



CITY COUNCIL REGULAR MEETING AGENDA March 7, 2023 at 6:30 p.m. City Hall Council Chambers and Virtual

The City of Kennewick broadcasts Council meetings on the City's website at <https://www.go2kennewick.com/CouncilMeetingBroadcasts> and via Zoom. If you are unable to attend in person and wish to comment during one of the Visitors sections or if applicable to provide public testimony for a Public Hearing, please register at https://us02web.zoom.us/webinar/register/WN_QBn1uY9Rmq9IkamdFufdg. Registrations must be received by 4:00 p.m. on the day of the meeting.

The public can also submit comments by either filling out an online form at <https://www.go2kennewick.com/PublicComments> via e-mail to clerkinfo@ci.kennewick.wa.us, or submitting written comments to P.O. Box 6108, Kennewick, WA 99336. Comments must be received no later than 4:00 p.m. on the Monday before the meeting.

1. CALL TO ORDER

Roll Call/Pledge of Allegiance/Welcome/Invocation

HONORS & RECOGNITIONS

- Service Recognition – Brian Zinsli 32-years (Police Department)

2. VISITORS

Public comments for item(s) on the agenda not covered under a public hearing. Comments are limited to three minutes. Records intended for Council (9 copies are required) must be given to the City Clerk by 4:00 p.m. on the Monday before the meeting.

3. APPROVAL OF AGENDA

4. CONSENT AGENDA

All matters listed within the Consent Agenda have been distributed to each member of the Kennewick City Council for reading and study, are considered to be routine, and will be enacted by one motion of the Council with no separate discussion.

- a. Motion to approve the Regular Meeting Minutes of February 21, 2023
- b. (1) Motion to approve the Claims Roster for the Columbia Park Golf Course Account for January 2023.
(2) Motion to approve the Claims Rosters for the Toyota Center Operations and Box Office Accounts for December 2022.
- c. Motion to approve Payroll Roster for February 15, 2023.
- d. Motion to accept the work of Ray Poland & Sons Inc for Contract P1932-21, Water Pump Station Meter & Zone 1 PRV Replacement project in the amount of \$364,778.25.
- e. Motion to accept the work of Industrial Construction of Washington for Contract P1514-21, 23rd & Gum St. Lift Station project in the amount of \$ 510,629.17.
- f. Motion to award Contract P2116-23 W. 46th Ave & W. 47th Ave Storm Drain Retrofit Project.
- g. Motion to accept the work of Total Site Services, LLC for Contract 20-017, Fire Station #3 construction, for a total amount of \$4,669,948.41.
- h. Motion to authorize the City Manager to sign the Opioid Settlement Agreements.
- i. Motion to authorize the City Manager to sign the Progressive Design Build (PDB) Agreement with Merrell Bros, Inc. for the WWTP Phase 2 Step 1 design services.
- j. Motion to authorize the City Manager to sign the Merrell Bros, Inc., Patent and Technology License Agreement for the WWTP Phase 2 upgrade project.
- k. Motion to authorize the Mayor to sign the Local Agency Agreement Supplement #2 with the Washington State Department of Transportation to obligate additional construction funding for the Pedestrian Crossing Safety Project.

5. ORDINANCES/RESOLUTIONS

*To assure disabled persons the opportunity to participate in or benefit from City services, please provide twenty-four (24) hour advance notice for additional arrangements to reasonably accommodate special needs.
Please be advised that all Kennewick City Council Meetings are Audio and Video Taped*

6. PUBLIC HEARINGS/MEETINGS

7. NEW BUSINESS

8. UNFINISHED BUSINESS

9. VISITORS

Public comments for any item(s) the public wants to bring to Council. Comments are limited to three minutes. Records intended for Council (9 copies are required) must be given to the City Clerk by 4:00 p.m. on the Monday before the meeting.

10. COUNCIL COMMENTS/DISCUSSION

11. ADJOURNMENT

DRAFT

CITY OF KENNEWICK
CITY COUNCIL
Regular Meeting
February 21, 2023

1. CALL TO ORDER

Mayor Bill McKay called the meeting to order at 6:30 p.m.

City Council and Staff Present:

Mayor Pro Tem Gretl Crawford	Marie Mosley	Nick Farline
John Trumbo	Anthony Muai	Chris Guerrero
Chuck Torelli	Christina Palmer	Chad Michael
Jim Millbauer	Lisa Beaton	Evelyn Lusignan
Brad Beauchamp	Cary Roe	Steve Donovan
Loren Anderson	Terri Wright	Matt Halitsky
Mayor Bill McKay	Dan Legard	John Cowling

Boy Scout Troup 148 led the Pledge of Allegiance.

Randy Naef provided the Invocation.

2. VISITORS - None

3. APPROVAL OF AGENDA

Mr. Torelli moved, seconded by Mr. Millbauer to approve the Agenda as presented. The motion passed unanimously.

4. APPROVAL OF CONSENT AGENDA

- a. Motion to approve the Regular Meeting Minutes of February 7, 2023.
- b. (1) Motion to approve the Claims Roster for January 2023.
(2) Motion to approve the Claims Rosters for the Toyota Center Operations and Box Office Accounts for November 2022.
- c. Motion to approve Payroll Roster for January 31, 2023.
- d. Motion to authorize the City Manager to sign the professional services agreement with BerryDunn for the Parks and Recreation Comprehensive Plan.
- e. Motion to award Contract P2303-23 Furnishing & Applying Herbicide 2023-2024 Contract to Senske in the amount of \$106,138.05 plus a 10% contingency amount of \$10,613.81, for a total amount of \$116,751.86.
- f. Motion to award Contract P2305-23 2023 Bituminous Surface Treatment Seal Coat Contract to Tommer Construction in the amount of \$587,333.15 plus a 10% contingency amount of \$58,733.32, for a total amount of \$646,066.47.
- g. Motion to approve and authorize the Mayor and City Manager to sign the proposed Memorandum of Agreement (MOA) modifying the 2023 wage provision within the City's existing 2021-2024 collective bargaining agreement with the Police Support Specialists (PSS) Guild.

Mr. Torelli moved, seconded by Mr. Trumbo to approve the Consent Agenda. The motion passed unanimously.

5. ORDINANCE/RESOLUTIONS

- a. Ordinance 6008: Change of Zone COZ 2022-0012 from Commercial, Community (CC) to Commercial, General (CG) at 400 & 420 S. Steptoe Street. Matt Halitsky, Senior Planner reported.

DRAFT

ORDINANCE NO. 6008

AN ORDINANCE AMENDING THE ZONING CLASSIFICATION OF CERTAIN REAL PROPERTY WITHIN THE CITY OF KENNEWICK LOCATED AT 400 & 420 S. STEPTOE STREET FROM COMMERCIAL, COMMUNITY (CC) TO COMMERCIAL, GENERAL (CG) (COZ 2022-0012, Ford Group, LLC)

Mr. Torelli moved, seconded by Mr. Anderson to adopt Ordinance No. 6008. The motion passed unanimously.

- b. Ordinance 6009: Change of Zone COZ 2022-0013 from Commercial, Community (CC) to Residential High Density (RH) at 8224 Bob Olson Parkway. Steve Donovan, Development Service Manager reported.

ORDINANCE NO. 6009

AN ORDINANCE AMENDING THE ZONING CLASSIFICATION OF CERTAIN REAL PROPERTY WITHIN THE CITY OF KENNEWICK LOCATED AT 8224 BOB OLSON PARKWAY FROM COMMERCIAL, COMMUNITY (CC) TO RESIDENTIAL, HIGH DENSITY (RH) (COZ 2022-0013, Murow Development Consultants, c/o Bob Garrison)

Mr. Anderson moved, seconded by Mr. Torelli to adopt Ordinance No. 6009. The motion passed unanimously.

- c. Ordinance 6010: Amending KMC 2.16.930 Boards & Commission - Qualifications. Marie Mosley, City Manager reported.

ORDINANCE NO. 6010

AN ORDINANCE RELATING TO BOARDS AND COMMISSIONS AND AMENDING SECTION 2.16.930 OF THE KENNEWICK MUNICIPAL CODE

Mr. Torelli moved, seconded by Mr. Millbauer to adopt Ordinance No. 6010. The motion passed 5 to 2. Mr. Trumbo and Mr. Anderson opposed.

- d. Ordinance 6011: Amending KMC 10.04.130 Violating Court Orders. Jessica Foltz, Assistant City Attorney reported.

ORDINANCE NO. 6011

AN ORDINANCE RELATING TO VIOLATING COURT ORDERS AND AMENDING SECTION 10.04.130 OF THE KENNEWICK MUNICIPAL CODE

Mr. Torelli moved, seconded by Mr. Trumbo to adopt Ordinance No. 6011. The motion passed unanimously.

6. PUBLIC HEARINGS/MEETINGS

- a. Resolution 23-01: Vacation of 10' utility easement located at 607 E. Columbia Dr. John Cowling, Deputy Public Works Director reported.

Public hearing was opened at 7:20 p.m. and closed at 7:21 p.m. No public testimony was provided.

RESOLUTION NO. 23-01

A RESOLUTION OF THE CITY OF KENNEWICK DECLARING SURPLUS A PORTION OF A 10.00 FOOT WIDE UTILITY EASEMENT WITHIN 607 EAST COLUMBIA DRIVE

Mr. Anderson moved, seconded by Mr. Torelli to adopt Resolution No. 23-01. The motion passed unanimously.

DRAFT

7. NEW BUSINESS

- a. Motion to award Contract P2012-23 Steptoe & Gage Intersection Improvements (RE-Bid) to Apollo, Inc. in the amount of \$3,043,970.26 plus a 10% contingency amount of \$304,397.03, for a total amount of \$3,348,367.29. Cary Roe, Public Works Director reported.

Mr. Torelli moved, seconded by Mr. Millbauer to award Contract P2012-23 Steptoe & Gage Intersection Improvements (RE-Bid) to Apollo, Inc. in the amount of \$3,043,970.26 plus a 10% contingency amount of \$304,397.03, for a total amount of \$3,348,367.29. The motion passed unanimously.

8. UNFINISHED BUSINESS - None

9. VISITORS

Mark Christensen, Kennewick – Commented on his memories of events in Kennewick.
Rene' Vasquez, Rotary Club of Columbia Center – Invited Council to their Shine a Light on Human Trafficking Event.

10. COUNCIL COMMENTS/DISCUSSION

Council members reported on their respective activities.

11. ADJOURNMENT

Meeting was adjourned at 8:47 p.m.

Terri L. Wright, MMC
City Clerk

Council Agenda Coversheet



Agenda Item Number	4.b.(1)	Council Date	03/07/2023
Agenda Item Type	General Business Item		
Subject	Columbia Park Golf Course Account		
Ordinance/Reso #		Contract #	
Project #		Permit #	
Department	Finance		

Consent Agenda	<input checked="" type="checkbox"/>
Ordinance/Reso	<input type="checkbox"/>
Public Mtg / Hrg	<input type="checkbox"/>
Other	<input type="checkbox"/>
Quasi-Judicial	<input type="checkbox"/>

Recommendation

That Council approve the Claims Roster for the Columbia Park Golf Course Account for January 2023.

Motion for Consideration

I move to approve the Claims Roster for the Columbia Park Golf Course Account for January 2023 in the amount of \$21,605.07, comprised of check numbers 2730-2733 in the amount of \$5669.00 and electronic transfers in the amount of \$15,936.07.

Summary

The first page of the roster is a summary of check and electronic transfer activity, with the following pages presenting more detailed information.

Alternatives

None.

Fiscal Impact

Total \$21,605.07.

Through	Denise Winters Feb 27, 09:02:05 GMT-0800 2023
Dept Head Approval	Dan Legard Feb 27, 15:12:34 GMT-0800 2023
City Mgr Approval	Marie Mosley Mar 03, 07:59:33 GMT-0800 2023

Attachments:

Recording
Required?

**COLUMBIA PARK GOLF COURSE FUND
CHECK REGISTER
JANUARY 2023**

Check Number	Vendor Check Name	Check Date	Amount	Type
2730	COLUMBIA POINT GOLF COURSE	1/17/2023	384.60	Check
2731	KENNEWICK GOLF CORPORATION	1/17/2023	5,106.45	Check
2732	TOTAL E INTEGRATED INC.	1/17/2023	137.95	Check
2733	YELP	1/17/2023	40.00	Check
ADPTS 2351948	ADP TOTAL SOURCE (AUTOPAY)	1/10/2023	4,763.95	EFT
NATIONWIDE 0123	NATIONWIDE	1/1/2023	675.49	EFT
WA DOR 0030714043	DEPARTMENT OF REVENUE	1/25/2023	965.98	EFT
459299	CITY OF KENNEWICK ELECTRICAL	1/12/2023	91.59	EFT
460068	AUDUBON INTERNATIONAL, INC	1/25/2023	\$400.00	EFT
Paid by ACH	CINTAS CORPORATION #085	1/4/2023	\$16.31	EFT
Paid by ACH	CINTAS CORPORATION #085	1/12/2023	\$130.22	EFT
Paid by ACH	PEPSI COLA BOTTLING CO. OF PASCO	1/12/2023	\$4.50	EFT
Paid by ACH	CINTAS CORPORATION #085	1/18/2023	\$16.31	EFT
Paid by ACH	CINTAS CORPORATION #085	1/25/2023	\$130.22	EFT
Paid by ACH	ADP TOTAL SOURCE (AUTOPAY)	1/13/2023	3,438.00	EFT
Paid by ACH	ADP TOTAL SOURCE (AUTOPAY)	1/27/2023	3,079.70	EFT
Paid by ACH	ELAN (MONTHLY CREDIT CARD CHGS)	1/31/2023	\$1,846.75	EFT
Bank Deduction	MERCHANT SERVICES	1/1/2023	\$373.04	EFT
Bank Deduction	US Bank	1/17/2023	\$4.01	EFT
			<u>\$21,605.07</u>	

I, Dan Legard, Finance Director, do hereby certify that the merchandise or services hereinbefore specified have been received, that any advance payment is due and payable pursuant to a contract or is available as an option for full or partial fulfillment of a contractual obligation and that the vouchers listed above are approved for payment this day.



Dan Legard, Finance Director

The payments on this claims roster are comprised of the following:

Check numbers 2730-2733	\$ 5,669.00
Electronic transfers	15,936.07
Total	<u>\$ 21,605.07</u>

Exceptions:

Check	Vendor	Date	Amount	Debit	Credit
2730	COLUMBIA POINT GOLF COURSE	1/17/2023		\$384.60	
	PAY	20005-000-244-00	ACCOUNTS PAYABLE - GP		\$384.60
	PURCH	50100-060-244-00	SALARIES	\$192.30	
	PURCH	50100-080-244-00	SALARIES	\$192.30	
2731	KENNEWICK GOLF CORPORATION	1/17/2023		\$5,106.45	
	PAY	20005-000-244-00	ACCOUNTS PAYABLE - GP		\$5,106.45
	PURCH	59600-080-244-00	ACCOUNTING FEES	\$1,277.20	
	PURCH	59610-080-244-00	MANAGEMENT FEE	\$3,829.25	
2732	TOTAL E INTEGRATED INC.	1/17/2023		\$137.95	
	PAY	20005-000-244-00	ACCOUNTS PAYABLE - GP		\$137.95
	PURCH	51900-050-244-00	CONTRACT SERVICES	\$137.95	
2733	YELP	1/17/2023		\$40.00	
	PAY	20005-000-244-00	ACCOUNTS PAYABLE - GP		\$40.00
	PURCH	53100-080-244-00	ADVERTISING & MARKETING	\$40.00	
ADPTS 2351948	ADP TOTAL SOURCE (AUTOPAY)	1/10/2023		\$4,763.95	
	PAY	20005-000-244-00	ACCOUNTS PAYABLE - GP		\$4,763.95
	PURCH	50800-050-244-00	HEALTH BENEFITS	\$2,820.00	
	PURCH	50800-060-244-00	HEALTH BENEFITS	\$1,943.95	
NATIONWIDE 0123	NATIONWIDE	1/1/2023		\$675.49	
	PAY	20006-000-244-00	ACCOUNTS PAYABLE - GP		\$675.49
	PURCH	18400-000-244-00	PREPAID INSURANCE	\$675.49	
WA DOR 0030714043	DEPARTMENT OF REVENUE	1/25/2023		\$965.98	
	PAY	20005-000-244-00	ACCOUNTS PAYABLE - GP		\$965.98
	PURCH	20300-000-244-00	SALES TAX PAYABLE	\$205.87	
	PURCH	91101-000-244-00	OTHER STATE TAXES	\$760.11	
459299	CITY OF KENNEWICK ELECTRICAL	1/12/2023		\$91.59	
	PAY	20006-000-244-00	ACCOUNTS PAYABLE - GP		\$91.59
	PURCH	52200-060-244-00	UTILITIES - GAS & ELECTRIC	\$67.38	
	PURCH	52210-060-244-00	IRRIGATION ELECTRICITY	\$24.21	
460068	AUDUBON INTERNATIONAL, INC	1/25/2023		\$400.00	
	PAY	20006-000-244-00	ACCOUNTS PAYABLE - GP		\$400.00
	PURCH	51400-060-244-00	PROFESSIONAL DUES & FEES	\$400.00	
Paid by ACH	CINTAS CORPORATION #085	1/4/2023		\$16.31	
	PAY	20006-000-244-00	ACCOUNTS PAYABLE - GP		\$16.31
	PURCH	51900-060-244-00	CONTRACT SERVICES	\$16.31	
Paid by ACH	CINTAS CORPORATION #085	1/12/2023		\$130.22	
	PAY	20006-000-244-00	ACCOUNTS PAYABLE - GP		\$130.22
	PURCH	51900-080-244-00	CONTRACT SERVICES	\$57.03	
	PURCH	51900-060-244-00	CONTRACT SERVICES	\$73.19	
Paid by ACH	PEPSI COLA BOTTLING CO. OF PASCO	1/12/2023		\$4.50	
	PAY	20006-000-244-00	ACCOUNTS PAYABLE - GP		\$4.50
	PURCH	49150-070-244-00	COGS - PACKAGED FOOD	\$4.50	
Paid by ACH	CINTAS CORPORATION #085	1/18/2023		\$16.31	
	PAY	20006-000-244-00	ACCOUNTS PAYABLE - GP		\$16.31
	PURCH	51900-060-244-00	CONTRACT SERVICES	\$16.31	
Paid by ACH	CINTAS CORPORATION #085	1/25/2023		\$130.22	
	PAY	20006-000-244-00	ACCOUNTS PAYABLE - GP		\$130.22
	PURCH	51900-080-244-00	CONTRACT SERVICES	\$89.06	
	PURCH	51900-060-244-00	CONTRACT SERVICES	\$41.16	
Paid by ACH	ADP TOTAL SOURCE (AUTOPAY)	1/13/2023		\$3,438.00	
	PAY	50000-000-244-00	TEMPORARY ACCT		\$3,438.00
	PURCH	50200-050-244-00	HOURLY WAGES	\$1,761.05	
	PURCH	50200-060-244-00	HOURLY WAGES	\$1,930.06	
	PURCH	50800-050-244-00	HEALTH BENEFITS		\$562.29
	PURCH	50800-060-244-00	HEALTH BENEFITS		\$381.15
	PURCH	50950-050-244-00	COMBINED ADMIN, TAXES, W/C	\$333.55	
	PURCH	50950-060-244-00	COMBINED ADMIN, TAXES, W/C	\$309.69	
	PURCH	50950-080-244-00	COMBINED ADMIN, TAXES, W/C	\$19.39	
	PURCH	52100-050-244-00	CELL PHONE	\$27.70	
Paid by ACH	ADP TOTAL SOURCE (AUTOPAY)	1/27/2023		\$3,079.70	
	PAY	50000-000-244-00	TEMPORARY ACCT		\$3,079.70
	PURCH	50200-050-244-00	HOURLY WAGES	\$1,786.84	
	PURCH	50200-060-244-00	HOURLY WAGES	\$1,614.58	
	PURCH	50800-050-244-00	HEALTH BENEFITS		\$562.29
	PURCH	50800-060-244-00	HEALTH BENEFITS		\$381.15
	PURCH	50950-050-244-00	COMBINED ADMIN, TAXES, W/C	\$312.94	
	PURCH	50950-060-244-00	COMBINED ADMIN, TAXES, W/C	\$263.05	
	PURCH	50950-080-244-00	COMBINED ADMIN, TAXES, W/C	\$18.03	
	PURCH	52100-050-244-00	CELL PHONE	\$27.70	

Check	Vendor	Date	Amount	Debit	Credit
Paid by ACH	ELAN (MONTHLY CREDIT CARD CHGS)	1/31/2023		\$1,846.75	
	PURCH	50000-000-244-00	TEMPORARY ACCT		\$1,846.75
	PURCH	47150-050-244-00	COGS MERCHANDISE	\$820.80	
	PURCH	52100-060-244-00	TELECOMMUNICATIONS	\$51.88	
	PURCH	52100-060-244-00	TELECOMMUNICATIONS	\$52.10	
	PURCH	52300-060-244-00	GARBAGE & DEBRIS REMOVAL	\$126.50	
	PURCH	52500-080-244-00	OFFICE SUPPLIES	\$78.44	
	PURCH	52800-080-244-00	SUBSCRIPTIONS & PUBLICATIONS	\$9.26	
	PURCH	52900-080-244-00	PRINTING	\$235.51	
	PURCH	53100-080-244-00	ADVERTISING & MARKETING	\$105.91	
	PURCH	55150-050-244-00	GOLF CART SUPPLIES	\$7.61	
	PURCH	55850-050-244-00	COURSE ACCESSORIES GOLF	\$72.00	
	PURCH	58100-060-244-00	EQUIPMENT PARTS	\$271.53	
	PURCH	58100-060-244-00	EQUIPMENT PARTS	\$15.21	
Bank Deduction	MERCHANT SERVICES	1/1/2023		\$373.04	
	PAY	10420-000-244-00	OPERATING CHECKING ACCT - US Bank		\$373.04
	PURCH	54000-080-244-00	BANK CHARGES	\$373.04	
Bank Deduction	US Bank	1/17/2023		\$4.01	
	PAY	10420-000-244-00	OPERATING CHECKING ACCT - US Bank		\$4.01
	PURCH	54000-080-244-00	BANK CHARGES	\$4.01	

Council Agenda Coversheet



Agenda Item Number	4.b.(2)	Council Date	03/07/2023
Agenda Item Type	General Business Item		
Subject	Toyota Center/Arena Accounts		
Ordinance/Reso #		Contract #	
Project #		Permit #	
Department	Finance		

Consent Agenda	<input checked="" type="checkbox"/>
Ordinance/Reso	<input type="checkbox"/>
Public Mtg / Hrg	<input type="checkbox"/>
Other	<input type="checkbox"/>
Quasi-Judicial	<input type="checkbox"/>

Recommendation

Staff recommends that Council approve the Claims Rosters for the Toyota Center Operations and Box Office Accounts for December 2022.

Motion for Consideration

I move to approve the Claims Rosters for the Toyota Center Operations and Box Office Accounts for December 2022 in the amount of \$492,387.30, comprised of check numbers 25856-25957 in the amount of \$347,010.72 and electronic transfers in the amount of \$145,376.58.

Summary

None.

Alternatives

None.

Fiscal Impact

Total \$492,387.30.

Through	Denise Winters Feb 27, 08:46:03 GMT-0800 2023
Dept Head Approval	Dan Legard Feb 27, 15:16:46 GMT-0800 2023
City Mgr Approval	Marie Mosley Mar 03, 08:06:56 GMT-0800 2023

Attachments:

Recording Required?

**Toyota Center and Arena
Claims Roster
December 2022**

<u>Date</u>	<u>Check</u>	<u>Method</u>	<u>Name</u>	<u>Amount</u>
<u>TOYO Sterling Operating Account</u>				
12/02/2022		Wire Transfer	Southern Glazer's of WA (00002855)	917.33
	12/02/2022 101415	4219023 • Inventory - Liquor	Liquor Order 11/30/22 Liquor Order 11/30/22	917.33
12/02/2022	25856	Auto Check	Abbott & Abbott LLC (00002770)	273.92
	12/02/2022 107508	448-009938 • F&B Equipment Repairs & Maintenance	FiltaFry Fryer Service FiltaFry Fryer Service	273.92
12/02/2022	25857	Auto Check	Advanced Protection Services, Inc. (00002751)	3,351.44
	12/02/2022 107209	15473 • Security & Fire Alarm System	Openeye Operating System Openeye Operating System	3,351.44
12/02/2022	25858	Auto Check	Apollo Heating and Air Conditioning (00002933)	2,412.41
	12/02/2022 107210	KS-940045956 • HVAC Repairs & Maintenance	HVAC Repair HVAC Repair	394.22
	12/02/2022 107210	KS-940046115 • HVAC Repairs & Maintenance	HVAC Maintenance Contract HVAC Maintenance Contract - DEC 2022	2,018.19
12/02/2022	25859	Auto Check	Backstage Electric, Inc. (00002752)	4,522.00
	12/02/2022 104370	2453 • Reimbursed Outside Event Expense	Labor for PeppaPig Labor for PeppaPig	4,522.00
12/02/2022	25860	Auto Check	Baskin Robbins (00002754)	2,136.58
	12/02/2022 104690	44891.8803 • Concession Sales - Third Party Expense	Third Party Sales 11/26/22 Third Party Sales 11/26/22	939.53
	12/02/2022 104690	44888.9812 • Concession Sales - Third Party Expense	Third Party Sales 11/23/22 Third Party Sales 11/23/22	633.20
	12/02/2022 104690	44892.7887 • Concession Sales - Third Party Expense	Third Party Sales 11/27/22 Third Party Sales 11/27/22	563.85
12/02/2022	25861	Auto Check	Brashear Electric, Inc. (00002756)	28,430.50
	12/02/2022 109010	38904 • Capital Improvements	PO3882 - Exterior Lighting PO3882 - Exterior Lighting Retro-Fit	6,823.64
	12/02/2022 109010	38766 • Capital Improvements	PO3882 - Exterior Lighting PO3882 - Exterior Lighting Retro-Fit	20,470.93
	12/02/2022 107212	38828 • Building Repairs & Maintenance	Troubleshoot Control Panel Troubleshoot Control Panel	239.15
	12/02/2022 104327	38827 • Reimbursed Contract Labor	Stage Set Up for Los Tigres Stage Set Up for Los Tigres	896.78
12/02/2022	25862	Auto Check	Bustos Media Holdings LLC (00003051)	6,298.50
	12/02/2022 107402	2110521 • Event Advertising	Fuerza Radio Ads Fuerza Radio Ads	1,955.00
	12/02/2022 107402	22110520 • Event Advertising	Fuerza Radio Ads Fuerza Radio Ads	1,955.00
	12/02/2022 107402	22110518 • Event Advertising	Fuerza Radio Ads Fuerza Radio Ads	1,305.60
	12/02/2022 107402	22110519 • Event Advertising	Fuerza Radio Ads Fuerza Radio Ads	1,082.90
12/02/2022	25863	Auto Check	Chapala Express (00002758)	3,346.40
	12/02/2022 104690	44891.8700 • Concession Sales - Third Party Expense	Third Party Sales 11/26/22 Third Party Sales 11/26/22	1,514.93
	12/02/2022 104690	44888.9823 • Concession Sales - Third Party Expense	Third Party Sales 11/23/22 Third Party Sales 11/23/22	1,055.82
	12/02/2022 104690	44892.7868 • Concession Sales - Third Party Expense	Third Party Sales 11/27/22 Third Party Sales 11/27/22	775.65
12/02/2022	25864	Auto Check	Chisholm's Saw & Supply, Inc. (00002760)	72.82
	12/02/2022 107201	80550 • Tools & Supplies	Zamboni Knives Maintenance Zamboni Knives Maintenance	72.82

**Toyota Center and Arena
Claims Roster
December 2022**

<u>Date</u>	<u>Check</u>	<u>Method</u>	<u>Name</u>		<u>Amount</u>
12/02/2022	25865	Auto Check	City of Kennewick - Misc (00002830)		2,875.00
	12/02/2022	15283		Security Services OCT 22	2,875.00
	107404	• Event Contracted Labor		Security Services 10/8/22	403.52
	107404	• Event Contracted Labor		Security Services 10/12/22	403.52
	107404	• Event Contracted Labor		Security Services 10/14/22	403.52
	104327	• Reimbursed Contract Labor		Security Services 10/15/22	857.40
	107404	• Event Contracted Labor		Security Services 10/21/22	403.52
	107404	• Event Contracted Labor		Security Services 10/22/22	403.52
12/02/2022	25866	Auto Check	Coca-Cola (00000213)		2,697.90
	12/02/2022	133711		Beverage Order 12/1/22	2,584.45
	101411	• Inventory - Food		Beverage Order 12/1/22	2,584.45
	12/02/2022	133784		Beverage Order 12/1/22	98.45
	101411	• Inventory - Food		Beverage Order 12/1/22	98.45
	12/02/2022	130302-1		Beverage Order Tax	15.00
	101411	• Inventory - Food		Beverage Order Tax	15.00
12/02/2022	25867	Auto Check	Coffee Crush (00002762)		930.53
	12/02/2022	44891.8992		Third Party Sales 11/26/22	409.57
	104690	• Concession Sales - Third Party Expense		Third Party Sales 11/26/22	409.57
	12/02/2022	44888.9793		Third Party Sales 11/23/22	254.49
	104690	• Concession Sales - Third Party Expense		Third Party Sales 11/23/22	254.49
	12/02/2022	44832.7923		Third Party Sales 11/27/22	266.47
	104690	• Concession Sales - Third Party Expense		Third Party Sales 11/27/22	266.47
12/02/2022	25868	Auto Check	Concessions Supply (00002860)		905.02
	12/02/2022	90227		Food Order 11/22/22	905.02
	101411	• Inventory - Food		Food Order 11/22/22	905.02
12/02/2022	25869	Auto Check	Culligan Water Conditioning (00002766)		164.97
	12/02/2022	125218		Bottle Water 10/19/22	137.78
	107201	• Tools & Supplies		Bottle Water 10/19/22	137.78
	12/02/2022	12638		Bottle Water 11/18/22	27.19
	107201	• Tools & Supplies		Bottle Water 11/18/22	27.19
12/02/2022	25870	Auto Check	DevFuzion (00000278)		5,437.82
	12/02/2022	20631		IT Services DEC 22	5,437.82
	107104	• IT Support Services		IT Services DEC 22	5,437.82
12/02/2022	25871	Auto Check	Doggie Style Gourmet (00002767)		3,162.50
	12/02/2022	44891.8727		Third Party Sales 11/26/22	1,526.00
	104690	• Concession Sales - Third Party Expense		Third Party Sales 11/26/22	1,526.00
	12/02/2022	44888.9840		Third Party Sales 11/23/22	788.91
	104690	• Concession Sales - Third Party Expense		Third Party Sales 11/23/22	788.91
	12/02/2022	44892.7877		Third Party Sales 11/27/22	847.59
	104690	• Concession Sales - Third Party Expense		Third Party Sales 11/27/22	847.59
12/02/2022	25872	Auto Check	Enterprise Rent A Car (00002931)		138.29
	12/02/2022	31427631		Car Rental for Midland	138.29
	104370	• Reimbursed Outside Event Expense		Car Rental for Midland	138.29
12/02/2022	25873	Auto Check	Fastsigns (00002768)		201.25
	12/02/2022	INV-68372		PO4012 - Muzzy Signage	201.25
	104240	• Signage & Sponsorship		Muzzy Signage	201.25
12/02/2022	25874	Auto Check	Ferrell Gas (00002769)		1,090.71
	12/02/2022	1120933062		Propane	544.40
	107204	• Other Utilities		Propane	272.20
				Due To/From TRCC	272.20
	12/02/2022	1121180308		Propane	546.31
	107204	• Other Utilities		Propane	273.15
				Due To/From TRCC	273.16

**Toyota Center and Arena
Claims Roster
December 2022**

<u>Date</u>	<u>Check</u>	<u>Method</u>	<u>Name</u>		<u>Amount</u>
12/02/2022	25875	Auto Check	KAPP-KVEW (00002980)		1,225.70
12/02/2022	257554-1		Bluey TV Ads		637.50
	107402	• Event Advertising	Bluey TV Ads	637.50	
12/02/2022	256590-1		Mannheim TV Ads		588.20
	107402	• Event Advertising	Mannheim TV Ads	588.20	
12/02/2022	25876	Auto Check	KC Brand (00002773)		3,151.85
12/02/2022	44891.9015		Third Party Sales 11/26/22		1,613.87
	104690	• Concession Sales - Third Party Expense	Third Party Sales 11/26/22	1,613.87	
12/02/2022	44888.9855		Third Party Sales 11/23/22		653.93
	104690	• Concession Sales - Third Party Expense	Third Party Sales 11/23/22	653.93	
12/02/2022	44892.7951		Third Party Sales 11/27/22		884.05
	104690	• Concession Sales - Third Party Expense	Third Party Sales 11/27/22	884.05	
12/02/2022	25877	Auto Check	Mid Columbia Hockey Officials Association (00002777)		3,220.00
12/02/2022	22-015		Games Worked 10/3-10/30/22		3,220.00
	107304	• Contracted Services	Games Worked 10/3-10/30/22	3,220.00	
12/02/2022	25878	Auto Check	Oxarc (00002929)		32.34
12/02/2022	0031679564		CO2 for Fuerza		32.34
	104370	• Reimbursed Outside Event Expense	CO2 for Fuerza	32.34	
12/02/2022	25879	Auto Check	Pitney Bowes Inc (00003309)		131.81
12/02/2022	1022037492		PO4037 - Mailstation Ink		131.81
	107101	• Postage & Shipping	SendPro Mailstation Ink	65.90	
			Due To/From TRCC	65.91	
12/02/2022	25880	Auto Check	Purchase Power (00002904)		100.00
12/02/2022	Postage: NOV 2022		Postage Fees: NOV 22		100.00
	107101	• Postage & Shipping	Postage Fees: NOV 22	50.00	
			Due To/From TRCC	50.00	
12/02/2022	25881	Auto Check	Reign Drop LLC (00003211)		357.16
12/02/2022	S4176-22-8953		Pizza Order 11/27/22		82.29
	101411	• Inventory - Food	Pizza Order 11/27/22	82.29	
12/02/2022	S4176-22-8954		Pizza Order 11/27/22		84.79
	101411	• Inventory - Food	Pizza Order 11/27/22	84.79	
12/02/2022	S4176-22-8951		Pizza Order 11/26/22		103.29
	101411	• Inventory - Food	Pizza Order 11/26/22	103.29	
12/02/2022	S4176-22-8952		Pizza Order 11/26/22		86.79
	101411	• Inventory - Food	Pizza Order 11/26/22	86.79	
12/02/2022	25882	Auto Check	Rob Gierke (00002700)		68.13
12/02/2022	REIMB: 11/14/22		Reimbursement: Meals		68.13
	107112	• Travel & Entertainment	Reimbursement: Meals	68.13	
12/02/2022	25883	Auto Check	Rocky Mountain Rigging (00002781)	VOID	0.00
12/02/2022	25884	Auto Check	Roto-Rooter (00002782)		690.79
12/02/2022	41778251		Plumbing Repairs		690.79
	107212	• Building Repairs & Maintenance	Plumbing Repairs	690.79	
12/02/2022	25885	Auto Check	Ryan Overholt (00002955)		250.00
12/02/2022	22-01204		Runner for PeppaPig		250.00
	104370	• Reimbursed Outside Event Expense	Runner for PeppaPig	250.00	
12/02/2022	25886	Auto Check	The UPS Store (00002801)		288.06
12/02/2022	112122		PO4014 - Parking Passes		288.06
	104240	• Signage & Sponsorship	PO4014 - Parking Passes	288.06	

**Toyota Center and Arena
Claims Roster
December 2022**

<u>Date</u>	<u>Check</u>	<u>Method</u>	<u>Name</u>		<u>Amount</u>
12/02/2022	25887	Auto Check	US Foods (00002786)		9,967.22
	12/02/2022	5848803	Food Order 11/22/22		3,121.07
	101411	• Inventory - Food	Food Order 11/22/22		3,121.07
	12/02/2022	3172456	Food Order 12/1/22		6,846.15
	101411	• Inventory - Food	Food Order 12/1/22		6,846.15
<hr/>					
12/02/2022	25888	Auto Check	VenuWorks, Inc. (00000894)		10,103.31
	12/02/2022	18287	Management Fee - DEC 22		10,103.31
	107306	• VenuWorks Management Fee	Management Fee - DEC 22		10,103.31
<hr/>					
12/02/2022	25889	Auto Check	Zamboni Company USA, Inc (00003146)		186.42
	12/02/2022	111850	PO4010 - Tire Wash Pump		186.42
	107211	• Equipment Repairs & Maintenance	Tire Wash Pump		186.42
<hr/>					
12/05/2022		Wire Transfer	King Beverage (00000486)		1,274.00
	12/05/2022	2593053	Beer Order 12/1/22		1,274.00
	101413	• Inventory - Beer	Beer Order 12/1/22		1,274.00
<hr/>					
12/09/2022		Wire Transfer	Southern Glazer's of WA (00002855)		1,624.10
	12/09/2022	4225334	Liquor Order 12/9/22		1,624.10
	101415	• Inventory - Liquor	Liquor Order 12/9/22		1,624.10
<hr/>					
12/06/2022	25890	Auto Check	Rob Gierke (00002700)		450.00
	12/06/2022	Equip Reimb			450.00
	107213	• Grounds Repairs & Maintenance	Reimb for personal use of snow removal equip	225.00	
			Due To/From TRCC	225.00	
<hr/>					
12/04/2022	25891	Auto Check	Rocky Mountain Rigging (00002781)		1,194.00
	12/04/2022	Peppa Pig	Rigging for Peppa Pig		1,194.00
	104370	• Reimbursed Outside Event Expense	Rigging for Peppa Pig		1,194.00
<hr/>					
12/12/2022		Wire Transfer	King Beverage (00000486)		2,638.00
	12/12/2022	2608741	Beer Order 12/8/22		2,638.00
	101413	• Inventory - Beer	Beer Order 12/8/22		2,638.00
<hr/>					
12/16/2022		Wire Transfer	King Beverage (00000486)		4,749.90
	12/16/2022	2611543	Beer Order 12/14/22		4,749.90
	101413	• Inventory - Beer	Beer Order 12/14/22		4,749.90
<hr/>					
12/16/2022		Wire Transfer	Southern Glazer's of WA (00002855)		1,711.83
	12/16/2022	4231884	Liquor Order 12/14/22		1,711.83
	101415	• Inventory - Liquor	Liquor Order 12/14/22		1,711.83
<hr/>					
12/15/2022		Wire Transfer	The Odom Corporation (00002856)		1,333.60
	12/15/2022	14724861	Beer Order 12/14/22		1,333.60
	101413	• Inventory - Beer	Beer Order 12/14/22		1,333.60
<hr/>					
12/15/2022	25892	Auto Check	Backstage Electric, Inc. (00002752)		6,622.00
	12/15/2022	2454	Labor for Mannheim		6,622.00
	104370	• Reimbursed Outside Event Expense	Labor for Mannheim		6,622.00
<hr/>					
12/15/2022	25893	Auto Check	Paul Boskovich (00002984)		300.00
	12/15/2022	22-1215365	Runner for Mannheim		300.00
	107404	• Event Contracted Labor	Runner for Mannheim		300.00
<hr/>					
12/15/2022	25894	Auto Check	Rocky Mountain Rigging (00002781)		3,251.40
	12/15/2022	Manheim Steamroller	Rigging for Mannheim		3,251.40
	104370	• Reimbursed Outside Event Expense	Rigging for Mannheim		3,251.40
<hr/>					
12/16/2022	25895	Auto Check	8x8, INC (00002829)		700.80
	12/16/2022	3638566	Phone Services NOV 22		700.80
	107204	• Other Utilities	Phone Services NOV 22	350.40	
			Due To/From TRCC	350.40	

**Toyota Center and Arena
Claims Roster
December 2022**

<u>Date</u>	<u>Check</u>	<u>Method</u>	<u>Name</u>		<u>Amount</u>
12/16/2022	25896	Auto Check	Abbott & Abbott LLC (00002770)		117.40
	12/16/2022	448-010107	FiltaFry Service		117.40
	107508	• F&B Equipment Repairs & Maintenance	FiltaFry Service	117.40	
12/16/2022	25897	Auto Check	Advanced Protection Services, Inc. (00002751)		303.01
	12/16/2022	R139437	Com Security Monitoring DEC 22		43.43
	107209	• Security & Fire Alarm System	Com Security Monitoring DEC 22	43.43	
	12/16/2022	R139436	Temp Security Monitoring DEC22		43.43
	107209	• Security & Fire Alarm System	Temp Security Monitoring DEC22	43.43	
	12/16/2022	R139435	Com Fire Monitoring DEC22		73.86
	107209	• Security & Fire Alarm System	Com Fire Monitoring DEC22	73.86	
	12/16/2022	R139434	Com Ammonia Monitoring DEC22		68.43
	107209	• Security & Fire Alarm System	Com Ammonia Monitoring DEC22	68.43	
	12/16/2022	R139433	TA Fire Monitoring DEC22		73.86
	107209	• Security & Fire Alarm System	TA Fire Monitoring DEC22	73.86	
12/16/2022	25898	Auto Check	Alsco (00002738)		231.85
	12/16/2022	LSPO2582163	Ops Linen		231.85
	107405	• Linens & Laundry	Ops Linen	231.85	
12/16/2022	25899	Auto Check	Ann Doherty (00003036)		165.00
	12/16/2022	LTS November 2022	LTS November 2022		165.00
	107304	• Contracted Services	LTS November 2022	165.00	
12/16/2022	25900	Auto Check	Ascentis Corporation (00002983)		1,421.01
	12/16/2022	SI-136611	NOVA5000 Series NOV 22		1,421.01
	107070	• Payroll Processing	NOVA5000 Series NOV 22		
			Due To/From TRCC	710.50	
				710.51	
12/16/2022	25901	Auto Check	Baskin Robbins (00002754)		2,780.15
	12/16/2022	44897.9134	Third Party Sales 12/2/22		622.85
	104690	• Concession Sales - Third Party Expense	Third Party Sales 12/2/22	622.85	
	12/16/2022	44898.8605	Third Party Sales 12/3/22		734.90
	104690	• Concession Sales - Third Party Expense	Third Party Sales 12/3/22	734.90	
	12/16/2022	44904.9169	Third Party Sales 12/9/22		463.20
	104690	• Concession Sales - Third Party Expense	Third Party Sales 12/9/22	463.20	
	12/16/2022	44905.8644	Third Party Sales 12/10/22		959.20
	104690	• Concession Sales - Third Party Expense	Third Party Sales 12/10/22	959.20	
12/16/2022	25902	Auto Check	Brashear Electric, Inc. (00002756)		896.78
	12/16/2022	38970	Stage Set Up for Peppia Pig		896.78
	104327	• Reimbursed Contract Labor	Stage Set Up for Peppia Pig	896.78	
12/16/2022	25903	Auto Check	Canon Solutions (00002757)		33.89
	12/16/2022	6002597643	QHM Copier Maintenance		33.89
	107105	• Printing / Copying	QHM Copier Maintenance	33.89	
12/16/2022	25904	Auto Check	Central Washington Refrigeration, LLC (00002949)		4,130.49
	12/16/2022	46635	DowTherm		2,316.87
	107212	• Building Repairs & Maintenance	DowTherm	2,316.87	
	12/16/2022	46697	Chemical Pump Repair		1,813.62
	107212	• Building Repairs & Maintenance	Chemical Pump Repair	1,813.62	
12/16/2022	25905	Auto Check	Chapala Express (00002758)		4,369.61
	12/16/2022	44897.9103	Third Party Sales 12/2/22		961.48
	104690	• Concession Sales - Third Party Expense	Third Party Sales 12/2/22	961.48	
	12/16/2022	44898.8670	Third Party Sales 12/3/22		960.13
	104690	• Concession Sales - Third Party Expense	Third Party Sales 12/3/22	960.13	
	12/16/2022	44904.9162	Third Party Sales 12/9/22		825.70
	104690	• Concession Sales - Third Party Expense	Third Party Sales 12/9/22	825.70	
	12/16/2022	44905.8638	Third Party Sales 12/10/22		1,622.30
	104690	• Concession Sales - Third Party Expense	Third Party Sales 12/10/22	1,622.30	
12/16/2022	25906	Auto Check	Chisholm's Saw & Supply, Inc. (00002760)		145.64
	12/16/2022	80606	Zamboni Knives Sharpening		145.64
	107201	• Tools & Supplies	Zamboni Knives Sharpening	145.64	

**Toyota Center and Arena
Claims Roster
December 2022**

<u>Date</u>	<u>Check</u>	<u>Method</u>	<u>Name</u>	<u>Amount</u>
12/16/2022	25907	Auto Check	City of Kennewick - Misc (00002830)	7,500.00
	12/16/2022	15290	Audit Costs 2022	7,500.00
	107303	• Professional Fees	Audit Costs 2022	7,500.00
<hr/>				
12/16/2022	25908	Auto Check	Coca-Cola (00000213)	6,330.00
	12/16/2022	134001	Beverage Order 12/8/22	900.00
	101411	• Inventory - Food	Beverage Order 12/8/22	900.00
	12/16/2022	1303424	Beverage Credit 12/7/22	-930.00
	101411	• Inventory - Food	Beverage Credit 12/7/22	-930.00
	12/16/2022	133974	Beverage Order 12/7/22	340.00
	101411	• Inventory - Food	Beverage Order 12/7/22	340.00
	12/16/2022	1303425	Beverage Credit 12/7/22	-20.00
	101411	• Inventory - Food	Beverage Credit 12/7/22	-20.00
	12/16/2022	134148	Beverage Order 12/13/22	6,040.00
	101411	• Inventory - Food	Beverage Order 12/13/22	6,040.00
<hr/>				
12/16/2022	25909	Auto Check	Coffee Crush (00002762)	1,580.31
	12/16/2022	44897.9184	Third Party Sales 12/2/22	398.11
	104690	• Concession Sales - Third Party Expense	Third Party Sales 12/2/22	398.11
	12/16/2022	44898.8514	Third Party Sales 12/3/22	333.92
	104690	• Concession Sales - Third Party Expense	Third Party Sales 12/3/22	333.92
	12/16/2022	44904.9525	Third Party Sales 12/9/22	332.29
	104690	• Concession Sales - Third Party Expense	Third Party Sales 12/9/22	332.29
	12/16/2022	44905.8765	Third Party Sales 12/10/22	515.99
	104690	• Concession Sales - Third Party Expense	Third Party Sales 12/10/22	515.99
<hr/>				
12/16/2022	25910	Auto Check	Concessions Supply (00002860)	795.40
	12/16/2022	90386	Food Order 12/13/22	795.40
	101411	• Inventory - Food	Food Order 12/13/22	795.40
<hr/>				
12/16/2022	25911	Auto Check	Cougar Digital Marketing & Design (00002861)	149.00
	12/16/2022	10674	TA Website Maintenance -DEC 22	149.00
	107302	• Venue Marketing & Non-Event Advertising	TA Website Maintenance - DEC 22	149.00
<hr/>				
12/16/2022	25912	Auto Check	Craig Bond (00002810)	490.00
	12/16/2022	LTS November 2022	LTS November 2022	490.00
	107304	• Contracted Services	LTS November 2022	490.00
<hr/>				
12/16/2022	25913	Auto Check	Culligan Water Conditioning (00002766)	39.13
	12/16/2022	126752	Bottle Water 12/5/22	39.13
	107201	• Tools & Supplies	Bottle Water 12/5/22	39.13
<hr/>				
12/16/2022	25914	Auto Check	DevFuzion (00000278)	129.14
	12/16/2022	20743	Windows Pro Upgrade for Rob	129.14
	107103	• Computer Equipment & Software	Windows Pro Upgrade	64.57
			Due To/From TRCC	64.57
<hr/>				
12/16/2022	25915	Auto Check	Doggie Style Gourmet (00002767)	3,890.54
	12/16/2022	44905.8847	Third Party Sales 12/10/22	1,543.00
	104690	• Concession Sales - Third Party Expense	Third Party Sales 12/10/22	1,543.00
	12/16/2022	44904.9190	Third Party Sales 12/9/22	653.54
	104690	• Concession Sales - Third Party Expense	Third Party Sales 12/9/22	653.54
	12/16/2022	44898.8813	Third Party Sales 12/3/22	984.29
	104690	• Concession Sales - Third Party Expense	Third Party Sales 12/3/22	984.29
	12/16/2022	44897.9168	Third Party Sales 12/2/22	709.71
	104690	• Concession Sales - Third Party Expense	Third Party Sales 12/2/22	709.71
<hr/>				
12/16/2022	25916	Auto Check	Enterprise Rent A Car (00002931)	114.98
	12/16/2022	31609933	Car Rental - Peppa Pig	114.98
	107410	• Event Rental Equipment	Car Rental	114.98

**Toyota Center and Arena
Claims Roster
December 2022**

Date	Check	Method	Name		Amount
12/16/2022	25917	Auto Check	Ferrell Gas (00002769)		521.77
	12/16/2022	1121308635	Propane		521.77
	107204	• Other Utilities	Propane	259.66	
				Due To/From TRCC	259.66
	107204	• Other Utilities	Statement Charge	1.22	
				Due To/From TRCC	1.23
<hr/>					
12/16/2022	25918	Auto Check	Janine Adamson (00002809)		40.00
	12/16/2022	LTS November 2022	LTS November 2022		40.00
	107304	• Contracted Services	LTS November 2022	40.00	
<hr/>					
12/16/2022	25919	Auto Check	Jennifer Bond (00002941)		1,300.00
	12/16/2022	LTS November 2022	LTS November 2022		1,300.00
	107304	• Contracted Services	LTS November 2022 Administration	1,000.00	
	107304	• Contracted Services	LTS November 2022	300.00	
<hr/>					
12/16/2022	25920	Auto Check	Jessica Boyd (00002812)		75.00
	12/16/2022	LTS November 2022	LTS November 2022		75.00
	107304	• Contracted Services	LTS November 2022	75.00	
<hr/>					
12/16/2022	25921	Auto Check	JMC Motorshports, LLC (00003315)		1,446.58
	12/16/2022	312573	Snow Plow Repairs		1,446.58
	107211	• Equipment Repairs & Maintenance	Snow Plow Repairs	723.29	
				Due To/From TRCC	723.29
<hr/>					
12/16/2022	25922	Auto Check	KC Brand (00002773)		4,388.84
	12/16/2022	101	Food Order 12/3/22		172.00
	101411	• Inventory - Food	Food Order 12/3/22	172.00	
	12/16/2022	44897.9128	Third Party Sales 12/2/22		748.04
	104690	• Concession Sales - Third Party Expense	Third Party Sales 12/2/22	748.04	
	12/16/2022	44898.8799	Third Party Sales 12/3/22		944.77
	104690	• Concession Sales - Third Party Expense	Third Party Sales 12/3/22	944.77	
	12/16/2022	44904.9546	Third Party Sales 12/9/22		658.18
	104690	• Concession Sales - Third Party Expense	Third Party Sales 12/9/22	658.18	
	12/16/2022	44905.8695	Third Party Sales 12/10/22		1,865.85
	104690	• Concession Sales - Third Party Expense	Third Party Sales 12/10/22	1,865.85	
<hr/>					
12/16/2022	25923	Auto Check	Lowe's Commercial Services (00002776)		1,677.63
	12/16/2022	916972	PO4021 - Misc Hardware & Paint		37.35
	107201	• Tools & Supplies	PO4021 - Misc Hardware & Paint	37.35	
	12/16/2022	916024	PO4021 - Misc Hardware & Paint		105.12
	107201	• Tools & Supplies	PO4021 - Misc Hardware & Paint	105.12	
	12/16/2022	916209	PO4021 - Misc Hardware & Paint		86.12
	107201	• Tools & Supplies	PO4021 - Misc Hardware & Paint	86.12	
	12/16/2022	916359	PO4023 - Tools & Supplies		288.11
	107201	• Tools & Supplies	PO4023 - Tools & Supplies	288.11	
	12/16/2022	911418	PO3949 - Tools		1,007.32
	107201	• Tools & Supplies	PO3949 - Tools	1,007.32	
	12/16/2022	916956	PO3978 - Tools & Supplies		51.52
	107201	• Tools & Supplies	PO3978 - Tools & Supplies	51.52	
	12/16/2022	916050	PO3978 - Tools & Supplies		102.09
	107201	• Tools & Supplies	PO3978 - Tools & Supplies	102.09	
<hr/>					
12/16/2022	25924	Auto Check	Michelle Gustafson (00002670)		223.48
	12/16/2022	REIMB: 12/11/22	Reimbursement: Food Expenses		223.48
				Due To/From TRCC	80.90
				Due To/From TRCC	56.28
	107409	• Backstage Catering	Fred Meyer - Backstage Food for Peppa Pig	35.34	
	101411	• Inventory - Food	Chef's Store - Food	50.96	
<hr/>					
12/16/2022	25925	Auto Check	Oxarc (00002929)		101.48
	12/16/2022	0061342830	CO5 - Midland/Fuerza		101.48
	104370	• Reimbursed Outside Event Expense	CO5 - Midland	50.74	
	104370	• Reimbursed Outside Event Expense	CO5 - Fuerza	50.74	
<hr/>					

