



**CITY COUNCIL REGULAR MEETING AGENDA**  
**Monday, October 7, 2019, 7:00 PM**  
**City Hall, 616 NE 4th Avenue**

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NOTE: For both public comment periods - come forward when invited; state your name and address; limit comments to three minutes. Written comments can be given to the City Clerk. If it is a public hearing or a quasi-judicial matter, special instructions will be provided.

**I. CALL TO ORDER**

**II. PLEDGE OF ALLEGIANCE**

**III. ROLL CALL**

**IV. PUBLIC COMMENTS**

**V. CONSENT AGENDA**

- A. September 16, 2019, Camas City Council Regular and Workshop Meeting Minutes

 [September 16, 2019 Camas City Council Workshop Meeting Minutes - Draft](#)

[September 16, 2019 Camas City Council Regular Meeting Minutes - Draft](#)

- B. Automated Clearing House and Claim Checks Approved by Finance Committee  
C. 2018 Well 17 Development - Rebid, Project Complete (Submitted by Sam Adams)  
D. Annex Building Architectural Contract (Submitted by Pete Capell)

 [Annex Building LSW Architectural Contract](#)

[Exhibit 1 Architect Proposal](#)

[Exhibit 2 Electronic Document](#)

[Exhibit 3 2019 Hourly Billing Rates](#)

NOTE: Consent Agenda items may be removed for general discussion or action.

**VI. NON-AGENDA ITEMS**

- A. Staff  
B. Council

**VII. MAYOR**

- A. Mayor Announcements  
B. Breast Cancer Awareness Month Proclamation

 [Breast Cancer Awareness Month Proclamation](#)

- C. National Disability Employment Awareness Month Proclamation

 [National Disability Employment Awareness Month](#)

## VIII. MEETING ITEMS

- A. Public Hearing New Cingular Wireless, LLC (dba AT&T) Franchise License Agreements

Presenter: Steve Wall, Public Works Director

 [Staff Report](#)

[New Cingular Wireless PCS, LLC \(dba AT&T\) Franchise Ordinance - Draft](#)

[AT&T License Agreement - Draft](#)

- B. Ordinance No. 19-009 2019 Annual Comprehensive Plan Amendments

Presenter: Sarah Fox, Senior Planner

 [Ordinance No. 19-009 Comprehensive Plan Amendments](#)

[Exhibit A](#)

[Exhibit B](#)

- C. Resolution No. 19-013 Creating Parking Enforcement Officer Position

Presenter: Jennifer Gorsuch, Administrative Services Director

 [Resolution No. 19-013 Parking Enforcement Officer Position](#)

[Exhibit A](#)

## IX. PUBLIC COMMENTS

## X. ADJOURNMENT

NOTE: The City welcomes public meeting citizen participation. For accommodations; call 360.834.6864.





**CITY COUNCIL WORKSHOP MEETING MINUTES - DRAFT**  
**Monday, September 16, 2019, 4:30 PM**  
**City Hall, 616 NE 4th Ave**

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**Due to technical difficulties, there is no video of the first portion of the meeting.**

**I. CALL TO ORDER**

Mayor Shannon Turk called the meeting to order at 4:30 p.m.

**II. ROLL CALL**

Present: Greg Anderson, Ellen Burton, Bonnie Carter, Steve Hogan, Deanna Rusch and Melissa Smith

Excused: Don Chaney

Staff: Pete Capell, James Carothers, Leisha Copsey, Sarah Fox, Jennifer Gorsuch, Cathy Huber Nickerson, Mitch Lackey, Robert Maul, Nick Swinhart, Connie Urquhart, Steve Wall and Madora Doremus (intern)

Press: No one from the press was present

**III. PUBLIC COMMENTS**

Phillip Mitchell, 3634 NE Sitka Dr., Camas, commented about the proposed Community Aquatics Center and sports fields and the City of Camas website.

Hendrick Vanderburgh, Camas, commented about the Camas Police Department.

Wayne Pattison, commented about the proposed Community Aquatics Center.

**IV. WORKSHOP TOPICS**

- A. Recognition of 30-Year Anniversary for Greg Payne, Battalion Chief  
Presenter: Nick Swinhart, Fire Chief

Swinhart presented Greg Payne, Battalion Chief, with his City of Camas 30 years of service pin.

- B. Employee Recognition

 [Mike Brown September 2019](#)

Mayor Turk recognized Mike Brown, Fire Captain/Paramedic, for organizing a 9/11 memorial event for the City of Camas. Turk also thanked Fire Captain

Brooks Cooper for the refreshments provided.

- C. Camas Transportation System Plan Update  
Presenter: James Carothers, Engineering Manager and Steve Wall, Public Works Director

 [Transportation Plan Presentation](#)

Carothers reviewed the presentation and discussion ensued.

- D. New Cingular Wireless PCS, LLC (dba AT&T) Franchise Agreement and License Agreement  
Presenter: Steve Wall, Public Works Director

 [Staff Report New Cingular Franchise 9-16-2019](#)

[ATT Franchise - Draft for Workshop 9-16-2019](#)

[ATT Small Cells License Agreement - Workshop Draft 9-16-2019](#)

Wall provided an overview. Discussion ensued.

A public hearing will be scheduled for October 7, 2019, to review the franchise ordinance and license agreement.

- E. Water Quality Standards Review  
Presenter: Steve Wall, Public Works Director

 [Staff Report Water Quality Standards Review 9-16-2019](#)


[Fish Consumption Rule Comment DRAFT](#)

Wall reviewed the water quality standards. Council provided staff direction regarding submittal of a comment letter to the Environmental Protection Agency.

- F. Public Works Miscellaneous and Updates  
Details: This is a placeholder for miscellaneous or emergent items.  
Presenter: Steve Wall, Public Works Director

There were no miscellaneous items or updates.

- G. North Shore Subarea Plan Update  
Presenter: Sarah Fox, Senior Planner

 [North Shore Subarea Plan - update](#)

Fox reviewed the presentation.

- H. Shoreline Master Program Update  
Presenter: Sarah Fox, Senior Planner

Fox provided an update and discussion ensued.

- I. Community Development Miscellaneous and Updates  
Details: This is a placeholder for miscellaneous or emergent items.  
Presenter: Robert Maul, Planning Manager  
  
Maul commented about the upcoming Planning Commission meeting.

- J. 2019-2020 City of Camas Capital Budget Presentation  
Presenter: Cathy Huber Nickerson, Finance Director

 [2019-2020 City of Camas Capital Budget Presentation](#)

Huber Nickerson reviewed the presentation.

- K. 2020-2025 City of Camas Budget Forecast  
Presenter: Cathy Huber Nickerson, Finance Director

 [2020-2025 City of Camas Budget Forecast](#)

Huber Nickerson provided an overview of the 2020-2025 City of Camas Budget forecast.

- L. City Administrator Miscellaneous Updates and Scheduling  
Details: This is a placeholder for miscellaneous or scheduling items.  
Presenter: Pete Capell, City Administrator

Capell gave a brief overview of Resolution No. 19-012 that was also included on the September 16, 2019 Regular Meeting Agenda.

Capell gave an update about the proposed Community Center.

Leadbetter House tours are scheduled for September 18, 2019 at 4:00 p.m. or 5:00 p.m.

Capell informed Council that the priorities of government topic will be brought forward to Council for discussion in the future.

Capell stated that the State of the Community will be held September 19, 2019 at 6:00 p.m. at the Lacamas Lake Lodge.

## **V. COUNCIL COMMENTS AND REPORTS**

Hogan announced that the Camas High School is having a Hall of Fame event September 21, 2019, at 5:00 p.m.

Burton attended a webinar about forecasted impacts of Initiative-976, a Young Women's Christian Association (YWCA) luncheon, an Alzheimer fundraiser and the 9/11 remembrance event.

Anderson attended the Steigerwald Floodplain Restoration ground breaking

ceremony and the Abrahamsen Bridge dedication. He also commented about an email regarding Leadbetter Road disability access. Discussion ensued.

Anderson stated that he will not be able to attend the State of the Community.

Carter commented about the Downtown Camas Association (DCA), Library Board of Trustees, and the Lake Road and Everett Street roundabout meetings she attended.

Smith invited Council to the Clark County 19th Annual Celebration of National Disability Employment Awareness Month event. The ceremony will be held from 4:00 p.m. to 6:30 p.m. at the Heathman Lodge on October 2, 2019.

Mayor Turk participated in the inaugural 9/11 memorial walk and thanked staff involved with the Abrahamsen Bridge dedication.

Mayor Turk recognized Camas Youth Advisory Council (CYAC) Vice-President Julia Vince.

Mayor Turk announced that a Distributive Education Clubs of America (DECA) fundraiser for the humane society will be held September 21, 2019.

She also gave a brief update about the Boards and Commissions process.

## **VI. PUBLIC COMMENTS**

Phillip Mitchell, 3634 NE Sitka Dr., Camas, commented about bicycle riding regulations and firefighter staffing.

## **VII. ADJOURNMENT**

The meeting adjourned at 6:18 p.m.

NOTE: The City welcomes public meeting citizen participation. For accommodations; call 360.834.6864.



**CITY COUNCIL REGULAR MEETING MINUTES - DRAFT**  
**Monday, September 16, 2019, 7:00 PM**  
**City Hall, 616 NE 4th Avenue**

---

**I. CALL TO ORDER**

Mayor Shannon Turk called the meeting to order at 7:00 p.m.

**II. PLEDGE OF ALLEGIANCE**

**III. ROLL CALL**

Present: Greg Anderson, Ellen Burton, Bonnie Carter, Steve Hogan, Deanna Rusch and Melissa Smith

Excused: Don Chaney

Staff: Pete Capell, Leisha Copsey, Sarah Fox, Jennifer Gorsuch, Shawn MacPherson, Robert Maul, Steve Wall and Madora Doremus (intern)

Press: No one from the press was present

**IV. PUBLIC COMMENTS**

James Bean, 132 N Wenatchee Ave., Wenatchee, commented about legal cannabis.

Heather Fresh, 1331 NE 6th Ave., Camas, commented about the non-profit Upward Camas.

**V. CONSENT AGENDA**

A. \$1,016,571.56 Automated Clearing House and Claim Checks Numbered 141905 to 142064

B. September 3, 2019 Camas City Council Regular and Workshop Meeting Minutes

 [September 3, 2019 Camas City Council Workshop Meeting Minutes - Draft](#)  
[September 3, 2019 Camas City Council Regular Meeting Minutes - Draft](#)

C. Cross-Boundary Overlay Service Area Agreement (Submitted by Jerry Acheson)

 [Cross-Boundary Overlay Service Area Agreement](#)

D. \$106,885.70 for August, 2019 Emergency Medical Services (EMS) Write-off

Billings; Monthly Uncollectable Balance of Medicare and Medicaid Accounts  
(Submitted by Cathy Huber Nickerson)

**It was moved by Council Member Carter, and seconded, to approve the Consent Agenda. The motion carried unanimously.**

**VI. NON-AGENDA ITEMS**

A. Staff

There were no comments from staff.

B. Council

Carter reminded everyone about the upcoming State of the Community.

**VII. MAYOR**

A. Mayor Announcements

There were no announcements from Mayor Turk.

**VIII. MEETING ITEMS**

- A. Public Hearing - 2019 Annual Comprehensive Plan Amendments  
Presenter: Sarah Fox, Senior Planner

-  [2019 Annual Comprehensive Plan Amendments Presentation](#)
- [Staff Report](#)
- [1\\_ Draft Maps](#)
  - [2 Sui Hui Property Application \(CPA19-01\)](#)
  - [3 Rouse Property Application \(CPA19-02\)](#)
  - [4 Knopp Property Application \(CPA19-03\)](#)
  - [5 Camas Crossing Property Application \(CPA19-04\)](#)
  - [6 Marty Miller Comment](#)
  - [7 Cassie Crawford Comment](#)
  - [8 Geoffrey Walters Comment](#)
  - [9 Brian Armstrong Comment](#)
  - [10 Shannon Stevens Comment](#)
  - [11 Anthony Zezima Comment](#)
  - [12 Katherine Freese Comment](#)
  - [13 Hawk Rolewicz Comment](#)
  - [14 John Visser Comment](#)
  - [15 Russell Barber Comment](#)
  - [16 Leah Ann Sperl Comment](#)
  - [17 Jason Lind Comment with Staff Response](#)
  - [18 Ecology and Staff Response](#)
  - [19 Camas School District Comments](#)
  - [20 Department of Archaeology & Historic Preservation \(DAHP\) Comment](#)
  - [21 Skyview HOA Comment](#)
  - [22 Kevin Bare Comment](#)
  - [23 James Howsley Comment \(CPA19-03\)](#)
  - [24 Leslie Corbin Comment \(CPA19-05\)](#)
  - [25 Presentation given by Staff](#)
  - [26 Joshua Owens \(CPA19-05\)](#)
  - [27 Land Need Analysis for Knopp Property \(CPA19-03\)](#)
  - [28 Email from Owens \(CPA19-05\)](#)
  - [29 Evergreen School District Comments \(CPA19-04\)](#)
  - [30 Resolution - Clark Co Pop and Emp Forecast](#)

Fox gave an overview of the proposed amendments and reviewed the presentation.

Mayor Turk opened the public hearing at 7:33 p.m.

The following members of the public spoke:

Eric Rouse, 617 SW Trout Ct., Camas

Jamie Howsley, 1499 SE Tech Center Place, Ste. 380, Vancouver

Gary Vance, 2005 SE 192nd Ave., Ste. 200, Camas

Adam Kluka, 7021 NW Friberg-Strunk St., Camas  
Joshua Owens, 1505 NW 10th Ave., Camas  
Sue Steinbrenner, 13501 NE 28th St., Vancouver

The public hearing was closed at 7:57 p.m.

**It was moved by Council Member Rusch, and seconded, to modify the Planning Commission amendments; no modifications to the Sui Hui property; no modifications to the Rouse property; Knopp property to be modified to match the applicants requests; no modifications to the Hill Street property; modify the 10th Street property, west side lots, from R15 to R10; Evergreen School District no modifications; revise the maps to the associated rezone; remove Camas Crossing from the maps; adopt the recommendations on the park property east of Lacamas Lake; and direct the City Attorney to prepare an ordinance to be placed on a future Regular Council Meeting Agenda for Council's consideration. The motion carried unanimously.**

- B. Resolution No. 19-012 Frontier Communications Northwest Inc Change of Control to Northwest Fiber LLC  
Presenter: Pete Capell, City Administrator

 [Resolution No. 19-012 Frontier Communications Change of Control](#)

**It was moved by Council Member Carter, and seconded, that Resolution No. 19-012 be read by title only. The motion carried unanimously.**

**It was moved by Council Member Carter, and seconded, that Resolution No. 19-012 be adopted. The motion carried unanimously.**

## **IX. PUBLIC COMMENTS**

No one from the public wished to speak.

## **X. ADJOURNMENT**

The meeting adjourned at 8:05 p.m.

NOTE: The City welcomes public meeting citizen participation. For accommodations; call 360.834.6864.





# AIA<sup>®</sup> Document B101<sup>™</sup> – 2017

## Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the 29th day of August in the year 2019  
(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:  
(Name, legal status, address and other information)

City of Camas  
616 NE Fourth Avenue  
Camas, WA 98607

and the Architect:  
(Name, legal status, address and other information)

LSW Architects, P.C.  
610 Esther Street, Suite 200  
Vancouver, WA 98660

for the following Project:  
(Name, location and detailed description)

**City Hall Renovation Expansion**  
528 NE 4<sup>th</sup> Ave  
Camas, WA 98607

The Project consists of a tenant improvement of the first floor of the Bank of America building, approximately 4310 sf, and the reception area of the existing City Hall building. Improvements are based on the approved block plan diagram and cost estimate dated August 29, 2019.

The Owner and Architect agree as follows.

### ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Init.

## TABLE OF ARTICLES

1	INITIAL INFORMATION
2	ARCHITECT'S RESPONSIBILITIES
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4	SUPPLEMENTAL AND ADDITIONAL SERVICES
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6	COST OF THE WORK
7	COPYRIGHTS AND LICENSES
8	CLAIMS AND DISPUTES
9	TERMINATION OR SUSPENSION
10	MISCELLANEOUS PROVISIONS
11	COMPENSATION
12	SPECIAL TERMS AND CONDITIONS
13	SCOPE OF THE AGREEMENT

### ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

*(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")*

Architect's proposal letter dated August 29, 2019 is attached hereto as "Exhibit 1: Architect's Proposal" and incorporated by reference. Exhibit 1: Architect's Proposal, including Exhibits A-C attached thereto, provide Initial Information available for the Project.

§ 1.1.1 The Owner's program for the Project:

*(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)*

See Exhibit 1: Architect's Proposal

§ 1.1.2 The Project's physical characteristics:

*(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)*

See Exhibit 1: Architect's Proposal

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:

*(Provide total and, if known, a line item breakdown.)*

See Exhibit 1: Architect's Proposal.

Init.

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

*(Paragraphs deleted)*

The total project duration is 46 weeks, as indicated in "Schedule of Services" on page 2 of Exhibit 1: Architect's Proposal. Anticipated durations of the design, bidding, permitting, and construction phases are also provided in the Schedule of Services in Exhibit 1: Architect's Proposal.

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:

*(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)*

The procurement and delivery will be design-bid-build.

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:

*(Identify and describe the Owner's Sustainable Objective for the Project, if any.)*

Not Applicable

Owner acknowledges that the success or failure of any effort to achieve a Sustainable Objective is necessarily contingent upon on a wide range of factors that are outside of the Architect's control, including without limitation the participation and cooperation of others, such as Owner and Contractor, their respective consultants and subcontractors, authorities with jurisdiction over the Project, as well as any certifying agency or body. Accordingly, Architect does not warrant or guarantee that the Sustainable Objective will be achieved, or that Architect's services will result in the successful certification of the project under any certification standard, or that any specific level of certification will be achieved.

*(Paragraph deleted)*

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:

*(List name, address, and other contact information.)*

Pete Capell  
City Administrator  
City of Camas  
616 NE Fourth Avenue  
Camas, WA 98607

§ 1.1.8 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:

*(List name, address, and other contact information.)*

N/A

§ 1.1.9 The Owner shall retain the following consultants and contractors:

*(List name, legal status, address, and other contact information.)*

*(Paragraphs deleted)*

None identified at the time of execution of this Agreement.

§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3:

*(List name, address, and other contact information.)*

Amy Noe  
LSW Architects, P.C.  
610 Esther Street, Suite 200  
Vancouver, WA 98660

Init.



§ 1.1.11 The Architect shall retain the following consultants:  
(List name, legal status, address, and other contact information.)

.1 Mechanical, Electrical, Lighting, Plumbing Engineer

MKE & Associates, Inc.  
6915 SW Macadam Ave, Suite 200  
Portland, OR 97219  
Tel. 503.892.1188

(Paragraphs deleted)

§ 1.1.12 Other Initial Information on which the Agreement is based: The current design is based on using existing mechanical and electrical systems, with minimal changes.

Also, See Exhibit 1: Architect's Proposal.

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

(Paragraphs deleted)

### § 1.3 BUILDING INFORMATION MODELS

§ 1.3.1 The Construction Documents shall be two-dimensional plans and specifications printed and delivered in hard copy, or transmitted electronically in a format intended to not allow modification.

§ 1.3.2 Any use by the Architect or its consultants of 3D-modeling software shall be for the Architect's own internal design and coordination purposes. Owner acknowledges that the Architect's 3D-models, as well as those models developed by the Architect's consultants shall not be set-up, developed, or maintained by the Architect for other purposes.

§ 1.3.3 If requested by Owner, the Architect shall provide 3D-models to Owner or Owner's contractor, subcontractors, consultants or other third-parties, but only subject to the Architect's standard Electronic Document Release executed by Owner and the receiving party.

§ 1.4 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form.

## ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances ("Standard of Care"). The Architect makes no warranty, either expressed or implied, as to the Architect's or its consultants' findings, recommendations, plans, specifications, or professional advice, other than that Architect shall comply with the Standard of Care in the performance of its services. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect's representative authorized to act on behalf of the Architect with respect to the Project is identified in Section 1.1.10.

Init.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall procure insurance as provided below. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.

§ 2.5.1 Commercial General Liability with policy limits of not less than one million dollars (\$ 1,000,000 for each occurrence, including for personal and advertising injury, and products and completed operations, and two million (\$ 2,000,000) in the aggregate for bodily injury and property damage.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than one million dollars (\$ 1,000,000 ) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 2.5.4 Workers' Compensation at statutory limits.

§ 2.5.5 Employers' Liability with policy limits not less than one million dollars (\$ 1,000,000 ) each accident, five hundred thousand dollars (\$ 500,000 ) each employee, and five hundred thousand dollars (\$ 500,000 ) policy limit.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than two million dollars (\$ 2,000,000 ) per claim and four million dollars (\$ 4,000,000 ) in the aggregate.

§ 2.5.7 **Additional Insured Obligations.** To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 2.5.8 **Certificates of Insurance.** The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5. Architect shall not cancel, fail to renew, allow to lapse, or materially change coverage without at least 30 days' written notice to the Owner. Architect shall provide prompt written notice to the Owner in the event of any cancellation, non-renewal or material change to coverage by any insurance carrier. For those insurance coverages that are required to remain in force after final payment, an additional certificate evidencing continuation of such coverage shall be submitted with the final application for payment and upon each annual renewal. Architect must give prompt written notice to Owner (and in any event within 30 days) of any actual reduction in the available limits of Architect's or any Consultant's insurance. Upon Owner's request, Architect will immediately provide an actual copy of its insurance policies.

§ 2.5.9 **Architect's Consultant Insurance Requirements.** The limits of insurance for Architect's consultants shall be no less than the following, unless otherwise agreed to by Owner:

- .1 Workers' Compensation and Employer's Liability: as required of Architect in Section 2.5.4 and Section 2.5.5.
- .2 Commercial General Liability: coverage as required of Architect in Section 2.5.1, but with limits of one million dollars (\$1,000,000) per claim and aggregate.
- .3 Business Auto Policy: as required of Architect in Section 2.5.2.

Init.



.4 Professional Liability: \$2,000,000 per claim and \$4,000,000 aggregate

In addition to requiring the above limits for consultants, Architect shall require that each consultant add Owner and Architect as additional insureds to the consultant's Commercial General Liability and Business Auto Policies, consistent with Section 2.5.7, and that each consultant provide certificates of insurance consistent with Section 2.5.8.

### ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and Exhibit 1: Architect's Proposal and, subject to Exhibit 1: Architect's Proposal, include usual and customary mechanical, electrical, lighting and plumbing engineering services. Services not set forth in this Article 3 and Exhibit 1: Architect's Proposal may be provided as Additional Services. In the event of a conflict between the language or terms of this form of Agreement and Exhibit 1: Architect's Proposal, Exhibit 1: Architect's Proposal shall govern.

§ 3.1.1 The Architect shall manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.3 The Architect's services shall be provided consistent with Schedule of Services in Exhibit 1: Architect's Proposal. Architect shall, subject to the Standard of Care, endeavor to meet the time limits established by the schedule. However, in the event the Architect is delayed by causes outside its control, or for other reasonable cause, the schedule shall be extended by a reasonable time. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval.

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

*(Paragraphs deleted)*

#### § 3.1.7 Delegated-Design Components (sometimes referred to as "design-build")

§ 3.1.7.1 The Architect and the Owner agree and acknowledge that some systems, materials or equipment can be more effectively and economically designed by the responsible installers, subcontractors or fabricators who will be contracted to Contractor or to Owner directly. ("Delegated-Design Components"). The Owner and Architect shall designate those parts of the Work that shall be Delegated-Design Components. The Owner and Architect shall also confirm whether Architect shall specify performance and design criteria for Delegated-Design Components.

§ 3.1.7.2 All design services for Delegated-Design Components shall be provided by design professionals licensed in the jurisdiction where the project is located ("Delegated-Design Consultants"), and the delegated-design plans and specifications shall bear the certifications of such licensed design professionals as required by law. The Delegated-Design Consultants shall be required to coordinate their construction documents, drawings and other instruments of service with those of the Architect and to advise the Architect of any potential conflict. The Architect shall have no responsibility for accuracy, completeness, or sufficiency of the Delegated-Design Components, and any review and coordination by the Architect with the Delegated-Design Consultants is solely for consistency with any performance specification provided by the Architect, or for consistency with the Architect's design concept for the Project if no performance specification is provided.

§ 3.1.7.3 The Architect shall be entitled to rely on the technical sufficiency and timely delivery of documents and services furnished by the Delegated-Design Consultants, as well as the computations performed by those consultants in connection with such documents and services, and shall not be required to review or verify those computations or designs for compliance with applicable laws, statutes, ordinances, building codes, and rules and regulations.

§ 3.1.7.4 Owner will require that the Contractor's Delegated-Design Consultants: 1) Coordinate their design services with the Architect's services during the design phases described in this Agreement, and 2) Deliver the plans for the Delegated-Design Components on a schedule agreed to by the Architect. Otherwise, modifications to the Architect's Instruments of Service that are necessary to accommodate or coordinate Delegated-Design Components shall be provided by Architect as an additional service.

§ 3.1.7.5 At the time of execution of this Agreement, the Delegated-Design Components subject to this provision include those components listed below. Delegated-Design Components may be added or removed from the list during the design phases as agreed to by the Owner and Architect.

Fire sprinklers

### § 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents described in Exhibit 1: Architect's Proposal, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the Schematic Design Documents described in Exhibit 1: Architect's Proposal and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, mechanical and electrical systems and components, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify and establish major materials and systems and establish, in general, their quality levels.

§ 3.3.2 Not used.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments in the design that may impact the estimate of the Cost of the Work, and request the Owner's approval.

### § 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Owner may not rely on the Architect for legal advice in regard to procurement information or the agreement between the Owner and the Contractor. The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms.



*(Paragraphs deleted)*

**§ 3.5 Procurement Phase Services**

**§ 3.5.1 General** The Architect shall assist the Owner with Procurement Phase Services; Competitive Bidding or Negotiated Proposals, as provided in Exhibit 1: Architect's Proposal.

*(Paragraphs deleted)*

**§ 3.6 Construction Phase Services**

**§ 3.6.1 General**

**§ 3.6.1.1** The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201–2017, those modifications shall not affect the Architect's services, right and liabilities under this Agreement unless the Owner and the Architect amend this Agreement. Prior to the execution of the Contract between the Owner and the Contractor, Owner shall provide Architect with a copy of the General Conditions so that Architect may, at its discretion, review and comment on the General Conditions.

**§ 3.6.1.2** The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work. Owner shall include this provision in its contract with the Contractor.

**§ 3.6.1.3** Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

**§ 3.6.2 Evaluations of the Work**

**§ 3.6.2.1** The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

**§ 3.6.2.2** The Architect has the authority to recommend to the Owner that the Owner reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

**§ 3.6.2.3** The Architect shall interpret and advise on matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

**§ 3.6.2.4** Interpretations and recommendations of the Architect made pursuant to Section 3.6.2.3 shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and recommendations, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of

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interpretations or recommendations rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

**§ 3.6.2.5** Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2017, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

### **§ 3.6.3 Certificates for Payment to Contractor**

**§ 3.6.3.1** The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's on-site observations of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in general accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for general conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

**§ 3.6.3.2** The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

**§ 3.6.3.3** The Architect shall maintain a record of the Applications and Certificates for Payment.

### **§ 3.6.4 Submittals**

**§ 3.6.4.1** The Architect and Owner shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. Architect shall not be required to approve a submittal schedule which does not provide the Architect reasonable time, in the Architect's professional opinion to adequately review the Contractor's submittals. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

**§ 3.6.4.2** The Architect shall review and take appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, images and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation, or for substantiating installation instructions, or performance of equipment or systems, which are the Contractor's responsibility pursuant to the Contract Documents. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's review of a specific item shall not indicate approval of an assembly of which the item is a component.

**§ 3.6.4.3** The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Delegated Design Components designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. If the Architect specified performance and design criteria for the Delegated Design Component pursuant to Section 3.1.7, then the Architect will review such submittals to reasonably determine that the systems, materials or equipment are designed in general conformance with the performance criteria and the design concept and intent expressed in the Contract Documents. If the Architect did not specify performance and design criteria, the Architect shall review such submittals for general conformance with the design concept. The Architect's review of submittals related to Delegated Design Components is not performed for the purpose of determining the adequacy of the design or for checking the accuracy of design calculations or design presumptions. The Architect shall be entitled to rely

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upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

**§ 3.6.4.4** Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information. The Architect shall not be required to provide substantive responses to requests for information that lack sufficient detail or request information on topics that are beyond Architect's expertise and scope including but not limited to construction, means, methods, techniques, sequences or procedures.

