

AGENDA**REGULAR CITY COUNCIL MEETING****JANUARY 26, 2026****5:30 p.m.****CITY HALL COUNCIL CHAMBER****313 COURT STREET****&****LIVE STREAMED****https://www.thedalles.org/Live_Streaming**

To speak online, register with the City Clerk no later than noon the day of the council meeting. When registering include: your full name, city of residence, and the topic you will address.

Upon request, the City will make a good faith effort to provide an interpreter for the deaf or hard of hearing at regular meetings if given 48 hours' notice. To make a request, please contact the City Clerk and provide your full name, sign language preference, and any other relevant information.

Contact the City Clerk at (541) 296-5481 ext. 1119 or amell@thedalles.gov

1. CALL TO ORDER
2. ROLL CALL OF COUNCIL
3. PLEDGE OF ALLEGIANCE
4. APPROVAL OF AGENDA
5. PRESENTATIONS/PROCLAMATIONS

A. The Dalles Treatment Center Presentation

6. AUDIENCE PARTICIPATION

During this portion of the meeting, anyone may speak on any subject which does not later appear on the agenda. Interested citizens are required to sign up in advance to be recognized. Up to three minutes per person will be allowed. Citizens are encouraged to ask questions with the understanding that the City can either answer the question tonight or refer that question to the appropriate staff member who will get back to you within a reasonable amount of time. If a response by the City is requested, and that response is not immediately provided, the speaker will be referred to the City Manager for further action.

7. CITY MANAGER REPORT
8. CITY COUNCIL REPORTS

CITY OF THE DALLES

"By working together, we will provide services that enhance the vitality of The Dalles."

9. CONSENT AGENDA

Items of a routine and non-controversial nature are placed on the Consent Agenda to allow the City Council to spend its time and energy on the important items and issues. Any Councilor may request an item be “pulled” from the Consent Agenda and be considered separately. Items pulled from the Consent Agenda will be placed on the Agenda at the end of the “Action Items” section.

- A. Approval of the January 12, 2026 Regular City Council Meeting Minutes
- B. Resolution No 26-007 Concurring with the Mayor’s Appointments to the Traffic Safety Commission and Beautification and Tree Committee
- C. Resolution No. 26-003 A Resolution for a Class Exemption from Competitive Bidding for Certain Elevator Modernization and Major Repair Public Improvement Contracts Under ORS 279C.335
- D. Authorize the City Manager to Execute a Public Improvement Agreement with TK Elevator Corporation for Elevator Modernization Upgrades at City Hall
- E. Resolution No. 26-004 Accepting and Authorizing the City Manager to Execute OEM Grant Agreement and to Conditionally Proceed with Sourcewell Generator Equipment Purchase
- F. Authorize the City Manager to Execute a Professional Services Agreement with KPFF Consulting Engineers for Design Construction Observation / Contract Administration Support for the First Street Streetscape Project

10. CONTRACT REVIEW BOARD ACTIONS

- A. Resolution No. 26-005 Amending the City of The Dalles Local Contract Review Board Rules (Effective January 26, 2026)
- B. Adopting Findings and Authorizing the City Manager to Execute a Professional Services Agreement with Archaeological Investigations Northwest, Inc. to Provide Archaeological Compliance and Monitoring Services for the First Street Streetscape Project

11. ACTION ITEMS

- A. Resolution No. 26-006 Amending the City Fee Schedule (effective January 27, 2026)

12. EXECUTIVE SESSION

In accordance with ORS 192.660(2)(d) to conduct deliberations with persons designated by the governing body to carry on labor negotiations.

CITY OF THE DALLES

"By working together, we will provide services that enhance the vitality of The Dalles."

- A. Recess Open Session
- B. Reconvene Open Session
- C. Decision, if any

13. ADJOURNMENT

This meeting conducted VIA Zoom

Prepared by/
Amie Ell
City Clerk



AGENDA STAFF REPORT

AGENDA LOCATION: Item #9 A - F

MEETING DATE: January 26, 2026

TO: Honorable Mayor and City Council

FROM: Amie Ell, City Clerk

ISSUE: Approving items on the Consent Agenda and authorizing City staff to sign contract documents.

- A. **ITEM:** Approval of the January 26, 2026 Regular City Council meeting minutes.

BUDGET IMPLICATIONS: None.

SYNOPSIS: The minutes of the January 26, 2026 Regular City Council meeting have been prepared and are submitted for review and approval.

RECOMMENDATION: City Council review and approve the minutes of the January 26, 2026 Regular City Council meeting minutes.

- B. **ITEM:** Resolution No 26-007 Concurring with the Mayor's Appointments to the Traffic Safety Commission and Beautification and Tree Committee

BUDGET IMPLICATIONS: None.

SYNOPSIS: The Mayor reviewed the applications, met with Tom Tramotina, and recommends his appointment to the Traffic Safety Commission. The Mayor also met with Stacey Holeman and recommends her appointment to the Beautification and Tree Committee.

RECOMMENDATION: City Council concurs with the Mayor's appointments to the Traffic Safety Commission and Beautification and Tree Committee; and approves Resolution No. 26-007.

- C. **ITEM:** Adopting Resolution No. 26-003, a resolution for a class exemption from competitive bidding for certain elevator modernization and major repair public improvement contracts under ORS 279C.335(2) and (3)

BUDGET IMPLICATIONS: No direct fiscal impact from adopting the class exemption. Individual projects will continue to be budgeted and authorized through the City’s usual budget processes and applicable contract awards will continue to be brought to Council for award.

SYNOPSIS: The City owns and operates elevator systems in City-owned buildings. Elevator modernization, major repair, replacement-in-kind, and associated removal and installation work often require specialized original equipment manufacturer (**OEM**) parts, proprietary tools and programming, and OEM-authorized technicians to maintain compatibility and safety and to avoid voiding warranties or certifications. For this limited class of projects, competitive proposals under ORS 279C.400 among eligible OEM or OEM-authorized providers or direct negotiation when only one provider is reasonably available is expected to reduce downtime, reduce operational and safety risks, and avoid disproportionate costs associated with full elevator replacement when modernization or major repair is otherwise appropriate—all of which should result in fewer taxpayer dollars being used on these niche and mandatory projects.

ORS 279C.335(2) and (3) authorize the City Council acting as the Local Contract Review Board (**LCRB**) to exempt a public improvement contract or a class of public improvement contracts from the competitive bidding requirement if the LCRB approves written findings that the exemption is unlikely to encourage favoritism or substantially diminish competition and will likely result in substantial cost savings and other substantial benefits.

This proposed class exemption is limited to proprietary elevator modernization and major repair work where (on a project-specific basis) the City documents that performance reasonably requires the OEM or an OEM-authorized service provider and where formal competitive bidding is not likely to produce meaningful competition for the required scope without forcing full replacement at disproportionate cost. Adoption of the Resolution establishes the procurement method. It does not award any construction contract.

Consistent with ORS 279C.335(5)(b), notice of this proposed class exemption was published in a trade newspaper of general statewide circulation (*Daily Journal of Commerce – Oregon*) on January 5, 2026, more than 14 days before tonight’s intended action date. The notice stated the City would hold a public hearing to receive comments on the draft findings as required by ORS 279C.335(5)(c) upon written request. No written request for a public hearing and no comments were received by the deadline stated in the notice. Accordingly, no public hearing is required before Council action.

RECOMMENDATION: Move to adopt Resolution No. 26-003, as presented.

- D. **ITEM:** Authorize the City Manager to execute a Public Improvement Agreement with TK Elevator Corporation for elevator modernization upgrades at City Hall KPFF Contract

BUDGET IMPLICATIONS: This project will be paid for out of the City's General Capital Improvement Fund in an amount not to exceed \$201,510.15. There are sufficient funds to support this expenditure.

SYNOPSIS: Consistent with ORS 279C.335, this item implements the class exemption from competitive bidding adopted by the City Council acting as the Local Contract Review Board (**LCRB**) under Resolution No. 26-003 (which establishes a limited class exemption for certain proprietary elevator modernization and major repair public improvement contracts and authorizes competitive proposals under ORS 279C.400 when feasible or direct negotiation when only one OEM or OEM-authorized provider is reasonably available).

Following Council's approval of Resolution No. 26-003 earlier in this meeting, staff recommends award of the City Hall elevator modernization public improvement contract to TK Elevator Corporation (**TKE**) based on the project-specific applicability of the class exemption—in this case, because City Hall's existing elevator system is a TKE product with proprietary/OEM tools, parts, and software/programming, formal competitive bidding not likely to produce meaningful competition for the required scope without forcing full replacement at disproportionate cost.

TKE's proposal (attached) provides modernization of the City Hall hydraulic elevator, including controller and major component modernization and associated electrical and fire alarm modifications as described in the proposal. Public interest and operational rationale supporting award to TKE here includes:

1. ***ADA Compliance.*** City Hall's elevator is essential to maintain ADA access and continued public use of City Hall, including access to the Council Chambers.
2. ***Original Equipment Manufacturer.*** TKE is the OEM for the City Hall elevator system and the practical market for this modernization work is limited to the OEM or OEM-authorized providers. Staff's understanding is that no other elevator companies will modernize or maintain this OEM system.
3. ***Cost Savings.*** Modernization is substantially more cost-effective than full replacement and is expected to extend the useful life of the existing elevator system, which avoids disproportionate replacement cost and extended service disruption.

Because this contract exceeds \$100,000 and will be awarded without competitive bidding, staff will complete and provide the City Council (as the Local Contract

Review Board) the post-project evaluation required by ORS 279C.355 upon completion of and final payment for this project, which will include (a) the actual project cost as compared with original project estimates; (b) the amount of any guaranteed maximum price; (c) the number of project change orders issued by the City; (d) a narrative description of successes and failures during the design, engineering and construction of the project; and (e) an objective assessment of the use of the alternative contracting process as compared to the findings required for award.

If authorized by Council here, the resulting Public Improvement Agreement will be based on the City's standard construction contract template and will include City Attorney and risk/insurance review prior to the City Manger's execution

RECOMMENDATION: Move to authorize the City Manager to negotiate and execute a Public Improvement Agreement with TK Elevator Corporation in an amount not to exceed \$201,510.15 for City Hall elevator modernization consistent with Resolution No. 26-003 and TKE's proposal scope and subject to City Attorney legal sufficiency approval.

E. **ITEM:** Adoption of Resolution No. 26-004, a resolution authorizing execution of an Oregon Department of Emergency Management Hazard Mitigation Grant Program grant agreement for the City's Water System Emergency Generator Project and procurement of emergency generator equipment through Sourcewell (Cummins, Inc.)

BUDGET IMPLICATIONS: Total project cost: \$972,223.47. Federal share: \$875,001.12. Required local match: \$97,222.35. Match funding source: *Water Capital Reserve Fund* (Fund 53).

SYNOPSIS: The Oregon Department of Emergency Management (**OEM**) has awarded the City \$875,001.12 for the City's *Water System Emergency Generators Project* (**Project**, DR4599-15) through OEM's Hazard Mitigation Grant Program (federally funded through FEMA).

The Project's scope involves the purchase and installation of emergency backup generators and associated equipment for 3 drinking water well locations and 2 booster pump station locations to support continued operations during critical power failures. Total Project cost is \$972,223.47, and the difference between that Project total cost and OEM's grant award represents the required local match of \$97,222.35.

The Resolution authorizes:

- (1) acceptance of that **\$875,001.12** grant for this Project;
- (2) authorizes the City Manager to execute the grant agreement;
- (3) authorizes expenditure of **\$97,222.35** for the required local match from the *Water Capital Reserve Fund* (Fund 53);
- (4) authorizes procurement of the emergency generator equipment in an amount **not to exceed \$755,662.01** upon the OEM grant agreement's complete execution; and
- (5) directs the City Manager to proceed with procurement of the necessary electrical

and installation work for this Project's generator equipment (currently, estimated to cost **about \$130,000**) through a separate action consistent with Oregon law and the City's Local Contract Review Board Rules. That separate competitive process will return to Council for award after bids are received.

The City will procure the generator equipment through Sourcewell (a Minnesota governmental cooperative purchasing program) using the City's authority to participate in an interstate cooperative procurement for goods and services. ORS 279A.205(2) authorizes local contracting agencies to use interstate cooperative procurements for goods or services and ORS 279A.220 allows the City to establish its purchase under an out-of-state cooperative contract when the administering agency's solicitation and award process is (1) open and impartial and uses substantially equivalent source selection methods and (2) when the solicitation and contract allow other governmental bodies to purchase under the same terms, conditions, and prices. Staff and the City Attorney have reviewed the Sourcewell solicitation and Contract No. 092222-CMM (*Cummins Inc.*) and intend to use that procurement for the City's equipment order here under that cooperative contract framework.

RECOMMENDATION: Move to adopt Resolution No. 26-004 as presented.

- F. **ITEM:** Authorize the City Manager to execute a Professional Services Agreement with KPFF Consulting Engineers for design construction observation/contract administration support for the First Street Streetscape Project

BUDGET IMPLICATIONS: The First Street Streetscape Project is funded in partnership with the Columbia Gateway Urban Renewal Agency (URA) and the City utilizing a combination of funds already secured in Fund 18 – *1st Street Riverfront Connection* (018-2900-000.75-10) and a pending transfer of URA funds. Fund 18 currently includes all remaining funds from the 2009 FFCO bond, interest revenues, and contributions sufficient to cover the contract cost. The URA has budgeted an additional \$3,200,000 in its Fund 200-6700-000.75-10, bringing the total budget available for this Project in Fund 18 to \$6,796,085. Of that total, \$4,069,727 has been allocated for Project construction, leaving a balance of \$2,726,358 available. If awarded, the contract price here is an amount not to exceed \$243,509. Sufficient budgetary resources are available to cover the cost of this agreement

SYNOPSIS: The First Street Streetscape Project design has been completed, bid, and a construction contractor has been selected. During construction, the City requires design-team support to assist with submittals, requests for information, construction observation at key milestones, coordination across disciplines, and record drawing support to help ensure the work is constructed consistent with the technical contract documents.

KPFF Consulting Engineers has provided the City's engineering and related design services for this Project since 2008 (under Contract No. 2007-08-004) and more recently under Contract No. 23-004 (Engineering Services Agreement),

including project management and coordination and design deliverables. KPFF has now proposed a construction-phase scope (attached) that includes Civil, Structural, Geotechnical, Landscape, Rail, and Electrical coordination and related contract administration support. The scope assumes an approximately 18-month construction duration.

The findings below are provided to document the City's determination that this contract qualifies as a continuation contract under ORS 279C.115 and to support Council authorization for execution under the City's 2023 LCRB Rules.

Findings

1. ***Prior Consultant contract(s) awarded under City rules.*** The City previously awarded Contract No. 2007-08-004 and Contract No. 23-004 to KPFF for professional services for the First Street Streetscape Project under the City's public contracting rules adopted pursuant to ORS 279A.065.
2. ***Project previously planned and rendered by the same Consultant.*** Under the prior contracts, KPFF substantially described, planned, studied, and rendered the professional services necessary to complete the Project design and bidding support for the First Street Streetscape Project. The Project has now proceeded to construction under a separately awarded public improvement contract with a construction contractor that is unaffiliated with KPFF.
3. ***Continuation of the same Project.*** The proposed construction observation and contract administration services are a continuation of the same Project and are reasonably necessary to implement and interpret the previously completed design during construction, including support for submittals, RFIs, discipline coordination, design clarifications, construction observation at key milestones, and record drawing support.
4. ***Public interest and efficiency.*** Continuing with KPFF for construction-phase design support promotes the efficient use of public funds and staff resources due to KPFF's long-term familiarity with the Project and the contract documents. Retaining a new consultant at this stage would require duplicative review and onboarding, increase schedule and claims risk, and likely increase total Project costs.
5. ***Separation from public improvement contractor and conflict safeguards.*** Because KPFF is not the public improvement contractor and this contract is separate from the construction contract, the limitation in ORS 279C.307(1) is not implicated; the City will administer the work to avoid conflicts of interest and will comply with ORS 279C.307 as applicable.
6. ***Fair and reasonable compensation.*** KPFF's construction observation scope and fee proposal provides a detailed task-based estimate for an approximately 18-month construction duration. Staff negotiated a not-to-

exceed contract amount of \$243,509. Staff finds the compensation is fair and reasonable for the scope and duration of construction-phase support required for this Project.

If authorized by Council here, the resulting Professional Services Agreement will be based on the City's standard engineering contract template and will include City Attorney and risk/insurance review prior to the City Manger's execution.

RECOMMENDATION: Move to adopt the findings above pursuant to ORS 279C.115 and authorize the City Manager to execute the Professional Services Agreement with KPFF Consulting Engineers for design construction observation/contract administration support for the First Street Streetscape Project in an amount not to exceed \$243,509.

MINUTES

CITY COUNCIL MEETING
THE DALLES MIDDLE SCHOOL COMMONS
JANUARY 12, 2026
6:00 p.m.

VIA ZOOM/ IN PERSON

PRESIDING: Mayor Richard Mays

COUNCIL PRESENT: Tim McGlothlin, Rod Runyon, Scott Randall, Dan Richardson, Ben Wring

STAFF PRESENT: City Manager Matthew Klebes, City Attorney Jonathan Kara, City Clerk Amie Ell, Police Chief Tom Worthy, Community Development Director Joshua Chandler, Assistant City Manager/HR Director Brenda Fahey, Finance Director Brita Myer

CALL TO ORDER

The meeting was called to order by Mayor Mays at 6:00 p.m.

ROLL CALL OF COUNCIL

City Clerk Ell conducted Roll Call. McGlothlin, Runyon, Randall, Richardson, Wring, Mays present.

PLEDGE OF ALLEGIANCE

Councilor Runyon invited the audience to join in the Pledge of Allegiance.

APPROVAL OF AGENDA

Mayor Mays said the agenda would be amended to move item #11A to be right after item #6.

It was moved by Wring and seconded by McGlothlin to approve the agenda as amended.

Motion carried 5 to 0: Wring, McGlothlin, Runyon, Randall, Richardson voting in favor; none opposed; none absent.

PRESENTATIONS PROCLAMATIONS

The Dalles High School Girl’s Soccer Team Recognition

Mayor Mays presented Certifications of Recognition to the The Dalles High School Girls Soccer Team in recognition of the season 2025 achievements:

- Earned a third consecutive Tri-Valley Conference Championship.
- Completed conference play undefeated with an 8–0 record.
- Finished the season with a 17–1 overall record.
- Advanced to the Class 4A State Championship match in November 2025, marking the program’s first state finals appearance in school history.
- Recognized for dedication, teamwork, sportsmanship, and contributions that brought pride to the school and the community.

The Fort Dalles Floozies Recognition

Mayor Mays presented Letters of Appreciation to the Fort Dalles Floozies in recognition of the following contributions:

- Concluded fifteen years of welcoming cruise ship guests to The Dalles along the riverfront.
- Created a warm and memorable first impression for visitors through hospitality, conversation, and good humor.
- Helped strengthen the City’s reputation as a friendly and inviting community.
- Built meaningful connections with visitors and cruise ship crews.
- Participated in community activities, including a historical film project and a local broadcast, showcasing civic pride, energy, and creativity.

AUDIENCE PARTICIPATION

There was none.

ACTION ITEMS

Resolution No. 26-002 Acknowledging Community Impacts Associated with Heightened Federal Immigration Enforcement Activity, Reaffirming the City’s Commitment to Accessible Municipal Services and Lawful City Operations, and Directing the City Manager to Pursue Certain Community Support Actions

City Manager Matthew Klebes reviewed the staff report.

Mayor Mays invited public comment related to the topic.

MINUTES
City Council Meeting
September 22, 2025
Page 3

Janet Hamada, Executive Director of The Next Door, thanked City Council and staff for their review of concerns raised at the prior meeting and for the thoroughness reflected in the staff report. She expressed appreciation for the language in the proposed resolution and recommended its approval. She stated that her organization was referenced in the resolution and indicated her willingness to provide future information regarding services The Next Door could offer in support of the community. She emphasized concerns about the impacts on children, including children from immigrant families and their peers, noting increased fear, isolation, anxiety, and depression. She commended the City for addressing the issue and responding thoughtfully to community concerns.

Mary Jo Comerford, a recently retired teacher from The Dalles High School, urged City Council to approve the resolution and to publicly support Latino students and families in the community. She noted that Latino students now comprised nearly half of the North Wasco School District student population and highlighted their academic progress, including increased graduation rates, college attendance, and recent Ivy League admissions. Despite these successes, many students were experiencing fear and trauma related to concerns about family separation and were balancing academic responsibilities with emotional and practical burdens at home. She encouraged City leadership to acknowledge these realities, speak publicly about the issue, and demonstrate support for Latino students and families, emphasizing that elected officials had a responsibility to provide reassurance and leadership during challenging times.

Lisa AbuAssaly George, Executive Director of Diversity, Equity, and Inclusion at Columbia Gorge Community College, described the impacts of immigration enforcement concerns on students and employees. She shared personal experience following the September 11, 2001 attacks to illustrate how fear can disrupt families, education, and a sense of safety. She reported many students were choosing online classes or requesting remote options due to concerns about personal and family safety, increasing the risk of disengagement and dropout. She said faculty and staff were hearing daily from students about these fears and were also experiencing uncertainty about how to best protect the campus community. She urged the City to take stronger, clearer public positions, including assurances that City police would not cooperate with ICE, that ICE would not be permitted to operate on City property, and that City authority would be exercised if federal agents exceeded their legal authority. She thanked City Council for its work on the matter and for its care for the community.

Tree Rocha stated that she had lived in the community since 1985, attended The Dalles High School, and had witnessed significant growth in the Latino student population over time. She described her work in instructional design, tutoring, and long-term support of Hispanic students and families, noting increased fear among former students for their own children and parents. She shared an experience involving a traffic accident in which ICE agents arrived shortly after the incident, which she said heightened fear and intimidation among those involved. She expressed concern that such encounters were teaching children to fear public officials and stated that immigration enforcement activity was creating additional anxiety in the community. She

urged City leadership to take action to protect Latino residents and thanked City Council for the opportunity to speak.

Emily Whitfield stated that current federal immigration enforcement actions and related public statements reflected dangerous historical patterns and posed real and immediate risks to community members. She cited reports of warrantless enforcement actions, expanded surveillance tools, and alleged federal misconduct, and shared a personal example involving the detention of a family member of a close friend. She asserted that these actions were affecting residents directly and were not hypothetical concerns. She expressed concern about broader federal overreach and its impacts on civil rights and public trust. She questioned why local officials had not issued a public statement addressing these issues and argued that community confidence and tourism could be negatively affected without clear leadership. She urged City leadership to adopt a resolution affirming noncooperation with unlawful federal activity and to clearly explain local public safety policies, including the role and limits of local law enforcement authority.

William Perry Thurston, of Moro, Oregon, stated that his international travel and teaching experience had shown him that countries require visitors to follow established legal entry procedures. He emphasized that laws exist to protect public interests, including employment, public health, and economic stability, and noted current challenges facing residents related to housing and food affordability. He expressed that he did not fault individuals for seeking better lives but believed immigration should occur through lawful processes. He stated that he did not understand the concept of sanctuary cities and encouraged unity, respectful dialogue, and efforts to find common ground, adding that responsibility for current conditions was shared across multiple levels of government.

Dan Spatz, a former City Councilor, stated that he served on the One Community Health Board but clarified that he was not speaking in that capacity and was addressing City Council in his personal role. He stated that recent federal immigration enforcement actions raised serious concerns regarding constitutional protections, due process, and civil liberties. He compared current conditions to past periods of discrimination in United States history and asserted that Latino immigrants and their families were being unfairly targeted as distractions from broader economic challenges. He described warrantless detentions as unlawful and harmful to families and communities and urged City Council to take a clear public stance. He encouraged support for Council Resolution 26-002, stating that while it did not address all concerns, it represented an important step in demonstrating support for all residents and affirming the City's commitment to liberty and justice for all.

Lesley Naramore, Executive Director of the Mid-Columbia Community Action Council, stated her support for the resolution regarding recent local ICE activity and said she had seen the impacts in the community and among the staff and populations her organization served, describing them as devastating. She stated that people were afraid and that the fear affected every

facet of their lives for something they could not help, the color of their skin. She said she was glad City Council was considering an actionable item and hoped it would be a first step, encouraging City Council to continue hearing the community and taking action. She stated that not only the local community was watching, but also concerned citizens throughout the United States, and urged City Council to do the right thing and provide support and affirmation to those who made the community what it was.

Debora Lutje, a resident of The Dalles, congratulated City Council for considering the resolution but stated she believed it was only an initial step. She expressed concern about recent federal law enforcement activity, stating that Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) posed a risk to public safety and that community members were not safe. She urged City Council and the Police Department to take action to protect residents and asked how and when that would occur. She warned that without timely action, similar incidents could occur locally. She cited shootings involving law enforcement, stated that even one was too many, and said City leaders needed to stand up for residents and the rule of law.

Tim Schechtel, a longtime Columbia Gorge resident, stated that he had lived in the area for fifty-five years and described past and current experiences with immigration enforcement, saying present conditions represented an unprecedented “reign of terror.” He said ICE had been seen near schools, daycare centers, and markets, often in unmarked vehicles and without visible identification, and described concerns about surveillance near OCDC where his grandchildren attended. He emphasized his family’s long history of immigration to the United States and expressed concern about fear affecting newer generations. He urged City Council to approve the resolution as written, stating it was a good start, and requested that the City take action and report back within thirty days on how the resolution would be implemented.

Jed Lee, a resident of The Dalles, stated that the resolution was not good enough and that he wanted to see action to protect the Latino community from fear. He urged City Council to take action and referenced Biblical teachings that called for kindness to immigrants and for treating the suffering and fearful as one would want to be treated. He asked whether City Council was fighting for these community members as strongly as they would if it were happening to their own families. He stated that people were hiding, uneducated, and afraid, and described the situation as against the law, morals, ethics, the Constitution, and the word of Christ. He asked City Council how they were educating the community and responding in a way that matched how the community felt, and stated that he would submit his question to the City Clerk and expected a response.

Bill Lennox stated that he had lived in the community for many years, served in law enforcement for nearly thirty years, and held multiple roles in the community. He emphasized that local and State law enforcement officers were not behaving in the same manner as federal agents and described current federal actions as a “reign of terror” on communities. He stated that such behavior was not how law enforcement officers were trained and that laws should be enforced

with humanity and without initial judgment. He encouraged City Council to speak louder and be clearer in opposing the behavior being observed and to support a stronger law enforcement presence that reflected proper and humane enforcement practices. He thanked City Council for providing the opportunity for public comment and encouraged continued openness and reflection of the community being served.

Omar Perez thanked City Council for listening to concerns raised at the prior meeting and stated that recent events continued to cause deep concern for the community, particularly Latino neighbors. He described two incidents that caused fear and confusion, including a couple who were followed by federal immigration agents and detained upon arriving home with their seven-month-old baby, and another report of a person near a restaurant acting like an immigration agent by blocking vehicles and asking for documents. He stated that there had been no public information from the City acknowledging the first incident and said the second incident increased fear in the community. He said these events compounded anxiety in light of national events, including a recent fatal shooting in Minneapolis involving a federal immigration agent. He reiterated his request that the City communicate more intentionally with the Latino community, stating that the community needed transparency, support, and trust, not silence. He said residents wanted to feel safe, respected, and included, and urged City leadership to take steps to build trust, protect rights, and reassure all residents that the City was a place where they were safe and valued.

Mayor Mays asked for Council questions to Staff. City Manager Klebes provided the following highlights and clarifications:

- The City of The Dalles Police Department did not assist with, participate in, or receive advance notice of ICE operations.
- Police might respond to nearby incidents, such as traffic accidents, but did not aid or obstruct federal immigration activities.
- Residents were encouraged to feel safe contacting local police so officers could respond appropriately.
- Police did not ask about immigration status and did not share such information with ICE.
- Council emphasized that sharing immigration information would be harmful and should not occur.
- The City maintained a webpage explaining what the City and Police Department did and did not do.
- Police received ongoing training and guidance from command staff.
- The resolution reinforced continued training on Oregon Sanctuary Law and its application.
- Oregon Sanctuary Law was confirmed as State law, not a City decision.
- The resolution identified The Next Door, Inc. and One Community Health as initial partner organizations, with Mid-Columbia Community Action Council noted as a partner, and staff would report back if additional partnership opportunities were identified.
- The regular funding process might not be timely and that a separate, earlier funding

option outside that process could also be considered.

Randall said he supported the resolution and believed it struck an appropriate balance between humanitarian values and respect for the rule of law. It acknowledged the City's duty to serve the community while recognizing the City's limited authority regarding federal law enforcement. He noted federal law was the supreme law of the land and that immigration laws could only be enacted or repealed by Congress through the democratic process. He said the rule of law guided City Council actions and that the City Attorney ensured Council actions remained within legal boundaries and could withstand legal scrutiny. He concluded that the resolution appropriately reflected that balance and reaffirmed his support.

Richardson thanked Staff for their work on the resolution and said it was a good balance, a good start, and a thoughtful response during unusual times. He thanked members of the public for attending and for sharing their perspectives. He acknowledged the fear and deep stress being experienced by many children in the community. He said the resolution was a modest and limited response to very large issues, including federal overreach and violence, but it was something the City could do locally. He stated his support for the resolution.

It was moved by Richardson and seconded by Randall to adopt Resolution 26-002, as presented.

The motion carried 5 to 0, Richardson, Randall, McGlothlin, Runyon, Wring voting in favor; none opposed; none absent.

Mayor Mays said that, while he often worked to build consensus on Council actions, he did not have to work hard to achieve support for this resolution. He expressed appreciation and pride in City Council for passing the resolution unanimously and in the community members who attended and participated. He thanked the public for speaking with passion and commitment while respecting the decorum of the meeting and expressed gratitude for their participation.

The meeting recessed at 7:15 p.m.

The meeting resumed at 7:30 p.m.

CITY MANAGER REPORT

City Manager Matthew Klebes invited Police Chief Tom Worthy to speak.

Worthy said he had served with the City of The Dalles Police Department for nearly five years and emphasized his commitment to building an exceptional team focused on community policing. He described community policing as working in partnership with residents to support community and public safety through trust, compassion, kindness, and professionalism. He said the Department sought candidates who shared those values. He introduced Officer Sean

Hernandez, who joined the Department from the Hood River County Sheriff's Department, noting that Officer Hernandez was a certified and trained three-year officer who began with the City the prior week.

Klebes reported;

- Appeared twice on KODL radio in December.
- The Finance Team began work on the annual audit. An extension request was filed as a precaution, and the auditor reported no concerns.
- Preliminary budget development work began.
- A staff survey to gather input for the Strategic Plan was distributed and would close later in the month.
 - The City Council Strategic Plan and goal-setting document was anticipated to return to City Council in February.
- He and staff attended a Wasco County Emergency Operations Plan exercise focused on evacuations.
- During the recent rain event:
 - A large rockfall occurred at the Wicks Water Treatment Plant with no injuries and minimal damage. Public Works responded with mitigation efforts, additional work was still planned.
 - City Hall experienced roof leaks; temporary repairs were completed, and a full roof replacement was underway through emergency procurement.
- The City Hall elevator was being serviced, with plans for overall modernization as part of the Capital Improvement Plan.
 - He noted the City maintained four elevators that were thirty years old or older.
- The importance of continued transfers into the Capital Fund was emphasized to support major facility projects, including elevators, HVAC at the Library, and roof replacements.
- Attended the swearing-in ceremony for the new lateral Police Officer Sean Hernandez.
- A meeting was scheduled later in the week with Northern Wasco County Public Utility District, Public Works, Finance, and City leadership to coordinate and share information on major future infrastructure planning, including the Wicks Water Treatment Plant and transmission lines.
- He reported his appointment to the League of Oregon Cities Finance, Taxation, and Economic Development Policy Committee.

CITY COUNCIL REPORTS

Councilor Richardson passed on reporting for the evening.

Councilor Runyon reported;

- Attended a Q-Live meeting at Northern Wasco County Public Utility District.

MINUTES

City Council Meeting

September 22, 2025

Page 9

- Participated in a briefing with the Mayor, City Manager, City Attorney, and another Councilor.
- Presented to The Dalles Lions Club regarding veterans' issues at the local, State, regional, and national levels.
- Requested volunteers for the Veterans Museum located on the main floor of City Hall.
 - Noted the Veterans Museum was closed for the winter but would reopen in the spring. It was still available for tours by appointment.

Councilor Randall reported;

- Attended a Household Hazardous Waste Steering Committee meeting.
- Reported appointment to the League of Oregon Cities Water and Wastewater Policy Committee, which would review policy topics and recommend positions and strategies to the League.
 - The committee would meet virtually and he would serve a two-year term.
- Attended a Historic Landmarks Commission meeting, where a request to remove and replace a non-contributing detached garage was approved.
- Participated in a briefing with the City Manager, City Attorney, Human Resources Director, Mayor, and Councilor Wring.
- Attended a virtual Community Affairs Forum featuring a presentation by Nate Stice from the Governor's North Central Regional Solutions Team.

Councilor Wring reported;

- Attended a meeting with the Mayor, City Manager, Assistant City Manager, and Councilor McGlothlin.
- Reported Sister Cities Committee and Urban Renewal did not meet the prior month.

Councilor McGlothlin reported;

- An upcoming Airport Commission meeting.
- Participated in multiple KODL Coffee Break radio segments with the Mayor.
- Met briefly with Mayor Mays to discuss and prepare for the City Council meeting.
- Reported service as Governor of Lions International District 36G and announced plans for a Lions convention in The Dalles at the Granada Theatre in the spring.
- Attended the briefing session with Councilor Wring.

Mayor Mays reported;

- Participated in KODL Coffee Break with Al Wynn.
- Attended a ceremony at the Columbia Gorge Food Bank with the City Manager, where the Food Bank received \$20,000 in combined donations from local governments and nonprofits, including a \$2,500 contribution from the City.
- Completed a radio interview with KACI and Mark Bailey.

- Participated in a podcast with Robin Denning, along with Commissioner Scott Hege, to address and clarify community misconceptions regarding Google.
- Completed several media interviews with the Public Works Director regarding Representative Cliff Bentz's introduction of federal legislation to transfer 150 acres of forest land to the City to allow reservoir expansion consistent with the 2024 Water Master Plan.

CONSENT AGENDA

It was moved by Wring and seconded by McGlothlin to approve the Consent Agenda as presented.

The motion carried 5 to 0, Wring, McGlothlin, Randall, Runyon, Richardson voting in favor; none opposed; none absent.

Items approved on the consent agenda were:

- A) Approval of the December 8, 2025 Regular City Council Meeting Minutes
- B) Authorizing City Staff to Surplus a Police Radar Trailer
- C) Resolution No. 26-001 Concurring with the Mayor's Appointments to the Planning Commission and Urban Renewal Agency Board

PUBLIC HEARING

General Ordinance No. 26-1424, Amending The Dalles Comprehensive Plan and Title 10 of The Dalles Municipal Code to Implement a Hearings Officer System, Update Planning Commission Roles and Procedures, and Revise Housing, Design, and Definitions Standards for Clarity, Consistency, and Compliance with State Law

Mayor Mays read the rules of the Public Hearing then asked if there were questions. There were none.

Mayor Mays asked if any members of the Council wished to make any conflict of interest disclosures or abstain from participating or voting on the matter because of possible financial gain resulting from the legislative action.

There were none.

Mayor Mays opened the public hearing at 7:45 p.m.

He called for the staff report.

Joshua Chandler, Community Development Director reviewed the staff report

Mayor Mays asked if there was anyone present who wanted to testify. There were none

Mayor Mays closed the public hearing at 8:07 p.m.

It was moved by McGlothlin and seconded by Randall to adopt General Ordinance No. 26-1424, an ordinance amending The Dalles Comprehensive Plan and Title 10 of The Dalles Municipal Code to implement a Hearings Officer system, update Planning Commission roles and procedures, and revise housing, design, and definitions standards for clarity, consistency, and compliance with State law, based upon the findings of fact and conclusions of law set forth in the Agenda Staff Report, by title only, as presented.

Mayor Mays asked if any Councilor wished for the Ordinance to be read in its entirety. There were none. He asked the City Clerk to read the Ordinance by title.

Ell read the ordinance by title.

The motion carried 5 to 0, McGlothlin, Randall, Wring, Runyon, Richardson voting in favor; none opposed; none absent.

ACTION ITEMS

General Ordinance No. 26-1423, Repealing Resolution No. 14-008 and Amending TDMC Title 3 (Utilities) to Add Chapter 3.28 (Utility Subsidy Program)

Matthew Kelebes, City Manager reviewed the staff report.

Mayor Mays asked if there was anyone in the audience who wanted to comment.

Lesly Naramore, Executive Director of Mid-Columbia Community Action Council thanked Council and staff for being proactive.

It was moved by Randall and seconded by McGlothlin to adopt General Ordinance No. 26-1423, as presented by title only.

Mayor Mays asked if any Councilor wished for the Ordinance to be read in its entirety. There were none. He asked the City Clerk to read the Ordinance by title.

Ell read the ordinance by title.

The motion carried 5 to 0, Randall, McGlothlin, Richardson, Runyon, Wring voting in favor; none opposed; none absent.

ADJOURNMENT

Mayor Mays expressed appreciation to City staff for their work supporting the City’s recent discussions regarding immigration-related issues. He specifically recognized the City Manager and City Attorney for their efforts in helping the process proceed smoothly and thanked the Police Chief for continued leadership and service.

Being no further business, the meeting adjourned at 8:15 p.m.

Submitted by/
Amie Ell, City Clerk

SIGNED: _____

Richard A. Mays, Mayor

ATTEST: _____

Amie Ell, City Clerk

DRAFT

Enero 12, 2026

A quien corresponda:

Yo, Cintya Vázquez, residente de The Dalles, OR 97058.

Me gustaría pedirle que considerara toda posibilidad de anular cualquier actividad de los agentes de ICE en la ciudad de The Dalles.

Me gustaría que se respete el honor a "Estado Santuario"

Soy residente de esta ciudad por más de 15 años y mi vida en este país.

La situación que estamos viviendo en la comunidad latina, así como el ahuyentamiento, no solo de nuestros turistas, sino migrantes, que a mí, en lo personal, considero que mueven gran parte del país, es inaceptable. Junto a la falta de empatía, inclusión y respeto a cualquier tono de piel y acento, se está perjudicando a mucha gente de mi comunidad, la misma que paga impuestos, trabaja arduamente y contribuye a impulsar la economía del país.

Lamentablemente, la situación afecta a la educación de mis hijos.

Soy madre de 3 niños con necesidades especiales. Y, por lo tanto, la falta de asistencia en su educación, como debe saber, rompe su rutina y les causa una regresión enorme.

La situación que vivimos me da la inseguridad para que ellos asistan a su escuela y reciban toda inclusión posible para educarse y lograr una vida exitosa.

Me dirijo a usted como una madre con el temor de dar inclusión a sus hijos, siendo parte y ciudadanos de este país.

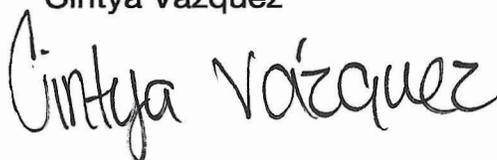
Me dirijo a usted con temor de que algo pueda sucederme, no por una situación legal desfavorable, sino porque los agentes de ICE no están respetando el color y el tono de voz.

Le pido que considere y sea fundamental presentar propuestas concretas que aborden tanto la infraestructura física como los protocolos de emergencia, incluyendo la seguridad y adaptaciones tanto para niños con discapacidades como para una educación segura y respetada, y en general, para nuestra comunidad latina.

Me dirijo a usted para pedirle que considere esta situación lo más posible, que no solo afecta al rompimiento de familias, sino también a la educación de tantos estudiantes.

Sinceramente:

Cintya Vázquez



January 12, 2026

To Whom It May Concern:

I, Cintya Vázquez, a resident of The Dalles, OR 97058.

I would like to ask you to consider all possibilities of halting any ICE agent activity in the city of The Dalles.

I would like the "Sanctuary City" status to be respected.

I have been a resident of this city for more than 15 years, and I have lived in this country for even longer.

The situation we are experiencing in the Latino community, as well as the deterrence of not only tourists but also migrants, who, in my personal, contribute significantly to the country's economy, es inacceptable. Along with the lack of empathy, inclusion, and respect for all skin tones and accents, this is harming many people in my community, the same people who pay taxes, work hard, and contribute to boosting the country's economy.

Unfortunately, this situation is affecting my children's education.

I am the mother of three children with special needs. Therefore, the lack of consistent attendance at school, as you know, disrupts their routine and causes them significant regression. The current situation makes me feel unsafe sending them to school to receive the inclusive education they need to thrive and achieve a successful life.

I am writing to you as a mother who fears for her children's ability to be included, to be a part of and citizens of this country.

I am writing to you with the fear that something could happen to me, not because of an unfavorable legal situation, but because ICE agents are not respecting people based on their skin color or accent.

I ask that you consider and prioritize presenting concrete proposals that address both physical infrastructure and emergency protocols, including safety and accommodations for children with disabilities, as well as ensuring a safe and respectful education, and generally, for our Latino community.

I am writing to you to ask that you consider this situation as seriously as possible, as it not only affects the separation of families but also the education of so many students.

Sincerely,
Cintya Vázquez





City of The Dalles City Council

MONDAY, JANUARY 12, 2025 | 6:00 PM

Hearing Details

Application: Zoning Ordinance Amendment (ZOA) 111-25 | Comprehensive Plan Amendment (CPA) 57-25

Applicant: City of The Dalles

Properties Affected: All properties within the Urban Growth Boundary

Request:

Legislative Public Hearing – Consideration of General Ordinance No. 26-1424, an ordinance amending The Dalles Comprehensive Plan and Title 10 of The Dalles Municipal Code to Implement a Hearings Officer System, Update Planning Commission Roles and Procedures, and Revise Housing, Design, and Definitions Standards for Clarity, Consistency, and Compliance with State Law.

Purpose of Amendments

- Modernizing Community Development Operations
- Clarify roles between Current Planning and Long-Range Planning
- Improve efficiency, legal compliance, and predictability
- Align TDMC, Comp Plan, and procedures

Planning Roles & Policy Direction

- Clarifies planning functions:
 - Current Planning: Development applications, permits, compliance
 - Long-Range Planning: Policy, code updates, housing, growth strategy
- Policy goal:
 - Shift quasi-judicial away from Planning Commission
 - Refocus the Commission on legislative and policy matters

Implementation Approach

- Phase 1 (Adopted): Planning Commission procedural updates
 - Reduced meetings to once per month
 - Adopted November 24, 2025 | Effective January 1, 2026
- Phase 2 (Current): Structural and code updates
 - Establishment of a Hearings Officer
 - Comprehensive updates to TDMC and Comp Plan

Noticing

- November 13, 2025: Submitted proposed amendments to DLCD
- December 3, 2025: Planning Commission Meeting Noticed Issued in Columbia Gorge News
- December 11, 2025: Planning Commission Packet Distributed
- December 31, 2025: City Council Meeting Noticed Issued in Columbia Gorge News
- January 5, 2026: City Council Packet Distributed

Title 10 Code Amendments

- **Hearings Officer**
 - Independent land use professional
 - Reviews quasi-judicial applications and administrative appeals
 - City Council retains final appeal authority
 - Legislative actions remain with Planning Commission & Council
 - Public hearings remain open and accessible to the public; scheduled as needed

Title 10 Code Amendments

- **Procedures, Noticing & Definitions**
 - Clarified application and hearing procedures
 - Noticing timelines updated for state law compliance
 - Evidentiary hearing notice: 10 → 20 days
 - Appeal filing deadline: 10 → 12 days
 - Definitions updates: Hearings Officer, Affordable housing, Residential care facilities, Marijuana-related uses, Kitchen/cooking facilities (dwelling unit clarity)

Title 10 Code Amendments

- **Housing Adjustments & Affordable Housing**
 - Implements SB 1537 mandatory housing adjustments
 - Establishes ministerial review for minor housing changes
 - Allows affordable housing outright in all residential & mixed-use zones
 - Adds clear, objective standards and long-term affordability requirements
 - Improves predictability and supports diverse housing types

Title 10 Code Amendments

- **Use & Classification Updates**

- Allows Residential Care Facilities in the RL zone, consistent with state law
- Clarifies and consolidates permitted/conditional use tables
- Removes outdated and redundant use references
- Marijuana and transitional housing sections
- Introduces Standard Industrial Classification (SIC) codes for unlisted uses; provides a consistent, objective framework for use determinations

Title 10 Code Amendments

- **Parking, Streets & Transportation Standards**
 - Codifies mandatory parking waivers in Downtown and CBC-2 zones
 - Replaces discretionary parking exemptions with clear standards
 - Updates street standards matrix to align with the 2017 TSP
 - Supports downtown reinvestment

Title 10 Code Amendments

- **Site Design, Safety & Construction Flexibility**
 - Allows up to 6-foot fencing in front yard setbacks at schools
 - Maintains vision clearance and neighborhood compatibility
 - Fencing permit fee added
 - Expands laydown yard allowances to nonresidential zones
 - Supports redevelopment and construction staging

Comp Plan Amendments

- Reflect Hearings Officer delegation
- Align with TDMC, Title 11, and PC Bylaws
- Targeted updates to Goals 2, 5, 11, 14
- Appendix B cleanup

Timeline and Next Steps

- **December 18, 2025** – Planning Commission Hearing
- *January 12, 2026* – *City Council Hearing*
- **February 2026** – PC Bylaws updates
- **February–March 2026** – Hearings Officer selection process
- **April 2026** – Hearings Officer implementation

Council Alternatives

- 1. Staff recommendation: Move to adopt General Ordinance No. 26-1424, as presented.***
2. Make modifications to then move to adopt General Ordinance No. 26-1424, as amended.
3. Decline adoption and provide additional direction.



City of The Dalles City Council

MONDAY, JANUARY 12, 2025 | 6:00 PM

RESOLUTION NO. 26-007

**A RESOLUTION CONCURRING WITH THE MAYOR’S APPOINTMENTS
TO THE TRAFFIC SAFETY COMMISSION AND
BEAUTIFICATION AND TREE COMMITTEE**

WHEREAS, there are vacant positions on the Traffic Safety Commission and
Beautification and Tree Committee, and

WHEREAS, the Mayor has elected to appoint Thomas Tramontina to the Traffic Safety
Commission and Stacey Holeman to the Beautification and Tree Committee.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL AS
FOLLOWS:**

Section 1. The City Council concurs with the appointments of: Thomas Tramontina to
the Traffic Safety Commission; term expiring April 30, 2030 and Stacey Holeman to the
Beautification and Tree Committee; term expiring June 30, 2030.

Section 2. This Resolution shall be effective upon adoption.

PASSED AND ADOPTED THIS 26th DAY OF JANUARY, 2026.

Voting Yes	Councilors:	_____
Voting No	Councilors:	_____
Absent	Councilors:	_____
Abstaining	Councilors:	_____

AND APPROVED BY THE MAYOR THIS 26th DAY OF JANUARY, 2026.

SIGNED:

Richard A. Mays, Mayor

ATTEST:

Amie Ell, City Clerk

RESOLUTION NO. 26-003

A RESOLUTION APPROVING FINDINGS AND ESTABLISHING A CLASS EXEMPTION FROM COMPETITIVE BIDDING FOR CERTAIN ELEVATOR MODERNIZATION AND MAJOR REPAIR PUBLIC IMPROVEMENT CONTRACTS UNDER ORS 279C.335

WHEREAS, ORS 279C.335(1) requires that a contracting agency award a public improvement contract only in response to competitive bids unless an exception applies or an exemption is granted, and ORS 279C.335(2) authorizes a local contract review board to exempt a public improvement contract or a class of public improvement contracts from that competitive bidding requirement after approving written findings that satisfy ORS 279C.335(2)(a) and ORS 279C.335(2)(b);

WHEREAS, ORS 279C.335(3) requires that, to support an exemption for a class of public improvement contracts, the contracting agency clearly identify the class using defining characteristics that include a combination of project descriptions or locations, time periods, contract values, methods of procurement or other factors that distinguish the limited and related class from the agency's overall construction program and that reasonably relate to the exemption criteria in ORS 279C.335(2);

WHEREAS, ORS 279C.400(1) provides that (when authorized by an exemption granted under ORS 279C.335) a contracting agency may solicit and award a public improvement contract by requesting and evaluating competitive proposals;

WHEREAS, the City Council is the City's Local Contract Review Board under ORS 279A.060 and intends to establish a limited class exemption for *elevator modernization, major repair, replacement-in-kind, and associated removal and installation work for existing elevator systems located in City-owned buildings that contain elevator systems owned or operated by the City*, where the City documents on a project-specific basis that the work is proprietary and reasonably requires performance by the original equipment manufacturer (**OEM**) or an OEM-authorized service provider;

WHEREAS, notice of the proposed class exemption was published in a trade newspaper of general statewide circulation at least 14 days before the City Council's intended action date as required by ORS 279C.335(5)(b), and the notice stated that upon written request the City would hold a public hearing to receive comments on the draft findings as required by ORS 279C.335(5)(c);

WHEREAS, no written request for a public hearing and no public comments were received by the deadline stated in the notice, and the City Council therefore proceeds to consider approval of the findings and adoption of this class exemption at its January 26, 2026, regular meeting; and

WHEREAS, the City Council finds it is in the public interest to adopt a limited class exemption that allows the City to use competitive proposals under ORS 279C.400 and other

lawful alternative contracting approaches when competition is not reasonably practicable to procure proprietary elevator modernization and major repair work while maintaining open and impartial competition among qualified providers and protecting the integrity of the exemption process.

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF THE DALLES
RESOLVES AS FOLLOWS:**

Section 1 Authority. The City Council has considered and hereby adopts this Resolution in its capacity as the City’s Local Contract Review Board.

Section 2 Adoption and Policy. The City Council hereby approves the written findings attached to and made part of this Resolution as its **Exhibit A** and, based on those findings, hereby grants a class exemption from the competitive bidding requirement in ORS 279C.335(1) for the class of public improvement contracts described in Section 3. This exemption addresses the procurement method for the class described and the final parameters of any resulting public improvement contract are those characteristics or specifics announced in the applicable solicitation document as described in ORS 279C.335(6).

Section 3 Covered Class of Contracts. The class covered by this exemption is limited to public improvement contracts for elevator modernization, major repair, replacement-in-kind, and associated removal and installation work for existing elevator systems located in City-owned buildings that contain elevator systems owned or operated by the City. For a contract to fall within this class, the Project Manager shall document in the procurement file, before solicitation or negotiation, that:

- (a) the work involves an existing elevator system and is not a new elevator installation;
- (b) the work is proprietary and reasonably requires performance by the OEM or an OEM-authorized service provider to ensure compatibility, safety, and functionality of the existing system; and
- (c) formal competitive bidding is not likely to produce meaningful competition for the required scope without forcing full replacement at disproportionate cost.

Section 4 Procurement Method and Competition Controls. When feasible, the City shall procure contracts within this class using competitive proposals under ORS 279C.400. The solicitation shall describe the planned procurement approach, the selection criteria, and the basis for any requirement that proposers be the OEM or an OEM-authorized service provider. When only one OEM or OEM-authorized service provider is reasonably available to perform the required scope, the City may negotiate directly with that provider if the procurement file includes the

documentation described in Section 3(b) and the City Manager or designee approves the use of direct negotiation for that project as consistent with the findings in **Exhibit A**. Nothing in this Resolution waives other applicable requirements of ORS Chapter 279C or applicable rules, including advertising and solicitation requirements that apply to the selected procurement method, and contract requirements related to bonds, insurance, prevailing wage, and labor standards when applicable.

Section 5 Post-Project Evaluation. For any public improvement contract in excess of \$100,000 awarded within this class without using the competitive bidding process, the City shall prepare and deliver an evaluation as required by ORS 279C.355. For class usage, the evaluation timeline and public inspection requirements in ORS 279C.355(3) apply.

Section 6 Administration. The City Manager or designee may issue forms and internal guidance to implement this class exemption, including a project-specific determination template consistent with Section 3(b), and may require additional documentation to ensure the exemption is applied narrowly and consistently with ORS 279C.335(2) and (3).

Section 7 Severability. The provisions of this Resolution are severable.

Section 8 Appendix. This Resolution shall be appended to and incorporated with the City’s Local Contract Review Board Rules, as amended from time to time, including the Rules adopted by Resolution No. 26-005, as if fully included at the time of adoption of the Rules.

Section 9 Effective Date. This Resolution is effective upon adoption.

PASSED AND ADOPTED THIS 26TH DAY OF JANUARY, 2026,

Voting **Yes** Councilors: _____
Voting **No** Councilors: _____
Abstaining Councilors: _____
Absent Councilors: _____

AND APPROVED BY THE MAYOR THIS 26TH DAY OF JANUARY, 2026.

Richard A. Mays, Mayor

ATTEST:

Amie Ell, City Clerk

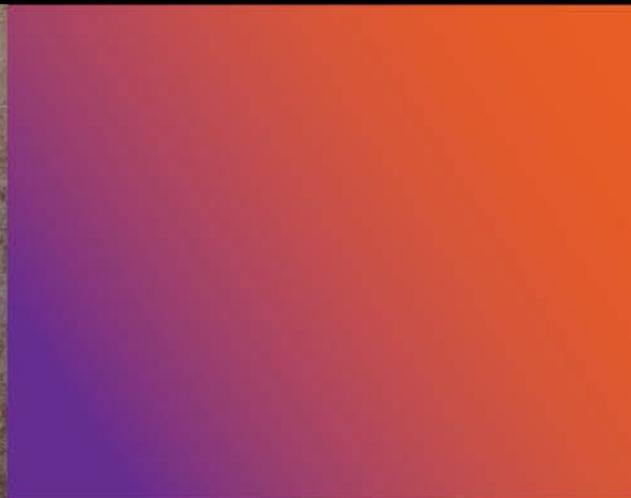
**EXHIBIT A to
Resolution No. 26-003**

**FINDINGS SUPPORTING CLASS EXEMPTION FROM COMPETITIVE BIDDING
ORS 279C.335**

- A. **Class Description.** The class is limited to public improvement contracts for elevator modernization, major repair, replacement-in-kind, and associated removal and installation work for existing elevator systems located in City-owned buildings that contain elevator systems owned or operated by the City. This class is distinguished from the City's overall construction program by the combination of:
1. project description and work category focused on existing elevator systems and modernization or major repair work rather than new construction.
 2. location and asset characteristics limited to City-owned buildings and City-owned or City-operated elevator systems.
 3. technical and market characteristics where the City documents on a project-specific basis that the work is proprietary and reasonably requires the OEM or an OEM-authorized service provider.
- B. **ORS 279C.335(2)(a) Findings.** The City Council finds that exempting this class from the competitive bidding requirement is unlikely to encourage favoritism in awarding public improvement contracts and is unlikely to substantially diminish competition because:
1. for the covered class, competition is limited by the proprietary nature of existing elevator systems, including OEM-controlled software, tools, parts, and authorization requirements. Formal competitive bidding does not increase the pool of qualified firms and can incentivize nonresponsive approaches that do not meet compatibility or safety requirements.
 2. the City will encourage impartial and open competition among all qualified OEM or OEM-authorized providers reasonably available for a given project, including through competitive proposals under ORS 279C.400 when feasible, with published selection criteria and documented award decisions.
 3. the exemption is narrowly defined and requires project-specific documentation that a project fits the class characteristics and meets the exemption rationale. This limits the exemption's use and protects against overbroad application.
- C. **ORS 279C.335(2)(b) Findings.** The City Council finds that awarding contracts within this class under the exemption will likely result in substantial cost savings and other substantial benefits to the City based on the type, cost, and amount of the contracts and the applicable factors in ORS 279C.335(2)(b), including:
1. ***Persons available to perform the work.*** The number of firms capable of performing proprietary modernization or major repair work on a given existing elevator system is typically limited to the OEM and OEM-authorized service providers. Competitive bidding among non-authorized firms is not likely to yield meaningful competition for the required scope.

2. **Construction budget and operating costs.** Modernization and major repair approaches that preserve and restore existing elevator systems can avoid the disproportionate cost of full replacement and can reduce ongoing maintenance risks when the OEM is responsible for compatible parts and programming.
 3. **Public benefits and public safety.** Elevator modernization and major repair work directly supports safe building access and continuity of City operations. Use of qualified OEM or OEM-authorized providers reduces safety risks associated with incompatible parts, improper programming, and undocumented modifications.
 4. **Specialized expertise.** OEM and OEM-authorized providers possess specialized expertise, tools, and proprietary access necessary for the work. Procuring through competitive proposals among qualified providers, or direct negotiation when only one provider is reasonably available, reduces schedule and performance risk.
 5. **Market conditions, schedule, and disruption.** Competitive proposals and streamlined procurement among qualified providers can reduce downtime and operational disruption in occupied buildings and can better enable the City to address market conditions affecting parts availability and lead times.
 6. **Renovation of existing structures and occupied facilities.** The class involves renovation or repair of existing structures, and City buildings are typically occupied during construction. Procurement methods that emphasize experience, safety planning, and schedule control are expected to provide substantial benefits compared to low-bid competitive bidding that does not meaningfully expand competition for proprietary work.
- D. **Alternative Contracting Method and Implementation.** For contracts within this class, the City will, when feasible, use competitive proposals under ORS 279C.400 with documented selection criteria. When only one provider is reasonably available to perform the proprietary work, the City may negotiate directly with that provider, provided the procurement file documents the basis for sole availability and the project's fit within the class characteristics.
- E. **Limitations.** These findings support the procurement method for this class and do not bind the City to any unnecessary or incidental contract details beyond what is stated in the applicable solicitation documents, consistent with ORS 279C.335(6).

MODERNIZATION PROPOSAL



Modernization Proposal



December 08, 2025

The Dalles City Hall

Purchaser:	City Of The Dalles	Project	City Of The Dalles
Address:	313 Court St The Dalles, OR 97058-2111	Location:	313 Court St The Dalles, OR 97058-2111

TK Elevator Corporation (hereinafter "TK Elevator") is dedicated to delivering City Of The Dalles (hereinafter "Purchaser") the safest, highest quality vertical transportation solutions. I am pleased to present this customized Proposal (the "Proposal") in the amount of **\$201,510.15** inclusive of all applicable sales and use taxes to modernize the elevator equipment described in the pages that follow at the above-referenced location.

Our modernization package is engineered specifically for your elevator system and will include the elevator mechanical and electrical components being replaced, refurbished or retained.

The price above does not include any value added taxes, tariffs, duties, and/or similar charges or the financial impacts to TK Elevator caused thereby. The price of this Proposal is subject to escalation - even after Purchaser's acceptance of this Proposal - under certain circumstances including the imposition of taxes, tariffs, or other charges imposed by applicable governmental authorities and/or TK Elevator being subjected to increased charges by its suppliers, shippers and/or freight forwarders as set forth in the terms and conditions in this Proposal.

Furthermore, all preparatory work by other trades must be completed and elevator equipment shipped by 04-02-2026 and the installation must be completed by 06-8-2026, otherwise, the price is also subject to increase.

If not accepted within twenty-one (21) calendar days of the date of this Proposal or the date presented to Purchaser, this Proposal shall automatically be revoked and shall be null and void.

In the event you have any questions regarding the content of this Proposal please contact me at +1 503 209-6064

We appreciate your consideration.

Regards,

Tawnya Randall

Tawnya Randall
TK Elevator Corporation
14626 NE Airport Way
Portland, OR 97230
tawnya.randall@tkelevator.com | +1 503 209-6064

Modernization Proposal



SCOPE OF WORK

Building : City Hall
313 Court St

Groups Included

Group Name	# of units	Equipment Type
City Hall	1	Hydraulic

Group : City Hall
Equipment Classification: Hydraulic

Units Included

Nickname	Front Openings	Rear Openings	Side Openings	TKE Serial #
Elevator 1 Unit US121336	1	3	0	US121336

Description of Work

Controller

Item Description	Option	Installed On
TAC 32H Controller (Includes Options listed below) • 24 VDC Signal Voltage • Electronic Door Detector Interface	New	Elevator 1 Unit US121336
eMax Monitoring Device Provisions	New	City Hall
Solid State Starters (6 or 12 leads) 208 VAC	New	Elevator 1 Unit US121336
Battery Lowering in Controller (10-D-0C)	New	Elevator 1 Unit US121336
Rear Door Operation	New	Elevator 1 Unit US121336
Seismic Features	New	Elevator 1 Unit US121336
Tenant Security 3-1 (Card Reader)	New	Elevator 1 Unit US121336
THY Board / CE Driver Board	New	Elevator 1 Unit US121336
Position Indicator	New	Elevator 1 Unit US121336
MAX Link 2-Line ATA kit Wireless Monitoring system	New	City Hall
Car Riding Lantern	New	Elevator 1 Unit US121336
Car Riding Lantern - Rear	New	Elevator 1 Unit US121336
Fire Service	New	Elevator 1 Unit US121336
Hall Lanterns	New	Elevator 1 Unit US121336
Hoistway Access	New	Elevator 1 Unit US121336

Modernization Proposal



Item Description	Option	Installed On
User Interface Tool	New	Elevator 1 Unit US121336
Hoistway Enable/Inspection Operation	New	Elevator 1 Unit US121336

Jack

Item Description	Option	Installed On
Retain Jack	Retain	Elevator 1 Unit US121336
Pipe Stands	New	Elevator 1 Unit US121336

Hoistway Door Equipment

Item Description	Option	Installed On
Retain Hoistway Doors	Retain	Elevator 1 Unit US121336
Interlock / Pick up Assemblies for existing Dover Operators. Includes closers. (Front)	New	Elevator 1 Unit US121336

Cab

Item Description	Option	Installed On
Cab Interior & Ceiling	NEW	Elevator 1 Unit US121336
Retain Cab Flooring	Retain	Elevator 1 Unit US121336
Car Door (SSCO, #4 S/S (441))	New	Elevator 1 Unit US121336

Power Unit

Item Description	Option	Installed On
SRT Power Unit	New	Elevator 1 Unit US121336
Seismic Requirements for EP units	New	Elevator 1 Unit US121336
Overspeed Valve Kits for 2" (less than 150 GPM)	New	Elevator 1 Unit US121336
55 gallon drum of Biodegradable oil (Citgo NZ)	New	Elevator 1 Unit US121336
Low Pressure Switch (required when adding Low Pressure Switch provisions)	New	Elevator 1 Unit US121336
2" Shutoff Valve Kit (Pump)	New	Elevator 1 Unit US121336

Pit Equipment

Item Description	Option	Installed On
2" Shutoff Valve Kit (Pit)	New	Elevator 1 Unit US121336
Pit Ladder 16 Wide	New	Elevator 1 Unit US121336
Pit Stop Switch	New	Elevator 1 Unit US121336

Hoistway Equipment

Item Description	Option	Installed On
TAC 32 Field Friendly Wiring Package: <ul style="list-style-type: none"> • Includes single traveling cable • hoistway wiring • interlock wiring • interlock connectors • serial wiring • FIBER OPTIC CABLE, HOISTWAY PIPING & DUCT ARE NOT INCLUDED. 	New	Elevator 1 Unit US121336
Steel Tape with Mounting hardware, Selector and magnets (terminal limits included)	New	Elevator 1 Unit US121336
HN Boxes (per each 2 cars, grouped)	New	Elevator 1 Unit US121336
Hoistway Duct Kit (per run)	New	City Hall

Modernization Proposal



Car

Item Description	Option	Installed On
Fan: Two Speed	New	Elevator 1 Unit US121336
Fan Grill Standard	New	Elevator 1 Unit US121336
Cab Wiring Material (200MK1)	New	Elevator 1 Unit US121336
Car Top Exit Switch	New	Elevator 1 Unit US121336

Car Door Equipment

Item Description	Option	Installed On
Micro Light Door Edge(Front)	New	Elevator 1 Unit US121336
Micro Light Door Edge(Rear)	New	Elevator 1 Unit US121336
LD-16 Plus Door Operator with Complete carside equipment (FRONT) <ul style="list-style-type: none"> includes Adapter kit (Tracks & Hangars), Clutch (w/ Car Door Lock latch & contact), & Car Top Inspection station (w/ alarm signal and Flooded Pit Jewel) 	New	Elevator 1 Unit US121336
LD-16 Plus Door Operator with Complete carside equipment (REAR) <ul style="list-style-type: none"> includes Adapter kit (Tracks & Hangars), Clutch (w/ Car Door Lock latch & contact) 	New	Elevator 1 Unit US121336

Car Fixtures

Item Description	Option	Installed On
Main Car Station Includes Options Below <ul style="list-style-type: none"> Column Type Swing Return for New/Existing Dover/tkE Cabs) 	New	Elevator 1 Unit US121336
Vandal Resistant Floor Buttons	New	Elevator 1 Unit US121336
Cast Braille Plates for Car Features	New	Elevator 1 Unit US121336
Standard Key Switch Package <ul style="list-style-type: none"> Fan Light Independent Stop Inspection/Hoistway Enable) 	New	Elevator 1 Unit US121336
Emergency Light mounted in COP	New	Elevator 1 Unit US121336
2004 and later Fire Service Phase II Features (includes instructions signage)	New	Elevator 1 Unit US121336
Handicap Signal (Passing signal)	New	Elevator 1 Unit US121336
Position Indicator (2" CE Segmented)	New	Elevator 1 Unit US121336
ADA Phone System integral with COP (Rath)	New	Elevator 1 Unit US121336
Speaker Pattern for Intercom System/ADA Phone	New	Elevator 1 Unit US121336
Locked Service Cabinet	New	Elevator 1 Unit US121336
Certificate Window	New	Elevator 1 Unit US121336
GFI Outlet	New	Elevator 1 Unit US121336
#4 Stainless Steel Finish (441)	New	Elevator 1 Unit US121336
Door Open rear / Door Close rear	New	Elevator 1 Unit US121336
Car Riding Lantern (Standard) #4 S/S (441)	New	Elevator 1 Unit US121336

Hall Fixtures

Item Description	Option	Installed On
Terminal Hall Stations (Surface Mounted) with <ul style="list-style-type: none"> Appendix O (Polycarbonate insert flame) Fusion (#4 S/S (304)) 	New	City Hall
2009 & 2010 Elevator Communications Failure add	New	City Hall
Hoistway Access Switch in Hall Stations	New	Elevator 1 Unit US121336

Modernization Proposal



Item Description	Option	Installed On
Intermediate Hall Stations (Surface Mounted) with <ul style="list-style-type: none"> • Appendix O (Polycarbonate insert flame) • Fusion (#4 S/S (304)) 	New	City Hall
Serial Boards for Hoistway Access	New	Elevator 1 Unit US121336
Serial Boards for Hall Lanterns/PIs	New	Elevator 1 Unit US121336
Serial Boards for Front Risers	New	City Hall
Serial Boards for Rear Risers	New	City Hall
TAC Serial Boards, Base Charge	New	City Hall
Hoistway Jamb Braille (Pair of Standard) (# of Floors)	New	Elevator 1 Unit US121336
Horizontal Combination Hall Lantern and 2" Digital Hall Position Indicator (#4 S/S (441))	New	Elevator 1 Unit US121336
Standalone Fire Service Phase I with Plastic Instructions #4 S/S (441)	New	City Hall

Clarifications Electrical and Fire Alarm work is included in base price and will be hired by TK Elevator

Electrical and fire alarm work for modernization of one hydraulic elevator.

- Replace the existing disconnect switch with a Bussmann shunt trip disconnect and relocate as required.
- Install a fused lockable cab lighting disconnect switch in the machine room.
- Enclose the elevator phone line in conduit within the machine room.
- Insure pit and machine room 120-volt circuits are dedicated as required.
- Insure pit, machine room, and lobby lighting are up to code-required levels (add 2 - 4' LED's in the pit and 2 in the machine room. Lobby lighting will be re-used).
- Disconnect the existing elevator controller and re-connect the new.
- Install wiring for battery lowering.
- Make additions and alterations to the proprietary Notifier fire alarm system in the building to provide recall, shunt trip, hat flash, and power monitoring functions.
- Wiring for a split system to provide machine room HVAC if required.

Modernization Proposal



01 Key Tasks and Approximate Lead Times

Approximate Durations/Lead Times	
Contract execution (can run concurrently with layout drawing package preparation and approval)	TBD by Purchaser
Survey and Order of Materials (additional time required for cab, signal, entrance preparation and approval, if applicable)	2 - 6 Weeks
Fabrication time (from receipt of all approvals, fully executed contract, Material Release Form* and initial progress payment)	9 -10 Weeks
Shipping: (Tennessee to local distribution center)	2 Weeks
Modernization of elevator system (Per Unit): (Upon completion of all required preparatory work by others and the signed pre-installation checklist)	3 - 4 Weeks

*If equipment is delivered to TKE's staging facility in accordance with the date shown on the TKE Material Release Form, and the preparatory work required by other trades is not completed, all storage charges as a result of site delays are to be paid by the Purchaser based on the storage rates noted below in this proposal.

The durations or lead times listed above are strictly approximations that can vary due to factors both within and outside of TK Elevator's control, are subject to change without notice to Purchaser and shall not be binding on TK Elevator.

02 Payment of Work

55% of the price set forth in this Proposal as modified by options selected from the section entitled "Value Engineering Opportunities & Alternates" (if applicable) will be due and payable as an initial progress payment within 30 days from TK Elevator's receipt of a fully executed copy of this Proposal. This initial progress payment will be applied to project management, permits, engineering and shop drawings, submittals, drilling mobilizations (if required) and raw material procurement. Material will be ordered once this payment is received and the parties have both executed this Proposal and the Material Release Form.

20% of the price set forth in this Proposal as modified by options selected from the section entitled "Value Engineering Opportunities & Alternates" (if applicable) shall be due and payable when the material described above has been furnished. Material is considered furnished when it has been received at the jobsite or TK Elevator staging facility. Supporting documentation of materials stored shall be limited to stored materials certificates of insurance and bills of lading. Pictures will not be provided. Receipt of this payment is required prior to mobilization of labor.

25% of the price set forth in this Proposal shall be made as progress payments throughout the life of the project. In the event TK Elevator fails to receive payment within thirty (30) days of the date of a corresponding invoice, TK Elevator reserves the right to demobilize until such a time that the payments have been brought up to date, and TK Elevator has the available manpower.

It is agreed that there will be no withholding of retainage from any billing and by the customer from any payment.

Modernization Proposal



The payment terms breakdown above shall be considered the Schedule of Values for the project as written. Billing shall be submitted on or before the 25th day of the month according to the payment schedule above and accompanied by a form of G702-703 pay application/schedule of values and a conditional waiver, the format of which is hereby acknowledged and accepted.

The use of online Portals for the submission of billing shall follow the terms of the Proposal and Purchaser agrees to permit billing in accordance with the executed contract terms. Portal access and usage is to be provided free of additional charge to TK Elevator and any additional cost for such use is to be reimbursed to TK Elevator via a reimbursable change order immediately upon acceptance.

Purchaser agrees that TK Elevator shall have no obligation to complete any steps necessary to provide Purchaser with full use and operation of the installed equipment until such time as TK Elevator has been paid 100% both of the price reflected in this Proposal and for any other work performed by TK Elevator or its subcontractors in furtherance of this Proposal. Purchaser agrees to waive any and all claims to the turnover and/or use of that equipment until such time as those amounts are paid in full.

Proposal price:		\$201,510.15
Initial progress payment:	(55%)	\$110,830.58
Material furnished:	(20%)	\$40,302.03
Total of remaining progress payments:	(25%)	\$50,377.54

Purchaser may elect to finance all or a portion of the purchase price for the work described in this Agreement through TK Elevator's financing partner ("Financing Partner"), subject to the Financing Partner's approval and the terms of a separate financing agreement ("Financing Agreement") between Purchaser and Financing Partner. Purchaser acknowledges and agrees that [(i) Financing Partner is in no way affiliated with TK Elevator, (ii) Financing Partner will make any decision to offer financing to Purchaser independently and in accordance with its internal lending policies, (iii) TK Elevator cannot guaranty that Financing Partner will agree to provide financing to Purchaser on acceptable terms or at all, (iv) TK Elevator may be compensated by the Financing Partner in the event Purchaser enters into a Financing Agreement, and TK Elevator will not be a party to the Financing Agreement and shall have no responsibility for, and hereby expressly disclaims any liability arising out of or relating to, any decision on the part of Financing Partner to provide or decline to provide financing to Purchaser, and the negotiation, execution, performance, enforcement, or termination of any Financing Agreement. Purchaser acknowledges and agrees that Purchaser shall remain unconditionally and irrevocably liable to TK Elevator for any unpaid balance owing hereunder and TK Elevator's acceptance of the Financing Partner as a payment source shall not constitute a novation, satisfaction, waiver, or release of Purchaser's payment obligations under this Agreement.

Notwithstanding the foregoing, in the event Purchaser enters into a Financing Agreement with the Financing Partner and the Financing Partner fails or refuses to disburse any portion of the purchase price to TK Elevator for any reason, including without limitation default by either party under the Financing Agreement, bankruptcy or insolvency of either party, or termination of the Financing Agreement for any reason any unpaid purchase price then owing by Purchaser which shall be payable immediately by Purchaser upon demand by TK Elevator in accordance with this Agreement. Purchaser hereby waives any right of setoff, counterclaim, defense, or deduction against TK Elevator based on any act or omission of the Financing Partner. Purchaser further agrees that any assignment by TK Elevator to the Financing

Modernization Proposal



Partner of the right to receive payment hereunder shall not impair TK Elevator’s rights or remedies in the event of nonpayment. The obligations of Purchaser under this paragraph shall survive any termination, cancellation, or expiration of this Agreement.

