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**AGENDA**  
**OMAK CITY COUNCIL MEETING**  
**Monday, April 3, 2023 – 7:00 PM**

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**A. CALL TO ORDER**

**B. FLAG SALUTE**

**C. CITIZEN COMMENTS**

**D. MAYOR'S REPORT**

1. Arbor Day Proclamation

**E. CONSENT AGENDA**

1. Approval of Minutes from March 20, 2023
2. Approval of 2023 Claims and March '23 Payroll

**F. NEW BUSINESS**

1. Shoreline Master Program - Kurt Danison, Contract Planner
2. Resource Officer - Scott Haeberle, Omak School District
3. Res. 39-2023 – Approve Extension of Contract with Gray & Osborne
4. Res. 40-2023 – Approve Purchase of Picnic Tables
5. Res. 41-2023 – Approve Task Order No. 45-22-044 J-U-B Engineers
6. Ord. 1923 – Granting a Franchise Agreement with OCTA
7. Ord. 1924 – Granting a Franchise Agreement to Ziplly

**G. OTHER BUSINESS**

1. Council Committee Reports
2. Staff Reports



**Action by City Council**



**WHEREAS**, in 1872, the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, and;

**WHEREAS**, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska, and;

**WHEREAS**, Arbor Day is now observed throughout the nation and the world and;

**WHEREAS**, trees can be a solution to combating climate change by reducing the erosion of our precious topsoil by wind and water, cutting heating and cooling costs, moderating the temperature, cleaning the air, produce life-giving oxygen, and provide habitat for wildlife, and;

**WHEREAS**, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products, and;

**WHEREAS**, trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community, and;

**WHEREAS**, trees – wherever they are planted – are a source of joy and spiritual renewal.

**NOW, THEREFORE**, I, Cindy Gagné, Mayor of the City of Omak, Washington, do hereby proclaim **Friday, April 28, 2023**, as Arbor Day in the City of Omak, and I urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands, and

**FURTHER**, I urge all citizens to plant trees to gladden the heart and promote the well-being of this and future generations.

**DATED** this 3rd day of April, 2023.

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Cindy Gagné, Mayor

# MEMORANDUM

To: Omak City Council  
Cindy Gagné, Mayor

From: Wayne Beetchenow, Public works Director

Date: April 3, 2023

Subject: Resolution 39-2023 Approving a Contract Extension for Engineering Services.

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The Attached Resolution 39-2023, A Resolution of the City Council of Omak Washington, Approving an Extension to the 2021 Contract Between the City of Omak and Gray & Osborne, Inc. For General Engineering Services for 2023, is forwarded for your consideration.

Gray & Osborne was selected through a formal selection process to provide "On Call" Engineering services in February 2021.

Gray & Osborne continue to provide excellent services to the City of Omak. We have several projects currently going on in 2023, and we wish to extend their services agreement.

General on call engineering and consulting service agreements are formally sought every three years and reviewed annually for consideration of extension.

I support this Resolution and its Adoption.

**RESOLUTION NO. 39-2023**

**A RESOLUTION OF THE OMAK CITY COUNCIL APPROVING AN EXTENSION TO  
THE 2021 CONTRACT BETWEEN THE CITY OF  
OMAK AND GRAY & OSBORNE, INC. FOR GENERAL ENGINEERING  
SERVICES THROUGH DECEMBER 2023**

**WHEREAS**, the City of Omak approved a 2021 contract with Gray & Osborne, Inc. to provide professional engineering services to the City of Omak through approval of Resolution No. 05-2021 on February 1st, 2021; and

**WHEREAS**, in contacting Municipal Research and Services Center legal staff, it has been determined the City can opt to continue general engineering services with the same engineers for up to three years; and

**WHEREAS**, Gray & Osborne, Inc. has been involved in several on-going engineering projects that are anticipated to continue through 2023; and

**WHEREAS**, the City's staff has been pleased with the service provided by Gray & Osborne, Inc. as the City's engineers; and

**WHEREAS**, it has been mutually agreed between the City of Omak and Gray & Osborne, Inc. to extend the 2021 contract.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OMAK, WASHINGTON**, as follows:

Section 1. The firm of Gray & Osborne, Inc. is designated to provide engineering service through December 31, 2023.

Section 2. The Contract for Professional Engineering Services dated March 16th, 2023, a copy of which is attached hereto as Exhibit "A", is hereby approved to be extended through December 31, 2023.

**PASSED BY THE CITY COUNCIL** this \_\_\_\_ day of \_\_\_\_\_, 2023.

**APPROVED:**

\_\_\_\_\_  
Cindy Gagné, Mayor

Resolution No. 39-2023  
April 3, 2023  
Page 2 of 2

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**ATTEST:**

\_\_\_\_\_  
Connie Thomas, City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Michael D. Howe, City Attorney

**PROPOSAL AND CONTRACT  
FOR  
PROFESSIONAL ENGINEERING SERVICES**

**CITY OF OMAK  
WASHINGTON**

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**MARCH 2023**

**GRAY & OSBORNE, INC.  
CONSULTING ENGINEERS**

**CONTRACT FOR  
PROFESSIONAL ENGINEERING SERVICES**

THIS Contract between the CITY OF OMAK, Washington, hereinafter called the "Agency"; and GRAY & OSBORNE, INC., Consulting Engineers, Seattle, Washington, hereinafter called the "Engineer".

WITNESSETH:

WITNESSETH THAT, whereas, the Agency now finds that, from time to time, in the growth and development of the Agency, there will be the need for the engagement of professional engineering services. The purpose of this Contract is to define the services to be performed and method of payment for professional engineering services which may, from time to time, be authorized by the Agency.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto do mutually agree as follows:

**ARTICLE 1**

**EMPLOYMENT OF THE ENGINEER**

The Agency, acting pursuant to its vested authority, does hereby engage the Engineer and the Engineer agrees to furnish the engineering services as requested by the Agency in connection with the Agency's On-Call Engineering Services. These services are outlined in this Contract and shall be undertaken upon request by the Agency to the Engineer, then only for the services so requested. The Engineer shall furnish a scope of work and costs for each service requested which will become a numbered exhibit to the Contract.

**ARTICLE 2**

**CHARACTER & EXTENT OF ENGINEERING SERVICES**

Upon written direction of the Agency to proceed, the Engineer shall provide engineering services in accordance with a written scope of work (Task Order), which will describe the engineering services to be provided, such services may include, but are not limited to, grant and/or loan application assistance, engineering studies, financial analysis, cost estimating, predesign services, design, local improvement district or utility local improvement district formation, surveys, mapping, peer review, preparation of easements and right-of-way documentation, environmental studies, permitting, and documentation, public meetings, project bid and award services, and construction management and administration assistance.

## SPECIAL SERVICES

The Engineer may employ competent professionals to assist in the completion of the work as described in the project specific scope of work and budget. The information so secured shall be made available to the Agency for the use and development of the Agency's projects.

### ARTICLE 3

#### SCOPE OF OWNER SERVICES

The AGENCY shall provide or perform the following:

Provide full information as to the Agency's requirements for the Project. Assist the Engineer by placing at his disposal all available information pertinent to the site of the Project, including previous reports, drawings, plats, surveys, utility records, and any other data relative to the Project. Absent specific written direction to the contrary, the Engineer shall be entitled to rely upon the completeness and accuracy of such documentation.

Examine all studies, reports, sketches, estimates, specifications, drawings, proposals, and other documents presented by the Engineer.

### ARTICLE 4

#### COMPENSATION

It is mutually agreed that the Agency will compensate the Engineer for services furnished based on the cost reimbursement method.

The total cost of on-call engineering services, to be described in scopes of work requested by the Agency, cannot be determined at this time, in advance. The total cost for services will be established by Agreement between the Agency and the Engineer on a case-by-case basis as the need arises and/or by amendment to this Contract.

The following information will be provided for each project assigned by and approved by the Agency.

- (a) Cost Ceiling: The total amount of compensation for engineering services as described herein, and as further defined in letters or exhibits to this Contract including profit (fee), out-of-pocket expenses, direct labor costs, direct overhead and indirect overhead shall not exceed the total dollar cost agreed upon, without a formal amendment to this Contract.

- (b) Compensation Determination: The amount of compensation due the Engineer by the Agency for the services furnished under this Contract shall be determined as provided hereinafter. Such payment shall be full compensation for work performed.

Payment for work accomplished is on the basis of the Engineer's fully burdened labor cost plus direct non-salary costs.

1. Fully burdened labor costs are determined by multiplying the hours spent by employees on the project, times the employee's fully burdened billing rate. The fully burdened billing rates are identified on Exhibit "A" and include direct salary cost, overhead, and profit. Overhead includes federal, state, and local taxes; insurance and medical; professional development and education; vacations and holidays; secretarial and clerical work; GIS, CADD, and computer equipment; owned survey equipment and tools; rent, utilities, and depreciation; office expenses; recruiting; professional services; incentive and retirement; and facilities cost of capital.
2. The direct non-salary costs are those costs directly incurred in fulfilling the terms of this Contract including, but not limited to travel, reproduction, supplies and fees for special professional services of outside consultants. If the Engineer is directed to employ special, professional expertise, the Agency will be billed by the Engineer for the special service invoiced amount plus ten percent (10%) for administrative overhead.

Payment of compensation shall be upon submittal to the Agency of a bill by the Engineer at approximate monthly intervals for services rendered during the preceding time period.

The cost records and accounts pertaining to this Contract are to be kept available for inspection by representatives of the Agency for a period of three (3) years after final payment. In the event any audit or inspection identifies any discrepancy in the financial records, the Engineer shall provide clarification and/or make adjustments accordingly.

## **ARTICLE 5**

### **ADDITIONAL WORK**

If during the performance of this contract, or subsequent to completion of the work under this contract, other or additional services other than those previously specified, including but not limited to additions or revisions by the Agency, are ordered in writing by the Agency, the Engineer agrees to provide the services and the Agency agrees to compensate the Engineer under the same method of Compensation Determination described herein, to be determined at the time the additional services are ordered. The

Engineer agrees not to proceed with the additional services until such time as the costs for the additional services have been approved by the Agency.

## **ARTICLE 6**

### **PUBLIC RECORDS REQUESTS**

The Engineer shall comply with Agency requests for documents which are the result of public records requests made under the Public Records Act. The Agency hereby acknowledges that gathering, copying and transmitting documents requested in this manner is Additional Work and agrees to compensate the Engineer accordingly.

## **ARTICLE 7**

### **MAJOR REVISIONS**

If, after the design has been approved by the Agency, and the Engineer has proceeded with the final design, and has performed work in processing same and the Agency authorizes new or substantially alters the design, the Agency will pay the Engineer a just and equitable compensation as mutually agreed upon by the Agency and the Engineer, or if an agreement cannot be reached within thirty (30) days, the equitable compensation shall be determined by mediators.

## **ARTICLE 8**

### **COST ESTIMATE**

The Agency is herewith advised that the Engineer has no control over the cost of labor, material, and equipment, including the contractors' and suppliers' methods of producing and delivering such goods and services; or over the methods and styles of competitive bidding or market conditions; and, accordingly, the Engineer's cost estimates are made and furnished on the basis of his experience and qualifications and represent only his best judgment as a design professional and within his familiarity with the construction industry, and, as such, the Engineer cannot and does not warrant, in any other manner or style, the accuracy of the cost estimates, nor that the estimates will or will not vary significantly with bids received by or construction costs realized by the Agency.

## **ARTICLE 9**

### **FACILITIES TO BE FURNISHED BY THE ENGINEER**

The Engineer shall furnish and maintain a central office, work space and equipment suitable and adequate for the prosecution of the work that is normal to the functioning of an established operating engineering practice.

## **ARTICLE 10**

### **OWNERSHIP OF PLANS**

All reports, designs, drawings and specifications prepared by the Engineer, as provided under this Contract shall be and do become the property of the Agency upon payment to the Engineer of his compensation as set forth in this Contract. Reuse of any of the instruments of services of the Engineer by the Agency on extensions of this project or on any other project without the written permission of the Engineer shall be at the Agency's risk and the Agency agrees to defend, indemnify and hold harmless the Engineer from all claims, damages and expenses including attorney's fees arising out of such unauthorized reuse of the Engineer's instruments of service by the Agency or by others acting through the Agency.

## **ARTICLE 11**

### **SEVERABILITY**

If any provision of this Contract is held invalid, the remainder of this Contract shall not be affected thereby, if such remainder would then continue to conform to the terms and requirements of the applicable law.

## **ARTICLE 12**

### **MEDIATION**

All claims, disputes and other matters in question between Agency and Engineer shall, in the first instance, be subject to mediation. Either party may notify the other, by certified mail, of the existence of a claim or dispute. If such claim or dispute cannot promptly be resolved by the parties, the Engineer shall promptly contact the Judicial Arbitration and Mediation Service, Inc., or any other recognized mediation service agreed to by the parties, to arrange for the engagement and appointment of a mediator for the purpose of assisting the parties to amicably resolve the claim or dispute. The person or persons serving as mediator will be agreed upon by both parties. The cost of the mediator shall be borne equally by the parties. The Agency and Engineer further agree to cooperate fully with the appointed mediator's attempt to resolve the claim or dispute, and also agree that litigation may not be commenced, by either party, for a period of ninety calendar days following the receipt by the other party of the written notice of claim or dispute. This mediation provision may be asserted by either party as grounds for staying such litigation.

## ARTICLE 13

### ASSIGNABILITY

The Engineer shall not assign nor transfer any interest in this Contract without the prior written consent of the Agency.

## ARTICLE 14

### EQUAL EMPLOYMENT OPPORTUNITY

The Engineer agrees that it will not discriminate against any employee or applicant for employment because of race, religion, color, sex, age or national origin.

The parties hereby incorporate 41 C.F.R. 60-1.4(a)(7); 29 C.F.R. Part 471, Appendix A to Subpart A; 41 C.F.R.60-300.5(a)11; and 41 C.F.R. 60-741.5(a)6; if applicable.

**This contractor and subcontractor shall abide by the requirements of 41 C.F.R. 60-300.5(a) and 41 C.F.R. 741.5(a). These regulations prohibit discrimination against qualified protected veterans, and qualified individuals on the basis of disability, respectively, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and qualified individuals with disabilities, respectively.**

## ARTICLE 15

### COVENANT AGAINST CONTINGENT FEES

The Engineer warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fees, excepting bona fide employees. For breach or violation of this warranty, the Agency shall have the right to annul this Contract without liability or in its discretion to deduct from the Contract price or consideration or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

## ARTICLE 16

### SAFETY

The duty and/or Services furnished hereunder by the Engineer, does not include a review of the adequacy of any contractor's safety measures in, on, or near a project construction site. The contractor alone shall have the responsibility and liability thereof, and shall be insured accordingly. Neither the activities of the Engineer, nor the presence of the Engineer's employees at a site, shall relieve the contractor of their obligations, duties, and responsibilities with any health or safety precaution required to ensure the safety of the jobsite.

## ARTICLE 17

### INDEMNITY AGREEMENT

The Engineer's insurance shall be primary. The Engineer shall hold the Agency harmless from, and shall indemnify the Agency against, any and all claims, demands, actions or liabilities caused by or occurring by reason of any negligent act or omission of the Engineer, its agents, employees or subcontractors, arising out of or in connection with the performance of this Contract.

In those cases where damages have been caused by the concurrent negligence of the Agency and Engineer, its agents, employees or subcontractors, the Engineer shall be required to indemnify the Agency for that portion of the damages caused by the negligence of the Engineer, its agents, employees or subcontractors.

The Engineer has no duty to indemnify the Agency where damages were caused by the negligence of the Agency.

## ARTICLE 18

### INSURANCE

#### A. Public Liability

The Engineer shall provide evidence of comprehensive Public Liability and Property Damage Insurance which includes but is not limited to, operations of the Engineer, commercial general liability, and blanket limited contractual liability with limits of not less than:

#### COMPREHENSIVE GENERAL LIABILITY

Bodily Injury & Property Damage: \$1,000,000 each person  
\$1,000,000 each occurrence  
\$1,000,000 each aggregate

#### AUTOMOBILE LIABILITY

Bodily Injury: \$1,000,000 each person  
\$1,000,000 each occurrence

Property Damage: \$1,000,000 single limit

The Agency shall be named as an additional insured as respects this Contract. In conjunction therewith, the Engineer shall furnish a certificate of such insurance to the Agency at the time of execution of this Contract.

B. Professional Liability

The Engineer shall provide Professional Errors and Omissions Liability Insurance which shall provide coverage for any negligent professional acts, errors or omissions for which the Engineer is legally responsible, with limits of not less than:

PROFESSIONAL ERRORS                      \$1,000,000 each occurrence  
AND

OMISSIONS LIABILITY                      \$1,000,000 aggregate

The Engineer shall furnish a certificate of such insurance to the Agency at the time of execution of this Contract.

**ARTICLE 19**

**STATUS OF ENGINEER**

The Engineer is an independent contractor operating for its own account, and is in no way and to no extent an employee or agent of the Agency. The Engineer shall have the sole judgment of the means, mode or manner of the actual performance of this Contract. The Engineer, as an independent contractor, assumes the entire responsibility for carrying out and accomplishing this Contract.

**ARTICLE 20**

**CERTIFICATION OF ENGINEER**

Attached hereto is Exhibit "B" Certification Regarding Debarment, Suspension and Other Responsibility Matters.

**ARTICLE 21**

**CHOICE OF LAW/JURISDICTION/VENUE**

This Contract shall be governed as to validity, interpretation, construction and effect, and in all other respects, by the laws of the State of Washington. Jurisdiction of any suit or action arising out of or in connection with this Contract shall be in the State of Washington, and the venue thereof be in the same County as the Agency.

