The City of Keizer is committed to providing equal access to all public meetings and information per the requirements of the ADA and Oregon Revised Statutes (ORS). The Keizer Civic Center is wheelchair accessible. If you require any service such as SPANISH translation or other interpretive services that furthers your inclusivity to participate, please contact the Office of the City Recorder at least 48 business hours prior to the meeting by email at davist@keizer.org or phone at (503)390-3700 or (503)856-3412. Most regular City Council meetings are streamed live through www.KeizerTV.com and cable-cast on Comcast Channel 23 within the Keizer City limits. Thank you for your interest in the City of Keizer.

AGENDA

KEIZER CITY COUNCIL
REGULAR SESSION

Monday, August 3, 2020
7:00 p.m.
Robert L. Simon Council Chambers
Keizer, Oregon

1. **CALL TO ORDER**

2. **ROLL CALL**

3. **FLAG SALUTE**

4. **SPECIAL ORDERS OF BUSINESS**

5. **COMMITTEE REPORTS**

6. **PUBLIC TESTIMONY**

   This time is provided for citizens to address the Council on any matters other than those on the agenda scheduled for public hearing.

7. **PUBLIC HEARINGS**

   a. **Keizer Station Area D Master Plan Amendment**

   b. **RESOLUTION – Exemption of the Brand Name Specification Purchase of Surface America Fall Protection Product From Competitive Bidding and Purchasing Play Structure Materials, Surface America Fall Protection Materials, and Installation Services From Ross Recreation Equipment Co., Inc. for Claggett Creek Park**

8. **ADMINISTRATIVE ACTION**

   a. **RESOLUTION – Placing on the Ballot the Question of Adoption of a New Home Rule Charter that Replaces the Current Charter and Authorizing Filing of Explanatory Statement Relating to Adoption**

   b. **ORDINANCE – Amending Keizer Development Code Regarding Section 3.106 (Property Line Adjustment), Section 3.107 (Partitions), and Section 3.108 (Subdivisions, Planned Unit Developments, and Manufactured Home Parks); Amending 98-389**

   c. **RESOLUTION – Authorizing Finance Director to Sign State of Oregon Grant Agreement (Grant No. 1079) (CARES Act Funds)**

d. RESOLUTION – Authorizing City Manager to Sign COVID-19 Emergency Business Assistance Program Forgivable Loan Agreement

9. CONSENT CALENDAR

a. RESOLUTION – Authorizing City Attorney to Sign Abacusnext Amicus Attorney Agreement

b. RESOLUTION – Authorizing the Finance Director to Enter Into Agreement with CenturyLink for Internet Services

c. Approval of July 13, 2020 City Council Work Session Minutes

d. Approval of July 20, 2020 City Council Regular Session Minutes

10. COUNCIL LIAISON REPORTS

11. OTHER BUSINESS

This time is provided to allow the Mayor, City Council members, or staff an opportunity to bring new or old matters before the Council that are not on tonight's agenda.

12. WRITTEN COMMUNICATIONS

***To inform the Council of significant written communications*.**

13. AGENDA INPUT

August 10, 2020
6:00 p.m. – City Council Work Session
- **Canceled**

August 17, 2020
7:00 p.m. - City Council Regular Session

September 8, 2020 (Tuesday)
7:00 p.m. - City Council Regular Session

September 14, 2020
6:00 p.m. – City Council Work Session
- **Annual Parks Tour**

14. ADJOURNMENT

COUNCIL MEETING: August 3, 2020
AGENDA ITEM NUMBER: _____

TO: **MAYOR CLARK AND CITY COUNCIL MEMBERS**

THROUGH: **CHRIS EPPLEY**
CITY MANAGER

FROM: **SHANE WITHAM**
INTERIM COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: **MASTER PLAN AMENDMENT/MAJOR VARIANCE REQUEST FOR KEIZER STATION AREA D**

ATTACHMENTS:

1. Application/Materials for current proposal
2. Proposed Findings
3. Proposed Conditions
4. Public Works Department Requirements

BACKGROUND:
Master Plan/Major Variance Case 2004-38 was approved by City Council Order on November 1, 2004. The original 2004 Council Order approved an overall development plan for all of Keizer Station Area D (Commerce Center). The adopted Master Plan contains a mix of commercial and industrial business park uses, along with amenities such as landscaping, pedestrian pathways, plazas, and a storm drainage detention water feature. In addition, a Major Variance was approved to allow a setback reduction from 20' down to 10' for the north side of Ulali Drive.

The current proposal is for a Master Plan Amendment/Major Variance and modifies only the interior portion of the Ulali Drive jug handle. This request does not affect the portion of Area D south of Ulali Drive. A Major Variance is requested, consistent with the original 2004 approval. It should be noted the Variance request is only necessary due to the fact the original Variance approval expired. The applicant submitted materials which are attached for your reference showing the proposed site plan changes.

The Master Plan Amendment proposes to:

- Change the number and location of buildings within the interior of the jug handle from 3 to 4 buildings.
- Modify the overall layout of the parking lot, along with landscape areas and amenities to coincide with modified building locations.
- Reduce the number of parking spaces while still providing the appropriate number of required spaces for proposed uses.

- Eliminate the parking spaces designated as park and ride.
- Remove a small plaza and relocate the water feature to the southwest corner of the interior of the jug handle to provide a gateway amenity.
- Provide detailed building elevations for the proposed 7-11 convenience store.

The Major Variance proposes to:

- Reduce the required setback from 20 feet down to 10 feet on the north side of Ulali Drive.

This action is an amendment to the previous City Council Order. As such, the majority of the previous master plan approval remains unaffected. Findings are attached addressing the applicable review criteria governing master plan amendments and major variance approvals supporting the applicant's request. Proposed conditions of approval are attached. These conditions are from the original Master Plan/Major Variance approval, and have been modified reflect the changes proposed by this request. The conditions proposed are intended to govern both the original approval, as well as this proposed amendment.

NOTICE OF PUBLIC HEARING AND REQUEST FOR COMMENTS:

Public Notice was provided as outlined in the Keizer Development Code. Notice of the Public Hearing was:

- Mailed to property owners within 250 feet of the Keizer Station Area D
- Published in the Keizertimes newspaper on 7/24/2020
- Posted at the property identifying public hearing time and place

Request for comments were mailed to affected agencies as required by the Keizer Development Code. The following comments regarding the proposed revisions have been received:

- The Public Works Department submitted comments requiring all previous conditions of the approved Master Plan for this area of Keizer Station Area D, to remain in effect. They also indicated the traffic signal on Ulali Drive is required to be designed, constructed, and fully functional prior to any occupancy permits for any buildings within the Master Plan Amendment area.

RECOMMENDATION:

Staff recommends that council open the public hearing, receive any additional testimony, close the public hearing, deliberate, and: Direct Staff to prepare an order adopting the proposed Area D Master Plan Amendment and Major Variance Approval.

CITY OF KEIZER
MASTER PLAN
APPLICATION

If there are any questions about this application, who should be contacted (Agent)?

Name: Jesse White, Grand Ronde Tribe

Address: 9615 Grand Ronde Road, Grand Ronde, OR 97347

Daytime Phone Number: 503-879-2404

Fax: 503-879-2196 Email: jesse.white@grandronde.org

1. **Applicant Name** / **Address**

   Chemawa Station, LLC — c/o Grand Ronde Tribe

   9615 Grand Ronde Road

   Phone 503-879-2304 — Grand Ronde, OR 97347

Complete the following property owner information if the property owner is different from the applicant.

2. **Property Owner Name** / **Address**

   Confederated Tribes of Siletz Indians — 2120 NW 44th St., Ste D, Lincoln City, OR 97367

   Confederated Tribes of Grand Ronde — 9615 Grand Ronde Road, Grand Ronde, OR 97347

   Phone 503-879-2304

3. This application is made for conceptual approval of a proposed Master Plan for: The Jughandle Portion of Area D - Keizer Station.

4. Acreage effected: Approx. 3.5 acres.

Please provide a written response to the following Review Criteria as specified in Section 3.113.04 of the Keizer Land Development Code.

Approval of a Master Plan for an area of the Keizer Station Plan shall require compliance with the following:

A. The Master Plan shall meet the purpose and objectives identified in the Keizer Station Design Plan.

B. The Master Plan shall meet the following standards as identified in the Keizer Station Plan in addition to standards within applicable zones:

1. Design standards
2. Transportation system standards
3. Utility standards
4. Parking standards
5. Landscape standards

If a conflict exists between standards within the Keizer Station Plan and the Keizer Development Code, the Keizer Station Plan standards shall be applied.

C. Development Strategies for Area A – Village Center

1. Pedestrian Access, Safety and Comfort

   a. To ensure safe, direct, and convenient pedestrian circulation, development in the EG zone, shall provide a continuous pedestrian and/or multi-use path system.

   b. The pathway system shall extend throughout the development site, and connect to all future phases of development, adjacent trails, public parks and open space areas wherever possible.

   c. Pathways with developments shall provide safe, reasonably direct and convenient connections between primary building entrances and all adjacent streets and parking areas.

   d. For all developments subject to Master Plan review, pathways shall connect all building entrances to one another. In addition, pathways shall connect all parking areas, storage areas, recreational facilities and common areas (as applicable), and adjacent developments to the site, as applicable.

   e. Recessed entries, canopies, and/or similar features shall be used at the entries to a building in order to create a pedestrian scale.

   f. For driveways that service more than 100 parking spaces, such driveway intersections with Radiant Drive shall not have any parking within twenty-five feet of the driveway intersection. This area shall be landscaped in accordance with Section 2.309 of the Keizer Development Code.

   g. The proposal contains an equally good or superior way to achieve the intent of the above criterion and guidelines.

2. Vehicular Movement

   a. Encourage traffic to enter and exit the development at locations other than Tepper Lane.

3. Crime Prevention and Security

   Crime prevention shall be considered in the site design through application of all of the following guidelines:

   a. Territoriality – All proposed building entrances, parking areas, pathways and other elements are defined with appropriate features that express

ownership. For example, landscaping, fences, pavement treatments, art and signs are some physical ways to express ownership through design. Such features should not conflict with the need for natural surveillance, as described in b.; and

b. Natural Surveillance – The proposed site layout, building and landscape design promote natural surveillance. Physical features and activities should be oriented and designed in ways that maximize the ability to see throughout the site. For example, window placement, the use of front porches or stoops, use of low or see-through walls, and appropriate use of landscaping and lighting can promote natural surveillance. Sight-obscuring shrubs and walls should be avoided, except as necessary for buffering between commercial uses and lower density residential districts, and then shall be minimized; and

c. Activity Support – The proposed site layout and building design encourage legitimate activity in public spaces. For example, locating outdoor seating in areas that are visible from inside a restaurant helps to discourage crime and supports the activity of dining; and

d. Access Control – By properly siting and designing entrances and exits (i.e., in clear view from the store), and through the appropriate use of lighting, signs and/or other features, the proposed plan controls access in ways that discourage crime; and/or

e. The proposal contains an equally good or superior way to achieve the intent of the above criterion and guidelines.

4. Reduced Parking

Reduce or waive minimum off-street parking standards. The applicant may request a reduction to or waiver of parking standards based on a parking impact study. The study allows the applicant to propose a reduced parking standard based on estimated peak use, reductions due to easy pedestrian accessibility; availability of transit service, and likelihood of car pool use; and adjacent on-street parking. The parking study is subject to review and approval or modification by the City.

5. Creating and Protecting Public Spaces

a. The development provides an appropriate amount of public space as determined by the City Council in addition to sidewalks and landscaping.

b. Public space may be a landscaped open space or plaza with pedestrian amenities, as approved by the City Council.

6. Human Scaled Building Design

Building facades are designed to a human-scale, for aesthetic appeal, pedestrian comfort, and design character of a development. The City Council may determine architectural character, continuity of building sizes, roof forms, rhythm of window and door spaces and the general relationship of buildings to public spaces such as street, plazas, other open space and public parking.

7. The Village within Area A shall contain a public improvement design to include a promenade/sidewalk design that may vary in width to meet a minimum width of 8 feet on both sides of Radiant Drive. The promenade/sidewalk shall be separated from the street with a landscape belt, to include decorative lighting and trees.

The proposal contains an equally good or superior way to achieve the intent of the above criterion and guidelines.

Please attach 15 copies of preliminary plan with required information as noted on attached information sheet.

THE APPLICANT(s) SHALL CERTIFY THAT:

(a) The above Master Plan request does not violate any deed restrictions that may be attached to or imposed upon one, both, or all of the subject properties.

(b) If the application is approved, the applicant(s) will exercise the rights granted in accordance with that approval and will be subject to all conditions and limitations of approval.

(c) All of the above statements and the statements included on the plot plan and exhibits attached to the plot plan are true to the best of the applicants knowledge; and the applicants acknowledge that any permit issued on the properties may be revoked if is found that any statements are false.

(d) The applicant(s) acknowledge that this application and all applicable policies and criteria have been read and understood, and that the requirements and criteria for approving or denying the application are also understood.

SIGNATURE(s) of APPLICANTS

NOTE:

All properties within area identified in Master Plan shall be identified by Tax Lot and property owner and shall receive direct notice of application.

Stacia Hernandez — Date: 4/23/2020

Date: 04/23/2020

AGENT AUTHORIZATION

Fill out and sign this portion of the application if you (the applicant) are going to designate another individual as your agent. By signing this section you authorize the person named to act as your agent and agree to be bound by all representations and agreements made by the designated agent.

I,_____, hereby authorize _____ to act as my representative and agent in all matters pertaining to the processing and approval of this land use application, and agree to be bound by all representations and agreements made by the above designated agent.

_____ Date _____

_____ Date _____

AUTHORIZATION BY PROPERTY OWNER(s)

Property owners and contract purchasers are required to authorize the filing of this application and must sign below. All signatures represent that they have full legal capacity to and do hereby authorize filing of this application and certify that the information and exhibits herewith submitted are true and correct.

SIGNATURE

ADDRESS & PHONE

Confederated Tribes of Siletz Indians

2120 NW 44th St., Ste D, Lincoln City, OR 97367

Phone 541-444-8229

SIGNATURE

Stacia Hernandez

ADDRESS & PHONE

Confederated Tribes of Grand Ronde

9615 Grand Ronde Road, Grand Ronde, OR 97347

Phone 503-879-2304

FOR OFFICE USE ONLY

Township ____ Range ____ Section _____

Tax Lot Number(s) _____

Zone _____

Application elements submitted:

____ (a) Title transfer

____ (b) Plot plan (15 copies)

____ (c) Applicant Statement/questions

____ (d) Filing fee

_____ Date application determined complete

_____ Application accepted by

BEFORE THE CITY COUNCIL
FOR THE CITY OF KEIZER, OREGON

In the Matter of a Request for a Master Plan Amendment for Keizer Station Master Plan – Area D	**NARRATIVE IN SUPPORT OF THE MASTER PLAN AMENDMENT APPLICATION**

Executive Summary

The Confederated Tribes of the Grand Ronde Community of Oregon and the Confederated Tribes of Siletz Indians jointly own property designated area D in the Keizer Station Master Plan. The Tribes formed Chemawa Station, LLC, for the purpose of developing the property and currently have executed a lease with 7-Eleven for the development and operation of a fueling station and a convenience store in the northern portion of the Tribes' property, which is known as the jughandle. In connection with optimizing the jughandle area for commercial development, the Tribes propose modifying the building layout. Originally, the approved Master Plan contemplated three building with a gross leasable area of 19,400 square feet and a surface detention pond. *See* Exhibit A – Master Site Plan Jughandle 2004. Applicant intends to place the detention pond underground and wants to reconfigure the building layout to add an additional building site, resulting in a smaller gross leasable area of 17,876 square feet. *See* Exhibit B – Revised Master Site Plan Jughandle 2020. The proposed change would reduce total gross leasable area by 1,524 square feet and not change the traffic impact (thus negating the need for a new traffic impact analysis). *See* Exhibit C – Kittelson Report 2020.

Accordingly, the Tribes request a Master Plan amendment adopting the Tribes' proposed reconfiguration of the jughandle. The Keizer Development Code (KDC) allows for amendments to an approved Master Site Plan for changes that "have no increase to overall square footage allowed in the existing Master Plan and cause no increase in the overall vehicle trips generated." As explained below, the Tribes' proposed amendment meets that requirement and does not affect or change any of the other items set forth in the KDC or the approved Master Plan. Thus, the Tribes respectfully request that their proposed amendment be approved.

Keizer Station Master Plan Amendment Process – KDC 3.113.06

As explained below, the Tribes' application for an amendment to the approved Master Plan meets the applicability requirements, contains the required submittal requirements, and satisfies the review criteria.

I. KDC 3.113.06(A) – Applicability.

KDC 3.113.06 (A) - Applicability provides as follows:

A. Applicability. The amendment process is limited to the following:

1. Site plan changes that have no increase to overall square footage allowed in the existing Master Plan and cause no increase in the overall vehicle trips generated. For example, an amendment could be a change in the number of buildings and their location.

2. Landscaping design changes.

3. Changes to building design.

Any other proposed changes to any adopted Master Plan shall be processed as a new Master Plan application.

Applicant: The Tribes' amendment request meets the above criteria because the proposed reconfiguration of the jughandle site plan results in *no increase* to the overall square footage. In fact, the overall leasable square footage *decreases* by 1,574 square feet. Additionally, as confirmed by the Kittelson Report, the proposed reconfiguration will result in *no increase* in the overall vehicle trips generated.

II. KDC 3.113.06(B) – Application Submittal Requirements.

KDC 3.113.06 (B) – Application Submittal Requirement provides as follows:

B. Application Submittal Requirements:

1. All changes to any items identified in Section 3.113.03.

2. A written explanation demonstrating how the proposed amendment is generally consistent with the adopted Master Plan.

3. A transportation analysis demonstrating consistency with the adopted Master Plan Traffic Impact Analysis (TIA).

4. An overall Master Site Plan which includes details for the subject area of change as well as the incorporation of those changes into the entire Master Plan Area.

Applicant: The Tribes' amendment application meets all the submittal requirements. First, due to the limited nature of the Tribes' proposed change to the jughandle site plan, virtually all the previously approved submittal requirements are either inapplicable or will be applied during the Development Review and permitting process. The only two criteria that apply are 3.113.03 (10) – Calculation of gross building, parking and open space, and 3.113.03(11) – traffic impact analysis. As previously explained, the Tribes' have addressed both of those items in the section above and in the attached exhibits.

Next, the Tribes' limited change request is consistent with the adopted Master Plan because the proposed change to the jughandle site plan modifies only the building-pad layout; it does not

alter in any other way the overall development concept that is contained within the approved Master Plan. As such, the proposed limited change naturally maintains the same purpose and objectives of the Plan, while strengthening the viability of developing the land as contemplated by the Plan.

Third, the proposed change does not increase vehicle trips. As mentioned above, the Kittelson Report shows that the traffic impact associated with the proposed change is consistent with the adopted Master Plan Traffic Impact Analysis. In that regard, Kristine Connolly, P.E., concluded that: "[T]he trip generation estimates for the proposed site fall within the trip generation estimates for the land uses proposed in the 2004 Keizer Station Master Plan. As such, the 'Jughandle' portion of Area D can accommodate the development without necessitating an updated TIA." Hence, the Tribes have met this submittal requirement.

Lastly, with this narrative statement, the Tribes have submitted a revised Master Site Plan as Exhibit B. Therefore, the Tribes have also met this submittal requirement.

III. KDC 3.113.06(C) – Review Criteria

KDC 3.113.06 (C) – Review Criteria provides as follows:

C. Review Criteria:

1. All applicable review criteria of Section 3.113.04 considering the type and extent of the proposed amendment.

2. The amendment is consistent with the adopted Master Plan, or achieves an equally desirable result.

3. The amendment does not result in additional traffic generation and is consistent with the adopted Traffic Impact Analysis.

Applicant: As explained above, the Tribes' amendment application seeks a limited change to the site plan of the jughandle portion of Area D, which notably *decreases* the gross leasable square footage and *does not increase* the overall vehicle trips generated. Moreover, the proposed reconfiguration improves the attractiveness of the site for other potential tenants, while also maintaining compliance with all the review criteria set forth in Section 3.113.04 and the approved Master Plan. Hence, the Tribes' request for an amendment should be approved.

IV. KDC 3.113.06(D) – Conditions of Approval

KDC 3.113.06 (D) – Conditions of Approval provides as follows:

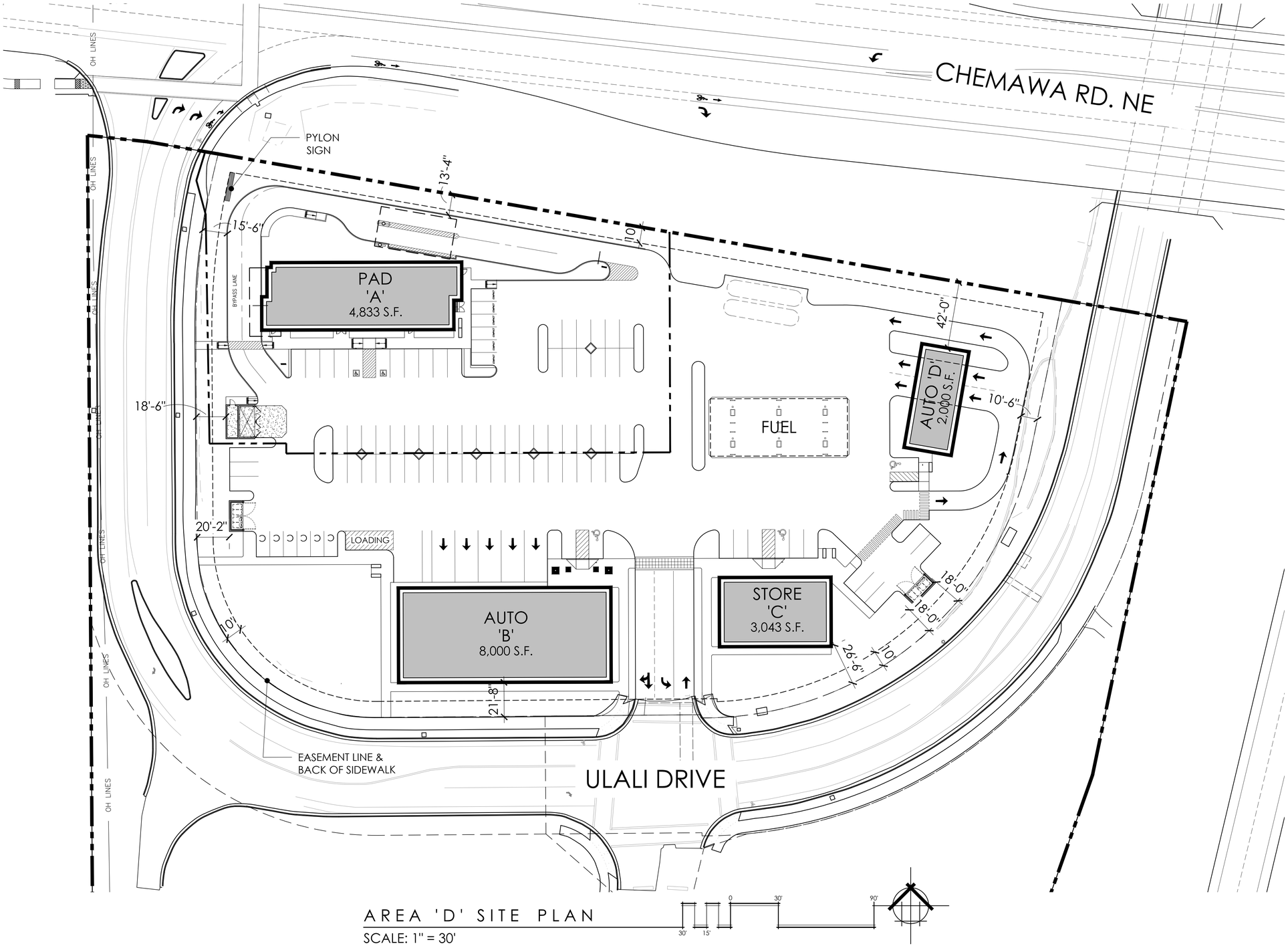
D. Review Criteria:

1. All original conditions of the adopted Master Plan shall remain in effect unless specifically modified.

2. Additional conditions may be placed for a Master Plan Amendment to assure the objectives in Section 3.113.05 are achieved.

Applicant: With this application, the Tribes request a limited amendment to the Master Site Plan for the jughandle portion of Area D. The Tribes' request and application meets all the KDC requirements authorizing such an amendment and will not affect or change any of the other items set forth in the KDC or the approved Master Plan, all of which shall remain in full effect. Thus, the Tribes respectfully request that their proposed amendment be approved without any additional conditions put in place.

14
WEST END GUARDRAIL
STORM DRAIN CB
GRATE = 156.29
10" IE = 152.54
STORM DRAIN
CULVERT
10" IE = 152.44
6' CHAIN LINK
FENCE (TYPICAL)
661.74'
S78°21'40"E
Tenant I-Retail
@ 5/1,000 SQ FT
= 65 SP REQ.
±10,525 SF
FF=161.00
3,825 SF
3,825 SF
Tenant II-
Food D/T
3,200 S.F.
FF=161.0
Tenant III
Food D/T
Use
3,200 S.F.
FF=160.00
×160.2
Tenant IV
Food
Sitdown
7,500 S.F.
Building
"1"
15,000 SQ.FT.
Retail
Building
"2"
6,500 S.F.
Building
"3"
10,600 S.F.
Retail
4,400 s.f.
Flex Office
6,200 S.F.
S21°16'14"W
410.46'
BIKE LINE /PATH
6' CHAIN
FENCE (T
×169.6
×170.1
×172.3



AREA 'D' SITE PLAN

SCALE: 1" = 30'

0 30' 90'

30' 15'

April 06, 2020

Owner :

Chemawa Station LLC

Grand Ronde, OR

Developer :

RPS Development Company

P.O. Box 947 McMinnville, OR 97128

Phone: (503) 781-1771

Chemawa Station - Area 'D'

Ulali Drive | Keizer, Oregon

BENNER STANGE ASSOCIATES
ARCHITECTS, INC.
THE WATERMAN BUILDING
80 SE MADISON
SUITE B-130
PORTLAND, OR 97214
(503) 670-0234
FAX (503) 670-0235
bsa@bsaarch.com
BSAA ARCHITECTURE & PLANNING

F:\2018 BSA Projects\18-124 Keizer Station Area D\02 Site Development\18-124 SD10.dwg

KITTELSON & ASSOCIATES
851 SW 6th AVENUE, SUITE 600
PORTLAND, OR 97204
P 503.228.5230 F 503.273.8169

April 6, 2020 Project #: 25119

Nate Brown
City of Keizer
Community Development
PO Box 21000
Keizer, OR 97307

RE: Keizer Station Area D: Jughandle Development Trip Generation Compliance

Mr. Brown,

Kittelson & Associates, Inc. (Kittelson) has performed a trip generation comparison for the portion of Keizer Station Area D development known as the "Jughandle", for the purposes of determining whether the currently proposed development is consistent with the trip generation assumptions of the original 2004 Keizer Station Master Plan Transportation Impact Analysis (TIA). As documented in the following sections, the trip generation estimates for the proposed site fall within the trip generation estimates for the land uses proposed in the 2004 Keizer Station Master Plan. As such, the "Jughandle" portion of Area D can accommodate the development without necessitating an updated TIA.

Trip Generation Methodology

Trip generation estimates for the approved 2004 Keizer Station Master Plan and proposed site plan were prepared using standard trip rates cited in *Trip Generation*, 10th *Edition* (Reference 1). Pass-by and trip internalization rates were developed based on guidance in Trip Generation Handbook, 3rd Edition (Reference 2).

Existing Keizer Station Area D Trip Generation

In 2004, Kittelson prepared a detailed TIA for the Keizer Station development. The approved Area D Master Plan is included as Attachment A, and includes the following buildings in the "Jughandle" portion of the development:

- A 13,000 square-foot retail building;
- A 3,200 square-foot fast-food restaurant with drive-through; and
- A 3,200 square-foot convenience market (with drive-through) and gas station with 12 fueling positions.

The estimated trip for the approved Master Plan is summarized in Table 1.

Table 1 – Estimated Trip Generation for "Jughandle" Portion of Keizer Station Area D (2004 Master Plan)

Land Use	ITE Code	Size	Weekday PM Peak Hour		
			Total Trips	In	Out
Shopping Center	820	13,000 sq. ft.	50	24	26
Internal (22%)			*-11*	*-6*	*-5*
Pass-By (34%)			*-12*	*-6*	*-6*
Fast-Food Restaurant with Drive-Through Window	934	3,200 sq. ft.	105	55	50
Internal (35%)			*-37*	*-16*	*-21*
Pass-By (50%)			*-34*	*-17*	*-17*
Super Convenience Market/Gas Station	960	3,200 sq. ft.	222	111	111
Internal (12%)			*-26*	*-15*	*-11*
Pass-By (56%)			*-110*	*-55*	*-55*
Total Trips			**377**	**190**	**187**
Less Internal Trips			*-74*	*-37*	*-37*
Less Pass-By Trips			*-156*	*-78*	*-78*
Net New Primary Trips			**147**	**75**	**72**

Proposed Development Trip Generation

Chemawa Station, LLC is proposing to develop the following buildings in the "Jughandle" portion of the development:

- An 8,000 square-foot retail building;
- A 4,833 square-foot fast-food restaurant with drive-through;
- A 3,043 square-foot convenience market and gas station with 12 fueling positions; and
- A quick lubrication vehicle shop with 2 servicing positions.

The proposed site plan is included as Attachment B. The estimated trip for the proposed site plan is summarized in Table 2.

Table 2: Estimated Trip Generation for "Jughandle" Portion of Keizer Station Area D (Proposed Site Plan)

Land Use	ITE Code	Size	Weekday PM Peak Hour		
			Total Trips	In	Out
Shopping Center	820	8,000 sq. ft.	30	14	16
Internal (39%)			*-12*	*-7*	*-5*
Pass-By (34%)			*-6*	*-3*	*-3*
Fast-Food Restaurant with Drive-Through Window	934	4,833 sq. ft.	158	82	76
Internal (34%)			*-54*	*-23*	*-31*
Pass-By (50%)			*-52*	*-26*	*-26*
Super Convenience Market/Gas Station	960	3,043 sq. ft.	211	106	105
Internal (18%)			*-38*	*-21*	*-17*
Pass-By (56%)			*-96*	*-48*	*-48*
Quick Lubrication Vehicle Shop	941	2 Servicing Positions	10	6	4
Internal (40%)			*-4*	*-3*	*-1*
Total Trips			**409**	**208**	**201**
Less Internal Trips			*-108*	*-54*	*-54*
Less Pass-By Trips			*-154*	*-77*	*-77*
Net New Primary Trips			**147**	**77**	**70**

As shown in Tables 1 and 2, the current proposal is expected to generate the same number trips than the "Jughandle" portion of the approved Area D Master Plan. Additionally, the proposed site plan is estimated to generate fewer trips than were analyzed for the site in 2004. Therefore, Area D can

accommodate the proposed development and maintain consistency with the analysis and assumptions contained within the 2004 Keizer Station Master Plan TIA.

We trust that this letter adequately addresses the trip generation compliance of the proposed site plan for the for the portion of Keizer Station Area D development known as the "Jughandle". Please contact us if you have any questions or comments regarding the contents of this report or the analysis completed.

Sincerely,
KITTELSON & ASSOCIATES, INC.

Kristine Connolly, PE
Senior Engineer

Marc Butorac, PE, PTOE, PMP
Senior Principal Engineer

REFERENCES

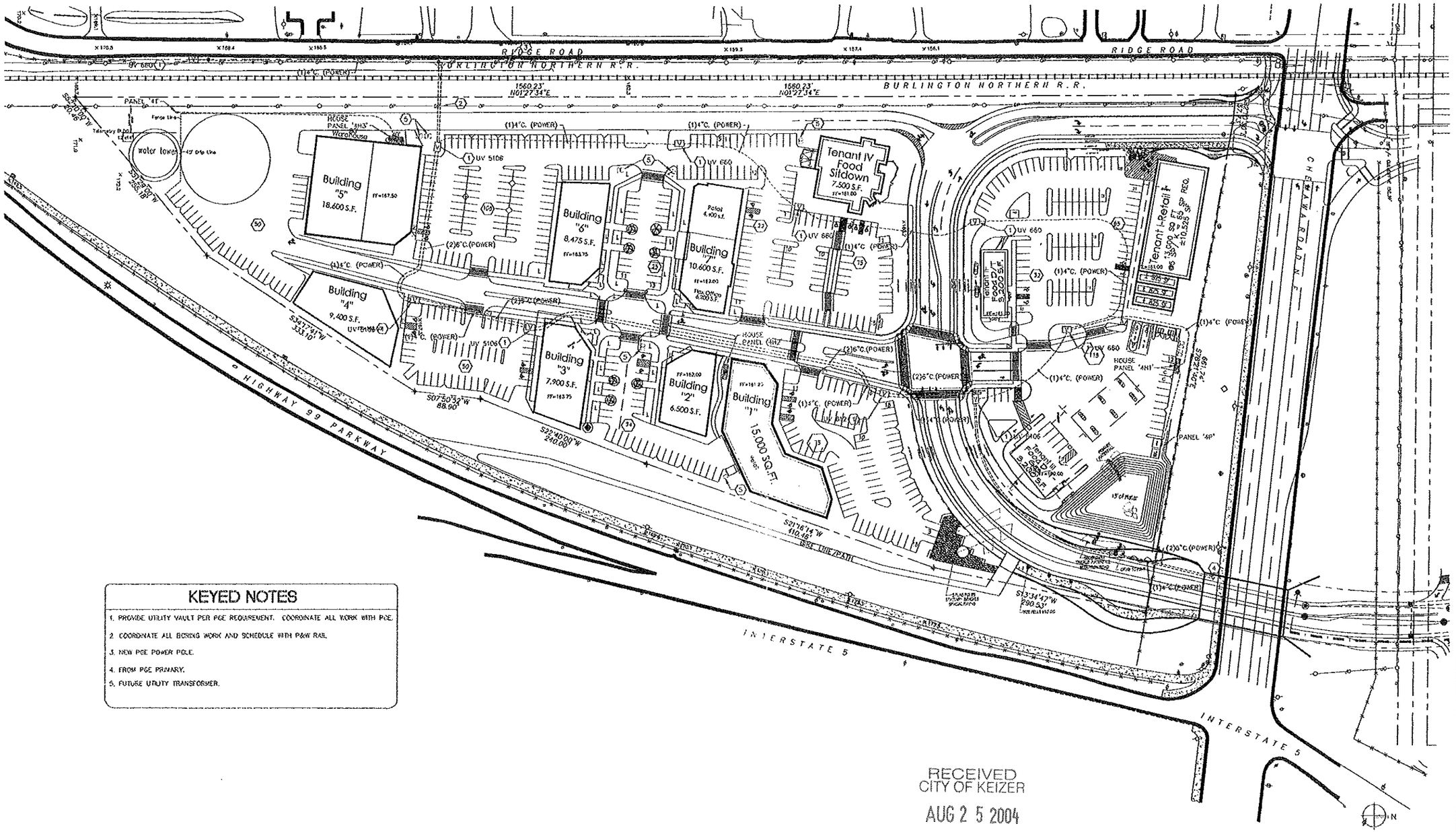
1) Institute of Transportation Engineers. *Trip Generation Manual, 10th Edition*. 2017.
2) Institute of Transportation Engineers. *Trip Generation Manual, 3rd Edition*. 2017.

ATTACHMENTS

Attachment A: Approved Area D Master Plan

Attachment B: Proposed Site Plan

Attachment A
Approved Area D Master Plan



KEYED NOTES

1. PROVIDE UTILITY VAULT PER PGE REQUIREMENT. COORDINATE ALL WORK WITH PGE.
2. COORDINATE ALL BORING WORK AND SCHEDULE WITH P&W RAIL.
3. NEW PGE POWER POLE.
4. FROM PGE PRIMARY.
5. FUTURE UTILITY TRANSFORMER.

