

CITY COUNCIL MEETING AGENDA

May 9, 2024

7:00 PM

Central Point City Hall, Council Chambers
140 S 3rd St, Central Point, OR

www.centralpointoregon.gov



10. Meeting Called to Order

20. Pledge of Allegiance

30. Roll Call

40. Public Comments

The City Council sets aside 20 minutes for in-person public comments on non-agenda items. Comments are limited to two minutes per individual, 5 minutes per group or organization. Please complete a public comment form before speaking.

The City Council encourages written comments. Please submit your comments by regular mail to City Council, 140 S Third St, or by email to meetings@centralpointoregon.gov. Comments must be received by noon on the date of the meeting to be noted in the record. Please include the date of the Council meeting with your comments.

50. Consent Agenda

- A. Approval of April 25, 2024, Meeting Minutes

60. Items Removed from the Consent Agenda

70. Ordinances and Resolutions

- A. Ordinance Repealing City Treasurer & Expanding Finance Director Duties 2nd Reading
Sydnee Dreyer, City Attorney

80. Business

- A. Community Center Lease and Cost Estimates
Matt Samitore, Parks and Public Works Director
- B. Mobile Food Business Code Amendments
Stephanie Powers, Planning Director
- C. Planning Commission Report - May 7, 2024

Stephanie Powers, Planning Director

90. Mayor's Report

100. City Manager's Report

110. Council Reports

120. Department Reports

130. Adjournment

CITY COUNCIL MEETING MINUTES

April 25, 2024

7:00 PM

Central Point City Hall, Council Chambers

140 S 3rd St, Central Point, OR

www.centralpointoregon.gov



1 Meeting Called to Order

The meeting was called to order at 7:00 PM by Mayor Hank Williams

2 Roll Call

The following members were present: Mayor Hank Williams, At Large Rob Hernandez, At Large Michael Parsons, Ward II Kelley Johnson (remote), Ward I Neil Olsen (remote), Ward III Melody Thueson

The following members were absent: Ward IV Tanea Browning

The following staff were also present: City Manager Chris Clayton; City Attorney Sydnee Dreyer (remote); Parks and Public Works Director Matt Samitore; Finance Director Steve Weber; Police Captain Greg Bruce; and City Recorder Rachel Neuenschwander.

3 Pledge of Allegiance

4 Recognitions, Community Group Reports

5 Public Comments

Medford Resident Dee Giguere encouraged the Council to reject the Animal Shelter.

Central Point Resident, Bunnie Harmon opposed to the Animal Shelter, spoke of her concerns about the project.

Central Point Resident, Killian Yates addressed the council regarding his opinion on the Animal Shelter district.

6 Consent Agenda

A. Approval of April 11, 2024, Meeting Minutes

B. Quarterly Financial Statements

Motion: Approve

Moved By: Michael Parsons **Seconded by:** Rob Hernandez

Roll Call: Members Hank Williams, Rob Hernandez, Michael Parsons, Kelley Johnson, Neil Olsen, Melody Thueson voted yes. None voted no.

7 Items Removed from the Consent Agenda

8 Public Hearing

9 Ordinances and Resolutions

A. Ordinance Amending and Increasing Transient Lodging Tax - 2nd Reading

City Manager Chris Clayton presented to the council the second reading of the Ordinance Amending and Increasing the Transient Lodging Tax. The only change from the first reading is the rate would not take effect until July 1, 2024, which is the beginning of the next quarter.

Rob Hernandez I move to approve Ordinance No. 2114, an Ordinance Amending CPMC Chapter 3.24 Increasing Tax Imposed, Establishing Joint and Several Liability for Lodging Tax Collectors, and Updating Rights and Remedies.

Motion: Approve

Moved By: Rob Hernandez **Seconded by:** Michael Parsons

Roll Call: Members Hank Williams, Rob Hernandez, Michael Parsons, Kelley Johnson, Neil Olsen, Melody Thueson voted yes.

None voted no.

B. Ordinance Repealing City Treasurer & Expanding Finance Director Duties - 1st Reading

City Attorney Sydnee Dreyer presented to the Council the first reading of the Ordinance Repealing City Treasurer & Expanding Finance Director Duties. The proposed amendment would clarify and expand the role of the Finance Director, and remove provisions for the office of the Treasurer, which no longer exists.

Melody Thueson moved to forward the Ordinance amending CPMC Chapter 2.12 - repealing provisions for City Treasurer and expanding Finance Director duties to a second reading.

Motion: Approve

Moved By: Melody Thueson **Seconded by:** Kelley Johnson

Roll Call: Members Hank Williams, Rob Hernandez, Michael Parsons, Kelley Johnson, Neil Olsen, Melody Thueson voted yes. None voted no.

C. Resolution Approving Initiation of Animal Control Svc. Dist.

City Manager Chris Clayton presented to the council a Resolution Approving the Initiation of an Animal Control Service. District. The territory of the City may only be included within the boundaries of the District if the City Council adopts a resolution approving the proposed Jackson County Order Initiating Formation of a Jackson County Animal Control Service District. If the Council approves this Resolution, it would not create the District. Rather, this would be a first step in allowing the proposed district to go before the voters.

The council questioned Jackson County representative Joel Benton regarding if the current location could be remodeled and what the proposed tax rate was, and Mr. Benton responded that the current facility is at the end of its life and that the proposed rate is \$0.15.

Staff questioned Joel regarding the euthanization of the dogs and sought clarification that the reason an animal is euthanized is based on the recommendation from a veterinarian based on health and the adoptability of the dog. Mr. Benton responded that most are dogs with behavior or health issues.

Rob Hernandez moved to approve Resolution No. 1783, a Resolution Approving a Jackson County Order to initiate the formation of a Jackson County Animal Control Service District and consenting to the inclusion of city territory within the boundaries of the district.

Motion: Approve

Moved By: Rob Hernandez **Seconded by:** Melody Thueson

Roll Call: Members Hank Williams, Rob Hernandez, Michael Parsons, Neil Olsen, Melody Thueson voted yes. None voted no.

D. Resolution Accepting the Lowest Qualified Bid from Knife River Materials for the Construction of the 2024 Pavement Maintenance Package

Parks and Public Works Director Matt Samitore presented to the council a resolution accepting the lowest qualified bid from Knife River Materials for the construction of the 2024 pavement maintenance package, with a change to what was in the packet of a base bid of \$404,595.

Melody Thueson moved to approve Resolution No. 1784, a Resolution Accepting the Lowest Qualified Bid from Knife River Materials for the Construction of the 2024 Pavement Maintenance Project and Authorizing the City Manager to Execute a Contract.

Motion: Approve

Moved By: Melody Thueson **Seconded by:** Rob Hernandez

Roll Call: Members Hank Williams, Rob Hernandez, Michael Parsons, Kelley Johnson, Neil Olsen, Melody Thueson voted yes. None voted no.

10 Business

A. Don Jones Property Transfer

Parks and Public Works Director Matt Samitore discussed with the council the possible Don Jones Property transfer. Before property can be sold, it must be surplussed and the City must obtain an appraisal of the value of the property. Staff had an appraisal performed which

valued the property at \$19,000. However, if the City were to convey this property, staff recommends a minimum sale price of at least \$25,000 to cover the City's costs, including legal costs and the costs of moving the bollards and garbage receptacles.

The council had questions over the utilities located on the corner of the property. Staff responded that there is a 15-foot sewer easement and storm drain easement as well as a part of a waterline.

The council also questioned the current zoning of the property. Staff responded that the property is currently zoned R2 or MMR, and there would be a zone change needed for the section that is zoned Civic.

The council has agreed for staff to move forward with a resolution to declare the property surplus.

11 Mayor's Report

Mayor Williams reported that he attended the Jackson County Fair Board meeting.

12 City Manager's Report

City Manager Chris Clayton reported that:

- The Community Center meeting he was supposed to have this week has been rescheduled for Monday.
- Next week, department directors will be meeting with the city's lobbyists.
- The GDP grew by 1.6%, and inflation is higher than we would like it to be.
- He listened to some Grants Pass Homeless case arguments before the Supreme Court.
- Mayor Williams's tree has been planted.
- The city surveyor has developed a proposed map for the island annexations, which the city will present at a future meeting.
- Kudos to Officer Pagan for helping out a citizen earlier this week. The Earth Day celebration went well, and he praised Dan Duron for all the vehicle maintenance he has been accomplishing in-house, saving the city money.

13 Council Reports

Council Member Kelley Johnson reported that;

- She attended the RVCOG Board meeting.
- She attended the Study Session.

Council Member Neil Olsen reported that he attended the second half of the study session.

Council Member Melody Thueson reported that:

- She attended the School Board meeting.
- She attended the Study session.

Council Member Mike Parsons reported that:

- He attended the RVSS Board meeting.
- He attended the Study Session.
- He attended the Jackson County Public Safety Coordinating Council meeting.
- He attended the CPPD Volunteer Appreciation Luncheon.
- He attended the Rogue Valley Sewer Service 24/25 Budget meeting.

Council Member Rob Hernandez reported that he attended the Fire District 3 Budget Meeting.

14 Department Reports

Finance Director Steve Weber reported that:

- He will notify the Budget Committee of the upcoming Development Commission Budget Meeting on May 20th.
- He is expecting a draft Audit report from Moss Adams for the 2021/2022 Audit. This report, to be presented at a June meeting, will provide us with valuable insights for our future financial strategies.
- Quarterly statements: The financial statements are still on an accrual basis even though the City has moved to a cash basis; they are still in transition to a cash basis.

Parks and Public Works Director Matt Samitore reported that he attended an MPO meeting regarding the funding for the Gas Tax dollars. There

was a discussion about whether they would like city representatives to participate in the policy meeting and the technical advisory meetings. He will be attending the technical advisory conferences, and if anyone is interested in attending these meetings, let him know.

15 Executive Session

16 Adjournment

Rob Hernandez moved to adjourn. All said aye and the meeting was adjourned at 8:09 p.m.

The foregoing minutes of the April 25, 2024, Council meeting were approved by the City Council at its meeting of _____, 2024.

Dated:

Mayor Hank Williams

ATTEST:

City Recorder



DEPARTMENT: Administration **MEETING DATE:** May 9, 2024

STAFF CONTACT: Sydnee Dreyer, City Attorney

SUBJECT: Ordinance Repealing City Treasurer & Expanding Finance Director Duties 2nd Reading

SUMMARY AND BACKGROUND:

CPMC Chapter 2.12 lists the duties of a City Treasurer and a Finance Director. However, the City only utilizes a Finance Director, who also performs some of the duties of a Treasurer.

The proposed amendment would clarify and expand the role of the Finance Director, and remove provisions for the office of the Treasurer, which no longer exists.

FINANCIAL ANALYSIS:

LEGAL ANALYSIS:

The City Charter does not require that the City have a Treasurer position. This amendment is consistent with the Charter and with City practice.

COUNCIL GOALS/STRATEGIC PLAN ANALYSIS:

Strategic Priority - Responsible Governance

GOAL 2 - Invite Public Trust.

STRATEGY 1 – Be a trusted source of factual information.

STRATEGY 5 – Communicate effectively and transparently with the public.

ATTACHMENTS/EXHIBITS:

1. ORD - Amending Ch 2.12 Treasurer

STAFF RECOMMENDATION:

Make a motion to approve the Ordinance.

RECOMMENDED MOTION:

I move to approve Ordinance No. _____ the Ordinance amending CPMC Chapter 2.12 - repealing provisions for City Treasurer and expanding Finance Director duties.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CPMC CHAPTER 2.12 - REPEALING PROVISIONS FOR CITY TREASURER AND EXPANDING FINANCE DIRECTOR DUTIES

FINDINGS:

- A. Pursuant to CPMC, Chapter 1.01.040, the City Council, may from time to time make revisions to its municipal code which shall become part of the overall document and citation.
- B. CPMC Chapter 2.12 separately states the duties of a City Treasurer and a Finance Director. However, the City only utilizes a Finance Director, who also performs some of the duties of a Treasurer.
- C. The proposed amendment would clarify and expand the role of the Finance Director, and remove provisions for the Treasurer, which no longer exists.
- D. Words ~~lined through~~ are to be deleted and words **in bold** are added.

THE PEOPLE OF THE CITY OF CENTRAL POINT DO ORDAIN AS FOLLOWS:

SECTION 1. Central Point Municipal Code 2.12.030 – Treasurer’s duties with respect to city’s finances is repealed in its entirety.

