

Exhibit D

WORK LETTER

(Build to Suit)

This WORK LETTER is attached to and part of the State of Oregon Lease (the “**Lease**”) of the same Effective Date. Capitalized terms used but not defined in this Work Letter shall have the same definition as set forth in the Lease.

Landlord _____

Tenant _____

Effective Date _____

Property
Street Address _____
City, State, ZIP _____
County _____

Estimated Commencement Date _____

Contractor _____
(Section 1.1)

Architect _____

Engineer _____
(Section 2.1(a))

Project Allowance \$ _____
(Section 4.2(a))

Amortization Information _____ years at an interest rate of ____%
(Section 4.3(c))

Landlord’s Designated Representative _____

Tenant’s Designated Representative _____
(Section 11.1)

1. PROJECT

1.1 Project. Pursuant to the terms and conditions of this Work Letter, Landlord, acting through its general contractor, _____ (the “**Contractor**”), shall construct on the Property the improvements (the “**Project**”) set forth in Project Proposal (the “**Project Proposal**”) attached as Exhibit D-1. The work on the Project under this Work Letter is referred to as the “**Project Work**.”

1.2 Completion. The Project shall be Substantially Complete (as defined in Section 7.1 below) on or before the Estimated Commencement Date.

2. PROJECT PLANS

2.1 Preliminary Plans.

(a) *Preparation and Delivery*. Within _____ days after the Effective Date, Landlord shall deliver to Tenant the Space Plan and the Construction Drawings (together the “**Preliminary Plans**”), as defined and set forth in Sections 2.1(b) and 2.1(c) below. The Preliminary Plans shall be based on the Project Proposal and shall be prepared by _____, an architect licensed in the State of Oregon (the “**Architect**”) and _____, an engineer licensed in the State of Oregon (the “**Engineer**”). The Parties shall promptly cooperate with the Architect and the Engineer and provide any reasonable information that they request for the preparation of the Preliminary Plans.

(b) *Building Plan*. The Building Plan shall be a fully dimensional, detailed building and floor plan sufficient to convey the architectural design of the Project, showing the site of the Project on the Property and the layout and relationship of all improvements, rooms, partitions and doors; electrical, data and telephone outlets; any equipment requiring special electrical, mechanical, plumbing, HVAC or other systems; any areas subject to above-normal loads; any special openings in the floors, ceilings or walls; and any other major or special features set forth in the Project Proposal.

(c) *Construction Drawings*. The Construction Drawings shall show all electrical, mechanical, plumbing, HVAC and other systems necessary for the construction and operation of the Project.

(d) *Sustainability Plan*. The Preliminary Plans shall comply with Tenant’s “Sustainability Plan,” pursuant to Section II of the “State of Oregon Sustainable Facility Guidelines and Standards,” attached to the Lease as Exhibit G, as it may be amended from time to time.

2.2 Tenant Review.

(a) *Requested Plan Revisions*. Within fifteen (15) days after delivery of the Preliminary Plans to Tenant, Tenant shall deliver to Landlord either:

(i) notice that it approves the Preliminary Plans; or

(ii) requested revisions to the Preliminary Plans, consistent with the Project Proposal and in sufficient detail for the Architect and the Engineer to make such changes (“**Requested Plan Revisions**”). In such event, Landlord shall, within fifteen (15) days after Tenant’s delivery of the Requested Plan Revisions, cause the Architect and the Engineer to make all of the Requested Plan Revisions which Landlord agrees to make and then shall return the revised Preliminary Plans to Tenant; and Tenant shall again have fifteen (15) days to deliver to Landlord notice that it approves the revised Preliminary Plans, or request revisions to same. The procedure set forth in this Section 2.2(a) shall continue until Tenant gives Landlord notice that it approves the Preliminary Plans.

Notwithstanding any other provision in this Work Letter, Tenant's approval of the Preliminary Plans shall not be unreasonably withheld.

(b) *Failure to Approve.*

(i) If Tenant does not timely respond to Landlord either with approval of, or Requested Plan Revisions to, the Preliminary Plans or revised Preliminary Plans, as the case may be, then the Preliminary Plans shall be deemed approved by Tenant.

(ii) In the event that the Preliminary Plans have not been approved within one hundred twenty (120) days after the Effective Date, then either Party may terminate the Lease by notice to the other Party of such termination at any time after such 120-day period, in which event each Party shall pay one half (1/2) of the Architect's and the Engineer's costs and fees in connection with preparing the Preliminary Plans, and the Parties shall have no further obligations under the Lease.

2.3 Final Plans. Within fifteen (15) days after Tenant's approval of the Preliminary Plans pursuant to Section 2.2 above, Landlord shall deliver to Tenant the approved Preliminary Plans, prepared by the Architect and the Engineer in final form and sufficient detail to obtain all necessary permits and to be used by Landlord in constructing the Project (the "**Final Plans**").