RECEIVED
CITY OF KEIZER
AUG 2 5 2004
COMMUNITY DEVELOPMENT

Completion SUBMITTAL

KJD ARCHITECTURE PC
536 SE 17th Ave.
Portland, OR 97214
503-231-2884
503-231-9521 fax
kend@kjdarch.com

CHEMAWA LLC
CHEMAWA KEIZER STATION
SITE POWER PLAN

OREGON
DRAWING FILE NAME: C:\DWG\03009.1
PROJECT NO. 03009

KEIZER
SCALE: 1"=60'-0"

DESIGNED BY: CVD
DRAWN BY: CVD
CHECKED BY: ____
APPROVED BY: ____

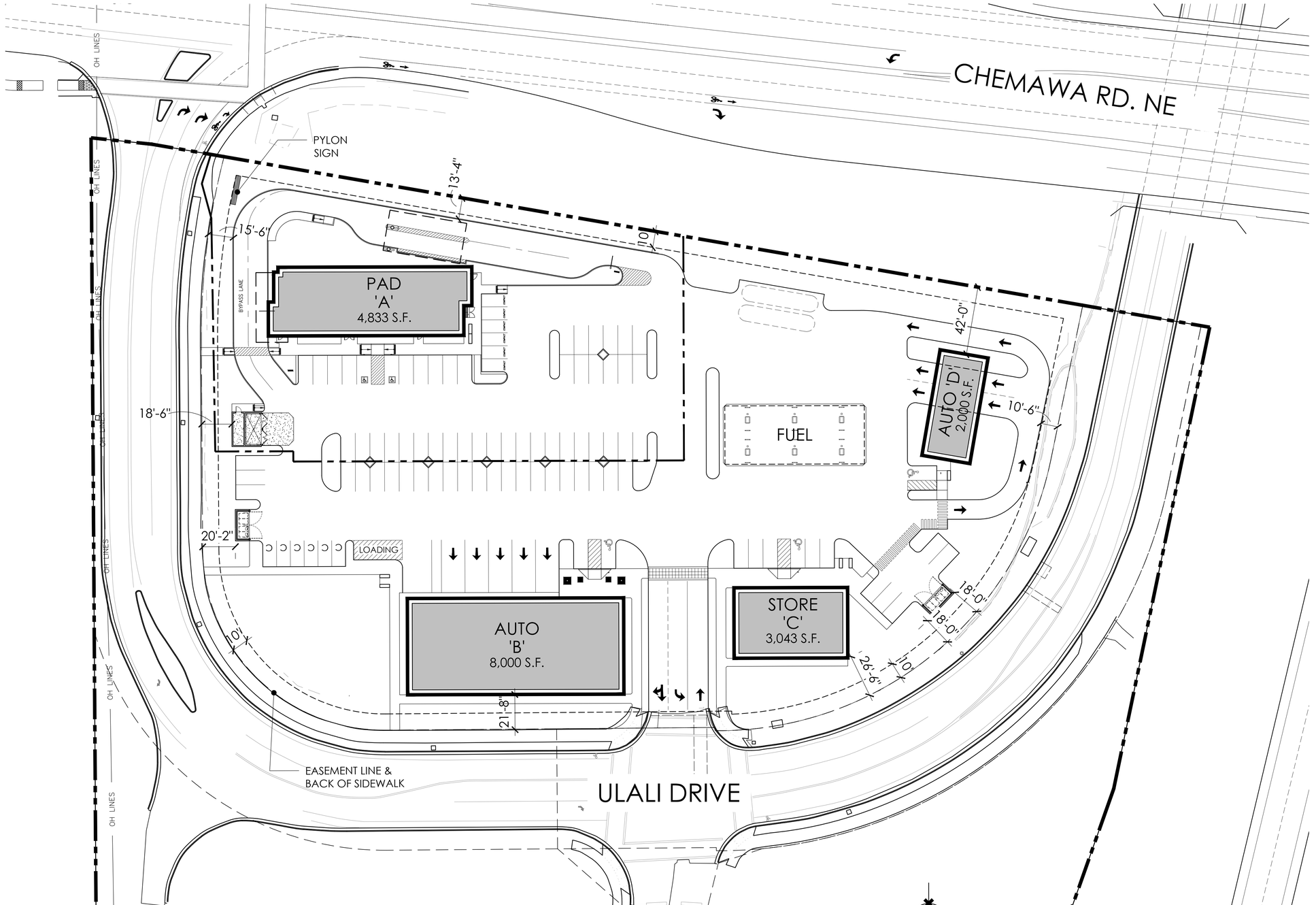
BY	REVISION	DATE	APPR.
	MASTER PLAN SUBMITTAL	6-16-04	CVD
	COMPLETIONS SUBMITTAL	8-20-04	CVD

PLOT DATE: APRIL 16, 2004

SHEET C3

LAST ISSUE:

Attachment B
Proposed Site Plan



AREA 'D' SITE PLAN

SCALE: 1" = 30'

0 30' 90'

30' 15'

April 06, 2020

Owner :

Chemawa Station LLC

Grand Ronde, OR

Developer :

RPS Development Company

P.O. Box 947 McMinnville, OR 97128

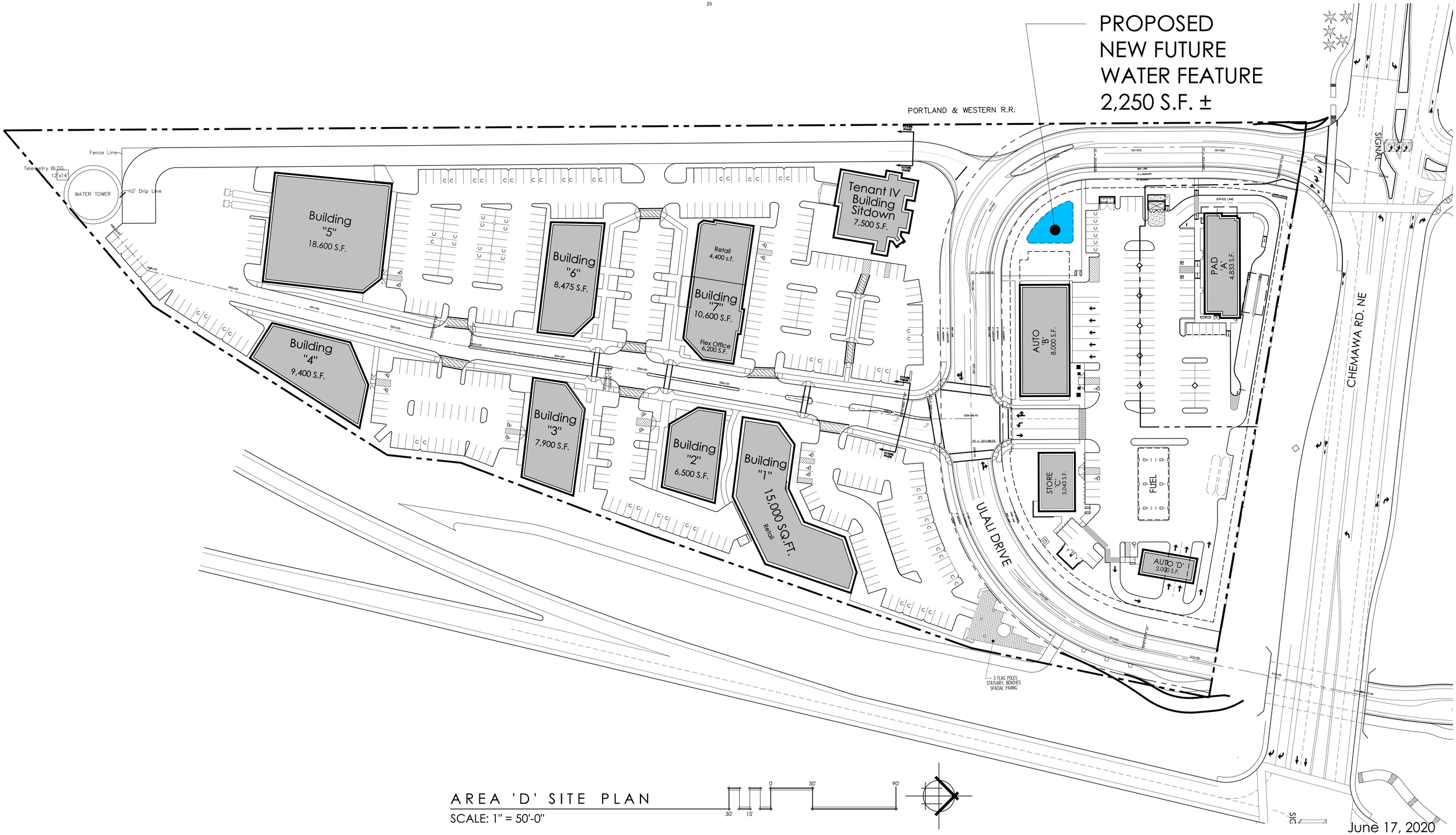
Phone: (503) 781-1771

Chemawa Station - Area 'D'

Ulali Drive | Keizer, Oregon

BENNER STANGE ASSOCIATES
ARCHITECTS, INC.
THE WATERMAN BUILDING
80 SE MADISON
SUITE B-130
PORTLAND, OR 97214
(503) 670-0234
FAX (503) 670-0235
bsa@bsaarch.com
BSAA ARCHITECTURE & PLANNING

F:\2018 BSA Projects\18-124 Keizer Station Area D\02 Site Development\18-124 SD10.dwg



June 17, 2020

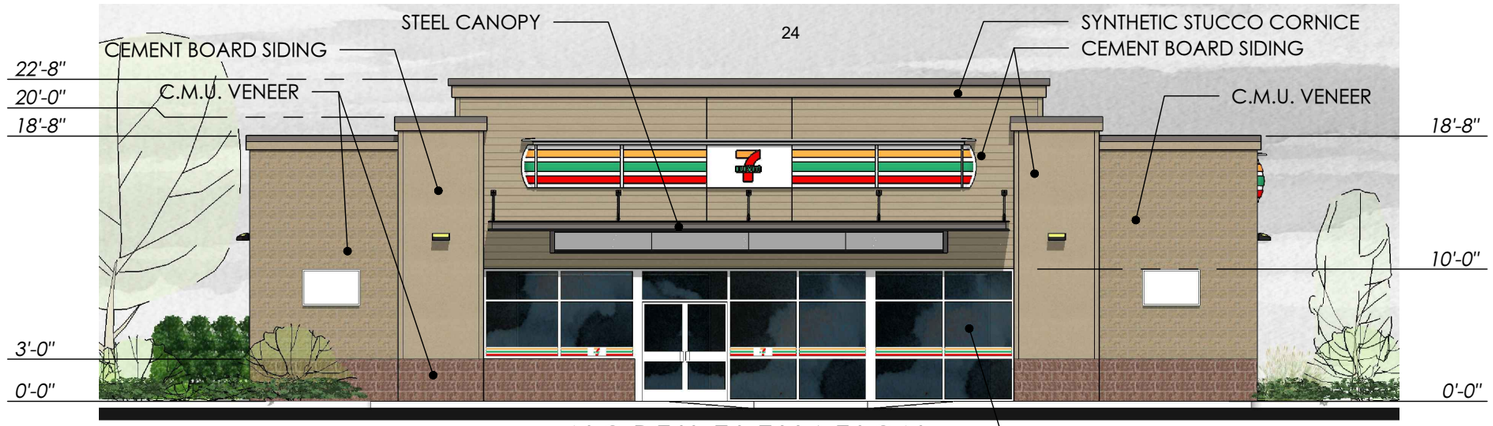
Owner :
Chemawa Station LLC
Grand Ronde, OR
Developer :
RPS Development Company
P.O. Box 947 McMinnville, OR 97128
Phone: (503) 781-1771

Water Feature
Chemawa Station - Area 'D'
Ulali Drive | Keizer, Oregon

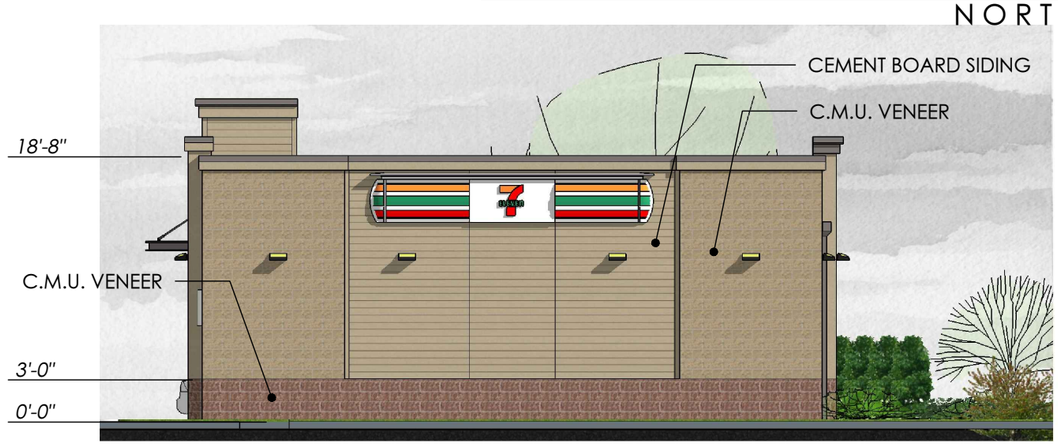
BENNER
STANGE
ASSOCIATES
ARCHITECTS, INC.
THE WATERMAN BUILDING
80 SE MADISON
SUITE B-130
PORTLAND, OR 97214
(503) 670-0234
FAX (503) 670-0235
bsa@bsaarch.com
BSAA
ARCHITECTURE & PLANNING

SD10.3

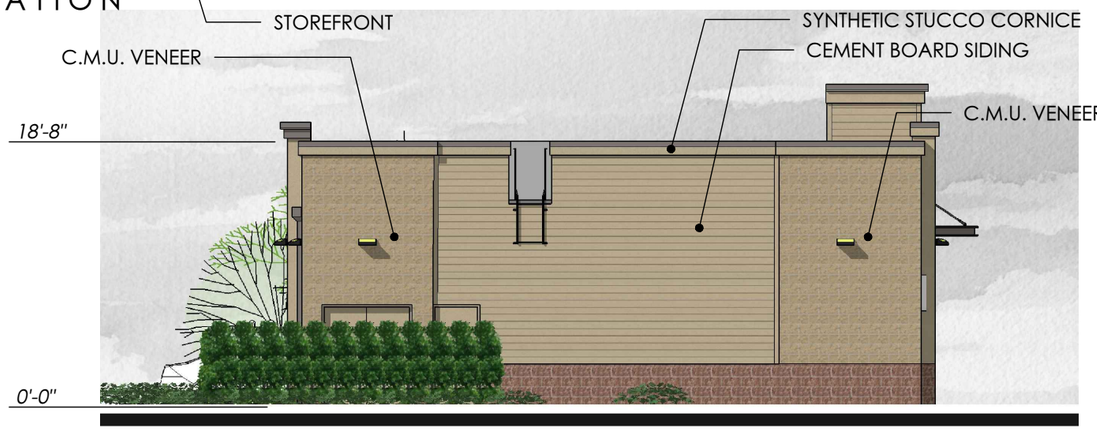
F:\2018 BSA Projects\18-124 Keizer Station Area D\02 Site Development\18-124 SD10.3(master plan).dwg



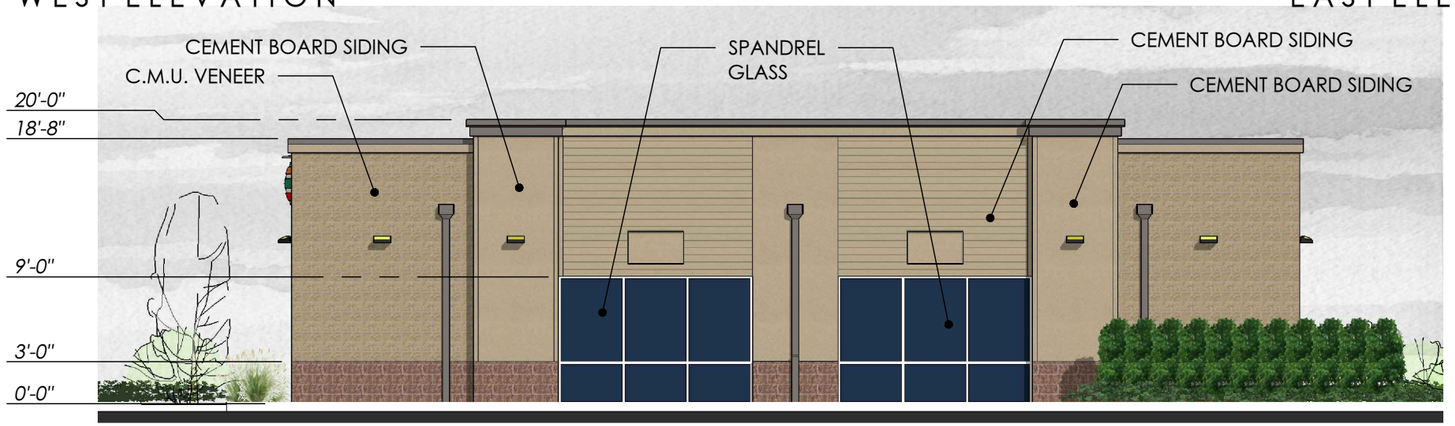
NORTH ELEVATION



WEST ELEVATION



EAST ELEVATION



SOUTH ELEVATION

TUSCAN - ' NICHIHA '

DESSERT TAN - ' WILLAMETTE GRAYSTONE '

ROSE BROWN - ' WILLAMETTE GRAYSTONE

June 18, 2020

Chemawa Station

Keizer, Oregon

BENNER STANGE ASSOCIATES
ARCHITECTS, INC.
THE WATERMAN BUILDING
80 SE MADISON STREET
SUITE 430
PORTLAND, OR 97214
503-670-0234
FAX 503-670-0235
bsa@bsaarch.com

BSAA Architecture & Planning

N1 TOP

NICHIHA

SHALE BROWN

WILLAMETTE GRAYSTONE

DESSERT TAN

MUTUAL MATERIAL

SAND STONE

N2 BASE

NICHIHA

ALEXANDRIA BUFF

WILLAMETTE GRAYSTONE

ROSE BROWN

WILLAMETTE GRAYSTONE

KHAKI

MUTUAL MATERIAL

SAND STONE

MUTUAL MATERIAL

KHAKI

MUTUAL MATERIAL

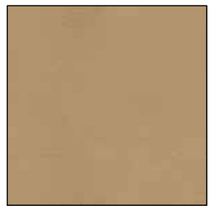
MESA TAN

MAIN

NICHIHA

TUSCAN

NICHIHA



SAND

KEIZER STATION

Keizer, Oregon

COLOR/MATERIAL SCHEDULE
April 10, 2006
Architect's Project No. 25121

	Color
C-1	'ICI' 169 BRICK ROAD
C-2	'ICI' 463 NEUTRAL WHEAT
C-3	'ICI' 537 DOVETAIL
C-4	'ICI' 532 HAYMARKET
C-5	'ICI' 545 SEAHORSE
C-6	'ICI' 530 CAMELCOAT
C-7	'ICI' 563 AMISH LINEN
C-8	'ICI' 330 BURMA ROAD
C-9	'ICI' 268 EMBERGLO
C-10	'ICI' 1285 IRON CREEK
C-11	'ICI' 1291 LITTLE ROCK
C-12	'ICI' 210 SMOKEY GLASS
C-13	'BEHR' 3A47-4 BLUE MOUNTAIN
C-14	'BEHR' 3A47-5 HEATHER DUSK
C-15	'MUTUAL MATERIALS' CMU CASTLE WHITE
C-16	'MUTUAL MATERIALS' C.M.U. CHARCOAL
C-17	'MUTUAL MATERIALS' C.M.U. MOUNTAIN BROWN
C-18	'MUTUAL MATERIALS' C.M.U. MESA TAN
C-19	'MUTUAL MATERIALS' C.M.U. BURNT ORANGE
C-20	'MUTUAL MATERIALS' C.M.U. NATURAL
C-21	'CULTURED STONE' SHALE PRO-FIT LEDGESTONE (PF-8016)
C-22	'CUSTOM-BILT' KYNAR 500 - BURGUNDY
C-23	'CUSTOM-BILT' KYNAR 500 – STORM GRAY
C-24	'BENJAMIN MOORE' 164 WEATHERPROOF ALUMINUM PAINT
C-25	ALUMINUM STOREFRONT CLEAR ANODIZED
C-26	ALUMINUM STOREFRONT 'KAWNEER' BOYSENBERRY 734A034
C-27	'ASTRA-GLAZE - SW' GLAZED MASONRY OCEAN BLUE
C-28	NERO CERAMIC TILE PER BBB SPECS

CITY OF KEIZER
MAJOR & MINOR VARIANCE APPLICATION

If there are any questions about this application, who should be contacted?

Name: Jeffrey A. Benner

Address: 80 SE Madison St., Ste 430, Portland, OR 97214

Daytime Phone Number: 503.784.6022

Fax: 503.670.0235 **Email:** jbenner@bsaarch.com

1. **Applicant Name** **Address**

   Benner Stange Associates Architects, Inc. 80 SE Madison St., Ste 430
   Portland, OR 97214

   Phone 503.784.6022 cell

2. **Property Owner Name** **Address**

   Chemawa Station LLC c/o Grand Ronde Tribe
   9615 Grand Ronde Road
   Grand Ronde, OR 97347

   Phone 503.879.2304

3. The owners of record of the subject property do hereby request permission for a variance to the following standard See attachment. Specific to Area 'D', Keizer Station located in Keizer, OR.

4. Street Address of subject property North, East & West of Ulali Dr. South Chemawa Rd. NE, Keizer, OR

5. Size of subject property (acres or Sq. Ft.) Approx. 4.20 Acres

6. THE APPLICANT(s) SHALL CERTIFY THAT:

   A. The above variance request does not violate any deed restrictions that may be attached to or imposed upon the subject property.

   B. If the application is approved, the applicant will exercise the rights granted in accordance with that approval and will be subject to all conditions and limitations of approval.

C. All of the above statement and any statements included on the plot plan and exhibits attached to the plot plan are true to the best of the applicant's knowledge; and the applicant acknowledges that any permit issued on the property may be revoked if it is found that any statements are false.

D. The applicant acknowledges that this application and all applicable policies and criteria have been read and understood, and that the requirements and criteria for approving or denying the application are also understood.

SIGNATURE(s) of APPLICANT

JEFFREY A. ISENHART
RSAA, INC. PRESIDENT

Dated this 20th day of APRIL, 20 20

AUTHORIZATION BY PROPERTY OWNER(s)

Property owners and contract purchasers are required to authorize the filing of this application and must sign below. All signatures represent that they have full legal capacity to and do hereby authorize filing of this application and certify that the information and exhibits herewith submitted are true and correct.

SIGNATURE President

ADDRESS & PHONE
by RPS Development Company, Inc.
PO Box 947
McMinnville, OR 97128
503-781-1771 (phone)

SIGNATURE

ADDRESS & PHONE

(phone)

FOR OFFICE USE ONLY

Township_____ Range__ Section _____
Tax Lot Number(s)_____
Zone/Map_____
Neighborhood Association _____
Comp Map _____

Date Application Determined Complete

Application elements submitted:
____ (a) Title transfer
____ (b) Plot Plan
____ (c) Statement
____ (d) Filing fee

Application Accepted By

MINOR VARIANCE APPLICATION

AREA 'D' – KEIZER STATION – KEIZER, OREGON

The intent of this Variance request is to further substantiate and document the November 01, 2004 City of Keizer City Council approval for this jug handle portion of Area 'D' and is a function of the constrained limited access.

THE CITY OF KEIZER DEVELOPMENT CODE

2.113 INDUSTRIAL BUSINESS PARK (IBP) / PREVIOUSLY SUBMITTED

Section "2.113.06 Yards Adjacent to Streets. Within an IBP District" (NOTE: This is consistent with the Variance requested and approved Section 2.113.05 in 2004.)

"1. Along the full extent of each lot line adjacent to a street, there shall be a required yard 20 feet in depth. (5/98)"

"2. Setbacks for accessory building and structures, except fences, shall be the same as for primary buildings. (5/98)"

"3. No parking will be allowed in required yards. (5/98)"

"4. No buildings or structures except transit shelters approved by the Salem Transit District shall be permitted in a required yard adjacent to a street. (5/98)"

"CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON", "ORDER"

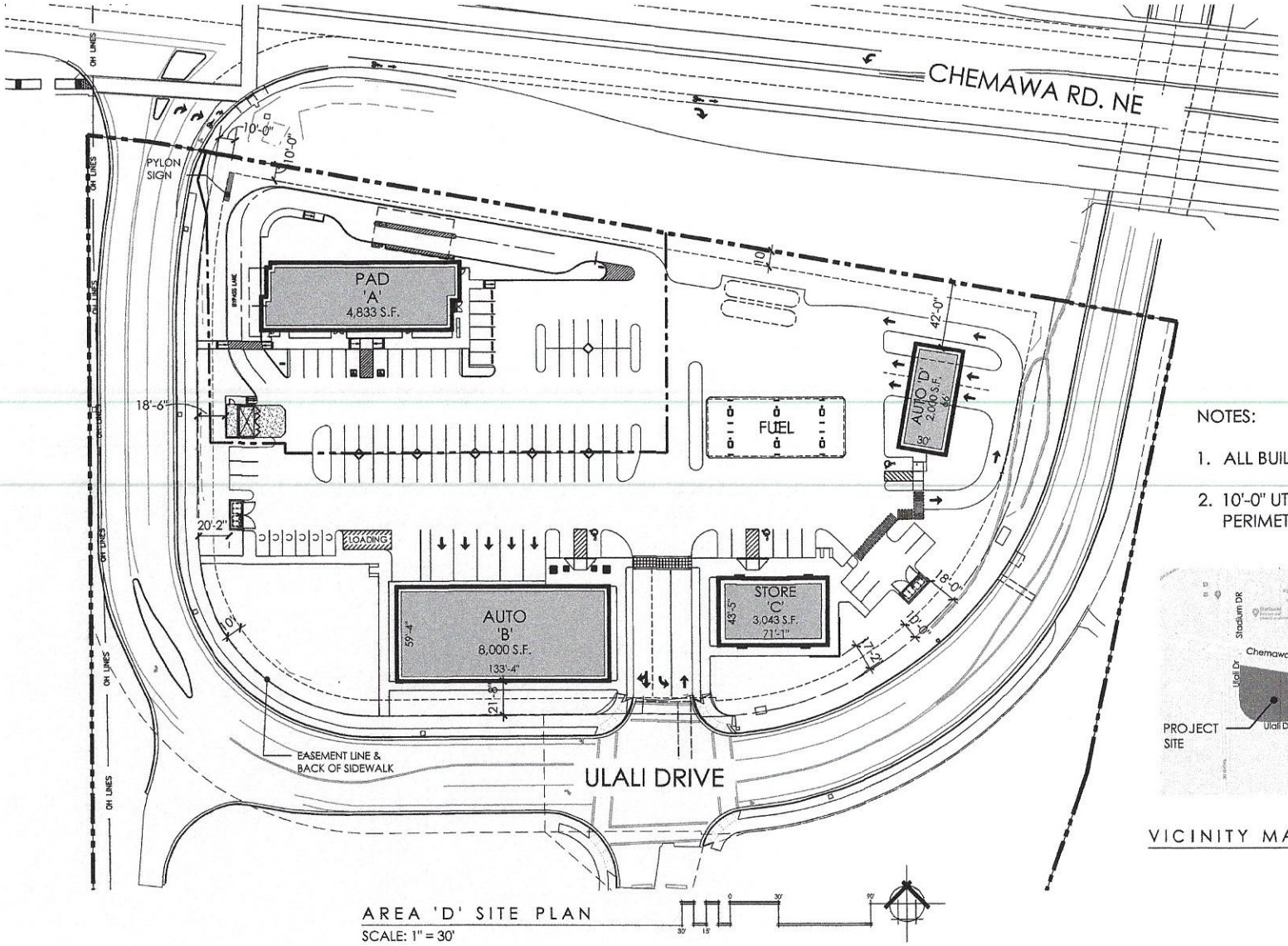
EXHIBIT "E", 'Action"

"Variance:" (Approved on November 01, 2004)

"Item 60. The Applicant shall locate the proposed structures and parking areas as indicated on the submitted site plan and shall maintain a minimum setback of ten (10) feet from the inner edge of the sidewalk on the north side of the Loop Road".

Per the attached Chemawa Station – Area 'D' Site Plan dated April 06, 2020, the following clarifies the intent of the latest site plan complying with the original approved Variance of November 01, 2004 and subsequent discussions and communications with The City of Keizer's Planning Staff.

A. Building structures, trash enclosures, screen walls, parking spaces, and any loading spaces/zones will not be located closer than 15'-0" adjacent to the back of sidewalk along Ulali Drive or adjacent property lines.
B. The proposed Monument Sign at the northwest corner of the site will be positioned 10'-0" clear of the back of sidewalk along Ulali and the northerly property line.
C. Drive thru lanes servicing Pad 'A' and Auto 'D', or any other future drive thru lanes will be located not less than 10'-0" from the back of sidewalk along Ulali Drive or the north property line respectfully.



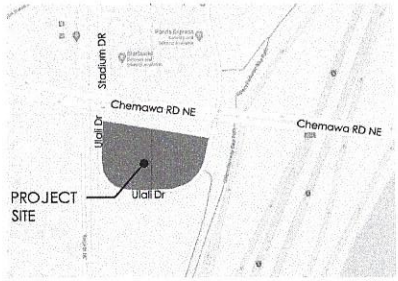
AREA 'D' SITE PLAN

SCALE: 1" = 30'

NOTES:

1. ALL BUILDINGS ARE ONE STORY
2. 10'-0" UTILITY EASEMENT AROUND PERIMETER OF PROPERTY

30



VICINITY MAP

April 20, 2020

Owner:
Chemawa Station LLC
Grand Ronde, OR
Developer:
RPS Development Company
P.O. Box 947 McMinnville, OR 97128
Phone: (503) 781-1771

Chemawa Station - Area 'D'

Ulali Drive | Keizer, Oregon

BENNER STANGE ASSOCIATES
ARCHITECTS, INC.
THE WATERMAN BUILDING
80 SE MADISON
SUITE B-130
PORTLAND, OR 97214
(503) 670-0234
FAX (503) 670-0235
bsa@bsaarch.com
BSAA ARCHITECTURE & PLANNING

P:\2018 BSA Projects\18-124 Keizer Station Area D\02 Site Development\18-124 SD10.dwg

Reel 2897 Page 443

QUITCLAIM DEED

This quitclaim deed is made by the United States of America, pursuant to Public Law 110-78 for the Secretary of the Interior to convey real property to the Confederated Tribes of the Grand Ronde Community of Oregon and the Confederated Tribes of the Siletz Indians of Oregon all of the interest in the following property situated in the County of Marion and State of Oregon.

Legal Description

The parcel of land lying in the S.1/2 of Section 36, Township 6 South, Range 3 West, W.M, Marion County, Oregon and being a portion of that property described in that deed to the State of Oregon, by and through its Department of Transportation, Highway Division, recorded April 23, 1974 in Book 776, Page 290 of Marion County Record of Deeds; the said parcel being described as follows:

Beginning at the intersection of a line parallel with and 25 feet Easterly of the center line of the main track of the Burlington Northern, Inc. Railroad (formally the Oregon Electric Railway) with a line parallel with and 170 feet Northwesterly of the center line of the Southbound lane of the Salem Parkway Freeway); thence Northeasterly parallel with said center line of the Southbound lane to a point opposite Engineer's Station "SB3 132+00; thence North 34° 17'44" East 332.35 feet; thence North 7° 44'13" East 89.93 feet to a point opposite and 450 feet Westerly of Engineer's Station 1798+50 on the center line of the Pacific Highway, thence North 22 degrees 40' East parallel with said Pacific Highway center line to a point opposite Engineer's Station 1976+10; thence North 21° of 16'10" East 410.12 feet to a point opposite Engineer's Station 1792+00 on said pacific Highway center line; thence North 13° 34'35" East 29035 feet to the Southerly line of that property designated as Parcel 1 and described in that deed to the State of Oregon, by and through the Department of Transportation, Highway Division, recorded in Book 772, Page 417 Marion County Record of Deeds; thence Northwesterly along said Southerly line to said parallel line 25 feet Easterly of the center line of the main track of the Burlington Northern, Inc. Railroad; thence Southerly along said last mentioned parallel line to the point of beginning.

The center line of the Southbound lane of the Salem Parkway referred to herein is described as follows:

Beginning at Engineer's center line Station "SB3" 119+31.79 said station being 631.49 feet South and 2091.90 feet West of the East quarter corner of Section 36, Township 6 South, Range 3 West, W.M.; thence South 26° 50' West 185 feet; thence on a spiral curve right (the long chord of which bears South 49 degrees 40'West) 500 feet; thence South 52 degrees 10' West 156.54 feet to Engineer's center line Station "SB3" 134+61.23 equals "SB 134+61.23; thence on a spiral curve left (the long chord of which bears South 29° 11'15" West 1031.94 feet to Engineer's center line station "SB" 151+49.71.

Return!

Bureau of Indian Affairs
Northwest Regional Office
911 N.E. 11th Avenue
Portland, Oregon 97232

Description: Marion,OR Document - Book.Page(1/15/04 to Current) 2897.443 Page: 1 of 4
Order: 1 Comment:

The center line of the Pacific Highway referred to herein is described as follows:

Beginning at Engineer's center line Station 1775+00 said station being 822.11 feet North and 1407.85 feet West of the East quarter corner of Section 36, Township 6 South, Range 3 West, W.M.; thence South 22° 40' West 826.99 feet to Engineer's center line Station 1783+26.99 Back equals 1783+36.56 Ahead; thence continuing South 22° 40' West of 2455.41 feet; thence on a spiral curve left the long chord of which bears South 21° 36' west, 400 feet; thence on a 3580.99 foot radius curve left (the long chord of which bears South 13 degrees 00'09" West) 808.03 feet to Engineer's center line Station 1820+00.

Bearings are based upon the Oregon Co-ordinate System, North Zone.

The parcel of land to which this description applies contains 15.66 acres, more or less.

Also, a parcel of land lying in the SW1/4 of Section 36, Township 6 South, Range 3 West and in the NW1/4 of Section 1, Township 7 South, Range 3 West, W.M., Marion County, Oregon and being a portion of that property described in that deed to the State of Oregon, by and through its Department of Transportation, Highway Division, Recorded April 23, 1974 in Book 776, Page 290 of Marion County Record of Deeds; the said parcel being described as follows:

Beginning at the Southwest corner of that property designated as Parcel 2 and described in that deed to the State of Oregon, by and through it Department of Transportation, Highway Division, recorded in Book 776, Page 417 of Marion County Records of Deed; thence Northeasterly parallel with and 137 feet Northwesterly of the center line of the Pacific Highway to a point opposite Engineer's Station 1815_00; thence Northeasterly in a straight line to a point opposite and 170 feet Northwesterly of Engineer's Station 1809 on said center line; thence North 7 degrees 44'13" East 220 feet, more or less, to a line which is parallel with and 270 feet Southeasterly of the center line of the Southbound lane of the Salem Parkway (formerly the Salem Freeway); then Southwesterly parallel with said last mention center line to a line parallel with and 25 feet Easterly of the center line of the main track of the Burlington Northern, Inc. Railroad (formerly the Oregon Electric Railway); thence Southerly parallel with said main track center line to a point on the Westerly extension of the Southerly line of said property designated as Parcel 2 in said State of Oregon deed. recorded in Book 772, Page 417; thence Easterly along said Westerly extension to the point of beginning.

The center line of the Pacific Highway referred to herein is described on Page 2 of this deed.

The center line of the Southbound lane of the Salem Parkway referred to herein is described on Page 2 of the deed.

Bearings are based upon the Oregon Co-ordinate System, North Zone.

The parcel of to which this description applies contains 4.20 acres, more or less.

Witness my hand this 7 day of December, 2007.

Sign
Stanley M. Speaks
Regional Director
Bureau of Indian Affairs
Portland, Oregon

State of Oregon

County of Multnomah

This instrument was acknowledged before me this 7th day of December 2007
By Stanley M. Speaks
In witness whereof I hereunto set my hand and official seal:

SEAL
BETTY L SCISSONS
NOTARY PUBLIC-OREGON
COMMISSION NO. 405386
MY COMMISSION EXPIRES APR. 26, 2010

Notary Public

Bureau of Indian Affairs
Northwest Regional Office
911 N.E. 11th Avenue
Portland, Oregon 97232

REEL:2897 PAGE: 443

December 11, 2007, 11:26 am.

CONTROL #: 212170

State of Oregon
County of Marion

I hereby certify that the attached instrument was received and duly recorded by me in Marion County records:

FEE: $ 36.00

BILL BURGESS
COUNTY CLERK

THIS IS NOT AN INVOICE.

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

ORDER

IN THE MATTER OF THE APPLICATION OF CHEMAWA STATION LLC FOR APPROVAL OF THE KEIZER STATION MASTER PLAN (AREA D-COMMERCE CENTER) AND MAJOR VARIANCE (MASTER PLAN/MAJOR VARIANCE CASE NO. 2004-38)

The City of Keizer orders as follows:

Section 1. THE APPLICATION. This matter came before the Keizer City Council on the application of Chemawa Station LLC for a master plan and major variance for the Keizer Station Plan - Area D (Commerce Center).

Section 2. JURISDICTION. The land in question in this Order is within the city limits of the City of Keizer. The City Council is the governing body for the City of Keizer. As the governing body, the City Council has the authority to make final land use decisions concerning land within the city limits of the City of Keizer.

Section 3. PUBLIC HEARING. A public hearing was held on this matter before the Keizer City Council on October 18, 2004. The following persons either appeared at the City Council hearing or provided written testimony on the application before the Council:

1) Eric Scott, Representing Chemawa Station LLC

2) Ken Deener, KJD Architecture

3) Hermanus Steyn, Kittleson & Associates

INTEGRA

INTEGRA

Lien & Johnson
Attorneys at Law
4855 River Road N
Keizer, Oregon 97303
(503) 390-1635

Section 4. EVIDENCE. Evidence before the City Council in this matter is summarized in Exhibit "A" attached.

Section 5. OBJECTIONS. No objections have been raised as to notice, jurisdiction, alleged conflicts of interests, bias, evidence presented or testimony taken at the hearing.

Section 6. CRITERIA AND STANDARDS. The criteria and standards relevant to the decision in this matter are set forth in Exhibit "B" attached.

Section 7. FACTS. The facts before the City Council in this matter are set forth in Exhibit "C" attached.

Section 8. JUSTIFICATION. Justification for the City Council's decision in this matter is explained in Exhibit "D" attached.

Section 9. ACTION. The decision of the City Council is set forth in Exhibit "E" attached.

Section 10. FINAL DETERMINATION. This Order is the final determination in this matter.

Section 11. EFFECTIVE DATE. This Order shall take effect immediately upon its passage.

///

///

///

Lien & Johnson
Attorneys at Law
4855 River Road N
Keizer, Oregon 97303
(503) 390-1635

Section 12. APPEAL. A party aggrieved by the final determination in a proceeding for a discretionary permit or a zone change may have it reviewed under ORS 197.830 to ORS 197.834.

PASSED this 1st day of November, 2004.

SIGNED this 1st day of November, 2004.

Mayor

City Recorder

Lien & Johnson
Attorneys at Law
4855 River Road N
Keizer, Oregon 97303
(503) 390-1635

EXHIBIT "E"

Action

The City of Keizer hereby ORDERS as follows:

The application for approval of the master plan and variance are hereby GRANTED subject to the conditions set forth below. Unless specifically stated otherwise herein, all conditions must be met prior to the issuance of any building permits (See Condition 63):

1. The construction of all the public improvements and its associated landscaping must be completed within two years of the final date of this decision which can be extended upon approval by the Community Development Director. This approval is only valid when the construction is completed by November 2, 2006. Any request for an extension must be made in writing prior to this date.

2. The applicant shall submit a phasing plan for all improvements for approval by the Community Development Director.

3. The development shall be required to meet all Development Code requirements relating to signs as found in Section 2.308.

4. The landscaping and pathway improvements including water features, plazas and other amenities for the entire Area D shall be provided as shown in the application or as modified by the conditions of approval. The final landscaping and pathway plans shall be approved by the Community Development Director prior to installation. These landscaping and pathway improvements shall be provided in conjunction with the first building permit approved for the development or as specifically approved by the City of Keizer.

5. A landscaping design for the area adjacent to the Interstate 5 freeway and the Salem Parkway shall be submitted to the Community Development Director's for review and approval. The design shall demonstrate a coordinated design with Area A.

6. The land area devoted to industrial and commercial uses, as required in KDC 2.113, IBP Zone, shall be met and maintained within Area C. The amount of "Flex Space" use, as defined in Section 2.113.02.N.2 shall be limited to that specified in this section of the KDC.

7. Except as approved in the variance application, all KDC dimensional requirements for building heights, lots, and setbacks shall be met.

54. Street opening permits are required for any work within the City Right of Way that is not covered by a Construction Permit.

55. Facility phasing plans and arrangements for reimbursing developers for providing additional capacity to serve future development shall be approved by the Keizer Department of Public Works and the City Council prior to any construction.

56. All easements to be located in the appropriate locations based on actual approved plans.

57. An improvement agreement or other acceptable form of guarantee for all required construction shall be in place and appropriate easements recorded prior to construction permits being issued.

58. Unless otherwise specifically modified by this decision, development of all structures and parking areas shall comply with remaining requirements of the Keizer Development Code, and shall provide for the public good by providing a minimum of ten (10) stalls for Park and Ride vehicles. The amount of designated Park and Ride spaces may be increased. These spaces shall be posted indicating parking only for Park and Ride between the hours of 7 a.m. and 5 p.m. Monday through Friday.

59. The City of Keizer employs Marion County Building Department for the processing of building permits. Therefore, the applicant shall meet all requirements of the Marion County Building Division pertaining to building code issues.

In order for the Master Plan to receive final approval the applicant will be required to submit documentation demonstrating compliance with all applicable federal, state and local requirements. This shall include all conditions adopted by the City Council which apply to this Master Plan. These shall be submitted to the Community Development Director for verification and final approval.

VARIANCE:

60. The applicant shall locate the proposed structures and parking areas as indicated on the submitted site plan and shall maintain a minimum setback of ten (10) feet from the inner edge of the sidewalk on the north side of the Loop Road.

61. This variance was revised based upon amenities and landscaping shown in the plans submitted. These amenities provided mitigate any visual impact this variance may create. Therefore all improvements such as landscaping, pathways and amenities shown on the proposal must be implemented.

Proposed Findings

FINDINGS: GENERAL

1. The applicant is Chemawa Station LLC. The subject property is owned by the Confederated Tribes of the Siletz Indians and the Confederated Tribes of Grand Ronde.

2. The subject property is Area D (Commerce Center) of the Keizer Station Plan which is located at the Chemawa/Interstate 5 interchange. The subject property is identified on Marion County Tax Assessor's Map as Township 6 south Range 3 West; Section 36D, Lot #00400. The property is bisected by Ulali Drive which serves as access to the subject property and provides connectivity to Area A of the Keizer Station. The proposed amendment and variance request affects only the property located on the internal (north) portion of the jug handle of Ulali Drive. The existing area outside (south) of the jug handle of Ulali Drive remains unchanged.

3. The subject property is designated is designated Campus Light Industrial on the Comprehensive Plan Map and is zoned IBP (Industrial Business Park).

4. The proposal is for an amendment to the previously adopted Master Plan for Area D. This amendment will modify the previously approved site plan by changing the location and number of buildings, overall parking lot layout, and landscaping features and amenities located within the internal portion of the jug handle. In addition, a Major Variance is requested to allow a setback reduction for buildings and parking lot areas adjacent to the north side of Ulali Drive, which is consistent with previously approved Master Plan/Major Variance Case 2004-38. The Major Variance request is only necessary due to the fact the approval timeframe has lapsed. No other changes are proposed.

5. This is the first amendment to the approved Area D master plan. This master plan amendment is subject to a Type II-B procedure (KDC 3.101.02), which includes a public hearing and decision by the City Council.