**§ 3.6.4.5** The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

### **§ 3.6.5 Changes in the Work**

**§ 3.6.5.1** The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents. Requests by the Owner or Contractor for changes in the Work shall be timely, so as to allow the Architect sufficient time to evaluate the requested change without causing delay to the Project. Such requests for changes in the Work shall be accompanied by sufficient supporting data and information to permit the Architect to make a reasonable determination without extensive investigation or preparation of additional drawings or specifications.

**§ 3.6.5.2** The Architect shall maintain records relative to changes in the Work.

### **§ 3.6.6 Project Completion**

**§ 3.6.6.1** The Architect shall, as provided herein:

- .1 conduct observations to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;
- .3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
- .4 issue a final Certificate for Payment based upon a final observation indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

**§ 3.6.6.2** The Architect's observations shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected. The Architect shall report known deviations or inaccuracies of the Contractor's list, but shall not be responsible for Contractor's failure to provide an accurate list or complete the work in accordance with the Contract Documents.

**§ 3.6.6.3** When Substantial Completion has been achieved, the Architect shall prepare a Certificate of Substantial Completion for Owner and Contractor's review and confirmation. Owner's execution of the Certificate of Substantial Completion shall confirm Owner's acceptance of the project with only the minor work indicated to be completed or corrected. In the Certificate of Substantial Completion, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

**§ 3.6.6.4** The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

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§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

### § 3.7 FURNITURE, FURNISHINGS AND EQUIPMENT - CONSTRUCTION PHASE SERVICES

§ 3.7.1 The Architect shall provide administration of the contracts for furniture, furnishings and equipment only as set forth below.

§ 3.7.2 The Architect shall review and approve or take other appropriate action upon the Vendor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.7.3 As the buyer of goods, the Owner shall receive, inspect and accept or reject furniture, furnishings and equipment at the time of their delivery to the premises and installation unless otherwise provided. The Architect is not authorized to act as the Owner's agent in contractual matters.

§ 3.7.4 The Architect shall review final placement in order to determine that furniture, furnishings and equipment are in accordance with the requirements of the Contract Documents. The Architect may recommend to the Owner acceptance or rejection of furniture, furnishings and equipment.

## ARTICLE 4 ADDITIONAL SERVICES

§ 4.1 Table not used.

*(Paragraphs deleted)*

*(Table deleted)*

*(Paragraphs deleted)*

### § 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .7 Preparation for, and attendance at, a public presentation, meeting or hearing (other than in the usual course of the design review or permit process);
- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Evaluation of the qualifications of entities providing bids or proposals;

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- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,
- .11 Assistance to the Initial Decision Maker, if other than the Architect;
- .12 Revisions to Instruments of Service necessary as a result of untimely, incomplete, or uncoordinated plans and specifications for Delegated Design Components, and coordination of such untimely plans and specifications;
- .13 Review of certificates, consent forms or other similar documents from Owner's lenders(s), investors, partners, assignees or successors, including any attorney fees incurred.

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice by email to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

- .1 Repeatedly reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect, or uncoordinated or incomplete submittals, or submittals that were not reviewed or approved by Contractor, or which do not bear the Contractor's submittal stamp;
- .2 Repeatedly responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 Two ( 2 ) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 Weekly, or as otherwise provided in Exhibit 1: Architect's Proposal, visits to the site by the Architect during construction
- .3 One ( 1 ) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 ( ) inspections for any portion of the Work to determine final completion
- .5 See Exhibit 1: Architect's Proposal for other limits on Architect's Services, including in regard to site observation by Architect's consultants.

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided outside the duration anticipated for such services as provided in Exhibit 1: Architect's Proposal, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

*(Paragraph deleted)*

#### ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the



Project's scope and quality, and to a corresponding change to the Architect's fee and schedule. The Architect is not required to revise the Instruments of Service until it, Owner and Architect agree on the adjustment to the Project's scope and quality, the schedule, and Architect's fee.

§ 5.3 The Owner's representative authorized to act on the Owner's behalf with respect to the Project is identified in Section 1.1.7. The Owner shall render decisions and approve or disapprove the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations. The Architect shall be entitled to rely on the technical sufficiency and timely delivery of documents and services furnished by the Owner's geotechnical engineers, as well as the computations performed by the geotechnical engineer in connection with such documents and services, and shall not be required to review or verify those computations.

§ 5.6 Not used.

§ 5.7 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required.

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.9 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.10 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.12 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities, or that modify the Contract Documents. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.13 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

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§ 5.14 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.15 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

#### ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect, as well as Delegated-Design Components, and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work, including a design contingency; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 Not used.

§ 6.4 If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services for modifying the Construction Documents shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

#### ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit



such information for its use on the Project. The Architect is not responsible for any change made in, or misuse of, electronic forms of its Instruments of Service, whether intentional or unintentional, after the Instruments of Service leave the Architect's contract.

**§ 7.2** Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials. The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

**§ 7.3** The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

**§ 7.3.1** In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, including without retaining the Architect to provide Construction Phase Services on the Project for which the Instruments of Service are intended, then the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to defend, indemnify and hold harmless the Architect and its consultants from and against all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

**§ 7.4** Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

*(Paragraph deleted)*

**§ 7.5** The Architect may, from time to time, issue certain plans, specifications and other documents in two-dimensional conventional (printed) or in electronic media form (two-dimensional AutoCad or Revit) for the recipients' use as base documents in the preparation of shop drawings and submittals for use in providing of design services or certifications to be provided by contractors. Such documents will be issued on the Owner's behalf for the convenience of the recipients. Such documents are not Contract Documents and the Architect shall issue them subject to its standard Electronic Document Release attached hereto as Exhibit 2 and incorporated by reference.

**§ 7.6** Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

## **ARTICLE 8 CLAIMS AND DISPUTES**

### **§ 8.1 General**

**§ 8.1.1** The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all



claims and causes of action not commenced in accordance with this Section 8.1.1. For the purpose of this section, "Substantial Completion," is defined as the earlier of: 1) The date of Substantial Completion determined by the Architect in the Certificate of Substantial Completion issued by the Architect, 2) The effective date of a Temporary Certificate of Occupancy issued by the governmental authority with jurisdiction over the Project, 3) The effective date of a Certificate of Occupancy issued by the governmental authority with jurisdiction over the Project, or 4) The date Owner actually occupies Project.

**§ 8.1.2** To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201–2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

**§ 8.1.3** The Architect and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

**§ 8.1.4 Certificate of Merit.** To facilitate negotiation and to help the parties resolve project issues without resort to formal dispute resolution, Owner agrees that, as a condition precedent to any demand for mediation, or initiation of arbitration or litigation in regard to a claim that Architect did not comply with the Professional Standard, Owner will obtain a written certificate executed by a design professional with experience providing similar services on similar projects and licensed in the state in which the Project is located, certifying that in the opinion of the licensed design professional, the Architect, or its consultant(s) as appropriate, failed to comply with the Professional Standard, and that Owner's damages are a direct result of that failure to comply with the Professional Standard. Owner agrees to provide such certification to Architect thirty (30) calendar days prior to any demand for mediation or arbitration, or the institution of legal or equitable proceedings. Owner agrees that any action initiated before such certificate is provided shall be dismissed, without prejudice.

## **§ 8.2 Mediation**

**§ 8.2.1** Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. This requirement cannot be waived except by an explicit written waiver signed by the Owner and the Architect. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution. The parties will cooperate in good faith and attempt to resolve any Dispute that arises prior to mediation.

**§ 8.2.2** The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the Arbitration Service of Portland in accordance with its mediation procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. A principal of the Architect and Owner's Administrator or designee, both having full authority to settle the Dispute (subject to ratification by the Owner's Board of Directors), must attend the mediation session. To the extent there are other parties in interest, such as the Contractor, Subcontractors, suppliers, and/or consultants, their representatives, with full authority to settle all pending Disputes or claims, may also attend the mediation session. Unless the Owner and the Architect mutually agree in writing otherwise, all unresolved claims shall be considered at a single mediation session which shall occur prior to Final Acceptance of the Project by the Owner. Neither party may bring litigation on a Dispute unless the Dispute has been properly raised and considered in the above mediation procedure.

**§ 8.2.3** The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.



§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

*(Check the appropriate box.)*

- Arbitration pursuant to Section 8.3 of this Agreement
- Litigation in a court of competent jurisdiction
- Other: *(Specify)*

If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.

*(Paragraphs deleted)*

§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.

#### ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Owner fails to perform its Owner responsibilities as required by this Agreement, the Architect may also elect to suspend services. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted. The Architect's election not to suspend services under this provision does not waive the Architect's rights, remedies, claims or defenses.

§ 9.2 If the Owner suspends the Project, or the project is dormant, with no services provided by the Architect, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:

(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)

.1 Termination Fee:

N/A

.2 Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:

N/A

§ 9.8 Not used.

§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

#### ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 **Applicable Law.** This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules.

§ 10.2 **Definitions.** Terms in this Agreement shall have the same meaning as those in AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 10.3 **Assignment.** The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a commercial institutional lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 **Certificates.** If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement, or of which the Architect otherwise reasonably disapproves.

§ 10.5 **No Third-Party Beneficiaries.** Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 **Hazardous Materials.** Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 **Promotional Material.** The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 **Confidential Information.** If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall

Init.



not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

**§ 10.8.1** The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

**§ 10.9 No Legal Services.** Owner acknowledges that the Architect does not provide legal or insurance services. To the extent that the Architect assists or reviews forms, proposals or certificates, including in regard to bid documents, the contract for construction or the General Conditions, the architect's assistance or reviews are for architectural issues and content only. Owner shall engage, at Owner's expense, professional legal and insurance services for drafting and review of contracts and other legal and insurance documents.

**§ 10.10 Waiver.** No failure on the part of either party to exercise its rights under this Agreement shall be considered a waiver, release, or relinquishment of any rights or powers conferred under this Agreement.

**§ 10.11 Notices.** Notices under this Agreement will be deemed given on the earlier of actual delivery or refusal of a party to accept delivery when given in person, by messenger service, by overnight courier, or by certified or registered U.S. Mail, in each instance with all applicable postage and delivery charges prepaid, and in each case to the appropriate address as listed in this Agreement (or to such other address as either party may from time to time designate by written notice given to the other party).

**§ 10.12 Venue.** Without waiver of the dispute resolution provisions, the parties agree to the following venues: Any court action or proceeding allowed under this Agreement or based on any right arising out of this Agreement shall be brought in Clark County District or Superior Court, or subject to applicable jurisdictional requirements, in the United States District Court for the Western District of Washington, in Seattle.

**§ 10.13 Exhibits.** The exhibits referenced in this Agreement are part of this Agreement as if fully set forth in this Agreement.

**§ 10.14 Severability.** The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

**§ 10.15 "Certification."** Certification by the Architect or its consultants is an expression of professional judgment, and not a warranty or guarantee.

**§ 10.16 "Days."** "Days" are calendar days, unless otherwise noted. If a deadline falls on a weekend or a government holiday, the deadline shall be the next calendar day.

**§ 10.18 Insurance Coverage Preserved.** Notwithstanding any other provision herein, nothing shall be construed so as to void, vitiate, or adversely affect any insurance coverages held by either party to this Agreement.

## ARTICLE 11 COMPENSATION

**§ 11.1** For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

*(Paragraphs deleted)*

The Architect shall be compensated as provided in Exhibit 1: Architect's Proposal.

§ 11.2

*(Paragraphs deleted)*

Not used.

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:

*(Insert amount of, or basis for, compensation.)*

Unless otherwise agreed in writing, on a time and materials basis at the hourly rates provided in Exhibit 3: Hourly Rates

§ 11.4 Compensation for Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus ten percent ( 10 %), or as follows:

*(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)*

§ 11.5 Not used.

*(Table deleted)*

§ 11.6 Not used.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants are set forth in Exhibit 3: Hourly Rates. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.

*(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

*(Table deleted)*

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- .8 If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses;
- .11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- .12 Other similar Project-related expenditures.

Init.



§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus ten percent ( 10 %) of the expenses incurred.

§ 11.9 **Architect's Insurance.** If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:

*(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Architect.)*

N/A

#### § 11.10 **Payments to the Architect**

##### § 11.10.1 **Initial Payments**

§ 11.10.1.1 An initial payment of zero ( \$ 0 ) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.1.2 Not used.

##### § 11.10.2 **Progress Payments**

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid thirty days ( 30 ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

*(Insert rate of monthly or annual interest agreed upon.)*

twelve % 12%

§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

*(Paragraphs deleted)*

#### **ARTICLE 12 SPECIAL TERMS AND CONDITIONS**

Special terms and conditions that modify this Agreement are as follows:

*(Include other terms and conditions applicable to this Agreement.)*

##### § 12.1 **INDEMNIFICATION**

§ 12.1.1 **Architect Indemnification.** To the fullest extent permitted by law and subject to Section 12.2 Limitations of Remedy, the Architect shall indemnify and hold harmless (but not defend) the Owner and its shareholders, members, officers and employees ("Owner Indemnified Parties") from and against all third-party claims, losses, damages, liabilities, awards and judgments arising from or related to Architect's performance of Services pursuant to this Agreement, including Owner's reasonable defense costs such as attorneys' fees, expert fees, and other costs and expenses ("Architect Indemnified Claims"), but only to the extent such Architect Indemnified Claims are caused by the negligent acts, errors or omissions of the Architect, its consultants, or anyone for whose acts Architect is legally responsible, in the performance of services pursuant to this Agreement.

§ 12.1.2 **Owner Indemnification.** To the fullest extent permitted by law, the Owner shall indemnify and hold harmless (but not defend) the Architect, its shareholders, members, officers and employees ("Architect Indemnified Parties"), from and against all third-party claims, losses, damages, liabilities, awards and judgments arising from or related to the Project including reasonable defense costs such as attorneys' fees, expert fees, and other costs and expenses ("Owner Indemnified Claims"), but only to the extent such Owner Indemnified Claims are caused by the negligent acts, errors or omissions of Owner, its contractors or consultants, or anyone for whose acts Owner is legally responsible.

Init.

## § 12.2 LIMITATIONS OF REMEDY

**§ 12.2.1 No Personal Liability.** To the fullest extent permitted by law, Owner's remedy, and the remedy of any successor, assignee, beneficiary or indemnitee, for claims arising from this Agreement or from the performance of Services pursuant to this Agreement, shall be limited to claims against the Architect, a corporation. Owner's directors, officers, agents, shareholders, and employees (collectively, "Owner Principals") shall not be personally liable for claims arising from this Agreement at any time. Furthermore, Owner shall look solely to the assets, including available insurance, of Architect for the satisfaction of any judgment or award arising from any claim arising from this Agreement or from the performance of services pursuant to this Agreement.

**§ 12.2.2 Limitation of Liability.** To the fullest extent permitted by law, the total aggregate joint, several and individual liability of Architect (including its officers, directors, partners, and employees if Section 12.2.1 of this Agreement is not enforceable) to Owner and anyone claiming by, through, or under Owner, as well as to any successor, assignee, beneficiary, or indemnitee of, or under, this Agreement, for any claims, losses, costs or damages ("Liabilities") whatsoever, arising out of, resulting from, or in any way related to the Project, this Agreement, or the services provided pursuant to this Agreement, from any cause or causes, including but not limited to negligence, professional negligence, malpractice, strict liability, vicarious liability, breach of contract, breach of warranty, indemnity, or contribution, shall be limited in the aggregate for any and all claims, to greater of: 1) The proceeds of any insurance policy or policies required by Section 2.5 of this Agreement that funds any settlement, award or verdict, up to the applicable required limit of coverage required by Section 2.5, or 2) or two hundred and fifty thousand dollars (\$250,000).

**§ 12.3** Notwithstanding any other provision in this Agreement to the contrary, nothing herein contained shall be construed as:

- .1 constituting a guarantee, warranty or assurance, either express or implied, that the Architect's or its consultants' services will yield or accomplish a perfect outcome for the Project; or
- .2 obligating the Architect to exercise professional skill or judgment greater than that which can reasonably be expected from other architects under like circumstances; or
- .3 an assumption by the Architect of the liability of any other party (except its consultants); or
- .4 an assumption by the Architect of any obligation relating to safety of the Project, safety being the exclusive responsibility of the Contractor; or
- .5 creating any fiduciary responsibility on the part of the Architect to the Owner or any other party.

**§ 12.4** The Architect and its consultants shall not be responsible for circumstances, conditions, occurrences, or events outside of their reasonable control, including without limitation, acts of God and nature, war, hostilities, riot, terrorism, and labor shortages or strikes. Nor shall the Architect or its consultants be responsible for delays or damages caused by failure of the Owner or Owner's agents and contractors to furnish information or to approve or disapprove the Architect's work promptly, or due to late, slow or faulty performance by the Owner, the Owner's consultants or contractors, or governmental agencies.

## ARTICLE 13 SCOPE OF THE AGREEMENT

**§ 13.1** This Agreement represents the entire and integrated agreement between the Owner and the Architect with respect to their rights, duties and obligations and supersedes all prior negotiations, representations or agreements, either written or oral, and this Agreement governs the services to be provided by Architect, exclusively. Architect has no duty with respect to such services independent of this Agreement. This Agreement may be amended only by written instrument signed by both the Owner and Architect. The representations made in this Agreement are the only representations that Owner is relying on for its decision to enter into this Agreement. This Agreement may not be modified or amended except by mutual agreement of the Owner and Architect. Such agreement may only be evidenced by a written instrument signed by both parties or by electronic mail between the parties and confirmed by each party.



§ 13.2 This Agreement is comprised of the following documents identified below:

.1 AIA Document B101™-2017, Standard Form Agreement Between Owner and Architect

.2

*(Paragraphs deleted)*

Exhibits:

Exhibit 1: Architect's Proposal

Exhibit 2: Electronic Document Release

*(Paragraphs deleted)*

Exhibit 3: Hourly Rates

This Agreement entered into as of the day and year first written above.

\_\_\_\_\_  
OWNER *(Signature)*

\_\_\_\_\_  
ARCHITECT *(Signature)*

\_\_\_\_\_  
*(Printed name and title)*

\_\_\_\_\_  
*(Printed name, title, and license number, if required)*

Init.

# **Additions and Deletions Report for** **AIA<sup>®</sup> Document B101<sup>™</sup> – 2017**

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 15:06:20 ET on 09/24/2019.

## **PAGE 1**

**AGREEMENT** made as of the 29th day of August in the year 2019

...

City of Camas  
616 NE Fourth Avenue  
Camas, WA 98607

...

LSW Architects, P.C.  
610 Esther Street, Suite 200  
Vancouver, WA 98660

...

**City Hall Renovation Expansion**  
528 NE 4<sup>th</sup> Ave  
Camas, WA 98607

The Project consists of a tenant improvement of the first floor of the Bank of America building, approximately 4310 sf, and the reception area of the existing City Hall building. Improvements are based on the approved block plan diagram and cost estimate dated August 29, 2019.

## **PAGE 2**

Architect's proposal letter dated August 29, 2019 is attached hereto as "Exhibit 1: Architect's Proposal" and incorporated by reference. Exhibit 1: Architect's Proposal, including Exhibits A-C attached thereto, provide Initial Information available for the Project.

...

See Exhibit 1: Architect's Proposal

...

See Exhibit 1: Architect's Proposal

...

See Exhibit 1: Architect's Proposal.

## **PAGE 3**

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User Notes:

(1110587254)



.1 — Design phase milestone dates, if any:

.2 — Construction commencement date:

.3 — Substantial Completion date or dates:

.4 — Other milestone dates:

The total project duration is 46 weeks, as indicated in "Schedule of Services" on page 2 of Exhibit 1: Architect's Proposal. Anticipated durations of the design, bidding, permitting, and construction phases are also provided in the Schedule of Services in Exhibit 1: Architect's Proposal.

...

The procurement and delivery will be design-bid-build.

...

Not Applicable

Owner acknowledges that the success or failure of any effort to achieve a Sustainable Objective is necessarily contingent upon on a wide range of factors that are outside of the Architect's control, including without limitation the participation and cooperation of others, such as Owner and Contractor, their respective consultants and subcontractors, authorities with jurisdiction over the Project, as well as any certifying agency or body. Accordingly, Architect does not warrant or guarantee that the Sustainable Objective will be achieved, or that Architect's services will result in the successful certification of the project under any certification standard, or that any specific level of certification will be achieved.

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E204™ 2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E204 2017 is incorporated into this agreement, the Owner and Architect shall incorporate the completed E204 2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

...

Pete Capell  
City Administrator  
City of Camas  
616 NE Fourth Avenue  
Camas, WA 98607

...

N/A

...

~~.1 — Geotechnical Engineer:~~

~~.2 — Civil Engineer:~~

~~.3 — Other, if any:~~

~~— (List any other consultants and contractors retained by the Owner.)~~

None identified at the time of execution of this Agreement.

...

Amy Noe  
LSW Architects, P.C.  
610 Esther Street, Suite 200  
Vancouver, WA 98660

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§ 1.1.11 The Architect shall retain the ~~consultants identified in Sections 1.1.11.1 and 1.1.11.2:~~ following consultants:  
(List name, legal status, address, and other contact information.)

.1 Mechanical, Electrical, Lighting, Plumbing Engineer

MKE & Associates, Inc.  
6915 SW Macadam Ave, Suite 200  
Portland, OR 97219  
Tel. 503.892.1188

§ 1.1.11.1 Consultants retained under Basic Services:

~~.1 — Structural Engineer:~~

~~.2 — Mechanical Engineer:~~

~~.3 — Electrical Engineer:~~

§ 1.1.11.2 Consultants retained under Supplemental Services:

§ 1.1.12 Other Initial Information on which the Agreement is based: The current design is based on using existing mechanical and electrical systems, with minimal changes.

Also, See Exhibit I: Architect's Proposal.

...

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™ 2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

**§ 1.3 BUILDING INFORMATION MODELS**

§ 1.3.1 The Construction Documents shall be two-dimensional plans and specifications printed and delivered in hard copy, or transmitted electronically in a format intended to not allow modification.

§ 1.3.2 Any use by the Architect or its consultants of 3D-modeling software shall be for the Architect's own internal design and coordination purposes. Owner acknowledges that the Architect's 3D-models, as well as those models developed by the Architect's consultants shall not be set-up, developed, or maintained by the Architect for other purposes.

§ 1.3.3 If requested by Owner, the Architect shall provide 3D-models to Owner or Owner's contractor, subcontractors, consultants or other third-parties, but only subject to the Architect's standard Electronic Document Release executed by Owner and the receiving party.

§ 1.4 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form.

...

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. ("Standard of Care"). The Architect makes no warranty, either expressed or implied, as to the Architect's or its consultants' findings, recommendations, plans, specifications, or professional advice, other than that Architect shall comply with the Standard of Care in the performance of its services. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.



~~§ 2.3 The Architect shall identify a Architect's representative authorized to act on behalf of the Architect with respect to the Project. Project is identified in Section 1.1.10.~~

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~~§ 2.5 The Architect shall maintain the following insurance until termination of this Agreement. procure insurance as provided below.~~ If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.

~~§ 2.5.1 Commercial General Liability with policy limits of not less than (\$ ) for each occurrence and (\$ ) one million dollars (\$ 1,000,000 for each occurrence, including for personal and advertising injury, and products and completed operations, and two million (\$ 2,000,000) in the aggregate for bodily injury and property damage.~~

~~§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than one million dollars (\$ 1,000,000) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.~~

...

~~§ 2.5.5 Employers' Liability with policy limits not less than one million dollars (\$ 1,000,000) each accident, five hundred thousand dollars (\$ 500,000) each employee, and five hundred thousand dollars (\$ 500,000) policy limit.~~

~~§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than two million dollars (\$ 2,000,000) per claim and four million dollars (\$ 4,000,000) in the aggregate.~~

...

~~§ 2.5.8 Certificates of Insurance.~~ The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5. ~~Architect shall not cancel, fail to renew, allow to lapse, or materially change coverage without at least 30 days' written notice to the Owner. Architect shall provide prompt written notice to the Owner in the event of any cancellation, non-renewal or material change to coverage by any insurance carrier. For those insurance coverages that are required to remain in force after final payment, an additional certificate evidencing continuation of such coverage shall be submitted with the final application for payment and upon each annual renewal. Architect must give prompt written notice to Owner (and in any event within 30 days) of any actual reduction in the available limits of Architect's or any Consultant's insurance. Upon Owner's request, Architect will immediately provide an actual copy of its insurance policies.~~

~~§ 2.5.9 Architect's Consultant Insurance Requirements.~~ The limits of insurance for Architect's consultants shall be no less than the following, unless otherwise agreed to by Owner:

- ~~1 Workers' Compensation and Employer's Liability: as required of Architect in Section 2.5.4 and Section 2.5.5.~~
- ~~2 Commercial General Liability: coverage as required of Architect in Section 2.5.1, but with limits of one million dollars (\$1,000,000) per claim and aggregate.~~
- ~~3 Business Auto Policy: as required of Architect in Section 2.5.2.~~
- ~~4 Professional Liability: \$2,000,000 per claim and \$4,000,000 aggregate~~

~~In addition to requiring the above limits for consultants, Architect shall require that each consultant add Owner and Architect as additional insureds to the consultant's Commercial General Liability and Business Auto Policies, consistent with Section 2.5.7, and that each consultant provide certificates of insurance consistent with Section 2.5.8.~~

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~~§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical Exhibit 1: Architect's Proposal and, subject to Exhibit 1: Architect's Proposal, include usual and customary mechanical, electrical, lighting and plumbing engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services and Exhibit 1: Architect's Proposal may be provided as~~



Additional Services. In the event of a conflict between the language or terms of this form of Agreement and Exhibit 1: Architect's Proposal, Exhibit 1: Architect's Proposal shall govern.

...

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. The Architect's services shall be provided consistent with Schedule of Services in Exhibit 1: Architect's Proposal. Architect shall, subject to the Standard of Care, endeavor to meet the time limits established by the schedule. However, in the event the Architect is delayed by causes outside its control, or for other reasonable cause, the schedule shall be extended by a reasonable time. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

...

### § 3.2 Schematic Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.1.

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

### § 3.1.7 Delegated-Design Components (sometimes referred to as "design-build")



§ 3.1.7.1 The Architect and the Owner agree and acknowledge that some systems, materials or equipment can be more effectively and economically designed by the responsible installers, subcontractors or fabricators who will be contracted to Contractor or to Owner directly. ("Delegated-Design Components"). The Owner and Architect shall designate those parts of the Work that shall be Delegated-Design Components. The Owner and Architect shall also confirm whether Architect shall specify performance and design criteria for Delegated-Design Components.

§ 3.1.7.2 All design services for Delegated-Design Components shall be provided by design professionals licensed in the jurisdiction where the project is located ("Delegated-Design Consultants"), and the delegated-design plans and specifications shall bear the certifications of such licensed design professionals as required by law. The Delegated-Design Consultants shall be required to coordinate their construction documents, drawings and other instruments of service with those of the Architect and to advise the Architect of any potential conflict. The Architect shall have no responsibility for accuracy, completeness, or sufficiency of the Delegated-Design Components, and any review and coordination by the Architect with the Delegated-Design Consultants is solely for consistency with any performance specification provided by the Architect, or for consistency with the Architect's design concept for the Project if no performance specification is provided.

§ 3.1.7.3 The Architect shall be entitled to rely on the technical sufficiency and timely delivery of documents and services furnished by the Delegated-Design Consultants, as well as the computations performed by those consultants in connection with such documents and services, and shall not be required to review or verify those computations or designs for compliance with applicable laws, statutes, ordinances, building codes, and rules and regulations.

§ 3.1.7.4 Owner will require that the Contractor's Delegated-Design Consultants: 1) Coordinate their design services with the Architect's services during the design phases described in this Agreement, and 2) Deliver the plans for the Delegated-Design Components on a schedule agreed to by the Architect. Otherwise, modifications to the Architect's Instruments of Service that are necessary to accommodate or coordinate Delegated-Design Components shall be provided by Architect as an additional service.

§ 3.1.7.5 At the time of execution of this Agreement, the Delegated-Design Components subject to this provision include those components listed below. Delegated-Design Components may be added or removed from the list during the design phases as agreed to by the Owner and Architect.