Any work that Purchaser may require prior to turnover of the equipment that is outside of the scope described in this Proposal - other than Temporary Use as described below - will be performed only after the full execution of a mutually agreeable change order and only at the following rates:

Mechanic (Standard) per hour	\$350.00
Mechanic (OT) per hour	\$643.00
Team (Standard) per hour	\$630.00
Team (OT) per hour	\$1,157.00

Rates are not inclusive of any per diem, mileage or other expenses which may be dependent on jobsite location and are valid until 05-17-2026 .

03 Warranty

TK Elevator warrants any equipment it installs as described in this Proposal against defects in material and workmanship for a period of one (1) year from the date of Purchaser’s execution of TK Elevator’s “Final Acceptance Form” on the express conditions that all payments made under this Proposal and any mutually agreed-to change orders have been made in full and that such equipment is currently being serviced by TK Elevator. In the event that TK Elevator’s work is delayed for a period greater than six (6) months, the warranty shall be reduced by the amount of the delay. This warranty is in lieu of any other warranty or liability for defects. TK Elevator makes no warranty of merchantability and no warranties which extend beyond the description in this Proposal, nor are there any other warranties, expressed or implied, by operation of law or otherwise. Like any piece of fine machinery, the equipment described in this Proposal should be periodically inspected, lubricated, and adjusted by competent personnel. This warranty is not intended to supplant normal maintenance service and shall not be construed to mean that TK Elevator will provide free service for periodic examination, lubrication, or adjustment, nor will TK Elevator correct, without a charge, breakage, maladjustments, or other trouble arising from normal wear and tear or abuse, misuse, improper or inadequate maintenance, or any other causes other than defective material or workmanship. In order to make a warranty claim, Purchaser must give TK Elevator prompt written notice at the address listed on the cover page of this Proposal and provided all payments due under the terms of this Proposal and any mutually agreed to written change orders have been made in full, TK Elevator shall, at its own expense, correct any proven defect by repair or replacement. TK Elevator will not, under any circumstances, reimburse Purchaser for cost of work done by others, nor shall TK Elevator be responsible for the performance of any equipment that has been the subject of service, repair, replacement, revisions or alterations by others. The Purchaser agrees to provide us access to the elevator equipment at any reasonable time for the purpose of making good this warranty. Purchaser and/or Owner agree to maintain the confidentiality of the TK Elevator’s software that is licensed for the Owner’s use. The software will not be copied, modified, distributed, or reverse engineered. The software is licensed to the Purchaser and/or Owner exclusively for the location of installation, and the license will not transfer except as part of a transfer, assumption, or succession of

Modernization Proposal



ownership. If there is more than one (1) unit which is the subject of work described in this Proposal, this section shall apply separately to each unit as accepted.

04 Preventative Maintenance Program

This Proposal does not include any maintenance, service, repair or replacement of the equipment or any other work not expressly described herein. TK Elevator may submit a separate proposal to Purchaser covering the maintenance and repair of this equipment to be supplied to Purchaser at an additional cost. In the event the Purchaser and TK Elevator have a new or existing maintenance Agreement in effect at the time of the acceptance of this proposal and/or during the scope of this work, the terms of the Agreement shall remain in full force and effect throughout the performance of this scope of work and continue throughout the duration of the stated term in that Agreement.

- a. Following the execution of TK Elevator's "Final Acceptance" form(s), TK Elevator will provide the following services during normal working hours for the units described below:

05 Work Not Included

There are certain items that are not included in this Proposal, many of which must be completed by Purchaser prior to and as a condition precedent to TK Elevator's performance of its work as described in this Proposal. In order to ensure a successful completion of this project, it shall be solely Purchaser's responsibility to coordinate its own completion of those items with TK Elevator. The following is a list of those items that are not included in this Proposal:

A. Hoistways and Equipment Rooms

- Purchaser shall provide the following
 - A dry legal hoistway, properly framed and enclosed, and including a pit of proper depth and overhead. This is to include steel hoist beam, inspection or access platforms, access doors, sump pump, lights, waterproofing and venting as required; dewatering of pit(s) and required permanent screening.
 - A dry legal machine/control room, with clear rollable access adequate for the elevator equipment, including floors, trap doors, properly sized legal machine room doors, gratings, machine room or roof access platforms, roof/loading protection, ladders, railings, foundations, all hoist beams, lighting, ventilation sized per the TK Elevator shop drawings and/or code requirements. Purchaser must maintain machine/control room (or machine/control space within the shaft for MRL equipment) temperature between 55 and 90 degrees Fahrenheit, with relative humidity less than 95% non-condensing at all times.
 - Adequate bracing of entrance frames to prevent distortion during wall construction.
 - All grouting, fire caulking, cutting, x-ray and removal of walls and floors, patching, coring, setting of sleeves/knockouts, penetrations and painting (except as specified) and removal of obstructions required for elevator work; along with all proper trenching and backfilling for any underground piping and/or conduit.
 - All labor and materials necessary to support the full width of the hoistway at each landing for anchoring or welding TK Elevator sill supports, steel angles, sill recesses;
 - The furnishing, installing and maintaining of the required fire rating of elevator hoistway walls, including the penetration of firewall by elevator fixture boxes;
 - Ensuring that the elevator hoistways and pits are dewatered, cleaned and properly waterproofed;
 - TK Elevator is not responsible for verifying field dimensions or related work by others. Purchaser must verify all dimensions on the submittal drawings prior to equipment fabrication.

Modernization Proposal



B. Electrical and Life Safety:

- Purchaser shall provide a 120V, 1P, 60C power supply in the locations as directed by TK Elevator for the cellular equipment being furnished and installed by TK Elevator for the communication devices within the elevator cab;
- Purchaser shall provide:
 - permanent 3-phase power with suitable connections from the power main to each controller and signal equipment feeders as required, including necessary circuit breakers and fused mainline disconnect switches per N.E.C. prior to installation. Permanent 3-phase power supply capable of operating the new elevator equipment under all conditions, no generator power, or manufactured power, will be acceptable;
 - piping and wiring to controller for mainline power, car lighting, and any other building systems that interface with the elevator controls per N.E.C. Articles 620-22 and 620-51;
 - any required hoistway / wellway, machine room, pit lighting and/or 110v GFCI service outlets;
 - conduit and wiring for remote panels to the Unit machine room(s) and between panels. Remote panels required by local jurisdictions are not included in this proposal;
 - a bonded ground wire, properly sized, from the Unit controller(s) to the primary building ground; and all remote wiring to the outside alarm bell as requested by all applicable code provisions;
 - installed sprinklers, smoke/heat detectors on each floor, machine room and hoistways / wellways, shunt trip devices (not self-resetting) and access panels as may be required as well as normally open dry contacts for smoke/heat sensors, which shall be terminated by Purchaser at a properly marked terminal in the Unit controller;
 - a means to automatically disconnect the main line and the emergency power supply to the unit prior to the application of water in the Unit machine room that shall not be self-resetting;
 - emergency power supply including automatic time delay transfer switch and auxiliary contacts with wiring to the designated Unit controller and along with electrical cross connections between elevator machine rooms for emergency power purposes;
 - the following emergency power provisions are not included: interface in controller, pre-testing and testing, emergency power keyswitches;
 - emergency power operation is included as part of the design of the Unit control system and based on each car in the group only, to properly sequence, one at a time to the programmed landing, and park. The design requires that the generator, transfer switch, and related circuitry are sufficient to run this function or any other function for any building other system that is associated with this project. In the event that the generator, transfer switch, and related circuitry are not sufficient, TK Elevator will provide Purchaser with a written change order for Purchaser's execution.
 - a dry set of contacts which close 20 seconds prior to the transfer from normal power to emergency power or from emergency power to normal power whether in test mode or normal operating conditions in the event that an emergency power supply will be provided for the Unit;
 - confirmation that the emergency standby power generator and/or building can accept the power generated to and from the Unit during both Hi-Speed and Deceleration. In cases where the generator and/or building load is not electrically sized to handle the power return from the regen drive, additional separate chopper and resistor units are available for purchase but not included in this proposal. The additional chopper and resistor units allow regenerated power to be dissipated in the resistor bank and not sent back into the building grid.

C. Miscellaneous:

- Purchaser shall provide all work relating to the finished flooring including, but not limited to, the provision of materials and its installation to comply with all applicable codes;
- Hydraulic jack replacement:
 - the excavation of the elevator cylinder well hole in the event drilling is necessary through soil that is not free from rock, sand, water, building construction members and obstructions. Should obstructions be encountered, TK Elevator will proceed only after written authorization has been received from the Purchaser. The contract price

Modernization Proposal



shall be increased by the amount of additional labor at TK Elevator's standard labor rates as per the local office along with any additional expenses and materials required;

- adequate ingress and egress, including ramping, for rail-mounted or truck-mounted drill rig;
- Purchaser is responsible for pumping truck contractor to remove and dispose of spoils from the site. In the event that unforeseen and unfavorable below ground conditions are encountered, including but not limited to concrete around the cylinder, construction debris, adverse water and/or soil conditions, erosion, cavitations, oil contamination, or circumstances necessitating increased hole depth, etc., which require the employment of specialized contractors, TK Elevator shall immediately advise the Purchaser and costs will be extra to the contract;
- in ground protection systems other than TK Elevator's standard HDPE or PVC protection system with bottomless corrugated steel casing;
- any required trenching and backfilling for underground piping or casings, and conduit as well as any compaction, grouting, and waterproofing of block-out;
- engineering, provision and installation of methane barriers or coordination/access;
- access to 2" pressurized water supply within 100'-0" of the jack hole location;
- a safe, accessible storage area for placement of D.O.T. 55 gallon containers for the purpose of spoils containment; obtaining of local environmental or disposal permits
- any spoils or water testing;

06 Working Hours, Logistics and Mobilization

- All work described in this Proposal shall be performed during TK Elevator's regular working days – defined as Monday thru Friday and excluding IUEC recognized holidays – and regular working hours – defined as those hours regularly worked by TK Elevator mechanics at the TK Elevator branch office that will provide labor associated with the performance of the work described in this Proposal - unless otherwise specified and agreed to in writing by both TK Elevator and Purchaser (hereinafter TK Elevator's regular working days and regular working hours shall be collectively defined as “normal working hours”). TK Elevator shall be provided with uninterrupted access to the Unit hoistway and machine room areas to perform work during normal working hours.
- Purchaser shall provide on-site parking to all TK Elevator personnel at no additional cost to TK Elevator.
- Purchaser shall provide traffic control, lane closures, permits and flagmen to allow suitable access/unload of tractor trailer(s).
- Purchaser agrees to provide unobstructed tractor-trailer access and roll-able access from the unloading area to the Unit hoistways or wellways (as applicable).
- Purchaser will be required to sign off on the Material Release Form, which will indicate the requested delivery date of equipment to the site. If Purchaser is not ready to accept delivery of the equipment within ten (10) business days of the agreed upon date, Purchaser will immediately make payments due for equipment and designate an area adjacent to the elevator shaft where Purchaser will accept delivery. If Purchaser fails to provide this location or a mutually agreeable alternative, TK Elevator is authorized to warehouse the equipment at the TK Elevator warehouse or designated distribution facility at Purchaser's risk and expense. Purchaser shall reimburse TK Elevator for all costs due to extra handling and warehousing. Storage beyond ten (10) business days will be assessed at a rate of \$100.00 per calendar day for each unit listed in this Proposal, which covers storage and insurance of the elevator equipment and is payable every (30) calendar days.
- Purchaser agrees to provide a dry and secure area adjacent to the hoistway(s) at the ground level for storage of the Unit equipment and tools within ten (10) business days from receipt at the local TK Elevator warehouse. Any warranties provided by TK Elevator for vertical transportation equipment will become null and void if equipment is

Modernization Proposal



- stored in any manner other than a dry, climate controlled enclosed building structure. Any relocation of the equipment as directed by Purchaser after initial delivery will be at Purchaser's expense.
- You agree that if you are not ready to permit us to begin the installation of the equipment when we notify you when all or part of it is ready for shipment, you will immediately pay us a sum equal to the amount which would be payable to us if the elevator equipment or such part of it had actually been shipped and delivered. Unless you promptly provide to us a secure and convenient storage area, we are authorized to warehouse the elevator(s) at your risk and in any event, you shall reimburse us for all costs due to extra handling and warehousing.
 - TK Elevator includes one mobilization to the jobsite. A mobilization fee of \$5,000.00 (minimum) per crew per occurrence will be charged for pulling off the job or for any delays caused by others once material has been delivered and TK Elevator's work has commenced.
 - Access for this project shall be free and clear of any obstructions. A forklift for unloading and staging material shall also be provided by Purchaser at no additional cost.
 - Purchaser shall provide an on-site dumpster. TK Elevator will be responsible for cleanup of Unit packaging material; however, composite cleanup participation is not included in this Proposal.
 - The hiring of a disposal company which MUST be discussed prior to any material being ordered or work being scheduled. TK Elevator will provide environmental services ONLY if this is specifically included under the "Scope of Work" section above. TK Elevator assumes no responsibility and/or liability in any way whatsoever for spoils or other contamination that may be present as a result of the cylinder breach and/or other conditions present on the work site.
 - One or more of the units described in this Proposal will be out of service and unavailable to move passengers and/or property during entire duration of the performance of the work described in this Proposal until re-certified by the applicable authority(ies) having jurisdiction and in good standing with payment schedules.
 - If site specific rules and regulations classify the elevator pit as confined space, elevator pits will need to reclassify a permit-required space to a non-permit required space prior to mobilization.

07 Temporary Use, Inspection and Turnover

- Unless required by specification, TK Elevator will not provide for "temporary use" of the Unit(s) described in this Proposal prior to completion and acceptance of the complete installation. Temporary use shall be agreed to via a change order to this Proposal which shall require Purchaser's execution of TK Elevator's standard Temporary Use Agreement. All labor, parts, repairs, adjustments, and/or refurbishment including callbacks required during the temporary use period will be billed at TK Elevator's billing rates listed in this proposal or TK Elevator's local service billing rates.
 - Cost for temporary use of a Unit shall be \$200.00 per calendar day per hydraulic elevator for rental use only (minimum rental period is 30 calendar days), excluding personnel to operate.
- In the event that a Unit must be provided for temporary use, TK Elevator will require 30 days to perform final adjustments and re-inspection after the elevator has been returned to TK Elevator with all protection, intercoms and temporary signage removed. This duration does not include any provisions for finish work or for repairs of same, which shall be addressed on a project-by-project basis.
- Cost for preparation of controls for temporary use, refurbishment due to normal wear and tear, readjustment and re-inspection is \$5,000.00 per Unit in addition to costs for replacement or refurbishment of equipment based on special circumstances.
- These costs are based on work performed during normal working hours. Temporary use excludes vandalism or misuse. Any required signage, communication devices, elevator operators, and protection are not included while

Modernization Proposal



temporary use is being provided. All overtime premiums for repairs during the temporary use period will be billed at the billing rates listed in this proposal or TK Elevator's local service billing rates.

- The Proposal price set forth above includes one (1) inspection per Unit by the applicable authority having jurisdiction and/or third party inspectors where the equipment is located. In the event the equipment fails that inspection due to no fault of TK Elevator, TK Elevator will charge Purchaser for both the entire cost of each re-inspection which shall be \$1,500.00 per Unit and a remobilization fee which shall be \$5,000.00 per Unit, plus any additional costs that may apply, via change order prior to scheduling a re-inspection. In the event the inspection fails due to items caused by both parties, the aforementioned fees will be prorated based on the number of items by each party.
- Upon notice from TK Elevator that the installation and/or modernization of the equipment is complete, Purchaser will arrange to have present at the jobsite a person authorized to make the final inspection and to execute TK Elevator's "Final Acceptance Form" prior to turnover of each Unit. The date and time that such person will be present at the site shall be mutually agreed upon but shall not be more than ten (10) business days after the date of TK Elevator's notice of completion to Purchaser unless both TK Elevator and Purchaser agree to an extension of that ten (10) day period in writing. Such final inspection and execution of TK Elevator's "Final Acceptance Form" shall not be unreasonably delayed or withheld.
- Should the Purchaser or the local authority having jurisdiction require TK Elevator's presence at the inspection of equipment installed by others in conjunction with the work described in this Proposal, Purchaser agrees to compensate TK Elevator for its time at TK Elevator's billing rates as shown in this proposal.
- At the conclusion of its work, TK Elevator will remove all equipment and unused or removed materials from the project site and leave its work area in a condition that, in TK Elevator's sole opinion, is neat and clean.
- Purchaser agrees to accept a live demonstration of equipment's owner-controlled features on the same day as the turnover of each unit in lieu of any maintenance training required in the bid specifications.
- Purchaser agrees to accept TK Elevator's standard owner's manual in lieu of any maintenance, or any other, manual(s) required in the bid specifications. Any additional electronic copies or hard copies required will be subject to an additional charge of \$275.00. No program source coding, printed circuit board schematics, diagnostic hardware or codes will be provided.
- Should use of equipment be required prior to substantial completion, the Purchaser agrees to the signing of an interim maintenance agreement as outlined in Section 04. Any repairs, re-balancing, and cleaning as a result of interim use to restore equipment to as new condition will be extra to the Proposal.



MAX is a cloud based Internet of Things (IoT) platform that we, at our election, may connect to your elevators by means of installation of a remote-monitoring device or modem (each a "device"). MAX will analyze the unique signal output of your equipment 24/7 and when existing or potential outages are identified, MAX will automatically communicate with our dispatch centers. When appropriate, the dispatch center will alert our technicians during normal working hours. These MAX alerts provide the technician with precise diagnostics detail, which greatly enhances our ability to fix your equipment right the first time, MAXimizing the equipment uptime.

- a. Purchaser authorizes TK Elevator and its employees to access purchaser's premises to install, maintain and/or repair the devices and, upon termination of the service agreement, to remove the same from the premises if we elect to remove.
- b. TK Elevator is and shall remain the sole owner of the devices and the data communicated to us by the devices. The devices shall not become fixtures and are intended to reside where they are installed. TK Elevator may remove the devices and cease all data collection and analysis at any time.

Modernization Proposal



- c. If the service agreement between TK Elevator and Purchaser is terminated for any reason, TK Elevator will automatically deactivate the data collection, terminate the device software and all raw data previously received from the device will be removed and/or expunged or destroyed.
- d. Purchaser consents to the installation of the devices in your elevators and to the collection, maintenance, use, expungement and destruction of the daily elevator data as set forth in this agreement.
- e. The devices installed by TK Elevator contain trade secrets belonging to us and are installed for the use and benefit of our personnel only.
- f. Purchaser agrees not to permit purchaser personnel or any third parties to use, access, tamper with, relocate, copy, disclose, alter, destroy, disassemble or reverse engineer the device while it is located on purchaser's premises.
- g. The installation of this equipment shall not confer any rights or operate as an assignment or license to you of any patents, copyrights or trade secrets with respect to the equipment and/or any software contained or imbedded therein or utilized in connection with the collection, monitoring and/or analysis of data.

MAX Link

"MAX Link" is a service by which TK Elevator will provide eligible Units, through a MAX Device, a cellular connection as outlined in the attached Service Agreement Addendum entitled "TK Elevator Communications." Activation of MAX Link service is contingent on signed acceptance of this proposal and acceptance of the attached, ongoing Service Agreement Addendum that defines the pricing and scope for the ongoing application services.

09 Additional Terms and Conditions

- a. In no event shall TK Elevator be responsible for liquidated, consequential, indirect, incidental, exemplary, and special damages associated with the work described in this Proposal.
- b. This Proposal is made without regard to compliance with any special purchasing, manufacturing or construction/installation requirements including, but not limited to, any socio-economic programs, such as small business programs, minority or woman owned business enterprise programs, or local preferences, any restrictive sourcing programs, such as Buy American Act, or any other similar local, state or federal procurement regulations or laws that would affect the cost of performance. Should any such requirements be applicable to the work described in this Proposal, TK Elevator reserves the right to modify this Proposal or rescind it altogether.
- c. TK Elevator is an equal opportunity employer.
- d. TK Elevator's performance of the work described in this Proposal is contingent upon Purchaser furnishing TK Elevator with any and all necessary permission or priority required under the terms and conditions of government regulations affecting the acceptance of this Proposal or the manufacture, delivery or installation of the equipment. All applicable sales and use taxes, permit fees and licenses imposed upon TK Elevator as of the date of the Proposal are included in the price of the Proposal. Purchaser is responsible for any additional applicable sales and use taxes, permit fees and licenses imposed upon TK Elevator after the date of the Proposal or as a result of any law enacted after the date of the Proposal.
- e. The pricing set forth in this Agreement does not include any value added taxes, tariffs, duties, or similar charges imposed by governmental authorities or the financial impacts to TK Elevator caused thereby. Contractor is responsible to pay TK Elevator any and all additional amounts for the materials and/or components described in this Agreement above and beyond the pricing set forth in this Agreement for the reasons set forth in any of the following three (3) categories along with profit and overhead: (1) value added taxes, tariffs, duties, and/or other

Modernization Proposal



charges imposed by applicable governmental authorities that are in effect when such materials and/or components are ready to ship; (2) additional or increased charges to TK Elevator from any of the material and/or component suppliers after April 2, 2025; and/or (3) additional or increased charges to TK Elevator from its shippers and/or freight forwarders of such materials and/or components after April 2, 2025. In addition to the Agreement price, when the materials and/or components called for in this Agreement are ready to ship, TK Elevator will provide Contractor with a change order(s) covering the additional amounts associated with the reasons set forth in the three (3) categories above along with profit and overhead which must be executed and fully paid for prior to and as a condition precedent to delivery of those materials and/or components to the jobsite or to the provision of any labor on the project.

f. Purchaser agrees to provide TK Elevator's personnel with a safe place in which to work and TK Elevator reserves the right to discontinue work at the jobsite whenever, in TK Elevator's sole opinion, this provision is being violated.

g. The pricing set forth in this Proposal assumes that the elevator pits will not be classified as a confined space. TK Elevator will follow its standard safety policy and procedures. Any job specific safety requirements over and above TK Elevator's standard practices and policies may require additional costs.

h. TK Elevator will furnish and install all equipment in accordance with the terms, conditions, scope and equipment nomenclature as noted herein. Requested changes or modifications to such provisions will require a written change order issued on the Purchaser's letterhead and accepted by TK Elevator in writing prior to the execution of such work. This change order shall detail the current Proposal price, the amount of the change, and new Proposal value.

i. This Proposal does not include a schedule for the work described and any such schedule shall be mutually agreed upon by an authorized representative of both TK Elevator and Purchaser in writing before becoming effective.

j. In the event asbestos material is knowingly or unknowingly removed or disturbed in any manner at the jobsite, Purchaser shall monitor TK Elevator's work place and prior to and during TK Elevator's manning of the job, Purchaser shall certify that asbestos in the environment does not exceed .01 fibers per cc as tested by NIOSH 7400. In the event TK Elevator's employees or those of TK Elevator's subcontractors are exposed to an asbestos hazard, PCP's, lead or other hazardous substances, Purchaser agrees, to the fullest extent permitted by law, to indemnify, defend, and hold TK Elevator harmless from all damages, claims, suits, expenses, and payments resulting from such exposure. Identification, notification, removal and disposal of asbestos containing material, PCP's lead or other hazardous substances are the responsibility of the Purchaser.

k. TK Elevator retains title to and a security interest in all equipment it supplies – which TK Elevator and Purchaser agree can be removed without material injury to the real property – until all payments including deferred payments and any extensions thereof, are made. In the event of any default by Purchaser on any payment, or any other provision of this Proposal, TK Elevator may take immediate possession of the equipment and enter upon the premises where it is located – without legal process – and remove such equipment or portions thereof, irrespective of the matter of its attachment to the real estate or the sale, mortgage or lease of the real estate. Pursuant to the Uniform Commercial Code, and at TK Elevator's request, Purchaser agrees to execute any financial or continuation statements which may be necessary for TK Elevator to file in public offices in order to perfect TK Elevator's security interest in such equipment.

l. TK Elevator reserves the right to assign payments owed to TK Elevator under this Proposal.

m. TK Elevator shall not be liable for any loss, damage or delay caused by acts of government, labor troubles, strikes, lockouts, fire, explosion, theft, floods, riot, civil commotion, war, malicious mischief, acts of God or any cause beyond its control.

n. The rights of TK Elevator under this Proposal shall be cumulative and the failure on the part of the TK Elevator to exercise any rights hereunder shall not operate to forfeit or waive any of said rights. Any extension, indulgence or change by TK Elevator in the method, mode or manner or payment or any of its other rights shall not be construed as a waiver of any of its rights under this Proposal.

Modernization Proposal



- o. In the event TK Elevator engages a third party to enforce the terms of this Proposal, and/or to collect payment due hereunder, either with or without suit, Purchaser agrees to pay all costs thereof together with reasonable attorney's fees. Purchaser does hereby waive trial by jury and does hereby consent to the venue of any proceeding or lawsuit under this Proposal to be in the county where the work covered by this Proposal is located.
- p. TK Elevator can furnish Certificate of Workers' Compensation, Bodily Injury and Property Damage Liability Insurance coverage to Purchaser upon written request.
- q. Should loss of or damage to TK Elevator's material, tools or work occur at the project site, Purchaser shall compensate TK Elevator for such loss, unless such loss or damage results from TK Elevator's own acts or omissions.
- r. Purchaser, in consideration of TK Elevator performing the services set forth in this Proposal, to the fullest extent permitted by law expressly agrees to indemnify, defend, save harmless, discharge, release and forever acquit TK Elevator Corporation, TK Elevator Manufacturing, Inc., their respective employees, officers, agents, insurers, affiliates, and subsidiaries (hereinafter singularly a "TK Elevator party" and collectively the "TK Elevator parties") from and against any and all claims, demands, suits, and proceedings for loss, property damage (including damage to the equipment which is the subject matter of this Proposal), personal injury or death that are alleged to either have arisen out of or be connected with the sale, marketing, presence, use, misuse, maintenance, installation, removal, modernization, manufacture, design, operation or condition of the equipment that is the subject matter of this Proposal or the labor and materials furnished in connection with this Proposal. Purchaser's duty to indemnify a TK Elevator party does not apply to the extent that the loss, property damage (including damage to the equipment which is the subject matter of this Proposal), personal injury or death is determined to be caused by or resulting from the negligence of that TK Elevator party. Purchaser recognizes that its obligation to defend the TK Elevator parties under this clause, which is separate and apart from its duty to indemnify the TK Elevator parties, includes payment of all attorneys' fees, court costs, judgments, settlements, interest and any other expenses of litigation arising out of such claims, demands, suits or proceedings.
- s. Purchaser further expressly agrees to name TK Elevator parties along with their respective officers, agents, affiliates and subsidiaries as additional insureds in Purchaser's liability and any excess (umbrella) liability insurance policy(ies). Such insurance must insure TK Elevator parties for those claims and/or losses referenced in the above paragraph and those claims and/or or losses arising from the negligence of TK Elevator parties. Such insurance must specify that its coverage is primary and non-contributory. Purchaser hereby waives its right of subrogation.
- t. TK Elevator's participation in any controlled insurance program is expressly conditioned upon review and approval of all controlled insurance program information and documentation prior to enrollment. Any insurance credits if applicable, will be provided at that time.
- u. Unless so mutually agreed upon in a separate signed agreement, TK Elevator shall not be required to interact or correspond with any third party with whom Subcontractor is not in privity of contract concerning matters pertinent to this Agreement.
- v. The Purchaser must inform TK Elevator if Purchaser is, or becomes, an individual or entity that is - or that is majority owned or controlled by a party that is - included on any list of restricted parties maintained by (i) the United States of America; (ii) Canada; (iii) the European Union or any EU member state; (iv) the UK; (v) the United Nations; or (vi) any other national authority binding the parties of this contract.
- In case the Purchaser, or any other beneficiary of this transaction, e.g. the end-user, is or becomes an individual or entity that is - or that is majority owned or controlled by a party that is - included on any list of restricted parties, TK Elevator reserves the right to cancel this Proposal immediately.
- If the goods subject to this Proposal would be exported, re-exported, resold, used, transferred or otherwise disposed of in violation of any sanctions applicable to TK Elevator, TK Elevator also reserves the right to cancel this Proposal immediately. In this respect, the Purchaser shall be obliged to disclose the final delivery address,

Modernization Proposal



end-user and end-use of the goods upon request - insofar as legally permissible - and to notify TK Elevator of all circumstances that indicate an aforementioned infringement.

"Sanctions" means here any economic, trade or financial sanctions, laws, regulations, embargoes or restrictive measures imposed, enacted, administered or enforced by any Sanctions Authority. "Sanctions Authority" means (i) the United States of America; (ii) Canada; (iii) the European Union or any EU member state; (iv) the UK; (v) the UN Security Council; or (vi) any governmental institutions of any of the foregoing which administer Sanctions, including HM Treasury, OFAC, Global Affairs Canada and The Department of Treasury Board and Finance, the US State Department and the US Department of the Treasury.

Modernization Proposal



Acceptance

Purchaser's acceptance of this Proposal and its approval by an authorized manager of TK Elevator will constitute exclusively and entirely the agreement between the parties for the goods and services herein described and full payment of the sum of Two Hundred One Thousand Five Hundred Ten Dollars and Fifteen Cents (\$201,510.15) plus any applicable sales tax.

All other prior representations or regarding this work, whether written or verbal, will be deemed to be merged herein and no other changes in or additions to this Proposal will be recognized unless made in writing and properly executed by both parties as a change order. Should Purchaser's acceptance be in the form of a purchase order or other similar document, the provisions of this Proposal will exclusively govern the relationship of the parties with respect to this transaction. No agent or employee shall have the authority to waive or modify any of the terms of this Proposal without the prior written approval of an authorized TK Elevator manager.

**City Of The Dalles
(Purchaser):**

TK Elevator Corporation Management Approval

By:

(Signature of Authorized Individual)

(Print or Type Name)

(Print or Type Title)

(Date of Acceptance)

By:

(Signature of Branch Representative)

Ann Pauly-Anderson
Sr Sales Manager

(Date of Execution)



Service Agreement Addendum

TK Elevator Corporation ("TK Elevator Corporation," "TK Elevator," "we," "us," and "our") and City Of The Dalles (the "Purchaser," "you," and "your") hereby amend and supplement their duly executed and existing elevator maintenance agreement dated , contract number (the "Agreement"), as set forth in this addendum. This addendum shall be made a part of the Agreement, and in the event of conflict with other terms, conditions, purchase orders or contract documents, this addendum shall govern. All terms and conditions set forth in the Agreement will remain in full force and effect and apply to this addendum where no conflict exists. This addendum shall become effective starting on the date of activation of the services described herein.

TK Elevator Communications

TK Elevator offers an additional suite of services through our TK Elevator Communications call center separate and apart from those services included with your Agreement. We have notated below each additional TK Elevator Communications Service that you have selected for each of the Units covered under your Agreement and the corresponding total price per month of those services per Unit.

Building Name	Equipment Type	Nickname	MAX Link	Price
City Hall	Hydraulic	Elevator 1 Unit US121336	Current Selection	\$55.00

A description of each available TK Elevator Communications service and the additional applicable terms and conditions follow.

MAX Link

"MAX Link" is selected for specific Units in the chart above and TK Elevator will provide those specified Units, through a MAX Device, with a cellular connection for one or more of the following: Purchaser's in-car emergency video, text or audio communication equipment compatible with such a connection (the "Communication Equipment") for the duration of this Agreement so long as that communication equipment meets all applicable laws and codes. For units with analog phone devices, MAX Link service will specifically include maintenance, repair or replacement of Purchaser's emergency analog telephone where TKE's VoIP analog telephone adapter is deployed.

In no event shall TK Elevator be liable or responsible to you or any other party for failure of a cellular connection, or for receipt of the same by a MAX Device when such failure is due in whole or in part to a temporary or permanent failure of any type of hardware, systems, networks or telecommunications infrastructure provided by you, or by your, or by TK Elevator's third party service providers or by any other third party, or is due in whole or in part to any circumstances beyond TK Elevator's reasonable control including, but not limited to, any of the following: acts of God, flood, fire, wind, rain, water, soil movement, earthquake, explosion, virus, disease, unlawful cyber activity, vandalism, abuse, misuse, war, terrorism, power outages, power fluctuations, and/or national or regional shortages of power or telecommunication infrastructure.

Price

In light of the modifications to Agreement set forth above, you agree to an additional price of \$55.00 per month which will be billed to you separately from the price of the Agreement (the "TK Elevator Communications Services Charge"). The cost of your selected TK Elevator Communications Services is not subject to any discounts.

Service Agreement Addendum



Acceptance

Your acceptance of this addendum and its approval by an authorized manager of TK Elevator will constitute exclusively the entire understanding of the Parties with respect to the subject matter contained herein and it shall thereafter become part of the Agreement. All other prior representations or agreements, whether written or verbal, will be deemed to be merged herein and no other changes in or additions will be recognized unless made in writing and properly executed by both Parties. Should your acceptance be in the form of a purchase order or other similar document, the provisions of this addendum and the Agreement will govern, even in the event of a conflict.

No agent or employee shall have the authority to waive or modify any of the terms of this Agreement without the prior written approval of an authorized TK Elevator manager.

City Of The Dalles (Purchaser):	TK Elevator Corporation Management Approval
By: _____	By: _____
(Signature of Authorized Individual)	(Signature of Branch Representative)
----- (Print or Type Name)	Ann Pauly-Anderson Sr Sales Manager
----- (Print or Type Title)	
_____ (Date of Acceptance)	_____ (Date of Execution)

TK Elevator Communications Contact Information - To Be Completed by Purchaser

Purchaser hereby acknowledges that as a condition precedent to TK Elevator's placement of calls to Purchaser's Designated Contacts and any Local Emergency Services under this Agreement, Purchaser must first complete all sections of the TK Elevator communications Contact Information section below. Purchaser further acknowledges that it is Purchaser's sole responsibility to advise TK Elevator immediately in writing of any changes to the information contained in this exhibit during the term of this Agreement. Purchaser acknowledges that no revision to that information will be made without TK Elevator first receiving such request in writing from Purchaser's authorized representative.

Under those circumstances where TK Elevator is unable to reach Purchaser's Designated Contacts, Purchaser hereby gives TK Elevator express permission to dispatch a TK Elevator service technician to the location of the equipment at Purchaser's expense in accordance with TK Elevator's applicable billing rates. Purchaser further agrees that TK Elevator does not assume any duty or responsibility to advise any caller, regardless of his or her location within or



Service Agreement Addendum

outside the elevator, to take or not take any specific action resulting from a medical or other emergency or any other situation including, but not limited to, entrapment of persons, evacuation, repair or return to service of any equipment.

In the event of an emergency, or perceived emergency, one or more of the following are to be Purchaser's Designated Contacts:

Contact Name	Title	Primary Telephone #	Secondary Telephone #

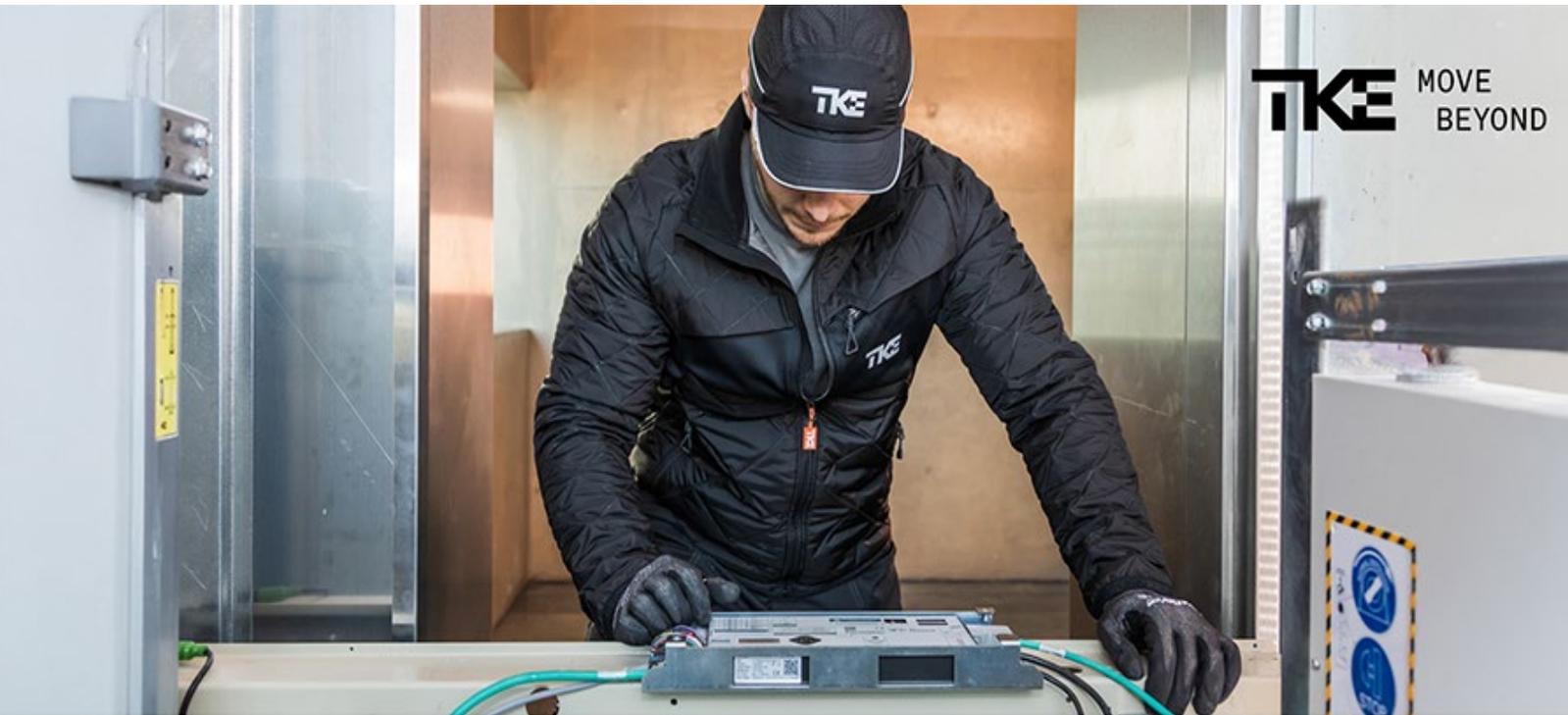
In the event of an Emergency or perceived emergency, TK Elevator has the express permission to contact one or more of the following **(911 is not sufficient, local phone numbers are required)**:

Police Department: () -

Fire Department: () -

Special instructions/remarks:

In the event that a TK Elevator call center operator perceives that a call from within the elevator constitutes a medical or other emergency, Purchaser hereby gives TK Elevator the express permission to call Local Emergency Services at the telephone numbers provided above at TK Elevator's sole discretion. Under those circumstances, Purchaser agrees to pay all related charges for services provided by any Local Emergency Services in response to that call. Purchaser agrees that TK Elevator shall not be responsible for ensuring an appropriate (or any) response by Local Emergency Services to that call.



MODERNIZATION FINANCING PROGRAM

Need to modernize your elevator or escalator quickly but it's not in the budget? TK Elevator has partnered with GreatAmerica Financial to offer financing for Modernization Projects in the United States and Canada.

Program Details:

- Term Durations: 12 - 60 months
- Loan Size: \$50,000 - \$5,000,000*
- 100% of Project Financing Available
- Fixed Interest Rates

FAST Credit Approval!

- Loans under \$500,000 – SAME DAY
- Loans over \$500,000** – 24 to 72 Hours

Example of \$150,000 financed over a 60-month period at various interest rates:

Rate	Number of Payments	Payments per month
9.99%	60	\$3,186.32
10.99%	60	\$3,260.62
11.99%	60	\$3,335.91
12.99%	60	\$3,412.19

The above example's finance rates, number of payments, payment frequency and payment amounts are for illustrative purposes only and subject to change.

* Loans larger than \$5,000,000 may be accepted.

** All loans subject to credit approval.

Additional Information:

Program eligibility requires execution of 5-year maintenance agreement with TK Elevator.

Specific financing terms, rates and conditions will vary based on creditworthiness and GreatAmerica Financial's other terms and conditions.

Not all applicants will qualify.

TK Elevator may receive compensation from GreatAmerica as part of this program.

TK Elevator is not a licensed lender and does not originate or arrange financing.

TK Elevator is not responsible for GreatAmerica Financial's products or services, or how GreatAmerica Financial handles an applicant's information.

© 2025 TK Elevator Corporation. CA License #C11-651371 | 40050 | [MOD FINANCING PROGRAM](#)

RESOLUTION NO. 26-004

A RESOLUTION AUTHORIZING EXECUTION OF AN OREGON DEPARTMENT OF EMERGENCY MANAGEMENT HAZARD MITIGATION GRANT PROGRAM GRANT AGREEMENT FOR PROJECT DR4599-15 AND PROVIDING CONDITIONAL AUTHORIZATION TO PROCURE EMERGENCY GENERATOR EQUIPMENT THROUGH SOURCEWELL CONTRACT NO. 092222-CMM

WHEREAS, the Oregon Department of Emergency Management (OEM) has awarded the City Hazard Mitigation Grant Program funding for the *City of The Dalles Water System Emergency Generators Project (Project)* identified by OEM as **Project DR4599-15**;

WHEREAS, the Project scope is to purchase and install emergency backup generators and associated equipment for three drinking water well locations and two booster pump station locations in order to support continued water system operations during critical power failures;

WHEREAS, the total project cost is estimated at \$972,223.47, with a federal share of \$875,001.12 and a required local match of \$97,222.35 and the City's Public Works Department has identified Water Capital Reserve Fund (Fund 53) as the funding source for the required local match;

WHEREAS, OEM has provided a *Hazard Mitigation Assistance Grant Program Grant Agreement* for Project DR4599-15 that has been reviewed for legal sufficiency by the Oregon Department of Justice and the City Attorney's Office;

WHEREAS, the City intends to procure the generator equipment through *Sourcewell Contract No. 092222-CMM* (Cummins Inc.) as an interstate cooperative procurement for goods and services; and

WHEREAS, the City intends to procure the associated electrical and installation work through a separate competitive solicitation and return to the City Council for award after bids are received.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF THE DALLES RESOLVES AS FOLLOWS:

Section 1 Findings Adopted. The City Council hereby adopts the recitals above as findings in support of this Resolution.

Section 2 Authorization to Execute Grant Agreement and Accept Award. The City Council hereby authorizes the City Manager to execute the *OEM Hazard Mitigation Assistance Grant Program Grant Agreement* for **Project DR4599-15**, substantially in the form presented to the City Council, and to take related actions necessary to accept the grant award and administer the grant in accordance with the agreement terms. The City Manager may approve nonmaterial changes to the agreement that do not increase the City's financial obligation or materially expand the City's responsibilities with the concurrence of the City Attorney.

Section 3 Local Match and Budget Authority. The City Council authorizes the local match in an amount **not to exceed \$97,222.35** and authorizes use of available funds from the *Water Capital Reserve Fund* (Fund 53) for the match, subject to lawful appropriation and any budget actions that the Finance Director determines are necessary to implement this Resolution.

Section 4 Conditional Authorization for Generator Equipment Procurement through Sourcewell.

- A. The City Council conditionally authorizes the City Manager to procure generator equipment and associated equipment and services through ***Sourcewell Contract No. 092222-CMM (Cummins Inc.)*** in an amount **not to exceed \$755,662.01**.
- B. The City Manager’s authority under this Section includes issuance of the City’s purchase order and execution of any participating addendum or City order terms necessary or convenient to implement the purchase under the Sourcewell contract.
- C. The City Manager shall not issue the purchase order, authorize release to production, approve submittals that constitute authorization to proceed, or otherwise bind the City to the equipment purchase unless and until all of the following conditions are satisfied:
 - 1. The OEM grant agreement for Project DR4599-15 has been fully executed by the City and OEM;
 - 2. The Finance Director confirms that sufficient appropriation and cashflow are available to make required payments in advance of reimbursement and to fund the local match; and
 - 3. The City Attorney has approved the final City order documents for legal sufficiency and alignment with the Sourcewell contract structure and applicable grant requirements.

Section 5 Separate Procurement for Electrical and Installation Work. The City Council hereby directs the City Manager to procure electrical and installation work for this Project through a separate competitive solicitation consistent with Oregon law and the City’s Local Contract Review Board Rules.

Section 6 Effective Date. This Resolution is effective upon adoption.

PASSED AND ADOPTED THIS 26TH DAY OF JANUARY, 2026,

Voting Yes	Councilors:	_____
Voting No	Councilors:	_____
Abstaining	Councilors:	_____
Absent	Councilors:	_____

AND APPROVED BY THE MAYOR THIS 26TH DAY OF JANUARY, 2026.

Richard A. Mays, Mayor

ATTEST:

Amie Ell, City Clerk

OREGON DEPARTMENT OF EMERGENCY MANAGEMENT
HAZARD MITIGATION ASSISTANCE GRANT PROGRAM
GRANT AGREEMENT

Project Name: Water System Emergency Generators
Grant Number: DR4599-15

This grant agreement (“Agreement”), is between the State of Oregon, acting through its Oregon Department of Emergency Management (“OEM”), and The City of The Dalles, Oregon (“Subrecipient”) for the project referred to above and described in Exhibit A (“Project”). This Agreement becomes effective only when fully signed and approved as required by applicable law. Notwithstanding the effective date of this agreement, Project activities may begin on June 11, 2025, the date of the Notice of Intent to Award letter to The City of the Dalles.

This Agreement includes the following parts, listed in descending order of precedence for purposes of resolving any conflict between two or more of the parts:

- Exhibit A Project Description and Budget
- Exhibit B [Reserved]
- Exhibit C Federal Requirements and Certifications
- Exhibit D [Reserved]
- Exhibit E Information Required by 2 CFR § 200.332(a)(1)
- Exhibit F Certification Regarding Lobbying

Pursuant to Oregon Laws 2022, Chapter 110 (the “Act”), OEM is authorized to award grants and enter into grant agreements as part of the Hazard Mitigation Assistance Program (“HMA” or “Program”).

SECTION 1 - KEY GRANT TERMS

The following capitalized terms have the meanings assigned below.

Estimated Project Cost: \$ 972,223.47

Grant Amount: \$ 875,001.12

Period of Performance: June 11, 2025 - October 31, 2026

SECTION 2 - GRANT

OEM shall provide Subrecipient, and Subrecipient shall accept from OEM, a HMA grant (the “Grant”) not to exceed \$875,001.12 in Grant Funds for eligible costs (the “Grant Funds”). If applicable, Subrecipient shall provide matching funds for all project costs as described in Exhibit A.

OEM’s obligations are subject to the receipt of the following items, in form and substance satisfactory to OEM and its Counsel:

- (1) This Agreement duly signed by an authorized officer of Subrecipient; and
- (2) Such other certificates, documents, opinions and information as OEM may reasonably require.

Subrecipient shall complete the Project and use its own fiscal resources or money from other sources to pay for any costs of the Project in excess of the total amount of financial assistance provided pursuant to this Agreement.

SECTION 3 - DISBURSEMENTS

A. Reimbursement Basis. The Grant Funds shall be disbursed to Subrecipient on an expense reimbursement or cost-incurred basis.

B. Disbursement Requirements.

- (1) Subrecipient must submit each disbursement request for eligible Project Costs on a Request for Reimbursement form (“RFR”), provided by OEM.
- (2) Subrecipient must submit a signed RFR, that includes supporting documentation for all grant expenditures. RFRs may be submitted monthly or quarterly during the term of this Agreement. The final RFR must be submitted no later than 30 days following the end of the Period of Performance (“RFR Deadline”). OEM has no obligation to reimburse Subrecipient for any RFR submitted after the RFR Deadline.
- (3) Reimbursements for expenses will be withheld if performance reports are not submitted by the specified dates or are incomplete.
- (4) Reimbursement rates for travel expenses shall not exceed those allowed by the State of Oregon. Requests for reimbursement for travel must be supported with a detailed statement identifying the person who traveled, the purpose of the travel, the dates, times, and places of travel, and the actual expenses or authorized rates incurred.
- (5) Reimbursements will only be made for actual expenses incurred during the Period of Performance. Subrecipient agrees that no grant may be used for expenses incurred before or after the Period of Performance.
- (6) Subrecipient must pay its contractors, consultants, and vendors before submitting a RFR to OEM for reimbursement. Eligible costs are the reasonable and necessary costs incurred by Subrecipient for the Project, in accordance with the HMA guidance and application materials, including without limitation the Notice of Funding Opportunity (NOFO), that are not excluded from reimbursement by OEM, either by this Agreement or by exclusion as a result of financial review or audit. The guidance, application materials and NOFO are available at:
HMA: <https://www.oregon.gov/oem/emresources/Grants/Pages/HMA.aspx>

C. Financing Availability. Subrecipient must incur eligible costs under this Agreement on or before the Period of Performance Deadline. Subrecipient’s right to request disbursements for eligible costs under this Agreement terminates 30 days following the end of the RFR Deadline.

D. Conditions to Disbursements. As to any disbursement, OEM has no obligation to disburse funds unless all following conditions are met:

- (1) OEM (a) has received a completed RFR on an OEM provided form, (b) has received an accounting of how all prior disbursements have been expended, including written evidence of materials and labor furnished to or work performed upon the Project, including itemized receipts or invoices for payment, and releases, satisfactions or other signed statements or forms as OEM may require, (c) is satisfied that all items listed in the RFR are reasonable, and (d) has determined that the disbursement is only for eligible costs that are in accordance with Exhibit A Project Description and Project Budget.
- (2) The representations and warranties made in this Agreement are true and correct on the date of disbursement as if made on such date.
- (3) OEM has sufficient funds currently available and authorized for expenditure to finance the costs of this Agreement within OEM’s biennial appropriation or limitation. Notwithstanding

the preceding sentence, payment of funds by OEM is contingent on OEM receiving appropriations, limitations, allotments or other expenditure authority sufficient to allow OEM, in the exercise of its reasonable administrative discretion, to continue to make payments in accordance with the terms of this Agreement, and notwithstanding anything in this Agreement, occurrence of such contingency does not constitute a default. Upon occurrence of such contingency, OEM has no further obligation to disburse funds to Subrecipient.

- (4) All other conditions precedent under this Agreement are met.
- (5) There is no Event of Default by Subrecipient.

SECTION 4 - USE OF GRANT

- A. Eligible Use. Subrecipient's use of the Grant funds is limited to those expenses that are both reasonable and necessary to complete the Project and that are in accordance with Exhibit A Project Description and Budget.
- B. Ineligible Use. Subrecipient shall not use the Grant funds to retire any debt or to lobby, influence or attempt to influence, any federal, state or local government official.
- C. Misexpended or Unexpended Grant Funds. Any Grant funds disbursed to Subrecipient, or any interest earned by Subrecipient on the Grant funds, that is not used according to this Agreement and approved by OEM or that remain unexpended after the earlier of the Period of Performance Deadline, the date the Project is completed or the date that this Agreement is terminated, shall be immediately returned to OEM, unless otherwise directed by OEM in writing.

The Subrecipient shall be responsible for pursuing recovery of monies paid under this Agreement in providing disaster assistance against any party that might be liable, and further, the Subrecipient shall cooperate in a reasonable manner with the State of Oregon and the Federal Government in efforts to recover expenditures under this Agreement.

In the event the Subrecipient obtains recovery from a responsible party, the Subrecipient shall first be reimbursed its reasonable costs of litigation from such recovered funds. The Subrecipient shall pay to OEM the proportionate Federal share, as defined in Exhibit D, of all project funds recovered in excess of costs of litigation.

SECTION 5 - REPRESENTATIONS AND WARRANTIES OF SUBRECIPIENT

- A. Existence and Power. Subrecipient represents and warrants to OEM that Subrecipient is a municipality duly organized under the laws of Oregon, and has full power, authority and legal right to make this Agreement and to incur and perform its obligations under this Agreement.
- B. Authority, No Contravention. The making and performance by Subrecipient of this Agreement: (a) have been duly authorized by all necessary action of Subrecipient; (b) do not and will not violate any provision of any applicable law, rule, regulation or order of any court, regulatory commission, board or other administrative agency or any provision of its organizational documents; and (c) do not and will not result in the breach of, or constitute a default or require any consent, under any other agreement or instrument to which Subrecipient is a party or by which Subrecipient or any of its properties may be bound or affected.
- C. Binding Obligation. This Agreement has been duly executed and delivered by Subrecipient and when duly executed and delivered by OEM, constitutes legal, valid, and binding obligations of Subrecipient, enforceable in accordance with its terms, subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.

- D. Approvals. No authorization, consent, license, approval of, filing or registration with, or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery, or performance by Subrecipient of this Agreement.
- E. Misleading Statements. The Subrecipient has made no false statements of fact, nor has it omitted information necessary to prevent any statements from being misleading, in this Agreement or any document submitted by or on behalf of the Subrecipient to OEM. The information contained in this Agreement is true and accurate in all respects.
- F. Debarment or Suspension. Neither Subrecipient nor its principals is presently debarred, suspended, or voluntarily excluded from any federally assisted transaction, or proposed for debarment, declared ineligible or voluntarily excluded from participating in this Agreement by any state or federal agency. Subrecipient agrees to notify OEM immediately if it is debarred, suspended or otherwise excluded from any federally assisted transaction for any reason or if circumstances change that may affect this status, including without limitation upon any relevant indictments or convictions of crime.
- G. No Solicitation. Subrecipient's officers, employees, and agents shall neither solicit nor accept gratuities, favors, or any item of monetary value from contractors, potential contractors, or parties to sub-agreements. No member or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or any benefit arising therefrom.

SECTION 6 - COVENANTS OF SUBRECIPIENT

The Subrecipient covenants as follows:

- A. Period of Performance Deadline. Subrecipient shall complete the Project by the Period of Performance Deadline unless the total amount of the Grant is not available because one or more of the conditions in Section 3.D. are not satisfied.
- B. Reporting Requirements. Subrecipient shall submit periodic reports to OEM. The reports shall consist of the following:
 - 1) Performance Reports.
 - a) Subrecipient shall submit Programmatic Performance Reports, using a form provided by OEM, on its progress in meeting each of its agreed upon goals and objectives. The narrative reports will address specific information regarding the activities carried out under the Fiscal Year 25.
 - b) Reports are due to OEM on or before the 15th day of the month following the end of each calendar quarter (ending on March 31, June 30, September 30, and December 31). The start date may vary depending on contract terms and will be communicated by OEM.
 - c) Subrecipient may request from OEM prior written approval to extend a performance report requirement past its due date. OEM, in its sole discretion, may approve or reject the request.
 - 2) Financial Reports
 - a) Subrecipient shall submit fiscal reports, using a form provided by OEM, on the amount of Grant Funds used towards completion of the Project, as established in Exhibit A of this agreement.
 - b) Fiscal reports are due to OEM on or before the 30th day of the month following the end of each calendar quarter (ending on March 31, June 30, September 30, and December 31).
 - c) Subrecipient may request from OEM prior written approval to extend a fiscal report requirement past its due date. OEM, in its sole discretion, may approve or reject the request.

3) Close-Out Report.

- a) Subrecipient shall submit a final close-out report to OEM for review which must include a financial performance report, construction reports (if applicable), invention disclosure (if applicable), Federally owned property report (if applicable), and final request for reimbursement (if applicable).
- b) Failure of Subrecipient to submit the required program, financial, or audit reports, or to resolve program, financial, or audit issues, may result in the suspension of grant payments, termination of this Agreement, or both.

C. Subrecipient Procurements.

- (1) Sub Agreements. Subrecipient may enter into agreements (hereafter “sub agreements”) for performance of the Project. Subrecipient shall use its own procurement procedures and regulations, provided that the procurement conforms to applicable Federal and State law (including but not limited to the Build America, Buy America Act (BABAA) 2 CFR Part 184, ORS chapters 279A, 279B, 279C), and that for contracts for more than \$150,000, the contract shall address administrative, contractual or legal remedies for violation or breach of contract terms and provide for sanctions and penalties as appropriate, and for contracts for more than \$10,000 address termination for cause or for convenience including the manner in which termination will be effected and the basis for settlement.
 - a. Subrecipient shall provide to OEM copies of all Requests for Proposals or other solicitations for procurements anticipated to be for \$100,000 or more and to provide to OEM, upon request by OEM, such documents for procurements for less than \$100,000. Subrecipient shall include with its RFR a list of all procurements issued during the period covered by the report.
 - b. All sub agreements, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner that encourages fair and open competition to the maximum practical extent possible. All sole-source procurements in excess of \$100,000 must receive prior written approval from OEM in addition to any other approvals required by law applicable to Subrecipient. Justification for sole-source procurement in excess of \$100,000 should include a description of the program and what is being contracted for, an explanation of why it is necessary to contract noncompetitively, time constraints and any other pertinent information. Interagency agreements between units of government are excluded from this provision.
 - c. Subrecipient shall be alert to organizational conflicts of interest or non-competitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. Contractors that develop or draft specifications, requirements, statements of work, or Requests for Proposals (RFP) for a proposed procurement shall be excluded from bidding or submitting a proposal to compete for the award of such procurement. Any request for exemption must be submitted in writing to OEM.
 - d. Subrecipient agrees that, to the extent it uses contractors, such contractors shall use small, minority, women-owned or disadvantaged business concerns and contractors or subcontractors to the extent practicable.
 - e. In the event that Subrecipient subcontracts for engineering services, Subrecipient shall require that the engineering firm be covered by errors and omissions insurance in an amount

not less than the amount of the firm's contract. If the firm is unable to obtain errors and omissions insurance, the firm shall post a bond with Subrecipient for the benefit of Subrecipient of not less than the amount of its subcontract. Such insurance or bond shall remain in effect for the entire term of the subcontract. The subcontract shall provide that the subcontract shall terminate immediately upon cancellation or lapse of the bond or insurance and shall require the subcontractor to notify Subrecipient immediately upon any change in insurance coverage or cancellation or lapse of the bond.

- (2) Purchases and Management of Property and Equipment: Records. Subrecipient agrees to comply with all applicable federal requirements referenced in Exhibit B, Section II.C.1 to this Agreement and procedures for managing and maintaining records of all purchases of property and equipment will, at a minimum, meet the following requirements:
- a. All property and equipment purchased under this agreement, whether by Subrecipient or a contractor, will be conducted in a manner providing full and open competition and in accordance with all applicable procurement requirements, including without limitation ORS chapters 279A, 279B, 279C, and purchases shall be recorded and maintained in Subrecipient's property or equipment inventory system.
 - b. Subrecipient's property and equipment records shall include: a description of the property or equipment; the manufacturer's serial number, model number, or other identification number; the source of the property or equipment, including the Assistance Listing Number (ALN) (formally CFDA); name of person or entity holding title to the property or equipment; the acquisition date; cost and percentage of Federal participation in the cost; the location, use and condition of the property or equipment; and any ultimate disposition data including the date of disposal and sale price of the property or equipment.
 - c. For acquisition projects, Subrecipient shall retain real estate transaction and property tracking records indefinitely to enable FEMA to track the use of real property acquired with grant funds and ensure that the property is maintained for open space in perpetuity (see 44 CFR Part 80).
 - d. A physical inventory of the property and equipment must be taken, and the results reconciled with the property and equipment records at least once every two years.
 - e. Subrecipient must develop a control system to ensure adequate safeguards to prevent loss, damage, or theft of the property and equipment. Subrecipient shall investigate any loss, damage, or theft and shall provide the results of the investigation to OEM upon request.
 - f. Subrecipient must develop, or require its contractors to develop, adequate maintenance procedures to keep the property and equipment in good condition.
 - g. If Subrecipient is authorized to sell the property or equipment, proper sales procedures must be established to ensure the highest possible return.
 - h. Subrecipient agrees to comply with 2 CFR 200.313 pertaining to use and disposal of equipment purchased with Grant Funds, including when original or replacement equipment acquired with Grant Funds is no longer needed for the original project or program or for other activities currently or previously supported by a Federal agency.

- i. Subrecipient shall require its contractors to use property and equipment management requirements that meet or exceed the requirements provided herein applicable to all property and equipment purchased with Grant Funds.
- j. Subrecipient shall, and shall require its contractors to, retain, the records described in this Section 9.b. for a period of six years from the date of the disposition or replacement or transfer at the discretion of OEM. Title to all property and equipment purchased with Grant Funds shall vest in Subrecipient if Subrecipient provides written certification to OEM that it will use the property and equipment for purposes consistent with the HMA.

D. Compliance with Laws. Subrecipient shall comply with the requirements of all applicable laws, rules, regulations and orders of any governmental authority, except to the extent an order of a governmental authority is contested in good faith and by proper proceedings.

Specifically, Subrecipient acknowledges and agrees to follow constitutional Equal Protection requirements. Subrecipient shall consider all eligible beneficiaries (meeting 2 or more economic equity risk factors) as described in Exhibit A and shall not refuse to work with individuals, families, businesses, or communities based on protected class considerations.

E. Notice of Adverse Change. The Subrecipient shall promptly notify OEM of any adverse change in the activities, prospects or condition (financial or otherwise) of Subrecipient, or the Project related to the ability of Subrecipient to perform all obligations required by this Agreement.

F. Notice of Event of Default. The Subrecipient shall give OEM prompt written notice of any Event of Default, or any circumstance that with notice or the lapse of time, or both, may become an Event of Default, as soon as Subrecipient becomes aware of its existence or reasonably believes an Event of Default is likely.

G. Contributory Liability and Contractor Indemnification.

- (1) If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 (“Third Party Claim”) against a party (the “Notified Party”) with respect to which the other party may have liability, the Notified Party must promptly notify the other party in writing and deliver a copy of the claim, process, and all legal pleadings related to the Third Party Claim. Either party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. The foregoing provisions are conditions precedent for either party’s liability to the other in regards to the Third Party Claim.

If the parties are jointly liable (or would be if joined in the Third Party Claim), the parties shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable in such proportion as is appropriate to reflect their respective relative fault. The relative fault of the parties shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Each party’s contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if that party had sole liability in the proceeding. This Section shall survive termination of this Contract.

- (2) Subrecipient shall take all reasonable steps to require its contractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents (“Indemnitee”) from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys’ fees)

arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Subrecipient's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the contractor from and against any and all Claims. This Section shall survive termination of this Contract.

Subrecipient shall require the other party, or parties, to each of its sub agreements that are not units of local government as defined in ORS 190.003 to obtain and maintain insurance of the types and in the amounts provided in Exhibit C to this Agreement.

- H. Disadvantaged and Emerging Small Business. ORS 200.090 states public policy is to "aggressively pursue a policy of providing opportunities for available contracts to emerging small businesses." OEM encourages Subrecipient, in its contracting activities, to follow good faith efforts described in ORS 200.045. The Governor's Policy Advisor for Economic & Business Equity provides additional resources and the Certification Office for Business Inclusion and Diversity at the Oregon Business Development Department maintains a list of certified firms and can answer questions. Search for certified firms on the web at:
<https://oregon4biz.diversitysoftware.com/FrontEnd/VendorSearchPublic.asp>.
- I. Inspections; Information. The Subrecipient shall permit OEM, and any party designated by OEM: (i) to inspect, at any reasonable time, the property, if any, constituting the Project; and (ii) at any reasonable time, to inspect and make copies of any accounts, books and records, including, without limitation, its records regarding receipts, disbursements, contracts, investments and any other related matters. The Subrecipient shall supply any related reports and information as OEM may reasonably require.
- J. Records, Access to Records and Facilities. Subrecipient shall make and retain proper and complete books of record and account and maintain all fiscal records related to this Agreement and the Equipment in accordance with all applicable generally accepted accounting principles, generally accepted governmental auditing standards, and state minimum standards for audits of municipal corporations. OEM, the Secretary of State of the State of Oregon ("Secretary"), and their duly authorized representatives shall have access to the books, documents, papers, and records of Subrecipient that are directly related to this Agreement or the Equipment provided for the purpose of making audits and examinations. In addition, OEM, Oregon Secretary of State (Secretary), Office of Inspector General (OIG), Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), or any of their authorized representatives may make and retain excerpts, copies, and transcriptions of the foregoing books, documents, papers, and records.
- K. Retention of Records. Subrecipient shall retain and keep accessible all books, documents, papers, and records that are directly related to this Agreement, the Grant Funds or the Project for until the latest of (a) six years following termination, completion or expiration of this Agreement, (b) upon resolution of any litigation or other disputes related to this Agreement, or (c) as required by 2 CFR 200.333. It is the responsibility of Subrecipient to obtain a copy of 2 CFR Part 200, and to apprise itself of all rules and regulations set forth. If there are unresolved issues at the end of such period, Subrecipient shall retain the books, documents, papers and records until the issues are resolved.
- L. SEFA. Subrecipient must prepare a Schedule of Expenditures of Federal Awards (SEFA) that includes: Federal grantor name, pass-through entity name, program name, Federal catalog number, identifying number assigned by the pass-through entity and current year expenditures.

- M. Continued Tax Compliance. Subrecipient shall, throughout the duration of this Agreement, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. OEM does not provide tax advice and OEM is not responsible for any tax consequences or compliance requirements associated with the Grant award to Subrecipient, including but not limited to 1099 Requirements and tax reporting requirements. Subrecipient is advised to consult with their own tax advisor or legal counsel.
- N. Tax Notice to Beneficiaries. Subrecipients that provide direct funding to beneficiaries shall provide notice to beneficiaries to the effect that OEM has not provided any tax advice to the beneficiaries of Program funds and OEM is not responsible for tax consequences, if any, to beneficiaries in connection with receipt of Program funding. Beneficiaries are advised to consult with their own tax advisor or legal counsel regarding tax consequences, if any, of accepting funds.
- O. Federal Audit Requirements. The Grant is federal financial assistance, and the Assistance Listing Number (ALN) (formally CFDA) number and title is “97.039 Hazard Mitigation Grant.”
- (1) If Subrecipient receives federal funds in excess of \$750,000 in the Subrecipient’s fiscal year, it is subject to audit conducted in accordance with the provisions of 2 CFR part 200, subpart F. Subrecipient, if subject to this requirement, shall at its own expense submit to OEM a copy of, or electronic link to, its annual audit subject to this requirement covering the funds expended under this Contract and shall submit or cause to be submitted to OEM the annual audit of any Subrecipient(s), contractor(s), or subcontractor(s) of Subrecipient responsible for the financial management of funds received under this Contract.
 - (2) Audit costs for audits not required in accordance with 2 CFR part 200, subpart F are unallowable. If Subrecipient did not expend \$750,000 or more in Federal funds in its fiscal year but contracted with a certified public accountant to perform an audit, costs for performance of that audit shall not be charged to the funds received under this Contract.
 - (3) Subrecipient shall save, protect and hold harmless OEM from the cost of any audits or special investigations performed by the Federal awarding agency or any federal agency with respect to the funds expended under this Contract. Subrecipient acknowledges and agrees that any audit costs incurred by Subrecipient as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this or any other agreement between Subrecipient and the State of Oregon.

SECTION 7 - DEFAULT

Any of the following constitutes an “Event of Default”:

- A. Misleading Statement. Any material false or misleading representation is made by or on behalf of Subrecipient, in this Agreement or in any document provided by Subrecipient related to this Grant or the Project.
- B. The Subrecipient fails to perform any obligation required under this Agreement, other than those referred to in subsection A of this section, and that failure continues for a period of 30 calendar days after written notice specifying such failure is given to Subrecipient by OEM. OEM may agree in writing to an extension of time if it determines Subrecipient instituted and has diligently pursued corrective action.

SECTION 8 - REMEDIES

Upon the occurrence of an Event of Default, OEM may pursue any remedies available under this Agreement, at law or in equity. Such remedies include, but are not limited to, termination of OEM's obligations to make the Grant or further disbursements, return of all or a portion of the Grant amount, payment of interest earned on the Grant amount, and declaration of ineligibility for the receipt of future awards from OEM. If, as a result of an Event of Default, OEM demands return of all or a portion of the Grant amount or payment of interest earned on the Grant amount, Subrecipient shall pay the amount upon OEM's demand. OEM may also recover all or a portion of any amount due from Subrecipient by deducting that amount from any payment due to Subrecipient from the State of Oregon under any other contract or agreement, present or future, unless prohibited by state or federal law. OEM reserves the right to turn over any unpaid debt under this Section 8 to the Oregon Department of Revenue or a collection agency and may publicly report any delinquency or default. These remedies are cumulative and not exclusive of any other remedies provided by law.

In the event OEM defaults on any obligation in this Agreement, Subrecipient's remedy will be limited to a claim for reimbursement or disbursement of funds authorized under this Agreement. In no event will OEM be liable to Subrecipient for any expenses related to termination of this Agreement or for anticipated profits or loss.

SECTION 9 - TERMINATION

In addition to terminating this Agreement upon an Event of Default as provided in Section 8, OEM may terminate this Agreement with notice to Subrecipient under any of the following circumstances:

A. Termination by OEM.

- (1) The Oregon Department of Administrative Services notifies OEM of an anticipated shortfall in applicable revenues or OEM fails to receive sufficient funding, appropriations or other expenditure authorizations to allow OEM, in its reasonable discretion, to continue making payments under this Agreement;
- (2) There is a change in federal or state laws, rules, regulations or guidelines so that the Project funded by this Agreement is no longer eligible for funding;
- (3) Subrecipient fails to perform the Project within the time specified herein or any extension thereof or commencement, continuation or timely completion of the Project by Subrecipient is, for any reason, rendered improbable, impossible, or illegal;
- (4) The Project would not produce results commensurate with the further expenditure of funds;
- (5) Subrecipient takes any action pertaining to this Agreement without the approval of OEM and which under the provisions of this Agreement would have required the approval of OEM; or
- (6) OEM determines there is a material misrepresentation, error or inaccuracy in Subrecipient's application.

B. Termination by Subrecipient. Subrecipient may terminate this Agreement effective upon delivery of written notice of termination to OEM, or at such later date as may be established by Subrecipient in such written notice, if:

- (1) The requisite local funding to continue the Project becomes unavailable to Subrecipient; or
- (2) Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement.

- C. Termination by Either Party. Either Party may terminate this Agreement upon at least ten days notice to the other Party and failure of the other Party to cure within the ten days, if the other Party fails to comply with any of the terms of this Agreement.
- D. Termination by Mutual Consent. The Agreement may be terminated by mutual written consent of the parties.
- E. Effect of Termination. In the event of termination of this Agreement, each party shall be liable only for Project Costs and allowable expenses incurred by the other party, prior to the effective date of termination, and Subrecipient will return all Federal funds paid to Subrecipient for the Project which have not been expended or irrevocably committed to eligible activities.
- F. Settlement Upon Termination. Immediately upon termination under Sections 9.A.(1), (4) or (5), no Grant Funds shall be disbursed by OEM, and Subrecipient shall return to OEM Grant Funds previously disbursed to Subrecipient by OEM in accordance with Section 4.C and the terminating party may pursue additional remedies in law or equity. Upon termination pursuant to any other provision in this Section 10, no further Grant Funds shall be disbursed by OEM and Subrecipient shall return funds to OEM in accordance with Section 6.c, except that Subrecipient may pay, and OEM shall disburse, funds for obligations incurred and approved by OEM up to the day that the non-terminating party receives the notice of termination. Termination of this Agreement does not relieve Subrecipient of any other term of this Agreement that may survive termination, including without limitation Sections 10.D and G.

SECTION 10 - MISCELLANEOUS

- A. No Implied Waiver. No failure or delay on the part of OEM to exercise any right, power, or privilege under this Agreement will operate as a waiver thereof, nor will any single or partial exercise of any right, power, or privilege under this Agreement preclude any other or further exercise thereof or the exercise of any other such right, power, or privilege.
- B. Choice of Law; Designation of Forum; Federal Forum. The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Agreement, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

Any party bringing a legal action or proceeding against any other party arising out of or relating to this Agreement shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County (unless Oregon law requires that it be brought and conducted in another county). Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

Notwithstanding the prior paragraph, if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This paragraph applies to a claim brought against the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This paragraph is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

- C. Notices and Communication. Except as otherwise expressly provided in this Agreement, any communication between the parties or notices required or permitted must be given in writing by personal delivery, email, or by mailing the same, postage prepaid, to Subrecipient or OEM at the

addresses set forth below, or to such other persons or addresses that either party may subsequently indicate pursuant to this Section.

Any communication or notice by personal delivery will be deemed effective when actually delivered to the addressee. Any communication or notice so addressed and mailed will be deemed to be received and effective five (5) days after mailing. Any communication or notice given by email becomes effective 1) upon the sender's receipt of confirmation generated by the Subrecipient's email system that the notice has been received by the Subrecipient's email system or 2) the Subrecipient's confirmation of receipt, whichever is earlier. Notwithstanding this provision, the following notices may not be given by email: notice of default or notice of termination.

