal or City-issued CDs may not violate City policies against harassment and

discrimination. Employees who use personal or City-issued CDs to send a text or instant message to another employee, a citizen or someone not employed by the City that is harassing or otherwise in violation of the City's harassment and discrimination policies will be subject to discipline up to and including termination.

Employees are responsible to maintain reasonable care to protect City-owned CDs from damage and misuse.

Use While Driving

Oregon law prohibits the use of hand-held cell phones while driving, even if the driving is for work-related reasons, except for a few narrow exceptions for emergency or public safety purposes.

The use of a CD while driving adversely affects safety, causes unnecessary distractions, and presents a negative image to the public, as well as being a hazard to the driver, other employees, and the public. This policy is meant to ensure the safe operation of City vehicles and the operation of private vehicles while an employee is on work time. It applies equally to the usage of personal CDs and city-issued or subsidized CDs.

Employees are prohibited from using "hand-held" CDs for any purpose while driving on City-authorized or City-related business. This policy also prohibits employees from using a CD to send or receive text or "instant" messages while driving on City business. Should an employee need to make a business call while driving or receive a call and choose to answer it, the employee must immediately locate a lawfully designated area to park, pull off the road and continue the call. Employees may use "hands-free" CD to make or receive business calls. Such calls should be kept short.

City-Provided Communication Devices

CDs are made available to City employees to conduct City business. Determinations as to which employee receives City-issued CDs will be made on a case-by-case basis by the Department Head and/or City Manager; employees are not guaranteed a CD.

Employees who receive a CD from the City must agree not to use the device for personal use except in emergency situations and must abide by all aspects of this policy.

Employees who receive a CD from the City must acknowledge and understand because the device is paid for and provided by the City, or subsidized by the City, any communications (including text messages) received by or sent from the CD may be subject to inspection and review. Employees have no reasonable expectation of privacy in a City-provided or -paid for CD. An employee who refuses to provide the City access to his/her personal mobile device in connection with an investigation and after reasonable notice may be subject to discipline, up to and including termination.

Employees are expected to keep their data usage to a minimum. Family and friends may not use an employee's City-issued CD. Employees may not use City-issued CD to access 1-900, 1-976 or similar "pay per minute" services.

Employee- and City-Owned Communication Devices and Public Record

Without approval, employees shall not use employee-owned CDs to conduct City business (see Employee-Owned Communication Devices). City-related business conducted on City-provided or personal communication devices may be subject to disclosure and production under Oregon's Public Records laws or in connection with litigation filed against the City or individual employees.

Retention periods for text messages, phone logs, and/or photos are specific to the message's content. ORS 192.311(5)(a) Includes not only physical records, but digital records as well, and not only traditional "documents," but also photographs, videos, spreadsheets, text messages, and other media.

Employee-Owned Communication Devices

In some cases, the City may approve the usage of employee-owned CDs to conduct City business. Determination as to which employees are authorized to use their personal CD will be made on a case-by-case basis by the Department Head and/or the City Manager.

Procedure

1. The Supervisor and/or Department Head shall complete and sign the Communication Device Approval Form and submit it to the City Manager for approval.
2. Once approved, the original shall be forwarded to the Finance Department for processing with a copy sent to Human Resources for the employee's personnel file.
3. The approval remains in effect until revoked by the authorized approval agent.

Reimbursement

Employees who are required, as a responsibility of their position and as designated by the City Manager, to be available for City business outside of regular business hours and while away from City Hall for personal or business reasons, may be entitled to a reimbursement up to \$45 per month for a smart phone and \$25 per month for all other phones, in lieu of using a City-issued CD. Any reimbursement shall end on the employee's last day of employment with the City.

To receive the reimbursement, the employee must complete the Communication Device Approval Form, which will be forwarded to Finance. A copy of the phone expenses must be submitted to Finance on a quarterly basis.

The City shall not be responsible for any monetary loss or damages to an employee's phone or for any personal contract entered with a CD service plan under this policy.

Separation

In the event an employee who has been provided a City-issued CD leaves the employment of the City, for whatever reason, all City-issued equipment shall be immediately returned to the City. Failure to return all equipment in good working condition upon separation may result in criminal charges being filed.