FINDINGS: KEIZER STATION MASTER PLAN AMENDMENT

6. The Review Criteria for a Keizer Station Master Plan amendment are listed in Section 3.113.06 of the Keizer Development Code (KDC). The criteria and findings are listed below:

A. <u>All applicable review criteria of Section 3.113.04 considering the type and extent of the proposed amendment.</u>

FINDINGS: The review criteria found in Section 3.113.04 is wide ranging and includes things such as overall master plan objectives and arrangement of uses to

landscaping, site planning, and architectural details. The proposed amendment is to change the number and location of proposed buildings, along with the overall site layout of the interior of the jug handle. The applicant submitted a site plan showing proposed building locations, overall parking lot layout, along with landscaped areas and relocation of the water feature. While the detailed design of the internal jug handle portion of the site has changed, the changes do not substantially alter the basis of justification for approval, nor do they significantly alter the recommended conditions of approval. However, some of the original conditions will be modified and/or replaced to reflect changes proposed by this amendment. The following specific criteria of Section 3.113.04 gives the basis for justification for finding this proposal complies with this review criteria:

3.113.04.B.1. Design Standards:

The original master plan approval provided typical building elevations, but no specific tenants were identified at that time. The typical elevations originally submitted were deficient in detail and design. As such, conditions were placed on the original approval, that specific building designs would be regulated as a part of the building permit review and approval process to ensure compliance with the standards of the Keizer Development Code (KDC). The building elevations submitted as a part of this proposal show the building design for the proposed 7-11 convenience store (Store 'C') demonstrate consistency with the conditions of the original masterplan approval as well as provisions of the (KDC). The materials and colors to be used are consistent with the development pattern within Keizer Station Village Center and comply with the design standard provisions of KDC section 2.315. Staff finds the submitted elevations adequately demonstrate compliance with this criterion and with the existing conditions of approval, future buildings governed by this amendment will comply with this criterion.

3.113.04.B.2. Transportation System Standards:

The Public Works Department has reviewed the proposed amendment and provided comments and conditions relating to transportation facilities. In addition to the original conditions of approval governing Master Plan/Major Variance Case 2004-38, the public works department comments clarify "the traffic signal required for access and egress to and from Ulali Drive for this section of Area D shall be designed, constructed and fully functional prior to any occupancy permits for any buildings with the Master Plan Amendment area." This condition will assure that traffic safety standards can be adhered to and are found to be necessary and appropriate to comply with this criterion.

3.113.04.B.4. Parking Standards:

The proposed amendment will modify the parking lot layout, total number of parking spaces provided, and will eliminate the originally envisioned "park and ride" space allocation. Parking requirements are governed by KDC section 2.303 and identify the number of spaces required for individual uses. Staff has reviewed the applicant's site plan and finds the minimum parking spaces provided comply with the provisions of the KDC. Staff finds the proposal complies with this criterion.

3.113.04.B.5. Landscape Standards:
The proposed amendment modifies the site plan and identified landscaped areas and amenities. The original conditions of approval governing Master Plan/Major Variance Case 2004-38 contained specific conditions regarding landscaping requirements. A detailed landscaping plan was not provided or required with this amendment application. As a condition of approval, a detailed landscaping plan must be provided to assure that compliance with the provisions of the KDC.

3.113.04.C.4. Creating and Protecting Public Spaces:
The original master plan approval included a small plaza located in the northwest corner of the property adjacent to a proposed flex retail building, as well as a water feature proposed to be located in the north east corner of the site within the master plan amendment area. The water feature was primarily intended to function as a storm water detention area. The master plan amendment proposes to eliminate the plaza area and modify and relocate the water feature to the southwest corner of the master plan amendment area. Instead of a storm water detention water feature, the applicant proposes to provide a water feature that will serve as an amenity to the development with greater visual access that can also provide as a gateway feature for the development. The exact design has not yet been determined, but staff recommends the design incorporate pedestrian oriented amenities so the water feature can function as a public space for the development. The water feature, along with landscaping and pedestrian amenities shall be installed in conjunction with development of Area D. With these recommended conditions, staff finds the proposal will comply with this criterion.

Staff finds the applicant's proposal demonstrates consistency with the criteria of the original approval of Master Plan/Major Variance Case 2004-38 and thus satisfies this criterion.

B. The amendment is consistent with the adopted Master Plan, or achieves an equally desirable result.

FINDINGS: The proposed changes are generally consistent with the overall purpose of the adopted Master Plan. The differences are minimal, but generally achieve an equally desirable or even superior result. The following changes are proposed:

- Reconfigure the site plan, increasing the total number of buildings from 3 to 4, but decreasing the overall square footage. Building will be developed with "flexible space" uses consistent with the provisions of the Keizer Station Plan and KDC, and meet all design requirements. This reconfiguration also results in minor changes to landscape areas and locations of amenities provided.
- Modify parking lot layout and number of spaces to serve the new building locations and uses, and also eliminate "park and ride" space allocation.

- Relocate storm water detention "water feature" and eliminate small plaza, to be replaced with a more visually accessible water feature amenity to serve as a gateway to the development.
- Update design for proposed 7-11 convenience store (Store 'C') to accurately demonstrate compliance with design standards.

All conditions of approval from the original Master Plan/Major Variance Case 2004-38 will apply to this amendment except for the condition relating to park and ride space allocation. Some minor changes to the existing conditions are proposed to align the new proposal, clarify requirements, and approval timeframes. Staff finds the proposed amendment demonstrates consistency with the criteria of the original approval of Master Plan/Major Variance Case 2004-38 and thus satisfies this criterion.

C. The amendment does not result in additional traffic generation and is consistent with the adopted Traffic Impact Analysis.

FINDINGS: The proposal is to increase the number of overall buildings within the interior of the jug handle, but reduce the total building square footage. The applicant provided analysis prepared by Kittelson & Associates which demonstrates compliance with this criterion. The trip generation comparison provided indicates the proposed amendment will not increase the overall anticipated trip generation of the site, and that the development proposal is consistent with the original adopted Traffic Impact Analysis. Therefore, the applicant's proposal satisfies this criterion.

FINDINGS - MAJOR VARIANCE

7. The original Masterplan approval also included approval of a Major Variance to allow a setback reduction for buildings and parking lot areas adjacent to the north side of Ulali Drive. In order to maintain consistency with the original approval and the proposed master plan amendment, a Major Variance is being requested. It should be noted the Variance request is only necessary due to the fact that approval timeframe have lapsed. The Review Criteria for a Major Variance is listed in Section 3.105.05 of the Keizer Development Code. The criteria and findings are listed below.

A. The degree of variance from the standard is the minimum necessary to permit development of the property for uses allowed in the applicable zone.

FINDINGS: The applicant is requesting a setback variance to only one side of Ulali Drive. This is necessary to allow the site to function adequately, providing opportunities for the site to be developed as envisioned by the Keizer Station Plan. As such staff finds this complies with the intent of this requirement.

B. The applicant in good faith is unable to comply with the standard without undue burden. The applicant must demonstrate that the burden is substantially greater than the potential adverse impacts caused by the proposed variance.

FINDINGS: This site is severely constrained in its ability to access the transportation system. The design of the loop road leaves an interior parcel, irregular in shape, with limited potential for access. As such staff feels that varying the setback on the north side of the loop road, where visual impact is lessened due to limited sight distance, is appropriate due to the site's inherent constraints. The applicant's proposal indicates the variance request will locate all building structures, trash enclosures, screen walls, parking spaces, and loading zones no closer than 15 feet adjacent to the back of sidewalk along Ulali Drive or adjacent property lines. Drive thru lanes and the proposed freestanding sign are to be located not less than 10' from the back of sidewalk along Ulali Drive or adjacent property lines. Arguably, the burden bore by the developer could be mitigated or eliminated with a different design to the site, locating buildings and parking areas further away from the transportation system and adjacent property lines. However, this would further constrain the site. Additional, when considering the established development pattern throughout Keizer Station and the fact that no parcels are directly adjacent to the site, staff is unable to identify any adverse impacts that will be caused by this variance request. In fact, the variance request aligns the setback requirements more closely to the existing development pattern established in the area.

C. The variance will not be unreasonably detrimental to property or improvements in the neighborhood of the subject property.

FINDINGS: The properties is zoned IBP which allows a mixture of Industrial Uses. The uses proposed are permitted within the IBP zone as flexible use space and are consistent with other uses in the immediate vicinity. Keizer Station Area A is developed as commercial/retail and only requires a 10 foot setback due to the underlying zoning designation of EG (Employment General). In this case, since the property is zoned IBP, it requires a greater setback of 20 feet, even though the actual uses of the site is more consistent with commercial retail zoning than industrial. If the site were not being developed with flexible use space, there could be possible detrimental impacts created by the variance request, though it is unlikely. However, since the request is consistent with the standards of the adjacent development site, and the property will be developed with flexible use space, staff finds the approval of this variance will not be unreasonably detrimental to property or improvements in the neighborhood. The structures will be located outside of any vision clearance areas. Therefore, staff finds this request can satisfy the above criterion.

D. There has not been a previous land use action approved on the basis that variances would not be allowed.

FINDINGS: There are no prior land use actions, which expressly prohibit the granting of this variance. Rather, a prior land use action granted this identical request which was previously approved by City Council Order approving Master Plan/Major Variance Case 2004-38. Therefore, the proposed variance can comply with this criterion.

E. The variance will not significantly affect the health or safety of persons working or residing in the vicinity.

FINDINGS: Staff finds no significant affects upon the health or safety of persons working or residing in the vicinity if the variance request is granted provided the improvement of pedestrian connections and improvements identified in the proposal are implemented. Therefore, staff concludes this request meets with the above criteria.

F. The variance will be consistent with the intent and purpose of the provision being varied.

FINDINGS: The applicant is providing site amenities such as water features, substantial landscaping and pedestrian amenities which staff feels offsets any visual impacts a reduction on the interior of the loop road, where sight distance is reduced due to the curve of the road.

PROPOSED CONDITIONS

The application for approval of the master plan and variance are hereby GRANTED subject to the conditions set forth below. Unless specifically stated otherwise herein, all conditions must be met prior to the issuance of any building permits (See Condition 63):

1. The construction of all the public improvements and its associated landscaping must be completed within two years of the final date of this decision which can be extended upon approval by the Community Development Director. This approval is only valid when the construction is completed by November 2. 2006. Any request for an extension must be made in writing prior to this date.

2. The applicant shall submit a phasing plan for all improvements for approval by the Community Development Director.

3. The development shall be required to meet all Development Code requirements relating to signs as found in Section 2.308.

4. The landscaping and pathway improvements including water features, plazas and other amenities for the entire Area D shall be provided as shown in the application or as modified by the conditions of approval. The final landscaping and pathway plans, as well as the design of the proposed water feature shall be approved by the Community Development Director prior to installation. The water feature, ~~se~~ landscaping, and pathway improvements shall be provided in conjunction with the first building permit approved for the development or as specifically approved by the City of Keizer.

5. A landscaping design for the area adjacent to the Interstate 5 freeway and the Salem Parkway shall be submitted to the Community Development Director's for review and approval. The design shall demonstrate a coordinated design with Area A.

6. The land area devoted to industrial and commercial uses, as required in KDC 2.113, IBP Zone, shall be met and maintained within Area C. The amount of "Flex Space" use, as defined in Section 2.113,02.N.2 shall be limited to that specified in this section of the KDC.

7. Except as approved in the variance application, all KDC dimensional requirements for building heights, lots, and setbacks shall be met.

8. Street names and numbers shall conform to the established standards and procedures in the City. Street names shall be approved by the City of Keizer. A Street Name Application must be completed and submitted for approval. No building permit shall be issued without approved street names. Due to the significance of this development as a landmark of the City of Keizer, street names must also receive approval of the City Council.

9. Street trees shall be planted at the locations and varieties specified in the submitted landscaping plan. A minimum caliper of 2 inches shall be used for street trees and all other trees in areas near pathways, walkways streets and parking areas. A final street tree planting plan shall be approved by the Community Development Director prior to planting. All other landscaping standards of the KDC shall be met. Evergreen trees may be varied in height as long as the average height of all evergreen trees planted shall be an average height of 6 feet at time of installation.

10. Ground cover and shrubbery shall be planted in conformity with the KDC and industry standards as approved by the Community Development Director, and shall reach full coverage by the third year of growth for ground cover and the fifth year of growth for shrubbery.

11. The amount of area landscaped, and the design thereof, shall conform substantially with the plan submitted ~~with~~ as part of the original application (2004-38). A final landscaping plan shall be submitted for approval by the Community Development Director prior to planting. The landscaping plan shall incorporate the site plan modifications identified in Master Plan Amendment/Major Variance Case 2020-10. Design for the proposed water feature must receive final approval from the Community Development Director.

12. Irrigation system plans shall be submitted for approval as part of the review process of building permits and public improvement permit process. Approved irrigation systems shall be installed prior to issuance of an occupancy permit.

13. A tree shall be planted for every eight lineal parking spaces not located adjacent to a building in accordance with KDC standards, and shall substantially conform to the landscaping plan submitted with the application.

14. Parking shall be provided as required by KDC 2.303. Parking driveway aisles shall be a minimum of 24 feet wide. A plan documenting compliance with parking requirements shall be provided for the Community Development Director's Master Plan approval. Verification shall be provided during building permit review. ~~Parking in the area of the north side of the loop road in excess of the maximum allowed under KDC 2.303.06 shall be designated for the use as "Park and Ride". This total excess is currently shown at 14but may vary slightly. These spaces shall be designated as "Park and Ride" between the hours of 7:00 am and 5:00 pm, Monday through Friday.~~

15. Bicycle parking shall be provided as required by KDC 2.303.08. In addition, the bicycle rack design shall provide secure support for bicycles and the ability to lock bicycles securely. The bicycle rack design, installation, and locations shall be approved by the Community Development Director prior to installation.

16. Sufficient paved areas and designated loading areas shall be provided in accordance with KDC 2.303.10.

17. Pavement shall be provided for all driveways, loading, and parking areas as required by KDC 2.303.11.

18. Electric and mechanical equipment and other service areas such as trash/recycling dumpsters shall be screened with vegetation and/or fencing. The final landscaping plan shall be approved by the Community Development Director prior to planting.

19. Driveway entrances shall be a maximum of 36 feet wide.

20. Pedestrian systems crossing driveways, parking areas and loading areas shall be clearly identified through the use of stamped concrete, pavers or similar methods and shall be indicated on the building permit plans submitted.

21. Pedestrian walkways must be lighted to a level where the system can be used at night by employees and customers. The lighting plan shall be approved by the Community Development Director.

22. The applicant shall construct connections to the regional multi-use path adjacent to the Salem Parkway. This shall provide connections to the pathway which border the Salem Parkway in both a south and the north direction as shown on the submitted plans.

23. Awnings shall be provided for all walkways adjacent to buildings that comply with Section 2.315 of the Keizer Development Code.

24. The proposed site lighting shall not cast any light or glare toward the residential properties to the west or allow any direct visual access to a direct lighting source from any residential property.

25. Security lighting shall be provided which provides secure illumination of the Chemawa Road under crossing, while being directed away from the flow of traffic, so as not to cause glare.

26. Building design elements including ground floor windows, facades, awninmgs and materials shall satisfy KDC 2.315.08.

27. The elevations of all buildings shall be varied in texture and materials and shall create a very human scale in massing and incorporate human scale design elements. Elevations of all buildings shall incorporate no more than fifteen feet between varied vertical elements and shall reflect the original proposal (2004-38) exemplified by that submitted for the Tenant Retail building and the NE Comer of Building Six (6), as well as the .elevations submitted for Store 'C' as a part of the 2020-10 application. Different materials, varied at the same frequency as the architectural elements, shall be used and shall conform to the samples in the submitted materials. These materials shall be varied in type, and incorporate such things as cultured stone, a variety of split face Concrete Mortar Units (CMU's), as well as smooth faced CMU walls. The colors used shall be in compliance with the KDC Development Standards section 2.315.08.B.5. The roof shall be more greatly exaggerated than the submitted designs from the applicant.

28. Screening of roof-mounted equipment from adjacent public streets shall be required.

29. All accessory structures including trash receptacle and mechanical devices shall be screened from view in compliance with Section 2.315.08.C of the Keizer Development Code.

30. Maintenance of landscaping materials as specified in the Keizer Development Code Section 2.309, space tracts, plazas, and pathways shall be the responsibility applicant.

31. Construction specifications (e.g., base rock, concrete/pavement thickness) for the separate pathways shall be subject to Public Works Department approval in accordance with Keizer City Standards.

32. The development shall conform to the requirements of all federal, state, and local requirements, including but not limited to ADA requirements.

33. During construction, adjoining properties shall be protected from impacts of noise at unreasonable hours, unreasonable dust, and safety concerns, and shall conform to Keizer City requirements regulating such impacts.

34. The applicant shall work with the Transit District to ensure compliance with the requirements found in Section 2.305 of the KDC.

35. In addition to complying with all development standards, all new utility connections and lines shall be located underground.

PUBLIC WORKS REQUIREMENTS: The following requirements are the conditions of approval by the Public Works Department.

MASTER PLAN

The Public Works Department has reviewed the applicant's submittals and has compared them with the requirements of the adopted Keizer Station Plan. The developer shall submit a detailed phasing plan for all required improvements (including site grading) prior to any construction and grading of the subject property. The following are conditions of approval of the master plan.

SANITARY SEWERS:

The subject property is located outside of the original Keizer Sewer District and therefore an acreage fee is required. The current acreage fee is $7,460.00 per gross acre. The applicant indicates that the area of Area D is 15.68 acres. The acreage fee applied will be the fee in place at the time of development of the property. At the current acreage charge the acreage fee will be $116,972.80. The Master Sewer Plan provides for a sewer trunk line to be constructed through Area A to a point on the north property line of the subject property. Connection to the sewer trunk will be the responsibility of the developers of Area D. Development of Area D will require coordination of the construction of the sewer trunk. Additionally, the following requirements shall be applied:

36. Prior to development of the subject property, a master sewer plan for the proposed development shall be submitted to the City of Keizer's Department of Public Works for review and approval. The plan shall include proposed rim and invert elevations, proposed alignment of sewer mains and proposed easements.

37. City of Salem approval for both sewer trunk lines and local sewers is required. Permits from the City of Salem shall be issued prior to construction. Prior to submitting plans to the City of Salem for approval, the developer's engineer shall submit plans to the City of Keizer Public Works Department for review and determination of compliance with the City of Keizer's Master Sewer Plan for the area.

38. Connecting to existing sewers that serve the general area will be the responsibility of the developer of the property.

39. Appropriate easements will be required for any public sewer mains located within the subject property iflocated outside platted right of ways.

40. It will be the responsibility of the developer's engineer to locate any existing wells (including those on adjacent property) in the vicinity of the proposed new sanitary sewer lines for the subject property. Any conflicts between existing wells and proposed sanitary sewers shall be addressed by the developer prior to issuance of public works construction permits.

WATER SYSTEM:

The developer has submitted a master water system plan showing proposed routes of public water mains and fire hydrants. The master plan is generally acceptable to the Public Works Department, however, prior to submittal of final construction plans the developer's engineer shall arrange for a pre-design conference to discuss water main sizing, meter sizing and locations, fire hydrant locations, fire sprinkler line locations and easement width for all public lines (including fire hydrant lines) located outside of right of ways. Additionally, the developer will be required to coordinate construction activities with the developers of Area A. Final location of all meters is to be approved by the Keizer Department of Public _Works. To provide for adequate peak consumption and fire protection requirements it has been determined that additional public facilities will be required including but not limited to elevated storage facilities, wells, connection to existing mains on the west side of the BNRR right of way, and any other off-site construction required to provide required peak flows to the proposed development. Itis the Department of Public Works understanding that the developers of Area A in conjunction with developers of Area D are undertaking a study to determine the required water system improvements necessary for the development of the Keizer Station area. No permits for the subject property shall be issued until the Department of Public Works has reviewed and accepted the study. Appropriate easements for all public water mains and fire hydrants will be required if construction is to be outside of public right of ways. Any system development charges for water system improvements will be those in place at the time of individual service connections.

41. Final development plans shall be reviewed by the Keizer Fire District with regard to access and adequate location of fire hydrants prior to any issuance of public works construction permits by the City of Keizer.

42. It will be the responsibility of the developer to abandon all existing wells prior to site grading. All abandonment shall be in accordance with the rules of the Oregon State Water Resources Department.

STORM DRAINAGE IMPROVEMENTS:

43. The developer has submitted plans indicating the present drainage patterns and runoff characteristics. The property is within a critical drainage basin and strict compliance with city

ordinances will be necessary. No increase in runoff will be allowed as development occurs. Prior to any development of the subject property an overall storm water master plan including invert elevations, pipe sizes and alignment, easements, detention calculations, water quality measures and an approved point of discharge shall be submitted to the Department of Public Works for approval. A point of discharge has been identified on the ODOT system in Interstate 5. ODOT approval shall be required for water quality, conveyance systems and points of discharge. Itis the understanding of the Department of Public Works that the engineers for the developers of Area A and Area D are studying the two areas and the storm drainage from Area D will be connected to a system constructed in Area A. The location for the proposed connection will be on the north property line of the subject property.

44. Storm water detention will be required for this site. All storm water including roof drains are to be connected to an approved system designed to provide adequate drainage for proposed new driveways, parking lots and other impervious surfaces.

45. A grading and drainage plan shall be developed for the subject property. Details shall include adequate conveyance of storm water from adjacent property across the subject property.

46. Ifit is anticipated that the property will develop in phases, prior to any development, a phasing plan shall be submitted to indicate how the storm water management will be developed to provide service to each area.

47. The developer shall submit to the Department of Public Works a master plan for erosion control for the entire site. The master plan shall be approved by the Department of Public Works. Prior to any development, including site grading, the applicant shall obtain an NPDES permit from the Oregon Department of Environmental Quality.

TRANSPORTATION:

48. The proposed development requires construction of an underpass under the BNRR between Areas A and B as well as an underpass of Chemawa Road between Areas A and D. Additionally, other off-site improvements have been identified in the Transportation Plan developed for the Keizer Station Plan. These improvements include but are not limited to, construction of an extension of Radiant Drive to Lockhaven Drive and continuing to Chemawa Road to a point south of the intersection of Chemawa Road and McLeod Lane, construction of a pedestrian under-crossing of he BNRR at Tepper Lane, and other improvements necessary to provide compliance with the adopted Keizer Station Plan adopted Feb. 3, 2003. Additionally, a regional multi-use pathway has been identified on the Keizer Station Village Center Master Plan. The path location shall be coordinated with the Area A development, ODOT and the Keizer Community Development Department. The path shall be of P.C.C. and constructed to

a width of 12 feet or as approved by the City. Coordination of the above improvements with the developers of Area A will be required to insure all elements of the required road improvements are in place prior to issuance of any building permits for the subject property.

49. All new streets shall be constructed to the requirements of the City of Keizer Department of Public Works Design and Construction Standards and in conformance with the final Transportation Impact Analysis adopted for the Keizer Station Plan. The loop street shall be designed to arterial standards in terms of structural section and geometrical configuration or engineered alternative as approved by the Department of Public Works. Preliminary construction specifications and plans for all transportation mitigation measures necessary to satisfy the improvements identified in the "Transportation Impact Analysis, Keizer Station Plan" for all street construction, including retaining walls, fencing, landscaping, sidewalks, signing, etc. shall be submitted to the Department of Public Works for review prior to submitting final plans for approval. The Department of Public Works will review the proposed plans and make recommendations for any additional work and coordination with other development in the area as needed. Prior to approval of any development on the subject property or issuance of any construction permits, the developer shall submit an access and utility easement document suitable for recording for review and approval by the Department of Public Works.

50. The developer's engineer shall submit detailed traffic signal plans indicating phasing, recommended interties, materials to be used, etc. to the City of Keizer Department of Public Works for approval prior to construction. All traffic signal plans shall be designed to City of Salem/ODOT Standards where appropriate.

The traffic signal required for access and egress to and from Ulali Drive shall be designed, constructed and fully functional prior to any occupancy permits for any building.

GENERAL:

51. A street lighting master plan shall be developed. A street lighting district or other approved method of providing for adequate illumination of the proposed loop street shall be submitted to the Department of Public Works for review and approval. Decorative lighting approved by the Department of Public Works shall be used and shall be installed and maintained by the applicant if a street lighting district is not formed.

52. Construction permits are required by the Department of Public Works prior to any public facility construction. Contact the City Engineer's office at (503) 390-7402 for the necessary permit information that is required.

53. A Pre-design meeting with the City of Keizer Department of Public Works will be required prior to the Developer's Engineer submitting plans to either the city of Keizer or the City of Salem for review.

54. Street opening permits are required for any work within the City Right of Way that is not covered by a Construction Permit.

55. Facility phasing plans and arrangements for reimbursing developers for providing additional capacity to serve future development shall be approved by the Keizer Department of Public Works and the City Council prior to any construction.

56. All easements to be located in the appropriate locations based on actual approved plans.

57. An improvement agreement or other acceptable form of guarantee for all required construction shall be in place and appropriate easements recorded prior to construction permits being issued.

58. Unless otherwise specifically modified by this decision, development of all structures and parking areas shall comply with remaining requirements of the Keizer Development Code.~~, and shall provide for the public good by providing a minimum of ten (10) stalls for Park and Ride vehicles. The amount of designated Park and Ride spaces may be increased. These spaces shall be posted indicating parking only for Park and Ride between the hours of 7 a.m. and 5 p.m. Monday through Friday.~~

59. The City of Keizer employs Marion County Building Department for the processing of building permits. Therefore, the applicant shall meet all requirements of the Marion County Building Division pertaining to building code issues.

In order for the Master Plan to receive final approval the applicant will be required to submit documentation demonstrating compliance with all applicable federal, state and local requirements. This shall include all conditions adopted by the City Council which apply to this Master Plan. These shall be submitted to the Community Development Director for verification and final approval.

VARIANCE:

60. The applicant shall locate the proposed structures and parking areas as indicated on the submitted site plan and shall maintain a minimum setback of ten (10) feet from the inner edge of the sidewalk on the north side of ~~the Loop Road~~Ulali Drive or any adjacent property lines.

61. This variance was revised based upon amenities and landscaping shown in the plans submitted. These amenities provided mitigate any visual impact this variance may create. Therefore all improvements such as landscaping, pathways and amenities shown on the proposal must be implemented.

62. ~~The construction of the infrastructure and associated landscaping areas must be completed within two (2) years of the final date of this decision which can be extended upon approval by the Community Development Director. This approval is only valid when the construction is completed by~~ November 2, ~~2006.~~

63. Unless expressly stated otherwise with these conditions, no building permits shall be issued until all conditions have been met or the applicant has demonstrated with certainty in the City's discretion the ability to meet such conditions. For example, no building permit shall be issued until contracts have been let for all infrastructure. Building permits may also be held until sufficient infrastructure is completed to support the requested development.

DATE: JUNE 30, 2020

TO: DINA RUSSEL, ASSISTANT PLANNER
KEIZER COMMUNITY DEVELOPMENT DEPARTMENT

SUBJECT: PUBLIC WORKS DEPARTMENT REQUIREMENTS FOR
MASTER PLAN AMENDMENT CASE NO. 2020-10
KEIZER STATION – AREA D

MAJOR VARIANCE

The Public Works Department has reviewed the applicant's request for a variance and concurs with the findings of the applicant.

MASTER PLAN

The Public Works Department has reviewed the applicant's submittals and has compared them with the requirements of the adopted Keizer Station Plan and subsequent submittals. All conditions of the earlier approved Master Plan remain in effect.

Attached to this response are the earlier Public Works Department requirements to be included with this response.

The traffic signal required for access and egress to and from Ulali Drive for this section of Area D shall be designed, constructed and fully functional prior to any occupancy permits for any buildings within the Master Plan Amendment area.

PUBLIC WORKS REQUIREMENTS: The following requirements are the conditions of approval by the Public Works Department.

MASTER PLAN

The Public Works Department has reviewed the applicant's submittals and has compared them with the requirements of the adopted Keizer Station Plan. The developer shall submit a detailed phasing plan for all required improvements (including site grading) prior to any construction and grading of the subject property. The following are conditions of approval of the master plan.

SANITARY SEWERS:

The subject property is located outside of the original Keizer Sewer District and therefore an acreage fee is required. The current acreage fee is $7,460.00 per gross acre. The applicant indicates that the area of Area D is 15.68 acres. The acreage fee applied will be the fee in place at the time of development of the property. At the current acreage charge the acreage fee will be $116,972.80. The Master Sewer Plan provides for a sewer trunk line to be constructed through Area A to a point on the north property line of the subject property. Connection to the sewer trunk will be the responsibility of the developers of Area D. Development of Area D will require coordination of the construction of the sewer trunk. Additionally, the following requirements shall be applied:

36. Prior to development of the subject property, a master sewer plan for the proposed development shall be submitted to the City of Keizer's Department of Public Works for review and approval. The plan shall include proposed rim and invert elevations, proposed alignment of sewer mains and proposed easements.

37. City of Salem approval for both sewer trunk lines and local sewers is required. Permits from the City of Salem shall be issued prior to construction. Prior to submitting plans to the City of Salem for approval, the developer's engineer shall submit plans to the City of Keizer Public Works Department for review and determination of compliance with the City of Keizer's Master Sewer Plan for the area.

38. Connecting to existing sewers that serve the general area will be the responsibility of the developer of the property.

39. Appropriate easements will be required for any public sewer mains located within the subject property if located outside platted right of ways.

40. It will be the responsibility of the developer's engineer to locate any existing wells (including those on adjacent property) in the vicinity of the proposed new sanitary sewer lines for the subject property. Any conflicts between existing wells and proposed sanitary sewers shall be addressed by the developer prior to issuance of public works construction permits.

WATER SYSTEM:

The developer has submitted a master water system plan showing proposed routes of public water mains and fire hydrants. The master plan is generally acceptable to the Public Works Department, however, prior to submittal of final construction plans the developer's engineer shall arrange for a pre-design conference to discuss water main sizing, meter sizing and locations, fire hydrant locations, fire sprinkler line locations and easement width for all public lines (including fire hydrant lines) located outside of right of ways. Additionally, the developer will be required to coordinate construction activities with the developers of Area A. Final location of all meters is to be approved by the Keizer Department of Public Works. To provide for adequate peak consumption and fire protection requirements it has been determined that additional public facilities will be required including but not limited to elevated storage facilities, wells, connection to existing mains on the west side of the BNRR right of way, and any other off-site construction required to provide required peak flows to the proposed development. It is the Department of Public Works understanding that the developers of Area A in conjunction with developers of Area D are undertaking a study to determine the required water system improvements necessary for the development of the Keizer Station area. No permits for the subject property shall be issued until the Department of Public Works has reviewed and accepted the study. Appropriate easements for all public water mains and fire hydrants will be required if construction is to be outside of public right of ways. Any system development charges for water system improvements will be those in place at the time of individual service connections.

41. Final development plans shall be reviewed by the Keizer Fire District with regard to access and adequate location of fire hydrants prior to any issuance of public works construction permits by the City of Keizer.

42. It will be the responsibility of the developer to abandon all existing wells prior to site grading. All abandonment shall be in accordance with the rules of the Oregon State Water Resources Department.

STORM DRAINAGE IMPROVEMENTS:

43. The developer has submitted plans indicating the present drainage patterns and runoff characteristics. The property is within a critical drainage basin and strict compliance with city

ordinances will be necessary. No increase in runoff will be allowed as development occurs. Prior to any development of the subject property an overall storm water master plan including invert elevations, pipe sizes and alignment, easements, detention calculations, water quality measures and an approved point of discharge shall be submitted to the Department of Public Works for approval. A point of discharge has been identified on the ODOT system in Interstate 5. ODOT approval shall be required for water quality, conveyance systems and points of discharge. It is the understanding of the Department of Public Works that the engineers for the developers of Area A and Area D are studying the two areas and the storm drainage from Area D will be connected to a system constructed in Area A. The location for the proposed connection will be on the north property line of the subject property.

44. Storm water detention will be required for this site. All storm water including roof drains are to be connected to an approved system designed to provide adequate drainage for proposed new driveways, parking lots and other impervious surfaces.

45. A grading and drainage plan shall be developed for the subject property. Details shall include adequate conveyance of storm water from adjacent property across the subject property.

46. If it is anticipated that the property will develop in phases, prior to any development, a phasing plan shall be submitted to indicate how the storm water management will be developed to provide service to each area.

47. The developer shall submit to the Department of Public Works a master plan for erosion control for the entire site. The master plan shall be approved by the Department of Public Works. Prior to any development, including site grading, the applicant shall obtain an NPDES permit from the Oregon Department of Environmental Quality.

TRANSPORTATION:

48. The proposed development requires construction of an underpass under the BNRR between Areas A and B as well as an underpass of Chemawa Road between Areas A and D. Additionally, other off-site improvements have been identified in the Transportation Plan developed for the Keizer Station Plan. These improvements include but are not limited to, construction of an extension of Radiant Drive to Lockhaven Drive and continuing to Chemawa Road to a point south of the intersection of Chemawa Road and McLeod Lane, construction of a pedestrian under-crossing of he BNRR at Tepper Lane, and other improvements necessary to provide compliance with the adopted Keizer Station Plan adopted Feb. 3, 2003. Additionally, a regional multi-use pathway has been identified on the Keizer Station Village Center Master Plan. The path location shall be coordinated with the Area A development, ODOT and the Keizer Community Development Department. The path shall be of P.C.C. and constructed to

a width of 12 feet or as approved by the City. Coordination of the above improvements with the developers of Area A will be required to insure all elements of the required road improvements are in place prior to issuance of any building permits for the subject property.

49. All new streets shall be constructed to the requirements of the City of Keizer Department of Public Works Design and Construction Standards and in conformance with the final Transportation Impact Analysis adopted for the Keizer Station Plan. The loop street shall be designed to arterial standards in terms of structural section and geometrical configuration or engineered alternative as approved by the Department of Public Works. Preliminary construction specifications and plans for all transportation mitigation measures necessary to satisfy the improvements identified in the "Transportation Impact Analysis, Keizer Station Plan" for all street construction, including retaining walls, fencing, landscaping, sidewalks, signing, etc. shall be submitted to the Department of Public Works for review prior to submitting final plans for approval. The Department of Public Works will review the proposed plans and make recommendations for any additional work and coordination with other development in the area as needed. Prior to approval of any development on the subject property or issuance of any construction permits, the developer shall submit an access and utility easement document suitable for recording for review and approval by the Department of Public Works.

50. The developer's engineer shall submit detailed traffic signal plans indicating phasing, recommended interties, materials to be used, etc. to the City of Keizer Department of Public Works for approval prior to construction. All traffic signal plans shall be designed to City of Salem/ODOT Standards where appropriate.

GENERAL:

51. A street lighting master plan shall be developed. A street lighting district or other approved method of providing for adequate illumination of the proposed loop street shall be submitted to the Department of Public Works for review and approval. Decorative lighting approved by the Department of Public Works shall be used and shall be installed and maintained by the applicant if a street lighting district is not formed.

52. Construction permits are required by the Department of Public Works prior to any public facility construction. Contact the City Engineer's office at (503) 390-7402 for the necessary permit information that is required.

53. A Pre-design meeting with the City of Keizer Department of Public Works will be required prior to the Developer's Engineer submitting plans to either the city of Keizer or the City of Salem for review.

54. Street opening permits are required for any work within the City Right of Way that is not covered by a Construction Permit.

55. Facility phasing plans and arrangements for reimbursing developers for providing additional capacity to serve future development shall be approved by the Keizer Department of Public Works and the City Council prior to any construction.

56. All easements to be located in the appropriate locations based on actual approved plans.

57. An improvement agreement or other acceptable form of guarantee for all required construction shall be in place and appropriate easements recorded prior to construction permits being issued.

58. Unless otherwise specifically modified by this decision, development of all structures and parking areas shall comply with remaining requirements of the Keizer Development Code, and shall provide for the public good by providing a minimum of ten (10) stalls for Park and Ride vehicles. The amount of designated Park and Ride spaces may be increased. These spaces shall be posted indicating parking only for Park and Ride between the hours of 7 a.m. and 5 p.m. Monday through Friday.

59. The City of Keizer employs Marion County Building Department for the processing of building permits. Therefore, the applicant shall meet all requirements of the Marion County Building Division pertaining to building code issues.

In order for the Master Plan to receive final approval the applicant will be required to submit documentation demonstrating compliance with all applicable federal, state and local requirements. This shall include all conditions adopted by the City Council which apply to this Master Plan. These shall be submitted to the Community Development Director for verification and final approval.

VARIANCE:

60. The applicant shall locate the proposed structures and parking areas as indicated on the submitted site plan and shall maintain a minimum setback of ten (10) feet from the inner edge of the sidewalk on the north side of the Loop Road.

61. This variance was revised based upon amenities and landscaping shown in the plans submitted. These amenities provided mitigate any visual impact this variance may create. Therefore all improvements such as landscaping, pathways and amenities shown on the proposal must be implemented.

62. The construction of the infrastructure and associated landscaping areas must be completed within two (2) years of the final date of this decision which can be extended upon approval by the Community Development Director. This approval is only valid when the construction is completed by November 2, 2006.

63. Unless expressly stated otherwise with these conditions, no building permits shall be issued until all conditions have been met or the applicant has demonstrated with certainty in the City's discretion the ability to meet such conditions. For example, no building permit shall be issued until contracts have been let for all infrastructure. Building permits may also be held until sufficient infrastructure is completed to support the requested development.

CITY COUNCIL MEETING: August 3, 2020

AGENDA ITEM NUMBER:_____

TO: **MAYOR CLARK AND COUNCIL MEMBERS**

THROUGH: **CHRISTOPHER C. EPPLEY, CITY MANAGER**

FROM: **E. SHANNON JOHNSON, CITY ATTORNEY**

SUBJECT: **RESOLUTION EXEMPTING BRAND NAME SPECIFICATIONS PURCHASE OF MATERIALS AND SERVICES FROM COMPETITIVE BIDDING**

This matter is before the Council tonight for public hearing pursuant to Ordinance No. 2005-519. Staff is recommending that Surface America brand name specification materials, Landscape Structures PlayBooster play structure materials, and installation services be contracted with Ross Recreation Equipment Co., Inc. for the play structure at Claggett Creek Park. These are the same vendors that were used for the new Meadows Park play structure/surfacing.

Ross Recreation Equipment Co., Inc. works with the Surface America installation carrier and other manufacturers to supply appropriate fall protection and equipment for play structures. The play structure planned at Claggett Creek Park requires specific materials.

In order to purchase the materials and have the materials installed for the play structure at Claggett Creek Park, the Council as the local contract review board for the City of Keizer must adopt findings and exemption of the purchase from the competitive bidding process pursuant to Ordinance No. 2005-519. I have attached a Resolution to accomplish the required action for your review.

RECOMMENDATION:

Open the public hearing and take testimony. Close the public hearing and if there are no valid objections, adopt the attached Resolution.

Please contact me if you have any questions in this regard. Thank you.

ESJ/tmh

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R2020-_____

EXEMPTION OF THE BRAND NAME SPECIFICATION PURCHASE OF SURFACE AMERICA FALL PROTECTION PRODUCT FROM COMPETITIVE BIDDING AND PURCHASING PLAY STRUCTURE MATERIALS, SURFACE AMERICA FALL PROTECTION MATERIALS, AND INSTALLATION SERVICES FROM ROSS RECREATION EQUIPMENT CO., INC. FOR CLAGGETT CREEK PARK

WHEREAS, fall protection materials and play structure materials are needed to replace the existing play structure at Claggett Creek Park;

WHEREAS, the Surface America fall protection product is the preferred material for fall protection because of its performance, appearance and warranty;

WHEREAS, the Surface America fall protection product is only available through a Surface America installation carrier;

WHEREAS, Ross Recreation Equipment Co., Inc. has a working relationship with the Surface America installation carrier;

WHEREAS, Ross Recreation Equipment Co., Inc. is able to install the Landscape Structures Play Booster play structure;

WHEREAS, as local contract review board for the City of Keizer, the City Council desires to exempt from competition and authorize the purchase of brand name specification materials;

WHEREAS, notice of public hearing on the proposed exemption of competitive public bidding requirements was published as required by Ordinance No. 2005-519;

Keizer City Attorney
930 Chemawa Road NE
PO Box 21000
Keizer, Oregon 97307
503-856-3433

WHEREAS, a public hearing was held to take comments on the findings for an exemption of the purchase of brand name specification materials from Ross Recreation Equipment Co., Inc. and awarding the contract to Ross Recreation Equipment Co., Inc.;

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of Keizer that the City of Keizer makes the following findings:

1. The nature of the contract for which special exemption is requested is the purchase of brand name specification materials from Ross Recreation Equipment Co., Inc. for the brand name Surface America fall protection materials, brand name Landscape Structures PlayBooster play structure equipment; and installation services at Claggett Creek Park.