#### Fire sprinklers

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, Documents described in Exhibit 1: Architect's Proposal, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the ~~approved~~ Schematic Design Documents described in Exhibit 1: Architect's Proposal and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, ~~structural~~, mechanical and electrical systems, ~~systems and components~~, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify and establish major materials and systems and establish, in general, their quality levels.

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work prepared in accordance with Section 6.3. Not used.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments ~~to in the design that may impact~~ the estimate of the Cost of the Work, and request the Owner's approval.  
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§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Owner may not rely on the Architect for legal advice in regard to procurement information or the agreement between the Owner and the



Contractor. The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms.

~~§ 3.4.4~~ The Architect shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

~~§ 3.4.5~~ The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

**§ 3.5.1 General** The Architect shall assist the Owner ~~in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.~~ with Procurement Phase Services; Competitive Bidding or Negotiated Proposals, as provided in Exhibit I: Architect's Proposal.

#### **§ 3.5.2 Competitive Bidding**

~~§ 3.5.2.1~~ Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

~~§ 3.5.2.2~~ The Architect shall assist the Owner in bidding the Project by:

- ~~.1~~ — facilitating the distribution of Bidding Documents to prospective bidders;
- ~~.2~~ — organizing and conducting a pre bid conference for prospective bidders;
- ~~.3~~ — preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- ~~.4~~ — organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

~~§ 3.5.2.3~~ If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

#### **§ 3.5.3 Negotiated Proposals**

~~§ 3.5.3.1~~ Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

~~§ 3.5.3.2~~ The Architect shall assist the Owner in obtaining proposals by:

- ~~.1~~ — facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process;
- ~~.2~~ — organizing and participating in selection interviews with prospective contractors;
- ~~.3~~ — preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,
- ~~.4~~ — participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

~~§ 3.5.3.3~~ If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

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**§ 3.6.1.1** The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201–2017, those modifications shall not affect the Architect's ~~services~~ services, right and liabilities under this Agreement unless the Owner and the Architect amend this Agreement. Prior to the execution of the Contract between the Owner and the Contractor, Owner shall provide Architect with a copy of the General Conditions so that Architect may, at its discretion, review and comment on the General Conditions.



§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work. Owner shall include this provision in its contract with the Contractor.

...

§ 3.6.2.2 The Architect has the authority to recommend to the Owner that the Owner reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and ~~decide~~ advise on matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and ~~decisions-recommendations~~ of the Architect made pursuant to Section 3.6.2.3 shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and ~~decisions-recommendations~~, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or ~~decisions-recommendations~~ rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

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§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation on-site observations of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in general accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for general conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

...

§ 3.6.4.1 The Architect and Owner shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. Architect shall not be required to approve a submittal schedule which does not provide the Architect reasonable time, in the Architect's professional opinion to adequately review the Contractor's submittals. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

§ 3.6.4.2 The Architect shall review and ~~approve, or take other~~ appropriate action upon, the Contractor's submittals such as Shop Drawings, Product ~~Data-Data~~, images and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation, or for substantiating installation instructions, or performance of equipment or systems, which are the Contractor's ~~responsibility-responsibility pursuant to the Contract Documents.~~ The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or



procedures. The Architect's ~~approval review~~ of a specific item shall not indicate approval of an assembly of which the item is a component.

**§ 3.6.4.3** ~~If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy.~~ The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work Delegated Design Components designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. If the Architect specified performance and design criteria for the Delegated Design Component pursuant to Section 3.1.7, then the Architect will review such submittals to reasonably determine that the systems, materials or equipment are designed in general conformance with the performance criteria and the design concept and intent expressed in the Contract Documents. If the Architect did not specify performance and design criteria, the Architect shall review such submittals for general conformance with the design concept. The Architect's review of submittals related to Delegated Design Components is not performed for the purpose of determining the adequacy of the design or for checking the accuracy of design calculations or design presumptions. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

**§ 3.6.4.4** Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information. The Architect shall not be required to provide substantive responses to requests for information that lack sufficient detail or request information on topics that are beyond Architect's expertise and scope including but not limited to construction, means, methods, techniques, sequences or procedures.

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**§ 3.6.5.1** The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents. Requests by the Owner or Contractor for changes in the Work shall be timely, so as to allow the Architect sufficient time to evaluate the requested change without causing delay to the Project. Such requests for changes in the Work shall be accompanied by sufficient supporting data and information to permit the Architect to make a reasonable determination without extensive investigation or preparation of additional drawings or specifications.

...

**§ 3.6.6.1** The Architect ~~shall~~ shall, as provided herein:

- .1 conduct ~~inspections~~ observations to determine the date or dates of Substantial Completion and the date of final completion;

...

- .4 issue a final Certificate for Payment based upon a final ~~inspection~~ observation indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

**§ 3.6.6.2** The Architect's ~~inspections~~ observations shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected. The Architect shall report known deviations or inaccuracies of the Contractor's list, but shall not be responsible for Contractor's failure to provide an accurate list or complete the work in accordance with the Contract Documents.



§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall prepare a Certificate of Substantial Completion for Owner and Contractor's review and confirmation. Owner's execution of the Certificate of Substantial Completion shall confirm Owner's acceptance of the project with only the minor work indicated to be completed or corrected. In the Certificate of Substantial Completion, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

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**ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES**

**§ 3.7 FURNITURE, FURNISHINGS AND EQUIPMENT - CONSTRUCTION PHASE SERVICES**

§ 3.7.1 The Architect shall provide administration of the contracts for furniture, furnishings and equipment only as set forth below.

§ 3.7.2 The Architect shall review and approve or take other appropriate action upon the Vendor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.7.3 As the buyer of goods, the Owner shall receive, inspect and accept or reject furniture, furnishings and equipment at the time of their delivery to the premises and installation unless otherwise provided. The Architect is not authorized to act as the Owner's agent in contractual matters.

§ 3.7.4 The Architect shall review final placement in order to determine that furniture, furnishings and equipment are in accordance with the requirements of the Contract Documents. The Architect may recommend to the Owner acceptance or rejection of furniture, furnishings and equipment.

**ARTICLE 4 ADDITIONAL SERVICES**

**§ 4.1 Supplemental Services Table not used.**

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

*(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)*

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Programming	
§ 4.1.1.2 Multiple preliminary designs	
§ 4.1.1.3 Measured drawings	
§ 4.1.1.4 Existing facilities surveys	
§ 4.1.1.5 Site evaluation and planning	
§ 4.1.1.6 Building Information Model management responsibilities	
§ 4.1.1.7 Development of Building Information Models for post construction use	
§ 4.1.1.8 Civil engineering	
§ 4.1.1.9 Landscape design	
§ 4.1.1.10 Architectural interior design	
§ 4.1.1.11 Value analysis	

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
<del>§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3</del>	
<del>§ 4.1.1.13 On site project representation</del>	
<del>§ 4.1.1.14 Conformed documents for construction</del>	
<del>§ 4.1.1.15 As designed record drawings</del>	
<del>§ 4.1.1.16 As constructed record drawings</del>	
<del>§ 4.1.1.17 Post-occupancy evaluation</del>	
<del>§ 4.1.1.18 Facility support services</del>	
<del>§ 4.1.1.19 Tenant related services</del>	
<del>§ 4.1.1.20 Architect's coordination of the Owner's consultants</del>	
<del>§ 4.1.1.21 Telecommunications/data design</del>	
<del>§ 4.1.1.22 Security evaluation and planning</del>	
<del>§ 4.1.1.23 Commissioning</del>	
<del>§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3</del>	
<del>§ 4.1.1.25 Fast track design services</del>	
<del>§ 4.1.1.26 Multiple bid packages</del>	
<del>§ 4.1.1.27 Historic preservation</del>	
<del>§ 4.1.1.28 Furniture, furnishings, and equipment design</del>	
<del>§ 4.1.1.29 Other services provided by specialty Consultants</del>	
<del>§ 4.1.1.30 Other Supplemental Services</del>	

**§ 4.1.2 Description of Supplemental Services**

**§ 4.1.2.1** A description of each Supplemental Service identified in Section 4.1.1 as the Architect's responsibility is provided below.

*(Describe in detail the Architect's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect's Services documents that can be included as an exhibit to describe the Architect's Supplemental Services.)*

**§ 4.1.2.2** A description of each Supplemental Service identified in Section 4.1.1 as the Owner's responsibility is provided below.

*(Describe in detail the Owner's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)*

**§ 4.1.3** If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™ 2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2.

...

- 7 Preparation for, and attendance at, a public presentation, meeting or ~~hearing~~; hearing (other than in the usual course of the design review or permit process);

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- .11 Assistance to the Initial Decision Maker, if other than the ~~Architect~~ Architect;
- .12 Revisions to Instruments of Service necessary as a result of untimely, incomplete, or uncoordinated plans and specifications for Delegated Design Components, and coordination of such untimely plans and specifications;
- .13 Review of certificates, consent forms or other similar documents from Owner's lenders(s), investors, partners, assignees or successors, including any attorney fees incurred.

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice by email to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

- .1 ~~Reviewing~~ Repeatedly reviewing a Contractor's submittal out of sequence from the submittal schedule ~~approved by the Architect;~~ approved by the Architect, or uncoordinated or incomplete submittals, or submittals that were not reviewed or approved by Contractor, or which do not bear the Contractor's submittal stamp;
- .2 ~~Responding~~ Repeatedly responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;

...

- .1 Two ( 2 ) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 ~~( ) Weekly,~~ or as otherwise provided in Exhibit 1: Architect's Proposal, visits to the site by the Architect during construction
- .3 One ( 1 ) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 ( ) inspections for any portion of the Work to determine final ~~completion~~ completion
- .5 See Exhibit 1: Architect's Proposal for other limits on Architect's Services, including in regard to site observation by Architect's consultants.

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided ~~more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier,~~ outside the duration anticipated for such services as provided in Exhibit 1: Architect's Proposal, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 ~~If the services covered by this Agreement have not been completed within ( ) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.~~

...

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality-quality, and to a corresponding change to the Architect's fee and schedule. The Architect is

not required to revise the Instruments of Service until it, Owner and Architect agree on the adjustment to the Project's scope and quality, the schedule, and Architect's fee.

§ 5.3 ~~The Owner shall identify a~~ Owner's representative authorized to act on the Owner's behalf with respect to the ~~Project. Project is identified in Section 1.1.7.~~ The Owner shall render decisions and approve or disapprove the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

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§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations. The Architect shall be entitled to rely on the technical sufficiency and timely delivery of documents and services furnished by the Owner's geotechnical engineers, as well as the computations performed by the geotechnical engineer in connection with such documents and services, and shall not be required to review or verify those computations.

§ 5.6 ~~The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.~~ Not used.

§ 5.7 ~~If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™ 2017, Sustainable Projects Exhibit, attached to this Agreement.~~ required.

...

§ 5.12 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional ~~responsibilities.~~ responsibilities, or that modify the Contract Documents. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

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§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the ~~Architect.~~ Architect, as well as Delegated-Design Components, and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the ~~Work.~~ Work, including a design contingency, or other costs that are the responsibility of the Owner.

...

§ 6.3 ~~In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.~~ Not used.

...

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. The Architect is not responsible for any change made in, or misuse of, electronic forms of its Instruments of Service, whether intentional or unintentional, after the Instruments of Service leave the Architect's contract.



§ 7.2 Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials. The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

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§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, including without retaining the Architect to provide Construction Phase Services on the Project for which the Instruments of Service are intended, then the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to defend, indemnify and hold harmless the Architect and its consultants from and against all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

...

~~§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.~~

§ 7.5 The Architect may, from time to time, issue certain plans, specifications and other documents in two-dimensional conventional (printed) or in electronic media form (two-dimensional AutoCad or Revit) for the recipients' use as base documents in the preparation of shop drawings and submittals for use in providing of design services or certifications to be provided by contractors. Such documents will be issued on the Owner's behalf for the convenience of the recipients. Such documents are not Contract Documents and the Architect shall issue them subject to its standard Electronic Document Release attached hereto as Exhibit 2 and incorporated by reference.

§ 7.6 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

...

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1. For the purpose of this section, "Substantial Completion," is defined as the earlier of: 1) The date of Substantial Completion determined by the Architect in the Certificate of Substantial Completion issued by the Architect, 2) The effective date of a Temporary Certificate of Occupancy issued by the governmental authority with jurisdiction over the Project, 3) The effective date of a Certificate of Occupancy issued by the governmental authority with jurisdiction over the Project, or 4) The date Owner actually occupies Project.

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§ 8.1.4 Certificate of Merit. To facilitate negotiation and to help the parties resolve project issues without resort to formal dispute resolution, Owner agrees that, as a condition precedent to any demand for mediation, or initiation of arbitration or litigation in regard to a claim that Architect did not comply with the Professional Standard, Owner will obtain a written certificate executed by a design professional with experience providing similar services on similar projects and licensed in the state in which the Project is located, certifying that in the opinion of the licensed design professional, the Architect, or its consultant(s) as appropriate, failed to comply with the Professional Standard, and



that Owner's damages are a direct result of that failure to comply with the Professional Standard. Owner agrees to provide such certification to Architect thirty (30) calendar days prior to any demand for mediation or arbitration, or the institution of legal or equitable proceedings. Owner agrees that any action initiated before such certificate is provided shall be dismissed, without prejudice.

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. This requirement cannot be waived except by an explicit written waiver signed by the Owner and the Architect. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution. The parties will cooperate in good faith and attempt to resolve any Dispute that arises prior to mediation.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the ~~American Arbitration Association~~ Arbitration Service of Portland in accordance with its ~~Construction Industry Mediation Procedures~~ mediation procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. ~~If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.~~ A principal of the Architect and Owner's Administrator or designee, both having full authority to settle the Dispute (subject to ratification by the Owner's Board of Directors), must attend the mediation session. To the extent there are other parties in interest, such as the Contractor, Subcontractors, suppliers, and/or consultants, their representatives, with full authority to settle all pending Disputes or claims, may also attend the mediation session. Unless the Owner and the Architect mutually agree in writing otherwise, all unresolved claims shall be considered at a single mediation session which shall occur prior to Final Acceptance of the Project by the Owner. Neither party may bring litigation on a Dispute unless the Dispute has been properly raised and considered in the above mediation procedure.

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[ X ] Litigation in a court of competent jurisdiction

...

### § 8.3 Arbitration

§ 8.3.1 ~~If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.~~

§ 8.3.1.1 ~~A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.~~

§ 8.3.2 ~~The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.~~

§ 8.3.3 ~~The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.~~



**§ 8.3.4 Consolidation or Joinder**

**§ 8.3.4.1** Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

**§ 8.3.4.2** Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

**§ 8.3.4.3** The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

...

**§ 9.1** If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Owner fails to perform its Owner responsibilities as required by this Agreement, the Architect may also elect to suspend services. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted. The Architect's election not to suspend services under this provision does not waive the Architect's rights, remedies, claims or defenses.

**§ 9.2** If the Owner suspends the Project, or the project is dormant, with no services provided by the Architect, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

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N/A

...

N/A

**§ 9.8** ~~Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.~~ Not used.

...

**§ 10.1 Applicable Law.** This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. ~~If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.~~

**§ 10.2 Definitions.** Terms in this Agreement shall have the same meaning as those in AIA Document A201-2017, General Conditions of the Contract for Construction.



**§ 10.3 Assignment.** The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a commercial institutional lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

**§ 10.4 Certificates.** If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement, or of which the Architect otherwise reasonably disapproves.

**§ 10.5 No Third-Party Beneficiaries.** Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

**§ 10.6 Hazardous Materials.** Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

**§ 10.7 Promotional Material.** The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

**§ 10.8 Confidential Information.** If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

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**§ 10.9** ~~The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.~~ **No Legal Services.** Owner acknowledges that the Architect does not provide legal or insurance services. To the extent that the Architect assists or reviews forms, proposals or certificates, including in regard to bid documents, the contract for construction or the General Conditions, the architect's assistance or reviews are for architectural issues and content only. Owner shall engage, at Owner's expense, professional legal and insurance services for drafting and review of contracts and other legal and insurance documents.

**§ 10.10 Waiver.** No failure on the part of either party to exercise its rights under this Agreement shall be considered a waiver, release, or relinquishment of any rights or powers conferred under this Agreement.

**§ 10.11 Notices.** Notices under this Agreement will be deemed given on the earlier of actual delivery or refusal of a party to accept delivery when given in person, by messenger service, by overnight courier, or by certified or registered U.S. Mail, in each instance with all applicable postage and delivery charges prepaid, and in each case to the appropriate address as listed in this Agreement (or to such other address as either party may from time to time designate by written notice given to the other party).

**§ 10.12 Venue.** Without waiver of the dispute resolution provisions, the parties agree to the following venues: Any court action or proceeding allowed under this Agreement or based on any right arising out of this Agreement shall be



brought in Clark County District or Superior Court, or subject to applicable jurisdictional requirements, in the United States District Court for the Western District of Washington, in Seattle.

§ 10.13 Exhibits. The exhibits referenced in this Agreement are part of this Agreement as if fully set forth in this Agreement.

§ 10.14 Severability. The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

§ 10.15 "Certification." Certification by the Architect or its consultants is an expression of professional judgment, and not a warranty or guarantee.

§ 10.16 "Days." "Days" are calendar days, unless otherwise noted. If a deadline falls on a weekend or a government holiday, the deadline shall be the next calendar day.

§ 10.18 Insurance Coverage Preserved. Notwithstanding any other provision herein, nothing shall be construed so as to void, vitiate, or adversely affect any insurance coverages held by either party to this Agreement.

...

.1 — Stipulated Sum  
— (Insert amount)

.2 — Percentage Basis  
— (Insert percentage value)

— ( ) % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.

.3 — Other  
— (Describe the method of compensation)

The Architect shall be compensated as provided in Exhibit 1: Architect's Proposal.

§ 11.2 For the Architect's Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:  
*(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)*

Not used.  
**PAGE 20**

Unless otherwise agreed in writing, on a time and materials basis at the hourly rates provided in Exhibit 3: Hourly Rates

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus ten percent ( 10 %), or as follows:

...

§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows:

Not used.

Schematic Design Phase	percent (	%)
Design Development Phase	percent (	%)
Construction Documents Phase	percent (	%)
Procurement Phase	percent (	%)
Construction Phase	percent (	%)
<hr/>		
Total Basic Compensation	one hundred percent (	100 %)

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work. Not used.

...

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants are set forth ~~below~~ in Exhibit 3: Hourly Rates. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.

...

Employee or Category	Rate (\$0.00)
----------------------	---------------

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§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus ten percent ( 10 %) of the expenses incurred.

...

N/A

...

§ 11.10.1.1 An initial payment of zero (\$ 0 ) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.1.2 ~~If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of (\$ ) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.~~ Not used.

...

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid thirty days ( 30 ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

...

twelve % 12 %

...



## **ARTICLE 12 SPECIAL TERMS AND CONDITIONS**

Special terms and conditions that modify this Agreement are as follows:  
(Include other terms and conditions applicable to this Agreement.)

## **ARTICLE 12 SPECIAL TERMS AND CONDITIONS**

Special terms and conditions that modify this Agreement are as follows:  
(Include other terms and conditions applicable to this Agreement.)

### **§ 12.1 INDEMNIFICATION**

**§ 12.1.1 Architect Indemnification.** To the fullest extent permitted by law and subject to Section 12.2 Limitations of Remedy, the Architect shall indemnify and hold harmless (but not defend) the Owner and its shareholders, members, officers and employees ("Owner Indemnified Parties") from and against all third-party claims, losses, damages, liabilities, awards and judgments arising from or related to Architect's performance of Services pursuant to this Agreement, including Owner's reasonable defense costs such as attorneys' fees, expert fees, and other costs and expenses ("Architect Indemnified Claims"), but only to the extent such Architect Indemnified Claims are caused by the negligent acts, errors or omissions of the Architect, its consultants, or anyone for whose acts Architect is legally responsible, in the performance of services pursuant to this Agreement.

**§ 12.1.2 Owner Indemnification.** To the fullest extent permitted by law, the Owner shall indemnify and hold harmless (but not defend) the Architect, its shareholders, members, officers and employees ("Architect Indemnified Parties"), from and against all third-party claims, losses, damages, liabilities, awards and judgments arising from or related to the Project including reasonable defense costs such as attorneys' fees, expert fees, and other costs and expenses ("Owner Indemnified Claims"), but only to the extent such Owner Indemnified Claims are caused by the negligent acts, errors or omissions of Owner, its contractors or consultants, or anyone for whose acts Owner is legally responsible.

### **§ 12.2 LIMITATIONS OF REMEDY**

**§ 12.2.1 No Personal Liability.** To the fullest extent permitted by law, Owner's remedy, and the remedy of any successor, assignee, beneficiary or indemnitee, for claims arising from this Agreement or from the performance of Services pursuant to this Agreement, shall be limited to claims against the Architect, a corporation. Owner's directors, officers, agents, shareholders, and employees (collectively, "Owner Principals") shall not be personally liable for claims arising from this Agreement at any time. Furthermore, Owner shall look solely to the assets, including available insurance, of Architect for the satisfaction of any judgment or award arising from any claim arising from this Agreement or from the performance of services pursuant to this Agreement.

**§ 12.2.2 Limitation of Liability.** To the fullest extent permitted by law, the total aggregate joint, several and individual liability of Architect (including its officers, directors, partners, and employees if Section 12.2.1 of this Agreement is not enforceable) to Owner and anyone claiming by, through, or under Owner, as well as to any successor, assignee, beneficiary, or indemnitee of, or under, this Agreement, for any claims, losses, costs or damages ("Liabilities") whatsoever, arising out of, resulting from, or in any way related to the Project, this Agreement, or the services provided pursuant to this Agreement, from any cause or causes, including but not limited to negligence, professional negligence, malpractice, strict liability, vicarious liability, breach of contract, breach of warranty, indemnity, or contribution, shall be limited in the aggregate for any and all claims, to greater of: 1) The proceeds of any insurance policy or policies required by Section 2.5 of this Agreement that funds any settlement, award or verdict, up to the applicable required limit of coverage required by Section 2.5, or 2) two hundred and fifty thousand dollars (\$250,000).

**§ 12.3** Notwithstanding any other provision in this Agreement to the contrary, nothing herein contained shall be construed as:

- .1 constituting a guarantee, warranty or assurance, either express or implied, that the Architect's or its consultants' services will yield or accomplish a perfect outcome for the Project; or
- .2 obligating the Architect to exercise professional skill or judgment greater than that which can reasonably be expected from other architects under like circumstances; or

- .3 an assumption by the Architect of the liability of any other party (except its consultants); or
- .4 an assumption by the Architect of any obligation relating to safety of the Project, safety being the exclusive responsibility of the Contractor; or
- .5 creating any fiduciary responsibility on the part of the Architect to the Owner or any other party.

§ 12.4 The Architect and its consultants shall not be responsible for circumstances, conditions, occurrences, or events outside of their reasonable control, including without limitation, acts of God and nature, war, hostilities, riot, terrorism, and labor shortages or strikes. Nor shall the Architect or its consultants be responsible for delays or damages caused by failure of the Owner or Owner's agents and contractors to furnish information or to approve or disapprove the Architect's work promptly, or due to late, slow or faulty performance by the Owner, the Owner's consultants or contractors, or governmental agencies.

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect with respect to their rights, duties and obligations and supersedes all prior negotiations, representations or agreements, either written or oral—oral, and this Agreement governs the services to be provided by Architect, exclusively. Architect has no duty with respect to such services independent of this Agreement. This Agreement may be amended only by written instrument signed by both the Owner and Architect. The representations made in this Agreement are the only representations that Owner is relying on for its decision to enter into this Agreement. This Agreement may not be modified or amended except by mutual agreement of the Owner and Architect. Such agreement may only be evidenced by a written instrument signed by both parties or by electronic mail between the parties and confirmed by each party.

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- .2 AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:  
 \_\_\_\_\_  
*(Insert the date of the E203 2013 incorporated into this agreement.)*

- .3 Exhibits:  
 (Check the appropriate box for any exhibits incorporated into this Agreement.)

Exhibit 1: Architect's Proposal

AIA Document E204™ 2017, Sustainable Projects Exhibit, dated as indicated below:Exhibit 2: Electronic Document Release

*(Insert the date of the E204 2017 incorporated into this agreement.)*

Other Exhibits incorporated into this Agreement:

*(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)*

- .4 Other documents:

*(List other documents, if any, forming part of the Agreement.)* Exhibit 3: Hourly Rates



## **Certification of Document's Authenticity**

**AIA® Document D401™ – 2003**

I, \_\_\_\_\_, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 15:06:20 ET on 09/24/2019 under Order No. 3274976397 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B101™ – 2017, Standard Form of Agreement Between Owner and Architect, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

---

*(Signed)*

---

*(Title)*

---

*(Dated)*



# EXHIBIT 1: ARCHITECT'S PROPOSAL

## Page 1 of 9

610 Esther Street, Suite 200  
Vancouver, WA 98660

360-694-8571

LSW-ARCHITECTS.COM

August 29, 2019

Pete Capell, City Administrator  
City of Camas  
616 NE Fourth Avenue, Camas WA 98607

**Re: LSW Fee Proposal for City Hall Renovation Expansion**

Dear Pete -

We are pleased to present the following fee proposal for the level one tenant improvement of the existing Bank of America building and reception area of the existing Camas City Hall building.

### **Project Understanding**

The proposed project will consist of a tenant improvement of the first floor of the Bank of America building, approximately 4310 sf, and the reception area of the existing City Hall building. Improvements are based on the approved block plan diagram and cost estimate dated August 29, 2019. Reference attached exhibit A, estimated project cost breakdown and exhibit B, ACC cost estimate and exhibit C, block plans.

### **Scope of Services**

Design services will consist of the following.

- Design development of the current block plans
- Development of the construction documents and specifications for the permit set of drawings and construction
- MEP design and documentation for construction documents and permit set of drawings
- Consulting during bidding
- Construction Administration – Review of submittals, RFI's and change orders, LSW to attend weekly construction meetings
- MKE telecommunications systems design, technology and security coordination
- Record drawings

### **Potential Additional Services (at Client's request; not included in Lump Sum Fee):**

- 3d digital or physical models other than itemized in Scope of Services
- Measuring and facility assessment of items not shown in Client provided drawings of existing building
- 3d digital or physical models other than itemized in Scope of Services
- Scope changes due to deviations from defined Scope of Project
- Changing or editing previously prepared documents due to unforeseen conditions
- Services necessitated by decisions of the Client not rendered in a timely manner or any other failure of performance on the part of the Client or Client's consultants and contractors.
- Furniture procurement

### **Summary of Services Not Provided:**

- Hazardous material identification, testing, and/or abatement
- Permit/Agency Process fees



# EXHIBIT 1: ARCHITECT'S PROPOSAL

## Page 2 of 9

- Professional services that the Architect is not licensed to perform including structural, civil, fire sprinkler, low voltage and acoustic engineering/design. Such services shall be provided by Owner's consultants or by Architect's consultants as an amendment to this Agreement.
- Mechanical fee excludes the following and will be billed on a time and material basis at client's request: security and A/V design, ELCCA services, commissioning support, detailed HVAC load calculation, revisions to design after DD including VE items and bid alternates.

### Deliverables :

- Design Development drawings
- Construction / Permit drawings
- Mechanical, electrical, lighting and plumbing drawings
- Architectural specifications
- Furniture layout and specifications
- Mechanical, electrical, lighting and plumbing specifications
- Record drawings

### Schedule of Services

Design Development	Four Weeks
Client Review	Two Weeks
Construction Documents	Four Weeks
Client Review	Two Weeks
Bidding	Three Weeks
Permitting	Three Weeks
Construction	Twenty-eight Weeks
<b>Total Project Duration</b>	<b>46 Weeks</b>

### Compensation Arrangement

LSW shall provide Basic Services on a Lump Sum Fee basis. Additional services, if necessary, to complete the project or agreed to by the Client and Architect, will be accrued in accordance with LSW's Hourly Billing Rates. Printing costs and other reimbursable expenses will be charged at cost plus ten (10) percent.

MKE & Associates Fee:	\$32,450
LSW Architects Fee:	\$87,000
<b>Total Fee:</b>	<b>\$119,450</b>

### Proposed Project Team

Architect	LSW Architects
MEP Lighting	MKE & Associates

### Agreement Signatures

If this proposal meets with your approval, please sign below and return to our office and we will issue an AIA Form of Agreement for your review.