3. ***INTENTIONALLY OMITTED***

4. **PROJECT COSTS**

4.1 Project Costs. The "**Project Costs**" means Lessor's actual and reasonable expenses paid to a third party and incurred for the following: (a) the Architect's and the Engineer's costs and fees in connection with the preparation of the Preliminary Plans and Final Plans and any necessary further related work; (b) the costs of the Contractor's labor and materials for constructing the Project pursuant to the Facility Requirements and the Final Plans and any Change Orders (as defined in Section 6.1 below), as such costs are set forth in a statement of Project Costs showing the total Project Costs to date accompanied by reasonable documentation of the same; (c) any fees or permits for the Project, payable to the applicable governing authorities; (d) the costs of construction management services; and (e) the developer's costs and fees. The developer's costs and fees shall be limited to an amount determined for this specific lease during lease negotiations, if this lease is terminated during or at the end of the first lease year after the Commencement Date, an amount determined for this specific lease during lease negotiations, if terminated during or at the end of the second lease year after the Commencement Date, an amount determined for this specific lease during lease negotiations, if terminated during or at the end of the third lease year after the Commencement Date, and no developer costs or fees shall be included if terminated thereafter. **[Developer fee definition to be determined for this specific lease during lease negotiations,issue.** Lessor shall pay all Project Costs as required under its various contracts. Any disputes regarding the statement of Project Costs shall be resolved as a Lease Dispute pursuant to Section 8 of this Work Letter.

4.2 Change Order Costs. Lessee shall bear any costs arising from any Change Order, as defined and set forth in Section 5 below. Change Orders costs shall be incurred upon completion of the work that is within the scope of the Change Order. Change Order costs shall bear interest at the rate set forth in ORS 293.464, as it may be amended from time to time, from the date incurred until paid. Lessee shall pay for all Change Orders in Lessee's discretion, as follows: either

- (a) promptly after completion of the work arising from the Change Order; or
- (b) after the Commencement Date.

Lessor shall promptly invoice Lessee for the Change Order work after completion of the work or after the Commencement Date, as the case may be. If any Change Order work remains unpaid beyond sixty (60) days after the date invoiced, Lessee shall pay a ten percent (10%) late fee of the amount invoiced and unpaid.

5. CONSTRUCTION OF PROJECT

5.1 Construction Contract. The Project shall be constructed by the Contractor pursuant to a construction contract to be entered into by Landlord and the Contractor (the "**Construction Contract**") within ___ days after Landlord delivers the Final Plans to Tenant pursuant to Section 2.3 above. The Construction Contract shall require the Contractor to construct the Project with all due diligence, beginning promptly after the execution of the Construction Contract and continuing until completion on or before the Estimated Commencement Date, and shall require the Contractor to construct the Project in a first-class and workmanlike manner and perform the Improvement Work in compliance with all applicable federal, state and local laws and ordinances.

5.2 Warranty. Landlord shall warrant all of the Project Work for at least one (1) year, beginning on the Rental Commencement Date.

5.3 Public Works.

(a) The Project is a Public Works as defined in ORS 279C.800. The Construction Contract shall require the Contractor to strictly comply with all statutes and rules governing the construction of Public Works including, without limitation, those set forth in ORS 279C.800 through 279.870 and OAR 839-025-004 through 839-025-0700, as may be amended from time to time, and the Public Works Requirements set forth on Exhibit D-2.

(b) In the event the Contractor fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a subcontractor by any person, or the assignee of the person, in connection with the Construction Contract as such claim becomes due,

Landlord shall promptly pay such claim and charge the amount of the payment against funds due or to become due the Contractor by reason of the Construction Contract.

6. CHANGE ORDERS

6.1 Change Order. A “**Change Order**” is a change to the Final Plans that is requested and approved by Tenant pursuant to Section 6.2 below.

6.2 Change Order Requests. If Tenant requests any change, alteration or addition to the Final Plans, such request (a “**Change Order Request**”) shall be in writing and accompanied by all plans and specifications necessary to show and explain the requested change. Within three (3) days after receiving the Change Order Request or as soon thereafter as is reasonably practical, Landlord shall give Tenant a written estimate of the price and additional time, if any, for Landlord to incorporate the requested change to the Final Plans (a “**Change Order Response**”). The price of incorporating the requested change to the Final Plans shall not include any administrative or management fee by Landlord but shall include any contractor’s fees, the Architect’s fees and the Engineer’s fees actually paid by Landlord. If Tenant wishes to proceed with the change, Tenant shall so notify Landlord within three (3) days after delivery of the Change Order Response. Any delay in the Project Work that results from a Change Order shall be a Tenant Delay (as defined in Section 7.2 below).

7. COMPLETION AND DELIVERY

7.1 Substantially Complete. “**Substantially Complete**” means:

- (a) the Project has been completed in accordance with the Final Plans, except for the Punch List Items (as defined in Section 7.1(b) below);
- (b) the Parties have conducted a joint walk-through of the Project and prepared and signed a list of minor items relating to the Project that require additional work by Landlord but do not materially interfere with Tenant’s access to or use of the Project (the “**Punch List Items**”); and
- (c) Landlord has either:
 - (i) obtained a certificate of occupancy or the equivalent for the Project; or
 - (ii) notified Tenant that the Project are ready for the installation of any of Tenant’s furniture or fixtures, if such installation is the sole impediment to obtaining a certificate of occupancy or the equivalent for the Project.