2. The play structure planned at Claggett Creek Park is replacing the existing play structure. It is beneficial to have one contractor who has experience in installation of play structures perform the services so that all of the elements of the play structure fit together correctly. This requires that the hardware, lumber, equipment, structures, and other elements of the play structure be designed to be aligned for assembly. It is also beneficial to have the same contractor who has experience and knowledge of the Surface America fall protection product perform the installation. The estimated contract price for the play structure materials, fall protection materials, and installation services at Claggett Creek Park is $282,261.20.

Keizer City Attorney
930 Chemawa Road NE
PO Box 21000
Keizer, Oregon 97307
503-856-3433

3. Purchasing and installation of materials from one vendor will keep contractor and staff time at a minimum. When materials are purchased together for a project, the life of the materials is extended because the materials fit together properly. Both of these reasons support a performance of public benefit by keeping construction time at a minimum and extending the life of the materials.

4. It is unlikely that the exemption from the competitive bidding process for the purchase of these materials for the play structure at Claggett Creek Park will encourage favoritism in the awarding of the bid or substantially diminish competition for public bidding, as this is a rare and unique circumstance and the number of suppliers for these materials and services are extremely limited.

5. The proposal is to have this project be exempt from alternative contracting methods.

6. It is necessary to order the materials described herein as soon as possible to allow the equipment and Surface America fall protection product to be received so that the play structure at Claggett Creek Park project may be completed in a timely manner. The estimated date by which it would be necessary to let the contract in this case is August 4, 2020.

BE IT FURTHER RESOLVED by the City Council of the City of Keizer that the Council approves the findings set forth above.

BE IT FURTHER RESOLVED by the City Council of the City of Keizer that the purchase of the materials and installation services for the play structure at

Keizer City Attorney
930 Chemawa Road NE
PO Box 21000
Keizer, Oregon 97307
503-856-3433

Claggett Creek Park from Ross Recreation Equipment Co., Inc. is exempt from competitive bidding requirements based upon the findings set forth herein.

BE IT FURTHER RESOLVED that the City Manager of the City of Keizer is authorized to enter into a contract with Ross Recreation Equipment Co., Inc., a copy of which is attached to purchase the Surface America fall protection materials, the Landscape Structures PlayBooster play structure materials, and the installation services for the play structure at Claggett Creek Park.

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately upon the date of its passage.

PASSED this _____ day of _____, 2020.

SIGNED this _____ day of _____, 2020.

_____
Mayor

_____
City Recorder

Keizer City Attorney
930 Chemawa Road NE
PO Box 21000
Keizer, Oregon 97307
503-856-3433

CONTRACT
FOR
CLAGGETT CREEK PLAY STRUCTURE REPLACEMENT

THIS AGREEMENT, made this _____ day of _____, 2020, at Keizer, Oregon, by and between the City of Keizer, an Oregon municipal corporation, hereinafter called "Owner", and Ross Recreation Equipment Co., Inc., a California corporation, hereinafter called "Contractor".

WITNESSETH THAT: In consideration of the mutual covenants and conditions hereinafter set forth, the Owner and Contractor hereby agree as follows:

1. WORK BY CONTRACTOR. The Contractor shall perform the work as described in the Scope of Services included in Attachment "A" (Attachment "A" may include Contractor's Quote, Scope of Work, Plans, Specifications, Drawings, Special Provisions, and any other related Contract documents) which is attached hereto and by this reference incorporated herein.

2. TIME OF COMPLETION. The Contractor shall commence the work covered by this Contract upon full execution of all parties. All aspects of the project shall be completed no later than November 1, 2020, but may be extended by mutual agreement of the parties based on weather conditions. Any extensions shall be in writing by Change Order as provided herein. **Time limits stated above are of the essence of this Contract.**

3. LIQUIDATED DAMAGES. Contractor and Owner recognize that time is of the essence of this Contract and that Owner will suffer financial loss if the Work is not completed within the times specified in Section 2 above. The parties recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Therefore, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner One Hundred and no/100 Dollars ($100.00) for each calendar day that expires after the final completion date specified in Section 2 until the Work is complete.

4. BONDS. Performance and Payment Bonds are required of Contractor at Contractor's own expense. Such bonds shall be issued by a surety licensed in the State of Oregon and must be acceptable to Owner. The bonds must equal the sum of the contract price.

   The Contractor and all subcontractors must obtain or possess a valid Public Works Bond, filed with the Construction Contractors Board (CCB) before beginning any work on this project.

5. PRECONSTRUCTION CONFERENCE. Before any Work is started, a Preconstruction Conference attended by the Contractor, Public Works Director, and others as appropriate, will be held to establish a working understanding among the parties as to the Work and to discuss the procedures for handling submittals, processing applications for payment, and maintaining records. Contractor is required to request such Preconstruction Conference as soon as possible to prevent delays in the project.

6. CONTRACT SUM. The Contract Sum payable to Contractor for the materials, labor, freight, and any other costs hereunder is $282,261.20, as modified by Change Orders as provided herein.

7. PAYMENTS. Contractor may request partial payments as work progresses. Partial payment requests shall be submitted to the Public Works Director by the 10th calendar day of each month for processing. Payment requests shall accurately and completely detail all work completed since the last payment request up to the last day of the month. Any and all additional forms and documentation required by statute or this Agreement shall be submitted with the pay request. No partial or final payments shall be made unless required certified payroll reports have been provided to Owner.

   When final completion and acceptance of the work has been achieved, Contractor shall prepare for Owner's acceptance a final application for payment stating that to the best of Contractor's knowledge, and based on Owner's inspections, the work has reached final completion in accordance with the Contract Documents. Payment of the Contract Sum shall be made to Contractor within twenty (20) days after acceptance of the work by Owner and Contractor's submittal of the final application for payment and the following submissions:

   A. Surface America, Inc.'s Playground Surface System Warranty executed by the authorized representative of Surface America, Inc.
   B. Landscape Structures Inc. warranty executed by the authorized representative of Landscape Structures Inc. for all play structures installed;
   C. Any and all additional forms and documentation required by statute or this Agreement;
   D. An affidavit declaring any indebtedness connected with the work, e.g. payrolls or invoices for materials or equipment, to have been paid, satisfied or to be paid with the proceeds of final payment, so as not to encumber the project property;
   E. A statement, under oath, that it has complied with all provisions of State law governing contractors on a public contract and it has complied with the provisions governing fair employment practices;

F. A statement by each of Contractor's subcontractors, under oath, that each of the subcontractors has complied with all provisions of State law governing contractors on a public contract and has complied with the provisions governing fair employment practices;
G. Release of any liens, conditioned on final payment being received;
H. A report of any accidents or injuries experienced by Contractor or its Subcontractors at the worksite.
I. All certified payroll reports.

If the work has been substantially completed and full completion thereof is materially delayed through no fault of the Contractor and the Public Works Director so certifies, the Owner shall, upon the certificate of the Public Works Director, and without terminating the Contract, make payment for the balance due for that portion of the work fully complete and accepted, less a retained amount equal to five percent (5%) of the amount requested.

8. PAYMENTS WITHHELD. Owner may withhold, or on account of subsequently discovered evidence, nullify the whole or part of any estimate to such extent as may be necessary to protect the Owner from losses on account of:

a. Defective work not remedied within a reasonable time after written notice.
b. Claims filed or reasonable evidence indicating probable filing of claims.
c. Failure of the Contractor to make payments properly to subcontractors or for material or labor.
d. A reasonable doubt that the Contract can be completed for the balance then unpaid.
e. Damage to the site, adjacent public or private property, or to another contractor.
f. Failure of the Contractor to keep Contractor's work progressing in accordance with Contractor's time schedule.

When the above grounds are removed, payment shall be made for amounts withheld because of them.

9. CHANGES. Contractor may request and/or Owner may order changes in the work or the timing or sequencing of performance of the work that impacts the Contract Price or the Contract Time. All such changes in the work that affect Contract Time or Contract Price shall be formalized in a written Change Order. Acceptance of the Change Order and any adjustment in the Contract Price and/or Contract Time must be signed by all parties.

10. NOTICES. Any written notices permitted or required by this Contract shall be deemed given when personally delivered, or three days after deposit in the United States mail, postage fully prepaid, addressed to the parties as set forth below or such other address as either party may provide to the other by notice given in accordance with this provision.

OWNER:

Bill Lawyer
Public Works Director
City of Keizer
930 Chemawa Road NE
PO Box 21000
Keizer, OR 97307

CONTRACTOR:

Ross Recreation Equipment Co, Inc.
Attn: Ben Stanford
16917 SE Johnston Dr
Portland, OR 97236

and

Ross Recreation Equipment Co, Inc.
Attn: Ewing R. Philbin
100 Brush Creek Road, Suite 206
Santa Rosa, CA 95404

11. LICENSES. The Contractor shall obtain and maintain all licenses required for public works contracts in the State of Oregon. Contractor shall comply with all laws, ordinances and regulations, (Federal, State, or local) which may be applicable to the project to be conducted hereunder.

12. RESPONSIBILITY OF PUBLIC WORKS DIRECTOR. The term "Public Works Director" herein shall be Bill Lawyer, or his duly authorized representative. The Public Works Director shall have full authority to interpret the plans and specifications and shall determine the amount, quality, and acceptance of the work and supplies to be paid for under this Contract. It shall be the duty of the Public Works Director to enforce the specifications in a fair and unbiased manner, although he has the right to waive any term of the specifications if that term is found to be unreasonable and inconsistent with the general spirit of the specifications.

13. WAIVER. It is expressly understood and agreed that any waiver granted by the Public Works Director or the Owner of any term, provision or covenant of this Contract shall not constitute a precedent nor breach of the same of any other terms, provisions, or covenants of this Contract. Neither the acceptance of the work by Owner nor the payment of all or any part of the sum due the Contractor hereunder shall constitute a waiver, by the Owner, of any claim which the Owner may have against the Contractor.

14. LIABILITY INSURANCE. The Contractor shall procure and maintain ongoing and completed liability insurance as hereinafter specified at Contractor's own expense. All such insurance shall be subject to the approval of the Owner for adequacy of protection and shall include a provision preventing cancellation without ten (10) day's prior notice to the Owner in writing. Contractor must provide the Owner with a certificate of insurance and endorsement evidencing the insurance within five (5) days from Contractor's execution of this Contract. Contractor shall not commence work until the required evidence has been delivered to Owner. The endorsement must insure the City of Keizer as an additional insured. The "City of Keizer" includes its officers, agents, contractors, and employees. This insurance

requirement is to be in effect during the life of this Contract The liability insurance required is as follows:

a. Contractor's General Public Liability and Property Damage Insurance issued to the Contractor and protecting him from all claims for personal injury including death, and all claims for destruction of or damage to property, arising out of or in connection with any operations under this Contract, whether such operations be by himself or by any subcontractor under him, or anyone directly or indirectly employed by the Contractor or by a subcontractor under him.

   All such insurance shall be written with a limit of liability of not less than $1,000,000 for all damages arising out of bodily injury, including death, at any time resulting therefrom, sustained by any one person in any one accident; a limit of liability of not less than $2,000,000 for any such damages sustained by two or more persons in any one accident; a limit of liability of not less than $1,000,000 for all damages arising out of injury or destruction of property, damages arising out of injury or destruction of property, (including property of the City) in any one accident; and a limit of liability of not less than $2,000,000 for all damage arising out of injury to or destruction of property, including property of City, during the policy period.

b. Automobile Liability Insurance with a limit of liability of not less than $1,000,000 issued to Contractor and protecting him from all claims arising out of or in connection with any operations under this Contract, whether such operations be by himself or by any subcontractor under him, or anyone directly or indirectly employed by Contractor or by a subcontractor under him.

15. WORKERS COMPENSATION INSURANCE. The Contractor shall procure and maintain, at Contractor's own expense, during the life of this Contract, in accordance with the provision of the laws of the state of Oregon, Workman's Compensation Insurance for all of Contractor's employees at the site of the project and in case any work is sublet, the Contractor shall require such subcontractor similarly to provide Workman's Compensation Insurance for all of its employees unless such employees are covered by the protection afforded by the Contractor. Certificates evidencing the issuance of such insurance shall be filed with the Owner within five (5) days after execution of this Contract.

16. INDEMNITY. The Contractor shall indemnify the Owner, the Owner's agents and employees from and against all losses and all claims, demands, payments, suit actions, recoveries, and judgment of every nature and description brought or recovered against them by reason of any act or omission of the said Contractor, Contractor's agents, or employees, in the execution of the work or in guarding the same.

17. SUBCONTRACTS. The Contractor shall have full responsibility under these conditions, general provisions, plans and specifications for any subcontracts which Contractor may let. Work not performed by Contractor with its own forces shall be performed by subcontractors. Contractor agrees to bind each subcontractor and material supplier (and require every subcontractor to so bind its subcontractors and material suppliers) to all the provisions of this Contract and the Contract Documents as they apply to the subcontractor's and material supplier's portions of the work. Contractor shall submit a certification to Owner that all subcontractors performing work will be registered with the Construction Contractors Board or licensed by the State Landscape Contractors Board in accordance with ORS 701.035 to 701.055 before the subcontractors commence work under the contract.

18. CONTRACTOR PAYMENTS. Contractor shall: (1) make payment promptly, as due, to all persons supplying to Contractor labor or materials for the prosecution of the Work provided for in this Contract; (2) pay all contributions or amounts due the State Industrial Accident Fund and the State Unemployment Compensation Trust Fund from such Contractor or Subcontractor incurred in the performance of the Contract; (3) not permit any lien or claim to be filed or prosecuted against the Owner because of any labor or material furnished; and (4) pay to the Department of Revenue all sums withheld from employees.

    If Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a Subcontractor by any person in connection with the Project as such claim becomes due, the proper officer(s) representing the Owner may pay the claim and charge the amount of the payment against funds due or to become due Contractor under this Contract.

19. PROTECTION OF WORK AND PROPERTY. The Contractor shall continuously maintain adequate protection of all Contractor's work and materials from damage or theft and shall protect the Owner's property and all adjacent property from injury or loss arising in connection with the activities under this Contract. The Contractor shall make good any such damage, injury, or loss, except such as may be due to errors in the Contract documents or such as may be caused by agents or employees of the Owner.

    The Contractor shall take, use, provide, and maintain all necessary precautions, safeguards, and protection to prevent accidents, or injury to persons or property on, about, or adjacent to the work site, warning against any hazards created by the work being done under this Contract. Contractor shall designate a responsible member of Contractor's organization on the work, whose duty shall be the prevention of accidents, and the name of the person so designated shall be reported to the Owner in writing. In any emergency affecting the safety of life, or of the work or adjoin property, the Contractor, without special instruction or authorization from the Owner, is hereby permitted to act, at Contractor's discretion, to prevent such threatened loss or injury, and Contractor must take such action if

so instructed or authorized by the Owner. The Contractor shall also protect adjacent property as required by law.

Contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation furnishing medical, surgical, and hospital care or other needed care and attention, incident to sickness or injury, to the employees of such Contractor and sums of which the Contractor agrees to pay for such services and all moneys and sums which the Contractor has collected or deducted from the wages of personnel pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

20. WORK HOURS. Contractor must give notice to employees who work on this contract in writing, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work. Furthermore, Contractor shall not employ any person performing work under this contract for more than ten hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency, or where the public policy absolutely requires it. Contractor shall pay all individuals performing work under this contract at least time-and-a-half pay for:

    a. All overtime in excess of eight hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; and

    b. All overtime in excess of 10 hours a day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and

    c. All work performed on Saturday or Sunday and on any legal holiday specified in ORS 279C.540.

21. PREVAILING WAGE. Contractor must ensure that each worker in each trade or occupation employed in the performance of this Contract either by the Contractor, Sub-contractor or other person doing or contracting to do the whole or any part of the work on this Contract, shall be paid not less than the applicable prevailing rate of wage set forth in the attached schedule pursuant to ORS 279C.840(4) & OAR 839-016-0033(1).

    Contractor shall maintain all records and file all wage certification forms as required by Oregon Administrative Rules.

    A. Prevailing Wage Requirements
        a. Applicable Prevailing Wage Rates
            i. If this project is subject to the applicable Oregon Prevailing Wage Rate publication and any amendments, and/or the federal Davis Bacon Wage Rate Act (40 U.S.C. 3141 et seq.), in effect at the time of solicitation, the Contractor shall pay the wage rate and fringe

benefits listed in the Bureau of Labor and Industries publication titled "July 1, 2020 Prevailing Wage Rates for Public Works Contracts in Oregon", which is incorporated herein by reference or can be accessed and downloaded at BOLI's website.

ii. If the project is subject to the federal Davis Bacon Act, the current wage rate publication for Oregon can be accessed and downloaded at http://www.dol.gov/whd/govcontracts/dbra.htm. ORS.279C.838.

iii. If the project is subject to the Davis-Bacon Act and if the state prevailing rate of wage is higher than the federal prevailing rate of wage that is in effect at the time a public agency enters into a contract with a contractor for the project, the contractor and every subcontractor on the project shall pay no less than the state prevailing rate of wage. ORS 279C.838.

iv. All prevailing wage rates that apply to the project must be posted at the job site. Every contractor on the site is responsible for this posting. ORS 279C.840(4) & OAR 839-025-0033(1).

v. All contracts and subcontracts for this project must include a provision that each worker in each trade or occupation employed in the performance of the contract either by the contractor, subcontractor or other person doing or contracting to do or contracting for the whole or any part of the work on the contract, must be paid not less than the applicable state prevailing rate of wage, or the applicable federal prevailing rate of wage, whichever is higher. ORS 279C.838.

b. Certified Payroll Filing Requirements

i. Every employer on a covered project must file certified payroll records with the Owner. Certified statements for each week during which the Contractor or Subcontractor employs a worker upon the public work shall be submitted once a month, by the fifth business day of the following month. Information submitted on certified statements may be used only to ensure compliance with the provisions of ORS 279C.845 to 279C.860.

c. Certified Payroll Form

i. To help employers satisfy the filing requirement, Form WH-38 is included in each PWR rate book. BOLI does not require contractors to use this form, but contractors must supply all information the form requests and this information must be certified.

Employers using their own forms or reports can comply with the certification requirement by attaching and completing a copy of the certification from the WH-38 form to their filing.

Employers must submit the hours worked each day by each employee, his or her name, address, the pay rate, work classification, gross pay to the employee and the amount contributed to any third party fringe benefits (and the type of benefit provided).

To meet filing requirements, the employer must sign the certified payroll to confirm that the information is true and complete. Unsigned reports do not satisfy the filing requirement. Submitting false or incomplete information can be the basis for civil penalties or debarment.

The Contractor and subcontractors shall preserve the certified statements for a period of three (3) years from the completion of the contract.

d. Certified Payroll Retainage
   i. As required in ORS 279C.845, the Owner will retain 25% of any amount earned by the Contractor on the project until the Contractor has filed the certified statements required in ORS 279C.845. The Owner will pay to the Contractor the amount retained within 14 days after the Contractor files the required certified statements, regardless of whether a subcontractor has failed to file certified statements.

   ii. As required in ORS 279C.845, the Contractor shall retain 25% of any amount earned by a first tier subcontractor on the project until the first tier subcontractor has filed with the Owner the certified statements required in ORS 279C.845. Before paying any amount retained, the Contractor shall verify that the first tier subcontractor has filed the certified statement. Within 14 days after the first tier subcontractor files the required certified statement the Contractor shall pay the first tier subcontractor any amount retained.

22. QUALIFYING EMPLOYEE DRUG TESTING PROGRAM. Contractor represents and warrants that Contractor has in place at the time of the execution of this Contract, and shall maintain during the term of this Contract, a Qualifying Employee Drug Testing Program for its employees that includes, at a minimum a written employee drug testing policy, required drug testing for all new subject employees or, alternatively, required testing of all subject employees every 12 months on a random selection basis, and required testing of a subject employee

when the Contractor has reasonable cause to believe the subject employee is under the influence of drugs.

23. SAFETY MEASURES. Contractor agrees that all personnel must wear safety vests at all times and use safety cones as required. Contractor also agrees that Contractor, Contractor employees, and subcontractors will comply with all OSHA regulations applicable to the work being performed, and with all state and federal requirements, including but not limited to, ADA, Civil Rights Act, and EEO requirements.

24. INSPECTION. Owner and his representative shall at all times have access to the work during its construction, and shall be furnished with every reasonable facility for ascertaining that the stock and materials used and employed, and the workmanship are in accordance with the requirements and intentions of the specifications. All work done and all materials furnished shall be subject to inspection and approval. If any work should be covered up without approval or consent of Owner, it must, if required by Owner, be uncovered for examination at the Contractor's expense.

    Re-examination of questioned work may be ordered by Owner. If such work be found in accordance with the Contract documents, the Owner shall pay the cost of re-examination and replacement. If such work is found to not be in accordance with the Contract documents, the Contractor shall pay such costs unless Contractor shall show that the defect in the work was caused by another contractor, and in that event, the Owner shall pay such costs.

    The inspection of the work shall not relieve the Contractor of any of Contractor's obligations to fulfill the Contract in full and as prescribed. Defective work shall be made good and unsuitable material shall be rejected, notwithstanding that such defective work and material may have been previously overlooked and accepted on estimates for payment. No work shall be done at night without the prior written approval of Owner.

25. DEFECTIVE WORK OR MATERIAL. The Contractor shall promptly remove from the premises all work and materials condemned by Owner as failing to conform to the Contract, whether incorporated or not, and the Contractor shall promptly replace and re-execute Contractor's own work in accordance with the Contract and without expense to the Owner and shall bear the expense of making good all work of other contractors destroyed or damaged by such removal or replacement.

26. LIENS. Contractor shall not permit any lien or claim to be filed or prosecuted against the City of Keizer, Oregon or the private property owner, in connection with this contract and agrees to assume responsibility should such lien or claim be filed. If at any time there shall be evidence of any lien or claim for which the Owner might become liable and which is chargeable to the Contractor, the Owner shall have the right to retain out of any payment then due or thereafter to become due, an amount

sufficient to provide complete indemnification against such lien or claim. In the event the Owner has already paid to the Contractor all sums due under this Contract or the balance remaining unpaid is insufficient to protect the Owner, the Contractor shall be liable to the Owner for any loss so sustained.

27. OWNER'S RIGHT TO TAKE OVER THE WORK. If the Contractor should be adjudged as bankrupt, or if it should make a general assignment for the benefit of its creditors, or if a receiver should be appointed to take over its affairs, or if it should fail to prosecute its work with due diligence and carry the work forward in accordance with its work schedule and the time limits set forth in the Contract documents, or if it should fail to substantially perform one or more of the provisions of the Contract documents to be performed by it, the Owner may serve written notice on the Contractor and the surety of its performance and payment bond, stating its intention to exercise one of the remedies hereinafter set forth and the grounds upon which the Owner bases its right to exercise such remedy.

    In any event, unless the matter complained of is satisfactorily corrected within ten (10) days after service of such notice, the Owner may, without prejudice to any other right or remedy, exercise one of the following such remedies, at once, having first obtained a certificate from the Public Works Director that sufficient cause exists to justify such action.

    a. The Owner may terminate the services of the Contractor, which termination shall take effect immediately upon service of notice thereof on the Contractor, whereupon Owner may itself take over the work, take possession of and use all materials, tools, equipment and appliances on the premises and prosecute the work to completion by such means as it shall deem best. In the event of such termination of its service, the Contractor shall not be entitled to any further payment under this Contract until the work is completed and accepted. If the Owner takes over the work and if the unpaid balance of the Contract price when the Owner takes over the work exceeds the cost of completing the work, including compensation for any damages or expenses incurred by Owner through the default of the Contractor, such excess shall be paid to the Contractor. In such event, if such costs, expenses and damages shall exceed such unpaid balance of the Contract price, the Contractor shall pay the difference to the Owner. Such costs, expenses, and damages shall be certified by the Public Works Director.
    b. The Owner may take control of the work and either make good the deficiencies of the Contractor itself or direct the activities of the Contractor in doing so, employing such additional help as the Owner deems advisable. In such event, the Owner shall be entitled to collect from the Contractor, or to deduct from any payment then or thereafter due the Contractor, the cost incurred by it through the default of the Contractor, provided the Public Works Director approves the amount thus charged to the Contractor.

c. The Owner may require the surety on the Contractor's bond to take control of the work at once and see to it that all of the deficiencies of the Contractor are made good with due diligence. As between the Owner and the surety, the cost of making good such deficiencies shall all be borne by the surety. If the surety takes over the work, either upon instructions from the Owner to do so or based upon the surety's choice, all provisions of the Contract documents shall govern in respect to the work done by the surety, the surety being substituted for the Contractor as to such provisions as to payment for the work and provisions of this section as to the right of the Owner to do the work itself or to take control of the work.

The above remedies are in addition to any other remedies allowed by law or equity.

28. OWNER'S RIGHT TO TERMINATE CONTRACT. Owner may terminate this Contract upon seven (7) days written notice to Contractor if Owner fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow Owner to pay for services under this Contract.

29. CONTRACTOR'S RIGHT TO STOP OR TERMINATE CONTRACT. If the work shall be stopped under an order of any court or other public authority for a period of no less than three (3) months through no act or fault of the Contractor or of any one employed by it, then the Contractor may on seven (7) days written notice to the Owner stop work or terminate this Contractor and recover from the Owner payment for all work executed to the date of stoppage, any losses sustained from any plant or material, and a reasonable profit. If the Public Works Director shall fail to issue any certificate for payment within ten (10) days after it is due, or if the Owner shall fail to pay the Contractor within fifteen (15) days after its maturity and presentation to the Owner any sum certified by the Public Works Director, then the Contractor may, on seven (7) days written notice to Owner, terminate the Contract and recover from the Owner payment for all work executed to date, any losses sustained upon any plant for material, and a reasonable profit.

30. DELAYS AND EXTENSION OF TIME. If the Contractor is delayed at any time in the progress of the work by an act or neglect of the Owner, or any employee of Owner, or by any separate contractor employed by the Owner, or by changes ordered in the work, or by strike, lockouts, fire, unusual delay in transportation, unavoidable casualties, or any cause beyond the Contractor's control, or by delay authorized by the Public Works Director, or by any cause which the Public Works Director shall decide to justify the delay, then the time of completion shall be extended for such reasonable time as the Public Works Director may decide.

No such extensions shall be made for a delay occurring more than seven (7) days before claim therefore is made in writing to the Public Works Director. In the case of a continued cause of delay, only one claim is necessary. This section does not exclude the recovery of damages for delays by either party under other provisions in the Contract documents.

31. ACCEPTANCE. Final inspection and acceptance of the work shall be made by the Owner and local appointed authority. Such inspection shall be made as soon as practical after the Contractor has notified the Owner in writing that the work is ready for such inspection.

32. GUARANTEE. Except for normal wear and tear, Contractor agrees to guarantee all work under this Contract for a period of one (1) year from the date of acceptance of the work. If any unsatisfactory condition or damage develops within the time of this guarantee due to materials or workmanship which were defective, inferior, or not in accordance with the Contract, Contractors agrees, whenever notified by Owner, to immediately place such guaranteed work in a condition satisfactory to Owner and make repairs of all damage made necessary in the fulfillment of the guarantee. This provision shall survive termination of this Contract.

33. DISPUTE RESOLUTION.

(a) Any dispute arising out of or in connection with this Agreement, which is not settled by mutual agreement of the Contractor and the Owner within sixty (60) days of notification in writing by either party, shall be submitted to an arbitrator mutually agreed upon by the parties. In the event the parties cannot agree on the arbitrator, then the arbitrator shall be appointed by the Presiding Judge (Civil) of the Circuit Court of the State of Oregon for the County of Marion. The arbitrator shall be selected within thirty (30) days from the expiration of the sixty (60) day period following notification of the dispute. The arbitration, and any litigation arising out of or in connection with this Agreement, shall be conducted in Salem, Oregon, shall be governed by the laws of the State of Oregon, and shall be as speedy as reasonably possible. The applicable arbitration rules for the Marion County courts shall apply unless the parties agree in writing to other rules. The arbitrator shall render a decision within forty-five (45) days of the first meeting with the Contractor and the Owner. Insofar as the Contractor and the Owner legally may do so, they agree to be bound by the decision of the arbitrator.

(b) Notwithstanding any dispute under this Agreement, whether before or during arbitration, the Contractor shall continue to perform its work pending resolution of a dispute, and the Owner shall make payments as required by the Agreement for undisputed portions of work.

34. ASSIGNMENT. Neither Owner nor Contractor shall assign its interest in this Contract without the written consent of the other except as to the assignment of proceeds. The terms and conditions of this Contract shall be binding upon both parties, their partners, successors, assigns and legal representatives. Neither party to this Contract shall assign the Contract as a whole without written consent of the other.

35. INDEPENDENT CONTRACTOR STATUS. The service or services to be performed under this Contract are those of an independent contractor as defined in ORS 670.600. Contractor represents and warrants that it is not an officer, employee or agent of the Owner. Contractor is not entitled to, and expressly waives all claim to City benefits including, but not limited to health, life, and disability insurance, overtime pay, paid leave, and retirement.

36. GOVERNING LAW. This Contract shall be governed by the laws of the State of Oregon.

37. SEVERABILITY. Any provision or part of this Contract held to be void or unenforceable under any law or regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor. Owner and Contractor agree that this Contract shall be amended to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

38. COMPLIANCE. The Contractor shall comply with and require its subcontractors to comply with all applicable provisions of Federal, State and local statutes, ordinance, orders, rules, regulations, and all other specifications and provisions as contained within these Contract documents.

39. INCORPORATION; PRECEDENCE. The Exhibits, if any, attached to this Contract are incorporated herein as if fully set forth in this Contract. If any provision of any Exhibit conflicts with the provisions of this Contract, the terms of this Contract shall govern.

40. SIGNATURE. Facsimile or electronic transmission of any signed original document, and retransmission of any signed facsimile or electronic transmission, shall be the same as delivery of an original. At the request of either party, the parties shall confirm facsimile or electronic transmitted signatures by signing an original document.

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IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed the day and year first above written.

CITY OF KEIZER

By:_____
Christopher C. Eppley,
City Manager

Dated:_____

ROSS RECREATION EQUIPMENT CO, INC.

By:_____
_____,
_____

Dated:_____

APPROVED AS TO FORM:

_____
Keizer City Attorney

Claggett Creek Play Structure Replacement
Scope of Services

1. Receive and Offload materials. Provide and install temporary fencing around the site

2. Demo and properly dispose / recycle / remove the existing play equipment in the main play area.

3. Demo and properly dispose / recycle / remove the existing swings in the swing pit.

4. Demo and properly dispose / recycle / remove the existing TuffTimber borders around the main play area and swing pit.

5. Demo, excavate, and properly dispose / recycle / remove the existing wood chips (from both main play area and swing pit.

6. Provide and install 2" of fractured drain rock throughout the approximate 4,896 sq ft

7. Provide and install filter cloth between drain rock and the ¾ minus rock.

8. Provide and install and compact ¾" minus gravel as sub base for rubber preparation.

9. Provide and install Surface America PlayBound Poured-in-Place rubber surfacing for 4,896 total sq ft. Includes 3,744 of 4" thick system (52' x 72' for main play area) and 1,152 of 3-1/2" thick system (32' x 36' for swing pit). Top surface to be 50% black / speckled mix. Includes 2 color mixes to represent land and river. Includes standard aromatic binder.

10. Provide and install Landscape Structures PlayBooster, ages 5-12 Design # 1144312-01-02

11. Install new curbing around the main play area and swing pit – approx. 384 linear feet

12. Install new sidewalk from existing path to swing pit – approx. 10 ft in length

13. This project shall be constructed / installed and finished pursuant to any and all standards and requirements of the manufacturers as of the date of the contract. The City is dependent on the Contractor's expertise and experience in this regard.

14. Properly dispose of all waste material from project

15. Comply with appropriate safety measures.

16. Obtain satisfactory final inspection from the City of Keizer

17. Project is to be completed by Nov. 1, 2020. The completion date is dependent on satisfactory weather during the Poured-in-Place process and the completion date may need to be extended based on weather conditions.

ROSS Recreation Equipment

Building Community since 1973

Opportunity Name	Claggett Creek Playground
Quote Name	Landscape Structures Design #1144312-1-2
Bill To Name	City of Keizer
Bill To	P.O. Box 21000 Keizer, Oregon 97307 United States

Quote Number	00032643
Quote Date	6/24/2020
Quote Exp Date	9/24/2020
Est Lead Time	4-6 weeks
Ship To Name	City of Keizer
Ship To	930 Chemawa Rd NE Keizer, Oregon 97303 United States

Quantity	Product	Product Description	Sales Price	Total Price
1.00	Bond	Bond - Standard 3% on total project amount including tax and freight.	$8,221.20	$8,221.20
1.00	Demolition	Demolition of Play Equipment (swings and main play area) **Installation price quoted for favorable working conditions. If rock, poor soil conditions, a high water table and/or other unforeseen site conditions exist requiring additional materials and labor, additional charges may be incurred.	$5,600.00	$5,600.00
1.00	Demolition	Removal and Demolition of existing wood chips (in both swings and main play area). **Installation price quoted for favorable working conditions. If rock, poor soil conditions, a high water table and/or other unforeseen site conditions exist requiring additional materials and labor, additional charges may be incurred.	$10,300.00	$10,300.00
1.00	Install-Rubber Surfacing	Installation of Surface America Poured-in-Place rubberized surfacing for 4,950 square feet at a 4" and 3-1/2" thickness by a manufacturer certified installer. Price does not include sub-base preparation, drainage, design work or inspections. General contractor is responsible for verifying that quoted material meets all details and that sub-base is prepared at the proper hold down from finish grade. Surfacing will be installed to follow slope of the sub base and thickness of safety surfacing quoted to be kept consistent; surfacing will not be installed thicker over drains unless requested. Please advise if installation is to be installed in any other manner so quote can be adjusted. Thicknesses installed to meet industry standards for ASTM testing of 1000 HIC/ 200GMax. *Installations over 2,000 sf will have seams in the finished surface.	$35,800.00	$35,800.00
1.00	Installation	Installation of Landscape Structures PlayBooster design #1144312-1-2 by a manufacturer certified installer. **Installation price quoted for favorable working conditions. If rock, poor soil conditions, a high water table and/or other unforeseen site conditions exist requiring additional materials and labor, additional charges may be incurred. *Installation quoted includes standard manufacturer provided footing details; if different footing details are provided by the owner/specifier, a change order will be required. *Installation quoted includes installing footings through native soil or 95% compacted base rock. If installing through concrete, asphalt or through less compacted or permeable base or drain rock, or in other conditions, please provide additional details and a change order may be required.	$29,100.00	$29,100.00
1.00	Installation	Receive / Offload materials	$1,600.00	$1,600.00
1.00	Installation	Supply and Install temp fencing	$1,100.00	$1,100.00
	PlayBooster,	Landscape Structures PlayBooster, ages 5-12. Design #1144312-1-2. Design Includes: Double Swoosh Slide, Double Swirl Slide, Firepole Climber, Summit Climber, Lollipop Climber, Vertical Ascent Climber, Storefront Panel, Loop Seat, Digifuse Name the Fish		

Prepared By	Ben Stanford
Email	bens@rossrec.com

ROSS
Recreation Equipment
Building Community since 1973

Opportunity Name	Claggett Creek Playground
Quote Name	Landscape Structures Design #1144312-1-2
Bill To Name	City of Keizer
Bill To	P.O. Box 21000 Keizer, Oregon 97307 United States

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1.00	5-12	Panel, Welcome to the River Digifuse Find the Medallions Game, Custom Fishing Pole Climber, Toddler Swing Frame w/ 2 bucket seats, 2 Bay Arch Swing with 3 belt seats and 1 Molded Bucket Seat w/ Harness, 2-5 yr old Custom Fish Climber, Curva Spinner, Log Balance Beam, Stone Steppers, and more.	$76,940.00	$76,940.00
1.00	Site Work	Installation of perimeter curbing - 384 LF	$20,480.00	$20,480.00
1.00	Site Work	Installation of sidewalk to swing area (approx. 10’ in length), connecting from existing asphalt path. **Installation price quoted for favorable working conditions. If rock, poor soil conditions, a high water table and/or other unforeseen site conditions exist requiring additional materials and labor, additional charges may be incurred.	$540.00	$540.00
1.00	Site Work	Supply and prep gravel for main play area (52'x72') and swings area (32'x36') **Installation price quoted for favorable working conditions. If rock, poor soil conditions, a high water table and/or other unforeseen site conditions exist requiring additional materials and labor, additional charges may be incurred.	$26,200.00	$26,200.00
1.00	Site Work	Pricing includes supply and install of filter fabric for both the swing area and the main play area - approx 4,896 sq ft **Installation price quoted for favorable working conditions. If rock, poor soil conditions, a high water table and/or other unforeseen site conditions exist requiring additional materials and labor, additional charges may be incurred.	$1,340.00	$1,340.00
1.00	Surface America PIP Rubber	Surface America Poured-In-Place Rubber surfacing materials: ~Square Footage: 4,950 sf (32'x36' swings and 52'x72' main area) ~Thickness: 4” (3,750 sq ft of 9' CFH), 3-1/2" (1,200 sq ft of 8' CFH) ~Binder: Standard Aromatic ~Color: 50% color / 50% black *Teal, Yellow, Purple, and Primary Red are considered premium colors, if any are used for more than 25% of the color mix, an additional materials charge will apply. *Any change in color, thickness, square footage or binder type will require a change order. Contractors bidding are responsible to verify that quoted material meets the project requirements. *Does not include sub-base materials. Acceptable sub-base materials include: Concrete, Asphalt, or Compacted Base Rock. More details available upon request. *It is the responsibility of the General Contractor to verify all colors and square footage prior to placing an order. Any revision to materials will require a revised quote and may result in a price increase. *Thicknesses quoted to meet industry standards for ASTM testing of 1000 HIC/200GMax.	$52,800.00	$52,800.00

Total Quote Amounts

County/ City Tax	Oregon State Tax	Materials Amount	$129,740.00

Prepared By	Ben Stanford
Email	bens@rossrec.com

Recreation Equipment

Building Community since 1973

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Bill To	P.O. Box 21000 Keizer, Oregon 97307 United States

Quote Number	00032643
Quote Date	6/24/2020
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Est Lead Time	4-6 weeks
Ship To Name	City of Keizer
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Tax Rate	0.0000%	Tax Amount	$0.00
Credit Terms	Net 30 On Materials Shipment	Labor Total	$140,281.20
		Freight Amount	$12,240.00
		Total	$282,261.20

Notes to Customer

Thank you for the opportunity to quote your upcoming project. PLEASE NOTE: quote does not include installation, offload, payment and performance bonds, engineering calculations, security, storage, permits, inspection, or safety surfacing unless otherwise noted.

Deposits may be required before order can be placed depending on customer credit terms. Your purchase is subject to the terms and conditions of this quote, approval of this quote agrees to those terms.

If ordering materials after the expiration date, please add 3-6% annually to materials for anticipated price increase. If this is for a BID, it is the responsibility of the General Contractor bidding to adjust their bid to accommodate anticipated pricing. Please also note that sales tax will be based on the current rate at the time of shipping, not order date. Customer will be expected to cover these taxes.

Ross Recreation will provide labor using a subcontractor for all installation and labor quoted. Neither Ross Recreation nor our subcontractors are signatory to any unions, however compliance with prevailing wage rate requirements will occur. If union enrollment is required by our subcontractor for completion of this project, Ross Recreation will require a change order to cover the costs of a per project enrollment and additional wage/benefit requirements.