## **ARTICLE 22**

### **NOTICES**

In every case where, under any of the provisions of this Contract or in the opinion of either the Agency or the Engineer or otherwise, it shall or may become necessary or desirable to make, give, or serve any declaration, demand, or notice of any kind or character or for any purpose whatsoever, the same shall be in writing, and it shall be sufficient to either (1) deliver the same or a copy thereof in person to the Mayor, if given by the Engineer, or to the President or Secretary of the Engineer personally, if given by the Agency; or (2) mail the same or a copy thereof by registered or certified mail, postage prepaid, addressed to the other party at such address as may have theretofore been designated in writing by such party, by notice served in the manner herein provided, and until some other address shall have been so designated, the address of the Agency for the purpose of mailing such notices shall be as follows:

CITY OF OMAK  
P.O. Box 72  
2 North Ash Street  
Omak, Washington 98841

and the address of the Engineer shall be as follows:

GRAY & OSBORNE, INC.  
1130 Rainier Avenue South  
Suite 300  
Seattle, Washington 98144

## **ARTICLE 23**

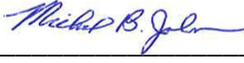
### **ATTORNEY'S FEES**

The parties agree that in the event a civil action is instituted by either party to enforce any of the terms and conditions of this Contract, or to obtain damages or other redress for any breach hereof, the prevailing party shall be entitled to recover from the other party, in addition to its other remedies, its reasonable attorney's fees in such suit or action and upon any appeal therefrom.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and year written below.

**ENGINEER: Gray & Osborne, Inc.**

**AGENCY: City of Omak**

By:   
(Signature)

By: \_\_\_\_\_  
(Signature)

Name/Title: Michael B. Johnson, P.E., President

Name/Title: \_\_\_\_\_  
(Print)

Date: 3/16/23

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

"Equal Opportunity/Affirmative Action Employer"

**EXHIBIT “A”**

**GRAY & OSBORNE**

**PROFESSIONAL ENGINEERING SERVICES CONTRACT  
FULLY BURDENED BILLING RATES\*  
THROUGH JUNE 15, 2023\*\***

<b><u>Employee Classification</u></b>	<b><u>Fully Burdened Billing Rates</u></b>		
AutoCAD/GIS Technician/Engineering Intern	\$ 60.00	to	\$165.00
Electrical Engineer	\$120.00	to	\$215.00
Structural Engineer	\$115.00	to	\$210.00
Environmental Technician/Specialist	\$ 93.00	to	\$165.00
Engineer-In-Training	\$100.00	to	\$170.00
Civil Engineer	\$115.00	to	\$155.00
Project Engineer	\$125.00	to	\$175.00
Project Manager	\$140.00	to	\$235.00
Principal-in-Charge	\$150.00	to	\$235.00
Resident Engineer	\$123.00	to	\$185.00
Field Inspector	\$100.00	to	\$173.00
Field Survey (2 Person)***	\$180.00	to	\$295.00
Field Survey (3 Person)***	\$300.00	to	\$400.00
Professional Land Surveyor	\$125.00	to	\$190.00
Secretary/Word Processor***	N/A		

\* Fully Burdened Billing Rates include overhead and profit.

\*\* Updated annually, together with the overhead.

All actual out-of-pocket expenses incurred directly on the project are added to the billing. The billing is based on direct out-of-pocket expenses; meals, lodging, laboratory testing and transportation. The transportation rate is \$0.65 per mile or the current maximum IRS rate without receipt IRS Section 162(a).

\*\*\* Administration expenses include secretarial and clerical work; GIS, CADD, and computer equipment; owned survey equipment and tools (stakes, hubs, lath, etc. – Note: mileage billed separately at rate noted); miscellaneous administration tasks; facsimiles; telephone; postage; and printing costs, which are less than \$150.

**EXHIBIT “B”**

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,  
AND OTHER RESPONSIBILITY MATTERS**

- I. The Engineer, Gray & Osborne, Inc., certifies to the best of its knowledge and belief, that it and its principals:
- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
  - B. Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission or fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (I)(B) of this certification; and
  - D. Have not within a 3-year period preceding this application/proposal had one or more public transactions (federal, state, or local) terminated for cause or default.



\_\_\_\_\_  
Michael B. Johnson, P.E., President  
Gray & Osborne, Inc.

3/16/23

\_\_\_\_\_  
Date

The Agency may confirm the Engineer’s suspension or debarment status on General Services Administration System for Award Management website: [www.sam.gov](http://www.sam.gov).



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/17/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> AssuredPartners Design Professionals Insurance Services, LLC 19689 7th Ave NE, Ste 183 PMB #369 Poulsbo WA 98370  License#: 6003745	<b>CONTACT NAME:</b> Allison Barga <b>PHONE (A/C No. Ext):</b> 360-626-2007 <b>FAX (A/C, No):</b> 360-626-2007 <b>E-MAIL ADDRESS:</b> allison.barga@assuredpartners.com														
	<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A: The Travelers Indemnity Company of Connecticut</td> <td>25682</td> </tr> <tr> <td>INSURER B: Travelers Property Casualty Company of America</td> <td>25674</td> </tr> <tr> <td>INSURER C: Travelers Casualty and Surety Company</td> <td>19038</td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </tbody> </table>		INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: The Travelers Indemnity Company of Connecticut	25682	INSURER B: Travelers Property Casualty Company of America	25674	INSURER C: Travelers Casualty and Surety Company	19038	INSURER D:		INSURER E:		INSURER F:
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INSURER F:															

**INSURED**  
 Gray & Osborne Inc  
 1130 Rainier Avenue South, Suite 300  
 Seattle WA 98144

**COVERAGES**

CERTIFICATE NUMBER: 1884025144

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> OCP/XCU/BFPD <input checked="" type="checkbox"/> Separation Instds GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:			6808N74449A	9/10/2022	9/10/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			BA8P536892	9/10/2022	9/10/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			CUP8N747012	9/10/2022	9/10/2023	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$
A	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below			6808N74449A	9/10/2022	9/10/2023	<input type="checkbox"/> PER STATUTE <input checked="" type="checkbox"/> OTH-ER WA Stop Gap E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	Professional Liab: Claims Made Pollution Liab: Occurrence Form			105339819	9/10/2022	9/10/2023	\$1,000,000 Per Claim \$1,000,000 Aggregate

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: On-Call Engineering Services  
 The certificate holder is an additional insured per the attached.

**CERTIFICATE HOLDER****CANCELLATION**

City of Omak  
 PO Box 72  
 2 North Ash Street  
 Omak WA 98841

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **BLANKET ADDITIONAL INSURED (ARCHITECTS, ENGINEERS AND SURVEYORS)**

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART

**1. The following is added to SECTION II – WHO IS AN INSURED:**

Any person or organization that you agree in a "written contract requiring insurance" to include as an additional insured on this Coverage Part, but:

- a. Only with respect to liability for "bodily injury", "property damage" or "personal injury"; and
- b. If, and only to the extent that, the injury or damage is caused by acts or omissions of you or your subcontractor in the performance of "your work" to which the "written contract requiring insurance" applies, or in connection with premises owned by or rented to you.

The person or organization does not qualify as an additional insured:

- c. With respect to the independent acts or omissions of such person or organization; or
- d. For "bodily injury", "property damage" or "personal injury" for which such person or organization has assumed liability in a contract or agreement.

The insurance provided to such additional insured is limited as follows:

- e. This insurance does not apply on any basis to any person or organization for which coverage as an additional insured specifically is added by another endorsement to this Coverage Part.
- f. This insurance does not apply to the rendering of or failure to render any "professional services".
- g. In the event that the Limits of Insurance of the Coverage Part shown in the Declarations exceed the limits of liability required by the "written contract requiring insurance", the insurance provided to the additional insured shall be limited to the limits of liability required by that "written contract requiring insurance". This endorsement does not increase the limits of insurance described in Section III – Limits Of Insurance.

- h. This insurance does not apply to "bodily injury" or "property damage" caused by "your work" and included in the "products-completed operations hazard" unless the "written contract requiring insurance" specifically requires you to provide such coverage for that additional insured, and then the insurance provided to the additional insured applies only to such "bodily injury" or "property damage" that occurs before the end of the period of time for which the "written contract requiring insurance" requires you to provide such coverage or the end of the policy period, whichever is earlier.

**2. The following is added to Paragraph 4.a. of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**

The insurance provided to the additional insured is excess over any valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to the additional insured for a loss we cover. However, if you specifically agree in the "written contract requiring insurance" that this insurance provided to the additional insured under this Coverage Part must apply on a primary basis or a primary and non-contributory basis, this insurance is primary to other insurance available to the additional insured which covers that person or organizations as a named insured for such loss, and we will not share with the other insurance, provided that:

- (1) The "bodily injury" or "property damage" for which coverage is sought occurs; and
- (2) The "personal injury" for which coverage is sought arises out of an offense committed;

after you have signed that "written contract requiring insurance". But this insurance provided to the additional insured still is excess over valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to the additional insured when that person or organization is an additional insured under any other insurance.

COMMERCIAL GENERAL LIABILITY

3. The following is added to Paragraph 8., **Transfer Of Rights Of Recovery Against Others To Us**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

We waive any right of recovery we may have against any person or organization because of payments we make for "bodily injury", "property damage" or "personal injury" arising out of "your work" performed by you, or on your behalf, done under a "written contract requiring insurance" with that person or organization. We waive this right only where you have agreed to do so as part of the "written contract requiring insurance" with such person or organization signed by you before, and in effect when, the "bodily injury" or "property damage" occurs, or the "personal injury" offense is committed.

4. The following definition is added to the **DEFINITIONS** Section:

"Written contract requiring insurance" means that part of any written contract under which you are required to include a person or organization as an additional insured on this Coverage Part, provided that the "bodily injury" and "property damage" occurs and the "personal injury" is caused by an offense committed:

- a. After you have signed that written contract;
- b. While that part of the written contract is in effect; and
- c. Before the end of the policy period.

# MEMORANDUM

To: Omak City Council  
Cindy Gagné, Mayor

From: Wayne Beetchenow  
Public Works Director

Date: April 3, 2023

Subject: **Resolution 40-2023** Approving the purchase of picnic tables and parts

---

The attached Resolution 40-2023, A Resolution of the Omak City Council Approving, Purchase of Picnic Tables and Parts, is forwarded for your consideration.

This purchase has been approved in the 2023 budget using hotel/motel funds to repair and replace wooden tables with aluminum.

We have received three quotes and reviewed the quotes for accuracy and price. The lowest responsive quote is from Highland Product Group/The Park Catalog in the amount of \$14,062.09

I support this Resolution and recommend its approval.

**RESOLUTION NO. 40-2023**

**A Resolution of the Omak City Council Approving,  
Purchase of Picnic Tables and Parts**

**WHEREAS**, the parks department has the need to purchase picnic tables and parts; and

**WHEREAS**, this purchase exceeds five thousand dollars, requiring Omak City Council Approval for purchase; and

**WHEREAS**, three quotes were received for the needed parts; and

**WHEREAS**, Highland Product Group/The Park Catalog provided the lowest priced quote for the identified parts.

**NOW, THEREFORE BE IT RESOLVED** by the City Council of the City of Omak, do hereby approve the purchase of picnic tables and parts from Highland Product Group/ The Park Catalog as attached in Exhibit "A", in the amount of \$14,062.09.

**PASSED AND APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2023.

**SIGNED:**

\_\_\_\_\_  
Cindy Gagné, Mayor

**ATTEST:**

\_\_\_\_\_  
Connie Thomas, City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Michael D. Howe, City Attorney

# thepark AND FACILITIES

## CATALOG

Highland Products Group/The Park Catalog  
 931 Village Blvd Ste 905-354  
 West Palm Beach, FL 33409  
 Phone : 561-620-7878  
 Email : sales@theparkcatalog.com

<b>Bill to:</b> Matt Thompson City of Omak 200 Columbia Street Omak, Washington, 98841 United States T: 509-846-4097	<b>Ship to:</b> Matt Thompson City of Omak 200 Columbia Street Omak, Washington, 98841 United States T: 509-846-4097	<b>Quote Proposal</b> Date of Proposal Proposal valid until Sales Rep: David Kennis david.kennis@theparkcatalog.com	<b>Q23.73085</b> Feb 24, 2023 Mar 10, 2023 ( 16 days )
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Lead times quoted are only estimates and may change due to the volatility and demand of raw materials.

Product image	Product name	Item #	QTY	Price	Your Price	Discount	Subtotal
	All-Aluminum Picnic Table Size 6'L	569-1178-111	10	\$762.00	\$650.00	\$1,120.00	\$6,500.00
	Bench Product1 PLANK 2 X 10 MISC .078 ANOD 6'-0" LONG	569-SPC-BENCH-1	20		\$105.00		\$2,100.00
	Bench Product2 CL-UNIV_WH	569-SPC-BENCH-2	80		\$1.88		\$150.40
<b>Total Discount</b>							\$1,120.00
<b>Subtotal</b>							\$8,750.40
<b>Shipping &amp; Handling (Excl. Tax)</b>							\$4,222.00
<b>Tax</b>							\$1,089.69
<b>Grand Total</b>							\$14,062.09

- THIS QUOTE COMES WITH A BEST PRICE GUARANTEE -

### TERMS & CONDITIONS

#### SHIPPING:

All merchandise is sold F.O.B. Deliveries are made during normal business hours, 8am - 4pm Monday - Friday. Unless otherwise noted, shipping charges include standard delivery only. Standard shipping charges are for Tailgate delivery to any commercial location on a commercial truck route; the truck driver is under no obligation to help you unload. If you are unable to accept a shipment via this method, you must purchase additional services.

- Additional Services - Residential Delivery, Limited Access Delivery, Construction Site Delivery, Liftgate Service, Inside Delivery, Notify Before Delivery.
- Service Discrepancies - If there is a discrepancy in the services requested and the minimum services required to deliver the product, The Park Catalog reserves the right to charge the customer for any necessary additional services provided at the time of delivery.
- Inspection of Shipments - It is the customer's responsibility to inspect all deliveries for possible damage, correct quantities and to note any discrepancies on the freight bill PRIOR to signing the delivery receipt provided by the driver. All claims MUST be recorded on the delivery receipt and reported within 48 hours of delivery. The Park Catalog does NOT GUARANTEE replacement parts or products FREE of charge due to concealed or unreported damages.
- Assembly May Be Required - Many of our products are shipped unassembled in order to minimize damage and lower freight charges.

#### CANCELLATIONS:

All cancellations must be done prior to shipping. Made-to-Order items already in production may not be cancelled.

#### RETURNS:

We will accept returns of unused products, up to 30 days from the shipping date, subject to ALL of the following terms and conditions:

- Approval - Written approval and instructions must be issued by our Customer Service Department before any merchandise can be returned.
- Shipping Returns - All merchandise must be returned in its original packaging, freight Prepaid. No Collect shipments are accepted.
- Re-Stocking & Shipping Fees - The customer is responsible for a minimum 25% re-stocking fee and all related shipping charges on product returned for reasons other than damage or defect. Original shipping charges will not be refunded.
- Web-Orders - For online orders, The Park Catalog is not responsible if the customer orders incorrect product or colors. All return and restock fees apply.
- Made-to-Order or Personalized - These items are not returnable unless a defect in manufacturing is presented to us with pictures prior to return.

• Force Majeure: No Party to this Agreement shall be responsible for any delays or failure to perform any obligation under this Agreement due to acts of God, outbreaks, epidemic/pandemic or the spreading of disease or contagion strikes or other disturbances, including, without limitation, war, insurrection, embargoes, governmental restrictions, acts of governments or governmental authorities, and any other cause beyond the control of such party. During an event of force majeure, the Parties' duty to perform obligations shall be suspended.

To accept this proposal please Sign Here: \_\_\_\_\_ Date: \_\_\_\_\_





1-800-295-5510  
 uline.com  
 customer.service@uline.com

**PRICING  
 REQUEST**

REQUEST # PRB160803

Thank you for your interest in Uline!

**PROVIDED TO:** OMAK CITY OF  
 PO BOX 72  
 OMAK WA 98841-0072

**SHIP TO:** OMAK CITY OF  
 220 COLUMBIA ST  
 OMAK WA 98841-9625

CUSTOMER NUMBER			SHIP VIA	REQUEST DATE	
13124556			MOTOR FREIGHT - OAK HARBOR	03/16/23	
QUANTITY	U/M	ITEM NUMBER	DESCRIPTION	UNIT PRICE	EXT. PRICE
10	EA	H-3745	ALUMINUM PICNIC TABLE - 6', SILVER	1,200.00	12,000.00

SUB-TOTAL 12,000.00	SALES TAX 1,031.61	SHIPPING/HANDLING 281.04	TOTAL 13,312.65
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**NOTE:**

ATTENTION: DON ABEL

# MEMORANDUM

To: Omak City Council  
Cindy Gagnè, Mayor

From: Wayne Beetchenow, Public Works Director

Date: April 3, 2023

Subject: **Resolution No. 41-2023** North Taxiway Design Phase Services J-U-B Engineers, Inc.

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The attached Resolution, 41-2023, A Resolution of the City Council of Omak Approving Task Order No. 45-22-044 to the Contract for engineering services with J-U-B Engineers, Inc. for North Taxiway “A” Design, is forwarded for your consideration.

This is a project that has been identified in the Capital Improvement Plan and is funded through the FAA, WSDOT Aviation and the City of Omak.

I support this Resolution and recommend its approval.

