

CITY OF KEIZER MISSION STATEMENT  
KEEP CITY GOVERNMENT COSTS AND SERVICES TO A MINIMUM BY PROVIDING CITY SERVICES TO THE  
COMMUNITY IN A COORDINATED, EFFICIENT, AND LEAST COST FASHION

**AGENDA**

KEIZER CITY COUNCIL  
REGULAR SESSION

Monday, August 20, 2018

7:00 p.m.

Robert L. Simon Council Chambers  
Keizer, Oregon

1. CALL TO ORDER
2. ROLL CALL
3. FLAG SALUTE
4. SPECIAL ORDERS OF BUSINESS
5. COMMITTEE REPORTS
6. PUBLIC TESTIMONY

*This time is provided for citizens to address the Council on any matters other than those on the agenda scheduled for public hearing.*

7. PUBLIC HEARINGS
  - a. ORDINANCE – Amending Keizer Development Code Regarding Section 2.308 (Signs) and Section 3.103 (Conditional Use Permits); Amending Ordinance No. 98-389
8. ADMINISTRATIVE ACTION
  - a. RESOLUTION – Adopting Land Use and Sign Permit Fees Unrelated to Partitions and Subdivisions; Repealing R2016-2679 and R2016-2712
  - b. RESOLUTION – Establishing Keizer Little League Parl Long Range Planning Task Force
  - c. Surplus Property Report for Fiscal Year 2017-2018
9. CONSENT CALENDAR
  - a. RESOLUTION – Authorizing the City Manager to Enter Into Web Development and Maintenance Agreement with Kentucky Underground Storage, Inc.

- b. RESOLUTION – Authorizing City Attorney to Sign Oregon Judicial Case Information Network Terms of Use
- c. RESOLUTION – Authorizing the City Manager to Sign Amendment Number 01 to Oregon Parks and Recreation Department Local Government Grant Program Agreement for Keizer Rapids Park Big Toy Phase 2 Project
- d. RESOLUTION – Adoption of the VantageCare Retirement Health Savings (RHS) Program – Plan Number 80317

10. COUNCIL LIAISON REPORTS

11. OTHER BUSINESS

*This time is provided to allow the Mayor, City Council members, or staff an opportunity to bring new or old matters before the Council that are not on tonight's agenda.*

12. WRITTEN COMMUNICATIONS

*To inform the Council of significant written communications.*

13. AGENDA INPUT

August 27, 2018

6:00 p.m. – City Council/Planning Commission Joint Work Session

- Revitalization

September 4, 2018 (Tuesday)

7:00 p.m. City Council Regular Session

September 10, 2018

5:45 p.m. – City Council Work Session

September 17, 2018

7:00 p.m. City Council Regular Session

14. ADJOURNMENT

The City of Keizer is committed to providing equal access to all public meetings and information per the requirements of the ADA and Oregon Revised Statutes (ORS). The Keizer Civic Center is wheelchair accessible. If you require any service that furthers inclusivity to participate, please contact the Office of the City Recorder at least 48 business hours prior to the meeting by email at [davist@keizer.org](mailto:davist@keizer.org) or phone at (503)390-3700 or (503)856-3412. Most regular City Council meetings are streamed live through the City's website and cable-cast on Comcast Channel 23 within the Keizer City limits. Thank you for your interest in the City of Keizer.

**CITY COUNCIL MEETING: August 20, 2018**

**AGENDA ITEM NUMBER:\_\_\_\_\_**

**TO: MAYOR CLARK AND COUNCIL MEMBERS**

**THROUGH: CHRISTOPHER C. EPPLEY, CITY MANAGER**

**FROM: E. SHANNON JOHNSON, CITY ATTORNEY**

**SUBJECT: ORDINANCE AMENDING KEIZER DEVELOPMENT CODE**

This matter came before the Council at the August 6, 2018 meeting. The Keizer Chamber of Commerce raised concerns regarding the change in real estate signs. Because of concerns over content neutral issues, staff had proposed a permit system for temporary signs that would allow real estate signs without violating the content neutrality. The Chamber objected to the permit process.

After further review, I was able to locate some alternate language that will avoid the use of the permit system:

Property Signs. For commercial properties only, one (1) sign not exceeding \_\_\_\_\_ square feet in area during the time of sale, lease or rental of the property provided that the sign is placed on the property for sale, lease, or rent and removed within fifteen (15) days of the sale, lease or rental of the property, or a sign not exceeding \_\_\_\_\_ square feet in area during the time of construction and remodeling of the property, provided the sign is placed on the property where construction and remodeling is taking place and removed within seven (7) days of the completion of any construction or remodeling. An additional sign not exceeding \_\_\_\_\_ square feet may be erected if the property borders a second street and the signs are not visible simultaneously.

This new provision will allow commercial property owners and their real estate agents to place temporary signs for sale or lease of the property, without requiring any particular content.

There is a related issue for Council to consider. The current allowance for commercial real estate signs limits them to 16 square feet in area. Though the size of the signs vary, it is apparent that many of the commercial real estate signs are well in excess of this limit

and may approach 28 to 32 feet in area. Consequently, I have left a blank in the section to allow the Council to address this issue and make a decision. When the Council is ready to make a motion, the appropriate motion would be to adopt the Ordinance and insert the number for the allowed maximum square footage.

Because of this addition, we have deleted the language regarding a permit process in Section 2.308.08(E)(2)(b). We retained the permit process for “special occasion” unlimited signs. This is for the grand opening type of event. There were no objections made to this amendment.

I also added a “disclaimer” under the “Purpose” section at the beginning.

**RECOMMENDATION:**

Open the public hearing and take testimony regarding the matter. If there are no further questions, close the hearing and make a motion to adopt the Ordinance, including adding the allowed maximum square footage as discussed above.

Please contact me if you have any questions in this regard. Thank you.

ESJ/tmh



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A BILL  
FOR

ORDINANCE NO.  
2018-\_\_\_\_\_

AN ORDINANCE

AMENDING KEIZER DEVELOPMENT CODE REGARDING  
SECTION 2.308 (SIGNS) AND SECTION 3.103 (CONDITIONAL USE  
PERMITS); **AMENDING ORDINANCE 98-389**

WHEREAS, the Keizer Planning Commission has recommended to the Keizer  
City Council amendments to the Keizer Development Code (Ordinance No. 98-389);  
and

WHEREAS, the City Council held a hearing on this matter on July 16, 2018  
and considered the testimony given and the recommendation of the Keizer Planning  
Commission; and

WHEREAS, the Keizer City Council has determined that it is necessary and  
appropriate to amend the Keizer Development Code as set forth herein; and

WHEREAS, the Keizer City Council has determined that such amendments  
meet the criteria set forth in state law, the Keizer Comprehensive Plan, and the Keizer  
Development Code;

NOW, THEREFORE,

The City of Keizer ordains as follows:

Section 1. FINDINGS. The City of Keizer adopts the Findings set forth in  
Exhibit "A" attached hereto and by this reference incorporated herein.

1           Section 2.    AMENDMENT TO THE KEIZER DEVELOPMENT CODE.

2   The Keizer Development Code (Ordinance No. 98-389) is hereby amended by the  
3   adoption of the changes to Section 2.308 (Signs) and Section 3.103 (Conditional Use  
4   Permits) as set forth in Exhibit "B" attached hereto, and by this reference incorporated  
5   herein.

6           Section 3.   SEVERABILITY. If any section, subsection, sentence, clause,  
7   phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional,  
8   or is denied acknowledgment by any court or board of competent jurisdiction,  
9   including, but not limited to the Land Use Board of Appeals, the Land Conservation  
10   and Development Commission and the Department of Land Conservation and  
11   Development, then such portion shall be deemed a separate, distinct, and independent  
12   provision and such holding shall not affect the validity of the remaining portions  
13   hereof.

14          Section 4.   EFFECTIVE DATE. This Ordinance shall take effect thirty (30)  
15   days after its passage.

16          PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

17          SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

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\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Recorder

## EXHIBIT “A”

### **Findings regarding the adoption of amendments to Section 2.308 (Signs) and Section 3.103 (Conditional Use Permits) of the Keizer Development Code (KDC).**

The City of Keizer finds that:

1. General Findings.

The particulars of this case are found within Planning file Text Amendment 2017-16. Public hearings were held before the Planning Commission on August 9, 2017, September 13, 2017, and March 14, 2018. A public hearing was held before the City Council on July 16, 2018.

2. Criteria for approval are found in Section 3.111.04 of the Keizer Development Code. Amendments to the Comprehensive Plan or Development Code shall be approved if the evidence can substantiate the criteria are met. Amendments to the map shall be reviewed for compliance with each of the criteria contained in Section 3.111.04, while text amendments shall only be reviewed for compliance with Section 3.111.04 B, C, and D. Given that this is a text amendment, Section 3.111.04 A is not applicable.

3. **Section 3.111.04.B - A demonstrated need exists for the product of the proposed amendment -**

**Findings:** The proposed revisions to the zone code reflect a demonstrated need. The existing language in the Keizer Development Code (KDC) was inconsistent with precedent set by the United States Supreme Court Decision “*Reed v. Gilbert*” regarding the necessity for local government sign codes to be “content neutral”. In addition, the existing language contained inconsistencies and ambiguity in regulations pertaining to temporary and portable signs. These amendments clarify the requirements and regulations governing signs and eliminate content based regulations. Therefore, this text amendment is found to be necessary to provide the appropriate level of clarity for regulating signs, as well as to be consistent with precedent set by the courts. Therefore, this proposal complies with this review criterion.

4. **Section 3.111.04.C- The proposed amendment to the Keizer Development Code complies with statewide land use goals and related administrative rules**

**FINDINGS:** The text amendments comply with the statewide land use planning goals as discussed below.

**Goal 1 – Citizen Involvement:** The adoption of this ordinance followed notice, a public process involving public hearings, deliberation, and ordinance adoption. Public notice was provided in the Keizertimes newspaper prior to the public hearings. Public hearings were held before the Planning Commission on August

9, 2017 (which was carried forward to September 13, 2017) and March 14, 2018. A public hearing was held before the City Council on July 16, 2018. Citizens were afforded the opportunity to participate in the public process. This process is consistent with the provision for providing an opportunity for citizens to be involved in all phases of this planning process as is required by this goal and with implementing administrative rules within Oregon Administrative Rules.

**Goal 2 – Land Use Planning:** This ordinance amends the Keizer Development Code. The city has an adopted comprehensive plan acknowledged by the state. The adoption proceeding was conducted in a manner consistent with the Keizer Comprehensive Plan, Keizer Development Code, and applicable state law. The revisions to the Keizer Development Code are consistent with this statewide planning goal and administrative rules.

**Goal 3 – Farm Land:** The purpose of this goal is to protect lands that are designated for agricultural uses. Within the city limits the Exclusive Farm Use (EFU), Special Agriculture (SA), Urban Transition (UT), and Public (P) allow commercial agricultural uses. However, only the city’s SA zone is a state recognized EFU qualifying zone. The amendments involve regulations governing signs within the City and will not affect lands that are outside the city limits or any lawful uses occurring on those lands. Nothing in the amendments will affect the ability for an existing farm use to continue, or for a new farm use to be established on appropriately zoned property. Therefore, the amendments will comply with the Farm Land Goal and with implementing administrative rules.

**Goal 4 – Forest Land:** The intent of this goal is to protect lands designated for commercial forest uses. There are no zoning districts specifically designated within the city limits that will allow for commercial forestry. Also, there are no commercial forest lands near, or adjacent to the city limits of Keizer. The amendments to the KDC do not involve any land which is designated as forest land, nor will it impact the use of any forest lands. The amendments will comply with this Goal and with implementing administrative rules.

**Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces:** The intent of the Natural Resources Goal is to protect various natural resources and conserve scenic and historic areas and open spaces. The city has a local wetland inventory of sites where wetland soils may be present. The city has an adopted Willamette River Greenway Overlay zone to protect resources along the Willamette River. There are no identified big game habitats within the city limits of Keizer. The city established a Resource Conservation overlay zone to maintain, preserve and protect the natural features adjacent to Claggett Creek. In addition, the City has storm water regulations to protect water quality of the local water ways. These changes will not affect or preclude any of the city’s natural resources protection regulations nor the lawful use of any properties that are within this overlay zone. The changes clarify and update the City’s sign regulations, and do not impact any *Natural Resources, Scenic and Historic Areas*,

*and Open Spaces.* Therefore, the amendments will be consistent with this goal and with administrative rules which implement this goal.

**Goal 6 – Air, Water and Land Quality:** The intent of this goal is to protect the city’s air, water and land qualities. The city provides its residents with city water from groundwater sources. The quality of the water is monitored to ensure that it complies with all state and federal water quality standards. New construction is required to be connected to the established sanitary sewer system thereby reducing the potential of groundwater contamination from failing on-site septic systems. The city has storm water regulations which are to maintain water quality in the Willamette River and local streams. Land quality is preserved through the city’s erosion control regulations and through zone code development regulations. Air quality is preserved through the city’s development code regulations which limit certain types of uses and are enforced by appropriate state agencies which govern air emission standards. The revisions will have no effect on Air, Water and Land Quality and therefore will comply with this goal and with the administrative rules that implement this goal.

**Goal 7 – Natural Hazards:** The purpose of this goal is to protect life and property from hazards resulting from flooding, steep slopes or other natural occurrences. The city has floodplain regulations that govern the placement of structures within identified 100-year floodplains within the city limits. In Keizer, these are primarily located along the Willamette River and smaller streams such as Claggett Creek. The floodplains have been mapped by the federal government. The intent of the floodplain regulations is to minimize the loss of life and property damage by preventing development, elevating structures above the flood elevation, or flood proofing structures in the floodplain. While there are some steep slopes in the northwest quadrant of the city, there are no mapped areas of steep slopes in Keizer that might warrant any special engineering. The text amendments will neither impact this goal nor any administrative rules.

**Goal 8 – Recreation:** This goal requires the city to identify and plan for the current and future recreation needs of the residents of the city. The city has an adopted Parks and Recreation Master Plan that inventories parks, playgrounds, and recreational opportunities within the city limits and plans for the city’s future park and recreation needs. The amendments will have no impact on the recreational activities that occur on any park land within the city and will not impact either this goal or any administrative rules that implement it.

**Goal 9 – Economic Development:** The intent of this goal is to ensure that the city plans for its overall economic vitality. The City has an adopted Economic Opportunities Analysis which addresses projected job needs based on both regional growth patterns and desired targeted industries. The growth forecast calls for a total of 3,774 new jobs over the next 20 years. The adopted Economic Opportunities Analysis identifies a net need for commercial and institutional lands amounting to 63.3 gross acres above and beyond what the City’s remaining

buildable employment lands can accommodate. The text amendment will not have any adverse impact on the economic development activities or uses within the city. Therefore, the changes are consistent with this goal.

**Goal 10 – Housing:** This goal requires the city to plan and provide for the housing needs of its residents. The adopted Housing Needs Analysis found that for the upcoming 20-year period there will be a need for 4,513 new units to house the future population. The inventory of buildable residential lands contain a supply of 315.2 acres which are vacant, partially vacant or re-developable and can accommodate an estimated 2,422 units resulting in 2,090 units which must be accommodated beyond the City’s existing capacity. When this remaining land need is apportioned to Keizer’s residential zones, the HNA estimates a 20-year need of 267 gross acres of residential land. The amendments will have no impact on this goal.

**Goal 11- Public Facilities and Services:** The intent of this goal is to develop a timely, orderly and efficient arrangement of public facilities and services necessary to serve the residents of Keizer. The city provides its residents with water, an established street system, administrative services and police services. Sanitary sewer service is provided by the city of Salem through an intergovernmental agreement. Fire protection services are provided by the Keizer Fire District or Marion County Fire District #1. There is sufficient capacity in the municipal water delivery system and also within the sanitary sewer treatment system to accommodate planned growth within the upcoming 20 year planning period. The text amendments will not impact any of the city’s public facilities and services. Therefore, the revisions comply with this goal and all administrative rules.

**Goal 12 – Transportation:** The city has an adopted Transportation System Plan that describes the city’s transportation systems. This system includes streets, transit, bike, and pedestrian systems. It inventories the existing systems and contains plans for improving these systems. The text amendment will not affect any transportation facility within the city limits and so is consistent with Section 3.111.05 regarding Transportation Planning Rule compliance. The text amendment will have no adverse impact on the city’s transportation systems and so will not affect this goal or any implementing rules.

**Goal 13 – Energy Conservation:** This goal seeks to maximize the conservation of energy. All new construction requires compliance for review to applicable energy conservation standards. The text amendments will have no impact on this goal or any of the implementing administrative rules.

**Goal 14 – Urbanization:** The intent of this goal to provide for an orderly and efficient transition from rural to urban land use. The city has an adopted Comprehensive Plan and zone code that complies with the goal. The text amendments will affect only land that is within the city limits and will not impact

the use of any land being transitioned from rural to urbanized uses and is therefore consistent with this goal.

**Goal 15 – Willamette River:** This goal seeks to protect, conserve, and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River. The revisions to the city’s development code will have no impact on the ability of the city to regulate uses along the river or the Willamette River overlay zone regulations and so this goal is not applicable.

**Goal 16 (Estuarine Resources), Goal 17 (Coastal Shorelands), Goal 18 (Beaches and Dunes), and Goal 19 (Ocean Resources)** govern areas along the ocean. Since Keizer is not located along the coast these goals are not applicable.

In consideration of the above findings, the revisions comply with all applicable statewide land use goals and with all applicable administrative rules which implement the relevant goal.

5. **Section 3.111.04.D - The amendment is appropriate as measured by at least one of the following criteria:**

- a. It corrects identified error(s) in the previous plan.
- b. It represents a logical implementation of the plan.
- c. It is mandated by changes in federal, state, or local law.
- d. It is otherwise deemed by the council to be desirable, appropriate, and proper.

**FINDINGS:** The text amendments will revise Section 2.308 (Signs) and Section 3.103 (Conditional Use Permits) of the Keizer Development Code. The changes to Section 2.308 eliminate content-based regulations and clarify the standards for signs. Changes to frequency of change on electronic message signs, spacing requirements for portable signs, and allowance for temporary displays are included as a result of testimony received from the business community. The amendments will eliminate discrepancies within the code and the changes associated with content neutrality are necessary to be consistent with the precedent set by the *Reed v. Gilbert* decision. The City Council has, by this adoption, determined that the text revisions are desirable, appropriate, and proper. As such, the changes comply with this criterion.

## 2.308 SIGNS

### 2.308.01 Purpose

The purpose of these sign regulations is to provide equitable signage rights, reduce signage conflicts, promote traffic and pedestrian safety, and, increase the aesthetic value and economic viability of the city, all by classifying and regulating the location, size, type and number of signs and related matters, in a content-neutral manner. (5/98)

These regulations are not intended to and do not restrict speech on the basis of its content, viewpoint or message. Any classification of signs in these regulations that permits speech by reason of the type of sign, identity of the sign user or otherwise, shall permit any type of speech on the sign. To the extent any provision of these regulations is ambiguous, the term shall be interpreted to not regulate on the basis of speech content.

### 2.308.02 Definitions

For the purposes of this Chapter, the following definitions shall apply: (5/98)

Alteration or Altered: Any change in the size, shape, method of illumination, position, location, construction, or supporting structure of a sign. A change in sign copy or sign face alone shall not be considered an alteration. (5/98)

Area: The area of a sign shall be the entire area within any type of perimeter or border which encloses the outer limits of any writing, representation, emblem, figure, or character. If the sign is enclosed in a frame or cabinet the area is based on the inner dimensions of the frame or cabinet surrounding the sign face. When a sign is on a base material and attached without a frame, such as a wood board or Plexiglas panel, the dimensions of the base material are to be used.

The area of a sign having no such perimeter, border, or base material shall be computed by enclosing the entire area within a standard geometric figure or combination of no more than two (2) connected standard geometric figures (e.g., rectangle, circle, parallelogram, or a triangle) of the smallest size sufficient to cover the entire message of the sign and computing the area of the sum of the geometric figures~~parallelogram or a triangle~~. For the purpose of computing the number of signs, all writing included within such a geographic figure or two (2) connected geographic figures~~border~~ shall be considered one sign, except for multi-faced signs on a single sign structure, which shall



Sign Area



Awning Sign



be counted as one sign per structure. The area of multi-faced signs shall be calculated by including only one-half the total area of all sign faces. (5/98)

Awning: A shelter supported entirely from the exterior wall of a building and composed of non-rigid materials, except for the supporting framework. (5/98)

Building Face: The single wall surface of a building facing a given direction. (5/98)

Building Frontage, Primary: The portion of a building face most closely in alignment with an adjacent right-of-way or fronting a parking lot when so defined, as allowed in this chapter. A gasoline service station may use the overhanging canopy as a substitute for building frontage when computing the allowable sign area. The longest side of the canopy shall be used to compute the allowable sign area. (Ord. 2005-533 11/05)



Building Frontage and Face

Building Frontage, Secondary: Buildings located on lots abutting more than one Right of Way or a parking lot may designate one building face as a secondary building frontage. (Ord. 2005-533 11/05)

Canopy Sign: A sign hanging from a canopy or eve, at any angle relative to the adjacent wall, the lowest portion of which is at least eight (8) feet above the underlying grade. (5/98)

Construct: Build, erect, attach, hang, place, suspend, paint in new or different word, affix, or otherwise bring into being. (5/98)



~~Election Signs: Those signs which relate to an election, initiative or political viewpoint. Such signs will otherwise meet the specifications of Temporary Signs. (5/04 — Ord 2004-498)~~

Electronic Message Sign: Signs that incorporate as part of, or wholly, an electronic message or display by means of light emitting diodes, plasma, electronic ink, or other means that allow that display to be changed through electronic controls. ~~Further, an electronic message sign cannot be a wall sign.~~ (10/08 – Ord 2008-581)



Free-Standing Sign

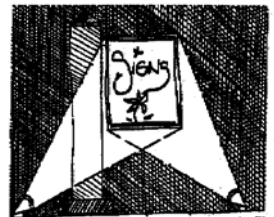
Finish Ground Level: The average elevation of the ground (excluding mounds or berms, etc. located only in the immediate area of the sign)

adjoining the structure or building upon which the sign is erected, or the curb height of the closest street, whichever is the lowest. (5/98)

Flashing Sign: A sign any part of which pulsates, scrolls, flutters, animates, lights intermittently, or blinks on and off. (10/08)

Free-Standing Sign: A permanent sign supported by one or more uprights, poles or braces placed in or upon the ground, or a sign supported by any structure primarily for the display and support of the sign, -the structure of which will not be calculated as part of the overall sign area. (see "Area") (5/98)

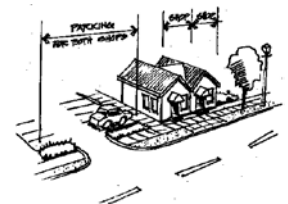
Incidental Signs: A sign that is normally incidental to the allowed use of the property, but can contain any message or content. Such signs can be used for, but are not limited to, nameplate signs, warning or prohibition signs, and directional signs not otherwise allowed. (5/98)



Indirect Illumination

Indirect Illumination: A source of illumination directed toward such sign so that the beam of light falls upon the exterior surface of the sign. (5/98)

Integrated Business Center: A group of two or more businesses which are planned or designed as a center, and share a common off-street parking area or access, whether or not the businesses, buildings or land are under common ownership. (5/98)



Small Integrated Business Center

Internal Illumination. A source of illumination from within a sign. (5/98)

~~Joint Use Sign: When two or more businesses combine part or all of their total allowed sign area into free-standing sign for each common frontage of such business. (5/98)~~

Multi-faced Sign: A sign which has two or more identical size sign faces, contained in a single sign structure. (5/98)



Large Integrated Business Center

Multi-family Dwelling: A residential structure or complex of structures that include three or more separate dwelling units, whether rented or owned by the occupants. (5/98)

Mural: An illustration (with or without words or numbers) which is painted or otherwise applied (without projections) to an outside wall of a structure. (5/98)



Joint-Use Sign

Nit: Nit is used as a measurement of luminance, where the Nit is equal to one candela per square meter (1cd/m<sup>2</sup>). A candela is a unit of measurement of the intensity of light, where one candela is the monochromatic radiation of 540THz with a radiant intensity of 1/683 watt per steradian in the same direction. By way of example, an ordinary wax candle generates approximately one candela. (10/08)

Nonconforming Sign: Any sign which lawfully ~~existed~~exists prior to ~~May 7, 1990~~the effective date of this chapter but, which due to the requirements adopted herein, no longer complies with the height, area and placement regulations or other provisions of these regulations. (5/98)

Owner: As used in these regulations, "owner" means owner or lessee of the sign. If the owner or lessee of the sign cannot be determined, then "owner" means owner or purchaser of the land on which the sign is placed. (5/98)

Portable Sign: A sign that is, or similar to, an A-frame sign, sandwich board sign, yard sign, wind feather or feather flag, or a sign attached to wood or metal frames and designed to be self-supporting and movable. Wind feathers or feather flags may be placed on a stand or placed in the ground. Portable signs are not to be considered temporary signs as defined and used in this chapter. (12/10)

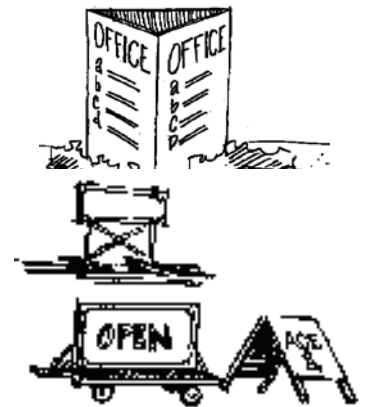
Projecting Signs: A sign the face of which is not parallel to the wall on which it is mounted. (11/05)

~~Real Estate Sign: A sign for the purpose of rent, lease, sale, etc. of real property, building opportunities, or building space.~~ (5/98)

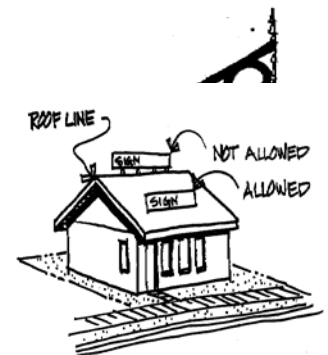
Roof Line: Either the eaves of the roof or the top of the parapet, at the exterior wall. (A "mansard roof" is below the top of a parapet and is considered a wall for sign purposes.)