Final confirmation of square footage and thickness to be verified and approved by purchaser. Price quoted based on requested quantities provided by purchaser. If different than what was provided, project will need to be re-quoted. Final material quantities will be confirmed with purchaser prior to to shipment.

If there is a shortage of materials during installation, it will be the responsibility of the purchaser for the cost of additional materials. Please confirm needs of project prior to final order and shipment.

Surface America's 4" thick Poured-in-Place System meets a 9' critical fall height and a 3-1/2" thick Poured-in-Place System meets a 8' critical fall height.

No lift gate included on truck. Freight can deliver any time of day. If morning delivery or lift gate is needed, please advise and request re-quote of freight.

*Teal, Yellow, Purple, and Primary Red are considered premium colors. If any are used for more than 25% of the color mix, an additional materials charge will apply.

**All materials quoted on this quote are for 50% color with standard aromatic binder.

Signature _____

Name _____

Prepared By	Ben Stanford
Email	bens@rossrec.com

Recreation Equipment

Building Community since 1973

Opportunity Name	Claggett Creek Playground
Quote Name	Landscape Structures Design #1144312-1-2
Bill To Name	City of Keizer
Bill To	P.O. Box 21000 Keizer, Oregon 97307 United States

Title _____

Date _____

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Prepared By	Ben Stanford
Email	bens@rossrec.com

landscape structures
Clagget Creek Park Playground
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CLAGGET CREEK PARK
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ART APPROVAL

landscape structures

PLEASE REVIEW AND APPROVE THE FOLLOWING:

Color, Verbiage, Layout/size, and Overall Graphic. I verify that I own or otherwise possess all necessary rights with respect to the user-submitted images, and that the user-submitted images do not infringe, misappropriate, use without authorization, disclose without authorization, or otherwise violate any copyright, trademark, trade secret, other intellectual property right, or a property right of any third party.

This approval confirms all major design work has been completed and accurately reflects the direction specified. This rendering remains a conceptual approximation as custom products are subject to final engineering including, but not limited to, hardware placement and minor changes related to standards and manufacturing capabilities. Each change following this approval will require a change order and impact the delivery date.

SIGNATURE DATE

landscape structures

Clagget Creek Park Playground

1144312-01-02-04 • 06.29.2020

ROSS Recreation Equipment

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ART APPROVAL

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SIGNATURE DATE

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Clagget Creek Park Playground

1144312-01-02-05 • 06.29.2020

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PLEASE REVIEW AND APPROVE THE FOLLOWING:

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SIGNATURE DATE

landscape structures

Clagget Creek Park Playground

1144312-01-02-06 • 06.29.2020

ROSS Recreation Equipment

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ART APPROVAL

landscape structures

PLEASE REVIEW AND APPROVE THE FOLLOWING:

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SIGNATURE DATE

landscape structures

Clagget Creek Park Playground

1144312-01-02-07 • 06.29.2020

R•SS Recreation Equipment

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ART APPROVAL

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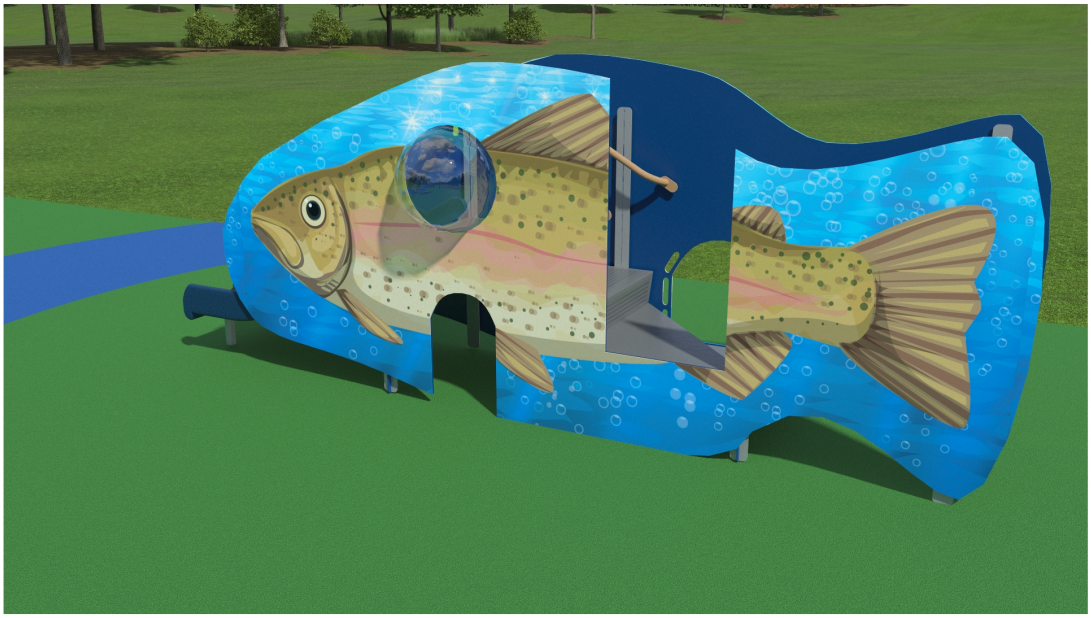
SIGNATURE DATE



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Clagget Creek Park Playground

1144312-01-02-08 • 06.29.2020

ROSS Recreation Equipment

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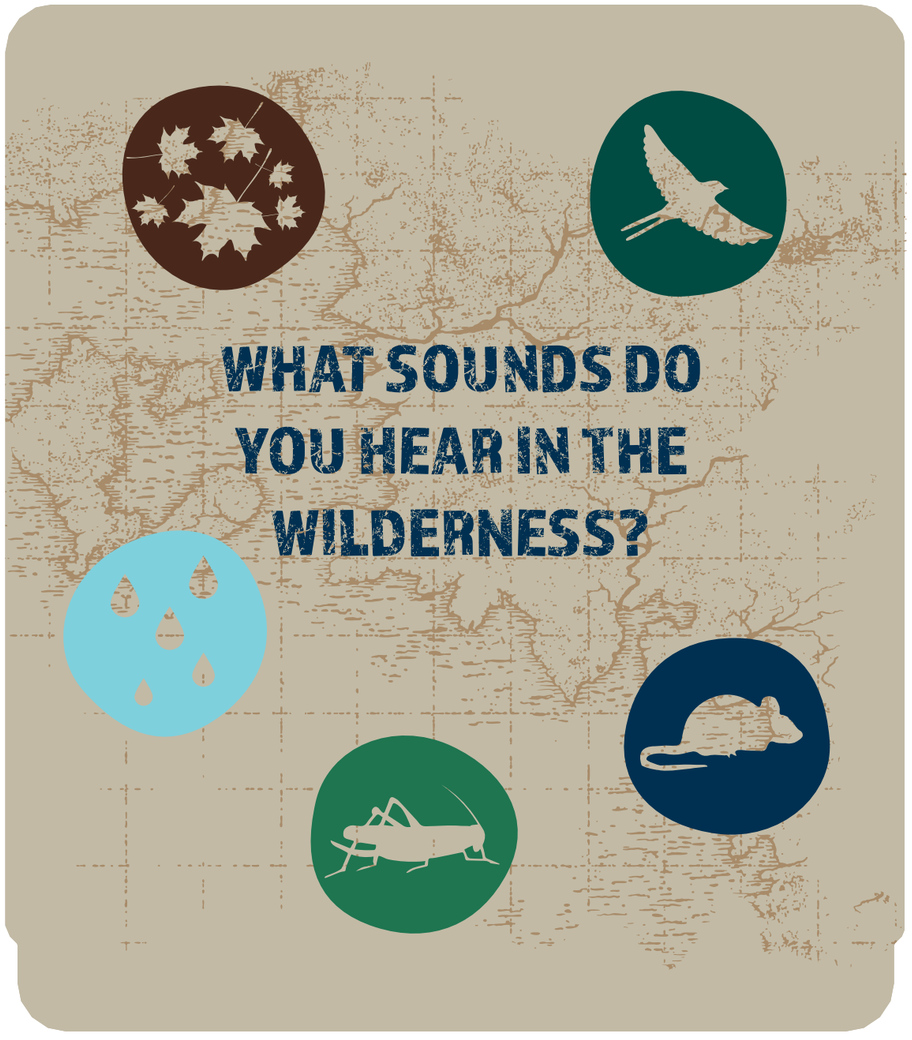
FRONT



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1061144312-01-02
Clagget Creek Park
STANDARD PANEL

FRONT

BACK

ART APPROVAL

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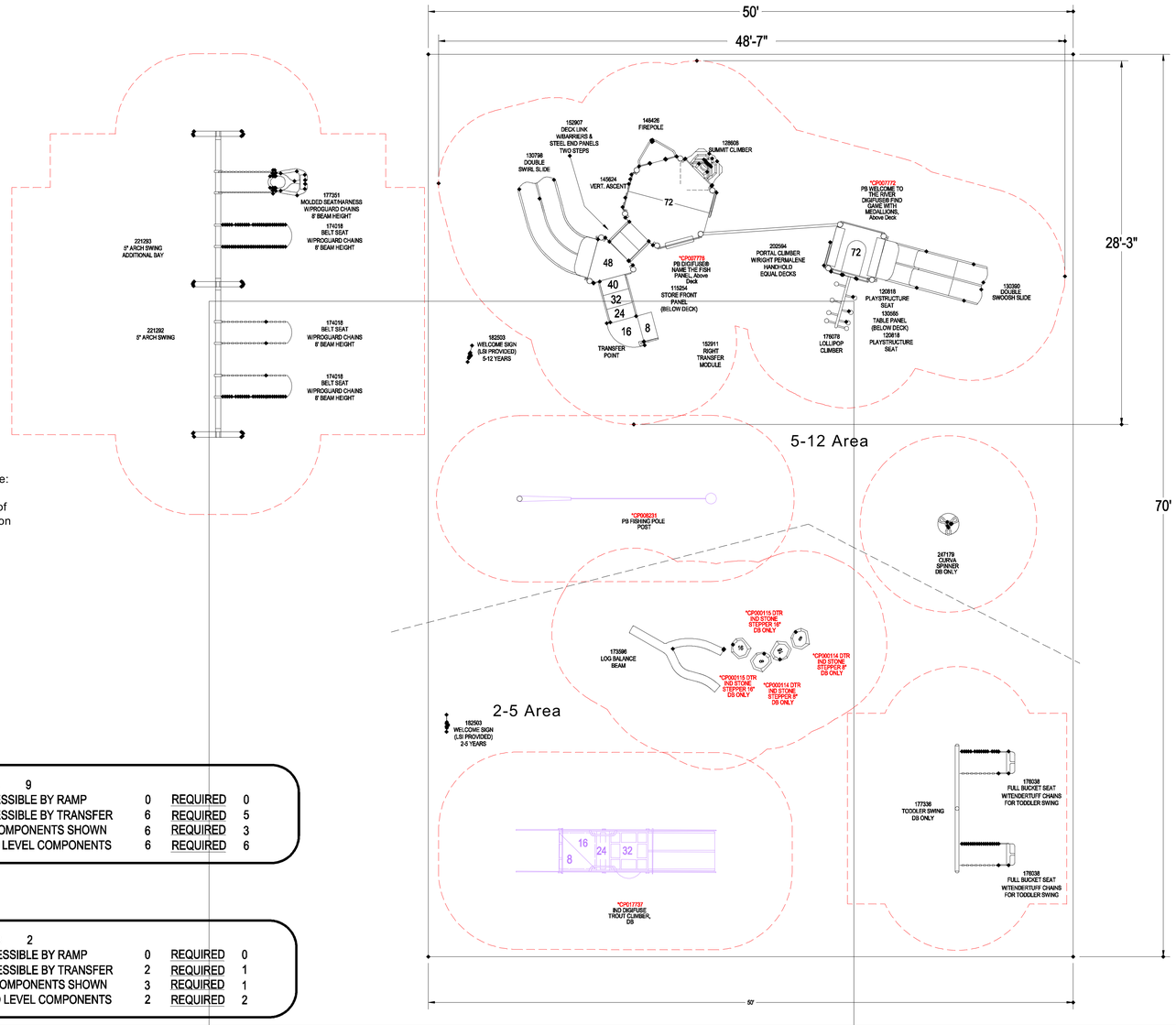
SIGNATURE

DATE

1061144312-01-02
Clagget Creek Park
STANDARD PANEL



Estimated manufacturing time:
12 weeks from the time of
LSI order acceptance, or receipt of
SkyWays release of fabrication
form if applicable.

PlayBooster®
(5-12 years)

Max Fall Height: 101 inches

TOTAL ELEVATED PLAY COMPONENTS	9		
TOTAL ELEVATED COMPONENTS ACCESSIBLE BY RAMP	0	REQUIRED	0
TOTAL ELEVATED COMPONENTS ACCESSIBLE BY TRANSFER	6	REQUIRED	5
TOTAL ACCESSIBLE GROUND LEVEL COMPONENTS SHOWN	6	REQUIRED	3
TOTAL DIFFERENT TYPES OF GROUND LEVEL COMPONENTS	6	REQUIRED	6

Freestanding Play
(2-5 years)

Max Fall Height: 51 inches

TOTAL ELEVATED PLAY COMPONENTS	2		
TOTAL ELEVATED COMPONENTS ACCESSIBLE BY RAMP	0	REQUIRED	0
TOTAL ELEVATED COMPONENTS ACCESSIBLE BY TRANSFER	2	REQUIRED	1
TOTAL ACCESSIBLE GROUND LEVEL COMPONENTS SHOWN	3	REQUIRED	1
TOTAL DIFFERENT TYPES OF GROUND LEVEL COMPONENTS	2	REQUIRED	2

landscape structures®

IT IS THE MANUFACTURERS OPINION AND INTENT THAT THE USE AND LAYOUT OF THESE COMPONENTS CONFORM WITH THE AMERICAN SOCIETY FOR TESTING AND MATERIALS (ASTM) STANDARD ASTM F1487

THIS PLAY AREA & PLAY EQUIPMENT IS DESIGNED FOR AGES 2-12 YEARS UNLESS OTHERWISE NOTED ON PLAN.

IT IS THE MANUFACTURERS OPINION THAT THIS PLAY AREA DOES CONFORM TO THE A.D.A. ACCESSIBILITY STANDARDS, ASSUMING AN ACCESSIBLE PROTECTIVE SURFACING IS PROVIDED, AS INDICATED, OR WITHIN THE ENTIRE USE ZONE.

THIS CONCEPTUAL PLAN WAS BASED ON INFORMATION AVAILABLE TO US. PRIOR TO CONSTRUCTION, DETAILED SITE INFORMATION INCLUDING SITE DIMENSIONS, TOPOGRAPHY EXISTING UTILITIES, SOIL CONDITIONS, AND DRAINAGE SOLUTIONS SHOULD BE OBTAINED, EVALUATED, & UTILIZED IN THE FINAL DESIGN. PLEASE VERIFY ALL DIMENSIONS OF PLAY AREA, SIZE, ORIENTATION, AND LOCATION OF ALL EXISTING UTILITIES, EQUIPMENT, AND SITE FURNISHINGS PRIOR TO ORDERING. SLIDES SHOULD NOT FACE THE HOT AFTERNOON SUN.

CHOOSE A PROTECTIVE SURFACING MATERIAL THAT HAS A CRITICAL HEIGHT VALUE TO MEET THE MAXIMUM FALL HEIGHT FOR THE EQUIPMENT (REF. ASTM F1487 STANDARD CONSUMER SAFETY PERFORMANCE SPECIFICATION FOR PLAYGROUND EQUIPMENT FOR PUBLIC USE, SECTION 8 CURRENT REVISION). THE SUBSURFACE MUST BE WELL DRAINED. IF THE SOIL DOES NOT DRAIN NATURALLY IT MUST BE TILED OR SLOPED 1/8" TO 1/4" PER FOOT TO A STORM SEWER OR A "FRENCH DRAIN".

AREA OF ACCESSIBLE/PROTECTIVE SURFACING (POURED-IN-PLACE SUGGESTED)

DESIGNED BY:
TLM

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LANDSCAPE STRUCTURES, INC.
601 7th STREET SOUTH - P.O. BOX 198
DELANO, MINNESOTA 55328
PH: 1-800-328-0035 FAX: 1-763-972-8091

3/18/2020	1144312-01-01	TLM
Date	Previous Drawing #	Initials

SCALE IN FEET:
0' 5' 10' 20'

N

Clagget Creek
Park Playground
Salem, OR

Ross Recreation

Benjamin Stanford

SYSTEM TYPE:
PlayBooster

DRAWING #:
1144312-01-02

ISO 14001:2015 CERTIFIED

ISO 9001:2015 Certified

CITY COUNCIL MEETING: August 3, 2020

AGENDA ITEM NUMBER:_____

TO: **MAYOR CLARK AND COUNCIL MEMBERS**

THROUGH: **CHRISTOPHER C. EPPLEY, CITY MANAGER**

FROM: **E. SHANNON JOHNSON, CITY ATTORNEY**

SUBJECT: **CHARTER BALLOT AND EXPLANATORY STATEMENT**

I have prepared the attached Resolution which contains a ballot title and explanatory statement, along with the final 2020 Charter for your review. I made a few minor grammatical changes to the Charter based on Councilor Reid's suggestions.

The ballot title word maximum is very limited. The "Summary" portion of the ballot title is limited to 175 words. The explanatory statement allows up to 500 words, so it is the more complete explanation of the measure.

After submittal to county elections, the measure will be given a number and placed on the November 3, 2020 ballot.

RECOMMENDATION:

Adopt the attached resolution referring the new home rule Charter to the voters and authorizing the filing of the ballot title and explanatory statement.

Please contact me if you have any questions in this regard. Thank you.

ESJ/tmh

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R2020-_____

PLACING ON THE BALLOT THE QUESTION OF ADOPTION OF A NEW HOME RULE CHARTER THAT REPLACES THE CURRENT CHARTER AND AUTHORIZING FILING OF EXPLANATORY STATEMENT RELATING TO THE ADOPTION

WHEREAS, the Oregon Constitution grants City voters the right to adopt home rule Charters;

WHEREAS, Charters grant legal authority to cities, specify how ordinances are adopted, list qualifications for officers, and assign duties to city officials;

WHEREAS, the City Council of the City of Keizer voted on a proposed new Charter at its July 20, 2020 City Council meeting;

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of Keizer that the proposed new Charter attached as Exhibit “A” is to be referred to the voters.

BE IT FURTHER RESOLVED that the ballot title as set forth in Exhibit “B” be filed by the City Recorder with the City Elections Officer to be referred to a vote of the people by placing the measure on the ballot at the November 3, 2020 general election in accordance with Oregon law.

BE IT FURTHER RESOLVED as required by ORS 254.465, the measure election shall be conducted by mail by the County Clerk of Marion County, according to the procedures adopted by the Oregon Secretary of State.

Keizer City Attorney
930 Chemawa Road NE
PO Box 21000
Keizer, Oregon 97307
503-856-3433

BE IT FURTHER RESOLVED that the City Council of the City of Keizer authorizes the City Manager to act on behalf of the City to take such further action as is necessary to carry out the intent and purposes set forth herein, in compliance with the applicable provisions of law.

BE IT FURTHER RESOLVED that the City Recorder shall publish in the Keizertimes in compliance with the applicable provisions of law a notice of receipt of the ballot title, including notice that an elector may file a petition for review of the ballot title.

BE IT FURTHER RESOLVED that the explanatory statement for the measure as set forth in Exhibit "C" attached hereto and by this reference incorporated herein is hereby approved and shall be filed with the city elections officer for use in the Marion County Voter's Pamphlet.

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately upon the date of its passage.

PASSED this _____ day of _____, 2020.

SIGNED this _____ day of _____, 2020.

_____
Mayor

_____
City Recorder

Keizer City Attorney
930 Chemawa Road NE
PO Box 21000
Keizer, Oregon 97307
503-856-3433

THE CHARTER

OF THE

CITY OF KEIZER,

MARION COUNTY,
STATE OF OREGON

Incorporated November 2, 1982

Adopted by the Voters on _____, 2020

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PREAMBLE

We, the people of the City of Keizer, Oregon exercise our power to the fullest extent possible under the Oregon Constitution and laws of the state, and enact this Home Rule Charter.

Section 1
NAMES AND BOUNDARIES

Section 1.1. Titles. This charter may be referred to as the 2020 Keizer City Charter.

Section 1.2. Name of City. The municipality of Keizer, Marion County, Oregon, shall continue to be a municipal corporation with the name City of Keizer.

Section 1.3. Boundaries. The City includes all territory within its boundaries as they now exist or are legally modified. The City will maintain as a public record an accurate and current description of the boundaries.

Section 2
POWERS

Section 2.1. Powers. The City has all powers that the constitutions, statutes, and common law of the United States and Oregon expressly or impliedly grant or allow the City, as fully as though this charter specifically enumerated each of those powers, including powers hereafter granted or allowed.

Section 2.2. Construction of Charter. In this charter, no specification of a power is exclusive or restricts authority that the City would have if the power were not specified. The charter shall be liberally construed, so that the City may exercise fully all its powers possible under this charter and under United States and Oregon law. All powers are continuing unless a specific grant of power clearly indicates the contrary.

Section 2.3. Distribution. The Oregon Constitution reserves initiative and referendum powers as to all municipal legislation to City voters. This charter vests all other City powers in the council except as the charter otherwise provides. The council has legislative, administrative, and quasi-judicial authority. The council may not delegate its authority to adopt ordinances.

Section 3
COUNCIL

Section 3.1. Council. The council shall be composed of a mayor and six councilors elected from the City at large by numbered positions.

Section 3.2. Mayor. The mayor presides over and facilitates council meetings, preserves order, enforces council rules, and determines the order of business under council rules.

a) The mayor is a voting member of the council and has no veto authority.
b) The mayor must sign all records of council decisions.

c) The mayor serves as the political head of the City government.

Section 3.3. Council President. At its first meeting of each odd-numbered year, the council members shall elect a president from its membership. The council president shall be elected by a vote of not less than four (4) council members. In the mayor's absence from a council meeting, the council president shall preside. Whenever the mayor is unable to perform the functions of the office, the council president shall act as mayor.

Section 3.4. Rules. The council must adopt rules to govern committees, members, and proceedings.

Section 3.5. Meetings.

a) The council shall hold a regular meeting at least once each month in the City at a time and at a place which it designates.

b) The mayor may call a special council meeting at mayor's own discretion, and shall call a special meeting at the request of three council members. Any special meeting shall occur as provided under state law.

c) Special meetings of the council may also be held at any time by the common consent of all the members of the council.

d) All meetings shall be held and conducted pursuant to state law.

Section 3.6. Quorum. A majority of the members currently serving on the council, excluding vacant seats, shall constitute a quorum. In the event of an absence, a smaller number may meet and compel attendance of absent members as prescribed by council rules.

Section 3.7. Vote Required. Except as this charter or other rules or laws otherwise provide, the concurrence of a majority of the members of the council voting when a quorum of the council is present shall decide any question before the council.

Section 3.8. Record. A record of council meetings must be kept in a manner prescribed by the council rules and the laws of the state of Oregon.

Section 4
ORDINANCES

Section 4.1. Ordinances Enacting Clause. The council will exercise its legislative authority by adopting ordinances. The enacting clause for all ordinances must state "The City of Keizer ordains as follows:"

Section 4.2. Ordinance Adoption.

a) Except as authorized by subsection (b), adoption of an ordinance requires approval by a majority of the council at two meetings.

b) The council may adopt an ordinance at a single meeting if: (1) all members of the council present and voting approve the ordinance by unanimous vote; (2) the members of the council present and voting constitute a quorum of the council; and (3) the proposed ordinance is available in writing to the public at least five (5) calendar days before the meeting.

c) Any substantive amendment to a proposed ordinance must be read aloud at a meeting, or made available in writing to the public, before the council adopts the amended ordinance.

d) After the adoption of an ordinance, the vote of each member must be entered into the council minutes.

e) The mayor shall sign all ordinances within three (3) calendar days of passage.

f) After adoption of an ordinance, the City custodian of records must endorse it with the date of adoption and the custodian's name and title.

Section 4.3. Effective Date of Ordinances. Ordinances normally take effect on the 30th day after adoption, or on a later day provided in the ordinance. An ordinance may take effect as soon as adopted or other date less than 30 days after adoption if it contains an emergency clause.

Section 4.4. Ordinance Continuation. All ordinances consistent with this charter in force when it takes effect remain in effect until amended or repealed.

Section 5
RESOLUTIONS

Section 5.1. Resolutions. The council will normally exercise its administrative authority by approving resolutions. The approving clause for resolutions may state "The City of Keizer resolves as follows:"

Section 5.2. Resolution Approval.

a) Approval of a resolution or any other council administrative decision requires approval by the council at one meeting.

b) Any substantive amendment to a proposed resolution must be read aloud at a meeting, or made available in writing to the public, before the council adopts the amended resolution.

c) After approval of a resolution or other administrative decision, the vote of each member must be entered into the council minutes.

d) The mayor shall sign all resolutions within three (3) calendar days of passage.

e) After approval of a resolution, the City custodian of records must endorse it with the date of approval and the custodian's name and title.

Section 5.3. Effective Date of Resolutions. Resolutions and other administrative decisions take effect on the date of approval, or on a later day provided in the resolution.

Section 6
ORDERS

Section 6.1. Orders. The council will normally exercise its quasi-judicial authority by approving orders. The approving clause for orders may state "The City of Keizer orders as follows:"

Section 6.2. Order Approval.

a) Approval of an order requires approval by the council at one meeting.

b) Any substantive amendment to a proposed order must be read aloud at a meeting, or made available in writing to the public, before the council adopts the amended order.

c) After approval of an order, the vote of each member must be entered in the council minutes.

d) The mayor shall sign all orders within three (3) calendar days of passage.

e) After approval of an order, the City custodian of records must endorse it with the date of approval and the custodian's name and title.

Section 6.3. Effective Date of Orders. Orders take effect on the date of final approval, or on a later day provided in the order.

Section 7
ELECTIONS

Section 7.1. City Elections. City elections must conform to state law except as this charter or ordinances provide otherwise. All elections for City offices must be nonpartisan.

Section 7.2. Mayor. The term of the mayor in office when this charter is adopted continues until the beginning of the first odd-numbered year after adoption. At every other general election after the adoption, a mayor will be elected for a two-year term.

Section 7.3. Councilors. Councilors shall hold office by positions which shall be numbered one through six. The term of office of each councilor in office when this charter is adopted is the term of office for which the councilor has been elected before adoption of the charter (or is elected at the time of the adoption). At each general election after the adoption, three councilors shall be elected, each for a four-year term.

Section 7.4. Qualifications.

a) The mayor and each councilor must be a registered voter in the City under state law, at the time of election or appointment and during their term of office, and reside within the City for at least one year immediately before election or appointment to office.

b) No person may be a candidate at a single election for more than one City office.

c) Neither the mayor nor a councilor may be employed by the City during their term of office.

d) The council is the final judge of the election and qualifications of its members.

Section 7.5. Nominations. A Keizer resident who meets the qualifications in Section 7.4 may file to run for an elective City office to be filled at the election. The nomination shall be by a petition that specifies the office sought. The petition shall be signed by not fewer than 120 registered voters in the City.

Section 7.6. Terms. The term of an officer elected at a general election begins at the first council meeting of the year immediately after the election and continues until the successor qualifies and assumes the office.

Section 7.7. Oath. The mayor and each councilor must swear or affirm to faithfully perform the duties of the office and support the constitutions and laws of the United States and Oregon.

Section 7.8. Vacancies. The mayor or a councilor office becomes vacant:

a) Upon the incumbent's:
   1) Death;
   2) Adjudicated incompetence; or
   3) Recall from the office.

b) Upon declaration by the council after the incumbent's:
   1) Failure to qualify for the office within 10 days of the time the term of office is to begin;
   2) Absence from the City for 30 days without council consent, or from all council meetings within a 60-day period without council consent;
   3) Ceasing to reside in the City;
   4) Ceasing to be a qualified registered voter in the City under state law;
   5) Conviction of a felony crime or other crime pertaining to their office;
   6) Intentional unlawful destruction of public records;
   7) Resignation from the office; or
   8) Removal under Section 8.1(h).

Section 7.9. Filling Vacancies. Vacant elective offices in the City shall be filled by appointment. A majority vote of the remaining members of the council shall be required to validate the appointment. The appointee's term of office shall begin upon the appointee's appointment and shall continue throughout the unexpired term of appointee's predecessor. During the temporary disability of any officer for greater than 60 days or during a temporary absence from the City for greater than 60 days for any cause, the office may be filled pro tem in the manner provided for filling vacancies in office permanently. Should the office of mayor become vacant, then the council president shall become mayor and the council shall appoint a councilor as provided herein.

Section 7.10. Tie Votes. In the event of a tie vote for candidates for an elective office, the successor candidate shall be determined by a public drawing of lots in a manner prescribed by the council.

Section 8
APPOINTIVE OFFICERS

Section 8.1. City Manager.

a) The office of city manager is established as the administrative head of the City government. The city manager is responsible to the mayor and councilors for the proper administration of all City business. The city manager will assist the mayor and councilors in the development of city policies and carry out policies established by ordinances and resolutions.

b) A vote of not less than four (4) council members is required to appoint or remove the manager. The appointment must be made without regard to political considerations and solely on the basis of education and experience in competencies and practices of local government management. Before taking office, the city manager shall give a bond in such amount and with

such surety as may be approved by the council. The premiums on such bond shall be paid by the City.

c) The manager may be appointed for a definite or an indefinite term, and may be removed at any time by a vote of not less than four (4) council members. The council must fill the office by appointment as soon as practicable after the vacancy occurs.

d) The manager must:

1) Attend all council meetings unless excused by the mayor or councilor;

2) Make reports and recommendations to the mayor and councilors about the needs of the City;

3) Administer and enforce all City ordinances, resolutions, franchises, leases, contracts, permits, and other City decisions;

4) Appoint, supervise, and remove City employees;

5) Organize City departments and administrative structure;

6) Prepare and administer the annual City budget;

7) Have general supervision over City utilities and property;

8) Perform other duties as directed by the council; and

9) Delegate duties, but remain responsible for actions of all subordinates.

e) The manager has no authority over the council, the city attorney's office, or over the judicial functions of the municipal judge.

f) The manager and other employees designated by the council may sit at council meetings but have no vote. The manager may take part in all council discussions.

g) When the manager is temporarily disabled from acting as manager or when the office of the manager becomes vacant, the council must appoint a manager pro tem. The manager pro tem has the authority and duties of manager, except that a pro tem manager may appoint or remove employees only with council approval.

h) In council meetings, council members may discuss or suggest anything with the manager relating to City business. However, no council member may directly or indirectly attempt to coerce the manager or a candidate for the office of manager in the appointment or removal of any City employee, or in administrative decisions regarding City property or contracts. Violation of this prohibition is grounds for removal from office by a majority of the council after a public hearing.

Section 8.2. City Attorney. The office of city attorney is established as the chief legal officer of the City government. A majority of the council must appoint and may remove the attorney. The attorney may appoint, supervise, and may remove any employees who work in and for the city attorney's office.

Section 8.3. Municipal Court and Judge.

a) A majority of the council may appoint and remove a municipal judge. A municipal judge will hold court at such place as the council directs. The court will be known as the Municipal Court.

b) All proceedings of this court will conform to state laws governing justices of the peace and justice courts.

c) All areas within the City and areas outside the City as permitted by state law are within the territorial jurisdiction of the court.

d) The municipal court has jurisdiction over every offense created by City ordinance. The court may enforce forfeitures and other penalties created by such ordinances. The court also has jurisdiction under state law unless limited by City ordinance.

e) The municipal judge may:

1) Render judgments and impose sanctions on persons and property;
2) Order the arrest of anyone accused of an offense against the City;
3) Commit to jail or admit to bail anyone accused of a City offense;
4) Issue and compel obedience to subpoenas;
5) Compel witnesses to appear and testify and jurors to serve for trials before the court;
6) Penalize contempt of court;
7) Issue processes necessary to enforce judgments and orders of the court;
8) Issue search warrants; and
9) Perform other judicial and quasi-judicial functions assigned by ordinance.

f) The council may appoint and may remove municipal judges pro tem.

g) The council may transfer some or all of the functions of the municipal court to an appropriate court.

Section 9
PERSONNEL

Section 9.1. Compensation. The council must authorize the compensation of City officers and employees as part of its approval of the annual City budget. Council members shall be unpaid except that they may be reimbursed for ordinary and necessary expenses incurred in the performance of their official duty.

Section 10
MISCELLANEOUS PROVISIONS

Section 10.1. Debt Limit. The City's indebtedness may not exceed debt limits imposed by state law. A City officer or employee who creates or officially approves indebtedness in excess of this limitation is jointly and severally liable for the excess. A charter amendment is not required to authorize City indebtedness.

Section 10.2. Repeal. All charter provisions adopted before this charter takes effect are repealed.

Section 10.3. Severability. The terms of this charter are severable. If any provision is held invalid by a court, the invalidity does not affect any other part of the charter.

Section 10.4. Water Revenue Use. All revenue generated by the City of Keizer Water Department fund shall be used exclusively to pay for the water department fund expenses.

Section 10.5. Number and Captions. As used herein, the singular shall include the plural, and the plural the singular. All captions used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of this charter.

Section 10.6. Amendments and Revisions. No amendment, revision or repeal of this Charter may take effect unless approved by City voters. Either the council by a majority vote or City voters by an initiative petition may refer an amendment of this Charter to the City voters. Only the council, by a majority vote, may refer a revision or repeal of this Charter to the City voters.

Section 10.7. Time of Effect. This charter takes effect _____, 20__.

BALLOT TITLE

Caption: CITY OF KEIZER NEW HOME RULE CHARTER

Question: Shall the City adopt a new home rule Charter replacing the current Charter?

Summary: The Oregon Constitution grants City voters the right to adopt home rule charters. Charters grant legal authority to cities, specify how ordinances are adopted, list qualifications for officers, and assign duties to city officials. This measure would adopt a new home rule Charter for the City of Keizer and replace the current Charter, which was enacted in 1983.

The City Council referred the new Charter to the voters on the recommendation of a Charter Review Committee.

The new Charter is based on the League of Oregon Cities Model Charter but keeps provisions unique and important to Keizer. The proposed Charter retains the current form of government with a Mayor and six councilors to govern and a city manager to run administrative affairs. The new Charter is updated to be more readable and modernized to more clearly define the legal authority of the City.

The proposed Charter removes current Charter language that is inconsistent with state law, and contains other minor changes.

EXPLANATORY STATEMENT FOR PRINTING IN THE MARION COUNTY VOTER PAMPHLET
Election Date: November 3, 2020

If approved, this measure would adopt a new home rule Charter for the City of Keizer and replace the current Charter, which was enacted in 1983. The Oregon Constitution grants city voters the right to adopt home rule charters. Charters are like a local Constitution. They grant legal authority to cities, specify how ordinances are adopted, list qualifications for officers, and assign duties to city officials.

The Keizer City Council referred the new Charter to the voters upon the recommendation of a Charter Review Committee.

The new Charter is based on the League of Oregon Cities Model Charter, but keeps provisions unique and important to Keizer. It retains the current form of government with the Mayor and six Councilors to govern and a city manager to run administrative affairs. The new Charter is updated to be more readable and modernized to more clearly define the legal authority of the City.

The Keizer City Council formed the Charter Review Committee and requested the Committee to review the current Charter and recommend changes. The Committee recommended the new Charter and the City Council has referred it to the voters. The major changes are:

- Passing an Ordinance with one reading currently requires a unanimous vote and the Ordinance needs to be available seven days before the meeting. The revision changes the last requirement to five days to match current Council Procedures.
- Changes the term “elector” to “registered voter” throughout the Charter as registered voter is a more familiar term.
- Retains provision requiring water department revenues to be used for water department expenses.
- Removes Section 44 of the current Charter (Prohibit Minority Status for Homosexuality). Enactment or enforcement of this provision is unlawful under state law.

The new Charter Revision contains other minor changes as well.

A “Yes” vote adopts a new home rule Charter for the City of Keizer and replaces the current Charter. A “No” vote keeps the current Keizer City Charter unchanged.

Total Words: 321

Authorized Signature: _____ Title: Mayor
Printed Name: Cathy Clark
Local Government Unit: City of Keizer

CITY COUNCIL MEETING: August 3, 2020

AGENDA ITEM NUMBER:_____

TO: **MAYOR CLARK AND COUNCIL MEMBERS**

THROUGH: **CHRISTOPHER C. EPPLEY, CITY MANAGER**

FROM: **E. SHANNON JOHNSON, CITY ATTORNEY**

SUBJECT: **ORDINANCE AMENDING KEIZER DEVELOPMENT CODE**

At the July 6, 2020 Council meeting, Council directed staff to prepare an Ordinance approving the Keizer Development Code text changes to revise the Code relating to the requirements for finalizing property line adjustments, partitions, and subdivisions. Such Ordinance is attached for your review.

RECOMMENDATION:

Adopt the attached Ordinance.

Please let me know if you have any questions. Thank you.

ESJ/tmh

A BILL ORDINANCE NO. 2020-_____

FOR

AN ORDINANCE

AMENDING KEIZER DEVELOPMENT CODE REGARDING SECTION 3.106 (PROPERTY LINE ADJUSTMENT), SECTION 3.107 (PARTITIONS), AND SECTION 3.108 (SUBDIVISIONS, PLANNED UNIT DEVELOPMENTS, AND MANUFACTURED HOME PARKS); **AMENDING ORDINANCE 98-389**

WHEREAS, the Keizer Planning Commission has recommended to the Keizer City Council amendments to the Keizer Development Code (Ordinance No. 98-389); and

WHEREAS, the City Council held a hearing on this matter on July 6, 2020 and considered the testimony given and the recommendation of the Keizer Planning Commission; and

WHEREAS, the Keizer City Council has determined that it is necessary and appropriate to amend the Keizer Development Code as set forth herein; and

WHEREAS, the Keizer City Council has determined that such amendments meet the criteria set forth in state law, the Keizer Comprehensive Plan, and the Keizer Development Code;

NOW, THEREFORE,

The City of Keizer ordains as follows:

Keizer City Attorney
930 Chemawa Road NE
PO Box 21000
Keizer, Oregon 97307
503-856-3433

Section 1. FINDINGS. The City of Keizer adopts the Findings set forth in Exhibit "A" attached hereto and by this reference incorporated herein.

Section 2. AMENDMENT TO THE KEIZER DEVELOPMENT CODE. The Keizer Development Code (Ordinance No. 98-389) is hereby amended by the adoption of the changes to Section 3.106 (Property Line Adjustment), Section 3.107 (Partitions), and Section 3.108 (Subdivisions, Planned Unit Developments, and Manufactured Home Parks) as set forth in Exhibit "B" attached hereto, and by this reference incorporated herein.

Section 3. SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional, or is denied acknowledgment by any court or board of competent jurisdiction, including, but not limited to the Land Use Board of Appeals, the Land Conservation and Development Commission and the Department of Land Conservation and Development, then such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

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Keizer City Attorney
930 Chemawa Road NE
PO Box 21000
Keizer, Oregon 97307
503-856-3433

Section 4. EFFECTIVE DATE. This Ordinance shall take effect thirty (30) days after its passage.

PASSED this _____ day of _____, 2020.

SIGNED this _____ day of _____, 2020.

_____
Mayor

_____
City Recorder

Keizer City Attorney
930 Chemawa Road NE
PO Box 21000
Keizer, Oregon 97307
503-856-3433

EXHIBIT "A"

Findings regarding the adoption of amendments to section 3.106 (Property Line Adjustments), section 3.107 (Partitions), and section 3.108 (Subdivisions, Planned Unit Developments, and Manufactured Home Parks) of the Keizer Development Code (KDC).

The City of Keizer finds that:

1. General Findings.
   The particulars of this case are found within Planning file Text Amendment 2020-11. Public hearings were held before the Planning Commission on June 10, 2020 and before the City Council on July 6, 2020. Both the Planning Commission and the City Council voted in favor of the proposed revisions.