**RESOLUTION NO. 41-2023**

**A RESOLUTION OF THE OMAK CITY COUNCIL APPROVING TASK ORDER  
No. 45-22-044 TO THE CONTRACT FOR ENGINEERING SERVICES WITH  
J-U-B ENGINEERS, INC. FOR NORTH TAXIWAY "A" DESIGN**

**WHEREAS**, the City of Omak engaged the firm of J-U-B Engineers, Inc. to provide professional engineering services for the Omak Airport in 2021 by adoption of Resolution No. 46-2021 on September 28, 2021; and

**WHEREAS**, the engineering services of J-U-B Engineers, Inc. were sought to provide engineering services for the reconstruction design of the North Taxiway at the Omak Airport; and

**WHEREAS**, the scope of work and engineering cost for providing these services is estimated not to exceed a budget of \$128,270.00 as shown on the attached Schedules Exhibit "A" and "B".

**NOW, THEREFORE BE IT RESOLVED** by the Omak City Council that Task Order No. 45-22-044 to Contract for Engineering Services with J-U-B Engineers, Inc., a copy of which is attached hereto and marked Exhibit "A", is hereby approved, and the Mayor is authorized to execute that document on behalf of the City.

**PASSED AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2023

**SIGNED:**

\_\_\_\_\_  
Cindy Gagné, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Connie Thomas, City Clerk

\_\_\_\_\_  
Michael Howe, City Attorney

**AGREEMENT FOR PROFESSIONAL SERVICES (FAA FORMAT)**  
**North Taxiway A Reconstruction Design, A.I.P. 3-53-0042-015-2023**  
**Omak Airport, Washington**

THIS AGREEMENT is effective as of the 10th day of April, 2023 by and between, City of Omak PO Box 72/2 North Ash Street, Omak, WA 98841 hereinafter referred to as the CLIENT, and J-U-B ENGINEERS, Inc., W. 422 Riverside, Suite 304, Spokane, Washington, 99201 (prior to 4-1-2023), 999 W. Riverside Ave. Suite 700, Spokane WA 99201 (after 4-1-2023), an Idaho Corporation, hereinafter referred to as J-U-B

WHEREAS, the CLIENT intends to: Reconstruct Taxiway A between Taxiway B and Taxiway C; re-grade the Taxiway Safety Area (TSA) hereinafter referred to as the "Project". The services to be performed by J-U-B are hereinafter referred to as the "Services".

**W I T N E S S E T H**

Now, therefore, the CLIENT and J-U-B, in consideration of their mutual covenants herein, agree as set for below:

**ARTICLE 1**  
**J-U-B'S SERVICES**

**1.01 BASIC SERVICES**

J-U-B will perform the Services described in **Attachment 1 - Scope of Services, Basis of Fee, and Schedule** in a manner consistent with the applicable standard of care. J-U-B's services shall be limited to those expressly set forth therein, and J-U-B shall have no other obligations, duties, or responsibilities for the Project except as provided in this Agreement.

**1.02 SCHEDULE OF SERVICES TO BE PERFORMED**

J-U-B will perform said Services in accordance with the schedule described in **Attachment 1 Scope of Services, Basis of Fee, and Schedule** in a manner consistent with the applicable standard of care. This schedule shall be equitably adjusted as the Project progresses, allowing for changes in scope, character or size of the Project as requested by the CLIENT or for delays or other causes beyond J-U-B's control.

**1.03 ADDITIONAL SERVICES**

When authorized in writing by the CLIENT, J-U-B agrees to furnish, or obtain from others, additional professional services in connection with the PROJECT, as set forth below and as otherwise contained within this Agreement:

- A. Provide other services not otherwise provided for in this Agreement, including services normally furnished by the CLIENT as described in Article 2, CLIENT'S RESPONSIBILITIES.
- B. Provide services as an expert witness for the CLIENT in connection with litigation or other proceedings involving the PROJECT.
- C. Assist or extend services as a result of strikes, walkouts, or other labor disputes, including acts relating to settlement of minority group problems.
- D. Mitigation work identified in the environmental review.

## **ARTICLE 2 CLIENT'S RESPONSIBILITIES**

### **2.01 CLIENT'S RESPONSIBILITIES**

The CLIENT shall furnish the following services at the CLIENT'S expense and in such a manner that J-U-B may rely upon them in the performance of its services under this AGREEMENT:

- A. Designate, in writing, a person authorized to act as the CLIENT'S contact. The CLIENT or his designated contact shall receive and examine documents submitted by J-U-B to determine acceptability of said documents, interpret and define the CLIENT'S policies, and render decisions and authorizations in writing promptly to prevent unreasonable delay in the progress of J-U-B's services.
- B. Make available to J-U-B all technical data that is in the CLIENT'S possession, including maps, surveys, property descriptions, borings, and other information required by J-U-B and relating to its work.
- C. Hold promptly all required special meetings, serve all required public and private notices, receive and act upon all protests and fulfill all requirements necessary in the development of the PROJECT and pay all costs incidental thereto.
- D. Provide legal, accounting and insurance counseling services necessary for the PROJECT. Legal review of the construction Contract Documents, and such writing services as the CLIENT may require to account for the expenditure of construction funds.
- E. Furnish permits and approvals from all governmental authorities having jurisdiction over the PROJECT and from others as may be necessary for completion of the PROJECT.
- F. The CLIENT agrees to cooperate with J-U-B in the approval of all plans, reports and studies, and shall make a timely decision in order that no undue expense will be caused J-U-B because of lack of decisions. If J-U-B is caused extra drafting or other expense due to changes ordered by the CLIENT after the completion and approval of the plans, reports, and studies, J-U-B shall be equitably paid for such extra expenses and services involved.
- G. Guarantee full and free access, with reasonable advance notice, for J-U-B to enter upon all property required for the performance of J-U-B's services under this AGREEMENT.
- H. Give prompt written notice to J-U-B whenever the CLIENT observes or otherwise becomes aware of any defect in the PROJECT or other event that may substantially affect J-U-B's performance of services under this AGREEMENT.
- I. Promptly prepare and submit reimbursement requests to funding agencies.
- J. Compensate J-U-B for services promptly rendered under this AGREEMENT.

## **ARTICLE 3 J-U-B'S COMPENSATION**

### **3.01 BASIC SERVICES COMPENSATION**

J-U-B shall provide services in connection with the terms and conditions of this Agreement, and the CLIENT shall compensate J-U-B therefore as detailed **in Attachment 1 – Scope of Services, Basis of Fee and Schedule.**

Partial payment shall be made for the services performed as the work under this AGREEMENT progresses. Such payment is to be made monthly based on the itemized statements, invoices, or other evidences of performance furnished to and approved by the CLIENT. All claims for payment will be submitted in a form compatible with current practices and acceptable to the CLIENT. Partial payments will include payroll costs, adjusted for payroll burdens, and general and administrative overhead, as well as out-of-pocket expenses, plus that portion of the fixed fee which its percentage of completion bears to the total cost of the fully

completed work under this AGREEMENT. The CLIENT shall make full payment of the value of such documented monthly service as verified on the monthly statement.

### **3.02 ADDITIONAL COMPENSATION**

In addition to any and all compensation hereinabove, the CLIENT shall compensate J-U-B for Additional Services, Section 1.03, under a written Authorization for Additional Services executed by both Parties that specifically describes the additional work and the cost associated therewith. These additional services are to be performed or furnished by J-U-B only upon receiving said written authorization from the CLIENT.

### **3.03 COMPENSATION ADJUSTMENT**

CLIENT agrees to provide J-U-B a notice to proceed with Services within 120 days of the effective date of this Agreement identified in Attachment 1. If the notice to proceed with Services is delayed beyond 120 days from the effective date of this Agreement, or service described will not be completed during the term of this Agreement through no fault of J-U-B, the Agreement shall be amended through mutual negotiation to address both schedule and pricing impacts of the delay. CLIENT understands that any pricing increase may not be grant fundable by FAA.

### **3.04 ADDITIONAL CONDITIONS OF COMPENSATION**

The CLIENT and J-U-B further agree that:

- A. J-U-B shall submit monthly statements for Services rendered and for expenses incurred, which statements are due on presentation. CLIENT shall make prompt monthly payments. If CLIENT fails to make any payment in full within thirty (30) days after receipt of J-U-B's statement, the amounts due J-U-B will accrue interest at the rate of 1% per month from said thirtieth day or at the maximum interest rate allowed by law, whichever is less.
- B. If the CLIENT fails to make monthly payments due J-U-B, J-U-B may, after giving ten (10) days written notice to the CLIENT, suspend services under this Agreement.

## **ARTICLE 4 GENERAL PROVISIONS**

### **4.01 OWNERSHIP OF DOCUMENTS**

Upon the request of the CLIENT, J-U-B shall furnish the CLIENT copies of all maps, plots, drawings, estimate sheets, and other contract documents required for the PROJECT provided J-U-B has been paid in full for the work. Upon the request of the CLIENT and the completion of the work specified herein, all material documents acquired or produced by J-U-B in conjunction with the preparation of the plans shall be delivered to and become the property of the CLIENT providing no future use of said documents or portions thereof shall be made by the CLIENT with J-U-B's name or that of J-U-B ENGINEERS, Inc., attached thereto. Final submittal of J-U-B's work product shall be in hard-copy format and no electronic design files will be submitted as part of the PROJECT, unless expressly requested.

Any reuse without written consent by J-U-B, or without verification or adoption by J-U-B for the specific purpose intended by the reuse, will be at CLIENT's sole risk and without liability or legal exposure to J-U-B. The CLIENT shall release, defend, indemnify, and hold J-U-B harmless from any claims, damages, actions or causes of action, losses, and expenses, including reasonable attorneys' and expert fees, arising out of or resulting from such reuse.

Agreements for Professional Services are public records which are generally subject to statutory public disclosure and public website posting requirements, and such disclosure will not be considered "reuse without written consent by J-U-B".

J-U-B shall retain an ownership interest in PROJECT documents that allows their reuse of non-proprietary information on subsequent projects at J-U-B's sole risk.

#### **4.02 DELEGATION OF DUTIES**

Neither the CLIENT nor J-U-B shall delegate, assign, sublet or transfer their respective duties under this Agreement without the prior written consent of the other.

#### **4.03 GENERAL**

- A. Should litigation occur between the two parties relating to the provisions of this Agreement, court costs and reasonable attorney fees incurred shall be borne by their own party.
- B. Neither party shall hold the other responsible for damage or delay in performance caused by acts of God, strikes, lockouts, accidents, or other events beyond the reasonable control of the other or the other's employees and agents.
- C. In the event any provisions of this AGREEMENT shall be held to be invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties. One (1) or more waivers by either party or any provision, term, condition, or covenant shall not be construed by the other party as a waiver of subsequent breach of the same by the other party.
- D. J-U-B shall render its services under this AGREEMENT in accordance with generally accepted professional practices and Standard of Care. J-U-B makes no other warranty for the work provided under this AGREEMENT.
- E. CLIENT grants J-U-B and its subsidiaries the unrestricted right to take, use, and publish images, or edited images, of the project site and workers for J-U-B's purposes including, but not limited to, website, intranet, and marketing. This right shall survive the termination of this Agreement.
- F. Any opinion of the estimated construction cost prepared by J-U-B represents its judgment as a design professional and is supplied for the general guidance of the CLIENT. Since J-U-B has no control over the cost of labor and material, or over competitive bidding or market conditions, J-U-B does not guarantee the accuracy of such opinions as compared to Contractor bids or actual costs to the CLIENT.
- G. Any notice or other communications required or permitted by this contract or by law to be served on, given to, or delivered to either party hereto by the other party shall be in writing and shall be deemed duly served, given, or delivered when personally delivered to the party to whom it is addressed or, in lieu of such personal service, when deposited in the United States mail, certified mail, return receipt requested, addressed to the CLIENT at PO Box 72, Omak, WA 98841 and to J-U-B at W. 422 Riverside, Suite 304, Spokane, Washington, 99201 (prior to 4-1-2023) 999 W. Riverside Ave., Suite 700, Spokane WA 99201 (after 4-1-2023). Either party, the CLIENT or J-U-B, may change his address for the purpose of this paragraph by giving written notice of such change to the other party in the manner provided in this paragraph.

#### **4.04 MEDIATION BEFORE LITIGATION**

Any and all disputes arising out of or related to the Agreement, except for the payment of J-U-B's fees, shall be submitted to nonbinding mediation before a mutually acceptable mediator as a condition precedent to litigation or other binding adjudicative procedure unless the parties mutually agree otherwise. The CLIENT further agrees to include a similar mediation provision in all agreements with independent contractors, consultants, subcontractors, subconsultants, suppliers and fabricators on the Project, thereby providing for mediation as the primary method for dispute resolution among all the parties involved in the Project. In the event the parties are unable to agree on a mediator, said mediator shall be appointed by a court of competent jurisdiction or, if not possible, the American Arbitration Association. If a dispute relates to, or is the subject of a lien arising out of J-U-B's Services, J-U-B or its subconsultants may proceed in accordance with applicable law to comply with the lien notice and filing deadlines prior to submission of the matter by mediation.

This Contract shall be governed by and interpreted under the laws of the State of Washington. The parties agree that in the event it becomes necessary to enforce any of the terms and conditions of this Contract that the forum, venue and jurisdiction in that particular action shall be in Okanogan County, Washington.

#### 4.05 INSURANCE AND INDEMNITY

- A. J-U-B's Insurance. J-U-B agrees to procure and maintain, at its expense, Commercial General Liability insurance of \$1,000,000 combined single limit for personal injury and property damages, and Professional Liability Insurance of \$1,000,000 per claim for protection against claims arising out of the performance of services under this Contract caused by negligent acts, errors, or omissions for which J-U-B is legally liable, subject to and limited by the provisions in Subsection 4.05.D, "Allocation of Risks", if any. J-U-B shall deliver to the CLIENT, prior to execution of the AGREEMENT by the CLIENT and prior to commencing work, Certificates of Insurance, identified on their face as the Agreement Number to which applicable, as evidence that policies providing such coverage and limits of insurance are in full force and effect. J-U-B shall acquire and maintain statutory workmen's compensation coverage. Thirty (30) days advance notice will be given in writing to the CLIENT prior to the cancellation, termination, or alteration of said policies of Insurance.
- B. Indemnification by J-U-B. To the fullest extent permitted by law, J-U-B shall indemnify and hold harmless CLIENT, and CLIENT's officers, directors, partners, agents, consultants, and employees from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of CLIENT, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the PROJECT, provided that any such claim cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting there from, but only to the extent caused by any negligent act, error, or omission of J-U-B or J-U-B's officers, directors, partners, employees, or Consultants. The indemnification provision of the preceding sentence is subject to and limited by the provisions agreed to by CLIENT and J-U-B in Subsection 4.05.D, "Allocation of Risks," if any.
- C. Indemnification by CLIENT. To the fullest extent permitted by law, CLIENT shall indemnify and hold harmless J-U-B, J-U-B's officers, directors, partners, agents, employees, and Consultants from and against any and all claims costs, losses, and damages (including but not limited to all fees and charges of J-U-B, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the PROJECT, provided that any such claim cost, loss, or damage is attributable to bodily injury, sickness, disease, or death or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting there from, but only to the extent caused by any negligent act, error, or omission of CLIENT or CLIENT's officers, directors, or employees, retained by or under contract to the CLIENT with respect to this AGREEMENT or to the PROJECT.
- D. Allocation of Risks. The CLIENT and J-U-B have discussed the risks, rewards and benefits of the project and the design professional's total fee for services. The risks have been allocated such that the CLIENT agrees that, to the fullest extent permitted by law, J-U-B's total liability to the CLIENT for any and all injuries, claims, losses, expenses, damages or claims expenses arising out of this agreement from any cause or causes, shall not exceed the total amount of fees paid to J-U-B under this Agreement. Such causes include, but are not limited to J-U-B's negligence, errors, omission and strict liability. Neither CLIENT nor J-U-B shall be responsible for incidental, indirect or consequential damages.
- E. J-U-B reserves the right to obtain the services of other consulting engineers and consultants experienced in airport work to prepare and execute a portion of the work that relates to the PROJECT.
- F. Nothing contained in this agreement shall create a contractual relationship with or a cause of action in favor of a third party against J-U-B.

#### 4.06 EXTENT OF AGREEMENT

This Agreement represents the entire and integrated agreement between the CLIENT and J-U-B and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the CLIENT and J-U-B.

**ARTICLE 5**  
**FAA FEDERAL CLAUSES**

**5.01 SUCCESSORS AND ASSIGNMENTS**

- A. The CLIENT and J-U-B each binds itself and its partners, successors, executors, administrators and assigns to the other parties to this Agreement, and to the successors, executors, administrators and assigns of such other party in respect to all covenants of this Agreement.
- B. It is understood by the CLIENT and J-U-B that the FAA is not a party to this Agreement and will not be responsible for engineering costs except as should be agreed upon by the CLIENT and the FAA under a Grant Agreement for the PROJECT.
- C. This Agreement may not be assigned except upon specific prior written consent of the CLIENT.

**5.02 TERMINATION**

**A. TERMINATION FOR CONVENIENCE**

The CLIENT may, by written notice to J-U-B, terminate this Agreement for its convenience and without cause or default on the part of J-U-B. Upon receipt of the notice of termination, except as explicitly directed by the CLIENT, J-U-B must immediately discontinue all services affected.

Upon termination of the Agreement, J-U-B must deliver to the CLIENT all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by J-U-B under this contract, whether complete or partially complete.

CLIENT agrees to make just and equitable compensation to J-U-B for satisfactory work completed up through the date J-U-B receives the termination notice. Compensation will not include anticipated profit on non-performed services.

CLIENT further agrees to hold J-U-B harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

**B. TERMINATION FOR CAUSE**

Either party may terminate this Agreement for cause if the other party fails to fulfill its obligations that are essential to the completion of the work per the terms and conditions of the Agreement. The party initiating the termination action must allow the breaching party an opportunity to dispute or cure the breach.