If to OEM: OEM Deputy Director
Oregon Department of Emergency Management
3930 Fairview Industrial Drive SE
Salem OR 97302

If to Subrecipient: City Manager
City of The Dalles
Department of Public Works
1215 West 1st Street
The Dalles, OR 97058

- D. Amendments. This Agreement may not be altered, modified, supplemented, or amended in any manner except by written instrument signed by both parties.
- E. Severability. If any provision of this Agreement will be held invalid or unenforceable by any court of competent jurisdiction, such holding will not invalidate or render unenforceable any other provision.
- F. Successors and Assigns. This Agreement will be binding upon and inure to the benefit of OEM, Subrecipient, and their respective successors and assigns, except that Subrecipient may not assign or transfer its rights, obligations or any interest without the prior written consent of OEM.
- G. Counterparts. This Agreement may be signed in several counterparts, each of which is an original and all of which constitute one and the same instrument. Copies of signature by facsimile, electronic scan, or other electronic means will be considered original signatures.
- H. Integration. This Agreement (including all exhibits, schedules or attachments) constitutes the entire agreement between the parties on the subject matter. There are no unspecified understandings, agreements or representations, oral or written, regarding this Agreement.
- I. No Third-Party Beneficiaries. OEM and Subrecipient are the only parties to this Agreement and are the only parties entitled to enforce the terms of this Agreement. Nothing in this Agreement gives or provides, or is intended to give or provide, to third persons any benefit or right not held by or made generally available to the public, whether directly, indirectly or otherwise, unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.
- J. Survival. All provisions of this Agreement that by their terms are intended to survive shall survive termination of this Agreement.
- K. Time is of the Essence. Subrecipient agrees that time is of the essence under this Agreement.

- L. Public Records. OEM's obligations under this Agreement are subject to the Oregon Public Records Laws.
- M. Dispute Resolution. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation. Each party shall bear its own costs incurred under this Section 6.C.
- N. Duplicate Payment. Subrecipient is not entitled to compensation or any other form of duplicate, overlapping or multiple payments for the same work performed under this Agreement from any agency of the State of Oregon or the United States of America or any other party, organization or individual.
- O. Independent Contractor. Subrecipient shall perform the Project as an independent contractor and not as an agent or employee of OEM. Subrecipient has no right or authority to incur or create any obligation for or legally bind OEM in any way. Subrecipient acknowledges and agrees that Subrecipient is not an "officer", "employee", or "agent" of OEM, as those terms are used in ORS 30.265, and shall not make representations to third parties to the contrary.
- P. Insurance; Workers' Compensation. All employers, including Subrecipient, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Employer's liability insurance with coverage limits of not less than \$500,000 must be included. Subrecipient shall ensure that each of its Subrecipient(s), contractor(s), and subcontractor(s) complies with these requirements.

Signature page follows.

The Subrecipient, by its signature below, acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.



STATE OF OREGON
acting by and through its
Oregon Department of Emergency Management

CITY OF THE DALLES

By: _____
Patence Winningham, Deputy Director,
OEM

By: _____
Matthew Klebes, City Manager

Date: _____

Date: _____

APPROVED AS TO LEGAL SUFFICIENCY IN ACCORDANCE WITH ORS 291.047:

Joseph M. Callahan as per email dated 12/08/2025

Assistant Attorney General

EXHIBIT B – [RESERVED]

EXHIBIT C – FEDERAL REQUIREMENTS AND CERTIFICATIONS

Assurances, Administrative Requirements, Cost Principles, Representations and Certifications

DHS financial assistance recipients must complete either the Office of Management and Budget (OMB) [Standard Form 424B Assurances – Non-Construction Programs](#), or [OMB Standard Form 424D Assurances – Construction Programs](#), as applicable. Certain assurances in these documents may not be applicable to your program, and the DHS financial assistance office (DHS FAO) may require applicants to certify additional assurances. Applicants are required to fill out the assurances applicable to their program as instructed by the awarding agency. Please contact the DHS FAO if you have any questions.

DHS financial assistance recipients are required to follow the applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards located at [Title 2, Code of Federal Regulations \(C.F.R.\) Part 200](#), and adopted by DHS at [2 C.F.R. Part 3002](#).

By accepting this agreement, the recipient and its executives, as defined in 2 C.F.R. § 170.315, certify that the recipient's policies are in accordance with OMB's guidance located at 2 C.F.R. Part 200, all applicable federal laws, and relevant Executive guidance.

DHS Specific Acknowledgements and Assurances

All recipients, subrecipients, successors, transferees, and assignees must acknowledge and agree to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff.

1. Recipients must cooperate with any compliance reviews or compliance investigations conducted by DHS.
2. Recipients must give DHS access to, and the right to examine and copy, records, accounts, and other documents and sources of information related to the federal financial assistance award and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations and other applicable laws or program guidance.
3. Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports.
4. Recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.
5. Recipients of federal financial assistance from DHS must complete the *DHS Civil Rights Evaluation Tool* within thirty (30) days of receipt of the Notice of Award or, for State Administrative Agencies, thirty (30) days from receipt of the DHS Civil Rights Evaluation Tool from DHS or its awarding component agency. After the initial submission for the first award under which this term applies, recipients are required to provide this information once every two (2) years if they have an active award, not every time an award is made. Recipients should submit the completed tool, including supporting materials, to CivilRightsEvaluation@hq.dhs.gov. This tool clarifies the civil rights obligations and related reporting requirements contained in the DHS

Standard Terms and Conditions. Subrecipients are not required to complete and submit this tool to DHS. The evaluation tool can be found at <https://www.dhs.gov/publication/dhs-civil-rights-evaluation-tool>.

The DHS Office for Civil Rights and Civil Liberties will consider, in its discretion, granting an extension if the recipient identifies steps and a timeline for completing the tool. Recipients should request extensions by emailing the request to CivilRightsEvaluation@hq.dhs.gov prior to expiration of the 30-day deadline.

Standard Terms & Conditions

I. Acknowledgement of Federal Funding from DHS

Recipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposal, bid invitations, and other documents describing projects or programs funded in whole or in part with federal funds.

II. Activities Conducted Abroad

Recipients must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

III. Age Discrimination Act of 1975

Recipients must comply with the requirements of the *Age Discrimination Act of 1975*, Pub.L No. 94-135 (1975) (codified as amended at [Title 42, U.S. Code, § 6101 et seq.](#)), which prohibits discrimination on the basis of age in any program or activity receiving federal financial assistance.

IV. Americans with Disabilities Act of 1990

Recipients must comply with the requirements of Titles I, II, and III of the *Americans with Disabilities Act*, Pub. L. No. 101-336 (1990) (codified as amended at [42 U.S.C. §§ 12101– 12213](#)), which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities.

V. Best Practices for Collection and Use of Personally Identifiable Information Recipients who collect personally identifiable information (PII) are required to have a publicly available privacy policy that describes standards on the usage and maintenance of the PII they collect. DHS defines PII as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. Recipients may also find the DHS Privacy Impact Assessments: [Privacy Guidance](#) and [Privacy Template](#) as useful resources respectively.

VI. Civil Rights Act of 1964 – Title VI

Recipients must comply with the requirements of Title VI of the *Civil Rights Act of 1964* (codified as amended at [42 U.S.C. § 2000d et seq.](#)), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. DHS implementing regulations for the Act are found at [6 C.F.R. Part 21](#) and [44 C.F.R. Part 7](#).

VII. Civil Rights Act of 1968

Recipients must comply with Title VIII of the *Civil Rights Act of 1968*, [Pub. L. 90-284](#), as amended through [Pub. L. 113-4](#), which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (see [42 U.S.C. § 3601 et seq.](#)), as implemented by the U.S. Department of Housing and Urban Development at [24 C.F.R. Part 100](#). The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units—i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)—be designed and constructed with certain accessible features. (See [24 C.F.R. Part 100, Subpart D.](#))

VIII. Copyright

Recipients must affix the applicable copyright notices of [17 U.S.C. §§ 401 or 402](#) and an acknowledgement of U.S. Government sponsorship (including the award number) to any work first produced under federal financial assistance awards.

IX. Debarment and Suspension

Recipients are subject to the non-procurement debarment and suspension regulations implementing Executive Orders (E.O.) [12549](#) and [12689](#), which are at [2 C.F.R. Part 180](#) as adopted by DHS at [2 C.F.R. Part 3000](#). These regulations restrict federal financial assistance awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.

X. Drug-Free Workplace Regulations

Recipients must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of [2 C.F.R. Part 3001](#), which adopts the Government-wide implementation ([2 C.F.R. Part 182](#)) of Sec. 5152-5158 of the *Drug-Free Workplace Act of 1988* ([41 U.S.C. §§ 8101-8106](#)).

XI. Duplication of Benefits

Any cost allocable to a particular federal financial assistance award provided for in [2 C.F.R. Part 200, Subpart E](#) may not be charged to other federal financial assistance awards to overcome fund deficiencies; to avoid restrictions imposed by federal statutes, regulations, or federal financial assistance award terms and conditions; or for other reasons. However, these prohibitions would not preclude recipients from shifting costs that are allowable under two or more awards in accordance with existing federal statutes, regulations, or the federal financial assistance award terms and conditions.

XII. Education Amendments of 1972 (Equal Opportunity in Education Act) – Title IX

Recipients must comply with the requirements of Title IX of the *Education Amendments of 1972*, Pub. L. 92-318 (1972) (codified as amended at [20 U.S.C. § 1681 et seq.](#)), which provide that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance. DHS implementing regulations are codified at [6 C.F.R. Part 17](#) and [44 C.F.R. Part 19](#)

XIII. Energy Policy and Conservation Act

Recipients must comply with the requirements of the *Energy Policy and Conservation Act*, Pub. L. 94-163 (1975) (codified as amended at [42 U.S.C. § 6201 et seq.](#)), which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

XIV. *False Claims Act and Program Fraud Civil Remedies*

Recipients must comply with the requirements of the *False Claims Act*, [31 U.S.C. §§ 3729- 3733](#), which prohibit the submission of false or fraudulent claims for payment to the federal government. (See [31 U.S.C. §§ 3801-3812](#), which details the administrative remedies for false claims and statements made.)

XV. *Federal Debt Status*

All recipients are required to be non-delinquent in their repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. (See [OMB Circular A-129](#).)

XVI. *Federal Leadership on Reducing Text Messaging while Driving*

Recipients are encouraged to adopt and enforce policies that ban text messaging while driving as described in [E.O. 13513](#), including conducting initiatives described in Section 3(a) of the Order when on official government business or when performing any work for or on behalf of the federal government.

XVII. *Fly America Act of 1974*

Recipients must comply with Preference for U.S. Flag Air Carriers (air carriers holding certificates under [49 U.S.C. § 41102](#)) for international air transportation of people and property to the extent that such service is available, in accordance with the *International Air Transportation Fair Competitive Practices Act of 1974*, [49 U.S.C. § 40118](#), and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, [amendment to Comptroller General Decision B-138942](#).

XVIII. *Hotel and Motel Fire Safety Act of 1990*

In accordance with Section 6 of the *Hotel and Motel Fire Safety Act of 1990*, [15 U.S.C. § 2225a](#), recipients must ensure that all conference, meeting, convention, or training space funded in whole or in part with federal funds complies with the fire prevention and control guidelines of the *Federal Fire Prevention and Control Act of 1974*, (codified as amended at [15 U.S.C. § 2225](#).)

XIX. *Limited English Proficiency (Civil Rights Act of 1964, Title VI)*

Recipients must comply with Title VI of the *Civil Rights Act of 1964*, ([42 U.S.C. § 2000d et seq.](#)) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance: <https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited> and additional resources on <http://www.lep.gov>.

XX. *Lobbying Prohibitions*

Recipients must comply with [31 U.S.C. § 1352](#), which provides that none of the funds provided under a federal financial assistance award may be expended by the recipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or

employee of Congress, or an employee of a Member of Congress in connection with any federal action related to a federal award or contract, including any extension, continuation, renewal, amendment, or modification.

XXI. National Environmental Policy Act

Recipients must comply with the requirements of the National Environmental Policy Act of 1969, (NEPA) Pub. L. 91-190 (1970) (codified as amended at 42 U.S.C. § 4321 et seq. and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which require recipients to use all practicable means within their authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans.

XXII. Nondiscrimination in Matters Pertaining to Faith-Based Organizations

It is DHS policy to ensure the equal treatment of faith-based organizations in social service programs administered or supported by DHS or its component agencies, enabling those organizations to participate in providing important social services to beneficiaries. Recipients must comply with the equal treatment policies and requirements contained in 6 C.F.R. Part 19 and other applicable statutes, regulations, and guidance governing the participations of faith-based organizations in individual DHS programs.

XXIII. Non-Supplanting Requirement

Recipients receiving federal financial assistance awards made under programs that prohibit supplanting by law must ensure that federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-federal sources.

XXIV. Notice of Funding Opportunity Requirements

All the instructions, guidance, limitations, and other conditions set forth in the Notice of Funding Opportunity (NOFO) for this program are incorporated here by reference in the award terms and conditions. All recipients must comply with any such requirements set forth in the program NOFO.

XXV. Patents and Intellectual Property Rights

Recipients are subject to the *Bayh-Dole Act*, 35 U.S.C. § 200 et seq., unless otherwise provided by law. Recipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from federal financial assistance awards located at 37 C.F.R. Part 401 and the standard patent rights clause located at 37 C.F.R. § 401.14.

XXVI. Procurement of Recovered Materials

States, political subdivisions of states, and their contractors must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. 89-272 (1965), (codified as amended by the *Resource Conservation and Recovery Act*, 42 U.S.C. § 6962.) The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

XXVII. Rehabilitation Act of 1973

Recipients must comply with the requirements of Section 504 of the *Rehabilitation Act of 1973*, Pub. L. 93-112 (1973), (codified as amended at 29 U.S.C. § 794.) which provides that no otherwise qualified handicapped individuals in the United States will, solely by reason of the handicap, be excluded

from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

XXVIII. Reporting of Matters Related to Recipient Integrity and Performance

1. General Reporting Requirements

If the total value of any currently active grants, cooperative agreements, and procurement contracts from all federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this federal award, then the recipients during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the [Federal Awardee Performance and Integrity Information System \(FAPIIS\)](#)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under [Pub. L.110-417, § 872](#), as amended [41 U.S.C. § 2313](#). As required by [Pub. L. 111-212, § 3010](#), all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for federal procurement contracts, will be publicly available.

2. Proceedings about Which Recipients Must Report

Recipients must submit the required information about each proceeding that:

- a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the federal government;
- b. Reached its final disposition during the most recent five-year period; and
- c. One or more of the following:
 - 1) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;
 - 2) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
 - 3) An administrative proceeding, as defined in paragraph 5, that resulted in a finding of fault and liability and the recipient's payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or
 - 4) Any other criminal, civil, or administrative proceeding if:
 - a) It could have led to an outcome described in this award term and condition;
 - b) It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on the recipient's part; and

- c) The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

3. Reporting Procedures

Recipients must enter the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition in the SAM Entity Management area. Recipients do not need to submit the information a second time under financial assistance awards that the recipient received if the recipient already provided the information through SAM because it was required to do so under federal procurement contracts that the recipient was awarded.

4. Reporting Frequency

During any period of time when recipients are subject to the main requirement in paragraph 1 of this award term and condition, recipients must report proceedings information through SAM for the most recent five-year period, either to report new information about any proceeding(s) that recipients have not reported previously or affirm that there is no new information to report. Recipients that have federal contract, grant, and cooperative agreement awards with a cumulative total value greater than \$10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

5. Definitions

For the purpose of this award term and condition:

- a. *Administrative proceeding*: means a non-judicial process that is adjudicatory in nature to decide fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the federal and state level but only in connection with performance of a federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.
- b. *Conviction*: means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.
- c. *Total value of currently active grants, cooperative agreements, and procurement contracts* includes—
 - 1) Only the federal share of the funding under any federal award with a recipient cost share or match; and
 - 2) The value of all expected funding increments under a federal award and options, even if not yet exercised.

XXIX. Reporting Subawards and Executive Compensation

1. Reporting of first tier subawards.

- a. *Applicability*. Unless the recipient is exempt as provided in paragraph 4 of this award term, the recipient must report each action that equals or exceeds \$30,000 in

federal funds for a subaward to a non-federal entity or federal agency (See definitions in paragraph 5 of this award term).

b. Where and when to report.

1) Recipients must report each obligating action described in paragraph 1 of this award term to the [Federal Funding Accountability and Transparency Act Subaward Reporting System \(FSRS\)](#).

2) For subaward information, recipients report no later than the end of the month following the month in which the obligation was made. For example, if the obligation was made on November 7, 2016, the obligation must be reported by no later than December 31, 2016.

c. What to report. The recipient must report the information about each obligating action that the submission instructions posted at <http://www.fsrs.gov>.

2. Reporting Total Compensation of Recipient Executives.

a. Applicability and what to report. Recipients must report total compensation for each of the five most highly compensated executives for the preceding completed fiscal year, if—

1) The total federal funding authorized to date under this federal award equals or exceeds \$30,000 as defined in 2 C.F.R. § 170.320;

2) In the preceding fiscal year, recipients received—

a) Eighty percent or more of recipients' annual gross revenues from federal procurement contracts (and subcontracts) and federal financial assistance subject to the *Federal Funding Accountability and Transparency Act* (Transparency Act), as defined at [2 C.F.R. § 170.320](#) (and subawards); and

b) \$25,000,000 or more in annual gross revenues from federal procurement contracts (and subcontracts) and federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. § 170.320 (and subawards); and

c) The public does not have access to information about the compensation of the executives through periodic reports filed under Section 13(a) or 15(d) of the *Securities Exchange Act of 1934* ([15 U.S.C. 78m\(a\), 78o\(d\)](#)) or Section 6104 of the Internal Revenue Code of 1986. (See the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm> to determine if the public has access to the compensation information.)

3) *Where and when to report.* Recipients must report executive total compensation described in paragraph 2.a. of this award term:

a) As part of the recipient's registration profile at <https://www.sam.gov>.

b) By the end of the month following the month in which this award is made, and annually thereafter.

3. Reporting of Total Compensation of Subrecipient Executives.

a. *Applicability and what to report.* Unless recipients are exempt as provided in paragraph 4. of this award term, for each first-tier subrecipient under this award, recipients shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if—

1) In the subrecipient's preceding fiscal year, the subrecipient received—

a) Eighty percent or more of its annual gross revenues from federal procurement contracts (and subcontracts) and federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. § 170.320 (and subawards); and

b) \$25,000,000 or more in annual gross revenues from federal procurement contracts

(and subcontracts), and federal financial assistance subject to the Transparency Act (and subawards); and

2) The public does not have access to information about the compensation of the executives through periodic reports filed under Section 13(a) or 15(d) of the *Securities Exchange Act of 1934* (15 U.S.C. 78m(a), 78o(d)) or Section 6104 of the Internal Revenue Code of 1986. (See the U.S. Security and Exchange Commission total compensation filings at

<http://www.sec.gov/answers/execomp.htm>. to determine if the public has access to the compensation information.)

b. *Where and when to report.* Subrecipients must report subrecipient executive total compensation described in paragraph 3.a. of this award term:

1) To the recipient.

2) By the end of the month following the month during which recipients make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (*i.e.*, between October 1 and 31), subrecipients must report any required compensation information of the subrecipient by November 30 of that year.

4. Exemptions

If, in the previous tax year, recipients had gross income, from all sources, under \$300,000, then recipients are exempt from the requirements to report:

a. Subawards, and

b. The total compensation of the five most highly compensated executives of any subrecipient

5. Definitions For purposes of this award term:
- a. Federal Agency means a federal agency as defined at 5 U.S.C. 551(1) and further clarified by 5 U.S.C. 552(f).
 - b. *Non-Federal Entity*: means all the following, as defined in 2 C.F.R. Part 25:
 - 1) A Governmental organization, which is a state, local government, or Indian tribe;
 - 2) A foreign public entity;
 - 3) A domestic or foreign nonprofit organization;
 - 4) A domestic or foreign for-profit organization;
 - c. *Executive*: means officers, managing partners, or any other employees in management positions.
 - d. *Subaward*: means a legal instrument to provide support for the performance of any portion of the substantive project or program for which the recipient received this award and that the recipient awards to an eligible subrecipient.
 - 1) The term does not include recipients' procurement of property and services needed to carry out the project or program (for further explanation, see 2 C.F.R. § 200.331).
 - 2) A subaward may be provided through any legal agreement, including an agreement that a recipient or a subrecipient considers a contract.
 - e. *Subrecipient*: means a non-federal entity or federal agency that:
 - 1) Receives a subaward from the recipient under this award; and
 - 2) Is accountable to the recipient for the use of the federal funds provided by the subaward.
 - f. *Total compensation*: means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (see [17 C.F.R. § 229.402\(c\)\(2\)](#)):
 - 1) *Salary and bonus*.
 - 2) *Awards of stock, stock options, and stock appreciation rights*. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.

3) *Earnings for services under non-equity incentive plans.* This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives and are available generally to all salaried employees.

4) *Change in pension value.* This is the change in present value of defined benefit and actuarial pension plans.

5) *Above-market earnings on deferred compensation which is not tax-qualified.*

6) *Other compensation,* if the aggregate value of all such other compensation (e.g.

severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

XXX. SAFECOM

Recipients receiving federal financial assistance awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

XXXI. Terrorist Financing

Recipients must comply with E.O. 13224 and U.S. laws that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. Recipients are legally responsible to ensure compliance with the Order and laws.

XXXII. Trafficking Victims Protection Act of 2000 (TVPA) Trafficking in Persons.

1. Provisions applicable to a recipient that is a private entity.

a. Recipients, the employees, subrecipients under this award, and subrecipients' employees may not—

1) Engage in severe forms of trafficking in persons during the period of time the award is in effect;

2) Procure a commercial sex act during the period of time that the award is in effect; or

3) Use forced labor in the performance of the award or subawards under the award.

b. DHS may unilaterally terminate this award, without penalty, if a recipient or a subrecipient that is a private entity —

1) Is determined to have violated a prohibition in paragraph 1.a of this award term; or

2) Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph 1.a of this award term through conduct that is either—

a) Associated with performance under this award; or

b) Imputed to recipients or subrecipients using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 C.F.R. Part 180, “OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 C.F.R. Part 3000.

2. Provision applicable to recipients other than a private entity.

DHS may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—

a. Is determined to have violated an applicable prohibition in paragraph 1.a of this award term; or

b. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph 1.a of this award term through conduct that is either—

1) Associated with performance under this award; or

2) Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 C.F.R. Part 180, “OMB Guidelines to Agencies on Government-wide Debarment and Suspension

(Nonprocurement),” as implemented by our agency at 2 C.F.R. Part 3000.

3. Provisions applicable to any recipient.

a. Recipients must inform DHS immediately of any information received from any source alleging a violation of a prohibition in paragraph 1.a of this award term.

b. It is DHS’s right to terminate unilaterally that is described in paragraph 1.b or 2 of this section:

1) Implements TVPA, Section 106(g) as amended by 22 U.S.C. 7104(g), and

2) Is in addition to all other remedies for noncompliance that are available to us under this award.

c. Recipients must include the requirements of paragraph 1.a of this award term in any subaward made to a private entity.

4. Definitions. For the purposes of this award term:

- a. *Employee*: means either:
 - 1) An individual employed by a recipient or a subrecipient who is engaged in the performance of the project or program under this award; or
 - 2) Another person engaged in the performance of the project or program under this award and not compensated by the recipient including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
- b. *Forced labor*: means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
- c. *Private entity*: means any entity other than a state, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 C.F.R. § 175.25. It includes:
 - 1) A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 C.F.R.
 - 2) A for-profit organization.
- d. *Severe forms of trafficking in persons, commercial sex act, and coercion* are defined in [TVPA, Section 103](#), as amended (22 U.S.C. § 7102).

§ 175.25(b).

XXXIII. Universal Identifier and System of Award Management

1. Requirements for System for Award Management and Unique Entity Identifier Recipients are required to comply with the requirements set forth in the government-wide financial assistance award term regarding the System for Award Management and Universal Identifier Requirements located at [2 C.F.R. Part 25, Appendix A](#), the full text of which is incorporated here by reference.

2. Definitions

For purposes of this term:

- a. *System for Award Management (SAM)*: means the federal repository into which a recipient must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found on [SAM.gov](#).
- b. *Unique Entity Identifier*: means the identifier assigned by SAM to uniquely identify business entities.
- c. *Entity*: includes non-Federal entities as defined at 2 C.F.R. § 200.1 and includes the following, for purposes of this part:

- 1) A foreign organization;
- 2) A foreign public entity;
- 3) A domestic for-profit organization; and
- 4) A federal agency.

d. *Subaward*: means a legal instrument to provide support for the performance of any portion of the substantive project or program for which a recipient received this award and that the recipient awards to an eligible subrecipient.

- 1) The term does not include the recipients' procurement of property and services needed to carry out the project or program (for further explanation, see 2 C.F.R. § 200.330).
- 2) A subaward may be provided through any legal agreement, including an agreement that a recipient considers a contract.

e. *Subrecipient* means an entity that:

- 1) Receives a subaward from the recipient under this award; and
- 2) Is accountable to the recipient for the use of the federal funds provided by the subaward.

XXXIV. USA PATRIOT Act of 2001

Recipients must comply with requirements of Section 817 of the *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act)*, which amends 18 U.S.C. §§ 175–175c.

XXXV. Use of DHS Seal, Logo and Flags

Recipients must obtain permission from their DHS FAO prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

XXXVI. Whistleblower Protection Act

Recipients must comply with the statutory requirements for whistleblower protections (if applicable) at 10 U.S.C § 2409, 41 U.S.C. § 4712, and 10 U.S.C. § 2324, 41 U.S.C. §§ 4304 and 4310.

EXHIBIT E - INFORMATION REQUIRED BY 2 CFR § 200.332(A)(1)

Federal Award Identification:

- (i) Subrecipient* name (which must match registered name in SAM): City of the Dalles, Oregon
 - (ii) Subrecipient's Unique Entity Identifier (SAM): ZLYHNLPGKEX5

 - (iii) Federal Award Identification Number (FAIN): HMGP-PF-FM-4599-15-R-OR
 - (iv) Federal Award Date: June 11, 2025
 - (v) Sub-award Period of Performance Start and End Date: June 11, 2025 through October 31, 2026
 - (vi) Sub-award budget period start and end dates: June 11, 2025 through October 31, 2026
 - (vii) Amount of Federal Funds Obligated by this action by the pass-through entity to the subrecipient: \$875,001.12
 - (viii) Total Amount of Federal Funds Obligated to the subrecipient by the pass-through entity including the current financial obligation: \$875,001.12
 - (ix) Total Amount of the Federal Award committed to the subrecipient by the pass-through entity: \$875,001.12

 - (x) Federal award project description as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA):
Water System Emergency Generators
 - (xi) Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity: Oregon Department of Emergency Management
 - (a) Name of Federal awarding agency: Federal Emergency Management Agency
 - (b) Name of pass-through entity: Oregon Department of Emergency Management
 - (c) Contact information for awarding official of the pass-through entity: Patence Wunningham, OEM Deputy Director, 3930 Fairview Industrial DR SE Salem, Oregon 97302
 - (xii) The Federal Assistance Listing (formerly CFDA) Number and Name: ALS 97.039 Hazard Mitigation Grant Program. Amount: \$875,001.12
 - (xiii) Is Award R&D? No
 - (xiv) Indirect cost rate for the Federal award: N/A
- * For the purposes of this Exhibit E, "pass-through entity" refers to OEM.

EXHIBIT F - CERTIFICATION REGARDING LOBBYING

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

**CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION
AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE
O.M.B NO. 1660-0025**

REQUIREMENTS

Expires September 30th 2017

PAPERWORK BURDEN DISCLOSURE NOTICE

Public reporting burden for this form is estimated to average 1.7 hours per response. The burden estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing, and submitting the form. This collection of information is required to obtain or retain benefits. You are not required to submit to this collection of information unless it displays a valid OMB control number. Send comments regarding the accuracy of the burden estimate and any suggestions for reducing the burden to:

Information Collections Management, Department of Homeland Security, Federal Emergency Management Agency, 500 C Street SWI Washington, DC 20472-3100, and Paperwork Reduction Project (1660-0025). NOTE: Do not send your completed form to this address.

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 44 CFR Part 18, "New Restrictions on Lobbying" and 28 CFR Part 17, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Federal Emergency Management Agency (FEMA) determines to award the transaction, grant, or cooperative agreement.

1. LOBBYING (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or As required by section 1352, Title 31 of the U.S. Code, and Federal court, or voluntarily excluded from covered transactions by any implemented at 44 CFR Part 18, for persons entering into a grant Federal department or agency; or cooperating agreement over \$ 100,000, as defined at 44 CFR Part 18, the applicant certifies that: (b) Have not within a three-year period preceding this application been convicted of a or had a civilian judgment rendered against them for (a) No Federal appropriated funds have been paid or will be paid, commission of fraud or a criminal offense in connection with obtaining, by or on behalf of the undersigned, to any person for influencing or attempting to obtain, or perform a public a public (Federal ,State, or local) attempting to influence an officer or employee of any agency, a transaction or contract under a public transaction; violation of Federal or Member of Congress, an officer or employee of Congress, or an State antitrust statutes or commission of embezzlement, theft, forgery, employee of a Member of Congress in connection with the making bribery, falsification or destruction of records, making false statements, or of any Federal grant, the entering into of any cooperative receiving stolen property; agreement, and the extension, continuation, renewal, amendment,

(c) Are not presently indicted for otherwise criminally or civilly charged or modification of any Federal grant or cooperative agreement. by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1) (b) of this certification; and

b) If any other funds than Federal appropriated funds have been (d) Have not within a three-year period preceding this application had paid or will be paid to any other person for influencing or one or more public transactions (Federal, State, or local) terminated for attempting to influence an officer or employee of any agency, a cause of default; and member of Congress, an officer or an employee of Congress, or employee of a member of Congress in connection with this B. Where the applicant is unable to certify to any of the statements in this Federal Grant or cooperative agreement, the undersigned shall certification, he or she shall attach an explanation to this application. complete and submit Stand Form-LLL, "Disclosure of Lobbying

Activities," in accordance with its instructions.

3. DRUG-FREE WORKPLACE (GRANTEE OTHER THAN INDIVIDUALS)

c) The undersigned shall require that the language of this certification be included in the award documents for all subawards As required by the Drug-Free Workplace Act of 1988, and implemented at all tiers (including subgrants, contracts under grants and 44 CFR Part 17, Subpart F, for grantees, as defined at 44 CFR Part cooperative agreements, and subcontracts) and that all 17.615 and 17.620subrecipients shall certify and disclose accordingly.

A. The applicant certifies that it will continue to provide a drug-free workplace by; Standard Form-LLL "Disclosure of Lobbying Activities" attached

C] (This form must be attached to certification if non- manufacture, (a) Publishing distribution, a statement dispensing, notifying employees possession, that or use the of unlawfula controlled appropriated funds are to be used to influence activities.) substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such

2. DEBARMENT, SUSPENSION, AND OTHER prohibition;

RESPONSIBILITY MATTERS (DIRECT RECIPIENT)

(b) Establishing an drug free awareness program to inform

As required by Executive Order 12549, Debarment and employees about-

Suspension, and implemented at 44 CFR Part 67, for prospective (I) The dangers of drug abuse in the workplace; participants in primary covered transactions, as defined at 44 CFR Part 17, Section 17.510-A.

(2) The grantee's policy of maintaining a drug-free workplace;

A. The applicant certifies that it and its principals:

FEMA Form 112-0-3C (9/14)

Master Page 1 of 2

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(g) Making a good faith effort to continue to maintain a drug free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

(c) Making it a requirement that each employee to be engaged in the performance of the grant to be given a copy of the statement required by paragraph (a);

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will-

Place of Performance (Street address, City, County, State, Zip code)

(1) Abide by the term of the statement; and

1215 West First Street

The Dalles, OR 97058

Wasco County

(2) Notify the employee in writing of his or her conviction for a violation of a criminal drug statute occurring ion the workplace no later than five calendar days after such convictions;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position, title, to the applicable FEMA awarding office, i.e., regional office or FEMA office.

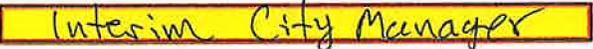
There are workplaces on file that are not identified

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is convicted-

Sections 17.630 of the regulations provide that a grantee that is a State may elect to make one certification in each Federal fiscal year, A copy of which should be included with each application for FEMA funding. States and State agencies may elect to use a state wide certification.

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation act of 1973, as amended; or

(2) Requiring such an employee to participate satisfactorily in a drug abuse assistance or rehabilitation

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL 	TITLE 
APPLICANT ORGANIZATION 	DATE SUBMITTED 

PURCHASE AGREEMENT

Contractor	Cummins Inc.
Consideration	NTE \$755,662.01
Effective Date	[DATE]
Completion Date	[DATE]
Project/Goods	<i>DR4599-15 Water System Emergency Generators (Equipment Purchase)</i>

This PURCHASE AGREEMENT (**Agreement**) is entered by the City of The Dalles, an Oregon municipal corporation (**City**) and Cummins Inc., for Contractor’s provision of described below to the City.

WHEREAS, the City requires the procurement of emergency generator equipment and related parts, supplies, and services for City drinking water well sites and booster stations under Sourcewell Contract No. 092222-CMM; and

WHEREAS, Contractor desires to provide such goods pursuant to the compensation and conditions set forth herein.

NOW, THEREFORE, in consideration of both the provisions set forth herein and other good and valuable consideration, the receipt and sufficiency of which is here acknowledged, the Parties agree:

A. Contractor’s Duties

1. Goods. Contractor agrees to sell and deliver to City the goods described in **Exhibit A (Goods)** under *Sourcewell Contract No. 092222-CMM* subject to the terms and conditions of this Agreement and Exhibit B. The Goods comprise 5 emergency generator systems and related accessories and services as described in **Exhibit A** for the following locations: (i) Jordan Well; (ii) Marks Well; (iii) Lone Pine Well; (iv) Garrison Booster Pump Station; and (v) Intermediate Booster Pump Station.
2. Warranty. The Goods are governed by the applicable manufacturer’s written warranty that accompanies the Goods. Except as expressly provided in the applicable manufacturer’s written warranty, Contractor makes no other warranties, guarantees, or representations of any kind, express or implied, including without limitation any implied warranty of merchantability or fitness for a particular purpose. Contractor warrants that all Goods furnished are free from liens and encumbrances and will be delivered new and as current model unless otherwise clearly indicated in **Exhibit A**.
3. Incidental Services. Contractor agrees, at its expense, to furnish the Goods to the City consistent with **Exhibit A**, including all incidental transportation, labor, equipment, materials, expertise, tools, supplies, and licenses required or necessary to deliver the Goods to the delivery locations specified by the City (together, **Work**). Any start-up services, load bank testing, or other incidental services included in **Exhibit A** are part of the Work.



4. Insurance. Contractor shall maintain insurance in the types and at the limits required by Sourcewell Contract No. 092222-CMM for the term of this Agreement and any applicable warranty or service obligations. Upon the City's reasonable request, Contractor shall timely provide certificates of insurance evidencing the required coverages.
5. Indemnity. To the extent permitted by law and subject to the limitation of liability provisions incorporated through **Exhibit B**, Contractor shall be responsible for, and shall indemnify and defend the City and its officers, employees, and agents from and against, third-party claims for bodily injury (including death) or physical damage to tangible property to the extent caused by Contractor's negligent acts or omissions in performing the Work.
6. Compliance with Laws and Grant Requirements. Contractor shall comply with all applicable federal, state, and local laws in connection with this Agreement. This purchase is funded in part with federal grant funds administered by the Oregon Department of Emergency Management. Contractor shall provide information and documentation reasonably requested by the City to support the City's compliance and reimbursement obligations, including documentation reasonably needed for domestic preference and federal compliance requirements applicable to the procurement.

B. City's Duties

1. Compensation.
 - a. Total. The City agrees to compensate Contractor for the Goods in an amount **not to exceed \$755,662.01**. Contractor shall provide the City with a completed Form W-9 within 14 days of this Agreement's execution. The City's payment obligations are conditioned on receipt of a completed Form W-9.
 - b. Invoicing and Payment. Contractor shall invoice the City consistent with **Exhibit A**. The City agrees to make payment only for Goods actually delivered and accepted as of the invoice date. The City shall make payment in full within 30 days of a properly submitted invoice, subject to the City's invoice review and approval.
 - c. Satisfaction. Contractor agrees the City's payment of an invoice releases the City from any further obligation to compensate Contractor for Goods covered by that invoice, except for applicable warranty obligations. Payment is not acceptance or approval of the Goods and does not waive defects.
 - d. Public Budgeting. The City certifies sufficient funds are available and authorized for expenditure to finance the costs of this Agreement during the current fiscal year. Appropriations for future fiscal years are subject to budget approval by the City Council.
2. Acceptance and Rejection. The City agrees to accept delivered Goods after it has had a reasonable opportunity to inspect them for conformity with **Exhibit A**. The City

Purchase Agreement

Cummins Inc.

Sourcewell Contract No. 092222-CMM

Page 2 of 7



will timely inform Contractor whether the Goods are accepted, accepted with noted nonconformities, or rejected. The City has the right to reject Goods for nonconformity upon the City's reasonable determination that the Goods do not conform to **Exhibit A** or are otherwise damaged. If rejected, Contractor shall cure the nonconformity at Contractor's sole cost within 14 days of the City's notice, or within another mutually agreed timeline based on practical availability of replacement parts or equipment.

C. Special Conditions

1. Sourcewell Cooperative Contract. This Agreement is the City's order under Sourcewell Contract No. 092222-CMM (**Exhibit B**). **Exhibit B** is incorporated into and made part of this Agreement and **Exhibit A** is incorporated solely for the description of Goods, quantities, pricing, and stated lead time and delivery information. Any additional Cummins "*Terms and Conditions for Sale of Power Generation Equipment*" or other quote boilerplate included in **Exhibit A** is not incorporated into this Agreement and is not accepted by the City. If there is a conflict among documents, the following order of precedence governs: **(a)** this Agreement (including any City-authored special terms attached to the City's purchase order, if applicable); **(b)** then **Exhibit B** (Sourcewell Contract No. 092222-CMM, including Amendment #1); then **(c)** **Exhibit A** (Cummins quotations, for pricing and technical descriptions only).
2. Grant Compliance Requirements (OEM HMGP DR4599-15).
 - a. Grant-funded procurement. The Parties acknowledge that the City is purchasing the Goods and any incidental Work under this Agreement using federal financial assistance administered by the Oregon Department of Emergency Management under Hazard Mitigation Grant Program Project DR4599-15.
 - b. Compliance with grant requirements and applicable law. Contractor shall comply with all applicable federal, state, and local laws and regulations relating to performance of this Agreement, including the Build America, Buy America Act and implementing regulations at 2 CFR Part 184 to the extent they apply to the Goods and any Work. Contractor shall not provide or incorporate any noncompliant covered materials unless the City provides written direction based on an approved waiver or other lawful basis.
 - c. Documentation and certifications. Upon request, Contractor shall provide the City documentation reasonably necessary to support the City's grant compliance and reimbursement obligations, including documentation reasonably needed to demonstrate compliance with domestic preference requirements and to support the City's property and equipment records. Documentation may include, as applicable: manufacturer certifications, country-of-origin information, product descriptions, model numbers, serial numbers, delivery documentation, warranty information, and itemized invoices tied to the Goods delivered.
 - d. Access to records and audits. Contractor shall maintain complete and accurate records relating to this Agreement and shall provide access to and copies of those records upon request by the City. Contractor shall also provide access to

Purchase Agreement

Cummins Inc.

Sourcewell Contract No. 092222-CMM

Page 3 of 7



and copies of such records to the extent necessary for the City to comply with grant oversight requirements, including access by the Oregon Department of Emergency Management, the Oregon Secretary of State, and the federal awarding agency and its authorized representatives (including DHS, FEMA, and the Office of Inspector General). Contractor shall include a similar access-to-records requirement in any subcontract or lower-tier agreement used to perform any portion of the Work.

- e. Record retention. Contractor shall retain the records described in this Addendum for the longest of: (a) six years following final payment and final acceptance under this Agreement, (b) six years following completion, termination, or expiration of the City's grant agreement for Project DR4599-15, or (c) any longer period required by applicable federal law, including 2 CFR 200.333. If any audit, claim, appeal, litigation, or other dispute is initiated before the end of the retention period, Contractor shall retain the records until all issues are fully resolved and the City confirms in writing that retention is no longer required.
- f. Remedies and sanctions. In addition to any other remedies available to the City under this Agreement, at law, or in equity, the City may apply administrative, contractual, or legal remedies for Contractor's breach or noncompliance with applicable grant requirements. As appropriate, remedies may include withholding payments, disallowing costs, requiring correction or replacement, requiring repayment for noncompliant costs, suspending performance, terminating this Agreement, and pursuing damages. Any such remedies are subject to the limitation of liability and other applicable provisions incorporated through Exhibit B.
- g. Termination required by federal award. The termination provisions of this Agreement are intended to satisfy federal award requirements for termination for cause and for convenience for contracts exceeding \$10,000, including how termination is effected and the basis for settlement. In addition, the City may terminate for convenience if grant funding is reduced, suspended, or terminated, or if a change in applicable law or grant requirements makes performance unlawful or materially impracticable, subject to the settlement terms stated in this Agreement and Exhibit B.
- h. Suspension and debarment. Contractor represents and warrants that neither Contractor nor its principals are suspended, debarred, or otherwise excluded from participation in federally funded transactions. Contractor shall notify the City immediately in writing if that status changes during the term of this Agreement.
- i. State of Oregon and OEM indemnity and insurance. To the extent required by the City's grant agreement and to the extent permitted by law and consistent with Exhibit B, Contractor shall indemnify, defend, save, and hold harmless the State of Oregon, the Oregon Department of Emergency Management, and their officers, employees, and agents, in addition to the City and its officers, employees, and agents, from and against third-party claims, demands, actions, or causes of action arising from a tort as defined in ORS 30.260 to the extent caused or contributed to by the negligent or willful acts or omissions of

Purchase Agreement

Cummins Inc.

Sourcewell Contract No. 092222-CMM

Page 4 of 7



Contractor or its subcontractors in performing the Work. This obligation does not apply to claims arising solely from the negligent or willful acts or omissions of an indemnitee.

- j. Insurance Certificates. Contractor shall maintain insurance meeting the requirements of this Agreement and **Exhibit B** and shall provide certificates of insurance upon request. To the extent commercially available, such insurance shall name the City, the State of Oregon, and the Oregon Department of Emergency Management as additional insureds for Contractor's commercial general liability and automobile liability arising out of the Work.
3. Conditions Precedent. This Agreement does not authorize release to production and does not obligate the City to issue a purchase order number or provide written approval to proceed until the City has obtained City Council authorization for the purchase and the City Manager executes the City's purchase order consistent with that authorization.
4. Contract Remedies and Termination.
 - a. Remedies. If Contractor materially breaches this Agreement, the City may pursue all remedies available at law or in equity, subject to the limitation of liability provisions incorporated through **Exhibit B**.
 - b. Termination for Convenience. The City may terminate this Agreement for convenience upon 7 days' written notice. If terminated for convenience, the City shall pay Contractor for Goods delivered and accepted as of the termination effective date and for any noncancelable, documented costs that the City approves in writing in advance and that are reasonably incurred and directly attributable to the terminated portion of the order, subject to **Exhibit B**.
 - c. Termination for Cause. The City may terminate this Agreement for cause upon written notice if Contractor fails to perform and does not cure within a reasonable time specified in the notice. The City may terminate immediately if the breach is not capable of cure or if delay would materially harm the City's interests.
5. Drug Testing. Upon City's request, Contractor agrees to demonstrate to the City Manager that it has an employee drug testing program in place before it commences any on-site Work.

D. General Conditions

1. Time. The Parties agree time is of the essence. Contractor shall begin performance without undue delay after the Effective Date and shall meet the delivery and performance schedule identified in **Exhibit A**, as reasonably updated by Contractor in writing based on manufacturing lead times. Contractor shall promptly notify the City in writing of any anticipated delay.
2. Tax Currency. Contractor certifies under penalty of perjury that it is, to the best of its knowledge, not in violation of any tax laws described in ORS 305.380.

Purchase Agreement

Cummins Inc.

Sourcewell Contract No. 092222-CMM

Page 5 of 7



3. Full Integration/Modification. This Agreement and its attachments contain the Parties' entire understanding and supersede all prior negotiations, representations, or other written or oral agreements on this matter. This Agreement may be modified only by a written instrument duly executed by the Parties.
4. Independent Contractor. The Parties agree Contractor is an *independent contractor* as defined by ORS 670.600(2) and as interpreted by regulations promulgated by the Oregon Bureau of Labor and Industries. Neither the terms of this Agreement nor the course of its performance by the Parties shall be construed as implicating an employer-employee relationship.
5. Assignment/Delegation. Contractor may not assign this Agreement without the City's prior written consent.
6. Enforceability. Any dispute connected with this Agreement or its performance shall be heard in the Circuit Court of the State of Oregon for the County of Wasco, and this Agreement shall be construed under the laws of the State of Oregon, consistent with **Exhibit B**.
7. Waiver. A Party's failure to insist upon strict adherence to a provision of this Agreement on any occasion is not a waiver of its rights.

Continues on next.

Purchase Agreement

Cummins Inc.

Sourcewell Contract No. 092222-CMM

Page 6 of 7



8. Notices. All notices required or permitted to be given under this Agreement shall be deemed given and received two (2) days after deposit in the United States Mail, certified or registered form, postage prepaid, return receipt requested, and addressed:

To the City: City Manager
City of The Dalles
313 Court Street
The Dalles, OR 97058

To Contractor: [Title]
Cummins, Inc.
[Address]
[Address]

IN WITNESS WHEREOF, the Parties duly execute this **PURCHASE AGREEMENT** this _____ day of _____, 2026.

CITY OF THE DALLES

CONTRACTOR

Matthew B. Klebes, City Manager

[Name], [Title]

ATTEST:

Amie Ell, City Clerk

Approved as to form:

Jonathan M. Kara, City Attorney



January 8, 2026

To

Prepared by

Ryan Lowe

ak51i@cummins.com

We are pleased to provide you this quotation based on your inquiry.

Item	Description	Qty
1	DFEJ Commercial Diesel Generator Set, 450kW Standby 60Hz U.S. EPA, Stationary Emergency Application 450DFEJ, Diesel Genset, 60Hz, 450kW-Standby Rating Duty Rating - Standby Power (ESP) Emission Certification, EPA, Tier 2, NSPS CI Stationary Emergency Listing - UL 2200 IBC Seismic Certification Voltage - 277/480, 3 Phase, Wye, 4 Wire Alternator - 60Hz, 12 Lead, Extended Range, 125/105C Steel Sound Attenuated Level 2 Enclosure, with Exhaust System Enclosure Color - Green, Steel Wind Rating - 150 MPH, Steel Housing Fuel Tank - Sub Base, 850 Gallon, UL142 Compliant Compliance - Fuel Tank, Florida Listing, ULC - S601-07 Alarm-High Fuel Fill Fuel Water Separator Control Mounting - Left Facing PowerCommand 2.3 Controller LCD Control Display Stop Switch - Emergency, Externally Mounted Control Display Language - English Circuit Breaker or Entrance Box or Terminal Box - Right And Left Circuit Breaker - 600A, Left Circuit Breaker on Right side, 3 - Pole, UL 600, IEC 690, 100% Circuit Breaker - 400A, Right Circuit Breaker on Right side, 3 - Pole, UL 600, IEC 690 100% Circuit Breaker or Entrance Box - Bottom Entry,Left Side Circuit Breaker or Entrance Box - Bottom Entry,Right Side Engine Exhaust Connection - None Engine Air Cleaner - Normal Duty External Battery Charger - 12 Amp, Regulated Engine Cooling - Radiator, 40C Ambient Shutdown - Low Coolant Level Coolant Heater - 208/240/480 Volts AC, Below 40F Ambient Temperature Genset Warranty - 2 Years Base Literature - English	1

Item	Description	Qty
	Packing - None, Base Mounted Housing	
2	2" Atmospheric Vent Pipe	1
3	OFPV, 9095-S Morrison	1
4	Battery, Group 34	4
5	Flowline EchoPod DS14, gives up to 5 different level alarms	1
6	OTECSEC, OTEC Service Entrance Transfer Switch-Electronic Control: 600A Not Applicable OTECSE600, Service Entrance TransferSwitch, PowerCommand, 600 Amp Listing - UL 1008 IBC Seismic Certification Application - Utility to Genset Cabinet - Type 3R Poles - 3 (Solid Neutral) Frequency - 60 Hz System - 3 Phase, 3 or 4 Wire Genset Starting Battery - 24V DC Voltage - 480 Volts AC PC40 Control Interface - Communication Network, MODBUS TCP Module Transfer Switch Warranty - 2 Year Comprehensive	1
7	Free-Standing, Pad Mount Load Bank, 225kW, 480V, 3-Ph, Nema 3R (loose)	1
8	No-Spec Startup Service and 1-Hr Load Bank Test	1

QUOTE TOTAL: \$ 169,943.87

Quote value does not include any tax.

NOTES:

This quote is issued pursuant to Sourcwell Contract No. 092222-CMM, including Amendment #1 dated August 5, 2025, which incorporates a limitation of liability clause. By issuing this PO, the Participating Entity agrees to be bound by the terms of the Sourcwell Master Agreement and its amendments.

Cummins quote is valid for 30 days. This quotation is based on contractor supplied info only. Contractor to verify application meets requirements. No specifications or drawings were provided.

LEAD TIME:

Submittals: Typical submittal lead time is 2-4 weeks after receipt of purchase order.

Equipment: Current lead-time is 18-20 weeks after submittal approval and release for production. Lead times are subject to change.

Please feel free to contact me if you require any additional information; or if you have any further questions or concerns that I may be of assistance with.

Thank you for choosing Cummins.

Submitted by:

Ryan Lowe, Territory Manager, Power Generation, Pacific Region
ak51i@cummins.com

SUBMITTALS. An order for the equipment covered by this quotation will be accepted on a hold for release basis. Your order will not be released and scheduled for production until written approval to proceed is received in our office. Such submittal approval shall constitute acceptance of the terms and conditions of this quotation unless the parties otherwise agree in writing.

THERE ARE ADDITIONAL CONTRACT TERMS AND CONDITIONS ATTACHED TO THIS QUOTATION, INCLUDING LIMITATIONS OF WARRANTIES AND LIABILITIES, WHICH ARE EXPRESSLY INCORPORATED HEREIN. BY ACCEPTING THIS QUOTATION, CUSTOMER ACKNOWLEDGES THAT THE CONTRACT TERMS AND CONDITIONS HAVE BEEN READ, FULLY UNDERSTOOD AND ACCEPTED.

Authorized Signature

Date

Company Name

Printed Name & Title

Purchase Order No

<Rest of the page is intentionally left blank>

TERMS AND CONDITIONS FOR SALE OF POWER GENERATION EQUIPMENT

These Terms and Conditions for Sale of Power Generation Equipment, together with the quote ("Quote"), sales order ("Sales Order"), and/or credit application ("Credit Application") on the front side or attached hereto, are hereinafter collectively referred to as this "Agreement" and shall constitute the entire agreement between the customer identified in the Quote ("Customer") and Cummins Inc. ("Cummins") and supersede any previous representation, statements, agreements or understanding (oral or written) between the parties with respect to the subject matter of this Agreement. Customer shall be deemed to have made an unqualified acceptance of these Terms and Conditions and it shall become a binding agreement between the parties on the earliest of the following to occur: (i) Cummins' receipt of Customer's purchase order or purchase order number; (ii) Customer's signing or acknowledgment of this Agreement; (iii) Cummins' release of equipment to production pursuant to Customer's oral or written instruction or direction; (iv) Customer's payment of any amounts due to Cummins; or (v) any other event constituting acceptance under applicable law. No prior inconsistent course of dealing, course of performance, or usage of trade, if any, constitutes a waiver of, or serves to explain or interpret, the Terms and Conditions set forth in this Agreement. Electronic transactions between Customer and Cummins will be solely governed by the Terms and Conditions of this Agreement, and any terms and conditions on Customer's website or other internet site will be null and void and of no legal effect on Cummins. In the event Customer delivers, references, incorporates by reference, or produces any purchase order or document, specifications, agreement (whether upstream or otherwise), or any other terms and conditions related thereto, then such specifications, terms, document, or other agreement: (i) shall be null and void and of no legal effect on Cummins, and (ii) this Agreement shall remain the governing terms of the transaction.

1. SCOPE. Cummins shall supply power generation equipment and any related parts, materials and/or services expressly identified in this Agreement (collectively, "Equipment"). No additional services, parts or materials are included in this Agreement unless mutually agreed upon by the parties in writing. A Sales Order for Equipment is accepted on a hold for release basis. The Sales Order will not be released and scheduled for production until written approval to proceed is received from Customer. A Quote is limited to the plans and specifications section specifically referenced in the Quote. No other sections shall apply. Additional requirements for administrative items may require additional costs. The Quote does not include off unit wiring, off unit plumbing, offloading, rigging, installation, exhaust insulation or fuel, unless otherwise stated and mutually agreed to in writing by the parties. Unless otherwise agreed by Cummins in writing, this Quote is valid for a maximum period of thirty (30) days from the date appearing on the first page of this Quote ("Quote Validation Period"). At the end of the Quote Validation Period, this Quote will automatically expire unless accepted by Customer prior to the end of the Quote Validation Period. The foregoing notwithstanding, in no event shall this Quote Validation Period be deemed or otherwise considered to be a firm offer period nor to establish an option contract, and Cummins hereby reserves its right to revoke or amend this Quote at any time prior to Customer's acceptance.

2. SHIPPING; DELIVERY; DELAYS. Unless otherwise agreed in writing by the parties, Equipment shall be delivered FOB origin, freight prepaid to first destination. For consumer and mobile products, freight will be charged to Customer. Unless otherwise agreed to in writing by the parties, packaging method, shipping documents and manner, route and carrier and delivery shall be as Cummins deems appropriate. Cummins may deliver in installments. A reasonable storage fee, as determined in Cummins' sole discretion, may be assessed if delivery of the Equipment is delayed, deferred, or refused by Customer. In the event Customer fails to take any or all shipments of Equipment ordered hereunder within thirty (30) days of the agreed upon delivery date, Cummins shall have the right, in its sole discretion to either (i) charge a minimum storage fee in the amount of one and one-half percent (1.5%) per month of the total quoted amount; or (ii) consider the Equipment abandoned and, subject to local laws, may (a) make the Equipment available for auction or sale to other customers or the public, or (b) otherwise use, destroy, or recycle the Equipment at Customer's sole cost and expense. The foregoing remedies shall be without prejudice to Cummins' right to pursue other remedies available under the law, including without limitation, recovery of costs and/or losses incurred due to the storage, auction, sale, destruction, recycling, or otherwise of the Equipment. Offloading, handling, and placement of Equipment and crane services are the responsibility of Customer and not included unless otherwise stated. All shipments are made within normal business hours, Monday through Friday. Any delivery, shipping, installation, or performance dates indicated in this Agreement are estimated and not guaranteed. Further, delivery time is subject to confirmation at time of order and will be in effect after engineering drawings have been approved for production. Cummins shall use commercially reasonable efforts to meet estimated dates, but shall not be liable to customer or any third party for any delay in delivery, shipping, installation, or performance, however occasioned, including any delays in performance that result directly or indirectly from acts of Customer or any unforeseen event, circumstance, or condition beyond Cummins' reasonable control including, but not limited to, acts of God, actions by any government authority, civil strife, fires, floods, windstorms, explosions, riots, natural disasters, embargos, wars, strikes or other labor disturbances, civil commotion, terrorism, sabotage, late delivery by Cummins' suppliers, fuel or other energy shortages, or an inability to obtain necessary labor, materials, supplies, equipment or manufacturing facilities. *AS A RESULT OF COVID-19 RELATED EFFECTS OR INDUSTRY SUPPLY CHAIN DISRUPTIONS, TEMPORARY DELAYS IN DELIVERY, LABOR OR SERVICES FROM CUMMINS AND ITS SUB-SUPPLIERS OR SUBCONTRACTORS MAY OCCUR. AMONG OTHER FACTORS, CUMMINS' DELIVERY OBLIGATIONS ARE SUBJECT TO CORRECT AND PUNCTUAL SUPPLY FROM OUR SUB-SUPPLIERS OR SUBCONTRACTORS, AND CUMMINS RESERVES THE RIGHT TO MAKE PARTIAL DELIVERIES OR MODIFY ITS LABOR OR SERVICE. WHILE CUMMINS SHALL MAKE COMMERCIALY REASONABLE EFFORTS TO MEET THE DELIVERY, SERVICE OR COMPLETION OBLIGATIONS SET FORTH HEREIN, SUCH DATES ARE SUBJECT TO CHANGE. IN THE EVENT DELIVERY, SHIPPING, INSTALLATION, OR PERFORMANCE IS DELAYED, HOWEVER OCCASSIONED, DUE TO EVENTS BEYOND CUMMINS' REASONABLE CONTROL, THEN THE DATE OF DELIVERY, SHIPPING, INSTALLATION, OR PERFORMANCE FOR THE EQUIPMENT OR SERVICES SHALL BE EQUITABLY EXTENDED FOR A PERIOD EQUAL TO THE TIME LOST, PLUS REASONABLE RAMP-UP.*

3. PAYMENT TERMS; CREDIT; RETAINAGE. Unless otherwise agreed to by the parties in writing and subject to credit approval by Cummins, payments are due thirty (30) days from the date of the invoice. If Customer does not have approved credit with Cummins,

as solely determined by Cummins, payments are due in advance or at the time of supply of the Equipment. If payment is not received when due, in addition to any rights Cummins may have at law, Cummins may charge Customer eighteen percent (18%) interest annually on late payments, or the maximum amount allowed by law. Customer agrees to pay Cummins' costs and expenses (including reasonable attorneys' fees) related to Cummins' enforcement and collection of unpaid invoices, or any other enforcement of this Agreement by Cummins. Retainage is not acceptable nor binding, unless required by statute or accepted and confirmed in writing by Cummins prior to shipment. If Customer fails to make any payments to Cummins when due and payable, and such failure continues for more than sixty (60) days from the date of the invoice, or less if required by applicable law, then Cummins may, at Cummins' sole discretion and without prejudice to any other rights or remedies, either (i) terminate this Agreement; or (ii) postpone delivery of any undelivered Equipment in Cummins' possession and/or suspend its services until payment for unpaid invoices is received.

4. TAXES; EXEMPTIONS. Unless otherwise stated, the Quote excludes all applicable local, state and federal sales and/or use taxes, permits and licensing. Customer must provide a valid resale or exemption certificate prior to shipment of Equipment or applicable taxes will be added to the invoice.

5. TITLE; RISK OF LOSS. Unless otherwise agreed in writing by the parties, title and risk of loss for the Equipment shall pass to Customer upon delivery of the Equipment by Cummins to freight carrier or to Customer at pickup at Cummins' facility.

6. INSPECTION AND ACCEPTANCE. Customer shall inspect the Equipment upon delivery, before offloading, for damage, defects, and shortage. Any and all claims which could have been discovered by such inspection shall be deemed absolutely and unconditionally waived unless noted by Customer on the bill of lading. Where Equipment is alleged to be non-conforming or defective, written notice of defect must be given to Cummins within three (3) days from date of delivery after which time Equipment shall be deemed accepted. Cummins shall have a commercially reasonable period of time in which to correct such non-conformity or defect. If non-conformity or defect is not eliminated to Customer's reasonable satisfaction, Customer may reject the Equipment (but shall protect the Equipment until returned to Cummins) or allow Cummins another opportunity to undertake corrective action. In the event startup of the Equipment is included in the services, acceptance shall be deemed to have occurred upon successful startup.

7. LIEN; SECURITY AGREEMENT. Customer agrees that Cummins retains all statutory lien rights. To secure payment, Customer grants Cummins a Purchase Money Security Interest in the Equipment. If any portion of the balance is due to be paid following delivery, Customer agrees to execute and deliver such security agreement, financing statements, deed of trust and such other documents as Cummins may request from time to time in order to permit Cummins to obtain and maintain a perfected security interest in the Equipment; or in the alternative, Customer grants Cummins a power of attorney to execute and file all financing statements and other documents needed to perfect this security interest. Cummins may record this Agreement, bearing Customer's signature, or copy of this Agreement in lieu of a UCC-1, provided that it shall not constitute an admission by Cummins of the applicability or non-applicability of the UCC nor shall the failure to file this form or a UCC-1 in any way affect, alter, or invalidate any term, provision, obligation or liability under this Agreement. The security interest shall be superseded if Customer and Cummins enter into a separate security agreement for the Equipment. Prior to full payment of the balance due, Equipment will be kept at Customer's location noted in this Agreement, will not be moved without prior notice to Cummins, and is subject to inspection by Cummins at all reasonable times.

05.01.2023

8. CANCELLATION; CHARGES. Orders placed with and accepted by Cummins may not be cancelled except with Cummins' prior written consent. If Customer seeks to cancel all or a portion of an order placed pursuant to this Agreement, and Cummins accepts such cancellation in whole or in part, Customer shall be assessed cancellation charges as follows: (i) 10% of total order price if cancellation is received in Cummins' office after Cummins has provided submittals and prior to releasing equipment to be manufactured; (ii) 25% of total order price if cancellation is received in Cummins' office after receipt of submittal release to order, receipt of a purchase order for a generator already on order with the factory, or is asked to make any hardware changes to the equipment already on order with the factory; (iii) 50% of total order price if cancellation is received in Cummins' office sixty (60) or fewer days before the scheduled shipping date on the order; or (iv) 100% of total order price if cancellation is received in Cummins' office after the equipment has shipped from the manufacturing plant.

9. TERMINATION. Cummins may, at any time, terminate this Agreement for convenience upon sixty (60) days' written notice to Customer. If the Customer defaults by (i) breaching any term of this Agreement, (ii) becoming insolvent or declared bankrupt, or (iii) making an assignment for the benefit of creditors, Cummins may, upon written notice to Customer, immediately terminate this Agreement. Upon such termination for default, Cummins shall immediately cease any further performance under this Agreement, without further obligation or liability to Customer, and Customer shall pay Cummins for any Equipment or services supplied under this Agreement, in accordance with the payment terms detailed in Section 3. If a notice of termination for default has been issued and is later determined, for any reason, that the Customer was not in default, the rights and obligations of the parties shall treat the termination as a termination for convenience.

10. MANUALS. Unless otherwise stated, electronic submittals and electronic operation and maintenance manuals will be provided, and print copies may be available upon Customer's request at an additional cost.

11. TRAINING; START UP SERVICES; INSTALLATION. Startup services, load bank testing, and owner training are not provided unless otherwise stated. Site startup will be subject to the account being current and will be performed during regular Cummins business hours, Monday to Friday. Additional charges may be added for work requested to be done outside standard business hours, on weekends, or holidays. One visit is allowed unless specified otherwise in the Quote. A minimum of two-week prior notice is required to schedule site startups and will be subject to prior commitments and equipment and travel availability. A signed site check sheet confirming readiness will be required, and Cummins personnel may perform an installation audit prior to the startup being completed. Any issues identified by the installation audit shall be corrected at the Customer's expense prior to the start-up. Portable load banks

for site test (if offered in the Quote) are equipped with only 100 feet of cable. Additional lengths may be arranged at an extra cost. Cummins is not responsible for any labor or materials charged by others associated with start-up and installation of Equipment, unless previously agreed upon in writing. Supply of fuel for start-up and/or testing, fill-up of tank after start up, or change of oil is not included unless specified in the Quote. All installation/execution work at the site including, but not limited to: civil, mechanical, electrical, supply of wall thimbles, exhaust extension pipe, elbows, hangers, expansion joints, insulation and cladding materials, fuel/oil/cooling system piping, air ducts, and louvers/dampers is not included unless specified in the Quote. When an enclosure or sub-base fuel tank (or both) are supplied, the openings provided for power cable and fuel piping entries, commonly referred to as “stub-ups”, must be sealed at the site by others before commissioning. All applications, inspections and/or approvals by authorities are to be arranged by Customer.

12. MANUFACTURER’S WARRANTY. Equipment purchased hereunder is accompanied by an express written manufacturer’s warranty (“Warranty”) and, except as expressly provided in this Agreement, is the only warranty offered on the Equipment. A copy of the Warranty is available upon request. While this Agreement and the Warranty are intended to be read and applied in conjunction, where this Agreement and the Warranty conflict, the terms of the Warranty shall prevail.

13. WARRANTY PROCEDURE. Prior to the expiration of the Warranty, Customer must give notice of a warrantable failure to Cummins and deliver the defective Equipment to a Cummins location or other location authorized and designated by Cummins to make the repairs during regular business hours. Cummins shall not be liable for towing charges, maintenance items such as oil filters, belts, hoses, etc., communication expenses, meals, lodging, and incidental expenses incurred by Customer or employees of Customer, “downtime” expenses, overtime expenses, cargo damages and any business costs and losses of revenue resulting from a warrantable failure.

14. LIMITATIONS ON WARRANTIES.

THE REMEDIES PROVIDED IN THE WARRANTY AND THIS AGREEMENT ARE THE SOLE AND EXCLUSIVE WARRANTIES AND REMEDIES PROVIDED BY CUMMINS TO THE CUSTOMER UNDER THIS AGREEMENT. EXCEPT AS SET OUT IN THE WARRANTY AND THIS AGREEMENT, AND TO THE EXTENT PERMITTED BY LAW, CUMMINS EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS, WARRANTIES, ENDORSEMENTS, AND CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY STATUTORY OR COMMON LAW IMPLIED REPRESENTATIONS, WARRANTIES AND CONDITIONS OF FITNESS FOR A PURPOSE OR MERCHANTABILITY.

The limited warranty does not cover Equipment failures resulting from: (a) inappropriate use relative to designated power rating; (b) inappropriate use relative to application guidelines; (c) inappropriate use of an EPA-SE application generator set relative to EPA’s standards; (d) normal wear and tear; (e) improper and/or unauthorized installation; (f) negligence, accidents, or misuse; (g) lack of maintenance or unauthorized or improper repair; (h) noncompliance with any Cummins published guideline or policy; (i) use of improper or contaminated fuels, coolants, or lubricants; (j) improper storage before and after commissioning; (k) owner’s delay in making Equipment available after notification of potential Equipment problem; (l) replacement parts and accessories not authorized by Cummins; (m) use of battle short mode; (n) owner or operator abuse or neglect such as: operation without adequate coolant, fuel, or lubricants; over fueling; over speeding; lack of maintenance to lubricating, fueling, cooling, or air intake systems; late servicing and maintenance; improper storage, starting, warm-up, running, or shutdown practices, or for progressive damage resulting from a defective shutdown or warning device; or (o) damage to parts, fixtures, housings, attachments and accessory items that are not part of the generating set.

15. INDEMNITY. Customer shall indemnify, defend and hold harmless Cummins from and against any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys’ fees, brought against or incurred by Cummins related to or arising out of this Agreement or the Equipment supplied under this Agreement (collectively, the “Claims”), where such Claims were caused or contributed to by, in whole or in part, the acts, omissions, fault or negligence of the Customer. Customer shall present any Claims covered by this indemnity to its insurance carrier unless Cummins directs that the defense will be handled by Cummins’ legal counsel at Customer’s expense.

16. LIMITATION OF LIABILITY

NOTWITHSTANDING ANY OTHER TERM OF THIS AGREEMENT, IN NO EVENT SHALL CUMMINS, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY, WHETHER IN CONTRACT OR IN TORT OR UNDER ANY OTHER LEGAL THEORY (INCLUDING, WITHOUT LIMITATION, STRICT LIABILITY OR NEGLIGENCE), FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, LIQUIDATED, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION DOWNTIME, LOSS OF PROFIT OR REVENUE, LOSS OF DATA, LOSS OF OPPORTUNITY, DAMAGE TO GOODWILL, ENHANCED DAMAGES, MONETARY REQUESTS RELATING TO RECALL EXPENSES AND REPAIRS TO PROPERTY, AND/OR DAMAGES CAUSED BY DELAY), OR IN ANY WAY RELATED TO OR ARISING FROM CUMMINS’ SUPPLY OF EQUIPMENT UNDER THIS AGREEMENT OR THE USE OR PERFORMANCE OF EQUIPMENT SUPPLIED UNDER THIS AGREEMENT. IN NO EVENT SHALL CUMMINS’ LIABILITY TO CUSTOMER OR ANY THIRD PARTY CLAIMING DIRECTLY THROUGH CUSTOMER OR ON CUSTOMER’S BEHALF UNDER THIS AGREEMENT EXCEED THE TOTAL COST OF EQUIPMENT SUPPLIED BY CUMMINS UNDER THIS AGREEMENT GIVING RISE TO THE CLAIM. BY ACCEPTANCE OF THIS AGREEMENT, CUSTOMER ACKNOWLEDGES CUSTOMER’S SOLE REMEDY AGAINST CUMMINS FOR ANY LOSS SHALL BE THE REMEDY PROVIDED HEREIN.

17. DEFAULT; REMEDIES. Customer shall be in breach and default if: (a) any of the payments or amounts due under this Agreement are not paid; (b) Customer fails to comply, perform, or makes any misrepresentation relating to any of the Customer’s obligations or covenants under this Agreement; or (c) prior to full payment of the balance due, Customer ceases to do business, becomes insolvent, makes an assignment for the benefit of its creditors, appoints a receiver, commences an action for dissolution or liquidation, or

becomes subject to bankruptcy proceedings, or the Equipment is attached, levied upon, seized under legal process, is subjected to a lien or encumbrance, or transferred by operation of law or otherwise to anyone other than Cummins. Upon the occurrence of any event of Customer's default, Cummins, at its sole option and without notice, shall have the right to exercise concurrently or separately any one or all of the following remedies, which shall be cumulative and not alternative: (a) to declare all sums due, and to become due, under this Agreement immediately due and payable; (b) to commence legal proceedings, including collection actions and specific performance proceedings, to enforce performance by Customer of any and all provisions of this Agreement, and to be awarded damages or injunctive relief for the Customer's breach; (c) to require the Customer to deliver the Equipment to Cummins' branch specified on the face of this Agreement; (d) to exercise one or more of the rights and remedies available to a secured party under applicable law; and (e) to enter, without notice or liability or legal process, onto any premises where the Equipment may be located, using force permitted by law, and there to disconnect, remove and repossess the Equipment, the Customer having waived further right to possession after default. A waiver of any event of default by Cummins shall not be a waiver as to any other or subsequent default.

18. CUSTOMER REPRESENTATIONS; RELIANCE. Customer is responsible for obtaining, at its cost, permits, import licenses, and other consents in relation to the Equipment, and if requested by Cummins, Customer shall make these permits, licenses, and consents available to Cummins prior to shipment. Customer represents that it is familiar with the Equipment and understands operating instructions and agrees to perform routine maintenance services. Until the balance is paid in full, Customer shall care for the Equipment properly, maintain it in good operating condition, repair and appearance; and Customer shall use it safely and within its rated capacity and only for purpose it was designed. Even if Customer's purchase of Equipment from Cummins under this Agreement is based, in whole or in part, on specifications, technical information, drawings, or written or verbal advice of any type from third parties, Customer has sole responsibility for the accuracy, correctness and completeness of such specifications, technical information, drawings, or advice. Cummins make no warranties or representations respecting the accuracy, correctness and completeness of any specifications, technical information, drawings, advice or other information provided by Cummins. Cummins makes no warranties or representations respecting the suitability, fitness for intended use, compatibility, integration or installation of any Equipment supplied under this Agreement. Customer has sole responsibility for intended use, for installation and design and performance where it is part of a power, propulsion, or other system. Limitation of warranties and remedies and all disclaimers apply to all such technical information, drawings, or advice. Customer acknowledges and agrees by accepting delivery of the Equipment that the Equipment purchased is of the size, design, capacity and manufacture selected by the Customer, and that Customer has relied solely on its own judgment in selecting the Equipment.

19. CONFIDENTIALITY. Each party shall keep confidential any information received from the other that is not generally known to the public and at the time of disclosure, would reasonably be understood by the receiving party to be proprietary or confidential, whether disclosed in oral, written, visual, electronic, or other form, and which the receiving party (or agents) learns in connection with this Agreement including, but not limited to: (a) business plans, strategies, sales, projects and analyses; (b) financial information, pricing, and fee structures; (c) business processes, methods, and models; (d) employee and supplier information; (e) specifications; and (f) the terms and conditions of this Agreement. Each party shall take necessary steps to ensure compliance with this provision by its employees and agents.

20. GOVERNING LAW AND JURISDICTION. This Agreement and all matters arising hereunder shall be governed by, interpreted, and construed in accordance with the laws of the State of Indiana without giving effect to any choice or conflict of law provision. The parties agree that the federal and state courts of the State of Indiana shall have exclusive jurisdiction to settle any dispute or claim arising in connection with this Agreement or any related matter, and hereby waive any right to claim such forum would be inappropriate, including concepts of forum non conveniens.

21. INSURANCE. Upon Customer's request, Cummins will provide to Customer a Certificate of Insurance evidencing Cummins' relevant insurance coverage.