Offered by  
**LSW Architects, PC**

Accepted by  
**City of Camas**

\_\_\_\_\_  
Amy Noe, Designer 8.29.19

\_\_\_\_\_  
Pete Capell, City Administrator 8.29.19

**EXHIBIT 1: ARCHITECT'S PROPOSAL**  
**Page 3 of 9**

**Exhibit A**

Updated Cost Estimate, BOA Building (See Exhibit B)	\$561,554
Updated Cost Estimate, City Hall Building (See Exhibit B)	\$36,792
LSW Architectural Fee	\$87,000
MKE & Associates Fee	\$32,450
Estimated Permit Fees	\$13,000
Estimated Furniture Cost	\$219,652 (includes installation and sales tax)
Block Plan and Programming Fee	\$26,700
<u>Conceptual Cost Estimating Fee</u>	<u>\$13,350</u>
<b>Estimated Total Project Cost</b>	<b>\$990,498</b>



# EXHIBIT 1: ARCHITECT'S PROPOSAL

## Page 4 of 9

### Exhibit B

<b>Camas City Hall Renovations</b> Camas, WA LSW Architects Vancouver, WA Conceptual Design Estimate 1.2	<b>ACC Cost Consultants, LLC</b> Stanley J. Pszczolkowski 8060 SW Pfaffle Street, Suite 110 Tigard, Oregon 97223-8489 Phone: (503) 718-0075 Fax: (503) 718-0077 www.ArchCost.com	Estimate Date: 26-Jun-19 Document Date: 10-Jun-19 Print Date: 25-Jul-19 Print Time: 1:21 PM Constr. Start: TBD
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BANK OF AMERICA BUILDING REMODELING	Quantity	Unit	Cost / Unit	Cost	Sub-totals	Comments
<b>2.1   BOA - Level 1, Option 1</b>						sheet B101
<b>Selective Demolition</b>						
remove flooring/base	3,990	sf	1.50	5,985		
remove restroom flooring/base	320	sf	5.00	1,600		
remove ceilings	4,400	sf	2.00	8,800		
remove door/frame, single	14	ea	200.00	2,800		
remove stud partitions	576	sf	6.00	3,456		
remove bank counter - allowance	1	sum	1,500.00	1,500		
remove drive-up teller casework - allow.	1	sum	750.00	750		
remove drop box/patch wall	1	sum	2,000.00	2,000		
sawcut/remove conc slab @ new piping	0	sf	50.00	0		assume not required
remove misc equip/finishes - allowance	1,500	sf	1.00	1,500		
haul & disposal	10%	of	28,391.00	2,839		
temp barricades & protection	15%	of	28,391.00	4,259		
Sub-total	4,310	sf	8.23 /sf		\$35,489	
<b>Structural</b>						
patch/repair conc slab @ plumbing	0	sf	40.00	0		assume not required
Sub-total	4,310	sf	0.00 /sf		\$0	
<b>Doors &amp; Partitions</b>						
int. alum doors, pair	1	ea	5,500.00	5,500		
int. wood door/HM frame, single	14	ea	1,700.00	23,800		
int. alum storefront @ vestibule	40	sf	80.00	3,200		
repair/refinish exist ext. doors	4	lvs	750.00	3,000		
partitions: 4" studs, gyp bd (2), insul.	576	sf	14.00	8,064		
patch/repair exist walls - allowance	4,310	sf	2.00	8,620		
misc wood blocking/steel supports	4,310	sf	1.25	5,388		
Sub-total	4,310	sf	13.36 /sf		\$57,572	
<b>Finishes</b>						
clean/prep exist floor	4,310	sf	1.50	6,465		
carpet tile	3,700	sf	2.50	9,250		
walk off carpet mat @ vestibule	70	sf	10.00	700		
polished concrete @ restroom	260	sf	7.50	1,950		
polished concrete @ lobby	280	sf	8.00	2,240		
rubber stair treads/risers	0	sf	40.00	0		
rubber base	1,140	lf	2.75	3,135		
rubber base @ restrooms	100	lf	3.00	300		
susp. acoustical tile ceiling	3,790	sf	5.00	18,950		
susp. gyp board ceiling	330	sf	11.00	3,630		
gyp board ceiling @ lobby	280	sf	12.00	3,360		
frp wainscot	400	sf	8.00	3,200		
paint new/exist walls	12,000	sf	1.00	12,000		assume 4' h @ all walls
Sub-total	4,310	sf	15.12 /sf		\$65,180	
<b>Casework</b>						
customer counter w/ wood veneer/quartz	11	lf	750.00	8,250		
Sub-total	4,310	sf	1.91 /sf		\$8,250	

# EXHIBIT 1: ARCHITECT'S PROPOSAL

## Page 5 of 9

<b>Camas City Hall Renovations</b> Camas, WA LSW Architects Vancouver, WA Conceptual Design Estimate 1.2	<b>ACC Cost Consultants, LLC</b> Stanley J. Paszczkowski 8060 SW Plaffie Street, Suite 110 Tigard, Oregon 97223-8489 Phone: (503) 718-0075 Fax: (503) 718-0077 www.ArchCost.com	Estimate Date: 26-Jun-19 Document Date: 10-Jun-19 Print Date: 25-Jul-19 Print Time: 1:21 PM Constr. Start: TBD
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BANK OF AMERICA BUILDING REMODELING	Quantity	Unit	Cost / Unit	Cost	Sub-totals	Comments
<b>1   BOA - Basement - Continued</b>						
<b>Other</b>						
door/room signage - allowance	4,310	sf	0.50	2,155		
standard toilet compartment	2	ea	1,000.00	2,000		
ADA toilet compartment	2	ea	1,200.00	2,400		
toilet accessories	1	sum	4,000.00	4,000		
TV wall bracket @ meeting rooms, lobby	4	ea	300.00	1,200		
replace shades @ exist windows	570	sf	11.00	6,270		assume manual roller shades
systems furniture @ open office areas	2,200	sf	0.00	0		assume by Owner
Sub-total	4,310	sf	4.18 /sf		\$18,025	
<b>Fire Protection</b>						
no work required	4,310	sf	0.00	0		building not sprinklered
Sub-total	4,310	sf	0.00 /sf		\$0	
<b>Plumbing</b>						
restroom fixtures/piping	8	ea	5,000.00	40,000		4 wc, 4 lav
Sub-total	4,310	sf	9.28 /sf		\$40,000	
<b>2.1   BOA - Level 1, Option 1 - Continued</b>						
<b>HVAC</b>						
new VRF system & controls	1	allw	50,000.00	50,000		assume option 1
Sub-total	4,310	sf	11.60 /sf		\$50,000	
<b>Electrical</b>						
service/distribution	4,310	ea	14.00	60,340		
interior lighting/controls	4,310	sf	13.00	56,030		susp, recessed LED fixtures
fire alarm	4,310	sf	5.00	21,550		new system
Sub-total	4,310	sf	32.00 /sf		\$137,920	
<b>SUB-TOTAL 2.1   BOA - Level 1, Option 1</b>				412,436	<b>\$412,436</b>	
<b>Estimating/Construction Contingency</b>						
<del>Index To Construction Start</del>	<del>TBD</del>		<del>5.00%</del>	<del>23,715</del>		0.00
General Conditions, Bonds & Insurance			13.00%	64,742		
General Contractor OH & Profit			4.00%	22,510	172,833	41.91%
<b>TOTAL DIRECT CONSTRUCTION COST</b>						
<b>2.1   BOA - Level 1, Option 1</b>					<b>\$585,269</b>	
					<b><u>- \$23,715</u></b>	
					<b>\$561,554</b>	



# EXHIBIT 1: ARCHITECT'S PROPOSAL

## Page 6 of 9

**Camas City Hall Renovations**  
 Camas, WA  
 LSW Architects  
 Vancouver, WA  
 Conceptual Design Estimate 1.2

**ACC Cost Consultants, LLC**

Stanley J. Pszczolkowski  
 8060 SW Pfaffle Street, Suite 110  
 Tigard, Oregon 97223-8489  
 Phone: (503) 718-0075 Fax: (503) 718-0077 www.ArchCost.com

Estimate Date: 26-Jun-19  
 Document Date: 10-Jun-19  
 Print Date: 25-Jul-19  
 Print Time: 1:21 PM  
 Constr. Start: TBD

CITY HALL BUILDING REMODELING	Quantity	Unit	Cost / Unit	Cost	Sub-totals	Comments
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2.2   City Hall - Level 1, Option 2						sheet A102
<b>Selective Demolition</b>						
remove flooring/base	831	5,710	sf	1.50	8,565	1,247
<del>remove ceilings</del>	<del>169</del>	<del>5,710</del>	<del>sf</del>	<del>2.00</del>	<del>338</del>	
remove door/frame, single	1	4	ea	200.00	800	200
remove stud partitions	190	1,352	sf	6.00	8,112	1,140
sawcut/remove conc slab @ new piping	0		sf	50.00	0	
<del>remove misc equip/finishes - allowance</del>	<del>169</del>	<del>5,710</del>	<del>sf</del>	<del>1.00</del>	<del>169</del>	
haul & disposal	10%	of 2,587		17,984.00	1,798	259
temp barricades & protection	15%	of 2,587		17,984.00	2,698	388
Sub-total	<del>5,710</del>	<del>5,710</del>	<del>sf</del>	<del>3.94</del>	<del>522,480</del>	3,234
<b>Structural</b>						
patch/repair conc slab @ plumbing	0		sf	40.00	0	
Sub-total	5,710		sf	0.00	/sf	\$0
<b>Doors &amp; Partitions</b>						
intL wood door/HM frame, single	2	4	ea	1,700.00	6,800	3,400
sliding glass relite @ front desk	60		sf	45.00	2,700	
partitions: 4" studs, gyp bd (2), insul.	256		sf	14.00	3,584	
patch/repair exist walls - allowance	100	500	sf	2.00	1,000	200
misc wood blocking/steel supports	100	200	sf	1.25	250	125
Sub-total	<del>5,710</del>	<del>5,710</del>	<del>sf</del>	<del>2.61</del>	<del>514,334</del>	10,009
<b>Finishes</b>						
clean/prep exist floor	710	5,710	sf	1.50	8,565	1,065
<del>carpet tile</del>	<del>5,000</del>		<del>sf</del>	<del>2.50</del>	<del>12,500</del>	
carpet tile @ lobby	710		sf	2.50	1,775	
rubber base	200	7,660	lf	2.75	21,065	550
paint new/exist walls	2,260	77,000	sf	1.00	77,000	2,260
Sub-total	<del>5,710</del>	<del>5,710</del>	<del>sf</del>	<del>21.17</del>	<del>5120,905</del>	5,630
<b>Casework</b>						
customer counter w/ wood veneer/quartz	12		lf	750.00	9,000	
Sub-total	5,710		sf	1.58	/sf	\$9,000
<b>HVAC</b>						
new VRF system & controls	0		sf	40.00	0	
Sub-total	5,710		sf	0.00	/sf	\$0
<b>Electrical</b>						
<del>interior electrical upgrades</del>	<del>1</del>		<del>allow</del>	<del>10,000.00</del>	<del>10,000</del>	
telecom systems	0		sf	7.00	0	
Sub-total	<del>5,710</del>	<del>5,710</del>	<del>sf</del>	<del>1.75</del>	<del>510,000</del>	A/V equip, wiring by Owner, typ.

Lobby/Reception only

**EXHIBIT 1: ARCHITECT'S PROPOSAL**  
**Page 7 of 9**

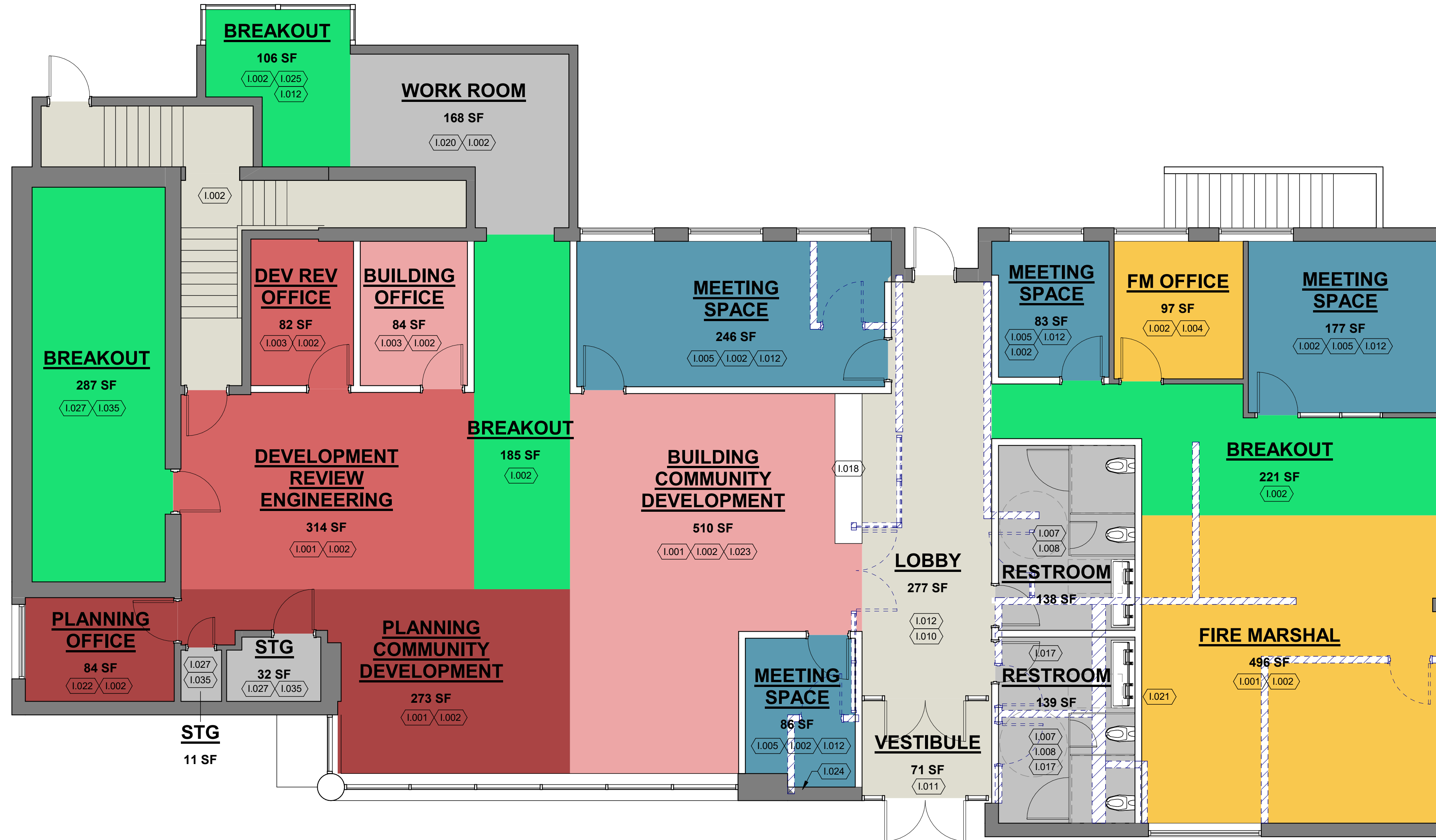
<b>Camas City Hall Renovations</b> Camas, WA LSW Architects Vancouver, WA Conceptual Design Estimate 1.2	<b>ACC Cost Consultants, LLC</b> Stanley J. Pszczolkowski 8060 SW Pfaffle Street, Suite 110 Tigard, Oregon 97223-8489 Phone: (503) 718-0075 Fax: (503) 718-0077 www.ArchCost.com	Estimate Date: 26-Jun-19 Document Date: 10-Jun-19 Print Date: 25-Jul-19 Print Time: 1:21 PM Constr. Start: TBD
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CITY HALL BUILDING REMODELING	Quantity	Unit	Cost / Unit	Cost	Sub-totals	Comments
SUB-TOTAL 2.2   City Hall - Level 1, Option 2				<del>176,719</del>	<b>\$176,719</b>	27,873
Estimating/Construction Contingency			15.00%	<del>26,508</del>	4,181	
<del>Index To Construction Start</del>	<del>TBD</del>		<del>5.00%</del>	<del>10,161</del>		0.00
General Conditions, Bonds & Insurance			13.00%	<del>27,740</del>	3,623	
General Contractor OH & Profit			4.00%	<del>9,645</del>	1,115	41.91%
<b>TOTAL DIRECT CONSTRUCTION COST</b>						
2.2   City Hall - Level 1, Option 2				<del>5,710</del> of	<del>\$43.92</del> /sf	<b>\$250,774</b> 36,792





Exhibit C

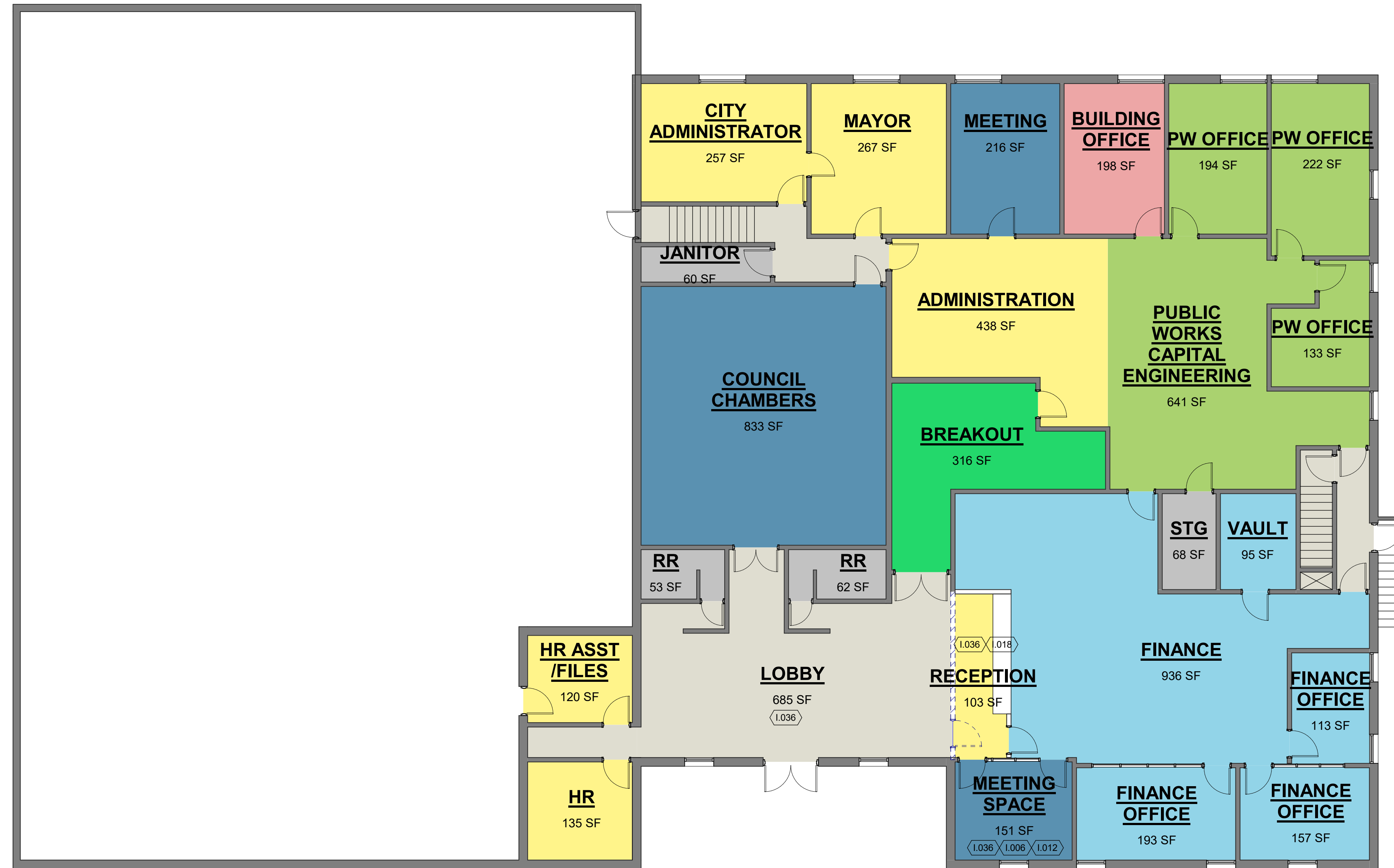


WALL TYPE LEGEND	
	DEMO WALL
	EXISTING WALL
	NEW WALL

KEYNOTE LEGEND	
Key Value	Keynote Text
I.001	OPEN WORK AREA WITH WORKSTATIONS. (1) FLOOR BOX FOR POWER AND DATA TO SYSTEMS FURNITURE
I.002	NEW FINISHES: PAINT, ACT, CARPET TILE, RUBBER BASE AND LIGHTING. REMOVE ALL EXISTING FINISHES AND LIGHTING
I.003	NEW OFFICE, NEW DOOR AND FRAME AND, PROVIDE (3) DUPLEX OUTLETS AND DATA
I.004	EXISTING OFFICE.
I.005	NEW MEETING AREA, NEW DOOR AND FRAME, PROVIDE (2) DUPLEX OUTLETS AND DATA
I.007	NEW RESTROOMS ALL NEW PLUMBING FIXTURES ACCESSORIES AND PARTITIONS, NEW DOOR AND DOOR FRAME
I.008	NEW RESTROOM FINISHES: PLASTIC LAMINATE WAINSCOT, POLISHED CONCRETE FLOORING, RUBBER BASE, PAINT AND LIGHTING
I.010	NEW LOBBY, WITH GYP CEILING, REMOVE EXISTING TILE FLOORING, REPLACE WITH POLISHED CONCRETE, NEW LIGHTING AND PAINT.
I.011	NEW VESTIBULE, NEW INTERIOR STOREFRONT DOORS AND RELITES, EXISTING EXTERIOR DOORS TO REMAIN, WALK OFF MAT, NEW GYP CEILING AND LIGHTING, PAINT AND RUBBER BASE
I.012	PROVIDE POWER AND DATA FOR WALL MOUNTED FLAT SCREEN TV
I.017	DEMO EXISTING BATHROOM COMPLETELY INCLUDING ALL ELECTRICAL AND PLUMBING. REMOVE ALL FINISHES AND PREPARE FLOOR FOR NEW FINISHES
I.018	NEW CUSTOMER COUNTER WITH WOOD VENEER AND QUARTZ TOP
I.020	NEW WORK ROOM, PROVIDE (4) DUPLEX OUTLETS AND DATA FOR COPIER AND PRINTER
I.021	REMOVE EXISTING KITCHENETTE
I.022	EXISTING OFFICE, DEMO CASEWORK, REMOVE ALL EXISTING FINISHES AND LIGHTING
I.023	DEMOLISH EXISTING BANK COUNTER REMOVE EXISTING FINISHES
I.024	REMOVE AND PATCH EXISTING DROP BOX
I.025	REMOVE DRIVE UP TELLER CASEWORK
I.027	NEW PAINT
I.035	NEW FLOORING

GENERAL NOTES:  
1. NEW ACCESSIBLE SIGNAGE AT ALL DOORS.

1 BOA LEVEL 1 FLOOR PLAN: OPTION 2  
SCALE: 3/16" = 1'-0"



WALL TYPE LEGEND	
	DEMO WALL
	EXISTING WALL
	NEW WALL

KEYNOTE LEGEND	
Key Value	Keynote Text
I.006	NEW MEETING AREA IN EXISTING SPACE. PROVIDE (2) DUPLEX OUTLETS AND DATA, NEW DOOR.
I.012	PROVIDE POWER AND DATA FOR WALL MOUNTED FLAT SCREEN TV
I.018	NEW CUSTOMER COUNTER WITH WOOD VENEER AND QUARTZ TOP
I.036	REMOVE EXISTING CARPET AND RUBBER BASE. NEW CARPET, RUBBER BASE, PATCH AND REPAIR WALLS AS REQUIRED, PAINT.

**1** LEVEL 1 FLOOR PLAN  
SCALE: 1/8" = 1'-0"





## Exhibit 2

# ELECTRONIC DOCUMENT RELEASE

Project: City of Camas – Bank of America Tenant Improvement Expansion

LSW Project #: 2019-0029

To: Pete Capell, City of Camas

Hereinafter “Recipient”

LSW Architects, P.C. (“LSW”) may issue to Recipient plans, specifications and other information and data for Recipient’s convenience and use to provide design or construction related services to the Project, in modifiable electronic media, including but not limited to AutoCAD files and Revit files, as listed below (collectively “Electronic Documents”), subject to the following conditions. Non-modifiable electronic media such as scans or Adobe pdf documents are not covered by, or subject to, the terms of this Electronic Document Release, and do not require execution of this Electronic Document Release.

1. LSW makes no representation with regard to the compatibility of the Electronic Documents with Recipient’s software and hardware. Furthermore, Recipient acknowledges and accepts the risks associated with the transfer of Electronic Documents, including but not limited to software incompatibility, file degradation, and accidental or intentional deletion, modification or manipulation of electronic data.
2. The Electronic Documents are used by LSW, in part, as a tool to produce printed two-dimensional Drawings for use as Construction Documents. Recipient acknowledges that the Electronic Documents are not Construction Documents, and that the information and data in the two-dimensional Construction Documents is what is intended for use in construction. The Electronic Documents are provided for Recipient’s information only, for reference or modification to facilitate the design or construction of the Project. In the event of a conflict between the information included in the Electronic Documents and the signed and sealed Construction Documents issued by LSW, the signed or sealed Construction Documents shall control.
3. Recipient acknowledges that the Electronic Documents were not developed to assist Recipient with Recipient’s work. Accordingly, Recipient accepts that the form, format or content of the Electronic Documents may not be suitable for Recipient’s intended use. Recipient accepts the risk that the Electronic Documents may not be sufficiently or suitably formatted or otherwise ready for Recipient’s use. Recipient accepts all risk associated with the form, format or content of the Electronic Documents, and all risk associated with Recipient’s modification of the Electronic Documents.
4. Prior to issuing the Electronic Documents, LSW may remove or obliterate its name, title block, professional seals and certifications from the Electronic Documents.
5. To the extent allowed by applicable law, Recipient shall indemnify, defend and hold harmless LSW and its subconsultants from and against any claim, damage, liability, or cost, including attorneys’ fees or expert costs that may arise from Recipient’s use or modification of the Electronic Documents.
6. Recipient will not distribute or release the Electronic Documents to any third-party, including Recipient’s subconsultants or subcontractors, without such third party executing and delivering to LSW a signed counterpart of this Electronic Document Release. Recipient acknowledges that LSW requires that each party that receives LSW’s Electronic Documents shall execute a similar Electronic Document Release for the benefit of LSW. To the extent allowed by applicable law, Recipient shall indemnify, defend and hold harmless LSW and its subconsultants from and against any claim, damage, liability, or cost, including attorneys’ fees or expert costs that may arise as a result of Recipient’s sharing of the Electronic Documents with third-parties, without compliance with this paragraph.

7. Recipient agrees that receipt of the Electronic Documents and the information contained therein does not represent an exclusive right to use the information, and that LSW may transfer the same or similar Electronic Documents to other persons or entities. No copyrights, patents, or other rights of ownership or use are transferred or established by LSW's issuance of the Electronic Documents to Recipient.

Electronic Documents to be supplied: Autocad Files, Revit Files

LSW will transfer the Electronic Documents listed above after recipient executes and returns this Electronic Document Release to LSW.

Recipient agrees that its receipt and use of the Electronic Documents described above is subject to the conditions described in this Electronic Document Release, and Recipient agrees to those conditions.