C. Use of the City Email and Electronic Equipment, Facilities and Services (Information Technologies)

The City provides information technologies to its employees to use in the course of doing their jobs. This policy covers the use of information technologies for internal and external communication as a tool for conducting the City's business, and as a research tool and information resource. The term information technologies includes, but is not limited to, computer and personal communications hardware, software, and systems that utilize the Internet and/or any other communications network, including landlines, and faxes. All communication and information transmitted by, received from, or stored in these systems are the property of the City and as such these systems are to be used for job-related purposes.

The City Manager shall appoint a Network Administrator who, in conjunction with any assigned Information Technology representatives, is responsible for managing information technologies. Human Resources is responsible for employee behavior in the use of those technologies.

No Expectation of Privacy in the Use of Information Technology

All computer applications, programs, and information created or stored by employees on City owned information systems are City property. Employees shall have no expectation of personal privacy in the use of the City's information technologies. Passwords are used to protect the security of City data and information technologies and are not intended to convey an expectation of personal privacy or exclusion

from monitoring. Evidence of misuse of the internet gathered through monitoring may be used in disciplinary actions.

Departments may develop more restrictive work rules based on the operations needs of the specific department. Each Department Director is responsible for their respective employees' use of information technologies and for the contents of their information presented using information technologies.

The City reserves the right to monitor and disclose internet use. Monitoring may occur without notice. There is no reasonable expectation of privacy in internet use, even if the system utilizes passwords. Such passwords are for the City's protection, not for the privacy of employee internet use.

Procedures

It is important that these technical tools are used appropriately. The following procedures address appropriate use of City assets, and the responsibilities of users and management.

Users are responsible for the care and maintenance of the desktop hardware assigned to them. Users should avoid subjecting the hardware in their care to damaging environmental conditions, including but not limited: excessive heat, humidity, or dust; exposure to liquids (e.g., coffee spills); or physical vibrations or bumps that may cause damage to the hardware.

Computer games are not to be installed on City-owned computers. Due to the potential of introducing data destroying viruses into computer systems, only software and hardware owned by the City shall be used on City computer systems. Exceptions may be approved by the Network Administrator. If a user becomes aware of a virus, the user must immediately contact the Network Administrator and take no further action without authorization by the Network Administrator. Software shall be used in accordance with the software license supplied by the software's publisher, provided the software license complies with state and federal law.

Copyrighted software shall be copied for backup or archive purposes only as permitted by the license agreement. Duplication of software or documentation for any other purposes is prohibited.

Electronic Mail

E-mail is intended for business use. Incidental personal use by employees may be permitted, but such use comes with both the implicit and express consent of the employee for the City to monitor and disclose email. Incidental personal use of e-mail should occur briefly, infrequently, and shall not be conducted while on-duty. Commercial use of the City's e-mail system is expressly prohibited.

Acceptable Uses of Information Technologies

The City's information technologies are intended for professional business use in performing the duties of an employee's job. Business related use includes, but not limited to:

1. Communication with federal, state, or local government agencies, their committees, boards and commissions.
2. Communications, including information exchange, research, professional development or to maintain job knowledge or skills.
3. Communications and information exchanges directly relating to the mission and Charter of the City of Silverton and the work tasks of individual departments in support of work-related functions.

Unless otherwise prohibited by law or department-specific work rules, limited personal use is permitted according to the following guidelines:

1. It is incidental, occasional and of short duration.
2. It is done on the employee's personal time. Personal time means during breaks, lunch and/or

before and after work as defined by collective bargaining agreements, City and/or Department work rules.

3. It does not interfere with any employee's job activities. This includes activities which might pose a conflict of interest or appearance of impropriety with an individual's employment with the City.
4. It does not result in an expense to the City.
5. It does not solicit for or promote commercial ventures, religious or political causes, outside organizations or other non-job related solicitations.