22. ASSIGNMENT. This Agreement shall be binding on the parties and their successors and assigns. Customer shall not assign this Agreement without the prior written consent of Cummins.

23. INTELLECTUAL PROPERTY. Any intellectual property rights created by either party, whether independently or jointly, in the course of the performance of this Agreement or otherwise related to Cummins pre-existing intellectual property or subject matter related thereto, shall be Cummins' property. Customer agrees to assign, and does hereby assign, all right, title, and interest to such intellectual property to Cummins. Any Cummins pre-existing intellectual property shall remain Cummins' property. Nothing in this Agreement shall be deemed to have given Customer a license or any other rights to use any of the intellectual property rights of Cummins.

24. PRICING. To the extent allowed by law, actual prices invoiced to Customer may vary from the price quoted at the time of order placement, as the same will be adjusted for prices prevailing on the date of shipment due to economic and market conditions at the time of shipment. Subject to local laws, Cummins reserves the right to adjust pricing on goods and services due to input and labor cost changes and/or other unforeseen circumstances beyond Cummins' control.

25. TARIFF AND DUTY SURCHARGES. In addition to any adjustments otherwise provided for in this Agreement, in the event of any increase in the cost of purchased materials due to the impact of any tariffs, duties, levies, or similar government charges ("Tariffs") in effect during the term of this Agreement, the parties agree that such increases shall be passed through directly to the Customer effective immediately upon Cummins' notice to the Customer of such increases. The Customer shall pay Tariff-related increases within thirty (30) days of receipt of invoice.

26. MISCELLANEOUS. Cummins shall be an independent contractor under this Agreement. All notices under this Agreement shall be in writing and be delivered personally, mailed via first class certified or registered mail, or sent by a nationally recognized express courier service to the addresses set forth in this Agreement. No amendment of this Agreement shall be valid unless it is writing and

signed by an authorized representative of the parties hereto. Failure of either party to require performance by the other party of any provision hereof shall in no way affect the right to require such performance at any time thereafter, nor shall the waiver by a party of a breach of any of the provisions hereof constitute a waiver of any succeeding breach. Any provision of this Agreement that is invalid or unenforceable shall not affect the validity or enforceability of the remaining terms hereof. These terms are exclusive and constitute the entire agreement. Customer acknowledges that the provisions were freely negotiated and bargained for, and Customer has agreed to purchase of the Equipment pursuant to these Terms and Conditions. Acceptance of this Agreement is expressly conditioned on Customer's assent to all such Terms and Conditions. Neither party has relied on any statement, representation, agreement, understanding, or promise made by the other except as expressly set out in this Agreement. In the event Cummins incurs additional charges hereunder due to the acts or omissions of Customer, the additional charges will be passed on to the Customer, as applicable. Headings or other subdivisions of this Agreement are inserted for convenience of reference and shall not limit or affect the legal construction of any provision hereof. The Parties' rights, remedies, and obligations under this Agreement which by their nature are intended to continue beyond the termination or cancellation of this Agreement, including but not limited to the Section 16. Limitation of Liability provision contained herein, shall survive the expiration, termination, or cancellation of this Agreement.

27. COMPLIANCE. Customer shall comply with all laws applicable to its activities under this Agreement, including, without limitation, any and all applicable federal, state, and local anti-bribery, environmental, health, and safety laws and regulations then in effect. Customer acknowledges that the Equipment, and any related technology that are sold or otherwise provided hereunder may be subject to export and other trade controls restricting the sale, export, re-export and/or transfer, directly or indirectly, of such Equipment or technology to certain countries or parties, including, but not limited to, licensing requirements under applicable laws and regulations of the United States, the United Kingdom and other jurisdictions. It is the intention of Cummins to comply with these laws, rules, and regulations. Any other provision of this Agreement to the contrary notwithstanding, Customer shall comply with all such applicable all laws relating to the cross-border movement of goods or technology, and all related orders in effect from time to time, and equivalent measures. Customer shall act as the importer of record with respect to the Equipment and shall not resell, export, re-export, distribute, transfer, or dispose of the Equipment or related technology, directly or indirectly, without first obtaining all necessary written permits, consents, and authorizations and completing such formalities as may be required under such laws, rules, and regulations. In addition, Cummins has in place policies not to distribute its products for use in certain countries based on applicable laws and regulations including but not limited to UN, U.S., UK, and European Union regulations. Customer undertakes to perform its obligations under this Agreement with due regard to these policies. Strict compliance with this provision and all laws of the territory pertaining to the importation, distribution, sales, promotion and marketing of the Equipment is a material consideration for Cummins entering into this Agreement with Customer and continuing this Agreement for its term. Customer represents and warrants that it has not and shall not, directly or through any intermediary, pay, give, promise to give or offer to give anything of value to a government official or representative, a political party official, a candidate for political office, an officer or employee of a public international organization or any other person, individual or entity at the suggestion, request or direction or for the benefit of any of the above-described persons and entities for the purposes of inducing such person to use his influence to assist Cummins in obtaining or retaining business or to benefit Cummins or any other person in any way, and will not otherwise breach any applicable laws relating to anti-bribery. Any failure by Customer to comply with these provisions will constitute a default giving Cummins the right to immediate termination of this Agreement and/or the right to elect not to recognize the warranties associated with the Equipment. Customer shall accept full responsibility for any and all civil or criminal liabilities and costs arising from any breaches of those laws and regulations and will defend, indemnify, and hold Cummins harmless from and against any and all fines, penalties, claim, damages, liabilities, judgments, costs, fees, and expenses incurred by Cummins or its affiliates as a result of Customer's breach.

28. To the extent applicable, this contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability. The employee notice requirements set forth in 29 CFR Part 471, Appendix A to Subpart A, are hereby incorporated by reference into this contract.

January 8, 2026

To

Prepared by

Ryan Lowe

ak51i@cummins.com

We are pleased to provide you this quotation based on your inquiry.

Item	Description	Qty
1	C150D6D, Diesel Genset, 60Hz, 150kW U.S. EPA, Stationary Emergency Application C150D6D, Diesel Genset, 60Hz, 150kW Duty Rating - Standby Power (ESP) Emission Certification, EPA, Tier 3, NSPS CI Stationary Emergency Listing - UL 2200 NFPA 110 Type 10 Level 1 Capable IBC Seismic Certification Exciter/Reg - Torque Match Voltage - 277/480, 3 Phase, Wye, 4 Wire Alternator - 60Hz, Reconnect, Full Output, 105C, 40C Ambient, Increased Motor Starting (IMS) Aluminum Sound Attenuated Level 2 Enclosure, with Exhaust System Enclosure Color - Green, Aluminum Enclosure - Wind Load 180 MPH, ASCE7-10 Skidbase - Housing Ready Fuel Tank - Regional, Dual Wall, Sub Base, 24 Hour Minimum High Fuel Level Alarm Panel Fuel Water Separator High Fuel Level Switch, 90% Low Fuel Level Switch, 40% Mechanical Fuel Gauge 5 Gallon Lockable Spill Containment Fuel Fill Box Fuel Tank Vent Extension Kit, 12ft External Vents, 1 Normal, 2 Emergency Valve - Fuel Tank, Over Fill Protection Valve, 95% Switch - Fuel Tank, Rupture Basin Control Mounting - Left Facing PowerCommand 1.1 Controller Gauge - Oil Pressure Stop Switch - Emergency Control Display Language - English Load Connections - Dual Circuit Breaker, Location A, 70A - 250A, 3P, LSI, 600 Volts AC, 100%, UL Circuit Breaker, Location B, 70A - 250A, 3P, LSI, 600 Volts AC, 100%, UL Circuit Breaker or Terminal Box (Position C) - None Circuit Breaker or Entrance Box - Bottom Entry,Right Side	1



QUOTE TOTAL: \$ 92,664.04

Quote value does not include any tax.

NOTES:

This quote is issued pursuant to Sourcwell Contract No. 092222-CMM, including Amendment #1 dated August 5, 2025, which incorporates a limitation of liability clause. By issuing this PO, the Participating Entity agrees to be bound by the terms of the Sourcwell Master Agreement and its amendments.

Cummins quote is valid for 30 days. This quotation is based on contractor supplied info only. Contractor to verify application meets requirements. No specifications or drawings were provided.

LEAD TIME:

Submittals: Typical submittal lead time is 2-4 weeks after receipt of purchase order.

Equipment: Current lead-time is 14-15 weeks after submittal approval and release for production. Lead times are subject to change.

Please feel free to contact me if you require any additional information; or if you have any further questions or concerns that I may be of assistance with.

Thank you for choosing Cummins.

Submitted by:

Ryan Lowe, Territory Manager, Power Generation, Pacific Region
ak51i@cummins.com

SUBMITTALS. An order for the equipment covered by this quotation will be accepted on a hold for release basis. Your order will not be released and scheduled for production until written approval to proceed is received in our office. Such submittal approval shall constitute acceptance of the terms and conditions of this quotation unless the parties otherwise agree in writing.

THERE ARE ADDITIONAL CONTRACT TERMS AND CONDITIONS ATTACHED TO THIS QUOTATION, INCLUDING LIMITATIONS OF WARRANTIES AND LIABILITIES, WHICH ARE EXPRESSLY INCORPORATED HEREIN. BY ACCEPTING THIS QUOTATION, CUSTOMER ACKNOWLEDGES THAT THE CONTRACT TERMS AND CONDITIONS HAVE BEEN READ, FULLY UNDERSTOOD AND ACCEPTED.

Authorized Signature

Date

Company Name

Printed Name & Title

Purchase Order No

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TERMS AND CONDITIONS FOR SALE OF POWER GENERATION EQUIPMENT

These Terms and Conditions for Sale of Power Generation Equipment, together with the quote ("Quote"), sales order ("Sales Order"), and/or credit application ("Credit Application") on the front side or attached hereto, are hereinafter collectively referred to as this "Agreement" and shall constitute the entire agreement between the customer identified in the Quote ("Customer") and Cummins Inc. ("Cummins") and supersede any previous representation, statements, agreements or understanding (oral or written) between the parties with respect to the subject matter of this Agreement. Customer shall be deemed to have made an unqualified acceptance of these Terms and Conditions and it shall become a binding agreement between the parties on the earliest of the following to occur: (i) Cummins' receipt of Customer's purchase order or purchase order number; (ii) Customer's signing or acknowledgment of this Agreement; (iii) Cummins' release of equipment to production pursuant to Customer's oral or written instruction or direction; (iv) Customer's payment of any amounts due to Cummins; or (v) any other event constituting acceptance under applicable law. No prior inconsistent course of dealing, course of performance, or usage of trade, if any, constitutes a waiver of, or serves to explain or interpret, the Terms and Conditions set forth in this Agreement. Electronic transactions between Customer and Cummins will be solely governed by the Terms and Conditions of this Agreement, and any terms and conditions on Customer's website or other internet site will be null and void and of no legal effect on Cummins. In the event Customer delivers, references, incorporates by reference, or produces any purchase order or document, specifications, agreement (whether upstream or otherwise), or any other terms and conditions related thereto, then such specifications, terms, document, or other agreement: (i) shall be null and void and of no legal effect on Cummins, and (ii) this Agreement shall remain the governing terms of the transaction.

1. SCOPE. Cummins shall supply power generation equipment and any related parts, materials and/or services expressly identified in this Agreement (collectively, "Equipment"). No additional services, parts or materials are included in this Agreement unless mutually agreed upon by the parties in writing. A Sales Order for Equipment is accepted on a hold for release basis. The Sales Order will not be released and scheduled for production until written approval to proceed is received from Customer. A Quote is limited to the plans and specifications section specifically referenced in the Quote. No other sections shall apply. Additional requirements for administrative items may require additional costs. The Quote does not include off unit wiring, off unit plumbing, offloading, rigging, installation, exhaust insulation or fuel, unless otherwise stated and mutually agreed to in writing by the parties. Unless otherwise agreed by Cummins in writing, this Quote is valid for a maximum period of thirty (30) days from the date appearing on the first page of this Quote ("Quote Validation Period"). At the end of the Quote Validation Period, this Quote will automatically expire unless accepted by Customer prior to the end of the Quote Validation Period. The foregoing notwithstanding, in no event shall this Quote Validation Period be deemed or otherwise considered to be a firm offer period nor to establish an option contract, and Cummins hereby reserves its right to revoke or amend this Quote at any time prior to Customer's acceptance.

2. SHIPPING; DELIVERY; DELAYS. Unless otherwise agreed in writing by the parties, Equipment shall be delivered FOB origin, freight prepaid to first destination. For consumer and mobile products, freight will be charged to Customer. Unless otherwise agreed to in writing by the parties, packaging method, shipping documents and manner, route and carrier and delivery shall be as Cummins deems appropriate. Cummins may deliver in installments. A reasonable storage fee, as determined in Cummins' sole discretion, may be assessed if delivery of the Equipment is delayed, deferred, or refused by Customer. In the event Customer fails to take any or all shipments of Equipment ordered hereunder within thirty (30) days of the agreed upon delivery date, Cummins shall have the right, in its sole discretion to either (i) charge a minimum storage fee in the amount of one and one-half percent (1.5%) per month of the total quoted amount; or (ii) consider the Equipment abandoned and, subject to local laws, may (a) make the Equipment available for auction or sale to other customers or the public, or (b) otherwise use, destroy, or recycle the Equipment at Customer's sole cost and expense. The foregoing remedies shall be without prejudice to Cummins' right to pursue other remedies available under the law, including without limitation, recovery of costs and/or losses incurred due to the storage, auction, sale, destruction, recycling, or otherwise of the Equipment. Offloading, handling, and placement of Equipment and crane services are the responsibility of Customer and not included unless otherwise stated. All shipments are made within normal business hours, Monday through Friday. Any delivery, shipping, installation, or performance dates indicated in this Agreement are estimated and not guaranteed. Further, delivery time is subject to confirmation at time of order and will be in effect after engineering drawings have been approved for production. Cummins shall use commercially reasonable efforts to meet estimated dates, but shall not be liable to customer or any third party for any delay in delivery, shipping, installation, or performance, however occasioned, including any delays in performance that result directly or indirectly from acts of Customer or any unforeseen event, circumstance, or condition beyond Cummins' reasonable control including, but not limited to, acts of God, actions by any government authority, civil strife, fires, floods, windstorms, explosions, riots, natural disasters, embargos, wars, strikes or other labor disturbances, civil commotion, terrorism, sabotage, late delivery by Cummins' suppliers, fuel or other energy shortages, or an inability to obtain necessary labor, materials, supplies, equipment or manufacturing facilities. *AS A RESULT OF COVID-19 RELATED EFFECTS OR INDUSTRY SUPPLY CHAIN DISRUPTIONS, TEMPORARY DELAYS IN DELIVERY, LABOR OR SERVICES FROM CUMMINS AND ITS SUB-SUPPLIERS OR SUBCONTRACTORS MAY OCCUR. AMONG OTHER FACTORS, CUMMINS' DELIVERY OBLIGATIONS ARE SUBJECT TO CORRECT AND PUNCTUAL SUPPLY FROM OUR SUB-SUPPLIERS OR SUBCONTRACTORS, AND CUMMINS RESERVES THE RIGHT TO MAKE PARTIAL DELIVERIES OR MODIFY ITS LABOR OR SERVICE. WHILE CUMMINS SHALL MAKE COMMERCIALY REASONABLE EFFORTS TO MEET THE DELIVERY, SERVICE OR COMPLETION OBLIGATIONS SET FORTH HEREIN, SUCH DATES ARE SUBJECT TO CHANGE. IN THE EVENT DELIVERY, SHIPPING, INSTALLATION, OR PERFORMANCE IS DELAYED, HOWEVER OCCASSIONED, DUE TO EVENTS BEYOND CUMMINS' REASONABLE CONTROL, THEN THE DATE OF DELIVERY, SHIPPING, INSTALLATION, OR PERFORMANCE FOR THE EQUIPMENT OR SERVICES SHALL BE EQUITABLY EXTENDED FOR A PERIOD EQUAL TO THE TIME LOST, PLUS REASONABLE RAMP-UP.*

3. PAYMENT TERMS; CREDIT; RETAINAGE. Unless otherwise agreed to by the parties in writing and subject to credit approval by Cummins, payments are due thirty (30) days from the date of the invoice. If Customer does not have approved credit with Cummins,

as solely determined by Cummins, payments are due in advance or at the time of supply of the Equipment. If payment is not received when due, in addition to any rights Cummins may have at law, Cummins may charge Customer eighteen percent (18%) interest annually on late payments, or the maximum amount allowed by law. Customer agrees to pay Cummins' costs and expenses (including reasonable attorneys' fees) related to Cummins' enforcement and collection of unpaid invoices, or any other enforcement of this Agreement by Cummins. Retainage is not acceptable nor binding, unless required by statute or accepted and confirmed in writing by Cummins prior to shipment. If Customer fails to make any payments to Cummins when due and payable, and such failure continues for more than sixty (60) days from the date of the invoice, or less if required by applicable law, then Cummins may, at Cummins' sole discretion and without prejudice to any other rights or remedies, either (i) terminate this Agreement; or (ii) postpone delivery of any undelivered Equipment in Cummins' possession and/or suspend its services until payment for unpaid invoices is received.

4. TAXES; EXEMPTIONS. Unless otherwise stated, the Quote excludes all applicable local, state and federal sales and/or use taxes, permits and licensing. Customer must provide a valid resale or exemption certificate prior to shipment of Equipment or applicable taxes will be added to the invoice.

5. TITLE; RISK OF LOSS. Unless otherwise agreed in writing by the parties, title and risk of loss for the Equipment shall pass to Customer upon delivery of the Equipment by Cummins to freight carrier or to Customer at pickup at Cummins' facility.

6. INSPECTION AND ACCEPTANCE. Customer shall inspect the Equipment upon delivery, before offloading, for damage, defects, and shortage. Any and all claims which could have been discovered by such inspection shall be deemed absolutely and unconditionally waived unless noted by Customer on the bill of lading. Where Equipment is alleged to be non-conforming or defective, written notice of defect must be given to Cummins within three (3) days from date of delivery after which time Equipment shall be deemed accepted. Cummins shall have a commercially reasonable period of time in which to correct such non-conformity or defect. If non-conformity or defect is not eliminated to Customer's reasonable satisfaction, Customer may reject the Equipment (but shall protect the Equipment until returned to Cummins) or allow Cummins another opportunity to undertake corrective action. In the event startup of the Equipment is included in the services, acceptance shall be deemed to have occurred upon successful startup.

7. LIEN; SECURITY AGREEMENT. Customer agrees that Cummins retains all statutory lien rights. To secure payment, Customer grants Cummins a Purchase Money Security Interest in the Equipment. If any portion of the balance is due to be paid following delivery, Customer agrees to execute and deliver such security agreement, financing statements, deed of trust and such other documents as Cummins may request from time to time in order to permit Cummins to obtain and maintain a perfected security interest in the Equipment; or in the alternative, Customer grants Cummins a power of attorney to execute and file all financing statements and other documents needed to perfect this security interest. Cummins may record this Agreement, bearing Customer's signature, or copy of this Agreement in lieu of a UCC-1, provided that it shall not constitute an admission by Cummins of the applicability or non-applicability of the UCC nor shall the failure to file this form or a UCC-1 in any way affect, alter, or invalidate any term, provision, obligation or liability under this Agreement. The security interest shall be superseded if Customer and Cummins enter into a separate security agreement for the Equipment. Prior to full payment of the balance due, Equipment will be kept at Customer's location noted in this Agreement, will not be moved without prior notice to Cummins, and is subject to inspection by Cummins at all reasonable times.

05.01.2023

8. CANCELLATION; CHARGES. Orders placed with and accepted by Cummins may not be cancelled except with Cummins' prior written consent. If Customer seeks to cancel all or a portion of an order placed pursuant to this Agreement, and Cummins accepts such cancellation in whole or in part, Customer shall be assessed cancellation charges as follows: (i) 10% of total order price if cancellation is received in Cummins' office after Cummins has provided submittals and prior to releasing equipment to be manufactured; (ii) 25% of total order price if cancellation is received in Cummins' office after receipt of submittal release to order, receipt of a purchase order for a generator already on order with the factory, or is asked to make any hardware changes to the equipment already on order with the factory; (iii) 50% of total order price if cancellation is received in Cummins' office sixty (60) or fewer days before the scheduled shipping date on the order; or (iv) 100% of total order price if cancellation is received in Cummins' office after the equipment has shipped from the manufacturing plant.

9. TERMINATION. Cummins may, at any time, terminate this Agreement for convenience upon sixty (60) days' written notice to Customer. If the Customer defaults by (i) breaching any term of this Agreement, (ii) becoming insolvent or declared bankrupt, or (iii) making an assignment for the benefit of creditors, Cummins may, upon written notice to Customer, immediately terminate this Agreement. Upon such termination for default, Cummins shall immediately cease any further performance under this Agreement, without further obligation or liability to Customer, and Customer shall pay Cummins for any Equipment or services supplied under this Agreement, in accordance with the payment terms detailed in Section 3. If a notice of termination for default has been issued and is later determined, for any reason, that the Customer was not in default, the rights and obligations of the parties shall treat the termination as a termination for convenience.

10. MANUALS. Unless otherwise stated, electronic submittals and electronic operation and maintenance manuals will be provided, and print copies may be available upon Customer's request at an additional cost.

11. TRAINING; START UP SERVICES; INSTALLATION. Startup services, load bank testing, and owner training are not provided unless otherwise stated. Site startup will be subject to the account being current and will be performed during regular Cummins business hours, Monday to Friday. Additional charges may be added for work requested to be done outside standard business hours, on weekends, or holidays. One visit is allowed unless specified otherwise in the Quote. A minimum of two-week prior notice is required to schedule site startups and will be subject to prior commitments and equipment and travel availability. A signed site check sheet confirming readiness will be required, and Cummins personnel may perform an installation audit prior to the startup being completed. Any issues identified by the installation audit shall be corrected at the Customer's expense prior to the start-up. Portable load banks

for site test (if offered in the Quote) are equipped with only 100 feet of cable. Additional lengths may be arranged at an extra cost. Cummins is not responsible for any labor or materials charged by others associated with start-up and installation of Equipment, unless previously agreed upon in writing. Supply of fuel for start-up and/or testing, fill-up of tank after start up, or change of oil is not included unless specified in the Quote. All installation/execution work at the site including, but not limited to: civil, mechanical, electrical, supply of wall thimbles, exhaust extension pipe, elbows, hangers, expansion joints, insulation and cladding materials, fuel/oil/cooling system piping, air ducts, and louvers/dampers is not included unless specified in the Quote. When an enclosure or sub-base fuel tank (or both) are supplied, the openings provided for power cable and fuel piping entries, commonly referred to as "stub-ups", must be sealed at the site by others before commissioning. All applications, inspections and/or approvals by authorities are to be arranged by Customer.

12. MANUFACTURER'S WARRANTY. Equipment purchased hereunder is accompanied by an express written manufacturer's warranty ("Warranty") and, except as expressly provided in this Agreement, is the only warranty offered on the Equipment. A copy of the Warranty is available upon request. While this Agreement and the Warranty are intended to be read and applied in conjunction, where this Agreement and the Warranty conflict, the terms of the Warranty shall prevail.

13. WARRANTY PROCEDURE. Prior to the expiration of the Warranty, Customer must give notice of a warrantable failure to Cummins and deliver the defective Equipment to a Cummins location or other location authorized and designated by Cummins to make the repairs during regular business hours. Cummins shall not be liable for towing charges, maintenance items such as oil filters, belts, hoses, etc., communication expenses, meals, lodging, and incidental expenses incurred by Customer or employees of Customer, "downtime" expenses, overtime expenses, cargo damages and any business costs and losses of revenue resulting from a warrantable failure.

14. LIMITATIONS ON WARRANTIES.

THE REMEDIES PROVIDED IN THE WARRANTY AND THIS AGREEMENT ARE THE SOLE AND EXCLUSIVE WARRANTIES AND REMEDIES PROVIDED BY CUMMINS TO THE CUSTOMER UNDER THIS AGREEMENT. EXCEPT AS SET OUT IN THE WARRANTY AND THIS AGREEMENT, AND TO THE EXTENT PERMITTED BY LAW, CUMMINS EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS, WARRANTIES, ENDORSEMENTS, AND CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY STATUTORY OR COMMON LAW IMPLIED REPRESENTATIONS, WARRANTIES AND CONDITIONS OF FITNESS FOR A PURPOSE OR MERCHANTABILITY.

The limited warranty does not cover Equipment failures resulting from: (a) inappropriate use relative to designated power rating; (b) inappropriate use relative to application guidelines; (c) inappropriate use of an EPA-SE application generator set relative to EPA's standards; (d) normal wear and tear; (e) improper and/or unauthorized installation; (f) negligence, accidents, or misuse; (g) lack of maintenance or unauthorized or improper repair; (h) noncompliance with any Cummins published guideline or policy; (i) use of improper or contaminated fuels, coolants, or lubricants; (j) improper storage before and after commissioning; (k) owner's delay in making Equipment available after notification of potential Equipment problem; (l) replacement parts and accessories not authorized by Cummins; (m) use of battle short mode; (n) owner or operator abuse or neglect such as: operation without adequate coolant, fuel, or lubricants; over fueling; over speeding; lack of maintenance to lubricating, fueling, cooling, or air intake systems; late servicing and maintenance; improper storage, starting, warm-up, running, or shutdown practices, or for progressive damage resulting from a defective shutdown or warning device; or (o) damage to parts, fixtures, housings, attachments and accessory items that are not part of the generating set.

15. INDEMNITY. Customer shall indemnify, defend and hold harmless Cummins from and against any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys' fees, brought against or incurred by Cummins related to or arising out of this Agreement or the Equipment supplied under this Agreement (collectively, the "Claims"), where such Claims were caused or contributed to by, in whole or in part, the acts, omissions, fault or negligence of the Customer. Customer shall present any Claims covered by this indemnity to its insurance carrier unless Cummins directs that the defense will be handled by Cummins' legal counsel at Customer's expense.

16. LIMITATION OF LIABILITY

NOTWITHSTANDING ANY OTHER TERM OF THIS AGREEMENT, IN NO EVENT SHALL CUMMINS, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY, WHETHER IN CONTRACT OR IN TORT OR UNDER ANY OTHER LEGAL THEORY (INCLUDING, WITHOUT LIMITATION, STRICT LIABILITY OR NEGLIGENCE), FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, LIQUIDATED, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION DOWNTIME, LOSS OF PROFIT OR REVENUE, LOSS OF DATA, LOSS OF OPPORTUNITY, DAMAGE TO GOODWILL, ENHANCED DAMAGES, MONETARY REQUESTS RELATING TO RECALL EXPENSES AND REPAIRS TO PROPERTY, AND/OR DAMAGES CAUSED BY DELAY), OR IN ANY WAY RELATED TO OR ARISING FROM CUMMINS' SUPPLY OF EQUIPMENT UNDER THIS AGREEMENT OR THE USE OR PERFORMANCE OF EQUIPMENT SUPPLIED UNDER THIS AGREEMENT. IN NO EVENT SHALL CUMMINS' LIABILITY TO CUSTOMER OR ANY THIRD PARTY CLAIMING DIRECTLY THROUGH CUSTOMER OR ON CUSTOMER'S BEHALF UNDER THIS AGREEMENT EXCEED THE TOTAL COST OF EQUIPMENT SUPPLIED BY CUMMINS UNDER THIS AGREEMENT GIVING RISE TO THE CLAIM. BY ACCEPTANCE OF THIS AGREEMENT, CUSTOMER ACKNOWLEDGES CUSTOMER'S SOLE REMEDY AGAINST CUMMINS FOR ANY LOSS SHALL BE THE REMEDY PROVIDED HEREIN.

17. DEFAULT; REMEDIES. Customer shall be in breach and default if: (a) any of the payments or amounts due under this Agreement are not paid; (b) Customer fails to comply, perform, or makes any misrepresentation relating to any of the Customer's obligations or covenants under this Agreement; or (c) prior to full payment of the balance due, Customer ceases to do business, becomes insolvent, makes an assignment for the benefit of its creditors, appoints a receiver, commences an action for dissolution or liquidation, or

becomes subject to bankruptcy proceedings, or the Equipment is attached, levied upon, seized under legal process, is subjected to a lien or encumbrance, or transferred by operation of law or otherwise to anyone other than Cummins. Upon the occurrence of any event of Customer's default, Cummins, at its sole option and without notice, shall have the right to exercise concurrently or separately any one or all of the following remedies, which shall be cumulative and not alternative: (a) to declare all sums due, and to become due, under this Agreement immediately due and payable; (b) to commence legal proceedings, including collection actions and specific performance proceedings, to enforce performance by Customer of any and all provisions of this Agreement, and to be awarded damages or injunctive relief for the Customer's breach; (c) to require the Customer to deliver the Equipment to Cummins' branch specified on the face of this Agreement; (d) to exercise one or more of the rights and remedies available to a secured party under applicable law; and (e) to enter, without notice or liability or legal process, onto any premises where the Equipment may be located, using force permitted by law, and there to disconnect, remove and repossess the Equipment, the Customer having waived further right to possession after default. A waiver of any event of default by Cummins shall not be a waiver as to any other or subsequent default.

18. CUSTOMER REPRESENTATIONS; RELIANCE. Customer is responsible for obtaining, at its cost, permits, import licenses, and other consents in relation to the Equipment, and if requested by Cummins, Customer shall make these permits, licenses, and consents available to Cummins prior to shipment. Customer represents that it is familiar with the Equipment and understands operating instructions and agrees to perform routine maintenance services. Until the balance is paid in full, Customer shall care for the Equipment properly, maintain it in good operating condition, repair and appearance; and Customer shall use it safely and within its rated capacity and only for purpose it was designed. Even if Customer's purchase of Equipment from Cummins under this Agreement is based, in whole or in part, on specifications, technical information, drawings, or written or verbal advice of any type from third parties, Customer has sole responsibility for the accuracy, correctness and completeness of such specifications, technical information, drawings, or advice. Cummins make no warranties or representations respecting the accuracy, correctness and completeness of any specifications, technical information, drawings, advice or other information provided by Cummins. Cummins makes no warranties or representations respecting the suitability, fitness for intended use, compatibility, integration or installation of any Equipment supplied under this Agreement. Customer has sole responsibility for intended use, for installation and design and performance where it is part of a power, propulsion, or other system. Limitation of warranties and remedies and all disclaimers apply to all such technical information, drawings, or advice. Customer acknowledges and agrees by accepting delivery of the Equipment that the Equipment purchased is of the size, design, capacity and manufacture selected by the Customer, and that Customer has relied solely on its own judgment in selecting the Equipment.

19. CONFIDENTIALITY. Each party shall keep confidential any information received from the other that is not generally known to the public and at the time of disclosure, would reasonably be understood by the receiving party to be proprietary or confidential, whether disclosed in oral, written, visual, electronic, or other form, and which the receiving party (or agents) learns in connection with this Agreement including, but not limited to: (a) business plans, strategies, sales, projects and analyses; (b) financial information, pricing, and fee structures; (c) business processes, methods, and models; (d) employee and supplier information; (e) specifications; and (f) the terms and conditions of this Agreement. Each party shall take necessary steps to ensure compliance with this provision by its employees and agents.

20. GOVERNING LAW AND JURISDICTION. This Agreement and all matters arising hereunder shall be governed by, interpreted, and construed in accordance with the laws of the State of Indiana without giving effect to any choice or conflict of law provision. The parties agree that the federal and state courts of the State of Indiana shall have exclusive jurisdiction to settle any dispute or claim arising in connection with this Agreement or any related matter, and hereby waive any right to claim such forum would be inappropriate, including concepts of forum non conveniens.

21. INSURANCE. Upon Customer's request, Cummins will provide to Customer a Certificate of Insurance evidencing Cummins' relevant insurance coverage.

22. ASSIGNMENT. This Agreement shall be binding on the parties and their successors and assigns. Customer shall not assign this Agreement without the prior written consent of Cummins.

23. INTELLECTUAL PROPERTY. Any intellectual property rights created by either party, whether independently or jointly, in the course of the performance of this Agreement or otherwise related to Cummins pre-existing intellectual property or subject matter related thereto, shall be Cummins' property. Customer agrees to assign, and does hereby assign, all right, title, and interest to such intellectual property to Cummins. Any Cummins pre-existing intellectual property shall remain Cummins' property. Nothing in this Agreement shall be deemed to have given Customer a license or any other rights to use any of the intellectual property rights of Cummins.

24. PRICING. To the extent allowed by law, actual prices invoiced to Customer may vary from the price quoted at the time of order placement, as the same will be adjusted for prices prevailing on the date of shipment due to economic and market conditions at the time of shipment. Subject to local laws, Cummins reserves the right to adjust pricing on goods and services due to input and labor cost changes and/or other unforeseen circumstances beyond Cummins' control.

25. TARIFF AND DUTY SURCHARGES. In addition to any adjustments otherwise provided for in this Agreement, in the event of any increase in the cost of purchased materials due to the impact of any tariffs, duties, levies, or similar government charges ("Tariffs") in effect during the term of this Agreement, the parties agree that such increases shall be passed through directly to the Customer effective immediately upon Cummins' notice to the Customer of such increases. The Customer shall pay Tariff-related increases within thirty (30) days of receipt of invoice.

26. MISCELLANEOUS. Cummins shall be an independent contractor under this Agreement. All notices under this Agreement shall be in writing and be delivered personally, mailed via first class certified or registered mail, or sent by a nationally recognized express courier service to the addresses set forth in this Agreement. No amendment of this Agreement shall be valid unless it is writing and

signed by an authorized representative of the parties hereto. Failure of either party to require performance by the other party of any provision hereof shall in no way affect the right to require such performance at any time thereafter, nor shall the waiver by a party of a breach of any of the provisions hereof constitute a waiver of any succeeding breach. Any provision of this Agreement that is invalid or unenforceable shall not affect the validity or enforceability of the remaining terms hereof. These terms are exclusive and constitute the entire agreement. Customer acknowledges that the provisions were freely negotiated and bargained for, and Customer has agreed to purchase of the Equipment pursuant to these Terms and Conditions. Acceptance of this Agreement is expressly conditioned on Customer's assent to all such Terms and Conditions. Neither party has relied on any statement, representation, agreement, understanding, or promise made by the other except as expressly set out in this Agreement. In the event Cummins incurs additional charges hereunder due to the acts or omissions of Customer, the additional charges will be passed on to the Customer, as applicable. Headings or other subdivisions of this Agreement are inserted for convenience of reference and shall not limit or affect the legal construction of any provision hereof. The Parties' rights, remedies, and obligations under this Agreement which by their nature are intended to continue beyond the termination or cancellation of this Agreement, including but not limited to the Section 16. Limitation of Liability provision contained herein, shall survive the expiration, termination, or cancellation of this Agreement.

27. COMPLIANCE. Customer shall comply with all laws applicable to its activities under this Agreement, including, without limitation, any and all applicable federal, state, and local anti-bribery, environmental, health, and safety laws and regulations then in effect. Customer acknowledges that the Equipment, and any related technology that are sold or otherwise provided hereunder may be subject to export and other trade controls restricting the sale, export, re-export and/or transfer, directly or indirectly, of such Equipment or technology to certain countries or parties, including, but not limited to, licensing requirements under applicable laws and regulations of the United States, the United Kingdom and other jurisdictions. It is the intention of Cummins to comply with these laws, rules, and regulations. Any other provision of this Agreement to the contrary notwithstanding, Customer shall comply with all such applicable all laws relating to the cross-border movement of goods or technology, and all related orders in effect from time to time, and equivalent measures. Customer shall act as the importer of record with respect to the Equipment and shall not resell, export, re-export, distribute, transfer, or dispose of the Equipment or related technology, directly or indirectly, without first obtaining all necessary written permits, consents, and authorizations and completing such formalities as may be required under such laws, rules, and regulations. In addition, Cummins has in place policies not to distribute its products for use in certain countries based on applicable laws and regulations including but not limited to UN, U.S., UK, and European Union regulations. Customer undertakes to perform its obligations under this Agreement with due regard to these policies. Strict compliance with this provision and all laws of the territory pertaining to the importation, distribution, sales, promotion and marketing of the Equipment is a material consideration for Cummins entering into this Agreement with Customer and continuing this Agreement for its term. Customer represents and warrants that it has not and shall not, directly or through any intermediary, pay, give, promise to give or offer to give anything of value to a government official or representative, a political party official, a candidate for political office, an officer or employee of a public international organization or any other person, individual or entity at the suggestion, request or direction or for the benefit of any of the above-described persons and entities for the purposes of inducing such person to use his influence to assist Cummins in obtaining or retaining business or to benefit Cummins or any other person in any way, and will not otherwise breach any applicable laws relating to anti-bribery. Any failure by Customer to comply with these provisions will constitute a default giving Cummins the right to immediate termination of this Agreement and/or the right to elect not to recognize the warranties associated with the Equipment. Customer shall accept full responsibility for any and all civil or criminal liabilities and costs arising from any breaches of those laws and regulations and will defend, indemnify, and hold Cummins harmless from and against any and all fines, penalties, claim, damages, liabilities, judgments, costs, fees, and expenses incurred by Cummins or its affiliates as a result of Customer's breach.

28. To the extent applicable, this contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability. The employee notice requirements set forth in 29 CFR Part 471, Appendix A to Subpart A, are hereby incorporated by reference into this contract.

January 8, 2026

To

Prepared by

Ryan Lowe

ak51i@cummins.com

We are pleased to provide you this quotation based on your inquiry.

Item	Description	Qty
1	DFEJ Commercial Diesel Generator Set, 450kW Standby 60Hz U.S. EPA, Stationary Emergency Application 450DFEJ, Diesel Genset, 60Hz, 450kW-Standby Rating Duty Rating - Standby Power (ESP) Emission Certification, EPA, Tier 2, NSPS CI Stationary Emergency Listing - UL 2200 IBC Seismic Certification Voltage - 277/480, 3 Phase, Wye, 4 Wire Alternator - 60Hz, 12 Lead, Extended Range, 125/105C Steel Sound Attenuated Level 2 Enclosure, with Exhaust System Enclosure Color - Green, Steel Wind Rating - 150 MPH, Steel Housing Fuel Tank - Sub Base, 850 Gallon, UL142 Compliant Compliance - Fuel Tank, Florida Listing, ULC - S601-07 Alarm-High Fuel Fill Fuel Water Separator Control Mounting - Left Facing PowerCommand 2.3 Controller LCD Control Display Stop Switch - Emergency, Externally Mounted Control Display Language - English Circuit Breaker or Entrance Box or Terminal Box - Right And Left Circuit Breaker - 800A, Left Circuit Breaker on Right side, 3 - Pole, UL 600, IEC 690 100% Circuit Breaker - 400A, Right Circuit Breaker on Right side, 3 - Pole, UL 600, IEC 690 100% Circuit Breaker or Entrance Box - Bottom Entry,Left Side Circuit Breaker or Entrance Box - Bottom Entry,Right Side Engine Exhaust Connection - None Engine Air Cleaner - Normal Duty External Battery Charger - 12 Amp, Regulated Engine Cooling - Radiator, 40C Ambient Shutdown - Low Coolant Level Coolant Heater - 208/240/480 Volts AC, Below 40F Ambient Temperature Genset Warranty - 2 Years Base Literature - English	1

Item	Description	Qty
	Packing - None, Base Mounted Housing	
2	OFPV, 9095-S Morrison	1
3	2" Atmospheric Vent Pipe	1
4	Battery, Group 34	4
5	Flowline EchoPod DS14, gives up to 5 different level alarms	1
6	OTECSED, OTEC Service Entrance Transfer Switch-Electronic Control: 800A/1000A Not Applicable OTECSE800, Service Entrance TransferSwitch, PowerCommand, 800 Amp Listing - UL 1008 IBC Seismic Certification Application - Utility to Genset Cabinet - Type 3R Poles - 3 (Solid Neutral) Frequency - 60 Hz System - 3 Phase, 3 or 4 Wire Voltage - 480 Volts AC Genset Starting Battery - 24V DC PC40 Control Interface - Communication Network, MODBUS TCP Module Transfer Switch Warranty - 2 Year Comprehensive	1
7	Free-Standing Pad Mount Load Bank, 250kW, 480V, 3-Ph, Nema 3R (loose)	1
8	No-spec Startup Service and 1-Hr Load Bank Test	1

QUOTE TOTAL: \$ 178,646.61

Quote value does not include any tax.

NOTES:

This quote is issued pursuant to Sourcwell Contract No. 092222-CMM, including Amendment #1 dated August 5, 2025, which incorporates a limitation of liability clause. By issuing this PO, the Participating Entity agrees to be bound by the terms of the Sourcwell Master Agreement and its amendments.

Cummins quote is valid for 30 days. This quotation is based on contractor supplied info only. Contractor to verify application meets requirements. No specifications or drawings were provided.

LEAD TIME:

Submittals: Typical submittal lead time is 2-4 weeks after receipt of purchase order.

Equipment: Current lead-time is 18-20 weeks after submittal approval and release for production. Lead times are subject to change.

Please feel free to contact me if you require any additional information; or if you have any further questions or concerns that I may be of assistance with.

Thank you for choosing Cummins.

Submitted by:

Ryan Lowe, Territory Manager, Power Generation, Pacific Region
ak51i@cummins.com



SUBMITTALS. An order for the equipment covered by this quotation will be accepted on a hold for release basis. Your order will not be released and scheduled for production until written approval to proceed is received in our office. Such submittal approval shall constitute acceptance of the terms and conditions of this quotation unless the parties otherwise agree in writing.

THERE ARE ADDITIONAL CONTRACT TERMS AND CONDITIONS ATTACHED TO THIS QUOTATION, INCLUDING LIMITATIONS OF WARRANTIES AND LIABILITIES, WHICH ARE EXPRESSLY INCORPORATED HEREIN. BY ACCEPTING THIS QUOTATION, CUSTOMER ACKNOWLEDGES THAT THE CONTRACT TERMS AND CONDITIONS HAVE BEEN READ, FULLY UNDERSTOOD AND ACCEPTED.

Authorized Signature

Date

Company Name

Printed Name & Title

Purchase Order No

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TERMS AND CONDITIONS FOR SALE OF POWER GENERATION EQUIPMENT

These Terms and Conditions for Sale of Power Generation Equipment, together with the quote ("Quote"), sales order ("Sales Order"), and/or credit application ("Credit Application") on the front side or attached hereto, are hereinafter collectively referred to as this "Agreement" and shall constitute the entire agreement between the customer identified in the Quote ("Customer") and Cummins Inc. ("Cummins") and supersede any previous representation, statements, agreements or understanding (oral or written) between the parties with respect to the subject matter of this Agreement. Customer shall be deemed to have made an unqualified acceptance of these Terms and Conditions and it shall become a binding agreement between the parties on the earliest of the following to occur: (i) Cummins' receipt of Customer's purchase order or purchase order number; (ii) Customer's signing or acknowledgment of this Agreement; (iii) Cummins' release of equipment to production pursuant to Customer's oral or written instruction or direction; (iv) Customer's payment of any amounts due to Cummins; or (v) any other event constituting acceptance under applicable law. No prior inconsistent course of dealing, course of performance, or usage of trade, if any, constitutes a waiver of, or serves to explain or interpret, the Terms and Conditions set forth in this Agreement. Electronic transactions between Customer and Cummins will be solely governed by the Terms and Conditions of this Agreement, and any terms and conditions on Customer's website or other internet site will be null and void and of no legal effect on Cummins. In the event Customer delivers, references, incorporates by reference, or produces any purchase order or document, specifications, agreement (whether upstream or otherwise), or any other terms and conditions related thereto, then such specifications, terms, document, or other agreement: (i) shall be null and void and of no legal effect on Cummins, and (ii) this Agreement shall remain the governing terms of the transaction.

1. SCOPE. Cummins shall supply power generation equipment and any related parts, materials and/or services expressly identified in this Agreement (collectively, "Equipment"). No additional services, parts or materials are included in this Agreement unless mutually agreed upon by the parties in writing. A Sales Order for Equipment is accepted on a hold for release basis. The Sales Order will not be released and scheduled for production until written approval to proceed is received from Customer. A Quote is limited to the plans and specifications section specifically referenced in the Quote. No other sections shall apply. Additional requirements for administrative items may require additional costs. The Quote does not include off unit wiring, off unit plumbing, offloading, rigging, installation, exhaust insulation or fuel, unless otherwise stated and mutually agreed to in writing by the parties. Unless otherwise agreed by Cummins in writing, this Quote is valid for a maximum period of thirty (30) days from the date appearing on the first page of this Quote ("Quote Validation Period"). At the end of the Quote Validation Period, this Quote will automatically expire unless accepted by Customer prior to the end of the Quote Validation Period. The foregoing notwithstanding, in no event shall this Quote Validation Period be deemed or otherwise considered to be a firm offer period nor to establish an option contract, and Cummins hereby reserves its right to revoke or amend this Quote at any time prior to Customer's acceptance.

2. SHIPPING; DELIVERY; DELAYS. Unless otherwise agreed in writing by the parties, Equipment shall be delivered FOB origin, freight prepaid to first destination. For consumer and mobile products, freight will be charged to Customer. Unless otherwise agreed to in writing by the parties, packaging method, shipping documents and manner, route and carrier and delivery shall be as Cummins deems appropriate. Cummins may deliver in installments. A reasonable storage fee, as determined in Cummins' sole discretion, may be assessed if delivery of the Equipment is delayed, deferred, or refused by Customer. In the event Customer fails to take any or all shipments of Equipment ordered hereunder within thirty (30) days of the agreed upon delivery date, Cummins shall have the right, in its sole discretion to either (i) charge a minimum storage fee in the amount of one and one-half percent (1.5%) per month of the total quoted amount; or (ii) consider the Equipment abandoned and, subject to local laws, may (a) make the Equipment available for auction or sale to other customers or the public, or (b) otherwise use, destroy, or recycle the Equipment at Customer's sole cost and expense. The foregoing remedies shall be without prejudice to Cummins' right to pursue other remedies available under the law, including without limitation, recovery of costs and/or losses incurred due to the storage, auction, sale, destruction, recycling, or otherwise of the Equipment. Offloading, handling, and placement of Equipment and crane services are the responsibility of Customer and not included unless otherwise stated. All shipments are made within normal business hours, Monday through Friday. Any delivery, shipping, installation, or performance dates indicated in this Agreement are estimated and not guaranteed. Further, delivery time is subject to confirmation at time of order and will be in effect after engineering drawings have been approved for production. Cummins shall use commercially reasonable efforts to meet estimated dates, but shall not be liable to customer or any third party for any delay in delivery, shipping, installation, or performance, however occasioned, including any delays in performance that result directly or indirectly from acts of Customer or any unforeseen event, circumstance, or condition beyond Cummins' reasonable control including, but not limited to, acts of God, actions by any government authority, civil strife, fires, floods, windstorms, explosions, riots, natural disasters, embargos, wars, strikes or other labor disturbances, civil commotion, terrorism, sabotage, late delivery by Cummins' suppliers, fuel or other energy shortages, or an inability to obtain necessary labor, materials, supplies, equipment or manufacturing facilities. *AS A RESULT OF COVID-19 RELATED EFFECTS OR INDUSTRY SUPPLY CHAIN DISRUPTIONS, TEMPORARY DELAYS IN DELIVERY, LABOR OR SERVICES FROM CUMMINS AND ITS SUB-SUPPLIERS OR SUBCONTRACTORS MAY OCCUR. AMONG OTHER FACTORS, CUMMINS' DELIVERY OBLIGATIONS ARE SUBJECT TO CORRECT AND PUNCTUAL SUPPLY FROM OUR SUB-SUPPLIERS OR SUBCONTRACTORS, AND CUMMINS RESERVES THE RIGHT TO MAKE PARTIAL DELIVERIES OR MODIFY ITS LABOR OR SERVICE. WHILE CUMMINS SHALL MAKE COMMERCIALY REASONABLE EFFORTS TO MEET THE DELIVERY, SERVICE OR COMPLETION OBLIGATIONS SET FORTH HEREIN, SUCH DATES ARE SUBJECT TO CHANGE. IN THE EVENT DELIVERY, SHIPPING, INSTALLATION, OR PERFORMANCE IS DELAYED, HOWEVER OCCASSIONED, DUE TO EVENTS BEYOND CUMMINS' REASONABLE CONTROL, THEN THE DATE OF DELIVERY, SHIPPING, INSTALLATION, OR PERFORMANCE FOR THE EQUIPMENT OR SERVICES SHALL BE EQUITABLY EXTENDED FOR A PERIOD EQUAL TO THE TIME LOST, PLUS REASONABLE RAMP-UP.*

3. PAYMENT TERMS; CREDIT; RETAINAGE. Unless otherwise agreed to by the parties in writing and subject to credit approval by Cummins, payments are due thirty (30) days from the date of the invoice. If Customer does not have approved credit with Cummins,

as solely determined by Cummins, payments are due in advance or at the time of supply of the Equipment. If payment is not received when due, in addition to any rights Cummins may have at law, Cummins may charge Customer eighteen percent (18%) interest annually on late payments, or the maximum amount allowed by law. Customer agrees to pay Cummins' costs and expenses (including reasonable attorneys' fees) related to Cummins' enforcement and collection of unpaid invoices, or any other enforcement of this Agreement by Cummins. Retainage is not acceptable nor binding, unless required by statute or accepted and confirmed in writing by Cummins prior to shipment. If Customer fails to make any payments to Cummins when due and payable, and such failure continues for more than sixty (60) days from the date of the invoice, or less if required by applicable law, then Cummins may, at Cummins' sole discretion and without prejudice to any other rights or remedies, either (i) terminate this Agreement; or (ii) postpone delivery of any undelivered Equipment in Cummins' possession and/or suspend its services until payment for unpaid invoices is received.

4. TAXES; EXEMPTIONS. Unless otherwise stated, the Quote excludes all applicable local, state and federal sales and/or use taxes, permits and licensing. Customer must provide a valid resale or exemption certificate prior to shipment of Equipment or applicable taxes will be added to the invoice.

5. TITLE; RISK OF LOSS. Unless otherwise agreed in writing by the parties, title and risk of loss for the Equipment shall pass to Customer upon delivery of the Equipment by Cummins to freight carrier or to Customer at pickup at Cummins' facility.

6. INSPECTION AND ACCEPTANCE. Customer shall inspect the Equipment upon delivery, before offloading, for damage, defects, and shortage. Any and all claims which could have been discovered by such inspection shall be deemed absolutely and unconditionally waived unless noted by Customer on the bill of lading. Where Equipment is alleged to be non-conforming or defective, written notice of defect must be given to Cummins within three (3) days from date of delivery after which time Equipment shall be deemed accepted. Cummins shall have a commercially reasonable period of time in which to correct such non-conformity or defect. If non-conformity or defect is not eliminated to Customer's reasonable satisfaction, Customer may reject the Equipment (but shall protect the Equipment until returned to Cummins) or allow Cummins another opportunity to undertake corrective action. In the event startup of the Equipment is included in the services, acceptance shall be deemed to have occurred upon successful startup.

7. LIEN; SECURITY AGREEMENT. Customer agrees that Cummins retains all statutory lien rights. To secure payment, Customer grants Cummins a Purchase Money Security Interest in the Equipment. If any portion of the balance is due to be paid following delivery, Customer agrees to execute and deliver such security agreement, financing statements, deed of trust and such other documents as Cummins may request from time to time in order to permit Cummins to obtain and maintain a perfected security interest in the Equipment; or in the alternative, Customer grants Cummins a power of attorney to execute and file all financing statements and other documents needed to perfect this security interest. Cummins may record this Agreement, bearing Customer's signature, or copy of this Agreement in lieu of a UCC-1, provided that it shall not constitute an admission by Cummins of the applicability or non-applicability of the UCC nor shall the failure to file this form or a UCC-1 in any way affect, alter, or invalidate any term, provision, obligation or liability under this Agreement. The security interest shall be superseded if Customer and Cummins enter into a separate security agreement for the Equipment. Prior to full payment of the balance due, Equipment will be kept at Customer's location noted in this Agreement, will not be moved without prior notice to Cummins, and is subject to inspection by Cummins at all reasonable times.

05.01.2023

8. CANCELLATION; CHARGES. Orders placed with and accepted by Cummins may not be cancelled except with Cummins' prior written consent. If Customer seeks to cancel all or a portion of an order placed pursuant to this Agreement, and Cummins accepts such cancellation in whole or in part, Customer shall be assessed cancellation charges as follows: (i) 10% of total order price if cancellation is received in Cummins' office after Cummins has provided submittals and prior to releasing equipment to be manufactured; (ii) 25% of total order price if cancellation is received in Cummins' office after receipt of submittal release to order, receipt of a purchase order for a generator already on order with the factory, or is asked to make any hardware changes to the equipment already on order with the factory; (iii) 50% of total order price if cancellation is received in Cummins' office sixty (60) or fewer days before the scheduled shipping date on the order; or (iv) 100% of total order price if cancellation is received in Cummins' office after the equipment has shipped from the manufacturing plant.

9. TERMINATION. Cummins may, at any time, terminate this Agreement for convenience upon sixty (60) days' written notice to Customer. If the Customer defaults by (i) breaching any term of this Agreement, (ii) becoming insolvent or declared bankrupt, or (iii) making an assignment for the benefit of creditors, Cummins may, upon written notice to Customer, immediately terminate this Agreement. Upon such termination for default, Cummins shall immediately cease any further performance under this Agreement, without further obligation or liability to Customer, and Customer shall pay Cummins for any Equipment or services supplied under this Agreement, in accordance with the payment terms detailed in Section 3. If a notice of termination for default has been issued and is later determined, for any reason, that the Customer was not in default, the rights and obligations of the parties shall treat the termination as a termination for convenience.

10. MANUALS. Unless otherwise stated, electronic submittals and electronic operation and maintenance manuals will be provided, and print copies may be available upon Customer's request at an additional cost.

11. TRAINING; START UP SERVICES; INSTALLATION. Startup services, load bank testing, and owner training are not provided unless otherwise stated. Site startup will be subject to the account being current and will be performed during regular Cummins business hours, Monday to Friday. Additional charges may be added for work requested to be done outside standard business hours, on weekends, or holidays. One visit is allowed unless specified otherwise in the Quote. A minimum of two-week prior notice is required to schedule site startups and will be subject to prior commitments and equipment and travel availability. A signed site check sheet confirming readiness will be required, and Cummins personnel may perform an installation audit prior to the startup being completed. Any issues identified by the installation audit shall be corrected at the Customer's expense prior to the start-up. Portable load banks

for site test (if offered in the Quote) are equipped with only 100 feet of cable. Additional lengths may be arranged at an extra cost. Cummins is not responsible for any labor or materials charged by others associated with start-up and installation of Equipment, unless previously agreed upon in writing. Supply of fuel for start-up and/or testing, fill-up of tank after start up, or change of oil is not included unless specified in the Quote. All installation/execution work at the site including, but not limited to: civil, mechanical, electrical, supply of wall thimbles, exhaust extension pipe, elbows, hangers, expansion joints, insulation and cladding materials, fuel/oil/cooling system piping, air ducts, and louvers/dampers is not included unless specified in the Quote. When an enclosure or sub-base fuel tank (or both) are supplied, the openings provided for power cable and fuel piping entries, commonly referred to as "stub-ups", must be sealed at the site by others before commissioning. All applications, inspections and/or approvals by authorities are to be arranged by Customer.

12. MANUFACTURER'S WARRANTY. Equipment purchased hereunder is accompanied by an express written manufacturer's warranty ("Warranty") and, except as expressly provided in this Agreement, is the only warranty offered on the Equipment. A copy of the Warranty is available upon request. While this Agreement and the Warranty are intended to be read and applied in conjunction, where this Agreement and the Warranty conflict, the terms of the Warranty shall prevail.

13. WARRANTY PROCEDURE. Prior to the expiration of the Warranty, Customer must give notice of a warrantable failure to Cummins and deliver the defective Equipment to a Cummins location or other location authorized and designated by Cummins to make the repairs during regular business hours. Cummins shall not be liable for towing charges, maintenance items such as oil filters, belts, hoses, etc., communication expenses, meals, lodging, and incidental expenses incurred by Customer or employees of Customer, "downtime" expenses, overtime expenses, cargo damages and any business costs and losses of revenue resulting from a warrantable failure.

14. LIMITATIONS ON WARRANTIES.

THE REMEDIES PROVIDED IN THE WARRANTY AND THIS AGREEMENT ARE THE SOLE AND EXCLUSIVE WARRANTIES AND REMEDIES PROVIDED BY CUMMINS TO THE CUSTOMER UNDER THIS AGREEMENT. EXCEPT AS SET OUT IN THE WARRANTY AND THIS AGREEMENT, AND TO THE EXTENT PERMITTED BY LAW, CUMMINS EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS, WARRANTIES, ENDORSEMENTS, AND CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY STATUTORY OR COMMON LAW IMPLIED REPRESENTATIONS, WARRANTIES AND CONDITIONS OF FITNESS FOR A PURPOSE OR MERCHANTABILITY.

The limited warranty does not cover Equipment failures resulting from: (a) inappropriate use relative to designated power rating; (b) inappropriate use relative to application guidelines; (c) inappropriate use of an EPA-SE application generator set relative to EPA's standards; (d) normal wear and tear; (e) improper and/or unauthorized installation; (f) negligence, accidents, or misuse; (g) lack of maintenance or unauthorized or improper repair; (h) noncompliance with any Cummins published guideline or policy; (i) use of improper or contaminated fuels, coolants, or lubricants; (j) improper storage before and after commissioning; (k) owner's delay in making Equipment available after notification of potential Equipment problem; (l) replacement parts and accessories not authorized by Cummins; (m) use of battle short mode; (n) owner or operator abuse or neglect such as: operation without adequate coolant, fuel, or lubricants; over fueling; over speeding; lack of maintenance to lubricating, fueling, cooling, or air intake systems; late servicing and maintenance; improper storage, starting, warm-up, running, or shutdown practices, or for progressive damage resulting from a defective shutdown or warning device; or (o) damage to parts, fixtures, housings, attachments and accessory items that are not part of the generating set.

15. INDEMNITY. Customer shall indemnify, defend and hold harmless Cummins from and against any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys' fees, brought against or incurred by Cummins related to or arising out of this Agreement or the Equipment supplied under this Agreement (collectively, the "Claims"), where such Claims were caused or contributed to by, in whole or in part, the acts, omissions, fault or negligence of the Customer. Customer shall present any Claims covered by this indemnity to its insurance carrier unless Cummins directs that the defense will be handled by Cummins' legal counsel at Customer's expense.

16. LIMITATION OF LIABILITY

NOTWITHSTANDING ANY OTHER TERM OF THIS AGREEMENT, IN NO EVENT SHALL CUMMINS, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY, WHETHER IN CONTRACT OR IN TORT OR UNDER ANY OTHER LEGAL THEORY (INCLUDING, WITHOUT LIMITATION, STRICT LIABILITY OR NEGLIGENCE), FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, LIQUIDATED, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION DOWNTIME, LOSS OF PROFIT OR REVENUE, LOSS OF DATA, LOSS OF OPPORTUNITY, DAMAGE TO GOODWILL, ENHANCED DAMAGES, MONETARY REQUESTS RELATING TO RECALL EXPENSES AND REPAIRS TO PROPERTY, AND/OR DAMAGES CAUSED BY DELAY), OR IN ANY WAY RELATED TO OR ARISING FROM CUMMINS' SUPPLY OF EQUIPMENT UNDER THIS AGREEMENT OR THE USE OR PERFORMANCE OF EQUIPMENT SUPPLIED UNDER THIS AGREEMENT. IN NO EVENT SHALL CUMMINS' LIABILITY TO CUSTOMER OR ANY THIRD PARTY CLAIMING DIRECTLY THROUGH CUSTOMER OR ON CUSTOMER'S BEHALF UNDER THIS AGREEMENT EXCEED THE TOTAL COST OF EQUIPMENT SUPPLIED BY CUMMINS UNDER THIS AGREEMENT GIVING RISE TO THE CLAIM. BY ACCEPTANCE OF THIS AGREEMENT, CUSTOMER ACKNOWLEDGES CUSTOMER'S SOLE REMEDY AGAINST CUMMINS FOR ANY LOSS SHALL BE THE REMEDY PROVIDED HEREIN.

17. DEFAULT; REMEDIES. Customer shall be in breach and default if: (a) any of the payments or amounts due under this Agreement are not paid; (b) Customer fails to comply, perform, or makes any misrepresentation relating to any of the Customer's obligations or covenants under this Agreement; or (c) prior to full payment of the balance due, Customer ceases to do business, becomes insolvent, makes an assignment for the benefit of its creditors, appoints a receiver, commences an action for dissolution or liquidation, or

becomes subject to bankruptcy proceedings, or the Equipment is attached, levied upon, seized under legal process, is subjected to a lien or encumbrance, or transferred by operation of law or otherwise to anyone other than Cummins. Upon the occurrence of any event of Customer's default, Cummins, at its sole option and without notice, shall have the right to exercise concurrently or separately any one or all of the following remedies, which shall be cumulative and not alternative: (a) to declare all sums due, and to become due, under this Agreement immediately due and payable; (b) to commence legal proceedings, including collection actions and specific performance proceedings, to enforce performance by Customer of any and all provisions of this Agreement, and to be awarded damages or injunctive relief for the Customer's breach; (c) to require the Customer to deliver the Equipment to Cummins' branch specified on the face of this Agreement; (d) to exercise one or more of the rights and remedies available to a secured party under applicable law; and (e) to enter, without notice or liability or legal process, onto any premises where the Equipment may be located, using force permitted by law, and there to disconnect, remove and repossess the Equipment, the Customer having waived further right to possession after default. A waiver of any event of default by Cummins shall not be a waiver as to any other or subsequent default.

18. CUSTOMER REPRESENTATIONS; RELIANCE. Customer is responsible for obtaining, at its cost, permits, import licenses, and other consents in relation to the Equipment, and if requested by Cummins, Customer shall make these permits, licenses, and consents available to Cummins prior to shipment. Customer represents that it is familiar with the Equipment and understands operating instructions and agrees to perform routine maintenance services. Until the balance is paid in full, Customer shall care for the Equipment properly, maintain it in good operating condition, repair and appearance; and Customer shall use it safely and within its rated capacity and only for purpose it was designed. Even if Customer's purchase of Equipment from Cummins under this Agreement is based, in whole or in part, on specifications, technical information, drawings, or written or verbal advice of any type from third parties, Customer has sole responsibility for the accuracy, correctness and completeness of such specifications, technical information, drawings, or advice. Cummins make no warranties or representations respecting the accuracy, correctness and completeness of any specifications, technical information, drawings, advice or other information provided by Cummins. Cummins makes no warranties or representations respecting the suitability, fitness for intended use, compatibility, integration or installation of any Equipment supplied under this Agreement. Customer has sole responsibility for intended use, for installation and design and performance where it is part of a power, propulsion, or other system. Limitation of warranties and remedies and all disclaimers apply to all such technical information, drawings, or advice. Customer acknowledges and agrees by accepting delivery of the Equipment that the Equipment purchased is of the size, design, capacity and manufacture selected by the Customer, and that Customer has relied solely on its own judgment in selecting the Equipment.

19. CONFIDENTIALITY. Each party shall keep confidential any information received from the other that is not generally known to the public and at the time of disclosure, would reasonably be understood by the receiving party to be proprietary or confidential, whether disclosed in oral, written, visual, electronic, or other form, and which the receiving party (or agents) learns in connection with this Agreement including, but not limited to: (a) business plans, strategies, sales, projects and analyses; (b) financial information, pricing, and fee structures; (c) business processes, methods, and models; (d) employee and supplier information; (e) specifications; and (f) the terms and conditions of this Agreement. Each party shall take necessary steps to ensure compliance with this provision by its employees and agents.

20. GOVERNING LAW AND JURISDICTION. This Agreement and all matters arising hereunder shall be governed by, interpreted, and construed in accordance with the laws of the State of Indiana without giving effect to any choice or conflict of law provision. The parties agree that the federal and state courts of the State of Indiana shall have exclusive jurisdiction to settle any dispute or claim arising in connection with this Agreement or any related matter, and hereby waive any right to claim such forum would be inappropriate, including concepts of forum non conveniens.

21. INSURANCE. Upon Customer's request, Cummins will provide to Customer a Certificate of Insurance evidencing Cummins' relevant insurance coverage.

22. ASSIGNMENT. This Agreement shall be binding on the parties and their successors and assigns. Customer shall not assign this Agreement without the prior written consent of Cummins.

23. INTELLECTUAL PROPERTY. Any intellectual property rights created by either party, whether independently or jointly, in the course of the performance of this Agreement or otherwise related to Cummins pre-existing intellectual property or subject matter related thereto, shall be Cummins' property. Customer agrees to assign, and does hereby assign, all right, title, and interest to such intellectual property to Cummins. Any Cummins pre-existing intellectual property shall remain Cummins' property. Nothing in this Agreement shall be deemed to have given Customer a license or any other rights to use any of the intellectual property rights of Cummins.

24. PRICING. To the extent allowed by law, actual prices invoiced to Customer may vary from the price quoted at the time of order placement, as the same will be adjusted for prices prevailing on the date of shipment due to economic and market conditions at the time of shipment. Subject to local laws, Cummins reserves the right to adjust pricing on goods and services due to input and labor cost changes and/or other unforeseen circumstances beyond Cummins' control.

25. TARIFF AND DUTY SURCHARGES. In addition to any adjustments otherwise provided for in this Agreement, in the event of any increase in the cost of purchased materials due to the impact of any tariffs, duties, levies, or similar government charges ("Tariffs") in effect during the term of this Agreement, the parties agree that such increases shall be passed through directly to the Customer effective immediately upon Cummins' notice to the Customer of such increases. The Customer shall pay Tariff-related increases within thirty (30) days of receipt of invoice.

26. MISCELLANEOUS. Cummins shall be an independent contractor under this Agreement. All notices under this Agreement shall be in writing and be delivered personally, mailed via first class certified or registered mail, or sent by a nationally recognized express courier service to the addresses set forth in this Agreement. No amendment of this Agreement shall be valid unless it is writing and

signed by an authorized representative of the parties hereto. Failure of either party to require performance by the other party of any provision hereof shall in no way affect the right to require such performance at any time thereafter, nor shall the waiver by a party of a breach of any of the provisions hereof constitute a waiver of any succeeding breach. Any provision of this Agreement that is invalid or unenforceable shall not affect the validity or enforceability of the remaining terms hereof. These terms are exclusive and constitute the entire agreement. Customer acknowledges that the provisions were freely negotiated and bargained for, and Customer has agreed to purchase of the Equipment pursuant to these Terms and Conditions. Acceptance of this Agreement is expressly conditioned on Customer's assent to all such Terms and Conditions. Neither party has relied on any statement, representation, agreement, understanding, or promise made by the other except as expressly set out in this Agreement. In the event Cummins incurs additional charges hereunder due to the acts or omissions of Customer, the additional charges will be passed on to the Customer, as applicable. Headings or other subdivisions of this Agreement are inserted for convenience of reference and shall not limit or affect the legal construction of any provision hereof. The Parties' rights, remedies, and obligations under this Agreement which by their nature are intended to continue beyond the termination or cancellation of this Agreement, including but not limited to the Section 16. Limitation of Liability provision contained herein, shall survive the expiration, termination, or cancellation of this Agreement.

27. COMPLIANCE. Customer shall comply with all laws applicable to its activities under this Agreement, including, without limitation, any and all applicable federal, state, and local anti-bribery, environmental, health, and safety laws and regulations then in effect. Customer acknowledges that the Equipment, and any related technology that are sold or otherwise provided hereunder may be subject to export and other trade controls restricting the sale, export, re-export and/or transfer, directly or indirectly, of such Equipment or technology to certain countries or parties, including, but not limited to, licensing requirements under applicable laws and regulations of the United States, the United Kingdom and other jurisdictions. It is the intention of Cummins to comply with these laws, rules, and regulations. Any other provision of this Agreement to the contrary notwithstanding, Customer shall comply with all such applicable all laws relating to the cross-border movement of goods or technology, and all related orders in effect from time to time, and equivalent measures. Customer shall act as the importer of record with respect to the Equipment and shall not resell, export, re-export, distribute, transfer, or dispose of the Equipment or related technology, directly or indirectly, without first obtaining all necessary written permits, consents, and authorizations and completing such formalities as may be required under such laws, rules, and regulations. In addition, Cummins has in place policies not to distribute its products for use in certain countries based on applicable laws and regulations including but not limited to UN, U.S., UK, and European Union regulations. Customer undertakes to perform its obligations under this Agreement with due regard to these policies. Strict compliance with this provision and all laws of the territory pertaining to the importation, distribution, sales, promotion and marketing of the Equipment is a material consideration for Cummins entering into this Agreement with Customer and continuing this Agreement for its term. Customer represents and warrants that it has not and shall not, directly or through any intermediary, pay, give, promise to give or offer to give anything of value to a government official or representative, a political party official, a candidate for political office, an officer or employee of a public international organization or any other person, individual or entity at the suggestion, request or direction or for the benefit of any of the above-described persons and entities for the purposes of inducing such person to use his influence to assist Cummins in obtaining or retaining business or to benefit Cummins or any other person in any way, and will not otherwise breach any applicable laws relating to anti-bribery. Any failure by Customer to comply with these provisions will constitute a default giving Cummins the right to immediate termination of this Agreement and/or the right to elect not to recognize the warranties associated with the Equipment. Customer shall accept full responsibility for any and all civil or criminal liabilities and costs arising from any breaches of those laws and regulations and will defend, indemnify, and hold Cummins harmless from and against any and all fines, penalties, claim, damages, liabilities, judgments, costs, fees, and expenses incurred by Cummins or its affiliates as a result of Customer's breach.

28. To the extent applicable, this contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability. The employee notice requirements set forth in 29 CFR Part 471, Appendix A to Subpart A, are hereby incorporated by reference into this contract.



January 8, 2026

To

Prepared by

Ryan Lowe

ak51i@cummins.com

We are pleased to provide you this quotation based on your inquiry.

Item	Description	Qty
1	DFEJ Commercial Diesel Generator Set, 450kW Standby 60Hz U.S. EPA, Stationary Emergency Application 450DFEJ, Diesel Genset, 60Hz, 450kW-Standby Rating Duty Rating - Standby Power (ESP) Emission Certification, EPA, Tier 2, NSPS CI Stationary Emergency Listing - UL 2200 IBC Seismic Certification Voltage - 277/480, 3 Phase, Wye, 4 Wire Alternator - 60Hz, 12 Lead, Extended Range, 125/105C Steel Sound Attenuated Level 2 Enclosure, with Exhaust System Enclosure Color - Green, Steel Wind Rating - 150 MPH, Steel Housing Fuel Tank - Sub Base, 850 Gallon, UL142 Compliant Compliance - Fuel Tank, Florida Listing, ULC - S601-07 Alarm-High Fuel Fill Fuel Water Separator Control Mounting - Left Facing PowerCommand 2.3 Controller LCD Control Display Stop Switch - Emergency, Externally Mounted Control Display Language - English Circuit Breaker or Entrance Box or Terminal Box - Right And Left Circuit Breaker - 600A, Left Circuit Breaker on Right side, 3 - Pole, UL 600, IEC 690, 100% Circuit Breaker - 400A, Right Circuit Breaker on Right side, 3 - Pole, UL 600, IEC 690 100% Circuit Breaker or Entrance Box - Bottom Entry,Left Side Circuit Breaker or Entrance Box - Bottom Entry,Right Side Engine Exhaust Connection - None Engine Air Cleaner - Normal Duty External Battery Charger - 12 Amp, Regulated Engine Cooling - Radiator, 40C Ambient Shutdown - Low Coolant Level Coolant Heater - 208/240/480 Volts AC, Below 40F Ambient Temperature Genset Warranty - 2 Years Base Literature - English	1

Item	Description	Qty
	Packing - None, Base Mounted Housing	
2	2" Atmospheric Vent Pipe	1
3	OFPV, 9095-S Morrison	1
4	Battery, Group 34	4
5	Flowline EchoPod DS14, gives up to 5 different level alarms	1
6	OTECSEC, OTEC Service Entrance Transfer Switch-Electronic Control: 300A/400A/600A Not Applicable OTECSE600, Service Entrance TransferSwitch, PowerCommand, 600 Amp Listing - UL 1008 IBC Seismic Certification Application - Utility to Genset Cabinet - Type 3R Poles - 3 (Solid Neutral) Frequency - 60 Hz System - 3 Phase, 3 or 4 Wire Genset Starting Battery - 24V DC Voltage - 480 Volts AC PC40 Control Interface - Communication Network, MODBUS TCP Module Transfer Switch Warranty - 2 Year Comprehensive	1
7	Free-Standing, Pad Mount, Load Bank, 250kW, 480V, 3-Ph, 3R (loose)	1
8	No-spec Startup Service and 1-Hr Load Bank Test	1

QUOTE TOTAL: \$ 169,943.87

Quote value does not include any tax.

NOTES:

This quote is issued pursuant to Sourcwell Contract No. 092222-CMM, including Amendment #1 dated August 5, 2025, which incorporates a limitation of liability clause. By issuing this PO, the Participating Entity agrees to be bound by the terms of the Sourcwell Master Agreement and its amendments.