Roof Sign: A sign or any portion of which is displayed above the highest point of the roof, whether or not such sign also is a wall sign. (5/98)

Rotating/Revolving Sign: A sign, all or a portion of which, moves in some manner. (5/98)

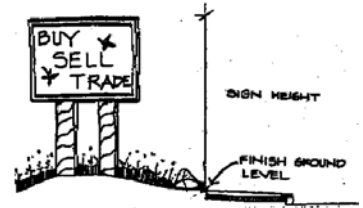


– Portable Signs



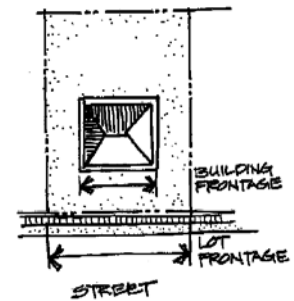
Roof Line and Roof Sign

Sign: Any writing, including letter, word, or numeral; pictorial presentation, including mural, illustration or decoration; emblem, including device, symbol, logo or trademark; flag, including banner or pennant; or any other device, figure or similar thing which is a structure or any part thereof, or is attached to, painted on, or in any other manner represented on a building or structure or device; and is used to announce, direct attention to, or advertise; and is visible from any public right-of-way. (5/98)



Sign Height

Sign Face: Surface of a sign containing the message. The sign face shall be measured as set forth in the definition for "area."



Street Frontage

Sign Height: The distance from the finish ground level, to the top of the sign or the highest portion of the sign structure or frame, whichever is greater. (5/98)

Sign Structure: The supports, uprights, braces, framework and other structural components of the sign. (5/98)



Temporary Sign

Street Frontage: That portion of a property that abuts a paved street right-of-way and measured by the lineal distance of the property adjacent to such right-of-way. (5/98)

Temporary Business: A business of a temporary nature authorized through a Temporary Business Permit issued by the City of Keizer. (5/98)



Wall Sign

~~Temporary Sign. A sign not permanently affixed to a structure on a property. A sign that is, or is similar to, a banner or wind feather sign which may be made of canvas, cloth, rigid plastic or paper, or vinyl. (12/10)~~

Temporary Sign: A sign that is, or is similar to, a banner and is attached, but not permanently affixed to a building, and which may be made of canvas, cloth, rigid plastic, paper, vinyl, or other lightweight flexible material.

Wall Sign: A permanent sign attached to, erected against or painted on a wall of a building or structure, with the exposed face of the sign in a plane approximately parallel to the face of said wall. A sign painted on

an awning in which the face of the sign is approximately parallel to the wall shall also be considered a wall sign. (5/98)

## **2.308.03 Review Procedures**

- A. Permit Required. Except as specifically excluded herein, no property owner, lessee or contractor shall construct or alter any sign without first obtaining a valid permit to do so. (5/98)

~~B. Current Signs. Owners of conforming or nonconforming signs existing as of December 4, 1989 are not required to obtain a permit until the end of the abatement period described in Section 2.308.04.C. (5/98)~~

- ~~BC.~~ Permit Fees. Permit fees shall be established from time to time by City Council resolution. (5/98)

- ~~CD.~~ Application Requirements. An application for a sign permit shall be made on a form prescribed by the Zoning Administrator. The application shall include, at a minimum, a sketch drawn to scale indicating the proposed sign and identifying existing signs on the premises, the sign's location, graphic design, structural and mechanical design and engineering data which ensures its structural stability. The application shall also contain the names and address of the sign company, person authorizing erection of the sign and the owner of the subject property. (5/98)

The Zoning Administrator shall issue a permit for a sign unless the sign is in violation of the provisions of these regulations or other provisions of the Keizer Zoning Ordinance. Sign permits mistakenly issued in violation of these regulations or other provisions of the Keizer Zoning Ordinance are void. The Zoning Administrator may revoke a sign permit if he finds that there was a material and misleading false statement of fact in the application for the permit. (5/98)

- ~~DE.~~ Design, Construction, and Maintenance. All signs shall be designed, constructed, and maintained according to the following standards: (5/98)

1. Compliance with Building Codes. All signs shall comply with the applicable provisions of ~~Uniform the~~ Building Code in effect at the time of the sign permit application and all other applicable structural, electrical and other regulations. The issuance of a sign permit under these regulations does not relieve the applicant of complying with all other permit requirements. (5/98)

2. Materials. Except for banners, flags, portable signs, temporary signs, and window signs conforming in all respects with the requirements of these regulations, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or other structure by direct attachment to a rigid wall, frame, or structure. (5/98)
3. Maintenance. All signs shall be maintained in a good structural condition and readable at all times. (5/98)
4. Owner Responsibility. The owner shall be responsible for its erection and maintenance and its compliance with the provisions of these regulations or other laws or Ordinances regulating signs. (5/98)
5. Aesthetics. All signs shall be professional in appearance, constructed in a workmanship like manner to professional standards. (12/10)

## **2.308.04 Nonconforming Signs**

- A. Any sign not complying with these regulations is prohibited and constitutes a violation.

~~Alteration of Nonconforming Sign Faces. Nonconforming signs are subject to the following provisions regarding alteration: (5/98)~~

- ~~1. Change Permitted. Within the abatement period described in Section 2.308.04.C., aNo alteration or replacement of any nonconforming sign shall be allowed. A change in sign face alone is allowed without requiring compliance with these regulations. (5/98)~~
- ~~2. Termination of Nonconforming Sign. Within the abatement period described in Section 2.308.04.C., wWhen a nonconforming sign face is damaged or destroyed by fire, flood, wind, or other calamity or act of God, such sign face may be restored to its original condition provided such work is completed within sixty (60) days of such calamity. However, a sign structure or support mechanisms so damaged shall not be replaced except in conformance with the provisions of these regulations. (5/98)~~

- B. Permits for Properties with Nonconforming Signs. (5/98)

1. Businesses in Integrated Business Centers. For individual businesses in integrated business centers, all signs of the individual business must comply prior to issuance of sign permits



for new or altered signs for such business. No free-standing sign permits will be issued for the integrated business center, unless all free-standing signs comply. (5/98)

2. Businesses Not in Integrated Business Centers. No permits shall be issued for new or altered signs unless all signs of the individual business comply with these regulations, ~~except as set forth in Section 2.308.04.B.4.~~ (5/98)
3. ~~Nonconforming Sign Area. Except as set forth above and in Section 2.308.08.B.4., all conforming and/or nonconforming signs in existence as of the date of the permit application shall be included in the total allowed area, number or size when reviewing applications for new or altered signs to be allowed on the property.~~ (5/98)
4. ~~Exception for Non-Owned Signs. Signs which are not owned or controlled by the property owner or lessee prior to May 7, 1990, and which were constructed or installed prior to May 7, 1990, shall not be included in the total allowed area for sign permits granted prior to May 7, 1997.~~ (5/98)

- C. ~~Abatement of Nonconforming Signs. Permanent signs in existence on May 7, 1990 that are not in conformance with the provisions of this Ordinance shall be regarded as nonconforming signs and must be removed, altered, or replaced so as to conform on or before May 7, 1997. The period from the date of the enactment of these regulations to May 7, 1997, shall be described as the "abatement period." Nonconforming signs remaining after the abatement period ends shall be considered illegal signs. Temporary and portable signs that are not in conformance with the provisions of this Ordinance shall be regarded as nonconforming and shall be removed on or before September 7, 1990.~~ (10/08)

~~The Zoning Administrator shall notify non-conforming permanent sign owners by certified mail of the conformance deadline at least two years prior to such deadline as a public service. Failure to be notified of the deadline shall not relieve the owner of responsibility to conform with this Ordinance within the time period herein. Properties annexed to the City after the effective date of this Ordinance shall have 7 years following annexation in which to conform to these regulations, with the exception of temporary signs that shall conform to the regulations within 90 days following annexation.~~ (5/98)

Electronic Message Signs which are legally placed and maintained in all respects on or before October 6, 2008 shall be allowed to remain as non-conforming signs and do not have to be brought into compliance. However, once a non-conforming Electronic Message Sign is removed, any replacement sign must comply in all respects with these regulations. (10/08)

- D. Abandoned Signs. All signs for a business shall be removed within ~~30~~120 days after that business ceases to operate on a regular basis, and the entire sign structure or structures shall be removed within 12 months of such cessation of operation. (5/98)
- ~~E. Minor Nonconforming Signs. Individual signs that otherwise comply and are existing as of May 7, 1990, that are within 5% of both the allowed area (total and per sign) and the allowed height as set forth in these regulations are allowed to remain as nNonconforming signs and do not have to be brought into compliance. However, once a nonconforming sign is removed, any replacement sign must comply in all respects with these regulations. (5/98)~~

### **2.308.05 Signs Generally Permitted**

Subject to the limitations in Sections ~~2.308.04.C~~, 2.308.07 and 2.308.08, the following signs and sign work are permitted in all zones. These signs shall not require a permit, and shall not be included when determining compliance with total allowed area: (5/98)

- A. Sign Copy. Painting, change of sign face or copy and maintenance of signs ~~legally existing on the effective date of this Ordinance. If structural changes are made, the sign shall conform in all respects with these regulations.~~ (5/98)
- B. Temporary Signs. Temporary signs that do not exceed 16 square feet in area ~~No lot may be displayed for a maximum of temporary signs for more than 120 days in any calendar year. Only one temporary sign per lot storefront or residence~~residential structure may be displayed at a time except during the period 45 days preceding and seven days following governmental elections, ~~signs which relate to such elections during which time temporary signs~~ may be unlimited in number. Paper signs may only be used for single day events. (12/10)
- ~~C. Real Estate Signs. Signs that advertise the sale, rental or lease of premises upon which the sign is located. Commercial Properties may display a real estate sign not exceeding 16 square feet in area. Residential properties may display a real estate sign not exceeding 6 square feet in area. (12/10)~~
- C. Property Signs. For commercial properties only, one (1) sign not exceeding \_\_\_\_\_ square feet in area during the time of sale, lease or rental of the property provided that the sign is placed on the property for sale, lease, or rent and removed within fifteen (15) days of the sale, lease or rental of the property, or a sign not exceeding \_\_\_\_\_ square feet in area during the time of construction and remodeling of the property, provided the sign is placed on the property



where construction and remodeling is taking place and removed within seven (7) days of the completion of any construction or remodeling. An additional sign not exceeding \_\_\_\_\_ square feet may be erected if the property borders a second street and the signs are not visible simultaneously.

- D. Government Signs. Signs posted by or under governmental authority including legal notices, traffic, danger, no trespassing, emergency, city identification, signs related to public services or safety, ~~and signs approved by City Council resolution for special events or activities.~~ (12/10)
- E. Development Signs. One sign not over 32 square feet ~~for a residential development or subdivision, and~~ located at each street entrance to a residential subdivision or residential ~~the~~ development. (5/98)
- F. Incidental. Incidental signs that do not exceed 6 square feet. Such signs shall not be mounted on permitted freestanding sign structures. (5/98)
- G. Flags. Flags on permanent flag poles that are designed to allow raising and lowering of the flags. Flagpoles shall either be freestanding or shall be mounted on the building but if mounted on the building may not be taller than the peak of the roof. Flags shall not exceed 25 square feet in area. (5/98)
- H. Interior Signs. Signs within a building. (5/98)
- I. Window Signs. For commercial or industrial buildings, signs painted or hung on the inside of windows, or otherwise affixed ( such as window clings) to the surface of a window with its message intended to be visible to the exterior environment, provided such signs shall cover no more than 50% of the surface area of the window in which they are hung. (5/98)
- ~~J. Non-profit Signs. A non-profit organization may display a portable sign subject to the following: (5/98)~~
  - ~~1. Three signs per organization at one time. (5/98)~~
  - ~~2. Maximum sign area: 16 square feet. (5/98)~~
  - ~~3. The sign shall be displayed no more than six times in any 365 day period, and shall not be displayed longer than five days each time. (5/98)~~
  - ~~4. The sign shall not be placed on public property or in any right-of-way. (5/98)~~

~~5. The non-profit organization shall request and receive consent from the property owner of the property on which the sign is placed. (5/98)~~

~~6. If requested, the non-profit organization shall provide appropriate proof that such organization is organized not to make a profit, but for charitable, educational, religious, or philanthropic purposes. (5/98)~~

~~JK.~~ Residential Signs. Residential signs, pursuant to requirements in Section 2.308.07. (5/98)

~~L. Election Signs. During the period of forty five (45) days prior and seven (7) days after any governmental election, signs which meet the definition of temporary or portable signs, and which pertain to such election, may be unlimited in number. (12/10)~~

~~KM.~~ Portable Signs. Portable ~~signs may be displayed for a maximum of 120 days in any calendar year, and a~~signs are limited to 6 square feet in area, with the exception that wind feather/feather flag signs may be up to 16 square feet in area. One portable sign per storefront or residence residential structure is allowed except during the period 45 days preceding and seven days following governmental elections, during which time portable signs may be unlimited in number. The following additional standards apply to portable signs: (12/10)

~~1. Portable signs located within 10 feet of the main entry of a business may be displayed without limit to time. (12/10)~~

~~2.1.~~ Portable signs ~~not located adjacent to a business entrance~~ may not be within ~~50~~ 25 feet of any other portable sign on the same lot or less than ~~10~~ 5 feet from a side ~~lot~~property line. (12/10)

~~3.2.~~ Portable signs must be located on private property, and may not be within any public sidewalk easement or right of way. If located along a public street, signs must be located behind the sidewalk regardless of property line location. (12/10)

~~4.3.~~ Portable signs cannot impede sidewalks, exits, or other pedestrian, vehicular, or bicycle way. (12/10)

~~5. Portable signs may only be displayed during business hours. (12/10)~~

## **2.308.06 Prohibited Signs**

The following signs are prohibited, and are subject to immediate code enforcement action including but not limited to the issuance of citations and/or confiscation under the Keizer Uniform Nuisance Abatement Ordinance: (5/98)

- A. Tethered Signs. Balloons or similar types of tethered objects, including strings of pennants. (5/98)
- B. Roof Signs. Roof signs or signs which extend higher than the roof line. (5/98)
- C. Odor, Visible Matter. Signs that emit odor, visible matter, or sound, however an intercom system for customers remaining in their vehicles, such as used in banks and "drive through" restaurants, shall be allowed. (5/98)
- D. Wire Supports. Signs that use or employ side guy lines of any type. (5/98)
- E. Obstructing Signs. Signs that obstruct any fire escape, required exit, window or door opening used as a means of egress. (5/98)
- F. Utility Lines. Signs closer than 24 inches horizontally or vertically from any overhead power line or public utility guy wire. (5/98)
- G. Vehicle, Trailer Signs. No vehicle, trailer, or trailer mounted reader boards shall be parked on a public right-of-way or public property, or on private property so as to be visible from a public right-of-way which has attached thereto or located thereon any sign or advertising device for the basic purpose of providing advertisement of products or directing people to a business or activity located on the same or nearby premises. This provision applies where the primary purpose of a vehicle is for advertising purposes and is not intended to prohibit any form of vehicular sign, such as a sign attached to a motor vehicle which is primarily used for business purposes, other than advertising. (12/10)
- H. Rotating/revolving Signs. (10/08)
- I. Flashing Signs. (10/08)
- J. ~~Projecting~~Projection Signs. Projecting signs exceeding 24 inches and private signs that project into or over driveways and public right-of-ways, except signs under a canopy that projects over a public sidewalk and the sign is 8 feet or more above the sidewalk. (11/05)

- K. View Obstruction. Signs that obstruct required vision clearance area or obstruct a vehicle driver's view of official traffic control signs and approaching or merging traffic, or which present a traffic hazard. (5/98)
- L. Safety Interference. Signs that interfere with, imitate, or resemble any official traffic control sign, signal or device, emergency lights, or appears to direct traffic, such as a beacon light. (5/98)
- M. Signs in the public right of way/Use of Utility Poles. Except for government signs under Section 2.308.05(DC), Private Signs located in public right-of-way, in any public or utility easement or attached to any utility poles. Signs located in such areas are subject to immediate removal without notice, attached to any pole, post, utility pole or placed on its own stake and placed into the ground in the public right of way. (5/98)
- N. Vacant Land. Any sign on unimproved property, unless allowed as a temporary or portable sign. (5/98)
- O. Electronic Message Signs. Electronic message signs except by conditional use permit. Electronic message signs that change more frequently than once per fifteen (15) sixty (60) seconds minutes are prohibited. Further, any change made with the use of scrolling, flashing, fluttering or other animated effects is prohibited. Variances to any of these requirements are not allowed. (10/08)
- P. Temporary or Portable signs exceeding the allowed size or timeframes for display are prohibited, unless authorized by Special Occasion Permit approval as outlined in Section 2.308.08.E.

## **2.308.07 Non-Commercial Signs Uses**

The following regulations apply to signs for residences, public or semi-public buildings and similar non-commercial, non-industrial uses: (5/98)

- A. Sign types. The following sign types are allowed: (5/98)
  - 1. Wall, canopy and window signs subject to the limitations in 2.308.07.C. (5/98)
  - 2. Free-standing signs subject to the limitations in 2.308.07.C. (5/98)
  - 3. Temporary displays consisting of any sign type for a period not to exceed 21 days in any 365 day period, however the owners or responsible parties of such displays shall be responsible for any public or private nuisance. (5/98)

- B. Maximum number. Any numbercombination of wall, canopy or free-standing signs not exceeding the sign area and height limitations of this Section; plus signs allowed in Section 2.308.07.A.3. (5/98)
- C. Maximum Sign Area. Maximum total sign area for property on which the building or buildings are located: (5/98)
  - 1. Single-family and two-family (duplex) dwelling: 6 square feet. (5/98)
  - 2. Multiple family dwelling: 32 square feet. (5/98)
  - 3. Public and semi-public: 64 square feet. (5/98)
- D. Maximum sign height:
  - 1. Wall, canopy or window sign: 8 feet. (5/98)
  - 2. Free-standing sign: 6 feet. (5/98)
- E. Location: (5/98)
  - 1. Wall, canopy or window sign shall be set back from the property lines of the lot on which it is located, the same distance as the building containing the permitted use; provided that wall signs may project into the required setback space up to 1.5 feet. (5/98)
  - 2. Free-standing signs are permitted where fences are allowed. (5/98)
- F. Illumination. Except for Electronic Message Signs, non-commercial use signs may only be indirectly illuminated by a concealed light source, shall not remain illuminated between the hours of 11:00 p.m. and 6:00 a.m., (except by conditional use permit) and shall not flash, blink, fluctuate or produce glare. (10/2008 Ord. 2008-581)

## **2.308.08 Commercial and Industrial SignsUses**

The following regulations apply to signs for commercial and industrial uses:  
(5/98)

- A. Non-integrated Business Centers:

1. Total allowed area. One and one-half square feet of total allowed sign area for each lineal foot of building frontage, up to a maximum total allowed area of 150 square feet. (5/98)

2. On a Secondary Building Frontage, one wall sign shall be allowed, in addition to that listed above, at the rate of 0.75 sq ft per lineal foot of that portion of the building designated a Secondary Building Frontage, up to a maximum of 75 sq ft.

32. Type, maximum number and size of signs. Within the total allowed area, one free standing sign per street frontage and an unlimited number of wall, canopy or projecting signs. Regardless of total allowed area, the free-standing signs shall be limited to a maximum of 100 square feet in area, shall not exceed one sign on each frontage, and shall be oriented to face the traffic flow on the street upon which they~~re~~<sup>re</sup> front. (5/98)

43. Maximum sign height: (5/98)

a. Wall and canopy signs shall not project above the parapet or roof eaves. (5/98)

b. Free-standing signs: 20 feet. (5/98)

54. Location: (5/98)

a. Wall or projecting signs may project up to 2 feet away from the building. (5/98)

b. Free-standing signs have no limitations except the signs shall not project over street right-of-way and shall comply with requirements for vision clearance areas and special street setbacks. (5/98)

B. Integrated Business Centers:

1. Allowed area. For wall, canopy and projecting signs on individual businesses within an integrated business center, one and one-half square feet of total allowed sign area for each lineal foot of building frontage for the individual business, up to a total maximum of 150 square feet per business. The sign area of a projecting sign shall be calculated as a free-standing sign. Individual businesses may not assign their unused allowed area to other businesses in the integrated business center. Free

standing signs are permitted only as set forth below and in Section 2.308.08.C. (11/05)

2. On a Secondary Building Frontage, one wall sign shall be allowed, in addition to that listed above, at the rate of 0.75 sq ft per lineal foot of that portion of the building designated a Secondary Building Frontage, up to a maximum of 75 sq ft. (11/05)
3. Free-standing Sign. For each integrated business center, 1 free-standing sign per street frontage not to exceed 100 square feet each in area. Free-standing signs shall not exceed one sign on each frontage and shall be oriented to face the traffic flow on the street upon which they front. (11/05)
4. Maximum sign height: (5/98)
  - a. Wall and canopy signs shall not project above the parapet or roof eaves. (5/98)
  - b. Free-standing signs: 20 feet. (5/98)
5. Location:
  - a. Wall or projecting signs may be located on any face of the building, except as provided in 2.308.08.B.4.b, and may project up to 2 feet away from the building. (11/05)
  - b. Wall signage located on a Secondary Building Frontage shall be limited to only one sign, limited in size as provided in 2.308.08.A.2. In no case may any signage derived on the primary building frontage be located on the secondary building frontage. (11/05)
  - c. Free-standing signs have no limitations except the signs shall not project over street right-of-way and shall comply with requirements for vision clearance areas and special street setbacks. (5/98)

C. Mixed Use Developments. Signs for developments containing a mixture of commercial and residential uses shall be subject to the following restrictions: (5/98)

1. Non-commercial uses shall be subject to the provisions in Section 2.308.07. (5/98)

2. Commercial-industrial uses shall be subject to the provisions for integrated business centers in Section 2.308.8.B. (5/98)
  3. Free-standing signs shall be subject to the provisions in Section 2.308.08.B.~~32~~. (5/98)
- D. Additional Signs. Within the limitations of this subsection, the signs below do not require a permit and are not included in calculating allowed area and number of signs. (5/98)
1. Secondary Entrance. When a business has two public entrances, each on a separate building wall, there is permitted one additional wall sign not to exceed 10 square feet in area for the wall where the entrance is not the primary entrance. (5/98)
  2. Vehicle Directional Signs. Vehicle Directional signs, ~~such as "Exit" or "Entrance"~~, are allowed either as wall or freestanding signs. Such signs shall be limited to 3 square feet in area and 2 per driveway. Free standing ~~directional~~ signs shall be limited to a height of 6 feet. (5/98)
  3. ~~Menu Boards~~Drive Through Signs. ~~Order Signs describing products and/or order instructions to a customer, such as menu boards on the exterior of located adjacent to~~ a drive-through lane at a restaurant are allowed as follows: one per drive through lane business limited to 40 square feet in area and a maximum height of 8 feet. Any ~~order~~ sign greater than 10 square feet in area and/or 6 feet in height must be screened from adjacent streets by a sight obscuring fence, wall or hedge. (11/05)
- E. Signs for Temporary Businesses/Special Occasions.
1. Signs For Temporary Businesses. Temporary businesses receiving temporary business permit approval, may display temporary or portable signs, other than trailer mounted reader boards or any sign that includes flashing or rotating lights or moving parts. The cumulative size of all such signs may not exceed 32 square feet. All temporary business signs must be placed within 10 feet of the structure or vehicle used for the temporary business and may not be placed within any public right-of-way. (5/98)
  2. Signs For Special Occasions. The placement of multiple and/or oversized temporary or portable signs is only allowed subject to permit approval. A Special Occasion Sign Permit may be granted for one or both of the following situations:



- ~~a. Any combination of temporary or portable sign types, regardless of size and quantity, are allowed for a maximum of 14 consecutive calendar days. A maximum of 2 Special Occasion Sign permits may be issued for any given address in a calendar year, with no less than 30 days between events; OR~~
- ~~b. One oversized portable sign (not including wind feathers or feather flags) up to 16 square feet in area may be allowed for up to a 120 day period in a calendar year. Permits may be renewed and are limited to one oversized portable sign per property.~~