Prohibited Use of Information Technologies

The following list of prohibited uses for information technologies is not intended to be all-inclusive:

1. To cause a breach of security or any action to attempt to circumvent or reduce the security of the City's computer and network resources or of any confidential information, regardless of physical or electronic form or media, entrusted to the City's custody.
2. Misuse of service or any action that renders the user's computer equipment unusable, or that interferes with another City employee's use.
3. Illegal use of any City information resources, regardless of physical or electronic form or media.
4. To grant or allow personnel access by any person or entity to City information technology systems, regardless of physical or electronic form or media, for which they are not authorized to do so.
5. Failure to limit the recipients of messages appropriately, propagating virus hoaxes, "spamming" (spreading e-mail or postings widely and without good purpose), or "bombing" (flooding an individual or group with numerous or large e-mail messages).
6. Accessing or transmitting information that conflicts with City or Department work rules for non-job-related reasons, such as information in violation of the City's non-discrimination policy.
7. Accessing racist and sexually explicit sites.
8. Neither the City's e-mail system nor the City's intranet may be used for commercial activities, religious causes, or support for other activities that are not related to the direct conduct of City business.
9. Use of City information technologies for political activity or in a manner that would directly or indirectly assist a campaign for election of any person to any office, or for the promotion of or opposition to any ballot proposition.
10. Altering electronic communications to hide one's identity or to impersonate another individual. All e-mails, news posts or any other form of electronic communication must contain the sender's real name and/or e-mail address.
11. Buying, selling, or trading goods, services, or financial instruments via the City's information technologies for personal financial gain.
12. Using City information technologies to avoid the expense of personally purchasing comparable hardware, software, and/or internet access.
13. Removing City owned IT equipment from City premises without prior approval from the employee's Supervisor.
14. Installing any software not previously approved by the Network Administrator, including unlicensed software.
15. Copying and/or using City data, regardless of physical or electronic form or media, for personal use, except as permitted by law.
16. Destroying City records in violation of retention and preservation policies or state law.

Network User Security Guidelines:

1. The use of passwords is a primary method of securing the City's personal computer based wide area network. Users have the obligation to maintain the security of the network by safeguarding their passwords. Each network user shall be established with his or her own password. New

employees will be added following a request by a Supervisor or Department Director.

2. The primary function of passwords is to keep unauthorized users off the network. Passwords are for the City's protection, not for the privacy of employees' use of hardware and software.
3. The Network Administrator must be immediately informed when an employee separates from City employment.
4. Employees should logout when not working in the network. Network users must treat their information resources like any critical work tool. Logging out at the conclusion of a session secures against unauthorized use.

Contact Information

Technical questions regarding the use of information technologies should be directed to the Network Administrator or assigned Information Technology representatives.

Human resources related issues should be directed to Human Resources.

Electronic Records Retention

Please refer to the City's Public Records Policy.

D. Social Media

For purposes of this policy, "social media" includes all means of communicating or posting information or content of any sort on the Internet, including to your own or someone else's web log or blog, journal, or diary, personal or commercial website, social networking web site, web bulletin board or a chat room, whether or not associated or affiliated with the City, as well as any other form of electronic communication.

Ultimately, you are solely responsible for what you post online. Before creating online content, consider some of the risks and rewards that are involved. Keep in mind that any of your conduct that adversely affects your job performance, the performance of co-workers, or otherwise adversely affects our citizens or people who work on behalf of the City or the City's legitimate business interests may result in disciplinary action up to and including termination.

Prohibited Postings

Employees will be subject to discipline, up to and including termination, if they create and post any text, images or other media that violate any of the City policies, including the City's no-harassment and no-discrimination and workplace violence policies. Similarly, postings that include threats of violence, that are physically threatening or intimidating, bullying, or harassing, will not be tolerated and may subject an employee to discipline, up to and including termination.

Do not create a link from your blog, website or other social networking site to City-owned or maintained website without identifying yourself as a City employee.

Express only your personal opinions. Never represent yourself as a spokesperson for the City, unless you are authorized by your manager/supervisor to do so. If the City is a subject of the content you are creating, be clear and open about the fact that you are a City employee, and make it clear that your views do not represent those of the City or its employees or elected officials.

Encouraged Conduct

Always be fair and courteous to co-workers, the citizens we serve, the City's employees and elected officials, volunteers, and suppliers or other third parties who do business with the City.