**Toyota Center and Arena
Claims Roster
December 2022**

Date	Check	Method	Name	Amount
12/16/2022	25926	Auto Check	PeopleReady Inc (00002903)	1,801.40
12/16/2022	27835942		Labor for 12/9 & 12/10	1,801.40
	107515	• F&B Contracted Labor	Labor for 12/9 & 12/10	1,801.40
<hr/>				
12/16/2022	25927	Auto Check	Reign Drop LLC (00003211)	1,396.27
12/16/2022	S4176-22-8996		Pizza Order 12/4/22	99.79
	101411	• Inventory - Food	Pizza Order 12/4/22	99.79
12/16/2022	S4176-22-8980		Pizza Order 12/3/22	86.79
	101411	• Inventory - Food	Pizza Order 12/3/22	86.79
12/16/2022	S4176-22-8970		Pizza Order 12/2/22	77.29
	101411	• Inventory - Food	Pizza Order 12/2/22	77.29
12/16/2022	S4176-22-8971		Pizza Order 12/2/22	97.29
	101411	• Inventory - Food	Pizza Order 12/2/22	97.29
12/16/2022	S4176-22-8979		Pizza Order 12/3/22	175.79
	101411	• Inventory - Food	Pizza Order 12/3/22	175.79
12/16/2022	S4176-22-8948		Pizza Order 11/23/22	85.79
	101411	• Inventory - Food	Pizza Order 11/23/22	85.79
12/16/2022	S4176-22-8947		Pizza Order 11/23/22	82.29
	101411	• Inventory - Food	Pizza Order 11/23/22	82.29
12/16/2022	S4176-22-8706		Pizza Order 11/5/22	80.29
	101411	• Inventory - Food	Pizza Order 11/5/22	80.29
12/16/2022	S4176-22-8886		Pizza Order 11/18/22	76.29
	101411	• Inventory - Food	Pizza Order 11/18/22	76.29
12/16/2022	S4176-22-9088		Pizza Order 12/10/22	147.29
	101411	• Inventory - Food	Pizza Order 12/10/22	147.29
12/16/2022	S4176-22-9085		Pizza Order 12/9/22	113.79
	101411	• Inventory - Food	Pizza Order 12/9/22/22	113.79
12/16/2022	S4176-22-9087		Pizza Order 12/10/22	197.29
	101411	• Inventory - Food	Pizza Order 12/10/22	197.29
12/16/2022	S4176-22-9086		Pizza Order 12/9/22	76.29
			Due To/From TRCC	76.29
<hr/>				
12/16/2022	25928	Auto Check	Rob Gierke (00002700)	525.00
12/16/2022	REIMB: Snow Removal		Reimbursement: Snow Removal	525.00
	107213	• Grounds Repairs & Maintenance	Reimbursement: Personal Equipment for Snow Removal	262.50
			Due To/From TRCC	262.50
<hr/>				
12/16/2022	25929	Auto Check	Staples Advantage (00002740)	195.19
12/16/2022	3524310273		PO4033 - Office Supplies	195.19
	107102	• Office Supplies	Office Supplies	97.59
			Due To/From TRCC	97.60
<hr/>				
12/16/2022	25930	Auto Check	Sunbelt Rentals, Inc. (00002783)	4,758.02
12/16/2022	133258911-0001		60' Manlift Rental	687.67
	107305	• General Rental Equipment	60' Manlift Rental	687.67
12/16/2022	133613171-0001		Rental Equipment for PeppaPig	1,449.82
	104370	• Reimbursed Outside Event Expense	Rental Equipment for PeppaPig	1,449.82
12/16/2022	132974923-0001		Rental Equipment for Midland	669.41
	104370	• Reimbursed Outside Event Expense	Rental Equipment for Midland	669.41
12/16/2022	132976010-0001		Rental Equipment for Fuerza	1,951.12
	104370	• Reimbursed Outside Event Expense	Rental Equipment for Fuerza	1,951.12
<hr/>				
12/16/2022	25931	Auto Check	Tim Berry (00002808)	105.00
12/16/2022	LTS November 2022		LTS November 2022	105.00
	107304	• Contracted Services	LTS November 2022	105.00
<hr/>				
12/16/2022	25932	Auto Check	Tri-City Americans (00000851)	70,905.44
12/16/2022	Ams v Everett 11/11		Ams vs Everett 11/11/22	19,826.94
	102150	• A/P Settlements	Ams v Everett 11/11	19,826.94
12/16/2022	Ams v Calgary 11/18/22		Ams v Calgary 11/18/22	14,412.55
	102150	• A/P Settlements	Ams v Calgary 11/18/22	14,412.55
12/16/2022	Ams vs Kamloops 11/23/22		Ams vs Kamloops 11/23/22	9,042.07
	102150	• A/P Settlements	Ams vs Kamloops 11/23/22	9,042.07
12/16/2022	Ams v Spokane 11/26/22		Ams v Spokane 11/26/22	23,056.08
	102150	• A/P Settlements	Ams v Spokane 11/26/22	23,056.08
12/16/2022	Ams vs Seattle 11/27/22		Ams vs Seattle 11/27/22	4,567.80
	102150	• A/P Settlements	Ams vs Seattle 11/27/22	4,567.80

**Toyota Center and Arena
Claims Roster
December 2022**

<u>Date</u>	<u>Check</u>	<u>Method</u>	<u>Name</u>		<u>Amount</u>
12/16/2022	25933	Auto Check	United States Ice Rink Association (00003312)		75.00
	12/16/2022	1626	Membership 2023		75.00
	107106	• Dues & Subscriptions	Membership 2023 - Billy	75.00	
12/16/2022	25934	Auto Check	US Foods (00002786)		9,576.71
	12/16/2022	3216843	Food Order 12/2/22		146.27
	101411	• Inventory - Food	Food Order 12/2/22	146.27	
	12/16/2022	3339468	Food Order 12/8/22		3,441.63
	101411	• Inventory - Food	Food Order 12/8/22	3,441.63	
	12/16/2022	3445476	Food Order 12/13/22		5,988.81
	101411	• Inventory - Food	Food Order 12/13/22	5,988.81	
12/16/2022	25935	Auto Check	Vistar Corporation (00002787)		481.11
	12/16/2022	66670331	Food Order 12/7/22		481.11
	101411	• Inventory - Food	Food Order 12/7/22	481.11	
12/16/2022	25936	Auto Check	WCP Solutions (00002788)		3,028.62
	12/16/2022	13036403	PO4040 - Housekeeping Supplies		490.05
	107203	• Janitorial Supplies	Housekeeping Supplies	490.05	
	12/16/2022	13036404	PO4040 - Housekeeping Supplies		157.51
	107203	• Janitorial Supplies	PO4040 - Housekeeping Supplies	157.51	
	12/16/2022	13036402	PO4040 - Housekeeping Supplies		1,174.34
	107203	• Janitorial Supplies	PO4040 - Housekeeping Supplies	1,174.34	
	12/16/2022	13045300	PO4043 - Housekeeping Supplies		1,067.21
	107203	• Janitorial Supplies	Housekeeping Supplies	1,067.21	
	12/16/2022	13045301	PO4043 - Housekeeping Supplies		127.15
	107203	• Janitorial Supplies	Housekeeping Supplies	127.15	
	12/16/2022	13045302	PO4043 - Housekeeping Supplies		12.36
	107203	• Janitorial Supplies	Housekeeping Supplies	12.36	
12/19/2022		Wire Transfer	King Beverage (00000486)		1,342.80
	12/19/2022	2612895	Beer Order 12/15/22		1,342.80
	101413	• Inventory - Beer	Beer Order 12/15/22	1,342.80	
12/20/2022		Wire Transfer	Nederlander (00002659)		87,381.21
	12/20/2022	Mannheim settlement 12/15/22	Mannheim settlement 12/15/22		87,381.21
	102150	• A/P Settlements	Mannheim settlement 12/15/22	87,381.21	
12/25/2022		Wire Transfer	Washington State Department of Revenue (00002989)		38,304.37
	12/25/2022	Nov DOR due 12/25 TOYO	Nov DOR due 12/25		38,304.37
	102325	• B&O Tax Payable	Nov DOR due 12/25	5,903.12	
	102310	• Sales Tax Payable - State	Nov DOR due 12/25	28,217.94	
	107603	• B&O Taxes	Nov DOR due 12/25	4,183.31	
12/29/2022	25937	Auto Check	Benton PUD (00000121)		22,778.49
	12/29/2022	11/8-12/8/22	Small Gen Service 11/8-12/8/22		295.80
	107216	• Electricity	Small Gen Service 11/8-12/8/22	295.80	
	12/29/2022	11/8/22-12/8/2022	Large Gen Service 11/8-12/8/22		22,482.69
	107216	• Electricity	Large Gen Service 11/8-12/8/22	22,482.69	
12/29/2022	25938	Auto Check	Canon Financial Services, Inc (00002793)		373.16
	12/29/2022	29657495	Copier Contract DEC 22		373.16
	107105	• Printing / Copying	Copier Contract DEC 22	186.58	
			Due To/From TRCC	186.58	
12/29/2022	25939	Auto Check	Canon Solutions (00002757)		14.48
	12/29/2022	6002654265	UMT Copier Maintenance		14.48
	107105	• Printing / Copying	UMT Copier Maintenance	14.48	
12/29/2022	25940	Auto Check	Cascade Natural Gas (00000161)		4,048.47
	12/29/2022	11/08/22-12/08/22	Gen Com Service 11/8-12/8/22		4,048.47
	107217	• Natural Gas	Gen Com Service 11/8-12/8/22	4,048.47	

**Toyota Center and Arena
Claims Roster
December 2022**

<u>Date</u>	<u>Check</u>	<u>Method</u>	<u>Name</u>		<u>Amount</u>
12/29/2022	25941	Auto Check	Cascade Natural Gas (0000161)		9,386.73
12/29/2022	107217	• Natural Gas	Gen Com Service 11/8-12/8/22	9,386.73	9,386.73
			Gen Com Service 11/8-12/8/22		
<hr/>					
12/29/2022	25942	Auto Check	CI Shred/Columbia Industries (00002840)		91.64
12/29/2022	107304	• Contracted Services	Shred Service 10/25/22	91.64	91.64
			Shred Service 10/25/22		
<hr/>					
12/29/2022	25943	Auto Check	City of Kennewick - Misc (00002830)		3,425.00
12/29/2022	104327	• Reimbursed Contract Labor	Security Services NOV22	3,425.00	3,425.00
12/29/2022	107404	• Event Contracted Labor	Security Services 11/5/22	237.50	
12/29/2022	104327	• Reimbursed Contract Labor	Security Services 11/11/22	387.50	
12/29/2022	104327	• Reimbursed Contract Labor	Security Services 11/12/22	587.50	
12/29/2022	104327	• Reimbursed Contract Labor	Security Services 11/13/22	900.00	
12/29/2022	107404	• Event Contracted Labor	Security Services 11/18/22	400.00	
12/29/2022	107404	• Event Contracted Labor	Security Services 11/23/22	200.00	
12/29/2022	107404	• Event Contracted Labor	Security Services 11/26/22	400.00	
12/29/2022	107404	• Event Contracted Labor	Security Services 11/27/22	312.50	
<hr/>					
12/29/2022	25944	Auto Check	City of Kennewick - Water (00002858)		3,858.27
12/29/2022	107219	• Water	Water Service 10/25-12/22/22	3,858.27	3,858.27
			Water Service 10/25-12/22/22		
<hr/>					
12/29/2022	25945	Auto Check	Culligan Water Conditioning (00002766)		27.19
12/29/2022	107201	• Tools & Supplies	Cooler Rentals 12/19-1/18	27.19	27.19
			Cooler Rentals 12/19-1/18		
<hr/>					
12/29/2022	25946	Auto Check	Flags A' Flying (00003217)		294.14
12/29/2022	107113	• Miscellaneous Expense	Flags	294.14	294.14
			Flags		
			Due To/From TRCC	147.07	
				147.07	
<hr/>					
12/29/2022	25947	Auto Check	Jennifer Bond (00002941)		1,000.00
12/29/2022	107304	• Contracted Services	LTS January 2022	1,000.00	1,000.00
			LTS January 2022		
			LTS January 2022	1,000.00	
<hr/>					
12/29/2022	25948	Auto Check	KAPP-KVEW (00002980)		212.50
12/29/2022	107402	• Event Advertising	TV Advertising - Bluey	212.50	212.50
			TV Advertising - Bluey		
<hr/>					
12/29/2022	25949	Auto Check	KNDO/KNDU (00002825)		1,700.00
12/29/2022	107402	• Event Advertising	TV Advertising - Mannheim	1,700.00	1,700.00
			TV Advertising - Mannheim		
<hr/>					
12/29/2022	25950	Auto Check	Loomis (00002895)		269.10
12/29/2022	107304	• Contracted Services	Armored Car Service - NOV22	269.10	269.10
			Armored Car Service - NOV22		
			Due To/From TRCC	134.55	
				134.55	
<hr/>					
12/29/2022	25951	Auto Check	MD Draft Team (00002835)		471.84
12/29/2022	107508	• F&B Equipment Repairs & Maintenance	Equipment Maintenance	471.84	471.84
			Equipment Maintenance		
<hr/>					
12/29/2022	25952	Auto Check	Mid Columbia Hockey Officials Association (00002777)		3,795.00
12/29/2022	107304	• Contracted Services	Games Worked 10/31/22-12/4/22	3,795.00	3,795.00
			Games Worked 10/31/22-12/4/22		
<hr/>					
12/29/2022	25953	Auto Check	Performance Digital (00002778)		2,975.00
12/29/2022	107402	• Event Advertising	Mannheim Advertising	2,975.00	2,975.00
			Mannheim Advertising		
<hr/>					

**Toyota Center and Arena
Claims Roster
December 2022**

Date	Check	Method	Name	Amount
12/29/2022	25954	Auto Check	Springhill Suites of Kennewick (00002726)	1,751.18
12/29/2022	206D500004193		Room Rental: Fuerza	534.52
	104370	• Reimbursed Outside Event Expense	Room Rental: Fuerza	534.52
12/29/2022	206D500004192		Room Rental: Midland	133.63
	104370	• Reimbursed Outside Event Expense	Room Rental: Midland	133.63
12/29/2022	206D500004200		Room Rental: Mannheim	281.25
	104370	• Reimbursed Outside Event Expense	Room Rental: Mannheim	281.25
12/29/2022	206D500004201		Room Rental: Mannheim	801.78
	104370	• Reimbursed Outside Event Expense	Room Rental: Mannheim	801.78
<hr/>				
12/29/2022	25955	Auto Check	Staples Advantage (00002740)	84.60
12/29/2022	3524914970		PO4033 - Office Supplies	64.12
	107102	• Office Supplies	PO4033 - Office Supplies	32.06
			Due To/From TRCC	32.06
12/29/2022	3524914969		PO4033 - Office Supplies	20.48
	107102	• Office Supplies	PO4033 - Office Supplies	10.24
			Due To/From TRCC	10.24
<hr/>				
12/29/2022	25956	Auto Check	Tri-City Americans (00000851)	39,999.99
12/29/2022	11111032022TYB		Naming Rights Sponsorship	8,333.33
	104240	• Signage & Sponsorship	Naming Rights Sponsorship	8,333.33
12/29/2022	11111032022KB		King Beverage Deal	15,000.00
	104241	• Signage & Display Sponsorship - Tenant Share	King Beverage Deal	15,000.00
12/29/2022	111120122TY		Naming Rights Sponsorship	8,333.33
	104240	• Signage & Sponsorship	Naming Rights Sponsorship	8,333.33
12/29/2022	11111032022TY		Naming Rights Sponsorship	8,333.33
	104240	• Signage & Sponsorship	Naming Rights Sponsorship	8,333.33
<hr/>				
12/29/2022	25957	Auto Check	Vistar Corporation (00002787)	1,478.52
12/29/2022	66739953		Food Order 12/14/22	1,478.52
	101411	• Inventory - Food	Food Order 12/14/22	1,478.52
<hr/>				
12/31/2022		Other Cash Adjustments		3,971.05
12/31/2022		Bank and CC Fees Dec 2022	APS CC Fees Dec 22	346.79
12/31/2022		Bank and CC Fees Dec 2022	Revel POS Fees Dec 22	47.42
12/31/2022		Bank and CC Fees Dec 2022	Revel POS Fees Dec 22	2,179.53
12/31/2022		Bank and CC Fees Dec 2022	Revel CC proc fees Dec 22	1,375.67
12/31/2022		Bank and CC Fees Dec 2022	Fintech account fee Dec 2022	21.64
<hr/>				
<u>TOYO Sterling Box Office Account</u>				
<hr/>				
11/30/2022		Wire Transfer	American Express Card Processing (00003298)	128.39
11/30/2022	AMEX box office fees Nov 2022			128.39
	107310	• Credit Card Fees	AMEX box office fees Nov 2022	
			Credit Card Fees	128.39

Total Paid: 492,387.30

I, Dan Legard, Finance Director, do hereby certify that the merchandise or services hereinbefore specified have been received, that any advance payment is due and payable pursuant to a contract or is available as an option for full or partial fulfillment of a contractual obligation and that the vouchers listed above are approved for payment this



Dan Legard, Finance Director

The payments on this claims roster are comprised of the following:

Check numbers 25856-25957	\$	347,010.72
Electronic transfers - Operations		145,248.19
Electronic transfers - Box Office		128.39
Total	\$	<u><u>492,387.30</u></u>

Exceptions:

Council Agenda Coversheet



Agenda Item Number	4.c.	Council Date	03/07/2023
Agenda Item Type	General Business Item		
Subject	Payroll Roster for PPE 2/15/2023		
Ordinance/Reso #		Contract #	
Project #		Permit #	
Department	Finance		

Consent Agenda	<input checked="" type="checkbox"/>
Ordinance/Reso	<input type="checkbox"/>
Public Mtg / Hrg	<input type="checkbox"/>
Other	<input type="checkbox"/>
Quasi-Judicial	<input type="checkbox"/>

Recommendation

That Council approve the Payroll Roster.

Motion for Consideration

I move to approve the Payroll Roster for 2/15/2023 in the amount of \$2,851,663.43 comprised of check numbers 76411 through 76454 and direct deposit numbers 210573 through 211018.

Summary

None.

Alternatives

None.

Fiscal Impact

Total: \$2,851,663.43.

Through

Dept Head Approval

Dan Legard
Feb 21, 16:31:13 GMT-0800 2023

City Mgr Approval

Marie Mosley
Mar 03, 08:09:03 GMT-0800 2023

Attachments: payroll roster

Recording
Required?

March 7, 2023

All Departments:

February 15, 2023

ADMINISTRATIVE TEAM		3,380.95
CITY COUNCIL		4,787.50
CITY MANAGER		13,416.50
CIVIL SERVICE		2,975.80
COMMUNITY PLANNING & ECONOMIC DEVELOPMENT		27,531.25
EMPLOYEE & COMMUNITY RELATIONS		56,442.08
ENGINEERING		62,819.03
FACILITIES & GROUNDS		68,517.02
FINANCE		58,437.65
FIRE		98,085.76
LEGAL SERVICES		24,621.27
MANAGEMENT SERVICES		104,692.27
POLICE		502,476.93
	Subtotal General Fund	<u>1,028,184.01</u>
STREETS		21,774.36
TRAFFIC		20,133.74
	Subtotal Street Fund	<u>41,908.10</u>
BI-PIN		11,398.43
BUILDING SAFETY		47,110.79
COMMUNITY DEVELOPMENT		3,232.95
CRIMINAL JUSTICE		84,231.77
EQUIPMENT RENTAL		14,050.52
MEDICAL SERVICES		364,370.71
RISK MANAGEMENT		4,898.16
STORMWATER UTILITY		22,951.19
WATER & SEWER		182,545.27
	Subtotal Other Funds	<u>734,789.79</u>
	Total Salaries and Wages	<u>1,804,881.90</u>
<u>Benefits:</u>		
Dental Insurance		46,157.10
Industrial Insurance		54,283.66
Life Insurance		5,363.91
Long Term Disability Insurance		6,199.47
Medical Insurance		681,917.53
Medical Retirement Account		3,150.00
Retirement		131,714.36
Social Security		34.88
Social Security (FICA)		107,028.21
Vision Insurance		7,185.00
WA Family Leave		3,747.41
	Total Benefits	<u>1,046,781.53</u>
	Grand Total	<u><u>\$2,851,663.43</u></u>

I, Dan Legard, Finance Director, at the direction of the Council, do hereby certify that the Payroll hereinabove specified is approved for payment in the amount of \$2,851,663.43 comprised of check numbers 76411 through 76454 and direct deposit numbers 210573 through 211018.

Approved for payment:



Dan Legard, Finance Director

Council Agenda Coversheet	Agenda Item Number	4.d.	Council Date	03/07/2023	Consent Agenda	<input checked="" type="checkbox"/>	
	Agenda Item Type	Contract/Agreement/Lease				Ordinance/Reso	<input type="checkbox"/>
	Subject	Water Pump Station Meter & Zone 1 PRV Replace				Public Mtg / Hrg	<input type="checkbox"/>
	Ordinance/Reso #		Contract #		Other	<input type="checkbox"/>	
	Project #	P1932-21	Permit #		Quasi-Judicial	<input type="checkbox"/>	
	Department	Public Works					

Recommendation

Staff recommends that council accept the work of Ray Poland & Sons Inc for Contract P1932-21, Water Pump Station Meter & Zone 1 PRV Replacement project.

Motion for Consideration

I move to accept the work of Ray Poland & Sons Inc for Contract P1932-21, Water Pump Station Meter & Zone 1 PRV Replacement project in the amount of \$364,778.25.

Summary

Original Contract: \$ 364,872.11
 Change Order: \$ 33,994.23
 Quantity Changes: (\$ 34,088.09)
 Total: \$ 364,778.25

This project was for the replacement of several large diameter potable water production meters and the replacement of one pressure reducing valve (PRV). Work included, installation of a new pre-packaged PRV station at a revised location, abandonment of the existing old PRV station, removal and replacement of large diameter meters at the following locations: WTP, RC5, and 19th & Olympia.

This project had five (5) Change Orders which included the following:

1. Additional materials needed to install mag meters at the WTP and at RC5
2. Additional time and materials associated the RC5 meter install, as the pipe material was steel requiring welding on a new flange
3. Relocating the new PRV station from the designed location to immediately downstream of where the old PRV was located
4. Change in materials to full faced flange coupling adapters to mate up with the grounding rings instead of Romac
5. Deductive change for a City procured remote meter display for the 12" utility meter at the WTP.

Alternatives

None recommended

Fiscal Impact

Water and Sewer Fund Total: \$ 364,778.25

Through	Jeremy Lustig Feb 21, 09:47:16 GMT-0800 2023	Attachments:  <input type="checkbox"/> Recording Required?
Dept Head Approval	Cary Roe Feb 23, 07:01:21 GMT-0800 2023	
City Mgr Approval	Marie Mosley Mar 03, 08:30:59 GMT-0800 2023	

Council Agenda Coversheet



Agenda Item Number	4.e.	Council Date	03/07/2023
Agenda Item Type	Contract/Agreement/Lease		
Subject	23rd & Gum St Lift Station		
Ordinance/Reso #		Contract #	
Project #	P1514-21	Permit #	
Department	Public Works		

Consent Agenda	<input checked="" type="checkbox"/>
Ordinance/Reso	<input type="checkbox"/>
Public Mtg / Hrg	<input type="checkbox"/>
Other	<input type="checkbox"/>
Quasi-Judicial	<input type="checkbox"/>

Recommendation

Staff recommends that council accept the work of Industrial Construction of Washington for Contract P1514-21, 23rd & Gum St Lift Station project.

Motion for Consideration

I move to accept the work of Industrial Construction of Washington for Contract P1514-21, 23rd & Gum St Lift Station project in the amount of \$ 510,629.17.

Summary

Original Contract: \$ 507,905.06 (incl. 8.6% sales tax)
Change Order: \$ 2,655.05
Quantity Changes: \$ 0.00
Subtotals Paid: \$ 431,013.67 (incl. 8.6% sales tax)
\$ 79,615.50 (incl. 8.7% sales tax)

Total Paid: \$ 510,629.17

This project was for the re-construction of the 23rd and Gum Street Lift Station project and consisted of demolition of existing lift station structures, equipment and constructing a new wet well sump, new submersible pumps, appurtenances, valve vault with flowmeter, electrical and controls, bypass pumping, and site restoration.

This project had two (2) Changes Orders which included the following:

1. Deductive change order to reduce the overall contract amount for work performed by the City of Kennewick crews
2. Modified wiring related to the shunt trips in the control panel

There were no quantity changes. Sales tax changed during the project from 8.6% to 8.7% on July 1, 2022.

Alternatives

None recommended

Fiscal Impact

Water and Sewer Fund Total: \$510,629.17

Through

Jeremy Lustig
Feb 22, 09:31:45 GMT-0800 2023

Dept Head Approval

Cary Roe
Feb 23, 07:00:18 GMT-0800 2023

City Mgr Approval

Marie Mosley
Mar 03, 08:35:42 GMT-0800 2023

Attachments:

Recording
Required?

Council Agenda Coversheet



Agenda Item Number	4.f.	Council Date	03/07/2023
Agenda Item Type	Contract/Agreement/Lease		
Subject	W 46th Ave & W 47th Ave Storm Drain Project		
Ordinance/Reso #		Contract #	
Project #	P2116-23	Permit #	
Department	Public Works		

Consent Agenda

Ordinance/Reso

Public Mtg / Hrg

Other

Quasi-Judicial

Recommendation

That City Council award Contract P2116-23 W. 46th Ave & W. 47th Ave Storm Drain Retrofit Project to Ellison Earthworks, LLC., in the amount of \$774,650.02, plus a 10% contingency amount of \$77,465.00, for a total amount of \$852,115.02.

Motion for Consideration

I move to award Contract P2116-23 W. 46th Ave & W. 47th Ave Storm Drain Retrofit Project to Ellison Earthworks, LLC., in the amount of \$774,650.02, plus a 10% contingency amount of \$77,465.00, for a total amount of \$852,115.02.

Summary

Six (6) bids were received on February 28, 2023 at 10:00 a.m.

Ellison Earthworks LLC	\$774,650.02		
Industrial Construction of WA	\$833,836.03		
C & E Trenching	\$989,415.40		
TTC Construction, Inc.	\$999,390.31	Engineer's Estimate:	\$1,001,834.36
Double J Excavating	\$1,086,811.93		
Premier Excavation	\$1,104,007.61		

This project involves storm drainage improvements to address drainage and flooding issues located on W. 46th Ave., W. 47th Ave. and S. Green Pl. located within the Lakeview Ranchettes subdivision. Work will involve installing 4,140 LF of 10-inch, 12-inch and 18-inch storm line, installing new 24-inch and 48-inch catch basins, storm manholes, asphalt patching and minor water-line and sewer service reroute work.

State law requires that we award contracts to a responsible bidder with the lowest responsive bid. We have reviewed all bids and determined them all to be responsive. We are recommending award of this project to Ellison Earthworks LLC, who we have determined to be a responsive bidder with the lowest responsive bid.

Alternatives

None recommended.

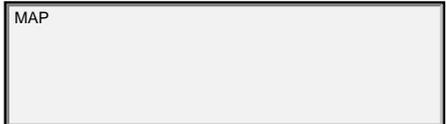
Fiscal Impact

Stormwater (46th/47th-Ledbetter to Ely) \$700,000

(Note: a Spring Budget Adjustment will be required in order to cover the higher than anticipated pricing as seen in today's inflationary bidding market)

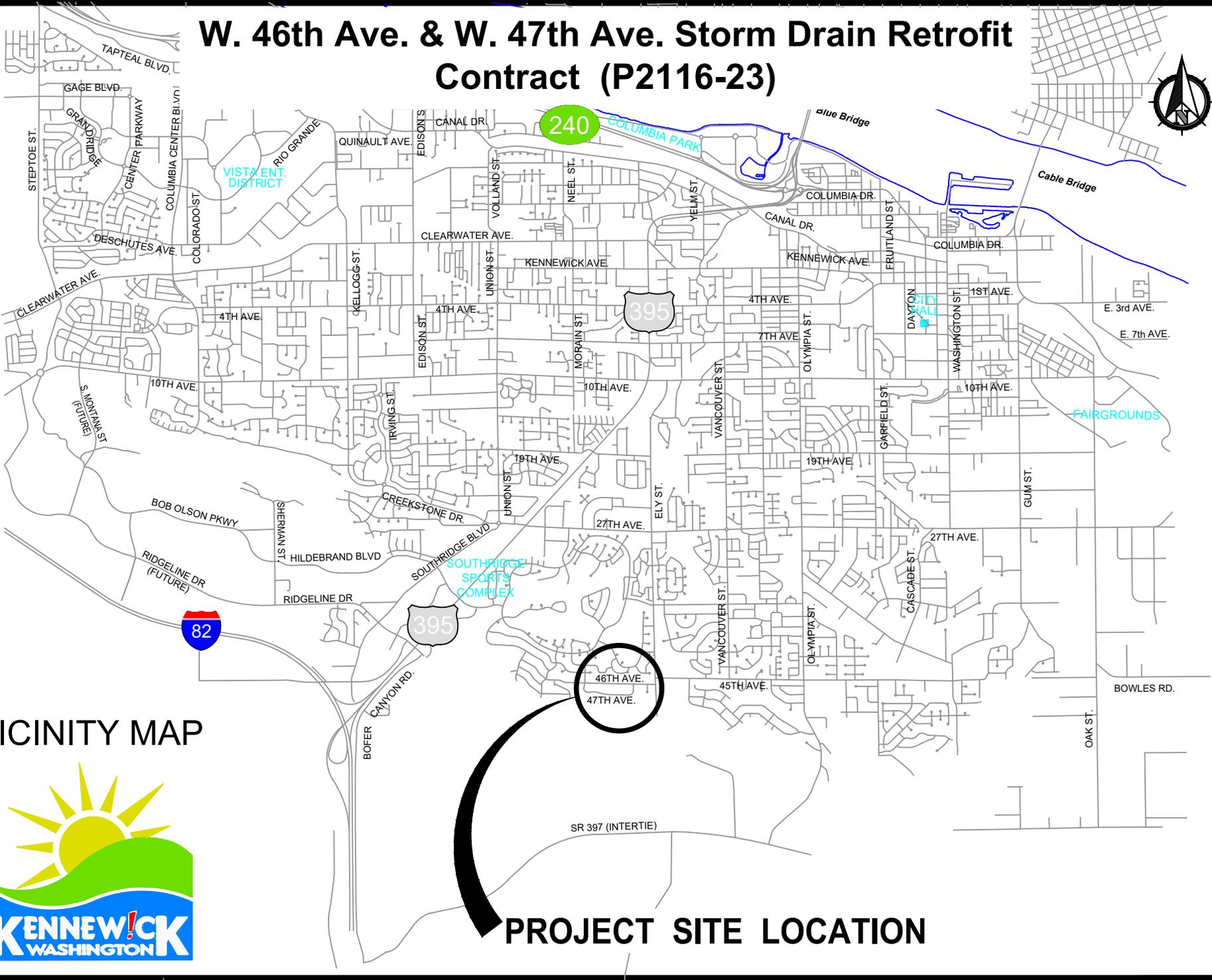
Through	Heath Mellotte Feb 28, 15:05:37 GMT-0800 2023
Dept Head Approval	Cary Roe Mar 01, 14:55:21 GMT-0800 2023
City Mgr Approval	Marie Mosley Mar 03, 08:48:47 GMT-0800 2023

Attachments: MAP



Recording Required?

W. 46th Ave. & W. 47th Ave. Storm Drain Retrofit Contract (P2116-23)



VICINITY MAP



PROJECT SITE LOCATION

Council Agenda Coversheet 	Agenda Item Number	4.g.	Council Date	03/07/2023	Consent Agenda	<input checked="" type="checkbox"/>	
	Agenda Item Type	Contract/Agreement/Lease				Ordinance/Reso	<input type="checkbox"/>
	Subject	Fire Station 3 Closeout				Public Mtg / Hrg	<input type="checkbox"/>
	Ordinance/Reso #		Contract #	20-017	Other	<input type="checkbox"/>	
	Project #		Permit #		Quasi-Judicial	<input type="checkbox"/>	
	Department	Fire Department					

Recommendation

To accept the work of Total Site Services, LLC for Contract 20-017, Fire Station #3 Construction.

Motion for Consideration

I move to accept the work of Total Site Services, LLC for Contract 20-017, Fire Station #3 construction, for a total amount of \$4,669,948.41.

Summary

The breakdown of costs for the Fire Station #3 construction project performed by Total Site Services, LLC under Contract 20-017, is as follows:

Original Contract Amount = \$4,190,245.00
Sales Tax (8.6% of \$4,190,245) = \$ 348,232.06
Initial Contract Award Total = \$4,538,477.06
Approved 10% Contingency = \$ 453,847.71
Approved Construction Total = \$4,992,324.77

Change Orders: Total Additions = \$ 159,443.48
Total Reductions = \$ 33,649.64
WA State Sales Tax Amount = \$ 353,909.57
Construction Contract Total = \$4,669,948.41

Work commenced on Kennewick's new Fire Station #3 project beginning June 5, 2020. The station is located at 7009 W. Grandridge Blvd. in Kennewick, at the edge of the new Vista Field development. With this, the Port of Kennewick agreed prior to the start of the project to partner with the City and pay up to \$125,000 of the associated N. Quay Street road construction costs upon final acceptance of this project.

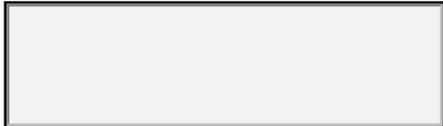
Construction consisted of a single-story building, approximately 12,570 sf wood frame structure with (3) apparatus bays.

Alternatives

None Recommended.

Fiscal Impact

Total approved amount for Contract 20-017, Fire Station #3 Construction = \$4,992,324.77 including the approved 10% contingency amount of \$453,847.71. Total amount utilized for Total Site Services, LLC, Contract 20-017 = \$4,669,948.41 which includes using only \$131,471.35 in contingency, resulting in a total contingency savings = \$322,376.36. Additional cost savings will result after the \$125,000 reimbursement is received from the Port of Kennewick.

Through	Chad Michael Mar 01, 09:30:08 GMT-0800 2023	Attachments:  <input type="checkbox"/> Recording Required?
Dept Head Approval	Chad Michael Mar 01, 09:30:11 GMT-0800 2023	
City Mgr Approval	Marie Mosley Mar 03, 09:32:00 GMT-0800 2023	

Council Agenda Coversheet



Agenda Item Number	4.h.	Council Date	03/07/2023
Agenda Item Type	Contract/Agreement/Lease		
Subject	Opioid Settlement Agreements		
Ordinance/Reso #		Contract #	
Project #		Permit #	
Department	City Attorney		

Consent Agenda	<input checked="" type="checkbox"/>
Ordinance/Reso	<input type="checkbox"/>
Public Mtg / Hrg	<input type="checkbox"/>
Other	<input type="checkbox"/>
Quasi-Judicial	<input type="checkbox"/>

Recommendation

Authorize the City Manager to sign the Opioid Settlement Agreements.

Motion for Consideration

I move to authorize the City Manager to sign the Opioid Settlement Agreements.

Summary

On December 21, 2022, the Washington State Attorney General announced another round of resolutions with five other companies that produced or sold opioids. The multistate resolution with the five companies could total the following for the State of Washington: (1) CVS Pharmacy \$110.6 million to Washington state over 10 years; (2) Walgreens Pharmacy \$120.3 million to Washington state over 15 years; (3) Walmart \$62.6 million to Washington state and 97% paid in the first year; (4) Teva \$90.7 million to Washington state over the next 13 years; and (5) Allergan \$50 million to Washington state over the next seven years. Council can find the five agreements on the AGO's website: "Opioid Pharmacy & Manufacturer Settlements | Washington State." Similar to the previous round of settlements in 2022, all eligible cities are required to sign off on each of the five settlements as well as an allocation agreement. The Cities are obligated to utilize the funds according to the list of approved purposes, aka "Opioid Abatement Strategies." The Cities will be required to submit their plans for use of this funding to their regional Opioid Abatement Council to assure compliance with the settlement agreements. The City has already received its initial distributions from the prior settlements and is in discussion with the various cities and counties in our region regarding the creation of an Opioid Abatement Council. The parties have tentatively agreed to utilize the services of Greater Columbia Behavioral Health to facilitate an OAC, as the boundary for the GCHB is identical to the boundary set up for this region in the original opioid settlement MOU. Further, the OAC's board is currently made up of a county commissioner from each of the counties within the GCHB region. The deadline for all of the eligible cities in Washington State to sign off on this latest round of settlements is April 18, 2023. Kennewick staff intends to continue to recommend using these funds to support the Recovery Center, specifically the services related to drug addiction. Staff is requesting council authorize the City Manager to sign the five settlements and allocation agreement associated with this second round of opioid resolutions.

Alternatives

None

Fiscal Impact

None

Through	Kristi Johnson Mar 01, 09:46:17 GMT-0800 2023
Dept Head Approval	Lisa Beaton Mar 01, 10:06:23 GMT-0800 2023
City Mgr Approval	Marie Mosley Mar 03, 10:10:23 GMT-0800 2023

Attachments:

Recording Required?

Council Agenda Coversheet



Agenda Item Number	4.i.	Council Date	03/07/2023
Agenda Item Type	Contract/Agreement/Lease		
Subject	WWTP Phase 2 - PDB Step 1/ Design		
Ordinance/Reso #		Contract #	
Project #	P2209	Permit #	
Department	Public Works		

Consent Agenda	<input checked="" type="checkbox"/>
Ordinance/Reso	<input type="checkbox"/>
Public Mtg / Hrg	<input type="checkbox"/>
Other	<input type="checkbox"/>
Quasi-Judicial	<input type="checkbox"/>

Recommendation

That the City Council authorize the City Manager to sign the Progressive Design Build (PDB) Agreement with Merrell Bros, Inc. for the WWTP Phase 2, Step 1 design services.

Motion for Consideration

I move to authorize the City Manager to sign the Progressive Design Build (PDB) Agreement with Merrell Bros, Inc. for the WWTP Phase 2, Step 1 design services.

Summary

In July of 2021, the City presented to the State of Washington's Capital Projects Advisory Review Board - Project Review Committee (PRC) seeking authorization to deliver the WWTP Phase 2, Florida Green treatment process by way of Progressive Design Build (PDB) alternative delivery method. On July 23, 2021, the City was granted authorization by the PRC to proceed and follow the State's established regulatory criteria as outlined in RCW 39.10.280.

This PDB agreement allows for a collaborative effort with City staff, Merrell Bros, Kimley Horn, and others to design the WWTP Phase 2 Biosolids removal project. The major design components will include:

- Removal of the open lagoons from service
- Addition of sludge holding tanks
- Addition of dewatering equipment
- Addition of green houses with odor control
- Addition of pasteurizing equipment

Following completion of this PDB Step 1 for design, PDB Step 2 for construction will be brought before Council with a Guaranteed Maximum Price (GMP).

Alternatives

None recommended

Fiscal Impact

Water and Sewer Enterprise Funds	Professional Services Agreement (& Mgmt Fee)	\$2,027,065
State Revolving Funds (\$26.0 M + 6.1 M potentially forgivable)	Management Reserve	\$ 173,656
	WA Sale Tax (8.7%)	\$ 191,463
	Total	\$2,392,184

Through	Jeremy Lustig Mar 01, 11:36:01 GMT-0800 2023
Dept Head Approval	Cary Roe Mar 01, 14:53:57 GMT-0800 2023
City Mgr Approval	Marie Mosley Mar 03, 10:29:04 GMT-0800 2023

Attachments:

Agreement535
Agreement544
Exhibit A
Exhibit B

Recording Required?

Standard Form of General Conditions of Contract Between Owner and Design-Builder

Document No. 535

Second Edition, 2010

© Design-Build Institute of America
Washington, D.C.





Design-Build Institute of America - Contract Documents

LICENSE AGREEMENT

By using the DBIA Contract Documents, you agree to and are bound by the terms of this License Agreement.

- 1. License.** The Design-Build Institute of America ("DBIA") provides DBIA Contract Documents and licenses their use worldwide. You acknowledge that DBIA Contract Documents are protected by the copyright laws of the United States. You have a limited nonexclusive license to: (a) Use DBIA Contract Documents on any number of machines owned, leased or rented by your company or organization; (b) Use DBIA Contract Documents in printed form for bona fide contract purposes; and (c) Copy DBIA Contract Documents into any machine-readable or printed form for backup or modification purposes in support of your permitted use.
- 2. User Responsibility.** You assume sole responsibility for the selection of specific documents or portions thereof to achieve your intended results, and for the installation, use, and results obtained from the DBIA Contract Documents. You acknowledge that you understand that the text of the DBIA Contract Documents has important legal consequences and that consultation with an attorney is recommended with respect to use or modification of the text. You will not represent that any of the contract documents you generate from DBIA Contract Documents are DBIA documents unless (a) the document text is used without alteration or (b) all additions and changes to, and deletions from, the text are clearly shown.
- 3. Copies.** You may not use, copy, modify, or transfer DBIA Contract Documents, or any copy, modification or merged portion, in whole or in part, except as expressly provided for in this license. Reproduction of DBIA Contract Documents in printed or machine-readable format for resale or educational purposes is expressly prohibited. You will reproduce and include DBIA's copyright notice on any printed or machine-readable copy, modification, or portion merged into another document or program.
- 4. Transfers.** You may not transfer possession of any copy, modification or merged portion of DBIA Contract Documents to another party, except that a party with whom you are contracting may receive and use such transferred material solely for purposes of its contract with you. You may not sublicense, assign, or transfer this license except as expressly provided in this Agreement, and any attempt to do so is void.
- 5. Term.** The license is effective for one year from the date of purchase. DBIA may elect to terminate it earlier, by written notice to you, if you fail to comply with any term or condition of this Agreement.
- 6. Limited Warranty.** DBIA warrants the electronic files or other media by which DBIA Contract Documents are furnished to be free from defects in materials and workmanship under normal use during the Term. There is no other warranty of any kind, expressed or implied, including, but not limited to the implied warranties of merchantability and fitness for a particular purpose. Some states do not allow the exclusion of implied warranties, so the above exclusion may not apply to you. This warranty gives you specific legal rights and you may also have other rights which vary from state to state. DBIA does not warrant that the DBIA Contract Documents will meet your requirements or that the operation of DBIA Contract Documents will be uninterrupted or error free.
- 7. Limitations of Remedies.** DBIA's entire liability and your exclusive remedy shall be: the replacement of any document not meeting DBIA's "Limited Warranty" which is returned to DBIA with a copy of your receipt, or at DBIA's election, your money will be refunded. In no event will DBIA be liable to you for any damages, including any lost profits, lost savings or other incidental or consequential damages arising out of the use or inability to use DBIA Contract Documents even if DBIA has been advised of the possibility of such damages, or for any claim by any other party. Some states do not allow the limitation or exclusion of liability for incidental or consequential damages, so the above limitation or exclusion may not apply to you.
- 8. Acknowledgement.** You acknowledge that you have read this agreement, understand it and agree to be bound by its terms and conditions and that it will be governed by the laws of the District of Columbia. You further agree that it is the complete and exclusive statement of your agreement with DBIA which supersedes any proposal or prior agreement, oral or written, and any other communications between the parties relating to the subject matter of this agreement.

INSTRUCTIONS

For DBIA Document No. 535 Standard Form of General Conditions of Contract Between Owner and Design-Builder (2010 Edition)

General Instructions

No.	Subject	Instruction
1.	Standard Forms	Standard form contracts have long served an important function in the United States and international construction markets. The common purpose of these forms is to provide an economical and convenient way for parties to contract for design and construction services. As standard forms gain acceptance and are used with increased frequency, parties are able to enter into contracts with greater certainty as to their rights and responsibilities.
2.	DBIA Standard Form Contract Documents	Since its formation in 1993, the Design-Build Institute of America (DBIA) has regularly evaluated the needs of owners, design-builders, and other parties to the design-build process in preparation for developing its own contract forms. Consistent with DBIA's mission of promulgating best design-build practices, DBIA believes that the design-build contract should reflect a balanced approach to risk that considers the legitimate interests of all parties to the design-build process. DBIA's Standard Form Contract Documents reflect a modern risk allocation approach, allocating each risk to the party best equipped to manage and minimize that risk, with the goal of promoting best design-build practices.
3.	Use of Non-DBIA Documents	To avoid inconsistencies among documents used for the same project, DBIA's Standard Form Contract Documents should not be used in conjunction with non-DBIA documents unless the non-DBIA documents are appropriately modified on the advice of legal counsel. Moreover, care should also be taken when using different editions of the DBIA Standard Form Document on the same project to ensure consistency.
4.	Legal Consequences	DBIA Standard Form Contract Documents are legally binding contracts with important legal consequences. Contracting parties are advised and encouraged to seek legal counsel in completing or modifying these Documents.
5.	Reproduction	DBIA hereby grants to purchasers a limited license to reproduce its Documents consistent with the License Agreement accompanying these Documents. At least two original versions of the Agreement should be signed by the parties. Any other reproduction of DBIA Documents is strictly prohibited.
6.	Modifications	<p>Effective contracting is accomplished when the parties give specific thought to their contracting goals and then tailor the contract to meet the unique needs of the project and the design-build team. For that reason, these Documents may require modification for various purposes including, for example, to comply with local codes and laws, or to add special terms. DBIA's latest revisions to its Documents provide the parties an opportunity to customize their contractual relationship by selecting various optional contract clauses that may better reflect the unique needs and risks associated with the project.</p> <p>Any modifications to these Documents should be initialed by the parties. At no time should a document be re-typed in its entirety. Re-creating the document violates copyright laws and destroys one of the advantages of standard forms-familiarity with the terms.</p>
7.	Execution	It is good practice to execute two original copies of the Agreement. Only persons authorized to sign for the contracting parties may execute the Agreement.

Specific Instructions

Section	Title	Instruction
General	Purpose of This Document	<p>The General Conditions of Contract provide the terms and conditions under which the Work of the Project will be performed.</p> <p>This document accompanies DBIA Document No. 525 and DBIA Document No. 530 (each referred to herein generally as "Agreement"). It may also be incorporated by reference into other related agreements, as between the Design-Builder and the Design Consultant, and the Design-Builder and the Subcontractor.</p>
General	Checklist	<p>The following Sections reference documents that are to be attached to the Agreement:</p> <p>Section 3.5.1 Owner's Permit List Article 5 Insurance and Bonds Section 9.4.2 Unit Prices</p>
2.1.3	Schedule	The parties are encouraged, if possible, to agree to a schedule for the execution of the Work upon execution of the Agreement or upon establishing the GMP.
2.2.1	Design Professional Services	The parties should be aware that in addition to requiring compliance with state licensing laws for design professionals, some states also require that the design professional have a corporate professional license.
2.3.1	Standard of Care for Design Professional's Services	Design-Builder's obligation is to deliver a design that meets prevailing industry standards. However, DBIA has provided the parties at Article 11 of the Agreement an optional provision whereby if Owner can identify specific performance standards that can be objectively measured, Design-Builder is obligated to design the Project to satisfy these standards if this optional provision is selected. To avoid any confusion and to ensure that the parties fully understand what their obligations are, the specific performance standards should be clearly identified and should be able to be objectively measured. The Design-Builder should recognize that this is a heightened standard of care that has insurance ramifications that should be discussed with the Design-Builder's insurance advisor.
3.5.1	Government Approvals and Permits	Design-Builder is responsible for obtaining all necessary permits, approvals and licenses, except to the extent specific permits, approvals, and licenses are set forth in an Owner's Permit List, which must be attached as an exhibit to the Agreement. The parties, prior to execution of the Agreement, should discuss which permits, approvals and licenses need to be obtained for the Project and which party is in the best position to do so.
5.1.1	Design-Builder's Insurance Requirements	Design-Builder is obligated to provide insurance coverage from insurance carriers that meet the criteria set forth in the Insurance Exhibit attached to Section 10.1 of the Agreement.
5.1.2	Exclusions to Design-Build	Parties are advised that their standard insurance policies may contain exclusions for the design-build delivery method. This Section 5.1.2 requires that any such exclusions be deleted from the policy.
5.2	Owner's Insurance Requirements	Owner, in addition to providing the insurance set forth in this Section and Section 5.3, is also obligated to procure the insurance coverages for the amounts and consistent with the terms set forth in the Insurance Exhibit made part of the Agreement.
5.4	Bonds and Other Performance Security	Design-Builder is only obligated to provide bonds or other forms of performance security to the extent called for in Section 10.2 of the Agreement.

Section	Title	Instruction
8.2.2	Compensability for Force Majeure Events	The parties are provided the option in the Agreement of negotiating whether the Design-Builder is entitled to compensation for Force Majeure Events.
9.4.1	Contract Price Adjustments	Unit prices, if established, shall be attached pursuant to Article 2 of the Agreement.
9.4.3	Payment/ Performance of Disputed Services	When Owner disputes Design-Builder's entitlement to a change order or disagrees with Design-Builder regarding the scope of Work, and nevertheless expects Design-Builder to perform the services, Design-Builder's cash flow and ability to complete the Work will be hampered if Owner fails to pay Design-Builder for the disputed services. This Section provides a balanced approach whereby Design-Builder is required to perform the services, but Owner is required to pay fifty percent (50%) of Design-Builder's reasonable estimated direct costs of performing such services until the dispute is settled. By so doing, Owner does not forfeit its right to deny total responsibility for payment, and Design-Builder does not give up its right to demand full payment. The dispute shall be resolved according to Article 10.
Article 10	Contract Adjustments and Disputes	DBIA endorses the use of partnering, negotiation, mediation and arbitration for the prevention and resolution of disputes. The General Conditions of Contract provides for the parties' Representatives and Senior Representatives to attempt to negotiate the dispute or disagreement. If this attempt fails, the dispute shall be submitted to mandatory, non-binding mediation. Any dispute that cannot be resolved by mediation shall then be submitted to binding arbitration, unless the parties elect in the Agreement to submit their dispute to a court of competent jurisdiction.
10.3.4	Arbitration	The prevailing party in any arbitration shall receive reasonable attorneys' fees from the other party. DBIA supports this "loser pays" provision to encourage parties to negotiate or mediate their differences and to minimize the number of frivolous disputes.
10.4	Duty to Continue Performance	Pending the resolution of any dispute or disagreement, both Owner and Design-Builder shall continue to perform their respective duties under the Contract Documents, unless the parties provide otherwise in the Contract Documents.
10.5	Consequential Damages	DBIA believes that it is inappropriate for either Owner or Design-Builder to be responsible to the other for consequential damages arising from the Project. This limitation on consequential damages in no way restricts, however, the payment of liquidated damages, if any, under Article 5 of the Agreement.
11.4	Design-Builder's Right to Terminate for Cause	If Design-Builder properly terminates the Agreement for cause, it shall recover from Owner in the same way as if Owner had terminated the Agreement for convenience under Article 8 of the Agreement. Owner shall pay to Design-Builder its costs, reasonable overhead and profit on the costs, and an additional payment based on a percentage of the remaining balance of the Contract Price, all as more fully set forth in Article 8 of the Agreement.
Article 12	Electronic Data	Design-Builder and Owner shall agree on the software and format for the transmission of Electronic Data. Ownership of Work Product in electronic form is governed by Article 4 of the Agreement. The transmitting party disclaims all warranties with respect to the media transmitting the Electronic Data, but nothing in this Article is intended to negate duties with respect to the standard of care in creating the Electronic Data.

TABLE OF CONTENTS

Article	Name	Page
Article 1	General.....	1
Article 2	Design-Builder’s Services and Responsibilities.....	2
Article 3	Owner’s Services and Responsibilities.....	6
Article 4	Hazardous Conditions and Differing Site Conditions.....	8
Article 5	Insurance and Bonds	9
Article 6	Payment.....	11
Article 7	Indemnification	13
Article 8	Time	15
Article 9	Changes to the Contract Price and Time	15
Article 10	Contract Adjustments and Disputes	17
Article 11	Stop Work and Termination for Cause	19
Article 12	Electronic Data	21
Article 13	Miscellaneous.....	22

Article 1

General

1.1 Mutual Obligations

1.1.1 *Owner and Design-Builder* commit at all times to cooperate fully with each other, and proceed on the basis of trust and good faith, to permit each party to realize the benefits afforded under the Contract Documents.

1.2 Basic Definitions

1.2.1 *Agreement* refers to the executed contract between Owner and Design-Builder under either DBIA Document No. 525, *Standard Form of Agreement Between Owner and Design-Builder - Lump Sum* (2010 Edition) or DBIA Document No. 530, *Standard Form of Agreement Between Owner and Design-Builder - Cost Plus Fee with an Option for a Guaranteed Maximum Price* (2010 Edition).

1.2.2 *Basis of Design Documents* are as follows: For DBIA Document No. 530, *Standard Form of Agreement Between Owner and Design-Builder - Cost Plus Fee With an Option for a Guaranteed Maximum Price*, the Basis of Design Documents are those documents specifically listed in, as applicable, the GMP Exhibit or GMP Proposal as being the "Basis of Design Documents." For DBIA Document No. 525, *Standard Form of Agreement Between Owner and Design-Builder – Lump Sum*, the Basis of Design Documents are the Owner's Project Criteria, Design-Builder's Proposal and the Deviation List, if any.