Cummins quote is valid for 30 days. This quotation is based on contractor supplied info only. Contractor to verify application meets requirements. No specifications or drawings were provided.

LEAD TIME:

Submittals: Typical submittal lead time is 2-4 weeks after receipt of purchase order.

Equipment: Current lead-time is 18-20 weeks after submittal approval and release for production. Lead times are subject to change.

Please feel free to contact me if you require any additional information; or if you have any further questions or concerns that I may be of assistance with.

Thank you for choosing Cummins.

Submitted by:

Ryan Lowe, Territory Manager, Power Generation, Pacific Region
ak51i@cummins.com



SUBMITTALS. An order for the equipment covered by this quotation will be accepted on a hold for release basis. Your order will not be released and scheduled for production until written approval to proceed is received in our office. Such submittal approval shall constitute acceptance of the terms and conditions of this quotation unless the parties otherwise agree in writing.

THERE ARE ADDITIONAL CONTRACT TERMS AND CONDITIONS ATTACHED TO THIS QUOTATION, INCLUDING LIMITATIONS OF WARRANTIES AND LIABILITIES, WHICH ARE EXPRESSLY INCORPORATED HEREIN. BY ACCEPTING THIS QUOTATION, CUSTOMER ACKNOWLEDGES THAT THE CONTRACT TERMS AND CONDITIONS HAVE BEEN READ, FULLY UNDERSTOOD AND ACCEPTED.

Authorized Signature

Date

Company Name

Printed Name & Title

Purchase Order No

<Rest of the page is intentionally left blank>

TERMS AND CONDITIONS FOR SALE OF POWER GENERATION EQUIPMENT

These Terms and Conditions for Sale of Power Generation Equipment, together with the quote ("Quote"), sales order ("Sales Order"), and/or credit application ("Credit Application") on the front side or attached hereto, are hereinafter collectively referred to as this "Agreement" and shall constitute the entire agreement between the customer identified in the Quote ("Customer") and Cummins Inc. ("Cummins") and supersede any previous representation, statements, agreements or understanding (oral or written) between the parties with respect to the subject matter of this Agreement. Customer shall be deemed to have made an unqualified acceptance of these Terms and Conditions and it shall become a binding agreement between the parties on the earliest of the following to occur: (i) Cummins' receipt of Customer's purchase order or purchase order number; (ii) Customer's signing or acknowledgment of this Agreement; (iii) Cummins' release of equipment to production pursuant to Customer's oral or written instruction or direction; (iv) Customer's payment of any amounts due to Cummins; or (v) any other event constituting acceptance under applicable law. No prior inconsistent course of dealing, course of performance, or usage of trade, if any, constitutes a waiver of, or serves to explain or interpret, the Terms and Conditions set forth in this Agreement. Electronic transactions between Customer and Cummins will be solely governed by the Terms and Conditions of this Agreement, and any terms and conditions on Customer's website or other internet site will be null and void and of no legal effect on Cummins. In the event Customer delivers, references, incorporates by reference, or produces any purchase order or document, specifications, agreement (whether upstream or otherwise), or any other terms and conditions related thereto, then such specifications, terms, document, or other agreement: (i) shall be null and void and of no legal effect on Cummins, and (ii) this Agreement shall remain the governing terms of the transaction.

1. SCOPE. Cummins shall supply power generation equipment and any related parts, materials and/or services expressly identified in this Agreement (collectively, "Equipment"). No additional services, parts or materials are included in this Agreement unless mutually agreed upon by the parties in writing. A Sales Order for Equipment is accepted on a hold for release basis. The Sales Order will not be released and scheduled for production until written approval to proceed is received from Customer. A Quote is limited to the plans and specifications section specifically referenced in the Quote. No other sections shall apply. Additional requirements for administrative items may require additional costs. The Quote does not include off unit wiring, off unit plumbing, offloading, rigging, installation, exhaust insulation or fuel, unless otherwise stated and mutually agreed to in writing by the parties. Unless otherwise agreed by Cummins in writing, this Quote is valid for a maximum period of thirty (30) days from the date appearing on the first page of this Quote ("Quote Validation Period"). At the end of the Quote Validation Period, this Quote will automatically expire unless accepted by Customer prior to the end of the Quote Validation Period. The foregoing notwithstanding, in no event shall this Quote Validation Period be deemed or otherwise considered to be a firm offer period nor to establish an option contract, and Cummins hereby reserves its right to revoke or amend this Quote at any time prior to Customer's acceptance.

2. SHIPPING; DELIVERY; DELAYS. Unless otherwise agreed in writing by the parties, Equipment shall be delivered FOB origin, freight prepaid to first destination. For consumer and mobile products, freight will be charged to Customer. Unless otherwise agreed to in writing by the parties, packaging method, shipping documents and manner, route and carrier and delivery shall be as Cummins deems appropriate. Cummins may deliver in installments. A reasonable storage fee, as determined in Cummins' sole discretion, may be assessed if delivery of the Equipment is delayed, deferred, or refused by Customer. In the event Customer fails to take any or all shipments of Equipment ordered hereunder within thirty (30) days of the agreed upon delivery date, Cummins shall have the right, in its sole discretion to either (i) charge a minimum storage fee in the amount of one and one-half percent (1.5%) per month of the total quoted amount; or (ii) consider the Equipment abandoned and, subject to local laws, may (a) make the Equipment available for auction or sale to other customers or the public, or (b) otherwise use, destroy, or recycle the Equipment at Customer's sole cost and expense. The foregoing remedies shall be without prejudice to Cummins' right to pursue other remedies available under the law, including without limitation, recovery of costs and/or losses incurred due to the storage, auction, sale, destruction, recycling, or otherwise of the Equipment. Offloading, handling, and placement of Equipment and crane services are the responsibility of Customer and not included unless otherwise stated. All shipments are made within normal business hours, Monday through Friday. Any delivery, shipping, installation, or performance dates indicated in this Agreement are estimated and not guaranteed. Further, delivery time is subject to confirmation at time of order and will be in effect after engineering drawings have been approved for production. Cummins shall use commercially reasonable efforts to meet estimated dates, but shall not be liable to customer or any third party for any delay in delivery, shipping, installation, or performance, however occasioned, including any delays in performance that result directly or indirectly from acts of Customer or any unforeseen event, circumstance, or condition beyond Cummins' reasonable control including, but not limited to, acts of God, actions by any government authority, civil strife, fires, floods, windstorms, explosions, riots, natural disasters, embargos, wars, strikes or other labor disturbances, civil commotion, terrorism, sabotage, late delivery by Cummins' suppliers, fuel or other energy shortages, or an inability to obtain necessary labor, materials, supplies, equipment or manufacturing facilities. *AS A RESULT OF COVID-19 RELATED EFFECTS OR INDUSTRY SUPPLY CHAIN DISRUPTIONS, TEMPORARY DELAYS IN DELIVERY, LABOR OR SERVICES FROM CUMMINS AND ITS SUB-SUPPLIERS OR SUBCONTRACTORS MAY OCCUR. AMONG OTHER FACTORS, CUMMINS' DELIVERY OBLIGATIONS ARE SUBJECT TO CORRECT AND PUNCTUAL SUPPLY FROM OUR SUB-SUPPLIERS OR SUBCONTRACTORS, AND CUMMINS RESERVES THE RIGHT TO MAKE PARTIAL DELIVERIES OR MODIFY ITS LABOR OR SERVICE. WHILE CUMMINS SHALL MAKE COMMERCIALY REASONABLE EFFORTS TO MEET THE DELIVERY, SERVICE OR COMPLETION OBLIGATIONS SET FORTH HEREIN, SUCH DATES ARE SUBJECT TO CHANGE. IN THE EVENT DELIVERY, SHIPPING, INSTALLATION, OR PERFORMANCE IS DELAYED, HOWEVER OCCASSIONED, DUE TO EVENTS BEYOND CUMMINS' REASONABLE CONTROL, THEN THE DATE OF DELIVERY, SHIPPING, INSTALLATION, OR PERFORMANCE FOR THE EQUIPMENT OR SERVICES SHALL BE EQUITABLY EXTENDED FOR A PERIOD EQUAL TO THE TIME LOST, PLUS REASONABLE RAMP-UP.*

3. PAYMENT TERMS; CREDIT; RETAINAGE. Unless otherwise agreed to by the parties in writing and subject to credit approval by Cummins, payments are due thirty (30) days from the date of the invoice. If Customer does not have approved credit with Cummins,

as solely determined by Cummins, payments are due in advance or at the time of supply of the Equipment. If payment is not received when due, in addition to any rights Cummins may have at law, Cummins may charge Customer eighteen percent (18%) interest annually on late payments, or the maximum amount allowed by law. Customer agrees to pay Cummins' costs and expenses (including reasonable attorneys' fees) related to Cummins' enforcement and collection of unpaid invoices, or any other enforcement of this Agreement by Cummins. Retainage is not acceptable nor binding, unless required by statute or accepted and confirmed in writing by Cummins prior to shipment. If Customer fails to make any payments to Cummins when due and payable, and such failure continues for more than sixty (60) days from the date of the invoice, or less if required by applicable law, then Cummins may, at Cummins' sole discretion and without prejudice to any other rights or remedies, either (i) terminate this Agreement; or (ii) postpone delivery of any undelivered Equipment in Cummins' possession and/or suspend its services until payment for unpaid invoices is received.

4. TAXES; EXEMPTIONS. Unless otherwise stated, the Quote excludes all applicable local, state and federal sales and/or use taxes, permits and licensing. Customer must provide a valid resale or exemption certificate prior to shipment of Equipment or applicable taxes will be added to the invoice.

5. TITLE; RISK OF LOSS. Unless otherwise agreed in writing by the parties, title and risk of loss for the Equipment shall pass to Customer upon delivery of the Equipment by Cummins to freight carrier or to Customer at pickup at Cummins' facility.

6. INSPECTION AND ACCEPTANCE. Customer shall inspect the Equipment upon delivery, before offloading, for damage, defects, and shortage. Any and all claims which could have been discovered by such inspection shall be deemed absolutely and unconditionally waived unless noted by Customer on the bill of lading. Where Equipment is alleged to be non-conforming or defective, written notice of defect must be given to Cummins within three (3) days from date of delivery after which time Equipment shall be deemed accepted. Cummins shall have a commercially reasonable period of time in which to correct such non-conformity or defect. If non-conformity or defect is not eliminated to Customer's reasonable satisfaction, Customer may reject the Equipment (but shall protect the Equipment until returned to Cummins) or allow Cummins another opportunity to undertake corrective action. In the event startup of the Equipment is included in the services, acceptance shall be deemed to have occurred upon successful startup.

7. LIEN; SECURITY AGREEMENT. Customer agrees that Cummins retains all statutory lien rights. To secure payment, Customer grants Cummins a Purchase Money Security Interest in the Equipment. If any portion of the balance is due to be paid following delivery, Customer agrees to execute and deliver such security agreement, financing statements, deed of trust and such other documents as Cummins may request from time to time in order to permit Cummins to obtain and maintain a perfected security interest in the Equipment; or in the alternative, Customer grants Cummins a power of attorney to execute and file all financing statements and other documents needed to perfect this security interest. Cummins may record this Agreement, bearing Customer's signature, or copy of this Agreement in lieu of a UCC-1, provided that it shall not constitute an admission by Cummins of the applicability or non-applicability of the UCC nor shall the failure to file this form or a UCC-1 in any way affect, alter, or invalidate any term, provision, obligation or liability under this Agreement. The security interest shall be superseded if Customer and Cummins enter into a separate security agreement for the Equipment. Prior to full payment of the balance due, Equipment will be kept at Customer's location noted in this Agreement, will not be moved without prior notice to Cummins, and is subject to inspection by Cummins at all reasonable times.

05.01.2023

8. CANCELLATION; CHARGES. Orders placed with and accepted by Cummins may not be cancelled except with Cummins' prior written consent. If Customer seeks to cancel all or a portion of an order placed pursuant to this Agreement, and Cummins accepts such cancellation in whole or in part, Customer shall be assessed cancellation charges as follows: (i) 10% of total order price if cancellation is received in Cummins' office after Cummins has provided submittals and prior to releasing equipment to be manufactured; (ii) 25% of total order price if cancellation is received in Cummins' office after receipt of submittal release to order, receipt of a purchase order for a generator already on order with the factory, or is asked to make any hardware changes to the equipment already on order with the factory; (iii) 50% of total order price if cancellation is received in Cummins' office sixty (60) or fewer days before the scheduled shipping date on the order; or (iv) 100% of total order price if cancellation is received in Cummins' office after the equipment has shipped from the manufacturing plant.

9. TERMINATION. Cummins may, at any time, terminate this Agreement for convenience upon sixty (60) days' written notice to Customer. If the Customer defaults by (i) breaching any term of this Agreement, (ii) becoming insolvent or declared bankrupt, or (iii) making an assignment for the benefit of creditors, Cummins may, upon written notice to Customer, immediately terminate this Agreement. Upon such termination for default, Cummins shall immediately cease any further performance under this Agreement, without further obligation or liability to Customer, and Customer shall pay Cummins for any Equipment or services supplied under this Agreement, in accordance with the payment terms detailed in Section 3. If a notice of termination for default has been issued and is later determined, for any reason, that the Customer was not in default, the rights and obligations of the parties shall treat the termination as a termination for convenience.

10. MANUALS. Unless otherwise stated, electronic submittals and electronic operation and maintenance manuals will be provided, and print copies may be available upon Customer's request at an additional cost.

11. TRAINING; START UP SERVICES; INSTALLATION. Startup services, load bank testing, and owner training are not provided unless otherwise stated. Site startup will be subject to the account being current and will be performed during regular Cummins business hours, Monday to Friday. Additional charges may be added for work requested to be done outside standard business hours, on weekends, or holidays. One visit is allowed unless specified otherwise in the Quote. A minimum of two-week prior notice is required to schedule site startups and will be subject to prior commitments and equipment and travel availability. A signed site check sheet confirming readiness will be required, and Cummins personnel may perform an installation audit prior to the startup being completed. Any issues identified by the installation audit shall be corrected at the Customer's expense prior to the start-up. Portable load banks

for site test (if offered in the Quote) are equipped with only 100 feet of cable. Additional lengths may be arranged at an extra cost. Cummins is not responsible for any labor or materials charged by others associated with start-up and installation of Equipment, unless previously agreed upon in writing. Supply of fuel for start-up and/or testing, fill-up of tank after start up, or change of oil is not included unless specified in the Quote. All installation/execution work at the site including, but not limited to: civil, mechanical, electrical, supply of wall thimbles, exhaust extension pipe, elbows, hangers, expansion joints, insulation and cladding materials, fuel/oil/cooling system piping, air ducts, and louvers/dampers is not included unless specified in the Quote. When an enclosure or sub-base fuel tank (or both) are supplied, the openings provided for power cable and fuel piping entries, commonly referred to as “stub-ups”, must be sealed at the site by others before commissioning. All applications, inspections and/or approvals by authorities are to be arranged by Customer.

12. MANUFACTURER’S WARRANTY. Equipment purchased hereunder is accompanied by an express written manufacturer’s warranty (“Warranty”) and, except as expressly provided in this Agreement, is the only warranty offered on the Equipment. A copy of the Warranty is available upon request. While this Agreement and the Warranty are intended to be read and applied in conjunction, where this Agreement and the Warranty conflict, the terms of the Warranty shall prevail.

13. WARRANTY PROCEDURE. Prior to the expiration of the Warranty, Customer must give notice of a warrantable failure to Cummins and deliver the defective Equipment to a Cummins location or other location authorized and designated by Cummins to make the repairs during regular business hours. Cummins shall not be liable for towing charges, maintenance items such as oil filters, belts, hoses, etc., communication expenses, meals, lodging, and incidental expenses incurred by Customer or employees of Customer, “downtime” expenses, overtime expenses, cargo damages and any business costs and losses of revenue resulting from a warrantable failure.

14. LIMITATIONS ON WARRANTIES.

THE REMEDIES PROVIDED IN THE WARRANTY AND THIS AGREEMENT ARE THE SOLE AND EXCLUSIVE WARRANTIES AND REMEDIES PROVIDED BY CUMMINS TO THE CUSTOMER UNDER THIS AGREEMENT. EXCEPT AS SET OUT IN THE WARRANTY AND THIS AGREEMENT, AND TO THE EXTENT PERMITTED BY LAW, CUMMINS EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS, WARRANTIES, ENDORSEMENTS, AND CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY STATUTORY OR COMMON LAW IMPLIED REPRESENTATIONS, WARRANTIES AND CONDITIONS OF FITNESS FOR A PURPOSE OR MERCHANTABILITY.

The limited warranty does not cover Equipment failures resulting from: (a) inappropriate use relative to designated power rating; (b) inappropriate use relative to application guidelines; (c) inappropriate use of an EPA-SE application generator set relative to EPA’s standards; (d) normal wear and tear; (e) improper and/or unauthorized installation; (f) negligence, accidents, or misuse; (g) lack of maintenance or unauthorized or improper repair; (h) noncompliance with any Cummins published guideline or policy; (i) use of improper or contaminated fuels, coolants, or lubricants; (j) improper storage before and after commissioning; (k) owner’s delay in making Equipment available after notification of potential Equipment problem; (l) replacement parts and accessories not authorized by Cummins; (m) use of battle short mode; (n) owner or operator abuse or neglect such as: operation without adequate coolant, fuel, or lubricants; over fueling; over speeding; lack of maintenance to lubricating, fueling, cooling, or air intake systems; late servicing and maintenance; improper storage, starting, warm-up, running, or shutdown practices, or for progressive damage resulting from a defective shutdown or warning device; or (o) damage to parts, fixtures, housings, attachments and accessory items that are not part of the generating set.

15. INDEMNITY. Customer shall indemnify, defend and hold harmless Cummins from and against any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys’ fees, brought against or incurred by Cummins related to or arising out of this Agreement or the Equipment supplied under this Agreement (collectively, the “Claims”), where such Claims were caused or contributed to by, in whole or in part, the acts, omissions, fault or negligence of the Customer. Customer shall present any Claims covered by this indemnity to its insurance carrier unless Cummins directs that the defense will be handled by Cummins’ legal counsel at Customer’s expense.

16. LIMITATION OF LIABILITY

NOTWITHSTANDING ANY OTHER TERM OF THIS AGREEMENT, IN NO EVENT SHALL CUMMINS, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY, WHETHER IN CONTRACT OR IN TORT OR UNDER ANY OTHER LEGAL THEORY (INCLUDING, WITHOUT LIMITATION, STRICT LIABILITY OR NEGLIGENCE), FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, LIQUIDATED, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION DOWNTIME, LOSS OF PROFIT OR REVENUE, LOSS OF DATA, LOSS OF OPPORTUNITY, DAMAGE TO GOODWILL, ENHANCED DAMAGES, MONETARY REQUESTS RELATING TO RECALL EXPENSES AND REPAIRS TO PROPERTY, AND/OR DAMAGES CAUSED BY DELAY), OR IN ANY WAY RELATED TO OR ARISING FROM CUMMINS’ SUPPLY OF EQUIPMENT UNDER THIS AGREEMENT OR THE USE OR PERFORMANCE OF EQUIPMENT SUPPLIED UNDER THIS AGREEMENT. IN NO EVENT SHALL CUMMINS’ LIABILITY TO CUSTOMER OR ANY THIRD PARTY CLAIMING DIRECTLY THROUGH CUSTOMER OR ON CUSTOMER’S BEHALF UNDER THIS AGREEMENT EXCEED THE TOTAL COST OF EQUIPMENT SUPPLIED BY CUMMINS UNDER THIS AGREEMENT GIVING RISE TO THE CLAIM. BY ACCEPTANCE OF THIS AGREEMENT, CUSTOMER ACKNOWLEDGES CUSTOMER’S SOLE REMEDY AGAINST CUMMINS FOR ANY LOSS SHALL BE THE REMEDY PROVIDED HEREIN.

17. DEFAULT; REMEDIES. Customer shall be in breach and default if: (a) any of the payments or amounts due under this Agreement are not paid; (b) Customer fails to comply, perform, or makes any misrepresentation relating to any of the Customer’s obligations or covenants under this Agreement; or (c) prior to full payment of the balance due, Customer ceases to do business, becomes insolvent, makes an assignment for the benefit of its creditors, appoints a receiver, commences an action for dissolution or liquidation, or

becomes subject to bankruptcy proceedings, or the Equipment is attached, levied upon, seized under legal process, is subjected to a lien or encumbrance, or transferred by operation of law or otherwise to anyone other than Cummins. Upon the occurrence of any event of Customer's default, Cummins, at its sole option and without notice, shall have the right to exercise concurrently or separately any one or all of the following remedies, which shall be cumulative and not alternative: (a) to declare all sums due, and to become due, under this Agreement immediately due and payable; (b) to commence legal proceedings, including collection actions and specific performance proceedings, to enforce performance by Customer of any and all provisions of this Agreement, and to be awarded damages or injunctive relief for the Customer's breach; (c) to require the Customer to deliver the Equipment to Cummins' branch specified on the face of this Agreement; (d) to exercise one or more of the rights and remedies available to a secured party under applicable law; and (e) to enter, without notice or liability or legal process, onto any premises where the Equipment may be located, using force permitted by law, and there to disconnect, remove and repossess the Equipment, the Customer having waived further right to possession after default. A waiver of any event of default by Cummins shall not be a waiver as to any other or subsequent default.

18. CUSTOMER REPRESENTATIONS; RELIANCE. Customer is responsible for obtaining, at its cost, permits, import licenses, and other consents in relation to the Equipment, and if requested by Cummins, Customer shall make these permits, licenses, and consents available to Cummins prior to shipment. Customer represents that it is familiar with the Equipment and understands operating instructions and agrees to perform routine maintenance services. Until the balance is paid in full, Customer shall care for the Equipment properly, maintain it in good operating condition, repair and appearance; and Customer shall use it safely and within its rated capacity and only for purpose it was designed. Even if Customer's purchase of Equipment from Cummins under this Agreement is based, in whole or in part, on specifications, technical information, drawings, or written or verbal advice of any type from third parties, Customer has sole responsibility for the accuracy, correctness and completeness of such specifications, technical information, drawings, or advice. Cummins make no warranties or representations respecting the accuracy, correctness and completeness of any specifications, technical information, drawings, advice or other information provided by Cummins. Cummins makes no warranties or representations respecting the suitability, fitness for intended use, compatibility, integration or installation of any Equipment supplied under this Agreement. Customer has sole responsibility for intended use, for installation and design and performance where it is part of a power, propulsion, or other system. Limitation of warranties and remedies and all disclaimers apply to all such technical information, drawings, or advice. Customer acknowledges and agrees by accepting delivery of the Equipment that the Equipment purchased is of the size, design, capacity and manufacture selected by the Customer, and that Customer has relied solely on its own judgment in selecting the Equipment.

19. CONFIDENTIALITY. Each party shall keep confidential any information received from the other that is not generally known to the public and at the time of disclosure, would reasonably be understood by the receiving party to be proprietary or confidential, whether disclosed in oral, written, visual, electronic, or other form, and which the receiving party (or agents) learns in connection with this Agreement including, but not limited to: (a) business plans, strategies, sales, projects and analyses; (b) financial information, pricing, and fee structures; (c) business processes, methods, and models; (d) employee and supplier information; (e) specifications; and (f) the terms and conditions of this Agreement. Each party shall take necessary steps to ensure compliance with this provision by its employees and agents.

20. GOVERNING LAW AND JURISDICTION. This Agreement and all matters arising hereunder shall be governed by, interpreted, and construed in accordance with the laws of the State of Indiana without giving effect to any choice or conflict of law provision. The parties agree that the federal and state courts of the State of Indiana shall have exclusive jurisdiction to settle any dispute or claim arising in connection with this Agreement or any related matter, and hereby waive any right to claim such forum would be inappropriate, including concepts of forum non conveniens.

21. INSURANCE. Upon Customer's request, Cummins will provide to Customer a Certificate of Insurance evidencing Cummins' relevant insurance coverage.

22. ASSIGNMENT. This Agreement shall be binding on the parties and their successors and assigns. Customer shall not assign this Agreement without the prior written consent of Cummins.

23. INTELLECTUAL PROPERTY. Any intellectual property rights created by either party, whether independently or jointly, in the course of the performance of this Agreement or otherwise related to Cummins pre-existing intellectual property or subject matter related thereto, shall be Cummins' property. Customer agrees to assign, and does hereby assign, all right, title, and interest to such intellectual property to Cummins. Any Cummins pre-existing intellectual property shall remain Cummins' property. Nothing in this Agreement shall be deemed to have given Customer a license or any other rights to use any of the intellectual property rights of Cummins.

24. PRICING. To the extent allowed by law, actual prices invoiced to Customer may vary from the price quoted at the time of order placement, as the same will be adjusted for prices prevailing on the date of shipment due to economic and market conditions at the time of shipment. Subject to local laws, Cummins reserves the right to adjust pricing on goods and services due to input and labor cost changes and/or other unforeseen circumstances beyond Cummins' control.

25. TARIFF AND DUTY SURCHARGES. In addition to any adjustments otherwise provided for in this Agreement, in the event of any increase in the cost of purchased materials due to the impact of any tariffs, duties, levies, or similar government charges ("Tariffs") in effect during the term of this Agreement, the parties agree that such increases shall be passed through directly to the Customer effective immediately upon Cummins' notice to the Customer of such increases. The Customer shall pay Tariff-related increases within thirty (30) days of receipt of invoice.

26. MISCELLANEOUS. Cummins shall be an independent contractor under this Agreement. All notices under this Agreement shall be in writing and be delivered personally, mailed via first class certified or registered mail, or sent by a nationally recognized express courier service to the addresses set forth in this Agreement. No amendment of this Agreement shall be valid unless it is writing and

signed by an authorized representative of the parties hereto. Failure of either party to require performance by the other party of any provision hereof shall in no way affect the right to require such performance at any time thereafter, nor shall the waiver by a party of a breach of any of the provisions hereof constitute a waiver of any succeeding breach. Any provision of this Agreement that is invalid or unenforceable shall not affect the validity or enforceability of the remaining terms hereof. These terms are exclusive and constitute the entire agreement. Customer acknowledges that the provisions were freely negotiated and bargained for, and Customer has agreed to purchase of the Equipment pursuant to these Terms and Conditions. Acceptance of this Agreement is expressly conditioned on Customer's assent to all such Terms and Conditions. Neither party has relied on any statement, representation, agreement, understanding, or promise made by the other except as expressly set out in this Agreement. In the event Cummins incurs additional charges hereunder due to the acts or omissions of Customer, the additional charges will be passed on to the Customer, as applicable. Headings or other subdivisions of this Agreement are inserted for convenience of reference and shall not limit or affect the legal construction of any provision hereof. The Parties' rights, remedies, and obligations under this Agreement which by their nature are intended to continue beyond the termination or cancellation of this Agreement, including but not limited to the Section 16. Limitation of Liability provision contained herein, shall survive the expiration, termination, or cancellation of this Agreement.

27. COMPLIANCE. Customer shall comply with all laws applicable to its activities under this Agreement, including, without limitation, any and all applicable federal, state, and local anti-bribery, environmental, health, and safety laws and regulations then in effect. Customer acknowledges that the Equipment, and any related technology that are sold or otherwise provided hereunder may be subject to export and other trade controls restricting the sale, export, re-export and/or transfer, directly or indirectly, of such Equipment or technology to certain countries or parties, including, but not limited to, licensing requirements under applicable laws and regulations of the United States, the United Kingdom and other jurisdictions. It is the intention of Cummins to comply with these laws, rules, and regulations. Any other provision of this Agreement to the contrary notwithstanding, Customer shall comply with all such applicable all laws relating to the cross-border movement of goods or technology, and all related orders in effect from time to time, and equivalent measures. Customer shall act as the importer of record with respect to the Equipment and shall not resell, export, re-export, distribute, transfer, or dispose of the Equipment or related technology, directly or indirectly, without first obtaining all necessary written permits, consents, and authorizations and completing such formalities as may be required under such laws, rules, and regulations. In addition, Cummins has in place policies not to distribute its products for use in certain countries based on applicable laws and regulations including but not limited to UN, U.S., UK, and European Union regulations. Customer undertakes to perform its obligations under this Agreement with due regard to these policies. Strict compliance with this provision and all laws of the territory pertaining to the importation, distribution, sales, promotion and marketing of the Equipment is a material consideration for Cummins entering into this Agreement with Customer and continuing this Agreement for its term. Customer represents and warrants that it has not and shall not, directly or through any intermediary, pay, give, promise to give or offer to give anything of value to a government official or representative, a political party official, a candidate for political office, an officer or employee of a public international organization or any other person, individual or entity at the suggestion, request or direction or for the benefit of any of the above-described persons and entities for the purposes of inducing such person to use his influence to assist Cummins in obtaining or retaining business or to benefit Cummins or any other person in any way, and will not otherwise breach any applicable laws relating to anti-bribery. Any failure by Customer to comply with these provisions will constitute a default giving Cummins the right to immediate termination of this Agreement and/or the right to elect not to recognize the warranties associated with the Equipment. Customer shall accept full responsibility for any and all civil or criminal liabilities and costs arising from any breaches of those laws and regulations and will defend, indemnify, and hold Cummins harmless from and against any and all fines, penalties, claim, damages, liabilities, judgments, costs, fees, and expenses incurred by Cummins or its affiliates as a result of Customer's breach.

28. To the extent applicable, this contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability. The employee notice requirements set forth in 29 CFR Part 471, Appendix A to Subpart A, are hereby incorporated by reference into this contract.

January 8, 2026

To

Prepared by

Ryan Lowe

ak51i@cummins.com

We are pleased to provide you this quotation based on your inquiry.

Item	Description	Qty
1	DQDAB, Genset, Configurable Diesel 275DQDAB, Diesel Genset, 60Hz, 275kW Duty Rating - Standby Power (ESP) Emission Certification, EPA, Tier 3, NSPS CI Stationary Emergency Listing - UL 2200 IBC Seismic Certification Exciter/Regulator - Permanent Magnet Generator, 3 Phase Sensor Voltage - 277/480, 3 Phase, Wye, 4 Wire Alternator - 60Hz, 12 Lead, Extended Range, 125/105C Steel Sound Attenuated Level 2 Enclosure, with Exhaust System Enclosure Color - Green, Steel Wind Rating - 150 MPH, Steel Housing Fuel Tank - Sub Base, 600 Gallon, UL142 Compliant Compliance - Fuel Tank, Florida Listing, ULC - S601-07 Fuel Tank - Dual Wall Sub - Base, 24 Hour Minimum Capacity Alarm - High Fuel Fill Fuel Water Separator Control Mounting - Left Facing PowerCommand 2.3 Controller Analog Meters - AC Output Stop Switch - Emergency Stop Switch - Emergency, Externally Mounted Control Display Language - English Circuit Breaker or Entrance Box or Terminal Box - Right And Left Circuit Breaker - 400A, Left Circuit Breaker on Right side, 3 - Pole, UL 600, IEC 690 100% Circuit Breaker - 250A, Right Circuit Breaker on Right side, 3 - Pole, UL 600, IEC 690 100% Circuit Breaker or Entrance Box - Bottom Entry,Left Side Circuit Breaker or Entrance Box - Bottom Entry,Right Side Engine Governor - Electronic, Isochronous Engine Starter - 24 Volt DC Motor Exhaust Connector - Slip On Engine Air Cleaner - Normal Duty Battery Charging Alternator External Battery Charger - 12 Amp, Regulated	1

Item	Description	Qty
	Engine Cooling - Radiator, High Ambient Air Temperature, Ship Fitted Shutdown - Low Coolant Level Engine Coolant - 50% Antifreeze, 50% Water Mixture Coolant Heater - 120V, Single Phase Engine Oil Genset Warranty - 2 Years Base Literature - English Packing - None, Base Mounted Housing	
2	2" Atmospheric Vent Pipe	1
3	OFPV, 9095-S Morrison	1
4	Battery, Group 34	4
5	Flowline EchoPod DS14, gives up to 5 different level alarms	1
6	OTECSEC, OTEC Service Entrance Transfer Switch-Electronic Control: 300A/400A/600A Not Applicable OTECSE400, Service Entrance TransferSwitch, PowerCommand, 400 Amp Listing - UL 1008 IBC Seismic Certification Application - Utility to Genset Cabinet - Type 3R Poles - 3 (Solid Neutral) Frequency - 60 Hz System - 3 Phase, 3 or 4 Wire Genset Starting Battery - 24V DC Voltage - 480 Volts AC PC40 Control Interface - Communication Network, MODBUS TCP Module Transfer Switch Warranty - 2 Year Comprehensive	1
7	Free-Standing, Pad Mount 150kW Load Bank, 277/480V, 3-Ph, 3R	1
8	No-spec Startup Service and 1-Hr Load Bank Test	1

QUOTE TOTAL: \$ 144,463.62

Quote value does not include any tax.

NOTES:

This Quote is issued pursuant to Sourcewell Contract No. 092222-CMM, including Amendment #1 dated August 5, 2025, which incorporates a limitation of liability clause. By issuing this PO, the Participating Entity agrees to be bound by the terms of the Sourcewell Master Agreement and its amendments.

Cummins quote is valid for 30 days. This quotation is based on contractor supplied info only. Contractor to verify application meets requirements. No specifications or drawings were provided.

LEAD TIME:

Submittals: Typical submittal lead time is 2-4 weeks after receipt of purchase order.

Equipment: Current lead-time is 18-20 weeks after submittal approval and release for production. Lead times are subject to change.



Please feel free to contact me if you require any additional information; or if you have any further questions or concerns that I may be of assistance with.

Thank you for choosing Cummins.

Submitted by:

Ryan Lowe, Territory Manager, Power Generation, Pacific Region
ak51i@cummins.com

SUBMITTALS. An order for the equipment covered by this quotation will be accepted on a hold for release basis. Your order will not be released and scheduled for production until written approval to proceed is received in our office. Such submittal approval shall constitute acceptance of the terms and conditions of this quotation unless the parties otherwise agree in writing.

THERE ARE ADDITIONAL CONTRACT TERMS AND CONDITIONS ATTACHED TO THIS QUOTATION, INCLUDING LIMITATIONS OF WARRANTIES AND LIABILITIES, WHICH ARE EXPRESSLY INCORPORATED HEREIN. BY ACCEPTING THIS QUOTATION, CUSTOMER ACKNOWLEDGES THAT THE CONTRACT TERMS AND CONDITIONS HAVE BEEN READ, FULLY UNDERSTOOD AND ACCEPTED.

Authorized Signature

Date

Company Name

Printed Name & Title

Purchase Order No

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TERMS AND CONDITIONS FOR SALE OF POWER GENERATION EQUIPMENT

These Terms and Conditions for Sale of Power Generation Equipment, together with the quote ("Quote"), sales order ("Sales Order"), and/or credit application ("Credit Application") on the front side or attached hereto, are hereinafter collectively referred to as this "Agreement" and shall constitute the entire agreement between the customer identified in the Quote ("Customer") and Cummins Inc. ("Cummins") and supersede any previous representation, statements, agreements or understanding (oral or written) between the parties with respect to the subject matter of this Agreement. Customer shall be deemed to have made an unqualified acceptance of these Terms and Conditions and it shall become a binding agreement between the parties on the earliest of the following to occur: (i) Cummins' receipt of Customer's purchase order or purchase order number; (ii) Customer's signing or acknowledgment of this Agreement; (iii) Cummins' release of equipment to production pursuant to Customer's oral or written instruction or direction; (iv) Customer's payment of any amounts due to Cummins; or (v) any other event constituting acceptance under applicable law. No prior inconsistent course of dealing, course of performance, or usage of trade, if any, constitutes a waiver of, or serves to explain or interpret, the Terms and Conditions set forth in this Agreement. Electronic transactions between Customer and Cummins will be solely governed by the Terms and Conditions of this Agreement, and any terms and conditions on Customer's website or other internet site will be null and void and of no legal effect on Cummins. In the event Customer delivers, references, incorporates by reference, or produces any purchase order or document, specifications, agreement (whether upstream or otherwise), or any other terms and conditions related thereto, then such specifications, terms, document, or other agreement: (i) shall be null and void and of no legal effect on Cummins, and (ii) this Agreement shall remain the governing terms of the transaction.

1. SCOPE. Cummins shall supply power generation equipment and any related parts, materials and/or services expressly identified in this Agreement (collectively, "Equipment"). No additional services, parts or materials are included in this Agreement unless mutually agreed upon by the parties in writing. A Sales Order for Equipment is accepted on a hold for release basis. The Sales Order will not be released and scheduled for production until written approval to proceed is received from Customer. A Quote is limited to the plans and specifications section specifically referenced in the Quote. No other sections shall apply. Additional requirements for administrative items may require additional costs. The Quote does not include off unit wiring, off unit plumbing, offloading, rigging, installation, exhaust insulation or fuel, unless otherwise stated and mutually agreed to in writing by the parties. Unless otherwise agreed by Cummins in writing, this Quote is valid for a maximum period of thirty (30) days from the date appearing on the first page of this Quote ("Quote Validation Period"). At the end of the Quote Validation Period, this Quote will automatically expire unless accepted by Customer prior to the end of the Quote Validation Period. The foregoing notwithstanding, in no event shall this Quote Validation Period be deemed or otherwise considered to be a firm offer period nor to establish an option contract, and Cummins hereby reserves its right to revoke or amend this Quote at any time prior to Customer's acceptance.

2. SHIPPING; DELIVERY; DELAYS. Unless otherwise agreed in writing by the parties, Equipment shall be delivered FOB origin, freight prepaid to first destination. For consumer and mobile products, freight will be charged to Customer. Unless otherwise agreed to in writing by the parties, packaging method, shipping documents and manner, route and carrier and delivery shall be as Cummins deems appropriate. Cummins may deliver in installments. A reasonable storage fee, as determined in Cummins' sole discretion, may be assessed if delivery of the Equipment is delayed, deferred, or refused by Customer. In the event Customer fails to take any or all shipments of Equipment ordered hereunder within thirty (30) days of the agreed upon delivery date, Cummins shall have the right, in its sole discretion to either (i) charge a minimum storage fee in the amount of one and one-half percent (1.5%) per month of the total quoted amount; or (ii) consider the Equipment abandoned and, subject to local laws, may (a) make the Equipment available for auction or sale to other customers or the public, or (b) otherwise use, destroy, or recycle the Equipment at Customer's sole cost and expense. The foregoing remedies shall be without prejudice to Cummins' right to pursue other remedies available under the law, including without limitation, recovery of costs and/or losses incurred due to the storage, auction, sale, destruction, recycling, or otherwise of the Equipment. Offloading, handling, and placement of Equipment and crane services are the responsibility of Customer and not included unless otherwise stated. All shipments are made within normal business hours, Monday through Friday. Any delivery, shipping, installation, or performance dates indicated in this Agreement are estimated and not guaranteed. Further, delivery time is subject to confirmation at time of order and will be in effect after engineering drawings have been approved for production. Cummins shall use commercially reasonable efforts to meet estimated dates, but shall not be liable to customer or any third party for any delay in delivery, shipping, installation, or performance, however occasioned, including any delays in performance that result directly or indirectly from acts of Customer or any unforeseen event, circumstance, or condition beyond Cummins' reasonable control including, but not limited to, acts of God, actions by any government authority, civil strife, fires, floods, windstorms, explosions, riots, natural disasters, embargos, wars, strikes or other labor disturbances, civil commotion, terrorism, sabotage, late delivery by Cummins' suppliers, fuel or other energy shortages, or an inability to obtain necessary labor, materials, supplies, equipment or manufacturing facilities. *AS A RESULT OF COVID-19 RELATED EFFECTS OR INDUSTRY SUPPLY CHAIN DISRUPTIONS, TEMPORARY DELAYS IN DELIVERY, LABOR OR SERVICES FROM CUMMINS AND ITS SUB-SUPPLIERS OR SUBCONTRACTORS MAY OCCUR. AMONG OTHER FACTORS, CUMMINS' DELIVERY OBLIGATIONS ARE SUBJECT TO CORRECT AND PUNCTUAL SUPPLY FROM OUR SUB-SUPPLIERS OR SUBCONTRACTORS, AND CUMMINS RESERVES THE RIGHT TO MAKE PARTIAL DELIVERIES OR MODIFY ITS LABOR OR SERVICE. WHILE CUMMINS SHALL MAKE COMMERCIALY REASONABLE EFFORTS TO MEET THE DELIVERY, SERVICE OR COMPLETION OBLIGATIONS SET FORTH HEREIN, SUCH DATES ARE SUBJECT TO CHANGE. IN THE EVENT DELIVERY, SHIPPING, INSTALLATION, OR PERFORMANCE IS DELAYED, HOWEVER OCCASSIONED, DUE TO EVENTS BEYOND CUMMINS' REASONABLE CONTROL, THEN THE DATE OF DELIVERY, SHIPPING, INSTALLATION, OR PERFORMANCE FOR THE EQUIPMENT OR SERVICES SHALL BE EQUITABLY EXTENDED FOR A PERIOD EQUAL TO THE TIME LOST, PLUS REASONABLE RAMP-UP.*

3. PAYMENT TERMS; CREDIT; RETAINAGE. Unless otherwise agreed to by the parties in writing and subject to credit approval by Cummins, payments are due thirty (30) days from the date of the invoice. If Customer does not have approved credit with Cummins,

as solely determined by Cummins, payments are due in advance or at the time of supply of the Equipment. If payment is not received when due, in addition to any rights Cummins may have at law, Cummins may charge Customer eighteen percent (18%) interest annually on late payments, or the maximum amount allowed by law. Customer agrees to pay Cummins' costs and expenses (including reasonable attorneys' fees) related to Cummins' enforcement and collection of unpaid invoices, or any other enforcement of this Agreement by Cummins. Retainage is not acceptable nor binding, unless required by statute or accepted and confirmed in writing by Cummins prior to shipment. If Customer fails to make any payments to Cummins when due and payable, and such failure continues for more than sixty (60) days from the date of the invoice, or less if required by applicable law, then Cummins may, at Cummins' sole discretion and without prejudice to any other rights or remedies, either (i) terminate this Agreement; or (ii) postpone delivery of any undelivered Equipment in Cummins' possession and/or suspend its services until payment for unpaid invoices is received.

4. TAXES; EXEMPTIONS. Unless otherwise stated, the Quote excludes all applicable local, state and federal sales and/or use taxes, permits and licensing. Customer must provide a valid resale or exemption certificate prior to shipment of Equipment or applicable taxes will be added to the invoice.

5. TITLE; RISK OF LOSS. Unless otherwise agreed in writing by the parties, title and risk of loss for the Equipment shall pass to Customer upon delivery of the Equipment by Cummins to freight carrier or to Customer at pickup at Cummins' facility.

6. INSPECTION AND ACCEPTANCE. Customer shall inspect the Equipment upon delivery, before offloading, for damage, defects, and shortage. Any and all claims which could have been discovered by such inspection shall be deemed absolutely and unconditionally waived unless noted by Customer on the bill of lading. Where Equipment is alleged to be non-conforming or defective, written notice of defect must be given to Cummins within three (3) days from date of delivery after which time Equipment shall be deemed accepted. Cummins shall have a commercially reasonable period of time in which to correct such non-conformity or defect. If non-conformity or defect is not eliminated to Customer's reasonable satisfaction, Customer may reject the Equipment (but shall protect the Equipment until returned to Cummins) or allow Cummins another opportunity to undertake corrective action. In the event startup of the Equipment is included in the services, acceptance shall be deemed to have occurred upon successful startup.

7. LIEN; SECURITY AGREEMENT. Customer agrees that Cummins retains all statutory lien rights. To secure payment, Customer grants Cummins a Purchase Money Security Interest in the Equipment. If any portion of the balance is due to be paid following delivery, Customer agrees to execute and deliver such security agreement, financing statements, deed of trust and such other documents as Cummins may request from time to time in order to permit Cummins to obtain and maintain a perfected security interest in the Equipment; or in the alternative, Customer grants Cummins a power of attorney to execute and file all financing statements and other documents needed to perfect this security interest. Cummins may record this Agreement, bearing Customer's signature, or copy of this Agreement in lieu of a UCC-1, provided that it shall not constitute an admission by Cummins of the applicability or non-applicability of the UCC nor shall the failure to file this form or a UCC-1 in any way affect, alter, or invalidate any term, provision, obligation or liability under this Agreement. The security interest shall be superseded if Customer and Cummins enter into a separate security agreement for the Equipment. Prior to full payment of the balance due, Equipment will be kept at Customer's location noted in this Agreement, will not be moved without prior notice to Cummins, and is subject to inspection by Cummins at all reasonable times.

05.01.2023

8. CANCELLATION; CHARGES. Orders placed with and accepted by Cummins may not be cancelled except with Cummins' prior written consent. If Customer seeks to cancel all or a portion of an order placed pursuant to this Agreement, and Cummins accepts such cancellation in whole or in part, Customer shall be assessed cancellation charges as follows: (i) 10% of total order price if cancellation is received in Cummins' office after Cummins has provided submittals and prior to releasing equipment to be manufactured; (ii) 25% of total order price if cancellation is received in Cummins' office after receipt of submittal release to order, receipt of a purchase order for a generator already on order with the factory, or is asked to make any hardware changes to the equipment already on order with the factory; (iii) 50% of total order price if cancellation is received in Cummins' office sixty (60) or fewer days before the scheduled shipping date on the order; or (iv) 100% of total order price if cancellation is received in Cummins' office after the equipment has shipped from the manufacturing plant.

9. TERMINATION. Cummins may, at any time, terminate this Agreement for convenience upon sixty (60) days' written notice to Customer. If the Customer defaults by (i) breaching any term of this Agreement, (ii) becoming insolvent or declared bankrupt, or (iii) making an assignment for the benefit of creditors, Cummins may, upon written notice to Customer, immediately terminate this Agreement. Upon such termination for default, Cummins shall immediately cease any further performance under this Agreement, without further obligation or liability to Customer, and Customer shall pay Cummins for any Equipment or services supplied under this Agreement, in accordance with the payment terms detailed in Section 3. If a notice of termination for default has been issued and is later determined, for any reason, that the Customer was not in default, the rights and obligations of the parties shall treat the termination as a termination for convenience.

10. MANUALS. Unless otherwise stated, electronic submittals and electronic operation and maintenance manuals will be provided, and print copies may be available upon Customer's request at an additional cost.

11. TRAINING; START UP SERVICES; INSTALLATION. Startup services, load bank testing, and owner training are not provided unless otherwise stated. Site startup will be subject to the account being current and will be performed during regular Cummins business hours, Monday to Friday. Additional charges may be added for work requested to be done outside standard business hours, on weekends, or holidays. One visit is allowed unless specified otherwise in the Quote. A minimum of two-week prior notice is required to schedule site startups and will be subject to prior commitments and equipment and travel availability. A signed site check sheet confirming readiness will be required, and Cummins personnel may perform an installation audit prior to the startup being completed. Any issues identified by the installation audit shall be corrected at the Customer's expense prior to the start-up. Portable load banks

for site test (if offered in the Quote) are equipped with only 100 feet of cable. Additional lengths may be arranged at an extra cost. Cummins is not responsible for any labor or materials charged by others associated with start-up and installation of Equipment, unless previously agreed upon in writing. Supply of fuel for start-up and/or testing, fill-up of tank after start up, or change of oil is not included unless specified in the Quote. All installation/execution work at the site including, but not limited to: civil, mechanical, electrical, supply of wall thimbles, exhaust extension pipe, elbows, hangers, expansion joints, insulation and cladding materials, fuel/oil/cooling system piping, air ducts, and louvers/dampers is not included unless specified in the Quote. When an enclosure or sub-base fuel tank (or both) are supplied, the openings provided for power cable and fuel piping entries, commonly referred to as “stub-ups”, must be sealed at the site by others before commissioning. All applications, inspections and/or approvals by authorities are to be arranged by Customer.

12. MANUFACTURER’S WARRANTY. Equipment purchased hereunder is accompanied by an express written manufacturer’s warranty (“Warranty”) and, except as expressly provided in this Agreement, is the only warranty offered on the Equipment. A copy of the Warranty is available upon request. While this Agreement and the Warranty are intended to be read and applied in conjunction, where this Agreement and the Warranty conflict, the terms of the Warranty shall prevail.

13. WARRANTY PROCEDURE. Prior to the expiration of the Warranty, Customer must give notice of a warrantable failure to Cummins and deliver the defective Equipment to a Cummins location or other location authorized and designated by Cummins to make the repairs during regular business hours. Cummins shall not be liable for towing charges, maintenance items such as oil filters, belts, hoses, etc., communication expenses, meals, lodging, and incidental expenses incurred by Customer or employees of Customer, “downtime” expenses, overtime expenses, cargo damages and any business costs and losses of revenue resulting from a warrantable failure.

14. LIMITATIONS ON WARRANTIES.

THE REMEDIES PROVIDED IN THE WARRANTY AND THIS AGREEMENT ARE THE SOLE AND EXCLUSIVE WARRANTIES AND REMEDIES PROVIDED BY CUMMINS TO THE CUSTOMER UNDER THIS AGREEMENT. EXCEPT AS SET OUT IN THE WARRANTY AND THIS AGREEMENT, AND TO THE EXTENT PERMITTED BY LAW, CUMMINS EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS, WARRANTIES, ENDORSEMENTS, AND CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY STATUTORY OR COMMON LAW IMPLIED REPRESENTATIONS, WARRANTIES AND CONDITIONS OF FITNESS FOR A PURPOSE OR MERCHANTABILITY.

The limited warranty does not cover Equipment failures resulting from: (a) inappropriate use relative to designated power rating; (b) inappropriate use relative to application guidelines; (c) inappropriate use of an EPA-SE application generator set relative to EPA’s standards; (d) normal wear and tear; (e) improper and/or unauthorized installation; (f) negligence, accidents, or misuse; (g) lack of maintenance or unauthorized or improper repair; (h) noncompliance with any Cummins published guideline or policy; (i) use of improper or contaminated fuels, coolants, or lubricants; (j) improper storage before and after commissioning; (k) owner’s delay in making Equipment available after notification of potential Equipment problem; (l) replacement parts and accessories not authorized by Cummins; (m) use of battle short mode; (n) owner or operator abuse or neglect such as: operation without adequate coolant, fuel, or lubricants; over fueling; over speeding; lack of maintenance to lubricating, fueling, cooling, or air intake systems; late servicing and maintenance; improper storage, starting, warm-up, running, or shutdown practices, or for progressive damage resulting from a defective shutdown or warning device; or (o) damage to parts, fixtures, housings, attachments and accessory items that are not part of the generating set.

15. INDEMNITY. Customer shall indemnify, defend and hold harmless Cummins from and against any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys’ fees, brought against or incurred by Cummins related to or arising out of this Agreement or the Equipment supplied under this Agreement (collectively, the “Claims”), where such Claims were caused or contributed to by, in whole or in part, the acts, omissions, fault or negligence of the Customer. Customer shall present any Claims covered by this indemnity to its insurance carrier unless Cummins directs that the defense will be handled by Cummins’ legal counsel at Customer’s expense.

16. LIMITATION OF LIABILITY

NOTWITHSTANDING ANY OTHER TERM OF THIS AGREEMENT, IN NO EVENT SHALL CUMMINS, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY, WHETHER IN CONTRACT OR IN TORT OR UNDER ANY OTHER LEGAL THEORY (INCLUDING, WITHOUT LIMITATION, STRICT LIABILITY OR NEGLIGENCE), FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, LIQUIDATED, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION DOWNTIME, LOSS OF PROFIT OR REVENUE, LOSS OF DATA, LOSS OF OPPORTUNITY, DAMAGE TO GOODWILL, ENHANCED DAMAGES, MONETARY REQUESTS RELATING TO RECALL EXPENSES AND REPAIRS TO PROPERTY, AND/OR DAMAGES CAUSED BY DELAY), OR IN ANY WAY RELATED TO OR ARISING FROM CUMMINS’ SUPPLY OF EQUIPMENT UNDER THIS AGREEMENT OR THE USE OR PERFORMANCE OF EQUIPMENT SUPPLIED UNDER THIS AGREEMENT. IN NO EVENT SHALL CUMMINS’ LIABILITY TO CUSTOMER OR ANY THIRD PARTY CLAIMING DIRECTLY THROUGH CUSTOMER OR ON CUSTOMER’S BEHALF UNDER THIS AGREEMENT EXCEED THE TOTAL COST OF EQUIPMENT SUPPLIED BY CUMMINS UNDER THIS AGREEMENT GIVING RISE TO THE CLAIM. BY ACCEPTANCE OF THIS AGREEMENT, CUSTOMER ACKNOWLEDGES CUSTOMER’S SOLE REMEDY AGAINST CUMMINS FOR ANY LOSS SHALL BE THE REMEDY PROVIDED HEREIN.

17. DEFAULT; REMEDIES. Customer shall be in breach and default if: (a) any of the payments or amounts due under this Agreement are not paid; (b) Customer fails to comply, perform, or makes any misrepresentation relating to any of the Customer’s obligations or covenants under this Agreement; or (c) prior to full payment of the balance due, Customer ceases to do business, becomes insolvent, makes an assignment for the benefit of its creditors, appoints a receiver, commences an action for dissolution or liquidation, or

becomes subject to bankruptcy proceedings, or the Equipment is attached, levied upon, seized under legal process, is subjected to a lien or encumbrance, or transferred by operation of law or otherwise to anyone other than Cummins. Upon the occurrence of any event of Customer's default, Cummins, at its sole option and without notice, shall have the right to exercise concurrently or separately any one or all of the following remedies, which shall be cumulative and not alternative: (a) to declare all sums due, and to become due, under this Agreement immediately due and payable; (b) to commence legal proceedings, including collection actions and specific performance proceedings, to enforce performance by Customer of any and all provisions of this Agreement, and to be awarded damages or injunctive relief for the Customer's breach; (c) to require the Customer to deliver the Equipment to Cummins' branch specified on the face of this Agreement; (d) to exercise one or more of the rights and remedies available to a secured party under applicable law; and (e) to enter, without notice or liability or legal process, onto any premises where the Equipment may be located, using force permitted by law, and there to disconnect, remove and repossess the Equipment, the Customer having waived further right to possession after default. A waiver of any event of default by Cummins shall not be a waiver as to any other or subsequent default.

18. CUSTOMER REPRESENTATIONS; RELIANCE. Customer is responsible for obtaining, at its cost, permits, import licenses, and other consents in relation to the Equipment, and if requested by Cummins, Customer shall make these permits, licenses, and consents available to Cummins prior to shipment. Customer represents that it is familiar with the Equipment and understands operating instructions and agrees to perform routine maintenance services. Until the balance is paid in full, Customer shall care for the Equipment properly, maintain it in good operating condition, repair and appearance; and Customer shall use it safely and within its rated capacity and only for purpose it was designed. Even if Customer's purchase of Equipment from Cummins under this Agreement is based, in whole or in part, on specifications, technical information, drawings, or written or verbal advice of any type from third parties, Customer has sole responsibility for the accuracy, correctness and completeness of such specifications, technical information, drawings, or advice. Cummins make no warranties or representations respecting the accuracy, correctness and completeness of any specifications, technical information, drawings, advice or other information provided by Cummins. Cummins makes no warranties or representations respecting the suitability, fitness for intended use, compatibility, integration or installation of any Equipment supplied under this Agreement. Customer has sole responsibility for intended use, for installation and design and performance where it is part of a power, propulsion, or other system. Limitation of warranties and remedies and all disclaimers apply to all such technical information, drawings, or advice. Customer acknowledges and agrees by accepting delivery of the Equipment that the Equipment purchased is of the size, design, capacity and manufacture selected by the Customer, and that Customer has relied solely on its own judgment in selecting the Equipment.

19. CONFIDENTIALITY. Each party shall keep confidential any information received from the other that is not generally known to the public and at the time of disclosure, would reasonably be understood by the receiving party to be proprietary or confidential, whether disclosed in oral, written, visual, electronic, or other form, and which the receiving party (or agents) learns in connection with this Agreement including, but not limited to: (a) business plans, strategies, sales, projects and analyses; (b) financial information, pricing, and fee structures; (c) business processes, methods, and models; (d) employee and supplier information; (e) specifications; and (f) the terms and conditions of this Agreement. Each party shall take necessary steps to ensure compliance with this provision by its employees and agents.

20. GOVERNING LAW AND JURISDICTION. This Agreement and all matters arising hereunder shall be governed by, interpreted, and construed in accordance with the laws of the State of Indiana without giving effect to any choice or conflict of law provision. The parties agree that the federal and state courts of the State of Indiana shall have exclusive jurisdiction to settle any dispute or claim arising in connection with this Agreement or any related matter, and hereby waive any right to claim such forum would be inappropriate, including concepts of forum non conveniens.

21. INSURANCE. Upon Customer's request, Cummins will provide to Customer a Certificate of Insurance evidencing Cummins' relevant insurance coverage.

22. ASSIGNMENT. This Agreement shall be binding on the parties and their successors and assigns. Customer shall not assign this Agreement without the prior written consent of Cummins.

23. INTELLECTUAL PROPERTY. Any intellectual property rights created by either party, whether independently or jointly, in the course of the performance of this Agreement or otherwise related to Cummins pre-existing intellectual property or subject matter related thereto, shall be Cummins' property. Customer agrees to assign, and does hereby assign, all right, title, and interest to such intellectual property to Cummins. Any Cummins pre-existing intellectual property shall remain Cummins' property. Nothing in this Agreement shall be deemed to have given Customer a license or any other rights to use any of the intellectual property rights of Cummins.

24. PRICING. To the extent allowed by law, actual prices invoiced to Customer may vary from the price quoted at the time of order placement, as the same will be adjusted for prices prevailing on the date of shipment due to economic and market conditions at the time of shipment. Subject to local laws, Cummins reserves the right to adjust pricing on goods and services due to input and labor cost changes and/or other unforeseen circumstances beyond Cummins' control.

25. TARIFF AND DUTY SURCHARGES. In addition to any adjustments otherwise provided for in this Agreement, in the event of any increase in the cost of purchased materials due to the impact of any tariffs, duties, levies, or similar government charges ("Tariffs") in effect during the term of this Agreement, the parties agree that such increases shall be passed through directly to the Customer effective immediately upon Cummins' notice to the Customer of such increases. The Customer shall pay Tariff-related increases within thirty (30) days of receipt of invoice.

26. MISCELLANEOUS. Cummins shall be an independent contractor under this Agreement. All notices under this Agreement shall be in writing and be delivered personally, mailed via first class certified or registered mail, or sent by a nationally recognized express courier service to the addresses set forth in this Agreement. No amendment of this Agreement shall be valid unless it is writing and

signed by an authorized representative of the parties hereto. Failure of either party to require performance by the other party of any provision hereof shall in no way affect the right to require such performance at any time thereafter, nor shall the waiver by a party of a breach of any of the provisions hereof constitute a waiver of any succeeding breach. Any provision of this Agreement that is invalid or unenforceable shall not affect the validity or enforceability of the remaining terms hereof. These terms are exclusive and constitute the entire agreement. Customer acknowledges that the provisions were freely negotiated and bargained for, and Customer has agreed to purchase of the Equipment pursuant to these Terms and Conditions. Acceptance of this Agreement is expressly conditioned on Customer's assent to all such Terms and Conditions. Neither party has relied on any statement, representation, agreement, understanding, or promise made by the other except as expressly set out in this Agreement. In the event Cummins incurs additional charges hereunder due to the acts or omissions of Customer, the additional charges will be passed on to the Customer, as applicable. Headings or other subdivisions of this Agreement are inserted for convenience of reference and shall not limit or affect the legal construction of any provision hereof. The Parties' rights, remedies, and obligations under this Agreement which by their nature are intended to continue beyond the termination or cancellation of this Agreement, including but not limited to the Section 16. Limitation of Liability provision contained herein, shall survive the expiration, termination, or cancellation of this Agreement.

27. COMPLIANCE. Customer shall comply with all laws applicable to its activities under this Agreement, including, without limitation, any and all applicable federal, state, and local anti-bribery, environmental, health, and safety laws and regulations then in effect. Customer acknowledges that the Equipment, and any related technology that are sold or otherwise provided hereunder may be subject to export and other trade controls restricting the sale, export, re-export and/or transfer, directly or indirectly, of such Equipment or technology to certain countries or parties, including, but not limited to, licensing requirements under applicable laws and regulations of the United States, the United Kingdom and other jurisdictions. It is the intention of Cummins to comply with these laws, rules, and regulations. Any other provision of this Agreement to the contrary notwithstanding, Customer shall comply with all such applicable all laws relating to the cross-border movement of goods or technology, and all related orders in effect from time to time, and equivalent measures. Customer shall act as the importer of record with respect to the Equipment and shall not resell, export, re-export, distribute, transfer, or dispose of the Equipment or related technology, directly or indirectly, without first obtaining all necessary written permits, consents, and authorizations and completing such formalities as may be required under such laws, rules, and regulations. In addition, Cummins has in place policies not to distribute its products for use in certain countries based on applicable laws and regulations including but not limited to UN, U.S., UK, and European Union regulations. Customer undertakes to perform its obligations under this Agreement with due regard to these policies. Strict compliance with this provision and all laws of the territory pertaining to the importation, distribution, sales, promotion and marketing of the Equipment is a material consideration for Cummins entering into this Agreement with Customer and continuing this Agreement for its term. Customer represents and warrants that it has not and shall not, directly or through any intermediary, pay, give, promise to give or offer to give anything of value to a government official or representative, a political party official, a candidate for political office, an officer or employee of a public international organization or any other person, individual or entity at the suggestion, request or direction or for the benefit of any of the above-described persons and entities for the purposes of inducing such person to use his influence to assist Cummins in obtaining or retaining business or to benefit Cummins or any other person in any way, and will not otherwise breach any applicable laws relating to anti-bribery. Any failure by Customer to comply with these provisions will constitute a default giving Cummins the right to immediate termination of this Agreement and/or the right to elect not to recognize the warranties associated with the Equipment. Customer shall accept full responsibility for any and all civil or criminal liabilities and costs arising from any breaches of those laws and regulations and will defend, indemnify, and hold Cummins harmless from and against any and all fines, penalties, claim, damages, liabilities, judgments, costs, fees, and expenses incurred by Cummins or its affiliates as a result of Customer's breach.

28. To the extent applicable, this contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability. The employee notice requirements set forth in 29 CFR Part 471, Appendix A to Subpart A, are hereby incorporated by reference into this contract.



Solicitation Number: RFP #092222

CONTRACT

This Contract is between Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 (Sourcewell) and Cummins Inc., 500 Jackson Street, Box 3005, Columbus, IN 47201 (Supplier).

Sourcewell is a State of Minnesota local government unit and service cooperative created under the laws of the State of Minnesota (Minnesota Statutes Section 123A.21) that offers cooperative procurement solutions to government entities. Participation is open to eligible federal, state/province, and municipal governmental entities, higher education, K-12 education, nonprofit, tribal government, and other public entities located in the United States and Canada. Sourcewell issued a public solicitation for Electrical Energy Power Generation Equipment with Related Parts, Supplies, and Services from which Supplier was awarded a contract.

Supplier desires to contract with Sourcewell to provide equipment, products, or services to Sourcewell and the entities that access Sourcewell's cooperative purchasing contracts (Participating Entities).

1. TERM OF CONTRACT

- A. **EFFECTIVE DATE.** This Contract is effective upon the date of the final signature below.
- B. **EXPIRATION DATE AND EXTENSION.** This Contract expires November 22, 2026, unless it is cancelled sooner pursuant to Article 22. This Contract may be extended one additional year upon the request of Sourcewell and written agreement by Supplier.
- C. **SURVIVAL OF TERMS.** Notwithstanding any expiration or termination of this Contract, all payment obligations incurred prior to expiration or termination will survive, as will the following: Articles 11 through 14 survive the expiration or cancellation of this Contract. All other rights will cease upon expiration or termination of this Contract.

2. EQUIPMENT, PRODUCTS, OR SERVICES

- A. **EQUIPMENT, PRODUCTS, OR SERVICES.** Supplier will provide the Equipment, Products, or Services as stated in its Proposal submitted under the Solicitation Number listed above.

Supplier's Equipment, Products, or Services Proposal (Proposal) is attached and incorporated into this Contract.

All Equipment and Products provided under this Contract must be new and the current model. Supplier may offer used, close-out or refurbished Equipment or Products if they are clearly indicated in Supplier's product and pricing list. Unless agreed to by the Participating Entities in advance, Equipment or Products must be delivered as operational to the Participating Entity's site.

This Contract offers an indefinite quantity of sales, and while substantial volume is anticipated, sales and sales volume are not guaranteed.

B. **WARRANTY.** All equipment purchased pursuant to this Contract is governed by the express written manufacturer's warranty (the "Warranty") and is the only warranty offered on the equipment. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THE WARRANTY, THERE ARE NO OTHER WARRANTIES, GUARANTEES, OR REPRESENTATIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE REMEDIES PROVIDED IN THE WARRANTY SHALL BE THE SOLE AND EXCLUSIVE REMEDY FOR BREACH OF WARRANTY. Supplier further warrants that all Equipment, Products, and Services furnished are free from liens and encumbrances, and are free from defects in design, materials, and workmanship. In addition, Supplier warrants the Equipment, Products, and Services are suitable for and will perform in accordance with the ordinary use for which they are intended. Supplier's dealers and distributors must agree to assist the Participating Entity in reaching a resolution in any dispute over warranty terms with the manufacturer. Any manufacturer's warranty that extends beyond the expiration of the Supplier's warranty will be passed on to the Participating Entity.

C. **DEALERS, DISTRIBUTORS, AND/OR RESELLERS.** Upon Contract execution and throughout the Contract term, Supplier must provide to Sourcwell a current means to validate or authenticate Supplier's authorized dealers, distributors, or resellers relative to the Equipment, Products, and Services offered under this Contract, which will be incorporated into this Contract by reference. It is the Supplier's responsibility to ensure Sourcwell receives the most current information.

3. PRICING

All Equipment, Products, or Services under this Contract will be priced at or below the price stated in Supplier's Proposal.

When providing pricing quotes to Participating Entities, all pricing quoted must reflect a Participating Entity's total cost of acquisition. This means that the quoted cost is for delivered Equipment, Products, and Services that are operational for their intended purpose, and includes all costs to the Participating Entity's requested delivery location.

Regardless of the payment method chosen by the Participating Entity, the total cost associated with any purchase option of the Equipment, Products, or Services must always be disclosed in the pricing quote to the applicable Participating Entity at the time of purchase.

A. **SHIPPING AND SHIPPING COSTS.** All delivered Equipment and Products must be properly packaged. Damaged Equipment and Products may be rejected. If the damage is not readily apparent at the time of delivery, Supplier must permit the Equipment and Products to be returned within a reasonable time at no cost to Sourcewell or its Participating Entities. Participating Entities reserve the right to inspect the Equipment and Products at a reasonable time after delivery where circumstances or conditions prevent effective inspection of the Equipment and Products at the time of delivery. In the event of the delivery of nonconforming Equipment and Products, the Participating Entity will notify the Supplier as soon as possible and the Supplier will replace nonconforming Equipment and Products with conforming Equipment and Products that are acceptable to the Participating Entity.

Supplier must arrange for and pay for the return shipment on Equipment and Products that arrive in a defective or inoperable condition.

Sourcewell may declare the Supplier in breach of this Contract if the Supplier intentionally delivers substandard or inferior Equipment or Products.

B. **SALES TAX.** Each Participating Entity is responsible for supplying the Supplier with valid tax-exemption certification(s). When ordering, a Participating Entity must indicate if it is a tax-exempt entity.

C. **HOT LIST PRICING.** At any time during this Contract, Supplier may offer a specific selection of Equipment, Products, or Services at discounts greater than those listed in the Contract. When Supplier determines it will offer Hot List Pricing, it must be submitted electronically to Sourcewell in a line-item format. Equipment, Products, or Services may be added or removed from the Hot List at any time through a Sourcewell Price and Product Change Form as defined in Article 4 below.

Hot List program and pricing may also be used to discount and liquidate close-out and discontinued Equipment and Products as long as those close-out and discontinued items are clearly identified as such. Current ordering process and administrative fees apply. Hot List Pricing must be published and made available to all Participating Entities.

4. PRODUCT AND PRICING CHANGE REQUESTS

Supplier may request Equipment, Product, or Service changes, additions, or deletions at any time. All requests must be made in writing by submitting a signed Sourcewell Price and Product Change Request Form to the assigned Sourcewell Supplier Development Administrator. This

approved form is available from the assigned Sourcewell Supplier Development Administrator. At a minimum, the request must:

- Identify the applicable Sourcewell contract number;
- Clearly specify the requested change;
- Provide sufficient detail to justify the requested change;
- Individually list all Equipment, Products, or Services affected by the requested change, along with the requested change (e.g., addition, deletion, price change); and
- Include a complete restatement of pricing documentation in Microsoft Excel with the effective date of the modified pricing, or product addition or deletion. The new pricing restatement must include all Equipment, Products, and Services offered, even for those items where pricing remains unchanged.

A fully executed Sourcewell Price and Product Request Form will become an amendment to this Contract and will be incorporated by reference.

5. PARTICIPATION, CONTRACT ACCESS, AND PARTICIPATING ENTITY REQUIREMENTS

A. PARTICIPATION. Sourcewell's cooperative contracts are available and open to public and nonprofit entities across the United States and Canada; such as federal, state/province, municipal, K-12 and higher education, tribal government, and other public entities.

The benefits of this Contract should be available to all Participating Entities that can legally access the Equipment, Products, or Services under this Contract. A Participating Entity's authority to access this Contract is determined through its cooperative purchasing, interlocal, or joint powers laws. Any entity accessing benefits of this Contract will be considered a Service Member of Sourcewell during such time of access. Supplier understands that a Participating Entity's use of this Contract is at the Participating Entity's sole convenience and Participating Entities reserve the right to obtain like Equipment, Products, or Services from any other source.

Supplier is responsible for familiarizing its sales and service forces with Sourcewell contract use eligibility requirements and documentation and will encourage potential participating entities to join Sourcewell. Sourcewell reserves the right to add and remove Participating Entities to its roster during the term of this Contract.

B. PUBLIC FACILITIES. Supplier's employees may be required to perform work at government-owned facilities, including schools. Supplier's employees and agents must conduct themselves in a professional manner while on the premises, and in accordance with Participating Entity policies and procedures, and all applicable laws.

6. PARTICIPATING ENTITY USE AND PURCHASING

A. **ORDERS AND PAYMENT.** To access the contracted Equipment, Products, or Services under this Contract, a Participating Entity must clearly indicate to Supplier that it intends to access this Contract; however, order flow and procedure will be developed jointly between Sourcewell and Supplier. Typically, a Participating Entity will issue an order directly to Supplier or its authorized subsidiary, distributor, dealer, or reseller. If a Participating Entity issues a purchase order, it may use its own forms, but the purchase order should clearly note the applicable Sourcewell contract number. All Participating Entity orders under this Contract must be issued prior to expiration or cancellation of this Contract; however, Supplier performance, Participating Entity payment obligations, and any applicable warranty periods or other Supplier or Participating Entity obligations may extend beyond the term of this Contract.

Supplier's acceptable forms of payment are included in its attached Proposal. Participating Entities will be solely responsible for payment and Sourcewell will have no liability for any unpaid invoice of any Participating Entity.

B. **ADDITIONAL TERMS AND CONDITIONS/PARTICIPATING ADDENDUM.** Additional terms and conditions to a purchase order, or other required transaction documentation, may be negotiated between a Participating Entity and Supplier, such as job or industry-specific requirements, legal requirements (e.g., affirmative action or immigration status requirements), or specific local policy requirements. Some Participating Entities may require the use of a Participating Addendum, the terms of which will be negotiated directly between the Participating Entity and the Supplier or its authorized dealers, distributors, or resellers, as applicable. Any negotiated additional terms and conditions must never be less favorable to the Participating Entity than what is contained in this Contract.

C. **SPECIALIZED SERVICE REQUIREMENTS.** In the event that the Participating Entity requires service or specialized performance requirements not addressed in this Contract (such as e-commerce specifications, specialized delivery requirements, or other specifications and requirements), the Participating Entity and the Supplier may enter into a separate, standalone agreement, apart from this Contract. Sourcewell, including its agents and employees, will not be made a party to a claim for breach of such agreement.

D. **TERMINATION OF ORDERS.** Participating Entities may terminate an order, in whole or in part, immediately upon notice to Supplier in the event of any of the following events:

1. The Participating Entity fails to receive funding or appropriation from its governing body at levels sufficient to pay for the equipment, products, or services to be purchased; or
2. Federal, state, or provincial laws or regulations prohibit the purchase or change the Participating Entity's requirements.

E. **GOVERNING LAW AND VENUE.** The governing law and venue for any action related to a Participating Entity's order will be determined by the Participating Entity making the purchase.

7. CUSTOMER SERVICE

A. **PRIMARY ACCOUNT REPRESENTATIVE.** Supplier will assign an Account Representative to Sourcwell for this Contract and must provide prompt notice to Sourcwell if that person is changed. The Account Representative will be responsible for:

- Maintenance and management of this Contract;
- Timely response to all Sourcwell and Participating Entity inquiries; and
- Business reviews to Sourcwell and Participating Entities, if applicable.