Also, keep in mind that you are more likely to resolve work-related complaints by speaking directly with your co-workers, or by utilizing our Open-Door Policy, than by posting complaints to a social media outlet.

If you decide to post complaints or criticism, avoid using statements, photographs, video, or audio that reasonably could be viewed as malicious, obscene, threatening or intimidating, that disparage citizens, co-workers, the City employees, or elected officials, that might constitute harassment or bullying, and/or that violate the City policies. Examples of such conduct might include offensive posts that a reasonable person would perceive as calculated to intentionally harm an individual's personal or professional reputation, posts that could contribute to a hostile work environment based on race, sex, disability, religion or any other status protected by law or the City policy.

Maintain the confidentiality of the City's confidential information. Do not post internal reports, policies, procedures or other internal, City -related confidential communications or information.

Nothing in this policy is meant to prevent an employee from exercising his or her right to make a complaint of discrimination or other workplace misconduct, engage in lawful collective bargaining activity, or to express an opinion on a matter of public concern that does not unduly disrupt City operations. Employees are free to express themselves as private citizens on social media sites, but an employee's exercise of expression is balanced against the City's interest in the effective and efficient fulfillment of its responsibilities to the public.

Request for Employee Social Media Passwords

The City's supervisors are prohibited by law from requiring or requesting an employee or an applicant for employment to disclose or to provide access through the employee's or applicant's username and password, password or other means of authentication that provides access to a personal social media account. This includes, without limitation, a username and password that would otherwise allow a supervisor/manager to access a private email account not provided by the City.

Nothing in this policy prohibits the City from requiring an employee to produce content from his or her social media or internet account in connection with a City sponsored investigation into potential misconduct, unlawful or unethical behavior, or policy or rule violations.

E. Open-Door Policy

The City's Open Door Policy is based on our belief that open, honest communication between supervisors and employees should be a common business practice. The City's supervisors are responsible for creating a work environment where employee input is welcomed, and where issues are identified early and shared without the fear of retaliation (when the employee provides the input in good faith). If you have a complaint, suggestion, or question about your job, working conditions, or the treatment you are receiving from anyone in the City, please raise them first with your immediate supervisor. If you are not satisfied with the response from your immediate supervisor, or if your issue involves your immediate supervisor, request to have the facts/situation reviewed by the Human Resources representative.

F. Bad Weather/Emergency Closing

If there are circumstances beyond our control, such as inclement weather, a national crisis, or other emergencies that make one or more of our office locations inaccessible for all or part of a regularly scheduled workday, the City Manager (or his/her designee) will decide whether to and to what extent the City will close.

In the event of extreme bad weather, the City recognizes that each employee's ability to safely reach work may be different. If you cannot safely report to work in such circumstances, you should contact your manager. If staff cannot reach the office and are able to serve the City from home, you should do so subject to approval by your Supervisor. Safety and a trustworthy approach are your guides.

G. Driving While on Business

This section provides a summary. Please also reference the “Driving Policy and Acceptable Driving Records Policy”. Employees using a private vehicle to conduct the City’s business must possess a valid driver’s license and must carry auto liability insurance. Employees who use their own vehicles for authorized City business use should make any necessary arrangements with their insurance carriers.

The City may verify the validity of your driver’s license and/or your driving record at the time of hire and at any point during your employment if driving is an essential function of your job or if doing so relates to a legitimate business purpose of the City. Once you are employed with the City, we will receive automated reports from the Department of Motor Vehicles (DMV). The reports notify the City when there are transactions on your driving record such as speeding tickets and citations.

While on City business, drivers are expected to make every reasonable effort to operate their vehicle safely, with due regard for potential hazards, weather, and road conditions. Drivers are to obey all traffic laws, posted signs and signals, and requirements applicable to the vehicle being operated. Seatbelts are to be used in all vehicles while on business. Drivers are to ensure that the use of prescribed or over the counter drugs does not interfere with their ability to drive while on business; operating a vehicle under the influence of alcohol or controlled substances is prohibited. Employees are responsible for notifying their manager of any subsequent restrictions, limitations, or other change in their driving status within 72 hours of the change or new restrictions/limitations. See also, “Communication Device” policy, above.