SECTION 2. Central Point Municipal Code 2.12.040 – Finance Director is amended to read:

2.12.040 Finance director.

There is established the position of finance director, who shall be hired as department head for the administration department and who shall serve under the guidelines of the city’s personnel policies and procedures. The finance director shall be directly responsible to the city manager, and shall have the following responsibilities:

- A. Payroll accounting and time records;
- B. Utility billing;
- C. Cash receiving;
- D. Bank deposit preparation and bank deposits;
- E. Cash disbursing;
- F. Code invoices with proper accounts to be charged when posting to accounting records;

G. Prepare checks for properly approved and coded invoices for council review and approval;

H. Sign checks on order of the mayor and the council;

I. Maintain general accounting records in accordance with a comprehensive basis of accounting for municipal corporations:

1. General ledger, with budget appropriations,
2. Cash receipt journal,
3. Cash disbursements journal;

J. Prepare financial statements as required by the council;

K. Prepare accounting reconciliations as required by the council;

L. Maintain all accounting records in accordance with council policy and available for inspection; the books and records maintained by the city's finance director shall be the official books and records of the city for audit purposes;

M. Invest the city's excess funds in interest yielding deposits as outlined in the Oregon Revised Statutes, and within the policy guidelines of the council and to act as custodial officer and local government official, as those terms are defined by state statute, for the purpose of such investments;

N. Coordinate budgetary and fiscal policies and procedures with other department heads;

O. Supervise ~~administration~~ **finance** department employees;

P. Such other duties as are assigned to him by the city manager.

Q. Ascertain timely bank deposits have been made;

R. Ascertain that the city's financial statements fairly represent the city's transactions of cash receipts and disbursements. This would be done by procedures such as:

- 1. Review bank reconciliation to be sure they are done and current,**
- 2. Review reconciliation of payroll records to budgetary accounting records,**
- 3. Review cash receipts on a test basis to verify they are properly posted,**
- 4. Review cash disbursements on a test basis to verify they are properly posted;**

2 – Ordinance No. _____ (Council Meeting __/__/24)

(Ord. 1969 §1(part), 2013; Ord. 1369 §1(part), 1980).

SECTION 3. Central Point Municipal Code 2.12.050 – Compensation is amended to read:

2.12.050 Compensation.

The compensation of the recorder, ~~treasurer~~ and finance director shall from time to time be established by ordinance by the city council in accordance with the council’s authority by charter to determine such compensation. (Ord. 1369 §1(part), 1980).

SECTION 4. Codification. Provisions of this Ordinance shall be incorporated in the City Code and the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Recitals A-C) need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors.

SECTION 5. Effective Date. The Central Point City Charter states that an ordinance enacted by the Council shall take effect on the thirtieth day after its enactment. The effective date of this ordinance will be the thirtieth day after the second reading.

PASSED by the Council and signed by me in authentication of its passage this ____ day of _____ 2024.

Mayor Hank Williams

ATTEST:

City Recorder



DEPARTMENT: Public Works

MEETING DATE: May 9, 2024

STAFF CONTACT: Matt Samitore, Parks and Public Works Director

SUBJECT: Community Center Lease and Cost Estimates

SUMMARY AND BACKGROUND:

Note: The financial projections in this strategy memo/staff report are based on the most recent cost estimates (April 2024) associated with the City's Maximum Cost for the Community Center.

BACKGROUND INFORMATION:

In late 2021, the City of Central Point and Jackson County entered into a partnership to conceptually evaluate the possibility of a "joint" community center (City) and evacuation center (Jackson County) near the Jackson County Expo.

Although Central Point had previously conducted conceptual design work on a centrally located community center (near Central Point Elementary), the possibility of a larger facility—including increased recreational opportunities—and the economies of scale that could be leveraged from a partnership with the Jackson County, made the partnership concept well worth evaluating.

In the months since deciding to explore the partnership concept, Staff from the City, Jackson County, and Expo have worked with Ogden, Roemer, and Wilkerson (ORW) Architecture on developing a concept that would meet the needs of all agencies. This process has evolved from developing a concept based on stakeholder "wants" to stakeholder "needs." Largely driven by construction costs that have been recently exposed to hyperinflation (both domestically and globally), the stakeholders have been forced to create a concept within reasonable financial parameters while still meeting the needs of our citizens and business models.

The conceptual design has transitioned from a 140,000-square-foot facility to less than 100,000 square feet to eliminate unrealistic project costs. However, the proposed facility maintains six full-size basketball courts, the minimum for hosting tournaments. Moreover, the facility would include recreational classroom space, outdoor recreation opportunities, and office space for our Parks & Recreation Staff. On the Jackson County side, features include a larger commercial kitchen for feeding evacuees during an emergency, shower facilities, and the previously mentioned gymnasium space, which would be used as an emergency shelter.

In early July 2022, The Central Point City Council considered all three conceptual options developed during our collaborative process with Jackson County (conceptual options included as attachments to this staff report). The City Council's preferred option was option 2, a reduced version of the overall Center, reducing the eating areas, classrooms, and gathering areas. The overall roof structure is the same, but gyms seven and eight are uncovered. This option provided additional savings on the overall cost. At that time it was estimated that the overall cost if the option 2 scenario was agreed upon would be 54 to 55 Million dollars with a cost split of 25-27%. The estimated City's portion would be 13.5 million to 15 million.

2024 Update

Since the last update, the City and County have agreed upon a 119,000-square-foot community center. The City's portion has grown to 31%. This includes two meeting rooms, an exercise room, a community teaching kitchen, a pre-school/teen room, staff offices, a concession stand, and two gymnasiums. The City's maximum amount would be 18.7 million.

The land use process has been completed, and Adroit Construction has been hired as the facility's contractor. An early design package is ready to be submitted to Jackson County, RVSS, and the City of Central Point for construction in June. Additionally, the team is ready to move forward on the final design and purchase of the steel building.

The current maximum price includes an almost 6 million-dollar contingency from Adroit and an additional 1.5 million from Jackson County. We are also still waiting on connection costs from Pacific Power, RVSS, and Avista.

2024 Design/Cost Potential Modifications

The staff has worked with County staff to identify a variety of Value Engineering and Cost options to help reduce the City's obligation. Adroit Construction has identified various Construction-Level changes and a potential grant for Solar. Those cost savings equate to around 2.5 million.

The following is a list of additional cost savings:

- 1. Remove the proposed 'wall' between the County and City sides. This could save an additional 300-400k.*
- 2. Change the exercise room to a classroom - cost savings of 50k.*
- 3.. Delay playground until year 2.*
- 4. Could give one or two classrooms closer to the County side to the County. This would reduce the city's side by 28.5%. This would reduce the City's maximum budget by almost 1 million.*

2024 Cost Projections

Current Maximum Cost before any design changes:

Estimate	\$ 19,469,635.50	31%
Just County Cost	\$ 730,000.00	
City's Max	\$ 18,739,635.50	31%
VE	\$ 672,700.00	VE
Wall/Room	\$ 350,000.00	
Cost	\$ 17,716,935.50	

Maximum Cost if the city reduces the size of the building, VE, and all design changes.

Estimate	\$ 17,645,407.78
VE	\$ 672,700.00
Wall/Room	\$ 350,000.00
Cost	\$ 16,622,707.78

ADDITIONAL BACKGROUND

In coordination with Moss Adams and Associates (Jackson County's Contract Municipal Auditor), Jackson County has determined that the County's American Rescue Plan Act (ARPA) funds are eligible for use on the joint facility concept. More specifically, the County's contribution to this project could be nearly 40 million dollars, and given the significance of this amount, Jackson County wanted to be certain that its contribution would comply with U.S. Department of Treasury rules and guidelines.

In the 2019-2021 City of Central Point Budget, the City was preparing for our upcoming community center project, which was planned for the city-owned property immediately east of Central Point Elementary/School District 6 Administrative Offices. However, the emergence of COVID-19 delayed our plans to pursue the 10-12 million dollar stand-alone facility (original "stand-alone" concept included as an attachment to this staff report). The delay was a product of financial strategy by the City of Central Point Administration, which felt the economic uncertainties created by the COVID-19 pandemic should be fully understood before proceeding with a capital project of this magnitude.

FINANCIAL ANALYSIS:

The complete financial analysis associated construction/lease agreement is attached and will be discussed in detail at the City Council Meeting.

LEGAL ANALYSIS:

The County has provided an initial draft lease, which is included in the agenda packet. A number of issues have been identified by the city attorney and staff to work through and a revised draft will be prepared and presented to the county for further

consideration. In particular, staff will be recommending changes to the definition of operating expenses, property taxes, repair and maintenance obligations, and the rules and regulations.

One significant item of note is that at this time the use agreement has not been negotiated and the county is requesting that the lease be executed prior to agreement on the terms of the use agreement. In order to ensure the city is adequately protected, the staff will be working on additional provisions in the lease that would potentially outline some of the essential terms of a future use agreement and allow the city to terminate the lease if agreement cannot be reached on the terms of a use agreement. If that would occur we would also need language to cap any costs to the city for early termination based on the failure to enter into a mutually agreeable use agreement.

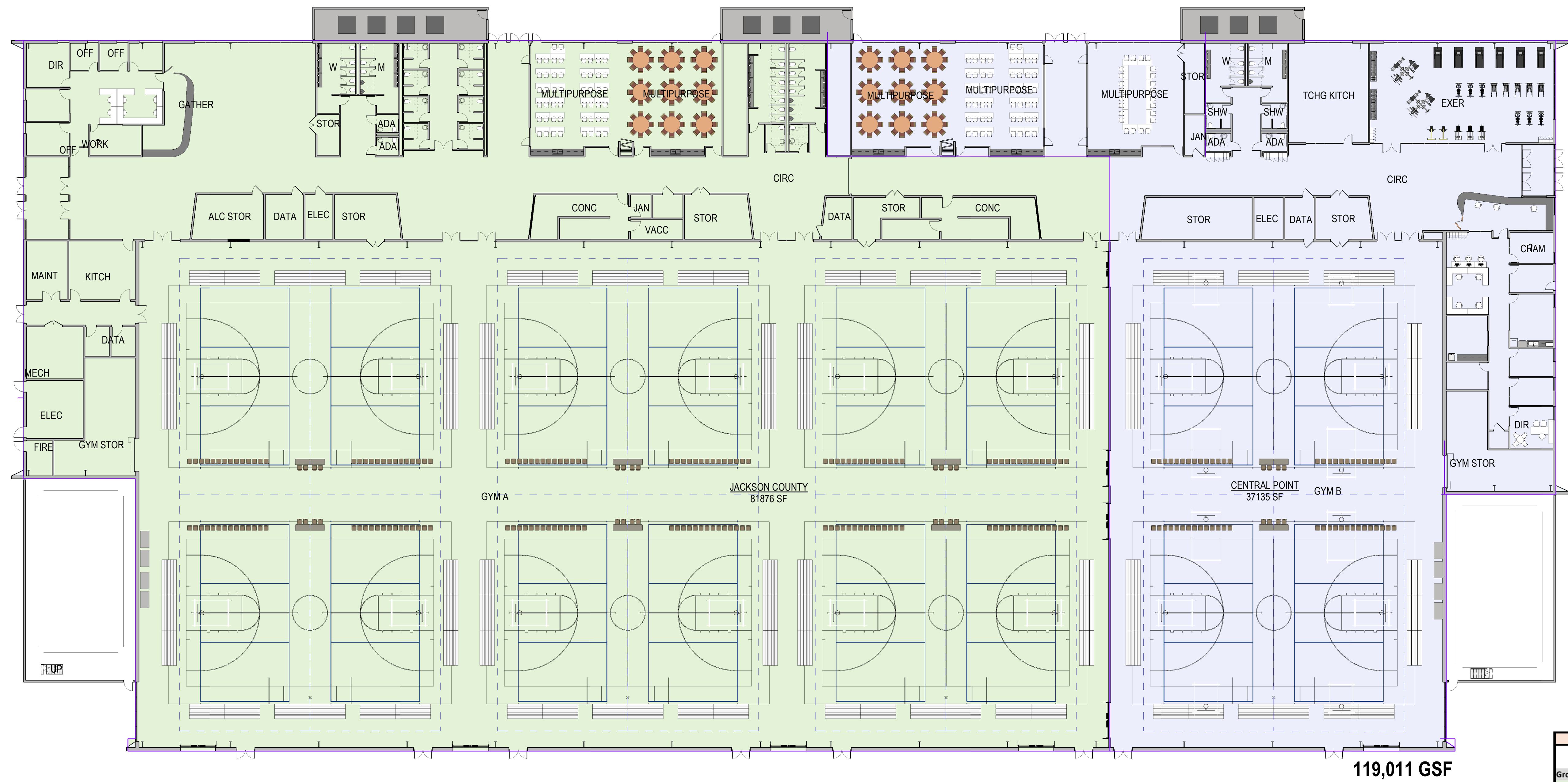
COUNCIL GOALS/STRATEGIC PLAN ANALYSIS:

ATTACHMENTS/EXHIBITS:

1. 2264 - PaRC - Area Separation Between JC CP Cost Breakdown_20230720
2. BudgetVE
3. Urban Renewal - Community Center Debt Service Projections
4. 2024-04-26 MPERC Lease DRAFT

STAFF RECOMMENDATION:

RECOMMENDED MOTION:



Building Area Legend

- CENTRAL POINT
- JACKSON COUNTY

AREA SEPARATION BETWEEN JC & CP		
Name	Area	Percent of Total
CENTRAL POINT	37135 SF	31.20%
JACKSON COUNTY	81876 SF	68.80%
Gross Area (Total)	119011 SF	

Cost Breakdown between JC and CP					
	Area Allocation (SF)	Breakdown (%)	Low Side Cost Estimate	Median Cost Estimate	High Side Cost Estimate
Gross Building Area	119,011	100.00%	\$ 53,365,555	\$ 56,185,686	\$ 59,005,817
Jackson County	81,876	68.80%	\$ 36,713,902	\$ 38,654,067	\$ 40,594,233
Central Point	37,135	31.20%	\$ 16,651,653	\$ 17,531,619	\$ 18,411,584

Multi-Use Pandemic Response Center



Estimated Project Costs

Additional Project Costs	Estimate	
Gym Equipment (volley/pickleball nets) VB=5000 PB=2000	\$20,000.00	
Phones/printers	\$50,000.00	
Kitchen Furnishings	\$5,000.00	
Audio Video (TVs, Projectors, Speakers)	\$50,000.00	
Network Gear (Switchs, Patch panels, etc)	\$400,000.00	
Furniture	\$200,000.00	
Furniture Movers	\$10,000.00	
Permits/SDC/plan review	\$750,000.00	
Power/PP&L	\$400,000.00	
Avista	\$100,000.00	
RVSS	\$100,000.00	
Press Release & Groundbreaking	\$5,000.00	
BOLI Public Works Fee	\$50,000.00	
Materials Testing: Special Inspections	\$15,000.00	
Sign by Gate	\$10,000.00	
Surveyor GEO Tech	\$15,000.00	
CM/GC Advertisement	\$1,000.00	
Dedication Plaque	\$2,000.00	
Total	\$2,183,000.00	
Adroit Construction Base Bid Hardcost Estimate	\$46,484,211.00	
Construction Focus Base Bid Hardcost Estimate	\$47,486,043.00	
Average Base Bid Hardcost Estimate	<u>\$46,985,127.00</u>	
Adroit Construction Contingency and Markups	\$7,883,286.00	
Construction Focus Contingency and Markups	\$8,053,189.00	
Average Contingency and Markups	<u>\$7,968,237.50</u>	
Construction Cost/Site Development avarage estimate	\$54,953,364.50	
A&E(ORW)	\$3,807,347.00	6.93%
Additional A&E	\$200,000.00	
additional Soft Cost above	\$2,183,000.00	3.97%
JC/CP design contingency	\$1,500,000.00	2.46%
Central Point	31.08%	\$19,469,665.53
Jackson County	68.92%	\$43,174,045.97
Total Project Estimate		\$62,643,711.50

Multi-Use Pandemic Response Center



Current Value Engineering Options

Description	Estimated Savings
Substitution from exterior Kalwall panel to ex Shoji Panel	\$38,000.00
Substitution of Clopay 904u rollup door to Wayne Dalton KAL rollup door	\$40,000.00
Reduction of sound absorbing panels from 6'-8" to 6'-0"	\$80,000.00
Substitution of kitchen/showers Epoxy flooring from Stonhard to Dur-A-Flex products	\$110,000.00
Replace wood ceilings on canopies with non-combustible materials	\$152,000.00
Substitution from cast iron vent pipe to plastic	\$20,000.00
Revise gym lighting to be non-color changing fixtures	\$100,000.00
Revise bathroom vanity lighting to more cost effective option	\$10,000.00
Revise main power feeders to under slab from overhead	\$250,000.00
Switch from One large generator to two smaller generators	\$150,000.00
Allow MC cable to be used in office and small rooms	\$25,000.00
Reduce conduit from 3/4" to 1/2"	\$10,000.00
Substitute aluminum wire for copper wire for main feeders	\$150,000.00
Use only CAT6 in lieu of CAT6A	\$35,000.00
Modify one concession stand to plug in equipment	TBD
Remove wall between gyms	TBD
Possible Grant Opportunity Oregon Dept of Energy CREP	\$1,000,000.00
Sub Total	\$2,170,000.00
VE/Grant Options possible Total Savings \$2,170,000.00	

FY	Projected Gross TIF	Growth in Value	UR Beginning Fund Balance 7/1	UR General Costs/Admin	Contingency	Ex. Debt Service Pine	Debt Service Community Center	Notes
2022	\$869,921.25							
2023	\$976,432.53	12.24%	Added Value					
2024	\$1,086,764.73	11.30%	Added Value	\$1,214,755.00	Projected			Construction
2025	\$1,200,884.01	10.50%	Added Value	\$1,814,594.81	Projected	\$100,000.00	\$100,000.00	Construction
2026	\$1,318,972.00	9.83%	Added Value	\$1,653,155.22	1	\$100,000.00	\$100,000.00	\$341,000.00
2027	\$1,542,445.50	16.94%	Added Value	\$1,683,436.44	2	\$100,000.00	\$100,000.00	\$362,463.00
2028	\$2,072,780.70	34.38%	Added Value	\$2,204,618.10	3	\$100,000.00	\$100,000.00	\$383,042.00
2029	\$2,326,224.51	12.23%	Added Value	\$3,000,614.38	4	\$100,000.00	\$100,000.00	\$395,960.00
2030	\$2,498,948.33	7.43%		\$3,960,528.30	5	\$100,000.00	\$100,000.00	\$361,917.00
2031	\$2,678,333.68	7.18%		\$5,090,926.29	6	\$100,000.00	\$100,000.00	\$362,087.00
2032	\$2,864,639.57	6.96%		\$6,398,620.89	7	\$100,000.00	\$100,000.00	\$362,019.00
2033	\$3,058,135.22	6.75%		\$8,251,849.34	8	\$100,000.00	\$100,000.00	\$361,713.00
2034	\$3,259,100.29	6.57%		\$10,295,994.62	9	\$100,000.00	\$100,000.00	\$852,000.00
2035	\$3,467,825.50	6.40%		\$12,538,428.84	10	\$100,000.00	\$100,000.00	\$852,000.00
2036	\$3,684,612.88	6.25%		\$14,986,811.08	11	\$100,000.00	\$100,000.00	\$852,000.00
2037	\$3,909,776.30	6.11%		\$17,649,098.57	12	\$100,000.00	\$100,000.00	\$852,000.00
2038	\$4,143,641.95	5.98%		\$20,533,558.42	13	\$100,000.00	\$100,000.00	\$852,000.00
2039	\$4,386,548.79	5.86%		\$23,648,779.77	14	\$100,000.00	\$100,000.00	\$852,000.00
2040	\$4,638,849.05	5.75%			15	\$100,000.00	\$100,000.00	\$852,000.00

Loan Amortization, 35 years, 4.5%, 16 Million

Year	Interest	Principal	Balance
1	\$716,059.98	\$192,592.94	\$15,807,407.06
2	\$707,212.30	\$201,440.63	\$15,605,966.42
3	\$697,958.15	\$210,694.78	\$15,395,271.65
4	\$688,278.87	\$220,374.06	\$15,174,897.59
5	\$678,154.92	\$230,498.00	\$14,944,399.58
6	\$667,565.88	\$241,087.04	\$14,703,312.54
7	\$656,490.39	\$252,162.54	\$14,451,150.00
8	\$644,906.09	\$263,746.84	\$14,187,403.16
9	\$632,789.60	\$275,863.33	\$13,911,539.83
10	\$620,116.49	\$288,536.44	\$13,623,003.39
11	\$606,861.18	\$301,791.75	\$13,321,211.64
12	\$592,996.91	\$315,656.01	\$13,005,555.63
13	\$578,495.73	\$330,157.20	\$12,675,398.43
14	\$563,328.37	\$345,324.56	\$12,330,073.87
15	\$547,464.22	\$361,188.71	\$11,968,885.16
16	\$530,871.27	\$377,781.65	\$11,591,103.51
17	\$513,516.05	\$395,136.88	\$11,195,966.63
18	\$495,363.53	\$413,289.40	\$10,782,677.23
19	\$476,377.09	\$432,275.84	\$10,350,401.39
20	\$456,518.41	\$452,134.52	\$9,898,266.88
21	\$435,747.43	\$472,905.50	\$9,425,361.38
22	\$414,022.24	\$494,630.69	\$8,930,730.69
23	\$391,298.99	\$517,353.94	\$8,413,376.75
24	\$367,531.84	\$541,121.09	\$7,872,255.66
25	\$342,672.83	\$565,980.10	\$7,306,275.56
26	\$316,671.80	\$591,981.12	\$6,714,294.44
27	\$289,476.29	\$619,176.63	\$6,095,117.81
28	\$261,031.43	\$647,621.50	\$5,447,496.31
29	\$231,279.81	\$677,373.12	\$4,770,123.19
30	\$200,161.41	\$708,491.52	\$4,061,631.67
31	\$167,613.43	\$741,039.50	\$3,320,592.17
32	\$133,570.21	\$775,082.72	\$2,545,509.45
33	\$97,963.04	\$810,689.89	\$1,734,819.56
34	\$60,720.09	\$847,932.84	\$886,886.72

Loan Amortization, 35 years, 4.5%, 15 Million

Year	Interest	Principal	Balance
1	\$671,306.23	\$180,555.89	\$14,819,444.11
2	\$663,011.53	\$188,850.59	\$14,630,593.52
3	\$654,335.77	\$197,526.35	\$14,433,067.17
4	\$645,261.44	\$206,600.68	\$14,226,466.49
5	\$635,770.24	\$216,091.88	\$14,010,374.61
6	\$625,843.02	\$226,019.10	\$13,784,355.51
7	\$615,459.74	\$236,402.38	\$13,547,953.13
8	\$604,599.46	\$247,262.66	\$13,300,690.46
9	\$593,240.25	\$258,621.87	\$13,042,068.59
10	\$581,359.21	\$270,502.91	\$12,771,565.68
11	\$568,932.35	\$282,929.77	\$12,488,635.91
12	\$555,934.61	\$295,927.51	\$12,192,708.40
13	\$542,339.75	\$309,522.37	\$11,883,186.03
14	\$528,120.35	\$323,741.77	\$11,559,444.26
15	\$513,247.71	\$338,614.41	\$11,220,829.84
16	\$497,691.82	\$354,170.30	\$10,866,659.54
17	\$481,421.30	\$370,440.82	\$10,496,218.72
18	\$464,403.31	\$387,458.81	\$10,108,759.91
19	\$446,603.52	\$405,258.60	\$9,703,501.31
20	\$427,986.01	\$423,876.11	\$9,279,625.20
21	\$408,513.22	\$443,348.90	\$8,836,276.30
22	\$388,145.85	\$463,716.27	\$8,372,560.02
23	\$366,842.80	\$485,019.32	\$7,887,540.70
24	\$344,561.10	\$507,301.02	\$7,380,239.68
25	\$321,255.78	\$530,606.34	\$6,849,633.34
26	\$296,879.82	\$554,982.30	\$6,294,651.04
27	\$271,384.03	\$580,478.09	\$5,714,172.94
28	\$244,716.96	\$607,145.16	\$5,107,027.79
29	\$216,824.82	\$635,037.30	\$4,471,990.49
30	\$187,651.32	\$664,210.80	\$3,807,779.69
31	\$157,137.59	\$694,724.53	\$3,113,055.16
32	\$125,222.07	\$726,640.05	\$2,386,415.11
33	\$91,840.35	\$760,021.77	\$1,626,393.34
34	\$56,925.08	\$794,937.04	\$831,456.30

35

\$21,766.20

\$886,886.72

\$0.00

35

\$20,405.82

\$831,456.30

\$0.00

in which the Commencement Date occurs if the Commencement Date is a date other than the first day of a month, subject to the termination provisions below.