F. Signs for Mobile Food Vendors

1. In addition to the signs allowed in Section 2.308.08(F)(2) below, Mobile Food Vendors shall be limited to 6 square feet of signage which can be displayed only during hours of operation and shall comply with the provisions within Section 2.308.05. ~~KM. (1) thru (5) but exempt from the time limit provision.~~ (07//17)
2. Signs painted upon or affixed directly to the Mobile Food Vendors are exempt from the Sign Code provisions, provided that no sign may protrude from or project above the roofline of the unit. All other signage must comply with the remaining provisions of Section 2.308. (07//17)
3. Property on which two or more Mobile Food Vendors are located shall comply with the remaining provisions within the Sign Code. (9/16)

G. Special Commercial Signs

1. Home Occupation. Maximum area shall be 6 square feet and subject to the location provisions in Section 2.3068.07. (5/98)
2. Residential Sales Office. Maximum area shall be 16 square feet and subject to the location provisions in Section 2.3068.07. (5/98)
3. Bed and Breakfast. Maximum area shall be 16 square feet and subject to the location provisions in Section 2.3068.07. (5/98)
4. Signs for stadiums in the IBP Zone. Notwithstanding any other regulations in this Chapter, in the IBP zone for stadiums with seating for not less than 4,000 persons, the following shall apply: (11/05)
  - a. Total allowed area. 760 square feet. (11/05)

- b. Type, maximum number and size of signs. Within the total allowed area, one (1) free standing sign, and a total of no more than two (2) wall or canopy signs. Regardless of the total allowed area, the free standing sign shall be limited to a maximum of 680 square feet. (11/05)
- c. Maximum sign height: (11/05)
  - 1. Wall and canopy signs – shall not project above the parapet or roof eaves. (11/05)
  - 2. Free standing sign – maximum total height of fifty (50) feet. (11/05)
- d. Location:
  - 1. Wall signs – may project up to 1.5 feet from the building. (11/05)
  - 2. Free standing sign – no limitation except shall not project over street right-of-way and shall comply with requirements for vision clearance areas and special street setbacks. (11/05)

## **2.308.09 Conditional Uses**

- A. Procedures. Applications for conditional use permits for illumination of non-commercial [use](#) signs, or electronic message signs shall be processed according to the procedure set forth in Section 3.103 of this Ordinance. The criteria to be reviewed and applied in conditional use permit proceedings for illumination of non-commercial [use](#) signs or electronic message signs are set forth in this Section. The criteria of Section 3.103 shall not be applied. (Ord 2008-581 10/2008)
- B. Decision Criteria. The following criteria shall be used to review and decide conditional use permit applications for the illumination of non-commercial [use](#) and electronic message signs: (10/2008 Ord 2008-581)
  - 1. The proposed sign is located in an EG, P, IBP, CR, CO, MU, CM or a CG zone, [or the proposed sign is for a public or semi-public use regardless of the underlying zone.](#) (10/08)
  - 2. The proposed sign, when conditioned, will not either: a) significantly increase or lead to street level sign clutter, or b) lead to signs [that](#) adversely dominate the visual image of the area. (10/08)

3. The proposed sign, as conditioned, will not adversely impact the surrounding area to a significant degree. Electronic Message Signs that are proposed to be located ~~in a P-zone~~ adjacent to residential areas shall include mitigation measures such as screening and buffering or other measures to mitigate any impacts onto adjacent properties. Electronic Message Signs proposed ~~for a public or semi-public use to be located in the P-zone~~ adjacent to residential areas shall only be illuminated between the hours of 6:00 AM and 11:00 PM ~~and may only be changed once in a 24-hour period.~~ (10/08)
4. The proposed sign will not present a traffic or safety hazard. (5/98)
5. If the application is for the illumination of non-commercial use or electronic message sign, no rotary beacon lights, zip lights, strobe lights, or similar devices shall be allowed. No chaser effect or other flashing effect consisting of external lights, lamps, bulbs or neon tubes are allowed. (10/08)

Electronic Message Signs. Electronic Message signs must remain static and unchanging for a period no less than fifteen (15) ~~sixty (60) seconds~~ minutes. Further, the level of illumination must be limited in the following ways:

- a. (A) An electronic message sign that contains a changeable display produced by light emitting diodes, incandescent or low-voltage lamps or bulbs, or cathode ray tubes shall include automatic brightness compensation features to adjust brightness to compensate for the angle and ambient light conditions.
- b. No electronic message sign may be illuminated to a degree of brightness that is greater than 7,500 nits in the daytime and 1,000 nits between sunrise and sunset; provided that electronic message signs comprised solely of one color may not be illuminated to a degree of brightness exceeding the following illumination levels:
  1. For a display comprised of red only, the degree of brightness shall not be greater than 3,150 Nits in the daytime and 450 between sunrise and sunset;
  2. For a display comprised of green only, the degree of brightness shall not be greater than 6,300 nits in the daytime and 900 nits between sunrise and sunset;

3. For a display comprised of amber only, the degree of brightness shall not be greater than 4,690 Nits in the daytime and 670 nits between sunrise and sunset. (10/08)
6. The total allowed sign area ~~for a business~~ shall be reduced by 25% if the ~~business has~~application is for an electronic message sign. (10/08)
7. The proposed sign will comply with all other regulations, including, but not limited to height and placement restrictions. (5/98)

## **2.308.10 Variances**

- A. Procedure. Any allowance for signs not complying with the standards set forth in these regulations shall be by variance. ~~Minor variances under Section 3.105.04 of this Ordinance shall not be allowed.~~ Variances to this Section will be processed according to the procedures in Section 3.202.02 as a Type I-B procedure. The criteria in Section 3.105 shall not be used, but instead the following criteria shall be used to review and decide variance applications: (11/05)
  1. There are unique circumstances of conditions of the lot, building or traffic pattern such that: (5/98)
    - a. The existing sign regulations create an undue hardship; (5/98)
    - b. The requested variance is consistent with the purpose of this chapter as stated in Section 2.308.01; and
    - c. The granting of the variance compensates for those circumstances in a manner equitable with other property owners and is thus not a special privilege to any other business. The variance requested shall be the minimum necessary to compensate for those conditions and achieve the purpose of this chapter. (5/98)
  2. The granting of the variance shall not: (5/98)
    - a. Decrease traffic safety nor detrimentally affect any other identified items of public welfare. (5/98)
    - b. Result in a special advertising advantage in relation to neighboring businesses or businesses of a similar nature. The desire to match standard sign sizes (for example,

chain store signs) shall not be listed or considered as a reason for a variance. (5/98)

- c. Be the result of a self-imposed condition or hardship. (5/98)

### **2.308.11 Exemptions**

The following are exempt from the regulations of this Chapter, but may be subject to other regulations under this Development Code or other City regulations:

- A. Public Art as defined by City Ordinance or Resolution. (3/14)

## **3.103 CONDITIONAL USE PERMITS**

### **3.103.01 Process**

Conditional Use Permit applications shall be reviewed in accordance with the Type I-B review procedures specified in Section 3.202.02. (2/01)

### **3.103.02 Application and Fee**

An application for a Conditional Use Permit shall be filed with the City and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application that addresses the review criteria of this Section. (2/01)

### **3.103.03 Criteria for Approval**

Conditional Use Permits shall be approved if the applicant provides evidence substantiating that all the requirements of this Ordinance relative to the proposed use are satisfied, and demonstrates that the proposed use also satisfies the following criteria: (5/98)

- A. The use is listed as a conditional use in the underlying district. (5/98)
- B. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, and location of improvements and natural features. (5/98)
- C. The proposed development is timely, considering the adequacy of transportation systems, public facilities and services, existing or planned for the area affected by the use. (5/98)
- D. The proposed use will not alter the character of the surrounding area in a manner that substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying district. (5/98)
- E. The proposal satisfies any applicable goals and policies of the Comprehensive Plan which apply to the proposed use. (5/98)

### **3.103.04 Conditions**

Upon review of those criteria, the findings may be considered to impose specific conditions of approval. The effective date of a conditional use may be limited. (2/01)

### **3.103.05 Transfer of a Conditional Use**

Unless otherwise provided in the final decision granting this conditional use, any conditional use granted shall run with the land, and shall automatically transfer to any new owner or occupant subject to all conditions of approval. (5/98)

### **3.103.06 Other Conditional Use Actions**

- A. Signs. Pursuant to Section 2.308.09 certain types of signs require Conditional Use approval. A sign conditional use contains specific decision criteria which is found in Section 2.308.098. The Conditional Use request for signs is subject to a Type I-B review process with appeals to the Hearings Officer. (2/01)
- B. Floodplain Development Permit. Pursuant to Section 2.122.06 certain types of floodplain development requires Conditional Use approval. A floodplain conditional use contains specific decision criteria which is found in Section 2.122.06. The Conditional Use request is subject to a Type I-B review process with appeals to the Hearings Officer. (2/01)
- C. Greenway Development Permit. Pursuant to Section 2.121.04 certain types of Greenway activities require Conditional Use approval. A Greenway conditional use contains specific decision criteria which is found in Section 2.121.04. The Conditional Use requests are subject to a Type I-B review process with appeals to the Hearings Officer. (2/01)

**CITY COUNCIL MEETING: August 20, 2018**

**AGENDA ITEM NUMBER:\_\_\_\_\_**

**TO: MAYOR CLARK AND COUNCIL MEMBERS**

**THROUGH: CHRISTOPHER C. EPPLEY, CITY MANAGER**

**FROM: E. SHANNON JOHNSON, CITY ATTORNEY**

**SUBJECT: ADOPTION OF FEES RELATING TO LAND USE AND SIGN  
PERMIT FEES UNRELATED TO PARTITIONS AND  
SUBDIVISIONS**

The Council adopted the land use and sign permit fees unrelated to partitions and subdivisions by Resolution R2016-2679 and amended the fees by Resolution R2016-2712. With the proposed revisions to the Keizer Development Code relating to historical resources and signs for special occasions, it is appropriate to adopt fees for issuing the permits and processing the applications.

State law requires that all fees be adopted by the City Council and that public comment be accepted. There is no requirement for a formal public hearing, but the Mayor should ask if any party wants to provide comment.

**RECOMMENDATION:**

Ask for public comment and unless there are objections or questions, adopt the attached Resolution.

Please contact me if you have any questions in this regard. Thank you.

ESJ/tmh



CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R2018-\_\_\_\_\_

ADOPTING LAND USE AND SIGN PERMIT FEES UNRELATED TO  
PARTITIONS AND SUBDIVISIONS; **REPEALING RESOLUTION  
R2016-2679 AND RESOLUTION R2016-2712**

WHEREAS, the Keizer City Council established a fee schedule for land use  
actions and sign permits unrelated to partitions and subdivisions by Resolution No.  
R2016-2679;

WHEREAS, the Keizer City Council amended the fee schedule for land use  
actions and sign permits unrelated to partitions and subdivisions by Resolution No.  
R2016-2712;

WHEREAS, the City Council of the City of Keizer wishes to add a fee for  
processing applications relating to historical resources;

WHEREAS, the City Council of the City of Keizer further wishes to add a permit  
fee for signs for special occasions;

WHEREAS, the City Council solicited comment and testimony regarding the  
proposed fee on August 20, 2018;

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of Keizer that the Land Use  
and Sign Permit Fee Schedule shall be set forth in Exhibit "A" and that the Community  
Development Department is directed to collect such fees.

1 BE IT FURTHER RESOLVED by the City Council of the City of Keizer that  
2 Resolution R2016-2679 and Resolution R2016-2712 shall be repealed in their entirety.

3 BE IT FURTHER RESOLVED that this Resolution shall take effect immediately  
4 upon the date of its passage.

5 PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

6  
7 SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

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Mayor

\_\_\_\_\_  
City Recorder

**EXHIBIT A  
CITY OF KEIZER  
LAND USE AND SIGN PERMIT FEE SCHEDULE**

|                                                    |                                                        |
|----------------------------------------------------|--------------------------------------------------------|
| 1. CONDITIONAL USE                                 | \$ 710.00                                              |
| 2. FLOODPLAIN                                      | \$ 405.00 (plus \$15/lot)                              |
| 3. PROPERTY LINE ADJUSTMENT                        | \$ 405.00                                              |
| 4 VARIANCE (Minor, Major or Sign)                  | \$ 710.00                                              |
| 5. ANNEXATION                                      | \$ 1,790.00                                            |
| 6. COMPREHENSIVE PLAN AMENDMENT                    | \$ 2,495.00                                            |
| 7. MASTER PLAN                                     | \$ 2,800.00 (plus \$38 x number of acres over 4 acres) |
| 8. ZONE CHANGE                                     | \$ 2,495.00                                            |
| 9. ZONE CHANGE AND COMPREHENSIVE PLAN AMENDMENT    | \$ 3,410.00                                            |
| 10. FINAL PLAT REVIEW                              | \$ 360.00                                              |
| 11. REVIEW OF TRANSPORTATION IMPACT ANALYSIS (TIA) | \$ 660.00                                              |
| 12. HISTORICAL RESOURCE                            | \$ 150.00                                              |

**ADMINISTRATIVE ACTIONS**

|                                                                       |                                   |
|-----------------------------------------------------------------------|-----------------------------------|
| 1. Dealers License (New)                                              | \$ 38.00                          |
| 2. Dealers License (Renewal)                                          | \$ 15.00                          |
| 3. Land Use Compatibility Statement                                   | \$ 38.00                          |
| 4. Legal Lot Determination                                            | \$ 77.00                          |
| 5. Sign Permits                                                       |                                   |
| 0 to 36 square fee                                                    | \$ 99.00                          |
| 36 to 60 square feet                                                  | \$ 126.00                         |
| 61 to 100 square fee                                                  | \$ 160.00                         |
| 101 to 150 square feet                                                | \$ 198.00                         |
| 6. Site Plan Review with Building Permit                              |                                   |
| (Commercial)                                                          | \$ 236.00                         |
| (Industrial)                                                          | \$ 319.00                         |
| 7. Temporary Use Permit                                               | \$ 55.00                          |
| 8. Written Determination                                              | \$ 55.00                          |
| 9. Zoning Fee (Building Permit)                                       | 20% of Marion County Building Fee |
| 10. Childcare License Zoning Review                                   | \$ 38.00                          |
| 11. Zoning Review (Other than Dealers License and Childcare License)  | \$ 38.00                          |
| 12. Mobile Food Vendor Permit                                         | \$ 75.00                          |
| 13. Sign Permits for Special Occasions - 14 Consecutive Calendar Days | \$ 55.00                          |

**APPEALS**

|                                                            |           |
|------------------------------------------------------------|-----------|
| 1. APPEAL OF STAFF DECISION                                | \$ 250.00 |
| 2. APPEAL OF HEARINGS OFFICER/PLANNING COMMISSION DECISION | \$ 365.00 |

**CITY COUNCIL MEETING: August 20, 2018**

**AGENDA ITEM NUMBER:\_\_\_\_\_**

**TO: MAYOR CLARK AND COUNCIL MEMBERS**

**THROUGH: CHRISTOPHER C. EPPLEY, CITY MANAGER**

**FROM: E. SHANNON JOHNSON, CITY ATTORNEY**

**SUBJECT: *RESOLUTION ESTABLISHING THE KEIZER LITTLE LEAGUE PARK LONG RANGE PLANNING TASK FORCE***

At the last Council meeting, Council discussed the formation of the Keizer Little League Park Long Range Planning Task Force.

The Mayor recommends that the membership of the task force be as follows:

Cathy Clark – Mayor – Chair  
Marlene Parsons – Keizer City Council President  
Matt Lawyer – Keizer Parks and Recreation Advisory Board  
Dan Kohler – Member from the Community  
James Hutches – Member from the Business/Keizer Chamber Community  
Keizer Little League President  
Keizer Little League Member Appointed by the Keizer Little League Board  
McNary Youth Baseball President  
McNary Youth Baseball Member Appointed by the McNary Youth Baseball Board

**RECOMMENDATION:**

Adopt the attached Resolution. Following adoption, if the Council feels it is appropriate, by minute motion, appoint the above persons to the task force.

Please let me know if you have any questions in this regard. Thank you.

ESJ/tmh  
attachment

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R2018-\_\_\_\_\_

ESTABLISHING KEIZER LITTLE LEAGUE PARK LONG  
RANGE PLANNING TASK FORCE

WHEREAS, Keizer Little League Park has been constructed and maintained due to the  
dedication and hard work of countless volunteers;

WHEREAS, youth sport groups have managed Keizer Little League Park under management  
agreements;

WHEREAS, the Keizer City Council finds it necessary and appropriate to appoint a task  
force to make recommendations regarding long range planning for maintenance and improvements at  
Keizer Little League Park;

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of Keizer that the Keizer Little league  
Park Long Range Planning Task Force is hereby established as outlined in Appendix "A", which is  
attached hereto and by this reference made a part hereof.

PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Recorder

## **Appendix “A” City Council Task Force**

**Name:** Keizer Little League Park Long Range Planning Task Force

**Purpose:** To make recommendations to the Keizer City Council regarding long range planning for maintenance and improvements at Keizer Little League Park.

**Membership:** The Task Force shall consist of nine members. Two (2) members shall be Keizer City Councilors, one (1) member shall be a Keizer Parks and Recreation Advisory Board member, one (1) member shall be from the community, and one (1) member shall be from the business/Keizer Chamber community. These members shall be appointed by the City Council and announced at a regularly scheduled Council meeting. In addition, two (2) members shall be from Keizer Little League of which one of the members shall be the then-current president of Keizer Little League and the other shall be appointed by the Keizer Little League board and two (2) members shall be from McNary Youth Baseball of which one of the members shall be the then-current president of McNary Youth Baseball and the other shall be appointed by the McNary Youth Baseball board. The Task Force will be staffed by a non-voting staff liaison to be appointed by the City Manager.

Since all members are non-liaison voting members, no member may have a substitute or proxy appear for them.

**Chair and Vice-Chair:** The Task Force Chair will be the Mayor. The Task Force will elect the Vice-Chair at the first meeting.

**Meetings:** The Task Force shall meet as determined by a majority of the members. All meetings of the Task Force shall follow Robert Rules of Order Newly Revised and the Oregon Public Meeting Laws.

**Attendance:** It is the duty of each member to attend at least 75% of the meetings each calendar year. When a member is unable to attend a meeting, the member shall notify the Chair. Members of the Task Force may be removed by a two-thirds majority vote of the City Council.

**Duration:** This Task Force shall be dissolved no later than August 20, 2019, unless extended by City Council action. However, the Task Force can make recommendations to City Council at any time.

**COUNCIL MEETING: August 20, 2018**

**AGENDA ITEM NUMBER:\_\_\_\_\_**

**TO: MAYOR CLARK AND CITY COUNCIL MEMBERS**

**THROUGH: Christopher C. Eppley, City Manager**

**FROM: Tim Wood, Finance Director**

**SUBJECT: Surplus Property Report Fiscal Year 2017-18**

**BACKGROUND:** City Ordinance No. 2008-579 provides that staff shall provide a Surplus Property Report to the City Council no later than August 31 each year for the previous fiscal year. Such report shall indicate the surplus items sold or otherwise disposed of, the method of sale and the revenue from sales.

**ISSUE:** The following items have been disposed of during Fiscal Year 2017-18:

1. 2007 Ford Five Hundred - \$2,860.00
2. 2013 Dodge Charger – sold for \$8,500.00
3. 1996 Ford F-450 – trade in credit of \$5,000.00
4. 1993 Ford Ranger – trade in credit of \$500.00
5. 1994 Ford Ranger – trade in credit of \$500.00
6. Radar Trailer – donated to City of Aumsville approximate value \$300-\$500
7. 2011 Oregon Revised Statutes – recycled
8. Obsolete laptops, computers, printers and other IT related equipment - recycled
9. Police Unclaimed Personal Property
  - a. Tracer SX5 Wheel Chair for \$21.50
  - b. Lot of 10 Bicycles for \$630.00
  - c. Lot of 9 Bicycles and one Scooter for \$260.00
  - d. Lot of tools for \$436.00
  - e. For Bridgestone tires for \$200.00
  - f. Four Yokohama Tires for \$230.00
  - g. Lot of 10 Bicycles for \$100.00
  - h. Lot of 5 Snowboards for \$920.00
  - i. Lot of 3 Computers for \$460.00
  - j. Darth Vader Costume for \$210.00
  - k. Bugaboo Stroller for \$270.00
  - l. Obit Stroller for \$230.00
  - m. Revo 3.3 RC Truck for \$366.00
  - n. Traxxas RC Truck for \$380.00
  - o. TRS Rally OP Bow for \$235.00
  - p. Apple Time Capsules for \$110.00
  - q. Cables for Apple Products for \$25.00
  - r. Iphone 4S for \$100.00

- s. Stanton Turntable for \$305.00
- t. ASUS EEE PC's for \$161.00
- u. Three Asus Laptop Computers for \$215.00
- v. Canon 50 mm Lens for \$191.00
- w. Misc Clothes for \$50.00
- x. Lot of Power Tools for \$85.00
- y. Outerwear for \$75.00
- z. Clothing for \$150.00
- aa. Echo Blower for \$47.00
- bb. Lot of Hand Tools for \$60.00
- cc. Three Asus Laptops for \$211.00
- dd. Electronic Items for \$82.00
- ee. New Balance Shoes for \$25.00

According to City Staff, there was no computer equipment, vehicles, real property, heavy equipment or other items disposed of in fiscal year 2017-18 other than those identified above.

**RECOMMENDATION:** This report is for information only. No action is required.



**CITY COUNCIL MEETING: August 20, 2018**

**AGENDA ITEM NUMBER:\_\_\_\_\_**

**TO: MAYOR CLARK AND COUNCIL MEMBERS**

**THROUGH: CHRISTOPHER C. EPPLEY, CITY MANAGER**

**FROM: E. SHANNON JOHNSON, CITY ATTORNEY**

**SUBJECT: RESOLUTION AUTHORIZING CITY MANAGER TO ENTER  
INTO AGREEMENT WITH KENTUCKY UNDERGROUND  
STORAGE**

In 2014, the City entered into an agreement with Kentucky Underground Storage, Inc. for online document storage. The agreement expires on August 31, 2018. Online document storage is primarily used by the city recorder's office and it allows citizens to search, view and print ordinances, resolutions and minutes. Staff believes that this service continues to be needed and has determined that no other organizations can provide the service for the cost proposed by Kentucky Underground Storage. The only revision to the cost from the last contract is the amount charged per GB over 15 GB, which the City is not using at this time. The new three year agreement is attached to the Resolution for your consideration.

**RECOMMENDATION:**

Adopt the attached Resolution authorizing the City Manager to enter into agreement with Kentucky Underground Storage, Inc.

Please contact me if you have any questions in this regard. Thank you.

ESJ/tmh

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R2018-\_\_\_\_\_

AUTHORIZING THE CITY MANAGER TO ENTER INTO  
WEB DEVELOPMENT AND MAINTENANCE AGREEMENT  
WITH KENTUCKY UNDERGROUND STORAGE, INC.

WHEREAS, the City of Keizer and Kentucky Underground Storage, Inc. entered  
into a Web Development and Maintenance Agreement effective September 4, 2014;

WHEREAS, the contract is set to expire on August 31, 2018;

WHEREAS, the City budgeted funds in the 2018-2019 software/maintenance  
fund to maintain storage facilities to be used primarily by the city recorder's office;

WHEREAS, Kentucky Underground Storage, Inc. and the City has negotiated the  
terms of an agreement as attached hereto;

WHEREAS, the City and Kentucky Underground Storage, Inc. wish to enter into  
the Web Development and Maintenance Agreement attached hereto;

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of Keizer that the City  
Manager is authorized to execute the Web Development and Maintenance Agreement  
attached hereto on behalf of the City.

BE IT FURTHER RESOLVED that the City Manager is authorized to take the  
necessary steps to implement the service described in such Agreement.

1 BE IT FURTHER RESOLVED that this Resolution shall take effect immediately  
2 upon the date of its passage.

3 PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

4

5 SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

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Mayor

\_\_\_\_\_  
City Recorder

## **WEB DEVELOPMENT AND MAINTENANCE AGREEMENT**

This Agreement (the "Agreement") is made and entered into as of the 1st day of September, 2018, by and between CITY OF KEIZER, an Oregon municipal corporation ("City of Keizer"), and KENTUCKY UNDERGROUND STORAGE, INC, a Kentucky corporation ("KUSI").

WHEREAS, City of Keizer is an Oregon municipal corporation in control of government in Keizer, Oregon (the "Business"),

WHEREAS, KUSI has developed a Web Site for City of Keizer (keizer.kentuckyunderground.com) pursuant to which users may acquire City of Keizer's documents (the "Web Site"); and

WHEREAS, KUSI has also agreed to continue to maintain the Web Site pursuant to the terms set forth below.

NOW, THEREFORE, in exchange for the mutual covenants contained herein and other consideration the receipt of which is acknowledged, KUSI and City of Keizer agree as follows:

1. CHARACTER AND EXTENT OF SERVICES. KUSI will continue to support the Web Site for City of Keizer, which the parties agree comports with City of Keizer's specifications and is in good working order, and further agrees to maintain the Web Site in good working order and to host the Web Site during the term of this Agreement (the "Services"). City of Keizer shall cooperate with KUSI in connection with KUSI's provision of the Services.

### **2. COMPENSATION.**

a. RETAINED SERVICES. City of Keizer agrees to compensate KUSI for services listed hereunder, in accordance with the following schedule:

\$10.00 per GB per calendar month for storage of 15 GB Minimum.

\$5.00 per GB per calendar month for storage of any quantity over 15 GB.