1.2.3 *Construction Documents* are the documents, consisting of Drawings and Specifications, to be prepared or assembled by the Design-Builder consistent with the Basis of Design Documents unless a deviation from the Basis of Design Documents is specifically set forth in a Change Order executed by both the Owner and Design-Builder, as part of the design review process contemplated by Section 2.4 of these General Conditions of Contract.

1.2.4 *Day* or *Days* shall mean calendar days unless otherwise specifically noted in the Contract Documents.

1.2.5 *Design-Build Team* is comprised of the Design-Builder, the Design Consultant, and key Subcontractors identified by the Design-Builder.

1.2.6 *Design Consultant* is a qualified, licensed design professional who is not an employee of Design-Builder, but is retained by Design-Builder, or employed or retained by anyone under contract with Design-Builder, to furnish design services required under the Contract Documents. A Design Sub-Consultant is a qualified, licensed design professional who is not an employee of the Design Consultant, but is retained by the Design Consultant or employed or retained by anyone under contract to Design Consultant, to furnish design services required under the Contract Documents.

1.2.7 *Final Completion* is the date on which all Work is complete in accordance with the Contract Documents, including but not limited to, any items identified in the punch list prepared under Section 6.6.1 and the submission of all documents set forth in Section 6.7.2.

1.2.8 *Force Majeure Events* are those events that are beyond the control of both Design-Builder and Owner, including the events of war, floods, labor disputes, earthquakes, epidemics, adverse weather conditions not reasonably anticipated, and other acts of God.

1.2.9 *General Conditions of Contract* refer to this DBIA Document No. 535, *Standard Form of General Conditions of Contract Between Owner and Design-Builder* (2010 Edition).

1.2.10 *GMP Exhibit* means that exhibit attached to DBIA Document No. 530, *Standard Form of*

Agreement Between Owner and Design-Builder - Cost Plus Fee With an Option for a Guaranteed Maximum Price, which exhibit will have been agreed upon by Owner and Design-Builder prior to the execution of the Agreement.

1.2.11 *GMP Proposal* means that proposal developed by Design-Builder in accordance with Section 6.6 of DBIA Document No. 530, *Standard Form of Agreement Between Owner and Design-Builder - Cost Plus Fee With an Option for a Guaranteed Maximum Price*.

1.2.12 *Hazardous Conditions* are any materials, wastes, substances and chemicals deemed to be hazardous under applicable Legal Requirements, or the handling, storage, remediation, or disposal of which are regulated by applicable Legal Requirements.

1.2.13 *Legal Requirements* are all applicable federal, state and local laws, codes, ordinances, rules, regulations, orders and decrees of any government or quasi-government entity having jurisdiction over the Project or Site, the practices involved in the Project or Site, or any Work.

1.2.14 *Owner's Project Criteria* are developed by or for Owner to describe Owner's program requirements and objectives for the Project, including use, space, price, time, site and expandability requirements, as well as submittal requirements and other requirements governing Design-Builder's performance of the Work. Owner's Project Criteria may include conceptual documents, design criteria, design performance specifications, design specifications, and LEED® or other sustainable design criteria and other Project-specific technical materials and requirements.

1.2.15 *Site* is the land or premises on which the Project is located.

1.2.16 *Subcontractor* is any person or entity retained by Design-Builder as an independent contractor to perform a portion of the Work and shall include materialmen and suppliers.

1.2.17 *Sub-Subcontractor* is any person or entity retained by a Subcontractor as an independent contractor to perform any portion of a Subcontractor's Work and shall include materialmen and suppliers.

1.2.18 *Substantial Completion* or *Substantially Complete* means the date on which the Work, or an agreed upon portion of the Work, is sufficiently complete in accordance with the Contract Documents so that Owner can occupy and use the Project or a portion thereof for its intended purposes.

1.2.19 *Work* is comprised of all Design-Builder's design, construction and other services required by the Contract Documents, including procuring and furnishing all materials, equipment, services and labor reasonably inferable from the Contract Documents.

Article 2

Design-Builder's Services and Responsibilities

2.1 General Services.

2.1.1 Design-Builder's Representative shall be reasonably available to Owner and shall have the necessary expertise and experience required to supervise the Work. Design-Builder's Representative shall communicate regularly with Owner and shall be vested with the authority to act on behalf of Design-Builder. Design-Builder's Representative may be replaced only with the mutual agreement of Owner and Design-Builder.

2.1.2 Design-Builder shall provide Owner with a monthly status report detailing the progress of

the Work, including (i) whether the Work is proceeding according to schedule, (ii) whether discrepancies, conflicts, or ambiguities exist in the Contract Documents that require resolution, (iii) whether health and safety issues exist in connection with the Work; (iv) status of the contingency account to the extent provided for in the Standard Form of Agreement Between Owner and Design-Builder - Cost Plus Fee with an Option for a Guaranteed Maximum Price; and (v) other items that require resolution so as not to jeopardize Design-Builder's ability to complete the Work for the Contract Price and within the Contract Time(s).

2.1.3 Unless a schedule for the execution of the Work has been attached to the Agreement as an exhibit at the time the Agreement is executed, Design-Builder shall prepare and submit, at least three (3) days prior to the meeting contemplated by Section 2.1.4 hereof, a schedule for the execution of the Work for Owner's review and response. The schedule shall indicate the dates for the start and completion of the various stages of Work, including the dates when Owner information and approvals are required to enable Design-Builder to achieve the Contract Time(s). The schedule shall be revised as required by conditions and progress of the Work, but such revisions shall not relieve Design-Builder of its obligations to complete the Work within the Contract Time(s), as such dates may be adjusted in accordance with the Contract Documents. Owner's review of, and response to, the schedule shall not be construed as relieving Design-Builder of its complete and exclusive control over the means, methods, sequences and techniques for executing the Work.

2.1.4 The parties will meet within seven (7) days after execution of the Agreement to discuss issues affecting the administration of the Work and to implement the necessary procedures, including those relating to submittals and payment, to facilitate the ability of the parties to perform their obligations under the Contract Documents.

2.2 Design Professional Services.

2.2.1 Design-Builder shall, consistent with applicable state licensing laws, provide through qualified, licensed design professionals employed by Design-Builder, or procured from qualified, independent licensed Design Consultants, the necessary design services, including architectural, engineering and other design professional services, for the preparation of the required drawings, specifications and other design submittals to permit Design-Builder to complete the Work consistent with the Contract Documents. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between Owner and any Design Consultant.

2.3 Standard of Care for Design Professional Services.

2.3.1 The standard of care for all design professional services performed to execute the Work shall be the care and skill ordinarily used by members of the design profession practicing under similar conditions at the same time and locality of the Project.

2.4 Design Development Services.

2.4.1 Design-Builder and Owner shall, consistent with any applicable provision of the Contract Documents, agree upon any interim design submissions that Owner may wish to review, which interim design submissions may include design criteria, drawings, diagrams and specifications setting forth the Project requirements. Interim design submissions shall be consistent with the Basis of Design Documents, as the Basis of Design Documents may have been changed through the design process set forth in this Section 2.4.1. On or about the time of the scheduled submissions, Design-Builder and Owner shall meet and confer about the submissions, with Design-Builder identifying during such meetings, among other things, the evolution of the design and any changes to the Basis of Design Documents, or, if applicable, previously submitted design submissions. Changes to the Basis of Design Documents, including those that are deemed minor changes under Section 9.3.1, shall be processed in accordance with Article 9. Minutes of the meetings, including a full listing of all changes, will be maintained by Design-Builder and provided

to all attendees for review. Following the design review meeting, Owner shall review and approve the interim design submissions and meeting minutes in a time that is consistent with the turnaround times set forth in Design-Builder's schedule.

2.4.2 Design-Builder shall submit to Owner Construction Documents setting forth in detail drawings and specifications describing the requirements for construction of the Work. The Construction Documents shall be consistent with the latest set of interim design submissions, as such submissions may have been modified in a design review meeting and recorded in the meetings minutes. The parties shall have a design review meeting to discuss, and Owner shall review and approve, the Construction Documents in accordance with the procedures set forth in Section 2.4.1 above. Design-Builder shall proceed with construction in accordance with the approved Construction Documents and shall submit one set of approved Construction Documents to Owner prior to commencement of construction.

2.4.3 Owner's review and approval of interim design submissions, meeting minutes, and the Construction Documents is for the purpose of mutually establishing a conformed set of Contract Documents compatible with the requirements of the Work. Neither Owner's review nor approval of any interim design submissions, meeting minutes, and Construction Documents shall be deemed to transfer any design liability from Design-Builder to Owner.

2.4.4 To the extent not prohibited by the Contract Documents or Legal Requirements, Design-Builder may prepare interim design submissions and Construction Documents for a portion of the Work to permit construction to proceed on that portion of the Work prior to completion of the Construction Documents for the entire Work.

2.5 Legal Requirements.

2.5.1 Design-Builder shall perform the Work in accordance with all Legal Requirements and shall provide all notices applicable to the Work as required by the Legal Requirements.

2.5.2 The Contract Price and/or Contract Time(s) shall be adjusted to compensate Design-Builder for the effects of any changes in the Legal Requirements enacted after the date of the Agreement affecting the performance of the Work, or if a Guaranteed Maximum Price is established after the date of the Agreement, the date the parties agree upon the Guaranteed Maximum Price. Such effects may include, without limitation, revisions Design-Builder is required to make to the Construction Documents because of changes in Legal Requirements.

2.6 Government Approvals and Permits.

2.6.1 Except as identified in an Owner's Permit List attached as an exhibit to the Agreement, Design-Builder shall obtain and pay for all necessary permits, approvals, licenses, government charges and inspection fees required for the prosecution of the Work by any government or quasi-government entity having jurisdiction over the Project.

2.6.2 Design-Builder shall provide reasonable assistance to Owner in obtaining those permits, approvals and licenses that are Owner's responsibility.

2.7 Design-Builder's Construction Phase Services.

2.7.1 Unless otherwise provided in the Contract Documents to be the responsibility of Owner or a separate contractor, Design-Builder shall provide through itself or Subcontractors the necessary supervision, labor, inspection, testing, start-up, material, equipment, machinery, temporary utilities and other temporary facilities to permit Design-Builder to complete construction of the Project consistent with the Contract Documents.

2.7.2 Design-Builder shall perform all construction activities efficiently and with the requisite expertise, skill and competence to satisfy the requirements of the Contract Documents. Design-

Builder shall at all times exercise complete and exclusive control over the means, methods, sequences and techniques of construction.

2.7.3 Design-Builder shall employ only Subcontractors who are duly licensed and qualified to perform the Work consistent with the Contract Documents. Owner may reasonably object to Design-Builder's selection of any Subcontractor, provided that the Contract Price and/or Contract Time(s) shall be adjusted to the extent that Owner's decision impacts Design-Builder's cost and/or time of performance.

2.7.4 Design-Builder assumes responsibility to Owner for the proper performance of the Work of Subcontractors and any acts and omissions in connection with such performance. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between Owner and any Subcontractor or Sub-Subcontractor, including but not limited to any third-party beneficiary rights. [Nothing in this provision shall be construed as a waiver of any rights Owner and Contractor have against any subcontractor pursuant to Washington law.](#)

2.7.5 Design-Builder shall coordinate the activities of all Subcontractors. If Owner performs other work on the Project or at the Site with separate contractors under Owner's control, Design-Builder agrees to reasonably cooperate and coordinate its activities with those of such separate contractors so that the Project can be completed in an orderly and coordinated manner without unreasonable disruption.

2.7.6 Design-Builder shall keep the Site reasonably free from debris, trash and construction wastes to permit Design-Builder to perform its construction services efficiently, safely and without interfering with the use of adjacent land areas. Upon Substantial Completion of the Work, or a portion of the Work, Design-Builder shall remove all debris, trash, construction wastes, materials, equipment, machinery and tools arising from the Work or applicable portions thereof to permit Owner to occupy the Project or a portion of the Project for its intended use.

2.8 Design-Builder's Responsibility for Project Safety.

2.8.1 Design-Builder recognizes the importance of performing the Work in a safe manner so as to prevent damage, injury or loss to (i) all individuals at the Site, whether working or visiting, (ii) the Work, including materials and equipment incorporated into the Work or stored on-Site or off-Site, and (iii) all other property at the Site or adjacent thereto. Design-Builder assumes responsibility for implementing and monitoring all safety precautions and programs related to the performance of the Work. Design-Builder shall, prior to commencing construction, designate a Safety Representative with the necessary qualifications and experience to supervise the implementation and monitoring of all safety precautions and programs related to the Work. Unless otherwise required by the Contract Documents, Design-Builder's Safety Representative shall be an individual stationed at the Site who may have responsibilities on the Project in addition to safety. The Safety Representative shall make routine daily inspections of the Site and shall hold weekly safety meetings with Design-Builder's personnel, Subcontractors and others as applicable.

2.8.2 Design-Builder and Subcontractors shall comply with all Legal Requirements relating to safety, as well as any Owner-specific safety requirements set forth in the Contract Documents, provided that such Owner-specific requirements do not violate any applicable Legal Requirement. Design-Builder will immediately report in writing any safety-related injury, loss, damage or accident arising from the Work to Owner's Representative and, to the extent mandated by Legal Requirements, to all government or quasi-government authorities having jurisdiction over safety-related matters involving the Project or the Work.

2.8.3 Design-Builder's responsibility for safety under this Section 2.8 is not intended in any way to relieve Subcontractors and Sub-Subcontractors of their own contractual and legal obligations and responsibility for (i) complying with all Legal Requirements, including those related to health and safety matters, and (ii) taking all necessary measures to implement and monitor all safety

precautions and programs to guard against injuries, losses, damages or accidents resulting from their performance of the Work.

2.9 Design-Builder's Warranty.

2.9.1 Design-Builder warrants to Owner that the construction, including all materials and equipment furnished as part of the construction, shall be new unless otherwise specified in the Contract Documents, of good quality, in conformance with the Contract Documents and free of defects in materials and workmanship. Design-Builder's warranty obligation excludes defects caused by abuse, alterations, or failure to maintain the Work in a commercially reasonable manner. Nothing in this warranty is intended to limit any manufacturer's warranty which provides Owner with greater warranty rights than set forth in this Section 2.9 or the Contract Documents. Design-Builder will provide Owner with all manufacturers' warranties upon Substantial Completion.

2.10 Correction of Defective Work.

2.10.1 Design-Builder agrees to correct any Work that is found to not be in conformance with the Contract Documents, including that part of the Work subject to Section 2.9 hereof, within a period of one year from the date of Substantial Completion of the Work or any portion of the Work, or within such longer period to the extent required by any specific warranty included in the Contract Documents.

2.10.2 Design-Builder shall, within ~~fourteenseven~~ (147) days of receipt of written notice from Owner that the Work is not in conformance with the Contract Documents, take meaningful steps to commence correction of such nonconforming Work, including the correction, removal or replacement of the nonconforming Work and any damage caused to other parts of the Work affected by the nonconforming Work. If Design-Builder fails to commence the necessary steps within such ~~fourteenseven~~ (147) day period, Owner, in addition to any other remedies provided under the Contract Documents, may provide Design-Builder with written notice that Owner will commence correction of such nonconforming Work with its own forces. If Owner does perform such corrective Work, Design-Builder shall be responsible for all reasonable costs incurred by Owner in performing such correction. If the nonconforming Work creates an emergency requiring an immediate response, the ~~fourteenseven~~ (147) day period identified herein shall be deemed inapplicable.

2.10.3 The one-year period referenced in Section 2.10.1 above applies only to Design-Builder's obligation to correct nonconforming Work and is not intended to constitute a period of limitations for any other rights or remedies Owner may have regarding Design-Builder's other obligations under the Contract Documents.

Article 3

Owner's Services and Responsibilities

3.1 Duty to Cooperate.

3.1.1 Owner shall, throughout the performance of the Work, cooperate with Design-Builder and perform its responsibilities, obligations and services in a timely manner to facilitate Design-Builder's timely and efficient performance of the Work and so as not to delay or interfere with Design-Builder's performance of its obligations under the Contract Documents.

3.1.2 Owner shall provide timely reviews and approvals of interim design submissions and Construction Documents consistent with the turnaround times set forth in Design-Builder's schedule.

3.1.3 Owner shall give Design-Builder timely notice of any Work that Owner notices to be defective or not in compliance with the Contract Documents.

3.2 Furnishing of Services and Information.

3.2.1 Unless expressly stated to the contrary in the Contract Documents, Owner shall provide, at its own cost and expense, for Design-Builder's information and use the following, all of which Design-Builder is entitled to rely upon in performing the Work:

3.2.1.1 Surveys describing the property, boundaries, topography and reference points for use during construction, including existing service and utility lines;

3.2.1.2 Geotechnical studies describing subsurface conditions, and other surveys describing other latent or concealed physical conditions at the Site;

3.2.1.3 Temporary and permanent easements, zoning and other requirements and encumbrances affecting land use, or necessary to permit the proper design and construction of the Project and enable Design-Builder to perform the Work;

3.2.1.4 A legal description of the Site;

3.2.1.5 To the extent available, record drawings of any existing structures at the Site; and

3.2.1.6 To the extent available, environmental studies, reports and impact statements describing the environmental conditions, including Hazardous Conditions, in existence at the Site.

3.2.2 Owner is responsible for securing and executing all necessary agreements with adjacent land or property owners that are necessary to enable Design-Builder to perform the Work. Owner is further responsible for all costs, including attorneys' fees, incurred in securing these necessary agreements.

3.3 Financial Information.

3.3.1 At Design-Builder's request, Owner shall promptly furnish reasonable evidence satisfactory to Design-Builder that Owner has adequate funds available and committed to fulfill all of Owner's contractual obligations under the Contract Documents. If Owner fails to furnish such financial information in a timely manner, Design-Builder may stop Work under Section 11.3 hereof or exercise any other right permitted under the Contract Documents.

3.3.2 Design-Builder shall cooperate with the reasonable requirements of Owner's lenders or other financial sources. Notwithstanding the preceding sentence, after execution of the Agreement Design-Builder shall have no obligation to execute for Owner or Owner's lenders or other financial sources any documents or agreements that require Design-Builder to assume obligations or responsibilities greater than those existing obligations Design-Builder has under the Contract Documents.

3.4 Owner's Representative.

3.4.1 Owner's Representative shall be responsible for providing Owner-supplied information and approvals in a timely manner to permit Design-Builder to fulfill its obligations under the Contract Documents. Owner's Representative shall also provide Design-Builder with prompt notice if it observes any failure on the part of Design-Builder to fulfill its contractual obligations, including any errors, omissions or defects in the performance of the Work. Owner's Representative shall communicate regularly with Design-Builder and shall be vested with the authority to act on behalf of Owner.

3.5 Government Approvals and Permits.

3.5.1 Owner shall obtain and pay for all necessary permits, approvals, licenses, government charges and inspection fees set forth in the Owner's Permit List attached as an exhibit to the Agreement.

3.5.2 Owner shall provide reasonable assistance to Design-Builder in obtaining those permits, approvals and licenses that are Design-Builder's responsibility.

3.6 Owner's Separate Contractors.

3.6.1 Owner is responsible for all work performed on the Project or at the Site by separate contractors under Owner's control. Owner shall contractually require its separate contractors to cooperate with, and coordinate their activities so as not to interfere with, Design-Builder in order to enable Design-Builder to timely complete the Work consistent with the Contract Documents.

Article 4

Hazardous Conditions and Differing Site Conditions

4.1 Hazardous Conditions.

4.1.1 Unless otherwise expressly provided in the Contract Documents to be part of the Work, Design-Builder is not responsible for any Hazardous Conditions encountered at the Site. Upon encountering any Hazardous Conditions, Design-Builder will stop Work immediately in the affected area and duly notify Owner and, if required by Legal Requirements, all government or quasi-government entities with jurisdiction over the Project or Site.

4.1.2 Upon receiving notice of the presence of suspected Hazardous Conditions, Owner shall take the necessary measures required to ensure that the Hazardous Conditions are remediated or rendered harmless. Such necessary measures shall include Owner retaining qualified independent experts to (i) ascertain whether Hazardous Conditions have actually been encountered, and, if they have been encountered, (ii) prescribe the remedial measures that Owner must take either to remove the Hazardous Conditions or render the Hazardous Conditions harmless.

4.1.3 Design-Builder shall be obligated to resume Work at the affected area of the Project only after Owner's expert provides it with written certification that (i) the Hazardous Conditions have been removed or rendered harmless and (ii) all necessary approvals have been obtained from all government and quasi-government entities having jurisdiction over the Project or Site.

4.1.4 Design-Builder will be entitled, in accordance with these General Conditions of Contract, to an adjustment in its Contract Price and/or Contract Time(s) to the extent Design-Builder's cost and/or time of performance have been adversely impacted by the presence of Hazardous Conditions.

4.1.5 To the fullest extent permitted by law, Owner shall indemnify, defend and hold harmless Design-Builder, Design Consultants, Subcontractors, anyone employed directly or indirectly by any of them, and their officers, directors, employees and agents, from and against any and all claims, losses, damages, liabilities and expenses, including attorneys' fees and expenses, arising out of or resulting from the presence, removal or remediation of Hazardous Conditions at the Site.

4.1.6 Notwithstanding the preceding provisions of this Section 4.1, Owner is not responsible for Hazardous Conditions introduced to the Site by Design-Builder, Subcontractors or anyone for

whose acts they may be liable. To the fullest extent permitted by law, Design-Builder shall indemnify, defend and hold harmless Owner and Owner's officers, directors, employees and agents from and against all claims, losses, damages, liabilities and expenses, including attorneys' fees and expenses, arising out of or resulting from those Hazardous Conditions introduced to the Site by Design-Builder, Subcontractors or anyone for whose acts they may be liable.

4.2 Differing Site Conditions.

4.2.1 Concealed or latent physical conditions or subsurface conditions at the Site that (i) materially differ from the conditions indicated in the Contract Documents or (ii) are of an unusual nature, differing materially from the conditions ordinarily encountered and generally recognized as inherent in the Work are collectively referred to herein as "Differing Site Conditions." If Design-Builder encounters a Differing Site Condition, Design-Builder will be entitled to an adjustment in the Contract Price and/or Contract Time(s) to the extent Design-Builder's cost and/or time of performance are adversely impacted by the Differing Site Condition.

4.2.2 Upon encountering a Differing Site Condition, Design-Builder shall provide prompt written notice to Owner of such condition, which notice shall not be later than fourteen (14) days after such condition has been encountered. Design-Builder shall, to the extent reasonably possible, provide such notice before the Differing Site Condition has been substantially disturbed or altered.

Article 5

Insurance and Bonds

5.1 Design-Builder's Insurance Requirements.

5.1.1 Design-Builder is responsible for procuring and maintaining the insurance for the coverage amounts all as set forth in the Insurance Exhibit to the Agreement. Coverage shall be secured from insurance companies authorized to do business in the state in which the Project is located, and with a minimum rating set forth in the Agreement.

5.1.2 Design-Builder's insurance shall specifically delete any design-build or similar exclusions that could compromise coverages because of the design-build delivery of the Project.

5.1.3 Prior to commencing any construction services hereunder, Design-Builder shall provide Owner with certificates evidencing that (i) all insurance obligations required by the Contract Documents are in full force and in effect and will remain in effect for the duration required by the Contract Documents and (ii) no insurance coverage will be canceled, renewal refused, or materially changed unless at least thirty (30) days prior written notice is given to Owner. If any of the foregoing insurance coverages are required to remain in force after final payment are reasonably available, an additional certificate evidencing continuation of such coverage shall be submitted with the Final Application for Payment. If any information concerning reduction of coverage is not furnished by the insurer, it shall be furnished by the Design-Builder with reasonable promptness according to the Design-Builder's information and belief.

5.2 Owner's Liability Insurance.

5.2.1 Owner shall procure and maintain from insurance companies authorized to do business in the state in which the Project is located such liability insurance as set forth in the Insurance Exhibit to the Agreement to protect Owner from claims which may arise from the performance of Owner's obligations under the Contract Documents or Owner's conduct during the course of the Project.

5.3 Owner's Property Insurance.

5.3.1 Unless otherwise provided in the Contract Documents, Owner shall procure and maintain from insurance companies authorized to do business in the state in which the Project is located property insurance upon the entire Project to the full insurable value of the Project, including professional fees, overtime premiums and all other expenses incurred to replace or repair the insured property. The property insurance obtained by Owner shall be the broadest coverage commercially available, and shall include as additional insureds the interests of Owner, Design-Builder, Design Consultants and Subcontractors of any tier. Such insurance shall include but not be limited to the perils of fire and extended coverage, theft, vandalism, malicious mischief, collapse, flood, earthquake, debris removal and other perils or causes of loss as called for in the Contract Documents. The property insurance shall include physical loss or damage to the Work, including materials and equipment in transit, at the Site or at another location as may be indicated in Design-Builder's Application for Payment and approved by Owner. The Owner is responsible for the payment of any deductibles under the insurance required by this Section 5.3.1.

5.3.2 Unless the Contract Documents provide otherwise, Owner shall procure and maintain boiler and machinery insurance that will include the interests of Owner, Design-Builder, Design Consultants, and Subcontractors of any tier. The Owner is responsible for the payment of any deductibles under the insurance required by this Section 5.3.2.

5.3.3 Prior to Design-Builder commencing any Work, Owner shall provide Design-Builder with certificates evidencing that (i) all Owner's insurance obligations required by the Contract Documents are in full force and in effect and will remain in effect until Design-Builder has completed all of the Work and has received final payment from Owner and (ii) no insurance coverage will be canceled, renewal refused, or materially changed unless at least thirty (30) days prior written notice is given to Design-Builder. Owner's property insurance shall not lapse or be canceled if Owner occupies a portion of the Work pursuant to Section 6.6.3 hereof. Owner shall provide Design-Builder with the necessary endorsements from the insurance company prior to occupying a portion of the Work.

5.3.4 Any loss covered under Owner's property insurance shall be adjusted with Owner and Design-Builder and made payable to both of them as trustees for the insureds as their interests may appear, subject to any applicable mortgage clause. All insurance proceeds received as a result of any loss will be placed in a separate account and distributed in accordance with such agreement as the interested parties may reach. Any disagreement concerning the distribution of any proceeds will be resolved in accordance with Article 10 hereof.

5.3.5 Owner and Design-Builder waive against each other and Owner's separate contractors, Design Consultants, Subcontractors, agents and employees of each and all of them, all damages covered by property insurance provided herein, except such rights as they may have to the proceeds of such insurance. Design-Builder and Owner shall, where appropriate, require similar waivers of subrogation from Owner's separate contractors, Design Consultants and Subcontractors and shall require each of them to include similar waivers in their contracts. These waivers of subrogation shall not contain any restriction or limitation that will impair the full and complete extent of its applicability to any person or entity unless agreed to in writing prior to the execution of this Agreement.

5.4 Bonds and Other Performance Security.

5.4.1 If Owner requires Design-Builder to obtain performance and labor and material payment bonds, or other forms of performance security, the amount, form and other conditions of such security shall be as set forth in the Agreement.

5.4.2 All bonds furnished by Design-Builder shall be in a form satisfactory to Owner. The surety shall be a company qualified and registered to conduct business in the state in which the Project is located.

Article 6

Payment

6.1 Schedule of Values.

6.1.1 Unless required by the Owner upon execution of this Agreement, within ten (10) days of execution of the Agreement, Design-Builder shall submit for Owner's review and approval a schedule of values for all of the Work. The Schedule of Values will (i) subdivide the Work into its respective parts, (ii) include values for all items comprising the Work and (iii) serve as the basis for monthly progress payments made to Design-Builder throughout the Work.

6.1.2 The Owner will timely review and approve the schedule of values so as not to delay the submission of the Design-Builder's first application for payment. The Owner and Design-Builder shall timely resolve any differences so as not to delay the Design-Builder's submission of its first application for payment.

6.2 Monthly Progress Payments.

6.2.1 On or before the date established in the Agreement, Design-Builder shall submit for Owner's review and approval its Application for Payment requesting payment for all Work performed as of the date of the Application for Payment. The Application for Payment shall be accompanied by all supporting documentation required by the Contract Documents and/or established at the meeting required by Section 2.1.4 hereof.

6.2.2 The Application for Payment may request payment for equipment and materials not yet incorporated into the Project, provided that (i) Owner is satisfied that the equipment and materials are suitably stored at either the Site or another acceptable location, (ii) the equipment and materials are protected by suitable insurance and (iii) upon payment, Owner will receive the equipment and materials free and clear of all liens and encumbrances.

6.2.3 All discounts offered by Subcontractor, Sub-Subcontractors and suppliers to Design-Builder for early payment shall accrue one hundred percent to Design-Builder to the extent Design-Builder advances payment. Unless Owner advances payment to Design-Builder specifically to receive the discount, Design-Builder may include in its Application for Payment the full undiscounted cost of the item for which payment is sought.

6.2.4 The Application for Payment shall constitute Design-Builder's representation that the Work described herein has been performed consistent with the Contract Documents, has progressed to the point indicated in the Application for Payment, and that title to all Work will pass to Owner free and clear of all claims, liens, encumbrances, and security interests upon the incorporation of the Work into the Project, or upon Design-Builder's receipt of payment, whichever occurs earlier.

6.3 Withholding of Payments.

6.3.1 On or before the date established in the Agreement, Owner shall pay Design-Builder all amounts properly due. If Owner determines that Design-Builder is not entitled to all or part of an Application for Payment as a result of Design-Builder's failure to meet its obligations hereunder, it will notify Design-Builder in writing at least five (5) days prior to the date payment is due. The notice shall indicate the specific amounts Owner intends to withhold, the reasons and contractual basis for the withholding, and the specific measures Design-Builder must take to rectify Owner's concerns. Design-Builder and Owner will attempt to resolve Owner's concerns prior to the date payment is due. If the parties cannot resolve such concerns, Design-Builder may pursue its rights under the Contract Documents, including those under Article 10 hereof.

6.3.2 Notwithstanding anything to the contrary in the Contract Documents, Owner shall pay

Design-Builder all undisputed amounts in an Application for Payment within the times required by the Agreement.

6.4 Right to Stop Work and Interest.

6.4.1 If Owner fails to pay timely Design-Builder any amount that becomes due, Design-Builder, in addition to all other remedies provided in the Contract Documents, may stop Work pursuant to Section 11.3 hereof. All payments due and unpaid shall bear interest at the rate set forth in the Agreement.

6.5 Design-Builder's Payment Obligations.

6.5.1 Design-Builder will pay Design Consultants and Subcontractors, in accordance with its contractual obligations to such parties, all the amounts Design-Builder has received from Owner on account of their work. Design-Builder will impose similar requirements on Design Consultants and Subcontractors to pay those parties with whom they have contracted. Design-Builder will indemnify and defend Owner against any claims for payment and mechanic's liens as set forth in Section 7.3 hereof.

6.6 Substantial Completion.

6.6.1 Design-Builder shall notify Owner when it believes the Work, or to the extent permitted in the Contract Documents, a portion of the Work, is Substantially Complete. Within five (5) days of Owner's receipt of Design-Builder's notice, Owner and Design-Builder will jointly inspect such Work to verify that it is Substantially Complete in accordance with the requirements of the Contract Documents. If such Work is Substantially Complete, Owner shall prepare and issue a Certificate of Substantial Completion that will set forth (i) the date of Substantial Completion of the Work or portion thereof, (ii) the remaining items of Work that have to be completed before final payment, (iii) provisions (to the extent not already provided in the Contract Documents) establishing Owner's and Design-Builder's responsibility for the Project's security, maintenance, utilities and insurance pending final payment, and (iv) an acknowledgment that warranties commence to run on the date of Substantial Completion, except as may otherwise be noted in the Certificate of Substantial Completion.

6.6.2 Upon Substantial Completion of the entire Work or, if applicable, any portion of the Work, Owner shall release to Design-Builder all retained amounts relating, as applicable, to the entire Work or completed portion of the Work, less an amount equal to the reasonable value of all remaining or incomplete items of Work as noted in the Certificate of Substantial Completion.

6.6.3 Owner, at its option, may use a portion of the Work which has been determined to be Substantially Complete, provided, however, that (i) a Certificate of Substantial Completion has been issued for the portion of Work addressing the items set forth in Section 6.6.1 above, (ii) Design-Builder and Owner have obtained the consent of their sureties and insurers, and to the extent applicable, the appropriate government authorities having jurisdiction over the Project, and (iii) Owner and Design-Builder agree that Owner's use or occupancy will not interfere with Design-Builder's completion of the remaining Work.

6.7 Final Payment.

6.7.1 After receipt of a Final Application for Payment from Design-Builder, Owner shall make final payment by the time required in the Agreement, provided that Design-Builder has achieved Final Completion.

6.7.2 At the time of submission of its Final Application for Payment, Design-Builder shall provide the following information:

6.7.2.1 An affidavit that there are no claims, obligations or liens outstanding or

unsatisfied for labor, services, material, equipment, taxes or other items performed, furnished or incurred for or in connection with the Work which will in any way affect Owner's interests;

6.7.2.2 A general release executed by Design-Builder waiving, upon receipt of final payment by Design-Builder, all claims, except those claims previously made in writing to Owner and remaining unsettled at the time of final payment;

6.7.2.3 Consent of Design-Builder's surety, if any, to final payment;

6.7.2.4 All operating manuals, warranties and other deliverables required by the Contract Documents; and

6.7.2.5 Certificates of insurance confirming that required coverages will remain in effect consistent with the requirements of the Contract Documents.

6.7.3 Upon making final payment, Owner waives all claims against Design-Builder except claims relating to (i) Design-Builder's failure to satisfy its payment obligations, if such failure affects Owner's interests, (ii) Design-Builder's failure to complete the Work consistent with the Contract Documents, including defects appearing after Substantial Completion and (iii) the terms of any special warranties required by the Contract Documents.

6.7.4 Deficiencies in the Work discovered after Substantial Completion, whether or not such deficiencies would have been included on the Punch List if discovered earlier, shall be deemed warranty Work. Such deficiencies shall be corrected by Design-Builder under Sections 2.9 and 2.10 herein, and shall not be a reason to withhold final payment from Design-Builder, provided, however, that Owner shall be entitled to withhold from the Final Payment the reasonable value of completion of such deficient work until such work is completed.

Article 7

Indemnification

7.1 Patent and Copyright Infringement.

7.1.1 Design-Builder shall defend any action or proceeding brought against Owner based on any claim that the Work, or any part thereof, or the operation or use of the Work or any part thereof, constitutes infringement of any United States patent or copyright, now or hereafter issued. Owner shall give prompt written notice to Design-Builder of any such action or proceeding and will reasonably provide authority, information and assistance in the defense of same. Design-Builder shall indemnify and hold harmless Owner from and against all damages and costs, including but not limited to attorneys' fees and expenses awarded against Owner or Design-Builder in any such action or proceeding. Design-Builder agrees to keep Owner informed of all developments in the defense of such actions.

7.1.2 If Owner is enjoined from the operation or use of the Work, or any part thereof, as the result of any patent or copyright suit, claim, or proceeding, Design-Builder shall at its sole expense take reasonable steps to procure the right to operate or use the Work. If Design-Builder cannot so procure such right within a reasonable time, Design-Builder shall promptly, at Design-Builder's option and at Design-Builder's expense, (i) modify the Work so as to avoid infringement of any such patent or copyright or (ii) replace said Work with Work that does not infringe or violate any such patent or copyright.

7.1.3 Sections 7.1.1 and 7.1.2 above shall not be applicable to any suit, claim or proceeding based on infringement or violation of a patent or copyright (i) relating solely to a particular process

or product of a particular manufacturer specified by Owner and not offered or recommended by Design-Builder to Owner or (ii) arising from modifications to the Work by Owner or its agents after acceptance of the Work. If the suit, claim or proceeding is based upon events set forth in the preceding sentence, Owner shall defend, indemnify and hold harmless Design-Builder to the same extent Design-Builder is obligated to defend, indemnify and hold harmless Owner in Section 7.1.1 above.

7.1.4 The obligations set forth in this Section 7.1 shall constitute the sole agreement between the parties relating to liability for infringement of violation of any patent or copyright.

7.2 Tax Claim Indemnification.

7.2.1 If, in accordance with Owner's direction, an exemption for all or part of the Work is claimed for taxes, Owner shall indemnify, defend and hold harmless Design-Builder from and against any liability, penalty, interest, fine, tax assessment, attorneys' fees or other expenses or costs incurred by Design-Builder as a result of any action taken by Design-Builder in accordance with Owner's directive. Owner shall furnish Design-Builder with any applicable tax exemption certificates necessary to obtain such exemption, upon which Design-Builder may rely.

7.3 Payment Claim Indemnification.

7.3.1 Provided that Owner is not in breach of its contractual obligation to make payments to Design-Builder for the Work, Design-Builder shall indemnify, defend and hold harmless Owner from any claims or mechanic's liens brought against Owner or against the Project as a result of the failure of Design-Builder, or those for whose acts it is responsible, to pay for any services, materials, labor, equipment, taxes or other items or obligations furnished or incurred for or in connection with the Work. Within three (3) days of receiving written notice from Owner that such a claim or mechanic's lien has been filed, Design-Builder shall commence to take the steps necessary to discharge said claim or lien, including, if necessary, the furnishing of a mechanic's lien bond. If Design-Builder fails to do so, Owner will have the right to discharge the claim or lien and hold Design-Builder liable for costs and expenses incurred, including attorneys' fees.

7.4 Design-Builder's General Indemnification.

7.4.1 Design-Builder, to the fullest extent permitted by law, shall indemnify, hold harmless and defend Owner, its officers, directors, and employees from and against claims, losses, damages, liabilities, including attorneys' fees and expenses, for bodily injury, sickness or death, and property damage or destruction (other than to the Work itself) to the extent resulting from the negligent acts or omissions of Design-Builder, Design Consultants, Subcontractors, anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable.

7.4.2 If an employee of Design-Builder, Design Consultants, Subcontractors, anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable has a claim against Owner, its officers, directors, employees, or agents, Design-Builder's indemnity obligation set forth in Section 7.4.1 above shall not be limited by any limitation on the amount of damages, compensation or benefits payable by or for Design-Builder, Design Consultants, Subcontractors, or other entity under any employee benefit acts, including workers' compensation or disability acts.

7.5 Owner's General Indemnification.

7.5.1 Owner, to the fullest extent permitted by law, shall indemnify, hold harmless and defend Design-Builder and any of Design-Builder's officers, directors, and employees, from and against claims, losses, damages, liabilities, including attorneys' fees and expenses, for bodily injury, sickness or death, and property damage or destruction (other than to the Work itself) to the extent resulting from the negligent acts or omissions of Owner's separate contractors or anyone for

whose acts any of them may be liable.

Article 8

Time

8.1 Obligation to Achieve the Contract Times.

8.1.1 Design-Builder agrees that it will commence performance of the Work and achieve the Contract Time(s) in accordance with Article 5 of the Agreement.

8.2 Delays to the Work.

8.2.1 If Design-Builder is delayed in the performance of the Work due to acts, omissions, conditions, events, or circumstances beyond its control and due to no fault of its own or those for whom Design-Builder is responsible, the Contract Time(s) for performance shall be reasonably extended by Change Order. By way of example, events that will entitle Design-Builder to an extension of the Contract Time(s) include acts or omissions of Owner or anyone under Owner's control (including separate contractors), changes in the Work, Differing Site Conditions, Hazardous Conditions, and Force Majeure Events.

8.2.2 In addition to Design-Builder's right to a time extension for those events set forth in Section 8.2.1 above, Design-Builder shall also be entitled to an appropriate adjustment of the Contract Price provided, however, that the Contract Price shall not be adjusted for Force Majeure Events unless otherwise provided in the Agreement.

Article 9

Changes to the Contract Price and Time

9.1 Change Orders.

9.1.1 A Change Order is a written instrument issued after execution of the Agreement signed by Owner and Design-Builder, stating their agreement upon all of the following:

9.1.1.1 The scope of the change in the Work;

9.1.1.2 The amount of the adjustment to the Contract Price; and

9.1.1.3 The extent of the adjustment to the Contract Time(s).

9.1.2 All changes in the Work authorized by applicable Change Order shall be performed under the applicable conditions of the Contract Documents. Owner and Design-Builder shall negotiate in good faith and as expeditiously as possible the appropriate adjustments for such changes.

9.1.3 If Owner requests a proposal for a change in the Work from Design-Builder and subsequently elects not to proceed with the change, a Change Order shall be issued to reimburse Design-Builder for reasonable costs incurred for estimating services, design services and services involved in the preparation of proposed revisions to the Contract Documents.

9.2 Work Change Directives.

9.2.1 A Work Change Directive is a written order prepared and signed by Owner directing a change in the Work prior to agreement on an adjustment in the Contract Price and/or the Contract Time(s).

9.2.2 Owner and Design-Builder shall negotiate in good faith and as expeditiously as possible the appropriate adjustments for the Work Change Directive. Upon reaching an agreement, the parties shall prepare and execute an appropriate Change Order reflecting the terms of the agreement.

9.3 Minor Changes in the Work.

9.3.1 Minor changes in the Work do not involve an adjustment in the Contract Price and/or Contract Time(s) and do not materially and adversely affect the Work, including the design, quality, performance and workmanship required by the Contract Documents. Design-Builder may make minor changes in the Work consistent with the intent of the Contract Documents, provided, however, that Design-Builder shall promptly inform Owner, in writing, of any such changes and record such changes on the documents maintained by Design-Builder.

9.4 Contract Price Adjustments.

9.4.1 The increase or decrease in Contract Price resulting from a change in the Work shall be determined by one or more of the following methods:

9.4.1.1 Unit prices set forth in the Agreement or as subsequently agreed to between the parties;

9.4.1.2 A mutually accepted lump sum, properly itemized and supported by sufficient substantiating data to permit evaluation by Owner;

9.4.1.3 Costs, fees and any other markups set forth in the Agreement; or

9.4.1.4 If an increase or decrease cannot be agreed to as set forth in items 9.4.1.1 through 9.4.1.3 above and Owner issues a Work Change Directive, the cost of the change of the Work shall be determined by the reasonable expense and savings in the performance of the Work resulting from the change, including a reasonable overhead and profit, as may be set forth in the Agreement.

9.4.2 If unit prices are set forth in the Contract Documents or are subsequently agreed to by the parties, but application of such unit prices will cause substantial inequity to Owner or Design-Builder because of differences in the character or quantity of such unit items as originally contemplated, such unit prices shall be equitably adjusted.

9.4.3 If Owner and Design-Builder disagree upon whether Design-Builder is entitled to be paid for any services required by Owner, or if there are any other disagreements over the scope of Work or proposed changes to the Work, Owner and Design-Builder shall resolve the disagreement pursuant to Article 10 hereof. As part of the negotiation process, Design-Builder shall furnish Owner with a good faith estimate of the costs to perform the disputed services in accordance with Owner's interpretations. If the parties are unable to agree and Owner expects Design-Builder to perform the services in accordance with Owner's interpretations, Design-Builder shall proceed to perform the disputed services, conditioned upon Owner issuing a written order to Design-Builder (i) directing Design-Builder to proceed and (ii) specifying Owner's interpretation of the services that are to be performed. If this occurs, Design-Builder shall be entitled to submit in its Applications for Payment an amount equal to fifty percent (50%) of its reasonable estimated direct cost to perform the services, and Owner agrees to pay such amounts, with the express understanding that (i) such payment by Owner does not prejudice

Owner's right to argue that it has no responsibility to pay for such services and (ii) receipt of such payment by Design-Builder does not prejudice Design-Builder's right to seek full payment of the disputed services if Owner's order is deemed to be a change to the Work.

9.5 Emergencies.

9.5.1 In any emergency affecting the safety of persons and/or property, Design-Builder shall act, at its discretion, to prevent threatened damage, injury or loss. Any change in the Contract Price and/or Contract Time(s) on account of emergency work shall be determined as provided in this Article 9.

Article 10

Contract Adjustments and Disputes

10.1 Requests for Contract Adjustments and Relief.

10.1.1 If either Design-Builder or Owner believes that it is entitled to relief against the other for any event arising out of or related to the Work or Project, such party shall provide written notice to the other party of the basis for its claim for relief. Such notice shall, if possible, be made prior to incurring any cost or expense and in accordance with any specific notice requirements contained in applicable sections of these General Conditions of Contract. In the absence of any specific notice requirement, written notice shall be given within a reasonable time, not to exceed twenty-one (21) days, after the occurrence giving rise to the claim for relief or after the claiming party reasonably should have recognized the event or condition giving rise to the request, whichever is later. Such notice shall include sufficient information to advise the other party of the circumstances giving rise to the claim for relief, the specific contractual adjustment or relief requested and the basis of such request.

10.2 Dispute Avoidance and Resolution.

10.2.1 The parties are fully committed to working with each other throughout the Project and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements. If disputes or disagreements do arise, Design-Builder and Owner each commit to resolving such disputes or disagreements in an amicable, professional and expeditious manner so as to avoid unnecessary losses, delays and disruptions to the Work.

10.2.2 Design-Builder and Owner will first attempt to resolve disputes or disagreements at the field level through discussions between Design-Builder's Representative and Owner's Representative which shall conclude within fourteen (14) days of the written notice provided for in Section 10.1.1 unless the Owner and Design-Builder mutually agree otherwise.

10.2.3 If a dispute or disagreement cannot be resolved through Design-Builder's Representative and Owner's Representative, Design-Builder's Senior Representative and Owner's Senior Representative, upon the request of either party, shall meet as soon as conveniently possible, but in no case later than thirty (30) days after such a request is made, to attempt to resolve such dispute or disagreement. Five (5) days prior to any meetings between the Senior Representatives, the parties will exchange relevant information that will assist the parties in resolving their dispute or disagreement.

10.2.4 If after meeting the Senior Representatives determine that the dispute or disagreement cannot be resolved on terms satisfactory to both parties, the parties shall submit within thirty (30) days of the conclusion of the meeting of Senior Representatives the dispute or disagreement to non-binding mediation. The mediation shall be conducted by a mutually agreeable impartial mediator, or if the parties cannot so agree, a mediator designated by the American Arbitration

Association (“AAA”) pursuant to its Construction Industry Mediation Rules. The mediation will be governed by and conducted pursuant to a mediation agreement negotiated by the parties or, if the parties cannot so agree, by procedures established by the mediator. Unless otherwise mutually agreed by the Owner and Design-Builder and consistent with the mediator’s schedule, the mediation shall commence within ninety (90) days of the submission of the dispute to mediation.

10.3 Arbitration.

10.3.1 Any claims, disputes or controversies between the parties arising out of or relating to the Agreement, or the breach thereof, which have not been resolved in accordance with the procedures set forth in Section 10.2 above, shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the AAA then in effect, unless the parties mutually agree otherwise.

10.3.2 The award of the arbitrator(s) shall be final and binding upon the parties without the right of appeal to the courts. Judgment may be entered upon it in accordance with applicable law by any court having jurisdiction thereof.

10.3.3 Design-Builder and Owner expressly agree that any arbitration pursuant to this Section 10.3 may be joined or consolidated with any arbitration involving any other person or entity (i) necessary to resolve the claim, dispute or controversy, or (ii) substantially involved in or affected by such claim, dispute or controversy. Both Design-Builder and Owner will include appropriate provisions in all contracts they execute with other parties in connection with the Project to require such joinder or consolidation.

10.3.4 The prevailing party in any arbitration, or any other final, binding dispute proceeding upon which the parties may agree, shall be entitled to recover from the other party reasonable attorneys’ fees and expenses incurred by the prevailing party.

10.4 Duty to Continue Performance.

10.4.1 Unless provided to the contrary in the Contract Documents, Design-Builder shall continue to perform the Work and Owner shall continue to satisfy its payment obligations to Design-Builder, pending the final resolution of any dispute or disagreement between Design-Builder and Owner.

10.5 CONSEQUENTIAL DAMAGES.

10.5.1 NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY (EXCEPT AS SET FORTH IN SECTION 10.5.2 BELOW), NEITHER DESIGN-BUILDER NOR OWNER SHALL BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL LOSSES OR DAMAGES, WHETHER ARISING IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO LOSSES OF USE, PROFITS, BUSINESS, REPUTATION OR FINANCING.

10.5.2 The consequential damages limitation set forth in Section 10.5.1 above is not intended to affect the payment of liquidated damages or lost early completion bonus, if any, set forth in Article 5 of the Agreement, which both parties recognize has been established, in part, to reimburse Owner or reward Design-Builder for some damages that might otherwise be deemed to be consequential.

Article 11

Stop Work and Termination for Cause

11.1 Owner's Right to Stop Work.

11.1.1 Owner may, without cause and for its convenience, order Design-Builder in writing to stop and suspend the Work. Such suspension shall not exceed sixty (60) consecutive days or aggregate more than ninety (90) days during the duration of the Project.

11.1.2 Design-Builder is entitled to seek an adjustment of the Contract Price and/or Contract Time(s) if its cost or time to perform the Work has been adversely impacted by any suspension of stoppage of the Work by Owner.

11.2 Owner's Right to Perform and Terminate for Cause.

11.2.1 If Design-Builder persistently fails to (i) provide a sufficient number of skilled workers, (ii) supply the materials required by the Contract Documents, (iii) comply with applicable Legal Requirements, (iv) timely pay, without cause, Design Consultants or Subcontractors, (v) prosecute the Work with promptness and diligence to ensure that the Work is completed by the Contract Time(s), as such times may be adjusted, or (vi) perform material obligations under the Contract Documents, then Owner, in addition to any other rights and remedies provided in the Contract Documents or by law, shall have the rights set forth in Sections 11.2.2 and 11.2.3 below.

11.2.2 Upon the occurrence of an event set forth in Section 11.2.1 above, Owner may provide written notice to Design-Builder that it intends to terminate the Agreement unless the problem cited is cured, or commenced to be cured, within seven (7) days of Design-Builder's receipt of such notice. If Design-Builder fails to cure, or reasonably commence to cure, such problem, then Owner may give a second written notice to Design-Builder of its intent to terminate within an additional seven (7) day period. If Design-Builder, within such second seven (7) day period, fails to cure, or reasonably commence to cure, such problem, then Owner may declare the Agreement terminated for default by providing written notice to Design-Builder of such declaration.

11.2.3 Upon declaring the Agreement terminated pursuant to Section 11.2.2 above, Owner may enter upon the premises and take possession, for the purpose of completing the Work, of all materials, equipment, scaffolds, tools, appliances and other items thereon, which have been purchased or provided for the performance of the Work, all of which Design-Builder hereby transfers, assigns and sets over to Owner for such purpose, and to employ any person or persons to complete the Work and provide all of the required labor, services, materials, equipment and other items. In the event of such termination, Design-Builder shall not be entitled to receive any further payments under the Contract Documents until the Work shall be finally completed in accordance with the Contract Documents. At such time, if the unpaid balance of the Contract Price exceeds the cost and expense incurred by Owner in completing the Work, such excess shall be paid by Owner to Design-Builder. Notwithstanding the preceding sentence, if the Agreement establishes a Guaranteed Maximum Price, Design-Builder will only be entitled to be paid for Work performed prior to its default. If Owner's cost and expense of completing the Work exceeds the unpaid balance of the Contract Price, then Design-Builder shall be obligated to pay the difference to Owner. Such costs and expense shall include not only the cost of completing the Work, but also losses, damages, costs and expense, including attorneys' fees and expenses, incurred by Owner in connection with the procurement and defense of claims arising from Design-Builder's default, subject to the waiver of consequential damages set forth in Section 10.5 hereof.

11.2.4 If Owner improperly terminates the Agreement for cause, the termination for cause will be converted to a termination for convenience in accordance with the provisions of Article 8 of the Agreement.

11.3 Design-Builder's Right to Stop Work.

11.3.1 Design-Builder may, in addition to any other rights afforded under the Contract Documents or at law, stop the Work for the following reasons:

11.3.1.1 Owner's failure to provide financial assurances as required under Section 3.3 hereof; or

11.3.1.2 Owner's failure to pay amounts properly due under Design-Builder's Application for Payment.

11.3.2 Should any of the events set forth in Section 11.3.1 above occur, Design-Builder has the right to provide Owner with written notice that Design-Builder will stop the Work unless said event is cured within seven (7) days from Owner's receipt of Design-Builder's notice. If Owner does not cure the problem within such seven (7) day period, Design-Builder may stop the Work. In such case, Design-Builder shall be entitled to make a claim for adjustment to the Contract Price and Contract Time(s) to the extent it has been adversely impacted by such stoppage.

11.4 Design-Builder's Right to Terminate for Cause.

11.4.1 Design-Builder, in addition to any other rights and remedies provided in the Contract Documents or by law, may terminate the Agreement for cause for the following reasons:

11.4.1.1 The Work has been stopped for sixty (60) consecutive days, or more than ninety (90) days during the duration of the Project, because of court order, any government authority having jurisdiction over the Work, or orders by Owner under Section 11.1.1 hereof, provided that such stoppages are not due to the acts or omissions of Design-Builder or anyone for whose acts Design-Builder may be responsible.