- E.** Commencement Date: (paragraph 3.2) The date Landlord delivers possession of the Premises to Tenant.
- F.** Base Rent: (paragraph 5.1) \$93,882.07
- G.** Extension Options: (paragraph 3.4) Up to 4 options for 5 years each
- H.** Late Charge: (paragraph 5.6.1) 5 percent of amounts more than 10 days past due.
- I.** Tenant's Percentage Share of Operating Expenses: (paragraph 1.17 and 6.1) 30.8%
- J.** Tenant's Share of Real Property Taxes: (paragraph 7.1) 30.8%
- K.** Permitted Use: (paragraph 10.1) Pandemic response center and other uses activities not inconsistent with a pandemic response center.
- L.** Landlord's Address for Payments and Notices: (paragraphs 5.4.5 and 34) Jackson County Administrator
10 S. Oakdale Ave., Room 214
Medford, OR 97501
- M.** Tenant's Address for Notices: (paragraph 34) _____

- N.** Exhibits: (paragraph 45) **Exhibit A - Facility Legal Description**
Exhibit B - Facility Site Plan
Exhibit C - Premises Diagram
Exhibit D - Description of Landlord's Work (if applicable)
Exhibit E - Rules and Regulations

The paragraphs of the Standard Lease Provisions identified above in parentheses are those provisions where references to particular Basic Lease Terms appear. Each such reference to an item of Basic Lease Terms, wherever it may appear in the Standard Lease Provisions, shall incorporate the applicable Basic Lease Terms set forth above.

STANDARD LEASE PROVISIONS

1. **Definitions.** Unless the context otherwise specifies or requires, the following terms shall have the meanings specified:

1.1. Additional Rent. All charges payable by Tenant to Landlord which are in addition to Base Rent, as described in paragraph 5.3.

1.2. Commencement Date. Defined in **item E** of the Basic Lease Terms.

1.3. Common Area. All areas, spaces, improvements and facilities in or near the Facility provided by Landlord for the common or joint use and benefit of the occupants of the Facility, their officers, agents, employees, servants, customers and invitees, including, but not limited to, all parking areas, access roads, streets, driveways, entrances, exits, sidewalks, malls, courts, loading docks, package pick-up stations, ramps, corridors, halls, stairs, retaining walls and landscaped areas.

1.4. Default Rate. Interest at 8 percent per annum.

1.5. Facility. The parcel of real property described on Exhibit A, as specified in **item D** of the Basic Lease Terms, and all other improvements on or appurtenances to such parcel.

1.6. Hazardous Substance. Defined in paragraph 10.7.

1.7. Landlord's Work. Landlord's obligations, if any, for work prior to Tenant's occupancy, described in paragraph 4.1.

1.8. Leasable Floor Area. All areas in the Facility which are as measured from the exterior surface of exterior walls (and from extensions thereof in the case of openings) and from the center of interior demising walls.

1.9. Lease Year. Each one-year period from the Commencement Date to the end of the same month of the following year and each one-year period thereafter, except if the Commencement Date occurs on a date other than the first day of a month, include the initial partial month and the following twelve full calendar months.

1.10. Base Rent. Defined in paragraph 5.1.

1.11. Operating Expenses. All costs paid or incurred by Landlord in connection with the operation, maintenance, and repair of the Facility by Landlord (except as provided below), including, without limitation, all costs and expenses paid or incurred with respect to the following: operating, cleaning, sweeping, re-stripping, repairing and resurfacing the parking lot and driveway areas; maintenance and replanting of landscaping; maintenance, repair and replacement of landscape sprinkler systems, parking bumpers, directional signs and other signs and markers, lights and light standards (including bulb replacement), drainage systems and utility systems; janitorial services for Common Area; operation and maintenance of Facility signs, including depreciation on such signs if purchased and rent for such signs if leased; rental of space outside the boundaries of the Facility, if needed, for use as storage and/or maintenance of

equipment, supplies, props and other items used in connection with the Common Area; cleaning, maintenance, repair and replacement of all sidewalks, including those situated on the perimeter of and outside the boundaries of the Facility (but nothing herein contained shall be construed as obligating Landlord to clean, maintain or repair any areas or improvements outside the Facility boundaries); operation, maintenance and repair of any security and alarm systems, including smoke alarms, and sprinkler and fire protection systems, if any, in the Common Area; fire sprinkler/backflow monitoring and inspection fees and costs, if any; the reasonable cost of personnel to implement such services and to provide security for the Common Area and the Facility, including all social security and other contributions, and including worker's compensation insurance costs paid or incurred with respect to such personnel; all premiums for liability and property damage insurance (including, without limitation, extended and broad form coverage risks, mudslide, land subsidence, volcanic eruption, flood and earthquake) and rental loss insurance; any assessment or other charges imposed by any governmental agency including, but not limited to, assessments or other charges related to federal or state environmental protection regulations, and storm water charges based on impervious surfaces of the Facility; Property Taxes, if any (inasmuch as Property Taxes are assessed on a fiscal year basis, the amount included for each calendar year shall be that portion of Property Taxes for the overlapping fiscal years which are attributable to that calendar year); except as provided otherwise in paragraph 1.14, and in addition to Property Taxes, any and all governmental impositions and charges of every kind and nature whatsoever relating to the Facility or improvements therein, including but not limited to any road user or transportation system maintenance fee and any charges or fees measured by trip generation or length, parking spaces, buildings, vehicle usage or similar bases for measurement; the cost of repainting the exterior of buildings in the Facility; roof repairs and overlays for buildings in the Facility; snow and ice removal from Common Areas and the roof of buildings in the Facility; depreciation on mechanical equipment, or rental for such equipment if leased, and maintenance and repair of such equipment; costs of electricity, water and other utilities used with respect to the operation and maintenance of the Common Area, as well as all general service water charges for the Facility, and water and sewer charges for all buildings in the Facility; and garbage and refuse removal. Also included in Operating Expenses are capital expenditures incurred by Landlord which benefit, maintain or improve the Common Area, capital expenditures reasonably calculated to reduce the operating cost of Common Area, and capital expenditures required to comply with governmental laws, rules, regulations, codes or ordinances. The costs of significant capital expenditures permitted in this paragraph 1.11 shall be amortized over such period as Landlord determines is appropriate, in Landlord's discretion, with interest at a rate of two percent over the Wall Street Journal prime rate determined at the time the work or purchase is completed. There shall be excluded from Operating Expenses any expenses which are the responsibility of Tenant under this agreement.

1.12. Premises. That portion of a floor of the Facility outlined on the site plan attached as Exhibit B, consisting of the Leasable Floor Area described in **item C** of the Basic Lease Terms.

1.13. Property Taxes. All applicable real property taxes and all general and special assessments or installments thereof which are now or hereafter may be assessed against the land and improvements which constitute the Facility. The term shall also include assessments for local improvements and assessments for any offsite improvements required by any governmental authority (such as street work, sidewalks, utility lines and traffic signals), and any tax, fee or

excise assessed or levied against Landlord on rents, on the square footage of the Premises or the Facility, or any portion thereof, on the act of entering into this agreement or on the occupancy of Tenant, or any other tax, fee or excise, however described, as a direct substitution in whole or in part for, or in addition to, any real property taxes. The term shall include personal property taxes levied on or assessed against property owned by Landlord and used in connection with the Facility. Nothing contained in this agreement shall require Tenant to pay any estate or inheritance tax or any income, revenue or other tax on the rent payable by Tenant under this agreement; provided, however, that if at any time during this agreement the methods of taxation are altered, wholly or partially, so that in lieu of any tax under this paragraph 1.14, there is levied, assessed or imposed a tax, assessment, levy, imposition, or charge, then all such taxes, assessments, levies, impositions, or charges shall be deemed to be included within the term Property Taxes for the purpose of this agreement.

1.14. Rent. Collectively, Base Rent and all Additional Rent.

1.15. Signs. Defined in paragraph 10.6.

1.16. Subtenant. Any sublessee, licensee, concessionaire or other person which uses space in the Premises for the purpose of making sales of goods or services.

1.17. Tenant's Percentage Share. The fraction, the numerator of which is the Leasable Floor Area of the Premises and the denominator of which is the Leasable Floor Area of all buildings in the Facility. In the event the Leasable Area of the Premises changes or there is a change in the Leasable Floor Area of the Facility, Tenant's Percentage Share shall be appropriately adjusted effective either as of the last day of the calendar quarter in which the change occurs or as of the calendar year in which the change occurs, as reasonably determined by Landlord.

2. Lease of Premises. Landlord hereby leases the Premises to Tenant and Tenant hereby leases the Premises from Landlord subject to all of the terms, covenants and conditions under the Basic Lease Terms and the Standard Lease Provisions.

3. Term/Commencement.

3.1. Term. The duration of the term of this agreement shall be the period described in **item E** of the Basic Lease Terms. The phrase "lease term" or "term of this agreement", as used in this agreement shall be the term described in **item E** of the Basic Lease Terms and any renewal or extension of that term.

3.2. Commencement. The term of this agreement shall commence on the date stated in **item E** of the Basic Lease Terms.

3.3. Early Possession. In the event Landlord permits Tenant to enter the Premises prior to commencement of the lease term to undertake permitted improvements or alterations or to fixture or equip the Premises under circumstances in which paragraph 3.3 does not apply, as a condition of such early possession, Tenant's indemnification obligations under paragraph 15 shall become effective upon Tenant's entry.

3.4. Option(s) to Extend Lease. If applicable, Tenant shall have an option to extend the term of this lease agreement for the additional period(s) specified in **item G** of the Basic Lease Terms, subject to the following:

3.4.1. Each extension option term shall commence on the day following expiration of the preceding term.

3.4.2. Each option shall be exercised, if at all, by written notice from Tenant to Landlord given not less than 12 months prior to the expiration of the preceding term.

3.4.3. The exercise of an option to extend shall not be effective if at the time of the exercise of the option or at the time that the option term would commence there is an existing default in the lease this agreement or an event of default which with notice or lapse of time, or both, would constitute a default.

3.4.4. The terms and conditions of this lease agreement for an extension term shall be identical with the initial term except for Base Rent (which shall be the amount determined in accordance with paragraph 5.2) and except that Tenant will no longer have an option to extend this lease agreement that has been exercised.

4. Improvement/Acceptance of Premises.

4.1. Landlord Obligations. Landlord, at its sole cost and expense, shall diligently perform and pursue the construction of the Facility described in **Exhibit D** (Landlord's Work). Landlord's sole obligations, if any, with respect to the Premises prior to delivery to Tenant shall be as set forth in Exhibit D. Subject to delays occasioned by causes beyond Landlord's reasonable control, Landlord shall use reasonable speed and diligence to perform Landlord's Work, if any, pursuant to Exhibit D; provided, however, the failure to complete Landlord's Work by any estimated completion date for such work shall not affect the terms, validity or commencement of this agreement. All Landlord's Work shall be performed in a good and workmanlike manner substantially according to the Plans. Landlord shall obtain at its own expense all building permits, approvals and certificates required by any governmental or other applicable authority for the Landlord's Work and shall, upon request of Tenant, promptly deliver copies of same to Tenant.

4.2. Acceptance. Tenant acknowledges that the Premises will be delivered by Landlord in the condition described on Exhibit D, and that Landlord has no obligation to alter, repair, renovate, or render fit for Tenant's occupancy, any part of the Premises except as described therein. The acceptance by Tenant of the Premises shall constitute an acknowledgment by Tenant that the Premises are then in the condition called for by this agreement, that Landlord has performed all of Landlord's Work, if any, with respect to the Premises, and that the Premises are in good condition and repair.

4.3. Tenant Improvements. Unless otherwise provided in this agreement, by addendum or otherwise, or by any other writing between the parties subsequent to the date of this agreement, Tenant shall be responsible for the build-out and installation of all improvements for the Premises (Tenant Improvements), on the following terms and conditions, which supplement the requirements of paragraph 11.1:

4.3.1. *Approval of Plans.* Tenant shall first promptly furnish to Landlord a preliminary space plan sufficient to convey architectural design. If approved, Tenant shall thereafter promptly submit for approval Landlord's final plans and specifications for the Tenant Improvements. The final plans and specifications shall (a) be compatible with the design, construction, and equipment as the building; (b) comply with all fire, mechanical, building and other applicable laws, rules, regulations and ordinances; (c) include locations and complete dimensions; and (d) include such other detail and other information as Landlord shall require.

4.3.2. *Time for Commencement and Completion of Work.* Following approval of the final plans and specifications, Tenant shall promptly apply for required permits and shall commence construction of the Tenant Improvements promptly following the later of the date Landlord delivers possession of the Premises to Tenant and the date Tenant obtains necessary permits for the work. Tenant shall thereafter diligently pursue the work until completion.