2. Criteria for approval are found in Section 3.111.04 of the Keizer Development Code. Amendments to the Comprehensive Plan or Development Code shall be approved if the evidence can substantiate the criteria are met. Amendments to the map shall be reviewed for compliance with all of the listed criteria in Section 3.110.04, while text amendments shall only be reviewed for compliance with Section 3.111.04 B, C, and D. Given this is a text amendment, Section 3.111.04 A is not applicable.

3. **Section 3.111.04.B - A demonstrated need exists for the product of the proposed amendment -**

   Findings: The proposed revisions to the zone code reflect a demonstrated need. The Planning Commission included as a part of the annual work program, to look at the language governing land use approval timeframes and allowable extensions. Concerns had been raised as to whether or not the existing time limits and extension limits were adequate for developers/property owners to complete proposed projects on time. The changes provide consistency within the KDC and additional flexibility to property owners which was desired by the Planning Commission and affirmed by City Council. Therefore, these text amendments are found to be necessary to enact the changes desired. Therefore, this proposal complies with this review criterion.

4. **Section 3.111.04.C- The proposed amendment to the Keizer Development Code complies with statewide land use goals and related administrative rules**

   FINDINGS: The proposed text amendments comply with the statewide land use planning goals as discussed below.

   Goal 1 – Citizen Involvement: The adoption of this ordinance followed notice, a public process involving public hearings, deliberation, and ordinance adoption. Public notice was provided in the Keizertimes. Public hearings were held before the Planning Commission on June 10, 2020, and before the City Council on July 6, 2020. Citizens were afforded the opportunity to participate in the public

process. This process is consistent with the provision for providing an opportunity for citizens to be involved in all phases of this proposed planning process as is required by this goal and with implementing administrative rules within Oregon Administrative Rules.

Goal 2 – Land Use Planning: This ordinance amends the Keizer Development Code. The city has an adopted comprehensive plan acknowledged by the state. The adoption proceeding was conducted in a manner consistent with the Keizer Comprehensive Plan, Keizer Development Code, and applicable state law. The proposed revisions to the Keizer Development Code are consistent with this statewide planning goal and administrative rules.

Goal 3 – Farm Land: The purpose of this goal is to protect lands that are designated for agricultural uses. Within the city limits the Exclusive Farm Use (EFU), Special Agriculture (SA), Urban Transition (UT), and Public (P) allow commercial agricultural uses. However, only the city's SA zone is a state recognized EFU qualifying zone. The amendments involve regulations for land divisions, and property line adjustment preliminary approval timeframes. They do not affect farm lands specifically and will not impact farm uses in any way. These provisions do not affect lands that are outside the city limits or any lawful uses occurring on those lands, nor does it amend any of those existing zoning designations. The proposed amendments will comply with the Farm Land Goal and with implementing administrative rules.

Goal 4 – Forest Land: The intent of this goal is to protect lands designated for commercial forest uses. There are no zoning districts specifically designated within the city limits that will allow for commercial forestry. Also, there are no commercial forest lands near, or adjacent to the city limits of Keizer. The amendments to the KDC do not involve any land which is designated as forest land, nor will it impact the use of any forest lands. The proposed amendments will comply with this Goal and with implementing administrative rules.

Goal 5 – Natural Resources: The intent of the Natural Resources Goal is to protect various natural resources such as wetlands, waterways, big game habitat, etc. The city has a local wetland inventory of sites where wetland soils may be present. The city has an adopted Willamette River Greenway Overlay zone to protect resources along the Willamette River. There are no identified big game habitats within the city limits of Keizer. The city established a Resource Conservation overlay zone to maintain, preserve and protect the natural features adjacent to Claggett Creek. In addition, the city has storm water regulations to protect water quality of the local water ways. The proposed amendments will not affect or preclude any of the city's natural resources protection regulations nor the lawful use of any properties that are within this overlay zone. Therefore, the proposed text amendments will be consistent with this goal and with administrative rules which implement this goal.

Goal 6 – Air, Water and Land Quality: The intent of this goal is to protect the city's air, water and land qualities. The city provides its residents with city water from groundwater sources. The quality of the water is monitored to ensure that it complies with all state and federal water quality standards. New construction is required to be connected to the established sanitary sewer system thereby reducing the potential of groundwater contamination from failing on-site septic systems. The city has storm water regulations which are to maintain water quality in the Willamette River and local streams. Land quality is preserved through the city's erosion control regulations and through zone code development regulations. Air quality is preserved through the city's development code regulations which limit certain types of uses and are enforced by appropriate state agencies which govern air emission standards. The revisions to the city's standards regarding the use of mobile food vendors will comply with this goal and with the administrative rules that implement this goal.

Goal 7 – Natural Hazards: The purpose of this goal is to protect life and property from hazards resulting from flooding, steep slopes or other natural occurrences. The city has floodplain regulations that govern the placement of structures within identified 100-year floodplains within the city limits. In Keizer, these are primarily located along the Willamette River and smaller streams such as Claggett Creek. The floodplains have been mapped by the federal government. The intent of the floodplain regulations is to minimize the loss of life and property damage by preventing development, elevating structures above the flood elevation, or flood proofing structures in the floodplain. While there are some steep slopes in the northwest quadrant of the city, there are no mapped areas of steep slopes in Keizer that might warrant any special engineering. The proposed text amendments will neither impact this goal nor any administrative rules.

Goal 8 – Recreation: This goal requires the city to identify and plan for the current and future recreation needs of the residents of the city. The city has an adopted Parks and Recreation Master Plan that inventories parks, playgrounds, and recreational opportunities within the city limits and plans for the city's future park and recreation needs. The proposed amendments will have no impact on the recreational activities that occur on any park land within the city and will not impact either this goal or any administrative rules that implement it.

Goal 9 – Economic Development: The intent of this goal is to ensure that the city plans for its overall economic vitality. Current employment needs were projected forward based on regional job growth estimates and target industry goals. The growth forecast calls for a total of 3,774 new jobs over the next 20 years. The adopted Economic Opportunities Analysis found there is a net need for commercial and institutional lands amounting to 63.3 gross acres above and beyond what the City's remaining buildable employment lands can accommodate. The proposed text amendments will not have any adverse impact on the economic development activities or uses within the city and does not affect the existing land supply. The amendments will give more time for property owners and developers

to complete projects which, thereby supporting the important home building and commercial development industry which is vital source of employment. Therefore, the proposal is consistent with this goal.

Goal 10 – Housing: This goal requires the city to plan and provide for the housing needs of its residents. The adopted Housing Needs Analysis found that for the upcoming 20-year period that there will be a need for 4,513 new units to house the future population. The inventory of buildable residential lands contain a supply of 315.2 acres which are vacant, partially vacant or re-developable and can accommodate an estimated 2,422 units resulting in 2,090 units which must be accommodated beyond the City's existing capacity. When this remaining land need is apportioned to Keizer's residential zones, the HNA estimates a 20-year need of 267 gross acres of residential land. The revisions to the city's standards regarding approval timeframes are intended to provide flexibility to allow for residential developments to be completed on time. Therefore, the proposal is consistent with this goal.

Goal 11- Public Facilities and Services: The intent of this goal is to develop a timely, orderly and efficient arrangement of public facilities and services necessary to serve the residents of Keizer. The city provides its residents with water, an established street system, administrative services and police services. Sanitary sewer service is provided by the city of Salem through an intergovernmental agreement. Fire protection services are provided by the Keizer Fire District or Marion County Fire District #1. There is sufficient capacity in the municipal water delivery system and also within the sanitary sewer treatment system to accommodate planned growth within the upcoming 20 year planning period. The proposed text amendments will not impact any of the city's public facilities and services. Therefore, the revisions will comply with this goal and all administrative rules.

Goal 12 – Transportation: The city has an adopted Transportation System Plan that describes the city's transportation systems. This system includes streets, transit, bike, and pedestrian systems. It inventories the existing systems and contains plans for improving these systems. The proposed text amendment will not affect any transportation facility within the city limits and so is consistent with Section 3.111.05 regarding Transportation Planning Rule compliance. The proposed text amendments will have no adverse impact on the city's transportation systems and will not affect this goal or any implementing rules.

Goal 13 – Energy Conservation: This goal seeks to maximize the conservation of energy. All new construction requires compliance for review to applicable energy conservation standards. The proposed text amendments will have no impact on this goal or any of the implementing administrative rules.

Goal 14 – Urbanization: The intent of this goal to provide for an orderly and efficient transition from rural to urban land use. The city has an adopted

Comprehensive Plan and zone code that complies with the goal. The proposed text amendments will affect only land that is within the city limits and will not impact the use of any land being transitioned from rural to urbanized uses and is therefore consistent with this goal.

Goal 15 – Willamette River: This goal seeks to protect, conserve, and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River. The revisions to the city's development code will have no impact on the ability of the city to regulate uses along the river or the Willamette River overlay zone regulations and so this goal is not applicable.

Goal 16 (Estuarine Resources), Goal 17 (Coastal Shorelands), Goal 18 (Beaches and Dunes), and Goal 19 (Ocean Resources) govern areas along the ocean. Since Keizer is not located along the coast these goals are not applicable.

In consideration of the above findings, the proposed zone code revisions comply with all applicable statewide land use goals and with all applicable administrative rules which implement the relevant goal.

5. **Section 3.111.04.D - The amendment is appropriate as measured by at least one of the following criteria:**
   a. It corrects identified error(s) in the previous plan.
   b. It represents a logical implementation of the plan.
   c. It is mandated by changes in federal, state, or local law.
   d. It is otherwise deemed by the council to be desirable, appropriate, and proper.

FINDINGS: The proposed text amendment will revise three separate sections of the Keizer Development Code. These changes will modify the timeframe for preliminary approvals and subsequent extensions. The changes proposed will increase the initial approval time period from 1 to 2 years, and allow for additional 1 year extensions. While there are no specific Comprehensive Plan goals or policies that offer guidance, it is determined that the proposed amendment to the zone code represents a logical implementation of the Keizer Comprehensive Plan. The City Council has, by this adoption, determined that the text revisions are desirable, appropriate, and proper. As such, the proposal complies with this criterion.

3.106 PROPERTY LINE ADJUSTMENT

3.106.01 Purpose

The development standards in this Development Code protect the public health, safety and welfare by establishing standard setbacks, minimum lot areas, density, and other development standards that apply to various uses. In the event the property line between two or more properties is proposed to be moved with the consent of all parties, approval of a property line adjustment is necessary to assure the resultant parcels meet all standards of this Code. (6/16)

3.106.02 Application and Fee

An application for a property line adjustment shall be filed with the City and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application that addresses the review criteria of this Section. The application shall include: (6/16)

A. A copy of all recorded deeds for the existing units of land; (6/16)

B. A site plan indicating: (6/16)

1. The dimensions and areas of the units of land before and after the proposed property line adjustment; (6/16)

2. Building setbacks and location to existing and proposed property line adjustment. (6/16)

3.106.03 Applicability

Under the following provisions and in accordance with Section 2.310.03.B, a property owner(s) or his designate may propose a property line adjustment. (6/16)

3.106.04 Criteria – Property Line Adjustment

Staff may grant a property line adjustment in accordance with the Type I-B review procedures provided that the applicant provides evidence that the following circumstances substantially exist: (6/16)

A. The adjustment of lot lines results in no more parcels than originally existed. (5/98)

B. The proposed property line adjustment results in parcels that meet all area and dimension standards of this Code; and (6/16)

C. The proposed property line adjustment does not locate lot lines in violation of the setback and height provisions of the Code relative to existing structures and improvements. (6/16)

D. The property line adjustment involves only lots or parcels that have been lawfully created. (6/16)

E. The property line adjustment by itself does not prohibit any property from accessing either a public right of way or an access easement. (6/16)

3.106.05 Process for Final Approval

A. Survey. Within ~~1~~ 2 year of the final decision, a preliminary plat, survey of record, property line adjustment deed or other document as required by Marion County Surveyor shall be recorded or filed. If such document is not submitted within ~~1~~2 years, the preliminary approval shall lapse. The City staff may extend the approval period for not more than 1 additional year at a time. Requests for extension of approval time must be submitted in writing thirty days prior to the expiration date of the approval period. ~~A one time one year extension shall be granted by the Community Development Director~~ Extensions may only be granted if~~provided that~~ no subsequent code amendments~~revisions~~ have been adopted ~~by City Council~~ that ~~might otherwise~~ affect the property line adjustment ~~as proposed~~. ~~Applicant shall submit written extension request prior to expiration of decision.~~ (6/16)

B. Recording of Approved Plat, Survey of Record, Property Line Adjustment Deed or Other Document. No building permit shall be issued until the appropriate documents have been recorded with the County Recorder. The applicant shall be responsible for all recording fees. (6/16)

3.107 PARTITIONS

3.107.01 Purpose

The development standards in this Development Code protect the public health, safety and welfare by establishing standard setbacks, minimum lot areas, density, and other development standards that apply to various uses. The development standards for Partitioning are provided for the orderly, safe, efficient and livable development of land within the City of Keizer. (2/01)

3.107.02 Applicability

A partition is required for any land division that creates two or three parcels in a calendar year. (2/01)

3.107.03 Application and Fee

An application for a partition shall be filed with the City and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application that addresses the review criteria of this Section. (2/01)

3.107.04 General Provisions

A. Validity. Partition approval is valid in perpetuity, upon recording of the final surveyed plat. (2/01)

B. Number of Parcels. No parcel within an approved partition may be redivided within the same calendar year in which it was recorded, except through the subdivision process. (2/01)

C. Master Plan. A master plan for development may be required for any application that leaves a portion of the subject property capable of replatting. (07/07)

3.107.05 Submittal Requirements for Preliminary Review

A. Application Process. Applications for partitions shall be submitted on forms provided by the City and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application that addresses the review criteria of this Section. (5/98)

B. Submittal Requirements. Each application shall be accompanied by a preliminary partition plat drawn to scale of not less than one inch equals 50 feet nor more than one inch equals 200 feet, and containing at a minimum, the following: (5/98)

1. Appropriate identification stating the drawing is a preliminary plan. (5/98)

2. North point, scale and date. (5/98)

3. Name and addresses of land owner, applicant, engineer, surveyor, planner, architect or other individuals responsible for the plan. (5/98)

4. Assessor Map number and tax lot number of subject property. (2/01)

5. The property lines and approximate area of the subject property. (2/01)

6. Dimensions and size in square feet or acres of all proposed parcels. (5/98)

7. The approximate location of existing streets, easements or right-of-ways adjacent to, or within, the subject property, and, existing improvements on the property and important features such as section, political boundary lines. (5/98)

8. Future Street Plan. A future street plan shall be submitted with partition proposals that include (a) public street(s) to connect to adjacent property for future development. The future street plan shall show the pattern of existing and future streets from the boundaries of the proposed land division and shall include other parcels within 500 feet of the proposed land division property line. The City may determine future neighborhood street connections. A future street proposal may be modified when subsequent development proposals are submitted. (01/02)

3.107.06 Process for Preliminary Review

Preliminary plats for partitions shall be reviewed in accordance with the Type I-B review procedures specified in Section 3.202.02. (2/01)

3.107.07 Review Criteria

Approval of a partitioning shall require compliance with the following: (5/98)

A. Each parcel shall meet the access requirements of Section 2.310.03.D. (5/98)

B. Each parcel shall satisfy the dimensional standards of applicable zoning district, unless a variance from these standards is requested and is approved. (07/07)

C. Each parcel shall comply with the requirements of Section 2.310. (2/01)

D. Rough Proportionality. Improvements or dedications required as a condition of development approval, when not voluntarily accepted by the applicant, shall be roughly proportional to the impact of development. Findings in the development approval shall indicate how the required improvements or dedications are roughly proportional to the impact. (01/02)

E. Each parcel shall comply with the applicable requirements within Sections 2.301 (General Provisions) ; 2.302 (Street Standards); 2.303 (Off-Street Parking and Loading); 2.305 (Transit Facilities); 2.306 (Storm Drainage); 2.307 (Utility Lines and Facilities); 2.309 (Site and Landscaping Design); and, 2.316 (Infill Development). (07/07)

F. Adequate public facilities shall be available to serve the existing and newly created parcels. (5/98)

3.107.08 Process for Final Plat Approval

A. Survey. Within ~~1~~2 year of the final decision approving a preliminary plat, a final survey of the approved plat shall be recorded. If the final survey is not submitted within ~~1~~2 years, the preliminary approval shall lapse. The City staff may extend the approval period for not more than 1 additional year at a time. Requests for extension of approval time must be submitted in writing thirty days prior to the expiration date of the approval period. ~~A one time one year extension may be granted by the Community Development Director~~ Extensions may only be granted if~~provided that~~ no subsequent code amendments~~revisions~~ have been adopted ~~by City Council~~ that ~~might otherwise~~ affect the partition ~~as proposed~~. ~~Applicant shall submit written extension request prior to expiration of decision.~~ (07/07)

B. Final Approval. If the partition plat is consistent with the approved preliminary plat, and if the conditions of approval have been satisfied, the City shall sign the final plat. (5/98)

C. Recording of Approved Plat. No building permit shall be issued until the final approved Plat has been recorded with the County Recorder. The applicant shall be responsible for all recording fees. (2/01)

D. Improvements/Bonding. Prior to issuance of an occupancy permit, all improvements required by the conditions of approval shall be constructed or the construction shall be guaranteed through a performance bond or other instrument acceptable to the City Attorney, as provided for in Subsection 3.202.05.B. (2/01)

3.108 SUBDIVISIONS, PLANNED UNIT DEVELOPMENTS, AND MANUFACTURED HOME PARKS

3.108.01 Purpose

The development standards in this Development Code protect the public health, safety and welfare by establishing standard setbacks, minimum lot areas, density, and other development standards that apply to various uses. Development standards for Subdivisions are provided for the orderly, safe, efficient and livable development of land within the City of Keizer. Planned Unit Development standards allow flexibility and encourage a more creative approach in the development of land. Manufactured Home Park standards are developed to protect the public health, safety and welfare by establishing standard setbacks, minimum lot areas, density, and other applicable development standards. (2/01)

3.108.02 Application and Fee

An application for a Subdivision, Planned Unit Development or Manufactured Home Park shall be filed with the City and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application in accordance with Section 3.201.03 and that addresses the review criteria of this Section. (2/01)

3.108.03 Applicability

A subdivision (or planned unit development) is required for any land division that creates more than three parcels in a calendar year. A Manufactured Home Park approval is required for establishing such a park. (2/01)

3.108.04 Submittal Requirements

A. Application Process. Applications for all subdivisions, planned unit developments, and manufactured home parks shall be submitted on forms provided by the City and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application, and to assure that it addresses the review criteria of this Section. (2/01)

B. Submittal Material. The following submittal requirements shall apply to all Preliminary Plan applications for subdivisions, planned unit developments, and manufactured home parks. (5/98)

1. All applications shall be submitted on forms provided by the City to the City along with the appropriate fee. It shall be the applicant's responsibility to submit a complete application that addresses the review criteria of this Section. (5/98)

2. Submittal Requirements. Each application shall be accompanied by a preliminary plat drawn to scale of not less than one inch equals 50 feet

nor more than one inch equals 200 feet, and containing at a minimum, the following: (5/98)

a. Appropriate identification stating the drawing is a preliminary plan. (5/98)

b. North point, scale and date. (5/98)

c. Name and addresses of land owner, applicant, engineer, surveyor, planner, architect or other individuals responsible for the plan. (5/98)

d. Assessor Map and tax lot number of subject property. (2/01)

e. The property lines and approximate area of the subject property. (2/01)

f. Dimensions and size in square feet or acres of all proposed parcels. (5/98)

g. The approximate location of existing streets, easements or right-of-ways adjacent to, or within, the subject property, and, existing improvements on the property and important features such as section, political boundary lines. (5/98)

h. The name, address and phone number of the applicant engineer, land surveyor, or person preparing the application; (5/98)

i. Name of the PUD, subdivision, or manufactured home park. (5/98)

j. Date the drawing was produced. (2/01)

k. Vicinity sketch showing location of the proposed land division. (5/98)

l. Identification of each lot or parcel and block by number. (5/98)

m. Gross acreage of property being subdivided or partitioned. (5/98)

n. Direction of drainage and approximate grade of abutting streets. (5/98)

o. Streets proposed and their names, approximate grade, and radius of curves. (5/98)

p. Any other legal access to the subdivision, PUD, manufactured home park, or partition other than a public street. (5/98)

q. Contour lines at two foot intervals if 10% slope or less, five foot intervals if exceeding 10% slope, and a statement of the source of contour information. (5/98)

r. All areas to be offered for public dedication. (5/98)

s. Future Street Plan. Applicants for a subdivision, planned unit development, or manufactured home park shall submit as a part of their application, a future street plan. The future street plan shall show the pattern of existing and future streets from the boundaries of the proposed land division and shall include other parcels within 500 feet of the proposed land division property line. The City may determine future neighborhood street connections. A future street proposal may be modified when subsequent development proposals are submitted. (01/02)

C. Supplemental Information. The following supplemental information shall be required for all PUD Preliminary Plan applications: (2/01)

1. Calculations justifying the proposed density of development. (5/98)

2. Proposed uses of the property, including sites, if any, for attached dwelling units, recreational facilities, parks and playgrounds or other public or semi-public uses. Clearly indicate the purpose, conditions and limitations of such reservations. (2/01)

3. The approximate location and dimensions of all commercial or multi-family structures proposed to be located on the site. (5/98)

4. Written statement identifying improvements to be made or installed including streets, sidewalks, bikeways, trails, lighting, tree planting, landscaping, and time such improvements are to be made or completed. (2/01)

5. Written statement outlining proposals for ownership and maintenance of all open space areas, private streets and any commonly owned facilities. (5/98)

6. Traffic Impact Analysis, if required pursuant to Section 2.301.03 of this code. (07/09)

3.108.05 Review Procedures

A. Hearings Officer. All Preliminary Plans for subdivisions, PUDs, and manufactured home parks shall be heard by the Hearings Officer pursuant to the procedures set forth in Section 3.202.04. (2/01)

B. Time Limit. Approvals of any preliminary plans for a subdivision, PUD, or manufactured home park shall be valid for ~~one~~ two years after the date of the written decision. A Final Plat for a subdivision shall be recorded within this time period or the approvals shall lapse. PUDs or manufactured home parks, which do not involve the subdivision of property, shall show substantial progress toward the construction of the project within the ~~one~~ two year period or the approval shall lapse. (2/01)

C. Time Extension. The City staff may extend the approval period for any subdivision, PUD, or manufactured home park for not more than 1 additional year at a time. Requests for extension of approval time shall be submitted in writing thirty days prior to the expiration date of the approval period. (5/98)

D. Reapplication Required. If the approval period is allowed to lapse, the applicant must resubmit the proposal, including all applicable fees, for public hearing before the Hearings Officer. The applicant will be subject to all applicable standards currently in effect. (5/98)

3.108.06 Review Criteria

Approval of a subdivision, PUD, or manufactured home park shall require compliance with the following: (2/01)

A. The proposal shall comply with the applicable development standards in Section 2.405 and Section 2.3, as appropriate, including provisions for streets and utilities. (5/98)

B. Each lot shall satisfy the dimensional standards and density standard of the applicable zoning district, unless a variance from these standards is approved. (5/98)

C. Adequate public facilities shall be available and shall serve the existing and newly created parcels. (2/01)

D. Rough Proportionality. Improvements or dedications required as a condition of development approval, when not voluntarily accepted by the applicant, shall be roughly proportional to the impact of development. Findings in the development approval shall indicate how the required improvements or dedications are roughly proportional to the impact. (01/02)

3.108.07 Form of Final Subdivision Plat

A. Final Plat Requirements. The final plat shall be prepared in a form and with information consistent with ORS 92.010-92.160, and approved by the County Surveyor. (2/01)

B. Owners Association. Where applicable, all Owners Agreements, Articles and By-Laws shall be submitted with the final plat for review by the City Attorney. (5/98)

1. The Zoning Administrator, until the Owners Association Agreement, Articles and By-Laws are approved shall not approve the final plat. (5/98)

2. The Owner's Association Agreement shall be consistent with Chapter 94, Oregon Revised Statutes. (5/98)

3. A Certificate of Formation of a non-profit corporation, with a State seal, for the Owners Association, shall be submitted with the final plat for review by the Planning Commission. (5/98)

4. Signed, original documents of the Owners Association Agreement, Articles and By-Laws and the Certificate of Formation described in (3) above, shall be recorded with the final plat. (5/98)

C. Subdivision Names. All plat names shall conform to ORS 92.090. (5/98)

3.108.08 Final Plat Review of Subdivisions

A. Final Review. The final subdivision or planned unit development plat shall be submitted to the City staff for review. Staff shall review the plat to assure compliance with the approved preliminary plat and with the conditions of approval. The Zoning Administrator shall signify staff approval of the final plat by signing the final plat. (2/01)

B. Filing Final Plat. The final subdivision plat shall be filed with the Marion County Clerk's Office. (5/98)

CITY COUNCIL MEETING: August 3, 2020

AGENDA ITEM NUMBER:_____

TO: **MAYOR CLARK AND COUNCIL MEMBERS**

THROUGH: **CHRISTOPHER C. EPPLEY, CITY MANAGER**

FROM: **E. SHANNON JOHNSON, CITY ATTORNEY**

SUBJECT: **CARES ACT GRANT AGREEMENT**

Section 5001 of the CARES Act provides funds through the Coronavirus Relief Fund to be used for expenditures incurred due to COVID-19. In order to receive the allocated funds for the City, the State has requested that Keizer enter into Grant Agreement No. 1079. The maximum grant amount is $1,151,914.13. It is likely that the actual amount will be less.

This is a reimbursement grant which means the City must spend the money first. Staff will bring possible projects for Council consideration soon.

RECOMMENDATION:

Adopt the attached Resolution authorizing the Finance Director to sign grant agreement no. 1079.

Please contact me if you have any questions in this regard. Thank you.

ESJ/tmh

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R2020-_____

AUTHORIZING FINANCE DIRECTOR TO SIGN STATE OF OREGON GRANT AGREEMENT (GRANT NO. 1079) (CARES ACT FUNDS)

WHEREAS, Section 5001 of the CARES Act provides funds through the Coronavirus Relief Fund to be used for expenditures incurred due to COVID-19;

WHEREAS, to receive the CARES Act funds, the state has requested the City to sign Grant No. 1079;

WHEREAS, the State of Oregon and the City are authorized to enter into agreements under Oregon Revised Statutes Chapter 190;

WHEREAS, the State and the City wish to enter into the attached Grant Agreement;

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of Keizer that the Finance Director is authorized to sign the attached Grant Agreement (Grant No. 1079).

BE IT FURTHER RESOLVED that the Finance Director or City Manager is directed and authorized to take all action necessary and appropriate in connection with such Grant Agreement within the normal budgetary constraints of the City of Keizer.

Keizer City Attorney
930 Chemawa Road NE
PO Box 21000
Keizer, Oregon 97307
503-856-3433

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately upon the date of its passage.

PASSED this _____ day of _____, 2020.

SIGNED this _____ day of _____, 2020.

_____
Mayor

_____
City Recorder

Keizer City Attorney
930 Chemawa Road NE
PO Box 21000
Keizer, Oregon 97307
503-856-3433

STATE OF OREGON
AMENDED AND RESTATED GRANT AGREEMENT

Grant No. 1079

This Amended and Restated Grant Agreement ("Grant") is between the State of Oregon acting by and through its Department of Administrative Services ("Agency") and City of Keizer ("Grantee"), each a "Party" and, together, the "Parties".

SECTION 1: AUTHORITY AND BACKGROUND

Pursuant to funding available under section 601(a) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and as allocated to Agency by the Oregon Emergency Board, Agency is authorized to enter into a grant agreement and provide funding for the purposes described in this Grant.

Accordingly, on 6/28/2020, Agency and Grantee entered into a Grant Agreement by which Agency agreed to disburse, and Grantee agreed to accept, certain CARES Act funds as more fully described in that Agreement. The parties now enter into this Amended and Restated Grant Agreement to update the period for which Grantee may seek reimbursement of eligible costs using CARES Act funds, as well as to amend the reimbursement-submission procedure.

SECTION 2: PURPOSE

Section 5001 of the CARES Act provides funds to state, local and tribal governments through the Coronavirus Relief Fund to be used for expenditures incurred due to COVID-19 during the period of March 1, 2020 through December 30, 2020 (the "Performance Period"). This Grant governs the disbursement of funds from the Coronavirus Relief Fund to Grantee for the Performance Period to reimburse the costs of the activities described in Exhibit A.

SECTION 3: EFFECTIVE DATE AND DURATION

When all Parties have executed this Grant, and all necessary approvals have been obtained ("Executed Date"), this Grant is effective and has a Grant funding start date as of March 1, 2020 ("Effective Date"), and, unless extended or terminated earlier in accordance with its terms, will expire on December 30, 2020.

SECTION 4: GRANT MANAGERS

4.1 Agency's Grant Manager is:

Gerold Floyd

Department of Administrative Services
Attention: Coronavirus Relief Fund
155 Cottage Street NE, Salem, OR 97301
Phone: 503-378-2709
Email: CoronavirusReliefFund@Oregon.gov

4.2 Grantee's Grant Manager is:

Name: Tim Wood

Address: 930 Chemawa Rd. NE, Keizer, OR 97303

Phone: 503-856-3413

Email: woodt@keizer.org

4.3 A Party may designate a new Grant Manager by written notice to the other Party.

SECTION 5: PROJECT ACTIVITIES

To receive funds under this Grant, Grantee must perform the project activities set forth in Exhibit A (the "Project"), attached hereto and incorporated in this Grant by this reference, during the Performance Period.

SECTION 6: GRANT FUNDS

In accordance with the terms and conditions of this Grant, Agency will provide Grantee up to an amount not to exceed $1,151,914.13 (the "Grant Funds") for eligible Project costs incurred during the Performance Period. Agency will pay the Grant Funds from monies made available through the Coronavirus Relief Fund ("Funding Source").

SECTION 7: DISBURSEMENT GENERALLY

7.1 Disbursement.

7.1.1 Subject to the availability of sufficient moneys in and from the Funding Source based on Agency's reasonable projections of moneys accruing to the Funding Source, Agency will disburse Grant Funds to Grantee for the allowable Project activities described in Exhibit A that

are undertaken during the Performance Period.

7.1.2 Grantee must provide to Agency any information or detail regarding the expenditure of Grant Funds required under Exhibit A prior to disbursement or as Agency may request.

7.2 Conditions Precedent to Disbursement. Agency's obligation to disburse Grant Funds to Grantee under this Grant is subject to satisfaction of each of the following conditions precedent:

7.2.1 Agency has received sufficient funding, appropriations, expenditure limitation, allotments or other necessary expenditure authorizations to allow Agency, in the exercise of its reasonable administrative discretion, to make the disbursement from the Funding Source;

7.2.2 No default as described in Section 15 has occurred; and

7.2.3 Grantee's representations and warranties set forth in Section 8 are true and correct on the date of disbursement(s) with the same effect as though made on the date of disbursement.

7.3 No Duplicate Payment. Grantee may use other funds in addition to the Grant Funds to complete the Project; provided, however, funds received pursuant to this Grant are not used for expenditures for which a local government entity has received any other supplemental funding (whether state, federal or private in nature) for that same expense unless otherwise authorized by Agency in writing.

SECTION 8: REPRESENTATIONS AND WARRANTIES

8.1 Organization/Authority. Grantee represents and warrants to Agency that:

8.1.1 Grantee is a local government or tribal government duly organized and validly existing;

8.1.2 Grantee has all necessary rights, powers and authority under any organizational documents and under Oregon Law to (i) execute this Grant, (ii) incur and perform its obligations under this Grant, and (iii) receive financing, including the Grant Funds, for the Project;

8.1.3 This Grant has been duly executed by Grantee and when executed by Agency, constitutes a legal, valid and binding obligation of Grantee enforceable in accordance with its terms;

8.1.4 If applicable and necessary, the execution and delivery of this Grant by Grantee has been authorized by an ordinance, order or resolution of its governing body, or voter approval, that was adopted in accordance with applicable law and requirements for filing public notices and holding public meetings; and

8.1.5 There is no proceeding pending or threatened against Grantee before any court or governmental authority that if adversely determined would materially adversely affect the Project or the ability of Grantee to carry out the Project.

8.2 False Claims Act. Grantee acknowledges the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any "claim" (as defined by ORS 180.750) made by (or caused by) Grantee that pertains

to this Grant or to the Project. Grantee certifies that no claim described in the previous sentence is or will be a "false claim" (as defined by ORS 180.750) or an act prohibited by ORS 180.755. Grantee further acknowledges in addition to the remedies under Section 16, if it makes (or causes to be made) a false claim or performs (or causes to be performed) an act prohibited under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against the Grantee.

8.3 **No limitation.** The representations and warranties set forth in this Section are in addition to, and not in lieu of, any other representations or warranties provided by Grantee.

SECTION 9: OWNERSHIP

9.1 **Intellectual Property Definitions.** As used in this Section and elsewhere in this Grant, the following terms have the meanings set forth below:

"Third Party Intellectual Property" means any intellectual property owned by parties other than Grantee or Agency.

"Work Product" means every invention, discovery, work of authorship, trade secret or other tangible or intangible item Grantee is required to create or deliver as part of the Project, and all intellectual property rights therein.

9.2 **Grantee Ownership.** Grantee must deliver copies of all Work Product as directed in Exhibit A. Grantee retains ownership of all Work Product, and grants Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, to reproduce, to prepare derivative works based upon, to distribute, to perform and to display the Work Product, to authorize others to do the same on Agency's behalf, and to sublicense the Work Product to other entities without restriction.

9.3 **Third Party Ownership.** If the Work Product created by Grantee under this Grant is a derivative work based on Third Party Intellectual Property, or is a compilation that includes Third Party Intellectual Property, Grantee must secure an irrevocable, non-exclusive, perpetual, royalty-free license allowing Agency and other entities the same rights listed above for the pre-existing element of the Third party Intellectual Property employed in the Work Product. If state or federal law requires that Agency or Grantee grant to the United States a license to any intellectual property in the Work Product, or if state or federal law requires Agency or the United States to own the intellectual property in the Work Product, then Grantee must execute such further documents and instruments as Agency may reasonably request in order to make any such grant or to assign ownership in such intellectual property to the United States or Agency.

9.4 **Real Property.** If the Project includes the acquisition, construction, remodel or repair of real property or improvements to real property, and if such assets are disposed of prior to December 30, 2020, the proceeds would be subject to the restrictions on the eligible use of payments from the Grant Funds provided by section 601(d) of the Social Security Act .

SECTION 10: CONFIDENTIAL INFORMATION

10.1 Confidential Information Definition. Grantee acknowledges it and its employees or agents may, in the course of performing its responsibilities, be exposed to or acquire information that is: (i) confidential to Agency or Project participants or (ii) the disclosure of which is restricted under federal or state law, including without limitation: (a) personal information, as that term is used in ORS 646A.602(12) and (b) social security numbers (items (i) and (ii) separately and collectively "Confidential Information").

10.2 Nondisclosure. Grantee agrees to hold Confidential Information as required by any applicable law and in all cases in strict confidence, using at least the same degree of care Grantee uses in maintaining the confidentiality of its own confidential information. Grantee may not copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties, or use Confidential Information except as is allowed by law and for the Project activities and Grantee must advise each of its employees and agents of these restrictions. Grantee must assist Agency in identifying and preventing any unauthorized use or disclosure of Confidential Information. Grantee must advise Agency immediately if Grantee learns or has reason to believe any Confidential Information has been, or may be, used or disclosed in violation of the restrictions in this Section. Grantee must, at its expense, cooperate with Agency in seeking injunctive or other equitable relief, in the name of Agency or Grantee, to stop or prevent any use or disclosure of Confidential Information. At Agency's request, Grantee must return or destroy any Confidential Information. If Agency requests Grantee to destroy any Confidential Information, Grantee must provide Agency with written assurance indicating how, when and what information was destroyed.

10.3 Identity Protection Law. Grantee must have and maintain a formal written information security program that provides safeguards to protect Confidential Information from loss, theft, and disclosure to unauthorized persons, as required by the Oregon Consumer Information Protection Act, ORS 646A.600-628. If Grantee or its agents discover or are notified of a potential or actual "Breach of Security", as defined by ORS 646A.602(1)(a), or a failure to comply with the requirements of ORS 646A.600-628, (collectively, "Breach") with respect to Confidential Information, Grantee must promptly but in any event within one calendar day (i) notify the Agency Grant Manager of such Breach and (ii) if the applicable Confidential Information was in the possession of Grantee or its agents at the time of such Breach, Grantee must (a) investigate and remedy the technical causes and technical effects of the Breach and (b) provide Agency with a written root cause analysis of the Breach and the specific steps Grantee will take to prevent the recurrence of the Breach or to ensure the potential Breach will not recur. For the avoidance of doubt, if Agency determines notice is required of any such Breach to any individual(s) or entity(ies), Agency will have sole control over the timing, content, and method of such notice, subject to Grantee's obligations under applicable law.

10.4 Subgrants/Contracts. Grantee must require any subgrantees, contractors or subcontractors under this Grant who are exposed to or acquire Confidential Information to treat and maintain such information in the same manner as is required of Grantee under subsections 10.1 and 10.2 of this Section.

10.5 Background Check. If requested by Agency and permitted by law, Grantee's employees, agents, contractors, subcontractors, and volunteers that perform Project activities must agree to submit to

a criminal background check prior to performance of any Project activities or receipt of Confidential Information. Background checks will be performed at Grantee's expense. Based on the results of the background check, Grantee or Agency may refuse or limit (i) the participation of any Grantee employee, agent, contractor, subgrantee, or volunteer, in Project activities or (ii) access to Agency Personal Information or Grantee premises.

SECTION 11: INDEMNITY/LIABILITY

11.1 **Indemnity.** Grantee must defend, save, hold harmless, and indemnify the State of Oregon and Agency and their officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs, and expenses of any nature whatsoever, including attorneys' fees, resulting from, arising out of, or relating to the activities of Grantee or its officers, employees, subgrantees, contractors, subcontractors, or agents under this Grant (each of the foregoing individually or collectively a "Claim" for purposes of this Section). If legal limitations apply to the indemnification ability of Grantee, this indemnification must be for the maximum amount of funds available for expenditure, including any available contingency funds, insurance, funds available under ORS 30.260 to 30.300 or other available non-appropriated funds.

11.2 **Defense.** Grantee may have control of the defense and settlement of any Claim subject to this Section. But neither Grantee nor any attorney engaged by Grantee may defend the Claim in the name of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without first receiving from the Attorney General, in a form and manner determined appropriate by the Attorney General, authority to act as legal counsel for the State of Oregon. Nor may Grantee settle any Claim on behalf of the State of Oregon without the approval of the Attorney General. The State of Oregon may, at its election and expense, assume its own defense and settlement in the event the State of Oregon determines Grantee is prohibited from defending the State of Oregon, or is not adequately defending the State of Oregon's interests, or an important governmental principle is at issue and the State of Oregon desires to assume its own defense. Grantee may not use any Grant Funds to reimburse itself for the defense of or settlement of any Claim.

11.3 **Limitation.** Except as provided in this Section, neither Party will be liable for incidental, consequential, or other direct damages arising out of or related to this Grant, regardless of whether the damages or other liability is based in contract, tort (including negligence), strict liability, product liability or otherwise. Neither Party will be liable for any damages of any sort arising solely from the termination of this Grant in accordance with its terms.

SECTION 12: INSURANCE

12.1 **Private Insurance.** If Grantee is a private entity, or if any contractors, subcontractors, or subgrantees used to carry out the Project are private entities, Grantee and any private contractors, subcontractors or subgrantees must obtain and maintain insurance covering Agency in the types and amounts indicated in Exhibit B.

12.2 **Public Body Insurance.** If Grantee is a "public body" as defined in ORS 30.260, Grantee agrees to

insure any obligations that may arise for Grantee under this Grant, including any indemnity obligations, through (i) the purchase of insurance as indicated in Exhibit B or (ii) the use of self-insurance or assessments paid under ORS 30.282 that is substantially similar to the types and amounts of insurance coverage indicated on Exhibit B, or (iii) a combination of any or all of the foregoing.