The terminating party must provide the breaching party 7 days advance written notice of its intent to terminate the Agreement. The notice must specify the nature and extent of the breach, the conditions necessary to cure the breach, and the effective date of the termination action. The rights and remedies in this clause are in addition to any other rights and remedies provided by law or under this agreement.

a) **Termination by CLIENT:** The CLIENT may terminate this Agreement for cause in whole or in part, for the failure of J-U-B to:

- 1. Perform the services within the time specified in this contract or by CLIENT approved extension;
- 2. Make adequate progress so as to endanger satisfactory performance of the Project; or
- 3. Fulfill the obligations of the Agreement that are essential to the completion of the Project.

Upon receipt of the notice of termination, J-U-B must immediately discontinue all services affected unless the notice directs otherwise. Upon termination of the Agreement, J-U-B must deliver to the CLIENT all data, surveys, models, drawings, specifications, reports,

maps, photographs, estimates, summaries, and other documents and materials prepared by J-U-B under this contract, whether complete or partially complete.

CLIENT agrees to make just and equitable compensation to J-U-B for satisfactory work completed up through the date J-U-B receives the termination notice. Compensation will not include anticipated profit on non-performed services.

CLIENT further agrees to hold J-U-B harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

If, after finalization of the termination action, the CLIENT determines J-U-B was not in default of the Agreement, the rights and obligations of the parties shall be the same as if the CLIENT issued the termination for the convenience of the CLIENT.

b) **Termination by Consultant:** J-U-B may terminate this Agreement for cause in whole or in part, if the CLIENT:

1. Defaults on its obligations under this Agreement;
2. Fails to make payment to J-U-B in accordance with the terms of this Agreement;
3. Suspends the Project for more than 120 days due to reasons beyond the control of J-U-B.

Upon receipt of a notice of termination from J-U-B, CLIENT agrees to cooperate with J-U-B for the purpose of terminating the agreement or portion thereof, by mutual consent. If CLIENT and J-U-B cannot reach mutual agreement on the termination settlement, J-U-B may, without prejudice to any rights and remedies it may have, proceed with terminating all or parts of this Agreement based upon the CLIENT's breach of the contract.

In the event of termination due to CLIENT breach, the Consultant is entitled to invoice CLIENT and to receive full payment for all services performed or furnished in accordance with this Agreement and all justified reimbursable expenses incurred by J-U-B through the effective date of termination action. CLIENT agrees to hold J-U-B harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

### **5.03 CERTIFICATIONS OF J-U-B AND CLIENT**

- A. The CLIENT and J-U-B hereby certify that J-U-B has not been required, directly or indirectly, as an expressed or implied condition in connection with obtaining or carrying out this contract, to:
  1. employ or retain, or agree to employ or retain, any firm or persons; or
  2. pay, or agree to pay, to any firm, person or organization, any fee, contribution, donation or consideration of any kind.
- B. A signed "Certificate for Contracts, Grants, Loans, and Cooperative Agreements" is included with this agreement.

### **5.04 TAX DELINQUENCY AND FELONY CONVICTIONS**

J-U-B certifies, by submission of this proposal or acceptance of this contract, that it is not a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

J-U-B further represents that it is not a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.

### **5.05 GENERAL CIVIL RIGHTS PROVISIONS**

In all its activities within the scope of its airport program, the Contractor agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including

limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

## **5.06 CIVIL RIGHTS TITLE VI - NONDISCRIMINATION REQUIREMENTS**

During the performance of this contract, J-U-B, for itself, subconsultants, its assignees and successors in interest, agrees as follows:

- A. Compliance with Regulations. J-U-B will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- B. Non-discrimination. J-U-B, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. J-U-B will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21..
- C. Solicitations for Subcontracts, Including Procurements of Materials and Equipment. In all solicitations either by competitive bidding or negotiation made by J-U-B for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subconsultant or supplier will be notified by J-U-B of J-U-B's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
- D. Information and Reports. J-U-B will provide all information and reports required by the Acts, the Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the CLIENT or the FAA to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities, and instructions. Where any information required of J-U-B is in the exclusive possession of another who fails or refuses to furnish this information, J-U-B will so certify to the CLIENT or the FAA, as appropriate, and will set forth what efforts it has made to obtain the information.
- E. Sanctions for Noncompliance. In the event of J-U-B's noncompliance with the non-discrimination provisions of this contract, the CLIENT will impose such contract sanctions as it or the FAA, may determine to be appropriate, including, but not limited to:
  1. withholding of payments to J-U-B under the contract until J-U-B complies, and/or
  2. cancellation, termination, or suspension of the contract, in whole or in part.
- F. Incorporation of Provisions. J-U-B will include the provisions of paragraphs A through E in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, Regulations and directives issued pursuant thereto. J-U-B will take such action with respect to any subcontract or procurement as the CLIENT or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if J-U-B becomes involved in, or is threatened with, litigation by a subconsultant or supplier as a result of such direction, J-U-B may request the CLIENT to enter into such litigation to protect the interests of the CLIENT. In addition, J-U-B may request the United States to enter into such litigation to protect the interests of the United States.

## **5.07 TITLE VI LIST OF PERTINENT NONDISCRIMINATION ACTS AND AUTHORITIES**

During the performance of this contract, J-U-B for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);

- 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, *et seq.*) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. 74087 (2005)];
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, *et seq.*).

**5.08 DISADVANTAGED BUSINESS ENTERPRISE (49 CFR Part 26)**J-U-B shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the J-U-B to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Sponsor deems appropriate, which may include, but is not limited to: Withholding monthly progress payments and or Assessing sanctions.

**Prompt Payment (49 CFR § 26.29)**

J-U-B agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from the Sponsor. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Sponsor. This clause applies to both DBE and non-DBE subcontractors.

**A. Termination of DBE Subcontracts (49 CFR § 26.53(f));**

J-U-B will not terminate a contracted DBE subcontractor without prior written consent of the Sponsor. This includes, but is not limited to, instances in which J-U-B seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

The Sponsor may provide such written consent only if they agree, for reasons stated in the concurrence document, that the J-U-B has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the circumstances listed in 49 CFR §26.53.

Before transmitting its request to terminate and/or substitute a DBE subcontractor, J-U-B must give notice in writing to the DBE subcontractor, with a copy to the Sponsor, of its intent to request to terminate and/or substitute, and the reason for the request.

J-U-B must give the DBE five days to respond to the notice and advise of the reasons, if any, why it objects to the proposed termination of its subcontract and why the Sponsor should not approve J-U-B's action. If required in a particular case as a matter of public necessity the Sponsor may provide a response period shorter than five days.

#### **5.09 LOBBYING AND INFLUENCING FEDERAL EMPLOYEES (49 CFR Part 20, Appendix A)**

- A. No Federal appropriated funds shall be paid, by or on behalf of J-U-B, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement and the extension, continuation, renewal, amendment or modification of any Federal grant, contract, loan, or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal contract, loan, grant, or cooperative agreement, J-U-B shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. J-U-B shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

#### **5.10 EQUAL OPPORTUNITY CLAUSE**

During the performance of this contract, J-U-B agrees as follows:

- (1) J-U-B will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. J-U-B will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. J-U-B agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) J-U-B will, in all solicitations or advertisements for employees placed by or on behalf of J-U-B, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, , sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an

investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information

- (4) will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the Contractor's commitments under this section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) J-U-B will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) J-U-B will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of J-U-B's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and J-U-B may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) J-U-B will include provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. J-U-B will take such action with respect to any subcontract or purchase order may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event J-U-B becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction J-U-B may request the United States to enter into such litigation to protect the interests of the United States.

#### **5.11 ACCESS TO RECORDS AND REPORTS**

J-U-B must maintain an acceptable cost accounting system. J-U-B agrees to provide the CLIENT, the FAA, and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers, and records of J-U-B which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. J-U-B agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

#### **5.12 TRADE RESTRICTION CERTIFICATION (49 CFR Part 30)**

By submission of an offer, J-U-B certifies that with respect to this solicitation and any resultant contract, the Offeror -

- A. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (U.S.T.R.);
- B. has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the U.S.T.R.; and
- C. has not entered into any subcontract for any product to be used on the Federal public works project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

J-U-B must provide immediate written notice to the CLIENT if J-U-B learns that its certification or that of a subconsultant was erroneous when submitted or has become erroneous by reason of changed circumstances. J-U-B shall require subconsultants provide immediate written notice to J-U-B if at any time it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to a subconsultant:

- 1) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R. or
- 2) whose subconsultants are owned or controlled by one or more citizens or nationals of a foreign country on such U.S.T.R. list or
- 3) who incorporates in the public works project any product of a foreign country on such U.S.T.R. list.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a consultant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

J-U-B agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in all lower tier subcontracts. J-U-B may rely on the certification of a prospective subconsultant that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by U.S.T.R, unless J-U-B has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that J-U-B or subconsultant knowingly rendered an erroneous certification, the Federal Aviation Administration may direct through the CLIENT cancellation of the contract or subcontract for default at no cost to the CLIENT or the FAA.

### **5.13 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION**

J-U-B certifies, by submission of this proposal or acceptance of this contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

It further agrees by submitting this proposal that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts. For each lower tier subcontract that exceeds \$25,000 as a "covered transaction", J-U-B shall verify each lower tier participant of a "covered transaction" under the project is not presently debarred or otherwise disqualified from participation in this federally assisted project. J-U-B will accomplish this by:

- 1) Checking the System for Award Management at website: <http://www.sam.gov>
- 2) Collecting a certification statement similar to the Certificate Regarding Debarment and Suspension (Bidder or Offeror), above.
- 3) Inserting a clause or condition in the covered transaction with the lower tier contract

If the FAA later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedies, including suspension and debarment of the non-compliant participant.

### **5.14 OCCUPATIONAL HEALTH ACT OF 1970**

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. J-U-B shall provide a work

environment that is free from recognized hazards that may cause death or serious physical harm to the employee. J-U-B retains full responsibility to monitor its compliance and their subconsultant's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). J-U-B will address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

#### **5.15 FEDERAL FAIR LABOR STANDARDS ACT**

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.

J-U-B has full responsibility to monitor compliance to the referenced statute or regulation. J-U-B will address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

#### **5.16 VETERAN'S PREFERENCE**

In the employment of labor (excluding executive, administrative, and supervisory positions), J-U-B and all sub-tier consultants must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 U.S.C. 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.

#### **5.17 CERTIFICATION REGARDING DOMESTIC PREFERENCES FOR PROCUREMENTS**

J-U-B certifies by signing and submitting this bid or proposal that, to the greatest extent practicable, J-U-B has provided a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including, but not limited to, iron, aluminum, steel, cement, and other manufactured products) in compliance with 2 CFR § 200.322

#### **5.18 TEXTING WHILE DRIVING.**

In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving" and DOT Order 3902.10 "Text Messaging While Driving" FAA encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or sub-grant.

J-U-B has in place a policy within J-U-B Accident Prevention plan that prohibits all employees from texting and driving. J-U-B shall include these policies in each third-party subcontract exceeding \$10,000 that involves driving a motor vehicle in the performance of work activities associated with the project.

#### **5.19 HUMAN TRAFFICKING**

- A. J-U-B, J-U-B's employees, and subcontractors may not engage in severe forms of trafficking in persons during the period of time that the FAA award is in effect, procure a commercial sex act during the period of time that the award is in effect, or use forced labor in the performance of the award or sub-awards under the award.
- B. For the purpose of this award term, "employee" includes:
  1. An individual employed by you or a sub-recipient who is engaged in the performance of the project or program under this award
  2. Another person engaged in the performance of the project or program under this award and not compensated by you, including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
- C. For the purposes of this award term only, "forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person

for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

- D. For the purposes of this award term only, "severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at Section 103 of the TVPA, as amended (22 U.S.C. 7102).

#### **5.20 PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT**

Contractor and Subcontractor agree to comply with mandatory standards and policies relating to use and procurement of certain telecommunications and video surveillance services or equipment in compliance with the National Defense Authorization Act [Public Law 115-232 § 889(f)(1)]

#### **5.21 PROHIBITION OF SEGREGATED FACILITIES**

- (1) J-U-B agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. J-U-B agrees that a breach of this clause is a violation of the Equal Opportunity clause in this contract.
- (2) "Segregated facilities," as used in this clause, means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user restrooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.
- (3) J-U-B shall include this clause in every subcontract and purchase order that is subject to the Equal Opportunity clause of this contract.

IN WITNESS WHEREOF, the CLIENT and J-U-B hereto have made and executed this AGREEMENT as of the day and year first above written.

CLIENT:

CITY OF OMAHA

ATTEST

BY:

Name: Cindy Gagné

Name:

Title:

Title:

J-U-B:

J-U-B ENGINEERS, Inc.

ATTEST

By:

Name: Toby Epler, PE

Name: David Meyer

Title: Vice President \ Aviation Services Group Manager

Title: Aviation Project Manager

*Applicable Attachments or Exhibit to this Agreement are indicated as marked*

- Certification For Contracts Grants, Loans, and Cooperative Agreements**
- J-U-B Debarment Lookup**
- Attachment 1** – Scope of Services, Basis of Fee and Schedule
- Attachment 1A** – Detailed Scope of Work
- Attachment 1B** – Fee Breakdown
- Attachment 2** – Special Provisions
- Exhibit A** – Construction Phase Services
- \_\_\_\_\_

**CERTIFICATION FOR CONTRACTS, GRANTS, LOANS,  
AND COOPERATIVE AGREEMENTS**

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal Grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL "Disclosure of Lobby Activities", in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signed: \_\_\_\_\_  
Sponsor's Authorized Representative

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

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

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Entity Registration
<b>Exclusions</b>
Active Exclusions
Responsibility / Qualification

### STRATA INC

Unique Entity ID  
**ML95JLXJLJF7**

CAGE/NCAGE  
**1SR34**

Registration Status	Expiration Date
Active Registration	Nov 18, 2023

Purpose of Registration  
**All Awards**

Physical Address  
**8653 W Hackamore DR  
Boise, Idaho  
83709-1667, United States**

Mailing Address  
**8653 W Hackamore Drive  
Boise, Idaho  
83709-1667, United States**

#### Version

Current Record

There may be instances when an individual or firm has the same or similar name as your search criteria, but is actually a different party. Therefore, it is important that you verify a potential match with the excluding agency identified in the exclusion's details. To confirm or obtain additional information, contact the federal agency that took the action against the listed party. Agency points of contact, including name and telephone number, may be found by navigating to the Agency Exclusion POCs page within Help.

### ACTIVE EXCLUSIONS

There are no active exclusion records associated to this entity by its Unique Entity ID.



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Entity Registration
<b>Exclusions</b>
Active Exclusions
Responsibility / Qualification
Entity Reporting

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### J-U-B ENGINEERS INC

Unique Entity ID  
**WU2T6K7D3J49**

CAGE/NCAGE  
**OKJYO**

Registration Status	Expiration Date
Active Registration	Jan 19, 2024

Purpose of Registration  
**All Awards**

Physical Address  
**2760 W Excursion LN  
Meridian, Idaho  
83642-5750, United States**

Mailing Address  
**2760 W Excursion Lane  
Suite 400  
Meridian, Idaho  
83642, United States**

#### Version

Current Record

There may be instances when an individual or firm has the same or similar name as your search criteria, but is actually a different party. Therefore, it is important that you verify a potential match with the excluding agency identified in the exclusion's details. To confirm or obtain additional information, contact the federal agency that took the action against the listed party. Agency points of contact, including name and telephone number, may be found by navigating to the Agency Exclusion POCs page within Help.

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J-U-B ENGINEERS, INC.

J-U-B ENGINEERS, Inc.
AGREEMENT FOR PROFESSIONAL SERVICES – (FAA FORMAT)

Attachment 1 – Scope of Services, Basis of Fee, and Schedule

PROJECT NAME: North Taxiway A Reconstruction - Design

AIRPORT NAME: Omak Airport

CLIENT: City of Omak

A.I.P. NUMBER: 3-53-0042-015-2023

J-U-B PROJECT NUMBER: 45-022-044

CLIENT PROJECT NUMBER: \_\_\_\_\_

ATTACHMENT TO

[X] AGREEMENT DATED: 4/10/2023; or

[ ] AUTHORIZATION FOR ADDITIONAL SERVICES #X; DATED: \_\_\_\_\_

The referenced Agreement for Professional Services executed between J-U-B ENGINEERS, Inc. (J-U-B) and the CLIENT is amended and supplemented to include the following provisions regarding the Scope of Services, Basis of Fee, and/or Schedule:

PART 1 - PROJECT UNDERSTANDING

FAA AIP 3-53-0042-015-2023 includes the Project Formulation, Design, and Project Closeout Engineering Services for the following Items:

A detailed Scope of Services is provided in Attachment 1A – Detailed Scope of Work.

PART 2 - BASIS OF FEE

A. CLIENT shall pay J-U-B for the identified Services in PART 1 as follows:

- 1. Design Phase. The CLIENT shall compensate J-U-B on the basis of a lump sum amount of One Hundred Twenty-Eight Thousand, Two Hundred Seventy Dollars and No Cents (\$128,270.00). See Attachment 1B for a detailed cost breakdown.

PART 3 - SCHEDULE OF SERVICES

J-U-B will perform all services according to the following schedule:

J U B will perform said Services in accordance with the schedule described in Attachment 1 Scope of Services, Basis of Fee, and Schedule in a manner consistent with the applicable standard of care. This schedule shall be equitably adjusted as the Project progresses, allowing for changes in scope, character or size of the Project as requested by the CLIENT or for delays or other causes beyond J-U-B's control

This Agreement shall be in effect from 4. In the event the services described shall not be completed during the term of this Agreement, the Agreement shall be amended.