5. Rent. Tenant shall pay to Landlord as rental for the use and occupancy of the Premises, at the times and in the manner provided, the following:

5.1. Base Rent. Tenant shall pay to Landlord monthly Base Rent in the amount specified in **item F** of the Basic Lease Terms, payable in advance on the commencement of the term of this agreement and on or before the first day of each and every successive calendar month during the term of this lease, without any offset or deduction. Base Rent for any partial month in which this lease commences or expires shall be prorated on the basis of a 30-day month.

5.2. Base Rent for Extension Term(s). Base Rent during any extension term described in Paragraph 3.4 that is exercised and effective shall be fair market rent for the extension term, as agreed by the parties, following Tenant's exercise of the option. If the parties are unable to agree on Base Rent for the extension term, prior to 90 days before commencement of the term, a Base Rent shall be determined by arbitration conducted in accordance with the rules of the Arbitration Service of Portland, Inc., and either party may initiate the arbitration. Fair market rent shall be determined without regard to the then existing use and without regard to any trade fixtures, equipment, furnishings, or other personal property located on the Premises which are owned by Tenant.

5.3. Additional Rent. Tenant shall pay, as Additional Rent, in the manner set forth in paragraph 6, Tenant's Percentage Share of all Operating Expenses (which include Property Taxes) during the term hereof, along with all other sums of money or charges required to be paid by Tenant to Landlord under this agreement in addition to Base Rent, whether or not the same are designated as "Additional Rent." If such amounts or charges are not paid at the time provided in this agreement, they shall nevertheless be collectible as Additional Rent with the next installment of Base Rent thereafter falling due, but nothing herein shall be deemed to suspend or delay the payment of any amount of money or charge at the time it becomes due and payable under this agreement, or limit any other remedy of Landlord.

5.4. Additional Provisions. The following additional provisions shall apply to Tenant's obligations to pay Rent under this agreement:

5.4.1. *Late Charge.* In the event any Rent is not paid within 30 days after it becomes due, Tenant shall pay to Landlord a late charge equal to five percent of the past-due amount. Payment by Tenant and acceptance by Landlord of the late charge shall not constitute a waiver of Tenant's default for failure to pay or Landlord's remedies in the event of a default.

5.4.2. *Interest.* All Rent payable by Tenant to Landlord shall bear interest at the Default Rate from the date that is 30 days after the due date for payment of such amount.

5.4.3. *Prorating Rent.* When it is necessary to prorate Rent or any portion thereof, the proration shall be based on a 30-day month and 360-day year.

5.4.4. *When Payments Made.* A payment of Rent shall be considered made when it is received by Landlord.

5.4.5. *Place for Making Payments.* Until directed otherwise in writing by Landlord, Tenant shall make all payments due Landlord under this agreement to the address specified in **item L** of the Basic Lease Terms.

6. Payment for Operating Expenses.

6.1. Tenant's Obligation. Tenant shall pay Tenant's Percentage Share of Operating Expenses specified in **item I** of the Basic Lease Terms, determined in accordance with paragraph 1.17. Payments shall be made in accordance with this paragraph 6.

6.2. Estimated Payments. Prior to the commencement of each fiscal year (as determined by Landlord's fiscal calendar) during the term of this agreement, Landlord shall furnish Tenant with a written statement setting forth Tenant's Percentage Share of the estimated Operating Expenses for the next calendar year. During the first calendar year of this agreement, Tenant's Percentage Share of estimated Operating Expenses shall be the amount determined by Landlord at the commencement of this agreement. Tenant shall pay in advance to Landlord as Additional Rent on the first day of each calendar month during the term of this agreement an amount equal to one-twelfth of Tenant's Percentage Share of the estimated Operating Expenses for that calendar year.

6.3. Annual Adjustment. Within 90 days after the close of each fiscal year (as determined by Landlord's fiscal calendar) or as soon thereafter as practicable, Landlord shall deliver to Tenant a statement of the actual amount of Tenant's Percentage Share of Operating Expenses payable for the calendar year just concluded. If on the basis of such statement Tenant owes an amount that is less than the estimated payments for such calendar year previously made by Tenant and Tenant is not in default, Tenant shall receive a credit in the amount of such excess against the next payments due under this paragraph 6.3. If on the basis of the statement Tenant owes an amount that is in excess of the estimated payments for that calendar year, Tenant shall pay the such amount to Landlord within 30 days after the statement from Landlord.

6.4. Adjustments on Commencement and Termination. If this agreement commences on a date which is not the first day of the calendar year or terminates on a date which is not the last day of the calendar year, the adjustment described in paragraph 6.3 applicable to the calendar year in which the commencement or termination occurs shall be prorated on the basis of the number of days during which this agreement is in effect. If the adjustment is not determined until after expiration or termination of this agreement, any excess amount due Tenant or deficiency amount due from Landlord shall be paid within 30 days after the annual statement, subject to Landlord's right to deduct any sum due Tenant under this provision from any other sums remaining due from Tenant to Landlord.

7. Taxes.

7.1. Tenant's Share of Property Taxes. The parties acknowledge that each is a public entity exempt from Property Taxes. However, all Property Taxes, if any, that are hereafter assessed shall be included in Operating Expenses. Tenant's Percentage Share of such Property Taxes shall be paid in the manner described in paragraph 6.

7.2. Tenant's Taxes. Tenant shall pay before delinquency all taxes and other assessments levied upon Tenant's furniture, fixtures, equipment and other personal property located on the Premises.

8. Utilities. Tenant shall pay all initial utility deposits and fees and shall pay all monthly service charges for water, electricity, sewage, gas, telephone and all other utility services furnished to the Premises during the entire term of this agreement. In the event any such services are not separately metered or submetered to Tenant, but rather are shared and are billed to and paid by Landlord, Tenant shall reimburse Landlord on a proportional basis. If Landlord determines that such use is not proportional, Landlord may rely on the utility service provider for its estimate based on the type of use and estimated consumption and may utilize such devices as may be appropriate for determining the amount of use.

8.1. Reimbursements as Additional Rent. All reimbursements under this paragraph 8 shall be considered Additional Rent and shall be due upon statement from Landlord.

8.2. No Landlord Liability. Landlord shall not be liable to Tenant for any loss of or interruption in utility services provided to the Premises and there shall be no reduction or abatement of rent in the event of any such loss or interruption of utility service, and any such loss or interruption shall not be construed as a constructive eviction.

9. Maintenance and Use of Common Area.

9.1. Tenant's Rights. The use and occupation by Tenant of the Premises shall include a right to the use in common with others entitled thereto of the Common Areas and other facilities as may be mutually agreed by the parties, subject, however, to the terms and conditions of this agreement. The rights of Tenant in and to the Common Area shall at all times be subject to the rights of Landlord to use the same in common with Tenant, and it shall be the duty of Tenant to keep all of the Common Area free and clear of any obstructions created or permitted

by Tenant or resulting from Tenant's operation and to permit the use of the Common Area only for the purpose set forth above.

9.2. Landlord's Rights. Landlord shall at all times during the term of this agreement have the following rights with respect to the Common Area:

9.2.1. Landlord shall have the right from time to time to make changes in the Common Area, including the location and relocation of driveways, entrances, exits, parking spaces, the direction and flow of traffic, installation of prohibited areas, landscaped areas, and all other facilities thereof.

9.2.2. Landlord may at any time and from time to time exclude and restrain any person from use or occupancy of the Common Area, excepting, however, patrons and service suppliers of Tenant who make use of the Common Area in accordance with the rules and regulations established by Landlord from time to time.

9.2.3. Landlord shall have the right to post temporary or permanent signs and to temporarily close any portion or all of the Common Area from time to time and to such extent as Landlord reasonably deems necessary.

9.3. Rules and Regulations. Tenant shall faithfully observe and comply with the rules and regulations set forth on attached **Exhibit E**, as may be modified by Landlord from time to time, governing the use and occupancy of the Facility, including Common Areas.

9.4. Parking. Tenant and Tenant's patrons and invitees shall have the right to use the parking areas in the Facility which are available for such use. Landlord shall have the right to designate parking areas in the Facility for employee parking.

10. Use.

10.1. Permitted Use. Except as otherwise provided herein, the Premises shall be used solely for the purpose specified in **item K** of the Basic Lease Terms, subject to the terms of the Operating Agreement. Tenant shall not use or permit the Premises to be used for any other purpose or under any other trade name without Landlord's prior consent which Landlord may withhold in the exercise of Landlord's sole discretion.

10.2. Joint Use of Facility for Special Events. The parties shall make the entirety of the Facility available to a party from time to time for the purposes of hosting major sporting events, trade shows, conventions, or other similar activities as the parties may mutually agree (each, a "Special Event"). Prior to the Commencement Date of this agreement, and before the first day of Each Lease Year thereafter, the parties shall negotiate and enter into a yearly Joint Use Agreement, which shall detail the terms and conditions of a party's use of the Facility for a Special Event. Such Joint Use Agreement shall describe the

10.3. Public Health Emergency Use of Facility. During any period of governmentally declared public health emergency in Jackson County, Landlord shall have the right to the exclusive use of the entirety of the Facility, including the Premises, for purposes of responding to such public health emergency for so long as such use is responsibly necessary to respond to such

public health emergency. Landlord may exercise such right by providing written notice to Tenant.

10.4. Restrictions. In regard to the use and occupancy of the Premises and the Common Areas, Tenant will not: (a) place or maintain any trash, refuse or other articles in any vestibule or entry of the Premises, on the sidewalks or corridors adjacent thereto or elsewhere on the exterior of the Premises, nor obstruct any driveway, corridor, sidewalk, parking area, or any other portion of the Common Area; or (b) use or permit or suffer the Premises to be occupied or used in a manner which is offensive or objectionable by reason of noise, odors, or vibrations;

10.5. Compliance with Laws. Throughout the term of the agreement, Tenant shall comply with all applicable laws, rules and regulations affecting Tenant's use and operations on the Premises (including, but not limited to, the Americans with Disabilities Act) and shall correct, at Tenant's sole cost, any failure of compliance because of such use or operation including any alterations or improvements of the Premises that may be required to cure such deficiencies. Notwithstanding the foregoing, if any exterior or structural alterations to the Premises are required and such alterations are not acceptable to Landlord (approval shall not be unreasonably withheld), Tenant shall cease the use or operation which requires such alteration or improvement.

10.6. Signs. All Tenant's Signs shall strictly comply with all applicable sign codes, laws, rules and regulations. As used in this paragraph 10.6, "Signs" means all signs, designs, monuments, logos, banners, projected images, pennants, decals, advertisements, pictures, notices, lettering, numerals, graphics, or decoration.

10.7. Hazardous Substances. Tenant shall not cause or permit any Hazardous Substance (defined below) to be spilled, leaked, disposed of, or otherwise released on or under the Premises or the building in which the Premises are located or elsewhere within the Facility. Tenant may use or otherwise handle on the Premises only those Hazardous Substances typically used or sold in the prudent and safe operation of the business specified in paragraph 10.1. Tenant may store such Hazardous Substances on the Premises only in quantities necessary to satisfy Tenant's reasonably anticipated needs. Tenant shall comply with all Environmental Laws (defined below) and exercise the highest degree of care in the use, handling, and storage of Hazardous Substances and shall take all practicable measures to minimize the quantity and toxicity of Hazardous Substances used, handled, or stored on the Premises. Upon the expiration or termination of this agreement, Tenant shall remove all Hazardous Substances from the Premises.

10.7.1. Tenant shall indemnify, defend and hold Landlord harmless from and against any and all claims, judgments, damages, penalties, fines, costs, expenses, liabilities or losses (including diminution in value of the Premises or the Facility, investigatory costs, costs and fees of environmental consultants, attorneys and other professionals, and damages for loss or restriction on use of rentable or usable space or of any amenity of the Premises or Facility) that arise during or after the term of this agreement, as a result of or in connection with any contamination of the Premises by Hazardous Substance by Tenant or any officer, agent, employee, contractor, or invitee of Tenant.

10.7.2. As used in this agreement, the term “Environmental Laws” means all federal, state and local statutes, regulations and ordinances, and any judicial or other governmental order pertaining to the protection of health, safety or the environment. The term “Hazardous Substance” means any hazardous, toxic, infectious, or radioactive substance, waste, or material as defined or listed by any Environmental Law and shall include, without limitation, petroleum oil and its fractions.

