

**CITY COUNCIL AGENDA
JULY 18, 2016, 7:00 PM
PUBLIC SAFETY BUILDING TRAINING ROOM (401 EAST THIRD STREET)**

Mission Statement

The City of Newberg serves its citizens, promotes safety, and maintains a healthy community.

Vision Statement

Newberg will cultivate a healthy, safe environment where citizens can work, play and grow in a friendly, dynamic and diverse community valuing partnerships and opportunity.

I. CALL MEETING TO ORDER

II. ROLL CALL

III. PLEDGE OF ALLEGIANCE

IV. PROCLAMATIONS

1. Newberg Old-Fashioned Festival Proclamation Pages 1-2

V. CITY MANAGER'S REPORT

VI. PUBLIC COMMENTS

(30 minutes maximum, which may be extended at the Mayor's discretion, with an opportunity to speak for no more than 5 minutes per speaker allowed)

VII. CONSENT CALENDAR

1. Minutes from June 20, 2016 Pages 3-8
2. Resolution 2016-3314, A Resolution to authorize the City Manager to enter into agreement with the State of Oregon to exchange federal funds for state funds for the City's Villa Road Improvement Project Pages 9-16
3. OLCC License for Brewery Public House dba: Newberg Growler House Page 17
4. Resolution 2016-3319, A Resolution accepting the donation of an ATV from the Newberg Dundee Reserves for City use Pages 18-19

VIII. PUBLIC HEARINGS – ADMINISTRATIVE

1. Ordinance 2016-2807, An Ordinance authorizing City personnel or Fire/EMS personnel to operate ATVS within the City of Newberg while performing official duties; and declaring an emergency Pages 20-22

Agenda continued on next page

The Mayor reserves the right to change the order of items to be considered by the Council at their meeting. No new items will be heard after 11:00 p.m., unless approved by the Council.

IX. NEW BUSINESS

1. Resolution 2016-3315, A Resolution authorizing the City Manager to execute Amendment No. 1 to an Intergovernmental Agreement with the State of Oregon to provide right-of-way services for the Newberg-Dundee Bypass project (Agreement No. 29496) Pages 23-37
2. Resolution 2016-3316, A Resolution authorizing an extension to the Advanced Finance Agreement with Providence Medical Center Pages 38-67
3. Resolution 2016-3320, A Resolution authorizing the City Manager to implement a 2% cost-of-living-adjustment to non-represented employees effective July 1, 2016 in accordance with the FY 2016-17 adopted budget Pages 68-69
4. Resolution 2016-3323, A Resolution authorizing the City Manager to approve the purchase of an AirBus Vesta 9-1-1 system for \$243,156.48 Pages 70-79

IX. COUNCIL BUSINESS

1. Discussion on LOC Legislative Priorities Pages 80-101
2. Discussion on Suggestion boxes
3. Financial Reports for May 2016 – informational Pages 102-110

X. ADJOURNMENT

ACCOMMODATION OF PHYSICAL IMPAIRMENTS: In order to accommodate persons with physical impairments, please notify the City Recorder's Office of any special physical or language accommodations you may need as far in advance of the meeting as possible and no later than two business days prior to the meeting. To request these arrangements, please contact the City Recorder at (503) 537-1283. For TTY services please dial 711.

Council accepts comments on agenda items during the meeting. Fill out a form identifying the item you wish to speak on prior to the agenda item beginning and turn it into the City Recorder. Speakers who wish the Council to consider written material are encouraged to submit written information in writing by 12:00 p.m. (noon) the day of the meeting.

The Mayor reserves the right to change the order of items to be considered by the Council at their meeting. No new items will be heard after 11:00 p.m., unless approved by the Council.

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: July 18, 2016

Order ___ Ordinance ___ Resolution ___ Motion XX Information ___
No. No. No.

SUBJECT: Adopt a Proclamation declaring July 28-31, 2016, as Newberg Old Fashioned Festival Week.

Contact Person (Preparer) for this Motion: Mayor Andrews
Dept.: Council

RECOMMENDATION:

Adopt a proclamation declaring July 28-31, 2016 as Newberg Old Fashioned Festival Week.

EXECUTIVE SUMMARY:

Every year the Newberg Old Fashioned Festival is put on in the city of Newberg the last full weekend in July, this year the festival will be held July 28-31, 2016

FISCAL IMPACT:

None

STRATEGIC ASSESSMENT:

Approving this proclamation supports the council’s goal of enhancing Newberg’s community and being actively involved in community events.



PROCLAMATION

A PROCLAMATION DECLARING JULY 28-31, 2016, AS THE NEWBERG OLD FASHIONED FESTIVAL WEEK

WHEREAS, the city of Newberg is a family friendly community that hosts many gatherings, numerous celebrations, and a variety of entertainment venues where old friends and new ones can get together; and

WHEREAS, each year the city of Newberg and many members of the community participate by celebrating community spirit, during the last full weekend in July; and

WHEREAS, the city of Newberg participates in many ways and welcomes the community and visitors each year to join them in the Newberg Old Fashioned Festival activities, and enjoy the camaraderie and sense of community built by a festival of this extent; and

WHEREAS, the many Newberg Old Fashioned Festival events that take place during the week, bring the community together for fun and entertainment. This is the Thirty-Sixth (36th) Anniversary Year of the festival and is a special time for everyone involved in this event. The theme for this year is, "Christmas in July".

NOW, THEREFORE, IT IS PROCLAIMED by the mayor and city council of the city of Newberg, that July 28-31, 2016, is hereby designated:

NEWBERG OLD FASHIONED FESTIVAL WEEK IN THE CITY OF NEWBERG

IN WITNESS WHEREOF, I have hereunto set my hand and cause the seal of the city of Newberg to be affixed on this 18th day of July, 2016.

Bob Andrews, Mayor

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: July 18, 2016

Order ___ Ordinance ___ Resolution ___ Motion XX Information ___
No. No. No.

SUBJECT: Minutes

**Contact Person (Preparer) for this
Motion: Sue Ryan, City Recorder
Dept.: Administration
File No.:**

RECOMMENDATION:

Approve City Council minutes from June 20, 2016.

**NEWBERG CITY COUNCIL MINUTES
REGULAR SESSION
June 20, 2016, 7:00 PM
PUBLIC SAFETY BUILDING (401 E. THIRD STREET)**

A work session was held at 6:00 p.m. preceding the meeting. Present were Mayor Bob Andrews, Councilors Lesley Woodruff, Mike Corey, Patrick Johnson and Stephen McKinney. Also present were Steve Rhodes, City Attorney Truman Stone, City Recorder Sue Ryan, Finance Director Matt Zook, Community Development Director Doug Rux and Interim Human Resources Director Nancy McDonald.

Steve Rhodes said the Strategic Tourism Plan had been developed to support one of the pillars in the Economic Development Strategy. The plan was developed by consultants and an advisory group.

Jon-Paul Bowles presented the Strategic Tourism Plan. He said the focus was Newberg as the gateway to Oregon wine country. Goals included: Tourism contributing to economic development, Newberg becoming known as a place of makers and doers, The collaborative relationship with downtown's development, A strong relationship between the private and public sector, and Projects using development dollars as a benefit to local citizens and enhancing the City as a destination. The plan had three chapters: Organizational Development, Destination Development, and Destination Marketing. There needed to be a marketing strategy aligned with the Tourism Plan and the user types that Newberg could attract as a wine country destination. Some niche markets of Newberg that would be appealing were: wine country adventurers, millennial explorers, George Fox events, and luxury wine travelers.

Newberg was at the center of wine country and the City could have several lodging opportunities. The Chehalem Valley Chamber's Visitor Center served 10,000 people per year as well as the Wine Education Center events. There were several destination marketing type organizations in the area, which cluttered the brand and there was opportunity to do more coordination. Destination development was an opportunity to identify the gaps that would have the highest return on investment for the City. Newberg had incredibly beautiful countryside, but there was an issue with the sightline driving into the City from 99W. Work needed to be done on downtown to make it more competitive as a wine country destination.

Mr. Bowles explained tactics to increase people spending more tourism money in Newberg. About 80% of visitor ready experiences were ready to go, and he recommended investing in that 20% gap. He suggested the Transient Lodging Tax could be invested for creating visitor experiences. Tourism organizations should collaborate to leverage funds through a funding matrix. Some recommendations were an independent board with people who represented the industry and the City as a pass through for the TLT funds. The organization could contract with the City for multiple year sessions.

There was discussion on how the strategy could help the City make decisions on where to spend the money through targeting markets and prioritizing investments. There was discussion on the proposed board, its composition and the rationale on having non-Newberg members on the board. development.

Councilor Johnson asked about the process for moving forward with the plan. Mr. Rhodes said this was the framework and gave them a direction for the future. A lot more work would need to be done if it was approved. There was no timeline or next steps, and the Council would help direct the City in how to move forward.

The meeting adjourned at 7:00 p.m.

CALL MEETING TO ORDER

The Mayor called the meeting to order at 7:15 p.m.

ROLL CALL

Members Present:	Mayor Bob Andrews	Scott Essin	Stephen McKinney
	Lesley Woodruff	Mike Corey	Denise Bacon
	Patrick Johnson		

Staff Present:	Joe Hannan, City Manager	Matt Zook, Finance Director
	Sue Ryan, City Recorder	Truman Stone, City Attorney

Leah Griffith, Library Director Brad Allen, Code Compliance Officer
Doug Rux, Community Development Director
Nancy McDonald, Interim Human Resources Director

Also Present: Steve Rhodes

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was performed.

PRESENTATIONS:

City Recorder Ryan said there was a resolution for Council to approve that recognized Steve Rhodes for his service as City Manager Pro Tem. She read the title of the resolution. City Attorney Stone presented the sign for the private driveway to Steve Rhodes.

MOTION: Andrews/Bacon moved to approve Resolution 2016-3291, A Resolution recognizing the contributions of Steve Rhodes to the City of Newberg as the City Manager Pro Tem from September 2015 to June 2016 and naming a private driveway "Rhodes Road" in appreciation for his services. Motion carried (7 Yes/ 0 No).

CITY MANAGER'S REPORT: City Manager Hannan said the transfer to Tualatin Valley Fire & Rescue for fire and EMS services would happen in July and he explained some steps that needed to be taken before that. He was doing a lot of listening and learning in his new position. A new employee was summer intern Sydney Beadle, whom began today at the City. He had met with staff, was working to meet with all of the Council, and met with other community groups and organizations. He was learning a lot from the Mayor as well.

Mayor Andrews announced testing of drinking fountains in City facilities would begin tomorrow and they were currently off limits. Item 4 was pulled off the Consent Calendar and would be discussed under New Business.

COUNCIL APPOINTMENTS:

MOTION: Johnson/Bacon moved to appoint Suzanne Meenahan to the Position #2 (July 1, 2016 to June 30, 2020) to the Newberg Public Library Advisory Board. Motion carried (7 Yes/0 No).

MOTION: McKinney/Corey moved to appoint Zoe Jenkins to Historic Preservation Commission and Miranda Prios to Planning Commission for terms of June 2016-May 2017. Motion carried (7 Yes/0 No).

PUBLIC COMMENTS:

Carolyn Phipps, Newberg resident, discussed a bad situation she was experiencing with rodents, especially on 4th and Center. There was a house on River Street that was cluttered with debris and garbage. She did a rat survey on River, Center, and Meridian streets and most of the problem was on Center Street. She had spoken with staff and her neighbors, but nothing was being done. The rodents had been living in her garage and she was interested in being reimbursed for the exterminator she had to use. Code Compliance Officer Allen said he had heard the concern last year and a few particular properties were cleaned up. He would look at the list made by Ms. Phipps and follow up to address the concern.

CONSENT CALENDAR:

MOTION: Bacon/Corey moved to approve minutes from May 16, 2016; approved an OLCC Winery license for Bravura Cellars, approve Resolution 2016-3310, A resolution authorizing the Mayor to execute the Oregon Public Service Retirement plan coverage agreement for participation in the Public Employees Retirement System (PERS) for all eligible non-represented employees hired on or after August 1, 2016; Resolution 2016-3304, A Resolution approving the annual evaluation of the Municipal Judge; Resolution 2016-3308, A resolution amending Resolution No. 2002-2358 to authorize the City Manager to do all necessary acts to modify and implement the length of service award program (LOSAP); Resolution 2016-3305, A resolution authorizing the City Manager to execute the first amendment to the intergovernmental agreement with Tualatin Valley Fire & Rescue for provision of Fire and Emergency Medical Services; approve Resolution 2016-3313, A Resolution approving an Intergovernmental Agreement between the City of Newberg and Marion County authorizing Newberg-Dundee Police Department reserve officers to assist with police services during the 2016 St. Paul Rodeo and related events. Motion carried (7 Yes/ 0 No).

PUBLIC HEARING - ADMINISTRATIVE: Resolutions 2016-3299:

Mayor Andrews opened the hearing and called for any abstentions or conflicts of interest on the part of the Council. There were none.

Finance Director Zook said the supplemental budget was for additional revenue that came from conflagration and grants. The appropriations increased by about \$560,000. He explained the funds that were being affected. He recommended approval of the resolution.

Proponents: None

Opponents: None

Mayor Andrews closed the hearing.

MOTION: Corey/Woodruff moved to approve Resolution 2016-3299, A Resolution to adopt a Supplemental Budget #2 for Fiscal Year 2015-2016, beginning July 1, 2015 and ending June 30, 2016. Motion carried (7 Yes/0 No).

Resolution 2016-3273:

Mayor Andrews opened the hearing and called for any abstentions or conflicts of interest or objections to jurisdiction on the part of the Council. There were none.

Community Development Director Rux explained the grant opportunity to assist people in manufactured home parks repair their dwellings. This would be for low to moderate income families within the community. He read Exhibit A, which explained the requirements for the grant, what the grant funds could be used for, and how the grant would work. He recommended approval of Resolution 2016-3273.

Councilor Corey asked how participants would be chosen. Darcy Reynolds, Yamhill County Housing Authority, replied it would be administered by the Housing Authority for the non-profit Yamhill County Affordable Housing Corporation. She explained how it was a grant not a loan, and would assist many low-income, especially senior or disabled populations. It would address immediate needs such as wheelchair ramps, roof leaks, and modifications to bathrooms.

Councilor McKinney clarified the grants would be used for health and safety issues and wished that it addressed the habitats to make them more sustainable. Ms. Reynolds said the need was large. The grant had restrictions including one that they could not assist more than 50% of the value. There were currently 200 people on the waitlist and 78 for Newberg. Councilor Woodruff asked about the timeline. Ms. Reynolds said the State would be accepting applications in the third quarter of the year and the grant would be awarded in November or December. An environmental review would have to be done before funding was given. It would be spring of 2017 before families could be helped.

Rick Rogers, Habitat for Humanity, said there was a desperate need for this in the community. There were 600 units of manufactured houses in Newberg, most of which were low income housing. Habitat had small repair grants and many manufactured home owners applied. The proposed grant program was not as flexible as he would like, but there was great need for the program.

Mayor Andrews closed the hearing.

MOTION: Essin/McKinney moved to approve Resolution 2016-3273, A Resolution supporting the submission of a 2016 Housing Rehabilitation Community Development Block Grant (CDBG) application to the Oregon Business Development Department (OBDD) by the Housing Authority of Yamhill County (HAYC) and the Yamhill County Affordable Housing Corporation (YCAHC) on behalf of the City of Newberg, and appointing Community Development Director Doug Rux, as both the project and the Environmental Review certifying officer. Motion carried (7 Yes/0 No).

NEW BUSINESS: Resolution 2016-3307:

Mr. Rhodes presented the Newberg Strategic Tourism Plan. The process began last November when discussions began on what to do with the increased Transient Lodging Tax funds. It was developed and overseen by consultants and an advisory

group. The first step was to strengthen visitor ready experiences in the City and find a cohesive brand with the various tourism agencies. It was recommended to put together an organization responsible to begin work. The Council would work on the organizational development. The City would always be the chartering organization no matter how the body would be put together as the Council approved how the funds would be allocated through the budget process. By adopting the plan, the Council put the process in motion and staff would come back with options for moving forward.

Rick Rogers said one area in the plan was mentioned as a weakness in economic development, and that was housing for low and very-low income. The people who were doing the work needed a place to live in our community. He asked whether or not in the definition of tourism related facility could there be an incentive for some development of housing, especially for those that worked in the tourism industry.

Councilor Johnson supported the plan as long as it was able to be modified or discussed. Councilor Corey was also in support, but was concerned about whether TLT funds could be used for affordable housing. Councilor McKinney would be voting in favor, but was concerned about the composition of the board and that the Visitor Center contract would be negotiated by a board and not the Council. He was hesitant about using TLT funds for an affordable housing aspect. Mayor Andrews thought this was a move in the right direction.

MOTION: Corey/Bacon moved to approve Resolution 2016-3307, A Resolution adopting the Newberg Strategic Tourism Plan dated June 13, 2016. Motion carried (7 Yes/0 No).

Resolution 2016-3311:

FD Zook said this was a change to the City's retirement plan investment structure. There was a discrepancy in the numbers in the resolution. The resolution said the investment went from 5 to 10%, but the investment actually went from 6 to 10% in the real property allocation.

MOTION: Corey/McKinney moved to approve Resolution 2016-3311, A Resolution authorizing a change in the Newberg Employee Retirement Plan asset allocation as amended, Motion carried (7 Yes/0 No).

COUNCIL BUSINESS:

Mayor Andrews reported on the Newberg Old Fashioned Festival parade, the League of Oregon Cities legislative priorities and how Council would select ones that were the most important to Newberg. There was discussion on whether department heads should attend every meeting. There was consensus to continue the practice of having people attend if they had an item on the agenda otherwise it was up to the individual department head. Mayor Andrews reported on the Parkway Committee meeting and Oregon Transportation Commission meeting where bypass funding was discussed.

Councilor Essin discussed the definition of the Council with the City Attorney where it was confirmed the Council were volunteers by ordinance, and were employees by the IRS. They were not asking to be employees. He discussed other cities that gave their councils stipends and how much the councils received.

MOTION: Essin/Corey moved to direct staff to draft an ordinance for future consideration for a Council stipend of \$200 per month beginning July 1. Corey amended the motion that the change would occur in the Municipal Code. Motion failed (0 Yes/ 7 No).

CA Stone discussed what the Charter, Municipal Code, and Council Rules said about Council compensation, as outlined in his memo sent out earlier today. The Council could repeal the current reimbursement per meeting, replace it with a monthly stipend or the monthly stipend could be in addition to the per meeting amount. The amount was set by Ordinance and budget.

Councilor Corey supported the change. A Classification and Compensation Study was done for the employees and the same analysis for Council showed most councils were compensated a monthly amount, not per meeting. It needed to be reasonable to keep good people on the Council. Councilor Bacon said everyone made choices for how their time was invested, and for her it was not about the money. She did not feel comfortable taking money from more important projects. She was not in support.

Councilor Johnson thought the Council deserved the money, but he was concerned about the perception after raising rates and going through recent controversies. He thought the confidence in the Council had taken a hit and thought citizens needed to be able to weigh in on the decision. It should be brought up during the next budget process.

Councilor Woodruff was not in support. She did not want people to run for Council because it would be compensated. They did it because they cared and the money could be spent on other things right now.

Councilor Corey said during the budget process, items had been added that had been previously taken out. He thought it was a good way to spend the funds, and the Council was another good way to spend the funds.

Councilor Essin said they were only taking about \$25,000 out of an \$80 million budget. They added five full-time employees to the budget this year. This was a stipend to recover a portion of what they spent to be volunteers. He would propose another motion if this one did not pass to remove all compensation for everyone including the Mayor so they were all compensated the same.

Mayor Andrews said he was mayor because he believed in volunteering to support the community. He received a stipend, but it did not cover all his expenses. He was proud to be a volunteer and did not need more compensation than what he was already receiving. He was not in support of the motion.

Councilor McKinney thought they had been spending too much time talking about this topic. This was a small portion of the City's budget and it was not revenue neutral. The commitment to the Council took a lot of personal time and it cost money to be a Councilor. He thought there was reasonable compensation that could be agreed upon.

Councilor Corey said there were funds in the Council budget that could be used for the stipend.

MOTION: Essin moved to direct staff to draft an ordinance for future consideration to remove all compensation. Motion died for lack of a second.

Councilor Johnson asked if there was something in place for manufactured home parks to prevent eviction and selling of the property. He would like to discuss it at a future meeting. There was discussion regarding State regulations and how much the City could regulate or would be able to develop protections. There was consensus to have staff put it on their task list. CA Stone said there were State protections put in place in response to manufactured home issues, but there was nothing in the City's Code to address it. He discussed the serial meetings case in Lane County and that a legislative fix was going to be needed. He reminded the Council that his job was to assist the Council in preparing motions, RCAs, etc., and he was available to all Council.

Councilor McKinney asked about assisting NOFF with some funding. CDD Rux said NOFF contacted him and they were requesting \$8,000. Staff would bring it back to Council for consideration.

ADJOURNMENT: The meeting was adjourned at 9:14 p.m.

ADOPTED by the Newberg City Council this 18th day of July, 2016.

Sue Ryan, City Recorder

ATTESTED by the Mayor this ____ day of July, 2016.

Bob Andrews, Mayor

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: July 18, 2016

Order ___ Ordinance ___ Resolution XX Motion ___ Information ___
No. No. No. 2016-3314

SUBJECT: A resolution to authorize the City Manager to enter into agreement with the State of Oregon to exchange federal funds for state funds for the city's Villa Road Improvement Project	Contact Person (Preparer) for this Motion: Paul Chiu, P.E., Senior Engineer Dept.: Engineering Services Department File No.:
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RECOMMENDATION:

Adopt Resolution No. 2016-3314 authorizing the City Manager to enter into agreement with the State of Oregon to exchange federal funds for state funds for the city's Villa Road Improvement Project.

EXECUTIVE SUMMARY:

Under an agreement with the Association of Oregon Counties and the League of Oregon Cities, the Oregon Department of Transportation (ODOT) allocates a portion of its yearly federal funds received through the Surface Transportation Program (STP) to local governments (with populations above 5,000 and less than 200,000) to support selected local transportation projects. The City of Newberg received a federal allocation of \$251,989.00 in 2016.

By exchanging the funds at the rate of \$94 state funds for \$100 federal funds, the city is allowed to use the money for selected city transportation projects without having to follow the federal contracting procedures. However, ODOT has to determine the eligibility of the city project for this funding.

Staff is proposing to exchange \$716,065.00 federal funds for \$673,101.10 state funds to pay for a major portion of the city's Villa Road Improvement Project. (The proposed fund exchange includes federal allocations from prior calendar years.) ODOT agrees that this project is eligible for this funding.

FISCAL IMPACT:

The Villa Road Improvement Project (account #18-5150-702163) is an approved city project in the current fiscal year. Executing this agreement allows the city to adequately fund the high priority Villa Road Improvement Project.

STRATEGIC ASSESSMENT:

Villa Road Improvement Project is listed as a high priority transportation project in the city's Transportation System Plan. The use of federal fund exchange allocations will allow the city to complete this critical north and south major collector. The project will provide bike lanes, sidewalks, improved creek crossings, curb drainage, and enhance roadway safety by improving the vertical and horizontal alignment of the roadway from Haworth Avenue to Park Lane.



RESOLUTION No. 2016-3314

A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO ENTER INTO AGREEMENT WITH THE STATE OF OREGON TO EXCHANGE FEDERAL FUNDS FOR STATE FUNDS FOR THE CITY'S VILLA ROAD IMPROVEMENT PROJECT.

RECITALS:

1. The Surface Transportation Program (STP) provides federal funding to states and local governments that can be used for selected transportation projects.
2. Under an agreement with the Association of Oregon Counties and the League of Oregon Cities, the Oregon Department of Transportation (ODOT) allocates a portion of its yearly STP funds to local governments for supporting selected local transportation projects.
3. Staff has proposed to ODOT that a major portion of the Villa Road Improvement Project is funded with the federal fund exchange allocations.
4. ODOT has agreed to exchange \$716,065.00 in federal funds for \$673,101.10 of state funds for the city's requested project.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

The City Council does hereby authorize the City Manager to sign the agreement, and any future amendments, prepared by the state entitled Miscellaneous Contracts and Agreements No. 31335, shown in Exhibit "A", which is attached. Exhibit "A" is hereby adopted and by this reference incorporated.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: July 19, 2016.

ADOPTED by the City Council of the City of Newberg, Oregon, this 18th day of July, 2016.

Sue Ryan, City Recorder

ATTEST by the Mayor this 21st day of July, 2016.

Bob Andrews, Mayor

EXHIBIT "A" for Resolution No. 2016-3314

Misc. Contracts and Agreements
No. 31335

2016 FUND EXCHANGE AGREEMENT

Villa Road Improvement Project
City of Newberg

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State;" and CITY OF NEWBERG, acting by and through its elected officials, hereinafter referred to as "Agency," both herein referred to individually or collectively as "Party" or "Parties."

RECITALS

1. By the authority granted in Oregon Revised Statutes (ORS) 190.110, 366.572 and 366.576, State may enter into cooperative agreements with counties, cities and units of local governments for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties.

TERMS OF AGREEMENT

1. Agency has submitted a completed and signed Part 1 of the Project Prospectus, or a similar document agreed to by State, outlining the schedule and costs associated with all phases of the Villa Road Improvement Project, hereinafter referred to as "Project."
2. State has reviewed Agency's prospectus and considered Agency's request for the Fund Exchange. State has determined that Agency's Project is eligible for the exchange of funds.
3. To assist in funding the Project, Agency has requested State to exchange 2016 federal funds, which have been allocated to Agency, for state funds based on the following ratio:

\$94 state for \$100 federal

4. Based on this ratio, Agency wishes to trade \$716,065.00 federal funds for \$673,101.10 state funds.
5. The term of this Agreement will begin upon execution and will terminate two (2) years later unless extended by an executed amendment.
6. The Parties agree that the exchange is subject to the following conditions:
 - a. The federal funds transferred to State may be used by State at its discretion.