7.2 Delay. Any delay in the completion of the Project beyond the Estimated Commencement Date shall be governed by Section 3.2 of the Lease. For the purposes of Section 3.2 of the Lease, a “**Tenant Delay**” means a delay in the Estimated Commencement Date caused by any of the following:

- (a) Tenant’s failure to timely perform any of its duties or obligations pursuant to the Lease or this Work Letter;

- (b) a Change Order; or
- (c) the postponement of any Project Work at Tenant's request.

7.3 Complete Delivery. Landlord's "**Complete Delivery**" of the Project shall occur when Landlord delivers to Tenant:

- (a) actual physical possession of the Project, in broom clean condition, free and clear of all personal property of Landlord and any other parties;
- (b) all keys and access cards for the Project; and
- (c) the certificate of occupancy or the equivalent for the Project.

7.4 Completion of Punch List Items. Within thirty (30) days after the Rental Commencement Date, Landlord shall complete all of the Punch List Items. Notwithstanding any other provision in the Lease, Tenant may withhold its payments of Monthly Rent under the Lease until Landlord has completed the Punch List Items to Tenant's reasonable satisfaction.

8. TENANT'S ENTRY

8.1 Entry for Tenant's Installations. Beginning thirty (30) days immediately prior to the Estimated Commencement Date, Tenant may, at no extra cost to Tenant, enter upon the Project in order to install its alterations, furnishings, fixtures and equipment, so long as Tenant schedules such entry with Landlord and complies with all reasonable directions from Landlord.

8.2 Entry Subject to Lease. Prior to the Actual Commencement Date, the entry onto the Project of Tenant and its employees, agents, contractors and licensees for any purpose, including, without limitation, inspection or performance of the Project Work, shall be subject to all the terms and conditions of the Lease, including, without limitation, the provisions of the Lease relating to indemnification and the maintenance of insurance by Tenant, but excluding, however, the provisions of the Lease relating to the payment of Monthly Rent.

9. BUILDOUT DISPUTES

In the event one Party gives notice to the other Party that it disputes any matter relating to or arising from the Project Work, the Parties shall attempt in good faith to resolve the dispute within thirty (30) days after such notice. If the Parties do not timely resolve the dispute, it shall be deemed a Buildout Dispute and resolved pursuant to Section 21 of the Lease.

10. DELIVERY OF DOCUMENTATION

Within ten (10) days after the delivery of the Premises pursuant to Section 3.4 of the Lease, Landlord shall deliver to Tenant, concurrently with the Commencement Confirmation:

10.1 a statement of the Project Costs (the "**Final Accounting**"), showing the total Project Costs and accompanied by reasonable documentation of same;

- 10.2 a set of as-built plans and specifications for the Project;
- 10.3 operation and maintenance manuals for any and all systems and equipment installed on the Project as part of the Project Work;
- 10.4 the originals or copies of all guarantees and warranties obtained by Landlord in connection with the Project; and
- 10.5 a list of the names and contact information for any subcontractors who have supplied labor or materials for Project.

11. DESIGNATED REPRESENTATIVES AND NOTICES

11.1 Designated Representative. A “**Designated Representative**” is the following person, who is authorized to speak and act on behalf of a Party for the purposes of this Work Letter, as set forth in Section 11.2 below:

Landlord’s Designated Representative: _____
 Tenant’s Designated Representative: _____

11.2 Reliance; Change. Either Party may fully and unconditionally rely on the other Party’s Designated Representative for any and all purposes of this Work Letter, until such appointment is revoked or altered as set forth in this Section 11.2. Either Party may change its Designated Representative by notice to the other Party, but no such change or revocation of the power of a Designated Representative shall affect any approval or consent given by a Designated Representative prior to delivery to the other Party of notice of revocation of such Designated Representative’s appointment.

11.3 Notices. The Parties shall deliver any notice under this Work Letter in accordance with any and all notice requirements set forth in Section 35 of the Lease, including both of Tenant’s Addresses as set forth in the Lease and notice to DAS as set forth in Section 35.2 of the Lease.

12. MISCELLANEOUS

12.1 Time is of the Essence. Time is of the essence in relation to the Parties’ performance of any and all of their obligations under this Work Letter.

12.2 Cooperation. The Parties shall reasonably cooperate with each other, the Contractor, the Architect and the Engineer, and shall cause their respective agents and employees to reasonably cooperate with one another, the Contractor, the Architect and the Engineer, in order to coordinate the Project Work and to avoid unnecessary interference and delays with the completion of the Project Work.

12.3 Breach of Work Letter. Any failure by either Party to comply with any portion of this Work Letter shall be deemed a breach of the Lease for which Landlord and Tenant shall have all rights and remedies as in the case of a breach of the Lease by the other Party.

12.4 Exhibits. The Exhibits listed below are incorporated as part of this Work Letter:

Exhibit D-1: Project Proposal
Exhibit D-2: Public Works Requirements

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