\$150.00/hr. for any system upgrades, improvements and software maintenance as requested by client.

b. PAYMENT. All retained service payments shall be paid on a monthly basis, on the first of each month.

c. EXPENSES. KUSI shall be solely responsible for all expenses incurred by KUSI during the term of this Agreement and shall not be entitled to reimbursement from City of Keizer unless otherwise agreed to in advance by City of Keizer in writing. Without limiting the foregoing, KUSI shall be required to purchase any applicable third party licenses for any third party products that are necessary for KUSI to develop, maintain and host the Web Site. KUSI also agrees to pay the following expenses: all hosting fees, secure socket layer certificates (SSL), and domain name fees directly related to development and hosting of the Web Site.

### 3. TERM AND TERMINATION.

a. This Agreement shall be effective as of September 1, 2018 and shall continue through August 31, 2021. At City's option, this agreement may be renewed an additional one year term upon written notice.

b. Either party may terminate this Agreement by giving a sixty-day notice if the other party is in material breach of the Agreement as set forth below: The non-breaching party shall provide the breaching party with written notice of the intent to terminate, which notice shall specify the alleged breach. The breaching party shall have sixty days to remedy the breach from the date of the notice. If the breaching party has not remedied the breach within such sixty-day period, the non-breaching party may terminate the Agreement at any time thereafter.

c. Either party may terminate this Agreement for without cause by giving the other party a one hundred and twenty (120) day notice as set forth below.

4. INDEPENDENT CONTRACTORS. In performing their respective duties under this Agreement, each of the parties shall be operating as an independent contractor. Nothing contained herein shall in any way constitute any association, partnership, or joint venture between the parties hereto, or be construed to evidence the intention of the parties to establish any such relationship. Neither party shall have the power to bind the other party or incur obligations on the other party's behalf without the other party's prior written consent.

5. CONFIDENTIALITY. The parties acknowledge that, during the term of this Agreement, each party will learn certain confidential information belonging to the other party. The recipient of such information hereby agrees to keep all such information strictly confidential and not to use it for its own benefit nor disclose or divulge such information to any other person. The parties acknowledge that the provisions of this SECTION 5 shall not apply to any information which: (i) had been rightfully in the possession of the recipient prior to its disclosure to the recipient; (ii) had been in the public domain prior to its disclosure to the recipient; (iii) has become part of the public domain by publication or by any other means except an unauthorized act or omission on the part of the recipient; (iv) had been supplied to the recipient without restriction by a third party who is under no obligation to maintain such information in confidence; or (v) is required to be disclosed by any federal or state law, rule or regulation or by any applicable judgment, order or decree or any court or governmental body or agency having jurisdiction in the premises. The provisions of this SECTION 5 shall survive any termination or expiration of this Agreement.

6. OWNERSHIP OF WEB SITE. All copyrights, patents, trade secrets, or other intellectual property rights associated with any ideas, concepts, techniques, inventions, processes, or works of authorship develop or created by KUSI during the course of performing work for City of Keizer or its clients (collectively, the "Work Product") shall belong exclusively to KUSI. Further, KUSI shall own all worldwide right, title, and interest in and to the Web Site including all specific and/or general source code (including any documentation) written for the Web Site (the "Custom Programming"), including, but not limited to, the right to modify, amend, create derivative works, rent, sell, assign, lease, sublicense, or otherwise alter or transfer the Custom Programming (including, its source code and documentation); provided, however, that during the term of this Agreement, KUSI shall provide City of Keizer a worldwide, non-exclusive right and license to use the Work Product and Custom Programming in connection with the Business. Upon the termination of this Agreement, such license shall terminate and City of Keizer shall cease using the Work Product, Web Site and Custom Programming and shall return all such intellectual property to KUSI. Upon any violation and termination of this agreement, KUSI retains the rights to the domain name (keizer.kentuckyunderground.com) and the SSL certificate set up particularly for City of Keizer. The provisions of this SECTION 6 shall survive any termination or expiration of this Agreement.

7. LIMITATION OF LIABILITY. In no event shall either party be liable to the other or any third party, for any incidental or consequential damages arising out of or connected in any way with this agreement or the web site. Each party shall have the duty to mitigate damages for which the other is responsible. KUSI makes no warranty of any kind, whether express or implied, with regard to the web site or any third party products, third party content or any software, equipment, or hardware related to the web site.

8. INDEMNIFICATION. City of Keizer agrees to indemnify and defend KUSI and its officers, directors, employees, agents and affiliates from and against any claim, liability, obligation, loss, damage, assessment, judgment, cost and expense (including, without limitation, reasonable attorney's and accountant's fees and costs and expenses reasonably incurred in investigating, preparing, defending against or prosecuting any litigation or claim, action, suit, proceeding or demand) of any kind or character ("Losses") incurred by KUSI arising out of or in any manner incident, relating or attributable to (i) any inaccuracy in any representation or breach of any warranty of City of Keizer contained in this Agreement; or (ii) any failure by City of Keizer to perform or observe any covenant, agreement or condition to be performed or observed by it under this Agreement. Similarly, KUSI agrees to indemnify and defend City of Keizer and its officers, directors, employees, agents and affiliates from and against any Losses arising out of or in any manner incident, relating or attributable to (i) any inaccuracy in any representation or breach of any warranty of KUSI contained in this Agreement; or (ii) any failure by KUSI to perform or observe any covenant, agreement or condition to be performed or observed by it under this Agreement. The provisions of this SECTION 8 shall survive any termination or expiration of this Agreement. The indemnification provisions in this SECTION 8 are expressly subject to the limitations on liability contained in SECTION 7 hereof.

#### 9 REPRESENTATIONS AND WARRANTIES.

a. Each party represents to the other that:

- i. it has the power, right and authority to enter into this Agreement;
- ii. this Agreement has been duly authorized by all requisite corporate actions;
- iii. this Agreement (or the performance of its duties hereunder) does not violate any other agreement, covenant or restriction to which such party is a party; and
- iv. it shall comply with all applicable laws, rules and regulations in performing its obligations under this Agreement.

b. Further, City of Keizer represents to KUSI that the content provided by City of Keizer in connection with the Web Site does not violate or infringe upon the copyright, patent or trademarks of any other party. Similarly, KUSI represents to City of Keizer that the software code used in the Web Site does not violate or infringe upon the copyright, patent or trademarks of any other party.

c. The provisions of this SECTION 9 shall survive any termination or expiration of this Agreement.

#### 10. MISCELLANEOUS.

a. Governing Law. This Agreement shall be governed in all respects by the laws of the State of Oregon.

b. Counterparts and Facsimile. This Agreement may be executed in any number of counterparts, each of which shall be enforceable against the parties actually executing such counterparts, and all of which together shall constitute one instrument. A facsimile signature shall be considered the same as an original.

c. Assignment. Neither this Agreement, nor any of the rights or interests created hereby, may be assigned, transferred, or conveyed by operation of law or otherwise without the prior written consent of the other party; provided, however, that this Agreement shall be binding upon, and shall inure to the benefit of, each of the parties hereto and their respective permitted successors and assigns.

d. Survival of Rights of Parties. The termination of this Agreement shall not release either party from any liability, obligation, or agreement which, pursuant to any provision of this Agreement, is to survive or be performed after such expiration or termination.

d. Notices. All notices or other communications pursuant to this Agreement shall be in writing and shall be deemed valid and sufficient if delivered by personal service or overnight courier or dispatched by registered mail, postage prepaid, in any post office, or if dispatched by telefax, promptly confirmed by letter dispatched as above provided, to the parties at the addresses as set forth below. A party hereto may change its address by notice to the other in the manner set forth above. Notices and other communications rendered as herein provided shall be deemed to have been given on the day on which personally served or sent by telefax or, if sent by overnight courier, on the second (2nd) day after being posted, or if sent by registered mail, on the fifth (5th) day after being posted, or in either case the date of actual receipt, whichever date is the earlier.

f. Partial Invalidity. If any term, covenant or provision contained herein shall be invalid or illegal, such invalidity or illegality shall not impair, invalidate or nullify the other provisions of this Agreement.



g. Subject Headings. The subject headings on this Agreement have been placed thereon for the convenience of the parties and shall not be considered in any question of interpretation or construction of this Agreement.

h. Complete Agreement, Waivers, And Amendments. This Agreement constitutes the entire agreement between the parties relative to the subject matter hereof, and supersedes and replaces all prior or contemporaneous agreements, written or oral, between the parties regarding such subject matter. It is the intention of the parties that the City of Keizer Confidentiality/Non-Disclosure Agreement dated July 25, 2011 is superseded and replaced by this agreement. The failure of either party to enforce at any time or for any period of time any provision of this Agreement shall not be construed as a waiver of such provision or of the right of such party thereafter to enforce such provision. In addition, no terms or provisions of this Agreement may be changed, waived, discharged, or terminated orally but only by an instrument in writing signed by the party against whom the enforcement of such change, waiver, discharge, or termination is sought.

i. Further Assurances. From and after the date hereof the parties agree to take or cause to be taken such further action and executed, deliver and file such further documents and instruments as the other party may reasonably request from time to time to effectuate the intent and purposes of this Agreement.

j. If litigation is instituted with respect to this Agreement, the prevailing party shall be entitled to recover from the losing party, in addition to all other sums and allowable costs, its reasonable attorney fees, both in preparation for and at trial and any appeal or review, such amount to be set by the court before which the matter is heard.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be duly executed as of the day and year first set forth above.

KENTUCKY UNDERGROUND STORAGE, INC.

By: Jeff Baier  
Jeff Baier

ITS: Director of Business Development  
Director of Business Development  
(title)

DATE: August 7, 2018

ADDRESS: 3830 High Bridge Road, Wilmore, KY 40390

CITY OF KEIZER

By: \_\_\_\_\_  
Christopher C. Eppley

ITS: \_\_\_\_\_  
City Manager (title)

DATE: \_\_\_\_\_

ADDRESS: P.O. BOX 21000, Keizer, OR 97307

APPROVED AS TO FORM

\_\_\_\_\_  
Keizer City Attorney

**CITY COUNCIL MEETING: August 20, 2018**

**AGENDA ITEM NUMBER:\_\_\_\_\_**

**TO: MAYOR CLARK AND COUNCIL MEMBERS**

**THROUGH: CHRISTOPHER C. EPPLEY, CITY MANAGER**

**FROM: E. SHANNON JOHNSON, CITY ATTORNEY**

**SUBJECT: OREGON JUDICIAL CASE INFORMATION NETWORK  
TERMS OF USE**

The City Attorney is involved with litigation on behalf of the City from time-to-time. Because the state court system operates on an electronic basis for filing and searching case information, it has now become necessary for the City Attorney to have access to the Oregon Judicial Case Information Network. In order to have access to the network, the City Attorney must sign the Oregon Judicial Case Information Network Terms of Use. Such Terms of Use is attached to the proposed Resolution. This requires Council approval because it is a perpetual agreement. Because the City is a government user, there should not be any fees associated with the account.

**RECOMMENDATION:**

Adopt the attached Resolution authorizing the City Attorney to sign the Oregon Judicial Case Information Network Terms of Use.

Please contact me if you have any questions in this regard. Thank you.

ESJ/tmh

1 CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

2  
3 Resolution R2018-\_\_\_\_

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5  
6 AUTHORIZING CITY ATTORNEY TO SIGN OREGON JUDICIAL  
7 CASE INFORMATION NETWORK TERMS OF USE  
8

9  
10 WHEREAS, the City Attorney is involved in litigation from time-to-time;

11 WHEREAS, Marion County court systems is utilizing an electronic filing and  
12 viewing system and it has become necessary for the City Attorney to be able to utilize the  
13 system;

14 WHEREAS, the Council has reviewed the matter and believes it is appropriate for  
15 the City Attorney to have access to the Marion County court system online forum at this  
16 time;

17 NOW, THEREFORE,

18 BE IT RESOLVED by the City Council of the City of Keizer that the City  
19 Attorney is authorized to sign the attached Oregon Judicial Case Information Network  
20 Terms of Use.

21 BE IT FURTHER RESOLVED by the City Council of the City of Keizer that the  
22 City Attorney is authorized to take any other actions consistent with the Terms of Use.  
23  
24  
25

1 BE IT FURTHER RESOLVED that this Resolution shall take effect immediately  
2 upon the date of its passage.

3 PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

4

5 SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

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\_\_\_\_\_  
Mayor

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\_\_\_\_\_  
City Recorder

## Oregon Judicial Case Information Network Terms of Use

1. These Oregon Judicial Case Information Network Terms of Use (TOU) govern Your use of the Appellate Case Management System (ACMS) and the Oregon eCourt Case Information system (OECI) (collectively OJCIN). The OJCIN TOU form a contract between You and the Oregon Judicial Department (OJD), and You should read the OJCIN TOU carefully. These OJCIN TOU are effective upon signing.
2. By signing this agreement, You agree to these OJCIN TOU. You further agree that the OJCIN TOU form a legally binding contract between You and OJD. Further, this contract constitutes a writing signed by You under any applicable law or regulation. If You are an organization, You agree this contract will govern the use of OJCIN by Your officials, officers and employees.
3. OJD does not solely operate OJCIN. A vendor operating any portion of OJCIN may have its own terms of use and privacy policies, which You will also need to read and accept if you will use that portion of OJCIN.
4. These OJCIN TOU constitute the entire agreement between You and OJD and replace all prior and contemporaneous agreements and communications with respect to access and use of OJCIN, including (i) Agreements for Access to Limited, Confidential, and Other Protected Case Information in OJCIN (Restricted Access Agreements). However, if You have an existing Individual User Agreement and Authorization (Attachment 1 to the Restricted Access Agreements), that Individual User Agreement and Authorization remains in effect and is incorporated into these OJCIN TOU by this reference. It is Your responsibility to immediately notify OJD if any information in the Individual User Agreement and Authorization has changed.
5. Unless You have subscribed to OJCIN as a "Data Reseller" (defined in CJO No. 17-048 and restated below), You shall not access or use of OJCIN:
  - As part of your business as a Data Broker (defined in CJO No. 17-048 and restated below);
  - For obtaining data for inclusion in a database that is accessible by third parties; or
  - To provide all or part of the OJD data to third parties who are not the End Users (defined in CJO No. 17-048 and restated below) of the data.

"Data Reseller" means a subscriber who accesses or uses the OJCIN system for purposes of obtaining OJD data to provide all or part of the OJD data: (i) to third parties as part of its business as a Data Broker (defined below); (ii) for inclusion in a database that is accessible by third parties; or (iii) to third parties who are not the End Users (defined below) of the data. "Data Broker" means an individual or entity, other than a title company, whose business is collecting and aggregating personal information and data on individuals and entities, then reselling or licensing such collected or aggregated information and data to third parties. "End User" means the ultimate consumer of the data, who uses the data solely for their own internal purposes and who does not further redistribute the data.

6. It is Your responsibility to ensure compliance with these OJCIN TOU, all statutes, rules, and policies, including but not limited to confidentiality laws, ORS 7.132, the Uniform Trial Court Rules (UTCs), and the Oregon Rules of Appellate Procedure (ORAPs). You are responsible for checking the Uniform Trial Court Rules and the Oregon Rules of Appellate Procedure for any updates, which may be found at:

<http://www.courts.oregon.gov/programs/utcr/Pages/currentrules.aspx> (UTCs) and  
<http://www.courts.oregon.gov/programs/acrs/resources/Pages/current.aspx> (ORAPs).

7. Any failure to make a proper filing or payment to meet any deadline will not be excused, even if caused by an error or malfunction relating to OJCIN, except as provided by court rule or court order. You acknowledge that OJCIN may be unavailable due to regularly scheduled maintenance or unexpected system problems. Oregon case information is available at the courthouse.

8. You agree to pay the service fees associated with the use of OJCIN, if applicable, including but not limited to transaction fees and payment card processing fees. OJD current fee rates are located on the OJD website. Fees are subject to change upon thirty days' prior notice posted on the OJD website. OJD will invoice each month for applicable charges incurred during the previous month. There is no proration for subscriptions of less than a full month. Payment is due upon receipt of invoice.

9. You agree to provide true, accurate, and current information at all times, including in the registration and authorization process, and promptly update Your contact information. If You do not, or if there are reasonable grounds to suspect that You do not, then OJD, or the vendor operating that portion of OJCIN, has the right to terminate Your use of services on OJCIN, in addition to other remedies. Update contact information by contacting [ojcin@ojd.state.or.us](mailto:ojcin@ojd.state.or.us) or 1-800-858-9658.

10. You are responsible for proper use and safekeeping of Your username(s) and password(s). You agree that You will not disclose your username(s) and password(s) and that You are solely responsible for all activities that occur under Your username(s) and password(s). You must immediately notify OJD of any actual or suspected unauthorized use of Your username(s) or password(s) at: OJD Help Desk: 503-986-5582 or [ETSDHelp@ojd.state.or.us](mailto:ETSDHelp@ojd.state.or.us).

11. You are required to take all reasonable steps to ensure that Your use of OJCIN does not delay or harm any part of OJCIN.

**12. You agree to access, use, or share confidential information with others (including employees and third parties), only as permitted by law, rule, court order, and contract.** If You access confidential information through OJCIN, You agree to take all reasonable steps to maintain the confidentiality of the information. You must immediately report to OJD all suspected or actual instances of improper access to or disclosure of confidential information, including mistaken access and inadvertent disclosure. OJD may seek and obtain injunctive relief

against improper access to or disclosure of confidential information, in addition to other legal remedies. You understand that improper access to or disclosure of confidential information will give rise to irreparable injury that is inadequately compensable in damages and You agree that this section is necessary for the protection of OJD's legitimate business interests and is reasonable in scope and content. If You receive restricted access through OJCIN, see also Section 21 below.

13. You agree that OJD may collect and use information based on Your use of OJCIN to allow OJD to improve, update, support, and invoice OJCIN use. OJD may audit Your use of OJCIN to investigate any possible violation of these OJCIN TOU.

14. OJD reserves the right to modify or discontinue any services provided on OJCIN and any conditions or terms of use without notice. OJD will make reasonable efforts to try to notify You of substantial changes in the conditions or terms of use. However, You are responsible for checking the OJD website and OJCIN for updates. OJD encourages You to check on a regular basis. You are responsible for reading and understanding those changes. If You do not agree to the changes, then You must stop using OJCIN. Your continued use of OJCIN constitutes acceptance of changes.

15. OJD may, under certain circumstances and without notice, immediately terminate Your access to OJCIN. Cause for such termination includes, but is not limited to: (a) breach of these OJCIN TOU, including, without limitation, non-payment, (b) requests by government entities, including law enforcement, (c) requests by the vendor, (d) discontinuance of services or modifications of OJCIN, (e) technical problems or errors, and (f) extended periods of inactivity.

**16. WARRANTY DISCLAIMER:** ALL USE OF OJCIN IS AT YOUR OWN RISK. You understand and agree that OJCIN and its website, services, information, and data provided are being provided "as-is" without warranty of any kind, whether express or implied, and that they may be subject to delay, deletion, theft, errors or omissions. To the maximum extent permitted by law, OJD disclaims all warranties, including without limitation, any implied warranties of merchantability, fitness for a particular purpose, accuracy, and non-infringement.

**17. Limitation of Liability:** TO THE MAXIMUM EXTENT PERMITTED BY LAW, OJD IS NOT RESPONSIBLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR OTHER DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROPERTY, LOSS OF DATA, LOSS OF PROFITS, LOSS OF REVENUE, LOSS OF GOODWILL, COMPROMISED OR IMPAIRED CLAIMS, LOST SAVINGS, LOST FEES, OR ANY OTHER DAMAGES WHATSOEVER ARISING OUT OF OR RELATING IN ANY WAY TO THE USE OF OJCIN, WHETHER BASED ON ANY THEORY OF LIABILITY, INCLUDING BUT NOT LIMITED TO CONTRACT, NEGLIGENCE OR OTHER TORTS. IN NO EVENT WILL OJD'S TOTAL LIABILITY ARISING FROM OR RELATING TO OJCIN EXCEED THE LESSER OF THE TOTAL SUM OF FEES PAYABLE TO OJD



UNDER THESE OJCIN TOU FOR THE 12 MONTHS PRECEDING THE ACTION GIVING RISE TO THE CLAIM, OR THE LIMITS OF THE OREGON CONSTITUTION, ARTICLE XI, § 7 AND THE OREGON TORT CLAIMS ACT (ORS 30.260 ET SEQ).

**18. Indemnities:** SUBJECT TO APPLICABLE CONSTITUTIONAL AND STATUTORY LIMITATIONS AND RESTRICTIONS, YOU SHALL INDEMNIFY AND HOLD HARMLESS THE STATE OF OREGON, OJD AND ITS OFFICERS, EMPLOYEES AND AGENTS FROM AND AGAINST ALL CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES OF ANY NATURE WHATSOEVER ARISING OUT OF OR RELATING TO YOUR ACTS OR OMISSIONS OR THOSE OF YOUR OFFICERS, EMPLOYEES, SUBCONTRACTORS, OR AGENTS UNDER THESE OJCIN TERMS OF USE.

19. The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to these OJCIN TOU, including, without limitation, its validity, interpretation, construction, performance, and enforcement. Any claim, action, suit or proceeding (collectively, "Proceeding") between You and OJD arising from or related to Your use of OJCIN, shall be brought and conducted solely and exclusively within the Circuit Court of the State of Oregon for Marion County; provided, however, if a Proceeding must be brought in a federal forum, then unless otherwise prohibited by law, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. YOU HEREBY CONSENT TO THE IN PERSONAM JURISDICTION OF THESE COURTS AND WAIVE ANY OBJECTION TO VENUE IN THESE COURTS AND ANY CLAIM THAT THE FORUM IS AN INCONVENIENT FORUM. Nothing in these provisions shall be construed as a waiver of OJD's sovereign or governmental immunity, whether derived from the Eleventh Amendment to the United States Constitution or otherwise, or a waiver of any defenses to Proceedings or jurisdiction based thereon. Any rights not expressly granted in the OJCIN TOU are reserved by OJD.

20. Miscellaneous: All rights and obligations under these OJCIN TOU intended by their nature to survive termination of this agreement, such as confidentiality obligations, survive the termination of this agreement. If a court of competent jurisdiction finds any part of these OJCIN TOU are unenforceable, then that part of the OJCIN TOU will be enforced to the maximum extent possible so as to effect the intent of the parties and the validity of the remaining OJCIN TOU shall not be affected. You and OJD are the only parties to these OJCIN TOU and are the only parties entitled to enforce its terms; there are no intended third party beneficiaries of these OJCIN TOU.

**21. Restricted Access Users & Entities:** Certain users may receive restricted access to protected case information to perform official duties, pursuant to ORS 7.132 and OJD policies and procedures. If You are one of these users, then You certify that: (1) You require access to perform Official Duties (defined below) efficiently, (2) You have a written plan for training,

safeguarding and auditing access to protected case information that You will follow, and (3) You have read these OJCIN TOU and agree to comply with them. Whenever You no longer require restricted access or employment is terminated, within seven days You must notify OJD to disable that user account. Upon request by OJD, You shall provide to OJD confirmation of whether You require access, or lists of users requiring access and users no longer requiring access. "Official Duties" include duties related to legal representation, scheduling, docketing, reviewing and verifying entry of orders and judgments, case billing, and collecting judgments, but do not include acquiring or disclosing information where state or federal law protects that information from public inspection.

BY EXECUTION OF THESE OJCIN TERMS OF USE, YOU HEREBY ACKNOWLEDGE THAT YOU HAVE READ THESE OJCIN TOU, UNDERSTAND THEM, AND AGREE TO BE BOUND BY THEM.

By: \_\_\_\_\_ E. Shannon Johnson  
Printed/typed name

City Attorney \_\_\_\_\_  
Title Date

Name (Organization/Individual): City of Keizer

Mailing Address: PO Box 21000, Keizer, OR 97307

Street Address: 930 Chemawa Road NE

City, State, Zip: Keizer, OR 97303

Phone Number: 503-856-3432

Email Address: JohnsonS@Keizer.org

**CITY COUNCIL MEETING: August 20, 2018**

**AGENDA ITEM NUMBER:\_\_\_\_\_**

**TO: MAYOR CLARK AND COUNCIL MEMBERS**

**THROUGH: CHRISTOPHER C. EPPLEY, CITY MANAGER**

**FROM: E. SHANNON JOHNSON, CITY ATTORNEY**

**SUBJECT: OREGON PARKS AND RECREATION DEPARTMENT GRANT  
FOR BIG TOY PHASE 2 PROJECT**

This matter was before the Council on October 3, 2016. At that time, the Council authorized the City Manager to sign the Local Government Grant Program Agreement for the Keizer Rapids Park Big Toy Phase 2 project. The agreement requires that the project be completed no later than October 31, 2018.

Because the project will not be complete by October 31, 2018, the Oregon Parks and Recreation Department has forwarded an amendment for consideration. Such amendment extends the project completion date to April 30, 2019.

**RECOMMENDATION:**

Adopt the attached Resolution authorizing the City Manager to sign the amendment.

Please contact me if you have any questions in this regard. Thank you.