B. **BUSINESS REVIEWS.** Supplier must perform a minimum of one business review with Sourcwell per contract year. The business review will cover sales to Participating Entities, pricing and contract terms, administrative fees, sales data reports, performance issues, supply issues, customer issues, and any other necessary information.

8. REPORT ON CONTRACT SALES ACTIVITY AND ADMINISTRATIVE FEE PAYMENT

A. **CONTRACT SALES ACTIVITY REPORT.** Each calendar quarter, Supplier must provide a contract sales activity report (Report) to the Sourcwell Supplier Development Administrator assigned to this Contract. Reports are due no later than 45 days after the end of each calendar quarter. A Report must be provided regardless of the number or amount of sales during that quarter (i.e., if there are no sales, Supplier must submit a report indicating no sales were made).

The Report must contain the following fields:

- Participating Entity Name (e.g., City of Staples Highway Department);
- Participating Entity Physical Street Address;
- Participating Entity City;
- Participating Entity State/Province;
- Participating Entity Zip/Postal Code;
- Participating Entity Contact Name;
- Participating Entity Contact Email Address;
- Participating Entity Contact Telephone Number;
- Sourcwell Assigned Entity/Participating Entity Number;
- Item Purchased Description;
- Item Purchased Price;
- Sourcwell Administrative Fee Applied; and
- Date Purchase was invoiced/sale was recognized as revenue by Supplier.

B. ADMINISTRATIVE FEE. In consideration for the support and services provided by Sourcewell, the Supplier will pay an administrative fee to Sourcewell on all Equipment, Products, and Services provided to Participating Entities. The Administrative Fee must be included in, and not added to, the pricing. Supplier may not charge Participating Entities more than the contracted price to offset the Administrative Fee.

The Supplier will submit payment to Sourcewell for the percentage of administrative fee stated in the Proposal multiplied by the total sales of all Equipment, Products, and Services purchased by Participating Entities under this Contract during each calendar quarter. Payments should note the Supplier's name and Sourcewell-assigned contract number in the memo; and must be mailed to the address above "Attn: Accounts Receivable" or remitted electronically to Sourcewell's banking institution per Sourcewell's Finance department instructions. Payments must be received no later than 45 calendar days after the end of each calendar quarter.

Supplier agrees to cooperate with Sourcewell in auditing transactions under this Contract to ensure that the administrative fee is paid on all items purchased under this Contract.

In the event the Supplier is delinquent in any undisputed administrative fees, Sourcewell reserves the right to cancel this Contract and reject any proposal submitted by the Supplier in any subsequent solicitation. In the event this Contract is cancelled by either party prior to the Contract's expiration date, the administrative fee payment will be due no more than 30 days from the cancellation date.

9. AUTHORIZED REPRESENTATIVE

Sourcewell's Authorized Representative is its Chief Procurement Officer.

Supplier's Authorized Representative is the person named in the Supplier's Proposal. If Supplier's Authorized Representative changes at any time during this Contract, Supplier must promptly notify Sourcewell in writing.

10. AUDIT, ASSIGNMENT, AMENDMENTS, WAIVER, AND CONTRACT COMPLETE

A. AUDIT. Pursuant to Minnesota Statutes Section 16C.05, subdivision 5, the books, records, documents, and accounting procedures and practices relevant to this Contract are subject to examination by Sourcewell or the Minnesota State Auditor for a minimum of six years from the end of this Contract. This clause extends to Participating Entities as it relates to business conducted by that Participating Entity under this Contract.

B. ASSIGNMENT. Neither party may assign or otherwise transfer its rights or obligations under this Contract without the prior written consent of the other party and a fully executed

assignment agreement. Such consent will not be unreasonably withheld. Any prohibited assignment will be invalid.

C. AMENDMENTS. Any amendment to this Contract must be in writing and will not be effective until it has been duly executed by the parties.

D. WAIVER. Failure by either party to take action or assert any right under this Contract will not be deemed a waiver of such right in the event of the continuation or repetition of the circumstances giving rise to such right. Any such waiver must be in writing and signed by the parties.

E. CONTRACT COMPLETE. This Contract represents the complete agreement between the parties. No other understanding regarding this Contract, whether written or oral, may be used to bind either party. For any conflict between the attached Proposal and the terms set out in Articles 1-22 of this Contract, the terms of Articles 1-22 will govern.

F. RELATIONSHIP OF THE PARTIES. The relationship of the parties is one of independent contractors, each free to exercise judgment and discretion with regard to the conduct of their respective businesses. This Contract does not create a partnership, joint venture, or any other relationship such as master-servant, or principal-agent.

11. INDEMNITY AND HOLD HARMLESS

Supplier must indemnify, defend, save, and hold Sourcewell and its Participating Entities, including their agents and employees, harmless from any third party claims or causes of action, including attorneys' fees incurred by Sourcewell or its Participating Entities, arising out of any negligent act or omission or willful misconduct in the performance of this Contract by the Supplier or its agents or employees; this indemnification includes injury or death to person(s) or property alleged to have been caused by some defect in the Equipment, Products, or Services under this Contract to the extent the Equipment, Product, or Service has been used according to its specifications. To the maximum extent permitted by law, in no event will Supplier be liable under this Contract for consequential, incidental, or special damages, including without limitation any lost opportunity damages or lost profits, or savings, loss of use, loss of data, or downtime, even if it has been advised of their possible existence. Sourcewell's responsibility will be governed by the State of Minnesota's Tort Liability Act (Minnesota Statutes Chapter 466) and other applicable law.

12. GOVERNMENT DATA PRACTICES

Supplier and Sourcewell must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by or provided to Sourcewell

under this Contract and as it applies to all data created, collected, received, maintained, or disseminated by the Supplier under this Contract.

13. INTELLECTUAL PROPERTY, PUBLICITY, MARKETING, AND ENDORSEMENT

A. INTELLECTUAL PROPERTY

1. *Grant of License.* During the term of this Contract:
 - a. Sourcewell grants to Supplier a royalty-free, worldwide, non-exclusive right and license to use the trademark(s) provided to Supplier by Sourcewell in advertising and promotional materials for the purpose of marketing Sourcewell's relationship with Supplier.
 - b. Supplier grants to Sourcewell a royalty-free, worldwide, non-exclusive right and license to use Supplier's trademarks in advertising and promotional materials for the purpose of marketing Supplier's relationship with Sourcewell.
2. *Limited Right of Sublicense.* The right and license granted herein includes a limited right of each party to grant sublicenses to their respective subsidiaries, distributors, dealers, resellers, marketing representatives, and agents (collectively "Permitted Sublicensees") in advertising and promotional materials for the purpose of marketing the Parties' relationship to Participating Entities. Any sublicense granted will be subject to the terms and conditions of this Article. Each party will be responsible for any breach of this Article by any of their respective sublicensees.
3. *Use; Quality Control.*
 - a. Neither party may alter the other party's trademarks from the form provided and must comply with removal requests as to specific uses of its trademarks or logos.
 - b. Each party agrees to use, and to cause its Permitted Sublicensees to use, the other party's trademarks only in good faith and in a dignified manner consistent with such party's use of the trademarks. Upon written notice to the breaching party, the breaching party has 30 days of the date of the written notice to cure the breach or the license will be terminated.
4. *Termination.* Upon the termination of this Contract for any reason, each party, including Permitted Sublicensees, will have 30 days to remove all Trademarks from signage, websites, and the like bearing the other party's name or logo (excepting Sourcewell's pre-printed catalog of suppliers which may be used until the next printing). Supplier must return all marketing and promotional materials, including signage, provided by Sourcewell, or dispose of it according to Sourcewell's written directions.

B. **PUBLICITY.** Any publicity regarding the subject matter of this Contract must not be released without prior written approval from the Authorized Representatives. Publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Supplier individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Contract.

C. **MARKETING.** Any direct advertising, marketing, or offers with Participating Entities must be approved by Sourcewell. Send all approval requests to the Sourcewell Supplier Development Administrator assigned to this Contract.

D. **ENDORSEMENT.** The Supplier must not claim that Sourcewell endorses its Equipment, Products, or Services.

14. GOVERNING LAW, JURISDICTION, AND VENUE

The substantive and procedural laws of the State of Minnesota will govern this Contract. Venue for all legal proceedings arising out of this Contract, or its breach, must be in the appropriate state court in Todd County, Minnesota or federal court in Fergus Falls, Minnesota.

15. FORCE MAJEURE

Neither party to this Contract will be held responsible for delay or default caused by acts of God or other conditions that are beyond that party's reasonable control. A party defaulting under this provision must provide the other party prompt written notice of the default.

16. SEVERABILITY

If any provision of this Contract is found by a court of competent jurisdiction to be illegal, unenforceable, or void then both parties will be relieved from all obligations arising from that provision. If the remainder of this Contract is capable of being performed, it will not be affected by such determination or finding and must be fully performed.

17. PERFORMANCE, DEFAULT, AND REMEDIES

A. **PERFORMANCE.** During the term of this Contract, the parties will monitor performance and address unresolved contract issues as follows:

1. *Notification.* The parties must promptly notify each other of any known dispute and work in good faith to resolve such dispute within a reasonable period of time. If necessary, Sourcewell and the Supplier will jointly develop a short briefing document that describes the issue(s), relevant impact, and positions of both parties.
2. *Escalation.* If parties are unable to resolve the issue in a timely manner, as specified above, either Sourcewell or Supplier may escalate the resolution of the issue to a higher level of management. The Supplier will have 30 calendar days to cure an outstanding issue.
3. *Performance while Dispute is Pending.* Notwithstanding the existence of a dispute, the Supplier must continue without delay to carry out all of its responsibilities under the Contract that are not affected by the dispute. If the Supplier fails to continue without delay to perform its responsibilities under the Contract, in the accomplishment of all undisputed

work, the Supplier will bear any additional costs incurred by Sourcewell and/or its Participating Entities as a result of such failure to proceed.

B. **DEFAULT AND REMEDIES.** Either of the following constitutes cause to declare this Contract, or any Participating Entity order under this Contract, in default:

1. Nonperformance of contractual requirements, or
2. A material breach of any term or condition of this Contract.

The party claiming default must provide written notice of the default, with 30 calendar days to cure the default. Time allowed for cure will not diminish or eliminate any liability for liquidated or other damages. If the default remains after the opportunity for cure, the non-defaulting party may:

- Exercise any remedy provided by law or equity, or
- Terminate the Contract or any portion thereof, including any orders issued against the Contract.

18. INSURANCE

A. **REQUIREMENTS.** At its own expense, Supplier must maintain insurance policy(ies) in effect at all times during the performance of this Contract with insurance company(ies) licensed or authorized to do business in the State of Minnesota having an "AM BEST" rating of A- or better, with coverage and limits of insurance not less than the following:

1. *Workers' Compensation and Employer's Liability.*

Workers' Compensation: As required by any applicable law or regulation.

Employer's Liability Insurance: must be provided in amounts not less than listed below:

Minimum limits:

- \$500,000 each accident for bodily injury by accident
- \$500,000 policy limit for bodily injury by disease
- \$500,000 each employee for bodily injury by disease

2. *Commercial General Liability Insurance.* Supplier will maintain insurance covering its operations, with coverage on an occurrence basis, and must be subject to terms no less broad than the Insurance Services Office ("ISO") Commercial General Liability Form CG0001 (2001 or newer edition), or equivalent. At a minimum, coverage must include liability arising from premises, operations, bodily injury and property damage, independent contractors, products-completed operations including construction defect, contractual liability, blanket contractual liability, and personal injury and advertising injury. All required limits, terms and conditions of coverage must be maintained during the term of this Contract.

Minimum Limits:

\$1,000,000 each occurrence Bodily Injury and Property Damage
\$1,000,000 Personal and Advertising Injury
\$2,000,000 aggregate for products liability-completed operations
\$2,000,000 general aggregate

3. *Commercial Automobile Liability Insurance.* During the term of this Contract, Supplier will maintain insurance covering all owned, hired, and non-owned automobiles in limits of liability not less than indicated below. The coverage must be subject to terms no less broad than ISO Business Auto Coverage Form CA 0001 (2010 edition or newer), or equivalent.

Minimum Limits:

\$1,000,000 each accident, combined single limit

4. *Umbrella Insurance.* During the term of this Contract, Supplier will maintain umbrella coverage over Employer's Liability, Commercial General Liability, and Commercial Automobile.

Minimum Limits:

\$2,000,000

5. *Professional/Technical, Errors and Omissions, and/or Miscellaneous Professional Liability.* During the term of this Contract, Supplier will maintain coverage for all claims the Supplier may become legally obligated to pay resulting from any actual or alleged negligent act, error, or omission related to Supplier's professional services required under this Contract.

Minimum Limits:

\$2,000,000 per claim or event

\$2,000,000 – annual aggregate

6. *Network Security and Privacy Liability Insurance.* During the term of this Contract, Supplier will maintain coverage for network security and privacy liability. The coverage may be endorsed on another form of liability coverage or written on a standalone policy. The insurance must cover claims which may arise from failure of Supplier's security resulting in, but not limited to, computer attacks, unauthorized access, disclosure of not public data – including but not limited to, confidential or private information, transmission of a computer virus, or denial of service.

Minimum limits:

\$2,000,000 per occurrence

\$2,000,000 annual aggregate

Failure of Supplier to maintain the required insurance will constitute a material breach entitling Sourcewell to immediately terminate this Contract for default.

B. CERTIFICATES OF INSURANCE. Prior to commencing under this Contract, Supplier must furnish to Sourcewell a certificate of insurance, as evidence of the insurance required under this Contract. Prior to expiration of the policy(ies), renewal certificates must be mailed to Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 or sent to the Sourcewell Supplier Development Administrator assigned to this Contract. The certificates must be signed by a person authorized by the insurer(s) to bind coverage on their behalf.

Failure to request certificates of insurance by Sourcewell, or failure of Supplier to provide certificates of insurance, in no way limits or relieves Supplier of its duties and responsibilities in this Contract.

C. ADDITIONAL INSURED ENDORSEMENT AND PRIMARY AND NON-CONTRIBUTORY INSURANCE CLAUSE. Supplier agrees to list Sourcewell and its Participating Entities, including their officers, agents, and employees, as an additional insured under the Supplier's commercial general liability insurance policy with respect to liability arising out of activities, "operations," or "work" performed by or on behalf of Supplier, and products and completed operations of Supplier. The policy provision(s) or endorsement(s) must further provide that coverage is primary and not excess over or contributory with any other valid, applicable, and collectible insurance or self-insurance in force for the additional insureds.

D. WAIVER OF SUBROGATION. Supplier waives and must require (by endorsement or otherwise) all its insurers to waive subrogation rights against Sourcewell and other additional insureds for losses paid under the insurance policies required by this Contract or other insurance applicable to the Supplier or its subcontractors. The waiver must apply to all deductibles and/or self-insured retentions applicable to the required or any other insurance maintained by the Supplier or its subcontractors. Where permitted by law, Supplier must require similar written express waivers of subrogation and insurance clauses from each of its subcontractors.

E. UMBRELLA/EXCESS LIABILITY/SELF-INSURED RETENTION. The limits required by this Contract can be met by either providing a primary policy or in combination with umbrella/excess liability policy(ies), or self-insured retention.

19. COMPLIANCE

A. LAWS AND REGULATIONS. All Equipment, Products, or Services provided under this Contract must comply fully with applicable federal laws and regulations, and with the laws in the states and provinces in which the Equipment, Products, or Services are sold.

B. LICENSES. Supplier must maintain a valid and current status on all required federal, state/provincial, and local licenses, bonds, and permits required for the operation of the business that the Supplier conducts with Sourcewell and Participating Entities.

20. BANKRUPTCY, DEBARMENT, OR SUSPENSION CERTIFICATION

Supplier certifies and warrants that it is not in bankruptcy or that it has previously disclosed in writing certain information to Sourcewell related to bankruptcy actions. If at any time during this Contract Supplier declares bankruptcy, Supplier must immediately notify Sourcewell in writing.

Supplier certifies and warrants that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated by the State of Minnesota; the United States federal government or the Canadian government, as applicable; or any Participating Entity. Supplier certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this Contract. Supplier further warrants that it will provide immediate written notice to Sourcewell if this certification changes at any time.

21. PROVISIONS FOR NON-UNITED STATES FEDERAL ENTITY PROCUREMENTS UNDER UNITED STATES FEDERAL AWARDS OR OTHER AWARDS

Participating Entities that use United States federal grant or FEMA funds to purchase goods or services from this Contract may be subject to additional requirements including the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 C.F.R. § 200. Participating Entities may have additional requirements based on specific funding source terms or conditions. Within this Article, all references to “federal” should be interpreted to mean the United States federal government. The following list only applies when a Participating Entity accesses Supplier’s Equipment, Products, or Services with United States federal funds.

A. **EQUAL EMPLOYMENT OPPORTUNITY.** Except as otherwise provided under 41 C.F.R. § 60, all contracts that meet the definition of “federally assisted construction contract” in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. §60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 C.F.R. §, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 C.F.R. § 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.” The equal opportunity clause is incorporated herein by reference.

B. **DAVIS-BACON ACT, AS AMENDED (40 U.S.C. § 3141-3148).** When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. § 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 C.F.R. § 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to

laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 C.F.R. § 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-federal entity must report all suspected or reported violations to the federal awarding agency. Supplier must be in compliance with all applicable Davis-Bacon Act provisions.

C. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. § 3701-3708). Where applicable, all contracts awarded by the non-federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. § 5). Under 40 U.S.C. § 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. This provision is hereby incorporated by reference into this Contract. Supplier certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Supplier must comply with applicable requirements as referenced above.

D. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT. If the federal award meets the definition of "funding agreement" under 37 C.F.R. § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 C.F.R. § 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency. Supplier certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Supplier must comply with applicable requirements as referenced above.

E. CLEAN AIR ACT (42 U.S.C. § 7401-7671Q.) AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. § 1251-1387). Contracts and subgrants of amounts in excess of \$150,000 require the non-federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401- 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). Supplier certifies that during the term of this Contract will comply with applicable requirements as referenced above.

F. DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689). A contract award (see 2 C.F.R. § 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. §180 that implement Executive Orders 12549 (3 C.F.R. § 1986 Comp., p. 189) and 12689 (3 C.F.R. § 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. Supplier certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency.

G. BYRD ANTI-LOBBYING AMENDMENT, AS AMENDED (31 U.S.C. § 1352). Suppliers must file any required certifications. Suppliers must not have used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Suppliers must disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award. Suppliers must file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352).

H. RECORD RETENTION REQUIREMENTS. To the extent applicable, Supplier must comply with the record retention requirements detailed in 2 C.F.R. § 200.333. The Supplier further certifies that it will retain all records as required by 2 C.F.R. § 200.333 for a period of 3 years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

I. ENERGY POLICY AND CONSERVATION ACT COMPLIANCE. To the extent applicable, Supplier must comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

J. BUY AMERICAN PROVISIONS COMPLIANCE. To the extent applicable, Supplier must comply with all applicable provisions of the Buy American Act. Purchases made in accordance with the Buy American Act must follow the applicable procurement rules calling for free and open competition.

K. ACCESS TO RECORDS (2 C.F.R. § 200.336). Supplier agrees that duly authorized representatives of a federal agency must have access to any books, documents, papers and records of Supplier that are directly pertinent to Supplier's discharge of its obligations under this Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to Supplier's personnel for the purpose of interview and discussion relating to such documents.

L. PROCUREMENT OF RECOVERED MATERIALS (2 C.F.R. § 200.322). A non-federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. § 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

M. FEDERAL SEAL(S), LOGOS, AND FLAGS. The Supplier cannot use the seal(s), logos, crests, or reproductions of flags or likenesses of Federal agency officials without specific pre-approval.

N. NO OBLIGATION BY FEDERAL GOVERNMENT. The U.S. federal government is not a party to this Contract or any purchase by a Participating Entity and is not subject to any obligations or liabilities to the Participating Entity, Supplier, or any other party pertaining to any matter resulting from the Contract or any purchase by an authorized user.

O. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS. The Contractor acknowledges that 31 U.S.C. 38 (Administrative Remedies for False Claims and Statements) applies to the Supplier's actions pertaining to this Contract or any purchase by a Participating Entity.

P. FEDERAL DEBT. The Supplier certifies that it is non-delinquent in its repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowance, and benefit overpayments.

Q. CONFLICTS OF INTEREST. The Supplier must notify the U.S. Office of General Services, Sourcwell, and Participating Entity as soon as possible if this Contract or any aspect related to

the anticipated work under this Contract raises an actual or potential conflict of interest (as described in 2 C.F.R. Part 200). The Supplier must explain the actual or potential conflict in writing in sufficient detail so that the U.S. Office of General Services, Sourcewell, and Participating Entity are able to assess the actual or potential conflict; and provide any additional information as necessary or requested.

R. U.S. EXECUTIVE ORDER 13224. The Supplier, and its subcontractors, must comply with U.S. Executive Order 13224 and U.S. Laws that prohibit transactions with and provision of resources and support to individuals and organizations associated with terrorism.

S. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT. To the extent applicable, Supplier certifies that during the term of this Contract it will comply with applicable requirements of 2 C.F.R. § 200.216.

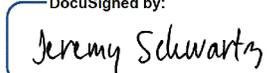
T. DOMESTIC PREFERENCES FOR PROCUREMENTS. To the extent applicable, Supplier certifies that during the term of this Contract will comply with applicable requirements of 2 C.F.R. § 200.322.

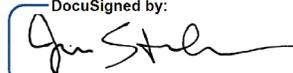
22. CANCELLATION

Sourcewell or Supplier may cancel this Contract at any time, with or without cause, upon 60 days' written notice to the other party. However, Sourcewell may cancel this Contract immediately upon discovery of a material defect in any certification made in Supplier's Proposal. Cancellation of this Contract does not relieve either party of financial, product, or service obligations incurred or accrued prior to cancellation.

Sourcewell

Cummins Inc.

DocuSigned by:

By: C0FD2A139D06489...
Jeremy Schwartz
Title: Chief Procurement Officer
Date: 11/17/2022 | 3:50 PM CST

DocuSigned by:

By: 8AEAAAB1D1E4348F...
James Stalnaker
Title: National Accounts Sales Director
Date: 11/17/2022 | 2:02 PM PST

Approved:

DocuSigned by:

By: 7E42B8F817A64CC...
Chad Coauette
Title: Executive Director/CEO
Date: 11/17/2022 | 6:54 PM CST

RFP 092222 - Electrical Energy Power Generation Equipment with Related Parts, Supplies, and Services

Vendor Details

Company Name: Cummins Inc.
Does your company conduct business under any other name? If yes, please state: CSSNA
Address: 500 Jackson Street
Columbus, Indiana 47201
Contact: Kirk Adams
Email: kirk.e.adams@cummins.com
Phone: 612-270-5540
Fax: 612-270-5540
HST#: 35-0267090

Submission Details

Created On: Friday August 05, 2022 13:41:52
Submitted On: Thursday September 22, 2022 08:52:00
Submitted By: Kirk Adams
Email: kirk.e.adams@cummins.com
Transaction #: eb41a4b1-f681-44bc-af26-16fc920a2e26
Submitter's IP Address: 155.190.17.4

Specifications

Table 1: Proposer Identity & Authorized Representatives

General Instructions (applies to all Tables) Sourcewell prefers a brief but thorough response to each question. Do not merely attach additional documents to your response without also providing a substantive response. Do not leave answers blank; respond "N/A" if the question does not apply to you (preferably with an explanation).

Line Item	Question	Response *
1	Proposer Legal Name (one legal entity only): (In the event of award, will execute the resulting contract as "Supplier")	Cummins Inc.
2	Identify all subsidiary entities of the Proposer whose equipment, products, or services are included in the Proposal.	Cummins Power Systems Cummins Distribution Business
3	Identify all applicable assumed names or DBA names of the Proposer or Proposer's subsidiaries in Line 1 or Line 2 above.	Cummins Sales and Service North America (CSSNA). Cummins Southern Plains Power
4	Provide your CAGE code or Unique Entity Identifier (SAM):	Cage Code 0H229 SAM Registration 7PYM2 [80155845]
5	Proposer Physical Address:	500 Jackson Street Box 3005 Columbus, IN 47201
6	Proposer website address (or addresses):	www.Cummins.com
7	Proposer's Authorized Representative (name, title, address, email address & phone) (The representative must have authority to sign the "Proposer's Assurance of Compliance" on behalf of the Proposer and, in the event of award, will be expected to execute the resulting contract):	James Stalnaker National Accounts Sales Director james.l.stalnaker@cummins.com 503-972-6609
8	Proposer's primary contact for this proposal (name, title, address, email address & phone):	Kirk Adams Sales Executive 18008 82nd Ave North Maple Grove, MN 55311 kirk.e.adams@cummins.com 612-270-5540
9	Proposer's other contacts for this proposal, if any (name, title, address, email address & phone):	Jaime Ferguson Account Manager - Government Sales jamie.ferguson@cummins.com 612-201-3468

Table 2: Company Information and Financial Strength

Line Item	Question	Response *
10	Provide a brief history of your company, including your company's core values, business philosophy, and industry longevity related to the requested equipment, products or services.	<p>Cummins Inc. Establish in 1919, is a 100 year old American multinational corporation that designs, manufactures, and distributes engines, filtration, and power generation products. Headquartered in Columbus Indiana, Cummins has 14 consecutive years on Ethisphere World's Most Ethical Companies list. Our mission is "Making people's lives better by powering a more prosperous world." Our vision is "Innovating for our customers to power their success".</p> <p>Our values are as follows: INTEGRITY - Doing what you say you will do and doing what is right DIVERSITY AND INCLUSION - Valuing and including our differences in decision making is our competitive advantage CARING - Demonstrating awareness and consideration for the wellbeing of others EXCELLENCE - Always delivering superior results TEAMWORK - Collaborating across teams, functions, businesses and borders to deliver the best work</p>
11	What are your company's expectations in the event of an award?	To work with Sourcewell to grow our sales to Sourcewell Members by providing superior products and services at the best price.
12	Demonstrate your financial strength and stability with meaningful data. This could include such items as financial statements, SEC filings, credit and bond ratings, letters of credit, and detailed reference letters. Upload supporting documents (as applicable) in the document upload section of your response.	See attached 2021 Annual Report. Cummins ranks 149 in the S&P 500
13	What is your US market share for the solutions that you are proposing?	Approx 35-40% market share
14	What is your Canadian market share for the solutions that you are proposing?	Approx 25% market share
15	Has your business ever petitioned for bankruptcy protection? If so, explain in detail.	No
16	<p>How is your organization best described: is it a manufacturer, a distributor/dealer/reseller, or a service provider? Answer whichever question (either a) or b) just below) best applies to your organization.</p> <p>a) If your company is best described as a distributor/dealer/reseller (or similar entity), provide your written authorization to act as a distributor/dealer/reseller for the manufacturer of the products proposed in this RFP. If applicable, is your dealer network independent or company owned?</p> <p>b) If your company is best described as a manufacturer or service provider, describe your relationship with your sales and service force and with your dealer network in delivering the products and services proposed in this RFP. Are these individuals your employees, or the employees of a third party?</p>	<p>Cummins is a vertically integrated manufacturer that owns its sales distribution and service network. Cummins Sales and Service operate across 200 + branch location in the US and Canada. Cummins is unique in our industry as we own our North American distribution. All other competitors sell through 3rd party independent dealers and resellers. We believe by owning our distribution and service network this gives Cummins a competitive advantage as our goal is to optimize and standardize our network to deliver superior products and services to deliver a superior customer experience across the US and Canada</p>
17	If applicable, provide a detailed explanation outlining the licenses and certifications that are both required to be held, and actually held, by your organization (including third parties and subcontractors that you use) in pursuit of the business contemplated by this RFP.	Cummins requires all field service technicians to be trained and certified through its internal training program. Technician levels are grades 1 thru 4 with 4 being the highest level certification.
18	Provide all "Suspension or Debarment" information that has applied to your organization during the past ten years.	None

Table 3: Industry Recognition & Marketplace Success

Line Item	Question	Response *
19	Describe any relevant industry awards or recognition that your company has received in the past five years	Cummins' rank on Newsweek's list of America's Most Responsible Companies (2021) Cummins received a perfect score for a 10th consecutive year in the Corporate Equality Index awarded by the Human Rights Campaign. The group is the largest U.S. civil rights organization for lesbian, gay, bisexual and transgender (LGBT) employees. Forbes magazine's list of the Top 25 Employers in America. The list was based on a survey of more than 20,000 American workers at large U.S. firms or institutions. Cummins was named one of the Top 50 Companies for Diversity by Diversity Inc magazine for a ninth consecutive year. Cummins ranked 21st on the magazine's list.
20	What percentage of your sales are to the governmental sector in the past three years	Approx 50%
21	What percentage of your sales are to the education sector in the past three years	Approx 25%
22	List any state, provincial, or cooperative purchasing contracts that you hold. What is the annual sales volume for each of these contracts over the past three years?	Currently we have Sourcwell (Approx \$5-6M annual sales), HGAC (Approx \$500K annual sales. Equalis (\$0 sales to date).
23	List any GSA contracts or Standing Offers and Supply Arrangements (SOSA) that you hold. What is the annual sales volume for each of these contracts over the past three years?	We are currently in process of resubmitting to GSA.

Table 4: References/Testimonials

Line Item 24. Supply reference information from three customers who are eligible to be Sourcwell participating entities.

Entity Name *	Contact Name *	Phone Number *
Municipal Engineer/Director of Public Works Township of West Orange	Leonard R. Lepore, P.E.	(973) 325-4160
West New York Board of Education	Jackie Zois	201-553-4000 Ext 30027
Burlington Township NJ	George Coolidge	(609) 239-5880
City of Vineland	Mercado Miguel	(856) 794-4040

Table 5: Top Five Government or Education Customers

Line Item 25. Provide a list of your top five government, education, or non-profit customers (entity name is optional), including entity type, the state or province the entity is located in, scope of the project(s), size of transaction(s), and dollar volumes from the past three years.

Entity Name	Entity Type *	State / Province *	Scope of Work *	Size of Transactions *	Dollar Volume Past Three Years *	
US Army	Government	District of Columbia - DC	AAMPS (Advanced Medium Mobile Power Program)	\$ 1M avg sale	\$100M	*
US Airforce	Government	District of Columbia - DC	BEAR (Basic Expeditionary Airfield Resource)	\$850,000 avg sale	\$50 M	*
Schools at all levels of education in all 50 states and Canadian Provinces	Education	Alabama - AL	Approx 25% of Cummins Sales occur to Educational customers.	\$ 75k avg sale	\$1B	*
State Gov't in all 50 states and Canada Provinces	Government	Alabama - AL	Approx 25% of Cummins Sales occur to State Government entities	\$100K avg sale	\$1B	*
Non Profits in all 50 states and Canadian Provinces	Non-Profit	Alabama - AL	Approx 10% of Cummins Sales occur to Non-Profits	\$ 50K avg sale	\$50M	*

Table 6: Ability to Sell and Deliver Service

Describe your company's capability to meet the needs of Sourcewell participating entities across the US and Canada, as applicable. Your response should address in detail at least the following areas: locations of your network of sales and service providers, the number of workers (full-time equivalents) involved in each sector, whether these workers are your direct employees (or employees of a third party), and any overlap between the sales and service functions.

Line Item	Question	Response *	
26	Sales force.	Approx 350 Power Generation sales professionals, supported by Project Managers and Service personnel	*
27	Dealer network or other distribution methods.	Cummins operates globally across 190 countries. In North America we conduct business as "Cummins Sales and Service Norther America (CSSNA). In North America we have sales and service personnel operating across 230 branch and parts distribution centers. We feel this gives us strategic control over inventories, parts stocking, and deployments of service personnel that is unique in our industry.	*
28	Service force.	<p>Approx 3400 certified technicians operating across 230 branch/parts/service centers. Our goal is nothing short of service excellence. Service is critical to our business model and that can only be achieved by "continuous improvement" . This applies from response times to parts or service deliveries. In short, doing what we say, when we say, all the time.</p> <p>FOUR POINTS OF THE SERVICE VALUE PROPOSITION</p> <ol style="list-style-type: none"> 1. Repair Velocity – Enhance Uptime for the Customer. Extensive logistics network provides the availability of parts necessary to deliver timely repairs 2. Repair Quality – Peace of Mind. Our extensive experience dedicated to the Cummins products makes us the service experts. Best-in-class training programs for technicians. 3. Service Excellence – Reliability and Consistency Predictive maintenance solutions utilize data and analytics to preempt failures before they occur. 4. Service Innovation – Flexibility and Creativity. Technicians that remain onsite at customers' places of business and are dedicated to specific customers• Bumper to bumper service capabilities. 	*
29	Describe the ordering process. If orders will be handled by distributors, dealers or others, explain the respective roles of the Proposer and others.	Orders will be handled by the local CSSNA sales team. The Sourcewell member need simply connect with the national account manager. The account manager will then reach out to the local sales to contact the member. The local sales rep will connect with the Sourcewell member and work with them on product configuration, local codes and standards, application, commissioning and preventative maintenance options.	*
30	Describe in detail the process and procedure of your customer service program, if applicable. Include your response-time capabilities and commitments, as well as any incentives that help your providers meet your stated service goals or promises.	Cummins Sales and Service is committed to providing exceptional sales, service and parts support and preventative maintenance programs for all Cummins engines, generators, and related components. Staffed by Cummins trained and certified professionals, our facilities provide 24/7 emergency call-out service 365 days a year. Our promise is to deliver exceptional products, dependable service, and reliable support, when and where you need it. Our goal is to keep your equipment on the job and operating at its peak efficiency. Please visit our locations page (https://salesandservice.cummins.com/locations)	*
31	Describe your ability and willingness to provide your products and services to Sourcewell participating entities in the United States.	100% - Our goal is keep you equipment operating at peak efficiency.	*
32	Describe your ability and willingness to provide your products and services to Sourcewell participating entities in Canada.	100% - Our goal is keep you equipment operating at peak efficiency.	*
33	Identify any geographic areas of the United States or Canada that you will NOT be fully serving through the proposed contract.	None.	*
34	Identify any Sourcewell participating entity sectors (i.e., government, education, not-for-profit) that you will NOT be fully serving through the proposed contract. Explain in detail. For example, does your company have only a regional presence, or do other cooperative purchasing contracts limit your ability to promote another contract?	None	*
35	Define any specific contract requirements or restrictions that would apply to our participating entities in Hawaii and Alaska and in US Territories.	None	*

Table 7: Marketing Plan

Line Item	Question	Response *
36	Describe your marketing strategy for promoting this contract opportunity. Upload representative samples of your marketing materials (if applicable) in the document upload section of your response.	Sourcewell members are our customers. The difference is that we have historically followed the bid/spec process required by state law or policy. We educate and promote Sourcewell to our regional sales teams as a stream-lined process for these existing customers. Enclosed is a sample presentation that we have been presenting quarterly to educate our regional sales teams since 2020.
37	Describe your use of technology and digital data (e.g., social media, metadata usage) to enhance marketing effectiveness.	Cummins uses several different types of digital medium. 1.) CRM - Salesforce based - used to track all customer contact, quotations, orders, project status, billing etc. It is how we track all Sourcewell member projects. 2.) Landing Page - # of hits, indication if our market message/strategy is working. 3.) Cummins Web Page - free access to Technical documentation (PowerSuite) and Application/Technical Seminars (PowerHour)) 4.) WWW.Cummins.com A free, industry leading online tool for power system product sizing and specification generation Targeted Digital - Healthcare/Data Centers/Education/Government Landing Pages - Market specific targeting Flyers - Product Brochures, White papers on application Branch Signage - Local advertising Internal Communication - Focused meetings on specific markets and customers Trade Shows
38	In your view, what is Sourcewell's role in promoting contracts arising out of this RFP? How will you integrate a Sourcewell-awarded contract into your sales process?	The Sourcewell material is excellent in communicating advantages to members. We simply use that material to educate and inform our own sales force on the advantage to end users. We have also participated in regional events and to learn more about Sourcewell and its members. Customer / Project Tracking - Cummins requires all customer projects be logged into our CRM (SalesForce). We established a tracking mechanism for all Sourcewell quotations / projects. We also require all Sourcewell projects to have specific naming convention as a secondary process check. The CRM tracks from quote to win-loss to project status through closure.
39	Are your products or services available through an e-procurement ordering process? If so, describe your e-procurement system and how governmental and educational customers have used it.	We use and support several different procurement portals such as Ariba, Oracle, etc

Table 8: Value-Added Attributes

Line Item	Question	Response *
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40	Describe any product, equipment, maintenance, or operator training programs that you offer to Sourcewell participating entities. Include details, such as whether training is standard or optional, who provides training, and any costs that apply.	<p>Cummins offers an excellent technical platform that is free to all customers (see below). In addition, we offer fee-based hands-on Preventative Maintenance training to customers that can be tailored to their needs.</p> <p>Any customer can 1-800-Cummins for service or tech support.</p> <p>In addition, there are free online technical resources available to any customer. These include both live and pre-recorded sessions such as:</p> <p>PowerHour: topic examples</p> <ul style="list-style-type: none"> Features of Generator Set Control Based Paralleling NFPA 110 Time to Readiness NEC Code Changes for Emergency Power Systems Specifying Gaseous Generator Sets Introduction to Generator Set Sizing Software Emissions and Air Permitting for Emergency Generator Sets Transfer Switch Operation and Application Paralleling Solutions Generator Set Overcurrent Protection Power Ratings for Emergency Generator Sets Importance and Benefit of Selective Coordination <p>To access the recorded webinars on-demand and download presentations, visit www.Cummins.com. Also, anyone can subscribe to receive PowerHour invitations.</p> <p>Power Suite™ offers the following tools and resources:</p> <ul style="list-style-type: none"> GenSize™ - Sizing tool to optimize generator sizing and load profile recommendations GenCalc™ - Tools to calculate a range of project parameters including ventilation, short circuit, exhaust pressure, remote cooling and fuel pipe sizing GenSpec™ - Specification development tool to provide a sample specifications for North American and European based applications for Generator Set, ATS and Paralleling applications Tech Library - Technical catalog consisting of specification sheets, data sheets, and drawings for Generator sets, ATS, Remote Monitoring, Networking and Paralleling applications Accredited Continuing Education - Programs that offer educational seminars and webinars to grow your technology and fulfill your continuing professional development requirements
41	Describe any technological advances that your proposed products or services offer.	<p>Cummins is a world leader in emissions technology, was the first to introduce micro-processor based genset controls and its ATS products have the highest interrupt ratings in the industry.</p> <p>Our sales and service personnel are trained and certified to ensure customers receive professional care.</p>
42	Describe any "green" initiatives that relate to your company or to your products or services, and include a list of the certifying agency for each.	<p>Cummins is committed to its Planet 2050 Zero Emissions Strategy. The following are 2030 goals to help achieve that strategy:</p> <ul style="list-style-type: none"> Reduce absolute greenhouse gas (GHG) emissions from facilities and operations by 50%. Reduce scope 3 absolute lifetime GHG emissions from newly sold products by 25%. Partner with customers to reduce scope 3 GHG emissions from products in the field by 55 million metric tons. Reduce volatile organic compounds emissions from paint and coating operations by 50%. Create a circular lifecycle plan for every part to use less, use better, use again. Generate 25% less waste in facilities and operations as percent of revenue. Reuse or responsibly recycle 100% of packaging plastics and eliminate single-use plastics in dining facilities, employee amenities and events. Reduce absolute water consumption in facilities and operations by 30%.
43	Identify any third-party issued eco-labels, ratings or certifications that your company has received for the equipment or products included in your Proposal related to energy efficiency or conservation, life-cycle design (cradle-to-cradle), or other green/sustainability factors.	<p>There are two key certifying entities that are important to our industry and our customers. EPA and UL. All Cummins products are EPA certified for emissions compliance. All products are also UL Listed and tested.</p> <p>In addition, Cummins has been named one of the world's top 100 organizations innovating for a better environmental future based on a review of the company's "Green Patent Portfolio."</p> <p>The ranking in Sagacious IP's GREEN100 Index follows Cummins' record year for global patents of all types in 2020. The company received 312 global patents that year, topping its previous record of 287 reached in 2017. That's a nearly 9% improvement over Cummins' previous record and a more than 12% increase over 2019.</p>

44	Describe any Women or Minority Business Entity (WMBE), Small Business Entity (SBE), or veteran owned business certifications that your company or hub partners have obtained. Upload documentation of certification (as applicable) in the document upload section of your response.	In concert with the Women's Business Enterprise National Council (WBENC), Cummins is proud to be included on the 20th annual list of America's Top Corporations for Women's Business Enterprises (WBEs), the only national award honoring corporations for world-class supplier diversity programs that reduce barriers and drive growth for women-owned businesses. As the only national award honoring corporations who choose to incorporate policies and programs to enable growth and reduce barriers for women-owned businesses, Cummins is committed to increasing opportunity in markets both domestically and internationally, fueling innovation and empowering communities through economic growth and job creation. WBENC is the largest third-party certifier of businesses owned, controlled, and operated by women in the United States.	*
45	What unique attributes does your company, your products, or your services offer to Sourcewell participating entities? What makes your proposed solutions unique in your industry as it applies to Sourcewell participating entities?	Cummins is a well known supplier to most Sourcewell members. Cummins is unique in that it owns its North American distributors. Which means members are dealing with Cummins Inc and not a 3rd party dealer or LLC. This gives Cummins direct control over is sales and service organizations. We feel this is a tremendous advantage to Sourcewell members	*

Table 9: Warranty

Describe in detail your manufacturer warranty program, including conditions and requirements to qualify, claims procedure, and overall structure. You may upload representative samples of your warranty materials (if applicable) in the document upload section of your response in addition to responding to the questions below.

Line Item	Question	Response *	
46	Do your warranties cover all products, parts, and labor?	Cummins offers a 2 year comprehensive warranty. Additional coverage is available past the 2 years	*
47	Do your warranties impose usage restrictions or other limitations that adversely affect coverage?	None as long as the product is applied properly and routine maintenance is performed. It would exclude normal wear items such as belts, hoses, filters	*
48	Do your warranties cover the expense of technicians' travel time and mileage to perform warranty repairs?	Yes	*
49	Are there any geographic regions of the United States or Canada (as applicable) for which you cannot provide a certified technician to perform warranty repairs? How will Sourcewell participating entities in these regions be provided service for warranty repair?	No	*
50	Will you cover warranty service for items made by other manufacturers that are part of your proposal, or are these warranties issues typically passed on to the original equipment manufacturer?	Cummins covers any products supplied by us. If there happened to be 3rd party supplier involved that would be handled internally by Cummins so that end users would not be burdened by that issue	*
51	What are your proposed exchange and return programs and policies?	Cummins does not exchange or accept returned products. In the rare case there is an issue, Cummins will fix in place or replace if the product is still under warranty. We can also provide assistance to facilitate used equipment sales or trade ins.	*
52	Describe any service contract options for the items included in your proposal.	Cummins offers multiple Preventative Maintenance contract options. It really depends upon the application and/or customer requested service.	*

Table 10: Payment Terms and Financing Options

Line Item	Question	Response *
53	Describe your payment terms and accepted payment methods.	Net 30 days. Standard commercial purchase order and invoice
54	Describe any leasing or financing options available for use by educational or governmental entities.	None at this time
55	Describe any standard transaction documents that you propose to use in connection with an awarded contract (order forms, terms and conditions, service level agreements, etc.). Upload a sample of each (as applicable) in the document upload section of your response.	We would provide a commercial quotation in accordance with Sourcwell contract terms. If requested we could also provide a Preventative Maintenance agreement based upon customer application/needs
56	Do you accept the P-card procurement and payment process? If so, is there any additional cost to Sourcwell participating entities for using this process?	Yes, we accept P-card and there is no fee.

Table 11: Pricing and Delivery

Provide detailed pricing information in the questions that follow below. Keep in mind that reasonable price and product adjustments can be made during the term of an awarded Contract as described in the RFP, the template Contract, and the Sourcwell Price and Product Change Request Form.

Line Item	Question	Response *
57	Describe your pricing model (e.g., line-item discounts or product-category discounts). Provide detailed pricing data (including standard or list pricing and the Sourcwell discounted price) on all of the items that you want Sourcwell to consider as part of your RFP response. If applicable, provide a SKU for each item in your proposal. Upload your pricing materials (if applicable) in the document upload section of your response.	Cummins has eliminated MSRP and List pricing for Commercial products. What we propose is a cost plus fixed mark-up on all Cummins content. In essence, instead of going from MSRP with a discount to achieve a target margin. We go from cost to achieve the target margin.
58	Quantify the pricing discount represented by the pricing proposal in this response. For example, if the pricing in your response represents a percentage discount from MSRP or list, state the percentage or percentage range.	Cummins will offer a member price that is approx 6% below Fair Market Value. The sales person will be allowed to go lower than that price if required.
59	Describe any quantity or volume discounts or rebate programs that you offer.	None. Most transactions are one-off product or project
60	Propose a method of facilitating "sourced" products or related services, which may be referred to as "open market" items or "nonstandard options". For example, you may supply such items "at cost" or "at cost plus a percentage," or you may supply a quote for each such request.	All Cummins pricing is based upon a target margin from cost (cost plus). We would maintain that target margin on all Cummins content. We would also offer discounts on any service requested.
61	Identify any element of the total cost of acquisition that is NOT included in the pricing submitted with your response. This includes all additional charges associated with a purchase that are not directly identified as freight or shipping charges. For example, list costs for items like pre-delivery inspection, installation, set up, mandatory training, or initial inspection. Identify any parties that impose such costs and their relationship to the Proposer.	Our quotation would include all required items, less installation, that are required to fulfill the project requirements. Itemized pricing is available so that all product and services quoted are accounted for and open for review/discussion.
62	If freight, delivery, or shipping is an additional cost to the Sourcwell participating entity, describe in detail the complete freight, shipping, and delivery program.	Cummins quote if based upon FOB factory with Freight allowed to first point of destination in the contiguous 48 states. There may be potential freight charges on 3rd party content, if required.
63	Specifically describe freight, shipping, and delivery terms or programs available for Alaska, Hawaii, Canada, or any offshore delivery.	Freight is allowed to the first destination in the contiguous 48 states. There would be additional cost for any offshore deliveries. We could coordinate shipment or the customer could use their own freight forwarder. There would be no freight charge to the first port in the contiguous US.
64	Describe any unique distribution and/or delivery methods or options offered in your proposal.	While none are offered in the proposal, we do have freight options for additional cost. Dedicated truck, tandem drivers, etc

Table 12: Pricing Offered

Line Item	The Pricing Offered in this Proposal is: *	Comments
65	c. better than the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments.	Sourcewell members would receive approx 6% lower prices than Fair market value

Table 13: Audit and Administrative Fee

Line Item	Question	Response *
66	Specifically describe any self-audit process or program that you plan to employ to verify compliance with your proposed Contract with Sourcewell. This process includes ensuring that Sourcewell participating entities obtain the proper pricing, that the Vendor reports all sales under the Contract each quarter, and that the Vendor remits the proper administrative fee to Sourcewell. Provide sufficient detail to support your ability to report quarterly sales to Sourcewell as described in the Contract template.	All projects are logged into the Cummins CRM software tool (Salesforce). This tool tracks from inquiry to won/loss to internal project status and finally won project closed. Project status "closed" is the primary sort and this determines the total quarterly sales to members. That sales total (closed in the quarter) is what is used to calculate the Sourcewell fee.
67	If you are awarded a contract, provide a few examples of internal metrics that will be tracked to measure whether you are having success with the contract.	Please see CRM Sourcewell Report. Quarterly sales are tracked in the CRM. These includes the number of open opportunities, projects won, projects lost, projects closed.
68	Identify a proposed administrative fee that you will pay to Sourcewell for facilitating, managing, and promoting the Sourcewell Contract in the event that you are awarded a Contract. This fee is typically calculated as a percentage of Vendor's sales under the Contract or as a per-unit fee; it is not a line-item addition to the Member's cost of goods. (See the RFP and template Contract for additional details.)	1.5% of whole goods sales

Table 14A: Depth and Breadth of Offered Equipment Products and Services

Line Item	Question	Response *
69	Provide a detailed description of the equipment, products, and services that you are offering in your proposal.	All commercial generator products diesel and natural gas/propane from 10kw to 3.5MW. and Automatic Transfer Switches (ATS) 40 amps to 4000 amps. These are shown by model # on the pricing sheets
70	Within this RFP category there may be subcategories of solutions. List subcategory titles that best describe your products and services.	Sub categories are parts, accessories, Eng-to-Order solutions. See price sheets

Table 14B: Depth and Breadth of Offered Equipment Products and Services

Indicate below if the listed types or classes of equipment, products, and services are offered within your proposal. Provide additional comments in the text box provided, as necessary.

Line Item	Category or Type	Offered *	Comments
71	Stationary electrical generation systems, backup or standby generator sets, mobile and ground power units, and trailer mounted generators	<input checked="" type="radio"/> Yes <input type="radio"/> No	Product range is 10-3.5mw
72	Parts and accessories, including enclosures, fuel tanks, automatic transfer switches, paralleling equipment, switch gears, connection boxes, controls, alarm modules, batteries, block heaters, and networking tools	<input checked="" type="radio"/> Yes <input type="radio"/> No	All standard options in our offering
73	Related services, including design, customization, engineering, commissioning, installation, delivery, maintenance, repair, training and operation, service and maintenance agreements, decommissioning and repurposing, custom shop work, and rental services	<input checked="" type="radio"/> Yes <input type="radio"/> No	Cummins is not in the rental business, however, we do sell rental products.

Exceptions to Terms, Conditions, or Specifications Form

Only those Proposer Exceptions to Terms, Conditions, or Specifications that have been accepted by Sourcewell have been incorporated into the contract text.

Documents

Ensure your submission document(s) conforms to the following:

1. Documents in PDF format are preferred. Documents in Word, Excel, or compatible formats may also be provided.
2. Documents should NOT have a security password, as Sourcewell may not be able to open the file. It is your sole responsibility to ensure that the uploaded document(s) are not either defective, corrupted or blank and that the documents can be opened and viewed by Sourcewell.
3. Sourcewell may reject any response where any document(s) cannot be opened and viewed by Sourcewell.
4. If you need to upload more than one (1) document for a single item, you should combine the documents into one zipped file. If the zipped file contains more than one (1) document, ensure each document is named, in relation to the submission format item responding to. For example, if responding to the Marketing Plan category save the document as "Marketing Plan."

- [Pricing](#) - Sourcewell final pricing submission.pdf - Tuesday September 20, 2022 11:21:31
- [Financial Strength and Stability](#) - 2022-02-03_Cummins_Reports_Fourth_Quarter_and_Full_Year_2021__546 (1).pdf - Monday August 08, 2022 09:02:52
- [Marketing Plan/Samples](#) - Sourcewell GPO Training.pdf - Tuesday September 20, 2022 13:04:49
- [WMBE/MBE/SBE or Related Certificates](#) - Awards.PNG - Monday August 29, 2022 15:02:03
- [Warranty Information](#) - Warranty - Commercial Generators.pdf - Monday August 29, 2022 14:49:07
- [Standard Transaction Document Samples](#) - Sample - Sourcewell Project Tracking .xlsx - Thursday September 22, 2022 08:51:01
- [Upload Additional Document](#) - PowerSuite and Power Hour - On line tech training and documentation.pdf - Thursday September 08, 2022 10:41:06

Addenda, Terms and Conditions

PROPOSER AFFIDAVIT AND ASSURANCE OF COMPLIANCE

I certify that I am the authorized representative of the Proposer submitting the foregoing Proposal with the legal authority to bind the Proposer to this Affidavit and Assurance of Compliance:

1. The Proposer is submitting this Proposal under its full and complete legal name, and the Proposer legally exists in good standing in the jurisdiction of its residence.
2. The Proposer warrants that the information provided in this Proposal is true, correct, and reliable for purposes of evaluation for contract award.
3. The Proposer, including any person assisting with the creation of this Proposal, has arrived at this Proposal independently and the Proposal has been created without colluding with any other person, company, or parties that have or will submit a proposal under this solicitation; and the Proposal has in all respects been created fairly without any fraud or dishonesty. The Proposer has not directly or indirectly entered into any agreement or arrangement with any person or business in an effort to influence any part of this solicitation or operations of a resulting contract; and the Proposer has not taken any action in restraint of free trade or competitiveness in connection with this solicitation. Additionally, if Proposer has worked with a consultant on the Proposal, the consultant (an individual or a company) has not assisted any other entity that has submitted or will submit a proposal for this solicitation.
4. To the best of its knowledge and belief, and except as otherwise disclosed in the Proposal, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest. An organizational conflict of interest exists when a vendor has an unfair competitive advantage or the vendor's objectivity in performing the contract is, or might be, impaired.
5. The contents of the Proposal have not been communicated by the Proposer or its employees or agents to any person not an employee or legally authorized agent of the Proposer and will not be communicated to any such persons prior to Due Date of this solicitation.
6. If awarded a contract, the Proposer will provide to Sourcewell Participating Entities the equipment, products, and services in accordance with the terms, conditions, and scope of a resulting contract.
7. The Proposer possesses, or will possess before delivering any equipment, products, or services, all applicable licenses or certifications necessary to deliver such equipment, products, or services under any resulting contract.
8. The Proposer agrees to deliver equipment, products, and services through valid contracts, purchase orders, or means that are acceptable to Sourcewell Members. Unless otherwise agreed to, the Proposer must provide only new and first-quality products and related services to Sourcewell Members under an awarded Contract.
9. The Proposer will comply with all applicable provisions of federal, state, and local laws, regulations, rules, and orders.
10. The Proposer understands that Sourcewell will reject RFP proposals that are marked "confidential" (or "nonpublic," etc.), either substantially or in their entirety. Under Minnesota Statutes Section 13.591, subdivision 4, all proposals are considered nonpublic data until the evaluation is complete and a Contract is awarded. At that point, proposals become public data. Minnesota Statutes Section 13.37 permits only certain narrowly defined data to be considered a "trade secret," and thus nonpublic data under Minnesota's Data Practices Act.
11. Proposer its employees, agents, and subcontractors are not:
 1. Included on the "Specially Designated Nationals and Blocked Persons" list maintained by the Office of Foreign Assets Control of the United States Department of the Treasury found at: <https://www.treasury.gov/ofac/downloads/sdnlist.pdf>;
 2. Included on the government-wide exclusions lists in the United States System for Award Management found at: <https://sam.gov/SAM/>; or
 3. Presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated

by the State of Minnesota; the United States federal government or the Canadian government, as applicable; or any Participating Entity. Vendor certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this solicitation.

By checking this box I acknowledge that I am bound by the terms of the Proposer's Affidavit, have the legal authority to submit this Proposal on behalf of the Proposer, and that this electronic acknowledgment has the same legal effect, validity, and enforceability as if I had hand signed the Proposal. This signature will not be denied such legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation. - Kirk Adams, Sr. Account Executive – National Accounts, Cummins Inc. (dba Cummins Sales and Service North America)

The Proposer declares that there is an actual or potential Conflict of Interest relating to the preparation of its submission, and/or the Proposer foresees an actual or potential Conflict of Interest in performing the contractual obligations contemplated in the bid.

Yes No

The Bidder acknowledges and agrees that the addendum/addenda below form part of the Bid Document.

Check the box in the column "I have reviewed this addendum" below to acknowledge each of the addenda.

File Name	I have reviewed the below addendum and attachments (if applicable)	Pages
Addendum_4_Electrical_Energy_Power_Generation_Equipment_RFP_092222 Fri September 9 2022 09:10 AM	<input checked="" type="checkbox"/>	1
Addendum_3_Electrical_Energy_Power_Generation_Equipment_RFP_092222 Tue September 6 2022 02:37 PM	<input checked="" type="checkbox"/>	1
Addendum_2_Electrical_Energy_Power_Generation_Equipment_RFP_092222 Wed August 31 2022 07:52 AM	<input checked="" type="checkbox"/>	1
Addendum 1_Electrical_Energy_Power_Generation_Equipment_RFP_092222 Wed August 10 2022 11:35 AM	<input checked="" type="checkbox"/>	1

**AMENDMENT #1
TO
SOURCEWELL CONTRACT #092222-CMM**

THIS AMENDMENT, effective upon the date of the last signature below, is by and between **Sourcewell** and **Cummins Inc.** (Supplier).

Sourcewell entered into a Contract, 092222-CMM, with Supplier to provide Electrical Energy Power Generation Equipment with Related Parts, Supplies, and Services, effective November 17, 2022.

Supplier has requested to modify the Contract.

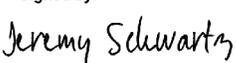
NOW, THEREFORE, the parties amend the Contract to add the following:

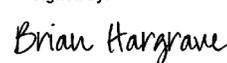
Article 23. Limitation of Liability

Notwithstanding any other term of this Contract, and to the maximum extent permitted by applicable law, in no event shall Supplier, its officers, directors, employees, or agents be liable to the Participating Entity or any third party, whether in contract, tort, or under any other legal theory (including, without limitation, strict liability or negligence), for any indirect, incidental, special, punitive, liquidated, or consequential damages of any kind. This includes, without limitation, damages for downtime, loss of profits or revenue, lost rents, loss of data, loss of opportunity, damage to goodwill, enhanced damages, monetary claims relating to recall expenses, or property repairs, and/or damages attributable to delay—even if Supplier has been advised of the possibility of such damages.

Notwithstanding any other provision of this Contract, and to the maximum extent permitted by law, the total cumulative liability of Supplier to the Participating Entity or any third party claiming through or on behalf of the Participating Entity shall not exceed one million dollars (\$1,000,000.00 USD), unless a different liability cap is expressly agreed to in writing between the Supplier and the Participating Entity pursuant to a purchase order or other authorized transaction documentation. Nothing in this Contract shall exclude or limit liability for death or personal injury caused by a party’s gross negligence or willful misconduct, or for liability arising from a party’s fraud, knowing misrepresentation, or violation of applicable law. By accessing this Contract, a Participating Entity acknowledges that its sole and exclusive remedy against Supplier for any loss or damage shall be as expressly provided in this section.

Except as amended, the Contract remains in full force and effect.

Sol ^{Signed by:}

By: C0FD2A139D06489...
Jeremy Schwartz
Chief Operating and Procurement Officer

Cun ^{Signed by:}

By: F3403D8BD0F34E6...
Brian Hargrave
National Account Sales Director – PG

Date: 8/4/2025 | 6:45 PM CDT

Date: 8/5/2025 | 5:04 AM PDT



December 16, 2025
(Revised January 12, 2026)

Josh Chandler
City of The Dalles
313 Court St
The Dalles, OR 97058

Via Email: jchandler@ci.the-dalles.or.us

RE: Scope – Construction Observation Services
The Dalles First Street
Union Street to Laughlin Street

Dear Josh:

Please see the attached scope of work for the Construction Observation Services proposal for The Dalles First Street project in The Dalles, Oregon. The scope for this task is to provide design construction observation services which includes Civil, Structural, Geotechnical, Landscape, Rail and Electrical observations, per the scope attached.

If you have any questions or require additional information, please contact me.

Sincerely,
KPFF Consulting Engineers

A handwritten signature in black ink, appearing to read 'Paul Schmidtke'.

Paul Schmidtke,
P.E./Associate

Attachments: Scope of Services and Fee

10102300069-kg

SCOPE OF SERVICES AND FEE

The Dalles First Street

A. PROJECT UNDERSTANDING

The First Street Project design has been completed and sent out to bid. A Contractor has been selected. The scope of this task is to provide construction observation design services which includes the tasks listed in this scope document.

The tasks below assume the construction schedule will begin in early 2026 and with a duration of approximately 18 months.

B. TASK BREAKDOWN

Task 1: Civil Construction Observation Services

Support services related to Project Management and Civil Design during construction are as follows:

- Project Management and Coordination for the length of the construction (18 months).
- Coordinating responses for submittals and RFI's completed by other disciplines.
- Attend Kick Off Meeting held onsite.
- Provide up to 10 site visits during construction. Site visits to be coordinated with the City and city's construction / development inspector. The site visits will be made at intervals appropriate to the stages of construction.
- Attend up to 30 virtual construction meetings. Meetings are expected to be one hour in length.
- Review project submittal or shop drawings for the civil portion of work. We estimate approximately 60 hours of work will be required for review on this project.
- Provide interpretations and/or clarifications of the civil portions of the work. *(We estimate this task will require approximately 40 hours for a project of this size.)*
- Facilitate and coordinate RFI's received from the Contractor.
- Respond to Contractor Civil RFI's and general questions. Basis of proposal is 10 RFIs.
- Provide recommendations regarding claims and disputes relating to the execution or progress of civil work.
- Assist in determining if non-conforming civil work shall be rejected.
- Assist in preparing change orders relating to the civil work.

Task 2: Structural Construction Observation Services

Support services related to Structural Design during construction are as follows:

- Review project submittal or shop drawings for the civil portion of work. (We estimate approximately 20 submittals with 50% being revised and resubmitted.)
- Respond to Contractor Civil RFIs and general questions. Basis of proposal is 20 RFIs.
- Assist with resolving 2 potential unforeseen structural conditions and address resulting design changes. Basis of proposal: Assumes 20 hours of effort for each design change.

SCOPE OF SERVICES AND FEE

RE: The Dalles First Street

December 16, 2025 *(Revised January 12, 2026)*

Page 2

- Complete field site visits to observe and support the structural work at key intervals. Provide short written site visit report. Basis of proposal: Up to 4 site visits with 1 engineer and 2 hours on-site and 3 hours round trip travel time.
- Participate in periodic virtual construction meetings. Basis of proposal: Attendance at up to 12 one-hour virtual meetings with 1 engineer plus 0.5 hour/meeting preparation time.
- Prepare up to 2 sets of structural drawing revisions. Basis of proposal: 2 sheets per revision set
- Participate in project close-out, including: 1 final on-site punch list walk-through and written punch list for structural items.
- Maintain general project communications and project files.

Task 3: Geotechnical Construction Observation Services

Support services related to Geotechnical Observation during construction are as follows:

- Provide geotechnical consultation services, as needed, during the course of construction and respond to Contractor-issued RFIs.
- Observe wall foundation subgrade preparation and identification and removal of soft soils and other unsuitable material. Evaluate proposed backfill materials, compaction equipment and filling methods. Perform up to 6 part-time site visits.
- Observe installation of micro-piles on a full-time basis (up to 3 days).
- Distribute daily Site Visit Reports on a weekly basis to the design team, Contractor and others requested by the client throughout the course of construction and prepare a summary letter of compliance at the conclusion of the work.

Task 4: Landscape Architectural Construction Observation Services

Support services related to Landscaping during construction are as follows:

- Project Management and Coordination
- Kickoff Site Visit
- Virtual Team Meetings (up to 15)
- Submittal Review
- Requests for Information (RFIs) Responses (up to 10)
- Drawing Revisions and Clarifications
- Field Observation Site Visits (up to 8)
- The following roadside development / site landscape features will be observed:
 - Silva cells (tree cells) installation
 - Unit pavers and cement-treated base installation
 - Tree grates
 - Ornamental fence/railing installation
 - Concrete coordination with site landscape (concrete joint layout and details at tree grates)
 - Soil preparation and installation
 - Tree planting
 - Irrigation system observation

- Site furniture installation

Task 5: Rail Coordination Construction Observation Services

Support services related to Rail Coordination during construction are as follows:

- Coordinate with UPRR
- One Kick off meeting (Onsite)
- Up to 10 Virtual Teams Meeting
- Submittal Review assistance
- Requests for Information (RFIs) Responses
- Final Site Walk (Onsite)

Task 6: Street Lighting Construction Observation Services

Support services related to street lighting construction are as follows:

- Prepare for and attend 1 Kick Off meeting on site
- Site visits during construction – Assume 2 site visits
- Prepare for and attend up to 8 construction virtual check-in meetings with the Contractor, city staff and design team
- Respond to Requests for Information (RFIs) as needed
- Review and provide responses to shop drawing and equipment submittals
- Review of Change Orders as needed

C. ASSUMPTIONS & CLARIFICATIONS

- All permit fees and agency charges will be paid by others.
- The site is adequately served by utilities adjacent to the site.
- Offsite utility or street design beyond the identified Project Limits is not included in this proposal.
- Floodplain, wetland or environmental work is not included in this proposal. Remediation for contaminated soil, if required, will be done by others.
- Necessary testing and construction specific inspections during construction will be provided by others.
- A post construction survey of as-built conditions is not included in this proposal.
- Redlines and as constructed drawings to be provided by and completed by the Contractor.

D. OPTIONAL SERVICES

Should any of these services be required for this project, a mutually agreed upon scope and fee will be negotiated at such time.

- Preparation of special studies (i.e., water system modeling, storm drain system modeling outside our scope of work, detailed downstream analysis, traffic impact analysis, etc.).
- Intensive research and testing to determine conditions of existing site utilities (i.e., potholing, smoke testing, dye testing, pressure testing, fire flow testing, videotaping, etc.).

SCOPE OF SERVICES AND FEE

RE: The Dalles First Street

December 16, 2025 (Revised January 12, 2026)

Page 4

- Design of incidental site structures (i.e., stairs, fences and gates, structural retaining walls greater than 4 feet, railings, bridges, etc.).
- Excavation shoring.
- Cost estimates and/or quantity take-offs including earthwork volumes.
- Appeal, Design Exception and Alternative Review applications.
- Additional Construction Administration services such as additional attendance at regular construction meetings, attendance at pre-bid or pre-construction meetings.
- Design of public improvements beyond connecting to the existing system for the purposes of this project.
- Services related to future facilities and improvements.
- Design of water capture/re-use systems, pump stations, sump pumps, or force mains for sanitary sewer or storm drainage systems, if required.
- Assistance in determining System Development Charges (SDCs) and utility connection fees.

E. ANTICIPATED SCHEDULE

It is anticipated that the following schedule will be maintained:

Task	Duration
Task 1-6: Construction Observation Services	18 Months

F. PROPOSED FEES

Our not-to-exceed fee for this project is outlined below based on the above Scope of Services and Construction Plans. We will bill for our work monthly based on the hours expended during that month. Reimbursable expenses, as described in AIA Document C401, will be billed at our direct cost in addition to this fee. Hourly rates are updated annually. Services on hourly contracts will be billed at the hourly rates in place at the time services are provided. Subconsultant invoices will be marked up by 5%.

Site Improvements	
Task 1: Civil Construction Observation	\$101,940
Task 2: Structural Construction Observation	66,450
Task 3: Geotechnical Construction Observation	16,338
Task 4: Landscaping Construction Observation	20,545
Task 5: Rail Coordination	17,590
Task 6: Lighting Construction Observation	17,130
Estimate of Expenses	3,516
Total Not-to-Exceed Fee Including Reimbursables	\$243,509

Should additional services, including site visits, beyond those noted in the above Scope of Services become necessary, the scope and fee will be negotiated as part of an Additional Service Request (ASR).

RESOLUTION NO. 26-005

A RESOLUTION UPDATING THE CITY OF THE DALLES LOCAL CONTRACT REVIEW BOARD RULES

WHEREAS, the Oregon Legislative Assembly requires cities to establish, implement, and follow standardized procurement rules pursuant to the Oregon Public Contracting Code in ORS Chapters 279A, 279B, and 279C;

WHEREAS, ORS 279A.065 authorizes the City to prescribe its own rules of procedure for public contracting that may include portions of the model rules adopted by the Oregon Attorney General;

WHEREAS, TDMC Chapter 1.24 establishes the City Council as the City's Local Contract Review Board (**LCRB**) pursuant to ORS 279A.060 and authorizes it to adopt rules necessary to carry out the provisions of the Oregon Public Contracting Code;

WHEREAS, the City Council previously adopted the current *City of The Dalles Local Contract Review Board Rules (Rules)* in 2023 by Resolution No. 23-006 and has also adopted (and may in the future adopt) supplemental LCRB resolutions establishing procurement programs and exemptions authorized by the Oregon Public Contracting Code—including a mandatory prequalification program under ORS 279C.430 and exemptions from competitive bidding for certain public improvements under ORS 279C.335(2)—and intends that previously adopted supplemental LCRB resolutions remain in effect and continue to operate as appendices to and part of the Rules as revised and adopted herein; and

WHEREAS, the City Council now intends this Resolution to adopt updated Rules consistent with the Oregon Public Contracting Code in support of the public health, safety, and welfare.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF THE DALLES RESOLVES AS FOLLOWS:

Section 1 Updated Rules Adopted. The *City of The Dalles Local Contract Review Board Rules (Effective January 26, 2026)* attached to and made part of this Resolution as its **Exhibit A** are hereby approved and adopted as the rules for and regulations of the City's Local Contract Review Authority. All City public contracting subject to the Oregon Public Contracting Code shall be conducted in accordance with the Rules (including adopted supplemental LCRB resolutions preserved in Section 3).

Section 2 Previous Regulations Repealed. All previous and inconsistent City public contracting rules or regulations (including the *City of The Dalles Local Contract Review Board Rules* adopted by Resolution No. 23-006) are hereby repealed and superseded; provided, however, this Resolution does not repeal or modify any separate adopted supplemental LCRB resolutions preserved in Section 3.

Section 3 Supplemental Local Contract Review Board Resolutions.

- (a) **Previously Adopted Supplements.** The City Council hereby confirms that the following previously adopted LCRB resolutions remain in effect and are incorporated by reference into the Rules adopted by this Resolution as appendices as if fully included in the Rules:
 - (1) **Resolution No. 25-040**, a resolution establishing a mandatory prequalification program for public improvement contracts under ORS 279C.430; and
 - (2) **Resolution No. 26-003**, a resolution approving findings and establishing a class exemption from competitive bidding for certain elevator modernization and major repair public improvement contracts under ORS 279C.355.
- (b) **Future Supplements.** The City Council further hereby confirms that any future LCRB resolution adopted pursuant to ORS 279C.335(2), ORS 279C.430, or other provision of the Oregon Public Contracting Code that is intended to operate as a supplemental rule, program, or exemption shall remain effective unless expressly repealed by the City Council and shall be maintained on file in the Office of the City Clerk as an appendix to the Rules.
- (c) **Broad Intent.** For avoidance of doubt, any reference in a preserved supplemental resolution to the City’s previous *Local Contract Review Board Rules* adopted by Resolution No. 23-006 is intended to refer to the City’s *Local Contract Review Board Rules* as amended and restated from time to time (including the Rules adopted by this Resolution).
- (d) **Control.** In the event of a conflict between the general provisions of the Rules and a preserved supplemental resolution, the more specific provisions of the preserved supplemental resolution govern for the subject matter addressed.

Section 4 Administration and Record. The Office of the City Clerk shall maintain a current consolidated copy of the Rules (**Exhibit A**) together with the supplemental LCRB resolutions preserved in Section 3 and shall make the consolidated rules and appendices available for public inspection consistent with the provisions of the Oregon Public Records Law and Oregon Public Contracting Code.

Section 5 Effective Date. This Resolution is effective upon adoption.

PASSED AND ADOPTED THIS 26TH DAY OF JANUARY, 2026,

Voting **Yes** Councilors: _____
Voting **No** Councilors: _____
Abstaining Councilors: _____

Absent Councilors: _____

AND APPROVED BY THE MAYOR THIS 26TH DAY OF JANUARY, 2026.

Richard A. Mays, Mayor

ATTEST:

Amie Ell, City Clerk



**Local Contract Review Board Rules
Public Contracting and Purchasing Policy
*Effective January 26, 2026***

Local Contract Review Board Rules
Effective January 26, 2026

I.	Introduction.....	1
	A. Purpose of Purchasing Policy	1
	B. Interpretation of Purchasing Policy.....	1
	C. Specific Provisions’ Precedence over General Provisions.....	2
	D. Conflicts with Federal Statutes and Regulations	2
II.	Definitions.....	3
	A. Specific Definitions.....	3
III.	Authority.....	10
	A. City Council as Local Contract Review Board	10
	B. Application of Attorney General’s Model Rules of Procedure	10
	C. Inapplicability of Rules	10
	D. Authority of Contract Approval and Execution	11
	E. Authority of City Department Managers	11
	F. Authority of All Other City Employees	12
	G. Favorable Terms.....	12
	H. Unauthorized Contracts or Purchases.....	12
	I. Prohibition.....	12
IV.	Preferences.....	13
	A. Discretionary Oregon Preference	13
	B. Mandatory Tie Breaker Preference	13
	C. Reciprocal Preference	13
	D. Preference for Recycled Materials and Supplies	13
V.	General Provisions.....	14
	A. Public Notice.....	14
	B. Procedure for Competitive Verbal Quotes and Proposals	14
	C. Procedure for Informal Written Solicitation	14
	D. Procurement Methods for Professional Services and Public Improvements	15
	E. Feasibility Determinations for Service Contracts over \$250,000.....	16
	F. Qualified Pools.....	17
	G. Retroactive Approval.....	18
VI.	Goods or Services (Not Personal or Professional Services).....	19
	A. Small Procurements.....	19
	B. Intermediate Procurements.....	19
	C. Large Procurements	20
	D. Optional Use of Competitive Sealed Bidding or Competitive Sealed Proposals. 20	
VII.	Personal Services.....	21
	A. Classification of Services as Personal Services	21
	B. Requests for Qualifications	21
	C. Direct Negotiations.....	22
	D. Informal Written Solicitations.....	23
	E. Requests for Proposals.....	24
	F. Personal Services and Public Improvement Contracts.....	25
VIII.	Alternatives for Goods, Services, and Personal Services.....	26
	A. Sole-Source Procurements	26
	B. Special Procurements.....	26

C.	Class Special Procurements	27
D.	Emergency Procurements.....	29
E.	Cooperative Procurements	30
IX.	Professional (A&E and Related Services).....	32
A.	Purpose and Scope.	32
B.	Classification.....	32
C.	A&E Services.....	32
D.	Related Services.....	33
E.	Selection Procedures.....	34
F.	Solicitation	34
G.	Consultant Continuity.....	35
H.	Electronic Procurement and Communications.....	35
I.	Documentation.....	35
J.	Protests	35
X.	Surplus Property.	37
A.	General Methods	37
B.	Disposal of Property with Minimal Value	37
C.	Personal-Use Items	37
D.	Conveyance to Purchaser.....	38
XI.	Protest and Appeal Procedures.	39
A.	Appeal of Debarment or Prequalification Decision	39
B.	Protests and Judicial Review of Special Procurements.....	40
C.	Protests and Judicial Review of Sole-Source Procurements	41
D.	Protests and Judicial Review of Personal Services Procurements	41
E.	Protests of Cooperative Procurements.....	43
F.	Protests of ORS 279B.055 and ORS 279B.060 Solicitations and Awards.....	43

I. Introduction.

A. **Purpose of Purchasing Policy.** These Rules are adopted by the City Council as the governing body of the City of The Dalles to establish the rules and procedures for contracts entered into and purchases made by the City. The City's policy in adopting these Rules is to utilize public contracting and purchasing practices and methods maximizing the efficient use of City resources and the purchasing power of City funds by:

1. promoting impartial and open competition;
2. using complete solicitation materials containing a clear statement of contract specifications and requirements; and
3. taking full advantage of evolving procurement methods fulfilling the City's purchasing needs as they emerge within various industries.