EXHIBIT "A" for Resolution No. 2016-3314

City of Newberg / State of Oregon – Dept. of Transportation
Agreement No. 31335

- b. State funds transferred to Agency must be used for the Project. This Fund Exchange will provide funding for specific roadway projects and may also be used for the following maintenance purposes:
 - i. Purchase or Production of Aggregate. Agency shall ensure the purchase or production of aggregate will be highway related and used exclusively for highway work.
 - ii. Purchase of Equipment. Agency shall clearly describe how it plans to use said equipment on highways. Agency shall demonstrate that the equipment will only be used for highway purposes.
- c. State funds may be used for all phases of the Project, including preliminary engineering, right of way, utility relocations and construction. Said use shall be consistent with the Oregon Constitution and statutes (Section 3a of Article IX Oregon Constitution). Agency shall be responsible to account for expenditure of state funds.
- d. This Fund Exchange shall be on a reimbursement basis, with state funds limited to a maximum amount of \$673,101.10. All costs incurred in excess of the Fund Exchange amount will be the sole responsibility of Agency.
- e. State certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within State's current appropriation or limitation of the current biennial budget.
- f. Agency, and any contractors, shall perform the work as an independent contractor and will be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work including, but not limited to, retirement contributions, workers' compensation, unemployment taxes, and state and federal income tax withholdings.
- g. Agency shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279C.505, 279C.515, 279C.520, 279C.530 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, Agency expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
- h. Agency, or its consultant, shall conduct the necessary preliminary engineering and design work required to produce final plans, specifications and cost estimates;

EXHIBIT "A" for Resolution No. 2016-3314

City of Newberg / State of Oregon – Dept. of Transportation
Agreement No. 31335

purchase all necessary right of way in accordance with current state and federal laws and regulations; obtain all required permits; be responsible for all utility relocations; advertise for bid proposals; award all contracts; perform all construction engineering; and make all contractor payments required to complete the Project.

- i. Agency shall submit invoices to State on a monthly basis, or at the end of the Project, for actual costs incurred by Agency on behalf of the Project directly to State's Project Manager for review and approval. Such invoices will be in a form identifying the Project, the Agreement number, the invoice number or account number or both, and will itemize all expenses for which reimbursement is claimed. Under no conditions shall State's obligations exceed \$673,101.10, including all expenses. Travel expenses will not be reimbursed.
- j. Agency shall, at its own expense, maintain and operate the Project upon completion at a minimum level that is consistent with normal depreciation and service demand.
- k. All employers, including Agency, that employ subject workers 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. Employers Liability insurance with coverage limits of not less than \$500,000 must be included. Agency shall ensure that each of its subcontractors complies with these requirements.
- l. This Agreement may be terminated by either Party upon thirty (30) days' notice, in writing and delivered by certified mail or in person.
 - i. State may terminate this Agreement effective upon delivery of written notice to Agency, or at such later date as may be established by State, under any of the following conditions:
 - A. If Agency fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - B. If Agency fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from State fails to correct such failures within ten (10) days or such longer period as State may authorize.
 - ii. Either Party may terminate this Agreement effective upon delivery of written notice to the other Party, or at such later date as may be established by the terminating Party, under any of the following conditions:

EXHIBIT "A" for Resolution No. 2016-3314

City of Newberg / State of Oregon – Dept. of Transportation
Agreement No. 31335

- A. If either Party fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow either Party, in the exercise of their reasonable administrative discretion, to continue to make payments for performance of this Agreement.
 - B. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or either Party is prohibited from paying for such work from the planned funding source.
 - iii. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
 - m. State and Agency agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be invalid, unenforceable, illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.
7. Agency acknowledges and agrees that State, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of Agency which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by State.
8. Agency certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Agency, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Agency.
9. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
10. This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of

EXHIBIT "A" for Resolution No. 2016-3314

City of Newberg / State of Oregon – Dept. of Transportation
Agreement No. 31335

State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

The funding for this Fund Exchange program was approved by the Oregon Transportation Commission on December 18, 2014, as a part of the 2015-2018 Statewide Transportation Improvement Program (STIP).

The Program and Funding Services Manager approved the Fund Exchange on June 23, 2016.

SIGNATURE PAGE FOLLOWS

EXHIBIT "A" for Resolution No. 2016-3314

City of Newberg / State of Oregon – Dept. of Transportation
Agreement No. 31335

CITY OF NEWBERG, by and through its
elected officials

By Authority of Resolution No. _____

By _____
Mayor

Date _____

By _____
City Manager

Date _____

APPROVED AS TO LEGAL FORM

By _____
City Attorney

Date _____

Agency Contact:

Paul Chiu, PE, Senior Engineer
City of Newberg, Engineering Services Dept.
PO Box 970
Newberg, OR 97132
Phone: (503) 554-1751
Email: paul.chiu@newbergoregon.gov

STATE OF OREGON, by and through its
Department of Transportation

By _____
Highway Division Administrator

Date _____

APPROVAL RECOMMENDED

By _____
Region 2 Manager

Date _____

By _____
Region 2 Planning and Development
Manager

Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

By _____
Assistant Attorney General

Date _____

State Contact:

Shelly White-Robinson, Acting Local Project
Delivery Coordinator
ODOT, Region 2
455 Airport Road, SE, Bldg. B
Salem, OR 97301
Phone: (503) 986-6925
Email: shelly.white-robinson@odot.state.or.us

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: July 18, 2016

Order ___ Ordinance ___ Resolution ___ Motion XX Information ___
No. No.

SUBJECT: Recommendation for Approval of an Oregon Liquor Control Commission (OLCC) Brewery Public House dba: Newberg Growler House

Contact Person (Preparer) for this Motion: Karan Frketich
Dept.: Police
File No.:

RECOMMENDATION:

Recommend to the Oregon Liquor Control Commission (OLCC) that they approve a Brewery Public House dba: Newberg Growler House

EXECUTIVE SUMMARY:

A local records check and that of the state criminal data base reveals no issues or concern.

FISCAL IMPACT:

None

STRATEGIC ASSESSMENT (RELATE TO COUNCIL GOALS):

None

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: July 18, 2016

Order ___ No.	Ordinance ___ No.	Resolution <u>XX</u> No. 2016-3319	Motion ___	Information ___
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SUBJECT: Recognition of ATV as a donated asset from the Newberg Dundee Reserve program

**Contact Person (Preparer) for this Motion: Matt Zook
Dept.: Finance
File No.:**

RECOMMENDATION:

Adopt Resolution No. 2016-3319

EXECUTIVE SUMMARY:

The Newberg Dundee Reserves (NDR) has recently purchased an ATV for use in its activities serving the Newberg Dundee Police Department (NDPD). The value of the ATV is approximately \$14,300. NDR would like to donate the ATV to the City. This will allow this City to cover the ATV under its insurance policy. The insurance on this vehicle is approximately \$75 per year. The City recommends that Council authorize the receipt of this donation

FISCAL IMPACT: The anticipated fiscal impact results in the increase of the City's insurance premium as referenced above. As this is a brand new vehicle, there is no operational impact on the City's existing budget. Further, it expands the NDPD fleet to save potential wear on a traditional patrol vehicle.

STRATEGIC ASSESSMENT (RELATE TO COUNCIL GOALS):

The acceptance of this ATV as a donated assets allows the City to further operate the City government in an efficient and effective manner, as well as provide a high level of Public Service.



RESOLUTION No. 2016-3319

**A RESOLUTION ACCEPTING THE DONATION OF AN ATV FROM THE
NEWBERG DUNDEE RESERVES FOR CITY USE**

RECITALS:

1. Whereas, the Newberg Dundee Reserves owns an ATV for use in performing services for the Newberg Dundee Police Department, and
2. Whereas, the value of this vehicle will greatly enhance the City's ability to provide police services at City events, as well as in areas unsuitable for traditional police vehicles, and
3. Whereas the value of this asset is approximately \$14,300.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. To receive the donation of an ATV from the Newberg Dundee Reserves for use in official City business.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: July 19, 2016.

ADOPTED by the City Council of the City of Newberg, Oregon, this 18th day of July, 2016.

Sue Ryan, City Recorder

ATTEST by the Mayor this _____ day of _____, 201x.

Bob Andrews, Mayor

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: July 18, 2016

Order ___	Ordinance <u>XX</u>	Resolution ___	Motion ___	Information ___
No.	No. 2016-2807	No.		

SUBJECT: An Ordinance authorizing city personnel or fire/ems personnel to operate ATVs within the City of Newberg while performing official duties; and declaring an emergency

Contact Person (Preparer) for this Motion: Sgt. Baltzell (Executive Summary) / Truman Stone (Ordinance)
Dept.: Police/Legal
File No.:

HEARING TYPE: **LEGISLATIVE** **QUASI-JUDICIAL** **NOT APPLICABLE**

RECOMMENDATION:

Adopt Ordinance No. 2016-2807.

EXECUTIVE SUMMARY:

Over the past several years the Newberg-Dundee Reserve Officer program has been saving a portion of each officer’s hourly wage from paid events. The reserve department has worked hard to keep equipment spending down in order to save money with a goal of purchasing a utility vehicle (ATV) for use while working special events such as Old Fashioned Festival, Special Olympics and other similar venues. That goal has been reached and the Reserve Officer purchased an ATV for donation to the City.

An ATV enhances the PD’s ability to work city functions such as Old Fashioned Festival, Special Olympics, Tunes on Tuesdays and the like. An off road capable utility vehicle will allow for the transport of multiple officers and equipment quickly and over large event areas. It will prove to be a valuable asset that will assist our officers in serving the public more efficiently. Officers will be able to respond to law enforcement or medical calls more quickly in areas where patrol cars cannot go. With the implementation of the new by-pass as well as the proposed walking and biking trails in the area, it will require a more diverse mode of transportation for enforcement activity. The ATV will give the officers the ability to move quickly to different points along trails while also affording the officers the function of taking offenders into custody and transporting them over those distances. This cannot be done on bike and patrol cars are not suitable for the pathways.

This ordinance authorizes City employees and volunteers, together with Fire/EMS personnel, to operate ATVs on City streets and properties while performing official duties. It contemplates signs being put in place to notify the public of the possibility of encountering ATVs on the roadways.

FISCAL IMPACT: The financial impact cannot be calculated, but it is anticipated that it will result in some minimal savings while operating an ATV versus a patrol car or public works vehicle.

STRATEGIC ASSESSMENT (RELATE TO COUNCIL GOALS): Not applicable.



ORDINANCE No. 2016-2807

AN ORDINANCE AUTHORIZING CITY PERSONNEL OR FIRE/EMS PERSONNEL TO OPERATE ATVS WITHIN THE CITY OF NEWBERG WHILE PERFORMING OFFICIAL DUTIES; AND DECLARING AN EMERGENCY

RECITALS:

1. All-terrain vehicles (ATVs) are an effective alternate to cars, trucks or bicycles.
2. The Newberg-Dundee Police Reserve Association has purchased an ATV with it's own funds to donate to the city.
3. ATVs have been used during City events such as the Old Fashion Festival and Special Olympics by the police department, fire department and public works department.
4. This ordinance clarifies the legal status of ATVs while operated on City streets and property, by authorizing City employees and volunteers, together with Fire/EMS personnel to operate ATVs in performance of official duties.
5. Emergency Clause is included in this ordinance to make it effective ahead of the 2016 Old Fashion Festival.

THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

Section 1. Article VI. Penalty and Chapter 10.10.230 shall be renumbered as follows:

Article VII. Penalty

10.10.400 Penalty

Section 2. A new title, Article VI. Operation of All-Terrain Vehicles, is added to read as follows:

10.10.300 Definitions.

- A. All-Terrain Vehicle. An "ATV" is defined, as it is in ORS 801.190 – 194, as any Class I, II, III or IV all-terrain vehicle.
- B. City Operated ATV. A "City operated ATV" is defined as an ATV being operated by City of Newberg employees or volunteers while in the performance of their official duties.
- C. Fire ATV. A "Fire ATV" is defined as an ATV being operated by Fire or Emergency Medical Service personnel while on duty within the city or while responding to a fire or medical emergency.

10.10.310 Operation ATVs permitted on city highways and property.

Operation of a City Operated ATV or Fire ATV shall be allowed upon public roadways, streets, highways, parks, park trails, pathways, city property and other related areas within the City of Newberg.

10.10.320 Signage required.

The city administration will determine what signage is appropriate and post appropriate signage on City streets, highways, roadways or other points within the City limits, as now constituted or hereafter changed, to give notice to all persons that the operation of City Operated ATV or Fire ATV are permitted.

Section 3. Emergency Clause.

The Council declares that an emergency exists because delay in passage would not allow effective use of ATVs during the 2016 Old Fashion Festival; therefore, this ordinance shall be in full force and effect from and after its passage by the Council.

➤ **EFFECTIVE DATE** of this ordinance is: July 19, 2016.

ADOPTED by the City Council of the City of Newberg, Oregon, this ____ day of _____, 2016, by the following votes: **AYE:** **NAY:** **ABSENT:** **ABSTAIN:**

Sue Ryan, City Recorder

ATTEST by the Mayor this _____ day of _____, 2016.

Bob Andrews, Mayor

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: July 18, 2016

Order ___ No.	Ordinance __ No.	Resolution <u>XX</u> No. 2016-3315	Motion ___	Information ___
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SUBJECT: Resolution authorizing the City Manager to execute Amendment No. 1 to an Intergovernmental Agreement (IGA) with the State of Oregon to provide right-of-way services for the Newberg-Dundee Bypass Project (Agreement No. 29496)

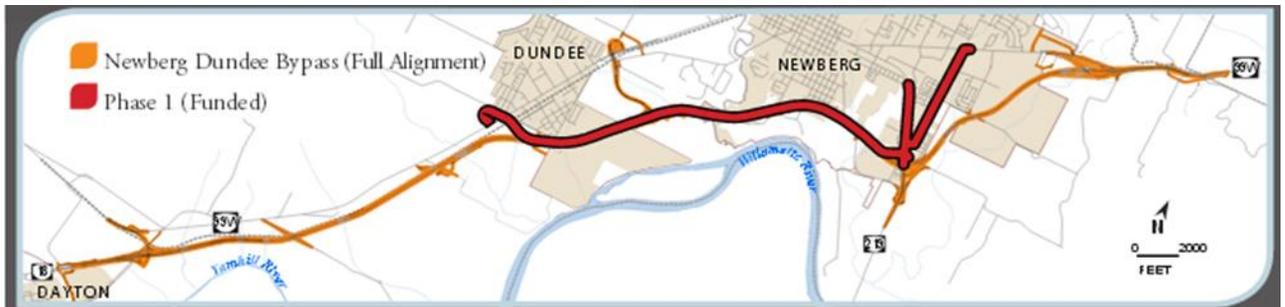
**Contact Person (Preparer) for this Motion: Kaaren Hofmann, City Engineer
Dept.: Engineering Services Department
File No.:**

RECOMMENDATION:

Adopt **Resolution No. 2016-3315.**

EXECUTIVE SUMMARY:

The Oregon Department of Transportation (ODOT) is working to complete Phase 1 of the Newberg-Dundee Bypass Project, which upon completion will divert Highway 99W traffic onto the new bypass from Springbrook Road in the City of Newberg to a point west of SE Parks Drive in the City of Dundee, as illustrated in the map below.



In preparation for the construction on S. Springbrook Road, the City of Newberg and ODOT entered into an IGA for right-of-way services. Agreement No. 29496 was signed in July 2013 and is attached. The expiration date for this agreement was set at June 30, 2016 and needs to be extended until August 30, 2019.

The other major amendment is to add language to respond to the new federal procurement codes. Since the City is not certified to administer right-of-way services for federal aid projects, this provision is essentially moot.

FISCAL IMPACT:

The fiscal impact to the city is minimal as ODOT will be completing the work in acquiring the needed right of way and easements for the roadway project.

STRATEGIC ASSESSMENT:

The City Council's Goal #5 is to "Maintain and modernized the City's transportation and utilities infrastructure". More specifically, Objective 5.11 is to continue to support the completion of Phase 1 and the future build out of the Newberg-Dundee Bypass.

This amendment to our existing agreement will allow the proposed right of way and easement acquisition to be completed by ODOT to complete the bypass improvements.



RESOLUTION No. 2016-3315

**RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE
AMENDMENT NO. 1 TO AN INTERGOVERNMENTAL AGREEMENT WITH
THE STATE OF OREGON TO PROVIDE RIGHT-OF-WAY SERVICES FOR
THE NEWBERG-DUNDEE BYPASS PROJECT (AGREEMENT NO. 29496)**

RECITALS:

1. The Oregon Department of Transportation (ODOT) is in the process of constructing Phase 1 of the Newberg-Dundee Bypass.
2. The City Council's Goals include an objective to continue to support the completion of Phase 1 and the future build out of the Newberg-Dundee Bypass.
3. On July 16, 2016 Council authorized the execution of Agreement No. 29496 with ODOT for right of way services associated with the Newberg-Dundee Bypass.
4. The expiration date needs to be extended until August 30, 2019.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The Newberg City Council does hereby authorize the city manager to execute Amendment No. 1 to Agreement No. 29496 for the Newberg-Dundee Bypass project. The Amendment is shown in Exhibit "A", which is attached. Exhibit "A" is hereby adopted and by this reference incorporated.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: July 19, 2016.

ADOPTED by the City Council of the City of Newberg, Oregon, this 18th day of July 2016.

Sue Ryan, City Recorder

ATTEST by the Mayor this 21st day of July 2016.

Bob Andrews, Mayor

Misc. Contracts and Agreements
No. 29496

**INTERGOVERNMENTAL AGREEMENT
FOR RIGHT OF WAY SERVICES**

Oregon Route 18: Newberg-Dundee Bypass (Phase 1G) (Springbrook Road)

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State"; and CITY OF NEWBERG, acting by and through its elected officials, hereinafter referred to as "Agency," both herein referred to individually or collectively as "Party" or "Parties."

RECITALS

1. By the authority granted in Oregon Revised Statute (ORS) 190.110, 283.110, 366.572 and 366.576, state agencies may enter into agreements with units of local government or other state agencies for the performance of any or all functions and activities that a Party to the agreement, its officers, or agents have the authority to perform.
2. By the authority granted in ORS 366.425, State may accept deposits of money or an irrevocable letter of credit from any county, city, road district, person, firm, or corporation for the performance of work on any public highway within the State. When said money or a letter of credit is deposited, State shall proceed with the Project. Money so deposited shall be disbursed for the purpose for which it was deposited.
3. That certain Springbrook Road is a City Street under the jurisdiction and control of Agency and Agency may enter into an agreement for the acquisition of real property.
4. Oregon Route 18, is a part of the state highway system under the jurisdiction and control of the Oregon Transportation Commission (OTC).
5. This Agreement shall define roles and responsibilities of the Parties regarding the real property to be used as part of right of way for road, street or construction of public improvement. The scope and funding may be further described in Cooperative Improvement Agreement number 28658. Hereinafter, all acts necessary to accomplish services in this Agreement shall be referred to as "Project."

NOW THEREFORE, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

TERMS OF AGREEMENT

1. Under such authority, to accomplish the objectives in Agreement No. 28658, State and Agency agree to perform certain right of way activities shown in Special Provisions - Exhibit A, attached hereto and by this reference made a part hereof. If the State performs right of way services on behalf of the Agency, under no conditions shall Agency's obligations for said services exceed a maximum of \$0, including all expenses, unless agreed upon by both Parties.

2. The work shall begin on the date all required signatures are obtained and shall be completed no later than June 30, 2016, on which date this Agreement automatically terminates unless extended by a fully executed amendment.
3. The process to be followed by the Parties in carrying out this Agreement is set out in Exhibit A.
4. It is further agreed both Parties will strictly follow the rules, policies and procedures of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, ORS Chapter 35 and the "State Right of Way Manual".

STATE OBLIGATIONS

1. State shall perform the work described in Special Provisions - Exhibit A.
2. With the exception of work related to appraisals, State shall not enter into any subcontracts for any of the work scheduled under this Agreement without obtaining prior written approval from Agency.
3. If the State performs right of way services on behalf of the Agency, State shall perform the service under this Agreement as an independent contractor and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement including, but not limited to, retirement contributions, workers compensation, unemployment taxes, and state and federal income tax withholdings.
4. State's right of way contact person for this Project is Georgine Gleason, Region 2 Right of Way Agent, 455 Airport Road SE, Building A, Salem, Oregon 97301-5397; (503) 986-2604; georgine.n.gleason@odot.state.or.us, or assigned designee upon individual's absence. State shall notify the other Party in writing of any contact changes during the term of this Agreement.

AGENCY OBLIGATIONS

1. Agency shall perform the work described in Special Provisions - Exhibit A.
2. Agency certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within Agency's current appropriation or limitation of current budget. Agency is willing and able to finance all, or its pro-rata share of all, costs and expenses incurred in the Project up to its maximum.
3. Agency may utilize its own staff or subcontract any of the work scheduled under this Agreement provided Agency receives prior written approval of any staff, consultant or contractor by the State's Region Right of Way office.
4. Agency represents that this Agreement is signed by personnel authorized to do so on behalf of Agency.
5. Agency's right of way contact person for this Project is Jay Harris, City Engineer, City of Newberg, 414 E. First Street, Newberg, Oregon 97132; (503) 537-1211, or assigned

designee upon individual's absence. Agency shall notify the other Party in writing of any contact information changes during the term of this Agreement.

PAYMENT FOR SERVICES AND EXPENDITURES:

1. In consideration for the services performed by State (as identified in the attached Exhibit A), Agency agrees to pay or reimburse State a maximum amount of \$0. Said maximum amount shall include reimbursement for all expenses, including travel expenses. Travel expenses shall be reimbursed to State in accordance with the current Oregon Department of Administrative Services' rates. Any expenditure beyond federal participation will be from, or reimbursed from, Agency funds. Payment in Agency and/or federal funds in any combination shall not exceed said maximum, unless agreed upon by both Parties.
2. N/A agrees to reimburse salaries and payroll reserves of State employees working on Project, direct costs, costs of rental equipment used, and per-diem expenditures.

GENERAL PROVISIONS:

1. This Agreement may be terminated by either Party upon thirty (30) days' notice, in writing and delivered by certified mail or in person, under any of the following conditions:
 - a. If either Party fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - b. If either Party fails to perform any of the other provisions of this Agreement or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice fails to correct such failures within ten (10) days or such longer period as may be authorized.
 - c. If Agency fails to provide payment of its share of the cost of the Project.
 - d. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.
 - e. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or State is prohibited from paying for such work from the planned funding source.
2. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
3. Agency acknowledges and agrees that State, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of Agency which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by State.

4. Agency shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, Agency expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
5. All employers that employ subject workers who work under this Agreement 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. Employers Liability insurance with coverage limits of not less than \$500,000 must be included. Both Parties shall ensure that each of its subcontractors complies with these requirements.
6. 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 State or Agency with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each 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. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.
7. With respect to a Third Party Claim for which State is jointly liable with Agency (or would be if joined in the Third Party Claim), State 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 by Agency in such proportion as is appropriate to reflect the relative fault of State on the one hand and of Agency on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State on the one hand and of Agency on the other hand 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. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.
8. With respect to a Third Party Claim for which Agency is jointly liable with State (or would be if joined in the Third Party Claim), Agency 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 by State in such proportion as is appropriate to

reflect the relative fault of Agency on the one hand and of State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency on the one hand and of State on the other hand 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. Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

9. 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.
10. If federal funds are involved in this Agreement, Exhibits B and C are attached hereto and by this reference made a part of this Agreement, and are hereby certified to by Agency.
11. If federal funds are involved in this Agreement, Agency, as a recipient of federal funds, pursuant to this Agreement with the State, shall assume sole liability for Agency's breach of any federal statutes, rules, program requirements and grant provisions applicable to the federal funds, and shall, upon Agency's breach of any such conditions that requires the State to return funds to the Federal Highway Administration, hold harmless and indemnify the State for an amount equal to the funds received under this Agreement; or if legal limitations apply to the indemnification ability of Agency, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement.
12. The Parties hereto agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be invalid, unenforceable, illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.
13. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
14. This Agreement and attached exhibits and Agreement No. 28658 constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given.

The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

Signature Page to Follow

CITY OF NEWBERG, by and through
elected officials

By [Signature]

Date 7-25-13

By _____

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

By Trevor D. Maher

Date 7/27/13

Agency Contact:

Jay Harris, City Engineer
City of Newberg
414 E. First Street
Newberg, Oregon 97132
(503) 537-1211

State Contact:

Georgine Gleason
Region 2 Right of Way Agent
455 Airport Road SE, Building A
Salem, Oregon 97301-5397
(503) 986-2604
georgine.n.gleason@odot.state.or.us

STATE OF OREGON, by and through
its Department of Transportation

By [Signature]
State Right of Way Manager

Date 8/14/13

APPROVAL RECOMMENDED

By [Signature]
Region 2 Right of Way Manager

Date 8/8/13

By Sonny P.A. Chickering
Region 2 Manager

Date 08-12-13

APPROVED AS TO LEGAL SUFFICIENCY

By N/A
Assistant Attorney General

Date _____

APPROVED

(If Litigation Work Related to Condemnation is
to be done by State)

By N/A
Chief Trial Counsel

Date _____

**SPECIAL PROVISIONS EXHIBIT A
Right of Way Services**

THINGS TO BE DONE BY STATE OR AGENCY

1. Pursuant to this Agreement, the work performed on behalf of the Agency can be performed by the Agency, the Agency's consultant, the State or a State Flex Services consultant. The work may be performed by Agency staff or any of these representatives on behalf of Agency individually or collectively provided they are qualified to perform such functions and after receipt of approval from the State's Region 2 Right of Way Manager. Said approval must be obtained, in writing, prior to the performance of said activities.
2. With the exception of work related to appraisals, State shall not enter into any subcontracts for any of the work scheduled under this Agreement without obtaining prior written approval from Agency.
3. Both Parties will strictly follow the rules, policies and procedures of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, ORS Chapter 35 and the "State Right of Way Manual".

Instructions: Insert either: State, Agency, or N/A on each line.

A. Preliminary Phase

1. State shall provide preliminary cost estimates.
2. State shall make preliminary contacts with property owners.
3. State shall gather and provide data for environmental documents.
4. State shall develop access and approach road list.
5. State shall help provide field location and Project data.

B. Acquisition Phase

1. General:
 - a. When doing the Acquisition work, State shall provide Agency with a status report of the Project quarterly.
 - b. Title to properties acquired shall be in the name of the State.

2. Legal Descriptions:

- a. State shall provide sufficient horizontal control, recovery and retracement surveys, vesting deeds, maps and other data so that legal descriptions can be written.
- b. State shall provide construction plans and cross-section information for the Project.
- c. State shall write legal descriptions and prepare right of way maps. If the Agency acquires any right of way on a State highway, the property descriptions and right of way maps shall be based upon centerline stationing and shall be prepared in accordance with the current "State Right of Way & Rail/Utility Coordination Manual", "Contractor Services Guide" and the "Right of Way Engineering Manual". The preliminary and final versions of the property descriptions and right of way maps must be reviewed and approved by the State.
- d. State shall specify the degree of title to be acquired (e.g., fee, easement).