11.4.1.2 Owner's failure to provide Design-Builder with any information, permits or approvals that are Owner's responsibility under the Contract Documents which result in the Work being stopped for sixty (60) consecutive days, or more than ninety (90) days during the duration of the Project, even though Owner has not ordered Design-Builder in writing to stop and suspend the Work pursuant to Section 11.1.1 hereof.

11.4.1.3 Owner's failure to cure the problems set forth in Section 11.3.1 above after Design-Builder has stopped the Work.

11.4.2 Upon the occurrence of an event set forth in Section 11.4.1 above, Design-Builder may provide written notice to Owner that it intends to terminate the Agreement unless the problem cited is cured, or commenced to be cured, within seven (7) days of Owner's receipt of such notice. If Owner fails to cure, or reasonably commence to cure, such problem, then Design-Builder may give a second written notice to Owner of its intent to terminate within an additional seven (7) day period. If Owner, within such second seven (7) day period, fails to cure, or reasonably commence to cure, such problem, then Design-Builder may declare the Agreement terminated for default by providing written notice to Owner of such declaration. In such case, Design-Builder shall be entitled to recover in the same manner as if Owner had terminated the Agreement for its convenience under Article 8 of the Agreement.

11.5 Bankruptcy of Owner or Design-Builder.

11.5.1 If either Owner or Design-Builder institutes or has instituted against it a case under the United States Bankruptcy Code (such party being referred to as the "Bankrupt Party"), such event may impair or frustrate the Bankrupt Party's ability to perform its obligations under the Contract Documents. Accordingly, should such event occur:

11.5.1.1 The Bankrupt Party, its trustee or other successor, shall furnish, upon request

of the non-Bankrupt Party, adequate assurance of the ability of the Bankrupt Party to perform all future material obligations under the Contract Documents, which assurances shall be provided within ten (10) days after receiving notice of the request; and

11.5.1.2 The Bankrupt Party shall file an appropriate action within the bankruptcy court to seek assumption or rejection of the Agreement within sixty (60) days of the institution of the bankruptcy filing and shall diligently prosecute such action.

If the Bankrupt Party fails to comply with its foregoing obligations, the non-Bankrupt Party shall be entitled to request the bankruptcy court to reject the Agreement, declare the Agreement terminated and pursue any other recourse available to the non-Bankrupt Party under this Article 11.

11.5.2 The rights and remedies under Section 11.5.1 above shall not be deemed to limit the ability of the non-Bankrupt Party to seek any other rights and remedies provided by the Contract Documents or by law, including its ability to seek relief from any automatic stays under the United States Bankruptcy Code or the right of Design-Builder to stop Work under any applicable provision of these General Conditions of Contract.

Article 12

Electronic Data

12.1 Electronic Data.

12.1.1 The parties recognize that Contract Documents, including drawings, specifications and three-dimensional modeling (such as Building Information Models) and other Work Product may be transmitted among Owner, Design-Builder and others in electronic media as an alternative to paper hard copies (collectively "Electronic Data").

12.2 Transmission of Electronic Data.

12.2.1 Owner and Design-Builder shall agree upon the software and the format for the transmission of Electronic Data. Each party shall be responsible for securing the legal rights to access the agreed-upon format, including, if necessary, obtaining appropriately licensed copies of the applicable software or electronic program to display, interpret and/or generate the Electronic Data.

12.2.2 Neither party makes any representations or warranties to the other with respect to the functionality of the software or computer program associated with the electronic transmission of Work Product. Unless specifically set forth in the Agreement, ownership of the Electronic Data does not include ownership of the software or computer program with which it is associated, transmitted, generated or interpreted.

12.2.3 By transmitting Work Product in electronic form, the transmitting party does not transfer or assign its rights in the Work Product. The rights in the Electronic Data shall be as set forth in Article 4 of the Agreement. Under no circumstances shall the transfer of ownership of Electronic Data be deemed to be a sale by the transmitting party of tangible goods.

12.3 Electronic Data Protocol.

12.3.1 The parties acknowledge that Electronic Data may be altered or corrupted, intentionally or otherwise, due to occurrences beyond their reasonable control or knowledge, including but not limited to compatibility issues with user software, manipulation by the recipient, errors in transcription or transmission, machine error, environmental factors, and operator error.

Consequently, the parties understand that there is some level of increased risk in the use of Electronic Data for the communication of design and construction information and, in consideration of this, agree, and shall require their independent contractors, Subcontractors and Design Consultants to agree, to the following protocols, terms and conditions set forth in this Section 12.3.

12.3.2 Electronic Data will be transmitted in the format agreed upon in Section 12.2.1 above, including file conventions and document properties, unless prior arrangements are made in advance in writing.

12.3.3 The Electronic Data represents the information at a particular point in time and is subject to change. Therefore, the parties shall agree upon protocols for notification by the author to the recipient of any changes which may thereafter be made to the Electronic Data, which protocol shall also address the duty, if any, to update such information, data or other information contained in the electronic media if such information changes prior to Final Completion of the Project.

12.3.4 The transmitting party specifically disclaims all warranties, expressed or implied, including, but not limited to, implied warranties of merchantability and fitness for a particular purpose, with respect to the media transmitting the Electronic Data. However, transmission of the Electronic Data via electronic means shall not invalidate or negate any duties pursuant to the applicable standard of care with respect to the creation of the Electronic Data, unless such data is materially changed or altered after it is transmitted to the receiving party, and the transmitting party did not participate in such change or alteration.

Article 13

Miscellaneous

13.1 Confidential Information.

13.1.1 Confidential Information is defined as information which is determined by the transmitting party to be of a confidential or proprietary nature and: (i) the transmitting party identifies as either confidential or proprietary; (ii) the transmitting party takes steps to maintain the confidential or proprietary nature of the information; and (iii) the document is not otherwise available in or considered to be in the public domain. The receiving party agrees to maintain the confidentiality of the Confidential Information and agrees to use the Confidential Information solely in connection with the Project.

13.2 Assignment.

13.2.1 Neither Design-Builder nor Owner shall, without the written consent of the other assign, transfer or sublet any portion or part of the Work or the obligations required by the Contract Documents.

13.3 Successorship.

13.3.1 Design-Builder and Owner intend that the provisions of the Contract Documents are binding upon the parties, their employees, agents, heirs, successors and assigns.

13.4 Governing Law.

13.4.1 The Agreement and all Contract Documents shall be governed by the laws of the place of the Project, without giving effect to its conflict of law principles.

13.5 Severability.

13.5.1 If any provision or any part of a provision of the Contract Documents shall be finally determined to be superseded, invalid, illegal, or otherwise unenforceable pursuant to any applicable Legal Requirements, such determination shall not impair or otherwise affect the validity, legality, or enforceability of the remaining provision or parts of the provision of the Contract Documents, which shall remain in full force and effect as if the unenforceable provision or part were deleted.

13.6 No Waiver.

13.6.1 The failure of either Design-Builder or Owner to insist, in any one or more instances, on the performance of any of the obligations required by the other under the Contract Documents shall not be construed as a waiver or relinquishment of such obligation or right with respect to future performance.

13.7 Headings.

13.7.1 The headings used in these General Conditions of Contract, or any other Contract Document, are for ease of reference only and shall not in any way be construed to limit or alter the meaning of any provision.

13.8 Notice.

13.8.1 Whenever the Contract Documents require that notice be provided to the other party, notice will be deemed to have been validly given (i) if delivered in person to the individual intended to receive such notice, (ii) four (4) days after being sent by registered or certified mail, postage prepaid to the address indicated in the Agreement, or (iii) if transmitted by facsimile, by the time stated in a machine generated confirmation that notice was received at the facsimile number of the intended recipient.

13.9 Amendments.

13.9.1 The Contract Documents may not be changed, altered, or amended in any way except in writing signed by a duly authorized representative of each party.

The license for use of this document expires 1 year from the date of purchase.
To renew your license, visit store.dbia.org.

Questions? We're here to help.

Contact us



Design-Build Institute of America
1331 Pennsylvania Ave. NW, 4th Floor
Washington, DC 20004

(202) 682-0110
dbia@dbia.org



Progressive Design-Build Agreement

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

This **AGREEMENT** is made as of the _____ day of _____ in the year of 20_____, by and between the following parties, for services in connection with the Project identified below:

OWNER:

The City of Kennewick
210 W. 6th Ave.
Kennewick, WA 99336-0108

PROGRESSIVE DESIGN-BUILDER:

Merrell Bros., Inc.
8811 W 500 N
Kokomo, IN 46901

PROJECT:

Wastewater Treatment Plant (WWTP) Step 2 Upgrades
615 E Columbia, Drive
Kennewick, WA 99336

In consideration of the mutual covenants and obligations contained herein, Owner and Progressive Design-Builder agree as set forth herein.

Article 1

General

- 1.1 Duty to Cooperate. Owner and Progressive Design-Builder commit at all times to cooperate fully with each other and proceed on the basis of trust and good faith to permit each party to realize the benefits afforded under this Agreement.
- 1.2 Definitions. Terms, words, and phrases used in this Agreement shall have the meanings given them in DBIA Document No. 535, *Standard Form of General Conditions of Contract Between Owner and Progressive Design-Builder* (2010 Edition) ("General Conditions of Contract").
- 1.3 Design Services. Progressive Design-Builder shall, consistent with applicable Washington State licensing laws, provide design services, including architectural, engineering, and other design professional services required by this Agreement. Such design services shall be provided through qualified, Washington State licensed design professionals who are either (i) employed by Progressive Design-Builder, or (ii) procured by Progressive Design-Builder from independent sources. Nothing in this Agreement is intended to create any legal or contractual relationship between Owner and any independent design professional.

Article 2

Progressive Design-Builder's Services and Responsibilities

- 2.1 General Services.
 - 2.1.1 Owner shall provide Progressive Design-Builder with Owner's Project Criteria describing Owner's program requirements and objectives for the Project as set forth in Exhibit A. Owner's Project Criteria shall include Owner's use, space, price, time, site, and performance requirements. Owner's Project Criteria may include conceptual documents, design specifications, design performance specifications, and other technical materials and requirements prepared by or for Owner, for example the mandatory use of the FloridaGreen Patented Technology and the procurement of all equipment necessary for the "Pasteurization System" and the "Pelletization System," as further defined in Article 5.1, below.
 - 2.1.2 If Owner's Project Criteria have not been developed prior to the execution of this Agreement, Progressive Design-Builder will assist Owner in developing Owner's Project Criteria, with such service deemed to be an additional service for which additional compensation shall be paid by Owner to Progressive Design-Builder. If Owner has developed Owner's Project Criteria prior to executing this Agreement, Progressive Design-Builder shall review and prepare a written evaluation of such criteria, including recommendations to Owner for different and innovative approaches to the design and construction of the Project, but at all times the Project Criteria must utilize the FloridaGreen Patented Technology and must provide for the procurement of all equipment necessary for the "Pasteurization System" and the "Pelletization System," as further defined in Article 5.1, below. The parties shall meet to discuss Progressive Design-Builder's written evaluation of Owner's Project Criteria and agree upon what revisions, if any, should be made to such criteria.
- 2.2 Phased Services.
 - 2.2.1 Step 1 Services. Progressive Design-Builder shall perform the services of design, pricing, and other services for the Project based on Owner's Project Criteria, as may be revised in accordance with Section 2.1 hereof, as set forth in Exhibit B, Scope of Services. Progressive Design-Builder shall perform such services to the level of completion required for Progressive Design-Builder and Owner to establish the Contract Price for Step 2, as set forth in Section 2.3

below. The Contract Price and GMP for Step 2 shall be developed during Step 1 on an “open-book” basis and will be established via an amendment to this Agreement, after Step 1 is complete (the “Contract Price Amendment”). Progressive Design-Builder’s Compensation for Step 1 Services is set forth in Section 7.0 herein. The level of completion required for Step 1 Services is defined in Exhibit B, Scope of Services (either as a percentage of design completion or by defined deliverables).

2.2.2 Step 2 Services. Progressive Design-Builder’s Step 2 services shall consist of the completion of design services for the Project, the procurement of all materials and equipment for the Project, the performance of construction services for the Project, the start-up, testing, and commissioning of the Project, and the provision of warranty services, all as further described in the Contract Price Amendment. Upon receipt of Progressive Design-Builder’s proposed Contract Price for Step 2, Owner may proceed as set forth in Article 2.3.

2.3 Proposal. Upon completion of the Step 1 Services and any other Basis of Design Documents upon which the parties may agree, Progressive Design-Builder shall submit a proposal to Owner (the "Proposal") for the completion of the design and construction for the Project for the Contract Price, which may be based on Lump Sum or Progressive Design-Builder’s Fee and Cost of the Work with an option for a Guaranteed Maximum Price (GMP); the choice shall be made at Owner’s sole discretion.

2.3.1 The Proposal shall include the following unless the parties mutually agree otherwise:

2.3.1.1 The Contract Price that may be based on a Lump Sum or Progressive Design-Builder’s Fee and Cost of the Work, with an option for a GMP, which shall be the sum of:

- i. Progressive Design-Builder’s Fee as defined in Section 7.4.1 hereof;
- ii. The estimated Cost of the Work as defined in Section 7.5 hereof, inclusive of any Progressive Design-Builder’s Contingency as defined in Section 7.6.2 hereof; and
- iii. If applicable, any prices established under Section 7.1.3 hereof;

2.3.1.2 The Basis of Design Documents, which may include, by way of example, Owner’s Project Criteria, which are set forth in detail and are attached to the Proposal;

2.3.1.3 A list of the assumptions and clarifications made by Progressive Design-Builder in the preparation of the Proposal, which list is intended to supplement the information contained in the drawings and specifications and is specifically included as part of the Basis of Design Documents;

2.3.1.4 The Scheduled Substantial Completion Date upon which the Proposal is based, to the extent said date has not already been established under Section 6.2.1 hereof, and a schedule upon which the Scheduled Substantial Completion Date is based and a Project Schedule for the Work;

2.3.1.5 If applicable, a list of Allowance Items, Allowance Values, and a statement of their basis;

2.3.1.6 If applicable, a schedule of alternate prices;

2.3.1.7 If applicable, a schedule of unit prices;

2.3.1.8 If applicable, a statement of Additional Services which may be performed but which are not included in the Proposal, and which, if performed, shall be the basis for an increase in the Contract Price and/or Contract Time(s);

2.3.1.9 If applicable, a Savings provision;

2.3.1.10 If applicable, Performance Incentives;

2.3.1.11 The time limit for acceptance of the Proposal; and

2.3.1.12 An Owner's permit list, a list detailing the permits and governmental approvals that Owner will bear responsibility to obtain.

2.3.2 Review and Adjustment to Proposal.

2.3.2.1 After submission of the Proposal, Progressive Design-Builder and Owner shall meet to discuss and review the Proposal. If Owner has any comments regarding the Proposal or finds any inconsistencies or inaccuracies in the information presented, it shall promptly give written notice to Progressive Design-Builder of such comments or findings. If appropriate, Progressive Design-Builder shall, upon receipt of Owner's notice, make appropriate adjustments to the Proposal.

2.3.2.3 Acceptance of Proposal. If Owner accepts the Proposal, as may be amended by Progressive Design-Builder, the Contract Price and its basis shall be set forth in an amendment to this Agreement, when mutually agreed between the parties (Contract Price Amendment). Once the parties have agreed upon the Contract Price and Owner has issued a Notice to Proceed with Step 2, Progressive Design-Builder shall perform the Step 2 Services, all as further described in the Contract Price Amendment, as it may be revised.

2.3.2.4 Failure to Accept the Proposal. If Owner rejects the Proposal or fails to notify Progressive Design-Builder in writing on or before the date specified in the Proposal that it accepts the Proposal, the Proposal shall be deemed withdrawn and of no effect. In such event, Owner and Progressive Design-Builder shall meet and confer as to how the Project will proceed, with Owner having the following options:

i. Owner may suggest modifications to the Proposal, whereupon, if such modifications are accepted in writing by Progressive Design-Builder, the Proposal shall be deemed accepted and the parties shall proceed in accordance with Section 2.3.2.3 above;

ii. Owner may authorize Progressive Design-Builder to continue to proceed with the Work on the basis of reimbursement as provided in Section 7.1.2 hereof without a Contract Price, in which case all references in this Agreement to the Contract Price shall not be applicable; or

iii. Owner may terminate this Agreement for convenience in accordance with Article 9 hereof; provided, however, in this event, Progressive Design-Builder shall not be entitled to the payment provided for in Section 9.2 hereof.

If Owner fails to exercise any of the above options, Progressive Design-Builder shall have the right to (a) continue with the Work as if Owner had elected to proceed in accordance with Item 2.3.2.4 ii. above, and be paid by Owner accordingly, unless and until Owner notifies it in writing to stop the Work, (b) suspend performance of Work in accordance with Section 11.3.1 of the General Conditions of Contract, provided, however, that in such event Progressive Design-Builder shall not be entitled to the payment provided for in Section 9.2 hereof, or (c) may give written notice to Owner that it considers this Agreement completed. If Owner fails to exercise any of the options under Section 2.3.2.4 within ten (10) calendar days of receipt of Progressive Design-Builder's notice, then this Agreement shall be deemed completed. If Owner terminates the relationship with Progressive Design-Builder under Section 2.3.2.4(iii), or if this Agreement is deemed

completed under this paragraph, then Progressive Design-Builder shall have no further liability or obligations to Owner under this Agreement.

Article 3

Contract Documents

3.1 The Contract Documents are comprised of the following:

3.1.1 All written modifications, amendments, minor changes, and Change Orders to this Agreement issued in accordance with DBIA Document No. 535, *Standard Form of General Conditions of Contract Agreement Between Owner and Progressive Design-Builder* (2010 Edition) (“General Conditions of Contract”);

3.1.2 The Contract Price Amendment referenced in Section 2.3.2.3 herein or the Proposal accepted by Owner in accordance with Section 2.3 herein.

3.1.3 This Agreement, including all exhibits (List for example, performance standard requirements, performance incentive arrangements, markup exhibits, allowances, unit prices, or exhibit detailing offsite reimbursable personnel) but excluding, if applicable, the Contract Price Amendment;

3.1.4 The General Conditions of Contract;

3.1.5 Construction Documents prepared and approved in accordance with Section 2.4 of the General Conditions of Contract;

3.1.6 Exhibit B, Scope of Services; and

3.1.7 The following other documents, if any:

[INSERT, IF APPLICABLE]

Article 4

Interpretation and Intent

4.1 Progressive Design-Builder and Owner, at the time of acceptance of the Proposal by Owner in accordance with Section 2.3 hereof, shall carefully review all the Contract Documents, including the various documents comprising the Basis of Design Documents for any conflicts or ambiguities. Progressive Design-Builder and Owner will discuss and resolve any identified conflicts or ambiguities prior to execution of the Agreement, or if applicable, prior to Owner’s acceptance of the Proposal.

4.2 The Contract Documents are intended to permit the parties to complete the Work and all obligations required by the Contract Documents within the Contract Time(s) for the Contract Price. The Contract Documents are intended to be complementary and interpreted in harmony so as to avoid conflict, with words and phrases interpreted in a manner consistent with construction and design industry standards. In the event inconsistencies, conflicts, or ambiguities between or among the Contract Documents are discovered after Owner’s acceptance of the Proposal, Progressive Design-Builder and Owner shall attempt to resolve any ambiguity, conflict, or inconsistency informally, recognizing that the Contract Documents shall take precedence in the order in which they are listed in Section 3.1 hereof. *(Note, the parties are strongly encouraged to establish in the Contract Price Amendment or Proposal (as applicable) the priority of the various documents comprising such exhibit or proposal.)*

4.3 Terms, words, and phrases used in the Contract Documents, including this Agreement, shall have the meanings given them in the General Conditions of Contract.

4.4 If Owner's Project Criteria contain design specifications: (a) Progressive Design-Builder is entitled to reasonably rely on the accuracy of the information represented in the design specifications and their compatibility with other information set forth in Owner's Project Criteria, including any design performance specifications; and (b) Progressive Design-Builder shall be entitled to an adjustment in its Contract Price and/or Contract Time(s) to the extent Progressive Design-Builder's cost and/or time of performance have been adversely impacted by such inaccurate design specification.

4.5 The Contract Documents form the entire agreement between Owner and Progressive Design-Builder and by incorporation herein are as fully binding on the parties as if repeated herein. No oral representations or other agreements have been made by the parties except as specifically stated in the Contract Documents.

Article 5

Ownership of Work Product

5.1 Work Product. All drawings, specifications and other documents and electronic data, including such documents identified in the General Conditions of Contract, furnished by Progressive Design-Builder to Owner under this Agreement ("Work Product") are deemed to be instruments of service and Progressive Design-Builder shall retain the ownership and property interests therein, including but not limited to any intellectual property rights, copyrights, and/or patents, subject to the provisions set forth in Sections 5.2 through 5.5 below and except that Owner shall retain the ownership and all property interests therein for the mandatory FloridaGreen Patented Technology that Progressive Design-Builder shall utilize on this Project. In addition to use of the mandatory Florida Green Patented Technology, Progressive Design-Builder shall procure all equipment necessary for the "Pasteurization System" and the "Pelletization System," some or all of which may be required by Owner to be procured from specific sources. The Pasteurization System is defined as a fuel-fired, two-belt oven used to decrease the moisture content of biosolids and pasteurize the biosolids, associated axial fan and burner, associated cyclone, airlock system and fan, and associated connecting ducts, and any future improvement. The Systems are defined as the complete pasteurization and pelletization processes. All ownership and property rights of the FloridaGreen Patented Technology and Systems are wholly exempt from and not subject to Sections 5.2 to 5.5 below.

5.2 Owner's Limited License upon Project Completion and Payment in Full to Progressive Design-Builder. Upon Owner's payment in full for all Work performed under the Contract Documents, Progressive Design-Builder shall grant Owner a limited license to use the Work Product in connection with Owner's occupancy of the Project, conditioned on Owner's express understanding that its alteration of the Work Product without the involvement of Progressive Design-Builder is at Owner's sole risk and without liability or legal exposure to Progressive Design-Builder or anyone working by or through Progressive Design-Builder, including Design Consultants of any tier (collectively the "Indemnified Parties"), and on the Owner's obligation to provide the indemnity set forth in Section 5.5 herein.

5.3 Owner's Limited License upon Owner's Termination for Convenience or Progressive Design-Builder's Election to Terminate. If Owner terminates this Agreement for its convenience as set forth in Article 9 hereof, or if Progressive Design-Builder elects to terminate this Agreement in accordance with Section 11.4 of the General Conditions of Contract, Progressive Design-Builder shall, upon Owner's payment in full of the amounts due Progressive Design-Builder under the Contract Documents, grant Owner a limited license to use the Work Product to complete the Project and subsequently occupy the Project, and Owner shall thereafter have the same rights as set forth in Section 5.2 above, conditioned on the following:

5.3.1 Use of the Work Product is at Owner's sole risk without liability or legal exposure to any Indemnified Party, and on the Owner's obligation to provide the indemnity set forth in Section 5.5 herein, and

5.4 Owner's Limited License upon Progressive Design-Builder's Default. If this Agreement is terminated due to Progressive Design-Builder's default pursuant to Section 11.2 of the General Conditions of Contract, then Progressive Design-Builder grants Owner a limited license to use the Work Product to complete the Project and subsequently occupy the Project, and Owner shall thereafter have the same rights and obligations as set forth in Section 5.2 above. Notwithstanding the preceding sentence, if it is ultimately determined that Progressive Design-Builder was not in default, any such termination shall be automatically considered to have been a termination for convenience, and Progressive Design-Builder shall be entitled to the rights and remedies set forth in Section 5.3 above.

5.5 Owner's Indemnification for Use of Work Product. Owner recognizes that in the event of an early termination of the Work, whether for convenience or for cause, Progressive Design-Builder will not have the opportunity to finish or to finalize its Work Product. Therefore, if Owner uses the Work Product, in whole or in part, or if Owner is required to indemnify any Indemnified Parties based on the use or alteration of the Work Product under any of the circumstances identified in this Article 5, Owner shall defend, indemnify, and hold harmless the Indemnified Parties from and against any and all claims, damages, liabilities, losses, and expenses, including attorneys' fees, arising out of or resulting from the use or alteration of the Work Product, to the fullest extent permitted by applicable law.

Article 6

Contract Time

6.1 Date of Commencement. The Step 1 Services shall commence within five (5) calendar days of Progressive Design-Builder's receipt of Owner's Notice to Proceed unless the parties mutually agree otherwise in writing. The Work shall commence within five (5) calendar days of Progressive Design-Builder's receipt of Owner's Notice to Proceed for Step 2 Services ("Date of Commencement") if the Proposal is accepted and the Contract Price Amendment is amended to this Agreement unless the parties mutually agree otherwise in writing.

6.2 Substantial Completion and Final Completion.

6.2.1 Substantial Completion of the entire Work shall be achieved at a date to be decided and agreed-upon in the "Contract Price Amendment", described in more detail in Section 7, below ("Scheduled Substantial Completion Date").

6.2.2 Interim milestones and/or Substantial Completion of identified portions of the Work shall be achieved as follows: *(Insert any interim milestones ("Scheduled Interim Milestone Dates") for portions of the Work with different scheduled dates for Substantial Completion.). See Schedule in RFQ document.*

6.2.3 Final Completion of the Work or identified portions of the Work shall be achieved as expeditiously as reasonably practicable. Final Completion is the date when all Work is complete pursuant to the definition of Final Completion set forth in Section 1.2.7 of the General Conditions of Contract.

6.2.4 All of the dates set forth in this Article 6 ("Contract Time(s)") shall be subject to adjustment in accordance with the General Conditions of Contract.

6.3 Time is of the Essence. Owner and Progressive Design-Builder mutually agree that time is of the essence with respect to the dates and times set forth in the Contract Documents.

6.4 Liquidated Damages. Progressive Design-Builder understands that if Substantial Completion is not attained by the Scheduled Substantial Completion Date, Owner will suffer damages which are difficult to determine and accurately specify. The Parties agree that in the "Contract Price Amendment", described in more detail in Section 7, below the Parties will designate an amount to be paid by the Progressive Design-Builder as liquidated damages, in the event that Substantial Completion is not attained by the agreed-upon date.

6.5 Any liquidated damages assessed pursuant to this Agreement shall be in lieu of all liability for any and all extra costs, losses, expenses, claims, penalties, and any other damages, whether special or consequential, and of whatsoever nature, incurred by Owner which are occasioned by any delay in achieving Substantial Completion, Interim Milestone Dates (if any) or Final Completion.

Owner and Progressive Design-Builder agree that the maximum aggregate amount that Progressive Design-Builder shall receive as the early Completion Bonus is [INSERT] Dollars (\$____).

6.7

In addition to Progressive Design-Builder's right to a time extension for those events set forth in Section 8.2.1 of the General Conditions of Contract, Progressive Design-Builder shall also be entitled to an appropriate adjustment of the Contract Price for those events set forth in Section 8.2.1 of the General Conditions of Contract, provided, however, for Force Majeure Events, said additional compensation shall be limited to:

the direct costs and expenses Progressive Design-Builder can demonstrate it has reasonably actually incurred as a result of such event. As used herein, a Force Majeure Event is an event, circumstance or condition that was unforeseeable and beyond the control of either party or their respective Design Consultants of any tier, contractors, subcontractors, or suppliers at any tier below them.

Article 7

Contract Price

7.1 Contract Price.

7.1.1 For Step 1 services, Owner shall pay Progressive Design-Builder in accordance with Article 6 of the General Conditions of Contract for actual time and materials incurred for Step 1 services, at the rates set forth in Exhibit B

7.1.2 The parties acknowledge that there may be long lead items that Progressive Design-Builder, in its discretion, determines it will need to procure during Step 1 in order to meet the project schedule and Substantial Completion, but that are to be used during Step 2 ("Long Lead Items"). If Progressive Design-Builder believes it must procure Long Lead Items during Step 1, it may request authorization from the Owner to bill for such items during the Step 1 phase.

7.2 For Step 2 Services, the Contract Price and GMP for Step 2 shall be developed during Step 1 on an “open-book” basis and will be established via an amendment to this Agreement, after Step 1 is complete (the “Contract Price Amendment”).

7.3 Markups for Changes are to be determined during the negotiation of the Contract Price Amendment and set forth in such Amendment.

7.4 Progressive Design-Builder’s Fee is to be included in the rates listed in Exhibit B and incorporated herein. Progressive Design-Builder is not entitled to any additional Fee, beyond the rates set forth in the Exhibit B.direct costs of the net reduction.

7.5 Cost of the Work.

7.5.1 The term Cost of the Work, for purposes of the Contract Price Amendment and Step 2 work only, shall mean costs reasonably incurred by Progressive Design-Builder in the proper performance of the Work. The Cost of the Work shall include only the following:

7.5.1.1 Wages of direct employees of Progressive Design-Builder performing the Work at the Site or, with Owner’s agreement, at locations off the Site, provided, however, that the costs for those employees of Progressive Design-Builder performing design services shall be calculated on the basis of prevailing market rates for design professionals performing such services or, if applicable, those rates set forth in an exhibit to this Agreement.

7.5.1.2 Wages or salaries of Progressive Design-Builder’s supervisory and administrative personnel engaged in the performance of the Work and who are located at the Site or working off-Site to assist in the production or transportation of material and equipment necessary for the Work.

7.5.1.3 Wages or salaries of Progressive Design-Builder’s personnel stationed at Progressive Design-Builder’s principal or branch offices, but only to the extent said personnel are to identified in an Exhibit to the Contract Price Amendment and performing the function set forth in said Exhibit. The reimbursable costs of personnel stationed at Progressive Design-Builder’s principal or branch offices during Step 2 shall include a specified markup to compensate Progressive Design-Builder for the Project-related overhead associated with such personnel. This markup will be included in the Contract Price Amendment.

7.5.1.4 Costs incurred by Progressive Design-Builder for employee benefits, premiums, taxes, insurance, contributions, and assessments required by law, collective bargaining agreements, or which are customarily paid by Progressive Design-Builder, to the extent such costs are based on wages and salaries paid to employees of Progressive Design-Builder covered under Sections 7.5.1.1 through 7.5.1.3 hereof.

7.5.1.5 The reasonable portion of the cost of travel, accommodations, and meals for Progressive Design-Builder’s personnel necessarily and directly incurred in connection with the performance of the Work.

7.5.1.6 Payments properly made by Progressive Design-Builder to Subcontractors and Design Consultants for performance of portions of the Work, including any insurance and bond premiums incurred by Subcontractors and Design Consultants.

7.5.1.7 Costs incurred by Progressive Design-Builder in repairing or correcting defective, damaged or nonconforming Work (including any warranty or corrective Work performed after Substantial Completion), provided that such Work was beyond the reasonable

control of Progressive Design-Builder, or caused by the ordinary mistakes or inadvertence, and not the negligence, of Progressive Design-Builder or those working by or through Progressive Design-Builder. If the costs associated with such Work are recoverable from insurance, Subcontractors or Design Consultants, Progressive Design-Builder shall exercise best efforts to obtain recovery from the appropriate source and provide a credit to Owner if recovery is obtained.

7.5.1.8 Costs, including transportation, inspection, testing, storage, and handling of materials, equipment, and supplies incorporated or reasonably used in completing the Work.

7.5.1.9 Costs less salvage value of materials, supplies, temporary facilities, machinery, equipment, and hand tools not customarily owned by the workers that are not fully consumed in the performance of the Work and which remain the property of Progressive Design-Builder, including the costs of transporting, inspecting, testing, handling, installing, maintaining, dismantling, and removing such items.

7.5.1.10 Costs of removal of debris and waste from the Site.

7.5.1.11 The reasonable costs and expenses incurred in establishing, operating, and demobilizing the Site office, including the cost of facsimile transmissions, long-distance telephone calls, postage and express delivery charges, telephone service, photocopying, and reasonable petty cash expenses.

7.5.1.12 Rental charges and the costs of transportation, installation, minor repairs, and replacements, dismantling and removal of temporary facilities, machinery, equipment, and hand tools not customarily owned by the workers, which are provided by Progressive Design-Builder at the Site, whether rented from Progressive Design-Builder or others, and incurred in the performance of the Work.

7.5.1.13 Premiums for insurance and bonds required by this Agreement or the performance of the Work.

7.5.1.14 All fuel and utility costs incurred in the performance of the Work.

7.5.1.15 Sales, use, or similar taxes, tariffs, or duties incurred in the performance of the Work.

7.5.1.16 Legal costs, court costs, and costs of mediation and arbitration reasonably arising from Progressive Design-Builder's performance of the Work, provided such costs do not arise from disputes between Owner and Progressive Design-Builder.

7.5.1.17 Costs for permits, royalties, licenses, tests, and inspections incurred by Progressive Design-Builder as a requirement of the Contract Documents.

7.5.1.18 The cost of defending suits or claims for infringement of patent rights arising from the use of a particular design, process, or product required by Owner, paying legal judgments against Progressive Design-Builder resulting from such suits or claims, and paying settlements made with Owner's consent.

7.5.1.19 Deposits which are lost, except to the extent caused by Progressive Design-Builder's negligence.

7.5.1.20 Costs incurred in preventing damage, injury, or loss in case of an emergency affecting the safety of persons and property.

7.5.1.21 Accounting and data processing costs related to the Work.

7.5.1.22 Other costs reasonably and properly incurred in the performance of the Work to the extent approved in writing by Owner.

[Progressive Design-Builder and Owner may want to consider adding the following Section 7.5.1.23 to address the payment of warranty work:]

7.5.2 Non-Reimbursable Costs. The following shall be excluded from the Cost of the Work for purposes of the Contract Price Amendment:

7.5.2.1 Compensation for Progressive Design-Builder's personnel stationed at Progressive Design-Builder's principal or branch offices, except as provided for in Sections 7.5.1.1, 7.5.1.2, and 7.5.1.3 hereof.

7.5.2.2 Overhead and general expenses, except as provided for in Section 7.5.1 hereof, or which may be recoverable for changes to the Work.

7.5.2.3 The cost of Progressive Design-Builder's capital used in the performance of the Work.

7.5.2.4 If the parties have agreed on a GMP, costs that would cause the GMP, as adjusted in accordance with the Contract Documents, to be exceeded.

(Since the GMP will be agreed upon after execution of this Agreement, in the Contract Price Amendment, the following Section 7.6 has been deleted and will, instead, be included in an amendment to this Agreement setting forth the GMP terms (the Contract Price Amendment). Those terms shall include a contingency of at least 5% of the anticipated GMP.)

7.6

7.7 Allowance Items and Allowance Values.

7.7.1 Any and all Allowance Items, as well as their corresponding Allowance Values, are set forth in the Contract Price Amendment or the Proposal.

7.7.2 Progressive Design-Builder and Owner have worked together to review the Allowance Items and Allowance Values based on design information then available to determine that the Allowance Values constitute reasonable estimates for the Allowance Items. Progressive Design-Builder and Owner will continue working closely together during the preparation of the design to develop Construction Documents consistent with the Allowance Values. Nothing herein is intended in any way to constitute a guarantee by Progressive Design-Builder that the Allowance Item in question can be performed for the Allowance Value.

7.7.3 No work shall be performed on any Allowance Item without Progressive Design-Builder first obtaining in writing advanced authorization to proceed from Owner. Owner agrees that if Progressive Design-Builder is not provided written authorization to proceed by the date set forth in the Project schedule, due to no fault of Progressive Design-Builder, Progressive Design-Builder may be entitled to an adjustment of the Contract Time(s) and Contract Price.

7.7.4 The Allowance Value will be negotiated and included in the Contract Price Amendment.

7.7.5 Whenever the actual costs for an Allowance Item is more than or less than the stated Allowance Value, the Contract Price shall be adjusted accordingly by Change Order. The amount

of the Change Order shall reflect the difference between actual costs incurred by Progressive Design-Builder for the Allowance Item and the Allowance Value.

Article 8

Procedure for Payment

8.1 Payment for Preliminary Services. Progressive Design-Builder and Owner agree upon the following method for partial and final payment to Progressive Design-Builder for the services hereunder: *(Insert terms.)*

8.2 Contract Price Progress Payments.

8.2.1 Progressive Design-Builder shall submit to Owner on the 2nd to last Friday each month (as identified within the City's annually published contractors calendar), beginning with the first month after the Date of Commencement, Progressive Design-Builder's Application for Payment in accordance with Article 6 of the General Conditions of Contract.

8.2.2 Owner shall make payment within thirty (30) calendar days after Owner's receipt of each properly submitted and accurate Application for Payment in accordance with Article 6 of the General Conditions of Contract, but in each case less the total of payments previously made, and less amounts properly withheld under Section 6.3 of the General Conditions of Contract.

8.2.3 If Progressive Design-Builder's Fee under Section 7.4 hereof is a fixed amount, the amount of Progressive Design-Builder's Fee to be included in Progressive Design-Builder's monthly Application for Payment and paid by Owner shall be proportional to the percentage of the Work completed, less payments previously made on account of Progressive Design-Builder's Fee.

8.3 Retainage on Progress Payments.

8.3.1 During Phase 2 only, the Owner will retain five percent (5 %) of the cost of Work, exclusive of General Conditions costs, and any amounts paid to Progressive Design-Builder's Design Consultant, from each Application for Payment provided, however, that when fifty percent (50%) of the Work has been satisfactorily completed by Progressive Design-Builder and Progressive Design-Builder is otherwise in compliance with its contractual obligations, Owner will not retain any additional amounts from Progressive Design-Builder's subsequent Applications for Payment. Owner will also reasonably consider reducing retainage for Subcontractors completing their work early in the Project.

8.3.2 Within fifteen (15) calendar days after Substantial Completion of the entire Work or, if applicable, any portion of the Work, pursuant to Section 6.6 of the General Conditions of Contract, Owner shall release to Progressive Design-Builder all retained amounts relating, as applicable, to the entire Work or completed portion of the Work, less an amount equal to: (a) the reasonable value of all remaining or incomplete items of Work as noted in the Certificate of Substantial Completion; and (b) all other amounts Owner is entitled to withhold pursuant to Section 6.3 of the General Conditions of Contract.

[If Owner and Progressive Design-Builder have established a warranty reserve pursuant to Section 7.5.1.23 above, the following provision should be included.]

If a warranty reserve has been established pursuant to Section 7.5.1.23 above, Owner shall at the time of Substantial Completion retain the agreed-upon amounts and establish an escrow account as contemplated by Section 7.5.1.23 above.

8.4 Final Payment. Progressive Design-Builder shall submit its Final Application for Payment to Owner in accordance with Section 6.7 of the General Conditions of Contract. Owner shall make payment on Progressive Design-Builder's properly submitted and accurate Final Application for Payment (less any amount the parties may have agreed to set aside for warranty work) within ten (10) calendar days after Owner's receipt of the Final Application for Payment, provided that: (a) Progressive Design-Builder has satisfied the requirements for final payment set forth in Section 6.7.2 of the General Conditions of Contract.

8.5 Interest. Payments due and unpaid by Owner to Progressive Design-Builder, whether progress payments or final payment, shall bear interest commencing five (5) calendar days after payment is due at the rate of five percent (5 %) per month until paid.

8.6 Record Keeping and Finance Controls. Progressive Design-Builder acknowledges that this Agreement is to be administered on an "open book" arrangement relative to Costs of the Work. Progressive Design-Builder shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management, using accounting and control systems in accordance with generally accepted accounting principles and as may be provided in the Contract Documents. During the performance of the Work and for a period of three (3) years after Final Payment, Owner and Owner's accountants shall be afforded access to, and the right to audit from time to time, upon reasonable notice, Progressive Design-Builder's records, books, correspondence, receipts, subcontracts, purchase orders, vouchers, memoranda, and other data relating to the Work, all of which Progressive Design-Builder shall preserve for a period of three (3) years after Final Payment. Such inspection shall take place at Progressive Design-Builder's offices during normal business hours unless another location and time is agreed to by the parties. Any multipliers or markups agreed to by the Owner and Progressive Design-Builder as part of this Agreement are only subject to audit to confirm that such multiplier or markup has been charged in accordance with this Agreement, but the composition of such multiplier or markup is not subject to audit. Any lump sum agreed to by the Owner and Progressive Design-Builder as part of this Agreement is not subject to audit.

Article 9

Termination for Convenience

9.1 Upon ten (10) calendar days' written notice to Progressive Design-Builder, Owner may, for its convenience and without cause, elect to terminate this Agreement. In such event, Owner shall pay Progressive Design-Builder for the following:

9.1.1 All services performed, and Work executed and for proven loss, cost, or expense in connection with the services and Work performed prior to the termination date; and

9.1.2 The reasonable costs and expenses attributable to such termination, including demobilization costs and amounts due in settlement of terminated contracts with Subcontractors and Design Consultants.

9.3 If Owner terminates this Agreement pursuant to Section 9.1 above and proceeds to design and construct the Project through its employees, agents or third parties, Owner's rights to use the Work Product shall be as set forth in Section 5.3 hereof. Such rights may not be transferred or assigned to others without Progressive Design-Builder's express written consent and such third parties' agreement to the terms of Article 5.

[The following Article 10 should only be used if Owner and Progressive Design-Builder agree to establish their respective representatives at the time the Agreement is executed rather than during the performance of the Project.]

Article 10

Representatives of the Parties

10.1 Owner's Representatives.

10.1.1 Owner designates the individual listed below as its Senior Representative ("Owner Senior Representative"), which individual has the authority and responsibility for avoiding and resolving disputes under Section 10.2.3 of the General Conditions of Contract: *(Identify individual's name, title, address, and telephone numbers.)*

Cary Roe, P.E., Public Works Director
1010 E. Chemical Drive
PO Box 6108
Kennewick, WA 99336
Phone: 509-585-4292
Email: Cary.Roe@ci.kennewick.wa.us

10.1.2 Owner designates the individual listed below as its Owner's Representative, which individual has the authority and responsibility set forth in Section 3.4 of the General Conditions of Contract: *(Identify individual's name, title, address, and telephone numbers.)*

Jeremy Lustig, P.E., Utility Services Manager
1010 E. Chemical Drive
PO Box 6108
Kennewick, WA 99336
Phone: 509-585-4413
Email: Jeremy.Lustig@ci.kennewick.wa.us

10.2 Progressive Design-Builder's Representatives.

10.2.1 Progressive Design-Builder designates the individual listed below as its Senior Representative ("Progressive Design-Builder's Senior Representative"), which individual has the authority and responsibility for avoiding and resolving disputes under Section 10.2.3 of the General Conditions of Contract: *(Identify individual's name, title, address, and telephone numbers.)*

Ted Merrell, Vice President
Merrell Bros, Inc.
8811 W. 500 N.
Kokomo, IN 46901
Phone: 765-438-7374
Email: ted@merrellbros.com

10.2.2 Progressive Design-Builder designates the individual listed below as its Progressive Design-Builder's Representative, which individual has the authority and responsibility set forth in Section 2.1.1 of the General Conditions of Contract: *(Identify individual's name, title, address, and telephone numbers.)*

Brent Pomerhn, Project Manager
Merrell Bros, Inc.
8811 W. 500 N.
Kokomo, IN 46901
Phone: 574-699-1035

Article 11

Bonds and Insurance

11.1 Insurance. Progressive Design-Builder and Owner shall procure the insurance coverages set forth in the Insurance Exhibit attached hereto and in accordance with Article 5 of the General Conditions of Contract.

11.2 Bonds and Other Performance Security. Progressive Design-Builder shall provide the following performance bond and labor and material payment bond or other performance security:

Performance Bond.

(Check one box only. If no box is checked, then no bond is required.)

Required Not Required

Payment Bond.

(Check one box only. If no box is checked, then no bond is required.)

Required Not Required

Other Performance Security.

(Check one box only. If no box is checked, then no other performance security is required. If the "Required" box is checked, identify below the specific performance security that is being required and all salient commercial terms associated with that security.)

Required Not Required

Article 12

Other Provisions

12.1 **Section 10.1 of the General Conditions is revised as follows:**

Requests for Contract Adjustments and Relief.

12.1.2 If either Progressive Design-Builder or Owner believes that it is entitled to relief against the other for any event arising out of or related to the Work or Project, such party shall provide written notice to the other party of the basis for its claim for relief. Such notice shall be made prior to incurring any cost or expense and in accordance with any specific notice requirements contained in applicable sections of these General Conditions of Contract. In the absence of any specific notice requirement, written notice shall be given within a reasonable time, not to exceed twenty-one (21) calendar days, after the occurrence giving rise to the claim for relief or after the claiming party reasonably should have recognized the event or condition giving rise to the request, whichever is later. Such notice shall include sufficient information to advise the other party of the circumstances giving rise to the claim for relief, the specific contractual adjustment or relief requested and the basis of such request. The giving and content of notices required by this Section shall be an absolute condition precedent to the Progressive Design-Builder's right to make any claim against Owner and any failure by Progressive Design-Builder to comply with this

condition precedent shall waive and be a complete bar to any claim or other adjustment to this Agreement.

12.2 Section 10.2 of the General Conditions is revised as follows:

Dispute Avoidance and Resolution

12.2.1 The parties are fully committed to working with each other throughout the Project and agree to always communicate regularly with each other to avoid or minimize disputes or disagreements. If disputes or disagreements do arise, Progressive Design-Builder and Owner each commit to resolving such disputes or disagreements in an amicable, professional, and expeditious manner to avoid unnecessary losses, delays, and disruptions to the Work.

12.2.2 Progressive Design-Builder and Owner will first attempt to resolve disputes or disagreements at the field level through discussions between Progressive Design-Builder's Representative and Owner's Representative which shall conclude within fourteen (14) calendar days of a written notice, as provided for in Section 12.1 unless the Owner and Progressive Design-Builder mutually agree in writing otherwise.

12.2.3 If a dispute or disagreement cannot be resolved through Progressive Design-Builder's Representative and Owner's Representative within fourteen (14) calendar days of the written notice, as provided in Section 12.2.2, Progressive Design-Builder's Senior Representative and Owner's Senior Representative, upon the request of either party, shall meet as soon as conveniently possible, but in no case later than thirty (30) calendar days after such a request is made, to attempt to resolve such dispute or disagreement. Five (5) calendar days prior to any meetings between the Senior Representatives, the parties will exchange relevant and/or requested information that will assist the parties in resolving their dispute or disagreement.

12.2.4 If after meeting the Senior Representatives determine that the dispute or disagreement cannot be resolved on terms satisfactory to both parties, the parties shall submit within thirty (30) calendar days of the conclusion of the meeting of Senior Representatives the dispute or disagreement to non-binding mediation. The mediation shall be conducted by a mutually agreeable impartial mediator, or if the parties cannot so agree, a mediator designated by the American Arbitration Association ("AAA") pursuant to its Construction Industry Mediation Rules. The mediation will be governed by and conducted pursuant to a mediation agreement negotiated by the parties or, if the parties cannot so agree, by procedures established by the mediator. Unless otherwise mutually agreed by the Owner and Progressive Design-Builder and consistent with the mediator's schedule, the mediation shall commence within ninety (90) calendar days of the submission of the dispute to mediation. The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

12.2.5 Claims, disputes, or other matters in controversy arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution.

12.3 Section 10.1 of the General Conditions is revised as follows:

Litigation.

12.3.1 Any claims, disputes or controversies between the parties arising out of or relating to the Agreement, or the breach thereof, which have not been resolved in accordance with the procedures set forth in Section 12.2 above, shall be decided by in litigation in a Court of competent jurisdiction in Washington in which the Project is located.

12.4 Inclusion of Underutilized Firms. Participation of minority/woman owned, and controlled business enterprises is encouraged. The Progressive Design-Builder agrees that it shall actively solicit the inclusion of minority group members and solicit bids for the subcontracting of goods or services from qualified minority businesses, including firms certified as DBE, W/MBE, or SBE firms by the Office of Minority & Women's Business Enterprises and/or firms certified as a veteran owned business by the Washington State Department of Veterans Affairs ("Minority Firms"). Design Builder agrees it shall diligently attempt to award subcontracts to Minority Firms, as set forth in its response to the Owner's Request for Proposal, and, accordingly, agrees to submit plans for inclusion of Minority Firms as subcontractors and suppliers. The Progressive Design-Builder further agrees to consider the grant of subcontracts to said firms on the basis of substantially equal proposals in the light most favorable to said firms.

12.5 Indemnification.

12.5.1 To the fullest extent permitted by law, the Progressive Design-Builder shall defend, indemnify and hold harmless the Owner, its consultants, and agents, members, affiliates, subsidiaries, employees, officers, principals, and directors of any of them from, for, and against any and all claims, damages, losses, actions, causes of action, liabilities, costs, and expenses, (including but not limited to actual attorneys' and expert fees and costs, and costs and expenses of consultation, preparation, and review of claims and related documents and in enforcing the defense and indemnity obligations hereunder, and including those events covered by any blanket contractual liability coverage required under the Contract Documents) ("Loss"), arising out of or resulting from performance of the Work including the work of all subcontractors hired by Progressive Design-Builder and their employees or anyone for whom they are legally liable, provided any such Loss is caused in whole or in part by (i) the negligent, wrongful, or intentional acts or omissions of the Progressive Design-Builder, a Subcontractor, and their employees or the agent of anyone directly or indirectly employed by them, or anyone for whose acts any of them may be liable, (ii) any determination by a court or agency that Progressive Design-Builder is not an independent contractor or that Owner is the employer or joint employer of any of Progressive Design-Builder's or any Subcontractor's employees or personnel, (iii) any claim, action, suit or proceeding by Progressive Design-Builder or a Subcontractor's employees, including but not limited to worker's compensation, unemployment and wage-and-hour claims, (iv) any violation or infraction by Progressive Design-Builder of any law, order, citation, rule, regulation, standard, ordinance or statute in any way relating to the occupational health or safety of employees, regardless of whether or not such Loss is caused in part by a party indemnified hereunder. The Progressive Design-Builder shall defend all actions brought upon such matters to be indemnified hereunder and pay all costs and expenses incidental thereto, but the Owner shall have the right, at its option, to participate in the defense of any such action without relieving the Progressive Design-Builder of any obligation hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other rights or obligations of indemnity which would otherwise exist as to any party or person under the Contract Documents. The indemnification and defense provisions of this Agreement shall survive any termination of this Agreement.

12.5.2 In claims against any person or entity indemnified under this Section 12.5 by an employee of the Progressive Design-Builder, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 12.5 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Progressive Design-Builder or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts. For the purposes of the foregoing indemnification provision only, and only to the extent of claims against Progressive Design-Builder by Owner under such indemnification provisions, Progressive Design-Builder and its Subcontractors specifically waive any immunity it or they may be granted under the Washington State Industrial Insurance Act, Title 51 RCW.

12. Listing of Exhibits and documents incorporated herein:

Exhibit A – Owner’s Project Criteria

Exhibit B – Scope of Services

DBIA Document No. 535, Standard Form of General Conditions of Contract Between Owner and Progressive Design-Builder (2010 Edition) ("General Conditions of Contract")
Contract Price Amendment (to be negotiated and agreed-to at a later date).

[Section 2.3.1 of the General Conditions of Contract sets forth a traditional negligence standard as it relates to the Progressive Design-Builder’s performance of design professional services. If the Basis of Design Documents identify specific performance standards that can be objectively measured, the parties by including the following language agree that the Progressive Design-Builder is obligated to achieve such standards.]

Notwithstanding Section 2.3.1 of the General Conditions of Contract, if the parties agree upon specific performance standards in the Basis of Design Documents, the design professional services shall be performed to achieve such standards.

Article 13

Limitation of Liability

13.1 Limitation. To the fullest extent permitted by law, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of Progressive Design-Builder, its Design Consultants, and Subcontractors, surety (if any) and their respective officers, directors, employees, and agents, and any of them, to Owner and anyone claiming by, through or under Owner, for any and all claims, losses, liabilities, costs, or damages whatsoever arising out of, resulting from, or in any way related to, the Project or this Agreement from any cause, including but not limited to the negligence, indemnity, professional errors or omissions, strict liability, breach of contract, or warranty (express or implied) shall not exceed the limitation as set forth in the parties’ Purchase Agreement and Intellectual Property License.

In executing this Agreement, Owner and Progressive Design-Builder each individually represents that it has the necessary financial resources to fulfill its obligations under this Agreement, and each has the necessary corporate approvals to execute this Agreement, and perform the services described herein.

OWNER:

PROGRESSIVE DESIGN-BUILDER:

(Name of Owner)

(Name of Progressive Design-Builder)

(Signature)

(Signature)

(Printed Name)

(Printed Name)

(Title)

(Title)

Date: _____

Date: _____

Caution: An original DBIA document has this caution printed in blue. This is a printable copy and an original assures that changes will not be obscured as may occur when documents are reproduced.

EXHIBIT A – OWNER’S PROJECT CRITERIA

1. Project Summary and Scope

1.1 Background

The City is seeking a qualified PDB Team with expertise in mechanical biosolids treatment for their Phase Two upgrades to their wastewater treatment plant (WWTP). See Figure 1. The City operates a WWTP that serves the present population of approximately 85,000 residents. A Facility Plan was completed for the WWTP in 2014 and amended in 2021 which identifies three phases of improvements. The Phase Two upgrades focus on biosolids management at the WWTP to be completed by the spring 2024. Currently, solids are stored in lined lagoons. See Figure 2.