Employees who receive a ticket or citation while driving a City-owned vehicle or while on City business will generally be responsible for paying the fine (if any) associated with the ticket or citation and may face discipline up to and including termination.

H. Prohibition of Workplace Violence

The City recognizes the importance of a safe workplace for employees, customers, vendors, contractors, and the general public. A work environment that is safe and comfortable enhances employee satisfaction as well as productivity. Therefore, threats and acts of violence made by an employee against another employee, volunteer, elected official, or member of the public with respect to that person’s life, health, well-being, family, or property will be dealt with in a zero-tolerance manner by the City.

All employees have an obligation to report any incidents that pose a real or potential risk of harm to employees or others associated with the City, or that threaten the safety, security, or financial interests of the City. Employees are also strongly encouraged to report threats or acts of violence by non-employees, such as vendors or citizens, against any employee, volunteer, or elected official. Employees should make such reports directly to their Supervisor or the Human Resources representative.

The City also may conduct an investigation of a current employee where the employee's behavior raises concern about work performance, reliability, honesty, or potentially threatens the safety of co-workers or others.

Bringing a deadly weapon to any City facility or carrying a deadly weapon while at work is strictly prohibited. This prohibition does not apply to persons authorized to carry weapons as part of their job responsibility, such as public safety officers. For the purpose of this policy, “deadly weapon” means a device, instrument or object that is specifically designed for causing death or serious physical injury and does not include tools primarily used for construction, demolition or similar work. The prohibition applies even if you have a concealed weapon permit. Under no circumstances shall an individual who has not already been exempt from the prohibition have a weapon stored in a City-owned vehicle or facility. The prohibition does not apply to personal defense devices, such as personal attack alarms, nor to chemical defense sprays, such as Mace.

If an employee feels threatened or in danger of imminent bodily harm, they should take the following steps:

1. Leave the scene if it can be done safely. Do not attempt to control a violent person.
2. Call law enforcement (911) if the situation warrants this action.
3. The incident should be reported to the Supervisor, Department Head or Human Resources immediately or as soon as possible.

If the threatening individual poses no immediate physical threat, but is making verbal threats or is otherwise intimidating employees or others in the area, then the employee should:

1. Keep back or move away from the individual, if possible, in a way as not to provoke violence.
2. Notify a Supervisor, Department Head, or Human Resources as soon as possible.

The City understands there may be situations that demand immediate action to protect oneself or others against an act of violence. If such an incident occurs and there is no time to follow procedures, workers may protect themselves or abandon their position in order to do so. Workers are still required to report the incident as soon as possible.

The employee assistance program (EAP) is available to provide confidential and individual personal counseling to employees involved in a violent incident.

Any intimidation, coercion, discrimination, or retaliation against an individual who reports an act of workplace violence or who assists, participates, or testifies in any manner in an investigation will not be tolerated. All such acts should be reported immediately. Workers who engage in any act of retaliation, intimidation or harassment will be subject to discipline, up to and including termination.

I. Prohibition on Secret Recordings

Employees may not obtain or attempt to obtain the whole or any part of a conversation by means of any device without first obtaining permission from all the people in the conversation. This rule applies to the recording of conversations made during work hours, while at work-related functions, or in connection with work between or among employees, supervisors/managers, elected officials, or members of the public. It does not apply to conversations where there is no expectation of privacy, such as a City Council, Committee, Commissioner, or Task Force meeting, or work session, and the like.

This policy does not apply to law enforcement employees who record conversations in connection with their official public safety duties. Nothing in this policy prohibits or restricts an employee's right under the federal or Oregon constitutions to make recordings outside of working hours or while not representing or working on behalf of the City. If anything in this policy contradicts existing CBA provisions on the recordings of personnel meetings, or Oregon or federal law that provide for lawful secret recordings, the CBA provision or law will apply.

Employees who secretly record meetings with supervisors, coworkers, elected officials, members of the public or others while on duty will be subject to discipline, up to and including termination of employment.

VII. Separation from Employment

A. Job Elimination or Reduction in Work Hours or Staff

The City desires to avoid circumstances that require a reduction in hours or staff, but recognizes that situations may arise where there may be a need to reduce staffing levels. Depending upon the circumstances, the City may respond in a variety of ways, including voluntary or mandatory reduction in hours or days of work, reducing expenses by other means, or by a reduction of the workforce. The City retains the right to determine the method by which to select employees for any reduced hours or reduction in force.