3. Real Property and Title Insurance:

- a. State shall provide preliminary title reports, if State determines they are needed, before negotiations for acquisition commence.
- b. State shall determine sufficiency of title (taking subject to). If the Agency acquires any right of way on a State highway, sufficiency of title (taking subject to) shall be determined in accordance with the current "State Right of Way Manual" and the "Contractor Services Guide". Agency shall clear any encumbrances necessary to conform to these requirements, obtain Title Insurance policies as required and provide the State copies of any title policies for the properties acquired.
- c. State shall conduct a Level 1 Hazardous Materials Study within project limits to detect presence of hazardous materials on any property purchase, excavation or disturbance of structures, as early in the project design as possible, but at a minimum prior to property acquisition or approved design.
- d. State shall conduct a Level 2 Site Investigation of sufficient scope to confirm the presence of contamination, determine impacts to properties and develop special provisions and cost estimates, if the Level 1 Corridor study indicates the potential presence of contamination that could impact the properties.
 - If contamination is found, a recommendation for remediation will be presented to State.
- e. State shall be responsible for arrangement of any necessary remediation.
- f. State shall conduct asbestos, lead paint and other hazardous materials surveys for all structures that will be demolished, renovated or otherwise disturbed. Asbestos surveys must be conducted by an AHERA (asbestos hazard emergency response act) certified inspector.

4. Appraisal:

- a. State shall conduct the valuation process of properties to be acquired.
- b. State shall perform the Appraisal Reviews.
- c. State shall recommend Just Compensation, based upon a review of the valuation by qualified personnel.

5. Negotiations:

- a. State shall tender all monetary offers to land-owners in writing at the compensation shown in the appraisal review. Conveyances taken for more or less than the approved Just Compensation will require a statement justifying the settlement. Said statement will include the consideration of any property trades, construction obligations and zoning or permit concessions. If State performs this function, it will provide the Agency with all pertinent letters, negotiation records and obligations incurred during the acquisition process.
- b. State and Agency shall determine a date for certification of right of way and agree to cosign the State's Right of Way Certification form. State and Agency agree possession of all right of way shall occur prior to advertising of any construction contract, unless appropriate exceptions have been agreed to by Agency and State.
- c. State agrees to file all Recommendations for Condemnation at least seventy (70) days prior to the right of way certification date if negotiations have not been successful on those properties.

6. Relocation:

- a. State shall perform any relocation assistance, make replacement housing computations, and do all things necessary to relocate any displaced parties on the Project.
- b. State shall make all relocation and moving payments for the Project.
- c. State shall perform the relocation appeal process.

C. Closing Phase

1. State shall close all transactions. This includes drawing of deeds, releases and satisfactions necessary to clear title, obtaining signatures on release documents, and making all payments.
2. State shall record conveyance documents, only upon acceptance by appropriate agency.

D. Property Management

1. State shall take possession of all the acquired properties. There shall be no encroachments of buildings or other private improvements allowed upon the State highway right of way.
2. State shall dispose of all improvements and excess land.

E. Condemnation

1. State may offer mediation if the parties have reached an impasse.
2. State shall perform all administrative functions in preparation of the condemnation process, such as preparing final offer and complaint letters.
3. State shall perform all legal and litigation work related to the condemnation process. (Therefore, prior approval evidenced by Chief Trial Counsel, Department of Justice, signature on this Agreement is required. Where it is contemplated that property will be obtained for Agency for the Project, such approval will be conditioned on passage of a resolution by Agency substantially in the form attached hereto as Exhibit D, and by this reference made a part hereof, specifically identifying the property being acquired.)
4. Where State shall perform legal or litigation work related to the condemnation process, Agency acknowledges, agrees and undertakes to assure that no member of Agency's board or council, nor Agency's mayor, when such member or mayor is a practicing attorney, nor Agency's attorney nor any member of the law firm of Agency's attorney, board or council member, or mayor, will represent any party, except Agency, against the State of Oregon, its employees or contractors, in any matter arising from or related to the Project which is the subject of this Agreement.

F. Transfer of Right of Way to State

If applicable, Agency agrees to transfer to the State all right of way acquired on the State highway which was acquired in the Agency's name. The specific method of conveyance will be determined by the Agency and the State at the time of transfer and shall be coordinated by the State's Region Right of Way Manager. Agency agrees to provide the State all information and file documentation the State deems necessary to integrate the right of way into the State's highway system. At a minimum, this includes: copies of all recorded conveyance documents used to vest title in the name of the Agency during the right of way acquisition process, and the Agency's Final Report or Summary Report for each acquisition file that reflects the terms of the acquisition and all agreements with the property owner(s).

G. Transfer of Right of Way to Agency

If applicable, State agrees to transfer and Agency agrees to accept all right of way acquired on the Agency's facility which was acquired in the State's name. The specific method of conveyance will be determined by the State and the Agency at the time of transfer and shall be coordinated by the State's Region Right of Way Manager. If requested, State agrees to provide Agency information and file documentation associated with the transfer.

**RESOLUTION EXERCISING THE POWER OF EMINENT DOMAIN EXHIBIT D
Right of Way Services**

~~Instructions, please delete before completing form~~ Regions: This portion of the document is unlocked. The LPA should block and copy to incorporate this language into their own standard resolution form *OR* fill in an "attested to" line or signature line at the bottom and use this form.

WHEREAS (insert title of agency) may exercise the power of eminent domain pursuant to (Agency's charter) (statutes conferring authority) and the Law of the State of Oregon generally, when the exercise of such power is deemed necessary by the (insert title of agency)'s governing body to accomplish public purposes for which (insert title of agency) has responsibility;

WHEREAS (insert title of agency) has the responsibility of providing safe transportation routes for commerce, convenience and to adequately serve the traveling public;

WHEREAS the project or projects known as (insert Project name) have been planned in accordance with appropriate engineering standards for the construction, maintenance or improvement of said transportation infrastructure such that property damage is minimized, transportation promoted, travel safeguarded; and

WHEREAS to accomplish the project or projects set forth above it is necessary to acquire the interests in the property described in "Exhibit A," attached to this resolution and, by this reference incorporated herein; now, therefore

BE IT HEREBY RESOLVED by (Agency's Council, Commission, or Board)

1. The foregoing statements of authority and need are, in fact, the case. The project or projects for which the property is required and is being acquired are necessary in the public interest, and the same have been planned, designed, located, and will be constructed in a manner which will be most compatible with the greatest public good and the least private injury;
2. The power of eminent domain is hereby exercised with respect to each of the interests in property described in Exhibit A. Each is acquired subject to payment of just compensation and subject to procedural requirements of Oregon law;
3. The (insert title of agency)'s staff and the (Agency's Attorney, Counsel, or District's Counsel (or) (The Oregon Department of Transportation and the Attorney General) are authorized and requested to attempt to agree with the owner and other persons in interest as to the compensation to be paid for each acquisition, and, in the event that no satisfactory agreement can be reached, to commence and prosecute such condemnation proceedings as may be necessary to finally determine just compensation or any other issue appropriate to be determined by a court in connection with the acquisition. This authorization is not intended to expand the jurisdiction of any court to decide matters determined above or determinable by the (Agency's Council, Commission, or Board).
4. (insert title of agency) expressly reserves its jurisdiction to determine the necessity or propriety of any acquisition, its quantity, quality, or locality, and to change or abandon any acquisition.

DATED this _____ day of _____, 20__

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: July 18, 2016

Order ___ No.	Ordinance ___ No.	Resolution <u>XX</u> No. 2016-3316	Motion ___	Information ___
--------------------------------	------------------------------------	---	-------------------	------------------------

SUBJECT: Ten year extension to the advanced financing agreement with Providence Medical Center

**Contact Person (Preparer) for this Motion: Kaaren Hofmann, City Engineer
Dept.: Engineering Services Department**

RECOMMENDATION:

Adopt Resolution No. 2016-3316 approving the extension knowing that the timetable was not met.

EXECUTIVE SUMMARY:

On June 9, 2006, per resolution No. 2006-2646, Council authorized the City Manager to execute an Advanced Financing Agreement with Providence Health Systems. This agreement is attached.

Per Newberg Municipal Code 3.20.080A and the signed agreement, such reimbursements shall be delivered to the developer for a period of 10 years from the date of the agreement. The 10 year time period expires July 21, 2016. Also per NMC 3.20.080B, the developer may request a 10 year extension. This request must be made between six months to one year prior to the end of the first 10 years. The application for extension was received May 12, 2016 which is not within that time frame.

The City Council has the discretion to approve or deny the request taking into account the condition of the improvement and the public’s interest. The wastewater pipe has been inspected relatively recently and there appears to be no issues with the condition of the pipe.

Other than not meeting the timetable noted in NMC 3.20.080, Staff feels extending this agreement is in the public’s best interest.

FISCAL IMPACT:

There is no fiscal impact to the City.

STRATEGIC ASSESSMENT:

The use of this mechanism allows for developers to recover off-site improvement costs and promotes development.



RESOLUTION No. 2016-3316

**A RESOLUTION AUTHORIZING AN EXTENSION TO THE ADVANCED
FINANCING AGREEMENT WITH PROVIDENCE MEDICAL CENTER**

RECITALS:

1. Providence Health System, 1001 Providence Drive, constructed a sanitary sewer main from the medical center site, south, to the Fernwood Sanitary Sewer Pump Station
2. The sanitary sewer line was designed with the capacity to serve the adjacent undeveloped property at such time as that property is developed.
3. NMC 3.20, Advance Financing of Certain Public Improvements provides a mechanism for developers to recover certain off-site development costs from benefiting properties.
4. The City Council authorized the City Manager to execute the agreement on June 9, 2006 and the agreement's expiration date is 10 years from the execution date.
5. Providence Health System has requested a 10 year extension. However per NMC 3.20.080B, that extension should have been requested by January 2016.
6. The improvement is in good condition.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City Council finds that it is in the public's interest to extend the Advanced Financing Agreement with Providence Health Systems for another 10 years.
2. The City Manager is authorized to execute an extension to said agreement.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: July 19, 2016

ADOPTED by the City Council of the City of Newberg, Oregon, this 18th day of July 2016.

Sue Ryan, City Recorder

ATTEST by the Mayor this 21st day of July 2016.

Bob Andrews, Mayor

CITY OF NEWBERG
CITY RECORDER INDEX NO. 2270

AFTER RECORDING RETURN TO:
City of Newberg – Public Works Department
PO Box 970 – 414 East First Street
Newberg, OR 97132
(503) 537-1273

OFFICIAL YAMHILL COUNTY RECORDS
JAN COLEMAN, COUNTY CLERK

200617344



\$36.00

DMR-DRDMR Cnt=1 Stn=2 ANITA
\$15.00 \$10.00 \$11.00

07/28/2006 02:14:35 PM

ADVANCED FINANCING AGREEMENT

(CITY MUNICIPAL CODE SECTION 36.65 TO 36.99)

THIS AGREEMENT is entered into this 21 day of July 2006 by and between the City of Newberg, a municipal corporation of the State of Oregon, hereinafter called "City", and Providence Health Systems-Oregon, hereinafter called "Developer". This agreement was authorized by the City Council on June 5, 2006 by Resolution No. 2006-2646.

RECITALS:

1. Developer is constructing a public improvement further described as: 2,470 feet of 10-inch sewer line from the Fernwood Road sanitary sewer pump station in a northerly direction to the property owned by Providence Health Systems-Oregon and described by Instrument No. 200300650, Yamhill County Deed Records.
2. Said public improvement will benefit not only Developer's property but other adjoining properties as well. Those benefited properties should reimburse their fair share of the cost of those public improvements.
3. Developer shall be entitled to reimbursement from properties connecting to the aforescribed public improvement in the manner and to the amount prescribed in this agreement. The reimbursement shall be based upon actual costs as shown in Attachment 1. It is the intent of this agreement that Developer be reimbursed for a portion of the costs incurred by Developer in connection with this project.
4. Attachment 1, attached hereto and by reference incorporated herein, shows the properties that are obligated to reimburse and the percentage of the reimbursement.
5. The reimbursement obligations set forth in Attachment 1 are in addition to any required connection charges, including but not limited to permits and City assessments.
6. The reimbursement obligation shall be due and payable by the intervening property owners upon their application for a Site Development Permit for development activities which include connection to the public improvement.
7. City assumes no obligation to Developer for the collection of these sums. If the charge is not collected for any reason, City shall have no liability to Developer of any kind for said charges and shall not be held liable to pay Developer any of the uncollected charges.
8. This agreement shall be recorded in the Yamhill County Deed Records with Developer paying all recording costs and fees.
9. This agreement is an instrument affecting the title or possession of the property. It shall be binding upon the property and the successors of interest of the City and shall act as a covenant and restriction running

with the land.

10. This agreement shall be for a ten (10) year period from the date of execution. Provided that at the end of the ten (10) year period, the Developer may request that the City Council authorize reimbursement for an additional period of up to ten (10) years. The City shall approve such a request unless it finds that it would be contrary to the public's interest to do so.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first set forth above.

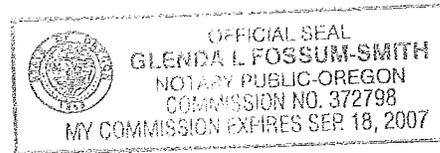
STATE OF OREGON)
County of Multnomah)s.s.

PROVIDENCE HEALTH SYSTEMS-OREGON

Terry L. Smith
TERRY L. SMITH
Please Print

This instrument was acknowledged before me this 17 day of July 2006 by Terry L. Smith, to me known to be an authorized representative of Providence Health Systems-Oregon.

Glenda L. Fossum-Smith
Notary Public for Oregon
My Commission Expires: 09-18-07



CITY OF NEWBERG

James H. Bennett
James H. Bennett, City Recorder

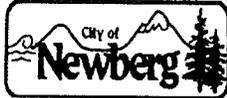
APPROVED AS TO FORM AND CONTENT

Terrence D. Mahr 7/21/06
Terrence D. Mahr, City Attorney

ATTACHMENT 1

Properties Obligated to Reimburse Developer and Reimbursement Percentage and Costs

That portion of Parcel 1 of Partition 2003-32, City of Newberg, Yamhill County, Oregon, which remains after the Oak Meadows Subdivision re-plat, said remainder portion of Parcel 1 also being known as Tax Lot 3216 2001, shall be obligated for payment of 100% of the approved reimbursement cost of \$142,047.00 plus 9% annual interest. Interest shall begin to accrue the day after recording of this Agreement and interest accrual shall cease on the date that application is made for a Site Development Permit for development activities which include connection to the advanced financed public improvement.



RESOLUTION NO. 2006-2646

A RESOLUTION APPROVING THE ENGINEER'S REPORT FOR THE FERNWOOD ROAD TO PROVIDENCE HOSPITAL PROPERTY SANITARY SEWER ADVANCE FINANCING OF PUBLIC IMPROVEMENTS AND SETTING THE REIMBURSEMENT AMOUNTS ONTO THE INTERVENING PROPERTIES.

RECITALS:

1. Providence Health System, 1001 Providence Drive, constructed a sanitary sewer main from the medical center site, south, to the Fernwood Sanitary Sewer Pump Station
2. The sanitary sewer line was designed with the capacity to serve the adjacent undeveloped property at such time as that property is developed.
3. *City Code 36.65, Advance Financing of Certain Public Improvements* provides a mechanism for developers to recover certain off-site development costs from benefiting properties.
4. Providence Health Systems has submitted an Advance Finance Agreement application with the City for the reimbursement of the cost of construction of the sewer line. The complete application packet is available for review at the office of the Public Works Director.
5. The City has prepared an Engineer's Report (Exhibit A) containing information pertaining to the Fernwood Road to Providence Hospital Property Sanitary Sewer Advance Financing Agreement (AFA) request.
6. The City Council has reviewed such report at its June 5, 2006 City Council Meeting. Intervening property owners were invited to attend this meeting to express their views and ask questions.

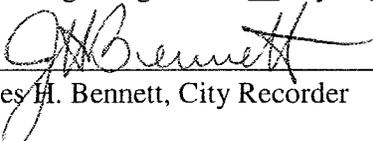
THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The Engineer's Report, as submitted or modified, is hereby accepted by the City Council.
2. The Council hereby designates the Fernwood Road to Providence Hospital Property Sanitary Sewer Line as an advance financed public improvement.
3. The reimbursement amounts are hereby set onto each of the intervening properties listed in the Engineer's Report.

4. The City Manager is authorized to execute the Advanced Financing Agreement with Providence Health Systems. The draft agreement is included in the attached Exhibit A.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: June 6, 2006.

ADOPTED by the City Council of the City of Newberg, Oregon, this 5th day of June 2006.



James H. Bennett, City Recorder

ATTEST by the Mayor this 9th day of June 2006.

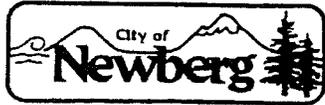


Bob Stewart, Mayor

LEGISLATIVE HISTORY

By and through _____ Committee at / /200x meeting. Or, X None.
(committee name) (date) (check if applicable)

EXHIBIT A



**NEWBERG PUBLIC WORKS
DEPARTMENT
ENGINEERING DIVISION**

APRIL 25, 2006

**FERNWOOD ROAD TO PROVIDENCE HOSPITAL PROPERTY
SANITARY SEWER
ADVANCE FINANCE IMPROVEMENT
ENGINEERING REPORT**

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EXHIBIT A

1. Background

In connection with the construction of a new medical center adjacent to HWY 99W, also known as Portland Road, at 1001 Providence Drive, Providence Health System constructed a sanitary sewer main from the medical center site, south, to the Fernwood Sanitary Sewer Pump Station. The sanitary sewer line was designed with the capacity to serve the undeveloped property adjacent to the sewer line at such time as that property is developed. **City Code 36.65, Advance Financing of Certain Public Improvements** (see Appendix B) provides a mechanism for developers to recover certain off-site development costs from benefiting properties.

The undeveloped property which may benefit from the sanitary sewer main is owned by the Werth Family LLC. The property upon which the sanitary sewer is located was also owned by the Werth Family LLC at the time the sewer was constructed. Prior to the construction of the sewer, the Werth Family LLC and Providence Health System entered into a Development Agreement. The Agreement provides terms for the granting of an easement for the sewer line and for the reimbursement of the construction cost of the sewer line.

Providence Health System has submitted an Advance Finance Agreement application with the City of Newberg under City Code 36.65 for the reimbursement of the cost of construction of the sewer line (see Appendix A).

2. Improvement Description and Cost

The Fernwood Sanitary Sewer Pump Station is located on the north side of Fernwood Road approximately 1/3 mile from the intersection of Brutscher Street and Fernwood Road. Providence Health System connected a 24-inch PVC trunk line to a 24-inch concrete stub at the pump station. A manhole was installed at the beginning connection. The trunk line continues in a northerly direction and consists of 9 segments, each between 350 and 500 feet long, except for the last 100-foot segment. Manholes were installed at the beginning and ending of each segment for a total of 10 manholes. The total length of the trunk line is 3,361 feet. The last 891 feet are located on the property owned by Providence Health System. The offsite portion includes the first 2,470 feet and seven manholes.

In order to serve the new medical center and the undeveloped property which could be served by the sanitary sewer line between the pump station and the medical center, only a 10-inch sewer line would have been required. However, an oversize 24-inch line was installed to allow for potential service to future development beyond and to the North of the medical center. The City of Newberg may use system development funds to reimburse builders for the over sizing of public improvements. Providence Health System has been reimbursed for the cost to install a 24-inch line over what the cost would have been to install a 10-inch line. Providence Health System, therefore may only seek to advance finance the cost to construct a 10-inch line and only for the portion of the sewer line which is not on the medical center property.

The cost to construct 10-inch sanitary sewer line from the Fernwood Pump Station to the south boundary of the medical center site has been estimated to be \$142,047 (see Appendix C).

EXHIBIT A

3. Intervening Property

The new medical center site is that property described by Instrument No. 200300650 (Tax Lot 3216 1902), Yamhill County Deed Records. The offsite portion of the sanitary sewer main constructed by Providence Health System is located on, and runs roughly along the west boundary of, Parcel 2 of Partition 2003-32 (Tax Lot 3216 2014). This parcel has been developed by the current owner, Chehalem Park and Recreation District, into a golf course. The sewer line terminates at the Fernwood Sanitary Sewer Pump Station, which is located on Tract A of Partition 2003-32 (Tax Lot 3221 6400). Tract A is owned by the City of Newberg. The property east of the sewer line, which is the portion of Parcel 1 of Partition 2003-32 remaining after the Oak Meadows Subdivision re-plat (Tax Lot 3216 2001), is undeveloped. **See Figure 1.**

It is anticipated that future development of the remainder of Parcel 1 of Partition 2003-32 may benefit from the sanitary sewer main which has been constructed by Providence Health System. It is not anticipated that there will be any future benefit to the golf course site derived from the availability of the sanitary sewer main. Therefore, the Intervening Property for the proposed Advance Finance Agreement shall include only the portion of Parcel 1 of Partition 2003-32 remaining after the Oak Meadows Subdivision re-plat (Tax Lot 3216 2001).

EXHIBIT A

Figure 1

VICINITY MAP

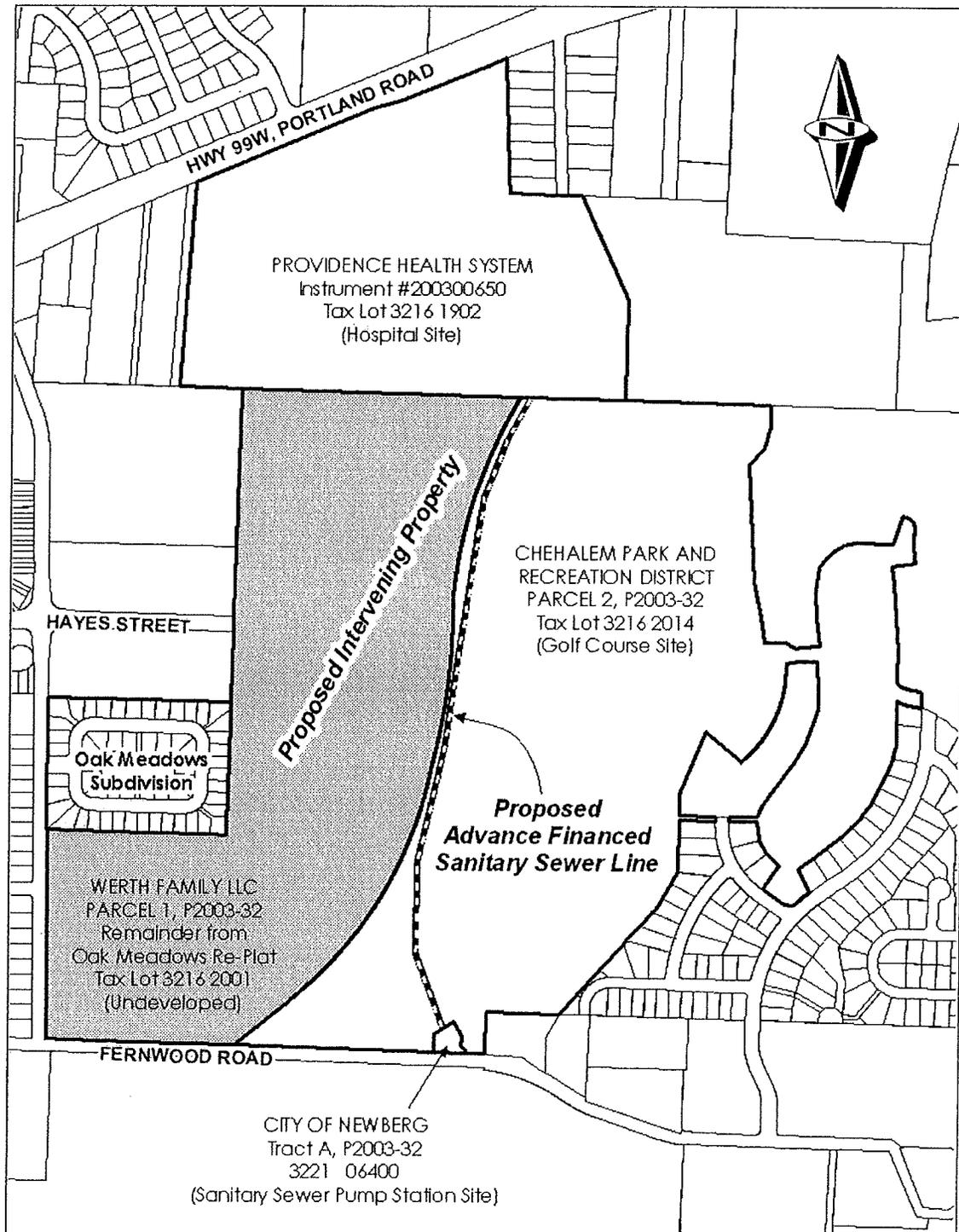


EXHIBIT A

4. Recommended Reimbursements

Prior to the construction of the sewer line, the Werth Family LLC, which is the current owner of the Intervening Property, and Providence Health System entered into a Development Agreement. The Development Agreement contains a methodology for calculating reimbursements for the proposed Advance Financed Improvement in the event that future development of the Intervening Property benefits from the improvement. The methodology defined in the Development Agreement has been determined to be reasonably equitable and is the methodology recommended by this report to be used to determine future Reimbursements.