This schedule shall be equitably adjusted as the PROJECT progresses, allowing for changes in scope, character or size of the PROJECT requested by the CLIENT or for delays or other causes beyond J-U-B's control.

NOTE on Coronavirus and Schedule: J-U-B is committed to meeting your project schedule commitments as delineated above. As our response to the COVID-19 pandemic, J-U-B is engaging in safety procedures to help protect our clients, staff, their families, and the public. Our staff or offices may be subject to quarantine or other interruptions. Since COVID-19 impacts are beyond J-U-B's control, we

*are not responsible for the force majeure impacts to delivery timelines, or subsequent project delays and related claims, costs, or damages. Should circumstances related to the COVID-19 issue arise with J-U-B staff or in a J-U-B office that will impact our delivery schedule, we will notify you of the circumstances and mutually agree to a schedule adjustment*

Exhibit(s):

- Attachment 1A - Detailed Scope of Work
  - Attachment 1B Fee Breakdown
  - Standard Exhibit A: Construction Phase Services
- 

For internal J-U-B use only:

PROJECT LOCATION (STATE): Washington

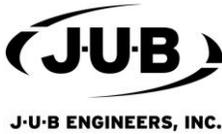
TYPE OF WORK: City

R&D: Yes

GROUP: Airport

PROJECT DESCRIPTION(S):

- A.** Airport (A05)



**J-U-B ENGINEERS, Inc.**  
**AGREEMENT FOR PROFESSIONAL SERVICES**

**Attachment 1A – Detailed Scope of Work**

**PROJECT NAME:** North Taxiway A Reconstruction - Design

**AIRPORT NAME:** Omak Airport

**CLIENT:** City of Omak

**A.I.P. NUMBER:** 3-53-0042-015-2023

**J-U-B PROJECT NUMBER:** 45-022-044

**CLIENT PROJECT NUMBER:**

ATTACHMENT TO:

**AGREEMENT DATED: 4/10/2023; or**

**AUTHORIZATION FOR ADDITIONAL SERVICES #X; DATED:**

The referenced Agreement for Professional Services executed between J-U-B ENGINEERS, Inc. (J-U-B) and the CLIENT is amended and supplemented to include the following provisions regarding the Scope of Services, Basis of Fee, and/or Schedule:

**PART 1 - PROJECT UNDERSTANDING**

FAA AIP 3-53-0042-015 includes the Project Formulation, Preliminary Design, Final Design, and Project Closeout phase services for the following Items:

- Reconstruct Taxiway A between Taxiway B and Taxiway C, approximately 2,100' x 35' and replace taxiway retroreflective markers. Reconstruction is required due to the failing condition of the existing pavement which had a PCI of 37 as of 2018.
- Re-grade the Taxiway Safety Area (TSA) adjacent to the reconstructed Taxiway A. This grading is required to correct for any minor vertical alignment changes in the adjacent reconstructed taxiway to maintain safety area grading standards.
- Install sub surface drains adjacent to the proposed Taxiway A.

**PART 2 - SCOPE OF SERVICES BY J-U-B**

J-U-B's Services under this Agreement are limited to the following tasks. Any other items necessary to plan and implement the project, including but not limited to those specifically listed in PART 3, are the responsibility of CLIENT.

**A. Task 001: Project Formulation Phase**

1. Conduct a Pre-Design meeting with CLIENT and FAA. The meeting will be held to determine the planning and study issues that will need to be addressed during the design of the project. The FAA Predesign Conference Checklist will be the guide for project discussions. Minutes of the Predesign meeting will be compiled and forwarded to the FAA and CLIENT.
2. Assist the CLIENT with Project Scope development and formulation. J-U-B will prepare a Scope of Services narrative and detailed description of all work tasks for CLIENT and FAA review and approval. Discuss review comments and revise accordingly.
3. Prepare a listing of work tasks in a spreadsheet with person-hours, hourly rates, expenses, and costs based on the Scope of Services. This spreadsheet will be used for both J-U-B and the Independent Fee estimate. J-U-B shall prepare a detailed cost proposal on the spreadsheet, based on estimates of work to accomplish the Scope of Services.

4. Provide the CLIENT and the Independent Fee Estimator (IFE) with a blank person-hour spreadsheet, Scope of Services, Project Layout Map, and overall project estimate.
5. Prepare an Agreement for Professional Services for submittal and review by the CLIENT and FAA, including the FAA Professional Services Agreement Checklist. The Agreement shall be comprehensive in description of services and responsibilities of all contract parties.
6. Assist CLIENT with preparation and submittal of a FAA Grant Application for Federal Assistance for the project, including estimated project costs, exhibits, and a schedule for FAA submittal prior to beginning of the project.
7. Assist CLIENT in the submittal of FAA Sponsor Certifications. These include the "Selection of Consultants", "Project Plans and Specifications", "Drug Free Workplace", "Equipment/Construction Contracts", "Disclosure Regarding Potential Conflicts" and "Construction Project Final Acceptance".
8. Provide the following services related to Federal Disadvantaged Business Enterprise requirements (DBE).
  - a. Analyze opportunities for Disadvantaged Business Enterprise (DBE) participation during construction and assist CLIENT in preparing a three-year goal for 2024-2026 for the ACIP projects.
  - b. Coordinate a DBE conference call by contacting various Chambers of Commerce asking them to advertise that there will be a conference call for anyone interested in the DBE goal setting methodology for this project. Contact specific DBE's in area that could be interested in bidding the project. The conference call would be a 2-hour window, monitored via speakerphone and respond if anyone does call in.
  - c. Coordinate CLIENT DBE Goal Advertisements for the new 2024-2026 three-year goal on the CLIENT's website for a minimum of 30 days.
  - d. Finalize and submit new 2024-2026 three-year goal to FAA Civil Rights office, notify FAA ADO in writing once goal has been submitted.
  - e. Review and update as required sponsor's DBE Program Plan and submit to FAA Civil Rights for review and approval.
9. Prepare and submit six (6) FAA Quarterly Performance Reports and two (2) Fiscal Year End Financial FAA 271 and 425 forms throughout the project.
10. Prepare and submit two (2) annual DBE reports to the FAA Civil Rights Office.
11. Attend two (2) meetings with the client during the project in order to keep them abreast of the progress of the project. Discussions will include project phasing, budget and schedule updates.
12. Assist CLIENT in preparation and processing of monthly Request for Reimbursement (RFR) by submitting data as described. It is anticipated that the CLIENT will prepare and process four (4) monthly sets of RFR 'packages' for this project. J-U-B will provide documentation of costs for the CLIENT's use in performing the Request for Reimbursements including consultant invoices, reimbursement spreadsheet and Standard Form 271.

**B. Task 002: Preliminary Design Phase**

1. Investigate the proposed job site at the Airport. Allow civil design personnel to become familiar with the proposed job site. Take photographs, perform a visual survey of the pavement areas, and otherwise document findings of visit.
2. Provide or obtain field surveys, which include detailed topographic and cross section information of improvement areas for design purposes. Coordinate with surveyors to verify that design survey is performed as required. This will include one (1) on-site meeting with surveyors to review project location and safety. The general scope of the survey work will include the following:

The primary area to be surveyed is Taxiway A from Taxiway B to Taxiway C. The survey area shall include the entire 2,100 feet of the taxiway surface/shoulders/TSA/OFA and adjacent areas where

the new pavement will tie-in. The pavement and shoulder surfaces within this area shall be section surveyed on 50-ft stations. The infield and grass surfaces within this area shall be surveyed on a 100-ft by 100-ft grid. All topographical features within all of these areas shall be surveyed including but not limited to: grade breaks, pavement markings, tie-downs, building corners, fence, drainage structures (invert elevations, pipes sizes, & rim elevations), utility markers, edge of pavements, and lighting and electrical components. The total of all areas are approximately 47,000 square yards.

Existing control monuments shall be used for the survey control and will need to be tied together to check for accuracy. The survey will have to be coordinated with the Airport for access and optimum time to minimize disruption to air traffic. The airfield pavements and runway will be open to aircraft, surveyors will have to monitor the local frequency and move out of safety areas for aircraft. The survey shall be conducted in accordance to FAA AC 150/5370-2G safety guidelines. Vertical datum should be in accordance to NAVD 88, and horizontal datum should be in accordance to NAD 83. Vertical tolerances shall be +0.02-feet for paved surfaces and +0.05-feet for unpaved surfaces. Horizontal tolerances shall be +0.03-feet.

3. Administer design Geotechnical Subconsultant contract and coordinate delivery of work product. Provide quality control review of work products. This will include one (1) on-site meeting with geotechnical Subconsultant to review project location and safety. The geotechnical laboratory work will be performed utilizing the services of a Subconsultant. The general scope of the geotechnical work will be the following:

Administer seven (7) cores/bore logs on the taxiway to a depth of 10-feet or refusal.

The geotechnical engineer shall immediately patch all pavement core holes with an approved asphalt cold mix or similar product. Data shall be collected on the soil type, existing asphalt condition, and depths and categorized according to the Unified Soil Classification System (USCS) including Moisture Content, Atterberg Limits, Grain Size Distribution. A sieve analysis shall be performed on both the base course and subbase. The sieve analysis for base course should include the following classifications: percentage by weight passing sieves of 1-inch, ¾-inch, No. 4, No. 40, No. 200, and 0.02 mm. The sieve analysis for subbase course should include the following classifications: percentage by weight passing sieves of 3-inch, No. 10, No. 40, No. 200, and 0.02 mm. Ground water depth shall be recorded if encountered. One California Bearing Ratio (CBR) test shall be performed on one of the bore log samples at a depth of 24-inches which is the anticipated depth of subgrade.

The geotechnical engineer shall coordinate with the Engineer to determine exact core/bore log locations. The geotechnical work shall be conducted in accordance to FAA AC 150/5370-2G safety guidelines. The geotechnical engineer shall be responsible for a utility locate prior to work. The geotechnical firm will need to coordinate with the Airport Manager and the Engineer personal for closure time and date.

The geotechnical firm shall submit 3 copies of the final geotechnical report including all required information as mentioned above to the Engineer. The firm shall submit a draft copy for review prior to finalizing the report and its findings.

4. Analyze the geotechnical testing data to determine the most cost-effective form of rehabilitation or reconstruction. Analyze the performance and stability of existing asphalt section. Rehabilitation methods may include full depth reconstruction in designated select locations, pavement removal and replacement, or pavement overlay depending on test results. Determine rehabilitation/reconstruction method best suited for the pavement surfaces.
5. Define aircraft fleet mix for the pavement design of the project and develop pavement design section. Pavement design criteria shall be in accordance with the FAA Advisory Circular (AC) 150/5320-6F. This will include calculating and reporting the Airport Pavement Strength- PCR.
6. Address subsurface drainage requirements for the taxiway and determine appropriate methods for compliance with FAA policy on subsurface pavement drainage and edge underdrains.
7. Perform analysis of existing Taxiway Shoulders, Safety Area and Object Free Area grading to determine compliance with current FAA AC 150/5300-13B requirements.

8. Contact FAA Environmental Manager by email to confirm that the project will require an administrative categorical exclusion pursuant to FAA Order 1050.1F, Paragraph 5-6.4(e).
9. Assemble base data and base maps for the project work area from the design survey, previous projects undertaken, and available aerial data.
10. Prepare preliminary Design Plans (75% complete) for review and discussion with the CLIENT and FAA. It is anticipated that the project design will require Sixteen (16) plan sheets including:

- Sheet 1 – Cover
- Sheet 2 – Construction Layout Plan
- Sheet 3 – Operation & Safety Plan- Phase 1
- Sheet 4 – Demolition Plan
- Sheet 5 – Demolition Plan
- Sheet 6 – Grading & Drainage Plan
- Sheet 7 – Grading & Drainage Plan
- Sheet 8 – Plan & Profile Taxiway
- Sheet 9 – Plan & Profile Taxiway
- Sheet 10 – Pavement Marking Plan
- Sheet 11 – Pavement Marking Plan
- Sheet 12 – Pavement Marking Details
- Sheet 13 – Typical Sections
- Sheet 14 - Typical Sections
- Sheet 15 – Civil Details
- Sheet 16 - Civil Details

11. Prepare preliminary Bidding and Construction Contract Documents and Technical Specifications (75% complete) based on latest version of FAA AC 150/5370-10 “Standards for Specifying Construction on Airports” including the current Regional Notice published by the FAA Airports Districts Office.
12. Prepare a preliminary Engineer’s Opinion of Probable Construction Cost Estimate, phasing into workable portions for constructability, budget, and construction schedule and advise the CLIENT as to budget status.
13. Prepare a preliminary Construction Safety and Phasing Plan according to AC 150/5370-2G for evaluation by the CLIENT, airport users and agencies. An electronic copy will be submitted to the FAA Airport District Office for coordination, review, and approval with other FAA lines of business using the airspace process (OE/AAA).
14. Prepare the preliminary Engineer’s Design Report in conformance with FAA guidelines. The report shall include a Summary of the Project and its specific design issues, Project Schedule, reference to the Construction Safety and Phasing Plan, Modification of Standards, Design Analysis, Pavement Analysis, Geotechnical Investigation Report, and Construction Cost Estimate and Schedule.
15. Conduct in-house quality control/quality assurance review of preliminary design documents.
16. Participate in a preliminary design review meeting with the CLIENT. Anticipate one (1) review meeting with the CLIENT at the Airport, attendance by the Project Manager and Airport Engineer. Review design philosophy, preliminary design drawings, design analysis and project schedules with the CLIENT.
17. Prepare and submit one (1) FAA Form 7460 to airspace the project construction equipment.
18. Submit preliminary documents to FAA (1 copy) and CLIENT (2 copies) for approval.

**C. Task 003: Final Design Phase**

1. Finalize Bidding and Construction Contract Documents and Technical Specifications based on Peer, CLIENT, and FAA Reviews.
2. Finalize Design Plans based on Peer, CLIENT, and FAA Reviews.

3. Prepare final Construction Safety and Phasing Plan to accommodate varying work components that need to meet prescribed schedules.
4. Complete final quantity calculations and prepare Final Engineer's Opinion of Probable Construction Cost Estimate.
5. Prepare final Engineer's Design Report based on Peer, CLIENT, and FAA Reviews.
6. Submit final documents to FAA (1 copy) and CLIENT (2 copies) for approval.

**D. Subtask 004: Project Closeout Phase**

1. Prepare the final project report and close-out documents according to FAA requirements and submit to CLIENT and FAA.
2. Assist and coordinate with independent auditors in locating appropriate documents for performing A-133 annual audit. In addition to finding appropriate project files, answer questions as required.
3. Provide assistance to the CLIENT in assessing, costing, and updating the five-year Capital Improvement Plan for submittal to Aviation.

**PART 3 - ASSUMPTIONS AND EXCEPTIONS**

- No SMS plan is required on this project during the design or other portions of the project.
- No initial AGIS or as-built survey is required for this project.
- Environmental work beyond that described will be considered additional work and may require a contract modification.

## ATTACHMENT 1B- Fee Breakdown

<b>PROJECT TITLE:</b>	FY 2023 Omak Municipal Airport North Taxiway A Reconstruction - Design AIP 3-53-0042-015-2023		
<b>CLIENT:</b>	City of Omak, Washington		
<b>JOB NUMBER:</b>	45-22-044		
<b>DATE:</b>	January 31, 2023		<b>J-U-B Engineers, Inc. Fee Estimate (Design Phase)</b>

TASK NO	PROJECT TASK	Principal	Senior Engineer	Project Manager	Design Engineer	CAD Designer	Environ. Specialist	Profess. Land Surveyor	2-Person Survey Crew	Admin.	Trips	TOTAL HRS	TASK DIRECT COSTS
<b>001. Project Formulation Phase</b>													
1	Conduct Pre-Design Meeting	0	2	2	0	0	0	0	0	0	0	4	\$276.00
2	Project Scope Development & Formulation	1	2	6	0	0	0	0	0	2		11	\$660.00
3	Prepare Cost Proposal	1	1	4	0	0	0	0	0	2		8	\$456.00
4	Assist with Record of Negotiations	0	0	2	0	0	0	0	0	2		4	\$180.00
5	Prepare Professional Service Agreement	1	2	2	0	0	0	0	0	2		7	\$396.00
6	Prepare FAA Grant Application	0	0	2	2	0	0	0	0	1		5	\$238.00
7	Prepare FAA Sponsor Certifications	0	0	2	2	0	0	0	0	1		5	\$238.00
8	DBE Related Services	0	0	8	12	0	0	0	0	4		24	\$1,116.00
9	Prepare FAA Quarterly Reports	0	0	6	6	0	0	0	0	0		12	\$642.00
10	DBE Annual Reports	0	0	0	2	0	0	0	0	0		2	\$82.00
11	Attend Client Meetings (2)	0	0	20	0	0	0	0	0	0	2	20	\$1,320.00
12	Prepare Request for Reimbursements	0	0	4	4	0	0	0	0	8		16	\$620.00
<b>002. Preliminary Design Phase</b>													
1	Perform Site Walk Through	0	0	12	12	0	0	0	0	0	1	24	\$1,284.00
2	Field Survey	0	0	0	10	0	0	2	20	0	1	32	\$2,152.00
3	Coordinate with Geotech Sub	0	0	1	10	0	0	0	0	0	1	11	\$476.00
4	Analyze Geotech Data	0	0	2	2	0	0	0	0	0		4	\$214.00
5	Define Fleet Mix for Pavement Design	0	0	0	2	0	0	0	0	0		2	\$82.00
6	Address Subsurface Drainage	0	0	4	4	0	0	0	0	0		8	\$428.00
7	Analyze Existing Grading	0	0	0	2	4	0	0	0	0		6	\$262.00
8	Request Administrative CATEX	0	0	1	0	0	0	0	0	0		1	\$66.00
9	Assemble Base Maps	0	0	0	0	8	0	2	0	0		10	\$482.00
10	75% Preliminary Plans	0	0	25	40	80	0	0	0	0		145	\$6,890.00
11	75% Preliminary Contract Docs and Specifications	0	0	20	30	0	0	0	0	4		54	\$2,646.00
12	Preliminary Cost Opinion	0	0	2	6	0	0	0	0	0		8	\$378.00
13	Preliminary CSPP	0	0	8	10	4	0	0	0	0		22	\$1,118.00
14	Preliminary Engineer's Design Report	0	0	8	10	0	0	0	0	2		20	\$986.00
15	In House QC/QA	4	4	0	0	0	0	0	0	0		8	\$576.00
16	Hold Preliminary Design Review Meeting	0	0	10	10	0	0	0	0	0	1	20	\$1,070.00
17	Prepare 7460	0	0	0	2	0	0	0	0	0		2	\$82.00
18	Submit Preliminary Documents to FAA	0	0	1	0	0	0	0	0	2		3	\$114.00
<b>003. Final Design Phase</b>													
1	Finalize Contract Docs & Specs	0	0	5	10	0	0	0	0	4		19	\$836.00
2	Finalize Construction Plans	0	0	8	12	20	0	0	0	0		40	\$1,920.00
3	Finalize CSPP	0	0	4	4	4	0	0	0	0		12	\$608.00
4	Complete Final Quantity Calculations	0	0	4	8	0	0	0	0	0		12	\$592.00
5	Submit Final Engineer's Design Report	0	0	2	4	0	0	0	0	2		8	\$344.00
6	Submit Final Documents to FAA & Owner	0	0	2	0	0	0	0	0	2		4	\$180.00