11. Alterations and Improvements.

11.1. By Tenant. Tenant shall not make or suffer to be made any alterations, additions, or improvements to or of the Premises or any part thereof, or attach any fixture or equipment thereto, without first obtaining Landlord’s written consent, which shall not be unreasonably withheld. Any alterations, additions or improvements to the Premises consented to by Landlord shall be made by Tenant at Tenant’s sole cost and expense according to plans and specifications approved by Landlord, and any contractor or person selected by Tenant to make the same must first be approved by Landlord. All additions, improvements and alterations shall be performed by Tenant with quality materials and workmanship and shall be constructed strictly in accordance with all applicable codes, ordinances, laws, rules and regulations. Tenant shall require Tenant’s contractor to (a) obtain liability insurance and worker’s compensation insurance with coverages not less than the coverages required under paragraph 16, (b) name Landlord and its elected officials, officers, agents, employees, and volunteers as additional insureds, by separate endorsement, on the contractor’s liability policy, and (c) provide Landlord with a waiver of claims and waiver of subrogation with respect to liability and worker’s compensation claims arising out of or relating to the work. As a condition of commencing the work, evidence that all of the foregoing requirements have been satisfied shall be furnished to Landlord. In the event any improvements or alterations installed by Tenant in the Premises (whether at the time of or subsequent to the commencement of this agreement) require modifications to the parking areas or any other portion of the Common Area to comply with the Americans with Disabilities Act, or any other applicable local, state or federal law, Tenant shall reimburse Landlord the cost incurred by Landlord in making such modifications. All alterations, additions, fixtures and improvements made in or upon the Premises either by Tenant or Landlord (other than furnishings, trade fixtures and equipment installed by Tenant) shall be Landlord’s property.

11.2. By Landlord. Landlord shall have the right at all times during the term of the agreement to renovate and remodel buildings and other improvements in the Facility and to make alterations or additions to and build additional structures, in the Facility, all as Landlord deems appropriate, provided any such work by Landlord shall not unreasonably interfere with access to or use of the Premises by Tenant.

12. Liens. Tenant covenants to keep the Premises free from all construction liens and all other liens of any type whatsoever arising out of Tenant’s repair, alteration, maintenance, and use of the Premises.

13. Repairs and Maintenance. The parties’ obligations with respect to maintenance and repair are as follows:

13.1. Tenant’s Obligations. Tenant shall at all times during this agreement, at Tenant’s sole cost, keep the Premises (including exterior doors and hardware and glass) and all doors,

fixtures, trade fixtures, store signs (interior and exterior), ceilings, inside walls, wall coverings, floor coverings and surfaces, furnishings, equipment and appurtenances thereof, including lighting, heating and plumbing fixtures, utility lines from the point of entry into the Premises, the heating and air conditioning system that serves the Premises, and all individual or building systems in the Premises, including fire protection (including fire sprinklers) and security, if any, in good order, condition and repair and in good operating order. In addition, Tenant shall be responsible for any repairs to the exterior surfaces of the building and the roof membrane resulting from abuse, negligence or lack of care by Tenant or any of Tenant's employees, agents, contractors or invitees. All repairs which Tenant is required to make under this paragraph shall be equal in quality and class to the original work. Tenant shall obtain and maintain equipment maintenance contracts with licensed and bonded contractors, in form and with contractors reasonably satisfactory to Landlord, covering all mechanical systems within the Premises, including heating, air conditioning and ventilating equipment (HVAC) that serves the Premises, and shall provide evidence of such contracts as requested from time to time by Landlord. Notwithstanding the preceding sentence, Landlord shall have the right either to require Tenant to use Landlord's personnel or contractor or to cause Landlord's personnel or contractor to maintain the mechanical systems and HVAC equipment that serve the Premises and, in the event Landlord undertakes such maintenance, Tenant shall reimburse Landlord the reasonable cost of such maintenance, including the cost of the maintenance contract. If Landlord undertakes the maintenance of all such systems and equipment in the Facility, the cost thereof shall be included as an Operating Expense. If Landlord does not maintain all such systems in the Facility, Tenant shall reimburse the cost of such maintenance and maintenance with respect to the Premises within 30 days after statement from Landlord, and such costs shall be considered Additional Rent.

13.2. Roof Penetrations/Antennae. Tenant shall not undertake any penetrations of the roof or make installations on the exterior walls or roof of the Premises without Landlord's prior written consent, which Landlord may withhold in the exercise of Landlord's reasonable discretion. With respect to any roof penetrations permitted by Landlord, Tenant shall be responsible for any damage caused by such work and any losses resulting from any adverse impact on the roof warranty resulting from such work. If Tenant shall install such equipment, Tenant shall do so at its sole cost and expense and in accordance with all applicable laws, rules and regulations. Tenant shall also defend, indemnify and hold Landlord harmless from and against any claims, costs or expenses incurred by Landlord as a result of such installation by Tenant. If Tenant installs such equipment, Tenant shall be responsible for maintenance and repair thereof, at Tenant's sole cost. At the expiration or other termination of the agreement, any such equipment shall remain the property of Tenant and shall be removed by Tenant unless Landlord consents in writing to allow such equipment to remain place.

13.3. Landlord's Responsibilities. Except for Tenant's obligations under paragraph 13.1 and 13.2, Landlord shall be responsible for maintenance and repair of the exterior surfaces and roof of the building which comprises the Premises (the cost of which shall be included in Operating Expenses) and for repair and replacement of structural portions of the building in which the Premises are located, consisting of foundations, structural floors, structural ceilings, structural walls and columns, and for repair and replacement of utility lines and conduits outside the Premises at the exterior wall of the building.

13.4. Reimbursement for Repairs Assumed. If Tenant fails or refuses to make repairs that are required by this paragraph 13, Landlord may make the repairs and charge the actual costs of repairs to Tenant. Such expenditures by Landlord shall be reimbursed by Tenant on demand together with interest at the Default Rate from the date of expenditure by Landlord. Except in an emergency creating an immediate risk of personal injury or property damage, Landlord shall not perform repairs which are the obligation of Tenant and charge Tenant for the resulting expense unless at least 30 days before work is commenced the Tenant is given notice outlining with reasonable particularity the repairs required and Tenant fails within that time to initiate such repairs in good faith.

13.5. Common Area Maintenance. Landlord shall be responsible for all maintenance, replacement and repair of the Common Area improvements and facilities, the cost of which shall be included in Operating Expenses.

14. Damage and Destruction.

14.1. Repair and Restoration. Except as provided in paragraphs 14.3 and 14.4, if the Premises or the portion of the Facility necessary for Tenant's occupancy should be damaged or destroyed during the term of this agreement, Landlord shall repair or rebuild the Premises to substantially the condition in which the Premises were immediately prior to such destruction (excluding improvements installed by Tenant).

14.2. Rent Abatement. Subject to the limitations below, Base Rent shall be abated proportionately during any period in which, by reason of any damage or destruction not occasioned by the negligence or willful misconduct of Tenant or any agent, contractor, employee or invitee of Tenant, there is a substantial interference with the operations of the Premises for its intended purposes. Such abatement shall be proportional to the measure of business in the Premises which Tenant may be required to discontinue. The abatement shall continue for the period commencing with such destruction or damage and ending with the completion by Landlord of such work, repair or reconstruction as Landlord is obligated to do.

14.3. Right to Terminate. Notwithstanding the foregoing, if the Premises, or the portion of the Facility necessary for Tenant's occupancy should be damaged or destroyed (a) to the extent, in Landlord's reasonable opinion, of 25 percent or more of the then replacement value of either, (b) in the last three Lease Years of the term hereof, (c) by a cause or casualty other than those covered by Landlord's insurance, (d) to an extent, in Landlord's sole opinion, exceeding the proceeds available from Landlord's insurance, or (e) to the extent that it would take, in Landlord's sole opinion, in excess of 180 days to complete the requisite repairs, then Landlord may either terminate this agreement or elect to repair or restore the damage, in which event Landlord shall repair or restore the same as provided in paragraph 14.1, except as provided in paragraph 14.4. If such damage or destruction occurs and this agreement is not so terminated by Landlord, this agreement shall remain in full force and effect. Landlord's election to terminate the agreement under this paragraph shall be exercised by notice to Tenant given within 60 days following the damage or destruction. Such notice shall set forth the effective date of the termination of this agreement.

14.4. Tenant's Obligations. Upon the completion of any work of repair or restoration by Landlord, Tenant shall forthwith repair, restore or replace, as necessary, all of Tenant's

improvements, trade fixtures, equipment, and furnishings to at least the condition existing at the time of the damage.

15. Indemnification.

15.1. Tenant Indemnification. Subject to the conditions and limitations of the Oregon Tort Claims Act and the Oregon Constitution, Tenant shall indemnify and hold Landlord harmless from and defend Landlord against any and all claims, liability, damage or loss, and from and against all costs and expenses (including reasonable attorneys' fees), arising out of any injury to or death of any person or damage to or destruction of any property arising out of the negligence or willful misconduct of Tenant, its elected officials, officers, agents, employees, and volunteers, except any cause resulting solely from the negligence or willful act of Landlord or its elected officials, officers, agents, employees, or volunteers.

15.2. Landlord Indemnification. Subject to the conditions and limitations of the Oregon Tort Claims Act and the Oregon Constitution, Landlord shall indemnify and hold Tenant harmless from and defend Tenant against any and all claims, liability, damage or loss, and from and against all costs and expenses (including reasonable attorneys' fees), arising out of any injury to or death of any person or damage to or destruction of any property arising out of the negligence or willful misconduct of Landlord, its elected officials, officers, agents, employees, and volunteers, except any cause resulting solely from the negligence or willful act of Tenant or its elected officials, officers, agents, employees, or volunteers. The provisions of this paragraph 15 shall survive the termination of this agreement with respect to any damage, injury or death occurring prior to such termination.

15.3. Survival. The provisions of this paragraph 15 shall survive termination or expiration of this Agreement.

16. Insurance.

16.1. Insurance by Landlord. Landlord shall keep improvements in the Facility, including the building in which the Premises are located, insured against fire and other perils, with such coverages and endorsements and in such amounts as Landlord considers prudent, which may include land subsidence, volcanic eruption, flood and earthquake coverage. Landlord may also maintain rental abatement/rent loss insurance for the Facility. The cost of all such insurance shall be included as an Operating Expense.

16.2. Insurance by Tenant. On or before the earliest of the Commencement Date or the date Tenant takes possession of the Premises or commences or causes to commence any work of any type in or about the Premises, and continuing during the term of this agreement, Tenant shall, at its sole expense, procure and maintain the following insurance.

16.2.1. *Property Insurance.* Special form insurance for direct physical loss covering Tenant's trade fixtures, furniture, and equipment situated in or on the Premises and improvements installed by Tenant in the Premises.

16.2.2. *General Liability Insurance.* A policy of commercial general liability insurance covering all operations by or on behalf of Tenant, providing insurance for

bodily injury and property damage liability and including coverage for premises and operations, products and completed operations, contractual liability (including Tenant's indemnification obligations under this agreement), broad form property damage (including completed operations), explosion, collapse, and underground hazards, personal injury liability, and, if the permitted use described in paragraph 10.1 includes the sale of alcoholic beverages, liquor liability. The limits of liability shall not be less than \$2 million per occurrence (combined single limit for bodily injury and property damage) and personal injury liability, and \$4 million general aggregate and aggregate for products and completed operations.

16.2.3. *Automobile Liability Insurance.* Bodily injury and property damage liability insurance, including coverage for owned, hired, and non-owned automobiles. The limits of liability shall not be less than \$1 million combined single limit for each accident for bodily injury and property damage.

16.2.4. *Workers Compensation.* Workers compensation and employers' liability insurance as required by Oregon law, with coverage of not less than statutory limits.

Landlord may require the limits of liability coverage to be increased, from time to time, to an amount which is common in the community for uses similar to Tenant's use. Tenant's liability coverage shall be on an occurrence form and shall not be under any claims made or modified occurrence form. Tenant's liability insurance policy shall provide that it is primary insurance and not "excess over" or contributory with any other valid, existing and applicable insurance in force for or on behalf of Landlord. Tenant's policy(ies) shall not eliminate cross-liability and shall contain a severability of interest clause. Each insurance policy Tenant is required to maintain shall be (a) in a form reasonably acceptable to Landlord, (b) be issued by an insurer licensed to do business in the State of Oregon, and (c) name Landlord and Landlord's elected officials, officers, agents, employees, and volunteers as additional insureds, by separate endorsement. Tenant shall give at least 30 days written notice to Landlord and Landlord's property manager prior to any expiration, cancellation, termination, or material change. Upon execution of this agreement, and thereafter from time to time at Landlord's request, Tenant shall furnish to Landlord a certificate of insurance or other evidence satisfactory to Landlord that the insurance required by this agreement is in effect. If requested by Landlord, Tenant shall furnish a complete copy of the insurance policies, together with endorsements, required to be maintained by Tenant.