Reimbursements are to be calculated as follows:

- The total cost of the financed public improvement is divided by the total length in feet of the sewer line from the Fernwood Pump Station to the south boundary of the medical center site, which is that property described by Instrument No. 200300650 (Tax Lot 3216 1902), Yamhill County Deed Records. The result of this calculation is the per-foot multiplier.
- The per-foot multiplier is multiplied by the number of feet along the sewer line from the Fernwood Pump Station to the point at which a new connection is made to the sewer line. The result of the multiplication is the advance financed cost.
- As per **City Code 36.71 (B)(1)** (see Appendix B), at the time application for connection to the sewer line is made, the advance financed cost is increased by nine percent (9%) annual simple interest to give the total reimbursement. Interest is accrued daily and the first day of accrual shall be the day after the Advance Finance Agreement (see Appendix E) is recorded at the office of the Yamhill County Clerk. The last day of interest accrual shall be the date that a Site Development Permit application is made. Payment of the reimbursement shall be due in full upon approval of the Site Development Permit.
- If a new connection is made to the sewer line between the Fernwood Pump Station and a previous connection for which a reimbursement was paid, no additional reimbursement shall be required.
- If a new connection is made to the sewer line North of a previous connection for which a reimbursement was paid, the portion of the reimbursement which corresponds to the portion of the sewer line for which reimbursements have already been paid shall be subtracted from the reimbursement calculated for the new connection and only the remaining reimbursement shall be required to be paid.
- If connection is made into the first manhole north of the pump station, reimbursement will be controlled by the Development Agreement between

EXHIBIT A

Providence Health Systems and the property owner.

The factors to be used in the calculations defined above are listed in Table 1 and example calculations are shown in Appendix D.

Table 1

Reimbursement Calculation Factors

Annual Simple Interest Rate	9%
Cost of Financed Public Improvement Without Interest	\$142,047
Total Length of Financed Public Improvement	2,470 feet
Per-Foot Multiplier	\$57.51/foot

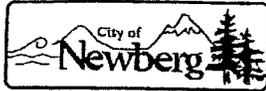
EXHIBIT A

APPENDICES

A. Application for Advance Financed Public Improvement	a1
B. Code of Newberg Section 36.65	a2
C. Sewer Line Reimbursement Cost Estimate	a8
D. Reimbursement Calculation Example	a9
E. Draft Advance Finance Agreement	a12

EXHIBIT A

APPENDIX A
Application for Advance Financed Public Improvement



ADVANCED FINANCING OF
PUBLIC IMPROVEMENTS APPLICATION

SEP 30 2005

FILE #: _____ APPL FEE: 500.00
DATE: 9/20/05 RECEIPT#: 651704

OFFICE
USE ONLY

APPLICANT INFORMATION:

APPLICANT: Providence Newberg Hospital
ADDRESS: 1001 Providence Drive, Newberg, OR 97132
PHONE: _____ MOBILE: _____ FAX: _____
OWNER/DEVELOPER (if different from above): John Bridges PHONE: 503-538-3138
ADDRESS: Brown, Tarlow, Bridges & Pärmer, 515 E 1st, Newberg, OR 97132

GENERAL INFORMATION:

PROJECT LOCATION: 1001 Providence Drive, Newberg
COST FOR PUBLIC IMPROVEMENTS (ENGINEER'S ESTIMATE ATTACHED): _____
DESCRIBE THE IMPROVEMENTS THAT WERE MADE (BE SPECIFIC): 8 inch sanitary sewer
line from the southern boundary of Providence Newberg Hospital
property, to the pump station located on Fernwood

SPECIFIC REQUIREMENTS ARE ATTACHED

The application must include a current title report for the property. All property owners of the property must sign below.

Owners Signature	Print Name	Address
	Dana White	4706 NE Glisan Portland, OR 97213
_____	_____	_____

The above statements and information herein contained are in all respects true, complete, and correct to the best of my knowledge and belief. All owners must sign the application. Incomplete or missing information may delay the approval process.

Applicant/Title Holder/Contract Purchaser Signature
Date: 9.22.05

Print Name: Dana White
Regional Director, Real Estate
Providence Healthy System - OR

EXHIBIT A

APPENDIX B
Code of Newberg Section 36.65

***ADVANCE FINANCING OF CERTAIN
PUBLIC IMPROVEMENTS***

§ 36.65 DEFINITIONS.

For the purpose of this subchapter and for the purposes of any advance financing agreement entered into pursuant hereto and for any actions taken as authorized pursuant to this subchapter or otherwise, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADVANCE FINANCING. A developer's or the city's payment for the installation of one or more public improvements installed pursuant to this subchapter which benefiting property owners may utilize upon reimbursing a proportional share of the cost of such improvement.

ADVANCE FINANCE AGREEMENT. An agreement between a developer and the city, as authorized by the City Council, and executed by the City Manager, which agreement provides for the installation of and payment for advance financed public improvements and which agreement contains improvement guarantees, provisions for reimbursement by the intervening property owners who may eventually utilize such improvement, inspection guarantees, and the like, as determined in the best interest of the public by the City Council.

ADVANCE FINANCING RESOLUTION. A resolution passed by the City Council and executed by the City Manager designating a public improvement to be an advance finance public improvement and containing provisions for financial reimbursement by intervening property owners who eventually utilize the improvement and such other provisions as determined in the best interest of the public by the City Council.

CITY. The City of Newberg.

CITY COUNCIL. The City Council of Newberg.

DEVELOPER. The city, another municipal corporation, an individual, a partnership, a joint venture, a corporation, a subdivider, a partitioner of land or any other entity, without limitation, who will bear, under the terms of this subchapter, the expense of construction, purchase, installation or other creation of a public improvement.

DEVELOPMENT. That real property being developed by the developer and for which property the advance financing resolution is passed.

INTERVENING PROPERTY. That real property abutting and/or otherwise benefitting from an advance financed public improvement, but does not include the development.

OWNER. The fee holder of record of the legal title to the real property in question. Where such real property is being purchased under a recorded land sales contract, then such purchasers shall also be deemed owners.

PUBLIC IMPROVEMENT. The following:

EXHIBIT A

- (1) The construction, reconstruction or upgrading of any water, sanitary, sewer or storm sewer system improvements;
- (2) The grading, graveling, paving or other surfacing of any street, or opening, laying out, widening, extending, altering, changing the grade for construction of any street;
- (3) The construction or reconstruction of curb, gutter or sidewalks;
- (4) The installation of traffic control devices.

(Ord. 95-2406, passed 5-1-95)

§ 36.66 RECEIPT OF APPLICATIONS.

The City Manager, or a designee, will receive application for advance financing from developers. The applications shall be accompanied by a fee set by resolution by the City Council. The fee shall not be less than \$500. The fee will be used to pay for the cost of an administrative analysis of the proposed advance financing project, for the cost of notifying the property owners, and for recording costs and the like. When the city is the developer, the City Council shall by motion direct the City Manager to submit the application without fee. The City Manager shall not accept applications that are submitted more than six months after the facility has been constructed and accepted by the City. For purposes of this section, acceptance of a facility does not include any maintenance bond period.

(Ord. 95-2406, passed 5-1-95; Am. Ord. 2001-2558, passed 12-3-01)

§ 36.67 UTILITY ANALYSIS.

Upon receipt of the advance financing application, the City Manager shall make an analysis of the advance financing proposal and shall prepare a report to be submitted to the City Council for review, discussion and public hearing. Such report shall include a map showing the location and front footage of the development and intervening property. The report shall also include the city's estimate of the total cost of the advance financed public improvement.

(Ord. 95-2406, passed 5-1-95)

§ 36.68 PUBLIC HEARING.

Within a reasonable time after the City Manger has completed the analysis, an informational public hearing shall be held in which all parties and the general public shall be given the opportunity to express their views and ask questions pertaining to the proposed advance financed public improvement. Since advance financed public improvements do not give rise to assessments, the public hearing is for information purposes only, and is not subject to mandatory termination due to remonstrances. The City Council has the sole discretion after the public hearing to decide whether or not an advance financing resolution shall be passed.

(Ord. 95-2406, passed 5-1-95)

§ 36.69 NOTIFICATION.

Not less than ten nor more than 30 days prior to any public hearing being held pursuant to this subchapter, the developer and all intervening property owners shall be notified of such hearing and the purpose thereof. Such

EXHIBIT A

notification shall be accomplished by mail, notice shall be made on the date that the letter of notification is posted. Failure of any owner to be so notified shall not invalidate or otherwise affect any advance financing resolution or the City Council's action to approve or not to approve the same.
(Ord. 95-2406, passed 5-1-95)

§ 36.70 ADVANCE FINANCING RESOLUTIONS AND AGREEMENTS.

After the public hearing, held pursuant to § 36.68, if the City Council desires to proceed with advance financed public improvements, it shall pass an advance financed resolution accordingly. The resolution shall designate the proposed improvement as an advance financed improvement and provide for the advance financed reimbursement by intervening property owners pursuant to this subchapter. When the developer is other than the city, the advance financing resolution shall instruct the City Manager to enter into an agreement between the developer and the city pertaining to the advance financed improvement, and may, in such agreement, require such guarantee or guarantees as the city deems best to protect the public and intervening property owners, and may make such other provisions as the City Council determines necessary and proper.
(Ord. 95-2406, passed 5-1-95)

§ 36.71 ADVANCE FINANCE REIMBURSEMENTS.

(A) *Advance financed reimbursement imposed.* An advance financed reimbursement is imposed on all intervening property owners at such time as the owners apply for connection to advance financed water, sanitary sewer and storm sewer improvements or connect to and use advance financed street, sidewalk or traffic control improvements.

(B) *Rates.* Intervening property owners:

(1) The intervening property owner shall pay advance financed reimbursement calculated as follows: The total actual cost of the advance financed public improvement, increased by nine percent annual simple interest, or such other percentage that the City Council may, from time to time, set by resolution, multiplied by a percentage of the unit of assessment being front frontage, area, or whatever other method is determined by the City Council to be the most equitable method of assessment for the intervening property owner. Future interest rate changes shall not apply ex post facto to previously executed reimbursement agreements.

(2) Advance financing reimbursements for oddshaped lots shall be individually established and consistent with the benefit received by the lot and the reimbursement required of other lots in the area. If inequities are created through the strict implementations of the above formulas, the City Council may modify its impact on a case by case basis.

(C) *Collection.* The advance financed reimbursement is immediately due and payable by intervening property owners upon their application for connection to an advance financed water, sanitary sewer or storm sewer system or their connection and use of advance financed street, sidewalk or traffic control improvements. If connection is made without the above mentioned permits, then the advance financed reimbursement is immediately due and payable upon the earliest date that any such permit was required, or in the case of advance finance and street, sidewalk or traffic control improvements, when connection and use is commenced. No permit for connection shall be issued until the advance financed reimbursement has been paid in full. Whenever the full and correct advance

EXHIBIT A

financed reimbursement has not been paid and collected for any reason, the City Manager shall report to the City Council the amount of the uncollected reimbursement, the description of the real property to which the reimbursement is attributable, the date upon which the reimbursement was due and the name or names of the intervening or future property owners. The City Council, by motion, shall then set a public hearing and shall direct the City Manager to give notice of that hearing to each of those intervening property owners, together with a copy of the City Manager's report concerning the unpaid reimbursement, either in person or by certified mail. Upon public hearing, the City Council may accept, reject or modify the City Manager's report; and if it finds that any reimbursement is unpaid and uncollected, the City Council, by motion, may direct the City Manager to docket the unpaid and uncollected reimbursement in the city record of liens; and upon completion of the docketing, the city shall have a lien against the described land for reimbursements, interest and the city's actual cost of serving notice upon the intervening or future property owners. The lien shall be enforced in the manner provided by O.R.S. Chapter 223.

(D) *Interim connections.* Upon receiving a valid application for advanced financing of a facility, the city shall prohibit connections to that facility until the City Council takes final action on the application. As an alternative to prohibiting connections, the city may allow a connection provided the connection applicant deposits an estimated reimbursement, determined by the City Engineer, into a city trust account. The connection applicant shall also sign an agreement to pay the actual reimbursement, up to 150% of the estimate, when the Council determines the actual reimbursement amount.

(Ord. 95-2406, passed 5-1-95; Am. Ord. 2001-2558, passed 12-3-01)

§ 36.72 DISPOSITION OF ADVANCE FINANCED REIMBURSEMENTS.

(A) Developers who have an advance finance agreement with the city shall receive the advance financed reimbursements collected by the city pertaining to their advance financed public improvements. Such reimbursements shall be delivered to the developer for a period of ten years from and after the date the applicable advance financing agreement has been executed. Such payments will be made by the city within 90 days of receipt of the advance financed reimbursements. The city shall incur no liability for its failure to remit advance financed reimbursements pursuant to the requirements of this section.

(B) At the end of the ten-year period, the developer may request that the City Council authorize reimbursements for an additional period of up to ten years. The City Council shall approve such requests unless it finds it would be contrary to the public's interest to do so.

(Ord. 95-2406, passed 5-1-95; Am. Ord. 2001-2558, passed 12-3-01)

§ 36.73 RECORDING.

All advance financing resolutions shall be recorded by the city in the deed records of Yamhill County, Oregon. Such resolution shall identify the full legal description of the development, intervening properties and future properties. Failure to make such recording shall not affect the legality of an advance financing resolution or agreement.

(Ord. 95-2406, passed 5-1-95)

§ 36.74 PUBLIC IMPROVEMENTS.

Public improvements installed pursuant to advance financing agreement shall become and remain the sole property of the city pursuant to the advance financing agreement.

EXHIBIT A

(Ord. 95-2406, passed 5-1-95)

§ 36.75 MULTIPLE PUBLIC IMPROVEMENTS.

More than one public improvement may be the subject of an advance financing agreement or resolution.
(Ord. 95-2406, passed 5-1-95)

**§ 36.76 ADVANCE FINANCED
REIMBURSEMENTS ON PUBLIC
IMPROVEMENTS FUNDED BY CITY.**

In the event the city is the developer for the construction at its own expense of public improvements for which advance financing reimbursements are permissible pursuant to this subchapter, the city may, pursuant to the direction of the City Council, authorize advance financing agreements which include terms at variance with terms otherwise required by this subchapter. The City Council may authorize lower interest rates, may permit installment payments, and may extend the time period during which advance financed reimbursements may be required.

(Ord. 95-2406, passed 5-1-95)

EXHIBIT A

APPENDIX C
Sewer Line Reimbursement Cost Estimate

SKANSKA

PROVIDENCE NEWBERG MEDICAL CENTER PROJECT
JOB # 413070

PUBLIC SEWER LINE REIMBURSEMENT COST ESTIMATE
4/20/06

DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
10" Sewer Pipe (Inc. Excavation & Backfill)	2,470	LF	\$ 44	\$ 108,680
48" Manhole	7	EA	\$ 1,595	\$ 11,165
CDF Backfill	14	CY	\$ 106	\$ 1,486
Clay Dams	2	EA	\$ 884	\$ 1,769
Erosion Control	1	LS	\$ 3,463	\$ 3,463
Site Clearing/Striping	1	LS	\$ 2,211	\$ 2,211
Surveying	1	LS	\$ 3,856	\$ 3,856
Test and Adjust Sanitary Sewer	1	LS	\$ 2,653	\$ 2,653
TOTALS				\$ 135,283
City Engineering and Inspection Fee @ 5%				\$ 6,764
TOTAL				\$ 142,047

EXHIBIT A

APPENDIX D
Reimbursement Calculation Example

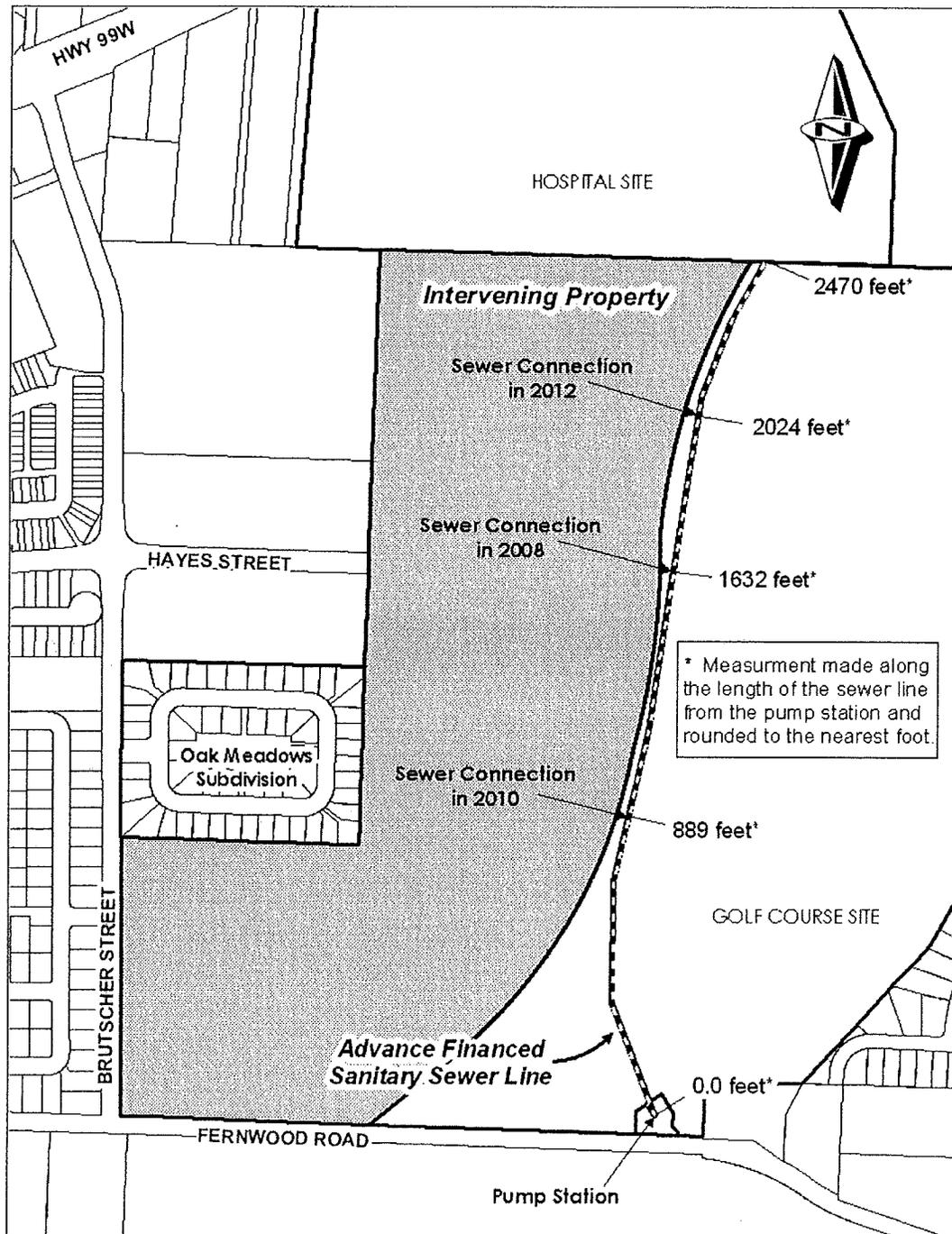


EXHIBIT A

Reimbursement Calculation Factors

Annual Simple Interest Rate	9%
Cost of Financed Public Improvement Without Interest	\$142,047
Total Length of Financed Public Improvement	2,470 feet
Per-Foot Multiplier	\$57.51/foot

For the purpose of these examples, it shall be assumed that the Advance Finance Agreement was recorded at the County Clerk's Office on Dec 31st, 2005.

Sewer Connection Site Development Permit Application on August 27th, 2008

Distance in feet along sewer line from pump station to new connection = 1,632

Multiply Distance by Per-Foot Multiplier for cost of improvement:

$$1,632 \text{ ft.} \times \$57.51 / \text{ft.} = \$93,856$$

Calculate 9% annual simple interest for 2 years and 238 (total 968 days):

$$\$93,220 \times (.09/365) \times 968 = \$22,402$$

Add Interest to cost of improvement for total reimbursement:

$$\$93,220 + \$22,250 = \$116,258$$

Reimbursement to be paid = \$116,258

Sewer Connection Site Development Permit Application on June 10th, 2010

Connection is between pump station and a previous connection for which a reimbursement was paid, no additional reimbursement shall be required.

Reimbursement to be paid = \$0

EXHIBIT A

Sewer Connection Site Development Permit Application on January 1st, 2012

Distance in feet along sewer line from pump station to new connection = 2,024

Distance in feet along sewer line from pump station to previous connection directly south along sewer line from new connection = 1,632

Subtract the length along the sewer line for which reimbursement has already been paid from the total distance to the new connection:

$$2,024 \text{ ft.} - 1,632 \text{ ft.} = 392 \text{ ft.}$$

Multiply the remaining distance by Per-Foot Multiplier for cost of improvement:

$$392 \text{ ft.} \times \$57.51 / \text{ft.} = \$22,544$$

Calculate 9% annual simple interest for 6 years (total 2,190 days):

$$\$22,544 \times (.09/365) \times 2,190 = \$12,174$$

Add Interest to cost of improvement for total reimbursement:

$$\$22,544 + \$12,174 = \$34,718$$

Reimbursement to be paid = \$34,718

EXHIBIT A

APPENDIX E
Draft Advance Finance Agreement

AFTER RECORDING RETURN TO:

City of Newberg – Public Works Department
PO Box 970 – 414 East First Street
Newberg, OR 97132
(503) 537-1273

ADVANCED FINANCING AGREEMENT

(CITY MUNICIPAL CODE SECTION 36.65 TO 36.99)

THIS AGREEMENT is entered into this ____ day of _____ 2006 by and between the City of Newberg, a municipal corporation of the State of Oregon, hereinafter called "**City**", and Providence Health Systems, hereinafter called "**Developer**". This agreement was authorized by the City Council on June 5, 2006 by Resolution No. 2006-2646.

RECITALS:

1. Developer is constructing a public improvement further described as: 2,470 feet of 10-inch sewer line from the Fernwood Road sanitary sewer pump station in a northerly direction to the property owned by Providence Health Systems and described by Instrument No. 200300650, Yamhill County Deed Records.
2. Said public improvement will benefit not only Developer's property but other adjoining properties as well. Those benefited properties should reimburse their fair share of the cost of those public improvements.
3. Developer shall be entitled to reimbursement from properties connecting to the aforescribed public improvement in the manner and to the amount prescribed in this agreement. The reimbursement shall be based upon actual costs as shown in Attachment 1. It is the intent of this agreement that Developer be reimbursed for a portion of the costs incurred by Developer in connection with this project.
4. Attachment 1, attached hereto and by reference incorporated herein, shows the properties that are obligated to reimburse and the percentage of the reimbursement.
5. The reimbursement obligations set forth in Attachment 1 are in addition to any required connection charges, including but not limited to permits and City assessments.
6. The reimbursement obligation shall be due and payable by the intervening property owners upon their application for a Site Development Permit for development activities which include connection to the public improvement.
7. City assumes no obligation to Developer for the collection of these sums. If the charge is not collected for any reason, City shall have no liability to Developer of any kind for said charges and shall not be held liable to pay Developer any of the uncollected charges.
8. This agreement shall be recorded in the Yamhill County Deed Records with Developer paying all recording costs and fees.
9. This agreement is an instrument affecting the title or possession of the property. It shall be binding

EXHIBIT A

upon the property and the successors of interest of the City and shall act as a covenant and restriction running with the land.

10. This agreement shall be for a ten (10) year period from the date of execution. Provided that at the end of the ten (10) year period, the Developer may request that the City Council authorize reimbursement for an additional period of up to ten (10) years. The City shall approve such a request unless it finds that it would be contrary to the public's interest to do so.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first set forth above.

STATE OF OREGON)
)s.s.
County of _____)

OWNER

Signee Name
Providence Health Systems

This instrument was acknowledged before me this ____ day of _____ 2006 by _____, to me known to be an authorized representative of Providence Health Systems.

Notary Public for Oregon
My Commission Expires: _____

CITY OF NEWBERG

APPROVED AS TO FORM AND CONTENT

James H. Bennett, City Recorder

Terrence D. Mahr, City Attorney

EXHIBIT A

ATTACHMENT 1

Properties Obligated to Reimburse Developer
and
Reimbursement Percentage and Costs

That portion of Parcel 1 of Partition 2003-32, City of Newberg, Yamhill County, Oregon, which remains after the Oak Meadows Subdivision re-plat, said remainder portion of Parcel 1 also being known as Tax Lot 3216 2001, shall be obligated for payment of 100% of the approved reimbursement cost of \$142,047.00 plus 9% annual interest. Interest shall begin to accrue the day after recording of this Agreement and interest accrual shall cease on the date that application is made for a Site Development Permit for development activities which include connection to the advanced financed public improvement.

DEVELOPMENT AGREEMENT

July 22, 2003

PARTIES:

Werth Family, LLC ("WFLLC")
4709 East Fernwood Road
Newberg, Oregon 97132

Providence Health System (PHS)
4706 NE Glisan, Suite 101
Portland, OR 97209

IT IS HEREBY agreed by the parties as evidenced by their signature below as follows:

1. The purpose of this Agreement is to provide for the construction of a sanitary sewer across Springbrook Oaks for use by PHS, and reimbursement of construction cost (construction, engineering and permitting) to the extent described hereafter.
2. WFLLC will dedicate an easement to the City of Newberg for sanitary sewer purposes as described in Exhibit "A" attached hereto and incorporated herein within five (5) business days of mutual execution of this Agreement.
The easement will be twenty (20) feet in width and will also contain a temporary construction easement of fifty (50) feet in width. The temporary easement will expire six (6) months from the completion of the sewer work.
3. PHS will construct a sewer in the easement from the City of Newberg pump station to the northern property line of Springbrook Oaks. The sewer will be designed to serve that portion of Springbrook Oaks west of Springbrook Creek and east of Brutscher. The sewer will be built at PHS cost and expense. PHS will pay all costs associated with construction of the pipelines including, easement delineation, design, permit costs, construction, crop damage and surface restoration. PHS will restore the property to its present or better condition and repair any other damage caused by the construction. PHS will provide WFLLC a liability insurance binder which protects WFLLC from all acts, errors or omissions of contractors hired by PHS and/or its general contractor.
4. WFLLC will allow PHS reasonable access to Springbrook Oaks for purposes of constructing the sewer as described in Exhibit "B". PHS will provide ten (10) days notice before beginning construction.
5. WFLLC will reimburse PHS for the construction costs for the sanitary sewer when their development results in a hookup to the line at any point north of the first manhole north of the pump station. The cost WFLLC will be required to pay is based on where they hook into the line. The amount will be calculated by multiplying a fraction times the total cost to construct the sanitary sewer across the WFLLC property. The numerator of the fraction will be the number of feet of sanitary sewer line from the pump station to the hookup, while the denominator will be the total number of feet of sanitary sewer placed in the easement. If the sewer is increased in size at the City's request, WFLLC will only be responsible for the cost of construction of a standard eight (8") inch pipe. The payment for the reimbursement will occur on the day of the hookup.