ESJ/tmh

1 CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

2  
3 Resolution R2018-\_\_\_\_

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5  
6 AUTHORIZING THE CITY MANAGER TO SIGN  
7 AMENDMENT NUMBER 01 TO OREGON PARKS AND  
8 RECREATION DEPARTMENT LOCAL GOVERNMENT  
9 GRANT PROGRAM AGREEMENT FOR KEIZER RAPIDS  
10 PARK BIG TOY PHASE 2 PROJECT  
11  
12

13 WHEREAS, Council adopted Resolution No. R2016-2723 authorizing the City

14 Manager to sign the Oregon Parks and Recreation Department Local Government Grant  
15 Program Agreement for Keizer Rapids Park Big Toy Phase 2 Project;

16 WHEREAS, the Agreement requires that the project be completed no later than

17 October 31, 2018;

18 WHEREAS, the City and the Oregon Parks and Recreation Department believes

19 that the deadline should be extended to April 30, 2019 to allow time to complete the  
20 project;

21 WHEREAS, the Oregon Parks and Recreation Department has prepared

22 Amendment Number 01 to accomplish the extension;

23 NOW, THEREFORE,

24 BE IT RESOLVED by the City Council of the City of Keizer that the City

25 Manager is hereby authorized to sign Amendment Number 01 to the Oregon Parks and

26 Recreation Department Local Government Grant Project Agreement for Keizer Rapids

1 Park Big Toy Phase 2 Project, a copy of which is attached hereto and by this reference  
2 incorporated herein.

3 BE IT FURTHER RESOLVED that this Resolution shall take effect immediately  
4 upon the date of its passage.

5 PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

6

7 SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

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\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Recorder

**AMENDMENT TO STATE / LOCAL AGREEMENT  
LOCAL GOVERNMENT GRANT PROGRAM**

**LG16-017 Big Toy Phase 2**

**This Amendment No. 1**, made and entered into on the date of final signature of this agreement by and between the State of Oregon, acting by and through the Oregon Parks and Recreation Department, hereinafter referred to as the "State", and the **City of Keizer**, acting by and through its City Council, hereinafter referred to as the "Grantee".

**WITNESSETH:**

WHEREAS, State and Grantee entered into an agreement relating to the Local Government Grant Program, dated October 11, 2016;

WHEREAS, both parties wish to amend the agreement;

NOW, THEREFORE, it is agreed between the parties that said agreement between State and Grantee should be amended as follows:

**(1) Amend project completion date from October 31, 2018 to April 30, 2019.**

Except as herein above amended, the Agreement, which this is an amendment, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this amendment to be properly executed by their authorized representatives as of the day and year hereinafter written.

GRANTEE:

STATE OF OREGON, by and through Oregon  
Parks and Recreation Department:

By: \_\_\_\_\_  
Grantee Signature

By: \_\_\_\_\_  
Tracy Loudon, Business and Technology Solutions Administrator

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

By: \_\_\_\_\_  
Jan Hunt, Grants Section Manager

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

By: \_\_\_\_\_  
Mark Cowan, Grant Program Coordinator

\_\_\_\_\_  
Date



**COUNCIL MEETING: August 20, 2018**

**AGENDA ITEM NUMBER: \_\_\_\_\_**

**TO: MAYOR CLARK AND CITY COUNCILORS**

**THROUGH: CHRIS EPPLEY  
CITY MANAGER**

**FROM: MACHELL DEPINA  
HUMAN RESOURCES DIRECTOR**

**SUBJECT: VantageCare Retirement Health Savings Program**

**ISSUE:**

The City contributes to a Retirement Health Savings (RHS) Program for all Keizer Police Association (KPA) members as a benefit via their collective bargaining agreement. An RHS account provides the opportunity for pre-tax contributions, tax-deferred earnings and tax-free withdrawals for qualifying medical expenses following retirement.

While doing research related to collective bargaining earlier this year, the City requested information on all options available for RHS accounts given IRS regulations. While we are not in a budgetary position to contribute to an RHS account for all employees at this time, we learned there is opportunity for interested employees to make their own contributions by establishing an RHS using mandatory contributions of employee compensation with the following requirements:

- ✓ Specific classifications of employees are identified and all members participate.
- ✓ Within each classification, contributions are the same level (example: 2% of pay).
- ✓ The funds are automatically withdrawn each pay period.
- ✓ Once the account is in place, individual employees are not able to "opt out" or change contribution levels.

Upon sharing information regarding this opportunity with all regular status employees, employees in six classifications confirmed they would like to participate. With that confirmation, we would like to establish an additional RHS account for these classifications effective September 3, 2018.

**FISCAL IMPACT:**

There is no fiscal impact to the City of Keizer.

**RECOMMENDATION:**

Staff recommends the City Council adopt the attached Resolution.

If you have any questions regarding the staff report, please contact Machell DePina at 503-856-3417 or email her at [depinam@keizer.org](mailto:depinam@keizer.org).

Thank you.



1 CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

2  
3 Resolution R2018-\_\_\_\_

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5  
6 ADOPTION OF THE VANTAGECARE RETIREMENT HEALTH  
7 SAVINGS (RHS) PROGRAM – PLAN NUMBER 803817  
8

9  
10 WHEREAS, the City of Keizer has employees rendering valuable services;

11 WHEREAS, the establishment of a retiree health savings program for the City of  
12 Keizer employees serves the interests of the City of Keizer by enabling it to provide  
13 reasonable security regarding such employees' health needs during retirement, by  
14 providing increased flexibility in its personnel management system, and by assisting in  
15 the attraction and retention of competent personnel;

16 WHEREAS, the City of Keizer has determined that the establishment of the  
17 retiree health savings program – Plan Number 803817 (the "Program") serves the above  
18 objectives;

19 NOW, THEREFORE,

20 BE IT RESOLVED by the City Council of the City of Keizer that the City of  
21 Keizer hereby adopts the ICMA Retirement Corporation's VantageCare Retirement  
22 Health Savings Program Plan Number 803817 ("Program") through the City of Keizer's  
23 integral part trust ("Trust") and the City of Keizer's welfare benefits plan ("Plan").

24 BE IT FURTHER RESOLVED that the assets of the Plan shall be held in trust,  
25 with the City of Keizer serving as trustee for the exclusive benefit of Plan participants

1 and their survivors, and the assets of the Plan shall not be diverted to any other purpose  
2 prior to the satisfaction of all liabilities of the Plan.

3 BE IT FURTHER RESOLVED that the City Manager is authorized to sign the  
4 attached Adoption Agreement, Participation Agreement, Administrative Services  
5 Agreement, Declaration of Trust of the City of Keizer Integral Part Trust in the form of  
6 the sample trust made available by the ICMA Retirement Corporation, and Retiree  
7 Welfare Benefits Plan.

8 BE IT FURTHER RESOLVED that the Human Resource Director shall be the  
9 coordinator and contact for the Program and shall receive necessary reports, notices, etc.

10 BE IT FURTHER RESOLVED that the City Manager and the Human Resource  
11 Director shall take any and all further action required to implement and administer the  
12 Plan.

13 BE IT FURTHER RESOLVED that this Resolution shall take effect immediately  
14 upon the date of its passage.

15 PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

16

17 SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

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\_\_\_\_\_  
Mayor

21

22

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\_\_\_\_\_  
City Recorder

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**VANTAGECARE RETIREMENT HEALTH SAVINGS (RHS)  
ADOPTION AGREEMENT**

Plan Number: 8 03817

Select as applicable: ☐ Standalone RHS ☐ Integrated RHS ☐ Amendment to Existing Plan ☒ New Plan

I. Employer Name: City of Keizer State: Oregon

II. The Employer hereby attests that it is a unit of a state or local government or an agency or instrumentality of one or more units of a state or local government.

III. Plan Dates:

A. Plan Effective Date 9/03/2018

B. Plan Year: Enter the annual accounting period for the RHS program. July 1 - June 30

IV. The Employer intends to utilize the Trust to fund only welfare benefits pursuant to the following welfare benefit plan(s) established by the Employer: N/A

V. Eligible Groups, Participation and Participant Eligibility Requirements

A. Eligible Groups

The following group or groups of Employees are eligible to participate in the Employer's welfare benefits plan identified in Section IV. (check all applicable boxes):

- ☐ All Employees
- ☐ All Full-Time Employees
- ☐ Non-Union Employees
- ☐ Public Safety Employees – Police
- ☐ Public Safety Employees – Firefighters
- ☐ General Employees
- ☐ Collectively-Bargained Employees (Specify unit(s)) \_\_\_\_\_
- ☒ Other (specify group(s)) See Exhibit A

The Employee group(s) specified must correspond to a group(s) of the same designation that is defined in the statutes, ordinances, rules, regulations, personnel manuals or other documents or provisions in effect in the state or locality of the Employer.

B. Participation

**Mandatory Participation:** All Employees in the covered group(s) are required to participate in the Plan and shall receive contributions pursuant to Section VI.

If the Employer's underlying welfare benefit plan is in whole or part a non-collectively bargained plan that allows reimbursement for medical expenses other than insurance premiums, the nondiscrimination requirements of Internal Revenue Code (IRC) Section 105(h) will apply. These rules may impose taxation on the benefits received by highly compensated individuals if the Plan discriminates in favor of highly compensated individuals in terms of eligibility or benefits. The Employer should discuss these rules with appropriate counsel.

### C. Participant Eligibility Requirements

1. Minimum service: The minimum period of service required for participation is N/A (write N/A if no minimum service is required).
2. Minimum age: The minimum age required for eligibility to participate is N/A (write N/A if no minimum age is required).

## VI. Contribution Sources and Amounts

### A. Definition of Earnings

The definition of Earnings will apply to all RHS Contribution Features that reference "Earnings", including Direct Employer Contributions (Section VI.B.1.) and Mandatory Employee Compensation Contributions (Section VI.B.2.).

Definition of earnings: N/A - flat \$ amount

### B. Direct Employer Contributions and Mandatory Contributions

#### 1. Direct Employer Contributions

The Employer shall contribute on behalf of each Participant

- ☐ \_\_\_\_\_ % of Earnings\*
- ☐ \$ \_\_\_\_\_ each Plan Year
- ☐ A discretionary amount to be determined each Plan Year
- ☐ Other (describe): \_\_\_\_\_

#### 2. Mandatory Employee Compensation Contributions

The Employer will make mandatory contributions of Employee compensation as follows:

- ☒ Reduction in Salary - \_\_\_\_\_ % of Earnings or \$ Exhib A will be contributed for the Plan Year.
- ☐ Decreased Merit or Pay Plan Adjustment - All or a portion of the Employees' annual merit or pay plan adjustment will be contributed as follows:

An Employee shall not have the right to discontinue or vary the rate of Mandatory Contributions of Employee Compensation.

#### 3. Mandatory Employee Leave Contributions

The Employer will make mandatory contributions of accrued leave as follows (provide formula for determining Mandatory Employee Leave contributions):

- ☐ Accrued Sick Leave \_\_\_\_\_
- ☐ Accrued Vacation Leave \_\_\_\_\_
- ☐ Other (specify type of leave) Accrued \_\_\_\_\_ Leave

An Employee shall not have the right to discontinue or vary the rate of mandatory leave contributions.

*\* Non-collectively bargained plans that reimburse medical expenses other than insurance premiums should consult their benefits counsel regarding welfare plan nondiscrimination rules if the employer elects to make contributions based on a percentage of earnings.*

**C. Limits on Total Contributions** (check one box)

The total contribution by the Employer on behalf of each Participant (including Direct Employer and Mandatory Employee Contributions) for each Plan Year shall not exceed the following limit(s) below. Limits on individual contribution types are defined within the appropriate section above.

- ☒ There is no Plan-defined limit on the percentage or dollar amount of earnings that may be contributed.
- ☐ \_\_\_\_\_ % of earnings
- Definition of earnings: ☐ Same as Section VI.A. ☐ Other
- ☐ \$ \_\_\_\_\_ for the Plan year.

**VII. Vesting for Direct Employer Contributions**

**A. Vesting Schedule** (check one box)

- ☐ The account is 100% vested at all times.
- ☐ The following vesting schedule shall apply to Direct Employer Contributions as outlined in Section VI.B.1.:

| Years of Service Completed | Vesting Percentage |
|----------------------------|--------------------|
| _____                      | _____ %            |
| _____                      | _____ %            |
| _____                      | _____ %            |
| _____                      | _____ %            |
| _____                      | _____ %            |
| _____                      | _____ %            |
| _____                      | _____ %            |
| _____                      | _____ %            |
| _____                      | _____ %            |
| _____                      | _____ %            |

- B. The account will become 100% vested upon the death, disability, retirement\*, or attainment of benefit eligibility (as outlined in Section IX) by a Participant.**

\*Definition of retirement includes a separation from service component and is further defined by (check one):

- ☐ The primary retirement plan of the Employer
- ☐ Separation from service
- ☐ Other \_\_\_\_\_

- C. Any period of service by a Participant prior to a rehire of the Participant by the Employer shall not count toward the vesting schedule outlined in A above.**

**VIII. Forfeiture Provisions**

If a Participant separates from service prior to full vesting, non-vested funds in the Participant's account shall be forfeited in accordance with the box checked under this section.

Upon the death of a participant, surviving spouse, and all surviving eligible dependents (as outlined in Section XI), funds remaining in the Participant's account shall be revert to the Trust in accordance with the box checked under this section.



If a Participant permanently opts out and waives future reimbursements, as allowed under IRS Notice 2013-54, all funds in the Participant's account at the time of waiver shall be forfeited in accordance with the box checked under this section.\*

- ☐ Remain in the Trust to be reallocated among all Plan Participants with a balance as Direct Employer Contributions for the next and succeeding contribution cycle(s).\*\*
- ☒ Remain in the Trust to be reallocated on an equal dollar basis among all Plan Participants with a balance.\*\*
- ☐ Remain in the Trust to be reallocated among all Plan Participants based upon Participant account balances.\*\*
- ☐ Revert to the Employer via check.

**IX. Eligibility Requirements to Receive Medical Benefit Payments from the VantageCare Retirement Health Savings Program**

**A. A Participant is eligible to receive benefits:**

- ☐ At retirement only (also complete Section B.)  
Definition of retirement:
  - ☐ Same as Section VII.B.
  - ☐ Other \_\_\_\_\_
- ☒ At separation from service with the following restrictions
  - ☒ No restrictions
  - ☐ Other \_\_\_\_\_

**B. Termination prior to general benefit eligibility:** In case where the general benefit eligibility as outlined in Section IX.A includes a retirement component, a Participant who separates from service of the Employer prior to retirement will be eligible to receive benefits:

- ☐ Immediately upon separation from service
- ☐ Other \_\_\_\_\_

**C. A Participant that becomes totally and permanently disabled**

- ☐ as defined by the Social Security Administration
- ☒ as defined by the Employer's primary retirement plan
- ☐ other \_\_\_\_\_

will become immediately eligible to receive medical benefit payments from his/her account under the Employer's welfare benefits plan.

**D. Upon the death of the Participant, benefits shall become payable as outlined in Section XI.**

*\* If the Employer's RHS Program does not limit eligibility to participants who have separated from service, the employer will be required to provide further direction to ICMA-RC regarding the treatment of possible contributions that are required to be made following the participant's waiver.*

*\*\* If the forfeited balance is small whereby the reallocation amount to each Plan Participant with a balance is minimal, the assets will revert to employer's forfeiture account for further direction from the employer. If there are participants without a balance who should receive forfeiture assets, please provide alternative instructions to ICMA-RC on the forfeiture reallocation notice.*

## X. Permissible Medical Benefit Payments

Benefits eligible for reimbursement consist of:

- ☒ All Medical Expenses eligible under IRC Section 213 other than (i) direct long-term care expenses, and (ii) expenses for medicines or drugs which are not prescribed drugs (other than insulin).
- ☐ The following Medical Expenses eligible under IRC Section 213 other than (i) direct long-term care expenses, and (ii) expenses for medicines or drugs which are not prescribed drugs (other than insulin). Select only the expenses you wish to cover under the Employer's welfare benefits plan:
  - ☐ Medical Insurance Premiums
  - ☐ Medical Out-of-Pocket Expenses\*
  - ☐ Medicare Part B Insurance Premiums
  - ☐ Medicare Part D Insurance Premiums
  - ☐ Medicare Supplemental Insurance Premiums
  - ☐ Prescription Drug Insurance Premiums
  - ☐ COBRA Insurance Premiums
  - ☐ Dental Insurance Premiums
  - ☐ Dental Out-of-Pocket Expenses\*
  - ☐ Vision Insurance Premiums
  - ☐ Vision Out-of-Pocket Expenses\*
  - ☐ Qualified Long-Term Care Insurance Premiums
  - ☐ Non-Prescription medications allowed under IRS guidance\*
  - ☐ Other qualifying medical expenses (describe)\*

\* *Non-collectively bargained plans that reimburse medical expenses other than insurance premiums should consult their benefits counsel regarding welfare plan nondiscrimination rules if the employer elects to make contributions based on a percentage of earnings.*

## XI. Benefits After the Death of the Participant

In the event of a Participant's death, the following shall apply:

### A. Surviving Spouse and/or Surviving Dependents

Upon the death of a participant, the surviving spouse and/or surviving eligible dependents (as defined in Section XII.D.) of the deceased Participant are immediately eligible to maintain the Participant's RHS account and utilizing the remaining balance to fund eligible medical benefits specified in Section X above.

Upon notification of a Participant's death, the Participant's account balance will be transferred into VT II Cash Management Fund\*\* (or another fund selected by the Employer). The account balance may be reallocated by the surviving spouse or dependents.

*\*\* Before investing in the Fund you should carefully consider your investment goals, tolerance for risk, investment time horizon, and personal circumstances. There is no guarantee that the Fund will meet its investment objective and you can lose money. For additional information regarding the Fund, including a description of the principal risks, please consult the VantageTrust II Funds Disclosure Memorandum and fund fact sheet, which is available when you log in at [www.icmarc.org](http://www.icmarc.org) or upon request by calling 800-669-7400.*

*If the plan's default fund is not the VT II Cash Management Fund, please read the disclosure materials or prospectus applicable to the default fund.*

If a Participant's account balance has not been fully utilized upon the death of the eligible spouse, the account balance may continue to be utilized to pay benefits of eligible dependents. Upon the death of all eligible dependents, the account will revert in accordance with the Employer's election under Section VIII of the *VantageCare RHS Adoption Agreement*.



**B. No Surviving Spouse or Surviving Dependents**

If there are no living spouse or dependents at the time of death of the Participant, the account will revert in accordance with the Employer's election under Section VIII of the *VantageCare RHS Adoption Agreement*.

**XII. The Plan will operate according to the following provisions:**

**A. Employer Responsibilities**

1. The Employer will submit all VantageCare Retirement Health Savings Plan contribution data via electronic submission.
  2. The Employer will submit all VantageCare Retirement Health Savings Plan Participant status updates or personal information updates via electronic submission. This includes but is not limited to termination notification, benefit eligibility, and vesting notification.
- B.** Participant account administration and asset-based fees will be paid through the redemption of Participant account shares, unless agreed upon otherwise in the Administrative Services Agreement.
- C.** Assignment of benefits is not permitted. Benefits will be paid only to the Participant, his/her Survivors, the Employer, or an insurance provider (as allowed by the claims administrator). Payments to a third-party payee (e.g., medical service provider) are not permitted with the exception of reimbursement to the Employer or insurance provider (as allowed by the claims administrator).
- D.** An eligible dependent is (a) the Participant's lawful spouse, (b) the Participant's child under the age of 27, as defined by IRC Section 152(f)(1) and Internal Revenue Service Notice 2010-38, or (c) any other individual who is a person described in IRC Section 152(a), as clarified by Internal Revenue Service Notice 2004-79.
- E.** The Employer will be responsible for withholding, reporting and remitting any applicable taxes for payments which are deemed to be discriminatory under IRC Section 105(h), as outlined in the *VantageCare Retirement Health Savings Employer Manual*.

**XIII. Employer Acknowledgements**

- A.** The Employer hereby acknowledges it understands that failure to properly fill out this *VantageCare Retirement Health Savings Adoption Agreement* may result in the loss of tax exemption of the Trust and/or loss of tax-deferred status for Employer contributions.
- B.** ☒ Check this box if you are including supporting documents that include plan provisions.

**EMPLOYER SIGNATURE**

**By:** \_\_\_\_\_

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

**Title:** City Manager

**Attest:** \_\_\_\_\_

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

**Title:** Human Resources Director



**VANTAGECARE RETIREMENT HEALTH SAVINGS (RHS)**  
**ADOPTION AGREEMENT – EXHIBIT A**

The following City of Keizer Classifications with hire dates on or before July 1, 2018 are eligible to participate in the City of Keizer ICMA-RC Vantagecare Retirement Health Savings Plan by Mandatory Contributions via Reduction of Salary in the amounts listed below:

| <b><u>Classification</u></b>      | <b><u>Amount</u></b> |
|-----------------------------------|----------------------|
| Lieutenant                        | 5%                   |
| Administrative Assistant – Police | 2%                   |
| City Recorder                     | 3%                   |
| Support Services Supervisor       | 2%                   |
| Community Development Director    | 8%                   |
| City Attorney                     | 3%                   |

## VantageTrust II Multiple Collective Investment Funds Trust

# Participation Agreement

This Participation Agreement is by and between VantageTrust Company, LLC ("Trust Company"), the trustee of the VantageTrust II Multiple Collective Investment Funds Trust (the "Trust"), and the employer executing this Participation Agreement ("Employer") on behalf of the retirement plan(s) or retirement trust(s) identified on the signature page and effective as of the date specified at the end of this Agreement (the "Retirement Trust").

### RECITALS

1. The Trust Company maintains the Trust (including each separate investment fund established as a "Fund") under the Declaration of Trust dated January 1, 2015, and all other attachments thereto, as amended and in effect from time to time (the "Declaration of Trust"), as a medium for the collective investment and reinvestment of assets of certain tax-exempt, governmental pension and profit-sharing plans, and retiree welfare plans within the meaning of section 401(a)(24) of the Internal Revenue Code of 1986, as amended, and related trusts, and other eligible investors that become Participating Trusts under the Declaration of Trust (defined as "Eligible Trust" in the Declaration of Trust).
2. The Retirement Trust desires to become a Participating Trust as defined in the Declaration of Trust.

### DEFINITIONS

1. Unless otherwise specified herein, any capitalized word or phrase shall have the meaning as set forth in the Declaration of Trust.

### AGREEMENT

In consideration of the foregoing and the promises set forth below, the parties agree to the following:

1. **Appointment and Acceptance.** The Employer hereby acknowledges that the Trust Company has appointed ICMA Retirement Corporation ("Investment Adviser"), an investment adviser registered under the Investment Advisers Act of 1940, as an investment adviser, pursuant to the terms of the Declaration of Trust to provide advice and recommendations to the Trust Company in the management of the Funds. The Employer further acknowledges and accepts that the Trust Company is a wholly owned subsidiary of Investment Adviser.
2. **Adoption of Trust.** The Retirement Trust's participation in each Fund will at all times be subject to the terms of the Declaration of Trust, which is hereby adopted as a part of the Retirement Trust and this Participation Agreement. The Retirement Trust's participation in each Fund will also be subject to the terms of the Declaration of Trust.
3. **Acceptance of Plan.** The Trust Company accepts the Retirement Trust (including each plan forming a part thereof) as a Participating Trust as of the date specified on the execution page of this Participation Agreement.
4. **Notice of Disqualification.** In the event that the Retirement Trust ceases to be an Eligible Trust as defined in the Declaration of Trust, then, in the case of any such event, the Employer shall deliver to the Trust Company a written notice of its ceasing to be an Eligible Trust within fifteen (15) calendar days of receipt of any notice, execution of any amendment, receipt of any letter or determination of such cessation. Upon the Trust

Company's receipt of such information, in writing or otherwise, the Retirement Trust's Units shall be redeemed in accordance with the provisions of the Declaration of Trust.

#### **WARRANTIES, REPRESENTATIONS AND COVENANTS OF EMPLOYER AND ELIGIBLE TRUST**

**1. Employer and Retirement Trust represent and warrant as follows:**

**A. The Retirement Trust meets the definition of an "Eligible Trust" under the Declaration of Trust. This means the Retirement Trust is any of the following:**

- i. a retirement, pension, profit-sharing, stock bonus, or other employee benefit trust that is exempt from Federal income taxation under Section 501(a) of the Code by reason of qualifying under Section 401(a) of the Code; or**
- ii. an eligible governmental plan trust or custodial account under Section 457(b) of the Code that is exempt under Section 457(g) of the Code; or**
- iii. Section 401(a)(24) governmental plans; or**
- iv. any common, collective, or commingled trust fund the assets of which consist solely of assets of eligible investors in a group trust under Revenue Ruling 81-100; or**
- v. an insurance company separate account (i) the assets of which consist solely of assets of eligible investors in a group trust under Revenue Ruling 81-100, (ii) with respect to which the insurance company maintaining the separate account has entered into a written arrangement with the Trust Company consistent with the requirements of Revenue Ruling 2011-1, and (iii) the assets of which are insulated from the claims of the insurance company's general creditors; or**
- vi. any other plan, trust, or other entity that is an eligible investor in a group trust under Revenue Ruling 81-100.**

**B. The Retirement Trust is established, maintained and administered under one or more documents that authorize part or all of the assets of the Retirement Trust to be transferred to, and commingled for investment purposes in, a Trust that meets the requirements of Revenue Ruling 81-100;**

**C. The Declaration of Trust (including each Fund thereunder) is adopted as part of the Retirement Trust;**

**D. Authorization or license from any foreign, federal, state or local regulatory authority or agency required on the part of the Employer or the Retirement Trust has been obtained and any necessary filing with any of the foregoing has been duly made.**

**2. Employer hereby represents and acknowledges the following:**

**A. It has the requisite authority to enter into this Participation Agreement on behalf of the Retirement Trust, to authorize investments under the provisions of the documents of the Retirement Trust and to make, on behalf of the Retirement Trust, any and all certifications, covenants, representations or warranties set forth in this Agreement.**



- B. It has received and reviewed the Declaration of Trust, any addenda thereto, the VantageTrust II Funds Disclosure Memorandum, and any additional materials and information it has requested describing the Trust, and its business and operation, and that in making a prudent investment decision with respect to the contribution of assets to the Trust in exchange for Units, the Employer has relied solely upon independent investigations made, directly or indirectly, by it.
  - C. It has been given the opportunity to review with the Trust Company the terms and conditions of this Participation Agreement and the Declaration of Trust, and to obtain additional information to verify the accuracy of the information contained in the aforesaid materials, and such other information as it desires to evaluate its investment in the Trust.
  - D. The Units of the Fund(s) have not been registered under the Securities Act of 1933, or the applicable securities laws of any states or other jurisdictions.
  - E. Neither the Trust nor any Fund is registered under the Investment Company Act of 1940 and investors are not entitled to the protections of that Act.
  - F. The Units of the Fund(s) are not insured by the Federal Deposit Insurance Corporation or any other type of deposit insurance coverage.
3. Employer agrees promptly to notify the Trust Company in the event that any of the representations set forth above or any information provided pursuant to the provisions hereof ceases to be accurate during the term of this Participation Agreement. Until such notice is given to the Trust Company, the Trust Company may rely on the representations contained in, and all other information provided pursuant to or as contemplated by, this Participation Agreement in connection with all matters related to the Funds and the Trust.