Recipient Firm: City of Camas

By Authorized Rep: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_





610 Esther Street, Suite 200  
Vancouver, WA 98660

**360-694-8571**

LSW-ARCHITECTS.COM

**2019**  
**HOURLY BILLING RATES**

<b>Position</b>	<b>Rate Per Hour</b>
Support Staff	\$ 80.00
Intern I	\$ 90.00
Intern II	\$ 105.00
Intern III	\$ 130.00
Interior Designer	\$ 140.00
Architect/Designer I	\$ 135.00
Architect/Designer II	\$ 150.00
Architect/Designer III	\$ 165.00
Project Manager	\$ 175.00
Associate	\$ 185.00
Associate Principal	\$ 245.00
Principal	\$ 315.00



~ PROCLAMATION ~

WHEREAS, an estimated 270,000 cases of breast cancer will be diagnosed in 2019 alone, accounting for more than 30% of women's cancer diagnoses; and,

WHEREAS, breast cancer remains the second most likely cause of death for women in the United States despite significant improvements in treatment and mortality rates; and,

WHEREAS, we recognize that all cases of breast cancer are emotionally and physically traumatic no matter the outcome; and,

WHEREAS, October is nationally recognized as Breast Cancer Awareness Month, an annual campaign to raise awareness using pink ribbon imagery, offer support to all those courageously battling this disease, and honor those lives lost to it; and,

WHEREAS, we applaud the efforts of the medical professionals and researchers working to find the causes of and a cure for this deadly disease; and,

WHEREAS, this Breast Cancer Awareness Month, we recognize the experiences of breast cancer survivors, those battling the disease, and their supporters and loved ones; and,

WHEREAS, Breast Cancer Awareness Month is an opportunity to unite all citizens to prevent breast cancer deaths through increased education and regular screening;

NOW, THEREFORE, I, Shannon Turk, Mayor of the City of Camas, in the State of Washington, do hereby proclaim October, 2019, as

***“Breast Cancer Awareness Month”***

in Camas, Washington and I encourage all citizens to increase their awareness about how to prevent and fight breast cancer.



In witness whereof, I have set my hand and caused the seal of the City of Camas to be affixed this 7th day of October, 2019.

\_\_\_\_\_  
Shannon Turk, Mayor



~ PROCLAMATION ~

WHEREAS, Americans with disabilities are entitled to the same rights and freedoms as any other citizen including the right to dignity and respect in the workplace; and

WHEREAS, the Americans with Disabilities Act and the Individuals with Disabilities Act provides anti-discrimination protection for our nation's 49 million Americans with disabilities and recognizes their right to be integral, contributing, productive and valued citizens of our country, state, and city; and

WHEREAS, workplaces welcoming of the talents of all people, including people with disabilities, are a critical part of our efforts to build an inclusive community and strong economy; and

WHEREAS, the City of Camas actively supports the goals of equality, opportunity, full participation, independent living and economic self-sufficiency for all people with disabilities; and

WHEREAS, in this spirit, we recognize National Disability Employment Awareness Month to recognize the many ways individuals with disabilities strengthen our workforce and contribute to our community; and

WHEREAS, the theme of this year's Awareness Month is "The Right Talent, Right Now; Inclusion Drives Innovation" to raise awareness of disability employment issues and honor the contributions of America's workers with disabilities;

NOW THEREFORE, I, Shannon Turk, Mayor of the City of Camas, do hereby proclaim October, 2019, as:

***"National Disability Employment Awareness Month"***

in the City of Camas, and urge all citizens in Camas to embrace the talents and skills that individuals with disabilities bring to our community.



In witness whereof, I have set my hand and caused the seal of the City of Camas to be affixed this 7th day of October, 2019.

\_\_\_\_\_  
Shannon Turk, Mayor



## Staff Report

October 7, 2019 City Council Regular Meeting

### Public Hearing - New Cingular Wireless, LLC (d/b/a AT&T) Franchise and License Agreements

Staff Contact	Phone	Email
Steve Wall, Public Works Director	360.817.7899	<a href="mailto:swall@cityofcamas.us">swall@cityofcamas.us</a>

**SUMMARY:** Staff recommends the City Council conduct a public hearing to provide citizens an opportunity to give testimony regarding the proposal of an ordinance to establish a Franchise Agreement and a separate, but related, proposed License Agreement between the City of Camas and New Cingular Wireless, LLC doing business as AT&T. The Franchise Agreement would be approved via Ordinance and would allow AT&T to install, operate and maintain telecommunication facilities within the City of Camas rights-of-ways. The License Agreement would be approved separate from the Franchise Agreement and would allow AT&T to install, operate and maintain wireless facilities on publicly-owned structures (e.g. poles).

Prior to the City Council conducting the Public Hearing, Staff will review changes (shown in colored, underline text in the attached drafts) to the Franchise and License Agreements that have been made since the first presentation of the Drafts at the September 16, 2019 Council Workshop. In summary, the changes are as follows:

- The Terms of both Agreements have been modified to allow the City to inform AT&T after 15 years (Initial Term and one Renewal Term) of its intent to not renew the Agreements for the second or third 5-year renewal period(s).
- Additional language has been added to Section 4.2 to be consistent with the City's Municipal Code and the FCC Ruling regarding the "shot clock" periods.
- Additional language has been added to Section 4.4 to clarify that AT&T shall still be required to notify the City and obtain any necessary permits even if they are only modifying a wireless installation or replacing it in a like-for-like scenario.
- Section 4.6 has been added to clarify that approval of a Site License Agreement is not the only requirement for installation of wireless facilities and that separate approvals or permits may be required by the City prior to installation.

**RECOMMENDATION:** Staff recommends that Council conduct a public hearing, deliberate and if desired, direct staff to place the Ordinance on the October 21, 2019 Regular Meeting Agenda for Council's consideration.

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE of the City of Camas, Washington, granting New Cingular Wireless PCS, LLC, a non-exclusive franchise for ten years, to construct, maintain, operate, replace and repair wireless communications facilities in, along, under, through and below public rights-of-way of the City of Camas, Washington

WHEREAS, New Cingular Wireless PCS, LLC (“New Cingular”) has requested a non-exclusive franchise with the City of Camas (“City”) for a period of ten years for the operation of wireless communications facilities within the City Right-of-Way; and

WHEREAS, RCW 35A.11.020 grants the City broad authority to regulate the use of the public Right-of-Way; and

WHEREAS, RCW 35A.47.040 grants the City broad authority to grant non-exclusive franchises; and

WHEREAS, New Cingular wishes to construct, operate and maintain wireless communications facilities within the City Right-of-Way; and

WHEREAS, the City Council finds that it is in the best interests of the health, safety and welfare of residents of the Camas community to enter into a non-exclusive franchise to New Cingular for the operation of wireless communications facilities within the City Right-of-Way.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CAMAS, WASHINGTON, DO ORDAIN AS FOLLOWS:

**Section I**

**Grant of Franchise**

The Franchise as set forth in the Franchise Agreement attached hereto as Exhibit “A” is hereby granted according to its terms.

**Section II**

This ordinance shall take effect five (5) days after its publication according to law.

PASSED by the Council and APPROVED by the Mayor this \_\_\_\_ day of \_\_\_\_\_, 2019.

SIGNED: \_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_  
Clerk

APPROVED as to form:

\_\_\_\_\_  
City Attorney



## **EXHIBIT "A"**

### **FRANCHISE AGREEMENT FOR THE INSTALLATION AND MAINTENANCE OF WIRELESS COMMUNICATIONS FACILITIES IN THE CITY OF CAMAS, WASHINGTON**

#### **Parties:**

**City of Camas**, a Washington Municipal Corporation ("City") And

**New Cingular Wireless PCS, LLC**, a Delaware limited liability company ("New Cingular").

**In consideration of the mutual promises set forth herein, the parties agree as follows:**

#### **Section 1. Definitions**

The following terms contained herein, unless otherwise indicated, shall be defined as follows:

- 1.1 **New Cingular:** New Cingular Wireless PCS, LLC, and its respective successors and assigns.
- 1.2 **City:** The City of Camas, a municipal corporation of the State of Washington, specifically including all areas incorporated therein as of the effective date of this ordinance and any other areas later added thereto by annexation or other means.
- 1.3 **Days:** Calendar days.
- 1.4 **Facilities:** All of the plant, equipment, fixtures, appurtenances, and other facilities necessary to furnish and deliver wireless services, including but not limited to optical converters, remote radios, multiplexers, antennas, transmitters, receivers, equipment boxes, backup power supplies, power transfer switches, cut-off switches, electric meters, wires, lines, conduits, cables, communication and signal lines and equipment, fiber optic cable, anchors, vaults, and all attachments, appurtenances, and appliances necessary or incidental to distribution and use of wireless services and all other facilities associated with the wireless communications facilities located in the Right-of-Way, utilized by New Cingular in the operation of activities authorized by this Ordinance. The abandonment by New Cingular of any Facilities as defined herein shall not act to remove the same from this definition.
- 1.5 **Franchise:** This document and any amendments or modifications hereto.
- 1.6 **Permitting Authority:** The head of the City department authorized to process and grant permits required to perform work in the City's Right-of-Way, or the head of any agency authorized to perform this function on the City's behalf. Unless otherwise indicated, all references to Permitting Authority shall include the designee of the department or agency head.
- 1.7 **Person:** An entity or natural person.
- 1.8 **Public Works Director or Director:** The head of the Public Works department of the City, or in the absence thereof, the acting director, or the designee of either of these individuals.
- 1.9 **Right-of-Way:** As used herein shall refer to the surface of and the space along and below

any street, road, highway, freeway, bridge, lane, sidewalk, alley, court, boulevard, sidewalk, parkway, drive, utility easement, and/or road Right-of-Way now or hereafter held or administered by the City of Camas.

1.10 Wireless Services: Wireless communications services that New Cingular may lawfully provide in the City.

## **Section 2. Franchise Granted.**

2.1 Pursuant to RCW 35A.47.040, the City hereby grants to New Cingular, its heirs, successors, and assigns, subject to the terms and conditions hereinafter set forth, a Franchise for a period of ten (10) years (the “Initial Term”), beginning on the effective date of this Ordinance. Following the Initial Term, this Franchise shall automatically be renewed for three (3) additional periods of five (5) years (each a “Renewal Term”), unless: (i) New Cingular provides the City notice of its intent not to renew at least ninety (90) days before the expiration of the Initial Term or then current Renewal Term, as applicable, or (ii) with respect to the second Renewal Term or third Renewal Term, the City provides New Cingular notice of its intent not to renew at least three hundred sixty five (365) days before the expiration of the first Renewal Term or second Renewal Term, as applicable.

2.2 This Franchise shall grant New Cingular the right, privilege and authority to locate, construct, operate, maintain, replace, acquire, sell, lease, and use its Facilities in the Right-of-Way as approved under City permits issued by the Permitting Authority pursuant to this Franchise and City ordinances.

## **Section 3. Nonexclusive Franchise Grant.**

This Franchise is granted upon the express condition that it shall not in any manner prevent the City from granting other or further franchises in any Right-of-Way. This Franchise shall in no way prevent or prohibit the City from using any Right-of-Way or other public property or affect its jurisdiction over them or any part of them, and the City shall retain the authority to make all necessary changes, relocations, repairs, maintenance, establishment, improvement or dedication of the same as the City may deem appropriate.

## **Section 4. Franchise Subject to Federal, State and Local Law.**

Notwithstanding any provision contrary herein, this Franchise is subject to and shall be governed by all applicable provisions now existing or hereafter amended of federal, State and local laws and regulations.

## **Section 5. No Rights by Implication.**

5.1 No rights shall pass to New Cingular by implication. Without limiting the foregoing, by way of example and not limitation, this Franchise shall not include or be a substitute for:

5.1.1 Any other permit or authorization required for the privilege of transacting and carrying on a business within the City that may be required by the ordinances and laws of the City;

5.1.2 Any permit, agreement or authorization required by the City for Rights-of-Way users in connection with operations on or in Rights-of-Way or public property; or

5.1.3 Any permits or agreements for occupying any other property of the City or private entities to which access is not specifically granted by this Franchise.

### **Section 6. Conveyance of Rights.**

This Franchise is intended to convey limited rights and interests only as to those Rights-of-Way in which the City has an actual interest. It is not a warranty of title or interest in any Rights-of-Way; it does not provide New Cingular with any interest in any particular location within the Rights-of-Way; and it does not confer rights other than as expressly provided in the grant hereof.

### **Section 7. No Waiver.**

The failure of City on one or more occasions to exercise a right or to require compliance or performance under this Franchise or any other applicable State or federal law shall not be deemed to constitute a waiver of such right or a waiver of compliance or performance by the City nor to excuse New Cingular from complying or performing, unless such right or such compliance or performance has been specifically waived in writing.

### **Section 8. Other Ordinances.**

New Cingular agrees to comply with the terms of any lawful, generally applicable local ordinance, in effect upon adoption of this Franchise or as enacted or modified thereafter. In the event of a conflict between any ordinance and a specific provision of this Franchise, the Franchise shall control, provided however that New Cingular agrees that it is subject to the lawful exercise of the police power of the City.

### **Section 9. Right-of-Way Vacation.**

If any Right-of-Way or portion thereof used by New Cingular is vacated by the City during the term of this Franchise, the City shall endeavor to specifically reserve the continued use of the Right-of-Way by New Cingular. Unless the City specifically reserves to New Cingular the right to continue the use of vacated Rights-of-Way, New Cingular shall, without delay or expense to the City but upon as much advance notice as feasible under the circumstances (and in no event less than sixty (60) days), remove its facilities from such Right-of-Way and restore, repair or reconstruct the Right-of-Way where such removal has occurred. In the event of failure, neglect or refusal of New Cingular to restore, repair or reconstruct such Right-of-Way after thirty (30) days written notice from the City, the City may do such work or cause it to be done, and the reasonable cost thereof shall be paid by New Cingular within thirty (30) days of receipt of an invoice and documentation.

### **Section 10. Relocation of Facilities.**

10.1 New Cingular agrees and covenants at no cost to the City, to relocate its Facilities when requested to do so by the City for a public project, provided that, New Cingular shall in all such cases have the privilege, upon approval by the City, to temporarily bypass, in the authorized portion of the same Right-of-Way any Facilities required to be relocated.

10.2 If the City determines that a public project necessitates the relocation of New Cingular's



existing Facilities, the City shall:

10.2.1 At least seventy-five (75) days prior to the commencement of such project, provide New Cingular with written notice of known Facilities requiring such relocation; and

10.2.2 Provide New Cingular with copies of any plans and specifications pertinent to the requested relocation and a proposed temporary or permanent relocation for New Cingular's Facilities.

10.2.3 Meet with New Cingular, if requested, within five (5) business days to discuss the scope, requirements and challenges of the relocation work.

10.3 After receipt of such notice and such plans and specifications and meeting, New Cingular shall complete relocation of its Facilities at no charge or expense to the City at least ten (10) days prior to commencement of the project.

10.4 New Cingular may, after receipt of written notice requesting a relocation of its Facilities, submit to the City written alternatives to such relocation. The City shall evaluate such alternatives and advise New Cingular in writing as soon as practicable if any of the alternatives is suitable to accommodate the work that otherwise necessitates the relocation of the Facilities. If so requested by the City, New Cingular shall submit additional information to assist the City in making such evaluation. The City shall give each alternative proposed by New Cingular as full and fair a consideration as the project schedule will allow. In the event the City ultimately determines that there is no other reasonable alternative, New Cingular shall relocate its Facilities as directed by the City and in accordance with this Section 10.

10.5 The City will notify New Cingular as soon as practical of any facilities that are not identified during the design of the public project, but are discovered during the course of construction and need to be relocated. New Cingular will work with the City to design and complete a relocation to facilitate the completion of the public project with minimum delay.

10.6 Failure to complete a relocation requested by the City in accordance with this Section 10 by the date included in the notice provided for thereby may subject New Cingular to liquidated damages as provided in Section 29 of this Franchise, except in the event New Cingular suffers a force majeure or other event beyond its reasonable control. Alternatively, should the City's Project be delayed as a result of New Cingular's failure to complete a relocation requested in accordance with this Section 10 and provided New Cingular has not suffered a force majeure or other event beyond its reasonable control, then City may, at New Cingular's sole expense, have the Facilities relocated by City's contractor. In such event, New Cingular shall pay the cost of relocation within 30 days of submission of an invoice by City. This Section shall only apply if applied in a non-discriminatory manner and it is necessary for all Facilities and appurtenances to be moved in the same location.

10.7 The provisions of this Section of this Franchise shall in no manner preclude or restrict New Cingular from making any arrangements it may deem appropriate when responding to a request for relocation of its Facilities by any person other than the City, where the improvements to be constructed by said person are not or will not become City-owned, operated or maintained, provided that such arrangements do not unduly delay a City construction project. The provisions of this Franchise are subject to RCW 35.99.060. In the event of a conflict between the provisions of this Franchise and the RCW, the RCW shall control.

10.8 New Cingular recognizes the need for the City to maintain adequate width for installation and maintenance of sanitary sewer, water and storm drainage utilities owned by the City and other public utility providers. Thus, the City reserves the right to maintain clear zones within the public right-of-way for installation and maintenance of said utilities. The clear zones for each Right-of-Way segment shall be noted and conditioned with the issuance of each Right-of-Way permit. If adequate clear zones are unable to be achieved on a particular Right-of-Way, New Cingular shall locate in an alternate Right-of-Way, obtain easements from private property owners, or propose alternate construction methods which maintain and/or enhance the existing clear zones.

### **Section 11. New Cingular's Maps and Records.**

As a condition of this Franchise, and at its sole expense, New Cingular shall provide the City with typicals and as-built plans, maps, and records that show the vertical and horizontal location of its Facilities within the Right-of-Way using a minimum scale of one inch equals one hundred feet (1"=100'), measured from the center line of the Right-of-Way, which maps shall be in hard copy format acceptable to the City and in Geographical Information System (GIS) or other digital electronic format acceptable to the City.

### **Section 12. Undergrounding.**

12.1 This Franchise is subject to the undergrounding requirements as may be required or later adopted by the Camas Municipal Code and consistent with applicable federal and Washington State law. New Cingular shall install all of its Facilities (excluding antennas, equipment cabinets, cabling and other equipment that must be above-ground in order to be functional) underground where all adjacent existing telecommunications and cable facilities are located underground. Any new Facilities to be located above-ground shall be placed on existing utility support structures; provided, however, that upon demonstrating that the installation of New Cingular's Facilities on a proposed New Cingular-owned pole is in compliance with the City's Public Works Small Wireless Facility ("SWF") Design Standards, New Cingular may construct such pole in the Right-of-Way; and further provided, however, New Cingular acknowledges and agrees that no New Cingular-owned pole may be placed in the Right-of-Way without the City's prior approval of its location and design.

12.2 New Cingular will also share information necessary to facilitate joint-trenching and other undergrounding projects, and will otherwise cooperate with the City and other utility providers to serve the objective to maximize utility undergrounding where possible or as required.

### **Section 13. Service to Public Buildings (intentionally blank)**

### **Section 14. Excavation and Notice of Entry.**

14.1 During any period of relocation or maintenance, all surface structures, if any, shall be erected and used in such places and positions within the Right-of-Way so as to minimize interference with the passage of traffic and the use of adjoining property. New Cingular shall at all times post and maintain proper barricades and comply with all applicable safety regulations during such period of construction as required by the ordinances of the City or State law, including RCW 39.04.180, for the construction of trench safety systems.

14.2 Whenever New Cingular excavates in any Right-of-Way for the purpose of installation, construction, repair, maintenance or relocation of its Facilities, it shall apply to the City for a permit to do so in accordance with the ordinances and regulations of the City requiring permits to operate in the Right-of-Way. In no case shall any work commence within any Right-of-Way without a permit. During the progress of the work, New Cingular shall not unnecessarily obstruct the passage or use of the Right-of-Way, and shall provide the City with plans, maps, and information showing the proposed and final location of any Facilities in accordance with Section 11 of this Franchise.

14.3 At least five (5) days prior to construction of Facilities consisting of digging, trenching, cutting, or other activities that may impact the utilization of the Right-of-Way for more than a four (4) hour period, New Cingular shall take reasonable steps to inform all apparent owners or occupiers of property within fifty (50) feet of said activities that a construction project will commence. The notice shall include, at a minimum, the dates and nature of the project and a toll-free or local telephone number that the resident may call for further information. A pre-printed door hanger may be used to satisfy New Cingular's obligations under this Section of this Franchise.

14.4 At least twenty-four (24) hours prior to entering Right-of-Way within ten (10) feet of private property to construct Facilities consisting of digging, trenching, cutting, or other activities that may impact the utilization of the Right-of-Way, New Cingular shall post a written notice describing the nature and location of the work to be performed adjacent to the affected private property. New Cingular shall make a good faith effort to comply with the property owner/resident's preferences, if any, regarding the location or placement of Facilities that protrude above the prior ground surface level, if any, consistent with sound engineering practices.

### **Section 15. Stop Work.**

On notice from the City that any work is being conducted contrary to the provisions of this Franchise, or in an unsafe or dangerous manner as determined by the City, consistent with applicable law, or in violation of the terms of any applicable permit, laws, regulations, ordinances or standards, the work may immediately be stopped by the City. The stop work order shall:

15.1 Be in writing;

15.2 Be given to the Person doing the work and be posted on the work site;

15.3 Be sent to New Cingular by email at the address given herein, provided the recipient of such email confirms receipt by reply email, which confirmation shall not include an automatic delivery or read receipt;

15.4 Indicate the nature of the alleged violation or unsafe condition; and

15.5 Establish conditions under which work may be resumed.

### **Section 16. Emergency Work, Permit Waiver.**

In the event of any emergency where any Facilities located in the Right-of-Way are broken or damaged, or if New Cingular's construction area for their Facilities is in such a condition as to place the health or safety of any person or property in imminent danger, New Cingular shall



immediately take any necessary emergency measures to repair or remove its Facilities without first applying for and obtaining a permit as required by this Franchise. However, this emergency provision shall not relieve New Cingular from later obtaining any necessary permits for the emergency work. New Cingular shall apply for the required permits not later than the next business day following the emergency work.

#### **Section 17. Recovery of Costs.**

New Cingular shall be subject to all permit fees associated with activities undertaken pursuant to this Franchise or other ordinances of the City. If the City incurs any costs and/or expenses for review, inspection or supervision of activities undertaken pursuant to this Franchise or any ordinances relating to a subject for which a permit fee is not established, New Cingular shall pay the City's reasonable costs and reasonable expenses. In addition, New Cingular shall promptly reimburse the City for any costs the City reasonably incurs in responding to any emergency involving New Cingular's Facilities. If the emergency involves the facilities of other utilities operating in the Right-of-Way, then the City will allocate costs among parties involved in good faith. Said costs and expenses shall be paid by New Cingular after submittal by the City of an itemized billing by project of such costs.

#### **Section 18. Dangerous Conditions, Authority for City to Abate.**

18.1 Whenever installation, maintenance or excavation of Facilities authorized by this Franchise causes or contributes to a condition that appears to substantially impair the lateral support of the adjoining Right-of-Way, public or private property, or endangers any person, the City may direct New Cingular, at New Cingular's expense, to take actions to resolve the condition or remove the endangerment. Such directive may include compliance within a prescribed time period.

18.2 In the event New Cingular fails or refuses to promptly take the directed action, or fails to fully comply with such direction, or if emergency conditions exist which require immediate action to prevent injury or damages to persons or property, the City may take such actions as it believes are necessary to protect persons or property and New Cingular shall reimburse the City for all costs incurred.

#### **Section 19. Safety.**

19.1 New Cingular, in accordance with applicable federal, State, and local safety rules and regulations shall, at all times, employ ordinary care in the installation, maintenance, and repair of its Facilities utilizing methods and devices commonly accepted in their industry of operation to prevent failures and accidents that are likely to cause damage, injury, or nuisance to persons or property.

19.2 All of New Cingular's Facilities in the Right-of-Way shall be constructed and maintained in a safe and operational condition, in accordance with applicable federal, State, and local safety rules and regulations.

19.3 The City reserves the right to ensure that New Cingular's Facilities are constructed and maintained in a safe condition. If a violation of any applicable safety regulation is found to exist, the City will notify New Cingular in writing of said violation and establish a reasonable time for New Cingular to take the necessary action to correct the violation. If the correction is not made within the established time frame, the City, or its authorized agent, may make the correction. New Cingular shall reimburse the City for all reasonable costs incurred by the City in correcting the

violation.

## **Section 20. Authorized Activities.**

This Franchise is solely for the location, construction, installation, ownership, operation, replacement, repair, maintenance, acquisition, sale, lease, and use of the Facilities for providing Wireless Services. New Cingular shall obtain a separate franchise for any operations or services other than these authorized activities.

## **Section 21. Administrative Fee and Utility Tax.**

21.1 Pursuant to RCW 35.21.860, the City is precluded from imposing franchise fees upon a telephone business, as defined in RCW 82.16.010, or a Service Provider for use of the Right-of-Way, as defined in RCW 35.99.010, except a utility tax or actual administrative expenses related to the franchise incurred by the City. New Cingular does hereby warrant that its operations, as authorized under this Franchise, are those of a Service Provider as defined in RCW 35.99.010.

21.2 New Cingular shall be subject to a \$5,000 administrative fee for reimbursement of costs associated with the preparation, processing and approval of this Franchise Agreement, including wages, benefits, overhead expenses, meetings, negotiations and other functions related to the approval. The administrative fee excludes normal permit fees required for work in the Right-of-Way. Payment of the one-time administrative fee is due 30 days after Franchise approval.

21.3 If RCW 35.21.860 is amended to allow collection of a franchise fee, this Franchise Agreement shall be amended to require franchise fee payments.

## **Section 22. [Intentionally omitted.]**

## **Section 23. Indemnification.**

23.1 New Cingular agrees to indemnify, save and hold harmless, and defend the City, its elected officials, officers, authorized agents, boards and employees, acting in official capacity, from and against any liability, damages or claims, costs, expenses, settlements or judgments arising out of, or resulting from the granting of this Franchise or New Cingular's activities, or any casualty or accident to Person or property that occurs as a result of any construction, excavation, operation, maintenance, reconstruction or any other act done pursuant to the terms of this Franchise, provided that the City shall give New Cingular timely written notice of its obligation to indemnify the City. New Cingular shall not indemnify the City to the extent any damages, liability or claims result from the City's negligence, willful misconduct, or breach of obligation of the City, its officers, authorized agents, employees, attorneys, consultants, or independent contractors for which the City is legally responsible, or for any activity or function conducted by any Person other than New Cingular.

23.2 In the event New Cingular refuses to undertake the defense of any suit or any claim, after the City's request for defense and indemnification has been made pursuant to the indemnification clauses contained herein, and New Cingular's refusal is subsequently determined by a court having jurisdiction (or such other tribunal that the parties shall agree to decide the matter), to have been a wrongful refusal on the part of New Cingular, then New Cingular shall pay all of the City's reasonable costs and reasonable expenses for defense of the action, including reasonable attorneys' fees of recovering under this indemnification clause, as well as any judgment against

the City.

Should a court of competent jurisdiction or such other tribunal as the parties agree shall decide the matter, determine that this Franchise is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of New Cingular and the City, its officers, employees and agents, New Cingular's liability hereunder shall be only to the extent of New Cingular's negligence. It is further specifically and expressly understood that the indemnification provided in Section 23 of this Franchise constitutes New Cingular's waiver of immunity under Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties.

## **Section 24. Insurance.**

24.1 Insurance Term. New Cingular shall procure and maintain for the duration of this Franchise, insurance against claims for injuries to persons or damage to property which may be caused, in whole or in part, by operations or activities performed by or on New Cingular's behalf with the issuance of this franchise.

24.2 No Limitation. New Cingular's maintenance of insurance as required by the agreement shall not be construed to limit the liability of New Cingular to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

24.3 Scope of Insurance. New Cingular shall obtain insurance of the types and coverage described below:

24.3.1 Commercial General Liability insurance shall be at least as broad as Insurance Services Office (ISO) occurrence form CG 00 01 or its equivalent and shall cover liability caused, in whole or in part, by operations, products-completed operations, and contractual liability. There shall be no specific exclusion for liability arising from explosion, collapse or underground property damage. The City shall be included as an additional insured under New Cingular's Commercial General Liability insurance policy using ISO Additional Insured-State or Political Subdivisions-Permits CG 20 12 or a substitute endorsement providing at least as broad coverage.

24.3.2 Automobile Liability insurance if vehicles will be used in the performance of this contract, covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.

24.4 Amounts of Insurance. New Cingular shall maintain the following insurance limits:

24.4.1 Commercial General Liability insurance shall be written with limits of \$1,000,000 each occurrence, \$2,000,000 general aggregate and a \$2,000,000 products-completed operations aggregate limit.

24.4.2 Automobile Liability insurance with a combined single limit for bodily injury and property damage of \$1,000,000 per accident.

24.5 Other Insurance Provision. New Cingular's Commercial General Liability insurance policy or policies are to contain, or be endorsed to contain that they shall be primary insurance as respect the City. Any Insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of the Applicant's insurance and shall not contribute with it.