6. Chehalem Park and Recreation District ("CPRD") has expressed interest in installing a water line for irrigation purposes (non-potable), in much of the same trench that will be used by the sewer line. If CPRD determines that it needs to install such a water line, responsibility for design, permits, and installation costs will be CPRD's. PHS and WFLLC will not object to the installation of such a water line provide CPRD holds both PHS and WFLLC harmless from all costs and liability associated with their project.

Dated this 23 day of July, 2003.

Werth Family, LLC

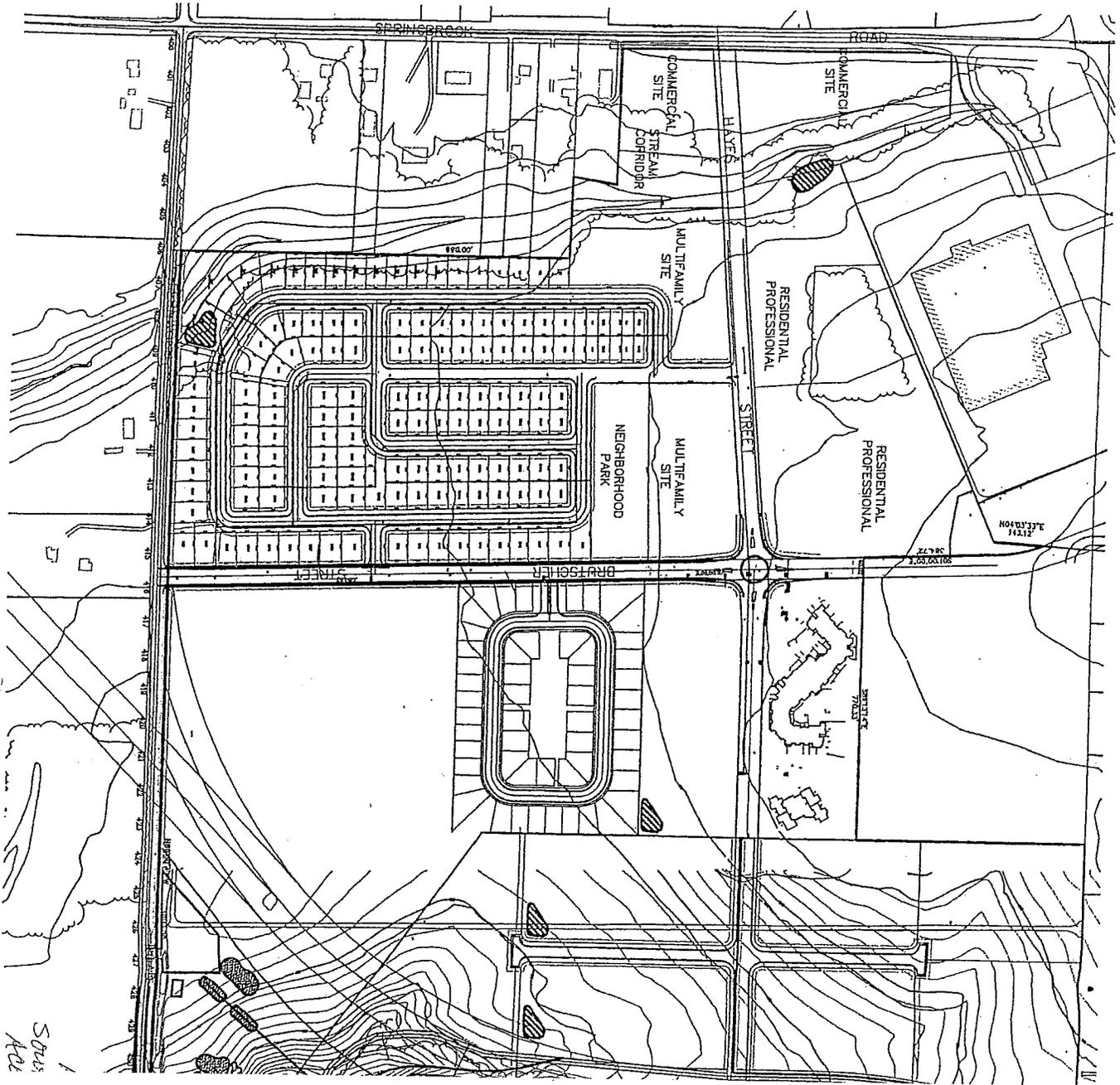
Providence Health System

By: *Devin E. Moore*
Title: _____

Jerry Hunt
By: Terry Smith
Title: CFR - OREGON

7-25-03

By: *John M. Wood*
Title: OP Manager



REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: July 18, 2016

Order ___ No.	Ordinance ___ No.	Resolution <u>XX</u> No. 2016-3320	Motion ___	Information ___
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SUBJECT: authorizing the City Manager to implement a 2% cost of living adjustment to non-represented employees effective July 1, 2016 in accordance with the FY 2016-17 adopted budget.

Contact Person (Preparer) for this Motion: Matt Zook
Dept.: Finance
File No.:

RECOMMENDATION:

Adopt Resolution No. 2016-3320 authorizing a the City Manager to implement a 2% cost of living adjustment to non-represented employees effective July 1, 2016 in accordance with the FY 2016-17 adopted budget.

EXECUTIVE SUMMARY:

The FY 2016-17 budget was approved by the Budget Committee and adopted by the City Council. The FY 2016-17 budget includes the required cost-of-living adjustments (COLA) for employees covered by a collective bargaining agreement (CBA) (Police and Public Works). These CBAs state either a range of COLA (2-3% for Police) or a stated flat 2% COLA (Public Works). The consumer price index for 2015 was 1.2%, which is the benchmark for the Police COLA and falls below the minimum 2% COLA. In an effort to maintain the integrity of the compensation and classification study completed in Fall 2015, the budget for non-represented employees also included a 2% COLA. Resolution 2016-3320 will authorize the City Manager to execute the 2% COLA for non-represented employees.

FISCAL IMPACT:

The impact on the budget is approximately \$129,000 across multiple funds and is already included in the FY 2016-17 budget.

STRATEGIC ASSESSMENT (RELATE TO COUNCIL GOALS)

Develop and implement policies to ensure the ability to retain and attract qualified employees.



RESOLUTION No. 2016-3320

A RESOLUTION AUTHORIZING THE CITY MANAGER TO IMPLEMENT A 2% COST-OF-LIVING-ADJUSTMENT TO NON-REPRESENTED EMPLOYEES EFFECTIVE JULY 1, 2016 IN ACCORDANCE WITH THE FY 2016-17 ADOPTED BUDGET

RECITALS:

1. Whereas, the 2006 Newberg Charter, Section 37, states that the city council must authorize the compensation of city employees and city officers, including city council members, as part of its adoption of the annual city budget.
2. Whereas, the City desires to maintain a competitive and appropriate employee compensation structure, as well as preserve the classification and compensation study that aligned positions and wages against the comparable cities, and
3. Whereas, employees represented by collective bargaining agreements will receive a cost-of-living-adjustment of 2% in accordance with these contracts, and
4. Whereas, the FY 2016-17 budget has been approved by the Budget Committee and adopted by the City Council, which includes the 2% cost-of-living adjustment for said employees,

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The Council directs the City Manager to implement the FY 2016-17 budget to effect a 2% COLA for non-represented employees, effective July 1, 2016.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: July 19, 2016.

ADOPTED by the City Council of the City of Newberg, Oregon, this 18th day of July, 2016.

Sue Ryan, City Recorder

ATTEST by the Mayor this _____ day of _____, 2016.

Bob Andrews, Mayor

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: July 18, 2016

Order ___	Ordinance ___	Resolution <u>X</u>	Motion ___	Information ___
No.	No.	No. 16-3323		

SUBJECT: Authorize the City Manager to approve the purchase of an AirBus Vesta 9-1-1 phone system for \$243,156.48.

**Contact Person (Preparer) for this Motion: Brian Casey, Chief of Police
Dept.: Police Department
File No.:**

RECOMMENDATION:

Adopt Resolution No. 2016-3323, authorizing the City Manager to approve the purchase of an AirBus Vesta 9-1-1 phone system for \$243,156.48.

EXECUTIVE SUMMARY:

The City of Newberg, through the Newberg-Dundee 9-1-1 Communications Center, a division of the Newberg-Dundee Police Department, provides emergency 9-1-1 dispatching services for the cities of Newberg, Dundee and the surrounding rural portion of east Yamhill County. As a primary PSAP (Public Safety Answering Point), Newberg-Dundee 9-1-1 Communications Center is a recipient of 9-1-1 funds. Oregon Emergency Management (OEM) is the fiscal manager of the 9-1-1 funds collected by the State of Oregon, and distributes those funds as outlined in ORS 403.

As a general rule, 9-1-1 phone equipment including servers is replaced every five years. In 2014, OEM and Frontier Telecommunications (9-1-1 telephone service provider for Newberg-Dundee 9-1-1) determined that Newberg’s 9-1-1 telephone system was due for replacement. OEM provided two options for telephone equipment replacement: Intrado’s Positron phone system or the AirBus Vesta 9-1-1. The Support Services Manager and Dispatch Supervisor in cooperation with OEM and Frontier, reviewed both systems and selected the AirBus Vesta 9-1-1 as the phone system of choice. This system is the upgrade to the 9-1-1 telephone system currently in use in the Newberg-Dundee 9-1-1 Center, and Frontier technicians are trained in the maintenance of the system.

The phone system replacement package was negotiated between OEM and Frontier with input from the Police Department Support Services Manager. The proposed phone system package is the first step in preparing the 9-1-1 Center for the move to an IP-based 9-1-1 phone system, which is required for NextGEN 9-1-1. NextGEN 9-1-1 will allow citizens to contact 9-1-1 via text-to-911, data-driven medical bracelets, video, et cetera. The Frontier Services Agreement between OEM, Frontier and Newberg-Dundee Police was reviewed by OEM, the Oregon Department of Justice, and the legal department of the City of Newberg.

The new IP-based AirBus Vesta 9-1-1 system will coordinate with the City of Newberg CISCO phone system as does the current analog 9-1-1 phone system. The Newberg IT Department has met with Frontier and reviewed the quote.

Once purchased, all telephone equipment becomes the property of the City of Newberg.

Anticipated installation of the phone equipment is October 2016.

FISCAL IMPACT: The full amount of \$243,156.48 will be paid to Frontier Communications by Oregon Emergency Management for the 9-1-1 phone system replacement.

There may be some financial benefit from selling the old 9-1-1 telephone equipment as surplus.

STRATEGIC ASSESSMENT (RELATE TO COUNCIL GOALS):



RESOLUTION No. 2016-3323

A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPROVE THE PURCHASE OF AN AIRBUS VESTA 9-1-1 PHONE SYSTEM FOR \$243,156.48.

RECITALS:

1. The 9-1-1 telephone system in the Newberg-Dundee 9-1-1 Center is seven years old and due for replacement.
2. Of two phone systems approved and offered for consideration by Oregon Emergency Management, Newberg-Dundee 9-1-1 determined the AirBus Vesta 9-1-1 phone system meets the needs of the communications center.
3. Oregon Emergency Management and Frontier Communications negotiated and set the purchase price following guidelines set out for use of 9-1-1 funds in ORS 403, Public Communications Systems and OAR Division 80, 9-1-1 Emergency Communications System Program.
4. The Oregon Department of Justice and Oregon Emergency Management has approved the Frontier Services Agreement, which has been reviewed by the City of Newberg legal department.
5. Oregon Emergency Management, through their authority as the fiscal entity which oversees the State of Oregon 9-1-1 funding per ORS 403, will pay for the system from State of Oregon 9-1-1 funds.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City Council, acting as the Contract Review Board for the City, does hereby authorize the City Manager to approve the purchase of an AirBus Vesta 9-1-1 phone system for \$243,156.48 (Exhibit A).
2. The City Manager is authorized to sign the contract substantially in the form presented with this resolution, subject to review by the City Attorney as to form and content.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: July 19, 2016.

ADOPTED by the City Council of the City of Newberg, Oregon, this 18th day of July, 2016.

Sue Ryan, City Recorder

ATTEST by the Mayor this _____ day of July, 2016.

Bob Andrews, Mayor



This Frontier Services Agreement ("FSA") is effective as of June 30, 2016, by and between Frontier Communications of America, Inc. on behalf of itself and its affiliates which provide Equipment and Services identified in the Schedules ("Frontier"), and Newberg-Dundee Police Department, whose primary address is Public Safety Building, 401 East Third Street, Newberg, OR 97132 ("Customer").

1. Provision of Services and Equipment

a. Frontier will provide and the Customer agrees to pay for the communications, installation and maintenance services (collectively "Service"), and/or purchase or lease equipment ("Equipment"), described in this FSA and Schedules executed by Customer. Pursuant to the provisions of ORS 403.235 - 403.245, the State of Oregon, Military Department, Office of Emergency Management ("OEM") provides Customer funding for some or all of the Equipment and Services under this FSA. OEM is not the Customer and is not a party to this FSA.

b. Intentionally omitted.

c. Frontier will provide, maintain and repair the Frontier owned facilities and equipment used to provide the Services ("Frontier's Network"), up to and including the point at which Frontier's Network is made available for interconnection to Customer's premises equipment or inside wiring. Subject to Customer's security and access policies and procedures, Customer shall provide Frontier reasonable access to Customer's premises during normal business hours for the purpose of installing, inspecting, testing, rearranging, repairing or removing any Frontier Network components, including obtaining approvals, permits or licenses from third parties as necessary. Customer will cooperate in good faith and provide all reasonable information and authorizations required by Frontier for the purpose of installing Services and/or Equipment, performing routine network grooming, maintenance, upgrades, and addressing emergencies, including but not limited to design layout records of any Customer or third party network elements to be connected to the Services and Letters of Agency allowing Frontier to act on the Customer's behalf related to the Services and auxiliary third party services.

d. Only authorized agents and representatives of Frontier may perform maintenance work with respect to Frontier's Network. Any repair, alteration, configuration or servicing of Frontier's Network, Services or Equipment by Customer or third parties without the written consent of Frontier is a material breach of this FSA and cause for termination at Frontier's option.

e. If Frontier is unable to commence performance hereunder due to circumstances within Customer's control, any related costs incurred by Frontier, including but not limited to travel at normal rate and overtime labor rate expenses, will be reimbursed by Customer. Customer will reimburse Frontier for all costs incurred for installation, maintenance and repair if: (i) Frontier's Network is altered, maintained or repaired by any party other than Frontier, without Frontier's prior written consent, (ii) the malfunction of the Service or Equipment is the result of mishandling, abuse, misuse, improper operation, improper storage, or improper installation by anyone other than Frontier (including use in conjunction with equipment electrically or mechanically incompatible); or (iii) if the problem originated from a source unrelated to Frontier's Network.

f. Customer will provide (i) suitable building facilities (including but not limited to space, circuitry, power, backup power, and surge protectors) for the installation, operation, and maintenance of Frontier's Network in accordance with manufacturer's documentation and Frontier's installation standards, more fully described in the applicable Schedule; and (ii) a well-lighted and safe working area that complies with all local safety standards and regulations.

g. The Services or Equipment may be connected with the services or facilities of other carriers. Frontier may, when authorized by Customer and as may be agreed to by Frontier, act as Customer's agent for ordering facilities provided by other carriers to allow such connection of Customer's locations to Frontier's Network or to the network of an underlying carrier or service.

h. Customer is responsible for all charges billed by other carriers or third parties. Frontier shall not be responsible for the installation, operation, repair or maintenance or performance of equipment, facilities, software or service not provided directly by Frontier. Customer is responsible to provide equipment compatible with the Service or Equipment and Frontier's Network, and any wiring required to extend a communications termination and/or demarcation at the Customer premises. Customer will provide suitable building facilities for the provision of Services in accordance with local codes, including but not limited to ducting, conduit, structural borings, etc. for cable and conductors in floors, ceilings and walls; electrical service with suitable terminals and power surge protection devices; and metallic grounds with sufficient slack in the equipment room, installed in conformity with the National Electrical Code and local codes, and Frontier's installation standards.

i. Customer is solely responsible for the selection, implementation and maintenance of security features for protection against unauthorized or fraudulent use of the Services and Equipment. Customer is solely responsible for ensuring that all of Customer's data are adequately secured, documented and backed-up at all times. Frontier and its contractors are not responsible or liable for data loss for any reason.

j. Frontier will manage the Frontier Network in Frontier's sole discretion, and reserves the right to substitute, change or rearrange any equipment or facilities used in delivering Services or provisioning the Equipment, provided such changes do not adversely affect the Services. Frontier will endeavor to provide reasonable notice prior to any scheduled maintenance, planned enhancements or upgrades, which may result in a degradation or disruption in Service. Frontier reserves the right to suspend Service for emergency maintenance to Frontier's Network without notice to Customer. Customer shall designate a primary contact for receipt of such notice.

k. Customer represents and warrants that its use of the Service and Equipment will comply and conform with all applicable federal, state and local laws, administrative and regulatory requirements and any other authorities having jurisdiction over the subject matter of this FSA and Customer will be responsible for applying for, obtaining and maintaining all registrations and certifications which may be required by such authorities with respect to such use.

l. Except as expressly identified in a Schedule, Customer and its employees shall be the only permitted end-user of the Services and leased Equipment. Customer shall not resell or bundle the Services or leased Equipment, nor permit any third party to access the Services or leased Equipment in exchange for compensation of any kind.

2. Term

The term of this FSA will commence as of the date identified in the introductory paragraph above or the date the FSA is executed by both Parties, whichever is later (the "Effective Date") and will continue through the Service Term with respect to any Service or Equipment provided pursuant to this FSA. Customer will purchase the Services, or lease Equipment, identified in each Schedule for the period of time stated in the Schedule (the "Service Term"). Unless otherwise stated in the Schedule, the Service Term and billing for the Service, will begin upon the earlier of (i) Customer's use of the applicable Service(s) or Equipment or (ii) five (5) days following Frontier's installation of such Service(s) or Equipment, and such date is deemed the commencement of the applicable Service Term. If neither party provides the other with written notice of its intent to terminate a Service at least sixty (60) days prior to expiration, the Service Term of each Service will automatically renew for additional one-year periods, subject to the terms and conditions of this FSA and at the then applicable one-year term rate,



excluding promotional rates. If the parties agree to negotiated renewal terms, such terms will not be effective unless and until documented in writing and executed by both parties.

3. Payment

a. Customer shall pay all charges set forth in the Schedules and if, as agreed to in a Schedule, a tariff(s), is applicable to the Service described in the Schedule, all charges in that tariff(s) as set forth in the Schedule. Frontier will invoice Customer any applicable non-recurring charges ("NRC"), monthly recurring charges ("MRC"), and usage based charges.

b. Unless otherwise exempt, Customer shall pay all applicable federal, state or local use, privilege, utility, excise or other taxes (excluding taxes based on Frontier's net income), or any charges in lieu thereof, and any applicable surcharges or fees, including but not limited to Primary Interexchange Carrier Charge, Federal Pre-Subscribed Line Charge, Carrier Cost Recovery Surcharge, E-911, and Universal Service and Local Number Portability, in the amounts applicable at the time of billing.

c. All payments shall be due within thirty (30) days of the invoice date and, in addition to and not in lieu of any other remedies Frontier may have hereunder or under the law as a result of Customer's failure to pay, payments not made within forty-five (45) days of the invoice date are subject to a late payment fee of the lesser of two-thirds of one percent (2/3%) per month or the maximum allowed by law.

d. In the event Customer disputes any invoiced amount, Customer will pay all charges not disputed, and notify Frontier of the dispute in writing, providing an explanation of the basis for the dispute. If Frontier does not receive notice of a payment dispute by Customer within ninety (90) calendar days after the date of an invoice, such invoice will be final and not subject to further challenge. For the purpose of computing partial month charges, a month will consist of thirty (30) calendar days. Frontier reserves the right to immediately suspend or terminate any or all Services or the installation or lease of any or all Equipment if Customer is overdue more than sixty (60) days for payments that have not been disputed in good faith. All payments are subject to ORS 293.462.

e. Nothing in this FSA may be construed to permit any violation of the Oregon Constitution, ORS 403.235 – 403.245 or any other law regulating liabilities or monetary obligations of Customer or the State of Oregon. Customer's obligation to pay for Equipment or Services is contingent upon Customer or the State receiving the funding, appropriations, limitations, allotments or other expenditure authority from its governing body or the Oregon Legislative Assembly (including its Emergency Board) sufficient to allow Customer, in the exercise of its reasonable administrative discretion to continue to compensate Frontier

4. Cancellation and Early Termination Charges

a. If Customer cancels any Service or Equipment prior to delivery of any Equipment or installation of the Service or Equipment, Customer shall pay a cancellation charge equal to the NRC and one (1) month of MRC for the Service, plus the actual costs and expenditures of Frontier in connection with establishing the Service prior to Frontier's receipt of notice of cancellation, including but not limited to any Equipment restocking fees.

b. Following installation, Customer may terminate a Service or Equipment by providing at least thirty (30) days prior written notice to Frontier. All unpaid amounts shall be due upon termination of any Service identified in a Schedule for any reason. In addition, and unless otherwise specifically provided in the applicable Schedule, if any Service or Equipment is terminated by Customer for any reason other than breach by Frontier or by Frontier due to Customer's breach, then Customer shall pay Frontier a termination charge equal to ten percent (10%) of the remaining MRC and all related taxes and surcharges multiplied by the number of months remaining in the Service Term. Partial months shall be prorated.

c. Customer agrees that Frontier's damages in the event of early termination will be difficult or impossible to ascertain, and that the charges identified in this Section are intended, therefore, to establish liquidated damages in the event of termination and are not intended as a penalty.

d. Customer may terminate this FSA without cause upon sixty (60) days prior written notice to Frontier

e. **Non-Appropriation of Governmental Funds.** To the fullest extent required by law, the following shall apply. Customer represents that the Services are funded by governmental appropriations. In the event Customer is not appropriated governmental funds to continue to subscribe to the Services under this Agreement, despite taking all necessary steps to secure such funding, then Customer will provide Frontier with reasonable advance notice, but not less than thirty (30) business days, of the need to terminate this FSA or a Schedule for lack of appropriated funds, or the need to modify the quantity of Services under this Agreement. Frontier and Customer will work cooperatively in good faith to complete the termination of or reduction in Services in a reasonable time frame. In the event of such termination or reduction, Customer will be responsible for paying for Services provided up to the date of termination of or reduction in Services but early termination charges will not apply. If Customer terminates this Agreement for non-appropriation in order to procure the same or comparable services from another service provider, then early termination charges will apply.

5. Limitation of Liability and Warranty Provisions

a. The liability of Frontier and its affiliates related to this FSA or the Service or Equipment provided under this FSA, shall in no event exceed the limitations of liability set forth in the applicable or regulatory rule or order. If there is no applicable regulatory rule or order, the total amount paid for the applicable Service or Equipment during the prior 12 months. In cases of an Outage, Frontier's liability shall be limited to 1/720 of the MRC for each hour after Frontier is notified of the Outage. An "Outage" is an interruption in Service or use of the Equipment caused by a failure of Frontier's Network, excluding degradation or disruption due to planned or emergency maintenance or an event outside Frontier's direct control. Notwithstanding the above, Frontier will not be liable to Customer for interruptions in Services or Equipment caused by failure of hardware or software, failure of communications services, power outages, or other interruptions not within the complete control of Frontier. In addition, there will be no credits, reductions or set-offs against charges for Services or Equipment, or for interruptions of Services or Equipment, except as expressly set forth herein.

b. IN NO EVENT WILL FRONTIER OR ITS AFFILIATES BE LIABLE FOR ANY LOST PROFITS OR BUSINESS OPPORTUNITIES, OR FOR ANY OTHER SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY THEREOF. FRONTIER AND ITS AFFILIATES SHALL NOT BE LIABLE FOR ANY LOSS, LOSS OF USE, COST, CLAIM OR EXPENSE EXPERIENCED OR INCURRED BY CUSTOMER OR THIRD PARTIES RESULTING FROM THE USE OF THE SERVICES OR EQUIPMENT PROVIDED HEREUNDER, INCLUDING BUT NOT LIMITED TO DAMAGE, LOSS OR LOSS OF USE OF CUSTOMER DATA OR FRAUD BY THIRD PARTIES.

c. Frontier warrants that Frontier's Network will be maintained in good working order. If any Service does not function substantially in accordance with applicable Service specifications as a result of Frontier's failure to maintain Frontier's Network (excluding degradation related to the acts or omissions of Customer or anyone using the Services, a force majeure event, or scheduled maintenance), Frontier's sole obligation is to repair the affected Service at Frontier's expense. THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, AND FRONTIER DISCLAIMS ALL OTHER WARRANTIES WITH RESPECT TO FRONTIER'S NETWORK, SERVICES OR EQUIPMENT PROVIDED PURSUANT TO THESE TERMS INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE



OR FUNCTION. FRONTIER DOES NOT WARRANT THAT THE SERVICES OR EQUIPMENT OR ACCESS OR OPERATION OF THE SERVICES OR EQUIPMENT WILL MEET CUSTOMER'S NEEDS, OR WILL BE UNINTERRUPTED, ERROR-FREE, OR SECURE.

d. This FSA shall not be construed as granting a license with respect to any patent, copyright, trade name, trademark, service mark, trade secret or any other intellectual property, now or hereafter owned, controlled or licensable by Frontier. Customer agrees that Frontier has not made, and that there does not exist, any warranty, express or implied, that the use by Customer of Frontier's Services and/or the Equipment provided under this FSA will not give rise to a claim of infringement, misuse, or misappropriation of any intellectual property right.

e. Customer agrees that the Services and Equipment, and Frontier's performance hereunder are subject to the terms, conditions and restrictions contained in any applicable agreements (including software or other intellectual property license agreements) between Frontier and Frontier's vendors.

f. No action, regardless of form, arising out of this FSA or the Schedules may be brought more than two (2) years after the cause of action has arisen or charges have been billed whichever is earlier. The parties hereby waive the right to invoke any different limitation on the bringing of actions provided under applicable law.