Figure 1 – Proposed Phase 2 WWTP Upgrade Site Plan

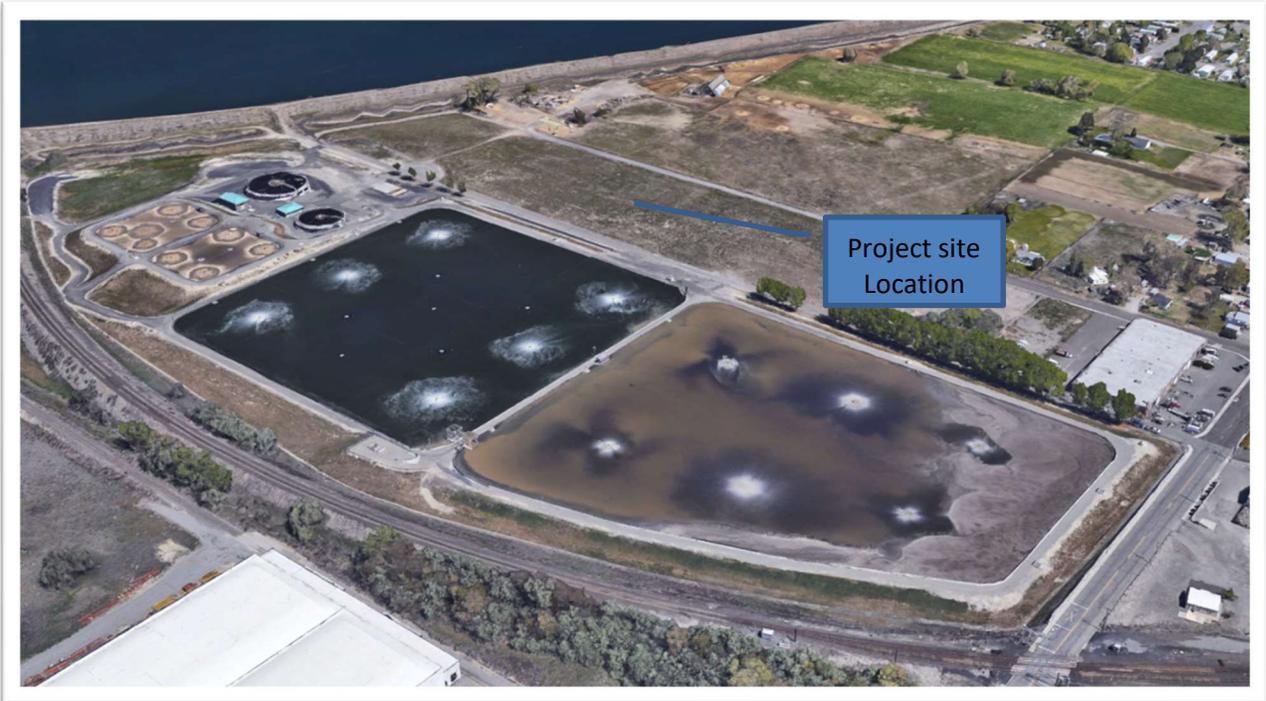
Existing and Proposed Site Plan



- Proposed project to be built on existing City property



Figure 2 – Existing Lined Lagoons



When the storage lagoons become full, the City issues a call for bids to dredge out the solids and dispose of them. The solids are typically land applied on dryland crops that are managed as beneficial use facilities. The solids storage ponds are a source of significant odors and the City is interested in conditioning the solids to meet the Ecology’s Class A criteria which will open disposal options and potentially create a marketable product. The storage lagoons are expected to be nearly full in Spring 2024 – which is why the City desires to have the new solids handling process online by Spring 2024. In order to avoid the cost of dredging and hauling the solids from the storage lagoons, the City is willing to entertain strategies to dredge the solids and send them through the newly constructed solids handling process.

The City desires to use an innovative Progressive Design Build approach to develop the design and construct a facility to condition the solids to meet Class A criteria based on a recent and successful implementation of the technology in Pasco County, Florida. The City has visited the site, performed pilot testing, and is confident that this approach meets their intended goals and purpose for the facility and project. The process involves dewatering the solids, drying, and conditioning in greenhouses, further drying in a thermal dryer environment and pasteurization to meet Class A criteria. A robust ventilation and odor control system to manage the foul air. Greenhouse heating will maintain functionality during the winter months. The City is interested in evaluating various strategies for the handling and storage of the daily solids volume. The ability to dredge and process solids from the existing storage lagoons could also be an important consideration.

1.2 Biosolid Treatment Process

The proposed biosolids treatment process will enable the City to prepare Class A fertilizer for City parks, crops, and other similar facilities. See Figure 3.

Figure 3 – Biosolids Treatment Process

Biosolids Treatment Process

How it works:

- Step 1: WWTP Sludge is dewatered by belt filter press to achieve ~20% solids



Step 2

- Step 2: Dewatered biosolids are spread in a greenhouse for pre-drying to achieve ~60% solids through evaporation by solar heat, tilling and air circulation



Step 3

- Step 3: Air is moved through the green house and is scrubbed through an activated carbon filters to emit odor free air

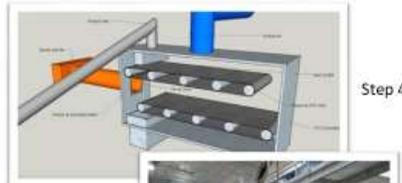


KENNEWICK
WASHINGTON

Biosolids Treatment Process

How it works:

- Step 4: Biosolids are transferred from the greenhouses to a day hopper and finally a thermal dryer. The thermal dryer is designed to meet EPA regulation for pasteurization of 70°C (158°F) for 30 minutes.



Step 4



Step 5

- Step 5: Final product is Class "A" biosolids that do not have the same use or application restrictions as Class "B" due to pathogen reduction
- Class A can be used as fertilizer for crops.



KENNEWICK
WASHINGTON

1.3 Goals

The City has developed a list of goals for the Project. These goals are to guide the Project forward through completion. While all goals are important to City and the success of the Project, specific minimum goals for this Project are outlined below in order of significance.

- A. The City, City's Owners Representative and PDB Team shall work collaboratively together throughout the entire project cycle.
- B. The PDB Team shall
 - 1. Maintain a continual and unimpeded safe and well-kept operation of the WWTP throughout the Project duration.
 - 2. Provide a quality and sustainable project that meets the performance requirements and follows Washington State's design build guidelines and meeting RCW 39.10 (Alternative Public Works Contracting Procedures) and RCW 39.19 (OMWBE requiring compliance by expanding public contracting opportunities for women and minority business enterprises).
 - 3. Plan, design, and construct a \$24M or less, odor free project that is operational by April 1st, 2024. PDB Team's GMP within 10% of the City's independent cost estimate.
 - 4. Size the facility for twenty years of growth.
 - 5. Utilize the FloridaGreen Concept using greenhouse facilities that dewater, pasteurize and process biosolids.
 - 6. Complete the project within the programmed budget, minimize long-term operational and maintenance costs and provide an efficient startup process for the City to operate the facility.
 - 7. Develop a strategy to dredge the solids from the existing storage lagoons and process the solids in the newly constructed facility – to avoid the cost of the planned Spring 2024 dredging and hauling of solids from the storage lagoons.
 - 8. Retain Solids Storage Lagoon No. 1 for emergency storage.
 - 9. Minimize usage of potable water and utilize recycled water as much as possible.
 - 10. Maintain positive community acceptance of the Project and minimize impacts to the adjacent landowners and residential development.
- B. Maximize Project benefits (i.e., Class A biosolids to be used for City parks and other amenities)

1.4 Risks and Opportunities

The nature of this Project presents several areas of risks and opportunities. A preliminary qualitative and quantitative risk/opportunity evaluation has been performed the City. See Table 2.

Table 2 – Preliminary Risk/Opportunity Assessment

Risk ID	Risk Group	Risk Name	Risk Description	Threat/ Opportunity	Risk Type
DES 1	Design	New Technology	The FloridaGreen technology has not been widely used across the country	Threat	Cost
DES2	Design	Patent Use	City has purchased rights to patent prior to RFQ release. All PDB teams will have access to patent rights.	Threat	Schedule
DES3	Design	Design and Permitting Requirements	Prepare and complete all design and permitting requirements, including with the Department of Ecology, prior to construction NTP	Threat	Schedule
DES4	Design	Class A Solids Management	Opportunity to use biosolids for the purposes of fertilizer for parks and other City amenities.	Opportunity	Cost
DES5	Design	Class A Solids Management	The accumulation of daily volumes of biosolids will require handling, storage and/or use.	Threat	Cost
DES 6	Design	Dredging of Existing Storage Lagoons	Existing Storage Lagoons are scheduled for dredging/disposal in 2024. Opportunity to process these solids through new system to avoid the planned cost.	Opportunity	Schedule
CON1	Const	Cost Escalation	The daily volatility of labor, supply chain limitations and materials costs will impact the Project	Threat	Cost/Schedule
CON2	Const	Site Conditions	See geotechnical report	Threat	Cost/Schedule
CON3	Design and Const	Diversity and Inclusion	Limited skilled minority owned businesses	Threat	Schedule
CON4	Const	PDB Team Experience	Limited Experienced PDB Teams	Threat	Cost/Schedule

EXHIBIT B

**City of Kennewick
WWTP Phase II**

Class A Biosolids Greenhouse Facility Upgrades Project

GENERAL PROJECT UNDERSTANDING

1. Merrell Bros, Inc. (MB) has entered into a two-step agreement with the City of Kennewick (OWNER) to construct the WWTP Phase 2 Upgrades Class A Biosolids Processing Plant (BPP) under a Guaranteed Maximum Price (GMP) as part of a Progressive Design Build (PDB) delivery method.
2. The required professional services for the proposed BPP will be based on the concept developed by MB in cooperation with the OWNER during step-one phase and contract negotiations. Figure 1 shows the concept sketch/footprint of the BPP, as envisioned by MB and the OWNER, based on the proprietary process as described under "Process Overview".
3. Upon approval from the City Council, the OWNER will issue the Notice-to-Proceed (NTP) to MB for the design, early procurement items, pricing, and construction quality plan development of the BPP.
4. The BPP will be located at the City of Kennewick Wastewater Treatment Plant, east of the current facilities and the land required for this facility has been dedicated by the OWNER. The proposed footprint will occupy approximately twelve (12) acres to develop the necessary infrastructure including site civil works, building structures and related facilities including odor control system. MB has sized the BPP based on total sludge processing capacity and seasonal variations as agreed with the OWNER.
5. The PDB team will coordinate with Benton PUD by providing electrical loads. Based on that load analysis, Benton PUD will set the transformer on the project supplied electrical pad. Benton PUD will provide the transformer and pull wire on/to the supply side. OWNER is coordinating with Cascade Natural Gas (CNG) for the gas supply needed for the pasteurizer. OWNER will pay CNG all necessary extension fees associated with supply side to the gas meter. Further, the OWNER will pay all utility service connection or design fees that may arise from any utility during Step 1.
6. MB and the OWNER have agreed to use pre-manufactured specialty components to manage the BPP's facility costs and to take advantage of the selected manufacturer's in-house fabrication, production and engineering services. All engineering related work will be under the responsibility of a Washington State professionally licensed engineer.
7. Based on the performance requirements agreed by the OWNER and MB, specialty manufacturers will provide signed, sealed design for pre-engineered components of the design under the direction of a Washington State licensed engineer. MB will be responsible for ensuring compliance with American Iron & Steel (AIS) or Build America Buy America (BABA) funding requirements set by WA Dept of Ecology. Listed in the Table below are the components anticipated at the time of scoping for the BPP.

COMPONENTS SUPPLIED
Greenhouse Building Pods for solar pre-drying of wet biosolids
Process Building including office area, electrical / controls room and shop area.
Biosolids Receiving Structures (IF NEEDED)
Storage Building for Class A Fertilizer (IF SEPARATE FROM PROCESS BUILDING)
Proprietary Gas Oven / Dryer System and associated components
Odor Control System, exhaust fans and associated ductwork
Cyclones and associated dust control components
Slab hydronic heating system for process building

Sludge Holding Tanks (SHT) (Unless CIP tanks are utilized)
Under structure for dewatering equipment (IF ELEVATED)
Catwalking & stairs around pasteurizer and at dewatering equipment (IF NEEDED)

PROCESS OVERVIEW:

The BPP will have an annual processing capacity developed by the PDB team to accommodate the 20-year (2024 – 2044) projected volumes from only the City of Kennewick (does not include other customers). Alternatively, sludge holding tanks and pasteurizer will be built large enough for future flows with space allowed for additional dewatering equipment, greenhouse floor space and boiler(s) for corresponding hydronic slab heating system. The process will use storage and decanting in sludge holding tanks, dewatering presses, pre-drying in the greenhouses and thermal drying for pasteurization to produce a Class A product suitable for use as a fertilizer, and pelletization. Biosolids from the OWNER’s Wastewater Treatment Plant (WWTP) will be pumped to this facility. The facility will also be designed by the PDB team to receive biosolids cake hauled from a nearby municipality estimated at 25% of the City of Kennewick’s 20-year projections for biosolids capacity for processing to Class A standards, as defined by the Washington State Department of Ecology.

The design of the facility anticipates two (2) sludge holding tanks (sizing to be determined during design) and one (1) dewatering train. An unloading area for receiving outside dewatered biosolids will be an overhead door into the dewatered sludge discharge-pickup area for live bottom trailers, end dumps or dump trucks to back into and unload. No design costs are included for a tip-up load-in structure.

Stage 1 – Sludge Holding Areas: Biosolids shall be stored in sludge holding areas. Sludge will be transferred from the existing clarifiers to sludge holding tanks onsite by the existing WAS pumps (or new WAS pumps if necessary). Tanks are anticipated to be uncovered prestressed concrete ground storage tanks with a catwalk between. Tanks will be sized to accommodate four (4) days of WAS storage each. Tanks will be electronically controlled such that as one tank is filling, the other is decanting or feeding thickened WAS to the dewatering process. The tank aeration and mixing system will include dissolved oxygen monitoring and control. Initially the tanks will also receive some portion of WAS from the existing lagoons.

Additional features of the SHTs may include electrical control of tank filling/decanting, blowers for aerations, pressure transducers for level control, dissolved oxygen in tank, mechanical mixers and TSS monitors.

No structural design costs are included for cast-in-place (CIP) tanks. At the time of contract, a cost analysis for CIP versus pre-stressed was requested by the OWNER, but not finalized. Prior to consideration of this analysis, a preference was shown by the OWNER for round, pre-stressed.

Stage 2 – Dewatering Press: Thickened WAS will be transferred from the SHTs to the dewatering system by variable frequency drive (VFD) controlled transfer pumps inside the process building. Transfer pump speed will be controlled by either manual adjustments to the VFDs or based on flocculation tank/head box level. Polymer make-down and flow-paced polymer feed system will be provided for enhanced dewatering. It is anticipated that flowmeters will also be used to monitor the transfer rate of the thickened WAS to the dewatering system.

Stage 3 – Solar Drying: It is assumed that biosolid material will be transferred from the dewatering system to the pick-up area via a conveyor. The biosolids will be manually spread with a payloader and allowed to dry from a moisture level of approximately 85% down to approximately 45%. Agitation and a mid-drying phase “flip” is anticipated to enhance the drying process by periodically turning over the sludge and aerating it. This is manually performed using a tractor with tillage implement inside the pods. High volume, low speed fans will assist the evaporation process by stirring air within each of the pods. Controlled ventilation fans will be used to replace the saturated moist air within the pods with dryer ambient air. The high humid air inside the pods will be exhaust through large high cfm exhaust fans to the activated carbon systems for odor control. Seasonal requirements will be included as part of the design development.

Stage 4 – Thermal Drying: After the biosolids in the pods have reached the desired moisture content of approximately 45% (55% solids), they will be conveyed to the pasteurization system to include a belt system and dryer oven fired by natural gas.

By maintaining the temperature of the biosolids at 70° C for a minimum of 30 minutes, the state and federal requirements for pathogen destruction mandated under “40 CFR 503.32” will have been met. Further, the moisture content of the biosolids exiting the pasteurization oven will have declined to a maximum of 25% moisture (or 75% solids content), thereby achieving the secondary requirements of Vector Attraction Reduction and qualifying the end product for designation as a Class A biosolids.

The Class A end product intended for bulk distribution and/or bagged super sacs will be conveyed to a separate Finished Product Loadout/Storage Building. This structure will be capable of live loading directly into bulk transport trailers for market delivery via a payloader ramp. Sizing will be determined during the preliminary design phase. It is possible for the Class A product to be state registered as a commercial/retail fertilizer product and marketed to end users. A set of truck scales will be installed, both for biosolids permitting and sales purposes.

Stage 5 – Pelletization: Following pasteurization, it is anticipated that a certain percentage (to be determined during preliminary design) of the Class A fertilizer will be pelletized for marketability in a non-agriculture setting. Additionally, different pellet sizes could be produced for different applications.

USE OF EXISTING DATA AND/OR SUPPLEMENTAL DATA PROVIDED BY OTHERS

To minimize redundancy, duplication and cost, MB will rely on using existing data provided by the OWNER to determine the level of effort required for the development of the construction drawings for this facility in accordance with the following:

- As-built site drawings of the existing City of Kennewick WWTP showing all existing water and sewer facilities, both underground and above ground, as well as any other planned projects underway.
- Existing Permits held by the City of Kennewick for the WWTP.
- Field surveying and mapping data as provided by the OWNER. Additional field survey, if required, will be provided by the OWNER.
- SUE services as required to locate existing utilities will be provided by the OWNER. MB will send Preliminary and Final Design Plans to local utility purveyors to verify all known existing utilities are depicted correctly. OWNER field crew staff will pothole identified potential conflicts during design and tie to the City's established survey control.
- AutoCAD drawings of the proposed facility including equipment locations as provided by respective manufacturers.
- Manufacturer data on all equipment pre-selected by MB and OWNER.
- Third Party Utility Agreements with OWNER and/or other Utility Companies.
- Anticipated points of connections to existing utilities (water, sewer, electric and gas) in the vicinity of the BPP.
- Preliminary Geotechnical information and soils exploration data has been obtained by the OWNER for this site. Additional Geotechnical services will be procured by MB and provided by the same Geotech consultant, GPI, as part of the Step 1 agreement.
- Copies of SERP and cultural resources assessment previously completed by the OWNER for this project. Cultural resource monitoring, as required by Ecology, will be procured and managed by MB.

MINIMUM DESIGN STANDARDS:

MB will use latest edition at Notice to Proceed (NTP) of the following standards specific to the services provided by MB under this IPO:

- Washington Building Code
- WSDOT Design Standards and Specifications as it relates to site civil design.
- American Water Works Association (AWWA)
- Washington Mechanical and Plumbing Code
- Washington Electrical Code
- National Electrical Code (NEC) 2015
- Washington Department of Ecology
- City of Kennewick
- RCW 39.10 and 39.19
- ANSI/ISA

In case of conflict, MB will use the more stringent requirements.

PERMITS DURING DESIGN PHASE:

Due to prior permitting history with the City of Kennewick and the WA Department of Ecology (DOE) the PDB Team has designated Harms Engineering (Harms) as the Permit Consultant for submitting the permits indicated below to the respective agencies. MB will provide plans and computations as supporting information to Harms for preparing the Permit Packages for the following agencies identified below. The OWNER will pay any permit fees assessed:

- WA DOE Biosolids Processing Facility Permit.
- WA DOE NPDES Permit required for exceeding one acre of ground disturbing activity.
- WA DOE Investment Grade Energy Audit
- City of Kennewick Site Development Permit. It is assumed all stormwater will be infiltrated onsite to meet detention and water quality requirements.
- City of Kennewick Building Permit
- US EPA – Single Source Air Permit for the Biosolids Facility

STEP 1 SCOPE OF WORK:

General

- Finalization of geotechnical design recommendations through GeoProfessional Innovation. Additional subsurface exploration of area to the north of clarifiers, if necessary to construct sludge holding tanks there. Perform seismic refraction microtremor evaluation, if necessary for pre-stressed tank engineering or other engineering requirements.
- Coordination of subsurface utilities with proposed improvements based on as-builts and survey data provided/collected by the OWNER. This includes coordination with local utilities at 30% design development to coordinate and avoid any conflicts between existing and proposed utilities/improvements.
- Odor dispersion modeling will be performed utilizing the data provided by the organoleptic panel from air samples taken during piloting. This odor dispersion modeling will provide guidance during odor control design. Performance of this modeling is at the discretion of the OWNER.
- Mobilization of a job trailer with a space for City building inspectors to consult plans. This includes temporary stabilization of a small parking area and connection of temporary utilities to include power, electric, water, phones and internet. This includes a minimal phone system, wireless internet equipment and WAP, network security/remote access devices, and document reproduction, including wide-format.
- Fencing of site at Nutmeg access. Fencing at Oak access; coordination with property owner to ensure access is maintained to livestock and property at northeast of Oak.
- Posting of job signage
- Job cost accounting: the PDB team will track costs for Step 1 and submit payment applications monthly.
- Insurance will be maintained at desired levels by all members of the PDB team and their consultants. Proof of insurance (POI) will be collected and transmitted to the OWNER. The PDB team will monitor all renewals and provide new POI as needed.
- Coordination with DOE on treatment process approval
- Coordination with OWNER on design for solids processing capacity of 20-year's growth
- Coordination with OWNER on design for sizing for regionalization
- Coordination and management for early release of any long-lead items during Step 1, ensuring AIS/BABA requirements are met
- Coordination and hosting of workshops as needed to prosecute the design work
- Merrell Bros will follow and document a formal QC/QA and interdisciplinary review process at each milestone.
- Revisions and updating of Project Schedule for Project Team: reasonable effort to revise and update the

schedule will be undertaken as the PDB process unfolds and decisions are made by the larger Project Team.

- Estimating: includes development of pre-design (at notice-to-proceed), 30%, 60% and 90% (GMP contract) estimates. Includes open and transparent collaboration with OWNER and their Independent Engineer's estimate at each of these stages of design development. Includes development of contractual alternates and value engineering options at OWNER's request. Where appropriate, estimation efforts will include some conceptual estimating, whereby reliable historical unit prices are applied to a PDB take-off. In the interest of capturing the most up-to-date, local market for different trade scopes, a heavy emphasis will be placed on subcontractor involvement in the estimating process. Time for preparation of documents for transmittal to trade contractors, trade contractor review and preparation, PDB team review and collaboration with trade contractors for conformance of conceptual estimates, and assembly of data into the larger estimate should be anticipated in the schedule. Much of this effort will take place concurrently with design work in the next phase where action can be taken on the information revealed by the estimate.
- Prequalification: In accordance with RCW 39.19, the PDB team will reach out to DBE contractors to foster interest and assess capabilities for this project. The same prequalification procedures will be applied to all trade contractors, DBE or otherwise, to ensure success on the project. An effort will be expended to ensure adequate bid coverage in all trade scopes of work.

Civil, Process and MEP Engineering

Based on the foregoing "Project Understanding", MB'S Step 1 design services to provide a sustainable project that meets the OWNER's goals and requirements will consist of the following: The primary components engineering design services for the WWTP expansion are listed below:

- Process Mechanical
 - Modifications to existing RAS/WAS pumps and piping.
 - Construction of two new sludge holding tanks
 - Sludge holding tank transfer pump station.
 - Decommissioning of Aerated Sludge Lagoon No. 2
 - Yard piping from Aerated Sludge Lagoon No. 1 to sludge holding tanks.
 - Dewatering equipment, building, polymer system, transfer system, washdown water,
 - Reclaimed water system piping/controls modifications
 - Yard piping modifications
- Site Civil
 - Roadways, stormwater collection and conveyance, utilities, site grading, scales, parking, site lighting, signage, pavement markings, site fencing, entrance gate, security
- Mechanical, Electrical, and Plumbing (MEP)
 - Mechanical Engineering Systems for the Process Building.
 - Plumbing Engineering Systems for the Process Building.
 - Review of shared space layout in building ensuring sufficient air exchange requirements
 - Fire Protection design.
 - Fire Alarm performance specifications, if required.
 - Electrical Service Engineering Systems including power and lighting.
 - Lightning Protection performance specifications.
 - Communications Engineering Systems
- Project Administration
 - Project coordination and required meetings with MB's major subcontractors (technology dependent vendors), engineers, and equipment manufacturers
 - Project coordination and required meetings with the City of Kennewick Public Works Engineering/Capital Project Management Team, City of Kennewick WWTP Operations Staff, and J-U-B Engineers (OWNER'S REP)

- Incorporate the manufacturers' drawings, signed & sealed by a discipline-appropriate, Washington-licensed PE, as part of the construction documents and component set of the proposed BPP.
- MB's respective manufacturers, vendors, subcontractors and/or specialty consultants will provide all engineering services relative to the design of electrical, mechanical and above ground structural components based on MB's performance agreement, warranties and other contract terms and conditions with the OWNER. A table of anticipated Early Release Packages is included as an attachment to this Step 1 Contract Scope of Work.

SPECIFIC SCOPE OF SERVICES:

The design and construction plans preparation for Step 1 effort will consist of the following:

1. Design Kick-off Meeting: Upon issuance of the NTP for Design Services, a project kick-off/site meeting with Operations staff will be held with the OWNER, OWNER'S REP, and PDB Team to validate project understanding, the proposed design concept and workplan, and to obtain concurrence prior to initiating preliminary design. At this time Merrell Bros. and OWNER of Kennewick will provide a schematic site plan indicating traffic flow, location of greenhouses, process building, sludge holding tanks, scales, biosolids loadout ramp, etc. They will also provide a schematic process building plan showing rooms, equipment locations, storage areas, dewatered biosolids pick-up area, etc. It is presumed that the general concept and selections from alternatives analysis as agreed between MB and OWNER at the time of 30% Design Review milestone meeting will move forward without material changes to impact budget and schedule.

2. Milestone Delivery of Design Services:

- PRELIMINARY DESIGN PHASE (~ 30% Plans):
 - a. MB will prepare an overall site development plan for the proposed improvements and related infrastructure elements, identifying horizontal and vertical controls, facility footprint, proposed building locations, preliminary grading, traffic flow/circulation based on operational efficiency and safety, pavement materials, biosolids loading ramp layout, SHT layout, approximate locations of pump station facilities, existing utilities based on OWNER provided survey, proposed utilities, access controls for the facility, stormwater conveyance and management, drainage controls and erosion control measures, as necessary. During this phase, preliminary sizing of the SHTs will be provided and evaluation of existing WAS pumps for transfer to the new SHTs will also be performed. During this phase, the cost impacts of accepting 25% more solids from an outside contributor will be evaluated and presented to the OWNER, but not yet be included in the layout drawings.
 - b. MB will hold monthly task force meetings with the OWNER, OWNER'S REP, and PDB team to update the team on progress and provide options for various components and systems. Monthly task force meetings will be held for the duration of Step 1 anticipated to be a maximum of twelve months or 12 meetings. The meetings will follow the Research, Report, Review, Design, and Assign format outlined in MB/KH response to request for qualifications. Under the Preliminary Design Phase it is anticipated that decisions will be made regarding the inclusion of the following items of work:
 - i) Sludge Holding Tanks – type of tank, electrical controls, blowers, level control, DO, mixers, TSS monitors
 - ii) WAS/RAS pumps
 - iii) Dewatering press
 - iv) Conveyors
 - v) Pasteurizer
 - vi) Pelletizer

- vii) Storage area
 - viii) Scales
 - ix) Components/facilities inside the Prefabricated Metal Building
- c. MB will prepare overall general arrangement drawings of the BPP based on MB provided sketches, dimensions, parameters and understanding with the OWNER. The general arrangement drawings will be drawn at a suitable scale to show the footprint of each pre-engineered building and their respective spatial relationships on the site as it pertains to process flow. To minimize duplication and redundancy, MB will coordinate with the respective pre-selected manufacturers/vendors to obtain their respective preliminary drawings in AutoCad format and incorporate these in the overall general arrangement facility drawings of BPP. Preliminary floor plans, elevations and typical sections will be shown as part of the overall General Arrangement Drawings as provided by the respective pre-engineered building manufacturer's, which will also depict conveyor layout, hoppers, presses, cyclones, odor control system and other major equipment to conceptualize the overall make-up of the BPP.
- d. MB will engineer the mechanical, plumbing, and electrical (MEP) systems for the respective areas in the Process Building, Storage Building and the Greenhouse, and electric service to support the pre-selected process equipment and associated components, as well as the onsite SHT and transfer pump facilities. The scope of the project is specific to the following:
- i) Mechanical Systems: MB will provide engineering drawings for the Process Building. Drawings will include HVAC design calculations, engineering plans, exhausts systems for restrooms, conditioning of office & electrical room space, outside air, controls and technical specifications. It is assumed the process area will consist of large fans and no conditioning will be required other than the in-floor hydronic heating system (if desired by OWNER).
 - ii) Plumbing Systems: MB will provide engineering drawings for the Process Building. It will consist of sanitary sewer, potable water (cold and hot), and gas, including coordination with MB for the points of connections. MB and the OWNER have determined that water and sewer service for the greenhouse pods and the biosolids receiving areas will not be required. Therefore, water and sewer utility services have been excluded from the scope of services.
 - iii) Fire Protection and Fire Alarm if REQUIRED: MB will provide "Performance Specifications" for the fire alarm systems for the Process Building and the Greenhouses. Further, time is included to assess how the fire alarm system might integrate with that over on the primary/tertiary treatment side of the plant and what equipment/interconnection is needed. Full design is included for the fire sprinkler system. FP engineer will review FP contractor shop drawings/field install (during Step 2) and submit permit level drawings/hydraulic calcs to CITY for fire sprinkler system permit (there is no delegation of the design of the automatic sprinkler system to a contractor). MB will work with pre-selected fire alarm vendors for both, the design and the installation (during Step 2) of the appropriate systems in accordance with the performance specifications if REQUIRED. Fire alarm contractor will submit shop drawings/battery calcs for CITY fire alarm system permit as part of their scope of work during Step 2. Fire alarm engineer will provide locations of equipment, interconnections required, locations of devices, provide specification for successful bidding of the project. During Step 2, this engineer will provide shop drawing/field inspection review as part of those services.
 - iv) Electrical Systems: MB will provide engineering drawings for the Process Building, Greenhouses and SHTs. Work will include new service from Utility point of connection, 13kV/480V transformer, new service entrance section, power and lighting service, and conduit routing to the various pre-engineered/pre-fabricated components/equipment located in the Greenhouse Building, Process Building and the SHTs. Exterior lighting will be

limited to the Process Building and the Storage Building only. No other exterior lighting including site lighting will be required. Design of SCADA controls for the mix/decant/air at the SHTs and all interconnection of the various vendor controls with the SCADA system is included (cable and conduit). Time is included to explore both, what is necessary from a technological perspective, and also what is preferential by the OWNER. Time is included to assist with selection of instrumentation devices and develop instrumentation line diagrams for the SHTs. Further, an assessment will be determined as to level of programming required to integrate all systems during Step 2.

- v) Lightning Protection: MB will provide performance specifications for the lightning protection system for the Process Building, Greenhouse Buildings, and SHTs. MB will work with pre-selected specialty vendors for both, the design and the installation of the appropriate systems in accordance with the performance specifications.
 - vi) Communications System: MB will provide design for network, intrusion detection and access control. Again, this includes time for assessment of how these improvements might integrate onto an existing system west of the railroad tracks and potentially save cost.
 - vii) MB will prepare overall general arrangement drawings of the electrical, mechanical and plumbing based on MB provided sketches, dimensions, parameters and understanding with the OWNER and the respective spatial relationships as it pertains to process flow provided by others.
- e. Deliverables: Upon completion of the Preliminary Design Phase (30% Plans), MB will submit for approval PDF copies of the following required deliverables:
- i) Preliminary Design Report (PDR) defining major design elements by discipline, applicable design codes and narrative describing the design intent for various technical disciplines including, site/civil, process, MEP, instrumentation, controls and electrical service considerations. MB will coordinate with pre-engineered component manufacturers and vendors to obtain their respective PDR information and incorporate these as Appendices in the overall PDR of the facility.
 - ii) PDR will identify agencies having jurisdiction over permit reviews and approvals, as described previously under "Permits During Design Phase"
 - iii) Index of drawings anticipated for the completion of the Construction Plans. For work performed by other disciplines, MB will obtain the Index of Drawings from the respective pre-engineered component manufacturers including electrical, mechanical, structural and associated components. The Index of Drawings will be listed on the Cover Sheet.
 - iv) Copies of meeting minutes and relevant project correspondence with regulatory agencies as provided by Harms Engineering.
 - v) Project Management Plans: This task covers the effort associated with preparing the project management manuals during the 30% Design phase as outlined in the RFP:
 - Community Coordination Plan – assumed to be a paragraph outlining the proposal for a public open house/ribbon cutting ceremony at project completion. Plan will identify key stakeholders to invite and what level of presentation is anticipated.
 - Project Management Plan – Workplan for Design that includes budgets/staffing/schedule & milestones/communication protocols/QC process once we have an executed contract.
 - Design Quality Plan Manual – QA/QC process/procedures/schedule will be outlined as a section of the Project Management Plan noted above.
 - Basis of Design and Construction Manual – Basis of Design Report will be provided outlining assumptions and design calculations. Basis of Construction Manual is anticipated to be the overall Contract Manual outlining construction contract terms

and project specifications and will be developed between 30-90% Design.

- Construction Quality Management Plan – Construction Quality Management Plan will be prepared in accordance with ACEC guidance.
- Accident Prevention Program
- Diverse Business Inclusion Plan
- vi) CPP #1. Adequate time should be allowed for development of this estimate AFTER deliverables are in-hand, and in collaboration with the independent cost estimating (ICE) team.
- f. Milestone Review Meeting/Design Charette: It is anticipated that Bluebeam software will be used for reviews and in accordance with the agreed upon schedule. After a three (3) week review period and development of CPP #1, a 30% milestone review meeting will be held with MB, the OWNER, and the OWNER'S REP to discuss the OWNER's review comments, reach agreement on the disposition of the review comments including potential cost and schedule impacts. During this meeting the OWNER will provide approval to proceed to the next milestone "60% Construction Plans".
- g. Pre-app Meetings with Permitting Agencies: It is assumed that the Permit Consultant (Harms) will submit applications and coordinate with permitting agencies for pre-app meetings.
- h. Early Release Packages: Following the 30% Design Charette and review of CPP #1, the PDB Team will release early procurement package #1 (as outlined in the table at the end of this scope of work). This effort will be led by Merrell Bros and supported by Kimley-Horn and the Manufacturers of Delegated Design Components. Kimley-Horn's support will include providing 30% Plans and Specifications for the early procurement packages to be coordinated by Merrell Bros.
- DESIGN DEVELOPMENT PHASE (~ 60% Construction Plans)
 - a. Based upon the OWNER's approval of the Preliminary Design documents, MB will advance the project to the 60% construction plans and incorporate the OWNER's appropriate review comments from the previous milestone submittal. MB will provide a written response to the OWNER's design comments and requests, including a checklist indicating those items incorporated into the design and those that are not included (with explanations for their exclusion).
 - b. The 60% Design Development Phase will include further details/features of site civil engineering, grading, utilities, drainage, MEP, traffic circulation, pavement design details, and other essential elements as may be appropriate, including drawings from the pre-selected specialty manufacturers and vendors. Pre-engineered building plans, and pre-engineered mechanical, electrical and equipment component plans required from the respective manufacturers, will be coordinated by MB and incorporated as separate and distinct part of the 60% Construction Plans Package.
 - c. During the 60% Design Development Phase, the Permit Consultant (Harms) in coordination with MB, will submit the required Permit Applications to the appropriate regulatory agency. Responses to all RFIs from the respective agencies including meetings required to clarify specific RFIs, will be proactively handled during this phase to expedite the permit process.
 - d. MB will prepare an outline of the technical specifications of the various components of the proposed BPP based on the following to minimize redundancy and promote the use of standards:
 - i) Site civil elements will reference the appropriate standard specifications
 - ii) Structural elements will be provided by Harms and reference the appropriate codes and standards.
 - iii) MEP elements will reference the appropriate codes and standard specifications
 - iv) Pre-engineered building component specifications, as well as, the pre-engineered

mechanical and electrical component specifications as provided by the respective manufacturers, will be incorporated as notes on plan sheets.

- e. Deliverables: Upon completion of the 60% Design Development Phase, MB will submit for approval PDF copies of the following required deliverables.
 - i) 60% Construction Plans including copies of permit applications and submittals.
 - ii) Draft Technical Specifications as notes on plan sheets.
 - iii) Responses to OWNER's review comments from the Preliminary Design Submittal (30% Plans)
 - iv) Copies of meeting minutes and relevant project correspondence with regulatory agencies as provided by Harms.
 - v) CPP #2. Adequate time should be allowed for development of this estimate AFTER deliverables are in-hand.
 - f. Milestone Review Meeting/Design Charette: It is anticipated that Bluebeam software will be used for reviews. After a three (3) week review period and development of CPP #2, a project review meeting will be held with MB and the OWNER to discuss the OWNER's review comments, reach agreement on the disposition of the review comments including potential cost and schedule impacts. During this meeting the OWNER will provide approval to proceed to the next phase of the project – "90% Design Phase". At this time, consensus will be obtained to begin procurement of early release packages.
 - g. Early Release Packages: Following the 60% Design Charette and review of CPP #2, the PDB Team will release early procurement package #2 (as outlined in the table at the end of this scope of work). This effort will be led by Merrell Bros and supported by Kimley-Horn and the Manufacturers of Delegated Design Components. Kimley-Horn's support will include providing 60% Plans and Specifications for the early procurement packages to be coordinated by Merrell Bros.
- DESIGN DEVELOPMENT PHASE (~ 90% Construction Plans)
 - a. Based upon the OWNER's approval of the 60% Construction Documents, MB will advance the project to 90% Design Phase and incorporate the OWNER's appropriate review comments from the previous milestone submittal. MB will provide a written response to the OWNER's design comments and requests, including a checklist indicating those items that have been incorporated into the design and those that were not incorporated (with explanations for their exclusion).
 - b. MB will prepare 90% Design Development Phase consisting of drawings and specifications setting forth in further detail the requirements for the construction of the BPP. The 90% design plans will include additional refinements to the details/features of site civil works, grading, utilities, general arrangement drawings, floor plans, MEP, drainage, pavement details, and associated details. 90% pre-engineered building plans, and pre-engineered mechanical, electrical and equipment component plans required from the respective manufacturers will be coordinated by MB and incorporated as separate and distinct part of the 90% Construction Plans Package.
 - c. During this Phase, MB's Permit Consultant (Harms) will continue to resolve any outstanding RFIs and coordinate with the appropriate agencies for the issuance of the required permits. MB will obtain regular updates from Harms on the status of permits.
 - d. MB will provide Technical Specifications as notes on plan sheets for the disciplines which it is responsible for under this IPO. Other Technical Specifications for pre-engineered building systems, as well as, the pre-engineered equipment will be coordinated by MB with the respective manufacturer and incorporated as notes on the plan sheets. The specifications will also include reference standards for Quality Control and material testing requirements.
 - e. Deliverables: Upon completion of the 90% Design Phase, MB will submit for approval PDF copies of the following required deliverables.

- i) 90% Design Documents consisting of drawings and technical specifications as described above.
 - ii) Permit Approval Report indicating permits and approvals applied for and obtained and those outstanding. This Report will be prepared by MB's Permit Engineer (Harms) and provided to MB as part of its deliverable.
 - iii) Responses to OWNER's review comments from the previous Design Submittal (60% Plans)
 - iv) Copies of meeting minutes and relevant project correspondence with regulatory agencies as provided by Harms.
 - v) GMP. Adequate time should be allowed for development of the GMP AFTER deliverables are in-hand and available for bidding.
- f. Milestone Review Meeting/Design Charette: It is anticipated that Bluebeam software will be used for reviews. After a three (3) week review period and development of the GMP, a project review meeting will be held with MB and the OWNER to discuss the OWNER's review comments, reach agreement on the disposition of the review comments including potential cost and schedule impacts. During this meeting the OWNER will provide approval to proceed to the next phase of the project – "100% Construction Plans". At this time, consensus will be obtained as to the pathway to a final GMP approval by City Council.
- DESIGN DEVELOPMENT PHASE (~ 100% Construction Plans)
 - a. Based upon the OWNER's approval of the 90% Design Documents and any comments from Authorities, MB will advance the project to 100% Construction Document Phase and incorporate the OWNER's appropriate review comments from the previous milestone submittal and any permit review comments from Authorities. MB will provide a written response to the OWNER's review comments indicating those items that have been incorporated into the design and those that were excluded (with explanations for their exclusion)
 - b. MB will coordinate with MB's Permit Engineer (Harms) to obtain a list of approved permits including expiration dates and renewal dates of each approved permit. This list will be part of MB's deliverables.
 - c. The 100%/Signed and Sealed Construction Documents shall consist of drawings and specifications incorporating the necessary review comments and corrections required by the OWNER and permitting agencies.
 - d. Deliverables: Upon completion of the 100%/Signed and Sealed Construction Plans, MB will submit for approval PDF copies of the following deliverables:
 - i) 100% Construction Documents consisting of drawings and technical specifications. Electronic versions of the stamped drawings in both PDF and AutoCAD format. Final Technical Specifications will be provided as notes on plan sheets.
 - ii) Responses to OWNER's review comments from the previous Design Submittal (90% Plans).
 - iii) Copies of meeting minutes and relevant correspondence initiated by MB.
 - iv) Copies of all regulatory permits.
- 3. Data Collection and Review:** MB will use the existing data collection identified previously under "General Project Understanding" and the review of the same to facilitate efficient design and to minimize duplication of effort. Supplemental data requirements will be identified as additional information to be provided by the OWNER (see item 4 below)
- 4. Supplemental Data Collection:** The following supplemental/additional data, as required will be provided by the OWNER to complete the necessary site civil improvements:
- Additional topographic survey, survey control, and identification of physical features and utilities outside the boundaries of the proposed BPP

- Subsurface Utilities Exploration (SUE) as required.
 - As-built drawings of the existing WWTP
 - In-progress plans/concepts for future improvements to the WWTP
 - Existing and 20-year volume projections for the WWTP
5. **Overall Site Plan:** MB will prepare site plan for the proposed improvements and related infrastructure elements, identifying horizontal and vertical controls, facility footprint, overall project layout, existing and proposed utilities, traffic access and controls for the facility, stormwater conveyance, drainage controls, stormwater management, erosion control, and associated site civil components.
 6. **Design Workshop:** MB will make arrangements for the Team to participate in a full day workshop with the OWNER. The goal and objective of this workshop is to get the Design Team to better understand the “Operational Functionality, Process Flow, Controls and Performance Mandates” of the BPP. The workshop will also include discussion of the project schedule, milestone deliverables, quality control/quality assurance, coordination and proactive permitting strategy to minimize RFIs.
 7. **Biosolids Receiving and Handling:** PDB Team will incorporate the applicable operational functionality/features of the BPP with the guidance and proactive involvement of MB.
 8. **Potable Water and Sanitary Sewer Utility Plans:** MB will design the required on-site water, reclaimed water, and sewer utilities including plan sheets of the proposed system, manholes, pipe sizes and material. Potable water will be needed for emergency eyewash/shower stations, restrooms, polymer make down, and drinking water stations. Reclaimed water will be used for equipment washdown water and at all house-keeping hose bib locations. It is anticipated the existing WAS pumps will transfer WAS from the clarifiers to the SHT’s. Transfer pump stations will be required for transfer of WAS from the SHTs to the dewatering system inside the receiving facility. Decant water, washdown water, and pressate water will be collected by a gravity collection system and tied into the existing gravity sewer system on South Oak Street. Additionally, it is anticipated permanent, underground conveyance piping will be extended from the proposed location of the SHTs to an area between existing Lagoons 1 and 2 for lagoon clean-out. Facilities inside the prefabricated metal building and the truck wash areas will connect or tie-in to the existing water main (or reuse service) and sanitary sewer main. The proposed water, reclaimed water, and sewer utilities will be designed in accordance with the applicable requirements of the City of Kennewick and WA DOE.
 9. **Natural Gas Service Plans:** MB will coordinate with Cascade Gas, to provide the required on-site natural gas service from their main located to the gas appliances (pasteurizer and boilers) at the process building. Plan sheets of the proposed system will include pipe size, material, pressure test requirements, service connection details, valves, and other construction details, as provided by the gas utility service provider. The proposed natural gas service will be designed by the service provider in accordance with the applicable requirements of National Gas Pipeline Code. Appropriate design documentation will be provided by the service provider.
 10. **Paving and Grading:** MB will perform the required civil site design analyses and prepare the construction plans taking into account the following design elements:
 - Properties and performance attributes of the in-situ and specified fill material and pavement design parameters provided by the Geotechnical Engineer based on WSDOT standard specifications for semi-tractor trailers and/or loads as provided by MB, whichever is more stringent.
 11. **Stormwater Management:** This component will include routing and conveyance of the stormwater flows from paved areas, building roofs, driveways, drainage swales and other impervious area for onsite infiltration for flow control and water quality treatment. New or additional stormwater ponds will not be required for this project based on MB’s understanding with the OWNER that onsite soils are

suitable for infiltration to meet flow control and water quality requirements. The Permit Consultant (Harms) will modify the existing Permit to integrate the stormwater flows from proposed BPP. MB will provide the site development drawings and stormwater calculations required by Harms to support the permitting efforts.

12. **Meetings:** In addition to milestone review meetings, the Project Manager and/or the appropriate discipline representative(s) will attend up to twelve (12) project meetings, including pre-application meetings with permit agencies, monthly task force meetings with MB, OWNER, and OWNER'S REP, and initial design meetings with specialty manufacturers. From the standpoint of efficiency, when possible, meetings will be scheduled to piggy back with other meetings to save costs.
13. **Special Coordination:** This task will be part of the on-going coordination by the project manager required to incorporate the manufacturer's design drawings, equipment layout, technical specifications, and related information pertinent as part of the overall construction plans of the BPP. This effort is assumed to take an average of sixteen (16) project manager hours per month for the duration of the project, not to exceed one (1) calendar year.
14. **Milestone Review Meetings/Design Charettes, Revisions & Comments:** This task will include incorporation of review comments and appropriate revisions at each milestone submittal. From an efficiency standpoint, milestone review meetings will be held in conjunction with the project progress meetings. The following milestone submittals are anticipated for this project:
 - 30% Submittal
 - 60% Submittal
 - 90% Submittal

As part of the 100% Design Task, the signed, sealed final plans, including technical specifications, will be based on the following deliverables:

DELIVERABLES

- MB deliverables for this project will include the following sheets:
 - Cover Sheet
 - General Notes Sheets, Legends and Abbreviations
 - Site Grading Plans
 - Site Development Plans
 - Site Utilities Plans
 - Site Development Details
 - Pavement Design Plans
 - Erosion Control Plans and Details
 - Summary of Quantities
 - Overall General Arrangement Drawings of the BPP
 - General Arrangement Drawings of each pre-engineered building
 - Floor Plans for each building as provided by Archibald Architects.
 - Foundation Layout and Details (Greenhouse Pods) as provided by Harms
 - Foundation Layout and Details (Process Building) as provided by Harms
 - Foundation Layout and Details (Odor Control System) as provided by Harms
 - Sludge Holding Tank Layout and Details as provided by others
 - Soil Borings Sheet as provided by Geotechnical Engineer
 - Floor Plan and Equipment Layout Sheets (as coordinated with respective manufacturer and MB)
 - MEP Construction Plans
 - Fire Protection Plans
 - Process Flow Diagrams as coordinated with MB and component manufacturers
 - Miscellaneous Detail Sheets
- The following pre-engineered construction drawings will be provided by the MB's respective

manufacturers for incorporation into the site civil plans. The coordination effort for including appropriate drawings/plans from the respective manufacturers and reviewing for compliance with AIS/BABA requirements is estimated to be an average of 40 staff hours per submittal.

BID PHASE SERVICES: Support will be provided by the consultants to answer questions and address substitution requests during bidding to develop the GMP.

Architecture

Preliminary Design

- Site visit
- Building programming and design
- Schematic floor plan
- Schematic mezzanine plan
- Schematic site plan

- Code review to include: occupancy and hazard level determination (subject to Building Official ruling); ADA compliance; occupancy-indicated fire protection and alarm system requirements: occupant loads, egress requirements and plumbing fixture requirements, dust hazard analysis
- Team meetings
- Project administration

Construction Documents

- Cover sheet with code notes
- Architectural site plan
- Floor plan
- Mezzanine plan
- Door, window & finish schedules
- Enlarged restroom plans
- Interior restroom elevations
- Building sections
- Wall sections
- Exterior elevations
- Roof plan and details
- Architectural details
- Washington State Energy Code – Envelope Compliance Forms
- Architectural specifications as notes on plan sheets
- Team meetings
- Project administration
- Engineering Coordination
- Internal quality review

Permitting

- Assistance with architectural permit application
- Response to City comments

Bidding

- Review of requests for substitution
- Review of bidder questions related to architectural items

Structural Engineering and Permitting Project Management

- Meet and coordinate with the design team and MB regarding project and design elements.
- Provide design engineering, construction drawings, details, and specifications for the following structural elements:
 - Pre-engineered metal building foundations, slab and push walls
 - Pre-engineered greenhouse foundation, slab, and knee-walls
 - Odor control units foundations
 - Wheeled loader ramp
 - Truck scales
- Submit calculations and drawings to the City of Kennewick for review and respond to review comments.
- Allocation of time to assist the design team on the permitting process through the City, Dept. of Ecology and Benton Clean Air Agency.

Pelletization

Operational throughput calculations will be performed, and equipment sized and selected for a pelletization apparatus that will produce a cylindrical pellet from a class A biosolids out of the pasteurizer. Includes coordination and design for OWNER's operational needs of conveyance, load out, redundancy and bypassing. This includes for a dust collection system as well.

OWNER's Scope of Work

- Surveying to include topo/boundaries, utilities investigation and location, vacations, title work.
- Investigation of existing foundations discovered during preliminary geotechnical test pitting.
- Partnership with Merrell Bros. to make equipment decisions and provide schematic level design to design consultants in an effort to reduce hours from design professionals.

Exclusions and Assumptions

- Excludes any surveying or location services as part of step 1. Construction layout will be included during Step 2.
- Excludes any step 1 involvement of cultural resources consultants or performance of any site inspections. At step 2, Transect Archaeology can be contracted by the PDB team to be present during excavation activities.
- Excludes surveying of solids in the lagoons. Estimated quantities will be provided by the OWNER for application of unit removal rates to be provided for step 2.
- Excludes any Construction Administration by consultants. These costs will be included in any step 2 proposal.
- Excludes hosting of digital files for the duration of the project.
- Any bonding to be provided only as requested for early equipment releases during step 1. Bond premiums can be included in the pricing of the Packages.
- Excludes any design/relocation/connection service fees payable to utilities
- Excludes any permit fees.
- Consultant design fees are based off finalized schematic site, building and tankage layout drawings provided together by Merrell Bros. and OWNER of Kennewick. Once design work has been authorized, deviations from these accepted schematics will constitute a scope change for the design consultants.
- The use of the Owner-controlled management reserve will be available to the project on an as-needed basis and mutually agreed upon for additional in-scope or out of scope changes.
- The Design Services Proposal timeline and budget assumes all improvements will be sited outside of the shoreline (200' setback from OHWM).
- Excludes Geoprofessional Innovations' alternate area 2 east of Oak Street as an unlikely event.
- Excludes technical specifications manual. All specifying will be handled with plan sheet notes or equipment selections indicated in plan schedules.

- It is assumed that design consultants' participation is limited to (1) two-hour virtual meeting per month for the duration of design.
- In-person attendance of the PDB Team at design meetings is limited to 4.
- Assumption is that 90% Design Submittal will be complete and any review comments from the City of Kennewick, WA DOE and J-U-B Engineers will be minor (provided that the MB team has reconciled all previous submission comments and all discipline submittals are completed at the 90% submittal (i.e., instrumentation and electrical design). Minor for Kimley-Horn is defined as less than \$61,780 billable work required to conform comments into 100% Ready for Construction (RFC) plans. No further process, structural, civil, architectural or MEP design is expected or included between 90% submittal and IFC.
- Design consultants will not review construction schedule or cost opinions prepared by Merrell Brothers, but will be available for questions at each stage of design development for up to 3 hours.
- Excludes Landscape Architecture
- Excludes design of any frontage improvements on Oak Street. The OWNER is vacating the right-of-way on Nutmeg and no costs are included for design efforts for frontage improvements there either.
- Odor dispersion modeling will utilize St. Croix Sensory data gathered from pilot study in 2019.
- Excludes any environmental related work or traffic studies.
- Excludes any requirements by Benton Clean Air Agency for efforts by a professional engineer. Assumption is that Merrell Bros. staff can provide any data needed to satisfy the Agency.
- No biological process modeling is included.
- Excludes any feasibility study for partitioning off a portion of the existing aeration lagoon for sludge holding. Assumption is that sludge holding tanks will be constructed.
- Excludes Kimley-Horn participation in vendor presentations. Merrell Brothers will provide design plans at various stages to Vendors and coordinate directly with Vendors without Kimley-Horn involvement. Research is limited to 10 hours between design meetings for Kimley-Horn.
- Excludes any structural engineering for the sludge holding tanks, conveyors, trailer washout, separate storage building foundations and separate tip-up type load-in structures to received outside dewatered biosolids. It is assumed that an overhead door on the east side of the process building will accommodate end dumps, live bottoms or dump trucks for receiving. Also, at the time of the contract, it was not decided whether sludge holding tanks would be round, pre-stressed and pre-engineered or cast-in-place square tanks requiring engineering by the PDB Team; there was a slight OWNER preference for the pre-engineered tanks, thus, no engineering for sludge holding tanks has been included.
- Harms Engineering project management efforts for permitting are limited to 6 hours per month. Merrell Bros.' local site supervision is to fill in the balance of permitting project management needed.
- IP License and Purchase Agreement fees are excluded from this contract. The fees are still payable per the terms of the Agreement outside of this contract.