17. Mutual Waiver of Subrogation. Landlord and Tenant agree to have their respective insurance companies issuing property damage insurance waive any rights of subrogation that such companies may have against Landlord or Tenant, as the case may be. Anything in this Lease to the contrary notwithstanding, Landlord and Tenant hereby waive and release each other of and from any and all rights of recovery, claims, actions or causes of actions against each other, their respective agents, officers and employees, for any loss or damage that may occur to the Premises, Facility, or personal property within the Facility, regardless of cause or origin, including the negligence of Landlord and Tenant and their respective agents, officers, employees and contractors. Each party agrees to give immediately to its respective insurance company which has issued policies of insurance covering any risk of direct physical loss, written notice of the terms of the mutual waivers contained in this paragraph 17, and to have such insurance policies properly endorsed, if necessary, to prevent the invalidation of said insurance coverage

by reason of said waivers. If either Landlord or Tenant fails to provide the insurance policy or policies required hereinabove, the waiver of subrogation contained in this paragraph 17 shall no longer inure to the benefit of the party failing to provide such insurance, and the party claiming against such uninsured party shall be entitled to restitution of all damages and expenses suffered and/or claimed, without limitation.

18. Eminent Domain.

18.1. Right of Termination. Landlord or Tenant shall have the right to terminate this agreement in the event of a taking of all the Premises or a portion sufficient to render the remaining Premises reasonably unsuitable for the use that Tenant was then making of the Premises. As used herein, the term “taking” means the condemnation by a competent governmental authority pursuant to the exercise of eminent domain or a sale in lieu of condemnation. A termination by Landlord or Tenant under this provision shall be effective on the date of the earlier of the date of title transfer or the date of the taking of possession by the condemning authority. An election to terminate pursuant to these provisions shall be exercised, if at all, by notice from the electing party to the other party within 60 days after Landlord notifies Tenant of the impending condemnation.

18.2. Restoration. If a portion of the Premises is taken and this agreement is not terminated by either Landlord or Tenant pursuant to paragraph 18.1, this agreement shall terminate as to the part so taken on the date Tenant is required to yield possession to the condemning authority and Base Rent and Additional Rent shall be reduced commensurate with the reduction in area of the Premises. If this agreement will continue after a taking, Landlord shall commence diligently and continue thereafter to restore or cause to be restored any portion of the Premises and parking areas remaining after the taking. If during the pendency of such restoration, Tenant is unable to conduct its normal business operations from the Premises, Base Rent and Additional Rent shall be equitably adjusted to the extent of such disruption or, if Tenant is unable to conduct any business operations from the Premises, and Additional Rent shall abate until such restoration has been completed or Tenant resumes its operations from the Premises.

18.3. Proceeds and Claims. In the event of a taking, Tenant shall have the right to make a claim against the condemning authority for the value of any fixtures, furniture or other personal property taken by the condemning authority, any damages available for interruption of business, and for relocation expenses. Landlord shall be entitled to receive the entire award for the taking of real estate, including damages for a partial taking.

19. Assignment and Subletting.

19.1. Restriction. Without the prior written consent of Landlord in each instance, Tenant shall not (a) assign, transfer or encumber this agreement or any interest in this agreement; (b) suffer a transfer of this agreement by operation or law; (c) allow the use of any portion of the Premises by a Subtenant; or (d) permit the use of occupancy of the Premises or any part thereof, including the use by any permitted Subtenant, for any purpose other than the uses permitted under paragraph 10.1.

19.2. Consent. Landlord shall not unreasonably withhold its consent to a proposed assignment, sublease, or use by another person (collectively, "Transfer"). Landlord may withhold consent to a proposed Transfer if Landlord determines in Landlord's sole but reasonable judgment that:

19.2.1. The transferee does not possess the qualifications reasonably equivalent to those of Tenant or has not demonstrated experience in successfully operating a similar facility which the transferee intends to operate from the Premises; or

19.2.2. The transferee does not possess financial qualifications sufficient for the successful operation and use of the Premises.

19.3. Requirements. With respect to any Transfer, the following requirements and conditions shall apply:

19.3.1. In the case of an assignment, the transferee shall expressly assume all of Tenant's obligations under this agreement;

19.3.2. Landlord shall not be required to consent to a sublease of less than the entire Premises; and

19.3.3. The transferee shall not use the Premises for any purpose other than the uses permitted under paragraph 10.1.

19.4. Additional Provisions. Any dissolution, merger, consolidation, or other reorganization of Tenant shall be deemed an assignment of this agreement by Tenant.

19.5. Recapture. Notwithstanding any provision of this agreement to the contrary, if Tenant desires to assign this agreement or sublet the Premises, Tenant shall deliver to Landlord a notice Assignment Notice of Tenant's request to assign or sublet not less than 30 days prior to the proposed effective date of such assignment or sublease. The Assignment Notice shall identify the particular entity or entities to which Tenant desires to assign this agreement or sublet the Premises. Not later than 15 days after receipt of the Assignment Notice, Landlord shall have the right to request additional information (Supporting Information) regarding the proposed assignment or sublease as is reasonably required by Landlord in order for Landlord to determine whether to grant or withhold its consent. Tenant shall provide the Supporting Information within 30 days after Landlord's request. Landlord shall have the right to approve the assignment or sublease, disapprove the assignment or sublease, or terminate this agreement within 60 days after Landlord's receipt of the Assignment Notice and all Supporting Information. If Landlord elects to terminate this agreement, it shall terminate on the date which is the later of (a) the proposed effective date of any assignment or sublease as set forth in the Assignment Notice, or (b) the date which is 180 days after the date of receipt by Landlord of the Assignment Notice.

20. Landlord's Access. Landlord may enter the Premises at reasonable hours to (a) inspect the Premises; (e) determine whether Tenant is complying with all its obligations under this agreement; (c) supply any service to be provided by Landlord to Tenant under this agreement; and (d) make repairs required of or optional to Landlord under the terms of this agreement or repairs to any adjoining space or utility services or make repairs, alterations or additions to the

Premises or any other portion of the Facility. All such work shall be done as promptly as reasonably possible and so as to cause as little interference to Tenant as reasonably possible and any repairs, alterations, or additions to the Premises shall, when completed, not materially and adversely affect Tenant's use of the Premises. Landlord shall have the right to use any and all means which Landlord may deem proper to open such doors in an emergency in order to obtain entry to the Premises. Any entry to the Premises obtained by Landlord by any of such means, or otherwise, shall not under any circumstances be construed or deemed to be a forcible or unlawful entry into or a detainer of the Premises or an eviction, actual or constructive, of Tenant from the Premises.

21. Subordination and Attornment. This agreement shall at all times be subject and subordinate to any mortgage or trust deed (Encumbrance) hereafter placed on the Facility, or any portion thereof, and to any and all modifications, renewals or extensions of an Encumbrance. In the event the Facility is sold or transferred in connection with the judicial or non-judicial foreclosure of any Encumbrance, or by deed in lieu of foreclosure, Tenant shall attorn to the purchaser as landlord. Within 30 days after request by Landlord or any existing or prospective lender of Landlord, Tenant shall execute a subordination and attornment agreement in a form required by the lender.

22. Estoppel Certificate. Within 30 days after written request from Landlord, Tenant shall execute, acknowledge and deliver to Landlord an estoppel certificate certifying: (a) that this agreement is unmodified and in full force and effect (or, if there has been a modification, that this agreement is in full force and effect, as modified, and stating the date and nature of each modification); (b) the date to which rental and other sums payable under this agreement have been paid; (c) that no notice has been received by Tenant of any default which has not been cured, except as to any default specified in the certificate; and (d) such other matters as may be reasonably requested by Landlord or Landlord's lender, assignee or purchaser (or proposed lender, assignee or purchaser). Any such estoppel certificate may be relied upon by such purchaser, lender or assignee for estoppel purposes only.

23. Surrender on Expiration.

23.1. Condition of Premises. Upon expiration of the lease term or earlier termination of this agreement, Tenant shall surrender the Premises in a state of good condition and repair and broom clean. Alterations, additions and improvements made by Tenant with permission from Landlord shall not be removed or restored to the original condition unless the terms of permission for such work so require or Tenant is required to remove and restore pursuant to any other provision of this agreement. Tenant's obligations under this paragraph shall be subordinate to the provisions of paragraph 14 relating to damage or destruction.

23.2. Fixtures.

23.2.1. All fixtures placed upon the Premises during the term, other than Tenant's trade fixtures and Signs, shall, at Landlord's option, become the property of Landlord.

23.2.2. Prior to expiration or other termination of the lease term Tenant shall remove all furnishings, furniture, and trade fixtures that remain Tenant's property.

23.3. Holdover. If Tenant does not vacate the Premises at the time required, Landlord shall have the option (a) to treat Tenant as a tenant from month-to-month, subject to all of the provisions of this agreement except the provisions for term and extension, if any, and at a Base Rent equal to 110 percent of the Base Rent in effect immediately prior to the expiration or termination, in addition to Additional Rent, or (b) to eject Tenant from the Premises and recover damages caused by wrongful holdover. Failure of Tenant to remove fixtures, furniture, furnishings, or trade fixtures that Tenant is required to remove under this agreement shall constitute a failure to vacate to which this paragraph shall apply if the property not removed will substantially interfere with occupancy of the Premises by another tenant or with occupancy by Landlord for any purpose including preparation for a new tenant.

24. Sale by Landlord. In the event the original Landlord under this agreement, or any successor owner of the Facility, shall sell or convey the Facility, all liabilities and obligations on the part of the original Landlord, or such successor owner, under this agreement accruing thereafter shall terminate, and thereupon all such liabilities and obligations shall be binding upon the new owner. Tenant agrees to attorn to such new owner.

25. Default. The following shall be events of default:

25.1. Default in Rent or Other Charges. Failure by Tenant to pay any Rent required to be paid by Tenant to Landlord under this agreement within 10 days after it become due.

25.2. Default in Other Covenants. Failure of Tenant to comply with any term or condition or fulfill any obligation of this agreement (other than the payment of Rent) within 30 days after written notice by Landlord specifying the nature of the default with reasonable particularity.

25.3. Insolvency. Insolvency of Tenant; an assignment by Tenant for the benefit of creditors; the filing by Tenant of a voluntary petition in bankruptcy; an adjudication that Tenant is bankrupt or the appointment of a receiver of the properties of Tenant; the filing of any involuntary petition of bankruptcy and failure of Tenant to secure a dismissal of the petition within 30 days after filing; attachment of or the levying of execution on the leasehold interest and failure of Tenant to secure discharge of the attachment or release of the levy of execution within 10 days shall constitute a default.

26. Remedies on Default.

26.1. Termination. In the event of a default this agreement may be terminated at the option of Landlord by written notice to Tenant. Whether or not this agreement is terminated by the election of Landlord or otherwise, Landlord shall be entitled to recover damages from Tenant for the default, and Landlord may re-enter, take possession of the Premises, and remove any persons or property by legal action or by self help with the use of reasonable force and without liability for damages and without having accepted a surrender.

26.2. Reletting. Following re-entry or abandonment, Landlord may relet the Premises and in that connection may make any suitable alterations or refurbish the Premises, or both, or change the character or use of the Premises. Landlord may relet all or part of the Premises, alone or in conjunction with other properties, for a term longer or shorter than the term of this

agreement, upon any reasonable terms and conditions, including the granting of some rent-free occupancy or other rent concession.

26.3. Damages. In the event of termination or retaking of possession following default, Landlord shall be entitled to recover immediately, without waiting until the due date of any future rent or until the date fixed for expiration of the lease term, the following amounts as damages:

26.3.1. All sums due and not then paid at the time of such election; and

26.3.2. Liquidated damages calculated pursuant to paragraph 28.

26.4. Right to Sue More than Once. Landlord may sue periodically to recover damages during the period corresponding to the remainder of the lease term, and no action for damages shall bar a later action for damages subsequently accruing.

26.5. Landlord's Right to Cure Defaults. If Tenant fails to perform any obligation under this lease, Landlord shall have the option to do so after 30 days' written notice to Tenant. All of Landlord's expenditures to correct the default shall be reimbursed by Tenant on demand with interest at the Default Rate from the date of expenditure by Landlord and shall be considered Additional Rent. Such action by Landlord shall not waive any other remedies available to Landlord because of the default.

26.6. Remedies Cumulative. The foregoing remedies shall be in addition to and shall not exclude any other remedy available to Landlord under applicable law.