6. Indemnification

a. Each party shall indemnify, defend and hold harmless the other party and its affiliates, and their respective directors, officers, employees, successors, assigns and agents, harmless from and against any and all third party claims, loss, damage, cost or expense to the extent arising out or relating to any claim, action or proceeding brought by any third party based upon: (i) the other party's breach of this FSA; (ii) the other party's negligence or willful misconduct in the performance of its obligations under this FSA; (iii) use of the Equipment or Services, including but not limited to the content of communications transmitted thereby; (iv) any infringement of intellectual property or misappropriation of any patent, copyright, trademark, trade secret or other proprietary right arising from Customer's or any other person's use of the Equipment or Services, any combination of the Equipment or Services with other products or services not provided by Frontier, or any modification of the Equipment or Services by anyone other than Frontier; (v) any bodily injury (including illness or death) or property damage caused by the other party or anyone within its control. Customer's obligations, if any, are subject to the provisions of the Oregon Constitution, ORS 403.235 – 403.245 and any other law regulating liabilities or monetary obligations of Customer or the State of Oregon.

b. If Frontier believes at any time that the Equipment or Services, infringe a third party's Intellectual Property Rights, Frontier may upon receipt of Customer's prior written consent, which Customer will not unreasonably withhold, (i) replace an infringing item with a non-infringing item that meets or exceeds the performance and functionality of the replaced item; or (ii) obtain for Customer the right to continue to use the infringing item; or (iii) modify the infringing item to be non-infringing, provided that, following any replacement or modification made pursuant to the foregoing, the Equipment or Services continue to function in material conformance with the specifications set forth in this FSA. Frontier's failure or inability to accomplish any of the foregoing will be deemed a breach of this FSA, and Customer may pursue any rights and remedies available to it under this FSA, including termination. Frontier will not be liable for any claim for infringement based solely on the following:

- Customer's modification of the Equipment or Services other than as contemplated by this FSA, the specifications, or as otherwise authorized by Frontier in writing;
- Use of the Equipment or Services in a manner other than as contemplated in this FSA, the specifications, or as otherwise authorized by Frontier in writing; or

- Use of Equipment or Services in combination, operation, or use of with other products other than as contemplated by this FSA, the specifications, or as otherwise authorized by Frontier in writing.

c. Control of Defense and Settlement. Frontier's obligation to indemnify Customer, OEM or the State of Oregon as set forth in this FSA is conditioned on Customer providing to Frontier prompt notification of any claim or potential claim of which Customer becomes aware that may be the subject of those Sections. Frontier will have control of the defense and settlement of any claim, however, neither Frontier nor any attorney engaged by Frontier will defend the claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the approval of the Attorney General, nor will Frontier settle any claim on behalf of the State of Oregon without the approval of the Attorney General. The State of Oregon may, at its election and expense, assume its own defense and settlement in the event that the State of Oregon determines that Frontier is prohibited from defending the State of Oregon, is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue and the State of Oregon desires to assume its own defense.

d. With respect to any hardware or software furnished by Frontier to Customer, but not manufactured by Frontier ("Third Party Product(s)"), Frontier will secure from the applicable manufacturer(s) such warranties and indemnities as may be available with respect to such Third Party Products at no additional cost to Customer and assign and pass through to Customer all available warranties and indemnities for such Third Party Products to the extent legally assignable.

7. Confidentiality

a. Both parties agree that all terms and conditions set forth in this FSA shall be considered confidential, and that details of the terms of this FSA, shall not be disclosed to third parties, other than affiliates, employees, agents or contractors who have a need to know such information in the scope of their employment or engagement, without the prior written consent of the other party, unless required by law.

b. Customer and Frontier may disclose to each other information that is confidential in nature. In order to receive confidential treatment, all such information (hereafter "Information") shall be either (i) clearly marked as confidential if written, or clearly identified as confidential if oral or (ii) reasonably understood by the recipient, based on the nature of the Information or the circumstances of disclosure, to be confidential or proprietary to the discloser. Except as required by law or regulation, Customer and Frontier agree not to disclose any Information to any third party and to keep Information in a secure place available only to employees, affiliates, contractors or agents who are subject to obligations of confidentiality no less restrictive than those set forth herein, and who need to know the Information for purposes of the business dealing between Customer and Frontier, and to use Information only in connection with such business dealings. This Section is enforceable by injunction.

c. Information will lose its confidential status if obtained legitimately from a third party without restriction or upon the expiration of five (5) years from delivery of each item of Information. Information shall remain the property of the disclosing party and shall be returned to such party on request or upon termination of the business dealing between Customer and Frontier.

d. Customer's obligations of confidentiality, if any, are subject to the Oregon Public Records Laws, ORS 192.410 to 192.505.

8. Breach

a. Breach by Customer: If Customer fails to make any payment when due and such failure continues for ten (10) days after notice, or Customer fails to comply with any other term or condition of this FSA or any Schedule and such failure continues for thirty (30) days after notice, then Frontier may either suspend the applicable Schedule (or any portion thereof) until the breach is remedied, terminate the applicable Schedule (or any portion thereof), or terminate this FSA and all Schedules.



Notwithstanding the foregoing, Frontier may immediately suspend Services and, after giving notice to Customer with an opportunity to respond appropriate to the circumstances and Customer's failure to respond, Frontier may terminate any or all Services, retrieve Frontier Network elements from the service location and Equipment for which title has not transferred to Customer, in the following circumstances: (i) in the event of unauthorized, unlawful or improper use or abuse of the Frontier Network or Service; (ii) if, in the reasonable judgment of Frontier, Customer's use of the Frontier Network or Service has or will damage or have an adverse effect on Frontier's Network, its personnel, property or service; (iii) such action is necessary to meet the exigencies of an emergency; or (iv) a court or other governmental authority having jurisdiction issues an order prohibiting Frontier from furnishing the Equipment or Services to Customer.

b. Breach by Frontier: If Frontier has not remedied any breach within thirty (30) days after Frontier's receipt of written notice from Customer of such breach (providing reasonable detail), Customer may terminate the Service which is the subject of such breach, and Customer will not be liable for any early termination fees. This is in addition to other remedies available to the Customer for a breach by Frontier.

9. Force Majeure

In no event will Frontier or its affiliates be liable for any delay in performance directly or indirectly caused by events beyond their control, including, but not limited to: acts or omissions of Customer, its agents, employees or contractors; acts of God; acts of the public enemy; acts of the United States, a state or other political subdivision; fire, floods or other natural disasters; accidents; wars; terrorism; cyber security events; labor disputes or shortages; and inability to obtain material, power, equipment or transportation.

10. Assignment

This FSA may not be assigned by either party without the other party's prior written consent, which consent shall not be unreasonably withheld or delayed, except that Frontier may assign this FSA to any successor to the business of Frontier by merger, consolidation or sale of assets or to any corporation controlling, controlled by or under common control with Frontier. Frontier may subcontract portions of the work to be performed hereunder to provision the Services or Equipment, provided, however, Frontier shall not enter into any subcontracts for any of Services required under this FSA, on Customer's premises, without Customer's prior written consent. Customer's consent to any subcontract shall not relieve Frontier of any of its duties or obligations under this FSA. The provisions of this FSA are binding upon, and inure to the benefit the parties and their respective successors and permitted assigns, if any.

11. Work Site Conditions

a. If asbestos, or material containing asbestos, or any other hazardous or toxic materials are discovered during work pursuant to this FSA, Frontier will suspend its work for a reasonable period of time to permit Customer to engage a qualified firm to remove and dispose of the asbestos or other toxic or hazardous materials from the site. Such suspension may result in an equitable adjustment to the charges identified in the related Schedule, based on any increase in costs incurred by Frontier.

b. Customer agrees to release, indemnify, defend and hold harmless Frontier from and against any damages, losses, claims, demands or lawsuits arising out of or relating to the presence, removal or disposal of asbestos or any other hazardous or toxic material from the Customer's premises or location where Services or Equipment will be installed. Customer's obligations, if any, are subject to the Oregon Constitution, ORS 403.235 – 403.245 or any other law regulating liabilities or monetary obligations of Customer or the State of Oregon.

12. Title and Risk of Loss

a. Risk of loss or damage for Frontier Network elements installed at a Customer designated service location shall pass to Customer at time of delivery to Customer.

b. Any Frontier Network elements or Equipment installed at Customer's premises or location where Services or Equipment will be installed (which is leased or for which title has not transferred to Customer) remain the personal property of Frontier or Frontier's assignee, notwithstanding that it may be or become attached to or embedded in realty, and upon termination of this FSA or any Schedule (in whole or in part), all Frontier property shall be returned to Frontier in the same condition as installed, normal wear and tear excepted. Customer will not tamper with, remove or conceal any Frontier identifying plates, tags or labels. In the event Frontier property is not returned to Frontier in accordance with this Section, Customer will be billed for and pay to Frontier an amount equal to the retail value of the Frontier property, except to the extent such failure is caused by the negligence or willful misconduct of Frontier or its agents.

13. Competition

Customer recognizes the availability of competitive alternatives for receiving the Services and Equipment provided under this FSA, and has freely elected to enter into this FSA in order to receive the benefits it offers.

14. Government Regulation

To the extent that any Service(s) provided hereunder are subject to the jurisdiction of the Federal Communications Commission ("FCC") or any state public utilities commission or other regulatory agency, this FSA shall at all times be subject to changes, modifications, orders and rulings by the FCC and/or state public utilities commission or other regulatory agency. Frontier will provide Customer with written notice of its taking of any of the foregoing actions, which notice, where reasonably possible given the timing of the regulatory event and its impact on Frontier, shall be in advance thereof and otherwise prompt. The parties shall negotiate an amendment to this FSA. If the parties are unable to come to agreement, Customer may terminate this FSA without incurring any early termination liability. Frontier reserves the right to suspend, modify or terminate any Service without liability where any statute, regulation and/or ruling, including modifications thereto, by any regulatory agency (including the FCC), legislative body or court of competent jurisdiction, (i) prohibits, restricts or otherwise prevents Frontier from furnishing such Service, or (ii) has a material negative impact on Frontier's performance hereunder or the benefits provided by this FSA. If provision of any Service pursuant to this FSA is subject to advance approval of the FCC and/or any state public utilities commission, Frontier shall obtain such approval and this FSA shall not become effective with respect to such Service until after receipt by Frontier of written notice of such approval.

15. Governing Law

This FSA shall be governed by and construed according to the laws of the State of Oregon, without regard to its conflicts of laws provisions. Any related litigation may be brought and conducted exclusively in the Circuit Court of Marion County for the State of Oregon in Salem, Oregon, unless the claim must be brought in a federal forum, in which case it must be brought and adjudicated exclusively within the United States District Court for the District of Oregon. Frontier consents to personal jurisdiction in such courts. Neither this section nor any other term of the FSA is a waiver by the State of Oregon of any form of defense or immunity, whether it is sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States, or otherwise, from any claim or from the jurisdiction of any court.



16. No Waiver

If either party fails, at any time, to enforce any right or remedy available to it under this FSA, that failure shall not be construed to be a waiver of the right or remedy with respect to any other breach or failure by the other party.

17. Severability

A declaration by any court, or other binding legal source, that any provision of this FSA or any Schedule is illegal and void, will not affect the legality and enforceability of any other provisions of this FSA, unless the provisions are mutually dependent.

18. Notice

All notices provided pursuant to this FSA will be in writing and delivered by registered or certified US Mail, postage prepaid, or by commercial overnight delivery service, or by facsimile, or by regular mail and shall be deemed delivered either on the date of return receipt acknowledgment (in the case of certified US Mail), or on the next day after the sending of the notice if sent overnight mail, or three (3) days after mailing if by regular mail to the address of the party designated to receive such notice. A copy of all notices will be sent to:

Office of Emergency Management
Mark Tennyson
PO Box 14370
Salem, Oregon 97309
FAX No: 503-373-7833

19. Independent Relationship

Each party understands and agrees that it and its personnel are not employees of the other party, and that each party is an independent contractor hereunder for all purposes and at all times. Frontier is not an "officer," "employee" or "agent" of Customer or any other Customer, office, or department of the State of Oregon, as those terms are used in ORS 30.265, and Frontier shall make no representations to third parties to the contrary.

20. Dispute Resolution

Except as otherwise specifically provided in or permitted by this FSA, all disputes arising in connection with this FSA shall first be resolved through good faith negotiation. If, after negotiating in good faith for a period of ninety (90) calendar days or any agreed further period, the parties are unable to resolve the dispute, then each party may seek resolution by exercising any rights or remedies available at law or in equity. Customer and Frontier agree that each may only bring claims against the other in an individual capacity and not as a plaintiff or class member in any purported class, representative, or private attorney general proceeding. In addition, ORS 403.160 provides as follows:

403.160 Mediation of disputes; arbitration; costs and fees.

(1) All disputes between a governing body, 9-1-1 jurisdiction and public or private safety agency regarding the emergency communications system must be mediated if the dispute cannot be resolved in accordance with a written agreement. When a governing body or 9-1-1 jurisdiction obtains knowledge that a dispute exists and cannot be resolved by the agencies, the governing body or the 9-1-1 jurisdiction shall notify the Office of Emergency Management of the dispute in writing. Within 30 days after this notification, the disputing agencies shall mutually select a mediator and notify the office in writing of this selection. If a mediator is not mutually selected by the agencies within this period, the Director of the Office of Emergency Management shall select a mediator from the list of mediators established under subsection (3) of this section. Once selected, the mediator shall establish a schedule for the mediation process. The disputing agencies shall resolve the dispute within 60 days after the date the mediator is agreed upon or selected unless the agencies mutually agree in writing to an extension of this deadline. A copy of all extensions must be submitted to the office.

(2) When the mediation process in subsection (1) of this section ends, the mediator shall notify the office in writing of the outcome of the mediation. If the agencies are not able to resolve their dispute through mediation, the 9-1-1 jurisdiction or governing body and public or private safety agency or agencies shall submit the dispute to arbitration. The agencies shall select an arbitrator within 30 days after the end of the mediation. If the disputing agencies are unable to mutually select an arbitrator within this period, the director shall request the presiding judge for the judicial district in which the 9-1-1 service area is located to select an arbitrator. The arbitrator shall hear and decide the dispute within 30 days after selection unless the agencies mutually agree in writing to an extension of this deadline. A party to arbitration under this subsection may seek confirmation, vacation, modification or correction of the arbitrator's decision as provided in ORS 36.700, 36.705 and 36.710. A court may vacate a decision only if there is a basis to vacate the decision as described in ORS 36.705 (1)(a) to (d). The court may modify or correct a decision only for the grounds given in ORS 36.710.

(3) The office shall establish a roster of mediators qualified to mediate disputes under subsection (1) of this section. This list may be used by the disputing agencies when selecting a mediator.

(4) Unless otherwise agreed upon, the costs of the mediation or arbitration, including the mediator's or arbitrator's fees, must be divided equally among the disputing agencies. [Formerly 401.785]

403.165 Office to ensure compliance; proceedings authorized.

(1) The Office of Emergency Management may institute proceedings against a public or private safety agency, a 9-1-1 jurisdiction or other person to compel compliance with or to restrain further violation of ORS 305.823 and 403.105 to 403.250 or rules adopted pursuant to ORS 403.120.

(2) Proceedings authorized by subsection (1) of this section may be instituted without official notice, hearing or order provided in ORS chapter 183. However, proceedings brought against a telecommunications utility must be brought before the Public Utility Commission as provided by ORS chapter 756. [Formerly 401.790]

21. No Third Party Beneficiaries. Customer and Frontier are the only parties to the FSA and are the only parties entitled to enforce its terms. Nothing in the FSA gives, is intended to give, or will be construed to give or provide, any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of the FSA. OEM and the State are third party beneficiaries of this FSA.

22. Incorporation of Oregon Statutes. ORS 279B.220, 279B.230 and 279B.235 are incorporated into this FSA by reference.

23. Tax Certification. By signature on this FSA for Frontier, the undersigned hereby certifies under penalty of perjury that the undersigned is authorized to act on behalf of Frontier; that Frontier has the power and authority to enter into and perform this FSA; that this FSA when executed and delivered will be a valid, binding obligations of Frontier, enforceable according to its terms; that Frontier will, at all times during the term of this FSA, be qualified to do business in the State of Oregon, professionally competent and duly licensed to perform the Services; and that for a period of no fewer than six years preceding the effective date of this FSA, Frontier, to the best of the undersigned's knowledge, has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state and is not in violation of any Oregon Tax Laws and that Frontier will comply with all tax laws of this state and the applicable political subdivision. For purposes of this certification, "Oregon Tax Laws" means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250 and ORS chapters 118, 314, 316, 317, 318, 321 and 323 and the elderly rental assistance program under ORS 310.630 to 310.706 and local taxes administered by the Department of Revenue under ORS 305.620.

24. Records Maintenance; Access. Frontier shall use reasonable commercial efforts to maintain all financial records relating to the subject matter of this FSA in accordance with Generally Accepted Accounting Principles ("GAAP"). Frontier shall also maintain any other records pertinent to this FSA in such a manner as to document clearly Frontier's



performance of its duties which are subject to this FSA. Frontier shall retain and keep accessible all financial records, books, documents, papers, plans, and writings for a minimum of six years, or such longer period as may be required under applicable law, following final payment and termination of this FSA, or until the conclusion of any audit, controversy, or litigation arising out of or related to this FSA, whichever date is later. Frontier shall permit Customer or the State and their duly authorized representative's access to Frontier's financial records and other books, documents, papers, plans, and examinations and audits and make excerpts and transcripts when requested.

25. Attorney Fees. Neither party to the FSA nor the State is entitled to obtain judgment from the other party for attorney fees it has incurred in any litigation between the parties or in defense of any claim asserted by a third party.

26. Amendments. This FSA may be amended, modified, or supplemented only by a written amendment signed by Frontier and Customer. Any amendment that provides for additional Equipment or Services may only provide for Equipment or Services directly related to the scope of Equipment and Services described in the FSA, and no amendment will be effective until all requisite signatures and approvals are obtained. Either Frontier or Customer may request a change to this FSA, including all Schedules issued under this FSA and exhibits attached, by submitting a written proposal describing the desired change to the other party.

Change Control. Subject to the conditions above, amendments to a Schedule issued under this FSA and related costs may be managed through an authorized change control process that reflects at least the processes described in this section. Either Frontier or Customer may request a change by submitting a written proposal describing the requested change to the other party. Frontier's and Customer's Authorized Representatives will review the written change request and either mutually approve it for further analysis or reject it.

Analysis of Change Requests; Change Orders. The parties will analyze each change request (that has not been rejected) in accordance with the authorized change control process to determine the effect that the implementation of the change will have on the Schedule, and related costs. If Frontier requests to make changes in its design or implementation of the Network or Services to enable the System or Services to meet the requirements, such changes will be made at no cost to Customer, unless such changes are due to the failure of Customer or its agents to perform their responsibilities in a timely manner. If the analyzed change request is mutually approved, the agreed-upon party will prepare a written change order, detailing all modifications to the Schedule and related costs (the "Change Order"). A Change Order at a minimum must contain:

- The effective date of the Change Order;
- A detailed description of the Services to be performed under the Change Order;
- The particular specification or matter in the Schedule which will be altered, and the precise scope of that alteration;
- Whether the Change Order modifies critical path for delivery of equipment or Services;
- Any change in the cost of the Services to be performed pursuant to the Change Order; and
- The cumulative cost changes of all Change Orders previously issued.

- A Change Order may alter only that portion of the Schedule and related costs to which it expressly relates and must not otherwise affect the terms and conditions of this FSA. Both parties must sign the Change Order to authorize the Services described therein and incorporate the changes into this Schedule. No Services may be performed pursuant to the Change Order and no payment will be made on account of the Change Order until the Change Order is fully executed and all required State of Oregon approvals are received.

Payments. Subject to the foregoing provisions of this Section and performance of the Services, Customer will pay for Services performed pursuant to a Change Order according to the acceptance and payment procedures set forth in this FSA.

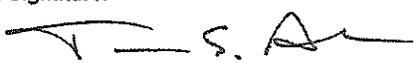
27. Applicable Statutory Obligations:

ORS 403.110 Liability of 9-1-1 Providers. A provider or a 9-1-1 jurisdiction or the employees or agents of a provider or a 9-1-1 jurisdiction may be held civilly liable for the installation, performance, provision or maintenance of the emergency communications system if the provider or the 9-1-1 jurisdiction or the employees or agents of the provider or the 9-1-1 jurisdiction act with willful or wanton conduct. A provider or seller is not liable for damages that result from providing or failing to provide access to the emergency communications system or from identifying or failing to identify the telephone number, address, location or name associated with any person or device accessing or attempting to access the emergency communications system. This section does not affect any liability a 9-1-1 jurisdiction may have for employee negligence in receiving emergency calls from the public and dispatching emergency services to the public.

28. Authorization and Entire Agreement

Each party represents that the person executing this FSA is authorized to enter into this FSA on its behalf. This FSA, the terms and conditions at, and any Schedules executed by the parties constitute the entire agreement between the parties pertaining to the subject matter herein and supersedes all prior oral and written proposals, correspondence and memoranda with respect thereto. This FSA may not be modified, amended or supplemented except by written agreement signed by an authorized representative of each party. Notwithstanding anything otherwise stated, a Customer purchase order document (whether signed by one or both parties) shall be construed solely as evidence of Customer's internal business processes, and the terms and conditions contained thereon shall be void and of no effect or application toward this FSA.

Frontier Communications of America, Inc.

Frontier's Signature:


Printed Name: Trent S. Anderson

Title: SVP

Date: 6.28.16

Contractual Notice: Frontier Communications
111 Field Street
Rochester, NY 14620
Attn: Legal Department

Newberg-Dundee Police Department

Customer's Signature:

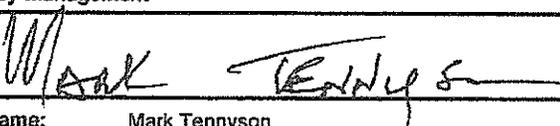
Printed Name:

Title:

Date:

Contractual Notice:
Newberg-Dundee Police
Department
Public Safety Building
401 East Third Street
Newberg, OR 97132
Attn: Mary Newell, Support Services
Manager

State of Oregon, acting by and through the Office of Oregon
Emergency Management



Printed Name: Mark Tennyson

Title: Section Director

Date: 6/28/16

Contractual Notice: Solely pursuant to ORS 403.235 through
403.245 and for no other purpose: State
of Oregon, acting by and through the
Military Department, Office of Emergency
Management

Address:
911 Program, PO BOX 14370 Salem OR
97309-5062

Attn:
Gillien Duvall, 9-1-1 Technology
Operations Coord. / Program Lead
And . . .

Office of Emergency Management
Mark Tennyson
PO Box 14370
Salem, Oregon 97309
FAX No: 503-373-7833

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: July 18, 2016				
Order ___	Ordinance _	Resolution ___	Motion <u>x</u>	Information ___
No.		No.		
SUBJECT: League of Oregon Cities Priorities			Contact Person (Preparer) for this Motion: Joe Hannan Dept.: City Manager	

RECOMMENDATION: Council recommended 4 priorities to the League of Oregon Cities Legislative Priorities List for the 2017 legislative session.

EXECUTIVE SUMMARY:

For several months, eight policy committees of the League of Oregon cities have been working to identify and propose specific actions as part of the League’s effort to develop a pro-active legislative agenda for the 2017 session. They identified 29 legislative objectives (attached). The objectives span a variety of issues and differ in the potential resources required to seek their achievement. It is desirable to prioritize them in order to ensure that efforts are focused where they are most needed.

Each city has being asked to review the recommendations of the policy committees and their four top issues to the LOC Board of Directors as it prepares to adopt the League’s 2017 legislative agenda.

City staff has reviewed the 29 proposals and their recommendations are as followed

Department Directors’ Top 4 Recommended Priorities

1. Property Tax Reform (League Priority H)

- It represents the largest source of income to the City.
- It is a top issue for all cities, thus has the largest opportunity to become an LOC focus rather than other issues that affect a smaller number of cities

2. Transportation Funding and Policy Package (League Priority Z)

- Transportation funding will be critical to completion of the Newberg-Dundee Bypass from Dayton to Rex Hill. Newberg also has significant funding limitations for maintenance of our local street system and providing bike/ped facilities. A funding package that address new regional and statewide transportation systems that moves goods and services will assist our local economy and economic development efforts to get these goods and services to I-5 and Port of Portland facilities. At the local level expand resources either with State dollars or the ability to raise local funding sources without impediments or limitations will allow us to improve our transportation system for our local businesses and residents.

- There is a major funding gap in the City (and other Cities) to maintain this asset
- Phase 1 of a local option of a street utility fee/street lighting fee is underway but this will only fill approximately 50% of the yearly need
- Street maintenance funding continue to be a big issue for the City, and potential for additional revenue would be a direct benefit to Newberg.

3. Rights of Way (League Priority V)

4. Needed Housing Assistance Program (League Priority A)

Affordable housing is a critical issue in Newberg for our low and moderate income families. The overall available housing supply is minimal with two different community populations vying for the same price point – low/moderate income families and George Fox University students. Data indicates that high a level of cost burdened families within the community and few tools to address providing housing to this population. Having a State program available to look at innovative ways to provide housing to our low and moderate income families would further the activities of the Newberg Affordable Housing Commission and our Affordable Housing Action Plan.

Other recommendations (by one or two directors)

Funding Water System Resilience (League Priority AA)

- All of our water supply is on the south side of the Willamette River – in case of an emergency accessing our well field could be challenging
- As part of the Water Master Plan that we are working on – the recommendation is to find a redundant source of water (to supply winter average demands) on this side of the river
- This funding could help develop that source

DOGAMI Disaster Mapping (League Priority C)

9-1-1 Emergency Communications (League Priority X)

Newberg is already seeing the compression of this revenue versus cost of service.

Marijuana Taxes (League Priority L)

PERS Reform (League Priority S)

This system is unsustainable for the long term without some drastic changes being made. And, as stated in the narrative, changes that do not invoke a long-drawn out hearing process.

Arbitration Reform (League Priority T)

Local governments have been wrestling with this issue for years; the quality of the decision is more often based on the arbitrator's attitude than on the facts of the case, and they have resulted in costly awards which smaller jurisdictions have difficulty in funding, without decimating their entire budget.

Veterans Preference Clarifications (League Priority U)

Technology Funding (League Priority Y)

- Funding broadband initiatives will improve the public's ability to communicate with local government and education.
- Emergency management and disaster recovery programs benefit from a stronger broadband infrastructure.

FISCAL IMPACT: None

ATTACHMENTS:

1. League of Oregon Cities Legislative Priorities Packet



1201 Court Street NE, Suite 200 • Salem, Oregon 97301
(503) 588-6550 • (800) 452-0338 • Fax: (503) 399-4863
www.orcities.org

June 6, 2016

Dear Chief Administrative Official:

For the past three months, eight policy committees have been working to identify and propose specific actions as part of the League's effort to develop a pro-active legislative agenda for the 2017 session. They have identified 29 legislative objectives as set forth in the enclosed ballot and legislative recommendation materials. These objectives span a variety of issues and differ in the potential resources required to seek their achievement. Therefore, it is desirable to prioritize them in order to ensure that efforts are focused where they are most needed.