Schedule:

MB will begin work upon receiving the Notice-to-Proceed (NTP) from the OWNER. The schedule for the performance of services and the milestone deliverables will be in accordance with the schedule agreed at the project kick-off meeting.

Compensation for Services:

For the performance of professional services during the Design Phase specified in the Scope of Services, MB will be compensated on a time and expense basis. Invoices for all professional engineering services for this project will be invoiced monthly. Usual and customary reimbursable expenses are included in Design Services Estimate Summary to cover direct project expenses including travel costs, copying/reproduction costs, postage, and other incidentals. Payment terms will be per the DBIA Agreement and General Conditions.

Additional Services:

For professional services not specifically included or specified in the foregoing Scope of Services, MB will be entitled to additional compensation based on the nature and scope of “Additional Services”, which will be agreed to and approved by the OWNER before performing such services.

Schedule-Indicated Early Release Packages dates based on an assumed NTP date for Step 1 Design Services Contract of Wednesday March 8th, 2023 and Design Kick-off Meeting of March 10th. Package release dates to be adjusted based on actual NTP and Design Kick-off Meeting dates.

Schedule Indicated Early Release Packages				
<i>Equipment/System</i>	<i>Lead Time Including Buyout & Design</i>	<i>Design Phase Decision</i>	<i>Approx. Release Date</i>	<i>Notes</i>
Package 1		Promptly After 30% Estimate	Mid July '23	
Pre-engineered metal building	~ 10 months			Schedule indicates earlier than 30% design estimate decision
Pre-engineered greenhouses	~ 11 months			Looking at aluminum
Electrical Gear	~ 11.5 months			
Odor Control Units	~ 12 months			Significant logistical time considerations
Pre-stressed Sludge Holding Tanks	~ 9 months			Schedule indicates earlier than 30% design estimate decision; could take as long as 6 months to get in const. queue; 3 mo. design; consider moving pad/subgrade const. to concurrent with PEMB pad to get done sooner than close to subst. comp. date
Dewatering Equipment	~10 months			New data moves this into package 1
Package 2		Promptly After 60% Estimate	Early October '23	
Pasteurization System	~ 6 months			Best to fly-in before roof structure
Pelletization Apparatus	~ 9.5 months			
Tillage Implement	~ 9 months			Foreign-sourced, limited shipments from Europe
Items to be included at 90% GMP		At 90% Step 2 GMP	Mid January '24	
Boilers for Hydronic Slab Heating	~ 6-8 weeks			
HVLS Circ Fans	~ 1-2 weeks			
Conveyance	~ 6 months			

**City of Kennewick Wastewater Treatment Plant Phase II Class A Biosolids Greenhouse Facility Upgrades
Step 1 - Estimate Summary for Design Services**

ID	Scope	Consultant	Cost
1	<i>Prime contractor general conditions for design project management, technology consultation, permitting project management, job cost accounting, and construction cost estimating & scheduling.</i>	Merrell Bros., LLC - Kokomo, IN	292,977
2	<i>Geotechnical engineering evaluation services, alternate subsurface exploration at sludge holding tanks footprints, and alternate seismic refraction microtremor evaluation.</i>	GeoProfessional Innovation Corp. - Pasco, WA	17,450
3	<i>Architectural project management, design and occupancy classification and code review.</i>	Archibald & Co. Architects, PS - Richland, WA	301,575
4	<i>Permitting project management and structural design.</i>	Harms Engineering, Inc. - Pasco, WA	95,560
5	<i>Project management and civil, process and MEP design.</i>	Kimley-Horn - Seattle, WA	993,797
6	<i>Hydronic slab process heat modeling and design, process building zoned hydronic heating design and equipment sizing/selection.</i>	Johnson-Melloh, Inc. - Indianapolis, IN	14,265
7	<i>Fire protection site hydraulics and building design.</i>	Intuitive Engineering Services, LLC - Bend, OR	16,075
8	<i>Structured cabling and data communications network equipment, intrusion detection/access control system, fire alarm system, and process control interconnection design, control panel design (ASHTs mix, decant, aeration systems) and SCADA programming for non-vendor skid mounted equipment (actual programming not included, but understanding Client's needs/preferences to elucidate step 2 work is).</i>	Connetix Engineering, Inc. - Yakima, WA	65,600
9	<i>Dust hazard analysis, project specific cover letter to code official, fire/building code consulting and permit comments discussion support.</i>	Dustcon Solutions - West Palm Beach, FL	16,300
10	<i>Odor dispersion modeling.</i>	Webster Environmental Associates, Inc. - Louisville, KY	13,400
Project Cost			1,826,999
	Management Reserve	9.5%	173,656
	Builder's Risk Insurance Premium	NA	NA
	Payment and Performance Bond Premium	0.80%	NA
	General Liability Insurance Premium (Includes Professional Liability Coverage-Costs included in MB Management Rates)	1.80%	NA
	PDB Team Principal Design Services Mgmt Fee	10%	200,066
	Washington State/Local Retail Sales Tax	8.70%	191,463
	Total		2,392,184

**City of Kennewick Wastewater Treatment Plant Phase II
Class A Biosolids Greenhouse Facility Upgrades**

STEP 1 - GENERAL CONDITIONS

PROJECT MANAGEMENT AND SUPERVISION

**SUPERVISION OF GEOTECH FOR ADD'L
EXPLORATION AND SEISMIC SURVEY**

	WKS	HRS/WK	HRS	RATE	TOTAL
PROJECT SUPERINTENDENT	1	24	24	90	2,160

SUPERVISION 2,160

NTP ESTIMATE

	WKS	HRS/WK	HRS	RATE	TOTAL
PDB PROJECT MANAGER	4	2	8	195	1,560
PROJECT MANAGER	4	20	80	90	7,200

NTP ESTIMATE 8,760

30% DESIGN LEVEL EFFORT

	WKS	HRS/WK	HRS	RATE	TOTAL
PDB PROJECT MANAGER	8	8	64	195	12,480
PROJECT MANAGER	8	9	72	90	6,480
PROJECT SUPERINTENDENT	8	9	72	90	6,480
PROJECT MANAGER (PELLETIZATION)	8	3	24	90	2,160
PROJECT MANAGER (DEWATERING)			10	117	1,170
CONTROLLER	8	1	8	117	936
PROJECT ACCOUNTANT	8	2	16	94	1,504

30% DESIGN LEVEL EFFORT 31,210

**30% ESTIMATE AND SCHEDULING, DBE
OUTREACH**

	WKS	HRS/WK	HRS	RATE	TOTAL
PDB PROJECT MANAGER	4	2	8	195	1,560
PROJECT MANAGER	4	30	120	90	10,800
PROJECT SUPERINTENDENT	4	30	120	90	10,800
PROJECT MANAGER (HYD. DREDGING OPS)			4	117	468

30% ESTIMATE 23,628

60% DESIGN LEVEL EFFORT	WKS	HRS/WK	HRS	RATE	TOTAL
PDB PROJECT MANAGER	9	4	36	195	7,020
PROJECT MANAGER	9	6	54	90	4,860
PROJECT SUPERINTENDENT	9	6	54	90	4,860
PROJECT MANAGER (PELLETIZATION)	9	2	18	90	1,620
PROJECT MANAGER (DEWATERING)			4	117	468
CONTROLLER	9	1	9	117	1,053
PROJECT ACCOUNTANT	9	2	18	94	1,692

60% DESIGN LEVEL EFFORT 21,573

**60% ESTIMATE AND SCHEDULING, DBE
OUTREACH**

	WKS	HRS/WK	HRS	RATE	TOTAL
PDB PROJECT MANAGER	4	1	4	195	780
PROJECT MANAGER	4	30	120	90	10,800
PROJECT SUPERINTENDENT	4	30	120	90	10,800
PROJECT MANAGER (HYD. DREDGING OPS)			2	117	234

60% ESTIMATE 22,614

90% DESIGN LEVEL EFFORT	WKS	HRS/WK	HRS	RATE	TOTAL
PDB PROJECT MANAGER	9	4	36	195	7,020
PROJECT MANAGER	9	12	108	90	9,720
PROJECT SUPERINTENDENT	9	12	108	90	9,720
PROJECT MANAGER (PELLETIZATION)	9	2	18	90	1,620
PROJECT MANAGER (DEWATERING)			4	117	468
CONTROLLER	9	1	9	117	1,053
PROJECT ACCOUNTANT	9	2	18	94	1,692

90% DESIGN LEVEL EFFORT 31,293

EARLY RELEASE/AIS/BABA COMPLIANCE	WKS	HRS/WK	HRS	RATE	TOTAL
PDB PROJECT MANAGER	6	4	24	195	4,680
PROJECT MANAGER	6	18	108	90	9,720
PROJECT SUPERINTENDENT	6	30	180	90	16,200
PROJECT MANAGER (DEWATERING)			2	117	234

EARLY RELEASE 30,834

**GMP DEVELOPMENT INCLUDING
PREQUALIFICATION AND BID PACKAGE
DEVELOPMENT**

	WKS	HRS/WK	HRS	RATE	TOTAL
PDB PROJECT MANAGER	10	1	10	195	1,950
PROJECT MANAGER	10	18	180	90	16,200
PROJECT SUPERINTENDENT	10	18	180	90	16,200
PROJECT MANAGER (HYD. DREDGING OPS)			5	117	585

GMP DEVELOPMENT 34,935

PERMITTING PROJECT MANAGEMENT

	WKS	HRS/WK	HRS	RATE	TOTAL
PROJECT SUPERINTENDENT	6	10	60	90	5,400

PERMITTING PROJECT MANAGEMENT 5,400

**RESEARCH AND CONFORM ACCIDENT
PREVENTION PLAN TO WASHINGTON**

STANDARDS	WKS	HRS/WK	HRS	RATE	TOTAL
EHS MANAGER	1	5	5	90	450

ACCIDENT PREVENTION PLAN 450

PROJECT MANAGEMENT AND SUPERVISION 212,857

**TRAVEL EXPENSES - FOR IN-PERSON ATTENDANCE AT DESIGN MILESTONE MEETINGS AND ON-SITE
EFFORTS DURING GMP DEVELOPMENT**

	LS/EA	MO	DAYS	RATE	TOTAL
AIRFARE FOR PDB PROJECT MANAGER	4			1500	6,000
AIRFARE FOR PROJECT MANAGER	8			1500	12,000
RENTAL CAR - DESIGN MILESTONE MTGS			12	100	1,200
RENTAL CAR - GMP DEVELOPMENT		1		1000	1,000
FUEL			42	25	1,050
HOTEL FOR PDB PROJECT MANAGER			12	150	1,800
HOTEL FOR PROJECT MANAGER			42	150	6,300

TRAVEL EXPENSES 29,350

JOB OFFICE					
	<i>LS/EA</i>	<i>MO</i>	<i>DAYS</i>	<i>RATE</i>	<i>TOTAL</i>
TRAILER RENTAL		3		2200	6,600
MOBILIZE, BLOCK, LEVEL TIEDOWN, SKIRTING, JOINTING**	1			15250	15,250
UTILITY HOOKUPS (ELEC, SEWER, WATER)	1			6500	6,500
FURNITURE	1			1000	1,000
TECHNOLOGY SETUP AND MGD SERVICES	1			5500	5,500
PHONE/INTERNET		3		500	1,500
STABILIZED PARKING AREA	1			5000	5,000
COPIER/WIDE FORMAT PRINTER		3		400	1,200
TONER, INK, PAPER AND SERVICE***	1			800	800
*BASED ON 24 MO LEASE., NO EARLY TERM CLAUSE					
**DEMobilIZATION FOR TRAILER IS \$6,900 AND WILL BE INCLUDED IN STEP 2.					
***PDB TEAM ANTICIPATES ANY LARGE REPRODUCTION JOBS TO BE ON OWNER PO IN PLACE AT VENDOR					

JOB OFFICE 43,350

TEMPORARY FACILITIES					
	<i>LS/EA</i>	<i>MO</i>	<i>DAYS</i>	<i>RATE</i>	<i>TOTAL</i>
TEMPORARY POWER		3		250	750
TEMPORARY WATER		3		150	450
TEMPORARY FENCING	1			3500	3,500
JOB SIGN	1			1500	1,500
TEMPORARY FACILITIES					6,200

JOB SUPPLIES					
	<i>LS/EA</i>	<i>MO</i>	<i>DAYS</i>	<i>RATE</i>	<i>TOTAL</i>
SMALL TOOLS	1			750	750
PPE/FIRST-AID	1			200	200
PAPER SUPPLIES/COFFEE		3		75	225
ICE/CUPS		3		15	45
JOB SUPPLIES					1,220

EQUIPMENT					
	<i>LS/EA</i>	<i>MO</i>	<i>DAYS</i>	<i>RATE</i>	<i>TOTAL</i>
*MACHINE RENTAL INCLUDED IN 'UTILITY HOOKUPS' AND 'STABILIZED PARKING AREA' ABOVE					
EQUIPMENT					0

GENERAL CONDITIONS 292,977



December 27, 2022
File: PUP23014

Mr. Brent Pomerhn
Merrell Bros., Inc. - Indiana Division
8811 W 500 N.
Kokomo, IN 46901

RE: **Proposal**
Geotechnical Engineering Evaluation
Proposed WWTP Phase 2
1328 E. 3rd Avenue
Kennewick, Washington

Greetings, Brent.

Thank you for the opportunity to assist you with the upcoming Phase 2 upgrades to the existing Kennewick Waste Water Treatment Plant (WWTP) in Kennewick, Washington. GeoProfessional Innovation Corporation (GPI) performed geotechnical exploration and provided a preliminary summary letter for the project under contract with J-U-B Engineers, Inc (J-U-B) dated July 26, 2022. Since that initial evaluation, Merrell Bros. Inc. (Merrell) has been selected by the City of Kennewick (City) as the Progressive Design Build (PDB) contractor for the project. You request GPI prepare this proposal to provide geotechnical engineering evaluation services for the planned improvements, using our previous exploration data. In addition, you request GPI provide scope alternates for performing additional subsurface exploration in areas of the site not contemplated during our initial evaluation. The following text summarizes our current project understanding, proposed scope of services and scope alternates, estimated fees and anticipated schedule.

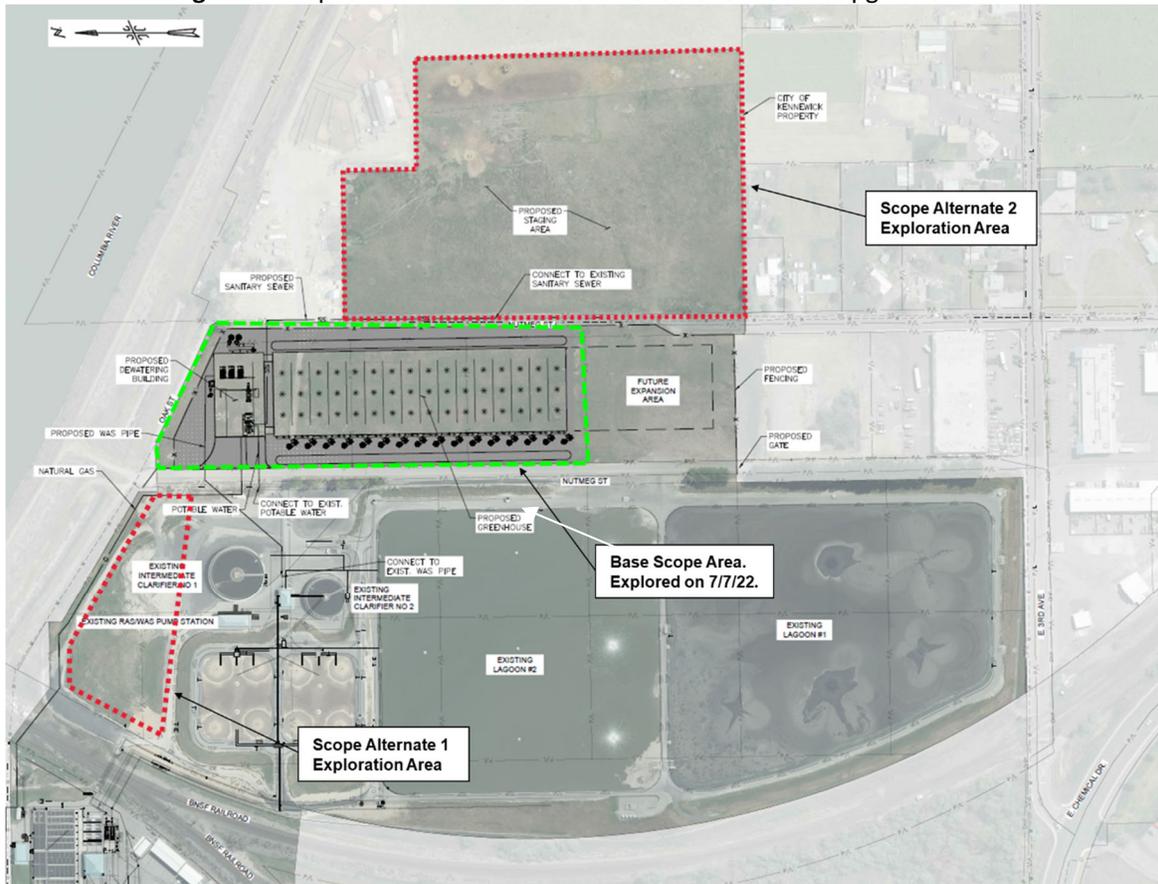
PROJECT UNDERSTANDING

Existing Site Conditions

The proposed Phase 2 WWTP improvement site is a 7-acre parcel, located within a currently undeveloped area between Oak Street and Nutmeg Street just east of the current waste water treatment facility (WWTP). The area is bounded on the north by Oak Street and the Columbia River, to the east by undeveloped farmland, to the south by the City of Kennewick owned land and commercial development, and to the west by the existing Kennewick WWTP. The approximate base scope development area is shown in Figure 1. The site is relatively flat, maintaining less than 5 feet of vertical relief across the entire parcel. The ground surface is currently covered with various weeds and grasses, free of large trees and brush. From our discussions with you, we understand additional improvement areas immediately adjacent to the base scope improvement area are being considered by Merrell and the City. These are shown on Figure 1 as Scope Alternate 1 and 2 areas.

From our previous exploration at the site, native soil conditions comprise coarse alluvial sand and gravel deposits within the upper 10 to 11 feet. Our test pit explorations were terminated at these depths due to caving conditions. From reviewing water well logs published on the Washington State Department of Ecology (Ecology) website, we anticipate these alluvial gravel and sand deposits are underlain by basalt bedrock at depths greater than 50 feet below the ground surface. We expect groundwater levels at the site are governed by the nearby Columbia River, with consistent, static water levels within the upper 20 feet below the ground surface. We did not encounter uncontrolled fill deposits during our initial exploration. However, we anticipate previous developments within the planned improvement area have resulted in near surface fill deposits located at various portions of the site.

Figure 1: Proposed Waste Water Treatment Plant Phase 2 Upgrades Area



Proposed Construction

From our electronic mail correspondence and reviewing a preliminary site plan drawing prepared by J-U-B dated July 26, 2022, we anticipate the project will include constructing a large greenhouse structure for the purpose of conditioning solids from the WWTP to turn them into Class A biosolids and a separate building to house dewatering equipment. Detailed civil and structural plans for the proposed improvements will not be prepared until the PDB process is well underway. However, from our discussions with you and our previous interactions with J-U-B, we anticipate the planned improvements will include a single-story, steel-framed or concrete structure supported on conventional spread foundations and slab-on-grade floors. Given these materials and our experience with similar construction, we expect structural loads will be less than 50 kips per column with 3 to 4 kips per linear foot along walls. No below-grade spaces are expected.

Site grading will require cuts and fills less than 5 feet to establish level pads for building and infrastructure construction. Asphalt-paved site access roadways and parking areas will be constructed to provide access for WWTP operation and maintenance vehicles. Utilities will extend from existing facilities and alignments serving the existing WWTP. Site stormwater will be collected via a series of catch basins and directed to swales or drywells for disposal via infiltration. Franchise utilities will extend from North Nutmeg Street to serve the new development. Various landscape improvements and exterior patios will also advance as part of the development.

No detailed plans or design concepts are established for improvements in the “Scope Alternate” areas. From our discussions with you, we understand the Scope Alternate 1 area to the northwest of the primary (i.e. “Base Scope”) improvement area may include sludge holding tanks, if required to accommodate new waste treatment processes. If required, these tanks will be constructed partially below grade, up to about 10 feet below the existing ground surface. Also, you reported the Scope Alternate 2 area located to the east may be improved to include an additional greenhouse-type structure for bio-solids handling, similar to that planned for the Base Scope area.

SCOPE OF SERVICES

GPI proposes to provide the following scope of geoprofessional services based on our discussions with you, our current project understanding, anticipated site conditions, and our experience with similar public infrastructure improvements throughout central and eastern Washington.

Base Scope – Utilize Existing Exploration Data

1. GPI will work closely with Merrell to incorporate our existing geotechnical site data into geotechnical design and earthwork construction recommendations for the proposed Phase 2 WWTP improvements. We will work with civil and structural design team members during this phase to coordinate necessary design elements and construction aspects into a specific discussion regarding the soil conditions encountered at the site. Our analyses and evaluation will provide recommendations for:

Earthwork

- Site stripping
- Excavation characteristics
- Uncontrolled fill removal or remediation
- Establishing subgrades
- Structural fill criteria
- Required compaction
- Wet weather/wet soil construction
- Geotextile applications

Typical Shallow Foundation Design

- Allowable bearing pressures
- Total and differential settlement estimates
- Soil improvement applications (if required)
- Friction coefficients
- Design factors of safety
- Soil corrosivity
- International Building Code (IBC) site class

Lateral Earth Pressures for below grade tank wall design (if required)

- Static equivalent fluid pressures
- Surcharge pressures
- Wall drainage considerations

- ❏ Concrete Slabs-on-Grade
 - Minimum slab support section
 - Vapor retarders

- ❏ Site Drainage
 - Surface grading considerations
 - Foundation/wall drainage
 - Soil infiltration rates
 - Stormwater disposal considerations

- ❏ Pavement Section Design
 - Flexible asphalt section thickness
 - Pavement material requirements
 - Pavement maintenance

- ❏ Geotechnical Design Continuity

2. Upon completing our analysis, we will provide our deliverable including our exploration results, laboratory testing, geotechnical recommendations, and illustrative schematics. Our deliverables are provided in electronic, portable document (PDF) format only.

Scope Alternates – Additional Exploration & Laboratory Testing

Scope Alternate 1: If desired, GPI will perform additional exploration via 4 to 5 test pits within the approximate 3-acre parcel immediately northwest of the base scope improvement area.

Scope Alternate 2: If desired, GPI will perform additional exploration via 10 to 12 test pits within the approximate 12-acre parcel immediately east of the base scope improvement area.

If 1 or both scope alternates are authorized, GPI will perform the following services in addition to our base scope evaluation:

- A. GPI will coordinate exploration with the Washington Utility Notification Center to reduce the risk of damaging existing site utilities due to exploration. GPI cannot be responsible for damage to or repair of unlocated or mislocated utilities. We recommend City personnel identify existing City utilities that traverse the planned improvement area. Specifically, sewer lines are often unlocated throughout exploration activities. We understand Merrell will coordinate directly with the City to facilitate site access and right-of-way permission for our exploration crews.

GPI will retain a private utility locator to help identify existing subsurface utility alignments within 30-horizontal feet of exploration locations, prior to subsurface exploration. Subsurface utilities may exist within the planned exploration area that are not typically identified by public utility locating services. Private locating services are not a guarantee of avoiding damage to existing utilities, but can help reduce the risk of encountering utilities during exploration.

- B. Explore the subsurface soil conditions within the approved scope alternate area via exploratory test pits extending 6 to 12 feet below the existing ground surface or to refusal due to caving conditions, hardpan, bedrock, or other conditions. A GPI geotechnical engineer or geologist will observe exploration and will visually classify and describe the soil encountered in explorations referencing the Unified Soil Classification System (USCS). We will collect soil samples at various

depths and locations from explorations and transport them to our laboratory. We will record depth to groundwater and bedrock in each exploration, if encountered. Explorations will be loosely backfilled upon completing exploration and will need remediated during construction. Some rutting, landscape disturbance, and other surface damage must be anticipated as part of exploration.

- C. Accomplish laboratory testing referencing *ASTM International* (ASTM) procedures to estimate soil engineering parameters:
- ❏ Natural moisture content
 - ❏ Atterberg limits
 - ❏ Proctor density relationships
 - ❏ Grain size distribution
 - ❏ Consolidation potential (if applicable)
 - ❏ Organic content
 - ❏ Cation exchange capacity
 - ❏ pH, resistivity & sulfate content

We will use laboratory test results to help characterize engineering parameters and correlate soil engineering characteristics and design factors to aid and support our design recommendations for improvements within the scope alternate improvement areas.

- D. Incorporate additional exploration and laboratory testing results into our base scope deliverable and geotechnical evaluation for the planned improvements.

Scope Alternate 3: If desired, GPI will retain a geophysical subconsultant to perform seismic refraction microtremor (ReMi) evaluation within the planned improvement area to assess soil shear wave velocity at depth. Data from this evaluation will be used to refine subsurface characterization to aid design and to document IBC seismic site class designation via the criteria outlined in the ASCE 7-16 Chapter 20.

Geotechnical Continuity and Construction Testing Services

Our experience is that geotechnical continuity can add value to a project by facilitating rapid and efficient communication between design professionals and contractors when earthwork/foundation challenges arise during construction. Specifically, on this project, our opinion is providing geotechnical continuity from design through construction will be critical to appropriately evaluating site soil conditions throughout earthwork and foundation construction. Confirming conditions are consistent with exploration data is a critical component of geotechnical design. Also, having geotechnical design team members review relevant plan and specification sections can help reduce the potential for costly change orders on earthwork related items. We anticipate our geotechnical continuity and construction testing scope of services on this project will include the following:

- ❏ Geotechnical construction consultation
- ❏ Earthwork/foundation observation and testing
- ❏ Reinforced concrete observation and testing
- ❏ Asphalt pavement observation and testing
- ❏ Sampling and laboratory testing of various construction materials

We do not provide a detailed scope or fee estimate for these services at this time. Once the project design plans are completed, we will prepare a scope and fee estimate for providing these services to represent the City or Merrell in addition to our scope outlined herein.

ANTICIPATED SCHEDULE

We can initiate our Base Scope evaluation immediately upon receiving your authorization. Our geotechnical engineering evaluation will advance lockstep with Merrell’s design schedule. We anticipate providing our geotechnical deliverable within 4 weeks after receiving project design information required to complete our evaluation, including but not limited to planned site configuration, grading and drainage plans as well as structural loading and settlement performance criteria for planned structures. We can provide preliminary data upon request to aid your design progress.

If the additional exploration scope alternates are authorized, we can initiate these services within 2 weeks following your written approval. We anticipate exploration can be completed in a single day on-site. Laboratory testing will be completed within 1 week following exploration. Additional exploration and laboratory testing results will be ready for incorporation into our Base Scope deliverable within 2 weeks after completing exploration.

Our anticipated schedule for this work may be impacted by various factors beyond our control, including but not limited to site access constraints, weather and subcontractor schedules. If we encounter conditions that require additional time or information to perform the evaluation, we will notify you immediately.

FEE ESTIMATE

We will perform our services on a lump sum basis. Table 1 below summarizes our fee estimates for our base scope and scope alternates described herein.

Table 1: Fee Estimates

Service Scope	Estimated Lump Sum Fee	Authorization
Base Scope: Geotechnical engineering evaluation using existing exploration data	\$6,500	
Scope Alternate 1: 4 to 5 additional test pits on 3-acre parcel northwest of base scope area	\$3,500	
Scope Alternate 2: 10 to 12 additional test pits on 12-acre parcel east of base scope area	\$4,800	
Scope Alternate 3: Geophysical ReMi Survey for Seismic Site Class Designation	\$3,950	

LIMITATIONS

The geotechnical scope provided herein does not include civil or structural design, retaining wall design, hydrologic stormwater modeling or establishing groundwater gradients, dewatering design, shoring, concrete slab section design, septic disposal design, cost estimating, or any other services not explicitly discussed herein. Neither does our scope include performing a 100-foot-deep boring to assess IBC seismic site class. Rather, we will rely on available information in the area and published well logs. If additional exploration is authorized, we will identify infiltration limiting layers within the exploration depths and estimate groundwater fluctuations, erosion, or other geologic conditions that may impact geotechnical design.

The dense gravel conditions encountered in our initial exploration make deeper exploration with soil boring or augering equipment very difficult and costly. Therefore, the exploration scope delineated herein is limited to performing test pits within the upper 6 to 12 feet. Based on our current project understanding, our opinion is this is a viable approach to gathering geotechnical information for design. If additional data is desired to delineate IBC site class, or relative soil density with depth, we offer the geophysical scope alternate above for

your consideration. If additional sampling or exploration below 12 feet is desired, please contact us for a revised proposal. If we encounter conditions or identify project aspects that require additional exploration, we will notify you immediately. If desired, GPI can provide numerous geotechnical, environmental, and other engineering services to assist the project team with evaluating other development modifications as the project concept is solidified.

There are inherent risks whenever soil, geologic, or hydrogeologic conditions are involved with a development. Soil and geologic material, especially groundwater, are variable in nature. Conditions may change between exploration locations and at depth. Specifically, uncontrolled fill deposits can change substantially in short lateral distances. Extrapolating substantially beyond the immediate exploration area has obvious risks which must be considered by the project team. This acknowledgement is in lieu of all express or implied warranties.

AUTHORIZATION

Our services will be performed referencing the attached GeoProfessional Innovation Corporation (GPI) General Conditions. To authorize us to proceed, please execute this agreement or provide a professional services agreement for our review and execution. We sincerely appreciate the opportunity to develop a professional relationship with Merrell Bros., Inc. and we look forward to assisting you with this project. Please do not hesitate to contact us if you have any questions.

Sincerely,
GPI

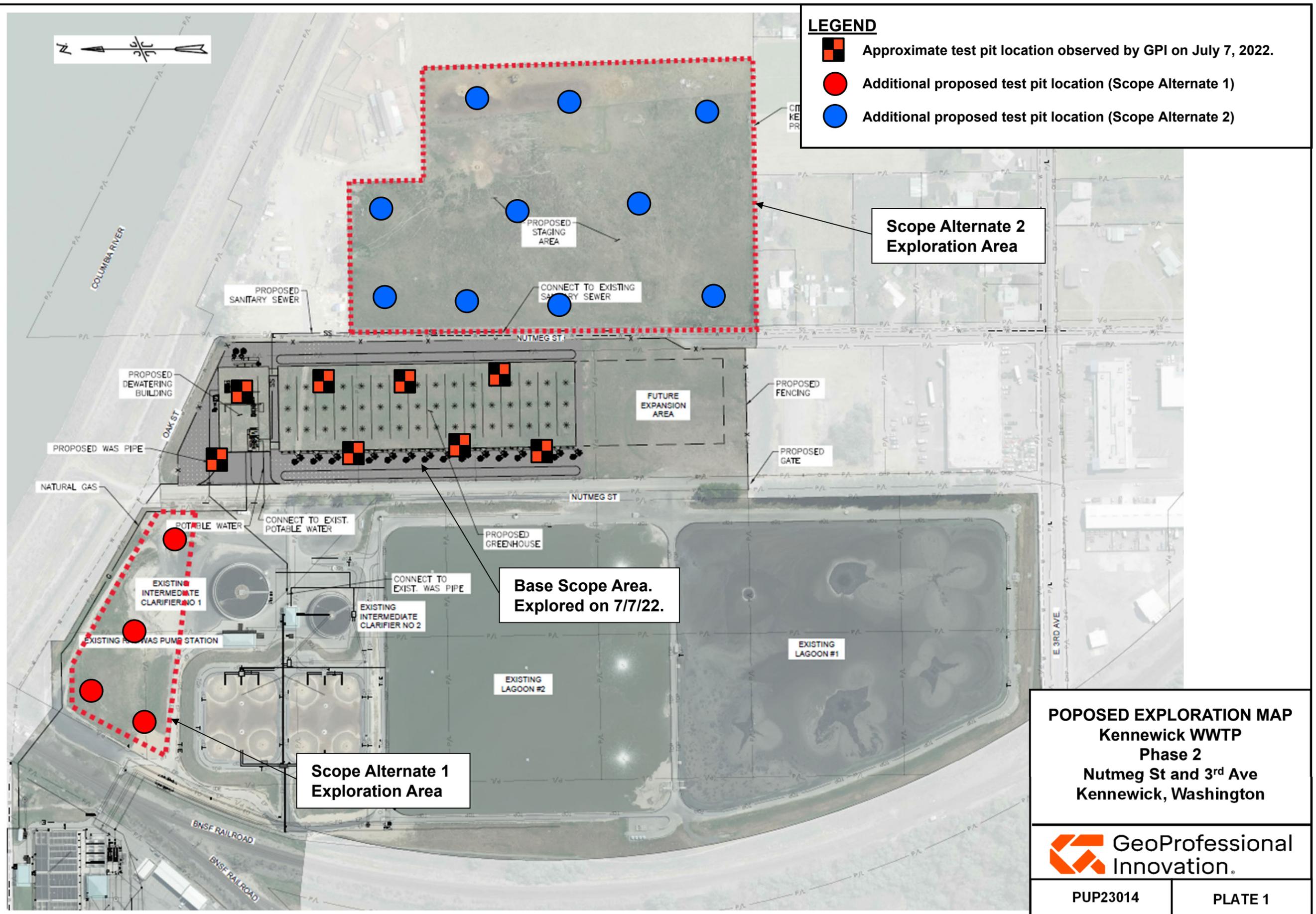


Andrew S. Abrams, P.E.
Engineering Services Manager



Travis J. Wambecke, P.E.
Principal

Attachments: Plate 1 – Proposed Exploration Map
GeoProfessional Innovation Corporation (GPI) General Conditions



LEGEND

-  Approximate test pit location observed by GPI on July 7, 2022.
-  Additional proposed test pit location (Scope Alternate 1)
-  Additional proposed test pit pit location (Scope Alternate 2)

**Scope Alternate 2
Exploration Area**

**Base Scope Area.
Explored on 7/7/22.**

**Scope Alternate 1
Exploration Area**

**POPOSED EXPLORATION MAP
Kennewick WWTP
Phase 2
Nutmeg St and 3rd Ave
Kennewick, Washington**



PUP23014

PLATE 1

Reference: Base drawing by J-U-B Engineers, Inc. dated 7/26/22. No Scale Intended

Proposal No.	PUP22112, dated December 27, 2022	Client Name	Merrell Bros., Inc. – c/o Mr. Brent Pomehrn	<input checked="" type="checkbox"/> GEE
Project Name	WWTP Phase 2 Improvements	Project City, State	Kennewick, WA	<input type="checkbox"/> CMT <input type="checkbox"/> ENV

GEOPROFESSIONAL INNOVATION CORPORATION (GPI) GENERAL CONDITIONS

SCOPE OF SERVICES. GeoProfessional Innovation Corporation (hereinafter “GPI”) now being authorized to perform the scope of services detailed in the Proposal (identified above). By executing these General Conditions, Client acknowledges that it has reviewed GPI’s scope of services and agrees that the scope of services is reasonable, acceptable, and agrees to pay the fees or estimated fees. The executed General Conditions serve as GPI’s Notice-To-Proceed with the Proposal. These General Conditions, including the Proposal incorporated herein by reference, represents the entire agreement between GPI and Client, and may only be amended in writing and executed by both parties. GPI will notify Client prior to exceeding the total authorized fees and will not incur costs or provide services in excess of the authorized fees. Requests for additional services, scope modifications, or fee adjustments must be done in writing and are considered an amendment to these General Conditions. Client understands and agrees with GPI’s proposed means and methods for data collection, analysis, and site investigation and characterization, which may or may not include the use of “state-of-the-art” technologies.

STANDARD OF CARE. GPI will perform our services using the customary care and skill employed by competent professionals performing similar services under similar circumstances in the project area at the same time, subject to any limitations or exclusions contained in our proposal for the specific scope of our services authorized under these General Conditions. GPI is not responsible for the work or services performed by others, nor are we responsible for the safety of any persons or property, other than the safety of our own employees. GPI does not warrant or guarantee our services.

CLIENT RESPONSIBILITIES. Client agrees to provide GPI with all pertinent data and documents relevant to the performance of GPI’s scope of services. Such documents may include plans, specifications, schedules, addenda, change orders, approved shop orders, approved shop drawings, correspondence, memorandums, photographs, historical evaluations, or any other appropriate data associated with GPI’s scope of services, even if such data is not currently known or will be revealed at a future date. GPI shall be entitled to reasonably rely on all information provided by Client or by Client’s representatives, consultants, contractors, vendors, or agents in the execution of GPI’s services. Client will designate a Client Representative and authorizes GPI free access to the project site, and to locations where materials are prepared and stored. Client Representative has complete authority to direct GPI in the executing the Proposal, receive and provide communication from and to GPI, modify GPI’s scope of services, and authorize payment. In addition to the aforementioned responsibilities, for projects involving engineering, drilling, or environmental services, Client agrees to provide the following prior to the commencement of GPI’s services: (1) a project description; (2) the property location and a description; (3) property access; and (4) the specific location of any underground utilities, structures, and known or suspected hazardous materials. GPI is not responsible for damage or repair to underground utilities or structures which were not properly identified, located, or otherwise made known to GPI prior to beginning our services.

GEOPROFESSIONAL CONTINUITY. Remediation, site abatement, mitigation, and/or construction monitoring are important aspects of any project and part of the environmental and geotechnical design process that allows confirmation of conditions observed during site exploration and to verify that conditions remain as relied on for design and that design recommendations are followed. Our agreement to perform the proposed scope of environmental and geotechnical design services is based on the understanding that GPI will be retained to perform construction monitoring as the project is constructed, remediated, abated, or mitigated. Accepting the Proposal serves as evidence that Client understands this is part of the design process, industry standard, and a contractual requirement to perform the necessary follow through construction/remediation monitoring, testing, and inspection. If GPI is not so retained or does not perform these services for any other reason, Client agrees to defend, indemnify and hold harmless GPI, its officers, affiliates, and/or assigns from any environmental or geotechnical design and/or remediation or construction related claims, losses, damages or expenses, including reasonable attorney’s fees, expert fees and other costs of defense. Where design services are not proposed, GPI will not become the engineer-of-record or have any involvement in the design.

INVOICES AND PAYMENT. GPI will invoice for services in accordance with our Proposal terms. Invoices are due on receipt and will be assessed a late payment charge of 20% per annum if not paid within 30 days of the invoice date. If GPI is not paid when due, GPI may suspend or terminate all services and Client agrees to return to GPI all copies of any reports, plans, specifications or other documents prepared by GPI under these General Conditions and will not rely on these documents or use them in any fashion, nor shall the same be used as a basis for bringing suit against GPI. GPI retains all rights to claim against performance bonds, lien project property and other measures to receive payment for services rendered.

CHANGED CONDITIONS. If, after executing these General Conditions, GPI discovers conditions or circumstances not anticipated by either party, we will promptly notify Client of the changed condition. Client agrees to negotiate an appropriate modification to these General Conditions, including an appropriate modification to GPI’s fees for any changed conditions. Either party may terminate these General Conditions as set forth in *Termination and Suspension* if GPI and Client cannot agree on a revised Proposal and fee.

HAZARDOUS MATERIALS. GPI is not responsible for any loss, injury, or damage to any person or personal property caused by Hazardous Materials unless released by GPI. Unless specifically outlined in the scope of services, our work does not include investigation, detection, evaluation, or assessment of Hazardous Materials. Accordingly unless specifically outlined in an Environmental Proposal, our deliverables will not include any interpretations, recommendations, findings, conclusions, or opinions regarding Hazardous Materials. Client agrees to defend, indemnify, and hold GPI harmless from any claims, liability, loss, or damage that arises from, or is alleged to arise from, or is in any way related to, Hazardous Materials. “Hazardous Materials” includes, but is not limited to any toxic, noxious, poisonous, radioactive, or irritating material, chemical, or gas, and includes biological materials such as bacteria, viruses, fungi, spores and mold, and the emissions from biological materials.

CERTIFICATIONS. GPI’s services are only an expression of our professional opinion based on the Proposal GPI performed for Client and are not a guarantee or warranty of any fact, condition, or result. GPI will not execute any certification.

PARTY RELATIONSHIP. GPI is an independent consultant, with our employees under our sole direction and control. GPI will have the full power, discretion, and authority to select the means, manner, and method of completing our services for individual project tasks without detail, control, or direction. GPI has the latitude to subcontract for the services of others without obtaining Client’s consent where GPI deems it necessary or desirable to complete our scope of services.

NON-SOLICITATION. GPI’s assets are our employees; critical to fulfilling GPI’s client and project objectives. Recognizing this, Client and GPI (the Parties) agree that during the term of this contract and for a period of two (2) years after termination of this contract, for any reason, the parties shall not directly or indirectly induce, engage, encourage, or attempt to induce, encourage, or otherwise counsel, advise, ask, or offer any person who is, at the time, employed in any capacity by the other party, to leave the employ of the other party, or to accept employment with the other party, or to become an independent contractor, or to offer employment to or hire such person.

The parties agree that it would be impractical and very difficult to determine the amount of actual damages caused by a breach of this non-solicitation provision. Therefore, the parties agree that in the event it is established that there has been a violation of the non-solicitation provision, the violating party shall pay the other party, as liquidated damages, the sum of twenty-two thousand dollars (\$22,000) for each breach. The parties agree that these liquidated

Proposal No.	PUP22112, dated December 27, 2022	Client Name	Merrell Bros., Inc. – c/o Mr. Brent Pomehrn	<input checked="" type="checkbox"/> GEE
Project Name	WWTP Phase 2 Improvements	Project City, State	Kennewick, WA	<input type="checkbox"/> CMT <input type="checkbox"/> ENV

damages represent reasonable compensation to the other party for losses that would be incurred by it due to any such breach and that no further relief shall be granted the damaged party.

SITE DISTURBANCE. Often GPI’s proposed scope of services may cause surface and subsurface disturbance. Property restoration is not included in GPI’s scope of services.

INDEMNITY. Client agrees to indemnify, defend and hold GPI, its officers, employees, shareholders, and affiliates harmless from and against any claims, including all third party claims, suits, liability, damages, and expenses with respect to the properties or GPI’s services under these General Conditions. Client’s duty to defend will incur at the onset of a claim and requires reimbursement of all reasonable legal fees incurred in said defense through an attorney selected by GPI.

RISK ALLOCATION. GPI has a limited role in the overall project scope. Therefore, Client agrees to limit GPI’s total aggregate liability to Client and all third parties who may claim through Client, arising from injuries, damages, claims, losses, expenses, including any attorney’s fees or litigation expenses arising from any judgment or ruling of any kind, arising out of or relating to GPI’s services under these General Conditions based on any cause or any theory of liability, including, but not limited to negligence, errors or omissions, strict liability, breach of contract, breach of warranty, and claims for indemnification or contribution, such that GPI’s total aggregate liability shall not exceed the percentage share of GPI’s fee as it relates to the Client’s total fee, or in the case of an owner, the total project value, up to a maximum of fifty thousand dollars (\$50,000). Client may negotiate a higher limit on projects that exceed this amount in total fees in exchange for an appropriate fee increase to reflect the modified risk allocation. Client and GPI agree that this provision shall apply to the indemnity obligations set forth above. Neither Client nor GPI will be liable to the other for any consequential, liquidated, punitive, or incidental damages, except as specifically provided for in these General Conditions. The Parties agree that no actions, claims, or proceedings of any kind, whether in tort, contract, or equity, arising out of GPI’s services, may be brought against GPI more than 2 years after GPI’s last service date in connection with this project.

SURVIVABILITY. The indemnity obligations, risk allocation, limitations of liability, and assignment requirements established under these General Conditions shall survive the expiration or termination of these General Conditions. These General Conditions extend to the Proposal and any additional services GPI performs.

NO JOINT AND SEVERAL LIABILITY. GPI shall not be jointly or severally liable for any damage of any kind or nature, including loss or damage of any kind to land or any structures or other improvements planned, designed, constructed or remodeled on the property which is the subject of these General Conditions, or for any personal injury, including death, arising out of or resulting from any structural plan, design or construction, or the remodeling of any structure placed on the property which is the subject of these General Conditions, unless and to the extent said loss or damage or injury is the exclusive direct and proximate result of GPI’s sole negligence.

TERMINATION AND SUSPENSION. The Parties may terminate or suspend these General Conditions upon seven (7) days written notice delivered personally or by certified mail to the other party. In the event of termination, other than caused by a material breach of these General Conditions by GPI, Client shall pay for all of GPI’s services performed through the date of termination, and for any necessary services and expenses incurred in connection with the project’s termination. GPI shall not be liable to Client for any failure or delay in performance due to circumstances beyond GPI’s control.

DISPUTE RESOLUTION. No action may be instituted or prosecuted in any court related to any dispute arising from or in connection with these General Conditions unless the party wishing to institute such action first demands in writing, and participates in good faith, in a non-binding facilitated mediation of the dispute. The fees and costs of the mediator shall be shared equally between the parties. The mediation shall be conducted by a mutually agreed to mediator selected by the parties from the roster of civil mediators approved by the jurisdiction’s Supreme Court, or another mutually agreed upon mediator. Only after good faith efforts at mediation can a party to disagreement pursue litigation for claims relating to these General Conditions.

CONTROLLING LAW. The laws of the State in which the project occurs will govern the interpretation and enforcement of these General Conditions, and the venue for any legal dispute shall be in the county seat where the project is located.

INTEGRATION AND SEVERABILITY. The Proposal and these General Conditions reflect the entire Agreement between GPI and Client. If any portion of these General Conditions is found to be void, such portion shall be stricken and the General Conditions shall be reformed to as closely approximate the stricken portions as the law allows.

DELIVERABLE OWNERSHIP. Where and when GPI is paid in full, GPI grants Client a non-exclusive license to use the Drawings, Specifications, Reports or other documents prepared by GPI for this Project (“Deliverables”). However, the Drawings, Specifications, Reports, and other documents, including document copies are owned by GPI. GPI maintains no liability for any reuse or modification of the Deliverables by Client or anyone obtaining it through Client and such liability will be at Client’s sole risk. Client agrees to defend, indemnify, and hold GPI harmless from all third party claims, demands, actions, and expenses (including reasonable attorney’s fees, expert fees, and other costs of defense) arising from or in any way related to the reuse or modification of the Deliverables by Client or anyone obtaining it through Client. Recognizing this indemnity, Client agrees to disclose all of GPI’s Deliverables and these General Conditions to prospective buyers such that clearly understand the associated relationship between Client and GPI as well as understand the associated risks, limitations, and considerations of GPI’s design. Disclosure of any of GPI’s documents does not create a right to rely on them or create any contractual relationship or a duty of care between GPI and the party that receives them.

ELECTRONIC DELIVERABLES. GPI’s services are intended to help facilitate sustainability and therefore, GPI may elect to provide our deliverables in electronic formats, which may change from time to time, but at a minimum may include: portable document format (pdf), electronic mail, flash drives, presentations, or other reusable hardware devices. Client agrees to accept deliverables in an electronic format and agrees to indemnify, defend, and hold GPI harmless from any misuse, loss, or other activity that compromises the deliverable intent or any damage to Client or third party resulting from corrupt files or hardware.

ASSIGNMENT. During the term of these General Conditions and following its expiration or termination for any reason, Client shall not transfer, assign, convey, or sublet any right, claims, duty, or obligation under it, nor any other interest therein without the prior written consent of GPI.

GENERAL CONDITIONS ACCEPTANCE AND AUTHORIZATION TO PROCEED: If Client gives any form of authorization to proceed and does not object in writing to the General Conditions outlined above within 10 days, Client agrees to be bound by these terms.