B. **Interpretation of Purchasing Policy.** These Rules are adopted by the City Council acting as the City's *Local Contract Review Board* pursuant to ORS 279A.060 and as the City's rules of procedure for public contracting pursuant to ORS 279A.065(6). In furtherance of the purposes set forth in Subsection I.A, the City intends these Rules to be interpreted to authorize the full use of all contracting and purchasing powers described in ORS Chapters 279A, 279B, and 279C (**Public Contracting Code**), as amended, and including successor provisions.

1. **Governing Law.** The City shall comply with all applicable federal and state law governing public contracting. If a provision of these Rules conflicts with applicable law, the law controls and the conflicting provision of these Rules is superseded to the extent of the conflict.
2. **Model Rules Opt-Out.** Pursuant to ORS 279A.065(6)(a)(A), the City specifically states that the Attorney General's model public contracting rules adopted under ORS 279A.065 (OAR Chapter 137, Divisions 46 through 49, **Model Rules**) do not apply to the City except to the extent **(a)** these Rules expressly adopt, incorporate, or require compliance with specific Model Rules provisions or **(b)** Oregon or federal law requires their application. Notwithstanding the foregoing, under ORS 279A.065(3)(b) the City may not adopt its own rules for procuring construction manager/general contractor services and shall comply with applicable Model Rules when CM/GC contracting is used.
3. **Interpretation and Administration.** The City Attorney may issue written legal guidance for internal administration of these Rules and such guidance does not amend these Rules or any solicitation unless incorporated into a written addendum or otherwise provided to all prospective offerors in a manner consistent with applicable law. The City Manager may adopt administrative procedures, templates, and forms consistent with these Rules and applicable law.
4. **Future-Proofing.** References in these Rules to statutes, administrative rules, dollar thresholds, and Model Rules include amendments and successor provisions. If a dollar threshold stated in these Rules differs from a current threshold stated in



- applicable law, the City may apply the current statutory or regulatory threshold and the conflicting dollar figure in these Rules is superseded to that extent.
5. ***Supplemental Local Contract Review Board Resolutions.*** The City Council, acting as the Local Contract Review Board, may adopt supplemental procurement programs, rules, and exemptions by separate resolution as authorized by the Oregon Public Contracting Code, including (without limitation) to mandatory prequalification for public improvement contracts under ORS 279C.430 and exemptions from competitive bidding for public improvement contracts under ORS 279C.335(2). All supplemental Local Contract Review Board resolutions are incorporated by reference into these Rules as appendices and are maintained on file in the Office of the City Clerk. If a conflict exists between these Rules and an applicable supplemental resolution, the more specific provisions govern.
- C. Specific Provisions' Precedence over General Provisions.** In the event of a conflict between the provisions of these Rules, the more specific provision shall take precedence over the more general provision.
- D. Conflicts with Federal Statutes and Regulations.** Consistent with ORS 279A.030, and except as otherwise expressly provided in ORS 279C.800 to 279C.870, applicable federal statutes and regulations govern when federal funds are involved and the federal statutes or regulations conflict with any provision of ORS Chapters 279A, 279B, or 279C or require additional conditions in public contracts not authorized by those chapters.



II. **Definitions.**

A. **Specific Definitions.** Terms not defined in these Rules have the meanings provided in applicable Oregon law, including ORS 279A.010, ORS 279A.025, ORS 279B.015, and ORS 279C.100, and in any applicable administrative rules. If a definition in these Rules conflicts with a mandatory definition in applicable law, the applicable statutory or regulatory definition controls. Unless a different definition is specifically provided elsewhere in these Rules or the context clearly requires otherwise, the following terms have the following specified meanings and any term defined in the singular includes the meaning of the plural, and vice versa:

1. **Administering agency.** The contracting agency that solicited and established the original contract in a cooperative procurement for goods, services, personal services, professional services, or public improvements.
2. **Affected person/offendor.** A person whose ability to participate in a procurement is adversely impaired by a City decision.
3. **Award.** The decision to enter into a contract or purchase order with a specific offeror.
4. **Bid.** A response to an invitation to bid.
5. **Bidder.** A person who submits a bid in response to an invitation to bid.
6. **Business with which a City employee is associated.** Any business in which a City employee is a director, officer, owner, or employee, or any corporation in which a City employee owns or has owned 10% or more of any class of stock at any point in the preceding calendar year.
7. **City.** The City of The Dalles, an Oregon municipal corporation and a contracting and purchasing agency.
8. **City Manager.** The person appointed by the City Council to the position of City Manager or their written designee.
9. **Closing.** The date and time announced in a solicitation document as the deadline for submitting bids or offers.
10. **Contract.** See *Public Contract*.
11. **Contractor.** The person who enters into a contract with the City.
12. **Contract price.** As the context requires, either:
 - a. the maximum payment the City will make under a contract if the contractor fully performs under the contract, including bonuses, incentives, and contingency amounts;
 - b. the maximum not-to-exceed payment specified in the contract; or
 - c. the unit prices set forth in the contract.



13. **Contracting agency.** A public body authorized by law to conduct a procurement, including any person authorized by the City to conduct a procurement on the City's behalf.
14. **Cooperative procurement.** A procurement conducted by, or on behalf of, one or more contracting agencies.
15. **Days.** Calendar days.
16. **Emergency.** Involves circumstances that:
 - a. could not have been reasonably foreseen;
 - b. create a substantial risk of loss, damage, or interruption of services or a substantial threat to property, public health, welfare, or safety; and
 - c. require prompt execution of a contract or amendment in order to remedy the condition.
17. **Emergency construction contract.** A contract for emergency work, minor alteration, ordinary repair or maintenance of public improvements, and any other construction contract not defined as a public improvement under these Rules or ORS 279A.010.
18. **Findings.** The justification for a conclusion. If the justification relates to a public improvement contract, findings may be based on information including, without limitation:
 - a. operational, budget and financial data;
 - b. public benefits;
 - c. value engineering;
 - d. specialized expertise;
 - e. market conditions;
 - f. technical complexity; and
 - g. funding sources.
19. **Goods and/or services.** *Goods* are supplies, equipment, materials, and personal property (including intangible and intellectual property rights and licenses). *Services* are all other services not designated as personal services or professional services under these Rules. The term *goods and/or services* includes combinations of any of the items identified in the definition for each.
20. **Grant.**
 - a. An agreement under which, either:



- (1) the City (as grantee) receives moneys, property, or other assistance (including but not limited to federal assistance characterized as a grant by federal law or regulation), loans, loan guarantees, credit enhancements, gifts, bequests, commodities, or other assets; the assistance received by the City is from a grantor for the purpose of supporting or stimulating a program or activity of the City; and no substantial involvement by the grantor is anticipated in the program or activity other than involvement associated with monitoring compliance with grant conditions; or
 - (2) the City (as grantor) provides moneys, property, or other assistance (including but not limited to federal assistance characterized as a grant by federal law or regulation), loans, loan guarantees, credit enhancements, gifts, bequests, commodities or other assets; the assistance is given to the recipient for the purpose of supporting or stimulating a program or activity of the recipient; and no substantial involvement by the City is anticipated in the program or activity other than involvement associated with monitoring compliance with grant conditions.
- b. *Grant* does not include a public contract for a public improvement or public works, or for emergency work, minor alterations, or ordinary repair or maintenance necessary to preserve a public improvement, when under the public contract the City pays moneys received under a grant as consideration for contract performance intended to realize or support the purposes of the grant.
21. **Immediate family member.** An employee's: spouse, domestic partner, parent or in loco parentis, children, siblings, parents-in-law, siblings-in-law, grandparents, grandchildren, step-parents, and step-children.
 22. **Offer.** A bid, proposal, quote, or other response to a solicitation document.
 23. **Offeror.** A person who submits an offer.
 24. **Opening.** The date, time, and place announced in the solicitation document for the public opening of written sealed offers.
 25. **Original contract.** The initial contract or price agreement solicited and awarded during a cooperative procurement by an administering agency.
 26. **Purchasing agency.** An agency that procures goods or services, personal services, or public improvements from a contractor based on the original contract established by an administering agency in a cooperative procurement.
 27. **Person.** An individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public body, public corporation, or other legal or commercial entity, and any other person or entity with legal capacity to contract.
 28. **Price agreement.** A contract for the procurement of goods or services at a set price which has:
 - a. no guarantee of a minimum or maximum purchase; or



- b. an initial order or minimum purchase combined with a continuing contractor obligation to provide goods or services with no guarantee of any minimum or maximum additional purchase.
29. **Procurement.** The act of purchasing, leasing, renting, or otherwise acquiring goods or services, personal services, or professional services. It includes each function and procedure undertaken or required to be undertaken to enter into a contract, administer a contract, and obtain the performance of a contract for goods or services, personal services, or professional services.
30. **Proposal.** A response to a request for proposals.
31. **Proposer.** A person that submits a proposal in response to a request for proposals.
32. **Provider.** As the context requires, a supplier of goods or services, personal services, or professional services.
33. **Public contract.** A sale or other disposal, or a purchase, lease, rental, or other acquisition, by the City of personal property, goods or services, including personal services, professional services, public improvements, public works, minor alterations, or ordinary repair or maintenance necessary to preserve a public improvement. It does not include grants.
34. **Public contracting.** Procurement activities relating to obtaining, modifying, or administering contracts or price agreements.
35. **Public improvement.** A project for construction, reconstruction, or major renovation on real property, by or for the City. It neither includes projects for which no funds of the City are directly or indirectly used (except for participation incidental or related primarily to project design or inspection) nor emergency work, minor alteration, or ordinary repair or maintenance necessary to preserve a public improvement.
36. **Public improvement contract.** A contract for a public improvement. This does not include a contract for emergency work, minor alterations, or ordinary repair or maintenance necessary to preserve a public improvement.
37. **Qualified pool.** A pool of contractors who are prequalified to compete for the award of certain contracts or to provide certain types of goods or services.
38. **Recycled product.** All materials, goods and supplies, not less than 50% of the total weight of which consists of secondary and post-consumer waste with not less than 10% of its total weight consisting of post-consumer waste. It includes any product potentially disposable as solid waste after completing its life cycle as a consumer item but otherwise is refurbished for reuse without substantial alteration of the product's form.
39. **Request for proposals (RFP).** A solicitation document used for soliciting proposals.
40. **Request for qualifications (RFQ).** A written document issued by the City describing particular services to which potential contractors respond with a description of their



experience and qualifications that results in a list of potential contractors who are qualified to perform those services, but which is not intended to create a contract between a potential contractor on the list and the City.

41. **Revenue-generating agreement.** An agreement (including, by example, a concession, vending, marketing, naming-rights, advertising, sponsorship, or similar agreement) under which **(a)** the City grants a person the right to conduct commercial activity on City-controlled property or in City-controlled facilities, or to use City-owned or City-controlled personal property or intangible property (including intellectual property and naming/advertising rights) and **(b)** the City receives revenue, fees, commissions, or other consideration (cash or in-kind) rather than paying City funds as the primary consideration for the agreement. The term does not include: **(i)** acquisitions or disposals of interests in real property, including purchases, sales, leases, easements, franchises, or right-of-way occupancy agreements or **(ii)** regulatory permits or licenses issued as an exercise of the City's police power.
42. **Scope.** The range and attributes of the goods or services described in a procurement document.
43. **Services.** See *goods and/or services*. The following specific definitions apply to the following types of services:
 - a. **Personal services.** Services, other than professional services, requiring specialized skill, knowledge, and resources in the application of technical or scientific expertise or in the exercise of professional, artistic, or management discretion or judgment.
 - (1) **Character.** Qualifications and performance history, expertise and creativity, and the ability to exercise sound professional judgment are typically the primary considerations when selecting a personal services contractor, with price being secondary.
 - (2) **Classes.** Personal services contracts include but are not limited to the following classes of contracts:
 - (a) Contracts for services performed in a professional capacity, including but not limited to, services of an accountant, attorney, auditor, court reporter, information technology consultant, land use and planning consultant, physician, or broadcaster;
 - (b) Contracts for professional or expert witnesses or consultants to provide services or testimony relating to existing or potential litigation or legal matters in which the City is or may become interested;
 - (c) Contracts for services as an artist in the performing or fine arts, including any person identified as a photographer, film maker, actor, director, painter, weaver, or sculptor;
 - (d) Contracts for services that are specialized, creative or research-oriented; and/or



- (e) Contracts for services as a consultant.
- b. *Professional services.* Architectural, engineering, photogrammetric mapping, transportation planning, and land surveying (A&E) or related services, or any combination of these services, provided by a consultant.
 - (1) **A&E services.** Professional services performed by an architect, engineer, photogrammetrist, transportation planner, or land surveyor and includes architectural, engineering, photogrammetric, transportation planning, or land surveying services, separately or any combination thereof, as appropriate within the context of a section of these Rules.
 - (2) **Related services.** Personal services, other than A&E services, related to the administration, design, engineering, or oversight of public improvement projects or components thereof, including but not limited to:
 - (a) landscape architectural services;
 - (b) facilities planning services;
 - (c) energy planning services;
 - (d) space planning services;
 - (e) environmental impact studies;
 - (f) hazardous substances or hazardous waste or toxic substances testing services;
 - (g) wetland delineation studies;
 - (h) wetland mitigation services;
 - (i) Native American studies;
 - (j) historical research services;
 - (k) endangered species studies;
 - (l) rare plant studies;
 - (m) biological services;
 - (n) archaeological services;
 - (o) cost estimating services;
 - (p) appraising services;
 - (q) material testing services;



- (r) mechanical system balancing services;
 - (s) commissioning services;
 - (t) project management services; and
 - (u) construction management services and owner's representatives' service.
- 44. *Signed or signature.*** Any mark, word or symbol attached to or logically associated with a document and executed or adopted by a person with the authority and intent to be bound.
- 45. *Solicitation.*** As the context requires, either:
- a. a request for the purpose of soliciting offers, including an invitation for bid, a request for proposals, a quote request, a request for qualifications, or other similar documents;
 - b. the process of notifying prospective offerors of a request for offers; and/or
 - c. the solicitation document.
- 46. *Work.*** The furnishing of all materials, equipment, labor and incidentals necessary to successfully complete any individual item in a contract and successful completion of all duties and obligations imposed by the contract.
- 47. *Written or in writing.*** Conventional paper documents, whether handwritten, typewritten or printed, in contrast to spoken words, including electronic transmissions or facsimile documents when required by applicable law or permitted by a solicitation document or contract.



III. **Authority.**

- A. City Council as Local Contract Review Board.** The City Council is designated as the *Local Contract Review Board* of the City pursuant to ORS 279A.060 and has all the rights, powers, and authority necessary to carry out the provisions of these Rules and the Public Contracting Code.
- B. Application of Attorney General's Model Rules of Procedure.** The Model Rules do not apply except as stated in Subsection I.B.2. The City shall review these Rules each time the Attorney General modifies the Model Rules as required by ORS 279A.065(6)(b).
- C. Inapplicability of Rules.** For avoidance of doubt, nothing in this Subsection III.C expands a statutory exemption. If a transaction constitutes a public contract subject to the Public Contracting Code, these Rules apply unless ORS 279A.025 or another statute provides an exemption. These Rules do not apply to contracts and contracting activities to the extent the Public Contracting Code does not apply under ORS 279A.025, including (without limitation):
1. contracts between the City and other contracting agencies and other governmental entities described in ORS 279A.025(2)(a);
 2. agreements authorized by ORS Chapter 190 or by other authority for establishing agreements between or among governmental bodies or agencies or tribal governing bodies or agencies consistent with ORS 279A.025(2)(b);
 3. grants under ORS 279A.025(2)(d);
 4. contracts for professional or expert witnesses or consultants to provide services or testimony relating to existing or potential litigation or legal matters in which the City is or may become interested consistent with ORS 279A.025(2)(e);
 5. acquisitions or disposals of real property or interests in real property consistent with ORS 279A.025(2)(f);
 6. procurements from an Oregon Corrections Enterprises program consistent with ORS 279A.025(2)(i);
 7. sole-source expenditures when rates are set by law or ordinance for purposes of source selection consistent with ORS 279A.025(2)(g);
 8. contracts, agreements, or other documents entered into, issued, or established in connection with the issuance of obligations of a public body, program loans and similar extensions or advances of funds, the investment of funds, and other financial transactions that by their character cannot practically be established under the competitive contractor selection procedures of ORS 279B.050 to 279B.085 consistent with ORS 279A.025(2)(q);
 9. contracts for employee benefit plans as described in ORS 279A.025(2)(r) and (s);
and



10. any other public contracting of a public body specifically exempted from the Public Contracting Code by another provision of law consistent with ORS 279A.025(2)(t).

D. Authority of Contract Approval and Execution. Nothing in this Subsection III.D limits the City Council's authority, acting as the Local Contract Review Board, to approve or award any public contract, or to impose additional approval requirements, consistent with law. For contracts and purchases covered by these Rules, and when sufficient budgetary resources are either available in the current fiscal year budget for the proposed expenditure or become available after specific City Council authorization:

1. *City Manager authority up to \$100,000.* The City Manager is authorized to award and execute public contracts and contract amendments without specific authorization by the City Council when the total contract price, as originally awarded or as amended, is **\$100,000 or less**.
2. *City Council approval over \$100,000.* For a public contract or contract amendment that would cause the total contract price (as originally awarded or as amended) to **exceed \$100,000**, the City Council must approve the award or amendment before the City executes the contract or amendment. After City Council approval, the City Manager may execute the contract or amendment on behalf of the City.
3. *Purchasing Authority.* As the City's purchasing agent, the City Manager may procure goods and services, personal services, professional services, and public improvements in accordance with these Rules within the dollar limits described in Subsection III.D.1 and Subsection III.D.2.
4. *Department Manager Requests.* The City Manager shall be responsible for approving in writing all purchases valued **between \$25,000 and \$100,000** requested by City Department Managers.
5. *Delegation and Subdelegation.* The City Manager may delegate and subdelegate in writing any authority granted under this Subsection III.D that is not expressly reserved to the Local Contract Review Board or otherwise required by law to be exercised by the City Council.
6. *Administrative Procedures.* The City Manager may adopt forms, procedures, computer software, and administrative rules for all City purchases regardless of the amount. The City shall use these forms, procedures, computer software, or administrative rules unless they conflict with these Rules or applicable law. When adopting the forms, procedures, computer software, or administrative rules, the City Manager shall establish practices and policies that **(a)** do not encourage favoritism or substantially diminish competition and **(b)** allow the City to take advantage of the cost-saving benefits of alternative contracting methods and practices.

E. Authority of City Department Managers. For contracts and purchases covered by these Rules, City Department Managers are authorized to procure goods and services and to award and execute public contracts and contract amendments within their assigned responsibilities to the extent the total contract price (as originally awarded or as amended) is **\$25,000 or less**, provided that the procurement complies with these Rules and the expenditure is within available budget authority.



- F. Authority of All Other City Employees.** For contracts and purchases covered by these Rules, all other City employees are authorized to make purchases to the extent the total contract price **does not exceed \$5,000**, provided that the purchase complies with these Rules, with any administrative procedures adopted by the City Manager, and with available budget authority. This authority does not include the authority to execute a City contract unless the City Manager has delegated signature authority in writing.
- G. Favorable Terms.** Contracts and purchases shall be negotiated on the most favorable terms to the City in accordance with these Rules, other adopted ordinances, and Oregon and federal laws, policies, and procedures.
- H. Unauthorized Contracts or Purchases.** A public contract entered into or purchase made without authority under these Rules is unauthorized and is subject to cancellation, ratification by the City Council, or other action as allowed by law, in the City's sole discretion. The City may take appropriate action in response to execution of unauthorized contracts or purchases. Such actions include (without limitation) providing educational guidance, imposing disciplinary measures, and, to the extent permitted by law, seeking reimbursement for unauthorized expenditures.
- I. Prohibition.** No contract shall be knowingly entered with or purchase knowingly made from any City employee or employee's immediate family member, or any business with which the employee is associated, unless:
1. the contract or purchase is expressly authorized and approved by the City Council after it receives counsel from the City Attorney; or
 2. the need for the contract or purchase occurs during a state of emergency, and the City Manager finds in writing the acquisition from the employee, employee's immediate family member, or business with which the employee is associated is the most expeditious means to eliminate the threat to public health, safety, and welfare.



IV. Preferences.

- A. **Discretionary Oregon Preference.** For procurements of goods, services, or personal services under ORS Chapter 279B, the City may provide in a solicitation document a specified percentage preference as authorized by ORS 279A.128. The solicitation document shall describe the preference and how it will be applied. This discretionary preference does not apply to contracts described in ORS 279C.320(1).
- B. **Mandatory Tie Breaker Preference.** If offers are identical in price, fitness, availability, and quality, and the City desires to award the contract, the preferences provided in ORS 279A.120 shall be applied prior to the contract award.
- C. **Reciprocal Preference.** When evaluating bids, the City shall apply the reciprocal preference required by ORS 279A.120(2)(b).
- D. **Preference for Recycled Materials and Supplies.** The City shall give preference to goods manufactured from recycled materials as required by ORS 279A.125. The City shall give the preference when **(1)** the recycled product is available, **(2)** the recycled product meets applicable standards, **(3)** the recycled product can be substituted for a comparable nonrecycled product, and **(4)** the recycled product's cost does not exceed the cost of the nonrecycled product by more than 5% (or a higher percentage if the City makes a written determination to allow a higher percentage). The City Manager may adopt written standards consistent with ORS 279A.125 for determining whether goods are certified to be made from recycled materials and for implementing the preference.



V. **General Provisions.**

A. **Public Notice.**

1. **Generally.** Unless otherwise specifically provided by these Rules or required by applicable law, any notice required by these Rules may be given by any method reasonably calculated to provide notice to prospective offerors and the public, as determined by the City Manager, including (without limitation): posting on the City's website; posting on an electronic procurement platform; sending notice by email or mail to persons that have requested notice in writing; and publishing an advertisement in statewide trade or local publications.
2. **Electronic Advertisements.** For **(a)** public contracts subject to ORS Chapter 279B that require public notice under ORS 279B.055(4) or ORS 279B.060(5) and **(b)** for public improvement contracts subject to ORS Chapter 279C that require advertisements under ORS 279C.360, the Local Contract Review Board hereby determines that electronic advertisements are likely to be cost-effective and, to the maximum extent permitted by ORS 279B.055(4)(c) and ORS 279C.360(1) and any successor provisions, authorizes the City to publish required public notices and advertisements electronically instead of in a newspaper of general circulation. This authorization does not waive any requirement to publish an advertisement in a trade newspaper of general statewide circulation when the public improvement contract has an estimated cost in excess of \$125,000.
3. **Notices of Intent to Award.** When required by ORS 279B.135, ORS 279C.375(2), ORS 279C.410(7), or other applicable law, the City shall issue to each bidder or proposer, or post electronically or otherwise, a notice of intent to award at least 7 days before awarding the contract unless the City determines that 7 days is impractical. If the City provides a notice period shorter than 7 days, the City shall document the specific reasons for finding 7 days impractical in the procurement file and shall provide notice as soon as reasonably practical.

B. **Procedure for Competitive Verbal Quotes and Proposals.** Where allowed by these Rules and authorized by the City Manager, solicitations by competitive verbal quotes or proposals shall be based on a description of the scope, quantity, and any material performance requirements for the goods or services to be provided and may be solicited and received by means including phone, facsimile, or email.

1. **Attempt.** The City shall make a good faith effort to contact at least 3 potential providers. If 3 potential providers are not reasonably available, fewer will suffice, provided the City documents as part of the procurement file the reasons 3 potential providers are not reasonably available and the effort made to obtain additional quotes or proposals.
2. **Documentation.** The City shall keep a written record of the sources and amounts of the quotes or proposals received and the basis for selection.

C. **Procedure for Informal Written Solicitation.** Where allowed by these Rules, informal written solicitations shall be made by a solicitation document sent by means including mail, facsimile, or email to not less than 3 prospective providers.



1. **Content.** The solicitation document shall request competitive price quotes or competitive proposals and include:
 - a. the date, time, and place price quotes or proposals are due;
 - b. a description or quantity of the good or service required;
 - c. any statement of period for which price quotes or proposals must remain firm, irrevocable, valid, or binding on the offeror. If no time is stated in the solicitation document, the period shall be 30 days;
 - d. any required contract terms or conditions; and
 - e. any required bid form or proposal format.
2. **Submittals.** Price quotes or proposals shall be received by the City Manager or City Department Manager at the date, time, and place established in the solicitation document. The City shall keep a written record of the sources and amounts of the quotes or proposals received. If 3 quotes or proposals are not reasonably available, fewer shall suffice, but the City Manager or City Department Manager shall make a written record of the effort made to obtain quotes or proposals as part of the procurement file.

D. Procurement Methods for Professional Services and Public Improvements.

1. **Professional Services.** The City shall procure professional services (including A&E services and related services as defined in these Rules) in accordance with Section IX and ORS 279C.105 through 279C.125, as amended and including successor provisions.
2. **Public Improvements.**
 - a. **Generally.** The City shall procure public improvement contracts in accordance with ORS Chapter 279C and any applicable Model Rules provisions that Oregon law requires the City to follow for a particular procurement method.
 - b. **Exceptions.** Nothing in these Rules limits the City's ability to use the exceptions to competitive bidding in ORS 279C.335(1), including, without limitation, the exceptions for public improvement contracts with a value of **less than \$25,000** and public improvement contracts **not exceeding \$100,000** awarded under competitive quote procedures described in ORS 279C.412 and ORS 279C.414.
 - c. **Public Improvement Contracts with a Value of Less Than \$25,000.** Pursuant to ORS 279C.335(1)(c), the City may award a public improvement contract with a value of **less than \$25,000** in any manner the City Manager deems practical or convenient, including by direct selection or award. The City may not artificially divide or fragment a public improvement contract to avoid applicable procurement requirements.



d. *Competitive Quotes for Public Improvement Contracts Not Exceeding \$100,000.*

- (1) **Authority and Use.** Pursuant to ORS 279C.335(1)(d), ORS 279C.412, and ORS 279C.414, the City may award a public improvement contract estimated **not exceeding \$100,000** using competitive quote procedures under this Subsection.
- (2) **Solicitation and Minimum Competition.** The City shall seek at least three informally solicited competitive price quotes from prospective contractors. The City shall keep a written record of the sources and amounts of the quotes received. If three quotes are not reasonably available, fewer will suffice, but the City shall make a written record of the effort made to obtain additional quotes. The City may not artificially divide or fragment a procurement to constitute an intermediate procurement under this Subsection or to circumvent competitive bidding requirements under ORS Chapter 279C.
- (3) **Award.** If a contract is awarded, the City shall award to the contractor whose quote will best serve the interests of the City, taking into account price and any other applicable factors stated in the quote request, including contractor responsibility, availability, schedule, demonstrated ability to perform, and other relevant factors. If an award is not made to the prospective contractor offering the lowest price quote, the City shall make a written record of the basis for award.
- (4) **Amendments.** A contract awarded under this Subsection may be amended to **exceed \$100,000** only as permitted by ORS 279C.412(1) and only if the amendment is within the scope of the procurement and does not constitute a material change that would require a new procurement. The procurement file shall document the basis for the scope and material-change determination.

3. **Mixed Contracts.** If a contract includes both **(a)** professional services and **(b)** other goods or services, the City may procure the contract using the procurement method applicable to the predominant purpose of the contract or may separate the work into multiple contracts and procure each portion under the appropriate method, as determined by the City Manager and as permitted by applicable law.

E. Feasibility Determinations for Service Contracts over \$250,000. This Subsection applies only to the extent ORS 279B.030 applies to the City and is not exempted under ORS 279B.030(3).

1. **Applicability.** This Subsection applies to procurements for services with an estimated contract price that **exceeds \$250,000** to the extent required by ORS 279B.030 and is not exempted under ORS 279B.030(3). This Subsection does not apply to professional services procured under ORS Chapter 279C or to personal services contracts designated under ORS 279A.055.
2. **Determination Before Procurement.** Except as provided in ORS 279B.036, before conducting a procurement for services with an estimated contract price that **exceeds \$250,000**, the City Manager shall:



- a. demonstrate, by means of a written cost analysis in accordance with ORS 279B.033, that the City would incur less cost in conducting the procurement than in performing the services with the City's own personnel and resources; or
 - b. demonstrate, in accordance with ORS 279B.036, that performing the services with the City's own personnel and resources is not feasible.
3. **Staffing or Resources Exception.** If the City proceeds with a procurement under ORS 279B.033(2)(b) because the City lacks personnel and resources that are necessary to perform the services within the time in which the services are required, the City Manager shall keep a record of the cost analysis and findings and the basis for the decision to proceed and shall collect and provide copies of those records each calendar quarter to the Local Contract Review Board as required by ORS 279B.033(2)(b).
 4. **Public Records and Finality.** A cost analysis, record, documentation, finding, or determination made under ORS 279B.033 and a finding or determination and supporting documentation made under ORS 279B.036 are public records. Determinations under ORS 279B.030, ORS 279B.033, and ORS 279B.036 are subject to the finality standard in ORS 279B.145.
- F. Qualified Pools.** The City may solicit a pool of contractors who are prequalified to compete for the award of certain contracts or to provide certain types of goods or services.
1. **General.** To create a qualified pool, the City Manager or City Department Manager may invite prospective contractors to submit their qualifications to the City for inclusion as participants in a pool of contractors qualified to provide certain types of goods, services, or projects, including personal services, professional services, and public improvements. For goods and services, the City may use a qualified pool as a prequalification method consistent with ORS 279B.120. For public improvements, any prequalification, disqualification, and appeal procedures required by ORS Chapter 279C remain applicable and are not waived by the existence of a qualified pool.
 2. **Public Notice.** The invitation to participate in a qualified pool shall be publicly noticed. If qualification will be for a term exceeding 2 years or allowing open entry on a continuous basis, the invitation to participate in the pool must be noticed at least once every 2 years and shall be posted on the City's website.
 3. **Solicitation Content.** Requests for participation in a qualified pool shall describe the scope of goods, services, or projects for which the pool will be maintained and the minimum qualifications for participation in the pool, which may include qualifications relating to financial stability, contracts with manufacturers or distributors, insurance, licensure, education, training, experience and demonstrated skills of key personnel (including familiarity with the City or the proposed project), access to equipment, and other relevant qualifications important to the contracting needs of the City.
 4. **Contract.** The operation of each qualified pool may be governed by the provisions of a pool contract to which the City and all pool participants are parties. The contract shall contain all terms required by the City, including terms relating to price,



performance, business registration or licensure, continuing education, insurance, and requirements for the submission of evidence of continuing qualification on an annual or other periodic basis. The qualified pool contract shall describe the selection procedures the City may use to issue contract job orders. The selection procedures shall be objective and open to all pool participants and afford all participants the opportunity to compete for or receive job awards. Unless expressly provided in the contract, participation in a qualified pool will not entitle a participant to the award of any City contract.

5. *Use of Qualified Pools.* Subject to the provisions of these Rules concerning source selection methods, the City may award contracts for goods or services of the type for which a qualified pool is created from among the pool's participants. The City may also determine that the best interests of the City in a particular instance would be best served by an alternative procurement method. Use of a qualified pool for professional services or public improvements does not waive or reduce any solicitation, competition, notice, bonding, or other requirements imposed by ORS Chapter 279C or applicable law.
6. *Amendment and Termination.* The City Manager or City Council may discontinue a qualified pool at any time or may change the requirements for eligibility as a pool participant at any time by delivering written notice to all pool participants.
7. *Protest of Failure to Qualify.* The City Manager shall notify any applicant who fails to qualify for pool participation that, if the qualified pool is being used as a prequalification method, the applicant may request a hearing and appeal as provided in Subsection XI.A, consistent with ORS 279B.425 (and—for public improvement prequalification—ORS 279C.450).

G. Retroactive Approval. Retroactive approval under this Subsection does not waive compliance with these Rules or applicable law. Retroactive approval of a contract means award or execution of a contract where work was commenced without final award or execution. Retroactive approval is discretionary and may be denied even if the required information is submitted. The City Manager may make retroactive approval of a contract only if the responsible employee submits a copy of the proposed contract to the City Manager along with a written request for contract retroactive approval containing:

1. an explanation of the reason work was commenced before the contract was finally awarded or executed;
2. a description of steps taken to prevent similar occurrences in the future;
3. evidence that, but for the failure to finally award or execute the contract, the employee substantially complied with all other steps required to properly select a contractor and negotiate the contract; and
4. a proposed form of contract.



VI. Goods or Services (Not Personal or Professional Services).

- A. Small Procurements.** Contracts for or purchases of goods or services with a contract price that does not exceed the small procurement threshold stated in ORS 279B.065 (currently, **\$25,000**) are small procurements. The City may not artificially divide or fragment a procurement so as to constitute a small procurement.
1. *Method.* The City may award a small procurement in any manner the City Manager deems practical or convenient, including by direct selection or award, and may use competitive verbal quotes/proposals or informal written solicitations pursuant to Subsection V.B and Subsection V.C.
 2. *Amendments.* A small procurement contract may be amended only when the amendment is within the scope of the original procurement and does not constitute a material change that would require a new procurement. The City may amend a small procurement contract to exceed the small procurement threshold stated in ORS 279B.065 when the City documents in the procurement file the basis for the scope and material-change determination and otherwise complies with applicable law.
 3. *Public Notice.* No public notice of small procurements is required.
- B. Intermediate Procurements.** Contracts for goods or services that exceed the small procurement threshold stated in ORS 279B.065 (currently, **\$25,000**) but do not exceed the intermediate procurement threshold stated in ORS 279B.070 (currently, **\$250,000**) are intermediate procurements. The City may not artificially divide or fragment a procurement so as to constitute an intermediate procurement.
1. *Solicitation.* When conducting an intermediate procurement, the City shall, when reasonably available, seek at least 3 informally solicited competitive price quotes or competitive proposals (which may be verbal or written). The City shall keep a written record of the sources of the quotes or proposals received. If 3 quotes or proposals are not reasonably available, fewer will suffice, but the City shall make a written record of the effort made to obtain the quotes or proposals.
 2. *Negotiations.* The City may negotiate with an offeror to clarify an intermediate procurement quote or proposal or to make modifications that will make the quote or proposal more advantageous to the City.
 3. *Award.* If a contract is awarded, the award shall be made to the offeror whose quote or proposal will best serve the interests of the City, taking into account price or any other relevant considerations, including (without limitation) experience, expertise, product functionality, suitability for a particular purpose, delivery, and contractor responsibility.
 4. *Amendments.* An intermediate procurement contract may be amended only when the amendment is within the scope of the original procurement and does not constitute a material change that would require a new procurement. The procurement file shall document the basis for the scope and material-change determination and the City's determination that the amendment is in the City's best interest.



5. *Public Notice.* No public notice of intermediate procurements is required unless otherwise required by law.

C. Large Procurements. Contracts for goods or services with a contract price exceeding the intermediate procurement threshold stated in ORS 279B.070 (currently, **\$250,000**) are large procurements.

1. Unless the City uses an alternative source selection method authorized by these Rules or applicable law (including Section VIII), large procurements shall be by competitive sealed bidding pursuant to ORS 279B.055 or competitive sealed proposals pursuant to ORS 279B.060.
2. When using either competitive sealed bidding or competitive sealed proposals, the City shall comply with the requirements of ORS 279B.055 and ORS 279B.060. The City may use the Model Rules in OAR Chapter 137, Division 47, as procedural guidance to the extent consistent with these Rules and applicable law.
3. The City shall process protests of solicitations and protests of contract award for large procurements in accordance with ORS 279B.405, ORS 279B.410, ORS 279B.415, ORS 279B.420, and Subsection XI.F.

D. Optional Use of Competitive Sealed Bidding or Competitive Sealed Proposals. Notwithstanding the applicability of ORS 279B.065 or ORS 279B.070 to a procurement, the City may award a public contract for goods or services by competitive sealed bidding under ORS 279B.055 or by competitive sealed proposals under ORS 279B.060 as authorized by ORS 279B.050(3).



VII. Personal Services.

A. Classification of Services as Personal Services. This Section VII governs personal services contracts and does not apply to professional services (A&E services and related services), which are governed by the City's professional services procurement provisions. Pursuant to ORS 279A.055(2), the Local Contract Review Board, by adoption of these Rules, designates as personal services contracts those service contracts and classes of service contracts that meet the definition of personal services in these Rules, as determined and documented by the City Manager in the procurement file. In determining whether a service is a personal service, the City Manager shall consider:

1. whether the work requires specialized skills, knowledge, and resources in the application of technical or scientific expertise, or the exercise of professional, artistic, or management discretion or judgment;
2. whether the City intends to rely on the contractor's specialized skills, knowledge, and expertise to accomplish the work; and
3. whether selecting a contractor primarily on the basis of qualifications, rather than price, would most likely meet the City's needs and result in obtaining satisfactory contract performance and optimal value.
4. *Exception:* A service shall not be classified as personal services for the purposes of these Rules if:
 - a. the work has traditionally been performed by contractors selected primarily on the basis of price; or
 - b. the services do not require specialized skills, knowledge, and resources in the application of highly technical or scientific expertise, or the exercise of professional, artistic, or management discretion or judgment.

B. Requests for Qualifications. At the City Manager's discretion, a request for qualifications may be used to determine whether competition exists to perform the needed personal services or to establish a non-binding list of qualified contractors for use in subsequent procurements under this Section, including informal written solicitations or requests for proposals and for negotiations conducted as part of an authorized source selection method. Use of an RFQ under this Subsection does not, by itself, authorize award—award must occur through one of the methods in Subsection VII.C, Subsection VII.D, or Subsection VII.E.

1. *Content.* A request for qualifications shall describe the particular type of personal services sought, the qualifications the contractor must have to be considered, and the evaluation factors and their relative importance. A request for qualifications may require information including but not limited to:
 - a. the contractor's particular capability to perform the required personal services;
 - b. the number of experienced personnel available to perform the required personal services;



- c. the specific qualifications and experience of personnel;
 - d. a list of similar personal services the contractor has completed;
 - e. references concerning past performance; and
 - f. any other information necessary or convenient to evaluate the contractor's qualifications.
2. **Prequalification.** A voluntary or mandatory qualifications pre-submission meeting may be held for all interested contractors to discuss the proposed personal services. The request for qualifications shall include the date, time, and location of the meeting.
3. **Evaluation.** At the City's discretion as described in the request for qualifications, unless the responses to a request for qualifications reasonably establish competition does not exist, the request for qualifications is canceled, or all responses to the request for qualifications are rejected, the City shall either:
- a. notice all respondents who meet the qualifications set forth in the request for qualifications of any required personal services and provide them an opportunity to submit a proposal in response to the request for proposals; or
 - b. notice all respondents who meet the qualifications set forth in the request for qualifications of their relative ranking after the City evaluates their qualifications, in which case the City will select at least the 2 top-scoring respondents as exclusively eligible to receive and submit responses to the request for proposals.

C. Direct Negotiations.

1. **Authority.** The City may procure a personal services contract by direct negotiations (without competitive written solicitation) if the City determines that one or more of the following apply:
- a. the City Manager determines in writing that procuring the personal services by direct negotiation will best serve the interests of the City, taking into account the nature of the services, the importance of qualifications and performance history, the need for continuity or confidentiality, time constraints, and other factors the City Manager deems relevant;
 - b. the confidential personal services (including special counsel) or professional or expert witnesses or consultants are necessary to assist with pending or threatened litigation or other legal matters in which the City may have an interest; or
 - c. the nature of the personal service is not project-driven but requires an ongoing, long-term relationship of knowledge and trust.
2. **Amendments.** Personal services contracts procured under this Section VII may be amended only when the amendment is within the scope of the original procurement and is advantageous to the City, and only as otherwise permitted by applicable law.



3. *Public Notice.* No public notice of personal services contracts procured by direct negotiations is required.

D. Informal Written Solicitations. An informal written solicitation process may be used for personal services when the contract price is less than or equal to the intermediate procurement threshold stated in ORS 279B.070 (currently, **\$250,000**).

1. *Attempt.* An informal written solicitation shall, when reasonably available, solicit proposals from at least 3 qualified providers. If the City Manager determines 3 qualified providers are not reasonably available, fewer shall suffice if the reasons 3 providers are not reasonably available are documented in the procurement file.
2. *Content.* The solicitation document shall include:
 - a. the date, time and place proposals are due;
 - b. a description of personal services sought or the project to be undertaken;
 - c. any statement of the time period for which proposals must remain firm, irrevocable, valid, and binding on the offeror. If no time is stated in the solicitation document, the period shall be 30 days;
 - d. any required contract terms or conditions; and
 - e. any required bid form or proposal format.
3. *Evaluation.* Selection and ranking of proposals may be based on the following criteria:
 - a. Particular capability to perform the personal services required;
 - b. Experienced staff available to perform the personal services required, including the proposer's recent, current, or projected workloads;
 - c. Performance history;
 - d. Approach and philosophy used in providing personal services;
 - e. Fees or costs;
 - f. Geographic proximity to the project or the area where the services are to be performed; or
 - g. Such other factors deemed appropriate by the City Manager that are reasonably related to the procurement.
4. *Documentation.* The City Manager shall maintain written documentation of the solicitation, including solicitation attempts, responses, and provider names and addresses in the procurement file.



5. **Amendments.** Personal services contracts procured under this Section VII may be amended only when the amendment is within the scope of the original procurement and is advantageous to the City and only as otherwise permitted by applicable law.
6. **Public Notice.** No public notice of personal services contracts procured by informal written solicitations pursuant to this Subsection is required.

E. Requests for Proposals. A request for proposals shall be used to procure personal services when the contract price exceeds the intermediate procurement threshold stated in ORS 279B.070 (currently, **\$250,000**) or the City Manager determines the complexity of the project requires a formal competitive process to determine whether a particular proposal is most advantageous to the City.

1. **Request for Proposal.** The request for proposal shall include:
 - a. notice of any pre-offer conference, including:
 - (1) the time, date and location;
 - (2) whether attendance at the pre-offer conference is mandatory or voluntary; and
 - (3) a provision stating statements made by representatives of the City at the pre-offer conference are not binding unless confirmed by written addendum.
 - b. the form and instructions for submission of proposals, including the location where proposals must be submitted, the date and time by which proposals must be received, and any other special information (e.g., whether proposals may be submitted by electronic means);
 - c. the name and title of the person designated for the receipt of proposals and the person designated as the contact person for the procurement, if different;
 - d. a date, time, and place pre-qualification applications (if any) must be filed and the classes of work (if any) for which proposers must be pre-qualified;
 - e. a statement the City may cancel the procurement or reject any or all proposals;
 - f. the date, time, and place of opening;
 - g. the office where the request for proposals may be reviewed;
 - h. a description of the personal services to be procured;
 - i. the evaluation criteria;
 - j. the anticipated schedule, deadlines, evaluation process, and protest process;
 - k. the form and amount of any proposal security deemed reasonable and prudent by the City Manager to protect the City's interests;



- l. a description of the manner in which proposals will be evaluated, including the relative importance of price and other evaluation factors used to rate the proposals;
 - m. if more than one tier of competitive evaluation will be used, a description of the process under which the proposals will be evaluated in the subsequent tiers;
 - n. if contracts will be awarded to more than one personal services contractor, an identification of the manner in which the City will determine the number of contracts to be awarded or a statement indicating the manner will be left to the City's discretion at time of award;
 - o. if contracts will be awarded to more than one personal services contractor, an identification of the criteria to be used to choose from the multiple contracts when acquiring personal services;
 - p. all required contract terms and conditions, including the statutorily required provisions in ORS 279B.220, 279B.230, and 279B.235; and
 - q. any terms and conditions authorized for negotiation.
2. **Public Notice.** The City Manager shall provide public notice of a request for proposals for personal services. Public notice should be given not less than 7 days prior to closing for the request for proposals. The City may provide a shorter public notice period when the City Manager determines that a shorter period is in the public interest or will not substantially affect competition. The City Manager shall document the specific reasons for any shorter public notice period in the procurement file.
3. **Amendments.** Personal services contracts procured under this Section VII may be amended only when the amendment is within the scope of the original procurement and is advantageous to the City, and only as otherwise permitted by applicable law.
- F. Personal Services and Public Improvement Contracts.** Nothing in this Section VII authorizes the City to procure personal services in a manner prohibited by ORS 279C.307. If ORS 279C.307(1) would prohibit the City from procuring personal services for the purpose of administering, managing, monitoring, inspecting, evaluating compliance with, or otherwise overseeing a public contract subject to ORS Chapter 279C, and the City intends to accept a bid or proposal from a contractor that would be subject to the prohibition, the City shall apply to the Local Contract Review Board for an exception before awarding a public contract for the personal services or amending an existing public contract to include the personal services. The City shall consult with the City Attorney as required by ORS 279C.307(3)(c). The application shall include the findings and justifications and supporting facts required by ORS 279C.307(3)(d). If the Local Contract Review Board approves the exception, it shall prepare written findings and justifications for the approval as required by ORS 279C.307(3)(e)(A).



VIII. Alternatives for Goods, Services, and Personal Services.

A. Sole-Source Procurements. Except as otherwise provided in these Rules or required by law, this Subsection VIII.A governs sole-source procurements for public contracts for goods or services subject to ORS Chapter 279B. This Subsection VIII.A does not apply to professional services (A&E services and related services) procured under Section IX. This Subsection VIII.A does not apply to public improvement contracts subject to ORS Chapter 279C except to the extent ORS 279C.320 directs the City to use ORS Chapter 279B procedures for construction contracts other than public improvements.

1. *Determination of Sole-Source.* Before a sole-source contract may be awarded, the City Manager, who is designated in writing by adoption of these Rules as the City's authorized designee for purposes of ORS 279B.075(1), shall make written findings that the goods or services (or a class of goods or services) are available from only one source. The written findings must be based on one or more of the following criteria:
 - a. the efficient utilization of existing goods requires acquiring compatible goods or services available from only one source;
 - b. the goods or services required to exchange software or data with other public or private agencies are available from only one source;
 - c. the goods or services are needed for use in a pilot or an experimental project; or
 - d. other findings support the conclusion that the goods or services are available from only one source.
2. *Negotiations.* To the extent reasonably practical, contract terms advantageous to the City shall be negotiated with the sole-source provider.
3. *Notice.* If, but for the City's sole-source determination, the City would be required to select a contractor using competitive sealed bidding or competitive sealed proposals, the City shall give public notice of the sole-source determination. The public notice shall describe the goods or services to be acquired, identify the prospective contractor, and include the date, time, and manner by which protests are due. The City shall give affected persons at least 7 days from the first date of the public notice to protest the sole-source determination. No separate public notice under this Subsection is required for a sole-source procurement that would otherwise be a small or intermediate procurement or when another provision of law authorizes award without the notice described in this Subsection.

B. Special Procurements. In its capacity as the Local Contract Review Board, the City Council, upon its own initiative or upon request of the City Manager, may create special selection, evaluation, and award procedures for, or may exempt from competition, the award of a specific contract or class of contracts as provided in this Subsection.

1. *Basis for Approval.* The approval of a special solicitation method or exemption from competition must be based upon a written request and a record before the City Council containing:



Section VIII

Alternatives for Goods, Services, and Personal Services

- a. the nature of the contract or class of contracts for which the special solicitation or exemption is requested;
 - b. the estimated contract price or cost of the project (if relevant);
 - c. findings to support the substantial cost savings, enhancement in quality or performance, or other public benefit anticipated by the proposed selection method or exemption from competitive solicitation;
 - d. findings to support that the special procurement is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts and is reasonably expected to result in substantial cost savings to the City or to the public, or otherwise substantially promotes the public interest in a manner that could not practicably be realized by complying with otherwise-applicable procurement requirements;
 - e. a description of the proposed alternative contracting methods to be employed;
and
 - f. the estimated date when it would be necessary to let the contract(s).
2. ***Determination.*** In making a determination regarding a special selection method, the City Council may consider the type, cost, amount of the contract or class of contracts, number of persons available to make offers, and such other factors as it may deem appropriate.
 3. ***Public Meeting and Opportunity for Comment.*** The City shall approve a special procurement at a City Council meeting open to the public. At the meeting, the City shall offer an opportunity for any interested party to appear and present comment. The City Council shall consider the record and findings and may approve the special procurement as proposed or as modified by the City Council after providing an opportunity for public comment.
 4. ***Public Notice of Approval and Protests.*** Public notice of the approval of a special procurement shall be given in the same manner as provided in ORS 279B.055(4). Protests of the approval of a special procurement and judicial review (if any) shall be as provided in Subsection XI.B and ORS 279B.400.
 5. ***Award Standard when Special Procurement Calls for Competition.*** If the special procurement calls for competition among prospective contractors, the City shall award the contract to the offeror the City determines to be the most advantageous to the City.
- C. Class Special Procurements.** The City Council, acting as the Local Contract Review Board, hereby approves the following as class special procurements under ORS 279B.085.

The City Council finds that use of these class special procurements is unlikely to encourage favoritism or substantially diminish competition and is reasonably expected to result in substantial cost savings or otherwise substantially promotes the public interest



Section VIII
Alternatives for Goods, Services, and Personal Services

in a manner not practicably realized by complying with otherwise-applicable procurement requirements.

These class special procurements apply only to contracts subject to ORS Chapter 279B and do not apply to public improvement contracts except to the extent ORS 279C.320 directs the City to use ORS Chapter 279B procedures. If a transaction is exempt from the Public Contracting Code under ORS 279A.025 or is otherwise not subject to ORS Chapter 279B, this Subsection VIII.C does not apply to the transaction and is not intended to expand or limit the City's statutory authority.

The following classes of contracts may be awarded in any manner the City deems appropriate to the City's needs, including by direct appointment or purchase. Except where otherwise provided, the City shall make a record of the method of award and the procurement file shall also document the basis for determining that the contract falls within the applicable class special procurement.

1. *Amendments*. Contract amendments shall not be considered to be separate contracts if made in accordance with these Rules. Any amendment must comply with applicable requirements of the Public Contracting Code, including limitations on material changes and amendment authority under ORS Chapters 279B and 279C (as applicable).
2. *Copyrighted Materials and Library Materials*. Contracts for the acquisition of materials entitled to copyright, including but not limited to, works of art and design, literature and music, or materials even if not entitled to copyright if purchased for use as library lending materials.
3. *Personal Property Repair*. Contracts for personal property repair or overhauling, provided the service or parts required are unknown and the cost cannot be determined without extensive preliminary dismantling or testing.
4. *Government-Regulated Items*. Contracts for the purchase of items for which prices or selection of suppliers are regulated by a governmental authority.
5. *Non-Owned Property*. Contracts or arrangements for the sale or other disposal of abandoned property or other personal property not owned by the City.
6. *Specialty Goods for Resale*. Contracts for the purchase of specialty goods by the City for resale to consumers.
7. *Sponsorship Agreements*. Sponsorship agreements, under which the City receives a gift or donation in exchange for recognition of the donor.
8. *Structures*. Contracts for the disposal of City-owned structures.
9. *Renewals*. A contract renewal that is **(a)** expressly authorized by the contract's terms and **(b)** within the scope of the original solicitation and contract is not considered a newly issued contract and is not subject to a new competitive procurement. A renewal that **(i)** includes a material change or **(ii)** is not within the scope of the original solicitation and contract must be treated as a new procurement unless otherwise authorized by these Rules or applicable law.



10. **Temporary Extensions or Renewals.** Contracts for a single period of 1 year or less for the temporary extension of an expiring and non-renewable (or recently expired) contract—other than a contract for public improvements—when the City Manager determines in writing that the temporary extension is necessary to avoid an interruption of services and the City is actively pursuing a competitive procurement or other lawful replacement contracting method.
11. **Used Property.** The City Manager may contract for the purchase of used property by negotiation if such property is suitable for the City’s needs and can be purchased for a lower cost than substantially similar new property. For this purpose, the cost of used property shall be based upon the life-cycle cost of the property over the period for which the property will be used by the City. The City Manager shall record the findings supporting the purchase.
12. **Utilities.** Contracts for the purchase of steam, power, heat, water, telecom services, and other utilities. This class special procurement does not waive any requirements that apply to cooperative procurements under ORS 279A.205 to 279A.225.
13. **Conference/Meeting Room Contracts.** Contracts entered into for meeting room rental, hotel rooms, food and beverage, and incidental costs related to conferences and City-sponsored workshops and trainings.
14. **Notices.** Contracts with newspapers and other publications for the placement of advertisements or public notices.
15. **Revenue-generation.** Revenue-generating agreements, as defined in Subsection II.A, and excluding any agreement that constitutes an acquisition or disposal of an interest in real property (including leases, easements, franchises, or right-of-way occupancy agreements).
16. **Insurance.** Insurance contracts.
17. **Timber Removal.** Contracts for the management of timber removal pursuant to a management program within the City of The Dalles Watershed.

D. Emergency Procurements. When the City Manager determines that prompt execution of a public contract is necessary in response to an emergency, the City Manager may make or authorize others to make emergency procurements in accordance with ORS 279B.080 and this Subsection VIII.D.

1. **Emergency Determination.** The City shall document the determination that an emergency exists in writing prior to award of an emergency contract, unless the nature of the emergency does not reasonably permit advance written documentation, in which case the City shall document the determination as soon as practicable.
2. **Emergency Competition.** Where time permits, the City Manager shall attempt to use competitive price and quality evaluation before selecting an emergency contractor; otherwise, the City Manager may proceed with a direct appointment without competition. This Subsection is intended to be applied consistent with ORS 279B.080(2).



3. **Emergency Reporting.** As soon as possible in light of the emergency circumstances, the City Manager shall notify the City Council and City Attorney in writing of the nature of and facts and circumstances surrounding the emergency, the method used for the selection of the particular contractor, and the reasons why the selection method was deemed in the best interest of the City and public.
4. **Emergency Construction Contracts Regulated under ORS Chapter 279B.** When the City Manager has made the emergency determination required by this Subsection VIII.D and the emergency procurement involves construction services that are not public improvements (including emergency work subject to ORS 279C.320), the City Manager:
 - a. shall ensure competition that is reasonable and appropriate under the emergency circumstances and set a solicitation time period that is reasonable under the emergency circumstances; and
 - b. if the emergency construction services are a matter of extreme necessity, may:
 - (1) proceed with a written or verbal request for quotes or make a direct appointment without competition; and
 - (2) waive the requirement for all or a portion of any payment or performance security required by City rule or contract terms if the time delay needed to obtain the security could result in injury or substantial property damage. The City Manager may not waive any public works bond requirement that applies under ORS 279C.830 and ORS 279C.836, except as those statutes provide.
5. **Emergency Signature Authority and Purchasing Power.** Notwithstanding Subsection III.D.1 and Subsection III.D.2, and to the maximum extent permitted by applicable law, for emergency procurements the City Manager is authorized to award and execute contracts and amendments without specific authorization by the City Council whenever the contract price is less than \$500,000. If the emergency procurement is a matter of extreme necessity and time does not reasonably permit convening the City Council, the City Manager is authorized to award and execute contracts and amendments having any contract price without specific authorization by the City Council.

E. Cooperative Procurements. The City may participate in, sponsor, conduct, or administer cooperative procurements as authorized by ORS 279A.200 to 279A.225.

1. **Goods and Services.** For goods and services, the City may use joint cooperative procurements, permissive cooperative procurements, and interstate cooperative procurements as authorized by ORS 279A.205(1)–(2) and ORS 279A.210 to 279A.220, subject to any applicable notice and written determination requirements, including ORS 279A.215 and ORS 279A.220.
2. **Public Improvements.** For public improvements, the City may participate in or administer a joint cooperative procurement as authorized by ORS 279A.205(1) and ORS 279A.210. The City may not use permissive or interstate cooperative procurement authority for public improvements.



Section VIII
Alternatives for Goods, Services, and Personal Services

3. *Cooperative Procurement File.* The procurement file shall document the cooperative procurement authority relied upon, the basis for selecting the cooperative contract, and the City's compliance with any conditions required by ORS 279A.210, ORS 279A.215, or ORS 279A.220, as applicable.



IX. Professional (A&E and Related Services).

- A. Purpose and Scope.** This Section IX governs the City’s screening, selection, negotiation, and award of professional services contracts, including A&E services and related services, as those terms are defined in these Rules.
1. *Purpose.* This Section IX is adopted to maximize the City’s flexibility consistent with ORS 279C.110, ORS 279C.115, and ORS 279C.120 and is intended to serve as the City’s rules of procedure for professional services procurements.
 2. *Scope.* Notwithstanding any other provision of these Rules, if a conflict exists between this Section IX and any general procurement procedure stated elsewhere in these Rules, this Section IX controls for professional services procurements. Professional services procurements under this Section IX are not required to be processed under Section VIII (ORS Chapter 279B alternative source selection methods).
 3. *Value Defined.* For purposes of this Section IX, “value of the project,” as used in ORS 279C.120(2), means the estimated compensation payable under the applicable professional services contract (including any continuation contract) for the A&E services or related services being procured. If applicable law is construed to require a different measure of project value for ORS 279C.120(2), the City shall apply the measure required by law.
- B. Classification.** The City Manager shall classify each professional services procurement as **(1)** A&E services, **(2)** related services, or **(3)** a mixed contract that includes A&E services and also includes related services, other services, or goods.
1. *Predominant Purpose.* For a mixed contract, the City Manager shall determine the predominant purpose by identifying which category of services comprises the majority of the estimated fee for the contract. Notwithstanding the predominant purpose determination, if a mixed contract includes any A&E services, the City shall conduct the screening and selection in a manner that complies with ORS 279C.110 for the A&E services component, including the restrictions on using pricing information in selection except as authorized by ORS 279C.110(5).
 2. *Procurement Path.* If the predominant purpose is A&E services, the City shall comply with Subsection IX.C. If the predominant purpose is related services, the City shall comply with Subsection IX.D, provided that any A&E services included in the mixed contract are screened and selected in a manner that complies with ORS 279C.110 as stated in Subsection IX.B.1.
- C. A&E Services.** The City shall select a consultant to provide A&E services primarily on the basis of the consultant’s qualifications for the type of professional services required, consistent with ORS 279C.110. When the City determines two or more consultants are equally qualified, the City may use any selection process that is not based on pricing proposals or other pricing information, consistent with ORS 279C.110(4).
1. *Direct Appointment.* The City Manager may directly appoint a consultant when **(a)** the estimated cost of A&E services for the project **does not exceed \$100,000**, as



authorized by ORS 279C.110(10) or **(b)** in response to an emergency as authorized by ORS 279C.110(11).

2. *Continuation Contracts.* In addition to Subsection C.1, the City may enter into a contract for A&E services or related services directly with a consultant (as that term is defined in ORS 279C.115(1)) when the requirements of ORS 279C.115(2) are met (continuation of a project previously substantially described, planned, studied, or rendered in an earlier contract with the same consultant awarded under rules adopted under ORS 279A.065). The procurement file shall include a written determination identifying the earlier contract and describing why the new contract is a continuation of the project. A continuation under this Subsection may be accomplished by amendment to an existing contract or by a separate continuation contract.
3. *Tailoring Authorized.* For A&E services with an estimated cost **not exceeding \$250,000**, the City Manager may tailor the screening and selection procedures to the characteristics of the project and services required, consistent with ORS 279C.110(2). Tailoring may include (without limitation) abbreviated solicitation documents, reduced formalities, and streamlined evaluation.
4. *Use of Pricing Information.* The City may request and consider pricing policies, pricing proposals, or other pricing information as part of screening and selection only when the solicitation document includes the disclosures and procedures required by ORS 279C.110(5).

D. Related Services.

1. *Selection Methods.* The City may select consultants to perform related services using any method authorized by ORS 279C.120(1), including, without limitation:
 - a. procedures adopted by the City for screening and selection;
 - b. selection based on qualifications under ORS 279C.110 procedures; or
 - c. selection based on price competition, price and performance evaluation, capability evaluation, or capability evaluation followed by price negotiation.
2. *Direct Appointment.* Consistent with ORS 279C.120, the City may directly appoint a consultant for related services only when the value of the project (as defined in Subsection IX.A.3) does not exceed a threshold amount established by resolution of the City Council acting as the Local Contract Review Board. The City Council may establish different threshold amounts for different classes of related services and may amend the thresholds by resolution from time to time. Unless and until the City Council establishes a threshold amount by resolution, the City will use the informal or formal selection procedures in this Section IX for related services procurements.
3. *Price-Based Related Services Procurement.* When selecting related services primarily by price competition or capability/price methods under Subsection D.1.c, the City may use the City's small, intermediate, or large procurement procedures set out in Section VI to the extent practical and consistent with ORS 279C.120.



E. Selection Procedures. The City Manager may use any of the following procedures for professional services procurements and may combine procedures as appropriate to the procurement:

1. *Direct Appointment Procedure.* The City may award by direct appointment as authorized in Subsections C.1 and D.2. The procurement file shall document **(a)** the basis for selecting the consultant, **(b)** the basis for determining compensation is fair and reasonable, and **(c)** the authority for direct appointment.
2. *Informal Selection Procedure.*
 - a. *Generally.* The City may use an informal selection procedure when the City Manager determines that an abbreviated solicitation and evaluation process will best serve the City's objectives, including for procurements **at or below \$250,000**.
 - b. *Attempt.* The City may solicit qualifications and/or proposals from 1 or more consultants. When feasible and practicable, the City should solicit from at least 3 qualified consultants; when fewer are solicited, the procurement file shall document the reason.
 - c. *Streamline.* The City may use a streamlined request for qualifications, a streamlined request for proposals, or a combined RFQ/RFP. Interviews are optional.
 - d. *Negotiations.* The City may negotiate with the highest-ranked consultant to finalize scope, schedule, and compensation, and may discontinue negotiations and proceed to the next-ranked consultant.
3. *Formal Selection Procedure.*
 - a. *Generally.* The City may use a formal selection procedure for complex projects, higher risk procurements, or when the City Manager determines a more formal competitive process is in the City's best interest.
 - b. *Types.* The City may use a two-step process (RFQ shortlisting followed by RFP) or a single-step RFP process.
 - c. *Flexibility.* The City may establish a competitive range, request best-and-final proposals, and conduct negotiations in accordance with the solicitation document.

F. Solicitation.

1. *Content.* The solicitation document shall describe the services sought, the evaluation criteria and relative importance, and any required licensure, insurance, or other minimum qualifications.
2. *Evaluation.* The City may evaluate consultants using any criteria reasonably related to the procurement, including, without limitation: relevant experience, demonstrated technical competence, project approach, capacity/availability, schedule performance



history, quality control approach, and past performance with the City or other agencies.

3. **Negotiations.** The City may reserve contractual terms for negotiation and may request consultants to propose or suggest contract terms and conditions as part of their submissions.
4. **Discretion.** The City may cancel a solicitation, reject any or all submissions, or re-solicit in the City's best interest.

G. Consultant Continuity.

1. **Determination.** When the City determines continuity is in the City's best interest (including efficiency, coordination, cost control, regulatory compliance, or schedule), the City may procure additional professional services for an existing project from the consultant currently under contract for that project, by amendment or by a supplemental contract, provided:
 - a. for A&E services, the additional services must be within the scope of the original contract as procured under ORS 279C.110. If the additional A&E services are not within the scope of the original contract, the City shall procure the additional A&E services using procedures that comply with ORS 279C.110 unless the City makes the written determination required for a continuation contract under ORS 279C.115(2); and
 - b. for related services, the additional services must be within the scope or reasonably related to the original project and the procurement file must document the basis for continuity selection and the reasonableness of the compensation.
2. **Conflicts of Interest.** The City shall comply with applicable conflict-of-interest restrictions for professional services on public improvement projects, including ORS 279C.307 when applicable.

H. Electronic Procurement and Communications. The City may use electronic means for advertising, issuing solicitation documents, receiving submissions, conducting evaluations, holding interviews, issuing addenda, and making award notices, provided the City affords prospective consultants a fair opportunity to compete and maintains an adequate procurement file.

I. Documentation. The City shall retain in the procurement file, at least: the solicitation document(s) (if any); list of firms solicited; evaluation criteria; evaluator names/titles; scoring/ranking documentation; interview notes (if any); selection memorandum; negotiation notes; cost/price reasonableness documentation; the executed contract or price agreement; and amendments.

J. Protests. The solicitation document shall state the protest process and deadlines applicable to that professional services procurement. If the solicitation document does not state a protest process, protests shall be governed by Section XI of these Rules, to the extent applicable. If the City issues no solicitation document for a professional services procurement (including a direct appointment or continuation contract), this



Section IX
Professional (A&E and Related Services)

Subsection does not create a protest right or protest timeline unless required by applicable law.



X. Surplus Property.

A. General Methods. Notwithstanding the competitive procurement requirements of ORS Chapters 279B and 279C, the City may sell, transfer, or dispose of personal property in accordance with ORS 279A.185 and this Section X. Surplus personal property may be disposed of by any of the following methods upon a determination by the City Manager the method of disposal is in the best interest of the City. Factors potentially considered by the City Manager include costs of sale, administrative costs, and public benefits to the City.

1. *Intergovernmental Transfer.* Without competition, by transfer or sale to another government department or public agency.
2. *Auction.* By publicly noticed auction to the highest bidder.
3. *Bids.* By publicly noticed invitation to bid.
4. *Liquidation Sale.* By liquidation sale using a commercially recognized third-party liquidator selected in accordance with these Rules for the award of personal services contracts.
5. *Fixed-Price Sale.* The City Manager may establish a selling price based upon an independent appraisal or published schedule of values generally accepted by the insurance industry, schedule and publicly notice a sale date, and sell to the first buyer meeting the sales terms.
6. *Trade-In.* By trade-in, in conjunction with acquisition of other price-based items under a competitive solicitation. The solicitation shall require the offer to state the total value assigned to the surplus property to be traded.
7. *Donation.* By donation to any organization operating within or providing a service to Oregon residents, which is recognized by the Internal Revenue Service as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended.
8. *Cooperative Arrangement.* By separate City Council action, the City may negotiate with one or more private or public entities to establish contracts, agreements, or other cooperative arrangements for the use, operation, maintenance, or ultimate lawful disposition of City personal property as authorized by ORS 279A.185(2), provided the City Council makes the finding required by ORS 279A.185(2).

B. Disposal of Property with Minimal Value. Surplus personal property which has a value of **less than \$500**, or for which the costs of sale are likely to exceed sale proceeds, may be disposed of by any means determined to be cost-effective, including by disposal as waste. The employee making the disposal shall make a record of the value of the item and the manner of disposal.

C. Personal-Use Items. An item (or indivisible set) of specialized and personal use with a current value of **less than \$100** may be sold to the employee or retired or terminated employee for whose use it was purchased. These items may be sold for fair market value without bid and by a process deemed most efficient by the City Manager.



- D. Conveyance to Purchaser.** Upon the consummation of a sale of surplus personal property, the City shall make, execute, and deliver a bill of sale or similar instrument signed on behalf of the City conveying the property in question to the purchaser and delivering possession, or the right to take possession, of the property to the purchaser.



XI. Protest and Appeal Procedures.

A. Appeal of Debarment or Prequalification Decision.

1. *Debarment, Disqualification, and Prequalification.* The City Manager or City Department Manager responsible for a solicitation may debar prospective bidders or proposers in accordance with ORS 279B.130 and may disqualify a person from consideration for award of public improvement contracts in accordance with ORS 279C.440. The City may determine bidder or proposer responsibility in accordance with applicable law, independent of any debarment or disqualification determination.
2. *Right to Hearing.* Any person who has been debarred from competing for the City's contracts, disqualified from consideration for award of the City's public improvement contracts, or for whom prequalification has been denied, revoked, or revised may appeal the City's decision to the City Council as provided in this Subsection.
3. *Filing of Appeal.* The person shall file a written notice of appeal with the City Manager within 3 business days after the person's receipt of notice of the determination of debarment, disqualification, or denial, revocation, or revision of prequalification.
4. *Notification of City Council.* The City Manager shall notify the City Council of the notice of appeal immediately upon the City's receipt.
5. *Hearing.* The procedure for appeal from a debarment or denial, revocation, or revision of prequalification shall be as follows:
 - a. *Notice.* Promptly upon receipt of notice of appeal, the City shall notify the appellant of the date, time, and place of the hearing. The City Council shall conduct the hearing and decide the appeal within 30 days after receiving notice of the appeal from the City Manager.
 - b. *Opportunity.* The appellant will have an opportunity to be heard and present evidence supporting the basis for their appeal. At the hearing, the City Council shall reconsider (without regard to the underlying decision giving rise to the appeal) the notice of debarment, or the notice of denial, revocation, or revision of prequalification, the standards of responsibility upon which the decision on prequalification was based, or the reasons listed for debarment, and any evidence provided by the parties.
6. *Decision.* The City Council shall set forth in writing the reasons for the decision.
7. *Costs.* If the decision to deny, revoke, or revise a prequalification or the decision to debar or disqualify a person is upheld, the costs shall be paid by the person appealing the decision. If the decision is reversed, the costs shall be paid by the City.
8. *Judicial Review.* The decision of the City Council may be reviewed only upon a petition filed within 15 days after the date of the City Council's decision in the Wasco County Circuit Court and only on the limited grounds authorized by applicable law.



- B. Protests and Judicial Review of Special Procurements.** An affected person may protest the request for approval of a special procurement as provided in this Subsection.
1. *Delivery and Late Protests.* An affected person shall deliver a written protest to the City Manager within 7 days after the first date of public notice of the approval of a special procurement, unless a different period is provided in the public notice.
 - a. *Fee.* The written protest shall include a fee in an amount established in a schedule adopted by the City Council to cover the costs of processing the protest. The City shall refund the fee if the City upholds the protest in whole or in part. The City Manager may waive the fee requirement for good cause shown.
 - b. *Timeliness.* A protest submitted after the timeframe established under this Subsection is untimely and shall not be considered.
 2. *Content of Protest.* The written protest shall include:
 - a. identification of the requested special procurement;
 - b. a detailed statement of the legal and factual grounds for the protest;
 - c. evidence or documentation supporting the grounds on which the protest is based;
 - d. a description of the resulting harm to the affected person; and
 - e. the relief requested.
 3. *Additional Information.* The City Manager may allow any person to respond to the protest in any manner the City Manager deems appropriate by giving such persons written notice of the time and manner whereby any response shall be delivered.
 4. *City Response.* The City Manager shall issue a written disposition of the protest in a timely manner.
 - a. *Outcome.* If the City Manager upholds the protest in whole or in part, the City Manager may, in the City Manager's sole discretion, implement the protest in the approval of the special procurement, deny the request for approval of the special procurement, or revoke any approval of the special procurement.
 - b. *Refund.* If the City Manager upholds the protest in whole or in part, the City shall refund the fee required to be delivered with the protest.
 5. *Judicial Review.* An affected person may not seek judicial review of a denial of a request for a special procurement. Judicial review of the approval of a special procurement by the City Council, acting as the Local Contract Review Board, may be sought only by writ of review under ORS Chapter 34 and is not subject to a writ of review proceeding more than 10 days after the City Council approves the special procurement, provided that all available nonjudicial remedies have been exhausted.



C. Protests and Judicial Review of Sole-Source Procurements. An affected person may protest the determination goods or services or a class of goods or services are available from only one source as provided in this Subsection.