Each city is being asked to review the recommendations of the policy committees and provide input to the LOC Board of Directors as it prepares to adopt the League's 2017 legislative agenda. After your city council has had the opportunity to review the 29 proposals and discuss them with your staff, please return the enclosed ballot indicating the top four issues that your city council would like to see the League focus on in the 2017 session. **The deadline for response is July 22, 2016.** The board of directors will then review the results of this survey of member cities, along with the recommendations of the policy committees, and determine the League's 2017 legislative agenda.

Your city's participation and input will assist the board in creating a focused set of specific legislative targets that reflect the issues of greatest importance to cities. Thank you for your involvement, and thanks to those among you who gave many hours of time and expertise in developing these proposals.

Do not hesitate to contact me or Craig Honeyman, Legislative Director, with questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael J. McCauley", written in a cursive style.

Michael J. McCauley
Executive Director

INSTRUCTIONS

1. Each city should submit one form that reflects the consensus opinion of its city council on the **top four** legislative priorities for 2017.
2. Simply place an **X** in the space to the left of the city's top four legislative proposals (last pages of the packet).
3. The top four do not need to be prioritized.
4. Return by **July 22nd** via mail, fax or e-mail to:

Paul Aljets
League of Oregon Cities
1201 Court St. NE, Suite 200
Salem, OR 97301
Fax – (503) 399-4863
paljets@orcities.org

Thank you for your participation.

City of: _____

Please mark **4** boxes with an **X** that reflect the top 4 issues that your city recommends be the priorities for the League's 2017 legislative agenda.

Legislation

Community Development	
A. Needed Housing Assistance Program	<input type="checkbox"/>
B. Natural Hazard Land Use Reform	<input type="checkbox"/>
C. DOGAMI Disaster Mapping	<input type="checkbox"/>
D. Floodplain Technical Assistance	<input type="checkbox"/>
Energy	
E. Green Energy Technology Requirement	<input type="checkbox"/>
F. Funding Public Energy Projects	<input type="checkbox"/>
G. Updates to Oregon Energy Code	<input type="checkbox"/>
Finance and Taxation	
H. Property Tax Reform - Market Value / Local Control	<input type="checkbox"/>
I. Property Tax Reform - Fairness and Equity	<input type="checkbox"/>
J. Local Lodging Tax	<input type="checkbox"/>
K. Nonprofit Property Tax Exemption	<input type="checkbox"/>
L. Marijuana and Vaping Taxes	<input type="checkbox"/>
General Government	
M. Restore Recreational Immunity	<input type="checkbox"/>
N. Increase Local Liquor Fees	<input type="checkbox"/>
O. Marijuana Legalization Implementation	<input type="checkbox"/>
P. Mental Health Investments	<input type="checkbox"/>
Q. Qualification Based Selection	<input type="checkbox"/>
Human Resources	
R. Subsidy for Retiree Health Insurance Repeal	<input type="checkbox"/>
S. PERS Reform	<input type="checkbox"/>
T. Arbitration Reform	<input type="checkbox"/>
U. Veterans Preference Clarifications	<input type="checkbox"/>
Telecommunications	
V. Rights of Way	<input type="checkbox"/>
W. Franchise Fees	<input type="checkbox"/>
X. 9-1-1 Emergency Communications	<input type="checkbox"/>
Y. Technology Funding	<input type="checkbox"/>
Transportation	
Z. Transportation Funding and Policy Package	<input type="checkbox"/>
Water/Wastewater	
AA. Funding Water System Resilience	<input type="checkbox"/>
BB. Enhanced Prescription Drug Take-Back	<input type="checkbox"/>
CC. Water Supply Development Fund	<input type="checkbox"/>

Community Development

Legislation	Background
<p>A. <u>Needed Housing Assistance Program</u></p> <p>Create state grants and technical assistance to cities working to develop housing development programs directed at new or innovative means of providing housing solutions for low-income or senior populations.</p>	<p>Cities are looking for new ways to serve the needs of a variety of people needing housing options and putting more resources toward housing projects. However, there is a need for state resources and assistance in implementing these programs. Funds that cities could access could be used to assist in land purchases for leasing for long-term low income housing, incentives for creating single story housing for seniors, tiny housing development, and planned developments that serve a range of incomes. Technical assistance to other cities should help a city determine what programs or planning options are available tools to help cities reach the goals set in the comprehensive plan.</p>
<p>B. <u>Natural Hazard Land Use Reform</u></p> <p>Create process for communities to move the UGB from an identified hazard area to resource lands and planning for replacing significant urban areas lost after a natural disaster.</p>	<p>As science has better located some hazards areas and as regulations impact the expected development of other areas, cities need to find ways to respond more efficiently to address long-term planning for development. This requires a simplification of the process for changing the location of development, including adding new areas to the UGB, to account for lost development capacity. There also needs to be a streamlined process for a city to identify areas of new development should a disaster remove a large portion of the buildable land supply if a disaster should strike.</p>
<p>C. <u>DOGAMI Disaster Mapping</u></p> <p>Increase funding for DOGAMI to complete comprehensive disaster mapping of cities, including landslide and floodplain risk identification, and natural hazard related evacuation planning for additional potential risks such as tsunami or wildfire inundation.</p>	<p>The Oregon Department of Geology and Mineral Industries (DOGAMI) provides a number of technical resources to cities to identify hazards that could impact development. The department is also an integral partner in creating plans for the emergency response for many disasters that could occur in the state. Increasing funds for comprehensive maps will help with long-term planning for hazard mitigation, resilience, and survival.</p>
<p>D. <u>Floodplain Technical Assistance</u></p> <p>Provide DLCD funding for technical assistance to cities implementing required changes to floodplain development management practices from FEMA.</p>	<p>Because of the recent release of the Biological Opinion from the National Oceanic and Atmospheric Administration Fisheries Service related to the National Flood Insurance Program's potential to impact endangered species, there is a need for cities to receive significant assistance in implementing any changes required by the Federal Emergency Management Agency. As the federal process moves forward, the state must provide resources to help cities update comprehensive plans and development codes. This issue will have a number of impacts and assistance in the form of model codes, staff resources, grants, and other expertise will be necessary for cities trying to implement any changes or additional work.</p>

Energy

Legislation	Background
<p><u>E. Changes to 1.5 Percent Green Energy Technology Requirement</u></p> <p>Advance legislation to statutorily modify the existing “1.5 percent green energy technology for public buildings” requirement to allow for alternative investment options such as offsite solar or community solar projects.</p>	<p>Oregon statute currently requires public contracting agencies to invest 1.5% of the total contract price for new construction or major renovation of certain public buildings on solar or geothermal technology. The requirement allows for offsite technology, but only if the energy is directly transmitted back to the public building site and is more cost-effective than onsite installation.</p> <p>Removing the requirement that an offsite project be directly connected to the public building project could result in increased flexibility for local governments to invest in solar projects that are more cost-effective and provide for increased solar energy generation. In addition, the League will work to allow 1.5 percent funds to be invested in alternative projects that provide a greater economic or social return on investment. As an example, a city could use the funds on a community solar project to benefit low-income residents rather than being required to invest in solar generation at the site of the public building project.</p>
<p><u>F. Funding for Public Energy Projects</u></p> <p>Support enhanced incentives for public energy projects including grants for technical assistance, feasibility studies and resource recovery projects for energy and fuel generation.</p>	<p>There are programs that exist in Oregon for the purpose of incentivizing energy projects including renewable energy generation, alternative fuel vehicles, and energy efficiency. Programs such as the Business Energy Tax Credit (BETC), which was discontinued in 2014, and the State Energy Loan Program have been important tools for incentivizing energy projects for local governments. However, as a result of scrutiny over the administration of these incentives including private loan defaults, these programs are either no longer available, such is the case with the BETC program, or are at risk of being discontinued. It is critical for municipalities to have ongoing access to incentive opportunities as energy projects can be difficult to pencil-out and even more difficult for smaller communities to finance. The state of Oregon should take into consideration that loans for public energy projects, including cities, are lower-risk and should not be penalized in light of recent scrutiny. In addition, investments in these projects often result in environmental, social and economic benefits including long-term savings for taxpayers and reductions in greenhouse gas emissions.</p> <p>The League will work to enhance funding, including grants for technical assistance and feasibility studies for communities that currently do not have access to resources. The League will also advocate for incentives for energy and fuel generation projects. Examples of projects that warrant funding incentives include methane capture for fuel or energy generation, investments in community solar projects, renewable energy generation, and energy efficiency improvements.</p>

Energy (Continued)

Legislation	Background
<p data-bbox="102 233 704 268">G. <u>Require Updates to Oregon Energy Code</u></p> <p data-bbox="102 304 704 514">Require the Oregon Building Codes Division (BCD) to engage in more frequent review of the state’s energy code to reduce greenhouse gas reductions and ensure that Oregonians can more affordably and efficiently heat their homes and businesses.</p>	<p data-bbox="704 233 1533 800">Oregon’s statewide energy code for commercial and residential buildings is an important tool for achieving greenhouse gas reductions through decreased energy consumption while helping to ensure that Oregonians are able to more efficiently and affordably heat their homes and businesses. Federal law requires each state to certify that their state energy code is equivalent to federal model energy codes. While Oregon was once a leader in energy code adoption and implementation, the state is now in a position of falling behind the federal code. This is due, in large part, to a decision made by the Oregon Building Codes Division in 2013 which changed the code cycle from a three-year update to a six-year update. Major code changes, including adoption of national codes, will now occur every six years with minor changes occurring every three years. This change will impact Oregon’s ability to keep pace with federal standards and new technologies in energy efficiency.</p> <p data-bbox="704 835 1533 1297">The League will work to support efforts to align new construction building codes with the state’s climate goal timelines. In addition, the League will support efforts to establish a periodic review schedule to ensure that Oregon more frequently updates the state energy code in order to reflect federal code requirements. Also, the League will encourage the state to set specific targets for increased energy efficiency in residential and commercial building construction with specific goals for increasing energy efficiency standards for affordable housing projects and increasing use of net-zero and passive house building requirements. Finally, the League will work to require BCD to make regular reports back to the legislature to update on energy code implementation and goals.</p>

Finance and Tax

Legislation	Background
<p>H. <u>Property Tax Reform – Market Value / Local Control</u></p> <p>A legislative constitutional referral to reform the property tax system:</p> <ul style="list-style-type: none"> a) to achieve equity, transitions to a market based property tax valuation system; and b) to restore choice, allows local voters to adopt tax levies and establish tax rates outside of current constitutional limits in their taxing jurisdictions. 	<p>Property taxes are regulated largely by Measure 5 (1990) and Measure 50 (1997), as provided in the Oregon Constitution. Measure 50 established a new method for assessing property, discounting the assessment at 10 percent of the real market value and calling this assessed value. Assessed value is capped at an annual growth limit of 3 percent. As a state total, due to the limits and market changes, the gap between real market value and assessed value has now grown to nearly 25 percent over the past 20 years. This gap varies widely on a property by property basis, creating considerable property tax inequities for properties that sell for similar prices in a city. In short, Oregon property taxes have become disassociated from real market value and the result is considerable inequity.</p> <p>For FY 2014-15, 60 percent of cities, 97 percent of counties, and 89 percent of school districts had some compression. This means that the Measure 5 caps of \$5 per \$1000 for education and \$10 per \$1000 for general government on real market value have been exceeded in most taxing jurisdictions. The caps are over 25 years old and were set low as voters were anticipating a sales tax to be coupled with it. Voters can no longer vote for the services they desire due to these caps. With looming PERS costs increases, paying for services with the present restrictions will become very difficult in some cities.</p>
<p>I. <u>Property Tax Reform – Fairness and Equity</u></p> <p>A bill that pursues statutory modifications to the existing property tax system that enhances the fairness and adequacy of the current system.</p>	<p>There are some adjustments to the property tax process and calculations that can be done statutorily. These include altering the changed property ratio statute and the statutory discount given to property owners who pay their taxes by November 15th. New property is added to the tax rolls using a county-wide ratio (assessed value to real market value) for determining the discount to apply to the real market value and that could be changed statutorily to a city-wide ratio in taxing districts who elect the change.</p>

Finance and Tax (Continued)

Legislation	Background
<p>J. <u>Local Lodging Tax</u></p> <p>A lodging tax bill, the outcome of which, would:</p> <ul style="list-style-type: none"> a) Provide jurisdictions greater flexibility to spend local lodging tax revenue to plan for and provide services and infrastructure related to tourism; b) Reduce or eliminate the required reimbursement charge that a lodging tax collector is allowed to retain for filing a local lodging tax return; and c) Improve efficiency and collection of local lodging taxes in cooperation with the state. 	<p>State law restricts how local lodging tax revenues may be expended. Post 2003, any new taxes or any tax increase requires a 70 percent revenue dedication to tourism promotion or tourism-related facilities. In addition, state statute provides that cities may not lower the actual percentage of lodging tax revenues that were dedicated to tourism prior to 2003. This means that cities have varied percentages of restricted local lodging taxes revenues. These numbers are arbitrary as they were set based on circumstances in 2003 that have often greatly changed. In addition, the legislative history shows that the legislature intended to provide some revenue flexibility and provide that certain infrastructure (roads, sewer lines, etc.) would qualify as tourism-related but the statutes need revision and clarification.</p> <p>State law requires local governments to provide a 5 percent collector reimbursement charge if they impose a new lodging tax or tax increase after January 1, 2001. This is a deduction from the taxes that would otherwise be due. The state also provides a 5 percent collector reimbursement charge for state lodging taxes. In addition, local governments that had a reimbursement charge, must continue it. Thus, cities have very different reimbursement requirements—some are at zero, others are at 5 percent, and some are in between. When coupled with the state deduction, the deduction seems too generous.</p> <p>The Oregon Department of Revenue now collects state lodging taxes throughout the state and could collect and enforce local lodging taxes at the same time if given statutory authority. Local governments could then enter into voluntary agreements with the state to delegate the collection. This option could make collection much more efficient and cost-effective for some local governments. In addition, cities continue to struggle with collections and auditing, particularly from online companies and private home rentals (through Airbnb, etc.) and this area of the law could be improved.</p>

Finance and Tax (Continued)

Legislation	Background
<p>K. <u>Nonprofit Property Tax Exemption</u></p> <p>Clarify and reform the statutory property tax exemption provided to nonprofit entities to address cost-benefit concerns for the continued full exemption in light of cost of city services provided to nonprofits and the changing services and business models of some nonprofit entity types.</p>	<p>Nonprofit organizations that are charitable, literary, benevolent or scientific are provided a property tax exemption that will cost more than \$194 million in the 2015-17 biennium. In addition, exemptions for the property of nonprofit religious organizations costs more than \$113 million for the biennium. For many cities, much of the city is exempt from property taxes due to the public property exemption and these nonprofit exemptions. This includes hospitals, nursing homes, etc.</p> <p>The Legislature has formed a work group to look at the nonprofit property tax exemption issue as the nature and number of nonprofits is changing and the administration of the exemption has become complex for county tax assessors. Nonprofit entities require significant services, including transportation, water, sewer, police, fire, etc. Thus, the legislature is looking at property taxes more as a service tax and considering how the full exemption could be adjusted to have nonprofits pay for their fair share of costs of services or otherwise meet a benefit test for continuing an exemption.</p>
<p>L. <u>Marijuana and Vaping Taxes</u></p> <p>Defend against restrictions and preemptions regarding local marijuana and vaping taxes and advocate for appropriate state shared revenue levels and distribution formulas for state marijuana taxes and potential vaping taxes.</p>	<p>There are no revenue use restrictions on local marijuana taxes, but the local marijuana tax rate is capped at 3 percent. There are no restrictions on local governments imposing a vaping tax. The state has not imposed a tax on vaping products to date but is considering a tax. Often when the state imposes a tax (for example, cigarette or liquor), the state preempts local governments from also imposing a tax.</p> <p>10 percent of state marijuana taxes will be distributed to cities after state administrative costs. Distributions will be made per capita for revenues received prior to July 1, 2017. After July 1, they will be distributed based on the number of the various marijuana licenses issued in a city. Cities that prohibit establishments for recreational marijuana producers, processors, wholesalers or retailers will receive no state shared revenue. Likewise, cities that prohibit a medical marijuana grow site or facility will receive no state shared revenue.</p>

General Government

Legislation	Background
<p>M. <u>Restore Recreational Immunity</u></p> <p>Cities should enjoy protection from unreasonable litigation when offering recreational opportunities to the public.</p>	<p>ORS 105.682 grants that a land owner is not liable for any personal injury, death or property damage that arises out of the use of their land for recreational purposes as long as no fee is charged in order to access that property. This statute allows cities to operate parks and trails without fear of lawsuit.</p> <p>However, in the recently decided Oregon Supreme Court case, <i>Johnson v Gibson</i>, It was held that even though the landowner may be immune from liability, their employees are not. As a result, two employees of the City of Portland were found liable for injuries sustained by a jogger in a park, employees who are indemnified by their employer.</p> <p>The practical effect of this ruling is that the immunity previously enjoyed by cities that allowed for robust park development have been eroded to the point of being non-existent. This priority directs LOC staff to seek to amend the ORS 105.682 to restore that immunity.</p>
<p>N. <u>Increase Local Liquor Fees</u></p> <p>Cities play an important role in the review and investigation of liquor license applicants and should be able to recoup costs associated with that role.</p>	<p>ORS 471.166 allows cities to adopt fees that are “reasonable and necessary to pay expenses” associated the review and investigation of liquor license applicants. However, the same statute limits the amounts of those fees to between \$25 and \$100 depending on the license or approval being sought by the applicant.</p> <p>This priority is to pursue changes to this statute that allow cities to recoup the actual costs associated with performing their role in the liquor licensing process and allowing for periodic increases.</p>

General Government (Continued)

Legislation	Background
<p><u>O. Continue Marijuana Legalization Implementation</u></p> <p>Allow for civil enforcement of marijuana laws. Ensure equitable distribution of marijuana shared revenues. Eliminate limitations on shared revenue use.</p>	<p>One of the promises made by marijuana legalization advocates is that illicit sales and production of marijuana would shift into a legalized and regulated market. This has occurred to a large extent but many producers and retailers continue to seek the financial benefits or participation in the marijuana industry while avoiding the inconvenience of its regulatory framework. This priority seeks legislation that gives the Oregon Liquor Control Commission (OLCC) the same civil and administrative authority to prevent unlicensed sales and production of marijuana as it has in regards to liquor.</p> <p>Beginning in 2017, state shared revenue from marijuana will be distributed to cities based in the number of OLCC licensed commercial marijuana entities exist in their jurisdiction. This priority is to alter that arrangement so that is it distributed on a per capita basis to ensure equitable distribution among cities that are incurring costs.</p> <p>Measure 91 required that money distributed by the state to cities be used exclusively for costs associated with marijuana legalization. Tracking a dollar though a city's general fund and determining if a service was related to marijuana is inefficient if not impossible, and is not imposed for the receipt of liquor revenue. This priority is to advocate for legislation that removes this burden.</p>
<p><u>P. Protect Mental Health Investments Made in 2015</u></p> <p>Oregon made significant and strategic investments in protecting and caring for the mentally ill in 2015 that should be maintained.</p>	<p>The Legislature increased access to mental health care and expanded existing, proven programs designed to de-escalate police contacts with the mentally ill. Those programs could be vulnerable in a difficult budget environment made challenging by increased PERS rates.</p> <p>This priority is defensive in nature and seeks to preserve investments that are improving the lives of mentally ill Oregonians.</p>
<p><u>Q. Remove Qualification Based Selection Mandate</u></p> <p>Cities should be allowed to consider cost when making initial contract award decisions when hiring architects and engineers.</p>	<p>Cities are currently required to use a procurement method that prevents the consideration of cost when contracting with architects and engineers for public improvements. Instead, cities must base their initial selection for these services based solely on qualifications and can only negotiate the price after an initial selection is made.</p> <p>This mandate is not a cost effective means for procuring services and is poor stewardship of the public's dollars. This priority is to seek the removal of this mandate.</p>

Human Resources

Legislation	Background
<p>R. <u>Repeal Requirement to Subsidize Retiree Health Insurance</u></p> <p>Public employers should not subsidize the health insurance of former employees when reasonable, cost competitive options exist.</p>	<p>ORS 243.303 mandates that local governments provide retirees with access to health insurance and requires that they be placed in the same risk pool as active employees. As retirees are approximately 2.5 times more expensive to insure than active employees this mandate results in employers and current employees subsidizing the health insurance costs of former employees. This subsidization, according to the Government Accounting Standards Board, must be shown on an audit as long term liability, thus creating an inaccurate perception of a city's financial condition. Further, this requirement could be described as anachronistic as individuals are now able to purchase health insurance under the Affordable Care Act.</p> <p>This priority is to eliminate ORS 243.303 from Oregon's laws.</p>
<p>S. <u>PERS Reform</u></p> <p>PERS benefits should be adjusted where legally allowable and investments should be maximized to ensure a sustainable and adequate pension system.</p>	<p>The PERS unfunded liability stands at \$22 billion and employer rates are anticipated to approach 30 percent of payroll in the coming biennium. Rates are expected to remain at that level for the next twenty years. This is not sustainable.</p> <p>This priority is to seek any equitable changes to benefits that will reduce employer rates while not pursuing options that are legally tenuous or counterproductive. Additionally, changes are to be sought to the investment portfolio that will maximize returns through improved risk management and efficiencies.</p>

Human Resources (Continued)

Legislation	Background
<p>T. <u>Arbitration Changes</u></p> <p>Public employers should have greater influence over the disciplining of their employees.</p>	<p>Currently under the Public Employee Collective Bargaining Act, contested employee discipline matters must be submitted to an outside arbitrator for adjudication. Decisions by arbitrators are binding unless the conduct was a violation of public policy as defined by the state, there was serious criminal conduct or an egregious inappropriate use of force.</p> <p>This priority is to seek the following changes to the statute:</p> <ul style="list-style-type: none"> • Arbitrator decisions should also comply with local policies; • Decisions should comply with policies related to any inappropriate use of force a; • Arbitrator decisions should recognize all criminal misconduct related to employment not just “serious”; • Employer disciplinary decisions as it regards employees who are supervisors as defined by the EEOC and BOLI should be given more weight.
<p>U. <u>Veterans Preference Clarifications</u></p> <p>Requirements that veterans be given preference in public sector hiring should be clear and unambiguous for the benefit of veterans and employers.</p>	<p>The State of Oregon requires and the League agrees that honorably discharged veterans deserve special consideration in public sector hiring. However, statutes describing how this is to be accomplished are unclear and ambiguous. Vague statutes do not serve the interests of employers or veterans.</p> <p>This priority seeks a clear definition of “preference” in the statute, ensure that recently separated veterans receive the consideration necessary for them to successfully enter the workforce and establishes clarity as to when the preference is to be applied.</p>

Telecommunications, Cable & Broadband

Legislation	Background
<p>V. <u>Rights of Way</u></p> <p>Oppose legislation that preempts local authority to manage public rights-of-way and receive compensation for their use.</p>	<p>In its commitment to the protection of Home Rule and local control, the League consistently opposes restrictions on the rights of cities to manage their own affairs. From time to time, in the context of franchise fee and rights-of-way management authority discussions, proposals to restriction to this authority arise. These include a statewide franchise policy and revenue collection system as well as limiting the ability of cities to charge fees of other government entities. This is contrary to local government management authority, the ability to enter into agreements with service providers either by agreement/contract or ordinance and to derive revenues from business fees charged to users of public rights-of-way.</p>
<p>W. <u>Franchise Fees</u></p> <p>To ensure market fairness and equity, prepare legislation for possible introduction repealing ORS 221.515 (HB 2455 -7 in 2013, and HB 2172 in 2015) to remove franchise fee rate and revenue restrictions which currently apply to incumbent local exchange carriers but not to competitive local exchange carriers.</p>	<p>Oregon statute currently contains a discrepancy between how cities collect franchise fees from incumbent local exchange carriers (ILECs) and competitive local exchange carriers (CLECs). ORS 221.515 limits cities collecting franchise fees from ILECs to a maximum of 7 percent of revenues derived from dial-up services, which represents only a portion of ILEC total revenues due to the addition of a broader array of customer services. There is no such rate cap or revenue restriction on CLECs, hence the discrepancy. In the past the League has worked with CLECs to “level the playing field.” Repeal of ORS 221.515 would accomplish that.</p>
<p>X. <u>9-1-1 Emergency Communications</u></p> <p>Support legislation enhancing the effectiveness of the state’s emergency communications system through an increase in the 9-1-1 tax and/or a prohibition of legislative “sweeps” from accounts managed by the Oregon Office of Emergency Management.</p>	<p>The League worked with other stakeholder groups in 2013 to extend the sunset date on the statewide 9-1-1 emergency communications tax to January 1, 2022 (HB 3317). In 2014, the League also worked to pass legislation including prepaid cellular devices and services under the 9-1-1 tax (HB 4055). As concerns mount with regard to disaster preparedness and recovery and as new upgrades to communications technology becomes available, it is apparent that state and local governments do not have the resources necessary to address challenges or take advantage of opportunities. Additional funding is needed and the practice of periodically sweeping funds out of the state’s emergency management account for other uses should cease. It is worthy of note that the practice of “sweeps” disqualifies the state from receiving federal funds for emergency communications. It is unknown how many federal dollars have been foregone as a result of this policy.</p>

Telecommunications, Cable & Broadband (Continued)

Legislation	Background
<p>Y. <u>Technology Funding</u></p> <p>Seek additional funding to assist for cities in:</p> <ul style="list-style-type: none"> • Increasing high speed broadband deployment and close the digital divide. • Purchasing upgraded emergency management communications equipment. • Providing local match money for federal funding programs, such as high speed broadband deployment. 	<p>The deployment of broadband throughout the state of Oregon is critical to economic development, education, health and the ability of citizens to link with their governments. Additional funding, from various sources, including the state and federal government, needs to be allocated for this purpose. The need becomes even more acute when consideration is given to the certainty of a major seismic event. Often federal assistance comes with the requirement of a state or local match which is problematical for cities. A state mechanism for providing matching fund assistance would be helpful to those communities seeking to take control of their broadband destiny.</p>

Transportation

Legislation

Z. Comprehensive, Multi-modal Transportation Funding and Policy Package

The League of Oregon Cities proposes that transportation infrastructure be raised to the same level of importance as other utilities, and be funded at a level capable of maintaining appropriate standards of operation and service. Therefore, the League will help draft and advocate for a comprehensive, inter-modal and statewide transportation funding and policy package that:

1. Provides a significant increase in resources available for the preservation and maintenance of city streets by:
 - Substantially increasing the state gas tax and licensing and registration fees.
 - Indexing the state gas tax.
 - Continuing efforts to identify and implement alternative funding mechanisms (VMT, tolling, public-private partnerships, etc.).
 - Disaster resilience and seismic upgrades for all transportation modes.
 - The completion of transportation projects begun but not yet completed due to lack of funding or changes in funding criteria.
 - Providing additional funding for voluntary jurisdictional transfer.
 - Funding transportation enhancements such as bike-ped facilities.
 - Increasing funding for the statutory Special City Allotment program while maintaining the 50%-50% ODOT/city split.
 - Repealing the referral requirement (2009 Jobs and Transportation Act) on cities seeking to create/increase local gas tax.