## ATTACHMENT 1B- Fee Breakdown

<b>PROJECT TITLE:</b>	FY 2023 Omak Municipal Airport North Taxiway A Reconstruction - Design AIP 3-53-0042-015-2023		
<b>CLIENT:</b>	City of Omak, Washington		
<b>JOB NUMBER:</b>	45-22-044		
<b>DATE:</b>	January 31, 2023	<b>J-U-B Engineers, Inc. Fee Estimate (Design Phase)</b>	

TASK NO	PROJECT TASK	Principal	Senior Engineer	Project Manager	Design Engineer	CAD Designer	Environ. Specialist	Profess. Land Surveyor	2-Person Survey Crew	Admin.	Trips	TOTAL HRS	TASK DIRECT COSTS	
<b>004. Project Closeout Phase</b>														
1	Prepare the final project report and close-out documents	0	0	4	15	0	0	0	0	0	0	19	\$879.00	
2	Assist and coordinate with independent auditors performing A-133 annual audit.	0	0	0	2	0	0	0	0	4	0	6	\$178.00	
3	Provide assistance to the CLIENT in assessing, costing, and updating the five-year Capital Improvement Plan	0	0	2	4	0	0	0	0	0	0	6	\$296.00	
Sub -Total Design		0	0	0	0	0	0	0	0	0	6	593	\$31,363.00	
<b>LABOR:</b>														
Labor		0	0	0	0	0	0	0	0	0	6	593	\$31,363.00	
Direct Overhead												176.83%	\$55,459.19	
Fixed Fee												15.0%	\$13,023.33	
Total Labor + Overhead + Fixed Fee													\$99,845.52	
<b>EXPENSES:</b>														
		Cost Per Unit	Air Trips	Ground Trips	Days	Hours	Trip Miles						Markup	
	Air Travel	\$600.00	0										1.0	\$0.00
	Mileage	\$0.655		6			280						1.0	\$1,100.40
	Per Diem	\$55.00			4								1.0	\$220.00
	Lodging	\$150.00			4								1.0	\$600.00
	GPS Survey Unit	\$41.02				0							1.0	\$0.00
	Printing	\$0.00											1.0	\$0.00
<b>SUBCONSULTANTS:</b>														
1	Geotech						\$26,500						1.0	\$26,500.00
2							\$0						1.0	\$0.00
3							\$0						1.0	\$0.00
Subtotal - Labor + Overhead + Fixed Fee													\$99,845.52	
Subtotal - Expenses													\$1,920.40	
Subtotal - Subconsultants													\$26,500.00	
<b>Total -Project Design Fees</b>													<b>\$128,270.00</b>	

## MEMORANDUM

To: Omak City Council  
Cindy Gagné, Mayor

From: Wayne Beetchenow, Public Works Director

Date: April 3, 2023

Subject: **Ordinance 1923** - Approving, Franchise Agreement with Okanogan  
County Transit Authority

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The Attached Ordinance 1923, an Ordinance of the City Council of the City of Omak, Approving Franchise Agreement with Okanogan County Transit Authority to Place Shelters on City Property, is forwarded for your consideration.

This Ordinance will approve a franchise agreement to place shelters at bus stops within the City of Omak in various locations within the city right of way.

I support this resolution and recommend its approval

**ORDINANCE NO. 1923**

**AN ORDINANCE OF THE OMAK CITY COUNCIL GRANTING A FRANCHISE AGREEMENT WITH OKANOGAN COUNTY TRANSIT AUTHORITY TO PLACE PUBLIC TRANSIT SHELTERS WITHIN CITY RIGHT OF WAY**

**WHEREAS**, Okanogan County Transit Authority provides public transportation services within the incorporated City limits; and

**WHEREAS**, shelters and improvements are needed at existing and future locations to aid in the convenience and operations of public transportation, and

**WHEREAS**, the City and representatives of the Okanogan County Transportation Authority have negotiated a new Franchise Agreement; and

**WHEREAS**, the proposed Franchise Agreement will be for a period of 10 years with automatic annual renewal thereafter, until amended or terminated by either party.

**THE CITY COUNCIL OF THE CITY OF OMAK DO ORDAIN AS FOLLOWS:**

**Section 1.** A new Franchise Agreement for the placement of public transit shelters between the **City of Omak** and the **Okanogan County Transit Authority**, a copy of which is attached hereto as Exhibit "A" is hereby approved, and the Mayor is authorized to execute the document on behalf of the City.

**Section 2.** This ordinance shall become effective from and after the date of its passage by Council by a vote of the majority of all Councilmembers, approval by the Mayor and publication as required by law.

**PASSED** by the City Council of the City of Omak, this \_\_\_\_ day of \_\_\_\_\_, 2023.

**APPROVED:**

\_\_\_\_\_  
Cindy Gagne, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Connie Thomas, City Clerk

\_\_\_\_\_  
Michael Howe, City Attorney

Ordinance No. 1923

April 3, 2023

Page 2 of 2

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Filed with City Clerk: \_\_\_\_\_

Passed by City Council:

1<sup>ST</sup> Reading \_\_\_\_\_

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

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

On the \_\_\_\_\_ day of \_\_\_\_\_, 2023, the City Council of the City of Omak passed Ordinance No. 1923.

DATED this \_\_\_\_ day of \_\_\_\_\_ 2023.

\_\_\_\_\_  
Connie Thomas, City Clerk

## FRANCHISE AGREEMENT

\* \* \* \* \*

**THIS FRANCHISE AGREEMENT**, hereinafter "Agreement," is made and entered into this 3rd day of April, 2023, by and between the **CITY OF OMAK**, a Washington municipal corporation, hereinafter "City," and the **OKANOGAN COUNTY TRANSIT AUTHORITY**, a public transportation benefit area established under RCW 36.57A, hereinafter "OCTA," and collectively the "Parties."

### **RECITALS:**

- A.** OCTA operates a public transportation system within Okanogan County that provides public transportation to the residents and guests of Okanogan County. OCTA utilizes permanent shelters and signage to better accommodate and protect riders of OCTA's public transportation system; and
- B.** Utilization of such shelters and signage requires the installation, construction, operation and maintenance of permanent structures designed to shelter riders and/or signage designed to designate such shelters, within the City rights-of-way and sidewalks, hereinafter "Shelters"; and
- C.** OCTA has requested that the City provide a non-exclusive franchise to construct, operate and maintain the Shelters at such location within the City described in **Exhibit A** attached hereto and incorporated herein as though fully set forth and as shown on **Exhibit B** attached hereto and incorporated herein as though fully set forth; and
- D.** Washington state statutes authorize the City to grant non-exclusive franchises for such purpose.

**NOW, THEREFORE**, for and in consideration of the mutual covenants and conditions contained herein, the Parties do hereby as follows:

**1. Definitions.** For the purposes of this Agreement, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Words not defined shall be given their common and ordinary meaning.

**1.1 Construct or Construction** shall mean adding, removing, replacing and repairing the Shelters and may include, but is not limited to, digging, boring and/or removal of concrete or asphalt for the purposes of adding, removing, replacing and repairing the Shelters.

**1.2 Effective Date** shall mean full execution by the Parties, and after passage, approval and five (5) days after legal publication of the ordinance passed by the City authorizing this Agreement.

**1.3 Shelters** shall mean OCTA's permanent structures designed to shelter OCTA riders and/or signage designed to designate such Shelters, and any other facilities necessary for the purpose of maintaining the Shelters by OCTA, whether currently in place, or if later added, reconstructed or improved.

**1.4 Agreement** shall mean this Franchise Agreement and any amendments, exhibits or appendices to this Agreement.

**1.5 Franchise Area** means the area within the jurisdictional boundaries of the City described in **Exhibit A** attached hereto and as specifically shown on **Exhibit B** attached hereto.

**1.6 Maintenance or Maintain** shall mean examining, inspecting, repairing, maintaining, cleaning and replacing the Shelters or any part thereof as required and necessary for safe and clean operation.

**1.7 Operate or Operations** shall mean the use of the Shelters within and through the Franchise Area.

**1.8 Rights-of-Way** means the surface and the space above and below streets, roadways, highways, avenues, courts, lanes, alleys, sidewalks, easements, rights-of-way and similar public property and areas located within the Franchise Area.

## **2. Grant of Authority.**

**2.1** The City hereby grants to OCTA, its successors and assigns (as provided in Section 4), the right, privilege, authority and franchise to construct, operate and maintain its Shelters within the Franchise Area.

**2.2** This Agreement is non-exclusive. The City reserves all rights to its property, including, without limitation, the right to grant additional franchises, easements, licenses and permits to others to use the rights-of-way

and public properties, provided that the City shall not grant any other franchise, license, easement or permit that would unreasonably interfere with OCTA's permitted use under this Agreement. This Agreement shall in no manner prohibit the City or limit its power to perform work upon its rights-of-way, public properties or make all necessary changes, relocations, repairs, maintenance, establishment, improvement thereto, or from using any of the rights-of-way and public properties, or any part of them, as the City may deem fit from time to time, including the dedication, establishment, maintenance and improvement of all new rights-of-way and other public properties of every type and description.

**2.3** This Agreement is conditioned upon the terms and conditions contained herein and OCTA's compliance with all applicable federal, state or other regulatory programs that currently exist or may hereafter be enacted by any regulatory agencies with jurisdiction over OCTA.

**2.4** By granting this franchise, the City is not assuming any risks or liabilities therefrom, which shall be solely and separately borne by OCTA. OCTA agrees and consents to, at its sole cost and expense, take all necessary and prudent steps to protect, support, and keep safe from harm its Shelters or any part thereof, when necessary to protect the public health and safety. OCTA and City agree that such limitation of liability shall not extend to protect the City from risks or liabilities caused by actions taken by, or on behalf of, the City for which OCTA has no control.

**2.5** This Agreement is only intended to convey a limited right and interest. It is not a warranty of title or interest in the City's rights-of-way or other public property. None of the rights granted herein shall affect the City's jurisdiction over its property, streets or rights-of-way.

**2.6** The limited rights and privileges granted under this Agreement shall not convey any right to OCTA to install any additional Shelters without the express written consent of the City.

**3. Term.** Each of the provisions of this Agreement shall become effective upon the Effective Date as defined herein, and shall remain in effect for ten, (10) years thereafter. Provided, that upon the expiration of the term, and this Agreement has not been amended, terminated under Section 10 herein or superseded, this Agreement shall be extended on a year-to year basis until it is terminated by written action of either party with at least one hundred twenty (120) days prior written notice. Both Parties consent and agree to bargain in good faith to renew this Agreement subject to such changes as may be required to reflect changed conditions.

#### **4. Assignment and Transfer of Franchise.**

**4.1** This Agreement shall not be transferred, assigned or otherwise alienated without the express consent of the City, which approval shall not be unreasonably withheld.

**4.2** Subject to the foregoing, OCTA and any proposed assignee or transferee shall provide and certify the following to the City not less than one hundred twenty (120) days prior to the proposed date of transfer:

(a) Complete information setting forth the nature, terms and conditions of the proposed assignment or transfer;

(b) All information required by the City of the assignment or transfer; and,

(c) An application fee which shall be set by the City, plus any other costs actually and reasonably incurred by the City in processing and investigating the proposed assignment or transfer.

**4.3** No transfer shall be approved unless the assignee or transferee has at least the legal, technical, financial, and other requisite qualifications to carry on the activities of OCTA.

**4.4** Any transfer or assignment of this Agreement without the prior written consent of the City shall be void and result in revocation of the Agreement.

#### **5. Compliance with Laws and Standards.**

**5.1** In carrying out any authorized activities under the privileges granted herein, OCTA shall meet accepted industry standards and comply with all applicable codes and regulations of the City and laws of any governmental entity with jurisdiction over the Shelters and their operation. This shall include all applicable codes, laws, rules and regulations existing at the Effective Date of

this Agreement or that may be subsequently enacted by the City and/or any governmental entity with jurisdiction over OCTA and/or the Shelters.

**5.2** In the event that a building permit is required for the installation or maintenance of the Shelters, OCTA shall obtain such building permit at their expense.

## **6. Construction and Maintenance.**

**6.1** All Shelter additions, construction, maintenance or operation undertaken by OCTA or upon OCTA's behalf shall be professionally completed by employees of OCTA having the proper training and authority to complete such work or by a licensed contractor or entity in a workmanlike manner.

**6.2** Except in the case of an emergency, prior to commencing any additions or construction work in the Franchise Area, OCTA will first file with the City such plans, specifications and profiles of the intended work as may be required by the City. The City may require such additional information, plans and/or specifications as are in the City's opinion necessary to protect the public health and safety during the construction and/or maintenance work and for the remaining term of this Agreement.

**6.3** All construction and/or maintenance work shall be performed in conformity with the maps and specifications filed with the City, except in instances in which deviation may be allowed thereafter in writing pursuant to an application by OCTA.

**6.4** All Shelters within the Franchise Area shall comply with applicable City, state and federal regulations, as from time to time amended.

**6.5** Except in the event of an emergency, OCTA shall provide the City at least twenty (20) calendar days' written notice prior to any addition or construction, or other substantial activity, other than routine inspections and maintenance, by OCTA, its agents, employees or contractors on OCTA's Shelters within the Franchise Area.

**6.6** Work shall only commence upon the issuance of applicable approval by the City, which approval shall not be unreasonably withheld or delayed. However, in the event of an emergency requiring immediate action by OCTA for the protection of the Shelters, the City's property or other persons or property, OCTA may proceed without first obtaining the normally required approval. In such event, OCTA must (1) take all necessary and prudent steps to

protect, support, and keep safe from harm its Shelters, or any part thereof; the City's property; or other persons or property, and to protect the public health and safety; and (2) as soon as possible thereafter, must obtain the required approval and comply with any mitigation requirements or other conditions in the after-the-fact approval.

**6.7** Unless such condition or regulation is in conflict with a local, state or federal requirement, the City may condition the granting of any approval that is required under this Agreement, in any manner reasonably necessary for the safe use and management of the public rights-of-way or the City's property including, by way of example and not limitation, maintaining proper distance from other utilities, protecting the continuity of pedestrian and vehicular traffic and protecting any rights-of-way improvements, private facilities and public safety.

**6.8** Whenever necessary, after constructing or maintaining any of the Shelters within the Franchise Area, OCTA, without delay, and at OCTA's sole expense, remove all debris and restore the surface, or any area above surface, including any roadways, sidewalks or gutters, and including any surface, above surface or sub-surface improvements or utilities, to the same or prior condition as it was in before the work began. OCTA shall replace any property corner monuments, survey reference or hubs that were disturbed or destroyed during OCTA's work in the areas covered by this Agreement. Such restoration shall be done in a manner consistent with applicable codes and laws, under the supervision of the City and to the City's satisfaction and specifications.

**6.9** Nothing in this Agreement shall be deemed to impose any duty or obligation upon the City to determine the adequacy or sufficiency of OCTA's plans and designs or to ascertain whether OCTA's proposed or actual construction, maintenance, repairs, replacement or removal is adequate or sufficient or in conformance with the plans and specifications reviewed by the City.

**6.10** OCTA shall be solely and completely responsible for workplace safety and safe working practices on its job sites within the Franchise Area, including safety of all persons and property during the performance of any work.

**7. Operations, Maintenance and Inspection.**

**7.1** OCTA shall operate, maintain and inspect its Shelters in the Franchise Area in full compliance with the applicable provisions of all federal, state and local laws, regulations and standards, as now enacted or hereafter amended, and any other future laws or regulations that are applicable to the Shelters.

**7.2** OCTA will inspect and clean the Shelters of any litter or garbage in and around the Shelters three (3) times per week, and shall wash the Shelters as needed. Any graffiti or damage to the Shelters shall be removed and/or repaired within forty-eight (48) hours of notification or knowledge of such act by OCTA.