24.6 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A-:VII.

24.7 Verification of Coverage. New Cingular shall furnish the City with original certificates and a copy of the amendatory endorsements, including the additional insured endorsement, evidencing the insurance requirements of New Cingular before issuance of the Permit.

24.8 Notice of Cancellation. New Cingular shall provide the City with written notice of any required policy cancellation or nonrenewal that is not replaced, within two business days of their receipt of such notice.

24.9 Failure to Maintain Insurance. Failure on the part of New Cingular to maintain the insurance as required shall constitute a material breach of the Franchise Agreement entitling the City to Liquidated Damages under Section 29, below, or such other and further relief provided for herein or by law. Alternatively, the City may, after giving thirty (30) days' notice to New Cingular to correct the breach, immediately terminate the Franchise.

24.10 Notwithstanding the foregoing, New Cingular shall have the right to self-insure the coverages required in subsection (a). In the event New Cingular elects to self-insure its obligation to include City as an additional insured, the following provisions shall apply (in addition to those set forth in subsection (a)): (i) New Cingular or its parent company shall have and continuously maintain a tangible net worth of at least two hundred million dollars (\$200,000,000.00); (ii) New Cingular continuously maintains appropriate loss reserves for the amount of its self-insurance obligations under this Section 24, which reserves are annually approved by Ernst & Young, or any successor auditing company; (iii) New Cingular shall undertake the defense of any self-insured claim for which a defense and/or coverage would have been available from the insurance company, including a defense of City, at New Cingular's sole cost and expense, with counsel selected by New Cingular and reasonably acceptable to City; (iv) New Cingular shall use its own funds to pay any claim or replace property or otherwise provide the funding which would have been available from insurance proceeds but for New Cingular's election to self-insure; (v) New Cingular shall pay any and all amounts due in lieu of insurance proceeds which would have been payable if New Cingular had carried the insurance policies, which amounts shall be treated as insurance proceeds for all purposes under this Franchise; and (vi) All amounts which New Cingular pays or is required to pay and all loss or damages resulting from risks for which New Cingular has elected to self-insure shall not limit New Cingular's indemnification obligations set forth in this Franchise.

#### **Section 25. Abandonment of New Cingular's Facilities.**

No portion of the Facilities laid, installed, or constructed in the Right-of-Way by New Cingular may be abandoned by New Cingular without the express written consent of the City. Any plan for abandonment or removal of New Cingular's Facilities must be first approved by the Public Works Director, which shall not be unreasonably withheld or delayed, and all necessary permits must be obtained prior to such work.

#### **Section 26. Restoration After Construction.**

New Cingular shall, after any abandonment approved under Section 25 of this Franchise, or any installation, construction, relocation, maintenance, or repair of Facilities within the Franchise area, promptly complete all restoration work and promptly repair any damage caused by such work at

its sole cost and expense. New Cingular agrees to complete all restoration in accordance with the approved permit issued by the City, consistent with the City's Engineering Design Standards, for the work in question.

26.1 If New Cingular should fail to leave any portion of the excavation in a condition that meets the City's specifications per the CMC, the City may, on five (5) days' notice to New Cingular, which notice shall not be required in case of an Emergency Situation, cause all work necessary to restore the excavation to a safe condition. New Cingular shall pay to the City the reasonable cost of such work; which shall include, among other things, the City's overhead in obtaining completion of said work (provided that in no event shall such overhead exceed 5% of the total costs, fees and expenses of third parties).

26.2 Any surface or subsurface failure occurring during the term of this Agreement caused by any excavation by New Cingular, normal wear and tear excepted, shall be repaired to the City's specifications, within thirty (30) days, or, upon five (5) days written notice to New Cingular, the City may order all work necessary to restore the damaged area to a safe and acceptable condition and New Cingular shall pay the reasonable costs of such work to the City, including City overhead (provided that in no event shall such overhead exceed 5% of the total costs, fees and expenses of third parties).

26.3 In the event the work includes cutting and patching existing road surfaces resulting in the degradation of the projected lifespan of the roadway, New Cingular shall compensate the City for the reasonable projected costs resulting from the work, as estimated by the City Engineer or designee.

26.4 New Cingular agrees that if any of its actions under the Franchise materially impair or damage any City property, survey monument, or property owned by a third-party, New Cingular will restore, at its own cost and expense, the impaired or damaged property to the same condition as existed prior to such action. Such repair work shall be performed and completed to the reasonable satisfaction of the Public Works Director.

#### **Section 27. Bond or Letter of Credit.**

Before undertaking any of the work, installation, improvements, construction, repair, relocation or maintenance authorized by this Franchise, New Cingular shall cause to be furnished a bond or Letter of Credit executed by a corporate surety or financial institution authorized to do business in the State of Washington, in a sum to be set and approved by the Director of Public Works, consistent with the provisions of the CMC, as sufficient to ensure performance of New Cingular's obligations under this Franchise. The bond shall be conditioned so that New Cingular shall observe all the covenants, terms and conditions and faithfully perform all of the obligations of this Franchise, and to erect or replace any defective work or materials discovered in the replacement of the City's streets or property within a period of two years from the date of the replacement and acceptance of such repaired streets by the City.

New Cingular may meet the obligations of this Section of this Franchise with one or more bonds acceptable to the City. In the event that a bond issued pursuant to this Section of this Franchise is canceled by the surety, after proper notice and pursuant to the terms of said bond, New Cingular shall, prior to the expiration of said bond, procure a replacement bond which complies with the terms of this Section of this Franchise.

#### **Section 28. Recourse Against Bonds and Other Security.**

So long as the bond is in place, it may be utilized by the City as provided herein for reimbursement of the City by reason of New Cingular's failure to pay the City for actual costs and expenses incurred by the City to make emergency corrections under Section 18 of this Franchise, to correct Franchise violations not corrected by New Cingular after notice, and to compensate the City for monetary remedies or damages reasonably assessed against New Cingular due to material default or violations of the requirements of City ordinances.

28.1 In the event New Cingular has been declared to be in default of a material provision of this Franchise by the City and if New Cingular fails, within thirty (30) days of mailing of the City's default notice, to pay the City any penalties, or monetary amounts, or fails to perform any of the conditions of this Franchise, or fails to begin to perform any condition that may take more than 30 days to complete, the City may thereafter obtain from the bond, after a proper claim is made to the surety, an amount sufficient to compensate the City for its damages. Upon such withdrawal from the bond, the City shall notify New Cingular in writing, by First Class Mail, postage prepaid, of the amount withdrawn and date thereof.

28.2 Thirty (30) days after the City's mailing of notice of the bond forfeiture or withdrawal authorized herein, New Cingular shall deposit such further bond, or other security, as the City may require, which is sufficient to meet the requirements of this franchise.

28.3 The rights reserved to the City with respect to any bond are in addition to all other rights of the City whether reserved by this Ordinance or authorized by law, and no action, proceeding, or exercise of a right with respect to any bond shall constitute an election or waiver of any rights or other remedies the City may have.

## **Section 29. Liquidated Damages.**

29.1 The City and New Cingular recognize the delays, expense and unique difficulties involved in proving in a legal proceeding the actual loss suffered by the City as a result of New Cingular's breach of certain provisions of this Franchise. Accordingly, instead of requiring such proof, the City and New Cingular agree that New Cingular shall pay to the City, the sum set forth below for each day or part thereof that New Cingular shall be in breach of specific provisions of this Franchise. Such amount is agreed to by both parties as a reasonable estimate of the actual damages the City would suffer in the event of New Cingular's breach of such provisions of this Franchise.

29.1.1 Subject to the provision of written notice to New Cingular and a thirty (30) day right to cure period, the City may assess against New Cingular liquidated damages as follows: two hundred dollars (\$200.00) per day for any material breach of the Franchise.

29.1.2 The City shall provide New Cingular a reasonable extension of the thirty (30) day right to cure period described in Section 29.1.1 of this Franchise if New Cingular has commenced work to cure the violation, is diligently and continuously pursuing the cure to completion and requested such an extension, provided that any such cure is completed within one hundred and twenty (120) days from the written notice of default.

29.1.3 If liquidated damages are assessed by the City, New Cingular shall pay any liquidated damages within forty-five (45) days after they are assessed and billed.

29.1.4 In the event New Cingular fails to cure within the specified cure period, or any



agreed upon extensions thereof, liquidated damages accrue from the date the City notifies New Cingular that there has been a violation.

29.2 The recovery of amounts under Section 29.1.1 of this Franchise shall not be construed to limit the liability of New Cingular under the Franchise or an excuse for unfaithful performance of any obligation of New Cingular. Similarly, the parties agree imposition of liquidated damages are not intended to be punitive, but rather, for City cost recovery purposes.

### **Section 30. Remedies to Enforce Compliance.**

In addition to any other remedy provided herein, the City and New Cingular each reserve the right to pursue any remedy to compel the other to comply with the terms of this Franchise, and the pursuit of any right or remedy by a party shall not prevent such party from thereafter declaring a breach or revocation of the Franchise.

### **Section 31. Modification.**

The City and New Cingular hereby reserve the right to alter, amend or modify the terms and conditions of this Franchise upon written agreement of both parties to such amendment. City agreement shall be binding only upon City Council approval of any substantive alteration, amendment or modification of this Agreement.

### **Section 32. Force Majeure.**

This Franchise shall not be revoked, nor shall New Cingular be liable for damages, due to any act or omission that would otherwise constitute a violation or breach that occurs without fault of New Cingular or occurs as a result of circumstances beyond New Cingular's reasonable control. Provided, however, New Cingular acts diligently to correct any such act or omission.

### **Section 33. City Ordinances and Regulations.**

Nothing herein shall be deemed to direct or restrict the City's ability to adopt and enforce all necessary and appropriate lawful ordinances regulating the performance of the conditions of this Franchise, including any reasonable lawful ordinance made in the exercise of its police powers in the interest of public safety and for the welfare of the public. The City shall have the authority at all times to control, by appropriate lawful regulations, the location, elevation, and manner of construction and maintenance of any Facilities by New Cingular. New Cingular shall promptly conform to all such regulations, unless compliance would cause New Cingular to violate other requirements of law.

### **Section 34. Acceptance/Liaison.**

New Cingular's written acceptance shall include the identification of an official liaison who will act as the City's contact for all issues regarding this Franchise. New Cingular shall notify the City of any change in the identity of its liaison.

### **Section 35. Survival.**

All of the provisions, conditions and requirements of Sections 10, Relocation of Facilities; 14, Excavation And Notice Of Entry; 18, Dangerous Conditions; 23, Indemnification; 25, Abandonment of New Cingular's Facilities; and 26, Restoration After Construction, of this Franchise shall be in addition to any and all other obligations and liabilities New Cingular may have to the City at common law, by statute, or by contract, and shall survive the City's Franchise to New Cingular and any renewals or extensions thereof. All of the provisions, conditions, regulations and requirements contained in this Franchise Ordinance shall further be binding upon the heirs, successors, executors, administrators, legal representatives and assigns of the parties and all privileges, as well as all obligations and liabilities of each party shall inure to its heirs, successors and assigns equally as if they were specifically mentioned wherever such party is named herein.

### **Section 36. Severability.**

If any section, sentence, clause or phrase of this Franchise Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Franchise Ordinance. In the event that any of the provisions of this Franchise Ordinance or of this Franchise are held to be invalid by a court of competent jurisdiction, the City reserves the right to reconsider the grant of this Franchise and may amend, repeal, add, replace or modify any other provision of this Franchise Ordinance or of the Franchise granted herein, or may terminate this Franchise.

### **Section 37. WUTC Tariff Filings, Notice Thereof.**

If New Cingular intends to file, pursuant to RCW Chapter 80.28, with the Washington Utilities and Transportation Commission (WUTC), or its successor, any tariff affecting the City's rights arising under this Franchise, New Cingular shall provide the City with fourteen (14) days prior written notice.

### **Section 38. Binding Acceptance.**

This Franchise shall bind and benefit the parties hereto and their respective successors and assigns.

### **Section 39. Assignment.**

39.1 This Franchise shall not be sold, transferred, assigned, or disposed of in whole or in part either by sale or otherwise, without the written approval of the City. The City's approval shall not be unreasonably withheld or delayed. Any reasonable costs associated with the City's review of any transfer proposed by New Cingular shall be reimbursed to the City by the new prospective Franchisee, if the City approves the transfer, or by New Cingular if said transfer is not approved by the City.

39.2 Notwithstanding the foregoing, upon thirty (30) days' written notice, New Cingular may assign this Franchise or its rights or obligations to any person or entity controlling, controlled by, or under common control with New Cingular as of the date of such assignment.

**Section 40. Alternate Dispute Resolution.**

If the City and New Cingular are unable to resolve disputes arising from the terms of the Franchise granted herein, prior to resorting to a court of competent jurisdiction, the parties shall submit the dispute to an alternate dispute resolution process in Clark County agreed to by the parties. Unless otherwise agreed between the parties or determined herein, the cost of that process shall be shared equally.

**Section 41. Venue.**

If alternate dispute resolution is not successful, the venue for any dispute related to this Franchise shall be the United States District Court for the Western District of Washington, or Clark County Superior Court.

**Section 42. Entire Agreement.**

This Franchise constitutes the entire understanding and agreement between the parties as to the subject matter herein and no other agreements or understandings, written or otherwise, shall be binding upon the parties upon execution and acceptance hereof.

**Section 43. Notice.**

Any notice or information required or permitted to be given to the City or to New Cingular under this Franchise may be sent to the following addresses unless otherwise specified:

If to the City, the notice shall be sent to:

CITY OF CAMAS  
City Administrator  
616 NE 4<sup>th</sup> Avenue  
Camas, WA 98607

If to New Cingular, the notice shall be sent to:

New Cingular Wireless PCS, LLC  
Attn: Network Real Estate Administration  
Site No. City of Camas Wireless Franchise Agreement (WA)  
1025 Lenox Park Blvd NE, 3<sup>rd</sup> Floor  
Atlanta, GA 30319

With a copy to:

New Cingular Wireless PCS, LLC  
Attn: AT&T Legal Dept – Network Operations  
Site No. City of Camas Wireless Franchise Agreement (WA)  
208 S. Akard Street  
Dallas, TX 75202-4206

Either party can alter their official address for notifications provided in this Section of this Franchise by providing the other party written notice thereof.



**Section 44. Directions to City Clerk.**

The City Clerk is hereby directed to publish this Ordinance in full and forward certified copies of this ordinance to New Cingular. New Cingular shall have thirty (30) days from receipt of the certified copy of this ordinance to execute this Franchise Agreement. If New Cingular fails to execute this Franchise in accordance with the above provisions, this Franchise shall be null and void.

**Section 45. Publication Costs.**

New Cingular shall reimburse the City for the cost of publishing this Franchise ordinance within thirty (30) Days of receipt of the City's invoice.

**Section 46. Effective Date.**

This ordinance shall take effect and be in full force five (5) Days after the date of publication.

**Signed by the duly authorized representative of the parties as set forth below:**

**New Cingular**

**City**

New Cingular Wireless PCS, LLC  
a Delaware limited liability company

City of Camas  
a Washington Municipal Corporation

By: AT&T Mobility Corporation  
Its: Manager

\_\_\_\_\_  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_ by Shannon Turk, Mayor

PASSED BY THE CITY COUNCIL ON \_\_\_\_\_, 2019.

**ATTEST:**

\_\_\_\_\_  
City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
City Attorney

## **LICENSE AGREEMENT FOR WIRELESS INSTALLATIONS ON PUBLIC STRUCTURES**

This License Agreement For Wireless Installations on Public Structures (“Agreement”) is made and entered into as of the Effective Date by and between the City of Camas (“Licensor”) and NEW CINGULAR WIRELESS PCS, LLC, a Delaware limited liability company (“Licensee”).

### **RECITALS**

WHEREAS, Licensee seeks to attach Wireless Installations to certain Structures and to utilize certain Infrastructure upon the terms and conditions set forth below;

WHEREAS, Licensor is willing to accommodate Licensee’s non-exclusive use of such Structures and Infrastructure in accordance with Laws and the terms and conditions of this Agreement; and

WHEREAS, concurrently with the execution of this Agreement, Licensor and Licensee are entering into a Franchise Agreement pursuant to which Licensee may construct, maintain, operate, replace and repair wireless communications facilities in, along, under, through and below Licensor’s public rights-of-way; and

WHEREAS, any capitalized terms in this Agreement shall have the meaning ascribed to them in Exhibit 1 attached hereto and incorporated herein by reference.

NOW, THEREFORE, FOR VALUABLE CONSIDERATION, receipt of which is hereby conclusively acknowledged, the Parties agree as follows:

### **1. GRANT OF LICENSE**

1.1 Grant of License. To the extent not already governed by Laws, Licensor hereby grants Licensee a license for Licensee’s use of the Licensed Site as necessary to utilize, replace or upgrade Licensor’s Structures and Infrastructure, as provided herein and as provided in the individual Site License Agreements signed by the Parties pursuant to this Agreement. The license granted herein is revocable only in accordance with the terms and conditions of the Agreement. No use of Licensor’s Structures or Infrastructure under this Agreement shall create or vest in Licensee any ownership or property rights in such Structures or Infrastructure. Nothing in this Agreement grants Licensee the right to make any Wireless Installation, or to install other facilities, including Wireless Installations, that do not conform to this Agreement.

1.2. Permitted Use. Licensee may use Licensor’s Structures and Infrastructure for the Permitted Use, subject to the terms and conditions of this Agreement.

### **2. TERM**

2.1 Agreement Term. This Agreement shall commence as of the Effective Date, and, if not lawfully terminated sooner, remain in full force and effect for the Agreement Initial Term. The Agreement will be automatically extended for three (3) successive five (5) year renewal terms, unless: (i) Licensee provides Licensor written notice of termination at least ninety (90) days prior to the expiration of the Agreement Initial Term or the then applicable renewal term, as the case may be, or (ii) with respect to the second renewal term or third renewal term, Licensor provides Licensee notice of its intent not to renew at least three hundred sixty five (365) days prior to the expiration of the first renewal term or second renewal term, as the case may be.

#### 2.2 Site License Agreement Term.

(a) The initial term for each individual Site License Agreement shall commence on the Commencement Date and shall be for the Site License Initial Term. Promptly following Licensee’s receipt of Licensor’s written request, the Parties shall confirm in an Acknowledgment the Commencement Date and expiration date of the Site License Initial Term.

(b) Each Site License Agreement shall be automatically extended for up to three (3) successive Site License Renewal Terms unless Licensee notifies Licensor in writing of Licensee’s intent

not to renew the Site License at least thirty (30) days prior to the expiration of the Site License Initial Term or the then applicable Site License Renewal Term, as the case may be.

(c) Notwithstanding anything herein, no Site License Agreement which was signed during the Term of the Agreement shall survive beyond the expiration or earlier termination of this Agreement, it being the intent of the parties that each Site License Agreement shall be coterminous with this Agreement, and upon the expiration or earlier termination of this Agreement, Licensee shall submit to Licensor for its review and approval, which shall not be unreasonably withheld or delayed, Licensee's plan for abandonment or removal its Wireless Installations then attached to Licensor's Structures.

### **3. CHARGES, BILLING AND PAYMENT**

#### **3.1 Annual Fee.**

(a) Licensee shall pay Licensor a Fee of Two Hundred Seventy and No/100 Dollars (\$270.00) per Wireless Installation located in Licensor's right-of-way for each year of the Site License Term. The Fee is per Wireless Installation, and includes all Structure, Infrastructure, appurtenant equipment and facilities used in connection with each Wireless Installation. Except in the event of a voluntary termination of a Site License Agreement pursuant to Section 13.4(b) below, the Fee will be prorated for any partial year based on a 360-day calculation.

(b) The Fee may be revised once per calendar year to an amount that is calculated pursuant to the terms and conditions of the FCC 2018 Order, calculated pursuant to a cost study which has been reviewed, adopted and approved by Licensor's City's Council and is not subject to further appeals or subject to a complaint before a competent regulatory agency or court. After the revised Fee is final as described in the preceding sentence, Licensor shall provide Notice to Licensee of the Fee in accordance with the notice requirements of this Agreement. The Fee payable under this Agreement will adjust to Licensor's Cost starting with Fee payments that are due at least 90 days after the date of such notice.

(c) Licensor hereby represents and warrants as of the date hereof and covenants and agrees from and after the date hereof that none of the rates or fees offered to any other entity with respect to Wireless Installations is or will be more favorable than the Fee under this Agreement. If Licensor agrees to a rate or fee that is more favorable than the Fee under this Agreement, Licensee shall be entitled under this Agreement to such rate or fee on and after the date such rate or fee becomes effective.

3.2 Timing of Payment. Licensee shall make the first payment of the Fee under any Site License Agreement within ninety (90) days of the full execution of the Acknowledgment. Thereafter, the Fee shall be paid on or before each anniversary of the Commencement Date during the Site License Term.

3.3 Billing and Payment Generally. All bills and other requests for payment to Licensor under this Agreement (other than the payment of the Fee) shall be presented in writing to Licensee and accompanied with reasonable substantiation of the costs incurred by Licensor. Properly presented invoices shall be paid by Licensee within ninety (90) days of receipt of invoice accompanied by such substantiation. All charges payable under this Agreement shall be billed by Licensor within one (1) year from the end of the calendar year in which the charges were incurred. Any charges beyond such period shall not be billed by Licensor, and shall not be payable by Licensee.

### **4. SITE LICENSE PROCESS**

4.1 Site License Application. Subject to Section 4.4 below, before installing any new or additional Wireless Installation onto any Structure or utilizing any Infrastructure, Licensee shall apply for a Site License Agreement from Licensor using a Site License Application in the form attached as Exhibit 2. Licensee will identify in the Site License Application any Licensor Work it believes needs to be performed in connection with Licensee's use of the Structure and/or Infrastructure.

4.2 Processing of Site License Application. Unless Laws provide otherwise, Licensor will take reasonable steps to notify Licensee of the specific deficiencies in any Site License Application within ten (10) days of its submission. If the initial Site License Application is incomplete, the review timeframe will



be reset upon resubmittal of the missing documents. If a resubmitted application is deemed incomplete, the review timeframe will pause (not reset) until the missing information is submitted. Licensor will take reasonable steps to approve or reject each Site License Application within sixty (60) days of its submission for sites that have existing Poles, and ninety (90) days for Sites that do not have an existing Pole. Licensor may, on Technical Grounds, deny all or part of a Site License Application, or limit the number and/or technical characteristics (*e.g.*, weight or size) of any Wireless Installation on any Structure or Infrastructure. In the event Licensor determines, based upon Technical Grounds, that inadequate space or structural capacity exists on its Structure(s) or inadequate space or capacity exists on its Infrastructure to accommodate any proposed Wireless Installation, Licensee may elect to have such Structure(s) replaced or upgraded as part of Licensor Work or such Infrastructure replaced or upgraded as part of Licensor Work, at Licensee's sole expense, with Structure(s) or Infrastructure with adequate space and structural capacity to accommodate the proposed Wireless Installation. In the event of rejection on Technical Grounds of a Site License Application, Licensor shall provide a written explanation to Licensee of the basis for the rejection. In the event that Licensor approves Licensee's Site License Application, then the Parties shall promptly proceed in good faith to sign and deliver a Site License Agreement for the Wireless Installation in the form attached as Exhibit 3 fully consistent with Licensor's approval of the Site License Application.

4.3 Consolidated Site License Application. For small cell networks involving Wireless Installations on multiple Structures and/or Infrastructure, Licensee may, in its discretion, file a consolidated application for utilization of multiple Structures and Infrastructure, and upon approval by Licensor, the Parties shall enter into a separate Site License Agreement for each approved Structure and/or Infrastructure location.

4.4 Modifications and Replacements. Except for any Wireless Installation installed upon a decorative Structure or upon a Structure located within either a scenic or historic district, subsequent to the original Wireless Installation approved by Licensor, Licensee may, without submitting a new Site License Application, modify or replace all or a portion of the Wireless Installation so long as such modification or replacement (a) results in the installation of equipment within the spaces designated or depicted in the Site License Application and (b) the resulting installation does not increase the load on the applicable Structure or the utilization of the Infrastructure beyond the loading or utilization, if any, that was established in the original Site License Application. Licensee shall still be required to notify the Licensor of the work and obtain any other permits required by the Camas Municipal Code to complete the work.

4.5 Pre-Approved Wireless Installations. Once a Wireless Installation design has become a Pre-Approved Wireless Installation for Licensee's use of a Structure and/or Infrastructure, then Licensee shall be allowed to install a Wireless Installation using any such Pre-Approved Wireless Installation without further land use review or approval by Licensor, subject to space and structural capacity and loading review by Licensor during the building permit review process. All other municipal reviews and approvals, including the execution of a Site License Agreement, building permits and right of way permits, shall apply to the installation of any Pre-Approved Wireless Installation.

4.6 Additional License and Permits Required by Camas Municipal Code. To the extent not in contravention of any applicable Law, Wireless Installations will be installed, operated and maintained by or on behalf of Licensee in accordance with applicable provisions of the Camas Municipal Code regulating wireless communications facilities. Licensee or its designee may be required to apply for and obtain additional permits from the Licensor, including but not limited to a permit issued by the Licensor for work performed within the rights-of-way, prior to Licensor issuing a Site License Agreement. Execution of this Agreement or any Site License Agreement does not constitute the issuance of a Permit.

## **5. LICENSOR WORK FOR STRUCTURES AND INFRASTRUCTURE**

5.1 Licensor Work. At the time of approving the Site License Application, Licensor will advise Licensee whether Licensor is willing to perform Licensor Work identified in the Site License Application. If Licensor indicates it is willing to perform the Licensor Work, Licensor will provide Licensee with a Licensor Work Cost Estimate within fourteen (14) days of Licensor authorizing the Site License

Agreement in accordance with Section 4.2, unless Laws provides a different deadline. Licensee shall have sixty (60) days from the receipt of such a Licensor Work Cost Estimate to accept the estimate, unless Laws provides a different deadline.

5.2 Licensor Work Timeline. Licensor will begin Licensor Work promptly after it has received Licensee's Approved Licensor Work Cost Estimate and full payment thereof and complete all Licensor Work within sixty (60) days thereafter. If Licensor does not indicate that it is willing to perform the Licensor Work, Licensee may perform the Licensor Work itself.

5.3 Licensor Work Reconciliation. If the actual and reasonable costs incurred by Licensor in completing a Licensor Work exceed the pre-paid Approved Licensor Work Cost Estimate, Licensee shall pay Licensor the shortfall amount of such costs within ninety (90) days of receipt of the invoice accompanied by reasonable substantiation. If such Licensor Work costs are less than the pre-paid Approved Licensor Work Cost Estimate, Licensor will refund the excess Licensor Work payment to Licensee within ninety (90) days following completion of the Licensor Work. No interest shall accrue on any Licensee overpayment or underpayment for Licensor Work

5.4 Costs To Rearrange/Adjust Facilities of Others. If a Person, other than Licensor, must rearrange or adjust any of its facilities to accommodate a new Wireless Installation, Licensee shall coordinate such activity at Licensee's sole expense; provided, however, that Licensee shall not be responsible for any third-party or Licensor costs necessary to correct third party or Licensor attachments that are non-compliant with Laws.

## **6. GENERAL LICENSEE OBLIGATIONS**

6.1 Technical Requirements and Specifications. At its own expense, Licensee shall erect, install, repair and maintain its Wireless Installations in safe condition and good repair in accordance with (a) the requirements and specifications of Safety Codes; (b) Licensor's reasonable standards, and (c) any current or future rules or orders of the FCC, the State public utility commission, or any other federal, state or local authority having jurisdiction. Changes to the requirements, specifications, standards, rules and orders in subsections (a), (b) and (c) shall not apply retroactively unless required by Laws, and Licensor shall give at least sixty (60) days' written notice of changes to the standards in subsection (c).

6.2 No Liens. Licensee will not allow to exist any lien with respect to any Structure or Infrastructure or other Licensor property or facility resulting from any work performed by or on behalf of Licensee pursuant to this Agreement, or any act or claim against Licensee or any of its contractors, agents, or customers. Licensee will, at its sole expense, promptly bond or otherwise discharge any such lien within thirty (30) days of receipt of written notice from Licensor of the existence of such lien.

6.3 Worker Qualifications; Responsibility for Agents and Contractors. Each Party shall ensure that its employees, agents or contractors which perform work in furtherance of this Agreement are adequately trained and skilled to access Structures and Infrastructure in accordance with all applicable industry and governmental standards and regulations.