#### **FEES AND EXPENSES**

- 1. Fees and expenses incurred with respect to the Trust, including compensation of the Trustee, shall be paid in accordance with the Declaration of Trust.

#### **MISCELLANEOUS**

- 1. **Construction.** This Participation Agreement shall be deemed to be executed and delivered in the District of Columbia, and, except to the extent superseded by federal laws, all laws or rules of construction of the District of Columbia shall govern the rights of the parties hereto and the interpretation of provisions of this Participation Agreement.
- 2. **Counterparts.** This Participation Agreement may be executed in any number of separate counterparts, each of which shall be deemed an original, but the several counterparts shall together constitute one and the same Participation Agreement of the parties hereto.
- 3. **Amendments.** This Participation Agreement shall be automatically amended by any amendment to the Declaration of Trust, and all such amendments shall be automatically incorporated by reference herein, and any provisions of this Participation Agreement inconsistent with the terms of such amendment shall be null and void on and after the effective date of such amendment.
- 4. **Agreement Conflicts.** In the event that any terms of this Participation Agreement conflict with or are in addition to the terms of any Administrative Services Agreement ("ASA") between the parties, the terms of this Participation Agreement and the Declaration of Trust shall prevail. In the event that the terms of this

Participation Agreement conflict with the terms of the Declaration of Trust, the terms of the Declaration of Trust shall prevail.

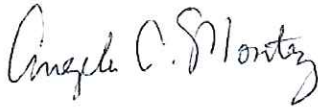
5. **Prohibited Transactions.** If the Trust Company determines that the Retirement Trust's involvement with certain assets, liabilities or transactions will result, or has resulted, in the Trust engaging in a transaction that is prohibited by the Internal Revenue Code, Securities Act of 1933, Investment Company Act of 1940 or other applicable law, the Trust Company, in its sole discretion, may take action to correct such prohibited transaction, or may treat the Retirement Trust as having withdrawn from participation and shall redeem the Retirement Trust's Units, all in accordance with the Declaration of Trust.
6. **Severability.** Each clause or term of this Participation Agreement is severable from the entire Participation Agreement, and if any clause or term is declared invalid, the remaining clauses or terms shall remain in effect.

[Space Intentionally Blank]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date specified below.

**VantageTrust II Multiple Collective Investment Funds Trust**

By: VantageTrust Company, LLC, as Trustee,



By:

Angela Montez  
Secretary

**Plan/Retirement Trust:**

Vantagecare Retirement Health Savings (RHS) Plan

803817

Plan/Retirement Trust Name

ICMA-RC Plan Number

Plan/Retirement Trust Name

ICMA-RC Plan Number

By:

City of Keizer

C4329

Name of Employer or Fiduciary

Customer Number

By:

Authorized Officer Signature

Date

Christopher C. Eppley, City Manager

Printed Name and Title

930 Chemawa Rd. NE

Address Line 1

Keizer, OR 97303

Address Line 2

503.856.3414

Telephone Number



# VantageCare Retirement Health Savings Implementation Data Form – Page 1 of 3

Instructions to Employer: Provide necessary information to establish your plan properly.

## 1 GENERAL INFORMATION

Employer Plan Number:  
803817

Employer's Full Name:  
City of Keizer

Street Address:  
930 Chemawa Road

City  
Keizer

State:  
OR

Zip Code:  
97501 - 1000

Employer's Federal Tax Identification Number: 93-0836902

## 2 PRIMARY CONTACT INFORMATION

This person is responsible for the day-to-day administration and processing of RHS transactions. This is the person we call if general questions arise concerning your RHS plan.  
**Note: the Primary Contact will be used if any contact designations are left blank.**

Contact Name:  
Machell DePina

Title:  
Human Resources Director

Telephone #: (503) 856 - 3417 Fax #: (503) 856 - 3430

Email Address:  
depinam@keizer.org

## 3 CLAIMS CONTACT INFORMATION

This person(s) will be responsible for coordinating with the RHS plan third-party claim administrator.

1. Contact Name:  
Kristen Brokaw

Title:  
Human Resources Generalist

Telephone #: (503) 856 - 3419 Fax #: (503) 856 - 3430

Email Address:  
brokawk@keizer.org

2. Contact Name:  
Machell DePina

Title:  
Human Resources Director

Telephone #: (503) 856 - 3417 Fax #: (503) 856 - 3430

Email Address:





## VantageCare Retirement Health Savings Implementation Data Form – Page 2 of 3

### 4 CONTRIBUTION/EZLINK CONTACT INFORMATION

This person is responsible for sending contributions to ICMA-RC. If there are discrepancies in the contribution amount received and the corresponding detail transmitted via EZLink, this is the person we will contact to resolve the issue. This person should have access to all payroll/contribution information.

Contact Name:

Karen Sergent

Title:

Accounting Technician

Telephone #:

( 503 ) 888 - 3422

Fax #:

( 503 ) 390 - 8280

Email Address:

sergentk@keizer.org

### 5 TRUSTEE CONTACT INFORMATION

If your state or local law requires a resolution, the title of this person is designated in the resolution. If a different person obtains the same title, you may use this form to update the name change. This person will receive all quarterly statements as well as confirmations for each contribution received and confirmations for all reinvested dividends.

Contact Name:

Title:

Telephone #:

( ) - -

Fax #:

( ) - -

Email Address:

### 6 BILLING (FEES) CONTACT INFORMATION

If ICMA-RC charges any employer paid fees to your account, this person will receive the invoices.

Contact Name:

Machell DePina

Title:

Human Resources Director

Telephone #:

( 503 ) 856 - 3417

Fax #:

( 503 ) 856 - 3430

Email Address:





## VantageCare Retirement Health Savings Implementation Data Form – Page 3 of 3

### 7 DEFAULT INVESTMENT OPTION

#### Default Fund for Investment Allocations:

The default fund will be used if a participant does not provide valid allocation instructions (i.e., no allocation is provided, the allocation percentages do not total 100%, or one or more funds that are not available to the plan are selected).

If you do not make an election in this section, the VantageTrust II Vantagepoint Milestone Fund with the target date closest to a participant's 62<sup>nd</sup> birthday will be used as your plan's default option.

You may select the "Custom Default" option if you would like to use a fund (or funds) other than the Milestone Funds as your plan's default option. Please see ICMA-RC's Standard Plan Fund Lineup for RHS at [www.icmarc.org](http://www.icmarc.org) to complete this section.

**Note:** Prior to selecting the "Custom Default" option, employers should carefully review the Department of Labor's final regulations on qualified default investment alternatives (QDIAs). More information is available online at [www.dol.gov](http://www.dol.gov) or [www.icmarc.org/ppa](http://www.icmarc.org/ppa).

#### Default Fund for Investment Allocations (Select one option):

- ☒ The Milestone Funds (Default) with a target retirement age of:
- ☐ Age 62 (Default)
- ☒ Age 58 (input the target retirement age to be used for your plan)
- ☐ Custom Default (List the fund name(s) and percentage(s) that will be used as the plan's default investment option):

| Fund Name | Percentage |
|-----------|------------|
| _____     | _____      |
| _____     | _____      |
| _____     | _____      |
| _____     | _____      |

#### Target retirement age for custom target-date funds (select one option):

- ☐ Age 62 (Default)
- ☐ Age \_\_\_\_\_ (input the target retirement age to be used for your plan)

### 8 PLAN IMPLEMENTATION INFORMATION

#### Contribution Frequency: (check one):

- ☒ Bi-weekly      ☐ Monthly      ☐ Quarterly
- ☐ Weekly      ☐ Semi-monthly      ☐ Annually

#### Contribution Deposit Method:

- ☐ Wire      ☒ ACH

First Contribution Date Following Implementation: 09 / 20 / 2018 (mm/dd/yyyy).

Number of Eligible Employees: 8

# **ADMINISTRATIVE SERVICES AGREEMENT**

Between

**ICMA Retirement Corporation**

and

City of Keizer

**Type:** VantageCare RHS

**Account Number:** 803817

## ADMINISTRATIVE SERVICES AGREEMENT

This Agreement, made as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ (herein referred to as the "Inception Date"), between The International City Management Association Retirement Corporation ("ICMA-RC"), a nonprofit corporation organized and existing under the laws of the State of Delaware; and the City of Keizer ("Employer") a local governmental instrumentality organized and existing under the laws of the State of Oregon with an office at 930 Chemawa Road, North, Keizer, Oregon 97303.

### RECITALS

Employer acts as a public plan sponsor for a retiree health plan with responsibility to obtain investment alternatives and services for employees participating in that plan;

Employer desires to make the VantageCare Retirement Health Savings ("RHS") Program provided by ICMA-RC available to its employees through the Employer's integral part trust ("Trust") and the Employer's welfare benefits plan ("Plan");

ICMA-RC acts as investment adviser to VantageTrust Company, LLC ("VTC"), the Trustee of VantageTrust II Multiple Collective Investment Funds Trust ("VantageTrust II");

VantageTrust II is a group trust established and maintained in accordance with New Hampshire Revised Statutes Annotated section 391:1 and Internal Revenue Service Revenue Rulings 81-100 and 2011-1, which provides for the collective investment and reinvestment of assets of certain tax-exempt, governmental pension and profit sharing plans, and retiree welfare plans, and other eligible investors;

VTC makes a series of separate funds (the "VT II Funds") available through VantageTrust II for the investment of plan assets as referenced in VantageTrust II's Declaration of Trust and Disclosure Memorandum ("Disclosure Materials");

VTC is a wholly owned subsidiary of ICMA-RC and has exclusive management and investment authority with respect to the VT II Funds;

The VT II Funds are available only through adoption of VantageTrust II; and

In addition to serving as investment adviser to VTC, ICMA-RC provides a complete offering of services to public employers for the operation of employee retirement and retiree health savings plans including, but not limited to, communications concerning investment alternatives, account maintenance, account record-keeping, investment and tax reporting, form processing, and benefit disbursement.



## AGREEMENTS

### 1. Acceptance of RHS Program

Employer agrees to make the RHS Program provided by ICMA-RC available to its employees. The details of the RHS Program shall be as mutually agreed between the Employer and ICMA-RC, and in general shall be as set forth in the RHS Program materials developed by ICMA-RC and provided to Employer. The RHS Program materials are hereby incorporated by reference and made a part of this Agreement, except that Employer and ICMA-RC may from time to time mutually agree in writing to terms that vary from the RHS Program materials. RHS Program materials shall include the *VantageCare RHS Employer Manual*, available electronically through the EZ Link System upon adoption of the RHS Program.

The functions to be performed by ICMA-RC and its agents include:

- (a) allocation in accordance with participant direction of individual accounts to investment funds ("Funds") made available to Plan participants;
- (b) maintenance of individual accounts for participants reflecting amounts contributed, income, gain, or loss credited, and amounts disbursed as benefits;
- (c) provision of periodic reports to the Employer and participants of the status of Plan investments and individual accounts;
- (d) communication to participants of information regarding their rights and elections under the Plan;
- (e) disbursement of benefits as agent for the Employer in accordance with terms of the Plan; and
- (f) performance of tax withholding and reporting in conjunction with the Employer for each RHS account.

### 2. Employer Duty to Furnish Information

Employer agrees to furnish to ICMA-RC on a timely basis such information as is necessary for ICMA-RC to carry out its responsibilities with respect to the Plan, including information needed to allocate individual participant accounts to Funds, and information as to the benefit eligibility and employment status of participants, and participants' ages, addresses, dependents, spouses and other identifying information (including tax identification numbers). Employer also agrees that it will notify ICMA-RC in a timely manner regarding changes in staff as it relates to various roles. This is to be completed through the online EZLink employer contact options. ICMA-RC shall be entitled to rely upon the accuracy of any information that is furnished to it by a responsible official of the Employer or any information relating to an individual participant, spouse or dependent that is furnished by such participant, spouse or dependent, and ICMA-RC

shall not be responsible for any error arising from its reliance on such information. ICMA-RC will provide reports, statements and account information to the Employer through EZLink, the online plan administrative tool.

3. ICMA-RC Representations and Warranties

ICMA-RC represents and warrants to Employer that:

- (a) ICMA-RC is a non-profit corporation with full power and authority to enter into this Agreement and to perform its obligations under this Agreement.
- (b) ICMA-RC is an investment adviser registered as such with the Securities and Exchange Commission under the Investment Advisers Act of 1940, as amended.
- (c) ICMA-RC will handle participant information in the manner described in the Business Associate Agreement to be executed between the Plan and ICMA-RC, a form of which is provided as Exhibit A to this Agreement.

4. Employer Representations and Warranties

Employer represents and warrants to ICMA-RC that:

- (a) Employer is organized in the form and manner recited in the opening paragraph of this Agreement with full power and authority to enter into and perform its obligations under this Agreement and to act for the Plan and participants in the manner contemplated in this Agreement. Execution, delivery, and performance of this Agreement will not conflict with any law, rule, regulation or contract by which the Employer is bound or to which it is a party.
- (b) Information required to be retained by the Employer shall be set forth in the RHS Program materials developed by ICMA-RC and provided to the Employer.
- (c) Employer is required to send in contributions through EZLink, the online plan administration tool provided by ICMA-RC.
- (d) Employer is responsible for determining that there are no state or local laws that would prohibit it from establishing the RHS Program. Employer is also responsible for determining that the investments selected for the Plan fall within state or local requirements. ICMA-RC shall not be responsible for monitoring state or local law applicable to retirement plans or for administering the Plan in compliance with local or state requirements unless Employer notifies ICMA-RC of any such local or state requirements.
- (e) Employer acknowledges that the RHS Plan is a "health plan" for Health Insurance Portability and Accountability Act ("HIPAA") purposes and therefore is subject to



HIPAA privacy rules. Employer also acknowledges that the RHS Plan is a Health Reimbursement Arrangement, subject to applicable provisions of the Affordable Care Act ("ACA"). An employer sponsoring the Plan is responsible for complying with the HIPAA privacy and security rules with respect to all protected health information created, maintained, received, or transmitted in relation to the Plan and is responsible for complying with the ACA.

- (f) Employer acknowledges that certain such services to be performed by ICMA-RC under this Agreement may be performed by an affiliate or agent of ICMA-RC pursuant to one or more other contractual arrangements or relationships, and that ICMA-RC reserves the right to change vendors with which it has contracted to provide services in connection with this Agreement without prior notice to Employer.
- (g) Employer acknowledges and agrees that ICMA-RC does not assume any responsibility with respect to the selection or retention of the Plan's investment options. Employer shall have exclusive responsibility for the selection and retention of the Plan's investment options, including the selection of the applicable mutual fund share class.
- (h) Employer confirms that it has executed a Participation Agreement for VantageTrust II and acknowledges that it has received the Disclosure Materials.

5. Participation in Certain Proceedings

The Employer hereby authorizes ICMA-RC to act as agent, to appear on its behalf, and to join the Employer as a necessary party in all legal proceedings regarding the Plan involving the garnishment of benefits or the transfer of benefits pursuant to a medical child support order. Unless Employer notifies ICMA-RC otherwise, Employer authorizes ICMA-RC to determine whether disbursement of benefits to a spouse or child pursuant to a medical child support order is appropriate.

6. Compensation and Payment

Absent an explicit agreement to the contrary between ICMA-RC and Employer, participant fees and expenses shall be payable from RHS assets, in accordance with the requirements of the RHS Program as set forth below.

- (a) Asset-based fees will be included in the daily unit value of each VT II Fund, and no separate asset-based fees will be assessed.
- (b) A \$ 25 annual account administration fee will be charged quarterly to each Accountholder's account.
- (c) The account administration fee is subject to change with appropriate prior notification.

- (d) **Compensation for Advisory and other Services to VT III Vantagepoint Funds.** Employer acknowledges that ICMA-RC, including certain of its wholly owned subsidiaries, receives compensation for advisory and other services furnished to the VT III Vantagepoint Funds, which are collective funds serving as the underlying funds to certain VT II Funds.

7. Contribution Remittance

Employer understands that amounts contributed to the Plan are to be remitted directly to Vantagepoint Transfer Agents in accordance with instructions provided to Employer in the RHS Program materials and are not to be remitted to ICMA-RC. In the event that any check or wire transfer is incorrectly labeled or transferred, ICMA-RC will return it to Employer with proper instructions.

8. Responsibility

- (a) ICMA-RC shall not be responsible for any acts or omissions of any person with respect to the Plan, or related Trust, other than ICMA-RC in connection with the administration or operation of the Plan or related Trust.
- (b) The Employer understands that, as a general matter, the Internal Revenue Service ("IRS") may decline to rule on certain design features or provisions that the Employer may request to have added to the RHS Program materials. The Employer agrees to hold ICMA-RC harmless in connection with the addition and administration of any Plan feature or provision requested by the Employer for which the IRS will not provide express interpretive guidance.

9. Indemnification

Employer shall indemnify ICMA-RC against, and hold ICMA-RC harmless from, any and all loss, damage, penalty, liability, cost, and expense, including without limitation, reasonable attorney's fees, that may be incurred by, imposed upon, or asserted against ICMA-RC by reason of any claim, regulatory proceeding, or litigation arising from any act done or omitted to be done by any individual or person with respect to the Plan or related Trust, excepting only any and all loss, damage, penalty, liability, cost or expense resulting from ICMA-RC's negligence, bad faith, or willful misconduct.

10. Term

This Agreement shall be in effect for an initial term beginning on the Inception Date and ending 1~~8~~ year~~s~~ after the Inception Date. This Agreement will be renewed automatically for each succeeding year unless written notice of termination is provided by either party to the other no less than 60 days before the end of such Agreement year.

11. Amendments and Adjustments



- (a) This Agreement may be amended by written instrument signed by the parties.
- (b) The parties agree that only an adjustment to compensation or administrative and operational services under this Agreement may be implemented by ICMA-RC through a proposal to the Employer via correspondence or the Employer Bulletin. The Employer will be given at least 60 days to review the proposal before the effective date of the adjustment. Such adjustment shall become effective unless, within the 60-day period, the Employer notifies ICMA-RC in writing that it does not accept such adjustment, in which event the parties will negotiate with respect to the adjustment.
- (c) No failure to exercise and no delay in exercising any right, remedy, power or privilege hereunder shall operate as a waiver of such right, remedy, power or privilege.

12. Notices

All notices required to be delivered under this Agreement shall be delivered electronically, personally or by registered or certified mail, postage prepaid, return receipt requested, to (i) Legal Department, ICMA Retirement Corporation, 777 North Capitol Street, N.E., Suite 600, Washington, D.C, 20002-4240; (ii) Employer at the office set forth in the first paragraph hereof, or to any other address designated by the party to receive the same by written notice similarly given.

13. Complete Agreement

This Agreement, with an executed Business Associate Agreement, shall constitute the sole agreement between ICMA-RC and Employer relating to the object of this Agreement and correctly sets forth the complete rights, duties and obligations of each party to the other as of its date. Any prior agreements, promises, negotiations or representations, verbal or otherwise, not expressly set forth in this Agreement are of no force and effect.

14. Governing Law

This agreement shall be governed by and construed in accordance with the laws of the State of Oregon applicable to contracts made in that jurisdiction without reference to its conflicts of laws provisions.



In Witness Whereof, the parties hereto have executed this Agreement as of the Inception Date first above written.

CITY OF KEIZER

By \_\_\_\_\_  
Signature/Date

By \_\_\_\_\_  
Name and Title (Please Print)

INTERNATIONAL CITY  
MANAGEMENT ASSOCIATION  
RETIREMENT CORPORATION

By  \_\_\_\_\_  
Erica McFarquhar  
Assistant Secretary

Please return an executed copy of the Agreement to a Delivery Address, either:

- (a) Electronically to [PlanAdoptionServices@icmarc.org](mailto:PlanAdoptionServices@icmarc.org), or
- (b) In paper form to ICMA-RC  
ATTN: PLAN ADOPTION SERVICES  
777 North Capitol Street NE  
Suite 600  
Washington DC 20002-4240

## **Exhibit A**

### **RHS HIPAA BUSINESS ASSOCIATE AGREEMENT FOR 803817**

This Business Associate Agreement ("BA Agreement") supplements and is made part of the Administrative Services Agreement entered into between City of Keizer RHS ("Covered Entity") and ICMA-RC ("Business Associate") on \_\_\_\_\_, and is effective as of the effective date of the Administrative Services Agreement (the "Effective Date").

#### **RECITALS**

Covered Entity is a group health plan that reimburses medical expenses for eligible participants, their spouses, and their dependents. Under the Health Information Portability and Accountability Act of 1996 ("HIPAA"), Covered Entity is required to enter into this BA Agreement to obtain satisfactory assurances that Business Associate will appropriately safeguard all Protected Health Information ("PHI"), as defined herein, that is created, maintained, received, or transmitted by Business Associate on behalf of Covered Entity.

Business Associate is a record keeper providing administrative services to Covered Entity. In general, Business Associate will not have access to information that would traditionally be considered PHI because participant medical information used to substantiate reimbursements is sent directly to and reviewed by a third-party claims processor. The third-party claims processor has agreed to protect PHI that it creates, maintains, receives, or transmits in a manner that is consistent with and as stringent as the terms agreed to by Business Associate under this BA Agreement with respect to information that could be considered PHI. Business Associate has access to information that might be interpreted as PHI, including an individual's participation in the plan, reimbursement amounts, and the timing of reimbursements.

In consideration of the mutual promises below and the exchange of information pursuant to this BA Agreement and in order to comply with all legal requirements for the protection of this information, Covered Entity and Business Associate agree as follows:

#### **1. DEFINITIONS**

- a. The following terms used in this BA Agreement shall have the same meaning as those terms are defined in the HIPAA Rules: Breach, Data Aggregations, Designated Record Set, Disclosure, Health Care Operations, Minimum Necessary, Notice of Privacy Practices, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.
- b. "Administrative Services Agreement" refers to a separate agreement outlining the services ICMA-RC will provide to Covered Entity and the terms and conditions governing the provision of such services. The Administrative Services Agreement is made between ICMA-RC and City of Keizer RHS or its sponsor, acting on behalf of City of Keizer RHS.

- c. "Business Associate" shall have the same meaning as the term "business associate" at 45 CFR 160.103, and in reference to this BA Agreement shall mean ICMA-RC.
- d. "Covered Entity" shall have the same meaning as the term "covered entity" at 45 CFR 160.103, and in reference this BA Agreement, shall mean City of Keizer RHS
- e. "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.
- f. "Privacy Rule" shall mean the Privacy Standards and Implementation Specifications at 45 CFR 170 and 164, Subparts A and E.
- g. "Protected Health Information" ("PHI") shall have the same meaning as the term "protected health information" in 45 CFR § 160.103, limited to the information created, received, maintained, or transmitted by Business Associate from or on behalf of Covered Entity pursuant to this Agreement.
- h. "Security Rule" shall mean the Security Standards and Implementation Specifications at 45 CFR Parts 160 and 164, Subparts A and C.

## **2. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE**

Business Associate agrees to:

- a. Not Use or Disclose PHI other than as permitted or required by this BA Agreement or as required by law.
- b. Use appropriate safeguards to prevent Use or Disclosure of PHI other than as provided for by this BA Agreement, and comply with subpart C of 45 CFR Part 164 with respect to electronic PHI in Business Associate's custody or control, to prevent Use or Disclosure of PHI other than as provided for by this BA Agreement.
- c. Report to Covered Entity any Use or Disclosure of PHI not provided for by the BA Agreement of which it becomes aware not more than 60 calendar days after Business Associate discovers such non-permitted Use or Disclosure, including Breaches of Unsecured PHI as required at 45 CFR 164.410, and any Security Incident for which it becomes aware.
- d. In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any Subcontractors that create, receive, maintain, or transmit PHI on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information.
- e. Make available, within 30 calendar days of the request of Covered Entity, PHI in a Designated Record Set in Business Associate's custody or control, to



Covered Entity, or as Directed by Covered Entity, to an individual, so that Covered Entity may meet its access obligations under 45 CFR § 164.524.