**8. Relocation.**

**8.1** In the event that the City undertakes or approves the construction of or changes to the grade or location of any water, sewer or storm drainage line, street, sidewalk or other City improvement project and the City determines that the project might reasonably require the relocation of any of the Shelters, the City shall provide OCTA at least one hundred and twenty (120) calendar days prior written notice or such additional time as may reasonably be required, of such project requiring relocation of the Shelters.

**8.2** OCTA may, after receipt of written notice requesting a relocation of any of its Shelters, submit to the City written alternatives to the relocations within forty-five (45) calendar days of receiving the plans and specifications. The City shall evaluate the alternatives and advise OCTA in writing within forty-five (45) days if one or more of the alternatives are suitable to accommodate the work that would otherwise necessitate relocation of the Shelters. If requested by the City, OCTA shall submit additional information to assist the City in making their evaluation. The City shall give each alternative proposed by OCTA full and fair consideration, but ultimately if none of the proposed alternatives provided by OCTA reasonably addresses the conflict requiring relocation, the City retains full discretion to decide for itself whether to utilize their original plan. In the event the City ultimately determines that there are no other reasonable alternatives and requires relocation of any of the Shelters, OCTA shall be responsible for all costs associated with the City's request for relocation of the Shelters.

**8.3** The City shall work cooperatively with OCTA in determining a viable and practical area within which OCTA may relocate its Shelters, in order to minimize costs while meeting the City's project objectives.

**8.4** OCTA shall complete relocation of its Shelters so as to accommodate the improvement project at least ten (10) calendar days prior to commencement of the improvement project or such other time as the Parties may agree in writing.

**9. Removal, Abandonment in Place.**

**9.1** In the event of OCTA's permanent cessation of use of any of its Shelters within the Franchise Area, OCTA shall, within one hundred and eighty (180) days after the cessation of use, remove the Shelters or any portion thereof if required by the City in writing.

**9.2** In the event of the removal of all or a portion of the Shelters, OCTA shall restore the Franchise Area to the same or prior condition as it was in before the work began.

**9.3** Removal and restoration work shall be done at OCTA's sole cost and expense and to City's reasonable satisfaction.

**9.4** If OCTA is required to remove any of its Shelters and fails to do so and/or fails to adequately restore the Franchise Area or other mutually agreed upon action(s), the City may, after reasonable notice to OCTA, remove any of the Shelters, restore the premises and/or take other action as is reasonably necessary at OCTA's expense. This remedy shall not be deemed to be exclusive and shall not prevent the City from seeking a judicial order directing that the Shelters be removed.

**9.5** With the express written consent of the City, OCTA may abandon its Shelters in place. The City's consent to the abandonment of Shelters in place shall not relieve OCTA of the obligation and/or costs to remove or to alter such Shelters in the future in the event it is reasonably determined that removal or alterations is necessary or advisable for the health and safety of the public, in which case OCTA shall perform such work at no cost to the City.

**9.6** The Parties expressly agree that Paragraph 9.5 shall survive the expiration, revocation or termination of this Agreement.

## **10. Violations, Remedies and Termination.**

**10.1** In addition to any rights set out elsewhere in this Agreement, or other rights it may possess at law or equity, the City reserves the right to apply any of the remedies in this Section 10, alone or in combination, in the event either party violates any material provision of this Agreement. The remedies provided for in this Agreement are cumulative and not exclusive; the exercise of one remedy shall not prevent the exercise of another or any rights of the Parties at law or equity. Provided, either party shall have the right to challenge and defend against any allegations of such material violations through any remedy afforded under this Agreement.

**10.2** The City may also terminate this Agreement at any time if OCTA materially breaches or otherwise fails to perform, comply with or otherwise observe any of the terms and conditions of this Agreement, or fails to maintain all required licenses and approvals from federal, state, and local jurisdictions, and fails to cure such breach or default within thirty (30) calendar days of the City's providing OCTA written notice thereof, or, if not reasonably capable of being cured within thirty (30) calendar days, within such other reasonable period of time as the Parties may agree.

**10.3** This Agreement shall not be terminated prior to expiration of its term by the City except for cause and upon a majority vote of the full membership of the City Council, after reasonable notice to OCTA and an opportunity to be heard, provided that if exigent circumstances necessitate immediate termination, the hearing may be held as soon as possible after the termination.

**10.4** In the event of termination under this Agreement, OCTA shall immediately discontinue use of the Shelters in the Franchise Area. Either party may in such case invoke the dispute resolution provisions. Alternatively, the City may elect to seek relief directly in Okanogan County Superior Court, in which case the dispute resolution requirements shall not be applicable in this limited situation. Once OCTA's rights to operate in the Franchise Area have terminated, OCTA shall comply with Section 9 herein.

**10.5** The failure of either party to exercise a particular remedy at any time shall not waive either party's right to terminate, assess penalties, or assert that or any other remedy at law or equity for any future breach or default.

**10.6** Termination of this Agreement shall not release OCTA from any liability or obligation with respect to any matter occurring prior to such

termination, nor shall such termination release OCTA from any obligation to remove or secure the Shelters pursuant to this Agreement and to restore the Franchise Area.

**10.7** The Parties acknowledge that the covenants set forth herein are essential to this Agreement, and, but for the mutual agreements of the Parties to comply with such covenants, the Parties would not have entered into this Agreement. The Parties further acknowledge that they may not have an adequate remedy at law if the other party violates such covenant. Therefore, the Parties shall have the right, in addition to any other rights they may have, to obtain in any court of competent jurisdiction injunctive relief to restrain any breach or threatened breach or otherwise to specifically enforce any of the covenants contained herein should the other party fail to perform them.

## **11. Dispute Resolution.**

**11.1** In the event of a dispute between the City and OCTA arising by reason of this Agreement, the dispute shall first be referred to the officers or representatives designated by the City and OCTA to have oversight over the administration of this Agreement. The officers or representatives shall meet within thirty (30) calendar days of either party's request for a meeting, whichever request is first, and the Parties shall make a good faith effort to achieve a resolution of the dispute.

**11.2** If the Parties are unable to resolve the dispute under the procedure set forth in this Section, the Parties hereby agree that the matter shall be referred to mediation. The Parties shall mutually agree upon a mediator to assist them in resolving their differences. If the Parties are unable to agree upon a mediator, the Parties shall jointly obtain a list of five (5) mediators from a reputable dispute resolution organization and alternate striking mediators on that list until one remains. A coin toss shall determine who may strike the first name. If a party fails to notify the other party of which mediator it has stricken within two (2) business days, the other party shall have the option of selecting the mediator from those mediators remaining on the list. Any expenses incidental to mediation shall be borne equally by the Parties.

**11.3** If the Parties fail to achieve a resolution of the dispute through mediation, either party may then pursue any available judicial remedies, provided that if the party seeking judicial redress does not substantially prevail

in the judicial action, it shall pay the other party's reasonable legal fees and costs incurred in the judicial action.

## **12. Indemnification.**

**12.1** OCTA shall indemnify, defend and hold harmless the City from any and all liability, loss, damage, cost, expense, and claim of any kind, including reasonable attorney's and expert's fees incurred by the City in defense thereof, arising out of or related to, directly or indirectly, the installation, construction, operation, use, location, repair, maintenance, removal, or abandonment of the Shelters, or from the existence of the Shelters, and any liability for costs of investigation, abatement, correction, cleanup, fines, penalties, or other damages arising under any environmental laws. If any action or proceeding is brought against the City by reason of the Shelters, OCTA shall defend the City at OCTA's complete expense, provided that, for uninsured actions or proceedings, defense attorneys shall be approved by the City, which approval shall not be unreasonably withheld.

**12.2** The City shall likewise indemnify, defend and hold harmless the OCTA from any and all liability, loss, damage, cost, expense or claim of any kind, including reasonable attorney's and expert's fees incurred by OCTA in defense thereof, arising out of or related to, directly or indirectly, any actions implemented by, or on behalf of the City found to be negligent and which results in damages of any kind relating to the City's obligations under this Agreement.

**12.3** The indemnity provisions contained herein shall survive the termination of this Agreement and shall continue for as long as the Shelters shall remain in or on the Franchise Area or until the Parties execute a new franchise agreement which modifies or terminates the indemnity provisions.

## **13. Insurance Requirements.**

**13.1** During this Agreement, OCTA shall provide and maintain, at its own cost, an insurance policy or coverage through an approved risk pool in the amount of ONE MILLION U.S. DOLLARS (\$1,000,000.00) for each occurrence, and TWO MILLION U.S. DOLLARS (\$2,000,000.00) general policy aggregate, with an insurance company or risk pool authorized to do business in the State of Washington, to cover any and all insurable liability, damage, claims and loss as set forth in Section 12 above. Coverage shall include, but is not limited to, all defense costs, at a minimum covering liability from sudden and accidental occurrences.

**13.3** The insurance provisions contained herein shall survive the termination of this Agreement and shall continue for as long as the Shelters shall remain in or on the Franchise Area or until the Parties execute a new franchise agreement which modifies or terminates the insurance provisions.

**14. Legal Relations.**

**14.1** Nothing contained in this Agreement shall be construed to create an association, trust, partnership, agency relationship, or joint venture or to impose a trust, partnership, or agency duty, obligation or liability on or with regard to either party. Each party shall be individually and severally liable for its own duties, obligations, and liabilities under this Agreement.

**14.2** OCTA accepts any privileges granted by the City to the Franchise Area, public rights-of-way and other public property in an "as is" condition. OCTA agrees that the City has never made any representations, implied or express warranties or guarantees as to the suitability, security or safety of OCTA's location of the Shelters or the Shelters themselves in public property or rights-of-way or possible hazards or dangers arising from other uses of the public rights-of-way or other public property by the City or the general public. OCTA shall remain solely and separately liable for the function, testing, maintenance, replacement and/or repair of the Shelters or other activities permitted under this Agreement.

**14.3** This Agreement shall be governed by, and construed in accordance with, the laws of the State of Washington and the Parties agree that in any action, except actions based on federal questions, venue shall lie exclusively in Okanogan County, Washington.

**15. Miscellaneous.**

**15.1** In the event that a court or agency of competent jurisdiction declares a material provision of this Agreement to be invalid, illegal or unenforceable, the Parties shall negotiate in good faith and agree, to the maximum extent practicable in light of such determination, to such amendments or modifications as are appropriate actions so as to give effect to the intentions of the Parties as reflected herein. If severance from this Agreement of the particular provision(s) determined to be invalid, illegal or unenforceable will fundamentally impair the value of this Agreement, either party may apply to a court of competent jurisdiction to reform or reconstitute this Agreement so as to recapture the original intent of said particular provision(s). All other provisions

of this Agreement shall remain in effect at all times during which negotiations or a judicial action remains pending.

**15.2** Whenever this Agreement sets forth a time for any act to be performed, such time shall be deemed to be of the essence, and any failure to perform within the allotted time may be considered a material violation of this Agreement.

**15.3** In the event that OCTA is prevented or delayed in the performance of any of its obligations under this Agreement by reason(s) beyond the reasonable control of OCTA, then OCTA's performance shall be excused during the force majeure occurrence. Upon removal or termination of the force majeure occurrence, OCTA shall promptly perform the affected obligations in an orderly and expedited manner under this Agreement or procure a substitute for such obligation or performance that is satisfactory to City. OCTA shall not be excused by mere economic hardship nor by misfeasance or malfeasance of its directors, officers or employees.

**15.4** The Section headings in this Agreement are for convenience only, and do not purport to and shall not be deemed to define, limit, or extend the scope or intent of the Section to which they pertain.

**15.5** By entering into this Agreement, the Parties expressly do not intend to create any obligation or liability, or promise any performance to, any third party, nor have the Parties created for any third party any right to enforce this Agreement.

**15.6** This Agreement and all of the terms and provisions shall be binding upon and inure to the benefit of the respective successors and assignees of the Parties.

**15.7** Whenever this Agreement calls for notice to or notification by any party, the same (unless otherwise specifically provided) shall be in writing and directed to the recipient at the address set forth in this paragraph, unless written notice of change of address is provided to the other party. If the date for making any payment or performing any act is a legal holiday, payment may be made or the act performed on the next succeeding business day which is not a legal holiday.

Notices shall be directed to the Parties as follows:

To the City:

City of Omak

\_\_\_\_\_

To OCTA:

Okanogan County Transportation  
Authority

Omak, WA 98841  
Attn: City Clerk

Box 507  
Okanogan, WA 98840  
Attn: General Manager

**15.8** The Parties each represent and warrant that they have full authority to enter into and to perform this Agreement, that they are not in default or violation of any permit, license, or similar requirement necessary to carry out the terms hereof, and that no further approval, permit, license, certification, or action by a governmental authority is required to execute and perform this Agreement, except such as may be routinely required and obtained in the ordinary course of business.

**15.9** This Agreement may be executed in any number of counterparts, each of which shall constitute an original as against any party whose signature appears on them, all of which together shall constitute a single instrument. The Agreement shall become binding when one or more counterparts, individually or taken together, bear the signatures of all Parties.

**15.10** This Agreement represents the entire understanding and agreement between the Parties with respect to the subject matter and it supersedes all prior oral negotiations between the Parties. This Agreement can be amended, supplemented, modified or changed only by an agreement in writing which makes specific reference to this Agreement and which is signed by the party against whom enforcement of any such amendment, supplement, modification or change is sought.

**CITY OF OMAK**

By \_\_\_\_\_  
\_\_\_\_\_, its \_\_\_\_\_

ATTEST:

By \_\_\_\_\_  
\_\_\_\_\_, City Clerk-Treasurer

**OCTA**

By \_\_\_\_\_  
Andy Hover, Vice-Chairperson,  
Board of Directors

ATTEST:

\_\_\_\_\_  
Paula Brantner-Thomas, Clerk of the  
Board of Directors

STATE OF WASHINGTON )  
County of Okanogan )<sup>SS:</sup>

I certify that I know or have satisfactory evidence that \_\_\_\_\_ and \_\_\_\_\_ are the persons who appeared before me, and said persons acknowledged that they signed this instrument, on oath stated that they are authorized to execute the instrument and acknowledged it as the \_\_\_\_\_ and Clerk, respectively, of the City of Omak, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED \_\_\_\_\_, 2023.

\_\_\_\_\_  
printed name \_\_\_\_\_  
NOTARY PUBLIC in and for the State of  
Washington, residing at \_\_\_\_\_.  
My commission expires \_\_\_\_\_.

*seal*

STATE OF WASHINGTON )  
County of Okanogan )<sup>SS:</sup>

I certify that I know or have satisfactory evidence that Andy Hover and Paula Brantner-Thomas are the persons who appeared before me, and said persons

acknowledged that they signed this instrument, on oath stated that they are authorized to execute the instrument and acknowledged it as the Vice-Chairperson of the Board of Directors and Clerk of the Board of Directors, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED \_\_\_\_\_, 2023.

\_\_\_\_\_  
printed name \_\_\_\_\_

NOTARY PUBLIC in and for the State of  
Washington, residing at \_\_\_\_\_.

My commission expires \_\_\_\_\_.

*seal*

# **EXHIBIT A**

# **EXHIBIT B**

## **Franchise Agreement – Exhibit A**

### **City of Omak – Ash Street S.**

The Franchise Area is located within the incorporated City of Omak, Washington, to the west of Okanogan County Parcel No. 1490020900 and on the east side of Ash Street S. The Franchise Area is approximately 67 feet north of the intersection of Ash Street S and 1<sup>st</sup> Avenue West.

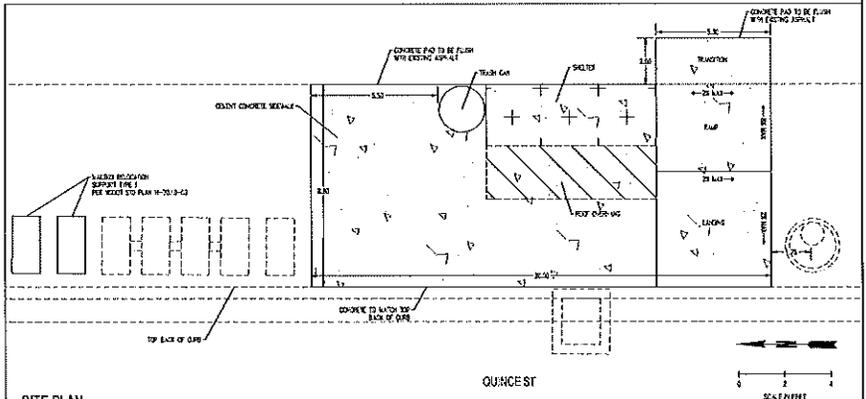
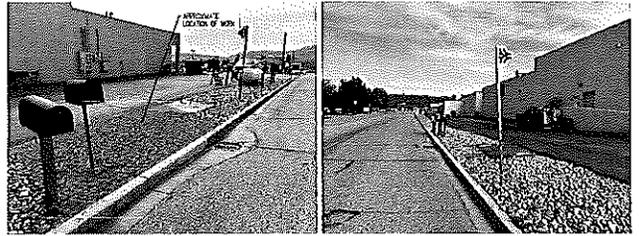
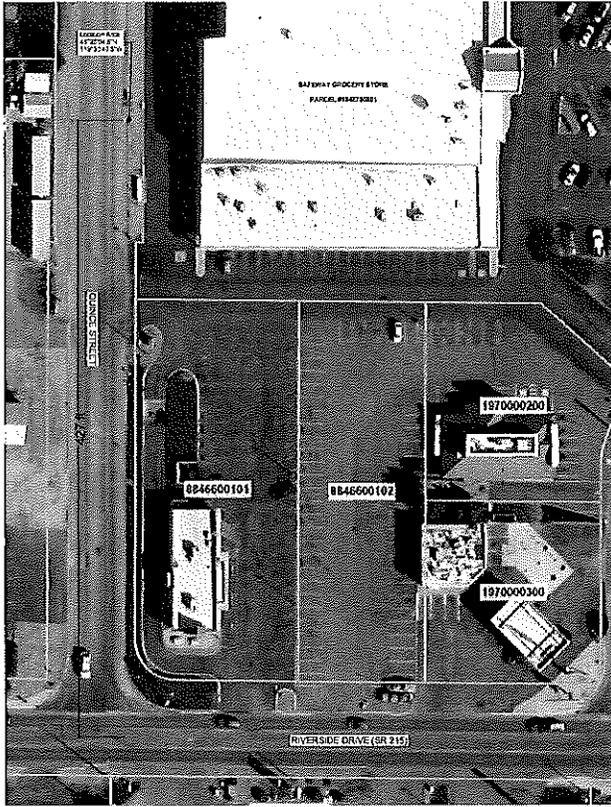


## **Franchise Agreement – Exhibit A**

### **City of Omak – Quince Street**

The Franchise Area is located within the incorporated City of Omak, Washington to the west of Okanogan County Parcel No.8846700801 and on the east side of Quince Street. The Franchise Area is approximately 427 feet north of the Riverside Drive (SR 215) intersection.