12.3 **Real Property.** If the Project includes the construction, remodel or repair of real property or improvements to real property, Grantee must insure the real property and improvements against liability and risk of direct physical loss, damage or destruction at least to the extent that similar insurance is customarily carried by entities constructing, operating and maintaining similar property or facilities.

SECTION 13: GOVERNING LAW, JURISDICTION

This Grant is governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively "Claim") between Agency or any other agency or department of the State of Oregon, or both, and Grantee that arises from or relates to this Grant must be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it will be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event may this Section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, to or from any Claim or from the jurisdiction of any court. GRANTEE, BY EXECUTION OF THIS GRANT, HEREBY CONSENTS TO THE PERSONAL JURISDICTION OF SUCH COURTS.

SECTION 14: ALTERNATIVE DISPUTE RESOLUTION

The Parties should attempt in good faith to resolve any dispute arising out of this Grant. This may be done at any management level, including at a level higher than persons directly responsible for administration of the Grant. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation. Each Party will bear its own costs incurred for any mediation or non-binding arbitration.

SECTION 15: DEFAULT

15.1 **Grantee.** Grantee will be in default under this Grant upon the occurrence of any of the following events:

15.1.1 Grantee fails to use the Grant Funds for the intended purpose described in Exhibit A or otherwise fails to perform, observe or discharge any of its covenants, agreements or obligations under this Grant;

15.1.2 Any representation, warranty or statement made by Grantee in this Grant or in any documents

or reports relied upon by Agency to measure the Project, the expenditure of Grant Funds or the performance by Grantee is untrue in any material respect when made; or

15.1.3 A petition, proceeding or case is filed by or against Grantee under any federal or state bankruptcy, insolvency, receivership or other law relating to reorganization, liquidation, dissolution, winding-up or adjustment of debts; in the case of a petition filed against Grantee, Grantee acquiesces to such petition or such petition is not dismissed within 20 calendar days after such filing, or such dismissal is not final or is subject to appeal; or Grantee becomes insolvent or admits its inability to pay its debts as they become due, or Grantee makes an assignment for the benefit of its creditors.

15.2 **Agency.** Agency will be in default under this Grant if, after 15 days written notice specifying the nature of the default, Agency fails to perform, observe or discharge any of its covenants, agreements, or obligations under this Grant; provided, however, Agency will not be in default if Agency fails to disburse Grant Funds because there is insufficient expenditure authority for, or moneys available from, the Funding Source.

SECTION 16: REMEDIES

16.1 **Agency Remedies.** In the event Grantee is in default under Section 15.1, Agency may, at its option, pursue any or all of the remedies available to it under this Grant and at law or in equity, including, but not limited to: (i) termination of this Grant under Section 18.2, (ii) reducing or withholding payment for Project activities or materials that are deficient or Grantee has failed to complete by any scheduled deadlines, (iii) requiring Grantee to complete, at Grantee's expense, additional activities necessary to satisfy its obligations or meet performance standards under this Grant, (iv) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief, (v) exercise of its right of recovery of overpayments under Section 17 of this Grant or setoff, or both, or (vi) declaring Grantee ineligible for the receipt of future awards from Agency. These remedies are cumulative to the extent the remedies are not inconsistent, and Agency may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.

16.2 **Grantee Remedies.** In the event Agency is in default under Section 15.2 and whether or not Grantee elects to terminate this Grant, Grantee's sole monetary remedy will be, within any limits set forth in this Grant, reimbursement of Project activities completed and accepted by Agency and authorized expenses incurred, less any claims Agency has against Grantee. In no event will Agency be liable to Grantee for any expenses related to termination of this Grant or for anticipated profits.

SECTION 17: WITHHOLDING FUNDS, RECOVERY

Agency may withhold from disbursements of Grant Funds due to Grantee, or Grantee must return to Agency within 30 days of Agency's written demand:

17.1 Any Grant Funds paid to Grantee under this Grant, or payments made under any other agreement between Agency and Grantee, that exceed the amount to which Grantee is entitled;

17.2 Any Grant Funds received by Grantee that remain unexpended or contractually committed for payment of the Project at the end of the Performance Period;

17.3 Any Grant Funds determined by Agency to be spent for purposes other than allowable Project activities; or

17.4 Any Grant Funds requested by Grantee as payment for deficient activities or materials.

SECTION 18: TERMINATION

18.1 **Mutual.** This Grant may be terminated at any time by mutual written consent of the Parties.

18.2 **By Agency.** Agency may terminate this Grant as follows:

18.2.1 At Agency's discretion, upon 30 days advance written notice to Grantee;

18.2.2 Immediately upon written notice to Grantee, if Agency fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in Agency's reasonable administrative discretion, to perform its obligations under this Grant;

18.2.3 Immediately upon written notice to Grantee, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that Agency's performance under this Grant is prohibited or Agency is prohibited from funding the Grant from the Funding Source; or

18.2.4 Immediately upon written notice to Grantee, if Grantee is in default under this Grant and such default remains uncured 15 days after written notice thereof to Grantee.

18.3 **By Grantee.** Grantee may terminate this Grant as follows:

18.3.1 If Grantee is a governmental entity, immediately upon written notice to Agency, if Grantee fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to perform its obligations under this Grant.

18.3.2 If Grantee is a governmental entity, immediately upon written notice to Agency, if applicable laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project activities contemplated under this Grant are prohibited by law or Grantee is prohibited from paying for the Project from the Grant Funds or other planned Project funding; or

18.3.3 Immediately upon written notice to Agency, if Agency is in default under this Grant and such default remains uncured 15 days after written notice thereof to Agency.

18.4 **Cease Activities.** Upon receiving a notice of termination of this Grant, Grantee must immediately cease all activities under this Grant, unless Agency expressly directs otherwise in such notice. Upon termination, Grantee must deliver to Agency all materials or other property that are or would be required to be provided to Agency under this Grant or that are needed to complete the Project activities that would have been performed by Grantee.

SECTION 19: MISCELLANEOUS

19.1 Conflict of Interest. Grantee by signature to this Grant declares and certifies the award of this Grant and the Project activities to be funded by this Grant, create no potential or actual conflict of interest, as defined by ORS Chapter 244, for a director, officer or employee of Grantee.

19.2 Nonappropriation. Agency's obligation to pay any amounts and otherwise perform its duties under this Grant is conditioned upon Agency receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow Agency, in the exercise of its reasonable administrative discretion, to meet its obligations under this Grant. Nothing in this Grant may be construed as permitting any violation of Article XI, Section 7 of the Oregon Constitution or any other law limiting the activities, liabilities or monetary obligations of Agency.

19.3 Amendments. The terms of this Grant may not be altered, modified, supplemented or otherwise amended, except by written agreement of the Parties.

19.4 Notice. Except as otherwise expressly provided in this Grant, any notices to be given under this Grant must be given in writing by email, personal delivery, or postage prepaid mail, to a Party's Grant Manager at the physical address or email address set forth in this Grant, or to such other addresses as either Party may indicate pursuant to this Section. Any notice so addressed and mailed becomes effective five (5) days after mailing. Any notice given by personal delivery becomes effective when actually delivered. Any notice given by email becomes effective upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system.

19.5 Survival. All rights and obligations of the Parties under this Grant will cease upon termination of this Grant, other than the rights and obligations arising under Sections 11, 13, 14, 16, 17 and subsection 19.5 hereof and those rights and obligations that by their express terms survive termination of this Grant; provided, however, termination of this Grant will not prejudice any rights or obligations accrued to the Parties under this Grant prior to termination.

19.6 Severability. The Parties agree if any term or provision of this Grant is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Grant did not contain the particular term or provision held to be invalid.

19.7 Counterparts. This Grant may be executed in several counterparts, all of which when taken together constitute one agreement, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Grant so executed constitutes an original.

19.8 Compliance with Law. In connection with their activities under this Grant, the Parties must comply with all applicable federal, state and local laws.

19.9 Intended Beneficiaries. Agency and Grantee are the only parties to this Grant and are the only parties entitled to enforce its terms. Nothing in this Grant provides, is intended to provide, or may be construed to provide any direct or indirect benefit or right to third persons unless such third persons are individually identified by name herein and expressly described as intended

beneficiaries of this Grant.

19.10 Assignment and Successors. Grantee may not assign or transfer its interest in this Grant without the prior written consent of Agency and any attempt by Grantee to assign or transfer its interest in this Grant without such consent will be void and of no force or effect. Agency's consent to Grantee's assignment or transfer of its interest in this Grant will not relieve Grantee of any of its duties or obligations under this Grant. The provisions of this Grant will be binding upon and inure to the benefit of the Parties hereto, and their respective successors and permitted assigns.

19.11 Contracts and Subgrants. Grantee may enter into contracts or subgrants for any of the Project activities required of Grantee under this Grant, however Grantee is required to communicate subgrantee information to Agency in such a manner and timing as prescribed by Agency that Agency considers necessary to fulfill its federal reporting obligations.

19.12 Time of the Essence. Time is of the essence in Grantee's performance of the Project activities under this Grant.

19.13 Records Maintenance and Access. Grantee must maintain all financial records relating to this Grant in accordance with generally accepted accounting principles. In addition, Grantee must maintain any other records, whether in paper, electronic or other form, pertinent to this Grant in such a manner as to clearly document Grantee's performance. All financial records and other records, whether in paper, electronic or other form, that are pertinent to this Grant, are collectively referred to as "Records." Grantee acknowledges and agrees Agency and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives will have access to all Records to perform examinations and audits and make excerpts and transcripts. Grantee must retain and keep accessible all Records for a minimum of six (6) years, or such longer period as may be required by applicable law, following termination of this Grant, or until the conclusion of any audit, controversy or litigation arising out of or related to this Grant, whichever date is later.

19.14 Headings. The headings and captions to sections of this Grant have been inserted for identification and reference purposes only and may not be used to construe the meaning or to interpret this Grant.

19.15 Grant Documents. This Grant consists of the following documents, which are incorporated by this reference and listed in descending order of precedence:

- This Grant less all exhibits
- Exhibit A (the "Project")
- Exhibit B (Insurance)
- Exhibit C (Federal Terms and Conditions)
- Exhibit D (Federal Award Identification)

19.16 Merger, Waiver. This Grant and all exhibits and attachments, if any, constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Grant. No waiver or consent under this Grant binds either Party unless in writing and signed by both Parties.

Such waiver or consent, if made, is effective only in the specific instance and for the specific purpose given.

SECTION 20: SIGNATURES

EACH PARTY, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES IT HAS READ THIS GRANT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS. The Parties further agree that by the exchange of this Grant electronically, each has agreed to the use of electronic means, if applicable, instead of the exchange of physical documents and manual signatures. By inserting an electronic or manual signature below, each authorized representative acknowledges that it is their signature, that each intends to execute this Grant, and that their electronic or manual signature should be given full force and effect to create a valid and legally binding agreement.

IN WITNESS WHEREOF, the Parties have executed this Grant as of the dates set forth below.

STATE OF OREGON acting by and through its Department of Administrative Services

By: _____ _____
Name, Title Date

City of Keizer

By: _____ _____
Authorized Signature Date

_____ _____
Printed Name Title

93-0836902 038038147
Federal Tax ID Number DUNS Number

Approved for Legal Sufficiency in accordance with ORS 291.047

By: *s/ Sam Zeigler* by email dated 7/17/20
Senior Assistant Attorney General Date
Oregon Department of Justice

EXHIBIT A
THE PROJECT

SECTION I. BACKGROUND AND GOALS

To support local government actions in the statewide fight against the Coronavirus by providing reimbursement of federally eligible expenses under the CARES Act. Coronavirus Relief Funds may be used to cover costs that are:

1. *Necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);*
2. *Were not accounted for in the Grantee's budget most recently approved as of March 27, 2020; and*
3. *Were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.*

SECTION II. PROJECT ACTIVITIES, SCHEDULE, AND BUDGET

Agency will disburse Grant Funds only for eligible costs incurred by Grantee for the Performance Period and in accordance with criteria and guidance established by US Treasury:

(https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf)

Additionally, the US Treasury has provided answers to frequently asked questions regarding eligible costs under the Coronavirus Relief Fund:

https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Frequently-Asked-Questions.pdf

Indirect/Administrative Costs. Grantee will not be reimbursed for any indirect costs with Grant Funds in accordance with U.S. Treasury guidance. The information described in this paragraph overrides any other verbal or written rate(s) or information provided by Agency

SECTION III. RESERVED

SECTION IV. REPORTING REQUIREMENTS

In a form provided by Agency, Grantee shall report eligible costs to Agency when seeking reimbursement for costs incurred during the Performance Period. Agency may require additional reporting in form and at such times as Agency specifies by notification to Grantee through its Grant Manager identified in Section 4.2.

If the Performance Period begins prior to the Executed Date, any reports for Project activities shown in this Exhibit A as due prior to the Executed Date must be provided to Agency, if not already provided to Agency despite the lack of an executed Grant. Grantee will not be in default for failure to perform any reporting requirements prior to the Executed Date.

SECTION V. DISBURSEMENT PROVISIONS

Agency will disburse the Grant Funds upon receipt and approval of Grantee's request for disbursement.

To be processed for payment, Grantee's request must include the following information at the minimum:

- Request date;
- Period covered by request;
- Agency's Grant number;
- Amount being requested; and
- Aggregated costs by available cost category.

Agency may request, at its discretion, additional information it considers necessary to determine the eligibility of costs for reimbursement. Reimbursement requests shall be submitted via an Agency-developed grant website portal, if operable and available, otherwise, Grantee must send its requests for disbursement via email to the Agency's Grant Manager identified in Section 4.

EXHIBIT B
INSURANCE

INSURANCE REQUIREMENTS

Grantee must obtain at Grantee's expense, and require its first tier contractors and subgrantees, if any, to obtain the insurance specified in this exhibit prior to performing under this Grant, and must maintain it in full force and at its own expense throughout the duration of this Grant, as required by any extended reporting period or tail coverage requirements, and all warranty periods that apply. Grantee must obtain and require its first tier contractors and subgrantees, if any, to obtain the following insurance from insurance companies or entities acceptable to Agency and authorized to transact the business of insurance and issue coverage in Oregon. Coverage must be primary and non-contributory with any other insurance and self-insurance, with the exception of professional liability and workers' compensation. Grantee must pay and require its first tier contractors and subgrantees to pay, if any, for all deductibles, self-insured retention and self-insurance, if any.

WORKERS' COMPENSATION

All employers, including Grantee, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Grantee shall require and ensure that each of its subgrantees, contractors, and subcontractors complies with these requirements. If Grantee is a subject employer, as defined in ORS 656.023, Grantee shall also obtain employers' liability insurance coverage with limits not less than $500,000 each accident. If Grantee is an employer subject to any other state's workers' compensation law, Grantee shall provide workers' compensation insurance coverage for its employees as required by applicable workers' compensation laws including employers' liability insurance coverage with limits not less than $500,000, and shall require and ensure that each of its out-of-state subgrantees, contractors, and subcontractors complies with these requirements.

COMMERCIAL GENERAL LIABILITY

☒ **Required** ☐ **Not required**

Commercial general liability insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to Agency. This insurance must include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this Grant, and have no limitation of coverage to designated premises, project or operation. Coverage must be written on an occurrence basis in an amount of not less than $1,000,000 per occurrence. Annual aggregate limit may not be less than $2,000,000.

AUTOMOBILE LIABILITY INSURANCE

☒ **Required** ☐ **Not required**

Automobile liability insurance covering Grantee's business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than $1,000,000 for bodily injury and property damage. This coverage may be written in combination with the commercial general liability insurance (with separate limits for commercial general liability and automobile liability). Use of

personal automobile liability insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

PROFESSIONAL LIABILITY

☐ **Required** ☒ **Not required**

Professional liability insurance covering any damages caused by an error, omission or any negligent acts related to the activities performed under this Grant by the Grantee and Grantee's contractors, subgrantees, agents, officers or employees in an amount not less than $_____ per claim. Annual aggregate limit may not be less than $_____. If coverage is on a claims made basis, then either an extended reporting period of not less than 24 months must be included in the professional liability insurance coverage, or the Grantee must provide tail coverage as stated below.

NETWORK SECURITY AND PRIVACY LIABILITY

☐ **Required** ☒ **Not required**

Grantee must provide network security and privacy liability insurance for the duration of the Grant and for the period of time in which Grantee (or its business associates, contractors, or subgrantees) maintains, possesses, stores or has access to Agency or client data, whichever is longer, with a combined single limit of no less than $_____ per claim or incident. This insurance must include coverage for third party claims and for losses, thefts, unauthorized disclosures, access or use of Agency or client data (which may include, but is not limited to, Personally Identifiable Information ("PII"), payment card data and Protected Health Information ("PHI")) in any format, including coverage for accidental loss, theft, unauthorized disclosure access or use of Agency data.

POLLUTION LIABILITY

☐ **Required** ☒ **Not required**

Pollution liability insurance covering Grantee's or appropriate contractor or subgrantee's liability for bodily injury, property damage and environmental damage resulting from sudden, accidental, or gradual pollution and related cleanup costs incurred by Grantee, all arising out of the Project activities (including transportation risk) performed under this Grant is required. Combined single limit per occurrence may not be less than $_____. Annual aggregate limit may not be less than $_____.

An endorsement to the commercial general liability or automobile liability policy, covering Grantee's, contractor, or subgrantee's liability for bodily injury, property damage and environmental damage resulting from sudden, accidental, or gradual pollution and related clean-up costs incurred by Grantee that arise from the Project activities (including transportation risk) performed by Grantee under this Grant is also acceptable.

DIRECTORS, OFFICERS AND ORGANIZATION LIABILITY

☐ **Required** ☒ **Not required**

Directors, officers and organization liability insurance covering the Grantee's organization, directors, officers, and trustees actual or alleged errors, omissions, negligent, or wrongful acts, including improper governance, employment practices and financial oversight - including improper oversight and/or use of Grant Funds and donor contributions - with a combined single limit of no less than $_____ per claim.

CRIME PROTECTION COVERAGE: EMPLOYEE DISHONESTY or FIDELITY BOND

☐ **Required** ☒ **Not required**

Employee dishonesty or fidelity bond covering loss of money, securities and property caused by dishonest acts of Grantee's employees. Coverage limits may not be less than $_____.

PHYSICAL ABUSE AND MOLESTATION INSURANCE COVERAGE

☐ **Required** ☒ **Not required**

Abuse and molestation insurance in a form and with coverage satisfactory to the State covering damages arising out of actual or threatened physical abuse, mental injury, sexual molestation, negligent: hiring, employment, supervision, investigation, reporting to proper authorities, and retention of any person for whom the Grantee, its contractors, subcontractors or subgrantees ("Covered Entity") is responsible including but not limited to any Covered Entity's employees and volunteers. Policy endorsement's definition of an insured must include the Covered Entity and its employees and volunteers. Coverage must be written on an occurrence basis in an amount of not less than $_____ per occurrence. Any annual aggregate limit may not be less than $_____. Coverage can be provided by a separate policy or as an endorsement to the commercial general liability or professional liability policies. The limits must be exclusive to this required coverage. Incidents related to or arising out of physical abuse, mental injury, or sexual molestation, whether committed by one or more individuals, and irrespective of the number of incidents or injuries or the time period or area over which the incidents or injuries occur, must be treated as a separate occurrence for each victim. Coverage must include the cost of defense and the cost of defense must be provided outside the coverage limit.

EXCESS/UMBRELLA INSURANCE

A combination of primary and excess/umbrella insurance may be used to meet the required limits of insurance.

ADDITIONAL INSURED

All liability insurance, except for workers' compensation, professional liability, and network security and privacy liability (if applicable), required under this Grant must include an additional insured endorsement specifying the State of Oregon, its officers, employees and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations, but only with respect to Grantee's activities to be performed under this Grant. Coverage must be primary and non-contributory with any other insurance and self-insurance. The Additional Insured endorsement with respect to liability arising out of Grantee's ongoing operations must be on ISO Form CG 20 10 07 04 or equivalent and the Additional Insured endorsement with respect to completed operations must be on ISO form CG 20 37 04 13 or equivalent.

WAIVER OF SUBROGATION

Grantee waives, and must require its first tier contractors and subgrantees waive, rights of subrogation which Grantee, Grantee's first tier contractors and subgrantees, if any, or any insurer of Grantee may acquire against the Agency or State of Oregon by virtue of the payment of any loss. Grantee must obtain, and require its first tier contractors and subgrantees to obtain, any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Agency has received a waiver of subrogation endorsement from the Grantee or the Grantee's insurer(s).

TAIL COVERAGE

If any of the required insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, Grantee must maintain, and require its first tier contractors and subgrantees, if any, maintain, either tail coverage or continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the Effective Date of this Grant, for a minimum of 24 months following the later of (i) Grantee's completion and Agency's acceptance of all Project activities required under this Grant, or, (ii) Agency or Grantee termination of Grant, or, iii) the expiration of all warranty periods provided under this Grant.

CERTIFICATE(S) AND PROOF OF INSURANCE

At Agency's request, Grantee must provide to Agency a Certificate(s) of Insurance for all required insurance. The Certificate(s) must list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured. The Certificate(s) must also include all required endorsements or copies of the applicable policy language effecting coverage required by this Grant. If excess/umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/umbrella insurance. As proof of insurance, Agency has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Grant. Grantee must furnish acceptable insurance certificates to: CoronavirusReliefFund@oregon.gov or by mail to: Department of Administrative Services, Attention: Coronavirus Relief Fund, 155 Cottage Street NE, Salem, OR, 97301 prior to commencing the work.

NOTICE OF CHANGE OR CANCELLATION

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

INSURANCE REQUIREMENT REVIEW

Grantee agrees to periodic review of insurance requirements by Agency under this Grant, and to provide updated requirements as mutually agreed upon by Grantee and Agency.

STATE ACCEPTANCE

All insurance providers are subject to Agency acceptance. If requested by Agency, Grantee must provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to Agency's representatives responsible for verification of the insurance coverages required under this exhibit.

EXHIBIT C
FEDERAL TERMS AND CONDITIONS

1. FEDERAL FUNDS

1.1. If specified below, Agency's payments to Grantee under this Grant will be paid in whole or in part by funds received by Agency from the United States Federal Government. If so specified then Grantee, by signing this Grant, certifies neither it nor its employees, contractors, subcontractors or subgrantees who will perform the Project activities are currently employed by an agency or department of the federal government.

Payments ☒ will ☐ will not be made in whole or in part with federal funds.

1.2. In accordance with the Chief Financial Office's Oregon Accounting Manual, policy 30.40.00.104, Agency has determined:

☒ Grantee is a subrecipient ☐ Grantee is a contractor ☐ Not applicable

1.3. Catalog of Federal Domestic Assistance (CFDA) #(s) of federal funds to be paid through this Grant: 21.019

2. FEDERAL PROVISIONS

2.1. The use of all federal funds paid under this Grant are subject to all applicable federal regulations, including the provisions described below.

2.2. Grantee must ensure that any further distribution or payment of the federal funds paid under this Grant by means of any contract, subgrant, or other agreement between Grantee and another party for the performance of any of the activities of this Grant, includes the requirement that such funds may be used solely in a manner that complies with the provisions of this Grant.

2.3. Grantee must include and incorporate the provisions described below in all contracts and subgrants that may use, in whole or in part, the funds provided by this Grant.

2.4. Grantee must comply, and ensure the compliance by subcontractors or subgrantees, with 41 U.S.C. 4712, Program for Enhancement of Employee Whistleblower Protection. Grantee must inform subrecipients, contractors and employees, in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 USC § 4712.

In accordance with U.S. Treasury guidance – Grantee is subject to the following provisions, as applicable.

For purposes of these provisions, the following definitions apply:

"Contract" means this Grant or any contract or subgrant funded by this Grant.

"Contractor" and **"Subrecipient"** and **"Non-Federal entity"** mean Grantee or Grantee's contractors or subgrantees, if any.

(A) 2 CFR §200.303 Internal Controls

(B) 2 CFR §§ 200.330 through 200.332 Subrecipient Monitoring and Management

(C) Subpart F – Audit Requirements of 2 CFR §200.5XX

i. Contractor must comply, and require any subcontractor to comply, with applicable audit requirements and responsibilities set forth in this Contract and applicable state or federal law.

ii. If Contractor receives federal awards in excess of $750,000 in a fiscal year, Contractor is subject to audit conducted in accordance with the provisions of 2 CFR part 200, subpart F. Copies of all audits must be submitted to Agency within 30 days of completion.

iii. Contractor must save, protect and hold harmless Agency from the cost of any audits or special investigations performed by the Secretary of State with respect to the funds expended under this Contract. Contractor acknowledges and agrees that any audit costs incurred by Contractor as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this or any other agreement between Contractor and State.

(D) System for Award Management. Grantee must comply with applicable requirements regarding the System for Award Management (SAM), currently accessible at https://www.sam.gov. This includes applicable requirements regarding registration with SAM, as well as maintaining current information in SAM. The Grantee also must comply with applicable restrictions on subawards ("subgrants") to first-tier subrecipients (first-tier "subgrantees"), including restrictions on subawards to entities that do not acquire and provide (to the Grantee) the unique entity identifier required for SAM registration.

3. ADDITIONAL FEDERAL REQUIREMENTS

None.

EXHIBIT D
FEDERAL AWARD IDENTIFICATION
(Required by 2 CFR 200.331(a))

(i)	Grantee Name: *(must match DUNS registration)*	KEIZER, CITY OF
(ii)	Grantee's DUNS number:	038038147
(iii)	Federal Award Identification Number (FAIN):	
(iv)	Federal award date: *(date of award to DAS by federal agency)*	March 27, 2020
(v)	Grant period of performance start and end dates:	Start: March 1, 2020 End: December 30, 2020
(vi)	Total amount of federal funds obligated by this Grant:	
(vii)	Total amount of federal award committed to Grantee by Agency: *(amount of federal funds from this FAIN committed to Grantee)*	$1,151,914.13
(viii)	Federal award project description:	Coronavirus Relief Fund
(ix)	Federal awarding agency:	U.S. Department of the Treasury
	Name of pass-through entity:	Oregon Department of Administrative Services
	Contact information for awarding official of pass-through entity:	Gerold Floyd, CoronavirusReliefFund@Oregon.gov
(x)	CFDA number, name, and amount:	Number: 21.019 Name: Coronavirus Relief Fund Amount: $1,388,506,837.10
(xi)	Is award research and development?	Yes ☐ No ☒
(xii)	Indirect cost rate:	Not allowed per U.S. Treasury guidance
	Is the 10% de minimis rate being used per §200.414?	Yes ☐ No ☒

CITY COUNCIL MEETING: August 3, 2020

AGENDA ITEM NUMBER:_____

TO: **MAYOR CLARK AND COUNCIL MEMBERS**

THROUGH: **CHRISTOPHER C. EPPLEY, CITY MANAGER**

FROM: **E. SHANNON JOHNSON, CITY ATTORNEY**

SUBJECT: **COVID-19 BUSINESS OREGON FORGIVABLE LOAN AGREEMENT**

In May 2020 we brought a Business Oregon grant proposal to Council which was approved, pending review of the final agreement. This grant was to provide additional funding to businesses affected by the pandemic.

Business Oregon had indicated informally that they would allow the previous program expenditure in the amount of $45,000 to be used as matching funds. However, the Business Oregon agreement did not provide for that. The representatives at Business Oregon understood the disconnect, but they were prohibited from changing any part of the contract, which led to an impasse.

Fortunately, additional federal funding (CARES Act) has become available (see other agenda item) and the City can use these funds for the match requirement.

The matching money is reimbursement funds only, meaning the City has to advance these funds and then get reimbursed from the grant.

RECOMMENDATION:

Adopt the attached Resolution authorizing the city manager to sign the COVID-19 Forgivable Loan Agreement.

Please contact me if you have any questions in this regard. Thank you.

ESJ/tmh

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R2020-_____

AUTHORIZING CITY MANAGER TO SIGN COVID-19 EMERGENCY BUSINESS ASSISTANCE PROGRAM FORGIVABLE LOAN AGREEMENT

WHEREAS, on May 18, 2020, the City Council adopted a Resolution ratifying the Community Development Director's submittal of a proposal to receive funds for small business assistance from Business Oregon;

WHEREAS, the City has been awarded $45,000 with a City match of $45,000;

WHEREAS, the State of Oregon, acting by and through its Business Development Department and the City are authorized to enter into agreements under Oregon Revised Statutes Chapter 190;

WHEREAS, the State and the City wish to enter into the attached Agreement;

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of Keizer that the City Manager is authorized to sign the attached COVID-19 Emergency Business Assistance Program Forgivable Loan Agreement.

BE IT FURTHER RESOLVED that the $45,000 match shall be paid from the General Fund.

Keizer City Attorney
930 Chemawa Road NE
PO Box 21000
Keizer, Oregon 97307
503-856-3433

BE IT FURTHER RESOLVED that the City Manager or his designee is directed and authorized to take all action necessary and appropriate in connection with such Agreement within the normal budgetary constraints of the City of Keizer.

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately upon the date of its passage.

PASSED this _____ day of _____, 2020.

SIGNED this _____ day of _____, 2020.

_____
Mayor

_____
City Recorder

Keizer City Attorney
930 Chemawa Road NE
PO Box 21000
Keizer, Oregon 97307
503-856-3433

COVID-19 EMERGENCY BUSINESS ASSISTANCE PROGRAM
FORGIVABLE LOAN AGREEMENT

OBDD Contract Number C2020230

This forgivable loan agreement ("Contract"), dated as of the date the Contract is fully executed, is between the State of Oregon, acting through its Business Development Department ("OBDD") and the City of Keizer ("Recipient") for capitalizing a COVID-19 Emergency Business Assistance Program sponsored by Recipient and described in Exhibit A ("Program"). This Contract becomes effective only when fully signed and approved as required by applicable law. Unless extended or terminated earlier in accordance with its terms, this Agreement expires 45 days after the Program Completion Deadline. Agreement termination does not extinguish or prejudice OBBD's right to enforce this Agreement with respect to any default by Recipient that has not been cured.

This Contract includes Exhibit A - Program Description and Requirements.

Pursuant to ORS 285B.266 and OAR Ch. 123, Div. 90, OBDD is authorized to enter into loan agreements and make loans from the Strategic Reserve Fund, including this Contract.

SECTION 1 - FUNDING ASSISTANCE

The OBDD shall provide Recipient, and Recipient shall accept from OBDD, a forgivable loan (the "Loan") in an aggregate amount not to exceed $45,000.

SECTION 2 - DISBURSEMENT

A. Full Disbursement. Upon execution of this Contract and satisfaction of all conditions precedent, OBDD shall disburse the full Loan to Recipient.

B. Conditions Precedent to Disbursement. The OBDD's obligations are subject to the receipt of the following items, in form and substance satisfactory to OBDD and its attorneys:

(1) This Contract duly signed by an authorized officer of Recipient; and

(2) Such other certificates, documents, opinions and information as OBDD may reasonably require.

(3) Documentation satisfactory to OBDD that, in addition to the Loan, Recipient has available or has obtained binding commitments for all funds necessary to complete the Program.

OBDD has no obligation unless it has appropriations, limitations, allotments or other expenditure authority sufficient to allow OBDD, in the exercise of its reasonable administrative discretion, to disburse funds in accordance with the terms of this Agreement, and notwithstanding anything in the Agreement, occurrence of such contingency does not constitute a default. Upon occurrence of such contingency, OBDD has no further obligation to disburse funds to Recipient.

SECTION 3 - USE OF LOAN

The Recipient shall use the Loan only for the activities described in Exhibit A. The Recipient may not use the Loan to cover costs scheduled to be paid for by other financing for the Program from another State of Oregon agency or any third party, or to retire any Recipient debt.

SECTION 4 - LOAN REPAYMENT; LOAN FORGIVENESS

A. Promise to Pay. The Recipient shall repay the Loan and all amounts due under this Contract in accordance with its terms. The obligation of Recipient to make all payments is absolute and unconditional. Payments will not be abated, rebated, set-off, reduced, abrogated, terminated, waived, postponed or otherwise modified in any manner whatsoever. Payments cannot remain unpaid, regardless of any contingency, act of God, event or cause whatsoever, including (without limitation) any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, the taking by eminent domain or destruction of or damage to the Program, commercial frustration of purpose, any change in the laws, rules or regulations of the United States of America or of the State of Oregon or any political subdivision or governmental authority, nor any failure of OBDD to perform any agreement, whether express or implied, or any duty, liability, or obligation arising out of or connected with the Program or this Contract, or any rights of set off, recoupment, abatement or counterclaim that Recipient might otherwise have against OBDD or any other party or parties; provided further, that payments hereunder will not constitute a waiver of any such rights.

B. No Interest. The Loan bears no interest.

C. Loan Forgiveness. OBDD shall forgive repayment and cancel the Loan by notice to Recipient, as soon as it determines that all of the following conditions are met:

   (1) Recipient has completed the Program no later than the Program Completion Deadline, which date is 45 days after receipt of the Loan.

   (2) No Event of Default has occurred and continues.

   (3) No later than 30 days after the Program Completion Deadline, Recipient submits the reporting required in Exhibit A, in form and substance satisfactory to OBDD.

D. Partial Loan Forgiveness; Maturity Date. If Recipient is unable to award grants to businesses (including matching funds) as required by this Contract, equal to the full amount of the Loan, OBDD will forgive that portion of the Loan meeting all the conditions in Subsection C above and notify Recipient in writing. Recipient shall pay all unforgiven Loan principal to OBDD not later than 30 days after receiving notice of partial forgiveness, unless otherwise provided by OBDD in writing.

SECTION 5 - COVENANTS OF RECIPIENT

The Recipient covenants as follows:

A. Notice of Adverse Change. The Recipient shall promptly notify OBDD of any adverse change in the activities, prospects or condition (financial or otherwise) of Recipient or the Program related to the ability of Recipient to make all payments and perform all obligations required by this Contract.

B. Public Notification. Recipient will reasonably acknowledge in some public fashion, such as in public statements, that the Program was funded in part with State of Oregon General Funds and Lottery Funds administered by the Oregon Business Development Department.

C. Compliance with Laws. Recipient will comply with the requirements of all applicable federal, state and local laws, rules, regulations, and orders of any governmental authority, except to the extent an order of a governmental authority is contested in good faith and by proper proceedings.

D. Records Retention. Recipient will keep proper books of account and records on all activities associated with the Loan, including, but not limited to grant awards and payments, instruments, agreements and other supporting financial records documenting the use of the Loan, including all grant applications and supplemental documentation provided by business applicants. Recipient will maintain these books of account and records in accordance with generally accepted accounting principles and will retain these books of account and records from the later of the date of this Contract until three years after the Program Completion Deadline or the date that all disputes, if any, arising under this Contract have been resolved.

E. Inspection. The Recipient shall permit OBDD, and any party designated by OBDD, the Oregon Secretary of State's Office, the federal government and their duly authorized representatives, at any reasonable time, to inspect and make copies of any accounts, books and records related to the Program. The Recipient shall supply any Program-related information as OBDD may reasonably require.

F. Notice of Event of Default. The Recipient shall give OBDD prompt written notice of any Event of Default, or any circumstance that with notice or the lapse of time, or both, may become an Event of Default, as soon as Recipient becomes aware of its existence or reasonably believes an Event of Default is likely.

G. Indemnity. To the extent authorized by law, Recipient shall defend (subject to ORS chapter 180), indemnify, save and hold harmless OBDD and its officers, employees and agents from and against any and all claims, suits, actions, proceedings, losses, damages, liability and court awards including costs, expenses, and attorneys' fees incurred related to any actual or alleged act or omission by Recipient, or its employees, agents or contractors, that is related to this Program.

SECTION 6 - REPRESENTATIONS AND WARRANTIES OF RECIPIENT

The Recipient represents and warrants to OBDD:

A. Organization and Authority.

(1) The Recipient is a municipality, validly organized and existing under the laws of the State of Oregon.

(2) The Recipient has all necessary right, power and authority under its organizational documents and applicable Oregon law to (a) execute and deliver this Contract, (b) incur and perform its obligations under this Contract, and (c) receive funding for the Program.

(3) This Contract has been authorized by an ordinance, order or resolution of Recipient's governing body if required by its organizational documents or applicable law.

(4) This Contract has been duly executed by Recipient, and when executed by OBDD, is legal, valid and binding, and enforceable in accordance with their terms.

B. Full Disclosure. The Recipient has disclosed in writing to OBDD all facts that materially adversely affect the Program, or the ability of Recipient to perform all obligations required by this Contract. The Recipient has made no false statements of fact, nor has it omitted information necessary to prevent any statements from being misleading. The information contained in this Contract, including Exhibit A, is true and accurate in all respects.

C. Pending Litigation. The Recipient has disclosed in writing to OBDD all proceedings pending (or to the knowledge of Recipient, threatened) against or affecting Recipient, in any court or before any governmental authority or arbitration board or tribunal, that, if adversely determined, would materially adversely affect the Program or the ability of Recipient to perform all obligations required by this Contract.

D. Governmental Consent. The Recipient has obtained or will obtain all approvals, notifications, declarations, filings or registrations, required for the making and performance of its obligations under this Contract and the undertaking and completion of the Program.

SECTION 7 - DEFAULT

Any of the following constitutes an "Event of Default":

A. Payment Failure. The Recipient fails to make any Loan payment when due.

B. Misleading Statement. Any material false or misleading representation is made by or on behalf of Recipient, in this Contract or in any document provided by Recipient related to this Loan or the Program.

C. The Recipient fails to perform any obligation required under this Contract, other than those referred to in subsections A through B of this section, and that failure continues for a period of 30 calendar days after written notice specifying such failure is given to Recipient by OBDD. OBDD may agree in writing to an extension of time if it determines Recipient instituted and has diligently pursued corrective action.

SECTION 8 - REMEDIES

Upon the occurrence of an Event of Default, OBDD may pursue any remedies available under this Contract, at law or in equity. Such remedies include, but are not limited to, termination of OBDD's obligations to make the Loan or further disbursements, return of all or a portion of the Loan amount, and declaration of ineligibility for the receipt of future awards from OBDD. OBDD may also recover all or a portion of the outstanding balance due under the Loan from Recipient by deducting the amount from any payment due to Recipient from the State of Oregon under any other contract or agreement, present or future, unless prohibited by state or federal law. If, as a result of an Event of Default, OBDD demands return of all or a portion of the Loan amount, Recipient shall pay the amount upon OBDD's demand. OBDD reserves the right to turn over any unpaid debt from this Contract to the Oregon Department of Revenue or a collection agency and may publicly report any delinquency or default. The remedies are cumulative and not exclusive of any remedies provided by law.

In the event OBDD defaults on any obligation in this Contract, Recipient's remedy will be limited to injunction, special action, action for specific performance, or other available equitable remedy for performance of OBDD's obligations.

SECTION 9 - TERMINATION

OBDD may terminate this Contract with notice to Recipient under any of the following circumstances:

A. The Oregon Department of Administrative Services notifies OBDD of an anticipated shortfall in available revenues.

B. OBDD fails to receive sufficient funding, appropriations or other expenditure authorizations to allow OBDD, in its reasonable discretion, to continue making payments under this Contract.

C. There is a change in federal or state laws, rules, regulations or guidelines so that the Program funded by this Contract is no longer eligible for funding.

This Contract may be terminated at any time by mutual written consent of the parties.

SECTION 10 - MISCELLANEOUS

A. No Implied Waiver. No failure or delay on the part of OBDD to exercise any right, power, or privilege under this Contract will operate as a waiver thereof, nor will any single or partial exercise of any right, power, or privilege under this Contract preclude any other or further exercise thereof or the exercise of any other such right, power, or privilege.

B. Choice of Law; Designation of Forum; Federal Forum. The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Contract, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

Any party bringing a legal action or proceeding against any other party arising out of or relating to this Contract shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County (unless Oregon law requires that it be brought and conducted in another county). Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

Notwithstanding the prior paragraph, if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This paragraph applies to a claim brought against the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This paragraph is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

C. Notices and Communication. Except as otherwise expressly provided in this Contract, any communication between the parties or notices required or permitted must be given in writing by personal delivery, email, or by mailing the same, postage prepaid, to Recipient or OBDD at the addresses listed in Exhibit A, or to such other persons or addresses that either party may subsequently indicate pursuant to this Section.