Signature _____
Printed _____

Title _____
Date _____

CLIENT: MERRELL BROS., INC.
 PROJECT: CITY OF KENNEWICK WWTP - BIOSOLIDS FACILITY
 PROPOSAL NO.: 31-22

PROJECT MANAGEMENT - ADMINISTRATION AND MEETINGS

	\$185	\$135	\$85	\$90	
Services	Prin. Arch.	Architect 3	Designer 1	Admin.	Labor
Subtotal (Hours)	170.00	170.00	40.00	32.00	
Task Total (Dollars)	\$31,450	\$22,950	\$ 3,400	\$ 2,880	\$60,680.00

30% ARCHITECTURAL CONSTRUCTION DOCUMENTS

	\$185	\$135	\$85	\$90	
Drawings	Prin. Arch.	Architect 3	Designer 1	Admin.	Labor
Subtotal (Hours)	64.00	320.00	120.00	16.00	
Task Total (Dollars)	\$11,840	\$43,200	\$10,200	\$1,440	\$66,680.00

-\$6,600.00

60% ARCHITECTURAL CONSTRUCTION DOCUMENTS

	\$185	\$135	\$85	\$90	
Drawings	Prin. Arch.	Architect 3	Designer 1	Admin.	Labor
Subtotal (Hours)	64.00	270.00	320.00	16.00	
Task Total (Dollars)	\$11,840	\$36,450	\$27,200	\$1,440	\$76,930.00

-\$6,580.00

90% ARCHITECTURAL CONSTRUCTION DOCUMENTS

	\$185	\$135	\$85	\$90	
Drawings	Prin. Arch.	Architect 3	Designer 1	Admin.	Labor
Subtotal (Hours)	48.00	240.00	240.00	16.00	
Task Total (Dollars)	\$8,880	\$32,400	\$20,400	\$1,440	\$63,120.00

-\$7,300.00

100% ARCHITECTURAL CONSTRUCTION DOCUMENTS

	\$185	\$135	\$85	\$90	
Drawings	Prin. Arch.	Architect 3	Designer 1	Admin.	Labor
Subtotal (Hours)	45.00	80.00	160.00	16.00	
Task Total (Dollars)	\$8,325	\$10,800	\$13,600	\$1,440	\$34,165.00

-\$2,160.00

\$301,575.00 -\$22,640.00

CLIENT: Merrell Bros, Inc.
 PROJECT: Kennewick WWTP Biosolids Facility
 DATE: 1/18/2023
 CONSULTANT: Harms Engineering, Inc.
 SCOPE: Structural Engineering & Permit Assistance/Management

	DIRECT LABOR					
	Principal Engr	Proj. Engr. - Structural	Proj Engr II	Designer/ Drafer III	Admin	
TASK DESCRIPTION	\$ 158.00	\$ 153.00	\$ 125.00	\$ 114.00	\$ 75.00	Labor
Project Management - Administration						
Subtotal (Hours)	45	50			4	
Subtotal (Dollars)	\$ 7,110	\$ 7,650	\$ -	\$ -	\$ 300	\$ 15,060
30% Design Engineering						
Subtotal (Hours)	20	75		80	4	
Subtotal (Dollars)	\$ 3,160	\$ 11,475	\$ -	\$ 9,120	\$ 300	\$ 24,055
60% Design Engineering						
Subtotal (Hours)	20	75	20	80	4	
Subtotal (Dollars)	\$ 3,160	\$ 11,475	\$ 2,500	\$ 9,120	\$ 300	\$ 26,555
90% Design Engineering						
Subtotal (Hours)	20	45	8	60	4	
Subtotal (Dollars)	\$ 3,160	\$ 6,885	\$ 1,000	\$ 6,840	\$ 300	\$ 18,185
100% Design Engineering						
Subtotal (Hours)	20	25	8	30	4	
Subtotal (Dollars)	\$ 3,160	\$ 3,825	\$ 1,000	\$ 3,420	\$ 300	\$ 11,705

125 270 36 250 20 \$ 95,560.00

Scope Assumptions:

- Process Building pre-engineered metal building foundation, slab, and concrete walls
- Greenhouse pre-engineered metal building foundation, slab, and knee walls
- Odor Control Units Foundations
- Cyclone Air System Foundation
- Truck scale Foundation
- Pastuerizer foundation or slab on grade support verification
- Screw Press slab on grade support verification
- Wheeled Loader Ramp
- Calculation package
- Notes and specifications on plans
- Meetings and team coordination 12 months
- Permitting assistance/management 12 months at 6 hrs/month

Scope Exceptions:

- Storage Building pre-engineered metal building foundation
- Trailer Washout
- Tank Pad(s)
- Conveyor Foundation
- Construction support
- Stand alone technical specification package

PROJECT WORK PLAN PERSON-HOUR ESTIMATE

Project Name: Kennewick WWTP Phase 2 Upgrades
 Project Number: _____
 Date Prepared: 2/6/2023
 Estimated By: Deanna Martin

Estimated Project Duration:
 Design, Permitting, & Bidding: 10 months
 Construction: 0 months
 Total: 10 months

KHA Task # Subtask ID Number	KHA Task Name Subtask Name/Description	Direct Labor (Person-Hours)								Computer Hours	Misc. Direct Expense
		Principal/ PM	Senior Prof	Prof	Analyst	CADD	Designer	Support Staff	KH Labor Total		
1.100	Project Management - Administration and Meetings										
	Kickoff Meeting	42	18								\$6,300
	Project Management Plans Per RCW	20			40						
	External Project Meetings (monthly 2 hr mtg)+ 2 hr/month mtg w/ MB for manf q's	80	20	20							
	Meeting RFI's (2 hr Sr, 8 hr Prof between each mtg on research)	20		80							
	Internal Project Meetings (weekly 1 hour coordination meetings for 10 months)	88	88	44	88		44	66			
	Participate in Risk Opportunity Workshop	8	8	4				4			
	Initial Work Planning	24									
	CTCs/billing/castaheads/etc.	24						32			
	Sub consultant coordination	4		12							
	Project Management and Accounting	8	16	16				40			
	Responding to MB q's during MB preparation of GMPs	12									
	Subtotal (Hours)	330	150	176	128	0	44	142	0		
	Task Total (Dollars)	\$113,850	\$41,400	\$42,592	\$24,576	\$0	\$11,352	\$25,560	\$259,330	\$0	
1.200	30% Design Engineering										
	Data/Gathering/Process Design	24	40	48	48						
	Review history, develop sampling plan										
	Coordinate sampling, review results										
	Operational review to minimize impacts to plant										
	Sludge Transfer Analysis	12	4	16	12		12				
	Conceptual design SHT/sludge transfer (size, location, piping, transfer pump requirements, decanting, access, aeration/mixing requirements, control/monitoring,)										
	PFD										
	P&ID										
	Hydraulic Profile										
	Confirm existing WAS pumps are adequate										
	Verify existing gravity collection and master lift station will work										
	Dewatered solids transfer system to greenhouse										
	Dried solids transfer system to pasteurizer										
	Pasteurizer										
	Pelletizer										
	Product shipping area										
	Product storage area										
	Prepare WA DOE BOD report	10	12	24	20		12	8			
	BODR Report										
	Prepare WA DOE Submittal Package (Harms)										
	Drawings (WA DOE Permitting) Submittal Package										
	WA DOE Application Meetings: two phone conferences										
	RAI Response: up to two										
	Site layout: Site piping, transfer pump stations, SHT's, dewatering system, water, reclaimed water, wastewater, gravity system tie-in, prelim SD sizing	48	24	60	40	0	80	20			
	Mechanical		6	20	20	20					
	HVAC										
	Plumbing										
	Fire Protection (Performance Spec)										
	Electrical		12	40	40	40					
	Instrumentation										
	Power Plans										
	Photometric										
	Communications (Infrastructure Only)										
	Lightning Protection (Performance Spec)										
	Fire Alarm (Performance Spec)										
	Coord for 30% submittal										
	QA/QC	24									
	30% Design Review Charette	36	18	18							5000
	Subtotal (Hours)	154	116	226	180	60	104	28	0		
	Task Total (Dollars)	\$53,130	\$32,016	\$54,692	\$34,560	\$10,440	\$26,832	\$5,040	\$216,710	\$0	

PROJECT WORK PLAN PERSON-HOUR ESTIMATE

Project Name: Kennewick WWTP Phase 2 Upgrades
 Project Number: _____
 Date Prepared: 2/6/2023
 Estimated By: Deanna Martin

Estimated Project Duration:
 Design, Permitting, & Bidding: 10 months
 Construction: 0 months
 Total: 10 months

KHA Task # Subtask ID Number	KHA Task Name Subtask Name/Description	Direct Labor (Person-Hours)								Computer Hours	Misc. Direct Expense
		Principal/ PM	Senior Prof	Prof	Analyst	CADD	Designer	Support Staff	KH Labor Total		
1.300	60% Design Engineering										
	Equipment sizing - hydraulic, HP, water demands, waste generation rate (aeration, mixing, transfer pumps, dewatering, transfer system)	36		64	80		40				
	SHT structural coordination (tank, catwalks, stairs)										
	SHT Aeration/Mixing/Decanting										
	SHT Transfer pumps										
	SHT I&C										
	PFD										
	P&ID										
	Hydraulic profile										
	Dewatering System Mechanical (polymer, drains, washwater, piping,)										
	Dewatering Building General (sinks, eyewash, polymer storage, crane/monorail,										
	Dewatering Building Structural Coordination										
	Dewatering Electrical Coordination										
	Dewatered solids transfer system (conveyor)										
	Separate out early release packages	8		10			24				
	General/Sequencing	8	8	16	24						
	Site Civil/Process Mechanical Plans	40	40	100	80		80	8			
	Site piping (WAS, SHT transfer, reclaimed, potable, sewer)										
	Stormwater Report, Infiltration Design for Flow Control/WQ										
	Mechanical		6	24	24	24					
	HVAC										
	Plumbing										
	Fire Protection (Performance Spec)										
	Electrical		12	40	40	40					
	Instrumentation										
	Power Plans										
	Lighting Plans										
	Communications (Infrastructure Only)										
	Lightning Protection (Performance Spec)										
	Fire Alarm (Performance Spec)										
	QC of Delegated Design Components assume up to 8 delegated designs	16		24							
	Coord for 60% submittal										
	QA/QC	32									
	Design Charette to review 60% including travel time	64									\$5,000
	Subtotal (Hours)	204	66	278	248	64	144	8		0	
	Task Total (Dollars)	\$70,380	\$18,216	\$67,276	\$47,616	\$11,136	\$37,152	\$1,440	\$253,216	\$0	
1.400	90% Design Engineering										
	Equipment sizing - hydraulic, HP, water demands, waste generation rate (aeration, mixing, transfer pumps, dewatering, transfer system)	16	16	40	24	16					
	SHT structural coordination (tank, catwalks, stairs)										
	SHT Aeration/Mixing/Decanting										
	SHT Transfer pumps										
	SHT I&C										
	PFD										
	P&ID										
	Hydraulic profile										
	Dewatering System Mechanical (polymer, drains, washwater, piping,)										
	Dewatering Building General (sinks, eyewash, polymer storage, crane/monorail,										
	Dewatering Building Structural Coordination										
	Dewatering Electrical Coordination										
	Dewatered solids transfer system (conveyor)										
	General/Sequencing	1	4	6							
	Site Civil	24	32	32	60		60	8			
	Site piping (WAS, SHT transfer, reclaimed, potable, sewer)										
	Mechanical		12	24	24	24					
	HVAC										
	Plumbing										
	Fire Protection (Performance Spec)										
	Electrical		24	40	40	40					
	Instrumentation										
	Power Plans										
	Lighting Plans										
	Communications (Infrastructure Only)										

PROJECT WORK PLAN PERSON-HOUR ESTIMATE

Project Name: Kennewick WWTP Phase 2 Upgrades
 Project Number: _____
 Date Prepared: 2/6/2023
 Estimated By: Deanna Martin

Estimated Project Duration:
 Design, Permitting, & Bidding: 10 months
 Construction: 0 months
 Total: 10 months

KHA Task # Subtask ID Number	KHA Task Name Subtask Name/Description	Direct Labor (Person-Hours)								Computer Hours	Misc. Direct Expense
		Principal/ PM	Senior Prof	Prof	Analyst	CADD	Designer	Support Staff	KH Labor Total		
	Lightning Protection (Performance Spec)										
	Fire Alarm (Performance Spec)										
	QC of Delegated Design Components assume up to 8 delegated designs	16		24							
	Coord for 90% submittal										
	QA/QC	40									
	Design Charette to review 90% including travel time	64									\$5,000
	Subtotal (Hours)	161	88	166	148	80	60	8		0	
	Task Total (Dollars)	\$55,545	\$24,288	\$40,172	\$28,416	\$13,920	\$15,480	\$1,440	\$179,261	\$0	
1.500	100% Design Engineering/IFC										
	General	2	4	8			4				
	Site Civil	16	8	16	24		36	8			
	PFD										
	P&ID										
	Hydraulic profile										
	Site piping (WAS, SHT transfer, reclaimed, potable, sewer)										
	Dewatering System Mechanical (polymer, drains, washwater, piping,)										
	Dewatering Building General (sinks, eyewash, polymer storage, crane/monorail,										
	Dewatering Building Structural Coordination										
	Dewatering Electrical Coordination										
	Dewatered solids transfer system (conveyor)										
	Mechanical		6	12	12	12					
	HVAC										
	Plumbing										
	Fire Protection (Performance Spec)										
	Electrical		10	20	20	20					
	Instrumentation										
	Power Plans										
	Lighting Plans										
	Communications (Infrastructure Only)										
	Lightning Protection (Performance Spec)										
	Fire Alarm (Performance Spec)										
	Coord for 100% submittal										
	QA/QC	18									
	Subtotal (Hours)	36	28	56	56	32	40	8		0	
	Task Total (Dollars)	\$12,420	\$7,728	\$13,552	\$10,752	\$5,568	\$10,320	\$1,440	\$61,780	\$0	
1.800	Estimated Travel Expenses										\$23,430
	Permitting:										
	DOE (Sub directly to MB)										
	City of Kennewick (Sub directly to MB)										
	Total (Hours)	885	448	902	760	236	392	194	3817	0	
	Total (Dollars)	\$305,325	\$123,648	\$218,284	\$145,920	\$41,064	\$101,136	\$34,920	\$970,297	\$0	\$23,500

Notes:
 No community outreach hrs/expenses included at this point
 4 trips to Kennewick assumed
 10% markup on expenses

\$970,297 Labor
 \$23,500 Expenses
 \$993,797 Total

PROJECT WORK PLAN PERSON-HOUR ESTIMATE SUMMARY

Project Name: Kennewick WWTP PH II
 Project Number: _____
 Date Prepared: 2/6/2023
 Estimated By: Deanna Martin

KH Task #	KH Task Name	Direct Labor (Person-Hours)							Estimated Expenses	
		Principal/PM \$ 345.00	Senior Prof \$ 276.00	Prof \$ 242.00	Analyst \$ 192.00	CADD \$ 174.00	Designer \$ 258.00	Support Staff \$ 180.00		KH Labor
1.100	Project Management - Administration and Meetings									
	Subtotal (Hours)	330	150	176	128		44	142		
	Task Total (Dollars)	\$113,850	\$41,400	\$42,592	\$24,576	\$0	\$11,352	\$25,560	\$259,330	
1.200	30% Design Engineering									
	Subtotal (Hours)	154	116	226	180	60	104	28		
	Task Total (Dollars)	\$53,130	\$32,016	\$54,692	\$34,560	\$10,440	\$26,832	\$5,040	\$216,710	
1.300	60% Design Engineering									
	Subtotal (Hours)	204	66	278	248	64	144	8		
	Task Total (Dollars)	\$70,380	\$18,216	\$67,276	\$47,616	\$11,136	\$37,152	\$1,440	\$253,216	
1.400	90% Design Engineering									
	Subtotal (Hours)	161	88	166	148	80	60	8		
	Task Total (Dollars)	\$55,545	\$24,288	\$40,172	\$28,416	\$13,920	\$15,480	\$1,440	\$179,261	
1.500	100% Design Engineering/IFC									
	Subtotal (Hours)	36	28	56	56	32	40	8		
	Task Total (Dollars)	\$12,420	\$7,728	\$13,552	\$10,752	\$5,568	\$10,320	\$1,440	\$61,780	
1.900	Estimated Travel Expenses (up to 4 site visits/in-person meetings)									\$23,500

Total Hours	885	448	902	760	236	392	194	3,817		
Total Dollars	\$305,325	\$123,648	\$218,284	\$145,920	\$41,064	\$101,136	\$34,920	\$970,297	\$23,500	\$993,797



From | **Johnson Melloh, Inc.**
5925 Stockberger Place
Indianapolis IN 46241
3172445993
www.johnsonmelloh.com

Quote No. | **0001729**
Type | Construction
Prepared By | Henry Nichols
Created On | 12/28/2022
Valid Until | 01/27/2023

Quote For | **Merrell Brothers**
Kennewick WWTP
101 N Oak St
Kennewick WA 99336

Description of Work

Plans and Specs for Kennewick WWTP RFH Greenhouse

Services to be completed

[Boiler] Location - Building

Kennewick system design work to include:
Mechanical design, CAD work, and drawings
Review and stamped sheets for the state of Washington
Zone design and radiant layout of the control building

Process building - 22,000 sq ft heat load calculation. These calculations will not include any credits (debits) for gains (losses) of process equipment or loads beyond the RIGHT J methods for wall, window, door and ceiling losses. Any additional scope will need to be discussed and adjustments provided after a more detailed scope is presented for consideration. Architectural drawings and local scope considerations will be required before any calculations will be provided.

If on site engineering consultation is required it will be billed at \$300 per hour over and above the cost of plans and specifications.

GRAND TOTAL | **\$14,265.00**

Terms and Conditions

Johnson Melloh, Inc. as JM (Contractor) and undersigned Client hereby acknowledges and agree:

1. By acceptance of proposal to the prices, specifications and conditions, JM is authorized to do the work as specified. Customer has read and hereby agrees to the Terms & Conditions.
2. All material is guaranteed to be as specified. All work to be completed during normal working hours unless noted otherwise. Any alteration and/or deviation from above specifications involving extra costs will be executed only upon written orders and will become an extra charge over and above the Proposal. All agreements contingent upon strikes, accidents or delays beyond our control as noted on back. Owner to carry fire, tornado, and other necessary insurance.
3. **Not in bid:** future escalation in labor & material rates, cut or patch, concrete work of any kind, temp utilities or facilities, GC or EC work, bond, tap or utility fees or assessments, access panels, asbestos or hazardous material work of any kind, work 5 beyond building, fire stop, fire protection, paint, ceiling removal or replacement, BIM, stamped seismic drawings, seismic bracing, roofing, overtime or shift work, louvers, or insurance that differs from our standard policy limits, Certified Safety Person, allowance, liquidated damages.
4. The price reflected in the Proposal is guaranteed for thirty (30) days from date on proposal. Any deviation from or addition to the agreed upon labor and materials must be outlined in written consent with a signed change order or authorization and agreed upon by both Contractor and Client in order to be in effect.
5. Client authorizes JM to enter the premises to complete the work. JM will complete the work in a workmanlike manner in accordance with the standard installation procedures of the material manufacturer and will complete the work within a reasonable completion time. Project completion and start dates are based contingent and could be delayed directly or indirectly, by the availability of the Client, acts of God, fires, floods, accidents, shortage of labor, fuel,

power, materials or supplies, transportation delays and any other cause or causes (whether or not similar in nature to any of these herein before specified) beyond Contractors control. Any delays in completion and starts beyond Contractors control shall not deem Contractor liable and not at the responsibility for any damages suffered by Client by reason of such delay.

6. Contractor warrants that all labor shall be free of defects for ninety (90) days and materials shall be covered under manufacturers warranty not to exceed one (1) year. Contractor shall have the sole right to perform all warranty work. All warranty work shall be done during normal business hours (8:00 AM to 4:30 PM Monday through Friday). Client will be charged for warranty work done outside normal business hours. The foregoing warranty is exclusive and in lieu of all other warranties, of whether written, oral, or implied (including any warranty of merchantability or fitness for purpose). The warranty provided in this paragraph and the obligations and liabilities of Contractor thereunder are exclusive and in lieu of and Client hereby waives all other remedies, warranties, guarantees or liabilities, obligations of Contractor with respect to fitness, merchantability and consequential damages or whether or not occasioned by Contractors negligence. In all events, Contractors liability shall be limited to an amount equal to those amounts actually paid by Client to Contractor.

7. Client agrees to pay JM for work performed and supplied as described in the attached Proposal. Completion is defined at the time when equipment is installed and operating. Terms are net 30 days unless specified otherwise. Client may be subject to progress billings. In the event such payment is not received timely, Client shall pay interest on the unpaid portion of the work at the rate of 1.5% per month from the date of the completion of the work until paid in full. Defects, if any, are to be corrected under Contractors warranty and shall not be reason for delay in payment.

8. If a down payment is required, this will be clearly defined in the attached proposal prior to material orders or execution of this agreement.

9. This agreement may not be assigned by Client without prior dual written consent of both JM and the Client.

10. Insurance: Contractor shall purchase Builders Risk, General Liability and Workman's Compensation insurance to protect Contractor and Client from claims under Workman's Compensation laws applicable during the construction project; for claims for damages because of bodily injury including personal injury, sickness or disease or death of any of Contractors employees or any person other than such employees in a minimum amount of One Million Dollars (\$1,000,000) for any one occurrence; and from claims from damages because of injury to or destruction of tangible property including loss of use relating there from. A true and correct copy of such policy shall be promptly delivered to Client upon Clients request. All Subcontractors shall furnish Contractor a copy of Certificate of Insurance to be kept on file in Contractors office.

11. Contractor shall not be responsible for covenants, zoning or other like laws, ordinances or agreements that may affect Client property. Client agrees to hold Contractor harmless from all liability in connection with the same.

12. Contractor is not liable for removal of underground obstructions not specified in original agreement.

13. Customer shall pay for all site calls regardless of whether Contractor performs any work (including equipment and labor that is under the warranty period) if it has been determined the call was not related to Contractors warranty.

14. Contractor recommends annual maintenance and periodic inspection of equipment. Failure to follow manufacturers instructions will void warranties. Other companies or persons performing service on Contractors equipment shall void warranty.

15. Customer shall indemnify and hold Contractor harmless from all liability to include but not limited to any connection with regulated or hazardous substances in or on the property. In the event any regulated substances are encountered, Contractor shall terminate work until the matter is resolved and the completion date shall be extended, to include any and all costs associated with the same.

16. Customer Cancellation: If the customer decides he/she does not want the goods or services, a cancellation notice may cancel this agreement by providing signed, written notice to the Contractor within three (3) days after the Customer signs the agreement. If cancellation occurs after three (3) days the customer may be subject to a 25% restocking fee on all materials, as well as any labor charges incurred. The written notices must be mailed to: Johnson Melloh, Inc., 5925 Stockberger Place, Indianapolis, IN 46241.

17. Contractor Cancellation: Contractor shall have the right to terminate this agreement at any time, for any reason. In such event, Contractor shall be paid for work and materials to termination date. Any extra cost to complete said agreement by other companies are not the responsibility of Contractor, and customer shall hold contractor harmless.

18. This agreement contains the entire understanding and agreement between the parties, and all of their prior written and oral agreements; understandings or arrangements are merged herein. No amendments or modification hereof shall be binding upon either party unless in writing and signed by the party to be charged therewith.

19. The parties agree the venue for any dispute shall be the courts with jurisdiction in Marion County, Indiana or Hamilton County, Indiana.

20. If any provision of this Agreement is determined by a court to be invalid, then such provision will be deemed null and void, but in all other respects, the provisions of this Agreement shall be enforceable according to its terms.

By my signature below, I authorize work to begin and agree to pay the Grand Total according to the terms and conditions of this agreement.

Name: _____ Date: _____

Signature: _____



Intuitive Engineering Services, LLC

Brent Robert Pomerhn
Merrell Bros., Inc. - Indiana Division
8811 W 500 N, Kokomo, IN 46901

01/05/23

Re: COK-WWTP-Ph.2

Brent,

We appreciate this opportunity to provide engineering/code consulting services to Merrell Bros. (Client). The scope of services covered under this proposal includes those deliverables requested and detailed below.

P R O J E C T O V E R V I E W

The WWTP-Phase#2 is an extension of the existing treatment plant located in Kennewick, Washington. It will be under the jurisdictional review of the City of Kennewick. It is proposed to be single story, approximately 25,000SF with an attached single story 130,000SF Greenhouse. The proposed project requires fire sprinklers per NFPA 13. Intuitive Engineering has been asked to provide engineering services for the fire protection preliminary design and support during contractor bidding and responses to permit comments.

SCOPE AND DELIVERABLES

- 2018 IBC with additions, deletions, and exemptions per WC 51-50 Washington State Building Code
- 2018 International Fire Code with additions, deletions and exemptions per WC 51-54A Washington Fire Code
- Kennewick Municipal Code
- NFPA 13 – (2019) Standard on Automatic Sprinkler Systems



Intuitive Engineering Services, LLC

PRELIMINARY SCHEDULE

SD Phase (30%)- Basis of Design- 8 weeks
DD Design (60%)-9 weeks
DD Design (90%)-9 weeks
CD Design (100%)-Nov 2023
Permit Comments Response Support- 2024

The scope of services includes the following, scope and budget is broken out per phase:

Phase I. Schematic Design (SD)-30%

- a. Attend (4) four, (1) one hour SD planning meetings (remotely).
- b. Review and verify water flow test information from project team.
- c. Complete review of available water supply including required fire flow for building.
- d. Support alternate building protection measures per IFC.
- e. Provide Project Fire Protection Basis of Design (BOD) based on IFC.

Phase II. Design Development 30-100%DD

- a. Prepare a preliminary design package and coordinate with the project on site plan with Civil Engineer.
- b. Draft one (1) layout for riser room piping/valves.
- c. Develop Revit package with enough detail to communicate with the design team for preliminary main sizing and routing, typical branchlines provided for clarity. Main piping to be fully coordinated within a Revit Model.
- d. Develop one (1) PDF package of preliminary fire sprinkler drawings.
- e. Send package to client for review and comment.
- f. Based on comments from client and project team, provide one (1) final PDF preliminary drawing package with fire sprinkler specifications.
- g. Provide PDF progress check drawing package for team coordination as requested by Client.
- h. Based on comments from client and project team, review and provide one (1) final PDF for DD package.
- i. Provide PDF progress review checks package for team coordination as requested by Client.

Phase III. CD Design

- a. Update fire sprinkler specification for bidding.
- b. Finalize Preliminary Fire Sprinkler plans with sprinkler locations for coordination.
- c. Finalize preliminary sprinkler package including main sizing along with branchline sizing and routing.



Intuitive Engineering Services, LLC

- d. Provide PDF progress check drawing package for team coordination as requested by Client.
- e. Update preliminary drawing package to be used during bidding by design/build fire sprinkler contractors.

Phase IV. Bid/Permit Phase Support

- a. Review/Respond to correspondence from Fire Marshal/building official regarding permit review comments.
- b. Provide up to four (4) hours for revisions to conform CD set to permit review comments from AHJ.
- c. Provide up to two (2) hours answering questions during the bidding of the fire sprinkler system by Fire Sprinkler Bidding Contractors.

ASSUMPTIONS & EXCLUSIONS

- A. Travel is not included in this proposal. If required as an additional service, travel will be billed as a fixed fee (per trip). Travel, food, and lodging will be as an additional reimbursable expense.
- B. Fire Pump is not anticipated (i.e. underground piping is sufficient to deliver water supply required).
- C. Review/coordination of the Fire Alarm designs is not included.
- D. If the project scope deviates from what is included in this proposal, a scope change proposal will be provided for approval prior to proceeding with that scope of work.



Intuitive Engineering Services, LLC

COST OF SERVICES

Provided services for a **(Base) Fixed Fee of \$16,000.00.** (Plus, B&O Tax)

FPE Consulting Services	Fee
Schematic Design (SD-28%)	\$4,480.00
Design Development (DD-52%)	\$8,320.00
Construction Documents (CD-10%)	\$1,600.00
Bid Support/Permit Response- (10%)	\$1,600.00
Total (Base)	\$16,000.00
B&O Tax (0.471%)	\$75.36

We look forward to contributing on this project with your team. Please send us a purchase order or sign below to authorize us to proceed. Should you have any questions or concerns, please do not hesitate to contact me.

Franklin Callfas
President/Fire Protection Engineer
Intuitive Engineering Services, LLC
541-848-1798

Client Acceptance (Sign/Date)



ELECTRICAL ENGINEERING SERVICES SCOPE AND FEE PROPOSAL

January 3, 2023

To: Brent Pomerhn
Merrell Brothers
From: Brad Bailey/Jeff Gray
Re: City of Kennewick Biosolids Pasteurization Project
Merrell Brothers 23XXX

Thank you for the opportunity to propose our Electrical Engineering services for the Kennewick Biosolids Pasteurization project. This proposal is based upon the emails and phone calls with your company, as well as our Teams meeting on December 22nd. The following is our understanding of the scope of the requested electrical engineering services to be furnished for this project.

Project Overview

The City wishes to build a new biosolids pasteurization process at the existing waste water treatment facility. This will include some new aerated sludge holding tanks, associated sludge transfer pumps, a new mechanical dewatering train of equipment (likely 2 or 3 screw press units from FKC), a new drying greenhouse with associated boiler skid, hydronic slab heating system, and odor control systems, a new pasteurizer system, and a new pelletization system with associated dust collection.

This is expected to be a progressive design-build project. CEI will be providing design work for controls systems interconnections between the various new vendor supplied control panels, connecting these control panels with the City's existing SCADA system, and coordination with both the City and the larger design team for these interconnections. This work will include control panel design (for the new sludge pumps and aerated sludge holding tanks) and SCADA programming services.

CEI will also provide structured cabling design, security/access control/intrusion detection system design, and fire alarm system design. These systems, where practical, will be coordinated and integrated into the City's existing systems at the wastewater treatment facility.

CEI understands that this project is a design-build project and the scope may be fluid throughout the project. The scope below is advisory and is the basis of the projected fees budget. We are happy to assist with any portion of this project which falls in our area(s) of expertise and will work with the Owner and Merrell Brothers as the scope changes to complete the project, and will bill our efforts on a Time and Expense basis.

Scope

- ❖ Design and programming of a new "coordination" control panel.
 - Panel will house network switch and connections for the pasteurization system vendor panels and interconnection to the existing wastewater treatment facility SCADA network.
 - Panel will handle process controls for the new aerated sludge holding tanks, sludge transfer pumps, and lagoon valving/pumping operations.
 - Other process controls will all be handled by vendor control panels associated with each specialized piece of equipment.
 - PLC programming to provide coordination between vendor panels and plant-controlled equipment (digested sludge feed to dewatering train for example).

Z:\Business Development\Proposals\Pending Proposals\Merrell Bros Kennewick Biomass Greenhouses\City of Kennewick Biosolids Pasteurization Project.docx

- Construction by others, builder TBD and coordinated with Merrell Brothers.
- ❖ Selection of instrumentation devices to accomplish the team and City desired controls algorithm for the aerated sludge holding tanks and their associated pumps and valves.
 - Develop instrumentation line/block diagrams for the sludge storage tanks and transfer equipment.
- ❖ SCADA programming modifications to the wastewater treatment facility's existing SCADA system to incorporate and integrate the new pasteurization project equipment and vendor control panels.
- ❖ Design of new intrusion detection and access control systems for the new process buildings.
 - And truck gates if desired.
- ❖ Design of new fire alarm system (suggested device locations, gather coordination information for existing systems in place for coordination, system to be bidder submitted to the AHJ for approval).

Exclusions

- ❖ Power distribution design (receptacles, feeders, lighting, HVAC, etc)
- ❖ Process Control Engineering
- ❖ Any equipment or materials supplies; we are a design services and programming services only firm.

Fees*

Connetix Engineering, Inc. proposes to complete the work described above on a Time and Expense basis. The fee breakdown included below is a projected budget to complete the work as we understand it at this point. It is expected that the scope, and thus fee associated with our design and programming efforts, will be flexible and is likely to change as a result of meetings and construction changes.

PLC and Instrumentation Design:	\$38,860
Networking, Fire Alarm, Intrusion, Access Control Design:	\$26,740
SCADA Programming, Programming Startup, Construction Phase Services:	\$48,780
Total:	\$114,380

If you have any questions, please contact our office.

***PLEASE NOTE THAT PROPOSED PRICING FOR FEES IS ONLY VALID FOR 120 DAYS FROM THE DATE OF THE PROPOSAL. BEYOND 120 DAYS CONNETIX RESERVES THE RIGHT TO MODIFY THE PROPOSED FEES OR TO CANCEL THE PROPOSAL IN ITS ENTIRETY.**

CC: Job File / Chron File

Personnel	Task: Rate	PLC Control Panel Design / Instrumentation /Design Meetings			Networking/Fire Alarm/Intrusion/Security			SCADA Programming/ Startup/Construction Meetings		
		Hours	Extended	Expenses	Hours	Extended	Expenses	Hours	Extended	Expenses
Principal Engineer	\$201	60	\$12,060			\$0		80	\$16,080	
Senior Professional Engineer	\$182	40	\$7,280			\$0			\$0	
Principal Designer	\$182		\$0		80	\$14,560			\$0	
Registered Professional Engineer (PE)	\$165		\$0			\$0			\$0	
Project Designer	\$146	40	\$5,840			\$0			\$0	
Registered Communications Distribution Designer (RCDD)	\$146		\$0			\$0			\$0	
Project Engineer	\$146	80	\$11,680		80	\$11,680		200	\$29,200	
Senior SCADA Technician	\$146		\$0			\$0			\$0	
BIM Designer	\$129		\$0			\$0			\$0	
CAD/Engineering/SCADA Technician	\$110		\$0			\$0			\$0	
Administrative	\$70		\$0			\$0			\$0	
				\$ 2,000.00			\$ 500.00			\$ 3,500.00
		Budget	\$38,860			\$26,740			\$48,780	
TOTAL BUDGET:		\$114,380								



Combustible Dust Consulting Services Proposal

Client Name: Merrell Bros., Inc.
Client Address: 8811 W 500 N
Kokomo, IN 46901
Client Contact: Brent Robert Pomerhn
Client Phone: (574) 699-1035
Client Email: brent.pomerhn@merrellbros.com

Proposal Number: MER-TH-221230
Proposal Revision: 1
Proposal Date: January 4, 2023

Dear Brent,

Thank you for your interest in Dustcon Solutions' services. This letter outlines our **budgetary** proposal for conducting a Desktop Dust Hazard Analysis (DHA) and related consulting services for the new biosolids handling and pelleting systems to be installed within a building compartment in the new production facility located in Kennewick, Washington.

As of the time of this Proposal, the dry solids handling equipment handling combustible dust include:

- Mechanical conveyors (augers, bucket elevators, drag conveyors)
- Hopper/Feeder
- Pellet Mill and Cooler
- Shaker Table / Screener
- Truck Loadout
- Dust Collection / Aspiration

Scope of Work:

Desktop Dust Hazard Analysis (Desktop DHA):

- Conduct a Desktop Dust Hazard Analysis and make recommendations in accordance with NFPA 652, *Standard on the Fundamentals of Combustible Dust*, 2019. Recommendations may also be in accordance with other applicable standards including, but not limited to:
 - NFPA 61, *Standard for the Prevention of Fires and Dust Explosions in Agricultural and Food Processing Facilities*,
 - NFPA 654, *Standard for the Prevention of Fire and Dust Explosions from the Manufacturing, processing, and handling of Combustible Particulate Solids*,
 - NFPA 68, *Standard on Explosion Protection by Deflagration Venting*,
 - NFPA 69, *Standard on Explosion Prevention Systems*,
 - NFPA 70, *National Electrical Code*,
 - NFPA 77, *Recommended Practice on Static Electricity*,
 - NFPA 91, *Standard for Exhaust Systems for Air Conveying of Vapors, Gases, Mists and Particulate Solids*,
 - OSHA, *Combustible Dust National Emphasis Program*.
- Dustcon will make every attempt to utilize previously obtained representative explosibility data, including Particle Size, Explosion Severity (Kst/Pmax), Minimum Ignition Energy (MIE), Minimum Explosible Concentration (MEC), Minimum Auto-ignition Temperature of a Dust Cloud (MAIT-cloud), and Minimum Auto-ignition Temperature of a Dust Layer (MAIT-layer).
 - Use of actual product data, well-established industry data, and similar product data is acceptable in accordance with NFPA 652, Chapter 5.
 - Include any caveats or risks of using data not sourced representative lab testing.

Note: *It is assumed that the material generated by the Kennewick site will be similar to that generated by the Pasco County FL facility for which data has already been obtained. If it is uncertain as to whether the Pasco samples are "representative", then additional testing may be recommended.*

Purpose:

The purpose of a Dust Hazard Analysis is to review existing documentation, evaluate the existing facility, and make recommendations for improved explosion protection and fire prevention measures to comply with NFPA Standards and standard industry practice. At its core, the Dust Hazard Analysis answers three main questions for each area of a facility:

1. Does a dust explosion and/or flash fire hazard exist?
2. What existing safeguards are in place to prevent/mitigate the hazard?
3. What additional safeguards are required?

Methodology:

The **Desktop DHA** is special case of the Dust Hazard Analysis in which the equipment is not yet installed and the process is not yet running.



The system is analyzed using the Dust Test Reports, Process Flow Diagrams, Equipment Drawings, Layout Drawings, and/or other design criteria to assess the safety and compliance. In many cases, we work directly with the design engineers and equipment manufacturers to discuss the expected process conditions and system layout to ensure that all combustible dust hazards are identified and mitigated prior to construction.

The resulting DHA report is used to guide the final stages of design, installation, and defines operating procedures needed to manage the combustible dust hazards identified.

Fire and Building Code Consulting (Cover Letter)

- Provide project specific Cover Letter to code official with necessary information/opinions as determined by client and consultant during project execution.
- Review of relevant sections of Washington Fire and Building Codes to determine the proper occupancy rating as it pertains specifically to combustible dust (i.e., F-1 vs. H-2).
- **(Optional Adder)** Formal communication with the local code official in the form of a Letter which may be signed/sealed by a Professional Engineer (P.E.) licensed in the State of Washington, if required.

Follow-up Support and Discussion with Local Code Officials

- Provide follow-up support as required to satisfy client, end-user and local code officials including review, discussion, and revision of deliverables, as necessary.

Cost Estimate Table:

Estimated costs are summarized below. If we require any additional time to complete this project beyond the estimated hours, we shall obtain approval first.

Description of Service(s)	Estimated Hours	Hourly Rate (USD/hr)	Total Est. Cost (USD)
1. Desktop Dust Hazard Analysis (DHA) <ul style="list-style-type: none"> • Preparation and Planning, including review of: <ul style="list-style-type: none"> ○ List of materials handled at the facility, ○ Dust test results and available published data, ○ Process Flow Diagrams and Facility Drawings, ○ Equipment specifications, drawings and manuals, ○ Planned protection systems and management controls. • Analysis of all collected data, research, completion of a written DHA report, and peer-review. 	24	\$ 325.00	\$ 7,800.00
2. Project Specific Cover Letter <ul style="list-style-type: none"> • Provide project-specific Cover Letter to code official with necessary information/opinions as determined by client and consultant during project execution. 	4	\$ 325.00	\$ 1,300.00
3. Fire and Building Code Consulting <ul style="list-style-type: none"> • Review of code official’s opinion (if available), analysis of Washington Building and Fire Codes, and Formal Response (i.e., letter) with the goal of ensuring the proper building code occupancy is applied (e.g., H-2 vs. F-1). 	8	\$ 325.00	\$ 2,600.00
4. Follow up Support and Discussion with Local Code Officials <ul style="list-style-type: none"> • Provide follow-up support as required to satisfy client, end-user and local code officials including review, discussion, and revision of deliverables, as necessary. 	8	\$ 325.00	\$ 2,600.00
Additional (Optional) Services Offered: <ul style="list-style-type: none"> • 5. PE Stamp, State of Washington: Report/Letter reviewed and stamped by a Professional Engineer licensed in the State of Washington 	Fixed	Fixed	+ \$ 2,000.00 <i>per document</i>

Notes:

1. The first draft or original issue of the Desktop DHA Report will be furnished within 20 business days after receiving all necessary data and drawings. Additional deliverables will be provided on a mutually-agreed-upon scheduled determined by client and consultant following project kickoff.
2. Any modification to activities (addition or removal) will result in a price change.
3. Actual hours recorded by the consultant, invoiced upon delivery of the original issuance of the deliverable; additional follow-up support time will be invoiced at the end of each month for which work is performed.
4. Dust Testing Services are not included and may be quoted separately.
5. No travel is anticipated for this project. If required, travel time and expenses will be quoted separately.

Submit purchase orders and executed Consulting Services Agreement to:
Customerservice@dustconsolutions.com

Terms and Conditions:

Tax:	Taxes, including sales tax, are not included.
Terms:	50% deposit to initiate work due upon receipt of invoice; balance due Net 30 days after submittal of written report (with credit approval).
Additional Terms:	Available in the Consulting Services Agreement
Validity:	90 days.

Thank you for the opportunity to offer this proposal. Please contact our office if you have any questions or require additional information.

Your time and consideration are greatly appreciated.

Regards,

Timothy Heneks, PE
Director, Engineering Services

WEBSTER ENVIRONMENTAL ASSOCIATES, INC.

13121 Eastpoint Park Blvd., Suite E
Louisville, KY 40223-4164

Tel: (502) 253-3443

Fax: (502) 253-3442

Web Site: <http://www.odor.net>



ENVIRONMENTAL AND ODOR CONTROL ENGINEERING

NEIL A. WEBSTER, P.E.

C.E.O.

BRUCE KOETTER, P.E.

President

J. W. (BUZ) RUSH III P.E.

Vice President

JIM ROSS, P.E.

Vice President

LEE BLAKEMAN, P.E.

Project Manager

November 30, 2022

Merrell Bros.
8811 W 500 N
Kokomo, IN 46901

Re: Kennewick, WA Dispersion Modeling

Mr. Ted Merrell:

Thank you for giving Webster Environmental Associates, Inc. (WEA) the opportunity to submit this proposal to conduct odor dispersion modeling for the new facility that you are designing in Kennewick, WA. WEA has been conducting odor control engineering for over thirty-five (35) years – it's all we do, every day. WEA often takes projects from the study phase, through design and construction to provide clients with a seamless process and maintain a single point of responsibility. Included as an attachment is a brief overview of Webster Environmental Associates, Inc. and what we specialize in.

This proposal contains a fee proposal based on conversations with Ted Merrell (Merrell Bros.) on November 29, 2022. The scope of work for the odor dispersion modeling includes the following:

- Obtain 1-yr of local meteorological data for the odor dispersion model.
- Model the existing conditions of the project site based on the St. Croix Sensory odor data provided by Merrell Bros.
- Model the new/future conditions of the facility based on the airflows, number of radial flow carbon adsorbers and St. Croix odor data for the existing facility. The odor data for the existing facility shows an expected odor concentration from the radial flow exhaust stacks. All of this was provided by Merrell Bros. The new/future conditions will also include modeling the following:
 - Radial flow carbon adsorbers with 40' tall exhaust stacks
 - Radial flow carbon adsorbers with 60' exhaust stacks
- WEA will prepare a report to summarize the modeling scenarios and the results.

WEA proposes to perform the described scope of work for the Lump Sum price of **\$13,400**. This fee includes all expenses and professional time needed to conduct the dispersion modeling and prepare a report.

Thanks again for the opportunity and if you have any questions or wish to discuss the proposal, please call.

Sincerely,

A handwritten signature in blue ink, appearing to read "Lee Blakeman". The signature is fluid and cursive, with a large initial "L" and a prominent "B".

Lee Blakeman, P.E.
Project Manager

WEBSTER ENVIRONMENTAL ASSOCIATES, INC.
13121 Eastpoint Park Blvd., Suite E
Louisville, KY 40223

Tel: (502) 253-3443
Fax: (502) 253-3442
Web site: <http://www.odor.net>



ENVIRONMENTAL AND ODOR CONTROL ENGINEERING

THE COMPANY

WEBSTER ENVIRONMENTAL ASSOCIATES, INC. (WEA) is a full-service consulting environmental engineering firm that specializes in odor control. Incorporated in 1981, WEA conducts air and water sampling and testing, data analysis, and odor control system design for all types of industrial and municipal clients. WEA has become a world leader in odor control engineering and has completed over 700 odor control projects by providing personalized service, a unique understanding of the issues and creative solutions. WEA has completed hundreds of odor control projects at municipal wastewater treatment plants and has developed numerous innovative solutions that have resolved the issues at the lowest possible capital and operating cost.

WEA has the experience and equipment needed to conduct odor studies and odor control system designs. WEA conducts on-site sampling which includes the collection of air samples, testing of odors, hydrogen sulfide, ammonia and other compounds, conducts air dispersion modeling and evaluates the performance of existing odor control systems. WEA has completed odor and corrosion studies and designs in all climates and all sizes of facilities throughout the world.

WEA prides itself on staying current with the latest odor control technological advances and takes great care to remain unbiased and completely independent when it comes to odor control equipment vendors and manufacturers. This allows us to select, size and recommend the system that best fits every situation.

WEA has become a world leader in odor control engineering and has completed hundreds of projects by providing personalized service, a unique understanding of the issues and creative solutions.

WEA PRINCIPALS



Neil A. Webster, P.E. - CEO and Founder

- **Nationally known Odor and Corrosion Control Expert**
- **Presented numerous papers on odor control at conferences**
- **Over 38 years of engineering experience**
- **Master's degree from Purdue University**
- **Licensed P.E. in Kentucky and Ohio**
- **Former Operations Manager at 100 MGD WWTP**



Bruce Koetter, P.E. - President

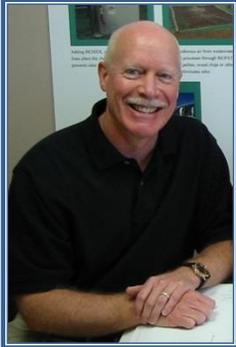
- **Odor control experience with WEA since 1993**
- **Chief designer on more than 50 odor control projects**
- **Over 30 years engineering experience**
- **Licensed Professional Engineer in ten states**
- **Purdue University B.S. in Construction Engineering**
- **Experienced Project and Construction Manager**
- **Experienced in odor control sampling, testing and design**

WEBSTER ENVIRONMENTAL ASSOCIATES, INC.
13121 Eastpoint Park Blvd., Suite E
Louisville, KY 40223

Tel: (502) 253-3443
Fax: (502) 253-3442
Web site: <http://www.odor.net>



ENVIRONMENTAL AND ODOR CONTROL ENGINEERING



J. W. "Buz" Rush III, P.E. - Vice President

- **Odor control experience with WEA since 2000**
- **Performs odor and pollutant air dispersion modeling**
- **Over 35 years engineering experience**
- **NCEES certified professional engineer**
- **University of Kentucky B.S. in Civil Engineering**
- **Experienced in odor control testing and technologies**
- **Former division manager at a utility company**



Jim Ross, P.E. – Vice President

- **Odor control experience with WEA since 2012**
- **Performs odor and pollutant air dispersion modeling**
- **Experienced in odor control design**
- **Experienced in odor control sampling and testing**
- **Experienced Construction Manager on projects up to \$11 million**
- **Licensed Professional Engineer in seven states**
- **Bachelor's degree in Biology**
- **Master's degree in Environmental Engineering**



Lee Blakeman, P.E. – Project Manager

- **Odor control experience with WEA since January, 2016**
- **Previous wastewater engineering experience with Jacobs**
- **Experienced in odor control sampling and testing**
- **Experienced in odor control design**
- **Experienced in odor control sampling and testing**
- **Experienced in AutoCAD, Microstation, ArcGIS, WaterGEMS**
- **Licensed Professional Engineer**
- **Master's degree in Civil & Environmental Engineering**

TECHNICAL ENGINEERING SERVICES

WEA offers clients a wide range of technical and engineering support services related to odor control, including:

- ✓ Odor and corrosion control evaluations, studies and preliminary design reports
- ✓ Odor control system performance and compliance testing
- ✓ Complete odor control design services
- ✓ Air dispersion modeling
- ✓ Air permitting
- ✓ Expert witness testimony
- ✓ Construction management



- ✓ Industrial waste treatment odor studies and design

SUMMARY OF ODOR CONTROL CAPABILITIES

Odor and Corrosion Studies:

WEA has completed hundreds of odor studies for municipalities (wastewater treatment plants and collection systems) and industrial clients, since 1981. WEA has all the experience and equipment necessary to evaluate treatment processes, collect air samples, conduct on-site testing of hydrogen sulfide, ammonia and other odorous compounds, perform community odor surveys and evaluate the performance of existing odor control systems.



WEA has completed odor and corrosion studies in all climates and all sizes of wastewater collection systems and treatment plants throughout the world. We will organize the study to fit your particular needs and obtain the information that is needed to resolve your odor issues.

Odor Dispersion Modeling:

Odor dispersion modeling is essentially a computer program designed to predict the impact an odor source, or group of odor sources, will have on the designated study area based on a number of factors that are input into the program. The primary inputs include odor emission rates from individual odor sources, odor source dimensions and characteristics, local meteorological data, local site data such as building and other structure dimensions, and local topographical information. Odor dispersion modeling is used as a reliable and cost-effective approach for viewing the odor impacts from existing odor sources and for evaluating potential odor mitigation alternatives.



WEA is proficient with AERMOD and ISCST3 modeling software

WEA has completed hundreds of odor and H₂S dispersion modeling evaluations and frequently prepares them for other engineering firms who do not have this capability.



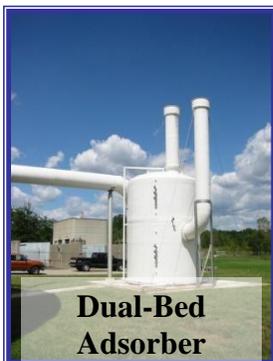
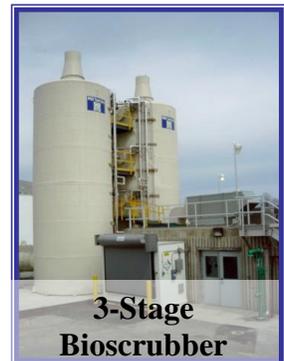
Odor Control System Design:

WEA has designed all types of odor control technologies including the following:

- **Biofilters** – Biofilters utilize bacterial growth on contained media (either organic or inorganic) which break down the odors to primarily carbon dioxide, water and salts. Biofilters are typically low profile but can require a relatively large footprint. WEA has designed dozens of biofilters in all shapes, sizes, and types of media. Biofilters can be designed below grade, above grade, or to utilize an existing, abandoned tank already onsite. WEA can custom design a system for your site or design around a vendor provided unit, depending on your need.



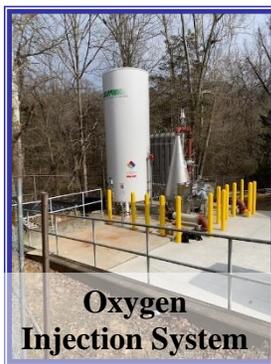
- **Bioscrubbers** – Bioscrubbers are similar to biofilters in that they utilize bacterial growth on media to break down odors. However, bioscrubbers are typically built inside FRP vessels which require a smaller footprint than a biofilter. Bioscrubbers commonly utilize synthetic packing or media for the bacteria to adhere to, although other media types are available. WEA has designed numerous bioscrubber systems.



- **Carbon Adsorbers** – WEA has designed numerous carbon adsorption systems using a variety of layouts and carbon types. Carbon systems are commonly used for low H₂S air streams, as second stage treatment and/or applications where the system will be run on an intermittent schedule. There are several types of carbon adsorber vessel designs available including single-beds, dual-beds, radial flow, and custom designs. There are also many types of carbon and vendors on the market and choosing the best carbon for the application is critical to the overall performance and success of the system. Our experience allows us to select the vessel design and carbon media that will work best in each situation.



- **Chemical Scrubbers** – WEA has designed several scrubber systems ranging in size from 2,000 cfm to 60,000 cfm. Chemical scrubbers can be a good choice for applications where space is limited, a particular compound needs to be removed and/or where the system will be run on an intermittent schedule. However, chemical scrubbers require the handling and storage of hazardous chemicals onsite and can require more operator attention than some of the alternatives.



Oxygen Injection System

- **Oxygen Injection** – Anaerobic conditions in force mains are common because oxygen transfer to the wastewater is limited. Oxygen injection is a treatment option that prevents this from happening by providing supplemental oxygen. It is used to prevent the formation of hydrogen sulfide and/or oxidize sulfides that have already formed in the wastewater. The oxygen injection process typically involves adding dissolved oxygen into a force main at a pumping station. The oxygen is dissolved into the wastewater under high-pressure using a dissolver which can dissolve up to 200 mg/L of oxygen into the wastewater depending on force main pressure. Oxygen injection is also effective in mitigating corrosion damage.

- **Chemical Feed** – Odor control chemicals are commonly used in wastewater collection systems to control hydrogen sulfide, odor and corrosion at pumping stations and along forcemains. WEA has designed numerous chemical feed systems to feed a variety of chemicals, including iron salts, nitrates, magnesium hydroxide, hydrogen peroxide and caustic solutions. Choosing the proper chemical for the application can be quite difficult and the consequence of choosing the wrong one can be expensive. Pilot testing is often recommended to prove performance prior to committing to something that will not work.



Chemical Feed System

- **Covers** – Containing and capturing odor emissions from process tanks can be expensive but is often essential to proper odor control. WEA has designed dozens of cover systems to prevent fugitive emissions and assure complete capture of odorous air. Several cover types and material options are available depending on end-user preference and project requirements.



FRP Covers



Aluminum Covers

Council Agenda Coversheet



Agenda Item Number	4.j.	Council Date	03/07/2023
Agenda Item Type	Contract/Agreement/Lease		
Subject	WWTP Ph 2 - Patent & Tech License Agreement		
Ordinance/Reso #		Contract #	
Project #	P2209	Permit #	
Department	Public Works		

Consent Agenda	<input checked="" type="checkbox"/>
Ordinance/Reso	<input type="checkbox"/>
Public Mtg / Hrg	<input type="checkbox"/>
Other	<input type="checkbox"/>
Quasi-Judicial	<input type="checkbox"/>

Recommendation

That the City Council authorize the City Manager to sign the Merrell Bros, Inc., Patent and Technology License Agreement for the WWTP Phase 2 upgrade project.

Motion for Consideration

I move to authorize the City Manager to sign the Merrell Bros, Inc., Patent and Technology License Agreement for the WWTP Phase 2 upgrade project.

Summary

Merrell Bros, Inc. holds several patents associated with the "Florida Green" biosolids treatment processes to be utilized within the design of the WWTP Phase 2 upgrades project. These patented systems include the solar drying, pasteurization, and pelletization with an end product being a higher quality Class A fertilizer.

The license agreement requires the City pay a one time fee equal to 1% of the total project costs associated with the patented systems identified above. This fee will be applied to those patented systems as part of the design and construction. The actual fee will be based on actual design and construction costs associated to the patented systems.

An example of how this fee will be calculated:

PDB Step 1/ Design ~ \$1.8 million, 80% of project from patented systems

PDB Step 2/ Construction ~ \$26 million, 80% of project from patented systems

Example Fee:

Step 1/ Design, \$1.44 million @ 1%, \$14,400

Step 2/ Construction, \$20.8 million @ 1%, \$208,000

Example Total Fee = \$222,400

Alternatives

None Recommended

Fiscal Impact

Water and Sewer Enterprise Funds
State Revolving Funds (\$23 M + \$6.1 M potentially forgivable)

License Fee TBD based on actual project costs
See above for example fee

Through	Jeremy Lustig Mar 01, 11:37:43 GMT-0800 2023
Dept Head Approval	Cary Roe Mar 01, 14:52:31 GMT-0800 2023
City Mgr Approval	Marie Mosley Mar 03, 10:36:55 GMT-0800 2023

Attachments: Agreement

Recording Required?

**PURCHASE AGREEMENT AND
INTELLECTUAL PROPERTY
LICENSE**

Merrell Bros, Inc., an Indiana corporation, having its principal place of business at 8811 W. 500 N., Kokomo, IN 46901 (hereinafter “Seller”) and the City of Kennewick, Washington (Utility), 210 W. 6th Avenue, Kennewick, WA 99336 (hereinafter “Customer”) make and enter this Purchase Agreement and Intellectual Property License effective December 7th, 2022.

PREAMBLE

Seller manufactures goods for converting biosolids to Class A fertilizer, provides services related to the goods, and is the exclusive licensee, with rights to sub-license, the Licensed Patents and Technology and Know How as defined herein. Seller desires to sell the Systems (defined below) and to license the Intellectual Property (defined below) to Customer.

Customer desires to purchase the Systems and to license the Intellectual Property from Seller pursuant to this Agreement and the Terms and Conditions appended hereto.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants hereinafter contained, the parties agree as follows:

1. Definitions

The following defined terms shall have the same meaning throughout the Agreement. Defined terms may be used in the singular or plural.

- 1.1. “Agreement” means this Purchase Agreement, the Terms and Conditions appended hereto, including all exhibits, and scheduled.
- 1.2. “Article” means the finished product made by or with the use of any method or system claimed in the Licensed Patents or Technology and Know How.
- 1.3. “Change of Control” means the occurrence of any of the following events:
 - 1.3.1. any consolidation or merger of any party with or into any other entity (the surviving entity) in which the holders of such party’s outstanding shares immediately before such consolidation or merger do not, immediately after such consolidation or merger, retain stock representing a majority of the voting power of the surviving entity or stock representing a majority of the voting power of an entity that wholly owns, directly or indirectly, the surviving entity;
 - 1.3.2. the sale, transfer, or assignment of securities of such party representing a majority of the voting power of all such party’s outstanding voting securities to an acquiring entity or group; or
 - 1.3.3. the sale of all or substantially all such party’s assets.