SEC. 25, T34N., R26E., W.M.



SITE PLAN

EXHIBIT B

<p>ALL DIMENSIONS SHOWN IN FEET UNLESS OTHERWISE DESIGNATED</p>	<p>OWNER: SCJ ALLIANCE</p> <p>PROJECT: OKANOGAN COUNTY TRANSIT AUTHORITY SHELTER PLACEMENT</p> <p>DATE: 08/20/2024</p> <p>SCALE: AS SHOWN</p>	<p>SCJ ALLIANCE</p> <p>OKANOGAN COUNTY TRANSIT AUTHORITY</p> <p>8750 FALLOUT LANE NE SUITE 200, BENTON, WA 99022</p> <p>P. 509.822.4444 F. 509.822.4443</p> <p>SCJALLIANCE.COM</p>	<p>TRANGO</p> <p>TRANSIT RESEARCH CENTER &amp; CONSULTING</p>	<p>OKANOGAN COUNTY TRANSIT AUTHORITY SHELTER PLACEMENT</p> <p>SITE 2: QUINCE ST BEHIND SAFEWAY IN OMAK</p>	<p>DRAWING NO. SP-02</p> <p>SHEET NO. 3 of 11</p>																	
	<p>REVISIONS</p> <table border="1"> <tr> <th>NO.</th> <th>DATE</th> <th>BY</th> <th>DESCRIPTION</th> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </table>	NO.	DATE	BY	DESCRIPTION													<p>DESIGNED BY: [Name]</p> <p>CHECKED BY: [Name]</p> <p>APPROVED BY: [Name]</p>	<p>ALL DIMENSIONS SHOWN IN FEET UNLESS OTHERWISE DESIGNATED</p>	<p>TRANGO</p>	<p>OKANOGAN COUNTY TRANSIT AUTHORITY SHELTER PLACEMENT</p>	<p>DRAWING NO. SP-02</p>
	NO.	DATE	BY	DESCRIPTION																		
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NO.	DATE	BY	DESCRIPTION																			

## **Franchise Agreement – Exhibit A**

**City of Omak – South Main Street.**

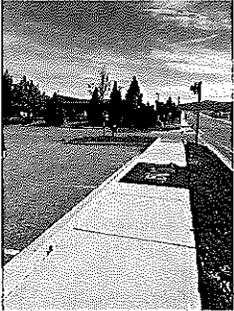
The Franchise Area is located within the incorporated City of Omak, Washington, to the west of Okanogan County Parcel No. 3426350057 and on the east side of South Main Street. The Franchise Area is approximately 89 feet south of the intersection of South Main Street and 3<sup>rd</sup> Avenue West.



## **Franchise Agreement – Exhibit A**

### **City of Omak – Koala Drive**

The Franchise Area is located within the incorporated City of Omak, Washington, in front of Okanogan County Parcel No. 9400190002, on the west side of Koala Drive. The Franchise Area is approximately 257 feet northwest of the southern point of the parcel corner and approximately 8 feet southwest of the eastern parcel corner.

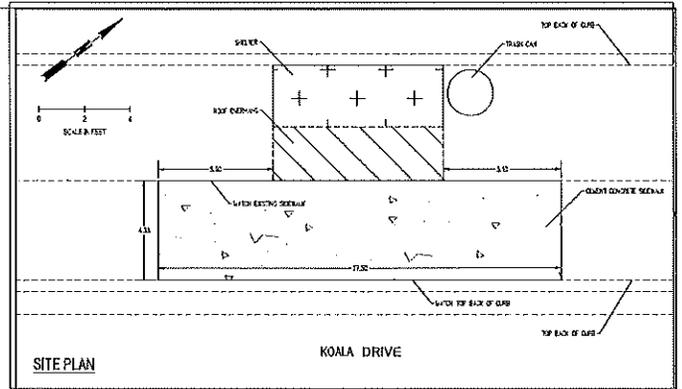


SEC. 25, T34N, R26E, W3M

CONCRETE PAD TYPICAL SECTION



- NOTES:
- SEE PLATY CONTROL PLAN FOR SPECIFIC CURB AND GUTTER DETAILS AND NOTES AS NEEDED FOR PROJECT QUANTITIES
  - ALL CHECKS SHALL BE DIMENSIONAL CLASS CONFORME FOR SECTION 8-03.03.08



SITE PLAN

KOALA DRIVE

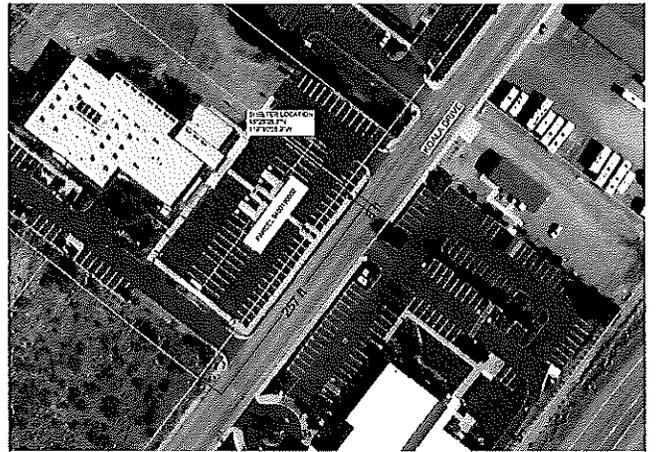


EXHIBIT B

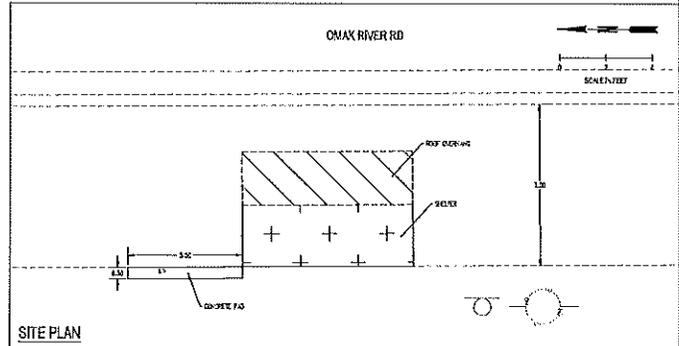
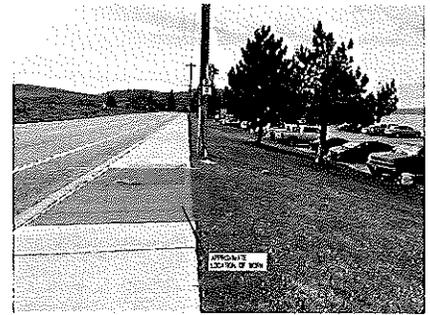
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	NO.	DATE	BY	DESCRIPTION																					

## **Franchise Agreement – Exhibit A**

### **City of Omak – Omak River Road**

The Franchise Area is located within the incorporated City of Omak, Washington, to the east of Okanogan County Parcel No. 3426250162, located on the west side of Omak River Road. The Franchise Area is approximately 16 feet north of the southeast corner of Parcel No. 3426250162.

SEC. 25, T34N, R26E., W.M.



**EXHIBIT B**

<p>REVISIONS</p> <table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>BY</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	NO.	DATE	BY										<p>DESIGNED BY M. HENNING</p>	<p>DATE OF PLAN SEPTEMBER 2012</p>	<p>ALL DIMENSIONS SHOWN IN FEET UNLESS OTHERWISE DESIGNATED</p>		<p><b>SCJ ALLIANCE</b> COMMERCIAL DESIGN SERVICES 8130 FALLON LANE NE, SUITE 200, LAKE WAUSAU, WI 54981 P. 920.822.1488 F. 920.822.1529 WWW.SCJALLIANCE.COM</p>		<p>OKANOGAN COUNTY TRANSIT AUTHORITY SHELTER PLACEMENT</p>	<p>SP-005 SP-005</p>
	NO.	DATE	BY																	
<p>APPROVED BY S. HILL</p>	<p>DATE OF PLAN SEPTEMBER 2012</p>	<p>SITE 5: OMAK RIVER IN FRONT OF WALMART IN OMAK</p>	<p>6 of 11</p>																	

# MEMORANDUM

To: Cindy Gagné, Mayor  
Omak City Council

From: Todd McDaniel

Date: April 3, 2023

Subject: **Ordinance 1924** Granting Ziplly Fiber a Communication Franchise

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The Attached Ordinance 1924, Granting to Ziplly Fiber Pacific, LLC and Ziplly Wireless LLC, a Nonexclusive Franchise for the Provisions of Telecommunications Services within the City of Omak and Stating the Effective Date, is forwarded for your consideration.

Ziplly Fiber has requested a franchise agreement to operate telecommunications lines within the city ROW. The City Attorney, Ziplly representatives and City staff have prepared an agreement that is acceptable among the parties.

I recommend the passage of this Resolution.

**ORDINANCE NO.1924**

**AN ORDINANCE GRANTING TO ZIPLY FIBER PACIFIC, LLC AND ZIPLY WIRELESS, LLC A NONEXCLUSIVE FRANCHISE FOR THE PROVISION OF TELECOMMUNICATIONS SERVICES WITHING THE CITY OF OMAK AND STATING AN EFFECTIVE DATE**

**WHEREAS**, Ziplly Fiber Pacific, LLC and Ziplly Wireless, LLC, hereinafter referred to as “Grantee”, seeks to provide telecommunications services within the City of Omak; and

**WHEREAS**, Grantee has applied for a telecommunications franchise pursuant to RCW 39.99 and the City of Omak has reviewed said application and has determined that it meets all the requirements of the City subject to the terms and conditions stated herein; and

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

**Section 1.** This ordinance will be known as the Ziplly Fiber Pacific and Ziplly Wireless Telecommunications Franchise Ordinance. Within this document, it will also be referred to as “this Franchise” or “the Franchise”.

**Section 2. Grant of Franchise.** The City hereby grants to Grantee a nonexclusive franchise to use the public rights of way within the City to provide telecommunications services, subject to the provisions of this ordinance, the provisions of the Omak Municipal Code, and state statutes, specifically RCW 39.99.

**Section 3. Term.** The term of this Franchise will be for ten (10) years, commencing with the effective date of this Ordinance.

**Section 4. Franchise Area.** The Grantee is authorized by this Franchise to make reasonable and lawful use of the public rights of way within the boundaries of the City of Omak or as these boundaries may be extended in the future.

**Section 5. Rights and Obligations.**

A. Grantee’s facilities shall not inconvenience the public use of the rights of way.

B. Grantee shall obtain necessary permits; follow all local state and federal laws; cooperate with the Grantor to maintain safe conditions in the rights of way; provide necessary information to the Grantor and obtain written permission before using any structure owned by the Grantor or any other third party.

C. Grantor shall construct and maintain their facilities at their own expense.

D. When reasonably necessary for construction or emergencies, the Grantor may require Grantee to relocate facilities at their own expense.

E. Grantee shall comply with all applicable ordinances, construction code, regulations and standards and shall cooperate with the Grantor to insure that Grantee's telecommunication facilities do not inconvenience the public use of the rights of way or adversely affect the public health, safety, or welfare.

**Section 6. Insurance.**

A. Grantee will maintain in full force and effect the following liability insurance policies that protect the Utility Operator and the City, as well as the City's officers, agents, and employees:

a. Comprehensive general liability insurance with limits not less than:

i. Five million dollars (\$5,000,000) for bodily injury or death to each person.

ii. Five million dollars (\$5,000,000) aggregate including collapse, explosions, underground hazards and products completed operations.

b. Commercial automobile liability insurance for owned, non-owned and hired vehicles with a limit of three million dollars (\$3,000,000) combined single limit.

c. Worker's compensation within statutory limits and employer's liability with limits of not less than one million dollars (\$1,000,000).

d. Liability insurance will name as additional insured the City and its officers, agents, and employees. Additional insured coverage will be for both ongoing operations and products and completed operations, on forms acceptable to the City. Coverage will be Primary and Noncontributory. Waiver of Subrogation endorsement, in a form acceptable to the City, will be provided for general liability and worker's compensation. Grantee shall furnish acceptable insurance certificates to City with original endorsements for each insurance policy signed by a person authorized by that insurer to bind coverage on its behalf.

B. The limits of the insurance will be subject to statutory changes as to

maximum limits of liability imposed on municipalities of the State of Washington. The insurance will be without prejudice to coverage otherwise existing. The coverage must apply as to claims between insureds on the policy. The insurance will not be canceled or materially altered without thirty (30) days prior written notice first being given to the City. If the insurance is canceled or materially altered, the Utility Operator will obtain a replacement policy that complies with the terms of this section and provide the City with a replacement certificate of insurance. The Utility Operator will maintain continuous uninterrupted coverage, in the terms and amounts required.

C. The Grantee will maintain on file with the City a certificate of insurance certifying the coverage required above.

**Section 7. Performance Surety.** Upon the effective date of this Agreement, the Licensee will furnish proof of the posting of a faithful performance bond running to the City with good and sufficient surety approved by the City in the sum of Thirty Thousand Dollars (\$30,000) conditioned that the Licensee will well and truly observe, fulfill, and being sufficient to assure proper restoration of any street, sidewalk or other surface disturbed by Grantee, their representative or contractor. Licensee will pay all premiums charged for the bond and will keep the bond in full force and effect at all times throughout the term of the Agreement, including, if necessary, the time required for removal of all of Licensee's Facilities installed in the Public Rights of Way. The Bond may be released on the 5 year anniversary of this agreement at the sole discretion of the City, provided the Grantee has demonstrated the ability to comply with utility construction requirements. The bond will contain a provision that it will not be terminated or otherwise allowed to expire without thirty days prior written notice first being given to the City. The bond will be reviewed and approved as to form by the City Attorney.

City may, in the event of any construction which is likely to be substantially greater than \$30,000, or in the event the City's cost to complete or repair such construction upon Grantee's failure to perform the same would be greater than \$30,000, as reasonably determined by the City, require the amount of the performance bond to be increased. The performance bond is subject to increase each time Grantee applies for permits to perform work within the City. Grantee will provide to City all necessary documentation demonstrating Grantee's cost estimation in a format acceptable to the City.

**Section 8. Sale of Subscriber Lists Prohibited.** Grantee will comply with 47 U.S.C. § 222 relating to customer proprietary network information (CPNI) and protect its confidentiality in accordance with that statute and with the Washington Utilities and Transportation Commission's rule at WAC 480-120-202.

**Section 9. Revocation or Termination.** The City may terminate or revoke the franchise granted for any of the following reasons:

- a. Violation of any of the material provisions of this Franchise.
- b. Misrepresentation in the Franchise application or a rights of way construction application;
- c. The Grantee is found by a court of competent jurisdiction to have practiced any fraud or deceit upon the City;
- d. Failure to pay taxes, compensation, fees or costs due to the City after final determination by the City of the taxes, compensation, fees or costs;
- e. Failure to restore the ROW as required by this Ordinance or other applicable state and local laws, ordinances, rules and regulations;
- f. Failure to comply with technical, safety and engineering standards related to work in the ROW; or
- g. Failure to obtain or maintain any and all licenses, permits, certifications and other authorizations required by state or federal law for the placement, maintenance or operation of the Utility Facilities.

**Section 10. Franchise Acceptance.** Within thirty (30) days of the passage of this Ordinance by City Council, Grantee will file with the City certificates of insurance and an unconditional written statement accepting the terms and conditions of this Franchise grant. Failure to fulfill this requirement will nullify and void this Ordinance, and any and all rights of Grantee to own or operate a telecommunications facility within the Franchise Area under this Ordinance will be of no force or effect.

**Section 11. Franchise Nonexclusive.** The Franchise hereby granted is not exclusive, and will not be construed as any limitation on the right of the City to grant rights, privileges and authority to other persons or corporations or to itself to make any lawful use of the City rights of way.

**Section 12. Effective Date.** This ordinance shall become effective from and after passage by the council, approval by the Mayor, and five days after publication of this ordinance, or a summary, as provided by law.

**PASSED BY THE CITY COUNCIL** this \_\_\_\_ day of \_\_\_\_\_, 2023.

**APPROVED:**

\_\_\_\_\_  
Cindy Gagne, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Connie Thomas, City Clerk

\_\_\_\_\_  
Michael D. Howe, City Attorney

Filed with City Clerk: \_\_\_\_\_

Passed by City Council:

1<sup>ST</sup> Reading \_\_\_\_\_

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

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

On the \_\_\_\_\_ day of \_\_\_\_\_, 2023, the City Council of the City of Omak passed Ordinance No. 1923.

DATED this \_\_\_\_ day of \_\_\_\_\_ 2023.

\_\_\_\_\_  
Connie Thomas, City Clerk