Any communication or notice by personal delivery will be deemed effective when actually delivered to the addressee. Any communication or notice so addressed and mailed will be deemed to be received and effective five (5) days after mailing. Any communication or notice given by email becomes effective 1) upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system or 2) the recipient's confirmation of receipt, whichever is earlier. Notwithstanding this provision, the following notices may not be given by email: notice of default or notice of termination.

D. Amendments. This Contract may not be altered, modified, supplemented, or amended in any manner except by written instrument signed by both parties.

E. Severability. If any provision of this Contract will be held invalid or unenforceable by any court of competent jurisdiction, such holding will not invalidate or render unenforceable any other provision.

F. Successors and Assigns. This Contract will be binding upon and inure to the benefit of OBDD, Recipient, and their respective successors and assigns, except that Recipient may not assign or transfer its rights, obligations or any interest without the prior written consent of OBDD.

G. Counterparts. This Contract may be signed in several counterparts, each of which is an original and all of which constitute one and the same instrument.

H. Integration. This Contract (including all exhibits, schedules or attachments) constitute the entire agreement between the parties on the subject matter. There are no unspecified understandings, agreements or representations, oral or written, regarding this Contract.

I. No Third Party Beneficiaries. OBDD and Recipient are the only parties to this Contract and are the only parties entitled to enforce the terms of this Contract. Nothing in this Contract gives or provides, or is intended to give or provide, to third persons any benefit or right not held by or made generally available to the public, whether directly, indirectly or otherwise, unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.

J. Survival. All provisions of this Contract that by their terms are intended to survive shall survive termination of this Contract.

K. Time is of the Essence. Recipient agrees that time is of the essence under this Contract.

L. Attorney Fees. To the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, the prevailing party in any dispute arising from this Contract will be entitled to recover from the other its reasonable attorney fees and costs and expenses at trial, in a bankruptcy, receivership or similar proceeding, and on appeal. Reasonable attorney fees shall not exceed the rate charged to OBDD by its attorneys.

M. Promotional Use of Recipient Information. Recipient agrees that OBDD may use Recipient and information provided to the OBDD by Recipient in the promotion of OBDD's programs and services.

N. Public Records. OBDD's obligations under this Contract are subject to the Oregon Public Records Laws.

SIGNATURE PAGE FOLLOWS

The Recipient, by its signature below, acknowledges that it has read this Contract, understands it, and agrees to be bound by its terms and conditions.

STATE OF OREGON
acting by and through its
Business Development Department

By: _____
Chris Cummings, Interim Director
Business Oregon

Date: _____

CITY OF KEIZER

By: _____
Chris Eppley, City Manager

Date: _____

APPROVED AS TO LEGAL SUFFICIENCY IN ACCORDANCE WITH ORS 291.047:

/s/ Wendy Johnson per email dated 8 June 2020
Wendy Johnson, Senior Assistant Attorney General

EXHIBIT A - PROGRAM DESCRIPTION AND REQUIREMENTS

OBDD	Recipient
State of Oregon, acting by and through its Business Development Department, 775 Summer Street NE Suite 200 Salem OR 97301-1280	City of Keizer PO Box 21000 Keizer OR 97307
Contract Administrator: Michelle Bilberry	**Contact:** Nate Brown, Community Development Director
Telephone: 503-856-2483	**Telephone:** 503-390-8288
Email: michelle.bilberry@oregon.gov	**Email:** brownn@keizer.org

Program Requirements

Recipient will operate a COVID-19 Emergency Business Assistance Fund that provides one-time-only grants to individual businesses affected by the COVID-19 epidemic, as described below. Recipient will provide its own funds for the Program to match the Loan amount, in at least a 1:1 ratio.

Eligible Business Applicants

1. Businesses must be adversely affected economically in either one of the following two categories:
   - Those for-profit and non-profit (limited to 501(c)(3) corporations) businesses that were prohibited from operation as directed by the Governor of Oregon's Executive Order No. 20-12.
   - Those eligible for-profit businesses that can demonstrate a one month decline in revenue greater than 50% in the month of March 2020 or April 2020 as compared against sales in the month of January 2020 or February 2020. Those 501(c)(3) non-profit businesses that can demonstrate a decline in revenue greater than 50% across the months of March 2020 and April 2020 as compared against the same period of time in 2019.
2. Businesses must have 25 or fewer employees.
3. At the time of a grant award from Recipient's Program, businesses must have been unable to access federal CARES Act funds or other federal funds including:
   - Small Business Administration's Paycheck Protection Program (PPP);
   - Economic Injury Disaster Loan Emergency Advance program (EIDL); or
   - Other federal programs for emergency pandemic funding.

Ineligible Business Applicants

Ineligible applicants include the following categories of businesses:

1. Passive real estate holding companies and others holding passive investments.
2. Non-profit entities that do not have federal 501(c)(3) status.
3. Businesses that fail to certify they are not delinquent on federal, state or local taxes that were due before 1 April 2020.
4. Businesses that do not certify they are in compliance and will comply with all federal, state and local laws and regulations.
5. Businesses not headquartered and with principal operations in Oregon.

6. Businesses not registered to do business in Oregon (Secretary of State Business Registry verification) if such registration is required.

Program Access

It is intended that these state funds are equally accessible to all Oregonians, so Recipient will conduct a robust marketing program that reaches out locally to businesses owned by members of historically disadvantaged population groups (Asian, Black, Hispanic, Native American, and Women Owned Businesses) at least to the extent described in its proposal to OBDD, and must:

- Utilize program marketing materials and application materials provided by OBDD and made available in languages that are representative of the local population.
- Conduct a stepped marketing program that reaches out and markets to members of historically disadvantaged population groups in advance of marketing to the general public.

Business Applications and Support Documentation

In general, Recipient will, applying its best judgment in individual cases, ensure that businesses:

- Self-certify they have not received CARES Act PPP or SBA EIDL assistance as of the date of application.
- Demonstrate:
  - That they were prohibited from operation as directed by Executive Order No. 20-12; or
  - That they had a sales or revenue decrease of 50% or more in the month of March or April 2020, as compared against the sales or revenues of January or February 2020, or for non-profit business, as compared against the same period in 2019.
- Demonstrate they are headquartered and have principal operations in Oregon.
- Self-certify they are not subject to any of the ineligibility criteria.
- Self-certify that the business and its operations are, and will, remain compliant with all local, state and federal laws.
- Provide business, financial and ownership information sufficient to determine and verify eligibility.

Recipient will use a standard Grant Application Form for businesses, including a statement that applicant agrees that State may pursue collection efforts for fraudulent or ineligible grant awards, as supplied by OBDD in multiple languages.

Grant Award Amounts

Awards to eligible businesses will be made as a grant. The amount of the grant will be the greater of two figures, subject to an applicant's ability and choice to provide documentation to support the second figure: the first based on the number of employees before the COVID-19 crisis (as of 29 February 2020); or the second based on the documented amount of fixed operating expenses for the 60 day period of 1 January through 29 February 2020:

- 0-5 employees
  - $2,500, or
  - 60-day fixed expenses up to a maximum of $5,000.

- 6-10 employees
  - $5,000, or
  - 60-day fixed expenses up to a maximum of $10,000.
- 11-15 employees
  - $7,500, or
  - 60-day fixed expenses up to a maximum of $15,000.
- 16-20 employees
  - $10,000, or
  - 60-day fixed expenses up to a maximum of $20,000.
- 20-25 employees
  - $12,500, or
  - 60-day fixed expenses up to a maximum of $25,000.

Not less than 50% of all Recipient's awards must be made to Sole Proprietor owners (with or without other employees).

Review of Applications

Recipient must confirm that all information and certifications provided by business applicants meet all Program requirements, including but not limited to:

- Demonstrate:
  - That the business applicant was prohibited from operation as directed by Executive Order No. 20-12; or
  - That the business applicant had a sales or revenue decrease of 50% or more in the month of March or April 2020, as compared against the sales or revenues of January or February 2020, or for non-profit business, as compared against the same period in 2019.
- Demonstrate that the business applicant is headquartered and with principal operations in Oregon.
- Provide sufficient documentation of employee head count.

Reporting of Awards

To assist in preventing multiple grants to any business, Recipient must send notification of every award to the OBDD Contract Administrator no later than 24 hours after making the award decision, utilizing a Pre-award report form provided by OBDD.

Within 30 days of fully deploying the Loan, or 30 days after the Project Completion Deadline, whichever occurs first, Recipient will deliver a final report on the Program and information on the grant recipients on a form provided by OBDD, which will include but is not limited to:

- Number of applications received
- A listing of the direct costs incurred in the administration of the Program (payroll, marketing, et cetera)

- Number of awards made
  - Awards by #, $ and % of allocation by voluntary reported demographic information
  - Awards by #, $, and % of allocation by regions as defined by OBDD (i.e., Central, Coastal, Eastern, Portland, Southern, and Valley)
  - Award by #, $, and % of allocation by company size / number of employees (0-5, 6-10, et cetera)
  - Award by #, $ and % of allocation to sole proprietors
  - Total amount of Recipient's matching funds applied to awards made under the Program, by $ and % match to the Loan.
- Individual business grant recipient data
  - Name of company
  - Employer Identification Number (EIN)
  - Oregon Business Identification Number (BIN)
  - Address of company
  - NAICS industry code
  - Amount of award
  - Legal business entity type
  - # of employees as of 29 February 2020
  - Reported # of jobs retained due to the award
  - For owners of businesses:
    - First and last name
    - Percentage of ownership
    - Demographics as reported in a demographic questionnaire for all owners with 20% or more ownership.
- A certification by Recipient that no Loan proceeds were used to retire any of Recipient's debt.

Tax Responsibility

Recipient is responsible for all federal or state taxes applicable to any portion of the Loan that is forgiven. Recipient is responsible to administer all federal or state tax requirements applicable to grant awards, including delivery of IRS Form 1099-G to grant recipients.

Program Completion Deadline

Recipient must complete grant awards to eligible businesses no later than the Program Completion Deadline. If Recipient is unable to complete grant awards to businesses (including matching funds) in its aggregate Loan amount by the Program Completion Deadline, Recipient shall return all unforgiven Loan principal to OBDD as provided by Section 4 of the Contract.

CITY COUNCIL MEETING: August 3, 2020

AGENDA ITEM NUMBER:_____

TO: **MAYOR CLARK AND COUNCIL MEMBERS**

THROUGH: **CHRISTOPHER C. EPPLEY, CITY MANAGER**

FROM: **E. SHANNON JOHNSON, CITY ATTORNEY**

SUBJECT: **ABACUSNEXT AMICUS ATTORNEY AGREEMENT**

The Legal Department has been using an electronic attorney management software system from Abacus since 2009. The IT Department has determined that a cloud based system of this program would be appropriate for the Legal Department and has negotiated an agreement for a cloud based system that would manage the server and security for the information. The IT Department indicates that the cloud based system will provide increased disaster recovery and backup.

This current system is of great value to the Legal Department. The cost of the service under the current agreement is $158.40 monthly for two users. The cost of the service under the cloud based agreement is $350.00 monthly for two users. The proposed new three year agreement is attached to the Resolution for your consideration.

RECOMMENDATION:

Adopt the attached Resolution authorizing the City Attorney to sign the AbacusNext Amicus Attorney Agreement.

Please contact me if you have any questions in this regard. Thank you.

ESJ/tmh

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R2020-_____

AUTHORIZING CITY ATTORNEY TO SIGN ABACUSNEXT AMICUS ATTORNEY AGREEMENT

WHEREAS, the Legal Department has been utilizing the Amicus Attorney software since 2009;

WHEREAS, the IT Department has determined it would be appropriate to move the software to a cloud based system;

WHEREAS, the funds are budgeted in the 2020-2021 software/maintenance fund to maintain this attorney management software system;

WHEREAS, AbacusNext and the City has negotiated the terms of an agreement as attached hereto;

WHEREAS, the Council has reviewed the matter and believes it is appropriate for the City Attorney to have access to the attorney management software system;

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of Keizer that the City Attorney is authorized to sign the attached AbacusNext Agreement.

BE IT FURTHER RESOLVED by the City Council of the City of Keizer that the City Attorney is authorized to take any other actions consistent with the Amicus Attorney End User License Agreement.

Keizer City Attorney
930 Chemawa Road NE
PO Box 21000
Keizer, Oregon 97307
503-856-3433

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately upon the date of its passage.

PASSED this _____ day of _____, 2020.

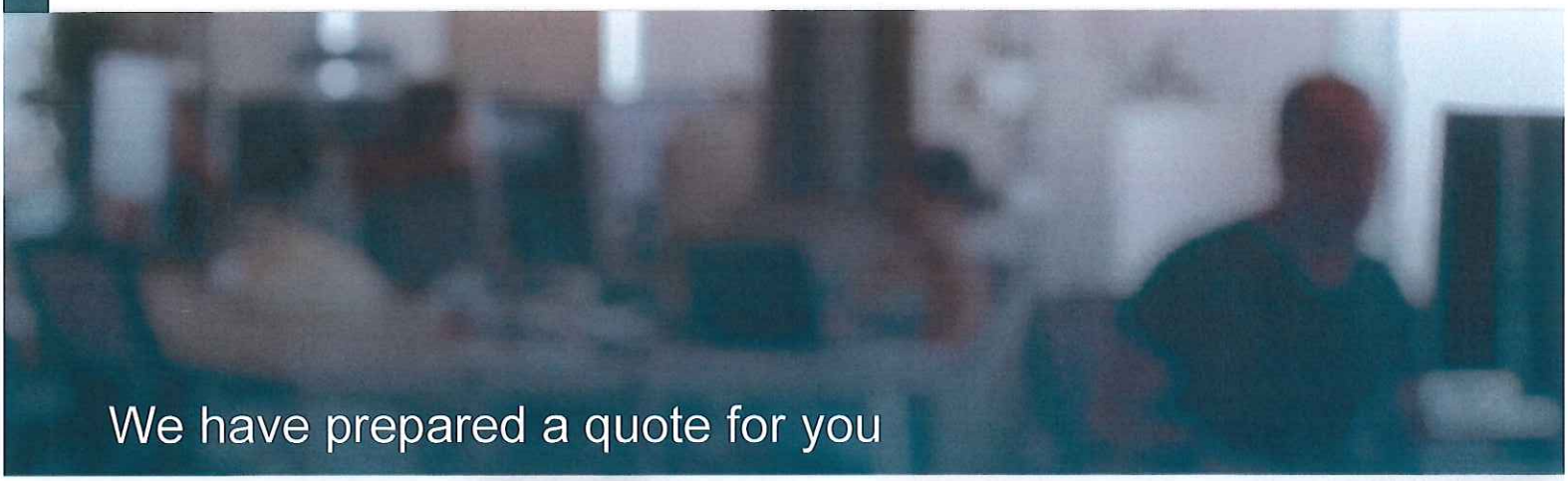
SIGNED this _____ day of _____, 2020.

_____
Mayor

_____
City Recorder

Keizer City Attorney
930 Chemawa Road NE
PO Box 21000
Keizer, Oregon 97307
503-856-3433

ABACUSNEXT



APC 2 users

Quote # 080539
Version 2

Prepared for:

City of Keizer

Bill Hopkins
hopkinsb@keizer.org

Prepared by:

AbacusNext

Vicky Feliz
vfeliz@abacusnext.com

4850 Eastgate Mall
San Diego, CA 92121
https://www.abacusnext.com
(800) 726-3339

APC

Description		Recurring	Qty	Ext. Recurring
APX	**Abacus Payment Exchange (APX) integration**	$0.00	1	$0.00
APC User + Amicus Attorney NB BDL	**APC Standard BDL User + AA BDL NB User, includes Mobile App, AA Anywhere, Client Portal, APX, SQL Server Instance, 1 Rule, and requested integrations. Allows up to 5 apps, requires MS Office 365 E3 License.**	$155.00	2	$310.00
MS Office 365 E3	**Microsoft Office 365 Suite E3 for APC**	$20.00	2	$40.00

Monthly Subtotal: **$350.00**

4850 Eastgate Mall
San Diego, CA 92121
https://www.abacusnext.com
(800) 726-3339

APC 2 users

Proposal Information:	Prepared for:	Prepared by:
Proposal #: 080539	**City of Keizer**	**AbacusNext**
Version: 2	PO Box 21000 Keizer,	Vicky Feliz
Delivery Date: 07/21/2020	Keizer, Oregon 97307	vfeliz@abacusnext.com
Expiration Date: 07/31/2020	Bill Hopkins	
	hopkinsb@keizer.org	

Client Type: Existing

Solution: APC
Migrating: Yes
Term: 36 Months

Order Type: New
Already Existing Customer: Existing
PPOC:

Proposal Summary

Monthly Expenses Summary

Description	Amount
APC	$350.00

Monthly Total: **$350.00 USD**

* Abacus may be required to charge sales tax on any and all charges set forth herein pursuant to certain state and local sales tax laws. Any such taxes will be in addition to the amounts set forth herein. Where Client pays its Monthly Recurring Charges by ACH a 2% discount shall apply. Where Client pays its Annual Recurring Charges in advance by ACH, a 4% discount shall apply. Must qualify for ACH payments to receive discount, US billing addresses only.

ORIGINAL SERVICE ORDER FOR ABACUS PRIVATE CLOUD

By executing this Service Order Form, Client hereby understands that it is entering into a binding contract with Abacus Data Systems, Inc. ("Abacus"). This Service Order Form supersedes all prior agreements between Client and Abacus (or Abacus affiliates) related to any of the products purchased herein (if any). Notwithstanding the prior sentence, to the extent that Client has an existing subscription for an AbacusNext software application (such as AbacusLaw, Amicus Attorney, Results, or OfficeTools) ("On-Prem Subscription"), Client will continue to be billed for the On-Prem Subscription until the Term of Client's Abacus Private Cloud Subscription Commences, at which time Client's On-Prem Subscription shall be terminated.

With the exception of Professional Service Hours (which are not part of Client's Abacus Private Cloud Subscription and are more specifically addressed below if purchased), all items purchased in this Service Order Form set forth above make up Client's Abacus Private Cloud Subscription. As such, each individual sub-part (including but not limited to AbacusLaw, Amicus Attorney, HotDocs, OfficeTools, Results, MS365 or a user of Abacus Private Cloud or an or all of the purchased applications) is part of Client's Abacus Private Cloud Subscription.

Client's Abacus Private Cloud Subscription shall be governed by the Terms and Conditions set forth at https://www.abacusnext.com/abacus-private-cloud-terms-conditions (which is herein incorporated into the Service Order Form by reference).

To the extent that this Service Order Form includes Professional Services hours (which are not part of Client's Abacus Private Cloud Subscription), Client hereby acknowledges that:

All Professional Services related to AbacusNext products (which includes but is not limited to modifications, customizations, data migration, data importation, data manipulation and training) will be rendered pursuant to a separate Statement of Work ("SOW"), which shall be a distinct agreement that is separate from any agreement Client has with Abacus for Client's Abacus Private Cloud Subscription.

4850 Eastgate Mall
San Diego, CA 92121
https://www.abacusnext.com
(800) 726-3339

All such Professional Services purchased and all SOW's for such work shall be governed by the Terms and Conditions set forth at https://www.abacusnext.com/ProServTerms.

This Service Order Form may be executed with written or electronic signature or other written form of approval (including but not limited to approving in an e-mail), and delivered by facsimile or as a pdf or e-mail. Client further agrees that such approval shall constitute Client's signature. If so executed and delivered to Abacus, the document shall be treated as an original and binding copy of this agreement.
Any handwritten or other changes inserted by or on behalf of Client into this Service Order Form are expressly invalid and shall have no effect.

City of Keizer

Signature: _____

Name: Bill Hopkins

Date: _____

CITY COUNCIL MEETING: August 3, 2020

AGENDA ITEM NUMBER:_____

TO: **MAYOR CHRISTOPHER AND COUNCIL MEMBERS**

THROUGH: **CHRISTOPHER C. EPPLEY, CITY MANAGER**

FROM: **E. SHANNON JOHNSON, CITY ATTORNEY**

SUBJECT: **RESOLUTION AUTHORIZING THE FINANCE DIRECTOR TO ENTER INTO AN AGREEMENT WITH CENTURYLINK FOR INTERNET SERVICES**

The City uses Comcast for its internet service provider and wants to switch to CenturyLink. Switching to CenturyLink will increase the City of Keizer's overall internet bandwidth from 150/20mps to 500/500mps for the same cost as the City is currently paying Comcast.

ISSUES AND FISCAL IMPACT:

CenturyLink has requested that the City sign a three-year agreement for $339 per month. The current cost for the Comcast service is approximately $320 per month.

RECOMMENDATION:

Staff recommends that the City Council adopt the attached resolution authorizing the Finance Director to enter into an agreement with Centurylink for internet services.

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R2020-_____

AUTHORIZING THE FINANCE DIRECTOR TO ENTER INTO AGREEMENT WITH CENTURYLINK FOR INTERNET SERVICES

WHEREAS, the City has been utilizing Comcast for its internet service provider;

WHEREAS, switching from Comcast to CenturyLink will increase the City's overall internet bandwidth for the same cost;

WHEREAS, the Council has reviewed the matter and determined that it is appropriate to enter into an agreement with CenturyLink for internet services;

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of Keizer that the Finance Director is authorized to sign an agreement with CenturyLink for internet services.

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately upon the date of its passage.

PASSED this _____ day of _____, 2020.

SIGNED this _____ day of _____, 2020.

_____
Mayor

_____
City Recorder

Keizer City Attorney
930 Chemawa Road NE
PO Box 21000
Keizer, Oregon 97307
503-856-3433

MINUTES
KEIZER CITY COUNCIL WORK SESSION
Monday, July 13, 2020
Keizer Civic Center, Council Chambers
Keizer, Oregon

CALL TO ORDER

Mayor Clark called the meeting to order at 6:00 pm. Roll call was taken as follows:

Present:
Cathy Clark, Mayor
Kim Freeman, Councilor
Marlene Parsons, Councilor
Laura Reid, Councilor
Roland Herrera, Councilor (left at 7:00)
Elizabeth Smith, Councilor (6:05)
Dan Kohler, Councilor

Staff:
Chris Eppley, City Manager
Shannon Johnson, City Attorney
Shane Witham, Community Development
Tim Wood, Finance Director
John Teague, Police Chief
Bill Lawyer, Public Works Director
Machell DePina, Human Resources
Tracy Davis, City Recorder

DISCUSSION

a. COVID-19 Pandemic

Mayor Clark noted that previous emergency planning had not considered a pandemic and suggested that rather than wait until later for a comprehensive look, it would be wise to brainstorm about this midstream.

City Manager, Chris Eppley handed out a list of some of the actions that had been taken and explained that in terms of lessons learned it is difficult to plan for an emergency of this type. He explained that Department Heads met on a regular basis and exercised caution when deciding to close the government to its people. Much was learned regarding on-line meetings and their effectiveness.

City Attorney Shannon Johnson provided information regarding the latest press release from the Governor and the effect it might have on usage of the Community rooms since they are not considered a 'local government building' (which is not subject to the orders) but are considered a 'venue'. Discussion followed regarding adherence to the regulations at the Keizer Little League Fields. Mr. Johnson explained that since the fields are owned by the City, the City is under obligation to make sure the rules are followed.

Finance Director Tim Wood explained that the biggest thing learned was that because we have limited staffing in some areas we have to rely on outside consultants which involves more cost but a quicker outcome. A prime example was the move to the Zoom meetings and language translation services. Efforts have been made to embrace technology and allow transactions to be completed remotely, cash deposits to the bank

diminished during the pandemic and because of technological efforts made, he anticipates that that will remain unchanged. This has, however, caused an increase in the credit card fees. Additionally, the phone tree has been discontinued and comments have been favorable on that change. Mr. Wood then fielded questions regarding postponed utility payments, staffing strain, reimbursement grants for sneeze guards and other forms of protection, and laptops used for telecommuting.

Interim Community Development Director Shane Witham explained that he was not part of the Department Head team at the beginning of the crisis, but he thought that communication to staff was done well and everyone did a good job of pivoting and being flexible. Use of technology was already in place in many areas and the department continued running smoothly and serving the community. Mr. Witham then fielded questions regarding new projects, building inspections and code enforcement.

Human Resources Director Machell DePina focused on the effect of the pandemic on employees, their varying reactions and needs and how each individual's needs were handled. She noted the importance of daily one-on-one check-ins with people who were nervous or were watching reports on a daily or hourly basis in order to help control emotional levels, and explained efforts taken in tracing potential exposures and balancing how much information was shared. Ms. DePina then fielded questions regarding layoffs and testing of employees.

Public Works Director Bill Lawyer explained that workers can operate on 12-hour shifts with half of staff working for a short term but it is not sustainable and communication among staff is more difficult with dual shifts. The weather cooperated so that Parks staff could mow every day and didn't get behind, but the Water Division could not do the annual flushing because of diminished staffing. It has been a learning experience that everyone hopes they don't have to do again, but it is good to know that adequate services can be maintained this way for up to six months. He added that during this period remote work that staff did was effective and productive and it is being considered as ongoing for part of the week.

Police Chief Teague explained efforts being taken to keep staff healthy and avoid exposure so that they could continue working and shared information on variances in crime levels and use of masks. Chief Teague then fielded questions regarding domestic abuse incidents, suicides and mental health breakdowns. Mr. Eppley noted that statewide there have been 315 suicides from lockdown to today. This is five times the normal amount.

City Recorder Tracy Davis shared efforts made into changing meetings and bid openings from person-to-person to the virtual platform, cancelling committee meetings and then getting them back up and running, and utilizing the website and Facebook page for communication in English and Spanish. Regarding the Community Center, Ms. Davis explained that it has been a struggle; events have been cancelled since mid-March; she and

Mr. Johnson are working through the ever-changing Oregon Health Authority guidelines. It is hoped that the Community Center will open soon but there will be an additional fee because three additional staff will be required for every event.

Councilor Herrera noted that his contribution to the community and his culture was a calming message he sent out on his Councilor page that was shared by many organizations.

Councilor Kohler praised City staff for their communication and good decisions and noted that he missed the one-on-one communications during the Zoom meetings.

Councilor Reid noted that she appreciated the LOC meetings and Mr. Eppley's summary of them every week, and expressed the need for concise communication and for having an Emergency Management person on staff who would have an accurate view of those in need.

Councilor Freeman urged that a policy be put together to capture what has been learned from this experience.

Discussion followed regarding how feedback was received from staff, impacts of telecommuting, adjusting to returning to the worksite, and continuing to reach out to the community through Facebook Live in Spanish and English.

Councilor Smith expressed gratitude for the City embracing social media to reach out to the public adding that she hoped this would continue because good communication is critical along with grace, respect, trust and understanding.

Councilor Parsons echoed Councilor Smith's comments emphasizing the importance of good, consistent communication.

Mayor Clark named areas of strength such as use of social media, team efforts, communication and working with community partners. Weaknesses included outdated Council Rules and limited broadband capacity. She noted that the weaknesses are being addressed and outreach has increased to a wider sector of the community through technology that had not been accessed previously.

Mr. Eppley noted that he wanted to let Council and the community know how lucky they are because they have such talented, good and dedicated Department Heads running the City and making his job easier. Mayor Clark replied that Council feels the same and that this will be reviewed again this fall with the goal to have a Councilor work with emergency management and have a seat at the table with Marion County.

ADJOURNMENT Mayor Clark adjourned the meeting at 7:54 p.m.

MAYOR: APPROVED:

Cathy Clark

Debbie Lockhart, Deputy City Recorder

COUNCIL MEMBERS

Councilor #1 – Laura Reid

Councilor #4 – Roland Herrera

Councilor #2 – Kim Freeman

Councilor #5 – Elizabeth Smith

Councilor #3 – Marlene Parsons

Councilor #6 – Daniel R. Kohler

Minutes approved:_____

MINUTES
KEIZER CITY COUNCIL
Monday, July 20, 2020
Keizer Civic Center, Council Chambers
Keizer, Oregon

CALL TO ORDER

Mayor Clark called the meeting to order at 7:00 pm. Roll call was taken as follows:

Present:	**Staff:**
Cathy Clark, Mayor	Chris Eppley, City Manager
Kim Freeman, Councilor	Shannon Johnson, City Attorney
Daniel Kohler, Councilor	Shane Witham, Community Development
Marlene Parsons, Councilor	Bill Lawyer, Public Works Director
Elizabeth Smith, Councilor	John Teague, Police Chief
Roland Herrera, Councilor	Tim Wood, Finance Director
Laura Reid, Councilor	Tracy Davis, City Recorder

FLAG SALUTE

Mayor Clark led the pledge of allegiance.

SPECIAL ORDERS OF BUSINESS

COMMITTEE REPORTS

Jeff Sargent, Keizer, reported that the Parks Board at their last meeting heard testimony regarding tripping hazards on park pathways, the Palmer Snapp Eagle Scout project and the possibility of getting a CCRLS Library in Keizer. Extensive clearing has been done at Wallace House Park and Board members reported on their assigned parks.

PUBLIC TESTIMONY

Carol Doerfler, Keizer, voiced support for replacement language for Section 44 or an inclusivity statement and urged that an inclusivity resolution be adopted immediately. City Attorney Shannon Johnson explained why it was important to put this issue into a Resolution rather than the Charter. Mayor Clark added that this was addressed by the first paragraph of Resolution 2018-2912 which states that 'the City of Keizer regards and treats all people with dignity and respect and strives to carry these values out in providing our services to all the people of Keizer'.

Ms. Doerfler continued her testimony complaining about continued use of illegal fireworks before and after the holiday noting that people do not contact the authorities because they feel they will not respond. Chief Teague explained that use of illegal fireworks is a B misdemeanor; law enforcement officers do enforce this, but they are hesitant to arrest people especially when most of the offenders are not criminals. He would like to get a list of the problem people and reach out to them now and prior to the fireworks season next year, but he also needs someone to

tell the police who the offenders are when the offense occurs so that they can arrest the appropriate person. He suggested that if the legislature would change the offense to a C misdemeanor and add 'participating in the unlawful use of fireworks', offenders could be cited and bought to municipal court which would be more appropriate than an arrest.

Darrell Brown, Keizer, asked several questions related to the recent cyber-security breach and explained that he is in the business of recovering files without having to negotiate with cyber terrorists. Finance Director Tim Wood responded with an explanation of the restoration process, investigation into cyber security, virus software and internet services. Mr. Brown offered his services at no cost.

Rich Rodriguez, Keizer, proposed that since the City does not have a formal Sustainability Plan, a Sustainability Committee be formed to recommend to Council how to capture data for emissions sources and energy usage and how to reduce them. He urged interested citizens to go to the Keizer Sustainability Facebook page for more information. Mayor Clark explained that the city has a tree program, City Hall has a LEED Silver certification, the Stormwater and Environmental departments work diligently on sustainability and Claggett Creek Watershed Council works in this field as well.

PUBLIC HEARING

None

ADMINISTRATIVE ACTION

City Attorney Shannon Johnson summarized his staff report. Mayor Clark asked if anyone in the audience had any comments. There were none.

a. RESOLUTION – Establishing the Amount of the Sewer System Development Charge for Wastewater Treatment Facilities

Councilor Freeman moved that the Keizer City Council adopt a Resolution Establishing the Amount of the Sewer System Development Charge for Wastewater Treatment Facilities; Repealing Resolution R2019-2991. Councilor Herrera seconded. Motion passed unanimously as follows:

AYES: Clark, Reid, Freeman, Parsons, Herrera, Smith and Kohler (7)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: None (0)

b. Approval of Charter Revisions

Mr. Johnson summarized his staff report noting that Councilor Reid had recommended some minor revisions which would be added.

Councilor Freeman moved that the Keizer City Council place the Charter, including the minor revisions suggested by Councilor Reid, on the November 2020 ballot. Councilor Herrera seconded. Motion passed unanimously as follows:

AYES: Clark, Reid, Freeman, Parsons, Herrera, Smith and Kohler (7)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: None (0)

Mayor Clark noted for the record that the Charter Review Committee had 'termed out' and on thanked the committee members for their great service to the community.

CONSENT CALENDAR

A. RESOLUTION – Ratifying City Manager's Signing of Master Services Agreement with Arete Advisors for Matters Related to Information Security Incident
B. RESOLUTION – Ratifying City Manager's Signing of Engagement Letter with Lewis Brisbois Bisgaard & Smith LLP as Special Legal Counsel for Matters Related to Information Security Incident
C. RESOLUTION – Authorizing the Finance Director to Enter Into Agreement with Arete Advisors for the SentinelOne Endpoint Protection Platform Subscription
D. RESOLUTION – Authorizing City Manager and Chief of Police to Enter Into eProsecutor Usage Agreement with Marion County
E. RESOLUTION – Repeal of Resolution R2020-3088 (Exemption of Professional Services Agreement for Carving of Keizer Cultural History Pole from Competitive Bidding and Awarding Agreement to Oregon 3D Art and Chainsaw Sculptures LLC)
F. Approval of July 6, 2020 City Council Regular Session Minutes

Items C, E and F were pulled.

Councilor Freeman moved that the Keizer City Council approve Items A, B and D of the Consent Calendar. Councilor Herrera seconded. Motion passed as follows:

AYES: Clark, Reid, Freeman, Parsons, Herrera, Smith and Kohler (7)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: None (0)

Item C: Tim Wood provided information regarding the ransomware warranty and the effectiveness of the product noting that this product would have prevented the recent breach.

Councilor Freeman moved that the Keizer City Council approve Item C of the Consent Calendar. Councilor Herrera seconded. Motion passed as follows:

AYES: Clark, Reid, Freeman, Parsons, Herrera, Smith and Kohler (7)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: None (0)

Item E: Mr. Johnson provided explanation regarding the carving of the second story pole and the change in artists.

Councilor Freeman moved that the Keizer City Council approve Item E of

the Consent Calendar. Councilor Herrera seconded. Motion passed as follows:

AYES: Clark, Reid, Freeman, Parsons, Herrera, Smith and Kohler (7)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: None (0)

Item F: Councilor Herrera asked that 'LGBTQ' be added before the word 'community'.

Councilor Freeman moved that the Keizer City Council approve Item F as amended of the Consent Calendar. Councilor Herrera seconded. Motion passed as follows:

AYES: Clark, Reid, Freeman, Parsons, Herrera, Smith and Kohler (7)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: None (0)

COUNCIL LIAISON REPORTS

Councilor Herrera shared information about various activities and events he had attended and announced that the McNary graduation would be held on August 7 at the McNary football field.

Councilor Parsons reported on meetings and events she had attended and announced upcoming ones. She added that she would not be at the August 3 Council meeting.

Councilor Smith announced upcoming meetings and urged everyone to be careful when swimming noting that life jackets are not available near the water at Detroit Lake so everyone needs to bring their own.

Councilor Freeman reminded everyone to refrain from leaving animals in cars, urged citizens to attend Council meetings, reported on meetings and events she had attended and shared Covid-19 related information.

Councilor Reid reported on meetings and events she had attended, announced upcoming ones and added that she would not be at the August 3 Council meeting.

Councilor Kohler reported on meetings, events and volunteer opportunities in which he had participated and announced upcoming ones and added that he would not be at the August 3 Council meeting.

Mayor Clark shared details on meetings and events she had attended, announced upcoming ones, and provided detailed information relating to relief for families in need.

OTHER BUSINESS

Public Works Director Bill Lawyer urged everyone to use their water wisely, noted that opening of the splash fountain has been postponed pending installation of a needed part, work will continue at Wallace House Park but nothing can be done about the log jam, River Road

paving should be completed by the end of the week, heavy reflection paint will be used the stripe the city, and Shoreline storm line is almost complete.

Interim Community Development Director Shane Witham reported that the Planning Commission will be looking at the Flood Plain Ordinance in August. Council well have a Public Hearing for the Area D Master Plan Amendment at the August 3 meeting.

Finance Director Tim Wood reported that the City is moving into the 'clean up and stability' phase with the server rebuild. He explained that the virus protection approved by Council is significantly better than what was being used before and the two-factor authentication improves security as well.

City Manager Chris Eppley announced that the City of Keizer would be receiving an allocation through CARES funding based on population. The amount is not known but it is hoped that the funds can be used for grant programs within the community and to replace the temporary safety measures at the front counters with permanent protection fixtures.

WRITTEN COMMUNICATIONS

Mayor Clark submitted for the record two emails regarding fireworks. She then read an email from a City employee praising Tim Wood, Kristen Meyers, Machell DePina and Chris Eppley.

AGENDA INPUT

August 3, 2020 - 7:00 p.m. – City Council Regular Session
August 10, 2020 - 6:00 p.m. - City Council Work Session - Cancelled
August 17, 2020 - 7:00 p.m. - City Council Regular Session

ADJOURNMENT

Mayor Clark adjourned the meeting at 8:59 p.m.

MAYOR: APPROVED:

Cathy Clark

Debbie Lockhart, Deputy City Recorder

COUNCIL MEMBERS

Councilor #1 – Laura Reid

Councilor #4 – Roland Herrera

Councilor #2 – Kim Freeman

Councilor #5 – Elizabeth Smith

Councilor #3 – Marlene Parsons

Councilor #6 – Daniel R. Kohler

Minutes approved:_____

Written Communications/Testimony and Submitted Documents

From: Bevin Findley smilinbev3@gmail.com
Subject: The fireworks have to stop please. 7/27/2020
Date: Jul 28, 2020 at 11:41:23 AM
To: Cathy Clark ClarkC@keizer.org

Dear Mayor Clark,

I know it is challenging to enforce these issues for the police at times but it is getting quite unreasonable that this continues nightly and no attempt to stop it seems to be happening. Every night at about 945-10pm people are still lighting off fireworks. I have two terrified dogs and it does not do well with myself either. At this time of night when it is extremely hot this is the only time windows can be opened to cool down the house and what do we get for our attempt but fireworks being lit off and cars attempting to break the speed of sound flying down Windsor Island Rd. Someone will get severely hurt one day as this seems to be where people do not think to adhere to any speed limit. If you wish to pass this along to the police I am sure they can make some substantial funds for the city. I know I am not alone in the frustration of continued fireworks. The speeding is just a bonus I get to live with as when we purchased our home I thought it was considered a residential street but have since found it is a backroad to river road that people like to go at insane speeds.

Please share this with anyone that may be able to help with these issues.

Sigh. Just so tired of nothing being done with fireworks and frustrated that even a show your speed sign does nothing to deter people who like to speed down this street.

Thanks for reading this.

Bevin Findley
Resident of Keizer.

Re: To Keizer City Council regarding defunding the police

Cathy Clark
Sent: Thursday, July 30, 2020 10:01 PM
To: David Henze [davidhenze01@gmail.com]
Cc: Laura Reid; Marlene Parsons; Roland Herrera; Elizabeth Smith; Daniel Kohler; Teague, John; Eppley, Christopher; Kim Freeman

Dear Mr. Henze,
Thank you for your letter and support for the amazing people who serve our community through public safety.
The Keizer City Council has approved our budget with full funding for our police department.
All the best,

Cathy Clark, Mayor
Clarkc@keizer.org
Sent from my iPhone

On Jul 30, 2020, at 7:12 PM, Kim Freeman <FreemanK@keizer.org> wrote:

Mr. Henze,

Thank you for this email.

We appreciate feedback from our citizens and I appreciate your support of our Police Department.

We are very fortunate to have a team of officers who do a fantastic job in our community.

Please reach out to us at anytime.

Kim Freeman
Keizer City Councilor
freemank@keizer.org
503-510-3432

From: David Henze [davidhenze01@gmail.com]
Sent: Wednesday, July 29, 2020 10:20 AM
To: Kim Freeman; Laura Reid; Marlene Parsons; Cathy Clark; Roland Herrera; Elizabeth Smith; Daniel Kohler
Subject: To Keizer City Council regarding defunding the police

I would like to thank you for your work on the City Council. I understand that it is a thankless job so I wanted to give you some thanks. We moved to Keizer two years ago and it is such a nice place to live.

I am writing today to express my voice that I do not support defunding the police. There is always room for improvement, but the current movement is not smart nor rational.

Thank you for taking the time to listen.

David Henze
729 Crystal Springs Ln N, Keizer, OR 97303
509-941-7770