**7. UTILITIES**. Licensee shall install or cause to be installed a separate electric meter on a ground mounted pedestal or on Licensee's pad mounted equipment cabinet as required by the electric provider for the operation of its Equipment. Licensee shall be responsible for paying all charges for any electricity furnished by a utility Licensee furnishing service to the Equipment.

## **8. OPERATION AND MAINTENANCE**

8.1. RF Emissions. Licensee's operation of its Wireless Installations will comply with all FCC regulations regarding RF emissions and exposure limitations. Licensee is allowed to install signage and other mitigation, such as a power cut-off switch on Structures, to allow workers and third parties to avoid excess exposure to RF emissions. Except in an Emergency, Licensor's authorized field personnel will contact Licensee's designated point of contact with reasonable advance notice, but in no event less than one (1) business day in advance, to inform Licensee of the need for a temporary power-shut-down. In the event of an unplanned outage or cut-off of power or an Emergency, the power-down will be performed with such

advance notice as practicable. Once the work has been completed and the worker(s) have departed the exposure area, the party who accomplished the power-down shall restore power and inform Licensee as soon as possible that power has been restored. The Parties acknowledge that they understand the vital nature of Licensee's Wireless Installations and agree to limit the frequency of power-downs and to restore power as promptly as much as reasonably possible.

## 8.2 Interference.

(a) Licensee will operate its Wireless Installations in compliance with all FCC regulations regarding Interference with the radio signal transmissions of Licensor and other third parties in or upon a Structure, which transmissions are operated in compliance with Laws.

(b) Licensor will not grant after the date of this Agreement a permit, license or any other right to any third party if, at the time such third party applies to use a Structure or Infrastructure, Licensor knows that such third party's use shall cause Interference with the Licensee's existing Wireless Installations, Licensee's use of the Structure or Infrastructure, or Licensee's ability to comply with the terms and conditions of this Agreement.

(c) Licensor will not, nor will Licensor permit its employees, invitees, agents or independent contractors to intentionally cause Interference with Licensee's existing Wireless Installations, Licensee's use of the Structure or Infrastructure, or Licensee's ability to comply with the terms and conditions of this Agreement. If Licensee reasonably determines that Interference is occurring, then Licensor will meet and confer with Licensee within five (5) days of Licensor's receipt of notice of Interference from Licensee, and otherwise diligently work in good faith with Licensee to determine the root cause of the Interference and to develop workable solutions to resolve the Interference in a mutually acceptable manner.

## **9. RELOCATION AND ABANDONMENT**

9.1 Licensee agrees and covenants at no cost to Licensor, to relocate its Wireless Installations when requested to do so by Licensor for a public project, provided that, Licensee shall in all such cases have the privilege, upon approval by Licensor, to temporarily bypass, in the authorized portion of the same right of way any Wireless Installations required to be relocated.

9.2 If Licensor determines that a public project necessitates the relocation of Licensee's existing Wireless Installations, Licensor shall:

(a) At least seventy-five (75) days prior to the commencement of such project, provide Licensee with written notice of known Wireless Installations requiring such relocation; and

(b) Provide Licensee with copies of any plans and specifications pertinent to the requested relocation and a proposed temporary or permanent relocation for Licensee's Wireless Installations.

(c) Meet with Licensee, if requested, within five (5) business days to discuss the scope, requirements and challenges of the relocation work.

9.3 After receipt of such notice and such plans and specifications and meeting, Licensee shall complete relocation of its Wireless Installations at no charge or expense to Licensor at least ten (10) days prior to commencement of the project.

9.4 Licensee may, after receipt of written notice requesting a relocation of its Wireless Installations, submit to Licensor written alternatives to such relocation. Licensor shall evaluate such alternatives and advise Licensee in writing as soon as practicable if any of the alternatives is suitable to accommodate the work that otherwise necessitates the relocation of the Wireless Installations. If so requested by Licensor, Licensee shall submit additional information to assist Licensor in making such evaluation. Licensor shall give each alternative proposed by Licensee as full and fair a consideration as the project schedule will allow. In the event Licensor ultimately determines that there is no other reasonable alternative, Licensee shall relocate its Wireless Installations as directed by Licensor and in accordance with this Section



9 of this Agreement.

9.5 Licenser will notify Licensee as soon as practical of any Wireless Installations that are not identified during the design of the public project, but are discovered during the course of construction and need to be relocated. Licensee will work with Licenser to design and complete a relocation to facilitate the completion of the public project with minimum delay.

9.6 Failure to complete a relocation requested by Licenser in accordance with this Section 9 of this Agreement by the date included in the notice provided for thereby may subject Licensee to liquidated damages as provided in Section 14 of this Agreement, except in the event Licensee suffers a force majeure or other event beyond its reasonable control. Alternatively, should Licenser's project be delayed as a result of Licensee's failure to complete a relocation requested in accordance with this Section 9 of this Agreement and provided Licensee has not suffered a force majeure or other event beyond its reasonable control, then Licenser may, at Licensee's sole expense, have the Wireless Installations relocated by Licenser's contractor. In such event, Licensee shall pay the cost of relocation within 30 days of submission of an invoice by Licenser. This Section shall only apply if applied in a non-discriminatory manner and it is necessary for all Wireless Installations and appurtenances to be moved in the same location.

9.7 The provisions of this Section of this Agreement shall in no manner preclude or restrict Licensee from making any arrangements it may deem appropriate when responding to a request for relocation of its Wireless Installations by any person other than Licenser, where the improvements to be constructed by said person are not or will not become Licenser-owned, operated or maintained, provided that such arrangements do not unduly delay a Licenser construction project. The provisions of this Agreement are subject to RCW 35.99.060. In the event of a conflict between the provisions of this Agreement and the RCW, the RCW shall control.

9.8 Licensee recognizes the need for Licenser to maintain adequate width for installation and maintenance of sanitary sewer, water and storm drainage utilities owned by Licenser and other public utility providers. Thus, Licenser reserves the right to maintain clear zones within the public right of way for installation and maintenance of said utilities. The clear zones for each right of way segment shall be noted and conditioned with the issuance of each right of way permit. If adequate clear zones are unable to be achieved on a particular right of way, Licensee shall locate in an alternate right of way, obtain easements from private property owners, or propose alternate construction methods which maintain and/or enhance the existing clear zones.

9.9 No portion of the Wireless Installations attached to the Structures or Infrastructure by Licensee may be abandoned by Licensee without the express written consent of Licenser. Any plan for abandonment or removal of Licensee's Wireless Installations must be first approved by the Public Works Director, which shall not be unreasonably withheld or delayed, and all necessary permits must be obtained prior to such work.

## 10. INSURANCE

10.1 Insurance Term. Licensee shall procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons or damage to property which may be caused, in whole or in part, by operations or activities performed by or on Licensee's behalf with the issuance of this Agreement.

10.2 No Limitation. Licensee's maintenance of insurance as required by this Agreement shall not be construed to limit the liability of Licensee to the coverage provided by such insurance, or otherwise limit Licenser's recourse to any remedy available at law or in equity.

10.3 Scope of Insurance. Licensee shall obtain insurance of the types and coverage described below:

(a) Commercial General Liability insurance shall be at least as broad as Insurance Services Office (ISO) occurrence form CG 00 01 or its equivalent and shall cover liability caused, in whole or in part, by operations, products-completed operations, and contractual liability. There shall be no specific exclusion for liability arising from explosion, collapse or underground property damage. Licensor shall be included as an additional insured under Licensee's Commercial General Liability insurance policy using ISO Additional Insured-State or Political Subdivisions-Permits CG 20 12 or a substitute endorsement providing at least as broad coverage.

(b) Automobile Liability insurance if vehicles will be used in the performance of this contract, covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.

10.4 Amounts of Insurance. Licensee shall maintain the following insurance limits:

(a) Commercial General Liability insurance shall be written with limits of \$1,000,000 each occurrence, \$2,000,000 general aggregate and a \$2,000,000 products- completed operations aggregate limit.

(b) Automobile Liability insurance with a combined single limit for bodily injury and property damage of \$1,000,000 per accident.

10.5 Other Insurance Provision. Licensee's Commercial General Liability insurance policy or policies are to contain, or be endorsed to contain that they shall be primary insurance as respect Licensor. Any Insurance, self-insurance, or self-insured pool coverage maintained by Licensor shall be excess of the Licensee's insurance and shall not contribute with it.

10.6 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A-:VII.

10.7 Verification of Coverage. Licensee shall furnish Licensor with original certificates and a copy of the amendatory endorsements, including the additional insured endorsement, evidencing the insurance requirements of Licensee before issuance of the Permit.

10.8 Notice of Cancellation. Licensee shall provide Licensor with written notice of any required policy cancellation or nonrenewal that is not replaced, within two business days of their receipt of such notice.

10.9 Failure to Maintain Insurance. Failure on the part of Licensee to maintain the insurance as required shall constitute a material breach of the Agreement entitling Licensor to Liquidated Damages under Section 14, below, or such other and further relief provided for herein or by law. Alternatively, Licensor may, after giving thirty (30) days' notice to Licensee to correct the breach, immediately terminate this Agreement.

10.10 Self-Insurance. Notwithstanding the foregoing, Licensee shall have the right to self-insure the coverages required in subsection (a). In the event Licensee elects to self-insure its

obligation to include Licensor as an additional insured, the following provisions shall apply (in addition to those set forth in subsection (a)): (i) Licensee or its parent company shall have and continuously maintain a tangible net worth of at least two hundred million dollars (\$200,000,000.00); (ii) Licensee continuously maintains appropriate loss reserves for the amount of its self-insurance obligations under this Section 10, which reserves are annually approved by Ernst & Young, or any successor auditing company; (iii) Licensee shall undertake the defense of any self-insured claim for which a defense and/or coverage would have been available from the insurance company, including a defense of Licensor, at Licensee's sole cost and expense, with counsel selected by Licensee and reasonably acceptable to Licensor; (iv) Licensee shall use its own funds to pay any claim or replace property or otherwise provide the funding which would have been available from insurance proceeds but for Licensee's election to self-insure; (v) Licensee shall pay any and all amounts due in lieu of insurance proceeds which would have been payable if Licensee had carried the insurance policies, which amounts shall be treated as insurance proceeds for all purposes under this Agreement; and (vi) All amounts which Licensee pays or is required to pay and all loss or damages resulting from risks for which Licensee has elected to self-insure shall not limit Licensee's indemnification obligations set forth in this Agreement.

**11. LIMITATION OF LIABILITY. NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES SUFFERED BY THE OTHER PARTY OR BY ANY CUSTOMER OR ANY PURCHASER OF SUCH PARTY OR ANY OTHER PERSON, FOR LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, WHETHER BY VIRTUE OF ANY STATUTE, IN TORT OR IN CONTRACT, EXCEPT THAT THE EXPRESS INDEMNIFICATION OBLIGATIONS MADE BY THE PARTIES IN SECTION 12 OF THIS AGREEMENT SHALL STILL APPLY.**

## **12. INDEMNIFICATION**

12.1 Licensee agrees to indemnify, save and hold harmless, and defend Licensor, its elected officials, officers, authorized agents, boards and employees, acting in official capacity, from and against any liability, damages or claims, costs, expenses, settlements or judgments arising out of, or resulting from the granting of this Agreement or Licensee's activities, or any casualty or accident to person or property that occurs as a result of any construction, excavation, operation, maintenance, reconstruction or any other act done pursuant to the terms of this Agreement, provided that Licensor shall give Licensee timely written notice of its obligation to indemnify Licensor. Licensee shall not indemnify Licensor to the extent any damages, liability or claims result from Licensor's negligence, willful misconduct, or breach of obligation of Licensor, its officers, authorized agents, employees, attorneys, consultants, or independent contractors for which Licensor is legally responsible, or for any activity or function conducted by any person other than Licensee.

12.2 In the event Licensee refuses to undertake the defense of any suit or any claim, after Licensor's request for defense and indemnification has been made pursuant to the indemnification clauses contained herein, and Licensee's refusal is subsequently determined by a court having jurisdiction (or such other tribunal that the parties shall agree to decide the matter), to have been a wrongful refusal on the part of Licensee, then Licensee shall pay all of Licensor's reasonable costs and reasonable expenses for defense of the action, including reasonable attorneys' fees of recovering under this indemnification clause, as well as any judgment against Licensor.



Should a court of competent jurisdiction or such other tribunal as the parties agree shall decide the matter, determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of Licensee and Licensor, its officers, employees and agents, Licensee's liability hereunder shall be only to the extent of Licensee's negligence. It is further specifically and expressly understood that the indemnification provided in Section 12 of this Agreement constitutes Licensee's waiver of immunity under Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties.

### **13. DEFAULT AND TERMINATION**

13.1 Licensee's Default and Licensor's Remedies. If Licensee does not cure its Default, then thereafter Licensor may elect any of the following remedies:

- (a) suspend Licensee's access to the Structure or Infrastructure to which the Default pertains;
- (b) terminate the specific Site License Agreement(s) or affected portion thereof covering the Structure(s) or Infrastructure to which the Default pertains;
- (c) require Licensee's obligation to which the Default has been declared to be specifically performed; or
- (d) maintain an action at law against Licensee for damages directly incurred by Licensor arising directly from Licensee's uncured Default.

13.2 Licensor's Default and Licensee's Remedies. If Licensor does not cure its Default, then thereafter, Licensee may elect to pursue any rights or remedies available to Licensee at law or in equity.

13.3 Voluntary Termination of Site License Agreement.

- (a) A Site License Agreement may be terminated by Licensee for any reason or no reason, and without further liability to Licensee, at any time prior to the Commencement Date effective upon written notice to Licensor.
- (b) A Site License Agreement may be terminated by Licensee after the Commencement Date for any reason or no reason effective upon the later of (i) thirty (30) days' following written notice to Licensor and (ii) the date of removal of the Wireless Installation. In the event Licensee has paid a Fee to Licensor for the use of the Licensed Site, then Licensor shall have the right to retain the Fee without refund or other credit to Licensee.

### **14. LIQUIDATED DAMAGES.**

14.1 Licensor and Licensee recognize the delays, expense and unique difficulties involved in proving in a legal proceeding the actual loss suffered by Licensor as a result of Licensee's breach of certain provisions of this Agreement. Accordingly, instead of requiring such proof, Licensor and Licensee agree that Licensee shall pay to Licensor, the sum set forth below for each day or part thereof that Licensee shall be in breach of specific provisions of this Agreement. Such amount is agreed to by both parties as a reasonable estimate of the actual damages Licensor would suffer in the event of Licensee's breach of such provisions of this Agreement.

- (a) Subject to the provision of written notice to Licensee and a thirty (30) day right to cure period, Licensor may assess against Licensee liquidated damages as follows: two hundred dollars (\$200.00) per day for any material breach of the Agreement.
- (b) Licensor shall provide Licensee a reasonable extension of the thirty (30)

day right to cure period described in Section 14.1(a) of this Agreement if Licensee has commenced work to cure the violation, is diligently and continuously pursuing the cure to completion and requested such an extension, provided that any such cure is completed within one hundred and twenty (120) days from the written notice of default.

(c) If liquidated damages are assessed by Licensor, Licensee shall pay any liquidated damages within forty-five (45) days after they are assessed and billed.

(d) In the event Licensee fails to cure within the specified cure period, or any agreed upon extensions thereof, liquidated damages accrue from the date Licensor notifies Licensee that there has been a violation.

14.2 The recovery of amounts under Section 14.1(a) of this Agreement shall not be construed to limit the liability of Licensee under the Agreement or an excuse for unfaithful performance of any obligation of Licensee. Similarly, the parties agree imposition of liquidated damages are not intended to be punitive, but rather, for Licensor cost recovery purposes.

**15. CASUALTY.** In the event of damage to a Structure and/or Infrastructure due to a Casualty Event that cannot reasonably be expected to be repaired within forty-five (45) days following such Casualty Event or which Licensor elects not to repair, or if such Casualty Event is reasonably be expected to disrupt Licensee's operations on the Structure and/or Infrastructure for more than forty-five (45) days, then Licensee may, at any time following such Casualty Event; (i) terminate the applicable Site License Agreement or affected portion thereof upon fifteen (15) days' written notice to Licensor; (ii) place a temporary facility, if feasible, at a location equivalent to Licensee's current use of the Structure and/or Infrastructure, as the case may be, until such time as the Structure and/or Infrastructure is restored and the Wireless Installation is returned to full on-air operation in the ordinary course of Licensee's business; or (iii) submit a new Site License Application for an alternate location equivalent to Licensee's current use of the Structure and/or Infrastructure, in which case Licensor shall waive the application fee and transfer all remaining rights to the new Structure and Infrastructure, as the case may be, as long as such relocation was due to a Casualty Event not caused by Licensee. If Licensee elects to terminate the Site License Agreement, notice of termination shall cause the applicable Site License Agreement or affected portion thereof to terminate with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of the applicable Site License Agreement. Licensee will be entitled to collect all insurance proceeds payable to Licensee on account thereof, and to be reimbursed for any prepaid Fee on a pro rata basis. If Licensee does not elect to terminate the applicable Site License Agreement, then the Fee shall fully abate during the period of repair following such Casualty Event until the date that the Wireless Installation is returned to full on-air operation in the Licensed Site in the ordinary course of Licensee's business.

## **16. MISCELLANEOUS PROVISIONS**

16.1 Notices. All notices, requests and demands hereunder will be given by first class certified or registered mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid,

to be effective when properly sent and received, refused or returned undelivered. Notices will be addressed to the Parties as follows:

<p><b>If to Licensee (including invoices):</b></p> <p>New Cingular Wireless PCS, LLC          Attn: Tower Asset Group – Lease Administration          Re: Wireless Installation on Public Structures          (City of Camas) (WA)          FA No.: _____          1025 Lenox Park Blvd NE, 3<sup>rd</sup> Floor          Atlanta, GA 30319</p>	<p><b>If to Licensor:</b></p> <p>City of Camas          Attn: City Administrator          616 NE 4<sup>th</sup> Avenue          Camas, WA 98607</p>
<p><b>With a copy to the AT&amp;T Legal Department:</b></p> <p>New Cingular Wireless PCS, LLC          Attn: AT&amp;T Legal Dept. - Network Operations          Re: Wireless Installation on Public Structures          (City of Camas) (WA)          FA No.: _____          208 S. Akard Street          Dallas, TX 75202-4206</p>	

**Contact Number for day to day operation:**

**Licensor:** 1-360-834-6864  
**Licensee:** 1-800-638-2822

Any Party may change its address or other contact information at any time by giving the other Party, and Persons named above, written notice of said change.

16.2 Force Majeure. This Agreement shall not be revoked, nor shall Licensee be liable for damages, due to any act or omission that would otherwise constitute a violation or breach that occurs without fault of Licensee or occurs as a result of circumstances beyond Licensee's reasonable control. Provided, however, Licensee acts diligently to correct any such act or omission.

16.3 Assignment and Transfer. This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties. Except as otherwise provided in this Agreement, neither Party shall assign this Agreement or its rights or obligations to any firm, corporation, individual, or other entity, without the written consent of the other Party, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, upon thirty (30) days' written notice, either Party may assign this Agreement or its rights or obligations to (a) an Affiliate or (b) in connection with the sale or other transfer of substantially all of Licensee's assets in the FCC market area where the Structures are located.

16.4 Compliance with Laws. Licensee and Licensor agree to comply with all Laws.

16.5 Applicable Law. This Agreement shall be interpreted, construed, and enforced, in accordance with the laws of the state where the Structures are located without regard to its conflict of laws principles, and, where applicable, federal law.

16.6 Waiver of Jury Trial. Each Party waives its right to a trial by jury on disputes arising from this Agreement.

16.7 Change of Law. Either Party may, upon thirty (30) days' written notice, require that the terms of this Agreement which are affected by any New Law be renegotiated to conform to the New Law on a going forward basis for all existing and new Wireless Installations, unless the New Law requires retroactive application, except that, notwithstanding a New Law, the Fee shall remain unchanged for any



Wireless Installations in place as of the time the New Law became effective. In the event that the Parties are unable to agree upon such new rates, terms of conditions within ninety (90) days after such notice, then any rates contained in the New Law shall apply as of the effective date of the New Law forward (except as to the Fee for any Wireless Installations in place as of the time the New Law became effective) until the negotiations are completed or a Party obtains a ruling regarding the appropriate conforming terms from a commission or court of competent jurisdiction. Except as provided in the preceding sentence, all terms in the existing Agreement shall remain in effect while the Parties are negotiating.

16.8 Exhibits. In the event of any inconsistency between the provisions of this Agreement and any Exhibits attached hereto, the provisions of this Agreement shall supersede the provisions of any such incorporated Exhibits unless such Exhibit specifies otherwise.

16.9 Waiver; Severability. No provision of this Agreement may be waived except in a writing signed by both Parties. The failure of either Party to insist on the strict enforcement of any provision of this Agreement shall not constitute a waiver of any provision. If any portion of this Agreement is found to be unenforceable, the remaining portions shall remain in effect, and the Parties shall begin negotiations for a replacement of the invalid or unenforceable portion.

16.10 Survival. The terms and provisions of this Agreement that by their nature require performance by either Party after the termination or expiration of this Agreement, shall be and remain enforceable notwithstanding such termination or expiration of this Agreement for any reason whatsoever.

16.11 Entire Agreement; Amendments. This Agreement (including the Exhibits hereto) embodies the entire agreement between Licensee and Licensor with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous agreements and understandings, oral or written, with respect thereto. Each Party acknowledges that the other Party has not made any representations other than those contained herein. This Agreement may not be amended or modified orally, but only by an agreement in writing signed by the Party or Parties against whom any waiver, change, amendment, modification, or discharge may be sought to be enforced.

16.12 Execution in Counterparts. This Agreement may be executed in multiple counterparts, including by counterpart facsimiles or scanned email counterpart signature, each of which shall be deemed an original, and all such counterparts once assembled together shall constitute one integrated instrument.

**[SIGNATURES APPEAR ON FOLLOWING PAGE]**

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed as of the Effective Date.

**City of Camas,  
a Washington Municipal Corporation**

**NEW CINGULAR WIRELESS PCS, LLC,  
a Delaware limited liability company**

**By: AT&T Mobility Corporation  
Its: Manager**

By: \_\_\_\_\_

Name: Shannon Turk \_\_\_\_\_

By: \_\_\_\_\_

Its: Mayor \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT 1**  
**DEFINED TERMS**

As used herein, the following capitalized terms in the Agreement have the meaning ascribed to them below.

“Abandon” means to permanently relinquish ownership of a Structure and/or Infrastructure in its then existing location.

“Acknowledgment” means a written memorandum signed by the Parties confirming the Commencement Date and the date of expiration of the Site License Initial Term.

“Affiliate” means any entity that controls, is controlled by, or is under common control with a Party.

“Agreement Initial Term” means an initial term of ten (10) years.

“Annual Term” means a term of one (1) year.

“Approved Licensor Work Cost Estimate” means Licensee’s written approval of a Licensor Work Cost Estimate.

“Casualty Event” means any casualty, fire, act of God, or other harm affecting a Structure and/or Infrastructure licensed in whole or in part to Licensee pursuant to a Site License Agreement.

“Commencement Date” means the first day of the month following the day Licensee commences installation of the Wireless Installation at a particular location under a Site License.

“Days” means calendar days. If deadline or other date falls on a non-business day (including weekends, holidays recognized by the federal government, and holidays recognized by the state where the Structure is located), that date shall be extended to the next business day.

“Default” means the failure by a Party to perform any material term or condition of this Agreement where such failure continues for a period of more than thirty (30) days after receipt of written notice from the other Party of such failure identified with reasonable specificity as to the material term or condition of this Agreement which the Party is alleged to have failed to perform. Notwithstanding the foregoing, no Default will be deemed to exist if a Party has commenced to cure the alleged failure to perform within such thirty (30) day period, and thereafter such efforts are prosecuted to completion with reasonable diligence. Delay in curing an alleged failure to perform will be excused if due to causes beyond the reasonable control of the Party again whom the failure to perform has been alleged.

“Effective Date” means the latest date in the signature blocks in the Agreement.

“Emergency” means a situation in which there is an imminent threat of injury to person or property, or loss of life.

“FCC” means the Federal Communications Commission.

“FCC 2018 Order” means the Federal Communications Commission’s Declaratory Ruling and Third Report and Order, FCC 18-133, Released September 27, 2018.

“Fee” means the annual payment for Licensee’s Permitted Use of the Structure and Infrastructure at the Licensed Site.

“Holdover Term” means a month to month term following the termination of a Site License Agreement.

“Infrastructure” means any and all forms of existing power supply, conduit, or other form of infrastructure fixtures or equipment for the delivery of power or communication services to a Structure or otherwise located in the public right of way or other location controlled or owned by Licensor.



“Interference” means any material and adverse physical obstruction or impairment with the radio signals or operation of Licensee’s Wireless Installation utilizing a Structure or Infrastructure authorized to be used by Licensee pursuant to Site License Agreement.

“Laws” means all federal, state and local laws, orders, rules and regulations applicable to Licensee’s use of the Wireless Installation on the Structure and/or Infrastructure and Licensor’s ownership and use of the Structure, Infrastructure and any other improvements or equipment in the public right of way, as the case may be.

“Licensed Site” means the areas approved for Licensee’s Permitted Use as described or depicted in a Site License Agreement.

“Licensee Indemnitees” means Licensee, its employees, affiliates, officers, directors, successors and assigns.

“Licensor Indemnitees” means Licensor, its officers, officials and employees.

“Licensor’s Cost” means Licensor’s cost calculated pursuant to the terms and conditions of the FCC 2018 Order.

“Licensor Work” means the work required on, in or to Licensor’s Structure and/or Infrastructure to accommodate Licensee’s Wireless Installation, including relocating, replacing, upgrading and/or reinforcing the existing Structure or Infrastructure.

“Licensor Work Cost Estimate” means Licensor’s written estimate of the estimated direct costs, including fully loaded labor costs to perform the Licensor Work in a Site License Application.

“NEC” means the National Electric Code.

“NESC” means the National Electrical Safety Code.

“New Laws” means any legislative, regulatory, judicial, or other action affecting the rights or obligations of the Parties, or establishing rates, terms or conditions for the construction, operation, maintenance, repair or replacement of Wireless Installation on public infrastructure or in the right-of-way, that differ, in any material respect from the rates, terms or conditions of the Agreement.

“Person” or “Persons” means any person or entity;

“Parties” means Licensor and Licensee collectively.

“Party” means individually Licensor and Licensee.

“Permitted Use” means the transmission and reception of communications signals, and the installation, construction, modification, maintenance, operation, repair, replacement and upgrade of the Wireless Installation necessary for the successful and secure use of the Licensor’s Structures and Infrastructure.

“Pre-Approved Wireless Installation” means any Wireless Installation design for Licensee’s use of a Structure and/or Infrastructure which has been approved in writing by Licensor.

“RF” means radio frequency.

“Safety Codes” means collectively the NEC, NESC, and any and all other applicable regulatory codes for safe practices when performing work on or near a Structure and/or Infrastructure.

“Site License Agreement” means the Site License Agreement attached as Exhibit 3.

“Site License Application” means an application by Licensee to use a Licensed Site in the form attached as Exhibit 2.

“Site License Initial Term” means an initial term of ten (10) years.

“Site License Renewal Term” means a renewal term of five (5) years upon the same terms and conditions as set forth in the applicable Site License.

“Site License Term” means collectively the Site License Initial Term, any Site License Renewal Terms, any Annual Terms and any Holdover Term.

“Technical Grounds” means, in light of prevailing industry engineering standards, reasons of insufficiency of capacity, safety, reliability and/or generally applicable engineering purposes consistent with applicable Laws.

“Term” means the Agreement Initial Term and any renewal terms exercised pursuant to Section 2.1 of the Agreement.

“Wireless Installation” means antennas, communications equipment, electric and communications cables, and related accessories and improvements, including facilities that operate on FCC-approved frequencies in the bands authorized for commercial wireless communication services pursuant to FCC licenses issued to Licensee, and all associated equipment, located in, under, upon, adjacent to or through a Structure or Infrastructure owned or controlled by Licensor pursuant to a Site License Agreement (in accordance with Section 4.2 hereof) approved in writing by Licensor.