- f. Make any amendment(s) to PHI in a Designated Record Set in Business Associate's custody or control as directed in writing by the Covered Entity pursuant to 45 CFR 164.526 no later than 60 days after receipt of such request, so that Covered Entity may meet its amendment obligations under 45 CFR 164.526.
- g. Maintain and make available the information required to provide an accounting of Disclosures to the Covered Entity as requested by Covered Entity in writing and as necessary to satisfy the Covered Entity's obligations under 45 CFR 164.528.
- h. Make its internal practices, books, and records, available to the Secretary for purposes of determining compliance with the HIPAA Rules.
- i. Not directly or indirectly receive remuneration in exchange of PHI.
- j. Comply with the administrative simplification rules applicable to standard transactions, if Business Associate conducts such transactions under the electronic data interchange rules on behalf of Covered Entity.
- k. To the extent the parties agree that Business Associate will carry out directly one or more of Covered Entity's obligations under the Privacy Rule, the Business Associate will comply with the requirements of the Privacy Rule that apply to the Covered Entity in the performance of such obligations.

### **3. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE**

- a. Business Associate may only Use or Disclose PHI as necessary to perform the services set forth in the Administrative Services Agreement and as permitted by this BA Agreement.
- b. Business Associate may Use or Disclose PHI as required by law or to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR 164.502(j)(i).
- c. Except as otherwise limited by this BA Agreement, Business Associate agrees to make Uses and Disclosures and requests for PHI consistent with the Covered Entity's Minimum Necessary policies and procedures when such are provided by the Covered Entity to Business Associate.
- d. Business Associate is authorized to de-identify information in accordance with 45 CFR 164.514(a)-(c).
- e. Business Associate may not Use or Disclose PHI in a manner that would violate Subpart E of 45 CFR Part 164 if done by Covered Entity, except for the specific Uses and Disclosures set forth below.

- f. Business Associate may Use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- g. Business Associate may provide Data Aggregation services relating to the Health Care Operations of the Covered Entity.

#### **4. OBLIGATIONS AND ACTIVITIES OF COVERED ENTITY**

- a. Covered Entity shall notify Business Associate of any limitations in the Notice of Privacy Practices that Covered Entity provides to individuals pursuant to 45 CFR 164.520, to the extent that such limitation may affect Business Associate's Use or Disclosure of PHI.
- b. Covered Entity shall notify Business Associate of any changes in, or revocation of, the permission by an individual to Use or Disclose his or her PHI, to the extent that such changes may affect Business Associate's Use or Disclosure of PHI.
- c. Covered Entity shall notify Business Associate of any restrictions on the Use or Disclosure of PHI that Covered Entity has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect Business Associate's Use or Disclosure of PHI.
- d. Covered Entity shall not request Business Associate to Use or Disclose PHI in any manner that would not be permissible under Subpart E of 45 CFR Part 164 if done by Covered Entity, except to the extent that Business Associate will Use or Disclose PHI for Data Aggregation or management and administration and legal responsibilities of the Business Associate.
- e. Covered Entity shall notify Business Associate of any confidential communication requests with which the Covered Entity has agreed to in accordance with 45 CFR 164.522, to the extent such requests would affect Business Associate's Use or Disclosure of PHI.

#### **5. TERM AND TERMINATION**

- a. This BA Agreement shall be effective as of the Effective Date, and shall terminate upon the termination of the Administrative Services Agreement, subject to the provisions below regarding the return or destruction of PHI.
- b. Business Associate authorizes termination of this BA Agreement by Covered Entity, if Covered Entity determines Business Associate has violated a material term of the BA Agreement, and Business Associate has not cured the Breach or ended the violation, following written notice to the Business Associate, within a reasonable period of time not to exceed any reasonable cure period defined in the Administrative Services Agreement.

- c. Upon termination of this BA Agreement for any reason, Business Associate, with respect to PHI Received from Covered Entity, or created, maintained, or received from Business Associate on behalf of Covered Entity, shall:
  - i. Retain only that PHI which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;
  - ii. Return to Covered Entity or, if agreed to by Covered Entity, destroy the remaining PHI that the Business Associate still maintains in any form;
  - iii. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic PHI to prevent Use or Disclosure of the PHI, other than as provided for in this Section, for as long as Business Associate retains PHI;
  - iv. Not Use or Disclose the PHI retained by Business Associate other than for the purposes for which such PHI was retained and subject to the same conditions set out at Paragraph 3(f);
  - v. Return to Covered Entity or, if agreed to Covered Entity, destroy the PHI retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities;
  - vi. Notwithstanding any other provision of this BA Agreement, upon termination, Business Associate may also transmit PHI to another Business Associate of the Covered Entity upon the written request of the Covered Entity.
- d. The obligations of Business Associate under Section 5, Term and Termination, shall survive the termination of this BA Agreement.

## **6. GENERAL PROVISIONS**

- a. A reference in this BA Agreement to a section in the HIPAA Rules means the section as in effect or amended.
- b. The parties agree to take such action as is necessary to amend this BA Agreement from time to time as is necessary for compliance with the requirements of the HIPAA Rules and any other applicable laws.
- c. Any ambiguity in this BA Agreement shall be interpreted to permit compliance with the HIPAA rules.
- d. Nothing in this BA Agreement shall be construed as creating any rights or benefits to any third parties.
- e. The invalidity and unenforceability of any provision of this BA Agreement shall not affect the enforceability of any other provision of this BA Agreement or the Administrative Services Agreement, which shall remain in full force and effect.

- f. All notices and communications required by this BA Agreement shall be in writing. Such notices and communications shall be given in one of the following forms: (i) by delivery in person, (ii) by a nationally-recognized, next-day courier service, (iii) by first-class, registered or certified mail, postage prepaid, or (iv) by electronic mail to the address that each party specifies in writing.
- g. This BA Agreement and the Administrative Services Agreement constitute the entire agreement between the parties with respect to its subject matter and constitute and supersede all prior agreements, representations, and understandings of the parties, written or oral, with regard to the same subject matter.

**City of Keizer RHS**

By \_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and Title (Please Print)

\_\_\_\_\_  
Date

INTERNATIONAL CITY  
MANAGEMENT ASSOCIATION  
RETIREMENT CORPORATION

By   
Erica McFarquhar  
Assistant Secretary

Please return an executed copy of the Agreement to a Delivery Address, either:

- (a) Electronically to [PlanAdoptionServices@icmarc.org](mailto:PlanAdoptionServices@icmarc.org), or
- (b) In paper form to ICMA-RC  
ATTN: PLAN ADOPTION SERVICES  
777 North Capitol Street NE  
Suite 600  
Washington DC 20002-4240





## DECLARATION OF TRUST OF THE

City of Keizer

---

NAME OF EMPLOYER

## INTEGRAL PART TRUST

## DECLARATION OF TRUST OF THE

City of Keizer

(NAME OF EMPLOYER)

### INTEGRAL PART TRUST

Declaration of Trust made as of the \_\_\_\_\_ day of \_\_\_\_\_, 20 18, by and between  
the City of Keizer, Oregon a Municipality  
(Name of Employer) (State) (Type of Entity)  
(hereinafter referred to as the "Employer") and ICMA-RC or its designee (hereinafter referred to as the "Trustee").  
(Name or Title of Trustee)

### RECITALS

WHEREAS, the Employer is a political subdivision of the State of Oregon exempt from  
(State)  
federal income tax under the Internal Revenue Code of 1986; and

WHEREAS, the Employer provides for the security and welfare of its eligible employees (hereinafter referred to as  
"Participants"), their Spouses and Dependents by the maintenance of one or more post-retirement welfare benefit plans,  
programs or arrangements which provide for life, sickness, medical, disability, severance and other similar benefits through  
insurance and self-funded reimbursement plans (collectively the "Plan"); and

WHEREAS, it is an essential function and integral part of the exempt activities of the Employer to assist Participants,  
their Spouses and Dependents by making contributions to and accumulating assets in the trust, a segregated fund, for post-  
retirement welfare benefits under the Plan; and

WHEREAS, the authority to conduct the general operation and administration of the Plan is vested in the Employer or its designee,  
who has the authority and shall be subject to the duties with respect to the trust specified in this sample Declaration of Trust; and

WHEREAS, the Employer wishes to establish this trust to hold assets and income of the Plan for the exclusive benefit of Plan  
Participants, their Spouses and Dependents;

NOW, THEREFORE, the parties hereto do hereby establish this trust, by executing the sample

Declaration of Trust of the City of Keizer Integral Part Trust (hereinafter referred  
(Name of Employer)  
to as the "Trust"), and agree that the following constitute the sample Declaration of Trust (hereinafter referred to as the  
"Declaration"):

## ARTICLE I

### Definitions

1.1 Definitions. For the purposes of this Declaration, the following terms shall have the respective meanings set forth below unless otherwise expressly provided.

- (a) **"Account"** means the individual recordkeeping account maintained under the Plan to record the interest of a Participant in the Plan in accordance with Section 7.3.
- (b) **"Administrator"** means the Employer or the entity designated by the Employer to carry out administrative services as are necessary to implement the Plan.
- (c) **"Beneficiary"** means the Spouse and Dependents, who will receive any benefits payable hereunder in the event of the Participant's death. In the case where there is no Spouse or Dependents, any amount of contributions, plus accrued earnings thereon, remaining in the Account must revert in accordance with the Employer's election under Section VIII of the VantageCare RHS Adoption Agreement.
- (d) **"Code"** means the Internal Revenue Code of 1986, as amended from time to time.
- (e) **"Dependent"** means (a) the Participant's lawful spouse, (b) the Participant's child under the age of 27, as defined by IRC Section 152(f)(1) and Internal Revenue Service Notice 2010-38, or (c) any other individual who is a person described in IRC Section 152(a), as clarified by Internal Revenue Service Notice 2004-79.
- (f) **"Investment Fund"** means any separate investment option or vehicle selected by the Employer in which all or a portion of the Trust assets may be separately invested as herein provided. The Trustee shall not be required to select any Investment Fund.
- (g) **"Nonforfeitable Interest"** means the interest of the Participant or the Participant's Spouse and Dependent (whichever is applicable) in the percentage of Participant's Employer's contribution which has vested pursuant to the vesting schedule specified in the Employer's Plan. A Participant shall, at all times, have a one hundred percent (100%) Nonforfeitable Interest in the Participant's own contributions.
- (h) **"Spouse"** means the Participant's lawful spouse as determined under the laws of the jurisdiction in which the Participant was married.
- (i) **"Trust"** means the trust established by this Declaration.
- (j) **"Trustee"** means the Employer or the person or persons appointed by the Employer to serve in that capacity.

## ARTICLE II

### Establishment of Trust

2.1 The Trust is hereby established as of the date set forth above for the exclusive benefit of Participants, their Spouses and Dependents.



## ARTICLE III

### Construction

- 3.1 This Trust and its validity, construction and effect shall be governed by the laws of the State of Oregon.
- 3.2 Pronouns and other similar words used herein in the masculine gender shall be read as the feminine gender where appropriate, and the singular form of words shall be read as the plural where appropriate.
- 3.3 If any provision of this Trust shall be held illegal or invalid for any reason, such determination shall not affect the remaining provisions, and such provisions shall be construed to effectuate the purpose of this Trust.

## ARTICLE IV

### Benefits

- 4.1 **Benefits.** This Trust may provide benefits to the Participant, the Participant's Spouse and Dependents pursuant to the terms of the Plan.
- 4.2 **Form of Benefits.** This Trust may reimburse the Participant, his Spouse and Dependents for insurance premiums or other payments expended for permissible benefits described under the Plan. This trust may reimburse the Employer, or the Administrator for insurance premiums.

## ARTICLE V

### General Duties

- 5.1 It shall be the duty of the Trustee to hold title to assets held in respect of the Plan in the Trustee's name as directed by the Employer or its designees in writing. The Trustee shall not be under any duty to compute the amount of contributions to be paid by the Employer or to take any steps to collect such amounts as may be due to be held in trust under the Plan. The Trustee shall not be responsible for the custody, investment, safekeeping or disposition of any assets comprising the Trust, to the extent such functions are performed by the Employer or the Administrator, or both.
- 5.2 It shall be the duty of the Employer, subject to the provisions of the Plan, to pay over to the Administrator or other person designated hereunder from time to time the Employer's contributions and Participants' contributions under the Plan and to inform the Trustee in writing as to the identity and value of the assets titled in the Trustee's name hereunder and to keep accurate books and records with respect to the Participants of the Plan.

## ARTICLE VI

### Investments

- 6.1 The Employer may appoint one or more investment managers to manage and control all or part of the assets of the Trust and the Employer shall notify the Trustee in writing of any such appointment.
- 6.2 The Trustee shall not have any discretion or authority with regard to the investment of the Trust and shall act solely as a directed Trustee of the assets of which it holds title. To the extent directed by the Employer (or Participants or their Spouses and Dependents to the extent provided herein) the Trustee is authorized and empowered with the following powers, rights and duties, each of which the Trustee shall exercise in a nondiscretionary manner:
- (a) To cause stocks, bonds, securities, or other investments to be registered in its name as Trustee or in the name of a nominee, or to take and keep the same unregistered;



- (b) To employ such agents and legal counsel as it deems advisable or proper in connection with its duties and to pay such agents and legal counsel a reasonable fee. The Trustee shall not be liable for the acts of such agents and counsel or for the acts done in good faith and in reliance upon the advice of such agents and legal counsel, provided it has used reasonable care in selecting such agents and legal counsel;
  - (c) To exercise where applicable and appropriate any rights of ownership in any contracts of insurance in which any part of the Trust may be invested and to pay the premiums thereon; and
  - (d) At the direction of the Employer (or Participants, their Spouses, their Dependents, or the investment manager, as the case may be) to sell, write options on, convey or transfer, invest and reinvest any part thereof in each and every kind of property, whether real, personal or mixed, tangible or intangible, whether income or non-income producing and wherever situated, including but not limited to, time deposits (including time deposits in the Trustee or its affiliates, or any successor thereto, if the deposits bear a reasonable rate of interest), shares of common and preferred stock, mortgages, bonds, leases, notes, debentures, equipment or collateral trust certificates, rights, warrants, convertible or exchangeable securities and other corporate, individual or government securities or obligations, annuity, retirement or other insurance contracts, mutual funds (including funds for which the Trustee or its affiliates serve as investment advisor, custodian or in a similar or related capacity), or in units of any other common, collective or commingled trust fund.
- 6.3 Notwithstanding anything to the contrary herein, the assets of the Plan shall be held by the Trustee as title holder only. Persons holding custody or possession of assets titled to the Trust shall include the Employer, the Administrator, the investment manager, and any agents and subagents, but not the Trustee. The Trustee shall not be responsible or liable for any loss or expense which may arise from or result from compliance with any direction from the Employer, the Administrator, the investment manager, or such agents to take title to any assets nor shall the Trustee be responsible or liable for any loss or expense which may result from the Trustee's refusal or failure to comply with any direction to hold title, except if the same shall involve or result from the Trustee's negligence or intentional misconduct. The Trustee may refuse to comply with any direction from the Employer, the Administrator, the investment manager, or such agents in the event that the Trustee, in its sole and absolute discretion, deems such direction illegal.
- 6.4 The Employer hereby indemnifies and holds the Trustee harmless from any and all actions, claims, demands, liabilities, losses, damages or reasonable expenses of whatsoever kind and nature in connection with or arising out of (i) any action taken or omitted in good faith by the Trustee in accordance with the directions of the Employer or its agents and subagents hereunder, or (ii) any disbursements of any part of the Trust made by the Trustee in accordance with the directions of the Employer, or (iii) any action taken by or omitted in good faith by the Trustee with respect to an investment managed by an investment manager in accordance with any direction of the investment manager or any inaction with respect to any such investment in the absence of directions from the investment manager. Notwithstanding anything to the contrary herein, the Employer shall have no responsibility to the Trustee under the foregoing indemnification if the Trustee fails negligently, intentionally or recklessly to perform any of the duties undertaken by it under the provisions of this Trust.
- 6.5 Notwithstanding anything to the contrary herein, the Employer or, if so designated by the Employer, the Administrator and the investment manager or another agent of the Employer, will be responsible for valuing all assets so acquired for all purposes of the Trust and of holding, investing, trading and disposing of the same. The Employer will indemnify and hold the Trustee harmless against any and all claims, actions, demands, liabilities, losses, damages, or expenses of whatsoever kind and nature, which arise from or are related to any use of such valuation by the Trustee or holding, trading, or disposition of such assets.
- 6.6 The Trustee shall and hereby does indemnify and hold harmless the Employer from any and all actions, claims, demands, liabilities, losses, damages and reasonable expenses of whatsoever kind and nature in connection with or arising out of (a) the Trustee's failure to follow the directions of the Employer, the Administrator, the investment manager, or agents thereof, except as permitted by the last sentence of Section 6.3 above; (b) any disbursements made without the direction of the Employer, the Administrator, the investment manager or agents thereof; and (c) the Trustee's negligence, willful misconduct, or recklessness with respect to the Trustee's duties under this Declaration.



## ARTICLE VII

### Contributions

- 7.1 **Employer Contributions.** The Employer shall contribute to the Trust such amounts as specified in the Plan or by resolution.
- 7.2 **Accrued Leave.** Contributions up to an amount equal to the value of accrued sick leave, vacation leave, or other type of accrued leave, as permitted under the Plan. The Employer's Plan must provide a formula for determining the value of the Participant's contribution of accrued leave. The Employer's Plan must contain a forfeiture provision that will prevent Participants from receiving the accrued leave in cash in lieu of a contribution to the Trust.
- 7.3 **Accounts.** Employer contributions, including mandatory Participant contributions, and contributions of accrued leave, all investment income and realized and unrealized gains and losses, and forfeitures allocable thereto will be deposited into an Account in the name of the Participant for the exclusive benefit of the Participant, his Spouse and Dependents. The assets in each Participant's Account may be invested in Investment Funds as directed by the Participant (or, after the Participant's death, by the Spouse or Dependents) or the Employer, as required under the Plan, from among the Investment Funds selected by the Employer.
- 7.4 **Receipt of Contributions.** The Employer or, if so designated by the Employer, the Administrator or investment manager or another agent of the Employer, shall receive all contributions paid or delivered to it hereunder and shall hold, invest, reinvest and administer such contributions pursuant to this Declaration, without distinction between principal and income. The Trustee shall not be responsible for the calculation or collection of any contribution under the Plan, but shall hold title to property received in respect of the Plan in the Trustee's name as directed by the Employer or its designee pursuant to this Declaration.
- 7.5 No amount in any Account maintained under this Trust shall be subject to transfer, assignment, or alienation, whether voluntary or involuntary, in favor of any creditor, transferee, or assignee of the Employer, the Trustee, any Participant, his Spouse, or Dependent.
- 7.6 Upon the satisfaction of all liabilities under the Plan to provide such benefits, any amount of Employer contributions, plus accrued earnings thereon, remaining in such separate Accounts must, under the terms of the Plan, be returned to the Employer.

## ARTICLE VIII

### Other Plans

If the Employer hereafter adopts one or more other plans providing life, sickness, accident, medical, disability, severance, or other benefits and designates the Trust hereby created as part of such other plan, the Employer or, if so designated by the Employer, the Administrator or an investment manager or another agent of the Employer shall, subject to the terms of this Declaration, accept and hold hereunder contributions to such other plans. In that event (a) the Employer or, if so designated by the Employer, the Administrator or an investment manager or another agent of the Employer, may commingle for investment purposes the contributions received under such other plan or plans with the contributions previously received by the Trust, but the books and records of the Employer or, if so designated by the Employer, the Administrator or an investment manager or another agent of the Employer, shall at all times show the portion of the Trust Fund allocable to each plan; (b) the term "Plan" as used herein shall be deemed to refer separately to each other plan; and (c) the term "Employer" as used herein shall be deemed to refer to the person or group of persons which have been designated by the terms of such other plans as having the authority to control and manage the operation and administration of such other plan.

## **ARTICLE IX**

### **Disbursements and Expenses**

- 9.1 The Employer or its designee shall make such payments from the Trust at such time to such persons and in such amounts as shall be authorized by the provisions of the Plan provided, however, that no payment shall be made, either during the existence of or upon the discontinuance of the Plan (subject to Section 7.6), which would cause any part of the Trust to be used for or diverted to purposes other than the exclusive benefit of the Participants, their Spouses and Dependents pursuant to the provisions of the Plan.
- 9.2 All payments of benefits under the Plan shall be made exclusively from the assets of the Accounts of the Participants to whom or to whose Spouse or Dependents such payments are to be made, and no person shall be entitled to look to any other source for such payments.
- 9.3 The Employer, Trustee and Administrator may be reimbursed for expenses reasonably incurred by them in the administration of the Trust. All such expenses, including, without limitation, reasonable fees of accountants and legal counsel to the extent not otherwise reimbursed, shall constitute a charge against and shall be paid from the Trust upon the direction of the Employer.

## **ARTICLE X**

### **Accounting**

- 10.1 The Trustee shall not be required to keep accounts of the investments, receipts, disbursements, and other transactions of the Trust, except as necessary to perform its title-holding function hereunder. All accounts, books, and records relating thereto shall be maintained by the Employer or its designee.
- 10.2 As promptly as possible following the close of each year, the Trustee shall file with the Employer a written account setting forth assets titled to the Trust as reported to the Trustee by the Employer or its designee.

## **ARTICLE XI**

### **Miscellaneous Provisions**

- 11.1 Neither the Trustee nor any affiliate thereof shall be required to give any bond or to qualify before, be appointed by, or account to any court of law in the exercise of its powers hereunder.
- 11.2 No person transferring title or receiving a transfer of title from the Trustee shall be obligated to look to the propriety of the acts of the Trustee in connection therewith.
- 11.3 The Employer may engage the Trustee as its agent in the performance of any duties required of the Employer under the Plan, but such agency shall not be deemed to increase the responsibility or liability of the Trustee under this Declaration.
- 11.4 The Employer shall have the right at all reasonable times during the term of this Declaration and for three (3) years after the termination of this Declaration to examine, audit, inspect, review, extract information from, and copy all books, records, accounts, and other documents of the Trustee relating to this Declaration and the Trustees' performance hereunder.



## **ARTICLE XII**

### **Amendment and Termination**

- 12.1 The Employer reserves the right to alter, amend, or (subject to Section 9.1) terminate this Declaration at any time for any reason without the consent of the Trustee or any other person, provided that no amendment affecting the rights, duties, or responsibilities of the Trustee shall be adopted without the execution of the Trustee to the amendment. Any such amendment shall become effective as of the date provided in the amendment, if requiring the Trustee's execution, or on delivery of the amendment to the Trustee, if the Trustee's execution is not required.
- 12.2 Upon termination of this Declaration and upon the satisfaction of all liabilities under the Plan to provide such benefits, any amount of Employer contributions, plus accrued earnings thereon, remaining in such separate Accounts must, under the terms of the Plan, be returned to the Employer.

## **ARTICLE XIII**

### **Successor Trustees**

- 13.1 The Employer reserves the right to discharge the Trustee for any or no reason, at any time by giving ninety (90) days' advance written notice.
- 13.2 The Trustee reserves the right to resign at any time by giving ninety (90) days' advance written notice to the Employer.
- 13.3 In the event of discharge or resignation of the Trustee, the Employer may appoint a successor Trustee who shall succeed to all rights, duties, and responsibilities of the former Trustee under this Declaration, and the terminated Trustee shall be deemed discharged of all duties under this Declaration and responsibilities for the Trust.

## **ARTICLE XIV**

### **Limited Effect of Plan and Trust**

Neither the establishment of the Plan and the Trust or any modification thereof, the creation of any fund or account, nor the payment of any benefits, shall be construed as giving to any person covered under the Plan or other person any legal or equitable right against the Trustee, the Administrator, the Employer or any officer or employee thereof, except as may otherwise be expressly provided in the Plan or in this Declaration.

## **ARTICLE XV**

### **Protective Clause**

Neither the Administrator, the Employer, nor the Trustee shall be responsible for the validity of any contract of insurance or other arrangement maintained in connection with the Plan, or for the failure on the part of the insurer or provider to make payments provided by such contract, or for the action of any person which may delay payment or render a contract void or unenforceable in whole or in part.

IN WITNESS WHEREOF, the Employer and the Trustee have executed this Declaration by their respective duly authorized officers, as of the date first hereinabove mentioned.

#### **EMPLOYER:**

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

#### **TRUSTEE(S):**

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

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

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



City of Keizer

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NAME OF EMPLOYER

## RETIREE WELFARE BENEFITS PLAN

22872-0115-1277



## **RETIREE WELFARE BENEFITS PLAN**

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# City of Keizer

Name of Employer

## RETIREE WELFARE BENEFITS PLAN

### ARTICLE I

#### Preamble

THIS INSTRUMENT made and published by City of Keizer (hereinafter called "Employer") on the \_\_\_\_\_ day of \_\_\_\_\_, 20 18, creates the City of Keizer Retiree Welfare Benefits Plan ("Plan"), as follows:

#### 1.01 Establishment of Plan

The Employer named above hereby establishes a Retiree Welfare Benefits Plan as of the 3rd day of September, 20 18.