Affected employees will be given two weeks' notice of lay off, during which time the employee shall be allowed reasonable time off with pay to pursue other employment.

B. Retirement or Resignation from Employment

If you choose to resign or retire, it is anticipated that you will give the City as much notice as possible — preferably a minimum of two weeks. When giving your two-weeks' notice, accrued leave may not be used in lieu of notice. If you do not give two-weeks' notice of your intent to leave the City, you will not be eligible for re-employment at a later date.

Employees who miss three or more consecutive workdays without contacting their immediate supervisor are typically considered to have resigned their employment.

If the employee's decision to resign is based on a situation that could be corrected, the employee is encouraged to discuss it with the Human Resources representative before making a final decision.

C. Separation Policies

Return of City Property

Upon separation from employment, either voluntarily or otherwise, you must return all City property, including phones, pagers, tools, uniforms, parking permits, computers, identification cards, credit cards, vehicles, keys, and manuals, and any other items that belong to the City to their Supervisor on or before your last day of work. You must also provide computer passwords or program log-in information to your Department Head or their designee.

Exit Interviews

Whenever possible, employees who leave the City's employment will be given the opportunity to provide the City with information regarding their perceptions of employment before their last day of work and address any unresolved issues before leaving the City. Exit interviews will be conducted by Human Resources using a standardized form.

Final Paychecks

Final paychecks will be issued in accordance with Oregon state law.

The final paycheck will be in the form of a paper check which will include all wages due and owed through your final day of employment as well as payment for earned and unused vacation benefits and compensatory time. Any money owed to the City or other authorized deduction will be deducted from the final paycheck.

D. References

All requests for references or recommendations must be directed to the Human Resources representative. By policy, the City discloses only the dates of employment and position(s) held of former employees. Former employees who authorize additional disclosures must make a request to do so in writing.

No manager, supervisor or employee is authorized to release references for current or former employees in their official City capacity. Managers and supervisors are expressly prohibited from providing LinkedIn "recommendations" or using a website on the internet to discuss a current or former employee's performance or termination of employment.

VIII. Administrative Policies

The City maintains administrative and Human Resources-related policies and procedures that are reviewed and administered independently from the Employee Handbook, but which still bear a significant

impact on employment matters and the overall operation of the City.
Please refer to your department manager for this information.

**CITY OF SILVERTON
EMPLOYEE HANDBOOK**

Adopted by City Council June 1, 2020
Effective July 1, 2020
Updated May 2023
Effective July 1, 2024

RECEIPT ACKNOWLEDGMENT FORM

I have received a copy of the City of Silverton EMPLOYEE HANDBOOK. I understand that I have the responsibility to read and understand the information in the Handbook, and to ask my Supervisor for clarification of any information I do not understand.

I understand that this Handbook is not a contract of employment or a guarantee of specific treatment in specific situations. I understand that this Handbook supersedes all prior Manuals, policies, and understandings on the subjects contained in it. I understand that the City has adopted the Handbook only as a general guide about policies, work rules and the work environment, and that they are subject to change at any time in the City's sole discretion.

I understand that unless stated in a collective bargaining agreement, the City has the right to revise any policy described in this Handbook, and the City will require an additional signed Acknowledgement Form from me to indicate that I am aware of the changes.

I also understand that the policies listed in the Handbook do not constitute or present an employment agreement or a guarantee of continued employment. I also understand my employment relationship with the City is "at-will", and that either the City or I can terminate the relationship at any time, with or without reason or notice.

I have reviewed the City's policies regarding equal employment opportunity, and I understand that the City aims to provide a workplace free of harassment and discrimination. I will bring any questions or concerns I have regarding equal employment opportunities, discrimination, retaliation, or harassment to Human Resources.

I agree to read this Handbook and follow it during my employment with the City. I further agree that I have had an opportunity to have the contents of this Handbook clarified through my Supervisor, Department Head, City Manager or Human Resource Manager/

Employee Signature

Date

Employee's Name (Printed)