PURCHASE AGREEMENT AND INTELLECTUAL PROPERTY LICENSE

Merrell Bros, Inc., an Indiana corporation, having its principal place of business at 8811 W. 500 N., Kokomo, IN 46901 (hereinafter “Seller”) and the City of Kennewick, Washington (Utility), 210 W. 6th Avenue, Kennewick, WA 99336 (hereinafter “Customer”) make and enter this Purchase Agreement and Intellectual Property License effective December 21st, 2022.

PREAMBLE

Seller manufactures goods for converting biosolids to Class A fertilizer, provides services related to the goods, and is the exclusive licensee, with rights to sub-license, the Licensed Patents and Technology and Know How as defined herein. Seller desires to sell the Systems (defined below) and to license the Intellectual Property (defined below) to Customer.

Customer desires to purchase the Systems and to license the Intellectual Property from Seller pursuant to this Agreement and the Terms and Conditions appended hereto.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants hereinafter contained, the parties agree as follows:

1. Definitions

The following defined terms shall have the same meaning throughout the Agreement. Defined terms may be used in the singular or plural.

- 1.1. “Agreement” means this Purchase Agreement, the Terms and Conditions appended hereto, including all exhibits, and scheduled.
- 1.2. “Article” means the finished product made by or with the use of any method or system claimed in the Licensed Patents or Technology and Know How.
- 1.3. “Change of Control” means the occurrence of any of the following events:
 - 1.3.1. any consolidation or merger of any party with or into any other entity (the surviving entity) in which the holders of such party’s outstanding shares immediately before such consolidation or merger do not, immediately after such consolidation or merger, retain stock representing a majority of the voting power of the surviving entity or stock representing a majority of the voting power of an entity that wholly owns, directly or indirectly, the surviving entity;
 - 1.3.2. the sale, transfer, or assignment of securities of such party representing a majority of the voting power of all such party’s outstanding voting securities to an acquiring entity or group; or
 - 1.3.3. the sale of all or substantially all such party’s assets.

- 1.4. “Customer Improvements” means all developments Customer may make in the Intellectual Property prior to the termination of this Agreement, whether patentable or not, invented, developed, discovered, or otherwise acquired by Customer, or which Customer is lawfully entitled to communicate to Seller for its use without breaching any restrictions on use or disclosure owed to third parties.
- 1.5. “Document(s)” means all documents to be delivered hereunder or which may be prepared by Seller to reflect, embody, or otherwise reflect Intellectual Property or Technology and Know How.
- 1.6. “Engineered Submittal” means a document depicting a piece of equipment to be manufactured, that is presented for review or consideration, and that is prepared and designed by or under the direction of a Professional Engineer licensed in the state where the equipment is to be manufactured.
- 1.7. “Improvement(s)” means all developments Seller may make in the Intellectual Property prior to the termination of this Agreement, whether patentable or not, which may be invented, developed, discovered, or otherwise acquired by Seller, or which Seller communicates to Customer for its use without breaching any restrictions on use or disclosure owed to third parties.
- 1.8. “Intellectual Property” means the Licensed Patents and Technology and Know How as defined herein.
- 1.9. “Licensed Patents” means U.S. Patents Numbered 9,751,813, dated September 5, 2017, titled *Systems, Methods, And Apparatus for Converting Biosolids To Class A Fertilizer* and 10,259,755, dated April 16, 2019, titled *Systems, Methods, And Apparatus for Converting Biosolids To Class A Fertilizer*, pending application serial number 17/831,481 titled *Systems, Methods, and Apparatus for Converting a Biosolid to an Enhanced Cylindrical Class A Fertilizer Pellet*, and such additional patent applications on improvements in inventions disclosed in said listed applications, and such additional patent applications as may be filed, all Letters Patent which shall issue on said applications and any division or continuation-in-whole thereof, and all reissues, continuations, or extensions of said Letters Patent.
- 1.10. “Pasteurization System” means the fuel-fired, two-belt oven used to decrease the moisture content of biosolids and pasteurize the biosolids, associated axial fan and burner, associated cyclone, airlock system and fan, and associated connecting ducts, and any future improvements.
- 1.11. “Pellet System” means the apparatus and method used to form the class A fertilizer into pellets.
- 1.12. “Submittal Review” means the collaborative process carried out by Seller, Customer, and Customer’s design and/or construction professionals whereby suitability of the design of a piece of equipment proposed for manufacture and incorporation into the Customer’s facility is assessed, design modified if necessary and consensus achieved to permit the release of equipment for manufacture.
- 1.13. “Systems” means the apparatus and methods disclosed and claimed in the Licensed Patents and/or the Technology and Know How.
- 1.14. “Technology and Know How” means Seller’s unpatented technical information that relates to or arises from Seller’s manufacture, processing, quality control, or otherwise related to the Articles. Technology also includes the technical information in any current and future patent applications, manuals, formulae, specifications, test data, procedures, flow charts, apparatus plans, drawings, designs, and other information communicated by Seller to Customer during the term of this Agreement whether contained in documentary form, electronic medium, or communicated as a result of Seller’s imparting

the same directly or giving to Customer access to any of Seller's plants at which the technology is practiced.

- 1.15. "Terms and Conditions" means the commercial terms and conditions as set forth in Schedule 7.1.
- 1.16. "Territory" means the United States of America.
- 1.17. "Total Project Cost" includes all professional design fees; surveys; materials testing and inspections; permits or licenses; utility and site development work; construction management or general contracting costs, including all labor, material, equipment, subcontracted cost, rentals, insurance, bonding, overhead and fees, utilities, and taxes; and any subsequent increases in the scope of the foregoing.

2. License Grant: Patents and Technology.

- 2.1. Patent License: Subject to the limitations in Section 2.3, Seller hereby grants to Customer, and Customer hereby accepts from Seller, a fully paid-up, non-exclusive, non-transferable license under the Licensed Patents, to make, to use, to offer to sell, and to sell Articles in the Territory. Unless terminated earlier, the Patent License shall last through the end of the full term of each Letters Patent in the Territory or the expiration of this Agreement. No other license is granted or implied. This Patent License does not include the right for Customer to offer to make, have made, to offer to sell, or to sell the Systems.
- 2.2. Technology and Know How License. Subject to the limitations in Section 2.3, Seller hereby grants to Customer, and Customer hereby accepts from Seller, a fully paid-up, non-exclusive, non-transferable license to the Technology and Know How, to make, to have made, to use, to offer to sell, and to sell Articles in the Territory. Unless terminated earlier, the Technology and Know How License shall last through the end of the Term of this Agreement. No other license is granted or implied.
- 2.3. The Licenses granted in Sections 2.1 and 2.2 extend only to those Components purchased by Customer. Schedule 4.3 identifies the pricing for the goods being sold under this Agreement as elected by Customer. Customer's licenses extend to the Licensed Patents and Technology and Know How only for the Components purchased by Customer. For example, if Customer purchases the Complete Turn-Key System, it shall have a license to practice all the Licensed Patents and Technology and Know How. However, if Customer purchases only the Pasteurization System, it shall not have a license to practice the Licensed Patents or Technology and Know How covering the Pelletization System and vice versa. This Agreement creates no other express or implied license(s).

3. Transfer of Technology and Know How.

- 3.1. Transfer. Subject to the License provided in Section 2.2, Seller shall deliver the Technology and Know How to Customer to allow Customer to produce the Articles. Seller shall deliver to Customer the Improvement. Nothing in this Section 3 shall require Seller to disclose to Customer, or grant Customer access to, any technological information received by Seller from a third party and subject to restrictions on use or disclosure.
- 3.2. Confidentiality. Customer shall receive, use, maintain, restrict access to or copying of, and safeguard the Technology and Know How and Improvements. Without limitation, Customer shall, and shall cause

its employees, agents, bidders and/or project/Article contractors to, use reasonable care to prevent unauthorized access to, copying, use, publication, disclosure, or other dissemination of the Technology and Improvements. Customer shall ensure that its employees and agents (including bidders and contractors) who have access to the Technology and Improvements are subject to written obligations prohibiting the disclosure of the same.

- 3.3. Technical Assistance. Seller shall, upon Customer's reasonable request, make available to Customer, at Customer's expense, Seller personnel to render technological assistance to be scheduled at Seller's and Customer's mutual convenience. Within 30 days of Seller's submission of its invoice therefor, Customer shall promptly reimburse Seller per the terms in Schedule 3.3.

4. Payment; Reports; Termination

- 4.1. Royalty. Customer shall pay to Seller: Upon execution of this Agreement, a non-refundable License Issue Fee of the greater of 1% of the Total Project Cost of Customer's facilities in which Customer will practice the Licensed Patents or \$45,000.00. If the total project cost is not known at the execution of this Agreement, Customer shall pay \$45,000 to Seller at execution of this Agreement. Should the total project cost exceed \$4.5 million, then Customer shall pay to Seller an amount equal to 1% of the total project cost exceeding \$4.5 million. Customer shall provide to Seller copies of all written contracts or costs arising from or related to the project within 10 days of execution for contracts, or within 10 days of invoice or payment, whichever comes first, for other costs where there is no written contract. The Systems are a part of the scope of a larger project with unrelated work. Only the portion of the Total Project Cost related to the Patented Systems is subject to the License Issue Fee. In general, those process components include the greenhouses and associated improvements, process building containing pasteurization system and associated improvements, and may include the pellet system if so desired. The mechanical dewatering equipment, polymer make-down equipment, hydraulic dredging and sludge holding tank and equipment is not subject to the License Issue Fee. See Schedule 5.1 for example calculation (actual calculations will be project specific).
- 4.2. Technology and Know How. In addition to the royalty payment set forth in Section 4.1, Customer shall pay to Seller the fees set forth in Schedule 4.3 attached hereto and incorporated herein by reference depending on the elected level of commitment.
- 4.3. Customer (or Customer's agent and/or project/Article contractor) shall purchase the Pellet System, Pasteurization System or both from Seller, and Seller shall deliver the Pellet System, Pasteurization System or both to Customer (or Customer's agent and/or project/Article contractor) in a reasonable amount of time following the Submittal Review process and after a reasonable amount of time for fabrication and delivery. A 50% deposit is due at the time of delivery of the Engineered Submittal, with balance of payment owed at time of delivery of the Pellet System, Pasteurization System or both. The purchase price for the Pellet System, Pasteurization System or components thereof is set forth in Schedule 4.3.

5. Compliance with U.S. Regulation.

Customer shall be solely responsible for compliance with applicable United States laws and regulations. Customer shall be solely responsible for the preparation, filing, and, where required, securing the approval of all applications, reports, and other documents and services which may be required in connection with this Agreement.

6. Right to Terminate.

Seller shall have the right to terminate this Agreement if Customer fails to remain substantially in compliance with the terms of this Agreement, and any such default shall remain unremedied after 30 days written notice;

enters dissolution, liquidation, or cease conducting its operations, in which case this Agreement shall immediately terminate; rights under this Agreement would, by operation of law or otherwise, devolve upon or pass to any person, firm, or corporation other than Customer except as permitted hereunder; or to the extent permitted by law, upon commencement of any proceeding by or against Customer under the Federal Bankruptcy Code, or any state law concerning creditor relief, assignment for benefit of creditors, or appointment of a receiver, then in any such event Seller shall, for a period of 90 days following Seller's receiving notice of any such event, have the right, at its sole election, to declare the license granted terminated, which termination shall be effective upon such declaration.

7. General Provisions.

- 7.1. **Terms and Conditions.** The Terms and Conditions attached at Schedule 7.1 are incorporated herein by reference.
- 7.2. **Counterparts.** This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
- 7.3. **Headings.** The headings of the articles and sections of this Agreement are for convenience of reference and are not part and do not affect the interpretation of this Agreement.
- 7.4. **Amendments and Waiver.** This Agreement may not be amended, supplemented, cancelled, or discharged except by written instrument signed by Seller and Customer. No failure to exercise, and no delay in exercising, any right, power, or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power, or privilege hereunder preclude the exercise of any other right, power, or privilege (hereunder or otherwise). No waiver of any breach of any agreement hereunder or any other agreement shall be deemed to be waiver of any preceding or succeeding breach of the same of any other agreement. No extension of time of performance of any obligations or other acts hereunder or under any other agreement shall be deemed to be an extension of the time for performance of any other obligations or any other acts. The rights and remedies of the parties under this Agreement are in addition to all other rights and remedies, at law or in equity, which they may have against the other.
- 7.5. **Counterparts.** This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
- 7.6. **Performance Guarantee.** The Seller represents that, when applied in accordance with Seller's instructions and guidance, the Technology and Know-how will produce a class A biosolids product with respect to pathogen reduction and vector attraction reduction as defined in Title 40 CFR Part 503.32(a)(7) and Title 40 CFR 503.33(b)(7), respectively. The Seller will be responsible for working with the City's contracted Progressive Design Build team to gain the approval from the Washington State Department of Ecology for a permitted Class A facility. The Technology will be sized to provide capacity for twenty years of planned growth as defined in the Customer's Facility Plan. Furthermore, the Pelletization System shall produce a cylindrical, biosolids fertilizer pellet.

The parties hereto have caused this Agreement to be duly executed as of the date first above written whereupon it enters into full force and effect in accordance with its terms.

Seller

Merrell Bros., Inc.

Customer

City of Kennewick, Washington (Utility)

Vice-President: _____

City Manager: _____

Dated: March 7th, 2023

Dated: March 7th, 2023

Schedule 3.3

Optional Participation Levels

Customer may elect one of the following optional participation levels in addition to the consideration provided in Section 8.1.

For the following Options, the “Standard Hourly Rates” (“SHR”) shall be:

Project Executive	\$300
Project Manager	\$150
Technician	\$125
Clerical	\$75

Seller shall have the right to increase the SHR by up to 10% every two years from the anniversary date of this Agreement.

Option 1A: Technology Only - Pasteurization: **Yes** **No**

Merrell Bros. will provide the following Technology and assistance to Customer’s Design and Construction Team.

- Up to 20 hours of assistance related to facility design, throughput evaluations, odor control, processing equipment, air modeling, solar, and radiant heat working with staff and engineers for project development. Additional time over the 20 hours will be billed at SHR. Under this participation level, Seller does not hold itself out as the design professional for the project and no design deliverables, in the form of a ‘permit set’ or unified and codified set of drawings and specifications, are produced by Seller;
- Shared review with the design team of any project submittals, RFIs, change proposals or other construction related administration. All time to be billed at SHR.
- All expenses for design or construction assistance (*e.g.*, travel, meals, professional design fees, materials testing fees, etc.) will be billed at cost plus 10%;
- On-site training. Customer shall have reasonable access to any Seller owned or operated Florida Green® facilities during normal business hours to observe real time experience results and direct technical assistance up to 5 business days. This is for observation and does not include costs for any preparation of a deliverable which would be at SHR plus expenses at cost plus 10%;
- Online/Telephone. Customer shall have up to 5 hours per month for online or telephone operating support for trouble shooting and service assistance. Additional time shall be billed at SHR plus expenses at cost plus 10%;
- Any on-site service assistance during normal business hours, and with reasonable notice, will be provided at SHR and cost of any expenses plus 10%.
- Up to 80 hours of start-up training is included at the Customer’s project site. Travel expenses and per diems to be reimbursed at cost plus 10%;
- Up to 10 hours of annual production reviews. Any travel expenses and per diems to be reimbursed at cost plus 10%;

Option 1B: Technology Only - Pelletization: TBD__ Yes _____No

Merrell Bros. will provide the following Technology and assistance to Customer's Design and Construction Team.

- Up to 20 hours of assistance related to facility design, throughput evaluations, odor control, processing equipment, air modeling, working with staff and engineers for project development. Additional time over the 20 hours will be billed at SHR. Under this participation level, Seller does not hold itself out as the design professional for the project and no design deliverables, in the form of a 'permit set' or unified and codified set of drawings and specifications, are produced by Seller;
- Shared review with the design team of any project submittals, RFIs, change proposals or other construction related administration. All time to be billed at SHR.
- All expenses for design or construction assistance (*e.g.*, travel, meals, professional design fees, materials testing fees, etc.) will be billed at cost plus 10%;
- On-site training. Customer shall have reasonable access to any Seller owned or operated Florida Green® facilities during normal business hours to observe real time experience results and direct technical assistance up to 5 business days. This is for observation and does not include costs for any preparation of a deliverable which would be at SHR plus expenses at cost plus 10%;
- Online/Telephone. Customer shall have up to 5 hours per month for online or telephone operating support for trouble shooting and service assistance. Additional time shall be billed at SHR plus expenses at cost plus 10%;
- Any on-site service assistance during normal business hours, and with reasonable notice, will be provided at SHR and cost of any expenses plus 10%.
- Up to 40 hours of start-up training is included at the Customer's project site. Travel expenses and per diems to be reimbursed at cost plus 10%;

Option 2: Design and Build: __X__ Yes _____No

Everything in Option 1 plus: Seller shall serve as general contractor, but not the operator, of Customer's facility. Additionally, Seller will provide full design services and project deliverables. Rights and responsibilities under this option to be provided in separate agreement to address design and construction of the facility.

Option 3: Design-Build-Operate: _____ Yes __X__No

Everything in Options 1 and 2 plus: Seller shall design, build, and operate the Customer's facility in accord with details to be provided in a separate agreement.

Schedule 4.3

System Pricing

Component	Price	Customer Initial
Complete Turn-Key System	TBD, based on project specific equipment sizing requirements and budget	
Pasteurization System	TBD, based on project specific equipment sizing requirements	
Pelletization System	TBD, based on project specific equipment sizing requirements and budget	

Schedule 5.1
Sample Royalty Calculation from Section 4.1 of the
Purchase Agreement and Intellectual Property License

Solar-Thermal Pasteurization Biosolids Treatment Facility Preliminary Budget

Date: Nov '22

MasterFormat Scope	Project Specific Scope	Amount
01 General Conditions		75,000
02 Demolition	<i>Based on site conditions observed</i>	167,406
31 Sitework	<i>Based on site conditions observed</i>	174,400
33 Utilities		
03 Concrete		775,454
04 Masonry		
05 Metals		
	<i>Pre-engineered Metal Process Building</i>	374,387
07 Thermal & Moisture Protection		
08 Openings		
09 Finishes	<i>Buildout Control Room in Process Building</i>	25,000
10 Specialties	<i>Fire Extinguishers and Signage</i>	3,000
11 Equipment	<i>Tractor and Tillage Implement</i>	
13 Special Construction	<i>Pre-engineered Greenhouses</i>	734,121
21 Fire Suppression	<i>Branch Line for Heads in Oven Only</i>	25,000
22 Plumbing	<i>Plumb Polymer Injection and Screw Press, Gas Train</i>	15,000
23 HVAC	<i>In-floor Heat, Air Exchangers and HVLS Fans</i>	926,214
26 Electrical/Communications/Automation		
	<i>Electrical Gear</i>	100,000
	<i>Branch Circuits for Equipment</i>	100,000
	<i>Lighting</i>	10,000
	<i>Fire Alarm System</i>	25,000
41 Material Processing & Handling Equipment		
	<i>Pellet Milling/Bagging Equipment</i>	TBD
42 Process Heating, Cooling & Drying Equipment		
	<i>Drying/Pastuerization Oven & Conveyors</i>	949,214
46 Water & Wastewater Equipment		
	<i>Screw Press and Polymer System</i>	375,804
	Cost	4,855,000
	Design Fees	350,000
	Material Testing	15,000
	Impact Fees	0
	Utility Fees	0
	Permits	55,000
	Owner's Contingency 2%	97,100
	Contractor's Contingency 2%	97,100
Builder's Risk Insurance Premium	Job Specific Lump Sum	16,500
Payment and Performance Bond Premium	1.00%	54,857
General Liability Insurance Premium	1.80%	99,730
	Construction Manager's Fee 10%	564,029
	Subtotal	6,204,316
Less Marked-Up Mech Dewatering/Polymer Makedown		-442,035
Less Marked-Up Site Improvements Outside Footprint of Technology		-88,218
Less Marked-Up Hydraulic Dredging		-294,059
	Subtotal (Total Project Cost)	5,380,004
	Patent Licensing Fee 1%	53,800
	Total GMP (with Patent Licensing Fee Capitalized)	6,258,116

SCHEDULE 7.1

Merrell Bros., Inc. Terms and Conditions

Merrell Bros, Inc. provides these Terms and Conditions as part of its Purchase Agreement and Intellectual Property License. Customer accepts these Terms and Conditions as if set forth in full in its Purchase Agreement. Capitalized terms have the definitions set forth in the Purchase Agreement.

1. **Representations, Warrants and Covenants.**

- 1.1. Seller and Customer each warrant to the other that (i) it is a corporation duly organized and in good standing under the laws of its jurisdiction of incorporation; (ii) it has the necessary corporate and other power and authority to enter and perform under this Agreement; and (iii) entry into and performance under this Agreement shall contravene no rights or entitlements of, nor constitute the breach, of any obligations to, third parties. Seller and Customer are independent, and neither party shall represent to the contrary. Neither party shall be nor hold itself out as the other's agent. Customer shall indemnify and hold Seller harmless from any claims arising solely from or out of Customer's activities in connection with this Agreement.
- 1.2. Seller represents and warrants that is the sole and exclusive owner of the Intellectual Property and to the best of Seller's knowledge, the Intellectual Property has not and does not infringe, misappropriate, or otherwise violate any third-party intellectual property rights in the United States.

2. **Indemnification, Limitation of Liability, and Enforcement.** Seller shall indemnify and hold Customer, including its officers, directors, employees, and agents, (the "Customer Indemnified Parties") harmless from (i) a material breach of Sections 1 above, or (ii) any actions, claims, damages, losses, awards, or recoveries from intellectual property infringement in the Territory, by reason of Customer's manufacture, use, sale of Articles, or exercise of rights under this Agreement. Seller's duty to indemnify shall be subject to Customer's promptly notifying Seller in writing of any notice asserting infringement of a patent and lending reasonable assistance, at its expense, in the defense or settlement of such suit. Seller's indemnification obligations shall not extend to any claim arising from Customer's modification of any system of method sold by Seller that was made without Seller's prior written consent. Seller shall bear the expense, and have sole and complete control, of the defense, settlement, or compromise of any suit for which Seller has an obligation to indemnify Customer. Customer may employ counsel of its own choice at its own expense, but shall not have the power or authority, express or implied, to settle or compromise any suit to impose any obligations upon Seller. Customer shall, at Seller's request, modify its practice in such manner as in Seller's judgment may avoid or materially limit the claim for infringement, misappropriation, or other violation as the case may be, provided that such modification shall not materially increase the expense, or lower the output, of Customer's operations. If Customer fails to make commercially reasonable efforts to comply promptly with Seller's requests, Seller shall be discharged from any further obligations or liabilities to Customer. Except as described above, Seller shall not be liable for any lost revenue, lost profits, failure to realize expected savings, damage to reputation, business interruption, downtime costs or any indirect, incidental, consequential, special, punitive, exemplary or any similar type of damages.

3. **Disclaimer of Warranties.** Except as expressly set forth herein, Seller does not make and specifically disclaims, all representations and warranties express or implied, arising by law or otherwise, arising under or relating to this Agreement, except for the Performance Guarantee set forth in 7.6 of the Purchase Agreement and Intellectual Property License.

- 3.1. EXCEPT AS OTHERWISE STATED IN THE AGREEMENT, THE GOODS AND SERVICES PROVIDED TO CUSTOMER ARE "AS IS". SELLER MAKES NO

SCHEDULE 7.1

Merrell Bros., Inc. Terms and Conditions

REPRESENTATIONS OR WARRANTIES, ORAL OR WRITTEN, EXPRESS OR IMPLIED, ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, QUALITY OF INFORMATION, QUIET ENJOYMENT OR OTHERWISE, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INTERFERENCE, OR NON-INFRINGEMENT WITH RESPECT TO THE GOODS AND SERVICES PROVIDED TO CUSTOMER HEREUNDER OR WITH RESPECT TO ANY OTHER MATTER PERTAINING TO THIS AGREEMENT. CUSTOMER'S USE OF GOODS AND SERVICES PROVIDED HEREUNDER WILL NOT BE DEEMED LEGAL, TAX OR INVESTMENT ADVICE.

3.2. EXCEPT FOR SELLER'S INDEMNIFICATION OBLIGATIONS IN SECTION 2 ABOVE, SELLER'S AND CUSTOMER'S TOTAL LIABILITY UNDER THIS AGREEMENT WILL NOT EXCEED THE GREATER OF THE AMOUNT OF APPLICABLE AND RESPONSIVE SELLER'S INSURANCE OR THE AMOUNT ACTUALLY PAID BY CUSTOMER TO SELLER UNDER THIS AGREEMENT; AND, SELLER AND CUSTOMER (INCLUDING THEIR RESPECTIVE AFFILIATES) SHALL NOT BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, INDIRECT, EXEMPLARY, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES OF ANY KIND, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE AND WHETHER OR NOT FORESEEABLE, EVEN IF SELLER HAS BEEN ADVISED OR WAS AWARE OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES.

3.3. Seller will have no liability to Customer if (a) Customer fails to follow Seller's instructions relating to the goods and services provided under this Agreement; (b) Customer uses the goods and services in violation of this Agreement; (c) the goods and services are configured, customized, installed, or maintained inconsistent with Seller's instructions (d) Customer modifies the goods and services without the prior written consent of Seller; or (e) the goods and services are used in conjunction with equipment not specified by Seller. Seller's obligations run only to Customer and not to its Affiliates or any other persons. No other Person shall be considered a third-party beneficiary of this Agreement or otherwise entitled to any rights or remedies under this Agreement. Customer will have no rights or remedies against Seller except as provided in this Agreement. No action or claim of any type relating to this Agreement may be brought or made by Customer more than one (1) year after Customer first has knowledge of the basis for the action or claim. The exclusions, disclaimers and limitations have been considered by the Parties in the pricing of the Goods and Services.

4. Customer Indemnification. Customer shall indemnify Seller and hold it harmless against all actions, claims, costs, damages or expenses which may be brought against or made against or incurred by Seller as a result of or in any way connected with any acts, whether of omission or commission, that may be committed by Customer or any of its servants, agents or employees in connection with Customer's performance under this Agreement or in connection with Customer's manufacturing, sale, offering for sale, advertising or distribution of the Articles. so long as the liability or damages at issue does or do not arise from or is/are not related to any breach by Seller of this Agreement.

5. Enforcement. Seller shall have the exclusive right to sue third parties in the Territory for infringement of the Licensed Patents or misappropriation of the Technology and unpatented Improvements. Customer shall cooperate and assist Seller in connection with any such suit. All damages, awards, and settlement proceeds in such suit shall be Seller's.

SCHEDULE 7.1

Merrell Bros., Inc. Terms and Conditions

6. **Confidentiality.** Customer shall limit access to the Technology and Know How to only those of its officers, employees, and agents (including bidders and contractors, who have signed written obligations to maintain the Confidentiality) who shall have a need to receive or have access to that portion, and then only for the purposes of Customer's practice under the license conferred. Customer shall notify Seller of any violation of these confidentiality obligations. These confidentiality restrictions shall terminate if that: (a) portion becomes generally known within the trade or industry through no fault of Customer; (b) portion has been lawfully received from a third party not in breach of any duty of secrecy, nondisclosure, or nonuse toward Seller; (c) portion is or shall be in the possession of Customer prior to receipt of that portion from Seller. Nothing in this Section shall prevent Customer from complying with governmental agencies to receive legally required consents or permissions to manufacture or sell the Articles to the narrowest extent required by law or under court order, but only after having made reasonable efforts to secure the court's order to (a) limit production, use, and disclosure of said information for the purposes of the case and to the narrowest class of disclosees practicable under the circumstances, and (b) hold all proceedings in camera with a sealed record. Survival. The foregoing obligations shall survive termination or expiration of the Purchase Agreement.

7. **Integration and Interpretation.** The Purchase Agreement and these Terms and Conditions constitute the sole agreement between the parties with respect to its subject matter and merges all prior discussions and agreements between them. Seller and Customer negotiated the Purchase Agreement, and its terms will not be interpreted in favor of either party. The Purchase Agreement may not be modified or amended, except by a written instrument executed by an authorized representative of each party.

8. **Governing Law/Severability.** The Purchases Agreement has been executed and partially negotiated in the State of Indiana and in the State of Washington. The validity, interpretations, and enforcement of the Purchase Agreement shall be governed by and construed in accordance with the law of Washington state. If any part of this Agreement is determined to be invalid by a court of competent jurisdiction, the remaining parts continue in full force and effect.

9. **Assignment.** Customer shall not assign its rights or duties under the Purchase Agreement to any third party without Seller's prior written consent. Seller may assign its rights upon a Change of Control with Customer's consent.

10. **Notices.** All notices shall be delivered by hand, by electronic mail, or registered mail, to the addresses below listed, or to any other address or to the attention of any other person which may be designated in the future. Notice will be deemed given when received by the addressee's email or when mailed, properly addressed with enough postage affixed. Copies of all notices shall be given:

10.1. To Seller: Karson Merrell, CPA, Controller, Merrell Bros., Inc., karson@merrellbros.com, with a copy of all notices sent to alastair.warr@fisherbroyles.com.

10.2. To Customer: Cary Roe, City of Kennewick, with a copy of all notices sent to Cary Roe, PO Box 6108, Kennewick, WA 99336; Cary.Roe@ci.kennewick.wa.us.

11. **Disputes.** Any dispute, controversy, or claim arising out of or relating to the Purchase Agreement or any other dealings between Seller and Customer shall be settled by binding arbitration in accordance with the Rules of the American Arbitration Association. Arbitration

SCHEDULE 7.1
Merrell Bros., Inc. Terms and Conditions

shall be conducted in the English language by a sole neutral arbitrator. The arbitration, including the rendering of the award, shall take place in Seattle, Washington. The arbitrator shall interpret this Agreement in accordance with Washington state law. The arbitrator shall have the power to enter legal and equitable relief. The arbitral award shall be final, binding, and not appealable. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction over the party adversely affected by the award. The arbitrator shall award the prevailing party its reasonable attorneys' fees, costs, and other expenses if it prevails

12. Expenses. Each of the parties shall pay its own fees and expenses, including its own counsel fees and accountant's fees incurred in connection with the Purchase Agreement.

NONDISCLOSURE AGREEMENT

THIS CONFIDENTIALITY AND NONDISCLOSURE AGREEMENT (the “Agreement”) is entered into this ____ day of _____, 2022 by and between Merrell Bros., Inc., Butler University, 8811 W 500 N, Kokomo, IN 46901 (“Merrell”) and _____, a _____, having its primary place of business at _____ (“Recipient”).

RECITALS: In connection with a prospective business transaction, Recipient will have access to Merrell Confidential Information (defined herein).

THEREFORE, in consideration of the premises and mutual covenants contained herein and other valuable consideration, the receipt, legal adequacy, and sufficiency of which are hereby acknowledged, the Recipient agrees:

1. Obligation. Recipient shall treat confidentially and not disclose to anyone, other than authorized by the terms of this Agreement, any information furnished to it by Merrell, either in writing or orally, together with any analysis, compilations, studies, or other documents or records that contain, reflect, or are generated from such information. Such information described in this Section 1 shall hereinafter be referred to collectively as the “Confidential Information.” Confidential Information shall not include information that is (a) readily available in the public domain through no fault of the receiving party, (b) established by the receiving party through written documents to be known by it at the time of receipt, (c) received from a third-party without similar restrictions and without breach of this Agreement, or (d) approved for release into the public domain by written authorization of the other party.

2. Use. Title to the Confidential Information shall be retained by Merrell. Recipient will not use Confidential Information other than in connection providing services in connection with Merrell. Recipient will keep the

Confidential Information confidential. Recipient shall make all necessary and appropriate efforts to safeguard the Confidential Information from disclosure. Recipient shall not exploit the Confidential Information, directly or indirectly, in any way or manner, for its own use or benefit. Recipient shall inform its respective Representatives of the confidential nature of the Confidential Information and direct such Representatives to treat the Confidential Information confidentially and not to utilize it other than for the purpose described above. Recipient shall be responsible for any breach of this Agreement by any of its respective Representatives.

3. Standard of Care. Recipient shall use reasonably adequate and prudent care (but not less than that standard of care used for its own confidential or proprietary information) to (a) maintain the confidentiality of the Confidential Information; (b) restrict disclosure of the Confidential Information so that it is disclosed only to Persons to whom disclosure is authorized by the terms of this Agreement; (c) advise such Persons of the obligation of confidentiality with respect to such Confidential Information; (d) require that such Persons execute a written acknowledgement to be bound by this Agreement; (e) limit the number of copies made of any items of the Confidential Information which are in documentary or other tangible form to that reasonable for the purposes contemplated hereby, and to place on each copy a legend as to the confidential nature of such Confidential Information; and (f) maintain possession or control over any such copies. Upon completion or termination of any business relationship between the parties, the Recipient shall promptly return all copies of the Confidential Information in its possession or control.

4. Mandated Disclosure. In Recipient is requested by any Person or local, state, or federal governmental agency, to disclose any Confidential Information it will provide Merrell with prompt notice of any such request or requirement so that either or both parties may

seek an appropriate protective order and/or, by mutual written agreement, waive such party's compliance with the provisions of this Agreement.

5. Binding Effect; Assignment. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legatees, representatives, successors, and assigns. Recipient may not assign this Agreement without Merrell's prior written consent.

6. Notices. All notices, requests, and other communications hereunder shall be in writing and shall be deemed to have been duly given if (a) delivered by hand and receipted for; (b) sent by certified United States Mail, return receipt requested, first class postage pre-paid; (c) delivered by receipted overnight delivery service; or (d) delivered by facsimile transmission if such fax is confirmed immediately thereafter by also mailing a copy of such notice, request, or other communication by certified United States Mail, return receipt requested, first class postage pre-paid, to the entity identified at the end of this Agreement.

7. Amendment. This Agreement may not be terminated, amended, modified, or supplemented, except by a written agreement executed by all the parties.

8. Severability. If any term or clause in this Agreement shall be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement, but this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

9. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute one and the same agreement.

10. Governing Law, Jurisdiction & Venue. This Agreement and any disputes arising out of or related to this Agreement shall be governed by and construed in accordance with the laws of the State of Indiana, without giving effect to any choice or conflict of law provisions, principles, or rules (whether of the

State of Indiana or any other jurisdiction) that would cause the application of any laws of any jurisdiction other than the State of Indiana. All suits, actions, proceedings, litigation, disputes, or claims relating to or arising out of this Agreement shall be brought and tried in Indiana. Recipient irrevocably consents to service of process and to the jurisdiction and venue of such courts and irrevocably waive any claim of inconvenient forum if any such suit, claim, proceeding, litigation, dispute, or claim has been filed, brought, or made in any of such courts.

11. E-Signatures. This Agreement may be executed and delivered by any party by email or other electronic means.

12. Attorneys' Fees. In a dispute under from or related to this Agreement, the prevailing party shall recover from the other party its reasonable costs and expenses in connection with such dispute.

IN WITNESS WHEREOF, the undersigned have executed this Agreement on the day and year first above written.

MERRELL BROS. INC.	RECIPIENT
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
4600 Sunset Avenue Indianapolis, IN 46208	Address: _____ _____ _____

Council Agenda Coversheet 	Agenda Item Number	4.k.	Council Date	03/07/2023	Consent Agenda	<input checked="" type="checkbox"/>	
	Agenda Item Type	Contract/Agreement/Lease				Ordinance/Reso	<input type="checkbox"/>
	Subject	Pedestrian Crossing Safety Supplement				Public Mtg / Hrg	<input type="checkbox"/>
	Ordinance/Reso #		Contract #		Other	<input type="checkbox"/>	
	Project #	P2111	Permit #		Quasi-Judicial	<input type="checkbox"/>	
	Department	Public Works					

Recommendation

That City Council authorize the Mayor to sign the Local Agency Agreement Supplement #2 with the Washington State Department of Transportation to obligate additional construction funding for the Pedestrian Crossing Safety Project.

Motion for Consideration

I move to authorize the Mayor to sign the Local Agency Agreement Supplement #2 with the Washington State Department of Transportation to obligate additional construction funding for the Pedestrian Crossing Safety Project.

Summary

The original Local Agency Agreement which obligated a Federal grant through the Highway Safety Improvement Program for the design phase for the Pedestrian Crossing Safety Project was approved at the May 18, 2021 Council meeting. Supplement #1 was approved at the July 5, 2022 Council to obligate funding for the actual construction of the project.

The overall scope of the project includes installing pedestrian crossing improvements including Rectangular Rapid Flashing Beacons (RRFB's), pedestrian refuge islands, and pavement markings at several locations City-wide including two on Clearwater, two on Edison, three on Olympia, one on Washington and one on 4th Ave.

With today's inflation, contractor bid pricing came in higher than anticipated, thus causing the number of sites to be reduced in order to keep the project within budget. We were recently informed from WSDOT that there is additional funding available for our project, which would allow construction of an additional site on Clearwater Ave. at Fillmore (Site #5). Supplement #2 will obligate additional grant funding to complete this site.

Alternatives

Not construct this additional site.

Fiscal Impact

Construction is 100% Federally funded through the Highway Safety Improvement Program, with no match from the City.

Through	Heath Mellotte Mar 02, 11:42:28 GMT-0800 2023	Attachments: 
Dept Head Approval	Cary Roe Mar 02, 12:06:11 GMT-0800 2023	
City Mgr Approval	Marie Mosley Mar 03, 10:44:20 GMT-0800 2023	
		<input type="checkbox"/> Recording Required?



Agency City of Kennewick		Supplement Number 2
Federal Aid Project Number HSIP-000S(588)	Agreement Number LA 10091	CFDA No. 20.205 - Highway Planning and Construction

All provisions in the basic agreement remain in effect except as modified by this supplement.

The Local Agency certifies that it is not excluded from receiving Federal funds by a Federal suspension or debarment (2 CFR Part 180). Additional changes to the agreement are as follows:

Project Description

Name Pedestrian Crossing Safety

Length Various (City-Wide)

Termini Various (City-Wide)

Description of Work No Change

Reason for Supplement

Cover the difference between the awarded bid amount and the previous supplement.

Are you claiming indirect cost rate? Yes No

Project Agreement End Date 12/31/2026

Advertisement Date 9/6/2022

Type of Work		Estimate of Funding				
		(1) Previous Agreement/Suppl.	(2) Supplement	(3) Estimated Total Project Funds	(4) Estimated Agency Funds	(5) Estimated Federal Funds
PE 100.0 %	a. Agency	55,600.00		55,600.00	0.00	55,600.00
	b. Other			0.00		
Federal Aid Participation Ratio for PE	c. Other			0.00		
	d. State Services	500.00		500.00	0.00	500.00
	e. Total PE Cost Estimate (a+b+c+d)	56,100.00	0.00	56,100.00	0.00	56,100.00
Right of Way %	f. Agency			0.00		
	g. Other Consultant			0.00		
Federal Aid Participation Ratio for RW	h. Other Acquisition			0.00		
	i. State Services			0.00		
	j. Total R/W Cost Estimate (f+g+h+i)	0.00	0.00	0.00	0.00	0.00
Construction 100.0 %	k. Contract	763,800.00	42,660.00	806,460.00	0.00	806,460.00
	l. Other			0.00		
	m. Other			0.00		
Federal Aid Participation Ratio for CN	n. Other			0.00		
	o. Agency	40,000.00		40,000.00	0.00	40,000.00
	p. State Services	1,000.00		1,000.00	0.00	1,000.00
	q. Total CN Cost Estimate (k+l+m+n+o+p)	804,800.00	42,660.00	847,460.00	0.00	847,460.00
	r. Total Project Cost Estimate (e+j+q)	860,900.00	42,660.00	903,560.00	0.00	903,560.00

The Local Agency further stipulates that pursuant to said Title 23, regulations and policies and procedures, and as a condition to payment of the Federal funds obligated, it accepts and will comply with the applicable provisions.

Agency Official

By
Title Mayor, City of Kennewick
Agency Date

Washington State Department of Transportation

By
Director, Local Program
Date Executed

Agency City of Kennewick		Supplement Number 2
Federal Aid Project Number HSIP-000S(588)	Agreement Number LA 10091	CFDA No. 20.205 - Highway Planning and Construction

VI. Payment and Partial Reimbursement

The total cost of the project, including all review and engineering costs and other expenses of the State, is to be paid by the Agency and by the Federal Government. Federal funding shall be in accordance with the Federal Transportation Act, as amended, 2 CFR Part 200. The State shall not be ultimately responsible for any of the costs of the project. The Agency shall be ultimately responsible for all costs associated with the project which are not reimbursed by the Federal Government. Nothing in this agreement shall be construed as a promise by the State as to the amount or nature of federal participation in this project.

The Agency shall bill the state for federal aid project costs incurred in conformity with applicable federal and state laws. The agency shall minimize the time elapsed between receipt of federal aid funds and subsequent payment of incurred costs. Expenditures by the Local Agency for maintenance, general administration, supervision, and other overhead shall not be eligible for federal participation unless a current indirect cost plan has been prepared in accordance with the regulations outlined in 2 CFR Part 200 - Uniform Admin. Requirements, Cost Principles and Audit Requirements for Federal Awards, and retained for audit.

The State will pay for State incurred costs on the project. Following payment, the State shall bill the Federal Government for reimbursement of those costs eligible for federal participation to the extent that such costs are attributable and properly allocable to this project. The State shall bill the Agency for that portion of State costs which were not reimbursed by the Federal Government (see Section IX).

VII. Audit of Federal Consultant Contracts

The Agency, if services of a consultant are required, shall be responsible for audit of the consultant's records to determine eligible federal aid costs on the project. The report of said audit shall be in the Agency's files and made available to the State and the Federal Government.

An audit shall be conducted by the WSDOT Internal Audit Office in accordance with generally accepted governmental auditing standards as issued by the United States General Accounting Office by the Comptroller General of the United States; WSDOT Manual M 27-50, Consultant Authorization, Selection, and Agreement Administration; memoranda of understanding between WSDOT and FHWA; and 2 CFR Part 200.501 - Audit Requirements.

If upon audit it is found that overpayment or participation of federal money in ineligible items of cost has occurred, the Agency shall reimburse the State for the amount of such overpayment or excess participation.

IX. Payment of Billing

The Agency agrees that if payment or arrangement for payment of any of the State's billing relative to the project (e.g., State force work, project cancellation, overpayment, cost ineligible for federal participation, etc.) is not made to the State within 45 days after the Agency has been billed, the State shall effect reimbursement of the total sum due from the regular monthly fuel tax allotments to the Agency from the Motor Vehicle Fund. No additional Federal project funding will be approved until full payment is received unless otherwise directed by the Director, Local Programs.

Project Agreement End Date - This date is based on your projects Period of Performance (2 CFR Part 200.309).

Any costs incurred after the Project Agreement End Date are NOT eligible for federal reimbursement. All eligible costs incurred prior to the Project Agreement End Date must be submitted for reimbursement within 90 days after the Project Agreement End Date or they become ineligible for federal reimbursement.

VIII. Single Audit Act

The Agency, as a subrecipient of federal funds, shall adhere to the federal regulations outlined in 2 CFR Part 200.501 as well as all applicable federal and state statutes and regulations. A subrecipient who expends \$750,000 or more in federal awards from all sources during a given fiscal year shall have a single or program-specific audit performed for that year in accordance with the provisions of 2 CFR Part 200.501. Upon conclusion of the audit, the Agency shall be responsible for ensuring that a copy of the report is transmitted promptly to the State.

XVII. Assurances

Local Agencies receiving Federal funding from the USDOT or its operating administrations (i.e., Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration) are required to submit a written policy statement, signed by the Agency Executive and addressed to the State, documenting that all programs, activities and services will be conducted in compliance with Section 504 and the Americans with Disabilities Act (ADA).

Instructions

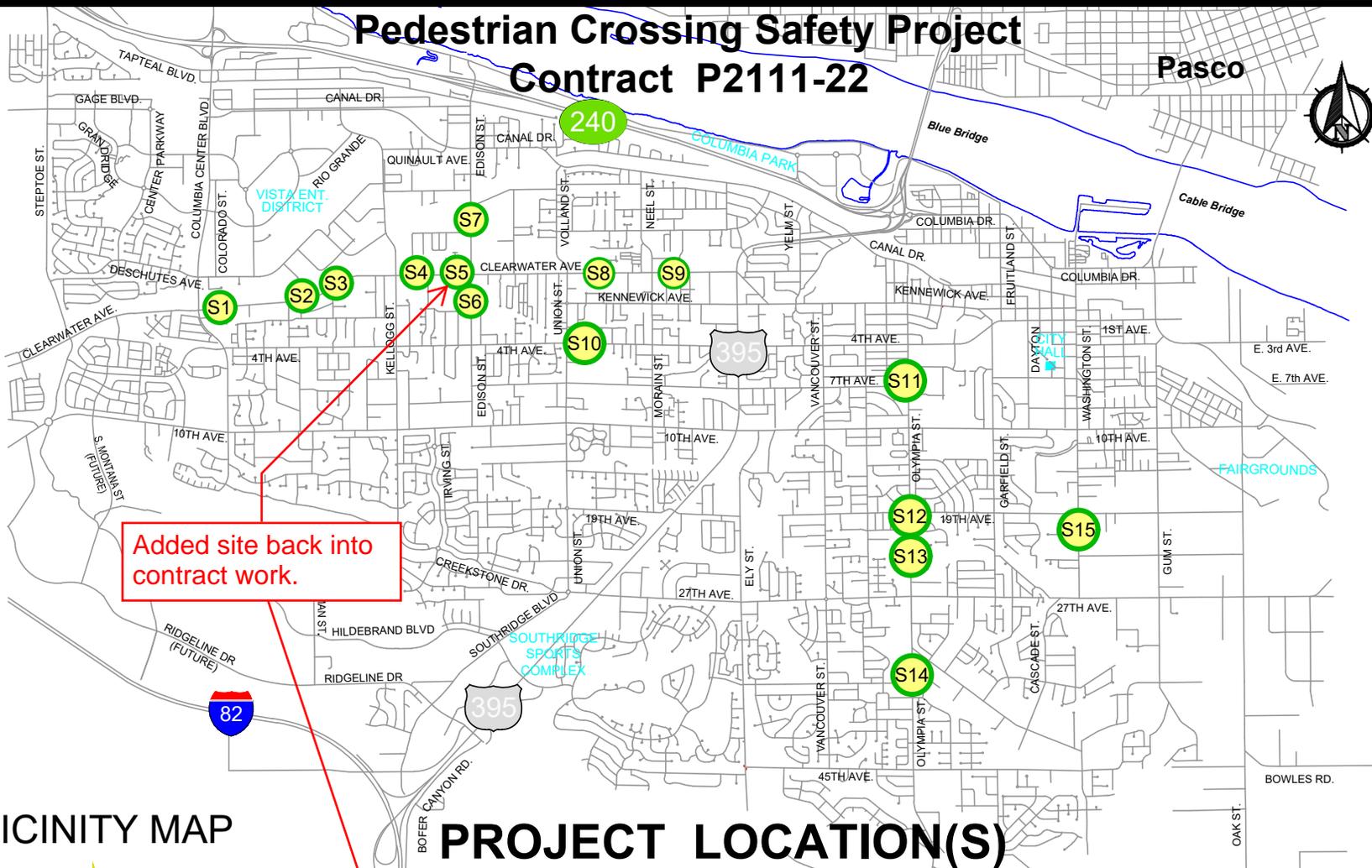
1. **Agency** – Enter the agency name as entered on the original agreement.
2. **Supplemental Number** – Enter the number of the supplement. Supplement numbers will be assigned in sequence beginning with Number 1 for the first supplement.
3. **Project Number** – Enter the federal aid project number assigned by WSDOT on the original agreement.
4. **Agreement Number** – Enter the agreement number assigned by WSDOT on the original agreement.
5. **Project Description** – Enter the project name, length, and termini.
6. **Description of Work** – Clearly describe if there is a change in work such as the addition or deletion of work elements and/or changes to the termini. If the work has not changed, put a check mark in the “No Change” box.
7. **Reason for Supplement** – Enter the reason for this supplement, i.e., increase PE funding to cover design changes presented in the revised prospectus; request funding of construction phase; decrease construction funding to the contract bid amount. If the supplement is authorizing a construction phase, the project’s proposed advertisement date must be included in the space provided.
8. **Claiming Indirect Cost Rate** – Check the Yes box if the agency will be claiming indirect costs on the project. For those projects claiming indirect costs, supporting documentation that clearly shows the indirect cost rate being utilized must be provided with the supplement. Indirect cost rate approval by your cognizant agency or through your agency’s self-certification and supporting documentation is required to be available for review by FHWA, WSDOT and /or State Auditor. Check the No box if the agency will not be claiming indirect costs on the project. See Section 23.5 for additional guidance.
9. **Project Agreement End Date** – Enter your previously established Project Agreement End Date. If authorizing a new phase of the project, update the Project Agreement End Date based on the following guidance:
 - a. **For PE and RW** – WSDOT recommends agencies estimate when the phase will be completed and add three years to determine the “Project Agreement End Date”.
 - b. **For Construction** – WSDOT recommends agencies estimate when construction will be completed and add three years to determine the “Project Agreement End Date”.
 - c. If an extension to a Project Agreement End Date is required between phase authorizations, the need for the extension must be described in the Reason for Supplement. Adequate justification to approve the extension must be submitted with the supplement. See Section 22.3 for additional guidance.
10. **Type of Work and Funding (Round all amounts to the nearest whole dollar).**
 - a. **Column 1** – Enter the amounts from column 1 of the original local agency agreement. If the agreement has already been supplemented, enter the amounts by type of work from column 3 of the last supplemental agreement.
 - b. **Column 2** – Enter increase/decrease to total amounts requested by type of work.
 - c. **Column 3** – Add the amounts in columns 1 and 2.
 - d. **Columns 4 and 5** – Enter the appropriate amounts based on the participation ratio recorded on the original agreement.
11. **Signatures** – An authorized official of the local agency signs the Supplemental Agreement and enters their title and date of signature (mm/dd/yy). **Note:** Do NOT enter a date on the Date Executed line.

Pedestrian Crossing Safety Project Contract P2111-22

Pasco



Richland



Added site back into contract work.

VICINITY MAP



PROJECT LOCATION(S)

Location & Description Key:

- S1 W. CLEARWATER AVE & N. COLORADO ST
- S2 W. CLEARWATER AVE & N. TAFT ST (NIC)
- S3 W. CLEARWATER AVE & N. QUAY ST (NIC)
- S4 W. CLEARWATER AVE & N. IRVING PL (NIC)
- S5 W. CLEARWATER AVE & N. FILLMORE ST
- S6 N. EDISON ST & ELECTRICIANS UNION HALL
- S7 N. EDISON ST & KAMIAKIN HIGH SCHOOL
- S8 W. CLEARWATER AVE. EAST of N. UNION ST. (NIC)
- S9 W. CLEARWATER AVE & N. JOHNSON ST (NIC)
- S10 W. 4TH AVE & S. TWEEDT ST.
- S11 S. OLYMPIA ST & W. 7TH AVE
- S12 S. OLYMPIA ST & W. 19TH AVE
- S13 S. OLYMPIA ST & W. 22ND PL
- S14 S. OLYMPIA ST & W. 36TH AVE (NIC)
- S15 WASHINGTON ST. & W. 21ST AVE

NOTE: SITES 2, 3, 4, 8, 9 and 14 ARE NOT IN CONTRACT (NIC)



City Council Meeting Schedule March 2023

The City broadcasts City Council meetings on the City's website

<https://www.go2kennewick.com/CouncilMeetingBroadcasts>.

March 7, 2023

Tuesday, 6:30 p.m.

REGULAR COUNCIL MEETING

March 14, 2023

Tuesday, 6:30 p.m.

WORKSHOP MEETING

1. Tumbleweed Trailer Demo
2. CivicClerk Training
3. Fireworks Regulations
4. Open Use of Illegal Substances

March 21, 2023

Tuesday, 6:30 p.m.

REGULAR COUNCIL MEETING

March 28, 2023

Tuesday, 6:30 p.m.

WORKSHOP MEETING

1. Kennewick Public Facilities District (KPF) Annual Update
2. Industrial Area Utilities Extensions
3. Council Ethics Policy

To assure disabled persons the opportunity to participate in or benefit from City services, please provide twenty-four (24) hour advance notice for additional arrangements to reasonably accommodate special needs.

Please be advised that all Kennewick City Council Meetings are Audio and Video Taped



City Council Meeting Schedule April 2023

The City broadcasts City Council meetings on the City's website

<https://www.go2kennewick.com/CouncilMeetingBroadcasts>.

April 4, 2023

Tuesday, 6:30 p.m.

REGULAR COUNCIL MEETING

April 11, 2023

Tuesday, 6:30 p.m.

WORKSHOP MEETING

1. Visit Tri-Cities Annual Update
2. Therapeutic Courts Update
3. Public Safety Sales Tax Update

April 18, 2023

Tuesday, 6:30 p.m.

REGULAR COUNCIL MEETING

April 25, 2023

Tuesday, 6:30 p.m.

WORKSHOP MEETING

1. Year-End Financial Review
2. Spring Budget Adjustment
3. Fire Department Annual Report
4. Police Department Annual Report

To assure disabled persons the opportunity to participate in or benefit from City services, please provide twenty-four (24) hour advance notice for additional arrangements to reasonably accommodate special needs.

Please be advised that all Kennewick City Council Meetings are Audio and Video Taped