**EXHIBIT 2  
SITE LICENSE APPLICATION**

Page 1 of 2

			<b><u>Equipment Owner</u></b>			<b><u>Applicant (if different than Equipment Owner)</u></b>
Application Date:		Name:	New Cingular Wireless PCS, LLC		Name:	
Site Name/Project #:		Address:			Address:	
		Contact Name:			Contact Name:	
Approved by:		Phone #:			Phone #:	
Date:					Email:	

Approval of this application does not constitute as the permitting approval of the Wireless Installation; a separate application for permitting is required for construction and operation.

**WIRELESS INSTALLATION - ATTACHMENT TO EXISTING STRUCTURE**

Structure Pole #	Location/GPS Coordinates		Antenna Grade (Highest Point)	Antenna Dimensions (HxWxD)	Equipment Weight	Transmit Frequency	Receive Frequency	Output Power Level
	LAT	LONG						
Notes:								



**EXHIBIT 2  
SITE LICENSE APPLICATION**

Page 2 of 2

**WIRELESS INSTALLATION – STRUCTURE REPLACEMENT**

Structure Pole #		Location/GPS Coordinates		Antenna Grade (Highest Point)	Antenna Dimensions (HxWxD)	Equipment Weight	Transmit Frequency	Receive Frequency	Output Power Level
		LAT	LONG						
Existing									
New									
Existing									
New									
Existing									
New									
Existing									
New									
Existing									
New									
Existing									
New									
Existing									
New									
<b>Notes:</b>									

**EXHIBIT 3**  
**FORM OF SITE LICENSE AGREEMENT**

This is Site License Agreement, is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between \_\_\_\_\_ [name of City/Town/Village/County/etc.] (“Licensor”) and NEW CINGULAR WIRELESS PCS, LLC, a Delaware limited liability company (“Licensee”).

1. License Agreement for Wireless Installations on Public Structures. This Site License Agreement as referenced in that certain License Agreement for Wireless Installations On Public Structures, between Licensor and Licensee dated \_\_\_\_\_, 20\_\_\_\_ (“Agreement”). Licensee has submitted a Site License Application pursuant to the Agreement, and Licensor has reviewed the application and grants approval subject to the terms of this Site License Agreement. All of the terms and conditions of the Agreement are incorporated hereby by reference and made a part hereof without the necessity of repeating or attaching the Agreement. In the event of a contradiction or inconsistency between the terms of the Agreement and this Site License Agreement, the terms of this Site License Agreement shall govern. Capitalized terms used in this Site License Agreement shall have the same meaning ascribed to them in the Agreement unless otherwise indicated herein.

2. Project Description and Locations. Licensee shall have the right to install and attach Wireless Installations on, under, and above the public right of way owned or controlled by Licensor, on, in and adjacent to the specific Structure and Infrastructure as identified and described in Exhibit 1 attached hereto (collectively the “Licensed Site”).

3. Term. The Site License Term of this Site License Agreement shall be as set forth in Section \_\_\_\_\_ of the Agreement.

4. Fee. The Fee shall be in the amount and otherwise payable in accordance with the Agreement as set forth in Section \_\_\_\_\_ of the Agreement.

5. Special Provisions, If Any (Specific to the Licensed Site).

[SIGNATURES APPEAR ON FOLLOWING PAGE]

LICENSOR:

City of Camas

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

LICENSEE:

NEW CINGULAR WIRELESS PCS, LLC,  
a Delaware Limited Liability Company

By: AT&T Mobility Corporation

Its: Manager

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBITS**

- 1** Licensed Site, Wireless Installation Equipment List and Plans

**EXHIBIT 1 TO SITE LICENSE AGREEMENT**

**Licensed Site, Wireless Installation Equipment List and Plans**

Licensee Wireless Installation Reference: [LICENSEE TO COMPLETE]

FA / USID:

Site Name: CRAN\_POLYGON NAME\_NODE #

PTN / PACE:

Structure pole number: [LICENSOR TO COMPLETE]

Structure Latitude and Longitude (Approximate): [LICENSEE TO COMPLETE]

Wireless Installation Equipment List: [LICENSEE TO COMPLETE]

Wireless Installation Plans: See the attached plan set dated \_\_\_\_\_ 20\_\_ prepared by \_\_\_\_\_ consisting of (\_\_\_) page(s).



ORDINANCE NO. 19-009

AN ORDINANCE relating to consideration of proposed revisions to the City of Camas Comprehensive Plan and adopting revisions to the Comprehensive Plan Map and Zoning Map of the City of Camas, and the Evergreen School District Capital Facilities Plan.

WHEREAS, the City of Camas has heretofore adopted a Comprehensive Plan and Comprehensive Land Use Map as required by the provisions of RCW 36.70A, Revised Code of Washington, the Growth Management Act, and

WHEREAS, under Chapter 36.70A, Revised Code of Washington, the City is required annually to consider amendments to the land use element of the Comprehensive Plan and associated rezones, and

WHEREAS, the Planning Commission has conducted a public hearing on the requests for revisions submitted to the City, and has forwarded its recommendation to the City Council, and

WHEREAS, the City Council has conducted a public hearing on the requests for revisions,

NOW, THEREFORE, THE COUNCIL OF THE CITY OF CAMAS DO ORDAIN AS FOLLOWS:

Section I

A request from property owners proposed to change the Comprehensive Plan and zoning designations for a total of 79 parcels located south of NW 28<sup>th</sup> Avenue, with a combined 11.01 acres. The request is to amend the Comprehensive Plan designation of Commercial and zoning of Community Commercial to a Comprehensive Plan designation of Multifamily Low with a concurrent zone change to Multifamily 10 for the following parcels: 81958-085; 81958-123; 81958-125; 81958-126; 81958-128; 81958-129; 81958-130; 81958- 250; 81958-252; 81958-254; 81958-256; 81958-258; 81958-260; 81958-262; 81958-264; 81958- 266; 81958-268; 81958-400; 81958-401; 81958-402; 81958-403; 81958-404; 81958-405; 81958- 406; 81958-407; 81958-408; 81958-409; 81958-

410; 81958-411; 81958-412; 81958-413; 81958- 414; 81958-415; 81958-416; 81958-417; 81958-418; 81958-419; 81958-420; 81958-421; 81958- 422; 81958-423; 81958-424; 81958-425; 81958-426; 81958-427; 81958-428; 81958-429; 81958- 430; 81958-431; 81958-432; 81958-433; 81958-434; 81958-435; 90264-090; 90264-092; 90264- 094; 90264-096; 90264-098; 90264-100; 90264-188; 90264-190; 90264-192; 90264-194; 90264- 196; 90264-198; 90264-200; 90264-202; 90264-204; 90264-206; 90264-208; 90264-210; 90264- 212; 90264-214; 90264-392; 90264-394; 90264-396; 90264-398; 90264-400; 90264-402. The Planning Commission forwarded a recommendation to City Council consistent with Camas Municipal Code, Section 18.51.050 (B) (3) to modify the proposed amendments.

## Section II

A request from property owners proposed to change the Comprehensive Plan and zoning designations for a total of 36 parcels located west of Logan Street, with a combined 8.23 acres. The request is to amend the Comprehensive Plan designation of Single Family Medium and zoning of Residential-7,500 to a Comprehensive Plan designation of Single Family High with a concurrent zone change to Residential-6,000 for the following parcels: 83016-000; 83017-000; 83035-000; 83038-000; 83040-000; 83047-000; 83053-000; 83054-000; 83075-000; 83085-000; 83094-000; 83096-000; 83102-000; 83103-000; 83123-000; 83124-000; 83780-000; 83790-000; 83800-000; 83810-000; 83830-000; 83840-000; 83850-000; 83860-000; 83865-000; 83880-000; 83890-000; 83900-000; 83905-000; 83906-000; 83910-000; 83930-000; 83932-000; 83935-000; 83940-000; 83960-000. The Planning Commission forwarded a recommendation to City Council consistent with Camas Municipal Code, Section 18.51.050 (B) (3) to modify the proposed amendments.

### Section III

A request from a property owner proposed to change the Comprehensive Plan and zoning designations for their parcel adjacent to NW Payne Street with 10.43 acres. The request is to amend the Comprehensive Plan designation of Commercial and zoning of Regional Commercial to a Comprehensive Plan designation of Multifamily High with a concurrent zone change to Multifamily 18 for tax parcel 175963-000. The Planning Commission forwarded a recommendation to City Council consistent with Camas Municipal Code, Section 18.51.050 (B) (3) to maintain current designation of Commercial until such time that an analysis of adequate buildable lands in Grass Valley to meet 20-year employment projections is provided. The applicant submitted additional information to the record prior to the public hearing for City Council to review. City Council moved to approve the proposal.

### Section IV.

The City of Camas proposed the following amendments to the Comprehensive Plan and Zoning designations:

- A. Property adjacent to Hill Street with 0.28 acres be amended from a Comprehensive Plan designation of Park to a Comprehensive Plan designation of Multifamily High with a concurrent zone change to Multifamily 18 for tax parcel 86410-000.
- B. Multiple properties north of NW 10<sup>th</sup> Avenue of a combined 4.14 acres be amended from a Comprehensive Plan designation of Single Family Low and zoning of R-15,000 to a Comprehensive Plan designation of Single Family Medium with a concurrent zone change to R-7,500 for the following tax parcels: 85797-003; 85796-008; 85796-003; 986036-993; 85796-004; 85796-010; 85796-011; 85796-012; 85796-002.
- C. Multiple properties located along the eastern side of Lacamas Lake with a combined 57

acres be amended to a zone of Open Space for tax parcels 178099-000; 17886-000; 177896-000.

- D. The Planning Commission forwarded a recommendation to City Council consistent with Camas Municipal Code, Section 18.51.050 (B) (3) to modify the proposed amendments as forth within this Section IV, Subsections A, C, and D. City Council modified Planning Commission's recommendation for Subsection B as provided.

#### Section V

A request from Evergreen School District adopting the Evergreen School District Capital Facility Plan as submitted and the associated changes to the Evergreen School District Impact Fees. The Planning Commission forwarded a recommendation to City Council consistent with Camas Municipal Code, Section 18.51.050 (B) (3) to accept the proposed amendment.

#### Section VI

The City Council hereby modifies the recommendation of the Planning Commission, and directs the Community Development Director to amend the Camas Comprehensive Plan, and to amend the Camas Zoning map consistent with the table set forth within the attached Exhibit "A".

#### Section VII

An amended Camas Comprehensive Plan map and Camas Zoning map, consistent with Sections II through IV are attached as Exhibit "B".

#### Section VIII

This ordinance shall take force and be in effect five (5) days from and after its publication according to law.



PASSED BY the Council and APPROVED by the Mayor this 7th day of October, 2019.

SIGNED: \_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_  
Clerk

APPROVED as to form:

\_\_\_\_\_  
City Attorney

City File #	Amended Parcels	Acreage
<p><b>CPA19-01</b> (Sui Hui)</p> <p>Amend “Commercial” designated properties to “Multifamily Low”, with an associated zoning of <u>MF-10</u>, with the exception of three<sup>[1]</sup> parcels in the district that shall maintain current Commercial designation.</p>	<p><b>(79 properties are south of NW 28th Avenue)</b> 81958-085; 81958-123; 81958-125; 81958-126; 81958-128; 81958-129; 81958-130; 81958-250; 81958-252; 81958-254; 81958-256; 81958-258; 81958-260; 81958-262; 81958-264; 81958-266; 81958-268; 81958-400; 81958-401; 81958-402; 81958-403; 81958-404; 81958-405; 81958-406; 81958-407; 81958-408; 81958-409; 81958-410; 81958-411; 81958-412; 81958-413; 81958-414; 81958-415; 81958-416; 81958-417; 81958-418; 81958-419; 81958-420; 81958-421; 81958-422; 81958-423; 81958-424; 81958-425; 81958-426; 81958-427; 81958-428; 81958-429; 81958-430; 81958-431; 81958-432; 81958-433; 81958-434; 81958-435; 90264-090; 90264-092; 90264-094; 90264-096; 90264-098; 90264-100; 90264-188; 90264-190; 90264-192; 90264-194; 90264-196; 90264-198; 90264-200; 90264-202; 90264-204; 90264-206; 90264-208; 90264-210; 90264-212; 90264-214; 90264-392; 90264-394; 90264-396; 90264-398; 90264-400; 90264-402</p> <p>[Note 1]. The three commercial parcels that shall remain unchanged are as follows: 81958-101 (Pacwest Energy / Gas Station); 81958-116 and 81958-117 (Frey / Summit Animal Hospital)</p>	<p>11.01 acres</p>
<p><b>CPA19-02</b> (Rouse)</p> <p>Amend all properties within the “Single Family Medium” designation to “Single Family High” with an associated zoning of <u>R-6</u>.</p>	<p><b>(36 properties west of Logan Street)</b> 83016-000; 83017-000; 83035-000; 83038-000; 83040-000; 83047-000; 83053-000; 83054-000; 83075-000; 83085-000; 83094-000; 83096-000; 83102-000; 83103-000; 83123-000; 83124-000; 83780-000; 83790-000; 83800-000; 83810-000; 83830-000; 83840-000; 83850-000; 83860-000; 83865-000; 83880-000; 83890-000; 83900-000; 83905-000; 83906-000; 83910-000; 83930-000; 83932-000; 83935-000; 83940-000; 83960-000</p>	<p>8.23 acres</p>
<p><b>CPA19-03</b> (Knopp)</p> <p>Amend parcel from “Commercial” to “Multifamily High”, with an associated zoning of <u>MF-18</u>.</p>	<p>175963-000</p>	<p>10.43 acres</p>

Ord. 19-009

City File #	Amended Parcels	Acreage
<b>CPA19-05</b> (City amendments)		
(a) Amend parcel from "Park" to "Multifamily High" designation with an associated zoning of MF-18.	<b>(a.k.a. "Hill Street")</b> 86410-000	0.28 acres
(b) Amend west side lots from "Single Family Low" to "Single Family Medium" with an associated zoning of <u>R-7.5</u> to pair with adjacent zoning district to the south.	<b>(a.k.a. "10th Avenue" 9 properties)</b> 85797-003; 85796-008; 85796-003; 986036-993; 85796-004; 85796-010; 85796-011; 85796-012; 85796-002	4.14 acres
(c) Amend zoning to " <u>Open Space</u> ".	<b>(3 park properties at Lacamas Lake)</b> 178099-000; 177886-000; 177896-000	57 acres

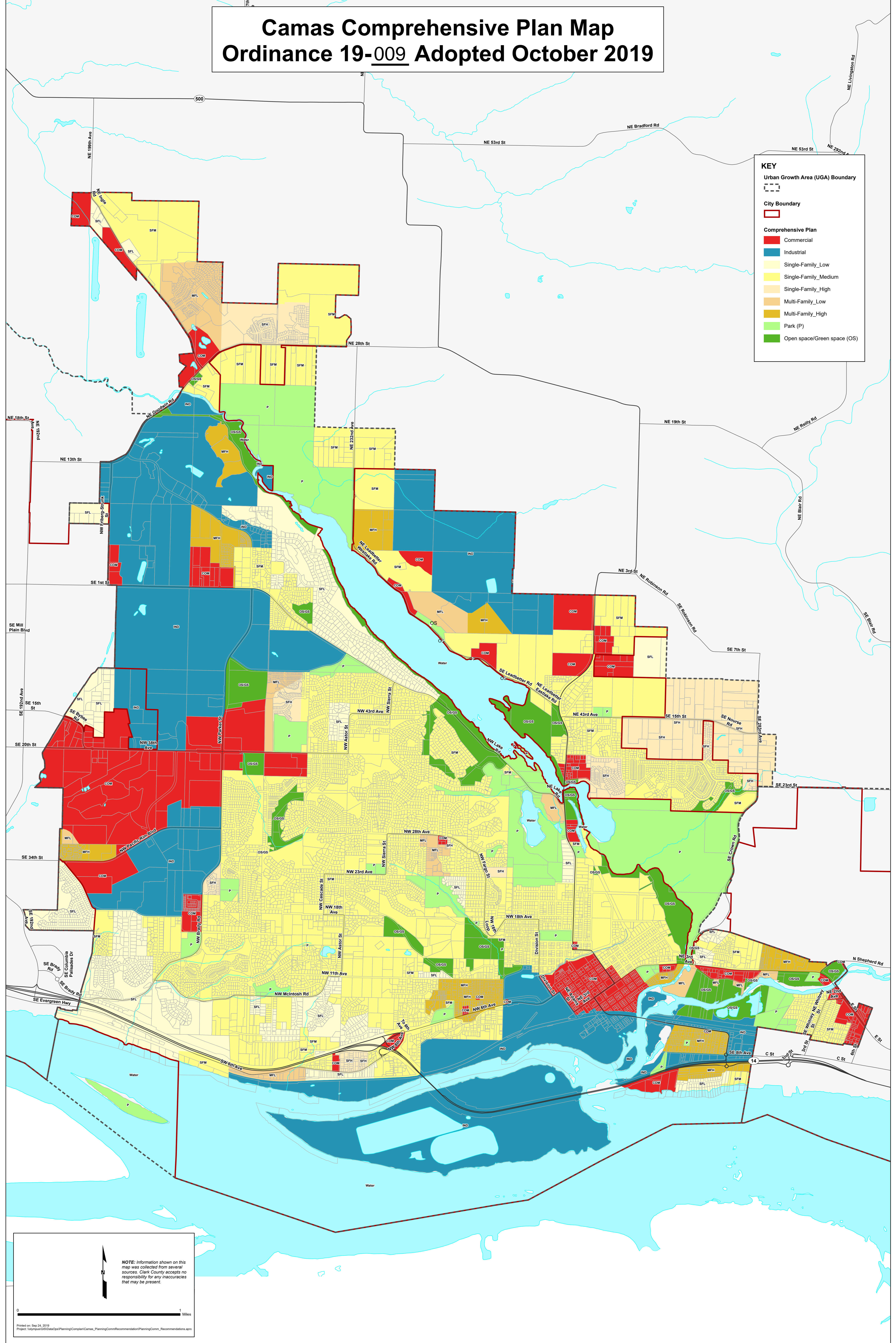
SUMMARY:	Comprehensive Plan Designations	2018 Acres*	2019 Acres
	Single Family Residential		
· Low Density		871	866.9
· Medium Density		3617	3608.7
· High Density		425	437.5
Multi-Family			
· Low Density		279	290.0
· High Density		246	256.7
Commercial		992	970.6
Industrial		2427	2427.0
Park		851	850.7
Open Space/ Green Space		492	492.0
<b>Total acreage*:</b>		<b>10,200</b>	<b>10,200</b>
*Total area within each comprehensive plan designation within the UGB.			



# Camas Comprehensive Plan Map Ordinance 19-009 Adopted October 2019

**KEY**

- Urban Growth Area (UGA) Boundary  
[Dashed line symbol]
- City Boundary  
[Red line symbol]
- Comprehensive Plan**
- Commercial (Red)
- Industrial (Blue)
- Single-Family\_Low (Light Yellow)
- Single-Family\_Medium (Yellow)
- Single-Family\_High (Orange)
- Multi-Family\_Low (Light Orange)
- Multi-Family\_High (Dark Orange)
- Park (P) (Light Green)
- Open space/Green space (OS) (Dark Green)



**NOTE:** Information shown on this map was collected from several sources. Clark County accepts no responsibility for any inaccuracies that may be present.

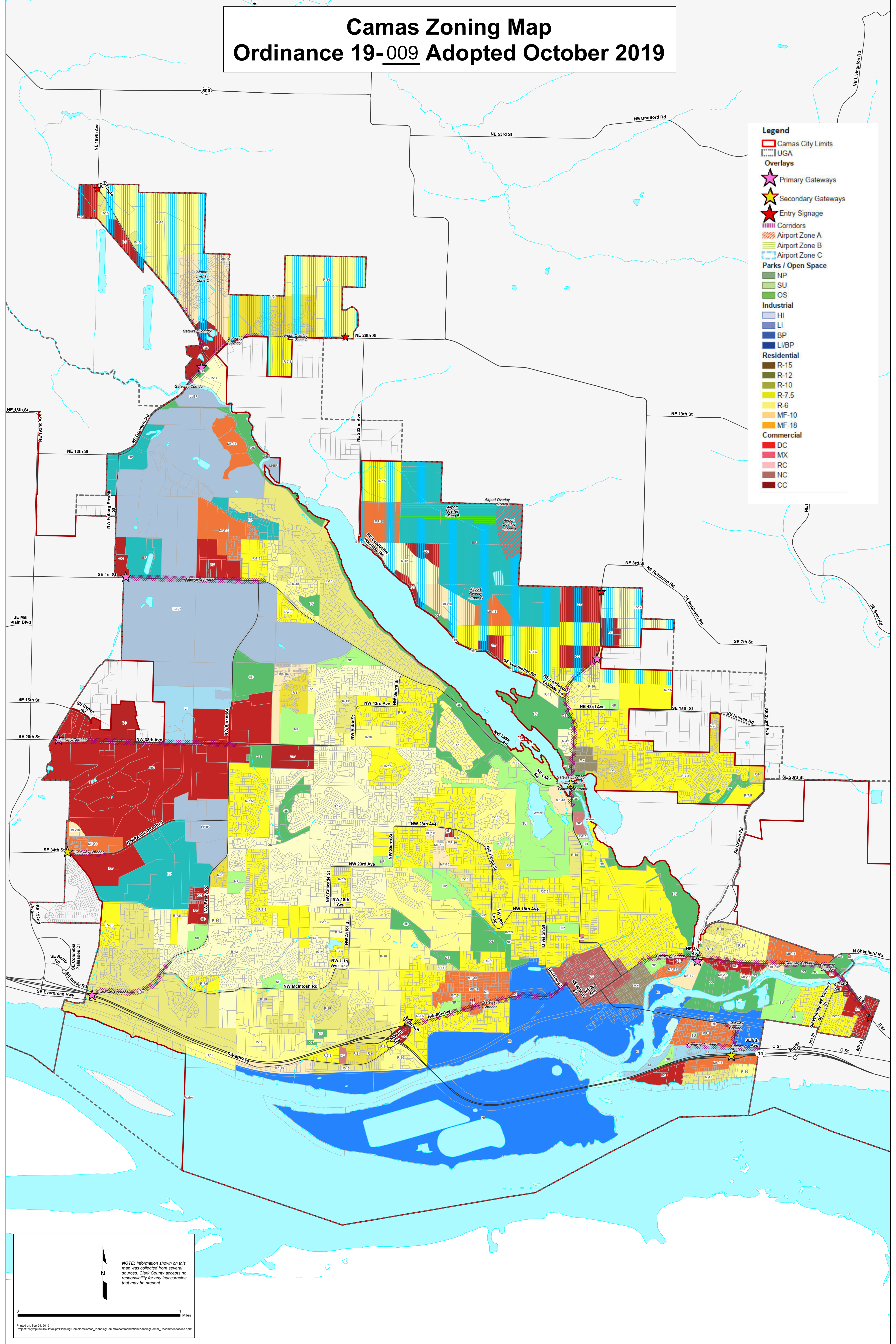


# Camas Zoning Map

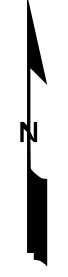
## Ordinance 19-009 Adopted October 2019

**Legend**

- Camas City Limits
- UGA
- Overlays**
- ★ Primary Gateways
- ★ Secondary Gateways
- ★ Entry Signage
- Corridors
- Airport Zone A
- Airport Zone B
- Airport Zone C
- Parks / Open Space**
- NP
- SU
- OS
- Industrial**
- HI
- LI
- BP
- LI/BP
- Residential**
- R-15
- R-12
- R-10
- R-7.5
- R-6
- MF-10
- MF-18
- Commercial**
- DC
- MX
- RC
- NC
- CC



**NOTE:** Information shown on this map was collected from several sources. Clark County accepts no responsibility for any inaccuracies that may be present.





RESOLUTION NO. 19-013

A RESOLUTION creating a new position for the City of Camas entitled Parking Enforcement Officer.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CAMAS AS FOLLOWS:

I

There is hereby created in the City of Camas a new position entitled Parking Enforcement Officer. Such position shall be a union represented position in the CPEA bargaining unit, and shall perform such duties as shall be outlined in any job description prescribed by the City, as may be revised from time to time. The position description is attached hereto as Exhibit "A" and shall be effective as of October 7, 2019.

II

PASSED BY the Council and approved by the Mayor this 7th day of October, 2019.

SIGNED: \_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_  
Clerk

APPROVED as to form:

\_\_\_\_\_  
City Attorney

## Exhibit "A"

CITY OF CAMAS  
Union Status: Represented  
October 2019

### **PARKING ENFORCEMENT OFFICER**

*Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are **not** intended to reflect all duties performed within the job.*

#### **JOB OBJECTIVES**

Under general supervision, to perform a variety of duties involved in the enforcement of City parking ordinances; to interpret and provide information regarding parking rules and regulations to citizens and to perform a variety of duties relative to assigned areas of responsibility.

#### **ESSENTIAL FUNCTION STATEMENTS**

*The following tasks are typical for positions in this classification. Any single position may not perform all of these tasks and/or may perform similar related tasks not listed here:*

Independently and safely patrol City streets in the enforcement of the City's parking regulations; issue non-moving traffic citations for violations observed including overtime parking and illegal parking; authorizes vehicle towing; serve as a visual deterrent to parking violations.

Provide information to violators, the general public, business community, and other government agencies regarding codes, laws and ordinances; respond to questions, complaints and inquiries.

Report hazardous and/or abandoned vehicles, expired registrations and needed street and sign repairs; report traffic accidents and other occurrences to appropriate Department staff.

Observe parking situations and make recommendations for needed changes and improvements.

Maintain daily supplies for patrolling assigned area; inspect assigned vehicle for needed maintenance.

Maintain a variety of accurate records related to citations and vehicle impounds; prepare related daily and monthly reports.

Input data on a portable technology system while out in the field, download and transfer daily records using a computer terminal; access and retrieve information as needed.

Testify in court regarding citations issued.

## **AUXILIARY FUNCTION STATEMENTS**

Follow all safety rules and procedures established for work area.

Perform related duties and responsibilities as required.

## **QUALIFICATIONS**

### **Knowledge of:**

City of Camas Municipal Codes and the RCWs of Washington State regarding parking and other related ordinances.

Operations, services and activities of a public parking program.

Principles and techniques of customer service and public relations.

Occupational hazards and standard safety practices.

Operational characteristics of parking enforcement equipment and tools.

Safe and efficient work practices as they relate to parking enforcement.

Modern office equipment including computers.

English usage, spelling, grammar and punctuation.

### **Ability to:**

Learn geography of assigned enforcement area.

Interpret, explain and enforce department parking policies and procedures.

Testify in court concerning citations and violations.

Enforce parking and traffic regulations in a firm but tactful manner in sometimes volatile situations.

Demonstrate the ability to focus on many different activities at one time (i.e. pedestrians, traffic, parking problems/violations).

Work independent in the absence of supervision.

Learn, understand and follow oral and written instructions.

Perform general clerical tasks.

Perform essential functions in a safe manner.

Work in unfavorable weather conditions.

Use a handheld technology device, computer and appropriate software.

Participate in and pass job related training identified for the position.

Respond to inquiries from the public.

Communicate clearly and concisely, both orally and in writing.



Establish and maintain cooperative working relationships with those contacted in the course of work.

Be able to pass background checks as needed for position.

### **Education and Experience Guidelines**

*Any combination of education and experience that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:*

#### **Education:**

Equivalent to completion of the twelfth grade.

#### **Experience:**

One year general work experience involving law enforcement and public contact is desirable.

### **License or Certificate**

Possession of a valid driver's license.

### **PHYSICAL DEMANDS AND WORKING CONDITIONS**

*The physical demands herein are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform these essential job functions.*

**Environment:** Indoor and outdoor environment; significant public contact; subject to adverse weather conditions; exposed to communicable diseases, hazardous materials and physical or verbal abuse from hostile citizens.

**Mobility:** Incumbents require sufficient mobility to walk, stand, sit for extended periods of time; moderate or light lifting and operate a motorized vehicle.

**Vision:** Vision sufficient to read computer screens and other printed documents and street signs; sufficient to operate assigned vehicle and equipment.

**Other Factors:** Incumbents may be required to work extended hours including evenings and weekends. Incumbents may be required to travel outside City boundaries to attend meetings/trainings. Incumbents may be required to provide expensive public relations contact under potentially stressful situations.

	Position	1	2	3	4	5	6	7
		Parking Enforcement Officer	3944	4074	4204	4334	4464	4594