1. *Delivery and Late Protests.* An affected person shall deliver a written protest to the City Manager within 7 days after the first date of public notice of a proposed sole-source procurement unless a different period is provided in the public notice.
 - a. *Fee.* The written protest shall include a fee in an amount established in a schedule adopted by the City Council to cover the costs of processing the protest.
 - b. *Timeliness.* A protest submitted after the timeframe established under this Subsection is untimely and shall not be considered.
2. *Content of Protest.* The written protest shall include:
 - a. a detailed statement of the legal and factual grounds for the protest;
 - b. evidence or documentation supporting the grounds on which the protest is based;
 - c. a description of the resulting harm to the affected person; and
 - d. the relief requested.
3. *Additional Information.* The City Manager may allow any person to respond to the protest in any manner the City Manager deems appropriate by giving such person written notice of the time and manner whereby any response shall be delivered.
4. *City Manager Response.* The City Manager shall issue a written disposition of the protest in a timely manner.
 - a. *Outcome.* If the City Manager upholds the protest in whole or in part, the proposed sole-source contract shall not be awarded.
 - b. *Refund.* If the City Manager upholds the protest in whole or in part, the City shall refund the fee required to be delivered with the protest.
5. *Judicial Review.* Judicial review shall be in accordance with ORS 279B.420. Before seeking judicial review under ORS 279B.420, an affected person shall exhaust all administrative remedies the City provides, including the protest procedure in this section.

D. Protests and Judicial Review of Personal Services Procurements. An affected person may protest the procurement of a personal services contract as provided in this Subsection.

1. *Delivery.* Unless otherwise specified in the solicitation document, the protest shall be in writing and delivered to the City Manager.



- a. *Fee*. The written protest shall include a fee in an amount established in a schedule adopted by the City Council to cover the costs of processing the protest.
 - b. *Timeliness*. Protests of the procurement of a specific contract as a personal services contract shall be made prior to closing. Protests to the award or an intent to award a personal services contract shall be made within 7 days after issuance of the intent to award, or if no notice of intent to award is given, within 48 hours after award. Protests submitted after the timeframe established under this Subsection are untimely and shall not be considered.
2. *Contents of Protest*. The written protest shall specify all legal or factual grounds for the protest as follows:
- a. *Eligibility*. A person may protest:
 - (1) the solicitation itself on the grounds the contract is not a personal services contract or was otherwise in violation of these Rules or applicable law; or
 - (2) the award or intent to award on the grounds:
 - (a) all proposals ranked higher than the affected persons are nonresponsive;
 - (b) the City failed to conduct the evaluation of proposals in accordance with the criteria or processes described in the solicitation document;
 - (c) the City abused its discretion in rejecting the affected person's proposal as nonresponsive; or
 - (d) the evaluation of proposals or the subsequent determination of award is otherwise in violation of these Rules or applicable law.
 - b. *Content*. The protest shall identify and include:
 - (1) the specific provision of these Rules or applicable law alleged to have been violated;
 - (2) all evidence or supporting documentation supporting its grounds;
 - (3) a description of the resulting harm to the affected person; and
 - (4) the relief requested.
3. *Additional Information*. The City Manager may allow any person to respond to the protest in any manner the City Manager deems appropriate by giving such person written notice of the time and manner whereby any response shall be delivered.
4. *City Manager Response*. The City Manager shall issue a written disposition of the protest in a timely manner.



- a. *Outcome*. If the City Manager upholds the protest in whole or in part, the proposed personal services contract procurement shall be cancelled or the contract shall not be awarded, as the case may be.
 - b. *Refund*. If the City Manager upholds the protest in whole or in part, the City shall refund the fee required to be delivered with the protest.
5. *Judicial Review*. Before seeking judicial review, an affected person shall exhaust all administrative remedies. Judicial review shall be in accordance with ORS 279B.420 to the extent ORS Chapter 279B applies to the procurement; otherwise, judicial review (if any) is by writ of review under ORS Chapter 34 or as otherwise provided by law.

E. Protests of Cooperative Procurements.

1. *Administering Agency Protests*. If the City is the administering contracting agency for a cooperative procurement, a protest regarding the procurement process, the contents of solicitation documents, or the award or proposed award of an original contract may be directed only to the City as administering contracting agency and shall be in accordance with ORS 279A.225(1) and ORS 279B.400 to ORS 279B.425, as applicable.
2. *Purchasing Agency Protests After Execution*. If the City is a purchasing contracting agency and a protest concerns the City's use of a cooperative procurement after the execution of an original contract, the protest may be directed only to the City as purchasing contracting agency, shall be in accordance with ORS 279A.225(2) and ORS 279B.400 to ORS 279B.425, as applicable, and is limited in scope to the City's authority to enter into a cooperative procurement contract.
 - a. *Delivery and Deadline*. Unless a different period is stated in the City's notice of intent to use the cooperative procurement, the protest must be delivered in writing to the City Manager within 7 days after the City's first public notice of its intent to use the cooperative procurement, or if no notice is provided, within 7 days after the City's purchase order or contract award.
 - b. *City Decision*. The City Manager shall issue a written disposition of a timely protest in a timely manner. The City may not consider late protests.
3. *No City Forum When City is Not Administering Agency*. If the City is not the administering contracting agency for the original contract and the protest concerns the procurement process, solicitation documents, or award of the original contract, the protest must be directed to the administering contracting agency. The City will not consider such a protest.

F. Protests of ORS 279B.055 and ORS 279B.060 Solicitations and Awards.

1. *Solicitation Protests*. A prospective bidder, proposer, or offeror for a public contract solicited under ORS 279B.055, ORS 279B.060, or ORS 279B.085 may protest a solicitation if the prospective bidder, proposer, or offeror believes the procurement process is contrary to law or that a solicitation document is unnecessarily restrictive, legally flawed, or improperly specifies a brand name.



- a. *Delivery and Deadline.* The protest must be in writing and delivered to the City Manager by the deadline stated in the solicitation document. The solicitation document shall state the deadline, which must allow the City to issue a written decision no fewer than 3 business days before bids, proposals, or offers are due unless the City makes a written determination that circumstances exist that justify a shorter time period.
 - b. *Content.* The protest must include sufficient information to identify the solicitation, the legal and factual grounds for the protest, supporting evidence, and the relief sought.
 - c. *City Decision.* If the protest is timely and meets the content requirements, the City shall consider the protest and issue a written decision. Otherwise, the City shall promptly notify the protester that the protest is untimely or deficient and state the reasons.
2. *Contract Award Protests.* A bidder or proposer may protest the award of a public contract or a notice of intent to award a public contract, whichever occurs first, only on the grounds authorized by ORS 279B.410(1).
 - a. *Delivery and Deadline.* The protest must be in writing and delivered to the City Manager within 7 days after issuance of the notice of intent to award unless the notice of intent to award provides a shorter period under Subsection V.A.3, in which case the protest must be delivered within the shorter period stated in the notice.
 - b. *Content.* The protest must specify the legal and factual grounds for the protest, include supporting evidence, describe the resulting harm, and state the relief requested.
 - c. *Decision.* The City shall consider and respond in writing to a timely protest in a timely manner. The City may not consider late protests.
 3. *Fee.* The City Council may establish by resolution a protest fee schedule to cover the City's reasonable costs of processing protests under this Subsection. The City shall refund the protest fee if the City upholds the protest in whole or in part. The City Manager may waive the protest fee requirement for good cause shown.
 4. *Judicial Review.* Judicial review is as provided in ORS 279B.405, ORS 279B.415, and ORS 279B.420, as applicable. Before seeking judicial review, a protester shall exhaust the administrative remedies provided in this Subsection.





AGENDA STAFF REPORT

AGENDA LOCATION: Item #10B

MEETING DATE: January 26, 2026

TO: Honorable Mayor and City Council

FROM: Jonathan Kara, City Attorney

ISSUE: Adopting Findings and Authorizing the City Manager to Execute a Professional Services Agreement with Archaeological Investigations Northwest, Inc. to Provide Archaeological Compliance and Monitoring Services for the First Street Streetscape Project

BACKGROUND:

This item is the first proposed professional services contract award to be processed under the City's updated *2026 Local Contract Review Board Rules (Rules)* adopted earlier in this meeting. The 2026 Rules were updated to maximize City procurement flexibility consistent with Oregon law and to better align the City's professional services procurement procedures with the practical needs of complex, multi-year public improvement projects.

Historically, the City procured Archaeological Investigations Northwest, Inc.'s (AINW's) archaeological services for the First Street Streetscape Project (**Project**) through the Project's designers and engineers, KPFF Consulting Engineers (**KPFF**), with AINW serving as a long-time subconsultant. For the construction phase, staff recommends the City contract directly with AINW as a prime consultant using the informal selection procedure described Section IX of the 2026 Rules (i.e., single-firm solicitation followed by negotiation). This approach is tailored to the Project's state-compliance requirements, schedule, and budget, and it provides immediate public funds cost savings.

Direct contracting produces immediate and quantifiable savings for local taxpayers. Historically, AINW's work for this Project has been delivered as a subconsultant scope

through the Project engineer, KPFF. If the City retained that structure for construction-phase archaeological services, KPFF's standard prime-consultant markup (minimum 5%) would apply to AINW's costs. On a not-to-exceed amount of \$399,082.70, a 5% markup is approximately \$19,954. Those dollars would not purchase additional archaeological services or additional compliance value for the Project. Direct contracting avoids that cost and keeps those City dollars available for other Project needs.

AINW Project History

The Project has completed design and has advanced to construction. The Project corridor contains sensitive cultural resources and multiple known archaeological sites. The City is required to complete archaeological monitoring, excavation (as necessary), and documentation during Project construction in compliance with the City's archaeological permit from the State Historic Preservation Office (**SHPO**) and the City-SHPO Memorandum of Understanding (**MOU**) here. Those requirements are construction-critical: if the required archaeological services are not in place when ground disturbance begins, the City faces immediate compliance risk and potential stop-work impacts.

AINW has supported the Project corridor for more than 15 years as the archaeological subconsultant on the Project design team. In the last few years, AINW played a central role supporting the Project by preparing and negotiating the MOU with SHPO, including multiple meetings, extended coordination, and review of numerous draft versions. AINW authored the Project's archaeological monitoring and treatment plans and substantially contributed to the approved permit documentation and MOU. AINW has managed archaeological coordination and regulatory submittals and has met directly with SHPO staff and the State Archaeologist on this Project, including on-site coordination. AINW's professional reputation with SHPO and its experience navigating evolving SHPO procedures and staff transitions has enabled efficient adaptation and translation of regulatory requirements into practical and implementable actions for City staff. Despite delays and constrained regulatory responsiveness during the permitting process, AINW maintained project momentum, coordinated follow-up, and ensured compliance milestones continued to advance.

AINW also brings local institutional knowledge that materially reduces construction risk. AINW has longstanding experience in The Dalles, including experience along First Street and in the downtown corridor, experience with local property owners and stakeholders, and deep familiarity with local history and cultural resources. AINW staff have demonstrated the ability to apply site-specific historical knowledge in real time, which should continue to reduce Project uncertainty and risk during construction-related discoveries.

Scope of Archaeological Services

AINW's proposed scope includes: **(1)** archaeological excavations, laboratory processing, and reporting associated with planned test units and any follow-on recommendations required under the City's SHPO permit; **(2)** construction-phase archaeological monitoring and reporting at identified sites and other areas specified in the AINW-authored and SHPO-approved monitoring plan; and **(3)** Oregon State Level Documentation for character-defining streetscape features as stipulated in the SHPO MOU. AINW's proposed not-to-exceed amount here is \$399,082.70.

Procurement Method and Authority

Archaeological monitoring, excavation oversight, and permit compliance for the Project are professional related services supporting a public improvement project. Oregon law places related services under ORS Chapter 279C. ORS 279C.105 and ORS 279C.120 authorize the City, through procedures adopted under ORS 279A.065 (i.e., the Rules), to screen, select, negotiate, and award related services using methods tailored to the Project's scope, schedule, and budget.

Under Section IX.D (*Related Services*) and Section IX.E.2 (*Informal Selection Procedure*) of the 2026 Rules, staff used an informal selection with a single-firm solicitation to AINW followed by negotiation. This approach is authorized by ORS 279C.120 and is appropriate here because soliciting three firms is not feasible and practicable at this stage given the SHPO permit and MOU framework AINW authored and has administered for this Project, and the schedule necessity to have archaeological services in place before mobilization.

Because the proposed agreement would exceed \$100,000, City Council approval is required under Section III.D.2 of the 2026 Rules. The *Proposed Findings and Determinations* are presented for Council adoption to serve as the selection memorandum and cost/price reasonableness documentation required by Section IX.I of the 2026 Rules, and to document the basis for Council's award decision under Section III.D.2.

Proposed Findings and Determinations

1. ***Classification and Authority.*** The services are professional related services supporting a public improvement project. The City Council finds that procurement and award of these services is authorized under ORS 279C.105 and ORS 279C.120 and the City's procedures adopted under ORS 279A.065 (the Rules).
2. ***Compliance-Driven Need and Time Sensitivity.*** The Project is subject to a SHPO-approved archaeological permit and SHPO MOU that require qualified archaeological monitoring, excavation protocols, and documentation during construction. Archaeological services must be in place before ground disturbance begins to avoid compliance risk and stop-work impacts. The construction schedule anticipates preconstruction in late January or early February and mobilization in February, so delay in contracting for these services poses material schedule and cost risk.
3. ***Qualifications and Unique Project-Specific Capability.*** AINW has served as the Project's archaeological consultant for more than 15 years, including long-standing work along First Street and in downtown The Dalles. AINW played a central role in preparing and negotiating the SHPO MOU and in developing and supporting the SHPO permit documentation. AINW authored the archaeological monitoring and treatment planning documents that govern how compliance will be implemented during construction. AINW has managed archaeological coordination and regulatory submittals for this Project and has met directly with SHPO staff and the State Archaeologist, including on-site coordination. AINW's

established working relationship and professional reputation with SHPO support efficient coordination and problem-solving on a complex and sensitive Project.

4. ***Continuity Reduces Regulatory and Construction Risk.*** Because AINW prepared the permit materials and authored the governing monitoring and treatment documents, retaining a different consultant would introduce unfamiliarity with established methodologies and increase the risk of disagreement over approach, interpretation, and compliance practices. This increases the likelihood of construction delays, permit amendments, and duplicative work. AINW's institutional knowledge of the corridor, local cultural resources, and prior work in the area reduces uncertainty and risk during construction-related discoveries.
5. ***Informal Selection Method and Single-Firm Solicitation are Appropriate.*** The City Council finds that use of the Section IX informal selection procedure with a single-firm solicitation to AINW, followed by negotiation, best serves the City's objectives for regulatory compliance, schedule protection, and cost control given the Project's established permit framework and AINW's unique project-specific knowledge.
6. ***Efficient Use of Public Funds and Avoidance of Markup.*** Historically, AINW's work has been delivered as a subconsultant scope through the prime engineer. Direct contracting with AINW avoids a mandatory prime-consultant markup of at least 5 percent that would otherwise apply to the same services. On a not-to-exceed amount of \$399,082.70, avoiding a 5 percent markup saves approximately \$20,000 in taxpayer funds, without reducing scope or compliance value, and keeps those dollars available for other Project needs.
7. ***Fair and Reasonable Compensation.*** The agreement is proposed at an amount not to exceed \$399,082.70 for the defined scope and deliverables. The City Council finds that the compensation is fair and reasonable for the required scope, level of effort, and construction-phase duration.
8. ***Separation from Public Improvement Contractor.*** AINW is not the public improvement construction contractor for the Project, and the services will be provided under a separate professional services agreement. The City Council finds that direct contracting with AINW supports effective coordination with the project engineer and the construction contractor while maintaining clear separation between construction and compliance oversight functions.

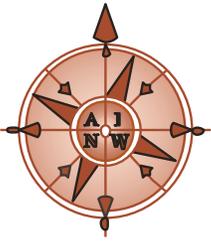
If authorized by Council here, the resulting Professional Services Agreement will be based on the City's standard related services contract template and will include City Attorney and risk/insurance review prior to the City Manger's execution.

BUDGET IMPLICATIONS: The First Street Streetscape Project is funded in partnership with the Columbia Gateway Urban Renewal Agency (URA) and the City utilizing a combination of funds already secured in Fund 18 – *1st Street Riverfront Connection* (018-2900-000.75-10) and a pending transfer of URA funds. Fund 18 currently includes all remaining funds from the 2009 FFCO bond, interest revenues, and contributions sufficient to cover the contract cost. The URA has budgeted an additional

\$3,200,000 in its Fund 200-6700-000.75-10, bringing the total budget available for this Project in Fund 18 to \$6,796,085. Of that total, \$4,069,727 has been allocated for Project construction and (if awarded earlier this evening) \$243,509 for Project contract administration and engineering oversight, leaving a balance of \$2,482,849 available. If awarded, the contract price here is an amount not to exceed \$399,082.70. Sufficient budgetary resources are available to cover the cost of this agreement.

COUNCIL ALTERNATIVES:

1. **Staff recommendation:**
Move to adopt findings and authorize the City Manager to execute a Professional Services Agreement with Archaeological Investigations Northwest, Inc. for the First Street Streetscape Project in an amount not to exceed \$399,082.70, as presented.
2. Move to adopt modified findings and authorize the City Manager to execute a Professional Services Agreement with Archaeological Investigations Northwest, Inc. for the First Street Streetscape Project in an amount not to exceed \$399,082.70, as amended.
3. Decline formal action and provide Staff additional direction.



Archaeological Investigations Northwest, Inc.

3510 N.E. 122nd Ave. • Portland, Oregon 97230
Phone (503) 761-6605 • Fax (503) 761-6620

Vancouver Phone (360) 696-7473
E-mail: ainw@ainw.com
Web: www.ainw.com

MEMO

Date: December 19, 2025

To: Joshua Chandler, Community Development Director, City of The Dalles

From: Nicholas Smits, M.A., R.P.A., Senior Project Manager/Senior Archaeologist
Andrea Blaser, M.S., Senior Project Manager/Senior Architectural Historian/Historian

Re: The Dalles First Street, The Dalles, Oregon
Proposal for Construction Phase Services

This proposal is to conduct archaeological excavations and construction phase monitoring in compliance with Archaeological Permit AP-4033 issued by the Oregon State Historic Preservation Office (SHPO) for The Dalles First Street project. This proposal also includes Oregon State Level Documentation of the character-defining Streetscape Features of The Dalles Commercial Historic District as stipulated in the Memorandum of Understanding (MOU) between the City of The Dalles and SHPO.

Task 1: Archaeological Excavations (Fieldwork, Lab, Reporting)

Six quarter test units (QTUs) measuring 50x50 centimeters (cm) (20x20 inches [in]) square will be excavated by hand at archaeological sites 35WS453 and 35WS805 in areas of the project that are currently inaccessible behind existing retaining walls. After the existing walls are removed, a minimum of six quarter test units will be excavated in newly exposed areas behind the walls to look for potentially significant archaeological deposits. At a minimum, four quarter test units will be excavated behind/beneath the retaining walls at site 35WS453, and two quarter test units will be excavated behind/beneath the retaining walls in and near site 35WS805 after the walls are removed.

The QTU excavations will be overseen by a professional archaeologist and be conducted under SHPO Permit AP-4033. AINW will excavate the quarter test units in 10-cm (4-in) levels to a minimum depth of 50 cm (20 in) below the surface. Excavation will continue until two consecutive levels without artifacts are reached, unless obstructions are encountered that prevent deeper excavation by hand. Augers may be used to extend the depth of the unit if archaeological materials are observed to 70 cm (28 in) or to determine if deeply buried archaeological deposits are present. Sediments excavated from the units will be screened through ¼-inch and ⅛-inch mesh to look for artifacts. The stratigraphy observed in the excavation units will be photographed and documented.

Based on the results of the initial quarter test unit excavations, AINW will make recommendations for the City to review and discuss with the project team, and then provide the recommendations by email to SHPO and Native American Tribes. If no evidence of significant archaeological deposits is identified, or if significant archaeological deposits are identified that can be avoided by construction, AINW will recommend that construction proceed with a monitor present following the project's monitoring plan. If evidence of significant archaeological deposits or features is identified that cannot be avoided by the project, additional archaeological excavation may be required to recover significant data before the new

retaining walls are constructed. AINW will provide the City with a scope and cost estimate for additional funds that may be needed depending on the nature of the discovery.

Artifacts identified during the fieldwork will be collected by provenience and brought to AINW's laboratory in Portland where they will be washed, analyzed, cataloged, and prepared for curation at Oregon Museum of Natural and Cultural History (OMNCH) in Eugene. AINW will deliver the artifacts to OMNCH upon completion of the project. The museum's curation fees are included in the attached cost estimate.

Following completion of the fieldwork, AINW will prepare a preliminary report that documents the methods of excavation and provides preliminary results and recommendations. The preliminary report will be submitted to SHPO and Native American Tribes for review. A more thorough technical report will be prepared that provides artifact analyses, results, and interpretations. The full report will include maps, data tables, stratigraphic drawings, and photographs of the sites and artifacts. Artifact catalogs and updated site forms for sites 35WS453 and 35WS805 will be appended to the report.

Assumptions

- This scope includes excavation of up to six quarter test units assuming a maximum excavation depth of 70 cm (28 in) below surface, or the equivalent of up to approximately 1.05 cubic meters of excavation, to be screened through ¼-inch and ⅜-inch mesh.
- If overtime is incurred, it will be billed at 1.5 times the regular rate.
- For the purpose of estimating costs, this proposal assumes that up to 5,000 artifacts will be collected and temporarily housed at AINW's laboratory where they will be washed, analyzed, cataloged, and prepared for curation at OMNCH following the museum's curation guidelines and permit requirements. Curation fees are estimated to include the museum's fees for field records and up to 5 artifact boxes.

Deliverables

- One preliminary report, draft and final.
- One technical report, draft and final. The full report will include artifact catalogs and updated site forms for 35WS453 and 35WS805.

Costs

- Total costs for this task are anticipated not to exceed \$236,831.00. Costs will be billed on a time and expenses basis.

Task 2: Archaeological Monitoring

AINW will monitor ground-disturbing activities at archaeological sites 35WS453, 35WS620, 35WS805, and 35WS806, and other areas of the project as specified in the approved monitoring plan under amended SHPO Permit AP-4033.

Assumptions

- AINW will assist with notifying SHPO and Native American Tribes of the construction schedule as required by the permit.
- AINW will attend one on-site pre-construction meeting in The Dalles.
- To estimate costs, this scope includes up to 50 10-hour days of monitoring. Of these, 25 days are assumed to require overnight stays in The Dalles for the archaeological monitor and include expenses for lodging and per diem. The other 25 days are assumed to be day trips from AINW's office in Portland.
- If overtime is incurred, it will be billed at 1.5 times the regular rate.
- It is assumed that no archaeological deposits, features, or human remains will be encountered during the monitoring. In the event of an archaeological discovery that requires additional work

under SHPO Permit AP-4033, AINW will provide the City with a scope and cost estimate for additional work that may be needed depending on the nature of the discovery.

- Scattered architectural debris such as bricks, nails, window glass, etc., will not be collected if encountered during monitoring. However, the SHPO permit requires diagnostic artifacts to be collected if encountered. This scope includes collecting up to 50 artifacts during monitoring.

Deliverables

- Monitoring report, draft and final. A catalog of artifacts collected during the monitoring will be appended to the report.
- Updated site forms for up to two archaeological sites, 35WS620 and 35WS806, where monitoring will be performed.

Costs

- Total costs for this task are anticipated not to exceed \$128,739.00. Costs will be billed on a time and expenses basis.

Task 3: Oregon State Level Documentation

AINW will complete Oregon State Level Documentation to the standards outlined in the MOU between the City of The Dalles and SHPO. The scope includes up to three days of fieldwork to collect data for inclusion in a report.

Deliverables

- Report, draft and final.

Costs

- Total costs for this task are anticipated not to exceed \$33,512.70. Costs will be billed on a time and expenses basis.

The total combined costs for the tasks listed above is estimated to not exceed \$399,082.70. If the assumptions listed above are exceeded, I will notify you and provide you with options to consider and a scope and cost estimate for additional work that may be needed under SHPO Permit AP-4033.

In the event that the project or contract is terminated, the City shall pay AINW to complete the work required under the SHPO permit, including the artifact processing through curation and reporting tasks.

AINW's payment terms are Net 30 days from issuance of an invoice. Please note that if collection for nonpayment of our invoice is necessary, reasonable collection or legal costs will be charged to you. This letter contains the entire agreement between us, and there are no other representations, warranties, or commitments. If the terms of this proposal are acceptable to you, please provide a purchase order or consulting agreement, or please sign and return this proposal to note your acceptance. I appreciate the opportunity to serve as your archaeological consultant. Please call or email me if you have any questions for me.

Approval for project, as presented in this letter, by authorized agent:

Signed: _____

Date: _____

Name

Title

Archaeological Investigations Northwest, Inc.

CLIENT: City of The Dalles

Project Name: The Dalles First Street

Construction Phase Services

Date: December 19, 2025

Task	Description	Senior PM/Senior Archaeo.	Senior PM/Senior Arch Historian	Lab Director/Senior PM/Senior Geotech	PM/Senior Archaeo.	APM/Senior Historian	Supervising Archaeo. II	Supervising Archaeo. I	Archit. Historian	Lab Manager/ Crew Leader	Staff Archaeo.	Graphics- GIS	Research/ Proj. Assist./ Proj. Admin	Field and Lab Archaeo. Assist.	Hours	Labor	Expenses	Total
1	Archaeological Excavations to include Field, Lab, Report (Up to 6 QTUs, Collect up to 5,000 artifacts, Lab Processing & Analysis, Prelim Rpt, Technical Report, Site form updates, Deliver artifact collection & records to OMNCH)	76		376	140			40		548	120	34	34		1368	\$227,341.00	\$9,490.00	\$236,831.00
2	Construction Monitoring (Pre-con mtg, 50 days budgeted 25 days overnight stays + 25 day trips, + collect up to 50 artifacts)	60		40	100					350	300	8			858	\$120,179.00	\$8,560.00	\$128,739.00
3	Oregon State Level Documentation		44			44			80	8		14	17		207	\$33,137.70	\$375.00	\$33,512.70
	Total Labor Hours	136	44	416	240	44	0	40	80	906	420	56	51	0	2433			
	Labor Rates	\$225.00	\$225.00	\$225.00	\$199.50	\$158.00	\$136.00	\$126.00	\$126.00	\$123.90	\$108.84	\$214.00	\$130.50	\$90.40				
	Total Labor	\$30,600.00	\$9,900.00	\$93,600.00	\$47,880.00	\$6,952.00	\$0.00	\$5,040.00	\$10,080.00	\$112,253.40	\$45,712.80	\$11,984.00	\$6,655.50	\$0.00	\$380,657.70		\$18,425.00	\$399,082.70
	DIRECT EXPENSES - Task 1	Each	Qty	Total														
	Vehicle Mileage 9 RT @ 150 mi RT	\$0.70	1350	\$945.00														
	Hotel (est \$150) plus tax for 4 nights x 5 staff	\$150.00	20	\$3,000.00														
	Per Diem 5 staff x 5 days	\$60.00	25	\$1,500.00														
	Portable Toilet x 1 week	\$350.00	1	\$350.00														
	Mileage (RT x 1) artifact delivery to OMNCH	\$0.70	250	\$175.00														
	Archival quality photos	\$20.00	1	\$20.00														
	OMNCH curation fee \$700.00/box	\$700.00	5	\$3,500.00														
	TOTAL EXPENSES TASK 1			\$9,490.00														
	DIRECT EXPENSES - Task 2	Each	Qty	Total														
	Vehicle Mileage @ 150 mi RT	\$0.70	5800	\$4,060.00														
	Hotel (est \$150) 20 nights	\$150.00	20	\$3,000.00														
	Per Diem 25 days	\$60.00	25	\$1,500.00														
	TOTAL EXPENSES - Task 2			\$8,560.00														
	DIRECT EXPENSES - Task 3	Each	Qty	Total														
	Vehicle Mileage @ 150 mi RT	\$0.70	450	\$315.00														
	Shipping	\$20.00	3	\$60.00														
	TOTAL EXPENSES - Task 3			\$375.00														
	TOTAL EXPENSES			\$18,425.00														

AINW 2026



AGENDA STAFF REPORT

AGENDA LOCATION: Item #11A

MEETING DATE: January 26, 2026

TO: Honorable Mayor and City Council

FROM: Jonathan Kara, City Attorney

ISSUE: Adopting Resolution No. 26-006, a Resolution Amending the City Fee Schedule (effective January 27, 2026)

BACKGROUND: The City Fee Schedule was established in 2001 and provides both the City and the public with a catalog of charges for the City's provision of municipal services. The City typically reviews and revises the City Fee Schedule on an annual, or semi-annual basis to reflect increases to the City's costs for its provision of services, and the most recent update occurred June 10, 2025.

A marked-up copy of the proposed City Fee Schedule (effective *January 27, 2026*) is attached to and made part of the proposed Resolution No. 26-006 as **Exhibit 1**. If Council adopts the Resolution, the adopted City Fee Schedule will be published containing only the final adopted fees (i.e., without the PROPOSED column in Exhibit 1). Any text contained in Exhibit 1 in red-color font indicates either an addition or deletion.

All City Department Managers reviewed the current City Fee Schedule and the following Departments propose the following amendments, only:

Police Department

1. **Public Records.** Increasing the fee for in-house redaction of bodycam footage from **\$25.00/hour** to **\$35.00/hour** (per hour of staff time spent performing state-mandated redactions) and slightly increasing the fee for copies of police reports, pictures, and certified copies from **\$5.00/copy** to **\$6.00/copy**. In 2025, Police Department staff pulled over 500 police reports in response to records requests. The proposed increases better reflect the cost of staff time and resources necessary to manage those requests and comply with the Oregon Public Records Law.
2. **Alarm Permits.** Increasing alarm permit fees from **\$20.00** to **\$22.00** to better reflect the cost of staff time required to process those permits applications.

3. **Dog Licenses.** Adding dog license fees consistent with the recently adopted General Ordinance No. 25-1421, which amended TDMC Chapter 5.20 (*Dog Control*):

	<i>1-Year</i>	<i>2-Year</i>	<i>3-Year</i>
<i>Altered Dogs</i>	\$25.00	\$45.00	\$60.00
Unaltered Dogs	\$35.00	\$70.00	\$105.00
<i>Military and Age 65+ (Altered Dogs)</i>	\$15.00	\$25.00	\$30.00

There is no proposed discount for unaltered dogs. The City supports access to low-cost spay and neuter services and encourages residents who need financial assistance to utilize the City’s low-cost spay and neuter program.

The Columbia Gorge Humane Society has reviewed the proposed dog license fees and supports the proposal.

Public Works Department

4. **Delinquent Water Accounts.** Adding a water turn-on fee of **\$25.00** for delinquent accounts. Currently, the City does not charge a fee for water service turn-offs or turn-ons, regardless of whether the action is due to non-payment.

Establishing a turn-on fee for delinquent accounts helps recover the staff time and operational costs associated with disconnecting and restoring service due to non-payment. This fee also provides an incentive for timely payment and promotes fairness by ensuring that customers who require additional staff resources due to delinquency bear the associated costs, rather than those costs being absorbed by the broader ratepayer base.

Comparable utilities in the area assess similar charges. For example, Chenoweth Water PUD charges \$50 for restoring service following non-payment and \$100 for after-hours service restoration. Implementing this fee aligns the City’s practices with regional standards while supporting cost recovery and responsible utility management.

5. **Discharge Fees.** The batch discharge rate has not been adjusted since 1997. To reflect the City’s July 2025 3% sanitary sewer rate increase (and the additional 3% increase proposed in #7 below), staff applied those two adjustments to the per-gallon charge and rounded the result from \$0.05 to a proposed **\$0.06/gallon**. The upcoming *Wastewater Facility Master Plan* update and associated financial plan are expected to be completed within the next year and will provide a more fully rationalized basis for future adjustments.
6. **Residential and Commercial Water Rates and Hydrant Rates.** Increasing both (1) residential and commercial water rates and (2) weekly hydrant rates by **7.3%**, in accordance with the *2024 Water Master Plan*. These increases support system operations, maintenance, and planned capital improvements necessary to ensure long-term reliability, regulatory compliance, and financial sustainability of the City’s water utility.

7. **Sewer Rates**. Increasing sewer rates by **3%**. The increase supports ongoing operations, maintenance, and regulatory requirements of the City's wastewater system while the *Wastewater Facilities Master Plan* is under development (anticipated to be completed in Fall 2026) and will provide a comprehensive evaluation of long-term system needs and future rate impacts.
8. **Banner Permit**. Increasing the banner permit fee from **\$25.00** to **\$100.00**. The proposed fee much more accurately reflects the City's actual costs for staff time and the equipment required to process the permit and install and remove banners. Banner installation and removal each require 2 staff members, approximately 30 minutes each per activity, and the use of a City bucket truck.

For Council's reference: an internal cost review indicates that full cost recovery for labor and equipment would exceed \$150 per banner. The proposed \$100 fee partially offsets those costs while remaining consistent with fees charged by other municipalities of similar size.

9. **Right-of-Way Encroachments**. Adding a fee of **\$50.00** for right-of-way encroachment legal description review. From time-to-time, citizens contact City staff to request use of the public right-of-way for various purposes (e.g., extending their fence outside of their property line and into the public right-of-way). In certain situations, the City can enter an encroachment agreement and allow the requested use. This new proposed fee would cover staff time to review the legal description that is required to be provided by the individual making the request for the encroachment agreement.
10. **Sidewalk and Street Closure Permits**. Increasing sidewalk/street closure application fee from **\$10.00** to **\$50.00**, the expediting fee from **\$25.00** to **\$50.00** and deployment fee from **\$50.00** to **\$180.00**. Those proposed fees better reflect the staff time, equipment, and resources required to review, coordinate, deploy, and retrieve traffic control devices associated with sidewalk and street closure requests.

These permits frequently require staff assistance with traffic control plans and Temporary Pedestrian Access Route Plans to ensure pedestrian and traffic safety and ADA compliance. The proposed fees help offset the additional staff time associated with application review, coordination, and field support.

The proposed increase to the deployment fee for signs, barricades, and cones for for-profit events reflects the City's actual operational costs. That work typically includes both deployment and retrieval of traffic control devices and requires 2 staff members for approximately 1 hour each and the use of a City vehicle. The updated fees are more in line with those charged by municipalities of similar size.

11. **Wicks Treatment Plant Lab Fees**. Adding two packages for common tests performed at the Wicks Water Treatment Plant Lab.

Increasing fees to **\$40.00** for 2 of the Certified Bio-Lab tests for full cost recovery for staff time to perform each test and creating an additional test category for arsenic (which will be mailed out and performed by a third-party laboratory).

12. **Water Meter Installation.** Replacing the current flat fee for single-family residential water meter installations with a charge based on actual staff time, equipment use, and materials. That change allows for more accurate cost recovery and ensures that customers are charged in proportion to the work performed.

Moving to a time-and-materials approach also provides transparency in pricing and helps avoid under- or over-recovery of costs associated with varying site conditions. That approach aligns with standard public utility practices and reduces the potential for the City to be perceived as competing with private contractors for installation work.

Community Development Department

13. **CDD Fees.** Department-wide **3%** fee increase rounded to the nearest whole dollar. The proposed 3% increase reflects increased costs of providing services. *Note:* **(a)** Only Appeal fees are excluded from this adjustment because they are set by Oregon law. **(b)** In addition, costs associated with Notice of Decision mailouts are not included as a fixed component of any increase because mailout costs can vary by application and noticing requirements.
14. **Review Fees.** Updating review-type fees to reflect average noticing costs (based on CDD's 5-year averages), as follows:
 - (a) *Administrative Applications.* For administrative applications, the proposed fee increase reflects property-owner noticing costs, with an average 5-year noticing cost of **\$14.50**. *For example:* *Adjustment – Administrative Action* is currently \$80 and is proposed to increase reflecting the 3% increase described in #13 above (\$82.40) and the \$14.50 increase described here (\$96.90), rounded to the nearest dollar to result in \$97.
 - (b) *Quasi-Judicial Applications.* For quasi-judicial applications, the proposed fee increase reflects property-owner noticing costs, with an average 5-year noticing cost of **\$24.00**.
 - (c) *Legislative Applications.* For legislative applications, the proposed fees increase reflects newspaper noticing costs, with an average 5-year cost of **\$150 per notice**. Some legislative applications require 2 legal notices (for Planning Commission and City Council hearings) and the proposed fees reflect the increased cost associated with each notice. *Note:* The City is effectively only entity who submits legislative applications.
15. **Street Vacation and Annexation.** For street vacation and annexation application fees, the proposed increase reflects the cost of newspaper noticing (one notice for City Council at **\$150** per notice). *For example:* *Street Vacation* is currently \$500 and is proposed to increase reflecting the 3% increase described in #13 above (\$515.00) and the \$150.00 increase described here to result in \$665.00.
16. **Historic Landmarks Commission Review.** CDD proposes revising Historic Landmarks Commission (HLC) fees to better match the type of review and associated noticing costs, consistent with the HLC's recent discussions:

- (a) *HLC Non-Demolition Applications*. CDD proposes a title modification to clarify the fee applies to non-demolition permits, and inclusion of property-owner notice. The proposed fee does not include newspaper noticing. Although newspaper notice is currently required per TDMC, the HLC discussed in December its intent to eliminate newspaper noticing for non-demolition applications in order to keep fees lower and better align noticing requirements with the type of review. For example: *HLC Non-Demolition Application* is currently \$85.00 and is proposed to increase reflecting the 3% increase described in #13 above (\$87.55) and the \$14.50 noticing cost (\$102.05), rounded up to the nearest dollar to result in **\$103.00**.
- (b) *HLC Demolition-Only Applications*. CDD proposes establishing a new fee specific to demolition permits. The fee is based off the historical review fee and adds the property-owner notice costs. Newspaper noticing would be retained for demolition requests only, consistent with the HLC's December discussion. For example: The *Historical Review Application* is currently \$85.00 and is proposed to increase reflecting the 3% increase described in #13 above (\$87.55) and the \$14.50 noticing cost (\$102.05), and the legal notice fee of \$150 (\$252.05) rounded up to the nearest dollar to result in **\$253.00**.
17. **Zoning Ordinance Amendment**. Adding a new fee of **\$908.00** for zoning ordinance amendments. The proposed fee is set equal to the Comprehensive Plan Amendment fee, reflecting that zoning ordinance amendments are legislative actions and require 2 newspaper notices.
18. **Demolition Permit**. Adding a new demolition permit fee of **\$42.00** aligned with the Minor Building Permit fee.
19. **Fence Permit**. Formally adding a fence permit fee to the fee schedule. Historically, fence permits have been charged at the same rate as a Minor Building Permit but were not previously listed. Adding a new fee applicable to residential fences over six feet. The proposed fee is increased to reflect approximately one hour of Director review time, consistent with LUCS and Land Use Timeline Extension fees.
20. **Terminology**. Terminology and structural updates to align the fee schedule with current code and practice. The following proposed updates will improve clarity and align fee titles with current terminology and code provisions:
- (a) Home Occupation Permit: renaming to Home “Business” Permit to align with TDMC terminology.
- (b) Mobile Food Vendor License and Transient Merchant Permit: combining and modifying these items to reflect recent code changes.
- (c) Comprehensive Plan Amendment – Quasi-Judicial Action: removing “Quasi-Judicial Action,” because Comprehensive Plan Amendments are not quasi-judicial actions.
- (d) Comprehensive Plan / Zone Change – Quasi-Judicial Action: removing “Quasi-Judicial Action,” because Comprehensive Plan Amendments / Zone Changes are not quasi-judicial actions.

- (e) Zone Change – Quasi-Judicial Action: updating to reflect that this category requires property-owner notice within 300 feet and two legal notices.
- (f) Comprehensive Plan map and text amendments: clarifying these are legislative actions and require two newspaper notices.

Consistent with ORS 294.160(1), Council must provide an opportunity for interested persons to comment on the enactment of any resolution prescribing a new fee or fee increase or an increase in the rate or other manner in which the amount of a fee is determined or calculated—it would be appropriate for the Mayor to offer the public an opportunity to comment on the adoption of this Resolution prior to Council’s adoption.

BUDGET IMPLICATIONS: The City should receive a commensurate increase in revenue to the General Fund if the amended fees are implemented.

COUNCIL ALTERNATIVES:

1. **Staff recommendation:** *Move to adopt Resolution No. 26-006, a resolution amending the City Fee Schedule (effective January 27, 2026), as presented.*
2. Make modifications to then move to adopt Resolution No. 26-006, as amended.
3. Decline formal action and provide Staff additional direction.

RESOLUTION NO. 26-006

**A RESOLUTION AMENDING THE CITY FEE SCHEDULE
(EFFECTIVE JANUARY 27, 2026)**

WHEREAS, on November 26, 2001, the City Council adopted Resolution No. 01-030 to establish the City Fee Schedule;

WHEREAS, the City amends the City Fee Schedule from time to time, typically yearly, to reflect increases to the City’s costs for its provision of services, most recently on June 10, 2025;

WHEREAS, consistent with ORS 294.160(1), at its January 26, 2026, regular meeting, the City Council provided an opportunity for interested persons to comment upon the enactment of this Resolution; and

WHEREAS, after considering the Staff Report and any public comment, the City Council believes it is in the best interest of the City to adopt an amended City Fee Schedule.

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF THE DALLES
RESOLVES AS FOLLOWS:**

1. Amended Fee Schedule. The City Council approves the City Fee Schedule (Effective January 27, 2026) attached to and made part of this Resolution as **Exhibit 1**.
2. Effective Date. This Resolution shall be effective upon adoption.

PASSED AND ADOPTED THIS 26TH DAY OF JANUARY, 2026,

Voting Yes	Councilors:	_____
Voting No	Councilors:	_____
Abstaining	Councilors:	_____
Absent	Councilors:	_____

AND APPROVED BY THE MAYOR THIS 26TH DAY OF JANUARY, 2026.

Richard A. Mays, Mayor

ATTEST:

Amie Ell, City Clerk

City of The Dalles PROPOSED FEE SCHEDULE <i>Effective Date: January 27, 2026</i>		
	CURRENT FEE	PROPOSED FEE
<u>POLICE DEPARTMENT</u>		
Report (Search & Copy)	\$5.00	\$6.00
Burglary Alarm Permit (annual fee)	\$20.00	\$22.00
Robbery Alarm Permit (annual fee)	\$20.00	\$22.00
Copies of digital images provided in digital format (per incident)	\$5.00	\$6.00
Certified Copies (each true copy)	\$5.00	\$6.00
Redaction fee (In-House) - Video/Audio of body camera footage	\$100/video hour	
Redaction fee (Third-Party Vendor) - Video/Audio of body cam footage	City cost	
Staff Time - Video/Audio of body cam footage	\$25.00/hour	\$35/hr staff time
Livestock Permit fee (3-year permit)	\$75.00	<i>Moved from Finance (no fee change)</i>
Dog License		
Altered (1 / 2 / 3 year license)		\$25 / \$45 / \$60
Unaltered (1 / 2 / 3 year license)		\$35 / \$70 / \$105
Reduced fees for military and age 65+ Altered (1 / 2 / 3 year license)		\$15 / \$25 / \$30
<u>LIBRARY</u>		
Overdue materials fee - juvenile, per day	\$0.05	
Overdue materials fee - juvenile, maximum	\$0.50	
Overdue materials fee - adult, per day	\$0.10	
Overdue materials fee - adult, maximum	\$1.00	
Interlibrary Loan	\$1.00	
Non-resident borrowing privilege (annual fee)* *Residents of Fort Vancouver Library District	\$25.00	
Non-resident borrowing privilege (annual fee)** **Non-residents of Special Library District (the Wasco County Library Service District) or the Sage Library System	\$75.00	
<u>FINANCE DEPARTMENT</u>		
Transaction fee (when account is set up)	\$25.00	
Delinquency Processing fee (door hanger)	\$25.00	
Delinquent Account Water Turn-On fee (If water was turned off for non-payment)		\$25.00
Non-sufficient funds check fee	\$30.00	
Lien search	\$30.00	
Livestock Permit fee (3-year permit)	\$75.00	<i>Moved to Police Department</i>
Commercial Resale License (annual fee)	\$30.00	
Investigation fee	\$10.00	
<u>UTILITIES</u>		
Industrial Pretreatment fees:		
Initial permit application fee	\$1,000.00	
Renewal of permit	\$500.00	
Annual permit fee:		
SIU (Significant Industrial User)	\$500.00	
Non-SIU	\$335.00	
Semiannual monitoring fee	City cost	
Monthly fees for Industrial User (IU) under Pretreatment Program:		
Volume charge: one sewer unit per 10,000 gallons of discharge.		
Strength surcharges:		
BOD greater than 200 mg/L, per pound BOD	\$0.50	
TSS greater than 200 mg/L, per pound TSS	\$0.25	
Discharge fees for batch discharges by permit under Pretreatment Program:		
One time discharger (per gallon/minimum \$250.00)	\$0.05	\$0.06
Batch basis discharger (per gallon)	\$0.05	\$0.06
Residential Water Rates (Monthly Fixed Charge):		
Meter size 0.75" (volume \$1.87 per 1,000 gallons over 7,000 gallons per month)	\$53.21	\$57.09
Meter size 1" (volume \$1.87 per 1,000 gallons over 7,000 gallons per month)	\$53.21	\$57.09
Meter size 1.5" (volume \$1.87 per 1,000 gallons over 7,000 gallons per month)	\$53.21	\$57.09
Meter size 2" (volume \$1.87 per 1,000 gallons over 7,000 gallons per month)	\$70.28	\$75.41
Commercial Water Rates (Monthly Fixed Charge):		
Meter size 0.75" (volume \$4.08 per 1,000 gallons over 5,000 gallons per month)	\$46.72	\$50.13

Meter size 1" (volume \$4.08 per 1,000 gallons over 5,000 gallons per month)	\$50.81	\$54.52
Meter size 1.5" (volume \$4.08 per 1,000 gallons over 5,000 gallons per month)	\$69.20	\$74.25
Meter size 2" (volume \$4.08 per 1,000 gallons over 5,000 gallons per month)	\$89.65	\$96.19
Meter size 3" (volume \$4.08 per 1,000 gallons over 5,000 gallons per month)	\$183.68	\$197.09
Meter size 4" (volume \$4.08 per 1,000 gallons over 5,000 gallons per month)	\$306.33	\$328.69
Meter size 6" (volume \$4.08 per 1,000 gallons over 5,000 gallons per month)	\$612.96	\$657.71
Meter size 8" (volume \$4.08 per 1,000 gallons over 5,000 gallons per month)	\$1,021.81	\$1,096.40
Meter size 10" (volume \$4.08 per 1,000 gallons over 5,000 gallons per month)	\$1,471.53	\$1,578.95
Meter size 12" (volume \$4.08 per 1,000 gallons over 5,000 gallons per month)	\$1,839.49	\$1,973.77
Outside City limits WATER RATES ONLY (residential and commercial) are charged 1.5 times the applicable rates, in lieu of debt service property taxes collected inside the City for bonded water system improvements		
Sewer fees (Effective July 1, 2025):		
Inside city limits (per unit, per month)	\$47.71	\$49.14
Outside city limits (per unit, per month)	\$81.10	\$83.53
Systems Development fees (Water):		
Application (per unit)	\$2,317.00	
<u>Residential Water Unit Calculations</u>		
.75" service or meter = 1 unit		
1" service or meter = 1.7 units		
1.5" service or meter = 3.3 units		
2" service or meter = 5.3 units		
<u>Nonresidential Water Unit Calculations</u>		
.75" service or meter = 1 unit		
1" service or meter = 1.7 units		
1.5" service or meter = 4.7 units		
2" service or meter = 8.0 units		
3" service or meter = 23.3 units		
4" service or meter = 43.3 units		
6" service or meter = 93.3 units		
8" service or meter = 160.0 units		
10" service or meter = 233.3 units		
12" service or meter = 293.3 units		
Systems Development fees (Sewer):		
Application fee (per unit)	\$1,789.00	
<u>Sanitary Sewer Unit Calculations</u>		
Residential Dwelling = 1 unit		
Multiple Family Dwelling = 1 unit per residential dwelling		
Motor Courts, Motels, Hotels = 1 unit per 2 rental rooms		
Recreational Camping Parks = 1 unit per 2 spaces		
Schools:		
High & Middle Schools = 1 unit per 15 students		
Elementary Schools = 1 unit per 20 students		
Restaurants, Cafes, Coffee Shops open more than 60 hrs/wk = 1 unit per 10 seats Restaurants, Cafes, Coffee Shops open 60 hrs/wk or less = 1 unit per 20 seats (Banquet rooms are not to be included in the counting of seats)		
Taverns, Lounges = 1 unit per 10 seat capacity		
Hospitals:		
With Laundry Facilities = 1 unit per bed		
Without Laundry Facilities = 1 unit per 2 beds		
Rest Homes = 1 unit per 2 beds		
Commercial = 1 unit per 9 or less employees		
Laundromats = 1 unit per 2 machines		
Theaters = 1 unit per 100 seat capacity		
Churches = 1 unit per 100 seat capacity		
Auto Service Stations = 1 unit per 9 employees		
Commercial car washes = 1 unit per 10,000 gallons per month		
Medical, Veterinary = 1 unit per 10,000 gallons per month or 1 unit per 2 exam rooms		
Prison, Jails = 0.5 unit per bed		
Industrial, Domestic Strength = 1 unit per 10,000 gallons per month		
System Development fees (Storm Water): (Rate multiplied by the number of Equivalent Residential Units)	\$342.00	
Storm Water fee: (Monthly rate per Equivalent Residential Unit)	\$2.00	
<u>Storm Water Equivalent Residential Unit Calculations</u>		

Single family residential unit = 1 ERU		
Property other than a single family residential unit = 1 ERU per 3,000 feet of impervious surface		
Mobile Home Park = 1 ERU per space		
Multiple family building or facility = 1 ERU per multiple family unit on property		
Contractor Water - From Hydrant Meter:		
Hydrant meter placement/removal	\$60.00	\$70.00
Hydrant meter with backflow device - Placement/testing/removal	\$85.00	\$95.00
Hydrant meter with backflow device - Move and retest	\$85.00	\$95.00
Hydrant meter fee: (Not prorated; provide 24 hours' notice for removal)		
3" meter on 2½" hydrant port: Up to two days	\$35.00	\$37.56
Weekly rate	\$75.00	\$80.48
¾" meter on 2½" hydrant port: Up to two days	\$25.00	\$26.83
Weekly rate	\$55.00	\$59.02
Water Usage - At commercial volume rate per 1000 gallons (No gallonage included)	\$3.61	\$4.38
Contractor Water - From Public Works Department fill station:		
Water Usage - At commercial volume rate (per gallon)	\$0.25	
<u>PUBLIC WORKS</u>		
After-hours call-out fee (for overtime)	\$30.00	
Application fee for Reimbursement District (actual fee calculated at 5% of project value with no minimum fee)	\$10,000.00	
Banner Permit	\$25.00	\$100.00
Right-of-Way Encroachment Agreement Legal Description Review		\$50.00
Sidewalk/Street Closure Permits:		
Application fee	\$10.00	\$50.00
Expediting fee (when application is turned in less than 5 days prior to event)	\$25.00	\$50.00
Deployment fee (on for-profit events which require the use of city signs and barricades that staff deliver to event location)	\$50.00	\$180.00
Document fees:		
Aerial copies (11"x17", per page)	\$25.00	
Blue line/large format copies (per square foot)	\$0.50	
Development standards, hardcopy	\$25.00	
Development standards, electronic copy	\$15.00	
Large maps/drawings (per square foot)	\$0.50	
Wicks Treatment Plant Lab fees:		
Well Test Package (total coliforme/E.coli by CF method, nitrate, Hardness, Iron)		\$90.00
Real Estate Package (total coliforme/E.coli by CF method, nitrate, arsenic)		\$110.00
Turbidity	\$16.00	
pH (certified)	\$20.00	
Alkalinity	\$20.00	
Aluminum	\$24.00	
Calcium	\$16.00	
Copper	\$16.00	
Fluoride	\$32.00	
Hardness	\$24.00	
Iron	\$16.00	
Lead	\$16.00	<i>No longer offered</i>
Manganese	\$24.00	
Phosphate - Ortho	\$24.00	
Phosphate - Total	\$36.00	
Silica	\$32.00	
Sulfate	\$32.00	\$10.00
Certified Bio-Lab Tests		
Total Coliform/E. coli by CF Method	\$30.00	\$40.00
Total Coliform/E. coli by CF-Quanti-Tray Method	\$50.00	
Arsenic (3rd party lab)		\$40.00
Nitrate	\$30.00	\$40.00
Adjustment - Administrative	\$60.00	
Adjustment - Quasi	\$235.00	
Single Family Residential Water Meter Installation Charges		
¾-inch Residential Water Service	\$2,100.00	Time and Materials
4-inch Residential Sewer Service	\$1,903.00	Time and Materials

System Development fees (Transportation):		
Calculated using Discounted Transportation SDC per Unit of Development, as shown in Table 10 attached as Exhibit "A"		
PLANNING DEPARTMENT		
*Adjustment – Administrative Action	\$80.00	\$97.00
*Adjustment – Quasi-Judicial Action	\$310.00	\$344.00
*Annexation	\$375.00	\$537.00
Appeal - Initial Hearing - "Permits" (as defined by ORS 227.160(2))	\$250.00	
All Other Appeals	\$1,000.00	
Residential Building Permit - Major (i.e., all residential development resulting in the creation of a dwelling unit)	\$140.00	\$145.00
Residential Building Permit - Minor (i.e., all residential development that does not result in the creation of a dwelling unit)	\$40.00	\$42.00
Commercial Building Permit	\$140.00	\$145.00
*Comprehensive Plan Amendment – Quasi-Judicial Action	\$590.00	\$908.00
*Comprehensive Plan/ Zone Change – Quasi-Judicial Action	\$1,015.00	\$1,346.00
*Conditional Use Permit	\$550.00	\$591.00
Demolition Permit		\$42.00
Fence Permit		\$42.00
Fence Permit (requiring Director approval)		\$62.00
Historical Landmarks Commission Review – Quasi-Judicial Action - All non-demolition applications	\$85.00	\$103.00
Historic Landmarks Commission Review – Demos		\$253.00
*Home Occupation-Business Permit	\$85.00	\$103.00
*Major Partition	\$500.00	\$530.00
*Minor Partition	\$330.00	\$355.00
Land Use Compatibility Statement (LUCS) Review	\$60.00	\$62.00
Land Use Application Expiration Timeline Extension	\$60.00	\$62.00
Laydown Yard	\$40.00	\$42.00
Mobile Food Vendor License and Transient Merchant Permit:		
Investigation fee (applied toward cost of license fee)- The City shall reduce the otherwise applicable license fee by 50% if a vendor certifies it shall provide at its licensed activity at least two healthy food options.	\$20.00	Removed
Type I: <i>Initial license valid for 30 days</i>	\$30.00	\$31.00
Initial 30-day extension		
Up to five 30-day extensions @ \$25.00 \$26.00 per extension are allowed for a total extension period of 180 days	\$25.00	\$26.00
Type II: <i>Initial license valid for 12 months</i>	\$150.00	\$155.00
One additional extension for 12 months-	\$130.00	
Land Use and Development Approval-Type III:- Site Plan Review fee (Applicants for mobile food vendor license who obtain verification of providing at least two healthy food items on their menu are entitled to a 15% reduction in their license fee.)	\$440.00	\$468.00
*Mobile Home Park	\$590.00	\$623.00
Non-conforming Use – Administrative Action	\$80.00	\$97.00
Non-conforming Use – Quasi-Judicial Action	\$310.00	\$344.00
Physical Constraints Permit	\$30.00	\$31.00
*Planned Unit Development	\$630.00	\$673.00
Property Line Adjustment	\$85.00	\$103.00
Proposed Change of Use	\$50.00	\$52.00
Sidewalk/Approach Permit	\$20.00	\$21.00
Sign - Sidewalk Signboard Permit (one-time fee)	\$20.00	\$21.00
Sidewalk Signboard Impound Redemption fee (1st violation)	\$15.00	\$16.00
Sidewalk Signboard Impound Redemption fee (2nd violation)	\$65.00	\$67.00
Sidewalk Signboard Impound Redemption fee (3rd & subsequent violations)	\$130.00	\$134.00
Sign - Flush Mount	\$40.00	\$42.00
Sign - Freestanding under 8'	\$85.00	\$88.00
Sign - Freestanding over 8'	\$120.00	\$124.00
Sign - Refacing (all new sign face replacements for new businesses with no structural modification to existing sign)	\$40.00	\$42.00
Sign - over 250 square feet	\$205.00	\$212.00
*Site Plan Review	\$440.00	\$468.00
*Subdivision	\$630.00	\$664.00
Transient Merchant License:		
Investigation fee (applied toward cost of license fee)-	\$20.00	

— License fee (6 months or less)	\$50.00	
— License fee (one six-month extension)	\$50.00	
Utility Verification	\$15.00	\$16.00
*Vacation (Street)	\$500.00	\$665.00
*Variance	\$500.00	\$539.00
*Zone Change – Quasi-Judicial Action	\$570.00	\$912.00
*Zoning Ordinance Amendment		\$908.00
NOTE: * denotes Site Team Discussion fee required	\$100.00	\$103.00
Community Development Director's Interpretation (TDMC 10.1.090)	\$500.00	\$515.00
Short Term Rental (STR) License (New License):		
1 bedroom/studio	\$115.00	\$119.00
2 bedroom	\$230.00	\$237.00
3 bedroom	\$345.00	\$356.00
4 plus bedroom	\$460.00	\$474.00
Short Term Rental (STR) License (License Renewal):		
1 bedroom/studio	\$75.00	\$78.00
2 bedroom	\$150.00	\$155.00
3 bedroom	\$225.00	\$232.00
4 plus bedroom	\$300.00	\$309.00
Document fees:		
Comprehensive Plan	\$20.00	
Comprehensive Plan Map	\$10.00	
Geologic Hazard Study	\$20.00	
Zoning Ordinance (LUDO)	\$20.00	
Zoning Map	\$10.00	
Copies 8 ½ X 11 and 11 X 17 (per page)	\$0.25	
Color copies	\$3.00	
Large Copies	\$5.00	
ADMINISTRATIVE FEES		
Photocopy fees: Per page (less than 50 pages)	\$0.25	
Document (between 50 and 100 pages)	\$15.00	
Document (over 100 pages)	\$25.00	
Ordinances, maps, odd size documents, filling public records requests that do not fit in another category, including research time, supervision, etc. (per hour)	\$25.00	
Liquor Licenses: (OLCC)		
New Outlet	\$100.00	
Change in Ownership/Privilege	\$75.00	
Annual Renewals	\$35.00	
Special Event	\$25.00	
Recreational Property (TDMC Chapter 5.03):		
Single-Day Non-Recreational Permits		
Exclusive Use	\$250.00	
Non-exclusive Use	\$100.00	
Security Deposit (refundable)	\$200.00	
Multi-Day Non-Recreational Permits (100+ Persons Required)		
Exclusive Use	\$500/day	
Non-exclusive Use	\$200/day	
Security Deposit (refundable)	\$300/day	
Minimum Annual Telecommunications Franchise fee (only paid if 7% of Franchisee's gross revenue is less than \$500/quarter)	\$500.00/quarter (\$2,000.00/year)	
Security Deposit for Non-Permitted Public Right-of-Way Use (creditable upon entering a franchise agreement or other non-permit permission to use the City's public rights-of-way)	\$1,000.00	
Commercial Dock:		
User fee	NONE DURING AGREEMENT	
Procurement Protest Fee	\$1,000.00	

EXHIBIT A

from Table 9, respectively. The Discounted Transportation SDC Per Unit is calculated by adding columns 2, 3 and 4, with the result displayed in column 5.

TABLE 10
DISCOUNTED TRANSPORTATION SDC PER UNIT OF DEVELOPMENT

page 1 of 5

ITE LAND USE CODE/CATEGORY	Discounted	Discounted	Compliance	Disocuted	Unit *
	MV Cost	P/B Cost	Cost	Transportation	
	Per Unit	Per Unit	Per Unit	SDC Per Unit	
RESIDENTIAL					
210 Single Family Detached	\$1,020	\$350	\$130	\$1,500	/dwelling unit
220 Apartment	\$716	\$246	\$91	\$1,053	/dwelling unit
230 Residential Condominium/Townhouse	\$624	\$214	\$80	\$919	/dwelling unit
240 Manufactured Housing (in Park)	\$532	\$183	\$68	\$782	/dwelling unit
254 Assisted Living	\$292	\$100	\$37	\$430	/bed
255 Continuing Care Retirement	\$299	\$103	\$38	\$441	/unit
260 Recreation Home	\$337	\$116	\$43	\$495	/dwelling unit
RECREATIONAL					
411 City Park	\$187	\$64	\$24	\$276	/acre
412 County Park	\$269	\$92	\$34	\$395	/acre
416 Campground/RV Park **	\$485	\$167	\$62	\$713	/camp site
420 Marina	\$350	\$120	\$45	\$515	/berth
430 Golf Course	\$4,227	\$1,452	\$540	\$6,219	/hole
432 Golf Driving Range **	\$1,473	\$506	\$188	\$2,168	/tee
435 Multipurpose Recreation/Arcade **	\$3,948	\$1,356	\$504	\$5,809	/T.S.F.G.F.A.
437 Bowling Alley	\$3,942	\$1,354	\$503	\$5,800	/lane
443 Movie Theater w/out matinee	\$25,930	\$8,908	\$3,312	\$38,149	/screen
444 Movie Theater with matinee**	\$23,832	\$8,187	\$3,044	\$35,063	/screen
445 Multiplex Movie Theater (10+ screens)**	\$16,077	\$5,523	\$2,053	\$23,653	/screen
473 Casino/Video Poker/Lottery **	\$15,829	\$5,438	\$2,022	\$23,288	/T.S.F.G.F.A.
480 Amusement/Theme Park	\$8,929	\$3,068	\$1,140	\$13,137	/acre
488 Soccer Complex	\$8,407	\$2,888	\$1,074	\$12,369	/field
491 Racquet/Tennis Club	\$4,561	\$1,567	\$583	\$6,711	/court
492 Health/Fitness Club	\$3,881	\$1,333	\$496	\$5,710	/T.S.F.G.F.A.
495 Recreation/Community Center	\$2,706	\$930	\$346	\$3,981	/T.S.F.G.F.A.
* Abbreviations used in the "Unit" column:					
T.S.F.G.F.A. = Thousand Square Feet Gross Floor Area					
T.S.F.G.L.A. = Thousand Square Feet Gross Leaseable Area					
V.F.P. = Vehicle Fueling Position					
** Because there is no ITE Weekday Average Trip Rate for this code/category, the Trip Rate shown is the ITE P.M. Peak Hour Trip Rate multiplied by a factor of ten.					

TABLE 10

DISCOUNTED TRANSPORTATION SDC PER UNIT OF DEVELOPMENT

page 2 of 5

ITE LAND USE CODE/CATEGORY	Discounted	Discounted	Compliance	Disocunted	Unit *
	MV Cost Per Unit	P/B Cost Per Unit	Cost Per Unit	Transportation SDC Per Unit	
INSTITUTIONAL/MEDICAL					
501 Military Base	\$201	\$69	\$26	\$296	/employee
520 Elementary School (Public)	\$55	\$19	\$7	\$81	/student
522 Middle/Junior High School (Public)	\$69	\$24	\$9	\$101	/student
530 High School (Public)	\$137	\$47	\$17	\$201	/student
536 Private School (K - 12)	\$198	\$68	\$25	\$292	/student
540 Junior/Community College	\$95	\$33	\$12	\$140	/student
550 University/College	\$189	\$65	\$24	\$278	/student
560 Church	\$728	\$250	\$93	\$1,071	/T.S.F.G.F.A.
565 Day Care Center/Preschool	\$190	\$65	\$24	\$280	/student
590 Library	\$2,296	\$789	\$293	\$3,377	/T.S.F.G.F.A.
610 Hospital	\$1,334	\$458	\$170	\$1,962	/bed
620 Nursing Home	\$268	\$92	\$34	\$394	/bed
630 Clinic	\$3,552	\$1,220	\$454	\$5,225	/T.S.F.G.F.A.
COMMERCIAL/SERVICES					
310 Hotel/Motel	\$1,182	\$406	\$151	\$1,738	/room
812 Building Materials/Lumber	\$2,111	\$725	\$270	\$3,106	/T.S.F.G.F.A.
813 Free-Standing Discount Superstore With Groceries	\$3,179	\$1,092	\$406	\$4,677	/T.S.F.G.F.A.
814 Specialty Retail Center	\$2,629	\$903	\$336	\$3,868	/T.S.F.G.L.A.
815 Free-Standing Discount Store Without Groceries	\$4,180	\$1,436	\$534	\$6,149	/T.S.F.G.F.A.
816 Hardware/Paint Stores	\$3,412	\$1,172	\$436	\$5,019	/T.S.F.G.F.A.
817 Nursery/Garden Center	\$2,141	\$735	\$273	\$3,149	/T.S.F.G.F.A.
820 Shopping Center	\$2,547	\$875	\$325	\$3,748	/T.S.F.G.L.A.
823 Factory Outlet Center	\$1,577	\$542	\$201	\$2,321	/T.S.F.G.F.A.
* Abbreviations used in the "Unit" column:					
T.S.F.G.F.A. = Thousand Square Feet Gross Floor Area					
T.S.F.G.L.A. = Thousand Square Feet Gross Leaseable Area					
V.F.P. = Vehicle Fueling Position					
** Because there is no ITE Weekday Average Trip Rate for this code/category, the Trip Rate shown is the ITE P.M. Peak Hour Trip Rate multiplied by a factor of ten.					

TABLE 10

DISCOUNTED TRANSPORTATION SDC PER UNIT OF DEVELOPMENT

page 3 of 5

ITE LAND USE CODE/CATEGORY	Discounted	Discounted	Compliance	Disocunted	Unit *
	MV Cost Per Unit	P/B Cost Per Unit	Cost Per Unit	Transportation SDC Per Unit	
COMMERCIAL/SERVICES (continued)					
841 New Car Sales	\$1,978	\$679	\$253	\$2,910	/T.S.F.G.F.A.
843 Automobile Parts Sales	\$3,172	\$1,090	\$405	\$4,667	/T.S.F.G.F.A.
849 Tire Superstore	\$1,318	\$453	\$168	\$1,939	/T.S.F.G.F.A.
850 Supermarket	\$5,882	\$2,021	\$751	\$8,654	/T.S.F.G.F.A.
851 Convenience Market (24 hour)	\$12,965	\$4,454	\$1,656	\$19,075	/T.S.F.G.F.A.
853 Convenience Market With Fuel Pump	\$8,311	\$2,855	\$1,061	\$12,227	/V.F.P.
854 Discount Supermarket	\$2,791	\$959	\$356	\$4,107	/T.S.F.G.F.A.
860 Wholesale Market	\$502	\$172	\$64	\$739	/T.S.F.G.F.A.
861 Discount Club	\$3,119	\$1,071	\$398	\$4,588	/T.S.F.G.F.A.
862 Home Improvement Superstore	\$1,393	\$479	\$178	\$2,049	/T.S.F.G.F.A.
863 Electronics Superstore	\$2,429	\$834	\$310	\$3,574	/T.S.F.G.F.A.
867 Office Supply Superstore **	\$2,017	\$693	\$258	\$2,968	/T.S.F.G.F.A.
880 Pharmacy/Drugstore Without Drive-Thru Window	\$3,805	\$1,307	\$486	\$5,598	/T.S.F.G.F.A.
881 Pharmacy/Drugstore With Drive-Thru Window	\$4,042	\$1,388	\$516	\$5,946	/T.S.F.G.F.A.
890 Furniture Store	\$214	\$73	\$27	\$315	/T.S.F.G.F.A.
896 Video Rental Store **	\$14,202	\$4,879	\$1,814	\$20,895	/T.S.F.G.F.A.
911 Bank/Savings: Walk-in	\$11,675	\$4,011	\$1,491	\$17,176	/T.S.F.G.F.A.
912 Bank/Savings: Drive-In	\$11,743	\$4,034	\$1,500	\$17,277	/T.S.F.G.F.A.
* Abbreviations used in the "Unit" column:					
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V.F.P. = Vehicle Fueling Position					
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TABLE 10

DISCOUNTED TRANSPORTATION SDC PER UNIT OF DEVELOPMENT

page 4 of 5

ITE LAND USE CODE/CATEGORY	Discounted	Discounted	Compliance	Disocunted	Unit *
	MV Cost Per Unit	P/B Cost Per Unit	Cost Per Unit	Transportation SDC Per Unit	
COMMERCIAL/SERVICES (continued)					
931 Quality Restaurant (not a chain)	\$5,689	\$1,954	\$727	\$8,370	/T.S.F.G.F.A.
932 High Turnover, Sit-Down Restaurant (chain or stand alone)	\$6,487	\$2,228	\$828	\$9,544	/T.S.F.G.F.A.
933 Fast Food Restaurant (No Drive-Thru)	\$19,073	\$6,552	\$2,436	\$28,060	/T.S.F.G.F.A.
934 Fast Food Restaurant (With Drive-Thru)	\$13,215	\$4,540	\$1,688	\$19,443	/T.S.F.G.F.A.
936 Drinking Place/Bar **	\$3,021	\$1,038	\$386	\$4,444	/T.S.F.G.F.A.
941 Quick Lubrication Vehicle Shop	\$2,085	\$716	\$266	\$3,068	/Service Stall
942 Automobile Care Center **	\$2,091	\$718	\$267	\$3,076	/T.S.F.G.L.A.
944 Gasoline/Service Station (no Market or Car Wash)	\$4,404	\$1,513	\$562	\$6,479	/V.F.P.
945 Gasoline/Service Station (With Convenience Market)	\$3,226	\$1,108	\$412	\$4,747	/V.F.P.
946 Gasoline/Service Station (With Convenience Market and Car Wash)	\$3,029	\$1,041	\$387	\$4,457	/V.F.P.
OFFICE					
710 General Office Building	\$1,244	\$427	\$159	\$1,830	/T.S.F.G.F.A.
714 Corporate Headquarters Building	\$901	\$310	\$115	\$1,326	/T.S.F.G.F.A.
715 Single Tenant Office Building	\$1,307	\$449	\$167	\$1,923	/T.S.F.G.F.A.
720 Medical-Dental Office Building	\$4,081	\$1,402	\$521	\$6,004	/T.S.F.G.F.A.
730 Government Office Building	\$7,785	\$2,674	\$994	\$11,454	/T.S.F.G.F.A.
731 State Motor Vehicles Dept.	\$18,751	\$6,442	\$2,395	\$27,587	/T.S.F.G.F.A.
732 U.S. Post Office	\$10,142	\$3,484	\$1,295	\$14,921	/T.S.F.G.F.A.
750 Office Park	\$1,290	\$443	\$165	\$1,898	/T.S.F.G.F.A.
760 Research and Development Center	\$916	\$315	\$117	\$1,348	/T.S.F.G.F.A.
770 Business Park	\$1,441	\$495	\$184	\$2,120	/T.S.F.G.F.A.
* Abbreviations used in the "Unit" column:					
T.S.F.G.F.A. = Thousand Square Feet Gross Floor Area					
T.S.F.G.L.A. = Thousand Square Feet Gross Leaseable Area					
V.F.P. = Vehicle Fueling Position					
** Because there is no ITE Weekday Average Trip Rate for this code/category, the Trip Rate shown is the ITE P.M. Peak Hour Trip Rate multiplied by a factor of ten.					

TABLE 10

DISCOUNTED TRANSPORTATION SDC PER UNIT OF DEVELOPMENT

page 5 of 5

ITE LAND USE CODE/CATEGORY	Discounted	Discounted	Compliance	Disocunted	Unit *
	MV Cost Per Unit	P/B Cost Per Unit	Cost Per Unit	Transportation SDC Per Unit	
PORT/INDUSTRIAL					
030 Truck Terminals	\$1,112	\$382	\$142	\$1,637	/T.S.F.G.F.A.
090 Park and Ride Lot With Bus Service	\$405	\$139	\$52	\$595	/Parking Space
093 Light Rail Transit Station With Parking	\$226	\$78	\$29	\$332	/Parking Space
110 General Light Industrial	\$787	\$270	\$101	\$1,158	/T.S.F.G.F.A.
120 General Heavy Industrial	\$169	\$58	\$22	\$249	/T.S.F.G.F.A.
130 Industrial Park	\$786	\$270	\$100	\$1,157	/T.S.F.G.F.A.
140 Manufacturing	\$431	\$148	\$55	\$635	/T.S.F.G.F.A.
150 Warehouse	\$560	\$192	\$72	\$824	/T.S.F.G.F.A.
151 Mini-Warehouse	\$282	\$97	\$36	\$415	/T.S.F.G.F.A.
170 Utilities**	\$712	\$245	\$91	\$1,048	/T.S.F.G.F.A.
* Abbreviations used in the "Unit" column:					
T.S.F.G.F.A. = Thousand Square Feet Gross Floor Area					
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V.F.P. = Vehicle Fueling Position					
** Because there is no ITE Weekday Average Trip Rate for this code/category, the Trip Rate shown is the 4:00 P.M. Peak Hour Trip Rate multiplied by a factor of ten.					