2. Addresses statewide needs relating to intermodal transportation through:
 - Additional funding for transit operations and capital projects.
 - Additional funding for freight rail capital projects and operations (*ConnectOregon*, short-line rail and transload facilities).

Background

Maintenance and preservation needs have outpaced the resources available for streets, roads and highways. In its March, 2016 Infrastructure Survey Report the League identifies a \$3.7 billion capital need for highway and non-highway transportation projects (\$2.6 billion highway / \$1.1 billion non-highway). In addition, the report shows, for the 120 cities that participated, an aggregated street budget shortfall for operations and maintenance of approximately \$217 million per year. Safety and disaster resilience were cited as major challenges and needs by most cities. Cities also expressed support for a voluntary jurisdictional transfer program (the sensible alignment of highway facilities and management responsibility) provided the availability of adequate funding to facilitate the transfer and to maintain the asset.

Given the threat that inadequate funding represents to investments already made in the transportation system, the League will insist on a transportation package that increases and makes more sustainable the ability of all government jurisdictions to preserve and maintain these assets. Notwithstanding its emphasis on the need to preserve and maintain existing streets, the League of Oregon Cities agrees that the state's transportation system and the policy and funding programs that support it must be multimodal and statewide in scope. The League will therefore work to pass legislation in 2017 that addresses funding and policy initiatives relating to all modes (streets, bike/ped, transit, rail, aviation and marine) and in so doing address such issues as:

- Connectivity and capacity (especially truck mobility/rail)
- Safety for all users across all modes
- Resiliency and recovery (seismic retrofit across all modes)
- Jobs and economic development
- Impact on climate change
- Active transportation and public health
- Transportation access available on an equitable basis to all Oregonians
- Continuing and extending *ConnectOregon*
- Ensuring adequate new revenues for program/equipment such as the Oregon Department of Motor Vehicles technology upgrade
- Creative solutions to ongoing challenges (dedicated non-roadway fund, increased local authority to fund transit, bike-ped funding, etc.)

- **Additional funding for passenger rail operations, equipment and capital projects (federal matching money and AMTRAK Cascades).**

3. Does not:

- **Preempt local government ability to self-generate transportation revenues for street maintenance and preservation.**
- **Change the dedication of State Highway Fund dollars to highway, road and street projects contained in Article 8, Section 3a of the Oregon Constitution.**
- **Reduce cities 20% share of the State Highway Fund.**
- **Create unfunded mandates requiring cities to undertake specific programs, such as greenhouse gas reduction scenarios.**
- **Further complicate the planning and regulatory process that currently governs the project delivery process.**

- **Maximizing local benefits of the federal FAST Act in Oregon**

Water & Wastewater

Legislation	Background
<p data-bbox="94 203 602 233">AA. <u>Funding for Water System Resilience</u></p> <p data-bbox="94 275 743 514">Secure dedicated funding for water and wastewater system resilience and emergency preparation. This would include additional funds to plan for and upgrade water systems to increase seismic resiliency and funding to better position communities to better prepare for water supply shortages due to drought, climate change or other emergency scenarios.</p>	<p data-bbox="787 203 1523 585">In general, Oregon’s drinking water and wastewater systems are woefully underprepared for a catastrophic earthquake event. Restoration of water supply following such an event is critical for fire suppression, first aid, and for human health and safety. In 2013, the Oregon Resilience Plan provided estimates for service recovery of water and wastewaters systems in the event of a Cascadia earthquake under current infrastructure conditions. According to the plan, the estimated the timeframe for service recovery in the valley ranges from one to twelve months. For the coast, service recovery is estimated between one to three years.</p> <p data-bbox="787 632 1523 940">In addition to risks associated with significant natural disaster events, recent drought conditions in Oregon have demonstrated the need for emergency supply planning and coordination with other water users to better address water supply challenges. It is critical that communities are able to acquire alternative and back-up water supplies from multiple sources in order to better prepare for supply shortages or emergency situations, such as natural disasters or supply contamination.</p> <p data-bbox="787 987 1523 1192">The League will work to identify and secure low-interest loans or grants to seismically upgrade drinking water and wastewater system infrastructure and to help ensure that these systems are more resilient and better positioned to respond to water supply shortages resulting from drought, climate change, natural disasters, or other system failures.</p>

Water & Wastewater (Continued)

Legislation	Background
<p>BB. <u>Promote an Enhanced Prescription Drug Take-Back</u></p> <p>Advocate for enhanced prescription drug take-back program funding and additional collection locations to reduce contamination of water from unwanted prescription drugs.</p>	<p>Unused prescription drugs are problematic from both a public health and safety perspective as well as from a water quality perspective. Drug take-back programs help to ensure that unused prescription drugs are properly disposed of which keeps them from being abused, keeps them out of the hands of children, and keeps them from entering Oregon’s waterways. Unwanted prescription drugs are often flushed down the toilet and despite wastewater treatment systems, they can end up contaminating lakes, streams and rivers. In 2014, U. S. Drug Enforcement Administration (DEA) expanded the types of locations allowed to accept unwanted medications including retail pharmacies and drug manufacturers. Prior to 2014, drug-take back programs were primarily supported through police department drop boxes. The challenge in expanding prescription drug take-back programs is now focused on the cost of transporting unused drugs from the take-back location to the disposal site and in educating the public about responsible disposal opportunities.</p> <p>The League will work with a variety of stakeholders, including public health advocates, to identify additional funding mechanisms to increase drug take-back collection locations across Oregon. Funding should support the transportation and responsible disposal of unused prescription drugs. Funds should also be dedicated for enhanced education of disposal opportunities and the establishment of convenience standards to ensure that all Oregonians have reasonable access to drug take-back locations.</p>
<p>CC. <u>Increased Funding for Water Supply Development</u></p> <p>Support additional water supply funding through the state’s Water Supply Development Account.</p>	<p>According to a survey conducted by the League, Oregon’s water and wastewater infrastructure needs for cities alone are estimated to be \$9 billion over the next twenty years. In addition, the survey identified 66 percent of respondent cities as being in need of additional water supply storage. The 2015 drought highlighted the need for additional investments in water supply infrastructure, including storage and water delivery system efficiencies. Additional storage project investments are not only critical for adequate drinking water supply, they are an important tool for supplementing streamflows and habitat restoration.</p> <p>The League will work to secure additional funding for existing water supply development programs. This includes support for feasibility grants and for the state’s Water Supply Development Account which provides funding for water supply storage, reuse, restoration and conservation projects.</p>

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: July 18, 2016

Order ___ No.	Ordinance ___ No.	Resolution ___ No.	Motion ___	Information <u>XX</u>
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SUBJECT: Newberg Financial Report for May 2016

**Contact Person (Preparer) for this
Item: Matt Zook
Dept.: Finance**

EXECUTIVE SUMMARY:

Included with this report are the financial summary statements for May 2016. These are provided for your information only. No action is required.

A couple items to note:

911 Fund (page 2). The year-to-date actual (YTD) ending fund balance is (\$19,351) due to the timing of the quarterly revenue distributions. As of May 31, only three of the four quarterly distributions from the State of Oregon had been received, even though 96% of the expenditures budget had been incurred. I anticipate that the fund balance at the end of June 30 will be in the positive.

Street SDC Fund (page 5). The expenditures for the month of May are (\$46,372). All expenditures in the street fund are transfers to the Street Capital Projects Fund, and the May activity included a correction of funds transferred in previous months.

The Council approved Supplemental Budget #2 on June 20, 2016 that will be reflected in the preliminary June 2016 monthly financial report, which will be presented to the Council after the year-end closing is complete. Supplemental Budget #2 addressed anticipated increases in appropriations to stay compliant with Oregon Budget Law.

SUMMARY REPORT

MAY 2016

FUNDS	2015-16 BUDGET	MONTH OF MAY 2016	2015-16 YTD	Current YTD	2014-15 PRIOR YTD
				Compare to Budget 92%	
City Budget Totals					
Total Beg Fund Balance	\$ 33,764,928	\$ 38,243,710	\$ 38,153,959	113%	31,493,673
Total Revenues	58,225,620	2,883,319	54,786,140	94%	78,990,271
Total Beg Fund Bal & Revenues	91,990,548	41,127,030	92,940,099		110,483,944
Total Expenses	67,465,423	3,344,246	52,383,304	78%	43,786,246
Total Contingencies / Reserves	24,525,125	-	-	0%	-
Total Exp & Contingen / Reserves	91,990,548	3,344,246	52,383,304	57%	43,786,246
Total Monthly Activity Net Gain / (Loss)		\$ 37,782,784			
Total Ending Fund Balance			<u>\$ 40,556,795</u>		66,697,698

City Services

General Fund

Beg Fund Balance	\$ 2,528,413	\$ 2,797,675	\$ 2,797,675	111%	2,835,743
Revenues					
General Government	-	-	-	0%	15,155
Municipal Court	31,000	2,532	24,235	78%	25,607
Police	1,074,135	86,462	991,113	92%	1,040,667
Fire	330,504	5,015	530,505	161%	321,049
Communications	59,686	-	59,574	100%	56,615
Library	112,859	18,521	86,954	77%	102,157
Planning	476,700	21,971	417,964	88%	458,564
Property Taxes	7,200,000	49,611	6,979,508	97%	6,625,489
Other Taxes	1,400	50	10,516	751%	490,995
Franchise Fees	1,486,882	63,929	1,460,119	98%	1,363,956
Intergovernmental	1,246,755	108,037	1,101,048	88%	1,057,277
Miscellaneous	2,500	3,031	12,039	482%	1,661
Interest	7,300	1,667	11,849	162%	8,916
Transfers	620,000	100,268	454,949	73%	-
Revenue Total	12,649,721	461,095	12,140,373	96%	11,568,108
Expenses					
General Government	179,862	11,162	157,614	88%	304,570
Municipal Court	382,464	27,815	321,129	84%	296,277
Police	5,952,876	471,136	5,153,256	87%	4,984,249
Fire	3,403,276	256,191	3,186,010	94%	3,004,889
Communications	1,087,961	58,416	922,017	85%	998,192
Library	1,311,025	98,895	1,174,824	90%	1,058,320
Planning	626,365	50,126	548,482	88%	530,990
Transfers	34,263	-	12,323	36%	16,412
Contingency	1,100,042	-	-	0%	-
Unappropriated Ending Balance	1,100,000	-	-	0%	-
Total Expenses	15,178,134	973,740	11,475,656	76%	11,193,899
Monthly Activity Net Gain / (Loss)		\$ 2,285,030			
Ending Fund Balance			\$ 3,462,393		3,209,952

SUMMARY REPORT

MAY 2016

FUNDS	2015-16 BUDGET		MONTH OF MAY 2016		2015-16 YTD		Current YTD Compare to Budget 92%	2014-15 PRIOR YTD
	Public Safety Fee							
Beg Fund Balance	\$	134,969	\$	197,858	\$	197,858	147%	196,153
Revenues		480,600		40,807		446,443	93%	521,240
Expenses		547,603		44,960		473,722	87%	352,256
Contingencies / Reserves		67,966		-		-	0%	-
Monthly Activity Net Gain / (Loss)				\$	193,705			
Ending Fund Balance					\$	170,578		365,137
EMS								
Beg Fund Balance	\$	595,725	\$	806,952	\$	806,952	135%	457,509
Revenues		1,886,600		177,455		2,114,458	112%	2,387,323
Expenses		1,911,034		142,070		1,609,318	84%	1,611,540
Contingencies / Reserves		571,291		-		-	0%	-
Monthly Activity Net Gain / (Loss)				\$	842,337			
Ending Fund Balance					\$	1,312,093		1,233,292
911 Emergency								
Beg Fund Balance	\$	19,768	\$	20,940	\$	20,940	106%	89,061
Revenues		196,200		53,825		156,914	80%	210,201
Expenses		204,628		19,619		197,205	96%	216,267
Contingencies / Reserves		11,340		-		-	0%	-
Monthly Activity Net Gain / (Loss)				\$	55,146			
Ending Fund Balance					\$	(19,351)		82,996
Civil Forfeiture								
Beg Fund Balance	\$	19,596	\$	20,146	\$	20,146	103%	-
Revenues		4,100		15		4,139	101%	20,137
Expenses		23,696		-		-	0%	-
Contingencies / Reserves		-		-		-	0%	-
Monthly Activity Net Gain / (Loss)				\$	20,161			
Ending Fund Balance					\$	24,285		20,137
Library Gift & Memorial								
Beg Fund Balance	\$	48,169	\$	86,434	\$	86,434	179%	92,623
Revenues		129,389		1,732		39,731	31%	141,644
Expenses		171,000		15,054		38,916	23%	46,461
Contingencies / Reserves		6,558		-		-	0%	-
Monthly Activity Net Gain / (Loss)				\$	73,111			
Ending Fund Balance					\$	87,249		187,806

SUMMARY REPORT

MAY 2016

FUNDS	2015-16 BUDGET		MONTH OF MAY 2016		2015-16 YTD		Current YTD Compare to Budget 92%	2014-15 PRIOR YTD	
	<u>Building Inspection</u>								
Beg Fund Balance	\$	404,838	\$	620,378	\$	620,378	153%	339,929	
Revenues		407,850		37,731		501,705	123%	1,007,637	
Expenses		500,497		38,353		415,847	83%	381,433	
Contingencies / Reserves		312,191		-		-	0%	-	
Monthly Activity Net Gain / (Loss)				\$		619,757			
Ending Fund Balance					\$		706,237		966,133
<u>Streets (Operating)</u>									
Beg Fund Balance	\$	808,548	\$	798,186	\$	798,186	99%	689,103	
Revenues		1,343,520		129,291		1,197,660	89%	1,851,490	
Expenses		1,549,803		63,320		1,239,028	80%	1,156,497	
Contingencies / Reserves		602,265		-		-	0%	-	
Monthly Activity Net Gain / (Loss)				\$		864,157			
Ending Fund Balance					\$		756,818		1,384,096
<u>Water (Operating)</u>									
Beg Fund Balance	\$	3,294,255	\$	3,773,455	\$	3,773,455	115%	4,783,887	
Revenues		9,984,346		375,193		10,296,120	103%	7,922,078	
Expenses		8,307,724		613,637		5,699,367	69%	4,410,044	
Contingencies / Reserves		4,970,877		-		-	0%	-	
Monthly Activity Net Gain / (Loss)				\$		3,535,011			
Ending Fund Balance					\$		8,370,208		8,295,921
<u>Wastewater (Operating)</u>									
Beg Fund Balance	\$	4,403,799	\$	4,944,662	\$	4,944,662	112%	7,576,184	
Revenues		13,033,100		634,631		13,172,977	101%	10,594,801	
Expenses		8,582,706		331,368		5,590,943	65%	6,041,217	
Contingencies / Reserves		8,854,193		-		-	0%	-	
Monthly Activity Net Gain / (Loss)				\$		5,247,925			
Ending Fund Balance					\$		12,526,696		12,129,768
<u>Stormwater (Operating)</u>									
Beg Fund Balance	\$	573,645	\$	731,487	\$	731,487	128%	1,004,730	
Revenues		1,924,972		113,130		1,860,870	97%	1,520,643	
Expenses		1,685,057		177,099		1,383,902	82%	782,181	
Contingencies / Reserves		813,560		-		-	0%	-	
Monthly Activity Net Gain / (Loss)				\$		667,517			
Ending Fund Balance					\$		1,208,455		1,743,192

SUMMARY REPORT

MAY 2016

FUNDS	2015-16 BUDGET	MONTH OF MAY 2016	2015-16 YTD	Current YTD	2014-15 PRIOR YTD
				Compare to Budget 92%	
<u>Administrative Support</u>					
Beg Fund Balance	\$ 563,272	\$ 588,457	\$ 588,457	104%	684,851
Revenues	3,652,103	305,386	3,360,569	92%	4,143,588
Expenses					
City Manager	805,374	38,365	602,461	75%	234,426
Human Resources	-	-	-	0%	146,610
City Recorder	-	-	-	0%	100,607
Emergency Management	-	-	-	0%	-
Finance	567,668	44,663	551,712	97%	505,528
Gen Office(Postage/Phones)	155,000	11,410	128,303	83%	126,626
Utility Billing	281,200	23,068	252,614	90%	234,261
Information Technology	704,856	62,796	637,886	90%	623,789
Legal	468,654	32,948	383,700	82%	400,191
Fleet Maintenance	178,866	13,799	157,512	88%	146,440
Facilities Repair/Replacement	471,312	19,781	410,173	87%	331,931
Insurance	353,168	-	353,311	100%	243,213
Transfers	-	-	-	0%	500,000
Contingencies / Reserves	229,277	-	-	0%	-
Total Expenses	4,215,375	246,830	3,477,673	82%	3,593,621
Monthly Activity Net Gain / (Loss)		\$ 647,012			
Ending Fund Balance			\$ 471,353		1,234,817
<u>Capital Improvement Projects</u>					
<u>Streets CIP's</u>					
Beg Fund Balance	\$ 164,193	\$ 164,209	\$ 164,209	0%	109,838
Revenues	778,425	(57,338)	727,924	94%	715,798
Expenses	777,625	(57,485)	726,607	93%	551,659
Contingencies / Reserves	164,993	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ 164,357			
Ending Fund Balance			\$ 165,527		273,977
<u>Water / Wastewater / Stormwater CIP's</u>					
Beg Fund Balance	\$ -	\$ -	\$ (89,751)	0%	-
Revenues	6,346,875	446,762	3,739,064	59%	3,124,222
Expenses	6,346,875	446,762	3,649,313	57%	3,220,823
Contingencies / Reserves	-	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ -			
Ending Fund Balance			\$ -		(96,600)
<u>Wastewater Financed CIP's</u>					
Beg Fund Balance	\$ (749,096)	\$ (749,096)	\$ (749,096)	100%	-
Revenues	1,500,000	-	922,122	61%	6,944,929
Expenses	750,904	-	206,569	28%	7,339,699
Contingencies / Reserves	-	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ (749,096)			
Ending Fund Balance			\$ (33,543)		(394,770)

SUMMARY REPORT

MAY 2016

FUNDS	2015-16		MONTH OF	2015-16	Current YTD	2014-15
	BUDGET		MAY 2016	YTD	Compare to Budget 92%	
<u>Street SDC</u>						
Beg Fund Balance	\$ 1,918,739	\$ 2,574,473	\$ 2,574,473	134%		2,534,551
Revenues	47,839	13,996	487,805	1020%		2,762,767
Expenses	259,125	(46,372)	243,518	94%		192,153
Contingencies / Reserves	1,707,453	-	-	0%		-
Monthly Activity Net Gain / (Loss)		\$ 2,634,842				
Ending Fund Balance			\$ 2,818,759			5,105,166
<u>Water SDC</u>						
Beg Fund Balance	\$ 36	\$ 1,239,405	\$ 1,239,405	3442793%		468,918
Revenues	927,540	25,288	365,354	39%		1,513,748
Expenses	846,856	(146)	758,450	90%		275,567
Contingencies / Reserves	80,720	-	-	0%		-
Monthly Activity Net Gain / (Loss)		\$ 1,264,839				
Ending Fund Balance			\$ 846,309			1,707,100
<u>Wastewater SDC</u>						
Beg Fund Balance	\$ 3,475,181	\$ 4,175,483	\$ 4,175,483	120%		1,794,112
Revenues	75,120	38,290	582,740	776%		4,417,854
Expenses	739,361	385	287,270	39%		283,573
Contingencies / Reserves	2,810,940	-	-	0%		-
Monthly Activity Net Gain / (Loss)		\$ 4,213,388				
Ending Fund Balance			\$ 4,470,952			5,928,393
<u>Stormwater SDC</u>						
Beg Fund Balance	\$ 138,259	\$ 131,416	\$ 131,416	95%		351,007
Revenues	3,980	1,540	37,074	931%		182,766
Expenses	3,125	128	1,841	59%		49,115
Contingencies / Reserves	139,114	-	-	0%		-
Monthly Activity Net Gain / (Loss)		\$ 132,828				
Ending Fund Balance			\$ 166,649			484,658

SUMMARY REPORT

MAY 2016

FUNDS	2015-16			Current YTD Compare to Budget 92%	2014-15 PRIOR YTD
	BUDGET	MONTH OF MAY 2016	2015-16 YTD		
Debt					
<u>Debt Service (General Op)</u>					
Beg Fund Balance	\$ 206,309	\$ 210,221	\$ 210,221	102%	195,259
Revenues	896,711	3,016	867,252	97%	1,099,315
Expenses	895,317	154,306	878,870	98%	882,716
Contingencies / Reserves	207,703	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ 58,931			
Ending Fund Balance			\$ 198,603		411,857
<u>City Hall</u>					
Beg Fund Balance	\$ 529,638	\$ 535,601	\$ 535,601	101%	576,115
Revenues	89,400	5,569	71,481	80%	639,340
Expenses	108,240	(21)	95,224	88%	108,342
Contingencies / Reserves	-	-	-	0%	-
Unappropriated Ending Balance	510,798	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ 541,191			
Ending Fund Balance			\$ 511,858		1,107,113
Reserves					
<u>Water Replacement Reserve</u>					
Beg Fund Balance	\$ 5,151,846	\$ 5,151,846	\$ 5,151,846	100%	2,961,007
Revenues	-	-	-	0%	5,404,051
Expenses	5,151,846	-	5,151,846	100%	226,684
Contingencies / Reserves	-	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ 5,151,846			
Ending Fund Balance			\$ -		8,138,374
<u>Wastewater Replacement Reserve</u>					
Beg Fund Balance	\$ 6,446,100	\$ 6,446,100	\$ 6,446,100	100%	1,234,745
Revenues	-	-	-	0%	6,391,528
Expenses	6,446,100	-	6,446,100	100%	(95,609)
Contingencies / Reserves	-	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ 6,446,100			
Ending Fund Balance			\$ -		7,721,883
<u>Stormwater Replacement Reserve</u>					
Beg Fund Balance	\$ 814,722	\$ 684,702	\$ 684,702	84%	-
Revenues	-	-	-	0%	865,423
Expenses	814,722	-	684,702	84%	181,017
Contingencies / Reserves	-	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ 684,702			
Ending Fund Balance			\$ -		684,406

SUMMARY REPORT

MAY 2016

FUNDS	2015-16 BUDGET	MONTH OF MAY 2016	2015-16 YTD	Current YTD Compare to Budget	2014-15 PRIOR YTD
				92%	
<u>Vehicle / Equipment Replacement</u>					
Beg Fund Balance	\$ 1,362,426	\$ 1,362,426	\$ 1,362,426	100%	1,658,968
Revenues	\$ 701,881	\$ 53,033	\$ 800,251	114%	1,962,093
Expenses					
General Government	1,348	-	-	0%	-
City Manager's Office	4,856	1,780	1,920	40%	-
Human Resources	-	-	-	0%	-
City Recorder/Clerk	-	-	-	0%	-
Finance	17,267	-	284	2%	-
Information Technology	235,606	63,783	141,369	60%	202,899
Legal	411	-	-	0%	-
Municipal Court	4,548	-	560	12%	-
Police	533,867	-	327,227	61%	89,453
Fire	516,625	-	217,912	42%	117,474
Communications	106,716	-	2,694	3%	6,149
Library	11,374	-	2,863	25%	-
Planning	-	-	-	0%	11,137
Building	49,573	-	27,655	56%	-
PW Administration	395,514	1,450	66,824	17%	146,552
Fleet Maintenance	14,736	-	296	2%	469
Facilities Repair/Replacement	157,000	1,362	99,320	63%	52,477
Contingencies / Reserves	14,866	-	-	0%	-
Total Expenses	2,064,307	68,375	888,924	43%	626,610
Monthly Activity Net Gain / (Loss)		\$ 1,347,084			
Ending Fund Balance			\$ 1,273,753		2,994,451
<u>Fire & EMS Equip Fee</u>					
Beg Fund Balance	\$ 244,012	\$ 246,483	\$ 246,483	101%	174,453
Revenues	143,700	12,437	135,308	94%	243,154
Expenses	387,712	-	11,179	3%	11,179
Contingencies / Reserves	-	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ 258,920			
Ending Fund Balance			\$ 370,612		406,428

SUMMARY REPORT

MAY 2016

FUNDS	2015-16			Current YTD Compare to Budget 92%	2014-15 PRIOR YTD
	BUDGET	MONTH OF MAY 2016	2015-16 YTD		
Community Projects					
<u>Cable TV Trust</u>					
Beg Fund Balance	\$ 38,171	\$ 37,339	\$ 37,339	98%	41,744
Revenues	200	24	190	95%	42,104
Expenses	38,371	-	50	0%	4,782
Contingencies / Reserves	-	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ 37,362			
Ending Fund Balance			\$ 37,479		79,067
<u>Economic Development</u>					
Beg Fund Balance	\$ 629,395	\$ 646,472	\$ 646,472	103%	643,183
Revenues	66,448	4,896	55,496	84%	792,287
Expenses	446,865	580	146,202	33%	142,521
Contingencies / Reserves	248,978	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ 650,788			
Ending Fund Balance			\$ 555,766		1,292,949
<u>Transient Lodging Tax</u>					
Beg Fund Balance	\$ -	\$ -	\$ -	0%	-
Revenues	955,000	5,516	702,119	74%	-
Expenses	955,000	111,685	605,063	63%	-
Contingencies / Reserves	-	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ (106,168)			
Ending Fund Balance			\$ 97,055		-