#### 1.02 Purpose of Plan

This Plan has been established to reimburse the eligible Retirees of the Employer for medical and dental expenses incurred by them, their Spouses and Dependents through the Employer's VantageCare Retirement Health Savings (RHS) Program.

### ARTICLE II

#### Definitions

The following words and phrases as used herein shall have the following meanings, unless a different meaning is plainly required by the context:

**2.01 "Benefits"** means any amounts paid to a Participant, Spouse or Dependents in the Plan as reimbursement for Eligible Medical and Dental Expenses incurred by the Participant during a Plan Year by him, his Spouse or his Dependents.

**2.02 "Code"** means the Internal Revenue Code of 1986, as amended.

**2.03 "Dependent"** means any individual who is a dependent of the Participant within the meaning of Code Sec. 152, as amplified by Internal Revenue Service Notice 2004-79, 2004-49 I.R.B.898 and Internal Revenue Service Notice 2010-38.

**2.04 "Eligible Medical Expenses or Dental Expenses"** means those expenses designated by the Employer as eligible for reimbursement in the VantageCare Retirement Health Savings Adoption Agreement.

**2.05 "Employer"** means the unit of state or local government creating this Plan, or any affiliate or successor thereof that likewise adopts this Plan.

**2.06 "Entry Date"** means the first day the Participant meets the eligibility requirements of Article III as of such Date.

**2.07 "Participant"** means any Retiree who has met the eligibility requirements set forth in Article III.

**2.08 "Plan Administrator"** means the Employer or other person appointed by the Employer who has the authority and responsibility to manage and direct the operation and administration of the Plan.



**2.09 "Plan Year"** means the annual accounting period of the Plan, which begins on the 1<sup>st</sup> day of July, 20 18, and ends on the 30<sup>th</sup> day of June, 20 18, with respect to the first Plan Year, and thereafter as long as this Plan remains in effect, the period that begins on July 1, and ends on month/day June 30.

**2.10 "Retiree"** means any individual who, while in the service of the Employer, was considered to be in a legal employer-employee relationship with the Employer for federal withholding tax purposes, and who was part of the classification of employees designated as covered by the Employer's VantageCare Retirement Health Savings Program.

**2.11 "Spouse"** means the Participant's lawful spouse as determined under the laws of the jurisdiction in which the Participant was married. All other defined terms in this Plan shall have the meanings specified in the various Articles of the Plan in which they appear.

### **ARTICLE III**

#### **Eligibility**

Each Retiree who meets the eligibility requirements outlined in the Employer's VantageCare Retirement Health Savings Adoption Agreement shall be eligible to participate in this Plan.

### **ARTICLE IV**

#### **Amount of Benefits**

#### **4.01 Annual Benefits Provided by the Plan**

Each Participant shall be entitled to reimbursement for his documented, Eligible Medical Expenses incurred during the Plan Year in an annual amount not to exceed the participant's account balance under the Plan.

#### **4.02 Cost of Coverage**

The expense of providing the benefits set out in Section 4.01 shall be contributed as outlined in the Employer's VantageCare Retirement Health Savings Adoption Agreement.

### **ARTICLE V**

#### **Payment of Benefits**

#### **5.01 Eligibility for Benefits**

- a) Each Participant in the Plan shall be entitled to a benefit hereunder for all Eligible Medical Expenses incurred by the Participant on or after the Entry Date of his or her participation (and after the effective date of the Plan), subject to the limitations contained in this Article V, regardless whether the mental or physical condition for which the Participant makes application for benefits under this Plan was detected, diagnosed, or treated before the Participant became covered by the Plan.
- b) In order to be eligible for benefits, the Participant must separate from service or separate from service and meet the benefit eligibility criteria outlined in the Employer's VantageCare Retirement Health Savings Plan Adoption Agreement.
- c) A Participant who becomes totally and permanently disabled (as defined by the Social Security Administration, by the Employer's primary retirement plan, or otherwise by the Employer) will become immediately eligible to receive medical benefit payments from the Plan. Pursuant to Section 9.02 of this Plan and Section XI of the Employer's VantageCare Retirement Health Savings Adoption Agreement, the surviving Spouse and Dependents shall become immediately eligible to receive or to continue receiving medical benefit payments from the Plan upon the death of the Participant.

## **5.02 Claims for Benefits**

No benefit shall be paid hereunder unless a Participant, his Spouse or Dependent has first submitted a written claim for benefits to the Plan Administrator on a form specified by the Plan Administrator, and pursuant to the procedures set out in Article VI, below. Upon receipt of a properly documented claim, the Plan Administrator shall pay the Participant, his Spouse or Dependent the benefits provided under this Plan as soon as is administratively feasible.

## **ARTICLE VI**

### **Plan Administration**

#### **6.01 Allocation of Authority**

The Employer shall control and manage the operation and Administration of the Plan. The Employer shall have the exclusive right to interpret the Plan and to decide all matters arising thereunder, including the right to remedy possible ambiguities, inconsistencies, or omissions. All determinations of the Employer with respect to any matter hereunder shall be conclusive and binding on all persons.

Without limiting the generality of the foregoing, the Employer shall have the following powers and duties:

- a) To decide on questions concerning the Plan and the eligibility of any Employee to participate in the Plan, in accordance with the provisions of the Plan;
- b) To determine the amount of benefits that shall be payable to any person in accordance with the provisions of the Plan; to inform the Plan Administrator, as appropriate, of the amount of such Benefits; and to provide a full and fair review to any Participant whose claim for benefits has been denied in whole or in part; and
- c) To designate other persons to carry out any duty or power which would otherwise be a fiduciary responsibility of the Plan Administrator, under the terms of the Plan.
- d) To require any person to furnish such reasonable information as it may request for the purpose of the proper administration of the Plan as a condition to receiving any benefits under the Plan;
- e) To make and enforce such rules and regulations and prescribe the use of such forms as he shall deem necessary for the efficient administration of the Plan.

#### **6.02 Provision for Third-Party Plan Service Providers**

The Plan Administrator, subject to approval of the Employer, may employ the services of such persons as it may deem necessary or desirable in connection with operation of the Plan. The Plan Administrator, the Employer (and any person to whom it may delegate any duty or power in connection with the administration of the Plan), and all persons connected therewith may rely upon all tables, valuations, certificates, reports and opinions furnished by any duly appointed actuary, accountant, (including Employees who are actuaries or accountants), consultant, third party administration service provider, legal counsel, or other specialist, and they shall be fully protected in respect to any action taken or permitted in good faith in reliance thereon. All actions so taken or permitted shall be conclusive and binding as to all persons.

#### **6.03 Several Fiduciary Liability**

To the extent permitted by law, neither the Plan Administrator nor any other person shall incur any liability for any acts or for failure to act except for his own willful misconduct or willful breach of this Plan.



## **6.04 Compensation of Plan Administrator**

Unless otherwise agreed to by the Employer, the Plan Administrator shall serve without compensation for services rendered in such capacity, but all reasonable expenses incurred in the performance of his duties shall be paid by the Employer.

## **6.05 Bonding**

Unless otherwise determined by the Employer, or unless required by any Federal or State law, the Plan Administrator shall not be required to give any bond or other security in any jurisdiction in connection with the administration of this Plan.

## **6.06 Payment of Administrative Expenses**

All reasonable expenses incurred in administering the Plan, including but not limited to administrative fees and expenses owing to any third party administrative service provider, actuary, consultant, accountant, attorney, specialist, or other person or organization that may be employed by the Plan Administrator in connection with the administration thereof, shall be paid by the Employer, provided, however that each Participant shall bear the monthly cost (if any) charged by a third party administrator for maintenance of his Benefit Account unless otherwise paid by the Employer.

## **6.07 Timeliness of Payment for Benefits**

Payment for Benefits shall be made as soon as administratively feasible after the required forms and documentation have been received by the Plan Administrator.

## **6.08 Annual Statements**

The Plan Administrator shall furnish each Participant with an annual statement of his medical expense reimbursement account within ninety (90) days after the close of each Plan Year.

# **ARTICLE VII**

## **Claims Procedure**

### **7.01 Procedure if Benefits are Denied Under the Plan**

Any Participant, Spouse, Dependent, or his duly authorized representative may file a claim for a plan benefit to which the claimant believes that he is entitled. Such a claim must be in writing on a form provided by the Plan Administrator and delivered to the Plan Administrator, in person or by mail, postage paid. Within thirty (30) days after receipt of such claim, the Plan Administrator shall send to the claimant, by mail, postage prepaid, notice of the granting or denying, in whole or in part, of such claim, unless special circumstances require an extension of time for processing the claim. In no event may the extension exceed forty-five (45) days from the end of the initial period. If such extension is necessary, the claimant will be given a written notice to this effect prior to the expiration of the initial 30-day period. If such extension is necessary due to a failure of the Participant, Spouse or Dependent to submit the information necessary to decide the claim, the notice of extension shall describe the required information and the claimant shall be afforded at least forty-five (45) days from receipt of the notice within which to provide such information. The Plan Administrator shall have full discretion to deny or grant a claim in whole or in part. If notice of the denial of a claim is not furnished in accordance with this Section, the claim shall be deemed denied and the claimant shall be permitted to exercise his right to review pursuant to Sections 7.03 and 7.04.

## **7.02 Requirement for Written Notice of Claim Denial**

The Plan Administrator shall provide, to every claimant who is denied a claim for benefits, written notice setting forth in a manner calculated to be understood by the claimant:

- a) The specific reason or reasons for the denial;
- b) Specific reference to pertinent Plan provisions, including references to the VantageCare Retirement Health Savings Adoption Agreement, on which the denial is based;
- c) A description of any additional material of information necessary for the claimant to perfect the claim and an explanation of why such material is necessary, and
- d) An explanation of the Plan's claim review procedure.

## **7.03 Right to Request Hearing on Benefit Denial**

Within one-hundred eighty (180) days after the receipt by the claimant of written notification of the denial (in whole or in part) of his claim, the claimant or his duly authorized representative, upon written application to the Plan Administrator, in person or by certified mail, postage prepaid, may request a review of such denial, may review pertinent documents, and may submit issues and comments in writing.

## **7.04 Disposition of Disputed Claims**

Upon its receipt of notice of a request for review, the Plan Administrator shall make a prompt decision on the review. The decision on review shall be written in a manner calculated to be understood by the claimant and shall include specific reasons for the decision and specific references to the pertinent plan provisions on which the decision is based. The decision on review shall be made not later than sixty (60) days after the Plan Administrator's receipt of a request for a review, unless special circumstances require an extension of time for processing, in which case a decision shall be rendered not later than one hundred-twenty (120) days after receipt of a request for review. If an extension is necessary, the claimant shall be given written notice of the extension prior to the expiration of the initial sixty (60) day period. If notice of the decision on the review is not furnished in accordance with this Section, the claim shall be deemed denied and the claimant shall be permitted to exercise his right to legal remedy pursuant to Section 7.05.

## **7.05 Preservation of Other Remedies**

After exhaustion of the claims procedures provided under this Plan, nothing shall prevent any person from pursuing any other legal or equitable remedy otherwise available.

# **ARTICLE VIII**

## **Amendment or Termination of Plan**

### **8.01 Permanency**

While the Employer fully expects that this Plan will continue indefinitely, due to unforeseen, future business contingencies, permanency of the Plan will be subject to the Employer's right to amend or terminate the Plan, as provided in Sections 8.02 and 8.03, below.



## **8.02 Employer's Right to Amend**

The Employer reserves the right to amend the Plan at any time and from time-to-time, and retroactively if deemed necessary or appropriate to meet the requirements of the Code, or any similar provisions of subsequent revenue or other laws, or the rules and regulations in effect under any of such laws or to conform with governmental regulations or other policies, to modify or amend in whole or in part any or all of the provisions of the Plan.

## **8.03 Employer's Right to Terminate**

The Employer reserves the right to discontinue or terminate the Plan at any time without prejudice.

# **ARTICLE IX**

## **General Provisions**

### **9.01 No Employment Rights Conferred**

Neither this Plan nor any action taken with respect to it shall confer upon any person the right to be continued in the employment of the Employer.

### **9.02 Payments After Death of Participant**

Any benefits otherwise payable to a Participant following the date of death of such Participant shall be paid as outlined in Section XI of the Employer's VantageCare Retirement Health Savings Plan Adoption Agreement.

### **9.03 Nonalienation of Benefits**

No benefit under the Plan shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge, and any attempt to do so shall be void. No benefit under the Plan shall in any manner be liable for or subject to the debts, contracts, liabilities, engagements or torts of any person. If any person entitled to benefits under the Plan becomes bankrupt or attempts to anticipate, alienate, sell, transfer, assign, pledge, encumber or charge any benefit under the Plan, or if any attempt is made to subject any such benefit to the debts, contracts, liabilities, engagements or torts of the person entitled to any such benefit, except as specifically provided in the Plan, then such benefit shall cease and terminate in the discretion of the Plan Administrator, and he may hold or apply the same or any part thereof to the benefit of any dependent of such person, in such manner and proportion as he may deem proper.

### **9.04 Mental or Physical Incompetency**

If the Plan Administrator determines that any person entitled to payments under the Plan is incompetent by reason of physical or mental disability, he may cause all payments thereafter becoming due to such person to be made to any other person for his benefit, without responsibility to follow the application of amounts so paid. Payments made pursuant to this Section shall completely discharge the Plan Administrator and the Employer.

### **9.05 Inability to Locate Payee**

If the Plan Administrator is unable to make payment to any Participant or other person to whom a payment is due under the Plan because he cannot ascertain the identity or whereabouts of such Participant or other person after reasonable efforts have been made to identify or locate such person (including a notice of the payment so due mailed to the last known address of such Participant or other person as shown on the records of the Employer), such payment and all subsequent payments otherwise due to such Participant or other person shall be escheated under the laws of the State of the last known address of the Participant or other persons eligible for benefits.

## **9.06 Requirement of Proper Forms**

All communications in connection with the Plan made by a Participant shall become effective only when duly executed on forms provided by and filed with the Plan Administrator.

## **9.07 Source of Payments**

The Employer shall be the sole source of benefits under the Plan. No Employee, Spouse or Dependents shall have any right to, or interest in, any assets of the Employer upon termination of employment or otherwise, except as provided from time to time under the Plan, and then only to the extent of the benefits payable under the Plan to such Employee, Spouse or Dependents.

## **9.08 Tax Effects**

Neither the Employer nor the Plan Administrator makes any warranty or other representation as to whether any payments received by a Participant, his Spouse or Dependents hereunder will be treated as includible in gross income for federal or state income tax purposes.

## **9.09 Multiple Functions**

Any person or group of persons may serve in more than one fiduciary capacity with respect to the Plan.

## **9.10 Gender and Number**

Masculine pronouns include the feminine as well as the neuter gender, and the singular shall include the plural, unless indicated otherwise by the context.

## **9.11 Headings**

The Article and Section headings contained herein are for convenience of reference only, and shall not be construed as defining or limiting the matter contained thereunder.

## **9.12 Applicable Laws**

The provisions of the Plan shall be construed, administered and enforced according to the laws of the State of \_\_\_\_\_.

## **9.13 Severability**

Should any part of this Plan subsequently be invalidated by a court of competent jurisdiction, the remainder thereof shall be given effect to the maximum extent possible.

IN WITNESS WHEREOF, we have executed this Plan Agreement the date and year first written above.

EMPLOYER

By: \_\_\_\_\_ Title: \_\_\_\_\_  
Signature of Authorized Official

ATTEST (if applicable)

By: \_\_\_\_\_ Title: \_\_\_\_\_  
Signature of Attestor



## Written Communications/Testimony and Submitted Documents

Sign in Salem says:

Homeless  
need Beer  
Pot  
Or a Little meth

I talked to this guy. I asked if I could take his picture. He said no. I asked if I could buy his sign, he said no. this was on Lancaster in front of Walmart and McDonalds. People with strollers were going by, and a little girl asks her father and mother, "Mommy, Daddy, what is meth?" The father responded, saying "Sarah, honey, you don't need to know such things." My sister's name is Sarah. Any questions?

### Bus Fare

I pull into Safeway in Keizer, and a guy about my age is holding a cardboard sign about 8" x 8" saying "Bus Fare." Three cars in a row give him money. Wow. I put on my happy face and go talk to him: "They treating you right?" "Oh yeah," he says. He shows me a roll of \$20 bills in his left pocket and a \$5 and \$10 bill in his right pocket. He asks, "You got a \$20 bill for me?" I say, "No, but you might not be able to do that much longer, homey." I gave him a flyer and went to tell the managers at Safeway. They called the police on the spot. I don't know if they ever came; I got the ice I had originally come for and left.

### Panhandling

Dairy Queen | Justin | No | 08/08/2018

Justin says from what he learned from his studies in Humanities that the panhandlers have been enabled for so long that he believes that they are entitled to beg. It's a lifestyle for them now, and you can't just take away a lifestyle.

Alex | make own copies and tell friends

At first they saw the word "Panhandling" on my paper and thought I was asking for money. It took almost 20 seconds to convince them I was against it, then they read it. Cam wanted to hear my plan, so I told him it as well as my panhandler stories.

## The Deaf Guy

5:30pm I'm in the trunk of my car getting something when someone pushes the whole side of their body against mine and says, "Hey." I scream so loud the birds in the trees fly away! I yell, "Dude!" He shoves a piece of cardboard with felt-marker lettering into my hand. It says, "I'm deaf, anything can help."

"You're deaf?"

He nods yes.

"Can you read lips?"

He nods yes

"Do you get disability?"

"Oh yes," he says.

"So you live in a house?"

"Yes," he says.

"Do you have your own room?"

"Yes," he says.

"Any pets?"

"Yes, I have a dog and a cat."

"Family, Friends, Big Christmas?"

Yes, yes, and yes.

"So, you have everything; you're hooked up. What do you need money for? Marijuana? I'm sure you would like some marijuana."

He says, "No," and shakes his head no. The look on his face says he doesn't like marijuana.

So, I ask, "It's for booze, you need money for alcohol."

He shakes his head no.

"Drugs?"

"No," he says. Now he's mad. He makes the sign of the cross across his head and chest.

"Catholic?"

He gets really cheerful.

"You're a Catholic. Cool, man. You love Jesus." He's all smiles, nodding his head. "So you need money for Jesus?"

He kind of looks around.

"You know Jesus, the guy with the big house and all his friends, they meet once a week; you follow me?"

"No," he says, shaking his head.

"If it's not for Jesus, then what do you need money for? You have everything else.

He shrugged his shoulders, turned around, and walked away.

He didn't need the money, it was just a habit.

## Five Teenagers in the Park

Five teenage boys walked by my car. I said, "Hey, can I ask you guys a question?"

"Sure," one said.

"How do you feel about the panhandlers asking for money?"

"F— that shit."

"Are any of you going to do that?"

"F— no."

"What about your children?"

...

"Come on, man, a certain percentage of you that are exposed to that will end up doing that. Someday, you'll have girlfriends, get married, and have children. Do you want them to think it's okay, for them to end up doing it?"

"F— no, man! No f—ing way. That shit is f—ed up. My kids aren't going to do that.:

"I've got something for you then." I gave the Panhandler paper to each of them. "Bring your parents!"

"We'll try, thanks dude."

He was cool, wasn't he?

## Resources

I looked up shelters in the area. I found the UGM for men and for women, as well as Arches. That was if all else fails. Not to suck up the resources and make a lifestyle out of it. I want to be on my own. Get a yearly membership with B-fit Gym to work-out, shave, and shower. The laundromat is right there, as is my auto insurer.



## Anything Helps

June 12<sup>th</sup>, 2018, I arrive here from California at the Safeway in Keizer. A guy has a sign, and on it is written "Anything helps." He asks me for \$5, but I say no. Next day, same thing, I go to Safeway. He asks me for \$5, but I say no. Third day I'm here, I go to NORPAC to apply for a job. He and his wife are numbered 23 in line. The applications are numbered. I'm Number 63. You're hired on the spot and told to call in to see when you work. I, that guy, and his wife work four hours one day. We're laid off and told to call in at 2:00pm the next day. I get my four-hour check and cash it.

He's at Safeway, buying cigarettes over the counter, when he says, "Wait for me, I want to talk to you." He gets the \$5 pack of cigarettes and some money in change. He says to the cashier serving him, "The cigarettes aren't for me, they're for somebody else. Can I have the money back? I need it for gas. The doctor says I can't work because I got a bum knee." She says, "No, all sales are final. You had money. You spent it, so too bad." Good answer. He turns to me and says, "I know you got paid, do you have \$20 I can have?" I say no and start walking towards the door. A guy was putting change in his pocket at the checkout line, and he asked him for it. The guy said no. I'm walking to my car and he catches up, asking about the \$20. "No," I said. He walks about 100 feet away and hands the dollar bills and cigarettes into an open window of a car. I'm in my car watching, cooling down with the A/C. A few dollars are handed back out to him. I was too far away to see in the car; I couldn't tell the occupants' ages.

The following week, I see him. He says his wife waited too long past 2:00pm to call in for work and she was laid off. Next day I work with him and he goes to HR to try to get Sunday off. He says it's a religious holiday for him. They said no. So he quit the job. Every day that he worked, he was also in front of Safeway with his sign. He had two jobs. I worked that Sunday and had a three-day check coming. The following week, I worked 44 hours. Got my three-day check. That Thursday, the bills bounced. I knew that would happen. As long as the phone went through first, I could make it til next week. I signed up for food stamps. Second week here, I got some. Ran out of food. Four days I go without. Someone tells me I can get a sack lunch at UGM. Day five I work 7½ hours, get my check, and go to UGM for a sack lunch. I knew the bills would bounce again, so I got baloney, bread, cereal, milk, and apples. I know I'm not going to make it to next payday. Asked to borrow \$20 from Rick at the park. He's not so happy, but after work the next day, he gives it to me. More food, ice for the cooler, and \$5 for gas.

I'm getting ice and here it comes. "I know you got paid, do you think you can give me \$20?" "No." the next day I get my check from work and my last check from working in California. My bills bounced twice, I had to borrow only \$20, paid it back, and got the bank to reverse the overdraft charges twice. Now I have money in the bank and I'm going to Sizzler's all you can eat salad bar. Hot food. First time in months. When I get laid off at the cannery, I might bet unemployment because I worked so much in

California. But that's only a backup. I've turned down jobs, telling them that the cannery comes first because of the overtime. So I have more work lined up.

The guy who quit the job doesn't need disability. There is nothing wrong with his body. He chooses not to work.

## Marion Park, Salem

Oh my God! There's a guy drawing circles with his nose on a tree. Another guy I'm not too sure should be scratching himself in public like that.

There's an older lady with no bra. It's down to her knees and talking to herself. Clean clothes wouldn't hurt, and a shower for all; please get her a bra!

Someone has got to take charge and send a doctor and nurse with a clipboard and paper to take down whatever information they need to start handing out pills! Those people need help!

## Work

One check came, it wasn't enough, The second one came and I knew it was enough for gas and food, so it bounced again. The third check came and my last check from California arrived at the same time. Bitchin! My plan worked! All bills paid and twice what I need in the bank. I ran out of food and money. I got low on gas. But I had my priorities straight. I wasn't going to run out of marijuana in the state of OREGON. Not in this lifetime. It's why I came here, to work at a dispensary. I went online in California and took the test, passed the background check, and have my OLCC marijuana card. I have my Resume at 8 dispensaries; I haven't had time to hit the other ones. Had my first interview last Wednesday. I need Oregon references.

What happens if somebody doesn't have ID? What if they don't know who the president is? I'm 58 years old. I'll be 59 September 1<sup>st</sup>, I'll not live another 21 years to be 80. Maybe 75. I don't want to see another generation do this. I have never had a sign, but if I did, it'd say:

I HAVE A JOB

I WORK

I DON'T NEED YOUR MONEY

GIVE IT TO JESUS

"I have a sore throat and have lost my voice. So guess what? I'm going to meet them on their own level. I'm going to be a smartass and give them a taste of their own medicine. I'm going to fight them with signs.

Sign in Salem says:

|                                                  |
|--------------------------------------------------|
| Homeless<br>need Beer<br>Pot<br>Or a Little meth |
|--------------------------------------------------|

A five-year-old child asks, "Mommy, daddy, what is Meth?"

Father's response: "Sarah, honey, you don't need to know such things." My sister's name is Sarah, any questions?

Sarah, drug free, college graduate, on her own, smart as a whip, YouTube sensation, channel 80

Can't verbally ask for money. Can't have a sign that asks for: money, cigarettes, alcohol, marijuana/pot, drugs, sex, profanity.

There is no way anyone should be approached at an ATM machine for money. IT IS NOT SAFE.

You have to be like 15½-16 years old to have a job, almost 18. So a sign asking for money can be asking a minor for money. They don't know how to use it yet. It's stealing.

You have to be 21 to buy tobacco products. You shouldn't be able to ask for something that only adults can purchase.

Again, you have to be 21 to buy alcohol products. You shouldn't be able to ask for something that only adults can purchase.

You have to be 21 to buy marijuana products. You shouldn't be able to ask for something that only adults can purchase.

No parent wants to see the word "Drugs" on a sign. You're not going to get a prescription for meth.

Only two 18-year-old+ consenting adults can legally have sex. Who's the sign for? Doesn't say "Must be 18."

No one want to see the f— word.

People that give money are enabling. We have to stop enabling. Can it be more illegal to give a panhandler money? A prostitute is busted along with her John.

It's a distraction for drivers for sure.