27. Early Termination by Tenant. Tenant may terminate this agreement prior to the expiration of the Initial Term upon not less than 365 days' written notice to Landlord, provided that Tenant shall pay to Landlord liquidated damages as set forth in paragraph 28 below.

28. Liquidated Damages. If Tenant terminates this agreement early pursuant to paragraph 27, or if Landlord terminates this lease for Tenant's default, Tenant shall, as an additional, cumulative obligation upon any such termination, pay to Landlord as liquidated damages a sum equal to the present value of all of the Base Rent reserved for the residue of the then current term. In calculating such present values under this paragraph, the parties shall use the "Discount Rate", which shall be defined as the rate which, when compounded monthly, is equivalent to the Treasury Rate when compounded semi-annually. The "Treasury Rate" is defined as the semi-annual yield on the Treasury Constant Maturity Series with maturity equal to what would have otherwise been the remaining Initial Term of this Lease for the week prior to the Discount Rate, as reported in Federal Reserve Statistical Release H.15 – Selected Interest Rates, as determined by Landlord as of the applicable date. The rate will be determined by linear interpolation between the yields reported in Release H.15, if necessary. In the event Release H.15 is no longer published, Landlord shall select a comparable publication to determine the Treasury Rate. In the event of Tenant's default, this

TENANT AGREES THAT THIS SECTION 28 IS A MATERIAL INDUCEMENT FOR LANDLORD TO UNDERTAKE CONSTRUCTION OF THE FACILITY AND ENTER INTO THIS AGREEMENT. THE PARTIES ACKNOWLEDGE THAT THE FACILITY IS A

HIGHLY SPECIALIZED, SHARED FACILITY, WHICH IS DESIGNED FOR A UNIQUE AND SPECIFIC PUBLIC PURPOSE AND HAS LIMITED FUTURE MARKETABILITY AND UTILITY. THUS, THE PARTIES ACKNOWLEDGE AND AGREE THAT THE LIQUIDATED DAMAGES CONTEMPLATED HEREUNDER ARE NOT A PENALTY, BUT ARE A FAIR AND REASONABLE DETERMINATION OF THE ACTUAL DAMAGES THAT WOULD BE INCURRED BY LANDLORD FOR TERMINATION OF THIS AGREEMENT PRIOR TO THE EXPIRATION OF THE INITIAL TERM. THIS PARAGRAPH 28 SHALL BE ENFORCEABLE TO THE MAXIMUM EXTENT PERMITTED BY LAW

29. No Merger. The voluntary or other surrender of this lease by Tenant, or a mutual cancellation thereof, shall not work a merger, and shall, at the option of Landlord, terminate all or any existing subleases or sub-tenancies, or may, at the option of Landlord, operate as an assignment to it of any or all such subleases or sub-tenancies.

30. No Partnership. It is expressly understood that Landlord does not, in any way or for any purpose, become a partner of Tenant in the conduct of its business, or otherwise, or joint venturer or a member of a joint enterprise with Tenant.

31. No Recording. Neither this lease nor any memorandum of this lease shall be recorded.

32. Corporate Authority. Tenant does hereby covenant and warrant that Tenant is a duly organized and existing, that Tenant has full right and authority to enter into this lease, and that each person signing on behalf of Tenant is authorized to do so.

33. No Light and Air Easement. No diminution or shutting off of light, air, or view by any structure which may be erected on lands adjacent to or in the vicinity of the Facility shall in any way affect this lease or impose any liability on Landlord.

34. Notice. All notices required by this agreement shall be in writing addressed to the party to whom the notice is directed at the address of that party set forth in **item L** (for Landlord) and **item M** (for Tenant) of the Basic Lease Terms and shall be deemed to have been given for all purposes upon receipt when personally delivered; one day after being sent, when sent by recognized overnight courier service or three days after deposit in United States mail, postage prepaid, certified mail, return receipt requested. Any party may designate a different mailing address or a different person for all future notices by notice given in accordance with this paragraph. If no address for notice purposes is set forth in the Basic Lease Terms, such address shall be the last known address of the party to whom the notice is directed.

35. Attorney Fees. In any dispute involving the interpretation or enforcement of this agreement or involving issues related to bankruptcy (whether or not such issues relate to the terms of this agreement), the prevailing party shall be entitled to recover from the non prevailing party reasonable attorney fees (including in-house counsel), paralegal fees, costs, disbursements, and other expenses incurred by the prevailing party in the dispute, including those arising before and at any trial, arbitration, bankruptcy, or other proceeding, and in any appeal or review thereof. In addition, the amount recoverable by the prevailing party shall include an amount estimated as the fees, costs, disbursements, and other expenses that will be reasonably incurred in collecting a

monetary judgment or award, or otherwise enforcing any order, judgment, award, or decree entered in the proceeding.

36. Modification. No modification of this agreement shall be valid unless it is in writing and is signed by all of the parties.

37. Integration. This agreement is the entire agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained in this agreement. This agreement shall supersede all prior communications, representations, and agreements, oral or written, of the parties.

38. Interpretation. The paragraph headings are for the convenience of the reader only and are not intended to act as a limitation on the scope or meaning of the paragraphs themselves. This agreement shall not be construed against the drafting party.

39. Severability. The invalidity of any term or provision of this agreement shall not affect the validity of any other provision.

40. Waiver. Waiver by any party of strict performance of any provision of this agreement shall not be a waiver of or prejudice any party's right to require strict performance of the same provision in the future or of any other provision.

41. Binding Effect. Subject to restrictions in this agreement upon assignment, if any, this agreement shall be binding on and inure to the benefit of the heirs, legal representatives, successors, and assigns of the parties.

42. Governing Law. This agreement shall be interpreted and enforced according to the laws of the State of Oregon.

43. Counterparts. This agreement may be executed in multiple counterparts, each of which shall constitute one agreement, even though all parties do not sign the same counterpart.

44. Exhibits. All exhibits referred to in **item N** of the Basic Lease Terms and this agreement are incorporated by reference.

45. Status. This lease shall not become effective or be binding on any party unless it is signed by all parties.

Landlord

Tenant

By _____

By _____

Title _____

Title _____

Date: _____

Date: _____

EXHIBIT A

Facility Legal Description

EXHIBIT B
Facility Site Plan

EXHIBIT C
Premises Diagram

EXHIBIT D

Description of Landlord's Work

EXHIBIT E

Rules and Regulations

1. The sidewalks, halls, passages, exits, entrances, stairways and elevators (if any) of the Facility shall not be obstructed by any tenant or used by any tenant for any purpose other than for ingress to and egress from the tenant's premises. The halls, passages, exits, entrances, elevators, and stairways are not for the general public, and Landlord shall in all cases retain the right to control and prevent access thereto by all persons whose presence in the judgment of Landlord would be prejudicial to the safety, character, reputation and interests of the Facility and its tenants, provided that nothing herein contained shall be construed to prevent such access to persons with whom any tenant normally deals in the ordinary course of its business, unless such person is engaged in illegal activities. No tenant and no employee or invitee of any tenant shall go upon the roof of the Facility without prior written consent of Landlord or Landlord's property manager.

2. In the case of invasion, mob, riot, public excitement, or other circumstances rendering such action advisable in Landlord's opinion, Landlord reserves the right to prevent access to the Facility during the continuance of the same by such an action as Landlord may deem appropriate, including closing entrances to the Facility.

3. Landlord shall have the right to change the name and street address of the Facility.

4. These Rules and Regulations are in addition to and shall not be construed to in any way modify, alter or amend, in whole or in part, the terms, covenants, agreements and conditions of any lease of premises in the Facility.

5. Landlord reserves the right to make such other and reasonable rules and regulations as in its judgment may from time to time be needed for the safety, care and cleanliness of the Facility, and for the preservation of good order therein.

FACILITY LEASE

Between

And

_____ **Facility**

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temporary pop-up style shelters;

- Most mobile food trucks are removed from the site on a daily basis as currently required in the code. For comparison purposes, the City of Medford requires relocation once every seven days;
- Based on implementation, the application process and requirements are not clear and vary from other cities in the valley; and,
- There is a larger impact to the street system that was initially considered, which has promoted re-evaluation of the application requirements and System Development Charges for mobile food business operation in the City.

Based on the above, staff is seeking direction from the City Council to initiate amendments to CPMC 5.44 and associated Chapters in Title 17 to accomplish the following objectives:

- Clarify mobile food business definitions to distinguish between temporary mobile food businesses where a site has not been pre-approved for regular use versus sites that have been pre-approved through the Site Plan and Architectural Review process;
- Establish regulations for the size and design of seating area shelters inside and outside the Transit Oriented Development (TOD) Overlay;
- Allow mobile food businesses to operate within commercial/mixed-use areas in the High Mix Residential (HMR) zone in Twin Creeks and the Employment Commercial (EC) zone outside the Central Business District;
- Establish standards for mobile food business operation within the public right-of-way;
- Align operational standards with the City of Medford to minimize confusion among business owners and reduce staff time needed for enforcement; and,
- General code clean-up that may be identified in the code amendment process.

At the May 9, 2024 City Council meeting, staff will provide an overview of the mobile food business regulations in CPMC 5.44 relative to the issues identified. At the conclusion of the item, staff is requesting the City Council approve a Resolution of Intent to initiate the code amendment process.

FINANCIAL ANALYSIS:

Amending the code does not generate additional cost to the City beyond in-kind staff expenses.

LEGAL ANALYSIS:

The code amendments will require changes in CPMC 5.44, as well as various zoning district chapters in Title 17. Consequently, the code amendments must be processed using Type IV (Legislative) land use procedures set forth in CPMC 17.05.500, which requires City Council initiate the application by Resolution. If Council directs staff to initiate the code amendments, staff will prepare the code changes and bring them back following consideration and recommendation from the Citizen's Advisory Committee and a public hearing and recommendation from the Planning Commission.

COUNCIL GOALS/STRATEGIC PLAN ANALYSIS:

Vibrant Economy, Goal 5 - Support business development and entrepreneurship.

Comment: The City initially adopted amendments to the municipal code to establish an application process, development and operational standards for mobile food businesses in 2022. As the new code has been implemented, there has been an increase in mobile food businesses in Central Point. However, the success has also come with lessons learned that could be addressed through thoughtful code amendments that provide reasonable standards for business location and operation while preserving the City's small-town feel.

ATTACHMENTS/EXHIBITS:

1. Resolution of Intent Rev'd

STAFF RECOMMENDATION:

Approve a Resolution of Intent directing staff to initiate amendments to CPMC 5.44 and corresponding chapters in Title 17 to expand location options for mobile food businesses, clarify application, development and operational standards and make general revisions as needed.

RECOMMENDED MOTION:

I move to recommend approval of Resolution No. _____, A Resolution Declaring the City Council's Intent to Initiate Amendments to the Central Point Municipal Code in Chapter 5.44, Mobile Food Businesses, and Various Chapters in Chapter 17, Zoning, to Expand Mobile Food Business Location Opportunities, Clarify Application Requirements and Standards and Make Other Minor Revisions.

RESOLUTION NO. _____

A RESOLUTION DECLARING THE CITY COUNCIL'S INTENT TO INITIATE AN AMENDMENT TO THE CENTRAL POINT MUNICIPAL CODE CHAPTER 5.44, MOBILE FOOD BUSINESSES AND VARIOUS CHAPTERS IN TITLE 17, ZONING, TO EXPAND MOBILE FOOD BUSINESS LOCATION OPPORTUNITIES, CLARIFY APPLICATION REQUIREMENTS AND STANDARDS AND MAKE OTHER MINOR REVISIONS

RECITALS:

- A. An amendment of the Central Point Municipal Code (Zoning) may be initiated by adoption of a resolution of intent by the City Council (Chapter 17.10.200); and
- B. The City Council has reason to believe that current land use, development and operational standards in CPMC 5.44 and the zoning code are unclear and incomplete and that the City and prospective mobile food business applicants would be benefitted by updating its standards.
- C. The City Council determines that it is in the City's economic interest and that the public necessity and convenience and general welfare support consideration of such an amendment.

The City of Central Point resolves:

Section 1: By this resolution the City Council authorizes the Community Development Department to proceed with consideration of amendments to the zoning code, including necessary and related changes to other municipal code sections.

Section 2: Prior to formal application for the actions cited in Section 1 of this resolution the requirements of Section 17.10 et. seq. of the City of Central Point Municipal Code shall be met.

PASSED by the Council and signed by me in authentication of its passage this 9th day of May, 2024.

Mayor Hank Williams

ATTEST:

City Recorder